

FOSHEE & TURNER COURT REPORTERS

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF ALABAMA

3 EASTERN DIVISION

4
5 WALTER OWENS, et al.,)

6 Plaintiffs,)

7)

8 vs.) CIVIL ACTION NO.

9) CV-P-440-E

10 MONSANTO COMPANY,)

11 Defendant.)

12
13 DEPOSITION OF: TOM BURKHART

14
15 In accordance with Rule 5 (d) of The

16 Alabama Rules of Civil Procedure, as Amended,

17 effective May 15, 1988, I, TAMMY JENNINGS

18 GREGORY, am hereby delivering to MR. LARRY WRIGHT

19 the original transcript of the oral testimony

20 taken on the 26th day of October, 1999, along

21 with exhibits.

22 Please be advised that this is the same and

23 not retained by the court reporter, nor filed

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1 with the Court.

2 The deposition of Bill Hughes was taken
3 before Tammy R. Jennings Gregory, commencing at
4 1:30 P.M. on the 26th day of October, 1999, by
5 the Plaintiffs, at the law offices of Fite &
6 Miller, Anniston, Alabama pursuant to the
7 stipulations set forth herein.

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1 A P P E A R A N C E S

2

3 Appearing For The Plaintiffs:

4 MITHOFF & JACKS, LLP

5 By: Larry Wright, Esquire

6 111 Congress Avenue, Suite 1010

7 Austin, Texas 78701

8

9 Appearing For The Defendant:

10 LIGHTFOOT, FRANKLIN & WHITE

11 By: Buddy Cox, Esquire

12 The Clark Building

13 400 20th Street North

14 Birmingham, Alabama 35203-3200

15

16 Court Reporter:

17 Tammy R. Jennings Gregory

18

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

2

3 IT IS STIPULATED AND AGREED by and
4 between the parties through their respective
5 counsel that the deposition of Tom Burkhart may
6 be taken before Tammy R. Jennings Gregory, at the
7 law offices of Fite & Miller, Anniston, Alabama
8 on the 26th day of October, 1999.

9

10

11 IT IS FURTHER STIPULATED AND AGREED that
12 it shall not be necessary for any objections to
13 be made by counsel to any questions, except as to
14 form or leading questions, and that counsel for
15 the parties may make objections and assign

16 grounds at the time of trial or at the time said
17 deposition is offered in evidence or prior
18 thereto.

19

20

21 IT IS FURTHER STIPULATED AND AGREED that
22 the notice of filing of the deposition is waived.

23

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1 STATE OF ALABAMA, CITY OF ANNISTON,

2 OCTOBER 26, 1999,

3 1:30 P.M.,

4

5 TOM BURKHART,

6 having been first duly sworn, was examined and

7 testified as follows:

8 MR. WRIGHT: All right. We're

9 going on the record now. And let me ask the

10 witness to give his name.

11 THE WITNESS: Thomas A. Burkhart.

12 MR. WRIGHT: Okay. For Mr.

13 Burkhart's deposition, we've got a situation

14 where the court reporter isn't here, and we
15 don't want to inconvenience the witness, so
16 we're going to try to go forward with the
17 deposition with a tape recorder with an
18 agreement that one of our secretaries will
19 transcribe the recording.

20 And if there's any controversy over
21 what a word is, we'll just agree to it --
22 agree to reconcile it. And if we can't,
23 we'll submit it to some agreed third party

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1 and let them try to figure out what it is.

2 And if they can't, then, we'll just
3 live with it. Is that fair, Adam?

4 MR. PECK: That's fine. Otherwise,
5 I guess, we'll treat it like a deposition
6 with objections to form reserved and all the
7 usual stipulations apply?

8 MR. WRIGHT: Yes. And we'll agree
9 that it can be used as if it were being
10 transcribed by a court reporter.

11 MR. PECK: So under the

12 circumstances, we -- although I usually waive
13 signature, we ought to let --

14 MR. WRIGHT: -- yes.

15 MR. PECK: -- Mr. Burkhart read it
16 and sign it to try to clarify the problems
17 that may result through this process.

18 MR. WRIGHT: I agree. That's a
19 good idea.

20 And my only request would be that
21 if it's not read and signed by the time we
22 need it, whether it's for a hearing or for
23 trial, that it can be used.

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1 MR. PECK: I wouldn't think we
2 would have any problem getting it done.

3 MR. WRIGHT: I wouldn't think so
4 either, but I just want to make sure that if
5 it's necessary, we can use it. I don't
6 anticipate a problem.

7

8 EXAMINATION BY MR. WRIGHT:

9 Q. Mr. Burkhart, thank you for coming today and

10 putting up with our strange circumstances.
11 Before we went on the record, I
12 handed you what we've marked as Cambron
13 Exhibit -- that's C-a-m-b-r-o-n -- Exhibit
14 Number 1 (now known as 8). And I think it's
15 also Hughes Exhibit Number 7.

16 But it's a list of former workers
17 in the aroclor department that they have put
18 their heads -- pen to paper and given a list
19 of people that they remember working in the
20 aroclor department.

21 I asked you to review this list and
22 see if there's anybody else that you can
23 recall who worked there, and you gave us two

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1 names. Number thirty-nine is Vince Haupt,
2 H-a-u-p-t, who was a supervisor, and Number
3 forty is Burns Severson --
4 A. Severson.
5 Q. Severson, S-e-v-e-r-s-o-n, and he's deceased
6 now.
7 A. Right.

8 Q. Is that true?

9 A. That's correct.

10 Q. Okay. And other than that, you can't think
11 of anybody else that worked in the department
12 that is not already on the list?

13 A. No, sir.

14 Q. Would you tell me a bit about your
15 background, starting when you first went to
16 work for Monsanto?

17 And also, let me ask you to keep
18 your voice up a little bit just so we can
19 make sure that the recorder picks it up.

20 A. I went to work for Monsanto on March the
21 22nd, 1965. And I went into the aroclor
22 department.

23 My first job was operating, loading

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1 trucks and tank cars with hydrochloric acid.

2 And then I trained on the chlorinators and
3 trained on the aroclor stills.

4 And I done that, operated in the
5 aroclor department, until they ceased

6 operations in 1972.

7 Q. Okay. Then where did you go?

8 A. I went to the parathion department and stayed

9 there a short period of time, six or eight

10 weeks it seems like. Something in that line.

11 Q. Do you remember what your job was in the

12 parathion department --

13 A. I was drumming out the finished product of

14 parathion. We was putting it in fifty-five

15 gallon drums. And I was drumming it out.

16 MR. PECK: Tom, just be careful,

17 especially with this process, that you don't

18 talk over him because some poor secretary is

19 going to have a hard enough time transcribing

20 this.

21 THE WITNESS: Yeah.

22 MR. PECK: Make sure y'all are not

23 talking over each other.

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1 THE WITNESS: Yeah.

2 Q. (By Mr. Wright) And I'll try -- I'm bad

3 about starting another question or

4 interrupting an answer with a comment, so

5 I'll try to be careful about that as well.

6 After you left the parathion

7 department, then where did you go?

8 A. I went to the biphenyl department.

9 Q. And what was your job at the biphenyl

10 department?

11 A. I -- the first job I had in biphenyl was

12 operating the HB40, and then come the

13 santowax "Q" still.

14 And then I moved up on the hill and

15 trained and operated the biphenyl and

16 santowax still and the tube units.

17 Q. And then where did you go after that?

18 A. I done a chief operator's job in biphenyl for

19 a while and then went to maintenance.

20 Q. Do you remember what year that was that you

21 went to maintenance.

22 A. I think it was 1981.

23 Q. And what was your job in the maintenance

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1 department?

2 A. We worked in the south shop. That was mainly
3 in the biphenyl and the HB40 area is where we
4 had our, you know, shop that operated out of
5 the south shop for that section of the plant.

6 Q. Did you have a particular job in the
7 maintenance department, or was it just
8 generally -- general maintenance work?

9 A. It was just general maintenance work.

10 Q. And where did you go after that?

11 A. I was still in the maintenance department,
12 and we worked out of the central shop. And
13 my job there was I done the fire round
14 inspections, the fire hydrants and sprinkler
15 systems, and we had two fire trucks that we
16 kept up. It was just a general plant fire
17 safety loop is what my job was.

18 Q. Okay. What year was that or years were
19 those?

20 A. It had to be in the middle or late '80s.

21 Q. Okay. What was your next job after that?

22 A. When they shut down the parathion department,
23 I went back into the production department.

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1 And my job there was -- I went to the PNP
2 department and was an operating chief.

3 Q. Do you remember what year you started as
4 operating chief?

5 A. No, sir.

6 Q. How long were you operating chief?

7 A. Oh, several years or couple years or so until
8 they got the parathion shut down and tore
9 down and the P2S5 department and the recycle
10 department.

11 Then they made one -- made a chief
12 operator for plant wide, and I held that
13 until I retired November the 30th, 1994.

14 Q. What was your duty for chief operator for the
15 whole plant?

16 A. Well, as they told us, "This is your plant
17 when we're not here." When I say, "not
18 here," that means after 4:30 in the evening
19 and on Saturdays and Sundays and holidays
20 that the chief operator was in charge of the
21 plant at that time.

22 Q. Was that a new position, or had they had a
23 chief operator all along?

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1 A. No, this was -- they had a chief operator in
2 each department. Every department had a
3 chief operator for every shift.

4 And after they removed parathion in
5 the other plants, they made one chief
6 operator for the whole plant, which just
7 involved biphenyl, PNP, and the santowax
8 still area.

