Divided Community Seeks Restoration

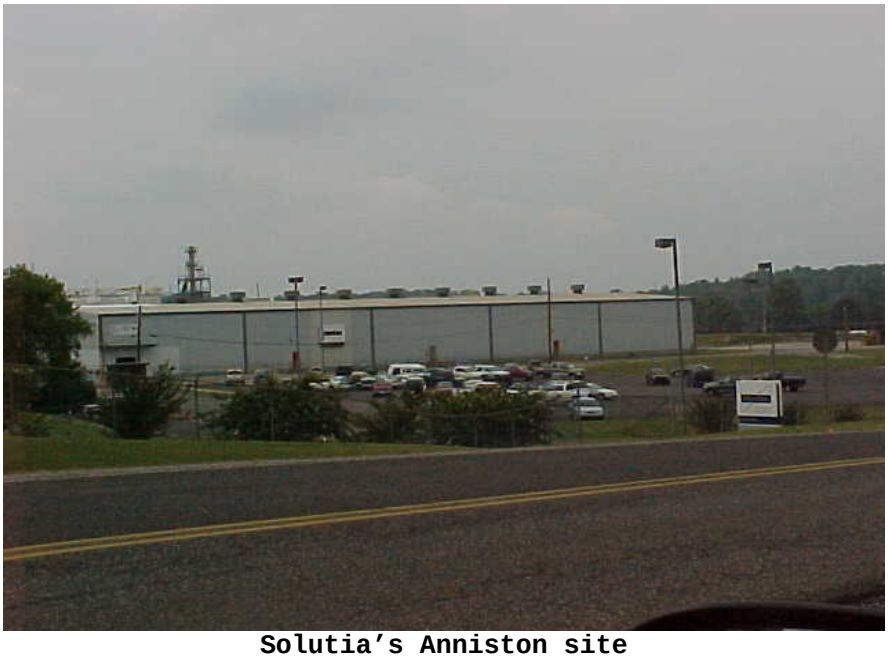
In the spirit of an informed and empowered community

When will Anniston, Alabama rise from the abyss with a truly collective response to decades of indiscriminate pollution of its community and surrounding natural resources?

Background

Monsanto Chemical purchased Swann Chemical Company in Anniston Alabama in 1935, and manufactured PCBs, parathion, phosphorous pentasulfide, para-nitrophenol, and polyphenyl compounds. In the early 1970s, Monsanto ceased production of PCBs, and in the mid-1980s production of parathion and phosphorous pentasulfide ceased.

In 1997, Monsanto changed its chemical business in Anniston to Solutia, Inc. Currently; para-nitrophenol and polyphenyl compounds are manufactured at Solutia's Anniston facility.



Solutia's Anniston site

Anniston is tucked in the Appalachian foothills 60 miles east of Birmingham, and once thrived as a manufacturing town for more than a century. Throughout the Solutia facility's history, hazardous and non-hazardous wastes were recklessly discharged into the environment and disposed of at two landfills located adjacent to Solutia's manufacturing facility-the West End Landfill and the South Landfill. The West End Landfill is a six-acre plot located on the southwest side of the manufacturing facility, north of Highway 202. The unlined landfill was used for the disposal of all refuse from the facility from the mid-1930s until 1961. In November 1961, Monsanto Company and

Alabama Power Company negotiated a property exchange that included the West End Landfill and an adjacent property.

With the closure of the West End Landfill, Solutia began disposing of wastes at the South Landfill.

Just across Highway 202, the South Landfill has ten (10) in-ground burial sites or cells that contain tons of biological sludge, contaminated materials, scrapped equipment, clothing, waste drums and other materials. The quantity of these materials or their toxicity is unknown. Because of the location of the South Landfill, Solutia does not consider it an immediate community concern and continues to monitor stormwater runoff at the landfill's perimeter. West Anniston organizations, some officials, and the communities of Oxford and Hobson City are uncertain of the South Landfill's integrity.

