

**Superior Court of the State of California
For the County of Los Angeles**

**TRANSWESTERN PIPELINE)
COMPANY,)**

Plaintiff,)

vs.)

Case No. BC 026959

**MONSANTO COMPANY and)
DOES 1 through 200, inclusive,)**

Defendant.)

September 4, 1992

**Deposition of ROGER E. HATTON, taken on behalf of
Plaintiff.**

GORE REPORTING COMPANY

**Boatmen's Tower, Suite 1175 - 100 North Broadway
St. Louis, Missouri 63102**

1 Superior Court of the State of California
2 For the County of Los Angeles
3

4 TRANSWESTERN PIPELINE)
5 COMPANY,)
6 Plaintiff,)
7)

8 v.) No. BC 026959
9)

10 MONSANTO COMPANY and)
11 DOES 1 through 200,)
12 inclusive,)
13 Defendants.)
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18 Deposition of ROGER E. HATTON,
19 taken on behalf of Plaintiff, at the offices
20 of Bryan, Cave, McPheeters & McRoberts, 500
21 North Broadway in the City of St. Louis,
22 State of Missouri, commencing at 9:00 a.m. on
23 the 4th day of September, 1992, before
24 J. Bryan Jordan, certified shorthand reporter
25 and notary public.

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APPEARANCES:

FOR THE PLAINTIFF:

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1 Whereupon. . .

2 ROGER E. HATTON

3 of sound mind, having been first duly sworn
4 to tell the truth, the whole truth, and
5 nothing but the truth in the case aforesaid,
6 testified upon his oath as follows, to-wit:

7 EXAMINATION

8 BY MR. TALLON:

9 Q. Good morning, Dr. Hatton.

10 A. Good morning.

11 Q. I know you've testified in this
12 case once already, but just so that we're
13 sure that we're in the same zone for purposes
14 of this deposition, I wonder if you could
15 just tell me, were you in the Functional
16 Fluids Group of the Industrial Chemicals
17 Section of Monsanto at any time in your
18 career with Monsanto?

19 A. Yes.

20 Q. And when did you begin in the
21 Functional Fluids Group?

22 A. I joined the company in '46; would
23 have been sometime during '48.

24 Q. And from '48 -- and approximately
25 when did you terminate your responsibilities

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1 with the Functional Fluids Group?

2 A. I had some functions up until I
3 retired in 1982, from part to almost nothing.

4 Q. During the period between 1948 and
5 1982, did you have -- was there a period
6 during which you had responsibility for,
7 among other things, communicating with Texas
8 Eastern Transmission Corporation?

9 A. Yes, mm-hmm.

10 Q. And over what period of time would
11 you say that you had that responsibility?

12 A. I do not remember the dates
13 exactly, but it was quite a period of time.

14 Q. We -- I just didn't happen to
15 bring your last deposition transcript with me
16 because of limited space in my briefcase, but
17 would it be fair to say that your
18 responsibilities with respect to Texas
19 Eastern began in the late Fifties? And if
20 you don't have a recollection, you can also
21 say that.

22 MR. ZIMMER: Well, I'm sure that
23 was adequately covered in his first session,
24 Counsel.

25 MR. TALLON: Right.

1 MR. ZIMMER: Well, I want to make
2 my point clear. I'm letting you take care of
3 these housekeeping matters as you term them,
4 but this isn't properly in the scope of what
5 we agreed to produce him for today, so why
6 don't we defer to his first transcript.

7 MR. TALLON: I'm just trying to --

8 MR. ZIMMER: Well, it's on his
9 first transcript, is my point.

10 MR. TALLON: I just want to lay a
11 foundation to the question.

12 MR. ZIMMER: For what, is what I
13 don't understand.

14 MR. TALLON: So I know we're
15 talking about the same time period. Why is
16 it a big deal?

17 MR. ZIMMER: I'll stipulate we're
18 talking about the same time period he talked
19 about in his first deposition.

20 MR. TALLON: If the witness can
21 answer his question, let him answer.

22 MR. ZIMMER: I'm not going to let
23 him answer much more on this area.. That's
24 the point. We're not here to do that. We're
25 here to talk about five different documents.

1 MR. TALLON: Fritz, we're not
2 talking about five different documents.

3 MR. ZIMMER: That's, indeed, what
4 we're talking about, if you want to call your
5 office, if you want to call your office and
6 have him read the letters to you.

7 MR. TALLON: What I want to do is
8 call Stillwell.

9 MR. ZIMMER: That's fine, too.
10 I'm going to pull him out of here if you
11 don't want to continue per the agreement that
12 I reached with your office.

13 MR. TALLON: Do you have a written
14 agreement with our office?

15 MR. ZIMMER: I sure do.

16 MR. TALLON: May I have it?

17 MR. ZIMMER: Yeah. Why don't we
18 have copies made and marked as an exhibit?

19 I'll note for the record that,
20 among other things, the primary letter from
21 your office concerning the scope of Dr.
22 Hatton's continued deposition is of May 28,
23 from Saied Kashani. I'd like to make a copy
24 of this before we mark it because I've got
25 highlighting on it, but I'm happy to show it

1 to you in this form.

2 MR. TALLON: Well, you can go to
3 the receptionist and ask her to make a copy
4 for you.

5 MR. ZIMMER: There are also other
6 letters that were exchanged that I don't
7 happen to have copies with now, but if I need
8 to, I can be happy to have them faxed here so
9 we can mark them to the deposition, but you
10 can take a look at that and particularly, the
11 second --

12 (Mr. Tallon peruses said
13 document.)

