1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION
4 * * *
5 HOBART CORPORATION, et al.,
6 Plaintiffs,
7 vs. CASE NO. 3:13-cv-00115-WHR
8 THE DAYTON POWER AND LIGHT
9 COMPANY, et al.,
10 Defendants.
11 * * *
12 Deposition of ALAN L. WURSTNER, Witness
13 herein, called by the Plaintiffs for
14 cross-examination pursuant to the Rules of Civil
15 Procedure, taken before me, Beverly W. Dillman, a
16 Notary Public in and for the State of Ohio, at
17 the offices of Sebaly, Shillito + Dyer, 1900
18 Kettering Tower, 40 North Main Street, Dayton,
19 Ohio, on Wednesday, September 25, 2013, at 10:05
20 o'clock a.m.
21 * * *
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23
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25

1 EXAMINATIONS CONDUCTED Page

2 BY MR. ROMINE:.....5

3 BY MS. WRIGHT:.....62

4 BY MR. HARBECK:.....65

5 BY MR. ROMINE:.....68

6 EXHIBITS MARKED

7 (Thereupon, Plaintiffs' Exhibit 1,

8 Capability, Experience, Facilities,

9 Personnel, MONS00001-00002, MONS00083,

10 was marked for purposes of identification.)....20

11 (Thereupon, Plaintiffs' Exhibit 2,

12 Figure 3, Location of Chemical Storage,

13 MONS01544, was marked for purposes of

14 identification.).....29

15 (Thereupon, Plaintiffs' Exhibit 3,

16 Inter-Office Correspondence dated 5-9-1977,

17 MONS01820-01822, was marked for purposes of

18 identification.).....55

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1 APPEARANCES:

2 On behalf of the Plaintiffs:

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1 ALAN L. WURSTNER
2 of lawful age, Witness herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:
5 CROSS-EXAMINATION
6 BY MR. ROMINE:
7 Q. Good morning, Mr. Wurstner.
8 A. Good morning.
9 Q. My name is David Romine. I'm a
10 lawyer, and I represent three companies -- Hobart
11 Corporation, NCR Corporation and Kelsey-Hayes
12 Company -- in a lawsuit regarding a place called
13 the South Dayton Dump, and so I'm going to be
14 asking you some questions today.
15 Before we get started, we do have
16 some lawyers on the telephone, in addition to
17 here in the room, so I'm gonna go ahead and ask
18 all the lawyers to identify themselves so the
19 court reporter can take it down before we get
20 started.
21 MR. ROMINE: So, again, I'm David
22 Romine.
23 MS. MEYER: I'm Jennifer Meyer, for
24 plaintiffs.
25 MS. SMARDA: Jade Smarda, for Cox

1 Media Group.
2 MS. WRIGHT: Vicki Wright and Kay
3 Dee Baird, for Pharmacia LLC. We also represent
4 Mr. Wurstner.
5 MR. ROMINE: On the telephone?
6 MR. NES: This is Brad Nes, for
7 P-Americas.
8 MR. HARBECK: Bill Harbeck, for
9 Waste Management of Ohio.
10 MR. ROMINE: We have heard from two
11 lawyers, Mr. Nes and Mr. Harbeck. Is there
12 anyone else on the phone?
13 MR. WINELAND: (No response.)
14 MR. ROMINE: Okay. We will get
15 started then.
16 BY MR. ROMINE:
17 Q. Mr. Wurstner, have you had your
18 deposition taken before? Have you done this kind
19 of thing before?
20 A. No.
21 Q. Okay.
22 A. No.
23 Q. So I'm going to ask you some
24 questions.
25 A. Okay.

1 Q. And if you could answer, that would
2 be good. If you don't hear me or you don't
3 understand me, let me know you don't hear me or
4 understand me --
5 A. Okay.
6 Q. -- and I'll try to say it better.
7 The other thing is that Beverly is
8 taking down everything we say, so if you could
9 wait until I'm finished asking my question --
10 A. (Witness nodding head up and down.)
11 Q. -- that would be good; and then I'll
12 wait for you, even if you think you know what I'm
13 going to ask, which I'm sure is gonna happen,
14 that way she can take it down better.
15 And this is not an endurance test,
16 so if you need to take a break to go to the
17 bathroom or get some water --
18 A. Okay.
19 Q. -- or stand up and walk around,
20 that's totally fine.
21 A. Okay.
22 Q. So, Mr. Wurstner, where do you live?
23 A. Dayton -- or Oakwood, if you want
24 the --
25 Q. Oakwood?

1 A. Yeah, Telford Avenue.
2 Q. And that's close by here to Dayton?
3 A. Well, it's a suburb.
4 Q. It's a suburb of Dayton?
5 A. (Witness nodding head up and down.)
6 Q. Okay. And when were you born?
7 A. August the 23rd, 1924.
8 Q. And where were you born?
9 A. Dayton, Ohio.
10 Q. Did you go to high school here in
11 Dayton?
12 A. Yes.
13 Q. And what high school?
14 A. Went one year at Steele, and
15 graduated from Stivers.
16 Q. It's called Stivers?
17 A. S T I V E R S.
18 Q. Okay.
19 A. Steele was S T E E L E.
20 Q. Gotcha. Thank you. And did you go
21 to college immediately after high school?
22 A. I went to -- a little more than a
23 semester at University of Dayton. And then after
24 I got out of the service, I went to Ohio U.
25 Q. Okay. So I take it you went into

1 the service sometime during your schooling at the
2 University of Dayton?
3 A. Well, 1943 I went in the service.
4 Q. Okay. And what branch --
5 MR. HARBECK: David, this is Bill
6 Harbeck. I'm just wondering if you could move
7 the microphone a little closer to the witness.
8 You are loud and clear, but we are having
9 difficulty hearing the witness.
10 MR. ROMINE: Okay.
11 THE WITNESS: I'll speak louder.
12 MR. ROMINE: Okay. We moved the
13 phone.
14 BY MR. ROMINE:
15 Q. And --
16 A. 1940 -- what branch, is that what
17 you asked?
18 Q. Yes.
19 A. Navy. I was a Seabee. That's
20 S E A B E E.
21 Q. Was your duty in the Pacific?
22 A. Yes, in the beginning, and then in
23 Manila.
24 Q. And so what -- when did you get out
25 of the Navy?

1 A. '40 -- '46.
2 Q. And you -- when you came back, did
3 you come back to Dayton?
4 A. Yes.
5 Q. And you resumed your studies?
6 A. Yes.
7 Q. At what college then?
8 A. Ohio U.
9 Q. I'm sorry, I didn't understand.
10 What is that?
11 A. Ohio U.
12 Q. Ohio University?
13 A. Ohio U.
14 Q. Okay.
15 A. Took three years of college to learn
16 how to pronounce it.
17 Q. And where is that?
18 A. Athens, Ohio.
19 Q. And so what did you -- so you
20 graduated from Ohio University?
21 A. Yes.
22 Q. And what degree did you get?
23 A. I graduated with a degree in
24 education, B.S.Ed. And then I went back and I
25 took a major in botany for a couple years.

