IN THE 29th JUDICIAL CIRCUIT COURT
OF TALLADEGA COUNTY, ALABAMA

CASE NUMBER: CV-94-104
J.A. WILSON, et al.,
Plaintiff,
vs.
MONSANTO COMPANY, et al.,
Defendant.

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IN THE 30th JUDICIAL CIRCUIT COURT
OF ST. CLAIR COUNTY, ALABAMA

CASE NUMBER: CV93-250
THOMAS C. and CHARLOTTE G.
DYER, et al.,
Plaintiffs,
vs.
MONSANTO COMPANY, a
Delaware corporation, et al.,
Defendants.
DEPOSITION OF: JACK MAYAUSKY



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S T I P U L A T I O N

IT IS STIPULATED AND AGREED, by and between the parties through their respective counsel, that the continuing deposition of JACK MAYAUSKY may be taken before Maurice Lapidus, Commissioner and Notary Public, at 300 Financial Center, Birmingham, Alabama, on November 22, 1995.

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

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

thereto.

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

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corporation, et al.,
Defendants.

BEFORE: Maurice Lapidus, Commissioner

A P P E A R A N C E S

BURR & FORMAN, by Ms. Pamela M. Arenberg, 3100 SouthTrust Tower, Birmingham, Alabama, 35203, appearing on behalf of the Plaintiffs.

BURR & FORMAN, by Mr. Gary L. Howard, 3100 SouthTrust Tower, Birmingham, Alabama, 35203, appearing on behalf of the Plaintiffs.

WILLIAM J. TRUSSELL, Attorney at Law, 1904 Cogswell Avenue, Pell City, Alabama, 35125, appearing on behalf of the Plaintiffs.

LIGHTFOOT, FRANKLIN, WHITE & LUCAS, by Mr. Adam Peck, 300 Financial Center, Birmingham, Alabama, 35203, appearing on behalf of the Defendants.

LIGHTFOOT, FRANKLIN, WHITE & LUCAS, by Mr. William S. Cox, III, 300 Financial Center, Birmingham, Alabama, 35203, appearing on behalf of the Defendants.

I, Maurice Lapidus, a Court Reporter of Birmingham, Alabama, acting as Commissioner, certify that on this date, as provided by the Alabama Rules of Civil Procedure and the foregoing stipulation of counsel, there came before me at LIGHTFOOT, FRANKLIN, WHITE & LUCAS, 300 Financial Center, Birmingham, Alabama, beginning at 9:20 a.m., JACK MAYAUSKY, witness in the above cause, for oral examination, whereupon the following proceedings were had:

JACK MAYAUSKY,

being first duly sworn, was examined and testified as follows:

COURT REPORTER: Usual stipulations?

MR. HOWARD: Yes.

MR. PECK: That's fine. Just for the record, we've designated Mr. Mayausky, to the extent he has knowledge, for categories 2 and 7 of the Plaintiff's rule



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30(b)(6) deposition notice, in the Wilson versus Monsanto case. It's the 30(b)(6) deposition notice of Monsanto.

Mr. Mayausky has also been noticed individually, and is being offered pursuant to individual notices in the Dyer versus Monsanto litigation.

EXAMINATION BY MR. HOWARD:

Q. Mr. Mayausky, am I saying your name correctly?

A. Yes.

Q. My name is Gary Howard, and this is Pam Arenberg and Bill Trussell. We're here today on behalf of the Plaintiffs in four separate lawsuits that have been filed, two in St. Clair County, one in Talladega County and one in Federal Court here in Birmingham. I'm going to be asking you some questions today. Let me first ask you if you've ever given a deposition before?

A. This is the first time.

Q. I'm just going to be asking you

some questions. Maurice here is going to be taking down the questions and the answers. It's very informal. If you need a break or whatever, just let us know. And it's my job to ask you understandable questions. So if I ask you a question today you don't understand, will you tell me?

A. Certainly.

Q. So if I ask you a question and you give an answer, then I can assume that you understood that question. Is that fair?

A. Yes.

Q. Have you taken any medication in the last 24 hours that would inhibit your ability to understand my questions or to answer them fully?

A. No.

Q. As Adam said before we got started, you have been designated as a corporate representative to speak for the company on two particular subjects. Those are public relations or press relations relating to pollution from January 1st, 1970

until the present at the Anniston plant. And second, any and all efforts by Monsanto to warn any persons concerning PCB pollution in Lake Logan Martin, Choccolocco, or Snow Creeks. You understand that anything that you say on those subjects, you will be speaking for the company?

A. Yes.

Q. Mr. Mayausky, what did you do to prepare for this deposition?

A. I had discussions with Buddy and Adam about what the subject matter would be.

Q. Did you review any documents?

A. Yes.

Q. What documents did you review?

A. Mostly -- I don't know what the official term is, but the items that were presented, discovery documents I guess you would call them.

Q. There are over 40,000 pages of those. Did you review that many?

A. No.

Q. Do you recall any documents in

particular that you looked at?

A. A sheet that I used in some community contact meetings. Some memos and correspondence that were provided to ADEM regarding activities around the plant. Those are really -- there are other ones but those are the ones that come to mind.

Q. If you remember any others throughout the course of the deposition -- because I'm going to be showing you some documents. If you remember, will you just tell me at that time?

A. Okay.

Q. You talked about some memos to ADEM that you remember looking at. Would those be memos to and from ADEM after you became plant manager?

A. Yes, I believe all of them were after I became plant manager.

Q. Would those relate to testing for PCB's?

A. Yes.

Q. Would any of them relate to the

west end landfill?

A. Not directly that I recall.

Q. Would any of them relate to testing your --

A. I take that back. I do remember one that related to the west end landfill.

Q. Did it relate to testing for PCB's in the west end landfill?

A. Yes.

Q. In the soil?

A. Yes.

Q. Did any of the documents relate to testing the stormwater runoff?

A. Yes.

Q. Do you know William DeFer?

A. Yes.

Q. How do you know him?

A. He was plant manager prior to my coming to Anniston. We had a turnover, so to speak, of discussion about what was going on at the plant. He helped me to get ready to come in. And then continuing relationship with the plant manager, mainly

around personnel issues.

Q. Can you tell me about the discussions you had with Mr. DeFer that helped you in your transition to become a plant manager?

A. Mainly, we discussed personnel. My direct staff. Weaknesses, strengths, areas for improvement. General business direction. Items related to just day-to-day activities of the plant, ongoing activities at the plant. Quite a bit of discussion about the Anniston area. He helped me transition to the Anniston area.

Q. Did you discuss the ongoing litigation regarding PCB's?

A. Yes.

Q. What did he tell you about that?

A. He basically shared with me a little bit about his understanding of the litigation, when it occurred. Mainly discussed his own personal situation in dealing with the litigation, finding his name on the documents. He really didn't

have a lot of details about the litigation per se.

Q. What was his understanding of the litigation?

A. I can only tell you what he told me directly, and that was that the cases were out there. They were brought -- at that time I think there were three cases. They were brought for mainly property values, possible health effects.

The status as he knew it of those cases at that time when the transition was going on, where he understood those cases to be in the process. Not coming to trial or people talking about it. Really not a lot of details, because he didn't have a lot of details.

Q. Did he talk to you at all about the presence of PCB's in and around the Anniston facility there?

A. Only in a sense that we discussed past production of PCB's at the Anniston facility, that it was made there. And we

also discussed the west end landfill, that that property, during his tenure, had been reacquired from Alabama Power. That we were moving forward with the closure plan for that landfill.

Q. Did he tell you that PCB's had been disposed in the west end landfill?

A. We talked about the fact that the landfill was used for years, many years ago, and it had the potential for containing PCB's.

Q. Did he tell you of any records that would indicate whether PCB's were, in fact, disposed of in the west end landfill?

A. No, he did not.

Q. Are you aware of any?

A. I have never really seen any. I've only heard that it was probable that, being a landfill next to the PCB operations, that it was used for PCB-containing material.

Q. What did he tell you about the reacquisition of the landfill from Alabama

Power?

A. He told me it was a very long and involved process. That it started with a contractor for Alabama Power doing some vegetation clearing on the area, and found some material near the surface that they wondered what it was.

They pulled samples, had it analyzed, and found that it contained PCB's. Approached Monsanto about, What are we going to do about this. And then, through a process of discussions and conversations, it was agreed that Monsanto would assume obligation for land from Alabama Power.

I think that agreement also included a sum of money -- I'm not sure how much -- that Alabama Power gave to Monsanto. I think it was finalized in late 1993.

Q. Do you know why -- first of all, do you know if Alabama Power had the material tested themselves, or did they --

A. My understanding was they tested the material themselves -- not Alabama Power, but had it tested through a lab.

Q. After it came back with levels of PCB's in it, do you know why they approached Monsanto?

A. Well, I think they looked at their own operation. Looked at, Yes, they used PCB's on the switchyard. But where this was found was remote from the switchyard.

They approached Monsanto because they had acquired the land many years ago from Monsanto. And started discussions about, What was this used for.

Even though when they acquired it, my understanding was they knew it was used at the landfill operation. But more of discussions at that time was what could have been landfilled there.

Q. So based on where the substance was found in relation to the Alabama Power facility, is it reasonable to assume that Alabama Power did not place those materials

where they were found?

MR. COX: Object to the form. Go ahead, you can answer.

WITNESS: I really don't know if I could answer that question, because I have not gone out and walked the distance where the samples were found and where they were. I guess they concluded that. That's the factual thing I can say.

Q. (BY MR. HOWARD) Now you said that part of the deal with Alabama Power was that Monsanto would assume obligation for the land from Alabama Power. What did you mean by that?

A. That we would reacquire it. We would then do some further study of it to understand what was there, what we had to do. And then we would work with the Alabama Department of Environmental Management, that if it required closure or removal -- at that time, that early on, it really wasn't understood what it was -- that we would work with Alabama, and it would be our obligation



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to financially and resource-wise to take care of that landfill.

Q. Before Mr. DeFer left his job as plant manager, there were still some issues that are being worked on in regard to the west end landfill, is that right?

A. With Alabama Power?

Q. Or with ADEM?

A. Oh, yes. Those discussions continued with ADEM.

Q. So you're currently involved in your capacity at plant manager in dealing with the west end landfill, is that correct?

A. Yes.

Q. Do you know if, when you reacquired the property from Alabama Power, if there was some sort of indemnity agreement?

A. I'm not aware of one.

Q. I'm sorry I got off on a tangent. I guess I need you to back and get you to state your full name for the record.

A. Officially it's John Stanley

Mayausky.

Q. What is your address, Mr. Mayausky?

A. 631 Hillyer High Road.

Q. Is that in Anniston?

A. In Anniston.

Q. How close do you live to the plant?

A. Seven miles by automobile, approximately.

Q. Can you give me your Social Security number?

A. 191-42-0709.

Q. And your driver's license number?

A. I don't know that. If you absolutely need it, I have it with me.

Q. Can I get that from you.

A. I guess it would be, if I read this correctly, 6445731.

Q. And that is a current Alabama license?

A. Yes.

Q. I have to ask you this, but have

you ever been arrested, charged, or investigated for any crime?

A. No.

Q. Do you have any relatives that live in St. Clair County?

A. Not that I'm aware of.

Q. What about in Talladega County?

A. Not that I'm aware of.

Q. What about in Calhoun County?

A. Yes.

Q. Who would that be?

A. Besides my immediate family?

Q. Just start with your immediate family.

A. My wife.

Q. What is her name?

A. Doris.

Q. What does she do?

A. She's a registered nurse.

Q. At a hospital in Anniston?

A. Regional Medical Center.

Q. Do you have any children?

A. Yes.

Q. How many?
A. Two.
Q. How old are they?
A. A son, Aaron, A-a-r-o-n. He's 13.
Q. Where does he go to school?
A. Donoho.
Q. And the other child?
A. Kaylin, 10. She also attends Donoho.
Q. Is Donoho, is that an Anniston city school?
A. No, it's private.
Q. Is it in Anniston?
A. Yes.
Q. Do you fish?
A. I haven't in quite a few years. Probably five years, the last I recall.
Q. I guess I need to know where you moved from before you moved to Anniston?
A. My last assignment was West Virginia.
Q. Is this the first time you've ever lived in the State of Alabama?

A. Yes.

Q. Have you ever fished in the State of Alabama?

A. If you count Perdido Bay, down near Mobile.

Q. How long ago has it been since you fished at Perdido?

A. Approximately 1984, '85.

Q. Have you ever visited the Monsanto facility down close to Pensacola, Florida?

A. I worked there.

Q. I'll get to that in a minute. First of all, just give me your educational background. Tell me where you grew up, just a brief history.

A. I grew up in western Pennsylvania. Born and raised in the same town. I got a bachelor of science degree in chemistry, minor in math, from the University of Pittsburgh. And I went on and got a doctorate in analytical chemistry from Ohio State University.

Q. What years were you at the

University of Pittsburgh?

A. 1973 through 1977.

Q. And what years did you complete your doctorate?

A. 1977 through 1982.

Q. What year were you born?

A. 1955.

Q. So you entered the University of Pittsburgh right out of high school?

A. Yes.

Q. And you went straight from the University of Pittsburgh to Ohio State, is that correct?

A. Yes.

Q. Starting with any jobs that you have held while you were in college, can you just give me a work history.

A. Starting in college?

Q. Uh-huh.

A. I worked in a floral gift shop during summers and breaks in school. I worked as an usher in a movie theatre part-time while going to school. I worked

as a busboy at a Holiday Inn while going to school. And then when I went to Ohio State, I was both a teaching assistant and a research assistant.

Q. In the areas of analytical chemistry?

A. Well, general chemistry and analytical chemistry.

Q. You taught general chemistry?

A. Yes. I held sessions as a teaching assistant for, mainly, nursing and pre-medical students.

Q. So it would have been non-majors?

A. Right, non-chemistry majors.

Q. And your research was in the area of analytical chemistry?

A. Yes. With emphasis on antipsychotic agents, commonly known as Thorazine.

Q. Did you write a dissertation?

A. Yes.

Q. What was the topic of that?

A. Spectroelectrochemical studies of

Chloropromizin Cation Radical.

Q. After you got your doctorate, what did you do?

A. Immediately went to work for Monsanto in Pensacola, Florida.

Q. What was your job?

A. I was a quality assurance chemist initially.

Q. So that would have been in 1982?

A. '82.

Q. How long were you a quality assurance chemist?

A. Three years.

Q. Approximately 1985?

A. Yes. I'm not sure if it was late '84 or early '85 when I was promoted.

Q. And then you got a promotion to what?

A. Quality assurance supervisor.

Q. How long did you hold that job?

A. Approximately two years.

Q. There was another promotion after that?

A. A laboratory supervisor.
Q. Was that a promotion?
A. Yes.
Q. How long did you hold that job?
A. Approximately two years.
Q. So we're up until about 1989, somewhere around there?
A. About '88. It was 1988.
Q. What after that?
A. A business unit leader.
Q. How long did you hold that job?
A. Four years.
Q. Does that get you --
A. 1992.
Q. What happened then?
A. I moved to Nitro, West Virginia. They used to make nitroglycerin.
Q. Is that a Monsanto facility too?
A. Yes.
Q. What job did you have there?
A. General superintendent.
Q. And you were there until you came to Anniston?

A. Yes, sir.

Q. In that job as general superintendent?

A. Yes, sir.

Q. You're going to have to educate me just a little bit. What is a quality assurance chemist?

A. I was responsible for methods development for measuring product and incoming raw material quality. I had a couple of technicians working for me.

Also, any process problems that would come up we would try to solve the problems, understand it, provide analytical data for the engineers who were responsible for maintaining the process.

Q. As part of that process, would you check for impurities in the raw materials?

A. Yes.

Q. What products were manufactured in Pensacola?

A. It's a wholly integrated nylon plant, starting with basic raw materials,

cyclohexane through nylon fiber.

Q. Carpet fibers?

A. Carpet fibers, tire fibers, with a variety of side products -- chemical side products that are sold.

Q. Do you know anything about the history of that plant?

A. Yes.

Q. How long has it been a strictly nylon-producing facility?

A. Since start-up.

Q. And when was that?

A. Approximately 1935.

Q. Are you familiar with the Monsanto plant in Decatur, Alabama?

A. I'm familiar with it.

Q. Would the Pensacola plant be very similar to the type operation they have there, as far as you know?

A. Yes, as far as I know. Except for different product lines. They make Acrylan.

Q. What is a quality assurance supervisor?

A. My responsibility there was to mainly be the chemical portion of the Pensacola plant's interface to customers, to help customers with technical problems with our products. To make decisions about dispositioning of products or raw material.

Q. What do you mean by dispositioning?

A. If a product did not meet specifications for a certain customer, normally -- if it met specifications, it went directly to customer. If it was out of specification for some impurity, it would be my decision to where we might direct that product, either rework or to another customer who could use that product.

Q. What about dispositioning raw materials?

A. Same. If a raw material supplier shipped us a product that was out of specification, it was my responsibility to make a decision whether to use it or not, knowing its impact on our process.

Q. What if you didn't use it, what would you do with it?
A. Reject it.
Q. Send it back to the supplier?
A. Yes.
Q. As quality assurance chemist, who did you report to?
A. I reported to the laboratory supervisor.
Q. Would that be the same for your job as quality assurance supervisor?
A. No. Then I reported to the general superintendent of services.
Q. What were your duties as a lab supervisor?
A. Responsible for the operation of a large quality assurance laboratory at the Pensacola facility that did analysis on all product lines at the plant, all the raw materials.
Q. Did you do all finished products or would you spot-check?
A. No, we would spot-check.

Q. What about the raw materials?
A. Same.
Q. Once again, if they didn't meet specifications you would either reject them or redirect them to someone who could use them?
A. Yes.
Q. Who did you report to as lab supervisor?
A. The same general superintendent.
Q. What did do you as business unit leader?
A. I was responsible for the operations of a production unit at Pensacola, which made a product called adipic acid.
Q. So you were overseeing the laboratory operations of that --
A. No. That was a production facility.
Q. And you were completely responsible for everything that went on in the production of adipic acid?

A. I had responsibility for the operations and maintenance, and some of the engineering work force that worked in that facility.

Q. Did you also have responsibility for -- first of all, I suppose I should ask were there any environmental regulations or laws that you had to comply with in relation to the production of adipic acid?

A. Yes.

Q. Were you, as business unit leader, the person responsible for making sure that you complied with those laws?

A. It was a joint responsibility, I would say, between myself and the environmental department in Pensacola.

Q. What did you do in your job to ensure compliance?

A. We're required to take readings of stack gases or wastewater flows. It would be my responsibility to make sure the operators and supervisors reporting to me were indeed collecting those results and

recording them and making them available, and preparing whatever reports needed to be prepared.

Q. Was it during your time -- was it only during your time as business unit leader that you had environmental concerns in your job at Pensacola?

A. As laboratory supervisor, I had a small and day-to-day environmental operation that did the analysis of environmental streams.

Q. What is an environmental stream?

A. Say that Pensacola used -- their main means of disposal was deep well injection. We would be responsible -- a portion of my group would be responsible for doing the analysis of that stream to make sure it was within appropriate limits for the well injection.

Q. So a portion of your team would analyze everything that went into that particular well, is that right?

A. Yes.

Q. What was the purpose of that analysis?

A. Mainly, if I recall, the main area of concern was to maintain the pH between two and ten prior to injection. And to do a total organic carbon measurement on it. Those were two I recall that we had to do.

Q. Do you know if the Monsanto Pensacola plant had a permit to discharge into any waste -- wastewater into any streams?

A. I recall that we had a wastewater discharge permit. I don't recall the details of it. I did know we had analysis against that permit. That was also part of that group's responsibility.

Q. So you would test the out-fall points?

A. Yes.

Q. On a daily basis?

A. I believe it was daily.

Q. Do you recall what you tested those for?

A. I remember suspended solids. I remember total nitrogen. And I'm sure total organic carbon. I'm not certain of that one, but that is one that I vaguely remember.

Q. Were PCB's ever detected in the out-fall?

A. At Pensacola?

Q. Yes.

A. Not that I'm aware of.

Q. Did you ever hear anyone or hear any discussions, while you were at the Pensacola plant, regarding the presence of PCB's in Escambia Bay, or the Pensacola River?

A. No, not that I recall.

Q. They've never manufactured PCB's at Pensacola, have they?

A. Not to my knowledge.

Q. Is there any use for which PCB's might have been used at the Pensacola plant?

A. Oh, yes. I know there was a program to change out transformers from PCB

material to whatever they are using now. I'm not even clear what they are using now.

Q. When was that program in effect?

A. I'm sure it started before I came to Pensacola. Because one incident I had with it is the transformer went down in my production unit. I remember them talking about whether that one had been changed out by the maintenance personnel, and they said, Yes, that one had already been changed out.

Q. Was this a program to just change out transformers that Monsanto uses?

A. My understanding was it was to change out transformers on the facility that Monsanto used.

Q. Do you know what they did with the waste PCB's?

A. No.

Q. Did those go into the deep injection wells?

A. No. Those were -- that was mainly processed waste that went into the deep well injection.

Q. Were you ever asked to test the out-falls for the presence of PCB's?

A. No.

Q. Was there a separate building at the Pensacola plant where they did this changeover?

A. I never witnessed it, so I couldn't answer the question. The only discussion I had was, Was that one changed out when it went down, before we allowed the workers to go in and work on it.

Q. Can you tell me what your duties were in Nitro as a general superintendent?

A. I was general superintendent of hodgepodge.

Q. Is that your official title?

A. That was the best title I could give it. I had shipping, receiving, laboratory services, facility maintenance, and one small manufacturing unit.

Q. What manufacturing unit?

A. It was a product called PVI. It's used as a rubber chemical additive.

Q. Would that be a product that when you finished with it you would ship to other Monsanto facilities for their use, or to customers?

A. It would go to tire manufacturers. Michelin, Goodyear.

Q. How large is the plant in Nitro? How many employees?

A. When I left, about 350.

Q. Can you tell me what they manufactured there?

A. Mainly rubber chemicals. Accelerators, this PVI. They also manufactured a product called Alimet, which is a chicken feed supplement. And they also manufactured a product called Santoquin, which is primarily a fish meal feed additive.

Q. What is an accelerator?

A. An accelerator would be used in a rubber product so that when they molded a tire, it would promote the vulcanization process and allow a tire to set. Without

it, you could not achieve the through-put through a tire factory that they have today.

Q. Is it an organo-chemical compound?

A. Yes.

Q. Do you know what the primary constituents of that product are?

A. Nitrogen, sulfur, carbon, hydrogen.

Q. What do they make Alimet from?

A. I wasn't extremely familiar with the Alimet operation. The operation at Nitro was only to make a dry form of Alimet. The actual liquid form was made at our Chocolate Bayou plant.

Q. So this would basically be a dry compound that would be mixed with chicken feed?

A. We would make a salt out of it at Nitro, and then it would be sold in bags or drums as a chicken feed supplement.

Q. What was the purpose of this?

A. My understanding, that it was used as a promoter of weight gain in chickens.

Q. And the Santoquin, would that be a salt also?

A. No, that was a liquid product.

Q. And is it the same purpose --

A. I'm not sure of its purpose. It was an unusual relationship. We made it for a third party company who sold it. And I believe the company's name was Novus.

Q. So after Nitro you came to Anniston, is that right?

A. Yes, sir.

Q. When did you officially make the transfer to Anniston?

A. Officially on paper it was August 1st, 1994. But that was a transition month back and forth.

Q. So the month of August, you actually had dual responsibilities?

A. Yes.

Q. Was Bill DeFer still working at the Anniston plant during that month of August?

A. No, he was gone. He actually left

in June of '94.

Q. Where is he now?

A. Augusta, Georgia at the Nutrasweet facility for Monsanto.

Q. Do you know what his job capacity is there?

A. He's plant manager of that plant.

Q. Would that have been considered a promotion?

A. Yes.

Q. Did he mention to you that this litigation somehow -- or may have led to his transfer to the Augusta plant?

A. No. It was based on his performance.

Q. What do you mean when you say it was based on his performance?

A. In the sense that he was recognized as having done a good job through his career and while at Anniston. When the position opened up at Augusta, he was one of the candidates and was successfully selected.

Q. Is that the only facility that manufactures Nutrasweet?

A. There is another one in Manteno, Illinois, but I think they just make a dry form. I'm not clear on the details, but I think they take liquid and make the dry form to package it.

Q. So Anniston was the first facility that you were plant manager?

A. Yes, sir.

Q. So far as the Monsanto hierarchy goes, is the Anniston facility considered a small facility?

A. Yes.

Q. What is your target for how long you would like to stay at Anniston?

A. I always make a move with discussions with my wife that it could be forever.

Q. But you will take any promotion that comes along?

A. Right.

Q. How many employees do you have at

the Anniston plant?

A. We have right now 94.

Q. What products do you manufacture?

A. Biphenyl, Therminol, and VP1. And a product called PNP, Paranitrophenol.

Q. Are those the only four products?

A. There are variations of Therminol, different grades that we make, but generically that is all.

Q. Tell me about Biphenyl. What is that?

A. It's a fused benzine ring.

Q. What is it used for?

A. Right now we don't have a lot of sales of it. We used to sell it to a company called Koch, and they found an internal use for it. My understanding, it was used for dye additives as a chemical to be further reactive to make other products. I'm not sure what their other uses were. We don't have significant sales of it now. A little bit to Koch, but not much.

Q. Have there been significant sales

of it in the past?

A. Yes.

Q. Why have those sales decreased?

A. They found an internal source. They found a by-product stream that they could refine and make the same product.

Q. Do you have a permit to discharge benzine?

A. We're governed by NESHAPS regulations where we go out and monitor all valves and relief devices for potential leaks.

Q. Those would be into the air?

A. Yes.

Q. What about wastewater?

A. I don't believe our wastewater is monitored for benzine, but I'm not certain.

Q. Other than benzine, what products go into the production of Biphenyl?

A. Qumene. It's a small amount of a promoter of the fusing reaction.

Q. So Biphenyl is simply just two benzine rings fused?

A. Biphenyl is, yes. In the process you can make three-fused or four-fused. Those are feed stocks to Therminol.

Q. Are there any by-products from the production of Biphenyl?

A. Some carbonaceous material that may settle out, but very little.

Q. I mean it all seems very simple to you as a chemist --

A. Actually it's not.

Q. How many employees do you have currently working on the Biphenyl production?

A. It's hard to break down. You have direct production in which I want to say about 20. But you also have shared maintenance and shared engineering resources.

Q. Can you tell me what Therminol is?

A. Therminol is a heat transfer fluid. We would sell it to industries that need to heat or cool vessels.

Q. Such as transformers?

A. No. Such as reactors. To put it in terms people understand, it's kind of like your radiator fluid in your car; it heats and cools your engine. This would be a radiator fluid-like material we sell to industries that want to operate at much higher temperatures. Rather than putting steam on a vessel, they would heat this material and then jacket a reactor say to keep a plastic inside molten until they extrude it or whatever they are going to do with it.

Q. Who are your customers?

A. It's a variety of folks. Large customers are Cape Industries.

Q. C-a-p-e?

A. Uh-huh. Most of the Monsanto fibers plants, DuPont fibers plants. We're working a deal right now with a Mexican company called Petrosil. We've sold product to the Alaskan pipeline to keep the pipeline warm so the oil flows. Solar energy fields would use this material in solar energy

panels to collect the heat and go back and drive the turbines.

Q. So does it retain heat for a long period of time?

A. Yes. That's one of its properties is good heat retention. Good heat transfer.

Q. Is this a liquid?

A. Yes.

Q. How do you transfer it?

A. Trucks. Rail cars, drums.

Q. What are the chemical components of Therminol?

A. You take the Biphenyl, the Terphenyl, which is the three rings, and Quadphenyl, four rings, and you hydrogenate it, react it with hydrogen, placing hydrogen on all the double bond points. Depending upon the temperature range you want it to operate in, it's a mix of that quad-, tri-, or bi-.

Q. What do you do to get from the Biphenyl to the Terphenyl to the Quadphenyl?

A. It's a natural process in the

reaction of Biphenyl that you control the temperature conditions of the reactor and the amount of Qumene you add, and you promote the formation of tri- and quad-.

Then you go through a column, and you take overhead the Biphenyl and take underneath the heavier quarterphenyl, triphenyl, and some Biphenyl.

Q. So there are no by-products from the production of Therminol that you wouldn't have produced in the Biphenyl?

A. I'm sure there are trace impurities. I don't know the details. I know it's analyzed against specifications before release.

Q. What is VP1?

A. VP1 is where we take Biphenyl, and we mix it with a product that comes out of our Chocolate Bayou plant called DPO. I don't remember the chemistry of DPO, but it's a blend of those two.

Again, it's the same thing, it's a heat transfer fluid. It comes in at a

different temperature range that some customers like to have.

Q. Would it be a higher temperature range?

A. I think it's more mid-point than you get out of the straight Therminol.

Q. How is the DPO transferred to you?

A. Comes in by truck and rail car.

Q. Are there any by-products from that chemical reaction?

A. No. That's just a mixing operation.

Q. Can you tell me about PNP?

A. PNP is a product which we produce which is mainly captured and sent to a Monsanto plant in Louisiana where it's further reacted and makes acetaminophen, which you know as Tylenol.

Q. What do you manufacture it from?

A. It starts with a product called paranitrochlorobenzine, PNCB. That comes to us from a plant we have near St. Louis.

Q. What do you do to the

paranitrochlorobenzine?

A. You basically react it with sulfuric acid. And you further react it and form the phenol compound out of it, paranitrophenol. We dry it and then ship it out -- well we actually slurry it. Ship it out in trucks.

Q. Are there any by-products from the production of PNP?

A. I'm sure there are. Again, they are analyzed against specifications, but I don't recall what they are.

Q. Who would know what those by-products are?

A. Probably the best source in the plant is Jerry Brown, our technical superintendent.

Q. From the production of all those products, would any chemicals, or any waste products need to be landfilled or disposed of?

A. The only thing I can think of is some of the carbonaceous material that would

come out of our reactors when we clean out the reactors. That's just usually, as the name implies, cooked carbon that builds up.

Q. What do you do with it?

A. Usually we have a major shutdown once a year.

Q. And you clean it out of the reactors?

A. (Witness nods).

Q. What do you do with it then?

A. It's drummed. I don't think it's considered a hazardous waste. I think it can be landfilled, but I'm not sure -- I know it's landfilled, but I'm not sure where.

Q. Do you currently have any operational landfills on the Monsanto facility?

A. No.

Q. Do you know what chemicals Monsanto has a NPDES permit for?

A. At the Monsanto facility?

Q. In Anniston?

A. No. I don't know the details of the permit. I rely mainly on the environmental supervisor, Robert Jones.

Q. But as plant manager, you are ultimately responsible for compliance with that, is that correct?

A. Yes.

Q. How many buildings -- and this may be impossible to answer -- are there on the Anniston Monsanto plant facility?

A. That is difficult to answer.

Q. It's not one big plant building, is it?

A. No.

Q. How many buildings does production take place in?

A. It's difficult to answer, because you have control rooms, and then process steps. But we think of the Biphenyl operation, the Therminol operation, and the PNP operation. It may be contiguous buildings.

Q. Are there separate office

buildings?

A. And there is administration buildings. Administration laboratories.

Q. Is that where your office would be?

A. Yes. And the warehouse.

Q. Are there any sort of protective measures that you take for your employees?

A. (Witness nods).

Q. What are those?

A. Yes. I can't speak in details, but we have an industrial hygiene program, where potential exposures are monitored by placing personnel sample pumps on individuals, as they go throughout their workday, on a defined frequency. Then those are analyzed for anything that they may have been exposed to.

I also talked about the NESHAPS program where we go out and monitor valves, pumps, seals for benzine releases. If we find one, then we immediately fix it. When we're doing maintenance and the lines have

been cleared for opening a pipe or pump, we will monitor that for benzine if it's in benzine service.

If it's above a certain level, we require respirators for the mechanics working in that area. And then also certain areas are restricted. If you are in a certain area, you may have to have your respirator on while you're in that area.

Q. Why would that be?

A. For benzine.

Q. Have there been instances since you've been plant manager in which, in your benzine monitoring, the levels have reached unsafe levels?

A. There have been instances where mechanics have had to put on respirators to work on a piece of equipment.

Q. Would that have been inside a building or outside?

A. It would be like when you're disconnecting a pump to remove that pump to put in a new one. Sometimes it's difficult

to clean down in the impellers of the pump. There may be residual benzine in there. So the monitoring says, If you're going to do this, you have to have a respirator on.

Q. Would this have been inside or outside?

A. Outside.

Q. Are there any measures taken to prevent benzine from escaping into the environment?

A. Yes.

Q. What measures?

A. We have relief valves and a relief valve inspection program. We also have a vent recovery system that ties in all of the tanks in the process and feeds that material forward to our boiler. The benzine would be destructed if there was a benzine release. There are also carbon canisters, backups, that would absorb benzine if it happens to be released off one of the tanks.

