

IN THE CIRCUIT COURT
OF CALHOUN COUNTY, ALABAMA

Civil Action No. CV96-657
Pages 1-36

JOHN E. MASSEY and PEGGY MASSEY

vs.

COPY

MONSANTO COMPANY ET AL

DEPOSITION OF: JACK MAYAUSKY

Taken before Joanne Coyle, Certified
Shorthand Reporter, Notary Public, pursuant
to the Alabama Rules of Civil Procedure, at
the offices of Bulkley, Richardson and
Gelinas, 1500 Main Street, Springfield,
Massachusetts on September 16, 1998,
commencing at 10:15 a.m.

Joanne Coyle
Certified Shorthand Reporter
License No. 106693

PERLIK and COYLE REPORTING
Certified Professional Reporters

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APPEARANCES:

FOR THE PLAINTIFFS:

HOLLINGSWORTH & ASSOCIATES, P.C.
505 North 20th Street
1615 Financial Center
Birmingham, Alabama 35203

BY: M. JACK HOLLINGSWORTH, ESQUIRE

FOR THE DEFENDANTS:

LIGHTFOOT, FRANKLIN & WHITE, LLC
505 North 20th Street
300 Financial Center
Birmingham, Alabama 35203

BY: WILLIAM S. COX, ESQUIRE

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CORBY GROUP NJ:

WATER_PCB-SD0000013440

I N D E X

WITNESSES: DIRECT CROSS REDIRECT RECROSS

Jack Mayausky 5

EXHIBITS: DESCRIPTION PAGE

(NO EXHIBITS WERE INTRODUCED.)

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

2
3 It is stipulated through respective counsel
4 that the deposition of Jack Mayausky will be taken
5 before Joanne Coyle, Certified Shorthand Reporter,
6 at the law offices of Bulkley, Richardson and
7 Gelinas, 1500 Main Street, Springfield,
8 Massachusetts, on September 16, 1998, commencing at
9 approximately 10:15 a.m.

10
11 It is further stipulated and agreed that the
12 signature to and the reading of the deposition by
13 the witness is waived; that it will have the same
14 force and effect as if full compliance had been had
15 with all laws and rulings of court relating to the
16 taking of depositions.

17
18 It is further stipulated and agreed that it
19 shall not be necessary for any objections to be
20 made by counsel to any questions except as to form
21 and leading questions, and that counsel for the
22 parties may make objections and assign grounds at
23 the time of trial or at the times said deposition
24 is offered in evidence or prior thereto.

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1 It is further stipulated and agreed that
2 notice of the filing of the deposition by the
3 Commissioner is waived.

4
5 *****
6

7 JACK MAYAUSKY, the Deponent, having been
8 first duly sworn, deposes and says as follows:
9

10 DIRECT EXAMINATION BY MR. HOLLINGSWORTH

11 Q. Could you state your name for the record,
12 please?

13 A. John S. Mayausky.

14 Q. Where do you reside?

15 A. 203 Ellington Road, Longmeadow, Mass.

16 Q. How long have you been at that address?

17 A. Approximately a year.

18 Q. Did you move there from Anniston?

19 A. Yes; I did.

20 Q. Where did you live, in Anniston?

21 A. I lived at 631 Hillyer --

22 H-I-L-L-Y-E-R -- High Road.

23 Q. Are you married?

24 A. Yes.

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1 Q. What's your wife's name?
2 A. Doris.
3 Q. And you're employed at Monsanto?
4 A. Now Solutia.
5 Q. What is that address?
6 A. 750 Worcester Street, Springfield.
7 Q. What is your capacity there?
8 A. Plant manager.
9 Q. Is that a Solutia plant?
10 A. Yes, sir.
11 Q. Is that close to this location?
12 A. You can see it.
13 Q. Is that it right there -- those towers?
14 (Indicating)
15 A. Actually, you can see it out that way.
16 (Indicating)
17 Q. What's manufactured at that plant?
18 A. Adhesives -- pressure sensitive
19 adhesives, paint additives, and a product that is
20 used in safety glass, lamination for safety glass.
21 Q. So it's a plastics plant?
22 A. Plastics and organic chemicals.
23 Q. What organics are produced there?
24 A. Methylacrylate adhesives, the paint

1 additives or a formaldehyde melamine variety of
2 polymers, and the plastics, the raw material for it
3 is a product called polyvinyl butyrate.

