UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * *

HOBART CORPORATION, et al.,
Plaintiffs,
vs. CASE NO. 3:13-cv-00115-WHR
THE DAYTON POWER AND LIGHT
COMPANY, et al.,
Defendants.

* * *

Deposition of ALAN L. WURSTNER, Witness herein, called by the Plaintiffs for cross-examination pursuant to the Rules of Civil Procedure, taken before me, Beverly W. Dillman, a Notary Public in and for the State of Ohio, at the offices of Sebaly, Shillito + Dyer, 1900 Kettering Tower, 40 North Main Street, Dayton, Ohio, on Wednesday, September 25, 2013, at 10:05 o'clock a.m.

* * *

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EXHIBITS MARKED

(Thereupon, Plaintiffs' Exhibit 1, Capability, Experience, Facilities, Personnel, MONS00001-00002, MONS00083, was marked for purposes of identification.)....20

(Thereupon, Plaintiffs' Exhibit 2, Figure 3, Location of Chemical Storage, MONS01544, was marked for purposes of identification.).....29

(Thereupon, Plaintiffs' Exhibit 3, Inter-Office Correspondence dated 5-9-1977, MONS01820-01822, was marked for purposes of identification.).....55

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* * *

ALAN L. WURSTNER

of lawful age, Witness herein, having been first duly cautioned and sworn, as hereinafter certified, was examined and said as follows:

CROSS-EXAMINATION

BY MR. ROMINE:

Q. Good morning, Mr. Wurstner.

A. Good morning.

Q. My name is David Romine. I'm a lawyer, and I represent three companies -- Hobart Corporation, NCR Corporation and Kelsey-Hayes Company -- in a lawsuit regarding a place called the South Dayton Dump, and so I'm going to be asking you some questions today.

Before we get started, we do have some lawyers on the telephone, in addition to here in the room, so I'm gonna go ahead and ask all the lawyers to identify themselves so the court reporter can take it down before we get started.

MR. ROMINE: So, again, I'm David Romine.

MS. MEYER: I'm Jennifer Meyer, for plaintiffs.

MS. SMARDA: Jade Smarda, for Cox

Media Group.

MS. WRIGHT: Vicki Wright and Kay Dee Baird, for Pharmacia LLC. We also represent Mr. Wurstner.

MR. ROMINE: On the telephone?

MR. NES: This is Brad Nes, for P-Americas.

MR. HARBECK: Bill Harbeck, for Waste Management of Ohio.

MR. ROMINE: We have heard from two lawyers, Mr. Nes and Mr. Harbeck. Is there anyone else on the phone?

MR. WINELAND: (No response.)

MR. ROMINE: Okay. We will get started then.

BY MR. ROMINE:

Q. Mr. Wurstner, have you had your deposition taken before? Have you done this kind of thing before?

A. No.

Q. Okay.

A. No.

Q. So I'm going to ask you some questions.

A. Okay.

Q. And if you could answer, that would be good. If you don't hear me or you don't understand me, let me know you don't hear me or understand me --

A. Okay.

Q. -- and I'll try to say it better.

The other thing is that Beverly is taking down everything we say, so if you could wait until I'm finished asking my question --

A. (Witness nodding head up and down.)

Q. -- that would be good; and then I'll wait for you, even if you think you know what I'm going to ask, which I'm sure is gonna happen, that way she can take it down better.

And this is not an endurance test, so if you need to take a break to go to the bathroom or get some water --

A. Okay.

Q. -- or stand up and walk around, that's totally fine.

A. Okay.

Q. So, Mr. Wurstner, where do you live?

A. Dayton -- or Oakwood, if you want the --

Q. Oakwood?

A. Yeah, Telford Avenue.
Q. And that's close by here to Dayton?
A. Well, it's a suburb.
Q. It's a suburb of Dayton?
A. (Witness nodding head up and down.)
Q. Okay. And when were you born?
A. August the 23rd, 1924.
Q. And where were you born?
A. Dayton, Ohio.
Q. Did you go to high school here in Dayton?
A. Yes.
Q. And what high school?
A. Went one year at Steele, and graduated from Stivers.
Q. It's called Stivers?
A. S T I V E R S.
Q. Okay.
A. Steele was S T E E L E.
Q. Gotcha. Thank you. And did you go to college immediately after high school?
A. I went to -- a little more than a semester at University of Dayton. And then after I got out of the service, I went to Ohio U.
Q. Okay. So I take it you went into

the service sometime during your schooling at the University of Dayton?

A. Well, 1943 I went in the service.

Q. Okay. And what branch --

MR. HARBECK: David, this is Bill Harbeck. I'm just wondering if you could move the microphone a little closer to the witness. You are loud and clear, but we are having difficulty hearing the witness.

MR. ROMINE: Okay.

THE WITNESS: I'll speak louder.

MR. ROMINE: Okay. We moved the phone.

BY MR. ROMINE:

Q. And --

A. 1940 -- what branch, is that what you asked?

Q. Yes.

A. Navy. I was a Seabee. That's S E A B E E.

Q. Was your duty in the Pacific?

A. Yes, in the beginning, and then in Manila.

Q. And so what -- when did you get out of the Navy?

A. '40 -- '46.

Q. And you -- when you came back, did you come back to Dayton?

A. Yes.

Q. And you resumed your studies?

A. Yes.

Q. At what college then?

A. Ohio U.

Q. I'm sorry, I didn't understand. What is that?

A. Ohio U.

Q. Ohio University?

A. Ohio U.

Q. Okay.

A. Took three years of college to learn how to pronounce it.

Q. And where is that?

A. Athens, Ohio.

Q. And so what did you -- so you graduated from Ohio University?

A. Yes.

Q. And what degree did you get?

A. I graduated with a degree in education, B.S.Ed. And then I went back and I took a major in botany for a couple years.

Q. Okay. So you graduated with a Bachelor's in education?

A. Yes.

Q. And then you went back to Ohio University?

A. Yes.

Q. Did you get a degree in biology?

A. No, I just took -- actually, major.

Q. Okay.

A. And some graduate work.

Q. And so what year did you graduate?

A. 1949.

Q. And when did you take your courses in botany?

A. '50, '51 -- '50 and '51.

Q. Okay. Did you build airfields when you were in the Navy?

A. We -- Navy bases mostly.

Q. And so did you get a job after you graduated from college?

A. Yes.

Q. And where was that?

A. Monsanto Company.

Q. And where were they located?

A. Nicholas Road. It was at 1515, I

think it is, Nicholas Road.

Q. And that's in Dayton?

A. Yes.

Q. And how long were you employed by Monsanto Company?

A. Thirty-one years.

Q. Did you work -- while still working for Monsanto Company, did you work for Monsanto Company at any location other than --

A. No.

Q. -- the 1515 Nicholas Road?

A. No.

Q. Okay. And what was -- did that facility at 1515 Nicholas Road, did that have a particular name?

A. Well, when I started, it was the Central Research Department, Corporate Central Research Department. And then in 1960 it became Monsanto Research Corporation, which was a sub -- wholly-owned subsidiary, I guess you would call it.

(Brief interruption.)

(Record read.)

BY MR. ROMINE:

Q. Okay. So you had mentioned that

you -- Mr. Wurstner -- that the location on Nicholas Road was known as the Central Research Department?

A. Corporate Central Research, yes, beginning, yeah.

Q. Corporate Central. And then in 1960 it was known as --

A. It became -- they -- well, the Central Research part moved to St. Louis. And half of us stayed in Dayton and started the Monsanto Research Corporation, which was a contract company -- for contracts.

Q. Okay. And so is it correct to say, then, starting in 1960, your paycheck started saying Monsanto Research Corporation?

