

Message

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Sent: 3/17/2010 6:57:26 PM
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Subject: Messaging for Bridging from AO and PCB to current Monsanto business.
Attachments: AO and PCB company position March 17 10.doc; Nitro Chemical Legacy 2005 Article.doc; Sauget Lawsuits Madison County Record.doc; Anniston Related Lawsuits Settlement Jan 010 FINAL.doc; Salem News Linking Monsanto's Past and Present.doc

Team:

Here is background and thoughts on preparing for our meeting at 9 a.m. Monday in Room 2125N. The topic is what a model statement would look like that would help a Monsanto spokesperson answer the Agent Orange and PCB questions effectively and then bridge to a positive discussion of our current business.

To facilitate an effective and thoughtful discussion, the request is that each of you come to the meeting with a written, 30-second response to this question:

"You are the company that made Agent Orange that caused cancer and other ongoing illnesses among Vietnamese citizens and U.S. soldiers. And you are the company that contaminated an entire town with cancer-causing PCBs. Given that track record, why should anyone trust you when you say biotech crops are safe for humans and the environment?"

In an attempt to develop a statement that is realistic with what is occurring currently on these issues, I have attached the following for your reading background:

- Current Monsanto position statements on Agent Orange and PCB's
- A story in the Charleston Gazette that outlines the Nitro story in colorful detail (the most current stories from this year detail 161 lawsuits that have been filed by Nitro current or former residents alleging health problem from dioxin contamination of Nitro, in addition to a pending class action lawsuit.)
- A story summarizing legal activity on the East Side alleging Monsanto caused health problems by producing PCBs and other chemicals at the Krummerich Plant.
- An approved statement (that is confidential and not for distribution) that discusses an upcoming settlement of PCB lawsuits from the Anniston area. Again, this is to demonstrate what is going on currently that provide some context for whatever the Monsanto spokesperson says.
- A story from the Salem-News.com that links Monsanto's involvement with Agent Orange and other environmental issues with GM foods.

We look forward to a good discussion of this difficult issue. Thank you for your agreement to participate.

Bob

March 17, 2010

Agent Orange and PCB Statements

Agent Orange: Background on Monsanto's Involvement



We have great respect for the U.S. soldiers sent to war and all those affected by the Vietnam conflict. All sides share in the pain from this difficult time in our history. One of the legacies of that war is Agent Orange, where questions remain nearly 40 years later.

By way of background, the U.S. military used Agent Orange from 1961 to 1971 to save the lives of U.S. and allied soldiers by defoliating dense vegetation in the Vietnamese jungles and therefore reducing the chances of ambush.

As the war began and intensified, the U.S. government used its authority under the Defense Production Act to issue contracts to seven major chemical companies to obtain Agent Orange and other herbicides for use by U.S. and allied troops in Vietnam. The government specified the chemical composition of Agent Orange and when, where and how the material was to be used in the field, including application rates. Agent Orange was one of 15 herbicides used for military purposes during the Vietnam War and the most commonly applied. It received its name because of the orange band around containers of the material. The manufacturing companies included Diamond Shamrock Corporation, Dow Chemical Company, Hercules, Inc., T-H Agricultural & Nutrition Company, Thompson Chemicals Corporation, Uniroyal Inc. and Monsanto Company, which at the time was a chemical manufacturer. Monsanto manufactured Agent Orange from 1965 to 1969.

Agent Orange was a 50-50 mix of two common herbicides, 2,4-D and 2,4,5-T, which had been used domestically since the late 1940s without incident by U.S. farmers, railroads and others. Since the Vietnam War, both scientific and public concern has arisen over the dioxin compound 2,3,7,8-TCDD, a byproduct of the manufacturing process used to produce 2,4,5-T (which, again, was one of the herbicides in Agent Orange.) TCDD was present in trace amounts. Research on the issue of Agent Orange has gone on for decades and continues today.

