

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

TRANSWESTERN PIPELINE COMPANY,)
 PLAINTIFF,) CASE NO.
 VS.) BC 026 959
 MONSANTO COMPANY AND DOES)
 1 THROUGH 200, INCLUSIVE,)
 DEFENDANTS.)

EXHIBITS TO THE DEPOSITION OF:

THOMAS M. BISTLINE

THURSDAY, SEPTEMBER 26, 1991

9:10 A.M.

OUR FILE NO. 13728DF

REPORTED BY DIANE KENDY

C.S.R. NO. 4851



DAVID FELDMAN & ASSOCIATES/USA/LTD.

400 South Beverly Drive, Suite 306
Beverly Hills, CA 90212 213-556-0232

COMPUTERIZED COURT REPORTING WORLDWIDE

1 Richard B. Kendall
2 James D. Layden
3 SHEARMAN & STERLING
4 725 South Figueroa Street
5 Twenty-First Floor
6 Los Angeles, California 90017
7 Telephone: (213) 239-0300

8 Attorneys for Plaintiff
9 TRANSWESTERN PIPELINE COMPANY

Dst(s) _____ Pff(s) 1 EXHIBIT for I.D.
DIANE KENDY CSR # 4851
Date: 9-26-91
Witness: BISTLINE

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

11 TRANSWESTERN PIPELINE) CASE NO. BC 026959
12 COMPANY,)
13) AMENDED NOTICE OF DEPOSITION
14 Plaintiff,) AND PRODUCTION OF DOCUMENTS
15)
16 vs.)
17)
18 MONSANTO COMPANY and)
19 DOES 1 through 200)
20 inclusive,)
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22 Defendants.)
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TO DEFENDANT MONSANTO COMPANY AND ITS COUNSEL OF RECORD:

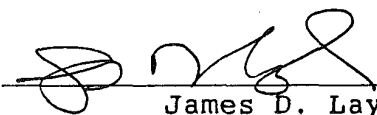
PLEASE TAKE NOTICE that, pursuant to California Code of
Civil Procedure Section 2025, PLAINTIFF TRANSWESTERN PIPELINE
COMPANY will take the deposition upon oral examination of
DEFENDANT MONSANTO COMPANY by its custodian of the documents and
records listed on Schedule "A" annexed hereto. The deposition
shall take place on September 26, 1991 at 9:00 a.m. before a
certified shorthand reporter and notary public at the offices of
Shearman & Sterling, 725 South Figueroa Street, 21st Floor, Los
Angeles, California 90017, or at such other place or places as the

1 parties may agree. The deposition shall continue from day to day
2 until completed, or on such other dates and at such other times to
3 which the parties may agree.

4 NOTICE IS FURTHER GIVEN that, pursuant to California Code
5 of Civil Procedure Sections 2025(d)(4) and 2025(h), the deponent
6 is required to produce for inspection and copying at the
7 deposition the documents described in Schedule "A" hereto.

8
9 DATED: September 13, 1991

10 SHEARMAN & STERLING
11 Richard B. Kendall
12 James D. Layden

13 By  _____
14 James D. Layden

15 Attorneys for Plaintiff
16 TRANSWESTERN PIPELINE COMPANY
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SCHEDULE "A"

I. DEFINITIONS AND INSTRUCTIONS

1. "Document" is used in the broadest possible sense and refers without limitation to any written, typed, or other graphic material, of any kind or nature, and any other tangible thing by or on which information or data is stored or can be obtained, translated (if necessary) by Monsanto through detection devices into reasonably usable form, including without limitation, any writing, drawing, film, graph, chart, photograph, phono-record, mechanical, or electrical sound recording or transcript thereof; any retrievable data, whether in computer storage, carded, punched, taped, or coded form or stored electro-statically, electro-magnetically, or otherwise; and any other data compilation from which information can be obtained.

Without limiting the generality of the foregoing, "document" specifically includes all contracts, agreements, invoices, bills of sale, promotional materials, advertisements, forms, correspondence, letters, telegrams, telephone messages, notices, notes, memoranda, reports, studies, analyses, working papers, statistical statements, financial statements, financial analyses, opinions, forecasts, budgets, projections, audits, press releases, brochures, pamphlets, circulars, minutes of meetings, notes and summaries of investigations, statements, worksheets, summaries, books, journals, ledgers, audits, maps, diagrams, drafts, newspapers, appointment books, desk calendars,

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1 diaries, inter and intra office memos and communications,
2 faxes, and telexes.

3 Such terms shall also include all contemporaneously
4 or subsequently created non-identical duplicates or copies
5 and all drafts, preliminary versions or revisions of
6 documents, whether or not completed, by whatever means made.
7 As used in this Notice, "document" also includes every
8 "document" that is no longer identical by virtue of any
9 notation or modification of any kind.

10 2. Whenever appropriate, the singular form of a
11 word shall be interpreted in plural, or vice versa; verb
12 tenses shall be interpreted to include past, present, and
13 future tenses; the terms "and" as well as "or" shall be
14 construed either disjunctively or conjunctively, as necessary
15 to bring within the scope of the requests in this Notice any
16 documents that might otherwise be construed to be outside
17 their scope; and words imparting the masculine include the
18 feminine and vice versa.

19 3. Any reference to a person, corporation,
20 association, partnership, company, or joint venture shall
21 mean that person or entity, any parents, affiliates,
22 divisions, controlled companies, subsidiaries, or otherwise
23 related entities, and all of his, her, or its current or
24 former agents, representatives, employees, attorneys,
25 accountants, officers, directors, auditors, and consultants,
26 or other persons or entities acting, or purporting to act, on
27 its behalf.

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1 4. The documents requested herein specifically
2 include all documents in the possession, custody, or control
3 of Monsanto Company ("Monsanto") including parents,
4 affiliates, divisions, controlled companies, subsidiaries, or
5 otherwise related entities, or any of Monsanto's current or
6 former agents, representatives, employees, attorneys,
7 accountants, auditors, directors, officers, consultants, or
8 other persons or entities acting, or purporting to act, on
9 Monsanto's behalf.

10 5. "Monsanto" or "Monsanto Company" means Monsanto
11 Company and its parents, affiliates, divisions, controlled
12 companies, subsidiaries, or otherwise related entities, or
13 any of Monsanto's current or former agents, representatives,
14 employees, attorneys, accountants, auditors, directors,
15 officers, consultants, or other persons or entities acting,
16 or purporting to act, on Monsanto's behalf.

17 6. "Transwestern" means Transwestern Pipeline
18 Company, the plaintiff in this action.

19 7. "Texas Eastern" means Texas Eastern
20 Transmission Corp., which was Transwestern's corporate parent
21 until 1984, and which was succeeded in 1979 by Texas Eastern
22 corp., which is now known as Panhandle Eastern Pipeline
23 Company.

24 8. "Turbinol" means the PCB-containing gas
25 compressor lubricant sold by Monsanto under the name Monsanto
26 MCS-153 -- Turbinol 153.

27 9. "PCBs" means the chemical compound
28 polychlorinated biphenyls.

1 10. "Relevant period" means the period of time
2 during any part of which Monsanto developed, designed,
3 tested, manufactured, promoted, advertised, distributed, or
4 sold Turbinol or any other PCB-containing gas compressor
5 lubricant.

6 11. "Communication" is used in the broadest
7 possible sense and refers to any meeting, discussion,
8 presentation, contact, proposal, memoranda, letter, telegram,
9 telex, cable, telecopy, fax, telephone call, or any other
10 communication, or notes thereof, or document relating
11 thereto, whether formal or informal, and includes the
12 transmittal, in any manner or medium, of information, facts,
13 or ideas.

14 12. "Relating to" means constituting, concerning,
15 containing, evidencing, showing, or referring in any way,
16 directly or indirectly, to the subject matter of the
17 particular request in this Notice.

18 13. The use of the word "including" shall be
19 construed to mean "including without limitation."

20 14. All documents produced are to be produced in
21 their entirety, without redaction, and including all
22 attachments and enclosures. If, for any reason, a document
23 cannot be produced in full, please state with particularity
24 the reason or reasons it is not produced in full, and
25 describe, to the best of Monsanto's knowledge, information,
26 and belief and with as much particularity as possible, those
27 portions of the document that are not produced. When a
28 document is only in part responsive to any request in this

1 Notice, it shall nevertheless be produced in its entirety.

2 If documents that are produced are normally kept in a file or
3 other folder, then that file or folder must also be produced.

4 15. That more than one request in this Notice may
5 ask for the same document is not be interpreted to narrow or
6 to limit the normal interpretation placed upon each
7 individual request.