From 1989 to 2001, the Agency for Toxic Substances and Disease Registry (ATSDR) worked with the Environmental protection Agency Region 4, the Alabama Department of Public Health, and the Alabama Department of Environmental management to identify environmental contaminants in selected areas of West Anniston. This collaborative effort was in direct response to the steady increase in unexplained illnesses and deaths in Anniston, and pursuant legal actions taken by community activists regarding the presence of polychlorinated biphenyls (PCBs) in their area. The population of West Anniston is predominately African American. It is starved economically with high unemployment and substandard housing.

Open ditches have guided stormwater runoff combined with discharges from the Solutia facility into the neighborhoods housing developments with regularity often flooding entire areas. High concentrations of PCBs were left in the soil of yards downstream of the plant. Children growing up in West Anniston used the ditches as play areas to catch tadpoles and small amphibians.

Investigations, both past and ongoing, have confirmed that PCBs are present in the soil at numerous residential and commercial properties in Anniston. In more recent investigations, the EPA further assessed the contamination by sampling for other contaminants, including metals such as lead. In 1995, the Alabama Department of In 1995 the Alabama Department of Public Health conducted a study exploring the likelihood of human exposure to PCBs for residents living next to a site where PCBs were produced in the past. The subsequent found that approximately 25 percent of the people tested had elevated levels of PCBs in their blood.

Monsanto was found liable for widespread PCB contamination, along with Solutia, a spin-off that now operates the plant, and Pharmacia, formed after Monsanto merged with Pharmacia & Upjohn in 2000. Various entities in the health science and research community continue to pursue and interpret data concerning the on-going toll on the health of Anniston's residents.

Monsanto was not the only polluter of Anniston's environment. A smelting company that operated since early 1900's for example, produced castings and

routinely gave residents spent foundry sand to use as lawn dressings and fill soil. The same firm spewed lead emissions into the air. This materials contained heavy doses of lead and selenium. Workers in the foundry brought lead dust laden clothing into their homes and to the dinner table.

Human Side of PCB pollution

Potential health effects associated with exposure to PCBs include:

- Reproductive function may be disrupted by exposure to PCBs.
- Neurobehavioral and developmental deficits occur in newborns who were exposed to PCBs in utero, and these deficits may continue through school-age.
- Other systemic effects are associated with elevated serum levels of PCBs.
- PCB exposure is associated with increased cancer risk.

Consent Decree

According to the federal decree handed down in 2002, the damaging actions to the Anniston Alabama community occurred under the Comprehensive Environmental Response Compensation and Liability Act or CERCLA. The complaint filed by the US government sought payback of costs, the performance of certain studies, and a judgment on legal responsibility. The Consent Decree strategy required immediate cleanup of the worst contaminated residential properties, the cleanup of every residential yard with over 1 part per million (ppm) PCB in surface soils, and an extensive study to select final remedies for long term maintenance of the entire site. The objectives of this decree were to:

- *Establish the kind and extent of PCB contamination and its impact to the health or welfare of the Anniston community caused by the free discharge and distribution of PCBs by the defendants;*
- *To consider the benefit of alternatives to cleanup the community;*
- *To conduct Engineering Evaluation and Cost Analysis (EE/CA) for certain residential properties in Anniston; Hobson City, and Oxford and to clean them up;*
- *To recover costs incurred by the EPA in responding to the contamination;*
- *To create a foundation to benefit the West Anniston community;*
- *To provide funding for a Technical Assistance Plan and a Community Advisory Group;*
- *To make part of the decree, the obligations of an existing removal order, and*
- *And to partially support the decision of claims by plaintiffs against defendants.*

Technical Advisor

In October 2004, after a contested grant award process, The West Anniston Foundation in Anniston Alabama received a grant from Solutia and selected the Technical Advisor (TA) as defined in the Anniston PCB site Consent Decree, Technical Assistance Plan Grant. The West Anniston Foundation (WAF) was set up to award scholarships and related grants to Anniston residents under the terms of the PCB settlement with funding from Monsanto. This fact created the specter of self-interest and lack of integrity in the mind of the local community and activists. The West Anniston Foundation then located the TA in the conference room used by cleanup contractors without a phone or normal office equipment in the oft-picketed building housing the EPA staff. As a result, residents seeking information felt intimidated and were loath to enter a facility they considered enemy territory and symbolic of a conspired decision favorable to the offending company.

