

*West Anniston Environmental Justice Task Force
1116 West 17th Street
Anniston, Alabama 36201*

December 30, 1998

Carolyn Browner, Administrator
United States Environmental Protection Agency
Room 1200, WR/1101
401 M Street, SW
Washington, D.C. 20460

Re: Solutia (formerly Monsanto Chemical Co.)
in Anniston, Alabama

Dear Ms. Browner:

We are writing you to request that you take prompt and direct action to reconsider the Environmental Protection Agency's (EPA) decision to ignore the widespread contamination of the Anniston, Alabama, area by Solutia, Inc., formerly Monsanto Chemical Company ("Monsanto") with polychlorinated biphenyls (PCBs), dibenzofurans, and other chemicals. We are writing to you because the EPA's Region IV office has repeatedly demonstrated its unwillingness to tackle Monsanto. In this letter, we lay out for you in detail the scope of the problem, the nature of the federal government's response, the questionable role played by the Alabama regulators charged with resolving the problem, the futility of the response made by Monsanto to date, and what needs to be done to correct this environmental calamity. We hope the EPA will respond decisively to our request for action.

For decades, the Solutia/Monsanto factory near Anniston, Alabama was the principal, if not the sole, producer of PCBs in the United States. Significant production took place in the 1930's through the 1960's, with additional production before 1936 and in the 1970's. In the 1970's, as you know, PCB production in the U.S. was banned and its use was severely limited because of concerns about the environmental persistence and toxicity of PCBs. Unfortunately for Anniston, not only did Monsanto release tons of these carcinogens compounds into the local air and water annually, it also dumped millions of pounds of PCB production waste and scrap product in several locations around the plant.

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FACTUAL BACKGROUND

In fact, the largest collection of PCB molecules in this hemisphere (and perhaps the world) is found in Anniston, Alabama. Millions of pounds of PCBs have been buried here by Monsanto over the years. In a letter to your agency in 1975, Monsanto admitted to dumping 5,764,000 pounds of PCBs in Anniston from 1971 through 1975. [See document at Tab 1] Even this enormous number, covering a time frame when there was little, if any, production at Anniston, is based on incomplete records. Much of this pile was dumped without even rudimentary consideration for preventing surface or subsurface runoff, much less off-gassing. [Tab 2] Indeed, when Monsanto bothered to look, it could see PCBs flowing out of the dump with the naked eye. [Tab 2, p. 5]. That these PCB compounds continue to leach, off-gas, and flow into the local community should come as no surprise. Even as it dumped its PCB waste into these landfills, Monsanto acknowledged that was "not the ultimate, since PCB's could eventually enter the environment." [Tab 3] It told its customers in 1970 that "monitoring of rivers, creeks, lakes, etc. surrounding the fill, especially after heavy rainfall, will aid in assuring that PCBs are not escaping into the environment", but Monsanto failed to follow its own recommendation. [Tab 3, pp. 2-3]

One year later, Monsanto replaced that warning to its customers with this language: "Due to possible environmental pollution by PCB materials, scrap [PCB] must not be allowed to contaminate a water supply. The material needs to be destroyed by proper incineration at 2,000°F including facilities to neutralize hydrogen chloride gas. The user may ship the scrap to Monsanto Co., W. G. Krummich Plant, Sauget, Illinois, Attention Supervisor Dept. A-245. It will be incinerated properly, at a charge of 3 cents a pound. [Tab 3, p. 4] In England, where Monsanto had another manufacturing facility, a committee which included Monsanto representatives concluded that the manufacturing residues "must not be disposed of by methods which are not destructive, e.g. landfill." [Tab 4, at ¶46] Monsanto did not heed its own advice, and proceeded to dump millions of pounds of its PCBs (which it couldn't charge its customers to incinerate) in Anniston!

More importantly, it is indisputable that Monsanto's dumps have released, and are continuing to release, PCBs into the community.

Recently, extensive air monitoring testing was performed by Mark Hermanson, Ph.D., who has sampled for airborne PCBs in locations through North America. His results [Tab 5] confirm that there is a serious problem in this community. Dr. Hermanson sampled tree bark in our community. The results showed that even young trees have relatively high levels of PCBs, which reflect the high ambient levels we are all breathing constantly. [Tab 6] Simply stated, even though no PCBs have been manufactured here since 1973, and even though the Alabama Department of Environmental Management (ADEM) has ostensibly been handling this, there are more PCBs in our air than anywhere else.

