

STATE OF ALABAMA
IN THE CIRCUIT COURT OF CALHOUN COUNTY

SABRINA ABERNATHY, et al.,

Plaintiffs,

CIVIL ACTION NUMBER

versus

CV-96-269
(Consolidated)

MONSANTO COMPANY, et al.,

Defendants.

-----/

COPY

DEPOSITION OF JERRY HOPPER

The deposition of JERRY HOPPER, was taken before Deborah Salers Garrett, Certified Shorthand Reporter, Registered Professional Reporter, as Commissioner, commencing at 10:10 a.m. on January 15, 1999, by the Plaintiffs, at the law offices of Merrill, Porch, Dillon & Fite, Suite 500, SouthTrust Bank Building, 1000 Quintard Avenue, Anniston, Alabama, pursuant to the stipulations set forth herein.

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

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

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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 JERRY HOPPER, may be taken before Deborah Salers Garrett, CSR, RPR, as Commissioner and Notary Public, Alabama at Large, at Anniston, Alabama, on January 15, 1999, at 10:10 a.m.

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.

REGIONAL REPORTING SERVICE, INC.

1 STATE OF ALABAMA, ANNISTON, JANUARY 15, 1999

2
3 JERRY HOPPER,

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 here today to ask you some questions to
11 find out what factual knowledge you may
12 have that will help the parties in some
13 litigation here in Calhoun Circuit
14 Court. I'd like you to start off,
15 please, with an easy one, and give us
16 your full name, please.

17 A. Jerry Owen Hopper.

18 Q. And where do you reside, Mr. Hopper?

19 A. I live in Ohatchee, Alabama.

20 Q. And where is Ohatchee, Alabama?

21 A. It is twenty-seven miles northeast of
22 Anniston, between Anniston and Gadsden.

23 Q. Is that still in Calhoun County?

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1 A. Yes, it is.

2 Q. Before we get into this very deeply, I
3 want to point out a couple of things.
4 Have you ever been deposed before?

5 A. Yes, I have.

6 Q. So you know the rules of the road, then.
7 A couple of particular things with
8 respect to me, habits that I have, I
9 want to be sure you are aware of.
10 Number one, I have a bad habit of
11 cutting people off in the middle of an
12 answer. You will start saying something
13 to me, and I will have this flash of
14 what I think is brilliance and want to
15 ask another question, and you won't have
16 been able to finish your answer. We
17 want this lady to get your entire answer
18 down. So if I do that, please let us
19 know and complete your answer.

20 A second habit of mine, I will ask
21 a question that I will sound just like I
22 know exactly what I'm talking about, and
23 you will think, "He doesn't know what he

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- 1 is talking about." And you are probably
2 right. So if you want to ask a
3 clarifying question or I have confused
4 you, please let me know. Don't assume I
5 know what I'm talking about. Okay?
- 6 A. All right.
- 7 Q. Great. How long have you lived in
8 Ohatchee?
- 9 A. Fifteen years, a little over fifteen.
- 10 Q. What is the actual address up there in
11 Ohatchee?
- 12 A. 85 Ty Place Road. 36271 is the ZIP
13 code.
- 14 Q. Okay. And how long -- Before that did
15 you live in Calhoun County?
- 16 A. Yes.
- 17 Q. And where were you prior to that?
- 18 A. I lived in Coldwater, community known as
19 Scenic Heights.
- 20 Q. And how long did you reside there?
- 21 A. I lived in Scenic Heights for seven
22 years.
- 23 Q. And before that where were you?

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1 A. I was raised in Coldwater, about four
2 miles from there.

3 Q. Okay. So that would have been your
4 childhood home?

5 A. Yes.

6 Q. Have you lived in Calhoun County all
7 your life?

8 A. Except for a short period when I went to
9 Texas for several months.

10 Q. Okay. Where were you in Texas?

11 A. I lived in a community known as North
12 Richland Hills in the Fort Worth-Dallas
13 area.

14 Q. What took you to Dallas?

15 A. Work with a pharmaceutical firm out of
16 Shreveport, Louisiana, known as Rucker
17 Pharmacal.

18 Q. We'll come back to that in a moment.
19 All right. And do you have relatives
20 who would be above the age of nineteen
21 and therefore potential jurors who
22 reside in Calhoun County?

23 A. Yes, I do.

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- 1 Q. A lot or a few?
- 2 A. Very few.
- 3 Q. Okay. Could you tell me who those folks
- 4 are, please?
- 5 A. My brother, Joel Hopper.
- 6 Q. Okay.
- 7 A. An aunt and uncle, A. D. Holmes and
- 8 Gladys Holmes.
- 9 Q. Okay.
- 10 A. And another aunt, Mailande Sprayberry.
- 11 Q. Very good. Do you have any particular
- 12 church, social, or civic affiliations
- 13 here in the community where you
- 14 regularly attend or visit?
- 15 A. My membership is still at New Haven in
- 16 Coldwater. I don't attend regularly
- 17 there since we have moved to Ohatchee.
- 18 Q. Clubs or --
- 19 A. I'm a member of the Lion's Club of
- 20 Ohatchee.
- 21 Q. Okay. I'd like to get your education
- 22 starting with high school.
- 23 A. I graduated from Walter Wellborn High in

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1 '63.

2 Q. Okay.

3 A. I attended three years of university at

4 Jacksonville State.

5 Q. Uh-huh (indicating yes).

6 A. And I've had advanced training and

7 continuing education courses from seven

8 or eight major universities and about

9 twelve or fifteen independent advanced

10 training organizations.

11 Q. What was your course of study when you

12 were at Jacksonville?

13 A. Started off med tech and went on to

14 major in biology and minor in chemistry.

15 Q. Okay. And were the years you were at

16 Jacksonville State like '64, '65, and

17 '66?

18 A. Yes.

19 Q. And I assume you didn't finish because

20 you were working?

21 A. My father died, died with cancer, and I

22 had a family of four still at home to

23 support. And I worked three jobs

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1 actually the last semester I attended
2 school and haven't been able to get back
3 to finish.

4 Q. Okay. Let me get your occupational
5 history starting with whatever work you
6 might have done while you were in
7 college. You mentioned you worked some
8 back then.

9 A. Right. I worked with A and P Tea
10 Company as a stock clerk while I was in
11 school. I also worked with Franklin Box
12 and Crate Factory. Those were part-time
13 positions. And I also worked with
14 Anniston Foundry in the palletizing
15 department on night shift.

