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SUPERIOR COURT
FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

TRANSWESTERN PIPELINE COMPANY)
)
PLAINTIFF,)
)
vs. NO. BC026959
)
MONSANTO COMPANY and)
DOES 1 through 200 inclusive)
)
DEFENDANTS.)

DEPOSITION OF DONALD A. OLSON
April 29, 1992

G O R E R E P O R T I N G C O M P A N Y
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Deposition of DONALD A. OLSON, taken on behalf of the Plaintiff at the offices of Bryan, Cave, McPheeters & McRoberts, One Metropolitan Center, in the City of St. Louis, State of Missouri, on the 29th day of April, 1992 before Vickie L. Huelsman, Registered Professional Reporter and Notary Public.

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of lawful age, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, deposes and says in reply to oral interrogatories propounded as follows, to-wit:

EXAMINATION

QUESTIONS BY MR. TALLON:

Q. State your name and address for the record, please.

A. Donald A. Olson, Number 3 Old, O-l-d, Colony, C-o-l-o-n-y, St. Louis, Missouri 63131.

Q. Are you employed, Mr. Olson?

A. Yes, I am.

Q. By whom are you employed?

A. Company called Benchcraft, Inc.

Q. And how long have you been with Benchcraft, Inc?

A. Three and a half years.

Q. What is the business of Benchcraft, Inc?

A. It's a material storage distribution business.

Q. And what is your position there?

A. I'm chairman.

Q. Before beginning employment with Benchcraft, Inc., were you employed?

A. Yes. Yes.

Q. By whom were you employed?

A. The previous one to that?

Q. Yes.

A. General Med Ventures.

Q. And what was your position with General Med Ventures?

A. President.

Q. And what was the business of that company?

A. It was group of four medically related businesses. They made film processors, distributed X-ray equipment.

Q. And how long were you at General Med Ventures?

A. From December, '85 to April, '88.

Q. And is it correct to say that you've been with Benchcraft since the beginning of '89?

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A. Since October 1, 1988.

Q. To present?

A. Yes.

Q. And before you were employed by General Med Ventures, were you employed?

A. Yes.

Q. By whom?

A. Monsanto.

Q. And what was your last position at Monsanto?

A. Business director of fine chemicals and water treatment.

Q. Did you retire from that position?

A. Yes. For a weekend -- yes. Officially I did. Yes.

Q. I'm not sure I quite follow.

A. Well, I was not retired, but from Monsanto's standpoint, yes, I retired.

Q. Did you reach your age of retirement or did you --

A. I was eligible for one of the earlier retirement incentive programs.

Q. And when did you leave Monsanto?

A. It was the end of November of

1985.

Q. You have a bachelor's degree in chemical engineering from the University of Michigan?

A. That's correct.

Q. And you received that in 1956?

A. Yes.

Q. And you have a master's of Business Administration from the Harvard Business School?

A. Yes.

Q. Which you received in 1960?

A. That's correct.

Q. You began work at Monsanto in 1960?

A. Immediately upon graduation from the Harvard Busines School.

Q. When you started at Monsanto, you were a chemical engineer at the John F. Queeny Plant?

A. That is correct.

Q. And that was for approximately two years?

A. Yes, sir.

Q. Following which you were a

commercial development manager in the ~~fluid~~ food ingredients and fine chemical area for about two years?

A. Yes.

Q. And following that, you were a product supervisor for ~~fluid~~ food ingredients and fine chemical marketing area for about two years?

A. Yes, sir.

Q. And following that, you were a regional manager in New York for ~~fluid~~ food ingredients and fine chemical sales?

A. Yes.

Q. And that was about two years?

A. Yes, sir.

Q. In 1968 I believe you became product manager marketing for ~~fluid~~ food ingredients and fine chemicals in St. Louis?

A. Yes, sir.

Q. Then you held that position for about six months?

A. Approximately.

Q. After which you became the director of marketing for the functional

fluids group?

A. Yes, sir.

Q. And you held that position for two years?

A. Essentially, yes. I'm a little unclear as to the exact months of each.

Q. Well, that's -- perhaps I can jog your recollection. Do you remember what months you became director, what month and year you became director of marketing for the functional fluids group?

A. It would have been May, June of 1968.

Q. And do you remember when you gave up that position?

A. It was -- I think it was around September of 1970.

Q. Whom did you replace?

A. In which position, sir?

Q. The director of marketing for functional fluids.

A. I don't recall.

Q. Do you know who your successor was?

A. Yes.

Q. Who?

A. Tom Gossage.

Q. During the period from when you began as director of marketing for the functional fluids group through the time that you ended, could you please tell me what your responsibilities were?

A. I had responsibility for the sales and marketing effort of the four different product groups that were involved. Therefore, I had all the field organization who reported to me, and they had -- obviously had the customer responsibility.

And then I also had the product function people reporting to me. It involved the elements of marketing, the pricing, selling to customers, customer insuring proper service, advertising, marketing plans, and liaison with the other business functions that were part of running the total functional fluids business.

Q. While you were the director of marketing for functional fluids, to whom

did you report, if it was one person?

A. Howard Bergen.

Q. Okay. And what was Mr. Bergen's title at that time?

A. Business director.

Q. Of what?

A. Functional fluids.

Q. And he was the person to whom you reported throughout your tenure as director of marketing?

A. Yes.

Q. Now you mentioned the field organization. Are you referring to salesmen?

A. Salesmen, uh-huh.

Q. And did they report to you?

A. The field sales manager did.

Q. Was the sales manager in charge of a number of salesmen in any given region?

A. He had all salesmen initially. I had to -- there were two organizations. There's one because I changed it, and I don't recall exactly when.

Q. Yes.

A. But initially we had an overall fluids organization with one field group.

Q. Yes.

A. At some point in time, I went to four different marketing groups and each had its own salesman.

Q. What was the reason for the change from one group to four different groups?

A. Thought we could do a better job by focusing on the end market because each end market was somewhat different, and would have salespeople who were more authorities than the individual sales in handling all of them.

Q. What were the four groups into which you divided the sales function?

A. The industrial fluids, which were the Pydrauls, heat transfer, basically Therminol, the dielectrics, which were the electrical applications, and Skydrol, which was the aircraft fire resistant hydraulic fluid.

Q. And to what use was the Therminol put or Therminol line of products put?

A. They were heat transfer medium for if you wanted to heat up a vessel, you used these products as the heat medium.

Q. And in general, to what use was the Pydraul family of products put?

A. They were primarily industrial lubricants.

Q. Was there a sales manager for each of those four product areas after you made that change?

A. After -- there was a person in charge of each, and he had the -- he had the sales and the product responsibility.

Q. What's the difference between sales and product responsibility?

A. One is an individual customer responsibility. The other is a concern for the product aspects, the pricing and the elements of the products. So, yes, there would be one person who had the responsibility for each of the four areas.

Q. And who was responsible for the industrial product group?

A. Norm Johnson.

Q. Throughout the period?

A. No, sir. This is the latter part.

Q. Okay. Are you distinguishing between the period when you instituted the four group system and before?

A. I thought that's what your question went.

Q. When you first began as director of marketing in the functional fluids group, who was responsible for that industrial products segment, if anyone was?

A. I believe Dick Davis, and he had Don Raush working with him.

Q. Would you spell the latter gentleman's name, please?

A. R-a-u-s-h, I think.

Q. And his first name?

A. Don.

Q. Don. Is Mr. Davis currently employed by Monsanto? Do you know?

A. I don't know.

Q. What about Mr. Raush?

A. I don't know.

Q. And you don't remember, I take

it, exactly when you made a change in the organizational structure to split the marketing effort into the four product specific groups; is that right?

A. That is correct.

Q. Are you able to estimate approximately how long you were on the job as director of marketing for functional fluids before you made that change?

A. No.

Q. Okay.

A. Logic would say it was not something I did immediately.

Q. Okay.

A. It was something I decided to do after I seen the organization after some period of time.

Q. After you made the organizational structure change, was Mr. Norman Johnson in charge of the industrial fluids group?

A. Yes.

Q. And what was his title, if you remember?

A. I don't recall what names we gave him.

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Q. Did he have a functional description such as sales manager or product manager?

A. Yes. But those would be typical ones, but I don't recall what it was exactly.

Q. That's fine. I'm just looking for something to refer to.

A. Yes. Perhaps marketing manager would make more sense.

Q. And Mr. Johnson reported directly to you?

A. Yes.

Q. Did he report to anyone else that you remember today?

A. I'm sorry?

Q. Did Mr. Johnson have reporting responsibilities to anyone else during the period that you were director of marketing for functional fluids?