Samples of soil from local homes and yards reveal high levels of PCBs. Two different labs have analyzed dozens of properties in the vicinity of Monsanto, and both found PCBs above detection limits in more than 95% of their samples. These were almost exclusively residential properties. Dozens of samples came back above 1.0 ppm, which we understand is a presumptive

level of concern under EPA's newest regulations. [Tab 7]

Local surface waters are also contaminated. Alabama has once again issued a fish advisory for nearby streams and Lake Logan Martin, because of PCB contamination. [Tab 8] It is unsafe to eat fish caught downstream from Anniston, and it has not been safe to do so for years. The aquifer under the dumps is also contaminated with several chemicals. Even Monsanto has acknowledged that this problem requires attention. Indeed, the dumps overlay the recharge zone for the spring which supplies most of the drinking water for Calhoun County.

All of this would be less disconcerting if there were clear evidence that the high environmental levels have not resulted in high body burden of PCBs and dibenzofurans. Unfortunately, that is not the case. Blood serum testing has shown that hundreds of Anniston residents have elevated blood levels. [Tab 9] This is a particular problem for the people who have lived in the community for years. Similarly, we would be less concerned if the chemicals involved were less dangerous. But furans and dioxins (known contaminants of PCBs) are considered among the most toxic substances known. Moreover, ATSDR has rated PCBs and various of the Aroclors (commercial PCB mixtures manufactured in Anniston) among the 25 chemicals of greatest concern. [Tab 10]

You must also consider that, in addition to PCBs, other chemicals were discharged or disposed of at this facility. Benzene is a known human carcinogen and Monsanto has been a source of benzene emissions in our community for some time. [Tab 11] Monsanto's dumps also contain millions of pounds of parathion and parathion production waste. Parathion is an extremely toxic organophosphate insecticide. As long as Monsanto's porous landfill is allowed to emit this poison, Anniston will remain the parathion capital of North America. [Tab 12]

THE FEDERAL GOVERNMENT RESPONSE

From the beginning of this saga, the federal government has taken little, if any, action. Earlier in this decade ATSDR, in conjunction with the Alabama Department of Public Health, initiated a "health study" of local residents that documented serious health concerns and a number of areas which required further study. [Tab 13] These included high risks for cancer, possible contamination of the aquifer supplying the county's public drinking water, and high levels of PCBs in household dust. Even this effort was inadequate, however, as airborne PCB exposure was not even considered, and the scope of residential soil contamination was greatly undercalculated.

Although EPA apparently gave some thought to stepping in and addressing the situation under CERCLA, ADEM wrote the EPA a long letter and convinced the EPA to refrain from doing so. [Tab 14] As a result, there has been essentially nothing done for many of the citizens affected by this pollution.

We understand that the EPA did give some money to the "Sweet Valley Environmental Justice Task Force." We do not know how this money was spent, but do know that our community has nothing to show for this expenditure. In fact, recent sworn testimony by the head of the Task

Force, a Ms. Cassandra Roberts, suggests that much of the money went to furnish her basement. Her testimony further suggested that she, her attorneys and Monsanto worked together to undermine one of Monsanto's most vocal opponents, the nearby Mars Hill Missionary Baptist Church. [Tab 15]

The bottom line is that nothing of substance has been done by the federal government to help Anniston residents with this environmental disaster.

ALABAMA'S QUESTIONABLE OVERSIGHT

Unfortunately, state regulators have not effectively protected the welfare of Anniston's citizens either. The problem of PCB pollution from the Monsanto plant first came to regulatory light in 1970 when fish from Lake Logan Martin tested very high for PCBs. Although this reservoir is many miles from Anniston, Monsanto realized where the PCBs had come from, and sought out ADEM's predecessor, the Alabama Water Improvement Commission (AWIC), to "build confidence that Monsanto intends to cooperate with governmental agencies." [Tab 16] AWIC's Mr. Crockett and Monsanto employees agreed to "[G]ive no statements or publications which would bring the situation to the public's attention." A memo summarizing that meeting states: "Mr. Crockett was noticeably unexcited at our disclosure... The full cooperation of the AWIC to reach the above objective on a confidential basis can be anticipated. It must be remembered, however, that all AWIC actions are subject to state political pressure and federal control."

By September, 1970, however, Monsanto's plan to placate Crockett hit a snag. The Monsanto legal department objected to revealing the latest discharge data "because the information could be subpoenaed and used against us in legal actions. Obviously, having to report these gross losses multiplies, enormously, our problems because the figures would appear to indicate lack of control." [Tab 17] Consequently, when they visited Crockett the following month, they simply refused to provide all the data, and instead stated that the trend was improving, even though the data did not support this. [Tab 17, pp.2-3] They then reached an agreement "that any written effluent level reports would be held confidential by the Technical Staff and would not be available to the public until or unless Monsanto released it." One can only wonder how much other information Monsanto has kept from the federal government and the public by secret agreement with ADEM.