14 MR. TALLON: Where do you see a
15 reference to a limitation to five documents
16 in here?

17 MR. ZIMMER: "Such deposition will
18 be limited to inquiry regarding subjects
19 raised by the newly-produced documents,
20 including Dr. Hatton's knowledge of the
21 development of Turbinol and the operation of
22 the compressor equipment."

23 MR. TALLON: Okay, yeah.

24 MR. ZIMMER: I have also further
25 limited that in my correspondence to Mr.

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1 Kashani, which was accepted without
2 challenge.

3 MR. TALLON: What correspondence
4 are you referring to? You are referring to
5 your letter of the other day which said that
6 you were going to limit this deposition to an
7 hour?

8 MR. ZIMMER: No, I said that I
9 would limit it to the topics agreed upon and
10 that I, therefore, expected that it would
11 take an hour or so.

12 MR. TALLON: You better get your
13 correspondence out, Mr. Zimmer, because this
14 letter says that after Dr. Hatton's
15 deposition, Texas Eastern produced a large
16 number of documents pertaining to the
17 development of Turbinol, including
18 correspondence between Dr. Hatton and Texas
19 Eastern employees, and then it cites, "For
20 example, five documents," and then goes on to
21 discuss some of those documents. Nothing in
22 this letter limits the scope of this
23 continued deposition to five documents.

24 MR. ZIMMER: Well, all the Bates
25 numbers and stamps of the documents are

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1 referenced in this letter, and they
2 constitute five different ones.

3 MR. TALLON: Yes, and it cites
4 those as example. You'll recall that "See
5 e.g." is a signal that says "See ergo
6 gratia," the Latin for "For example."

7 MR. ZIMMER: Thank you for the
8 Latin lesson.

9 MR. TALLON: Sure, anytime.

10 MR. ZIMMER: But why don't we,
11 rather than devolve into further debate about
12 this, see how far you are going to go, and if
13 I think it's beyond the scope, I'll simply
14 instruct him that, but I was letting you know
15 early that the things that you are covering
16 at the outset were covered more than
17 adequately in the first session and we are
18 not producing him for a rehash of those
19 subjects.

20 MR. TALLON: And I do not intend
21 to rehash any subjects. I do intend to
22 examine Dr. Hatton with respect to a limited
23 number of documents from among a large number
24 of documents produced by Texas Eastern,
25 including Monsanto correspondence that was

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1 not produced by Monsanto before Dr. Hatton's
2 deposition, documents we didn't have before
3 Dr. Hatton's deposition, some of which were
4 cited for example in that letter of May 28,
5 1992, which you have put on the table.

6 MR. ZIMMER: Well, I would be
7 surprised if all those that your office
8 considered important wouldn't have been cited
9 in this letter, but all I can tell you is
10 that my discussions about this and
11 correspondence with Mr. Kashani of your
12 office would limit the scope of his
13 deposition to the letters cited in here and
14 the subjects that are mentioned by Mr.
15 Kashani.

16 MR. TALLON: Well, you wrote a
17 letter to Mr. Kashani earlier this week
18 saying that you intended to limit this
19 deposition to an hour. If it wasn't clear, I
20 categorically reject that. You have no power
21 to limit my questioning to an hour based on
22 your determination of how long you think it
23 ought to take.

24 MR. ZIMMER: Well, as I indicated
25 before, I didn't limit it to an hour. I had

1 said that the subjects would be limited per
2 your office's representation, and I estimated
3 that that would take an hour or so, so let's
4 have that straight, and as far as my right to
5 limit your questions, we'll see about that,
6 because we're going to get up and walk out if
7 it exceeds the limit of what we have agreed
8 to produce him for.

9 MR. TALLON: Well, we called for
10 the continued deposition of Dr. Hatton
11 because after the date of Dr. Hatton's
12 deposition, Texas Eastern Transmission
13 Company produced a number of documents which
14 were not available --

15 MR. ZIMMER: That's correct.

16 MR. TALLON: -- before Dr. Hatton's
17 deposition. I have some of those with me
18 today, and I have attempted to limit the
19 scope of those severely in order to not
20 bother Dr. Hatton with additional deposition
21 questions after he's gone through the
22 deposition in this case.

23 MR. ZIMMER: Let's go through some
24 of them and we'll consider the --

25 MR. TALLON: Excuse me, Mr.

1 Zimmer, I'd appreciate if you would show me
2 the courtesy of letting me finish a statement
3 before interrupting.

4 MR. ZIMMER: I'm sorry if I
5 interrupted you.

6 MR. TALLON: Thank you.

7 I intend to go through these
8 documents. If you try to inordinately
9 restrict the scope of the deposition, I will
10 have no hesitation to call Judge Stillwell or
11 Judge Wisot, because the way that you have
12 approached this deposition so far is not a
13 good sign, refusing to permit the witness to
14 even answer the question of if he's able to
15 state whether his responsibilities with
16 respect to Texas Eastern began in the late
17 Fifties, which was solely for the purpose of
18 giving the witness a frame of reference for
19 the questioning which was to come.

20 MR. ZIMMER: And given the
21 stipulations I offered, also completely
22 unnecessary, but if you feel the need to call
23 either Judge Wisot or Judge Stillwell, you
24 are welcome to do so.

25 MR. TALLON: Is there a problem

1 with having the witness --

2 BY MR. TALLON:

3 Q. Can you answer the question of
4 when you started? I mean, yes or no.

5 MR. ZIMMER: I didn't instruct him
6 not to answer it. I simply wanted to make my
7 objection clear as to what I considered the
8 proper scope of this deposition.

9 MR. TALLON: And are you -- you
10 have stipulated that his responsibilities for
11 dealing with Texas Eastern began in the late
12 Fifties?

