

STATE OF ALABAMA
IN THE CIRCUIT COURT FOR ETOWAH COUNTY
(Transferred from Calhoun County, Alabama)

SABRINA ABERNATHY, et al.,

COPY

Plaintiffs,

versus

CIVIL ACTION NO.

CV-2001-832

(Consolidated)

MONSANTO COMPANY, et al.,

Defendants.

-----/

DEPOSITION OF SANDY SMITH

The deposition of SANDY SMITH was taken before Deborah Salers Garrett, Certified Shorthand Reporter, Registered Professional Reporter, as Commissioner, commencing at 1:45 p.m. on January 3, 2002, by the Plaintiffs, at the law offices of Fite & Miller, Suite 400, SouthTrust Bank Building, Anniston, Alabama, pursuant to the stipulations set forth herein.

Regional Reporting Service, Inc.
755 Walnut Street
Gadsden, Alabama 35901-0755

A P P E A R A N C E S

For the Plaintiffs:

CHARLES CUNNINGHAM, Esq.
Morrissey Building, Suite 200
304 West Liberty Street
Louisville, Kentucky 40202

For the Defendants:

LAWRENCE J. MYERS, Esq.
EDWARD M. NEWSOM, Esq.
SMITH, HELMS, MULLIS & MOORE
1355 Peachtree Street, NE, Suite 750
Atlanta, Georgia 30309

I N D E X

	<u>Page</u>
Stipulations	3
Reporter's Certificate	83

E X A M I N A T I O N S

Witness: SANDY SMITH	<u>Page</u>
By Mr. Cunningham	4

No exhibits were marked for identification,
offered or attached as exhibits hereto.

S T I P U L A T I O N S

IT IS STIPULATED AND AGREED by the parties, through their respective counsel, that the deposition of SANDY SMITH may be taken before Deborah Salers Garrett, CSR, RPR, as Commissioner and Notary Public, Alabama at Large, at Anniston, Alabama, on January 3, 2002, at 1:45 p.m.

IT IS STIPULATED AND AGREED that the signature to and reading of the deposition by the witness is waived, the deposition to have the same force and effect as if full compliance were had with all laws and rules of Court relating to the taking of depositions.

IT IS STIPULATED AND AGREED that it shall not be necessary for any objections to be made by counsel to any questions except as to form or leading questions and that counsel may make objections and assign grounds at the time of trial or at the time said deposition is offered in evidence or prior thereto.

IT IS STIPULATED AND AGREED that notice of filing by the Commissioner is waived.

1 STATE OF ALABAMA, ANNISTON, JANUARY 3, 2002

2
3 SANDY SMITH,
4 after having been first duly sworn, was
5 examined and testified as follows:

6
7 EXAMINATION

8 BY MR. CUNNINGHAM:

9 Q. Sir, my name is Charlie Cunningham. I'm
10 going to ask you some questions today to
11 try to find out factual information that
12 you may know that will help the parties
13 in a lawsuit that has been filed against
14 Monsanto and Solutia here in Calhoun
15 County.

16 I represent about thirty-five
17 hundred folks who have filed that
18 lawsuit. Have you ever been deposed
19 before?

20 A. Yes.

21 Q. So you understand that the lady to your
22 left needs to take down everything you
23 say and needs you to answer with words

1 rather than nods of the head.

2 A. Yes.

3 Q. Let me give you a couple of
4 idiosyncrasies about me that you may not
5 have encountered in the previous
6 deposition testimony. First off, I have
7 a bad habit of asking you a question and
8 you'll give me an answer; I'll think you
9 have finished, even though you may not
10 have, and go on to another question.

11 And sometimes I'll have this
12 brilliant idea, and I'll just have to
13 ask another question and will have cut
14 you off. If I do that, let us know
15 because we want you to give a complete
16 answer to everything I ask. Okay?

17 A. Okay.

18 MR. MYERS: He may have an idea;
19 we will reserve whether it's
20 brilliant or not. He has a
21 lot of ideas.

22 Q. The second thing about me is I have a
23 tendency to ask my questions and it

1 sounds somewhat like I know what I'm
2 talking about, even though sometimes I
3 don't. So if I say something and it
4 sounds wrong to you, please let us know
5 that. Don't assume that I must know
6 what happened. Okay? Because what we
7 really want is whatever you know about
8 these facts. And you are nodding your
9 head, and I know you meant to say it.
10 And that is okay.

11 Tell me first off about your
12 previous experiences in deposition.
13 Have you done that once or more than
14 once?

15 A. Only one time. I really do not remember
16 the date, but it was in this room.

17 Q. I'm betting it had to do with Monsanto
18 and PCBs?

19 A. Yes. It was for Monsanto and PCBs.

20 Q. I have known of two different cases
21 where folks like you have been deposed.
22 One was in the insurance litigation, and
23 the other had to do with what is called

1 the Owens case in federal court that
2 also involved people living around the
3 plant. Do you have any idea which one
4 it was?

5 A. I'm sorry to say I really don't know.

6 MR. MYERS: It was the Owens case.

7 Q. I started to say, if the lawyers were
8 being fairly nice, it was probably
9 Owens. If they were pretty mean to each
10 other, it was probably the insurance.

11 A. I do know the lawyer wore boots.

12 MR. NEWSOM: That would be Larry
13 Wright.

14 Q. Larry Wright?

15 A. Larry Wright.

16 Q. Let me start with the easiest one you
17 are going to get all day. That would be
18 your full name, please.

19 A. Carl Sandy Smith.

20 Q. And what is your address, please?

21 A. 11 Lincoln Shores Drive, Talladega.

22 Q. I like the way you say that, Talladega.

23 A. 35160.

- 1 Q. How long have you lived over in
2 Talladega?
- 3 A. Eighteen years.
- 4 Q. Before that where did you reside?
- 5 A. In Saks, just above town.
- 6 Q. I know where Saks is. How long did you
7 live in Saks?
- 8 A. Nine years.
- 9 Q. Before that where did you reside?
- 10 A. In Winter Haven -- Auburndale, Florida.
- 11 Q. And I confess; I do not know where
12 Auburndale, Florida is.
- 13 A. Right next to Winter Haven, just a
14 suburb of Winter Haven.
- 15 Q. Which I perceive to be on the gulf
16 coast?
- 17 A. Central Florida.
- 18 Q. Okay. And how long did you live in
19 Florida?
- 20 A. Four years.
- 21 Q. And before that where did you reside?
- 22 A. Saks.
- 23 Q. How long did you live in Saks?

1 A. Since '61, up until that time, '61 to
2 '70.

3 Q. Okay. Before '61 where did you reside?

4 A. Birmingham.

5 Q. And how long did you live in Birmingham?

6 A. '56 to '61, six years.

7 Q. Okay. And before Birmingham?

8 A. Rockford, Alabama, from 1940 to 1955.

9 Q. We have to be getting to the day of your
10 birth.

11 A. That's it.

12 Q. Are you married?

13 A. Yes.

14 Q. What is your wife's name?

15 A. Sue.

16 Q. Maiden name?

17 A. Hannah.

18 Q. Do you know if she has ever had her PCB
19 level checked?

20 A. No, she has not.

21 Q. Do you have any children?

22 A. Yes.

23 Q. What are their names?

1 A. Robin. Just want the first name?

2 Q. And their last name these days, in case

3 of daughters.

4 A. Robin Bonner.

5 Q. Any relation to the Hattiesburg,

6 Mississippi Bonners?

7 A. No. Traci, T-r-a-c-i, Juhnke,

8 J-u-h-n-k-e.

9 Q. A good German name.

10 A. A stepson, Dean Carter.

11 Q. Is that it?

12 A. Loy, L-o-y, Hislop, H-i-s-l-o-p.

13 Q. Any of them ever I had their PCB level

14 checked?

15 A. No, no.

16 Q. Any of them ever have problems in

17 school?

18 A. No.

19 Q. If I ask you for a list of all the adult

20 relatives by blood or marriage that you

21 have who reside in Etowah County and who

22 are not convicted felons and therefore

23 could theoretically show up on a jury

1 panel, would that be a big list or a
2 short list?