A. Yeah. Yes.

Q. When you say the contracts, could you explain that a little bit?

A. Government contracts mostly, and with some corporations; but mostly it was government contracts, Air Force -- for Air Force, Army, Navy, DOE. Who else? The medical part, whatever that -- I can't remember what the medical part was called, but the contracts with them mostly.

Q. Okay. Do you mean like the federal government, Health Education and Welfare, that kind of thing?

A. Pardon?

Q. Health Education and Welfare?

A. No, didn't do anything like that. But it was mostly in the military, Army, early Air Corps, early Navy -- Air Force, rather.

Q. And so you worked for them for 31 years?

A. Well, total for the company, yeah, from '50 -- '51 to '82.

Q. And did you get another job after 1982?

A. For -- let's see, a couple years later I went to University of Dayton Research Institute for a few years, couple years -- three years, I think it was. I'm not too sure how long.

Q. Okay. Was that a full-time job?

A. Yeah.

Q. And did you retire from Monsanto?

A. Yes.

Q. Was that work for the University of Dayton, was that immediately after you retired?

A. No, I would say I probably was retired for at least a year before I went -- or more than that. To give you an idea, the man that hired me at Monsanto had gone to the University of Dayton Research Group. And he kept calling me up wanting me to go there. And after about six months, I got tired of listening to him, so I took the job.

Q. Fair enough.

A. So that's the way it went.

Q. Fair enough.

A. And then I worked there a few years, and it was not good, so I just -- (indicating) -- being retired.

Q. Better?

A. Better being retired, yeah.

Q. Did you have any other employment, other than what you have already told me about, Monsanto and then the University of Dayton?

A. Well, before Monsanto or -- before Monsanto, part-time summer jobs at NCR Old River Park. And then after University of Dayton I got a job working at sporting good stores, just for something to use time up, but -- a few years. And then I was --

Q. Where you worked, was that known as The Dayton Laboratory?

A. Yes, in the beginning, yeah, The Dayton Laboratory. And then it became Monsanto Research Corporation; it just was called MRC then.

Q. Okay. So at the beginning when you started in about 1950, it was known as The Dayton Laboratory?

A. Yeah.

Q. And then it was known, in about 1960 -- and, again, correct me if I'm wrong -- as Monsanto Research Corporation?

A. Yeah.

Q. Or MRC?

A. MRC.

Q. What was your title?

A. Research chemist.

Q. And that was your title right from the beginning?

A. I started, I think I was a technician, I think, was the title; and then became a chemist a couple years later, a few. I don't know what that beginning title would have been. I mean, it was -- technician is as close

as I can come to it. I don't know what name they had for it.

Q. Fair enough. So how did you become a research chemist without a degree in chemistry?

A. I took some -- I took some chemistry courses. I had some before I -- in college. But then I took some around -- at UD, and I think Miami, I took math and some chemistry, a little bit, not much, but --

Q. And what did you do? Like what did your job entail?

A. At the beginning I was doing physical properties for polymers or plastics, if you want to call it. And then after that I became a micros -- I was the microscopist.

Q. Microscopes?

A. (Witness nodding head up and down.)

THE NOTARY: Yes?

THE WITNESS: Yes. I'm sorry.

BY MR. ROMINE:

Q. And what does a microscopist do?

A. Well, basically, uses a microscope to do different measurements, depending -- did a lot of particle size distribution was one of the big things for -- a good example of that, they

had a contract with Department of Mines on the coal dust. And they would collect coal dust, and I would do the particle size distributions for it. That type of -- that -- in general, that would be an example of it.

Q. Okay. So --

A. And then also did the scanning electron microscopy after they got one of those.

Q. So when you say particle size distribution, you would take a look at coal dust?

A. Yeah.

Q. And you would determine -- you got so many particles of this size and so many of this bigger size, and so on and so on?

A. Right. Right.

Q. Okay.

A. And you plot that out on a log, and find the mean values and what the maximum and minimum sizes are.

Q. And what was your understanding, why did the Department of Mines want you to do this?

A. Well, Black Lung Disease, from the miners that were working the mines produce a lot of dust, would develop what was called Black Lung Disease. And the size of the particles has a

difference. Some sizes, when you breathe in, you will breathe them back out again. Other ones, you can't even breathe in. But certain ones stayed, and that was what you looked for, how many of them could stay.

And don't ask me what the size is because I don't remember.

Q. I understand. Approximately what year was this, or years?

A. Oh, Lord. '60s. Well, a lot of that work -- well, '60s and the '70s. It depended on which -- you know, what contract I was -- was measuring for.

Q. Did you do particle size distribution studies for things other than coal dust?

A. Oh, yeah. Yeah. Well, see, some of those were classified, so I can't state that. But --

Q. Any nonclassified materials that you can remember?

A. Well, I looked a lot -- a little bit at asbestos for a while.

Q. Uh-huh.

A. And I'm having trouble remembering

now. You caught me.

Q. That's okay. If some come to you later on this morning --

A. Yeah.

Q. -- let me know.

So I'm gonna show you some papers here --

A. Okay.

Q. -- ask you to take a look at them. First, I'm gonna ask the court reporter to mark this as Plaintiffs' Exhibit 1.

(Thereupon, Plaintiffs' Exhibit 1, Capability, Experience, Facilities, Personnel, MONS00001-00002, MONS00083, was marked for purposes of identification.)

(Thereupon, an off-the-record discussion was held.)

MR. ROMINE: Okay.

MS. WRIGHT: There is three pages there, Mr. Wurstner. You may want to look at --

THE WITNESS: Okay.

BY MR. ROMINE:

Q. So what I'm showing you, Mr. Wurstner, is three pages from a document that Pharmacia's counsel gave me on behalf of

Pharmacia. And I just took those three pages because I wanted to get the page that had your name on it.

And so my question is, if you could look at the last page of what I gave you --

A. Yeah.

Q. -- MONS 83, down at the bottom, is this page -- does this describe you?

A. Yeah. Yes.

Q. And this is your picture?

A. Yeah. I don't know where you found that, but yes.

Q. Okay. So I just want to ask you a couple questions about this page here, and that is, if you look at the paragraph that begins major researches have included?

A. Uh-huh.

Q. And then if you go -- looks like seven lines down, it talks about particle size and distribution of fine powders?

A. Uh-huh.

Q. Do you see that?

A. Yeah.

Q. And that's what you were talking to me about just a couple of moments ago?

A. Yes.

Q. Okay. And then another thing I want to ask you about is down at the bottom there is a new paragraph, and it says at the beginning, Mr. Wurstner is a co-developer of the Monsanto MICRON ORIFICE. Do you see that?

A. Yes.

Q. What is or was the Monsanto MICRON ORIFICE?

A. Okay. They had a contract with the Army Corps of Medical -- Chemical Warfare Corps for developing rate of leaks. So we had -- what we did, we took a piece of quartz fiber, quartz tubing that somebody developed years before, that they had laying around there, that were from one-micron inside diameter up to, well, maybe ten or so. And what we did is we mounted those up into little -- put them in a plastic container and mounted it up, and they were sliced off, and then they could use those to develop a leak. And that was what they were for.

And it was just, generally, the different sized holes with a certain distance. I mean, they would be sliced up at different sizes.

Q. When you say develop a leak, what do

you mean?

