

Monsanto Held Liable For PCB Dumping

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An Alabama jury yesterday found that Monsanto Co. engaged in "outrageous" behavior by releasing tons of PCBs into the city of Anniston and covering up its actions for decades, handing 3,500 local residents a huge victory in a landmark environmental lawsuit.

The jury in Gadsden, Ala., a town 20 miles from Anniston, held Monsanto and its corporate successors liable on all six counts it considered: negligence, wantonness, suppression of the truth, nuisance, trespass and outrage. Under Alabama law, the rare claim of outrage typically requires conduct "so outrageous in character and extreme in degree as to go beyond all possible bounds of decency so as to be regarded as atrocious and utterly intolerable in civilized society."

After a six-week trial on liability, the case now proceeds to a damages phase. Solutia Inc., the corporation formed when Monsanto spun off its chemical division in 1997, has already spent \$83 million to settle two other PCB cases in Anniston as well as \$40 million on cleanup costs. Shares in Solutia, the lead defendant in the case, plunged 34 percent, to \$5.80, after yesterday's verdict. Overall, Solutia share prices have plummeted 59 percent from \$14.02 since a Jan. 1 article in The Washington Post revealed Monsanto documents showing that the company routinely dumped PCBs in Anniston and covered up its behavior for more than 40 years.

Meanwhile, 15,000 additional area residents have filed another lawsuit citing health problems, property damage and emotional distress caused by PCB contamination. And a Senate committee is preparing to hold hearings on the situation.

Solutia Chief Executive John C. Hunter said his company is "extremely disappointed" with yesterday's verdict. "This case is not over," said Solutia spokeswoman Beth Rusert. "But regardless of how it turns out, we're going to do our part to clean up the PCBs in this community."

PCBs, shorthand for polychlorinated biphenyls, have been banned in the United States since 1979, but they were once considered life-savers, nonflammable coolants that prevented explosions in electrical equipment. From 1935 on, Monsanto was the only U.S. company that made them, at one plant in Illinois and another in working-class west Anniston.

Today, PCBs are known as global pollutants and possible carcinogens, although debate still rages over the extent of the danger they pose to human health. The Bush administration recently ordered General Electric Co. to spend \$460 million to dredge its PCBs out of the Hudson River, but scientists say the situation in Anniston is much worse. Yards and creeks there have the highest levels of PCBs ever recorded in a residential community, and people have unprecedented PCB levels in their blood.

Anniston residents did not learn about the pollution until 1996, even though documents show that Monsanto knew about it for decades. In 1966, for example, Monsanto managers discovered that fish dunked in a local creek turned belly-up within 10 seconds, spurting blood and shedding skin as if dropped into boiling water. In 1969, they found a fish in another creek with 7,500 times the legal PCB level. But they never told their neighbors, and concluded that "there is little object in going to expensive extremes in limiting discharges."

"Those people destroyed this community," said David Baker, president of the local group Citizens Against Pollution. "They poisoned us, they profited from us, and now it's time for them to pay."

At trial, attorneys representing Monsanto and its corporate kin argued that the company acted "promptly and responsibly" to limit its PCB releases once it learned that the chemicals could linger in nature for centuries. They also pointed out that the Anniston plant stopped making PCBs eight years before a national ban took effect.

Those arguments were undermined by documents -- many featuring warnings such as "CONFIDENTIAL: Read and Destroy" -- that suggested a company-wide preoccupation with maintaining its \$22-million-a-year PCB monopoly regardless of health or environmental risks. "We can't afford to lose one dollar of business," one internal memo declared. A committee the company formed to address controversies about PCBs had only two formal objectives: "Permit continued sales and profits" and "protect image of . . . the corporation."

"Ultimately, Monsanto's own words did them in," said Brendan DeMelle, an analyst for the Environmental Working Group, an anti-chemical advocacy group.

So far, Solutia has bought out about 120 homeowners and businesses, and has cleaned out more than a mile of drainage ditches. But Donald W. Stewart, a former Alabama senator who represented the plaintiffs, hopes the case will lead to a much more extensive cleanup.

He also hopes to recover big money for his clients, and the defendants have deep pockets. Pharmacia Corp., the company formed after a merger with Monsanto in 2000, was also held liable. The biotechnology company now known as Monsanto has claimed to have no connection to this case, but records show that it must pay any judgment Solutia is unable to cover.

"Oh, we're looking forward to the damages portion," said Stewart.