8 16. Unless otherwise indicated, the documents to be
9 produced are those created, or believed to have been created,
10 at any time from the first day of the relevant period, as
11 previously defined herein, up to and including the date of
12 this Notice.

13 17. If any document requested to be produced herein
14 was in Monsanto's possession, custody, or control, but has
15 since been disposed of, lost, discarded, destroyed, or
16 partially destroyed or is otherwise unavailable, please
17 provide the following:

18 (a) The nature or type of the document,
19 including any title or identifying number thereon (e.g.,
20 letter, report, memoranda);

21 (b) Its date of origin or preparation;

22 (c) The name of its author or originator;

23 (d) The name of its addressee, if any;

24 (e) The name of all recipients of any copy of
25 such document;

26 (f) A summary of its substance;

27 (g) The time period during which the document
28 was in Monsanto's possession, custody, or control;

1 (h) The name and address of any person or
2 entity who to the best of Monsanto's knowledge has a copy of
3 the document;

4 (i) The date or approximate time of the
5 disposition, loss, destruction, discarding, or when the
6 document became unavailable; and

7 (j) The reason for disposition, loss,
8 destruction, discarding, or unavailability of the document,
9 and the person, if any, responsible therefor.

10 18. File folders with tabs or labels identifying
11 documents responsive to the requests in this Notice should be
12 produced intact with such documents.

13 19. Documents attached to each other shall not be
14 separated.

15 20. If responsive documents are kept together in
16 the usual course of business, they should be so produced, in
17 order fairly to reveal and not to distort the order of
18 Monsanto's filing and record-keeping system.

19 21. Electronic records and computerized information
20 should be produced: (a) in an intelligible format; or
21 (b) together with a description of the system from which they
22 were obtained sufficient to render the records and
23 information intelligible.

24 22. Each document produced should be produced in a
25 manner that makes clear the precise request or requests in
26 this Notice (i.e., the paragraph number of the request) to
27 which the document relates.

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1 23. If any of the documents requested below are
2 claimed by Monsanto to be privileged or otherwise withheld,
3 Monsanto is requested to provide for each such document, with
4 sufficient specificity to identify that document for purposes
5 of a motion to compel further discovery:

6 (a) a specific statement of the ground and
7 authority upon which Monsanto is relying in withholding
8 production; and

9 (b) a statement which sets forth;

10 (i) the identity of the document's
11 author(s) and every person who is known by Monsanto to have
12 either helped in its preparation or received a copy of the
13 document;

14 (ii) the title or other identifying data;

15 (iii) the date of the document, or, if no
16 date appears thereon, the approximate date;

17 (iv) in summary, the nature and subject
18 matter thereof;

19 (v) the identity and location of each
20 person having or last having had possession, care, custody,
21 or control of the original and each and any copies thereof;
22 and

23 (vi) if the document was, but is no longer
24 in Monsanto's possession or control, state what disposition
25 was made of it, including, but not limited to, specification
26 of the name and address of the person(s) who disposed of the
27 document and the date, time, place, mode, or method of the
28 disposal.

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1 24. When this Notice does not specifically request
2 a particular document, but the document would help to make
3 the production complete, comprehensible, or not misleading,
4 please produce the document. Only non-identical copies of a
5 document are to be considered separate documents.

6 25. Where there are no documents in Monsanto's
7 custody, control, or possession that are responsive to a
8 particular item, please so state.

9 26. This Notice shall be deemed continuing so as to
10 require further and supplemental production if Monsanto
11 obtains additional documents between the time of initial
12 production and the time of trial.

13 DOCUMENT REQUESTS

14 1. All documents relating to any communications
15 between Monsanto and Transwestern relating to or involving
16 PCBs in any way, directly or indirectly.

17 2. All documents relating to any communications
18 between Monsanto and Texas Eastern relating to or involving
19 PCBs in any way, directly or indirectly.

20 3. All documents relating to any communications
21 between Monsanto and the Southern California Gas Company
22 relating to or involving PCBs in any way, directly or
23 indirectly.

24 4. All documents relating to any communications
25 between Monsanto and the Pacific Lighting Gas Supply Company
26 relating to or involving PCBs in any way, directly or
27 indirectly.

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1 5. All documents relating to any communications
2 between Monsanto and the Pacific Lighting Service Company
3 relating to or involving PCBs in any way, directly or
4 indirectly.

5 6. All documents relating to any communications
6 between Monsanto and any governmental entity relating to PCBs
7 or any PCB-containing product during the relevant period.

8 7. All documents relating to the sale of Turbinol
9 or other PCB-containing gas compressor lubricants to
10 Transwestern or Texas Eastern at any time during the relevant
11 period, including without limitation all contracts, invoices,
12 and bills of sale associated therewith.

13 8. All documents relating to the sale of Turbinol
14 or other PCB-containing gas compressor lubricants to persons
15 or entities other than Transwestern or Texas Eastern at any
16 time during the relevant period.

17 9. All documents relating to the cessation of the
18 sale of Turbinol or other PCB-containing gas compressor
19 lubricants by Monsanto.

20 10. All documents relating to the design, testing,
21 and manufacture of Turbinol or other PCB-containing gas
22 compressor lubricants.

23 11. All documents relating to the promotion,
24 advertising, marketing, distribution, and sale of Turbinol or
25 other PCB-containing gas compressor lubricants, including
26 without limitation any warnings, instructions for use,
27 warranties, disclaimers, and labels or other packaging
28 associated therewith.

1 12. All documents relating to the use(s) of
2 Turbinol or other PCB-containing gas compressor lubricants.

3 13. All documents relating to Monsanto's decision
4 to notify its customers in or about 1971 and 1972 of certain
5 hazards associated with Turbinol and PCBs.

6 14. All documents relating to the hazards to human,
7 animal, and/or aquatic health associated with PCBs or any
8 PCB-containing product.

9 15. All documents relating to scientific and
10 medical studies conducted by MONSANTO or others with respect
11 to the hazards associated with PCBs to human, animal, and/or
12 aquatic health.

13 16. All documents relating to the operation of
14 natural gas pipelines and gas compressors.

15 17. All documents relating to the development,
16 design, testing, manufacture, marketing, advertising,
17 distribution, and sale during the relevant period of any gas
18 compressor lubricant not containing PCBs.

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I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, California, and am not a party to the within action; my business address is 725 South Figueroa Street, 21st Floor, Los Angeles, California 90017. On September 13, 1991, I served the foregoing document described as **AMENDED NOTICE OF DEPOSITION AND PRODUCTION OF DOCUMENTS**, on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope and addressed as follows:

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Legal Affairs

LITIGATION

DIANE KENDRICK CSR# 485 Date: _____

Date: 9-28-91 Witness: _____

Witness: BISTLINE

DID WESTINGHOUSE KEEP MUM ON PCBs?

A new lawsuit charges that it knew of health risks it didn't disclose

When the Environmental Protection Agency banned polychlorinated biphenyls (PCBs) in 1979, it probably came too late for Richard K. Sluder of Bloomington, Ind. The former Westinghouse Electric Corp. worker blames his debilitating arthritis and memory loss on PCBs, which he says drenched him daily on the job for years. Sluder, 39, is a likely candidate to suffer some ill effects: At one point, his blood had the highest PCB concentration ever recorded in a human—3,450 parts per billion.

In a suit filed last March, Sluder and eight other Bloomington workers charge Monsanto Chemical Co., the sole U.S. producer of PCBs, and Westinghouse with fraud and battery. Sluder is one of roughly 1,000 claimants to file PCB-related personal-injury suits pending against Westinghouse. In many of those cases, Westinghouse has had the upper hand, since the scientific link between PCBs and human illness is unproven. But Sluder's suit comes at a time of mounting scientific evidence linking PCBs to cancer and other ailments. And the case is the first to charge that Westinghouse exposed its workers to chemicals it knew were unsafe. "We have documented evidence of exposure levels, which is unprecedented," says Sluder's lawyer, David S. McCrae. "Westinghouse knew these chemicals would poison the workers and cause death. But Westinghouse said nothing."

Westinghouse spokesperson Christopher C. Newton says the company gave workers protective clothing and took other safety steps. Newton won't say whether Westinghouse told the workers

directly about the risks of PCBs, but he adds that they were free to raise health concerns during monthly safety meetings. Westinghouse and Monsanto say studies have never conclusively linked PCBs to health problems other than skin rashes. Thomas M. Bistline, Monsanto's assistant general counsel, labels the Sluder suit "a scurrilous fabrication."

Unlike other suits, Sluder's case relies on new medical tests and internal Westinghouse memoranda addressing corporate concern over the safety of PCBs. If Sluder can prove that the company believed PCBs were potentially harmful yet failed to take adequate safety precautions for its workers, he could establish a legal precedent for pending litigation against Westinghouse and other companies that used PCBs.

