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PCB CONTAMINATION IN ANNISTON, ALABAMA

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

SPECIAL HEARING

APRIL, 19, 2002—ANNISTON, ALABAMA

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PCB CONTAMINATION IN ANNISTON, ALABAMA

FRIDAY, APRIL 19, 2002

U.S. SENATE,
SUBCOMMITTEE ON VA, HUD, AND
INDEPENDENT AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:02 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski and Shelby.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF A. STANLEY MEIBURG, DEPUTY REGIONAL ADMINISTRATOR, REGION 4

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning. The Subcommittee on VA, HUD Appropriations will come to order.

We are having a special hearing today on the issues related to the PCB contamination in Anniston, Alabama. This hearing is being conducted at the request of Senator Richard Shelby, the senior Senator from Alabama, a member of this subcommittee, and a member of the Appropriations Committee.

Senator Shelby has expressed a long-time concern about the situation in Anniston, Alabama, and what is the government's role, and is government performing its role. He will speak for himself. I was very interested in cooperating with Senator Shelby, not only out of Senatorial courtesy, but we do like to know what is happening on the ground at the regional level, and we see that Anniston is a good example of, perhaps, lessons learned on how we could be doing our job more effectively.

Anniston, Alabama is like so many American communities, working class folks trying to make a living, a once-thriving, heavy industrial community, just like the people in my own hometown of Baltimore. And like the people of Baltimore, I am on their side. These hardworking people are facing an immense public health crisis after decades of pollution from a PCB factory, and Anniston's waterways, backyards, and playgrounds have been polluted.

I am troubled that the Anniston families are also facing a health crisis, and they seem to have run into a lot of bureaucracy, paper shuffling, and finger pointing between State and Federal Govern-

ment instead of the action to help them. I want to hear about this. I am going to hear the side of government. I am going to hear from Annistonians themselves.

I called this hearing today to achieve two goals: One, as part of our oversight to Federal agencies in this subcommittee's jurisdiction, EPA and the ATSDR, which stands for the Agency for Toxic Substances and Disease Registry. These agencies have been involved and are more responsible for protecting public health from environmental hazards.

Second, we are going to hear from the residents of Anniston themselves about their concerns. It appears that this community has been ignored for a very long period of time, and it is important that we hear from them directly about what is happening to them and to their town.

We are not here today to pass judgment on the industry that polluted, because a jury of its peers has already done that. We are a Senate committee, not a jury. But we do need to look at how the people of Anniston can be helped so they can feel safe in their own community, and of lessons learned, so that it does not happen again in another community.

American citizens have a right to know about harmful threats. They have a right to be heard, and they have a right to be protected. That is the name of the Federal agency charged with this, the Environmental Protection Agency.

This subcommittee cannot ignore that the highest ranking EPA official cannot testify today. We welcome the Deputy Regional Administrator. We know that Administrator Whitman has another commitment.

Senator Shelby, she has always accommodated our requests to testify, so we can understand why she cannot be here today.

In no way do we mean to belittle you, Mr. Meiburg. In fact, we welcome you. But we really need to be hearing from someone with high-level decision-making authority in an issue of this magnitude, and such a tremendous impact on the community.

To my surprise, I found that a number of high-ranking EPA officials have to be recused from this issue because of past associations with the companies involved. Now, this does not mean any wrongdoing, but it does cast pretty serious concern about regional staff ties to the companies they are supposed to regulate, and I am going to raise that issue in our conversation.

Now, let us go to Anniston, Alabama. It was the home of a factory producing PCBs from 1935 to 1971, one of only two PCB factories in the United States, and we know that PCBs are one of the most challenging chemicals facing us, and that they were widely used in the past. PCBs, since 1979, have been linked with cancer and other devastating health effects.

The people of Anniston have struggled for a long time, and since 1993, when they first learned about how contaminated their community has become, they have tried to get help to get it cleaned up. They went to the State, to the EPA. Nothing was done.

Finally, 7 years ago, the residents sued the company that owned the factory for polluting the town, endangering the health of Anniston, and for an alleged coverup of health risk and pollution. Only after a guilty verdict did EPA announce a consent decree with the

company. EPA says the timing was coincidental. I find it surprising.

We are also going to hear today from Mr. David Baker, an Anniston community activist. And I know that there are other activists in the audience, and we welcome them.

I am going to ask the representative from EPA some really very firm questions about why it took repeated requests for assistance, a citizens' lawsuit, to finally get EPA to act.

I am going to be absolutely clear that nothing said in this hearing is intended to interfere with ongoing litigation, and I am going to underline it, and bright-line it.

Senator Shelby, you are an excellent attorney, and I know you will keep this between the safe lines, because that is the Judicial Branch, and we are the Legislative Branch.

We understand that the proposed consent decree between EPA and the industry is in public comment until June 3, so it is appropriate that we are holding this hearing. As I said, the people of Anniston have a right to be heard, a right to real oversight. They deserve action. And the taxpayer deserves getting value out of the EPA and ATSDR, to be responsive, to be able to protect the community.

That concludes my opening remarks, and I now turn to you, Senator Shelby, for anything you wish to say.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you. First of all, Madam Chairman, I want to thank you for agreeing to hold this hearing today. I believe it is a very important issue to me and to my constituents.

In 1976, Congress passed and the President signed into law the Toxic Substances Control Act. This legislation effectively banned the manufacture of PCBs in the United States.

During consideration of the original legislation, then Senator Tunney stated that the bill, and I will quote, "would close major gaps in the law that leave the public inadequately protected against the unregulated introduction of hazardous chemicals into the environment."

My guess is that Senator Tunney had no idea that 30 years later the citizens of Anniston, Alabama, and perhaps other parts of the country, Madam Chairman, would continue to be poisoned by those same PCBs that Congress sought to protect against 30 years ago.

While our country has come a long way in protecting its citizens against harmful chemicals that pollute the environment, and have detrimental health effects, the past continues to haunt us. I am not sure how we remedy that, nor am I sure that it can be remedied. I am confident that through enforcement, agencies like EPA, ATSDR, and ADEM, the citizens of Alabama and across the country should feel secure with the assumption that everything is being done to protect their health and well-being.

What I see here today, Madam Chairman, is uncertainty about that assumption. Knowing what I know about the history of PCBs in Anniston, Alabama, I do not believe that everything has been done to protect their health and well-being. In fact, I am fairly certain that many of these agencies were, at the very least, complacent in their dealings with Monsanto. This fact is extremely trou-

bling, given the information that has recently been discovered with respect to Monsanto's early knowledge about the dangers of PCBs.

In 1966, Monsanto managers hired a Mississippi State biologist named Denzel Ferguson, who informed them then that fish submerged in Snow Creek turned belly up in 10 seconds, shedding skin as if dumped in boiling water. In 1969, 3 years later, Monsanto found fish in Choccolocco Creek that were deformed, and lethargic, and some contained 7,500 times the legal PCB level. Yes, 7,500 times the legal PCB level.

Given the overwhelming evidence that PCBs were, indeed, harmful to the fish from surrounding waterways, Monsanto then informed the Alabama Water Improvement Commission, ADEM's predecessor, that PCBs were entering Snow Creek again in 1969. The Alabama Water Improvement Commission took no action. In fact, they encouraged Monsanto to keep the pollution quiet, due to a reluctance to inform the public, which would require the issuance of a fish advisory.

So what we have from the very beginning is a conscious decision to conceal information from the public, information that might well have protected numerous Anniston residents from exposure to harmful chemicals in these waterways.

In 1983, the Federal Soil and Conservation Service found PCBs in Choccolocco Creek, but took no action again.

In 1985, State authorities found PCB contamination in Snow Creek, and reported their finding to the EPA; however, the EPA deferred cleanup of Snow Creek to the Alabama Department of Environmental Management. For years, ADEM, as we call it, did nothing, and EPA did not follow-up on the initial reports, or the cleanup measures, as best as I can tell.

It was not until sometime in 1988 that Monsanto began to implement a Snow Creek sediment removal effort. The EPA conducted an RCRA facility assessment, identifying solid waste management and areas of concern in 1991. These areas of concern were identified after Monsanto had begun implementing the requirements of the RCRA Part B permit, including closure activities, groundwater monitoring, and development of groundwater corrective action systems.

What makes all of this even more troubling is that in 1993, ADEM, the Alabama Department of Environmental Management, conducted another investigation of Snow Creek and Choccolocco Creek that resulted in the issuance of a, I quote, "No consumption fish advisory." In other words, "Don't eat the fish." This was in 1993, by the Alabama Department of Public Health.

I will not go into the time line, but I think that this gives us a good idea of what has happened in Anniston. Time and again, monitoring was done, measures were implemented, and PCBs continued to appear. Quite frankly, this troubles me. It troubles me that there were repeated monitorings and investigations, and that it took years before any corrective action was taken.

No one monitored EPA's activities; no one monitored ADEM's activities; and, most importantly, no one monitored Monsanto's activities. Monsanto ceased all PCB production at their Anniston facility in 1971, but the facility is still there, and it is operating. In fact, today, they produce a chemical used in Tylenol, and until recently

had not reported a toxic release in four years. Despite this new production, PCBs still exist on the facility grounds, in the two landfills, and who knows where else.

The people who live around the Monsanto plant have higher PCB levels than most any other residential population. Many residents believe that their town has an abnormally high rate of cancer, miscarriages, and liver, heart, and other ailments that they say can be traced to Monsanto's PCB production. To date, a comprehensive study of the illness rates in Anniston residents has not been conducted. I think this is a failure of the system.

I cannot believe that we would continue to work towards a cleanup, monitor groundwater, surface water, and soil composition, and never once ask how all this is affecting the health of the citizens that live there.

I understand that Solutia, which is the successor company to Monsanto, and EPA have reached an agreement to clean up Anniston, but I have to agree with my constituents, that it fell short of expectations. I believe it is imperative to conduct a comprehensive health study for the residents, yes, the residents, the people who live in Anniston. Without this information, without the best science and information available, I believe we will continue to make bad decisions and bad choices for the people who live there.

I plan to work with the Labor and HHS Appropriations Subcommittee to request a comprehensive health study in Anniston, Alabama, and I would call on EPA today and Solutia to work with me towards this goal.

The past actions of the agencies testifying today cause me great despair. It is my hope that they will be able to reassure me and to reassure my constituents that the actions of the past will in no way reflect what they will do in the future.

Madam Chairman, I want again to thank you for holding this hearing today. It is very important, I believe, to my constituents, and perhaps to others like this in the United States.

Senator MIKULSKI. Well, thank you very much, Senator Shelby. I think you have laid out the issues very clearly, and we thank you for that.

We are now going to turn to Deputy Regional Administrator Stanley Meiburg, who is a professional from EPA, who has been a career public servant and comes also with a doctorate from Johns Hopkins, in my own home State. I welcome you.

And then we have Dr. Falk, who is also the Assistant Administrator for the Agency for Toxic Substances and Disease Registry, who himself is a physician, as well as brings his considerable background in public health. So he understands the day-to-day issues involved in being a patient, but also what are the public health impacts of the advice that can be given.

So, Mr. Meiburg, we are going to turn to you.

And then, Dr. Falk, then you can go ahead. And we will then go into questioning.

Mr. MEIBURG. Thank you very much, Madam Chair.

STATEMENT OF A. STANLEY MEIBURG

Madam Chair and Senator Shelby, my name is Stan Meiburg, and I am the Deputy Regional Administrator for the Environ-

mental Protection Agency's Region 4 office in Atlanta, Georgia. I am pleased to have the opportunity this morning to testify about EPA's efforts to address PCB contamination in Anniston, Alabama.

Over the years, polychlorinated biphenyls, known as PCBs, and lead, have been discovered at levels of concern in commercial and residential areas of the city. PCBs have also been found in creeks, rivers, flood plains, and lakes as far away as 40 miles downstream. The principal sources of these PCBs is the chemical manufacturing plant owned formerly by Monsanto, and currently by Solutia, Incorporated.

EPA is working with other Federal, State, and local agencies to address pollution in Anniston. Most recently, EPA and the Justice Department signed a consent decree with Solutia. Under this decree, Solutia will conduct a comprehensive study of PCB contamination in Anniston and the surrounding area. The consent decree has been lodged in Federal District Court, and the Justice Department is currently taking public comment on it. After review of the comments, EPA and the Justice Department will decide whether to ask the District Court to finalize the consent decree.

My prepared statement covers these activities in more detail, but this morning I would like to briefly describe why we think this approach will produce progress for a comprehensive, scientifically sound cleanup.

Senator MIKULSKI. Mr. Meiburg, if you would withhold for a moment. I ask unanimous consent that your full statement be included in the record. I note that what you are giving now is a summary of your testimony. Let the record also show that our brief review of your written testimony only eliminates the historical aspects of this in the time we have allowed you, but it does not leave out the important issues that you want to address. Am I correct?

[The statement follows:]

PREPARED STATEMENT OF A. STANLEY MEIBURG

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

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

EPA is committed to protecting human health and the environment in Anniston. EPA intends to work in a cooperative fashion with state and local government, industry, and the citizens of Anniston, to ensure a comprehensive cleanup. Because PCBs are considered probable carcinogens and are linked to neurological and developmental health problems, EPA is committed to using our available resources and

authorities to protect the public health and welfare of the citizens of Anniston. The following discussion will review the history of the PCB problem in Anniston and the actions EPA has already undertaken. I will also describe the terms of the Consent Decree and explain why we believe this will result in a comprehensive, scientifically sound cleanup of Anniston.

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

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

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

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

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

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

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

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

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

EPA's CERCLA program began sampling off-facility properties in west Anniston in February of 2000 to expand our understanding of the scope and extent of PCB contamination in west Anniston. Since February of 2000, EPA has sampled approximately 800 residential, public, and commercial properties. In October of 2000, Solutia entered into a Consent Order with EPA, which was revised by an amended Consent Order in October of 2001. Under the Consent Order, Solutia agreed to take over the residential sampling for EPA in the areas covered by the Order, and address any property where PCBs are found at a level that could cause short-term health concerns. This work is being done with close supervision by EPA. Pursuant to this Order, at any home where PCB levels in the yard exceed short-term risk levels, Solutia is required to temporarily relocate the residents and remove the contaminated soil and replace it with clean fill. Of the more than 1,000 homes that have been sampled by EPA or Solutia thus far, 24 properties require clean up because they exceed the short-term clean up levels.

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

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

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

Over the years, EPA has attempted to work closely with ADEM and other agencies to maximize the resources the government is able to bring to bear in Anniston. In the past, EPA and ADEM followed a basic division of labor for Anniston, with the State taking the lead role in the remediation of the Solutia plant property while EPA handled all other areas. In 2000 EPA, at the request of the community, conducted an independent review of the cleanup of the plant and the two landfills on Solutia's property. EPA utilized its Environmental Response Team (ERT) to conduct this review. ERT is a specialized group within EPA which provides expertise and

support at the request of the Regions at significant sites posing unique problems. The ERT published a report of its findings in May of 2001. While the ERT Report supported ADEM's activities on the property, it also indicated that several areas needed additional study and that more work needs to be done to ensure that there are not ongoing releases from the facility and the landfills.

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

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

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

The Consent Decree requires the RI/FS process to cover all areas where PCBs are located, including the Solutia plant property and the landfill areas. EPA will build on ADEM's previous work in these areas, and intends to work cooperatively with ADEM's RCRA program to maximize resources and avoid redundancy. EPA made the decision to assess the entire Anniston area under the Consent Decree for the following reasons: (1) because of the widespread nature of the PCB contamination; (2) to provide a single programmatic and legal framework for the entire area; and (3) to ensure that before EPA conducts cleanup activities downstream and in floodplain areas that there is no potential for release of PCBs from the property. By conducting the additional air, groundwater, and soil studies called for in the ERT Report, EPA will make certain that the Solutia facility and the landfills are not ongoing sources of contamination.

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

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

Mr. MEIBURG. Yes, Madam Chair. Thank you very much.

Senator MIKULSKI. Okay. So please proceed.

Mr. MEIBURG. Thank you.

During the 1980s and 1990s, EPA worked with the Alabama Department of Environmental Management, or ADEM, to address PCB contamination in Anniston. In the mid-1990s, however, we received reports from citizens concerned about the extent of contamination. In July of 1999, ADEM asked us to use our Superfund authority to address certain areas outside the boundary of the plant, and in April 2000, Governor Siegelman wrote to the President requesting his assistance.

Since then we have conducted soil and air sampling at residential, commercial, and industrial properties in West Anniston, and identified properties with PCB levels which need immediate cleanup. This work is being paid for by Solutia. More than 1,000 residential properties have been sampled to date, and Solutia, under close EPA supervision, must address any property where PCB levels raise short-term health concerns.

In February of 2000, we set up a community relations center in downtown Anniston, and have funded consultants from local community groups to help them understand our activities. We also conducted an independent review of the Solutia plant property, which showed that while a lot of good work has been done, some areas need additional study to make certain there are not ongoing releases from the property.

We also needed a comprehensive plan to clean up PCB and lead contamination which can pose longer-term risks. Therefore, in early 2001, EPA began negotiations with Solutia to conduct a remedial investigation and feasibility study which would fully define contamination associated with their facility, and develop cleanup alternatives.

These negotiations resulted in the consent decree which was lodged in Federal District Court on March 25. The consent decree was open for public comment until June 3, 2002. This consent decree requires Solutia to hire EPA-approved contractors to evaluate the extent of the contamination, its risk to public health, and the environment, and to develop cleanup options for the site. This work will be rigorously overseen by EPA. EPA will then select a final cleanup remedy after additional public input.

