

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF ALABAMA

3 EASTERN DIVISION

4
5 CASE NUMBER: 96-J-0440-E

6 WALTER OWENS, et al.,

7 Plaintiffs,

8 vs.

9 MONSANTO COMPANY,

10 Defendant.

11
12 S T I P U L A T I O N

13 IT IS STIPULATED AND AGREED by

14 and between the parties through their
15 respective counsel, that the deposition
16 of GERRY MILLER may be taken before
17 STEPHANIE, Commissioner, at the offices
18 of Lightfoot, Franklin & White,
19 Birmingham, Alabama, on the 26th day of
20 March, 2001.

21 IT IS FURTHER STIPULATED AND

22 AGREED that the deposition to have the
23 same force and effect as if full

1 compliance had been had with all laws and
2 rules of Court relating to the taking of
3 depositions.

4 IT IS FURTHER STIPULATED AND
5 AGREED that it shall not be necessary for
6 any objections to be made by counsel to
7 any questions except as to form or
8 leading questions, and that counsel for
9 the parties may make objections and
10 assign grounds at the time of the trial,
11 or at the time said deposition is offered
12 in evidence, or prior thereto.

13 IT IS FURTHER STIPULATED AND
14 AGREED that the notice of filing of the
15 deposition by the Commissioner is waived.

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1 BEFORE:

2 STEPHANIE MASK, Commissioner

3 APPEARANCES:

4 Larry Wright

5 ATTORNEY AT LAW

6 111 Congress

7 Suite 1010

8 Austin, Texas 78701

9
10 William S. Cox, III

11 LIGHTFOOT, FRANKLIN & WHITE

12 The Clark Building

13 400 20th Street North

14 Birmingham, Alabama 35203-3200

1 I, STEPHANIE MASK, a Court
2 Reporter of Birmingham, Alabama, acting
3 as Commissioner, certify that on this
4 date, as provided by the Federal Rules of
5 Civil Procedure and the foregoing
6 stipulation of counsel, there came before
7 me at the offices of Lightfoot, Franklin
8 & White, Birmingham, Alabama beginning
9 at 1:30 p.m., GERRY MILLER, WITNESS
10 in the above cause, for oral
11 examination, whereupon the following
12 proceedings were had:

13
14 GERRY MILLER,
15 being first duly sworn, was examined and
16 testified as follows:

17 EXAMINATION BY MR. WRIGHT:

18 Q. How many depositions have you
19 given in the Anniston-related Monsanto
20 cases.

21 A. Best my memory serves me,
22 I've been deposed twice, prior to this
23 time.

1 Q. Okay. Again, we've got the
2 same problem we have every time.

3 MR. COX: One of them was an
4 insurance case, Larry. I know he was
5 deposed once in the PCB litigation.

6 MR. WRIGHT: The only one
7 I've got is, I've got Sewell.

8 MR. COX: That's the only one
9 he's deposed in, related to the PCB
10 litigation.

11 Q. So, the only other one you
12 recall is what we're calling the
13 insurance litigation where Monsanto sued
14 its insurance carriers several years ago?

15 A. That's the case, yes.

16 Q. Where were you deposed in
17 that case, Delaware?

18 A. No. I don't remember.

19 Q. Have you given other
20 depositions for other reasons besides the
21 Monsanto Anniston?

22 A. Certainly, yes.

23 Q. In what circumstances have

1 you given depositions?

2 A. Various other litigation
3 involving sundry business and sundry
4 business dealings.

5 Q. Have some of them been cases
6 that you or your company were involved
7 in?

8 A. Yes.

9 Q. All right. Well, I guess
10 maybe we better walk through that, then.
11 Were any of them cases in which you
12 personally were involved?

13 A. Corporately.

14 Q. And by "corporately," what do
15 you mean? What company are we talking
16 about?

17 A. Mineral Products and
18 Technology. Rockwool Manufacturing
19 Company. Those two.

20 Q. Rockwell?

21 A. Rockwool.

22 Q. Both of those are companies
23 that you have an ownership interest in?

1 A. One of them I had an
2 ownership interest in.

3 Q. Which one?

4 A. Mineral Products.

5 Q. Do you still have an interest
6 in the Mineral Products Company?

7 A. Yes.

8 Q. What's your ownership
9 interest in the Mineral Products Company?

10 A. I'm a minority shareholder.

11 Q. And then the Rockwool
12 Manufacturing Company?

13 A. Uh-huh.

14 Q. Were you an employee of them
15 or something?

16 A. No. The relationship with
17 that company was more as a consultant to
18 them.

19 Q. Were you deposed, then, just
20 as a witness in that case? Well, let me
21 back up. Tell me about the cases. Maybe
22 that's the easiest way to go about it.

23 A. The easiest way to explain

1 it, both these companies were working
2 arm-in-arm on a particular project. We
3 became involved in litigation concerning
4 intellectual properties. And there was a
5 case in 1988 and another case in 1991
6 concerning who owns some patent rights.