9 Q. That was all that was left was biphenyl, PNP,
10 and the santowax?

11 A. Biphenyl and santowax still, the tube units.

12 Q. Okay. Where do you live now?

13 A. I live in Anniston at 1209 Kilby Terrace.

14 Q. Let's go back to when you started in the
15 aroclor department. Your first job, I think
16 you said, was loading; is that right?

17 A. I was operating, and the operator loaded tank
18 cars and tank trucks of hydrochloric acid and
19 operated the plant. That was part of his --
20 all of that was his duties. And he assisted
21 the chlorinator operator also.

22 Q. Okay. What operator were you called? I
23 mean, was it called acid operator or --

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1 A. It was just operator. We rotated. When we

2 all got trained on the job, we'd rotate.

3 We'd work one or two weeks as an acid

4 operator; we'd work one or two weeks as

5 chlorinator or still operator, like that.

6 Q. But you remember your first job was in the

7 acid department?

8 A. Right.

9 Q. Okay. The -- how did you load the tank cars

10 with the hydrochloric acid?

11 A. We had a loading dock, and the railroad would

12 spot an empty tank car, and we would inspect

13 it, change the ruptured disk on it, look at

14 it, put a sample in it, put a hydrochloric in

15 it, sample it, and make sure it was clean,

16 and then we would load it.

17 We had a hose and pumps and tanks.

18 We kept a tank ready after they reworked the

19 hydrochloric acid tank. We'd keep --

20 (Interruption.)

21 Q. (By Mr. Wright) Okay. Mr. Burkhart, sorry

22 about that interruption.

23 A. That's okay.

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1 Q. You were mentioning -- you were telling me
2 how y'all loaded the hydrochloric acid. Was
3 that also the muriatic acid?

4 A. That's correct.

5 Q. You did sell both -- or load both types of
6 acid; right? Sometimes it was hydrochloric,
7 and sometimes it was muriatic?

8 A. Well, we -- we had two different degrees. We
9 had what they call a twenty degree water
10 white acid and a twenty degree regular acid.

11 Regular acid had color to it.

12 Twenty degree water white was just like a
13 glass of water.

14 And we also made it and sold it in
15 a twenty-two degree water white and regular.

16 Q. Did you call all of that hydrochloric acid?

17 A. Yes.

18 Q. Okay. Did you also call it from time to time
19 muriatic acid?

20 A. Yes.

21 Q. Okay. So we're talking about the same
22 stuff --
23 A. It's the same. It's identically the same

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1 material.
2 Q. All right. And then is that also the same
3 place where you loaded aroclor from?
4 A. No. We had a different dock for aroclor.
5 Q. Did you also load aroclor some?
6 A. I did very little aroclor loading.
7 Q. Okay. Well, to the extent you remember, tell
8 me how the aroclor loading process worked
9 because I think you're our first witness who
10 we've asked about it, so --
11 A. You want the process steps of aroclor?
12 Q. No. How you loaded it.
13 A. How we loaded it?
14 Q. Yeah. Once it was made.
15 A. We have storage tanks, and we would make
16 aroclor by the batches, and some of it
17 continuous on what we call continuous side
18 chlorinators. We'd have that tank in spec,

19 and then the railroad would spot a tank
20 car --
21 Q. You said something, and I want to make sure
22 we got it clear. You'd have that tank --
23 A. In specification.

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1 Q. Okay.
2 MR. PECK: In spec.
3 Q. (By Mr. Wright) Okay. Go ahead. I'm sorry
4 to interrupt you.
5 A. And the laborers would go up and go inside
6 the car and clean the car, wipe it down and
7 clean the car, and it would just be spotless
8 on the inside.
9 Then the chief operator would put a
10 hose off of a loading arm off of that loading
11 dock. And he had a pump switch up there, and
12 he would line the valves up from that tank to
13 the tank car and start the pump and stand
14 there and load the tank car of aroclor.
15 And after he got through with it,
16 he'd cut the pumps and take the line off and

17 take the line out and put a gasket on the
18 dome lid, tighten down the dome lid and seal
19 it with sealing wire and a little small metal
20 seal. Something about like a --

21 Q. Like we see sometimes on electric boxes or
22 telephone boxes?

23 A. Right. It was more or less like a coin, but

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1 it had two sides to it. One would snap into
2 the other one.

3 And you'd put the wire through
4 there and twist it and then snap the two
5 together, and that was the type seal we put
6 on it.

7 Q. Now, going back to the start of the process,
8 were these tank cars the same tank cars used
9 over and over again?

10 A. Yes.

11 Q. Okay. So when they went in there to clean
12 out, they were cleaning out old aroclor?

13 A. That's correct.

14 Q. I've seen reference to washing those tanks.

15 Did they wash them out from time to time?
16 A. I don't remember them washing the tank.
17 Q. How did they clean it when you remember it?
18 A. Well, we'd use them over and over, and they'd
19 go in and they'd -- the laborers would wrap
20 rags around their shoes where they wouldn't
21 get dirt in the tank.
22 They were very careful about it and
23 done a, you know, just a meticulous job of

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1 it. They were very particular how they
2 cleaned it out.
3 Most of the time, they would go in
4 and wipe down the whole tank inside. One
5 started in one end, and the other one would
6 start in the other end.
7 And we had a man up on the dock
8 with an air hose blowing in the tank. And if
9 we had to, they'd wear a mask and all.
10 Safety was one of the -- that was
11 the number one concern.
12 Q. Were they wiping it down with rags?

13 A. With white rags.
14 Q. What did they do with the white rags after
15 they done --
16 A. Put them in a trash can, put them in a can,
17 and then they'd haul the can off to the
18 landfill.
19 Q. Okay. And you're saying in the few times
20 that you saw it, you don't remember them
21 washing it down?
22 A. No, sir. Now, they would wash out a PNP tank
23 truck or niran tank truck or tank car, but

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1 not aroclor.
2 They didn't -- that water would
3 raise the moisture in it, and this was
4 supposed to be a low moisture product.
5 Q. Okay. Did they wash the outside of the
6 tanks?
7 A. If they run it over.
8 Q. Okay.
9 A. It was seldom they run one over though.
10 Q. Okay. So if they ran it over, then they'd

11 wash off the outside of the tanks, but for
12 the inside, they only used the rags as far as
13 you saw?

14 A. Right. Right.

15 Q. Now, were you also involved in the loading of
16 the solid aroclors?

17 A. No, I wasn't involved in loading solid
18 aroclor. We made the solid aroclor, and they
19 would flake it.

20 They had a solid aroclor flaker,
21 and they'd flake it down in shipping. The
22 shipping department would handle the
23 packaging and shipping of that.

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1 Q. Okay. Going back then to the loading of the
2 liquid aroclor in the tank cars. Was that
3 loading area concreted, do you recall?

4 A. I don't recall.

5 Q. Was there a sewer? And by "sewer," I'm
6 talking about either a sewer drain like you
7 would see on the street out here, or Mr.
8 Hughes and Mr. Walker told me about a system

9 where they had a what they called a ditch,
10 but I think it was just a concrete trench
11 that was connected to the sewers. Was there
12 either one of those kind of sewer facility,
13 I'll call it, there in the loading area?

14 A. I don't remember.

15 Q. The loading area was outside, obviously?

16 A. Yes. It was under a shed, but it was open
17 on --

18 Q. -- all four sides?

19 A. All four sides was open. You had to leave it
20 open for the train to come through.

21 Q. Okay. Going back then -- well, one other
22 question. Did y'all always load the liquid
23 aroclor on the tank cars, or did they

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1 sometime load it into drums for shipping?

2 A. They'd drum it out for shipping, and they put
3 it in tank cars and tank trucks.

4 Q. Tank trucks too?

5 A. Yeah.

6 Q. Okay. Was the tanker -- let me ask you about

7 that then. Was the tanker truck loading
8 process exactly the same as the railroad
9 loading process?

10 A. That would be the responsibility of the
11 trucking company to send us a clean, dry
12 trailer.

13 Q. So y'all did not clean out the inside of the
14 truck trailer?

15 A. No.

16 Q. Okay. Would it be loaded from the same
17 point?

18 A. Yes. You had two sides to that loading dock.
19 One was for railroad, and one was for trucks.
20 That dock's still there.

21 Q. Is the nozzle still there?

22 A. I'm -- not as I know of.

23 Q. Would the process be the same if they overran

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1 it or spilled some on the side of the truck,
2 that they would wash the truck down before it
3 left?

4 MR. PECK: Object to the form of

5 the question.

6 THE WITNESS: Correct.

7 Q. (By Mr. Wright) Now, going to the next part

8 of your job as the operator of the acid part

9 of the operation, what exactly was your job?

10 What exactly did y'all have to do?

11 A. We had to operate the erratic acid or

12 hydrochloric acid plant. That involved

13 making the product, keeping the blend of

14 water and the hydrochloric gas at the right

15 levels, or whatever you call it, to make the

16 right blend to make it whatever we were going

17 to make, whether we needed twenty degree

18 water white or twenty-two degree water white.

19 After they -- that was on the old

20 plant. Well, the new plant was the same

21 duties and all. And -- but it was up to

22 date. It was a lot easier to operate.

23 And we had storage tanks that we

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1 would run the finished acid in those storage

2 tanks all the time circulating that tank.

3 And after that tank got full, we'd take a
4 sample of it to the lab for them to give us
5 analysis on it. And if it was okay, which it
6 was most of the time, we had a tank full
7 there that we could load cars or trucks out
8 of.