13 MR. ZIMMER: Began when they said,
14 or rather when he said they did in his first
15 session.

16 MR. TALLON: Fritz, I just want to
17 have a time frame with the witness.

18 MR. ZIMMER: Okay. Well, let him
19 tell you what he's told you before, if he
20 remembers.

21 MR. TALLON: That would be very
22 nice. Thank you.

23 A. It began in the late, middle to
24 late Fifties. I do not have a date or
25 anything.

1 MR. TALLON: Thank you. That's
2 all I wanted to have from you, Dr. Hatton.

3 When you began work in the
4 Functional Fluids Group with respect to Texas
5 Eastern, did you perform or have performed at
6 your direction any tests with respect to the
7 solubility of any functional fluid being sold
8 to Texas Eastern in methane?

9 A. I don't recall that.

10 Q. Do you recall, when you began work
11 with respect to Texas Eastern, whether you
12 learned of tests being performed with respect
13 to any functional fluid that was sold to
14 Texas Eastern with regard to its solubility
15 in methane?

16 A. I have no recollection.

17 Q. All right, let me show you a
18 document produced by Texas Eastern
19 Transmission Company on Monsanto Chemical
20 Company stationery, dated September 3rd, 1958,
21 and which bears production numbers
22 TW2-2006487 through 6491, and we'll ask the
23 court reporter to mark this as the next
24 exhibit in order, which is number 673.

25 (Plaintiff's Deposition

Exhibit 673 marked for
identification.)

BY MR. TALLON:

Q. Doctor, you may please take as much time as you feel necessary to review this copy of the letter I've put before you as Exhibit 673. It is not a particularly clear copy, but I suppose we have its age to thank for that. I am mostly interested in asking you whether your review of the first and second pages refreshes your recollection as to any knowledge you have with respect to tests performed regarding the solubility of methane in OS-81.

(Witness peruses said
document.)

A. First two pages?

Q. Well, yes, and please feel free to read the balance of the letter if you think that would be helpful to you, but my specific question to you is whether your review of the first two pages refreshes your recollection as to any knowledge you had with about tests performed by Monsanto regarding the solubility of methane in OS-⁸¹~~18~~.

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1 A. I do not recall these experiments.
2 They were -- it is a type of experiment which
3 my men would have done, which we had the
4 equipment for determining solubility of air
5 and other gases in fluids.

6 Q. And by your men, you are referring
7 to what group of people, Doctor?

8 A. I had a group of chemists,
9 technicians, working for me as a group
10 leader.

11 Q. And did James Davis report to you?

12 A. No. Jim Davis worked in the
13 Development Department, and this report would
14 have been given to him for transfer outside
15 the company.

16 Q. One other question, Doctor, to
17 refer specifically to see if it jars your
18 recollection. On page 2, there's a reference
19 to saturation of OS-⁸¹18 at 1,000 psi. Do you
20 see that?

21 A. Yes.

22 Q. Does that refresh your
23 recollection as to any kind of testing done
24 for Texas Eastern by Monsanto regarding
25 OS-81?

1 A. That property was, if requested by
2 Texas Eastern, the data would have been
3 supplied.

4 MR. ZIMMER: Doctor, his question
5 was, if it refreshed your recollection that
6 that sort of testing was done for Texas
7 Eastern.

8 A. No.

9 MR. TALLON: No recollection?

10 A. No recollection of --

11 BY MR. TALLON:

12 Q. In general, do you have any
13 understanding as to why such testing would be
14 performed by Monsanto?

15 MR. ZIMMER: Calls for
16 speculation, lacks foundation.

17 A. In response, such information
18 would be determined at the request of a
19 customer.

20 BY MR. TALLON:

21 Q. Do you have any understanding of
22 the purpose for determining the solubility of
23 methane in OS-81?

24 A. No.

25 MR. TALLON: Let me show you

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1 another document, Doctor, to see if it
2 enhances your recollection in any respect,
3 and this is a document produced by Texas
4 Eastern, bearing production numbers
5 TW2-2004024 through 26, and it's a letter on
6 Monsanto Chemical Company stationery dated
7 July 31, 1958. I'm going to ask the court
8 reporter to mark that as Exhibit 674.

9 (Plaintiff's Deposition
10 Exhibit 674 marked for
11 identification.)

12 BY MR. TALLON:

13 Q. Doctor, please take such time as
14 you feel you need to review this two and
15 a half-page letter. I'm particularly
16 interested in asking you whether your review
17 of the second full paragraph on page 2
18 refreshes your recollection in any respect as
19 to tests performed by Monsanto regarding the
20 fluid physical properties on OS-81,
21 saturating it with natural gas.

22 (Witness peruses said
23 document.)

24 A. The second paragraph is the one of
25 interest?

1 BY MR. TALLON:

2 Q. The second full paragraph, which
3 is the one that begins, "We have determined
4 the effect on fluid physical properties of
5 saturating it with natural gas."

6 A. Yes.

7 Q. Did you see that?

8 A. Yes.

9 Q. And my specific question to you,
10 Doctor, was whether that particular paragraph
11 or anything in this letter refreshed your
12 recollection of any tests performed by
13 Monsanto regarding the effect of -- pardon
14 me, the effect on fluid physical properties
15 of saturating OS-81 with natural gas.

16 A. It does not strike a chord of
17 memory of that specific information.

18 Q. Do you -- I'm not sure I
19 completely understand your answer. Do you
20 have any knowledge with respect to tests
21 regarding the saturation of OS-81 or other
22 Functional Fluids with natural gas?

23 A. Not beyond my previous answer.

24 Q. By that, you mean your previous
25 answer just today?

1 A. To the previous exhibit.

2 Q. And I'm sorry if I seem confused,
3 but I understood you to say that if such a
4 test had been requested, it would be
5 performed?