7 Q. And you were deposed in both
8 of those cases?

9 A. Yes.

10 Q. Any other depositions, other
11 than those two? Were there only two
12 depositions? One for each case or where
13 there more than that?

14 A. I don't remember. I'd say it
15 was one for each one.

16 Q. Other than those two
17 depositions and the two for Monsanto,
18 have you given any other depositions?

19 A. Yes.

20 Q. Okay. Tell me about them.

21 A. I've been divorced twice.

22 Q. Never mind about those. Any
23 others besides that?

1 A. Nothing comes to mind.

2 Q. The Rockwool cases, where
3 were those pending?

4 A. Jefferson County.

5 Q. In state court or federal
6 court?

7 A. Circuit court; state court.

8 Q. You went to work for Monsanto
9 in 1960; is that right?

10 A. About 1963.

11 Q. All right. What was your
12 first job there?

13 A. Chemist, working in a
14 laboratory.

15 Q. What were your duties?

16 A. Routine quality control
17 analysis for plant operations.

18 Q. Did that include some quality
19 control air flow analysis?

20 A. Certainly.

21 Q. Did y'all use a chromatograph
22 at all, for those?

23 A. Yes.

1 Q. What did you use the
2 chromatograph for in the air quality
3 control analysis?

4 A. Studying the various
5 homologues that are present in PCBs.

6 Q. Was that from the very
7 beginning when you first started there or
8 did y'all add that somewhere along the
9 way?

10 A. It started some time after I
11 had been there.

12 Q. Do you remember how long
13 after?

14 A. No, I don't.

15 Q. Well, I guess what I'm
16 wondering is -- well, maybe this will
17 help us date it. When did you change
18 jobs?

19 A. About 1966, '67.

20 Q. Before you changed jobs, had
21 you started doing the chromatograph
22 analysis of the air course?

23 A. Yes.

1 Q. When's the first time you
2 ever heard of electron capture used in
3 conjunction with a chromatograph?

4 A. I don't remember the year
5 exactly, but it was in the late '60s.
6 Tending toward, if I had to guess, I'd
7 say '68, '69. Somewhere in there.

8 Q. How did you hear about that?

9 A. I don't remember.

10 Q. What about mass spectrometry
11 in conjunction with gas chromatograph?

12 A. They did not exist at that
13 point in time, to my knowledge.

14 Q. So, the first thing that you
15 heard to enhance chromatographic analysis
16 was electron capture?

17 A. That's correct.

18 Q. Let me hand you what we'll
19 mark as our first exhibit.

20

21 (Whereupon, Plaintiff's
22 Exhibit No. 1 was marked
23 for identification and is

1 attached.)

2

3 Q. This is a memo from W.R.
4 Richard to Scott Tucker. And I think
5 you're copied on that.

6 A. Okay.

7 Q. And the memo relates to you
8 and your work.

9 A. Okay.

10 Q. It says that you found
11 Aroclor curves in some fish you were
12 analyzing.

13 MR. COX: Object to the form.

14 MR. WRIGHT: Well, did I
15 misstate it, Buddy? I thought that's
16 what it said.

17 MR. COX: This document says,
18 Gerry Miller in Anniston says that he has
19 GLC curves for Aroclor in fish tissue. I
20 think you said, GLC curves in fish.

21 MR. WRIGHT: I stand
22 corrected.

23 Q. This memo says, Gerry

1 Miller -- and I assume that's you. You
2 were the only Gerry Miller at Anniston?

3 A. Right.

4 Q. It says that he has GLC
5 curves for Arocloric fish tissue. This
6 work was done in connection with
7 parathion studies and fish killed in
8 streams below the Anniston plant.

9 Do you remember that?

10 A. To be absolutely truthful,
11 no, sir, I don't.

12 Q. Do you remember anything
13 about the fish kills from over the
14 Anniston plant?

15 A. Yes, I do.

16 Q. What do you remember about
17 that subject?

18 A. I remember that about this
19 point in time, maybe a year or two
20 before, there was a substantial fish kill
21 in Choccolocco Creek that resulted in
22 quite a few fish dying.

23 Q. Was Monsanto Anniston looked

1 at as perhaps the source of whatever
2 caused the fish to die?

3 A. I'm reasonably sure that they
4 were.

5 Q. And this seems to indicate
6 that you were doing analysis of some of
7 the tissue of some of the fish that had
8 been killed down there. Does that ring a
9 bell?

10 A. No, it does not.

11 Q. All right. Does it appear to
12 be what that memo is referring to,
13 though?

14 A. It does.

15 Q. Do you have any reason to
16 doubt that you were doing some kind of
17 analysis on some kind of fish tissue?

18 A. Obviously, I was.

19 Q. What is "GLC curves?"

20 A. In the early days, instead of
21 being called gas chromatography, it was
22 referred to as gas liquid chromatography,
23 i.e, GLC.

1 Q. And what could gas liquid
2 chromatography curves tell you about a
3 substance?

4 A. It could tell you the
5 characteristic pattern of the compound or
6 compounds that you are looking for, with
7 some degree of detection, depending upon
8 what kind of detection equipment that you
9 were using.

