ORIGINAL

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

TRANSWESTERN PIPELINE COMPANY,	)	
Plaintiff,	)	
vs.	)	**Case No. BC 026959**
MONSANTO COMPANY and DOES 1 through 200, inclusive,	)	
Defendant.	)	

Volume I

January 9, 1992

Deposition of JOHN G. FREDERIKSEN, taken on behalf of Plaintiff.

GORE REPORTING COMPANY

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For the County of Los Angeles

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

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

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APPEARANCES:

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Whereupon. . .

JOHN G. FREDERIKSEN,

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

EXAMINATION

QUESTIONS BY MR. KASHANI:

Q. Good morning, Mr. Frederiksen. My name is Saied Kashani. I'm with the law firm of Shearman & Sterling in Los Angeles, and we represent Transwestern Pipeline Company in this lawsuit that is pending in Los Angeles against Monsanto Company, and we are here to take your deposition today.

My first question to you is, have you ever been deposed before or given testimony in trial before?

A. No.

Q. Have you ever been party to a lawsuit?

A. No.

Q. Have you ever given any sort of sworn testimony in any sort of panel or hearing, including, for example, a

governmental or Congressional hearing?

MR. MAYER: Is that testimony under oath, Counsel?

MR. KASHANI: Yes, testimony under oath, sworn testimony.

A. No.

BY MR. KASHANI:

Q. Do you understand the effect of the oath you just took?

MR. MAYER: I'll object as vague and ambiguous. You may want to give the standard admonishments to the witness.

MR. KASHANI: I'll do that.

BY MR. KASHANI:

Q. The oath you just took is equivalent to an oath that you might take before testifying before a judge and jury in a trial. It's equivalent in all respects, and in fact, the testimony you give today may be at some point used in a trial, the trial in this action, for example, and in all respects, as I said, it's equivalent to sworn testimony in a courtroom before a judge and jury. I now ask, do you understand that?

A. I do.

Q. All right, and what the court reporter is doing is taking down everything I say, and he will take down everything you say and everything your counsel says, and this will be prepared in a bound volume which will be sent either to you or your counsel, depending on how we agree on that. You will have the opportunity to go through that and make any corrections that you want.

However, you should know that if you do make corrections, these may become the subject of comment that we, or other parties, or someone may comment on the corrections you have made to the testimony as set forth in the transcript. Do you understand that?

A. I do.

Q. All right. Is there any reason why the deposition cannot be taken today in terms of not feeling a hundred percent or anything like that?

A. No.

Q. All right, let's proceed. First, a housekeeping question. Are you aware that this deposition is proceeding pursuant to a subpoena duces tecum that was served on your

counsel for the deposition today?

A. I don't understand your question.

Q. Well, we sent to you -- well, let's go back a step. Is Bronson, Bronson & McKinnon your counsel today? Are they representing you?

MR. MAYER: He's asking if I am appearing as your attorney today.

A. Yes.

BY MR. KASHANI:

Q. All right, and when was that attorney-client relationship started, established?

A. I assume at our first contact, which was as of every yesterday. I'm not sure what the technical meaning of what your question is, so --

Q. Well, let me go back. When did you first learn of this deposition or the expected or intended deposition?

A. That would have been last week.

Q. And how did you learn of the deposition?

A. By a phone call.

Q. Without revealing the contents of

any attorney-client communications, would you tell me who called you?

MR. MAYER: You may identify the person that contacted you.

A. That would have been Joy Niblock of the Monsanto Company.

Q. Is Mr. Niblock an attorney?

A. Miss.

Q. Miss Niblock, is she --

A. No, she's an assistant.

Q. Could you tell me what she told you?

MR. MAYER: No, you may not. The question seeks to invade the attorney-client privilege. Mrs. Niblock is a paralegal assigned to the Monsanto Legal Department. Her contacts with Mr. Frederiksen were at the instruction of Monsanto counsel.

BY MR. KASHANI:

Q. At what point were you first contacted by Bronson, Bronson & McKinnon or anyone from Bronson, Bronson & McKinnon?

MR. MAYER: That's my law firm, by the way.

A. My first contact with them was

yesterday.

BY MR. KASHANI:

Q. And was that by telephone or by letter?

A. That was in person.

Q. Here in St. Louis?

A. Yes.

Q. At any time during that contact or previous contact, did anyone inform you that the plaintiff in this case, Transwestern, has served a subpoena asking for you to bring documents to this deposition, if you have such documents? Are you aware of any such request?

A. Yes.

Q. Have you seen the request?

A. Yes.

Q. Was the request the same as this subpoena?

MR. KASHANI: And why don't we have this marked.

MR. MAYER: Yeah, you can go ahead and have it marked first.

I'll interpose, Mr. Frederiksen, that you should always study a document very

carefully, and in fact, the entire document, before responding to questions concerning it.

(Plaintiff's Deposition Exhibit 1 marked for identification.)

A. This is the document that I saw and read, yes.

MR. KASHANI: Let the record show that the witness has identified Plaintiff's Exhibit 1.

BY MR. KASHANI:

Q. And did you have a chance to review this document before this deposition?

A. Yes.

Q. And do you have any documents in your possession or other things that are requested in this Exhibit 1?

A. No.

Q. Do you have any other documents in your possession that relate to your time at Monsanto between 1968 and 1972?

MR. MAYER: Objection. The question is vague, ambiguous, and overbroad.

You may answer.

BY MR. KASHANI:

Q. You may answer.

A. Could you be more specific?

Q. We'll start with a broad question. Do you have any documents in your possession which relate to anytime you worked for Monsanto between the years 1968 and 1972?

MR. MAYER: Same objections.

A. If you are looking for documents that were stated in this, I already answered that question.

BY MR. KASHANI:

Q. Yes, I understand.

A. Yes.

Q. Do you have other documents?

A. No.

Q. Okay, thank you. Broadening that question just a little, do you have any documents at all in your possession from any time period relating to the time when you were employed by Monsanto?

MR. MAYER: Same objections. Go ahead.

A. I don't understand why you are asking the question.

MR. MAYER: Well, Mr. Frederiksen,

let me caution you, don't worry about that. Unless I instruct you not to answer, you can go ahead and answer.

A. There are some things that I have in my possession that relate to my time at Monsanto. They are mainly personal records that I kept during that period of time.

BY MR. KASHANI:

Q. Do any of those records relate to sale of any products to any Monsanto customers?

MR. MAYER: Objection; overbroad. Go ahead.

A. The specifics of, I guess there would probably be some things that relate to sales figures or so, but those things are, are -- I, you know, those are things that I would have in my possession that they are, they are mine.

BY MR. KASHANI:

Q. I understand that. These documents that relate to sales figures, could you describe one of those documents to give us an example? Any one.

A. My job as a salesman required me

to write certain documents, and those documents were used as the salesperson, and I have some of those in my possession.

Q. Do these documents in any way indicate the amounts of sales or amounts of quantities purchased by customers? Any customer?

A. These were mainly, the things that I have kept have been examples of, perhaps, marketing plans or things that I wrote that I wanted to keep, and they do, indeed, have some information about particular sales figures, yes.

Q. Do you know if any of the documents you've kept relate to sales figures or efforts to sell products which contained polychlorinated biphenyls or PCBs?

And if we could go off the record for a second.

(Discussion off the record.)

MR. KASHANI: Back on the record.

A. The answer is no.

BY MR. KASHANI:

Q. Do any of the documents you have relate to sales or efforts to sell products

to Texas Eastern Corporation?

A. No.

Q. Do any of the documents you have relate to sales or efforts to sell products to Transwestern Pipeline Company?

A. No.

Q. And let me clarify at this point, when I say Texas Eastern Corporation, I'm also, I refer to Texas Eastern Corporation and Panhandle Eastern Corporation, which I believe is the current name of the corporation, although I'm not sure of that. And as clarified, is your answer to my last question one and the same?

A. Yes, the answer is still no.

MR. KASHANI: All right. Let's move on. I'm going to have marked exhibit, Plaintiff's Exhibits 2.

(Plaintiff's Deposition Exhibit 2 marked for identification.)

BY MR. KASHANI:

Q. I'm going to show you Plaintiff's Exhibit 2 and ask you if you recognize that.

A. Yes, I do.

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MR. KASHANI: I hope Counsel will not object if I state on the record that Plaintiff's Exhibit 2 is the confidentiality stipulation which relates to Texas Eastern documents, among other things. It has been entered in this case.

MR. MAYER: I have no reason to object.

BY MR. KASHANI:

Q. Mr. Frederiksen, have you read, and signed, and executed Plaintiff's Exhibit 2?

A. Yes.

Q. Thank you.

MR. KASHANI: Off the record for a second.

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. Earlier, you asked about one of my questions. Anytime you do not understand my question, please feel free to say so and state that you do not understand, ask me to rephrase it, and I will try to accommodate you.

From time to time, your counsel

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may object to the questions that have been stated. If he does object, that's simply to note an objection for the record. You can and should still answer the question.

MR. MAYER: Unless, of course, I instruct you not to answer the question.