A. No.

Q. And who is the gentleman in charge of the heat transfer group, the marketing manager for the heat transfer group, if you recall?

A. Before or after?

Q. After.

A. Jack Fallon.

Q. And who was responsible for the dielectric group?

A. Paul Benignus.

Q. And who was responsible for the Skydrol group?

A. Frank Langenfeld.

Q. Was it part of your job, Mr. Olson, to gain some understanding of the applications in which your products were used while you were director of marketing?

A. Yes.

Q. And why was that? Why did you do that?

A. You have to have an understanding of the product, its composition and its uses in order to -- at least a general understanding in order to decide how to market it properly and how to sell it properly, how to price it properly.

Q. Are you familiar with a product sold by Monsanto under the name Turbinol

153?

A. Yes, sir.

Q. And do you know into which of the four product groups you have just described Turbinol 153 fit?

A. I believe it was in with the Pydrauls and the industrial group.

Q. Before Mr. Johnson became marketing manager for that group, do you know -- strike that. Was Mr. Johnson, to your knowledge, responsible for the sale of Turbinol 153?

A. He would have had responsibility for the sale of all products as field sales manager.

Q. And that would include Turbinol 153?

A. Yes.

Q. Would part of his function also involve follow-up with the purchasers of products within his group?

A. Yes.

Q. Where was Mr. Johnson based during the period that you were director of marketing?

A. St. Louis.

Q. What physical location was your office in while you were director of marketing?

A. B Building, is that what you meant?

Q. Yes. I'm sorry. That's exactly what I meant. Here in St. Louis?

A. Yes, sir.

Q. And where physically was Mr. Johnson's office?

A. The same building.

Q. Was it near you or --

A. Pardon me, go ahead.

Q. Was it near you or distant from you?

A. It was the same floor, just down the wing a little bit.

Q. Earlier I had asked you to describe the things that you're responsible to do while you were director of marketing, and among the things you identified was insuring proper service to a customer. Could you describe what you mean when you use the term "insuring

proper service to a customer"?

A. Want to be sure that you have timely deliveries. Now, these weren't physically functions that we did as a marketing department but clearly one way you evaluated by a customer is whether your product is delivered on time and in the proper containers.

Those are customer service elements. Insuring that they have -- that they have the proper technical literature, insuring if they have a -- if they have a problem in the application that that is something, you know, that is quickly addressed and answered properly. Those are all customer service functions.

Q. You also mentioned that one of your responsibilities was -- I don't know if you used the word "oversee" but I would use it -- to oversee advertising for products falling within your group; is that correct?

A. Advertising in the broad sense, advertising literature, whatever kind of image you want to have.

Q. What are you including when you use the term "advertising"?

A. To the degree that we -- and I don't recall the specifics, but if we had print media, in trade journals, you would -- that would be a responsibility, not to generate them but to decide what they will be and what the journals will be. If you were to have a booth at an industry show, I would classify that in the same category, and then product literature.

Q. Do you recollect ever having seen a print media advertisement for Turbinol 153?

A. I don't recall.

Q. Do you recall whether Turbinol 153 was ever advertised in a booth at a trade show?

A. I don't recall.

Q. You also mentioned, I believe, that one of your responsibilities was to pay attention to marketing plans; is that correct?

A. More than to pay attention to develop

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them.

Q. Okay.

A. Develop the marketing plan, and then to insure that we were making progress against the yard marks that are in there, and to adapt it as necessary.

Q. Do you recollect ever having seen a marketing plan which included a marketing plan for Turbinol 153?

A. Not specifically. May I talk a little in general?

Q. Yes. Of course.

A. We did a marketing plan -- I did a marketing plan each year. That I don't know in the industrial segment whether that had particular reference to actions for this product or not because this was a relatively small product. So I just don't know whether it did or not.

Q. When you say the term "relatively small product," to what are you comparing Turbinol 153?

A. Comparing on my image of a volume, volume usage versus some of the much more highly, high volume products

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such as dielectrics, and I'm also reflecting -- I don't recall putting a lot of emphasis on it myself.

Q. Do you recall others putting emphasis on that product?

A. I can't respond very well.

Q. Meaning you don't remember?

A. Yes. I'm trying to find another word for I don't recall.

Q. Okay.

A. Okay?

Q. Do you have any recollection of having conversations with Mr. Johnson about marketing efforts directed to Turbinol 153?

A. No, sir, I don't.

Q. And I want to focus on the period, of course, when you were director of marketing for functional fluids, during that -- strike that.

Do you know to whom the product Turbinol 153 was sold?

A. I don't know the range of them. I know that it was sold to Texas Eastern. That's probably the only one that I --

that would stand out to me.

Q. Do you have a recollection that Turbinol 153 was sold to other companies aside from Texas Eastern Transmission Corporation?

A. I couldn't name any. I just --

Q. I understand that time has passed. I think the question, though, would be more particularly do you remember if there were other consumers for that product?

A. I can't be positive. Well, I can't be positive.

Q. During the period that you served as director of marketing for the functional fluids group, do you recollect having had any in-person contact with people that you believed to be representatives of Texas Eastern?

A. No.

Q. During the period that you served as director of marketing for the functional fluids group, do you have any recollection of having met in person with persons you believed to be representatives

of Transwestern Transmission Company?

A. No.

Q. Excuse me, Transwestern Pipeline Company?

A. No again.

Q. Okay. During the period that you served as director of marketing, do you have any recollection of having had any telephone communications with persons that you believed to be representatives of Texas Eastern Transmission Corp?

A. No, sir.

Q. During the period that you served as director of marketing, do you recollect having had any telephone communications with persons you believed to be representatives of Transwestern Pipeline Company?

A. No, sir.

Q. You had said a moment ago when we were talking about the relative position of Turbinol as a product within the functional fluid groups, do you have any recollection today, Mr. Olson, what volume of sales was represented by Turbinol 153

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for any year that you were director of marketing expressed either in pounds or in dollars?

A. No.

Q. Do you know if Turbinol 153 was in fact a fairly low dollar volume product for Monsanto during that period?

A. I would suppose, yes.

Q. And upon what do you base that answer?

A. Relative importance, coming back to that in my own mind.

Q. Is it fair to say that a significantly greater volume of sales resulted from sales of the dielectric fluids?

A. Yes.

Q. And is it fair to say that a significantly greater amount of sales resulted from sales of the Pydraul line of products?

A. Yes.

Q. Was Turbinol 153 sort of a niche product, if you will?

A. That's my image of it. Yes, sir.

Q. Do you know, by the way, if there was competition from other manufacturers of fluids for Turbinol 153?

A. I don't recall.

Q. Do you know if there was any other product manufactured by Monsanto at the time that you were director of marketing for functional fluids that was a substitute for Turbinol 153?

A. I don't recall.

Q. Can you describe for me what you believe to be or what you recollect to be the application or use of the product known as Turbinol 153?

A. Not as well as an awful lot of other people will or have or whatever you talked to I would imagine. It was a lubricant for turbine compressors which was fire resistant. Please don't ask me a follow-up, please.

Q. At the time you became director of marketing for functional fluids or at any point thereafter, were you told any information about the history of Turbinol 153?

A. I don't recall.

Q. Were you given any information during the period that you served as director of marketing for functional fluids as to how it was that Monsanto began selling Turbinol 153 to Texas Eastern?

A. I don't recall.

Q. Do you have any knowledge or information about the circumstances under which Monsanto began the sale of the product known as Turbinol 153 to Texas Eastern Corp?

A. No, sir.

Q. Would your answer be the same if I asked you about any predecessor products which were ultimately replaced by Turbinol 153?

A. Yes, sir.

Q. Was part of your responsibility as director of marketing for functional fluids to visit with clients?

A. By "clients," you mean customers?

Q. Yes.

A. Different frame of reference.

I'm sorry. Yes. Yes.

Q. Okay. Was it part of the effort in meeting with customers to insure that customers were pleased with Monsanto and to encourage them to continue to buy more product from Monsanto?