10 Q. This indicates that you found
11 curves that looked like Aroclor curves in
12 fish tissue, correct?

13 MR. COX: Object to the form.

14 Q. You can answer.

15 A. It appears to be the case.

16 Q. This next sentence says,
17 Gerry says that most of the Aroclor
18 isomer peaks are retained in the tissue
19 sample. What does that mean?

20 A. It appears that most of the
21 isomers are not being extracted, if
22 they're there, from the fish tissue.

23 Q. What does that mean, though,

1 when you say that they're not being
2 extracted?

3 A. What does it mean. Let's
4 see.

5 Q. Maybe you can say what you
6 just said in another way because I'm not
7 clear on what you mean.

8 A. Well, let me put it to you
9 this way: If you take any compound or
10 compounds and you inject them or
11 otherwise get them into another medium,
12 then the process of getting them back out
13 of that medium will not be one hundred
14 percent qualitative.

15 Q. All right. Were you trying
16 to, with this fish tissue, for example,
17 were you using solvents or something to
18 get the Aroclors out to do the analysis?

19 A. Using something. I don't
20 remember what.

21 Q. So what you're indicating
22 here is that when you used whatever you
23 used, the solvent or whatever, you were

1 getting some of the Aroclor isomers out
2 but some of them were staying in the fish
3 tissue itself?

4 A. That appears to be the case.

5 Q. What is the significance of
6 that, if any?

7 A. None.

8 Q. This is from December 31st of
9 1968, apparently, is when this memo was
10 dated. Had you done any Aroclor analysis
11 in fish tissue for the studies that went
12 into this memo?

13 MR. COX: Object to the form.

14 A. I don't remember any.

15 Q. Had you done any Aroclor
16 analysis in any environmental medium,
17 either mud or water or any other animal,
18 before the studies that are indicated by
19 this memo?

20 A. Again, I don't remember if I
21 had.

22 Q. What was your job in December
23 of '68?

1 A. Somewhere along in this
2 period of time, I became the chief
3 chemist at the plant. I don't remember
4 exactly when, but probably about this
5 point in time.

6 Q. Did the chief chemist assume
7 responsibility for what y'all called the
8 pollution control parts of the operation?

9 A. Did he assume what?

10 Q. Responsibility or oversight
11 for the pollution control
12 responsibilities.

13 A. No.

14 Q. When did you leave Monsanto?

15 A. I don't remember exactly. It
16 was probably '71, '70. Yeah, about 1971.

17 Q. Was it before or after the
18 liquid Aroclors got shut down?

19 A. After.

20 Q. Fairly soon after, you think?

21 A. Yes.

22 Q. Okay. But before the solid
23 Aroclors got shut down?

1 A. I don't remember.

2 Q. And as I understand, it ever
3 since then, you've been involved in your
4 own business, basically?

5 A. That's correct.

6 Q. And you're still, to this
7 day, involved in your own business
8 enterprises?

9 A. Fortunately.

10 Q. And what is that business?

11 A. I've got several.

12 Q. Can you tell me about them,
13 just briefly.

14 A. I have one company called
15 Guardian Systems, commercial analytical
16 chemistry. Another company called
17 American Environmental Engineering
18 Company. Name's synonymous with what
19 they do. I've got another company that's
20 Mineral Products and Technology that I'm
21 involved with that produces pipe
22 insulation products. Those are my three
23 primary concerns.

1 Q. I understand the chemical
2 analysis business well enough that I
3 don't need to ask you any questions about
4 that. The environmental -- you said
5 environmental engineering?

6 A. Uh-huh.

7 Q. Tell me about that. What
8 y'all do through that business.

9 A. Address commercial and
10 concerns with environmental problems,
11 whatever they may be.

12 Q. Would that include problems
13 like the problem Monsanto faces with
14 regard to PCB situation?

15 MR. COX: Object to the form.

16 A. Yes. Problems of that type.

17 Q. What is your specific role
18 with regard to the environmental company?

19 A. Minority shareholder.

20 Q. I assume you are an employee
21 or at least a consultant to the business
22 or are you just simply a shareholder?

23 A. I'm just a part owner in the

1 company. I don't actively work there.

2 Q. That's what I was going to
3 ask. Do you do any services for the
4 company?

5 A. Not on a regular basis.

6 Q. When you do services for that
7 company, what services do you do?

8 A. Whatever's required.

9 Q. I understand that. I'm just
10 wondering -- here's what I'm trying to
11 get at, real simply --

12 A. Mostly sales and marking, to
13 cut it to the bottom line.

14 Q. You have other professionals
15 that actually do the environmental
16 engineering work, whatever it is?

17 A. Correct.

18 Q. Have you ever done
19 environmental engineering work?

20 A. Yes.

21 Q. When's the last time you did
22 environmental engineering work?

23 A. Oh, about three or four

1 months ago.