A. Well, you have a container with something, and what -- how much leaking you would get from a certain size hole in it.

Q. Okay.

A. I mean, basically, that's what it was.

Q. So it's a container with some kind of fluid in?

A. Yeah, or gas, either one.

Q. Okay. And then you wanted to measure what, the rate of leakage?

A. Right. We didn't do that, we just made the --

Q. You made the hole?

A. The holes, yeah.

Q. I see. So it was something that was designed to leak?

A. Yeah. Yeah. Oh, yeah. It was a measure -- it was to measure leaks is what it was.

Q. Okay. Okay. And did you have an idea of what fluid or gas this was gonna be used for, or it could be anything?

A. Well, it's classified.

Q. Okay. Have you heard of a place called The Mound Laboratory?

A. Oh, yes. Unit 5.

Q. Unit 5? And how do -- what is The Mound Laboratory?

A. That was a laboratory on contract with the Atomic Energy Commission back then, or DOE.

Q. It was a Monsanto place?

A. Yes -- well, to give you a little history, a lot of the development of the atomic bomb was done in the Monsanto location in Dayton.

Q. You're talking about The Dayton Laboratory now or the Mound?

A. The Dayton Laboratory.

Q. Okay.

A. And Mound basically was an offshoot from that when they built it. They built it after the war, though. But during the war they did a lot of work on it. They had one up in Oakwood that got a little bit warm, so they had to bury it in Tennessee. But --

Q. Okay.

A. But a little history, that's all.

Q. I understand. No problem. Thank

you.

Was The Mound Laboratory open at the time that you started working at Dayton Lab?

A. Yes.

Q. Okay. And did they -- when you started at Dayton Lab, did they do that -- did they retain, at that time, any of the atomic research that was being started now at The Mound Lab?

A. No. That wasn't done at Dayton anymore.

Q. Okay. Okay. So by the time you started at Dayton Lab, that was all transferred out to --

A. It was all gone, yeah.

Q. Did you ever work at The Mound Laboratory?

A. I did some work for them on the scanning electron microscope.

Q. But did you ever show up at The Mound Laboratory?

A. Well, I went down and visited down there, but not as a --

Q. Not as part of your regular duties?

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

the top right-hand side up in there, kind of a building that's got a small one-story front to it, then it goes up higher in the back -- or a two-story front, I guess it is. See what I mean? This one right here (indicating).

Q. Yeah.

A. That's the pilot plant.

Q. So we are talking now -- just so everybody, when we go back, we can identify the page, it's MONS00001?

A. Yeah.

Q. Okay. And you're pointing to a building on the -- on the little picture here, I guess it's an aerial photo?

A. Yeah.

Q. And did you work in the pilot plant?

A. No.

Q. Did you develop chemicals in your lab that then became produced in the pilot plant?

A. No. No.

Q. That was totally different?

A. That was -- other -- other chemists did that.

Q. Okay. Did you ever -- did you ever go to the pilot plant?

A. Oh, yeah.

Q. Okay. Another exhibit for you, which I'm going to ask the court reporter to mark as Exhibit 2.

(Thereupon, Plaintiffs' Exhibit 2, Figure 3, Location of Chemical Storage, MONS01544, was marked for purposes of identification.)

MR. HARBECK: David, this is Bill Harbeck again. The last document, I'm a little bit -- in terms of what it is, I don't know if it's got a date? I don't have the Monsanto documents in front of me; just maybe a very brief, general description? I don't know if it's got a date, is it a memorandum, a brochure, something so I can figure out what you're talking about?

MR. ROMINE: Yeah. Well, Monsanto's counsel may be able to describe it better, since it's her document, but I'll give it a shot and then allow her to do so. It looks like a marketing document from about 1970 that -- and in the -- on the cover it says Capability, Experience, Facilities, Personnel. And it looks like it's a marketing document for the Monsanto

Research Corporation from about 1970, and Mr. Wurstner's bio.

MR. HARBECK: Exhibit 1, you're talking about, or Exhibit 2?

MR. ROMINE: Exhibit 1.

MR. HARBECK: Okay.

MR. ROMINE: And Mr. Wurstner's bio is part of that marketing material.

MR. HARBECK: Okay. That's helpful. Thank you.

MS. WRIGHT: And just for the record, I don't know if it's a marketing document or why it was even created. I just know that it exists. We are not even sure of the date, roughly.

THE WITNESS: It was a lot later because there is a lot missing on here and the building numbers are strange.

MS. WRIGHT: Oh, yes. And you're looking at Exhibit 2?

THE WITNESS: Oh, that one there? That one is -- oh, it's fairly old, but not that old.

BY MR. ROMINE:

Q. Yeah. Actually, that's a good idea.

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

BY MR. ROMINE:

Q. But now I'm gonna switch and talk to you about Exhibit 2. And according to the date on Exhibit 2, it says March 1992. I realize that's after you left, but I still -- there is a reason why I'm showing this to you.

Have you had a chance to take a look at Exhibit 2?

A. This (indicating)? Yes.

Q. Okay. And the particular question I want to ask you is this: If you take a look at the front of Exhibit 1 there --

A. Yeah.

Q. -- it shows some buildings in the foreground on Exhibit 1?

A. Down here (indicating)?

Q. There are some buildings in the foreground toward the left?

A. Right.

Q. And if you look at Exhibit 2, it doesn't show those buildings anymore?

A. Right.

Q. Now, were -- what happened to those buildings, is my question.

A. That's why I'm looking at this map.

Q. Okay.

A. That's Building 2 is in here (indicating), Building 2. There are several others -- there is the pilot plant building that's gone (indicating), that's with the tall stack there.

Building 3 and 4 seem to be gone. I haven't figured out what this Area 11, Building 8 is down here (indicating), unless that was the garage. So that whole area there, apparently, has been torn down.

I haven't been across there lately. I'm gonna have to go down one of these days and look. But I think they have torn down an awful lot of it.

Q. Okay. So you're saying that on Exhibit 1 the aerial photo shows some buildings, including Buildings 2, 3 and 4?

A. Right.

Q. But those don't show up on Exhibit 2?

A. Right.

Q. So my question to you is, when you left in 1982, were Buildings 2, 3 and 4 still in existence?

A. Oh, yes. Oh, yes, yeah.

Q. Okay. All right. And if you look at -- again, Exhibit 2, do you see where almost -- almost in the middle it says Building 1?

A. (Witness nodding head up and down.) Yes.

Q. Okay. And is that your recollection of where Building 1 is?

A. That's it. That is Building 1, yes.

Q. Okay. Same thing, moving to the right slightly, Building 22?

A. Pilot plant.

Q. Oh, Building 22 is the pilot plant?

A. Was the pilot plant.

Q. And moving to the right again, Building 20?

A. Oh, I'm sorry, Building 20 is the pilot plant; 22 is the power plant.

Q. Oh, the power plant, okay. But is that consistent with your memory of where those buildings were?

A. Those two, yes.

Q. Okay. And, again, I'm gonna move to the right a little bit more, Building 23?

A. That's new.

Q. Okay. How about just south of Building 20, there is -- it says Building 26?

A. That's new.

Q. Okay. And then moving to the left now, there is Building 8, or a building designated as Building 8 to the left of Building 1?

A. Yes. That was the -- oh, warehouse, I guess you want to call it.

Q. Okay.

A. Storage area.

Q. Okay.

A. I think.

Q. Okay. No problem. And so going back to Building 1, just above where it says Building 1 there is a notation that says Labs?

A. Uh-huh. Off to the side there (indicating)?

Q. Yeah. Is that where you worked?

A. No.

Q. Where did you work?

A. Would have been the second floor someplace over here in Building 1.

Q. Okay. So you worked in Building 1?

A. I started in Building 3, then later I was in Building 1.

Q. Okay. But Building 3 is not shown on Exhibit 2 here?

A. Not anymore.

Q. Okay. And then you were -- then you went over to Building 1 at some point?

A. Correct.

Q. Okay. When was that?

A. You mentioned Building 20 --

THE NOTARY: Sir, I couldn't hear you.

THE WITNESS: I'm thinking.