6 A. Yes.

7 Q. And that is the extent of your
8 knowledge?

9 A. Yes.

10 Q. In other words, you don't have any
11 personal recollection of such testing being
12 done?

13 A. I do not.

14 Q. Doctor, in the late 1950's, did
15 you personally discuss with the Gas Turbine
16 Division of General Electric the requirements
17 for gas turbine lubrication?

18 A. Yes, mm-hmm.

19 Q. And with whom did you communicate
20 at General Electric?

21 A. I don't remember a name.

22 Q. Do you remember the physical
23 location of the persons with whom you spoke?

24 A. Schenectady.

25 Q. And actually, my previous question

1 may have assumed a fact in error. Did you
2 actually speak with representatives of the
3 Gas Turbine Division of General Electric or
4 was it -- or did you have communications in
5 writing?

6 A. It was a visit to their site and
7 face-to-face discussions.

8 Q. Were you a part of the visit to
9 their site and the face-to-face discussions?

10 A. Yes.

11 Q. Were you accompanied by Mr. Davis?

12 A. I do not remember specifically in
13 this case.

14 Q. Well, do you not remember
15 specifically who accompanied you or you do
16 not remember specifically whether Mr. Davis
17 accompanied you?

18 A. I do not remember even if I was
19 accompanied.

20 Q. And do you have any ability to
21 recall whether you were meeting with one
22 person or more than one person at General
23 Electric?

24 A. Several.

25 Q. And I take it from your prior

1 answer that you are not today able to recall
2 the names or identities of any of those
3 persons?

4 A. It's thirty-four years ago. No.

5 Q. Okay. Do you recollect whether
6 you were provided by, or rather, with any
7 written materials by the Gas Turbine Division
8 of General Electric at the time of your
9 visit?

10 A. No. I just don't remember.

11 Q. And can you state in brief the
12 purpose for that visit?

13 A. To, to discuss the requirements,
14 physical and chemical requirements of
15 lubricants for gas turbines.

16 Q. And was that, was the acquisition
17 of that knowledge important to any job
18 responsibilities that you had to discharge?

19 A. It was very useful.

20 Q. In what respect?

21 A. To further define the physical and
22 chemical requirements of the materials we
23 were developing.

24 Q. To further refine or define?

25 Excuse me; I didn't catch that.

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1 A. To further refine.

2 Q. And to what purpose was that
3 refined knowledge put?

4 A. To select the specific materials
5 of interest in developing the lubricant.

6 Q. I understand that this is some
7 years ago, Doctor, but do you have any
8 ability to state approximately when that
9 interest took place?

10 A. No, I don't have.

11 Q. Do you recall recording any
12 memoranda or other information developed
13 during your visit, for use by your colleagues
14 in working with gas turbines?

15 A. A call report would have been
16 written.

17 Q. If you were the only person on
18 that trip, if that's a correct statement
19 based on your testimony, would that call
20 report have emanated from you?

21 A. Yes.

22 Q. Do you recollect whether the
23 information you acquired in that visit to
24 General Electric to meet with their Gas
25 Turbine Division employees was used in the

1 process of selling OS-18 or other functional
2 fluids to Texas Eastern?

3 A. Would you repeat that last part of
4 that question, please?

5 Q. Do you recollect whether any of
6 the information you acquired during that
7 visit with the Gas Turbine Division employees
8 of General Electric was useful to you in
9 dealing with Texas Eastern Transmission with
10 respect to OS-81 or other functional fluids
11 sold to them?

12 A. Yes.

13 Q. Doctor, do you have any present
14 recollection of having performed any tests on
15 determining whether protective coatings such
16 as epoxy or nylon-based products were
17 resistant to OS-81?

18 A. I do not recall personally doing
19 any such tests.

20 Q. Do you have a recollection that
21 you requested others reporting to you to
22 perform such tests?

23 A. I do not have a specific memory
24 that I did.

25 Q. When you state in your answer that

1 you don't have a specific recollection, are
2 you indicating that you have a generalized
3 recollection that such a test or series of
4 tests was conducted?

5 A. Anytime that we developed a new
6 fluid, we ran compatibility tests with other
7 things that might be in the system, and these
8 were run by the group. Specific products,
9 specific test conditions I do not remember.

10 Q. But I take it from your answer
11 that in any event, the responsibility for
12 actually conducting the tests would not have
13 fallen to you; correct?

14 A. That's correct.

15 Q. You would have -- it would have
16 been your responsibility to see to it that
17 someone else actually conducted the test?

18 A. That's -- yes.

19 Q. And would it have been part of
20 your responsibility to report the results of
21 such testing to a customer of Monsanto?

22 MR. ZIMMER: Incomplete
23 hypothetical.

24 BY MR. TALLON:

25 Q. Not your sole responsibility, but

1 would that have fallen among your
2 responsibilities, responsibilities you might
3 have shared with others?

4 A. That latter question, I would
5 answer yes.

6 Q. Let me show you a document
7 produced by Texas Eastern on the stationery of
8 Monsanto Chemical Company dated September 25,
9 1961, to a Mr. W. J. Kluse (Phonetic), or
10 Klaus (Phonetic) -- it's not clear from the
11 copy, from Roger E. Hatton, project manager,
12 Development Department. This document bears
13 production numbers TW2-2003979 through 3982.
14 I'll ask the court reporter to mark that as
15 the next exhibit in order, which is 675.

16 (Plaintiff's Deposition
17 Exhibit 675 marked for
18 identification.)

19 (Witness peruses said
20 document.)

21 BY MR. TALLON:

22 Q. Did you get an opportunity to
23 review that exhibit, Doctor?

24 A. Yes.

25 Q. Can you identify it for the

1 record?