16 Q. Okay. And what did you do after those
17 jobs?

18 A. I went from Anniston Foundry to Monsanto
19 in '68. And except for the short period
20 of time in '72 that I was away from
21 Monsanto, I have been there, which is of
22 course Solutia now, for the rest of the
23 time.

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1 Q. Are you still employed there?

2 A. Yes, I am.

3 Q. Tell me about your brief sojourn to
4 Texas in '72.

5 A. We had a force reduction at the plant
6 that I thought I would be impacted by.
7 And I had an opportunity to go to work
8 with a pharmaceutical firm out of
9 Shreveport, Louisiana, through a
10 placement agency out of Birmingham. And
11 I went ahead and took that opportunity
12 before I -- I thought I would be laid
13 off in the force reduction, so I went
14 ahead and took that opportunity and was
15 there about three months and came back
16 and went back to work with Monsanto
17 shortly thereafter.

18 Q. What did you do for -- Was it Rucker
19 Pharmaceutical?

20 A. I was what they call a detail person. I
21 called on clinics, doctors' offices to
22 detail their drugs and medications.

23 Q. Okay.

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1 A. Sales representative, actually.

2 Q. Was there a particular product that you
3 remember that you were -- that they were
4 really hot with in '72?

5 A. Their biggest thing was a medication
6 called Ruverg that was a treatment for
7 vertigo and dizziness that they had
8 patented a particular composition. And
9 it was supposed to be exclusive to their
10 company. That was their big thing.

11 Q. And you were just unhappy with that or
12 anxious to get back to Alabama, or what
13 brought you back so soon?

14 A. Well, my family was not pleased with the
15 relocation, and of course I was really
16 not pleased after I got involved in the
17 company. And I was not pleased with the
18 work either.

19 Q. Okay. You said you had been deposed
20 before. What kind of circumstances have
21 you previously been involved in where
22 you gave deposition?

23 A. It is in actually a property line

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1 dispute involving a public street and
2 right of access and use of that public
3 street.

4 Q. Is that here in Calhoun County I assume?

5 A. Yes, it is.

6 Q. What was your role in that particular
7 dispute?

8 A. I was the plaintiff in the case.

9 Q. Okay. Did you testify?

10 A. Yes.

11 Q. Have you had any contact with the
12 plaintiffs in this case? I realize
13 there are about three thousand of them
14 these days, but to your knowledge --

15 A. Not to my knowledge, not any of them I
16 know.

17 Q. I want to talk for a moment here, before
18 we get into the specifics of your career
19 with Monsanto, about what you may have
20 done to prepare for today. Have you
21 spoken with anyone about your
22 recollection or what you might testify
23 about in the case?

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1 A. I had a brief meeting with Mr. Fite and
2 Mr. Prause yesterday. Other than that,
3 there has been nothing.

4 Q. Okay. What did you discuss?

5 A. Well, I regard that as attorney-client
6 privileged information, as to what we
7 talked about.

8 Q. Okay. I really wasn't wanting details
9 so much as topic. I assume you didn't
10 talk about Alabama football versus
11 Auburn football, but you talked about
12 what you might testify about at the
13 trial.

14 A. It was mentioned some things that might
15 possibly be brought up but nothing
16 specific or particular.

17 Q. All right. Did you review anything?

18 A. No, I did not.

19 Q. I'm going to assume, based on the fact
20 that you didn't review anything and you
21 only spoke with Arthur and Mr. Prause,
22 that everything you are going to tell me
23 today is based upon your independent

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1 recollection.

2 A. That's correct, yes.

3 Q. If at any point you tell me something
4 and it is based on anything else, I'd
5 just like for you to tell me. I'd still
6 like to know it, but I would like for
7 you to clarify it that I remember
8 so-and-so said such-and-such. And if
9 there is anything you think of where you
10 say I would like to see this first or
11 this is something I could go look at to
12 help me answer that question, I'd like
13 to know that too. Okay?

14 A. Yes, sir.

15 Q. I take it you didn't bring anything with
16 you today?

17 A. Nothing except a jacket.

18 Q. Okay. That's the way to go to
19 depositions.

20 MR. PRAUSE: Good day for that.

21 Q. Do you have anything at home that would
22 relate to your career at Monsanto? You
23 mentioned, for instance, you got a lot

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1 of advanced training over the years at
2 various institutions. Would you perhaps
3 have at home documents that you may have
4 acquired in that particular process?

5 A. No. All of that would be in my office.

6 Q. Okay. Do you have an understanding of
7 what you will testify about in the case?

8 A. Well, I'm not -- I don't know everything
9 you will ask me, but I have a fairly
10 reasonable understanding of my knowledge
11 of what I have and what I anticipate you
12 might possibly ask.

13 Q. And that is what I'm curious about,
14 because you were listed as a prospective
15 witness. I'm just curious about what
16 you know that might -- Obviously I will
17 go into greater detail, but what do you
18 know that might be germane to the case?

19 A. Well, I'm a thirty-year employee with
20 Monsanto and now Solutia and have been
21 involved in the environmental aspect of
22 the business to a degree in the last
23 several years. So I do have some

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1 knowledge.

2 Q. Well, let's go through your work history
3 there at Monsanto, now Solutia, and
4 starting back in -- If I do the math
5 right -- roughly 1967.

6 A. '68. I began employment with Monsanto
7 in February of '68, material handling
8 group. I applied for a job in the
9 laboratory and went to work as a
10 laboratory analyst in November of '68.

11 Q. All right. Let me stop you first. What
12 did you do in the material handling
13 group?

14 A. I helped load trucks. It was part of
15 the shipping department.

16 Q. Okay. And you applied and then got
17 accepted in November 1968 to the
18 laboratory?

19 A. Yes, sir. I actually had applied for
20 the laboratory position, and they didn't
21 have one available. That is why they
22 gave me an opportunity to work in
23 material handling until something came

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HARTOLDMON0014507

1 available in the lab. The initial
2 application was for a lab position.

3 Q. Did that job have a title as you recall,
4 like lab technician?

5 A. Laboratory analyst.

6 Q. Okay. And what were your
7 responsibilities as a laboratory analyst
8 in 1968?

9 A. I did quality control and quality
10 assurance work on the products there at
11 the facility.

12 Q. Can you give me some examples? We took
13 a Mr. Madison yesterday. He was telling
14 us about the different kinds of samples
15 he remembered and equipment he
16 remembered using. He was in the lab I
17 guess before you back in the late '50s.
18 What do you recall using in '68, '69?