A. Yes.

Q. Was General Electric a customer of the functional fluids group while you were the director of marketing?

A. Yes.

Q. And do you have any ability today to estimate what percentage of the product of that group G.E. purchased?

A. No, I don't.

Q. Was it a significant portion of the product produced by the functional fluids group that G.E. purchased?

A. They were an important customer.

Q. Did G.E. buy product from the dielectric fluids division or dielectric fluids aspects of the functional fluids group?

A. Yes.

Q. Did G.E. purchase product from

any of the other three product areas that you have described this morning?

A. I don't recall.

Q. Was Westinghouse also a purchaser of functional fluids from your group while you were director of marketing?

A. Yes.

Q. And what product or products do you recall that Westinghouse purchased?

A. Dielectric.

Q. Was Westinghouse also an important customer?

A. Yes.

Q. Was Texas Eastern an important customer?

A. I don't -- it doesn't come to me in the same frame of reference, so I would have to say my estimate would be not to the same degree.

Q. Did you ever take representatives of General Electric or Westinghouse out to dinner or to play golf?

A. I did not play golf. I know that.

Q. Okay.

A. I did visit Westinghouse and General Electric facilities and probably once or twice there might have been a meal involved with them, but I don't know for sure.

Q. Do you recollect ever having visited a Texas Eastern facility?

A. No, sir.

Q. Do you recollect having any dinner with any representatives of Texas Eastern?

A. No, sir.

Q. Is your answer different from I asked the same question with respect to Transwestern Pipeline Company?

A. No, sir. My answer is the same.

Q. Okay. Do you understand the terminology applied to the use of functional fluids opened system and closed system?

MR. ZIMMER: You're asking does he have an understanding?

MR. TALLON: Yes. That's what I'm asking.

A. In my own laymen's language, I

do. Yes.

Q. Well, that's the only thing I'm interested in.

A. Okay.

Q. To be sure that we're on the same page as we proceed this morning, can you tell me what you understand by the use of the term "opened system" as it applies to the use of functional fluids?

A. Can I go the other way?

Q. Yes. Sure.

A. The closed system would be one where the fluid was contained within the piece of equipment, such as a transformer. That is a closed system. I'm not as clear on an opened system.

Q. Was Therminol used in a closed system so far as you recollect or was the Therminol line of products used in a closed system?

MR. ZIMMER: I'm going to object to the question as overly broad and ambiguous. Are you asking him to talk about every system in which it could have been used?

MR. TALLON: I'm asking for his understanding of whether the Therminol line of products was used in a closed system or not.

A. Okay. I guess by my definition, yes, they were.

Q. And upon what do you base that answer, Mr. Olson?

A. Because they were contained within the equipment and just circulated.

Q. Am I correct that you said use of a fluid in a transformer would describe a closed system?

A. Yes, sir.

Q. Is that also the case with a capacitor? Is the use of a fluid inside a capacitor a closed system, as far as you know?

A. By my definition, yes.

Q. Okay. During the period that you served as marketing manager for the functional fluids group, was the functional fluids group profitable?

A. Yes.

Q. Did the amount of profit realized

by the functional fluids group change at all during the period that you were director of marketing for that group?

A. I don't recall.

Q. Do you have any recollection as to whether the amount of profit earned by the functional fluids group declined during the period that you were director of marketing?

A. I don't know.

Q. Do you have any recollection as to whether the organizational system which you put in place resulted in an increase in profits for the functional fluids group?

A. I don't know.

Q. Was it a goal of the functional fluids group to be a world leader in the Aroclor business while you were director of marketing?

A. Yes.

Q. Is it your understanding that the product Turbinol 153 was composed in part of polychlorinated biphenyls?

A. I know. Yes. Yes.

Q. And indeed other functional fluids for which you had marketing responsibility were also composed of polychlorinated biphenyls in part?

A. Some were.

Q. Okay. The dielectric fluids?

A. Yes.

Q. And do you know what I mean when I use the term Aroclors?

A. Yes.

Q. How do you define the term Aroclor?

A. It's almost a generic name for the products which were sold as dielectrics but which also were sold as Aroclor, so it's the individual polychlorinated biphenyls.

Q. Was Aroclor a name used by Monsanto as a tradename, in essence?

A. Yes.

Q. Do you know what Aroclors were included within the dielectric fluids sold by Monsanto while you were director of marketing?

A. I don't know the whole -- I don't

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remember the whole range. I know 1254 and 1260 were. I don't know how far it went below that or what.

Q. What does the designation 1254 signify to you when used in conjunction with the tradename Aroclor?

A. It's the percentage of total chlorine in the product.

Q. By weight?

A. I don't remember.

Q. Okay. In the case of Aroclor 1254, is the product 54 percent chlorine?

A. Yes.

Q. And in the case of Aroclor 1260, is the product 60 percent chlorine?

A. Yes.

Q. Do you have any recollection as you sit here today as to what Aroclor was -- a constituent element was of Turbinol 1534?

A. I do not.

Q. Do you know if it included Aroclor 1252?

A. I do not know.

Q. I want to show you a document

which I'm going to ask the court reporter to mark as Exhibit 133, and it is a five-page document which has a series of production numbers on the bottom which are barely legible but which appear to be 0001360 to 1364. And please mark that.

(Olson Depo Exhibit No. 133 mark'd for identification)

MR. TALLON: Off the record.

(Discussion off the Record)

(Recess)

MR. TALLON: Okay. The court reporter has placed before you a five-page exhibit which has now been marked as Olson Exhibit 133, and I ask you if you could take a moment, Mr. Olson, if you have not already done so, and read the first two pages of that exhibit.

A. I have.

Q. And can you for the record state what that document is, the first two pages of the exhibit?

A. It is a letter which was sent by me to our customers of -- our Aroclor customers, our polychlorinated biphenyl

customers telling them of the finding of the higher Aroclors in the environment, informing them of that, informing them of initial plans for reformulation and informing them that there were -- that the lower Aroclor products had not been found, were not -- had not been found in the environment and reinforcing with them to take good care of their own effluent disposal.

Q. Now, that letter is dated February 9th, 1970. Is that about the time that it was prepared and mailed?

A. I'm sure it was mailed then. It was prepared previous to that. I don't know how far -- however long it takes.

Q. Was it part of your regular function as director of marketing to send out this type of letter?

A. I don't recall doing it before, but letters of a broad substance to customers would be the function of the director of marketing. Yes.

Q. Who drafted the language that appears in that exhibit, the letter dated

February 9, 1970?

A. I don't know.

Q. Did you draft any portion of the language which appears there?

A. I could well have. I don't know.

Q. Do you remember the circumstances under which that letter was prepared?

A. I'm sorry? I'm not following you.

Q. How was it that this letter came to be prepared?

A. I don't remember the sequences that came up to it.

Q. Do you have any knowledge as to what caused this letter to be sent to customers?

A. Well, my own knowledge would be -- or supposition, I guess, is that it was an effort on our part to inform customers of the status of the products, which was the responsibility that I would be very concerned about at any time of having customers being as aware of products as much as we can.

Q. Is your signature on the second

page of the February 9, 1970 letter which is part of Exhibit 133?

A. Yes, it is.

Q. There's no addressee listed on the first page of the letter; is that correct?

A. That's correct.

Q. Do you have a recollection of having seen copies of this letter with an addressee typed in?

A. I don't have a recollection. No.

Q. Do you have a recollection to whom this letter dated February 9, 1970 was sent?

A. I believe the intent was to send it to all industrial fluids customers. I'm encompassing Therminol when I say that. All customers who would have used products which had polychlorinated biphenyls in them.

Q. You've described that as the intent. Do you know in fact who the letter was sent?

A. Can't name the companies, but whatever mailing list we had, or customer

records we had of who these customers were would have been people who would have received them.

Q. Do you remember compiling a mailing list for purposes of sending the letter which is before you, February 9, 1970?

A. I'm sure -- I believe one was compiled. I did not compile it, but I believe one was compiled.

Q. Do you know who compiled the list?

A. No, sir. I don't remember.

Q. Have you seen that list recently?

A. No, sir.

Q. Do you have a recollection of having received a direction to send the letter containing the information contained in that February 9, 1970 letter?

A. I just don't recall the sequence of it.

Q. How were you using the term "sequence" in that answer, Mr. Olson?

A. I don't know -- you asked me before how did it come about.

Q. Right.

A. I don't recall any of the steps in it.

Q. Do you have a recollection of having learned that polychlorinated biphenyls were discovered in some marine aquatic and wildlife environments?

MR. ZIMMER: The question is overly broad given his prior answer about polychlorinated biphenyls.

MR. TALLON: I'm only using the language of the letter.

