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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.	)	

June 9, 1992

Deposition of **CARL L. CLAY**, taken on behalf of Plaintiff.

GORE REPORTING COMPANY

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TRANSWESTERN PIPELINE COMPANY, Plaintiff,	)	
v.	)	No. BC 026959
MONSANTO COMPANY and DOES 1 through 200, inclusive, Defendants.	)	

Deposition of CARL L. CLAY, taken on behalf of Plaintiff, at the offices of Bryan, Cave, McPheeters & McRoberts, 500 North Broadway in the City of St. Louis, State of Missouri, on the 9th day of January, 1992, before J. Bryan Jordan, certified shorthand reporter and notary public.

HARTOLDMON0039655

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Whereupon. . .

CARL L. CLAY,

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

EXAMINATION

QUESTIONS BY MR. KASHANI:

Q. Good morning, Mr. Clay. I'm Saied Kashani. As you know, I represent the Transwestern Pipeline Company in this action we've brought against Monsanto, which is pending in Superior Court in Los Angeles.

I wonder if you could start by stating your full name for the record.

A. Carl L. middle initial Clay, C-l-a-y.

Q. What is your home address?

A. 2538 Long Mount, like it sounds, M-o-u-n-t Drive, Wuexford, W-u-e-x-f-o-r-d, PA 15090.

Q. And what is your business address?

A. Let's see. I'm moving. Miles, Incorporated, 2603 West Market Street, Akron, Ohio.

Q. And what does that company do?

A. It's a polysar rubber division of division of Miles, Incorporated.

Q. Is the company based in Pennsylvania?

A. The Miles, Incorporated, is based in Pittsburgh.

Q. And you are moving to the Akron office, or --

A. Correct.

Q. Oh, and did you, I'm sorry, did you give the address of the Akron office?

A. Mm-hmm, correct.

Q. What's the address of the Pittsburgh office?

A. Miles, Incorporated, Mobay Road, Pittsburgh, Pennsylvania.

Q. Have you ever been deposed before?

A. No.

Q. Have you ever given sworn testimony in any setting, at a trial or grand jury, or at any time?

A. As a jury member, I guess I was sworn.

Q. Did you give testimony?

A. No.

Q. Have you ever been involved in a lawsuit in any way, a party or a witness?

A. No.

Q. When did you join the Monsanto Company?

A. June 24th, nineteen seventy -- sorry, 1968.

Q. And what was your position when you joined?

A. Eventually, sales rep, sales representative.

Q. Is that what you were when you first joined?

A. I was -- can I say lady-in-waiting? I was, had to go through some training, initial training and then became a sales representative in the field.

Q. What did you do before you joined Monsanto?

A. School, college.

Q. What college was that?

A. University of Georgia.

Q. And did you receive a degree?

A. Yes.

Q. In what field?

A. I have two undergraduate degrees and a graduate degree. Undergraduate is psychology and chemistry, and graduate degree was a Master's in business.

Q. Where did you receive your graduate degree?

A. '68, the last one was 1968.

Q. Where was that?

A. University of Georgia, all of them were from the University of Georgia.

Q. And when were you born, Mr. Clay?

A. August 13th, Friday, 1943.

Q. So was the Monsanto position your first job out of college?

A. Correct.

Q. Out of graduate school; I'm sorry.

A. Correct.

Q. Did you receive an MBA?

A. A Master's in business administration.

Q. You mentioned some training when you first joined Monsanto. What did that training involve?

A. It was, the course was called

managing a marketing job, and it was geared to more or less recognizing the -- your personality traits so you could better handle the marketing -- the perceptions in the marketplace, and how to market, how to sell products; a training course.

Q. About how long was that course?

A. Six weeks.

Q. During that course, did they tell you anything about the products you would be selling?

A. It was not product specific, it was only marketing the job, because at that time, you did not have a specific, to my knowledge, as I recall you did not have a specific assignment yet. You went through the course, it was all generic, with the exception of understanding more yourself and people, and et cetera, and it was not product unique or specific.

Q. Where was this course given?

A. At St. Louis.

Q. How did you end up from the University of Georgia to St. Louis?

A. I was fortunate. I had a lucky

combination of degrees and a number of offers, and I liked the company, so I chose Monsanto to -- as an employer over other offers.

Q. Are you from Georgia originally?

A. Part Georgia, part St. Louis, part Missouri. Half and half.

Q. I'm sorry, I don't understand.

A. I spent half my life in Georgia, half my life in St. Louis.

Q. At what point did you learn what products you would be selling?

A. Specifically, when we left managing the marketing job, we then went into the specific division and group within that division and began training within that division or product group, so it was immediately after the, what I mentioned as MMJ, managing marketing job course.

Q. What group did you join?

A. Functional fluids.

Q. Did you have a choice, or --

A. Sure did. That's one of the reasons I went to Monsanto was I asked specifically to be strongly considered for

functional fluids.

Q. Why was that?

A. Because they market a product that is called Skydrol, and S-k-y-d-r-o-l, and Skydrol is used in the hydraulic systems of commercial aircraft and I had a very strong penchant toward the aviation industry as a kid, et cetera, so it was a nice, nice situation to be in.

Q. Is Skydrol a PCB-containing product?

A. It was a phosphate ester.

Q. Did it ever contain PCB's, to your knowledge?

A. I don't know.

Q. What was your position when you first started with the Functional Fluids Group?

A. Sales rep.

Q. And do you remember the approximate date?

A. Fourth quarter '68. As I recall. Fourth quarter '68, first quarter '69.

Q. And what office were you working at?

A. St. Louis.

Q. Do you recall who was your supervisor at that time?

A. Larry Bradford.

Q. Was there anyone working under you at that time?

A. No.

Q. How long did you stay in that position, at that office in St. Louis?

A. As I recall, it was until January-February '71.

Q. Were you a sales representative for that period?

A. Mm-hmm, correct.

Q. And which accounts did you call on?

A. Better defined as region or territory. I called on, in the St. Louis region, Houston region, and eventually the Atlanta region. Sales regions.

Q. Do you know who was, who were the supervisors for those regions, or who were your supervisors for those regions?

A. Really, I just had Larry Bradford as a regional manager, reporting to him for a

period of time.

Q. Did you report to him until 1971?

A. No. There was a change and I reported to Raleigh Garcia.

Q. Do you recall when that occurred?

A. I do not.

Q. Was it approximately 1970?

A. I -- it would only be a guess, and I do not recall.

Q. Do you recall approximately how long you were reporting to Bradford before Garcia came in? Was it one year, two years?

A. It would probably be a year and a half, something like that. I just don't, don't recall the specific time frame.

Q. Did Mr. Garcia come into a St. Louis post?

A. No, I believe -- no, no, he was, I believe, as I recall, he's in Akron. I'm not positive, but I think he was in Akron. He was not in St. Louis.

Q. What about Mr. Bradford?

A. He was not in St. Louis.

Q. Where was he?

A. L.A.

Q. How did that work? If you were working in the St. Louis and Houston, Atlanta regions, how would you report to someone in Los Angeles?

A. That's just the way the regions were carved out. I mean, his region, Larry Bradford's region had Los Angeles, Seattle, Denver -- there may not have been Denver, St. Louis, Houston territories. It just so happened I had St. Louis-Houston territories, so it was in his region.

Q. A big region.

A. Very big.

Q. Were there any supervisors, any persons or managers under Larry Bradford, between you and Larry Bradford in the general organization that you recall?

A. No.

Q. What about Mr. Garcia? Do you recall what he was, what area he was in charge of?

MR. ZIMMER: During which time frame?

MR. KASHANI: How about when he first started?

A. When I first started?

BY MR. KASHANI:

Q. When Mr. Garcia -- when you first began reporting to Mr. Garcia, when he became your supervisor, what region was he in charge of?

A. I don't recall exactly what region he was in charge of. Obviously, it would include Akron, Chicago, St. Louis, Houston, but I don't recall as specific as I did with Bradford, because I worked with him for a short period of time.

Q. How long did you work with Mr. Garcia?

A. Whatever the difference was. Again, I don't know, I don't recall when we started, when I started reporting to him but when I left St. Louis, I terminated reporting to him.

Q. When did you leave St. Louis?

A. That would be January-February of '71.

Q. Where did you go from there?

A. To Atlanta.

Q. What was your position in Atlanta?

A. Same position, different territory.

Q. Did the territory continue to include Houston at all?

A. No, thank goodness.

Q. You didn't like Houston?

A. No, no, I didn't like the size of the territory.

Q. Whom did you report to when you went to Atlanta?

A. A gentleman named Ray Ford.

Q. Anyone else?

A. No.

Q. How long were you in Atlanta?

A. Until '77. Sorry, yes; correct.

Q. And what was your position at that time, for that period?

A. Sales rep.

Q. And what happened in 1977?

A. I left Monsanto.

Q. Was that at your own choice?

A. Sure.

Q. Where did you go from Monsanto?

A. Went to work for another company.

Q. What was the name of the company?

A. At that time, it was called Mobay, M-o-b-a-y.

Q. Is that the same company you are working for now?

A. Correct.

Q. What's your position now at Mobay?

A. We've changed names January 1st of this year. It's now called Miles. I'm business manager for North America for rubber chemicals.

Q. Let's go back just a bit. Did you have any particular specialty in your chemistry degree?

A. No. It was general.

Q. During your training in college or previously, did you -- I mean before you joined Monsanto, did you ever come across or learn about PCB's?

A. I do not recall.

Q. Did you ever encounter DDT, or learn about DDT or its structure?

A. Probably as a kid; more than in college. That was provided to you by Monsanto. I'm sorry, it's not all that legible.

(Plaintiff's Deposition Exhibit 250 marked for identification.)

BY MR. KASHANI:

Q. Do you recognize this chart?

A. Sir?

MR. ZIMMER: I think he wants to know if you've seen it before.

MR. KASHANI: Or anything like it.

A. Yeah, anything like it, for sure.

BY MR. KASHANI:

Q. Have you seen something like this from Monsanto?

A. Yeah, I'm sure. I don't recall this specific chart, but I'm sure I've seen something like it.

Q. Let's start at the top box where it says, "Director of Specialty Products, H. S. Bergen." What were -- what did specialty products mean at Monsanto?

MR. ZIMMER: You mean what it meant at Monsanto, as opposed to what it means in this particular chart?

MR. KASHANI: Either one.

MR. ZIMMER: Well, there's no

foundation for what it means in this chart, since he hasn't indicated that he wrote it, but maybe I'm splitting hairs.

Go ahead and answer, if you know.

A. I'm trying to read it first, because it's okay.

This includes paper chemicals, latex binders, et cetera, so at this point in time, this organization was literally specialty chemicals, specialty products which encompassed paper chemicals, functional fluids, specialty latices, et cetera, so it handled that special settingment of Monsanto with regard to those products.

BY MR. KASHANI:

Q. And who is H. S. Bergen?

A. He was the head, head of that group.

Q. Did you ever meet him?

A. Mm-hmm.

Q. That's right?

I should have given some background. Before I go on, I need to tell you something about how the deposition process works, in light of your answer.

The oath you took at the beginning is the same in all respects as an oath you might take to testify in court or before a jury. I gathered that you understood that when you gave the oath?

A. Certainly.

Q. And what's happening here is that the court reporter will be writing down everything that you say and everything that I say, and he'll prepare it in sort of a bound volume with transcribing the questions and answers that are made and you will be provided a copy of that at some point after this deposition, and you can go through and make notes, or corrections, or changes on that transcript, but you should know that I or someone or the judge, maybe, perhaps, not the judge, but someone at some point may comment on some of the changes that are made, so for that reason, it's important during the deposition to give clear answers and audible answers, yes or no, that the court reporter can take down, so that we have a clear record afterwards. And there seems to be a little vent noise in here so anytime you don't hear

me perfectly, or don't understand my question, please just say and I'll restate the question.

A. I understand.

Q. And the other thing I should have asked, it was pretty clear from the beginning, but is there any reason why you cannot be deposed today, any health reason or not feeling well or anything like that?

A. No.

Q. Okay, let's go back to the chart, then. At this chart, the date on this chart is October 1, 1971. At that time, were the paper chemicals and functional fluids combined at Monsanto, to your knowledge?

A. To my knowledge, correct.

Q. So Mr. Bergen was in charge of both the functional fluids area and the paper chemicals area?

A. Correct.

Q. What about T. L. Gossage, who I believe is Tom Gossage, who is listed on the chart as marketing director, what was his position?

A. Marketing director.

Q. Was he in charge -- what was he in charge of? What areas?

A. Really, marketing and sales, just to split that out, the activities in the marketplace.

Q. What divisions was -- what groups of chemicals was he in charge of?

A. The ones that would be stated here.

Q. Did that include functional fluids?

A. Correct words defined as lubricants, hydraulics and processed fluids.

Q. What's a processed fluid?

A. As defined here, process fluid would be the heat transfer fluids, as I recall.

Q. Does that include fluids like Therminol?

A. Specifically, I would include, I would say process fluids would be Therminol. There may be some others, but as I recall, it was primarily Therminol.

Q. Santotherm?

A. Yes.

MR. ZIMMER: I want to caution you, Mr. Clay, unless you know at what time what the author of this document meant by those titles, that you would be speculating --

THE WITNESS: Yeah.

MR. ZIMMER: -- so please give him answers that are within your knowledge.

BY MR. KASHANI:

Q. We have someone listed as Product Manager, Dielectric and Process Fluids, as C. Paton. Is that Cumming Paton?

A. That's the only C. Paton that I knew, was Cumming Paton.

Q. Did you know Mr. Paton while you were at Monsanto?

A. Yes.

Q. Do you know where he was based?

A. St. Louis.

Q. And what was his position?

A. If this is correct, product manager for dielectric and process fluids.

Q. Do you know that of your own knowledge or just based on the what you read here?

A. I recall he was a product manager.

Q. Do you recall if he had some management responsibility for products that included, contained PCB's?

A. At which time?

Q. At the time of this chart, 1971.

A. Yes.

Q. Next we have C. L. Bradford. Is that Larry Bradford?

A. I believe it is.

Q. And was he the product manager of hydraulics and lubricants?

MR. ZIMMER: In October of '71?

MR. KASHANI: Yes.

A. As I recall, he was, yes.

BY MR. KASHANI:

Q. Did hydraulics and lubricants include a product called Turbinol 153 or MCS 153?

A. As opposed to dielectric process fluids, correct.

Q. Would the dielectrics include the capacitor fluids sold to General Electric and Westinghouse?

A. Correct.

Q. This next one is the next field in which you expressed an interest: F. S. Langenfeld?

A. Yes, F. H.

Q. F. H. Langenfeld? What was his first name?

A. Frank.

Q. And was he the marketing manager for aviation?

A. Correct.

Q. Did that include Skydrol?

A. Absolutely.

Q. And going down again we have J. H. Davidson. Is that Jerry Davidson?

A. I don't recall.

Q. Do you recall that someone named Davidson was the product supervisor?

A. No.

Q. Does that term mean anything to you, product supervisor, industrial?

A. I don't recall, if it's Jerry Davidson, I don't recall the name Davidson.

Q. What about the position, product supervisor, industrial? Could that mean industrial fluids?

MR. ZIMMER: Don't guess or speculate. The question asks for that by saying "Could that mean." If you remember that term being used, tell him so.

A. The term I'm familiar with, the specific function of that job, and Davidson in that job, I don't recall.

BY MR. KASHANI:

Q. Does the term "industrial fluids" mean anything to you in the context of Monsanto?

A. Yes.

Q. What does that mean?

A. Industrial would be the Pydrauls that we talked about, and I guess the turbinols could fit into that.

Q. What were the Pydrauls used for?

A. Those were used in metal, primarily in metalworking applications, as a metalworking lubricant.

Q. I don't understand.

A. I'm sorry, not metalworking lubricant, as a hydraulic fluid in metalworking where you are dealing with hot metals which could take a normal fluid which

was operating under pressure, be a break in a hose or something, spray on that hot metal and create a fire, so it was an application for the Pydrauls as fire-resistant for safety reasons.

Q. I see. Were they used in metal presses, dye processes?

A. In hydraulic presses, correct. Is that what you -- -- you said presses?

Q. Yes, presses. Then we have someone listed as Technical Services Manager, Roger E. Hatton. Do you remember Dr. Hatton?

A. Yes, I do.

Q. Did you have occasion to work with him while you were at Monsanto?

A. Yes.

Q. Do you know if at about the time of this chart, 1971, this apparent order of, I would say supervision or people reporting to other people, was correct in terms of going from Larry Bradford down to Roger Hatton?

A. I knew, knew the people involved. I apologize, I -- Davidson, I just don't recall, but every -- the other three, as I

recall, that is the correct pecking order.

Q. Turning over to Cumming Paton, Product Manager, Dielectric and Process Fluids, then we have immediately under him on the chart, I think that's P. L. BEN-ig-nus?

A. Ben-IG-nus.

Q. Ben-IG-nus. Do you remember him?

A. Yes.

Q. Do you recall him?

A. Correct.

Q. Do you recall his position? Is that Paul Benignus?

A. Yes.

Q. Do you remember his position?

A. As it states here, marketing manager.

Q. What was a marketing manager at that time, at Monsanto?

A. As opposed to product manager, market manager was more -- was related to a specific market, where the product manager handled maybe more than one market. The market manager was primarily geared to one specific market segment.

Q. Would that be a region of the

country.

A. No, it would be more application.

Q. Do you recall the application Mr. Benignus was in charge of?

A. As stated here, dielectric.

Q. And under him on the chart, I can't read that. Someone listed in charge of heat transfer product supervisor? I cannot read that, but I'm wondering if either you could read that or that may jog a memory that suggests the person that should be there.

A. I don't have my glasses, so it's difficult for me to even see half the things on here.

Q. It appears to be J. R.

MR. ZIMMER: I can't read it, either. It's pretty illegible. Do you know who that position was filled by in October of '71?

A. It could have been -- I'm speculating, by the looks of the letters I'm speculating it could be J. Roder.

BY MR. KASHANI:

Q. Roder, do you know a fella named Roder?

A. Jim Roder, yes.

Q. Do you recall what his position was?

A. He used to be a salesman, and I think he continued, he may have come into the Product Group as possibly here at this point in time. I don't recall specifically, but I do know that he probably retired as one of the top salesmen within Monsanto. He did return to the marketing, sales job.

Q. Do you recall when he retired?

A. No. I just found out by word of mouth.

Q. What are the heat transfer products?

A. Therminols.

Q. And do you recall if Mr. Roder had responsibility for those products at any point in time?

A. At one time, he did.

Q. Do you recall approximately when that was?

A. I can only speculate from this, if this is correct, that this was the period of time that he was.

Q. You mean this, the Exhibit 250?

A. The date on this was correct.

MR. ZIMMER: He doesn't want you to speculate, so if your answer is doing that, let's stick with what you remember as opposed to guessing, speculating or interpreting a document that he shows you, unless he specifically asks you to do that.

A. At one time, he held that job.

BY MR. KASHANI:

Q. You mean product supervisor for heat transfer?

A. Correct.

Q. Below him, we have listed product specialist. I guess that's s-p-e-c, product spec. Does that mean specialist, product specialist?

A. I would -- yes.

Q. And that's a D. E. Roush?

A. Don Roush, correct.

Q. Do you recall what he did?

A. He was a product specialist.

Q. For heat transfer specialists?

A. For Therminols, yes.

Q. What were Therminols used for?

A. Heat transfer fluid used in systems to heat, to transfer heat from the fluid to a process, without contacting the process.

Q. Were those used in cooking applications?

A. There were some applications. It was more common to be -- more commonly we saw them in industrial applications, heating, bake reactors, heating textile spinnerettes, et cetera.

Q. What's a textile spinnerette?

A. It's where they extrude -- it was one of my favorite applications, where they extrude a liquid polymer fiber. It becomes a fiber upon extrusion, so your nylon polyester or liquid --

Q. Long chain polymers?

A. You are going over my head now, but you were liquid and then it goes through a spinnerette head, which is tiny little holes which develop the shape of the fiber and it's a continuous strand.

Q. And that has to -- that system has to be heated?

A. It's predominantly, unless technology has changed in twenty years, it was heated with heat transfer fluid in the casings.

Q. Then down at the bottom, we have, I think that's D. R. Is that Don Pogue?

A. I believe it is.

Q. And it's listed as a process fluids product supervisor. Is that correct, to your knowledge?

A. He was, yes.

Q. And I may have asked this, but what were the process fluids?

A. Process fluids were the Therminols.

Q. So that included the heat transfer fluids?

A. I would assume, yes, or correct; Therminols were heat transfer.

Q. And is that correct, to your knowledge, that Don Pogue was product supervisor for process fluids?

A. Correct.

Q. Going back to the pecking order, to your knowledge, is that a correct order

from Cumming Paton down to Don Pogue?

A. As I recall, it looks correct.

Q. The third category, there, seems to be latex binders. What are latex binders?

A. There was a unique Product Group of which I was very much involved, predominantly involved, in Atlanta. Latex binder in that particular case references ethylene vinyl chloride, which was a latex.

Q. Is that used in the textile industry?

A. It was, yes.

Q. Did that product or any associated product contain PCB's?

A. No.

Q. Oh, I've been using the term "PCB's. Do you know that PCB's mean polychlorinated biphenyls?

A. I recognize that, yes.

Q. Moving over to product manager, paper and wood chemicals, did you have any association with the Paper Chemicals Group?

A. I did in Atlanta, yes.

Q. What did you sell out of paper chemicals?

A. Paper chemicals was sold, a broad line, product line that they had.

Q. Did any of those compounds contain PCB's?

A. No, to my knowledge.

Q. Let me see, a field sales manager, N. T. Johnson, is that Norman Johnson?

A. Correct.

Q. Did you work with Norman Johnson while you were at Monsanto?

A. Correct.

Q. What would that mean? What does that mean, field sales manager?

A. He was responsible for all salespersons in the U.S. for this group.

Q. Of what group would that be?

A. Specialty Products.

Q. So he was -- do you recall that he was in charge of all of these products listed in terms of -- was he field sales manager for all of those products listed, meaning the dielectrics, process fluids, hydraulics and lubricants, latex binders, paper chemicals?

A. Correct.

Q. And then on the end, we have

someone listed as Market Specialist; G. R. Fallon, I believe that is. Who is that?

A. Jack Fallon, I believe.

Q. And what does -- was he a market specialist, as -- to your knowledge?

A. I'm sorry, I don't recall.

Q. Do you recall Jack Fallon?

A. Yes, I do, the person.

Q. Do you recall what he did?

A. That's what I don't recall.

Q. Going under Mr. Johnson, there was a Regional Manager, Eastern, and a Regional Manager, Central. Does that distinction mean anything to you? The Central and Eastern, do you know what that means?