2 Q. What kind of work did you do?

3 A. Automated a waste water
4 treatment facility for a client.

5 Q. Have y'all -- and by "y'all,"
6 I mean your business -- done any business
7 for Monsanto or Solutia?

8 A. I think back in the '70s, we
9 may have calibrated an instrument for
10 them.

11 Q. Is that all the work that you
12 remember doing for Monsanto or Solutia?

13 A. Yes.

14 Q. As I understand it, you met
15 with Mr. Crockett and some others the
16 first time that PCB issue was brought to
17 his attention; is that correct?

18 A. According to what I remember,
19 yes.

20 Q. That was going to be my
21 second question is: Do you have a memory
22 of that or is it only the memo that
23 you've seen?

1 A. No. The only memory I have
2 of it is, I did know Joe Crockett
3 professionally and we attended a few
4 conferences together. That was it.

5 Q. So you had met him before
6 y'all went down to Montgomery? You had
7 met him under other circumstances?

8 A. I think it was before that,
9 yes.

10 Q. Do you have any recollection
11 at all regarding what happened at that
12 meeting or what was said or what was done
13 or what information was given to Mr.
14 Crockett?

15 A. No.

16 Q. Did you ever have any other
17 meetings or were you present at any other
18 meetings with Mr. Crockett, that related
19 to PCBs?

20 A. I don't remember any.

21 Q. Similarly, I assume that
22 means you don't remember any other
23 communications that might have passed

1 between either you or Monsanto, on the
2 one hand, and Mr. Crockett, on the other?

3 A. Don't remember any.

4 Q. Specifically, you don't
5 remember any information that Monsanto
6 might have given to Mr. Crockett about
7 PCBs?

8 A. No, sir.

9 Q. Were you responsible for
10 providing Mr. Crockett any information on
11 PCBs or about PCBs or would that have
12 been somebody else at Monsanto?

13 A. I don't remember exactly.
14 But I am strongly suspicious that had
15 there been a responsibility to do that,
16 it would not have been mine.

17 Q. I apologize. I asked you
18 what your job was in December of '68, and
19 I can't remember what you said. You said
20 you would have been in transition between
21 one job and another.

22 A. I don't remember exactly when
23 I got elevated to the chief chemist job.

1 It was sometime along in here.

2 Q. About how long were you in
3 the chief chemist job?

4 A. Probably a couple of years.

5 Q. What was the chief chemist's
6 responsibilities during this period of
7 time?

8 A. Main responsibility was
9 manage the QAQC lab at the plant.

10 Q. Somewhere along in there,
11 y'all added a Aroclor or PCB analysis
12 section that wasn't related to quality
13 control. Do you recall that?

14 A. Yes.

15 Q. Were you involved in setting
16 up that -- I'm going to call it a
17 facility -- that laboratory for analyzing
18 PCBs and environmental samples?

19 A. I was involved in kind of
20 getting the basic facility up and ready
21 to run, yes.

22 Q. For example, did you hire Don
23 Turner?

1 A. No. Don was already an
2 employee of the company.

3 Q. Were you involved in having
4 him set aside to run the PCB analysis?

5 A. I'm sure I was.

6 Q. Do you remember it or do you
7 just assume that you would have been
8 involved?

9 A. I just assume that I would
10 have been involved.

11 Q. Is it fair to say that you
12 don't have a real clear memory of any
13 specific things that happened back in
14 those days, '68, '69, '70?

15 A. Well, general picture of what
16 was going on. But when you want to talk
17 about specifics, I remember specifically
18 setting up a facility off-site. I
19 remember where it was. I remember Don
20 Turner was the person selected to go
21 there. And it was new technology and if
22 my memory's worth a flip, I think he
23 probably went to St. Louis and was

1 trained. And when he got back, he knew
2 more about it than I did.

3 Q. Fair enough. That's pretty
4 much what you recall about that specific
5 issue?

6 A. Yes, sir.

7 Q. Let me ask you this, then,
8 and maybe this will shorten the
9 deposition some.

10 What other specific
11 recollections, can you sum it up,
12 relating to PCBs during that time
13 frame -- and by that time frame, I mean
14 '68, '69, '70, '71, the three or four
15 years before you actually left
16 Monsanto -- what specific recollections
17 can you remember about PCBs in that
18 period of time?

19 A. Okay. The most vibrant I
20 remember is showing up for a meeting one
21 day with tennis shoes instead of black
22 shoes and a suit. That was not very much
23 fun. Rather embarrassing. No, the main

1 thing I remember about that period of
2 time, there was an effort underway in the
3 plant to control amounts of PCB material
4 leaving the plant. There were
5 modifications made and what we used to
6 call a front yard or limestone pit area,
7 to reduce or control Aroclor emissions to
8 the discharge point. I remember some the
9 people that were involved with it. One
10 fellow in particular was named Eugene
11 Wright.

12 Q. Was that him last week?

13 A. Yes. And there was a fellow
14 named Coley that was involved with it.
15 Most of the work that I think you'd be
16 interested in was under the direction of
17 the technical services department
18 manager.

