

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: MDL DOCKET NO. 764
:
TEXAS EASTERN TRANSMISSION Deposition of:
CORPORATION PCB :
CONTAMINATION INSURANCE ROGER E. HATTON,
COVERAGE LITIGATION. : Ph.D.
Volume II

TRANSCRIPT of testimony as taken by
and before TOMMY LARUE MILLER, a Certified
Shorthand Reporter and Notary Public, at the
offices of HUSCH, EPPENBERGER, DONOHUE
CORNFIELD & JENKINS, 100 North Broadway, Suite
1300, St. Louis, Missouri, on Thursday,
January 25, 1990, commencing at 9:05 in the
forenoon.

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 by R.E. Hatton,
 dated June 29, 1964,
 Bates Nos. TEX 000241
 through 000285

Hatton-18 Document entitled, 255
 "Fire-Resistant
 Lubricants in Gas
 Turbines" by Earl P.
 Farmer, Jr., Bates
 Nos. 010037959
 through 010037968

Hatton-19 Document entitled 255
 "Part 1 - Synthetic
 Lube Reduces Fire
 Hazard At Turbine
 Stations." by O.M.
 Fletcher, dated
 June, 1960, Bates
 Nos. U000029
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1 R O G E R E. H A T T O N, Ph.D.,
2 406 Claybrook Lane, Kirkwood, Missouri
3 63122, having been duly sworn by the
4 Notary, continues his testimony as
5 follows:

6 CONTINUED DIRECT EXAMINATION BY MR. KRAUSS:

7 Q. I'd like to remind you that
8 you're still under oath from yesterday.

9 A. Yes.

10 Q. Yesterday we were discussing
11 compatibility with regard to the lubricant
12 and various components of the pipeline, and
13 there were some discussions of compatibility
14 with epoxies, and epoxy compatibility tests.

15 Do you recall who at Texas
16 Eastern you dealt with on that?

17 A. No, I do not recall who put in the
18 request. It was whoever in the engineering
19 department we were dealing with at that time.

20 Q. And you don't recall who at that
21 time, say pre-1963, who that contact was?

22 A. No. I am not -- I am not certain of
23 who was in that position right then.

24 Q. Were you dealing with more than
25 one person in the pre-1963 time period?

R. E. Hatton

1 A. Several people in the engineering
2 department at one time. As well as -- I
3 don't -- they would sometimes vary from
4 visit to visit, from contact to contact.

5 Q. Okay. I know yesterday you
6 mentioned Mr. Fletcher. Who else besides
7 Mr. Fletcher in the pre-1963 time period
8 would you have been dealing with?

9 A. I don't remember names. If you find
10 names on the Call Reports of the visits down
11 there, they were some of the same people that
12 we contacted.

13 Q. Okay. And who at Monsanto was
14 involved in performing these compatibility
15 tests?

16 A. Well, the research department would
17 have conducted them.

18 Let's see, I believe that the
19 group leader at that time was Ken McHugh, but
20 I'm not -- he's a fellow who took over my
21 group.

22 Q. Were the tests actually
23 performed, then, by the research department?

24 A. Yes.

25 Q. Did they keep records of these

R. E. Hatton

1 tests?

2 A. I assume so.

3 Q. Do you know how the results of
4 the tests were communicated to Texas Eastern?

5 MR. HART: Objection to form.

6 A. No, I do not.

7 Q. Would the results of these
8 tests, would they have been communicated to
9 Texas Eastern?

10 MR. HART: Objection.

11 A. Certainly. Any research that we did
12 that was at a customer's request, the results
13 were referred back to him, whether good or
14 bad.

15 Q. And normally would this have
16 been done in writing?

17 MR. HART: Objection to form.

18 A. Normally.

19 Q. Would records of these
20 communications to Texas Eastern have been
21 kept by Monsanto?

22 A. Not necessarily.

23 Q. If they were kept, down where
24 would Monsanto have kept them?

25 A. I am not fully aware of Monsanto's

R. E. Hatton

1 recordkeeping system. It would have gone
2 into some central area somewhere.

3 If I wanted something I asked my
4 secretary to get it.

5 Q. How would these compatibility
6 tests have been done? Are you familiar with
7 the procedures?

8 MR. HART: I object to the form.

9 A. I do not know, or I do not remember
10 how those exact tests were done.

11 Compatibility is generally done
12 by exposing the material to the fluid, and
13 measuring changes. But I do not know how
14 those tests were done. I do not know the
15 results of them.

16 Q. Okay. You were not personally
17 involved in that particular aspect.

18 A. The time period that you're talking
19 about, I was over in development, and I had
20 nobody working for me in the laboratories
21 directly.

22 Q. Okay. In the late 1950s who
23 were Monsanto's competitors in the fire
24 resistant lubricant market?

25 MR. HART: Objection.

R. E. Hatton

1 Q. If you know.

2 A. Our major competitor was Celanese,
3 with products called Cellulubes,
4 C-e-l-l-u-l-u-b-e-s, Cellulubes.

5 Q. Were there any other competitors
6 in the synthetic lubricant market?

7 A. The other major producer of phosphate
8 ester materials at that time was E.F.
9 Houghton, and their products were called
10 Houghto dash safe, or Houghto-safe.

11 Q. Any other producers of
12 fire-resistant lubricants in that time
13 period, late 1950s?

14 A. Your question -- I think you need to
15 define that question further. There were
16 obviously many different types of
17 fire-resistant fluids available.

18 Q. Synthetic fire-resistant
19 lubricants.

20 MR. DAVIDSON: For use in
21 turbines --

22 MR. KRAUSS: Yes, for use in
23 turbines.

24 MR. DAVIDSON: -- or for any
25 use? For use in turbines.

R. E. Hatton

1 A. For use in turbines it was primarily
2 the three of us.

3 Q. Are you familiar, or were you
4 familiar with the composition of the
5 competitor's products?

6 A. Yes.

7 Q. Do you know what the composition
8 of Cellulube was, from Celanese?

9 A. It was a phosphate ester, plus
10 additives.

11 Q. Was that a straight phosphate
12 ester?

13 A. Yes.

14 Q. How about the product from E.F.
15 Houghton?

16 A. Essentially the same product as
17 Celanese was promoting, with some variation
18 in phosphate ester structure.

19 Q. Do you know if in that time
20 frame, late -- I'm speaking of the late to
21 -- mid to late 1950s, if other natural gas
22 pipeline companies besides Texas Eastern were
23 interested in using fire-resistant
24 lubricants?

25 A. Well, if you mean -- do you mean were

R. E. Hatton

1 we trying to interest people in
2 fire-resistant lubricants, or did people have
3 an interest in fire-resistant lubricants?

4 Q. Both, really. Was the market
5 such that other natural gas pipelines were
6 seeking to have fire-resistant lubricants in
7 their turbine compressors?

8 MR. HART: Objection to form.

9 MR. DAVIDSON: Just one minute.

10 (A discussion takes place off
11 the record.)

12 A. In one of the exhibits yesterday you
13 showed a meeting -- the results of a study
14 group meeting that was held. That was
15 similar to other meetings which were held at
16 that time.

17 And they were generally attended
18 by various representatives of pipelines and
19 equipment producers, as well as fluid
20 suppliers and the oil companies, and quite a
21 few other people. The interest was out
22 there.

23 Q. Yes?

24 A. And people were concerned about the
25 safety of their equipment, and that --

R. E. Hatton

1 specifically in gas and steam turbines,
2 both.

3 The -- and there was also one
4 of the major firms that was interested was a
5 Canadian group, and all of a sudden it --
6 the name leaves me. But they were actually
7 field testing these -- Cellulube products at
8 that time.

9 Q. Was that --

10 A. Trans Canada.

11 Q. -- Trans Canada?

12 A. Trans Canada. I should know, I spent
13 enough time up there.

14 Q. And do you recall if Trans
15 Canada was successful using the Cellulube?

16 MR. HART: Objection to form.

17 A. Paul Neitu was their technical man.
18 Made presentations at technical meetings at
19 that time, similar to what Texas Eastern was
20 making on our product.

21 And I don't remember the details
22 of those papers, but I know that the general
23 opinion was success.

24 Q. Do you know if any other natural
25 gas pipeline companies were utilizing

R. E. Hatton

1 Cellulube in the late 1950s?

2 MR. HART: I'll object to the
3 form.

4 A. No, I do not know.

5 Q. How about the E.F. Houghton
6 product? Do you know if any natural gas
7 pipeline companies were utilizing that in
8 their turbines and compressors?

9 A. I'm not aware of any field tests on
10 those products.

11 Q. Do you know, then, who the E.F.
12 Houghton product was marketed to?

13 MR. DAVIDSON: Gregg, I'm -- I
14 don't want to restrict your latitude too
15 much, but it seems to me we're getting a
16 little far afield of the designated, agreed
17 upon areas of examination here that we talked
18 about, when you ask about the competitors and
19 their use in pipelines other than Texas
20 Eastern. You're really supposed to be
21 focusing on the relationship between Monsanto
22 and Texas Eastern.

23 MR. KRAUSS: Okay. I'm trying
24 to get a feel for, you know, what the market
25 was at that time period when the relationship

R. E. Hatton

1 between Texas Eastern and Monsanto was
2 developed.

3 MR. DAVIDSON: I understand.
4 But he's not designated for that. That
5 wasn't one of the things that you agreed to
6 go -- that he would be examined about.

7 MR. HART: I would like to state
8 on the record Texas Eastern's agreement with
9 that objection.

10 MR. KRAUSS: Well, isn't Dr.
11 Hatton also being produced as a personal
12 witness?

13 MR. DAVIDSON: No.

14 MR. KRAUSS: All right. I have
15 no further questions.

16 CROSS-EXAMINATION BY MR. PIERDINOCK:

17 Q. Good morning, Dr. Hatton.

18 A. Good morning.

19 Q. My named is David Pierdinock.

20 I'm from the law firm of Haskell & Perrin and
21 we're representing Continental Casualty
22 Insurance Company in this litigation.

23 To start off with, I'd like to
24 ask you a few questions to clarify some of
25 the things you said yesterday.

R. E. Hatton

1 Yesterday you mentioned several
2 people, and I'd like to go through those
3 individuals and try to get a bit more
4 information from you.

5 To start with, Mr. Jim Davis.
6 Would you please give me the position that he
7 held in Monsanto?

8 A. Jim Davis, I assume that you are
9 concerned about the time frame we've been
10 talking about all day yesterday.

11 Q. I'm concerned with the time
12 frame since you started at Monsanto until you
13 retired. The positions that you're aware
14 that Jim Davis had.

15 A. All right. Jim Davis started in
16 research, and transferred to the commercial
17 development department. And I believe
18 finished his career in that department, or
19 some -- some follow on to that department,
20 doing the same type of work.

21 Q. Are you aware of the dates when
22 he started in the research department, and
23 the date when he left the research department
24 and went to the commercial development
25 department?

R. E. Hatton

1 A. No, I am not.

2 Q. Okay.

3 A. I can only -- I will say this, that
4 during the years that I was in research, he
5 was -- the latter years that I spent in
6 research, he was in commercial development.

7 And when I transferred to that
8 department I took over some of the projects
9 that Jim had.

10 Q. So, you testified yesterday that
11 you were in the research department from 1946
12 to 1960.

13 A. Uh-huh.

14 Q. So you're saying in
15 approximately the late '50s he was in the
16 development department?

17 A. Yes.

18 MR. HART: Objection to form.

19 Q. Do you know the products that he
20 worked on in the research department with
21 regards to Texas Eastern?

22 A. Gee, I don't --

23 Q. Let me rephrase the question --

24 A. I don't feel qualified to answer that
25 question. I am not an expert on his career.

R. E. Hatton

1 Q. Let me rephrase the question.

2 Are you aware that he worked on
3 fire-resistant products while he was in the
4 research department?

5 MR. HART: Objection.

6 Q. To your knowledge.

7 MR. HART: Same objection.

8 MR. DAVIDSON: If you know.

9 A. I just am not sure.

10 Q. Okay. While Mr. Davis was in
11 the commercial development department, are
12 you aware that he worked on fire-resistant
13 products?

14 MR. HART: Objection.

15 A. Yes, he did. He was -- he is the one
16 who did the work on turbine lubricants.

17 Q. Do you know whether Mr. Davis is
18 still alive?

19 A. No, he is not.

20 Q. Yesterday you mentioned Mr. Earl
21 Farmer, Texas Eastern, was one of your
22 contacts at Texas Eastern. Do you remember
23 the extent of your contacts with him?

24 A. The only one I remember clearly is
25 discussions with regard to the paper that he

R. E. Hatton

1 wrote.

2 Q. Were these discussions held
3 leading up to the paper that he wrote, or
4 subsequent to the paper that he wrote?

5 MR. HART: Objection.

6 A. I don't remember the exact timing of
7 our discussions.

8 Q. But they were regarding the
9 paper. Was the paper already written?

10 A. The data had been accumulated. I --
11 I can't tell you when -- the date he wrote
12 the paper. I don't know exactly.

13 But I do know that I supplied
14 -- Monsanto supplied the data for his
15 tabulations of properties.

16 Q. So these discussions regarded
17 the data that he used for his papers.

18 MR. HART: Objection.

19 A. Limited, as far as we were concerned,
20 to the physical and chemical properties and
21 the laboratory test results on our product.

22 Q. Okay. Mr. O.M. Fletcher of
23 Texas Eastern.

24 A. Yes.

25 Q. You said yesterday that he was

R. E. Hatton

1 your exclusive contact at Texas Eastern.

2 What did you mean by that?

3 MR. HART: I'll object to the
4 form.

5 A. I do not remember using the term
6 exclusive. Maybe I did, but --

7 Q. Let me refresh --

8 A. -- but a better word is major contact,
9 in the early days of the program.

10 Mr. Fletcher was out looking for
11 fire-resistant materials, and came to
12 Monsanto, as well as other companies, seeking
13 such materials. And we followed up on that
14 contact, naturally.

15 Q. You said the early days of the
16 program. Can you give me more of a time
17 frame than that?

18 Was it during the period that
19 you were employed as a research chemist?

20 A. Yes. That I can define.

21 To give you a closer date, if
22 you look at -- again, look at Earl Farmer's
23 paper, which gives a pretty good history of
24 this program, you can see when he was out
25 looking for the products. And that will give

R. E. Hatton

1 you a range of dates you're looking for.

2 Q. Okay. But I'm looking for your
3 knowledge, independent of that paper.

4 A. Well --

5 Q. Would you say that your contacts
6 with Mr. Fletcher were at the early part of
7 your employment as a research chemist?

8 You said yesterday you were
9 employed as research chemist from '46 to
10 1960. Could you say that it was before
11 1955?

12 MR. DAVIDSON: No, I don't think
13 that's what he said. He said it was in the
14 early days of the program.

15 A. The program.

16 MR. DAVIDSON: Not his
17 employment, or his work as a research
18 chemist.

19 MR. PIERDINOCK: Exactly. Now
20 I'm trying to narrow it down now to whether
21 he remembers it was this period -- it was in
22 the early part of his employment as a
23 research chemist, or whether it was in the
24 later part of his employment as a research
25 chemist at Texas Eastern.

R. E. Hatton

1 A. I can only say it was in the period
2 from 1948 to 1960.

3 Q. Would you say it's throughout
4 that period?

5 A. No. I think I will say that I can't
6 give you dates of the thousands of people
7 that I contacted and talked to during those
8 periods, or who came to Monsanto seeking
9 information.

10 Q. But -- okay.

11 A. But it was at -- all I can define for
12 you is that it was during the days that I
13 worked on fluids. And I started doing fluids
14 in 1946, and was still working on them when I
15 went to development in 1960.

16 Q. Okay. What were the nature of
17 these contacts with Mr. Fletcher? Do you
18 remember any topics that you discussed?

19 A. General discussions.

20 Q. General discussions regarding
21 what?

22 A. Whatever subject he wanted to talk
23 about. Whatever subject I wanted to talk
24 about.

25 Q. Do you remember any specific

R. E. Hatton

1 discussions?

2 A. Primarily fire resistance and turbine
3 lubricants.

4 Q. Proceeding on to Mr. Walter
5 Woods of Texas Eastern. You testified
6 yesterday that it was your belief that he was
7 in the engineering department of Texas
8 Eastern; is that correct?

9 A. At some --

10 MR. HART: Objection to the
11 characterization.

12 MR. DAVIDSON: You can answer.

13 A. As far as I know that was his
14 position. I don't know -- I don't remember
15 his exact title.

16 Q. Do you remember the time periods
17 of your contacts with Mr. Woods?

18 Let me rephrase the question.
19 Was it during the period of time that you
20 were employed as a research chemist?

21 A. I believe they started then, during
22 the late period.

23 Q. And did those contacts continue
24 into the time period when you were developed
25 -- or when you were employed in the

R. E. Hatton

1 development department?

2 A. Yes. You'll notice in some of the
3 exhibits which were put in the record
4 yesterday that Walter Woods is on the ones
5 which have to do with the removal of PCBs
6 from the market. He attended those meetings,
7 so obviously I was still seeing him at that
8 point.

9 Q. So your contacts with Mr. Woods
10 continued throughout the period that you were
11 employed in the marketing department of
12 Monsanto.

13 MR. HART: Objection.

14 Q. That was the period from 1968 to
15 1962, as you testified yesterday.

16 MR. HART: Same objection.

17 MR. DAVIDSON: No, I think he's
18 also testified that he was not working on
19 fire-resistant turbine fluids the whole
20 time. And that he went on other projects,
21 went on again, off again.

22 I object to your characterizing
23 it as during that whole time period.

24 A. I think if you go back and look at the
25 records, at the time I spelled out pretty

R. E. Hatton

1 well what I was doing when.

2 And any time that I was dealing
3 with Texas Eastern, I obviously at some time
4 during the visit saw Walter Woods.

5 Q. Specifically, though, I'm
6 interested in whether you had any contacts
7 with Mr. Woods during the period that you
8 were employed in the marketing department of
9 Monsanto, which you testified yesterday was
10 between 1968 and 1982.

11 A. And I will refer you to Exhibit --

12 MR. DAVIDSON: Answer him yes or
13 no.

14 MR. HART: Yes. I object, it's
15 asked and answered.

16 Q. To the best of your knowledge.

17 A. The answer is yes. Exhibits five and
18 six.

19 Q. Exhibit number 5 is dated
20 February 8th, 1972, and Exhibit number 6 is
21 dated February 11th, 1972.

22 Do you remember any contacts
23 with Mr. Woods subsequent to these exhibits?

24 MR. HART: Subsequent to the
25 date of the exhibits?

R. E. Hatton

1 MR. PIERDINOCK: Exactly.

2 A. Exhibit number 9 records a visit in
3 July of '72.

4 Q. Do you remember any contacts
5 with Mr. Woods subsequent to July of 1972?

6 A. Exhibit 10 also refers to the same
7 visit. And no, I do not.

8 (A discussion takes place off
9 the record between the witness and his
10 attorney.)

11 Q. What was the nature of your
12 contact with Mr. Woods? Do you remember any
13 of the specific topics that you discussed?

14 MR. HART: Objection, compound.

15 Q. Okay. Let me ask first, what
16 was the nature of your discussions with Mr.
17 Woods?

18 MR. HART: Objection.

19 MR. DAVIDSON: If you remember.

20 A. Yesterday we spent a considerable
21 period of time going over the exhibits that I
22 referred you to. I believe that the subjects
23 of the visit were adequately covered in those
24 Call Reports.

25 Any other visits that were made

R. E. Hatton

1 would have been covered in much the same
2 way. And I do not remember the details
3 beyond that, without seeing Call Reports.

4 Q. Finally, Mr. Buck Jarnagin --

5 A. Yes.

6 Q. -- that you referred to
7 yesterday. You testified -- to your
8 knowledge, he was another one of your
9 contacts in the engineering department at
10 Texas Eastern; is that correct?

11 MR. HART: I'll object to the
12 form.

13 A. Yes.

14 Q. Do you remember the time period
15 of your contacts with him?

16 A. I do not remember a beginning and an
17 end, no.

18 Q. Do you remember having any
19 contacts with Mr. Jarnagin during your period
20 of employment at Monsanto as a research
21 chemist?

22 A. No.

23 Q. Do you remember any contacts
24 with Mr. Jarnagin during your employment at
25 Monsanto in the development department?

R. E. Hatton

1 Which you testified yesterday to
2 be --

3 A. Not specific visits, unless there is a
4 piece of paper here that details them.

5 Q. Similarly, do you remember any
6 contacts with Mr. Jarnagin during the period
7 that you were employed with Monsanto in the
8 marketing department?

9 MR. HART: Objection, asked and
10 answered.

11 A. It's been answered -- the contacts
12 with Mr. Jarnagin were very much parallel to
13 those with Mr. Woods.

14 Q. Yesterday you testified that the
15 labels on the drums of certain products
16 supplied by Monsanto, namely OS-81, contained
17 a statement that these products contained
18 chlorinated compounds.

19 MR. HART: Objection to form --

20 Q. Is that correct?

21 MR. HART: Objection.

22 A. There is a standard statement that was
23 put on fluids that contain chlorinated
24 compounds at that time, and that would have
25 been included on these drums.

R. E. Hatton

1 Q. Would that label, or that
2 statement also be included on the labels for
3 the product MCS-153?

4 MR. HART: Objection.

5 A. Certainly.

6 Q. Was this statement on this label
7 included on these products from the date of
8 the first delivery of these products, to the
9 best of your knowledge?

10 MR. HART: I'll object to the
11 form.

12 MR. DAVIDSON: I object to even
13 asking. He didn't work in the shipping
14 department. He doesn't know how they went
15 out. He's told you his belief of the labels
16 as they were printed and put on all
17 substances that contained chlorinated
18 materials, that all substances containing
19 chlorinated materials had that statement.

20 Q. Were you aware that these drums
21 had labels on them with the statement
22 chlorinated compound when you were employed
23 at Monsanto as a research chemist?

24 MR. HART: I'll object to the
25 form.

R. E. Hatton

1 MR. DAVIDSON: What are you
2 referring -- what products are you referring
3 to?

4 MR. PIERDINOCK: I'm referring
5 right now to the product OS-81.

6 MR. HART: I am going to get to
7 the point where I start spelling out my
8 objections, soon.

9 I know it makes Counsel for the
10 carriers unhappy when I make talking
11 objections, but I think you've had a long
12 series of questions that are highly
13 objectionable in form because they are
14 ambiguous, because they are leading, because
15 they assume foundations that haven't been
16 demonstrated in the record. And I'm giving
17 fair warning.

18 In this instance, Counsel, I
19 don't think it's at all clear what drums
20 you're talking about, and there is no
21 foundation for whether, or when such drums
22 began to be shipped, when the witness knew
23 they began to be shipped, or where they were
24 shipped to.

25 MR. HOOK: Could we proceed?

R. E. Hatton

1 Q. Labels on the drums containing
2 the product OS-81, are you aware of a date
3 when those labels began to use the phrase
4 chlorinated compounds?