A. Only that it references a geographical location of each.

Q. Were those sales managers?

A. Regional managers, regional sales managers.

Q. And do you recall what those regions were, Eastern and Central?

A. Again, it would just be, I don't recall specifically. It would just be the

Eastern corridor, Central would be Akron, and the central Chicago area.

Q. Looking at the regional manager for Central, R. A. Garcia, is that Raleigh Garcia?

A. Correct.

Q. What was his first name?

A. Raleigh.

Q. I mean was it -- was there, was that a nickname, or was that a shortened name, or is that --

A. I --

Q. He went by Raleigh.

A. I only assume it was Raleigh. I called him Raleigh.

(Discussion off the record.)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. If you look over to the regional manager -- Eastern, that appears to me to be P. L. Staton (Phonetic). Does the name "Staton" mean anything to you?

A. Slayten.

Q. Slayten?

A. I believe it was Slayten, yes.

Q. And to your knowledge, was he a regional manager for the Eastern section?

A. Correct.

Q. Would these regional managers be in charge or work with all the specialty products?

A. At that time, yes.

Q. And let me define specialty products to mean the products listed on this chart, across the row that begins with Cumming Paton, meaning Dielectrics and Process Fluids, Hydraulics and Lubricants, Latex Binders, Paper Chemicals.

A. Correct.

Q. Do you recall if the Eastern section included the Texas Eastern Company, Texas Eastern?

A. I'm sorry, would you repeat that?

Q. Do you recall if the Eastern region included Texas Eastern? I'm not trying to be facetious. Texas Eastern would not -- was not necessarily in the Eastern region.

A. To my knowledge, it was not involved. As I recall.

Q. There are some representatives listed under "Regional Manager" for the Eastern section. I'll just go down those. Do you recall a J. G. Bryant, I believe?

A. No.

Q. How about, and I can barely make out that next one --

A. Craska, I think, Paul Craska.

Q. How do you spell that?

A. C-r-a-s-k-a.

Q. And what was his role.

A. Sales rep.

Q. And the next one, was he a P. G. -- Monsignor, maybe? I can't read that.

A. I can't, either.

Q. Does that ring a bell, about how it's spelled?

A. No.

Q. Then under that, an L. T. Johnson.

A. No.

Q. Then J. S. Patterson, maybe?

A. That would be J. Pullman, I recognize.

Q. How do you spell that?

A. P-u-l-l-m-a-n.

Q. What was his position?

A. Sales rep.

Q. Underneath that, we have N. J. Richardson. Do you recall him?

A. That may be an R. J. Richardson. If it's an R, if it's Bob Richardson, I do recall. If it's Bob Richardson. I can't tell, either.

Q. And what was Bob Richardson's role?

A. At the time that I knew him, he was a sales representative.

Q. Going over to the Central region -- well, let me ask one question. With the exception of Mr. Bryant, or the name Bryant, the name that appears to be P. G. Monsignor to me, I can't make it out --

A. I can't help you.

Q. And L. Johnson, and assuming the bottom one is R. J. Richardson, does that accurately reflect the pecking order of these folks being under the regional manager for the Eastern region?

A. I don't think, I don't think that

would be the pecking order, I think that would just be alphabetical listing of the sales representatives.

Q. Oh, I see, yes, that's what I meant, I meant all of these sales representatives, not in any particular order, but the people listed under representatives all reported to the regional manager for the Eastern region.

A. Correct.

Q. Then turning over to rolly Garcia, under him are representatives listed, and we have G. F. Fague?

A. Fague, I recognize that, George Fague.

Q. Is that F-a-g-u-e?

A. Correct.

Q. Do you recall what his role was?

A. Sales representative.

Q. Did the Central region include the Texas Eastern Company?

A. I can't, I can't say. I can't -- first of all -- I can't read part of this, so I can't draw any -- I don't, there's a region that handled that, but without reading one of

these regions clearly, I can't tell. I don't recall the Eastern region handling it, I can't say for sure that the Central region handled it.

Q. Does the name Transwestern, does that mean anything to you -- well, let me go back a minute. Had you ever heard of or encountered or heard the name Transwestern Pipeline Company while you were at Monsanto?

A. No.

Q. Did you hear the term Texas Eastern?

A. Absolutely.

Q. Going back to the Central region, I'll see if any of these names -- under George Fague, I can't read that very well, as maybe J. Muletta, it seems to be "Akron" next to it. I cannot read the name under George Fague. Does that ring a bell?

A. I cannot.

Q. Okay. Under that, maybe, Hodge, maybe an R. Hodge or J. Hodge. I'm just wondering, it's virtually illegible, but I'm wondering if it rings any sort of bell with you.

A. The name "Hodge" does, but I can't give you his first name.

Q. Do you recall a fella named P. Hodges?

A. Hodges is more familiar sounding.

Q. Do you recall anyone named Hodges at Monsanto?

A. Hodge, Hodges.

Q. Hodge Hodges? Oh, I'm sorry.

A. I have to give you a "No."

Q. Then under what appears to be Hodges is, appears to be SAY-ger, or SEG-er, or SEE-ger. Do you recall that name?

Q. How is that spelled?

A. S-e-g-e-r, I believe.

Q. And was he a sales representative?

A. He was at one time.

Q. Then under him is, appears to be R. P. Salund (Phonetic) or Salug (Phonetic)? Does that ring a bell?

A. No.

Q. I should say that this is the document we received from Monsanto. I didn't try to make this difficult by bringing a poorer copy than we have.

A. I understand.

MR. ZIMMER: Nor did Monsanto.

BY MR. KASHANI:

Q. So we just have a Mr. Seger and Mr. Fague. Do you recall that Mr. Seger and Mr. Fague were representatives that worked under Raleigh Garcia?

A. Correct. I know George Fague. The Seger sounds familiar but I do know that George Fague and I know that he at one time reported to Raleigh Garcia.

Q. Going down, I would see the regional manager, Western region.

A. Okay, that's what that is; okay.

Q. I cannot -- do you know who was in charge of the Western region, what the name could be, there? It's difficult to read.

A. It really is. I cannot tell. I can only make an attempt.

Q. And under that, under the Western region -- do you recall what was encompassed by the Western region, what that included?

MR. ZIMMER: In October of '71?

MR. KASHANI: Yes.

BY MR. KASHANI:

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Q. I mean what states.

A. Not specifically. It was -- I believe there was a change in responsibilities and territories, but I can't, I can't give you a firm recollection.

Q. Did the Western region ever include, to your knowledge, Texas Eastern, responsibility for Texas Eastern?

A. At any time?

Q. At any time.

A. Correct, it did.

Q. It did?

A. Yes.

Q. Do you recall at what time?

A. The only time I'm acquainted with is when I was, when I was in St. Louis, reporting to Bradford. That was in the Western region, and that time it did include Texas Eastern.

Q. So that was from approximately last quarter of 1968 or first quarter 1969 to January-February 1971?

A. Correct.

Q. During that time, was Texas Eastern in the Western region?

A. Correct. Well, sorry, with the transfer -- I'm foggy, as I've stated, on -- when Bradford, when I stopped reporting to Bradford and started reporting to Garcia, so I'm not sure when that change occurred, but at that point in time, it obviously went into the Central region, or the Akron region, or however it's defined here, where Garcia is.

Q. So when Mr. Bradford was replaced by Mr. Garcia, or let me take that back. When you stopped reporting to Mr. Bradford and started reporting to Mr. Garcia, that was a time when Texas Eastern was shifted from the Western region to the Central region?

A. To the best of my knowledge, recollection, correct.

Q. Did Raleigh Garcia have responsibility for Texas Eastern at some point?

A. I don't recall. I don't recall. I'm --

Q. Is it possible that Texas Eastern was shifted to the Southern region at any time?

A. I think it was. Maybe -- yeah, I

think it could have been but again, I don't recall specifically. The details of surrounding the shifts involved, just when I went from reporting to one individual to reporting to another, to reporting to another.

Q. Do you know the reaons for the shifts from region to region?

A. I do not know the reason of shifting from -- I don't recall the reason of shifting from Bradford to Garcia, but the specific reason for shifting to Atlanta was to handle and become involved in the latex that we discussed here.

Q. What do you mean, for you to handle and become involved in that, or --

A. They -- I was moved from St. Louis to Atlanta, number one, as a personal request if it ever arose, and number two, they wanted to concentrate in, on the textile market in the Atlanta region, and developing a market for the latex binder.

MR. ZIMMER: I think he was asking you if you knew why Texas Eastern might have shifted from one region to another, not

yourself, personally.

THE WITNESS: Oh, I'm sorry.

BY MR. KASHANI:

Q. They're both good to know, but we can ask about Texas Eastern, too.

A. The decisions behind the shifts, I am not aware of. I don't recall and I'm not sure I was aware of why it was shifted; if it was. I'm speculating.

Q. Going back to the Western region, under him you see representatives listed. Is that first one BEV-a-KOE-a or BEV-a-quaw?

A. I recognize that. That's Robert Be-VAC-wa; B -- bear with me: As I recall, it was B-e-v-a-c-q-u-a.

Q. And was he a sales manager, I mean a sales representative?

A. Correct.

Q. Was he based in, appears to be L.A., was he based in Los Angeles?

A. I believe he was in Seattle, or maybe he was in Los Angeles traveling to Seattle because he handled Boeing. He was really concentrated in the aviation side.

Q. Did he sell Skydrol?

A. Absolutely.

Q. And under him, we see a C. Boudin. I don't know if that's BOO-din or BOW-din. Does that ring a bell? That's what I interpret.

A. I cannot confirm it.

Q. I understand. Under that, we see, I believe, a G. S. Lewis or H. Lewis, something H. Lewis, L-e-w-i-s? Does that ring a bell?

A. No.

MR. ZIMMER: I just want to note for the record that by my silence, I am not agreeing with any of these interpretations, because the exhibit is virtually illegible for all of these names, but I'm not going to interrupt each time with an objection.

MR. KASHANI: No, I understand. I'm not asking Mr. Clay to read the lettering, I'm just wondering if these letterings ring a bell. I'm asking about the person, not about what's written here in the chart.

BY MR. KASHANI:

Q. Then under "Lewis," it appears to

be a Shelton, and next to it, "Seattle." Does that ring a bell?

A. No.

Q. So -- but we do have Mr. Bevacqua whom you recall.

A. Yes.

Q. Okay, last but not least, we have the Southern region. Regional manager is an H. R. Ford, and under him as representatives, we see C. L. Clay. Is that you, Carl Clay?

A. That's exactly right. We can identify that one correctly.

Q. So if this chart is correct, then the parts we've gone over, as you say, some of the parts, as you say, appear to be correct, then, would this chart appear to be dated from the time when you were reporting to Mr. Ford? It says October '71. Is that correct?

A. If this chart is accurate and it's October 1st, 1971, at that time I was reporting to Ray Ford, correct.

Q. Going down under Ray Ford, the first one appears to be -- I can't read that. Caput? Does that ring a bell?

A. Andy Capps, C-a-p-p-s.

Q. And was he in Atlanta?

A. He was in the region. I do not recall whether he was in Atlanta or another city.

Q. Was he a sales representative?

A. Correct.

Q. Under him is R. J. -- I can't read that. Clarenz, or --

A. I think it's -- I think it's Christman.

Q. Would that be Bob Christman?

A. Yes.

Q. Is that spelled C-h-r-i-s-t-m-a-n?

A. That sounds correct.

Q. Do you recall what his position was?

A. Sales rep.

Q. We have Mr. Clay, then under that is -- is that, could that be John G. Fredericksen?

A. Correct.

Q. Do you recall Mr. Frederiksen?

A. Yes.

Q. Is he a sales representative?

A. Correct.

Q. And under that, I cannot read that. I don't know if that rings a bell.

A. I know that one. It's Elliot Shimley, S-h-i-m-l-e-y, I believe.

Q. Do you recall what his position was?

A. The same, sales rep.

Q. And the last one, would that be D. F. Pogue?

A. I think that's Don Stegen.

Q. Oh, Stegen?

A. But it's difficult -- Don Stegen, as I recall, was in that region, also, as a sales rep.

Q. In the Southern region?

A. Correct.

Q. At this time, 1971, did the Southern region include the Texas Eastern Company, or Texas Eastern Pipeline?

A. I believe it did. I was not responsible for it, but I believe it was in that region.

Q. Do you recall which of these individuals listed anywhere in the chart, or

listed in the chair that the chart had responsibility for Texas Eastern at the date of this, which is October 1971?

A. I had earlier turned that account over, account responsibility, from myself to John Frederiksen.

Q. All right. Do you recall which of these individuals, if anyone listed on the chart, ever had any contact or responsibility for Texas Eastern, for the Texas Eastern account?

A. Responsibility with respect to --

Q. Sales. And I know yourself and Mr. Frederiksen --

A. Had responsibility for the account.

Q. Anyone else?

A. As a sales rep?

Q. In any sales capacity.

A. Sales representative, I believe, Stegen was involved to a certain degree. From a sales rep standpoint, those would be the only three that I recall handling that account.

Q. What about Elliot Shimley?

A. I don't recall Elliot being involved in Texas Eastern.

Q. Bob Christman?

A. I don't recall him being involved, either.

Q. Mr. Capps?

A. The only two in the Southern region that I -- only three would be myself, Frederiksen and Stegen; as being involved, as I recall.

Q. Was Mr. Ford involved with that account in a capacity other than sales rep, but was he involved?

A. As I recall, he was involved as a -- it was one of his accounts as a regional sales manager.

Q. What about people listed in any of these other boxes? Was Mr. Bevacqua involved with Texas Eastern at any time?

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

Q. What about George Fague?

A. I don't recall. I don't recall.

Q. Mr. Seger.

A. Mr. who?

Q. Seger.

A. Where is Mr. Seger?

Q. SAY-ger? Did I pronounce that wrong?

A. I don't know.

Q. Let me ask that again. Was Mr. Saeger involved with Texas Eastern?

A. I don't recall. I don't believe so.

Q. What about Raleigh Garcia: Did he have some responsibility for Texas Eastern at any time?

A. As regional manager, at the time I reported to him, and I was handling the Texas Eastern account, then he would have been responsible in that, in that relationship, or he would have been involved.

Q. And was that, do you recall approximately when that was?

A. Again, as I mentioned, it's -- they -- I can't recall what time frame. I can recall the end, is when I moved to Atlanta, reporting to Ford. I don't recall when I started reporting to Garcia.

Q. And the end point was that January or February of 1971?

A. That is correct, when I moved to Atlanta.

Q. Do you recall if Mr. Slayten ever had any responsibility for Texas Eastern?

A. I do not.

Q. What about Mr. Craska, Craska?

A. I do not recall.

Q. Mr. Polson?

A. Mr. who?

Q. What is that? Polson, you said earlier? Under representatives for the Eastern region, I believe that was a name that you recognized.

A. Would that be above Richardson?

Q. Yes.

A. Pullman.

Q. Pullman. I'm sorry.

A. I don't recall.

Q. Do you recall if any of the individuals listed anywhere else in the chart had any responsibility for Texas Eastern or any contact whatsoever with Texas Eastern?

A. At any point in time.

Q. At any point in time.

MR. ZIMMER: Calls for

speculation.

A. I know that Roger Hatton was involved.

BY MR. KASHANI:

Q. Incidentally, I'm not asking you to guess as to whether they might have been involved.

A. No, I know.

Q. I'm asking if you know whether they were involved.

A. I do know that Roger was involved.

Q. Anyone else?

A. That's all I can recall right now.

Q. Was Larry Bradford not involved with Texas Eastern?

A. Only as sales manager when I reported, regional sales manager, as I reported to him and he had responsibility for Texas Eastern in his Western region.

Q. So we've been through the two boxes in the end on that row that starts with Mr. Paton, the field sales manager, Norman Johnson, and market specialist G. R. Fallon. With the exception of the names that you did not recognize, to your knowledge, does that

reflect the order of -- pecking order of individuals at that time listed in the chart 1971? Recognizing that the order of representatives does not imply any pecking order, but simply that all those representatives reported to the fellow listed above them on the chart?

A. As I recall, at that particular time, that is correct.

Q. Turn over to the extreme right-hand column of the chart. At the top, we see Manager, Manufacturing on J. R. Savage. Does that name ring a bell?

A. Yes.

Q. Is that John Savage?

A. The name rings a bell, and that's about it. I recognize Savage.

Q. Do you recall what he did?

A. Without looking at this chart, no. Looking at this chart, he was in manufacturing.

Q. Is that based on -- is that based on a recollection triggered by the chart, or is that just based on reading the chart?

A. That's based -- triggering. I

would not have been able to give you the name "Savage" without looking at this chart.

Q. If I show you something, I guess the distinction I'm making is, if I show you something, a chart like this that says "J. R. Savage," and by seeing "Savage" there, that causes you to remember, have an independent recollection of Savage, that's fine. I mean, that's what you are remembering and the chart helps you remember, and that's fine, but if the only reason you are saying that Savage is a manager of manufacturing is because you see it written there and you are just reading me what's on the chart, that's a different issue.

A. Yeah, Savage rings a bell. If I was to sit back and think about it for a period of time, I'm sure I would say manufacturing, so you are correct.

Q. Thank you. Then under that, we see "Engineering Manager." Is that R. M. Kountz?

A. I have no idea.

Q. Does the name "Kountz" ring a bell?

A. No.

Q. K-o-u-n-t-z?

A. No.

Q. You see under that "Manufacture of Materials and Services Manager," and I can't read that. Could that be Patton or Paton? Does that ring a bell.

A. No, I only knew one Patton or Paton, and that was Cumming. Or recall; Let's put it that way.

Q. Do you recall if Mr. Savage had responsibility for manufacturing of any PCB-containing compounds?

A. Do I recall? No.

Q. What about the last fellow there, accounting manager. Does that -- and the name there, I can only read the A. J. Does that mean anything to you?

A. No. I can't read it, either.

Q. Going back to the left side of the chart, you see Manager, R & D. I guess that means Research and Development, and under that is, I'm not sure if that's W. R. Richard. Does that ring a bell?

A. I, that's -- No.

Q. Do you recall a Bill Richard, a scientist or researcher named Bill Richard, or Richards?

A. Bill Richard, it seemed like I recall, but that's as far as I --

Q. Do you recall his position or what he did?

A. No, going back to what we talked about over here, no.

Q. Okay. Fine. He was a technical man, and that's all I recall.

Q. All right. You see under that listed, "Senior Science Fellows." And I'm -- I'm assuming that we have not established who that Richard is, as manager of R & D, but under that is listed "Senior Science Fellows," we have an R. H. Munch. Do you recall an R. Munch?

A. I do recall that name, yes.

Q. What was his name, his full name? Was it Bob Munch or Robert Munch?

A. We had a Ralph Munch reporting in technical, as I referred to it.

Q. What do you mean by "technical"?

A. That's just my terminology.

Either he was in marketing or sales or he was in technical.

Q. Technical meaning the scientists and researchers?

A. Yeah, people in labs.

Q. Would you put Roger Hatton in the technical area? I'm trying to get --

A. One foot in, one foot out type of thing. He could wear both hats.

Q. What do you recall about Ralph Munch?

A. The name, and technical.

Q. And that was, I think that's a G. E. or something, E. Thompson. Does that name ring a bell?

A. That does not ring a bell.

Q. And under that, we see listed "Group Leaders." Does that term mean anything to you, Group Leaders, in the context of what appears to be the context of a technical area?

A. We did have group leaders in the technical side, and as I recall, the group leaders were defined by the segments of business that they were concentrating on

technically.

Q. What do you mean, segments of business?

A. Well, like you would have a group leader there was responsible for a number of technical people that worked primarily in -- I recall, ethylene vinyl chloride than latex. There was a group there, so they had a group leader.

Q. Do you recall if there was a group leader for -- let me go back a bit. Was, in the sense of having a group leader in this technical area, did all PCB-containing compounds constitute a group, or how was that divided up?

A. I don't, I don't recall, but my familiarity with the ethylene vinyl chloride is it was a brand new product, and I worked closely with the technical side through some of the product people here that are listed. The fluids were established business, so that was more taken for granted. My interface with them, really, was at the Roger Hatton level from a technical standpoint, as I recall, but getting into like ethylene vinyl

chloride, which was a new technical product, there I knew more of the operation, more of the R & D group, technical group.

Q. By that, you knew more about how they manufactured the product and how they tested it?

A. No, no.

Q. The vinyl --

A. No, we were bringing the people from groups, here, for ethylene vinyl chloride latex into the field because we were all learning at the same time, so there was a much greater interface. In fact, there was interface throughout the entire organization on this latex that I was involved in, so I'm very familiar -- I'm familiar with that organization; in a more in-depth way than I am with the fluids, whether it be Skydrol, or Therminol, or any of the products, because those were established.

Q. Were any -- do you recognize any of these group leaders listed or does this writing, however legible, trigger a recollection of any of those names, any names?

A. It's really difficult. The last one is Lou Stark.

Q. And what did Lou Stark do?

A. I cannot give you a specific responsibility. I know it was not EVC, the latex. I knew Lou, he was involved in the fluids, but I can't give you specifically which one. Maybe he was involved in all of them, but I can't acknowledge what responsibility specifically.

Q. What did EVCL mean?

A. Ethylene vinyl chloride latex.

Q. Did Lou Stark have any contact or role, to your knowledge, with Texas Eastern?

A. I don't know.

MR. ZIMMER: Lou Stark has been deposed already in this case, so they know what he did.

THE WITNESS: Okay.

A. (Continuing) I still don't know.

MR. ZIMMER: I'm going to point that out because we're spending time, here, on things that don't have anything to do with this case, but --

BY MR. KASHANI:

Q. Then going over from the Manager, R & D, you see Manager, Commercial Development? Does that term mean anything to you in the context of when you were working at Monsanto?

A. Manager of Commercial Development does mean something, yes.

Q. What does that mean?

A. It was the birthplace of ethylene vinyl chloride latex.

Q. Was this a department, then, that developed new products?

A. Correct.

Q. Is that -- can you -- is that, that "GG" or whatever is written, the name appears to be written under "Manager, Commercial Development," does that name, or does what is written there trigger any recollection of a name?

A. No, I have another -- no, it does not.

Q. Do you know another fellow who was Manager of Commercial Development?

A. Yeah. It's Peter Benzing was Manager of Commercial Development, and he was

the father of ethylene vinyl chloride latex, so that's why I'm familiar with that responsibility.

Q. Did Mr. Benzing have any responsibility for PCB-containing compounds, to your knowledge?

A. To my knowledge, no, but I --

Q. And underneath that appears to be "Senior Product Managers," then "Functional Fluids." Does the term "Senior Product Manager" mean anything to you?