I think for a little while I was up on that portion at the front, where you see the front of that pilot plant building, on the second floor. I think we were in a lab in there for a little while, and then went to Building 1 from there. And that would have been someplace in the late '60s probably.

BY MR. ROMINE:

Q. Okay.

A. Or middle '60s, I guess.

Q. And then you stayed there until you retired?

A. Yeah --

Q. Okay.

A. Well, no. After we quit doing microscopy, I did some other work. And I was out -- would be either -- whether it was Area 13 or 12, someplace, there was a building back there which I think also doesn't exist anymore, from what I can see here.

Q. Okay. Okay. All right. So -- and, again, correct me if I'm wrong. I just want to get an idea, make sure I'm understanding it. You started out in Building 3?

A. Correct.

Q. Which is not shown on Exhibit 2?

A. Correct.

Q. And then at some point you may have gone to the -- or let me put it this way: At some point you did go to the pilot plant?

A. Yeah, but not -- in the front of that building there was the labs in there, but not too long.

Q. And is that Building 20, then, on Exhibit 2?

A. It would be Building 20.

Q. But not too long?

A. Yeah.
Q. And then you went to Building --
A. One.
Q. -- 1. And that was approximately in the mid to late '60s?
A. Yeah.
Q. Okay. And you spent the majority of the rest of your career --
A. Up until about, let's say, '79 or '80, '79 or '80.
Q. Okay. And then you went someplace to a building that may not appear here on Exhibit 2?
A. Yeah.
Q. But north?
A. Right.
Q. Okay. All right. Thank you.
Who is George Richardson?
A. He was an organic chemist that worked at the lab.
Q. And did you work with him, or he was just a coworker?
A. No. No.
Q. All right.
A. I didn't work with him. He was --

Q. Okay. Are you okay? Do you need a break?

A. No, I'm fine.

Q. Were you aware of the South Dayton Dump when you worked at Monsanto?

A. Passed it every day when I went to work.

Q. Okay. So where did you live when you worked at the lab?

A. Well, first, I lived in the east end off of Wayne Avenue, Margaret Street. And then I lived in -- well, for a bit in Kettering, and then Oakwood.

Q. Okay. And what was the route that you took to work, like why did you pass it?

A. Came over Carillon Boulevard, and then passed the DP&L plant, and then up the road there across the bridge to Monsanto.

Q. Okay.

A. If you had -- you don't have a map of it, though?

Q. So it sounds to me like -- I'm not that familiar with Dayton, but it sounds to me like you lived roughly south of where the plant -- or excuse me, where the --

A. Oh, yes, yes.
Q. Where The Dayton Lab was?
A. Yes.
Q. Okay. And when you say you passed it every day on your way to work, how did you know that the dump was there?
A. It was pretty obvious.
Q. Tell me why it was obvious to you. You could see it, you could smell it; what was obvious?
A. Well, you would see them hauling stuff in there all the time. General Motors used to haul pallets in there by the truckloads.
Q. Okay.
A. Then they burned the pallets.
Q. Was there any waste that was sent from the Monsanto Research Corporation to the South Dayton Dump?
A. Only what Richardson had burned out there. Anything -- I don't know if anything else was sent there. I don't know what they did with the waste. I had no --
Q. Okay. Let me back you up there. When you say what Richardson burned out there, you're talking about George Richardson?

A. Right.

Q. And tell me about George Richardson and the waste and the burning out there.

A. Well, behind Building 1 there was a set of what they called high-pressure cells. And he wanted to use one, and they had -- somebody put a bunch of bottles of chemicals back there to get rid of them. And for him to use it, he had to get rid of the chemicals.

Well, being an organic chemist, he knew -- looked at it and said, well, burning is the only -- best way -- easiest to get rid of it. So he went over to the dump and built a big fire in the pit down there, where they burned all the pallets, and threw the chemicals in the fire and burned them. Basically, that was it.

Q. How do you know -- how do you know that he did this? Did he tell you?

A. Well, no, I went over to watch and see what he was doing one day.

Q. You went with him?

A. He only spent about two days doing that.

Q. Okay. And this was at the South Dayton Dump?

A. Yes.

Q. Okay. Now, so you went with him, and he put the chemicals in a pit that was, I take it -- and correct me if I'm wrong -- it was already being used for burning something?

A. Yeah.

Q. And he put the chemicals in there and they were burned?

A. Well, he built -- in this pit, he built a horrendous fire with pallets, very hot fire. And he would open the bottle and throw it in, or at least loosen the cap and throw the bottle in the fire.

Q. And this happened like a couple times?

A. Well, he spent about -- the better part of two days doing it.

Q. And --

A. The amount of stuff he put in there probably was maybe -- I doubt if you could fill a drum with it.

Q. Over the course of both days?

A. Right.

Q. Okay.

A. It was -- because the bottles

weren't full, they were (indicating).

Q. I understand. It's a laboratory.

A. Yeah.

Q. And where did the pallets come from?

A. Probably -- well, I think that was whoever was dumping them there, General Motors or -- I know a lot of them came from what was Delco Brake, which was a -- became a Delphi plant, then, over not too far away.

Q. So you took what you found there in terms of the pallets and you burned those?

A. Oh, yeah. He just built the stuff out of what was there, didn't take anything from our place.

Q. And why did you go -- why did you go with him that one time?

A. Well, I was chief of the emergency brigade at the lab, if you want to call it that. Which if you had a fire there, the Dayton Fire Department was glad to come out on the road and sit there and watch you put it out, but they -- they did not want to get involved. So --

Q. Why, because of the chemicals?

A. Yeah.

Q. I see.

A. Well, they didn't know how -- fire departments don't know how to handle chemicals, put it that way. And so I just went over to see what he was doing in case I had to do something. After our nurse died -- I had been on the ski patrol, and I was a -- an instructor of advanced first aid. So I kind of had the job of maybe if somebody got hurt, you know, or anything.

And I went over to see -- you know, make sure he was not gonna hurt himself. But he was pretty -- he was very well -- well, an advanced chemist. He knew what he was doing.

Q. What specifically were the chemicals that he was burning?

A. I would say it was practically all organic. I don't think there was any inorganic chemicals in that place.

Q. Other than that, you don't know?

A. I don't know.

Q. But you say that because he was an organic chemist --

A. Well --

Q. -- or did you know that the stuff was organic?

A. Well, I -- I don't know for sure

that it was all organic, but I don't remember that -- anybody working on any projects where they would have used inorganic chemicals, to speak of. I mean, almost all the work was done with organic chemicals. And he chose to burn them because organics burned nicely.

And the reason they were in that cell, I think, is because most of them were a little hazardous. In other words, it could have been a lot of peroxides in that, which have a tendency to decompose on their own.

Q. When was that?

A. Now you're -- now you got me.

Q. No problem.

A. Roughly, I would say, maybe '75.

Q. Okay. Now, you said -- and, again, correct me if I'm wrong -- you said that you -- you feel that these were organic chemicals because most of the work was done on organic chemicals, as opposed to inorganic?

A. Almost all the work, yeah.

Q. Are you talking generally of MRC, Monsanto Research Corporation?

A. Yes.

Q. So MRC generally dealt much more

with organics than with inorganics?

A. (Witness nodding head up and down.)

Q. Yes?

A. Yes.

Q. Okay.

A. That's right, you can't see my head shaking. Sorry.

Q. Yes. Was -- were there otherwise chemicals that were generated as part of -- of MRC's work, other than -- other than these chemicals you just told me about that George Richardson --

A. Well, yes, I guess.

Q. Okay. And how were those disposed of?

A. I have no idea.

Q. Okay.

A. That was -- I -- probably at some -- there were companies that would take and recycle that stuff.

Q. But you didn't deal with that?

A. I didn't deal -- have anything to do with that, no.

Q. Okay. Who did?

A. Probably purchasing.

Q. Do you remember anybody from the purchasing department?

A. The girl -- one name of a girl who would probably have absolutely no idea about it, Geiger. I can't remember the purchasing agent's name. I have been trying to think of it for several days, and I cannot for the life of me remember it.