1 Q. Okay. So you graduated with a
2 Bachelor's in education?
3 A. Yes.
4 Q. And then you went back to Ohio
5 University?
6 A. Yes.
7 Q. Did you get a degree in biology?
8 A. No, I just took -- actually, major.
9 Q. Okay.
10 A. And some graduate work.
11 Q. And so what year did you graduate?
12 A. 1949.
13 Q. And when did you take your courses
14 in botany?
15 A. '50, '51 -- '50 and '51.
16 Q. Okay. Did you build airfields when
17 you were in the Navy?
18 A. We -- Navy bases mostly.
19 Q. And so did you get a job after you
20 graduated from college?
21 A. Yes.
22 Q. And where was that?
23 A. Monsanto Company.
24 Q. And where were they located?
25 A. Nicholas Road. It was at 1515, I

1 think it is, Nicholas Road.
2 Q. And that's in Dayton?
3 A. Yes.
4 Q. And how long were you employed by
5 Monsanto Company?
6 A. Thirty-one years.
7 Q. Did you work -- while still working
8 for Monsanto Company, did you work for Monsanto
9 Company at any location other than --
10 A. No.
11 Q. -- the 1515 Nicholas Road?
12 A. No.
13 Q. Okay. And what was -- did that
14 facility at 1515 Nicholas Road, did that have a
15 particular name?
16 A. Well, when I started, it was the
17 Central Research Department, Corporate Central
18 Research Department. And then in 1960 it became
19 Monsanto Research Corporation, which was a sub --
20 wholly-owned subsidiary, I guess you would call
21 it.
22 (Brief interruption.)
23 (Record read.)
24 BY MR. ROMINE:
25 Q. Okay. So you had mentioned that

1 you -- Mr. Wurstner -- that the location on
2 Nicholas Road was known as the Central Research
3 Department?
4 A. Corporate Central Research, yes,
5 beginning, yeah.
6 Q. Corporate Central. And then in 1960
7 it was known as --
8 A. It became -- they -- well, the
9 Central Research part moved to St. Louis. And
10 half of us stayed in Dayton and started the
11 Monsanto Research Corporation, which was a
12 contract company -- for contracts.
13 Q. Okay. And so is it correct to say,
14 then, starting in 1960, your paycheck started
15 saying Monsanto Research Corporation?
16 A. Yeah. Yes.
17 Q. When you say the contracts, could
18 you explain that a little bit?
19 A. Government contracts mostly, and
20 with some corporations; but mostly it was
21 government contracts, Air Force -- for Air Force,
22 Army, Navy, DOE. Who else? The medical part,
23 whatever that -- I can't remember what the
24 medical part was called, but the contracts with
25 them mostly.

1 Q. Okay. Do you mean like the federal
2 government, Health Education and Welfare, that
3 kind of thing?
4 A. Pardon?
5 Q. Health Education and Welfare?
6 A. No, didn't do anything like that.
7 But it was mostly in the military, Army, early
8 Air Corps, early Navy -- Air Force, rather.
9 Q. And so you worked for them for 31
10 years?
11 A. Well, total for the company, yeah,
12 from '50 -- '51 to '82.
13 Q. And did you get another job after
14 1982?
15 A. For -- let's see, a couple years
16 later I went to University of Dayton Research
17 Institute for a few years, couple years -- three
18 years, I think it was. I'm not too sure how
19 long.
20 Q. Okay. Was that a full-time job?
21 A. Yeah.
22 Q. And did you retire from Monsanto?
23 A. Yes.
24 Q. Was that work for the University of
25 Dayton, was that immediately after you retired?

1 A. No, I would say I probably was
2 retired for at least a year before I went -- or
3 more than that. To give you an idea, the man
4 that hired me at Monsanto had gone to the
5 University of Dayton Research Group. And he kept
6 calling me up wanting me to go there. And after
7 about six months, I got tired of listening to
8 him, so I took the job.
9 Q. Fair enough.
10 A. So that's the way it went.
11 Q. Fair enough.
12 A. And then I worked there a few years,
13 and it was not good, so I just -- (indicating) --
14 being retired.
15 Q. Better?
16 A. Better being retired, yeah.
17 Q. Did you have any other employment,
18 other than what you have already told me about,
19 Monsanto and then the University of Dayton?
20 A. Well, before Monsanto or -- before
21 Monsanto, part-time summer jobs at NCR Old River
22 Park. And then after University of Dayton I got
23 a job working at sporting good stores, just for
24 something to use time up, but -- a few years.
25 And then I was --

1 Q. Where you worked, was that known as
2 The Dayton Laboratory?
3 A. Yes, in the beginning, yeah, The
4 Dayton Laboratory. And then it became Monsanto
5 Research Corporation; it just was called MRC
6 then.
7 Q. Okay. So at the beginning when you
8 started in about 1950, it was known as The Dayton
9 Laboratory?
10 A. Yeah.
11 Q. And then it was known, in about
12 1960 -- and, again, correct me if I'm wrong -- as
13 Monsanto Research Corporation?
14 A. Yeah.
15 Q. Or MRC?
16 A. MRC.
17 Q. What was your title?
18 A. Research chemist.
19 Q. And that was your title right from
20 the beginning?
21 A. I started, I think I was a
22 technician, I think, was the title; and then
23 became a chemist a couple years later, a few. I
24 don't know what that beginning title would have
25 been. I mean, it was -- technician is as close

1 as I can come to it. I don't know what name they
2 had for it.
3 Q. Fair enough. So how did you become
4 a research chemist without a degree in chemistry?
5 A. I took some -- I took some chemistry
6 courses. I had some before I -- in college. But
7 then I took some around -- at UD, and I think
8 Miami, I took math and some chemistry, a little
9 bit, not much, but --
10 Q. And what did you do? Like what did
11 your job entail?
12 A. At the beginning I was doing
13 physical properties for polymers or plastics, if
14 you want to call it. And then after that I
15 became a micros -- I was the microscopist.
16 Q. Microscopes?
17 A. (Witness nodding head up and down.)
18 THE NOTARY: Yes?
19 THE WITNESS: Yes. I'm sorry.
20 BY MR. ROMINE:
21 Q. And what does a microscopist do?
22 A. Well, basically, uses a microscope
23 to do different measurements, depending -- did a
24 lot of particle size distribution was one of the
25 big things for -- a good example of that, they

1 had a contract with Department of Mines on the
2 coal dust. And they would collect coal dust, and
3 I would do the particle size distributions for
4 it. That type of -- that -- in general, that
5 would be an example of it.
6 Q. Okay. So --
7 A. And then also did the scanning
8 electron microscopy after they got one of those.
9 Q. So when you say particle size
10 distribution, you would take a look at coal dust?
11 A. Yeah.
12 Q. And you would determine -- you got
13 so many particles of this size and so many of
14 this bigger size, and so on and so on?
15 A. Right. Right.
16 Q. Okay.
17 A. And you plot that out on a log, and
18 find the mean values and what the maximum and
19 minimum sizes are.
20 Q. And what was your understanding, why
21 did the Department of Mines want you to do this?
22 A. Well, Black Lung Disease, from the
23 miners that were working the mines produce a lot
24 of dust, would develop what was called Black Lung
25 Disease. And the size of the particles has a

1 difference. Some sizes, when you breathe in, you
2 will breathe them back out again. Other ones,
3 you can't even breathe in. But certain ones
4 stayed, and that was what you looked for, how
5 many of them could stay.
6 And don't ask me what the size is
7 because I don't remember.
8 Q. I understand. Approximately what
9 year was this, or years?
10 A. Oh, Lord. '60s. Well, a lot of
11 that work -- well, '60s and the '70s. It
12 depended on which -- you know, what contract I
13 was -- was measuring for.
14 Q. Did you do particle size
15 distribution studies for things other than coal
16 dust?
17 A. Oh, yeah. Yeah. Well, see, some of
18 those were classified, so I can't state that.
19 But --
20 Q. Any nonclassified materials that you
21 can remember?
22 A. Well, I looked a lot -- a little bit
23 at asbestos for a while.
24 Q. Uh-huh.
25 A. And I'm having trouble remembering

