

US EPA ARCHIVE DOCUMENT

**TESTIMONY OF
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U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON
VA, HUD AND INDEPENDENT AGENCIES
OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE**

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Madam Chair and Members of the Subcommittee, my name is Stan Meiburg, and I am the Deputy Regional Administrator for the Environmental Protection Agency's (EPA) Region 4 office in Atlanta, Georgia. I am pleased to have the opportunity to testify this morning concerning EPA's activities to address PCB contamination in Anniston, Alabama.

Anniston has been home to industrial activities for many years, and some of these activities have led to significant pollution problems. Specifically, polychlorinated biphenyls (PCBs) and lead have been discovered at elevated levels in commercial and residential areas of the city. PCBs have also been found in creeks, rivers, flood plains and lakes as far as forty miles downstream. EPA and other federal, state and local agencies are responding to the contamination and have instituted numerous activities and programs throughout Anniston and Calhoun County. EPA and the Department of Justice (DOJ) recently signed a Consent Decree with two corporate parties legally responsible for the PCB pollution, Solutia Inc., and Pharmacia Corporation. Under the settlement, the companies will hire EPA-approved contractors to conduct a thorough, comprehensive study of the PCB problem in Anniston and the surrounding area. The companies will also immediately clean up private residential properties in the area that have the highest levels of contamination. The Consent Decree has been lodged in federal district court and DOJ is currently taking public comment on it. After review of the comments, EPA and DOJ will decide whether to ask the district court to finalize the Consent Decree.

EPA is committed to protecting human health and the environment in Anniston. EPA intends to work in a cooperative fashion with state and local government, industry, and the citizens of Anniston, to ensure a comprehensive cleanup. Because PCBs are considered probable carcinogens and are linked to neurological and developmental health problems, EPA is committed to using our available resources and authorities to protect the public health and welfare of the citizens of Anniston. The following discussion will review the history of the PCB problem in Anniston and the actions EPA has already undertaken. I will also describe the terms of the Consent Decree and explain why we believe this will result in a comprehensive, scientifically sound cleanup of Anniston.

Beginning in the 1930's, Monsanto produced PCBs and other substances in Anniston. Monsanto ceased the production of PCBs in Anniston in 1971. In 1997, Monsanto formed Solutia Inc., (Solutia) and transferred ownership of its chemical division, including the Anniston plant, to it. Solutia still owns the Anniston plant, which encompasses 70 acres of land, is located about one mile west of downtown Anniston, and remains in operation manufacturing other chemicals. Over the facility's lifetime, the plant disposed of hazardous waste at two large unlined landfills which are located adjacent to the plant.

EPA's involvement with cleanup activities at this site has paralleled the evolution of federal laws regulating the disposal and cleanup of hazardous waste. The Resource Conservation and Recovery Act (RCRA) which governs the ongoing operation of facilities that handle hazardous waste was passed in 1976, and amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund) which deals primarily with the cleanup of abandoned hazardous substances, was passed in 1980, and amended in 1986 by the Superfund Amendments and Reauthorization Act (SARA). After CERCLA and RCRA were enacted it took several more years for EPA to develop regulations implementing the programs.

EPA first became involved with this facility in the late 1970's, in the early stages of the development of the federal legal structure for addressing hazardous waste contamination. In the early 1980's, EPA worked with the State of Alabama to determine how, and under which program, to best address facilities like the Monsanto plant in Anniston. EPA and the Alabama Department of Environmental Management (ADEM) evaluated the operating facility under both RCRA and CERCLA during the early 1980's and determined at that time that the RCRA program was best suited to address the facility since it was an operating plant.

Between 1980 and 1985 the facility submitted an application for an operating permit and, like thousands of industrial facilities around the United States, continued to operate existing hazardous waste units under RCRA interim status pending a final permit. EPA added groundwater monitoring requirements in 1985. In 1986, Monsanto was issued a joint RCRA permit from EPA and ADEM covering the facility.

In 1985, the Alabama Attorney General's office informed EPA that contamination in nearby Snow Creek was caused by releases of PCBs from the Monsanto plant. Later that same year, following discussions between the Alabama Attorney General's Office, ADEM, and EPA, federal action regarding Snow Creek was deferred to the State and that the State committed to require Monsanto to submit a proposed cleanup plan for approval. In 1988, after submitting a cleanup plan to ADEM, Monsanto removed approximately 1000 tons of PCB contaminated material from Snow Creek and a nearby ditch.