MR. ZIMMER: That's what the letter says.

MR. TALLON: Right.

A. And say it again. I'm sorry.

Q. Do you have a recollection of having become aware of the discovery of certain PCBs in some marine -- aquatic marine and wildlife environments?

A. I have the San Francisco Chronicle article, and I don't know exactly when that was, but it being the first awareness that I had. Q. The San Francisco Chronicle article to you to

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which you referred, do you have a recollection of approximately when that occurred?

A. I'm thinking sometime in the first part of 1969.

Q. And do you recollect what it was about the San Francisco Chronicle article which came to your attention?

A. The whole article did.

Q. Okay. You received a copy of the article?

A. Some -- yes. I did not personally, but I've read it so I know that we got it. I don't know where from but it was -- but I do recall that we got it.

Q. And what do you remember about that article today?

A. I remember it had to do -- I remember that it had to do with the peregrine falcon and the fact that they ate fish which had PCBs in them, and they had thin egg shells, and there was danger, I believe that's the one, of the demise of the peregrine falcon.

Q. And did the information occurring in that article have any effect on how you conducted your business as director of marketing for functional fluids?

A. That's hard -- I don't know how to specifically answer that. It was first awareness that there might -- you know, that there was any kind of a potential problem, so it clearly -- it started what was a whole chain of events to try to understand the problem and to deal with it properly.

Q. When you use the phrase "first awareness of the potential problem," are you referring to your awareness?

A. Yes, sir.

Q. Before becoming the director of marketing for functional fluids in 1968, had any of your prior jobs at Monsanto encompassed the development or sales of PCB-containing products?

A. No, sir.

Q. Did you have any responsibility for the development or sales of PCB-containing products before you became

director of marketing for the functional fluids group?

A. No, sir.

Q. Did the article in the San Francisco Chronicle to which you referred refer to any work by Professor Risebrough?

A. That's a familiar name so I'm putting the two together, yes, sir, but I really don't remember beyond that.

Q. Let me just ask if we can have marked as the next Exhibit 134 a one-page document bearing production numbers TRAN 059323.

(Olson Depo Exhibit No. 134 mark'd for identification)

MR. TALLON: The court reporter has placed the marked exhibit before you, Mr. Olson.

For the record, this appears to be a letter from Elmer Wheeler, manager, Environmental Health, to Mr. H. W. Speicher at Westinghouse Electric Corporation.

My question for you, Mr. Olson,

is whether referring to the information appearing on the bottom third of the letter and, particularly, to the notation, "Enclosures number 2, S. F. Chronicle 2/24/69, quote, "A Menacing New Pollutant," unquote, refreshes your recollection in any respect as to the date of the article to which you have referred.

MR. ZIMMER: Lacks foundation and calls for speculation. You can answer.

A. No. But I'll accept it that's when it was.

MR. TALLON: You're copied on this letter to the gentleman at Westinghouse?

A. Yes, sir.

Q. And who's J.C. Bryant, if you know?

A. I don't recall what his function was.

MR. TALLON: I want to have marked as the next exhibit in order a three-page document bearing production numbers B0003391 through 3393.

(Olson Depo Exhibit No. 135
mark'd for identification)

MR. TALLON: Can you review that document for me, please, Mr. Olson, and while you're doing that, I'll note for the record that the document appears to be a memorandum on Monsanto memo paper from W. R. Richard to E. Wheeler, cc to a number of people, including D. Olson.

A. Yes.

Q. I want to ask you, Mr. Olson, if reviewing that memorandum, and particularly the first full paragraph of the memorandum, refreshes your recollection in any way about the name Risebrough about which I asked you earlier?

A. No, sir.

Q. Do you know whether Professor Risebrough ever conducted a study having to do with the existence of PCBs in the environment?

A. I don't recall.

Q. Do you recall any discussion in which you participated about the work of a

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Professor Risebrough?

A. I don't recall.

Q. Could you tell me, please -- I want you to refer back for a moment, if you would, to Exhibit 133, which was the February 9, 1970 letter.

A. Uh-huh.

Q. Could you tell me, please, the reason for the inclusion of the numbered paragraphs 1 and 2, which are at the foot of the first page of that February 9, 1970 letter?

A. It was an effort to inform customers of the status of all of the products. We had talked previously about those which had been found in the environment, and this just clarifies that these had not.

Q. Are you aware of any information predating this letter suggesting that Aroclor 1242 persisted in the environment?

A. No, I'm not.

Q. Do you recall ever hearing that Aroclor 1242 was the subject of work by a Professor Risebrough?

A. No, I do not.

Q. Could you turn to the third page of Exhibit 133, please, Mr. Olson, and could you take a moment and review that document?

A. This? (Indicating).

Q. Yes. It's a two-page letter.

A. Yes, sir.

Q. Could you describe for the record what pages 3 and 4 of Exhibit 133 constitute?

A. It is essentially the same letter as I described on page 1 and 2 with the addition of one paragraph at the end which relates to dielectric fluids.

Q. And to whom was the letter constituting pages 3 and 4 of Exhibit 133 sent?

A. The dielectric customers of Aroclor.

Q. Was the letter which constituted the first two pages of Exhibit 133 sent to the dielectric customers?

A. I am not sure. I do not think so, but I'm not sure.

Q. Do you recall participating in the decision-making process which resulted in sending the letter which constitutes the third and fourth pages of Exhibit 133?

A. No, sir, I don't.

Q. Do you remember anything about the decision-making process which resulted in sending any information to dielectric customers?

A. No, sir, I don't.

Q. You had testified that you recollected becoming aware of the PCB environmental issue as a function of reviewing a San Francisco Chronicle article, correct?

A. Yes, sir.

Q. Do you recollect who circulated that article --

A. No, I don't.

Q. -- to you? Do you recollect participating in any discussion relating to PCBs between the time that you became aware that San Francisco Chronicle article and the date of the two letters which constitute the dates of the two letters

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which constitute Exhibit 133?

A. I don't recall specific meetings.

Q. Do you recall that in general there were meetings in that interim period?

A. Yes.

Q. And do you have a general recollection as to the subjects discussed at such meetings?

A. Whole ranges of areas, I believe, subject of updates on any later environmental information, updates on any reformulation plans.

Q. Yes.

A. And any other evolving parts of the subject.

Q. Do you have a recollection of discussions in that interim period regarding any communications with Texas Eastern Transmission Corp with respect to the PCB environmental issue?

A. No, I don't.

Q. Do you have a recollection of any discussions in that interim period regarding a reformulation of the product

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known as Turbinol 153?

A. No, I don't.

Q. Do you have a recollection of any discussions occurring in that interim period relating to the reformulation of other functional fluids?

A. No, I don't. Specifically -- I mean, I don't really recall specific discussions.

Q. Well, do you have a recollection in general that reformulation of Monsanto PCB-based products was discussed in that interim period?

A. Yes.

Q. Okay. Do you have any greater recollection than that regarding what was discussed about reformulation?

A. No, sir.

Q. Do you have any recollection of discussions in that interim period the subject of which was the effect of the PCB environmental issue on the business of the functional fluids group?

A. No, sir.

Q. Do you have any recollection of

participating in discussions during that period that related to the effect of the PCB environmental issue on the profitability of the functional fluids group?

A. Not specifically, no.

Q. Do you have any recollection of participating in discussions during that period that related to dissemination of information to customers for functional fluids with respect to the PCB environmental issue?

A. No, sir.

Q. When I asked you a moment ago about your recollection with respect to discussions touching on the issue of profitability, I believe you answered that you had no specific recollection. Does that answer indicate that you have a general recollection?

A. Well, I have a common sense recollection, and it relates to the customer information for any of them. I'm not trying to differentiate that one. I believe these would have all been valid

subjects to discuss during this whole evolving period.

But I cannot recall the actual discussions, but my sense says there are things that you obviously as good businessmen and as marketing people would be concerned with and would want to be aware of. You would want to have your facts.

Q. I had asked you some questions about the preparation of the first two pages of Exhibit 133. I now want to ask you some questions about the preparation of the third and fourth pages of Exhibit 133, which is the February 18th, 1970 letter. Do you know who prepared the text of that letter?

A. No, I don't.

Q. Do you have a recollection of having drafted any portion of it yourself?

A. I have no recollection.

Q. Do you have a recollection of having been furnished a letter for your signature?

A. Have no recollection.

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Q. Is that your signature on the second page of the February 18th, 1970 letter?