1 now. You caught me.
2 Q. That's okay. If some come to you
3 later on this morning --
4 A. Yeah.
5 Q. -- let me know.
6 So I'm gonna show you some papers
7 here --
8 A. Okay.
9 Q. -- ask you to take a look at them.
10 First, I'm gonna ask the court reporter to mark
11 this as Plaintiffs' Exhibit 1.
12 (Thereupon, Plaintiffs' Exhibit 1,
13 Capability, Experience, Facilities, Personnel,
14 MONS00001-00002, MONS00083, was marked for
15 purposes of identification.)
16 (Thereupon, an off-the-record
17 discussion was held.)
18 MR. ROMINE: Okay.
19 MS. WRIGHT: There is three pages
20 there, Mr. Wurstner. You may want to look at --
21 THE WITNESS: Okay.
22 BY MR. ROMINE:
23 Q. So what I'm showing you, Mr.
24 Wurstner, is three pages from a document that
25 Pharmacia's counsel gave me on behalf of

1 Pharmacia. And I just took those three pages
2 because I wanted to get the page that had your
3 name on it.
4 And so my question is, if you could
5 look at the last page of what I gave you --
6 A. Yeah.
7 Q. -- MONS 83, down at the bottom, is
8 this page -- does this describe you?
9 A. Yeah. Yes.
10 Q. And this is your picture?
11 A. Yeah. I don't know where you found
12 that, but yes.
13 Q. Okay. So I just want to ask you a
14 couple questions about this page here, and that
15 is, if you look at the paragraph that begins
16 major researches have included?
17 A. Uh-huh.
18 Q. And then if you go -- looks like
19 seven lines down, it talks about particle size
20 and distribution of fine powders?
21 A. Uh-huh.
22 Q. Do you see that?
23 A. Yeah.
24 Q. And that's what you were talking to
25 me about just a couple of moments ago?

1 A. Yes.
2 Q. Okay. And then another thing I want
3 to ask you about is down at the bottom there is a
4 new paragraph, and it says at the beginning, Mr.
5 Wurstner is a co-developer of the Monsanto MICRON
6 ORIFICE. Do you see that?
7 A. Yes.
8 Q. What is or was the Monsanto MICRON
9 ORIFICE?
10 A. Okay. They had a contract with the
11 Army Corps of Medical -- Chemical Warfare Corps
12 for developing rate of leaks. So we had -- what
13 we did, we took a piece of quartz fiber, quartz
14 tubing that somebody developed years before, that
15 they had laying around there, that were from
16 one-micron inside diameter up to, well, maybe ten
17 or so. And what we did is we mounted those up
18 into little -- put them in a plastic container
19 and mounted it up, and they were sliced off, and
20 then they could use those to develop a leak. And
21 that was what they were for.
22 And it was just, generally, the
23 different sized holes with a certain distance. I
24 mean, they would be sliced up at different sizes.
25 Q. When you say develop a leak, what do

1 you mean?
2 A. Well, you have a container with
3 something, and what -- how much leaking you would
4 get from a certain size hole in it.
5 Q. Okay.
6 A. I mean, basically, that's what it
7 was.
8 Q. So it's a container with some kind
9 of fluid in?
10 A. Yeah, or gas, either one.
11 Q. Okay. And then you wanted to
12 measure what, the rate of leakage?
13 A. Right. We didn't do that, we just
14 made the --
15 Q. You made the hole?
16 A. The holes, yeah.
17 Q. I see. So it was something that was
18 designed to leak?
19 A. Yeah. Yeah. Oh, yeah. It was a
20 measure -- it was to measure leaks is what it
21 was.
22 Q. Okay. Okay. And did you have an
23 idea of what fluid or gas this was gonna be used
24 for, or it could be anything?
25 A. Well, it's classified.

1 Q. Okay. Have you heard of a place
2 called The Mound Laboratory?
3 A. Oh, yes. Unit 5.
4 Q. Unit 5? And how do -- what is The
5 Mound Laboratory?
6 A. That was a laboratory on contract
7 with the Atomic Energy Commission back then, or
8 DOE.
9 Q. It was a Monsanto place?
10 A. Yes -- well, to give you a little
11 history, a lot of the development of the atomic
12 bomb was done in the Monsanto location in Dayton.
13 Q. You're talking about The Dayton
14 Laboratory now or the Mound?
15 A. The Dayton Laboratory.
16 Q. Okay.
17 A. And Mound basically was an offshoot
18 from that when they built it. They built it
19 after the war, though. But during the war they
20 did a lot of work on it. They had one up in
21 Oakwood that got a little bit warm, so they had
22 to bury it in Tennessee. But --
23 Q. Okay.
24 A. But a little history, that's all.
25 Q. I understand. No problem. Thank

1 you.
2 Was The Mound Laboratory open at the
3 time that you started working at Dayton Lab?
4 A. Yes.
5 Q. Okay. And did they -- when you
6 started at Dayton Lab, did they do that -- did
7 they retain, at that time, any of the atomic
8 research that was being started now at The Mound
9 Lab?
10 A. No. That wasn't done at Dayton
11 anymore.
12 Q. Okay. Okay. So by the time you
13 started at Dayton Lab, that was all transferred
14 out to --
15 A. It was all gone, yeah.
16 Q. Did you ever work at The Mound
17 Laboratory?
18 A. I did some work for them on the
19 scanning electron microscope.
20 Q. But did you ever show up at The
21 Mound Laboratory?
22 A. Well, I went down and visited down
23 there, but not as a --
24 Q. Not as part of your regular duties?
25 A. No. Well, part of the working

for -- doing some work for them. But I -- we had the scanning electron microscope, they didn't, in other words. But -- so I would go down there once in a while, but didn't really work there. I worked at our lab.

Q. Can you give me a rough idea how many times you went down to The Mound Laboratory?

A. Maybe five.

Q. I want to go back to the -- to the Exhibit 1 that we were talking about earlier, what you have there.

A. Oh, okay.

Q. Could you take a look at the description of your job there or the description of your work, maybe, is a better term?

A. Here?

Q. Have you read that earlier today?

A. Yes. Yeah.

Q. Okay. And is that accurate as to what you were working on when you were working at The Dayton Laboratory?

A. Yes.

Q. Okay. I've heard the term pilot plant in reference to The Dayton Laboratory. Does that -- are you familiar with that term?

A. Yes.

Q. Was that something different from the research that was done at Dayton Laboratory, or was that part of the research that was done?

A. Well, it's part of the research. When you develop a compound, chemical compound in the lab, it's done in a flask; it's done in a small amount. But to go into production, you have to then develop how to produce it. That's done in a pilot plant, which does a larger amount, basically. And that's what the pilot plant was.

So when a -- one of the chemists would develop something, then it was sent to the pilot plant -- later on, if they decided they wanted to manufacture it, then it would go through the pilot plant and develop the manufacturing process, which means you went from a couple liters up into a 2,000 gallons type of operation.

Then on the map here I can show you the pilot plant building.

Q. I -- actually, that's a great idea, if you could.

A. Okay. Look at the map, and look at

1 the top right-hand side up in there, kind of a
2 building that's got a small one-story front to
3 it, then it goes up higher in the back -- or a
4 two-story front, I guess it is. See what I mean?
5 This one right here (indicating).
6 Q. Yeah.
7 A. That's the pilot plant.
8 Q. So we are talking now -- just so
9 everybody, when we go back, we can identify the
10 page, it's MONS00001?
11 A. Yeah.
12 Q. Okay. And you're pointing to a
13 building on the -- on the little picture here, I
14 guess it's an aerial photo?
15 A. Yeah.
16 Q. And did you work in the pilot plant?
17 A. No.
18 Q. Did you develop chemicals in your
19 lab that then became produced in the pilot plant?
20 A. No. No.
21 Q. That was totally different?
22 A. That was -- other -- other chemists
23 did that.
24 Q. Okay. Did you ever -- did you ever
25 go to the pilot plant?