Q. Going back to the instance you were talking about when I believe you said

the mechanics were removing the pump and would be required to put on a respirator, is there any measure taken in that situation to prevent the benzine from escaping into the environment?

A. If we had that situation, we would do perimeter monitoring. Somebody would be responsible for monitoring a perimeter and out at certain distances. It would be monitored. To my knowledge, we never found anywhere where it was above any kind of level for action.

Q. Are you certain that that --

A. I'm not aware of any.

Q. As the plant manager, would you be aware of it if that were to happen?

A. I would be informed, yes, if we had to call, say, the emergency response group in Calhoun County if we had a benzine release. I may not know immediately, but I would know certainly after the fact.

Q. Do the employees, other than respirators, wear any sort of protective

clothing?

A. Gloves when sampling, or out in the process, safety shoes, hard-hats, safety glasses. And we issue clothing. Normal work clothing.

Q. Just uniforms?

A. Yes.

Q. They are just normal clothes that would be in any manufacturing plant?

A. Yes.

Q. What are the gloves made of?

A. Neoprene. Or leather. The mechanics will wear leather.

Q. What is the purpose of the Neoprene gloves?

A. Chemical resistance. Also heat resistance.

Q. What are the shoes made of?

A. Leather uppers, synthetic soles.

Q. Do they ever wear Neoprene covers over the shoes?

A. If they are in water and dikes, they may wear boots, but we don't issue

them. They have them available, but they are not required.

Q. What is the purpose of the glasses?

A. Flying objects, wind-borne objects, or chemical splashes, say, when sampling.

Q. Some of the chemicals that are in use at your plant have the potential to damage the eyes?

A. Our main concern is heat, because our processes are hot. But I would say sulfuric acid and caustics, sodium hydroxide, probably have the greatest potential for eye damage.

Q. Are the employees required to or advised to wash up before they eat, take their breaks?

A. Yes. We also have shower facilities at the plant.

Q. What is the purpose of that?

A. To change from your work clothes, take a shower before you go home.



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Q. What about advising them to wash up before they take their breaks or eat?

A. That's part of our training program.

Q. What is the purpose of that?

A. Just good hygiene.

Q. Possibly to make certain they don't ingest benzine or some other chemical?

A. I'm sure -- benzine is just so volatile it doesn't stick around.

MR. PECK: Is this a good time to take a break?

(Whereupon a brief recess was had in the deposition.)

Q. (BY MR. HOWARD) Mr. Trussell has pointed out to me that I failed to get from you -- we're going to backtrack just a minute -- other than your wife and your two children, do you have any other family in Calhoun County?

A. I recently discovered a cousin who



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lives there. I have not even made contact with her. I may this weekend with my father in town.

Q. What is her name?

A. Bonita Harris.

Q. You probably don't know if she has any children?

A. She has one child.

Q. You don't know their name?

A. No.

Q. Do you have any other relatives that live in Alabama?

A. Not to my knowledge.

Q. Do you know what permits Monsanto's Anniston plant has? For instance, any permits through ADEM is what I'm looking for.

A. If you're asking about the ones that I'm aware of and worked with, we have the wastewater discharge permit. And I've already referred to NESHAPS. Most of our -- if we move any, like the drums we talked about off the plant, carbonaceous material,

it's usually covered with a waste manifest, if it's going to Emelle or anything like that.

Q. So those are the only --

A. Those are the only ones I recall that I've had direct dealings with.

Q. Do you likely have permits for air quality?

A. I'm sure we do. I just haven't dealt with them. I don't know the details of them.

Q. Is Robert Jones the primary --

A. That's Robert Jones' primary responsibility.

Q. You would be ultimately responsible for compliance, is that correct?

A. Yes.

Q. What has been your involvement with the wastewater discharge permit?

A. Discussions with Robert about the facts of revising it. And when the west end landfill was reacquired, working on that issue to bring the modification of that

permit forward. Not wastewater, stormwater.

Q. Why would your stormwater discharge permit need to be revised because of the west end landfill?

A. My understanding -- I'm not really clear on that -- my understanding is because of a new piece of land, there was some drainage that came off of that land that needed to be taken into consideration.

Q. Have you tested the drainage off that land?

A. Yes.

Q. Did it show the presence of PCB's?

A. Yes.

Q. Have you reported that to ADEM?

A. I believe that number was reported to ADEM, yes.

Q. Are you preparing a report to ADEM -- I'm just clueless as to what the procedure is. Do you prepare an application for a revised permit?

A. Yes. Prepare an application for a revised permit based on sampling that was

done during what is known as a significant rain event. I don't know the details. It's just a certain amount of rain in a certain period with a certain amount of no rain before it. An analysis of that stormwater after that event, or during that event.

Q. Sounds like you need a meteorologist on staff.

A. You do.

Q. I guess Mr. Jones has to double for that too?

A. Yes.

Q. Have you completed that application for permit?

A. I think it's been sent in. There is so much that comes across my desk, it's hard for me to recall. I know it's in working progress.

MR. HOWARD: Buddy, do you know if that's been produced?

MR. COX: It has. It is the March,'95 -- March 6th,'95 submittal to ADEM that's the revised permit application. It


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has been produced.

Q. (BY MR. HOWARD) You said you have a permit in regard to NESHAPS?

A. I'm not sure if permit is the right word. It's a program where we work with the agencies in defining places where we will monitor for benzine.

Q. Would that be your work with ADEM?

A. I think it's for ADEM.

Q. Is there any involvement with OSHA?

A. I don't think that one is covered. The industrial hygiene sampling that we do is governed by OSHA.

Q. And the waste manifest would just simply be documents you would have to prepare whenever you transfer something to Emelle?

A. Yes. When it's returned -- all I know is it goes back and forth and Robert handles that. I don't even know if there is an official reporting to ADEM on that or not.

Q. What have y'all sent to Emelle since you have been plant manager?

A. I am aware of some large quantities of soil that was removed from the west end landfill when they started to dig the toe around the base of the landfill. Had some concrete that was dug up there. And some soil that was removed from drainage ditches on the east side of the plant.

Q. Would that have been drainage ditches on Monsanto property?

A. That was not on Monsanto property.

Q. When was that soil removed?

A. It was this year. I want to say June or July of this year. I don't remember the exact date.

Q. Whose property was it on?

A. It was owned by Mars Hill Baptist Church.

Q. Is the Mars Hill Baptist Church property the only property that you have removed soil from the drainage ditches on?

A. While I was --

Q. Since you've been plant manager.
A. Yes, that I'm aware of.
Q. Are there plans to remove sediment from the drainage ditches that are on Monsanto property?
A. No. We really haven't -- I don't know of any plans to do that.
Q. Are there any plans to remove sediment from drainage ditches from property not owned by Monsanto?
A. We are working with ADEM to understand what we have found in the sediment ditches around Monsanto. The first phase of that work will be some sort of collection system for the stormwater. Then after that is in place and established, we may talk about sediment removal.
Q. Why did you decide to go ahead and remove the sediment from the Mars Hill property?
A. Because we found a particularly high level in one spot. We felt like we needed to take immediate action on it.

Q. What was the high level?
A. It ranged from 200,000 parts per million to 60,000 parts per million on the low end.
Q. What would you define as a high level of PCB's?
A. That's a lot of the discussion going on between us and ADEM. But generally the numbers we've been looking at have been plus or minus 10 parts per million -- or plus 10 parts per million.
Q. Anything over 10 parts per million you would ship to Emelle?
MR. PECK: Object to the form of the question. Go ahead.
WITNESS: I don't think that's the trigger point to ship to Emelle. I think the trigger point is 50 parts per million, but I'm not clear of the details of that. That would be Robert Jones' responsibility to make those judgment calls.
Q. Would he get input from you when he makes those judgment calls?

A. Not with me. He would probably appraise me. He would probably more discuss with ADEM, the environmental folks at ADEM.

Q. Is there someone other than you at Monsanto that he would go to for input?

A. We have a corporate group that has a lot of experience in environmental. He might consult with somebody from that corporate group.

Q. Would that corporate group be located in St. Louis?

A. Yes.

Q. Do you know the names of the people in that environmental corporate group?

A. I know several.

Q. Can you give those to me.

A. Probably the one he would consult with most would be his dotted line report. He dotted line reports to a gentleman by the name of Pat Hyland.

Q. Anybody else that you know that's in that group?

A. I know people in the group, like Bob Kaley, Garth Fort. Perhaps Jo Hanson. Those are some names that come to mind.

Q. Has Pat Hyland visited the Anniston facility after you became plant manager?

A. Yes.

Q. What about Bob Kaley?

A. Yes.

Q. Garth Fort?

A. No.

Q. And Jo Hanson?

A. Yes.

Q. What was the nature -- how many times has Pat Hyland been to the plant?

A. Two that I recall.

Q. What about Mr. Kaley?

A. Maybe half a dozen.

Q. What about Mr. Hanson?

A. Ms., it's a woman.

Q. I'm sorry, Ms. Hanson.

A. She spends a lot of time at the plant. She's heading up the remediation

effort on the west end landfill.

Q. When you say a lot of times, she's there on a weekly basis?

A. Yes, pretty much.

Q. A couple of days a week?

A. A couple of days a week at least. Maybe alternating full weeks.

Q. So a full week here, and --

A. A full week back in St. Louis.

Q. Do you know what her title is?

A. I'm not sure. I know she works in the environmental remediation group.

Q. Does Pat Hyland head that group up?

A. No. Her boss would be Mike Foresman.

Q. Has he been to the plant?

A. A couple of times.

Q. What was the nature of Mr. Foresman's visits?

A. I say a couple of times. I can think of three visits. One was to discuss allocations of costs at the plant for

environmental expenditures, budgeting. He's been down to monitor and check on the work at the west end landfill. And he's also been down to discuss the sampling efforts going on in the east end neighborhood.

Q. In regards to the allocation of costs, is that something for the remediation of the west end landfill?

A. No, those are ongoing costs. We have groundwater and interceptor wells on the plant. The water from those wells is shipped to our waste treatment plant, where it is biologically treated.

The cost of operating that biological waste treatment facility is allocated to the existing products on the plant as they generate wastewaters, and/or a portion coming from the groundwater wells.

So he receives a certain allocation for cost of operating that goes against his budget, not against the plant's ongoing operational budget. And we had discussions about that budgeting process.



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Q. So as far as the ongoing environmental efforts, that doesn't come directly out of your plant budget?

A. The operations of the biological waste treatment system as it applies, as is allocated to the existing products comes against the operational budget of the plant. The groundwaters and treatment of these groundwater wells goes against Mike Foresman's budget.

Q. How much money is allocated from your budget for environmental matters?

A. I would only be able to guess.

MR. PECK: You don't have to guess.

WITNESS: I couldn't guess. I don't have the numbers.

Q. (BY MR. HOWARD) Do you approve the budget?

A. Yes.

Q. Do you review it before you approve it?

A. Yes.

Q. You're ultimately responsible for

the budget?

A. Yes.

Q. Do you have something that lists -- do you have an actual written budget form for --

A. We do, and it's mainly geared toward fixed costs. Those items which are fixed at the plant. Salaries, supplies. There is a variable cost component that deals with raw materials, those things that would vary: energy --

Q. Do you have some sort of documentation that you would submit to corporate headquarters regarding the breakdown of your budget, which would include the environmental section?

A. Yes.

Q. Where would you keep those?

A. That would be kept on file by the plant accountant or the administrative superintendent.

Q. Or the administrative superintendent?



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A. Uh-huh.

Q. Do you have any recollection of the total budget for your plant this past year, last budget year?

A. The fixed cost was $10.6 million. And I want to say the total, the variables -- but that varies as the name implies -- the total fixed cost and variables was around 30,000,000.

Q. What do you mean by fixed costs?

A. Again, fixed costs are those elements -- I guess the best way to put it is if we stop making product, stop bringing in raw material and shipping out, those would be the charges that would still be ongoing at the plant.

Salaries for certain people. Supplies. Environmental operation of the waste treatment plant. Some maintenance that may still go on even though you're not making products. The wages for the mechanics; even though they are idle, you still have those wages.

Q. Would the environmental aspects of your budget be fixed or variable?

A. Both. There is a certain supply, energy usage that goes on down there, and then there is a fixed portion. Running the fans that would aerate the ponds or the biological waste treatment vats. Energy that goes into that would be variable. The actual maintenance on the fans may be fixed.

Q. Do you have any recollection of what percent of your budget this past budget year was environmental-related?

A. I couldn't -- I don't have it in my mind what that breakdown is.

Q. Do you have any recollection of what percent of the environmental budget would be fixed as opposed to variable?

A. No. That would be a very difficult number to get at. Take maintenance, for instance. Maintenance works on the plant wherever there are places to be fixed. So it would be difficult to say that this portion was allocated for

environmental.

Q. All documents that would reflect that budget and those budget amounts would be kept by the plant accountant or the administrative superintendent, is that correct?

A. Yes.

Q. And are those kept at the Anniston plant?

A. Yes.

Q. Do you know how many years' worth of those documents you would keep?

A. I don't have -- no, I don't.

Q. You would at least have kept last year's budget?

A. Probably.

Q. When does the budget year begin for Monsanto?

A. January 1st.

Q. Are you working on a budget right now?

A. Yes.

Q. Have you looked at it recently?

A. We had a budget review in August, a preliminary that was sent up to St. Louis for comment in September. I believe it's come back tentatively okay, based on how it cascades throughout the corporation, how it fits with the net income targets of the corporation.

Q. Who officially submits that budget to St. Louis?

A. Dan Truitt, the plant accountant.

Q. What is the name of the administrative superintendent?

A. Mike Bork.

Q. How do you know that that budget has come back from St. Louis tentatively approved?

A. Dan mentioned it to me. That the feedback he got looked good. The way they go up and then are checked against net income targets. And any adjustments come flowing back down.

Q. Have you had any communications with anybody in St. Louis regarding that



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budget?

A. Yes.

Q. Who?

A. Our divisional accountant, Pat McMann.

Q. Anybody else?

A. Other than people in the plant, no.

Q. How many times did you talk to Pat McMann about this upcoming budget?

A. I had one conversation last month with him about it.

Q. What was the nature of that conversation?

A. It looked like we were going to get help on our net income targets. We were going to be escalated up, therefore costs would have to go down. He might be back to us to tell us to ratchet the costs down, look at places to cut or reduce.

Q. Did he come back to you and tell you about places to cut and reduce?

A. No.

Q. Did you talk about potential places to cut and reduce at that time when you talked to him?

A. No.

Q. Did you discuss with him at all about the environmental budget?

A. I did tell him that one of the things we were up against this year was the remediation group. Again, Mike Foresman had basically placed more costs back on the operational budget of the plant. That had escalated our costs from '95 to '96.

My directive is to keep fixed costs flat, which is my target. That was making it difficult to keep fixed costs flat without cutting in other areas, or looking at other areas for cost savings opportunities.

Q. So, because Mr. Foresman puts the cost back into your budget, you were potentially going to have to offset?

A. Partly. We also saw an increase in wage overhead coming to us. Wage



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overhead is basically an allocation we receive from St. Louis to pay for benefits for wage employees.

Q. What costs did Mr. Foresman transfer back to you?

A. The way the allocation works from the waste treatment plant, it's largely based on flow. Waste flow from the production units and the groundwater wells. And he thought it was out of line, because the allocations were made several years ago.

So he argued that we needed to make an adjustment, because basically the remediation group was paying too high an amount for waste treatment plant for the services that were rendered. And we went through those arguments and we agreed with them.

Q. When did you have this discussion with Mr. Foresman?

A. I personally didn't have it on a detailed level, Robert Jones did. I only

had it on a meeting-of-the-minds level between Mike and I, approximately July.

Q. Did you talk about particular figures and amounts at that time?

A. No.

Q. Did Robert Jones report to you regarding any of his discussions with Mr. Foresman?

A. I think he told me that the allocation coming back to the plant was $100,000, allocated back to the operational budget.

Q. So that would be $100,000 that had once been allocated to Mr. Foresman's budget would now be transferred back to you?

A. Right.

Q. Is that a large chunk of the environmental budget?

MR. COX: Object to form.

WITNESS: I don't have a feel for that. I can't recall what the environmental budget is.

Q. (BY MR. HOWARD) When did you talk



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to Mr. McMann? You said you had one conversation with him. When was that?

A. This is November. Earlier this month when I was in St. Louis.

Q. Did you have a sit-down meeting with him?

A. No. He made a presentation to what we call our operations team about, roughly, what the budget was looking like. And that he was going to have to ask us all to look further for cost savings opportunities.

Then after that session, I went up and talked with him individually about Anniston and why we were where we were at. And tried to lobby him, because we couldn't really cut any more without difficulty.

Q. Did you discuss particular budget amounts with him?

A. What he was looking for us was about $150,000 if I remember. And I told him about the extra allocation we were receiving from environmental, and also this

wage overhead coming at us which I want to say was around 300,000. That was really making it difficult for us to meet those fixed income targets, and now you're asking for more. I was sort of crying on his sleeve.

Q. Did he ask you what your environmental budget was?

A. No.

Q. At that time did you know what your environmental budget was?

A. No.

Q. Prior to sending it to -- the budget proposal to St. Louis back in August, is that when?

A. Approximately. I remember in August preparing it and getting it ready. Maybe in September it went out, but we were talking about it in August.

Q. Who did you talk about it with at the plant?

A. Usually when we have a budget review, it's my immediate staff, and what we


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would call first-line supervisors.

Q. How many people are on your staff?

A. Seven.

Q. Is Robert Jones one of those?

A. Yes.

Q. Who else?

A. Jerry Brown, Mike Bork, Bob Borders, Allen Rutherford, Lamar Freeman, and Conrad Gamble.

Q. These are some of the division people who head up different aspects of the plant?

A. Yes.

Q. And so the frontline --

A. Frontline supervisors. Stepping down from staff, then you would have supervisors who are directly over the wage employees.

Q. How many people are included in that?

A. Five, but I can't say all five were at the budget review. May not have been at the budget review, but they were

invited.

Q. Do you remember any that were?

A. Terry Mixon, Jerry Sanford, and Michael Plunkett, if I recall.

Q. Of your staff, who would have input into the environmental budget?

A. Mostly, Robert Jones.

Q. Anyone else that would have peripheral --

A. Mike Bork, only because he's got overall responsibility for the accounting group.

Q. Did you have meetings with these staff members in August?

A. If I remember, Dan Truitt presented the proposed budget. I didn't mention he was there, but Dan, the accountant, presented the proposed budget to that group.

Q. Did he present a detailed budget that broke it down by category?

A. The way the process works, each individual manager we talked about there

comes forward to Dan, and Dan works with them on an individual basis for the budget for their department.

It's all brought together for my review. My basic guidance is we have a fixed cost target. Y'all figure out how we don't get above this fixed cost budget. They work amongst themselves to find it achievable.

Q. Do you remember seeing a final copy of the proposal sent to St. Louis?

A. Yes.

Q. Did you sign that proposal?

A. No, it's not signed.

Q. Did you write a cover letter with it?

A. No.

Q. Did Mr. Bork or Mr. Truitt -- which one of those two would have been responsible for sending this to St. Louis?

A. Dan probably sent it up officially.

Q. Did he run it by you to get final

approval before he sent it?

A. We had the meeting I talked about where we reviewed it. They didn't quite have it -- they were close to the fixed target but not quite there.

I pointed out a few places where I thought we could change the numbers. I told Dan to work with those individual superintendents and come back. He did that, came back and reported they had met the fixed cost numbers. And I told him, That's good. Send it on.

Q. The areas that you pointed out, places that you could reduce the fixed costs, did any of those have to do with environmental matters?

A. No.

Q. Do you remember what any of those matters were?

A. Engineering services, laboratory services, maintenance costs.

Q. So the budget went to St. Louis for comment. You believe it's been sent

back. What happens to make it a final budget?

A. Eventually, we'll get word that what has been presented to upper-upper management is okay, or needs adjustment. Then it will cascade back to us for further adjustments we need to make. I would expect that all to be complete within the next month.

Q. I guess it has to be.

A. Yes.

Q. Do you know how much of Mr. Foresman's budget is allocated to work at the Anniston plant?

A. No.

Q. Have you seen any figures on that?

A. No.

Q. You said that you also met with Mr. Foresman -- or he at least came to the plant to check on work regarding the west end landfill. Did you meet with him at that time?

A. Yes.

Q. How long was he at the plant on that visit?

A. Probably got to the plant about 10 and left about 4 p.m.

Q. Did he announce he was coming?

A. I knew he was coming, because he mentioned that we might get together for lunch. So I knew he was coming.

Q. I guess, so I will know on a hierarchical level, is Mr. Foresman considered equal to you?

A. Probably on a grade level he's higher. But in the capacity he works with the plant managers with issues like this would be equal in that working relationship.

Q. How long did you meet with Mr. Foresman on that visit?

A. I think we went to lunch, so about an hour.

Q. What did you talk about?

A. Just budget dilemmas he had, and needing help from us at the plant. He has his own individual targets he has to meet on



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costs. He explained how he thought that Anniston needed to have an adjustment in how much he was paying for that ongoing operation of the waste treatment facility.

Q. Anything else?

A. We also talked -- I'm sure we talked about -- I don't remember the details -- talked about the efforts going on at the east end neighborhood.

Q. Anything else?

A. I think we talked about one particular environmental engineer who works at the Anniston plant. She's ready for promotion, and we talked about opportunities for her, if he saw any opportunities for her.

Q. So you didn't talk about the west end landfill?

A. Yes. We probably talked about it. I don't remember details of the conversation, but we probably talked about timing of the west end landfill, when he thought work was going to begin.

Q. Do you remember when that visit with Mr. Foresman was?

A. I would bracket it as summertime, July. But that's the best I could probably do.

Q. Did Mr. Foresman spend the better part of his day with someone at the plant, or was he just out on his own seeing how things were going?

A. He would probably work with Jo Hanson and Robert Jones.

Q. I'm not sure if you've told me who Jo Hanson --

A. She --

Q. She, I'm sorry.

A. She's an engineer in the remediation group. She's heading up the west end landfill.

Q. Did you talk to him after that visit about the west end landfill, about things he observed while he was there?

A. You mean at that visit when he was there at that visit?

Q. After that visit, or at that visit.

A. He had already been out to the landfill by the time we went to lunch.

Q. Do you remember anything he told you about what he saw out there?

A. We talked, maybe, about timing. When he thought the work would begin. When he was there we were making bids to contractors to do the work. So we were bidding the job, so to speak.

Q. What was his target date on getting that completed?

A. He's always told me first quarter of '96.

Q. You talk about the work on the west end landfill, we're talking about recapping the landfill?

A. Uh-huh.

Q. What else?

A. Seeding it. Finalizing it.

Q. What is finalizing it?

A. Landscaping it, I would call it.

Putting grass on it.

Q. Are there any plans to remove contaminated sediment?

A. There has been a lot of soil removed. I mentioned that earlier. They dug the toe and removed some concrete.

Q. Will you explain for me what you mean when you say they dug the toe.

A. They dug an area around the base of it for drainage purposes, right at the foot of the hill.

Q. What was the purpose of that?

A. So you would have a collection point for any stormwater that runs over the landfill.

Q. So all the water that runs off the landfill would go into that collection ditch?

A. Uh-huh.

Q. Where is that ditch?

A. I haven't gone out and walked it, but it would probably go out the west side of the plant.



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Q. Would go out at one of the out-fall points?

A. I'm sure. But I haven't walked it.

Q. Did they ship that sediment that they removed to Emelle?

A. Yes.

Q. All of it?

A. Yes. Until recently we had -- we were trying to understand whether dug-up soil could be placed back onto the landfill or not. A sizeable quantity of it was shipped to Emelle until we finally got it clarified from ADEM that, Yes, you can put it back up on the landfill and cap it in place. Eventually it stopped and soil started to go back on the landfill to be placed up there, and then capped in place.

Q. Even if the soil contained over 50 parts per million of PCB, you could put it back up there if you capped it?

A. That was my understanding of what ADEM told us we could do.

Q. Did you write them a letter and ask them if that was acceptable?
A. Did I write a letter?
Q. Yes.
A. No.
Q. Did you see a letter written by anyone with Monsanto asking if that was acceptable?
A. No. Understand I may have signed it, but I don't remember it.
Q. How did you get word -- how did you go about asking them this question?
A. Robert Jones was telling me about what was going on, that they were trying to get this clarification. He eventually came back and said, Yes, we've got it clarified. We don't have to ship that dirt out any more. We've now got their permission to leave it.
Q. Was he doing that orally over the telephone?
A. I'm not sure. I don't know if there was a paper correspondence or not.

Q. You don't recall seeing any?
A. I don't recall seeing any.
Q. Do you recall seeing any correspondence from ADEM to Monsanto giving word that it was acceptable?
A. No. I was just verbally told by Robert Jones that we had approval.
Q. Did y'all discuss with Pat Hyland whether that would be permissible in his eyes?
A. I did not.
Q. Do you know if Mr. Jones did?
A. I can say Robert talks to Pat frequently. But whether he talked about that issue or not, I don't know.
Q. Do you know if anyone at corporate -- when I say corporate, I mean Monsanto other than the Monsanto Anniston plant -- gave approval to put the dirt from the landfill back up there?
A. No, the approval came from ADEM.
Q. How much did it cost you to send -- let me back up. Was the soil that was

removed from the landfill and shipped to Emelle, was it placed in drums?

A. It was trucked.

Q. So it wasn't in drums, they just load it all into a truck?

A. (Witness nods).

Q. Were they dump trucks?

A. They were large dump trucks that were certified -- I noticed as they were going out of the plant, certified waste haulers.

Q. Were you charged by the load?

A. Yes.

Q. How much per load were you charged?

A. I think it was $8,000 a load.

Q. Do you know how many loads of soil from the west end landfill you shipped to Emelle?

A. I don't remember how many loads, no. I'm trying to recall the number. I'm getting confused. It was either 300,000 pounds or 600,000 pounds, I can't remember.

Q. Do you know how many pounds are in a dump truckload?

A. No.

Q. Would this $8,000 per load, how many loads that was, would that have come out of your operating budget?

A. No.

Q. Where would that come out of?

A. That would have come from Mr. Foresman's budget.

Q. Why were you making inquiries as to whether it was required to ship the soil to Emelle?

A. Mainly to not spend money needlessly. If we could get an interpretation it was okay to leave it in place and cap it, it's a heck of a lot cheaper than paying $8,000 a load to ship it to Emelle. So it was mainly cost containment.

Q. Whose idea was it to recap the west end landfill? And when I say who, I don't necessarily have to know especially in

Monsanto. I just need to know if it's a decision made by Monsanto or a decision made by some agency.

A. I can't absolutely answer that. I know that a proposal was made by Monsanto to the agency that was agreed to. How much they modified the proposal or changed it, I'm not sure of the details of that. But I would say that, in general, our working relationship with ADEM is we proposed a solution or a course of action, and they modify, change, or approve it.

Q. Do you know if ADEM asked for a proposal on remediation?

A. No, I don't.

Q. So they could have?

A. They could have, yes.

Q. Do you know if ADEM required Monsanto to take some remediation effort on the west end landfill?

MR. PECK: Object to the form of the question.

WITNESS: I'm sure there were

discussions about what was found out there. And with this guidance they have about 50 parts per million in soil containing PCB's, I'm sure there was some sort of plan or some sort of discussion about what are you going to do about it. And then they came up with a proposal. I was not involved in the discussions.

Q. Would that have been before you became plant manager?

A. Yes. I think that would have been, because they were working on it when I came on board in August. It was still back and forth.

Q. Have you talked to Robert Jones about how all this came about?

A. Yes. In the sense of it was found. ADEM was brought into the discussion -- found by Alabama Power. ADEM was brought into the discussions right away. I think ADEM was informed as we were talking with Alabama Power about reacquiring the land.

And then one of the reasons that I said earlier we acquired the land is we had taken an obligation for it, from a time and resources standpoint, to do something about it. I'm sure ADEM was talked with all along through there.

Whether it was them saying, Monsanto, we want a proposal, or whether it was us saying, We have a proposal; this is what we'd like to do. I'm not sure which way it went.

Q. Let me ask you this -- and you may not know -- but do you know if Alabama Power came to Monsanto first, or do you know if they went to ADEM first with the findings on the west end landfill? Is Alabama Power helping Monsanto to pay for any of the remediation efforts?

A. No. Not that I'm aware of. Other than a onetime payment that came with this land that I was told about.

Q. So Alabama Power paid Monsanto money, is that correct?

A. That's my understanding.
Q. Do you know anybody at Alabama Power?
A. Certainly.
Q. Who do you know?
A. Ronny Smith.
Q. Who is he?
A. He's the vice president of the Eastern division.
Q. Would that include the Anniston area?
A. Yes. Ken Deal, operations for the Eastern division. Ed Wade. He's operationally responsible for all the switch yards. Steve Wacker, he was our account representative.
Q. That's for your actual power --
A. For Monsanto, yes. But he's recently been replaced by Brad Mooney. I guess the final person I would know is Don Silvy. And Ron Whetstone.
Q. What are Mr. Silvy's and Mr. Whetstone's position?

A. Mr. Whetstone, he runs a branch of Alabama Power up in the Jacksonville area. And Mr. Silvy, he told me he's manager of hodgepodge.

Q. You can relate to that?

A. I can relate to that.

Q. Have you spoken with any of these men at Alabama Power about the west end landfill?

A. Yes. Mr. Smith, as courtesy when something was going on out there, like we were about to begin the work, kind of updating him as I saw him around town. If the conversation came up, I would tell him what was going on. And Ken Deal, I play golf with Ken, so we chat about it once in a while.

Q. And those are the only two?

A. That I recall having conversations. I take that back. Maybe Steve coming over -- he's been over to the plant as an account representative, and he may have made mention of it.

Q. But as your account representative, he doesn't really have any responsibility for the west end landfill?

A. No.

Q. Between Mr. Smith and Mr. Deal, which one of those two is the most knowledgeable about the facts relating to the west end landfill?

A. Mr. Smith.

Q. Do you know if Mr. Smith was involved in the negotiations involving the transfer of the property back to Monsanto?

A. My understanding and the discussions with him is he was pretty well on top of the issue. He was well aware of what was going on.

Q. Can you tell me what Mr. Smith has told you about the west end landfill. That would include the finding of PCB's, the transfer of the property back to Monsanto.

A. He hadn't told me much. Mostly I've told him things, as I said, things that come up to update him. He did make mention

that he was very much involved in the negotiations as they were ongoing.

I would characterize it now that it's our responsibility. He's now absolved himself of it and just wants to be aware of what is going on.

Q. Did he mention to you any concerns that Alabama Power had regarding the presence of PCB's on that property?

A. No. Just that they were found, and approaches were made to Monsanto. I think the comment he made was he was really pleased we got involved as quickly and as thoroughly as we did.

Q. Did he tell you why they approached Monsanto?

A. Knowing that they found PCB's, and that it was land acquired from us. Trying to identify where it came from.

Q. You said that you would speak to him on occasion, and you would tell him, as a courtesy, things that were going on. Why do you do that?

A. I have a lot of respect for Ron. I think he needs to be informed. When I first came, he expressed interest in it, and I think he even asked that he be kept updated.

Q. Did he tell you why he wanted to be updated?

A. No.

Q. Why do you think he needs to be updated?

MR. PECK: Object to the form.

MR. COX: Object to the form.

WITNESS: I can't really say why. I can just say that I remember him showing a lot of interest when I updated him the first time I met him.

Q. (BY MR. HOWARD) My question is why do you think he needs to be informed?

MR. PECK: Object to form.

WITNESS: I can't put words in his mouth.

Q. (BY MR. HOWARD) I'm not asking you to put words in his mouth. I'm asking your

perception, as to why do you inform him about things that are going on?

A. It was a big issue for him, I guess. With any big issue you've dealt with in your career, you sometimes want to know what's happened to it.

Q. Why would you classify that as a big issue?

A. Because it was important. They found it. They had to come to us. High level discussions in Monsanto and Alabama Power I'm sure went on about it. Again, it was all before my time. To me it was a big issue.

Q. Why is it a big issue to you?

A. Because in a historical perspective, it was given to them for a switchyard. Material was found on it. There was a lot of negotiations and us taking responsibility.

Actually, I think when it's closed and capped, it will show that we acted responsibly and very quickly at it. I think

it's going to be a very positive thing that we did that, that Monsanto acted as quickly as we did. I guess that's why.

And it's also going to be a major dollar expenditure to cap it. So it will be a big expenditure for Monsanto.

Q. How much?

A. It was budgeted at a million and a half.

Q. Is it going to be within that budget?

A. I don't think so.

Q. Any idea of how much over budget it will be?

A. Maybe 2,000,000. Total of 2,000,000.

Q. And that would be from Mr. Foresman's budget?

A. Yes.

Q. Do you know any reasons why you are currently running over budget?

A. Two things I would lift up would be movement of the soil. We didn't

anticipate how much was moved.

And weather. Right after they started work, it rained terribly. You always incur a lot of fixed costs with folks sitting around waiting to work on it.