Solutia will have to follow the requirements of the Federal Superfund process, continue to clean up residential yards on a worst-first basis, spend $3.2 million on a trust to help children with special educational needs, and provide $150,000 for citizen groups to hire technical consultants. In addition to paying EPA's future oversight costs, Solutia will also reimburse over $6 million for past EPA expenses.

The remedial investigation and feasibility study will cover areas where PCBs are located, including the Solutia plant property. Its coverage is broad for three reasons: first, the widespread nature of the PCB contamination; second, to provide a comprehensive framework for the entire area; and third, to ensure that there is no potential for future releases of PCBs from the property.

We are all aware that the community would have wanted EPA to include in this consent decree funding for medical services. We

were not able to achieve this outcome since we had no authority under Superfund to require funding of this type. However, Solutia has agreed to the educational trust described above, and we regard this as a positive step. Moreover, the consent agreement gives the government the ability to carefully oversee all study and cleanup actions. The fact that the company entered into this consent decree shows public involvement at every step in the process, and ensures that maximum available funds are spent on actual cleanup activities.

The ultimate cleanup of Anniston will be complicated, because the contamination involves a large and diverse geographic area, and will take years of hard work, and cost millions of dollars to fix. In this case, our Superfund authorities are the best guarantee of a timely, complete cleanup, and we have the technical expertise necessary to oversee the work.

We are proud of our ongoing activities, and look forward to working with our other Federal partners, local and State authorities, citizen groups, and individuals to protect the public health and the environment in Anniston.

Thank you for the opportunity to testify, and I will be happy to address any questions you may have.

Senator MIKULSKI. We will come to those. Thank you.

Dr. Falk.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT OF HENRY FALK, M.D., MPH, ASSISTANT ADMINISTRATOR, AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

Dr. FALK. Thank you very much.

Good morning, Madam Chair and Senator Shelby. My name is Henry Falk, and I am the assistant administrator of the Agency for Toxic Substances and Disease Registry.

Let me say very briefly that ATSDR is a Department of Health and Human Services agency, but we have a role under CERCLA and Superfund to work closely with EPA, State health departments, and local communities for looking at the health issues related to Superfund sites. I am pleased to be here with you this morning to share our agency's work in Anniston, Alabama.

I would like to briefly highlight some of our health-related activities in Anniston, and I would ask that my longer written testimony be made part of the record.

Our initial involvement in Anniston came in 1995 when the Alabama Department of Health, with both technical and financial support from ATSDR, found that there was a likelihood of human exposure to PCBs for residents living next to the site where PCBs were produced in the past. The PCBs were clearly at decidedly elevated levels. The average was 24.5 parts per billion, which is considerably high for an average level.

Both the Alabama Department of Health and ATSDR conducted a number of continuing consultations and investigations in subsequent years, with assistance from EPA, State, and community groups. In the year 2000, we prepared a report summarizing the information on serum PCB levels and other information on almost 3,000 individuals in Anniston.

Almost half of the individuals had detected levels of PCB in their blood. Approximately 15 percent had levels that were above 20 parts per billion, and actually 35 percent were above 10 parts per billion. All of these are considerably elevated numbers.

PCB levels in some residential soils posed a public health hazard.

Last year, ATSDR did another smaller exposure investigation of individuals living close to the site, and again, five of 43 adults had elevated PCB levels in their blood, although none of the 37 children tested had elevated levels.

Also, last year, ATSDR released two health consultations related to lead contamination in Anniston. And in response to community concerns, we worked together with, again, the State and local health departments, Community Against Pollution, and other community groups, to facilitate a screening program for lead poisoning values in children. Although a few elevated levels were found, collectively, the data did not indicate levels of lead in children that were higher than State or nationwide levels.

As a result of this program, CAP, Community Against Pollution, acquired additional resources from several groups to conduct ongoing monthly health education classes regarding lead poisoning in the community, and I think the collaborative effort involved in that project did foster good communication between the community, local physicians, and State and Federal health agencies.

In a meeting, again, last year with David Baker and members of CAP, there were two other things that I had promised him that we would work on. One was to have a workshop related to the potential for health studies and to evaluate those issues, and we did have a workshop in January of 2001. We hope to have the results of that workshop available next month.

Second, we did highlight the issue of the importance of neurobehavioral development in children exposed to PCBs, and the importance of education programs, and several groups have continued to focus on that.

We have a number of upcoming activities in Anniston; we are continuing to review available environmental data, and additional health data. We have been assisting others working in that area, such as on a project that CDC will be doing, in assessing community environmental health issues. We stand very ready, as we have in the past, to work with groups at the State level, local level, and community level to conduct any further sampling of serum levels, any further health testing, and review of environmental data.

This concludes my testimony. I will be happy to answer any questions. Thank you.

Senator MIKULSKI. Thank you very much, Dr. Falk.

[The statement follows:]

PREPARED STATEMENT OF HENRY FALK, M.D., M.P.H.

Good morning, Madame Chairman and members of the Subcommittee. I am Dr. Henry Falk, and I am the Assistant Administrator of the Agency for Toxic Substances and Disease Registry (ATSDR). I am pleased to be meeting with you today to share with you the results of our agency's ongoing work in Anniston, Alabama.

We join you in your concerns about the health and well being of children and families in Anniston and across the country. We also share your desire to address the concerns expressed about illnesses and diseases that might be linked to environmental factors. In fact, ATSDR was created to address these types of concerns.

Congress created ATSDR in 1980 through the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), more commonly known as Superfund. The Superfund legislation created ATSDR to be the principal public health agency to evaluate the human health effects related to exposure to hazardous substances from waste sites and other locations with uncontrolled releases of hazardous substances into the environment. ATSDR was charged with evaluating public health concerns and advising the U.S. Environmental Protection Agency (EPA) and State health and environmental agencies on any actions needed to clean up hazardous waste sites and protect the public's health.

ATSDR works in close collaboration and partnership with EPA; other Federal agencies; local, State, and tribal governments; health care providers; and affected communities. As an agency of the U.S. Department of Health and Human Services (DHHS), ATSDR has made a difference to all of these partners by providing new information to assist in remedial decision-making and evaluation. Our work includes answering the health questions of persons who live in communities near affected sites, recommending preventive measures to protect public health, and providing diagnosis and treatment information to local health care providers. ATSDR administers public health activities through partnerships; public health assessment and consultation activities; exposure investigations; health studies and health registry activities; development of toxicological profiles and attendant research; emergency response; health education and health promotion; and community involvement.

Today, I will summarize our health activities in Anniston and also report on some of the activities of our partners.

Anniston Health Issues.—In response to community members' concerns about polychlorinated biphenyls (PCBs) in Anniston, ATSDR is working with EPA 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. Investigations, both past and ongoing, have determined that PCBs are present in the soil at numerous residential and commercial properties in Anniston. In more recent investigations, EPA is further assessing the contamination by sampling for other contaminants, including metals such as lead.

The earliest health work was done by the Alabama Department of Public Health with both technical and financial support from ATSDR. In 1995 that department released a report indicating the likelihood of human exposure to PCBs for residents living next to a site where PCBs were produced in the past. The ensuing investigation found that approximately 25 percent of the people tested had elevated levels of PCBs in their blood. The department's health assessment released last year determined that people living near the Solutia plant were at risk. The results showed that there was both a current and past public health hazard for children if they were exposed to PCBs in soil at specific homes where the soil had not been remediated.

ATSDR Research on PCBs.—ATSDR has published extensive up-to-date information on PCBs in its Toxicological Profile for Polychlorinated Biphenyls, which was revised in November 2000. An ATSDR paper on the public health implications of PCBs published in September of 1999 reported the following potential health effects associated with exposure to PCBs:

—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.

Additional research conducted under the Great Lakes research program has further demonstrated that:

—Children born to mothers who consumed more than the median number (116) of fish meals before their pregnancy were significantly more likely to have low birth weight.
—Maternal serum PCB concentration was significantly associated with fish consumption and low birth weight.
—Infants who had been exposed prenatally to the most highly chlorinated PCBs had poorer performance on the habituation and autonomic tests of the Neonatal Assessment Scale when tested 24–48 hours after birth than did infants who were not exposed.

The relationship between prenatal exposure to PCBs and performance on the Fagan Test of Infant Intelligence (FTII) was assessed in infants at 6 months and again at 12 months. The results indicated a significant relationship between exposure to PCBs and poor performance on the FTII.

PCBs and DDE were markedly elevated in a cohort of adults who consumed fish. Exposure to PCBs, but not to DDE, was associated with lower scores on several measures of memory and learning.

ATSDR Health Consultation Activities Related to PCB Exposures.—In 2000, ATSDR released a draft consultation of our evaluation of PCB soil and air data provided by EPA and information provided by an Anniston attorney on the biological blood sampling data of 3,000 individuals. The consultation reported the following findings:

—PCB levels in some residential soils posed a public health hazard.

—About half of the persons tested had detectable levels (greater than 3 parts per billion for this consultation) of PCB in their blood.

—Approximately 15 percent of the persons tested showed blood PCB levels that indicated elevated environmental exposure, or levels greater than 20 parts per billion.

—Air data were not sufficient to make a health judgment.

At the request of residents, ATSDR conducted a health consultation to evaluate water quality in two private wells in Anniston. The health consultation found that all substances of concern in the well water samples were below levels of health concern.

Last year ATSDR released a final report on an exposure investigation conducted to address community concerns about ongoing exposure. A primary interest in the investigation was evaluating exposures to children. The report concluded that:

—Five of 43 adults tested had blood PCB levels that indicated elevated environmental exposure.

—None of the children tested (37) had blood PCB levels indicating elevated environmental exposure.

—Blood PCB levels were not correlated with soil or house dust PCB levels.

ATSDR Health Consultation Activities Related to Lead Exposure.—In 2001, ATSDR released two health consultations related to lead contamination in Anniston. The first found elevated levels of lead for west Anniston properties. The second consultation evaluated lead levels at a softball park about 5 miles from Anniston. The health consultation found that lead levels at the park were below levels of health concern.

In response to community concerns that children in Anniston could be exposed to lead, ATSDR and a local group, Community Against Pollution (CAP), facilitated a screening program in spring 2001. The program focused on children less than 6 years old who lived in areas of Anniston known to have contaminated soil. Four of the 410 children screened were found to have blood lead levels equal to or greater than current guidelines of 10 micrograms per deciliter (g/dL). Close to 25 percent of the children screened had blood lead levels of 5.0 g/dL to 9.9 g/dL. These findings provide evidence that children are being exposed to lead. Because of the limited number of sampling results, this project did not provide a complete picture of blood lead levels in Anniston. Collectively, however, the data indicate that blood lead levels in children in Anniston are similar to those reported for other areas of the State and nation.

As a result of this program, CAP acquired additional funding from several sources to conduct ongoing monthly health education classes in the community. These classes emphasize the importance of continued screening and provide information that community members can use to reduce the potential for exposure to lead.

The collaborative efforts demonstrated through the success of the screening program have fostered communication among the Anniston community, local physicians, and local, State, and Federal health agencies. The project provides evidence that community-based research can result in a successful outcome for everyone involved.

PCB Expert Workshop.—In early January of this year, ATSDR held a panel session in Atlanta entitled Exploring Opportunities for PCB-Related Health Studies in Anniston, Alabama. The purpose of the session was to gather input from nationally recognized PCB experts on issues related to the options of conducting health study activities in Anniston. The seven experts on the panel came from different universities throughout the United States, including the University of Alabama at Birmingham and Harvard University. Among the issues discussed at the session were research needs, community needs, and methods for reaching a better understanding of exposure in the Anniston community. Community members, as well as State and Federal health and environmental officials, attended as audience observers. A summary report of the meeting will be available in May.

Pediatric Environmental Medical Support.—In 2000, the Southeast Pediatric Environmental Health Specialty Unit (PEHSU), which is based at Emory University in Atlanta and is supported by ATSDR and EPA, became involved in Anniston to

provide information and support to local pediatricians. While in Anniston, it became clear that there was concern among community members for the health and well-being of the children. In particular, concerns were voiced regarding the number of children who had difficulties with development, learning, and behavior. The big question voiced by community residents was what role pollution played in this picture.

A series of meetings was held over the course of a year between the PEHSU representatives and the leaders in the community. These meetings focused on finding a solution to help the children, rather than on what may or may not be the cause. On December 4, 2001, a day-long working conference was held in Anniston. Leaders from all sectors of the community attended the conference. Participants included the mayor and representatives from community action groups, business, education, and health care all committed to the well-being of the children of Anniston.

Conference attendees produced a list of concepts and ideas for future discussion, including the following:

—An inventory of existing agencies to identify resources in the area that would be needed to meet the needs of children with learning and developmental problems.

—A program to enhance existing services for children with learning and developmental disabilities; additional services could also be considered to better meet the needs of as many children as possible. This program could improve the likelihood of a positive outcome and success in life for the children of Anniston.

—A process for documenting learning and developmental disabilities in Anniston and evaluating the success of intervention services.

A Steering Committee was established to explore these suggestions. The committee has met twice and has scheduled a community-wide meeting for April 30, 2002, to update the entire community on the progress to date and generate the next set of steps.

Health Care Needs.—ATSDR has neither the legislative authority nor the resources to provide medical care in any of the communities in which we work. Moreover, frequently we find that "Superfund" communities lack the necessary medical care resources. We can and do call on our Pediatric Environmental Health Specialty Units to provide medical care referrals. We offer specialized training to local physicians on diagnosis and treatment related to exposure to specific chemicals. We also work to identify other programs in the U.S. Department of Health and Human Services that may offer assistance and resources to these communities.

Future Activities in Anniston.—ATSDR in cooperation with EPA, State and local agencies, and the community is continuing a number of activities, including:

—A health consultation reviewing air data near the site for January 2000 January 2001;

—A review of available blood lead data for Calhoun County over the past 5 years;

—A final version of the health consultation entitled Evaluation of Soil, Blood, & Air Data from Anniston, Alabama;

—Collecting samples of locally grown vegetables, which will be tested for the presence of PCBs and lead;

—A health consultation that will evaluate fish consumption as a potential PCB exposure pathway;

—Assisting as appropriate in the Protocol for Assessing Community Health Excellence in Environmental Health (PACE-EH, funded by the National Center for Environmental Health, Centers for Disease Control and Prevention), under the direction of the Calhoun County Health Department. This community-based process will provide a better understanding of the environmental health concerns of the community.

We have been intensively involved in the Anniston community for the past 3 years, and will continue our work for the foreseeable future. In close cooperation with our partners in the community, in the State, in other Federal agencies, and in academia, we remain committed to protecting and promoting the health of Anniston's citizens.

Madame Chairman, this concludes my testimony. I will be happy to answer any questions you or the other subcommittee members may have.

Senator MIKULSKI. Ordinarily, the Chair begins the line of questioning, but as a Senatorial courtesy, I would like to extend to Senator Shelby the opportunity to begin the questioning. I believe it will set the tone, and will establish a very good framework.

Senator, please.

Senator SHELBY. Thank you, Madam Chairman. Thank you for your courtesy. We have worked together on a lot of issues since we were in the House together, and then in the Senate.

Senator MIKULSKI. Senator, remember, we were on the Energy and Commerce Committee when so much of this legislation that we are overseeing today was created by Superfund——

Senator SHELBY. Absolutely.

Senator MIKULSKI [continuing]. And we were one of their supporters.

SUPERFUND DESIGNATION PROCESS

Senator SHELBY. We worked together then, and we work together now. Thank you, Madam Chairman.

I will direct these questions, unless I say otherwise, to the Deputy Regional Administrator of EPA, Mr. Meiburg.

Does EPA, sir, always handle Superfund contamination in this manner, that is, by ceding responsibility to the State agencies?

Mr. MEIBURG. Senator, generally, Superfund is a Federal program that, unlike many of the programs that EPA has which are delegated authorities of the Clean Air Act, or the Clean Water Act, or the Resource Conservation Recovery Act, Superfund itself is one that we directly administer ourselves.

Senator SHELBY. Okay. Tell me how the cleanup effort, or tell the Committee, I should say, would differ if Anniston were officially declared a Superfund site, and if they were placed on the National Priorities List.

Mr. MEIBURG. Senator, actually, the activities that we have laid out in the consent decree are exactly what we would be doing if——

Senator SHELBY. The same thing?

Mr. MEIBURG. Yes. That is correct.

Senator SHELBY. In other words, there would be no difference if you put Anniston on the so-called—if it were declared a Superfund site, and was placed on the national priorities list, that would not make any difference?

Mr. MEIBURG. No. If we placed it——

Senator SHELBY. Then why do you have a different list then?

Mr. MEIBURG. If we placed it on the National Priorities List, the first step that would occur would be that we would conduct a remedial investigation and feasibility study to determine the extent of contamination and to develop alternatives for cleanup, which is exactly what this consent decree provides.

EPA VS. CORPORATE CLEAN UP ACTIVITIES

Senator SHELBY. Okay. The citizens of Anniston are concerned that Solutia, which is the successor company—they just changed the name, I think—to Monsanto, would be overseeing testing and cleanup of any future PCB contamination detected. Is this the normal practice? Why does EPA not do the work, and make the company pay, in other words?

Mr. MEIBURG. Well, let me see if I understand the question correctly.

Senator SHELBY. Do you want me to ask it again?