1 A. Oh, yeah.
2 Q. Okay. Another exhibit for you,
3 which I'm going to ask the court reporter to mark
4 as Exhibit 2.
5 (Thereupon, Plaintiffs' Exhibit 2,
6 Figure 3, Location of Chemical Storage,
7 MONS01544, was marked for purposes of
8 identification.)
9 MR. HARBECK: David, this is Bill
10 Harbeck again. The last document, I'm a little
11 bit -- in terms of what it is, I don't know if
12 it's got a date? I don't have the Monsanto
13 documents in front of me; just maybe a very
14 brief, general description? I don't know if it's
15 got a date, is it a memorandum, a brochure,
16 something so I can figure out what you're talking
17 about?
18 MR. ROMINE: Yeah. Well, Monsanto's
19 counsel may be able to describe it better, since
20 it's her document, but I'll give it a shot and
21 then allow her to do so. It looks like a
22 marketing document from about 1970 that -- and in
23 the -- on the cover it says Capability,
24 Experience, Facilities, Personnel. And it looks
25 like it's a marketing document for the Monsanto

1 Research Corporation from about 1970, and Mr.
2 Wurstner's bio.
3 MR. HARBECK: Exhibit 1, you're
4 talking about, or Exhibit 2?
5 MR. ROMINE: Exhibit 1.
6 MR. HARBECK: Okay.
7 MR. ROMINE: And Mr. Wurstner's bio
8 is part of that marketing material.
9 MR. HARBECK: Okay. That's helpful.
10 Thank you.
11 MS. WRIGHT: And just for the
12 record, I don't know if it's a marketing document
13 or why it was even created. I just know that it
14 exists. We are not even sure of the date,
15 roughly.
16 THE WITNESS: It was a lot later
17 because there is a lot missing on here and the
18 building numbers are strange.
19 MS. WRIGHT: Oh, yes. And you're
20 looking at Exhibit 2?
21 THE WITNESS: Oh, that one there?
22 That one is -- oh, it's fairly old, but not that
23 old.
24 BY MR. ROMINE:
25 Q. Yeah. Actually, that's a good idea.

1 Let's go back to Exhibit 1 for just a moment.
2 A. Yeah.
3 Q. And, again, looking at the -- the
4 third page?
5 A. Yeah.
6 Q. It says: Mr. Wurstner has had 19
7 years of experience in research with general
8 optical microscopy, and then it goes on. So it
9 looks like this would have been written --
10 Exhibit 1 would have been written in
11 approximately 1969, 1970?
12 A. Probably about that time, yeah.
13 Q. Okay. Do you remember this
14 document?
15 A. That (indicating)?
16 Q. Yeah.
17 A. No, to tell you the truth.
18 Q. Okay. So you don't remember ever
19 seeing this before?
20 A. No, I don't know who wrote -- could
21 have written that up. I have no idea.
22 Q. Okay. Okay.
23 MR. ROMINE: We are still talking
24 about Exhibit 1 now, for those of you on the
25 phone.

1 BY MR. ROMINE:
2 Q. But now I'm gonna switch and talk to
3 you about Exhibit 2. And according to the date
4 on Exhibit 2, it says March 1992. I realize
5 that's after you left, but I still -- there is a
6 reason why I'm showing this to you.
7 Have you had a chance to take a look
8 at Exhibit 2?
9 A. This (indicating)? Yes.
10 Q. Okay. And the particular question I
11 want to ask you is this: If you take a look at
12 the front of Exhibit 1 there --
13 A. Yeah.
14 Q. -- it shows some buildings in the
15 foreground on Exhibit 1?
16 A. Down here (indicating)?
17 Q. There are some buildings in the
18 foreground toward the left?
19 A. Right.
20 Q. And if you look at Exhibit 2, it
21 doesn't show those buildings anymore?
22 A. Right.
23 Q. Now, were -- what happened to those
24 buildings, is my question.
25 A. That's why I'm looking at this map.

1 Q. Okay.
2 A. That's Building 2 is in here
3 (indicating), Building 2. There are several
4 others -- there is the pilot plant building
5 that's gone (indicating), that's with the tall
6 stack there.
7 Building 3 and 4 seem to be gone. I
8 haven't figured out what this Area 11, Building 8
9 is down here (indicating), unless that was the
10 garage. So that whole area there, apparently,
11 has been torn down.
12 I haven't been across there lately.
13 I'm gonna have to go down one of these days and
14 look. But I think they have torn down an awful
15 lot of it.
16 Q. Okay. So you're saying that on
17 Exhibit 1 the aerial photo shows some buildings,
18 including Buildings 2, 3 and 4?
19 A. Right.
20 Q. But those don't show up on Exhibit
21 2?
22 A. Right.
23 Q. So my question to you is, when you
24 left in 1982, were Buildings 2, 3 and 4 still in
25 existence?

1 A. Oh, yes. Oh, yes, yeah.
2 Q. Okay. All right. And if you look
3 at -- again, Exhibit 2, do you see where
4 almost -- almost in the middle it says Building
5 1?
6 A. (Witness nodding head up and down.)
7 Yes.
8 Q. Okay. And is that your recollection
9 of where Building 1 is?
10 A. That's it. That is Building 1, yes.
11 Q. Okay. Same thing, moving to the
12 right slightly, Building 22?
13 A. Pilot plant.
14 Q. Oh, Building 22 is the pilot plant?
15 A. Was the pilot plant.
16 Q. And moving to the right again,
17 Building 20?
18 A. Oh, I'm sorry, Building 20 is the
19 pilot plant; 22 is the power plant.
20 Q. Oh, the power plant, okay. But is
21 that consistent with your memory of where those
22 buildings were?
23 A. Those two, yes.
24 Q. Okay. And, again, I'm gonna move to
25 the right a little bit more, Building 23?

1 A. That's new.
2 Q. Okay. How about just south of
3 Building 20, there is -- it says Building 26?
4 A. That's new.
5 Q. Okay. And then moving to the left
6 now, there is Building 8, or a building
7 designated as Building 8 to the left of Building
8 1?
9 A. Yes. That was the -- oh, warehouse,
10 I guess you want to call it.
11 Q. Okay.
12 A. Storage area.
13 Q. Okay.
14 A. I think.
15 Q. Okay. No problem. And so going
16 back to Building 1, just above where it says
17 Building 1 there is a notation that says Labs?
18 A. Uh-huh. Off to the side there
19 (indicating)?
20 Q. Yeah. Is that where you worked?
21 A. No.
22 Q. Where did you work?
23 A. Would have been the second floor
24 someplace over here in Building 1.
25 Q. Okay. So you worked in Building 1?

1 A. I started in Building 3, then later
2 I was in Building 1.
3 Q. Okay. But Building 3 is not shown
4 on Exhibit 2 here?
5 A. Not anymore.
6 Q. Okay. And then you were -- then you
7 went over to Building 1 at some point?
8 A. Correct.
9 Q. Okay. When was that?
10 A. You mentioned Building 20 --
11 THE NOTARY: Sir, I couldn't hear
12 you.
13 THE WITNESS: I'm thinking.
14 I think for a little while I was up
15 on that portion at the front, where you see the
16 front of that pilot plant building, on the second
17 floor. I think we were in a lab in there for a
18 little while, and then went to Building 1 from
19 there. And that would have been someplace in the
20 late '60s probably.
21 BY MR. ROMINE:
22 Q. Okay.
23 A. Or middle '60s, I guess.
24 Q. And then you stayed there until you
25 retired?

1 A. Yeah --
2 Q. Okay.
3 A. Well, no. After we quit doing
4 microscopy, I did some other work. And I was
5 out -- would be either -- whether it was Area 13
6 or 12, someplace, there was a building back there
7 which I think also doesn't exist anymore, from
8 what I can see here.
9 Q. Okay. Okay. All right. So -- and,
10 again, correct me if I'm wrong. I just want to
11 get an idea, make sure I'm understanding it. You
12 started out in Building 3?
13 A. Correct.
14 Q. Which is not shown on Exhibit 2?
15 A. Correct.
16 Q. And then at some point you may have
17 gone to the -- or let me put it this way: At
18 some point you did go to the pilot plant?
19 A. Yeah, but not -- in the front of
20 that building there was the labs in there, but
21 not too long.
22 Q. And is that Building 20, then, on
23 Exhibit 2?
24 A. It would be Building 20.
25 Q. But not too long?