Q. Back to the negotiations with Alabama Power and Monsanto. And you classified it as a big issue. Is it a big issue because of potential liability?

A. No. I don't think so. I think it's a big issue any time a company spends a million and a half to $2,000,000, and as a shareholder, in shareholder's value, it's a big issue.

Q. Have you heard any discussions from anyone with Monsanto regarding potential liability based on the presence of PCB's in the west end landfill?

MR. PECK: Jack, certainly you can limit that to attorneys. If any of those discussions were with any of your attorneys, I instruct you not to answer that. Those would be privileged conversations.

WITNESS: I can't answer that. If I understand what he told me, I can't, because I've had discussions with him.

Q. (BY MR. HOWARD) But have you had discussions with anyone else?

MR. PECK: Who are not attorneys.

Q. (BY MR. HOWARD) Right. Or who are not --

A. No. No, I have not.

Q. No discussions with anyone in St. Louis?

A. No.

Q. Mr. Jones, no discussions with him?

A. Robert Jones?

Q. Yes.

A. If I understand your question regarding the west end landfill, no.

Q. What is my question regarding the west end landfill?

A. Have we had any discussions regarding potential litigation, or liability, I think you said, on the west end



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landfill? No.

Q. Have you had any discussions in that regard with anyone at Alabama Power?

A. No.

Q. Did Mr. Smith ever tell you that Alabama Power was concerned about being sued over the west end landfill?

A. No.

Q. Have you heard any discussions with anyone at Monsanto or Alabama Power regarding potential liability in regard to the west end landfill, for instance as a Superfund site? Other than your attorneys.

A. One meeting we had at ADEM that I attended, I believe the gentleman's name was Dan Cooper talked about that having the potential of being a Superfund site, although he didn't think it ever would be.

Q. When was that meeting?

A. I can't place a date. It was in 1995. I would say spring if I remember correctly. I remember him talking about the formula that goes into determining something



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about the Superfund site, so many points are built up.

Robert Jones was with me at the meeting. I didn't understand the details of how they calculate that. It was based on a lot of factors, from what I took away from it.

Q. Did you have discussions about that meeting with anyone at Monsanto? I'm talking about the meeting where the potential Superfund site was discussed.

A. Did I? No, other than Robert Jones.

Q. Do you know if Mr. Jones did?

A. Do I know if he did? I would only guess again --

MR. COX: Don't guess.

WITNESS: Sorry.

Q. (BY MR. HOWARD) Did he tell you he had any --

A. No, I don't remember him saying he had discussions with anybody.

Q. Is that something that as plant



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manager you would report to your immediate supervisor?

A. To my manager?

Q. Yes.

A. If we do, they were moving in that direction -- the indication I got from Dan Cooper was, No, they weren't moving in that direction. If I had an indication that they were, that they were going to start the calculations and that process, I might tell my manager. But then again, I might not. He's a very hands-off manager.

Q. What about -- you said the person who is in charge of environmental matters is Mr. Hyland?

A. Yes.

Q. Is that something you would approach him with?

A. I wouldn't. Again, the normal communication avenue is Robert Jones.

Q. Did Mr. Cooper, Dan Cooper tell you -- I think you said that he gave you the indication they weren't moving in that

direction?

A. That's what he indicated. That's what I got from the conversation.

Q. Why did you gather that they weren't moving in that direction?

MR. PECK: Object to the form of the question.

Q. (BY MR. HOWARD) Let me rephrase it. What led you to the conclusion that they weren't moving in that direction?

A. He said they had no active effort going. Basically, what he told us was, Do what you have to do out there that would comply with RCRA. But we're not moving toward placing the Superfund or anything like that.

Q. Is Mr. Cooper the person who would make that decision?

A. I think his title is special projects something or other. So I think that's his decision.

Q. Did he give you the indication, or did he tell you that if you would remediate

the landfill, that he would not place it into Superfund consideration?

A. No, he did not say that. He said, We're not actively going forward with that, but if you remediate the landfill and you do it to the appropriate requirements, that if we did, that would be taken into account for the calculation or determination of whether it's a Superfund site. That it was closed and closed in an appropriate manner.

Q. So Monsanto's efforts at remediation in the west end landfill are at least in part motivated by a desire to prevent the site the from being considered for the Superfund cleanup, is that correct?

A. No. We had gone forward with our plans long before we had this conversation. I think even -- if I remember the sequence of events, the plan was already pretty much approved by the time we had this conversation.

Q. What was the purpose of the meeting?

A. I think that might have been a review of where we were with the west end landfill. Also, as a fairly new plant manager, I went along with Robert. Robert would have handled this on his own, but I went along to start building relationships with these folks.

Q. The folks at ADEM?

A. The folks at ADEM.

Q. Other than Mr. Jones, Mr. Cooper, and you, was there anyone else at the meeting?

A. What I'm struggling with is I've been down to ADEM a few times, and I can't remember which meeting exactly this was at. So I don't recall anybody else there. I remember one where there was a whole room full of folks. Land division, water division. It may have been that one.

Q. So you really don't remember?

A. No.

Q. I'm trying to get back to where we started this. I'm basically going through

the three visits with Mr. Foresman to the plant.

A. Three that I remember.

Q. Three that you remember. I think the third one involved, or you discussed in that meeting sampling in the east end area, east end of the plant, is that right?

A. Yes. There was a recent visit by Mike Foresman a few weeks ago. Then he came down and looked at the west end landfill, and we talked about east end sampling.

Q. Was his primary interest the west end landfill?

A. His primary interest was coming down and meeting with a local commercial businessman who had some questions about the east end sampling, and also to update on the west end landfill.

Q. Was that visit in November?

A. Yes.

Q. How long was he at the plant?

A. Again, if I remember, he came in about 10 and left about 4.

Q. Did you eat lunch with him that day?
A. No.
Q. Did you meet with him at all?
A. He and I both met with this commercial businessman.
Q. Did you know that he was coming before he got there?
A. Yes.
Q. Had you prearranged this meeting with the business person?
A. Yes.
Q. Who was the business person?
A. Mr. Bobby Lewis.
Q. What business does Mr. Lewis run?
A. He owns a convenience store on 10th Street in Anniston.
Q. Do you know the name of that store?
A. They call it the Ice House.
Q. What were his concerns?
A. He had been talking with Robert Jones about the sampling going on in the

neighborhood, and findings. He had given us approval to do some sampling on his property. The main concern was he didn't think he was getting enough information.

So I approached him and said, Well, why don't we set this up, Mr. Lewis. I know Mr. Foresman comes down here frequently. If we can match our schedules, I'll bring in the guy who's responsible for doing a lot of this type work and sampling. And we can just sit down and talk about what your concerns are.

Q. Had you gone to meet with him?

A. I talked to Mr. Lewis on the phone. This is the first time I met him face-to-face.

Q. Was he not satisfied with the answers you gave him?

A. I really didn't give him any answers. I knew Mike came down frequently. I thought, Well, it would be good to hear it from the horses mouth, so to speak.

Q. Was this visit with Mr. Foresman

scheduled prior to the concerns being raised by Mr. Lewis?

A. No. He had raised the concerns through Robert Jones that he didn't feel like he was getting enough information. That prompted a call from me to get some more details about what are your concerns. And I suggested the meeting with Mr. Foresman.

Q. You knew that Mr. Foresman already had a scheduled visit?

A. I knew he came down frequently. We kind of coordinated schedules.

Q. Did you ask Ms. Hanson to give Mr. Lewis a call?

A. No.

Q. That's west end landfill, so that probably explains that. Did Mr. Jones tell you specifically what concerns Mr. Bobby Lewis had?

A. Yes.

Q. What were they?

A. His major concern was we had given

a lot of information and had a lot of discussion with the residents, but we had not done much discussion, in his opinion, with the commercial property owners along 10th Street.

Q. Were the commercial owners invited to y'all's little meetings?

A. No.

Q. Have any other commercial businesses contacted you?

A. Yes. I've spoken with a couple of gentlemen that ran businesses in that area.

Q. Who are they?

A. Mr. Cecil Hines. He runs West 10th Street Pawn Shop. And I think it's John Swift who has a business known as Swift Motor Company. One other that I can't remember his name, but he runs the Model City Mortuary.

Q. Did you speak with these three folks over the phone?

A. All in person.

Q. Did they call and have questions

and you said you would come talk to them?

A. Yes.

Q. Were their concerns -- when I say they, Mr. Hines, Mr. Swift, and Model City Mortuary, were they all -- were their concerns similar to those of Mr. Bobby Lewis?

A. (Witness nods). What is going on, what is happening, give us some more information.

Q. Did you ever consider having a meeting and inviting all the commercial business owners?

A. No.

Q. Why?

A. It didn't occur to me. Figured we would sit down and talk to them.

Q. What did you tell the commercial business owners when you went and talked to them?

A. Some of them had requested the results of the analysis on their property, which was provided to them. Just talked

through what some of those results meant.

They wanted to know why we were trying to acquire the land, what was motivating that. Why was the commercial properties not included. What this work that we were intending to do in the area meant to their property values and sustainability of their businesses. That was main -- that was most of the conversation.

Q. Did you give them the results when you went to talk to them in person?

A. In Mr. Lewis' case, I know Robert Jones had sent it to him already. Sent it by mail.

Q. Do you know if he sent a cover letter along with those?

A. Yes, I think he did.

MR. HOWARD: I don't think that's been produced.

MR. COX: I don't think it's been called for. But I'll certainly take it under advisement, if you're requesting it.

MR. HOWARD: I'm requesting it.

Q. (BY MR. HOWARD) What about Mr. Cecil Hines, did you give him the results in person, or were those mailed to him?

A. I don't know if he got results, I can't recall.

Q. Did he ask you for the results?

A. I don't know if we even tested on his property. Again, I just don't recall.

Q. What about John Swift?

A. His were mailed to him.

Q. Did you send those to him or Robert Jones?

A. Robert.

Q. Did he send a cover letter with that?

A. I think so.

MR. HOWARD: I'm also requesting that letter.

MR. COX: Okay.

Q. (BY MR. HOWARD) What about the mortuary owner?

A. The mortuary guy -- I wish I could

remember his name -- he's involved in the property purchase program, was more familiar with what was going on because of the property that he owns in the area where we had the property purchase program active.

His question was more, Why not my business property up here. Why aren't you considering buying that.

Q. What was your answer for that question?

A. With the plan we're working with ADEM, that property up there is not -- it's mainly uphill, up-drainage. We don't need to acquire it to move forward with the plan we're working on.

Q. So the reason is it is not in the geographic area?

A. I don't think so.

Q. You haven't made the plan to just exclude commercial property?

A. Not really. We talked about, Should we include commercial properties or not just as a matter of course. It would be



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more a matter of just buying the whole lots.

But we decided, No, it doesn't make sense. It doesn't fit with the plan we're working with ADEM.

Q. Is there any commercial property in the geographical area that would include your buy-out program?

A. Probably the only one that comes close would be the Ice House.

Q. You're not certain that it's in the zone, but it may be?

A. It may be.

Q. Why does the purchase of commercial property not fit with your program that you're working on?

A. Again, the main emphasis of the program is acquire land in the low-lying areas. If you look at the commercial property, a large part of it is up-drainage, uphill away from where we're talking about.

Q. Are there any houses close to the Ice House? Residential houses?

A. There is some abandoned property that abuts it.

Q. Is that property in the buy-out program?

A. Yes.

Q. Is that property uphill?

A. We made a decision, from a residential standpoint, that if we're going to offer it to residents, we would offer it to all the residential property in the area. Some of that was based on their need to acquire the land. Some of it, I guess, was a fairness factor.

Q. Okay. So some of the property in the purchase program is uphill?

A. Yes.

Q. What factor would distinguish that residential property that's uphill that abuts the property on which the Ice House is, and the property on which the Ice House is?

A. Pretty much residential-commercial.

Q. Did Mr. Lewis ask you why the property next door to him was being sought after but his was not?

A. No, not really. His concern was more, What is going on, what are y'all doing out here. What kind of work do you see. What is it going to look like. What do the results mean that you found on my property.

Q. Why is it more fair if you purchase residential as opposed to commercial property?

A. It's more of an issue of this is an attractive program we're offering for folks to purchase their property. And we wanted to avoid issues of why did you draw the boundary lines here when there are no clear distinctions.

So we made the decision of residential and offering it to them. It's an individual decision whether they choose to participate or not.

(Whereupon a brief recess was had

in the deposition.)

Q. (BY MR. HOWARD) Mr. Mayausky, when you went to talk to Bobby Lewis, you said you told him what the results of the testing on his property meant, is that correct?

A. I said that was one of the questions he had.

Q. What did you tell him in response to that question?

A. I think what we told him -- he may have been concerned about absolute levels, what numbers meant, and some were just plus and minus. The way the tests were done, one was just a screening test that was done plus or minus, an amino acid test.

The other was a quantitative test -- some were quantitative. Just telling him one was a plus-minus test and one was a quantitative test.

Q. Did you tell him what the results were on his property?

A. He had that letter. We did not

discuss the specific results. That information had gone out to him prior. At the meeting where I sat and talked with him, I don't remember him producing that document and asking me about it.

Q. If I remember correctly from the documents, the results, or at least the screening test results were either greater than or equal to ten, or less than or equal to ten, is that correct?

A. Or less than ten. Greater than or equal to ten, or less than ten.

Q. Did he have results from his property that were just screening result tests, or did he have some analytical results as well?

A. I think in the context of the conversation, we may have volunteered that we did both screening and quantitative. I don't think we ever talked about the specific results.

Like he didn't say, What does that mean. We just talked about what we sampled

and how sampling was done and what the results might mean.

Q. What did you say about what the results might mean?

A. That if he had a plus or minus on a piece of paper, that was a screening test. If he had a quantitative result, that was where the test was quantitative.

Q. Did you talk at all about potential hazards of PCB's?

A. He asked if he should be concerned about health effects. We told him that we've consulted with internal and external health consultants, and their findings are that there is no cause for concern.

In fact, we had a document that showed who we've talked to, and I gave him that. It has phone numbers on it and suggested if he wanted to call and talk to them, he could call and talk to them.

Q. Is that the document that listed Renata Kimbrough, Dr. Hughes at the Department of Public Health, and Dr.

Forrester?

A. Yes.

(Whereupon, Plaintiff's Exhibit 1 was marked for identification and copy of same is attached hereto.)

Q. Mr. Mayausky, I'm going to show you what has been marked Plaintiff's Exhibit 1 to your deposition, and ask you if you can identify that for the record.

A. This is the document you just asked me about that was provided to Mr. Lewis.

Q. Who prepared that document?

A. I think Bob Kaley put this together for me.

Q. He's somebody up in St. Louis?

A. Yes, he's in the environmental group in St. Louis.

Q. Okay. Did Mr. Lewis ask you about any specific health conditions that he was concerned of in relation to PCB's?

A. No.
Q. He didn't mention cancer?
A. No.
Q. He didn't mention liver disorders?
A. No.
Q. He didn't mention skin conditions of any sort?
A. No.
Q. Did he ask you whether the results that were found on his property were high or abnormal?
A. No.
Q. He just wanted to know what the plus and minus figures meant?
A. That's pretty much what we talked about, and that's what we presented. I don't remember him saying anything about, What does that number mean. I don't remember us talking about specific numbers to be honest with you.
Q. Do you remember him asking Mr. Foresman any questions about the health aspects of PCB's?

A. If he had asked Mr. Foresman I would have heard it, and I don't recall him asking Mr. Foresman.

Q. When you were talking about the meeting with Mr. Lewis, Mr. Foresman was there?

A. Yes.

Q. I believe Mr. Lewis had a question as to why you were trying to acquire the land, is that right?

A. I don't know if that was the specific question. Basically his question was, What is going on, give me information. What are you planning on doing.

Q. Tell me what you told him.

A. Basically we told him that we were moving forward with a plan to manage the stormwater coming through that area. And that we were acquiring that land to help us implement that stormwater management plan. And we were working with Alabama Department of Environmental Management on it.

Q. Did he ask you why you wanted to

acquire the land to do that?

A. No, he didn't ask. We just maybe told him that it would help us.

Q. How will it help you?

A. Because of the way we're going to build the facility. The more land that we have the better off -- it may help benefit where we place the facility.

Q. Did he ask you why his property was excluded?

A. No.

Q. Did you tell him why?

A. No. Really, that didn't come up. He just wanted the information about what we were doing. That was about it, really. I don't remember him asking about, Why did you exclude me.

Q. Did he ask you why the buy-out program excluded commercial property?

A. No.

Q. Did commercial property and the topic of commercial property in relation to the buy-out program come up at all in your



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meeting with him?

A. The one comment he made was, I don't understand why there has been so much communication with residential people in this area, and commercial property owners -- Why haven't you been talking to us as much.

Q. What was your response?

A. I said, I apologize. That was one of the purposes of this meeting, to inform him and let him know what was going on.

Q. Do you remember if there were discussions that you were involved with as to why to exclude commercial property, within Monsanto?

A. I don't remember specific discussions, but I remember, I guess, a conclusion or a direction came up that there was no need to really acquire that land because it was upgradient, most of it, and wasn't involved in moving forward the stormwater management plan.

Q. Sort of similar to the property adjacent to Mr. Lewis' store?

A. Right.

Q. Was there ever any mention by anyone at Monsanto that health risks might be greater for individuals who reside on property as opposed to those who simply run a business?

A. No, not that I'm aware of. I did not participate in it.

Q. Have you participated in all -- let me start over. As plant manager, have you been involved in the decision-making process as to what properties would and would not be included in the buy-out program?

A. The way I remember the conversation going was that it was presented that it would be beneficial for us to buy residential property in the area. And the decision was made to expand that to all residential properties.

There was no reason to need the commercial properties. It was more, Are you in agreement with that decision as opposed

to being an active participant.

Q. Are those discussions involving folks just at the Anniston plant or people from St. Louis?

A. I can't recall exactly who was in it, but I know Robert Jones was involved in the discussions. But I'm not sure who he consulted with.

Q. Did you offer to buy Mr. Lewis' property?

A. No.

Q. Has anyone at Monsanto, to your knowledge, offered to buy Mr. Lewis' property?

A. Not to my knowledge.

Q. As plant manager, would you know if someone had offered to buy his property?

A. If an official offer was made, certainly.

Q. Why did you take Mr. Foresman to see Mr. Lewis but didn't take him to see Cecil Hines, John Swift, and the person at Model City Mortuary?



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A. I guess what drove that decision, that was probably my call, the proximity of his property to where we were going to be doing active work right down the road, as opposed to those other commercial properties further up the street, away from all of this.

When we get into the work, we're probably going to be doing some ditch work right in his area, reculverting. I thought it would be good for him to meet Mike and talk it over with Mike.

Q. Was Mr. Lewis a little more vocal in his concerns than the other three business owners?

A. No more, I wouldn't say. No.

Q. Does West 10th Pawn, Swift Motor Company, or Model City Mortuary abut property that is in the buy-out program?

A. I think Model -- probably the closest is Model City Mortuary. It may be catercorner from some property that's in the program.

Q. Are you going to be doing some work close to that property?
A. I wouldn't anticipate it, no.
Q. Why not?
A. It was upgradient.
Q. The property that abuts Model City Mortuary is upgradient?
A. Uh-huh.
Q. Is that a yes?
A. Yes.
Q. In your time as plant manager -- let me back up. You started to work for Monsanto in 1982, is that right?
A. That's right.
Q. Prior to that time, were you familiar with PCB's?
A. Only in the sense of being an analytical chemist and being aware of the literature. Even though my work was not in that field, I was aware of what was going on environmentally, chemically, and reading scientific literature.
Q. Just so I'm clear as to what you

mean by scientific literature, would that include documents debating the toxicity of it?

A. Not really, no.

Q. Would it be merely the presence of PCB's in the environment?

A. And broad familiarity with the chemical techniques applied to analyze PCB's.

Q. Would it include information relating to the longevity of PCB's in the environment?

A. When I would read an article talking about PCB's, that was probably one of the things they commonly pointed out was they had a longevity in the environment.

Q. When you started to work, you first went to the Pensacola plant, is that right?

A. Uh-huh.

Q. When you came on board with Monsanto, were you given any education about PCB's?

A. No.

Q. Did anyone talk to you about the PCB's -- the alleged PCB problem and the problems in the environment?

A. No.

Q. Were you made aware of the fact that studies had been done on shrimp in Escambia Bay downstream from Monsanto's Pensacola plant linking PCB's to toxic effects in those shrimp?

MR. PECK: Object to form.

MR. HOWARD: What is the nature of the objection?

MR. PECK: I don't think there is any evidence of that in the record.

Q. (BY MR. HOWARD) Have you ever heard of any studies that allege that PCB's could be found in shrimp downstream from Monsanto's Pensacola plant?

A. No, I'm not aware of any.

Q. No one at Monsanto has ever mentioned that to you?

A. No.

Q. Are you aware of anyone from the Monsanto Pensacola plant approaching residents downstream from its plant regarding potential problems with PCB's?

A. No.

Q. When you came up to the Anniston plant, did anyone talk to you about the PCB problem at the Anniston facility?

A. When I was on the interview trip, when I came down to interview for the position, one aspect of the interview was dinner one evening with two individuals who were being -- would eventually be part of my staff. And we discussed it at that dinner.

Q. Who were those people?

A. Robert Jones and Conrad Gamble.

Q. What did they tell you about PCB's in the Anniston plant that night at dinner?

A. If I recall, they started to tell me about the litigations that were going on on Choccolocco Creek and Lake Logan Martin, and a little bit about the west end landfill. The whole situation out there.

Q. What did they say about the litigation?

A. If I recall correctly, just that there were lawsuits against Monsanto, and I think they especially mentioned that William DeFer was named for residents along Choccolocco and Lake Logan Martin.

I think that's really about it. I don't remember much else about it. Just generalities about those lawsuits.

Q. Did they tell you about any meetings they had had about the litigation?

A. No. I don't recall them mentioning anything about that.

Q. Did they tell you anything about any conversations they had had with anyone in St. Louis about the litigation?

A. No, not that I remember.

Q. Did they talk to you about the presence of PCB's in Choccolocco Creek?

A. Only in general terms that litigation was going on. No analytical results that I remember that we discussed.

Q. Did they discuss with you any potential liability for Monsanto?

A. Other than there was active litigation. That's all, if I understand your question. Nothing else, just that.

Q. What did they tell you about the west end landfill?

A. They told me it was a long story, I remember that. You've got to understand that at this point I was only a candidate for the job.

But they were just telling me that there was land that had been given to Alabama Power that had been reacquired. Found PCB's at the surface level. And that we would be moving forward to try to close it. They were working through details on that.

Q. Did they tell you that there was a potential that Monsanto could be the source of those PCB's?

A. I can't remember specifically saying that. Factually that they were found



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there, that PCB's were found there. I don't remember discussing that we were the source, other than it was a landfill we used.

Q. Did they tell you that Monsanto could be the source of PCB's in Choccolocco Creek?

A. I don't remember us having that specific conversation. I think the fact that litigation was against us was the main thing we talked about.

Q. Did they tell you anything about the west end landfill leeching?

A. No, not that I remember us talking about.

Q. So this was a meeting you were down here interviewing for the job, is that right?

A. Yes, sir.

Q. So there were some lawsuits that were pending against Monsanto and they were making you aware of that, is that correct?

A. Yes.

Q. And there was some allegations

that Monsanto was the source of PCB's in some waterways, Choccolocco Creek and Lake Logan Martin, is that correct?

A. Yes.

Q. As a candidate for that job, if you became plant manager, you would in some ways be responsible for handling matters as they went forward in regard to the PCB's and the litigation, is that correct?

A. Uh-huh. PCB's at the plant, yes.

Q. What about PCB's in Snow Creek?

A. Yes.

Q. What about the ditches that drained from the plant to Snow Creek?

A. Yes.

Q. Isn't it something you would be interested in as to whether Monsanto was the source of those PCB's?

A. I guess so. I would, but I don't remember -- your question was did we specifically talk about it. No, I don't remember us specifically talking about it.

Q. So even though that would be

something that interests you, you didn't ask them any questions about that?

A. He may have mentioned, We manufactured PCB's at the facility in the past. I drew my own conclusion.

Q. What was your conclusion?

A. That if you manufacture it, there is a potential.

Q. So did you make an assumption that Monsanto was the source of those PCB's?

A. No, I didn't say that. I said there was a potential.

Q. Monsanto is the only domestic manufacturer of PCB's, is that correct? Or was --

A. Was, to my understanding.

Q. They only made them in two plants, is that correct?

A. Yes.

Q. And one of those two is in Anniston?

A. Yes.

Q. So isn't it obvious that Monsanto

was the source of those PCB's?

A. Not necessarily, because PCB's are used everywhere. A lot of industrial facilities use them. You have got to understand, to me at that point I had no idea where Choccolocco or Snow Creek or any of that was. So, no.

Q. What about the west end landfill? Wasn't it obvious that Monsanto was the source of those?

A. They were found there. We used it as a landfill and were in the process of closing it.

Q. But that doesn't answer my question. Was it obvious that Monsanto was the source of those PCB's --

MR. PECK: Then? Now? When? That night? Dinner time?

Q. (BY MR. HOWARD) That night.

A. That night? I really didn't understand. I was just told it was used as a switchyard where PCB's might have been present. That was going through my mind,

but I wouldn't say it was completely.

Q. What about afterwards?

A. Afterwards, because it was a landfill operation, likely, yes.

Q. Other than the meeting with Conrad Gamble and Robert Jones, did you interview with anybody else?

A. Yes.

Q. Who?

A. The way the process works is that was dinner the night before. And the next day I was interviewed by a group of salaried employees from the plant. And I was interviewed by the union committee.

Q. In any of those meetings, did you talk about the PCB problem at the Anniston plant?

A. No.

Q. Did anything come up with the west end landfill?

A. No.

Q. Did anything come up about the lawsuits?

A. No.
Q. Did you ask of them any questions about the lawsuits?
A. No.
Q. Or the west end landfill?
A. No.
Q. Or the litigation? Well I've already asked that. After you came on board with Monsanto, what did you do to educate yourself -- at the Anniston plant, what did you do to educate yourself about PCB's?
A. I went to a session in St. Louis where Dr. Kaley, from our environmental group, kind of gave me a tutorial understanding about PCB's.
Q. Who was present other than Mr. Kaley and you?
A. If I remember correctly, one attorney that Monsanto uses.
Q. Do you know that attorney's name?
A. David Moore.
Q. Is Mr. Moore an in-house attorney with Monsanto?

A. No. He's out of North Carolina, I think.

Q. Do you know why Mr. Moore was there?

A. He's very knowledgeable in this area. He knew a lot about PCB issues.

Q. Do you know if Mr. Moore has handled PCB-related litigation for Monsanto?

A. He told me he did.

Q. So what did Mr. Kaley tell you about in his tutorial about PCB's?

MR. PECK: When you started into this I didn't realize David Moore was present. That meeting was privileged. Other than what he's told you, I think that anything further that occurs at that meeting was privileged.

MS. ARENBERG: I think we're already into that meeting.

MR. PECK: I don't think we've waived any privileged material yet. I'm not going to let him discuss it any more. If you want to take it up with the Court later

we'll do it, but we're not going any further in that meeting.

MS. ARENBERG: So what Dr. Kaley said you're going to claim privilege over.

MR. PECK: Yes, there was a lawyer who was present at that meeting, and I think the meeting is privileged.

MR. HOWARD: It didn't involve litigation.

Q. (BY MR. HOWARD) But that's fine. Let me ask you the question again. What did Mr. Kaley tell you in his tutorial at the meeting?

MR. PECK: Same objection. Same instruction.

Q. (BY MR. HOWARD) Sir, are you going to follow your attorney's advice and refuse to answer?

A. Yes.

MR. HOWARD: Please mark it on the record.

Q. (BY MR. HOWARD) Was Mr. Moore present the whole time?

A. Yes.

Q. Have you talked to Mr. Kaley about PCB's any other times other than that one?

A. Yes.

Q. What did he tell you?

MR. PECK: Did you have meetings where Mr. Moore or others were present?

MR. HOWARD: Excuse me, there was a question.

MR. PECK: I need to know when I have to instruct him not to answer on the privilege, Gary. You didn't ask him enough questions for me to know. I'll instruct him not to answer right now, then, if that's the way you want to play it, Gary.

Q. (BY MR. HOWARD) Who was present at those other meetings or those other times you spoke with him, if anyone?

A. Most times an attorney was present, but Bob Kaley has talked with me in meetings we've had with ADEM. He's been present at those meetings.

MR. PECK: I'll instruct you not to

tell him about any information concerning any meetings with Mr. Kaley, where either an in-house counsel of Monsanto or an outside counsel for Monsanto was present.

Q. (BY MR. HOWARD) I want to know the names of every attorney that was present at every meeting you had with Mr. Kaley relating to PCB's.

MR. PECK: You can tell him the names of any attorneys that were present.

WITNESS: Buddy Cox, Adam Peck, Mike Kelly and David Moore.

Q. (BY MR. HOWARD) Where did your meeting with Mr. Kaley and Buddy Cox take place?

A. The Anniston plant.

Q. Was Adam Peck present at that meeting?

A. I don't remember.

Q. Where did your meeting with Adam Peck and Mr. Kaley take place?

A. The Anniston plant, I think.

Q. Was Mr. Lightfoot present at any

of these meetings?

A. No.

Q. Where did your meeting with Mike Kelly and Mr. Kaley take place?

A. The Anniston plant.

Q. Where is Mike Kelly from?

A. North Carolina.

Q. Does he work with David Moore?

A. Uh-huh. Yes.

Q. Was anybody else present at your meeting with Mr. Kaley and Buddy Cox at the Anniston plant?

A. I think Bob Kaley was there. There might have been a meeting where Diane Herndon was there.

Q. Who is Diane Herndon?

A. She's in our public relations group.

Q. Where does she work?

A. St. Louis.

Q. Anybody else?

A. That's all I recall.

Q. Is that the only meeting you've

had with Buddy Cox and Mr. Kaley at the Anniston plant?

A. It's the only one I recall, yes.

Q. Who was present in your meeting with Adam Peck and Mr. Kaley?

A. Again, those may have been the same meetings. I honestly don't remember, but they may have been the same meetings with the same parties.

Q. But it may not have been?

A. I don't recall. I think they were both there.

Q. What about your meeting with Mr. Kaley and Mike Kelly? Who else was present?

A. Usually these two.

Q. How many meetings did you have?

A. I recall one at the plant.

Q. So when you said usually these two, you're referring to just that one meeting, is that right?

A. Yes. You've got to understand, these guys come over and talk.

Q. How often have you met with Mike

Kelly?

A. Twice, at the plant.

Q. Anywhere else?

A. No.

Q. How many meetings have you had with David Moore?

A. One.

WITNESS: Can I get a drink of water?

(Whereupon a brief recess was had in the deposition.)

Q. (BY MR. HOWARD) Is Mr. Kaley a doctor?

A. Yes.

Q. Is he a medical doctor?

A. No, he's a Ph.D.

Q. Do you know what his Ph.D. --

A. Chemistry.

Q. Did you receive any education from Monsanto without a lawyer present?

MR. COX: Regarding PCB's or



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regarding anything?

Q. (BY MR. HOWARD) Let me rephrase the question. Did you ever get any education from Monsanto regarding PCB's without a lawyer present?

A. I was given some articles that Dr. Renata Kimbrough wrote, articles about PCB's that I was asked to read.

Q. Who asked you to read them?

A. Dr. Kaley gave them to me if I recall.

Q. That's the only education you've received from Monsanto regarding PCB's, other than those with attorneys?

A. That I recall, yes. That's the only additional information.

Q. Did your education regarding PCB's from Monsanto require the assistance of an attorney?

MR. PECK: I'm going to object to that question. I think it calls for a legal conclusion.

Q. (BY MR. HOWARD) Okay. You can

answer.

WITNESS: I can answer?

MR. PECK: I'm not sure he can answer it without disclosing the content of the information.

MS. ARENBERG: I think it calls for a yes or no.

Q. (BY MR. HOWARD) I'm not asking for content. I'm asking, like she said, for a yes or no.

MR. PECK: If you can answer without disclosing the content of the communications, then you can answer it.

MR. HOWARD: Before he does that, just let me clarify that I'm not asking you to tell me what any attorneys said in those meetings where you were being educated concerning PCB's. I'm just asking you whether it was necessary for an attorney to be there. So I'm not asking for you to disclose any of their communications.

WITNESS: Yes, I think it did.

Q. (BY MR. HOWARD) Mr. Kaley wasn't

smart enough on PCB's to educate you alone?

MR. PECK: I'm going to object to that. I think to explain why it required the assistance of counsel would require disclosing the contents of the communication.

Q. (BY MR. HOWARD) Do you refuse to answer the question?

A. I agree that I would have to tell you the contents of the meeting to answer the question.

Q. What is Mr. Kaley's educational background?

A. He has a doctorate in chemistry from Illinois.

Q. How long has Mr. Kaley been with Monsanto?

A. I don't know.

Q. What is Mr. Kaley's position?

A. He's an environmental manager in St. Louis.

Q. If there were anyone at Monsanto who you needed to ask a question about


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PCB's, who would you go to? Would it be Mr. Kaley?