9 And we assisted on the
10 chlorinators. Now, after they come down with
11 the chlorine plant, they built a dock out
12 there that would hold eight chlorine cars.

13 That was the acid men's job to keep
14 that chlorine going to the department.

15 Q. Did you ever work in the chlorinator
16 department?

17 A. I operated the chlorinators, yes.

18 Q. I'm sorry. I didn't mean the --

19 A. The chlorine department, no. I didn't
20 operate the chlorine department. I didn't
21 operate that.

22 Q. Okay. Did you ever go into it for any reason
23 that you can remember?

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1 A. Maybe one time or twice that I went to the
2 chlorine plant. At that time, our jobs --
3 you didn't wander far from your job. They
4 didn't like that.

5 For one thing, something might
6 happen on your job and you not there to take
7 care of it. They didn't like for you to go
8 to other parts of the plant.

9 Q. Okay. Do you remember anything about the
10 times you went into the chlorinator --
11 chlorine plant?

12 A. No, sir. Like I tell you, you could smell,
13 you know, just a slight odor of chlorine.
14 And they had -- what they had cells in there,
15 what they called cells.

16 And I think it was a lot of
17 electricity going through those cells and all
18 making that brine into chlorine. I don't
19 know how it operated or whatever.

20 And I remember the big salt pile
21 that they had out there that --

22 Q. To make up the brine?

23 A. Yes.

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1 Q. Do you remember anything about the mercury
2 that they used in that chlorine operation?

3 A. Yes, sir. I know they used mercury in it,
4 and they were all the time getting mercury
5 in, and when they shut it down, they bottled
6 it up in real small flasks.

7 And I know they stacked parathion
8 around it to keep somebody from stealing it.
9 And somebody -- anyway, somebody ended up
10 stealing it when they loaded up the truck
11 with it.

12 Q. Stole some of the old mercury?

13 A. Uh-huh (indicating yes).

14 Q. Do you remember anything else about the
15 mercury?

16 A. No, sir.

17 Q. Just that one incident when they were closing
18 the plant down? You've got to answer out
19 loud.

20 A. Yes, sir. They can't see my head nodding,
21 can they.

22 Q. Now, sometime the court reporter will write
23 down nodded head, but we don't even have that

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1 right now.

2 Okay. Going back now to the
3 aroclor department. In your -- you mentioned
4 that you worked in the stills area; is that
5 right?

6 A. Aroclor still.

7 Q. Okay.

8 A. Worked in the still area, yes, sir.

9 Q. And tell me about that, about what your job
10 was and when you did that.

11 A. Well, they would run the chlorinators, and
12 their finished product would go in the
13 storage tanks.

14 And then we would take those
15 storage tanks and put them in our stills, and
16 we'd add five bags of lime, and we'd add one
17 pan of earth when we filtered it out.

18 But they'd put it in the still, and
19 that still would distill that crude, that
20 aroclor crude, and make finished aroclor. We
21 had 1242, 1254, 1260.

22 They carried those designation
23 numbers, and while it was crude, they carried

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1 11 numbers --

2 Q. All right.

3 A. -- designation numbers. And after we

4 finished with the product, we'd put it in a

5 storage tank for aroclor loading or drumming

6 out.

7 Q. What do you remember about how the filters

8 worked off of those stills?

9 A. The aroclor still?

10 Q. Yes, sir.

11 A. You got two batches that you were looking

12 through one press. We called it a press,

13 filter press.

14 Q. Can you describe that for somebody that never

15 saw it?

16 A. Yes, sir. It was a heavy iron frame, and it

17 had plates on that frame. And some solid --

18 they'd have a solid plate and then a hollow

19 plate, just the frame.

20 And you put papers between those

21 solid plates and then put the frame up

22 against it, put another section of paper in
23 there, which was a special kind of filter

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1 paper, and then put another solid plate up
2 against that.

3 And I think there was fifteen to
4 twenty plates in there that you had to do
5 that to do that filter.

6 Q. So each time you changed the filter, you had
7 to --

8 A. We had waste.

9 Q. You had to put fifteen new pieces of paper in
10 there?

11 A. I'm saying fifteen. It probably --

12 Q. Around there.

13 A. Yeah, in that neighborhood.

14 Q. And I guess you'd just throw those old pieces
15 of paper away?

16 A. We'd carry -- we'd put those in a drum, and
17 then they were hauled off to the trash dump.

18 Q. Did anything else go in that drum other than
19 the waste from the filters?

20 A. Oh, if we made a mess or something, might be
21 something else throwed in it.
22 Q. All right.
23 A. Could be. I don't remember.

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1 Q. Is it fair to say that most of those drums
2 were made up of this filter waste?
3 A. Yes.
4 Q. That sounds like that was a fairly good size
5 part of your job was changing those filters?
6 A. We got two batches through it --
7 Q. Okay.
8 A. -- before we had to clean it.
9 Q. Can you draw what that filter looked like?
10 A. Well --
11 Q. Just the best you can. Nobody's going to
12 blame you for not being an artist, but I want
13 you to give us some dimensions, just rough
14 dimensions.
15 Okay. You've drawn kind of a rough
16 picture of what the filter looked like. And
17 over here on the left where you've got inlet

18 and outlet, what is that?
19 A. This is where the product went in; this is
20 where the product come out. This is the
21 frame. This is a pan here.
22 Q. There at the bottom?
23 A. There at the bottom, drip pan. This drawing

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1 here --
2 Q. Let me just ask you real quick -- this is
3 showing what it looks like on the inside?
4 A. If you're standing here looking at -- just
5 like looking at that chair over there, that's
6 what you would see.
7 Q. So you would see these things hanging down
8 these fif -- would there be fifteen --
9 A. In the neighborhood of fifteen of them, yes,
10 sir.
11 Q. Okay. And you'd see them hanging down just
12 like this?
13 A. Right.
14 Q. Okay. So it wasn't an enclosed box?
15 A. No.

16 Q. I got you. Okay. And so -- go ahead.
17 A. All right. These plates would be a solid
18 plate, and it would hang on this top rail.
19 And then you had this hollow plate that would
20 hang on this top rail.
21 And in between there, you'd put
22 filter papers, a specially made filter. And
23 it -- where this came from was a still

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1 receiver. After it had been distilled, we
2 put the pan of dry, real dry earth in there
3 to remove the moisture. And this is what
4 you'd get in here.
5 Q. These filters were intended to catch that
6 earth?
7 A. Right. That's what it was for. And all this
8 would be that earth and that filter.
9 Q. How did -- if you had a whole bunch of these
10 hanging in line here, it doesn't sound to me
11 like you're really sealing this all that
12 tightly each time?
13 A. Well, I've left something off here. What --

14 the last plate down here, the last plate
15 hanging, which was a solid plate, and it had
16 a -- I guess you'd call it a screw type thing
17 with a wheel out here --

18 Q. So you could press all those pleats together.

19 A. You could press all those together.

20 Q. It looks like it would still leak some
21 though. Is that what the pan was for?

22 A. That's what the pan was for. And when you
23 broke it open after you run two batches

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1 through there and you broke it open, there
2 would be some liquid up in here that would
3 drip down in this pan.

4 Now, we would drain this pan and
5 put it back in the system, put it back in the
6 still.

7 Q. Did the pans ever overflow?

8 A. Oh, I imagine they did. I don't remember
9 letting one overflow.

10 Q. Would -- when you drained it, would that
11 sometimes overflow?

12 A. You mean what we was draining it in?
13 Q. Yeah. When you're draining the pan, I assume
14 you're draining it into a bucket or something
15 like that?
16 A. Well, we had a drum or something there to
17 catch it, yeah.
18 Q. Would that sometimes overflow?
19 A. I don't -- I never did let -- tried not to
20 let it overflow, but I'm sure it has.
21 Q. Okay. And when you took these filters apart,
22 did the dirt sometimes fall out of them?
23 A. It'd fall in this pan, then you'd have to

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1 take a shovel and get in there and get it
2 out.
3 Q. I meant to ask you about these dimensions.
4 How big was this whole system here?
5 A. This from the top of that train -- you must
6 remember --
7 Q. Just ballpark.
8 A. -- it's been thirty years.
9 Q. I know. Just ballpark.

10 A. I'm gonna say fifty inches, forty-eight, four
11 foot -- about fifty inches.
12 Q. A bit over four feet.
13 A. And this is probably seventy inches.
14 Q. Okay.
15 A. These plates were about a twenty-eight by
16 twenty-eight. Something like that.
17 Q. How many filters were there?
18 A. We just had this one and the aroclor.
19 Q. And that filter -- was there two stills?
20 A. Three.
21 Q. Three stills. You mentioned you would wash
22 down the still area, but not very often?
23 A. We kept it swept up. It was more dirt than

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1 it was, you know, liquid or spills or
2 anything --
3 Q. Okay.
4 A. -- in the still area.
5 Q. And I guess when the spills happened in this
6 still area, they ended up solidifying fairly
7 quickly?

8 A. Yes.

9 Q. So washing wouldn't have done much good I

10 don't guess?

11 A. No.

12 Q. Was there a sewer outlet in the still area?

13 A. I don't know.

14 Q. Okay. You don't remember that?

15 A. No.

16 Q. How much of your work was done then in the

17 chlorinator area?

18 A. Oh, that was, you know, another job. The

19 chlorinator operator was a separate job from

20 the still operator or the acid operator.