A. Yes, it is.

Q. At the time that you signed the second page of the February 18th, 1970 letter, were you aware of any information that supported the conclusion that Aroclors with less than fifty-four percent chlorine by weight tended to persist in the environment?

A. No.

Q. At the time you signed either the February 9, 1970 letter or the February 18, 1979 letter, were you aware of any information that suggested that Aroclor 1242 could cause environmental pollution to an unacceptable extent?

A. No.

Q. During the period after you became aware of the PCB environmental issue as a function of having reviewed the San Francisco Chronicle article and the time that you sent out the two letters which constitute Exhibit 133, do you have

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recollection of any studies made with respect to the persistence of Aroclor 1242 in the environment?

A. No.

Q. What was Dr. Richard's function at the time you were director of marketing for functional fluids?

A. He was the director of research of functional fluids.

Q. And where was Dr. Richard's office physically at that time?

A. In the research building.

Q. And where was that building in relation to the B Building?

A. It was on the Monsanto campus, but it was over at the other end.

Q. After the publication of the article in the San Francisco Chronicle, was any working group established to address the issues raised by that article?

A. Through my whole time? I don't know what your question is.

Q. Yes.

A. I'm sorry I misunderstood.

Q. After the publication of the

San Francisco Chronicle article and during the period that you served as director of marketing, was any working group established to deal with the PCB issue or issues?

A. Bill Papageorge was -- I don't know the title, but he was basically appointed the focal point on the whole PCB concern. What kind of organization -- who formally did what under that I don't know. But he was -- he clearly was brought in to bring together all aspects of the total problem and work towards the proper solution.

Q. Did you have any communications with Mr. Papageorge in what you understood to be his discharge of the functions you have just described?

A. Yes.

Q. And what communications do you recollect having had with Mr. Papageorge?

A. I don't recall the specifics.

Q. Do you recall having had any communications with Mr. Papageorge in the period before the two letters dated

February 9, 1970 and February 18th, 1970 were sent out?

A. I don't recall.

Q. Do you recall having had any communications with Mr. Papageorge in the period following your signing the two letters dated February 9, 1970 and February 18th, 1970?

A. I don't recall individual meetings. No.

Q. I take it from your answer that you do recall that there were meetings?

A. Yes. I'm sure there were.

Q. As you sit here today, do you remember any subjects of such meetings that you attended with Mr. Papageorge?

A. No.

Q. As you sit here today, do you remember the sum and substance of any communications that you had with Mr. Papageorge during the period that you served as director of marketing for functional fluids?

A. No.

Q. After you left your position as

director of functional fluids, did you have any continuing responsibility with respect to PCB-based products?

A. No, I did not.

Q. After you left your position as director of functional fluids, do you recollect having had any further communications with Mr. Papageorge on the subject of PCB issues?

A. No, I do not.

Q. Was your responsibility in the arena of PCBs terminated upon your departure from the position of director of marketing for functional fluids?

A. Yes, it was.

Q. Were you ever told that Texas Eastern was in any way responsible for the development of the product known as Turbinol 153 or its predecessors?

A. I have no recollection.

Q. Do you have any recollection of having discussed with any person during the period you served as director of marketing whether the application in which Turbinol 153 was used was a closed system

or an opened system?

A. No. I don't have any recollection.

Q. Do you have any recollection dating from the period that you served as director of marketing for functional fluids regarding communications with Texas Eastern regarding the PCB issues?

A. No, I do not.

Q. I want to show you a document which I'll ask the court reporter to mark as the next exhibit in order bearing production numbers TRAN 021689 and 021690.

(Olson Depo Exhibit No. 136 mark'd for identification)

MR. TALLON: For the record, while you're reading, I'll note that the document just marked as an exhibit appears to be a memorandum on Monsanto memo paper from R. H. Munch dated November 6th, 1969 to W. R. Richard.

Please feel free to read the entire document, Mr. Olson, but my particular question for you is whether your review of the third paragraph of the

two-page memorandum on the first page refreshes your recollection to any extent regarding whether Aroclor 1242 had attached to it the possibility that it could cause environmental pollution to an unacceptable extent?

A. No, sir, it does not.

Q. Do you have a recollection of having seen this memorandum before today?

A. I do not.

Q. Are you identified as a copyee?

A. I am. Looks like I was twice. I got it and then I got it again somehow.

Q. You're referring to the handwritten notation?

A. Handwritten, yes.

Q. Do you, by the way, recognize that handwriting?

A. It looks very much like Howard Bergen's.

Q. Have you ever heard the term Aroclor 1242B?

A. Yes.

Q. And do you recollect what is meant by that term or to what that term

refers?

A. I believe, okay? I believe it was the derivation of 1242 which took out some of the higher chlorinated compounds.

MR. ZIMMER: Let me remind you, Mr. Olson, that Mr. Tallon doesn't want you to guess or speculate, and so if you know something or can give him a reasonable estimate, that's fine. I'm simply reacting to the context in which your prior answer was given with you having chuckled a bit.

A. It relates to my confidence level of the answer.

MR. ZIMMER: That's fine. But let him know that, too, so that the answer doesn't presume that you knew something without any guessing or speculation.

A. Okay.

MR. TALLON: Do you know what the letter "B" designates in the title 1242B?

A. No.

Q. Do you know if it stands for biodegradability?

A. No. I don't know.

Q. Are you familiar with the term MCS-1016?

A. I've heard the name.

Q. Do you know if the term MCS-1016 replaced the term Aroclor 1242B?

A. I don't know.

Q. Do you know if the term MCS-1016 replaced the term Aroclor 1242B because it was not determined or established that reformulated 1242 was biodegradable?

A. I don't know.

MR. TALLON: Let me ask the court reporter to mark as the next exhibit in order a one-page document bearing production number TRAN 008623.

(Olson Depo Exhibit No. 137 mark'd for identification)

MR. TALLON: The court reporter has placed before you, Mr. Olson, the one-page document which, for the record, appears to be a memorandum on Monsanto memorandum paper from Mr. Benignus to you dated June 11, 1970.

A. Okay.

Q. I will ask you if reviewing the memorandum -- strike that. Do you recollect, by the way, having received this memorandum?

A. No, I don't.

Q. Does a review of this memorandum refresh your recollection with respect to the substitution of the phrase -- or excuse me, the term MCS-1016 for the term Aroclor 1242B?

A. No, but I'll accept it.

Q. Is it your understanding that Aroclor 1242 was not biodegradable?

A. I don't recall.

Q. Is it your understanding that lower chlorinated PCBs do persist in the environment?

A. I don't have my facts good. I don't recall.

Q. Okay. We only have one copy of this handy but I want to show you the transcript of a deposition of Donald A. Olson dating from November 24th, 1981, and I want to ask you if you could review a short passage appearing on page 36 of that

deposition starting with the question, "Did you later find out that the lower chlorinated PCBs were found in the environment," and the answer which follows that.

A. Yes.

MR. ZIMMER: Let's back up and read the whole thing in context.

MR. TALLON: Sure. Go right ahead.

MR. ZIMMER: Okay.

MR. TALLON: Okay. Does reviewing that page of your transcript refresh your recollection in any way as to whether or not lower chlorinated biphenyls tended to persist in the environment?

A. My recollection is -- can I tell you?

Q. Yes.

A. My recollection is the same. I was not trying to say anything different in this.

Q. Okay.

A. Sometime during this period we did find that the lower ones were being

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found in the environment. I don't recall whether that meant all of them or I don't recall whether all were persistent. I was having trouble with the individual question you were asking.

Q. That's fine. Okay. Do you recall ever learning whether MCS-1016 was fully biodegradable?

A. I don't recall, sir.

Q. Do you recall learning whether Aroclor 1242B was fully biodegradable?

A. I don't recall.

Q. Let me show you a document which we'll ask the court reporter to mark as the next exhibit in order bearing production numbers TRAN 037172 through 174.

(Olson Depo Exhibit No. 138 mark'd for identification)

MR. TALLON: Mr. Olson, the court reporter has placed before you a copy of Exhibit 1238 which, for the record, appears to be a memorandum on Monsanto memorandum stationery from W. B. Papageorge to H. S. Bergen dated July

17th, 1970.

Please feel free to read as much of the document as you like. I'm particularly going to ask you whether your review of paragraph 4 on page 2 refreshes your recollection in any respect about the biodegradability of MCS-1016 or Aroclor 1242.