A. Dr. Kaley.

Q. So Dr. Kaley is a Monsanto expert on PCB's?

A. I would call him an expert, yes, for consultations.

Q. Has Mr. Kaley been able to answer your questions about PCB's when you've gone to him with questions?

A. Yes.

Q. Did your questions and his answering of those questions always require the assistance of an attorney?

MR. PECK: Objection. Same instruction applies. If disclosing -- if there was an attorney present -- and I don't know that there always has been one -- but if there was an attorney present and if it requires you to disclose the contents of the communication to explain your answer, then I instruct you not to answer. Otherwise, you're free to answer.

Q. (BY MR. HOWARD) Would you like the question again?

A. Yes.

(Whereupon, the last question was read back by the court reporter.)

Q. (BY MR. HOWARD) And once again, so we don't have to go through this again, I'm not asking you to disclose anything that your attorneys may have said or things that were said in meetings with attorneys.

WITNESS: About PCB-related issues? Can I clarify that?

Q. (BY MR. HOWARD) Yes. About PCB's.

A. I think it goes back to what Adam says. I would have to talk about the details of the conversations.

Q. Have you ever talked to Mr. Kaley without an attorney present where you have asked him questions about PCB's?

A. I honestly can't think of a time

that I did ask him something about PCB's when an attorney wasn't present. I can't think of one. Most of my conversations related to PCB'S and effects and those sort of things, there has been an attorney present.

Q. Have you asked him any questions about just PCB's, not relating to litigation? Just general questions about PCB's without an attorney present?

A. Not that I remember. Honestly, not that I remember.

Q. Have you asked him any questions about the longevity of PCB's?

MR. COX: With or without an attorney present?

Q. (BY MR. HOWARD) Without an attorney present.

A. I don't remember any.

MR. PECK: You can't back-door your way into a privileged conversation by asking every question, Did you discuss this with Mr. Kaley without an attorney present, Did

you discuss that with Mr. Kaley without an attorney present.

I think you're coming precariously close to getting into the contents of the conversation through your questioning. It concerns me -- I mean my greatest concern is that some Court may think I've waived my privilege by allowing this to go on.

Again, I'm going to instruct Jack that if answering his questions requires for you to disclose contents of a conversation in which an attorney was present, and the communications are occurring because of a pending litigation or potential litigation, then I think it's privileged and I instruct you not to answer.

MS. ARENBERG: But surely we do agree that conversations he had with Dr. Kaley outside of the presence of an attorney are not privileged, is that correct?

MR. PECK: I agree with that.

MS. ARENBERG: Then I think we are in agreement.


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MR. PECK: But there is a right way to get at that without asking it the way you're asking it now. You just say, Tell me about conversations you have had without an attorney present about PCB's.

But to say -- I think you understand what I am getting at. But if you keep saying, Have you had conversations about X without an attorney present, then, in essence, you're back-dooring your way into the communications.

MS. ARENBERG: It's a yes or no question.

MR. PECK: It doesn't matter. The way the question is asked is back-dooring his way into the communication.

MS. ARENBERG: Are you going to instruct him not to answer?

MR. PECK: I've given him my instructions.

Q. (BY MR. HOWARD) Let me ask the question again. Have you ever discussed with Mr. Kaley the longevity of PCB's?

MR. PECK: You have my instruction, Jack.

WITNESS: I can't answer that.

Q. (BY MR. HOWARD) Are you going to follow your attorney's advice and not answer the question?

A. Yes.

Q. Are you concerned about the longevity of PCB's in the environment?

A. Personally?

Q. As plant manager for Monsanto's Anniston plant?

A. I am concerned about the longevity of PCB's in the environment, yes.

Q. Have you asked anyone at Monsanto any questions about the longevity of PCB's in the environment?

MR. PECK: You've got my instructions.

Q. (BY MR. HOWARD) Without an attorney present?

A. No.

Q. Are you concerned about potential

health hazards relating to PCB's?

A. Personally?

Q. Yes, personally.

A. Based on the consultations we've had with Dr. Kimbrough and Dr. Forrester, no, I'm not concerned.

Q. What about as plant manager of Monsanto's Anniston plant?

A. No, I'm not concerned.

Q. So you haven't asked anybody at Monsanto questions relating to potential toxicity of PCB's, without an attorney present?

A. No.

Q. Are you concerned about potential liability for the company in relation to the presence of PCB's in and around the Anniston plant, as Monsanto's Anniston plant manager?

A. I'm concerned about the liability, yes.

Q. Have you asked anybody at Monsanto, without an attorney present, any questions about the potential liability?



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A. Not that I recall.
Q. Have you talked about the potential liability, or your concerns about potential liability with anyone outside Monsanto?
MR. COX: Excluding attorneys.
WITNESS: Perhaps my wife.
MR. PECK: There is a separate privilege attached to those communications.
MR. HOWARD: That's right. He can answer if he wants.
MR. PECK: You have a privilege not to discuss communications with your spouse. It's recognized in Alabama law.
WITNESS: No, I haven't.
Q. (BY MR. HOWARD) Have you talked to your dad about it?
A. No.
Q. Talk with your kids about it?
A. No.
Q. Do you go to church?
A. Yes.
Q. Where do you go to church?

A. First United Methodist.

Q. Have you talked to your pastor about it?

A. No.

Q. Tell me what you know about PCB's.

A. I know that they were manufactured at the Anniston plant in 1972. I know that they were used as an insulation material in transformers because of their fire retardant properties, and because they do not break down.

I know that they are a concern in the environment because they are long-lived if they are released in the environment. I know they are not very water soluble, they have an oily type substance.

I know it's a series of chemicals, it's not just one. It's a whole series of compounds. That's generally what I know.

Q. You said you had a meeting with Mr. Kaley and someone from ADEM, is that correct?

A. Yes. There were ADEM people there.

Q. I want to know everything that was said and everything that happened at that meeting. When it was, first of all.

A. I don't recall the exact date.

Q. Was it this year?

A. It was this year. And it was a meeting at the ADEM facility. And representatives of ADEM were there.

Q. Who was there? Was Bob Cooner there?

A. No. I don't recognize that name. Dan Cooper might have been there. Amy Gray. And I think that was all that was there from ADEM.

Q. Who was there from Monsanto?

A. I believe Robert Jones, Bob Kaley, and myself.

Q. Were there any attorneys present?

A. No.

Q. What happened at the meeting? What was the purpose of it?

A. We were down there to review a preliminary draft of the risk assessment that was put together by Alabama Department of Public Health.

Q. Did ADEM call you and ask you to come down for a meeting?

A. I think Public Health called.

Q. The Department of Public Health?

A. Yes.

Q. There was nobody from the department there? Was Dr. Brian Hughes there?

A. Dr. Hughes was there and Neil Daniel.

Q. Who was in charge of the meeting?

A. Brian Hughes.

Q. What was the format of the meeting? Did Dr. Hughes make a statement at the beginning?

A. Yes. If I remember, he made a statement that they had prepared this draft, and they invited us down to receive a copy of the draft and discuss it. It was passed

out and we looked it over and discussed it. I think it was passed out.

Q. So that's the first time you had seen that draft?

A. That's the first time I had seen that draft, yes.

Q. What was your initial reaction to it?

A. Quite frankly, I know very little about risk assessments and what they are, and I didn't know what to make of it. I didn't know what to make of it or understand it.

Q. What did Dr. Hughes say about that risk assessment?

A. He said that was a draft; they were working on it. We talked about the process of where it went from here, revisions it went through before final release. That's pretty much all we talked about.

Q. Was there anybody from the agency in Atlanta from where they are working on

this risk assessment at the meeting?
A. No.
Q. Did anybody from ADEM make comments on the risk assessment?
A. If they did, I don't remember.
Q. How long did the meeting last?
A. Approximately an hour, I would say.
Q. Dr. Hughes talked for most of that?
A. Neil Daniels talked, and Bob Kaley talked, if I remember.
Q. What did Mr. Kaley say?
A. Comments about the risk assessment.
Q. Do you recall any of them?
A. I recall that he specifically asked that we, Monsanto, take a copy and be allowed to comment on it.
Q. And you did comment, did you not?
A. Yes.
Q. Did Mr. Kaley draft those comments?

A. Yes.
Q. Did you review them?
A. No, not really. I got a copy of them. And then, if I remember, there was a three-way telephone conversation, Dr. Hughes, Dr. Kaley and myself, where we told Dr. Hughes they were coming -- that the comments would be coming and they would be receiving them.

(Whereupon, Plaintiff's Exhibit 2 was marked for identification and copy of same is attached hereto.)

Q. Mr. Mayausky, I'm going to show you what has been marked as Plaintiff's Exhibit 2 to your deposition. See if you can identify that document for the record.
A. This is the draft that was prepared by Alabama Department of Public Health, a risk assessment.
Q. Is that the draft that you were just referring to that was handed out to you

at that meeting in Montgomery?

A. Yes.

(Whereupon, Plaintiff's Exhibit 3 was marked for identification and copy of same is attached hereto.)

Q. I'm going to show you what has been marked as Plaintiff's Exhibit 3 to your deposition to see if you can identify that document for the record.

A. Yes. This was what was forwarded, as comments on this draft, to Dr. Brian Hughes.

Q. Sir, is this your signature on Plaintiff's Exhibit 3?

A. Yes.

Q. Did you draft this letter to Dr. Hughes?

A. No, I didn't draft it, I just signed it.

Q. By signing that letter, did you ratify the things contained in that letter?

MR. PECK: Talking about the cover letter, first page of Plaintiff's Exhibit 3?

Q. (BY MR. HOWARD) That's what I said.

A. Did I ratify it?

Q. Yes.

A. What do you mean by ratify it?

Q. Do you agree with the things said in this letter?

A. Yes. Inasmuch as Dr. Kaley prepared this.

Q. At this point I'm talking about just the letter.

A. Oh, the cover letter. Yes.

Q. The comments that start on page DSW039977, did you review these comments written by Dr. Kaley?

A. I looked it over, yes.

Q. Did you explain to Dr. Hughes in your letter to him that these comments were prepared by Dr. Kaley?

A. Not in the cover letter.

Q. Was anything said in that meeting in Montgomery where the risk assessment draft was handed out that was beneficial to you in your understanding of it?

A. I learned the process that a risk assessment went through. Generically, that it was written and sent to CDC in Atlanta for comment and review and revision. I learned those sort of aspects of how it flowed.

Q. Did he explain to you why a risk assessment was even done?

A. No. We never really talked about why it was done.

Q. Did you ever learn why it was done?

A. No.

Q. Who requested that -- did Monsanto ask that a risk assessment be done?

A. No.

Q. Do you know who requested it?

A. No.

Q. If you will look on page 39977, if

you will read the first paragraph for me to yourself.

A. (witness complies.) Okay.

Q. Dr. Kaley's notes reference that the meeting was requested by Alabama agencies, is that right?

A. Yes.

Q. What Alabama agencies is he referring to, do you know?

A. I think the meeting was called by the Alabama Department of Public Health.

Q. But as far as you know, you don't know who requested that the risk assessment be done?

A. No, sir.

Q. Did you ask anyone at ADEM?

A. No, sir.

Q. Did you ask anybody at the Department of Public Health?

A. No, sir.

Q. Does that interest you as to why it was requested?

A. I was just confused by it. I

didn't even know it was requested until you just said that, if it was.

Q. Well maybe I'm using poor terms. How do you think that the risk assessment came into being?

A. I think Mr. Daniels decided to do a risk assessment.

Q. Did you ask him why he decided to do a risk assessment?

A. No, I did not.

Q. Does that interest you as plant manager?

A. He's in the Alabama Department of Public Health. I don't know his reasoning. I don't understand what his charter is.

Q. That's fine, but it doesn't answer my question. My question was does that interest you as to why?

A. No, I guess not. No.

Q. What does this risk assessment deal with?

A. If I remember, it dealt with the areas around the plant. Residents in and

around, immediately adjacent to the Anniston facility. And PCB's.

Q. It also relates to Choccolocco Creek, does it not?

A. Yes, it does. I had forgotten that, but yes, it does.

Q. It also relates to the west end landfill, does it not?

A. I include that, yes, in the areas around the plant.

Q. It also relates to Snow Creek, does it not?

A. In the back it does make reference to Snow Creek, yes.

Q. In relation to all those things, the Monsanto plant, the drainage ditches, Snow Creek, the Choccolocco Creek, and the west end landfill, it deals with those areas and the risk assessment for exposure to PCB's, is that correct?

A. Yes.

Q. Did you talk to anybody in St. Louis about this risk assessment?

A. Other than Dr. Kaley, no.

Q. What did you say to Dr. Kaley about it?

A. Most of those meetings were with an attorney present.

Q. What about the ones where an attorney was not present?

A. I don't remember any. I should say all those meetings were with an attorney present. I don't remember any others, other than the phone calls we talked about and the specific meeting at Alabama Department of Public Health.

Q. I want to know about the phone calls.

A. The phone calls, whenever we called Brian Hughes, a three-way conversation, in which we told him this risk assessment would be coming. That it had been prepared and it was coming, and to be on the watch out for it.

What went into the comments -- Bob Kaley did most of the conversation. I just

sort of was a part of it, that's all. Just listening in.

Q. The whole purpose of the conversation was to say the mail is coming?

A. Basically. And also to find out where they were in the process of this sequence of events that the draft went through.

Q. When is the last time you and Mr. Kaley talked to Dr. Hughes?

MR. PECK: With regard to the risk assessment?

Q. (BY MR. HOWARD) No, period. When was the last time you and Mr. Kaley called Dr. Hughes?

A. Well, we met with Dr. Hughes when they came down to the area for their community meetings. He was at the meeting.

Q. When was that?

A. October 14th. It was a Thursday in October. I can remember it was a Thursday, but I don't remember the date.

Q. So you talked to Dr. Hughes on

that day, whether it was a Thursday. You don't know if it was the 14th --

A. Right. He met with us at the plant.

Q. He met with whom?

A. Dr. Kaley and myself. Robert Jones was there. Brian Hughes was there, Neil Daniels. Representatives from ATSDR were there.

Q. What is ATSDR?

A. Agency for Toxic Substances and Disease Registry.

Q. Who called that meeting?

A. We requested -- I think Bob Kaley requested that meeting, knowing they were going to be in the area to do these community meetings. We asked them before the community meetings started to come over to the plant and sit down and talk with us.

Q. Did Bob Kaley come down specifically for this meeting?

A. If I remember correctly, yes.

Q. Was it in your office?

A. A conference room at the plant.
Q. Do you know how Mr. Kaley requested this meeting?
A. I think he called Brian Hughes.
Q. Was there any correspondence regarding this meeting, time, place, whatever?
A. I don't recall any.
Q. It was all oral?
A. I think so.
Q. Did you take any notes at this meeting?
A. No.
Q. Did you see anybody else taking any notes?
A. Maybe the ATSDR people. The ATSDR people.
Q. What happened at the meeting?
A. We just wanted to find out what they were going forward with in the community meetings. What was the format, what they were going to be talking about. Once we found out what they were


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going to be talking about, how the results were going to be communicated back to the neighborhoods, and the people who were involved in the meetings. We also wanted to tell them as a public community meeting, we were going to attend.

Q. Were you invited?

A. Yes. They made it clear that we were welcome to come.

Q. What did he tell you the format was going to be?

A. From what I remember, they said they were going to get up and give some preliminary information about why they were there to the community.

Introduce -- I think it started with Dr. Hughes. And introduce Neil Daniels who would give some information about what they had in mind for that evening. And introduce James Walker -- Dr. James Walker from ATSDR who would talk about what is ATSDR and what do they do.

Then they would break with

residents individually to talk with them. They would break into smaller groups. The ATSDR people, I think they went off to rooms where they were talking individually with residents.

Q. Did they -- did you go to the meeting?

A. Yes.

Q. Who else from Monsanto went to the meeting?

A. Bob Kaley.

Q. Any attorneys go with you?

A. No.

Q. Did they introduce or acknowledge that you folks were there?

A. Yes.

Q. What did they say when they introduced you?

A. They just said, Two Monsanto representatives. They introduced me and Dr. Kaley.

Q. What did you do after the group broke and went into individual groups with

ATSDR?

A. We stepped outside. I had a conversation with one resident.

Q. Who?

A. I think his name was Mr. Wright, but I'm not certain of the name. But came to find out that he owned some property in the property purchase program that wasn't clear on the information, and where he went to get more information. So we talked about that.

Then I met and talked with a newspaper reporter from Anniston Star who had some questions.

Q. What else did you talk with Mr. Wright about, other than the things you just told me?

A. Pretty much, that was it. He was there to find out what was going on because they were invited to this meeting. But he wanted to know more about the property purchase program, what he had to do to be involved with it.



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I told him we had a trailer on the plant where Metropolitan had an information center. I asked him to come by the trailer and talk to the representatives in the trailer.

Q. Did he ask you the results of any sampling?

MR. PECK: Prudential, not Metropolitan.

Q. (BY MR. HOWARD) Did Mr. Wright ask you about potential health concerns from PCB's?

A. Mr. Wright, no.

Q. So all Mr. Wright wanted to know was how he could see about selling his property?

A. How he could find out more information about the program.

Q. How old is Mr. Wright?

A. Sixties.

Q. Is he black? White?

A. White.

Q. Do you know where his property is

located?

A. It's up near -- I can't remember the name of that street. I know where it's located but I can't remember the name of the address.

Q. Would looking at a map help you?

A. Probably.

Q. I'll show you my marked up copy if you just want to look at it.

A. His property would be -- it would be over here, Ferron.

Q. Do you know if Mr. Wright's property is --

A. And I hope his name is Mr. Wright.

Q. We'll go with that. If it's not -- do you know if this person who we will call Mr. Wright, if his property was upgradient from the drainage ditches?

A. Yes.

Q. Does his property abut a commercial area?

A. Yes. His property is near West 10th Street Pawn Shop.

Q. Does it abut that?
A. I'm not clear on that.
Q. But it's close to there?
A. Close.
Q. Does Mr. Wright own his property or does he rent it?
A. He owns the property, if I remember, and his son rents it from him.
Q. Who did you meet from the Anniston Star?
A. Elizabeth Perdello.
Q. Do you mind if we call her Elizabeth?
A. Elizabeth.
Q. What did she ask you? What did she want to know?
A. She asked questions about -- they were more my comments on the community meeting, what I thought was going on. Why Monsanto was there. That was basically what I remember her asking. I don't remember the exact questions.
Q. What did you tell her?

A. I told her we were there to understand why the Alabama Department of Public Health was out doing these meetings. What they were going to be communicating to the community.

She asked if we thought there were health concerns. And I told her of our own consultations with experts, that we didn't feel like there were reasons for health concerns. But we were trying to understand what the Department of Public Health was doing.

Q. What expert are you referring to?

A. Dr. Kimbrough and Dr. Forrester.

Q. These are the people who are listed on Plaintiff's Exhibit 1?

A. Yes.

MR. PECK: Two of the three.

Q. (BY MR. HOWARD) Do you know if Dr. Brian Forrester has been hired by Monsanto as a consultant in litigation?

A. I know he's consulted with us. But I don't know about hiring. He's been to

the plant and talked over these issues, and looked at some of the data and looked at the area.

Q. Is Monsanto paying Mr. Forrester any money?

A. I don't know.

Q. If they were paying Mr. Forrester any money, would that potentially bias his opinion?

A. He's a scientist. I would assume he would take a scientific reading and draw a conclusion.

Q. But is it possible if he was being paid by Monsanto --

A. I can't speculate.

Q. How many times has Dr. Forrester been out to the plant?

A. Once.

Q. When was that?

A. It was this year. It was around July, August.

Q. Are you aware of the fact that Dr. Forrester submitted an affidavit on behalf

of Monsanto in one of the cases involved in this litigation?

A. No.

Q. How many times has Renata been -- Dr. Kimbrough?

A. Once.

Q. Been to the plant once?

A. (Witness nods).

Q. How many times has she been to ADEM?

A. None that I know of.

Q. How many times has she talked to the Department of Public Health that you know of?

A. None that I know of.

Q. How many times has she talked to folks at ADEM that you know of?

A. None that I know.

Q. How many times has she talked to people at ATSDR that you know of?

A. None that I know of.

Q. When did Ms. Kimbrough come to the plant?

A. March. About March of '95.
Q. Did you sit down and talk to her?
A. Yes.
Q. Who else was there?
A. Dr. Kaley, Robert Jones. I think Diane Herndon might have been there. That's all I recall.
Q. Tell me everything that was said at that meeting.
A. She had gone out and looked at the area. She had toured -- looked at the data. She had toured and walked the neighborhood. Looked at the drainage ditches.

Came back -- I don't remember her exact comments, but the basic gist of what she said was that she saw no reasons for health concerns for that neighborhood. That she didn't see any routes for exposure, as she put it.

Q. Did she say she saw any children in that neighborhood?
A. There are children in the

neighborhood, but I don't remember her asking about that.

Q. Are there barriers around the drainage ditches?

A. No.

Q. Is there a barrier around Snow Creek?

A. No.

Q. Is it possible for people to get into the ditches?

A. It's possible.

Q. Is it possible for children to get into the ditches?

A. Possible.

Q. What about into Snow Creek? Is it possible for people -- and that includes children -- to get into Snow Creek?

A. It is possible.

Q. Did you tell Ms. Kimbrough that it was possible for people to get into the drainage ditches?

A. If I remember correctly, I did not tour with her. But I was there after she



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toured.

Q. So maybe you answered it, but I just want to clarify. When she came back and made the statement that she saw no avenues for exposure -- did I use the right term?

A. Routes for exposure. I think that's what she said.

Q. Did you tell her it was possible for children to get into the creek?

A. No, I did not.

Q. Did you tell her it was possible for children or people to get into the drainage ditches?

A. No.

Q. Dr. Kimbrough is a medical doctor, isn't she?

A. Yes. According to this she is.

Q. Do you know if she has any training in hydrology?

A. No, I don't.

Q. Do you know if she has any training as an environmental engineer?

A. I don't know.

Q. Did she take any sediment samples, that you know of, that day that she toured the neighborhood and the plant?

A. Not that I know of.

Q. Do you know if she knocked on doors and talked to people?

A. Not that I know of.

Q. Did she ask you if anyone had come to you raising health concerns from that neighborhood?

A. No.

Q. Did you tell her there is a day care center very close to the west end landfill?

A. I didn't tell her.

Q. There is a day care center close to the west end landfill, isn't there?

A. Yes.

Q. Did you hear anyone tell her that there is a day care center close to the west end landfill?

A. No.



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Q. Did you tell anyone -- did you hear anyone tell her that it was possible for children or people to get into Snow Creek or the drainage ditches?

A. No, sir.

Q. Did you tell Dr. Kimbrough about the levels of PCB's that had been found in Snow Creek?

A. I didn't personally.

Q. Did you hear someone else tell her?

A. No.

Q. Do you know if she was aware of that?

A. I was told she looked at the data from sampling around the area.

Q. Who told you that she looked at it?

A. Dr. Kaley, I think, told me that. That she had looked at all the data at that point.

Q. Did you ask her about that data?

A. No.

Q. Did you ask her any questions?
A. It seems to me that she talked about what she saw. No, I didn't ask her any questions. She gave me a complete picture.
Q. Complete picture of what?
A. Her assessment.
Q. Did you agree with her assessment?
A. Yes.
Q. Do you agree that as far as you know, she based it on concrete data?
A. Yes, as far as I know.
Q. Correct data?
A. Yes, as far as I know.
Q. Correct information?
A. Yes.
Q. Did Elizabeth, the reporter from the Anniston Star, write an article?
A. She and Tom Spencer wrote an article.
Q. Did you talk to Tom Spencer?
A. Yes.
Q. When did you talk to him?



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A. Early October.
Q. Where did you talk to him?
A. At the plant.
Q. Did he call you?
A. I called him.
Q. Why did you call him?
A. We have been talking with a newspaper reporter at the Anniston Star about these issues for some time.
Q. What is his name?
A. His name was Sean Reilly.
Q. Why didn't you call Sean Reilly?
A. We tried to and we found out he left the newspaper.
Q. Okay. So did Tom Spencer take his place?
A. Yes.
Q. So you called Tom Spencer. Tell me what happened.
A. We explained to him that we had met in the past with Sean Reilly, and he had interest in these articles, and asked him if he had continued interest in this area. We

were at a point where we had some new information at that time.

We were moving forward with the property purchase program and we want to inform him of the property purchase program. Wanted to let him know it was out there because he might think it's newsworthy. We met and talked to him about the property purchase program. That was about it.

Q. But he didn't come to the meeting?

A. No.

Q. He sent Elizabeth?

A. Right.

Q. Is Tom Spencer in Montgomery?

A. Yes, his office is in Montgomery.

Q. Where is Elizabeth? Where is she headquartered?

A. She's in Anniston, because I see her all the time. See must live there.

Q. See her in town?

A. I see her at the YMCA all the time.

Q. How would you classify the article that Elizabeth and Tom wrote? Was it favorable to Monsanto?

A. I would say it was a fair article. It was factual reporting of the information.

Q. Did you provide them with any of the sediment samples from Snow Creek and from the drainage ditches for that article?

A. We asked -- or I asked Tom, Did you have that data, because I knew Sean had it all. And he said he had all of Sean's files and was assuming Sean's role.

Q. Tom had the data even that came out in October?

A. That came out in October?

Q. He had all the most recent data, is that correct?

A. As far as my knowledge, he had all the most recent data.

Q. Did you point out to him that there had been readings as high as 20,000 parts per million?

A. I don't know if we specifically discussed that at that session that we had at the plant. I don't remember us talking about that. He mentioned it in the article but I don't know of any specifics. So he must have dug it out of Sean's files or someplace.

Q. In regard to the PCB pollution in Snow Creek and in the drainage ditches, do you agree with this statement: "I think our guys," referring to Monsanto, "Thought the problem was going to go away, especially after the flow was cut off." Do you agree with that statement?

A. I think our guys thought the problem was going to be away --

MR. PECK: I would ask you to let him read the entire context of the quote. He's entitled to see it. Either you show it to him or I'm going to ask him not to answer the question.

MR. HOWARD: That's fine.

(Whereupon, Plaintiff's Exhibit 4 was marked for identification and copy of same is attached hereto.)

Q. (BY MR. HOWARD) I'm going to show you what has been marked as Plaintiff's Exhibit 4 to your deposition. It is an article that appeared in the Anniston Star on April 2nd, 1995. It was written by Sean Reilly.

You can read the whole article. I just want to know if you agree with this statement. It begins with, "I think our guys...."

MR. PECK: Take your time, Jack.

WITNESS: Okay.

Q. (BY MR. HOWARD) Do you agree with that statement?

A. Yes. In the historical perspective of what was going on back then. I can only speculate about what those guys were thinking.

Q. Has the problem gone away?

A. Well, there are PCB's found in sediment, so the problem still remains.

Q. You're a corporate representative today speaking on behalf of public relations?

MR. PECK: To the extent he has knowledge.

Q. (BY MR. HOWARD) Did you authorize this statement to be made to the paper?

A. No.

Q. Do you know who did?

A. No.

Q. When this article appeared in the paper, Plaintiff's Exhibit 4, did you call Sean Reilly or the Anniston Star and ask for a retraction?

A. No.

Q. Did you call and talk to the reporter about the article?

A. No.

Q. Let's go back to the meeting you had with the state folks at your office before the community meeting.

A. Okay.

Q. They told you about the format, you said. They were going to tell you about the results as they were going to report them to the neighborhood. What do you mean?

A. We talked about the fact that they were offering to the residents blood sampling.

Q. Excuse me?

A. Blood sampling. We wondered, if I remember the way the conversation went, we wondered about how those results would be reported back. Who was collecting the samples.

Q. Let me make sure that I am understanding. The Department of Public Health and the ATSDR folks were going to go to the folks in the community who came to the meeting and say, We'll test your blood for you for the presence of PCB's?

A. At that time, conditionally they were offering that, yes.

Q. On what condition?

A. They had approval to do so.
Q. Approval from whom?
A. Approval of the residents and internal to ATSDR.
Q. So ATSDR was making an offer and they didn't have approval to do that yet?
A. Yes.
Q. Did they ever get approval to do that, if you know?
A. I don't know.
Q. Have you called and asked them?
A. No.
Q. Do you know if anybody at the Anniston plant has called and asked them?
A. No.
Q. Are you interested in knowing that?
A. I assume that we'll hear, or we'll hear that they are out there. I would like to know, but I haven't called. I just haven't had the time.
Q. Do you know if they were asking the community people that night to sign

waiver forms giving them permission to do that?

A. Yes. They had a form. I didn't see it, but they talked about a form that allowed soil sampling, in-house dust sampling, a questionnaire to be filled out, and blood sampling. And a resident could pick or choose whatever they wanted to participate in.

Q. Did you discuss the possible results of those three types of testing with anyone?

A. No.

Q. Did anybody from ATSDR or the Department of Public Health or ADEM tell you why they wanted to do blood sampling?

A. There was an article in which Brian Hughes is quoted -- that's my information is that he said they wanted more information about this whole situation.

Q. Is there a potential that the residents of the area could have PCB's in their blood?

A. Apparently the Alabama Department of Public Health thinks so.

Q. Do you think they are wrong?

A. I don't know. I can't speculate.

Q. Why were they interested in doing soil sampling? Did they tell you?

A. Again, I go back to what Brian Hughes said in the article, they wanted more information. They were trying to understand this situation.

Q. Had Monsanto already done some soil sampling on the property?

A. Yes.

Q. Was that not good enough?

A. They had all those results. All I can say is they wanted to do more.

Q. Did they tell you why they wanted more soil samples?

A. No, sir.

Q. Did he tell you they didn't trust those soil samples?

A. No, sir.

Q. Do you know why Monsanto wanted --



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why ATSDR and ADEM and the Department of Public Health, did anyone tell you why they wanted to do internal dust sampling?

A. No, sir.

Q. Was there any discussion about the airborne qualities of PCB's?

A. That was brought up at one of the community meetings.

Q. What was said?

A. That there was a potential for airborne carrying of PCB's, which was brought up.

Q. Did anyone -- have you heard anyone from Monsanto, Dr. Kaley for instance, or anyone else refute that?

A. I can't answer that question.

Q. You just don't remember?

A. I can't answer it because it was discussed with an attorney present.

Q. Have you heard anyone at Monsanto refute that PCB's can be in people's blood, or agree that it could be in people's blood?

A. I can't answer that question.

Q. Based on the privilege objection?
A. (Witness nods).
Q. You will agree with me though that PCB's can be found in soil?
A. Yes.
Q. Is Mr. Neil Daniels heading up this effort in Anniston?
A. My understanding is he's in charge of it, yes.
Q. Do you know if any blood samples have been taken?
A. Not to my knowledge.
Q. Do you know if any dust samples have been taken?
A. Not to my knowledge.
Q. Do you know if any soil samples have been taken by ATSDR, ADEM, or the Department of Public Health?
A. I was told they were in the area taking soil samples.
Q. When was that?
A. Last week? I think it was last week.

Q. When you say they, who do you mean?

A. I was told ATSDR was out there taking samples. I was aware of it because we were splitting samples with them. Taking half for our own analysis.

Q. So they take two samples, give you one and they keep one, or you have someone there taking a sample alongside them?

A. I'm not sure of the details of it.

Q. Who would know that?

A. Robert Jones.

Q. Who approved that to be done?

A. That was discussed at the meeting that we had, that we wanted to split samples with them.

Q. Who from Monsanto approved the taking of samples?

A. The splitting of samples?

Q. Yes, sir.

A. Bob Kaley talked about it. So I guess he would be the one that approved it.

Q. Do you know how much it's costing?

A. No.

Q. Where is that money coming from, out of your budget?

A. The remediation.

Q. Is that your budget or Mr. Kaley's?

A. Foresman's.

Q. Mr. Foresman, excuse me. Where was Monsanto going to send their samples off to be analyzed?

A. I don't know.

Q. Are you interested in knowing what the results are from those soil samples?

A. When they come back, yes.

Q. Do you know when they are coming back?

A. No.

Q. Have you asked?

A. No.

Q. Have you seen Robert Jones since they were out there last week taking samples?

A. Yes.



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Q. Did you ask him?
A. No

(Whereupon, Plaintiff's Exhibit 5 was marked for identification and copy of same is attached hereto.)

Q. Sir, I'm going to show you what I am marking as Plaintiff's Exhibit 5 to your deposition. Can you tell me if you've seen this before.
A. Yes.
Q. What is it?
A. This is the brochure or information packet that was provided to residents in the property purchase program.
Q. Have you seen that copy in the files at Monsanto?
A. Yes.
Q. Is that the type document that Monsanto would keep in the normal course of business?
A. Yes.