19 Q. Who was that?

20 A. I don't remember.

21 Q. Was it Mr. Taffee?

22 A. Langler. And I think Taffee
23 was the guy under Langler that was really

1 heading the effort.

2 Q. Okay. Do you remember any of
3 the specific things that were done? You
4 mentioned modifications to the limestone
5 pit. Do you remember anything --

6 A. I remember they put two
7 limestone pits out front so they could
8 run on one and then go to another one and
9 then clean the first one.

10 Q. Do you remember when that was
11 finished?

12 A. No.

13 Q. Was it finished before you
14 left, do you think?

15 A. Yes.

16 Q. Do you remember any other
17 things that were done? Any other
18 modifications that were made to try to
19 minimize PCB admissions?

20 A. Not specifics.

21 Q. How about generally?

22 A. Generally, there was an
23 effort in that area of the plant to

1 reduce or control or eliminate emissions
2 in the section of the plant discharged to
3 the east across the front the property.

4 Q. And you can't get any more
5 specific than that, you don't think?

6 A. I don't know any of the
7 details. I don't remember any of the
8 details.

9 Q. And my understanding is, you
10 never had any conversations with any of
11 the residents or neighbors of the plant,
12 about PCB; is that fair?

13 A. I don't remember having
14 talked to any.

15 Q. And I also understand from
16 your other deposition that you don't have
17 any recollection of the hog that was
18 found on the landfill?

19 A. I heard about it. That's all
20 I've ever heard.

21 Q. What did you hear?

22 A. What you just said.

23 Q. That a hog was the found on a

1 landfill, dead?

2 A. Yeah.

3 Q. Do you remember who you heard
4 it from?

5 A. No.

6 Q. What about the other hogs
7 being rounded up and purchased? Do you
8 remember anything about that?

9 A. I remember having heard that
10 they were rounded up and purchased, as
11 you said.

12 Q. And that's all?

13 A. That's all.

14 Q. Do you know who was in charge
15 of doing that?

16 A. No.

17 Q. It was not you, though?

18 A. No. It was not me.

19 Q. Do you know why Monsanto only
20 reported Aroclor 1242 and 1254 to Mr.
21 Crockett?

22 A. No.

23 Q. I think I may have

1 interrupted you before you had finished
2 telling me about any other recollections
3 that you had about PCBs during that '68
4 to '71 time frame. Is there anything
5 else you remember, other than what we've
6 talked about?

7 A. Nothing comes to mind.

8 Q. Did you ever go up to the
9 dump site across the road?

10 A. I think I went up there once
11 or twice.

12 Q. What do you remember seeing
13 when you went up there?

14 A. I remember a kind of a
15 plateau area where trucks would back in,
16 or truck. And a big hole in front of
17 there. And obviously, things were dumped
18 off in that hole.

19 Q. Do you remember seeing down
20 inside the hole?

21 A. Not specifically, but, yes, I
22 did look down in the hole.

23 Q. You don't remember anything

1 you saw, though?

2 A. I'm sure there were the
3 pallets, drums, whatever.

4 Q. Was it dry when you looked
5 down in the hole or was there water
6 standing in it?

7 A. I don't remember.

8 Q. Do you remember anything else
9 about the dump site?

10 A. Nothing, except it was across
11 the road, slightly to the south of the
12 entrance to the plant where you
13 intersected a little road that went up to
14 it. And it was at a higher elevation.

15 Q. Someone up the mountain there
16 from the plant?

17 A. Yes.

18 Q. Are you aware of any effort
19 that was ever made to minimize runoff
20 from the dump area?

21 A. No.

22 Q. Are you aware of any effort
23 that was ever made to test for PCBs

1 coming off of the dump site?

2 A. No, I'm not.

3 Q. Let me show you this next
4 one. This is a memo that was prepared by
5 Jim Mattern.

6

7 (Whereupon, Plaintiff's
8 Exhibit No. 2 was marked for
9 identification and is
10 attached.)

11

12 Q. Do you remember who he was?

13 A. I remember the name Mattern.

14 I don't remember who he was or anything
15 about him.

16 Q. You're one of the persons on
17 the distribution list. Oh, and I was
18 going to say when it's dated. It appears
19 to have been dated sometime around August
20 of 1970.

21 A. Who is the guy who wrote
22 this?

23 Q. Look on the back page; it

1 might. He writes like he has a little
2 bit of authority, although -- I mean, he
3 doesn't write just some guy, some worker
4 that they sent out to do that.

5 (Witness reviewing document.)

6 A. Okay.

7 Q. You've had the chance to look
8 at Exhibit No. 2 and the document's
9 entitled Aroclor Process Leaks. And then
10 it lists, I guess, it's ten areas of
11 leaks in the Aroclor section, I guess.

12 A. Uh-huh.

13 Q. Let me just ask you this
14 general question first: Do you remember
15 there being various leaks and spills,
16 from time to time, in the Aroclor
17 production area?