3 A. Of the ones that reside in Etowah
4 County?

5 Q. Yes.

6 A. No relatives that I know of reside
7 there.

8 Q. I guess, in theory, own property in
9 Etowah County or have vehicles
10 registered in Etowah County?

11 A. No, no one.

12 Q. Before we get too deep into this, I want
13 to converse with you for a moment about
14 anything you may have done to get ready
15 for today. I know you did talk to the
16 lawyers, and obviously, that is
17 appropriate. But other than talking to
18 lawyers, did you have any conversations
19 with anybody else?

20 A. No.

21 Q. Did you look at anything or read
22 anything before coming over today?

23 A. I read a note from the Washington Post.

1 Q. Was that from Tuesday's Washington Post?

2 A. December 25th, I think.

3 Q. December 25th?

4 A. Well, I believe that's the date.

5 Q. Was it the one with the story about the

6 PCBs in Anniston?

7 A. Right.

8 Q. Do you subscribe to the Washington Post?

9 A. No. My wife showed me the article. She

10 got it at work.

11 Q. Where does she work?

12 A. At the Anniston Army Depot.

13 Q. What is her job there?

14 A. She is a certified industrial hygienist.

15 Q. Okay. How long has she been engaged in

16 that occupation?

17 A. Seventeen years.

18 Q. And did she take schooling somewhere, I

19 assume, to become an industrial

20 hygienist?

21 A. Yes.

22 Q. Where did she get that schooling?

23 A. University of Hawaii, Austin T, numerous

1 colleges.

2 Q. Did she have a degree conferred by one
3 of them?

4 A. Yeah. She has two masters degrees, one
5 in environmental health and one in --
6 I'm ashamed to say I can't say it.

7 Q. This is your second wife, I take it?

8 A. Yes.

9 Q. I was going to say she was commuting
10 from Saks to the University of Hawaii --
11 All right.

12 And how long has she worked for
13 ANAD?

14 A. Seventeen years.

15 Q. Okay. Did she work for anybody else as
16 a hygienist before that?

17 A. No. That was her first employment.

18 Q. Was she married to you when she got that
19 job or did y'all --

20 A. No. It was after.

21 Q. Did she make any comment to you about
22 the article?

23 A. No. The only thing she said is there

1 was an article on the web today about
2 Anniston, PCBs. She brought a copy of
3 it home, and I read it.

4 Q. You don't have that with you?

5 A. No, no.

6 Q. Did she make any comment to you about
7 PCBs and your personal exposure
8 historically to PCBs?

9 A. We do not talk about what she does or
10 what I used to do.

11 Q. That's probably a prudent thing. Okay?
12 Anything else that you looked at?

13 A. No.

14 Q. I'm going to assume that every answer
15 you give me today is based then on your
16 own independent recollection. If at any
17 point you give me an answer that's based
18 on something you read in this article,
19 that is fine. I'd like to know that
20 too. Just let us know that that is the
21 source. Or if one of my questions
22 reminds you of something that you talked
23 to somebody about at a Christmas party

1 recently, and so you are telling me what
2 somebody else recalled, again, that is
3 fine. Love to know it. Just let us
4 know the source if it is other than your
5 own independent recollection. Okay?

6 A. (Witness nods head affirmatively.)

7 Q. Okay. I understand that you have been
8 identified as a potential witness by
9 Monsanto or Solutia in this case that is
10 going to start trying up in Gadsden on
11 Monday. Do you have any idea what you
12 will be testifying about?

13 MR. MYERS: Object to the form.

14 Go ahead.

15 A. I would assume it would be my work
16 history at Monsanto and Solutia.

17 Q. Okay. Before we get into that, I want
18 to cover two subjects, first off, your
19 educational background.

20 A. Just high school.

21 Q. Where did you graduate high school?

22 A. Phillips High School, in Birmingham.

23 Q. And when was that?

1 A. 1959.

2 Q. Okay. And let's talk about work you
3 have done other than for Monsanto. When
4 you came out of high school did you go
5 off to work?

6 A. Yes.

7 Q. Where did you go?

8 A. Birmingham Paper Company was my first
9 job.

10 Q. And I'm sure it was a lovely job. What
11 did they have you doing?

12 A. Ever heard of Nifty notebooks? Cutting
13 out notebooks.

14 Q. Just on a paper punch?

15 A. A big knife, a big machine. That didn't
16 last long. I went to work then with
17 Thompson Tractor Company, which is the
18 Caterpillar dealership for this part of
19 the country.

20 Q. What did you do for Thompson Tractor?

21 A. I worked in the parts department.

22 Q. Okay. Next job after that?

23 A. Monsanto.

1 Q. When would that have been?

2 A. 1966 to 1970.

3 Q. Okay. Now, let me back up a minute or

4 so. You were -- Were you at Birmingham

5 Paper -- how long?

6 A. Oh, it was just a small tenure there.

7 Q. So you were at Thompson Tractor for

8 about six or seven years?

9 A. Right.

10 Q. Okay. After your tenure with Monsanto

11 in 1970, where did you go?

12 A. Got laid off at Monsanto and moved to

13 Florida. That is when I moved to

14 Florida. And I worked for Santa Fe

15 Equipment Company because of my

16 experience that I had acquired working

17 with Thompson Tractor. These are heavy

18 equipment dealers.

19 Q. So you were still in the parts

20 department?

21 A. Well, in both parts and sales, the

22 latter in sales, the last two years in

23 sales.

1 Q. Okay. And then what about after you
2 returned --

3 A. In 1970 -- I came back to Monsanto in
4 1974, had an opportunity to come back at
5 that particular time and was there until
6 December of 1997.

7 Q. And at that point you retired?

8 A. Retired.

9 Q. Okay. How is your health, Mr. Smith?

10 A. I think it is okay. I have had back
11 surgery since I retired.

12 Q. Was this a ruptured disk?

13 A. Yes, ruptured disk.

14 Q. Did you have a complete diskectomy?

15 A. Just a shaving. And a knee operation,
16 cartilage, torn cartilage in the knee.

17 Q. Old football injury?

18 A. I don't really know what it is. I
19 played a little football.

20 Q. You look like a big boy. I figure down
21 here any big boys get thrown the
22 pigskin.

23 Have you ever had cancer?

1 A. No.

2 Q. Do you consume alcoholic beverages?

3 A. No.

4 Q. Tobacco products?

5 A. No.

6 Q. Ever done either?

7 A. I have smoked.

8 Q. When did you quit?

9 A. I quit somewhere around 1980.

10 Q. Was there any particular event that

11 caused that to happen?

12 A. Well, I just knew it was bad for you.

13 Q. Ever served in the military?

14 A. No.

15 Q. Do you receive any sort of pension from

16 Monsanto?

17 A. Well, yeah, actually. It was a rollover

18 from what they called a savings and

19 investment plan over the years, plus a

20 retirement plan where you could receive

21 monthly annuities or a lump sum. And I

22 chose a lump sum.

23 Q. Okay. And do you receive subsidized

1 health benefits, health insurance and
2 dental insurance?

3 A. Yes. No dental. Once you retire, there
4 is no dental. Now, we do pay part of
5 the premiums for the insurance.

6 Q. And that fraction is probably going up
7 every year, I guess?

8 A. Yes. As a matter of fact, it has
9 tripled since retirement.

10 Q. Were you ever a member of the
11 International Chemical Workers Union?

12 A. Yes.

13 Q. What years?

14 A. Well, from the first four years, from
15 '66 to '70, then from '74 to '80, and
16 then from '88 to '95, I believe. At
17 that time, those were the times I was in
18 the bargaining unit. The other times
19 from --

20 Q. '88?

21 A. From '88 to '95 I was in supervision,
22 and '95 to '97 I was in supervision.

23 Q. Okay. And we'll come in a moment to the

1 different jobs, because I'm not used to
2 people going into the bargaining unit,
3 coming out, and going back in. That is
4 a new one on me.