A. No.

Q. Does what is written under "Functional Fluids" trigger any recollection?

A. I'm assuming Functional Fluids -- that's the third line down in that box?

Q. Yes.

A. I have reading glasses and I don't have them.

MR. ZIMMER: It doesn't look like it would make any difference.

A. I can't tell with that --

BY MR. KASHANI:

Q. Would these help? They're very weak, but --

A. I can't discern that name under -- I can see.

Q. I'm not asking you to discern the name; I'm just wondering if what is written there triggers any recollection of an individual.

A. No, it doesn't.

Q. Okay, that's fine.

A. Can I keep your glasses for a second.

Q. No, you can keep them.

Then underneath that, we see "Product Managers." Does the term "Product Managers" mean anything to you?

A. More in the context of the sales side than the technical side, so --

Q. What would be a product manager in the sales side?

A. As we mentioned before, product manager would be responsible for a group of products and markets, with the market manager reporting to him who had responsibility for a specific market or application, and/or application.

Thank you.

(Witness returns glasses to Mr. Kashani)

BY MR. KASHANI:

Q. Do you recall who was the product manager who had responsibility for Turbinol 153 or MCS 153?

MR. ZIMMER: When?

MR. KASHANI: At any time.

A. It's easy to reference the chart.

MR. ZIMMER: Don't do that. That's not what he's asking you to do.

THE WITNESS: I know.

A. (Continuing) I do not recall specifically who the product manager was when I was calling on Texas Eastern out of St. Louis, when Bradford was my regional sales manager.

BY MR. KASHANI:

Q. Do you recall who the product manager might have been at any other time?

A. I -- (Witness shakes head in negative manner.)

Q. The reason I ask these questions, the chart doesn't seem to list product managers on the sales sides for those fluids.

Unless there's something here that suggests that to you, I guess we have product manager, hydraulics and lubricants?

A. (Nods head in affirmative manner).

Q. Bradford. Is that what you mean by product manager on the sales side?

A. Yeah, product manager would be marketing-specific, where Norm Johnson and his group would be sales specific.

Q. I see.

A. So you have two business-defined functions: One marketing, one sales; Marketing responsible for the profit and loss of the product, pricing, pricing production inventories, et cetera, where the sales function is finding a place to sell that, and selling and promoting the product directly to the customer.

Q. And to your knowledge, was Mr. Bradford ever a Product Manager or Senior Product Manager with some responsibility over Turbinol or MCS 153?

A. Correct.

Q. And when was that, approximately?

A. The time, as I recall, was when I

was in Atlanta.

Q. That would be beginning, in the beginning of 1971?

A. During that -- during 1971. I can't be specific. I'm not sure when he became product manager for that group.

Q. Do you recall anyone else who was a product manager with responsibility for Turbinol or -- Turbinol 153 for MCS 153?

A. No.

Q. Then there's, going back to the left side of the chart, there's a box for project managers. Does that term mean anything to you?

A. With respect to --

Q. With respect to, I guess, the technical side.

A. No.

Q. Does it mean anything to you in any other context?

A. Yes, I was a project manager at Mobay for a period of time.

Q. Does it mean anything to you in the context of Monsanto?

A. No.

Q. Does what's written under "Project Manager", does that trigger any recollection of names or individuals?

A. Even with the aid of your glasses, no.

MR. KASHANI: Let's take a break.

(Recess)

MR. KASHANI: Okay, back on the record.

BY MR. KASHANI:

Q. Thank you for putting up with that chart.

A. You're welcome.

Q. Let's go on to Texas Eastern. When did you first hear the name or encounter the name Texas Eastern?

A. As I recall, that would have been fourth quarter '68.

Q. Was that very soon after you joined Monsanto?

A. No, that would be after my -- after the training program. I'm -- as I recall, it was the end of '68, early '69. I cannot give you a specific time frame.

Q. And do you recall why you came

across Texas Eastern or why you were told about Texas Eastern?

A. It was, number one, in my sales region. It was a customer within my sales region, and thus was to become my sales -- I was going to -- I was to become the sales representative at Texas Eastern.

Q. And what sales region was that?

A. At that time, it was the Western region.

Q. With Mr. Bradford in charge?

A. Regional manager, yes.

Q. Do you recall who told you about it, who first told you about Texas Eastern?

A. No.

Q. And what did you learn about Texas Eastern at that time in 1968?

A. If it was the end of 1968 -- again, I'm -- I can't give you a specific date. It came with the group of accounts that I was picking up, so at that point was when I first heard of it, it was a name of an account that was purchasing from Monsanto that I would have responsibility for. It was probably in a list of a number, several pages

of customers.

Q. Were you given a document that lists the customers?

A. It was either a document or IBM run.

Q. What -- IBM run?

A. I'm sorry, computer run showing the purchasing accounts in that area. I don't recall specifically how I saw it first.

MR. KASHANI: Go off the record for just a second.

(Pause)

MR. KASHANI: Let's go back on the record.

MR. KASHANI: I'm going to hand you what's going to be marked Plaintiff's Exhibit 251.

(Plaintiff's Deposition Exhibit 251 marked for identification.)

BY MR. KASHANI:

Q. And I know this document appears to be dated March 25, 1971. Do you recognize this document or the attachment?

(Witness peruses said

document.)

A. Yes.

Q. What -- in what context do you recognize it?

A. It was, these were new accounts to me, because I had just moved to the South or was in the process of taking over responsibility down there, and so these were new accounts which I was picking up in the South, some new accounts, and synopsis surrounding each one.

Q. Did someone give you this document in or around March 1971?

A. I don't recall specifically when it was given to me, other than looking at the date on the document.

Q. Do you recall some of these names, J. A. Lala?

A. That name, I recall the name, yes.

Q. Do you recall what he did, or do you recall what he did?

A. My best recollection, he was a sales rep.

Q. How about R. V. Wayland?

A. That's a name that we addressed on

the organizational chart, and I don't, I don't recall him specifically .

Q. And the same goes for J. G. Bryant? Do you recall him? The reason I bring these up, here, is these spellings are a lot clearer.

A. I recognize the name. That's it. That's all.

Q. Do you know if he was a sales rep?

A. I can't tell you specifically.

Q. How about A. J. Rego?

A. The same goes, I recognize that name.

Q. Was he a sales representative?

A. I can't acknowledge, honestly.

Q. Let's go back to 1968: Do you recall receiving a document like this in 1968 with summaries of accounts, including Texas Eastern?

A. I do not recall specifically, no.

Q. Who is the individual -- let me back up. Was there a sales representative who had responsibility for Texas Eastern before the account was turned over to you in 1968 or whenever that occurred?

A. Yes.

Q. Do you recall who that was?

A. I believe it was Tom White, I believe.

Q. Who was Tom White?

A. He was, he was the specific salesman I replaced in St. Louis. That's why I say I believe he handled that. I don't recall absolutely that he handled that account.

Q. Do you know where Mr. White is today?

A. No.

Q. Do you know how long he was at Monsanto, either before or after that time?

A. He left, to my knowledge, he left Monsanto, but I cannot give you the time frame, but I believe it was while I was in St. Louis as a sales representative.

Q. Do you know how long Mr. White had been at Monsanto before that?

A. No.

Q. At the time you took over the Texas Eastern account -- let me go back a step. Is that a characterization to say that

you took over the sales, the Texas Eastern account?

A. Sales responsibility, took over sales responsibility for Texas Eastern.

Q. At the time you took over sales responsibility for Texas Eastern, do you know what other individuals at that time had some or had some responsibility for sales to Texas Eastern?

A. Sales responsibility?

Q. Yes.

A. Specific sales responsibility.

Q. Yes, sales responsibility.

A. At that -- when I had sales responsibility, that was my, by definition, my job, supported by the regional manager, Bradford, sales manager, so as far as sales are concerned, as defined by sales representative, that was really my responsibility.

Q. How -- I'm sorry.

A. As defined.

Q. How about just before, or before you took over sales responsibility, do you know any individuals who had responsibility

for sales to Texas Eastern before you took over, other than Tom White?

A. No. No.

Q. What about any other responsibility for, with respect to Texas Eastern, such as marketing, or product development?

A. We, we mentioned those names awhile ago, looking at the organizational chart.

MR. ZIMMER: Let me just note for the record, Counsel, that he didn't say that Tom White had that responsibility. He said he assumed that he did, because he took over from Mr. White.

MR. KASHANI: I understand.

A. I believed. I wanted to emphasize that.

BY MR. KASHANI:

Q. I understand, and how long did you continue to be the sales representative with sales responsibility for Texas Eastern?

A. I believe it was, the change was made as sales representative when I moved to Atlanta. Not believe, but I'm certain that

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that's the time frame, was when I moved to Atlanta.

Q. So did you continue to have sales responsibility for Texas Eastern after you stopped reporting to Mr. Bradford?

A. As we stated earlier, it was, I was assuming or believed that that is why Garcia was involved because as I reported to Garcia, with that came the Texas Eastern.

Q. So, what's a way of putting this -- you took the account over to Garcia? Is that --

A. I don't, I don't recall the mechanisms behind the change from Bradford to Garcia as far as my reporting function is concerned, but that's correct, it did -- that responsibility for that region shifted to Garcia.

Q. So I guess the point I'm trying to make is, when you shifted from reporting to Mr. Bradford to reporting to Mr. Garcia, the account moved with you, the Texas Eastern account moved with you?

A. I think the territory took the account with it, and myself, as it went to

Garcia.

Q. All right, that I don't understand.

A. Okay. Well, the territory, responsibility for that territory no longer was Bradford's but became Garcia's, and because I was in that territory and Texas Eastern was in that territory, that is the shift. It wasn't my bringing Texas Eastern to Garcia; it was the territory shift.

Q. So there was, a decision was made -- and I'm not saying you know who did it or how it was done, but a decision was made to shift responsibility for Texas Eastern from the Western region under Mr. Bradford to the Central region under Mr. Garcia?

A. As I mentioned, I don't know what the mechanism was, but it was done.

Q. That's what occurred.

A. Correct.

Q. When you changed over to the Southern region in Atlanta when you moved to Atlanta -- I'm assuming that's what occurred -- you did physically move to

Atlanta?

A. Correct.

Q. In 1971?

A. Correct.

Q. Do you know who took over sales responsibility for the account at that time for the Texas Eastern account when you changed over to Atlanta?

A. I turned -- I -- we turned over accounts, had changeover of accounts of all accounts in that territory, and they went to John Frederiksen.

Q. Did Mr. Frederiksen -- in what region was Mr. Frederiksen?

A. At that time? He was in the Southern region.

Q. So that's why the account shifted again from the Central region to the Southern region?

A. I don't know why it shifted.

Q. But that's when the account shifted again?

A. Yes.

Q. Do you know who at Monsanto made the decisions or made either of those

decisions to shift responsibility for Texas Eastern from one region to another?

A. As I said, I don't -- I was not familiar with the mechanism behind that.

Q. While you were at Monsanto, did you encounter any other circumstance when responsibility for an account was shifted from one region to another?

A. Could you repeat that?

Q. While you were at Monsanto, did you encounter any other time or any other, any other time when responsibility for an account was shifted from one region to another, as apparently occurred with Texas Eastern? Do you know of any other accounts that were shifted from region to region?

A. Yes, all the -- by definition, that region, it was more region than account oriented. The shifting occurred because of the territory was reassigned to a regional, new regional manager, and all the accounts within that territory made the move, so it was not done on an account basis, it was only done on a regional basis. So I mean not only did Texas Eastern go to John Frederiksen, but

so did Texas Southwest Airlines, or, you know, whatever accounts existed in that region, it went to John, also.

Q. Did these shifts occur because of transfer of personnel, or --

A. Again, I don't know the mechanism why one region went to, was moved to another, one regional sales manager to another.

Q. Oh, I see. So were accounts shifted when regional sales managers shifted?

A. Were territories -- regional sales managers' regions, when our territories changed, the accounts and the salesmen normally went with that region. You can't say that, but --

Q. I understand.

A. But the region, when it shifted, the accounts definitely went to that sales, sales manager.

Q. What do you mean when you say a region shifted? You mean the geographical boundaries were redrawn?

A. Just as we indicated here, I went from Bradford to Garcia to Ford. I went -- there were regional shifts; the territories

shifted within those changes.

Q. You mean when a salesman was changed from region to region or when you were changed -- when you shifted responsibility from one geographic region to another region, that's when accounts were changed?

A. Correct. It can happen a number of different ways. You can tear up a territory and redesign it fifteen different, you know, a thousand different ways, but the common occurrence was when you left one region and went into another, and that region, you would turn it over to another man as to someone in the new region that you were going to was turned over to you, but the accounts normally, in the period, as I recall, the account stayed within the specific region, but the region responsibility was moved from one sales regional manager to another to another.

Q. Do you recall the first time you made a call on Texas Eastern?

A. The first time I ever called on him? I do not recall that time.

Q. Was it soon after you were handed a sales summary or IBM printout of the description of the account?

A. I can only say that it was certain that I called on all the major accounts in the area: "Major" being purchasing accounts, and that Texas Eastern would be one of those.

Q. Do you recall what Texas Eastern was purchasing from Monsanto?

A. It was the, what we're referring to as the Turbinol or the MCS 153.

MR. KASHANI: Counsel, can we stipulate that Turbinol 153 is the same as MCS 153, and I will use either term interchangeably?

MR. ZIMMER: I'm not sure that's appropriate, given the various exhibits that you've shown witnesses about the change in name and whatnot, but you can ask the witness if he refers to them interchangeably.

MR. KASHANI: Do you recall that Turbinol 153 and MCS 153 were the same product?

A. I believe they were the same product. You have a time frame reference,

though. There was a name change, a formal name of Turbinol given to the product, but I don't recall when.

MR. KASHANI: Let's go off the record for a second.

(Discussion off the record.)

MR. KASHANI: Back on the record.

I'm producing Plaintiff's Exhibit next in order.

(Plaintiff's Deposition Exhibit 252 marked for identification.)

BY MR. KASHANI:

Q. Mr. Clay, do you recognize this document?

A. No.

Q. Do you know Mr. D. F. Smith?

A. Yes.

Q. Does that name -- is that Dale Smith?

A. Correct.

Q. Do you recognize his signature?

A. No, I don't recall his signature.

Q. Does the first paragraph of this letter, any other part of the letter, refresh

your recollection as to when the name of MCS 153 was changed to Turbinol 153?

A. No, I still, I just have to take it for face value that this is the document that -- I knew the name change occurred, but I, I still don't recall specifically when it changed.

Q. Was the product formulation changed when the name changed?

A. No. To my knowledge, it was not.

Q. We've got that out of the way. I will use Turbinol 153 or MCS 153 interchangeably.

A. That's fine.

Q. Do you recall approximately how many times you physically visited any Texas Eastern office or station while you were at Monsanto?

A. Do I recall the number of visits?

Q. The number of visits, approximately.

A. No. No, I would only be guessing.

Q. Was it fewer than a hundred?

A. Again, I would just be guessing. I physically probably couldn't call on them a

hundred times.

Q. Was it more than ten times?

(Witness shrugs shoulders.)

MR. ZIMMER: You have to answer audibly. You shrugged your shoulders, but --

A. I would say yes, but again, it's -- I don't have a feel for the number.

BY MR. KASHANI:

Q. Was it more than twenty times?

A. As I said, I don't, I just don't know how many times I called on them.

Q. Do you think it was fewer than fifty times?

MR. ZIMMER: Oh, come on, Counsel. How many times do you want him to say "I don't know"? We're wasting a lot of time, here.

A. I can't guess.

BY MR. KASHANI:

Q. Do you recall the approximate frequency that you visited them? Was it roughly once a month, once a week?

A. No, it was not that frequent.

Q. Was it more than once a year?

A. Yeah. I mean, I, it was more than

ten times, so --

Q. And where did you visit?

A. Two locations: One, Shreveport, Louisiana; the other, Houston, Texas.

Q. Did you have responsibility for any work with products sold to Texas Eastern -- let me take that back. Did you help sell any products to Texas Eastern other than Turbinol 153?

A. I don't recall any other products.

Q. Do you recall if Texas Eastern purchased any Pydrauls?

A. I do not recall.

Q. And what individuals did you have contact with at Texas Eastern?

A. I remember one individual specifically, and his name was Ted Harrison, and I believe he was in purchasing.

Q. Do you recall the name Roland Moore?

A. I'm sorry?

Q. Roland Moore.

A. Roland Moore?

Q. Roland or Rowland Moore?

A. Moore.

Q. I mean in connection with Texas Eastern, does that name ring a bell?

A. No, I can't recall that one.

Q. How about Buck, Buck or A. B. Jarnigan?

A. Buck, I remember that name, that rings a bell.

Q. Do you remember what he did?

A. I'm inclined to say, inclined but I can't be absolutely certain, he was in engineering. But I think he was, I believe he was probably in Shreveport. You had a different -- you had purchasing in Houston and engineering in Shreveport, so you called on one for one purpose and the other for, obviously, pricing and, you know, are you happy with the service and all that stuff.

Q. Was Ted Harrison in Houston?

A. Yes.

Q. And do you recall that Buck Jarnigan was in Shreveport?

A. That's what I'm saying, I don't recall specifically. I'm assuming he was in engineering, which would have been in Shreveport, but I can't tell you for certain.

Q. How about a fella named Oliver or O. V., "V." as Victor, Fletcher; do you recall that name?

A. Fletcher: Yes, that sounds familiar.

Q. Do you recall that he was at Texas Eastern?

A. I'm -- that's a good point. I'm assuming he was. I recall the name, Ollie Fletcher.

Q. Do you recall Ollie Fletcher in connection with Texas Eastern?

A. I'm assuming, I believe he was an engineer. I'm not positive, but I believe he was an engineer.

Q. I should say, the names I'm giving you are Texas Eastern people. I'm not trying to trick anyone here.

A. Okay.

Q. What about Ken Wood? And he was a compressor station superintendent.

A. Ken Wood?

Q. Ken Wood.

A. That does not ring a bell.

Q. Did you ever visit any of Texas

Eastern's compressor stations?

A. I don't believe I did. I don't recall us visiting anyone, any station.

Q. How about Walter Woods? He was a manager of some kind, superintendent at Texas Eastern. Do you recall that name or ever meeting Walter Woods?

A. That sounds familiar, yes.

Q. Do you recall if you met him in Houston or Shreveport?

A. I do not. I'm inclined to think he was more engineering than he is purchasing, but I can't say with absolute certainty.

Q. What about Gene or Eugene Riall?

A. Riall.

Q. R-A -- -- r-i-a-l-l?

A. That doesn't ring as strong a bell as the Wood or the Ollie Fletcher, the Buck Jarnigan.

Q. But you recall him in some context in connection with Texas Eastern?

A. I'm more inclined to say I don't recognize that name as well as I -- no, I can't, I don't recognize it.

Q. What about Earl Farmer?

A. That name rings a bell.

Q. He apparently was an engineer. Does that help you? I guess I'm asking you, does that sound right in terms of does that jibe with your recollection?

A. I put him in Shreveport, which would be what I would define as the engineering headquarters.

Q. Do you remember a fella named Purgitorio, Bill Purgitorio? I think it was Bill.

A. I don't.

Q. How about Jack Simpson?

A. No.

Q. A fellow named Briggs?

A. What's his first name.

Q. I only have "J."

A. No.

Q. How about Don Sloane? Do you remember ever meeting him or talking with him?

A. No, I don't.

Q. During the period when you were at Monsanto, did the name "Transwestern" ever

come up or did you ever hear of a company called Transwestern? Transwestern Pipeline Company?

A. I do not recall that, no.

Q. Were you aware or did you hear at any time while you were at Texas Eastern that Texas Eastern had owned some subsidiary companies that operated pipelines?

A. I just -- I do not recall, do not know.

MR. KASHANI: Let's go off the record for a second.

(Discussion off the record.)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. Do you recall the substance of any conversation you had or any discussions you had with anyone at Texas Eastern while you were at Monsanto?

A. To use a slang, you are asking do I recall the gist of any conversations that went on?

Q. Yes.

A. There are not any that stand out in my mind. I know Earl Farmer was one that

I think he had, Earl Farmer was one that was a strong believer in our product, and as a consequence, had spoken of it highly in publications and that we were soliciting his endorsement, if you will, as we do with all of our products, whether it be Turbinol or whatever. That would be the only, the only conversation outside of the normal service maintenance. I consider Texas Eastern as a maintenance account, in a sense of servicing as sales rep because they were already, already purchasing product. I just wanted to make sure that they were pleased with the service and we negotiated satisfactory prices, et cetera.

But Farmer, Earl Farmer was one that I would say went out of his way and endorsed, endorsed the product.

Q. Do you mean the product Turbinol 153?

A. Correct. MCS 153, whichever.

Q. What do you mean by maintenance account?

A. That's my terminology. It's a marketing/sales -- you have target accounts,

which is an account that is not purchasing, you have growth accounts, and I mean this is Carl Clay terminology, you have growth accounts which are accounts that you are selling but you are -- you want to grow, you want a greater market share of the product, of the business that you have at that account, and then the last one being maintenance, which is a product or an account that you absolutely are giving, you know, that you know what your position is, you know you don't have the growth, they are purchasing already so they're not target, so they would be an account that you want to continue to call on to make sure that, you know, your deliveries are on time, as I said, the pricing is fine, whatever. That's what I mean by maintenance.

Q. So Texas Eastern, did you consider Texas Eastern to be an established account of Monsanto?

A. That would be another way of saying it, correct. When I inherited Texas Eastern, they were already an established purchasing account.

Q. Was this just your belief, or to your knowledge -- I'm not asking you to look into other people's minds, but to your knowledge in terms of what anyone told you, was this the belief at Monsanto, as well, that Texas Eastern was an established account?

MR. ZIMMER: If you know.

A. I can't, I can't answer that.

BY MR. KASHANI:

Q. Going back to what you consider, did you consider Texas Eastern can be an account that shouldn't give you very much trouble? Is that what you mean, or --

MR. ZIMMER: The question is vague and ambiguous.

A. No, I consider them as an established account. It's an account that we wanted to service, as a responsible supplier, and in servicing that account, you made sure that if any questions came up in engineering or any questions came up in purchasing, that you made sure that those were reported back to headquarters and that a satisfactory response was given, so no, in any -- no,

its --

Q. You mentioned that you didn't expect much growth in that account. What did you mean by that?

A. With reference to my definitions, if some accounts on a given product -- for instance, we may have ten percent of the business and a competitor has 80 or 90 percent. As a growth account, we want to go to 50 percent of that product sales and knock the competitor down to 50 percent. That's what I mean by growth. Texas Eastern was, as I recall, was using our product and only our product, and by that definition, it was not a growth -- by my definition, it was not a growth account.