Mr. MEIBURG. Yes, please.

Senator SHELBY. Okay. The citizens of Anniston that I have talked with are very concerned that Solutia, the company, will be overseeing the testing and cleanup of any future PCB contamination that is detected. My question is: Is this a normal practice? And why does EPA not do the work, and make the company pay, rather than the company do the work?

Mr. MEIBURG. There are two ways we can proceed on cases like this.

Senator SHELBY. Okay.

Mr. MEIBURG. One, as you said, is for EPA to do the work, and then go back and seek reimbursement from the company. The other option we can have is for the company to pay up front to do the work with oversight by EPA, which is provided for at every step in the process.

Senator SHELBY. Well, see, a lot of the people there would have a lot more confidence in EPA than they would in the company who they believe brought the pollution in the first place, and covered it up for years. Do you understand where—it is a question——

Mr. MEIBURG. Yes, sir.

Senator SHELBY [continuing]. Of credibility.

Mr. MEIBURG. Yes, sir. The credibility issue is very important, and we fully understand the very significant role that we have in providing exactly that kind of oversight. The decree provides that in the conduct of our oversight that if we determine at any point that the company is not following exactly the procedures that are laid out that we would use, then we can step in and take over the activities.

Senator SHELBY. In your testimony, you state that the contractors will be hired to conduct a thorough, comprehensive study of the PCB program in Anniston and the surrounding areas; however, others have alleged that the study will only be done on property where PCB contamination has been detected.

Could you please explain to the committee exactly what will be studied, so that we are all clear? In other words, if you are just going to look where PCBs have been discovered thus far, that sounds like a sham cleanup.

Mr. MEIBURG. Senator, the point——

Senator SHELBY. See, you have to reassure the people of what you are doing; otherwise, they would have no confidence in this measure, and rightly so. Go ahead, sir.

Mr. MEIBURG. Yes. That is absolutely right. It is very important that the people have confidence in the results of the study. The intent that we have in the oversight, and the conduct of the study is to look throughout the community——

Senator SHELBY. Okay.

Mr. MEIBURG [continuing]. To see where it is possible the PCBs may have been, whether they have been found there previously or not.

Senator SHELBY. That is what you mean by "comprehensive study."

Mr. MEIBURG. Yes, sir.

Senator SHELBY. Your intention is to clean—find what is there, identify, and clean it up——

Mr. MEIBURG. Yes, sir.

Senator SHELBY [continuing]. Is that right?

Mr. MEIBURG. Yes, sir. In part, the reason why comprehensive is so important is that, as you look over the history of identification of contamination at this site, when you look back you find that it initially started as a narrow potential area of concern, and expanded as we got more information, for example, about where the flood plain was. Some of this information is information that we received from citizens themselves that has been very helpful.

PREVENTING FURTHER CONTAMINATION EPISODES

Senator SHELBY. How do we prevent another Anniston-type situation from happening? That has to be a concern of yours at EPA. Could it be happening again?

Mr. MEIBURG. That is a very good question. The main thing, in terms of preventing activities like this from happening in the future, reaches to a couple of areas. The first is: We have to make sure that we have good laws and regulations on the books to govern people's activities, and that those laws and regulations are effectively enforced.

We have to have a very strong partnership with all of the people involved, including communities, as well as State regulatory agencies under the Resource Conservation Recovery Act, and our own activities to make sure that companies are preventing pollution problems. It is much easier to prevent them than it is to clean them up afterwards.

Senator SHELBY. Right now, we have a cleanup, a big, bad cleanup problem, have we not?

Mr. MEIBURG. Yes, sir. In Anniston, this is going to be a very difficult——

Senator SHELBY. Words have meaning, we always know that, and the word "comprehensive" has deep meaning, but only if a comprehensive job is actually carried out; in other words, done right, broad and deep. Is that correct?

Mr. MEIBURG. Yes, sir.

ADEQUACY OF CONSENT DECREE

Senator SHELBY. Mr. Baker alleges in his written testimony that the consent decree makes no sense, given Monsanto's past performance, specifically because it does not address a cleanup of the landfills. The allegation is that the PCBs continue to come from these sites. Are they, and how do we guarantee that it is not happening?

Additionally, if you could, address specifically why these were not included as part of the cleanup initiative called for in the consent decree. In other words, if you are going to talk about a comprehensive plan to clean it up, do you not have to go to the landfills, too? Do you want to comment on that?

Mr. MEIBURG. Yes, sir, I will. One of the precise reasons that we included the landfills, which are on the property of the plant itself, in the framework of the consent decree, was to ensure that risks from the landfills would be addressed as part of the overall assessment, that we have to make sure, that as a scientific matter, whether or not there are continued releases from the landfill to look at the——

Senator SHELBY. In other words, you are not excluding the landfills——

Mr. MEIBURG. No, sir. They are very much included.

Senator SHELBY [continuing]. In the consent decree. You are saying they are not going to be excluded.

Mr. MEIBURG. That is correct.

Senator SHELBY. They will be included——

Mr. MEIBURG. Yes, sir.

Senator SHELBY [continuing]. Okay, in the comprehensive study.

Mr. MEIBURG. Yes, sir.

COMMUNITY PARTICIPATION

Senator SHELBY. A lot of people argue that they have been largely ignored throughout this process, and have no one to speak for them. And in particular where the terms of the consent decree is concerned, some of the most important needs of the community a lot of people feel have not been addressed. Have the communities' needs been addressed, do you believe, in this, or will they be addressed?

I think most of them, maybe not all concerns, but are the ones of health. In other words, a lot of people cannot move from the community. They do not have economic resources to do that. They have to live there. They worry. They are worried about their children. They are worried about their health, and rightly so. Do you want to address that? Do you think they have been included, their concerns here, or will they be? They have not in the past, so the question is: What is different now?

Mr. MEIBURG. Senator, the issue of the needs of the community is one that is important to us. We recognize that when you look at the issue of community needs, you are not just talking about cleanup of the site; you are talking about all of the needs, whether they be health, whether they be economic development——

Senator SHELBY. That is right.

Mr. MEIBURG [continuing]. Any of those kind of things. What we are trying to do, within the scope of our statutory authority, is to make sure that what we are doing is well explained to the community, that we have a presence in the community, so that people can understand what is going on, and address questions that they may have. That is one of the reasons that in the negotiation of the consent decree, we pushed for some provisions that we could not do if we were doing the activities on our own; for example, the educational trust fund.

Senator SHELBY. Has the Anniston community been treated differently from other communities with similar problems in the United States, or is it a uniform policy?

Mr. MEIBURG. Senator, I do not know if I could speak for every community in the United States, but I will say that we have tried, because of the concern the community has raised to us, to make sure that we are paying particular attention to answering questions, and working with groups in the Anniston community.

TESTING FOR PCBS

Senator SHELBY. Is it possible to test to guarantee that the dumps are not releasing PCBs? In other words, if the PCBs are

there, has any testing been done of the dumps to see, thus far, to your knowledge? Do you know?

Mr. MEIBURG. There has been testing done at the dumps. One of the things we would like to do in the course of the study is to do some additional testing to make sure.

Senator SHELBY. Comprehensive testing?

Mr. MEIBURG. Yes, sir. There are three possible pathways for release of the contaminants from the dumps. One would be surface water runoff. The second would be airborne release of some form. And the third would be groundwater contamination. So we want to make sure that each one of those pathways is fully investigated.

COMPREHENSIVE HEALTH STUDY

Senator SHELBY. Should not a complete health study be done there, and should it not be done by some group like the Center for Disease Control, or somebody that the people would have confidence in their findings? Do you oppose that?

Mr. MEIBURG. No, we do not oppose that at all. I would defer——

Senator SHELBY. Do you promote that? I would promote it. Do you disagree with it?

Mr. MEIBURG. No, sir.

Senator SHELBY. Okay. Do you have any comment on it?

Mr. MEIBURG. Only that I would defer on the expertise of that, as we do ourselves, that we are not health experts, and we usually defer to our colleagues with the ATSDR, as Dr. Falk mentioned in his statement, for a lot of assistance on that kind of work.

ROLE OF ATSDR

Senator SHELBY. Dr. Falk, could you explain to us how ATSDR becomes involved in a community, and what their role is? Specifically, what has been your role in Anniston, Alabama?

Dr. FALK. Let me say generally that ATSDR, as I mentioned, is an HHS agency. It was created as a result of the CERCLA legislation, for the purpose of working on health issues related to Superfund sites. We work very closely with EPA as a result, and we have cooperative agreement programs with a number of State health departments, including the Alabama State Health Department.

At the same time, because we are with HHS, we are connected, for example, to other HHS agencies, and particularly, the CDC. The Administrator of ATSDR, who I report to, has always been the same person as the Director of CDC. So we work very closely with folks at CDC, and have a very good collaborative relationship.

Let me say in terms of our role in Anniston, we have been supportive of the State health department. We have met many times with community groups. We have tried to assist on the particular issues that have been raised by the communities, such as evaluating all of the serum PCB levels that have been drawn; such as working on the lead projects; such as helping them through proposed health studies.

I might add, if I could for a moment, in terms of health studies, that this committee has supported work which ATSDR has carried out over the last 10 years in the Great Lakes area, which is an extensive research program, that has released a number of reports and studies on the health effects of PCBs, so that the work that

has been supported in that area has produced a large body of information on what the potential health effects are.

I think in terms of health studies in Anniston at least for us, we would want to work very closely with the State and with the community to think through what would be the most appropriate health study, what would be most helpful to people——

Senator SHELBY. Does that include the CDC?

Dr. FALK. Sure. As I said, we work with them regularly. I report basically to the same person as the director of CDC. For example, when we do laboratory work, as in Anniston, the serum samples are tested in the CDC, because we do not have our own lab to actually run those samples. So we work closely with them on a regular basis.

Senator SHELBY. Thank you.

Thank you, Madam Chairman. I will wait for the next round.

RECUSAL OF EPA OFFICIALS

Senator MIKULSKI. Yes. Thank you, Senator Shelby. We will come back to this.

Mr. Meiburg, my first line of questions will really be with you, and then my second line will be to Dr. Falk.

Know that, number one, I respect you when I said "career civil servant at EPA who brings a great deal of professional expertise and experience," but I will tell you what I am troubled about. It seems like everybody is recused in this situation.

Now, let me go through what is usual and customary at EPA. On a regular basis, to whom do you report?

Mr. MEIBURG. On a regular basis, I report to the regional administrator, in this case, Mr. Jimmy Palmer.

Senator MIKULSKI. Why is he not here today?

Mr. MEIBURG. Mr. Palmer was recused on this case, because he worked in private practice—his background was that he was an executive director of the Mississippi Department of Environmental Quality for 12 years, from which he resigned in 1999, and went into private practice as an attorney. While he was in private practice as an attorney, he represented a couple of the foundries which are in Anniston, and one of the issues in this case is the contamination in the Anniston community—there is PCB contamination, but there is also some lead contamination. He was involved with these companies. He had been involved with the foundries. He had no connection with Solutia, per se. But the issue, just to finish up the point, is that the foundries and Solutia may have interests that are adverse to each other when it comes time to apportion responsibility for paying for the cleanup——

Senator MIKULSKI. Okay.

Mr. MEIBURG [continuing]. And under the rules of the Mississippi Bar, he could not be involved in this case.

Senator MIKULSKI. Okay. Now, to whom does Mr. Palmer report?

Mr. MEIBURG. Mr. Palmer reports to Governor Whitman.

Senator MIKULSKI. To whom?

Mr. MEIBURG. To Governor—to the Administrator.

Senator MIKULSKI. Does not Mr. Palmer report to Linda Fisher, who is the Deputy Administrator?

Mr. MEIBURG. Linda Fisher is the Deputy Administrator.

Senator MIKULSKI. To whom do the regionals report? Do they all report to Administrator Whitman——

Mr. MEIBURG. Yes, they do.

Senator MIKULSKI [continuing]. Or do they report to Administrator Whitman through Linda Fisher?

Mr. MEIBURG. They report directly to the Administrator. Obviously, the Administrator and the Deputy Administrator work together very closely on all matters affecting the agency.

Senator MIKULSKI. What is the role of the Deputy Administrator, Linda Fisher, normally, in working with the regions?

Mr. MEIBURG. The Deputy Administrator normally is almost the chief operating officer, and handles a lot of the day-to-day matters that affect the agency. Regional administrators have a great deal of flexibility and discretion under EPA's organizational structure, but they work together closely as a team.

Senator MIKULSKI. Now, why did Linda Fisher not come today?

Mr. MEIBURG. Linda Fisher is recused on this case, because she worked for Monsanto in the 1990s.

Senator MIKULSKI. So here we are with Region 4, in Atlanta. One of the biggest environmental cases is Anniston, Alabama. It has been a lingering issue for a number of years, and the regional administrator cannot do anything about it, because he is recused. I honor the legal recusing, but it means that we have essentially appointed somebody to head Region 4 that cannot do anything about Anniston.

Then the deputy helper to Administrator Whitman is also recused, because they worked for Monsanto. Well, this is just loaded with conflict of interest here.

I am not going to ask you to comment. You are a professional civil servant.

But, Senator Shelby, I just wanted to bring this to your attention. I am——

Senator SHELBY. You are absolutely right.

Senator MIKULSKI. I am very troubled about this, that nobody can do anything, because they are recused, because of what-all they were doing. Now, I am going to ask the second one.

So who is in charge of Anniston, Alabama? Who can come in with clean hands, and not be recused over this, and excused over that? Is it you, Mr. Meiburg?

Mr. MEIBURG. Senator, I have the day-to-day decision-making responsibility.

Senator MIKULSKI. Are you in charge of this?

Mr. MEIBURG. Yes, ma'am.

AUTHOR OF CONSENT DECREE

Senator MIKULSKI. Now, who is the architect of the consent decree?

Mr. MEIBURG. The consent decree was negotiated between the Justice Department, and, obviously, with our considerable involvement, and Solutia, to come up with a good consent decree in this case.

Senator MIKULSKI. So who was the architect of the consent decree, the Department of Justice, or EPA?

Mr. MEIBURG. I think the best answer to that would be: The EPA is the one who was responsible for working on the terms of the consent decree, and the substantive terms, and they got legal assistance in this matter, as in all the matters that we are involved in, legally from the——

Senator MIKULSKI. And that is you?

Mr. MEIBURG. I did not negotiate the consent decree on a daily basis, but supervised the——

Senator MIKULSKI. But who was the architect of the elements of the consent decree? Was it you, or was it someone else? And if there was, who was the "someone else"?

Mr. MEIBURG. I want to make sure I am properly responding to your question.

Senator MIKULSKI. Well, let me tell you what I mean by "the architect." The architect is the one who designs the framework. It could be a building; it could be a social program. They are the designers. Then they bring in the lawyer, or the title settlement guy, or whatever.

So I am asking you: Who was the architect of the content of the consent decree?

Mr. MEIBURG. This may not answer your question, but if it doesn't, I will try to respond more——

Senator MIKULSKI. Yes, please——

Mr. MEIBURG [continuing]. Precisely.

Senator MIKULSKI [continuing]. To the best of your ability. Remember, this is not a spring hazing. I am trying to parse this out, coming back to what troubles me here. Go ahead.

Mr. MEIBURG. Thank you, Senator.

The architect, or the plan that we followed in issuing this consent decree is, in fact, the national contingency plan that we use in conducting Superfund cleanups. And to the extent that there is an architect that we followed, or a blueprint that we followed in constructing the consent decree, it was the national contingency plan, our objective being——

Senator MIKULSKI. That is the architecture, but who was the architect? Was that you, or was it Palmer, or was it Fisher, or was it Whitman, or was it somebody else?

Mr. MEIBURG. To the extent that there is a responsible official for the consent decree—the Administrator is not recused. She is aware of this particular situation. But to the extent that there is an individual who would bear primary responsibility, that would be me.

Senator MIKULSKI. Okay. Then who did you get the sign-off from? I mean, did you call Administrator Whitman, talk to her, say, "This is what we are doing on Anniston, Alabama"? Again, I am not being sarcastic, please.

Mr. MEIBURG. No, I understand. We consulted in our own organization, with our Assistant Administrator for Solid Waste and Emergency Response, which is Marianne Horinko. We consulted with our Counsel's office. We consulted with the Department of Justice, to all get signed off on the decree.

Senator MIKULSKI. That is the national contingency.

Mr. MEIBURG. Yes, ma'am.

Senator MIKULSKI. Did Palmer have to sign off on anything?

Mr. MEIBURG. No, ma'am.

Senator MIKULSKI. Would he ordinarily have signed off, and would he ordinarily have been the person in charge?

Mr. MEIBURG. Yes, ma'am.

Senator MIKULSKI. But he had to be recused. Would Fisher have been involved in working with this, but she had to be recused? So, therefore, did this consent decree and its basic content go directly to Administrator Whitman?

Mr. MEIBURG. Administrator Whitman has been briefed on the general situation with respect to Anniston, but she has not reviewed the terms of the consent decree.

Senator MIKULSKI. So who has? Just you?

Mr. MEIBURG. I have; the Justice Department has; my own legal staff; my Regional Counsel; my Waste Management Division has been involved in reviewing those things, yes, ma'am.

Senator MIKULSKI. Is that a usual way for a deputy administrator in the region?

Mr. MEIBURG. Yes, ma'am, it is. It is not at all unusual in regional offices that deputy regional administrators or regional administrators are involved in large complex sites.

Senator MIKULSKI. Well, I want to go to a second round.