Q. No problem. But there was a woman named Geiger?

A. Yeah.

Q. Like a Geiger counter?

A. I guess. There were two of them. The one that I know of that's living right now was not this one.

Q. Was not Geiger?

A. No, her name is Geiger, but it's not this Geiger.

Q. Okay. There were two Geigers?

A. Yeah.

Q. Okay. Sorry about that.

A. But that's the only name in purchasing I can think of. And she would have no idea of anything like that.

Q. Okay. And both Geigers were women?

A. Yeah.
Q. Okay.
A. Yeah.
Q. Were they related?
A. Sister-in-laws.
Q. Sisters-in-law. Okay. Where does the living one live?
A. I don't know.
Q. Okay.
A. I don't know.
Q. Okay.
A. I want to think north someplace, but I don't -- I don't know.
Q. Okay. Why was it special for -- for George Richardson to dispose of these chemicals in this way?
A. I think he wanted to run a reaction in the cell and was told if he wanted to do it, he was gonna have to clean the cell out. So that's what the answer to that would probably be, that's why.
Q. It seems like George Richardson had -- he had to dispose of this particular batch of chemicals somehow?
A. Yeah.

Q. But why weren't all chemicals disposed of in this way?

A. Really, I -- I don't know. I have -- I just -- I have no idea of how they did it or what they did.

Q. Okay. But Richardson did this special project for whatever reason?

A. Yeah.

Q. And he was told, if you want to do this special project, you have gotta be responsible --

A. If you want to use the cell, you're gonna have to clean it out. When I'm talking about a high-pressure cell, it's basically a room with four walls, and the seals are very heavy, thick; and then the -- a fourth wall was some light thing, and then there was another wall behind it. And if you had an explosion, then it would blow that one wall out, but it wouldn't blow up the building.

So he was probably gonna work on something that was sensitive, and so he wanted to set it up in there. That was the only -- would be the reason for it, why he was doing it, and he needed to clean it out. And they had a building

back there behind Building 1 that had these -- several of these cells in it.

Q. If you take a look at Exhibit 2, which is the diagram --

A. Uh-huh. Uh-huh.

Q. -- are the -- is the place where the cell was, or the cells were, is that notated on here, or is that no longer -- no longer part --

A. They are not there. But this Area 13 would probably be about where that building was.

Q. Okay. Aside from chemicals, what happened to the -- not necessarily including chemicals, but what happened to the trash that was generated by The Dayton Lab or MRC?

A. Well, there was a trash truck that used to come in there and pick it up daily.

Q. And what company was the trash truck from?

A. I don't know. I have no idea.

Q. Do you remember what color it was?

A. I don't know. Gray, I guess, but I --

Q. Okay. And it would come every day?

A. Pretty much so, I think so, yeah.

Q. And where was the trash kept before the truck came to pick it up?

A. All I know is -- I don't know. All I know is it pulled in there one day and it was burning, and we had to put the fire out. So that's the best that I could answer on that. But he started burning before he got there.

Q. But this was an accident?

A. Yeah, they dumped something in the trash truck that caught -- reacted and caught on fire, wherever he got it before he came to Monsanto, and when he pulled in it was burning.

Q. Oh, the trash truck was burning?

A. Yeah.

Q. Oh, I see.

A. And we had to put it out.

Q. So if you could look on Exhibit 2, the diagram, where was -- where did the trash truck come to? Where was the trash?

A. Well, it would have either been next to Building 1 and behind Building 2, if you look at the -- it doesn't show. But there was a road that came around that would get over up to here (indicating).

Q. Okay. So it was both places?

A. Yeah, basically, I guess. I never paid that much attention, so --

Q. I understand. So there was a place next to Building 1?

A. Well, it was just like a park -- like a driveway or so, I mean --

Q. Okay. And what was it? Was it a dumpster, was it a bin; what kind of container was it?

A. I don't know. I never paid that much attention. I don't know what they dumped it from.

There was an incinerator back there at one time, but that's why I can't figure out this picture because that stack is still on it, and that was torn down, so I don't know.

Q. I understand. So -- okay. So was the incinerator used specifically for burning trash?

A. It would be classified documents, mostly --

Q. Okay.

A. -- what it was for.

Q. I see.

A. What was burned in there.

Q. I see. So in terms of just regular trash disposal -- and, again, correct me if I'm wrong -- there was a truck that came and picked up the trash from the very -- from when you started there?

A. Yeah, I guess.

Q. Okay. And when you worked on the coal dust, for example, how did that -- when you were done studying the coal dust, what happened to the coal dust?

A. Well, probably, most of it went in the wastebasket, I would guess.

Q. Okay.

A. I mean, how much coal dust does it take on a microscope?

Q. I understand. So the volume you had was small?

A. Nil.

Q. And how about the asbestos?

A. Very, very little, because that would be on a filter about maybe three-eighths of an inch in diameter.

Q. Yeah.

A. Or -- well, a centimeter maybe, and it would be on that filter. And you put a

solution on the filter that would make it transparent, and then studied it -- the stuff that's on it. So -- and that would be on a microscope slide.

Q. And when you were done with that, what happened to it?

A. Most probably just threw the slides out.

Q. Okay. Going back to the pilot plant for a minute --

A. (Witness nodding head up and down.)

Q. -- so the pilot plant produced relatively small quantities of chemicals that may at some future date have gone into full production?

A. Right.

Q. What happened to those small quantities of chemicals?

A. I don't know what -- I think there was some company would come in and pick up a lot -- some of that stuff, and then it was taken and distilled or recycled. But I don't know who it would have been. I mean --

Q. Do you remember separate vehicles coming from that company?

A. Well, once in a while you would see a tanker come in, but I don't know who they were or anything. I don't know if that was something they were delivering to St. Louis or what it was.

Q. Okay. Show you one more exhibit, which I'm gonna mark as Exhibit 3.

(Thereupon, Plaintiffs' Exhibit 3, Inter-Office Correspondence dated 5-9-1977, MONS01820-01822, was marked for purposes of identification.)

BY MR. ROMINE:

Q. This is -- this is a -- a three-page memo, but -- and, please, you're welcome to read the whole thing, but I'm just gonna concentrate on the last paragraph of the first page here.

A. Well, I don't know where it came from, but it's not true.

Q. Okay. When you say -- what's that?

A. I said it's not true. I was not responsible for it.

Q. That's what I was going to ask you. Okay. So, again, just so everything is on the record here and the court reporter knows what we are talking about, down at the bottom of the -- 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

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

Q. Okay.
A. I knew him, but I can't -- I don't remember.
Q. Fair enough.
A. Don't remember where his office was, no.
Q. Okay. Who -- who was the president of MRC before Mr. Flitcraft?
A. Whew. Really, I can't remember.
Q. That's okay. How about T. Beal? There is another name listed here --
A. He worked in the -- maintenance.
Q. In maintenance?
A. Yeah.
Q. Okay. So he wasn't a chemist, or was he?
A. No.
Q. Okay. And what was his first name?
A. (Indicating.)
Q. That's okay.
A. I can't -- I'm terrible with names, to tell you the truth.
Q. That's okay. So Mr. Beal was in the maintenance department?
A. Yes.