Q. You mean that Texas Eastern was only using Turbinol in the compressors?

A. As I recall, it was only Turbinol, or MCS, whatever we call it.

Q. Let's go back a second. You mentioned that Earl Farmer was a promoter of Turbinol. Do you remember that Earl Farmer wrote an article that Monsanto might have used in some of its literature? And in that

regard, I have an exhibit that might refresh your recollection as to that. You can answer the question. Do you recall if Earl Farmer wrote an article that Monsanto may have used in its literature?

A. As I stated awhile ago, yes, through publications, he had, he had -- was very pro, or was pro Turbinol, and I believe we did, in some of our literature, use a statement of his, I believe.

Q. Do you recall Mr. Farmer telling you that he favored the product and that he was pro Turbinol, as you say?

A. I can't recollect that specifically. I'm recollecting more through the fact that he did make -- there were publications indicating as such or he made speeches, whatever. I don't recall specifically his saying something to me.

MR. KASHANI: Let's go off the record.

(Discussion off the record.)

(Plaintiff's Deposition Exhibit 253 marked for identification.)

MR. KASHANI: Let's go back on the record.

BY MR. KASHANI:

Q. Do you recognize this letter or do you recall this letter?

A. I don't recall the letter specifically.

Q. Do you recall the article that seemed to be referred to in the letter?

A. I recall the, the fact that he had given a technical presentation or had published a technical presentation in talking about the positive aspects of Turbinol or of MCS 153. Here, his reference is Turbinol.

MR. KASHANI: I'm turning to another exhibit. I have another exhibit, exhibit next in order. You were referring to -- the letter you were referring to was Exhibit 253; this is Exhibit 254.

(Plaintiff's Deposition Exhibit 254 marked for identification.)

BY MR. KASHANI:

Q. Is Exhibit 254 the article, or the paper, or the presentation you were referring

to?

A. I would assume so. I can't recall specifically that this is the one of I don't know how many he did, but this appears to be what -- one of the articles that he wrote, yes.

Q. Did Mr. Farmer ever tell you why he was pro Turbinol, why he thought Turbinol was a good product?

A. I don't recall any specific conversation. I just know that because of his publications, or presentations, or whatever, that he was pro, pro Turbinol, and we were -- that was -- it's always exciting to have a customer endorse your product.

Q. That was fine with you, in other words?

A. It sounded -- it was positive, yes.

Q. Did Mr. Farmer ever tell you that he had some involvement in the development of Turbinol?

A. I don't recall.

Q. Do you recall or do you know, to your personal knowledge, I'm just asking you

to your personal knowledge, do you know if Texas Eastern or anyone at Texas Eastern had any role in the development of Turbinol?

A. I inherited the account which was already purchasing the Turbinol. I'm not familiar with the developmental phase or the relationship between the two. I can confirm that I inherited a close technical working relationship between our two companies, between Monsanto and Texas Eastern.

Q. And what do you mean by that?

A. Just our technical people knew well the people at Texas Eastern and the Roger Hattens of the world knew, as I recall, it was Roger Hatten and a number of other people whom I don't recall that had a good technical relationship with the technical people at Texas Eastern.

A. Did the technical aspects of the product ever come up in any conversations that you had with anyone at Texas Eastern?

A. I'm sure there were questions that came up technically that I would take back to St. Louis, but as far as anything specifically, I just don't recall any, I

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don't recall them specifically, but as being part of my function or responsibilities in making sure that those are answered, then yes, I would report those back to St. Louis.

Q. Do you recall ever discussing the composition of the product with anyone at Texas Eastern?

A. Again, I'm sure we -- I'm sure I did, I'm sure we talked about it, but I don't recall specific discussions.

Q. Do you recall ever discussing with anyone at Texas Eastern that the product contained PCB's?

A. Again, I'm sure that was discussed, but I don't have any, any specific reference to conversations or anything. I'm just sure it's -- it was a given.

Q. But do you recall -- I mean, were you -- did you witness or were you party to any conversation where anyone mentioned or anyone brought up -- and by that, let me go back. Do you -- were you a party to or were you present at any conversation or discussion, including on the telephone, with anyone at Texas Eastern where it was

mentioned by anyone or discussed by anyone that Turbinol contained PCB's?

A. Again, I'm just, I'm sure it was discussed, but I can't be specific enough to say when and to who it was discussed, but we talked in generalities about products: You know, is it a phosphate ester, is it a chlorinated hydrocarbon, is it, you know, PCB, you know, whatever it might be, so I can't really give you a definitive yes on that. I just, I know we talked about it.

Q. But you cannot recall any specific conversation or discussion where anyone told anyone at Texas Eastern that Turbinol contained PCB's?

MR. ZIMMER: He's already answered that twice now, Counsel. He said he knows they talked about it but that he doesn't recall a specific conversation.

MR. KASHANI: Well, I think that's mischaracterizing the testimony, but let me ask this as a clarifying question.

Can you read back my last question?

THE COURT REPORTER:

"Q. But you cannot recall any specific conversation or discussion where anyone told anyone at Texas Eastern that Turbinol contained PCB's?"

A. And my response, again, is just that I'm assuming that the general chemical characteristics of the product were discussed but I can't give you any specific reference. I mean, that was -- it's common in the chemical industry to talk about and to get into discussions on the chemical characteristic, at least, at minimum, of a product, but I can't quote you anything specifically.

MR. KASHANI: You better read back my last question.

THE COURT REPORTER:

"Q. But you cannot recall any specific conversation or discussion where anyone told anyone at Texas Eastern that Turbinol contained PCB's?"

MR. KASHANI: Is the answer to that question yes, you cannot recall any specific discussion?

MR. ZIMMER: Well, the answer is

the answer that he gave you. You are just asking the same question again, so it's argumentative.

BY MR. KASHANI:

Q. You can answer.

MR. ZIMMER: If you have a different answer, give it to him.

A. I, in all honesty, I can say that I assume that when you talk chemicals, you at least talk about the major component of that chemical. I do it today in my present job, and that, you can't -- we don't just stay with Turbinol 153 and never talk about it, what it is, and so I'm assuming that that was discussed, but I can't specifically remember or recall a point in time where PCB's came up, chlorinated hydrocarbons came up or when Turbinol 153 was said versus MCS 153. I'm assuming that that was always being discussed in there.

BY MR. KASHANI:

Q. Let me ask this a different way. Do you recall any -- witnessing or being aware of, even, any individual at Monsanto telling someone to Texas Eastern, "This

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product contains PCB's," meaning Turbinol 153 contains PCB's? Do you remember any specific statement like that?

A. No, again, that would have been -- that just -- no. I'm assuming that that was always part of the context of the technical dialogue that existed between Monsanto and Texas Eastern.

Q. You mentioned the term "chlorinated hydrocarbon."

A. Mm-hmm. (Nods head in affirmative manner).

Q. Did that term come up in any discussions with Texas Eastern?

A. It would be in the same context. It would be, it would be the same -- in the same discussion, technically, and specifically, I can't pinpoint. I'm reluctant to say it happened all the time, I'm reluctant to say it happened once a month or once every six months. I just can't -- I don't know how often it occurred, so I can't be specific.

Q. Did Monsanto have any sort of patent on PCB's, to your knowledge?

A. I do not recall.

Q. To your knowledge, did Monsanto consider the use of PCB's in Turbinol to be a proprietary process or a trade secret of any kind?

A. Was it patented technology, or secret?

Q. Yes.

A. No. To my knowledge, I don't, don't recall anything secret about it.

Q. Would you have told competitors how Turbinol was formulated, or manufactured, or what it consisted of? I mean, competing chemical companies?

A. I better not be talking to them, so -- no, I wouldn't have told them that. I think they would probably be aware of it.

Q. In addition to the personal visits, do you recall speaking to people at Texas Eastern on the telephone?

A. I'm sure I did.

Q. Do you recall any specific conversations?

A. This sounds ridiculous. One conversation I'm absolutely certain of was

making appointments. I can recall that, but as far as any subject matter, it seems to me that there may have been some conversations again getting back to the, the technical paper, but I can't recall specific discussion points.

Q. Do you recall keeping any, making any sort of record or -- a record of these conversations and visits?

A. Either through memo or call report.

Q. I guess that brings us to the next document. Let me show you Plaintiff's Exhibit next in order. It's Exhibit 255.

(Plaintiff's Deposition Exhibit 255 marked for identification.)

BY MR. KASHANI:

Q. I'm not suggesting that this document refers to Texas Eastern, but do you recognize this document?

A. It obviously is one of my call reports, but not on Texas Eastern.

Q. Do you recall making call reports similar to this, to this document, or I mean

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in the same format? Withdraw that.

Do you recall preparing call reports using this same format as Exhibit 255, of your visits to Texas Eastern?

A. It was a common practice at Monsanto that all -- this was one of the key communication tools that the sales representative had on all accounts, whether it be Texas Eastern or Columbia Gulf, that if it was a significant enough visit, that a call report would be written for either action or for reference.

Q. Do you recall preparing call reports of any visits you made to Texas Eastern?

A. Yes. I'm -- I recall making call reports on Texas Eastern on all the customers.

Q. Do you recall making call reports of any telephone calls you had with people at Texas Eastern?

A. Specifically, I don't recall, but I'm sure there were some significant conversations with the customers, not specific to Texas Eastern, where I did make a

call report because it was information that needed to be documented.

Q. Why were the call reports important? You mentioned that it was important.

A. It was really a prime responsibility of a sales representative. It was, it was to define -- it was his major tool of communication with the corporation, to define actions that were needed to respond to customers' questions or needs and also to -- as a reference document for the next call. Okay, this is what I discussed. This call, next call, I reference this, and it would be what I would discuss, I would say okay, I would key off of discussion points here and talk about them in the next call. It was kind of a refresher.

Q. In the case of Texas Eastern, do you recall to whom you sent the call report or to whom the call report was addressed? And it may have been different for the different reports. I understand that.

A. And do I recall -- I recall that the call reports did go to, definitely went

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to your regional sales manager, then it would be primarily dictated as by the action items, who needed to attend to which action, and they were specifically on there, and there may have been the respective product manager or product supervisor that we've already reviewed may or may not have been in there. I don't recall that as specific as I do the other, the action item attendees, and also the regional sales manager.

Q. Do you recall sending any call reports or visits on Texas Eastern to Larry Bradford?

A. I can only say I'm sure I did.

Q. What about to Roger Hatton?

A. Again, do I recall one specifically? No, but I'm sure one way or the other, as we do in all business, if a call report comes through and if an individual's name is not on there, then you will add that individual's name to make sure that he sees what's happened at that particular account.

Q. How did you prepare the Texas Eastern call reports? Did you sit down at a

typewriter, or how did that work?

A. No, I struggled many different ways, as I'm sure a lot of salesmen did. I dictated into a little Dictaphone or I wrote them out by hand and then a secretary would type them.

Q. Do you recall who your secretary was or who the secretary was who typed your call reports?

A. Wow. Not right off the bat, I can't.

Q. Was it a secretary in St. Louis?

A. That's what I -- number one, I was going through the name, and it could have been a secretary either in Houston or in St. Louis; Monsanto offices.

Q. Did Monsanto have an office in Houston?

A. Mm-hmm, correct.

Q. When you called on Texas Eastern, did you work out of Monsanto's Houston office, or out of St. Louis?

A. I believe that I lived in St. Louis, worked out of the St. Louis office but I also had a desk in Houston, so I would -- I

believe that may have gone into the Houston office, as I recall.

Q. Did you -- I'm sorry, you were going to say?

A. I was going to say we weren't that strict. If a call report had to be written and I was in St. Louis, it would be written out of St. Louis, not necessarily go to Houston for it, so there wasn't any strict line -- there were not any strict guidelines as to where it was typed.

Q. Did you prepare some call reports in Houston?

A. Yes.

Q. And some in St. Louis?

A. I'm sure I did, yes.

Q. Were there different secretaries -- did the secretary -- did the secretary who did interview -- let me take that back.

The secretary who transcribed your reports or took them from your notes, was that person in St. Louis or in Houston?

A. As I said, it could have been, it could have been both and problem way was

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both, just depending on where I was and how quickly I wrote the call report after the call.

Q. Did you have your own secretary or did the secretary work for other people, as well?

A. No, worked for other people.

Q. Do you recall which other people your secretary worked for?

A. I can probably give you a name, one name in each location, but that's about it.

Q. Sure.

A. St. Louis, it was at one time -- I don't remember the secretary's name, but at one time there was a Dave Beason, who was not even in our group, he was in another division.

Q. How do you spell that?

A. B-e-a-s-o-n, and I believe we shared the same secretary, I believe. That's the only name that comes to mind.

In Houston, I believe Don Stegen, who was in our group, and I and several others shared a secretary, and there were

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others; I don't recall who they were.

Q. They say you have to ask this question, I guess twenty years ago, you could have assumed --

A. Somewhere in here, I'd like to document this was 21 years ago, so -- that, sure. I'm just prefacing that these days, you have to ask this question, although twenty years ago, you might have assumed. Were the secretaries men or women?

A. Yeah; no comment.

Q. Do you recall if the secretary --

A. No, they were women, yeah.

Q. Both women?

A. Yes.

Q. During the time that you were a sales representative for Texas Eastern, were you the sales representative with principal responsibility for Texas Eastern, or were there other sales reps?

A. Calling it -- I was the principal sales representative in Shreveport and Houston.

Q. Do you recall any sales reps that called on Texas Eastern?

A. I don't, I don't recall whether they called -- I don't believe they called on the field, you know, the field offices or whatever they might be. I think I was the prime, my point in time was the prime contact.

Q. While you were calling on Texas Eastern, do you recall any -- let's go back a step. You mentioned significant conversations that were put into call reports or should have been put into call reports. Well, let me ask a foundational question. Was it your practice to put any significant occurrences or discussions in a call report?

A. I think, as I recall, I used the word "significant" in reference to telephone conversations, where I felt that there was information that needed to be attended to or -- and you either used a call report or a memo. Significant would be anything that would obviously need an action or anything that you would need, you would want the document to remind you to follow up on next time or to remind you of something that you want to continue a dialogue on, whatever.

Q. Would you prepare a, or did you prepare a call report or memo of every personal visit on Texas Eastern?

A. I would be inclined to say not every personal visit.

Q. Did you prepare a call report or memo of most of your, the majority of your personal visits?

A. I honestly can't -- I can't recall.

Q. Did it depend on whether something significant was discussed?

A. That would be the, the driving force, correct.

Q. So if something significant was discussed at either a personal meeting or a telephone conversation with Texas Eastern, you did prepare a memo or a call report?

A. Most, most of the time, correct.

Q. Do you recall any, any discussions that fell into that category of significant with anyone at Texas Eastern?

A. No. Again, I get back to the only real recollection of a specific conversation that we had would be the, the Earl Farmer

publication. That's the only one that I can accurately recall. I assign all other, the lack of memory to the fact that everything else was kind of even keeled, ongoing, as usual; nothing, nothing, you know, out of the ordinary that was occurring.

Q. Routine?

A. You could say that.

Q. What do you recall about that conversation with respect to Earl Farmer's publication or article? Do you recall when that occurred?

A. No, and again, I don't recall the specific conversation. I'm telling -- tying more the Earl Farmer name to the publications that he had and the fact that he was very pro Turbinol, and that rings, that rings a more of a bell than anything else that occurred that I can think of.

Q. Did Earl Farmer ever tell you why he was pro Turbinol, or did you ever learn why Earl Farmer seemed to favor Turbinol?

A. From a specific conversation, I don't have any recollection of that. I don't, I don't remember him specifically

talking about it.

Q. Was it because of the -- could it have been because of the fire-resistant properties? I'm not asking to you speculate; I'm trying to see if that triggers a recollection as to why Earl Farmer favored Turbinol.

A. Well, I have to go back. What triggered my memory was the title on the document, here, of his paper that talks about fire resistant, to keying off of that, yes, it was fire resistant.

Q. And what -- well, this might be a good question to ask. What made Turbinol a superior product, or --

A. Superior?

Q. Well, let's go back a second. Were there competing products to Turbinol for Texas Eastern's application?

A. Yes.

Q. That suggests two questions, but I'll ask one first. What were the competing products?

A. One competing product was just regular mineral oil that could be used, and

was used in turbine -- as a turbine lubricant, and the other was, we had a -- how many other competing products? I don't know. That were synthetic like ours, Stauffer had one for sure, and I'm not sure whether E. F. Houghton, who was the other prime name in metalworking lubricants or compressor lubricants, I'm not sure whether E. F. Houghton had one or not. I don't recall that, but I know Stauffer did.

Q. Does the name Hought-O-Safe (Phonetic) ring a bell?

A. Yes, that does.

Q. Was that a competing product? Did that product compete with Turbinol?

A. Again, that's what I'm -- I can't respond to. I'm not sure whether they had a product. Hought-O-Safe was a product that had competed in other industries with, but I don't recall them as being as strong a competitor as Stauffer was.

Q. Do you recall the name of Stauffer's product?

A. Fyrquel.

Q. Were the -- was Fyrquel available

during this period when you were calling on Texas Eastern, I mean from, say, 1968 to 1971?

A. Fyrquel was definitely available in the metalworking market. Was it a threat, was it being looked at at Texas Eastern? I can't, I can't answer that specifically. I don't recall that specifically.

Q. But was it a product that could have been used in Texas Eastern's compressors?

A. I believe it was, yes.

Q. Was it fire resistant?

A. Yes.

Q. Do you recall if it was as or more fire resistant than Turbinol?

A. No.

Q. Do you recall if it contained PCB's?

A. I believe it was different chemistry.

Q. It did not contain PCB's?

A. Correct.

Q. Do you recall any circumstances when competitors' salesmen called on Texas

Eastern or tried to persuade Texas Eastern to use a competing product to Turbinol?

A. I'm certain it occurred, but I do not recall any, any specific instance, but I'm positive it was -- they knocked on the door. We didn't lose any business when I was calling on them, so that's why I don't have --

Q. At the time, did you have an opinion -- did you believe that Turbinol was superior to Fyrquel and other competitors?

A. Yes, I did.

Q. Why was that?

A. I think it gets back to just the building blocks of Turbinol, which would be the chlorinated hydrocarbons --

Q. The PCB's?

A. The PCB's, I was always impressed with the stability of that product, and because of that, I mean, I just -- and because of the endorsements by Texas Eastern, I felt that that was just, you know, I had to be sold on the product, obviously, but by the same token, I felt very positive about, one, it was a technology that we were proud of

because of the stability and because of what it offered the industry, and I think in that context, I was convinced that it was better than Stauffer's material.

Q. What do you mean by stability?

A. Just the chemistry was extremely stable.

Q. You mean the PCB chemistry?

A. The molecular -- and I'm not one -- by the time I got to college, I mean got out of college and into Monsanto, I was not a chemist, although I had a degree. It was just the chemistry, in and of itself, was stable. That's why it was so popular in a number of different applications.

Q. By stable, do you mean it would last a long time?

A. It was stable within, with respect to the application. I felt it was more stable to degradation from heat than other chemistries, and because of that, it was a better product. You would get more use out of it.

Q. Speaking of the application, do you know how Texas Eastern used Turbinol?

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A. It was used in their turbine compressors.

Q. What do you mean by turbine compressor?

A. That's -- it's -- here, I'm getting -- I'm not one to speak technically, but from a commercial standpoint defined as nontechnical, a turbine would be a large compressor which moved vast amounts of air, which forced product through the pipeline which was funneled into the pipeline and either forced product or air, one or the other, through a pipeline.

Q. Did you consider Texas Eastern's turbine compressors to be -- did you consider a Texas Eastern turbine compressor to be a single piece of equipment, or --

A. That I was not involved. I can't give you an answer on that.

Q. Do you know if there was a distinction between the turbine part and the compressor part? I'm asking -- I'm not asking as you sit here today, do you know if there's a difference, but when you were working for Monsanto, did you know that the

turbine and compressor were different pieces of equipment or the same piece of equipment, or did you imagine that distinction?

A. I don't think -- that doesn't sound like it was relevant to my discussion of Turbinol, so I don't think I made the distinction. I don't recall making the distinction.

Q. Did you know that Turbinol was used in the turbine and the compressor part of the equipment?

A. I can only answer that if hydraulic fluid was used, that Turbinol was used in that application. I would assume -- I don't recall a specific -- I can envision what it looked like, I think, from pictures, but I don't recall which side, which end is which, and where it was used, and just know that -- where there was hydraul -- or fluid used, it would have been Turbinol.

Q. Did you ever see drawings of a turbine and compressor assembly?

A. Pictures, mm-hmm.

Q. Did any of those drawings indicate where the Turbinol was being used?

A. I'm sure it did, but I don't recall specifically.

Q. Do you recall -- do you recall -- did you ever see a turbine, or compressor, or turbine compressor assembly?

A. I don't believe I did. I never -- I don't recall visiting any compressor stations, so I don't think I saw -- I don't believe I saw one.

Q. What was the lubricant used for? I mean, what was Turbinol used for in the machine in the turbine and compressor?

A. As a lubricant fluid for that compressor.

Q. Do you know, did you know at the time the turbine compressor, the equipment, the turbine compressors were being used to purchase natural gas through gas pipelines?

A. Yes, I knew Texas Eastern, that was their main function, was moving gas up into New England or New York area, Northeast.

(Discussion off the record and luncheon recess from 11:50 to 1:00 o'clock.)

MR. KASHANI: Okay, let's go back

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on the record.

BY MR. KASHANI:

Q. Back to the question of call reports and memos, do you recall approximately how many of those you prepared which pertained to Texas Eastern?

A. No. No idea.

Q. After you wrote them, did you keep a copy?

A. There's always a copy on file.

Q. Were those kept in Houston or St. Louis?

A. Probably, well, St. Louis was where the master files were, since that was really the head -- my point of reference.

Q. The reason I'm asking this question is about the call reports. We've asked for these from Monsanto, and the latest letter from Monsanto that Monsanto doesn't have your particular call reports, call reports that you wrote. I don't know where to turn except perhaps to ask you to -- if you know where they might be, any particular file that they might be stored in Monsanto, based on your knowledge. I'm not asking you

to talk about what's going on at Monsanto now, but based on where they might have been stored back when you were working at Monsanto.

MR. ZIMMER: Let me just object to the characterization contained in the question because we have, in fact, produced call reports authored by Mr. Clay. If you are referring to a specific file that he would have kept, that's possibly true, but I object to the --

MR. KASHANI: That's right. I apologize, we do have some, obviously, we have some call reports that were produced. We don't have any that you wrote with respect to Texas Eastern, except possibly one, and I think Mr. Frederiksen wrote that one, and that's why I've been asking these questions, just to try to see if we can find these papers, and I ask you again whether you know of any file or place where they might be kept at Monsanto.