5 Did you ever hold any positions
6 with the national?

7 A. National union? No.

8 Q. Any positions with the local?

9 A. Yes.

10 Q. What sort of positions?

11 A. Vice president.

12 Q. When were you vice president of the
13 local? Just pick a decade.

14 A. It would have been in the '70s.

15 Q. What sort of responsibilities does the
16 vice president have of that -- did the
17 vice president have of the local union?

18 A. Very little.

19 Q. And any other positions?

20 A. No.

21 Q. Did you receive any sort of routine
22 medical care while you were employed
23 with Monsanto?

1 A. We received -- Yes. We received blood
2 work. We had routine blood work we did.
3 Q. And how often do you recall that that
4 blood was drawn?
5 A. I believe it was every six weeks.
6 Q. Now, was that drawn by the nurse there
7 at the plant?
8 A. Yes.
9 Q. And do you know where that got analyzed?
10 A. My assumption was that it was sent off
11 to a laboratory. I do not know for
12 sure.
13 Q. You never saw a piece of paper with the
14 result that might have said on it what
15 lab had looked at it?
16 A. No, not that I recall.
17 Q. Do you recall what sort of parameters
18 they were looking at in your blood?
19 A. Well, I know -- They set up a standard
20 on your cholinesterase level, and then
21 they continued to monitor it each six
22 weeks as to where it was in this
23 particular standard. But I do not know

1 the exact.

2 Q. So in other words, before you started in

3 the Niran department, they did a

4 baseline --

5 A. A baseline, yes.

6 Q. -- cholinesterase?

7 A. Right.

8 Q. And they would every six weeks draw some

9 blood and see that it wasn't dropping

10 too low?

11 A. Correct.

12 Q. Any other kinds of routine examination,

13 tests?

14 A. Yearly physicals.

15 Q. Okay. What do you remember them doing

16 in this annual physical examination?

17 A. It was hearing, your sight, chest x-ray,

18 prostate check. And in the latter

19 years, after the PSA became an item,

20 that was checked, and also your blood

21 work, your cholesterol.

22 Q. I assume there was a bit of a history

23 taken?

- 1 A. Yes, yes.
- 2 Q. And who do you recall dealing with when
3 you would go through those annual
4 examinations?
- 5 A. The first doctor was Dr. Francis, and
6 the second doctor was Dr. Gehi. And
7 then the nurse. We always called her
8 Nurse Good Body -- I can't -- Nurse
9 Sheppard.
- 10 Q. Do I need to meet Nurse Good Body?
- 11 A. No, no.
- 12 Q. Do you ever recall learning anything
13 from any of those -- apparently you
14 would have gone through quite a few of
15 those if you had them every year --
16 about your health circumstances that
17 stands out in your mind?
- 18 A. Basically the ones that I recall have
19 been, like, cholesterol and
20 triglycerides. Seems to draw attention
21 -- Those were out of line. Not every
22 time but some of them.
- 23 Q. High, I assume?

1 A. High. Yes.

2 Q. Did you take any steps to try to address

3 that?

4 A. Yes. Go to another doctor, which the

5 other doctor was Dr. Gehi. And he would

6 give you something to take.

7 Q. So you are actually on medication for

8 that?

9 A. I'm on medication for cholesterol.

10 Q. Take a statin drug?

11 A. Zocor.

12 Q. Did any of that cost you any money, the

13 examinations that took place?

14 A. No.

15 Q. Did you always avail yourself of that

16 opportunity?

17 A. Yes.

18 Q. Do you still have folks who work there

19 at Monsanto who you would consider

20 friends and acquaintances, that you

21 would know on a first-name basis if you

22 saw them on the street?

23 A. Yes.

1 Q. Would you say that you have got a
2 handful, couple of dozen, a hundred?

3 A. Just a handful now because a lot
4 retired. Folks about my age are just
5 not there anymore. A lot of new people
6 I don't know.

7 Q. Do you get that newsletter, the Bama
8 Briefs?

9 A. Yes.

10 Q. And I understand that comes out roughly
11 quarterly?

12 A. Yes. Supposed to be quarterly, but I'm
13 not sure it makes it every quarter.

14 Q. Do you read that pretty routinely when
15 it comes?

16 A. I read it, yes.

17 Q. Do you ever remember reading anything in
18 there about the PCB situation?

19 MR. MYERS: Object to the form.

20 You can answer.

21 A. I don't really remember anything in it
22 about the PCBs.

23 Q. No one else has either, but I keep

1 asking.

2 All right. Let's talk about what
3 you did at Monsanto. Would you tell me
4 please the first job you had the day you
5 showed up there? What was your title?

6 A. When I hired in in October of 1966, the
7 only way to could get a job, an hourly
8 job, you had to start off in the labor
9 group.

10 Q. Okay.

11 A. Which consisted of -- I remember the
12 first day very well.

13 Q. Tell me what you did your first day as a
14 laborer.

15 A. Shoveling gravel, spreading gravel in
16 the yard.

17 Q. Now, when you say in the yard --

18 A. Anywhere in just --

19 Q. We have talked about a limestone pit --

20 A. No. I know what you are talking about.
21 That is not that.

22 Q. Just the little gravel that they have
23 out there generally?

1 A. Correct. In places where you couldn't
2 spread it with a machine, maintain the
3 yards.

4 Q. Now, did you ever pick some of this
5 gravel up? I assume it wasn't flying
6 away. They had put some down long
7 before you got there. Did stuff get
8 spilled and have to be picked up and
9 hauled off and fresh put back down?

10 A. Sometimes, yes.

11 Q. I assume when you came in as a laborer
12 you worked in no particular department?

13 A. No particular department, what they
14 called the maintenance department,
15 maintenance laborer.

16 Q. Any other particular task that you
17 remember doing with some regularity as a
18 laborer?

19 A. We tightened the railroad spikes pretty
20 regular when we ran out of something to
21 do.

22 Q. Now, I worked on the railroad one time.
23 We had to drive spikes with a spiking

1 maul. I know over in Europe they use
2 screws.

3 A. We used the old maul.

4 Q. Okay. I hope you were better at it than
5 I was. Anything else that stands out in
6 your mind?

7 A. Not really. That was -- That job lasted
8 I think about five months before there
9 came an opening in the operations end.

10 Q. And none of that required you to have
11 any particular knowledge of anything
12 except how to hold a shovel or hold a
13 spiking maul, basically?

14 A. In the laborer, correct.

15 Q. What was the next job you had then?

16 A. In operations, what they a chemical
17 operator.

18 Q. You were an operator?

19 A. Right.

20 Q. That would have been roughly when that
21 you started that?

22 A. Oh, in '67.

23 Q. Okay. And I'm assuming you made that

1 move because it was a move up in terms
2 of pay?

3 A. Correct.

4 Q. A promotion, if you will?

5 A. Yes.

6 Q. Was there a particular department you
7 worked in?

8 A. Parathion.

9 Q. Tell me what you did as a parathion
10 operator starting in 1967.

11 A. In 1967 the parathion department was the
12 manufacturer of parathion, which is a
13 cotton poison. You did various and
14 sundry things, which you had to learn
15 the jobs as they were set up as you
16 started this job and then you learned
17 it. And then when an opening came, you
18 kind of had a sequence as to the jobs
19 you moved up through.

20 Q. And I assume there was a goal there of
21 -- one of the folks used the term "cross
22 training" to try and get you to learn as
23 much as you could about the various

1 tasks?

2 A. Correct. The reason you would like to
3 learn more, most of the jobs, is because
4 you had an opportunity to make more
5 money on overtime or when something came
6 up on one of the other jobs, to fill in
7 when somebody was sick or whatever.

8 Q. Okay.

9 A. And some jobs are a little bit easier
10 than other jobs. You want to get that
11 top job up there.

12 Q. I'm sure. Let me talk to you for a
13 moment about wastes that might have been
14 generated in the parathion department.

15 Did you ever in your tenure in
16 that department have reason to work
17 with, dispose of, or collect wastes that
18 were generated in that department?

19 A. The byproduct -- Well, the wastes off of
20 the parathion products was -- went
21 through the waste treatment plant, the
22 waste treatment plant or running the
23 waste treatment and soda ash -- They had

1 it in two combined, was a job. You
2 monitored the waste treatment plant and
3 soda ash part of the job.