Q. Was he in charge of disposing of trash?

A. Not that I know of. But maybe he was, I don't know.

Q. Okay. Do you ever -- do you remember of any -- of any incidents where Mr. Beal disposed of any trash?

A. No idea, no.

Q. Or burned any trash?

A. No.

Q. Okay. Going back to Mr. Richardson --

A. Yeah.

Q. -- other than the -- the couple days you told me about --

A. Yeah.

Q. -- where he went to the South Dayton Dump --

A. Yeah.

Q. -- were there any other instances where you remember Mr. Richardson disposed of any waste?

A. No.

Q. Okay. How about anybody else at MRC?

A. Individual at this point, not that I -- not that I know of.

Q. Okay. And going back to -- using a different name now, going back to when it was called Dayton Labs or Dayton Laboratories, do you remember anyone else disposing of any chemical waste or any waste, like individual --

A. I don't know how it was done right now.

Q. How about yourself, did you ever dispose of waste, other than just throwing it in the trash can?

A. No.

Q. Okay.

A. Any other system?

Q. Right.

A. No. No.

Q. Okay.

A. The only thing was going over there with George on that first day to see what he was doing, and that was -- that was it.

Q. And then he went another day?

A. Yeah. I think somebody told me once to get the permit from EPA, and I think I got the permit from them.

Q. You got a permit?
A. Yeah. That was approved by EPA, what George was doing.
Q. Okay. To burn?
A. Yeah.
Q. Okay.
A. In fact, the EPA man was over there that first time when I went.
Q. He went with you?
A. Well, he was there, he was at the dump at the time.
Q. He was already --
A. Doing something else, I think.
Q. Okay.
A. And I can't remember his name. I think he quit the EPA to build a -- to start a bicycle shop. That's as far as I can remember.
Q. Okay.
A. And I don't remember his name.
Q. That's a good thing to do in Dayton.
A. Yeah.
Q. Before the break you had told me about a truck coming to pick up the trash. Do you remember of any change in companies or anything like that involved --

A. No.

Q. -- with picking up the trash?

A. I don't know. That probably came under the purchasing department would do the contracts for that.

Q. Okay.

A. So --

Q. Okay. I thank you.

MR. ROMINE: I pass the witness.

MS. WRIGHT: All righty. Mr. Wurstner, I think I only have a few questions for you.

DIRECT EXAMINATION

BY MS. WRIGHT:

Q. When we were looking at -- earlier, on Exhibit 2, which is that 1992 map of the site, and comparing that to Exhibit 1, you noticed that there -- some of the buildings were gone and some new buildings were there; is that correct?

A. Yes, that's very correct.

Q. Were you involved in any of the demolition of any of these buildings?

A. No. They were there when I left.

Q. Okay. So you really don't have any knowledge of what happened to the buildings and

when?

A. Well, the only -- one knowledge I do have, if you look at Building 2, and this north wing down here (indicating) --

Q. Uh-huh.

A. -- they made nuclear -- things for starting submarines, the nuclear plant on the submarine, the rods, they made them in there.

Q. Uh-huh.

A. And that -- that section is back in there (indicating). And I think that may have been taken down to Tennessee and buried.

Q. Okay.

A. Because anything they ever borrowed from you never came back because they -- they messed it up, so --

Q. Okay. And then I have another question, this may be my last one, when you testified about the two days when Mr. Richardson --

A. Yeah.

Q. -- disposed of the chemicals, and you said that you doubted there were enough chemicals to fill a drum, were you referring to a 55-gallon drum size?

A. Yes. Yeah.

Q. Okay. So just to be clear, the amount -- total amount of chemicals was less than would fill a 55-gallon drum?

A. Well, I would --

Q. Guessing, I know, your best guess.

A. I would put it this way: Very doubtful that you could get a hundred gallons out of the whole thing if you worked on it.

Q. Okay.

A. So 55-gallon drum would probably have been a pretty good estimate, but may have been a little more than that, you know.

Q. Okay. All righty.

MS. WRIGHT: I think that's all I have.

Anybody else?

MS. SMARDA: I have no questions on behalf of Cox Media Group.

MR. ROMINE: Anyone on the telephone?

MR. HARBECK: This is Bill Harbeck. I just have a couple questions.

CROSS-EXAMINATION

BY MR. HARBECK:

Q. Good morning, Mr. Wurstner.

A. Yes.

Q. I hope you can hear me okay.

A. Yeah.

Q. Could you tell me where the Dayton Lab was in terms of its proximity to the South Dayton Dump? I think you said you lived south of it and then would pass it every day; so was the Dayton Lab north of the South Dayton Dump?

A. I would say a little -- a few degrees off of -- northwest off of north. If you -- do you have a map there?

Q. I don't. I'm a little -- I'm sort of familiar with it, based upon some other depositions.

A. Okay. Well, where Nicholas Road comes through, the Miami River runs practically next to it for a ways, and then it turns. And if you went on the other side of the river, that's where the dump was, basically. So I would say roughly north of the dump, but a little bit west too.

Q. That's where the Dayton Lab facility

was located?

A. Yes.

Q. Okay. And approximately how far?

A. A thousand yards, if that far.

Q. Okay.

A. In a straight line.

Q. I'm sorry, you said a straight line, a thousand yards?

A. Yeah. No more than that, if that much.

Q. When you passed it, what road were you traveling -- when you passed the South Dayton Dump, what road were you traveling on?

A. Oh, what the heck is the name of that road? I can't think of the name of it, but it -- it comes over the bridge there. Broadway stops at the bridge, over the side of the bridge, and that road would start. One side of it was the Dayton Power and Light -- well -- and the far side was the dump; and there is some other stuff in there, some other buildings. The dump was back a ways.

Q. Does Dryden Road or Springboro sound familiar?

A. Dryden Road, Springboro Pike, yeah.

Q. Would you be traveling north, then, on Dryden Road, as you were heading to work every day to the Dayton Lab?

A. Yeah, for about a block.

Q. And then you would turn onto Nicholas Road?

A. Correct, turn left; cross the bridge and turn left.

Q. Okay. When you crossed the bridge, were you going over the river?

A. Yes.

Q. Okay. So it was just on the -- the Dayton Lab was just on the north side of the Miami River?

A. Yes.

Q. Okay.

A. The river makes a turn along there, but it's the north side.

Q. Okay. When you went by the dump, did you ever see any vehicles from NCR going in and out of the dump?

A. Not to my knowledge.

Q. Okay. How about a company called the Dayton Walther Company; did you ever see any vehicles from that company going into or out of

the dump?

A. Not -- nothing that -- in my memory. I mean, maybe, you know.

Q. Okay. Fair enough. And how about from a company named Hobart?

A. Not to my knowledge, no.

Q. Okay. Okay.

MR. HARBECK: That's all the questions I had. Thank you very much.

MR. ROMINE: I do have a couple follow-up. One address we have is --

MR. NES: Wait, wait, wait. Before we get to that, this is Brad Nes, for P-Americas. I have no questions.

MR. ROMINE: Sure.

MR. WINELAND: Erik Wineland, for the Sherwin-Williams Company. I have no questions.

MR. ROMINE: Sure. Thank you.

RECROSS-EXAMINATION

BY MR. ROMINE:

Q. One address we have is 1515 Nicholas Road. Is that the correct address for the plant?

A. I'm pretty sure you're right. That's it, yeah.

Q. Okay. And then when Ms. Wright had asked you a question about the demolition of the buildings, I think you had said that in the old Building 2 they had made some -- they had made some equipment for nuclear-powered submarines?

A. Right. Yeah.

Q. And that as a consequence, there was some, I guess, radioactive material there?

A. When they tore the building down, they probably buried it.

Q. Okay. And you said -- I think you said they probably buried it in Tennessee. And are you referring to some kind of disposal specifically for nuclear -- for radioactive material?