21 Q. Yeah, that was kind of a dumb question. What

22 I'm trying to find out is: Did you spend

23 more time in any one of those three areas?

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1 A. Well, we rotated jobs.

2 Q. So it would have been about equal?

3 A. About equal.

4 Q. Okay. Tell me about the chlorinator area

5 then. What was your job in the chlorinator

6 area?

7 A. You was operating those chlorinators, and
8 you're putting the material in there, in the
9 chlorinator, and then the chlorine. And you
10 had to run samples on that to make sure that
11 you was in specification, raw material
12 specification.

13 We done that by taking a sample cup
14 and taking a thermometer and cooling it down
15 to twenty-five degrees centigrade, then using
16 a hydrometer to see what the reading on the
17 hydrometer was.

18 Q. Where did you take your samples from?

19 A. Off the chlorinator. We had the sample
20 poured on the chlorinator.

21 Q. Was it a little tap like on the outside of a
22 house where you turn the faucet on?

23 A. Something like that. Something like that.

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1 And then it had a funnel down under that
2 sample valve, and it run down to a drum. And
3 then you fed that -- powered it back into the

4 system.

5 Q. So what you're saying is you'd turn the
6 faucet. Some of it would come out, and would
7 it stay in the funnel? Or I'm not sure what
8 you mean.

9 A. It was on the liquid side of the chlorinator.
10 It run on down in the drum because it was
11 hot.

12 Q. Yeah.

13 A. It was very hot.

14 Q. What would you catch your sample in is what
15 I'm wondering?

16 A. We had a special made sample cup. It was
17 probably, oh, fourteen, fifteen inches, about
18 two inches in diameter, and we would catch
19 the sample in it and then bring it in and put
20 it in the hooded sink.

21 Q. And what you're saying is that you'd have a
22 stream coming down out of this sample port,
23 and you'd stick your cup in and catch some of

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1 that stream and then --

2 A. No, sir. What we would do was go out there,
3 and we'd open it up and flush it out, turn
4 the valve back off, put our cup under it, get
5 our sample, turn the valve off, and then go
6 in and run the sample.

7 Q. And what you're saying is when you flushed it
8 out, that's what would go into the funnel and
9 then into the drum?

10 A. Yes. And any drip after you cut the valve
11 off.

12 Q. Okay. When you say a "drum," could you
13 describe that because I've heard --

14 A. It was a fifty-five gallon drum. Two bungs
15 in it, a small bung and a large bung on one
16 end.

17 Q. How would you pour it back into the process
18 then?

19 A. We'd take it and use a pump and suck it back
20 up into either the chlorinator, do it that
21 way, or put it back into one of the tanks
22 that fed the continuous side of the
23 chlorinator.

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1 Q. Okay. Was it an electric pump?
2 A. Yes.
3 Q. Okay. So you have an electric pump that you
4 connect to this drum and then pump it into
5 one of those two places?
6 A. Right.
7 Q. With a hose, I assume?
8 A. Yes.
9 Q. Rubber hose?
10 A. Most of it was a metal braided --
11 Q. Flexible metal?
12 A. Flexible type hose.
13 Q. And then one of the fellows told me about
14 that there was a cooling water system that
15 circulated through the chlorinator?
16 A. Yeah.
17 Q. And it drew water -- where did it draw the
18 water from?
19 A. The cooling tower.
20 Q. Where was the cooling tower located in
21 relation to --
22 A. I believe it was down by the fire station.
23 We used it, and PNP used it.

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1 Q. So the water would be piped underground or
2 wherever to the aroclor department?

3 A. Right. I never knew that much about the
4 cooling tower. We had another cooling tower
5 up behind biphenyl. It could have come from
6 there now.

7 Q. Okay.

8 A. I don't really know.

9 Q. I'm not going to ask you questions about
10 that. I'm more concerned with what happened
11 to the water once it got to your department.
12 I want to walk through that if we can.

13 A. Best of my memory, that water was circulated
14 through the chlorinators and then pumped
15 through the cooling tower to cool down again.

16 Q. You don't remember that going into this --
17 what they've called the -- did you call it
18 the "ditch" too?

19 A. Yeah, I called it the ditch, yeah.

20 Q. Okay. Was it not drained into the ditch?

21 A. As far as I know, it went back to the cooling
22 tower. I don't --

23 Q. You don't remember it draining into the

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1 ditch?

2 A. We had some water in that ditch, and it could
3 have possibly come from that.

4 Q. Where else would the water that was in that
5 ditch come from? Some of it would come from
6 washing down the area, obviously.

7 A. Well, rain. Like I say, those chlorinators.

8 Q. Any other sources of water in that
9 chlorinator area?

10 A. Not that I know of.

11 Q. Okay. Then that was part of what you did as
12 an operator was adjust how much of that
13 cooling water ran down in there, I guess?

14 A. Right.

15 Q. To modulate the temperature on the reaction?

16 A. Right. Right.

17 Q. What kind of spills do you remember of
18 aroclor in the chlorinator department?

19 A. I remember one one night. I was pumping out
20 to a holding tank, and it overflowed, and I
21 spent a good amount of time cleaning it up.

22 Q. Okay. Any others that you remember?

23 A. Well, they were several, but I don't know any

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1 dates on that.

2 Q. So that would happen from time to time?

3 A. It would happen from time to time, yes.

4 Q. And I assume every operator would have that
5 happen to them from time to time?

6 MR. PECK: Object to the form.

7 THE WITNESS: That's correct.

8 Q. (By Mr. Wright) Okay. I assume that was
9 something that y'all talked about, what had
10 happened?

11 A. Right. It'd be discussed.

12 Q. Okay. What other kind of spills or leaks do
13 you remember where aroclor got out of where
14 it was supposed to be?

15 A. The only other I would remember we had some
16 solid aroclor that got out. Of course the
17 minute it hit the ground, it turned to solid.

18 Q. By "solid aroclor," you mean it was molten,
19 and then it hit the ground and solidified?

20 A. That's correct.

21 Q. Where did it land, over there by the drum, I
22 assume?
23 A. It was by the drum out or behind the aroclor

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1 flaker at that time.
2 Q. The other fellows told me about the pumps
3 leaking from the packing.
4 A. Yes.
5 Q. Do you remember that?
6 A. Yes. But they were on the chlorinator pumps,
7 and all the other pumps had a seal on it.
8 And, of course, we weren't allowed
9 to do any maintenance work, and about as far
10 as we could go, we'd take a pair of channel
11 locks -- they issued us some channel locks --
12 and about as far as we could go would be to
13 tighten up the packing gland on those.
14 Had a drip pan under there and
15 according to how bad the pump was leaking,
16 and you couldn't get it stopped whether you
17 emptied it one time or two or three times a
18 shift. We had a drum there for that.

19 Q. Okay. I assume, again, there were times when
20 for whatever reason you were tied up over
21 here or whatever that the -- those pans would
22 overflow?

23 MR. PECK: Object to the form of

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1 the question.

2 THE WITNESS: That's correct.

3 Q. (By Mr. Wright) I assume unless y'all were a
4 lot more coordinated than I am every now and
5 then somebody would kick one over?

6 A. Well, they were up out of the way where you
7 wouldn't kick them, but you could drop them.

8 Q. Okay. And when that happened, probably the
9 way you'd clean it up would be to wash it off
10 with the steam cleaner?

11 A. That's correct.

12 Q. Or hot water, I guess?

13 A. Steam and water mixture.

14 Q. Okay. Now, you mentioned a couple times
15 about the expansion. And I've seen documents
16 talking about the expansion. But tell me

17 what you remember about that expansion.

18 A. About the time I went in -- about the time I
19 went in, they were ready to move in. The
20 expansion was the new control room.

21 And we got moved into it and got
22 everything running and all in it, and it was,
23 you know, somewhat better than what we had.

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1 When I first went there in '65,
2 they had what they called a sugar shack. It
3 was just a black tar paper type little old
4 building that we had one or two instruments
5 in.

6 And -- but it didn't -- I didn't do
7 that much with that building. We moved into
8 the new part shortly after I arrived there.

9 Q. So that was one improvement was the control
10 room?

11 A. Right.

12 Q. How did it change? I mean, did it have
13 different instruments or anything, or was it
14 basically the same operation, it was just --

15 A. It was the same operation, but they had more
16 instruments. The instrumentation was a lot
17 better.

18 They just had one or two little
19 instruments down in that what they called the
20 sugar shack. But this new control room, we
21 had all type of instruments in there.

22 Q. Do you remember what kind of instruments they
23 were, what they were measuring?

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1 A. We had them in temperature, chlorinators. We
2 had temperatures on the stills. We had
3 levels on the stills. We had temperature on
4 the chlorinators.

5 We had level in the chlorinators on
6 the continuous side. We had readouts with
7 instrumentation on number two chlorinator and
8 number four chlorinator what they called the
9 Accuray (phonetic) .

10 We had those that controlled a
11 specific gravity of those two chlorinators.

12 Q. Before you got that new control room, had

13 y'all been doing all that other measuring by
14 hand?
15 A. Like I say, that happened just shortly after
16 I got there, and I don't know how they -- I
17 think they had a temperature controller I
18 remember, and then maybe a level control on
19 the biphenyl feeding tank.
20 Q. Okay. So the first improvement that you saw
21 was the new control room?
22 A. Correct.
23 Q. What was the next one?