A. No.

Q. Let's go back to the turbine compressors. Did you -- I'm not asking this

question -- well, let's start with that. As you sit here today, do you know how those turbine compressors worked?

A. No.

Q. How about back when you were at Monsanto?

A. I think -- let me go back. When I say no, you probably have pretty much the gist of my knowledge. I mentioned awhile ago that yes, it forces air through material, or a pipe or whatever. It's an engine-driven fan, I think, you know, generating this force, and that's about it. Did I have knowledge back then, intimate knowledge of what this was called and that was -- what that was called, I can't give you an answer as to how knowledgeable I was. I knew only what one looked like from pictures. I don't recall ever seeing one in action for sure.

Q. Do you recall if the pictures were of any particular compressor, I mean any particular compressor at a particular site, or were they more generic drawings?

A. I, I really can't answer that. I don't recall what they were specifically just

pictures or drawings, is the extent of my memory.

Q. Do you know if the lubricant as used in the turbine compressors ever came into contact with the natural gas?

MR. ZIMMER: Could I have that read back?

THE COURT REPORTER:

"Q. Do you know if the lubricant as used in the turbine compressors ever came into contact with the natural gas?"

MR. ZIMMER: Calls for speculation.

BY MR. KASHANI:

Q. By that, I mean by "lubricant," I mean Turbinol. And I mean by this question whether you knew at the time. I'm not asking you to speculate right now as to whether that occurred; I'm asking whether you knew at the time that the Turbinol would come into contact with the natural gas during operation.

MR. ZIMMER: Same objection.

A. It would be speculation then, also.

BY MR. KASHANI:

Q. Did anyone tell you or did you ever learn while you were at Monsanto that the Turbinol could leak from the turbine compressor?

A. I think that is a possibility, yes.

Q. Do you recall when you heard that or how you heard that?

MR. ZIMMER: You mean do you recall when it was possible that he heard it? Since that's what he just said.

And again, I don't want you to speculate. If you heard that, you should tell him.

A. Yeah, I heard.

MR. ZIMMER: But if not, don't guess.

A. We would, we would talk about any of the phosphate ester, or chlorinated hydrocarbon, or PCB fluids as being sensitive to seals, specific seals would work, specific seals would work, specific seals would not, and the leakage would occur in seals that weren't compatible with, they weren't

properly maintained or if they wore out, and they would not -- leakage would also occur with seals that were not compatible much more quickly because of the erosion of the seal or degradation of the seal, so in that context, if this appropriate seal wasn't used or the appropriate maintenance wasn't used on the seal, then you would, you would definitely suffer leakage with any of those fluids in any of the equipments that they were used in, including the Turbinol.

Q. Do you recall having these discussions about seals and the possibility of seals leaking under certain circumstances with anyone at Texas Eastern?

A. Again, I'd have to say I assume something like that would come up, but as far as specific discussions and remembering which specific discussion and with who, I can't, I can't give you that answer.

Q. Do you know where the Turbinol would go, the leaked Turbinol?

MR. ZIMMER: Calls for speculation.

A. It depends on where the leak is.

BY MR. KASHANI:

Q. What about -- let's see. Do you know if the Turbinol could leak into the gas pipeline?

MR. ZIMMER: Calls for speculation and assumes facts not in evidence that the leak occurred.

You can answer.

THE WITNESS: I'm sorry?

MR. ZIMMER: You can answer.

A. I would assume if there's a seal there and there's interface of the system with the, with the pipeline, that you would have, could have a leak there, yes, if, if that's where seals are prevalent. I don't know the intimate structure of seals and how they interface with the actual liquid or gas that's in the system, but I would say yeah, that's -- that would be a conclusion that you could draw.

BY MR. KASHANI:

Q. Did you ever have any instruction or training in the properties of PCB's while you were at Monsanto?

A. Absolutely.

Q. Do you recall any of the instruction, what you were told?

A. Just what it was and how, what -- again, it gets back to the stability factor that I was referencing, and why it was stable because of its molecular bonding, and that would be about it. We were given instruction as to what this chemical was, that that chemical was.

Q. Did you know which products contained PCB's?

A. I would say we did, yes.

Q. Did Monsanto tell you that -- or did someone at Monsanto tell you that Turbinol contained PCB's?

A. I'm sure if we knew which products contained PCB's, I'm sure Turbinol was mentioned.

Q. Did anyone at Monsanto ever tell you or did you otherwise learn while you were at Monsanto that PCB's could cause chloracne?

A. I don't know what chloracne is.

Q. It's a type of, I believe it's a type of skin disorder.

A. No.

Q. Is that no, that --

A. No, I don't recall anyone ever mentioning that, and I'm not familiar with that term.

Q. Did anyone with Monsanto tell you or did you otherwise learn while you were at Monsanto or hear while you were at Monsanto that PCB's could cause liver or kidney damage?

A. Yes, I did hear that.

Q. Do you recall when you heard that?

A. Not specifically, no.

Q. And was it liver, or kidney, or both?

A. I can't -- I think I'm inclined to say more about liver, but I -- in that general area, I guess of the body, but liver, I think, is what I had heard.

Q. Do you recall how you heard that?

A. I think it, I believe it came from a study that had been generated with rats, or with some kind of animal that -- I don't recall the specific study, but I think that's where it came from.

Q. Were you given a copy of the

study?

A. I don't recall.

Q. Do you recall who told you about this?

A. No.

Q. Could it have been someone from the Medical Department?

MR. ZIMMER: Calls for speculation. It could have been a lot of things. He could have read it; he didn't say someone told him.

A. I don't recall who it was.

BY MR. KASHANI:

Q. Do you recall if a person told you this, or if you read it?

A. I can't recall that, either. I don't know whether it was sent out in memo form or whether it was verbally presented. I don't recall that. I do know that we were made aware of it.

Q. I'm going to mention some names and see if it might refresh your recollection about who might have told you. Might it have been a Dr. Wheeler? Elmer Wheeler?

A. No, I don't know Elmer. I mean, I

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know Elmer Wheeler in a different context. No.

Q. Dr. Emmett Kelly?

A. No.

Q. Jack Garrett?

A. No, I don't, I wouldn't -- I know those names, but -- I know Kelly's and I know Wheeler's name but I don't, don't really know who told us, or how it was told. Again, I'm not --

Q. You mentioned, "told us." Do you recall that other people were informed that PCB's could cause this damage about the same time you learned?

A. I'm assuming, yes, I'm assuming that the whole sales force, that was information that had to be known. It's not something that would be kept secret, that we need to be made aware of what's happening, what's developing, and what's going on with the product, so when I say "we," I'm really referencing everybody that's involved with the products.

Q. Do you recall if you were told this information about the liver or kidney

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damage while you were still, or -- yes, while you were still responsible for the Texas Eastern account?

A. I can't answer. I don't, I don't recall when it was -- when we were told about that study.

Q. Did you ever pass on that information to customers, to any customer?

A. I can't recall with absolute certainty that we did, but I seem to be trying to recall that as requested, a customer having seen it and asking "Do you have a copy of the study," that we would make it available. In what context did we present this formally to the customers? I don't recall how that was presented.

Q. Did you personally tell anyone at Texas Eastern that PCB's or the PCB's in Turbinol could cause liver or kidney damage?

A. No. I did not.

Q. Do you know if, of your own personal knowledge, in terms of what you witnessed or saw, that anyone at Monsanto told anyone at Texas Eastern that PCB's in Turbinol could cause liver or kidney damage?

A. I have no knowledge of one way or the other.

Q. Did -- again, of your personal knowledge, did anyone at Monsanto write to anyone at Texas Eastern and tell them in writing that PCB's could cause liver damage or kidney damage?

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

MR. KASHANI: Off the record for a second.

MR. KASHANI: Okay, let's go back on the record.

BY MR. KASHANI:

Q. Do you recall ever learning -- and I mean while you were at Monsanto or being told by anyone at Monsanto -- that PCB's could constitute an environmental hazard or an environmental contaminant?

A. Yes.

Q. Do you recall when you were first told that?

A. I'm sorry, I can't. I just don't have a fix on the time period.

Q. Do you recall ever passing on that -- I mean you personally passing on that

information, either verbally or in writing, to anyone at Texas Eastern?

A. I can't, I can't recall.

Q. Do you know, again of your personal knowledge, meaning did you see or witness anyone at Monsanto passing on that information, meaning that PCB's could be an environmental contaminant or an environmental hazard, passing on that information either verbally or in writing to anyone at Texas Eastern? Do you know that that occurred of your personal knowledge?

A. No, I don't.

Q. And you don't know, or it did not occur of your personal knowledge?

A. I don't know. I'm not --

Q. Let's go back to Exhibit 255. Oh, wait a minute. Let me just clean up one point.

I think this was implicit in your previous answer, but did you ever tell anyone at Texas Eastern, either verbally or in writing, that PCB's could cause chloracne or other skin disorders?

A. No , I'll go back and reiterate

what I said earlier; I'm not familiar with chloracne, and I would not be the one passing on that information.

Q. Do you know who would have passed on that information?

A. It would have been someone at Technical, or Medical, or both.

Q. Do you know of your own personal knowledge that anyone at Monsanto ever told anyone at Texas Eastern, either in writing or verbally, that PCB's could cause chloracne or other skin disorders?

MR. ZIMMER: This entire line every questioning calls for speculation.

You can answer.

A. I have no knowledge.

BY MR. KASHANI:

Q. Back to 255, what was Columbia Gulf Transmission Corporation?

A. A gas transmission pipeline company.

Q. Was it like Texas Eastern in that sense?

A. Correct.

Q. This Exhibit 255 appears to refer

to a call you made on Columbia Gulf Transmission. Do you remember this particular visit? Did you receive these comments and they were written on here, from --

A. This was the call report.

Q. We are referring to Page TRAN 004327, which is page 4 of the call report?

A. Right where says "Attention, Tom Poe," it's scratched out, "Don," were these documents received with that writing in there?

Q. This is the only copy we have.

A. Okay.

MR. ZIMMER: He has what he's put in front of you, and let's stick with his question, which is, do you recall this particular visit to Columbia Gulf.

A. Okay, using this to refresh my memory, yes.

BY MR. KASHANI:

Q. Let's go to that, the page 4. Is that, is the "To attention," is that something that was added later by someone else?

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A. I have no idea. I just was curious if --

Q. Is that something you wrote?

A. No, it's not my writing. I was just talking out of curiosity, nothing else.

Q. That brings up a question. After you would write a call report and it was passed to various people, were those people free to put their own comments on a call report? Could that occur?

A. Mm-hmm, yeah, that was pretty -- that was one way of communicating back to the salesman if it was a brief response, "Yes," "No," or 'Yes, you can go about $18.32," whatever it is.

Q. Then they would send the report back to you.

A. Yeah, a copy of it.

Q. Is that -- do you recall that occurring with this report, where I'm specifically referring to Page 4, where it says "Attention CLC"?

A. No, I don't recall.

Q. What was the purpose of this visit to Columbia Gulf?

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A. Using this in refreshing my memory, it was an opportunity for us to, to promote the Turbinol in a new -- with a new customer, specifically Columbia Gulf, that apparently somewhere we had received information that the Fyrquel had been performing unsatisfactorily, the competitive product, and that with the help of Texas Eastern's endorsement, that we could pick up an additional customer on the Turbinol, working with Columbia Gulf, so this was -- appears to be the call that I made that was kind of an introductory fact-finding mission to see, really, where they stood, did we still have the opportunity to get our material in there, and what needs to be done to accomplish that.

Q. You mentioned Fyrquel. Was that the product that Columbia Gulf was using?

A. It appears from this that they had been using it for some time.

Q. And by "using," you mean using in their compressors, their turbine compressors?

A. As stated here, yes.

MR. ZIMMER: Remember that he

doesn't want you to interpret the call report or any other document he puts in front of you. If you recall that, tell him, but don't take it as a given, something that is printed there.

THE WITNESS: Okay.

BY MR. KASHANI:

Q. Does this call report accurately reflect what occurred at this meeting, to your knowledge?

A. I would have to say that I hope so. You know, that's -- you know, it's all refreshing my memory. I can't recall, other than the customer name and the fact that they eventually used Turbinol, I can't recall the other details without reading this report.

Q. Did you write this report, though?

A. Sure. If my name is up there, I wrote it.

Q. And was it important to Monsanto's business that this report be accurate, be an accurate summation of what occurred?

MR. ZIMMER: How is he capable of answering that question?

BY MR. KASHANI:

Q. Was it policy at Monsanto to be accurate in your call reports?

A. I think they were desirous of having that accomplished in all call reports.

Q. I'm going to refer to Page 4 of the call report that has a document number TRAN 004327. I wonder if you could read just the first few sentences, first four or five sentences.

(Witness peruses said document.)

A. Okay.

Q. Do you know who the Simpson was that he's referring to?

A. I don't recall.

Q. What about where it says "Buck Johnagan," would that be Buck Jarnigan?

A. That's the same Buck that we talked about earlier.

Q. Do you recall this particular exchange with Mr. Haney, H-a-n-e-y?

A. No, I do not.

Q. But do you recall in general using, as you mentioned, Texas Eastern's endorsement to attempt to sell Turbinol to

Columbia Gulf?

A. Correct.

Q. To your knowledge, did Monsanto have any other customers for Turbinol 153 besides Texas Eastern?

A. To my knowledge mit was the only customer.

Q. But were you looking for other customers?

A. Mm-hmm, correct.

Q. And was it important to keep Texas Eastern as a customer in order to obtain the other customers?

MR. ZIMMER: The question is argumentative, assumes facts not in evidence.

You can answer.

A. No. I can't comment on that. I don't know.

BY MR. KASHANI:

Q. Was it useful to have Texas Eastern as a customer in obtaining other customers?

MR. ZIMMER: Same objection. Counsel, you are arguing with him about what your interpretation of why Texas Eastern was

kept as a customer was, and the implication is going to be if he says "Yes" to that, that that's the only reason, and that's what the problem with the question is.

MR. KASHANI: I assume Texas Eastern was a legitimate customer, and I assume this is a company that was purchasing product. I'm just wondering if whether it was useful to have Texas Eastern as a customer in trying to obtain other customers for Turbinol.

MR. ZIMMER: You can answer if you recall that being a probation.

A. I would have to say in general terms, no, but the fact that Columbia Gulf Transmission had used fire-resistant fluid was a positive, and secondly, that they were looking for an alternative to the Fyrquel, that it was, it was logical to say that you could go to another experienced user of Turbinol and use them as a reference point if there's any question.

BY MR. KASHANI:

Q. And by "other experienced user," you mean Texas Eastern?

A. Texas Eastern.

Q. Do you recall Columbia Gulf ever having any problems with -- well, let's go back a step. Do you recall if Columbia Gulf ever purchased any Turbinol?

A. They did.

Q. Do you recall when that was?

A. No.

Q. Do you recall if they ever had any problems with it?

A. No.

Q. I'm going to refer to the next exhibit. Let's mark this.

(Plaintiff's Deposition Exhibit 256 marked for identification.)

BY MR. KASHANI:

Q. Do you recognize this document, Exhibit 256?

A. It appears to be a call report that I wrote, so yeah, I would say it's a call report that I had written.

Q. Going back to Exhibit 255, the date on that is 5-14/15-70. Is that when that visit occurred?

A. I don't recall the date.

Q. Do you recall if it was in 1970?

A. That's even difficult, but I would assume it. I can't recall.

MR. ZIMMER: He doesn't want you to assume.

A. (Continuing) I can't recall.

BY MR. KASHANI:

Q. Is that what "Date of call" means on Exhibit 255, when the call occurred?

A. Yes.

Q. Referring to Exhibit 256, under "Date of call," it says 5/28. Do you remember what year that was?

A. I can't specifically recall.

Q. By referring to the section under "Objective" where it says, "Follow up on advice of W. B. Haney in discussing Turbinol 153 usage," does that, and referring also to Exhibit 256, does that refresh your recollection about when the year of -- I'm sorry, referring back to Exhibit 255, does that refresh your recollection about what the year of the call report of 256 was?

A. In all honesty, I would say it

would be, it would be logical follow-up to this call, so it would have to be in '70. I mean --

Q. You mean, on Exhibit 256 would be a logical follow-up on Exhibit 255?

A. (Nods head in affirmative manner), but I can't, you know, I wouldn't recall. I don't remember the year on this one without seeing it.

Q. Let me refer you to the second paragraph of Exhibit 256. About midway down, it starts, "At this meeting comments were put forth with regard to, one, the elimination of Turbinol 153 by Monsanto to the industry, and two" -- that's number two -- "the toxicity and personnel damage done by the chlorine vapors from Turbinol 153."

Do you remember this conversation? Or you might want to read the whole thing.

A. Yeah.

(Witness peruses said document.)

A. (Continuing) Okay.

Q. Do you recall this conversation?

A. That specific topic, I recall the

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conversation with the gentleman, yes.

Q. Was that with Mr. Haney?

A. No, with Fred Raymond.

Q. Oh, I'm sorry, that's correct. I'm sorry.

What do you recall about the conversation?

A. I recall that it was a positive conversation, it was upbeat, and that we -- with his endorsement, that with his positive endorsement, acceptance of Turbinol, that they would go ahead and utilize the Turbinol 153 in the compressors.

Q. By "his," you mean Raymond -- I mean Fred Raymond's positive endorsement.

A. Had it needed his, he was kind of the last link in the chain to endorse the use of 153, since I believe, as I recall, he had to live with it, live with the operation.

Q. What did he say about Ray Stauffer?

A. I don't have any recollection of that.

Q. Do you recall Fred Raymond expressing any reservations about Turbinol

153 based on any discussions or hearing Ray Stauffer?

A. The only thing that I recall is that he did have reservations, period. I don't recall what they were specifically.

Q. Do you recall any discussion at this meeting about a rumor or possibility that Monsanto would withdraw Turbinol 153 from the market?

A. That doesn't, it doesn't ring any bells with me. We agreed to use the material after this call, and that's why it's not sticking in my mind that he went ahead and used the material, so I don't recall the termination aspect.

Q. Do you recall telling him anything on the order of -- do you recall telling -- him telling Mr. Raymond that Monsanto would not be withdrawing Turbinol from the market?

A. I don't recall that. I -- there wasn't any reason for me not to have, if I was trying to get him to use the Turbinol 153.

Q. Why is that? Why would he care?

A. Well, if he's making a comment to

a product, and I don't want to sell him a product if I'm aware that we're going to terminate and Monsanto is aware of that we're going to terminate, it's a fairly, fairly complicated process for him to change out of one product into another if we terminate the product, so I don't want to sell him a bill of goods.

Q. So, I mean to your knowledge, you were not selling a product that -- -- so at the time of this call report, which I'm -- let's say 1970, I know that's not necessarily the time of this report, but in 1970, did you have any knowledge that Monsanto would be withdrawing or might be considering withdrawing Turbinol from the market?

A. Absolutely none.

Q. Do you recall ever going out and attempting to sell a product that you knew Monsanto would be withdrawing from the market?

A. Could you repeat that, please?

Q. Do you recall ever attempting to sell a product that Monsanto -- that you knew Monsanto would be withdrawing from the

market?

A. By selling, did I actively promote a product that I knew was going to be -- that was intentionally short-lived? No. I'm not seeking new customers and then having them be dumped, you know, in a short period of time, and I don't -- I don't think that's unique to me, I think that was unique -- I think that was Monsanto as a whole, I don't think would treat, -- as I recall, we were pretty ethical, ethical and professional in their conduct in the market, so I don't see them as, as doing, playing that kind of game in the marketplace.

Q. What about the reference, here, in Exhibit 256 to the toxicity and personnel damage done by the chlorine vapors from Turbinol 153? Do you remember that discussion or that aspect of the discussion?

A. I do not.

Q. Do you remember any customer being concerned or complaining about possible toxicity or personnel damage from Turbinol 153?

A. Again, the only customer would be

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Texas Eastern, and that would have been -- I don't recall an issue from them during my time of working with them, that that was an issue. If it came up, it was something I don't recall, and it was handled by St. Louis.

Q. Mr. Raymond mentioned a presentation to representatives from pipeline operations. Did he tell you or do you recall whether he told you who else might have been present at that presentation, which other companies were represented?

A. I don't recall.

Q. Do you remember if he told you if Texas Eastern was present?

A. I don't have any idea.

Q. Second-to-last sentence reads -- this is of Exhibit 256 -- reads, "Apparently, this has not done our marketing of Turbinol 153 any good." Do you recall what prompted you to write that?

A. From memory? No.

Q. Does reading it here refresh your recollection?

A. Reading it here, that those

comments, I considered at that time completely erroneous.

Q. You mean the comments that --

A. The negative comments.

Q. The negative comments about Turbinol 153?

A. Yeah.

Q. That apparently Ray Stauffer had told Mr. Raymond?

A. (Nods head in affirmative manner).

MR. ZIMMER: No, you mean that Mr. Stauffer had made at this Gas Transmission Company Association meeting.

MR. KASHANI: That's right.

A. That Fred Raymond was relaying to me.

BY MR. KASHANI:

Q. And you believed those comments to be erroneous?

A. Correct.

Q. What was your basis for believing that the statements about toxicity and personnel damage done by chlorine vapors from Turbinol 153 was erroneous? What was your basis for believing that those comments were,

was erroneous?

A. Erroneous in the sense that it was -- I mean erroneous in the sense that it was probably a, someone that either hadn't experienced use of Turbinol or was a competitive situation, and -- because I can specifically recall -- not specifically, but I can recall Stauffer, if not with Turbinol, with other products that we were competitive with, Stauffer the competitor, not the man --

Q. Sure.

A. -- being fairly liberal in their criticism and loose in their criticism of our products, and I would refer to that as, I know a number of occasions that "They're slinging mud again," and I think this would be somewhat in that context, that we need to at least correct the record, if you will.

Q. So a competitor would say things about your products which you believed to be untrue and you would correct the record for your customer?

A. No, I would let St. Louis know. I mean, they would be in a better position than I would be, other than my verbally correcting

the record with the customer, but they need to be aware of what was being said that what I considered either untrue or totally prefabricated.

Q. In this particular instance with Mr. Raymond, did you tell him that the comments he was relating from Ray Stauffer were not correct?

A. I don't think I was in a position to tell him that. I think after the fact, you know, I told St. Louis and I said, "Let's correct the situation." I don't recall how I reacted to it because I don't recall the specific statements, but I'm sure I made some -- that I'd get back to him. I'm sure it was a question mark in his mind because we couldn't continue selling the product if those were truly a question, a concern in his mind.

Q. But as you said, the result of the conversation was Mr. Raymond was positive?

A. At a later date, yes.

Q. So to your knowledge, at some point were Mr. Raymond's doubts resolved?

MR. ZIMMER: Calls for

speculation.