A. Yeah. What's the --

Q. Oak Ridge or --

A. Is it Oak Ridge in Tennessee? Yeah, that would be it, yeah. Yeah, that -- particularly that -- that sounds --

MR. ROMINE: Okay. That's all the follow-up I have.

I don't know if you want to --

MS. WRIGHT: No, I have no further questions.

Did I miss anything?

MS. BAIRD: No.

MR. ROMINE: Anybody on the phone?

(No response.)

MR. ROMINE: Okay. Well, thank you very much for coming in, Mr. Wurstner.

THE WITNESS: Sure.

MS. WRIGHT: All righty. We are going to hang up, guys.

(The notary interrupted.)

MS. WRIGHT: Do you want to read and sign? She will send you the transcript and you can read it, and if there are any spelling errors or anything, you can correct them; or do you just want to let me take it? Either way.

THE WITNESS: Well, if you could -- you can do the spelling as well as I can.

MS. WRIGHT: Okay. I can't change them, though. You would have to change them.

THE WITNESS: Well, if you take -- you can send me a copy or something.

MS. WRIGHT: Yeah, that works. That works.

(Thereupon, the deposition was 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 _ _ _ _ _ _ _ _ _ _ _ _ _ _ _

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS: CERTIFICATE

I, Beverly W. Dillman, a Notary Public within and for the State of Ohio, duly commissioned and qualified,

DO HEREBY CERTIFY that the above-named ALAN L. WURSTNER, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth.

Said testimony was reduced to writing by me stenographically in the presence of the witness and thereafter reduced to typewriting.

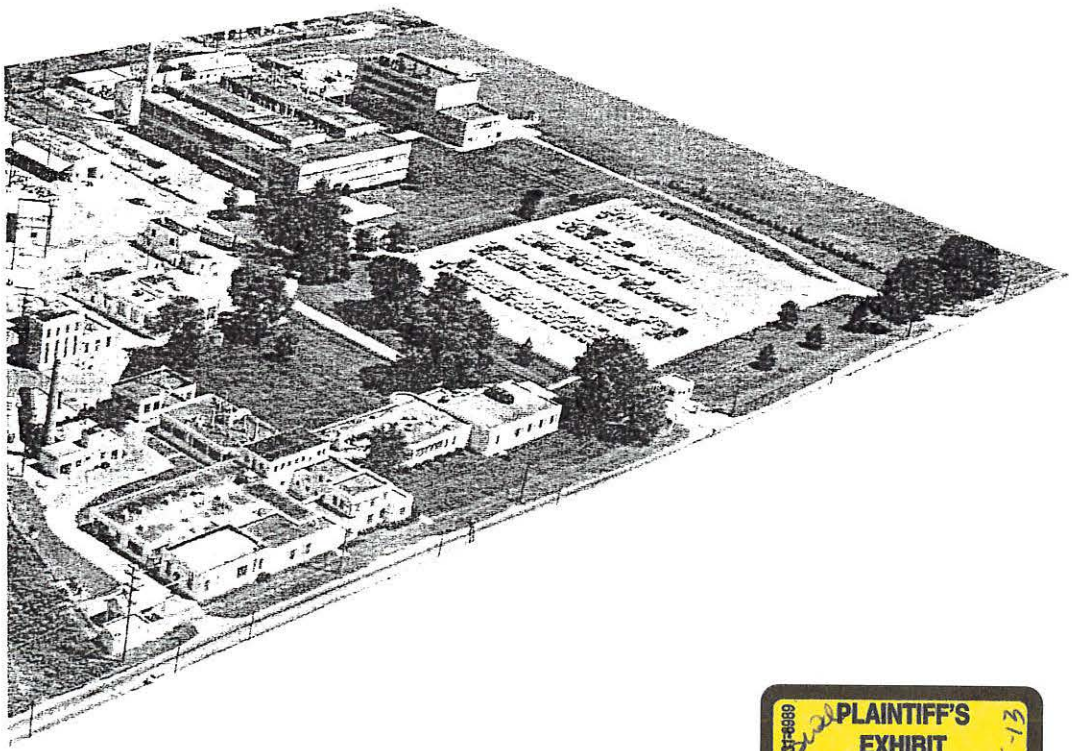
I FURTHER CERTIFY that I am not a relative or Attorney of either party, in any manner interested in the event of this action, nor am I, or the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Dayton, Ohio, on this _____ day of _____, 2013.