4 Q. Was that a job that was handled by the
5 parathion department?

6 A. At that particular time, yes.

7 Q. So you rotated through there on occasion
8 and did that task?

9 A. Yes, yes.

10 Q. When you say the waste treatment plant,
11 you are talking about the long metal
12 basins that were full of fluid in the
13 back?

14 A. They were not metal. They were
15 concrete.

16 Q. Okay. See what I said; I'll say it like
17 I know what I'm talking about and I
18 really don't.

19 A. They were all concrete.

20 Q. In that process you had to make sure you
21 had the right mix of bacteria and waste
22 and before it got released they had time
23 to do their work and so forth?

- 1 A. You monitored your bugs, so to speak,
2 which is your bacteria. You took
3 samples, made sure the samples were
4 okay.
- 5 Q. Did you actually analyze those samples?
- 6 A. No, take them to the lab.
- 7 Q. I have some understanding that there was
8 another means of disposing of some of
9 the waste coming off the Niran
10 department, and that was an incinerator?
- 11 A. Yes.
- 12 Q. Did you ever have any role with
13 operating that particular piece of
14 equipment?
- 15 A. Not -- No. I never did operate that.
- 16 Q. Can you tell me what went to the
17 incinerator?
- 18 A. It was mostly sulfur, what we called
19 residue. That is what we called
20 residue.
- 21 Q. Would the incinerator just turn that to
22 sulfur dioxide?
- 23 A. Yes.

1 Q. That would be a pretty smelly stack gas.
2 Did you ever have occasion to smell a
3 sulfurous --

4 A. Oh, yeah, yeah.

5 Q. But that wasn't part of your bailiwick
6 in the parathion department to operate
7 that?

8 A. Well, the incinerator was always run by
9 the chief operator. You ran every other
10 thing up to that particular item. So
11 you pumped out the residue to a tank,
12 and he ran the incinerator according to
13 what level was needed to be.

14 Q. Do you know why they would only let the
15 chief operator run that incinerator?

16 MR. MYERS: Object to the form.

17 A. It was just --

18 Q. Don't know?

19 A. No.

20 Q. Okay. Let's go to the next job you had
21 as an employee of Monsanto.

22 A. Chief operator. The plant was expanded
23 in '78. We added on another control

1 room and went into what they call a
2 recycle where we did not burn that
3 product anymore that we were talking
4 about. We recycled it.

5 Q. Let me stop you for a moment. You
6 worked for Monsanto from '66 to '70.
7 And I take it that when you got laid off
8 in '70, you were still an operator in
9 the parathion department?

10 A. Correct.

11 Q. Then you came back in '74 as an
12 operator?

13 A. As an operator.

14 Q. In parathion. So when was it that you
15 became a chief operator?

16 A. I believe it was '78.

17 Q. Okay. And that was a promotion
18 obviously?

19 A. Correct.

20 Q. Was that still in parathion? Recycle?

21 A. What we called the recycle department.

22 Q. And there you were taking that sulfur
23 product -- or waste stream and reworking

1 it --

2 A. Reworking it.

3 Q. -- so you didn't have to incinerate it?

4 A. Correct.

5 Q. Do you know as we sit here today,
6 mechanically or chemically, exactly what
7 happened with that stuff in the recycle
8 department?

9 A. If you had asked me four years ago, I
10 would have told you every step. But it
11 was what they called centrifuged and
12 separated out and you reused both liquid
13 and solid. The sulfur went back to the
14 P2S5 department, and the liquid was used
15 as an infiltrate back in the upper
16 stream in the parathion.

17 Q. Okay. So that was yet a new pollution
18 control technology that they used?

19 A. Correct.

20 Q. We mentioned the incineration; you
21 mentioned the biological treatment. And
22 then here they were implementing a
23 recycle program.

1 A. Correct.

2 Q. Okay. What's the next task?

3 A. It was foreman or first level supervisor

4 from 1980 to -- Well, actually '87,

5 somewhere in that area.

6 Q. Again, I presume you made that switch

7 voluntarily and it was a promotion?

8 A. It was a promotion.

9 Q. Did that get you off the shift work?

10 A. Yes.

11 Q. And was there a particular department

12 that you were foreman over?

13 A. Recycle.

14 Q. Okay. Same kind of responsibilities but

15 more managerial?

16 A. More managerial. Had twenty-three --

17 you were the foreman over all the

18 operators and the chief operators.

19 Q. Say it was about twenty-three people

20 under you?

21 A. I think it was about twenty-three at the

22 time.

23 Q. Did you have any particular

1 responsibility in your tenure as a chief
2 operator and as a foreman for ensuring
3 that the people working under you
4 complied with the health and safety
5 guidelines that were in place there at
6 the company?

7 A. Absolutely.

8 Q. If you found somebody that was ignoring
9 the requirements with regard to their
10 personal protective equipment, I presume
11 that you took it upon yourself to point
12 that out and correct it?

13 A. Yes.

14 Q. If you caught somebody doing something
15 that would create an unnecessary
16 exposure to a physical or chemical
17 hazard, you would take steps to remedy
18 that?

19 A. Absolutely.

20 Q. And if you found out, had knowledge,
21 that somebody was doing something that
22 created a danger to people there in the
23 plant or neighbors, you would take

1 active measures to change that?

2 A. Absolutely.

3 Q. I had talked to one of your colleagues
4 earlier today who was a safety
5 supervisor about that time. Do you
6 remember who was safety supervisor in
7 the '80s?

8 A. Was it Joe Mundy or Ed Mundy,
9 something --

10 Q. Ed, Joseph Edward Mundy. And he -- I
11 said to him, what would you do if a
12 worker had come to you and said, "Is
13 this stuff I am working around
14 dangerous?" And the first thing he said
15 he would do would be to tell them to go
16 talk to their foreman. Was that one of
17 the other things you recall doing from
18 time to time, if one of the people came
19 to you and said, "What is the scoop on
20 this stuff we are working on? Tell me
21 what it does to people," or whatever,
22 did you do that?

23 A. Yes. Involved in the training and

1 involved in telling of the dangers.

2 Q. And I take it back when you were work
3 that biological treatment facility, you
4 took that responsibility serious; you
5 felt that was an important task?

6 A. Yes.

7 Q. Would the same be true when you became
8 chief operator and working with the
9 recycle department?

10 A. Yes.

11 Q. Now, after you -- what's the next job
12 you held after you were foreman?

13 A. I was made what they call a project
14 specialist. I was responsible for the
15 demolition, the decontamination and the
16 demolition of the parathion department.

17 Q. Was that in 1987?

18 A. That was in 1987.

19 Q. Okay. We are still not back in the
20 union yet?

21 A. No.

22 Q. So you were decontaminating and
23 decommissioning the breaking down of the

1 parathion?

2 A. Correct.

3 Q. Okay. And tell me what that entailed.
4 What were you doing as a practical
5 matter?

6 A. Well, first of all, I had to recommend a
7 group of people for the demolition team
8 to hire that was knowledgeable as much
9 as they could be of the plant and
10 knowing the safety rules and regulations
11 of the plant. But these people came
12 mostly from a group of people that had
13 been laid off due to the shutting down
14 of the parathion.

15 Q. I see.

16 A. We had experienced people to pull from
17 to work for this contractor. And we
18 blew all the lines. We ran everything
19 through waste treatment and then
20 physically took the lines down,
21 decontaminated them, soda ash or
22 whatever it took to decontaminate. And
23 then it was cut up or hauled off or --

1 Q. And you took that task seriously, as
2 well, I presume?

3 A. Yes.

4 Q. Was there any doubt in your mind that
5 the material that might have been found
6 in that piping, those pieces of
7 equipment, had the potential to be
8 harmful to humans?

9 A. Yes. I knew they had the potential to
10 be harmful.

11 Q. You certainly wouldn't have simply cut
12 that stuff up and set it up in a
13 landfill where anybody could come around
14 it?