THE WITNESS: I understand.

MR. KASHANI: Okay.

BY MR. KASHANI:

Q. Now, going back a bit, you stated that Bronson, Bronson & McKinnon first contacted you or met with you yesterday in person. I believe that's correct.

MR. MAYER: That misstates his prior testimony. I'll object on that basis.

MR. KASHANI: What is the correct statement, then?

A. Ask your question again, please.

BY MR. KASHANI:

Q. Let's go back. My question is, when did you first meet or talk with an attorney or someone affiliated with Bronson, Bronson & McKinnon?

A. That was yesterday.

Q. And was that meeting in person, or

by telephone?

A. It was in person.

Q. And where in St. Louis did that meeting take place, if it took place in St. Louis?

A. It took place at the Monsanto offices.

Q. And where are these located?

A. They're on Lindbergh. Gee whiz, what is it there: 800 North Lindbergh.

Q. Without revealing any attorney-client communications, I want to ask you who is paying for Bronson, Bronson & McKinnon to represent you.

MR. MAYER: Objection. The question seeks to invade the attorney-client privilege and I will instruct you not to answer the question.

MR. KASHANI: I don't think that is a privileged matter in terms of who is paying counsel. I think that --

MR. MAYER: It absolutely is a privileged matter, Counsel. You are not entitled to inquire into the nature of counsel's representation of Mr. Frederiksen.

All you need to know that is Mr. Frederiksen is represented by counsel for Monsanto in this deposition. You are not entitled to inquire into the fee arrangements.

BY MR. KASHANI:

Q. Mr. Frederiksen when your counsel instructs you not to answer, you do not have to follow that instruction.

MR. MAYER: Counsel, please. That's one of the basics of the attorney-client relationship. When his counsel instructs him not to answer, it's for a good reason, and he does have to follow that instruction, as far as I'm concerned.

MR. KASHANI: Well, can we stipulate, then, that when Mr. Frederiksen, when you instruct him not to answer and Mr. Frederiksen does not answer, he is not answering on the basis of your instruction?

MR. MAYER: I'm not sure what that stipulation is. I certainly never heard it before.

MR. KASHANI: Counsel, the witness has the right to answer my questions, regardless of what you say, but if he doesn't

answer a question after you've instructed him not to answer, I want to know whether he's doing that on his own or because you've told him not to answer.

MR. MAYER: The attorney-client privilege is inviolate, and I have a duty to protect Monsanto's attorney-client privilege, and Mr. Frederiksen cannot unilaterally decide to waive that privilege, particularly where he's been instructed not to answer by counsel, because I have the obligation to protect Monsanto's rights, and Mr. Frederiksen, when I instruct him not to answer a question based on attorney-client privilege, cannot unilaterally waive Monsanto's right, so therefore, when he does not respond to a question based on my instruction, when my objection is to the attorney-client privilege, he cannot answer that question. I will not permit it.

MR. KASHANI: That's very nice, Counsel.

BY MR. KASHANI:

Q. Previously, Mr. Frederiksen, when Counsel instructed you not to answer the

question, were you following his instruction in not answering my question?

A. Yes.

Q. And the reason you did not answer my question was because Counsel instructed you not to answer?

A. Yes.

Q. Thank you.

Now, again without revealing the contents of any attorney-client communications, have you discussed this deposition with anyone before today?

A. Yes.

Q. Could you say with whom you discussed the deposition?

MR. MAYER: You may identify the names.

A. Yeah, there were three, three people that I did discuss this with. They are present counsel, and unfortunately, the other two names I don't recall.

MR. MAYER: It's not a memory test, Mr. Frederiksen, so if you don't remember, don't worry.

A. Yeah, I don't remember.

BY MR. KASHANI:

Q. Was one of them Joy Niblock?

A. No. Joy is not a lawyer. She was not present.

Q. Was your conversation with these two other people, then -- well, let me go back. You stated that Joy Niblock telephoned you sometime last week. Is that correct?

A. That's true, mm-hmm.

Q. And you met with present counsel yesterday.

A. That's correct. Mm-hmm.

Q. But in addition, there were two other persons with whom you discussed this deposition.

A. That's correct.

Q. Do you recall when these discussions took place?

A. Yes, I do. Yes. They occurred yesterday.

Q. Was counsel present when these, this discussion took place?

A. Yes, counsel being (Indicating Mr. Mayer).

Q. Present counsel?

A. Present counsel, yes.

Q. I understand. Did you ever have any discussions about this deposition at a time when counsel was not present?

A. No.

Q. When Joy Niblock called you to tell you about this deposition, do you recall the approximate length of the conversation?

A. It was simply to make me aware, it took a minute.

Q. And that was by telephone?

A. Yes.

Q. And that was the first time you were made aware of this deposition?

A. Yes.

Q. When you met with persons, with counsel present yesterday, did anyone show you any documents to help prepare for this deposition?

MR. MAYER: You may answer yes or no.

A. Yes.

BY MR. KASHANI:

Q. Do you recall generally what documents you were shown?

MR. MAYER: You may answer yes or no.

A. Yes.

BY MR. KASHANI:

Q. Can you list any of the documents that you were shown, identify by category or type of documents?

MR. MAYER: Objection. The question seeks to invade the attorney work product doctrine in that it constitutes the thoughts, mental impressions, and theories of counsel as to what documents might be important for the witness to review. On that basis, I must instruct you not to answer.

I will represent to you, Counsel, that all the documents that were reviewed by Mr. Frederiksen have been produced in this litigation.

MR. KASHANI: I don't believe there's any work product doctrine involved here.

MR. MAYER: I would commend your reading Judges Brown and Weil's book, California Civil Procedure Before Trial, on that issue.

BY MR. KASHANI:

Q. Are you not answering that question on the basis of Counsel's instruction?

A. Yes.

Q. Thank you. Do you recall approximately how long you met with the parties yesterday?

A. Yes.

Q. How long was that?

A. About four hours.

Q. And approximately how many documents were shown to you during that time?

MR. MAYER: You may answer that if you know.

A. It's a guess. About, probably saw thirty documents.

BY MR. KASHANI:

Q. And did these documents date from the time when you were employed by Monsanto?

A. Yes.

Q. Did these include documents that you had written?

A. Yes.

Q. I'm going to go back a bit. How

old are you, Mr. Frederiksen?

A. I'm 48.

Q. And do you have a college education, college degree?

A. Yes.

Q. And what is your degree in and where did you get that degree?

A. I have a mechanical engineering degree from Purdue University and an MBA from Washington University here in St. Louis.

Q. Is the mechanical engineering degree a Bachelor's?

A. Yes, it is.

Q. And what year did you get that degree?

A. 1966.

Q. And what year did you get the MBA?

A. 1968.

Q. And where did you start work after you received your MBA?

A. I went to work for Monsanto directly from, from school.

Q. Were you recruited at school or did you --

A. Yes.

Q. And what was your first position at Monsanto in 1968?

A. I was a product specialist in paper chemicals.

Q. Do you recall the month that you started work?

A. I started work in June of 1968.

Q. So that was immediately after you received your MBA?

A. That's correct.

Q. Let's -- what is a product specialist or what is a product specialist at Monsanto?

A. At Monsanto? A product specialist supports field sales in sales efforts.

Q. Would you describe that as a technical position?

A. In some ways.

Q. Is a product specialist familiar with the characteristics of the product?

MR. MAYER: Objection; vague and ambiguous.

A. You want to try it again?

BY MR. KASHANI:

Q. Sure. The terms I'm using of

characteristics are the specifications of the product and its performance, such as viscosity, degradation over time, performance in the application. As defined, were you, as a product specialist, familiar with the characteristics of the products?

A. Yes.

Q. Now, were you familiar with the composition of the products? And by composition, I mean the chemicals, the raw materials that went into making that product.

A. Yes.

Q. And what were paper chemicals when you -- as relating to your position as a product specialist in paper chemicals in 1968?

A. Monsanto sells a number of different chemicals to the paper industry. The ones that I was specifically involved in were rosin-based, r-o-s-i-n, rosin-based chemicals.

Q. And what is rosin, r-o-s-i-n?

A. Rosin is a product made from trees. It's the, it's the distillate from the cooking of trees, if you will.

Q. What is rosin used for or what was rosin used for at the time?

A. It gives water resistance to paper.

Q. Do you recall what were the chemical components of rosin?

A. No.

Q. Was rosin considered a synthetic chemical?

A. It's based on trees. It's a natural, natural base.

Q. So the answer is no, it is not a synthetic chemical?

A. It is not a synthetic.

Q. And who were the -- which were the customers who purchased rosin?

MR. MAYER: Objection the question seeks to invade the constitutional privacy rights of both Monsanto and its customers. And on that basis, I must instruct you not to answer. It's also irrelevant.

BY MR. KASHANI:

Q. Are you not answering based on your counsel's objection and instruction?

A. Yes.

MR. MAYER: And on the Constitution; right?

A. I wouldn't tell you if -- regardless.

BY MR. KASHANI:

Q. When you started work at Monsanto in 1968 as a product specialist, what were the categories of people who work directly under you? What were they called salesmen, or -- I'm trying to get a name and a job description.