But, Senator Shelby, do you see the point that I was getting at here?

Senator SHELBY. Absolutely, Madam Chairman. I think that was an excellent point, and I will still pick up on that. I have some questions, too, on that area, but you got into it before I did.

Senator MIKULSKI. But I am going to turn to you for a second round. I just want to ask one other question of Mr. Meiburg. I think we might have to just hold a hearing on regions, and who is in charge, and delegation.

Senator SHELBY. And who is responsible for this? In other words, who is responsible for this?

SUPERFUND SITE DESIGNATIONS

Senator MIKULSKI. That is exactly right. This is with great respect to Mr. Meiburg, and the professional expertise he brings, but behind so many people. There are so many conflicts of interest. From the deputy administrator, to the Regional Administrator, who has to recuse on this and has to recuse on that, I feel it is very troubling, and actually uncharacteristic of the administrator.

But here is my question: Why has not Anniston gone to Superfund? Because we have seen potholes go in the Superfund site faster.

Mr. MEIBURG. Senator, the reason that this is not on the National Priorities List is because we have been able to achieve through this consent decree all of the steps that we would have taken had we listed the site on the National Priorities List.

We have had, I know, different opinions on this within the community, but there is some significant representation we have had from the leadership of the community expressing concern about that. The part the community is united on is that everyone wants the cleanup to proceed as quickly, and as expeditiously, and as scientifically and technically sound a way as possible. We believe this

consent decree gives us the ability to do that, and do everything we would do if it were listed on the NPL.

Senator MIKULSKI. Are you telling me that you would do everything—that the consent decree is a substitute for declaring Anniston, or spots in Anniston, a substitute for a Superfund site, for a designation? When you use the National Priority List, that is really the official term for Superfund, am I correct?

Mr. MEIBURG. Yes.

Senator MIKULSKI. So you are using the consent decree as kind of a proxy for a declaration of a——

Mr. MEIBURG. That is correct.

Senator MIKULSKI. But in a Superfund site, or national priority list, is not a geographic area the usual and customary designated area? And in this consent decree you are only doing hot spots?

Mr. MEIBURG. Senator, in the consent decree—and it speaks to Senator Shelby's question about comprehensive—the point of the remedial investigation feasibility study is to look at the entire area affected by the site, which can go all the way down into Choccolocco Creek, and down into Lake Logan Martin. So it is really a very broad and extensive area that is being studied.

Senator MIKULSKI. Well, I have other questions.

But, Senator Shelby, why do you not pick up for a second round?

CONSENT DECREE

Senator SHELBY. Thank you, Madam Chairman.

Let us go back to the consent decree, and who was involved in it. The Chairman here was asking a very important question. If you have so many conflicts here and there, what we would like to know for the record—and you can furnish this to the committee; you might not have it today—step by step, is: Who was involved in the creation from EPA's standpoint, and Justice's standpoint, in this consent decree? Was it people who later recused themselves from testifying, or from maybe signing off on it finally, but had input into this?

One of the real problems in Anniston, honestly, and the Chairman, Senator Mikulski, touched on this very deeply, is trust. Do the people have any trust and any faith in this situation, in other words, in the problem being cleaned up, as it should be in Anniston, Alabama?

That is part of the problem here, and then this is exacerbated by the idea of so many people having conflicts. So we would like to know who was involved in the creation of this consent decree.

You know the old story, the fox watching the hen house. Gosh, these could be some big foxes there watching the hen house, or maybe they were involved in this architecture, this consent decree. Maybe they were. I do not know that. But for the record, I think we want to know, because trust goes right to the bottom of it, and there is no substitute for it.

How can we today, or how can you, as representing the EPA, assure the people at Anniston, Alabama, or any other site around the country, that this is not going to be a sham cleanup, that this is not going to be somebody who can walk away from it, and so forth?

I think that is a very important question, because they have no faith. They would have no faith in a sham cleanup, because they

have seen what is going on before, where facts were hidden from the people over the years, not just by the Federal agency, but by the State agency, and by the company, the perpetrator itself, after they knew all these things.

Do you understand where I am coming from, sir?

Mr. MEIBURG. Yes, sir, I think I do. Let me try and address the two questions about who was involved——

Senator SHELBY. Sure.

Mr. MEIBURG [continuing]. In the negotiation of the consent decree, and then the larger question of trust.

Senator SHELBY. All right.

Mr. MEIBURG. In terms of the negotiation of the consent decree, the staff who work in Region 4, our attorneys and our technical staff, as well as the Department of Justice staff, who follow standard models that we use in negotiating consent decrees, were the ones who were involved, and who negotiated this consent decree.

If you need exact names, I would have to supply that for the record. But it was a staff-driven, staff-led process in working with the company, as we do in many, many Superfund——

[The information follows:]

STAFF INVOLVED IN THE CREATION OF THE CONSENT DECREE

U.S. Environmental Protection Agency

Stan Meiburg, Region 4, Deputy Regional Administrator, (acting RA from January 21, 2001 until January, 2002)

Marianne Horinko, Assistant Administrator for Solid Waste and Emergency Response

Phyllis P. Harris, Regional Counsel and Director of Region 4, Office of Environmental Accountability

Richard Leahy, Chief of the Office of CERCLA Legal Support in Region 4.

U.S Department of Justice

Thomas L. Samsonetti, Assistant Attorney General for the Environment and Natural Resources Division

Senator SHELBY. Sir, did anybody that later recused themselves because of conflicts have any input at all, one scintilla of input into this decree?

Mr. MEIBURG. No, sir.

Senator SHELBY. You mean everybody was just as clean as a whistle; is that what you are saying?

Mr. MEIBURG. That is correct.

Senator SHELBY. That means nobody had any conflict.

Mr. MEIBURG. I have had no discussions on this consent decree with anyone who has recused themselves on this case.

Senator SHELBY. Well, you said you did not, but what about other people? Do you know that?

Mr. MEIBURG. Not to the best of my knowledge.

Senator SHELBY. Well, is it not very important, going back to trust again, that people believe that this decree is above—that this consent decree, this decree by agreement, that it is meaningful, it is comprehensive, and it is going to do the job? In other words, that it is not in any way a sham?

Mr. MEIBURG. Yes, that is very important, that it speaks to your larger issue of trust. My own sense is that trust is something that takes a very long time to build, and it is——

Senator SHELBY. In this case, it is going to have to be built by the deed, not the word, right?

Mr. MEIBURG. Yes, sir. That is exactly right.

PCB LEVELS

Senator SHELBY. All right.

Dr. Falk, I was asking you some questions earlier. We heard time and again that the PCB levels in the blood of the residents in Anniston are higher than normal. Could you explain to us what is considered normal, and then compare and contrast that with the levels of Anniston residents?

If you could go a step further, if you could, tell us why high PCB levels in someone's blood is bad. You have the technical ability to do that.

Dr. FALK. Okay. I think going back to the late 1970s, and based on the distribution of blood levels of PCBs in the population, the level of 20 was considered to be elevated, 20 parts per——

Senator SHELBY. The level of 20.

Dr. FALK. Yes, 20 parts per billion——

Senator SHELBY. Per 1 billion?

Dr. FALK [continuing]. Yes, in the blood serum was considered elevated. Now, recognizing that, since the PCBs were no longer in production and slowly decreasing in the environment over the years, we think that the background levels in the population have correspondingly diminished over that time.

Senator SHELBY. Excuse me. You said "we think." What do you know, not what you think?

Dr. FALK. Sir, let me——

Senator SHELBY. Okay.

Dr. FALK. In our toxicology profile, in which we summarize this information, the background levels from more recent studies seem to be in the range of between, let's say, three and eight, or three and ten parts per billion.

So we are hoping that later this year, when the data from the National Health and Nutrition Examination survey comes forth, we will have a better randomly selected representation of the national population—I mean we have a good comparison level, but we think it has probably been coming down from that twenty level towards about ten.

Senator SHELBY. When was it in the 20 level?

Dr. FALK. That was in the late 1970s, when——

Senator SHELBY. In the Anniston area?

Dr. FALK. No. That is what we would consider elevated——

Senator SHELBY. Okay.

Dr. FALK [continuing]. In general. Now, I think among Superfund sites across the country, the levels that we see in Anniston, in people, are probably considerably higher than in most any of the sites.

Senator SHELBY. Say it again. You are saying, as I understand it—and these are your words, and you correct me if I am wrong——

Dr. FALK. Yes, sir.

Senator SHELBY [continuing]. That in the Anniston area, that it has a high—the people have a higher level of PCBs in their blood.

Dr. FALK. Yes. For the group, the average level is higher, peak levels are higher, the range is higher. Not every person——

Senator SHELBY. I understand that.

Dr. FALK [continuing]. But the average is higher. For example, I think I may have mentioned this quickly before, but in the very first evaluation of the first 103 people done in 1995, 1996, by the Alabama Department of Public Health, the average level of those 103 people was 24. So you see, the average level was above what we would consider elevated.

Senator SHELBY. And it would be higher elevations in certain areas of Anniston where people lived, as opposed to—you know, it is a big county, Calhoun County. Is it everywhere, or do you know?

Dr. FALK. Well, the elevations are in relation to——

Senator SHELBY. The population.

Dr. FALK. In West Anniston, in relation to the site. I think the complexity for us, and the reason why I am personally pleased to hear you speak in terms of comprehensive evaluation, is that sometimes when we have, let us say, a release from a plant, you see a very steady but very clear change, in relation to distance—and I think in Anniston, it is not quite so clear. There are spots where the levels are higher. There are spots where the levels are lower.

It is not—it is not always easy to predict for any particular yard or person exactly what that PCB level would be. So I think one actually, in Anniston, does have to do a very——

Senator SHELBY. A comprehensive evaluation would bring all that out, would it not?

Dr. FALK. Yes. Exactly.

HEALTH EFFECTS OF HIGH PCB LEVELS

Senator SHELBY. Sir, what does a higher level of PCBs in the blood serum mean? What is the significance of that?

Dr. FALK. Sometimes we have chemicals at Superfund sites that cause very distinctive abnormalities. So, for example, we have the Superfund site where there is asbestos exposure, and one can see very characteristic changes in the lungs. So it is, you know, one-to-one, a very tight relationship between exposure and the particular health effects seen.

What we have learned with PCBs, and this relates not just to the work that we have done in the Great Lakes project, but that others have done as well, is based both on animal studies and also based on human studies. There are concerns about neurobehavioral, developmental effects in the young. There are concerns——

Senator SHELBY. Developmental effects of babies and children, right?

Dr. FALK. Learning——

Senator SHELBY. Learning disabilities.

Dr. FALK. Yes. And they are not distinctive or they are not different from many impediments that might occur for other reasons, but statistically, one sees a greater likelihood. The same thing has been reported for immunologic function. We see changes in immunologic tests, but not a single specific——

Senator SHELBY. Weakening of the immune system?

Dr. FALK. Weakening of the immune system. There are concerns about the——

Senator SHELBY. What about the unborn? What about——

Dr. FALK. I think the developmental effects——

Senator SHELBY. Do you think that is there?

Dr. FALK. The development effects start with studying the effects in utero, where the mothers have been exposed to PCBs, and that is clearly the very vulnerable period.

What I am trying to say is that there are effects that are seen. They are not, in most cases, distinguishable from similar effects that might be seen for other reasons, but they occur in increased rates.

Senator SHELBY. Thank you.

Thank you, Madam Chairman. I will wait for the others.

TIMING OF EPA ACTION

Senator MIKULSKI. Those were excellent lines of questioning, Senator Shelby, and in many ways paralleled my own.

Mr. Meiburg, let me come back to EPA. Essentially, my questions are: What took EPA so long? On page four of your submitted testimony, you go into describing the activities of EPA. The last paragraph says, "Over the years, EPA has attempted to work closely with ADEM," which is the Alabama Department of Environment, "and other agencies to maximize the resources the government is able to bring to bear in Anniston. EPA and ADEM followed a basic division of labor for Anniston, with the State taking the lead role in the remediation of the Solutia plant property, while EPA handled all other areas."

Well, when did EPA become actively involved in Anniston? Could you give me a chronology? And then why did it take from all of these years, that—I know the community has been active, and raising concerns, and taking it to Alabama—that we do not get a consent decree until March 25, 2002?

Mr. MEIBURG. Senator, I can supply a detailed chronology for the record. But the larger question you have asked, "Why did it take so long," is probably the most difficult question, as I look back on it. And I think it is fair to say that if we knew—if we had known some years ago what we now know about the site, then I think the course of action might have been different.

Our specific involvement really dated from 1999. We had requests in the mid-to late 1990s, particularly from citizens there who were pointing out that the extent of the contamination, they believed, was more extensive than had previously been looked at.

I think that it is fair to say that—up to that time, that generally the view had been that there was contamination in—going from the plant, down into Snow Creek, down to Choccolocco Creek, and into Lake Logan Martin, along the watercourse, and that the extent of the contamination throughout the neighborhoods and the surrounding area, and flood plains, I think came as a bit of a surprise to us.

And the Alabama Department of Environmental Management, asked us to help come in in 1999, when they were not able to address some of the questions they wanted to get answered through the terms of their RCRA permit. And then we had the request from the Governor of Alabama in 2000 as well. So really, our most active

involvement there at the site, under the Superfund program, dates from the mid-1999 period.

[The information follows:]

ANNISTON PCB SITE CHRONOLOGY

Dates	Actions taken
1979–1980	Eckhardt Report (Waste Disposal Site Survey) released citing Monsanto's Anniston Plant Landfill as a facility which handled hazardous waste.
	ADEM prepares CERCLA Preliminary Assessment and Site Investigation reports on the Anniston Plant Landfill.
1980–1981	Monsanto submits RCRA Part A Application and is granted RCRA interim status to continue operating.
1982–1983	EPA file review and preliminary CERCLA Hazard Ranking System scoring. Based on available data, preliminary score is below threshold score for proposal on National Priorities List.
1984	EPA requests RCRA Part B permit application including facility-wide groundwater investigation.
1985	Monsanto submits Part B permit application for EPA/ADEM review and comment.
	Alabama Attorney General discloses PCB contamination in Snow Creek; EPA defers cleanup of Snow Creek to ADEM.
	EPA issues RCRA 3008(a) Order to Monsanto for failure to implement on site groundwater monitoring program consistent with the RCRA regulations.
	ADEM conducts CERCLA Preliminary Assessment recommending ''no further action'' based on status as active RCRA-regulated facility.
1986–1987	Monsanto submits ''Snow Creek Sediment Removal Protocol'' to ADEM.
	EPA and ADEM jointly issue RCRA permit to Monsanto.
1987–1990	Monsanto continues to implement requirements of RCRA Part B permit including closure activities, groundwater monitoring, and development of groundwater corrective action systems.
	Monsanto implements Snow Creek sediment removal.
1991	EPA conducts RCRA Facility Assessment identifying solid waste management units and areas of concern.
1993	ADEM conducts investigation of PCB contamination in Snow and Choccolocco Creeks.
	ADPH issues ''no consumption of fish'' advisory for fish caught in Choccolocco Creek between Snow Creek and Lake Logan Martin.
1994	ADEM conducts Preliminary Assessment on West End Landfill.
	EPA defers action to ADEM pursuant to the RCRA deferral policy.
1995	ADPH and ATSDR conduct exposure investigation and health consultations in February and October.
	ADEM negotiates Consent Order with Monsanto to determine if PCB releases have occurred. As a result of the studies Monsanto initiates property buyouts and a relocation program in residential areas adjacent to and east of the facility. Monsanto constructs sediment pond and other stormwater runoff control devices to mitigate flooding and further transport of contaminated sediments in these areas.
1996	ADEM issues second Consent Order requiring additional characterization of off-site contamination; design and construction of additional run-off controls and acquisition of additional adjacent properties north of the facility.
1997–1999	Monsanto Company formed Solutia Incorporated.
	Monsanto implements on-site control measures and investigation of off site contamination as required by the RCRA Part B permit re-issued by ADEM.
	EPA Administrator Carol Browner received letter from the West Anniston Environmental Justice Task Force, now known as Citizens Against Pollution(CAP), asking for EPA action in regard to PCB contamination in Anniston.

ANNISTON PCB SITE CHRONOLOGY—Continued

Dates	Actions taken
1999	Solutia continues investigatory and control measures required under the permit.
	ADEM requests EPA take lead role in ''remote'' off-site remediation areas under CERCLA. (areas unrelated to the drainage pathways of Snow and Choccolocco Creeks).
	Data summaries of extensive soil and blood serum sampling, indicating widespread PCB contamination in west Anniston, is submitted by plaintiffs attorney. This data was collected as evidence in a lawsuit filed againstSolutia.
2000	EPA opens Community Relations Center in Anniston and initiates removal assessment through extensive sampling.
	ADEM responds to soil disturbance activities at various PCB-impacted areas in the floodplains of Snow and Choccolocco Creeks by requiring Solutia to perform corrective actions in these areas under the RCRA permit.
	Governor Siegelman sends letter to President Clinton requesting federal assistance in remedying the environmental contamination and human exposures in Anniston.
	EPA finalizes AOC to require Solutia to continue sampling and cleanup of residential properties to address short-term risks.
	EPA funds Southeast PEHSU at Emory University to assist with Continuing Medical Education in Anniston, Alabama. Key focus areas are medical education and training, telephone consultation, and clinical specialty referral for children who may have been exposed to environmentalhazards.
2001	EPA begins negotiations with Solutia and Pharmacia (formerly Monsanto) on Remedial Investigation/Feasibility Study for off-site areas to addresslong-term risks.
	Solutia initiates first cleanup at a residential property. Other similar actions were delayed due to denial of access.
	EPA revises AOC to expand sampling and cleanup areas.
	EPA Environmental Response Team issues Final Summary of Technical Review and Evaluation of Potential PCB Releases. The report is an independent evaluation of on-site work to date. The report indicates several areas where additional study and/or work should be done.
	ADEM continues to require Solutia to address on-site and off-site contamination through the RCRA permit.
2002	March 25, EPA lodges Consent Decree in Federal Court in Birmingham
	April 4-June 3, public comment period on Consent Decree
	United States will provide the comments and responses to comments to the Court upon completion of the comment period and ask the court to (1) enter the Consent Decree in its current form, (2) withdraw the Consent Decree, or (3) seek to modify the Consent Decree based on the comments.