4 Q. How long were you in Anniston?

5 A. I was in Anniston for three years.

6 Q. So beginning, then, in 1995?

7 A. 1994.

8 Q. And you were plant manager there?

9 A. Yes, sir.

10 Q. Tell me a little bit about your
11 educational background?

12 A. I graduated from high school in
13 Pennsylvania. I attended the University of
14 Pittsburgh and graduated in 1977 with a B.S. in
15 chemistry, and then I went to Ohio State University
16 and graduated in 1982 with a Ph.D. in analytical
17 chemistry.

18 Q. Any other post-graduate work at all?

19 A. No, sir.

20 Q. When did you join Monsanto?

21 A. 1982.

22 Q. In what capacity?

23 A. Research quality chemist at the
24 Pensacola, Florida facility.

1 Q. How long were you there?

2 A. I was there for ten years.

3 Q. Did you have any management positions at
4 Pensacola?

5 A. Yes.

6 Q. What were those?

7 A. I was quality assurance supervisor. Then
8 I was laboratory superintendent. Then I became
9 business unit leader for a process known as adipic
10 acid.

11 Q. Then you went to Anniston?

12 A. No, sir; then I went to Nitro, West
13 Virginia.

14 Q. In what capacity?

15 A. I was a general superintendent there for
16 a lot of the service groups at the plant --
17 shipping, receiving, lab services, warehousing, and
18 one small manufacturing operation.

19 Q. What was that?

20 A. It was a product that was a vulcanization
21 inhibitor used in chemicals.

22 Q. Then, after that?

23 A. Then I went to Anniston.

24 Q. Was that your first position as plant

1 manager?

2 A. Yes, sir.

3 Q. Let me ask you who you reported to when
4 you were Anniston?

5 A. I reported to Robert N. Jones.

6 Q. Where was he located?

7 A. St. Louis, at the corporate headquarters.

8 Q. What was his title?

9 A. Director of manufacturing.

10 MR. COX: That's different than the
11 Robert Jones at the plant.

12 Q. (BY MR. HOLLINGSWORTH) He reported to
13 you, the other Robert Jones?

14 A. Yes.

15 Q. When you were at Anniston, what did they
16 manufacture?

17 A. The main product was a trade name known
18 as Therminol -- T-H-E-R-M-I-N-O-L, which is a
19 mixture of biphenyls and terphenyls used as a heat
20 transfer agent.

21 Q. Did that essentially replace PCBs?

22 A. Yes; where PCBs was used as a heat
23 transfer agent, this product replaced it.

24 Q. Did you know anything about the history

1 of the Anniston plant?

2 A. Other than what I received as I initially
3 came on board -- some briefings from some of the
4 employees who had been there quite some time. They
5 told me some of the past products that had been
6 produced and items of that, but prior to that, I
7 didn't have any knowledge of anything.

8 Q. You were obviously aware of the landfill
9 and the PCBs?

10 A. Which landfill are you referring to?

11 Q. There's a West Landfill, is there not?

12 A. Yes.

13 Q. And there's a South Landfill?

14 A. Yes.

15 Q. Is there another landfill?

16 A. Those are the only two I'm aware of.

17 Q. So you went there, you became familiar?

18 A. Yes; I became familiar. Yes, sir.

19 Q. Isn't it true that Monsanto manufactured
20 PCBs at that location in the thirties?

21 A. Yes; Monsanto manufactured PCBs.

22 Q. And the tar or bottoms of that process
23 was stored in the West Landfill?

24 A. Apparently, that was true, that the West

1 Landfill was used for still bottoms and tars from
2 the PCBs process.

3 Q. When you say "still bottoms," are you
4 referring to what is left after --

5 A. (Interposing) A distillation. The heavy
6 ends, so to speak.

7 Q. Were those stored in that landfill, both
8 in a bulk method and a drum method?

9 A. I honestly don't know that. I know they
10 were there, but -- by conversations with people --
11 but I don't know in what form they were put there.