A. Okay, you asked two or three different questions. Which one do you want me to answer?

Q. When you were a product specialist, what did you call the people who worked under you and reported to you?

A. No one reported to me.

Q. As a product specialist, did you deal directly with the customers?

A. Yes.

Q. And what was their job?

A. To support field sales in their sales efforts to paper chemicals customers.

Q. Did you promote sales, or --

A. Yes.

Q. Did you meet with representatives of the customers?

A. Yes.

Q. To promote sales?

A. (Nods head in affirmative manner).

Q. Did you have an order book to take sales, or did you take sales directly from customers? Take orders; I'm sorry.

A. No.

Q. Who would take the orders?

A. The salesmen.

Q. And did the salesman report to you?

A. No.

Q. Did you consult or talk with the salesmen?

A. Yes.

Q. And to whom did you report? I'm looking for a name, when you first started work at Monsanto.

A. The fella's name was Gil Kosup, K-o-s-u-p.

Q. And who was Gil Kosup's position?

A. He was product manager.

Q. And do you know to whom he reported?

A. I can't remember.

Q. Do you recall the names of any of the salesmen who were involved in this department?

A. Yeah, I think I do. Let's see. There was a fella by the name of Elliot Shimley. To be truthful with you, it's a long time ago.

Q. I understand that.

A. It would be difficult for me to tell you exactly who it was that I was reporting to right at, or relating to right at the beginning of my, my tenure at Monsanto.

Q. Do you remember anyone other than Elliot Shimley?

A. There was a fella named Howard Richardson, there was a fella named Don Stegen, there was a fella named Ray Ford. That's -- those are names that come right, right away. There may have been several others, but I don't remember them.

Q. And these individuals were

salesmen in the Rosin Department?

A. Ray Ford was a field sales manager. The other, the other gentlemen were sales people, right.

Q. I'm going to take a brief detour. Are you a member of any technical or engineering societies or were you ever a member of any technical or engineering societies or associations?

A. Yes.

Q. Could you list some of them or list them?

A. There's an organization called the Technical Association of Pulp and Paper Industry. It's done, it's called TAPPI. I it was involved in that from a, from a sales standpoint, if you will, so Marketing supports the input.

Q. And any other societies?

A. Gee.

Q. Now about the American Society of Testing and Materials?

A. No.

Q. American Society of Lubrication Engineers?

A. No. I'm currently a member of the -- its acronym is IACRS. It's the International Association of Concrete Repair Specialists. Gee, what else? That's all I remember.

Q. Are you a member of any professional societies?

A. No.

Q. And continuing on our detour, where are you employed today?

A. I'm employed by the Goedecke Company. It's spelled G-o-e-d-e-c-k-e.

Q. And what does the Goedecke Company do?

A. We are a supplier to the construction industry of equipment, and products, and supplies.

Q. And what is your position with the Goedecke Company?

A. I'm the salesperson.

Q. What is your business address?

A. Gee, we are at the corner of Clayton and Sarah. It's 4101 Clayton Avenue here in St. Louis.

Q. And what is your home address?

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A. It's 337 Jamboree, J-a-m-b-o-r-e-e.

Q. Is that here in St. Louis?

A. Yes, it is, mm-hmm.

Q. And how long have you been with the Goedecke Company?

A. Fifteen months.

Q. And where were you employed before that?

A. At the Brouk Company, B-r-o-u-k, Brouk.

Q. Is that also here in St. Louis?

A. Yes, it is, mm-hmm.

Q. And what does the Brouk Company do?

A. They are a distributor of construction chemicals, and they also produce and resell Perlite and Vermiculite.

Q. And how long were you working at the Brouk Company?

A. Two and a half years.

Q. Let's go back to 1968. How long were you a product specialist in paper chemicals with Monsanto?

A. Let's see. '68 -- I think it was

about a year and a half.

Q. When did you stop being a product specialist in paper chemicals? Would that be approximately January of '69?

A. Well, I joined in, what, mid '68 and I think it was in the early part of 1970.

Q. And were you a product specialist in paper chemicals for that entire period?

A. Yes.

Q. And what position did you take in early 1970?

A. I took a field sales position.

Q. And in what department or division?

A. In paper chemicals.

Q. Would that make you an approximately or in the same position as the gentleman you listed earlier and referred to, Don Stegen and Howard Richardson?

A. That's correct.

Q. And at that point, did anyone report to you?

A. No.

Q. And to whom did you report?

A. Let's see. Fella's name was Randy

Rego (Phonetic).

Q. And what was his position?

A. He was regional sales manager.

Q. For which region?

A. For the Midwest region, I believe we called it.

Q. Let's go back a step. When you started work in 1968, were you based in St. Louis?

A. Yes.

Q. And were you based in St. Louis until early 1970, when you changed positions?

A. Yes.

Q. Then in 1970, were you still based in St. Louis?

A. No.

Q. Where were you based beginning in early 1970?

A. Kalamazoo, Michigan.

Q. Approximately how large was the Midwest region? How many states?

A. I think we covered six or seven states in the Midwest.

Q. Did that, did those states include Texas?

A. No.

Q. Did those include Louisiana?

A. No.

Q. Do you recall which states?

A. My specific responsibility was for Michigan, and part of Illinois, and part of northern Indiana.

Q. Was Missouri?

A. And -- I -- I'm sorry, the Midwest covered the tier of states just south of that, like Ohio, Southern -- where are we, Southern Indiana, -- where did we go -- into Tennessee. That was about as far as I think that region went.

Q. And was that region defined for just the Paper Chemicals Division or for other divisions at Monsanto, as well?

A. Just the Paper Chemicals Division.

Q. So if someone referred to the Midwest region for, say, organic chemicals, it would not refer -- it would not mean the same states?

A. That's correct.

Q. How long were you a field salesman in paper chemicals?

A. I was in Kalamazoo until -- let's see, when did we move south: Till April of 1971.

Q. And what position did you assume in April of 1971?

A. I was given a sales position in a newly, newly-formed group which included both paper chemicals and functional fluids.

Q. What are functional fluids, as the term was used at the time in Monsanto?

A. It's a pretty vague question. You want to try to narrow that down a little bit?

Q. Do you recall some of the products that were included in that term, "functional fluids"?

A. Yes. We were responsible for selling -- the fluids that were involved in the position that I took were heat transfer fluids and fire-resistant hydraulic fluids.

Q. Did those products include Pydrauls?

A. Yes, they did.

Q. Did they include any products named OS, a two-digit number which such as OS-81, OS-91?

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A. Yes. I remember OS. I don't remember the specific numbers that you are talking about.

Q. Did that include Turbinol?

A. Yes.

Q. Did that include araclors?

A. Yes.

Q. And by that I mean araclors, you might say pure araclors sold, straight araclors, not combined in other products.

A. That I don't remember.

Q. So when you -- when I asked did that include araclors and you answered yes, that could mean araclors combined with other araclors in other products?

A. You need to --

MR. MAYER: Well, objection. The question is vague and lacks foundation.

A. You need to clarify that a bit. I'm not sure what you are asking.

BY MR. KASHANI:

Q. Did you sell straight araclors?

A. I don't remember.

Q. And how long were you in this position?

A. I left in August of 1973.

Q. Did you leave --

A. Excuse me; it was September.

Q. And where did you go from there?

A. To St. Louis.

Q. Still in Monsanto?

A. Yes.

Q. And what position did you take at that time?

A. I took a -- let's see; what did we call ourselves? The job was a product supervisor.

Q. And what products were you supervising? What products were you in charge of?

A. It was responsible for a portion of products from the petrochemicals plants at Texas City and Chocolate Bayou.

Q. What types of products?

A. These are petroleum-based products from an ethylene, or from a liquid cracking unit that produces everything from ethane to tar products.

Q. Any organics?

A. They're all organics.

Q. Any, at that time, any products containing PCBs?

A. No, sir.

Q. And how long were you in that position?

A. In that specific position for two years.

Q. Until approximately September of 1975?

A. Yes.

Q. And where did you go from there?

A. Well, I've been -- became a product manager for the, for the full range of products, from the ethylene cracker.

Q. And when you say product manager, at that time would that be equivalent to the position that Gil Kosup had in 1968?

A. They're not relatable.

Q. Are they not relatable because it's a different division?

A. That's correct.

Q. So what was a product manager? What was your job at that time?

A. The job was very similar to what -- it's just a broader job. It's

product support, planning for field sales.

Q. And how long did you have that position?

A. 1978. Which month, I don't remember.

Q. And where was that based?

A. St. Louis.

Q. And where did you go in 1978?

A. I became a -- what was my -- what did we call ourselves?

A. I was the -- they had a special title for this particular position because it was unusual. Monsanto formed a joint venture with Conoco Oil, and I was responsible for the commercial aspects of the Monsanto-Conoco joint venture.

Q. What was the purpose of the joint venture?

A. To expand the ethylene-producing capability of Chocolate Bayou.

Q. So what products were involved?

A. The same ones that were before.

Q. And did the job have a title?

A. I don't remember the specific title. I just simply don't remember it. I

don't remember what the title was.