19 A. Well, we had the standard equipment such
20 as pH meters and those kind of units to
21 do regular wet chemistry with. We also
22 had a limited quantity of some
23 chromatograph capability. We had a

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1 small -- what we call a galmac
2 chromatograph that we did percent
3 alcohol on thioacid and percent
4 chlorination or percent chlorine on
5 chlorinated thioacid. And on the
6 Aroclors we had electrical property
7 meg-on bridge, DK, dielectric constant
8 unit. And that's about all I remember
9 at this point in time.

10 Q. Okay. Were you kept busy, I assume, in
11 that particular task, analyzing stuff?

12 A. Yes.

13 Q. And give me a typical day to the extent
14 there was such a thing as a typical day.
15 What kind of samples were you analyzing,
16 and what were you looking for?

17 A. We were analyzing -- We did quality
18 assurance on the finished goods and also
19 production phase analysis to track, you
20 know, any trends or potential problems
21 in the processes. So we would get -- At
22 different intervals during a shift we
23 would get process samples. And then at

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1 the point of the product being finished,
2 we would get a finished goods sample to
3 go a complete analysis for quality
4 control.

5 Q. Were you the person in the lab when you
6 were there, or were there more than just
7 yourself when you would be on a shift?

8 A. Over the period of time it has been both
9 ways. There was for a time that we had
10 single analysts or technicians, and then
11 there was a time that we had shift
12 partners, at least two and sometimes
13 even three to a shift.

14 Q. It was my sense from Mr. Madison that
15 there was always somebody in the lab at
16 all times.

17 A. Yes, yes. The lab was manned seven days
18 a week, twenty-four hours a day.

19 Q. Three hundred sixty-five days out of the
20 year?

21 A. Right.

22 Q. Because the plant never fully shut down
23 as I understand it.

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HARTOLDMON0014510

- 1 A. Not totally.
- 2 Q. And do you remember if the lab that you
3 were working in took samples then from
4 the entire plant, or was it devoted to
5 some particular department?
- 6 A. We took samples in from the entire plant
7 or any place in the plant where it was
8 required to be sampled.
- 9 Q. In other words, it wasn't just the
10 Aroclor department or the organic versus
11 agricultural division? The whole plant
12 would send stuff to the facility you
13 were running?
- 14 A. Right. We had one laboratory for the
15 facility.
- 16 Q. What about that facility, that
17 laboratory, versus outside vendors or
18 even other people within the Monsanto
19 company? Do you remember having any
20 role to play with respect to samples
21 being sent out?
- 22 A. Not to my recollection.
- 23 Q. Okay. Let's -- Did you have a

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- 1 supervisor?
- 2 A. Yes.
- 3 Q. Who was that?
- 4 A. Mr. Bud Kemp when I first went to work
5 as an analyst, and then Mr. Gene Arnett
6 my last several years in the laboratory.
- 7 Q. Okay. And I assume you had no one
8 working under you that --
- 9 A. No, no.
- 10 Q. Okay. What training if any did Monsanto
11 give you as a lab analyst prior to your
12 taking on that particular task?
- 13 A. Well, the standard training that they
14 do, and they later had sent me to
15 Chromaskills, Incorporated, which
16 specializes in capillary GC training and
17 that kind of thing. But the initial
18 training, as best I recollect at the
19 time, it was a tape or a video type
20 course and then some hands-on.
- 21 Q. And that was done there at the plant?
- 22 A. Yes, it was.
- 23 Q. And do you recall how intensive or what

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1 the duration of that training might have
2 been?

3 A. Well, it was quite intensive. And once
4 you had the preliminary, you went on
5 shift with an analyst and worked with
6 them to train through all the
7 methodology before you were ever
8 released on a shift on your own.

9 Q. Would I be correct in assuming you that
10 got pretty much the same kind of samples
11 all the time? In other words, it wasn't
12 like one day they would send you one
13 type of thing, and the next day there
14 would be something totally different?
15 In the course of a week you would see
16 the whole range of samples you are going
17 to see over the entire year?

18 A. Yes. The processes were fairly
19 consistent, and it was different process
20 points that they sampled, so you would
21 normally see routine samples.

22 Q. You mentioned briefly that after the
23 initial training and I guess after you

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1 maybe were already up and going as an
2 analyst they sent you to an outside
3 vendor who trained you in a particular
4 process that they specialized in. I
5 didn't catch that. What was the name of
6 that?

7 A. It was Chromaskills, Incorporated, a
8 firm out of Baton Rouge, Louisiana.

9 Q. Did you actually go to Baton Rouge?

10 A. Yes, I did.

11 Q. Do you think that would have been in
12 '68, or would that have been more --

13 A. It was later, much later than '68.

14 Q. '69, '70,

15 A. It was in the early '70s.

16 Q. And they specialized in capillary --

17 A. Capillary GC, troubleshooting. They had
18 several different courses, but
19 troubleshooting and capillary was the
20 courses I took.

21 Q. Okay. Any other course work that you
22 can remember doing either at Monsanto
23 in-house seminars -- By in-house I don't

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1 necessarily mean in Anniston, but they
2 might have sent you to another facility
3 that they had for a seminar or something
4 where you might have gone to a
5 university or just an industry
6 association.

7 A. Are you referring to early on in the
8 career as an analyst, or are you
9 referring to the duration of my career?

10 Q. Early on when you were a lab analyst.

11 A. Basically that was the bulk of the
12 outside training at that point in time.

13 Q. All right. And when did you move on
14 from being a lab analyst to some other
15 type?

16 A. I went from a lab analyst to a lab
17 technician and then from that to a
18 senior technician, which is a normal
19 rate of progress.

20 Q. Doing the same kind of stuff?

21 A. Doing the same kind of stuff, and then
22 taking on some additional
23 responsibilities. That is one reason

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1 for the course, troubleshooting and
2 maintenance of the GCs and those kind of
3 things.

4 Q. All right. So from there you went to
5 lab tech and then to lab --

6 A. From a lab technician to a senior tech.

7 Q. And the significance of that primarily
8 being you had more responsibility, more
9 supervisory --

10 A. Yes, yes.

11 Q. Okay. Any idea of the time frame when
12 these moves would have occurred?

13 A. Say the technician promotion came in the
14 mid to late '70s, and the senior tech
15 promotion came in the early '80s. I'd
16 say '82.

