

PLAINTIFF'S EXHIBIT

DOW-2887

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

Dale and Emily Owen,)

Plaintiffs,)

v.)

The Dow Chemical Company and)

Waste Management of South)

Carolina, Inc.,)

Defendants.)

AFFIDAVIT OF EARLE B. BARNES

Case No. 95-CP-04-888

AFFIDAVIT OF EARLE B. BARNES
IN SUPPORT OF THE DOW CHEMICAL COMPANY'S
MOTION FOR SUMMARY JUDGMENT

Earle B. Barnes, being first duly sworn, states as follows:

1. My current mailing address is P.O. Box 1021, Jackson, Wyoming 83001
2. I was employed by The Dow Chemical Company in various capacities from 1940 until 1982, at which time I retired. To the best of my recollection, I was first elected to serve on Dow's Board of Directors in 1966, and I first became an officer of The Dow Chemical Company in 1971.
3. I served on the Dow-Badische Company's Board of Directors as Chairman from its inception in 1958 until 1978, at which time I resigned.
4. Sometime prior to 1958, representatives of the German company Badische Anilin- & Soda-Fabrik Aktiengesellschaft ("BASF") approached representatives of The Dow Chemical Company ("Dow") with a proposal to form a new company in the United

States for the purpose of manufacturing certain chemicals, in which Dow and BASF would be equal shareholders.

5. To the best of my recollection, Dow-Badische Company was initially organized and its production centered around technology provided solely by BASF. From its inception until at least 1978, when I resigned from Dow-Badische's Board of Directors, Dow-Badische's business was based upon technology primarily provided by BASF. It is my best recollection that during this twenty (20) year period, Dow provided very little technology to Dow-Badische pursuant to the 1958 Dow-BASF agreement to form Dow-Badische.

6. Pursuant to the terms of the agreement between Dow and BASF organizing Dow-Badische, Dow provided marketing services for compensation to Dow-Badische at its inception until approximately 1965, at which time Dow-Badische took over its product marketing operations

7. From 1958 until 1978, I personally attended or was otherwise aware of regular meetings of the Dow-Badische Board of Directors. Dow-Badische also held regular shareholder meetings.

8. It is my best recollection that Dow-Badische, from 1958 until 1978, maintained its own accounting and financial records, held bank accounts in its own name, prepared and filed its own annual tax returns, and generally observed corporate formalities and operated as a independent company, separate from both Dow and BASF.

9. Based on my experience as a Dow-Badische Director, I can state that Dow did not have any right or ability to, and in fact did not exercise, control or otherwise

excessively influence Dow-Badische's actions or business during its period as a shareholder of Dow-Badische.

10. The statements contained in this Affidavit are based upon my own personal knowledge. If called as a witness, I will be able to testify as to the factual statements contained therein.

Further affiant saith not.

Earle B. Barnes
Earle B. Barnes

STATE OF WYOMING)
(SS.
COUNTY OF TETON.)

Subscribed to me this 4th day of ^{DECEMBER}~~November~~, 1995

Rebecca S. Rooks
Notary Public
Commission Expires: 10-21-96