From the 1930s to 1979, Westinghouse

and General Electric Co. were the biggest purchasers of PCBs as fire retardants and coolants in capacitors and transformers. Other big users have included electrical-equipment companies such as McGraw Edison, ITE Imperial, and Sprague Electric. NCR used PCBs to make carbonless copy paper. Though no firm number is available, plaintiffs' attorneys estimate that tens of thousands of workers have handled PCBs.

The health studies are anything but conclusive. In 1977 and 1985, the National Institute for Occupational Safety & Health conducted two Bloomington worker studies that

found no direct link between PCBs and current medical ailments—a finding that NIOSH admits may be flawed. And a 1988 review of scientific literature by Renate D. Kimbrough, then director of health



Sluder: At one point, his blood had the most PCBs ever recorded in a human



WESTINGHOUSE CLEANS UP NEAR BLOOMINGTON:

and risk capabilities at the EPA, concluded that "exposure to PCBs has led to no convincing, clinically demonstrable, chronic health effects in humans."

But a NIOSH mortality study published in April that reviewed Bloomington workers' causes of death from 1957 to 1977 concluded that plant workers "were at excess risk" of dying from skin cancer. It also found that an unusually high number of deaths from brain cancer merits further research.

DILEMMA. While the full extent of human health dangers are still being debated, more and more animal studies link PCBs to numerous illnesses, including cancer, liver damage, and birth defects. "The index of suspicion [of health problems in humans] is so high, no one would seriously propose that we not worry about PCBs," says Walter J. Rogan, medical officer at the National Institute of Environmental Health Sciences, a research unit of the National Institutes of Health. And animal studies may now carry more legal weight: In September, 1990, a federal appeals court in Philadelphia ruled that animal studies are admissible as causation evidence in PCB-liability cases.

Beyond the legal issues, the Westinghouse case cuts to the heart of an ethical



THE TAB COULD BE MORE THAN \$1 BILLION

THE LONG PCB TRAIL AT WESTINGHOUSE

1947 Westinghouse memo describes severe health hazards of prolonged exposure to polychlorinated biphenyls. Monsanto is the sole producer of PCBs, widely used in industry as insulators, coolants, and lubricants

1957 Westinghouse opens new plant near Bloomington, Ind., to make PCB-containing capacitors

1968 PCBs are investigated worldwide as a likely health hazard and highly toxic pollutant when 1,300 residents of Kyushu, Japan, become ill after eating rice oil with high levels of the chemical

1972 A Westinghouse study finds PCB contamination near its Bloomington plant, but city officials do not learn of the results. Monsanto requires PCB customers such as Westinghouse to sign a waiver relieving it from legal liability for improper uses of the chemical

1975 Bloomington officials learn of PCB dangers at an EPA conference in Chicago, and a city chemist requests a government survey. Testing reveals PCBs in city sewer system. Environmental Protection Agency identifies Westinghouse as one of 37 major sources of PCBs in the U.S.

1981 Bloomington finds PCBs in new landfills. Local salvager becomes one of the first of some 1,000 claimants to sue Westinghouse over health problems from PCBs. Monsanto also gets sued

1990 A draft federal study shows that Westinghouse workers exposed to PCBs are at higher risk of dying from skin cancer and notes unusually high number of deaths from brain cancer

1991 In a suit, nine workers allege that Westinghouse and Monsanto exposed them to PCBs but didn't disclose the health risks. The companies dispute the charges. The federal study is published. Westinghouse and city still fighting over cleanup

DATA: BW

dilemma that corporate decision-makers often face: Do they openly discuss the potential health hazards of chemicals or technologies and risk exposing their companies to financially crippling liability suits? Or do they keep mum until all the evidence is in? Westinghouse's Newton replies: "In our view, corporations should provide employees information concerning the safe use of all industrial materials and chemicals. PCBs are and were no exception." Says Monsanto attorney Bistline: "We have disclosed what we knew when we knew it."

Concern about workers' health after exposure to PCBs and other chemicals led to the 1985 Occupational Safety & Health Administration right-to-know rule, which requires employers to tell workers in advance of potential health risks of industrial chemicals. But even when companies comply, OSHA admits that workers have trouble understanding the complex scientific disclosures.

Westinghouse has been grappling with uncertainty over PCBs for two decades in Bloomington, a bucolic college town 50 miles south of Indianapolis and the home of Westinghouse's capacitor plant since 1957. PCBs had been widely used in industry since the 1930s as insu-

lators, coolants, and lubricants. But it wasn't until 1966 that Swedish scientists identified PCBs as likely toxic pollutants because they degrade slowly and build up in animal tissue and blood. Sentiment dramatically turned against the chemical in 1968, when 1,300 residents of Kyushu, Japan, became ill after eating PCB-contaminated rice oil. The Japanese suffered skin lesions, eye ailments, nausea, and joint problems. Later, many of the victims' offspring had birth defects.

CLEAN HANDS? In their suit, the workers charge that Westinghouse never told them of potential PCB health hazards. In fact, workers say that when the plant's union local asked the company to discuss PCBs soon after the rice-oil incident, employees were assured that there was no danger. Jason Morrow, a former union local president at the plant, recalls employee meetings in which then-plant manager Donald M. Sauter "washed his hands and face in what he told workers was liquid PCBs to convince them not to worry." Westinghouse spokesperson Newton confirms that Sauter "dipped his hands" in PCBs at a meeting.

That display of confidence conflicts with several internal Westinghouse memos dating back to 1938 that the

workers rely on in their suit. In a letter dated Sept. 15, 1947, E. C. Barnes of Westinghouse's medical department writes that long-term exposure to PCB fumes "may produce internal bodily injury which may be disabling or could be fatal." Westinghouse will only say that the same description applies to several chemicals used in the plant and that safeguards were adequate.

Nevertheless, after the rice-oil incident, some Westinghouse officials, fearing regulatory sanctions and liability suits, ordered an internal study, according to Thomas O. Munson, a former Westinghouse biochemist. Sluder's lawsuit will rely on its findings, in part, to prove concealment. Munson says he performed the confidential study of PCB contamination in 1971-72 near four Westinghouse plants in Indiana, Pennsylvania, and Virginia and then submitted the results to the company. Munson told BUSINESS WEEK he got the go-ahead for the study directly from then-CEO Donald C. Burnham. A Westinghouse spokesperson says the company received only Munson's Bloomington study and that Burnham doesn't recall the conversation.

Of the plants, says Munson, Bloomington had the worst PCB contamination

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Legal Affairs

tion, including high levels in surrounding areas. He says that in 1972, he urged the plant manager and his superiors to make the study public and take remedial action. He says Westinghouse ignored his recommendations to remove PCBs from liquid waste and failed to tell city officials about the contamination. The Westinghouse spokesman says the company didn't tell the city because "the findings were not considered disturbing."

Four years later, Bloomington discovered its PCB contamination: After attending an EPA conference on the substance in Chicago, a worried city chemist requested an agency survey. Indiana and federal studies since 1976 have shown that Bloomington has the nation's largest volume of PCBs—650,000 cubic yards of landfill soil, says John N. Langley, the city's environmental coordinator.

The discovery triggered a flurry of liability suits. To settle city, state, and EPA actions, Westinghouse agreed in 1983 to pay for the cleanup—without admitting that it caused the contamination. Bloomington Mayor Tomilea Allison says Westinghouse's cleanup costs in the city could exceed \$1 billion.

Monsanto was worried about suits as far back as 1972. The company began

requiring customers, including Westinghouse and GE, to sign agreements relieving it of legal liability in suits arising from improper use of PCBs—putting buyers on notice of possible dangers. In 1977, two years before the federal ban on PCBs went into effect, Monsanto stopped making the chemicals. Westinghouse also quit using PCBs, and in 1989, it sold its capacitor and transformer

Experts say the legal system should be changed so that companies can reveal health risks without facing litigation

plants to Swedish conglomerate Asea Brown Boveri.

Whatever the outcome of the Sluder case, liability experts such as Peter H. Schuck, a Yale law school professor, say the furor over PCBs and other potentially hazardous materials underlines a weakness in the legal system. Other experts argue that companies should be encouraged to reveal possible health risks with-

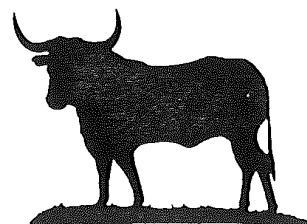
out facing litigation. That could be tough. "In any kind of reform," says Schuck, "companies are worried about new claims down the road."