17 Q. Okay. And did Monsanto have other
18 facilities, like a central laboratory,
19 corporate laboratory, if you will?

20 A. Yes. There was a lab, a research lab in
21 St. Louis.

22 Q. Did you ever have any contact with that
23 research lab in St. Louis?

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HARTOLDMON0014516

1 A. No.

2 Q. What about in Dayton, Ohio?

3 A. There is a lab there. I'm not really
4 sure about the structure of it or what
5 they do.

6 Q. Okay. Are you still considered a senior
7 technician, or do you have a different
8 title today?

9 A. No. In 1984 I moved into environmental
10 as an environmental technician.

11 Q. Then before we go to that, let me ask
12 you. In the time frame from '68 to
13 maybe '82, whenever you moved on to
14 environmental tech, were you analyzing
15 any samples in the laboratory that were
16 waste streams? You mentioned process
17 streams and product to make sure it was
18 in spec. Do you ever recall having
19 routine analysis of waste streams?

20 A. We did routine analysis on the plant
21 effluent and also some on the plant
22 influent going to the waste treatment
23 plant.

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HARTOLDMON0014517

1 Q. Mr. Madison talked about checking the
2 PNP level that was going over to the
3 activated sludge bed. Is that what you
4 are referring to?

5 A. Right.

6 Q. What other plant effluent streams do you
7 recall doing routine checks on?

8 A. We only had one -- There is only one
9 plant effluent stream. It is monitored
10 daily for pH. And then we did BODs,
11 CODs, suspended solids, dissolved
12 solids, those kind of things.

13 Q. Okay. And do you recall doing that from
14 the start of your career, or do you have
15 an idea of when y'all started doing
16 that?

17 A. We were doing that when I first started.

18 Q. Now, what would happen if somebody
19 brought you a sample of product and it
20 wasn't within spec? Let me ask. Did
21 that ever happen that you can recall?

22 A. Yes, yes.

23 Q. What would happen?

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- 1 A. We would notify our quality assurance
2 supervisor or laboratory supervisor that
3 it was not in specification. They would
4 communicate with the department
5 supervisor to notify them.
- 6 Q. So you don't know as a practical matter
7 what would happen to the product? You
8 just passed along the information that
9 this batch wasn't in spec?
- 10 A. Well, it would be reworked or whatever
11 was necessary to bring it within
12 specification.
- 13 Q. Okay.
- 14 A. Returned to the process or whatever
15 needed to be done.
- 16 Q. Never had a batch that got so bad you
17 just had to toss it and start over?
- 18 A. Not to my knowledge.
- 19 Q. What about your process samples? I
20 assume occasionally those weren't where
21 you would like them to be. Again, you
22 would just pass that information on to
23 the production team?

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1 A. Right. Well, to the production
2 supervisor, and they would have a shift
3 chief operator that was usually over
4 each group, and they would communicate
5 with the chief and make whatever
6 adjustment was necessary with the
7 process equipment or whatever to bring
8 it in line with where it needed to be.

9 Q. And would I be safe in assuming that you
10 were not trained in the production side
11 of it to where we could sit here and
12 have a discussion about what valves you
13 fiddled with in the Aroclor department,
14 for instance, to affect how that was
15 manufactured?

16 A. That's correct. I was in the laboratory
17 at the time we were in that
18 manufacturing process.

19 Q. Okay. What about with effluent, the
20 plant effluent? If you found that out
21 of spec, if that is the right phrase,
22 what would you do about that?

23 A. It would usually be related to a problem

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HARTOLDMON0014520

1 with the waste treatment unit, and we
2 would notify the waste treatment chief
3 and operator, and they would make
4 whatever adjustments they needed to
5 make. If it was something that couldn't
6 be rectified immediately, possibly a
7 process unit shut down until it was
8 corrected.

9 Q. Now, you mentioned there was one plant
10 effluent. Did everything go to the
11 activated sludge treatment pond?

12 A. We had everything from the north plant,
13 PNP and parathion process units goes
14 there. And now some streams from the
15 south plant is directed there as well.

16 Q. In '68 were there not waste waters off,
17 for instance, the Aroclor department
18 that went out of the plant other than --
19 without going through that activated
20 sludge bed?

21 A. We had an outfall on the east side of
22 the plant, DSN 001, at that point in
23 time. But I'm not sure what was in that

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1 stream at that point in time.

2 Q. The plant effluent that you tested daily
3 for pH and BOD and total suspended
4 solids and what have you, was the
5 effluent going to the sludge bed?

6 A. It comes from the treatment and goes to
7 the POTW.

8 Q. Okay. So the point -- The sampling
9 point for that effluent was downstream
10 from the bed?

11 A. Yes.

12 Q. Before it went into the POTW?

13 A. Correct.

14 Q. So if in fact there were waste waters
15 going out the east side of the plant,
16 those were not being analyzed in the lab
17 at least as of '68 and '69?

18 A. I don't remember, to be honest with you,
19 in '68 and '69. There were some front
20 ditch analysis done, and I'm not sure of
21 the time frame. But you know, there was
22 some pHs. pH was regulated. And at one
23 point in time there was benzene analysis

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1 and some other work done on that
2 particular stream.

3 Q. But you don't recall that being a daily
4 thing, whereas you do recall daily
5 checking that other plant effluent?

6 A. Well, I do know they had a continuous
7 monitoring device set up at that point.
8 So there was daily samples taken on it,
9 yes.

10 Q. And by that -- You say monitoring. This
11 was just a sampler, continuous sampler,
12 that would suck in water every so often
13 and y'all would go get the water and
14 take it to the lab? Or was it a probe
15 that would monitor for instance pH?

16 A. It monitored the flow. And then the pH
17 and temperature was taken manually with
18 a grab sample and monitored, to the best
19 of my recollection.

20 Q. And were records maintained with respect
21 to that flow?

22 A. There were charts on the flow recorder,
23 yes.

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1 Q. Would those charts exist today somewhere
2 where a human being could put his hands
3 on them?

4 A. Some of them could possibly be archived.

5 MR. PRAUSE: Could I try to
6 clarify something? I got
7 confused. Were you talking
8 about the flow from DSN 001,
9 or were you talking about the
10 flow from the activated
11 sludge beds to the POTW?