2 A. I did not remember the letter
3 specifically. It was written to a Mr. Kloss
4 of Pratt & Whitney Aircraft. They made
5 turbine engines.

6 Q. Did the letter emanate from you?

7 A. Yes.

8 Q. Does numbered paragraph 5 on page
9 4 of the letter refresh your recollection in
10 any respect as to any knowledge you have with
11 respect to testing of resistance of
12 protective coatings to OS-81?

13 A. I do not remember the specific
14 materials tested or the data available.

15 Q. Do you recollect being asked to
16 perform tests on protective coatings by
17 representatives of Texas Eastern?

18 A. I don't remember that the request.

19 Q. Do you -- I'm sorry, I thought you
20 were finished with your answer.

21 Do you recall that the tests were
22 performed without specific reference to
23 whether you recall the request?

24 MR. ZIMMER: Assumes facts not in
25 evidence.

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1 A. I don't remember.

2 BY MR. TALLON:

3 Q. Do you have a recollection of
4 having discussed compressor journal bearing
5 problems with any representative of Texas
6 Eastern Transmission?

7 A. What type of bearing problems?

8 Q. Compressor journal bearing
9 problems.

10 A. And you are limiting your question
11 to problems?

12 Q. Well, let me put it this way. Do
13 you recollect having discussions with
14 representatives of Texas Eastern relating to
15 the compressor journal bearings and their
16 operations?

17 A. Yes.

18 Q. And do you recollect having had
19 such discussions with Ollie Fletcher?

20 A. Yes.

21 Q. Do you recollect over what period
22 of time you had such discussions?

23 A. Bearings and their performance
24 were discussed with Ollie Fletcher during
25 most of the years that I knew him, at various

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1 times.

2 Q. And among the issues discussed
3 were problems, operational problems
4 associated with those compressor journal
5 bearings?

6 A. The area discussed was the
7 interactions between bearings and the
8 lubricant.

9 Q. And do you have an understanding
10 as to what a compressor journal bearing is?

11 A. Superficially.

12 Q. What?

13 A. A great big shaft about so big
14 (Indicating) with a circular part of the
15 device that the journal goes through, the
16 journal being a shaft, so to speak, and
17 provision made to provide lubricant to the
18 space between the two and to provide
19 lubrication to that bearing.

20 Q. Doctor, from time to time in the
21 course of the relationship with Texas Eastern
22 for which you had partial responsibility, did
23 Texas Eastern Transmission send to you
24 samples of functional fluids from their
25 turbines and compressors for analysis and

1 testing by Monsanto?

2 A. Yes.

3 Q. And do you recollect ever having
4 communicated with Walter Woods with respect
5 to analysis performed by Monsanto on such
6 samples?

7 A. Yes. If samples were submitted,
8 answers were returned, and I do remember
9 getting samples.

10 Q. And in general, can you state the
11 purpose for which you believe samples were
12 submitted to Monsanto?

13 A. The purpose was to determine the
14 condition of the lubricant at a certain time,
15 at a certain place.

16 Q. And part of the process in which
17 Monsanto is involved was in testing the
18 lubricant after a certain number of hours of
19 use in the turbine compressor machinery?

20 A. That could have been the purpose.

21 Q. Do you recall ever having
22 discussed or communicated with Mr. Woods
23 about fluid loss from a Texas Eastern turbine
24 due to a seal leak?

25 A. No, not -- no.

1 Q. Did you ever -- okay, did you ever
2 acquire knowledge that any Monsanto product
3 leaked from a Texas Eastern turbine due to a
4 seal leak?

5 A. I don't remember a specific
6 conversation.

7 Q. Let me show you a document
8 produced by Texas Eastern on Monsanto
9 Chemical Company stationery dated November 7,
10 1961, a letter to Mr. Walter Woods of the
11 Texas Eastern Transmission Corp. and sent by
12 Roger Hatton, Roger E. Hatton, Project
13 Manager, Development Department, bearing
14 production numbers TW2-2006537 through 539.
15 I'll ask the court reporter to mark that as
16 Exhibit 676 and ask you if you could please
17 take a moment to review that.

18 (Plaintiff's Deposition
19 Exhibit 676 marked for
20 identification.)

21 (Witness peruses said
22 document.)

23 MR. ZIMMER: Jim, off the record.

24 (Discussion off the record.)

25 BY MR. TALLON:

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1 Q. My specific question to you, Dr.
2 Hatton, is whether reading the highlighted
3 portion on page 2-A of this letter refreshes
4 your recollection in any respect about any
5 communications you had with Mr. Woods about
6 loss of fluid from Texas Eastern turbines by
7 a seal leak.

8 A. No, this doesn't strike a --
9 anything beyond what's written here.

10 Q. Do you believe that you sent this
11 letter to Mr. Woods?

12 A. I do.

13 Q. Do you have any understanding as
14 to whether turbine fluid could be lost
15 through a seal leak?

16 A. Yes, if the seal misfunctioned or
17 was not operating correctly, fluid could leak
18 through it.

19 Q. Do you --

20 A. Past it, out of it.

21 Q. Do you have any recollection of
22 any other circumstances under which turbine
23 fluid could be lost through a seal?

24 A. I think my general testimony has
25 covered most of them.

1 Q. Let me show you one other document
2 which has already been marked as an exhibit
3 in this case, for the purpose of determining
4 whether or not it refreshes your recollection
5 as to the loss of fluid through seal leaks,
6 and it's TW 122.

7 MR. ZIMMER: I will object as part
8 of my continuing objection to the scope of
9 the continued deposition, but I'll let him
10 answer if it refreshes his memory, my point
11 being that this document was readily
12 available at the time he was first deposed.