Q. Do you know who drafted that?
A. Prudential.
Q. Do you know who asked Prudential to draft that?
A. The remediation group through Mike Foresman, but I'm not sure who did it.
Q. Would you look at page 3 of that document.
A. (witness complies.)
Q. Is that a cover letter from Monsanto?
A. Yes.
Q. That's your signature on that document?
A. Yes.
Q. And that's a letter written to persons in the property buy-out area?
A. Yes.
Q. Starts with, "Dear neighbor?"
A. Yes.
Q. The second sentence says that, "We have found some polychlorinated biphenyls (PCB's) on our property and on some adjacent

areas." Sir, can you define for me what "Some adjacent areas" is?

A. Some drainage ditches on the east end of the plant.

(Whereupon, Plaintiff's Exhibit 6 was marked for identification and copy of same is attached hereto.)

Q. I'm going to show you what I'm marking as Plaintiff's Exhibit 6 to your deposition, and ask you if you can identify that?

A. You're asking me to identify it?

Q. Yes, sir.

MR. PECK: Do you recognize it?

WITNESS: I think this is the first time I've seen it. It looks like it's been taken from something, an overall other document, I guess.

Q. (BY MR. HOWARD) Do you recognize the area?

A. Yes, I recognize the area.

Q. That's fine. If you can identify the area?

A. This is the area near the plant, Clydesdale and 10th Street detail.

Q. Would this be the area east of the plant?

A. Northeast.

Q. Would this be the area that contains the drainage ditches you were just referring to when you said the east end of the plant drainage ditches?

A. Well actually, no. The drainage ditch I'm referring to goes underground right about where this line starts. Right about here. It goes underground.

Q. And you are pointing to the line on Plaintiff's Exhibit 6 that has an arrow pointed to it --

A. Bounded by 8th Street.

Q. But the line you were pointing to on the exhibit is the one that has an arrow pointing to it with the words arrow, quote, A, close quote?



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A. Yes.

Q. And the drainage ditches are over here?

A. It goes underground over here, and is underground through this area in here.

Q. Where is the Monsanto plant?

A. Up in this area. And some of the property comes down to right here along Clydesdale.

Q. How does the water flow from your out-fall point on your property through this area?

A. Stormwater?

Q. All out-fall.

A. Comes down from the plant, from the west, one line directly from the plant on our property that's right here. And another one comes from the landfill areas across 202, under 202, crosses through a neighborhood here. Back onto our property. They intersect back up on our property and then go back down through here and then underground.

Q. Can you show me on Plaintiff's Exhibit 6 where the areas are that you were referring to, the east end drainage ditches. Are they on that map?

A. If the drainage ditch is on this map it's not in this area. It runs back this way and underground back over here.

Q. Can you use this blue pen to mark the area as it is above ground the best you can. And the red pen to show where it goes underground. And this is on Plaintiff's Exhibit 6.

A. If I recollect, it comes up this way and back in here someplace. Splits and goes that way. Then goes this way. And underground goes down through here.

Q. Does it stop being an underground ditch before it reaches Snow Creek?

A. Yes. I think it does reemerge over on the other side of 10th Street for a little piece. But I'm not sure where.

Q. So the adjacent areas -- let me take that back. Have you tested the soil in

the ditch as it is underground?

A. No.

Q. Have you tested the soil sediments in the ditch as it is above ground, the area marked in blue on Plaintiff's Exhibit 6?

A. Yes.

Q. So it is the area marked in blue on Plaintiff's Exhibit 6 that you're referring to when you say that PCB's were found on some adjacent areas, is that correct?

MR. COX: Part of that is Monsanto property.

WITNESS: This is Monsanto property, all of this, and this line up to here until it gets back up into this little area, a little community that's referred to as Mars Hill. So it's kind of a patch work property.

Q. If you will look at page 5 of Plaintiff's Exhibit 5, I think. Does this map better reflect the area than what I was trying to show you on Plaintiff's Exhibit 6?

A. Well it shows the entire area, a larger view. This is a subset of this.

Q. Can you, on this map, as best you can, show the areas of the drainage ditches that are above ground in blue, and below ground in red.

A. To my recollection, you would have one drainage ditch that comes along here. Comes under 202. And you have another one that comes through here and winds up there. I made a mistake here. This line is over this way further. Scratch that. And it goes underground here to 10th Street.

Q. And it reemerges on the other side of 10th Street?

A. Somewhere. I'm not clear where.

Q. The program began on October 2nd, 1995. That's the buy-out program, is that right? October 2nd, 1995? It's on the next page, I believe, page 6.

A. I think the community meetings were on Thursday of that week, whatever date that was. That's when it was officially

kicked off.

MR. PECK: I know this is a long topic area. Is now a good time to break?

(Whereupon a brief recess was had in the deposition.)

MR. HOWARD: All parties, the attorneys and Mr. Mayausky have discussed the situation regarding the lateness of the hour of the day before a holiday. We have agreed that the deposition will not be completed this evening, and that we will break the deposition at 4 o'clock with the understanding that the deposition will be continued.

And I believe that Adam and Buddy are going to commit that we will get a date certain from them so that the deposition can go forward and be completed before the 15th of December, is that correct?

MR. PECK: That's right.

MR. HOWARD: And also with the

understanding that we also have at least one more deposition to be scheduled within that time period, of Jerry Brown.

MR. PECK: That's right. We agree that we might have to work on Saturday.

MR. HOWARD: I agree that Pam will not mind that.

(Whereupon, Plaintiff's Exhibit 7 was marked for identification and copy of same is attached hereto.)

Q. (BY MR. HOWARD) Mr. Mayausky, I'm going to show you what I've marked as Plaintiff's Exhibit 7 to your deposition, and ask you if you can identify that.

A. This was an announcement that was used to be given to residents in the property purchase area, informing them of the meeting that we were going to have to introduce the property purchase program.

Q. Were those meetings held on October 5th, 1995?

A. Yes, sir.
Q. One at 5:30 and one at 7?
A. Yes.
Q. One at Mars Hill Baptist Church and one at Bethell Baptist Church?
A. Yes, sir.
Q. Where did you post those signs?
A. I did not post them.
Q. How were they given to residents?
A. They were hand-delivered.
Q. By whom?
A. I went door-to-door in the neighborhood.
Q. Did you knock on doors?
A. Yes, sir.
Q. The deadline to sign up for the program is February 2nd, 1996, is that right?
A. Yes, sir.
Q. Why did you pick that date, or why was that date selected?
A. Under the advisement of Prudential. I think that represents 90 days

out, I'm not sure, but that was a reasonable amount of time to introduce the program, have people sign up for it and make a decision.

Q. Would you look back at Plaintiff's Exhibit 5 for me just a moment.

A. Yes.

Q. Will you flip over to page 8.

A. (witness complies.)

Q. At the top of the page it says that this is an offer for homeowners and rental property owners. So if I understand this correctly, this would be the way a potential offer would work for someone who owns a home or owns rental property in the property buy-out area, is that right?

A. Yes, sir.

Q. And there are some payments that would be made to people who sold their property?

A. Yes, sir.

Q. And the first of those is the appraised value for the house?

A. Yes, sir.
Q. I understand there is a computation you would go through to get the appraised value. There is also a premium over the appraised value?
A. Yes, sir.
Q. 75 percent of the appraised value for owner-occupied homeowners, is that right?
A. Yes.
Q. And 50 percent of the appraised value for rental property owners, is that right?
A. Yes.
Q. What is the purpose of that premium over appraised value?
A. Realizing that this is a difficult decision for many people, we wanted to be able to assure that they would be able to move to like housing, or improved housing in the Anniston area, that that would be readily available to them.
Q. Is that to help with moving

expenses and things of that nature?

A. Yes, partly. But also moving expenses, there is a miscellaneous expense allowance you will see there.

Q. You will pay someone $4,000 to move, is that correct?

A. Yes.

Q. Was the assumption that they would not be able to purchase homes in the Anniston area for the appraised value of the property?

A. No. The Metropolitan --

MR. PECK: Prudential.

WITNESS: Prudential came over and did a market survey, and felt like, even at face value, people would be able to find properties. But we wanted to be able to assure that the residents would be able to get a chance to move up. And they would be able to get better properties, or at the very least comparable, but perhaps better properties.

Q. So the premium over appraised

value was to make the offer more attractive to residents?

A. Yes.

Q. And you wanted to make it attractive because you wanted to buy as much of the land as possible, is that right?

A. Yes, sir.

Q. Sir, why is it that the premium over appraised value for rental property owners is 50 percent, and for owner-occupied owners is 75 percent?

A. I don't know the details of what goes into all that. That was one of the recommendations made by Prudential -- it really comes down to this. Money has been made on rental property. It's more of an investment opportunity. It's not a life opportunity.

And a decision for a person living on the property is more of a life decision of whether to move or not. So a little bit extra premium was offered for the property owners living there.

Q. Does potential litigation for residents play a factor in paying them more than people who just rent their property?

A. I didn't have that discussion with anybody.

Q. Did anyone tell you that a person who lived on property might be more likely to sue Monsanto than someone who just rents their property out?

A. No.

Q. Did anyone tell you that people who have lived there on their own property for longer periods of time than, say, just renters who come and go have a greater likelihood of having health problems related to PCB's?

A. No.

Q. As part of the buy-out program, if someone were to decide they wanted you to buy their property, they got an appraisal, you made an offer, and they accepted it, are they going to be required to sign any waiver of liability?

A. No.

Q. So as far as you know, if they sell their property to you, and later they find out they got a lower price for their property because of publicity relating to the pollution, they will still be -- there would be nothing that would prevent them from suing Monsanto?

A. To my knowledge, there would be nothing to prevent them from suing Monsanto.

Q. What if that person who had sold their property to Monsanto, later they found out they had cancer that the doctor attributed or said was possibly caused by PCB's, are you aware of anything they would have to sign that would prevent them from suing Monsanto?

A. I'm not aware of any waiver like that.

Q. Has anyone decided to have an appraisal done on their property?

A. Yes.

Q. How many?

A. I don't have an exact number. Last I heard, I think all but 11 of the properties over there have been in for appraisals.

Q. Do you know if those appraisals are complete?

A. Some are and some aren't.

Q. Where would those documents be kept?

A. Prudential. In the trailer on Monsanto's property. I don't know if they are in the trailer.

Q. Those are Monsanto's documents, is that correct?

A. Prudential maintains those records and is in communications with the residents on that.

Q. If Monsanto -- someone from Monsanto wanted to see those documents, they would call Prudential and get a copy of them?

A. Uh-huh.

Q. Is that a yes?



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A. Yes, sir.

MR. HOWARD: To the extent those documents are responsive, we would also like to have those.

MR. COX: I don't think they are responsive to anything. But if you would like to make a request, I'll be happy --

MR. HOWARD: We'll make a request.

MR. PECK: I'm not sure what documents --

MR. HOWARD: Talking about the written appraisals.

MR. PECK: Of the property?

MR. HOWARD: That's correct. At this point, yes.

Q. (BY MR. HOWARD) Has anyone decided to sell their property to Monsanto?

A. Yes.

Q. How many?

A. I'm aware of three.

Q. Who?

A. Mr. Murphy, Ms. Dawkins. I don't remember who the third one is. There may be



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more, I'm just not aware.

Q. Have you provided them with a written offer to buy their property?

A. Prudential did.

MR. HOWARD: To the extent those are responsive, we would also like to get those.

MR. PECK: The same thing would apply. I don't think they are responsive.

MR. COX: Unless you convince us otherwise. We'll certainly look at it.

Q. (BY MR. HOWARD) Are the transactions final on those?

A. To my knowledge they are, those three.

Q. So Monsanto now owns those lots?

A. Yes. There is a period -- I don't remember, but they have to move out.

MR. PECK: By final -- I don't know if he knows if it's legally final. Has it been closed?

WITNESS: I don't think they've been closed. There is a certain period

before closure they have to be moved out.

Q. (BY MR. HOWARD) Are the PCB's in this area, are they just in the ditches?

A. They are in areas that may be subject to flooding, is the pattern we found in the sample.

Q. How did they get out of the ditches?

A. Flooding. It carries with the sediment when it floods.

Q. So could it possibly have been carried in water?

A. If you sample water, you may find it. But if you filter the water, it goes away.

Q. So technically it's in the water?

A. Technically, it's suspended on dirt particles in the water.

Q. Do you know if the residents in this area use or have gotten soil from that area to be used in their gardens?

A. No, I don't know.

Q. Have you asked any of them?

A. No.

Q. Are you aware of any of these people who use the water from the ditches in Snow Creek to water their gardens?

A. No.

Q. Have you asked any of them?

A. No.

Q. What would you have told them if they had asked if that was advisable?

A. If they asked to use water?

Q. Or sediment.

A. If asked, I would tell them, Go back to what the health consultant says. That they saw no reason for concern, even from gardening activities.

Q. Where do they say that?

A. We had one specific resident who had a garden who asked me if he should be concerned about his garden.

Q. Who is that?

A. Mr. Nixon.

Q. What did you tell him?

A. I ran that question by Dr.



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Kimbrough, through Dr. Kaley. I asked Dr. Kaley and he asked Dr. Kimbrough. And Dr. Kimbrough came back and said as long as the vegetables were washed, there would be no reason for concern. And I relayed that to Mr. Nixon.

Q. Did you write a memo to Dr. Kaley asking him that question?

A. No, just verbally.

(Whereupon, Plaintiff's Exhibit 8 was marked for identification and copy of same is attached hereto.)

Q. Sir, I'm going to show you what I've marked as Plaintiff's Exhibit 8 to your deposition. It has written at the top, "Jack Mayausky/Bethel Baptist Church." Can you identify that for me.

A. This was in the notes I wrote of a meeting I had with Reverend Fields of Bethel Baptist Church.

Q. So these are your notes?


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A. (Witness nods).

Q. Did you handwrite the notes at the meeting?

A. No. I wrote this after I got back to my office.

Q. Did you dictate it or did you type it yourself?

A. I think I typed it myself.

Q. Is this a correct reflection of the notes that you -- is this accurate? Is this what you typed?

A. Yes.

Q. In the paragraph that begins, "Rev. Fields," it says that he was aware of Monsanto's past production of PCB's, and he was aware of concerns with PCB's from your plant. He also says he was aware of PCB fish levels in Choccolocco Creek. Is that correct?

A. Uh-huh.

Q. He said he was concerned that there was a health risk associated with this possible exposure. Do you remember that?



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A. Uh-huh, yes.
Q. Do you remember what you told him?
A. I told him at that time that we had consulted with internal people on health risks associated with PCB's.
Q. Do these notes reflect accurately what you told him?
A. Yes.
Q. So you will agree with me that you told him that you do not believe there is a health risk?
A. Right.
Q. You didn't tell him there was no health risk, did you?
A. I told him that the consultant said that there wasn't, and that's my belief, based on what they told me.
Q. Did you also tell him that, to be sure, you were consulting with outside medical experts?
A. Right.
Q. So at that point you were not sure there wasn't a health risk, were you?

A. It must not have been. I don't recall the details, but this must have been before Dr. Renata Kimbrough had come to the plant.

Q. But at the time you talked with Mr. Fields or Reverend Fields, you were not certain that there was no health risk?

A. I was certain from consultations with our internal health experts.

Q. But there were still questions in someone's mind because you were going further, is that correct?

A. I thought it was the right thing to do to ask somebody to look at the situation.

Q. Why was it the right thing to do?

A. Extra set of eyes to look at it.

Q. So there was still some doubt?

MR. PECK: Objection to the form, argumentative.

Q. (BY MR. HOWARD) Was there still some doubt?

A. Not in my mind. But I thought it

was still the right thing to do.

Q. (BY MR. HOWARD) Did you call Reverend Webb of the First Baptist Church?

A. No, I did not. Reverend Fields suggested that he might, but I didn't call him, no.

Q. Why not?

A. I thought that he had had the ball on that one. He was to talk to Reverend Webb and see if there was interest in being a part of whatever meetings we had. The way I left the meeting, Reverend Fields was going to make that contact.

Q. You're the plant manager, aren't you?

A. Yes.

Q. You're heading up this program, aren't you?

A. Yes.

Q. Reverend Fields is just a community member, wasn't he?

A. No. My view of him was as a community leader. Religious officials, if

you will, are generally recognized in this area as leaders of the community.

Q. Yes, sir, but Mr. Fields had no obligation regarding PCB's, did he?

A. No.

Q. Did you type those notes from memory?

A. Yes.

Q. Did you take any other notes while you were there?

A. No.

Q. Have you ever talked to Reverend Fields to see if he called Reverend Webb?

A. No. In conversations we've had since then, I've never -- Reverend Webb has never been discussed.

Q. Do you think some people in the community might go to Reverend Webb's church?

A. They may.

(Whereupon, Plaintiff's Exhibit 9 was marked for identification and

copy of same is attached hereto.)

Q. I'm going to show you what I'm marking as Plaintiff's Exhibit 9. See if you can identify this document for me.

A. These are notes that were put together for the community meetings when we introduced the property purchase program.

Q. Is this sort of an outline that you followed at the presentation?

A. Yes. This was pretty much my outline of the presentation.

Q. Did you prepare these notes?

A. Dr. Kaley and I prepared them, yes.

Q. If you look on the first page of that document that's Exhibit 9, the paragraph that begins with, "Monsanto and the regulatory agencies...."

"Monsanto and the regulatory agencies agreed that the technical levels of PCB's should not be allowed to leave the Monsanto property in stormwater." Did you

make that statement at the meeting?

A. Yes. Well, some variation of it. Maybe not verbatim, but some variation.

Q. So you agree with that, don't you?

A. Yes.

Q. Up on the paragraph before that, it begins with, "Over the past year or so...." About midway down there is a sentence. I'm just referring to the particular sentence. You read whatever you need to to get the context of it.

The sentence that says, "In the course of our information-gathering, we unexpectedly discovered trace levels of polychlorinated biphenyls in stormwater in ditches on our property." Did I read that correctly?

A. Yes, sir.

Q. Did you make that statement at the meeting?

A. Again, not verbatim. This was used as a guide, but I made that general point, yes.

Q. Sir, you knew that PCB's were in the west end landfill when you took the job as plant manager, didn't you?

A. Yes.

Q. You knew that PCB's had been discovered in the sediment on the surface of the west end landfill, didn't you?

A. Yes.

Q. You knew that stormwater runoff from the west end landfill ran off the Monsanto property, didn't you?

A. Yes.

Q. Then why was it unexpected that you suddenly discovered levels of PCB's in stormwater?

A. I wouldn't have expected based on the solubility -- general solubility of PCB's in water, that you would ever have found it.

Q. Does that mean that your general knowledge was incorrect?

A. No. What we've learned is it's being carried along with the sedimentation,

the small particles of sedimentation in the water. It's not really solubilized. It's more adhered and suspended.

Q. So does that mean that PCB's can be carried from sediment from the drainage ditches down into Snow Creek via that same mechanism, suspended --

A. Yes. Small particles of sediment containing PCB's can move in the water.

Q. Down into Snow Creek?

A. Yes.

Q. Those same sediment particles that are carrying PCB's, I guess, adhering to them could travel down into Choccolocco Creek, couldn't they?

A. It's conceivable.

Q. And those same sediment particles with PCB's attached to them, however you want to describe it, could be carried down Choccolocco Creek and even as far down as Lake Logan Martin, is that possible?

A. From a dilution effect, it's extremely unlikely, because of the volume of

water that would have to pass through. Because the levels we found have only been a few parts per billion.

Q. Are you familiar with sediment samples from Choccolocco Creek?

A. Not familiar with the details of the numbers, no.

Q. I'm going to refer you to Plaintiff's Exhibit 2. If I can look on with you at the same time. I'm referring especially to page DSW039973. It is a table that says Table 1, Choccolocco Creek Watershed Study, Sediment PCB Analysis. Have you seen this before?

A. Yes, now that you've shown it to me.

Q. So you are aware of the fact that when the Alabama Department of Environmental Management took sediment samples from Choccolocco Creek, they showed PCB levels, for instance on this page, as high as 38.57 parts per million?

MR. COX: Object to the form.

That's not samples from Choccolocco Creek.

Q. (BY MR. HOWARD) Is that correct?

MR. HOWARD: And I would ask that you object to the form. Simply make your objection.

MR. COX: Thank you.

WITNESS: What was the question again?

Q. (BY MR. HOWARD) Are you aware that 38.57 parts per million were found in sediment samples from Choccolocco Creek?

MR. PECK: Object to the form. No foundation.

WITNESS: This number here indicates that 38.57 parts per million were found in a sample. I don't know where the sample was from, for sure.

Q. What does the table read?

A. Choccolocco Creek Watershed Study, Sediment PCB Analysis.

Q. (BY MR. HOWARD) So if there are PCB's in the sediment of Choccolocco Creek, could those PCB's be carried by the water --

sediment carried by the water with PCB's adhered to them down into Logan Martin?

MR. PECK: Object to the form. No foundation.

WITNESS: I'm not qualified really to answer that question. I could only -- I can't speculate on it even.

Q. (BY MR. HOWARD) But you will agree with me that when PCB's are in the sediment, and that water passes over them, that water can carry sediment containing PCB's downstream?

MR. PECK: Object to the form of the question. No foundation for this witness to answer that question.

WITNESS: I can't speculate.

Q. (BY MR. HOWARD) You explained to me just earlier that you had some new understanding that water could transport sediment with PCB's adhering to it downstream, is that correct?

A. Yes. But if I understand your question, with Choccolocco Creek, you have

to take into account a lot of dilution and water movement. And I can't answer that question. I know where samples were pulled near the facility, that PCB sediment was found in them.

Q. That's great, but I don't think that answers my question. My question was simply, is it your understanding that when water passes over sediment which contains PCB's, that you now understand that that water can transport particles of sediment which contain PCB's along with it as it moves downstream?

MR. PECK: Object to the form of the question. Argumentative. You can answer the question.

WITNESS: If you mean samples pulled around the plant and near the facility, that seems to be the indication.

Q. (BY MR. HOWARD) So water can be a mechanism to move PCB's downstream?

MR. PECK: Object to the form of the question. No foundation for this

witness to answer the question.

WITNESS: What I've seen in samples pulled on the facility, or near the facility, yes.

Q. (BY MR. HOWARD) Has anyone told you that water can be a mechanism to transport PCB's downstream?

A. No.

Q. Have you heard anyone discuss that?

A. No.

Q. I'm going to show you what has been marked as Plaintiff's Exhibit 10 to your deposition, and see if I can get you to identify it.

(Whereupon, Plaintiff's Exhibit 10 was marked for identification and copy of same is attached hereto.)

A. These were notes of a meeting I held with representatives of Mars Hill Baptist Church.

Q. Did you type those notes?
A. Yes.
Q. Are those your notes that you took after the meeting?
A. Yes.
Q. In the paragraph that begins with, "I introduce myself," there is a statement in there -- you explain the reason for your visit was twofold, one to meet and get to know the immediate plant neighbors, and two, to discuss a concern that we have with possible polychlorinated biphenyl contaminants in a small ditch near the church. Had you done any sediment samples on that ditch near the church at that point?
A. Yes, we did.
Q. Have those results come back?
A. I correct myself. I misspoke. We had not done, at this point, any sampling right by the church.
Q. Why were you concerned that there is possible contamination in a ditch near the church?

A. Because our property had bracketed this church with property on the south side and property on the north side, and we sampled in the ditches on each of our properties.

Q. And did you find PCB's in the sediment in ditches on both sides of your property?

A. Yes.

Q. Did you tell the representatives of the Mars Hill Baptist Church the results of those tests on both sides of their property at this meeting?

A. I don't recall giving them numbers, but I told them we had found on each side.

Q. How do you properly dispose of PCB's?

MR. PECK: I object to the form of the question. No foundation for this witness to answer the question.

WITNESS: Personally, I would ask Robert Jones to properly dispose of PCB's.

He understands the regulations and what to do with it.

Q. (BY MR. HOWARD) Did you tell the people at Mars Hill Baptist Church that you would properly dispose of any PCB's found in their ditch?

WITNESS: I told them that we would handle it correctly, yes.

Q. And you told them that you would properly dispose of it?

A. Uh-huh.

Q. Even though you didn't know what proper disposal would mean?

A. Yes. I would assume Robert would.

Q. Did you ask him if he knew before you went to this meeting?

A. No.

Q. Did you know if PCB's could properly be disposed of?

A. Yes.

Q. How did you know that?

A. I guess some conversations I may have had with Robert about, What do you do

with PCB material. Generally what he said is, Move it to Emelle.

Q. So, in fact, you did know when you made this statement?

A. Yes. In the sense of it depends upon when you do it and how you do it. I don't know the details on that.

Q. And you told them that any contaminated soil would be dug up and properly disposed of?

A. I guess that's what I must have said. I don't know.

Q. Is that the current plan?

A. The current plan we've agreed to with the Alabama Department of Environmental Management is to do something about the stormwater first, and then come back and address any of the soil areas.

Q. Have y'all talked about a plan for removing the soil?

A. No.

Q. But at least based on what you told the folks at Mars Hill, it would be to

remove all contaminated sediment?

A. I said that.

MR. PECK: The document speaks for itself, object to the question.

Q. (BY MR. HOWARD) What were you thinking -- what was your thought process when you told them that any contaminated soil would be dug up?

MR. PECK: Object to the form of the question. The document speaks for itself. That's not what it says.

Q. (BY MR. HOWARD) I will read the sentence, and you tell me if your thoughts going into that are in this document anywhere. If you can point to them, that would help me.

You said, "I explained that our future action would be determined by the test results, but that one possibility was that any contaminated soil would be dug up and properly disposed."

A. I can't recall my thought process at the time. But the thought process that

comes to mind right now is that the data would guide our actions.

Q. I've just got a couple more questions. Have you asked any of the people who live in the neighborhood that the property buy-out program -- how long they've lived there?

A. Yes.

Q. Have any of them told you they had lived there maybe 60 years?

A. Yes. I don't know if 60 is a firm number, but they told me a number of years.

Q. Was it over 60?

A. It could have been, I just don't recall.

Q. Have you found PCB's in the sediment in the ditch alongside Mars Hill Baptist Church?

A. I would have to look at the exact numbers. Off of the top of my head I don't recall. I would have to look at the results that were submitted, right immediately adjacent to the church.

Q. Referring back to Plaintiff's Exhibit 3, and I'm looking specifically at page number 39883. I believe this is an attachment to the letter that you sent to Dr. Hughes. It's a review by Renata Kimbrough of the preliminary risk assessment from Monsanto Chemical Company.

If you will look on page 39983 in the paragraph that starts, "It is stated," midway down the sentence begins, "A small child would not venture into the ditch, or if it fell into it, would not be able to get out on its own accord." Do you agree with that statement?

A. There were some very steep locations for this ditch, yes, when it passes through the neighborhood.

Q. Are they all steep?

A. Yes.

Q. Would it be possible for a child to get into that area?

A. It's possible.

Q. Are you familiar with a woman by



WATER_PCB-SD0000013763

the name of Vatonia Armstrong?

A. No. I don't know her. I know she was quoted in an article.

Q. What about Melody Tignor?

A. No.

Q. Are you familiar with the Anniston Star article that I'm marking as Plaintiff's Exhibit 11?

(Whereupon, Plaintiff's Exhibit 11 was marked for identification and copy of same is attached hereto.)

A. Can I look at it please?

Q. Yes.

A. Yes, I'm familiar with this article.

Q. Did you read that article?

A. Yes.

Q. You've seen it. You read it when it appeared?

A. Yes.

Q. Did you call a reporter and talk

about it later?

A. No.

Q. Did you ask for a retraction of that article?

A. No.

Q. So you are aware that Ms. Armstrong describes instances when they swam in the ditches as children?

A. I read that, yes.

Q. Do you have any reason to believe that Ms. Armstrong was lying?

A. No.

Q. Do you doubt that they swam in the ditches as children?

A. She said she did.

Q. Is Renata Kimbrough aware of Ms. Armstrong's comments?

A. I don't know.

Q. So even though Ms. Kimbrough assumed that no child would go into the creek, if Ms. Armstrong's statement is true, then children could, is that true?

MR. PECK: Object to the form of

the question. It's a different time, different place, possibly a different ditch.

WITNESS: It may have been a different ditch even, I don't know. Erosion could have caused this ditch to deepen since when they played in it.

Q. (BY MR. HOWARD) This article appeared in the paper on March 23rd?

A. Yes.

Q. The document on which Renata Kimbrough, Plaintiff's Exhibit 3, made her comments was on July 20th, 1995, is that correct?

A. What she wrote was July 7, 1995.

Q. It was after the article was in the paper, wasn't it?

A. Right.

Q. Did you make Ms. Kimbrough aware of these comments by Ms. Armstrong?

A. I did not, no.

Q. Do you know if anyone did?

A. No.

MR. PECK: You don't know?

WITNESS: I don't know.

Q. (BY MR. HOWARD) Did you hear of anyone making her aware of that?

A. No.

MR. HOWARD: I think that's all for now, with the understanding that we'll continue the deposition to be completed before the 15th.

MR. COX: We'll try to get with you on Monday to give you some dates.

(Whereupon a recess was had in the deposition.)

FURTHER DEPONENT SAITH NOT



WATER_PCB-SD0000013767

C E R T I F I C A T E

STATE OF ALABAMA )
JEFFERSON COUNTY )

I hereby certify that the above and foregoing deposition 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 upon said hearing.

I further certify that I am neither of counsel, nor of kin to the parties to the action, nor am I in any wise interested in the result of said cause.

MAURICE LAPIDUS



WATER_PCB-SD0000013768

The persons listed below have agreed to be available to residents in the Property Purchase Program area or to their personal physicians to answer questions about the potential for environmental exposures to PCBs and about the current understanding of the human health effects of PCBs.

Residents or their physicians may call any of these persons collect or write them at their mailing addresses. Please be prepared to leave a phone number where these persons may reach you. Alternatively, residents or their physicians may leave their phone number with Ms. Cathy Scott at the Anniston plant (205-231-8501). One of the persons listed below will return the call as soon as possible.

Dr. Brian G. Forrester, M.D., M.P.H.
Assistant Professor, Division of Occupational and Environmental Medicine

The University of Alabama at Birmingham
127-A Community Health Services Bldg.-20th
930 20th Street South
Birmingham, AL 35206-2610
Phone: 205-934-7303

Dr. Renate D. Kimbrough, M.D.
Senior Medical Associate

IEHR
1629 K Street, NW
Suite 402
Washington, DC 20006
Phone: 202-289-8721

Dr. Brian J. Hughes, Ph.D.
Environmental Toxicologist
Division of Epidemiology

Alabama Department of Public Health
Office: Normandale Mall
572 E. Patton Avenue
Montgomery, AL 36111
Mail: 434 Monroe Street
Montgomery, AL
36130-3017
Phone: 1-800-338-8374 (Ask for Dr. Hughes)

DSW 040161

PLAINTIFF'S EXHIBIT

/

DRAFT

# Preliminary Risk Assessment for Monsanto Chemical Company Anniston, Alabama

## I. Standards Used in Calculations:

| | Adult Assumptions | Child Assumptions |
|---|---|---|
| Body Weight: | 70 kg | 10 kg |
| Intake Rate: | | |
| Soil: | 100 mg/day | 200 mg/day |
| Water: | 2 L/day | 1 L/day |
| Fish: | 30g/day | 10g/day |
| Exposure Frequency: | | |
| West End Landfill: | 365 days/yr | 365 days/yr |
| Drainage Ditch: | 365 days/yr | 365 days/yr |
| Worker: | 250 days/yr | |
| Exposure Duration: | | |
| West End Landfill #1 (resident)[1] | 60 years | 6 years |
| West End Landfill #2 (resident)[2] | 40 years | 6 years |
| Drainage Ditch #1 (resident)[3] | 60 years | 6 years |
| Drainage Ditch #1 (resident)[4] | 35 years | 6 years |
| West End Landfill Monsanto worker[5] | 25 years | |
| West End Landfill Al. Power worker[6] | 35 years | |
| Choccolocco Creek (resident)[7] | 60-10 years | |

DSW 039962

PLAINTIFF'S EXHIBIT 2

WATER_PCB-SD0000013770

[1] A 60 year lifetime scenario is warranted for several reasons. First, Monsanto Company has been in existence since 1935. However, this could be increased to 68 years because Southern Manganese began producing biphenyl products at the plant in 1927. Second, it was noted during a recent site visit that many barren areas could be seen in the area of the West End Landfill and that few trees surrounded the site. The distance between the contaminated surface soils and the nearest residence is approximately 60 feet. This would have allow wind to easily blow contaminants off-site to adjacent properties, and allow residents to be exposed on a daily basis. Third, a literature search also revealed that Alabama Power removed a portion of the landfill and redistributed it on the property. This disturbance would create a greater chance of exposure. Finally, although a fence was placed around the site in 1975, graffiti was seen on the walls of the flume during a recent site visit which was not noted in previous visits.

[2] A 40 year lifetime scenario is used because the landfill was fenced in approximately 1975. Given that the company began in 1935, this produces a forty year span where residents and children could have had access to the landfill. A day care center is located across the street from the landfill, and a resident stated that he previously used the area for a garden plot.