Acronyms:
ADEM—Alabama Department of Environmental Management
ADPH—Alabama Department of Public Health
AOC—Administrative Order on Consent
ATSDR—Agency for Toxic Substance and Disease Registry
CERCLA—Comprehensive Environmental Response, Compensation, and Liability Act (also known as Superfund)
EPA—Environmental Protection Agency
PCB—Polychlorinated biphenyls
PEHSU—Pediatric Environmental Health Specialty Unit
RCRA—Resource Conservation and Recovery Act

Senator MIKULSKI. Well, then I am confused about your testimony, and your written testimony. I am going to go to this, because this goes to where there is EPA and where there is not EPA.

According to page two of your testimony, it says, "EPA's involvement with the cleanup activities parallel the evolution of the Federal laws regarding disposal cleanup of hazardous waste." This was pretty much when Senator Shelby and I were over in Energy and Commerce.

And Senator, you recall, Jim Florio was the chairman of that subcommittee——

Senator SHELBY. Right.

Senator MIKULSKI [continuing]. And we were working on this.

Senator SHELBY. He comes from New Jersey.

Senator MIKULSKI. Yes. That is right.

But it says—when this was all being developed, it says, "EPA first became involved with this facility in the late 1970s, when they were looking at the legal structures for hazardous waste. In the early 1980s, EPA worked with the State of Alabama to determine how and under which program to best address the facilities at Monsanto and Anniston."

It says the 1970s, the 1980s.

Again, according to the written testimony, "Between 1980 and 1985, the facility applied for an application for an operating permit," like lots of industrial facilities.

I have some of those facilities in my own State. I know that is a tough—normally, it is a tough application process, as it really should be, because it is to do prevention. In other words, it is tough to get a permit so that you do not get into the jackpot of pollution.

In 1986, Monsanto got a permit from EPA and ADEM. So they got a permit to operate, while all this stuff was going out of the plant into the community. "In 1985, the Alabama Attorney General's Office informed EPA that contamination in nearby Snow Creek was caused by releases of PCBs from Monsanto." The AG of Alabama, in 1985, said this stuff is leaking; the AG.

Later, "following discussions with the Alabama AG, ADEM and EPA, Federal action regarding Snow Creek was deferred to the State." 1988, submitted a cleanup plan. They removed 1,000 tons. I could go on.

This, sir, is not 1999. Where was EPA? Either responding to the needs of Anniston on the oversight that they provided to the region, and the region to the Alabama Department of Environmental Management—I presume that is what the "M" stands for.

Mr. MEIBURG. Yes. That is correct.

Senator MIKULSKI. Based on this, we were in it. We were in it. The Attorney General of Alabama was in it. Requesting Federal help in it. But where was EPA?

Mr. MEIBURG. Senator, generally, the State agency, in looking at this—and I think my testimony attempted to reflect this—addressed this primarily during the years leading up to 1999.

Senator MIKULSKI. When did you come to Region 4?

Mr. MEIBURG. In 1996.

Senator MIKULSKI. Okay. So you have been there—so I am going back historically. The intention in my question—can you understand how I look at this?

Mr. MEIBURG. Yes.

Senator MIKULSKI. It is that, according to this, the chronology of your own testimony says EPA knew about this, EPA was involved with the highest level of the legal community in Alabama, and the legal enforcement, in terms of the attorney general who himself asked for help on Snow Creek, and Snow Creek was both literally and metaphorically what was happening in other hot spots around Anniston. Nothing, nothing. Divisions of labor between EPA and ADEM. Nothing. Nothing.

In the meantime, this is leaking, hemorrhaging all the while into the community, into the playgrounds, into gardens, into creeks,

into communities. People had brain tumors. Children were born with defects. Young men were dying. And it is hard enough in this world for young black men to survive, let alone when EPA is still doing divisions of labor.

Well, whatever way you divided those labors did not seem to work. When you got there in 1996, did you find under every rock there was another rock, and under that rock was PCBs?

Mr. MEIBURG. Senator, I think that probably the best way to answer your question is that it is absolutely true that the State has known about the site. It has known about particularly the landfills and other areas where PCB production had occurred, which ceased in 1971, but where PCB production occurred, that the landfills were there, and they needed to be remediated.

There was a substantial amount of activity that went on during the 1990s on the facility site itself to try to cap the landfills and stop the migration off the site into the community itself. That went on under the authority of RCRA during the 1990s as part of the permit process that you mentioned, and part of the corrective action. So there were actions that were taken to try to limit the further releases.

The thing that I think is the most new to us was the extent, the geographical extent within the community itself, and that really did not come to our attention until the mid-to late 1990s.

Senator MIKULSKI. Well, time is moving on, and we want to hear from Alabama, and the Department of—as well as the people, but I have just a few other questions, and then a final round by my colleague.

TIMING ON ATSDR PARTICIPATION

Dr. Falk, we are talking now about public health, and also when the agencies got in. When and how did ATSDR become involved in the Anniston situation?

Dr. FALK. Yes, I came to ATSDR in 1999. My understanding is that the agency became involved in 1995 by working with our cooperative agreement partner, which is the Alabama State Health Department.

ATSDR becomes involved working on health issues, basically, through three primary ways.

One is a site is declared a Superfund site, if it is on the NPL list. We have to evaluate those sites. That triggers ATSDR involvement. Second, is if there is a petition request that comes into the agency, and we evaluate petitions to look at sites. We roughly——

Senator MIKULSKI. You mean citizen petitions?

Dr. FALK. Citizen petitions. Under the CERCLA legislation——

Senator MIKULSKI. That is right.

Dr. FALK [continuing]. Citizens can petition.

Senator MIKULSKI. The right to know, the right to be heard, the right——

Dr. FALK. Exactly.

Senator MIKULSKI [continuing]. To be protected.

Dr. FALK. We respond to all the petition requests, and we follow up on and investigate about 50 percent of those that come in. So I am presuming that there was no formal petition at this site before 1995, and I am assuming that.

The third way in which we become involved is if we are alerted to the site either by State partners, or local officials, or EPA, or somebody else. So I am assuming that in 1995, the initial involvement came by way of the Alabama State Health Department.

In terms of my own involvement, when I came to ATSDR on in 1999, as I mentioned, we received the request from the community that had already, working among themselves, and with their advisors, received blood samples on these 2,970 people, and they had developed that information themselves and requested ATSDR assistance in its evaluation.

This is not—let me say, this is not the usual course for ATSDR engagement at a site. Usually, we consider the need for a health study; we go out and we discuss it with the community, the health department. And then we say, "Let us do a health study. Let us design it. Let us get input," and so on.

In this case, this was unusual, and for me coming on relatively new, that there was material on a substantial number of people, including blood tests——

Senator MIKULSKI. That the community themselves had developed.

Dr. FALK. The community themselves had developed it.

ACTIONS BY THE COMMUNITY

Senator MIKULSKI. It shows how desperate they were, because this is a very costly, and expensive, and technical process. So a poor African-American, a poor—of modest means, obviously not poor in spirit, you know, obviously not poor in spirit, had to go somewhere where there was no government anywhere to help them get their blood test, that they knew about.

Dr. FALK. Right. But they did——

HEALTH STUDIES

Senator MIKULSKI. I am not finger pointing at you.

Well, let me go on here, because we do want to—we have to move on to the other witnesses.

I note that in the consent decree that the decree does not require Solutia to fund health studies. And I want to be clear, because each and every—both of you gentlemen have used "medical treatment," and I am not parsing words here, because they are two distinct things, and Dr. Falk has both an M.D. and a masters of the public health. You know what I am talking about.

Treatment is provided in physician and clinical services, but the public health studies are ordinarily provided or mandated by government to know what kind of treatment people need, and to provide ongoing evaluation to see if the situation is getting worse or better, the classic epidemiology done by public health agencies.

Do you believe that there is—that we need to have ongoing health studies of this community? And who then should provide it, since nobody asked Solutia to do it?

Dr. FALK. There are several things I would like to say about that. First off, one can, knowing the serum PCB levels, and what is known about PCBs, at least understand what the potential effects might be.

One of the issues, which I think is very important, is fully characterizing what the PCB levels are in everybody, and what the extent is. That gets back to the issue of comprehensive. If one does not know that somebody—if somebody has never been tested for PCB levels, one does not know that they have been exposed, et cetera. So that is one issue that I think it is very important to fully characterize, so people will understand whether they have been exposed, they carry PCBs, or not.

The second issue is: Health studies can be done for different purposes. They can be done for purposes of research. Can we learn more about the health effects of PCBs? I think that is one issue that could certainly be looked at. In a sense, can we learn something here that we have not learned in other places? And second, can it help the community understand what the potential effects are in terms of assessing what the effects are in the community?

I think we stand very ready——

Senator MIKULSKI. So where are we coming with those three things? We are not going to do research.

Dr. FALK. Right. So we would be very ready—I mean we have tried to do this——

Senator MIKULSKI. Very ready to do what?

Dr. FALK. To work with the community, work with the State——

Senator MIKULSKI. To do what?

Dr. FALK [continuing]. In conducting any health studies that would be appropriate. Health studies can take a long time. Health studies can be complicated in an area like this, where one is looking for statistical increases. I think we would be prepared definitely to work with the community, and work with the State health department to design such a study, if that——

Senator MIKULSKI. And no one has asked you to do it? Do you have the authority to volunteer and be entrepreneurial, to say "This is what we could do," and convene your own meetings?

Dr. FALK. We do, act as—you say entrepreneurial, or make opportunistic suggestions, but I think you cannot do a health study without the participation of everybody in the community. I think in a situation like this, in a very complex situation, it really——

Senator MIKULSKI. "Everybody in the community" are the residents, in my mind. That "everybody in the community" is not government. So if they are ready to go, then we will talk more about that.

Dr. FALK. We would be happy to work with them on that.

Senator MIKULSKI. Thank you, Dr. Falk. I have other questions, but we really have to get to the second panel.

I am going to afford you——

Senator SHELBY. That would be great.

Senator MIKULSKI [continuing]. Another round, Senator. But I must say, I am troubled that the decree does not require the Solutia to fund health studies, and that the decree does not order wide-scale cleanup that is a hotspot-focused one. And I am very troubled by this conflict of interest issue, but there you go.

Senator SHELBY. I will be brief. I share your remarks, as you know, and again, I just want to raise this again.

Where has EPA been, as Senator Mikulski said? Where has the Alabama Department of Environmental Management been? We think that we know the answer to those questions: Absent.

The real question is: Where will they be in the future? We ask: Where will they be in the future? I believe we have to have a comprehensive health study of the community, and I believe, sir, the EPA can do that. And if you do not do it, there is not going to be any trust by this Senator.

I cannot speak for the chairperson here, but I can read the questions she is asking, and the tone of the questions. I do not believe there is going to be any confidence in this committee, which is the funding committee for EPA.

If you are not going to do this right—you have botched it in the past. The Alabama Department of Environmental Management has botched it in the past.

What are you going to do about it now? We hope you are going to do it right, because it is the right thing for the people.

Thank you, Madam Chairman. I know we have some others.

Senator MIKULSKI. Thank you.

Well, again, we could ask additional questions, but we want to thank you for coming today, and I think this has been a very good exchange. But I think there are lot of flashing yellow lights over this, over why it took EPA so long to really stand sentry on this issue, and get action. I think its current management structure, where Region 4—and this is one of the biggest issues, and then one of the ongoing issues.

Well, let us hear from Alabama now, and let us hear from the community. This first panel is excused.

We now call Mr. Stephen Cobb, from the Alabama Department of Environmental Management, as well as Mr. David Baker, the President of the Community Against Pollution, the grassroots organization in Anniston.

While our witnesses are taking their seats, I want to note that Mr. Baker is Mr. David Baker, Sr. He grew up in Hobson City, Alabama, was in the Navy, honorably discharged, and worked in health care issues at a local municipal hospital, and came out of retirement to work on this issue, and has been one of the lead advocates on this.

We know he lives in Anniston with five children. We also know that he is accompanied today by Shirley Williams Baker, who works with him on this great task.

Mrs. Baker, would you stand so we could acknowledge your presence, ma'am? And we welcome you.

We note also that Mr. Baker is a member of the NAACP, and the Coalition for Black Trade Unionists, and has been a life-long activist.

Also here today is Mr. Stephen Cobb, from the Alabama Department of Environmental Management. He is the Chief of the Hazardous Waste Branch, since August of 1999. He comes with a background really of environmental engineering, with degrees in agricultural engineering from Auburn undergraduate, and then a masters in agricultural engineering, and a minor in civil engineering, and is a registered professional engineer, and is a certified public manager.

So we welcome you, Mr. Cobb.

Mr. Baker, we have been listening from government all morning. What I am going to do is ask you to testify, and then ask Mr. Cobb to be the second speaker, and just go on, right on, and then we will go to our questions.

So, Mr. Baker, we welcome you, and ask you to proceed, sir.

STATEMENT OF DAVID BAKER, SR., PRESIDENT, COMMUNITY AGAINST POLLUTION (CAP), ANNISTON, ALABAMA

Mr. BAKER. Thank you, Madam Chairperson.

Senator Mikulski, Senator Shelby, thank you for this opportunity to testify before you today. I will summarize my remarks today, and would like to enter my entire testimony into the record.

A public debate on the Federal Government's responsibility to help my community has been a long time coming. I would also like to take this opportunity to just recognize a good friend of mine, and my ex-boss, Bill Lucy, the Coalition of Black Trade Unionist's president, as well as the International Treasurer, from Virginia, who is present here with me, and my vice president, James Hall. I would like to thank the Environmental Working Group here in Washington, D.C., who have worked with us there in Alabama, under Mr. Ken Cook's direction.

The people of Anniston, Alabama, have waited for more than 40 years for the Federal Government to step in and help us clean up the PCB contaminants in our backyards, and in our playgrounds, our rivers, our creeks, and in our bodies. Unfortunately, after 40 years of waiting, I am here today to report that the Federal Government has failed the people of Anniston, and left the fox guarding the hen house.

This bailout that I speak about today is not a consent decree. I would like to take this opportunity, Madam Chairperson, to just let you know that after sitting here listening for the last hour or so, or the last 45 minutes, I am somewhat disturbed at some of the statements that have been made, and I am somewhat disturbed that if half of the people that were affected by this were here today, you would see tears in their eyes. So I have to cry for them. I looked at my vice president, as people testified.

Anniston, the West Anniston area, geographically, is a pretty much mixed area. The landfill that sits in our area sits between Monsanto and Hobson City, as well as Central City, and part of Nova Street. Geographically, it sits across the street, adjacent from the plant. It did not take us, as rocket scientists, as a community, to recognize the fact that when they began to tear Sweet Valley and Cobbtown down, understanding that it had been contaminated, it did not take an engineer that lived in our community to tell you that the contaminants that went to Choccolocco Creek, and onto Martin Lake, it did not take an engineer to tell us that West Anniston, in its entirety, was contaminated.

In 1995, after finding out Sweet Valley and Cobbtown was contaminated, there were efforts made to move those people out of the area. Successfully, and after a long duration, they were properly moved. People were bought out by Solutia, Monsanto, and moved into other areas. Many of them left with a mortgage. These are people whose homes were given to them by their parents, their

great-grandparents. Many of them had to leave furniture and carpet inside their homes. Churches that were then located in that area were also torn down, and then split between the community.

This company that I speak about today, and this problem that I speak about today, when you find that it is a bailout, after knowing that all these years that people knew and did nothing about it, hardens my heart. It is obvious that they thought that this could continue, and no one would pay any attention to the problem. This is why we are here today. It is not because of an oil spill that was off the shores of the Gulf. This is about someone deceiving the community.

Over the last 30 to 40 years of my life, prior to me leaving and going to New York to become a union rep, I found myself eating from Choccolocco Creek, many fish, as a child, playing in those drain ditches, and as many other children. Just a few days ago, when the courts finally gave us justice by finding this company guilty of all these notorious crimes, the EPA then decided to have an enforcement order.

We knew that there was an attempt made prior to this to have these enforcement orders done, to make this enforcement order come to be, but surprisingly, what scared us was when they found them guilty, it popped up. From where I stand, and from where our community stands, if it walks like a duck, and it quacks like a duck, it has to be a duck.

Why did you wait until we had found them guilty in a court of law, and then turn around and do an enforcement order, and claim that there is no way that you can get rid of it, and this is the best deal you could have? As a labor leader, I remember in negotiations, when you are negotiating, if you do not like what is being said, you continue the negotiations. If you have been negotiating for 2 years, what was the hurry just at that particular time?