5 A. No.

6 Q. To the best of your knowledge,
7 they contained that label since they were
8 delivered -- since they were first delivered
9 at Texas Eastern.

10 MR. HART: Objection to form.

11 A. I generally -- or I should say I
12 never saw production drums being shipped. Or
13 if I did, it was by more or less accident,
14 not as a part of my responsibilities.

15 The production department was
16 responsible for this, and would have taken
17 their orders from somebody besides me.

18 Q. Are you aware of a policy at
19 Texas Eastern for those drums to contain such
20 a statement?

21 MR. DAVIDSON: A policy at Texas
22 Eastern?

23 MR. HART: Objection.

24 MR. PIERDINOCK: I'm sorry --

25 A. No.

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1 MR. PIERDINOCK: I meant
2 Monsanto.

3 A. No, I am not aware of that.

4 MR. DAVIDSON: Off the record.

5 (A discussion takes place off
6 the record.)

7 MR. PIERDINOCK: Never mind,
8 strike that.

9 I'd like to introduce Exhibit
10 17.

11 (Document entitled, "MCS-153
12 Transfer to Marketing and Recommended Product
13 Strategy" O.D. No 1400, by R.E. Hatton, dated
14 June 29, 1964, Bates Nos. TEX 000241 through
15 000285 is marked Hatton-17 for
16 identification.)

17 MR. PIERDINOCK: For the record,
18 Hatton Exhibit number 17 appears to be a
19 Monsanto report.

20 Mr. Hatton's name is on the
21 cover page of this report.

22 It bears Texas Eastern document
23 numbers 000241 through 000285.

24 Q. Mr. Hatton, have you seen this
25 document before?

R. E. Hatton

1 A. Yes.

2 Q. Did you write this document?

3 A. Yes, sir.

4 Q. I'd like to direct your
5 attention to page number seven, item b, under
6 pricing, the very last sentence.

7 MR. PIERDINOCK: The page number
8 is on the bottom.

9 MR. DAVIDSON: All right.

10 Q. This sentence reads, "Since it
11 is high in Aroclor content," I can't read the
12 next word, but I believe it says a label
13 should show the usual precautionary
14 statements.

15 MR. HART: I object to
16 characterization of a document which is
17 difficult to read, and which I think you've
18 misread.

19 Is there a question pending?

20 MR. PIERDINOCK: Yes, there is.

21 Q. Does this refresh your memory as
22 to a policy of Monsanto regarding the
23 labeling of these products?

24 MR. HART: Objection to form.

25 MR. DAVIDSON: I want to clarify

R. E. Hatton

1 something, David. I think we've gotten mixed
2 up.

3 I think you asked a question
4 awhile ago. He answered the question that
5 you first asked, which you had jumped it with
6 the question about the policy of Monsanto.
7 And I don't think that was clear.

8 I think you took his answer as
9 an answer to your second question, not your
10 first question. If you want to have that
11 read back or not, that's fine.

12 The truth of the matter is that
13 since the early or the late thirties Monsanto
14 had had a policy of labeling chlorinated
15 products, including those containing
16 chlorinated biphenyls, labeling all their
17 products.

18 So this is a correct statement
19 of company policy. But I think your question
20 got garbled between two questions; what he
21 was answering, and what you were asking
22 awhile ago. If you want to try to clarify
23 that.

24 Q. Is it your understanding,
25 Mr. Hatton, that it was Monsanto's policy to

R. E. Hatton

1 so label these products since the late
2 thirties?

3 MR. HART: Objection to form.

4 A. Yes.

5 MR. DAVIDSON: You're referring
6 to products containing chlorinated materials.

7 MR. HART: It's not clear what
8 he was referring to, that's why I objected to
9 the question.

10 Q. Were you referring to products
11 containing chlorinated materials --

12 MR. HART: Objection.

13 Q. -- in your previous statement,
14 Mr. Hatton?

15 A. I was specifically relating to
16 products containing Aroclors.

17 Q. I would like to refer your
18 attention now to page 8 of the same document,
19 Section E, which refers to appendix Roman
20 Numeral VI, which is at the very end of this
21 document.

22 Could you please read both of
23 those sections for me now.

24 A. (The witness reads the document.)

25 Q. Have you read those statements?

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1 A. Yes.

2 Q. Section E refers to the toxicity
3 statement for OS-81, which is also used,
4 quote, unquote, in our handling of MCS-153.

5 My question is, how did this
6 statement get to the ultimate user of the
7 product?

8 MR. DAVIDSON: I'm going to
9 object. No, I'll let him, if he knows,
10 answer that.

11 MR. HART: Well, I will object.

12 Q. If you know.

13 A. A transfer to marketing report, which
14 is what this document is, is an accumulation
15 of inputs from all departments of the company
16 that relate to that product.

17 One of the very necessary things
18 to do in getting products out is to -- was
19 to get the permission of the medical
20 department, as well as a statement from them
21 that could be given to customers.

22 What you see in this document is
23 what the medical department released to me
24 for MCS-153, later trademarked Turbinol 153.

25 MR. DAVIDSON: David, one

R. E. Hatton

1 second.

2 MR. PIERDINOCK: Yes.

3 (A discussion takes place off
4 the record between the witness and his
5 attorney.)

6 Q. So, was it your testimony that
7 such a statement would have to be sent to the
8 ultimate user of this product before the
9 product was shipped to that user?

10 MR. DAVIDSON: No, he didn't say
11 that at all.

12 A. I did not say that. The statement
13 that was made here would then have been put
14 into a technical bulletin, and the technical
15 bulletin would have then become public
16 knowledge, and would have been distributed to
17 customers, prospects, competitors. Anybody
18 who wanted a copy could get a copy.

19 It was our salesmen's
20 responsibility to see that such bulletins got
21 to our customers.

22 Q. Would such a statement be
23 contained in a bulletin before initial
24 shipment of a new product to an ultimate
25 user, to the best of your knowledge?

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1 MR. HART: Objection.

2 A. Normally.

3 Q. Do you have knowledge of the
4 care that is required in the handling of the
5 product Pydraul AC?

6 MR. HART: Can I have that read
7 back?

8 (The pending question is read
9 back by the reporter.)

10 MR. HART: I object. You want
11 to rephrase that?

12 MR. DAVIDSON: Okay. I'm going
13 to object that Dr. Hatton's knowledge and
14 expertise is not carried to existing
15 products. And I've let him answer these
16 questions indicating that he obtained that
17 information from other people in the
18 company.

19 He's not designated, as a
20 30(b)(6), as knowledgeable in that area. So
21 he won't be competent as to what the toxicity
22 is, other than what you have, which is
23 company policy.

24 MR. PIERDINOCK: Well, it's my
25 understanding that the toxicity of these

R. E. Hatton

1 products is an integral product development
2 of them, and is a major concern of the
3 development.

4 MR. DAVIDSON: To the extent you
5 want to know how he got information on
6 toxicity, I have let him and will let him
7 answer those questions. But not as to what
8 the nature of the toxicity is, or how it's
9 arrived at, or who forms that opinion.

10 He's not an expert in that
11 area. He doesn't know that area, he's not
12 designated for that area.

13 Now, that's one of the things
14 that you all were told was the area that he
15 would not be able to cover, and indicated
16 you'll take your shot at that later, with
17 somebody else if need be.

18 Q. Mr. Hatton, were you ever told
19 of any of the care required in handling the
20 product Pydraul AC?

21 MR. HART: Objection.

22 MR. DAVIDSON: Any of the what?

23 MR. PIERDINOCK: Excuse me?

24 MR. DAVIDSON: I'm sorry.

25 THE WITNESS: Care and

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1 handling.

2 MR. HART: Care was the word.

3 MR. PIERDINOCK: Care.

4 MR. DAVIDSON: Okay. I didn't
5 hear the word.

6 A. The medical department provided the
7 statements, which I read and understood.

8 Q. Are you aware when the medical
9 department supplied that information to you?

10 A. No, I'm not.

11 Q. Was it during your employment as
12 a research chemist at Texas Eastern?

13 A. Certainly.

14 MR. PIERDINOCK: I want to mark
15 this as the next Exhibit.

16 Off the record.

17 (A discussion takes place off
18 the record.)

19 MR. PIERDINOCK: I thought I had
20 copies of a document that I didn't have, so
21 I'll proceed in my questioning to the next
22 one.

23 Q. I'd like to ask you now
24 regarding the product OS-81, were you ever
25 told by the medical department of care to be

R. E. Hatton

1 required in the handling of that product?

2 MR. HART: Objection.

3 (A discussion takes place off
4 the record between the witness and his
5 attorney.)

6 MR. DAVIDSON: Would you repeat
7 the question?

8 MR. PIERDINOCK: Could we have
9 the question read back, please.

10 (The pending question is read
11 back by the reporter.)

12 MR. HART: Restate my
13 objection.

14 A. Exhibit 17, pages 264 through 269 is
15 the product bulletin on OS-81 and contains,
16 on the last page, a toxicity and safe
17 handling information.

18 This bulletin bears the initials
19 of J.B.D., who is Jim Davis. But as the
20 development man on the project, he would have
21 discussed this with me, and I -- he would
22 have obtained this information from the
23 medical department in the manner in which I
24 described --

25 Q. Can you please refer me to the

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1 page that you just mentioned? I've just
2 gotten the document.

3 MR. DAVIDSON: TEX 000269.

4 Q. This document is dated June
5 29th, 1964.

6 MR. DAVIDSON: He's talking
7 about the whole document.

8 Q. The overall report is.

9 MR. HART: Is there a question?

10 MR. PIERDINOCK: Yes.

11 Q. Are you aware of any -- do you
12 remember any communications with the medical
13 department of Monsanto previous to this date?

14 MR. DAVIDSON: He's just
15 testified that the OS-81 bulletin that he's
16 referring to is dated in 1958 on the page
17 that he cited.

18 Q. Do you remember any contacts
19 with the medical department regarding the
20 information contained in this bulletin before
21 1958?

22 A. I do not remember specific contacts.

23 Q. Returning back to my line of
24 questioning regarding Pydraul AC and your
25 communications with the medical department of

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1 Monsanto regarding the care of that product
2 -- I'm going to have to return to that
3 later, because I think the copies are out
4 being copied.

5 Referring you now to yesterday's
6 Exhibit number 3, a Texas Eastern document
7 from --

8 MR. GREGG: Miss Reporter, may I
9 indicate that this portion should be
10 designated as protected material?

11 Q. Texas Eastern document from
12 Mr. Stephens to Mr. Moore, and it refers to,
13 in the second paragraph from the bottom, it
14 refers to chlorinated polyphenyls.

15 MR. HART: Bottom of what page?

16 MR. PIERDINOCK: Bottom of the
17 first page.

18 MR. HART: All right.

19 Q. Second paragraph from the
20 bottom, third line down.

21 Do you have any idea how Mr.
22 Moore became aware that this product, which
23 is MCS-153, contained chlorinated
24 polyphenyls?

25 MR. HART: I'll object to the

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1 form.

2 A. No.

3 Q. Oh, okay. Are you aware of how
4 Mr. Stephens became aware that MCS-153
5 contained chlorinated polyphenyls?

6 MR. HART: Objection to form.

7 A. No.

8 Q. Do you remember having any
9 contacts with Mr. Stephens?

10 MR. HART: Can I have that
11 question read back?

12 (The pending question is read
13 back by the reporter.)

14 A. I believe he attended some of the
15 meetings we discussed previously.

16 Q. By meetings, what meetings are
17 you referring to?

18 A. The ones covered by the exhibits of
19 yesterday.

20 Q. Can you refer me to the exhibits
21 that you mentioned? Do you mean Exhibit
22 number 5?

23 MR. HART: I object to the form.

24 A. He is not listed on those documents.

25 Q. I'm interested in the type of

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1 meetings --

2 A. My answer is no.

3 Q. -- that you're referring to --

4 A. General meetings of Texas Eastern.

5 Q. These meetings were with Texas
6 Eastern specifically?

7 MR. HART: Objection.

8 A. If he worked for Texas Eastern, I
9 would assume that would be where I met him.

10 Q. You just referred to meetings
11 where you might have had a contact with
12 Mr. Stephens. I'm looking for the specific
13 nature of those meetings.

14 MR. HART: Is there a question?

15 Q. What was the nature of those
16 meetings?

17 MR. DAVIDSON: Do you
18 specifically recall meeting Mr. Stephens?

19 A. I have already stated that I did not
20 recall a specific meeting.

21 Q. But the meeting that you just
22 referred to, what meetings were you referring
23 to?

24 A. The ones covered by the exhibits,
25 what, five and six?

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1 I think there is more than that,
2 that we went over yesterday. Similar
3 meetings in Exhibit ten, nine, eight.

4 Q. Okay.

5 MR. HART: I'd like the record
6 to show that as far as I can tell, Mr.
7 Stephens' name does not appear on the list of
8 attendees on any of those documents.

9 Q. Mr. Hatton, do you remember
10 attending similar meetings to the ones that
11 are referred to in the documents that you've
12 just mentioned?

13 A. Yes.

14 Q. Thank you.

15 Returning now to Exhibit number
16 3, specifically the phrase that I mentioned
17 earlier, chlorinated polyphenyls. Do you
18 remember communicating to anyone at Texas
19 Eastern that the product MCS-153 contained
20 chlorinated polyphenyls at any time?

21 MR. DAVIDSON: I know that
22 question has been asked and answered
23 yesterday by Gregory Krauss.

24 MR. PIERDINOCK: I'd like to ask
25 again.

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1 MR. DAVIDSON: Well, that's
2 repetitive, and the Order says you shouldn't
3 be repetitive.

4 MR. HART: Texas Eastern agrees
5 with that objection.

6 MR. PIERDINOCK: Yesterday I
7 believe he gave a time period for his --
8 for those communications, and I was looking
9 for --

10 MR. HART: You said at any time.

11 MR. PIERDINOCK: I said at any
12 time.

13 MR. HART: Well then --

14 MR. PIERDINOCK: Yesterday it
15 was narrowed down to communications within a
16 specific time period, if I recall correctly.

17 MR. DAVIDSON: I think the
18 question has been asked and answered, and is
19 overbroad at this point.

20 MR. PIERDINOCK: In my notes
21 from yesterday I don't have him referring to
22 communicating --

23 MR. HART: Counsel, would you
24 like to go off the record?

25 MR. PIERDINOCK: No. In my

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1 notes from yesterday I have that he -- I
2 have no record of him referring to
3 communicating -- his communications
4 regarding chlorinated polyphenyls to other
5 persons besides the ones mentioned in this
6 memo.

7 I'm looking for his
8 communications to people besides Mr. Stephens
9 or Mr. Moore regarding the content of
10 MCS-153.

11 A. I do not remember the specific
12 meetings at which this was discussed.

13 I think I testified yesterday
14 that Earl Farmer in his paper spelled out the
15 compositions. So it was obvious by 1970 they
16 had been made aware of it. But I do not know
17 how.

18 Exhibit 3 shows that they knew
19 in 1968.

20 MR. HART: I'm going to move to
21 strike the previous statement as not in
22 response to any pending question.

23 I do appreciate, however, the
24 witness' desire to move the deposition
25 along.

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1 Q. Regarding the product Aroclor,
2 am I pronouncing that correctly?

3 A. Yes.

4 Q. Do you remember communications
5 with Texas Eastern regarding the content of
6 Aroclor?

7 A. No.

8 Q. I'd like to refer you now to
9 exhibits number 11 and 12 from yesterday.

10 Is it your understanding that
11 they are -- that these exhibits refer to a
12 meeting of a study group on fire-resistant
13 turbine fluids, Tech C?

14 MR. HART: Objection, asked and
15 answered.

16 A. Specifically, Exhibit 12 relates to
17 that meeting. There is no date on Exhibit
18 11, therefore I do not know what time frame
19 this membership list was put together.

20 Q. The date of Exhibit 12 is June
21 25th, 1963.

22 Do you remember any previous --
23 do you remember attending any previous
24 meetings? Any similar meetings of the same
25 study group?

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1 MR. HART: Asked and answered.

2 MR. PIERDINOCK: It has not been
3 asked before.

4 A. I was an active member of the study
5 group, and I attended their meetings.

6 Q. Specifically, though, do you
7 remember attending meetings before this one?
8 Yes or no?

9 A. No.

10 Q. Were you a member of this
11 subcommittee from its inception?

12 MR. HART: Objection.

13 A. Yes.

14 Q. Do you remember the date of its
15 inception?

16 A. I do not.

17 Q. Do you remember whether the
18 inception of this subcommittee was during the
19 period of your employment as a research
20 chemist?

21 A. No.

22 Q. You don't remember, or --

23 A. I don't remember the date that it was
24 formed.

25 Q. You read Exhibit number 12

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1 yesterday, am I correct?

2 A. Yes, most of it.

3 Q. Are you familiar with the
4 content of Exhibit number 12?

5 (A discussion takes place off
6 the record between the witness and his
7 attorney.)

8 A. I did not read the attachments in
9 detail yesterday.

10 Q. All right. My question is, at
11 what stage of the development process does
12 this meeting of this subcommittee refer to in
13 the product -- well, in the development of
14 fire-resistant turbine fluids?

15 MR. HART: I object to the
16 form.

17 I don't believe the committee
18 was involved in the process of developing
19 such fluids. In any event, there is no such
20 foundation.

21 I also object to the implication
22 that there was a single development process
23 for all such fluids.

24 MR. DAVIDSON: Do you understand
25 the question?

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1 THE WITNESS: I'm not sure.

2 A. I do not know what you're --

3 Q. Okay.

4 A. -- implying.

5 Q. Let me rephrase the question.

6 A. Yes.

7 Q. Do these meetings refer -- do
8 the minutes of this meeting refer to a
9 meeting which was early in the development
10 process of fire-resistant turbine fluids?

11 MR. HART: Objection to form.
12 Counsel, if you --

13 MR. DAVIDSON: If you have
14 something specific that you want to refer to
15 to question him about, this seems to be
16 shooting in the dark.

17 MR. PIERDINOCK: Well, what I'm
18 looking for is -- the answer -- how many
19 meetings, or for what time period the
20 meetings were before this.

21 MR. HART: He said two seconds
22 ago he does not recall any prior meetings.

23 MR. PIERDINOCK: Okay. That's
24 why I'm trying to narrow down that date.

25 MR. HART: I don't know how you

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1 can narrow down a date that the witness
2 doesn't recall.

3 Q. Do you recall that there was at
4 least one meeting before this meeting?

5 A. The minutes of this meeting that I
6 prepared says there was one.

7 Q. To the best of your
8 recollection, do you remember if there was
9 more than one meeting before this meeting of
10 this same committee?

11 A. I can't remember.

12 Q. How much did this committee
13 meet?

14 MR. HART: Objection, asked and
15 answered.

16 A. Once or twice a year.

17 Q. Do you remember any meetings
18 subsequent to this meeting that's referred to
19 in Exhibit number 12?

20 A. No specific meetings.

21 Q. Do you recall that there were
22 any meetings after this meeting referred to
23 in Exhibit 12?

24 A. To the best of my knowledge the
25 committee is active to this day.

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1 Q. Do you remember whether
2 Mr. Fletcher was present at any meetings
3 previous to the one mentioned in Exhibit
4 number 12?

5 MR. HART: I object to the
6 form. If he doesn't remember previous
7 meetings, he can hardly be expected to
8 remember Mr. Fletcher's presence at any of
9 those meetings --

10 MR. GREGG: Mr. Hart, I think an
11 objection to form is appropriate. Otherwise
12 I think Counsel for Dr. Hatton is quite ready
13 and able to make the objections which you
14 have just broached.

15 Q. Let me rephrase the question.

16 MR. HART: I appreciate the
17 point. I need to respond on the record.

18 Obviously I'm here to represent
19 Texas Eastern, and protect its rights.
20 That's what I'm doing. I am not by any means
21 doubting the ability of Dr. Hatton's
22 Counsel.

23 Q. Do you remember the question,
24 Dr. Hatton?

25 A. Well, it had something to do with the

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1 attendance of Mr. Fletcher at meetings.

2 Q. At meetings previous --

3 A. I previously stated that I cannot
4 remember the specific meetings.

5 The membership list provided
6 says Mr. Fletcher was a member of the group.
7 If the group met, he may or may not have
8 attended.

9 Q. I'd like to refer you now to
10 yesterday's Exhibit number 13.

11 Your testimony yesterday was
12 that you did not recall giving the
13 information contained in this Exhibit, and
14 that other people were responsible for
15 contacts with Texas Eastern during the
16 changeover period.

17 MR. HART: Objection to form. I
18 mean, I object to the characterization.

19 Q. Is that a valid representation
20 of your testimony yesterday?

21 A. Yes.

22 Q. When you referred to other
23 people, who were those other people?

24 MR. DAVIDSON: Hang on just a
25 minute. Let me -- I'm going to object to

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1 your characterization of the testimony,
2 because you said during the changeover period
3 that -- I don't think is correct.

4 And what he was saying was that
5 in 1981 when this document is dated, someone
6 else was responsible for communications, and
7 he had no recollection of this.

8 Q. During --

9 MR. DAVIDSON: That's not the
10 changeover period.

11 MR. PIERDINOCK: Okay.

12 A. No. May I ask what the question is?

13 Q. I'm formulating it.

14 During the period around January
15 23rd, 1981, do you know the people who were
16 responsible for contacts between Monsanto and
17 Texas Eastern?

18 A. No.

19 Q. During the period that you
20 described yesterday as the changeover period,
21 are you aware of the identity of people who
22 were responsible for contacts between
23 Monsanto and Texas Eastern?

24 MR. HART: Objection to form.
25 I'm not sure he used that phrase.

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1 A. What date are you talking about?

2 Q. The period of the changeover at
3 Texas Eastern from PCB containing lubricants
4 to non-PCB containing lubricants. Your
5 awareness of that time period.

6 MR. HART: Is there a question?

7 MR. PIERDINOCK: Yes.

8 Q. Would you like me to rephrase
9 the question?

10 A. I would like to have a specific
11 question. I would like to know exactly what
12 your question relates to.

13 Q. During your understanding of the
14 changeover period, and by the changeover
15 period I'm referring to the changeover of
16 Texas Eastern from PCB containing fluids to
17 non-PCB containing fluids. Do you know who
18 the people were who were responsible for
19 contacts between Monsanto and Texas Eastern?

20 MR. HART: Objection.

21 A. In January, 1972 I was brought back
22 into the program and was responsible, along
23 with Larry Bradford, for contacts at that
24 time.

25 The major meeting we discussed

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1 yesterday is Exhibit 5. I continued that
2 until at least mid-'72.

3 There is also -- Exhibit 10
4 details a visit in that time frame.

5 The local salesmen, John
6 Frederiksen, was responsible for contacts
7 with Texas Eastern. Somebody in marketing
8 out of St. Louis was responsible for
9 introducing phosphate ester.