A. No, it doesn't.

Q. Is it your understanding that no PCB product is fully biodegradable?

A. I don't know.

Q. That memorandum was sent by Mr. Papageorge?

A. Yes, it was.

Q. Do you have any factual basis for disagreeing with the information reflected there?

MR. ZIMMER: The question is argumentative. Assumes facts not in evidence. He's not going to answer that.

MR. TALLON: Are you instructing the witness not to answer that question?

MR. ZIMMER: Yeah, I am. You're asking him -- it lacks foundation

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completely. He didn't author the memo.

MR. TALLON: I understand that. I --

MR. ZIMMER: He told you he doesn't know anything at all about it.

MR. TALLON: Do you mind if I finish?

MR. ZIMMER: I'm sorry.

MR. TALLON: I was asking if he had knowledge of any facts which threw doubt on the conclusions reflected in paragraph 4.

MR. ZIMMER: All right. Fine.

A. No.

MR. TALLON: Okay. I had asked you a little earlier this morning, Mr. Olson, about your understanding of the term opened system and your understanding of the term closed system. Do you have any understanding as to whether or not it is possible for fluids to leak out of closed systems applications for functional fluids?

MR. ZIMMER: The question is hopelessly overbroad, vague and ambiguous.

MR. TALLON: Okay. I'll ask another question.

MR. ZIMMER: You can answer.

MR. TALLON: Did you say "can" or "can't"?

MR. ZIMMER: Can.

MR. TALLON: Okay.

MR. ZIMMER: If he knows. You talk about the universe of a system.

MR. TALLON: That's exactly what I'm asking.

A. Say it again.

MR. TALLON: Would you mind repeating the question?

(Requested portion of the record was read by reporter as follows:

"MR. TALLON: Okay. I had asked you a little earlier this morning, Mr. Olson, about your understanding of the term opened system and your understanding of the term closed system. Do you have any understanding as to whether or not it is possible for fluids to leak out of closed

systems applications for functional fluids?")

A. My definition I talked about Turbinol as being a closed system. I think there is some evaporation from Therminol over a period of time. So I guess the answer to your question would be yes.

MR. ZIMMER: The problem, Mr. Olson, is he didn't confine his question to a Therminol system so that's why we have to listen very carefully to what he's asking.

MR. TALLON: Earlier today I believe you testified that it was your understanding that a transistor would be an example of a closed --

A. Transformer.

Q. Transformer, excuse me. Transistor is something different. That's right.

Earlier I believe you also testified that a capacitor would be an example of a closed system. Do you have an understanding as to whether or not

occasionally the fluid in transformers and capacitors may be lost through leaks?

A. I don't know.

Q. I want to just point out to you the last paragraph of the February 18th, 1970 letter which constitutes part of Exhibit 133 and ask you to tell me for the record what you meant by the reference in that paragraph to the loss of fluid through leaks?

MR. ZIMMER: I just object to the extent he's interpreting it. He's already testified that he doesn't know who drafted it. You can answer it.

A. Well, it says that there can -- occasionally can be lost through leaks resulting from misuse or repair necessitating replacement of fluid.

MR. TALLON: Right.

A. Right. So I accept that.

Q. Are you aware, based on your knowledge, of any closed system where loss of fluid is an impossibility?

A. No.

Q. Excuse me for just a second.

MR. TALLON: Go back to the answer that Mr. Olson gave a few moments ago where he referred to Therminol and then Mr. Zimmer cautioned him that I hadn't asked about Therminol.

(Requested portion of the record was read by reporter as follows:

"A. My definition I talked about Turbinol as being a closed system. I think there is some evaporation from Therminol over a period of time. So I guess the answer to your question would be yes.")

MR. TALLON: Do you have any understanding as to whether Therminol may leak from a closed system as a result of fittings or seals not functioning properly?

MR. ZIMMER: Question calls for speculation.

MR. TALLON: I'm asking if he has an understanding.

A. It would be possible.

Q. You mentioned "evaporation" a

moment ago. Do you have any understanding as to how a fluid in a closed system can evaporate?

A. No, sir.

Q. Do you know whether during the period that you were director of marketing that Monsanto maintained an even inventory of Turbinol 153?

A. I don't know.

Q. Do you know if Turbinol 153 was made to order; that is to say, a batch was mixed up when it was ordered by the customer?

A. I don't know.

Q. Do you have any understanding, Mr. Olson, as to whether or not Turbinol 153 was consumed in use by the customer?

A. I don't know.

Q. Do you know whether the sale of a quantity of Turbinol 153 was a one-time-only sale?

A. I don't know.

MR. ZIMMER: Calls for speculation.

MR. TALLON: Do you have any

understanding as to whether Turbinol 153 was a product for which you had projected sales in each year that you were a director of marketing?

A. We did a budget, a budget on every product, so I would assume yes, there was.

Q. Do you have any understanding as to why additional sales of Turbinol 153 were included in your budget for each of the years that you were director of marketing for functional fluids?

A. Say it again.

MR. TALLON: Would you please read the question?

(Requested portion of the record was read by reporter as follows:

"Q. Do you have any understanding as to why additional sales of Turbinol 153 were included in your budget for each of the years that you were director of marketing for functional fluids?")

A. I'm saying we had a budget for

every product --

MR. TALLON: Right.

A. -- for which there were projected sales.

Q. Okay.

A. I'm not sure every product had projected sales every year.

Q. Fair enough.

A. I'm trying to explain the mechanism of it.

Q. Do you remember if in any of those budget sales of Turbinol 153 was contemplated?

A. I don't remember.

Q. Let me show you a document which we'll ask the court reporter to mark as the next exhibit in order bearing production numbers TRAN 008417 as a one-page document dated June 11, 1970.

(Olson Depo Exhibit No. 139 mark'd for identification)

MR. TALLON: Can you take a moment and look at that exhibit, please, Mr. Olson; that is to say, Exhibit 139?

A. Okay, sir.

Q. Can you identify the exhibit for the record, please?

A. It's a letter which I sent to customers.

Q. Is that your signature that appears on the letter?

A. It is.

Q. Did you prepare this letter?

A. I don't recall.

Q. Do you know who prepared this letter?

A. I don't recall.

Q. Do you remember the circumstances under which this letter was sent out?

A. No, sir, I don't.

Q. Do you recall receiving a direction that a letter such as this should be sent out?

A. No, sir, I don't.

Q. Can you describe for me the purpose of this letter?

MR. ZIMMER: The question lacks foundation given his prior answer. Go ahead.

A. I can describe for you the

purpose that I read, if I were the customer from what I read from it.

MR. TALLON: Do you know to whom this letter was sent?

A. Not -- no.

Q. Do you know if this letter was sent?

A. I don't recall the letter.

Q. Do you have any recollection of a decision to terminate the sale of products containing Aroclor 1242 in August of 1970?

A. Somewhere during this period the decision was made to discontinue those products. I don't remember when it was or the circumstances of it.

Q. Was product containing Aroclor 1242 sold to customers after August, 1970, to the best of your recollection?

MR. ZIMMER: Well, let's deal with what the language of the letter says. I think there's going to be some confusion about products containing certain Aroclors as opposed to the sale of Aroclors.

MR. TALLON: I understand.

MR. ZIMMER: I'm just concerned

you might be misquoting what the language of the letter says. That's all.

MR. TALLON: Okay. I'm asking Mr. Olson if he knows whether after August, 1970 products containing Aroclor 1242 were sold to customers.

A. I -- this was right about the time I left, so I don't -- I don't recall.

Q. Was it part of the business of the functional fluids group to sell I'm not sure this is the correct description but raw Aroclors? I mean, did you --

A. Yes. Yes. That's not a bad word for it.

Q. Did you sell Aroclor 1242?

A. As Aroclor 1242, I believe we sold all of these that are listed here.

Q. And do you know if after August, 1970 Aroclor 1242 was sold to any customer?

A. I do not know.

Q. Do you know who would have that information, Mr. Olson?

A. I do not know.

Q. Just to clarify one point, do you

have any information one way or the other as to whether products containing Aroclor 1242 were sold after August, 1970?

A. I don't -- no, I don't.

Q. There's just a fragment of handwriting in the top corner, top left-hand corner of that exhibit. I wonder if you recognize that handwriting, Mr. Olson.

A. No, I don't.

Q. Mr. Olson, in 1970, was it the position of the functional fluids group that customer inquiries regarding PCBs should not be answered in writing?