$3½ million, they keep jumping up saying that they want to give us for our special education. Sure, we need it. We need this special education money, because we have children who cannot learn, but we also have children who are handicapped; we also have children who are just being born deformed. We also have people right now, that are 30 or 40 years old, that have cancer.

Just a slight story: Just the other day, the EPA came into the community and told the lady across the street from where I live—her son is 3 years old—"Do not let him go outside and play in the yard, because your yard is highly contaminated."

We were given a warning, an advisement warning by ATSDR. We have been living this way for the last 4 years. The last 4 years; we have had to take off our shoes when we got ready to go into the house. Our children cannot play on the grass, so they play in the streets.

Our children should wash their balls if they are playing outside, wash the dogs if they wanted to play with their own pets in their yard. We cannot plant a garden in our yard anymore. Many of the times we have been told, "Well, you can plant the garden, but you have to be careful how you plant it." We have people planting collard greens in five-gallon buckets just to enjoy the land that they live on.

No one will loan us money on our property. No one wants to move into our community, and believe me, nobody really wants to move from the community. All we ask is that the landfill that caused this problem—and it is the cause of the problem. It is buried. Many times today I have heard them talk about just PCBs, but it is not just PCBs that is buried in that landfill. They buried lead, two lead vats that we know of; mercury. They released it on the community. And for 40-something years, people have looked the other way.

Why is the government so interested at this point to run in with a last-minute savior to bail Monsanto out, I do not know. But I thought that when we went to court the other morning—when I was called and told that we had won the case, that we had won, and I got up in the bed, and I began to cry. It was the first time after 4 years that some relief had come.

And then there is a 180-degree turn. Monsanto ran right into court right after this decree order was signed, and said, "Throw out 3,500 complainants' cases," and asked the judge to do so.

Why did they give them leverage? I do not know. Was it done intentionally? I cannot say. But the other night when they told the community and my neighborhood that they had the best deal in the world, it did not work. And I hope today that you have heard enough, and I think that you have presented enough yourself.

You understand that Anniston is not in South Africa, Rhodesia, or some other totalitarian country, that we are Americans, and we live in Anniston, Alabama, and all we want to do is live a normal life.

Yes, we do need a health study. We do need a health assessment. We need a health clinic. We need everything that could be offered, because we have suffered so long.

I thank you.

Senator MIKULSKI. Well, thank you very much, Mr. Baker. That was a pretty compelling conversation.

[The statement follows:]

PREPARED STATEMENT OF DAVID BAKER

Summary

Senator Mikulski, Senator Shelby, thank you for this opportunity to testify today. I will summarize my remarks today and would like to enter my entire testimony for the record.

A public debate on the Federal Government's responsibility to help my community has been a long time coming. I also want to recognize Mr. Lucy from CBTU and thank him and his organization for all their support on this issue.

The people of Anniston, Alabama have waited more than 40 years for the Federal Government to step in and help clean up the PCB contamination in our backyards, our playgrounds, our rivers and creeks and our bodies. Unfortunately, after 40 years of waiting, I am here today to report that the Federal Government has failed the people of Anniston and left the fox to guard the henhouse.

In our opinion, EPA made a 180 degree turn from their original proposal to clean-up Anniston's PCB contamination. We do not believe the consent decree or "Monsanto[1] bailout" is in the best interests of our community, but instead serves the needs of Monsanto. EPA has handed over their responsibility to protect our health and our environment to the same corporate polluter that has misled us for over 40 years. EPA must go back to the drawing board and start over.

[1] References to Monsanto include Monsanto, its corporate spin-off Solutia and its parent company Pharmacia.

This hearing today is critically important to help the people of Anniston shine a bright light on what decisions were made and by whom at EPA and the Department of Justice. Documents show the original consent decree proposed by EPA would have held Monsanto accountable. Now, a year later, we want to know why such dramatic changes to the original proposal for a consent decree were made.

Madame Chairwoman, you are a former community activist and I know you have had your own battles with the Federal Government to ensure your constituents are not exposed to PCB contamination. You can understand the struggle my community has been through over the last 2 decades trying to bring justice to our residents.

Thousands of residents of Anniston have PCBs in our blood and hundreds of children in our community have learning disabilities and behavioral problems. We have high incidences of cancer, diabetes, asthma, thyroid problems and lupis. We can't grow any food in our gardens and our children can't play in our yards. Many of us can't drink water out of our faucets. We can't sell our houses, our churches have been closed and our neighborhoods are dying. All because our community is saturated with PCBs.

The story of Anniston is not unique. There are thousands of people in thousands of communities across the country that face similar contamination, some whose environment and bodies are burdened with chemicals we know, like PCBs, and some who are being exposed and contaminated by new chemicals whose health effects are barely even been known.

Anniston represents the many communities faced with toxic chemicals in our air, water, and soils without the public's knowledge. ADEM recently fined Solutia, for the first time ever, $87,000 for not reporting chemical discharges. This is just a slap on the wrist for the company and is an example of how current State and Federal environmental legislation is riddled with loopholes. As Anniston shows, corporate polluters are not held accountable for what they are releasing and the public is not told what the health impacts may be from these toxic chemicals. Our community is an example that following the "hear no evil, see no evil, speak no evil" approach does not work.

After trying to get State and Federal officials to help the people of Anniston for decades, this latest retreat does not necessarily surprise us. However, in this case, it has directly interfered with our own pursuit of justice in the State court system. Looking at the documents now available from Monsanto and EPA, and posted on Environmental Working Group's web site, we have to wonder if Monsanto would have cooperated with the court process if they didn't have this seemingly sweetheart deal in their back pocket?

EPA wants us to believe that their consent decree is the best deal we will get and will be the quickest path to cleaning up the PCB contamination in our town. How can we believe EPA with Superfund cleanups being cut in half this year? Why should we trust EPA to take care of our town since Anniston is not on the National Priorities List? EPA won't even finish the scoring because Monsanto keeps trying to put a bandaid on an elephant and thinking that will solve the problem.

The Monsanto bailout leaves out too many of the concerns of the community—our immediate need for independent health assessment and clinic, long-term environmental health and medical monitoring, clean up of the dumps where Monsanto dumped 10 million tons of PCBs, and a fair baseline risk assessment conducted by EPA. When you look at it, the consent decree makes no sense given Monsanto's history and lack of credibility with our community. Just one example is the idea that you can cleanup Anniston without cleaning up the dumps. This would be equivalent to drying dirty dishes—you still don't address the core problem.

They say that the timing of the decree was a coincidence, not an attempt to derail the State court. Yet, the record shows EPA cut corners, ignored its own standards and had several last-minute, closed-door meetings with Monsanto so that the decision could be filed before the court finished its proceedings. The decree was signed by Monsanto on March 19 and they filed a petition to dismiss the claims of 3,500 plaintiffs on March 22, 3 days before the decree was lodged. In fact, Judge Laird had to subpoena the decree to make it public. Since the agreement was filed, EPA has made many conflicting statements about the timing, substance and even public review of their decision.

Since 1998, Community Against Pollution has been trying to build a productive, trusting relationship with EPA. That relationship has been broken. EPA could have come to the community when they started their negotiations with Monsanto and asked for our input and kept us informed about the progress. It has been done in many other towns and should have been done in Anniston.

Although we can never make up for the pollution we have been exposed to or the decades of corporate coverup, I am here today to ask for your help in securing some justice for the people of Anniston. It is critical that our community receives funding

this year for comprehensive health monitoring and a health clinic so we no longer are left to wonder about the impact PCBs and other toxics are having on our health and our children.

Let me close by again thanking Senator Mikulski and Senator Shelby for holding this hearing today. We also hope that shining a bright light on the many toxic chemicals that have permeated our bodies in Anniston will convince Congress to do more to protect the public, our children and the environment. We know these chemicals are in all of us now, including the members of your subcommittee.

Speaking for the people of Anniston, I sincerely appreciate the time you have taken and look forward to working with both of your offices to insure that the needs of our community are take care of and not just the bottom line of Monsanto. I would like my full testimony and key documents be placed into the record.

Introduction

Senator Mikulski, Senator Shelby, thank you for this opportunity to testify today. A public debate on the Federal Government's responsibility to help my community has been a long time coming. The people of Anniston, Alabama have waited more than 40 years for the Federal Government to step in and help clean up the PCB contamination in our backyards, our playgrounds, our rivers and creeks and our bodies. Unfortunately, after 40 years of waiting, I am here today to report that the Federal Government has failed the people of Anniston and left the fox to guard the henhouse.

Instead of listening to the community and finally taking some responsibility for the PCB contamination in Anniston, EPA has handed over the future of our public health and environmental safety to a corporate polluter who has repeatedly mislead Federal officials and concealed critical information from the State, the town and from me and my neighbors.

Unfortunately, the story of Anniston is not unique. There are thousands of people in thousands of communities across the country that face similar contamination, some whose environment and bodies are burdened with chemicals we know, like PCB, and some who are being exposed and contaminated by new chemicals whose health effects are barely known.

As I testify today, communities like Anniston are reading newspaper headlines that tell them EPA will only fund the clean up of 40 Superfund sites this year. For communities like mine that haven't even made it on the National Priority List, but still face similar levels of contamination, these headlines have a chilling effect. Will the thousands of other communities also be told that corporate polluters, like Monsanto, will be responsible for the clean up, the risk assessments and the health of the community?

The Federal Government, whether it is the Environmental Protection Agency, ATSDR or the CDC, should ultimately be responsible for ensuring that communities like mine know what toxics they are being exposed to, identifying the health risks from these toxics and preventing them from seeping into our bodies, waterways and communities. Too much of this responsibility is currently left to corporate polluters because of the gaps in our environmental laws and budget shortfalls to enforce what is in place. Anniston clearly shows that under this combination, communities lose and well-connected corporations win.

Background

Poly chlorinated biphenyls (PCBs) production was banned by the U.S. in 1977, and PCBs are among the dirty dozen' toxic chemicals named in the Persistent Organic Pollutants treaty signed by President Bush last summer. As early as 1979, EPA knew that Monsanto had dumped an estimated 10 million tons of PCBs in an unlined landfill in Anniston. Internal EPA documents show that they were worried about groundwater contamination in the early 1970s. The Department of Justice even recommended a lawsuit Monsanto around this same time. No one in our community was notified of the contamination until the early 1990s.

Today, we are living with some of the highest levels of PCB in our air, water and bodies. A fish from a local creek tested at more that 7500 times the EPA's safety level in 1969, yet we weren't warned about eating fish from local waters until 1993. One of our residents, Ms. Ruth Sims, has one of the highest levels of PCBs in her blood ever recorded in a person who didn't work directly with PCBs. Even though EPA initially wanted to dredge a local creek in 1971 because of PCB contamination, no action was taken until 1999. Anniston has ongoing air samples that is two to three times higher than the national norm for PCBs. A panel of PCB experts testified this past January that Anniston has the highest levels of PCBs in our blood and soils in the entire world.

Although State and Federal officials failed to hold Monsanto accountable. Twelve citizens of Alabama finally brought justice to Anniston this year. These 12 jurists and the State court found Monsanto liable for negligence, outrage, suppression of truth and other counts for its contamination.

EPA and Monsanto say that the timing of the decree was a coincidence, not an attempt to derail the State court. Yet, the record shows EPA cut corners, ignored its own standards and had several last-minute, closed-door meetings with Monsanto so that the decision could be filed before the court finished its proceedings. The decree was signed by Monsanto on March 19 and they filed a petition to dismiss the claims of 3,500 plaintiffs on March 22, 3 days before the decree was lodged. In fact, Judge Laird had to subpoena the decree to make it public. Since the agreement was filed, EPA has made many conflicting statements about the timing, substance and even public review of their decision.

EPA Dramatically Weakens Partial Consent Decree

EPA started settlement discussions with Monsanto in January, 2001 with an outline of a consent decree that is dramatically different than the one Monsanto's attorneys used to disrupt the court process a year later. EPA initially proposed: (1) a more extensive Remedial Investigation and Feasibility Study (RIFS) that covered "all areas with hazardous substances associated with Solutia's manufacturing processes, including PCBs; (2) a Monsanto funded comprehensive environmental health program with medical monitoring of Anniston residents; (3) a risk assessment funded by Monsanto but performed by EPA; (4) a $10 million education fund for special needs children in Anniston; and (5) Monsanto funding to cover the response costs of EPA and ATSDR. The consent decree brought into court is a far cry from this original proposal and will only cost Monsanto $9 million, $6 million for past EPA cleanup costs and $3.2 million for the special education fund over 12 years. However, the Monsanto bailout leaves out critical funding in years four and five because Monsanto argued that it needs to put money into another court-order fund during those years. Just as EPA is asking us to trust Monsanto with our health, they also are putting Monsanto in charge of this education fund.

EPA documents show that EPA regional staff did not feel that this final decision would pass muster with national standards. In a letter to Monsanto's attorney in September, 2001, the EPA Associate General Counsel for Region IV wrote that, "the form of the consent decree is such a significant deviation from the models that we may not be able to get it approved in the current form." The consent decree was approved after at least three meetings between Monsanto and EPA in February, 2002, and in time to significantly impact the court process in Alabama.

EPA Decision Gives Monsanto Back Door to Limited Liability

The day after the consent decree was announced by EPA and filed in court by Monsanto, EPA regional officials even recognized that the "timing of everything [involving the Monsanto consent decree] has been strange."[2] After 30 years of little action by EPA, 3 weeks after a jury verdict of liability against Monsanto and several statements by Judge Laird chastising Monsanto for not attempting to settle the case in good faith, the watered-down consent decree comes to light during testimony by Monsanto officials, throwing a monkey-wrench into the court process.

Documents made available in the trial show that while Monsanto was delaying the court settlement it was accelerating the EPA process. On January 22, 2002, Monsanto sent a proposed consent decree to EPA declaring that "the companies view reaching a resolution with EPA and proceeding to conduct the RIFS as a top priority."[3] During court proceedings, a State regulator testified that EPA officials anticipated that their agreement with Monsanto would preempt the State court cleanup ruling. In fact, Monsanto itself is now bragging to its shareholders that the court process will not lead to significant costs. Even though Anniston has 10 times more PCB contamination than the Hudson River, Monsanto has stated that their cleanup cost won't be any higher than the normal range of $30 to $40 million, much less anywhere near the $460 million EPA negotiated cleanup plan for the Hudson River.[4]

EPA Leaves Monsanto in Charge of Community's Health and Environment

Although EPA originally proposed a health study be conducted, the consent decree includes no provisions for a health study and leaves Monsanto in charge of con-

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[2] Elizabeth Bluemink, "Solutia Signs Agreement with EPA, Files New Petition in PCB Trial," *The Anniston Star*, March 23, 2002

[3] Letter from Alan J. Topol, attorney for Monsanto to DOJ and EPA, January 22, 2002.

[4] Elizabeth Bluemink, "Legal Storm Brews Over PCB Issues," *The Anniston Star*, April 4, 2002.

ducting the risk assessment. After having been lied to by Monsanto for 40 years, why should the people of Anniston have to yet again put our health and the future of our community in the hands of Monsanto? Monsanto still insists that PCBs aren't harmful and yet we are being told to trust them to do the risk assessment? This decision is a complete turnaround from the proposal EPA put on the table a year ago and a significant departure from the model agreements EPA is supposed to follow. Originally, EPA proposed to perform the risk assessment itself and Monsanto would provide funding for, but not conduct, a comprehensive community environmental health program with medical monitoring. Now, Monsanto will conduct the risk assessment even though Monsanto officials acknowledge that their work will have little credibility in the community.

In addition, EPA dropped any requirement for Monsanto to pay for a comprehensive health study to determine the effect of PCBs and other toxics in our bodies. Throughout our trial in State court, Monsanto has fought any medical monitoring in Anniston even though they had previously conducted a testing program for plant workers in Anniston. What do they not want us to find out? EPA and ATSDR both list PCBs as a carcinogen and have named it to the "dirty dozen" list of toxic chemicals. They support the science showing it is linked to health problems in the liver, thyroid, immune system and childhood development, and yet they have allowed Monsanto to continue to stonewall any health studies in our community.

EPA's Consent Decree Should be Overhauled Completely to Address Anniston's Needs

The old adage, "hear no evil, see no evil, speak no evil" has obviously played out in this decision. Although EPA and Monsanto negotiated this consent decree in private, behind closed doors, we now have an opportunity to shine a bright light on its flaws and demand that EPA completely re-examine their decision. For the many reasons I have mentioned today, the current consent decree is wholly inadequate. It has failed to meet the basic requests of the community. The record levels of PCB contamination in our bodies, our water, our soils and our air deserve a comprehensive, coordinated effort by EPA, ATSDR and the CDC.

First, Community Against Pollution and thousands of Anniston residents want to see our community put on the National Priority List for Superfund cleanup. The cleanup needs to cover all of the contaminated areas and not be limited to just PCBs. As Monsanto and EPA documents show our community is being exposed to mercury, furons, and dioxins as well. To date, no one has looked at the geologic features of the ground underneath the dumps or where PCBs leaks are occurring. Again, remember that 10 million tons of PCBs were dumped in these dumps. Not addressing the landfill is like drying dirty dishes, it does not get rid of the underlying problem.