13 (Witness peruses said
14 document.)

15 MR. ZIMMER: If there is a
16 question pending, I forgot.

17 MR. TALLON: There is a question
18 pending. The question is whether a review of
19 this document refreshes the doctor's
20 recollection as to whether -- well, actually,
21 I think we better have the question reread,
22 because now I've forgotten it.

23 THE COURT REPORTER:

24 "Q. Let me show you one other
25 document which has already been marked as an

1 exhibit in this case, for the purpose of
2 determining whether or not it refreshes your
3 recollection as to the loss of fluid through
4 seal leaks, and it's TW 122."

5 A. It describes a memory in that on a
6 visit to one of the installations, we
7 discussed the function of leaks due to
8 malfunction in the seal system and the fact
9 that any fluid which did leak into the line
10 was removed by some knock-out traps and they
11 pointed out where they were, which was at the
12 edge of the pumping station, and they
13 indicated that that's where, that was
14 standard practice.

15 Q. I'm sorry, you were referring to
16 visit to Texas Eastern?

17 A. Yes.

18 Q. Were you alone on that visit, or
19 as best you recollect?

20 A. I never walk into a plant alone.
21 I was with Texas Eastern personnel.

22 Q. I'm sorry, I meant to ask whether
23 you were accompanied by anyone from Monsanto.

24 A. I do not remember.

25 Q. And you were with Texas Eastern

1 personnel?

2 A. Yes.

3 Q. Do you remember who that was?

4 A. No, I do not.

5 Q. Do you remember approximately when
6 that visit occurred?

7 A. Late Fifties, early Sixties.

8 Q. And Doctor, you may have already
9 impliedly answered this in your statement of
10 a moment ago, but do you recollect the
11 location that you visited?

12 A. No. I do not.

13 Q. Was the location a gas compressor
14 station?

15 A. Yes.

16 Q. And was it a turbine-powered gas
17 compressor?

18 A. It was a combination station, they
19 had gas turbine compressors set up in the
20 newer part of the station and they had the --
21 these huge, twelve-cylinder diesel engines
22 driving compressors in another part of the
23 station. My visit was limited to the,
24 primarily, to the gas turbine end.

25 Q. And just one other point on this

1 while you are here. When you used the term
2 "knock-out traps," what did you refer to?

3 A. It was a device designed into the
4 line so that any liquids in the gas stream
5 would be knocked out, or trapped, or removed
6 so that they were collected in that portion
7 of the piping setup and it would be removed
8 from there.

9 Q. In your last answer, in referring
10 to "the line," are you referring to the main
11 gas line through which gas was pumped?

12 A. Yes.

13 Q. One other question, Dr. Hatton.
14 Do you know who the author of that Exhibit TW
15 122 is?

16 A. No.

17 Q. You never saw it before?

18 A. I do not remember ever seeing
19 this.

20 Q. Dr. Hatton, during the period you
21 had as part of your responsibilities,
22 communicating with Texas Eastern Transmission
23 Corporation, do you recollect ever having had
24 any communications with Larry Sunsky?

25 A. Yes, I remember Larry Sunsky.

1 Q. What was Mr. Sunsky's position, as
2 best you recall?

3 A. I do not remember an exact title,
4 but he was the gentleman who was in charge of
5 the crew that was installing two gas turbine
6 compressor setups at Danville.

7 Q. Danville, what state?

8 A. I think it's Kentucky.

9 Q. And you had occasion to
10 communicate with Mr. Sunsky, as best you
11 recall?

12 A. My recollection here is that I
13 visited the location and met Mr. Sunsky face
14 to face, and he's a man you don't forget
15 easily.

16 Q. Why is that?

17 A. Huge, friendly, and extremely
18 competent.

19 Q. Just to see if we're talking about
20 the same thing, was your visit to Danville
21 the same visit which you described in your
22 testimony of a few moments ago where you
23 visited a location where there were diesel
24 compressors and turbine compressor?

25 A. I do not remember that. I do not

1 remember what else was at the station. I
2 know that the two turbines that I was looking
3 at were there.

4 Q. I understand. I was just trying
5 to determine if your visit to Danville was
6 another visit to a Texas Eastern location or
7 the same one that you described earlier.

8 A. I am certain it was another one.

9 Q. And the purpose for your visiting
10 the Danville installation, or location?

11 A. New equipment was being installed,
12 and it was to be charged with fire-resistant
13 lubricant, and I was down to see what was
14 going on and lend any advice that I could.

15 Q. When you used the word "charged"
16 in your last answer, do you mean to say
17 loaded, that the turbine compressor was
18 loaded with a Monsanto fluid, a lubricating
19 oil?

20 A. The definition of "charged" we
21 generally use to mean to fill the equipment,
22 the reservoir plus the necessary operating
23 lines, with the material.

24 Q. Okay, so "charge," as you use that
25 term in your answer, is, equates with to

1 fill.

2 A. Yes.

3 Q. Okay. Was either of the units
4 started in your presence?

5 A. I don't remember the -- I don't,
6 don't know.

7 Q. Do you have a recollection of Mr.
8 Sunsky communicating with you with respect to
9 the status of the turbines for which he had
10 responsibility?

11 A. No.

12 Q. Let me show you a document which
13 we'll ask the court reporter to mark as the
14 next exhibit, number 677, and that one-page
15 letter, dated December 11th, 1961, to Mr.
16 L. J. Sunsky of Texas Eastern Transmission
17 Corporation in Danville, Kentucky, from Roger
18 E. Hatton, Project Manager, Development
19 Department, bears Texas Eastern production
20 number TW2-2003906.