Medical monitoring of workers may be an apt remedy for instances where hazards are less certain than those involving such materials as asbestos, say unions and plaintiffs' attorneys. They add that diagnosis and treatment could even trim company liability by cutting medical expenses. But Westinghouse says "there's nothing in the [Sluder] suit that would merit medical monitoring."

Ultimately, Congress may be forced to step in. Unions such as the International Union of Electronic Electrical Salaried Machine & Furniture Workers may soon push for federal legislation mandating medical monitoring. While such programs could stem workers' anxieties about impending sickness or even death, companies say the programs will force them to pay twice—first for the monitoring and then for the personal-injury damages that might accrue. Still, in the absence of any compromise between employees and companies, the tally of worker injuries and liability suits promises to grow.

By Michael Schroeder in Bloomington

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Richard B. Kendall
David R. Scheidemantle
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Telephone: (213) 239-0300

Attorneys for Plaintiff
TRANSWESTERN PIPELINE COMPANY

Def(s) _____ Plf(s) 3 EXHIBIT for I.D.
DIANE KENDY, ORN # 4851
Date: 9-26-91
Witness: BISLINE

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

TRANSWESTERN PIPELINE COMPANY,	)	CASE NO. BC 026959
	)	
Plaintiff,	)	NOTICE OF DEPOSITIONS AND
	)	PRODUCTION OF DOCUMENTS
vs.	)	
	)	
MONSANTO COMPANY and	)	
DOES 1 through 200	)	
inclusive,	)	
	)	
Defendants.	)	

TO DEFENDANT MONSANTO COMPANY:

PLEASE TAKE NOTICE that, pursuant to California Code of Civil Procedure Section 2025, PLAINTIFF TRANSWESTERN PIPELINE COMPANY will take the deposition upon oral examination of DEFENDANT MONSANTO COMPANY ("Monsanto") by the persons listed below beginning at 9:00 a.m. on the dates indicated below and continuing from day to day following such dates until completed, or on such other dates and at such other times to which the parties may agree. As used in this Notice, the terms appearing

below in block capital letters have the meanings set forth in
Schedule "A" hereto.

<u>Person</u>	<u>Date</u>
1. Custodian of the documents and records listed on Schedule "A" hereto	May 31, 1991
2. The person or persons most qualified to testify on MONSANTO'S behalf as to the following matters:	
(a) the names, last known addresses, and former job titles and job responsibilities of MONSANTO'S employees during the RELEVANT PERIOD;	June 17, 1991
(b) the corporate and organizational structure of MONSANTO during the RELEVANT PERIOD;	June 19, 1991
(c) the design, testing, production, and manufacture of TURBINOL;	June 21, 1991
(d) the promotion, advertising, and marketing of TURBINOL;	June 25, 1991
(e) the use(s) of TURBINOL;	June 27, 1991
(f) the sale of TURBINOL to TRANSWESTERN or TEXAS EASTERN at any time during the RELEVANT PERIOD;	July 1, 1991
(g) the sale of TURBINOL to persons or entities other than TRANSWESTERN or TEXAS EASTERN at any time during the RELEVANT PERIOD;	July 3, 1991
(h) MONSANTO'S development, design, testing, manufacture, marketing, advertising, distribution, and sale during the RELEVANT PERIOD of PCB-containing gas compressor lubricants other than TURBINOL;	July 9, 1991
(i) MONSANTO'S development, design, testing, manufacture, marketing, advertising, distribution, and sale during the RELEVANT PERIOD of gas compressor lubricants not containing PCBs;	July 11, 1991

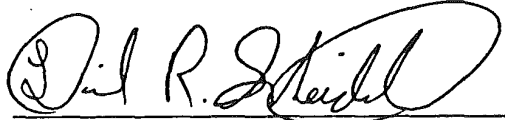
Person	Date
(j) MONSANTO'S decision to notify its customers in or about 1971 and 1972 of certain hazards associated with TURBINOL and PCBs;	July 15, 1991
(k) the cessation of the sale of TURBINOL by MONSANTO in or about 1971 and 1972;	July 17, 1991
(l) the state of MONSANTO'S knowledge from 1967 through 1972, inclusive, concerning the operation of natural gas pipelines and pipeline compressors;	July 19, 1991
(m) the state of MONSANTO'S knowledge from 1967 through 1972, inclusive, concerning the health effects of exposure to PCBs and/or PCB-containing products;	July 23, 1991
(n) the hazards to human, animal, and/or aquatic health associated with PCBs or PCB-containing products;	July 25, 1991
(o) scientific and/or medical studies conducted by MONSANTO or others with respect to the hazards associated with PCBs or PCB-containing products to human, animal, and/or aquatic health; and	July 30, 1991
(p) litigation involving PCBs in which MONSANTO has been a defendant.	August 1, 1991

NOTICE IS FURTHER GIVEN that, pursuant to California Code of Civil Procedure Sections 2025(d)(4) and 2025(h), the deponent is required to produce for inspection and copying at the deposition scheduled above to begin on May 31, 1991, the documents described in Schedule "A" hereto. The depositions shall take place before a certified shorthand reporter and notary public at the offices of Shearman & Sterling, 725 South Figueroa Street, 21st Floor, Los Angeles, California

1 90017, or at such other place or places as the parties may
2 agree.

3
4 DATED: May 21, 1991

5 SHEARMAN & STERLING
6 Richard B. Kendall
7 David R. Scheidemantle
8 James D. Layden

9 By: 
David R. Scheidemantle

10 Attorneys for Plaintiff
11 TRANSWESTERN PIPELINE COMPANY
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SCHEDULE "A"

I. DEFINITIONS AND INSTRUCTIONS

1. "Document" is used in the broadest possible sense and refers without limitation to any written, typed, or other graphic material, of any kind or nature, and any other tangible thing by or on which information or data is stored or can be obtained, translated (if necessary) by Monsanto through detection devices into reasonably usable form, including without limitation, any writing, drawing, film, graph, chart, photograph, phono-record, mechanical, or electrical sound recording or transcript thereof; any retrievable data, whether in computer storage, carded, punched, taped, or coded form or stored electro-statically, electro-magnetically, or otherwise; and any other data compilation from which information can be obtained.

Without limiting the generality of the foregoing, "document" specifically includes all contracts, agreements, invoices, bills of sale, promotional materials, advertisements, forms, correspondence, letters, telegrams, telephone messages, notices, notes, memoranda, reports, studies, analyses, working papers, statistical statements, financial statements, financial analyses, opinions, forecasts, budgets, projections, audits, press releases, brochures, pamphlets, circulars, minutes of meetings, notes and summaries of investigations, statements, worksheets, summaries, books, journals, ledgers, audits, maps, diagrams, drafts, newspapers, appointment books, desk calendars,

1 diaries, inter and intra office memos and communications,
2 faxes, and telexes.

3 Such terms shall also include all contemporaneously
4 or subsequently created non-identical duplicates or copies
5 and all drafts, preliminary versions or revisions of
6 documents, whether or not completed, by whatever means made.
7 As used in this Notice, "document" also includes every
8 "document" that is no longer identical by virtue of any
9 notation or modification of any kind.

10 2. Whenever appropriate, the singular form of a
11 word shall be interpreted in plural, or vice versa; verb
12 tenses shall be interpreted to include past, present, and
13 future tenses; the terms "and" as well as "or" shall be
14 construed either disjunctively or conjunctively, as necessary
15 to bring within the scope of the requests in this Notice any
16 documents that might otherwise be construed to be outside
17 their scope; and words imparting the masculine include the
18 feminine and vice versa.

19 3. Any reference to a person, corporation,
20 association, partnership, company, or joint venture shall
21 mean that person or entity, any parents, affiliates,
22 divisions, controlled companies, subsidiaries, or otherwise
23 related entities, and all of his, her, or its current or
24 former agents, representatives, employees, attorneys,
25 accountants, officers, directors, auditors, and consultants,
26 or other persons or entities acting, or purporting to act, on
27 its behalf.
28

1 4. The documents requested herein specifically
2 include all documents in the possession, custody, or control
3 of Monsanto Company ("Monsanto") including parents,
4 affiliates, divisions, controlled companies, subsidiaries, or
5 otherwise related entities, or any of Monsanto's current or
6 former agents, representatives, employees, attorneys,
7 accountants, auditors, directors, officers, consultants, or
8 other persons or entities acting, or purporting to act, on
9 Monsanto's behalf.

10 5. "Monsanto" or "Monsanto Company" means Monsanto
11 Company and its parents, affiliates, divisions, controlled
12 companies, subsidiaries, or otherwise related entities, or
13 any of Monsanto's current or former agents, representatives,
14 employees, attorneys, accountants, auditors, directors,
15 officers, consultants, or other persons or entities acting,
16 or purporting to act, on Monsanto's behalf.