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1 A. They done things periodically. I don't
2 remember specifically what was done, but they
3 added things periodically.
4 Q. Just tell me whatever you remembering being
5 added to improve the process.
6 A. They put a new panel board in. And it was
7 the chlorine after the chlorine plant shut
8 down, and they brought in the loading docks
9 and the eight chlorine cars. It had its own
10 panel board. You could operate it from there

11 on that panel board.

12 Q. So a panel to help you control the chlorine

13 coming in out of those tanks?

14 A. Right.

15 Q. Okay.

16 A. It come to a vaporizer.

17 Q. What else?

18 A. They come in and put number nine chlorinator

19 in, which was a solid aroclor chlorinator.

20 Q. Now, they're the continuous chlorinators?

21 A. No. It made it one batch at a time. And

22 they put the still in that distilled the

23 solid aroclor.

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1 Q. Was that the same time period when they added

2 the solid aroclor shipping area with the

3 drumming and flaking?

4 A. I don't remember. I don't remember. I think

5 it come a little later.

6 Q. Do you remember when they added that

7 chlorinator number nine? Just ballpark.

8 Let's measure it from -- we can

9 either measure it from how long after you got
10 there or how long before it shut down, either
11 way.

12 A. It was probably a couple years after I got
13 there that they done that, and then later on,
14 I think they done the warehouse, built a new
15 warehouse and put the new aroclor flaker and
16 biphenyl flaker in that warehouse.

17 Q. I've seen evidence that the company approved
18 a big expansion, I think, in '69. Do you
19 remember what that expansion was?

20 A. No, sir.

21 Q. Is it possible that that was the warehouse?

22 A. It's possible that was the warehouse. And it
23 was possible that they put in the tank farm

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1 by the warehouse about '69.

2 Q. Okay. Any other changes or improvements in
3 the process that you remember other than the
4 ones we've talked about.

5 A. No, sir, that I can remember. I'm sure there
6 was some, but I don't remember them.

7 Q. Did y'all operate basically the same way from
8 the time you got there till the time the
9 plant shut down?

10 A. Basically, yes.

11 Q. You don't remember any big changes or
12 anything in the way y'all did the operations?

13 A. No, sir.

14 MR. WRIGHT: Let's take a quick
15 break.

16 (Short recess.)

17 Q. (By Mr. Wright) Okay. Mr. Burkhart, we're
18 going to continue your deposition with a real
19 court reporter now, and she's going to
20 transcribe the tape.

21 Adam put it in a little box and
22 gave it to her. She's going to transcribe
23 the earlier portion of our tape, and now it

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1 will really be treated like a regular
2 deposition.

3 And, if you have trouble, Ms. Court
4 reporter, recognizing a word, just note it

5 down, and then Adam and I will get our heads
6 together, and we'll probably be able to
7 reconcile it.

8 If we can't reconcile it, we'll
9 submit --

10 MR. PECK: She's a good arbitrator.

11 MR. WRIGHT: Yeah, we'll let you
12 decide. We'll both give our version --
13 we'll both say what we think it is, and you
14 can pick it, and we'll agree to be bound by
15 your addition in that regard.

16 MR. PECK: The only thing I'd add
17 is because of the unusual proceeding, Mr.
18 Burkhart's agreed to read the transcribed
19 portion of the proceeding so that he can
20 assist in clarifying any terms that --

21 MR. WRIGHT: Yeah, that's the one
22 thing that's different. This should be
23 submitted to him for his reading and

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1 signature. And he'll give you his address
2 when we finish.

3 Q. Okay. Mr. Burkhart, going back now to where
4 we left off. I was asking you if there had
5 been any changes in the way y'all made
6 aroclor from the time you started to the time
7 the plant shut down. And we've talked about
8 the changes in the equipment that came along.

9 But you indicated that there
10 weren't any other changes that you could
11 recall in the way y'all made aroclors?

12 A. The way we made it, not that I know of other
13 than in the process, you know, we might have
14 added with some cleanup steps --

15 Q. Okay.

16 A. -- you know. About that time, the
17 environmental thing was becoming a big issue.

18 Q. What cleanup steps do you remember adding?

19 A. Oh, we probably put in drums, run a
20 galvanized line or something to a drum with a
21 funnel where we'd pour our samples back in.
22 We had those on all the chlorinators.

23 Q. I'm sorry. I missed you. Because I thought

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1 you told me about that before. Is that what
2 you were describing before?
3 A. Uh-huh (indicating yes).
4 Q. So you're saying that was added after you
5 started working there?
6 A. No, I'm not saying it was added after that.
7 I mean, it was, you know, steps that were
8 taken to keep the operation as clean as
9 possible.
10 Q. Okay. Well, I need to object nonresponsive
11 and ask you specifically: What do you
12 remember being done differently than it was
13 when you first started?
14 A. I don't remember that we done it differently.
15 We just, you know, added a few cleanup spots
16 and things like that to keep the place clean.
17 Q. Well, what cleanup spots did you add?
18 A. Like I say, we had the drums where we poured
19 our material back into from the chlorinators
20 and --
21 Q. Is that the process you described to me
22 earlier?
23 A. Right. Right.

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1 Q. Okay. What else?

2 A. I just can't remember right now.

3 Q. Okay. Now, the reason I'm confused is
4 because when you described that drum process
5 earlier, I got the impression that's the way
6 it was when you started work there in '65.

7 A. Yeah.

8 Q. Was it done differently?

9 A. No, I don't expect we -- I don't remember
10 doing anything differently.

11 Q. Okay. So that part of it didn't change from
12 '65 to '72 to the best of your --

13 A. Best of my knowledge.

14 Q. And you can't think of anything else
15 specifically that did change from '65 to the
16 shutdown of the plant?

17 A. No, sir, that I can --

18 Q. Okay. Now, did you ever get any different
19 orders or instructions on how to operate the
20 plant between '65 and the shutdown?

21 A. I don't remember.

22 Q. If you did, they're not things that you
23 remember?

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1 A. No, sir.

2 Q. Okay. Now, do you ever remember seeing
3 aroclors spilled or poured into the sewer
4 trench that we were talking about?

5 A. No, sir. I never seen any poured in there,
6 you know, on purpose, no, sir.

7 Q. Okay. So other than what might have flowed
8 in there from an overflow or was washed in
9 there from a cleanup operation --

10 A. Well, it would have been more cleanup
11 operation because the overflow, it might have
12 got a little overflow in it, not really that
13 much. It was caught before it got to it.

14 We had sand that we would put
15 around drains and things like that to soak it
16 up to keep it from going in the system.

17 Q. Let me ask you then -- there's a reference in
18 a document to a spill during the time frame
19 when I believe you were there. Let me find
20 it real quick.

21 Okay. And this -- let me give you
22 the reference. For the record, it's
23 DSW014093, and it's a memo from E. G. Wright,

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1 and you knew him; right?

2 A. Bunkey.

3 Q. To Papageorge, who, I guess, may have still

4 been the --

5 A. -- plant manager.

6 Q. Plant manager in March of '69. Well, it says

7 March of '69 -- well, it's entitled "Aroclor

8 spill on March 6, 1969," but then it's dated

9 November 14th, 1969.

10 And it says down here on Thursday

11 November 6th, 1969. So my bet is that the

12 spill was on November 6, '69 rather than

13 March 6 of '69.

14 A. I don't recall it.

15 Q. I know you don't recall it, but that's just

16 -- for whatever it's worth, that's my

17 reading. I'm assuming this March is a typo.

18 But it discusses a spill, and I'll

19 just read you part of the memo. "On

20 Thursday, November 6, 1969, the line on the

21 bottom of the number three aroclor still

22 receiver failed, which resulted in the loss
23 of approximately fifteen hundred gallons of

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1 aroclor 1242 to the acid sewer."

2 Let me ask you first: Do you
3 remember that?

4 A. No, sir.

5 Q. Would you have been working in the aroclor
6 plant in November of '69?

7 A. I would have been in the aroclor plant. I
8 might not have been on duty, but I don't
9 recall the spill.

10 Q. It might have happened on somebody else's
11 shift?

12 A. Right.

13 Q. Where is the line on the bottom of the number
14 three aroclor still receiver? Can you
15 describe that for me?

16 A. It would have been, like I said while ago,
17 the bottom of the still and in a valve, and
18 then the piping which would come out in an
19 "L" or a ninety, and it'd probably been an

20 inch and a half or two-inch line.
21 And it would have went out to where
22 we put the drums in a circle and could swing
23 that arm around.

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1 Q. Okay. So maybe the arm broke off or
2 something?
3 A. Possibly.
4 Q. Do you remember that happening from time to
5 time?
6 A. No, sir.
7 Q. Those lines breaking?
8 A. No, sir.
9 Q. You don't ever remember a line breaking?
10 A. No, sir.
11 Q. Or failing in any way?
12 A. Not in aroclor, I don't.
13 Q. Do you ever remember the lines leaking?
14 A. Leaks, yes. Small leaks, leaking at a flange
15 where the gasket had gone bad, leaking at a
16 union, yes, I remember that, but not a line
17 breaking or --

18 Q. Did you ever go down and look at Snow Creek?

19 A. No, sir.

20 Q. Did you ever have to take samples out of the
21 drainage ditch? Did you ever draw samples?

22 MR. PECK: By "drainage ditch,"

23 you're referring to the ditches in the plant

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1 area as opposed to the ditches running
2 towards Snow Creek?