12 Q. How about the South Landfill?

13 A. The South Landfill, to my understanding,
14 did not have a large amount of PCB-contained
15 material.

16 It was not used for PCBs, but it was very
17 hard to say that for certainty, because at the
18 time, records were not kept very well as to what
19 was placed in the South Landfill or the West
20 Landfill.

21 Q. Well, has there been evidence of PCBs
22 located in the South Landfill -- at the time you
23 were there?

24 A. At the time I was there, some of the

1 sampling we did on the soils and surface water
2 would indicate that there might have been PCBs in
3 there, but I don't know of any core samplings that
4 were done that actually went down into the
5 landfill.

6 Q. Now, the South Landfill is right across
7 from the entrance -- the Clydesdale entrance?

8 A. Yes, sir.

9 Q. Would that be in the Mars Hill area --
10 the area of the Mars Hill church?

11 A. No, sir.

12 Q. It would be further west?

13 A. Mars Hill would be further east and north
14 of the South Landfill.

15 Q. What was the approximate size of the
16 South Landfill?

17 A. I would only guess, several acres.

18 Q. And then, the West Landfill, of course,
19 was the largest?

20 A. I would not be so sure it was the
21 largest. They were comparable in size, I would
22 say. That's just from looking at them.

23 Q. What -- when you were there, initially,
24 what problems were you faced with regarding these

two landfills?

2 MR. COX: Are you talking in August
3 of '94 when he got there?

4 MR. HOLLINGSWORTH: When he first got
5 there.

6 THE WITNESS: In August, '94, that
7 was shortly after the West Landfill was reacquired
8 from Alabama Power.

9 Q. (BY MR. HOLLINGSWORTH) Why was it
10 reacquired?

11 A. Alabama Power was doing some work on the
12 landfill and found a tar-ish material and had it
13 analyzed.

14 It was analyzed that it contained PCBs,
15 so Monsanto, at the time, made a decision to
16 reacquire the land and work with the Alabama
17 Department of Environmental Management -- which
18 we'll refer to as ADEM -- to reacquire the land and
19 to decide on a plan to cap or close the landfill.

20 Q. Did you actually pay -- did Monsanto
21 actually pay the Alabama Power Company?

22 A. I'm not clear on the details, but I
23 believe there was actually a payment by Alabama
24 Power to Monsanto to take over the landfill to help

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1 defer the cost of closure.

2 Q. Was this sale made at arms-length or was
3 Alabama Power upset with Monsanto that there were
4 PCBs there?

5 A. That already occurred before I came onto
6 the scene, but I can say my subsequent talks with
7 Alabama Power, it seemed to be an amicable
8 relationship.

9 Q. It was sold in 1961?

10 A. Yes; that is correct.

11 Q. What was the reason to sell it?

12 A. What I was told, we were a very large
13 electrical user and they wanted to locate a switch
14 yard relatively close to us.

15 Q. A substation?

16 A. Substation switch area -- and it was a
17 piece of property that was no longer being used. A
18 transfer was made to Alabama Power and they placed
19 a substation on that facility.

20 Q. So Alabama Power didn't use it for any
21 type of storage or landfill?

22 A. Not to my knowledge.

23 Q. Just placed a substation there?

24 A. To my knowledge.

1 Q. Back on my original question, when you
2 first got there, what problems were you facing with
3 these landfills?

4 A. At the time, we had reacquired the land
5 and I knew that discussions were going on with ADEM
6 to develop a closure plan for that West End
7 Landfill.

8 Shortly after I came on, there was a
9 finding of PCBs in surface water for some storm
10 water runoff from the West End Landfill, and also
11 from the South Landfill.