MR. KASHANI: I mean, they decided to go with the product.

A. They purchased the product.

BY MR. KASHANI:

Q. If you would turn from that document to -- just one last question on Exhibit 256. To your knowledge, is your call report an accurate reflection of what occurred at that meeting?

A. Of what I can, of what I've stated that I could recall from that meeting, it would be, it would be close enough, yes.

Q. Turn to this exhibit we'll mark 257.

(Plaintiff's Deposition Exhibit 257 marked for identification.)

BY MR. KASHANI:

Q. Do you recognize this document?

A. It's the call report from John Frederiksen on the turnover, the joint call we made in turning over the account to him.

Q. You mean when you turned the Texas Eastern account over to John Frederiksen?

A. (Nods head in affirmative manner) I'm sorry, yes.

Q. Do you recall the particular meeting that's described in the report?

A. No, I don't.

Q. Do you remember Aubrey Thompson, who is listed on the first page?

A. The name is familiar. That's the extent of it.

Q. Do you remember a Chuck Bath?

A. I do not.

Q. What about Frank Gordon?

A. Vaguely. Vaguely.

Q. I refer to you page 2 and ask you to read the first paragraph of text.

A. Okay.

Q. Do you remember this discussion?

A. Without this refreshing my memory, no.

Q. I guess what I'm asking you is -- well, I mean, you've answered it. Does this paragraph refresh your memory or trigger a recollection of this conversation?

A. I think it endorses or is consistent with what I was trying to say

awhile ago with respect to Stauffer and how they took advantage of anything and everything to, to be competitive.

Q. Does this appear to refer to one of those times when Stauffer made disparaging remarks about Monsanto's product and you responded?

A. It appears that -- it appears that they again were taking advantage of the situation of PCB's being discussed, everybody was aware of PCB's and they were trying to take it to their -- make it work to their advantage.

Q. By "they," you mean Stauffer?

A. Stauffer, I'm sorry, our competitor, for Fyrquel.

Q. By that, do you mean Stauffer was telling Monsanto's customers to watch out because Monsanto's products contained PCB's?

A. That's what I'm concluding from this, correct.

Q. And do you recall the response that you or Mr. Frederiksen told that -- Mr. Woods or anyone else at this meeting at that time?

A. I don't recall.

Q. Did you tell him that Stauffer's comments were incorrect?

A. I don't recall.

Q. Do you know whether Turbinol 153 had ever -- do you know whether Turbinol 153 was ever reformulated?

A. I'd be inclined to say whether the Turbinol was reformulated or replacement product was presented as a replacement to 153, that is the case -- that is -- reformulation, you have a tendency to think that there's still a structure, there, chemically and you are just adding an extra ingredient or taking one out. I'm not aware of that; I'm aware of us coming up with a reformulated product.

Q. Do you mean by that at some point, Monsanto came out with a replacement for Turbinol 153?

A. To my knowledge, yes, as I recall.

Q. Had that occurred in -- on June 28, 1971, the date of the call that's suggested in, that's referred to in document 257? In other words, had Turbinol 153 been

replaced by that call by the time of that call?

A. No. I mean, their -- no.

Q. Had the decision been made by that time to replace Turbinol 153 with another product? I mean to your knowledge.

A. No.

Q. So at the time you made this call in 1971, as far as you know, as far as you knew at the time, Monsanto was going to be still -- going to still continue selling Turbinol 153 as then constituted?

A. Absolutely.

Q. Meaning they were going to continue to sell the product with PCB's?

A. There's no reason to think other. The PCB situation was there, but it was not a -- wasn't a situation that would -- was threatening the product, as the competition was alluding to.

Q. Did you tell this to the people from Texas Eastern at this meeting or at any other time?

A. I don't recall what the comments were made, there. This was my last, last

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meeting with Texas Eastern, so I don't know what happened.

Q. Do you recall telling, you telling or John Frederiksen who was at this meeting, telling the people at Texas Eastern that Monsanto would not be reformulating -- I'm sorry, that Monsanto had not changed the composition of Turbinol 153 because of the PCB problem?

A. I don't recall any specific response that was made to that fact. In looking at --

MR. ZIMMER: Let's let him ask questions about this and not interpret the document. He can do that for himself.

MR. KASHANI: I'm sorry, what were you about to say?

A. Nothing. I just --

BY MR. KASHANI:

Q. As of the date of this call, June 1971, do you recall what Monsanto had told you or what you knew at that time about any possible problem with the use of PCB's or associated with the use of PCB's?

MR. ZIMMER: Any particular type

of PCB, or just PCB's in general?

MR. KASHANI: PCB's in general.

A. I think we were, all of us were aware of something going on, of some concern of this one rat study that we've acknowledged or whatever animal it was that we've acknowledged the test had come back not positive on PCB's. At this particular time, I don't recall to what degree, other than it wasn't to the point that we were, you know, concerned that we were getting out of PCB's and getting into other chemistries. At this point, absolutely not.

Q. So at the point of this call report in June of 1971, you were still comfortable with selling Turbinol to Texas Eastern, which contained PCB's?

A. And Columbia Gulf, correct.

MR. KASHANI: I think we can take a break.

(Recess)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. Do you remember calling on any other customers to attempt to sell Turbinol?

A. No.

Q. Do you remember if any other customers besides Columbia Gulf purchased Turbinol?

A. No.

Q. I show you -- I hand you the next exhibit.

(Plaintiff's Deposition Exhibit 258 marked for identification.)

BY MR. KASHANI:

Q. Do you recall -- this is on Tennessee Valley Authority. TVA appears to be referenced in Exhibit 258. Do you recall making that visit, making that sales call?

A. Using this to refresh my memory, yes.

Q. Do you recall what they were using gas turbines for?

A. In recalling this, I think this was probably in their power generation, rather than in a transmission type of generation.

Q. And how would Turbinol be used in those turbines?

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MR. ZIMMER: Assumes facts not in evidence.

BY MR. KASHANI:

Q. If you know.

MR. ZIMMER: Are you suggesting that it was being used?

MR. KASHANI: How could it have been used?

MR. ZIMMER: Calls for speculation.

BY MR. KASHANI:

Q. I mean, you were there telling selling the product. I mean, what were they going to do with it?

A. I think the Pydraul 135 was used there, and there was an interest or there was an inquiry as to whether the Turbinol was used there, and it was -- was I there to find out whether they were going to use Turbinol or not, and obviously, I was there and found out that they weren't, but the Pydraul 135 was used by the TVA.

Q. I see. But -- I refer to the paragraph on the second page that starts, "Turbinol 153." And looking, starting in the

second sentence where it says "Parriss" -- that's P-a-r-r-i-s-s -- "commented that they had approached GE, inquiring as to their approval of Turbinol 153. GE stated that as far as they" -- and it says something I can't read, but I think that's supposed to read "turbine" but won't attempt to interpret it, but it goes on to say, "and compressor units were concerned it was fine, but complications set in at the generator unit on the turbine systems from GE."

Do you recall whether, in the context of Columbia Gulf or in the context of another gas turbine operator, that the company, the operator had to obtain approval from the manufacturer of the turbine before using the lubricant in that turbine? Do you recall that issue ever arising?

A. Yeah. I think you needed the approval based upon, that the turbine was provided with compatible components, because as I said earlier this morning, you have different compatibilities of, of seals and things like this, and normally, if you are receiving a new turbine from GE in this

particular instance, it should be equipped with material that is compatible either with oil, mineral oil or with the synthetic, two different components, makeup or materials.

Q. As far as you know, had General Electric approved the use of Turbinol 153 in the turbines that Texas Eastern was running?

A. Can I say absolutely that they had approved the use of the product? I don't recall.

Q. The next sentence back on Exhibit 258 says, "Apparently, all the major components, the turbine, the compressor and the generator," I believe the next word is "are" -- a-r-e -- "fed from one central fluid reservoir." In the context of Texas Eastern, do you recall the issue ever coming up or the concept being discussed that the turbine and compressor unit would use a single lubrication system or a single lubrication tank? Do you recall that issue ever coming up?

A. The issue?

Q. Or the fact, do you recall ever discussing the notion that a turbine and

compressor could, or should, or would have a common lubrication system?

A. I can't recall.

MR. KASHANI: I show you the next exhibit. Let's mark this exhibit 259.

(Plaintiff's Deposition Exhibit 259 marked for identification.)

MR. KASHANI: And then -- I'm giving these to you out of order. I'm sorry. Exhibit 260.

(Plaintiff's Deposition Exhibit 260 marked for identification.)

BY MR. KASHANI:

Q. Turning to Exhibit 260, do you recognize this document?

A. This one. Do I remember the document?

MR. ZIMMER: He said do you recognize it.

A. I recognize it as a letter I wrote, yes.

BY MR. KASHANI:

Q. That's your signature down at the

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bottom?

A. That is correct.

Q. Do you remember writing this letter?

A. No.

Q. Do you remember the topic that seems to be discussed here, which is obtaining information for Monsanto about their -- I mean from Texas Eastern about their compressors?

A. I do not remember, without the use of this document, the specific nature of asking for it, other than it was a documentation.

Q. What do you mean, documentation?

A. Just a record.

Q. Do you know why Monsanto or do you know why you wanted to know how many compressors they had and what -- and wanted to know information about their compressors, meaning Texas Eastern's compressors?

A. I don't recall.

Q. Do you recall seeing document 259, which appears to be a response to your letter, Exhibit 260?

A. I recall this. I don't recall this, I recall this, having the documentation.

Q. You don't recall the cover letter to Exhibit 259, but you do recall the second page, the attached?

A. I just remember that this was in existence, yes.

Q. And that's a document that's numbered TW2-2006685?

A. Correct.

Q. Do you remember using this documentation --

MR. ZIMMER: I'm sorry, you said 685? I have 691.

MR. KASHANI: I was referring to the second page.

THE WITNESS: That's 6691.

MR. KASHANI: Let's go off the record.

(Discussion off the record.)

MR. KASHANI: All right, let's go back on the record and clear that up. I'm sorry, the second page of Exhibit 259, the copy that will be entered into the record is

numbered TW2 --

MR. ZIMMER: 006691.

MR. KASHANI: And that's the document I'm referring to.

BY MR. KASHANI:

Q. Do you recall using this information? The list of stations and turbines?

A. No, I recall it more as a documentation for our records, for my, for my file.

Q. Was it useful for purposes of manufacturing, or having enough Turbinol on hand for Texas Eastern's needs?

A. I can only recall that it was, it was useful documentation of where they used the material, and how much they did use it, how we interpreted that information, I don't recall.

Q. Do you know what was meant on this document by "Volume total gallons"?

MR. ZIMMER: Calls for speculation, lacks foundation.

A. I don't.

BY MR. KASHANI:

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Q. Could that refer to the storage tank at the compressor?

MR. ZIMMER: Counsel, it could refer to a lot of things, but you haven't laid any foundation that he prepared it. He's just told you he doesn't know what it means, and you are asking him what could it refer to something. I mean, that's argumentative, calls for speculation.

BY MR. KASHANI:

Q. Going back to document 260, your letter, you asked for certain information, and the second sentence of the second paragraph said, says specifically, "Recording the type of turbine, its horsepower, volume, (gallons), type of compressor." In this letter, in your letter, Exhibit 260, what did you mean by volume of gallons?

A. I don't know whether it was -- what the compressor held. I would --

MR. ZIMMER: Don't assume.

THE WITNESS: Yeah.

MR. ZIMMER: If you know what you meant by that, tell him.

A. I can't answer.

BY MR. KASHANI:

Q. By what you said, what the compressor held, do you mean what it held in terms of Turbinol?

A. That's -- I'm speculating.

Q. In terms of the compressor's use of Turbinol, are you familiar with the concept of initial fill?

A. Mm-hmm. (Nods head in affirmative manner).

Q. What does that mean to you?

A. In terms of -- it's more frequently maybe because of number of customers, but it's more frequently used in the Pydraul or Therminol, initial fill was what would it take to fill that system to the level required to run it.

Q. In the case, in the case of Texas Eastern and Texas Eastern compressors, does "initial fill" refer to how much Turbinol had to be poured into a compressor so that it could start running?

MR. ZIMMER: Calls for speculation.

BY MR. KASHANI:

Q. Is that what you mean by initial fill in the context of compressors?

MR. ZIMMER: You are asking how he uses that term?

BY MR. KASHANI:

Q. I'm asking what do you mean by initial fill in the context of compressors.

A. It would be the same context, that it would would be what it would take to fill that unit to get it up to operating, operating levels.

Q. At the time you were working for Monsanto and calling on Texas Eastern, was it your understanding that for a given compressor, Texas Eastern had to keep buying Turbinol for that compressor after the initial fill?

A. If Turbinol -- if you needed fluid to keep it operating, that is, if you had to drain the system for repairs and then you would refill that system, you would fill it with Turbinol. They would fill it with Turbinol only because they were, they were dedicated to Turbinol. They wanted -- I assume they could have gone to Fyrquel, but

they wanted Turbinol, the competitive product.

Q. And when this sort of draining occurred, or at any other times, would -- did Texas -- I mean to your knowledge, did Texas Eastern buy more Turbinol for a compressor after the initial fill?

A. I guess. I --

Q. I guess what I'm driving at, you take a given compressor and Texas Eastern would purchase enough Turbinol for the initial fill, and then they would continue to buy Turbinol for that compressor; is that correct?

A. Correct.

Q. And you mentioned one reason why they would, why Texas Eastern had to buy new Turbinol was because it would drain the compressor for repairs?

A. Right.

Q. And they had to pour more Turbinol into that compressor. While you were calling on Texas Eastern, were you aware of any other reason why Texas Eastern would have to keep buying more Turbinol for the same compressor?

MR. ZIMMER: Calls for speculation and is more appropriately addressed to Texas Eastern, but you can answer if you know.

A. I would say that they used more material because they had to add more material, but for what reason, I can't specifically acknowledge. They would have to acknowledge that on a by-compressor basis, I guess.

BY MR. KASHANI:

Q. Were you aware or did you come to know that the compressor could leak and would require more Turbinol after it leaked Turbinol?

A. One of the several ways one would be your maintenance, you know, if you tore it down and had to replace bearings or something like that, I would assume you'd have to drain the whole system, depending on what you had to repair. If you didn't maintain the proper maintenance on seals and articles like that, then I would also have to say that there was leakage, there would be leakage from that, just like with anything that's not properly maintained, or you have a seal that breaks

down, or, you know, to no one's fault, then that could create a loss.

A hose could break and spray all over the place and you'd lose material that way, so it wouldn't be with seals, it would be with a combination of things on the, on the system.

Q. So you were, while you were calling on Texas Eastern, you were aware that sometimes compressors could leak and -- for whatever reason, and then when that occurred, they would need more Turbinol for that compressor?

MR. ZIMMER: Is the question did he link those two events in his mind?

MR. KASHANI: I see what you are saying.

MR. ZIMMER: A leak, or a spill, or a maintenance problem.

MR. KASHANI: Let's take it a step at a time, then.

BY MR. KASHANI:

Q. You are saying that while you were calling on Texas Eastern, you were aware that sometimes that compressors could leak

Turbinol for whatever reason, as we discussed?

A. Calling on Texas Eastern, I was aware that they would order additional material but for what reason, I did not track that.

Q. I understand. I understand you would not know necessarily, would not be able to tie a specific order to a specific reason. That I understand. But orders aside, I guess you were saying from what you were saying before, I understand you to be saying that you were aware, while you were calling on Texas Eastern, that sometimes their compressors could leak Turbinol and what they did about that or what happened is not always clear.

MR. ZIMMER: Asked and answered. You are right; he said that a moment ago.

MR. KASHANI: Okay.

BY MR. KASHANI:

Q. Do you know what Texas Eastern did with the Turbinol that leaked?

A. No, I don't.

MR. ZIMMER: That assumes facts

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not in evidence. He said it was a possibility.

BY MR. KASHANI:

Q. Did Monsanto have, to your knowledge, did Monsanto have any plan to reclaim or any process to reclaim that Turbinol, clean it up, reuse it in any way?

A. Monsanto did not. Monsanto had a reclaimer, and I don't know the time frame, but Monsanto had a reclaimer set up in the St. Louis area, St. Charles or somewhere, that they would take material back for reclamation. Whether this applied to the Turbinols or not, I don't know, but I know that they made available to the Pydraul side of the business the availability of reclamation of material, and then it would be returned, you know, reclaimed, so to speak.

Q. How did that reclamation work in the case of Pydrauls?

A. The customer would drain their system and send it to this customer -- it wasn't that successful because it wasn't that much interest in the industry to do that, to -- from, as I understand it, but they

would send drums of material that had been used or degraded back to this company, then they would do whatever they could do to clean it up and then send it back and it could be used again.

Q. Do you recall if this, do you know if this reclamation program was ever offered to Texas Eastern?

A. I cannot recall.

Q. Do you recall if anyone at Texas Eastern ever asked you or anyone else at Monsanto if they could just take steps to reclaim their used Turbinol?

A. No, I can't -- there may have been discussions but I can't, I can't recall specific discussions.

Q. I understand. You mentioned that at some point at Monsanto, a concern arose about PCB's, possible problems with PCB's. Do you remember when you, when you personally first became aware that there was a concern about PCB's?

MR. ZIMMER: Well, you are misstating his testimony. He said that he was aware that there were concerns that arose

over the persistence of PCB's in the environment. He didn't say problems with PCB's or anything that was contained in your question.

MR. KASHANI: Could you read back what Mr. Zimmer just said?

THE COURT REPORTER:

"Well, you are misstating his testimony. He said that he was aware that there were concerns that arose over the persistence of PCB's in the environment. He didn't say problems with PCB's or anything that was contained in your question."

MR. KASHANI: I'm not sure that's what was said, but I will ask that question now.

BY MR. KASHANI:

Q. At some point, did you become aware that Monsanto was concerned about the persistence of PCB's in the environment?

A. At a point?

Q. At some point.

A. Yes.

Q. Do you remember when that was?

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MR. ZIMMER: Also been asked and answered.

You can tell him if you know.

A. I guess I have to ask -- I have to clarify, what do you mean "in the environment," because you had a study that came down from animals that I don't think went any further, other than that that was a study that was used to create more concern about PCB's. As far as stability of the product, I think it was more geared to the animal study, and this was later on, I think, whenever, whenever we made the formal announcement that we were going to terminate PCB production, I think at that point, and that occurred after, I don't know, '72, '73, something like that. It occurred with statements of reformulated products, et cetera.

Q. You mean the reference of the animal study?

A. No, I'm saying I'm using that more than the environment. I'm saying that it's more of an animal study than problems in the environment that initiated the environmental

concern, sure, but the animal study was first, only that that created a further investigation of the, of the chemical.

MR. ZIMMER: I think his question was, do you have a time frame in mind for either of those events.

A. (Continuing) I don't have a time frame specifically. I believe '72 was when we started talking about reformulations or started announcing that we would reformulate away from PCB's. At that time, I was fairly preoccupied with the latex that I referred to a thousand times, the ethylene vinyl chloride.

BY MR. KASHANI:

Q. Did you ever receive any instructions or did you ever receive any instructions at Monsanto concerning giving the customers warnings about possible environmental persistence or persistence in the environment of PCB's?

A. Was the customer notified by Monsanto? Yes, as I recall. Who gave that customer the information, whether that was a letter that was sent out to all customers

from St. Louis or whether that was through myself, I don't recall. I'm inclined to think it was all out of St. Louis.

Q. Let's go back to the time frame, at some point in 1972, certain -- I mean certain products were withdrawn, PCB-containing products were withdrawn, and I have a document with respect to Turbinol 153.

Let's go off the record for a second.

(Pause)

BY MR. KASHANI:

Q. This is Exhibit 261.

(Plaintiff's Deposition Exhibit 261 marked for identification.)

BY MR. KASHANI:

Q. I'm not suggesting that you ever saw this letter, but I'm using this to see if it might fix a date in your mind as to when Monsanto announced that it would withdraw PCB-containing Turbinol 153. This is a letter dated January wear 7, 1972.

A. I'm sorry, what was your question?

Q. My question is, my questions are

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now going to be referring to a time before January 1972; in other words, before Monsanto made the formal announcement that it was going to withdraw PCB-containing Turbinol, and my first question is whether, in that period before January 1972, you had received any instructions or suggestions about how to handle questions from customers regarding PCB's, either environmental persistence, or toxicity, or other similar questions about PCB's.

A. We were, regarding the question as to whether we were kept up-to-date by Monsanto on updating our customers, yes. We were given -- we were giving updates.

Q. And the company would give salesmen updates?

A. Either verbally -- and I don't recall whether it was verbal or whether it was in memo form, but I do know we were given updates on what was going on, so that we could stay abreast, we could work with the customers.

Q. Did you receive instructions to pass on certain types of questions to the

technical people or the Medical Department in St. Louis?

A. With respect to --

Q. Say, medical problems or toxicity with PCB's or problems associated with PCB's.

MR. ZIMMER: You mean questions from customers?

MR. KASHANI: Questions from customers.

A. We would take, yes, we would take customers' questions and, obviously, refer those back to St. Louis.

Q. Were you told or advised not to attempt to answer certain types of questions yourself?

A. I'm trying to -- I'm sure that occurred. I didn't want to answer questions myself, only from the standpoint that I didn't know enough about the product, so we would defer everything back to Pittsburgh -- or, back to St. Louis.

MR. KASHANI: I show you the next exhibit. This is Exhibit 262.

(Plaintiff's Deposition Exhibit 262 marked for

identification.)

BY MR. KASHANI:

Q. I'm not suggesting that this is a letter that you've seen before, something that you wrote, but do you recall -- this, on its face, appears to be a letter from Jack Garrett to John Romine at Phillips Petroleum company. Was Phillips Petroleum one of our accounts during, at the time of this letter, which was July 3, 1969?

A. I believe it was.

Q. The first sentence of the letter reads, "Mr. Carl Clay of our company asked me to write you concerning the fish toxicity of our chlorobiphenyls contained in functional fluids." Is chlorobiphenyl a term that Monsanto used to refer to PCB's?

MR. ZIMMER: Calls for speculation about what Monsanto used and about what the author used. Mr. Garrett has already been deposed.

You can respond if you know.

A. I referred to them as chlorinated hydrocarbons or as PCB's, and chlorinated biphenyls was used.

BY MR. KASHANI:

Q. What about chlorobiphenyl? Is that the same thing?

A. I -- chlorinated biphenyls was more common, if it was used. I don't know, you know, if you fine tune this, I don't know whether chlorobiphenyl is the same thing as chlorinated biphenyl. I would assume, but at this point, I don't know.

MR. ZIMMER: You can also assume that they asked Mr. Garrett that.