The role of the Technical Advisor was to develop and implement outreach and educational activities that inform the affected/impacted communities on all activities related to the Consent Decree (CD). Within the outreach and educational activities, the Advisor was to assist the community in interpreting technical documents and data generated through implementation of the CD. Unfortunately the command and control system that exists between Solutia (*Monsanto*), the West Anniston Foundation, The US EPA, and the court appointed Special Master works with supreme efficiency to censor and restrict the flow of information and insight that can serve to enable all the impacted communities to make informed collaborative decisions concerning the affect of the cleanup on their health, the economy, and the welfare of residents in the future. Solutia approved the funding for the TA and has little interest in any unfavorable interpretations of the cleanup plan.

The circumstances that have developed since have served to further constrict the residents of Calhoun County, Alabama into a fog of unresolved health concerns, mistrust of the consent decree and the cleanup process managed by the US EPA. Students in the Oxford and Anniston School systems continue producing low test scores believed to be caused in part from the neurological damage from effects of perinatal exposure to PCBs. Neurobehavioral and developmental deficits reported in newborns exposed to PCBs over the past 65 years have continued in Anniston school-aged children.

The industry vernacular commonly used in public meetings by lawyers, engineers, and corporate gatekeepers and the methods of sharing that information with impacted communities and residents as contained in the Remedial Investigation/Feasibility Study, Engineering Evaluation and Cost Analysis, and the Health and Ecological Risk Assessment sections of the CERCLA cleanup protocol is like a foreign language to the average citizen.

Key Cleanup Plan Elements

Remedial Investigation/Feasibility Study (RI/FS)

This very important segment of the CD will select a remedy or set of remedies that involve treatment, removal, or containment or combinations thereof. Each technical remedy for the nature, amount, location, and form of the found contaminat will be compared and evaluated for effectiveness and practicality. Each will also have the risk of use evaluated as well as the risk posed to workers and residents. An overall risk assessment will also be conducted along with the costs of each remedy compared and a choice(s) made for each contaminat system.

Engineering Evaluation & Cost Analysis (EE/CA)

This report summarizes EPA and Solutia data that relate to previous residential cleanups. It says what the objectives were, reports on how effective the actions were, how costly the actions were, and recommends alternatives that may be more cost effective. It is directly linked to the Non-Time Critical Removal section of the Consent Decree.

While the EE/CA focuses on residential cleanup, the affected areas and their response to natural and human caused occurrences will also impact flood plain soils on Choccolocco Creek and potentially Lake Logan Martin.

Health & Ecological Risk Assessment

It is important for the human health risk assessment to assume those at greatest risk will be persons most likely to come down with a cancer or other condition linked to PCBs. In this case any resident from a child to adult (ages 6 to 24) is considered the "at risk population". Non-cancer hazards are not included in the risk analysis used by the EPA. Risks for developing a cancer in children (*age birth to 6 years*) are not included, but if present considered to contribute to the threat posed as the child grows and becomes part of the "at risk population."

One of the most perplexing issues for the scientific health community is that blood PCB levels were not correlated with soil or house dust PCB levels. Because of this error, families cannot use data provided to make informed decisions concerning risks to their health. Risks to the ecosystem incorporate endangerment to aquatic life, plants, waterways, etc. are also incorporated into this section of the report Solutia is required to submit for approval by the US EPA and the impacted communities. The risk assessment protocol ultimately pits

estimated engineering, construction, and containment costs against several remediation scenarios that range in cost. Each has projected health risks, associated deaths, and medical expenses. The least cost approach historically carries the day with the EPA.

In the role of a true unbiased advocate of the impacted community, the Technical Advisor should be able to interpret and communicate technical and legalistic language and decision rationale in such ways as to enable residents to make personal informed life choices. This is missing in Anniston, Alabama.