3 MR. WRIGHT: To be honest, I'd like
4 to know about any drainage ditches anywhere,
5 so let me ask it just broadly.

6 Q. Did you ever take samples out of any ditches?

7 And if you did, then we'll talk about which
8 ditches and when.

9 A. I didn't take any samples out of the drainage
10 ditches. The lab personnel handled that.

11 Q. Did you ever go with them when they took
12 samples?

13 A. No, sir.

14 Q. Have you ever given a deposition before?

15 A. Yes, sir.

16 Q. When did you give a deposition?
17 A. I don't remember the date, but it was in the
18 early '90s.
19 Q. Was it in relation to aroclor contamination
20 outside of the plant?
21 A. No.
22 Q. What was it in relation to?
23 A. It was an insurance policy Monsanto had, was

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1 my information that I got.
2 Q. Right.
3 A. It was something to do with an insurance
4 policy that Monsanto had against ETNA
5 Insurance.
6 Q. Did you go to Delaware to give it?
7 A. Yes.
8 Q. I talked to some of these other fellows that
9 went up there. Do you remember anybody else
10 that went up there? I know Dickey Walker
11 went, and I believe Nolen Sims went. Do you
12 remember anybody else?
13 A. I went -- Don Meads was slated to go, and I

14 think they settled before he went up there.

15 Now, I do remember hearing some

16 talk about one of the attorneys or the

17 attorneys coming down to Anniston on account

18 of the health of Mark Williams and

19 interviewed Mr. Williams. He done his

20 deposition here.

21 Q. Okay. Anybody else you remember?

22 A. No, sir.

23 Q. What's the best estimate you can give on when

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1 you went up there? You said the early '90s.

2 Is there any --

3 A. Don't fall out the window.

4 (Discussion off the record.)

5 Q. Let me start my question over. Is there any

6 way you can pin the time when you went to

7 give your deposition down any closer?

8 A. No, sir, I don't remember the dates. I'm

9 sorry. I don't -- I remember going and all,

10 but I don't remember the dates. It was in --

11 it was in probably the spring of the year.

12 Q. Let me ask you this: Was it before you
13 retired?
14 A. Yes.
15 Q. Okay. So it had to have been sometime before
16 -- when did you retire, '94?
17 A. November '94.
18 Q. So I guess it could have been --
19 A. -- couple three years before that.
20 Q. So it wouldn't have been the spring of '94?
21 A. No.
22 Q. Could it have been the spring of '93?
23 A. Possibly.

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1 Q. Would your best estimate be that it was
2 before the spring of '93, maybe the spring of
3 '92?
4 A. It was the spring because I remember the
5 weather wasn't all that bad, and they had the
6 big bicycle race. They'd raced -- I think
7 that bicycle race here was in June, and this
8 was right before they had the big bicycle
9 race in Wilmington.

10 Q. So it might have been the summer?

11 A. Might have been in the spring or summer.

12 MR. PECK: It's not nearly as nice
13 up there in the spring as it is here in the
14 spring.

15 THE WITNESS: We was comfortable in
16 a shirt and coat. It wasn't cold. I
17 remember that.

18 Q. (By Mr. Wright) But it probably would have
19 been around '92, '93?

20 A. '92, '93. '92, '91. I don't think it was in
21 '93 because that's the year we had the big
22 snow here, and I didn't do it that year. I
23 remember that.

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1 Q. Okay. So probably '91 or '92?

2 A. Probably.

3 Q. And then when do you think they settled?

4 A. I don't have any idea they settled it. I'm
5 just --

6 Q. I know.

7 A. -- assumed that they --

8 Q. How long after you gave your deposition was
9 it that they were going to depose that other
10 fellow?

11 A. Don Meads? Three or four weeks, I believe.
12 Something on that order.

13 Q. So it wasn't too long after you gave your
14 deposition?

15 A. No, sir, it wasn't too awful long.

16 Q. What did they ask you about up there?

17 A. Gosh. I've done -- some of the questioning
18 was about aroclor, what we done with our
19 waste product of aroclor.

20 At that time, the only experience
21 I'd had in parathion was six or eight weeks,
22 and some of the questions was about
23 parathion. It was about the whole plant.

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1 Q. How long did it last?

2 A. The interview, day and a half.

3 MR. PECK: They were all slower
4 than you are.

5 MR. WRIGHT: How do those guys do

6 that?

7 MR. PECK: Paid by the hour.

8 Q. (By Mr. Wright) You don't happen to have a
9 copy of your deposition by any chance, do
10 you?

11 A. No, sir. I had a copy of it that I read over
12 and then mailed -- signed it and mailed it
13 back in to the attorney.

14 Q. Was it Delaware attorneys or Alabama
15 attorneys or --

16 A. The attorney that went with me was from
17 Atlanta. She was from Atlanta.

18 Q. Do you remember her name, by any chance?

19 A. No, I don't. No, I don't.

20 Q. Do you remember the firm she was with?

21 A. No, sir.

22 Q. So she actually traveled up there with you?

23 A. Right.

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1 Q. Was it the Monsanto lawyers asking you
2 questions or was it --

3 A. It was insurance lawyers I'm sure. And they

4 had a court recorder there.

5 Q. Were you the only one at that time, or did a

6 bunch of you go up together?

7 A. No, I went by myself.

8 Q. Do you ever remember any air monitoring for

9 PCBs in the air?

10 A. No, sir. We had some air monitors out in the

11 neighborhood, but it wasn't for PCBs.

12 Q. And you don't remember any air monitoring in

13 the plant area for PCBs?

14 A. No. PCBs didn't smell. Parathion smelled,

15 but not PCB.

16 Q. Well, these could have been monitors not

17 necessarily for smell but to tell how much of

18 it's in the air.

19 A. Uh-huh (indicating yes). I don't remember

20 those, no, sir.

21 Q. Did you ever go to the landfill?

22 A. When I was in shipping, I did.

23 Q. What years -- would you remind me what years

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1 you were in shipping?

2 A. I don't recall.

3 Q. Was it in the '80s though?

4 A. It probability was in the '80s, yes, sir.

5 Q. How often did you go to the landfill when you

6 were in shipping?

7 A. Maybe two or three times a week. Maybe once

8 a week. It all depended on what job you were

9 doing in the shipping department whether you

10 went to the landfill or not.

11 A lot of times at night, they would

12 call out somebody in the shipping department

13 to come empty a skip, and that's what I

14 done.

15 And it was the by-product off of

16 sulfur that we were dumping in the landfill

17 at that time.

18 Q. Who was in charge of the landfill?

19 A. I believe Mr. Taffee handled that.

20 Q. Did you ever go to the landfill in the '60s?

21 A. Not that I can recall, no.

22 Q. When the aroclor plant shut down, what were

23 you told?

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1 A. Go to niran.

2 Q. Do you remember it as being a sudden kind of
3 thing?

4 A. No, we knew it quite some time. We knew it
5 well in advance that we had a certain day
6 that we were going to quit making aroclor and
7 go down and clean out, you know, pump all the
8 aroclor out to the vessels and ship it all
9 out and be done with it.

10 Q. What was your understanding of why that plant
11 was shutting down?

12 A. Well, Mr. Papageorge told us that it was an
13 environmental issue with a congressman or
14 senator from New York and that the PCBs were
15 making bird egg shells soft. That was the
16 story that I heard.

17 Q. Did he tell you that the Federal Government
18 was going to sue Monsanto?

19 A. No, not as I recall. He possibly could have,
20 but I don't recall it.

21 Q. Do you remember anything else about -- well,
22 let me ask you first: Was that in a meeting
23 with Mr. Papageorge?

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1 A. I think it was just there in the control

2 room.

3 Q. That he walked in one time while you were

4 there?

5 A. I'm sure he said it in a meeting, but --

6 Q. Now, this was after he'd already left?

7 A. No, he was still there. I'm sure Mr.

8 Papageorge was still there.

9 Q. You believe he was still the plant manager?

10 A. Yes, sir, I do. He might have left after

11 they made the announce, but I believe he --

12 best as I can recollect, he was the one that

13 made the announcement about the bird egg

14 shells.

15 Q. And you think it was while he was still plant

16 manager?

17 A. I think so.

18 Q. And what exactly do you remember him telling

19 you, or is that?

20 A. That's it.

21 Q. And then how long a period -- you remember

22 that as being a fair amount of time before

23 the plant actually shut down?

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1 A. Correct.

2 Q. Were you told anything more between the time
3 he told you that in the control room and the
4 plant shutting down?

5 A. Not that I remember, no, sir.

6 Q. You don't remember any formal -- I say formal
7 -- any gathering or company meeting to talk
8 about it or anything like that?

9 A. No, sir.

10 Q. Did you ever talk to people out in the
11 community there around the plant?

12 A. No, sir, except the ones that worked there at
13 the plant that lived there.

14 Q. Who do you remember? Do you remember anybody
15 that lived there in the neighborhood
16 surrounding --

17 A. Yeah, Harvey Hughes lived there on Patterson
18 Street and --

19 Q. Is he still alive?

20 A. No, he's dead. Been dead several years. Ed
21 Adams lived on one of the streets out there
22 close to the plant.

23 Q. Is he still alive?

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1 A. No. Joe Adams lived pretty close. Dud

2 Watson lived pretty close to the plant.

3 Q. Any of those guys still alive?

4 A. Dud Watson is alive.

5 MR. PECK: Are you saying Doug?

6 THE WITNESS: Dud.

7 MR. PECK: Dud?

8 THE WITNESS: Dudley. We just

9 called him Dud.

10 Q. (By Mr. Wright) Was he a black guy?

11 A. No, he was white. We had some black guys

12 that passed away. Jesse Seay. He was a

13 black guy.