Second, a comprehensive health survey with medical monitoring should be conducted by a Federal agency or funding should be provided to an independent entity to conduct it. Just recently the Center for Disease Control announced that it will start a health monitoring program in Calhoun County to identify all the environmental health concerns in the county and public health measures needed for people at risk. Obviously, we appreciate CDC's effort but do not believe that the $140,000 available for the project is anywhere close to what is needed. Right now, people are getting sick, know PCBs are all around them and in their bodies and they don't know which way to turn or who to believe about their health. We need a health clinic in the community that people can turn to on a day to day basis. We also need a comprehensive health and environmental monitoring programs that will routinely test for the level of PCBs and other toxics in our blood, air, water and soils. This data needs to be correlated with who is coming down with health problems, where they live and what source of contamination is leading to people's exposure. This has been done for other communities, Superfund site or not. I hope that this subcommittee will fund such an effort by the CDC or ATSDR this year.

Third, EPA or another independent agency must do the risk assessment. Allowing Monsanto to do it is a significant departure from EPA practice and the results would be questioned by the community. There are six factors that EPA must consider before allowing the polluter to conduct the risk assessment. One of those key factors is the compliance record of the polluter. I am here to tell you that Monsanto's compliance record could hardly rank high enough to merit allowing them to do the risk assessment. Monsanto and Solutia will argue that they are not the same company that spent 40 years suppressing information from the community and State regulators, but things have not changed. Just recently, ADEM fined Solutia $87,000 for failure to report chemical discharges. Why should we trust them now to do a fair risk assessment?

Finally, we want complete, open disclosure about the negotiations that took place between EPA Headquarters, the EPA Region 4 office and Monsanto to develop this

consent decree. Under CERCLA, the Senate has authority to require this information be made public and the people of Anniston have a right know how this decision went so wrong over the course of a year. We have a right to know who in the Administration met with Monsanto officials. We have a right to see the paper trail of meetings, offers and communications between Monsanto and the Administration on this bailout.

Conclusion

To the people of Anniston, EPA's consent decree with Monsanto is a blatant attempt to snatch defeat from the jaws of victory. For the first time, we are winning in our battle with Monsanto to hold them accountable for the thousands of pounds of PCBs they dumped in our community and let seep into our bodies. Twelve jurists found Monsanto liable for misleading us and jeopardizing our health and welfare. Judge Laird is well on his way to working out a comprehensive cleanup plan with Monsanto to bring justice, and just as important, help to the people of Anniston. The State of Alabama is finally working with the people of Anniston to ensure the contamination is cleaned up and our health is protected.

Unfortunately, Monsanto has found a way to throw a monkey wrench into the successful court process. It has persuaded EPA to back down considerably from every one of its original proposals for Anniston. Essentially, it has told us that yet again Monsanto will be responsible for protecting our health and our environment. The people of Anniston deserve better.

Again, I want to thank Senator Mikulski and Senator Shelby for holding this hearing today. Speaking for the people of Anniston, I sincerely appreciate the time you have taken and look forward to working with both of your offices to insure that the needs of our community are take care of and not the bottom line of Monsanto. We hope you can help our community securing funding this year for health monitoring. In addition, it is important that a bright light be shined on the toxic chemicals that have permeated our bodies. I hope this subcommittee will take these steps to help Anniston and the thousands of communities and people facing similar issues around the country.

Senator MIKULSKI. Mr. Cobb, why do you not go right ahead and proceed?

STATEMENT OF STEPHEN A. COBB, CHIEF, HAZARDOUS WASTE BRANCH, ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

ACCOMPANIED BY JAMES WRIGHT, OFFICE OF THE GENERAL COUNSEL

Mr. COBB. Thank you, Madam Chairman.

Madam Chairman, Senator Shelby, ladies and gentlemen, I want to thank you for the opportunity to address the committee this morning regarding the PCB contamination in Anniston, Alabama. My remarks are intended to summarize the State's involvement and the investigation, and the remediation of this contamination, and to express our concerns concerning the recently proposed consent decree between Pharmacia, Solutia, EPA, and DOJ. I have also submitted more detailed written information for the Committee's consideration.

The ADEM Hazardous Waste Branch has been addressing PCB contamination in the Anniston area since 1993 in close cooperation with EPA. In that time, we have required Solutia, and the former Monsanto Company, to perform a number of interim remedial measures designed to eliminate further migration of contaminants into the environment.

In addition, we have required the facility to address contamination in adjacent residential areas, to remediate contaminated properties, to relocate certain residents, and to conduct the comprehensive investigation to determine the extent of contamination caused by the facility's historical operations. These actions have been

taken pursuant to the State's corrective action program, which is federally authorized under RCRA, to be implemented in lieu of the Federal program.

ADEM and EPA mutually agreed in the early 1990s and reaffirmed in 1996 that the State RCRA authority was best suited to effect cleanup at the former Monsanto plant in impacted off-site areas. Comprehensive investigations into these areas in the Anniston community continue today pursuant to requirements contained in a permit issued to Solutia in accordance with the authorized State program.

Through its document reviews, technical assistance, and Federal oversight, EPA has been directly involved in every step of this process. In our efforts to effect timely and appropriate remediation at the site, ADEM has routinely used innovative regulatory methods since taking the lead role in 1993. Many of the innovations pioneered by ADEM on the Solutia project are now advocated nationally by EPA headquarters as RCRA corrective action reforms to speed up cleanup at all sites.

Region 4 has routinely commended the ADEM corrective action program for its work on this and other sites as part of the annual RCRA program review process.

In July of 1999, ADEM requested EPA assistance in addressing certain limited off-site residential areas under its CERCLA authority. CERCLA involvement was requested to address certain residential property access issues, and to determine whether PCB sources other than the Solutia facility exists in the area. We offered our support of CERCLA's efforts in addressing these areas, and reaffirmed our intent to continue addressing facility and other off-site areas under the State permit. We have since worked side by side with EPA to address the environmental issues facing the Anniston community.

EPA has stated that the purpose of the proposed consent decree is to place the site under one overall umbrella, administered by the Federal agency. Though there may be some advantages to having the site under one umbrella, EPA's course of action yields a number of undesirable and perhaps unintended consequences. ADEM's primary concerns surround the scope of the proposed consent decree, the impact it has on our federally authorized program, its purpose, and the timing of its submittal to the courts.

In a September 24, 1996 memorandum, EPA outlined its national policy regarding coordination between the RCRA and CERCLA programs. The policy states, and I quote, "It has long been EPA's policy to defer facilities that might be eligible for inclusion on the NPL to the RCRA program, if they are subject to RCRA corrective action," end quote.

EPA's current actions in this case appear to contradict its own longstanding national policy.

Unlike the comprehensive State permit requirements that it seeks to preempt, the proposed decree only addresses the remedial investigation feasibility study. Although the proposed decree expresses the intent to give credit for work already performed, past experience with RCRA and CERCLA programs would indicate that considerable effort will be wasted in recreating existing information about the site.

Further, any needed short-or long-term remedial actions identified during the course of this investigation would require the negotiation of at least one, and likely multiple additional agreements in the future. Given that the current proposed decree has taken more than a year to negotiate, this does not bode well for an expeditious cleanup in Anniston.

The timing and the purpose of the consent decree is also questionable. The entry of a decree at this time and in the manner proposed will place EPA in the position to be used as a shield to protect a responsible party, in this case Solutia, from the legitimate implementation of a federally authorized State program, as well as from the lawful jurisdiction of a State court addressing pollution liability and common law public nuisance issues. Such a consequence is untenable.

Further, this action can be construed as an attempt to usurp the implementation of the ADEM corrective action program in a manner that bypasses the due process afforded by Federal law and regulation.

Finally, ADEM is concerned that the nature and timing of these actions sends an inappropriate message to the regulated community, that CERCLA is a safe haven from State regulations and civil proceedings, and the answer to one's legal problems.

In conclusion, Madam Chairman, ADEM stands ready to continue working with EPA to address the environmental issues surrounding the Anniston community. ADEM, EPA, the State health agencies, the Federal health agencies, the courts, the community, and many others must work together to resolve these issues, but we must do so in a manner that maximizes the speed, efficiency, and effectiveness of the cleanup efforts without compromising the integrity and authority of our State programs and our judicial system.

Thank you again for the opportunity to address the committee this morning. I will be happy to answer any questions that you may have.

Senator MIKULSKI. Thank you.

[The statement follows:]

PREPARED STATEMENT OF STEPHEN A. COBB

Madam Chairman, distinguished Committee members, ladies and gentlemen, my name is Stephen Cobb and I represent the Alabama Department of Environmental Management (ADEM). Also with me today is Mr. James Wright of the ADEM Office of General Counsel. Thank you for the opportunity to address the committee this morning regarding the PCB contamination in Anniston, Alabama. My remarks are intended to summarize the State's involvement in the investigation and remediation of this contamination, and to express our concerns regarding the recently proposed Consent Decree between Pharmacia, Solutia, EPA, and DOJ. I have also submitted more detailed written information for the Committee's consideration.

The ADEM Hazardous Waste Branch has been addressing PCB contamination in the Anniston area since 1993, in close cooperation with EPA. In that time, we have required Solutia and the former Monsanto Company to perform a number of interim remedial measures designed to eliminate further migration of contaminants into the environment. In addition, we have required the facility to address contamination in adjacent residential areas, to remediate contaminated properties, to relocate certain residents, and to conduct a comprehensive investigation to determine the extent of contamination caused by the facility's historical operations. These actions have been taken pursuant to the State's corrective action program, which is federally authorized under RCRA to be implemented in lieu of the Federal program. ADEM and EPA mutually agreed in the early 1990's, and re-affirmed in 1996, that the State

RCRA authority was best suited to effect cleanup at the former Monsanto plant and impacted off-site areas. Comprehensive investigations into these areas of the Anniston community continue today pursuant to requirements contained in a permit issued to Solutia in accordance with the authorized State hazardous waste program. Through its document reviews, technical assistance, and Federal oversight, EPA has been directly involved in every step of this process. In our efforts to effect timely and appropriate remediation at this site, ADEM has routinely utilized innovative regulatory methods since taking the lead role in 1993. Many of the innovations pioneered by ADEM on the Solutia project are now advocated nationally by EPA headquarters as RCRA Corrective Action Reforms for all sites. Region 4 has routinely commended the ADEM corrective action program for its outstanding work on this and other sites, as a part of the annual RCRA program review process.

In July 1999, ADEM requested EPA assistance in addressing certain limited off-site residential areas under its CERCLA authority. CERCLA involvement was requested to address certain residential property access issues, and to determine whether PCB sources other than the Solutia facility existed in the area. We offered our support of EPA's CERCLA efforts in addressing these areas, and re-affirmed our intent to continue addressing the facility and other off-site areas under the State permit. ADEM has since worked side-by-side with EPA to address the environmental issues facing the Anniston community.

EPA has stated that the purpose of the proposed consent decree is to place the site under one overall umbrella, administered by the Federal agency. Though there may be some advantages to having the site under one umbrella, EPA's course of action yields a number of undesirable and, perhaps, unintended consequences. ADEM's primary concerns surround the scope of the proposed consent decree, the impact it has on our federally authorized corrective action program, its purpose, and the timing of its submittal to the courts.

In a September 24, 1996 memorandum, EPA outlines its national policy regarding coordination between the RCRA and CERCLA programs. This policy states, and I quote, "it has long been EPA's policy to defer facilities that may be eligible for inclusion on the National Priorities List (NPL) to the RCRA program if they are subject to RCRA corrective action." (end quote). EPA's current actions in this case appear to contradict its own longstanding national policy.

Unlike the comprehensive State permit requirements it seeks to pre-empt, the proposed decree only addresses the RI/FS (Remedial Investigation and Feasibility Study). Although the proposed decree expresses the intent to give credit for work already performed, past experience with the RCRA and CERCLA programs would indicate that considerable effort will be wasted re-creating existing information about the site. Further, any needed short- or long-term remedial actions identified during the course of this investigation would require the negotiation of at least one, and likely multiple, additional agreements in the future. Given that the current proposed decree has taken more than a year to negotiate, this does not bode well for an expeditious PCB cleanup in the Anniston area.

The timing and purpose of this consent decree is questionable. Entry of the decree at this time, and in the manner proposed, will place EPA in position to be used as a shield to protect a responsible party, in this case Solutia, from the legitimate implementation of a federally authorized State program, as well as from the lawful jurisdiction of a State court addressing pollution liability and common law public nuisance issues. Such a consequence is untenable.

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Finally, ADEM is concerned that the nature and timing of these actions sends an inappropriate message to the regulated community—that "CERCLA is a safe haven from State regulations and civil proceedings, and the answer to one's legal problems".

In conclusion, Madam Chairman, ADEM stands ready to continue working with EPA to address the environmental issues surrounding the Anniston community. But we must do so in a manner that maximizes the speed, efficiency and effectiveness of the cleanup efforts without comprising the integrity and the authority of our State regulatory programs or our judicial system. Thank you, again, for the opportunity to address the Committee this morning. I will be glad to answer any questions you may have.

Senator MIKULSKI. Senator Shelby, why do you not——

Senator SHELBY. Thank you.

Senator MIKULSKI [continuing]. Start again?

COMPLETING REMEDIATION

Senator SHELBY. Thank you, Madam Chairman.

Mr. Baker, you know a lot about this situation in Anniston. What do you believe it is going to take to reassure the people that live in Calhoun County, that have lived through this for years and years, that are so fearful of the environment—what is it going to take to reassure them that where they live, where they eat, where they breathe is healthy again?

Mr. BAKER. Well, Senator, I am glad you asked me that. Number one, the trust is going to have to be put back on the table.

Senator SHELBY. That is what I mentioned earlier, is it not?

Mr. BAKER. Based upon that, what it would take in terms of our community and Calhoun County, in terms of it getting back on the right road, it is going to take the landfill that sits on 202 to be addressed, and addressed properly.

Let me just say this, Senator: Monsanto had never been fined any monies for all these catastrophes that they have created in our community. The other week, they were fined $87,000 for the first time for a release that they had done just about a month ago, a month or 2 ago, and they had gotten away with it for about 90 days, and we were surprised at that.

When the EPA came in, and they come in, and they did a great job in terms of educating us, in terms of allowing us to be able to be—for me to sit here at this table to talk about the engineering part of this, and all this, and I have to give them credit for all the interest, that our community right now is more abreast than they were prior to this, because nobody in our community knew anything about toxic waste, the dumps, and all that nature, so that was the plus side of it.

But when they fined Monsanto the other day, they were again showing that they really do not care. The reason they were fined, because they had 15 days, I believe, was just to report to ADEM about a leak that they had gotten into our water supply, and it was 90 days later, I believe, or some months later, that ADEM found out, and they fined them $87,000.

What aggravated the community the most was when the EPA turned around and sent out a letter indicating to my community that "If you do not let us get access agreement"—which they already knew that many of our people was under legal obligation, and had lawyers—"If you do not, this—if you do not send out—if you do not allow people to get onto your property to get access agreement, then you will be fined $27,000 a day, up to $27,000 a day, if you do not allow the EPA or someone to get on your property."

Why should we have been intimidated? This is why I am here today. My folks have asked, why were we intimidated by using that type of language, which I, in fact, told them that that was the wrong move to make by sending that letter out, when Monsanto, who is the culprit of all the problems, you have not even fined them for the landfill that they knew for over the last 20-some years, that they have contaminated Choccolocco Creek, and all the way down to Martin Lake.

What we need, we need a health clinic. What we need, we need a health study. What we need, we need a cleanup that is going to be proper and done right, where people can go back to living a normal life, where their property value can be uplifted again. And we need to do this, and we need to do it now.

If, in fact, if they had utilized the law that they are trying to apply now 5 or 6 years ago, we would right now be in probably one or 2 years of really going into a really decent cleanup for Anniston, but because someone chose not to use that law, but because someone prohibited them from using that law, or because of this untimely decree order, look where we are now. We are still talking about a study. We are still talking about putting this under a microscope like we are little rats. We are tired. We want to come out and live like we are human beings.

ACTIONS BY THE STATE

Senator SHELBY. Thank you for your statement. That was good.

Mr. Cobb, I know you have not been with the Alabama Department of Environmental Management during all this time line that we are talking about, but it is obvious to me that the Alabama Department of Environmental Management and its predecessor was absent when they should have been involved. You alluded to that a little bit. You were not explicit.

Senator Mikulski also raised the same basic question with EPA: Where was EPA? Well, I think we know. As I said earlier, I think we know where your agency has been in the past, and we know where EPA has been in the past.

The question is, again: Where are you going to be in the future, starting now? What are you going to do to—not monitor, not to say, "Well, we are going to do a little study," or "We are going to do this," but a comprehensive study is going to have to be done for the health, to reassure the people down there. Do you disagree with that?

Mr. COBB. No, Senator, I do not disagree that a comprehensive study needs to be done. If I might answer——

Senator SHELBY. Yes, sir.

Mr. COBB. I think there were two parts of your question. The comprehensive health study, our role there is working with the health agencies, Federal and State, to provide them with the information that they need to make decisions, because like EPA, ADEM's role is not in the public health arena directly. We work with the health agencies to do that.

RE-ESTABLISHING TRUST

To the first part of your question as to "Where is ADEM going to be in the future," and also "Where has ADEM been in the past"——

Senator SHELBY. We know where they have been in the past, basically. I think the record speaks for itself.

Mr. COBB. I cannot speak to where ADEM——

Senator SHELBY. Sure.

Mr. COBB [continuing]. Was or was not prior to my tenure there. However, as to where we will be in the future, I would ask you to look at where we have been since 1993, when my program began

working on this project. We have aggressively pursued remediation. Today, there have been in excess of $40 million worth of interim measures, while we are doing the investigations.