Approximately one year later, the specter of federal control finally materialized for Monsanto. The EPA showed up on August 19, 1971, and collected a soil sample with a "considerably above average concentration," which Monsanto promptly convinced Crockett was an aberration. [Tab 18] Incredibly, Crockett went to Region IV in Atlanta on behalf of Monsanto in November 1971 for a meeting he arranged. [Tab 19] Apparently, the Justice Department was preparing to initiate legal proceedings against Monsanto. When the EPA's director of enforcement, a Mr. White, suggested that Monsanto needed a discharge permit which would provide for "no detectable amount" of PCBs, Crockett and ADEM again came to the rescue, arguing successfully for allowing future releases. Monsanto's internal memo documenting the meeting then states, "Mr. Crockett and Mr. White will agree upon an interim permissible level for PCB emissions to be

provided in the Refuse Act Permit. Obviously, Mr. Crockett will press for a number in excess of our 0.3 lbs./day current level." When White then suggested that Snow Creek should be dredged, he was once more dissuaded by Monsanto and Alabama's representative. The memo memorializing that meeting concludes with these observations:

We received strong indications that the Southeastern Regional EPA Office will recommend strongly against Refuse Act suit by the Federal Department of Justice on PCB pollution.

The entire atmosphere of the meeting was favorable, including the lunch following it.

The FDA eventually learned that fish in Choccolocco Creek (a few miles downstream from Anniston) were contaminated with PCBs. In a memo labeled, "CONFIDENTIAL - F.Y.I. AND DESTROY", Monsanto described how it would respond. [Tab 20] "Joe Crockett, Sect. of the AWIC, will try to handle the problem quietly without release of the information to the public at this time. He believes that FDA will not precipitately [sic] in this matter." It didn't. Indeed, it did not act at all.

In 1983, the Soil Conservation Service detected high levels of PCBs in Choccolocco Creek downstream from Monsanto's Anniston plant. Monsanto's response was to assert "it would be unproductive to try to identify the source of the PCBs in Choccolocco Creek" so that no one did at first. [Tab 20, pp. 2-3]. However, in 1984, the Alabama Attorney General sue a small chemical company, Tull Chemical of nearby Oxford, for releasing PCBs into the creek, which led to testing upstream in Snow Creek, just downstream from Monsanto's factory. In 1985, the Attorney General's office wrote to Monsanto indicating it had found levels "in excess of EPA standards." [Tab 21] However, Alabama inexplicably lost interest, and Monsanto conducted its own unsupervised dredging several years later.

In 1991, an RFA was performed for your agency by A. T. Kearney, Inc. [EPA I.D. No. ALD004019048] It identified dozens of areas which needed further investigation. [Tab 22] Apparently EPA did nothing, or once again deferred to Alabama.

Token action was finally taken in 1995. Monsanto had long ago swapped some of its old landfill property to Alabama Power Company (APC) for a transformer station. APC found PCBs leaching from the site and notified ADEM. Monsanto promptly took the land back so it could simply cover over the problem and avoid having to incur a costly but effective remediation. A Monsanto memo suggests that ADEM requested more extensive sampling, which led to discovery of PCBs in nearby neighborhoods. [Tab 23] However, sworn testimony from the author of the memo (a Monsanto employee who had recently transferred to Anniston and didn't know there were PCBs escaping from the other landfills) reveals it was *his* idea to do the sampling, *not* ADEM's. [Tab 23, pp. 3-6], and that the reason that he falsified the memo was because he feared getting into trouble if Monsanto learned that he had suggested the testing.

As the enormity of the extent of PCB contamination began to come to light, the Alabama

Department of Public Health (ADPH) began to take some interest. Eventually, some personnel at ADPH became concerned enough by the data that a letter was sent to ADEM seeking additional sampling in several areas around the plant. [Tab 24] ADEM showed a decided disinclination to be bothered. While ADPH did work with ATSDR to conduct the health studies previously mentioned, it was simultaneously communicating with doctors at the University of Alabama-Birmingham (UAB) to discuss how the extent of the contamination was to be "brokered to the Anniston Community." [Tab 25]

ADEM AND MONSANTO'S SHAM REMEDIATION SCHEME

Confronted with a massive pollution problem and the theoretical threat of federal intervention, Monsanto and ADEM instituted a remediation plan that was designed to do, and cost, as little as possible. Virtually no PCBs have been disposed of. Instead, millions of pounds have simply been covered over. [Tab 26] The only option offered to the people living in homes in several of the more contaminated zones was to sell their land to Monsanto. After purchasing those properties, Monsanto bulldozed the homes and covered the land with dirt. The PCBs buried on those properties are still free to off-gas, and will eventually make their way into the local environment and the bodies of Anniston women and children. Most of the people living in the area, *i.e.*, those who do not live where the buyout was tendered, or who simply did not want to be forced to sell to Monsanto, were left to avoid exposure to dirt and dust, and locally caught fish, and pray for favorable winds.