1 A. Yeah.
2 Q. And then you went to Building --
3 A. One.
4 Q. -- 1. And that was approximately in
5 the mid to late '60s?
6 A. Yeah.
7 Q. Okay. And you spent the majority of
8 the rest of your career --
9 A. Up until about, let's say, '79 or
10 '80, '79 or '80.
11 Q. Okay. And then you went someplace
12 to a building that may not appear here on Exhibit
13 2?
14 A. Yeah.
15 Q. But north?
16 A. Right.
17 Q. Okay. All right. Thank you.
18 Who is George Richardson?
19 A. He was an organic chemist that
20 worked at the lab.
21 Q. And did you work with him, or he was
22 just a coworker?
23 A. No. No.
24 Q. All right.
25 A. I didn't work with him. He was --

1 Q. Okay. Are you okay? Do you need a
2 break?
3 A. No, I'm fine.
4 Q. Were you aware of the South Dayton
5 Dump when you worked at Monsanto?
6 A. Passed it every day when I went to
7 work.
8 Q. Okay. So where did you live when
9 you worked at the lab?
10 A. Well, first, I lived in the east end
11 off of Wayne Avenue, Margaret Street. And then I
12 lived in -- well, for a bit in Kettering, and
13 then Oakwood.
14 Q. Okay. And what was the route that
15 you took to work, like why did you pass it?
16 A. Came over Carillon Boulevard, and
17 then passed the DP&L plant, and then up the road
18 there across the bridge to Monsanto.
19 Q. Okay.
20 A. If you had -- you don't have a map
21 of it, though?
22 Q. So it sounds to me like -- I'm not
23 that familiar with Dayton, but it sounds to me
24 like you lived roughly south of where the
25 plant -- or excuse me, where the --

1 A. Oh, yes, yes.
2 Q. Where The Dayton Lab was?
3 A. Yes.
4 Q. Okay. And when you say you passed
5 it every day on your way to work, how did you
6 know that the dump was there?
7 A. It was pretty obvious.
8 Q. Tell me why it was obvious to you.
9 You could see it, you could smell it; what was
10 obvious?
11 A. Well, you would see them hauling
12 stuff in there all the time. General Motors used
13 to haul pallets in there by the truckloads.
14 Q. Okay.
15 A. Then they burned the pallets.
16 Q. Was there any waste that was sent
17 from the Monsanto Research Corporation to the
18 South Dayton Dump?
19 A. Only what Richardson had burned out
20 there. Anything -- I don't know if anything else
21 was sent there. I don't know what they did with
22 the waste. I had no --
23 Q. Okay. Let me back you up there.
24 When you say what Richardson burned out there,
25 you're talking about George Richardson?

1 A. Right.
2 Q. And tell me about George Richardson
3 and the waste and the burning out there.
4 A. Well, behind Building 1 there was a
5 set of what they called high-pressure cells. And
6 he wanted to use one, and they had -- somebody
7 put a bunch of bottles of chemicals back there to
8 get rid of them. And for him to use it, he had
9 to get rid of the chemicals.
10 Well, being an organic chemist, he
11 knew -- looked at it and said, well, burning is
12 the only -- best way -- easiest to get rid of it.
13 So he went over to the dump and built a big fire
14 in the pit down there, where they burned all the
15 pallets, and threw the chemicals in the fire and
16 burned them. Basically, that was it.
17 Q. How do you know -- how do you know
18 that he did this? Did he tell you?
19 A. Well, no, I went over to watch and
20 see what he was doing one day.
21 Q. You went with him?
22 A. He only spent about two days doing
23 that.
24 Q. Okay. And this was at the South
25 Dayton Dump?

1 A. Yes.
2 Q. Okay. Now, so you went with him,
3 and he put the chemicals in a pit that was, I
4 take it -- and correct me if I'm wrong -- it was
5 already being used for burning something?
6 A. Yeah.
7 Q. And he put the chemicals in there
8 and they were burned?
9 A. Well, he built -- in this pit, he
10 built a horrendous fire with pallets, very hot
11 fire. And he would open the bottle and throw it
12 in, or at least loosen the cap and throw the
13 bottle in the fire.
14 Q. And this happened like a couple
15 times?
16 A. Well, he spent about -- the better
17 part of two days doing it.
18 Q. And --
19 A. The amount of stuff he put in there
20 probably was maybe -- I doubt if you could fill a
21 drum with it.
22 Q. Over the course of both days?
23 A. Right.
24 Q. Okay.
25 A. It was -- because the bottles

1 weren't full, they were (indicating).
2 Q. I understand. It's a laboratory.
3 A. Yeah.
4 Q. And where did the pallets come from?
5 A. Probably -- well, I think that was
6 whoever was dumping them there, General Motors
7 or -- I know a lot of them came from what was
8 Delco Brake, which was a -- became a Delphi
9 plant, then, over not too far away.
10 Q. So you took what you found there in
11 terms of the pallets and you burned those?
12 A. Oh, yeah. He just built the stuff
13 out of what was there, didn't take anything from
14 our place.
15 Q. And why did you go -- why did you go
16 with him that one time?
17 A. Well, I was chief of the emergency
18 brigade at the lab, if you want to call it that.
19 Which if you had a fire there, the Dayton Fire
20 Department was glad to come out on the road and
21 sit there and watch you put it out, but they --
22 they did not want to get involved. So --
23 Q. Why, because of the chemicals?
24 A. Yeah.
25 Q. I see.

1 A. Well, they didn't know how -- fire
2 departments don't know how to handle chemicals,
3 put it that way. And so I just went over to see
4 what he was doing in case I had to do something.
5 After our nurse died -- I had been on the ski
6 patrol, and I was a -- an instructor of advanced
7 first aid. So I kind of had the job of maybe if
8 somebody got hurt, you know, or anything.
9 And I went over to see -- you know,
10 make sure he was not gonna hurt himself. But he
11 was pretty -- he was very well -- well, an
12 advanced chemist. He knew what he was doing.
13 Q. What specifically were the chemicals
14 that he was burning?
15 A. I would say it was practically all
16 organic. I don't think there was any inorganic
17 chemicals in that place.
18 Q. Other than that, you don't know?
19 A. I don't know.
20 Q. But you say that because he was an
21 organic chemist --
22 A. Well --
23 Q. -- or did you know that the stuff
24 was organic?
25 A. Well, I -- I don't know for sure

1 that it was all organic, but I don't remember
2 that -- anybody working on any projects where
3 they would have used inorganic chemicals, to
4 speak of. I mean, almost all the work was done
5 with organic chemicals. And he chose to burn
6 them because organics burned nicely.
7 And the reason they were in that
8 cell, I think, is because most of them were a
9 little hazardous. In other words, it could have
10 been a lot of peroxides in that, which have a
11 tendency to decompose on their own.
12 Q. When was that?
13 A. Now you're -- now you got me.
14 Q. No problem.
15 A. Roughly, I would say, maybe '75.
16 Q. Okay. Now, you said -- and, again,
17 correct me if I'm wrong -- you said that you --
18 you feel that these were organic chemicals
19 because most of the work was done on organic
20 chemicals, as opposed to inorganic?
21 A. Almost all the work, yeah.
22 Q. Are you talking generally of MRC,
23 Monsanto Research Corporation?
24 A. Yes.
25 Q. So MRC generally dealt much more

1 with organics than with inorganics?
2 A. (Witness nodding head up and down.)
3 Q. Yes?
4 A. Yes.
5 Q. Okay.
6 A. That's right, you can't see my head
7 shaking. Sorry.
8 Q. Yes. Was -- were there otherwise
9 chemicals that were generated as part of -- of
10 MRC's work, other than -- other than these
11 chemicals you just told me about that George
12 Richardson --
13 A. Well, yes, I guess.
14 Q. Okay. And how were those disposed
15 of?
16 A. I have no idea.
17 Q. Okay.
18 A. That was -- I -- probably at some --
19 there were companies that would take and recycle
20 that stuff.
21 Q. But you didn't deal with that?
22 A. I didn't deal -- have anything to do
23 with that, no.
24 Q. Okay. Who did?
25 A. Probably purchasing.