12 Q. How was that discovered?

13 A. We were doing a permit reapplication and
14 analyzing some storm water for PCBs after
15 discussions with ADEM, and found these parts per
16 billion levels of PCBs in water.

17 Q. So it was through your own testing
18 methods?

19 A. Yes.

20 Q. Was it for NPDES -- National Pollutant
21 Discharge Elimination System?

22 A. Yes.

23 Q. Did you report that, then, to ADEM at the
24 time?

1 A. Well, at that time, Robert Jones reported
2 that to ADEM.

3 Q. How long had Robert been there?

4 A. Four years.

5 Q. So he had been involved in this project
6 prior to you coming there?

7 A. Yes.

8 Q. In fact, that was his primary purpose?

9 A. He was environmental superintendent.

10 Q. Where is he now?

11 A. At Anniston.

12 Q. He's still there?

13 A. Yes.

14 Q. Once this was discovered, did you begin
15 remedial plans to --

16 A. (Interposing) We began discussions with
17 ADEM on what he informed them -- that we had found
18 it -- and then began to look at some remedial plans
19 and review those with ADEM; and also additional
20 sampling plans to characterize the problem.

21 Q. Was there a problem with the South
22 Landfill discovered at the same time?

23 A. Yes, sir.

24 Q. Same program?

1 A. Yes, sir.

2 Q. Can you tell me basically what that
3 plan -- just in general terms -- included, and in
4 some type of time frame?

5 A. Well, the West End Landfill, it was to
6 develop a plan to cap the landfill to closure,
7 which is the accepted technology for landfills --
8 to place a synthetic cap -- a plate cap and a
9 synthetic cap and a vegetative cap.

10 That was basically developed -- a closure
11 plan for the West End Landfill that ADEM would
12 approve, with a timetable of approximately eight or
13 nine months to complete, weather dependent. A lot
14 of this work was weather dependent.

15 Q. Beginning when?

16 A. I'd have to look to exactly when we
17 began.

18 Q. Just a year.

19 A. '94 was the beginning; and the South End
20 Landfill at that time was to do further sampling to
21 try to understand where the PCBs may be coming
22 from, to develop a sampling plan.

23 Again, we weren't sure if that landfill
24 was used for PCBs. The records were incomplete,

1 and we wanted to understand what could be a
2 possible source of this surface water contamination
3 we found.

4 Q. Did you participate -- I know Mr. Jones
5 interviewed several retired employees that gave him
6 some insight into where PCBs were stored and used.
7 Did you do the same thing?

8 A. I did not participate in that. Mr. Jones
9 did all of that.

10 Q. You're copied on just about all of his
11 reports.

12 A. Yes.

13 Q. I'm sure that he made you aware of what
14 he was doing?

15 A. Yes.

16 Q. What were your conclusions regarding PCB
17 contamination based on his reports of the South
18 Landfill?

19 A. Initially, we thought it might be due to
20 some old equipment that was stored on the landfill,
21 so one of the first activities we did was to remove
22 that old equipment and remove it to a certified
23 landfill -- Emelle -- E-M-E-L-L-E.

24 That was the initial, was to -- that that

1 might have been the source of the rainwater running
2 across that equipment, picking up some PCBs
3 containing dirt -- and we decided to clean that up.

4 Q. Was it processing equipment?

5 A. Based on the interviews that Robert Jones
6 had done, some of the older employees said it was
7 processed equipment removed from the PCB process.

8 Q. And buried in the landfill?

9 A. Buried in the landfill.

10 Q. Are we talking about reactors?

11 A. Mainly piping.

12 Q. And of course, we know from those
13 employees that actual tar, itself, was placed in
14 the West Landfill?

15 A. The tar, itself, was placed in the West
16 Landfill. That, we were fairly certain of from the
17 interviews with the retirees, was that was used for
18 that.