_____
BEVERLY W. DILLMAN, RPR, CRR
NOTARY PUBLIC, STATE OF OHIO
My commission expires 3-6-2017

CAPABILITY

- EXPERIENCE
- FACILITIES
- PERSONNEL



PENGAD 800-631-6989

PLAINTIFF'S EXHIBIT

1

Wurstner 9-25-13

MONSANTO RESEARCH CORPORATION / Monsanto

MONSANTO RESEARCH CORPORATION
DAYTON LABORATORY
DAYTON, OHIO 45407

CAPABILITY

- Experience
- Facilities
- Personnel

MONSANTO RESEARCH CORPORATION

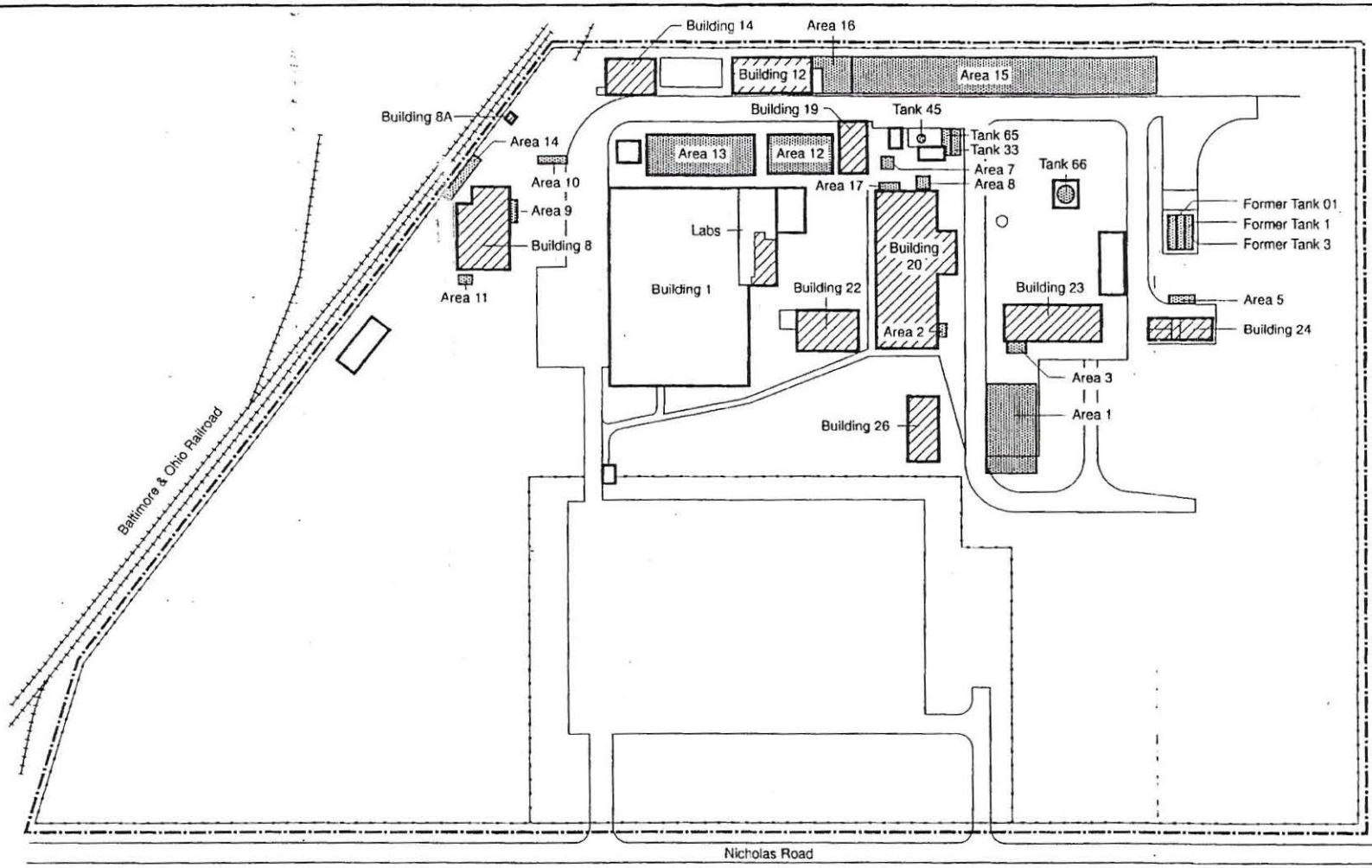
Dayton Laboratory, Dayton Ohio 45407

MR. ALAN L. WURSTNER

Mr. Wurstner has had 19 years of experience in research with general optical microscopy, scanning electron microscopy, microtomy and micrurgy, polymer physics, physical chemistry, and polymer compounding and applications.

Major researches have included: morphology and phase studies of polycaprolactam; morphology of isotactic polystyrene; phase diagrams of binary organic systems via microscopy; the factors affecting the receptivity of polymers to high filler loading; sintering rate studies of finely divided organic solids via micrurgical techniques; particle size and distribution of fine powders; morphology of composite materials via scanning electron and optical microscopy; microscopic identification of aircraft fuel contaminants; compatibility of blends of jet fuel and urethane rubber via microscopical techniques; production and measurements of micro-openings for flow measurements; destaticization of textile fibers; design and construction of apparatus and instrumentation for the determination of the molecular weight of high polymers via freezing point depression and boiling point elevation; general physical testing of polymers; compounding, evaluation, and testing of solvent resistant rubbers; and processing and polyblending of polymers.

Mr. Wurstner is a co-developer of the Monsanto MICRON ORIFICE which won the Industrial Research IR-100 1969 competition, and the 1969 "Seven Engineering Wonders of Ohio" award by the Ohio Society of Professional Engineers.



LEGEND:

- Property Boundary
- Fence
- Buildings Containing Stored Chemicals
- Areas of Chemical Storage

0 100 200

APPROXIMATE SCALE IN FEET

BASE MAP SOURCE: Modified from Monsanto Agricultural Company Engineering Department, St. Louis, Missouri, Plot Plan, Drawing No. S-D-C-047, March 1992.

QUALITY CHEMICALS, INC.
Subsidiary of First Chemical Corporation
Dayton, Ohio Plant

FIGURE 3
LOCATION OF CHEMICAL STORAGE

Job No. 24667-001-121 Dames & Moore

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MONSANTO 3

MONS01544

MONSANTO RESEARCH CORPORATION

Inter-Office Correspondence

From LOCATION : Dayton Laboratory

DATE : May 9, 1977

SUBJECT : Handling Dayton Laboratory Waste Chemicals

REFERENCE : How We Handle Laboratory Generated Scraps

cc: R. K. Flitcraft
T. Beal
File

TO : R. C. Hart

Past Practice. Prior to 1974, waste generated by individual laboratories was combined with scrap solvents from the pilot plant. These wastes were disposed of by one of the following methods. Drum materials were hauled to a private landfill near Delaware, Ohio. Off spec materials from the pilot plant were on occasion disposed of in a landfill at Seymour, Indiana. Several loads of methanol were sent to American Chemical Services near Chicago, for disposal in an incinerator.

We ceased using the Delaware landfill because it was closed by the State of Ohio. The Seymour, Indiana landfill has not been used for disposing of generated scraps for some time. We stopped sending our scrap methanol to American Chemical Service when Pristeen, Inc. of Cincinnati, got into the market of burning waste chemicals and it was cheaper to go to them. We used Pristeen, Inc. for disposal of several truck loads of drum chemical waste. At about the same time Pristeen got into the business, Industrial Waste Disposal (IWD) got into the market as a hauler for Systems Technology who used a fluidized bed incinerator located in Franklin, Ohio. Due to a pricing advantage, we started using IWD and Systech Incinerator. Shortly thereafter, we ceased using Pristeen. For a period of time, we used IWD exclusively. Then Systech got out of the business and IWD was left with only a landfill in Springfield, Ohio. In 1975, we started using CC Supply who is a middleman for several companies. One of these companies is Custom Industrial Waste Disposal, located in Louisville, Kentucky. Custom Industrial markets a burnable fuel for industry with their primary customers being General Electric in Louisville. Our burnable waste was blended with other burnable waste to make a salable product. Another one of CC Supply's sources is Konalrad Industries in Pandora, Ohio. We haveshipped only scrap methanol to them which they use to make a gasoline antifreeze. Another source is Chemical Recovery Systems, located near Cleveland. These people reclaim our waste for resale. On two occasions, we have disposed of surplus materials through the St. Louis Industrial Waste Exchange. In these cases, only virgin material were disposed of.

Prior to 1974, Al Wurstner was the principle person involved in the disposal of laboratory generated waste chemicals. The pilot plant generated wastes was handled by Dick Juterbock. In 1974, I started

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handling the pilot plant waste problems, as well as the disposal of the over-all laboratory generated waste. This continued until 1976, when Tom Beal took over for laboratory generated waste and I continued to handle the pilot plant waste disposal chores.

Current Practice. Currently, responsibility for disposal of scrap and surplus chemicals rest with the Manager of Technical Services, who has delegated these chores to the Safety Department in lure of and Industrial Hygenist which we don't have.

Current sources for disposing of scrap include the following. Liquid materials are sent to Chemical Recovery, Konalrad, or Custom Industrial. Solid wastes which do not contain heavy metals and meet the EPA requirements for landfill disposal are sent to IWD. Wastes containing heavy materials are still a difficult problem and disposal is done on a case by case basis. Except for the very high costs involved, we could use a chemical landfill at Sheffield, Illinois, owned and operated by Nuclear Engineering Company.

Laboratory generated wastes is currently put into 55-gallon drums and is being held on site until sufficient quantities are generated to make reasonable shipment size.

For all outgoing surplus or scrap chemicals we require the vendor to sign a hazardous substance agreement which simply states they can and will handle the material in a responsible manner. In addition, we have on file EPA approval permits for IWD, Nuclear Engineering, and Custom Industrial.

Future Practice. In the future, we expect to be using the same disposal means; however, we will be visiting all sites to which our materials are transported for personal inspection of their ability to handle these chemicals. On Thursday, May 12, a visit to Konalrad has been arranged, so that we can dispose of the methanol currently ready for disposal. Subsequently, a visit will be made to Chemical Recovery Systems and Custom Industrial. A previous visit has already been made to the IWD, Springfield landfill. If problems arise with the current vendor or is deemed that they are unqualified to handle our waste, we will consult the EPA publication relative to chemical wastes and use approved means and source. As you are aware, I have prepared a general laboratory procedure for the proper handling and storage of waste chemicals. Possibly, this should be expedited so that we have an established procedure.

In summary, we have used a number of sources to dispose of our scrap chemicals. We are currently using sources which we feel are responsible and are able to handle our waste material either for destruction or reclaimation. Before we dispose of any more waste, we will conduct on-site inspection of the sources to assure proper handling of our chemical wastes. A new prodedure is in the mill for instructing the laboratory personnel on how to handle and dispose of their scrap chemicals.

R. L. Long
P & D Supervisor

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