The Technical Advisor and the system within he/she is required to work in Anniston restricts authentic outreach and empowerment for the impacted communities with information that is timely, useful, and culturally relevant. The Technical Advisor's role as an independent voice is essential in order for any community to have a vital understanding of the complexity of the cleanup and the magnitude of the nature and impact of the contamination on their health, the health of the unborn, and the academic achievement of their children. The Solutia, US EPA, Special Master association serves to limit the work of the Technical Advisor in efforts to provide un-biased information.

In addition to these controlling forces, socio-economics, education, and race have fractured this region of Alabama as they have throughout the Black Belt. The Black Belt is a unique with a rich diversity of communities reflecting many cultures. Sustained economic development for communities and families living in these 380 mostly rural counties is elusive. The barriers to full and equitable participation for all segments of these communities are formidable. Health care is endangered, educational opportunity and achievement does not meet competitive standards, and business formation and job creation lags. This is another burden on an already burdened region of the Southeast.

Somewhat ignored in the focus on West Anniston is the environmental and economic fate of the Choccolocco Creek flood plain and potentially Lake Logan Martin. Residents in these areas (mostly white Appalachian/middle class) have markedly different demographics than does Anniston. Alabama state officials have issued an advisory against eating fish caught in Lake Logan Martin because of the dangerous levels of PCBs found in the fish. The long term environmental future for this area is unknown.

PCB contaminated Lake Logan Martin tributary stream

The confluence of these mitigating factors is classic example of environmental injustice in Anniston practiced by well intentioned but misguided government agencies, the legal system, and corporate self-interest.

The Litigations

A tremendous amount of energy, passion, and expense has been expended to resolve the host of civil actions generated by Monsanto's negligent public posture and egregious treatment of its neighbors in Anniston. No fewer than three civil actions in behalf of separate groups of Anniston residents sough monetary compensation for injury from Monsanto Chemical and its guardian group of spin-offs established to insulate the company. The awards suggested by various legal groups have resulted in neighbors and friends competing for preferential decisions and husbands and wives, families and churches on different sides of judgments dispensed by the courts. This left Anniston profoundly fragmented, abused, and distrustful.

Was it pure and simple greed or skillfully packaged legal strategies that contributed to the divisions in the community, or both?

In March of 2002, a Consent Decree was lodged with the US Federal Court. This essentially ended any relief through the legal system. As these actions played out families were irreparably damaged and children born destined to lives of cognitive struggle.

Any objective observation of who "*profited*" from these court decisions despite the amounts awarded to "*the damaged*" leaves one appalled and incredulous. The building of monuments to indiscriminate dumping, providing a few students scholarships, and giving affected residents a few thousand dollars but requiring them to agree not to pursue any relief for impairments to their health in the future speaks volumes to the efficiency of the legal

system and just as loudly to the lack of ethics and morality that remains on all sides of this issue.

Despite this history and current conditions, Anniston still stands and has experienced a modicum of stability, however their struggle continues. Anyone visiting Anniston will be impressed by the community's love for Anniston and the investment each has in sustaining it's future and the health of their families.

The View Ahead

So eventually Solutia/Monsanto will report that they have satisfied their obligation to the courts, the cleanup contractors will look to the next job, the EPA will descend upon another ravaged community without regard for its residents or its cultural and socio-economic values and apply their mechanical process, and the attorneys will smirk and scurry again to the bank depositing legal fees of ill gotten gain leached from the misery of the poor and disenfranchised. But what of the people left behind?

There is no doubt that in the court of public opinion and in fact, that Anniston faces substantial economic and environmental challenges for the foreseeable future. Despite these conditions, Anniston like the Phoenix will arise. Faith in the human spirit will prevail against the vicissitudes of time and the belief that man's basic morality will endure against profit and help Anniston survive.

About the author

In 2004, the West Anniston Foundation in Anniston Alabama selected Mr. Lawrence King with the consulting firm DEBLAR & Associates, Inc. to serve as the Technical Advisor as defined in the Anniston PCB site Consent Decree, Technical Assistance Plan Grant. Mr. King, an engineer, has over 25 years of corporate and municipal government managerial experience in technical marketing, energy research, and environmental services.