10 Q. Were those all the people that
11 you remember?

12 MR. DAVIDSON: For Monsanto
13 Company?

14 MR. PIERDINOCK: Excuse me?

15 MR. DAVIDSON: For Monsanto.

16 MR. PIERDINOCK: For Monsanto,
17 yes.

18 A. Don Roush was the specific one
19 following the introduction of Turbinol 1122.

20 Q. Is that all?

21 A. Yes, sir.

22 MR. PIERDINOCK: That's all I
23 have right now. But I might have to come
24 back with a few questions later.

25 I'd like to defer to Don, unless

R. E. Hatton

1 you'd like to take a break.

2 MR. DAVIDSON: Let's take a
3 relief break.

4 (There is a recess.)

5 CROSS-EXAMINATION BY MR. GREGG:

6 Q. Dr. Hatton, my name is Michael
7 Gregg. I'm with the firm of Pretzel and
8 Stouffer in Chicago, and we represent
9 Prudential Reinsurance Company in this case.

10 And I, too, just want to clarify
11 in my own mind a couple of things you've said
12 previously.

13 A. Yes.

14 Q. From my own understanding, was
15 the ratio of chlorinated material to
16 tricresyl phosphate the same in OS-81 as in
17 MCS-153?

18 I believe you testified that in
19 the OS-81 it was about 90 to ten. Was it a
20 similar ratio?

21 MR. HART: I'll object.

22 A. Approximately.

23 Q. When you made your visits to
24 Texas Eastern, was it your practice to take
25 handwritten notes?

R. E. Hatton - PROTECTED

1 A. Yes.

2 Q. And what would you use those
3 notes for after the meetings, if anything?

4 A. They were used to prepare Call
5 Reports, and then discarded.

6 Q. And that was going to be my next
7 question. They were always discarded.

8 A. Uh-huh.

9 Q. So, to your knowledge,
10 handwritten notes of your personal visits
11 would no longer exist in Monsanto?

12 A. That is correct.

13 Q. Did you prepare reports or Call
14 Reports for each of your visits to Texas
15 Eastern?

16 MR. DAVIDSON: If you remember.
17 You mean he, personally, prepared --

18 MR. GREGG: That would be my
19 question. He personally prepared.

20 A. I cannot state definitely that I
21 prepared reports of this. But there would
22 have been a Call Report issued.

23 And if I went in company with
24 someone else, such as the local salesman, and
25 -- that might have served as sufficient

R. E. Hatton - PROTECTED

1 record.

2 Q. You may not know the answer to
3 this question, but do you know who at
4 Monsanto asked Earl Farmer for permission to
5 use his 1970 paper?

6 A. No, I do not know who the specific
7 person is.

8 Q. I believe you testified
9 yesterday that no one from Texas Eastern ever
10 asked you, personally, what the best
11 technique to clean chlorinated materials from
12 the pipeline would be.

13 My question for you today is,
14 did you ever hear of anyone else from
15 Monsanto being asked that question?

16 A. I have no direct knowledge.

17 Q. Do you have any indirect
18 knowledge?

19 A. Yesterday you circulated Exhibit 13,
20 which indicates that somebody did.

21 Q. But as you sit here today, you
22 can't give us a name of any Monsanto employee
23 who that question was framed to?

24 A. No.

25 Q. As long as we're on Exhibit 13,

R. E. Hatton - PROTECTED

1 do you know anyone at Texas Eastern with the
2 first name of Earl?

3 MR. HART: Objection to form.

4 Also asked and answered.

5 MR. GREGG: I don't believe he's
6 commented on that question.

7 A. Earl Farmer is the one I know.

8 Q. Do you know anyone at Texas
9 Eastern named Tom, or at Texas Eastern --

10 A. I cannot remember anyone --

11 Q. All right.

12 A. -- named Tom.

13 Q. Who from Monsanto was
14 responsible for the field tests of Turbinol
15 1122 at the Texas Eastern facilities?

16 A. Don Roush.

17 Q. Do you know whether Mr. Roush is
18 still employed at Monsanto?

19 A. He is not.

20 Q. Is he deceased or alive?

21 A. I have not heard from him in a number
22 of years. I assume he is still alive.

23 Q. A couple of other individuals;
24 T.L. Gossage, is he alive to your knowledge?

25 A. I just don't know.

R. E. Hatton

1 Q. So further, you wouldn't know if
2 he's still at Monsanto.

3 A. No.

4 Q. What of M.T. Johnson? Is he
5 alive to your knowledge --

6 A. Yes, I don't know.

7 Q. Similarly you wouldn't know if
8 he's employed by Monsanto any longer?

9 A. I do know that he is not employed by
10 Monsanto at this time.

11 Q. You commented this morning that
12 Celanese and E.F. Houghton were your major
13 or, perhaps primary or only competitors in
14 the field of synthetic lubricating fluids,
15 fire-resistant lubricating fluids. And I
16 believe you also commented that each of those
17 manufacturers used or employed straight
18 phosphate esters.

19 A. That is correct.

20 Q. Why did Monsanto use phosphate
21 based esters, including chlorinated
22 materials, as opposed to straight phosphate
23 esters?

24 A. We believed, and I still believe that
25 they made better products.

R. E. Hatton

1 Q. In what way?

2 A. In the applications in which we used
3 them, namely fire resistance and stability.

4 Q. Okay.

5 MR. GREGG: I've got no further
6 questions. Thank you, Dr. Hatton.

7 MR. HART: I'd like the record
8 to reflect that it's twenty of eleven.

9 MR. PUPKE: It's twenty of
10 twelve New York time.

11 CROSS-EXAMINATION BY MR. PUPKE:

12 Q. Good morning, Mr. Hatton.

13 MR. PUPKE: Off the record.

14 (A discussion takes place off
15 the record.)

16 Q. Good morning Mr. Hatton.

17 A. Good morning.

18 Q. I introduced myself to you
19 yesterday. I'll do it one more time.

20 My name is Don Pupke, and I'm an
21 attorney with Rivkin, Radler, Dunne and
22 Bayh.

23 We represent Associated Electric
24 and Gas Insurance Services and National
25 Surety in this action.

R. E. Hatton

1 Now, I'm going to ask you a
2 series of questions, and I hope that I won't
3 repeat any areas that have previously been
4 gone over. And judging by the tenor of your
5 answers so far, if I do, I'm sure you'll
6 remind me.

7 But I hope that -- I do intend
8 to go on into areas that have already been
9 touched on, hopefully not repeating the
10 questions. But, as insurers each of us are
11 on the risk at different policy periods, and
12 different areas of this investigation are
13 important to different insurers.

14 So, I hope you will forgive me.

15 MR. PUPKE: Can we go off the
16 record for a second.

17 (A discussion takes place off
18 the record.)

19 MR. PUPKE: Just subsequent, in
20 the off the record conversation I had asked
21 Counsel for both Texas Eastern and Mr. Hatton
22 if they would stipulate to the fact that --
23 or the assumption that the documents produced
24 by Monsanto which are introduced as exhibits
25 in this deposition are, in fact, business

R. E. Hatton

1 records created and maintained in the
2 ordinary course of business.

3 We have come to an agreement,
4 and I'll let Mr. Davidson speak.

5 MR. DAVIDSON: With respect to
6 what has been identified as Hatton Exhibit
7 number one, I am unable to state that that is
8 maintained in the files of Monsanto, although
9 it appears to be a document created by a
10 Monsanto employee.

11 Number 2 is a document created
12 by Monsanto in the ordinary course of
13 business, and maintained in its files.

14 I have no statement with respect
15 to Number 3.

16 Number 4 are several pages of
17 memoranda that are Monsanto business records,
18 created in the ordinary course of business,
19 and maintained in its files.

20 Number 5 is a Call Report
21 created by Monsanto, and maintained in the
22 ordinary course of business in its files.

23 The same is true for number 6.

24 No comment with respect to
25 number 7.

R. E. Hatton

1 Number 8 is a form Call Report
2 created by Monsanto in the ordinary course of
3 business, and maintained in its files.

4 The same is true for number 9.

5 The same is true for number 10,
6 except it does not appear on the form. It is
7 a Call Report created by Monsanto in the
8 ordinary course of business, and maintained
9 in its files.

10 I have no comment with respect
11 to number eleven, twelve, thirteen, or
12 fourteen.

13 Hatton Exhibit number 15 appears
14 to be a document created by Monsanto, a
15 communication to Texas Eastern. This
16 particular document was not produced by
17 Monsanto, but to the best of my knowledge, it
18 was produced -- a copy of this document was
19 produced by Monsanto to the parties.

20 Hatton Exhibit number 16 is a
21 memoranda -- portions of a memorandum
22 created by Monsanto in the ordinary course of
23 business, and maintained in its files.

24 And number 17 is an internal
25 report created by Monsanto in the ordinary

R. E. Hatton - PROTECTED

1 course of business, and maintained in its
2 files.

3 MR. PUPKE: Now, off the
4 record.

5 (A discussion takes place off
6 the record.)

7 MR. PUPKE: Mr. Hart, don't you
8 have any disagreement with that?

9 MR. HART: Only to the extent
10 that it's my understanding that Mr. Davidson
11 is here representing Monsanto, as well as the
12 witness. Is that correct?

13 MR. DAVIDSON: True.

14 MR. HART: Okay.

15 Q. Mr. Hatton, before I get
16 started, I just wanted to have you look at
17 Hatton 15, please.

18 Here. You can just look at
19 mine --

20 A. I have it now.

21 Q. Okay. Mr. Hatton, you created
22 this document at about the time or the date
23 on the above right-hand corner, December 8,
24 1975?

25 A. Yes.

R. E. Hatton

1 Q. Is that your signature in the
2 signature line in the lower right-hand
3 corner?

4 A. That's my secretary's signature, in my
5 absence.

6 Q. Did you authorize your secretary
7 to sign that document on your behalf?

8 A. Certainly.

9 Q. Okay. That's all about that.

10 Mr. Hatton, for the record --

11 Dr. Hatton, would you please state your
12 address and date of birth for the record?

13 A. Current address, 406 Claybrook Lane,
14 Kirkwood, Missouri 63122.

15 Phone number, area code 314 -
16 822-0215.

17 Q. Had you met with your Counsel
18 prior to being deposed here today, or today
19 and yesterday?

20 A. Certainly.

21 Q. When did you meet with your
22 Counsel?

23 A. Approximately --

24 Q. Was it several meetings --

25 A. Approximately --

R. E. Hatton

1 Q. -- was it one?

2 A. -- approximately a week ago Monday --
3 last Monday, whatever that date may be, and
4 Tuesday afternoon.

5 Q. Did you review any documents in
6 preparation for this deposition?

7 A. Yes.

8 Q. Do you have a recollection of
9 which documents you reviewed in preparation?

10 Were there more than ten
11 documents that you reviewed? Was it the
12 Monsanto production? I'm just trying to
13 refresh your recollection.

14 A. It was a collection of documents.
15 I -- do not remember asking the question
16 whether it was all the documents that were
17 furnished or not. But, it was from that
18 collection, I know.

19 Q. It was from the documents which
20 were produced by Monsanto to --

21 A. Yes.

22 Q. -- the carriers.

23 A. Yes.

24 Q. Were there any additional
25 documents that had not been produced by

R. E. Hatton

1 Monsanto to the carrier that you reviewed
2 prior to your testimony?

3 A. No.

4 Q. Did you speak with or meet with
5 Texas Eastern's Counsel prior to your
6 deposition?

7 A. No.

8 Q. Did anyone from the law firm of
9 Covington & Burling contact you prior to your
10 deposition?

11 A. No.

12 Q. Are you finished?

13 MR. DAVIDSON: That is the firm
14 representing Texas Eastern.

15 Q. Okay. I'm sorry.

16 A. Yeah, I was a little confused as to, I
17 wanted to be sure that was the right firm.

18 You people confuse me with your
19 names.

20 No, I had no contact with Texas
21 Eastern --

22 Q. Texas Eastern --

23 A. -- in the recent past, or their
24 lawyers.

25 Q. Or their Counsel.

R. E. Hatton

1 Did you have any contact in the,
2 say, from November, 1985 to the present with
3 anyone from Texas Eastern?

4 A. I do not remember any specific
5 contacts.

6 Q. Do you remember any general
7 contacts with anyone from Texas Eastern?

8 A. No.

9 Q. Did you ever speak with Mr.
10 Woods in the past five years regarding the
11 Texas Eastern --

12 A. No.

13 Q. -- PCB --

14 A. No.

15 Q. Did you ever speak with anyone
16 from Roy F. Weston, Inc. regarding Texas
17 Eastern and their use of Turbinol?

18 A. I cannot remember any contacts.

19 Q. Were you ever contacted within
20 the last five years by anyone from a company
21 named ERT Corporation? That's ERT
22 Corporation regarding Texas Eastern's PCB
23 usage?

24 A. I do not remember.

25 Q. Were you contacted by anyone

R. E. Hatton

1 from Bechtel, Inc. in the past five years
2 regarding Texas Eastern's usage of
3 Turbinol --

4 A. No.

5 Q. You've testified that -- by the
6 way, when I characterize any of your
7 testimony, I'm not trying to state
8 definitively what you said. I'm just trying
9 to use your testimony as a way of going back
10 to an area that had been touched on.

11 I don't mean to characterize
12 your testimony. Nor do I intend to state
13 that what I say you said is in fact word for
14 word what you said. I'm just trying to get
15 the flavor so as to remind you of what was
16 said generally.

17 You testified yesterday to the
18 effect that you have previously been deposed,
19 you said you were not sure, approximately 15
20 times or so.

21 A. Uh-huh.

22 Q. Okay. Is that a fair statement
23 for what --

24 A. I still don't have a definite number.

25 Q. But we can say it's --

R. E. Hatton

1 A. Numerous times.

2 Q. Numerous times. Numerous,
3 meaning perhaps greater than ten times --

4 A. Uh-huh.

5 Q. -- you've been deposed. And
6 when you say greater than ten, or numerous
7 times, do you mean -- I'm sorry.

8 When you say greater than ten,
9 do you mean a total of ten days, or ten
10 separate depositions, or --

11 A. I would be speaking of cases and not
12 time period.

13 Q. Now, when you have testified in
14 the past, was your testimony with regard to
15 your role, or the jobs you performed at
16 Monsanto?

17 A. Yes.

18 Q. Was it regarding functional
19 fluids at any of those previous -- did your
20 testimony regard the creation of functional
21 fluids?

22 A. Certainly.

23 Q. Do you remember if any of the
24 depositions you have given in the past were
25 regarding Texas Eastern's usage of Turbinol?

R. E. Hatton

1 A. No depositions were given on that.

2 Q. Were you --

3 A. That area.

4 Q. Were you ever asked to make a
5 statement, or give a written statement to
6 anyone regarding Texas Eastern's usage of
7 Turbinol, or its predecessor functional
8 fluid --

9 MR. HART: In the last five
10 years?

11 A. With what period -- in what time
12 period?

13 Q. I'll accept Counsel for Texas
14 Eastern's suggestion. The last five years,
15 say the mid-1980s forward.

16 A. No.

17 Q. How about prior to that period?

18 MR. DAVIDSON: You're talking
19 about any kind of statement, or affidavit.

20 MR. PUPKE: Legal statement of
21 some sort, or deposition --

22 MR. HART: I'm not sure what you
23 mean by legal statement.

24 MR. PUPKE: A deposition or an
25 affidavit.

R. E. Hatton

1 MR. DAVIDSON: Okay. Deposition
2 or affidavit. A sworn affidavit or
3 deposition.

4 A. Let me note, limited to that?

5 Q. Yes.

6 A. And the answer is no.

7 Q. Okay. If we were to expand it
8 to testimony in Court, doesn't --

9 A. No.

10 Q. Okay. Did you ever meet with
11 anyone from a State environmental agency to
12 discuss Texas Eastern's use of Turbinol or
13 its predecessor functional fluid?

14 A. No.

15 Q. Have you ever met with anyone
16 from the Environmental Protection Agency, or
17 discussed this matter with anyone from the
18 Environmental Protection Agency?

19 A. No, thank God.

20 Q. Have you ever given a deposition
21 in a matter concerning General Electric
22 Corporation?

23 A. No depositions.

24 Q. Were you asked to participate in
25 one way or another in a General Electric

R. E. Hatton

1 litigation?

2 A. No.

3 Q. Were you ever contacted by
4 anyone from General Electric concerning PCB
5 contamination?

6 A. What time period?

7 MR. HART: Objection to form.

8 Q. Prior to the mid-1980s.

9 A. Yes.

10 Q. Can you give me the
11 circumstances of that?

12 MR. DAVIDSON: I'm going to
13 object to the relevance of this to the
14 matters for which he's designated to
15 testify --

16 MR. PUPKE: I appreciate
17 Counsel's concern.

18 I'm sorry, I didn't mean to step
19 on you.

20 MR. DAVIDSON: That's all right.

21 MR. PUPKE: I appreciate
22 Counsel's concern. I do ask your
23 indulgence. I'm just trying to get
24 background information as to testimony that
25 he has given in the past on this subject

R. E. Hatton

1 matter, and the litigation involved.

2 MR. DAVIDSON: He said that he
3 hadn't given any.

4 A. I will answer the question this way;
5 the year -- I spent most of the year 1975
6 dealing with replacements for Askerel,
7 A-s-k-e-r-e-l, which is basically a PCB
8 containing dielectric used in capacitors and
9 transformers.

10 As major producers of
11 transformers, I made numerous contacts with
12 General Electric people in terms of that
13 particular application, and discussion of the
14 products we had.

15 MR. DAVIDSON: Okay. Now, as I
16 understand -- let me jump in here.

17 As I understand, what you're
18 inquiring about is instances of statements
19 under oath with respect to the subject
20 matter, and not business contacts or that
21 sort of things?

22 MR. PUPKE: No, his answer is
23 satisfactory.

24 MR. DAVIDSON: Okay.

25 MR. HART: He broadened it

R. E. Hatton

1 beyond litigation.

2 MR. DAVIDSON: All right.

3 A. I'm sorry.

4 Q. That's okay. I think I'm at
5 this point going to give you some reading
6 material, and I have three documents here
7 that I'd like to introduce.

8 MR. PUPKE: The next number is
9 18; is that correct?

10 THE REPORTER: Yes.

11 MR. PUPKE: Eighteen, nineteen
12 and twenty.

13 MR. DAVIDSON: Mark them all?

14 MR. PUPKE: Yes, may as well.

15 (Document entitled,
16 "Fire-Resistant Lubricants in Gas Turbines"
17 by Earl P. Farmer, Jr., Bates Nos. 010037959
18 through 010037968, is marked Hatton-18 for
19 identification.)

20 (Document entitled "Part 1 -
21 Synthetic Lube Reduces Fire Hazard At Turbine
22 Stations" by O.M. Fletcher, dated June, 1960,
23 Bates Nos. U000029 through U000035 is marked
24 Hatton-19 for identification.)

25 (Document entitled, "Part

R. E. Hatton - PROTECTED

1 2-Synthetic Lube Reduces Fire Hazard at
2 Turbine Stations" by O.M. Fletcher, Bates
3 Nos. U000036 through U000040 is marked
4 Hatton-20 for identification.)

5 MR. PUPKE: Number 18 is a
6 document entitled, "Fire-resistant Lubricants
7 In Gas Turbines" by Earl P. Farmer, Jr.

8 It has a Bates stamp number
9 010037959, numbered consecutively through
10 010037968.

11 The next document is Exhibit
12 19. It's a document entitled "Part 1 -
13 Synthetic Lubricant" -- I'm sorry,
14 "Synthetic Lube Reduces Fire Hazard At
15 Turbine Stations."

16 It's authored by O.M. Fletcher,
17 Assistant Supervisor of Design and
18 Construction, Texas Eastern Transmission
19 Corporation, Shreveport, Louisiana.

20 It appears to be from a magazine
21 article, which is from a magazine entitled
22 "Pipeline Industry," dated June, 1960, and it
23 bears -- I hope it bears. Okay.

24 It bears -- well, it's a Texas
25 Eastern produced document. I can't really

R. E. Hatton - PROTECTED

1 read the numbers. I believe it can be
2 U000029 through U000035.

3 And the final document that I'm
4 introducing is a document entitled, Part 2-
5 "Synthetic Lube Reduces Fire Hazard At
6 Turbine Stations." Again, by Dr. O.M.
7 Fletcher.

8 Q. Am I right? Is he is a doctor?

9 A. No.

10 Q. I'm sorry.

11 MR. PUPKE: I withdraw that
12 doctor designation.

13 By O.M. Fletcher, Assistant
14 Supervisor of Design and Construction.

15 It is a document bearing Bates
16 number U000036 through 40.

17 MR. HART: And these should all
18 be shown as protected documents.

19 MR. DAVIDSON: He's ready to go
20 forward on that one with you.

21 MR. PUPKE: Sure.

22 Q. Dr. Hatton, in your testimony
23 previously you've referred to an article by
24 Earl Farmer as the basis for your answer on a
25 few different occasions.

R. E. Hatton - PROTECTED

1 And I wanted to know if this, in
2 fact, is the article that you had referred to
3 in your previous answers.

4 A. Yes.

5 MR. HART: To the best of his
6 knowledge.

7 Q. Did you have occasion to read
8 this article after I gave it to you? Peruse
9 it, I should say.

10 A. Scan.

11 Q. Are you familiar with the
12 contents of this article?

13 A. Generally.

14 Q. Were you familiar prior to your
15 deposition here today?

16 Let me rephrase the question.

17 A. Yeah, that question is awfully hard to
18 answer.

19 Q. Had, prior to your testimony,
20 did you have occasion to read this article?

21 A. At the time the article was written
22 and given to -- shown to Monsanto, I read it
23 at that time.

24 MR. DAVIDSON: And, Counsel,
25 it's one of the documents, or a similar

R. E. Hatton - PROTECTED

1 document was produced by Monsanto and was one
2 of the documents reviewed in preparation --

3 MR. PUPKE: Right.

4 MR. DAVIDSON: -- preparation
5 for deposition.

6 MR. PUPKE: I realize that.

7 Q. Hatton-2 indicates that, on page
8 2 it indicates that they are including
9 abridged excerpts from a paper entitled,
10 "Fire-resistant Lubricants In Gas Turbines."

11 The paper was presented during
12 the annual meeting of the American Society of
13 Lubrication Engineers in Chicago on May 4th
14 through 7th, 1970.

15 Is it your testimony that you
16 read this article at about that time?

17 A. Yes.

18 Q. Okay. I'll get back to this.

19 Would you please turn to Hatton
20 Exhibit 19 and Exhibit 20. Part 1 is 19,
21 Part 2 is 20.

22 A. Part 2 is 20.

23 Q. When you're ready. Take your
24 time, though.

25 A. (The witness reviews the document.)

R. E. Hatton - PROTECTED

1 MR. PUPKE: Just for the record,
2 the second page on Hatton 19 appears not to
3 relate at all to this article, the best I can
4 tell.