12 THE WITNESS: We have flow
13 documentation on the effluent
14 to the POTW, you know, that
15 is readily available in
16 reports. The DSN 001 unit
17 that I understood you to be
18 talking about was the ones
19 that would be archived on
20 charts that is relative to
21 that particular flow
22 measuring device.

23 Q. But I take it, then, that it is not like

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1 the plant didn't realize stuff was going
2 out there. They wouldn't have had a
3 flowmeter there if they didn't realize
4 stuff was coming out?

5 A. We realized there was a stream there,
6 yes.

7 Q. And you called the stream -- I mean, at
8 the point you were sampling and keeping
9 track of flow, that was one hundred
10 percent water -- process water, waste
11 water from the plant, was it not?

12 A. Not necessarily waste water. It was --
13 And not necessarily process water. It
14 was steam condensate and some other
15 contributing sewers and those kind of
16 things.

17 Q. All water generated in the plant is what
18 I'm saying.

19 A. Basically, yes.

20 Q. Okay. What about air sampling? Do you
21 ever remember, when you were in the lab,
22 running the analysis of the air?

23 A. We had an H₂S unit, recovery unit, and

REGIONAL REPORTING SERVICE, INC.

1 we ran some samples that were brought in
2 in glass bottles that were air samples
3 from that unit. And that has been so
4 long ago I remember very little about
5 it.

6 Q. I've seen various documents that talk
7 about sampling sediment and water for
8 PCB in air, fish. And I wasn't sure if
9 those were done in the laboratory or
10 sent out. Do you have a recollection of
11 analyzing those kind of media for
12 Aroclor or PCB content in the '70s or
13 '60s?

14 A. Let me ask you to repeat that. You
15 covered quite a bit there.

16 Q. That is another bad habit of mine. I
17 have seen documents reporting Aroclor
18 and PCB levels in fish and sediment and
19 water and air taken from Anniston or
20 points downstream. And I'm curious as
21 to whether you recall those being
22 analyzed in the laboratory or if by that
23 not happening we could perhaps assume

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1 they were taken somewhere else for that
2 analysis.
3 A. I am aware at one point in time there
4 was a temporary trailer set up by our
5 laboratory that some studies were done
6 on fish tissue. The other samples I
7 assume were contracted to outside
8 laboratories because I don't recall
9 doing any at our laboratory.
10 Q. And do you know who worked in that
11 trailer?
12 A. The two people I remember was Don Turner
13 and Don Yates.
14 Q. Now, are Mr. Turner and Mr. Yates --
15 were they regular Anniston Monsanto
16 employees?
17 A. Yes. They were laboratory technicians.
18 Q. Are they still out there?
19 A. No. They are both retired.
20 Q. Do they live in Anniston?
21 A. Mr. Yates lives in Oxford. I'm not sure
22 where Mr. Turner lives at this point in
23 time.

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1 Q. When is the last time you saw Mr. Yates?

2 A. About three weeks ago or so.

3 Q. He is still kicking, anyway.

4 All right. Let me take you
5 forward then from your time frame as a
6 lab technician and eventually a senior
7 technician to what you became next.
8 What was the next title that you held
9 out there?

10 A. In '84 I began working with the
11 environmental group with Mr. Bob Cheever
12 as an environmental technician.

13 Q. Okay. And did you at that point cease
14 laboratory analysis, I assume?

15 A. No. I actually increased to some
16 degree. I went from the quality
17 control, quality assurance lab into the
18 environmental laboratory.

19 Q. Okay. Now, when did the -- Is this a
20 separate facility, separate room?

21 A. Separate room.

22 Q. When did that separate room that you
23 referred to as environmental control

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HARTOLDMON0014528

1 laboratory get created?

2 A. It was in -- We began in '84 to
3 gradually work toward -- It was actually
4 about '85 when we had our GC set up and
5 began in-house analysis there.

6 Q. So you literally were there at the
7 formation of that?

8 A. Yes.

9 Q. And was there new stuff that was done at
10 that point in time, or did you take
11 equipment that was running the samples
12 already and put those pieces of
13 equipment in the new room and --

14 A. No. We bought new equipment and set up.

15 Q. Were you doing new kinds of analyses?

16 A. No, not new kinds. We were setting up,
17 isolating from the quality control lab
18 to be able to work at lower
19 concentration levels and find lower
20 concentrations.

21 Q. Were you having trouble with false
22 positives on your tests because of just
23 ambient levels of stuff in the QC/QA

REGIONAL REPORTING SERVICE, INC.

1 lab?

2 A. No, not really. We were aware that --
3 The environmental, we were looking for
4 low concentrations, and it certainly
5 didn't make sense to be conducting that
6 work in an area in the same lab where
7 you were looking for assays of purity,
8 high concentrations. So we separated
9 the two for those reasons, the different
10 levels we were interested in.

11 Q. What kind of assays do you recall
12 running in the environmental lab?

13 A. We didn't do assays as such in the
14 environmental lab. We did concentration
15 levels of -- Our basic setup there was
16 geared toward our ground water program.
17 And I operated GCs in there specifically
18 for the identification of basically
19 parathion and PNP in water.

20 Q. I can recall seeing a lot of analyses
21 reported out for ground water collected
22 in that program. And as I recall, you
23 all were -- had a ground water control

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1 program both with the south landfill and
2 the west landfill. Is that not correct?

3 A. Yes.

4 Q. And you looked at samples from both?

5 A. Yes.

6 Q. Y'all worked that stuff in-house as
7 opposed to sending it out?

8 A. For the PNP and parathion, we did, yes.

9 Q. Was there something that you sent out
10 that you didn't do in-house?

11 A. We had -- In the '80s we had sent out
12 some samples occasionally for Appendix 8
13 and Appendix 9 rounds of analysis,
14 things we did not have the capability of
15 doing there in our lab.

16 Q. That is what I was going to say, I
17 didn't see PCB or Aroclor being looked
18 for very often in those samples. I take
19 it that wasn't something y'all looked
20 for on the routine ones that you did
21 in-house?

22 A. No.

23 Q. Was that something that was looked at

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1 when you sent these outside samples out?

2 A. Not in the '80s, no.

3 Q. Given your response, I'm guessing they
4 were looked for at some other period of
5 time in the ground water.

6 A. Recently, yes.

7 Q. And who did that? What lab looked for
8 that?

9 A. Savannah Laboratories has done the
10 majority of that work.

11 Q. And I realize Savannah Labs is probably
12 based in Savannah, but I think they have
13 various facilities around the southeast.
14 Do you know which particular --

15 A. Yes, the Savannah Laboratories is the
16 ones I've worked with.

17 Q. In Savannah?

18 A. Yes..

19 Q. You say recently. When do you recall
20 them first analyzing the ground water
21 out there for possible PCB content?