BY MR. KASHANI:

Q. Do you recall asking Mr. Garrett to write this letter or a similar letter to Phillips Petroleum?

A. No.

Q. Do you recall at any other time asking Mr. Garrett to write to a customer concerning PCB's?

A. I don't recall having direct interface with Mr. Garrett. I would -- I would address a request like this in a call report, and then it would be handed through the channels of the product people or whatever and probably sent to Mr. Garrett,

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and then it would be responded to, but as far as my going to Mr. Garrett directly and saying "Can I have a fish study," I don't recall ever doing that.

Q. So if a customer asked you for information about toxicity of PCB's, you would have written that up in a call report and addressed the call report to the appropriate person such as Mr. Garrett with requests to respond to that request?

MR. ZIMMER: It mischaracterizes his testimony, but you can answer.

A. No, as I said, it would go through the appropriate, that I need this information, it would go through the appropriate product people and then they would address and seek Mr. Garrett or anyone else's assistance in responding to this with respect to, you know, toxicological aspects of whatever product we're talking about.

BY MR. KASHANI:

Q. So instead of calling up Mr. Garrett on the phone or going to his office, you would address the issue in a call report and put the request in a call report or a

memo?

MR. ZIMMER: Do you mean exclusively? Only a call report, as opposed to something else?

MR. KASHANI: I mean in the same sense that Mr. Clay was talking about it earlier, that he would not approach these people individually, but put it in some kind of memo or call report.

MR. ZIMMER: Well, there's a difference, though. He said he didn't go to Mr. Garrett individually. That doesn't mean that there couldn't be other methods than a call report. He hasn't said anything about that yet. I'm curious, as well.

A. No, I don't recall going to Mr. Garrett directly. It was either a call report, or it was a memo, or it could have been done by phone, calling a product supervisor or something like that, saying, "I need some help," or "Can you contact someone for further clarification on what they're looking for?"

BY MR. KASHANI:

Q. Do you recall -- again turn back

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to 262 -- do you recall anyone including Mr. Romine from -- well, let's take it a step at a time. Is this name familiar to you, John Romine at Phillips?

A. No.

Q. Do you recall anyone at Phillips getting back to you with respect to this letter saying, "We got the information we received" or anything like that?

A. No.

Q. Do you recall ever receiving a request for information about PCB toxicity from Texas Eastern, from anyone at Texas Eastern?

A. I don't recall.

Q. I just show you this exhibit. Maybe it can -- again, I'm not suggesting that you wrote this or that you've ever seen it. I'm just seeing if it will refresh your recollection about the issue.

(Plaintiff's Deposition Exhibit 263 marked for identification.)

BY MR. KASHANI:

Q. This is a memo which Monsanto

provided to us which I believe Mr. Garrett remembered. I don't know if he did, though. Anyway, I'm referring to the last paragraph on the first page which begins, "The second issue that has arisen is in connection with the trade name materials that contain large amounts of PCB's and how inquiries must be answered on the toxicity of these materials." Then it goes on to read, "At the present time, we are holding a request from Carl Clay to discuss the toxicity of Turbinol 153 (formerly MCS 153) with Texas Eastern Gas Transmission Corp. in Houston, Texas."

Do you recall receiving a request from Texas Eastern to discuss the toxicity of Turbinol 153?

MR. ZIMMER: The question assumes facts not in evidence.

Go ahead.

A. Again, no, I don't.

BY MR. KASHANI:

Q. Do you recall the circumstance that is described in this, in that paragraph?

A. No, I don't recall it.

MR. ZIMMER: Let me just note that

the circumstances described in that paragraph does not indicate that anyone other than Mr. Clay made such a request, and he doesn't remember it.

BY MR. KASHANI:

Q. The exhibit goes on to say "Turbinol 153 is principally PCB's," and "The question that arises is, do we tell this customer that this product is composed of principally PCB with some phosphate ester and then give the customer the toxicity and safe handling characteristics? Or do we wait until the customer is informed by the general PCB information program?"

Do you know what the general PCB information program was?

A. No, I don't. No, I don't recall that at all.

Q. Do you recall any discussion or hearing about this question arising that's referred to in the first sentence I just read, which is the question of whether Texas Eastern should be told that the product is composed of principally PCB?

A. No, I don't have any, any feel for

it at all.

Q. If Texas Eastern had asked you about the toxicity of PCB's, is that the sort of question you would have referred to someone else, other than answered yourself?

A. Absolutely.

Q. Absolutely, you would have referred that is to someone else?

A. Absolutely, I would have referred that, yes, all questions, but I might add, in the chemical industry, we're constantly being asked questions on toxicity or toxicological aspects of products, so it's a common request.

Q. Does that go, as well, for questions about environmental persistence of PCB's? Is that something that you would have referred to someone else?

A. Absolutely. Same -- I would put that in the same category. I'm a sales representative and not trained to give that kind of information now, unless there's something I can have that customer call somebody or give them something documented.

Q. Do you recall receiving any

instructions from anyone at Monsanto about not giving verbal answers to questions about PCB's?

A. I recall the request that if any questions arise during the PCB difficulties that we had in reformulating things like this, that that should be directed to St. Louis, so the answer is yes.

Q. Do you recall ever receiving this letter? This is Exhibit 264.

(Plaintiff's Deposition Exhibit 264 marked for identification.)

BY MR. KASHANI:

Q. Do you remember the reformulation of Pydrauls that seems to be described in this letter? This is Exhibit 264.

A. Yes.

Q. Do you recall how the Pydrauls were reformulated and what was in the composition?

MR. ZIMMER: It calls for speculation, lacks foundation.

A. You mean what the new formulation would be?

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BY MR. KASHANI:

Q. I mean, was it without PCB's?

A. In looking at the document, it was without the two products here, the aroclors involved, I think. It was an adjustment, I guess, or to remove those two aroclors.

Q. You mean Aroclor 1254 and Aroclor 1260?

A. Correct.

Q. Do you recall receiving this letter?

A. Specifically the letter? The concept, I recall. The specific letter, no.

Q. Do you recall the concept of being advised or the suggestion being made that Monsanto did not want to take any old fluid back and that the replacement fluid should be sold? I'm referring to the second sentence of the second paragraph, in Exhibit 264.

A. Do I recall that? By looking at this letter, yes.

MR. ZIMMER: Don't interpret the letter for him. He can do that on his own. He's asking you if you remember that concept, not as you read it in the letter.

A. (Continuing) Yes.

BY MR. KASHANI:

Q. Do you recall who told you that?

A. Only in the letter. No, I don't recall who told me.

Q. Do you recall if anyone discussed the reason for not taking old fluid back?

MR. ZIMMER: And maybe this is semantical. You mean for not wanting to take old fluid back, as the letter suggests; is that right?

MR. KASHANI: Sure.

A. I think the concept, here, is we wanted to convince the customer that okay, we were phasing out and phasing in a new product. We didn't want -- we wanted to at least contain any kind of concern on their part or panic on their part that the fluid was going to operate fine and that from that context, we didn't want to drain a system and to take it back, but by the same token, we wanted to assure the customer that hey, you can keep this product going and just phase out of this and into the newer replacement product.

Q. In that regard, from Monsanto's point of view, as far as you know, was it preferable for the customer to top off with the new fluid, rather than drain the old fluid and replace?

MR. ZIMMER: Well, the question is compound, assumes facts not in evidence, asks him to speak for Monsanto, and is otherwise vague and ambiguous as to what product would be at issue, but you can respond if you know.

BY MR. KASHANI:

Q. I'm referring to the specific products mentioned in Exhibit 264.

A. Could you repeat that question?

Q. You mentioned that you wanted -- well, let's go back. By what you said before, before I asked my question, do you mean that you were interested in helping the customer ease his transition to the new, new product, the reformulated product?

A. Well, we didn't want -- as I recall, we didn't want a panic to set in, you know, because this letter is dated in the 'Seventies and -- but we wanted to, well, back up and take the opportunity to talk

about how I think Monsanto was, was professionally responsible in the marketplace in treating this situation and working with the customer, and in this particular memo, you could say easily that we didn't want the customer to get into a panic mode to drain the system and then buy, buy new fluid to charge his system, that we could control the phase-out and -- we could phase in and phase out in a controlled fashion, and that's what we wanted to do, and that's what most of the customers did or all the customers, to my knowledge, did, but -- in my area, as I recall.

Q. You mean that the customers could use the new fluid to top off the old fluid, rather than draining and completely replacing the fluid?

A. As I recall, that was not -- it was just a matter of using the new fluid on top of the old.

MR. ZIMMER: And again, we're talking about the fluid referenced in Exhibit 264. Am I correct, Counsel?

MR. KASHANI: Yes.

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BY MR. KASHANI:

Q. What about the second sentence of the first paragraph: Other than the reference in this letter, do you recall being instructed or the suggestion being made that, as it says here, with respect to PCB's, "You can give verbal answers. No question -- no answer should be given in writing"?

A. Do I recall that as being --

Q. An instruction or suggestion.

A. No, I didn't, didn't consider it a -- I don't recall it as being a major issue. I recall it as being instructions.

Q. Referring to Page 2, that's TRAN 085034 -- I'm sorry -- yeah, that's right, 085834, referring to the first sentence of the second-to-last paragraph, where he says, where the writer says, "We can't afford to lose one dollar of business," do you recall that being a concern when products were being reformulated to remove PCB's or remove certain types of PCB's, the concern about losing business?

MR. ZIMMER: Hopelessly calls for speculation on Mr. Clay's part, and Mr.

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Johnson has already been examined as to a variety of matters. I mean, you are asking him to interpret what was meant by the author?

MR. KASHANI: Unfortunely, Monsanto did not produce this letter prior to Mr. Johnson's deposition, so we did not have the opportunity to ask Mr. Johnson about it.

MR. ZIMMER: There were others that dealt with the exact same thing that he was examined about.

MR. KASHANI: Well, that's not correct, but we're not here to discuss that. I was asking Mr. Clay whether, I mean other than what's written here, if you remember it being discussed or being an issue of Monsanto that Monsanto might lose business because of reformulating products to remove PCB's or remove certain types of PCB's.

A. Well, you are addressing this --

MR. ZIMMER: Answer his question, which is different than what he said before.

A. (Continuing) Not referencing this letter, but was Monsanto concerned about losing business?

BY MR. KASHANI:

Q. Right.

A. Absolutely. I mean, we -- potshots being taken at us from competitors and things like that, we're concerned. At the same time, we were responsible, I felt, I felt we were quite responsible in respect to the management that were controlling the whole situation, were responsible in how we conducted it ourselves and handling the PCB situation.

Q. What steps did you take to try to minimize the loss of business?

MR. ZIMMER: Him, personally?

MR. KASHANI: We can start with that.

MR. ZIMMER: That's all we can do.

A. The only agreement I worked in was working directly with the customer, and again, I have to reiterate that I think we minimized, absolutely minimized the losses in the transfer to non-PCB products by being open and professional with the customers, by working with them where we could and offering them an absolute willingness to work with

them, and did I lose any customers? I cannot recall losing any customers. That doesn't mean I didn't lose any major, major customers, but that was solely because we worked with them and that we were above board and honest with them, and that was, that was my doing with the customers and how I dealt with them.

MR. KASHANI: I show you the next exhibit.

(Plaintiff's Deposition Exhibit 265 marked for identification.)

BY MR. KASHANI:

Q. Exhibit 265. It says on its face, appears to be a memo dated January 3, 1971, refers to a Pydraul meeting. Do you recall this meeting or did you attend this meeting?

A. To be perfectly honest with you, I do not.

Q. Do you recall at any time Monsanto changing the old Pydraul formulation to replace PCB's with a new -- with an NC ester? I know that's not exactly what it's saying here, but my question is a little different

from what's written in the memo. Do you recall a reformulation of Pydrauls to use NC ester?

A. I recall the reformulation of Pydrauls, specifically, to phosphate esters. I'm not -- I don't recall what NC ester means.

Q. I believe Mr. Johnson said NC ester means a nonylcumol ester. Does that ring a bell? I'm not saying that it should.

A. I don't. It doesn't ring any bells. Just the phosphate ester is phosphate ester.

Q. Do you recall if at the time of this memo or the date that's written on this memo, January 3, 1971, if Turbinol was also being reformulated?

A. No.

Q. You don't recall, or it wasn't being reformulated?

A. I don't re -- I -- I was not aware of it being reformulated.

MR. ZIMMER: Could we take a short break?

MR. KASHANI: Sure.

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MR. ZIMMER: Thanks.

MR. KASHANI: Back on the record.

MR. KASHANI: Exhibit 266.

(Plaintiff's Deposition Exhibit 266 marked for identification.)

BY MR. KASHANI:

Q. Let me refer, first of all, do you remember receiving this document?

A. Yes.

Q. Was this in connection with the Pydrauls that were reformulated to use phosphate ester?

A. Correct.

Q. And were the reformulated, did the reformulated Pydrauls contain any PCB's?

A. I don't know. I can't answer that.

Q. What is a Queeny Plant, Q-u-e-e-n-y?

A. That's their plant in St. Louis. That's their production facility down on the Mississippi River on the St. Louis side.

Q. That's Monsanto's plant?

A. Mm-hmm.

Q. The last paragraph says, second sentence reads, "We would prefer not to ship the new formulations to any customer until the old formulations had been sold out from the Queeny Plant or warehouses in your area." Do you remember this concept of, other than what's stated in here in the letter that you received, do you remember this concept of wanting to sell out the inventory before selling new product?

A. Do I remember this being requested?

Q. Yes.

A. Yes.

Q. Well, other than the letter, obviously, it's being requested in the letter, but other than the request in the letter, do you remember discussing this concept or --

A. I just believe, I recall the request.

Q. Did anyone ever tell you the reason for selling out the inventory?

MR. ZIMMER: You mean for the request?

MR. KASHANI: Yes, the reason for the request, yes.

A. I don't think it was -- I don't think it was, no.

BY MR. KASHANI:

Q. Did you take any steps to carry out this request that you sell out the inventory before selling the new product?

A. I don't recall. I don't.

Q. Do you recall how much inventory was involved here?

A. No. The Atlanta region that I had just gone to was -- or was in the process of going to have little -- I don't think was as significant as other regions.

Q. In terms of inventory?

A. In demand. It was not a big industrial South, so to speak. We didn't have the industry in the South.

Q. Do you recall ever advising any customer to improve their maintenance and use of PCB-containing products in terms of trying to prevent leaks?

A. Yes.

Q. Which customers?

A. I don't recall which customers.

Q. Did you ever have occasion to, let's say, warn Texas Eastern or advise Texas Eastern that Texas Eastern should be more careful or should improve its maintenance with respect to handling PCB products?

A. No.

Q. As far as you were -- I mean from your personal standpoint, were you satisfied with their use of PCB products, I mean their maintenance?

A. I didn't know anything about the maintenance.

MR. KASHANI: I show you the next exhibit, here.

MR. KASHANI: Let's mark this Exhibit 267.

(Plaintiff's Deposition Exhibit 267 marked for identification.)

BY MR. KASHANI:

Q. Now, I'm not suggesting that you wrote this call report, but it does say "cc: Carl Clay." Do you remember ever seeing this call report before?

A. I don't remember this.

Q. Do you remember the P. R. Mallory Company?

A. I do.

Q. What did they do?

A. Made capacitors.

Q. What did they use aroclors for?

A. It went into the capacitor.

Q. Do you recall -- this call report, on its face, refers to, it seemed seems like spills or some kind of -- well, it describes, I guess, one of Mallory's plants as a slop shop with respect to usage of aroclors. Do you recall hearing about these problems or the problems that appeared to be referenced here regarding the Mallory Company?

A. The only thing I recall about -- the answer to your question is no, the only thing that I recall is that they made that, they became quite a model citizen in the marketplace, or in the production, in the use of aroclors.

Q. What do you mean by model citizen?

A. Clean operation, adherence to containment. Really, later on, the use of

PCB's, they were very responsive, and responsible in containment and handling of PCB's.

Q. Do you recall hearing about any other customers who were not, in your opinion or from what you heard, were less than careful or less than sufficiently careful in their use of aroclors or PCB's?

A. Hearing about others?

Q. Hearing about others or knowing about others through your personal knowledge, encountering others?

A. I think before and after the PCB situation, even with phosphate esters, there were -- bad housekeeping was -- you could see or you'd hear about. Housekeeping practices were something that you would hear about frequently or sometimes witness, whether it was PCB's or anything.

Q. What do you mean by bad housekeeping?

A. Oh, just not cleaning up or, you know, not good maintenance, hose breaking, spraying all over the place, that would be -- and not cleaning it up, and just, just poor

maintenance.

Q. What companies did you hear about or encounter as having bad housekeeping with respect to use of PCB's?

A. I wouldn't recall any -- I wouldn't recall specifically, but just knowing that there were some that we would -- that we would see, or address, or that we'd hear about. When PCB's surfaced, housekeeping became, you know, especially in the latter phases of usage of the product, became important in the dielectric industry because they used it for a continued period of time, and really in addressing from here where it says "Slop shop," all I remember, it was a good operation.

Q. Presumably after the date of this letter, or before? Well, I'll withdraw that.

A. I don't know.

Q. I'll withdraw that.

Do you recall ever encountering or hearing, believing that Texas Eastern had bad housekeeping with respect to their use of Turbinol?

A. No.

Q. As far as you know, was their housekeeping adequate?

A. I have no idea.

MR. ZIMMER: Calls for speculation.

BY MR. KASHANI:

Q. Let's go back to what's previously been marked back on the record, let's go back to what's been previously marked as Exhibit 251. The account summaries. In June 1971, did you hand the Texas Eastern account over to John Frederiksen?

A. I handed the account over. It's probably somewhere in that neighborhood. I think we looked at the document here, and it had June of '71.

Q. Did that occur about the time of the call report we discussed, which I believe was --

A. Correct.

Q. -- that was at the time of Exhibit 257 is that, or --

A. 257.

Q. 257.

A. That was the joint call/account

turnover.

Q. At that time, do you know if Mr. Frederiksen was provided with an account summary similar to Exhibit 251 or something similar to an IBM printout, as you mentioned, or some other description of the accounts he was taking over?

A. I don't. I don't know.

Q. Do you remember preparing any sort of account summary for Mr. Frederiksen or anyone else when you left the Texas Eastern account?

A. No. I do not.

Q. Did Mr. Frederiksen ask you about the account? Did you discuss the account with him?

A. I'm sure, yes.

Q. Do you recall what you told him or what you discussed?

A. Standard; more people, as we did on the account turnovers, you discussed the people. Specifically what did I say, I don't recall, but just, it was an ongoing customer, these were the people that you needed to see on a regular basis, et cetera.

Q. Let me -- I'm sorry?

A. No, that's as specific as I can recall.

Q. Any people at Texas Eastern?

A. Mm-hmm. (Nods head in affirmative manner). Who my contacts were.

Q. Did you discuss any concerns with PCB's?

A. With John?

Q. At any time, by the way, not necessarily when you turned over the account.

A. I don't recall. I don't --

Q. Do you recall any discussions with anyone at Monsanto about Texas Eastern and PCB's or whether Texas Eastern might encounter a problem with PCB's that were in Turbinol? Do you recall any such conversation?

A. I think I need to ask you to repeat that.

Q. Do you recall having any conversation or discussion with anyone at Monsanto about Texas Eastern's using a product that contained PCB's in the sense that that might be a problem for them, or

that they might encounter problems using PCB's?

A. No, I do not recall.

Q. Do you recall if Columbia Gulf ever encountered a problem with Turbinol leaking excessively from its compressors?

A. No. I don't recall.

Q. Let me show you a couple of -- let's go off the record for a second.

(Plaintiff's Deposition Exhibit 268, 269, and 270 marked for identification.)

BY MR. KASHANI:

Q. Okay, I'm going to refer you to Exhibit 268. Do any of these names ring a bell for Columbia Gulf in the context of Columbia Gulf? David Moy?

A. No.

Q. Don Gilmore?

A. No.

Q. Bud Marquis?

A. (Witness shakes head in negative manner.)

Q. Bob Pommerer?

A. (Witness shakes head in negative

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manner.)

Q. He's listed in another connection, but does the name Bob Pommerer ring a bell?

A. No.

Q. Okay, I won't ask about Roger Hatton. I refer down to the last paragraph on the first page. It says --

A. I'm sorry, which document?

Q. Oh, same exhibit, Exhibit 268?

A. Okay.

Q. It says where it reads, "The principal problem concerns the intermittent loss of Turbinol 153," then "The material is being found in 'drips' in the pipeline beyond the station, proving conclusively that it is escaping through the compressor." Does this refresh any recollection about problems Columbia Gulf may have had with their -- with use of Turbinol?

A. No.

MR. ZIMMER: Belatedly, I will add that the question completely lacks foundation.

BY MR. KASHANI:

Q. I'm going to refer you to the

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second page of Exhibit 268, the last paragraph. The, I think the third sentence reads, "By means of equalizing lines, the seals on the compressor operate at essentially gas inlet pressure and the fluid (50 psi) is forced through the ceiling system to maintain a positive seal against natural gas leakage."

Does this ring any sort of bell with you in terms of how the compressor was set up with different pressures?

A. No. Not at all.

Q. Did you, at the time you worked at Monsanto, know about the different pressures inside the compressor or know that the compressor operated at, kept the fluid at a certain pressure?

MR. ZIMMER: And by "the compressor," you are referring to the Ingersoll Rand compressor referred to in this paragraph at Columbia Gulf?

MR. KASHANI: Why don't we start with Texas Eastern's compressors.

MR. ZIMMER: Why don't we start with the one that is referenced in the

document that he neither authored nor was copied with? There's no foundation whatsoever for any of these questions, Counsel. Now you are going to ask him, you are going to read him a paragraph or a portion of a paragraph that refers to one compressor and ask him whether he had those numbers referred to him with reference to a different manufacturer's compressor used at a different customer.

MR. KASHANI: I'm not suggesting that Mr. Clay wrote this; I'm just introducing material in hopes that it might refresh his recollection or trigger a memory about --

MR. ZIMMER: It's apples and oranges.

MR. KASHANI: I'm not saying this was the case. I'm asking --

BY MR. KASHANI:

Q. Why don't we just go to the Texas Eastern compressor. Did you ever hear, with respect to Texas Eastern's compressors, anything about the pressures under which a compressor operated or that the lubricant was

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kept at a certain pressure?

A. No.

Q. Do you remember receiving any instructions or a suggestion at Monsanto that if you gave any warnings to customers regarding PCB's, that those warnings should be documented in some way, that you should keep a record that you gave such a warning?

MR. ZIMMER: The question lacks foundation that it was his job to give warnings.

A. I don't recall.

MR. KASHANI: This next exhibit is 271.