A. No.

Q. Was it the position of the functional fluids group in 1970 that Monsanto did not want to accept return of fluid from customers?

A. Not to my knowledge.

Q. Was it the position of the functional fluids group at any time during the period you served as director of marketing that it did not want to accept the return of fluid from customers?

A. Not that I recall.

Q. Let me show you a document which we'll ask the court reporter to mark as the next exhibit in order, which is a multipage document beginning with the production number TRAN 085833 through TRAN 085850.

(Olson Depo Exhibit No. 140 mark'd for identification)

MR. TALLON: The court reporter has marked as document, Mr. Olson. I wonder if you would take a moment or however long you need to review that.

A. Review it, you mean read it all?

Q. Before you take the time to read the entire document, I'm principally interested in the first two pages.

A. Yes, sir.

Q. Have you seen that memorandum before today?

A. I've seen -- the first page of it was in my deposition eleven years ago and so I saw it then, and -- so I've seen it.

Q. And the deposition eleven years ago, are you referring to the deposition

you gave in November of 1981?

A. Yes, sir.

Q. Okay. Earlier than that deposition, do you have a recollection of having seen this memorandum?

A. No, I don't.

Q. Is that a memorandum from Mr. Johnson?

A. Yes, it is.

Q. Are you a copyee --

A. Yes, I am. Sorry. Pardon me.

Q. -- on that memorandum?

A. Uh-huh.

Q. If you would refer first, please, to the first paragraph of that letter -- or, excuse me, that memorandum on page 1, and particularly to the statement, "You can give verbal answers; no answer should be given in writing," does that statement in any way refresh your recollection as to whether the functional fluids group took a position in 1970 that customer inquiries regarding PCBs should not be answered in writing?

A. No, it does not.

Q. I refer you to the second paragraph on that memorandum, and particularly to the first sentence which states, "We want to avoid any situation where a customer wants to return fluid," and the second to last sentence in the same paragraph, "We don't want to take fluid back," and I will ask you whether a review of either of those two sentences in that paragraph refreshes your recollection as to whether Monsanto did not want to accept return of fluid from customers in 1970?

A. No, it doesn't.

Q. Refer, if you would, for a moment, please -- or strike that. Do you have any recollection, Mr. Olson, of Mr. Johnson ever taking the position that Monsanto did not or could not afford to lose one dollar of business as a result of the PCB issue?

A. I have no recollection.

Q. Would you look at page 2 of that memorandum, please, and I refer you to the paragraph and the first sentence therein

which states, "We can't afford to lose one dollar of business." Does review of that sentence refresh your recollection in any way as to whether you ever heard Mr. Johnson make that comment?

A. No, sir.

Q. Do you have any recollection of having countermanded instructions Mr. Johnson gave to field personnel with respect to functional fluid products?

MR. ZIMMER: On any subject at all?

MR. TALLON: Yes.

A. I have no recollection.

Q. Do you have any particular recollection of having instructed Mr. Johnson to withdraw the comments made in this memorandum?

A. No.

Q. Could you describe for me -- not describe for me but tell me, please, if you can, whether the names following the to, t-o, designation on the first page of the two-page memorandum, is there an organizing principal there? There's

people in the field?

A. Yes.

Q. And was Mr. --

A. They were the field salespeople with two exceptions.

Q. Okay. What are the exceptions?

A. I don't know what the roles of the two in Australia were, whether they were sales or product or I don't recall exactly what their functions were.

Q. And Mr. Irwin, R. Irwin, do you know who R. Irwin was in 1970?

A. I believe he was a salesman, I believe.

Q. Do you know which salesman had responsibility for Texas Eastern Transmission Corp in 1970?

A. No, I don't.

Q. I take it from that that you don't have a recollection whether or not it was Mr. Irwin?

A. No, I don't.

Q. Was the sales force in any way divided geographically in 1970?

A. Explain that, please.

Q. Yes. Was a particular salesman assigned to a regional area of the country?

A. Yes.

Q. Okay. Do you remember what salesman or salesmen had responsibility for the area including Texas?

A. No, I don't.

Q. Or Louisiana?

A. No.

Q. New Mexico?

A. No. I don't know where the lines were, you know.

Q. Let me -- you had testified earlier today about reformulations, is that -- were products, Monsanto products, reformulated following your becoming director of marketing of the functional fluids group to exclude PCBs?

MR. ZIMMER: Let me just object. I don't recall any testimony about reformulations, but the latter part of the question stands.

A. Yes.

MR. TALLON: And do you recall

the reason why products were reformulated to exclude PCBs?

A. It was to be a responsible citizen of the community and get PCBs out of the formulations.

Q. Do you have any recollection as to the products for which reformulation was considered?

A. No. Not specifically.

Q. Do you have any knowledge what products were reformulated?

A. I know that some of the Pydrauls were while I was there.

Q. Uh-huh. I'm only asking about that period. Do you recollect any other products being reformulated during the period that you served as director of marketing?

A. Not specifically.

Q. And do you recall any reformulation of Turbinol 153 during the period that you were director of marketing?

A. No, I don't.

Q. Do you recollect whether there

was any priority in attempting to reformulate functional fluids during the period that you were director of marketing?

A. There would have been several factors involved, and I don't recall any specific priority ranking. There was a desire initially, obviously, to get the ones with the higher Aroclors out. That was initial priority.

Q. When you testified a moment ago that there would have been several factors involved, do you know what those factors were at the time?

A. I'm dealing again with common sense versus fact. If you ask fact, no, I can't.

Q. Well, what did you mean when you said in your answer that there would have been several factors involved?

A. The availability, the ease of reformulation would have been a factor, and the sequence in which things were reformulated, whether it was technically feasible or easily feasible.

Q. Yes.

A. That's what I was thinking about.

Q. Any other factor aside from that one?

A. No.

Q. Do you have a recollection as to whether the volume of business represented by a particular product or line of products was a factor in determining whether -- when it would be reformulated?

A. I have no specific recollection.

Q. Do you have a general recollection that that was a factor involved in the decision-making process?

A. Again, I'm dealing with the same problem of what my business sense would say versus actual things which I just don't remember actual decisions.

Q. And I take it from your response that your business sense would say that the volume of product was a factor.

MR. ZIMMER: Let's not guess or speculate.

A. Okay.

MR. ZIMMER: Let's get back to

the factual question as you defined it earlier. If you know what some of these other factors were, please tell Mr. Tallon that.

A. I don't recall.

MR. TALLON: Okay. But now I'm asking you what was your business sense would the volume of business products sold be a factor whether and when to reformulate a product?

A. Yes.

Q. Was it a goal of yours during the period of -- excuse me, during the period that you served as director of marketing to keep the customers in the business that you had notwithstanding the PCBs issues that had arisen?

A. I beg -- amplify a little bit.

Q. Sure. Was it one of your goals as director of marketing to keep the customers and business, the volume of sales that you had notwithstanding the PCB issues which had arisen?

A. It's always a marketer's goal to retain and gain business, but you got, you

know -- but you have to balance it.

Q. Right. Were you concerned during the period that you were director of marketing whether you would be able to retain your full market for PCB-containing products?

A. You would -- I don't know what you mean by "concerned." We obviously were aware of what was at stake and what the customers were.

Q. Yes.

A. And you want to -- you want to retain customers as much as you can.

Q. Well, I'm not trying to imply anything untoward by the use of the word "concern." What I'm asking is whether that was an issue for you whether you would be able to retain your full market for the products.

A. Yes.

Q. Do you have any recollection, Mr. Olson, of having participated in communications with NCR, or the National Cash Register Company, with respect to the use of Aroclor 1242 as an element of their

carbonless carbon paper?

A. No recollection.

Q. Do you have any recollection of having attended meetings with representatives of General Electric with respect to the use of Aroclors as dielectric fluids?

A. Well, I met with General Electric as a customer. I don't know if that's what you mean.

Q. Okay. Let me be more specific.

A. All right.

Q. Do you have a recollection of having had a meeting in January, 1970 with representatives of General Electric, including Mr. Edward Raab, a Mr. Gerade or a Dr. Murphy?

A. I recall that -- because I remember Ed Raab's -- I recall he visited. I don't recall the specifics of the meeting.

Q. Do you have any better recollection than the fact that a meeting occurred which was attended by Mr. Raab?

A. No, sir.

Q. I take it from that that you have no recollection of the subjects discussed with Mr. Raab?

A. That's correct.

Q. All right. Let me have the court reporter mark as the next exhibit in order a memorandum bearing production numbers TRAN 023509 through 023518.