There have been a number of lawsuits. Monsanto and the six other chemical manufacturers reached agreement with U.S. veterans in a class action lawsuit in U.S. District Court for the Eastern District of New York in 1984 that involved millions of U.S. veterans and their families. There was not a finding of fault. It was settled by the parties rather than undertake a lengthy and complicated trial. The \$180 million in funds that were part of the agreement were distributed according to a plan developed in part by U.S. District Judge Jack B. Weinstein.

There have been other lawsuits since that time. In March of 2009, a key legal question was settled in the United States when the U.S. Supreme Court let stand unanimous lower court rulings disallowing recovery from lawsuits on the Agent Orange issue. The Supreme Court agreed that the companies were not responsible for the implications of military use of Agent Orange in Vietnam, because the manufacturers were government contractors, carrying out the instructions of government.

Monsanto is now primarily a seed and agricultural products company.

We believe that the adverse consequences alleged to have arisen out of the Vietnam War, including the use of Agent Orange, should be resolved by the governments that were involved.

The Congressional Research Service explored this issue in detail in May of 2009. It can be read at www.vn-agentorange.org/RL34761_200905.pdf

PCB Issue Statements Used in Response to Questions and as Part of Preparation Materials When Faced with a Legal Development

1. What are the health effects of PCBs?

A. The credible scientific evidence does not support any causal link between exposure to PCBs and cancer or other serious human illnesses.

The overwhelming weight of the reliable scientific evidence does not establish that exposure to PCBs, except at very high levels, causes any adverse human health conditions.

At very high levels, exposure to PCBs may cause a serious skin condition, called chloracne, and the temporary elevation of some serum enzyme levels, which return to normal after exposure ends.

2. What is Monsanto's position on the 2003 Anniston settlement?

A. These environmental issues occurred many decades ago before current standards were in place. Monsanto has accepted responsibility for addressing the contamination issues, working with Solutia as well.

Most of the clean-up efforts at Anniston have been completed.

Monsanto paid a large portion of a \$650 million settlement in 2003 that addresses the issues.

Among activities funded by Monsanto, a health clinic of residents of Western Anniston has been set up. Ongoing educational grants for programs such as HeadStart for children have been made.

Monsanto has stepped up and committed to addressing the contamination issues and will continue doing so in the years to come.

3. What is the history of Monsanto's manufacture of PCBs in Anniston?

A. PCBs – a chemical used widely for decades as safety fluids to insulate and cool heavy-duty electrical equipment – were made in Anniston from 1929 to 1971.

Because of effective fire resistance, PCBs saved lives and property, and they were required to be used in buildings by government building codes for more than four decades.

But some of the same traits that made PCB's so attractive to the electrical industry – the fact they are very stable and do not react with other substances – also resulted in their persistence in the environment.

The Anniston plant voluntarily stopped making PCBs eight years before the U.S. Congress banned any further manufacturing of PCB's 1979.

The Anniston, Alabama, manufacturing facility was part of the specialty chemical businesses that became part of Solutia Inc. when Solutia was spun off from the former Monsanto in 1997. Solutia is currently involved in the PCB clean up efforts in the Anniston area.

In connection with September 2000 transfer to the current Monsanto of the operations, assets and liabilities of Pharmacia's agricultural products business, we agreed to indemnify Pharmacia for any liabilities that Solutia assumed from Pharmacia in connection with its 1997 spin-off to the extent that Solutia fails to pay, perform or discharge those liabilities. We stand by our commitment.

Solutia filed for bankruptcy in December, 2003 and ceased performing certain aspects of its environmental work in Anniston. Per the indemnity agreement with Pharmacia, Monsanto has been ensuring that the remediation program in Anniston continues and that the requirements of the 2003 consent decree continue to be met. Substantial progress has been made in the remediation program.

4. What is the business of the current Monsanto?

A. Monsanto sold its chemical division that manufactured and sold PCB's more than a decade ago in 1997. Today Monsanto is an agricultural company. Its mission is to apply innovation and technology to help farmers around the world be more successful by producing healthier foods, better animal feeds and more fiber, while also reducing agriculture's impact on the environment.