18 A. I'm sure there were.

19 Q. This indicates -- on the
20 first page of the document -- it lists
21 the ten items and then it has a column to
22 the left of the ten items entitled
23 "money," and then over here to the right,

1 it has "priorities," and then there are
2 things that are written underneath the
3 money column.

4 Can you make any of those
5 out?

6 A. No.

7 Q. A couple of them have
8 initials called "MRD."

9 A. Is that "MRD" or "MRO?"

10 Q. I'm not sure. I thought in
11 here -- I thought I saw somewhere else it
12 may say.

13 A. It talks about MROs in there.

14 Q. Okay. Maybe that's what I'm
15 seeing then.

16 A. Do you know what an MRO was?

17 Q. That's what I was going to
18 ask you.

19 A. It's a maintenance request
20 order.

21 Q. All right. It was basically
22 a request for funds to carry out whatever
23 they were --

1 A. Not as I remember it.

2 Q. Tell me what you remember.

3 A. If you came in and flipped
4 the light switch and the switch is
5 broken, you would enter a maintenance
6 request order, replace the light switch
7 in such and such room. That's how you
8 got your maintenance done.

9 Q. Who decided whether it was
10 going to be done or not, and in what
11 order it was going to be done?

12 A. Generally, the maintenance
13 supervision.

14 Q. Dough you remember who the
15 maintenance supervisor was during this
16 time period?

17 A. No, sir.

18 Q. A bunch of those numbers,
19 some of them appear to be either 93 or
20 73, 71, 72?

21 A. Well, that looks like a 73.
22 That looks like a 73.

23 Q. Okay.

1 A. That's the only thing I can
2 make out of it. It looks number 2, MRO,
3 maybe, up on item one. I'm not even sure
4 that says "money."

5 Q. What else could it say?

6 A. Well, it ends with a "Y" and
7 an "E." But M-I-O-N, E-Y?

8 Q. "NI," I think is a -- well,
9 it's looks like an "M" to me.

10 A. I won't argue.

11 MR. WRIGHT: Buddy, do y'all
12 have a better copy of that?

13 MR. COX: I don't think so.
14 I mean, I can look.

15 Q. Do you remember -- well, I
16 think I know the answer to this. In your
17 other deposition, you mentioned that you
18 remembered the acid sewers being
19 corroded.

20 A. Yes.

21 Q. Can you describe that?

22 A. There was, obviously, acid in
23 the acid sewers. And over a period of

1 time, it had deteriorated. Some of the
2 cementious joints that held the sewer
3 together, head boxes and things of that
4 type.

5 Q. How did you know it was
6 corroded? How could you tell?

7 A. I just looked it.

8 Q. Where were you able to
9 visualize it? Obviously, you couldn't
10 see under the ground? How were you able
11 to tell that it had been corroded?

12 A. Mostly, you were looking at
13 head boxes.

14 Q. Describe a head box.

15 A. Entry point.

16 Q. Is it like a concrete box in
17 the ground?

18 A. Yes. And a trench would come
19 in and go down.

20 Q. You understand, I think, that
21 one of the sources for PCB escaping from
22 the plant was in the muriatic acid that
23 was created as a result of the scrubbing

1 of the off gas from the chlorinators?

2 A. Correct.

3 Q. Would that go through the
4 acid sewer that we were just talking
5 about?

6 A. Yes.

7 Q. Do you remember any
8 directives from either the Anniston
9 managerial staff or the St. Louis
10 managerial staff for reducing PCB
11 emissions from the plant? I know you
12 remember there was a specific effort --

13 A. There was specific
14 activities. I'm not aware, particularly,
15 of the specific directive.

16 Q. You don't remember any in
17 particular; is that fair?

18 A. That's fair.

19 Q. I assume you met with Mr. Cox
20 before your deposition today?

21 A. I've met with Mr. Cox many
22 times before today.

23 Q. Tell me about each of the

1 times that you remember meeting with him.

2 MR. COX: Just tell him the
3 times. We were, obviously, representing
4 Gerald as part of this, part of his
5 relationship with Monsanto, at his
6 request. So, just tell him about the
7 times we met, if you can remember; not
8 what we discussed.

9 A. Well, we met for a deposition
10 two or three years ago. I had a
11 conversation with Mr. Cox a couple of
12 weeks ago.

13 Q. Was that over the telephone
14 or in person?

15 A. It was a personal visit.

16 Q. Here at the these offices?

17 A. No.

18 Q. Did he come out to you?

19 A. Yes.

20 Q. How long did y'all meet that
21 time?

22 A. 30 minutes.

23 Q. Okay. Did y'all look at any

1 specific documents?

2 A. Yes.

3 Q. Which documents did you look
4 at?

5 A. I don't remember which
6 documents we looked at.

7 Q. What did they have to do
8 with?

9 A. Pertaining to this litigation
10 that's going on.

11 Q. I mean, were they documents
12 from the '60s and early '70s?

13 A. Sure.

14 Q. Were they documents that you
15 had authored or just documents that you
16 had been copied on?

17 A. I remember one that I had
18 authored.

19 Q. Which one was that?

20 A. I remember seeing this
21 document.

22 Q. Exhibit No. 1?

23 A. Yeah. And it seemed like I

1 looked at one that I had authored.