5 Unless -- but that's the way it
6 was produced to us. So, it doesn't -- page
7 one feeds into page three, I believe.

8 MR. HART: Off the record.

9 (A discussion takes place off
10 the record.)

11 Q. Are you ready --

12 MR. PUPKE: Off the record.

13 (A discussion takes place off
14 the record.)

15 Q. Are you ready to proceed, Dr.
16 Hatton?

17 A. Yes.

18 Q. You've had an opportunity to
19 review Exhibit 19 and Exhibit 20.

20 A. Yes.

21 Q. Did you have a chance to read
22 those documents?

23 A. I have scanned them.

24 Q. Have you seen these documents
25 prior to today, excluding any review you may

R. E. Hatton - PROTECTED

1 have had with Counsel?

2 A. Oh, yes.

3 Q. When did you first see these
4 articles?

5 A. I will use the date on the article to
6 come close to a date. And it was sometime --

7 Q. At about the time --

8 A. -- at about the time of publication,
9 which is stated here to be June, 1960.

10 Q. Did Mr. Fletcher contact you
11 during his preparation of these articles for
12 any input you may have into the information?

13 Did Mr. Fletcher ever contact
14 you prior to the publication of this article
15 to inform you that he was planning on writing
16 these articles?

17 A. I don't remember it.

18 Q. In reviewing these documents, is
19 there anything in these documents which would
20 give you reason to believe that Dr. Fletcher
21 contacted you, or that Mr. Fletcher contacted
22 you prior to the publication of these
23 articles regarding information for these
24 articles?

25 MR. HART: I'll object. That's

R. E. Hatton - PROTECTED

1 a little broad, I think.

2 A. Physical property data in here were
3 generated by Monsanto. And somewhere along
4 the line they were obtained by Mr. Fletcher,
5 or somebody at Texas Eastern.

6 Q. Did you ever give this
7 information you just spoke about to someone
8 at Texas Eastern at about the time of this
9 article?

10 A. The information in the OS-81 product
11 bulletin was a type of information that had
12 been provided to them, and which is covered
13 here.

14 Q. On Hatton Exhibit 19, on page --
15 the third page, which is U000031, it's sort
16 of cut off at the bottom. It's one with the
17 picture on the top of the page --

18 A. Yes.

19 Q. -- of a flame torch being used
20 to ignite or not ignite synthetic lube oil.

21 There is a semi-heading there on
22 the left-hand column. It says, "What Are The
23 Lubricants?" In bold print.

24 And it goes on to state that,
25 "At the present stage of development,

R. E. Hatton - PROTECTED

1 fire-resistant lubricants offered for turbine
2 application can be separated on the basis of
3 a formulation into five general groups."

4 Yesterday you testified as to
5 different groups of fire-resistant
6 lubricants. Is this consistent with your
7 testimony --

8 A. Yes --

9 MR. HART: I object. I don't --

10 MR. PUPKE: Is your objection to
11 form, Mr. Hart?

12 MR. HART: Yes, it is.

13 MR. PUPKE: Okay. Thank you.

14 MR. HART: And I'm going to
15 spell it out.

16 I don't know how you can say is
17 what's in this article consistent with his --

18 MR. PUPKE: All right.
19 That's -- that's an objection to form.

20 MR. HART: All right.

21 MR. PUPKE: And I will try to
22 correct it for your edification.

23 Q. Dr. Hatton, is what's written
24 here consistent with what your understanding
25 of fire-resistant lubricants was in 19 --

R. E. Hatton - PROTECTED

1 the types of fire-resistant lubricants being
2 developed in 1960?

3 A. This is the classification that was
4 used by the ASTM committees at that time.

5 Q. Now, you've testified that Dr.
6 Fletcher and yourself were on a committee
7 dealing with fire-resistant lubricants; is
8 that correct?

9 A. (The witness nods his head.)

10 MR. HART: At some point.

11 A. Uh-huh.

12 Q. Do you recall if you were on the
13 same committee in about 1960?

14 A. I testified earlier I can't remember
15 when the committee came into existence, so I
16 cannot state that.

17 Q. It goes on to state, "Of these
18 five, the pure esters and the ester based
19 groups have shown most promise on paper, and
20 in lab tests; as a result very nearly all the
21 small scale field tests have been limited to
22 these two."

23 Did you have an understanding of
24 the tests that were being conducted on
25 fire-resistant lubricants at about the time

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1 of this article?

2 MR. HART: Tests being conducted
3 by whom?

4 Q. Tests being conducted -- any
5 tests being conducted by the ASTM at about
6 the time.

7 A. Yes.

8 Q. Is this statement consistent
9 with your understanding of tests being
10 conducted by the ASTM at about the time of
11 this article?

12 A. Yes.

13 Q. Do you have an understanding of
14 the -- now, we went into this yesterday, and
15 I'm not trying to go back on what we went
16 into yesterday.

17 But when it refers to ester
18 based groups, which is the -- in the first
19 sentence there, it says, "of the five the
20 pure esters and the ester based groups."

21 Do you have an understanding of
22 what the ester based groups mean?

23 A. Yes.

24 Q. Would you give me that
25 understanding?

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1 A. Any product which contained a
2 proportion of ester with some other
3 material.

4 And specifically, a group -- a
5 model compound being tested by ASTM was a
6 chlorinated material and phosphate ester
7 mixture.

8 Q. When you say a chlorinated
9 material, do you remember the composition of
10 that --

11 A. Chlorinated polyphenyl -- biphenyl,
12 specifically.

13 Q. Otherwise known as a PCB?

14 MR. HART: I object to the
15 form. And it's absolutely an unfair
16 question, and it's not right.

17 It's a nice try, Don, but it's
18 not accurate.

19 Q. Is that otherwise known as a
20 PCB?

21 MR. DAVIDSON: Is what otherwise
22 known as a PCB?

23 Q. What you just testified to.

24 MR. DAVIDSON: Well, now known
25 as a PCB?

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1 MR. PUPKE: Yes, now known.

2 Q. At the time --

3 A. It was --

4 Q. Let me --

5 A. I'm utterly confused.

6 Q. Let me go back.

7 Do you have any understanding of
8 whether or not OS-81 was the ester based
9 material which was being used in the ASTM
10 tests at about the time of this article?

11 MR. HART: I object, unless you
12 lay a foundation that there was only one such
13 fluid being used by the ASTM.

14 Q. Was OS-81, being one of --
15 either the sole, or one of many different
16 ester based fire-resistant lubricants being
17 tested by the ASTM at about the time of this
18 article?

19 MR. HART: Objection, compound.

20 A. Tests were limited to one material per
21 class for developing the specific ASTM test
22 methods. They were supplied by the various
23 manufacturers.

24 One was a pure phosphate ester.

25 Two was a Pydraul F9 type.

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1 Three was a straight Aroclor.

2 Four was a water ethylene glycol
3 mixture.

4 And five was a water petroleum
5 oil emulsion.

6 Q. When you say that two was a
7 Pydraul F9, did you say type liquid?

8 A. Yes.

9 Q. I'm sorry. Was that created by
10 Monsanto?

11 A. Yes.

12 Q. Was the material tested created
13 by Monsanto with regard to the test performed
14 on phosphate ester based?

15 A. It was supplied by Monsanto under a
16 code name, and resupplied to people
17 developing tests under those code names,
18 which were given by ASTM.

19 Q. Do you have an understanding as
20 to whether the information given here on this
21 particular page is -- whether it was drawn
22 from the ASTM tests on the various
23 fire-resistant lubricants?

24 MR. HART: Objection.

25 MR. DAVIDSON: You can only go

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1 by what the article says.

2 A. The -- are you requesting --

3 Q. With the exception --

4 A. -- the source of --

5 Q. With the exception --

6 A. Table 1.

7 Q. -- with the exception of Table
8 1.

9 (A discussion takes place off
10 the record.)

11 Q. I'm asking if you have an
12 understanding, Dr. Hatton.

13 A. I don't know where he obtained the
14 data.

15 I do not disagree with the data.

16 Q. Is this consistent with the
17 tests and results that were performed by ASTM
18 at about the time of this article?

19 MR. HART: Objection --

20 Q. Fire-resistant lubricants.

21 MR. PUPKE: Let me finish my
22 question first, Mr. Hart.

23 MR. HART: I thought you had,
24 Don. Are you finished now?

25 MR. PUPKE: Yes.

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1 MR. HART: I object to the
2 form. I have no idea what "this" refers to.

3 I have no idea what the witness'
4 prior answer was referring to, data in
5 general -- was referring to, with or without
6 your modification of excluding the table at
7 the lower right-hand column of the page.

8 In any event, I think the
9 question as pending is extraordinarily
10 ambiguous.

11 MR. PUPKE: He said he didn't
12 know where the data came from, Laird --

13 MR. HART: You said he doesn't
14 disagree. You said does that agree with the
15 tests.

16 I don't understand what's
17 pending.

18 MR. PUPKE: There is a question
19 pending.

20 If you would please let Dr.
21 Hatton concentrate, so he can answer the
22 question.

23 Q. Dr. Hatton, if you have
24 difficulty with the question, I can rephrase
25 it for your purposes.

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1 A. If you are asking the question as to
2 what the ASTM did in test work, you need to
3 understand that ASTM is a committee, and as
4 such, never published such data.

5 Cooperating people worked on
6 ASTM, and the data were returned to ASTM for
7 correlation, coordination, and eventual test
8 method write up and production.

9 The data were determined by
10 individual laboratories.

11 Q. And was one of those
12 laboratories, to the best of your knowledge,
13 a Texas Eastern laboratory?

14 A. I do not know.

15 Q. Do you have any recollection as
16 to whether Mr. Fletcher was involved in the
17 testing of fire-resistant lubricants?

18 MR. HART: Objection.

19 Q. For the ASTM.

20 A. I don't know.

21 Q. Is there -- you've reviewed
22 this article. I've asked that before.

23 Is there anything in this
24 article which refreshes your recollection as
25 to whether or not you believe that --

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1 withdrawn.

2 Is there anything in this
3 article which makes you want to change your
4 testimony as to when anyone at Texas Eastern
5 knew of the presence of PCBs in synthetic --
6 in the Texas Eastern -- in the OS-81
7 synthetic lubricating oil?

8 MR. HART: Objection to form.

9 MR. DAVIDSON: I'll object to
10 that, Don. I think as the questions have
11 been phrased with respect to when, he's tried
12 to pin it down. He says he didn't know,
13 himself.

14 If you can come up with
15 something in an article or otherwise, you can
16 obviously go with it. It sounds as if you're
17 trying to impeach his prior testimony.

18 MR. PUPKE: No, I'm certainly
19 not trying to impeach his prior testimony.

20 I'm just trying to see if this
21 may in some way refresh his recollection as
22 to what the knowledge of Texas Eastern was
23 with regard to --

24 THE WITNESS: No.

25 Q. Okay. If we turn to Exhibit

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1 Hatton 20, did you have a chance to review
2 this before?

3 MR. DAVIDSON: Before today?

4 MR. PUPKE: No. No. I mean
5 before.

6 Q. Before, while you were reviewing
7 documents. Would you please --

8 MR. DAVIDSON: I'll tell you we
9 have not seen this document before today.

10 MR. PUPKE: Okay.

11 Q. Would you please review this?

12 MR. DAVIDSON: Except to the
13 extent he's testified he saw them when they
14 were published.

15 MR. PUPKE: Okay.

16 MR. DAVIDSON: We did not review
17 these, and do not have this in our files.

18 MR. HOOK: Off the record.

19 (A discussion takes place off
20 the record.)

21 A. Yes, I have -- I have scanned this
22 document, quickly.

23 Q. On the page numbered U000039,
24 there is a section under -- on the left-hand
25 side, which goes on to the right-hand side,

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1 which is under the bold caption "Toxicity."

2 A. Uh-huh.

3 MR. HART: The product refers to
4 a minor nuisance.

5 MR. PUPKE: I'm sorry, where is
6 that from?

7 MR. HART: The end of the
8 paragraph I think you're referring to.

9 MR. PUPKE: No, I'm referring to
10 the beginning of the paragraph.

11 MR. HART: But that is the right
12 paragraph.

13 MR. PUPKE: Where it deals with
14 toxicity, and eye irritation, and other
15 irritation to the skin of the users.

16 Off the record.

17 (A discussion takes place off
18 the record.)

19 Q. Dr. Hatton, do you have an
20 understanding of the toxic nature of the
21 OS-81 lubricating oil at about the time of
22 this article, which I believe would be in
23 1960?

24 MR. DAVIDSON: I'm going to
25 object to your use of the phrase "toxic

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1 material."

2 MR. HART: Objection.

3 MR. DAVIDSON: Just answer the
4 question. Just answer the question.

5 Q. If you would like me to rephrase
6 it --

7 A. Am I aware of it?

8 Q. Were you, at the time of this
9 article, aware of the toxicity aspect of
10 OS-81?

11 A. Yes.

12 Q. And is what's stated here
13 consistent with what your understanding was
14 at about the time of the article?

15 MR. DAVIDSON: What's stated in
16 the article? Is that what you're saying?
17 You're talking the paragraph?

18 MR. PUPKE: Yes.

19 MR. DAVIDSON: What's stated in
20 the paragraph?

21 MR. PUPKE: Yes.

22 MR. DAVIDSON: And your question
23 is, is that consistent with?

24 MR. PUPKE: Yes.

25 Q. Your understanding that you just

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1 testified that you had.

2 A. My understanding is based on Appendix
3 6 of Exhibit --

4 Q. Seventeen?

5 A. -- 17. Which, in a quick reading
6 appears to be consistent with what's here.

7 Q. Your understanding in 1960 was
8 based on -- what is that? Appendix 6?

9 A. And that information was used to
10 prepare the statement in a bulletin, OS-81
11 bulletin, which is appendix -- or is
12 included in appendix -- no, it's in Appendix
13 2 --

14 Q. Well --

15 A. -- of 17, which considers toxicity
16 and handling information.

17 Those two documents cover what I
18 know.

19 Q. Okay. The question asked was,
20 was the statement regarding toxicity on page
21 number 39 of the Hatton Exhibit 20 consistent
22 with your knowledge, your understanding of
23 the toxicity of OS-81 at about the time the
24 article was written.

25 I note that the date on Hatton

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1 17 is June 29th, 1964.

2 I'm asking about a period
3 prior. If you --

4 A. I --

5 Q. -- if you can answer.

6 A. I've already answered that question.

7 MR. HART: I'm sorry. Let me
8 state my objection to the characterization
9 and the compound nature of the question
10 before you go any further.

11 MR. DAVIDSON: And if you will
12 look, and I believe the record will reflect,
13 that he's testified that the OS-81 product
14 bulletin, technical bulletin to which he is
15 referring is dated November of 1958.

16 MR. PUPKE: Okay.

17 MR. DAVIDSON: Which predates
18 1960. It states "Safe Handling And Toxicity
19 Information" and he said --

20 MR. PUPKE: Okay.

21 MR. DAVIDSON: -- it would be
22 consistent with his understanding of what
23 that says.

24 MR. PUPKE: I didn't see that
25 date. And I appreciate --

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1 MR. DAVIDSON: The OS-81
2 technical bulletin is just an attachment to
3 17, which is created in '64.

4 MR. PUPKE: I didn't see that,
5 and I appreciate your point. Okay.

6 Q. Dr. Hatton, we're done with that
7 Exhibit now.

8 While you were employed at
9 Monsanto, did you maintain personal files
10 regarding fire-resistant lubricants?

11 A. Certainly I maintained working files.

12 Q. When you say working files, what
13 do you mean?

14 A. Copies of current Call Reports,
15 research progress reports, my own
16 correspondence, so on.

17 Q. Did you maintain --

18 A. Incidentally, these were maintained at
19 the company.

20 Q. When you say these were
21 maintained at the company, do you mean after
22 you left they were maintained at the company?

23 A. No. I mean during the time period
24 they were in company owned files in my
25 office.

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1 Q. Okay. Can you describe to me
2 the type of files you maintained -- strike
3 that.

4 In 1960 when you went into the
5 development department, from the research
6 department, did you take your files, whatever
7 files you may have had from the research
8 department with you when you went into the
9 development department?

10 A. No.

11 Q. Do you know what happened to the
12 files that you had maintained while you were
13 in the research department?

14 A. No.

15 Q. In 1968 when you changed from
16 the development department to the marketing
17 department, did you maintain the files that
18 you had had when you were in the development
19 department?

20 A. No.

21 Q. Do you know what happened to
22 those files when you made the change?

23 A. No.

24 Q. Did you review those files at
25 about the time that you made the change?

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1 A. I don't remember.

2 Q. When you left the employment of
3 Monsanto did you have occasion to review your
4 files?

5 MR. DAVIDSON: Don --

6 MR. PUPKE: Withdrawn.

7 MR. DAVIDSON: I object. It
8 seems to me you're getting beyond the scope,
9 the agreed scope of this deposition with
10 these questions.

11 Monsanto has responded to the
12 document request from the carriers with the
13 materials that are available at this time
14 from Monsanto's files. And I don't see that
15 this is getting us anywhere.

16 MR. PUPKE: I appreciate your
17 concern. I am just asking for the purposes
18 of background information, to understand what
19 he maintained.

20 I have no reason to believe that
21 Monsanto did not make a full production of
22 all relevant non-privileged documents to the
23 carriers in this case.

24 MR. DAVIDSON: And I started the
25 deposition by stating that he does not

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1 maintain any personal files, other than the
2 product bulletins that have been produced by
3 Monsanto, and some of which we've been
4 discussing here. So --

5 MR. PUPKE: I think --

6 MR. DAVIDSON: -- I don't see
7 what good the background is.

8 MR. PUPKE: I think I am
9 entitled to a little leeway here, especially
10 with regard to the files that he maintained
11 and what, to the best of his knowledge,
12 occurred to those files after he left the
13 employment of Monsanto.

14 MR. DAVIDSON: That's totally
15 without the agreed parameters of this
16 deposition.

17 MR. PUPKE: I respectfully
18 disagree to the extent that he was asked to
19 produce -- or Monsanto -- withdrawn.

20 Off the record.

21 (A discussion takes place off
22 the record.)

23 Q. Dr. Hatton, you had testified
24 yesterday that you had occasion during the
25 late 1950s and into the 1960s to visit

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1 various manufacturers of centrifugal
2 compressors.

3 A. Yes.

4 Q. To the best of your knowledge,
5 were those manufacturers of the centrifugal
6 compressors -- withdrawn.

7 You had testified that one of
8 the companies you had met with was Cooper
9 Bessemer.

10 Do you recall approximately how
11 many visits you made to Cooper Bessemer at
12 about the time of the introduction of OS-81?
13 If any.

14 A. I have --

15 MR. HART: I object --

16 A. -- I have no knowledge -- or no
17 memory of the number or how many.

18 Q. When you --

19 A. The name --

20 Q. I'm sorry.

21 A. -- strikes a bell, Cooper Bessemer.

22 MR. HART: I was intending to
23 object to that question --

24 MR. PUPKE: Well, you didn't.

25 MR. HART: -- on the ground

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1 that -- well, I started, and I didn't want
2 to interrupt the witness.

3 And it's not a big deal, but I
4 want the record to reflect that there is
5 absolutely no clarity whatsoever in terms of
6 what you meant by saying at the time of the
7 introduction of OS-81.

8 MR. PUPKE: Okay.

9 Q. When you made visits to Cooper
10 Bessemer, were there several persons, or was
11 there one person that you had direct contact
12 with in the period from 19, say, '58 through
13 1968?

14 A. I can't -- my memory doesn't give
15 me --

16 Q. Okay.

17 A. -- any names.

18 Q. That's fair.

19 With regard to your visit, you
20 had testified that another one you had
21 visited was Clark Brothers, which I believe
22 is a subsidiary of Dresser Industries, and
23 may be known as either.

24 Did you have occasion to visit
25 them in the period, from 1958 to 1965?

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1 A. I remember the name --

2 Q. Do you --

3 A. -- of Clark.

4 Q. Do you remember making any
5 visits to Clark Industries in upstate New
6 York?

7 A. Not a specific call, no.

8 Q. Generally do you remember
9 visiting at Clark Brothers' offices at about
10 the period 1968 -- 1958 through '68?

11 A. It was my purpose to contact all
12 manufacturers of -- major manufacturers of
13 equipment involved in this field. And since
14 they would rate as one of the majors, I'm
15 reasonably sure that I was there at some
16 time.

17 Q. In the 1958 through 1968 period.

18 A. Yes.

19 Q. Okay. Do you recall any person
20 from --

21 A. I do not.

22 Q. -- Clark Brothers --

23 A. No.

24 Q. -- who you may have had contact
25 with during that period?

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1 A. I do not.

2 Q. With regard to the DeLaval
3 company, did you have occasion to visit the
4 DeLaval offices in the period 1958 through
5 1968?

6 A. Same situation as with Clark.

7 Q. You don't recall specifically or
8 generally --

9 A. I did not.

10 Q. -- visiting --

11 A. I do not recall, no.

12 Q. Do you recall any particular
13 person at DeLaval --

14 A. No.

15 Q. -- who you contacted?

16 A. No.

17 Q. You testified yesterday --

18 MR. PUPKE: And again, I don't
19 mean to characterize his testimony.

20 Q. -- that you had a schematic
21 knowledge of the workings of a compressor
22 system, the type of which was used by Texas
23 Eastern at their compressor stations, their
24 gas turbine compressor stations.

25 A. I do not remember the specific one,

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1 but in looking at -- I don't even know what
2 the page number is, but the diagram given in
3 the Exhibit 20 is similar to the types of
4 things that we had available to us.

5 Q. That's the -- assuming the
6 pages are numbered consecutively that would
7 be U000038, and you're referring to the
8 diagram on the top --

9 A. Yeah.

10 Q. -- of that --

11 A. Yeah.

12 Q. -- page.

13 A. Yes.

14 Q. Okay. When you had occasion to
15 contact the manufacturers of the centrifugal
16 compressors, did any of them ever provide you
17 with a schematic of the workings of their
18 compressor system?

19 MR. DAVIDSON: If you recall.

20 A. I cannot recall specific transfer of
21 information.

22 Q. Can you recall generally if you
23 were given the schematics for that?

24 A. Our working files contain product
25 literature from the major manufacturers --

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1 Q. Including --

2 A. -- and I assume they were -- a
3 lubricating system was nearly always
4 included --

5 Q. Do you --

6 A. -- in compressor and turbine
7 manufacturers' --

8 Q. Do you --

9 A. -- information.

10 Q. I'm sorry, I keep on stepping on
11 your answers.

12 Do you have any general
13 recollection as to whether you had an
14 opportunity to review the schematics for the
15 Texas Eastern centrifugal compressors during
16 the period of the 19 --

17 A. No.

18 Q. -- late 1950s through the 1960s?

19 A. I have no --

20 MR. HART: Objection.

21 A. -- recollection.

22 Q. When you testified yesterday as
23 to a schematic knowledge of the workings of
24 the -- of a centrifugal compressor, what was
25 the basis for your testimony?