1 Q. Do you remember anybody from the
2 purchasing department?
3 A. The girl -- one name of a girl who
4 would probably have absolutely no idea about it,
5 Geiger. I can't remember the purchasing agent's
6 name. I have been trying to think of it for
7 several days, and I cannot for the life of me
8 remember it.
9 Q. No problem. But there was a woman
10 named Geiger?
11 A. Yeah.
12 Q. Like a Geiger counter?
13 A. I guess. There were two of them.
14 The one that I know of that's living right now
15 was not this one.
16 Q. Was not Geiger?
17 A. No, her name is Geiger, but it's not
18 this Geiger.
19 Q. Okay. There were two Geigers?
20 A. Yeah.
21 Q. Okay. Sorry about that.
22 A. But that's the only name in
23 purchasing I can think of. And she would have no
24 idea of anything like that.
25 Q. Okay. And both Geigers were women?

1 A. Yeah.
2 Q. Okay.
3 A. Yeah.
4 Q. Were they related?
5 A. Sister-in-laws.
6 Q. Sisters-in-law. Okay. Where does
7 the living one live?
8 A. I don't know.
9 Q. Okay.
10 A. I don't know.
11 Q. Okay.
12 A. I want to think north someplace, but
13 I don't -- I don't know.
14 Q. Okay. Why was it special for -- for
15 George Richardson to dispose of these chemicals
16 in this way?
17 A. I think he wanted to run a reaction
18 in the cell and was told if he wanted to do it,
19 he was gonna have to clean the cell out. So
20 that's what the answer to that would probably be,
21 that's why.
22 Q. It seems like George Richardson
23 had -- he had to dispose of this particular batch
24 of chemicals somehow?
25 A. Yeah.

1 Q. But why weren't all chemicals
2 disposed of in this way?
3 A. Really, I -- I don't know. I
4 have -- I just -- I have no idea of how they did
5 it or what they did.
6 Q. Okay. But Richardson did this
7 special project for whatever reason?
8 A. Yeah.
9 Q. And he was told, if you want to do
10 this special project, you have gotta be
11 responsible --
12 A. If you want to use the cell, you're
13 gonna have to clean it out. When I'm talking
14 about a high-pressure cell, it's basically a room
15 with four walls, and the seals are very heavy,
16 thick; and then the -- a fourth wall was some
17 light thing, and then there was another wall
18 behind it. And if you had an explosion, then it
19 would blow that one wall out, but it wouldn't
20 blow up the building.
21 So he was probably gonna work on
22 something that was sensitive, and so he wanted to
23 set it up in there. That was the only -- would
24 be the reason for it, why he was doing it, and he
25 needed to clean it out. And they had a building

1 back there behind Building 1 that had these --
2 several of these cells in it.
3 Q. If you take a look at Exhibit 2,
4 which is the diagram --
5 A. Uh-huh. Uh-huh.
6 Q. -- are the -- is the place where the
7 cell was, or the cells were, is that notated on
8 here, or is that no longer -- no longer part --
9 A. They are not there. But this Area
10 13 would probably be about where that building
11 was.
12 Q. Okay. Aside from chemicals, what
13 happened to the -- not necessarily including
14 chemicals, but what happened to the trash that
15 was generated by The Dayton Lab or MRC?
16 A. Well, there was a trash truck that
17 used to come in there and pick it up daily.
18 Q. And what company was the trash truck
19 from?
20 A. I don't know. I have no idea.
21 Q. Do you remember what color it was?
22 A. I don't know. Gray, I guess, but
23 I --
24 Q. Okay. And it would come every day?
25 A. Pretty much so, I think so, yeah.

1 Q. And where was the trash kept before
2 the truck came to pick it up?
3 A. All I know is -- I don't know. All
4 I know is it pulled in there one day and it was
5 burning, and we had to put the fire out. So
6 that's the best that I could answer on that. But
7 he started burning before he got there.
8 Q. But this was an accident?
9 A. Yeah, they dumped something in the
10 trash truck that caught -- reacted and caught on
11 fire, wherever he got it before he came to
12 Monsanto, and when he pulled in it was burning.
13 Q. Oh, the trash truck was burning?
14 A. Yeah.
15 Q. Oh, I see.
16 A. And we had to put it out.
17 Q. So if you could look on Exhibit 2,
18 the diagram, where was -- where did the trash
19 truck come to? Where was the trash?
20 A. Well, it would have either been next
21 to Building 1 and behind Building 2, if you look
22 at the -- it doesn't show. But there was a road
23 that came around that would get over up to here
24 (indicating).
25 Q. Okay. So it was both places?

1 A. Yeah, basically, I guess. I never
2 paid that much attention, so --
3 Q. I understand. So there was a place
4 next to Building 1?
5 A. Well, it was just like a park --
6 like a driveway or so, I mean --
7 Q. Okay. And what was it? Was it a
8 dumpster, was it a bin; what kind of container
9 was it?
10 A. I don't know. I never paid that
11 much attention. I don't know what they dumped it
12 from.
13 There was an incinerator back there
14 at one time, but that's why I can't figure out
15 this picture because that stack is still on it,
16 and that was torn down, so I don't know.
17 Q. I understand. So -- okay. So was
18 the incinerator used specifically for burning
19 trash?
20 A. It would be classified documents,
21 mostly --
22 Q. Okay.
23 A. -- what it was for.
24 Q. I see.
25 A. What was burned in there.

1 Q. I see. So in terms of just regular
2 trash disposal -- and, again, correct me if I'm
3 wrong -- there was a truck that came and picked
4 up the trash from the very -- from when you
5 started there?
6 A. Yeah, I guess.
7 Q. Okay. And when you worked on the
8 coal dust, for example, how did that -- when you
9 were done studying the coal dust, what happened
10 to the coal dust?
11 A. Well, probably, most of it went in
12 the wastebasket, I would guess.
13 Q. Okay.
14 A. I mean, how much coal dust does it
15 take on a microscope?
16 Q. I understand. So the volume you had
17 was small?
18 A. Nil.
19 Q. And how about the asbestos?
20 A. Very, very little, because that
21 would be on a filter about maybe three-eighths of
22 an inch in diameter.
23 Q. Yeah.
24 A. Or -- well, a centimeter maybe, and
25 it would be on that filter. And you put a

1 solution on the filter that would make it
2 transparent, and then studied it -- the stuff
3 that's on it. So -- and that would be on a
4 microscope slide.
5 Q. And when you were done with that,
6 what happened to it?
7 A. Most probably just threw the slides
8 out.
9 Q. Okay. Going back to the pilot plant
10 for a minute --
11 A. (Witness nodding head up and down.)
12 Q. -- so the pilot plant produced
13 relatively small quantities of chemicals that may
14 at some future date have gone into full
15 production?
16 A. Right.
17 Q. What happened to those small
18 quantities of chemicals?
19 A. I don't know what -- I think there
20 was some company would come in and pick up a
21 lot -- some of that stuff, and then it was taken
22 and distilled or recycled. But I don't know who
23 it would have been. I mean --
24 Q. Do you remember separate vehicles
25 coming from that company?