17 6. "Transwestern" means Transwestern Pipeline
18 Company, the plaintiff in this action.

19 7. "Texas Eastern" means Texas Eastern
20 Transmission Corp., which was Transwestern's corporate parent
21 until 1984, and which was succeeded in 1979 by Texas Eastern
22 corp., which is now known as Panhandle Eastern Pipeline
23 Company.

24 8. "Turbinol" means the PCB-containing gas
25 compressor lubricant sold by Monsanto under the name Monsanto
26 MCS-153 -- Turbinol 153.

27 9. "PCBs" means the chemical compound
28 polychlorinated biphenyls.

1 10. "Relevant period" means the period of time
2 during any part of which Monsanto developed, designed,
3 tested, manufactured, promoted, advertised, distributed, or
4 sold Turbinol or any other PCB-containing gas compressor
5 lubricant.

6 11. "Communication" is used in the broadest
7 possible sense and refers to any meeting, discussion,
8 presentation, contact, proposal, memoranda, letter, telegram,
9 telex, cable, telecopy, fax, telephone call, or any other
10 communication, or notes thereof, or document relating
11 thereto, whether formal or informal, and includes the
12 transmittal, in any manner or medium, of information, facts,
13 or ideas.

14 12. "Relating to" means constituting, concerning,
15 containing, evidencing, showing, or referring in any way,
16 directly or indirectly, to the subject matter of the
17 particular request in this Notice.

18 13. The use of the word "including" shall be
19 construed to mean "including without limitation."

20 14. All documents produced are to be produced in
21 their entirety, without redaction, and including all
22 attachments and enclosures. If, for any reason, a document
23 cannot be produced in full, please state with particularity
24 the reason or reasons it is not produced in full, and
25 describe, to the best of Monsanto's knowledge, information,
26 and belief and with as much particularity as possible, those
27 portions of the document that are not produced. When a
28 document is only in part responsive to any request in this

1 Notice, it shall nevertheless be produced in its entirety.

2 If documents that are produced are normally kept in a file or
3 other folder, then that file or folder must also be produced.

4 15. That more than one request in this Notice may
5 ask for the same document is not be interpreted to narrow or
6 to limit the normal interpretation placed upon each
7 individual request.

8 16. Unless otherwise indicated, the documents to be
9 produced are those created, or believed to have been created,
10 at any time from the first day of the relevant period, as
11 previously defined herein, up to and including the date of
12 this Notice.

13 17. If any document requested to be produced herein
14 was in Monsanto's possession, custody, or control, but has
15 since been disposed of, lost, discarded, destroyed, or
16 partially destroyed or is otherwise unavailable, please
17 provide the following:

18 (a) The nature or type of the document,
19 including any title or identifying number thereon (e.g.,
20 letter, report, memoranda);

21 (b) Its date of origin or preparation;

22 (c) The name of its author or originator;

23 (d) The name of its addressee, if any;

24 (e) The name of all recipients of any copy of
25 such document;

26 (f) A summary of its substance;

27 (g) The time period during which the document
28 was in Monsanto's possession, custody, or control;

1 (h) The name and address of any person or
2 entity who to the best of Monsanto's knowledge has a copy of
3 the document;

4 (i) The date or approximate time of the
5 disposition, loss, destruction, discarding, or when the
6 document became unavailable; and

7 (j) The reason for disposition, loss,
8 destruction, discarding, or unavailability of the document,
9 and the person, if any, responsible therefor.

10 18. File folders with tabs or labels identifying
11 documents responsive to the requests in this Notice should be
12 produced intact with such documents.

13 19. Documents attached to each other shall not be
14 separated.

15 20. If responsive documents are kept together in
16 the usual course of business, they should be so produced, in
17 order fairly to reveal and not to distort the order of
18 Monsanto's filing and record-keeping system.

19 21. Electronic records and computerized information
20 should be produced: (a) in an intelligible format; or
21 (b) together with a description of the system from which they
22 were obtained sufficient to render the records and
23 information intelligible.

24 22. Each document produced should be produced in a
25 manner that makes clear the precise request or requests in
26 this Notice (i.e., the paragraph number of the request) to
27 which the document relates.
28

23. If any of the documents requested below are claimed by Monsanto to be privileged or otherwise withheld, Monsanto is requested to provide for each such document, with sufficient specificity to identify that document for purposes of a motion to compel further discovery:

(a) a specific statement of the ground and authority upon which Monsanto is relying in withholding production; and

(b) a statement which sets forth;

(i) the identity of the document's author(s) and every person who is known by Monsanto to have either helped in its preparation or received a copy of the document;

(ii) the title or other identifying data;

(iii) the date of the document, or, if no date appears thereon, the approximate date;

(iv) in summary, the nature and subject matter thereof;

(v) the identity and location of each person having or last having had possession, care, custody, or control of the original and each and any copies thereof; and

(vi) if the document was, but is no longer in Monsanto's possession or control, state what disposition was made of it, including, but not limited to, specification of the name and address of the person(s) who disposed of the document and the date, time, place, mode, or method of the disposal.

1 24. When this Notice does not specifically request
2 a particular document, but the document would help to make
3 the production complete, comprehensible, or not misleading,
4 please produce the document. Only non-identical copies of a
5 document are to be considered separate documents.

6 25. Where there are no documents in Monsanto's
7 custody, control, or possession that are responsive to a
8 particular item, please so state.

9 26. This Notice shall be deemed continuing so as to
10 require further and supplemental production if Monsanto
11 obtains additional documents between the time of initial
12 production and the time of trial.

13 DOCUMENT REQUESTS

14 1. All documents relating to any communications
15 between Monsanto and Transwestern relating to or involving
16 PCBs in any way, directly or indirectly.

17 2. All documents relating to any communications
18 between Monsanto and Texas Eastern relating to or involving
19 PCBs in any way, directly or indirectly.

20 3. All documents relating to any communications
21 between Monsanto and the Southern California Gas Company
22 relating to or involving PCBs in any way, directly or
23 indirectly.

24 4. All documents relating to any communications
25 between Monsanto and the Pacific Lighting Gas Supply Company
26 relating to or involving PCBs in any way, directly or
27 indirectly.
28

1 5. All documents relating to any communications
2 between Monsanto and the Pacific Lighting Service Company
3 relating to or involving PCBs in any way, directly or
4 indirectly.

5 6. All documents relating to any communications
6 between Monsanto and any governmental entity relating to PCBs
7 or any PCB-containing product during the relevant period.

8 7. All documents relating to the sale of Turbinol
9 or other PCB-containing gas compressor lubricants to
10 Transwestern or Texas Eastern at any time during the relevant
11 period, including without limitation all contracts, invoices,
12 and bills of sale associated therewith.

13 8. All documents relating to the sale of Turbinol
14 or other PCB-containing gas compressor lubricants to persons
15 or entities other than Transwestern or Texas Eastern at any
16 time during the relevant period.

17 9. All documents relating to the cessation of the
18 sale of Turbinol or other PCB-containing gas compressor
19 lubricants by Monsanto.

20 10. All documents relating to the design, testing,
21 and manufacture of Turbinol or other PCB-containing gas
22 compressor lubricants.

23 11. All documents relating to the promotion,
24 advertising, marketing, distribution, and sale of Turbinol or
25 other PCB-containing gas compressor lubricants, including
26 without limitation any warnings, instructions for use,
27 warranties, disclaimers, and labels or other packaging
28 associated therewith.

1 12. All documents relating to the use(s) of
2 Turbinol or other PCB-containing gas compressor lubricants.

3 13. All documents relating to Monsanto's decision
4 to notify its customers in or about 1971 and 1972 of certain
5 hazards associated with Turbinol and PCBs.

6 14. All documents relating to the hazards to human,
7 animal, and/or aquatic health associated with PCBs or any
8 PCB-containing product.

9 15. All documents relating to scientific and
10 medical studies conducted by MONSANTO or others with respect
11 to the hazards associated with PCBs to human, animal, and/or
12 aquatic health.

13 16. All documents relating to the operation of
14 natural gas pipelines and gas compressors.

15 17. All documents relating to the development,
16 design, testing, manufacture, marketing, advertising,
17 distribution, and sale during the relevant period of any gas
18 compressor lubricant not containing PCBs.

DECLARATION OF SERVICE BY HAND DELIVERY

PENNS G. CRUZ declares as follows:

I am employed as a messenger by SUPER RUSH in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1950 So. Santa Fe Avenue, Suite 101, Los Angeles, California 90021.