Madison County Record

December 20, 2009 Sunday

95 plaintiffs file suit over toxic exposure in Sauget

BYLINE: Kelly Holleran

Yet another group of Illinois residents who live in or near Sauget have filed a lawsuit over the release of various hazardous substances they claim have created a severe health risk and have contaminated their properties.

The 95 plaintiffs in the lawsuit filed Dec. 11 against Cerro Flow Products, Inc., Pharmacia Corporation, Solutia, Inc., Pfizer and **Monsanto** AG Products are the 11th group of residents to file complaints against the companies this year.

The first was a class action lawsuit filed in February; the second was a lawsuit involving 21 plaintiffs filed June 5; the third was a lawsuit involving 19 plaintiffs filed June 11; the fourth was a lawsuit involving four plaintiffs filed June 19; the fifth was a lawsuit involving 30 plaintiffs filed June 26; the sixth was a lawsuit involving 37 plaintiffs filed July 29; the seventh was a lawsuit involving 24 plaintiffs filed Sept. 18; the eighth was a lawsuit involving 24 plaintiffs filed Sept. 25; the ninth was a lawsuit involving 13 plaintiffs filed Oct. 2; and the 10th was a lawsuit filed Oct. 16 involving 45 plaintiffs. All are nearly identical to the Oct. 16 complaint.

The plaintiffs are represented by the same group of lawyers who filed the February, June, July, September and October complaints -- Robert Leslie Palmer, Gregory A. Cade, H. Gregory Harp, Christina E. Wall and Mark L. Rowe, of Birmingham, Ala; Paul G. Schoen of Schoen, Walton, Telken and Foster in East St. Louis and James L. "Larry" Wright of Austin.

In all complaints, plaintiffs argue that three release sites - a 90 acre landfill operated by Sauget and Co., a 314-acre W.G. Krummrich Plant and property owned by Cerro Flow Products - have released **PCBs** and other various substances, including dioxins and furans, into the atmosphere for more than 70 years.

"According to the United States Environmental Protection Agency, a lifetime dose of one milligram of **PCBs** is sufficient to cause cancer and other serious and life-threatening diseases," the suit states. "According to the World Health Organization, there is not a safe level of exposure to **PCBs**."

Dioxins and furans, which were also released at the site, according to the complaint, are also known to be dangerous and to create significant health problems through inhalation, ingestion, dermal absorption and ingestion of homegrown produce.

Plaintiffs in the Oct. 16 complaint say the **PCBs** have damaged their property and have threatened their health.

For example, the chemicals released by the companies discharge into surface waters, resulting in the contamination of soil and dust. They are also discharged into wastewater, causing water and soil to become contaminated, the suit claims.

The releases began after the W.G. Krummrich Plant, which is also referred to as the **Monsanto** Facility in the complaint, began producing, storing and disposing **PCBs** at its facility, the residents claim.

In fact, "more **PCBs** were produced at the **Monsanto** Facility than at any other site in the United States, and perhaps even the free world," the suit states.

Cerro, which owns land adjacent to the **Monsanto** Facility, recycles copper. Part of that work entails scrapping **PCB** transformers, draining wastewater and **PCB** oil into the Dead Creek and landfilling substances on its facility. In turn, those activities cause large quantities of the toxic substances to be released into the environment, according to the complaint.

At Sauget and Co., millions of tons of the toxic substances were disposed of in its landfill, residents allege.

The combined activities of the three companies released the deadly substances into the environment through smokestack emissions, wind erosion, smoke from fires in waste piles and airborne releases, according to the complaint.

Plaintiffs say the defendants knew about the potential consequences of the chemicals' releases, but attempted to conceal health risks and property contamination from the public.

"To this day, one or more of the **Monsanto** Defendants and their consultants are actively engaged in a campaign of deception to mislead the residents and real property owners of communities adjacent to the Release Sites, including the Plaintiffs, into believing that the Substances do not present, and have never presented, any threat to the residents or to the real property of those adjacent communities," the complaint says.

Claims in the December complaint include negligence, strict liability, nuisance, battery and trespass.

In each of the seven-count suits, plaintiffs are seeking a judgment in excess of \$800,000, plus costs and other relief the court deems just.