[3] A 60 year lifetime scenario is used for the drainage ditch because several residents reported that they have live near the drainage ditch all of their lives (77 and 75 yrs respectively). Also, Monsanto has been in existence 60 yrs.

[4] A 35 year lifetime scenario is used for the drainage ditch because Monsanto closed the West End Landfill in 1960. It was during this time period that the South Landfill was located at the entrance to the Anniston facility. The South Landfill was "removed" by the Department of Transportation when they four-laned Hwy 202 in approximately.

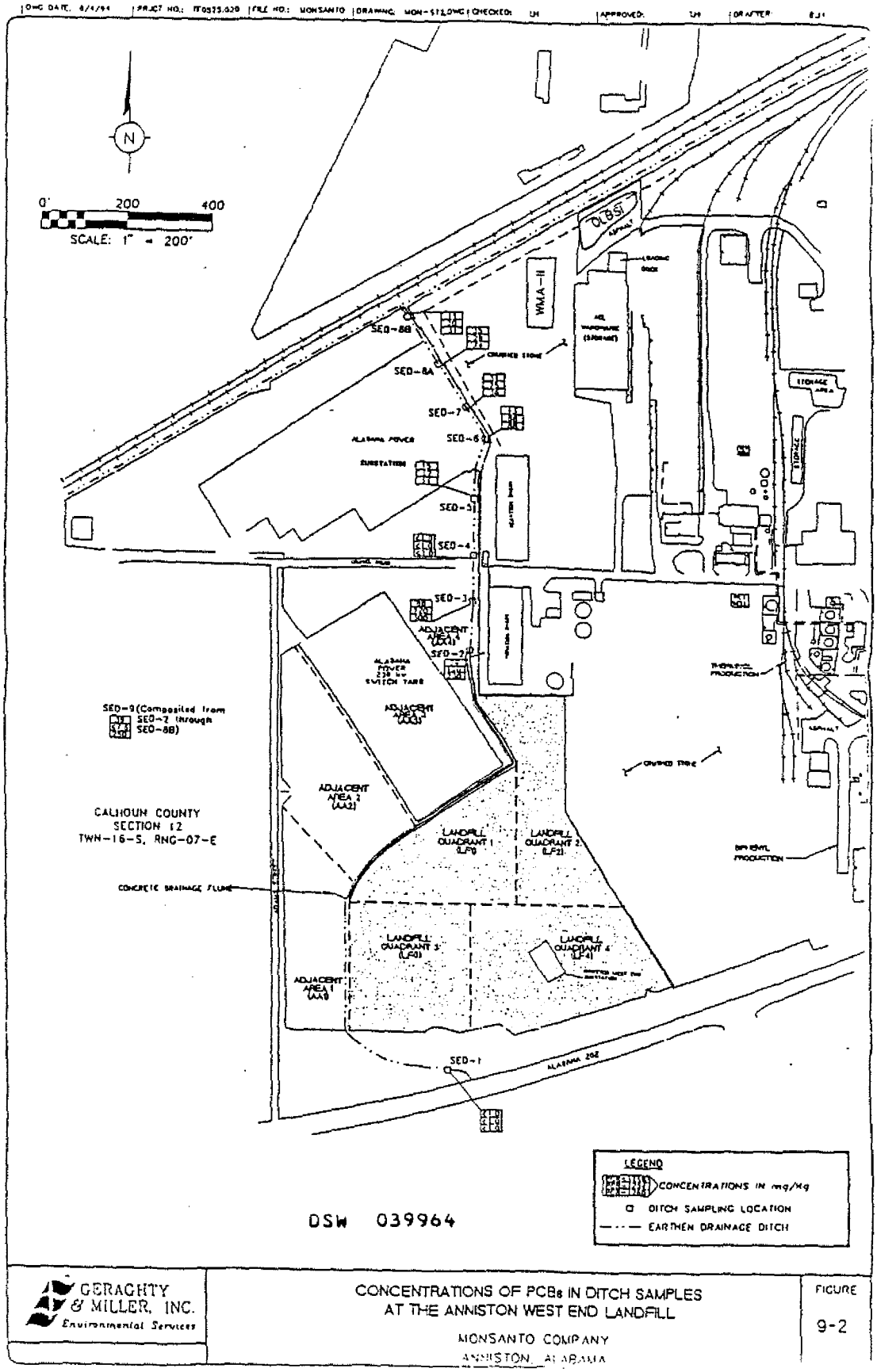
[5] A 25 year lifetime scenario is used for Monsanto workers because Monsanto owned the landfill from 1935 to 1960.

[6] A 35 year lifetime scenario is used for Alabama Power workers because APCO owned the landfill from 1960 to December 1993.

[7] A 60 year lifetime is used for Choccolocco Creek residents because the Monsanto Company has been in existence since 1935. Contamination has been documented in the creek since 1970.



WATER_PCB-SD0000013771




DSW 039964

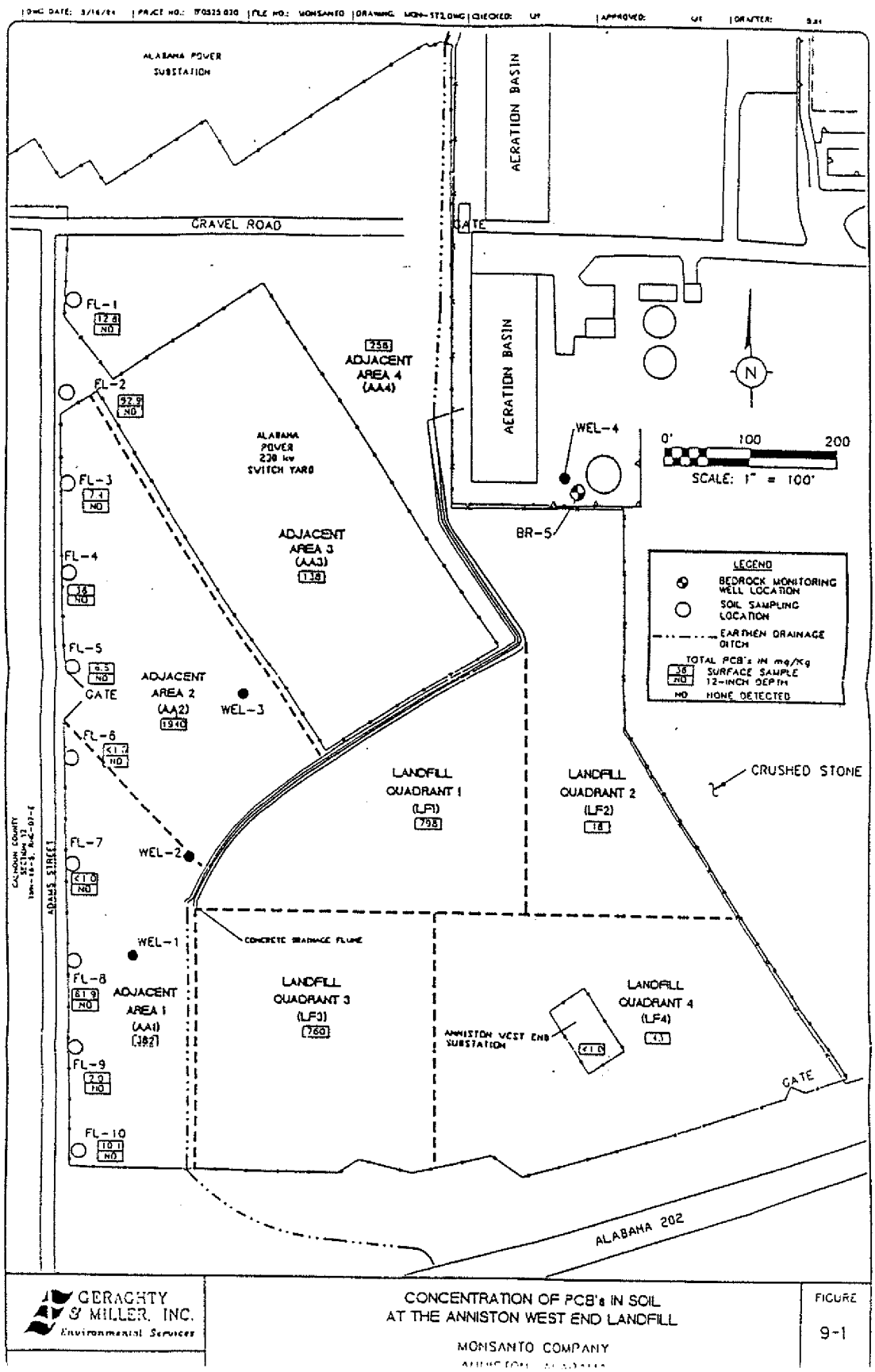
GERAGHTY & MILLER, INC.
Environmental Services

CONCENTRATIONS OF PCBs IN DITCH SAMPLES
AT THE ANNISTON WEST END LANDFILL

MONSANTO COMPANY
ANNISTON, ALABAMA

FIGURE
9-2

WATER_PCB-SD0000013772




GERAGHTY & MILLER, INC.
Environmental Services

CONCENTRATION OF PCB's IN SOIL
AT THE ANNISTON WEST END LANDFILL

MONSANTO COMPANY

FIGURE
9-1

USW 039965

WATER_PCB-SD0000013773

| | Child Standards | Adult Standards |
|---|---|---|
| Body Weight (kg) | 10 | 70 |
| Soil Intake Rate (kg/kg) | .0002 | .0001 |
| Water Intake Rate (L/day) | 2 | 1 |
| Exposure Frequency (days/yr) | 365 | 365 |
| WE Exposure Duration #1 (yrs) | 6 | 60 (resident) |
| DD Exposure Duration #1 (yrs) | 6 | 60 (resident) |
| WE Exposure Duration#2 (yrs) | 6 | 40 |
| DD Exposure Duration #2 (yrs) | 6 | 35 |
| Cancer Potency Factor | 7.7 | 7.7 |

**West End Landfill**

| Sample # | Concentration (ppm) | Child Dose | Child Risk | Adult Dose 60 yr duration | Adult Risk 60 yr duration |
|---|---|---|---|---|---|
| SED-3 | 508 | 8.71e-04 | 5.75e-04 | 6.22e-04 | 4.11e-03 |
| AA2 | 1940 | 3.33e-03 | 2.19e-03 | 2.38e-03 | 1.57e-02 |
| FL-2 | 91.9 | 1.58e-04 | 1.04e-04 | 1.13e-04 | 7.43e-04 |
| FL-8 | 61.9 | 1.06e-04 | 7.00e-05 | 7.58e-05 | 5.00e-04 |
| WEL-3 | .0068 | 1.17e-04 | 7.69e-05 | 8.33e-05 | 5.50e-04 |

**West End Landfill**

| Sample # | Concentration (ppm) | Child Dose | Child Risk | Adult Dose 40 yr duration | Adult Risk 40 yr duration |
|---|---|---|---|---|---|
| SED-3 | 508 | 8.71e-04 | 5.75e-04 | 4.15e-04 | 1.82e-03 |
| AA2 | 1940 | 3.33e-03 | 2.19e-03 | 1.58e-03 | 6.97e-03 |
| FL-2 | 91.9 | 1.58e-04 | 1.04e-04 | 7.50e-05 | 3.30e-04 |
| FL-8 | 61.9 | 1.06e-04 | 7.00e-05 | 5.05e-05 | 2.22e-04 |
| WEL-3 | .0068 | 1.17e-04 | 7.69e-05 | 5.55e-05 | 2.44e-0 |



WATER_PCB-SD0000013774

| | Worker Standards for WE Landfill |
|---|---|
| Body Weight (kg) | 70 |
| Soil Intake Rate (kg/kg) | .0001 |
| Exposure Frequency (days/yr) | 250 |
| MC Exposure Duration (yrs) | 25 |
| APCO Exposure Duration (yrs) | 35 |
| Cancer Potency Factor | 7.7 |

| | | Using MC Exp Duration | | Using APCO Exp Duration | |
|---|---|---|---|---|---|
| Sample # | Concentration (ppm) | Worker Dose | Worker Risk | Worker Dose | Worker Risk |
| SED-3 | 508 | 1.78e-04 | 3.34e-04 | 2.49e-04 | 6.55e-04 |
| AA2 | 1940 | 6.78e-04 | 1.28e-03 | 9.49e-04 | 2.50e-03 |
| FL-2 | 91.9 | 3.21e-05 | 6.05e-05 | 4.50e-05 | 1.19e-04 |
| FL-8 | 61.9 | 2.16e-05 | 4.07e-05 | 3.03e-05 | 7.99e-05 |

OSW 039967

WATER_PCB-SD0000013775

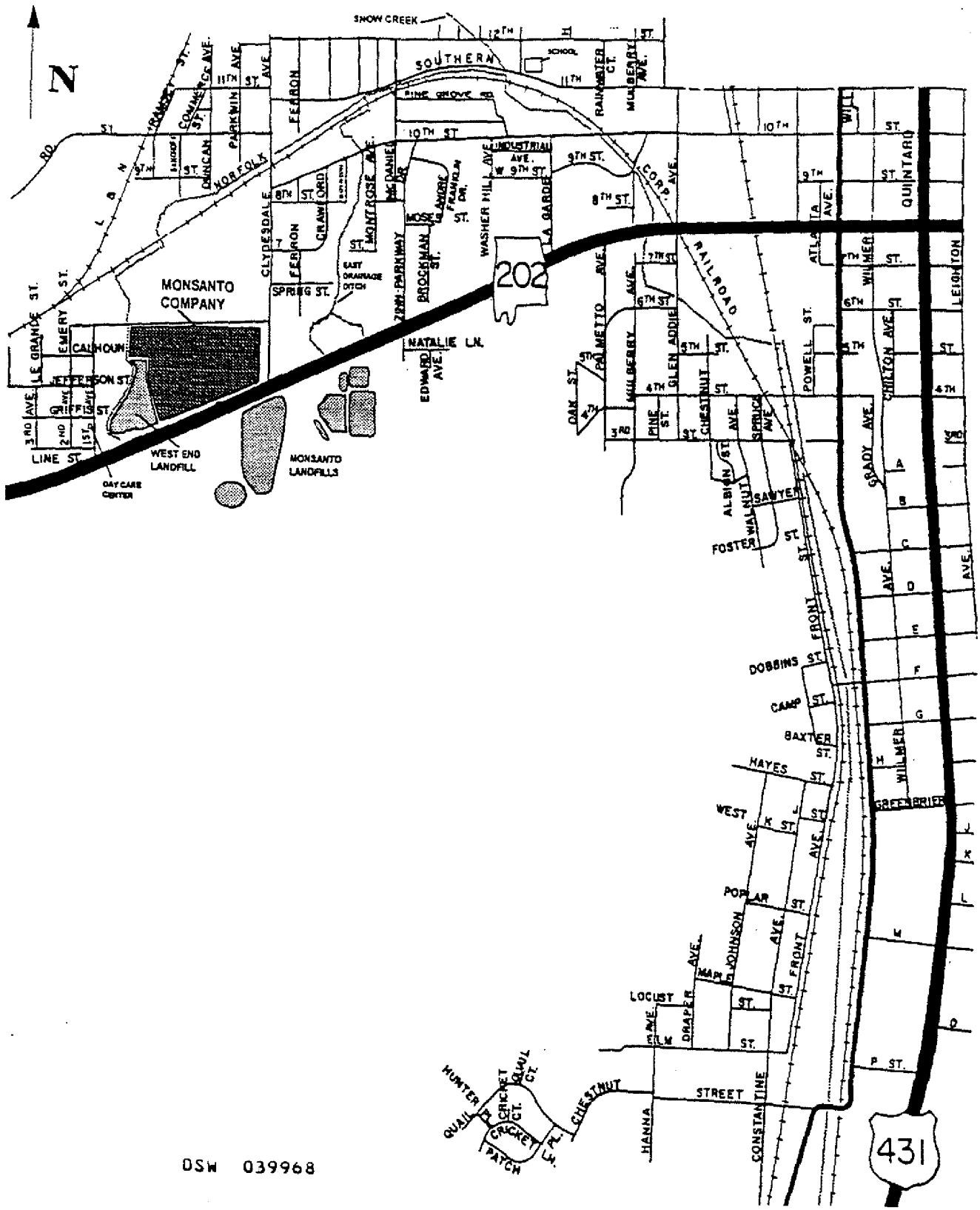
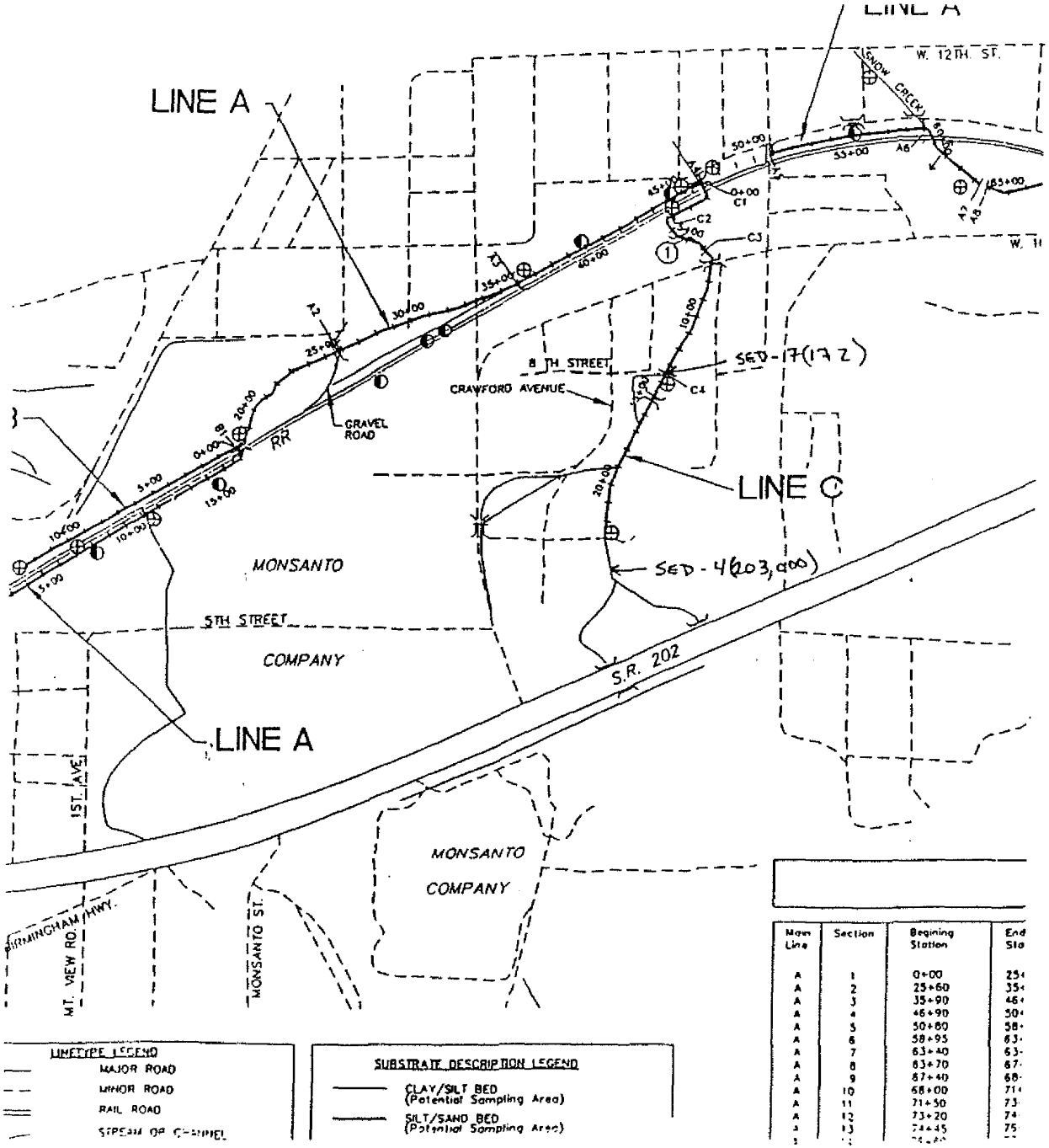



Figure-3. Area Location Map showing Snow Creek and the East Drainage Ditch.

WATER_PCB-SD0000013776




WATER_PCB-SD0000013777

East Drainage Ditch

| Sample # | Concentration (ppm) | Child Dose | Child Risk | Adult Dose 60 yr duration | Adult Risk 60 yr duration |
|---|---|---|---|---|---|
| DDSed-4 | 203000 | 3.48e-01 | 2.30e-01 | 2.49e-01 | 1.64e+00 |
| DDSed-7 | 172 | 2.95e-04 | 1.95e-04 | 2.11e-04 | 1.39e-03 |

East Drainage Ditch

| Sample # | Concentration (ppm) | Child Dose | Child Risk | Adult Dose 35 yr duration | Adult Risk 35 yr duration |
|---|---|---|---|---|---|
| DDSed-4 | 203000 | 3.48e-01 | 2.30e-01 | 1.45e-01 | 5.58e-01 |
| DDSed-7 | 172 | 2.95e-04 | 1.95e-04 | 1.23e-04 | 8.11e-04 |

DSW 039970

WATER_PCB-SD0000013778

| | Adult Standards |
|---|---|
| Body Weight (kg) | 70 |
| Soil Intake Rate (kg/kg) | .0001 |
| Water Intake Rate (L/day) | 1 |
| Minimum Risk Level (MRL) | .00002 |

West End Landfill

| Sample # | Concentration (ppm) | Adult Dose | Adult Dose Compared to MRL |
|---|---|---|---|
| SED-3 | 508 | 7.26e-04 | 36.29 |
| AA2 | 1940 | 2.77e-03 | 138.57 |
| FL-2 | 91.9 | 1.31e-04 | 6.56 |
| FL-8 | 61.9 | 8.84e-05 | 4.42 |

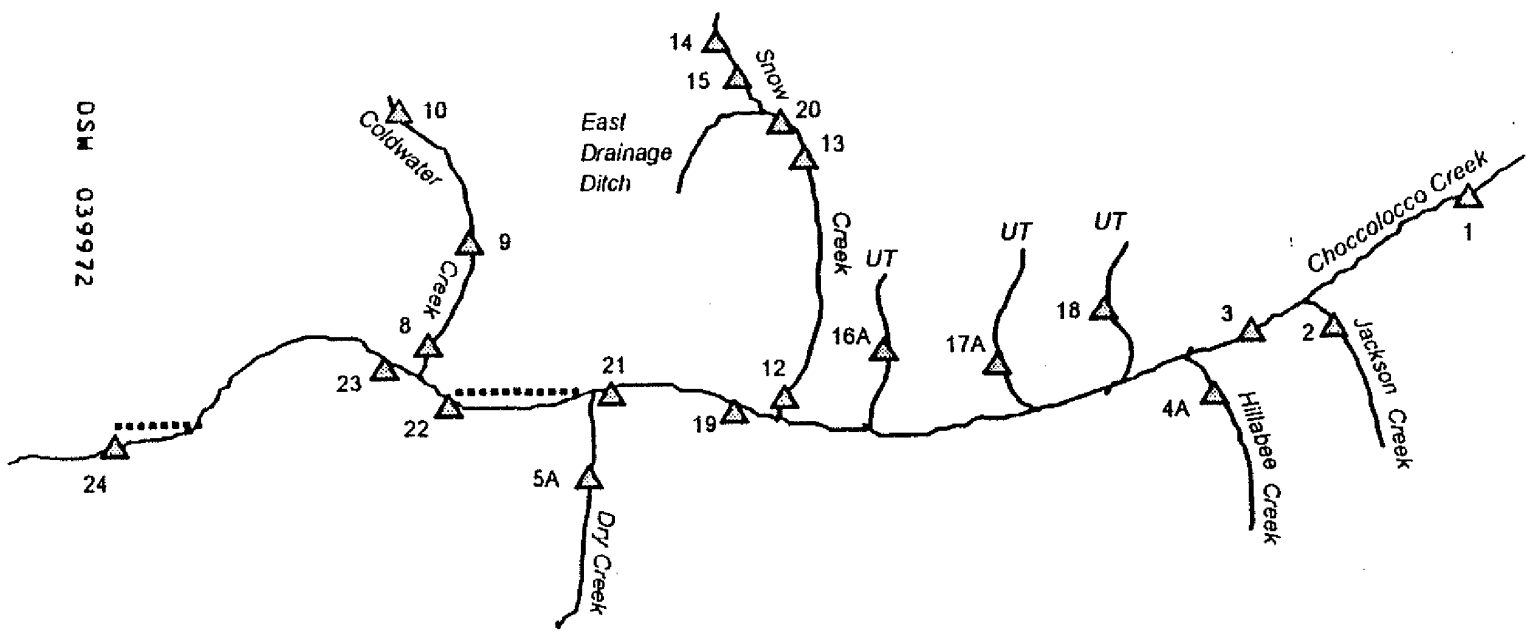
East Drainage Ditch

| Sample # | Concentration (ppm) | Adult Dose | Adult Dose Compared to MRL |
|---|---|---|---|
| DDSed-4 | 203000 | 2.90e-01 | 14500.00 |
| DDSed-7 | 172 | 2.46e-04 | 12.29 |



WATER_PCB-SD0000013779

## Figure 5. Choccolocco Creek Watershed.




Note: Numbers correspond to ADEM's 1993 sediment sampling stations.
Fish sampling stations correspond to .....
UT is abbreviated for unnamed tributary.

WATER_PCB-SD0000013780

## Table 1.
## CHOCCOLOCCO CREEK WATERSHED STUDY
## SEDIMENT PCB ANALYSIS

| STATION | DATE | TIME | AROCHLOR 1242 | AROCHLOR 1254 | AROCHLOR 1260 | TOTAL PCB | MERCURY |
|---|---|---|---|---|---|---|---|
| 1 | 11/9/93 | 1035 | <0.05 | <0.05 | 0.241 | 0.241 | <0.50 |
| 2 | 11/9/93 | 1140 | <0.05 | <0.05 | <0.05 | <0.05 | <0.50 |
| 3 | 11/9/93 | 1315 | <0.05 | <0.05 | <0.05 | <0.05 | <0.50 |
| 4A | 11/9/93 | 1435 | <0.05 | <0.05 | <0.05 | <0.05 | <0.50 |
| 5A | 11/10/93 | 840 | <0.05 | <0.05 | 0.067 | 0.067 | <0.50 |
| 8 | 11/9/93 | 1014 | <0.05 | 0.13 | 0.05 | 0.18 | <0.50 |
| 9 | 11/9/93 | 1130 | <0.05 | <0.05 | <0.05 | <0.05 | <0.50 |
| 10 | 11/9/93 | 1215 | <0.05 | <0.05 | <0.05 | <0.05 | <0.50 |
| 12 | 11/10/93 | 930 | 0.914 | 2.01 | 1.00 | 3.924 | <0.50 |
| 13 | 11/10/93 | 820 | 3.87 | 7.63 | 4.47 | 15.97 | <0.50 |
| 14 | 11/10/93 | 930 | 0.72 | 0.05 | 0.09 | 0.875 | <0.50 |
| 15 | 11/10/93 | 900 | 1.26 | 1.51 | 0.59 | 3.36 | <0.50 |
| 16A | 11/9/93 | 1345 | <0.05 | <0.05 | <0.05 | <0.05 | <0.50 |
| 17A | 11/9/93 | 1420 | <0.05 | 0.06 | <0.05 | 0.06 | <0.50 |
| 18 | 11/9/93 | 1450 | <0.05 | <0.05 | <0.05 | <0.05 | <0.50 |
| 19 | 11/9/93 | 1530 | 1.23 | 1.64 | 1.46 | 4.33 | 0.91 |
| 20 | 11/10/93 | 945 | 15.52 | 11.21 | 11.84 | 38.57 | <0.50 |
| DUP 1 | 11/9/93 | 1045 | <0.05 | 0.05 | 0.05 | 0.1 | <0.50 |
| DUP 2 | 11/9/93 | 1100 | <0.05 | <0.05 | 0.069 | 0.069 | <0.50 |

NOTE:
Analyses for Arochlor 1016,1221, and 1232 were <0.5.
DUP 1 sample was collected at Station 8.
DUP 2 sample was collected at Station 1.

DSW 039973

WATER_PCB-SD0000013781

**Table 2.**
**Choccolocco Creek Watershed Study**
**Fish PCB Analysis**

| Sample Number | Fish Type | Arochlor 1248 | Arochlor 1254 | Arochlor 1260 | Total PCB |
|---|---|---|---|---|---|
| 3109332 | L. Mouth Bass | 4.00 | 6.60 | 6.90 | 17.50 |
| 3109333 | L. Mouth Bass | 1.97 | 3.54 | 4.10 | 9.61 |
| 3109334 | L. Mouth Bass | 6.60 | 8.60 | 8.60 | 23.80 |
| 3109335 | L. Mouth Bass | 3.30 | 4.90 | 5.44 | 13.64 |
| 3109336 | L. Mouth Bass | 6.40 | 8.70 | 10.10 | 25.20 |
| 3109337 | L. Mouth Bass | 3.10 | 4.96 | 5.80 | 13.86 |
| 3109338 | C. Catfish | 4.60 | 5.90 | 6.20 | 16.70 |
| 3109339 | C. Catfish | 10.40 | 11.40 | 11.70 | 33.50 |
| 3109340 | C. Catfish | 12.10 | 13.80 | 11.20 | 37.10 |
| 3109341 | C. Catfish | 8.40 | 12.30 | 11.00 | 31.70 |
| 3109342 | C. Catfish | 7.96 | 10.80 | 11.90 | 30.66 |
| 3109343 | Spotted Bass | 3.00 | 4.00 | 4.60 | 11.60 |
| 3109344 | L. Mouth Bass | 0.44 | 0.72 | 0.94 | 2.10 |
| 3109345 | Spotted Bass | 1.65 | 3.00 | 3.90 | 8.55 |
| 3109346 | Spotted Bass | 0.29 | 0.60 | 0.90 | 1.79 |
| 3109347 | Spotted Bass | 7.80 | 13.90 | 16.70 | 38.40 |
| 3109348 | Spotted Bass | 0.50 | 0.90 | 0.92 | 2.32 |
| 3109349 | C. Catfish | 1.90 | 3.30 | 2.90 | 8.10 |
| 3109349 DUP | C. Catfish | 1.70 | 3.10 | 2.84 | 7.64 |
| 3109350 | W. Crappie | 0.31 | 0.82 | 1.10 | 2.23 |

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# Choccolocco Creek

| | Child Standards | Adult Standards | Adult Standards | Adult Standards | Adult Standards | Adult Standards | Adult Standards |
|---|---|---|---|---|---|---|---|
| Body Weight (kg) | 10 | 70 | 70 | 70 | 70 | 70 | 70 |
| Fish Intake Rate (kg/day) | .01 | .03 | .03 | .03 | .03 | .03 | .03 |
| Soil Intake Rate (kg/kg) | .0002 | .0001 | | | | | |
| Exp Frequency (days/yr) | 365 | 365 | 365 | 365 | 365 | 365 | 365 |
| DD Exp Duration #1 (yrs) | 6 | 60 | 50 | 40 | 30 | 20 | 10 |
| Cancer Potency Factor | 7.7 | 7.7 | 7.7 | 7.7 | 7.7 | 7.7 | 7.7 |

| | | | | 60 yr Exp Duration | | 50 yr Exp Duration | | 40 yr Exp Duration | | 30 yr Exp Duration | | 20 yr Exp Duration | | 10 yr Exp Duration | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Sample # | Concen. (ppm) | Child Dose | Child Risk | Adult Dose | Adult Risk | Adult Dose | Adult Risk | Adult Dose | Adult Risk | Adult Dose | Adult Risk | Adult Dose | Adult Risk | Adult Dose | Adult Risk |
| Avg All Fish | 16.8 | 8.76e-02 | 3.52e+00 | 6.17e-03 | 4.07e-02 | 5.14e-03 | 2.83e-02 | 4.11e-03 | 1.81e-02 | 3.09e-03 | 1.02e-02 | 2.06e-03 | 4.53e-03 | 1.03e-03 | 1.13e-03 |
| Hi All Fish | 38.4 | 2.00e-01 | 8.04e+00 | 4.70e-05 | 3.10e-04 | 1.18e-02 | 6.47e-02 | 9.40e-03 | 4.14e-02 | 7.05e-03 | 2.33e-02 | 4.70e-03 | 1.03e-02 | 2.35e-03 | 2.59e-03 |
| Avg LMB | 15.1 | 7.87e-02 | 3.16e+00 | 1.85e-05 | 1.22e-04 | 4.62e-03 | 2.54e-02 | 3.70e-03 | 1.63e-02 | 2.77e-03 | 9.15e-03 | 1.85e-03 | 4.07e-03 | 9.24e-04 | 1.02e-03 |
| Hi LMB | 25.2 | 1.31e-01 | 5.28e+00 | 3.09e-05 | 2.04e-04 | 7.71e-03 | 4.24e-02 | 6.17e-03 | 2.72e-02 | 4.63e-03 | 1.53e-02 | 3.09e-03 | 6.79e-03 | 1.54e-03 | 1.70e-03 |
| Avg C. Cat | 23.6 | 1.23e-01 | 4.94e+00 | 2.89e-05 | 1.91e-04 | 7.22e-03 | 3.97e-02 | 5.78e-03 | 2.54e-02 | 4.33e-03 | 1.43e-02 | 2.89e-03 | 6.36e-03 | 1.44e-03 | 1.59e-03 |
| Hi C. Cat | 37.1 | 1.93e-01 | 7.77e+00 | 4.54e-05 | 3.00e-04 | 1.14e-02 | 6.25e-02 | 9.09e-03 | 4.00e-02 | 6.81e-03 | 2.25e-02 | 4.54e-03 | 9.99e-03 | 2.27e-03 | 2.50e-03 |
| Avg Sp. B. | 12.5 | 6.52e-02 | 2.62e+00 | 4.59e-03 | 3.03e-02 | 3.83e-03 | 2.10e-02 | 3.06e-03 | 1.35e-02 | 2.30e-03 | 7.58e-03 | 1.53e-03 | 3.37e-03 | 7.65e-04 | 8.42e-04 |
| Hi Sp. B. | 38.4 | 2.00e-01 | 8.04e+00 | 1.41e-02 | 9.31e-02 | 1.18e-02 | 6.47e-02 | 9.40e-03 | 4.14e-02 | 7.05e-03 | 2.33e-02 | 4.70e-03 | 1.03e-02 | 2.35e-03 | 2.59e-03 |
| W. Crappie | 2.23 | 1.16e-02 | 4.67e-01 | 8.19e-04 | 5.41e-03 | 6.83e-04 | 3.75e-03 | 5.46e-04 | 2.40e-03 | 4.10e-04 | 1.35e-03 | 2.73e-04 | 6.01e-04 | 1.37e-04 | 1.50e-04 |
| **Snow Creek Sediment** | | | | | | | | | | | | | | | |
| Station 14 | .875 | 1.50e-06 | 9.90e-07 | 1.07e-06 | 7.07e-06 | | | | | | | | | | |
| Station 15 | 3.36 | 5.76e-06 | 3.80e-06 | 4.11e-06 | 2.72e-05 | | | | | | | | | | |
| Station 20 | 38.57 | 6.61e-05 | 4.36e-05 | 4.72e-05 | 3.12e-04 | | | | | | | | | | |
| Station 13 | 15.97 | 2.74e-05 | 1.81e-05 | 1.96e-05 | 1.29e-04 | | | | | | | | | | |
| Station 12 | 3.924 | 6.73e-06 | 4.44e-06 | 4.80e-06 | 3.17e-05 | | | | | | | | | | |
| Station 19 | 4.33 | 7.42e-06 | 4.90e-06 | 5.30e-06 | 3.50e-05 | | | | | | | | | | |
| | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | |

DSW 039975

WATER_PCB-SD0000013783

# Monsanto

The Chemical Group
300 Birmingham Highway
Anniston, Alabama 36201
Office: (205) 236-6381

July 20, 1995

Mr. Brian J. Hughes, Ph.D.
Alabama Department of Public Health
434 Monroe Street
Montgomery, Alabama 36130-3017

Dear Dr. Hughes:

Enclosed please find comments on the document entitled: "Preliminary Risk Assessment for Monsanto Chemical Company, Anniston, Alabama".