15 A. No.

16 Q. How long did that job last?

17 A. It was right at two years. I really
18 don't remember the exact dates.

19 Q. Okay. What's the next task that you
20 did?

21 A. Back in operation. Well, I mean back
22 into the bargaining group.

23 Q. I am supposing there was no recycle

1 department to go back to, as well?

2 A. It was also decontaminated and

3 demolished too. Recycle was part of

4 parathion. It was just called recycle

5 because of the control room. All that

6 was wiped out.

7 Q. So you were able to assert enough

8 seniority to go back into the bargaining

9 unit?

10 A. Yeah. Me and one other. Unfortunately

11 he passed away with a heart attack.

12 Q. And you went back in just as an

13 operator?

14 A. Just as an operator. Low man on the

15 seniority list, I might add.

16 Q. And I'm sure they treated you very

17 pleasantly as the low man coming back

18 down from management?

19 A. I really didn't have a problem. I think

20 maybe one or two of them had a problem,

21 but I didn't have a problem with it.

22 Q. That would have been roughly 1988?

23 A. Correct.

- 1 Q. And what particular department --
- 2 A. That was in the PNP department.
- 3 Q. Did you have any particular station that
- 4 you worked at as an operator in PNP?
- 5 A. Well, at that time there were only two
- 6 jobs. You ran them both, really.
- 7 Q. What were those?
- 8 A. And waste treatment was part of one of
- 9 those jobs.
- 10 Q. I think a fellow told me this morning
- 11 that it was -- the waste treatment was
- 12 one job and basically running the
- 13 reactor was the other?
- 14 A. Reactor, right.
- 15 Q. And you did both of those?
- 16 A. At different times. You know, we
- 17 swapped about.
- 18 Q. And again, I take it you took your
- 19 responsibilities for ensuring that the
- 20 waste treatment in that process was
- 21 performed appropriately?
- 22 A. (Witness nods head affirmatively.)
- 23 Q. Was there any doubt in your mind that if

1 you didn't correctly operate that waste
2 treatment facility that something bad
3 could happen to someone or something
4 down stream?

5 A. I think we considered that one of the
6 most important jobs in the plant because
7 of the potential that you could have a
8 spill or something like that. And you
9 didn't want that to happen. We have
10 shut the plant down numerous times. If
11 you have something up here that gets a
12 little out of control, you have to get
13 it under control. You just don't want
14 to dump the waste treatment, in other
15 words, is what I'm saying.

16 Q. So there was authority -- If the waste
17 treatment facility was not able to
18 handle, at that particular point in
19 time, additional inflow, you could go up
20 the line and basically stop production?

21 A. Oh, yes.

22 Q. Okay. And I take it PNP is not
23 particularly nasty all by itself. That

1 goes into Tylenol, doesn't it?

2 A. Yes.

3 Q. But there was something about the waste

4 that had to be treated before you can

5 turn it loose?

6 A. It was mostly just the color is what PNP

7 would cause; it is not toxic. It was a

8 color criteria that we had to meet. Of

9 course, all the other things too. But

10 that was the main thing in PNP.

11 Q. It came out pretty yellow, didn't it?

12 A. Right, pretty yellow.

13 Q. What's the next job you had?

14 A. Okay. The next job was the supervisor

15 of that part of the plant, PNP

16 supervisor.

17 Q. Is that similar to foreman?

18 A. Yes.

19 Q. And when would you have started that?

20 A. I believe it was -- I think it was '95.

21 Q. And that would have been a promotion.

22 That would explain -- You would

23 obviously welcome the opportunity --

1 A. Correct.

2 Q. And that was the same department, PNP.

3 And I take it your responsibilities were

4 similar to the kinds of things you

5 talked about when you were foreman?

6 A. Right.

7 Q. Overseeing people, making sure the rules

8 got followed?

9 A. Yes.

10 Q. Keep your production on track?

11 A. Production.

12 Q. Quality control.

13 A. Make the schedule, quality control,

14 implement new changes, whatever.

15 Q. And were you a supervisor in PNP when

16 you retired in '87?

17 A. Yes.

18 Q. So that is the last position you held?

19 A. Correct.

20 Q. Maybe I missed it, but I didn't see

21 anywhere where you were working in the

22 Aroclor department.

23 A. Never worked in Aroclor.

- 1 Q. But I bet if you had, you would have
2 done very well at it, right?
- 3 A. I'm sure I would.
- 4 Q. Have been extremely conscientious. Is
5 it fair to say that most of the folks
6 who worked at that plant were pretty
7 conscientious people?
- 8 A. I'm very proud of my association with
9 all of those guys. I think we were all
10 responsible operators.
- 11 Q. I can't profess to know all the folks
12 who were plant managers, but I have
13 heard about several. I don't recall
14 ever hearing about the top guy having
15 coming up from within there at Anniston.
16 It seems like it is always somebody who
17 was bought in from outside.
- 18 A. The very top guy always was, as best as
19 I can recall. Now, there were
20 promotions from within, but I don't
21 think ever the --
- 22 Q. To the top position?
- 23 A. The plant manager.

1 Q. Right. What opportunity or occasion did
2 you have to physically come in contact
3 with PCB, Aroclor, or Montars?
4 A. During my tenure as a parathion
5 operator, there was a couple of summers
6 -- I think summers -- that due to
7 cutbacks in the department I was cut
8 back to what they call shipping leader.
9 At that time we had a maintenance leader
10 and a shipping leader, which is no
11 longer, but during that cutback time.
12 You got cut back because of lack of
13 seniority. That is what it was
14 determined by when you were in the unit.
15 My contact with PCBs is that I would go
16 -- we had what we called a mule, that
17 had some little wagons behind it that
18 would hold four drums per wagon. I
19 think we had four wagons, with this old
20 airport mule they had bought. You could
21 go to the department where it was
22 manufactured, get on a forklift, and
23 load the drums on the wagon and drive

1 them across the plant and store them in
2 the warehouse.

3 Q. So that would be sixteen drums?

4 A. Sixteen to twenty.

5 Q. On this train, if you will, pulled by
6 this mule?

7 A. Right, right.

8 Q. Looked like a little diesel --

9 A. Right. Gas engine.

10 Q. Like they haul baggage with from an
11 airplane?

12 A. Right.

13 Q. But I assume when you picked these
14 things up, these drums were sealed?

15 A. Yes.

16 Q. So in theory your exposure would be if
17 anything was spilled on it and you
18 happened to be handling it?

19 A. There was nothing spilled. It had to be
20 cleaned up before we left the
21 department.

22 Q. So your exposure, then, would just be
23 consistent with breathing the fumes when

1 you went over there to pick them up, if
2 there were fumes there?

3 A. Right.

4 Q. But --

5 A. It really wasn't any. Where it was
6 drummed out was under the building. But
7 where they could set them out, they
8 would set them out on the docks, and I
9 would pick them up, drive over to the
10 other place and unload them.

11 Q. Okay. Got you. And so if I asked you
12 about personal protective equipment you
13 might have worn to avoid exposure to
14 Aroclors, you never did --

15 A. Not to Aroclor.

16 Q. I presume you had personal protective
17 equipment to protect you when you were
18 working with parathion?

19 A. Absolutely.

20 Q. And even when you were in the PNP
21 department?

22 A. Yes.

23 Q. And the recycle department?

1 A. Yes.

2 Q. And ventilation as well?

3 A. Yes.

4 Q. Did you ever know anything about the
5 toxicity or the health dangers of
6 Aroclor or PCB or Montars?

7 MR. MYERS: Object to the form.

8 A. Not really, no. You were always told
9 don't come in contact with products.
10 Having worked in the parathion
11 department, you didn't want to touch
12 anything anyway. It was just your
13 instinct.

14 Q. You got in a habit of not touching --

15 A. Habit of not messing with the product.
16 I mean, we all knew that it wasn't
17 chocolate milk, you know.

18 Q. Well, you hear people talking about,
19 well, I used to work in that stuff, and
20 I would have it on my hands, up to my
21 elbows, and my clothes would get soaked
22 in it. You didn't do that working on
23 parathion, I am sure?

1 A. You would be dead in an hour.

2 Q. Okay. Did you ever have occasion to
3 personally examine the condition of the
4 ditches that left the plant, the
5 drainage?