14 Norville Bush lived pretty close

15 there back up in west Anniston now.

16 Q. Is he still alive?

17 A. I think so.

18 Q. Any others you can think about?

19 A. No, sir.

20 Q. Those guys didn't work in the aroclor

21 department, did they?
22 A. Now, some of them were labors in the aroclor
23 department. Dud Watson's not on here. He

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1 didn't work in aroclor. Call that list out,
2 and I'll tell you where they --
3 Q. You mentioned Harvey Hughes?
4 A. Harvey Hughes worked in aroclor. He's right
5 here somewhere. There's Harvey's name.
6 Q. And then you mentioned, I think, two Jones?
7 A. Ed Adams. Here's Ed Adams.
8 Q. Two Adams. And then another Adams?
9 A. Joe Adams, which is Ed's brother. He didn't
10 work in there, but he lived pretty close to
11 the plant.
12 Early Smith is deceased. He lived
13 close to the plant. There's Norville Bush.
14 They got him still alive.
15 That's about all I remember that
16 lived pretty close. Jesse Seay, he's not on
17 there.
18 Q. Did he work in the aroclor department?

19 A. As a laborer. Jesse Seay did.
20 Q. Let's put him down then. He'll be number
21 forty-one.
22 MR. PECK: Did you say he's still
23 alive?

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1 MR. WRIGHT: He said he's dead.
2 Q. S-e-a-y?
3 A. Uh-huh (indicating yes).
4 Q. Laborer, so we'll put an "L" by his name and
5 then a "D" because he's deceased.
6 MR. PECK: How did you know how to
7 spell his last name?
8 MR. WRIGHT: I think I've seen his
9 name before, and I can't remember. Off the
10 record.
11 (Discussion off the record.)
12 MR. PECK: Do you just want to mark
13 that?
14 MR. WRIGHT: Right. As a
15 housekeeping matter, let's go ahead and --
16 Adam, let me run this by you. I just thought

17 about this. I think I'd like to do a --

18 MR. PECK: -- consecutive

19 exhibits?

20 MR. WRIGHT: Uh-huh (indicating

21 yes). We're going to get confused as all get

22 out trying to do this.

23 MR. PECK: That's fine.

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1 MR. WRIGHT: So why don't we start

2 with this deposition, I guess, and this will

3 be Exhibit 1.

4 MR. PECK: We can do it -- off the

5 record.

6 (Discussion off the record.)

7 (Plaintiffs' Exhibit Number 9 was

8 marked for identification and

9 copy of same is attached

10 hereto.)

11 MR. WRIGHT: So going back to our

12 housekeeping. What we've decided to do so

13 that we can have one consecutive numbering

14 system, we had 1 through 7 in Mr. Hughes'

15 deposition, and then Exhibit Number 1 for Mr.
16 Cambron's deposition we're now going to call
17 Exhibit 8.

18 And our court reporter is going to
19 go back and change that for us to make that
20 Exhibit Number 1 from Cambron to be Exhibit
21 Number 8.

22 And now Exhibit Number 9 is the
23 same list, but Mr. Burkhart has added three

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1 names to it, and we're calling that Exhibit
2 Number 9.

3 Exhibit Number 10 will be the
4 drawing that Mr. Burkhart did for us a little
5 while ago.

6
7 (Plaintiffs' Exhibit Number 10 was
8 marked for identification and
9 copy of same is attached
10 hereto.)

11 MR. PECK: That's fine.

12 MR. WRIGHT: And that's the drawing

13 of the filter there in the aroclor still

14 area.

15 MR. WRIGHT: Let's go off the

16 record for a second. I'm almost finished.

17 (Discussion off the record.)

18 Q. (By Mr. Wright) Just a couple of final

19 questions. Do you remember when you first

20 heard about aroclor contamination being

21 outside the plant?

22 A. I don't recall ever hearing it. I don't

23 recall it.

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1 Q. Well, I mean, you've heard it lately

2 obviously?

3 A. Oh, yes, lately I have, yes.

4 Q. But other than --

5 A. While I was there, no.

6 Q. You don't remember ever hearing about that?

7 A. No.

8 Q. You don't ever remember hearing about PCB

9 contamination in Snow Creek or Choccolocco

10 Creek?

11 A. Not after -- after --
12 Q. Not until recently?
13 A. Not until recently.
14 Q. At some point, they put in a sump downstream
15 from the aroclor plant.
16 A. Okay.
17 Q. Do you know anything about that?
18 A. No, sir. I know it was down there, but other
19 than that, I didn't -- the lab handled all
20 the sampling of that. We didn't do any
21 sampling down there.
22 Q. I was going to ask you who might have put
23 that in. Can you describe what the sump

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1 looked like?
2 A. It was a big brick pit, probably eight foot
3 by twelve foot, and it was brick lined. And
4 the water come in from the limestone pit.
5 Q. So it was down stream of the limestone pits?
6 A. It was nearly down to the highway.
7 Q. And who -- do you remember whose job it was
8 to put that in?

9 A. No, sir, I don't.

10 Q. Do you remember when it was put in?

11 A. No, sir. It could have been there when I

12 went to work. I don't know. I don't recall.

13 Q. Do you ever remember any filtering going on

14 that waste water stream?

15 A. What do you mean by filtering?

16 Q. That's a fair question. I know that there

17 were filters in the immediate plant area.

18 Once the water left the immediate aroclor

19 plant area, are you aware of any filters on

20 that waste water?

21 A. Are you referring to the limestone pit?

22 Q. No.

23 A. That was -- that served as a filter.

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1 Q. Okay. I understand how that worked. I'm not

2 talking about the limestone pit, and I'm not

3 talking about the sump. Are you aware of any

4 other things that were -- that either were

5 intended to or did act as a filter on that

6 waste water at any time from the time you

7 started there to the time they shut the plant
8 down?

9 A. No, sir.

10 Q. Okay. Were there any filters added in the
11 immediate aroclor area?

12 A. Not that I recall.

13 Q. Was anything ever done to the HCL off gas or
14 the water coming off of the HCL off gas
15 scrubber?

16 A. That's where the acid and the water was
17 combined and made the hydrochloric acid was
18 in that scrubber.

19 Q. Right. Do you ever remember that system
20 changing or being filtered or being altered
21 in some way?

22 A. When they built the new plant. The old plant
23 we had to go up every two hours and bleed the

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1 pressure off of it, and it'd be some liquid
2 that would go into a skip. And they'd haul
3 that skip to the dump and dump it. That was
4 taken care of.

5 Now, how they done it, I don't know
6 the engineering part of it, but that was
7 taken care of when they built the new
8 hydrochloric acid plant.

9 Q. Do you remember when that was?

10 A. Probably '66, '67 when they built the new
11 plant. It wasn't too awfully long after I
12 went to work there.

13 Q. Do you remember any areas getting concreted
14 or curbed around the aroclor area?

15 A. Yeah. We had a brick flooring, and it had a
16 wall, maybe eight or ten inch riser around
17 it, you know.

18 Q. Where was that located?

19 A. It was in where we made the hydrochloric
20 acid.

21 Q. But that was there when you started; right?

22 A. No, it was -- it was there in the old plant,
23 and it was there in the new plant also.

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1 Q. Any other concreting or curbing that you
2 remember other than that?

3 A. Not -- I don't remember.
4 Q. Okay. We talked about the outside of the
5 tank cars being washed and the outside of the
6 trucks being washed. And I know about the
7 aroclor area being washed down.

8 And we talked about the still area
9 being washed down every now and then. Was
10 there any other vessels or areas that were
11 washed down that you remember?

12 A. Well, just the department in general being
13 washed. Of course that meant the whole
14 plant, you know, had been washed down.

15 Q. Yeah. Right now I'm focussing on aroclors.

16 A. Right.

17 Q. So from time to time, the aroclor -- the
18 entire aroclor department would get washed
19 down?

20 A. Correct.

21 Q. Was that on any regular basis?

22 A. Yes. Well, we done it quite regular.

23 Q. And I assume all of the water from that

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1 washing would end up in the general sewer
2 system?
3 A. Going to the limestone.
4 Q. Going to the limestone pits?
5 A. Right.
6 Q. Is Mr. Corder still alive?
7 A. Who?
8 Q. Corder.
9 A. Corder.
10 MR. PECK: You looking at a name on
11 that document?
12 MR. WRIGHT: It's on another
13 document. C-o-r-d-e-r.
14 THE WITNESS: I don't remember a
15 Corder.
16 Q. (By Mr. Wright) J. C. Corder. I've asked
17 about him before, but I can't remember what I
18 was told.
19 MR. PECK: I don't remember that
20 name.
21 MR. WRIGHT: I'll find it in a
22 second and show you what context I got it
23 out.

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1 Q. What about G. W. Miller; is he still alive?

2 A. I don't know.

3 MR. PECK: Gerald Miller.

4 THE WITNESS: Gerald Miller.

5 MR. WRIGHT: Is he still alive?

6 MR. PECK: Yeah.

7 THE WITNESS: He's not with the
8 company, is he?

9 MR. PECK: No.

10 Q. (By Mr. Wright) What about Toby Bell?

11 A. Know him, but I don't know where he is.

12 Q. Okay. And Vince Hauft you say is down in
13 Louisiana, you think?

14 A. Last account I had of him he was in

15 Louisiana. He's probably retired now.

16 Q. Here's where -- and I've seen Corder's name
17 on some other documents, but the one I'm
18 looking at specifically is DSW014091. And
19 he's one of the CCs up here. J. L. Corder.