22 A. The best I recollect, it was in the
23 early '90s, early to mid '90s, '93, '94

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1 time frame, somewhere in that region.

2 Q. And do you recall what the sensitivity
3 was with which they looked, what their
4 detection levels were?

5 A. Not right off.

6 Q. Do you recall if there were any positive
7 hits?

8 A. We saw some, yes, low concentrations.
9 But, now, the PCBs is not in the ground
10 water. The PCBs is -- In all places
11 where there were low concentration hits,
12 filtered samples indicate no detection
13 limit at all. So it is not dissolved in
14 the ground water. It is adhered to the
15 solids, the sediments.

16 Q. Let me make sure I'm clear. Somebody
17 would put a well in. And they would --
18 there are procedures for purging that
19 well, bailing out so many well volumes
20 before you analyze. You are familiar
21 with that?

22 A. Uh-huh (indicating yes).

23 Q. Then you take a sample. What you are

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1 telling me is if you filtered that
2 sample first, you would get non-detect.
3 But if they didn't filter it, they would
4 find low concentrations?

5 A. Yes.

6 Q. And that is a reflection of something
7 not dissolved in the water but rather a
8 suspended articulate?

9 A. Adhered to the sediment.

10 Q. Okay. Do you recall if this was taken
11 out of the south side or the west side
12 or both?

13 A. Samples were taken from both areas, yes.

14 Q. And did both have positive hits?

15 A. I can't recall right off. I'd have
16 to --

17 Q. May have been one, may have been both,
18 you just don't remember?

19 A. Yeah.

20 Q. And I also have a recollection vaguely
21 that the ground water regime out there
22 has what I think they call the shallow
23 aquifer and a deeper aquifer. Do you

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1 have any recollection as to which -- of
2 how deep these samples were drawn from?

3 A. Yes. They range anywhere from about
4 twelve to fourteen feet down to as deep
5 as three hundred feet.

6 Q. And do you know -- The ones that showed
7 positive hits in the sediment of the
8 samples, do you recall where they fall
9 in that continuum?

10 A. The shallow.

11 Q. Anything else you recall doing in terms
12 of laboratory work since you got into
13 the environmental lab aside from the
14 ground water support?

15 A. No. That was the basic thrust of my
16 job.

17 Q. Did you have responsibilities
18 historically other than maintaining that
19 kind of laboratory support work?

20 A. Not while I was in the lab, no.

21 Q. At some point have you moved out of the
22 lab since 1984 when you started as
23 environmental tech?

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- 1 A. Yes.
- 2 Q. Tell me when that occurred.
- 3 A. That occurred in June of '97, I believe
- 4 it was.
- 5 Q. Okay. And what did you move to in terms
- 6 of --
- 7 A. I'm an environmental specialist.
- 8 Q. And what are your responsibilities and
- 9 daily duties as a environmental
- 10 specialist at Monsanto?
- 11 A. I do work with hazardous waste
- 12 management.
- 13 Q. Okay.
- 14 A. I have responsibility of doing some RCRA
- 15 and TOSCA training.
- 16 Q. Okay. And that would be of other
- 17 Monsanto/Solutia Anniston employees?
- 18 A. Employees, yes. We are currently on a
- 19 CBT program, so my direct responsibility
- 20 with that will reduce somewhat.
- 21 Q. CBT for?
- 22 A. Computer based training program.
- 23 Q. And you say you worked with hazardous

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1 waste management, in terms of like
2 manifesting?

3 A. Right.

4 Q. And your hazardous waste goes where
5 these days?

6 A. To Emelle, Chemical Waste Management at
7 Emelle, our solid waste. Our liquid
8 waste goes to -- Well, it did go to
9 Rollins Environmental, who has been
10 purchased by a different company now out
11 of Tennessee, LaidLaw. So it will be
12 going to LaidLaw.

13 Q. Now, are they disposing of that or
14 recycling it? What is your
15 understanding of what happens to your
16 liquid hazardous waste?

17 A. They are recycling, reclaiming some of
18 it.

19 Q. What is, in a broad sense, the nature of
20 the solid waste y'all send to Emelle
21 these days?

22 A. Anything generated out of our south
23 plant. We have two roll-offs in the

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1 plant unit, one for the south plant and
2 one for the north plant. They are both
3 designated as non-hazardous,
4 non-regulated material. But we still
5 ship them to Chem Waste. It is any
6 spill, clean-up debris, or anything
7 generated from either unit.

8 Q. Do you bother analyzing that stuff, or
9 do you just send it on?

10 A. Well, it had been initially analyzed and
11 sent for profile identification for Chem
12 Waste to generate a profile for it. But
13 now we ship by that profile number.

14 Q. It is not routine any more to analyze
15 each batch?

16 A. No, no.

17 Q. What kind of liquids are you sending to
18 LaidLaw?

19 A. We generate, from our laboratory,
20 quantities of solvents that they
21 basically use for cleaning glassware
22 like acetone, toluol, those kind of
23 things.

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- 1 Q. So that is basically a laboratory
2 effluent?
- 3 A. Well, it is not an effluent. It is
4 generated through the lab, but we have
5 an accumulation area at the lab that
6 they pour it into the drums. It goes
7 from there to temporary storage. It is
8 never an effluent as far as a stream.
- 9 Q. Got you. And in a quantitative sense we
10 are not talking about very much, I
11 assume?
- 12 A. No. We are talking about less than a
13 hundred and fifty gallons a year.
- 14 Q. Okay. And is that your current title
15 out there, environmental specialist?
- 16 A. Yes, it is.
- 17 Q. Do you have anybody working under you?
- 18 A. No..
- 19 Q. And who do you answer to at the company
20 presently?
- 21 A. Robert Jones.
- 22 Q. Okay. Are you the environmental
23 specialist?