On May 21, 1991, I served the foregoing document described as NOTICE OF DEPOSITIONS AND PRODUCTION OF DOCUMENTS on the interested parties in this action

☐ by placing true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope addressed to each of the following:

Registered Agent of Monsanto Company for Service of Process in California:

CT Corporation System
818 West Seventh Street
Suite 1004
Los Angeles, CA 90017

☐ BY MAIL

☐ *I deposited such envelope in the mail at Los Angeles, California, with postage thereon fully prepaid.

☐ I caused such envelope to be deposited in the mail at Los Angeles, California, following the firm's usual practice of collection and processing of mail described above.

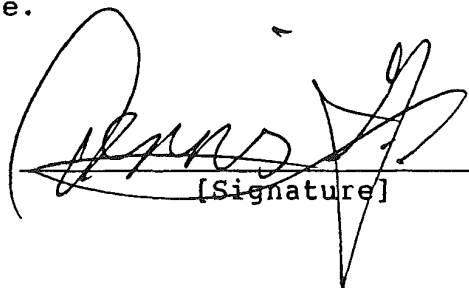
1 [X] BY PERSONAL SERVICE

2 [X] I delivered such envelope by hand to the office(s) of
3 the addressee(s).

4
5 Executed on 5-21, 1991, at Los Angeles, California.
6 [date]

7 [X] (STATE) I declare under penalty of perjury under the laws
8 of the State of California that the above is true
9 and correct.

10 [] (FEDERAL) I declare that I am employed in the office of a
11 member of the bar of this court at whose direction
12 the service was made.

13
14
15 
16 [Signature]
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RECEIVED
JUN 24 1991
D. R. S.

CHARLES F. PREUSS
DONALD F. ZIMMER, JR.
EVELYN G. HEILBRUNN
BRONSON, BRONSON & MCKINNON
505 Montgomery Street
San Francisco, California 94111-2514
Telephone: (415) 986-4200

Attorneys for Defendant
MONSANTO COMPANY

Def(s) _____ Plt(s) 4 EXHIBIT for I.D.
DIANE KENDY, CSR # 4851
Date: 9-26-91
Witness: BISTLINE

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

TRANSWESTERN PIPELINE COMPANY, a)
Delaware corporation,)

NO. BC026959

Plaintiff,)

RESPONSE OF MONSANTO
COMPANY TO PLAINTIFF'S
DOCUMENT REQUESTS

v.)

MONSANTO COMPANY, a Delaware)
corporation, and DOES 1 through)
200, inclusive,)

Defendants.)

PROPOUNDING PARTY: Plaintiff TRANSWESTERN PIPELINE COMPANY

RESPONDING PARTY: Defendant MONSANTO COMPANY

SET NUMBER: ONE

Defendant Monsanto Company responds as follows to the
Document Request attached to the Notice of Deposition served by
plaintiff on May 24, 1991:

GENERAL OBJECTIONS AND LIMITATIONS

1. Monsanto objects to any and all requests and the
accompanying Definitions and Instructions to the extent that they
seek privileged information or attorney work product which is
protected from disclosure.

RESP. OF MONSANTO COMPANY
TO PLTF.'S DOCUMENT REQUESTS

LA OFFICES OF
BRONSON, BRONSON & MCKINNON
505 MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94111-2514
(415) 986-4200

1 2. Monsanto objects to any and all requests and the
2 accompanying Definitions and Instructions to the extent that they
3 seek confidential, financial or business information without the
4 protection of an acceptable form of stipulation and protective
5 order adequate to preserve the confidentiality of such
6 information and are not otherwise reasonably calculated to lead
7 to the discovery of relevant, admissible or discoverable
8 evidence.

9 3. Monsanto objects to any and all requests and the
10 accompanying Definitions and Instructions to the extent that they
11 relate to or require the production or identification of
12 documents, writings, records, or publications in the public
13 domain, because such information is equally available to the
14 plaintiff.

15 4. Monsanto objects to any and all requests and the
16 accompanying Definitions and Instructions to the extent that they
17 seek information or documents concerning activities, policies,
18 practices, information, or procedures of any other party to this
19 action, because those parties are best able to provide answers
20 concerning their operations. Answers will be provided for
21 Monsanto only and will be based upon information known and
22 available to its officers and supervisory employees.

23 5. Monsanto objects to any and all requests and the
24 accompanying Definitions and Instructions to the extent that they
25 seek information or documents pertaining to current Monsanto
26 practices or procedures, including but not limited to
27 manufacturing, shipping and handling, for the reason that
28

1 Monsanto has not manufactured or sold products containing
2 polychlorinated biphenyls since 1977.

3 6. In providing the following responses to plaintiff's
4 requests, Monsanto has undertaken a reasonable effort to locate
5 records and to provide the information requested. However,
6 various records of Monsanto have from time to time been discarded
7 in the ordinary course of business. The following responses are
8 based upon such information as is reasonably available to
9 Monsanto and susceptible to retrieval through reasonable efforts.

10 7. Monsanto objects to any and all requests and the
11 accompanying Definitions and Instructions to the extent that they
12 seek information or documents relating to Monsanto products other
13 than those products containing polychlorinated biphenyls that
14 were sold to plaintiff or Texas Eastern Transmission Corporation
15 on the grounds that they are overly broad, unduly burdensome,
16 seek irrelevant information, and are not reasonably calculated to
17 lead to the discovery of relevant, admissible or discoverable
18 evidence. Monsanto's available, pertinent records of sales and
19 shipments of polychlorinated biphenyls show that the only
20 products containing polychlorinated biphenyls that Monsanto sold
21 to plaintiff were MCS-153 and Turbinol 153, and the only products
22 containing polychlorinated biphenyls that Monsanto sold to Texas
23 Eastern Transmission Corporation were OS-81, MCS-153, Turbinol
24 153, and Pydraul AC. Accordingly, Monsanto is limiting its
25 production of documents to OS-81, MCS-153, Turbinol 153, and
26 Pydraul AC except as otherwise stated. The documents that
27 Monsanto is producing may incidentally contain information about
28 Monsanto products in addition to OS-81, MCS-153, Turbinol 153,

3 RESP. OF MONSANTO COMPANY
TO PLTF.'S DOCUMENT REQUESTS

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1 and Pydraul AC, but Monsanto is producing that additional
2 information without waiving, and subject to, this objection.

3 8. Monsanto objects to the term "Turbinol or other PCB-
4 containing gas compressor lubricants" in plaintiff's requests and
5 the accompanying Definitions and Instructions on the grounds that
6 the term is vague, ambiguous, undefined, and capable of various
7 interpretations. The Monsanto products containing
8 polychlorinated biphenyls that Monsanto recommended for use as
9 natural gas compressor and natural gas turbine lubricants were
10 OS-81, MCS-153, and Turbinol 153. Monsanto is not aware that any
11 of its other products containing polychlorinated biphenyls were
12 used as natural gas compressor or natural gas turbine lubricants.

13 9. Monsanto objects to any and all requests and the
14 accompanying Definitions and Instructions to the extent that they
15 seek information or documents related to customers or any person
16 or entity other than plaintiff or Texas Eastern Transmission
17 Corporation on the grounds that they are overly broad, unduly
18 burdensome, seek irrelevant information, and are not reasonably
19 calculated to lead to the discovery of relevant, admissible or
20 discoverable evidence.

21 10. Monsanto objects to the Definitions and Instructions
22 accompanying plaintiff's requests to the extent that they seek to
23 alter the obligations placed on Monsanto by applicable law and
24 rules of court.

25 11. Monsanto objects to the Definitions and Instructions
26 accompanying plaintiff's requests on the grounds that they are
27 overly broad, unduly burdensome, seek irrelevant information, and
28

1 are not reasonably calculated to lead to the discovery of
2 relevant, admissible or discoverable evidence.

3 12. Monsanto objects to any and all requests and the
4 accompanying Definitions and Instructions to the extent that they
5 seek information or documents that Monsanto is prohibited from
6 disclosing by order of any court, including but not limited to
7 the Protective Order entered on January 1, 1989, by the United
8 States District Court for the Eastern District of Pennsylvania in
9 Associated Electric & Gas Insurance Services, Ltd., et al. v.
10 Texas Eastern Transmission Corporation, et al., No. 88-2126.

11 13. Monsanto objects to any and all requests and the
12 accompanying Definitions and Instructions to the extent that they
13 seek information or documents not kept by Monsanto in the regular
14 course of business during the time when Monsanto was
15 manufacturing and selling products containing polychlorinated
16 biphenyls for use as natural gas compressor and natural gas
17 turbine lubricants.

18 14. Monsanto reserves the right to supplement its responses
19 and the documents it is producing with these responses.

20 DOCUMENTS PRODUCED

21 1. All documents relating to any communications between
22 Monsanto and Transwestern relating to or involving PCBs in any
23 way, directly or indirectly.