Sincerely,

G. S. Mayausky
Plant Manager

Enclosure

VPP OSHA VOLUNTARY PROTECTION PROGRAMS

DSW 039976

A Unit of Monsanto Company

PLAINTIFF'S EXHIBIT 3

WATER_PCB-SD0000013784

On June 21 representatives of the Monsanto Anniston plant met with representatives of Alabama Department of Environmental Management (ADEM) and Alabama Department of Public Health (ADPH). The meeting was requested by the Alabama agencies to solicit Monsanto's input on a preliminary draft risk assessment which is in the early stages of development by ADPH. Monsanto was asked to provide specific information about dates associated with plant activities and to share overhead photographs of the plant site.

Discussions during the meeting included a brief overview of the preliminary risk assessment, including summaries of various exposure scenarios and exposure assumptions. Although the risk assessment was clearly specified to be both preliminary and a draft, several aspects of the exercise require comment, even at this earliest stage of the process. Of specific concern are the preliminary and incomplete nature of the analytical results which have been incorporated, the unrealistic exposure scenarios which have been utilized, and the exclusive use of the cancer slope factor estimated from rodent studies on a single PCB mixture. In addition, this preliminary draft risk assessment ignores the large body of scientific literature which demonstrates that no chronic human health effects, with the possible exception of dermal effects and transient elevations in some liver enzymes, are associated with even high level, occupational exposure to PCBs. Finally, the retrospective nature of the draft risk assessment is inconsistent with sound risk management principles. These concerns are discussed in more detail in the following paragraphs.

Monsanto has also asked Dr. Renate Kimbrough, Senior Medical Associate, Institute for Evaluating Health Risks (IEHR) to provide a preliminary review of the draft risk assessment. Her review is attached as Appendix A.

A critical component of even the most preliminary attempt to estimate the risks associated with exposure to environmental chemicals is the availability of high quality analytical results. Until properly validated analytical data are available for media for which plausible routes of exposure can be defined, any attempt at risk assessment is premature and inappropriate. Ongoing work at the laboratory which has generated much of the data available for the Monsanto Anniston plant and its environs has demonstrated that EPA Method 8080 generates erroneously elevated results for total PCBs when the "summed Aroclor" method of quantitation is used. This problem arises from attempting to define selected GC peaks as representative of specific Aroclor products. As discussed in Jensen (1989), "If only 1 to three high peaks are selected, the results will be about twice as high as if a dozen peaks are selected." The laboratory is currently using a more appropriate method of quantifying the analytical results from Method 8080, as well as using EPA Method 680 (a GC/MS method) as a reference method. (A brief summary of the current analytical chemistry program for the samples collected at and near the Monsanto Anniston



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plant is attached as Appendix B.) The particular method used to generate the analytical data reported by the State of Alabama and the efforts to provide quality assurance information for that data should also be reviewed.

The risk estimates provided in the preliminary draft risk assessment consistently rely on worst-case, unrealistic estimates of exposure. First, the estimates most often rely on the highest analytical result for a particular medium and a particular location. As such, those values do not represent appropriate bases for estimates of the potential for exposure to PCBs at the location as a whole. For example, at the West End Landfill, one of the estimates is based on an isolated sample, which is in no way representative of that area. The state is aware that the area in question has been fenced for twenty years and that a remediation plan has been submitted to eliminate any potential for exposure to PCBs at the West End Landfill. Another estimate is based on a selected data point which represents an area in the bottom of a ditch in a deeply wooded area to which there is no evidence of recent human access. This particular location has been temporarily remediated to minimize any potential for exposure at the particular point or downstream pending more permanent remediation steps. The state is also aware that the ground water sample used in the estimates is in ground water that is not a source of drinking water to anyone and, indeed, that the value used was an invalid collection from the monitoring well. No PCBs have been detected in properly collected samples from that well or any other monitoring wells at the plant. In all cases, there are sufficient data available from which to calculate more representative, or average, estimates of PCB levels at particular locations, rather than singling out the highest result from one point at the locations.

Second, the selection of extreme values for the levels of PCBs at the various locations is further compounded by unrealistic exposure scenarios. Although every scenario is unrealistically exaggerated, two examples are particularly instructive. Estimated risk for an APCO employee is based on an assumption of an exposure of 250 work days/year for 35 years to an isolated location which has been fenced for many years and which is known to have been visited at a much lower frequency and for short times only. (Information from Alabama Power Company indicates the location is typically visited less than one hour per week.) With reference to the wooded area noted in the previous paragraph, the preliminary draft calculates a number based on an assumed daily exposure to this inaccessible area for 60 years. As discussed below, even in the unrealistic event that the location was visited at all, it is unlikely that an adult or child visiting the site would consume sediment from the bottom of the ditch at any level, and certainly not at the levels assumed in the draft. Similar faulty assumptions regarding site access and potential for contact are relied upon in nearly every exposure scenario described in the preliminary draft.



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Third, the unrealistic nature of the preliminary estimates is exaggerated by the adoption of exaggerated assumptions for estimates of intake of PCBs. As discussed above, it is inappropriate to assume a daily exposure for a number of years to locations that were, are, and will continue to be essentially inaccessible. The draft risk assessment assumes soil intake rates of 200 mg/day for a child and 100 mg/day for an adult. Soil intake rates have been studied extensively in recent years and remain imprecise. Some results indicate that few, if any, children consume soil at the levels assumed in the preliminary draft. Other sources report that adults consume essentially no soil, unless there is exposure to dust levels far above the nuisance level. There is no evidence of nuisance levels of dust at any of the locations near the Monsanto facility in Anniston. The assumption that any daily soil consumption for either an adult or a child is exclusively from locations near the Monsanto facility is also unrealistic.

Fish consumption assumptions also are worst-case estimates, unlikely to reflect fish consumption habits of average residents. Although Alabama has adopted 30 gram/day fish consumption as a representative value, that amount is for total consumption of fish, not for fish locally caught and consumed. There is no basis for an assumption that any person, let alone a representative resident, consumes only fish from Choccolocco Creek. Studies have shown that most consumers eat primarily, if not exclusively, fish purchased in stores supplied by non-local sources. The assumptions also ignore the effect of cooking method and time on the levels of PCBs in fish. In some cases, up to 80% of PCBs are removed by broiling or frying fish.

All of the calculations in the preliminary draft are based on an upper bound cancer potency (slope) factor of 7.7 $(mg/kg/day)^{-1}$ for PCBs. This value is based exclusively on rodent testing data on 60% chlorinated mixtures of PCBs. It is widely accepted that this value exaggerates risk estimates for less chlorinated PCB mixtures. The analytical data generated to date by both Monsanto and the state provide no basis to assume that the slope factor for 60% chlorinated mixtures is appropriate here. Recent information developed by the Pathology Working Group under the auspices of the Institute for Evaluating Health Risks (IEHR) suggests that a more appropriate cancer potency factor might be 1.9 $(mg/kg/day)^{-1}$, based on a reanalysis of PCB chronic feeding studies. Indeed, the state of New Jersey has recently adopted a value of 1.4 $(mg/kg/day)^{-1}$ and the U.S. EPA is considering a reduction in the value reported in the IRIS data base.

While worst-case estimates of exposure and dose and upper bound cancer slope factors can be mathematically combined to generate worst-case risk estimates, such an exercise does not take into account a major concern with regard to risk assessment, the relevance of animal data to actual human risks. While PCBs at high



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doses have been associated with various toxicities in animal tests (including rodent liver cancer for 60% chlorinated mixtures), the human evidence consistently demonstrates that, with the limited exceptions of dermal effects and transient effects on liver enzyme levels, PCBs have not been associated with human health effects, even among relatively highly exposed workers. Dr. Renate Kimbrough and other experts have repeatedly noted this absence of health effects, especially among environmentally exposed persons. In particular, the epidemiological studies provide no consistent evidence that occupational exposure to PCBs is associated with cancer in humans. In light of the weight of the human evidence, risk assessment based on upper bound cancer potency factors derived from rodent studies of 60% chlorinated mixtures of PCBs is not well-founded.

The preliminary draft risk assessment calculations are based solely on retrospective worst-case exposure estimates. The retrospective approach not only incorporates unrealistic exposure scenarios, but also it ignores past and current actions, which have minimized or eliminated the potential for exposure altogether. Risk assessment is not a stand-alone activity. It must be considered as input into a larger risk management context. Risk management is a forward-looking process. Unless the risk assessment phase is also focused on present conditions and realistic future potentials for exposure, it cannot provide meaningful input into risk management decisions.

Monsanto Company is currently involved in extensive sampling programs to characterize the extent and magnitude of PCB levels at and near the Anniston plant. At the same time, work is ongoing to assure that the analytical data generated is as accurate as possible. Based on the results of the sampling programs and based on potential effective and pragmatic remediation alternatives, Monsanto will continue to work with state regulatory agencies to develop appropriate responses and remediation plans.



WATER_PCB-SD0000013788

APPENDIX A



WATER_PCB-SD0000013789

IEHR

Institute for Evaluating Health Risks

John A. Moore, President

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July 7, 1995

Review by Renate D. Kimbrough, M.D. of a document entitled: "Preliminary Risk Assessment for Monsanto Chemical Company in Anniston, Alabama".

General Comments.

This document apparently is of a preliminary nature. In it an attempt is made to assess the risk of several landfills, a drainage ditch and a creek. No explanation was given in the document why the preliminary risk assessment was performed, whether a final risk assessment would evolve from it, or whether it would be commented on by other entities. It was also not stated why the risk assessment was based on past events.

Although the attempt of putting the theoretical risks of the different entities into perspective is commendable, the assumptions made in the preliminary risk assessment are unrealistic, partially based on hearsay and also on what appear to be at least in part unreliable analytical data. It is therefore recommended that this risk assessment not be utilized.

Specific Comments.

Some assumptions made in the risk assessment seem to be retrospective and based on the fact that the company has been in existence in Alabama since 1935. This begs the question of who this risk assessment is for. Is the risk assessment construed for citizens over the age of 60 who have lived their entire life around the plant?

The question that should be addressed is: what is the risk now?

Some of the assumptions listed in tabular form in the document as standards used in the calculations seem to have been derived from assumptions proposed by the U.S. EPA as default assumptions, but no reference is given. Such generic default assumptions are only suggested to be used if no better information is available.

All risk assessments should explain the uncertainties introduced into the risk assessment which was not done in this case. Such a discussion will help the risk assessor decide whether the approach is reasonable and realistic. In some instances the uncertainties



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may be so overwhelming that no credible risk assessment can be made as may be the case in the situation addressed here.

No explanation was given why specific assumptions were used. It is stated that the company has been in Alabama since 1935 and has manufactured PCBs. It is entirely unclear whether the present contamination existed in the early years of the "start up" of the company.

It is stated in the risk assessment that a drainage ditch is contaminated with PCBs and highly unlikely exposure scenarios are developed for it. The drainage ditch has very steep sides (not mentioned in the risk assessment) and is very deep with very little water in it most of the time. A small child would not venture into the ditch or if it fell into it would not be able to get out on its own accord. Thus, the likelihood that children would play in the ditch is rather remote. Adults would definitely not venture into the ditch on a regular basis. I would consider climbing into the ditch for recreational purposes rather abnormal behavior.

It is assumed in the risk assessment that people are exposed to the landfill and the drainage ditch 365 days a year and that a worker receives exposure for 250 days per year. The length of exposure for the general population is considered to be 60 years and for workers it ranges from 25 - 35 years. No allowance is made for the fact that the general population or the workers would not venture into these areas if it were raining or very cold. They really would have little reason to go there at all. Even if they did go there they would only walk through the area, they definitely would not sit down and eat dirt. Ingestion of soil is generally only a problem in small children, particularly toddlers because of their hand to mouth activities. It is also known that children under 6 usually stay pretty close to home and would not roam around on these various landfills or in ditches. Furthermore, the extensive literature on lead shows that hand to mouth activities disappear between the ages of 5 - 6.

It is assumed that adults drink 2 liters of water and children 1 liter. This is generally true except that the sources may vary. Some water may come from the tap and other water may be bottled water, soft drinks etc. The population in the area for which the risk assessment is performed is on city water. Drinking water is therefore not an issue since the ground water in the immediate area is not used as drinking water.

Thus, in summary there is no convincing support for the presumption that anybody received any exposure to PCBs which would have resulted in PCB uptake from direct contact with the drainage ditches or the landfills. This observation is supported by a number of studies which show that people living on PCB contaminated soil, do not accumulate higher body burdens of these chemicals when compared with the general population (Stehr-Green et al. Arch. Environ. Hlth. 43, 420, 1988; Baker et al. Am J. Epid. 112, 553,



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1980; Yaffe and Reeder. Canad. J. Publ. Hlth. 80, 325, 1989; Miller et al. Arch. Environ. Contam. Toxicol 20, 410, 1991).

Body burdens in the general population appear to be related to consumption of PCBs through the food chain. In workers occupational exposure inside the plant rather than environmental exposure outside the plant has contributed to PCB uptake in the past.

In addition to the highly unlikely exposure scenarios that were developed, the PCB levels used for soil, water, fish etc. are not well defined by the author of the preliminary risk assessment. It is unclear when these samples from which the PCB numbers are derived were actually obtained or in which laboratory the samples were analyzed. No information is given about the performance of the laboratory. It is also not explained whether these numbers represent averages, or the highest values ever measured and whether levels below the limit of detection where considered as well and how they where included in the calculations.

The quantitation used for the PCBs seems to be in error. PCBs are changed in the environment. Certain congeners are more easily degraded then others. Quantitating such PCB mixtures as Aroclor 1242, 1254 and 1260 and then adding them up produces erroneously high total PCB levels. Furthermore, no mass spectroscopy confirmation seems to have been performed on any of the samples whose analytical results were used in the risk assessment. High resolution GLC instruments with capillary columns are now also available. They could be used on a few selected samples to get a better handle on congeners and on quantitation. Particularly for the fish samples it should be determined whether contamination with DDE and other chlorinated aromatic compounds might have affected the PCB quantitation. Until some confirmation of these environmental measurements and their specific identification as PCBs has been made no credible risk assessment can be performed.

Recommendation.

It is recommended that prior to any attempts at a risk assessment a better understanding of present pathways of exposure be developed. Any PCB measurement results should be validated as to their accuracy and only current measurement results should be utilized for any future risk assessments.

Renate Kimbrough, MD

Renate D. Kimbrough, M.D., D.A.B.T.



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APPENDIX B



WATER_PCB-SD0000013793

## Savannah Labs Analytical Reports

As part of continuing efforts to refine the site characterization at and near the Monsanto Anniston facility, analytical and engineering personnel have reviewed the recent information developed by Savannah Labs to address the quantitative accuracy of EPA Method 8080, when applied to complex environmental mixtures of PCBs such as those encountered at or near the Anniston Plant. The results generated by the electron capture gas chromatographic (EC-GC) EPA Method 8080 were compared to results from EPA Method 680, which is a gas chromatographic/mass spectrometric (GC/MS) method. Results from analyses using the more refined EPA Method 680 were consistently and often substantially lower than results from analyses of the same sample extracts using EPA Method 8080 and an "Aroclor-based" calculation methodology.

Method 8080 is most appropriately applied to the analysis of samples containing individual Aroclor products or simple mixtures of those products. Results are quantitated by attempting to assign a few unique GC peaks to particular Aroclor products, calculating concentrations for each individual "Aroclor", and then summing those individual "Aroclor" concentrations. This method of calculation (summing "Aroclors") is inappropriate for complex mixtures of PCBs, because results are erroneously elevated. The erroneous elevations arise from the fact that in complex mixtures, the analyst is unable to assign peaks which are truly unique to a particular Aroclor mixture. Therefore, some GC peaks may make multiple contributions to the calculation of total PCBs by summing "Aroclors". The GC/MS Method 680 does not identify and quantitate specific Aroclor mixtures in complex samples, but rather it measures contributions to the total PCB concentration from each congener class (PCBs with the same number of chlorines per biphenyl molecule) and sums the results to give the total concentration of PCBs.

During the analytical chemistry phase of the 'Area A Soil Sampling Program', Savannah Laboratories recognized the potential bias associated with attempting to quantitate analyses using the "summed Aroclor" methodology. Initial observations indicated that this upward bias was most apparent in regions of the chromatograms where Aroclor 1248 and Aroclor 1254 eluted. Therefore, beginning with results reported in Table 3 of the Geraghty & Miller report for Area A, the laboratory used a combined response factor for Aroclor 1248 and 1254. Those results are denoted by an asterisk (*) in Table 3. Total PCBs were then calculated by Geraghty and Miller for inclusion in Table 3. This calculation method was also used by Savannah Laboratories for quantitation of the PCBs in the 'Off-site Sediment (Snow Creek) Sampling Program".

Further investigation by Savannah Labs has demonstrated that an alternative calculation methodology to quantitate results generated by EC-GC Method 8080 is more appropriate for these complex samples.



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In this alternate methodology an average response factor is calculated for the total area of the peaks for all PCB peaks (Area Under the Curve (AUC)) in the PCB standard mixture, and this factor is applied to the total area under the curve in the chromatograms of the samples. This technique provides a more accurate measure of the total PCBs present in the sample and avoids the errors introduced by attempting to sort out and quantitate individual Aroclor mixtures and then summing those results (the "summed Aroclor" method). The accuracy of this approach is demonstrated by the agreement between the results calculated using this alternate methodology and results obtained using the GC/MS Method 680 on selected samples. This alternate calculation methodology is referred to as the "total area under the curve (AUC)" method in further discussion below.

Based on the results of these analytical investigations, the following program will be instituted:

For the "Off-site Sediment Sampling" (Snow Creek) program, all results are reported using an average response factor for Aroclor 1248 and Aroclor 1254. Those results have been communicated to Geraghty & Miller, which incorporated them into the final report on that program. The prior calculations using the "summed Aroclor" method are attached as an appendix.

The Area A report has already been issued using the average response factor for Aroclor 1248 and 1254 for the results reported in Table 3. That report will stand as issued, with the understanding that some of the results in Tables 1 and 2 may be erroneously elevated, as discussed above.

All future samples will be analyzed using Method 8080 and the "total area under the curve" method of calculation. Ten to twenty percent of the analyzed samples will be reanalyzed using Method 680 to provide quality assurance that there is agreement between results obtained using the two analytical methods. If any paired samples differ by more than a factor of 2, the original data will be reviewed to assess the discrepancy. Standard Reference Materials (SRMs) for PCBs in sediment (available from NIST) will be submitted as blind samples to Savannah Labs to serve as verification samples for EPA Method 8080 and the "total area" quantitation.

This program should produce accurate analytical results for all ongoing sampling programs.



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WATER_PCB-SD0000013795

The Anniston Star

April 2, 1995 | Alabama's largest home-owned newspaper | $1.00

# Monsanto documents show early company response to PCB crisis

By Sean Reilly
Star Staff Writer

The year was 1971. Richard Nixon was president; Alabama would beat Auburn 31-7 that fall; and in August of that year, two Louisiana environmental consultants wrote a Monsanto Co. official in Anniston with some depressing news.

The two had been studying fish samples taken from Choccolocco Creek and other nearby waters. Contrary to company hopes, residues of polychlorinated biphenyls, commonly known as PCBs, in the fish were not dropping as expected.

"We are very sorry that we can't paint a brighter picture at the present time," they wrote. "However, we all know that we have to study these situations carefully and that we must be able to document any claims of environmental improvement before they are released for public consumption."

Monsanto's reply is not known, but the toxic PCBs long ago manufactured at its Anniston plant still linger in the local environment. Much of Choccolocco Creek now stands under a "no con-

■ See Pollute/6A

## Pollute

■ From Page 1A

sumption" fish advisory because of PCB contamination. The company is facing three PCB-related lawsuits by property owners, business people, and anglers charging that the company knew about continuing contamination and did nothing.

The decades-old company papers were recently filed in St. Clair County Circuit Court by plaintiff lawyers in connection with one of those suits. Monsanto attorneys say the evidence will show the company acted responsibly at all times. In response to Star questions, they provided additional documents.

Manufactured in Anniston for some 40 years, PCBs were long used for electrical equipment and other purposes. But in 1966, Swedish researchers found the long-lived chemicals in fish and wildlife. By 1979, growing concerns about health and environmental effects ultimately resulted in a national ban on the manufacture and most uses of PCBs.

The crisis was still young in the late 1960s and early 1970s, however. Little was then known about the chemicals' effects. Although the Choccolocco Creek contamination got brief media attention in 1970, the documents show a key state regulator actively advising the company to keep the matter quiet. They also sketch an intriguing picture of the chemical giant's response to the crisis in a major product line.

"Make the Govt., States and Universities prove their case, but avoid as much confrontation as possible," concluded one 1969 draft strategy. "Comply and work with public officials to meet or exceed requirements ahead of time. Adverse publicity and competition are the real weapons."

Monsanto was well aware that it had a problem at its Anniston facility. In one 1970 memo, an official at the firm's St. Louis, Mo., headquarters seemed deeply worried about the amount of PCBs that the plant continued to dump into Snow Creek. The latest tests showed a one-day discharge of about 80 pounds into the stream, Paul Hodges wrote to an Anniston employee.

"From the legal standpoint, there is extreme reluctance to report even the relatively low emission figures (to state authorities) because the information could be subpoenaed and used against us in legal actions."

Within a few months, the company had significantly cut the discharge.

**Manufactured in Anniston for some 40 years, PCBs were long used for electrical equipment and other purposes. But in 1966, researchers found the long-lived chemicals in wildlife. By 1979, growing concerns about health effects ultimately resulted in a national ban on the manufacture and most uses of PCBs.**

But records from the same year make clear that state regulators were not eager to tell the public what was going on. As the PCB controversy heated up, company officials went to Montgomery in mid-1970 to explain the situation to J.L. Crockett, technical director of the Alabama Water Improvement Commission, the agency then in charge of protecting the state's waterways.

Crockett was "noticeably unexcited at our disclosure," one Monsanto employee noted the next day. Telling the company to keep him informed, Crockett also recommended that nothing be done that "would bring the situation to the public's attention."

A few months later, Crockett's attitude evidently had not changed.

"Crockett told me that if this PCB issue hits the Alabama press, the Alabama Water Improvement Commission would be forced to close Choccolocco Creek and the Martin-Logan Reservoir to commercial and sport fishing unless we can prove that the contamination level does not reach the reservoir," another employee noted after a meeting. "The state of Alabama has no choice but to follow the guidelines of the (Food and Drug Administration) which calls for no more than 5 (parts per million) PCB in fish."

In fact, Choccolocco fish had already shown far worse contamination. In 1969, Monsanto fish samples from the creek showed PCB residues up to 180 times that federal standard. Later, government samples of Logan Martin fish also found PCB contamination above the tolerance level.

The health effects on those who unknowingly ate contaminated fish over the years is unknown. The chemicals are suspected of causing cancer; prenatal exposure also has been linked to reproductive problems such as low birthweights and poorer short-term memory in small children.

Contaminated fish were only one part of the company's problem. Although Monsanto ended Anniston PCB production in 1972, the firm was aware that heavy concentrations in Snow Creek sediment could persist long after.

"With this concentration of (PCB) in the mud of Snow Creek, we can expect leaching to continue for a long time, regardless of how well we clean up the plant," Hodges wrote in 1969. Two years later, a federal regulator recommended that the creek be dredged. For unknown reasons, Monsanto officials advised against it.

"I think our guys thought the problem was going to go away, especially after the flow was cut off," says Monsanto attorney Adam Peck.

They thought wrong. In the mid-1980s, tests still showed significant PCB pollution in Snow Creek. Monsanto sent almost 1,000 tons of contaminated sediment to the hazardous waste landfill at Emelle in 1989-90.

The state got around to officially warning the public only in 1993, when a private contractor noticed deformed fish in Choccolocco Creek and had them tested on his own. After follow-up ADEM tests confirmed findings of serious PCB contamination, the state public health department slapped a "no consumption" fish advisory on Choccolocco below Snow Creek in November 1993. The advisory could be in place for years to come.

PLAINTIFF'S EXHIBIT 4

WATER_PCB-SD0000013796

# MONSANTO PROPERTY PURCHASE PROGRAM

**Monsanto Company** **Anniston, Alabama**

DSW 040124

PLAINTIFF'S EXHIBIT

5

WATER_PCB-SD0000013797

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*The information contained in this booklet provides a description of the Monsanto Property Purchase Program. It is not an offer to buy property.*

DSW 040125



WATER_PCB-SD0000013798

## Letter from Monsanto

Dear Neighbor,

As you may be aware, Monsanto has recently been sampling soils in the area. We have found some polychlorinated biphenyls (PCBs) on our property and on some adjacent areas. PCBs are chemicals which were manufactured at the plant from the 1930s until 1971. We are currently working with the Alabama Department of Environmental Management to develop a plan to manage the situation.

In anticipation of those plans, there are certain residential properties and privately owned vacant lots we would like to purchase, near or adjacent to our property. Monsanto is offering to purchase these properties within the "program area," as shown on the map on page 5. The details of the purchase offer, plus a range of relocation assistance features, are explained fully in the enclosed program handbook.

As you look through the program handbook, please note the eligibility requirements for both property owners and renters who choose to participate in the program and relocate outside the "program area."

The details of the program include:

- a purchase offer for your property
- bonuses, available in certain cases
- assistance for current renters
- miscellaneous expense allowances, and
- relocation services available to you through the new Information Center

We realize that relocating is a difficult decision, and you will want to take time to consider the advantages of the program being offered. Either way, the decision whether or not to participate is yours. To help provide you with any information you may need, we have opened an Information Center with representatives available to review the entire program with you at your convenience. In addition, you may contact our "Answer Line" at 1-800-544-2932 ext. 2711, or contact us at Monsanto at 231-8501.

Sincerely,

Jack Mayansky
Plant Manager

DSW 040126



WATER_PCB-SD0000013799

## Introduction

The Monsanto Property Purchase Program (Program) is a program provided by Monsanto to enable you to sell your property and relocate, if you so choose. The details of the Program are contained in this booklet.

Easy access to the Program is provided through our Information Center, staffed by Prudential Residential Services, located in the trailer set up in the Monsanto parking lot. The Information Center will be staffed by a representative who is available to meet with you privately to go over all of the features of the Program and will assist you in understanding Program options available to you.

The Information Center will also provide you with information about homes for rent or purchase in the area. A representative can put you in touch with local real estate professionals who can help you identify your housing options.

A representative will be at the Information Center starting October 6, 1995. Through October 21, the Center will be open Monday through Friday from 8:30am to 5:00pm and evenings and weekends by appointment. Please feel free to contact the Information Center at (205) 231-8508. After October 21, a representative will be available at the Center one day each week and by telephone at other times via the Center number.

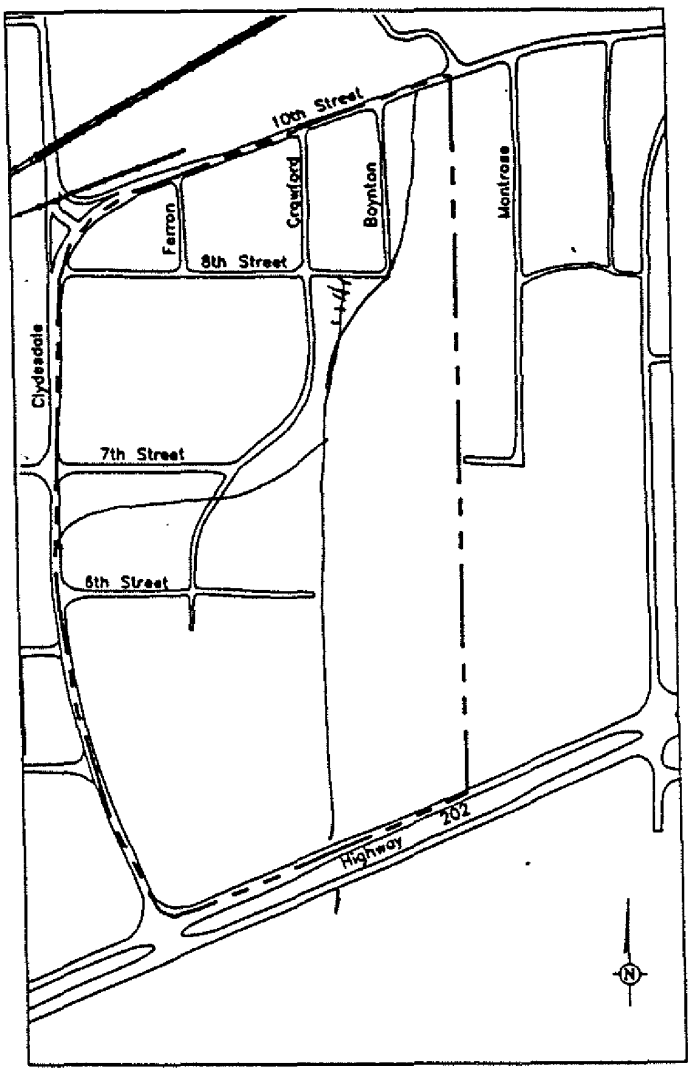
DSW 040127



WATER_PCB-SD0000013800

## Program Area

The Program applies only to the residential properties and privately owned vacant lots located within the program area. The program area, defined in the map below, is that area generally to the north of Rt. 202; to the east of Clydesdale Road; to the south of 10th Street; and, to the west of the property line depicted on the map below:




DSw 040128



WATER_PCB-SD0000013801

## Who is Eligible?

**Property owners**
You are eligible for the Program if you own residential property (see pages 8-11) or vacant lots (see pages 12-13) in the Program Area (shown on the previous page), as of October 2, 1995.