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- 1 A. Yes.
- 2 Q. That is what I recall. He has somebody
3 else who does like industrial hygiene?
- 4 A. Safety and health person is different.
- 5 Q. And you are -- but you are the
6 environmental guy?
- 7 A. Yes.
- 8 Q. Okay. Now, have you had any role to
9 play in the remediation work that has
10 been going on?
- 11 A. The ground water program has been taken
12 over by the remediation group under the
13 direction of Alan Faust, and I'm still
14 the coordinator of the ground water
15 program. And I will clarify. I
16 mentioned Robert Jones. I do answer for
17 that part of the program to Alan Faust.
- 18 Q. Okay. And that program was in place
19 before Alan Faust got here, and just
20 once the remediation program got
21 underway and he showed up, that part of
22 your duties he oversaw?
- 23 A. Yes.

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1 Q. What about -- I remember when we took
2 Mr. Jones' deposition. I took him. He
3 was talking about how things kind of got
4 rolling when Alabama Power found the
5 PCBs on the land that used to be part of
6 the west end landfill. Then some
7 samples were taken, and some samples
8 were taken of some stuff coming off the
9 south landfill. Were you involved at
10 all in those sampling, the analyses, the
11 discussions with ADEM, any of that
12 stuff?

13 A. I was involved in some of the sampling.
14 I was not involved in any discussions
15 with ADEM.

16 Q. What samples do you recall taking?

17 A. There were three -- four wells
18 installed, three wells down gradient of
19 what we call the west end landfill.
20 Three wells were installed there. And
21 then we began a regime of storm water
22 sampling, storm water runoff sampling,
23 and took some samples from both areas,

REGIONAL REPORTING SERVICE, INC.

1 the west end landfill and the south
2 landfill.

3 Q. Now, you said new wells. Did y'all have
4 a ground water treatment program in
5 place as of that time for that west side
6 of the plant?

7 A. No, we did not.

8 Q. Just had the south end landfill --

9 A. Yes.

10 Q. -- pump and treat in place?

11 A. Well, not just it. We also had a plant
12 site. We had the south landfill area
13 and the plant site area.

14 Q. Was the plant site area over towards the
15 west end landfill?

16 A. It is on the north, north to northeast
17 and northwest side of the plant.

18 Q. That is what I was thinking. That was
19 in place before the Alabama Power issue
20 came up?

21 A. Yes.

22 Q. And you basically just kind of extended
23 over westerly as far as your ground

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1 water test wells?

2 A. It basically was not an extension. It
3 was -- down gradient of that particular
4 cell unit is where those particular
5 wells were installed.

6 Q. And were you involved in actually
7 analyzing the water taken from those
8 wells?

9 A. In the sampling of the wells, not the
10 analyzing of the wells. We sent those
11 off-site.

12 Q. Where did you send those?

13 A. They went to Savannah Laboratories, the
14 best I remember.

15 Q. And you said storm water. Again, you
16 were involved in sampling, but you
17 didn't do the analysis?

18 A. Right.

19 Q. Okay. What about dirt or even
20 constituents directly out of that west
21 end landfill property? Did you do any
22 analyses of any of that?

23 A. There was some characterization work

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1 done during the borings of the wells,
2 some core samples taken.

3 Q. But again, you did not do any analysis?

4 A. I did not do any analysis, no.

5 Q. I take it your lab would have had the
6 expertise and the equipment to have
7 analyzed the ground water there, those
8 samples. You had been analyzing ground
9 water samples, had you not?

10 A. Not for PCBs.

11 Q. All right. So that's really been your
12 only role with regards to remediation.
13 You collected some samples, and you have
14 analyzed some of the ground water, but
15 even those were only for PNP and
16 parathion?

17 A. Yes. I helped develop the O and M plan,
18 the operations plan, the operations and
19 maintenance plan as well.

20 Q. We talked at one point about a trailer
21 that was set up at one point to do fish
22 analyses. Is there another satellite
23 laboratory within the plant at any point

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1 in your career that has done --

2 A. Not to my recollection.

3 Q. And right now they are going out to
4 Savannah?

5 A. Yes, yes.

6 Q. Okay. Do you recall taking samples like
7 you just described, the characterization
8 samples, ground water samples, and
9 sending them out pertaining to the
10 landfills before that Alabama Power
11 stuff earlier this decade?

12 A. At initial well installations, there
13 again basically for PNP and parathion
14 identification. We had sent some
15 samples out for Appendix 9 and Appendix
16 8 that I mentioned earlier, but that is
17 all I remember.

18 Q. When did you first know that PCBs or
19 Aroclor waste had been put in the west
20 end landfill or south landfill?

21 A. The first time I really realized it had
22 been in the west end landfill was with
23 the identification of the Alabama Power

REGIONAL REPORTING SERVICE, INC.

1 Company issue. That unit was closed
2 before I ever began employment with
3 Monsanto.

4 Q. Okay. What about the south end
5 landfill?

6 A. I had known that some of the western
7 cells had been utilized for that. I
8 wasn't sure of the time frame, but I
9 knew some had been put up there.

10 Q. Had you seen any test results that
11 demonstrated PCB coming off the
12 landfill, or not coming off, just
13 samples period, looked at that?

14 A. No, I had not.

15 Q. When do you think you realized that PCBs
16 had been deposited in the south end
17 landfill?

18 A. It was in the -- I'd say the early '80s,
19 probably '84 time frame when I actually
20 got involved with the environmental
21 group.

22 Q. In the 1970, '71 time frame, if they
23 were going to look at effluent in that

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HARTOLDMON0014546

1 plant and lab, you would have been one
2 of the people who would have done that
3 analysis, right?

4 A. I would have been involved in doing the
5 routine analysis of the pH, the DOs,
6 BODs, solids and such. I would not have
7 done anything in addition to that
8 because our lab at that point in time
9 was not equipped, and anything
10 additional would have been sent off-site
11 to a contract laboratory.

12 Q. Okay. But you weren't told in that time
13 flame that there might be an issue of
14 stuff coming off the south end landfill?

15 A. No, no.

16 Q. I saw a memo that -- I don't remember
17 who it was to -- that talked about how
18 important it was to get the samples
19 regularly with some of this effluent
20 testing. Was that something that was
21 considered an important priority in your
22 job from day to day?

23 A. Yes. There again, there is a daily

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1 monitoring and sampling device on that
2 effluent, that effluent point.

3 Q. And if you had been told to gather a
4 sample, even if it was going to be
5 analyzed by somebody else, on a regular
6 basis of an effluent coming off that
7 landfill, you would have done that,
8 wouldn't you?

9 A. Yes.

10 Q. What kind of reports did you maintain as
11 best you can recall of the analysis of
12 the waste streams that you did sampling
13 work for and analysis for back in the
14 '60s and '70s?