Q. And how long did you hold that position?

A. Until 1980, when the plant started up.

Q. Which plant?

A. The expanded Chocolate Bayou, ethylene-producing plant.

Q. And where did go in 1980?

A. I was assigned Commercial Development Manager for, I guess at that time we were still a -- let's see. There was Fibers, Fibers and Intermediates Product Group, if you will. Their title was Commercial Development Manager.

Q. And what are fibers and intermediates?

A. This is the nylon, nylon and acrylics business that Monsanto is in, and also the intermediates that go into the manufacture of those.

Q. And how long did you have that position?

A. Until 1985.

Q. And where did you go in 1985?

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A. I left Monsanto.

Q. I'm sorry, between 1980 and 1985, were you based in St. Louis?

A. Yes.

Q. And where did you go in 1985?

A. I went to work for a company called Mississippi Lime Company. They're located in Alton.

Q. Located where? I'm sorry?

A. Alton, Illinois. I still lived in St. Louis. Alton is just across the river.

Q. And why did you leave Monsanto?

A. Monsanto was reorganizing at the time, and I left Monsanto with 1500 other Monsanto employees.

Q. Was that by Monsanto's choice or your choice?

A. It was a mutual choice.

Q. Did you have the position at Mississippi Lime Company lined up when you left Monsanto?

A. I was interviewing for it.

Q. Was there a period of time when you were not working for either company?

A. Yes.

Q. How long was that period?

A. Three weeks.

Q. And how long were you with Mississippi Lime?

A. 16 months.

Q. And where did you go from there?

A. That's when I went to work for Brouk Company.

Q. So since April 1971, you've resided in St. Louis?

A. Yes. No. No, that's incorrect.

Q. What period were you outside of St. Louis?

A. From 1968 until 1973.

Q. Where were you in between '71 and '73?

A. In Shreveport, Louisiana. Excuse me, that's incorrect. I was in Shreveport from '71 until '72, and I moved to Little Rock, Arkansas, in '72. Then I moved to St. Louis in 1973.

Q. When you were in school, in college getting your Master's degree, did you have occasion to take any classes or pursue any studies that involved or concerned PCBs?

A. No.

Q. Did you learn anything about PCBs in school, college or graduate school?

A. No.

Q. Did you know anything about PCBs when you first joined Monsanto in 1968?

A. No, not that I remember.

Q. When you joined Monsanto in 1968, did they give you any training or courses for your position?

A. Yes.

Q. Do you recall what, generally what that training entailed?

A. It's really ambiguous.

Q. Were there -- I'm sorry.

A. Please, ask your question a different way.

Q. Were there any courses, classes?

A. Yes.

Q. Were they formal classes in a classroom with an instructor?

A. Again, there is a training program that we go through, yes.

Q. Could you, could you describe that in more detail?

A. In order to sell products, you need to know about them, and that -- when you enter Monsanto, they train you for entry just to make you aware of what Monsanto is, and then when you are assigned, you are also trained from the product standpoint as far as what you are going to be handling, so there are those two educational processes that go on.

Q. So there was an initial general training process and then a more specific training process?

A. Yes.

Q. And during the initial training process in 1968, did Monsanto teach you or tell you anything about PCBs or araclors?

MR. MAYER: Objection. The question lacks foundation.

BY MR. KASHANI:

Q. You may answer.

A. I don't believe so.

Q. And do you recall generally what they taught you in the initial training process?

A. They instructed us as to,

certainly, what Monsanto does, and what it is, and what it means. We also had some specific sales training, as far as what to do, what to expect, how to handle ourselves in given sales situations and that sort of thing.

Q. And during that initial training process, did Monsanto provide you with any manuals or documents?

A. Yes.

Q. Do you recall generally what those documents were?

A. Descriptive documents of, you know, what Monsanto is and what they do. There was also a training manual for sales training.

MR. KASHANI: I'm going to mark this exhibit Exhibit 3.

(Plaintiff's Deposition Exhibit 3 marked for identification.)

BY MR. KASHANI:

Q. This document has been provided to Transwestern by Monsanto pursuant to requests propounded by Transwestern. I'm wondering if

you have ever seen this document or anything like this document. The document is called at the top a "Salesman Manual, Araclor."

MR. MAYER: Let me caution you, Mr. Frederiksen, to review the document or read the document completely before responding.

I also note for the record the document appears to bear a date on the top right-hand corner of 10-1-44.

MR. KASHANI: I understand that, Counsel.

MR. MAYER: I'm just doing that for the record.

BY MR. KASHANI:

Q. I might note for the record that I would be very surprised if Monsanto provided you with this particular document, and I'm wondering if Monsanto ever gave you something similar to this document.

MR. MAYER: Well, let me object. Number one you asked a question that the witness has not yet responded to. Secondly, your speculation about what Monsanto did or did not do is irrelevant; it's argumentative

it's also intended to harass the witness, and I will ask you not to do that again. Ask a question. Don't make an editorial comment before it.

The question that's pending, Mr. Frederiksen, is whether you have ever seen this document or a similar document.

A. I don't recognize that document.

BY MR. KASHANI:

Q. Were you ever given a document that was labeled "Salesmen's Manual" or words to that effect?

A. That's, that's very ambiguous.

MR. MAYER: For any product, Counsel, or for Aroclor?

MR. KASHANI: For any product.

A. Of course.

BY MR. KASHANI:

Q. And were you given a manual called "Salesman's Manual" in 1968 during your initial training?

A. During my initial training, the sales training that we had was specifically for the Product Group that we were assigned to. I was assigned to the Paper Chemicals

Group; therefore, I received information about paper chemicals.

Q. Did you receive a document that was called salesmen's manual, paper chemicals, or words to that effect?

A. Do I remember receiving that type of document? No.

Q. What types of documents did you receive?

A. We received product information about the, you know, individual products that we would be selling to our customers.

Q. Well, let's go beyond your initial training to the training for the paper chemicals position. When you received the training for that position, did you receive any documents or manuals?

A. Of course.

Q. Did you receive anything that was called a salesman's manual or words to that effect?

A. I don't -- you know, again, the documentation that Monsanto had, what they called the manual is, I'm not -- I don't remember. We received information about the

products that sales people were required to be aware of to do a good job, yes.

Q. Did you receive any manuals that would give general information on how to deal with given sales situations?

MR. MAYER: Objection; vague and ambiguous.

A. You are, you know, you are asking -- the specific question is, yes, of course. You know, we received information on how to handle specific sales situations, yes.

BY MR. KASHANI:

MR. MAYER: Off the record.

(Discussion off the record.)

(Recess)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. Now let's move forward to 1970. Did you at that time receive any training for the position in field sales?

A. Yes.

Q. And could you describe that, any specifics about that training?

A. It's a long time ago, but we, we received the same type of training that you

would in any sales situation, in the sense that we needed to know about the products that we were selling. So I received product information, application information, that sort of thing.

Q. Do you recall approximately how long that training period took?

A. In the Shreveport job I don't believe it was formal. I don't believe that I had any formal training, per se. It was done pretty much on the, on the fly.

Q. The Shreveport job, was that the job you took in --

A. In 1971, which is what you were asking.

Q. How about the 1970 position?

A. The job in 1970 was a continuation of paper chemicals, so it didn't really require any additional training.

Q. And in 1971, what sorts of things did they tell you for the new position, the functional fluids position?

A. What they were trying to do was to give us, again, all the information that a salesperson would need to do their job.

Okay? So we received product information, application information about the fluids business, which was new to me at the time. My expertise was in paper chemicals for the years that I was there, so they tried to give me as much information as, as possible on the fluids business and where they were used, how they were used, to do my job better.

Q. This is the functional fluids?

A. That's correct.

Q. And at that time, did they tell you anything about PCBs?

A. Yes, mm-hmm.

Q. Do you recall what they told you in 1971?

A. The things that I specifically remember were the fact that the PCBs were used in specific types of functional fluids because of their characteristics, that they would help a particular application.

Q. Did they tell you any of the characteristics of PCBs or araclors?

A. When you say characteristics, what do you mean?

Q. I mean, again I mean

characteristics in terms of pretty much the same sense that I used before in terms of viscosity, stability over time --

A. Sure: Both of those.

Q. Simple things like boiling point, melting point, things like that.

A. Certainly. We were aware of the, the final product characteristic because that was essential for the customer to understand, so we were aware of and had -- we gave to customers that type of information because that's what the product was that we were selling them, so I was aware of the product information, in terms of the very -- that type of, of descriptive information.

Q. Do you recall generally what they told you about PCBs?

A. They were -- when -- at that point in time, we were instructed that they were, of course, a very stable chemical, and that was one of the reasons why they were useful in the fluids that they were used in.

Q. What do you mean by stable or very stable?

A. That they didn't break down,

primarily under temperature, increased, increased temperature.