19 Q. Did you ever get any idea as to the
20 volume there?

21 A. No, sir.

22 MR. COX: Are you talking about the
23 West End Landfill?

24 MR. HOLLINGSWORTH: Yes; sorry.

1 THE WITNESS: No, sir. I wouldn't
2 have those numbers -- and I'm not sure I was ever
3 told.

4 Q. (BY MR. HOLLINGSWORTH) What about the
5 numbers of the fifty-five-gallon drums?

6 A. No, sir.

7 Q. Were these fiber drums or metal drums?

8 A. I honestly don't know that, sir.

9 Q. So you entered into a plan -- an
10 eight-to-nine month plan -- with ADEM in 1994 to
11 clean up the West Landfill?

12 A. To cap and close the West Landfill.

13 Q. Was that done according to schedule?

14 A. Pretty much so. Again, with the
15 vagrancies of the weather -- we had some heavy
16 rains that slowed our progress -- but it was
17 eventually closed in '95, officially.

18 Q. What about the South Landfill?

19 A. The South Landfill, while I was -- my
20 tenure -- during my tenure there, it was pretty
21 much a characterization problem to do additional
22 sampling.

23 Any closure work on it really occurred
24 after I left.

1 Q. Well. was -- was that an impediment to
2 your NPDES permit at the South Landfill or was it
3 satisfied by capping and closing the West Landfill?

4 A. I don't know if I can answer that
5 question. The permit was - successfully went
6 through the process, but I don't know if it was
7 contingent upon closure of the West Landfill.

8 Q. What other problem areas were you faced
9 with in and around that plant?

10 MR. COX: Do you want to limit it to
11 PCBs or to everything?

12 MR. HOLLINGSWORTH: No; PCBs.

13 MR. COX: Okay.

14 THE WITNESS: Well, as we did the
15 characterization of the surface water discharge off
16 the South Landfill, what became apparent is -- we
17 did additional sampling -- was there was ditches
18 that ran through the Mars Hill neighborhood and we
19 had to move into a program to characterize and
20 understand that contamination within that
21 community.

22 Q. (BY MR. HOLLINGSWORTH) So did you begin
23 soil sampling and water sampling in and around the
24 community?

1 A. We consulted, of course, with ADEM that
2 they agreed with the plan that they would go in and
3 soil sample and water sample and then we moved
4 forward with sampling.

5 The area of the West End -- the Mars Hill
6 neighborhood -- was some land we owned and some
7 land that private residents owned, so we could
8 sample on our own land but we had to work with the
9 residents to sample on their land.

10 Q. You understand that I represent the
11 Masseys?

12 A. Yes.

13 Q. Do you remember where their property was?

14 A. Vaguely, actually. It's across Tenth
15 Avenue, I know that.

16 Q. Tenth Street?

17 A. Yes.

18 Q. It's across from the funeral home?

19 A. Okay.

20 Q. I also represent the owners of the
21 funeral home. Actually, we haven't filed yet.

22 MR. COX: It's not the funeral home
23 east of Clydesdale. It's the funeral home on Tenth
24 Street on the west side of Clydesdale.

1 THE WITNESS: I'm not familiar with
2 that one, at all. When you say funeral home, I was
3 thinking there was one near the Mars Hill
4 neighborhood.

5 MR. HOLLINGSWORTH: Well this is
6 probably about a block away, actually.

7 MR. COX: There's one that is
8 actually in the neighborhood, called the Model City
9 Mortuary.

10 I think you're talking about the Anniston
11 Funeral Home.

12 MR. HOLLINGSWORTH: Williams.

13 THE WITNESS: I'm not familiar with
14 that one at all.

15 Q. (BY MR. HOLLINGSWORTH) Are you familiar
16 with testing that was done on various commercial
17 and residential properties around the area?

18 A. Yes.

19 Q. Some, as you said, on your property; some
20 on other properties?

21 A. Yes.

22 Q. Was that pretty much given to the
23 discretion of Bruce Ely -- to arrange that testing
24 and negotiate that with the property owners?

1 A. It transitioned. I would say, initially,
2 when I was involved in '94 and '95, I did a lot of
3 the contacts within the Mars Hill neighborhood
4 proper, for access agreements.