(Olson Depo Exhibit No. 141 mark'd for identification)

MR. TALLON: Can you take a moment and review that memorandum, please?

A. Uh-huh.

MR. ZIMMER: Off the record.

(Discussion off the Record)

(Recess)

MR. TALLON: Ready? Have you reviewed Exhibit 141, Mr. Olson?

A. Yes, sir.

Q. Has reviewing Exhibit 141 given you any enhanced recollection of attending a meeting with representatives of General Electric Company in January of 1970?

A. No, it has not.

Q. Without regard to whether you

have a specific recollection of a meeting in January, 1970, do you recall attending a meeting with representatives of General Electric at which the topics reflected in this exhibit were discussed?

A. All I recall is that they ~~gave a time~~.

Q. And you don't have any greater recollection than that?

A. No, sir.

Q. Do you have a recollection of discussing with any representative of G.E. the effect of Aroclor 1242 on hatchability and production of thin egg shells regarding white leghorn chickens?

A. No, I do not.

Q. Does referring to paragraph D on page 2 of this exhibit refresh your recollection with respect to that topic?

A. No, it does not.

Q. Do you have any recollection of learning in 1970 that toxicity tests and reproductability studies had not yielded as favorable conclusions as Monsanto had hoped or anticipated?

A. I have no recollection.

Q. Does reviewing paragraph D on page 2 enhance your recollection with respect to that topic in any regard?

A. No, it doesn't.

Q. Do you recall ever having heard someone make the statement that some PCBs are more toxic than DDT?

A. No, I do not recall.

Q. Does referring to paragraph 14 on page 8 of this exhibit refresh your recollection in any sense?

A. Paragraph which?

Q. 14.

A. No, it does not.

Q. Do you have any recollection of studies involving PCBs and white leghorn chickens at all?

A. No, I do not.

Q. Do you have any recollection of having approved or reviewed labeling for PCB products?

A. No, I do not.

Q. Do you have any recollection of having reviewed or approved labeling for

Turbinol 153?

A. No, I do not.

Q. Do you know if any information regarding PCBs was included on any label associated with Turbinol 153?

A. No, I do not.

Q. Do you recall anyone making recommendation that a label should include information about PCBs if that label was to be part of a container for Turbinol 153?

A. No, I do not.

Q. Do you know if the Turbinol 153 was shipped to the customer in drums?

A. I don't know that. I don't recall.

Q. Do you know if Turbinol 153 was shipped to the customer in large tanker trucks?

A. No.

Q. Or tanker trucks, period?

A. I don't know.

Q. I want to show you a document, Mr. Olson, which I'll ask the court reporter to mark as Exhibit 142, two-page

document bearing production numbers TRAN 003826 and 3827.

(Olson Depo Exhibit No. 142 mark'd for identification)

A. Okay, sir.

MR. TALLON: Can you identify -- strike that. Have you seen that document before today?

A. Not to my knowledge.

Q. Do you have any knowledge or information as to the author of that document?

A. No, I do not.

Q. Was it the responsibility of anyone reporting to you while you served as director of marketing to understand in specific terms the use to which Turbinol 153 was put?

A. There would have been someone with product responsibility, and I would encompass that under product responsibility.

Q. Was that Mr. Johnson?

A. Or someone in his group, yes.

Q. I'm sorry, or someone --

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A. I don't recall who he had working in that group with him, but, yes, it would ultimately have been his.

Q. Is there any information on this document which would cause you to conclude that it came from a particular department or area within Monsanto?

A. No.

Q. Do you recognize the handwriting which appears at the top of the first page?

A. No.

Q. Have you ever heard expressed to you any of the information which appears in typed form in that document?

A. Not that I recall. Apparently this document occurred after I left.

Q. How do you conclude that?

A. Because they're talking about information through July, 1971.

Q. During the period that you served as director of marketing for the functional fluids group, do you remember any conversation which addressed the use of Turbinol 153 by Texas Eastern

Transmission?

A. No, I do not.

Q. Okay. Then I don't think I have any more questions for you today, Mr. Olson.

A. Okay. Nor I of you.

MR. TALLON: You don't have any questions?

A. No, sir. Send the transcript to Mr. Zimmer.

COMES NOW THE WITNESS, DONALD A. OLSON and having read the foregoing transcript of the deposition taken on the 29th day of April, 1992, acknowledges by signature hereto that it is a true and accurate transcript of the testimony given on the date hereinabove mentioned.

_____

DONALD A. OLSON

Subscribed and sworn to me before this_____day of_____,1992.

My Commission expires:_____

_____

Notary Public

vlh

(Transwestern vs. Monsanto)

WATER_PCB-SD0000015183

State of Missouri)
) SS.
City of St. Louis)

I, VICKIE L. HUELSMAN, a Notary Public in and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to certify to depositions, do hereby certify that pursuant to Notice in the civil cause now pending and undetermined in the Circuit Court of the County of St. Louis, State of Missouri, to be used in the trial of said cause in said court, I was attended at the offices of Bryan, Cave, McPheeters & McRoberts, One Metropolitan Center, in the City of St. Louis, State of Missouri, by the aforesaid witness; and by the aforesaid attorneys; on the 29th day of April, 1992.

The said witness, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, thereupon testified as is shown in the

foregoing transcript, said testimony being by me reported in shorthand and caused to be transcribed in to typewriting, and that the foregoing pages correctly set forth the testimony of the aforementioned witness, together with the questions propounded by counsel and remarks and objections of counsel thereto, and is in all respects a full, true, correct and complete transcript of the questions propounded to and the answers given by said witness; that signature of the deponent was not waived by agreement of counsel.

I further certify that I am not of counsel or attorney for either of the parties to said suit, not related to nor interested in any of the parties or their attorneys.

Witness my hand and notarial seal at St. Louis, Missouri, this 3rd day of May, 1992.

My Commission expires August 8, 1994.

Vickie L. Hulsman

Notary Public, State of Missouri

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COMES NOW THE WITNESS, DONALD A. OLSON and having read the foregoing transcript of the deposition taken on the 29th day of April, 1992, acknowledges by signature hereto that it is a true and accurate transcript of the testimony given on the date hereinabove mentioned.

Donald A Olson

DONALD A. OLSON

Subscribed and sworn to me before this 20th day of May, 1992.

My Commission expires: 7-23-92

Shirley J Meyer

Notary Public

ORIGINAL

vlh

(Transwestern vs. Monsanto)

WATER_PCB-SD0000015186

DEPOSITION CORRECTION SHEET

In Re: Transwestern Pipeline Co. VS Monsanto Company

Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page 10 Line 2 Should read: FOOD, rather than fluid

Reason assigned for change: Transcribed incorrectly

Page 10 Line 6 Should read: FOOD, rather than fluid

Reason assigned for change: Transcribed incorrectly

Page 10 Line 11 Should read: FOOD, rather than fluid

Reason assigned for change: Transcribed incorrectly

Page 10 Line 17 Should read: FOOD, rather than fluid

Reason assigned for change: Transcribed incorrectly

Page 23 Line 25 Should read: more than to pay attention, to

Reason assigned for change: Transcribed incorrectly

Page 33 Line 19 Should read: OPEN, rather than OPENED

Reason assigned for change: Transcribed incorrectly

Page 34 Line 8 Should read: OPEN, rather than OPENED

Reason assigned for change: Transcribed incorrectly

Page 34 Line 16 Should read: OPEN, rather than OPENED

Reason assigned for change: Transcribed incorrectly

Page 62 Line 1 Should read: OPEN, rather than OPENED

Reason assigned for change: Transcribed incorrectly

Dorrow A Olson

Deponent

WATER_PCB-SD0000015187

DEPOSITION CORRECTION SHEET

In Re:

Upon reading the deposition and before subscribing thereto, the deponent indicated the following changes should be made:

Page 70 Line 18 Should read: OPEN, rather than OPENED

Reason assigned for change: Transcribed incorrectly

Page 71 Line 20 Should read: OPEN, rather than OPENED

Reason assigned for change: Transcribed incorrectly

Page 95 Line 6-7 Should read: CAME TO TOWN, rather than gave a time

Reason assigned for change: Transcribed incorrectly

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Page Line Should read:

Reason assigned for change:

Donna A Olson

Deponent

WATER_PCB-SD0000015188