2 Q. You didn't author Exhibit No.

3 1. Which one that you had authored?

4 What did it have to do with?

5 A. Meeting with Joe Crockett.

6 Q. Do you remember any of the

7 other documents that y'all looked at?

8 A. No, sir.

9 Q. Then before this deposition,
10 did y'all meet again?

11 A. No.

12 Q. Do you have any
13 understanding -- well, have you been told
14 that Monsanto would like for you to be a
15 witness at the trial that starts here in
16 Birmingham next week?

17 A. No.

18 Q. Well, let me just advise you
19 that I've been advised that they do want
20 you to be such a witness. What I was
21 going to do is ask you if you had any
22 understanding of what your proposed
23 testimony would be? I guess I know the

1 answer to that.

2 A. I haven't prepared any
3 testimony.

4 Q. You don't have any idea what
5 your testimony would be if they called
6 you to be a witness over at the trial?

7 A. I would attempt to testify
8 truthfully about what I do remember,
9 which is really not anything except
10 things that have been refreshed in my
11 mind by looking at these exhibits.

12 Q. Okay. I guess what I'm
13 trying to do, and I'll be real up front
14 with you --

15 A. Uh-huh.

16 Q. I just need to know, to the
17 best of our ability, what your testimony
18 would be if Monsanto called you and asked
19 you to testify about PCBs in Anniston,
20 Alabama. And I've tried to ask you the
21 things that you remember. And hopefully
22 I've exhausted your memory.

23 A. Adequately.

1 Q. I have exhausted your memory,
2 so far?

3 A. Yeah.

4 Q. Let me ask you this: In
5 either of your environmentally related
6 business, have either you or your company
7 done any PCB work?

8 A. Have we done any PCB work?

9 Q. Yes.

10 A. Yes.

11 Q. What PCB work have you done?

12 A. It's not unusual in the
13 marketplace for folks to be checking --
14 or customers to be checking to see if
15 they have any PCB problems.

16 Q. So that would be the
17 analytical side that would get requests
18 from time to time to analyze for the
19 presence of PCBs?

20 A. Correct.

21 Q. What about any remediation of
22 PCBs, or removal?

23 A. I'm not aware of any.

1 Q. Is the only involvement with
2 PCBs, that you can think of that either
3 you or your companies have had, have been
4 the analysis of samples for the presence
5 or quantity of PCBs?

6 A. That's correct.

7 Q. Do you have any knowledge
8 about the transport of PCBs, how PCBs get
9 transported around the environment?

10 MR. COX: Are you asking him
11 if he has any --

12 MR. WRIGHT: Knowledge.

13 MR. COX: Knowledge of
14 transport issues of environmental --

15 MR. WRIGHT: Of PCBs.

16 MR. COX: Okay.

17 Q. I understand that you may
18 not.

19 A. No.

20 Q. If you don't --

21 MR. COX: I thought you were
22 talking about how PCBs left the plant in
23 tank trucks, in drums. Sorry.

1 MR. WRIGHT: No. That's not
2 really what concerns me. What concerns
3 me is them leaving in globules and
4 washing down the mountain and so forth.

5 Q. Do you have any other
6 knowledge about how PCBs get transported
7 in the environment, when they're not
8 being transported in tank cars and
9 drums?

10 A. Not to my knowledge.

11 Q. As I understand it, you,
12 later on in your career, were the Aroclor
13 production supervisor; is that true?

14 A. True.

15 Q. How long were you in that
16 job?

17 A. Best guess, a year and a
18 half; maybe two.

19 Q. When you were in that job, do
20 you have any specific recollection of
21 dealing with the issue of PCBs leaving
22 the plant, unintended?

23 A. I can only tell you that at

1 that point in time, these corrective
2 action issues were underway, and some of
3 those were involved in the operation,
4 naturally.

5 Q. Do you have any specific
6 recollections about any of it, other than
7 just a general knowledge?

8 A. Just a general knowledge of
9 things were going on.

10 Q. Did you have a yearly
11 evaluation, as Aroclor production
12 supervisor? Did Monsanto do that back in
13 those days?

14 A. Yes, they did.

15 Q. Who evaluated your work?

16 A. I think my immediate
17 supervisor was -- hang on a minute. I
18 think his name is back here. Jessie
19 Corder.

20 Q. What was his job?

21 A. He was the production
22 superintendent.

23 Q. Okay. So, there was a

1 production superintendent then there were
2 supervisors for each of the areas that
3 were --

4 A. Under that production
5 superintendent, yes.

6 Q. Did any of the areas of
7 evaluation specifically deal with
8 minimizing PCB emissions?

9 A. I don't remember.

10 Q. Do you remember anything of
11 any of the parameters of the evaluation
12 for production supervisor?

13 A. The only thing I remember
14 about it is that everybody was directed
15 to develop sets of goals and objectives.
16 And those were established the criteria
17 by which your job performance was managed
18 for a year, or some short period of time.