Q. Did they tell you anything about the stability of PCBs over time?

A. I specifically don't remember. I'm sure that they -- we were aware of, of the fact of their chemical stability because of the fact that, you know, that was a selling point for the, the polychlorinated biphenyls in their end use in the fluids business, so -- but to be specific, I don't remember exactly how much I was aware of at the time as to, you know, as to their -- The information I had, again, was product literature and then the selling points that we used, with our customers, to let them know the advantages of using the products, and one of those advantages was the fact that they were, they were very stable, "they" being the polychlorinated biphenyls.

Q. What do you mean by chemical stability?

A. Chemical stability is the -- it's the resistance to breakdown under different physical conditions, being pH, temperature,

and that sort of thing.

Q. Was one of the physical conditions time?

A. Oh, I'm sure it was.

Q. So did they specifically tell you that PCBs would tend to remain stable over time?

A. I'm going to say this again. I don't remember specifically what I was aware of at the time. I was aware that the fluids that we were selling were stable over time and that was a selling point that we, we used in our presentations to different people.

Q. Did Monsanto give you any indication of for what period of time the PCBs would be stable in terms of years, in terms of months?

A. That's, again, I don't specifically remember.

Q. Do you remember in general? What I'm driving at, did Monsanto say that this is a product that will last a month, or this is a product that will last for years?

A. Without getting into a lot of detail, you know, of the fluids business,

okay, different fluids require different -- well, they're required to last differing amounts of time, depending on the conditions that are used in. But we were, we were aware, for instance, in the Pydraul business that the fact that the fluid that we were selling was composed the way it was, made it last longer than competition, although it did definitely have a given life in the piece of machinery.

Q. Did Monsanto give you an idea of what that given life would be?

A. I'm sure they did. I simply don't remember what it was.

Q. Did they tell you what would cause that given life to come to an end, and at what point is the -- I mean, what causes the product to stop being effective?

A. Sure. I was aware. That's part of my job, to know that. Okay? And each -- in different end uses, they would have different lives, and the end, you know, the reason that you would stop using a fluid would be different for different applications, and we were aware of that.

Q. Did they tell you the reason that the customer would stop using Turbinol?

MR. MAYER: Well, objection. That's vague, ambiguous, lacks foundation, is overbroad.

MR. KASHANI: Could you read back the witness's last answer? Not this one that was objected to, but the one before.

THE COURT REPORTER:

"A. Sure. I was aware. That's part of my job, to know that. Okay? And each -- in different end uses, they would have different lives, and the end, you know, the reason that you would stop using a fluid would be different for different applications, and we were aware of that."

MR. MAYER: I didn't object to the witness's answer, by the way. I objected to the question.

BY MR. KASHANI:

Q. Did Monsanto tell you that in this time in 1971, during your training, the approximate life and use in Turbinol. And by "Turbinol," I mean Turbinol 153 or MCS 153.

A. As I was explaining, I'm sure I

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was aware of it at the time. I don't remember, sitting here today, what that was, but I don't remember.

Q. Was this training in 1971 the first time Monsanto gave you training about PCBs?

A. Yes.

Q. Was this the first time you had heard of PCBs in any context?

A. I honestly don't remember whether that was the first time that I became aware of, you know, polychlorinated biphenyls.

Q. Is it possible that you might have heard of PCBs prior to that training?

MR. MAYER: Well, objection, calls for speculation.

A. I'm sorry, I simply don't remember.

BY MR. KASHANI:

Q. But you do remember that this was the first time that Monsanto told you about PCBs?

A. This was the first time that I was told by -- well, try it again. I'm sorry, can you --

Q. Let's go back. When was the first time that Monsanto, anyone employed by Monsanto, informed you of the givens of PCBs or told you anything about PCBs?

A. Okay, the first time that I was trained by Monsanto in the PCB-containing products would have been in that period of 1971. How much before that I became aware of the polychlorinated biphenyls, it's just too long ago and I simply don't remember.

Q. At any time, and including in your formal education, did you receive any instruction or training in the breakdown -- I'm sorry, let me rephrase that.

Did you receive any instruction or training in functional fluids in general?

A. Sure.

Q. Do you recall any specifics of that training or instruction?

A. I'm going to have to ask clarification. When you say "functional fluids," can you tell me what you are referring to, so I know how to answer the question?

Q. Certainly. I use "functional

fluids" in exactly the same sense as you did when you said that you were in the paper products and functional fluids area at Monsanto.

A. Okay. Well, certainly, as a mechanical engineer at Purdue University you learn a lot about fluids, how they react, what their characteristics are, that sort of thing, but generally we were learning more about the physical characteristics, how they flow, how they freeze, how they break, how they -- that type of thing. In terms of the specific chemistry, we got very little -- well, relatively little training in terms of the chemistry, so did I -- was I trained in functional fluids, I have certainly been in classrooms at Purdue University where they explained, and we were required to learn characteristics of fluids as a mechanical engineer, so in that sense, I was trained as, in functional fluids.

Q. Did you learn anything about PCBs at that time?

A. No.

Q. Did you learn anything about the

breakdown of functional fluids prior to this training in 1971?

A. Well, as, you know, as a mechanical engineer and with that kind of training, you are certainly aware of the things that cause chemicals to breakdown, so in that sense, I was aware of what causes chemicals to breakdown. Does that answer your -- are we --

MR. MAYER: You answered the question.

THE WITNESS: Okay, thank you.

BY MR. KASHANI:

Q. What caused chemicals to break down or what did they tell you causes chemicals to break down or functional fluids to break down?

A. Well, again, without going into hours of speculation and what have you, the, you know, main things that cause, you know, chemicals to break down is primarily temperature, high temperature. They also break down in shear, and then there are several mechanical reasons why they would break down if they were in a solid state.

Q. Let's go back to 1971, when you received the training. Do you recall who gave you the training or instruction in the functional fluids?

A. It would have been the Product Group that was responsible for the fluids. The people in that Product Group there were two or three people that were, when I was able to get instruction, if you are asking who, they would have been primarily a fella by the name of Cumming Paton, who was responsible for the Fluids Group and several others in that group, several of which I will not be able to remember, several, but it would be Cumming Paton.

Q. Was Roger Hatton one of the people?

A. Yes, Roger Hatton was one of those people.

Q. What about Norman Johnson?

A. Yes.

Q. Jerry Davidson?

A. For a short time, yes.

Q. Do you recall any other names of people who gave you instruction?

A. Another fella's name is Don Roush. That would be, that would be the short list. I don't, I don't remember more.

Q. We might get back to that.

Do you recall any other people in the Product Group, whether or not these people gave you instructions? And I include everyone: Salesmen, sales managers, development people.

A. Well, yeah, of course, I mean there are other people that I remember working with at that point in time if you, you know, include bosses and things like that.

Q. Was Don Stegen one of them?

A. Yes.

Q. Do you recall what he did?

A. He was my boss.

Q. What was his position?

A. He was, I think, either district or regional sales manager located in Houston.

Q. And by boss, what do you mean?

A. I reported to him.

Q. What about Larry Bradford?

A. Larry Bradford was in the St.

Louis Product Group, so he would have been providing me with product information, support, planning, that type of thing from St. Louis.

Q. Was he an individual who provided you with some instruction on PCBs?

A. I'm sure he did.

Q. And what was his job or his position?

A. I think he was product manager.

Q. And who reported to him in the Functional Fluids Group?

A. I honestly don't remember the organization specifically. He would have been working with people like Roger Hatton and Don Roush, who were technical people involved.

Q. Okay. Did Don Stegen report to Larry Bradford?

A. No.

Q. Did you report to Larry Bradford?

A. No.

Q. Would Larry Bradford be considered part of the development division?

A. I don't remember.

Q. How would you define the development division?

A. I'm not sure what you mean by development division.

Q. I mean in the sense that -- in the sense of development of products, field testing of products with customers.

A. Say your question again. I'm sorry.

Q. Was Larry Bradford in the development division, development arm?

A. My memory tells me that he was in the Product Management Group.

Q. And what was the Product Management Group?

A. Product management is responsible for the care and keeping of a particular group of products, in terms of they coordinate the commercial effort with the technical efforts and the marketing plans and that sort of thing.

Q. So would --

MR. KASHANI: Well, let's take a short break, just a few seconds.

MR. MAYER: Sure.

(Discussion off the record.)

MR. KASHANI: Okay, back on the record.

BY MR. KASHANI:

Q. Do you recall, then, who it was who reported to Larry Bradford?

A. Again, I'm sorry, I simply don't remember the organization.

Q. Do you recall a fella named Lou Stark?

A. Sure.

Q. What was his role?

A. He was a technical person.

Q. What do you mean by technical person?

A. Someone who's responsible for the technical aspects of the products that they are associated with.

Q. Was one of the products Lou Stark was associated with Turbinol?

A. I don't remember what Lee -- I simply don't remember. I remember Lee Stark's name , and it, you know, working with him, but I don't remember exactly what Lou Stark did.