21 (Plaintiff's Deposition
22 Exhibit 677 marked for
23 identification.)
24 (Witness peruses said
25 document.)

1 BY MR. TALLON:

2 Q. I'm sorry, did you get a chance to
3 read that, Doctor?

4 A. Yes.

5 Q. My specific question to you,
6 Doctor, is whether your review of this
7 letter, either in its entirety or
8 particularly with respect to the last
9 sentence of the last paragraph, refreshes
10 your recollection in any respect as to
11 whether or not Mr. Sunsky kept you informed
12 on the status of the turbines for which he
13 had responsibility.

14 A. I can't recall the meeting.

15 Q. Is this a letter that you sent to
16 Mr. Sunsky?

17 A. Yes.

18 Q. Doctor, were you ever a member of
19 the Fire Resistant Turbine Fluids Study
20 Group?

21 A. Yes, sir.

22 Q. And was that a group, a subgroup
23 of another organization?

24 A. I assume the group that you are --
25 that specific title was used for is a rather

1 broad term, as well as a title. This
2 particular one had to do with ASTM, I
3 believe, which is the American Society of
4 Testing and Materials.

5 Q. Do you recollect ever having been
6 secretary of the fire resistant turbine fluid
7 study group?

8 A. Yes.

9 Q. And was it part of your
10 responsibility as secretary for that group to
11 take notes at meetings and to prepare
12 minutes?

13 A. Yes.

14 Q. Let me show you a document which
15 we'll mark at this deposition as the next
16 exhibit in order, number 678, document
17 produced by Texas Eastern numbered 000907815
18 through 825, titled "Minutes of Meeting,
19 Fire-Resistant Turbine Fluid Study Group,
20 Atlantic City, New Jersey, June 25, 1963,"
21 signed by R. E. Hatton or indicating
22 R. E. Hatton, Secretary, and R. G. Knight,
23 Chairman, on page 7 of the minutes. For the
24 record, there is attached to the minutes a
25 document titled "Members Section 2 Technical

1 Committee N" about which I will not question
2 the witness, and we'll ask the court reporter
3 to mark that.

4 (Plaintiff's Deposition
5 Exhibit 678 marked for
6 identification.)

7 MR. ZIMMER: Before he reviews
8 this, is this a document that was produced by
9 Texas Eastern that was not available at the
10 time of this first deposition?

11 MR. TALLON: That's correct. This
12 was withheld -- well, I don't know if you had
13 it or not, but Texas Eastern withheld it
14 until not long ago.

15 MR. ZIMMER: Well it has an
16 Exhibit Number Hatton 12, 1-24-90, as having
17 been used before.

18 MR. TALLON: It was used before as
19 a deposition exhibit as Dr. Hatton's
20 deposition in the Texas Eastern case.

21 MR. ZIMMER: Well, I'll just, not
22 knowing the answer to my own question, I will
23 object and move to strike any testimony
24 generated about a document which had, indeed,
25 been available at the time of his first

1 session.

2 MR. TALLON: For the record, the
3 exhibit now marked as Exhibit 678 at this
4 deposition was deemed by Texas Eastern to be
5 a protected exhibit and not furnished to us
6 under the terms of whatever confidentiality
7 order they had in their case until somewhat
8 recently. I don't know the precise date.

9 BY MR. TALLON:

10 Q. Doctor, were you the secretary for
11 the meeting described in these minutes?

12 A. Yes.

13 Q. And did you author these minutes?

14 A. Yes.

15 Q. Do the minutes accurately reflect
16 the presentations made at the meeting?

17 A. I cannot remember those
18 presentations made at that time.

19 Q. There is a portion of the minutes
20 which refers to a presentation by Ollie
21 Fletcher of Texas Eastern.

22 A. Yes.

23 Q. Do you see that? Do you have any
24 doubt that what's written with respect to
25 that presentation accurately reflects the

1 presentation of Mr. Fletcher?

2 MR. ZIMMER: Argumentative; calls
3 for speculation.

4 BY MR. TALLON:

5 Q. Doctor, I'm not -- let me be clear
6 for the record, I'm not attempting to trick
7 you. This is a subject about which you
8 testified in the Texas Eastern case, and I
9 have a copy of a portion of your deposition
10 transcript here which was recently produced
11 to us by Texas Eastern, and I'm simply trying
12 to make a record for this case. Do you
13 recall being asked a question at that
14 deposition, "Do you have any doubt that
15 what's written here accurately reflects the
16 presentation to Mr. Fletcher," and do you
17 recall giving the answer, "No, it reflects
18 what I heard at the time and what I would
19 have reported as such"?

20 MR. ZIMMER: So the question is,
21 does he recall being asked that question and
22 giving that answer?

23 MR. TALLON: And giving that
24 answer.

25 A. Yes.

1 BY MR. TALLON:

2 Q. You do recall giving the answer?

3 A. Yes.

4 Q. And that if I asked you today,
5 does the portion of the minutes relating to
6 the presentation of Mr. Fletcher from Texas
7 Eastern, is it accurately represented in the
8 minutes, would your answer be the same?

9 A. To the best of my knowledge.

10 Q. Just for the record, Doctor, on
11 page, the bottom of page 3 and the top of
12 page 4, that's the section that refers to Mr.
13 Fletcher's comments at the meeting?

14 A. How much did you want me to read?

15 Q. Well, I just wanted to establish
16 for the record that Mr. Fletcher's comments
17 under the caption -- are under the caption,
18 "Use of fire-resistant fluids in gas
19 turbines," which begins on page 3 and carries
20 over to the top of page 4.

21 A. Yes.

22 Q. Okay, and those are the comments
23 of Mr. Fletcher to which I referred in my
24 questioning of a moment ago, asking you if
25 those comments were accurately reflected in

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1 the minutes.