5 The sampling, we relied on our core
6 remediation group at Corporate to work with
7 contractors -- environmental contractors -- to
8 decide where would be the best place to sample.

9 My role was to contact the residents and
10 commercial property owners in the area that was
11 pretty much bounded by Tenth Avenue and Clydesdale
12 in what we call here the Mars Hill neighborhood.

13 Q. Tenth Street and Clydesdale?

14 A. Tenth Street and Clydesdale.

15 Q. Clydesdale comes to the entrance of the
16 plant?

17 A. Yes.

18 Q. So you didn't have contact with my
19 clients, then?

20 A. Not at all.

21 Q. I know Bruce did.

22 A. What really happened in -- as the project
23 became larger and sampling continued and we
24 continued to work with ADEM, it became, just

1 strictly from a management standpoint, difficult
2 for me to manage day-to-day operations in the plant
3 and also do the community work.

4 We transitioned with more people assigned
5 from the Corporate remediation group in Anniston,
6 Bruce Ely being one, to deal with the bulk of that
7 leg work, so to speak, out in the community.

8 Q. When did Bruce come down or begin?

9 A. To my recollection, it would be late '95,
10 early '96.

11 Q. And then, at that point, did you sort of
12 back away from the community relations?

13 A. In that direct, going-out-to-the-
14 community, and seeking access agreements. A large
15 part of my job has always been community relations.

16 Q. Did you meet the Masseys? Have you ever
17 met Jack Massey or --

18 A. (Interposing) If I did, I don't recall
19 meeting them.

20 Q. Did you ever participate in negotiations
21 where Monsanto purchased property of residential
22 and commercial homeowners?

23 A. No, sir. My role was mainly to do the
24 access agreements; and on the commercial end, I had

very little involvement.

Q. There's no question in your mind, is there, that Monsanto produced the PCBs that were discovered to be in these landfills?

A. In the landfills -- it's likely that we produced the PCBs in the landfills.

Q. Is there any other source that you are aware of that may have served as a source of this contamination?

A. I have to say that PCBs were used in a wide variety of applications; and Anniston, itself, was an industrialized area, so it could have come from transformers, from some of the foundries around there, so there were other possibilities of where it came from.

Q. Have you identified any specific locations or do you know if anybody from Monsanto has identified any specific locations which may have been the origination site of other PCB contaminations?

A. No, sir; I haven't.

Q. So you're just saying basically your general knowledge of the Anniston area being where there were foundries, munitions plants, et cetera,

1 et cetera?

2 A. That likely they had electrical
3 transformer stations, likely they used PCBs, and it
4 could have come from there.

5 Q. But the only hard evidence we have
6 really, at this point, is that they came from
7 Monsanto?

8 A. We know that Monsanto produced PCBs in
9 that community; yes.

10 Q. And Alabama Power Company never produced
11 PCBs?

12 A. Not to my knowledge.

13 Q. Has Alabama Power Company ever formally
14 or informally agreed to accept responsibility for
15 any of the damage -- economically or physically --
16 from the West Landfill, that may have inured from
17 the West Landfill?

18 A. No, sir; not to my knowledge.

19 Q. As a matter of fact, Monsanto agreed to
20 absolve them?

21 A. I understand that was part of the
22 agreement in us taking back the landfill.

23 Q. Did you actually ever see an agreement
24 between Alabama Power Company and Monsanto?

1 A. I've seen it. I can't say I read it in
2 detail, but it was in the files that I got from my
3 predecessor.

4 Q. Who was your predecessor?

5 A. Bill Defer -- D-E-F-E-R.

6 MR. COX: F-U-R.

7 Q. (BY MR. HOLLINGSWORTH) When you left in
8 1997, what were the problems that existed as far as
9 the two landfills are concerned, as you recall
10 them?

11 A. In 1997, the West End Landfill was closed
12 by that time. That project was closed. There was
13 a few things to do -- vegetation planting and
14 things like that.