6 A. Not as an official of the plant. I
7 mean, we were all in the areas of the
8 ditches. And I mean, we knew where the
9 ditches were. But as far as -- Are you
10 talking about in the plant -- Nothing
11 outside the plant. Nobody went to
12 outside the plant.

13 Q. Well, I mean, somebody would have
14 observed what it looked like as it left
15 the plant, I assume?

16 A. Right.

17 Q. But that wasn't ever part of your task?

18 A. Not none of my task.

19 Q. Okay. You might have walked by on
20 occasion but wouldn't have been
21 something you would have paid any
22 attention to particularly?

23 MR. MYERS: Object to the form.

1 A. Well, most of us as we left the plant,
2 we went by where the stream from that
3 particular part of the plant came and
4 went under the road.

5 Q. That is over there by the limestone pit
6 that you referenced --

7 A. No. That's a totally different stream.
8 I'm talking about the one that was on
9 the old 202, right there in front of the
10 plant, which is no longer there now.

11 Q. That is now Clydesdale?

12 A. Correct.

13 Q. Well -- and I think I know the
14 confusion. There was a limestone pit
15 that went north out of the plant?

16 A. Right. That was part of the waste
17 treatment.

18 Q. Right. To neutralize the stuff as it
19 came out of there. Maybe you didn't
20 realize this. But did you understand
21 that there was also a limestone pit that
22 the east ditch running out of the plant
23 also went through?

1 A. Right. You had your limestone put, and
2 then had a dam type contraption here,
3 tank, pit, and then the overflow off
4 that overflowed. And you could see it.
5 I mean, it was very evident. It went
6 under the road in a culvert.

7 Q. Headed into a residential neighborhood?

8 MR. MYERS: Object to the form.

9 A. East of the plant.

10 Q. Did you ever have any understanding or
11 hear anything about what the nature of
12 the waste water was in that ditch as it
13 left the plant?

14 A. Not that I recall. I don't -- I was not
15 interested in that part of the plant.

16 Q. Okay. If I suggested to you that
17 Mr. Papageorge, who was a former plant
18 manager -- Does that name mean anything
19 to you?

20 A. I remember. He was there when I first
21 came, I believe.

22 Q. That's about right, maybe might have
23 come a couple -- When did he start?

1 A. '66?

2 Q. That's about when he came.

3 A. He was there at one time. I guess he --

4 Q. If he had testified in this case under

5 oath that when he got there he was

6 warned not to put his foot in that ditch

7 because it would take the skin clean

8 off, or words to that effect, did you

9 ever hear anything like that?

10 MR. MYERS: Object to the form.

11 A. No.

12 Q. No?

13 A. No.

14 Q. Ever have any occasion to observe Snow

15 Creek back in the 1960s?

16 A. Yes.

17 Q. What do you recall noticing, if

18 anything, about the condition of Snow

19 Creek in the '60s?

20 A. It being red.

21 Q. Red? Do you know the source of the red

22 color?

23 A. No.

1 Q. Where would you have observed this?

2 A. Right there on the -- on the old 202 as

3 it goes by the railroad track down

4 there. That would be --

5 Q. On your way out?

6 A. Out of the plant, yeah.

7 Q. Was that on one or many occasions or a

8 few?

9 A. I remember it more than once. I don't

10 remember how many times.

11 Q. Have you ever had occasion to see

12 Choccolocco Creek?

13 A. Then?

14 Q. Yes.

15 A. I have fished in Choccolocco Creek.

16 Q. When did you fish in Choccolocco Creek?

17 Pick a decade.

18 A. In the '60s and '70s and '80s, '90s.

19 Q. Okay. So that is something you have

20 done commonly over the years?

21 A. Right.

22 Q. Whereabouts on Choccolocco Creek would

23 you fish.

1 A. I live on Choccolocco Creek.

2 Q. Okay.

3 A. Out my front door.

4 Q. Okay.

5 A. Before that at various places on 77

6 highway.

7 Q. Let me break it down in one simple

8 parameter. Upstream or downstream of

9 the confluence with Snow Creek?

10 A. It is downstream.

11 Q. So where you live in Talladega, which is

12 clearly downstream from Snow Creek --

13 A. Yes.

14 Q. -- it goes by your front?

15 A. Yes. It's a Talladega address in the

16 city limits of Lincoln, if that makes

17 any sense.

18 Q. Have you ever heard of the fish advisory

19 with respect to Choccolocco Creek?

20 A. Yes.

21 Q. Do you still fish it subsequent to

22 learning of the advisory?

23 A. Yes.

1 Q. Still eat the fish you catch?

2 A. I have not, but I would. I would not be

3 afraid to eat the fish.

4 Q. So you still fish it, but you just

5 haven't bothered to eat them?

6 A. Right.

7 Q. You bought the property in Talladega

8 eighteen years ago?

9 A. I think '83.

10 Q. I take it at that time -- Did you have

11 any knowledge that the creek or its

12 sediments might be contaminated with

13 PCBs?

14 MR. MYERS: Object to the form.

15 A. I had knowledge of people claiming that

16 it was contaminated with PCBs.

17 Q. Who did you understand to be making

18 those assertions?

19 A. Because of being on Snow Creek, which

20 runs into Choccolocco Creek, there are

21 numerous industries that dump into

22 there. I didn't on a personal basis --

23 I did not think it was dangerous.

1 Choccolocco Creek was not dangerous. I
2 have swam in it, fished in it, ate fish
3 out of it. I had no problem with moving
4 down there on Choccolocco Creek.

5 Q. Obviously.

6 A. I would run the waste treatment plant
7 for eight hours and go home and fish for
8 eight hours in the same water that had
9 been emitted to the creek. And I had no
10 problem.

11 Q. I understand that. My question was
12 directed to who was it that you
13 understood had asserted or alleged there
14 might be PCBs --

15 A. You would read it in the newspapers.
16 That would be the only thing.

17 Q. Okay. Have you ever had your land
18 tested for PCBs?

19 A. No.

20 Q. Do you own acreage that actually abuts
21 the stream?

22 A. About five hundred foot.

23 Q. Okay. Has anyone talked to you about

1 this Choccolocco Creek conservation
2 corridor?

3 A. No.

4 Q. Ever heard or it?

5 A. Just from you.

6 Q. No one has ever come to you and tried to
7 get you to take some money to agree not
8 to use your land except for certain
9 ways?

10 A. No.

11 Q. Do you have grandchildren?

12 A. Five.

13 Q. Do they ever come over and visit?

14 A. Yes.

15 Q. Do you let them go out and play in the
16 yard?

17 A. Yes.

18 Q. You let them go play in the creek?

19 A. Yes.

20 Q. Don't have any concerns about that?

21 A. None whatsoever, other than drowning.

22 Q. Is that because you don't think there
23 are any PCBs there, or you don't think

1 PCBs can hurt them?

2 A. I don't think -- If there is PCBs, I
3 don't think there is enough PCBs there
4 to hurt anyone.

5 Q. And you base that on what?

6 A. I don't -- It hasn't been proven to me
7 that PCBs are dangerous. I haven't seen
8 it. I don't know that it has ever been
9 proven that PCBs are dangerous to
10 humans.

11 Q. So you think the state was foolish for
12 putting the advisory on the creek?

13 MR. MYERS: Object to the form.

14 A. I would think that if the state wanted
15 to check fish for gas and oil out of
16 outboard engines, they would find that
17 that was polluted also. But that
18 happens not to be in the criteria of a
19 suspected carcinogenic. I think it is
20 arbitrary when they come to get PCBs and
21 decide it is a dangerous product.

22 Q. Okay. I'm sorry. Did I cut you off?

23 A. No.

1 Q. So again, you don't think it makes any
2 sense to warn people not to eat fish out
3 of Choccolocco Creek?

4 MR. MYERS: object to the form.

5 A. No.

6 Q. No, in the sense that you agree with me,
7 that that doesn't make sense to you?

8 A. What, now?

9 Q. I wasn't -- When you said no, I wasn't
10 sure what you meant. You know that the
11 state has posted an advisory for that
12 stream?