1 A. Well, once in a while you would see
2 a tanker come in, but I don't know who they were
3 or anything. I don't know if that was something
4 they were delivering to St. Louis or what it was.
5 Q. Okay. Show you one more exhibit,
6 which I'm gonna mark as Exhibit 3.
7 (Thereupon, Plaintiffs' Exhibit 3,
8 Inter-Office Correspondence dated 5-9-1977,
9 MONS01820-01822, was marked for purposes of
10 identification.)
11 BY MR. ROMINE:
12 Q. This is -- this is a -- a three-page
13 memo, but -- and, please, you're welcome to read
14 the whole thing, but I'm just gonna concentrate
15 on the last paragraph of the first page here.
16 A. Well, I don't know where it came
17 from, but it's not true.
18 Q. Okay. When you say -- what's that?
19 A. I said it's not true. I was not
20 responsible for it.
21 Q. That's what I was going to ask you.
22 Okay. So, again, just so everything is on the
23 record here and the court reporter knows what we
24 are talking about, down at the bottom of the --
25 at the bottom of the first page, it says prior to

1974 --

A. Uh-huh.

Q. -- Al Wurstner -- and that's you?

A. Yes.

Q. -- was the principal person involved in the disposal of laboratory-generated waste chemicals. And so you're saying to me right now that's not true?

A. No. No.

Q. Okay.

A. No. As I say --

Q. Have you seen this memo before?

A. No.

Q. Okay. So was there a person, like when you were working there, was there a person that you knew was designated as the person primarily responsible for the disposal of laboratory-generated waste chemicals?

A. No, I don't know who it -- who was responsible, I'll put it that way.

Q. Okay. That's fine.

MR. ROMINE: Off the record for a second.

(Brief recess taken.)

MR. ROMINE: Other than Mr. Nes and

1 Mr. Harbeck, is there anybody else on the phone?
2 MR. WINELAND: Erik Wineland.
3 MR. ROMINE: Okay. Back on the
4 record.
5 BY MR. ROMINE:
6 Q. Mr. Wurstner, before the break we --
7 I had showed you Exhibit 3.
8 A. Uh-huh.
9 Q. And you had mentioned that it's
10 wrong in that you were not the principal person?
11 A. Correct.
12 Q. Okay. Up at the top of the memo it
13 lists some people who got the memo cc. One is
14 R. K. Flitcraft. Do you remember Mr. Flitcraft?
15 A. Yeah. He was the president.
16 Q. He was the president?
17 A. Of MRC, not Monsanto, but MRC.
18 Q. Okay. And he worked at the
19 Dayton -- the Nicholas Road facility?
20 A. Yeah, he was running -- I think so,
21 yeah.
22 Q. Okay. But, I mean, his -- he wasn't
23 like in St. Louis or anyplace; his main office
24 was in Dayton?
25 A. I think he was at The Lab.

1 Q. Okay.
2 A. I knew him, but I can't -- I don't
3 remember.
4 Q. Fair enough.
5 A. Don't remember where his office was,
6 no.
7 Q. Okay. Who -- who was the president
8 of MRC before Mr. Flitcraft?
9 A. Whew. Really, I can't remember.
10 Q. That's okay. How about T. Beal?
11 There is another name listed here --
12 A. He worked in the -- maintenance.
13 Q. In maintenance?
14 A. Yeah.
15 Q. Okay. So he wasn't a chemist, or
16 was he?
17 A. No.
18 Q. Okay. And what was his first name?
19 A. (Indicating.)
20 Q. That's okay.
21 A. I can't -- I'm terrible with names,
22 to tell you the truth.
23 Q. That's okay. So Mr. Beal was in the
24 maintenance department?
25 A. Yes.

1 Q. Was he in charge of disposing of
2 trash?
3 A. Not that I know of. But maybe he
4 was, I don't know.
5 Q. Okay. Do you ever -- do you
6 remember of any -- of any incidents where Mr.
7 Beal disposed of any trash?
8 A. No idea, no.
9 Q. Or burned any trash?
10 A. No.
11 Q. Okay. Going back to Mr.
12 Richardson --
13 A. Yeah.
14 Q. -- other than the -- the couple days
15 you told me about --
16 A. Yeah.
17 Q. -- where he went to the South Dayton
18 Dump --
19 A. Yeah.
20 Q. -- were there any other instances
21 where you remember Mr. Richardson disposed of any
22 waste?
23 A. No.
24 Q. Okay. How about anybody else at
25 MRC?

1 A. Individual at this point, not that
2 I -- not that I know of.
3 Q. Okay. And going back to -- using a
4 different name now, going back to when it was
5 called Dayton Labs or Dayton Laboratories, do you
6 remember anyone else disposing of any chemical
7 waste or any waste, like individual --
8 A. I don't know how it was done right
9 now.
10 Q. How about yourself, did you ever
11 dispose of waste, other than just throwing it in
12 the trash can?
13 A. No.
14 Q. Okay.
15 A. Any other system?
16 Q. Right.
17 A. No. No.
18 Q. Okay.
19 A. The only thing was going over there
20 with George on that first day to see what he was
21 doing, and that was -- that was it.
22 Q. And then he went another day?
23 A. Yeah. I think somebody told me once
24 to get the permit from EPA, and I think I got the
25 permit from them.

1 Q. You got a permit?
2 A. Yeah. That was approved by EPA,
3 what George was doing.
4 Q. Okay. To burn?
5 A. Yeah.
6 Q. Okay.
7 A. In fact, the EPA man was over there
8 that first time when I went.
9 Q. He went with you?
10 A. Well, he was there, he was at the
11 dump at the time.
12 Q. He was already --
13 A. Doing something else, I think.
14 Q. Okay.
15 A. And I can't remember his name. I
16 think he quit the EPA to build a -- to start a
17 bicycle shop. That's as far as I can remember.
18 Q. Okay.
19 A. And I don't remember his name.
20 Q. That's a good thing to do in Dayton.
21 A. Yeah.
22 Q. Before the break you had told me
23 about a truck coming to pick up the trash. Do
24 you remember of any change in companies or
25 anything like that involved --

1 A. No.
2 Q. -- with picking up the trash?
3 A. I don't know. That probably came
4 under the purchasing department would do the
5 contracts for that.
6 Q. Okay.
7 A. So --
8 Q. Okay. I thank you.
9 MR. ROMINE: I pass the witness.
10 MS. WRIGHT: All righty. Mr.
11 Wurstner, I think I only have a few questions for
12 you.
13 DIRECT EXAMINATION
14 BY MS. WRIGHT:
15 Q. When we were looking at -- earlier,
16 on Exhibit 2, which is that 1992 map of the site,
17 and comparing that to Exhibit 1, you noticed that
18 there -- some of the buildings were gone and some
19 new buildings were there; is that correct?
20 A. Yes, that's very correct.
21 Q. Were you involved in any of the
22 demolition of any of these buildings?
23 A. No. They were there when I left.
24 Q. Okay. So you really don't have any
25 knowledge of what happened to the buildings and

1 when?
2 A. Well, the only -- one knowledge I do
3 have, if you look at Building 2, and this north
4 wing down here (indicating) --
5 Q. Uh-huh.
6 A. -- they made nuclear -- things for
7 starting submarines, the nuclear plant on the
8 submarine, the rods, they made them in there.
9 Q. Uh-huh.
10 A. And that -- that section is back in
11 there (indicating). And I think that may have
12 been taken down to Tennessee and buried.
13 Q. Okay.
14 A. Because anything they ever borrowed
15 from you never came back because they -- they
16 messed it up, so --
17 Q. Okay. And then I have another
18 question, this may be my last one, when you
19 testified about the two days when Mr.
20 Richardson --
21 A. Yeah.
22 Q. -- disposed of the chemicals, and
23 you said that you doubted there were enough
24 chemicals to fill a drum, were you referring to a
25 55-gallon drum size?