15 We were still in the middle of
16 characterization of the South Landfill, and one of
17 the first approved plans to control any surface
18 water discharge off the South Landfill was the
19 catchment basin; and that was completed before I
20 left. The catchment basin --

21 Q. (Interposing) Is that the basin that runs
22 along the west side of Tenth Street?

23 A. No; it would be the one that is on the
24 north side of 202.

1 Q. Okay. Now, I notice that there is some
2 work being done parallel to Tenth Street?

3 A. I have no knowledge of that.

4 Q. Now, the catchment basin coming to the
5 north side of 202 would catch runoff from the South
6 Landfill?

7 A. Yes.

8 Q. It would catch runoff from the West End
9 Landfill?

10 A. No, sir.

11 Q. That catch basin is directly south of the
12 South Landfill?

13 A. Yes, sir.

14 MR. COX: No; directly north of the
15 South Landfill.

16 MR. HOLLINGSWORTH: Okay.

17 Q. (BY MR. HOLLINGSWORTH) Would you access
18 the South Landfill from 202 or from Clydesdale?

19 A. You access the South Landfill from 202.

20 Q. And this is property that was all owned
21 by Monsanto --

22 A. (Interposing) Yes, sir.

23 Q. -- at some point in time?

24 A. At some point in time.

1 Q. Now, of course, they are the current
2 owners of it?

3 A. Solutia is now.

4 Q. Do you know what Monsanto's current plans
5 are with respect to purchasing property in that
6 area -- in and around that area?

7 A. Monsanto or --

8 Q. (Interposing) Solutia?

9 A. No. Since I've moved up to
10 Massachusetts, I do not keep in contact with what
11 the details are of that.

12 Q. In 1997, what was their plan to purchase?

13 A. When I was there in 1997, at that time we
14 had just completed the property purchase plan for
15 residential properties and still working through --
16 completed a portion of the property purchase plan
17 for residential properties -- and were still
18 wrapping up a few of those.

19 There were some discussions with
20 commercial property owners that, at that time,
21 Bruce Ely and Alan Faust were conducting, but I was
22 not involved in the details of it.

23 Q. Was there a decision made at some time
24 not to purchase commercial property and then,

1 later, it was changed to a decision to purchase
2 commercial property?

3 A. I don't know if we definitively said we
4 would not purchase commercial property. I think
5 that our intent, when we went out for the property-
6 to-purchase program, was to acquire the land that
7 we needed to do this catchment basin and to enable
8 us to do the work that we needed to do to control
9 the storm water runoff.

10 There was some commercial property owners
11 along Clydesdale and Tenth that were upgradient far
12 enough that they could not have been impacted --
13 water would not have flowed up there -- so we
14 didn't need that land to build a catchment basin.
15 I don't know if we ever definitively said we're not
16 buying commercial land, but in order for us to move
17 forward with our plan, we didn't need to buy that
18 land.

19 Q. Was there ever a plan to attempt to
20 recycle this property or to come on the property,
21 clean it up, and render it harmless to the property
22 owners?

23 MR. COX: Object to the form. I'm
24 not sure I understand your question. You mean, was

1 there a plan to remediate the property and then
2 resell it to the people in the community?

3 MR. HOLLINGSWORTH: Or just remediate
4 the property without changing title.

5 Q. (BY MR. HOLLINGSWORTH) In other words.
6 was there ever --

7 A. (Interposing) Go ahead, ask your
8 question.

9 Q. Was there ever a plan to go to the
10 property owner and say: Look, it's our
11 understanding that your property may be
12 contaminated by PCBs, here's our plan to remediate
13 the problem?

14 A. There were some discussions with
15 individual property owners about maybe areas on
16 their property that we would clean up, remove soil,
17 and return back for their use; yes, sir.

18 Q. How was that going to be done?

19 A. I don't know the details of it, but
20 generally, what was done was the contaminated soil
21 would be removed, replaced with clean soil, and
22 then sampling to make sure that it was clean.