Q. Was he associated with functional fluids?

A. As I remember, yes.

Q. Do you recall a gentleman named Robert Cristman?

A. Bob Cristman? Oh, yes.

Q. Bob Cristman.

A. Mm-hmm.

Q. What was his role?

A. He was in field sales.

Q. And to whom did he report?

A. Let me see. I think he reported to Ray Ford in Atlanta.

Q. Do you recall the approximate times Bob Cristman was field sales?

A. Bob was in, in paper chemicals when I was in Michigan, he continued to be a field salesperson during the time when I was in Shreveport and Little Rock, and what happened, I think he continued to be in sales after I left Little Rock.

Q. So that would be from approximately 1968 to what time?

A. 1970, I think I lost track of Bob about 1973 or '74.

Q. And during what periods was he in field sales or in any way associated with functional fluids?

A. I think, if I remember right, when the Functional Fluids Group joined the Paper Chemicals Group in 1971, all of the field sales people for -- in the Paper Chemicals Group, also received responsibility for functional fluids. That's my memory.

Q. That was a few questions ahead. I noticed a number of people were in paper chemicals and then also in functional fluids. Do you recall the reason why the Paper Chemicals Group was joined with the field -- Functional Fluids Group?

A. There was a similarity of the, of the products, themselves. They were all fluids, and so Monsanto thought it would be convenient to join them together in one Product Group.

Q. Were the customers similar? Were there -- in other words, the same -- were there any efforts who purchased both functional fluids and paper chemicals?

A. In general they were not similar.

In fact -- well, paper chemicals people made paper; okay? Functional fluid users were people involved in machinery and that sort of thing, so the two markets were quite well separated, actually.

Q. But Monsanto joined them nonetheless?

MR. MAYER: Objection, argumentative. You can answer.

A. Yes.

BY MR. KASHANI:

Q. Was that a permanent joining between the functional fluids area and the paper chemicals area? I mean did that persist indefinitely, or --

A. I don't believe so. I think they all -- I think they split up again.

Q. Do you recall approximately what time they split up?

A. No, I really don't.

Q. Do you recall which individuals -- well, scratch that. What was Ray Ford's position?

A. He was Southern regional sales manager.

Q. And what did that region include?

A. The classic Southern states, really, from the Caroline as across through Texas in the Southern tier.

Q. Did that include Texas and Louisiana?

A. Sure did, mm-hmm.

Q. And was that headquartered in Atlanta?

A. Yes.

Q. And who reported to Ray Ford?

A. Ray had Don Stegen and myself. I reported to Don, Don reported to Ray Ford. If I remember right, there was a fella, Elliot Shimley, Bob Cristman in Mobile, and he had, I think, one or two other sales people that reported to him but I don't remember their name offhand.

Q. So was Elliot Shimley also a -- what was Elliot's field role in functional fluids?

A. He was a field salesperson also.

Q. Do you recall any other field sales people?

A. Not offhand. Oh, wait a minute.

There was a fella's name, his name is Carl Clay, who I think he reported to Ray.

Q. And do you recall which of these people had any involvement with Turbinol, other than yourself?

A. Other than myself? Well, obviously Don Stegen did in the sense that he was my boss. I -- it's very difficult for me to remember who handled which product where. I just, you know, as I said, Don and I would both have been aware of and obviously involved in the sales of Turbinol.

Q. Do you know where Ray Ford, Elliot Shimley, Bob Cristman, do you know where any of these people reside or work today? Have you kept in touch with any of these people?

MR. MAYER: Objection; compound.

A. No.

BY MR. KASHANI:

Q. What about Carl Clay?

A. No.

Q. What about Don Roush?

A. I do not know where Don Roush -- no, I don't know.

Q. What about Ray Ford?

A. No, I don't know where Ray Ford is.

Q. Back to Don Roush, what was his position?

A. Again, he was a technical resource for field sales.

Q. Was he in approximately the same position as Lee Stark?

A. I would put them, in my mind they are both in St. Louis and they are both technical support, but I don't remember specifically how they related or interrelated.

Q. Do you know to whom Don Roush would report?

A. I really don't remember the organization at that point.

Q. Could it have been Roger Hatton?

A. I, I don't remember.

Q. And do you remember what Roger Hatton's role was, what his position was?

A. Roger was, again, technical support for the fluids business.

Q. Do you recall to whom Roger Hatton reported?

A. As I say, I don't, I just don't remember the organization.

Q. Did he report to Cumming Paton?

A. Again, I don't remember specifically what that organization looked like.

Q. What about Cumming Paton; what was his role?

A. His role would have been as a product manager. I believe that was even his title.

Q. And to whom did he report?

A. Wait a minute. I'm sorry, I do not remember.

Q. Do you recall who reported to him?

A. I believe Cumming Paton would have had the responsibility for most of the people that we're talking about, but again, don't remember.

Q. Was Cumming Paton in a higher position, as it were, than Roger Hatton?

A. Yes.

Q. And would you happen to know where Cumming Paton is today?

A. No.

Q. What about Norman Johnson? Do you recall what his position was?

A. I think he was national sales manager for the Functional Fluids Group.

Q. Do you recall who reported to him?

A. The regional managers would, people like Ray Ford would report to Norm.

Q. Would Norman Johnson report to Cumming Paton?

A. I believe so, but I'm not sure. Again, the structure of how people interrelated in St. Louis was -- I don't remember that specifically.

Q. Do you recall ever seeing an organizational chart that showed these people?

A. Sure.

Q. Do you recall approximately when you saw something like that?

A. When -- I had it certainly during the time when I was a field salesperson.

Q. What about Jerry Davidson? Do you recall what his role was?

A. I -- Jerry Davidson's role is something that I remember. Jerry was very

briefly on the scene, I remember he was not responsible, much in the product management sense, but you know, past that, I'm sure he was in the Product Group for functional fluids, and I'm sure he had product responsibility for certain products, but, you know, past that, I really don't remember.

Q. Was he a technical person?

A. I don't recall.

Q. Do you recall --

A. My relationship was commercial with him, in the sense that he was, he was commercial support for us.

Q. What do you mean --

A. But I don't know --

Q. I'm sorry.

A. Would give you marketing assistance in terms of who to call on, who not to call on, that type of thing.

Q. Do you recall to whom Jerry Davidson reported?

A. No.

Q. Do you recall who reported to him?

A. No, I sure don't.

Q. Do you recall a fella named T. K.

Gossage, G-o-s-s-a-g-e?

A. Mm-hmm, Tom Gossage, mm-hmm.

Q. Do you recall what his role was?

A. You are probably reminding me that he's probably, I believe he was Cumming Paton's boss.

Q. And do you recall who was Tom Gossage's boss?

A. No.

Q. Did you ever have discussions with Tom Gossage directly?

A. Yes.

Q. Do you recall what generally the nature of those discussions were, was?

A. Gee. He had business interests in customers that I called on, so I certainly talked to him about those, those customers.

Q. Do you recall a fella named Charles Williams?

A. No.

Q. Do you recall that he might have been in the Functional Fluids Group?

A. I don't recall Charles Williams.

Q. If I suggested that Charles Williams might have been a salesperson in

functional fluids, would that help you remember?

A. I don't remember, no.

Q. Do you recall a fella named William Papageorge?

A. Yes.

Q. Do you remember what his role was?

A. He was responsible for environmental issues.

Q. Do you recall who reported to him?

A. No.

Q. Do you recall to whom William Papageorge reported?

A. I don't. As I say, I just don't remember. It was too long ago.

Q. Did you ever talk with William Papageorge?

A. Sure.

Q. Do you recall generally what those discussions were?

A. Bill was responsible for environmental issues and that was what we talked to Bill about.

Q. Do you recall your first -- approximately when your first conversation

with William Papageorge took place?

A. I just have no idea.

Q. Was it during your initial training in 1971?

A. It's impossible for me to tell you when my first contact was with Bill. I just would not remember.

Q. Do you recall a fella named William R. Richard? I believe Dr. William R. Richard?

A. Bill Richard, yes, I do.

Q. Is he a doctor? Is that correct?

A. That -- it's my memory that he's a doctor, yes.

Q. A Ph.D.?

A. I assume so, yes.

Q. Do you recall what his role was?

A. Again, he was a technical-type person that I had contact with.

Q. Do you know where he was based?

A. He was in St. Louis as I recall.

Q. And do you know to whom he reported?

A. I don't remember what he did.

Q. Do you remember with whom he

worked, whom he worked with?

A. No.

Q. Do you recall he worked in a laboratory?

A. I don't know what Bill Richard did.

Q. Do you know where William Richard is today?

A. No, I sure don't.

Q. Do you remember a fella named Wheeler, either Elmer P. Wheeler, Dr. Elmer P. Wheeler, I believe?

A. The name, the name is familiar.

Q. Do you recall what context?

A. No.

Q. If I told you he was a researcher, laboratory, does that ring any bells?

A. No. That's one of those names that I just, I feel familiar with but I don't know what Elmer Wheeler did for Monsanto.

Q. Did you ever meet Mr., Dr. Wheeler or talk to him?

A. I think so.

Q. Do you recall approximately when?

A. No. I'm sorry, I just don't

remember.