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1 MR. HART: I'm going to object
2 to the characterization.

3 MR. PUPKE: I don't mean to
4 characterize his testimony. I'm just trying
5 to --

6 MR. HART: You're asking him for
7 the basis of something I don't think he
8 said. I don't think he ever said anything
9 about his schematic knowledge.

10 I may be wrong, but I don't
11 think so.

12 MR. PUPKE: I'll go back and go
13 over area that was covered yesterday, for
14 your information.

15 Q. Dr. Hatton, during the period
16 from the late 1950s to the early 1970s, did
17 you have an understanding of the workings of
18 centrifugal compressor systems in use at
19 Texas Eastern?

20 A. Not of the systems.

21 Q. All right. Did you have an
22 understanding of the high pressure seal or
23 lubricant seal in use in the centrifugal
24 compressors used by Texas Eastern during the
25 period the late 1950 through the early 1970s?

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1 A. Will you repeat that question?

2 Q. Sure. Let me go back a little
3 bit.

4 In your position in the
5 development and marketing departments, did
6 you ever have occasion to become familiar
7 with, or to get any sort of knowledge of the
8 Texas Eastern seal oil system which was in
9 use in their centrifugal compressors?

10 MR. HART: Objection, compound..

11 MR. PUPKE: It was compound
12 because I clarified.

13 MR. HART: So your question now
14 is any kind of knowledge? And you've
15 stricken the familiar part?

16 MR. DAVIDSON: You want to
17 refine your question --

18 Q. If you'd like me to rephrase the
19 question again --

20 A. No, it seems to me like it's very
21 broad in requesting information on numerous
22 things, including the mechanical functions of
23 these systems, and that I'm not experienced
24 in.

25 Q. You testified yesterday as to

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1 the workings of a centrifugal compressor, and
2 the use of the OS-81, or Turbinol or MCS-153,
3 the use of the fire-resistant fluid in
4 that -- in that system.

5 MR. HART: I object to the
6 characterization.

7 MR. PUPKE: I'm not
8 characterizing his testimony.

9 MR. HART: I understand. I need
10 to state it anyway, Don.

11 A. I believe I testified to the fact that
12 I knew the conditions under which the fluid
13 would be exposed. And -- and was
14 particularly concerned as to how these
15 conditions would put requirements on the
16 development of the fluids --

17 Q. When you said --

18 A. -- such things as if it was pressured,
19 it had to maintain -- or had to withstand
20 high pressure. Properties such as that.

21 Now, the information was in
22 terms of the properties that were required.

23 Q. And the properties, when you say
24 the properties that were required, they were
25 required by Texas Eastern, to the best of

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1 your knowledge?

2 A. They were required --

3 MR. HART: Objection. Go ahead.

4 A. They were required by the equipment.

5 MR. PUPKE: I'm going to
6 introduce Exhibit 21, which is a document
7 entitled, "Texas Eastern Transmission
8 Corporation Fire-resistant Lubricating Oils
9 for Gas Turbines and Centrifugal Compressors,
10 Specifications and General Data - Acceptable
11 Fluids - August, 1962."

12 It bears Bates stamp number --
13 and forgive me if I don't read this
14 correctly, but it's semi-illegible.

15 It's 00531534 and 535.

16 MR. GREGG: This is protected
17 material.

18 (Document entitled, "Texas
19 Eastern Transmission Corporation
20 Fire-resistant Lubricating Oils for Gas
21 Turbines and Centrifugal Compressors,
22 Specifications and General Data - Acceptable
23 Fluids - August, 1962," Bates Nos. 00531534
24 through 00531535, is marked Hatton-21 for
25 identification.)

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1 Q. Dr. Hatton, I hand you Exhibit
2 Hatton-21. Have you had an opportunity to
3 review this Exhibit?

4 A. Yes.

5 Q. Have you ever seen this document
6 before today?

7 A. I do not remember.

8 Q. This document appears to
9 contain -- it states up top that it contains
10 specifications and general data of acceptable
11 fluids, August, 1962.

12 MR. PUPKE: The word "of" is not
13 in there.

14 Q. And on the right-hand columns --
15 there are two columns, one is capped OS-81
16 (Monsanto), and the other is MCS-153
17 (Monsanto).

18 Did you have occasion to provide
19 any information to Texas Eastern regarding
20 the characteristics described here at about
21 August, 1962?

22 A. Information listed here appears to
23 have come from technical bulletins on the two
24 products. Either come from, or been readily
25 derivable from, in terms of viscosity data or

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1 something like that.

2 Q. When -- in the right-hand
3 column towards the top of the page it states
4 that the type of material for OS-81 and
5 MCS-153 is chlorinated phosphate ester, is
6 that a true statement?

7 MR. HART: Objection to form.
8 Is it a true statement that that's what it
9 says?

10 The document speaks for itself.

11 Q. Is that a true statement as to
12 the type of material in each of those two
13 materials?

14 A. That was common nomenclature at the
15 time.

16 Q. When you say common
17 nomenclature, what do you mean?

18 A. It is a designation that would have
19 been used by people working in the field.

20 Q. When you say people working in
21 the field, I -- I don't understand.

22 MR. HART: Is there a question
23 pending?

24 A. It goes all the way from chemists to
25 engineers.

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1 Q. Can we use the term scientific
2 community? Would that be fair?

3 MR. HART: Objection.

4 A. Scientific community has to be
5 defined.

6 Q. Okay. We're going to define
7 definitions here if we keep on going.

8 It states that the -- it goes
9 on, number 4, it sets specific gravity. And
10 it gives various temperatures in Fahrenheit.
11 And it gives what are the apparently specific
12 gravities for each of the -- for Monsanto
13 OS-81 and Monsanto MCS-153.

14 Without asking you to verify the
15 test results here, can you -- do you have an
16 understanding of what specific gravity is?

17 A. Certainly.

18 Q. Can you give a layman a
19 definition of specific gravity?

20 A. It's a weight per unit volume.

21 Q. And is there a set standard for
22 weight per unit volume that would equal
23 number 1.10 of specific gravity?

24 A. 1.10 specific gravity is water.

25 Q. And is it true that --

R. E. Hatton - PROTECTED

1 MR. PUPKE: Now, I'm not
2 trying to get -- tap any expertise here.
3 I'm just trying to understand what is meant
4 by these characteristics of the Monsanto
5 fluids.

6 MR. HART: You want to ask the
7 witness his understanding, that's fine.

8 Q. When you -- when a specific
9 gravity is listed as something greater than
10 1.0, does that mean it has -- if you were to
11 put something of a specific gravity of
12 greater than 1.0 in water, all things being
13 equal, water at 1.0, would the material sink,
14 or float, or --

15 MR. HART: Are you done? I
16 don't want to interrupt your question, Don.
17 But when you're done, I would like to object,
18 not only to the form --

19 Q. What is --

20 MR. HART: -- because you're
21 going way beyond the bounds of the 30(b)(6)
22 notice.

23 MR. PUPKE: I'm just trying to
24 understand the characteristics of Monsanto
25 OS-81 and Monsanto MCS-153.

R. E. Hatton - PROTECTED

1 A. All right. My definition of specific
2 gravity was correct, but not complete, I now
3 realize.

4 Now, specific gravity is a
5 relative term that has no units. Therefore,
6 it means it is compared to something.

7 Q. Yes.

8 A. So basically it is the weight per unit
9 of the material being tested, divided by the
10 weight per volume of water --

11 Q. Okay.

12 A. -- at the temperature that we're
13 talking about.

14 Q. Okay.

15 A. That's an exact definition.

16 Q. Okay. If a material has a
17 specific gravity, such as the Monsanto items
18 listed here, which appear to be greater than
19 one at various temperatures, relative to
20 water.

21 A. Uh-huh.

22 Q. Are they heavier compounds?

23 A. Yes.

24 MR. HART: Objection.

25 Q. They are heavier to the extent

R. E. Hatton - PROTECTED

1 that if you put a fluid with a specific
2 gravity greater than that of water in water,
3 it would sink; is that correct?

4 MR. HART: Objection.

5 A. Not necessarily. They may dissolve in
6 each other.

7 Q. Okay. With the exception of a
8 liquid that would dissolve in water.

9 A. Then the answer is yes.

10 MR. HART: Same objection.

11 Q. Were you ever told by anyone at
12 Texas Eastern, or given -- told by anyone at
13 Texas Eastern what the specific gravity of
14 natural gas was?

15 MR. HART: Objection.

16 Q. Is. I'm sorry.

17 A. I don't remember.

18 Q. Do you have an understanding of
19 what the specific gravity of natural gas is
20 relative to water?

21 MR. HART: Objection.

22 A. That's -- I have --

23 MR. DAVIDSON: We're getting
24 pretty far afield here.

25 MR. PUPKE: Yes, this is my last

R. E. Hatton - PROTECTED

1 question.

2 A. You cannot -- well, I would like to
3 restate my answer.

4 The specific gravity of gases is
5 so low compared to that of water, that you
6 cannot normally talk of specific gravity of
7 gases, such as natural gas, or air, that
8 type --

9 Q. When you say lower, do you mean
10 it's less than --

11 A. Much less --

12 MR. HART: Objection.

13 Q. -- less than one?

14 A. Yes.

15 Q. Okay.

16 A. You generally would measure, where you
17 measure these in grams per milliliter or
18 pounds per gallon air, you would be measuring
19 in terms of cubic feet, or some such thing,
20 and you still end up with very small
21 numbers.

22 There is no -- there is no
23 relation between them -- the specific
24 gravities.

25 Q. Okay. Now, were you ever given

R. E. Hatton - PROTECTED

1 by anyone at Texas Eastern a list of
2 specifications that Texas Eastern was looking
3 for in a fire-resistant lubricant?

4 MR. HART: Objection.

5 Q. In the period from the late
6 1950s to, say, the mid-1960s?

7 MR. HART: Objection to form.

8 A. I don't remember a specific list.

9 Q. Generally did anyone at Texas
10 Eastern ever give you a list, or -- verbally
11 or on paper, of specifications for
12 fire-resistant lubricants?

13 MR. HART: Objection.

14 Q. That Texas Eastern wanted to use
15 in their turbines systems?

16 MR. HART: Same objection.

17 A. We discussed the properties of the
18 materials in terms of what they -- what we
19 had.

20 Q. Did anyone at Texas Eastern, to
21 the best of your knowledge, ever consider
22 using Pydraul in the compressor systems at
23 Texas Eastern?

24 MR. HART: Objection to form.

25 A. I don't know.

R. E. Hatton

1 MR. PUPKE: Can we take a break
2 here?

3 (There is a recess.)

4 MR. GREGG: Off the record.

5 (A discussion takes place off
6 the record.)

7 Q. Dr. Hatton, without
8 characterizing your testimony from yesterday,
9 I believe you touched on the area of the
10 definition of the word consumption of
11 lubricating oil with regard to what I believe
12 was Hatton Exhibit 8, but I'm not a hundred
13 percent sure on that.

14 Well, regardless of what Exhibit
15 it is in reference to, your testimony was to
16 the effect that machines, "consumed"
17 lubricating oil through a series of different
18 factors that came into play, such as leakage,
19 untight joints, bad seals, pump shafts,
20 rotating machinery, statics or seals in
21 ordinary piping.

22 A. Uh-huh.

23 Q. I believe that list was a quote
24 that I was able to get from the court
25 reporter yesterday, so I'm pretty sure about

R. E. Hatton

1 those.

2 In your experience with the
3 Texas Eastern's use of the fire-resistant
4 lubricants, do you know if Texas Eastern ever
5 had a leakage problem -- well, maybe I'd be
6 better off --

7 A. Yes.

8 Q. -- asking you what you meant by
9 the term leakage in your answer yesterday, to
10 the extent that you answered that.

11 And I don't mean to characterize
12 your testimony.

13 MR. HART: Well --

14 A. Leakage is escape out of the working
15 system.

16 Q. When you say escape out of the
17 working system, with regard to Texas
18 Eastern's working system, do you have any
19 knowledge as to where the lubricating oil
20 would escape to?

21 A. No, I do not.

22 Q. When you say there would be
23 consumption through untight joints, without
24 characterizing your testimony, again, what
25 did you mean?

R. E. Hatton

1 A. Normal piping systems.

2 Q. When you say normal piping
3 systems, what do you mean?

4 A. Just what I said. I don't -- will
5 you define your question further?

6 Q. Well, I'm trying to understand
7 what you mean by normal piping systems.

8 You used the term normal piping
9 systems in your answer.

10 A. Well, any --

11 Q. And --

12 A. -- any time you move the liquid around
13 the system, you have to have some sort of a
14 conduit, normally called pipe. And that's
15 what I'm talking about.

16 Q. And you were familiar to some
17 extent with Texas Eastern's system which used
18 the lubricating oil during the period that
19 you were working on the fire resistant
20 lubricating oil for Texas Eastern, is that
21 true?

22 MR. HART: I object.

23 A. Familiar with the system as
24 demonstrated in one of the schematics we
25 talked about earlier, and you cannot put

R. E. Hatton

1 together such a system without joints.

2 Q. Right. Are you familiar with
3 any particular problems that Texas Eastern
4 had with regard to untight joints in any of
5 their systems on their --

6 A. I'm not --

7 MR. HART: Objection.

8 A. -- I'm not that familiar with their
9 operating data.

10 Q. Again, I'm not trying to
11 characterize your testimony.

12 But you stated yesterday that
13 bad seals may be the cause for consumption of
14 lubricating oil. What did you mean by bad
15 seals?

16 A. I was talking about one that either
17 had a bad gasket in the seal. And by bad I
18 would say incompatible is probably a better
19 term than bad, which would mean that it was
20 attacked by the fluid --

21 Q. When you say --

22 A. -- or, similarly, loose bolts.

23 Q. When you say attacked by the
24 system. By the fluid, I'm sorry. What do
25 you mean?

R. E. Hatton

1 A. Softened, dissolved.

2 Q. Were there any materials which
3 were dissolved in OS-81 that you're familiar
4 with?

5 MR. HART: Objection.

6 A. There is materials compatibility
7 information developed and put in our
8 technical bulletins and made available.

9 I do not remember the details of
10 it, and the types of the materials that are
11 listed there.

12 Q. Are you familiar with a problem
13 that Texas Eastern had relating to the
14 dissolving of rubber based O rings in their
15 compressor seal systems?

16 A. No.

17 MR. HART: Objection. I'd like
18 to make a statement to the record, Don.

19 I find your manner of asking
20 questions a little difficult sometimes,
21 because it often is not clear to me when
22 you've come to the end of a question. And on
23 occasion, I notice you have, after a pause,
24 in which it becomes clear to you that the
25 witness is not going to answer, I notice that

R. E. Hatton

1 you have then added another phrase to your
2 question.

3 I don't intend to interrupt any
4 of your questions. I don't intend to
5 interrupt the witness' answers. And I
6 apologize if I've done that.

7 I'm doing my best to find that
8 micro-second between the point where you seem
9 to have come to the end of a question, and
10 the point at which the witness begins to
11 respond.

12 MR. PUPKE: I suggest you look
13 for the question mark.

14 MR. HART: Question marks are
15 only clear after the record is drawn up.

16 Q. Dr. Hatton, did anyone at Texas
17 Eastern contact you in the early 1970s
18 regarding a series of seal failures that
19 Texas Eastern had, which resulted in the
20 consumption of a large amount --

21 A. I don't remember --

22 MR. HART: Objection.

23 Q. -- of Turbinol?

24 MR. HART: Objection.

25 A. I don't remember.

R. E. Hatton

1 Q. When you testified -- without,
2 again, characterizing your testimony, you
3 stated that oil, lubricating oil could be
4 consumed through pump shafts. What did you
5 mean?

6 A. Generally the fluid is moved about the
7 system by some sort of a lubricating oil pump
8 or a hydraulic pump. This is normally driven
9 by something from the outside, and results in
10 the necessity for a rotary seal of some sort
11 on the pump itself.

12 These seals are of a wide
13 variety, many of them are made out of organic
14 elastomeric, or organic materials which can
15 be attacked by fluids. And therefore the
16 compatibility of that area was also -- is
17 also covered under compatibility --

18 Q. And that was --

19 A. -- testing.

20 Q. And -- and that was covered
21 under compatibility in a document similar to
22 Hatton 17?

23 A. Well, in there is a bulletin which I'm
24 pretty sure contains some.

25 If not, there is such

R. E. Hatton

1 information in the one that I can see laying
2 out over there. Whatever number that may be.

3 MR. HART: That's Exhibit 2.

4 A. Exhibit 2.

5 Q. Is the bulletin that you refer
6 to as a part of Hatton 17 --

7 A. I'm checking on it.

8 (A discussion takes place off
9 the record.)

10 A. Yeah.

11 Q. Does --

12 A. -- Exhibit 17, page TEX 000267 is the
13 start of such information. And it goes on
14 for a couple of pages.

15 Q. Is page -- the bulletin that
16 begins at page 000264, a bulletin that you
17 created when you were at Monsanto?

18 MR. DAVIDSON: It's this one.

19 THE WITNESS: It's the same one?

20 A. No. If you look at the last page,
21 you'll see that the initials are J.B.D. The
22 date is 11/11/58.

23 Q. And who -- do you have an
24 understanding as to who J.B.D. is?

25 A. The Jim Davis discussed -- talked

R. E. Hatton

1 about earlier in the day.

2 Q. Do you have an understanding as
3 to whether you saw this document at about the
4 time of its creation, which I believe is
5 November -- at about the time of its date,
6 November 11, 1958?

7 A. Certainly.

8 Q. Do you have an understanding as
9 to why this document was created?

10 When I talk about this document
11 I'm talking the document beginning -- which
12 is a part of Hatton 17, beginning at 000264.

13 A. Any product which was released to
14 multiple, potential customers would have a
15 product bulletin prepared for it, with all of
16 the information available at the time of
17 preparation included. This such a bulletin.

18 Q. At about the time of this
19 bulletin, November 11, 1958, were there any
20 purchasers of OS-81, to the best of your
21 knowledge?

22 MR. HART: You mean people who
23 had already placed orders, people who had
24 already accepted delivery, people who had
25 already indicated an interest in purchasing?

R. E. Hatton

1 (A discussion takes place off
2 the record between the witness and his
3 attorney.)

4 A. I cannot recollect specifics sales
5 records, but I just refreshed my memory from
6 Exhibit 18, which says that in 1958 Texas
7 Eastern ran some field tests. So obviously
8 they had fluid from Monsanto, because it was
9 run on OS-81.

10 Q. And this document, beginning at
11 000264 would have been sent to companies that
12 either were consumers, or running field tests
13 of OS-81 at about the time of its creation?

14 MR. HART: Objection.

15 A. Yes. Or anybody who wrote into the
16 company and asked about it.

17 Q. Do you have any reason to
18 believe that Texas Eastern would not have
19 gotten a copy of this particular document?

20 A. Let's see, is there a double negative
21 there?

22 Q. It's purposefully there.

23 MR. DAVIDSON: It's a negative.

24 A. I have no reason to doubt that they
25 got the information.

R. E. Hatton

1 Q. Can I turn your attention to
2 Hatton Exhibit 19, the page marked U000032.
3 On the top of the page -- it's that page
4 there.

5 A. Uh-huh.

6 Q. There is a picture of a hot
7 manifold test.

8 On the lower lefthand column it
9 states, "All five groups of the
10 fire-resistant fluids pose some problem in
11 application because of incompatibility with
12 some types of materials normally used in
13 gasakets, packings paints, et cetera. Both
14 the pure ester and ester base oils are
15 generally similar so far as material
16 compatibility is concerned. The natural
17 rubbers, Buna N," I believe --

18 A. Buna.

19 Q. -- "and Neoprene are generally
20 unsuitable and should be replaced with other
21 compatible materials such as butyl, viton A,
22 nylon, silicone, poly FBA, Teflon, et
23 cetera. These are materials of the
24 elastomers group."

25 Do you have an understanding of

R. E. Hatton

1 what that paragraph I just read means?

2 A. It's a reasonable summary of the
3 compatibility data we've been discussing.

4 Q. Okay. So, this paragraph here
5 that I just quoted from, you're saying that
6 in effect, it repeats, but not word by word,
7 what has been stated in the technical
8 bulletin that we were referring to earlier,
9 which begins on TEX 000264.

10 MR. HART: Objection to form.

11 A. (The witness nods his head.)

12 MR. DAVIDSON: I'd like to point
13 out that the article you're quoting from is
14 written and published by someone, Mr.
15 Fletcher from Texas Eastern. And the witness
16 has stated that it appears to be a reasonable
17 summary of the compatibility in question.

18 MR. PUPKE: And that was in the
19 article that was from June, 1960.

20 MR. DAVIDSON: Right.

21 MR. PUPKE: And the technical
22 bulletin was from November, 1958.

23 MR. DAVIDSON: Correct.

24 Q. If I can touch back on an area
25 that was touched on yesterday, you stated

R. E. Hatton

1 yesterday, and again, I'm not trying to
2 characterize your testimony, that you had
3 visited Texas Eastern's, either one or a few
4 Texas Eastern compressor station sites.

5 A. Uh-huh.

6 Q. One in particular you remembered
7 was one south of Missouri.

8 And I believe your testimony is
9 to the effect that that occurred in the 1958
10 through -- at about the time in 1958
11 through, say, 1965 period.

12 A. (The witness nods his head.)

13 Q. I'm not trying to characterize
14 your testimony, again.

15 When you made this visit or
16 visits, was there anyone from Texas Eastern's
17 main office in Shreveport who accompanied
18 you?

19 Withdrawn. Let me --

20 A. I just --

21 Q. -- let me rephrase the
22 question.

23 I believe it's your testimony
24 that during the period in the late '50s to,
25 say, the early 19 -- or mid-1960s, that

R. E. Hatton

1 Mr. Fletcher was a person who you had contact
2 with at Texas Eastern. And probably -- you
3 contacted him the majority of times. Now --
4 or a large number of times compared with
5 other people there.

6 Now, again I'm not trying to say
7 what you said, but the testimony will reveal
8 what you said.

9 When you visited the compressor
10 stations, do you remember if there was anyone
11 from Texas Eastern's main office who met you
12 there, or -- or met you there?

13 A. It was always my policy to never walk
14 into an operating unit of any company without
15 prior permission, and if at all possible,
16 somebody representing the engineering or
17 production departments with me.

18 Q. Okay.

19 A. And I can only assume, since I can't
20 remember the exact station, or the date, that
21 I had somebody with me, because that was my
22 normal practice.

23 Q. When you went to the station or
24 stations, were you an invitee of Texas
25 Eastern? When -- I'm not trying to get into

R. E. Hatton

1 legal terminology here.