23 Q. Do you know who those property owners
24 were?

1 A. I recall conversations that were done
2 with the owner of the ice house about some
3 possibilities of cleaning up his property. That
4 was probably the only one I was directly involved
5 in.

6 Q. How did that turn out, if you know?

7 A. I can't remember the gentleman's name,
8 but I think he chose counsel.

9 Q. Was it Scarborough?

10 A. I don't think so.

11 MR. COX: It was Bobby Lewis.

12 THE WITNESS: He chose counsel; and
13 we never proceeded with cleaning up.

14 Q. (BY MR. HOLLINGSWORTH) How about from
15 residential property owners? Was there ever any
16 conversation of attempt to reclaim their property?

17 A. When I was initially approaching property
18 owners for sampling, we did discuss that we didn't
19 know what path we would take at that time.

20 We were still working with ADEM on what
21 path we would take, and I may have mentioned that
22 cleaning up their property would have been one
23 alternative; but as we went forward, we quickly
24 realized that we'd like to acquire the property, so

1 we didn't have formal discussions about cleaning
2 the property up and returning it back to service.
3 We moved forward with the property purchase
4 program.

5 Q. And the purchase of all the property that
6 you're purchasing, is to fit into the catch basin
7 scenario that you have submitted to ADEM?

8 A. Yes, sir.

9 Q. How long have you been aware of the
10 existence of PCBs at the Anniston facility?

11 A. From shortly after I came there. I would
12 have to answer your question: I knew that they
13 were historically produced there, but as far as the
14 contamination problem, shortly after I came there,
15 of course I knew the work was going on at the West
16 End Landfill and I knew about the storm water
17 sampling results.

18 Q. So it wasn't anything that you were aware
19 of from a corporate standpoint that Anniston was a
20 problem area because of this?

21 A. No, sir. When I was in transition there,
22 it was just really in discovery. The West End
23 Landfill was known, and I knew that they were
24 moving forward with that, but that was just shortly

1 after they found the results off the South
2 Landfill.

3 Q. Have you been deposed by anybody else?

4 A. Yes; I've been deposed by Donald Stewart,
5 and Burr & Forman.

6 MR. HOLLINGSWORTH: This is going to
7 be the briefest deposition you've given. I don't
8 think I have anything else.

9 (The deposition was concluded.)

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1 COMMONWEALTH OF MASSACHUSETTS

2 COUNTY OF HAMPDEN

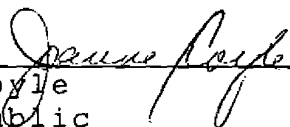
3 I, JOANNE COYLE, a Notary Public within and
4 for the Commonwealth of Massachusetts at large, do
5 hereby certify that I took the deposition of JACK
6 MAYAUSKY, pursuant to the Alabama Rules of Civil
7 Procedure, at the offices of Bulkley, Richardson
8 and Gelinas, 1500 Main Street, Springfield,
9 Massachusetts, on September 16, 1998.

10 I further certify that the above named
11 deponent was by me first duly sworn to testify to
12 the truth, the whole truth and nothing but the
13 truth concerning his knowledge in the matter of the
14 case of JOHN E. MASSEY and PEGGY MASSEY vs.
15 MONSANTO COMPANY ET AL, now pending in the Circuit
16 Court for the County of Calhoun.

17 I further certify that the within testimony
18 was taken by me stenographically and reduced to
19 typewritten form under my direction by means of
20 COMPUTER ASSISTED TRANSCRIPTION; and, I further
21 certify that said deposition is a true record of
22 the testimony given by said witness.

23 I further certify that I am neither counsel
24 for, related to, nor employed by any of the parties
to the action in which this deposition was taken;
and further, that I am not a relative or employee
of any attorney or counsel employed by the parties
hereto, nor financially or otherwise interested in
the outcome of the action.

WITNESS my hand and seal this 27th day of
SEPTEMBER, 1998.



Joanne Coyle
Notary Public
Certified Shorthand Reporter
License No. 106693

My commission expires
May 21, 2004

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