1 A. Yes. Yeah.
2 Q. Okay. So just to be clear, the
3 amount -- total amount of chemicals was less than
4 would fill a 55-gallon drum?
5 A. Well, I would --
6 Q. Guessing, I know, your best
7 guess.
8 A. I would put it this way: Very
9 doubtful that you could get a hundred
10 gallons out of the whole thing if you worked
11 on it.
12 Q. Okay.
13 A. So 55-gallon drum would probably
14 have been a pretty good estimate, but may
15 have been a little more than that, you know.
16 Q. Okay. All righty.
17 MS. WRIGHT: I think that's all I
18 have.
19 Anybody else?
20 MS. SMARDA: I have no questions on
21 behalf of Cox Media Group.
22 MR. ROMINE: Anyone on the
23 telephone?
24 MR. HARBECK: This is Bill Harbeck.
25 I just have a couple questions.

1 CROSS-EXAMINATION
2 BY MR. HARBECK:
3 Q. Good morning, Mr. Wurstner.
4 A. Yes.
5 Q. I hope you can hear me okay.
6 A. Yeah.
7 Q. Could you tell me where the Dayton
8 Lab was in terms of its proximity to the South
9 Dayton Dump? I think you said you lived south of
10 it and then would pass it every day; so was the
11 Dayton Lab north of the South Dayton Dump?
12 A. I would say a little -- a few
13 degrees off of -- northwest off of north. If
14 you -- do you have a map there?
15 Q. I don't. I'm a little -- I'm sort
16 of familiar with it, based upon some other
17 depositions.
18 A. Okay. Well, where Nicholas Road
19 comes through, the Miami River runs practically
20 next to it for a ways, and then it turns. And if
21 you went on the other side of the river, that's
22 where the dump was, basically. So I would say
23 roughly north of the dump, but a little bit west
24 too.
25 Q. That's where the Dayton Lab facility

1 was located?
2 A. Yes.
3 Q. Okay. And approximately how far?
4 A. A thousand yards, if that far.
5 Q. Okay.
6 A. In a straight line.
7 Q. I'm sorry, you said a straight line,
8 a thousand yards?
9 A. Yeah. No more than that, if that
10 much.
11 Q. When you passed it, what road were
12 you traveling -- when you passed the South Dayton
13 Dump, what road were you traveling on?
14 A. Oh, what the heck is the name of
15 that road? I can't think of the name of it, but
16 it -- it comes over the bridge there. Broadway
17 stops at the bridge, over the side of the bridge,
18 and that road would start. One side of it was
19 the Dayton Power and Light -- well -- and the far
20 side was the dump; and there is some other stuff
21 in there, some other buildings. The dump was
22 back a ways.
23 Q. Does Dryden Road or Springboro sound
24 familiar?
25 A. Dryden Road, Springboro Pike, yeah.

1 Q. Would you be traveling north, then,
2 on Dryden Road, as you were heading to work every
3 day to the Dayton Lab?
4 A. Yeah, for about a block.
5 Q. And then you would turn onto
6 Nicholas Road?
7 A. Correct, turn left; cross the bridge
8 and turn left.
9 Q. Okay. When you crossed the bridge,
10 were you going over the river?
11 A. Yes.
12 Q. Okay. So it was just on the -- the
13 Dayton Lab was just on the north side of the
14 Miami River?
15 A. Yes.
16 Q. Okay.
17 A. The river makes a turn along there,
18 but it's the north side.
19 Q. Okay. When you went by the dump,
20 did you ever see any vehicles from NCR going in
21 and out of the dump?
22 A. Not to my knowledge.
23 Q. Okay. How about a company called
24 the Dayton Walther Company; did you ever see any
25 vehicles from that company going into or out of

1 the dump?
2 A. Not -- nothing that -- in my memory.
3 I mean, maybe, you know.
4 Q. Okay. Fair enough. And how about
5 from a company named Hobart?
6 A. Not to my knowledge, no.
7 Q. Okay. Okay.
8 MR. HARBECK: That's all the
9 questions I had. Thank you very much.
10 MR. ROMINE: I do have a couple
11 follow-up. One address we have is --
12 MR. NES: Wait, wait, wait. Before
13 we get to that, this is Brad Nes, for P-Americas.
14 I have no questions.
15 MR. ROMINE: Sure.
16 MR. WINELAND: Erik Wineland, for
17 the Sherwin-Williams Company. I have no
18 questions.
19 MR. ROMINE: Sure. Thank you.
20 RECROSS-EXAMINATION
21 BY MR. ROMINE:
22 Q. One address we have is 1515 Nicholas
23 Road. Is that the correct address for the plant?
24 A. I'm pretty sure you're right.
25 That's it, yeah.

1 Q. Okay. And then when Ms. Wright had
2 asked you a question about the demolition of the
3 buildings, I think you had said that in the old
4 Building 2 they had made some -- they had made
5 some equipment for nuclear-powered submarines?
6 A. Right. Yeah.
7 Q. And that as a consequence, there was
8 some, I guess, radioactive material there?
9 A. When they tore the building down,
10 they probably buried it.
11 Q. Okay. And you said -- I think you
12 said they probably buried it in Tennessee. And
13 are you referring to some kind of disposal
14 specifically for nuclear -- for radioactive
15 material?
16 A. Yeah. What's the --
17 Q. Oak Ridge or --
18 A. Is it Oak Ridge in Tennessee? Yeah,
19 that would be it, yeah. Yeah, that --
20 particularly that -- that sounds --
21 MR. ROMINE: Okay. That's all the
22 follow-up I have.
23 I don't know if you want to --
24 MS. WRIGHT: No, I have no further
25 questions.

1 Did I miss anything?
2 MS. BAIRD: No.
3 MR. ROMINE: Anybody on the phone?
4 (No response.)
5 MR. ROMINE: Okay. Well, thank you
6 very much for coming in, Mr. Wurstner.
7 THE WITNESS: Sure.
8 MS. WRIGHT: All righty. We are
9 going to hang up, guys.
10 (The notary interrupted.)
11 MS. WRIGHT: Do you want to read and
12 sign? She will send you the transcript and you
13 can read it, and if there are any spelling errors
14 or anything, you can correct them; or do you just
15 want to let me take it? Either way.
16 THE WITNESS: Well, if you could --
17 you can do the spelling as well as I can.
18 MS. WRIGHT: Okay. I can't change
19 them, though. You would have to change them.
20 THE WITNESS: Well, if you take --
21 you can send me a copy or something.
22 MS. WRIGHT: Yeah, that works. That
23 works.
24 (Thereupon, the deposition was
25 concluded at 11:32 o'clock a.m.)

I, ALAN L. WURSTNER, do hereby certify that the foregoing is a true and accurate transcription of my testimony.

_ _ _ _ _ _ _ _ _ _ _ _ _ _ _

Dated _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

1 STATE OF OHIO)
2 COUNTY OF MONTGOMERY) SS: CERTIFICATE
3 I, Beverly W. Dillman, a Notary Public
4 within and for the State of Ohio, duly
5 commissioned and qualified,
6 DO HEREBY CERTIFY that the above-named
7 ALAN L. WURSTNER, was by me first duly sworn to
8 testify the truth, the whole truth and nothing
9 but the truth.
10 Said testimony was reduced to writing by
11 me stenographically in the presence of the
12 witness and thereafter reduced to typewriting.
13 I FURTHER CERTIFY that I am not a
14 relative or Attorney of either party, in any
15 manner interested in the event of this action,
16 nor am I, or the court reporting firm with which
17 I am affiliated, under a contract as defined in
18 Civil Rule 28(D).
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25

1 IN WITNESS WHEREOF, I have hereunto
2 set my hand and seal of office at Dayton, Ohio,
3 on this _____ day of _____, 2013.
4
5 _____
BEVERLY W. DILLMAN, RPR, CRR
NOTARY PUBLIC, STATE OF OHIO
6 My commission expires 3-6-2017
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