19 Q. Okay. Let me get that
20 straight. You, as production supervisor,
21 were supposed to draw up a set of goals?

22 A. Wanted to get everybody
23 working at the plant. That was the way

1 it worked.

2 Q. I'm just not clear. When you
3 say "that was the way it worked."

4 Everybody at the plant was supposed to
5 draw up a set of goals for themselves for
6 the next year?

7 A. If memory serves me
8 correctly, you and your immediate
9 supervisor would develop a list of goals
10 and objectives to be accomplished within
11 some period of time. And I presume that
12 was a year, because your performance was
13 reviewed at least annually.

14 Q. All right.

15 A. Against those mutually agreed
16 upon goals and objectives.

17 Q. Do you remember doing that
18 with Mr. Corder?

19 A. No.

20 Q. You assume you did, though?

21 A. I'm reasonably sure I did.

22 Q. Would those goals have been
23 kept in the personnel file?

1 A. I'm sure Mr. Corder's boss
2 would have had a copy of it, yes.

3 Q. Do you remember any of your
4 goals for any time when you were Aroclor
5 production supervisor?

6 A. No.

7 MR. WRIGHT: Why don't we
8 take a quick break?

9 MR. COX: Okay.

10 Q. When we were talking about
11 changes that were made in response to the
12 question of PCB pollution from the plant,
13 you mentioned modifications made in the
14 front yard and then you later expanded
15 that to mean the expansion of the
16 limestone pit. You recall?

17 A. Yes.

18 Q. Can you remember any other
19 modifications that were made to reduce
20 PCB emissions from the plant?

21 A. Not specifically.

22 Q. Is there anything else that
23 you believe you would be able to tell a

1 jury here in Birmingham, about the issues
2 of PCBs and the Monsanto Anniston plant,
3 other than what we've already talked
4 about?

5 A. Not from an environmental
6 standpoint.

7 Q. Okay. What about from any
8 standpoint?

9 A. Well, PCBs had been produced
10 at Monsanto plant Anniston since, I
11 think, in the early '30s. The production
12 of Aroclors, as they were called in the
13 trade, was a substantial portion of the
14 work that was conducted at that plant.

15 It was sold to the electrical industry,
16 for the most part, because of it's
17 electrical properties. That's about all.
18 I know how to make it.

19 Q. All right.

20 A. Having made it.

21 Q. So other than how to make it,
22 what you just told us about the history,
23 basically, and then the environmental

1 things we talked about, you can't think
2 of anything else that you could tell a
3 jury about PCBs and Monsanto Anniston?

4 A. Nothing that would -- just
5 general knowledge. I mean, I don't have
6 anything specifically enlightening beyond
7 what everyone knows about it, period.

8 Q. Like I said, I just want to
9 make sure that I know that if you do get
10 called, I'll have a pretty good idea of
11 what you're going to testify to. And
12 since I don't know the specific questions
13 you're going to be asked, all I can do is
14 try to find out everything that you could
15 testify to. And I just want to make sure
16 I've done that by the time we finish
17 today.

18 And is it fair to say that
19 I've exhausted the knowledge about the
20 environmental aspects of PCBs and
21 Monsanto Anniston plant?

22 A. Yes, sir.

23 Q. I understand what you said

1 about how to make them.

2 A. Uh-huh.

3 Q. And if somebody asks you that
4 question, I'm not too concerned about
5 your answer. Is there anything more
6 about the history or general knowledge, I
7 guess, other than how to make them, that
8 you have, other than what you've already
9 talked about?

10 A. Not that I can think of.

11 Q. Is Joe Landwehr still alive?

12 A. I have no idea.

13 Q. Have you kept in touch with
14 any of the old Anniston hands?

15 A. I have seen Eugene Wright
16 once, probably 10 or 12 years ago.

17 Q. Just out of curiosity, where
18 did you see him?

19 A. I think, at a funeral.

20 Q. Do you remember whose funeral
21 it was?

22 A. I don't remember.

23 Q. Okay.

1 A. I've not seen nor heard from
2 any of these people referenced in these
3 documents, with the exception of Bunky
4 Wright, or Eugene. A fellow that used to
5 work for me in the laboratory named Bud
6 Kemp, who's been retired for 35 years. I
7 saw him not too long ago. One of the
8 fellows that I used to work for lives
9 here in Birmingham but I never see him
10 anymore. And the only reason I know that
11 is, his daughter-in-law is an assistant
12 DA in Shelby County.

13 Q. What's his name?

14 MR. COX: Fuhrmeister.

15 Q. Is he still alive, as far as
16 you know?

17 A. As far as I know.

18 Q. But you haven't had any
19 contact with him?

20 A. No.

21 Q. Anybody else that you can
22 think of?

23 A. That's it.

1 Q. Well I think we're finished,
2 then. Thank you, sir.

3 A. You're very welcome.

4 END OF DEPOSITION

5 (2:45 p.m.)

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