13 A. Right.

14 Q. Because of PCB found in fish?

15 A. Correct.

16 Q. Do you believe that to be a prudent
17 thing for the state to do, or do you
18 believe that to be something they ought
19 not to have done?

20 A. I don't think it is something they
21 should have done.

22 Q. And that is because you don't think PCBs
23 have been proven to cause problems for

1 people?

2 MR. MYERS: Object to the form.

3 A. Correct.

4 Q. Did you ever participate in a study or
5 investigation on the health status or
6 mortality status of the work force at
7 the Anniston plant that had worked with
8 Aroclors?

9 MR. MYERS: Object to the form.

10 A. No.

11 Q. Not that you know of?

12 A. Not that I know of.

13 Q. Did you ever visit the Krummrich plant
14 in Sauget, Illinois?

15 A. Yes.

16 Q. What was the purpose for your going
17 there?

18 A. I'm trying to remember.

19 Q. I don't think they made parathion there.

20 A. No. They didn't make parathion. They
21 made -- I think it was on an inspection
22 tour, on a housekeeping inspection tour.
23 I had gone to different plants,

- 1 Monsanto's plants.
- 2 Q. But if I wanted to talk to you about how
3 they made Aroclor there versus here and
4 how they handled Aroclor waste there
5 versus here, would you have any idea --
- 6 A. Don't have any knowledge whatsoever.
- 7 Q. Have you ever had your blood tested for
8 PCBs?
- 9 A. No.
- 10 Q. Have you ever mentioned to a doctor when
11 you have gone to see him about the fact
12 you worked at the place where PCBs were
13 made?
- 14 A. No.
- 15 Q. Ever have occasion to observe with your
16 own eyes the condition and operation of
17 the dumps there at the Monsanto
18 facility?
- 19 A. You mean the landfills?
- 20 Q. If that is a word you are more
21 comfortable with, sure.
- 22 A. Yes.
- 23 Q. What took you to the landfill and what

1 did you see?

2 A. Back in the days where I was talking
3 about that I would be cut back a time or
4 two, we would carry waste to the
5 landfill.

6 Q. What sort of waste do you recall taking
7 up there?

8 A. One of it would be where we cleaned the
9 filters at the parathion department. It
10 was a powdered substance. I can't think
11 of the name of it right now, Seallite,
12 Seallite.

13 Q. Okay.

14 A. That we would put in the drum and carry
15 up there. And some waste from the
16 Aroclor department. I think some of it
17 consisted of Montar that you mentioned
18 while ago.

19 Q. In what form was the Montar when you
20 hauled it up there?

21 A. As best as I could determine, it was
22 solid, in solid form. It set up as hard
23 as this table here.

1 Q. And dump it into this -- what was the
2 condition --

3 A. It was a huge hole. As a matter of
4 fact, I think -- Well, I only remember
5 one hole. I don't remember other cells
6 being in there. Later on they did make
7 other cells.

8 Q. You were there a fairly narrow time
9 frame in the mid '60s, I take it?

10 A. Right. Very few trips I made up there.

11 Q. And I assume when you would dump in this
12 hole, you would see a lot more of that
13 stuff on the ground --

14 MR. MYERS: Object to the form.

15 A. There would be some.

16 Q. I'm sorry. Again, if I say something
17 that is not true, by all means, you let
18 me know that wasn't the case.

19 But you would see some of it
20 already up there. You weren't the first
21 guy to take some up.

22 A. No, no.

23 Q. And any feel at all for how much of this

1 stuff was up there?

2 A. I have no idea.

3 Q. And at any point in time were you ever
4 tasked with trying to cover some of this
5 stuff up with soil?

6 A. No.

7 Q. Did you ever see any water pond up
8 there?

9 A. Not that I just explicitly remember.

10 Q. When you say it was a big hole, assume
11 that it rained at some point in that
12 part of Alabama in that time frame,
13 which I think is a safe assumption,
14 where would that water go? Would it not
15 collect in the hole, or would it just
16 drain out?

17 MR. MYERS: Object to the form.

18 A. I know at one time -- I don't know the
19 operation of it. At one time they had,
20 I thought had a pump, pump situation up
21 there where they would pump it out.
22 That not being my responsibility, I
23 really don't know, to tell you the

1 truth.

2 Q. I've have seen a photograph of a pump
3 that appears be on the berm, and you are
4 the first guy I've met who actually
5 recalls there being one. Do you know
6 where it got pumped to?

7 MR. MYERS: Object to the form.

8 A. Well, it eventually got pumped -- Well,
9 I don't know. I think I know where it
10 came later in years. It went back down
11 to the west treatment plant. But in
12 those particular days, I would have
13 assumed it would have been the same
14 route. I don't know that for sure.

15 Q. Just kind of pumped out of the hole and
16 over the sides?

17 A. No. Back to the plant.

18 Q. Back to the plant?

19 A. Yes.

20 Q. Okay. And into the waste treatment?

21 A. Into the waste treatment.

22 Q. But you don't know?

23 A. I do not know that for absolute sure. I

1 do know that -- I think that is the
2 facts today. That is the way it is
3 today. But now, then, I'm not real
4 sure.

5 Q. Okay. I'm always interested in
6 quantities when it comes to this waste
7 stuff. When you were taking a batch of
8 it up there, how big a container would
9 you be taking up?

10 A. Well, it would be in two forms, the best
11 I recall. It would be in what we call
12 fiber packs, which is the cardboard
13 drums, what were called fiber packs at
14 that time, and metal drums. Now, as far
15 as the quantity, there would probably be
16 maybe two pallets on the back of the old
17 truck, eight drums. That was not an
18 everyday thing.

19 Q. I'm guessing you never had any role in
20 testing things for PCB contamination,
21 like dirt, air, water, fish, sediment,
22 people.

23 A. No.

1 Q. Have you heard or are you aware that
2 people around the plant contend that
3 they have found PCBs in their yards, in
4 their soil?

5 A. Have I heard that?

6 Q. Yes. I have learned of it.

7 (At this point Mr. Edward
8 Newsom left the deposition
9 proceedings.)

10 Q. And in the air around the plant?

11 A. I have heard.

12 Q. Right now I'm not asking you whether you
13 believe it or not, just whether you have
14 heard it.

15 A. Right.

16 Q. That it's in people's blood who live
17 around the plant?

18 MR. MYERS: That has been
19 contended?

20 MR. CUNNINGHAM: Yes, that it is
21 contended.

22 A. Yes.

23 Q. You heard about the fish advisory. And

1 have you heard that the EPA Superfund
2 folks have come to town?

3 A. I heard that too.

4 Q. Now, how did you hear about these
5 things?

6 A. Most of that was through The Anniston
7 Star.

8 Q. Now, I want to know if those things
9 surprised you. Let me take them one at
10 a time.

11 Did it surprise you that -- assume
12 for the sake of this question that PCB
13 was found in a lot of yards there in the
14 neighborhood by the people who live
15 there, by the EPA, and by Monsanto's own
16 testing company. Assume for the sake of
17 my question that is true. Would it
18 surprise you if that was so?

19 MR. MYERS: Object to the form.

20 A. It would not really surprise me. What
21 would surprise me would be the parts per
22 million, what we -- or what has been
23 arbitrarily decided to be dangerous in

1 on parts per million.

2 Q. But it didn't surprise you it is there,
3 but it wouldn't bother you -- It
4 wouldn't be a source of concern to you
5 at parts per million levels?

6 MR. MYERS: Object to the form.

7 A. No.

8 Q. Would it surprise you to learn that many
9 people have contended that their blood
10 has been tested and laboratories have
11 reported that there is PCB in their
12 blood?

13 A. It would not surprise me that they would
14 try to find PCBs in their blood, simply
15 because of what they think they can get
16 out of it.

17 Q. That wasn't my question.

18 A. I'm sorry.

19 Q. That's all right. It doesn't surprise
20 you that people would go get tested.
21 But I'm saying when they went and got
22 tested, would it surprise you that for
23 many people it was reported they had

1 elevated levels of PCB in their blood?