Q. Do you know where Dr. Wheeler is today?

A. No.

Q. Do you know if he's still alive?

A. I just simply don't know.

Q. How old was he, approximately, in 1971?

A. I have no way of knowing. I'm sorry. I mean, I just don't know. I don't remember.

Q. Was he older than you were at the time?

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

Q. Do you recall generally?

A. I, as I recall, he was older than I was. How much older, I just, I don't know how much more, how much older he would be.

Q. You don't recall approximately?

A. I don't.

MR. MAYER: Does this really matter?

A. Well, I just, you know, it's one of the people that I remember meeting in Monsanto, and that's, that's all I can tell

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you.

BY MR. KASHANI:

Q. Do you remember a fella named E. Scott Tucker?

A. No.

Q. Scott Tucker?

A. No.

Q. If I told you that he was a researcher in the laboratory, would that ring any bells?

A. I do not recall that name at all.

Q. What about Mr. P. G. Benignus? I'm not sure if I'm pronouncing that correctly. It's spelled B-e-n-i-g-n-u-s. Do you recall that name?

A. Yes, I do.

Q. And what was Mr. -- am I pronouncing it correctly?

A. Benignus is the name, I think. That's my memory.

Q. And what was Mr. Benignus' role?

A. Again, somewhere -- I believe it was in St. Louis, it was associated with functional fluids and past that, I don't know what Paul did.

Q. Do you recall to whom he reported?

A. Here we are again. With the same, you know, organization questions, I don't remember exactly. Ultimately, he would report to Cumming Paton, I believe.

Q. Do you recall approximately how old he was at that time?

A. Again, I remember him to be older than I. How much, I don't recall.

Q. Do you recall when you met him for the first time?

A. No. Have no idea.

Q. Do you recall the substance of any discussions you had with him?

A. I, as I say, I remember speaking with him but I don't remember what the context was at all.

Q. Do you recall a fella named Howard S. Bergen?

A. Yes.

Q. Do you recall what his role was?

A. No. He was in upper management is all that I remember.

Q. Do you recall if he was higher level or lower level than Cumming Paton?

A. Higher.

Q. Do you recall if Cumming Paton reported to him?

A. I don't remember.

Q. Do you recall if he was higher or lower level than William Papageorge?

A. I don't recall that.

Q. And he was based in St. Louis?

A. Yes.

Q. Do you recall how old he was at that time, approximately?

A. Oh, I think Howard was probably -- I remember Howard pretty specifically being probably ten years older than myself.

Q. Why is it that you remember Howard pretty specifically?

A. Just because I remember him. He was either, I don't remember, he was in management in our group at some point in time. When, I don't remember, and people like that, you don't, you don't forget.

Q. Was he, was he someone you reported to, either directly or ultimately?

A. Indirectly I reported to him, yeah.

Q. Did you ever meet him or have discussions with him?

A. Sure.

Q. Do you recall any of those discussions in substance?

A. Being one of the people that reports to him, you know, you have conversations about your business, how they're coming, how are things coming along, that sort of thing. Again, any specific conversations I had with Howard, I don't remember.

MR. KASHANI: Let's take a short break.

MR. MAYER: Okay, off the record.

(Discussion off the record.)

(Luncheon recess from 12:00 o'clock to 1:15.)

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

BY MR. KASHANI:

Q. We were discussing some names. Do you remember a fella named Willis Clark?

A. No.

Q. Does it help or does it refresh

your memory at all if I told you that he was in the Functional Fluids Division about the same time as you were there?

A. I don't remember Willis Clark at all.

Q. Do you remember anyone named Ed John?

A. Ed John is not a familiar name to me, no.

Q. Would it help if I suggested he might have been a public relations manager in organic chemicals?

A. No.

Q. What about Don Olson?

A. Don Olson, I know very well.

Q. What was his role at that time?

A. Well, Don was involved with the Petrochemicals Group. He was our boss during my days at petrochemicals, in the latter part of those days.

Q. Was this in the period after you were working in the Functional Fluids Group?

A. My best memory tells me that he was in the, he was responsible for the group before I, you know, before I left. Let's

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see, where was I when I met Don? Don Olson became director of marketing of the Petrochemicals Group in 1974, as best I can remember. It was after the period I was in -- after I had moved to St. Louis.

Q. Was Don Olson involved in the Functional Fluids Group at all?

A. Not as I knew him.

Q. Is it possible that he was a director of sales for the Functional Fluids Group?

A. I don't remember Don Olson as director of sales while I was involved in functional fluids.

Q. And what do you mean by petrochemicals?

A. The Petrochemicals Group was a group I joined after I left field sales from Little Rock and moved back to St. Louis, so that would be the Petrochemicals Group.

Q. Is that the ethylene cracking?

A. That's the ethylene cracking unit, yes, sir.

Q. Do you remember someone named E. J. Putzell, P-u-t-z-e-l-l?

A. Yeah, that's a name that most people at Monsanto would know. He was in St. Louis. What Mr. Putzell did, I don't remember, but he was in the big office.

Q. Was he an executive?

A. I believe so.

Q. Do you recall if he was higher or lower than, in level than say William Papageorge?

A. I don't recall.

Q. Did you ever meet him?

A. I don't recall.

Q. Do you recall who reported to him?

A. No, I don't.

Q. Was he a member of the corporate management committee?

A. I don't recall.

Q. What is the corporate management committee, and if it's changed at all, we can start with what was its role at that time?

MR. MAYER: Objection; compound.

Go ahead.

A. It's a committee that considers the actions that Monsanto should take from on a corporate level. That's all I know.

BY MR. KASHANI:

Q. Do you know who was on -- who was on the corporate management committee?

A. No, I sure don't.

Q. Do you know what level of executive would have been on it?

A. I really don't, no.

Q. Was the president of Monsanto on the corporate management committee?

A. I wouldn't -- you know, I don't know, you know, the people that would be on it. It would be a managerial level committee would be chosen from the ranks of the management of corporate Monsanto. But who was specifically on it, I just simply don't remember.

Q. What do you mean by corporate Monsanto?

A. Monsanto was, at the time we're talking about, broken up into different divisions; okay, so corporate Monsanto is the corporate cover, if you will, for individual divisions within Monsanto. It's a fairly -- its "a classic, you know, business arrangement.

Q. Do you recall what those divisions were?

MR. MAYER: For what time, Counsel?

BY MR. KASHANI:

Q. At the time you were in the Functional Fluids Division.

A. No. I mean it, you know,y my specific memory, I really just don't remember. It's changed, you know, the organization changes with some regularity, and it's difficult to decide when I saw which so I can't answer your question.

Q. At the time when you were in functional fluids, was organic chemicals one of the divisions?

A. Again, this is a memory, Organic Chemicals, I think, ceased to exist in 1971, as a separate entity. I think it was broken up into several different pieces, but I, I can't -- I mean that's what I remember. There was a certain time period in there that it was broken up and that's one.

Q. Was one of the pieces functional fluids?

A. The fluids that were in that group I remember being, you know, organic chemicals.

Q. Was paper chemicals in the same group?

A. Yes. Paper chemicals was in organic chemicals.

Q. Were the petrochemicals a different group?

A. At that time, I think they were. Mm-hmm.

Q. And what is that time you are referring to?

A. Again, organic chemicals as a division dissolved itself amongst several groups at some point in time. Certainly, the chemicals that are petrochemicals are organic chemicals in the classic sense. Whether they were part of the Organic Chemicals Group, at one point they were. At some point, they ceased to be, and where that changed, you know, remember -- I just don't remember exactly when, so I -- that's about all I can tell you about that.

Q. Did Organic Chemicals Division

dissolve at about the same time that the Functional Fluids Group was combined with the Paper Chemicals Group?

A. That's right. We -- that's what we were saying. That's -- my memory tells me that's about when this all took place, but that was an organizational change.

Q. And did the dissolution of Organic Chemicals and the combination of those two divisions, was that part of the same process, single process?

A. That's what I remember.

Q. Was that approximately 1917?

A. That's what I remember. Mm-hmm.

Q. Do you remember a fella named John Mason?

A. Yeah, I remember John Mason.

Q. Do you remember what his role was in approximately 1971 to '72?

A. He was in the -- in the Personnel Group, I believe.

Q. What is the -- what was the Personnel Group?

A. As most personnel groups and businesses, they are responsible for

personnel matters.

Q. What involvement did you have with him or what --

A. I knew him as a personal friend.

MR. MAYER: Mr. Frederiksen, let me caution you to permit counsel to complete his question before you respond, just even though you know what his question may be, and that'll make it easier for the court reporter.

THE WITNESS: I understand. I'm sorry.

BY MR. KASHANI:

Q. How did you know John Mason?

A. I knew him as someone else in Monsanto that just -- an acquaintance in Monsanto.

Q. Do you recall how old he was at that time in approximately 1971?

A. Seemed like he was only slightly older than I.

Q. Do you recall who reported to him?

A. No.

Q. Do you recall to whom he reported to?

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A. No.