Those are being borne at the company's expense, and we are aggressively moving to be able to make final determinations in the source areas while we are still studying the larger areas.

There is an awful lot of work yet to be done at this facility. It will not be finished in a year or 2. I do not think anybody can hope for that, but working with the community, working with the courts, working with EPA, and working, all of us, as hard as we can collectively, together, and cooperating together, we can get there, and that is our goal.

Senator SHELBY. Is this your number one priority in Alabama? This has to be one of the highest priorities; that is, the contamination in the Anniston area. I am sure you have other sites, but this has to be one of the highest.

Mr. COBB. Yes, sir. I can say unequivocally that in the hazardous waste program, that Calhoun County is our number one priority in the State. And the Anniston PCB site, or the Solutia facility, is at least tied for number one.

We have another very high-priority site also in Calhoun County that you are probably aware of, that will take some time, but we have separate staffs working on those, and we are committed to devoting the resources to this that it needs. It is very costly to do that, but we are working to do that.

Senator SHELBY. What is your message today, not just to the committee, but to the people who are going to be affected by everything you do in the future about the cleanup, and the health situation there? What is your message? You have a forum here.

Mr. COBB. My message today, Senator, would be that there are some major trust issues that have occurred in the past——

Senator SHELBY. Absolutely.

Mr. COBB [continuing]. And we have to find a way to rebuild that trust. We have to work together——

Senator SHELBY. How do you do that?

Mr. COBB. I believe we do that primarily by open dialogue. David and I have had the opportunity——

Senator SHELBY. Oh, by deeds. By deeds, not by words.

Mr. COBB. Then by deeds, absolutely.

Senator SHELBY. You have to get there, and you have to be involved, and EPA has to be involved in a comprehensive health study, and then a comprehensive cleanup, whatever it takes to make the people whole, to make the community whole. Is this not true?

Mr. COBB. Yes, sir. I wholeheartedly agree, and I believe that David will agree that throughout this process in the 1990s, we have had our fits and starts, but what we have promised, what we have committed to, that we have done everything that we could to deliver, and we have to continue to do that.

Senator SHELBY. Thank you, Madam Chairman.

SUPERFUND DESIGNATION

Senator MIKULSKI. Mr. Baker and Mr. Cobb, you both gave really very powerful statements, in terms of the situation that Anniston

finds itself in now, and the Alabama Environmental Agency. Both of you gave very powerful statements that you are deeply troubled by this consent decree, and about essentially the situation, and that even the elements in the consent decree, from your perspective, leave many essential things missing that you feel the community needs and, you feel, in terms of the authority, to do that.

Let me step back for a minute, because I would like to probe both of you on this. I have accurately summarized your concerns, I think, but do you think Anniston should be on the Superfund list?

Mr. COBB. Is that——

Senator MIKULSKI. Both of you. I am sorry. Both of you.

Mr. BAKER. Yes, Senator, and I am going to tell you why. If we went to the Superfund and got on the Superfund list, it would give us more opportunity for a lot of the things that we did not get in this consent decree, and that is a fact. It might even take longer, and it has taken as long as it has taken already, so yes, I believe we should have been placed on there.

We argued with our local, sometimes with the State, as well as with the Federal Government in regard to this. We felt that there was political power that kept us from getting on the Superfund list. In fact, many of the people, the other night, displayed that, while we were sitting in the meeting with the EPA.

But moreover, in terms of this thing, we looked at how this consent decree gives us—gives Monsanto all this power, when it has no trust. They were found guilty of hiding—it is trust. So why would you sit and negotiate, and come out and say, "Well, this is a great plan, but we are going to put this fox to guard the hen house"? No. That is what insulted the intelligence of our community.

We should have made the Superfund list, because we started out to make sure that we got the best thing that we could for our community. So I think that that is what we should have gotten, was that. At least it should have been considered to the highest level of this, because the negotiation with Monsanto does not even work, and Solutia, because it has not even worked when they have been found guilty. So what makes you think this is going to work, when you sit down and sign this consent decree?

They have violated the orders of ADEM on several occasions, where they have not even completed some of the cleanup that they should have been doing 5, 6, or 7 years ago, and they have not gotten done as of to this date.

Senator MIKULSKI. Well, thank you, because essentially, you, again, reiterated who has been left out.

Mr. Cobb, before I comment, sir, why do you not go ahead?

Mr. COBB. Sure. Madam Chairman, I will respectfully disagree with Mr. Baker. I do not think Superfund listing is appropriate for this site at this time. In the early 1980s, that might have been appropriate.

The reason I do not think Superfund listing would be appropriate at this time, number one, is because the momentum that we have been able to establish over the last several years of leading the site forward, I am afraid that a listing would slow it down, and we cannot afford to slow down on this site. We need to be able to move forward.

There is also the fact that the case, after working for 6 years, is currently in the State court systems, and is actively being pursued. I think allowing that process to continue to run its course, while doing everything we can from a Federal and State level to move the site forward, gets cleanup done in Anniston faster, and also with all the stigmas that the Anniston community has already endured, would avoid the stigma of the NPL listing, which does have a significant impact.

So I believe that we need to focus every effort that we have, but I do not believe that the Superfund listing is the best approach.

Senator MIKULSKI. Well, we are not going to debate that. I just asked your opinion, in the time that we have to move on.

Mr. Cobb, you come with a great deal of professional expertise, and I understand you are also accompanied by legal counsel. Is that from the Attorney General's Office of the State of Alabama?

Mr. COBB. Mr. James Wright, from the ADEM Office of the General Counsel is with us. Mr. Wright is an associate attorney general with the State, as a matter of that office.

Senator MIKULSKI. Well, we also want to note that he is here, and we welcome him.

We note that there is this ongoing litigation, and we have made it absolutely clear that no part of this testimony should in any way jeopardize the proper flow of the Justice proceedings, the court proceedings, and we have a member of the Alabama Bar, and so on.

What, in your mind, do we need to insist—let us even say this consent decree, as it is, goes on. Is it your belief that even if it goes on—and I am not suggesting that it should, or how it should turn out, or whatever. Is that then the bottom line, or could other things be done, or insisted upon, say, by this committee, by EPA, to provide the assistance to the community that it needs through appropriate government agencies?

I am not talking penalties, damages, or whatever, but this community has been hurting for a long time. And as Mr. Baker said, this is not an oil spill in the Gulf. This is a long-term situation. And the impact of PCBs are chronic; so, therefore, the purpose of this hearing is: What help can we get to the community, and to those closest to the community, in this place?

The ADEM—and I am going to come back to you in a minute, but you see—so in your mind, and perhaps if you want your advisor to join in this, but I would hope that this is not the only thing that could be done.

Would you feel—and that is why we are so troubled by what you said here. You phrased really some really significant issues about how you think you, "you" meaning ADEM, could be shackled in terms of being able to move forward to help this community. Am I correct?

Mr. COBB. Yes, ma'am. I think, clearly, with the motion that Mr. Baker commented on, that the company filed in State court almost immediately after the filing of the consent decree, that certainly the company intends to pursue preemption of the State court's and also preemption of the State regulatory programs via CERCLA.

Through our cooperative agreements with EPA, I would hope that we would be able to continue to provide assistance, but certainly it will be in a different way.

As to the things that this Committee could do, I think certainly this committee, maybe better than anyone else, has the ability to influence some of the things like a health study, or, based on testimony that I heard in the court proceeding, maybe even health research in the area, to work with this community to address the health issues, and also through the State and local health departments.

Another thing which I understand that this committee also has some control over is ensuring that adequate funding is available to the State and to the Federal regulatory agencies, to be able to apply the resources to this project, because we have a lot of projects, and you have heard before that the resources are tight. We want to be able to do the best job that we can, and I think this committee can influence that.

Senator MIKULSKI. Well, let me go back. How long have you been on this job, Mr. Cobb?

Mr. COBB. I have been employed with ADEM since 1987. I have been involved with the Monsanto facility, first as a project engineer, beginning in 1988. As far as the PCB issues, I have been involved in either a direct or a senior supervisory role on this from the very beginning of it. So I have been involved in this project for a long time.

ACTIONS BY THE STATE

Senator MIKULSKI. Let me just come to you, and then I am going to do my wrap-up with Mr. Baker.

When I read the EPA testimony, and it said "Over the years, EPA has attempted to work closely with ADEM," and that this has been going on, the 1970s, 1980s, I mean this chronicle that we did, where was ADEM?

Mr. COBB. Prior to 1993?

Senator MIKULSKI. Yes——

Mr. COBB. Regarding——

Senator MIKULSKI [continuing]. And then really, in the last 5 years.

Mr. COBB. All right. Regarding PCBs, I believe that there was some involvement by our water programs prior to the 1990s. Having not been involved in those programs, I am not sure I can answer that explicitly.

As to the waste programs, prior to the late 1980s, ADEM did not have the statutory or the regulatory authority to address PCBs, because our HSWA corollary, the Hazardous Solid Waste Amendments corollary to RCRA was not effective until approximately 1998, and then we——

Senator MIKULSKI. So you did not get into it until—I mean you were limited, because PCBs were exempted.

Mr. COBB. Right. PCBs were not covered by the RCRA regulations that we were implementing until at least the late 1980s.

Senator MIKULSKI. Well, did EPA not know that?

Mr. COBB. Yes, ma'am.

Senator MIKULSKI. If EPA knew that, and that was not—because according to this testimony, the language is explicit, "Over the years, EPA has attempted," implying that you all were not prime

time, and also that they had this division of labor, which they turned over to you.

Mr. COBB. Yes, ma'am.

Senator MIKULSKI. Again, I am not being brusque with you. I hope you understand.

Mr. COBB. No, I know.

Senator MIKULSKI. I am enormously frustrated. There has been a lot of finger pointing, and paper shuffling, and "It was his job, that job, this job," but they were without someone standing sentry over this community.

Mr. COBB. In the early 1980s, it is my understanding that the EPA CERCLA program evaluated the Solutia facility on at least one, and maybe on a couple of occasions.

In 1986, both the State and the Federal Government issued operating permits for the facility. Because of the limited scope of our State regulations, which did not encompass the HSWA regulations they were currently regulating under—only the EPA permit had the PCB landfills in it, and it did require monitoring. We, as we were preparing for authorization for the HSWA requirements, chose to take on that role in 1993, and to apply the resources to move that forward.

Senator MIKULSKI. Well, I could pursue this, but let me turn for my final part to Mr. Baker, and then I know that Senator Shelby wants to have the final round.

Mr. Baker, as you noted in your testimony, you very graciously commented that I come from a background of community activism. You are exactly right, sir. I got into politics. I am a professionally trained social worker, but it is in a field called community organization and social strategy, organizing people for self-help.

In our whole work in environmental agencies, it has always been that the community should have the right to know, the right to be heard, and the right to be protected, and not have to—though they were going to do it on their own time, they should not have to do it on their own dime.

Mr. BAKER. Right. You are absolutely right.

CITIZEN VOLUNTEERISM

Senator MIKULSKI. So for all of these years, and your citizen volunteerism, and your great hardship—and you acknowledged the role of your beloved wife who played in this—how have you been able to bring this forth? I mean this must have been a great financial—first of all, a great personal cost to you, in terms of time.

You are retired. You worked as a health aide, and yet you put in another shift, being an advocate through the union. And does the community, meaning the CAP, or any other community group have a big bill? And if you are going against Monsanto's lawyers, this lawyer, this regulatory hearing, this public health—I mean you are not lawyers. You do not have masters in public health. You bring other God-given gifts to the table. How have you been able to do this?

Have you had the resources to do this? Are you holding big legal fees, big bills, and so on? Because I am very much interested in how citizens continue to be able to do this. We used to do it on

bake sales, and Fells Point Festivals, and, you know, "Bake Sale Barb" up here. So tell me—

Senator MIKULSKI. Tell me—but it is no laughing matter. I mean we, in fighting a highway, what we had to do just to raise money for a legal defense fund, and then had to turn to students at Johns Hopkins—which Mr. Meiburg, it was the university he attended—to give us free help, to analyze the stacks, and stacks, and stacks of reports. And then they told us, "You come in with your own plan."

Now, how have you been able to do this, and are you holding a big bill? I just want you to know, I am worried, not only about your public health, but I am worried about your financial health as well.

Mr. BAKER. Well, let me just say, when we first started out, we started out with what you just said, the cake sales, the fried chicken sales on Saturdays and Sundays, and many of us reaching into our own pockets. We opened an office in the community. We first got an EJ grant, which was $20,000, which was $16,000 of that EJ grant up front, and we were able to get computers, and stuff of that nature. Subsequently, again, we got a another small EJ grant, which was another $20,000.

Senator MIKULSKI. What is an EJ grant?

Mr. BAKER. That is an Environmental Justice grant from the EPA. We filed for it. It is for $25,000. Usually, you do not get it but once. We got it twice.

Senator MIKULSKI. That is an important program for us to keep in mind——

Mr. BAKER. Yes.

Senator MIKULSKI [continuing]. In terms of citizen tools.

Mr. BAKER. Let me just say that without those type of grants, the community is still left out. It was a big help for the community, because what it did, it opened the doors for us to get things that we needed; it opened the doors to get the educational factor of this problem out, in terms of working with the EPA, and ADEM.

And as Steve pointed out, we had many meetings, traveling back and forth, meeting with each other, arguing with each other, debating with each other, whatever.

But then we had labor unions that pitched in and gave us a hand, such as Mr. Lucy, and Jim Butler, president of our Local 420, in Anniston, a union up in New York City. Contributions come in from the community. They come by, and they drop a dollar in the bucket, and say, "Look, this is what you can do with this."

Senator MIKULSKI. But it is a drop in the bucket.

Mr. BAKER. Yes. It is a drop in the organization, and believe me, it has been a fight and a struggle, but it has been God's work. It has not just been the community. This was God's choice to this community to wake up, and it woke up.

Let me just say that on one occasion we had over 10,000 people just show up at a meeting. On another occasion, we had over 5,000 show up. Usually, and Steve can attest to this, we always have had close to 500 to 1,000 people to show up at meetings at any given time.

Senator MIKULSKI. Well, it sounds like my old days.

Tell me, sir, let me ask you again, Dr. Falk talked about how you came to the table with your own health study.

Mr. BAKER. Right.

HEALTH STUDY

Senator MIKULSKI. Where did that come from? Who did it, and who paid for it?

Mr. BAKER. Well, ATSDR did give us—I think, my wife and Mr. Hall, the vice president, was in charge of that project. They gave us $10,000 to do a health survey back in 1999. That is how we came up with the conclusion of the problems that we were having, even though we had already had many, you know, had blood samples already done by people going to get their own blood samples, and stuff of that nature.

Then subsequently, I believe that we embarked in testing for lead. Shirley and James were in charge of that, working with ATSDR, and getting kids tested. About 600 children were tested, I believe. I think out of—oh, 475.

Senator MIKULSKI. How did you find out about ATSDR?

Mr. BAKER. We found out through the EPA. I think it was through the EPA that——

Senator MIKULSKI. They told you.

Mr. BAKER [continuing]. Referred them to us—referred us to them, and had them at some meetings that we were present at.

Senator MIKULSKI. Okay. Well, I am now going to turn to Senator Shelby.

Before I do, I just want to say a couple of things. First of all, I do want to acknowledge Mr. Lucy, who is a long-time friend. When he came in, I was so eager to meet you that I was a little distracted. He knew me when I was just a little startup.

As well as the union members that—we want to acknowledge this. But this has been very important, and, again, you can let us know more after this, in terms of, "What do citizens need to do when they are the Davids, and all they have is this slingshot, and they do not even know what rocks they have," and in terms of how we can empower citizens, at least to begin on the right to know, so that they are heard, where they have a right to be heard, that they have been able to do this. The Environmental Justice grant, I am so glad you articulated this.

In terms of these public health issues, so that you can turn to this, and we are interested in making sure their agency has the information, first of all, the tools for them to be able to go down into the community to communicate with you, because whatever comes out of all of the legal battles, and so on, that will be unfolding, we really want to make you, Anniston, to really be sure—when we started on this legislative area, we always said that the people had to be protected, and in order to do that, they need to know what was going on, they needed to be able to speak up and be taken seriously, but they also needed to have the tools to be able to get the self-help they needed to get the government help, and private sector that they did.

So I want to just thank you, and I want to thank all those people who cooked, and baked, and sang, and rallied, and so on, and put in their own tremendous sweat equity.

I know that you put in three shifts. You put one in the marketplace, earning a living; you put in another shift with the family to

make sure the living is worthwhile; and now you put in a third shift, both as a union leader and as a community activist. And I just want to say, God bless you.

Mr. BAKER. Thank you.

Senator MIKULSKI. Mr. Cobb, thank you, and all the public servants. I mean you can see that a competent civil service is important.

But, Senator Shelby, why do I not turn it over to you now?

Senator SHELBY. I will sum it up, Madam Chairman. I want to thank you again, as the chairman of this committee, and for allowing me as a member, to request a hearing, and that you granted it. I think this has been a good hearing. It is only beginning. We have a long way to go.

Mr. Cobb, you know this. The administrator, regional administrator from the EPA basically said this, but we shall not stop. We should not stop until we make the people whole there, and it is going to take a lot of work, and it is going to take a lot of pressure. Thank you.

Thank you, Senator Mikulski.

CONCLUSION OF HEARING

Senator MIKULSKI. Okay. This subcommittee stands in recess.

[Whereupon, at 12:15 p.m., Friday, April 19, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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