24 RESPONSE: Monsanto states that the only documents that it
25 has that refer to plaintiff are those documents in Folder 1 that
26 refer to plaintiff.
27
28

5 RESP. OF MONSANTO COMPANY
TO PLTF.'S DOCUMENT REQUESTS

4-5

1 2. All documents relating to any communications between
2 Monsanto and Texas Eastern relating to or involving PCBs in any
3 way, directly or indirectly.

4 RESPONSE: Monsanto objects to Request No. 2 to the extent
5 that it seeks information or documents relating to or involving
6 "PCBs" for the reasons stated in General Objection 7. Monsanto
7 also objects to the term "communications" on the grounds that it
8 is overly broad, vague, ambiguous, undefined, and capable of
9 various interpretations. Monsanto further objects to this
10 request to the extent that it would require Monsanto to review
11 all of its files regarding other customers to search for
12 documents responsive to this request, and Monsanto states that it
13 has not done so. Without waiving those objections, and subject
14 thereto, Monsanto is producing all documents otherwise responsive
15 to this request in Folders 9, 10 and 11.

16 3. All documents relating to any communications between
17 Monsanto and the Southern California Gas Company relating to or
18 involving PCBs in any way, directly or indirectly.

19 RESPONSE: Monsanto states that it is producing the only
20 document that it has responsive to Request No. 3 in Folder 15.

21 4. All documents relating to any communications between
22 Monsanto and the Pacific Lighting Gas Supply Company relating to
23 or involving PCBs in any way, directly or indirectly.

24 RESPONSE: Monsanto states that it has no documents
25 responsive to Request No. 4.

26 5. All documents relating to any communications between
27 Monsanto and the Pacific Lighting Service Company relating to or
28 involving PCBs in any way, directly or indirectly.

1 RESPONSE: Monsanto is producing all documents responsive to
2 this request in Folder 12.

3 6. All documents relating to any communications between
4 Monsanto and any governmental entity relating to PCBs or any PCB-
5 containing product during the relevant period.

6 RESPONSE: Monsanto objects to Request No. 6 on the grounds
7 that it is overly broad, unduly burdensome, seeks irrelevant
8 information, and is not reasonably calculated to lead to the
9 discovery of relevant, admissible or discoverable evidence.
10 Monsanto also objects to Request No. 6 on the grounds stated in
11 General Objection 3. Monsanto further objects to Request No. 6
12 to the extent that it seeks information or documents relating to
13 or involving "PCBs or any PCB-containing product" for the reasons
14 stated in General Objection 7. Without waiving those objections,
15 and subject thereto, Monsanto is producing all documents relating
16 to communications between Monsanto and the United States
17 Environmental Protection Agency regarding polychlorinated
18 biphenyls during the relevant time period. See Folder 2.

19 7. All documents relating to the sale of Turbinol or other
20 PCB-containing gas compressor lubricants to Transwestern or Texas
21 Eastern at any time during the relevant period, including without
22 limitation all contracts, invoices, and bills of sale associated
23 therewith.

24 RESPONSE: Monsanto objects to the phrase "all documents
25 relating to the sale" on the grounds that it is overly broad,
26 vague, ambiguous, undefined, and capable of various
27 interpretations. Consistent with plaintiff's description of
28 contracts, invoices and bills of sale, Monsanto has interpreted

7 RESP. OF MONSANTO COMPANY
 TO PLTF.'S DOCUMENT REQUESTS

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1 this to be a request for those documents particularly relating to
2 the specific sales to plaintiff of MCS-153 and Turbinol 153 and
3 also those documents particularly relating to the specific sales
4 to Texas Eastern of OS-81, MCS-153, Turbinol 153, and Pydraul AC,
5 and Monsanto is producing documents accordingly. Monsanto also
6 objects to the phrase "Turbinol or other PCB-containing gas
7 compressor lubricants" on the grounds stated in General
8 Objection 8. Monsanto states that it has no available pertinent
9 records of sales and shipments of polychlorinated biphenyls for
10 the period prior to 1954 and that such records are incomplete for
11 the period prior to 1958. Without waiving those objections, and
12 subject thereto, Monsanto has attached to this response as
13 Exhibit A summaries of Monsanto's sales of OS-81, MCS-153,
14 Turbinol 153, and Pydraul AC to Texas Eastern Transmission
15 Corporation and Monsanto's sales of MCS-153 and Turbinol 153 to
16 Transwestern Pipeline Company. The summaries in Exhibit A are
17 not documents that were kept in the original course of business
18 by Monsanto but were prepared by Monsanto from supporting
19 original documents that Monsanto is producing in response to this
20 request in Folder 1. See also Folder 8. Folder 8 contains
21 copies of invoices retained in Monsanto's business records.
22 Language pertaining to warranties and disclaimers of warranties
23 was included on Monsanto's sales contracts and sales invoices,
24 exemplary copies of which are also contained in Folder 8. Some
25 of the documents that Monsanto is producing in response to other
26 requests may also be responsive to Request 7.

27 8. All documents relating to the sale of Turbinol or other
28 PCB-containing gas compressor lubricants to persons or entities

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1 other than Transwestern or Texas Eastern at any time during the
2 relevant period.

3 RESPONSE: Monsanto objects to Request No. 8 on the grounds
4 that it is overly broad, unduly burdensome, seeks irrelevant
5 information, and is not reasonably calculated to lead to the
6 discovery of relevant, admissible or discoverable evidence.
7 Monsanto objects to the phrase "all documents relating to the
8 sale" on the grounds that it is overly broad, vague, ambiguous,
9 undefined, and capable of various interpretations. Monsanto also
10 objects to the phrase "Turbinol or other PCB-containing gas
11 compressor lubricants" on the grounds stated in General Objection
12 8. Monsanto also objects to Request No. 8 on the grounds stated
13 in General Objection Nos. 2 and 9.

14 9. All documents relating to the cessation of the sale of
15 Turbinol or other PCB-containing gas compressor lubricants by
16 Monsanto.

17 RESPONSE: Monsanto objects to Request No. 9 on the grounds
18 that it is overly broad, unduly burdensome, seeks irrelevant
19 information, and is not reasonably calculated to lead to the
20 discovery of relevant, admissible or discoverable evidence.
21 Monsanto objects to the phrase "Turbinol or other PCB-containing
22 gas compressor lubricants" on the grounds stated in General
23 Objection 8. Monsanto also objects to the phrase "cessation of
24 the sale" on the grounds that it is overly broad, vague,
25 ambiguous, undefined, and capable of various interpretations.
26 Monsanto also objects to this request on the grounds stated in
27 General Objection 1. Without waiving those objections, Monsanto
28 is producing all documents relating to the cessation of the sale

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1 of OS-81, MCS-153 and Turbinol 153 in Folders 9, 10 and 11
2 subject to those objections. Some of the documents that Monsanto
3 is producing in response to other requests may also be responsive
4 to Request 9.

5 10. All documents relating to the design, testing, and
6 manufacture of Turbinol or other PCB-containing gas compressor
7 lubricants.

8 RESPONSE: Monsanto objects to Request No. 10 on the grounds
9 stated in General Objection 2. Monsanto also objects that the
10 terms "design," "testing" and "manufacture" are overly broad,
11 vague, ambiguous, undefined, and capable of various
12 interpretations. Monsanto objects to the phrase "Turbinol or
13 other PCB-containing gas compressor lubricants" on the grounds
14 stated in General Objection 8. Monsanto also objects to the
15 production of documents relating to standard manufacturing
16 processes without the protection of an acceptable form of
17 stipulation and protective order adequate to preserve the
18 confidentiality of such information, and accordingly Monsanto is
19 not producing such documents. Without waiving those objections,
20 Monsanto states that it has interpreted the term "design" to mean
21 the development of the product, the term "testing" to mean
22 testing of the product for physical properties and for its
23 compliance with specifications and performance standards, and the
24 term "manufacture" to mean the process of producing OS-81,
25 MCS-153 and Turbinol 153 and Monsanto is producing all documents
26 relating to OS-81, MCS-153 and Turbinol 153 subject to those
27 objections. See Folders 4, 9 and 14. Some of the documents that
28 Monsanto is producing in response to other requests may also be

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1 responsive to Request No. 10. See also the toxicity studies
2 produced in response to Request No. 15.

3 11. All documents relating to the promotion, advertising,
4 marketing, distribution, and sale of Turbinol or other PCB-
5 containing gas compressor lubricants, including without
6 limitation any warnings, instructions for use, warranties,
7 disclaimers, and labels or other packaging associated therewith.