(Plaintiff's Deposition Exhibit 271 marked for identification.)

BY MR. KASHANI:

Q. I'm not suggesting that you wrote this or received a copy, but I'll ask a question. Did you ever meet or work with Bill Papageorge or William Papageorge?

A. The name is familiar. I'm sure we met, but I don't recall in what capacity.

Q. Do you recall if you had something

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to do with PCB's?

A. I don't recall whether he was industrial hygienist or not. If he was, he would have. I don't remember what his capacity was.

Q. I refer to the second, I mean third sentence or last sentence of the first paragraph of Exhibit 271. That's at Page TRAN 004304, where it reads, "However, it was emphasized that we must continue to emphasize to all remaining users of PCB's the importance of preventing escape to the environment and we must ensure that these warnings are fully documented so that they will support the action we have taken in this area should we become involved in legal actions."

Do you recall anyone saying something similar to you, as was written in that sentence, or hearing something similar? Meaning did anyone suggest or advise you that warnings should be documented in some way?

A. I don't recall having a document.

Q. I'm going back to your call reports, the Texas Eastern call reports. Do

you recall ever putting in any call report that you had a discussion with Texas Eastern about possible environmental persistence of PCB's or toxicity of PCB's?

A. Again, I do not recall any discussion. It would be referred to the Hattens and the people in St. Louis to conduct that kind of conversation, but I don't recall having that.

Q. Do you recall referring them, referring Texas Eastern to -- well, I can withdraw that.

If an issue like that had arisen in a discussion with someone -- with people at Texas Eastern, meaning a question about the environmental persistence of PCB's or toxicity of PCB's, is that something you would have put in a call report?

MR. ZIMMER: Calls for speculation.

A. It would have been communicated to the appropriate people in St. Louis.

BY MR. KASHANI:

Q. Is that something significant that you would have put in a call report as you

used the term "significant" earlier?

A. In which time frame? Yeah, it's something that I would -- a good customer has a request, we need to answer it.

Q. Would you have documented that in some way, that the request was made and you forwarded it to the appropriate person?

A. It depends. It just depends on the urgency of the situation and the timeliness of my getting a call report done and getting into Pittsburgh. Now, the two -- if one didn't go fast enough and I was known to procrastinate on completion of call reports, that it would go to, that call, have somebody call the appropriate person, but that would be with any customer.

MR. ZIMMER: Let me --

MR. KASHANI: When you say Pittsburgh --

THE WITNESS: I mean St. Louis.

MR. ZIMMER: I was just going to point out the same thing. Thank you.

THE WITNESS: I'm sorry.

MR. KASHANI: I know why he said Pittsburgh.

(Discussion off the record.)

(Plaintiff's Deposition Exhibit 272 marked for identification.)

MR. KASHANI: Let's go back on the record.

BY MR. KASHANI:

Q. Have you ever seen this letter before?

A. I don't recall it.

Q. Do you recall Mr. Simpson?

A. I do not.

Q. This letter refers to, apparently, sending an article by Earl Farmer, I'm sorry, a presentation by Earl Farmer to Mr. Simpson at Columbia Gulf Transmission. Do you recall sending a copy of Earl Farmer's presentation to Columbia Gulf?

A. I don't.

Q. Do you recall sending a copy of Earl Farmer's paper to any other customers?

A. No, I just, I recall, as I stated earlier, that the Earl Farmer -- being extremely aware of Earl Farmer's pro position for Turbinol, but I don't remember

specifically sending this out to people.

Q. Do you recall discussing Earl Farmer's article or his presentation with other customers?

A. Columbia Gulf, I think, in the context of, you know, "Here's something that you need to look at, if you are hesitating on using Turbinol 153, I think this is something that you would be interested in reading." I'm sure I used it in that context.

Q. In that regard, how is -- in that regard, was Texas Eastern considered a large customer of Monsanto's?

MR. ZIMMER: The question is vague and ambiguous.

Compared to what?

BY MR. KASHANI:

Q. (Continuing) Compared to your other customers. Customers that you had responsibility for.

A. I think it stood out more as the only Turbinol customer, and as a consequence, we produced Turbinol specifically -- not specifically, but it was our only Turbinol customer, and so we wanted to work closely

with that customer.

Q. Was it profitable to produce Turbinol just for one customer?

A. I don't know the profile on profitability on the product, or didn't know.

MR. KASHANI: Let's go off the record for a second.

(Discussion off the record.)

MR. KASHANI: Back on the record. The next exhibit is 273.

(Plaintiff's Deposition Exhibit 273 marked for identification.)

BY MR. KASHANI:

Q. I'm just wondering, do you know what the -- this document refers to an O/FF-23 bulletin on Turbinol 153. Do you know what that would be? Do you know what that was?

A. Only that it's a bulletin on Turbinol 153.

Q. Do you recall seeing this document before? I know it says it was a blind carbon copy was sent to you, but --

A. Do I recall this?

Q. Yes.

A. No.

MR. KASHANI: Exhibit 274.

(Plaintiff's Deposition Exhibit 274 marked for identification.)

BY MR. KASHANI:

Q. Do you recognize this document?

A. Do I recall this document? Yes.

Q. At that time, were you -- did you have -- were you selling any Therminol? That's T-h-e-r-m-i-n-o-l.

A. Yes.

Q. Do you recall who the customers were?

A. Who my customers were at the time? I think at the time, the ones that I recall at this, at this date, the ones that I do recall were in the phases of starting up or designing a system, so I don't think it would have been in place at this time. I don't recall any significant users.

MR. ZIMMER: His question was, do you recall at that time any of your customers, so if you --

A. Do I recall any customers using -- no.

BY MR. KASHANI:

Q. The second letter of the -- I'm sorry, the first sentence of Exhibit 274 reads, "We have always emphasized certain factors in Therminol FR systems to minimize or eliminate leakage so that operating personnel are not exposed to hot fluid or vapors."

Does "FR" mean fire resistant?

MR. ZIMMER: Calls for speculation.

You can answer if you know.

A. The "FR" did.

BY MR. KASHANI:

Q. The second sentence refers to "OEM." Did that have a meaning that you are aware of?

A. Original equipment manufacturers.

Q. What did that mean?

A. Those were the people that produced the equipment that the system that was used in the Therminol system.

Q. Do you know why it was important

to emphasize certain factors with Therminol customers to eliminate -- to minimize or eliminate leakage? Do you know why -- let me withdraw that.

Do you know why it was important to try to prevent or minimize leakage of Therminol?

A. The temperature of the system. It's a heat transfer fluid and operates at high temperatures. Specifically, the FR fluids, as I recall, operated 500, 600 degrees, which is extremely scalding if personnel are exposed to that, and that would be an absolute reason for containing the leakage, plus the system didn't operate or function as well if there was leakage because you didn't get the adequate pressure to achieve the temperatures that you wanted.

Q. If the Therminol leaked, could it cause vapors that were harmful?

MR. ZIMMER: Calls for speculation.

BY MR. KASHANI:

Q. To your knowledge.

A. It depends. If it was high

enough, it would be good, but it depends on the situation.

Q. Did Monsanto ever -- I take that back. Do you know why it was important, as it says in the letter, that operating personnel not be exposed to hot fluid or vapors, or let's just say for vapors, do you know why it was important that operating personnel not be exposed to vapors?

MR. ZIMMER: If that's quoting the letter, it's a misquote, but it also calls for speculation as an incomplete hypothetical.

A. No, other than temperature.

BY MR. KASHANI:

Q. Did Monsanto ever -- did anyone at Monsanto ever tell you that, or did you otherwise learn while you were at Monsanto that vapors of PCB-containing products could be harmful?

A. Yes.

Q. Do you recall who told you that?

A. No. I think it was, it was in the, it was in the PCB package, if you will, of information, or knowledge.

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Q. What do you mean by "PCB package"?

A. That's my terminology. No, it's just in the total concept of PCB's.

Q. So you did not receive a package of literature or information?

A. No. That's my jargon, unfortunely.

Q. Did you know why the vapors were harmful, or what they can do?

A. No, at this point in time, it was -- I mean later on, as we acknowledged that the FR was PCB, then we became aware that no, we don't want to be around it if it is a bad actor, if there is a problem, if, from what we, from what we had heard, we talked about it earlier, just --

MR. KASHANI: Could you read back that last answer, please?

THE COURT REPORTER:

"A. No, at this point in time, it was -- I mean later on, as we acknowledged that the FR was PCB, then we became aware that no, we don't want to be around it if it is a bad actor, if there is a problem, if, from what we, from what we had heard, we

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talked about it earlier, just --

MR. ZIMMER: You can finish your answer, if you have more to add.

THE WITNESS: Okay.

A. That's pretty much it.

BY MR. KASHANI:

Q. What do you mean by "We acknowledged that the FR was PCB"?

A. I'm referring to that as a point in time. I mean prior to FR being "indicted," in quotes, we treated the FR system in this kind of context, that you want a tight system, you want a tight heat transfer system. As we were phasing out the products, assuming that it was, quote, "a chemical which you did not want to be around," at that point in time, I, I would have to acknowledge that no, you didn't want to be in the vapors of it or, you know, some people would not want to be in the vapors of it because of the, what they had heard about the product.

Q. You said, though, "After we acknowledged that the FR was PCB," do you mean at some point when you acknowledged to

the customers that the FR fluids contained PCB's?

A. No, at the point that the PCB's became, quote, "a problem," unquote.

Q. Do you remember approximately when that was?

A. I do not.

Q. Did these concerns about vapors apply to Turbinol?

MR. ZIMMER: Calls for speculation and lacks foundation.

A. I don't know.

BY MR. KASHANI:

Q. When you were selling Turbinol to Texas Eastern, was it your understanding that the Turbinol would be used at high temperatures in the turbine?

A. I have no recall of that. I have no -- high temperatures occur in the compressors, turbines, period. I don't --

Q. I understand. Did you know that when you were selling Turbinol to Texas Eastern, or is that something you learned later?

A. I probably learned it -- I don't

recall when I learned it.

MR. KASHANI: Let's take a break.

(Recess)

MR. KASHANI: Back on the record.

MR. ZIMMER: While we were off, Mr. Clay called something to my attention that he feels he needs to explain about a prior answer he gave, so --

THE WITNESS: Yeah, we get back to the fact that I made the statement that when we acknowledged -- I think you had picked up on that -- acknowledged that the FR fluids contained PCB's, what I meant to say was that, to acknowledge that the Therminol FR fluids contained PCB's. What that statement was that acknowledged meant we were reformulating out of the PCB. The majority of the customers, if not all, I feel comfortable with saying that they were aware that it was, they were chlorinated hydrocarbons, chlorinated biphenyls, PCB's, but the acknowledged "we acknowledged" was meant in context with reformulating to a non-PCB Therminol FR, so I wanted to correct that.

BY MR. KASHANI:

Q. And this is referring just to the Therminol customers?

A. Only to the Therminol customers, yes, because I'm only acknowledging, using the term "acknowledge" we're getting out of the PCB's in Therminol FR.

Q. Did the Therminol customers, did some of them use Therminol in food processing? I don't mean they used it in the food, they used it in equipment that was used in food processing?

A. As I recall, they did.

Q. At Monsanto where you have -- did you -- were you particularly careful with customers that used PCB's in food processing equipment, to your knowledge?

MR. ZIMMER: Calls for speculation.

A. I think that would be, Monsanto was pretty cognizant of the use of any chemicals, as they came in contact with food, whether it be through plastic wrap, which wasn't even involved in the product, or Therminol.

BY MR. KASHANI:

Q. Is it fair to say that Monsanto would take special -- let me withdraw that.

Was it fair to say that, again, to your knowledge, -- I'm not asking about -- I'm not asking you to speak for Monsanto, I'm just asking you what you knew about what Monsanto was doing, that Monsanto would take special precautions with respect to PCB-containing products used in food processing.

MR. ZIMMER: You are asking him to speak for Monsanto. The question directly asks him that. He's not going to answer that.

MR. KASHANI: I'm asking to your knowledge. I mean, was Monsanto more careful with -- I mean are you saying that Monsanto treated -- I mean, my question is -- why don't you read the previous question I asked, and the last answer.

THE COURT REPORTER:

"Q. At Monsanto where you have -- did you -- were you particularly careful with customers that used PCB's in food processing

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equipment, to your knowledge?"

"A. I think that would be, Monsanto was pretty cognizant of the use of any chemicals, as they came in contact with food, whether it be through plastic wrap, which wasn't even involved in the product, or Therminol."

MR. KASHANI: Let's go on. I have another exhibit, Exhibit 275.

(Plaintiff's Deposition Exhibit 275 marked for identification.)

BY MR. KASHANI:

Q. Do you recognize this document?

A. No.

Q. Down in the third paragraph reads, "We choose to stay in this market because with care, the user can control any fluid losses to the environment and because it would be very difficult and expensive to convert to another fluid. Gas turbine lubricant systems are closed loop. Any Turbinol 153 that might possibly leak past seals and into the gas stream is removed with other liquids in regularly-installed pipeline

knock-out traps."

Does the term "closed loop" mean anything to you in connection with PCB customers?

MR. ZIMMER: You aren't asking how it's used in this document?

MR. KASHANI: No, I'm just asking if it means anything to Mr. Clay.

A. Closed loop, yes.

BY MR. KASHANI:

Q. What does that mean to you?

A. Specifically, what comes to mind is the closed loop nature of our Therminol heat transfer systems, whether it be PCB or not.

Q. Why are such heat transfer systems closed loop?

A. That's just how we referenced it. I can't -- that's -- not being an engineer, that's the terminology that I used in trying, attempting to sell the product.

Q. Does that mean that the fluid does not escape into the environment?

A. It means more that it's a recirulating system.

Q. You mean recirulating within the machine that uses the fluid?

A. Well, you form a loop in the Therminol system literally through the user, through the heater, through the evaporation tank, et cetera. That's what I'm referencing, more than anything else.

Q. If a system leaked or if the system leaked, would it still be closed loop?

MR. ZIMMER: Incomplete hypothetical, calls for speculation.

A. I --

BY MR. KASHANI:

Q. Would you consider it to be closed loop if it leaked, say, ten percent of the fluid into the, out of the system every day or something like that?

MR. ZIMMER: Same objections.

A. (Witness shrugs.)

MR. ZIMMER: You shrugged.

THE WITNESS: I shrugged. I don't know.

BY MR. KASHANI:

Q. Are you familiar with the distinction between closed and open systems

with respect to PCB customers?

A. Not specifically. No.

Q. Do you recall anyone at Monsanto ever discussing such a distinction with you or mentioning such a distinction?

A. No, I do not.

Q. With respect to PCB customers, does the term "open system" mean anything to you?

MR. ZIMMER: Asked and answered.

A. I don't, don't recall.

BY MR. KASHANI:

Q. Going back to Exhibit -- is that 275?

MR. ZIMMER: Mm-hmm.

BY MR. KASHANI:

Q. The second sentence I read was, referred to any Turbinol 153 that might possibly leak past seals and into the gas stream. Does that refresh any recollection or trigger any recollection you might have that Turbinol 153 might be leaking into the gas stream at Texas Eastern's compressors?

MR. ZIMMER: Lacks foundation, assumes facts not in evidence.

A. I don't understand.

BY MR. KASHANI:

Q. Does the term, there -- I mean, I'm sorry, you said you don't understand. You --

A. I don't know.

Q. Oh.

The rest of the sentence refers to pipeline knock-out traps. Does that term mean anything to you?

A. That does not ring any bells.

Q. Are you familiar or did you know of any procedure whereby Texas Eastern would occasionally drain fluids from its, or remove fluids from its pipeline?

A. At the turbine, I'm sure they would remove fluids. I don't recall them -- removing them from the gas pipelines?

Q. Yes.

A. I don't recall that.

Q. What do you recall about their removing fluids from the turbine?

A. Just when they shut down for maintenance, general maintenance, they would remove that fluid.

Q. By "fluid," you mean the Turbinol?

A. Turbinol.

MR. KASHANI: Exhibit 276.

(Plaintiff's Deposition Exhibit 276 marked for identification.)

BY MR. KASHANI:

Q. Were you aware of decisions made by Monsanto management or the higher levels of Monsanto management to begin withdrawing PCB-containing products?

A. Only as it was communicated to me.

Q. Have you ever seen this document before?

A. No.

Q. Exhibit 276?

A. No.

Q. This document refers to the Corporate Management Committee. Do you have any knowledge of that committee?

A. I do not recall.

Q. The fourth paragraph refers to -- the fourth paragraph of this document reads, "The expression 'close the loop' refers to our program of educating the customer

regarding the control and disposal of PCB's and providing a service for the return of contaminated aroclors or recovery for eventual high temperature incineration and stack gas scrubbing." Does this term "close the loop" mean anything to you? Does that ring any bell?

MR. ZIMMER: Calls for speculation.

A. (Witness shakes head in negative manner.) It's in parentheses. It doesn't mean anything in that context.

Q. I'm not asking to you interpret the document or say what the author of the document -- I'm just asking you whether the term means anything to you in the context of PCB's.

A. Outside of what I stated earlier, no.

Q. Does that paragraph that I read trigger any recollection that Monsanto might have ever reclaimed or recovered used Turbinol from Texas Eastern or that Texas Eastern might have tried to reclaim their used Turbinol?

A. Not to my knowledge, no.

Q. To your knowledge, did Monsanto ever offer to incinerate or otherwise dispose of Texas Eastern's used Turbinol?

A. I don't recall.

Q. Do you know when the decision was made to withdraw PCB-containing Turbinol from the market?

A. No, I do not recall the date.

Q. Earlier, we saw an exhibit which was a later dated January 1972 from Monsanto to Texas Eastern. It's Exhibit 261. Do you recall if the decision to withdraw Turbinol 153, PCB-containing Turbinol 153 was made before or after the date of this letter?

MR. ZIMMER: Lacks foundation.

A. I have no idea.

BY MR. KASHANI:

Q. Do you recall when you were first informed that Turbinol 153 would be withdrawn from the market?

A. Again, I don't have the, I don't have the date. It was after I left, calling -- it was after I called on Texas Eastern, or stopped calling.

Q. Was it after June of 1971?

A. Again, I don't -- it would have had to have been after. That was the last time I called on them, and at that time, I was not cognizant of the determination, as I recall.

Q. When you just said, "It was after I called on them," do you mean that you were informed that Turbinol 153 would be withdrawn from the market at some time after June 1971? In other words, at some time after you last called on Texas Eastern?

A. Correct.

Q. Do you recall any discussions or suggestions made by anyone at Monsanto that Monsanto would delay -- would hold off on informing Texas Eastern that Turbinol 153 would be withdrawn until Monsanto had a replacement product ready?

A. No.

MR. KASHANI: The next exhibit, 277.

(Plaintiff's Deposition Exhibit 277 marked for identification.)

BY MR. KASHANI:

Q. I'm going to refer you to the last paragraph on Page 2 of this exhibit, where it reads, "On Turbinol 153, we do not plan to approach Texas Eastern until we have received approval from General Electric for use of one of our new NC esters in gas turbines." Does that trigger any recollection that Monsanto may have decided to hold off telling Texas Eastern about the withdrawal of Turbinol 153?

MR. ZIMMER: The question assumes facts not in evidence, calls for speculation and is argumentative.

You can answer.

A. No.

BY MR. KASHANI:

Q. Is your answer "No"?

A. Correct.

Q. Do you know who, which individual made the decision to withdraw PCB-containing Turbinol 153 from the market?

A. No.

MR. ZIMMER: Assuming that it was one individual.

BY MR. KASHANI:

Q. Do you know at what level of the company decisions like that were made?

A. No, I don't.

MR. ZIMMER: I think it's a safe bet that it was outside of the sales force, though.

A. I concur.

MR. ZIMMER: That will save us a line of questioning. Sorry, I'm getting a little frustrated here, but --

MR. KASHANI: Let's take a very short break and then I'll ask the last questions.

(Recess)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. Other than the instance of the memo which we discussed earlier, which was Exhibit 266, which dealt with inventory of certain Pydraul products that were being reformulated, do you recall any other instances when you were advised by anyone at Monsanto to sell out the inventory of an old product before selling any of the new product?

MR. ZIMMER: I'm not sure that's a correct characterization of 266, but you can answer.

A. No.

BY MR. KASHANI:

Q. Do you recall whether it was ever suggested with respect to Turbinol 153 to sell out any existing inventory before making the new product available?

A. No.

Q. Does the term "duPont rule" mean anything to you?

A. duPont rule?

Q. The duPont rule as in the chemical company, duPont rule?

A. Rule, spelled --

Q. Rule, r-u-l-e.

A. No, it does not.

Q. Would it refresh your recollection if I said that one of the Monsanto witnesses said that the duPont rule means that technical information should only be discussed with technically qualified people?

A. Still doesn't help. No.

MR. KASHANI: Okay. I have no

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further questions. We can go off the record for a second.

(Discussion off the record.)

MR. KASHANI: Back on the record.

Thank you, Mr. Clay, for your time. Thanks for coming out today. We have stipulated that -- counsel, here, have stipulated that the court reporter will prepare a copy of the deposition transcript and will send that transcript, I guess the original, will send the original to counsel or to Mr. Clay?

MR. ZIMMER: I don't know how we've been doing it, frankly.

MR. KASHANI: Well, the court reporter will send the original of the report -- of the transcript to counsel, or to Mr. Clay, as they decide, and Mr. Clay will have thirty days from date of mailing to review that transcript and make any changes or corrections and to sign the transcript, and if within that thirty days Mr. Clay does not make any changes or corrections or does not sign it, the transcript can be used for all purposes the same as a signed and

corrected transcript. So stipulated?

MR. ZIMMER: So stipulated.

MR. KASHANI: Thank you. Off the record.

(Whereupon, at 4:35 p.m., the deposition was concluded.)

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COMES NOW THE WITNESS, CARL L. CLAY, and having read the foregoing transcript of the deposition taken on the 9th day of June, 1992, acknowledges by signature hereto that it is a true and accurate transcript of the testimony given on the date hereinabove mentioned.

_____

CARL L. CLAY

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

My Commission expires: _____

_____

Notary Public

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STATE OF MISSOURI)
SS:)
CITY OF ST. LOUIS)

I J. Bryan Jordan, notary public in and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to certify depositions, do hereby certify that pursuant to agreement in the civil cause now pending and undetermined in the Superior Court of the State of California, to be used in the trial of said cause in said court, I was attended at the Cascade Plaza Hotel, in the City of Akron, State of Ohio, by the aforesaid witness and by the aforesaid attorneys, on the 9th day of June, 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 into 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 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 24th day of June, 1992.

My commission expires July 20, 1994.

J. Bryan Jordan

Notary Public in and for the State of Missouri

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