2 MR. MYERS: Object to the form.

3 A. Rephrase it where I can understand it.

4 Q. All right. Is it fair for me to
5 characterize your general belief that
6 you think all this stuff about PCBs is
7 just a lot of hooey?

8 MR. MYERS: Object to the form.

9 If you can answer that
10 question as he phrased it,
11 answer it. If not, don't
12 attempt to guess or speculate
13 as to what he thinks is
14 hooey.

15 Q. I'll use a word that Mr. Mundy used that
16 everybody -- most of the guys out at the
17 plant thought this was a lot of crap,
18 all this concern about PCBs. Is that a
19 fair --

20 A. Are you asking me if I think it's a lot
21 of crap?

22 Q. Yes. That is what I'm asking.

23 A. Not necessarily.

1 Q. What would make you think it is not a
2 lot of crap?

3 A. For you to show me evidence to the
4 contrary.

5 Q. Well, I'm saying what kind of evidence
6 would you need to have for you to agree
7 that it is something people should
8 generally concern themselves with?

9 A. Where it has been a detriment to
10 someone's health.

11 Q. So if there was testimony in this case
12 that PCBs can be detrimental to people's
13 health, you would agree that people who
14 then find that they have it in their
15 blood, they would have cause for
16 concern?

17 MR. MYERS: Object to the form.

18 A. Not necessarily.

19 Q. What would they have to show just in
20 your mind that they have reason to be
21 worried?

22 A. That it is detrimental to their
23 particular health.

1 Q. Okay. So you would want that proof?

2 A. Right.

3 Q. Okay. Well, now, coming back to my
4 question, assume for the sake of this
5 question that an independent testing
6 laboratory, with no reason to lie, that
7 has a lot of money at stake in
8 maintaining its reputation for integrity
9 and honest reporting of results, tells a
10 hundred people -- let's just pick a
11 number, a hundred people in west --
12 Anniston -- you have got PCBs in your
13 blood at a level that is higher than we
14 are used to seeing. Would that surprise
15 you?

16 MR. MYERS: Object to the form.

17 A. No. That wouldn't surprise me.

18 Q. Why wouldn't that surprise you?

19 A. What would surprise me is -- Well, what
20 you are wanting me to say is because of
21 their living in the vicinity of --

22 Q. I don't want you to say anything, sir.
23 I'm just trying to get what you really

1 believe. Because I believe you are
2 going to be brought in to testify for
3 some reason. It obviously doesn't have
4 anything do with what you did at the
5 plant because you never worked in
6 Aroclor. So I'm guessing now it has
7 something to do with your attitude
8 toward PCB. And I trying to explore
9 that attitude.

10 A. No. If I'd have a hundred people out
11 there and if all hundred show, yes, it
12 would surprise me. But if fifty show
13 and fifty don't show, I wouldn't be
14 surprised at that. I think it is going
15 to be of -- different individuals.

16 Q. What if an expert hired by Monsanto, who
17 is a toxicologist, expert on toxicology,
18 hired by Monsanto in this case to help
19 Monsanto out, when asked about the
20 levels of PCBs in the blood of the
21 people who live out around that plant
22 said it's a unique situation, that it's
23 higher than we have seen anywhere else.

1 Would that surprise you?

2 MR. MYERS: Object to the form.

3 It assumes facts not in
4 evidence and that won't be in
5 evidence. If you know, you
6 can tell him.

7 A. I can't tell you.

8 Q. Well, you can tell me whether you would
9 be surprised or not. You know the
10 answer to that.

11 MR. MYERS: Same objection.

12 Q. Would that surprise you or would it not?

13 MR. MYERS: Same objection.

14 A. It wouldn't surprise me.

15 Q. Because you have known for a long time
16 that you have a lot of PCB out in that
17 neighborhood, right?

18 MR. MYERS: Object to the form.

19 A. No. I certainly do not know that there
20 are PCBs in the neighborhood.

21 Q. Would you be surprised to learn there
22 was more PCB in people out there than in
23 most places?

1 MR. MYERS: Object to the form.

2 Q. You can't have it both ways.

3 MR. MYERS: Don't argue with him,
4 Charlie.

5 MR. CUNNINGHAM: I'm just trying
6 to get him to explain it.

7 A. You are asking me if I would be
8 surprised if an independent company
9 found high levels of PCBs in those
10 people?

11 Q. Yes. And a Monsanto expert acknowledged
12 it was high. Would that surprise you?

13 MR. MYERS: Object to the form.

14 Q. If the answer is no, it doesn't surprise
15 me, just telling me no.

16 A. No, I wouldn't be surprised.

17 Q. Why wouldn't you be surprised? What
18 about your personal experience working
19 out there would cause you to know
20 something that it wouldn't surprise you
21 that there are high levels in people out
22 there living around the plant?

23 MR. MYERS: Object to the form.

1 A. What, now? Why wouldn't it surprise me?

2 Q. Why doesn't it surprise you? Yes, that
3 is what I'm asking. Why doesn't that
4 surprise you?

5 A. Well, I don't know. I don't know why.
6 It would surprise me if you had it in
7 you.

8 Q. It would surprise me too.

9 A. Well, how do we know you don't have it
10 in you?

11 Q. I haven't been tested. I haven't lived
12 next to a plant where they released it
13 for years. I don't live where they
14 tested tree bark and it had it in
15 amazingly high levels. I don't live
16 somewhere where they have tested the air
17 and found high leveles.

18 MR. MYERS: All right, Charlie.

19 Now you are starting to argue
20 with him.

21 MR. CUNNINGHAM: He is asking me
22 questions.

23 MR. MYERS: Pose him a question.

1 MR. CUNNINGHAM: I did. He still
2 hasn't answered it.

3 MR. MYERS: Do you want the
4 question read back? Read the
5 last question back, please.

6 (Requested portion of record
7 read.)

8 A. Why doesn't it surprise me?

9 Q. Why would it not surprise you that there
10 are high levels of PCB in the people who
11 live out around that plant?

12 MR. MYERS: Object to the form.

13 Q. Assuming I brought you that proof, you
14 told me that wouldn't surprise you. All
15 I'm asking and all I want to know -- and
16 I'm done, finished, and we're going home
17 -- is why wouldn't that surprise you?

18 MR. MYERS: Same objection.

19 A. Now, what is he objecting to?

20 Q. He doesn't think I have that proof.

21 MR. MYERS: I have objected to the
22 nature of the question he
23 asked. Putting that aside,

1 answer his question if you
2 can. If you can answer his
3 question, go ahead and answer
4 it.

5 A. Of all -- where else -- How long was PCB
6 made out there?

7 Q. From sometime in the '30s to sometime in
8 the '70s.

9 A. If there were PCBs in the neighborhood,
10 where would it be?

11 Q. I could give you a number of places it
12 has been found in soil. I can give you
13 a number of places it has been found in
14 the air, basically all points of the
15 compass.

16 A. Well, I don't know that I can answer the
17 question.

18 MR. CUNNINGHAM: All right. I'm
19 done.

20 (The deposition concluded at
21 3:15 p.m.)
22
23

1 I do hereby certify that the witness
2 whose attached deposition was taken before me
3 was by me first duly cautioned and sworn to
4 tell nothing but the truth in the cause
5 aforesaid; that the testimony contained herein
6 was by me reduced to writing in the presence
7 of said witnesses by means of stenography and
8 afterwards transcribed by means of computer
9 aided transcription. The foregoing is a true
10 and accurate transcript of the whole of the
11 testimony given by said witness, as aforesaid.

12 I do further certify that I am not
13 connected by blood or marriage with any of the
14 parties or their attorneys or agents and that
15 I am not an employee of any of them, nor
16 interested in the matter of controversy.

17 IN WITNESS WHEREOF, I have hereunto set
18 my hand and affixed my notarial seal at
19 Gadsden, Alabama, County of Etowah, this 15th
20 day of January 2002.

COPY

21 _____
22 Deborah Salers Garrett
23 Certified Shorthand Reporter
Registered Professional Reporter
Notary Public, Alabama-at-Large
My Commission expires: 3-6-05