2 MR. PUPKE: Withdrawn.

3 Q. Did Texas Eastern ask you to
4 visit the station?

5 A. I can't remember.

6 Q. Do you remember if you asked
7 Texas Eastern to visit the station?

8 MR. DAVIDSON: If you remember.

9 A. I don't remember.

10 Q. Was it your practice in the late
11 1950s, early 1960s to ask companies if you
12 could visit their operations?

13 A. Yes.

14 Q. Was it also your policy to
15 accept invitations from companies who asked
16 you to visit their facilities?

17 A. Yes.

18 Q. Okay. Do you ever remember
19 meeting Mr. Fletcher at a compressor station
20 in the late 1950 through 1960 period

21 A. No, I do not remember --

22 Q. When you were in the marketing
23 department, if any -- withdrawn.

24 When you were in the marketing
25 department were you marketing certain

R. E. Hatton

1 products for Monsanto?

2 A. Yes.

3 Q. Was one of those products -- at
4 the time it was, I guess, MCS-153?

5 A. I testified yesterday that I wasn't
6 brought back into the program until late '71,
7 early '72 to do some work on the Turbinol.

8 Q. Is it your testimony that in
9 1968 you -- approximately, you joined --
10 you joined the marketing department at
11 Monsanto?

12 A. Yes.

13 Q. And did you at the time that you
14 first switched, in the few months or a year
15 subsequent to your switch to the marketing
16 department, did you have any duties with
17 regard to the marketing of fire-resistant
18 lubricants to Texas Eastern?

19 A. No.

20 Q. At any point when you were in
21 the marketing department, did you have
22 responsibility or duties relating to the sale
23 of fire-resistant lubricants to Texas
24 Eastern? Beyond what you've testified at in
25 1970 or -- what was it --

R. E. Hatton

1 MR. DAVIDSON: '71?

2 A. Late '71, early '72.

3 Q. -- that you were brought back
4 into the --

5 A. No.

6 Q. Okay.

7 A. Not direct.

8 Q. Was there an employee in the
9 marketing department who was responsible for
10 the marketing of fire-resistant lubricants to
11 Texas Eastern in the period 19 -- from 1968
12 through, say, 1972?

13 A. To the best of my recollection, it
14 would be D.F. Smith.

15 Q. Okay. Do you know where Mr.
16 Smith is today?

17 A. Retired.

18 Q. Have you had any recent contact
19 with Mr. Smith?

20 A. I have not.

21 Q. Do you know where Mr. Smith
22 retired to?

23 A. No.

24 Q. Can you tell me J.G.
25 Frederiksen's role, if any, in the sale of,

R. E. Hatton

1 or any marketing of fire-resistant lubricant
2 to Texas Eastern in the, say, 1968 to 1972
3 period?

4 A. John Frederiksen at that time was, I
5 believe, working out of the -- out of an
6 office in Shreveport. I'm not sure of that
7 entire time period, but at least part of that
8 time.

9 His function was as a field
10 salesman covering a numerous range of
11 products, one of which would have been
12 Turbinol. And he was also the primary
13 responsible -- primary person responsible
14 for contact with Texas Eastern. Routine
15 contacts.

16 Q. Do you know where Mr.
17 Frederiksen is today?

18 A. No, I do not.

19 Q. Do you know if he is still an
20 employee of Monsanto?

21 A. No. I have not seen him for some
22 period.

23 Q. Do you know if he lived in
24 Shreveport when -- at the time that he
25 worked there?

R. E. Hatton

1 A. Yes.

2 Q. You testified yesterday that
3 C.L. Bradford had changed companies before
4 you retired.

5 A. Yes.

6 Q. Do you know which company he
7 went to?

8 A. I do not remember the specific name.
9 It was in the paper industry somewhere.

10 Q. Do you know where the company
11 was located?

12 A. Generally the west coast.

13 Q. Have you had any contact with
14 Mr. Bradford since your retirement?

15 A. No.

16 Q. Can you give me an approximate
17 age for Mr. Bradford presently? If he would
18 be a 115, it's --

19 MR. DAVIDSON: Tell you
20 something, wouldn't it?

21 A. He's younger than I am.

22 Q. Okay.

23 A. I think that's as good an answer that
24 I can give you.

25 Q. If he was 75 in 1960, we can

R. E. Hatton

1 make an assumption as to his whereabouts.

2 MR. HART: I don't know why
3 everybody laughs at that. I find that kind
4 of depressing.

5 THE WITNESS: Not nearly as much
6 as I do.

7 MR. DAVIDSON: That's okay,
8 Roger Willard Scott is going to get to call
9 your name one of these days.

10 THE WITNESS: I hope so.

11 Q. Mr. Hatton, would you please
12 take a look at what's been marked as Hatton
13 Exhibit 5?

14 A. Five? Yes.

15 Q. Did you create this document at
16 about the time noted on the first page, which
17 is January 14th, 1972?

18 A. The date of authorship, official
19 authorship is February the 8th, as of the top
20 of the document.

21 Q. Okay. Can you tell me who J.F.
22 Herber is?

23 A. Is today? Or was then?

24 Q. I assume he's both --

25 MR. DAVIDSON: It's the same

R. E. Hatton

1 guy.

2 Q. -- if he's --

3 A. Well, I mean, when you're talking
4 about positions it makes a hell of a
5 difference.

6 MR. DAVIDSON: I understand.

7 Q. Okay. Can you tell me what his
8 position was at the time of this document?

9 A. He was a group leader in research.

10 Q. Do you know if he is presently
11 an employee of Monsanto?

12 A. He is.

13 Q. And do you know what his present
14 position is with Monsanto?

15 A. Still in the research department, but
16 I do not know his title.

17 Q. Do you have any understanding as
18 to why Mr. Herber would have been a cc on
19 this document?

20 A. At that time he was in charge of
21 research on fluids to a certain extent. And
22 as -- as a group leader in research he was
23 the one who covered --

24 Q. Was that --

25 A. -- some aspects of fluids.

R. E. Hatton

1 Q. Was Turbinol 153 one of the
2 fluids that he was involved with, to the best
3 of your knowledge?

4 A. To the best of my memory.

5 Q. How about Mr. L.R. Stark? I'm
6 assuming he's a Mr.

7 A. L.R. Stark was also a group leader in
8 research.

9 Q. L.R. Stark.

10 A. At that time his area was also fluids,
11 and he was more concerned with the
12 performance type of properties, where John
13 Herber was concerned with the chemical.

14 Q. Do you know if Mr. Stark is
15 presently an employee of Monsanto?

16 A. My most recent information would
17 indicate he is.

18 Q. Do you know if he is still in
19 the research department at Monsanto?

20 A. Yes.

21 Q. W.R. Richard, do you know what
22 his title was at about the time of this?

23 A. Bill Richard was the boss of these
24 previous two people.

25 Q. Did he have a title?

R. E. Hatton

1 A. I think he was an assistant research
2 director at this point.

3 Q. And do you know if he's still an
4 employee --

5 A. He's retired.

6 Q. -- of Monsanto? Do you know
7 where he retired to?

8 A. St. Louis area somewhere.

9 Q. D.W. Stegen.

10 A. He would have been John Frederiksen's
11 superior in the field.

12 Q. And he was in the marketing
13 department?

14 A. Marketing department. And --

15 Q. Do you know if he's still an
16 employee of Monsanto?

17 A. I do not.

18 Q. Was he an employee of Monsanto
19 when you left -- when you retired, to the
20 best of your knowledge?

21 A. Oh, yes.

22 Q. Do you know what H.R. Ford's
23 position was at about the time of this memo?

24 A. He was another level up in the field
25 organization.

R. E. Hatton

1 And I believe at this time the
2 country was broken down into areas, and he
3 would have been the one working out of the
4 Atlanta.

5 Q. When you say field organization,
6 do you mean, is that --

7 A. Marketing.

8 Q. -- is that a part of marketing?

9 A. -- marketing -- yeah. Well, we
10 talked about the position --

11 Q. Right?

12 A. -- of field salesman.

13 Q. Do you know if he's still an
14 employee of Monsanto?

15 A. I have no information.

16 Q. Do you know what P.L. Slayton's
17 position was at about the time of this memo?

18 A. Similar to Ford's, but I believe
19 working out of either the New York office or
20 some office up in that area.

21 Q. Do you have an understanding as
22 to why he was a cc on this document?

23 A. No.

24 Q. Do you know if he is presently
25 an employee?

R. E. Hatton

1 A. Again, I do not know.

2 Q. Mr. D.R. Hansen?

3 A. Same position, but on the west coast.

4 Q. And do you know if he is

5 presently an employee of Monsanto?

6 A. I'm fairly sure he's retired.

7 Q. E.L. Shimley, do you know what

8 his position was at about the time of this

9 memo?

10 A. He was in the marketing department,
11 but I do not know his -- do not remember his
12 specific position.

13 Q. Do you know if he's presently an
14 employee of Monsanto?

15 A. No.

16 Q. You don't --

17 A. I do not --

18 Q. -- know or --

19 A. -- know whether he is or not.

20 Q. Okay.

21 On the second page, first full
22 paragraph, the first sentence says "The
23 environmental situation with the PCB
24 containing Turbinol 153 was discussed in
25 detail."

R. E. Hatton

1 Now, you were asked yesterday
2 about this particular sentence. My question
3 is did you, yourself, say anything at this
4 meeting regarding the environmental
5 situation?

6 MR. DAVIDSON: To the best of
7 your recollection.

8 A. To the best of my recollection this
9 area was handled by Larry Bradford.

10 Q. And do you remember the gist of
11 what Mr. Bradford said about the
12 environmental situation?

13 A. I do not recollect what was said at
14 this meeting.

15 Q. Do you recall anyone from Texas
16 Eastern raising any questions regarding the
17 environmental situation?

18 A. I do not.

19 Q. Do you recall if Walter Woods
20 spoke at that meeting?

21 A. No, I do not recall.

22 Q. B.R. Purgitorio is listed on
23 that list. Did you have any contact with Mr.
24 Purgitorio when you had dealings with Texas
25 Eastern?

R. E. Hatton

1 MR. DAVIDSON: You mean dealings
2 other than the fact that he appears on this
3 document.

4 MR. PUPKE: Other than this
5 particular meeting.

6 A. I do not remember dealings other than
7 the meeting.

8 Q. Is the same true for Mr. Sloan?

9 A. Yes.

10 Q. Is the same true for Jack Simon?

11 A. Yes.

12 Q. And did you have any other
13 dealings beyond this meeting with J.Y.
14 Briggs?

15 A. Not that I remember.

16 Q. Do you know what Mr. Brigg's
17 position was at Texas Eastern?

18 A. No.

19 Q. Had you ever met him prior to
20 this meeting?

21 A. I do not remember.

22 MR. PUPKE: I'd like to
23 introduce this Exhibit.

24 (Letter to Ted Harrison from C.
25 Larry Bradford, dated January 7, 1972 Bates

R. E. Hatton - PROTECTED

1 No. 000801028 is marked Hatton-22 for
2 identification.)

3 MR. PUPKE: Introducing as
4 Exhibit 22, a January 7, 1972 document. The
5 Monsanto -- it appears to be from Texas
6 Eastern's file, but on a Monsanto letterhead,
7 to Mr. Ted Harrison, purchasing agent, Texas
8 Eastern Transmission Corp. from C. Larry
9 Bradford.

10 This is protected.

11 It bears Bates number
12 000801028.

13 MR. HART: Bob, I'm going to
14 state on the record that I don't see any
15 reason to treat this as protected material,
16 because then a virtually identical copy of
17 this document was produced by Monsanto.

18 And Counsel, if you don't
19 object, at some appropriate time maybe we
20 could just substitute --

21 MR. PUPKE: That's fine. Maybe
22 if you have that document, you can just give
23 the Bates number, and we can treat them as
24 equal.

25 MR. HART: Bates number 000796.

R. E. Hatton - PROTECTED

1 I happen to have a duplicate for
2 the official record. Why don't we just go
3 ahead and do that.

4 The two differences are, the
5 Monsanto produced version was not signed and
6 does not have the parenthetical marginal
7 handwriting that's on the Texas Eastern
8 version.

9 (A discussion takes place off
10 the record.)

11 MR. HART: And it's on the
12 letterhead, and it has blind carbon copies.

13 MR. DAVIDSON: Can we take a
14 quick, five minute break?

15 MR. PUPKE: Sure.

16 (There is a recess.)

17 (Luncheon Recess.)

18 (Afternoon Session.)

19 CONTINUED CROSS-EXAMINATION BY MR. PUPKE:

20 MR. PUPKE: We're back on the
21 record.

22 Q. Dr. Hatton I'm going to ask
23 about that document a little later.

24 A. Okay.

25 Q. I want to go back for a minute.

R. E. Hatton

1 In the Exhibit marked as Hatton
2 19, you just need that out for your reference
3 to the page marked U000031.

4 A. Yes.

5 Q. You stated earlier in your
6 testimony that it was nomenclature in the
7 industry, that the term chlorinated phosphate
8 ester was nomenclature in the industry.

9 A. Yes.

10 Q. Do you have an understanding of
11 what this nomenclature meant in the industry?

12 MR. HART: Counsel, are you now
13 asking him about the use of the term in the
14 Exhibit that you've called his attention to?

15 MR. PUPKE: No. No, I just
16 called his attention to it because this is an
17 area that we went into at the time that this
18 particular document was being questioned
19 about. I pulled this out.

20 Q. Just for your reference. There
21 is no -- and the question is, as it stands.

22 A. Phosphate ester based and chlorinated
23 phosphate ester are -- were two different
24 terms to refer to the same group of
25 materials.

R. E. Hatton

1 Q. Was it understood in the
2 industry at the time of this article, June,
3 1960 that chlorinated phosphate ester
4 included or -- included a phosphate ester
5 with a chlorinated biphenyl?

6 MR. HART: Objection to form.

7 Q. Included.

8 MR. HART: You're asking about
9 the understanding in the industry. If you
10 want to ask him about the industry's use of
11 nomenclature, that's different than the
12 pending question.

13 MR. PUPKE: That's a fair
14 objection.

15 Q. Do you have an understanding of
16 what the industry's understanding of the
17 nomenclature; chlorinated phosphate ester was
18 at about the time of this article?

19 (A discussion takes place off
20 the record between the witness and his
21 attorney.)

22 A. It was generally a term -- the term
23 used was more general than polychlorinated
24 biphenyl.

25 That term was not broadly used

R. E. Hatton

1 back in that era. And they would have called
2 it a polychlorinated -- or chlorinated
3 hydrocarbon as a general term.

4 Q. And would that --

5 A. And the phosphate ester.

6 MR. HART: Wait just a minute.

7 Could I have that answer back, please.

8 (The last answer is read back by
9 the reporter.)

10 Q. Now, when you mentioned the term
11 chlorinated hydrocarbon, would that term
12 encompass the -- a chlorinated biphenyl?

13 MR. HART: Objection to form.

14 A. Chlorinated --

15 Q. At the time --

16 A. A chlorinated --

17 Q. Let me reask that question, if
18 you don't mind. I'll give you a time frame
19 for it.

20 At the time that this article
21 was written in 1960.

22 A. Chlorinated hydrocarbon --

23 MR. HART: Same objection.

24 A. -- would cover chlorinated biphenyls,
25 chlorinated benzene, chlorinated paraffins.

R. E. Hatton

1 Q. And at the time of this article
2 in 1960, did you have knowledge as to how
3 many companies were making a chlorinated
4 phosphate ester for the market?

5 Q. I'll reask --

6 A. There was --

7 Q. -- yes.

8 A. -- there was one, Monsanto. I believe
9 that some of the oil companies at that time
10 were developing such products.

11 Q. Is Humble Oil one of those
12 companies that you're referring to?

13 A. Specifically I don't remember which
14 companies.

15 Q. Was it known in the industry
16 that Monsanto was either producing, or had a
17 product, a chlorinated phosphate ester --

18 MR. HART: Objection.

19 Q. -- product?

20 MR. HART: Objection to form.

21 Q. At the time of this article,
22 1960?

23 A. We did our best to let them know.

24 Q. Did you also let the people in
25 the industry know that your chlorinated

R. E. Hatton

1 phosphate ester contained Aroclors --

2 A. At that time --

3 MR. DAVIDSON: Do you mean
4 specifically did we tell them the word,
5 "Aroclor"?

6 MR. PUPKE: Just generally --
7 just generally if --

8 Q. If you, to use your term, did
9 your best to let them know that Monsanto's
10 chlorinated phosphate ester contained
11 Aroclor.

12 A. No, I did not. That was not the
13 meaning of my answer.

14 My answer was that we did our
15 best to let them know that we had products
16 which fell into that class, such as the
17 Pydrauls and OS-81 and so on. That's what I
18 meant to state.

19 Q. Is OS-81 --

20 A. And we -- yes.

21 Q. OS-81 --

22 A. Yes.

23 Q. -- one of the those materials?

24 A. Yes.

25 Q. I'm sorry, I didn't mean to cut

R. E. Hatton

1 you off.

2 A. Yes.

3 Q. When you let it be known that
4 Monsanto had OS-81 available for the market,
5 as part of the letting people know, or
6 letting prospective customers know of OS-81,
7 did Monsanto let the prospective customers
8 know that OS-81 contained Aroclor?

9 A. In product bulletins and other
10 publications of the company we referred to it
11 as a phosphate ester based material. And we
12 did not further specify composition.

13 Q. Do you have any recall of any
14 prospective customer asking further the
15 contents of the Monsanto chlorinated
16 phosphate ester?

17 A. I have no specific instance that I can
18 cite.

19 Q. Do you recall ever telling
20 anyone at Texas Eastern that there was
21 Aroclor contained in Monsanto's chlorinated
22 phosphate ester?

23 A. I cannot remember a specific
24 conversation.

25 Q. Do you remember generally

R. E. Hatton

1 letting Texas Eastern know of the content of
2 OS-81 that it contained an Aroclor?

3 MR. HART: Objection.

4 A. I do not have a specific memory --

5 Q. My question is --

6 A. -- on that point.

7 Q. My question asked if you had a
8 general recollection of, not any specific
9 conversations, but a general recollection of
10 advising, or telling, I should say, anyone at
11 Texas Eastern about the constituents of --

12 A. The answer is no, then.

13 Q. Do you have an understanding of
14 whether it was known in the industry, if you
15 will, that Monsanto's product contained
16 Aroclor?

17 MR. HART: Objection.

18 Q. At about 1960.

19 MR. HART: Objection.

20 A. By industry, you mean --

21 Q. Well, I'm trying to adopt your
22 term, your use of the term industry, because
23 earlier today you testified that it was
24 nomenclature within the industry that
25 chlorinated phosphate ester was nomenclature

R. E. Hatton

1 in the industry.

2 And I did ask you to define the
3 industry, and I believe --

4 A. All right.

5 Q. -- we never really clarified
6 that point.

7 What was the industry you
8 referred to earlier?

9 MR. HART: I'm going to object.
10 Clearly the notion of the industry in general
11 is going to be different, depending on
12 context. And now, backtracking --

13 MR. PUPKE: Laird --

14 MR. HART: -- to a different
15 set of --

16 MR. PUPKE: I don't mean to be
17 difficult. We have limited time left.

18 MR. HART: No, we don't have
19 limited time left. This deposition will
20 continue from day-to-day until completed.

21 MR. PUPKE: Okay. You have an
22 objection to form.

23 I would please ask if you would
24 make the objection to form, and let us move
25 on.

R. E. Hatton

1 A. If we limit the term used, the term
2 "industry" as used here to fluid suppliers,
3 and -- that's fire-resistant fluid
4 suppliers, end users and related groups, it
5 was common knowledge, but not necessarily
6 published knowledge.

7 Q. It was common -- what was
8 common knowledge?

9 A. The fact that it contained the
10 Aroclor.

11 Q. And does the industry as you
12 just defined it, include Texas Eastern?

13 MR. HART: Objection.

14 A. They were a fire-resistant fluid user
15 potential.

16 Q. I want to just touch on an area
17 that's been touched on now twice before.

18 But, this is my -- my questions
19 are, you have stated that the label that was
20 on the fire resistant lubricant contained
21 sort of a standard statement.

22 I'm not trying to characterize
23 your testimony, I'm just trying to refresh
24 your recollection as to what was said.

25 Regarding the nature of the

R. E. Hatton

1 material, do you recall anything else that
2 was on the label for Monsanto's
3 fire-resistant lubricant, let's say, the
4 Turbinol?

5 MR. HART: Objection.

6 MR. DAVIDSON: Well, I --

7 A. What time frame are you talking about
8 again?

9 Q. Turbinol 153, which would be,
10 say, from the time they changed the -- from
11 the time Monsanto changed the name from
12 MCS-153 to Turbinol 153.

13 MR. DAVIDSON: He's already
14 testified that he didn't necessarily see
15 drums with labels on them within the course
16 and scope of his work. And that his
17 understanding was that all these had the
18 chlorinated material warning information on
19 them.

20 And such copies of labels as
21 existed have been produced to the parties.
22 If you want to show him one and ask him about
23 it, that's fine.

24 MR. PUPKE: I don't believe they
25 have been produced to the carriers.

R. E. Hatton

1 MR. DAVIDSON: Yes, they have.

2 MR. PUPKE: I've made a

3 concerted search for them --

4 MR. KRAUSS: They have.

5 MR. PUPKE: I stand corrected,
6 if they are found.

7 MR. DAVIDSON: Yes, they have
8 been.

9 MR. KRAUSS: I'll see if I can
10 find it.

11 MR. HOOK: Off the record.

12 (A discussion takes place off
13 the record.)

14 Q. Dr. Hatton, we spoke earlier
15 about the specific gravity of the Monsanto
16 products. Do you know if Turbinol 153 was
17 soluble in water?

18 MR. HART: Objection.

19 A. One of the properties determined would
20 have -- that would -- that would have been
21 one of the properties that would have been
22 examined and I do not have the data here.

23 Q. Do you have any general
24 recollection as to whether Turbinol 153 was
25 soluble in water?

R. E. Hatton

1 MR. HART: Objection.

2 A. Extremely limited solubility.

3 Q. When you say extremely limited,
4 what do you mean?

5 A. Nearly all things are soluble to some
6 degree in each other. And depending on your
7 ability to measure, you can get down to very
8 low levels.

9 I would be talking, probably in
10 the levels of parts per thousand.

11 Q. Now, you testified that in late
12 1971, early 1972, you were asked to become
13 involved again with the Monsanto product for
14 Texas Eastern. And I believe it's your
15 testimony yesterday, and please correct me,
16 that Monsanto had a department set up to -- a
17 department or departments set up to
18 facilitate the withdrawal of products
19 containing polychlorinated biphenyls from the
20 market. Is that a fair statement?

21 MR. DAVIDSON: I don't believe
22 he referred to it as a department.

23 A. I don't --

24 MR. PUPKE: Okay.

25 MR. DAVIDSON: I think he said

R. E. Hatton

1 it was a group of people.