That this so-called "remediation" is not effective is proven by the sampling data previously referenced. Of particular note is the high level of PCBs in local air, even after Monsanto's dumps were allegedly capped to RCRA standards. Of course, these caps were designed to prevent PCBs from getting into ground or surface water, and do not prevent off-gassing, and even the water coming from the landfill after running off this "clean" cap is still contaminated. When university researchers sampled the fresh sediment in the culvert below the landfill after a heavy rain this past summer, it tested positive for PCBs. [Tab 7, last sample result] Incredibly, the one thing the remediation scheme was designed to accomplish has not occurred. Alan Faust, Monsanto's remediation manager, has admitted that Monsanto is still exceeding the limits for PCBs in its storm water discharges. [Tab 26, p.7]

Local judges and litigants have lost all respect for ADEM and realize nothing positive will come of ADEM's oversight. Judge Bob Austin of the St. Clair County, Alabama, Circuit Court has a case before him brought by the class of landowners whose land bordering Lake Logan Martin has been devalued by the broad, long-lasting fish advisory on the lake. Last month, Monsanto asked Judge Austin to postpone a trial set for February while ADEM and Monsanto conducted yet another study of the extent of the pollution. Judge Austin declined, and was quoted as saying, "His honor has had all the help from ADEM he needs. I have very little confidence in ADEM. If ADEM is doing the supervising, I'd just as soon turn this over to Monsanto." Although Monsanto argued the court would be "in the dark" without such a study, Judge Austin stated, "It's just not real comforting to know that if I'm blind, that ADEM's going to show me the way." [Tab 27] The citizens of Anniston hope that the EPA will soon realize, as well, that ADEM is only protecting Monsanto.

CONCLUSION

Monsanto will undoubtedly rationalize and trivialize the information we are conveying to you., as it has for decades gone to great lengths to avoid its responsibility. Monsanto's deceitful approach is reflected with crystal clarity in its internal memo discussing animal studies it performed to test the toxic effects of PCBs. It used a company called Industrial Bio-Test. Officers of that company were subsequently indicted and convicted in federal court for falsifying test results. When the PCBs test results were "not as favorable as we had hoped or anticipated," Monsanto decided "Some of the studies will be repeated to arrive at better conclusions." [Tab 28]

What we are requesting is a prompt, thorough assessment by the EPA of the problem, including: (i) review of the site for probable inclusion on, and remediation consistent with, the National Contingency Plan; (ii) objective investigation of the rates of illness among the affected residents conducted by unbiased medical professionals; (iii) regular medical screening for the people exposed to PCBs; (iv) proper incineration of the mountains of PCB buried in our community, preferably in Sauget, Illinois, where Monsanto was paid to dispose of the customers' waste PCBs; and (v) real oversight by an agency willing to insure that all of this is accomplished.

We have one Superfund site in Calhoun County: the Anniston Army Depot (AAD). Yet, AAD poses but a fraction of the danger the Monsanto site does. At Monsanto, there are proven off-site releases to the soil, air, groundwater *and* surface waters. The population exposed and threatened by these releases is large, certainly in the tens of thousands, and relatively poor. The dangers of the chemicals involved include, among other things, toxicity, persistence, ability to bioconcentrate, and carcinogenicity. It seems that this site, if scored objectively and accurately, would surely rank high on any list of sites deserving EPA's attention. The people of Anniston need, and deserve, a prompt, public, straightforward, and substantive response to this request for environmental justice.

Sincerely yours,

The Undersigned Citizens
of Calhoun County, Alabama

Contact Person: David Baker, President
West Anniston Environmental Justice Task Force

c: *Wall Street Journal*
The Birmingham News
The Anniston Star
New York Times
EPA, Region IV, Atlanta
Senator Richard Shelby
Senator Jeff Sessions

Congressman Bob Riley
Governor-Elect Don Siegleman
Attorney General Bill Pryor
Sierra Club
Natural Resources Defense Council
Citizens Action
State Senator Dale Marsh

Representative Mike Rogers
Representative Barbara Boyd

Representative Gerald Willis
Representative Steve Hurst