2 A. Yes.

3 Q. Is that what you understood me to
4 refer to?

5 A. Yes.

6 Q. Do you have any recollection of
7 having discussed with Mr. Fletcher or any
8 other representative of Texas Eastern a seal
9 system used by Texas Eastern which operated
10 at about 1,000 pounds per square inch?

11 A. The seal system on the compressor
12 shown me was indicated to operate at a
13 thousand, from 700 to 1200 pounds per square
14 inch.

15 Q. And can you describe the type of
16 seal system shown to you?

17 A. It was a pressurized liquid seal.

18 Q. Just for the sake of clarity, when
19 was that pressurized liquid seal system shown
20 to you?

21 A. I don't recall the specific time
22 it was shown to me.

23 Q. Do you recall the location of
24 which that seal system was shown to you?

25 A. No.

1 Q. Is it your understanding that the
2 seal system shown to you that you do
3 recollect was common to the turbine and
4 compressor operations of Texas Eastern
5 Transmission?

6 A. Yes.

7 Q. And when you are referring to a
8 liquid seal system, are you referring to a
9 seal system which employs or employed the
10 Monsanto lubricating oil as part of the
11 sealing?

12 A. Either, either the synthetic fluid
13 or the hydrocarbon-based fluid that was used
14 if the unit was not operating on
15 fire-resistant fluids.

16 Q. If the unit was lubricated with a
17 Monsanto product such as Turbinol 153, then
18 the Turbinol 153 would be used or would be
19 part of the liquid seal system?

20 A. Yes.

21 Q. And for the sake of clarity on the
22 record, Doctor, you have -- you do not today
23 recollect where or when you were shown that
24 system?

25 A. I do not.

1 Q. Was it your understanding, Doctor,
2 that the liquid in that liquid seal system
3 came into contact with the natural gas in the
4 compressor unit?

5 A. Yes.

6 Q. Did you ever get copies of any
7 papers delivered by Earl Farmer of Texas
8 Eastern Transmission Corporation?

9 A. Yes, mm-hmm.

10 Q. Let me show you one particular
11 paper and ask you whether you've ever seen
12 that paper before, a paper titled "Fire
13 Resistant Lubricants in Gas Turbines" by Earl
14 P. Farmer, Jr., and it's produced by Texas
15 Eastern under production number TW
16 1-0000313-000 through 326-000, the numbering
17 system only decipherable by Covington &
18 Burling, no doubt. I'll ask the court
19 reporter to mark that as Exhibit 679, Doctor,
20 and when he's done so, I'll ask you if you've
21 seen this particular paper before.

22 (Plaintiff's Deposition
23 Exhibit 679 marked for
24 identification.)

25 (Witness peruses said

document.)

BY MR. TALLON:

Q. The pending question, Doctor, after you've had sufficient opportunity to review Exhibit 679, is whether you had seen this particular paper by Mr. Farmer before.

A. Yes, I have.

Q. On page 3 of the report, Doctor, in the first full paragraph, the report states that, "Besides meeting all requirements for satisfactory lubrication of the gas turbine and natural gas compressor rotating elements, those synthetics must also function as a seal oil in the gas compressor." Is that consistent with the description you were just giving me of your understanding of the seal oil mechanism?

A. Yes. Mm-hmm.

MR. TALLON: Okay, thank you.

MR. ZIMMER: Thank you, sir, for your time, Doctor.

(Whereupon, at 10:20 a.m., the deposition was concluded.)

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COMES NOW THE WITNESS, ROGER
E. HATTON, and having read the foregoing
transcript of the deposition taken on the 4th
day of September, 1992, acknowledges by
signature hereto that it is a true and
accurate transcript of the testimony given on
the date hereinabove mentioned.

ROGER E. HATTON

Subscribed and sworn to before me
this _____ day of _____, 1992.

My Commission expires: -----

Notary Public

1 STATE OF MISSOURI)
2 SS:)
3 CITY OF ST. LOUIS)
4 I J. Bryan Jordan, notary public
5 in and for the State of Missouri, duly
6 commissioned, qualified and authorized to
7 administer oaths and to certify depositions,
8 do hereby certify that pursuant to agreement
9 in the civil cause now pending and
10 undetermined in the Superior Court of the
11 State of California, in and for the County of
12 Los Angeles, to be used in the trial of said
13 cause in said court, I was attended at the
14 offices of Bryan, Cave, McPheeters &
15 McRoberts, in the City of St. Louis, State of
16 Missouri, by the aforesaid witness and by the
17 aforesaid attorneys, on the 4th day of
18 September, 1992.

19 The said witness, being of sound
20 mind and being by me first carefully examined
21 and duly cautioned and sworn to testify the
22 truth, the whole truth, and nothing but the
23 truth in the case aforesaid, thereupon
24 testified as is shown in the foregoing
25 transcript, said testimony being by me

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1 reported in shorthand and caused to be
2 transcribed into typewriting, and that the
3 foregoing pages correctly set forth the
4 testimony of the aforementioned witness,
5 together with the questions propounded by
6 counsel and remarks and objections thereto,
7 and is in all respects a full, true, correct
8 and complete transcript of the questions
9 propounded to and the answers given by said
10 witness; that signature of the deponent was
11 not waived by agreement of counsel.

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

16 Witness my hand and notarial seal
17 at St. Louis, Missouri, this 6th day of
18 October, 1992.

19 My commission expires July 20,
20 1994.

21
22 

23 J. Bryan Jordan

24 Notary Public in and for the
25 State of Missouri

GORE REPORTING COMPANY - ST. LOUIS, MISSOURI