15 A. We had regular logs that we documented
16 the information on and maintained
17 laboratory -- general laboratory
18 records.

19 Q. There is an issue in this case about
20 some PCB waste water levels or
21 concentrations being shared with the
22 State of Alabama. And I have seen daily
23 PCB or Aroclor concentrations in waste

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1 water reported for periods like in the
2 1970 and 1971 time frame. Do you recall
3 being involved in coming up with that
4 data?

5 A. No. I did not. I was not involved. If
6 that data exists, I was not involved in
7 it.

8 Q. Do you have any idea who could have been
9 generating that data?

10 A. Not at this point in time, no.

11 Q. Do you even know of equipment that was
12 in place in the laboratory that you
13 worked in every day that would have
14 enabled somebody to conduct that
15 analysis?

16 A. Not in the laboratory I was in.

17 Q. Might have been in the trailer?

18 A. The fish study was done in the trailer.
19 Waste water, I'm not sure. There is a
20 possibility, but I don't know.

21 Q. Did you have a test to analyze the
22 purity of the Aroclor that was going
23 out?

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1 A. I don't remember GC capability for doing
2 assay on Aroclor. I know there was a
3 quality test done, and at this point in
4 time it has been so long ago that I
5 don't remember, to be honest with you.

6 Q. Have you throughout or at any point in
7 your career there at Monsanto had any
8 kind of medical testing or monitoring,
9 examination performed?

10 A. Yes. Monsanto has a routine medical
11 surveillance program and, depending on
12 your age, the interval of health
13 examinations. And I've had those done
14 my entire career.

15 Q. Was there some baseline work done
16 initially when you first started?

17 A. Yes, to establish what they call a
18 cholinesterase level for your blood in
19 relationship to the parathion work.

20 Q. What about a physical examination?

21 A. Yes. They did pulmonary function and
22 everything to qualify you to wear
23 respiratory protection. And I worked

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1 with the emergency response some and did
2 that.

3 Q. Once you were there, how frequently
4 would you be examined by a physician?

5 A. For a while when you were working with
6 parathion it was every year. It was an
7 annual thing. Now it is based on your
8 age.

9 Q. And what about a young guy like you, how
10 often do you have to go?

11 A. Well, a young guy like me can get one
12 every year. But it is -- Every two
13 years it is required, and every year if
14 you want it.

15 Q. What's the last time you went in and had
16 it done?

17 A. Last fall, this past year, last fall.

18 Q. What all occurred during that visit?

19 A. They drew blood samples, had the hearing
20 test, the pulmonary function test, and
21 all the things we normally do.

22 Q. Okay.

23 A. You have an option for a chest x-ray if

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HARTOLDMON0014551

1 you want it.

2 Q. Have you ever had your blood analyzed
3 for PCB?

4 A. Yes, I have.

5 Q. When was that done?

6 A. That was done in '97.

7 Q. And was that something that was done as
8 part of your routine kind of stuff that
9 we just described?

10 A. No. It was a voluntary opportunity we
11 had, an option that if we wanted to we
12 could.

13 Q. And who drew that and analyzed it as far
14 as you recall?

15 A. I don't really know. The people that
16 drew the blood was with Dr. Gehi's
17 office, our occupational physician. Who
18 they sent it to to have it analyzed, I
19 don't know.

20 Q. What were your results?

21 A. My level was very low, I believe about a
22 two point five or something of that
23 nature.

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1 Q. Do you have any idea as to how many of
2 the fellows or ladies there at the plant
3 had that blood work done?

4 A. I don't know the number. There were
5 several.

6 Q. And in 1997 how many folks would there
7 have been still working with the company
8 who would have been actively involved in
9 the Aroclor manufacturing process?

10 A. Probably a dozen or so.

11 Q. I think I asked you if you did air
12 sampling. You mentioned at one time you
13 had a hydrogen sulfide emission or
14 something you checked on. I've seen
15 some Aroclor levels, PCB levels for
16 Anniston in the early '70s time frame.
17 Again, you don't have any recollection
18 of analyzing those?

19 A. No.

20 Q. Do you have any role to play in the
21 O and M of the waste management or waste
22 water management processes out there, to
23 activate the treatment facility?

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- 1 A. That is the responsibility of the PNP
2 department. So I'm not directly
3 involved. We take some samples and send
4 off the analysis. But as far as the
5 operation goes, that is the department
6 folks.
- 7 Q. And have you ever visited the Monsanto
8 facility in Sauget, Illinois?
- 9 A. No.
- 10 Q. Or Rubicon, Wales?
- 11 A. No.
- 12 Q. Have you ever been up on the south end
13 landfill?
- 14 A. Yes.
- 15 Q. When is the first time you were up
16 there?
- 17 A. To be honest with you, I can't remember
18 exactly the first time. It was in the
19 early '80s.
- 20 Q. And by that point in time I assume that
21 it was a RCRA listed site, one of your
22 -- What do they call them, SMUs?
- 23 A. We became permitted under RCRA in the

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1 early '80s. Yeah, I would say that is a
2 fair statement.

3 Q. Who was in charge of the day-to-day
4 operation of that thing?

5 A. Well, it fell under the responsibility
6 of the environmental folks there at the
7 plant. At that point in time -- When I
8 went to work in '84 in environmental,
9 Mr. Bob Cheever was the --

10 Q. Can you give me any idea of who would
11 have been involved and in charge of that
12 acreage in '68 when you first started
13 working there?

14 A. Mr. Bill Taffee is the person -- the
15 first gentleman I can remember who
16 worked with the environmental unit
17 there. And it was close to that time
18 frame.

19 Q. Do you know if he is still with the
20 company?

21 A. No. He is not with the company.

22 Q. Do you know where he is these days?

23 A. He was a resident of Calhoun County, the

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1 last I heard. He had a massive stroke,
2 and I'm not sure of his condition at
3 this point in time.

4 Q. Do you know a Mr. Mullally?

5 A. Mike Mullally, yes. Mike is deceased.

6 MR. CUNNINGHAM: That's all.

7 (The deposition concluded at
8 11:30 a.m.)

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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 25th
20 day of January 1999.

COPY

21 _____
22 Deborah Salers Garrett
23 Certified Shorthand Reporter
Registered Professional Reporter
Notary Public, Alabama-at-Large
My Commission expires: 3-7-2001

REGIONAL REPORTING SERVICE, INC.