8 RESPONSE: Monsanto objects to the phrase "Turbinol or other
9 PCB-containing gas compressor lubricants" on the grounds stated
10 in General Objection 8. See also General Objections 2 and 9.
11 Without waiving those objections, and subject thereto, Monsanto
12 is producing all documents otherwise responsive to this request
13 that relate to OS-81, MCS-153, Turbinol 153, and Pydraul AC in
14 Folders 1, 5, 6, 7, and 8. Some of the documents that Monsanto
15 is producing in response to other requests may also be responsive
16 to Request No. 11.

17 12. All documents relating to the use(s) of Turbinol or
18 other PCB-containing gas compressor lubricants.

19 RESPONSE: Monsanto objects to the term "use(s)" on the
20 grounds that it is overly broad, vague, ambiguous, undefined, and
21 capable of various interpretations. Monsanto objects to the
22 phrase "Turbinol or other PCB-containing gas compressor
23 lubricants" on the grounds stated in General Objections 8.
24 Monsanto also objects to Request No. 12 on the grounds stated in
25 General Objection 9. Without waiving those objections, Monsanto
26 states that it has interpreted the term "use(s)" to mean the
27 application of OS-81, MCS-153 and Turbinol 153, and Monsanto is
28 producing all documents responsive to this request in Folders 4,

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1 6, 7, 9, 10, 11, and 13 subject to those objections. Some of the
2 documents Monsanto is producing in response to other requests may
3 also be responsive to Request No. 12.

4 13. All documents relating to Monsanto's decision to notify
5 its customers in or about 1971 and 1972 of certain hazards
6 associated with Turbinol and PCBs.

7 RESPONSE: Monsanto objects to Request No. 13 on the grounds
8 that it is overly broad and unduly burdensome, seeks irrelevant
9 information, and is not reasonably calculated to lead to the
10 discovery of relevant, admissible or discoverable evidence.

11 Monsanto also objects to Request No. 13 on the grounds stated in
12 General Objection No. 9. Monsanto also objects to Request No. 13
13 on the grounds that the term "certain hazards" is argumentative,
14 vague, ambiguous, undefined, and capable of various
15 interpretations. Monsanto also objects to Request No. 13 to the
16 extent that it seeks information or documents regarding "Turbinol
17 and PCBs" on the grounds stated in General Objections 7 and 8,
18 and Monsanto is limiting its production in response to this
19 request to OS-81, MCS-153 and Turbinol 153. Without waiving
20 those objections, and subject thereto, Monsanto is producing all
21 documents otherwise responsive to this request in Folders 9, 10
22 and 11. Some of the documents that Monsanto is producing in
23 response to other requests may also be responsive to Request
24 No. 13.

25 14. All documents relating to the hazards to human, animal,
26 and/or aquatic health associated with PCBs or any PCB-containing
27 product.
28

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1 RESPONSE: Monsanto objects to Request No. 14 on the grounds
2 that it is overbroad, unduly burdensome, argumentative, seeks
3 irrelevant information, and is not reasonably calculated to lead
4 to the discovery of relevant, admissible or discoverable
5 evidence. Monsanto also objects to Request No. 14 to the extent
6 that it seeks information and documents regarding "PCBs" and "any
7 PCB-containing products" on the grounds stated in General
8 Objections 7 and 8. Monsanto also objects that the terms
9 "hazards" and "aquatic health" are overly broad, vague,
10 ambiguous, undefined, and capable of various interpretations and
11 the term "hazards" is argumentative. Monsanto further objects to
12 Request No. 14 on the grounds that plaintiff's complaint seeks
13 recovery from Monsanto for the damages that plaintiff has paid to
14 Southern California Gas Company for the contamination of sections
15 of the Southern California Gas Company natural gas delivery
16 system, and therefore, information and documents related to
17 "human, animal, and/or aquatic health" are not relevant to this
18 lawsuit.

19 Without waiving these objections, and subject thereto,
20 Monsanto states that some of the documents it is producing in
21 response to other requests may contain information about the
22 proper handling and use of OS-81, MCS-153, Turbinol 153 and
23 Pyrdaul AC.

24 15. All documents relating to scientific and medical
25 studies conducted by MONSANTO or others with respect to the
26 hazards associated with PCBs to human, animal, and/or aquatic
27 health.
28

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 TO PLTF.'S DOCUMENT REQUESTS

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1 RESPONSE: Monsanto objects to Request No. 15 on the grounds
2 stated in response to Request No. 14, which are incorporated
3 herein by reference. Without waiving those objections, and
4 subject thereto, Monsanto is producing copies of reports of all
5 toxicological studies conducted for Monsanto by independent
6 testing laboratories on OS-81, MCS-153, Turbinol 153, Pydraul AC,
7 and the Aroclors contained in those products. See Folder 3.
8 "Aroclor" was a Monsanto trade name for a group of products, some
9 of which contained polychlorinated biphenyls.

10 16. All documents relating to the operation of natural gas
11 pipelines and gas compressors.

12 RESPONSE: Monsanto objects to Request No. 16 on the grounds
13 that it is overbroad, unduly burdensome, seeks irrelevant
14 information, and is not reasonably calculated to lead to the
15 discovery of relevant, admissible or discoverable evidence.
16 Monsanto further objects to Request No. 16 on the grounds that
17 Monsanto was not and is not in the business of manufacturing or
18 operating natural gas pipelines and gas compressors and that
19 plaintiff is in a better position to have that information.
20 Without waiving those objections, and subject thereto, Monsanto
21 states that it is producing a General Electric brochure on gas
22 turbines that Monsanto located in its files, and some of the
23 documents it is producing in response to other requests may
24 contain information responsive to this request.

25 17. All documents relating to the development, design,
26 testing, manufacture, marketing, advertising, distribution, and
27 sale during the relevant period of any gas compressor lubricant
28 not containing PCBs.

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1 RESPONSE: Monsanto objects to Request No. 17 on the grounds
2 that it is overly broad, unduly burdensome, seeks irrelevant
3 information, and is not reasonably calculated to lead to the
4 discovery of relevant, admissible or discoverable evidence.
5 Without waiving those objections, and subject thereto, Monsanto
6 states that some of the documents it is producing in response to
7 other requests may contain information responsive to Request
8 No. 17.

9
10 Dated: June 21, 1991

11 BRONSON, BRONSON & MCKINNON

12
13 By: Charles F. Preuss
14 CHARLES F. PREUSS
15 Attorneys for Defendant
16 MONSANTO COMPANY
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15 RESP. OF MONSANTO COMPANY
 TO PLTF.'S DOCUMENT REQUESTS

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CERTIFICATE OF SERVICE BY FEDERAL EXPRESS

I, Jeanette M. Bacey, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to or interested in the within entitled action. I am an employee of BRONSON, BRONSON & MCKINNON, and my business address is 505 Montgomery Street, San Francisco, California 94111-2514.

I caused to be served by Federal Express the following document(s):

RESPONSE OF MONSANTO COMPANY TO PLAINTIFF'S DOCUMENT REQUESTS

I enclosed a true copy of said document(s) in an envelope, addressed as follows:

David R. Scheidemantle, Esq.
SHEARMAN & STERLING
725 South Figueroa Street
Twenty-First Floor
Los Angeles, CA 90017

I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with Federal Express, to-wit, that correspondence will be deposited with Federal Express this same day in the ordinary course of business. I sealed said envelope and placed it for collection and mailing on June 21, 1991, following the ordinary business practice.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 21, 1991, at San Francisco, California.


Jeanette M. Bacey

VERIFICATION

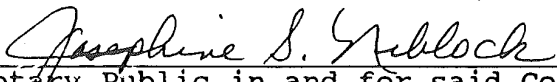
STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS)

J. H. CRADDOCK, Ph.D., being duly sworn, deposes and states that he is the Director, Regulatory Affairs/Product and Environmental Safety of Monsanto Company, that he verifies the foregoing answers to Response of Monsanto Company to Plaintiff's Document Request for and on behalf of Monsanto Company and is duly authorized to do so; that some or all of the facts and matters set forth therein are not within the personal knowledge of the deponent; that the facts and matters set forth therein have been assembled by authorized employees and counsel of Monsanto Company; and that deponent is informed that the facts and matters set forth therein are true.



J. H. CRADDOCK, Ph.D.
Director, Regulatory Affairs/
Product and Environmental Safety
Monsanto Company

Subscribed and sworn to before me this
26th day of July 1991.



Notary Public in and for said County
and State

JOSEPHINE S. NIBLOCK
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. JAN. 15, 1995

C:CRADDOCK;VER

Date(s) — Plt(s) 5 EXHIBIT for I.D.
DIANE KENDY CSR # 8851
Date: 9-26-91
Witness: BETZLINE