20 A. He must have been in St. Louis. I don't
21 remember him in Anniston.

22 Q. All these other guys are Anniston. That's
23 what makes me think he was.

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1 A. I remember Mr. Lanbury was there and Gerald
2 Miller and Burns Severson.

3 MR. PECK: I don't remember him,
4 Larry. Maybe he's dead.

5 MR. WRIGHT: There are several
6 documents with his name on it. Maybe he was
7 only there for a short time. I don't know.

8 MR. PECK: Gerald Miller's been
9 deposed a couple times. Again, you ought to
10 have some depositions on him. He's in
11 Birmingham.

12 MR. WRIGHT: Here's another one.
13 This one's October 29th, '70. Here's another
14 November 30th, '70 where he's CC'd as well.

15 MR. PECK: I bet he's dead, but I
16 don't know that for a fact.

17 Q. (By Mr. Wright) There's another guy that I
18 haven't seen to often, Hal Brazelton?

19 A. Hal's dead.

20 Q. Did he work in aroclors?

21 A. He was an engineer out there. I'm sure he
22 done some engineering work for aroclor.

23 Q. You don't remember him spending a lot of time

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1 in the aroclor department?

2 A. No, sir.

3 Q. Okay. Have you ever heard of a guy named

4 Mullally?

5 A. M. B. Mullally, he's deceased.

6 Q. What was his job?

7 A. He was over in the niran department over in

8 parathion and all. He was involved over

9 there. And I think he pulled the stent in

10 shipping at one time.

11 Q. There was a task force to look at the dump,

12 and Mullally was involved in that, and there

13 was some other guys. That's what I'm looking

14 for right now.

15 I'm going to ask you about them if

16 I can find them. M-u-l-l-a-l-l-y is how it's

17 spelled in here.

18 Yeah, there was apparently a task

19 force in March of '70 on the plant dump, and

20 the memo was sent to J. L. Corder. And the

21 members of the task force were M. B.

22 Mullally, and you say he's dead?

23 A. Uh-huh (indicating yes).

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1 Q. And Hal Brazelton?

2 A. Is deceased.

3 Q. J. L. Ethridge?

4 A. Don't know him.

5 Q. T. W. Lawrence?

6 A. Don't know him.

7 Q. J. H. Powell?

8 A. Know him. J. H. Powell. He's alive.

9 There's two Powells that worked out there,
10 and one of them was Johnny Powell, and I'm
11 assuming that's who that is.

12 Q. But Johnny Powell is still alive?

13 A. Right.

14 Q. Is he still in the area?

15 A. I think so.

16 Q. And then Bunkey Wright was the other member
17 of that committee.

18 A. I think Bunkey's in Chattanooga or was the
19 last time I had account of him.

20 MR. PECK: Yes.

21 Q. (By Mr. Wright) Let me ask you one other
22 thing. Did you ever see the TP incinerator
23 being operated?

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1 A. No, sir.

2 Q. Did you ever see any burning going on up at
3 the dump?

4 A. No, sir. They done it in the incinerator
5 until they burned it down.

6 Q. Until they burned the incinerator down?

7 A. Yeah, burned it down.

8 Q. Do you remember about when that was?

9 A. No, sir.

10 Q. Did you ever -- I think I know the answer to
11 this -- but did you ever have any contact
12 with the Alabama Department of Environmental
13 Management?

14 A. Not while I worked at Monsanto.

15 Q. When did you?

16 A. Well, I've been involved with them. I'm on
17 the water board here in Anniston, chairman of

18 the water board, water and sewer board, and
19 we're all the time doing letters and all --
20 not me, but the water department is -- to the
21 ADEM and EPA.

22 Q. What's your job with the water board?

23 A. I'm the chairman of the water board.

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1 Q. Just out of curiosity, how did you get --

2 A. Hal Brazelton, who you called out while ago,
3 passed away, and I was put -- he had three
4 years left on his term, and I was put down to
5 serve his term. I believe that was in '87.

6 And then I've been reappointed. I
7 served his three-year term, then I've been
8 reappointed one time for a six-year term, and
9 I'm on my second reappointment six-year term
10 now.

11 Q. How many members of the board are there?

12 A. We have seven. Four city members and three
13 county members.

14 Q. Did Monsanto always have a representative on
15 the board?

16 A. No.
17 Q. How long was Hal Brazelton represented?
18 A. Three.
19 Q. Three terms, or three years?
20 A. No, three years.
21 Q. '84 to '87?
22 A. I think so. He passed away in there.
23 Q. Did Monsanto have a representative before

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1 '84?
2 MR. PECK: Object to the form of
3 the question.
4 THE WITNESS: No, not as I know of.
5 Q. (By Mr. Wright) Are there any other Monsanto
6 people -- well, have there been any other
7 Monsanto people on the board other than you
8 and Mr. Brazelton?
9 A. No, not as I know of.
10 MR. PECK: I'm objecting. I think
11 he was there in his individual capacity, not
12 as a representative of Monsanto.
13 THE WITNESS: No, you don't

14 represent Monsanto.

15 Q. (By Mr. Wright) I know that. I didn't

16 mean -- all I meant is somebody that worked

17 for Monsanto on the board?

18 A. Yes. Okay.

19 Q. And what are your duties as a board member

20 and as chairman of the board?

21 A. Well, we direct the meetings. We have a

22 meeting once a month, and we do the agenda on

23 the meetings and lead, you know, in

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1 discussions.

2 We are responsible for signing

3 grants. We don't do the work on the grants.

4 That's done by other personnel, but we end up

5 signing them.

6 Q. So y'all are actually the head over the water

7 department that services --

8 A. -- Anniston and some of Calhoun County,

9 uh-huh (indicating yes).

10 Q. I guess through that, you've ended up

11 becoming familiar with waste water treatment?

12 A. Correct.

13 Q. Did you have any involvement in that at

14 Monsanto?

15 A. Very little. Very little.

16 Q. Was it just happenstance that Mr. Brazelton

17 picked you?

18 A. No, Mr. Brazelton didn't pick me. He served

19 three years and passed away, and I served the

20 other part of his unexpired term.

21 Q. I guess I'm kind of confused. Is it an

22 elected position?

23 A. No, it's appointed by the City Counsel.

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1 Q. Okay.

2 A. The City Counsel appoints four members, and

3 the county appoints three members.

4 Q. Are you a city member or a county member?

5 A. I'm a city member.

6 Q. Let me ask you this then: Because of your

7 involvement, have you -- well, has the board

8 been involved at all in the cleanup or the

9 evaluation of the PCB contamination outside

10 of the Monsanto plant? Do y'all have any
11 involvement in that?
12 A. We have a waste treatment plant down on
13 Choccolocco Creek, and I imagine some of that
14 water comes through those -- some that comes
15 through that plant does go through
16 Choccolocco through Snow Creek. I'm sure
17 some of that does.

18 But we run, we, you know, clean up
19 the waste and all.

20 Q. I'm just -- here's what I'm asking --

21 A. But as far as water board and Monsanto
22 participating together, no.

23 Q. What I'm wondering is: I know the EPA's been

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1 involved, ADEM's been involved, Monsanto has
2 been involved, Monsanto consultants have been
3 involved, and I'm just wondering has the
4 water board had any involvement in that
5 whole --

6 A. No.

7 Q. -- big process down there?

8 MR. PECK: PCB remediation?

9 Q. (By Mr. Wright) PCB remediation or

10 evaluation of the PCB problem. Have y'all

11 been involved in it?

12 A. No.

13 Q. Okay. What are the catch pots off of HCL off

14 gas?

15 A. Catch pots?

16 Q. You don't ever remember having anything that

17 y'all called catch pots off of the --

18 probably off of the scrubber is what they're

19 talking about.

20 A. (Witness shakes head.)

21 Q. Okay.

22 A. No, sir. Catch pot.

23 Q. I think that's a Krumrich term.

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1 A. That must be from Krumrich because I don't --

2 I'm sure something like that would have stuck

3 with me.

4 Q. Okay. What about a brink mist eliminator?

5 A. That was on top of the chlorinator. It --

6 the hydrochloric gas went through those going

7 to the HCL scrubber.

8 Q. What was your understanding of what that was

9 supposed to do?

10 A. Remove the liquid out of it.

11 Q. What happened to the liquid that got pulled

12 out?

13 A. It would go back down into the chlorinator.

14 Q. So there was one on top of each chlorinator?

15 A. That's correct.

16 Q. Even the old chlorinators?

17 A. Yes.

18 Q. Was that there when you got there?

19 A. No, it was part of that --

20 Q. The expansion?

21 A. The expansion.

22 Q. Mr. Burkhardt thank you very much for your

23 time. That's all the questions I have.

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1 (Deposition concluded at 3:45 p.m.)

2 FURTHER THE DEPONENT SAITH NOT.

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STATE OF ALABAMA)
CALHOUN COUNTY)

I HEREBY CERTIFY that the above and
foregoing transcript was taken down by me in
stenotype, and the questions and answers thereto
were transcribed by means of computer-aided
transcription, and that the foregoing represents
a true and correct transcript of the testimony
given by said witness.

I FURTHER CERTIFY that I am neither
of counsel, nor of any relation to the parties to
the action, nor am I anywise interested in the
result of said cause.

TAMMY R. JENNINGS GREGORY
Notary Public, State of Alabama
MY COMMISSION EXPIRES: 9-12-2001

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