However, further investigation by both EPA and the State of Alabama continued to show

concerns. In 1991, confirmation sampling performed by EPA identified remaining contamination, and Snow Creek and its associated drainage features were identified as potentially contaminated areas. In 1993 and 1994, EPA's Superfund program, pursuant to the Agency's RCRA deferral policy, formally deferred cleanup of the Site to the EPA RCRA program, and the EPA RCRA program informally gave ADEM the lead to regulate off-site contamination at the facility. In 1993, Alabama issued a public fish consumption advisory for Snow Creek, Choccolocco Creek, and Lake Logan Martin as a result of sampling conducted by ADEM.

In 1995, ADEM asked state and federal health agencies to conduct health studies in a residential neighborhood surrounding Monsanto's facility based on the potential for off-site PCB contamination. At approximately the same time, ADEM entered into a Consent Order with Monsanto under state and federal water laws to have Monsanto determine if PCBs were being released, or had been released, into the community. The studies indicated that PCBs from the facility had contaminated the neighboring community. As a result, Monsanto voluntarily initiated a buy-out and relocation program for residents of a portion of the adjacent community in order to stop any ongoing exposure and to implement interim remedial measures to prevent future releases of PCBs. Solutia eventually purchased approximately one hundred properties as part of this voluntary program and/or the 1996 Consent Order discussed below. These properties consisted of approximately 44 occupied residential properties, 39 vacant residential properties, 14 commercial properties, and 2 churches.

In 1996, in response to recommendations of health studies conducted by the Alabama Department of Public Health (ADPH) and the Agency for Toxic Substance and Disease Registry (ATSDR), EPA and ADEM agreed that ADEM should enter into a second Consent Order with Monsanto to address both on-facility and off-facility contamination until it could be incorporated into the facility's permit. ADEM received final authorization to issue permits for the entire RCRA program in 1996, and reissued the RCRA permit in 1997 to cover all on-site and off-site contamination caused by the facility.

On December 31, 1998, EPA received a letter from the West Anniston Environmental Justice Task Force, now known as Citizens Against Pollution (CAP), asking for EPA action in regard to PCB contamination in Anniston. CAP indicated that the residential contamination extended beyond the areas previously addressed. In June of 1999, EPA conducted soil and air sampling around the facility in response to citizen concerns. In July of 1999, ADEM requested that EPA take the lead role in administering remediation activities at certain off-facility areas under CERCLA because Solutia refused to address those areas pursuant to its RCRA permit.

EPA's CERCLA program began sampling off-facility properties in west Anniston in February of 2000 to expand our understanding of the scope and extent of PCB contamination in west Anniston. Since February of 2000, EPA has sampled approximately 800 residential, public, and commercial properties. In October of 2000, Solutia entered into a Consent Order with EPA, which was revised by an amended Consent Order in October of 2001. Under the Consent Order, Solutia agreed to take

over the residential sampling for EPA in the areas covered by the Order, and address any property where PCBs are found at a level that could cause short-term health concerns. This work is being done with close supervision by EPA. Pursuant to this Order, at any home where PCB levels in the yard exceed short-term risk levels, Solutia is required to temporarily relocate the residents and remove the contaminated soil and replace it with clean fill. Of the more than 1,000 homes that have been sampled by EPA or Solutia thus far, 24 properties require clean up because they exceed the short-term clean up levels.

EPA and Solutia have also sampled hundreds of properties for lead contamination in Anniston. EPA will conduct a soil removal cleanup at any residential properties where lead contamination is found at levels which warrant immediate removal. EPA intends to follow up this limited cleanup with negotiations with potentially responsible parties (PRPs) that historically contributed to the lead contamination to get them to address areas or properties where lead levels may pose a health threat.

EPA has worked hard to establish a good working relationship with the citizens of west Anniston. EPA's goal has been to develop a successful community outreach network so that all the citizens of west Anniston can find a receptive audience for their concerns and questions. EPA has taken steps to ensure that local government, community, and civic organizations are able to give the Agency input regarding EPA's cleanup activities in Anniston. In February of 2000, EPA established a local EPA Community Relations Center (CRC) staffed on a daily basis in downtown Anniston. The CRC has served the community as an information center, by distributing brochures and fact sheets, by answering thousands of phone calls, and by providing services to hundreds of visitors. EPA also has held numerous public meetings and availability sessions to explain EPA's activities and receive input from the community.

EPA's activities have included extensive door-to-door outreach to develop ties with local citizens and meetings with local community groups. EPA has provided \$85,000 of grant funding to local groups to allow them to hire consultants to assist them in understanding EPA's activities in Anniston. EPA has also met repeatedly with local elected officials to keep them up to date regarding EPA's ongoing activities in Anniston. Earlier this week, on April 16th, EPA had another public availability session in Anniston to inform the community about the Consent Decree. EPA intends to continue all of these community outreach activities for as long as necessary to help keep the citizens informed and involved in the ongoing cleanup process. Additionally, by law, many of EPA's ongoing or planned activities provide specific public comment and public outreach requirements. EPA is committed to ensuring full public access and participation in all future cleanup decisions in Anniston.