2 A. It was -- yeah. A department in our
3 definition is a pretty formal thing --

4 Q. Okay.

5 A. -- and this was a group at that
6 point.

7 Q. Did this group have a name?

8 Or did you refer to it as the
9 PCB group, or something of that sort?

10 MR. DAVIDSON: At what point in
11 time?

12 MR. PUPKE: At about the time of
13 its creation.

14 Q. At about January, 1972. How is
15 that?

16 MR. HART: Well, which one do
17 you want?

18 MR. PUPKE: At about January,
19 1972.

20 (A discussion takes place off
21 the record between the witness and his
22 attorney.)

23 A. I do not remember a specific title to
24 the group. We generally referred to it as
25 Papageorge's group.

R. E. Hatton - PROTECTED

1 Q. That's?

2 A. Papageorge being a last name,

3 Q. What was Mr. Papageorge's first
4 name?

5 MR. HART: Bill, or Willy.

6 A. Bill.

7 Q. And was that group within a
8 department at Monsanto?

9 A. I am not aware of the organizational
10 structure.

11 Q. Do you know who was -- besides
12 Mr. Papageorge, was in that group?

13 A. I do not remember.

14 Q. Were you in that group?

15 A. No.

16 Q. Do you know what -- if that
17 group had any duties beyond the removal of
18 products containing polychlorinated biphenyls
19 from the market?

20 A. I think --

21 Q. At about 1972, January.

22 A. I believe that was his function?

23 MR. PUPKE: I want to introduce
24 this.

25 Q. I'm going to go back to that

R. E. Hatton - PROTECTED

1 document.

2 MR. PUPKE: Off the record.

3 (Memo entitled, "Dear Sir" from
4 Donald A. Olson, dated February 18, 1970,
5 Bates Nos. 001090265 through 001090267 is
6 Marked Hatton-23 for identification.)

7 Q. Dr. Hatton, let me show you
8 what's been marked as Hatton Exhibit 23,
9 which is a three page document bearing the
10 date February 18, 1970 on the top of the
11 first page.

12 The document bears in the lower
13 right-hand corner Bates stamp numbers
14 001090268, 266 and 267.

15 MR. PUPKE: It appears that the
16 second page, 001090266 is out of order, but
17 this is the way it was produced to us.

18 This is, by the way,
19 confidential, Laird.

20 MR. HART: Protected.

21 MR. PUPKE: Protected material.

22 MR. HART: Off the record.

23 (A discussion takes place off
24 the record.)

25 Q. Dr. Hatton, I ask if you would

R. E. Hatton - PROTECTED

1 review that document, please --

2 A. Minus the middle page?

3 Q. Well, you can look at the middle
4 page, as well.

5 A. (The witness reads the document.)

6 Q. Have you reviewed the documents,
7 Dr. Hatton?

8 A. Yes.

9 Q. The first paragraph -- well,
10 let me ask you first if you've ever seen this
11 document prior to today, and with the
12 exception of review by Counsel, if in fact
13 this was one of the documents reviewed with
14 Counsel.

15 MR. PUPKE: If this was one of
16 the documents reviewed by Counsel, we're
17 excluding that viewing. Reviewed by you with
18 Counsel, I should say.

19 MR. DAVIDSON: I don't believe
20 it was.

21 MR. PUPKE: Okay.

22 Q. Have you seen this prior to
23 today?

24 A. Yes.

25 Q. Do you recall when it was that

R. E. Hatton - PROTECTED

1 you first saw this document?

2 A. Copies of this document including the
3 attachment of the article were circulated
4 broadly throughout the company.

5 Q. Do you know who they were
6 circulated by? The letter and article? Was
7 it the sales department or Don Olson?

8 A. I do not know who sponsored the
9 circulation. But I -- it was made certain
10 that all of us who were involved in fluids or
11 in Aroclors in any way --

12 Q. Do you --

13 A. -- were well notified.

14 Q. I'm sorry?

15 MR. HART: I think you should
16 let the witness finish.

17 MR. PUPKE: I think you're
18 right.

19 Q. I didn't mean to step on your
20 answer.

21 A. Yes.

22 Q. Do you recall whether it was one
23 or several articles that were attached to
24 this?

25 A. No, I do not specifically, except for

R. E. Hatton - PROTECTED

1 what it says here.

2 Q. Do you have any recollection of
3 which magazine the article or articles came
4 from?

5 A. It says Chemical Week.

6 Q. Do you have any knowledge as to
7 whether there were any additional articles
8 attached from other magazines --

9 A. No.

10 Q. -- than Chemical Week?

11 A. No.

12 Q. Do you know who wrote the
13 article in Chemical Week that was attached --

14 A. No.

15 Q. -- to this?

16 A. No.

17 Q. The first paragraph says,
18 "Recently several newspaper and magazine
19 articles have been published indicating that
20 polychlorinated biphenyls (PCBs) have been
21 discovered at some points in some marine,
22 aquatic and wild life environments. The
23 quantities detected are said to be in the
24 parts per million and parts per billion
25 categories."

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WATER_PCB-SD0000062119

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1 Do you have an understanding as
2 to what newspaper and magazine articles Mr.
3 Olson was referring to in this letter?

4 A. No, I do not know the specific
5 articles.

6 Q. Did you have an understanding at
7 the time you received this letter what the
8 articles -- which articles he was referring
9 to?

10 MR. DAVIDSON: If you remember.

11 A. I don't remember the specific
12 articles.

13 Q. The question was, do you have an
14 understanding of whether you knew which
15 articles he was referring to at the time you
16 first reviewed this letter in 1970?

17 A. Yes.

18 Q. Do you have any recollection of
19 how many articles he was referring to in this
20 particular --

21 A. No.

22 Q. -- paragraph?

23 A. No.

24 Q. You said that this was
25 circulated throughout the company, with

R. E. Hatton - PROTECTED

1 particular reference to the people involved
2 with fluids.

3 Was this something that would
4 have been sent to the sales department at
5 Monsanto?

6 A. It was generated by the sales
7 department.

8 Q. Okay. Do you have any
9 understanding as to whether the sales
10 department would have passed this on to
11 customers of Monsanto products containing
12 polychlorinated biphenyls?

13 MR. HART: Objection to form.

14 A. I was told by either Don Olson or some
15 deputy, that this has been sent to all
16 customers of products --

17 Q. And that --

18 A. -- listed.

19 Q. And that would include Texas
20 Eastern.

21 MR. HART: Objection to form.

22 Find out what he's talking about, what
23 products were listed before you jump to
24 leading questioning.

25 MR. PUPKE: Make an objection to

R. E. Hatton - PROTECTED

1 form, and no speeches.

2 A. The paragraph shown as number one here
3 is a list of products.

4 Q. And the users of these --

5 A. Further, the list is expanded to those
6 that are included in the second paragraph.
7 The list is expanded to additional products.

8 Q. And you're saying that the users
9 or consumers of these products listed here
10 were, to the best of your knowledge, informed
11 of this development?

12 MR. DAVIDSON: No. I object.
13 He's told you that he -- that it was
14 reported to him. He didn't have anything to
15 do with this. He's not --

16 MR. PUPKE: That's why I
17 prefaced my question with the to the best of
18 your knowledge.

19 MR. DAVIDSON: Well, I
20 understand. But he's given you the best of
21 his knowledge. And you keep wanting him to
22 improve.

23 MR. PUPKE: I disagree. I'm
24 just trying to ask a question.

25 MR. HART: Let me state my

R. E. Hatton - PROTECTED

1 objection --

2 MR. DAVIDSON: I mean, Texas
3 Eastern --

4 MR. PUPKE: There is no question
5 pending --

6 MR. DAVIDSON: Texas Eastern
7 produced this document to you. What's the
8 point? Obviously it got it.

9 MR. HART: I want to state my
10 objection. There is a pending question, and
11 my objection is that your question refers to
12 the products "listed here."

13 MR. PUPKE: Listed here being in
14 paragraph number one on page one.

15 MR. HART: The first paragraph,
16 or the paragraph at the bottom, which is
17 numbered one?

18 MR. PUPKE: The paragraph
19 numbered one.

20 A. Plus, I said.

21 Q. Plus.

22 A. Plus those in the second paragraph,
23 which includes products different than in the
24 number one.

25 MR. HART: Now -- all right.

R. E. Hatton

1 MR. PUPKE: I'm sorry. I'm
2 asking the questions here.

3 MR. HART: Well, I'm
4 objecting --

5 Q. If you turn to page 2 --

6 MR. HART: -- to the unclear
7 state of the record.

8 Q. The second page appears to be
9 the second page of another letter. It's
10 unclear as to the origin. Have you ever seen
11 this page before?

12 A. It does not raise any memory.

13 MR. PUPKE: Mark this.

14 (Letter entitled, "Dear Sir:"
15 from Walter E. Schalk, dated August 14, 1970,
16 Bates Nos. TEX 000695 through 000696 is
17 marked Hatton-24 for identification.)

18 MR. PUPKE: I'm marking for
19 Exhibit, a document dated August 14, 1970
20 which is on the letterhead of Monsanto.

21 It's from Texas Eastern's
22 files. Bearing Texas Eastern Bates stamp
23 number 000695 and 000696.

24 MR. HART: Counsel, the document
25 you've distributed is from Monsanto files and

R. E. Hatton

1 it bears a Monsanto Bates number.

2 MR. PUPKE: I'm sorry.

3 MR. KRAUSS: That's correct.

4 MR. PUPKE: That is correct? I
5 stand corrected.

6 It is a Monsanto Bates stamp
7 number. The numbers are still the same,
8 regardless of who it was from.

9 MR. HART: The number meaning
10 the Exhibit number?

11 MR. PUPKE: The page numbers,
12 Laird.

13 MR. HART: Well, the Bates
14 numbers are not the same. I don't know what
15 you just said on the record.

16 MR. PUPKE: I just said that the
17 numbers -- see these numbers down in the
18 lower right-hand corner?

19 MR. HART: All right.

20 MR. PUPKE: They remain the
21 same, regardless of who they were from.

22 Q. Have you reviewed the document,
23 Dr. Hatton?

24 A. Yes, I have.

25 MR. PUPKE: Off the record.

R. E. Hatton

1 (A discussion takes place off
2 the record.)

3 Q. Have you ever seen this document
4 prior to today, with the exception of any
5 review you may have had of this document with
6 your Counsel?

7 A. I don't remember it, Don.

8 Q. Do you know who Mr. Walter
9 Schalk is?

10 A. Yes.

11 Q. Do you know if he is presently
12 with the company, Monsanto?

13 A. No, I do not.

14 Q. The document in the third
15 paragraph states. "It was recently brought
16 to our attention that the Food and Drug
17 Administration has apparently established
18 guidelines setting forth suggested maximum
19 levels of PCBs allowable in certain foods."

20 Are you familiar with any Food
21 and Drug Administration guidelines such as
22 those mentioned here at about the time of
23 this letter, August 14th, 1970?

24 MR. DAVIDSON: Don, this is the
25 area of toxicology. He's testified yesterday

R. E. Hatton

1 that that was not his area, it was dealt with
2 by the medical department, and that he's
3 already told you just now that he was not
4 familiar with this letter.

5 Q. Were you familiar with any
6 efforts by governmental agencies to regulate
7 PCBs at about the time of this letter, August
8 14th, 1970?

9 MR. DAVIDSON: I'm going to
10 object again.

11 MR. HART: So do I.

12 MR. DAVIDSON: Outside the scope
13 of the agreed limits of the deposition.

14 MR. HART: My objection is based
15 on the form.

16 A. This is general information that may
17 have been in my possession, but I can't say
18 when.

19 Q. On the second page of this
20 document in the fourth full paragraph it
21 says, "During this withdrawal of PCBs from
22 the market, Monsanto has had in effect a
23 modified returned goods policy stating that
24 unopened containers less than one year old
25 could be returned for a full credit through

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1 July 31, 1970. From August 1 through August
2 31, 1970 90 percent credit would be
3 allowed."

4 Now, this doesn't deal with
5 Turbinol 153. But my question is, to the
6 best of your knowledge were these terms, or
7 were -- was a modified returned goods policy
8 offered to Texas Eastern at the time of the
9 withdrawal of Turbinol 153 from the market?

10 MR. DAVIDSON: You're talking --
11 about these modified terms?

12 MR. PUPKE: No, I'm just --

13 MR. DAVIDSON: Any terms?

14 MR. PUPKE: -- a modified
15 returned goods policy. Not these specific
16 terms, but were there any -- was there a
17 returned goods policy offered to Texas
18 Eastern at the time of the withdrawal of
19 Turbinol 153 from the market.

20 MR. DAVIDSON: You know, I think
21 the questioning yesterday went into the
22 discussion --

23 MR. PUPKE: Counsel, I beg your
24 indulgence to let me ask a question in this
25 area. I --

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1 MR. DAVIDSON: I'm going to
2 object and tell him not to answer unless you
3 let me have my say.

4 MR. PUPKE: I'm sorry. I didn't
5 mean to step on your toes.

6 MR. DAVIDSON: Well, I think
7 that yesterday the discussion was had in
8 connection with questioning about the January
9 14 meeting and subsequent meetings about what
10 the discussions were about, what was going to
11 happen to their fluid.

12 And I believe the question was
13 asked, whether or not there was any return
14 policy offered to them. So, I object to you
15 going back over the same territory in a
16 rather obtruse manner.

17 MR. HART: In this
18 circumstance --

19 MR. PUPKE: Mr. Davidson, I'm
20 sorry. I stated when I started questioning
21 that if I go over any areas that have
22 previously been covered, that I would beg
23 your indulgence to let me continue. There is
24 a method to going into these areas.

25 Now, I personally do not believe

R. E. Hatton

1 that this question was asked yesterday. And
2 I would ask that you permit the witness to
3 answer the question. And he certainly was
4 not shown this document yesterday.

5 MR. DAVIDSON: Well, he has told
6 you that he doesn't know anything about this
7 document. It's a year and-a-half prior to
8 the time you're asking about. And I don't
9 even know why you showed it to him.

10 It seems to me that certainly
11 you're not asking the same exact question,
12 because you know it would draw objection.
13 But it's the same subject area and it was
14 exhausted yesterday.

15 And you can answer, if you
16 know.

17 MR. HART: I --

18 A. I do not know.

19 MR. HART: Well, fine.

20 MR. PUPKE: Are you objecting to
21 form, Laird?

22 MR. HART: No, I'm not --

23 MR. PUPKE: Please state your
24 objection --

25 MR. HART: No. I want to state

R. E. Hatton

1 on the record that Texas Eastern does not
2 subscribe to the objection raised by
3 Monsanto's Counsel in this instance.

4 Q. If you have an answer, Dr.
5 Hatton.

6 A. I indicated that I do not know if this
7 sort of agreement was offered to Texas
8 Eastern or not.

9 Q. Now, was, to the best of your
10 knowledge, was Walter Schalk a member of
11 Mr. Papageorge's group? Is --

12 A. The answer is no, to the best of my
13 knowledge.

14 Q. And you've -- would
15 Mr. Papageorge's group be responsible for --
16 were they responsible for the strategy for
17 withdrawal of products from the market? And
18 that would be the products which contained
19 polychlorinated biphenyls.

20 MR. DAVIDSON: Again, this is
21 going beyond the designated areas of the
22 deposition into areas that we told you he
23 doesn't know about.

24 MR. PUPKE: Well, I will pull
25 out the -- I hope that I have the --

R. E. Hatton

1 MR. HART: Let's go off the
2 record. --

3 MR. PUPKE: -- subpoena here.

4 (A discussion takes place off
5 the record.)

6 MR. PUPKE: In the interests of
7 moving along, I will spare the introduction
8 of the subpoena at this point. But, I'll
9 going on to the next document, which is --

10 I'd like to introduce as an
11 Exhibit number 25, a September 16, 1971 --
12 what appears to be a memo on the Monsanto
13 letterhead, in the upper lefthand corner,
14 stating the subject is "PCB Work - Status."

15 It bears Monsanto Bates number
16 TEX 000770 and 000771.

17 (Monsanto Memo, to W. Papageorge
18 from C.L. Bradford, dated September 16, 1971,
19 Bates Nos. TEX 000770 and 000771 is marked
20 Hatton-25 for identification.)

21 MR. PUPKE: This document is a
22 redacted version of a memo to Bill
23 Papageorge.

24 And Counsel for Mr. Hatton and
25 Monsanto has informed me that the redactions

R. E. Hatton

1 were made because the other material
2 contained was nonresponsive to the carrier's
3 requests.

4 Q. To the extent that you can tell
5 me, Dr. Hatton, have you seen this document
6 prior to today, with the exception of any
7 review you may have conducted with Counsel?

8 A. The carbon copy list indicates that I
9 did.

10 Q. Do you have any reason to
11 believe that you did not receive this
12 document at about the date listed on the
13 first page, September 16, 1971?

14 A. No.

15 Q. On the second page it says,
16 "Number 4. On Turbinol 153, we do not plan
17 to approach Texas Eastern until we have
18 received approval from General Electric for
19 use of one of our new NC esters in gas
20 turbines."

21 Do you know if this procedure
22 was followed with regard to Texas Eastern?

23 A. The --

24 MR. DAVIDSON: May I --

25 A. -- exhibits there indicate --

R. E. Hatton

1 MR. DAVIDSON: Wait a second.

2 (A discussion takes place off
3 the record between the witness and his
4 attorney.)

5 MR. HART: The record should
6 reflect that Monsanto Counsel is conferring
7 with the witness.

8 A. The exact program here could not be
9 followed in line with other management
10 decisions to withdraw Turbinol 153, because
11 we did not have the General Electric
12 approval. There was insufficient time to
13 obtain it.

14 Q. Do you know when the General
15 Electric approval for NC esters was received?

16 A. In general terms, approval was given
17 for field testing sometime in '72 or early
18 '73, in that time period somewhere.

19 And for, I think clarification
20 of everybody present, the NC esters that were
21 proposed for gas turbines are referred to in
22 other documents as Turbinol or MCS 1122.

23 MR. HART: I'm going to move to
24 strike the last sentence as nonresponsive to
25 the question.

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1 Q. Can you, in order to clarify the
2 record, I'd like you to explain what your
3 understanding of the term NC esters is on the
4 second page.

5 I understand you just gave an
6 answer, but it wasn't responsive to the
7 question, according to Counsel for Texas
8 Eastern.

9 A. NC esters --

10 MR. HART: Wait. Wait --

11 A. -- is related to --

12 MR. HART: Wait a minute. I'd
13 like to hear the question again.

14 MR. PUPKE: Okay. I'll ask the
15 question one more time.

16 Q. The NC ester that's referred to
17 on the second page of this document, do you
18 have an understanding of what was meant by
19 the term, NC esters?

20 A. Yes.

21 Q. Can you tell me your
22 understanding? Will you tell me your
23 understanding of that term?

24 A. NC esters was an internal designation
25 for the work that was going on to produce

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1 phosphate esters of different composition
2 than those available from competitors.

3 Q. And did the term NC esters --
4 does your understanding of the term NC esters
5 -- withdrawn.

6 Was it your understanding that
7 the term NC esters as used in this document
8 included Turbinol and 1122.

9 MR. HART: Objection to form.
10 It wasn't -- I'll elaborate if you want.

11 MR. PUPKE: No.

12 MR. HART: That's --

13 A. NC esters was an internal designation
14 within Monsanto. Many products resulted,
15 including the Turbinol 1122.

16 And it was discussed in other
17 documents under MCS numbers rather than under
18 Turbinol tradenames.

19 Q. Dr. Hatton, as we've mentioned
20 before, it notes here that you are a cc on
21 this document. And you've testified before
22 that in late 1971 you were asked to become
23 involved with the Turbinol product again.

24 Is it fair to say that at this
25 time, September 16, 1971, you had already

R. E. Hatton

1 been asked to become involved again with the
2 Turbinol 153 product?

3 A. I do not remember the exact dates, so
4 I cannot confirm that.

5 MR. PUPKE: Pardon me, I just
6 have to find a document.

7 Q. I'd like to turn your attention
8 to what's been marked as Hatton Exhibit 4.
9 I'd like to draw your attention to the
10 December 13, 1971 document which comprises
11 pages 2 and 3 of Hatton Exhibit 4.

12 Did you create this document at
13 about the time of the date on the front,
14 December 13, 1971?

15 A. Yes.

16 Q. On the second page there is a
17 signature there. Is that your signature?

18 A. That is my writing.

19 Q. On the front page there is
20 handwriting on the lefthand margin. I'll try
21 to read what it says -- well, maybe you can
22 read what it says. Can you see that?

23 I believe it says, "No hold
24 harmless now. Changeover ASAP." And then,
25 "Target 20 June."

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1 It may not be exactly what I
2 just read, but that's what it looks like to
3 me.

4 Do you know whose handwriting
5 that is?

6 A. I am not certain.

7 Q. Is that your handwriting?

8 A. That is not my handwriting.

9 Q. In 1971 did Monsanto have
10 facilities to dispose of Turbinol 153?

11 MR. HART: Objection to form.

12 MR. DAVIDSON: I'm going to let
13 him answer if he knows, but I think this
14 again does get into --

15 MR. PUPKE: I went into
16 testimony yesterday --

17 MR. DAVIDSON: -- areas not --

18 MR. PUPKE: And this is a
19 question not asked.

20 MR. DAVIDSON: I understand
21 that. But I think it's getting out of the
22 areas of the agreed upon limits of the
23 deposition.

24 But I'm going to let him go
25 ahead and answer if he knows.

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1 A. Repeat the last part of that
2 question.

3 Q. To the best of your knowledge at
4 the time you wrote this letter or memo, I
5 should say, on December 13, 1971, do you know
6 if Monsanto had disposal facilities for
7 Turbinol 153 available?

8 MR. HART: I'm going to object
9 to the form.

10 A. Yes.

11 Q. Now, you stated yesterday that
12 there was a group, or a department within
13 Texas -- within Monsanto that was responsible
14 for getting products containing PCBs to the
15 incinerator. And then there was another
16 group that actually was in charge of the
17 incineration.

18 Now, I'm not trying to
19 characterize your testimony, again. I'm just
20 trying to refresh your recollection.

21 Were those groups functioning at
22 about the time of this letter, December 13,
23 1971?

24 MR. HART: I object to the
25 form.

R. E. Hatton

1 MR. DAVIDSON: If you know.

2 A. I don't really -- cannot really get
3 down to a month when this occurred.

4 Q. Well, when you wrote this
5 letter, on the last part of the first
6 paragraph it says, letter C. "Assist in
7 conversion and disposal of used fluid." I
8 think it's probably fair to read that whole
9 sentence. But --

10 MR. HART: Just wait a minute.

11 A. Which one are we talking about?

12 Q. I'm sorry.

13 MR. HART: That was paragraph

14 E.

15 MR. PUPKE: That is -- actually
16 I'm looking at the second page of Hatton 4,
17 the first paragraph. I believe it's all one
18 sentence.

19 Q. It says, "The program to stop
20 supplying PCB containing Turbinol 153 to
21 Texas Eastern Transmission Corporation (our
22 only customer) involves the following basic
23 steps: a. inform them by personal visit
24 that Turbinol 153 will not be available after
25 June 1, 1972, (except under 'hold harmless'

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1 conditions if necessary.) b. sell them and
2 General Electric on converting to MCS 1223
3 (all phosphate ester fluid) and c. assist in
4 conversion and disposal of used fluid."