If you are a property owner, you may sign up for the program until February 2, 1996. To sign up, just contact the Information Center and ask to arrange for an independent appraisal on your property. If you sign up for an appraisal by December 1, and you decide to accept an offer, you will also be eligible to receive an early appraisal sign-up bonus.

Requesting an appraisal ***does not commit you to sell your property.*** Having an appraisal completed simply allows the Information Center to present you with an offer for your property. Once you have received your offer, you can choose whether or not to accept it.

***Note: You must sell all property you own in the Program Area to be eligible for Program benefits.***

**Renters**
Renters may be eligible to receive a miscellaneous expense allowance under the Program (see page 14).

OSW 040129



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## Summary of Program Benefits

**Home Owners and Rental Property Owners**

- Appraised value for your property
- Premium payment (an amount in addition to the appraised value)
- Miscellaneous expense allowance
- Early appraisal sign-up bonus
- Legal assistance and tax advisor allowance
- Full payment of normal and reasonable closing costs
- An option to remove some property improvements
- Equity advance assistance
- Relocation services

**Vacant Lot Owners**

- Appraised value for your vacant lot(s)
- Premium payment (an amount in addition to the appraised value)
- Early appraisal sign-up bonus
- Legal assistance and tax advisor allowance
- Full payment of normal and reasonable closing costs

**Renters**

- Miscellaneous expense allowance
- Relocation services

DSW 040130



WATER_PCB-SD0000013803

## Offer for Home Owners & Rental Property Owners

**The Offer**

The offer applies to home owners living in the program area and landlords owning habitable rental property in the program area. Unoccupied, habitable residences will be treated as rental property. The offer consists of four payments and one potential bonus:

**payments**

- the appraised value
- the premium over appraised value
  - . 75% of the appraised value for owner-occupied home owners
  - . 50% of the appraised value for rental property owners
- the miscellaneous expense allowance
  - . $4,000 for owner-occupied home owners
  - . $1,000 for rental property owners
- the legal assistance and tax advisor allowance, $150

**potential bonuses**

- the early appraisal sign-up bonus, $3,500

**Appraised Value**

If you are a home owner or landlord, the first part of your offer is an "appraised value" for your property and the improvements on it (such as a home, garage, outbuilding, etc.). The appraisals are done by local independent appraisers and are arranged by the Information Center. The list of approved appraisers includes local, actively practicing appraisers who are certified by the Alabama State Real Estate Commission.

The first step is for you to meet with a representative at the Information Center so you can select two appraisers from the approved list. The Information Center will then contact the appraisers and have them visit your property. Each appraiser will independently develop a value for your property using a standard format (URAR 1004 6/93).

When the two appraisal amounts are calculated, your appraised value will equal the average of the two appraisals -- provided the lower appraisal is within 10% of the higher appraisal. If the difference is greater, the Information Center will arrange for a third appraisal. Then, the two highest appraisals will be averaged to make the appraised value offer.

OSW 040131



WATER_PCB-SD0000013804

## Offer for Home Owners & Rental Property Owners

**Appraisal Process - Examples**
In the chart below you can see how sample appraisal calculations are made.

In example #1, the higher appraisal is $16,000. This means that the lower appraisal must be within 10% or $1,600. Since the two appraisals are only $1,000 apart, a third appraisal is not required. The two appraisals are averaged to make the appraised value offer of $15,500.

In example #2, the higher appraisal is $20,000. This means that the lower appraisal must be within 10% or $2,000. But the appraisals are $4,000 apart. This means a third appraisal must be done. Now, out of the three appraisals, the two highest are averaged to make the appraised value offer.

| | Appraisal #1 | Appraisal #2 | Appraisal #3 | Appraised Value Offer |
|---|---|---|---|---|
| **Example #1** | $15,000 | $16,000 | not required | $15,500 |
| | | | | *Average of $15,000 and $16,000* |
| **Example #2** | $16,000 | $20,000 | $18,000 | $19,000 |
| | | | | *Average of $20,000 and $18,000* |

**Minimum Appraised Value**
In order to make the program attractive and practical for all eligible owner-occupied home owners, a minimum appraised value has been set at $10,000. The minimum value applies to any owner-occupied home occupied as of October 2, 1995.

**Offer Period**
Once the appraised value is calculated, you are presented with a written offer to purchase your property including a premium payment, miscellaneous expense allowance and any applicable early appraisal sign-up bonus. Once you receive an offer, you have 45 calendar days to accept. The offer contains conditions normal and customary to local real estate transactions, including a requirement that you, the seller, have valid title to the property. Only ***written*** offers are valid under the Program. You are encouraged to review the offer with your family and friends, and to obtain advice from any others you wish. A ***legal assistance allowance*** of up to $150 is available to you for attorney and tax advisor fees to review program documents.

DSW 040132



WATER_PCB-SD0000013805

## Offer for Home Owners & Rental Property Owners

**Premium Payment**
The premium payment is made at the closing of the sale and is intended to enable you to purchase property elsewhere. The premium payment equals 75% of the appraised value for owner-occupied home owners, and 50% for rental property owners.

**Miscellaneous Expense Allowance**
A miscellaneous expense allowance of $4,000 is provided to you at the closing of the sale if you are an owner-occupied home owner living in the Program Area as of October 2, 1995. The miscellaneous expense allowance is intended to cover moving and personal relocation costs for those who own and live on their own properties. In cases of multiple ownership, this payment will be made to the owner who occupies the home.

If you are a landlord, a miscellaneous expense allowance of $1,000 will be paid to you at the closing of the sale. This payment will be made whether the property is vacant or tenant-occupied. (See page 14 for the Miscellaneous Expense Allowance for Renters.)

**Early Appraisal Sign-Up Bonus**
If you request an appraisal on your property on or before December 1, 1995, you will receive an Early Appraisal Sign-Up Bonus of $3,500 at the closing of the sale.

**Obtaining an Equity Advance**
The Program will provide assistance in obtaining an advance on the equity in your property when you present a documented need to:

- make a down payment on another property
- close a sale on a new home
- pay moving expenses or other related costs

The Information Center representatives will assist you in obtaining an equity advance in such circumstances. This amount will then be deducted from your final payment upon closing.

OSW 040133



WATER_PCB-SD0000013806

**Closing and Vacating**
The Program pays for all normal and reasonable closing costs on the sale of your home. Real estate broker commissions and the cost to correct title problems are not covered.

Closing should be scheduled within four (4) months after you accept the offer. However, by prior agreement, and on a case-by-case basis, you may delay closing. The Information Center staff will arrange a mutually acceptable closing date once you have accepted the offer. You are required to vacate the property prior to closing, removing all possessions and leaving the property "broom clean" and in a neat and safe condition.

**Calculating Your Total Offer**
Example calculations are provided below for home owners and for owners of rental property.

**Home Owner Sample Offer**

| | |
|---|---|
| Appraised Value | $15,000 |
| 75% Premium Payment | 11,250 |
| Misc. Expense Allowance | 4,000 |
| Early Appraisal Sign-Up Bonus | 3,500 |
| **Total Offer** | **$33,750** |

**Rental Property Owner Sample Offer**

| | |
|---|---|
| Appraised Value | $15,000 |
| 50% Premium Payment | 7,500 |
| Misc. Expense Allowance | 1,000 |
| Early Appraisal Sign-Up Bonus | 3,500 |
| **Total Offer** | **$27,000** |

DSW 040134



WATER_PCB-SD0000013807

## Offer for Vacant Lot Owners

**The Offer**

This offer applies to private owners of a vacant lot or a group of contiguous vacant lots (parcel) in the program area. Condemned residences will be treated as vacant lots. The offer consists of three payments and one potential bonus:

**payments**

- the appraised value
- the premium over appraised value -- 50%
- the legal assistance and tax advisor allowance

**potential bonus**

- the early appraisal sign-up bonus, $500 per lot or parcel

**Appraised Value of Vacant Lot or Parcel**

If you own a vacant lot or parcel, the first part of your offer is an "appraised value" for the vacant land. The appraisals are done by local independent appraisers and are arranged by the Information Center. The list of approved appraisers includes local, actively practicing appraisers who are certified by the Alabama State Real Estate Commission.

The first step is for you to meet with a representative at the Information Center so you can select two appraisers from the approved list. The Information Center will then contact the appraisers and have them visit your property. Each appraiser will independently develop a value for your property using a standard format (URAR 1004 6/93).

When the two appraisal amounts are calculated, your appraised value will equal the average of the two appraisals -- provided the lower appraisal is within 10% of the higher appraisal. If the difference is greater, the Information Center will arrange for a third appraisal. Then, the two highest appraisals will be averaged to make the appraised value offer.

DSW 040135



WATER_PCB-SD0000013808

## Offer for Vacant Lot Owners

**Appraisal Process - Examples**
In the chart below you can see how sample appraisal calculations are made.

In example #1, the higher appraisal is $2,100. This means that the lower appraisal must be within 10% or $210. Since the two appraisals are only $100 apart, a third appraisal is not required. The two appraisals are averaged to make the appraised value offer of $2,050.

In example #2, the higher appraisal is $2,500. This means that the lower appraisal must be within 10% or $250. But the appraisals are $500 apart. This means a third appraisal must be done. Now, out of the three appraisals, the two highest are averaged to make the appraised value offer.

| | Appraisal #1 | Appraisal #2 | Appraisal #3 | Appraised Value Offer |
|---|---|---|---|---|
| **Example #1** | $2,000 | $2,100 | not required | $2,050 |
| | | | | *Average of $2,000 and $2,100* |
| **Example #2** | $2,000 | $2,500 | $2,300 | $2,400 |
| | | | | *Average of $2,500 and $2,300* |

**Premium Payment**
The premium payment is made at closing and is intended to help you to purchase property elsewhere. The premium payment equals 50% of the appraised value.

**Early Appraisal Sign-Up Bonus**
If you request an appraisal on your property on or before December 1, 1995, you are eligible to receive at the closing of the sale an Early Appraisal Sign-Up Bonus equaling $500 per lot or parcel.

**Vacant Lot Owner Sample Offer**

| | |
|---|---|
| Appraised Value | $2,400 |
| 50% Appraisal Premium Payment | 1,200 |
| Early Appraisal Sign-Up Bonus | 500 |
| **Total Offer** | **$4,100** |

OSW 040136



WATER_PCB-SD0000013809

## Offer for Renters

**Miscellaneous Expense Allowance**
A miscellaneous expense allowance of $3,000 per property is payable to the tenant whose landlord has accepted a program offer. Only tenants of the rental unit as of October 2, 1995 are eligible for this miscellaneous expense allowance. The miscellaneous expense allowance is paid to the tenant within two weeks of the landlord's acceptance of the offer.

**Renter Sample Offer**
Miscellaneous Expense Allowance per Property $3,000

DSW 040137



WATER_PCB-SD0000013810

## Questions and Answers

***Why is Monsanto offering this program?***
Monsanto is working with the Alabama Department of Environmental Management to develop a plan to manage the PCBs found on our property and in some adjacent areas. In order to implement the management program we would like to own the properties in the program area.

***Does Monsanto have any plans to build operating facilities on the property it purchases?***
Monsanto does not plan to build operating facilities in this area. However, we will possibly be constructing a storm water collection basin on or near this area.

***How long will the program last?***
Eligible program participants will have until February 2, 1996, to request an appraisal on their property. Once the request is received, and appraisals done, they can receive an offer which includes a premium and bonuses. After that date, we will still be interested in purchasing property in the program area at its appraised value, but the premium and bonuses will not be offered.

***What if residents decide not to accept Monsanto's purchase offer?***
Monsanto intends to be a good neighbor -- to those who wish to leave, and to those who wish to stay. There is no requirement to participate in the program.

***How can residents start talking to Monsanto about this?***
An Information Center has been set up in a mobile office in the front parking lot of the plant. The first step is to simply fill out an appraisal request form available at the Information Center.

***How did Monsanto determine the price offered for the property and homes?***
We will pay an appraised value based on comparable properties and homes in the Anniston real estate market plus certain premiums and bonuses for eligible participants.

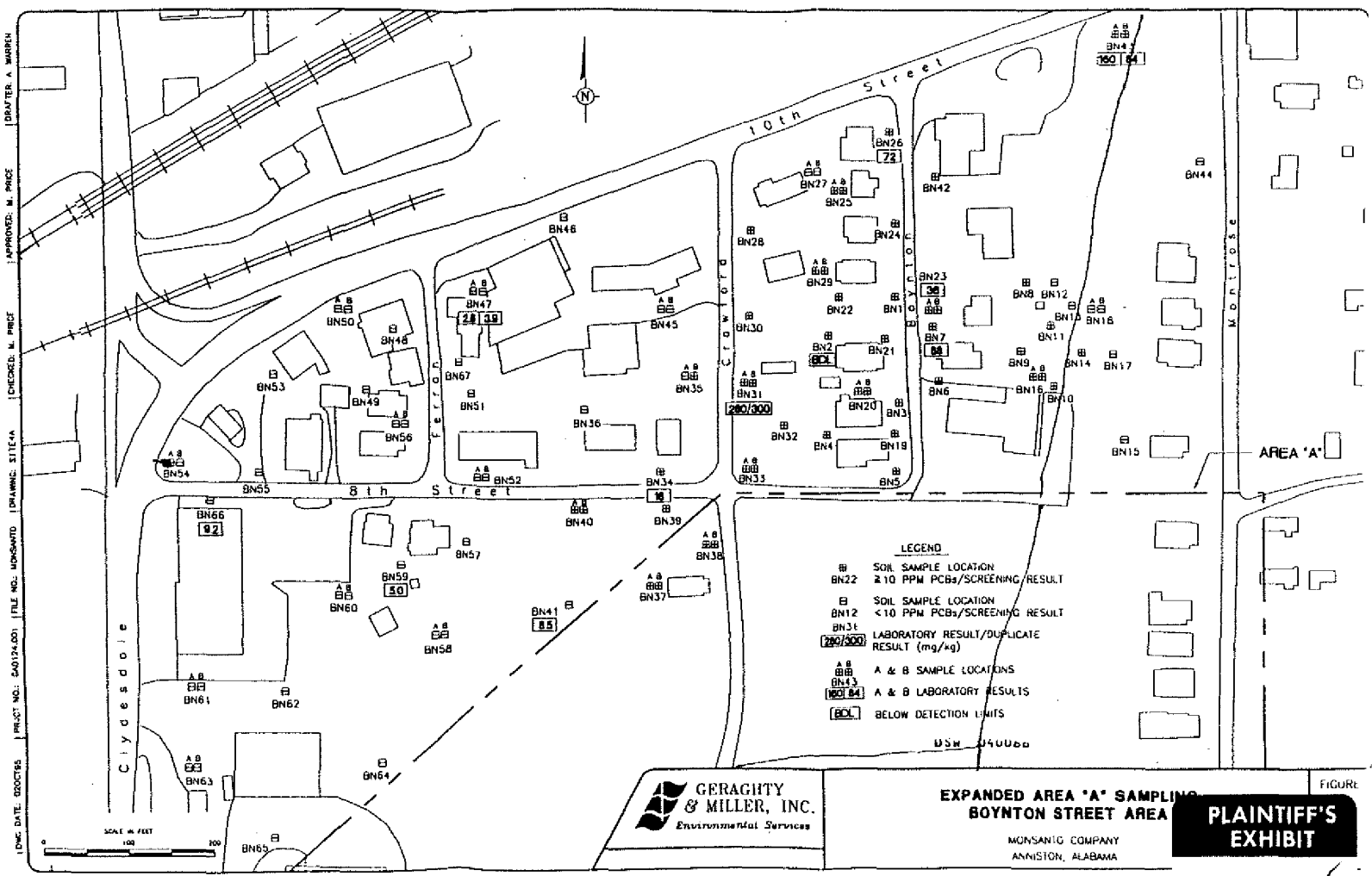
***How will the appraisers estimate property value?***
Appraisers estimate value based on the concept of "comparable sales." The appraisers will look at comparable property sales in the Anniston market, taking into consideration: location, property size, number of square feet, bedrooms, baths and other features.

***What will the program offer to owners of vacant lots?***
Private owners of unimproved parcels of property (vacant lots) who decide to sell their property will receive a $500 early appraisal sign-up bonus if they sign up for an appraisal within the first two months of the Program and a 50% premium payment above the appraised value.

***What will the program offer to renters of homes in the program area?***
Renters whose landlords accept a Program offer will receive a miscellaneous expense allowance of $3,000 to assist with moving costs and to help the renter get established in the new residence.



WATER_PCB-SD0000013811




WATER_PCB-SD0000013812

# PLEASE ATTEND

# A COMMUNITY MEETING

# WITH JACK MAYAUSKY

# MONSANTO PLANT MANAGER

**When: Thursday, October 5, 1995 at 5:30 P.M.**
**Where: Mars Hill Baptist Church**

**OR**

**When: Thursday, October 5, 1995 at 7:00 P.M.**
**Where: Bethel Baptist Church**

PLAINTIFF'S EXHIBIT
7

DSW 040173

Jack Mayausky/Bethel Baptist Church

331 - 7630 [illegible]
331-7630 W
336-3749 H

On Tuesday, 3/7/95, I met with Rev. William Fields.

I introduced myself and explained that the reason for my visit was twofold. One, to meet and get to know immediate plant neighbors and two, discuss possible polychlorinated biphenyl (PCB) contaminants in the small ditch near the church. I explained our past production of PCB and how during recent testing we found sediment levels in the ditch on our property. I explained that we are working closely with ADEM to understand the situation and expressed our need to do further testing on the ditch. I explained that I would be contacting other neighbors.

Rev. Fields said that he was aware of the past production and concerns with PCBs from our plant. He said that he has been following the articles in the paper on the issue. He was aware of the PCB fish levels in Choccolocco Creek. He was concerned if there was a health risk associated with this possible exposure.

I explained to Rev. Fields that our own internal health experts do not believe that there is a risk but to be sure we are consulting with outside medical experts. I assured Rev. Fields that our testing would determine our course of action but assured him that we would do the right thing.

Rev. Fields suggested that he arrange a meeting between plant representatives and his Deacons to discuss this situation. He also suggested that we might wish to include Rev. Webb of the First Missionary Baptist Church at this meeting. (First Missionary is across 10th Street and the railroad tracks near Snow Creek).

I explained that Snow Creek is a part of another sampling plan that we are reviewing with ADEM.

Rev. Fields will attempt to set up this meeting some evening within the next two weeks. He will contact me with a time.

Generally, the meeting went well, although I have some concern regarding the upcoming Deacons session and the atmosphere of that meeting.

DSW 040162

PLAINTIFF'S EXHIBIT 8

WATER_PCB-SD0000013814

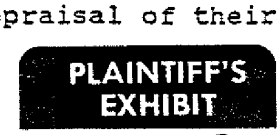
MONSANTO PROPERTY PURCHASE PROGRAM

The Monsanto Anniston Plant has an ongoing commitment to be a good neighbor to its fence line neighbors and to the greater Anniston community. Monsanto intends to conduct its operations in a manner which is fair to everyone concerned. The Anniston plant's commitment to good corporate citizenship is consistent with the goals of the entire Monsanto Company.

Over the past year or so, the Anniston plant, in cooperation with the Alabama Department of Environmental Management (ADEM) has been conducting a sampling program in an area east of our plant proper. This area, generally bounded by Highway 202, Clydesdale Avenue, 10th Street, and extending toward Montrose Avenue, includes property owned by neighbors as well as property owned by Monsanto. In the course of our information gathering, we unexpectedly discovered trace levels of polychlorinated biphenyls (PCBs) in storm water in ditches on our property. PCBs are chemicals formerly manufactured by Monsanto at the Anniston plant until 1971. They were used primarily as fire-resistant fluids in electrical equipment. PCBs have not been made at the Anniston plant in nearly 25 years, so the source of the trace levels of PCBs detected in the storm water was not apparent. Further sampling has shown that some PCBs are present in sediments in drainage ditches in the area east of our plant and lower levels of PCBs are present in soils in the vicinity of the ditches.

Monsanto and the regulatory agencies agree that detectable levels of PCBs should not be allowed to leave the Monsanto property in storm water. Therefore Monsanto and ADEM are cooperating in a program which will assure that the PCBs found during our sampling will be managed and contained accordingly. Although plans are still now being developed, it is clear that a major emphasis of that plan will involve collecting the storm water from our property and managing it in such a way that it will not contain detectable levels of PCBs as it leaves our plant. The management plan may involve construction of a large storm water collection and retention basin in the area east of our current plant.

In order to facilitate whatever plan is eventually adopted, Monsanto is offering to purchase property in the area described above. Monsanto, with the assistance of a division of Prudential, is proposing a property purchase program which we believe is both fair and attractive. Owners of property in the program area, including both improved and vacant lots, will be able to sell their property to Monsanto at an appraised value plus an additional premium payment. The program also includes a bonus for early sign-up, a miscellaneous expense allowance, and other benefits. Renters in the area will also be eligible for a miscellaneous expense allowance and assistance in locating alternative rental housing. Monsanto and Prudential have set up an Information Center on the parking lot at the Anniston plant. Residents will be able to visit the Center to receive necessary information, to arrange for an appraisal of their property, and




DSW 040186

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to discuss their questions. Monsanto will also be extending a purchase offer to the two churches located in the purchase program area. Although there is no obligation to accept the offer to purchase the property or to move, Monsanto hopes that the residents will find this program fair and attractive. We understand that this may be a difficult decision for many of the residents. However, whether property owners decide to accept our offer or not, Monsanto will continue to be a good neighbor.

As part of Monsanto's and the Anniston plant's commitment to be a good neighbor and a good citizen, the plant strives constantly to comply with all federal and state environmental regulations. This property purchase program has been developed to allow us to manage and contain the PCBs which have been detected on our property and in some nearby adjacent areas. Both federal and state regulations require Monsanto and other companies to minimize the amounts of PCBs which are allowed to enter the environment to minimize the potential for environmental effects. Monsanto is confident that the trace levels of PCBs detected in the storm water samples at the Anniston plant are so low that they are not having any effect on the environment. However, Monsanto intends to comply fully with any regulations affecting our plant. The purchase of the property in the program area will allow us to most effectively design a plan to comply with those regulations.

Monsanto is also confident that the PCBs detected in the storm water and in the sediments and soils in the area east of our plant provide no reason for concern about human health. We have consulted with knowledgeable scientists and physicians within Monsanto and outside of the company. Based on their awareness of the area east of the plant and their knowledge of other areas where PCBs have been detected in soils in residential areas, they are confident that residents have not been exposed to PCBs in ways that could result in any uptake. Further, studies of persons who have been exposed to relatively high levels of PCBs in their jobs indicate that PCBs are not associated with significant health concerns. In fact, one of the doctors with whom Monsanto has consulted has written an article about PCBs in which she concluded: "When humans were exposed only to PCBs ..., the only observed acute effects have been minor. So far, no significant chronic health effects have been causally associated with exposure to PCBs..."

Monsanto is committed to undertaking a management plan for the area east of the Anniston plant which is fair to everyone concerned. Although the residents and other land owners have the choice of whether or not to participate in the property purchase program, Monsanto hopes that they find the program fair and attractive and that they accept our offer.



WATER_PCB-SD0000013816

337-4421 church
591-6367 H
~~Jack Mayausky~~

Jack Mayausky/Mars Hill Baptist Church

On Sunday, 3/5/95, I met with Rev. Morris Weatherly, Deacon A. Bowie, and Deacon Zeb Freeman immediately after services.

I introduced myself and explained the reason for my visit was twofold. One, to meet and get to know the immediate plant neighbors and two, to discuss a concern that we have with possible polychlorinated biphenyl (PCB) contaminants in the small ditch near the church. I explained to these gentlemen our past production of PCB and how during recent testing we have found sediment levels in the ditch on our property. I explained that we are working closely with ADEM to understand the situation and expressed our need to do further testing on their property. I also explained that I would be contacting other neighbors and asked if their congregation represented the surrounding community.

Rev. Weatherly seemed very appreciative of my visit and said that entering the church property would be no problem. He said that a few members come from close-by, but that I shouldn't be concerned because he felt he could speak for the cooperation of the entire neighborhood. He asked what possible steps we might take as we understand the problem. I explained that our future action would be determined by the test results but that one possibility was that any contaminated soil would be dug up and properly disposed. We may then come back in to culvert and cover the ditch.

He seemed pleased with this option. He thought the ditch was unsightly and had attempted to have the City/County take care of it in the past to no avail. Rev. Weatherly was very complimentary about Monsanto and his past dealings with us. He commented about us allowing the church to use the empty lot next door for the annual Easter egg hunt.

Deacon Bowie said that God works in wondrous ways as he was about to contact Monsanto concerning the church's possible use of the empty lot for a recreation building for the church.

I explained to Deacon Bowie that we would have to understand our direction with the ditch, but once that is settled, we might discuss other cooperative ventures.

I invited the Reverend and all the Deacons to visit the plant for a tour. This seemed to be well received.

Deacon Bowie offered the use of their church if I wanted to have a community meeting.

Generally, I thought the meeting went very well.

PLAINTIFF'S EXHIBIT

DSW 040163

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WATER_PCB-SD0000013817

# The Anniston

March 23, 1995 — *Alabama's largest home-owned news*


PM Thursday



Associated Press

## Top'Cat

**University of Kentucky basketball coach Rick Pitino observes his team's workout Wednesday at Birmingham's Civic Center Coliseum. The Wildcats, top seed in the Southeast Regional, play Arizona State tonight in the NCAA Tournament's round of 16. Complete coverage of the weekend's games in Birmingham and at other regional sites begins on Page 1C.**

## bons of hope

ondering why those yellow and white ns are tied to some trees in the tard Avenue median?

ey were tied to the trees earlier this to remind the community and a closure commissioner how important McClellan is to the community, said Sylvester, interim president of the un County Chamber of Commerce. tired Gen. James B. Davis, a member BRAC commission, was in ton Wednesday to visit the base.

## t flu vaccine

CDC is recommending that two of ee influenza strains in the current ccine be replaced for next season. xt year's vaccine mix will protect t type A-Texas, A-Johannesburg

# Contaminated ditch

## *PCB find puts residents on alert*

By George J. Tanber and Sean Reilly
Star Staff Writers

Eddie Murphy has lived on West 6th Street most of his 60 years. He's rarely been sick. So the news Monday afternoon that a ditch running aside his house holds unusually high levels of toxic chemicals known as polychlorinated biphenyls, or PCBs, was little cause for alarm in his mind.

"I don't think it's hurt anyone," Murphy said as he strolled alongside the Cobb Town ditch, named for the tiny west Anniston community on the north side of Alabama 202 near the Monsanto plant.

His neighbor, Margaret Williams, took a different view.

"Lord, yes, I'm worried to death," she said. "We probably already got it in our system."

Monsanto plant manager Jack Mayausky told Murphy, Ms. Williams and several other Cobb Town residents about the PCB reading while visiting their homes Monday. While some of the younger residents expressed concern, most of the older residents shrugged off the news.

Monsanto was first alerted to a potential problem several months ago when storm water samples from the Cobb Town ditch showed low PCB levels. The ditch runs northward on and off Monsanto property from Alabama 202 before going underground at Bethel Baptist Church. It then merges with another ditch before emptying into Snow Creek.




Arthur Nixon looks at ditch contaminated with PC

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# PCBs

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Samples so far show PCB contamination all along the ditch as well as some points further away, Mayausky said. Although the ditch samples average "several hundred parts per million," he added, one sample taken in a heavily wooded area near Mars Hill Baptist Church registered 200,000 ppm.

Under federal guidelines, any solid material containing more than 50 ppm has to be disposed of in a special landfill and any containing more than 500 ppm must be destroyed in a sophisticated incinerator.

The public health threat from the contamination is unclear. Long used in electical equipment, PCBs are suspected of causing cancer. They also have been linked to reproductive problems such as low birth weights.

State health official Brian Hughes, an environmental toxicologist , said he plans to visit the site April 4. "We won't be able to make any determination until we go up there."

Monsanto health experts as well as an outside scientist hired by the company concluded there was no risk.

As of Tuesday evening, Monsanto officials had visited only the two homes that adjoin the ditch — Murphy's and the one shared by Ms. Williams and Arthur Nixon. As word of the contamination spread, other, younger residents in the neighborhood expressed concerns about the potential health threat.

"I don't want our children hurt," said Carol Armstrong, who lives with her daughter, Vetayna Armstrong, and two grandchildren in a mobile home across the street from Nixon and Ms. Williams. Tuesday evening, Vetayna Armstrong and her friend and neighbor Melody Tignor, the mother of three children, stood in front of the Armstrong home and recalled how they swam in both ditches as children. Thinking back, Ms. Tignor remembered that the water in the second ditch, runoff from the Monsanto plant according to Murphy, always had a putrid smell. Ms. Armstrong had another recollection.

"It (the water) used take the color off my skin," she said. "But it always returned."

Neither Ms. Tignor or Ms. Armstrong, both in their 30s, have had any long-term effects from their adventures, they say, but they cringe at the thought of having flapped around in potentially contaminated water. "Our parents always told us not to go in it," said Ms. Tignor, "but we were hardheaded."

Now, as parents, they say they give the same warning to their children. Mayausky told Murphy that the cleanup would begin shortly. How much work will be needed will depend on further test results, the plant manager said. Monsanto has already agreed to send any soil tainted with PCB residues higher than 9 ppm to the hazardous waste landfill at Emelle.

The findings mark the latest in a string of recent discoveries of contamination left over from some 40 years of PCB production around the Monsanto site. Amid mounting concerns about the toxins' health and environmental effects, Monsanto ended PCB production at its Anniston plant in 1972. Seven years later, the federal government officially banned their manufacture and most uses.

Potential PCB pollution around the Anniston plant, however, received little attention until 1993, when power company workers discovered heavy concentrations of a tarry substance containing the toxins at an abandoned landfill west of the plant. Later that year, public health authorities issued a "no consumption" fish advisory on much of Choccolocco Creek after fish registered high PCB levels.

Dozens of businesses, property owners and anglers have since joined in several lawsuits against Monsanto over the creek's pollution. Still pending, those suits charge that the company knew it was contaminating the creek and yet did nothing. Monsanto attorneys say the company acted responsibly all the time.

Because the Cobb Town area was never used for production, the source of the contamination

## Life's journey

Life is a journey. Isn't it time you

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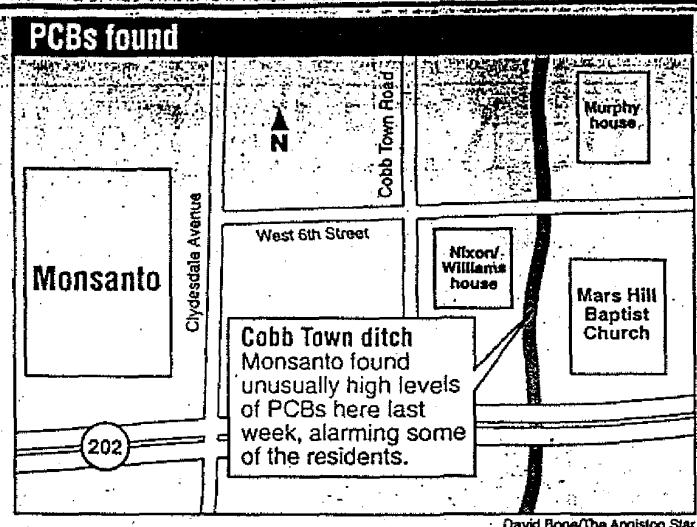


remains unclear. One possible explanation, Mayausky said, is that the Monsanto landfill across Alabama 202 once reached into the neighborhood before the highway was built.

Whatever the company's past record, state officials say Monsanto moved quickly in this case. Although the Alabama Department of Environmental Management has yet to issue a formal order outlining the work to be done, Monsanto has already lined up a contractor to begin cleanup. "It was very, very rapid," said John Poole, chief of the land division of ADEM. "There was no time being lost."

Early this month, Mayausky met with the pastors of Mars Hill and Bethel Baptist churches. Last week, he went door-to-door in Cobb Town asking for permission to work on the land. Mayausky and Monsanto attorneys voluntarily notified the Star of the PCB findings this week.

But Juell Jackson, another longtime Cobb Town resident, remains skeptical of any promises Monsanto makes. Pointing to an empty and cluttered Monsanto-owned lot next to her home, she said, "I've been trying to get that cleaned up for years. They've said they're going to bulldoze it. But they haven't done it, and probably won't."

Late Wednesday, a Monsanto attorney said the company has talked about buying some of the undeveloped property in Cobb Town, but had not approached any residents.

"If they approach us, we'd be interested in considering it," said attorney Adam Peck. "It's not something we feel they need or we need."

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Don't Let The Easter Bunny Sneak Up On You!
Pre-Easter Sale Sat. March 25th
20% Off Selected Easter Dresses
By: Maty, Donna Capozzi, Ruth of Carolina, Peaches & Cream
Selected Group of Sportswear 20% Off
By: Maty, Donna Capozzi, Tickle Me
Saturday 10:00 a.m. - 5:00 p.m.

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