Over the years, EPA has attempted to work closely with ADEM and other agencies to maximize the resources the government is able to bring to bear in Anniston. In the past, EPA and ADEM followed a basic division of labor for Anniston, with the State taking the lead role in the remediation of the Solutia plant property while EPA handled all other areas. In 2000 EPA, at the request of the community, conducted an independent review of the cleanup of the plant and the two

landfills on Solutia's property. EPA utilized its Environmental Response Team (ERT) to conduct this review. ERT is a specialized group within EPA which provides expertise and support at the request of the Regions at significant sites posing unique problems. The ERT published a report of its findings in May of 2001. While the ERT Report supported ADEM's activities on the property, it also indicated that several areas needed additional study and that more work needs to be done to ensure that there are not ongoing releases from the facility and the landfills.

In early 2001, EPA began informal negotiations regarding Anniston with Solutia and Pharmacia. EPA informed the companies that it wanted to conduct a Remedial Investigation/Feasibility Study (RI/FS) under the Superfund process which would fully define contamination in the area and develop cleanup alternatives. Typically at Superfund sites, EPA signs an administrative agreement with responsible parties to conduct the RI/FS. In this case, however, EPA has negotiated a judicial consent decree because a judicial consent decree requires a public comment process and EPA believes that, given the level of community concern regarding PCBs, an open comment period would be beneficial to the community.

In November 2001, EPA and DOJ began formal Consent Decree negotiations with the companies. The negotiations resulted in a Consent Decree being signed by the United States and both corporations. The Consent Decree was lodged in federal District Court on March 25, 2002. Since public input is an important part of the Superfund process, the Consent Decree is currently undergoing an open comment period where everyone has the opportunity to submit comments for 60 days, until June 3, 2002. If, after review of the comments, the United States decides to proceed with the Consent Decree, it will petition the federal court to enter the Consent Decree.

The Consent Decree requires that Solutia and Pharmacia hire EPA-approved contractors to conduct the RI/FS to evaluate the extent of the contamination, the risks it poses to public health and the environment, and to develop final cleanup options for the Site. The study will be rigorously overseen by EPA. Following completion of the study, EPA will select a final cleanup remedy after a further public input process. EPA then intends to negotiate another Consent Decree with Solutia/Pharmacia to implement the final remedy which would also involve rigorous oversight by EPA. The current Consent Decree requires that all of Solutia/Pharmacia's work be done following the comprehensive and strict requirements of the federal Superfund process. The Consent Decree also requires that the clean up of residential yards continue on a worst first basis; that \$3.2 million be committed by the companies over a period of twelve years to assist the community with helping children with special educational needs; and provides up to \$150,000 for citizen groups to hire technical consultants to participate in the study and evaluation process. Finally, EPA will be reimbursed over \$6 million in taxpayer money it has already spent on various cleanup actions in Anniston.

The Consent Decree requires the RI/FS process to cover all areas where PCBs are located, including the Solutia plant property and the landfill areas. EPA will build on ADEM's previous work in these areas, and intends to work cooperatively with ADEM's RCRA program to maximize resources

and avoid redundancy. EPA made the decision to assess the entire Anniston area under the Consent Decree for the following reasons: (1) because of the widespread nature of the PCB contamination; (2) to provide a single programmatic and legal framework for the entire area; and (3) to ensure that before EPA conducts cleanup activities downstream and in floodplain areas that there is no potential for release of PCBs from the property. By conducting the additional air, groundwater, and soil studies called for in the ERT Report, EPA will make certain that the Solutia facility and the landfills are not ongoing sources of contamination.

The final long-term cleanup of Anniston presents extremely complicated technical and legal issues because the contamination involves a large and diverse geographic area. The contamination has spread to area waterways and their floodplains, as well as hundreds of residential, commercial, and agricultural properties. To completely address the pollution problem in Anniston will likely take years of hard work and cost millions of dollars. Therefore, EPA has developed a basic strategy to clean up the most highly contaminated areas first while simultaneously conducting a detailed study to determine the best final cleanup solution to protect the public health and welfare of the people of Anniston. EPA believes that utilizing the Superfund process is the best guarantor of a timely, complete, efficient cleanup. EPA's Superfund program has proven it has the expertise to successfully clean up areas such as Anniston. EPA is committed to the Superfund legal principle that the polluters should either undertake cleanup activities themselves under close government oversight or bear the costs for government-led cleanup actions. EPA is also committed to ensuring that cleanup activities in Anniston are done in a technically appropriate, cost-effective manner, that is based on sound science.

This concludes my prepared statement. I would be pleased to answer any questions that you may have.