5 Do you have an understanding of
6 what you meant on part c of that sentence,
7 "assist in conversion and disposal of used
8 fluid"?

9 A. Those are very general terms, and
10 would have to be further defined in a
11 detailed work program.

12 They were here and listed as an
13 area to discuss.

14 Q. On the page with the number 2 up
15 top, I believe it's the third page of Hatton
16 4, paragraph F, you refer to more
17 chlorine/bearing problems.

18 Do you have any understanding of
19 what you meant by that?

20 MR. DAVIDSON: Now, that
21 question specifically was asked and answered
22 yesterday.

23 MR. PUPKE: Okay.

24 MR. DAVIDSON: I remember --

25 MR. PUPKE: I'll take your word

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1 for it.

2 MR. DAVIDSON: It was asked and
3 answered --

4 MR. PUPKE: I'll take your word
5 for it, and I'll withdraw the question.

6 MR. HART: Well, I want to say
7 on the record, then, that while I completely
8 agree with Monsanto's Counsel that the
9 question was asked yesterday, it is not at
10 all clear to me that the question received a
11 full and direct answer.

12 In any event, I'm certain that
13 the answer that was given could have been
14 probed, and therefore Texas Eastern reserve
15 its rights to do so, if considered
16 necessary.

17 MR. PUPKE: Let's go to the
18 document that we had introduced earlier, 22 I
19 believe it was.

20 Q. Exhibit 22 is a letter dated
21 January 7, 1972 to Mr. Ted Harrison,
22 Purchasing Agent, Texas Eastern, from C.
23 Larry Bradford, Product Manager Hydraulics
24 and Lubricants.

25 It's on Monsanto letterhead, and

R. E. Hatton - PROTECTED

1 contains Texas Eastern Bates stamp number
2 00001028.

3 MR. PUPKE: So, this is covered
4 by the confidentiality order, I believe.

5 MR. HART: Well, let's go off
6 the record.

7 (A discussion takes place off
8 the record.)

9 MR. HART: Okay, then this is
10 protected material.

11 Q. Dr. Hatton, have you ever seen
12 this document prior to today, with the
13 exception of any review you may have
14 conducted with Counsel?

15 A. I do not remember.

16 Q. Do you have any knowledge as to
17 whether you had ever met Mr. Ted Harrison at
18 Texas Eastern during your employment at
19 Monsanto?

20 A. Yes. I have -- I had met him.

21 Q. Do you know if he was involved
22 at Texas Eastern in the purchase of
23 fire-resistant lubricants from Monsanto?

24 A. Yes, he was.

25 Q. Did you ever directly contact

R. E. Hatton - PROTECTED

1 him concerning the sale of fire-resistant
2 lubricant to Texas Eastern?

3 A. Such contacts where handled by the
4 marketing department, and I would not have
5 initiated any.

6 Q. Did you ever have occasion to
7 speak to Mr. Harrison concerning
8 fire-resistant lubricants?

9 A. I can't -- I don't remember any
10 specific instances, no.

11 Q. Do you know when the first time
12 you met Mr. Harrison was?

13 A. I do not know a specific date.

14 Q. But I should say, did you meet
15 Mr. Harrison at a meeting with other Texas
16 Eastern employees?

17 A. To the best of my knowledge, yes.

18 Q. And after you left the
19 employment of Monsanto, did you ever have any
20 further dealings with Mr. Harrison at any
21 time?

22 A. I have not had any.

23 Q. Did you know of Mr. Harrison at
24 any time when you were in the development
25 department at Monsanto?

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1 A. I -- I don't remember.

2 Q. In your position in the
3 development department at Monsanto, were you
4 ever in touch with either calling on or
5 meeting the purchasing agent for Texas
6 Eastern?

7 MR. HART: I'm going to object
8 to the form.

9 A. No.

10 Q. This document does not contain
11 the attachment.

12 Are you aware whether at the
13 time of this document Texas Eastern had been
14 informed by Monsanto of the withdrawal of
15 Turbinol 153 from the market?

16 MR. HART: I'm going to object
17 to the form. I do object to the form.

18 MR. DAVIDSON: At the time of
19 this January 7th --

20 MR. PUPKE: January 7th, 1972.

21 A. Well, Larry Bradford was in charge of
22 handling that aspect of the discussions, and
23 I was generally aware of what was going on,
24 but not specifically.

25 Q. Were you aware generally as to

R. E. Hatton - PROTECTED

1 when Texas Eastern was informed of Turbinol
2 153 being removed from the market?

3 MR. HART: Counsel, I'm going to
4 object. I think that you're --

5 MR. PUPKE: I think you have an
6 objection to form, and that's sufficient.

7 MR. HART: Well, no, I want to
8 spell it out at this point.

9 Your question is ambiguous. It
10 could go to several different things. If
11 you're asking --

12 MR. PUPKE: Well, who --

13 MR. HART: -- are you asking
14 when was Texas Eastern told that Monsanto
15 planned to withdraw it? Or are you asking
16 when it was Texas Eastern was told that it
17 had been withdrawn?

18 I think there is a difference.
19 I think your question covers both of them.
20 If you want to make it clear --

21 MR. PUPKE: For the sake --

22 MR. HART: -- I'm allowing you
23 to do so. If you don't, I'm objecting to
24 form.

25 MR. PUPKE: For the sake of the

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1 clarity of the record, and the second sake of
2 I don't want the court reporter to have to go
3 back several pages to find the question, I
4 will rephrase the question.

5 Q. Dr. Hatton, did you have a
6 general understanding as to when Texas
7 Eastern was informed that Monsanto would
8 withdraw Turbinol 153? Withdrawn.

9 Do you have a general
10 understanding as to when Texas Eastern was
11 informed that Monsanto would no longer sell
12 Turbinol 153?

13 MR. HART: Same objection.

14 A. I do not have a specific date, other
15 than what we have previously discussed.

16 MR. PUPKE: Take a five minute
17 break real quick.

18 (There is a recess.)

19 Q. Dr. Hatton, I just have a few
20 more questions, and hopefully we'll be done
21 with the questioning.

22 Dr. Hatton, you have testified
23 that Mr. Frederiksen had been the salesperson
24 who was the primary contact with Texas
25 Eastern.

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1 Now, I, when I say primary
2 contact I'm not using your words, I'm using
3 my interpretation of your words, so I'm not
4 trying to characterize your testimony.

5 MR. HART: I nevertheless have
6 to object whenever you do it.

7 MR. PUPKE: Okay.

8 Q. I'm trying to bring this up for
9 your recollection, not to state what you
10 stated.

11 Do you know when Mr. Frederiksen
12 began his sales position with Monsanto?

13 A. No, I don't.

14 Q. Do you know if Mr. Frederiksen
15 was involved with the sale of OS-81 to Texas
16 Eastern?

17 A. No, I do not.

18 Q. Do you know the names of any
19 other people in the sales department who were
20 involved with the sale of OS-81 to Texas
21 Eastern?

22 A. I do not remember the local salesmen
23 at the time.

24 Q. Do you remember the people in
25 the sales department, or rather in the

R. E. Hatton

1 marketing department at Monsanto who were
2 involved in the marketing of OS-81 to Texas
3 Eastern?

4 A. I cannot find a name in my memory.

5 Q. Was there just one person who is
6 in charge of marketing OS-81 to Texas
7 Eastern?

8 MR. HART: I'll object. I
9 object to the form.

10 A. I -- I object to the --

11 Q. If you --

12 A. -- idea that there was only one
13 person involved in marketing.

14 Q. Yes. I --

15 A. -- my primary discussion -- or my
16 discussion before indicates that the local
17 salesperson is responsible for day-to-day
18 contacts. That does not make him the only,
19 or necessarily the primary salesman for that
20 account.

21 Q. You don't have to object to
22 questions, you can just ask me and I'll
23 rephrase them for you. Although --

24 A. That's what I'm going to say when
25 explaining it.

R. E. Hatton

1 Q. Although your objections are
2 sometimes more valid than the objections of
3 others.

4 MR. HART: Well, certainly more
5 powerful. I'm not sure I agree with more
6 valid.

7 A. I'm sorry, but I had to say that.

8 Q. Let me ask the question a
9 different way, perhaps.

10 Were there people in the
11 marketing department at Monsanto who were --
12 whose duty it was to sell the OS-81 to
13 customers, including Texas Eastern?

14 MR. DAVIDSON: Can you put that
15 to a time period?

16 MR. PUPKE: OS-81 was, let's
17 say, late 1950s through 1970.

18 MR. HART: Well, I object to the
19 form.

20 A. There were specific people involved in
21 signing the sales contract for any product
22 supplied.

23 Q. Do you know who --

24 A. We in development did not do that.

25 Q. I'm sorry. Do you know who in

R. E. Hatton

1 the marketing department did?

2 A. I do not remember specifically.

3 Q. Now, for the period post-1970,
4 do you have any recollection of -- do you
5 have an understanding of who at Monsanto was
6 involved in the marketing, or with the sale,
7 I should say, of Turbinol 153 or MCS-153 to
8 Texas Eastern?

9 MR. HART: Objection to form.

10 No foundation has been laid for the
11 implication that MCS-153 was marketed after
12 1970.

13 A. Well, what was the time period again?

14 Q. From 1970, forward.

15 A. When?

16 Q. 1970, forward.

17 A. Based on what was said before, this is
18 less than a year's time, or at most two
19 years, and I think that I said yesterday that
20 it would have been Dale Smith.

21 Q. This may have been asked
22 yesterday, but, is Mr. Smith still alive?

23 A. As far as I know.

24 Q. Do you know if he is still an
25 employee of Monsanto?

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1 A. He has retired.

2 Q. Do you know where Mr. Smith
3 retired to?

4 A. St. Louis area.

5 Q. While I'm on the subject of
6 names, you've mentioned Don Roush. I don't
7 know how you spell that, but maybe you can
8 give the spelling to the court reporter.

9 THE REPORTER: He has.

10 Q. Okay. Do you know if Mr. Roush
11 is still an employee of Monsanto today?

12 A. He is not.

13 Q. Do you know if he is still
14 living?

15 A. No, I do not.

16 Q. Do you know if he retired from
17 Monsanto?

18 A. He changed positions before I retired.

19 Q. When you say he changed
20 positions, do you mean he went to a different
21 company?

22 A. Went to a different company --

23 Q. Do you know --

24 A. -- I should have said.

25 Q. Do you know which company he

R. E. Hatton

1 went to?

2 A. Somewhere in Texas.

3 MR. DAVIDSON: That's south of
4 St. Louis.

5 A. I don't -- I don't have a specific
6 company name, no.

7 Q. Okay. From the period 1958
8 through 1972, did you ever have contact with
9 an employee of Texas Eastern named J.R.
10 Gilcrease?

11 A. I don't remember.

12 Q. Did you ever have contact with
13 -- during that time period, with any chemists
14 at Texas Eastern?

15 A. I don't remember specifically.

16 Q. During the period of sale of the
17 Monsanto fire-resistant lubricant from 1958
18 through 1972, did you ever have occasion to
19 conduct tests on fire-resistant lubricant
20 that had been used and removed from the Texas
21 Eastern facilities?

22 MR. HART: I'll object to the
23 form.

24 A. Does your question refer to me,
25 specifically, and the laboratory? Or does it

R. E. Hatton

1 refer to Monsanto Laboratories?

2 Q. Well, let's start with you,
3 specifically.

4 A. Yes, on several -- yes, on materials
5 from the early startup times --

6 Q. That would have been --

7 A. -- when I was still in the laboratory.

8 Q. That would have been OS-81?

9 A. Yes.

10 Q. Is that correct?

11 A. Yes.

12 Q. Were samples of fire-resistant
13 lubricant sent to Monsanto from Texas Eastern
14 on a regular basis during the course of the
15 use of the fire-resistant lubricant by Texas
16 Eastern?

17 MR. HART: Objection.

18 A. If you mean did we run analyses of new
19 samples on request for Texas Eastern, the
20 answer is yes.

21 Q. And when the tests results were
22 obtained, did you forward or did someone at
23 Monsanto, I should say, forward the test
24 results on to someone at Texas Eastern?

25 MR. HART: Objection.

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1 A. The program as set up would have
2 involved an analytical report going back,
3 probably generated by the so-called control
4 laboratory or analytical laboratory.

5 Q. Do you have an understanding of
6 the type of tests that were performed on the
7 Texas Eastern samples?

8 A. These tests were designed to determine
9 the condition of the fluid and changes from
10 new fluid.

11 Q. Dr. Hatton, on a different
12 subject; you were asked yesterday about your
13 knowledge of PCBs being found in a gas meter
14 on Long Island in approximately 1981. I want
15 to just ask one question.

16 The -- let me just go back a
17 second.

18 MR. PUPKE: Off the record.

19 (A discussion takes place off
20 the record.)

21 Q. Dr. Hatton, in approximately
22 1981 did you have occasion to hear of a
23 finding of PCBs in a Long Island gas meter in
24 a residence?

25 A. My only knowledge came from reading

R. E. Hatton

1 the newspaper.

2 Q. And that was at about the time
3 that it was found?

4 MR. HART: Objection.

5 A. Whenever it was reported.

6 Q. Did you ever come to know the
7 origin of those PCBs?

8 MR. HART: Objection.

9 A. No.

10 MR. PUPKE: I have no further
11 questions.

12 CROSS-EXAMINATION BY MR. HART:

13 Q. Dr. Hatton, as you know, I'm
14 Laird Hart. I representing Texas Eastern --

15 MR. DAVIDSON: Mr. Hart, just a
16 second, please.

17 We are at the 3:32 point, and I
18 do need to leave a little bit before four
19 o'clock in time to get over, and get my car
20 out of the garage, and get to the airport.
21 You're welcome to begin, if you want to spend
22 15 minutes, or we can at this point take some
23 action with respect to adjourning, and
24 continuing, and terminating, or whatever.

25 MR. HART: Well, it's clear to

R. E. Hatton

1 me that we're going to need to adjourn to
2 another time. I hope that time will be as
3 soon as possible, consistent with the
4 schedules of everybody who needs to be
5 involved.

6 I gather that now the onus is
7 going to fall on Texas Eastern that I've got
8 to reproduce, but that Dr. Hatton is
9 available, subject to his schedule.

10 MR. DAVIDSON: Subject to his
11 schedule.

12 THE WITNESS: Subject to my
13 schedule, yes.

14 MR. HART: We appreciate that.
15 I do think I will take the opportunity to get
16 started, and at least mark some documents.

17 Off are the record.

18 (A discussion takes place off
19 the record.)

20 (Document entitled, "Fire
21 Resistant Lubricants in Gas Turbines" by Earl
22 P. Farmer, Jr., Dated May 4-7, 1970, Bates
23 Nos. TEX 000339 through 000352, is marked
24 Hatton-26 for identification.)

25 Q. Dr. Hatton, I've had marked as

R. E. Hatton

1 Exhibit 26 a document entitled,
2 "Fire-resistant Lubricants and Gas
3 Turbines." It appears to be authored by Earl
4 P. Farmer, Jr.

5 And I'd ask you to take a quick
6 look at it. I'm not going to be asking you
7 any questions about its contents today.

8 But, I wonder if sitting here
9 today whether you remember having seen it
10 before.

11 A. Yes.

12 Q. Exhibit 2 is the Monsanto
13 publication that provides an abridged excerpt
14 from a paper by Mr. Farmer. And you might
15 want to pull that out and look at it.

16 You might also want to look at
17 Exhibit 18, which was introduced by Counsel
18 for AEGIS and National Surety.

19 A. Okay.

20 Q. Dr. Hatton, Counsel for AEGIS
21 and National Surety asked you if Exhibit 18
22 was the paper by Mr. Farmer that you
23 believed, or that you meant to refer to when
24 you were describing Exhibit 2.

25 And I just wonder if you put

R. E. Hatton

1 Exhibit 26 in front of you, you might want to
2 reconsider that earlier answer.

3 A. I cannot remember which specific
4 document that it was.

5 On the surface, the two papers
6 appear to be the same paper. And it would
7 take a thorough reading to find the
8 differences, not based on a quick skim
9 through.

10 Q. Exhibit 26 is dated and has a
11 different footnote at the bottom of the cover
12 page.

13 A. Yes.

14 Q. Okay.

15 A. That's the obvious difference between
16 to the two.

17 Q. All right.

18 MR. HART: Please mark Exhibit
19 27.

20 (Call Report to C.L. Bradford
21 from John G. Frederiksen, Date of Call
22 January 31, 1972, Bates No. TEX 000314 is
23 marked Hatton-27 for identification.)

24 Q. Dr. Hatton, do you recognize
25 Exhibit 27?

R. E. Hatton - PROTECTED

1 A. Yes. It's a Call Report from John
2 Frederiksen.

3 MR. HART: Let me have marked
4 Exhibit 28.

5 (Memo to multiple addressees
6 from W.B. Papageorge, dated February 10,
7 1972, Bates Nos. TEX 000807 through 000817 is
8 marked Hatton-28 for identification.)

9 Q. Dr. Hatton, do you recognize
10 Exhibit 28?

11 A. I have seen this one, yes, sir.

12 Q. And what is it?

13 A. This is an action plan prepared by
14 Bill Papageorge.

15 And the important points here
16 are page 4, which describes the action plan.

17 MR. HART: Let me have marked
18 Exhibit 29.

19 (Call Report No. 1972-16, by
20 R.E. Hatton, dated April 10, 1972, Bates Nos.
21 TEX 000887 through 000890 is marked Hatton-29
22 for identification.)

23 Q. Well, do you recognize Exhibit
24 29, Dr. Hatton?

25 A. Yes. It is a Call Report which I

R. E. Hatton

1 signed. I signed the original of, not this
2 one.

3 MR. HART: I'd like to mark this
4 as Exhibit 30.

5 Now, this will be treated as
6 protected material.

7 (Letter to Walter Woods from
8 R.E. Hatton, dated April 11, 1972, Bates Nos.
9 000810019, 000810020, 000810021, 000810032
10 and 000810018 is marked Hatton-30 for
11 identification.)

12 Q. Dr. Hatton, do you recognize
13 this Exhibit 30?

14 A. Yes.

15 Q. Please say what it is.

16 A. It is a letter to Walter Woods.

17 Q. Do you recognize your signature
18 on page 3?

19 A. Yes.

20 Q. Okay.

21 MR. HART: Let me mark Exhibit
22 31.

23 (Call Report to Cumming Paton
24 from J.G. Frederiksen, Date of Call, August
25 2, 1972, Bates No. TEX 000372 is marked

R. E. Hatton

1 Hatton-31 for identification.)

2 Q. Dr. Hatton, do you recognize
3 Exhibit 31?

4 A. Yes. This is a Call Report of John
5 Frederiksen's on Texas Eastern.

6 MR. HART: Let me mark
7 Exhibit 32.

8 (Letter to C. Paton from J.H.
9 Davidson, dated August 28, 1972,
10 Bates Nos. TEX 000785 through 000786 is
11 marked Hatton-32 for identification.)

12 Q. Dr. Hatton, do you recognize
13 Exhibit 32?

14 A. This is a memo from Jerry Davidson to
15 Cumming Paton with regard to the status of
16 Texas Eastern. And a quick look indicates
17 that it relates to a -- some information
18 that I had provided.

19 MR. HART: Mark Exhibit 33.

20 (Call Report to Cumming Paton
21 from J.G. Frederiksen, Date of Call October
22 24, 1972, Bates No. TEX 000371 is marked
23 Hatton-33 for identification.)

24 Q. Dr. Hatton, do you recognize
25 Exhibit 33?

R. E. Hatton

1 A. This is another Call Report from
2 Frederiksen.

3 MR. HART: Mark Exhibit 34.

4 (Call Report to C. Paton from
5 J.G. Frederiksen, Date of Call June 11 & 13,
6 1973, Bates Nos. TEX 000909 through 000910 is
7 marked Hatton-34 for identification.)

8 Q. Dr. Hatton, I wonder if you
9 recognize the handwriting at the bottom of
10 the first page of Exhibit 34.

11 MR. PUPKE: I'm going to object
12 to the question.

13 MR. HART: What ground?

14 MR. PUPKE: This is --

15 MR. HART: I'm sorry. Have I
16 marked --

17 MR. PUPKE: You haven't asked
18 about the document.

19 MR. HART: I have just handed
20 Exhibit 34 to him, and I'm asking if he
21 recognizes the handwriting in the right-hand
22 corner.

23 MR. PUPKE: Why don't you ask
24 him if he recognizes the document first.

25 MR. HART: I'll take an answer.

R. E. Hatton

1 A. Which question am I to answer?

2 MR. DAVIDSON: Do you recognize
3 the handwriting?

4 Q. Do you recognize the
5 handwriting?

6 A. No.

7 Q. Do you recognize the document?

8 A. I don't remember seeing this one,
9 specifically.

10 It is another in a series of
11 Frederiksen Call Reports.

12 MR. HART: Mark 35.

13 (Call Report to C. Paton from
14 J.G. Frederiksen, Date of Call, June 28-29,
15 1973, Bates Nos. TEX 000903 through is marked
16 Hatton-35 for identification.)

17 Q. Dr. Hatton, do you recognize
18 Exhibit 35?

19 A. Continuing series of Call Reports from
20 John Frederiksen.

21 Q. And my only substantive question
22 of today, Dr. Hatton, will be to ask you to
23 state your date of birth for the record.

24 A. March 5th, 1918.

25 Q. Thank you, sir.

R. E. Hatton

1 MR. HART: I appreciate your
2 being here, and I will look forward to seeing
3 you again.

4 (The deposition is concluded at
5 3:55 in the afternoon.)
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C E R T I F I C A T E

I, TOMMY LARUE MILLER, Notary
Public and Certified Shorthand Reporter of
the State of New Jersey, do hereby certify
that prior to the commencement of the
examination ROGER E. HATTON, was duly sworn
by me to testify to the truth.

I DO FURTHER CERTIFY that the
foregoing is a true and accurate transcript
of the testimony as taken stenographically by
and before me at the time, place and on the
date hereinbefore set forth.

I DO FURTHER CERTIFY that I am
neither a relative nor employee nor Counsel
of any of the parties to this action, and
that I am neither a relative nor employee of
such counsel, and that I am not financially
interested in the action.

Tommy Larue Miller

Notary Public of the State of New Jersey
My Commission expires May 18, 1993
License No. XI00806

Dated: January 27, 1990

JURAT

I, ROGER E. HATTON, do hereby
certify that I have read the foregoing
transcript of my testimony, taken on January
25, 1990, and have signed it. I have listed
the following changes or corrections to that
transcript below.

<u>PAGE</u>	<u>LINE</u>	<u>CHANGE/CORRECTION</u>
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Date: _____

Sworn to and subscribed
before me this day of
 , 1990

Notary Public _____