Q. Was he based in St. Louis?

A. Yes.

Q. I'm sorry, you were about to say --

A. Yes.

Q. Do you know if he worked with William Papageorge?

A. I don't know.

Q. Did he have any involvement in the sale or -- did he have any involvement with functional fluids?

A. The John Mason that I knew, I don't believe did.

Q. Was the John Mason that you knew an executive?

A. The John Mason I knew was in the Personnel Group, and that's all I knew.

Q. Do you recall someone named Paul Hodges?

A. Vaguely familiar.

Q. Would it refresh your recollection if he's associated with the title Manager of Environmental Engineering, Organic Chemicals Division?

A. No, not really.

Q. What about W. R. Corey, C-o-r-e-y?

A. That's another name that Monsanto people were aware of. I, I don't believe that I could, I had ever met Mr. Corey, but he was a person that was at Monsanto.

Q. Do you recall what he was involved in, what he worked on?

A. Not specifically. I'm sorry. You know, he was just -- I don't remember. He was an executive, I believe.

MR. MAYER: Well, Mr. Frederiksen, there's no reason to apologize. It's twenty years ago. And if you don't remember, you don't remember.

THE WITNESS: Thank you. That's true.

BY MR. KASHANI:

Q. In fact, your memory is striking, absolutely striking.

MR. MAYER: Well, Counsel, let's not editorialize.

BY MR. KASHANI:

Q. No, seriously. I'm very impressed with your recall of these people.

HARTOLDMON0040427

Q. How about C. P. Cunningham?

A. I knew who Mr. Cunningham was.

Q. Do you know in what context? Do you remember in what context?

A. He was our general manager at one point in time. When that was, I'm not sure when in sequence. He was, he was our ultimate boss. I simply don't remember.

Q. General manager of --

A. General manager of the term within Monsanto that, you know, there's a group where they're general manager of, and he was, happened to be our general manager but I can't remember when it was that he was that person.

Q. He was general manager of the group that included functional fluids?

A. I don't remember specifically.

Q. Was he based in St. Louis?

A. Yes.

Q. Do you recall approximately how old he was at that time?

A. He was certainly older. How much older than I, I really don't remember.

Q. And did you ever have discussions

with him or meet him?

A. Sure.

Q. Do you recall the substance of any of those discussions?

A. Not really. I mean, it was, it was pretty much a get-to-know, friendly conversation about business things in general.

Q. Do you know who reported to him?

A. No. No. Those organizations are, I just simply don't remember.

Q. Do you remember a fella named H. L. Minckler, M-i-n-c-k-l-e-r?

A. Mm-hmm.

MR. MAYER: You have to answer audibly, sir.

A. Yes. Excuse me. Yes, I do.

BY MR. KASHANI:

Q. Do you recall what he did?

A. He was, I believe, also a general manager at one point in time or another. I think, early. Again, I, you know, I just don't remember exactly when.

Q. Did he have the same general manager position as Mr. Cunningham?

HARTOLDMON0040429

A. I don't believe it was quite as high. I think there was, there was a difference in their level.

Q. Were they in the same group?

A. I don't remember.

Q. Did Mr. Minckler report to Mr. Cunningham?

A. Again, I don't recall.

Q. Do you recall who reported to Mr. Minckler?

A. As I say, the organizations were, were, are foggy in memory. I believe he was involved in the paper chemicals business at the time that I was involved in paper chemicals.

Q. Oh, do you know what his first name was? I just have initials, H. L. Minckler. Do you recall what his first name was?

A. Yes.

Q. And what was his first name?

A. Howard.

Q. And what was E. J. Putzell's first name?

A. His first name is Ed.

Q. And W. R. Corey?

A. I don't remember his first name.

Q. Did he go by a second name? Do you remember his middle name?

We called him "Wink."

Q. And C. P. Cunningham?

A. C. Preston.

Q. Did he go by Preston?

A. We called him Press.

Q. Do you remember a fella named M. W. Farrar, F-a-r-r-a-r?

A. That's a name that I know from Monsanto but I, I don't recall exactly where he fit in any organization. I don't believe I ever met him.

Q. Could he have been in the Functional Fluids Division?

A. I don't remember.

Q. Could he have been a researcher in the lab?

A. I don't remember.

Q. Do you recall his first name?

A. No.

Q. What about J. E. Springgate? That's two g's, Springgate.

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A. That's just another name I know from being at Monsanto, and I -- I don't remember more.

Q. Do you know what his first name is?

A. No.

Q. Do you recall if he was in the functional fluids area?

A. I just simply don't remember.

Q. Did you ever hear of a gentleman named M. L. Keplinger?

A. No.

Q. Have you ever heard of a company called Industrial Bio-Test Laboratories? That's Bio hyphen Test Laboratories.

A. No.

Q. If I put those two names together. Does that refresh any recollection, Keplinger and Bio-Test?

A. It sure doesn't.

MR. KASHANI: Let's take a break, a very short break.

(Pause)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. I'm going to refer you back to what's been marked as Plaintiff's Exhibit 3, a document that's labeled "Salesmen's Manual," and referring to this -- to any time where you received some training with regards to sales of functional fluids, do you recall receiving any document that was called the "Salesmen's Manual"?

MR. MAYER: Objection; asked and answered.

Go ahead.

A. Yeah. I answered that, yeah, we discussed that in some detail.

BY MR. KASHANI:

Q. Let's turn specifically to Turbinol MCS 153. Is there a distinction between MCS 153 and Turbinol 153 or was there a distinction?

A. I don't recall.

Q. Would it refresh your recollection if I suggested that Turbinol was simply a new name for MCS 153?

A. I, I simply don't remember.

MR. KASHANI: Let's mark this exhibit next in order.

HARTOLDMON0040433

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

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

(Discussion off the record.)

MR. MAYER: For the record, I'm not willing to stipulate to use of highlighted copies at trial.

MR. KASHANI: Okay, we're back on the record.

BY MR. KASHANI:

Q. I'm going to show you Exhibit 4. I just ask you to read the highlighted portion. You don't have to read it aloud.

MR. MAYER: Let me caution you, though, Mr. Frederiksen, that as you review documents, you should be aware of the context in which the highlighted portions appear, and if you feel more comfortable, you are certainly entitled to review the entire document before responding.

MR. KASHANI: Feel free.

(Witness peruses said document.)

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BY MR. KASHANI:

Q. And have you reviewed the document?

A. Yes.

Q. After having reviewed that, does that refresh your memory as to the distinction, if any, between MCS 153 and Turbinol 153?

A. I have no memory of this whatever.

Q. In the course of your training in the functional fluids area, what did you learn about Turbinol 153?

MR. MAYER: Objection, calls for a narrative and overbroad.

You can answer.

A. Would you clarify it a little bit? I need to answer something.

BY MR. KASHANI:

Q. Sure. What did you learn about the properties of 153?

A. As a salesperson responsible for selling Turbinol 153, I was given the properties for the product and was responsible for making sure that that information was clearly communicated to, to

HARTOLDMON0040435

any customer that we had for products like this. Specifically do I remember exactly what I received? No, I don't.

Q. Let me show you another exhibit.

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

BY MR. KASHANI:

Q. I wonder if you could review at least the highlighted portion, and any other -- why don't you just review that exhibit.

(Witness peruses said document.)

A. Okay, I've read it.

BY MR. KASHANI:

Q. I'm going to read two statements, two sentences on Page 2 of this exhibit, starting at the second paragraph. Quote, "As to the fluid, itself, we do not claim it to be unchangeable or indestructible -- just the next thing to it."

Is that a true statement?

MR. MAYER: Well, objection. It calls for speculation. It requires the

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witness to get himself into the mind of the author of this document, D. F. Smith. I'll object to use of the word "unchangeable" or indestructible" in asking the witness what is meant by that.

MR. KASHANI: I'm not asking the witness to comment on at what time anyone meant by that. I could have made that statement up right now.

MR. MAYER: That's right, you could have, and I object that you are asking him to speculate about what you meant.

MR. KASHANI: I'm not asking him to speculate, I'm asking him if that's a true statement.

MR. MAYER: I'll object to the question as argumentative.

A. I can't answer that question. I -- I don't know.

BY MR. KASHANI:

Q. Did, in the course of your training and instruction as to Turbinol 153, did anyone ever tell you that the product was virtually unchangeable or virtually indestructible?

HARTOLDMON0040437

A. I don't recall.

Q. Does this document refresh your memory as to what anyone told you about Turbinol 153, or add to what you said before?

A. No.

MR. MAYER: Well, objection, vague.

BY MR. KASHANI:

Q. What about this sentence which is also from that paragraph. Quote, "There's nothing to wear out in MCS 153. Thus, it can be virtually considered as a permanent part of the system." Unquote. Is that a true statement?

MR. MAYER: Same objections.

A. And I can't answer that.

BY MR. KASHANI:

Q. What facts would you need to know in order to answer that question?

MR. MAYER: Objection; argumentative, lacks foundation.

A. And there is no way that I know enough to tell you the answer to the question.

BY MR. KASHANI:

HARTOLDMON0040438

Q. Did Monsanto give you enough information about the product to answer my question?

A. No.

MR. MAYER: Well, let me interpose an objection that the question is argumentative and lacks foundation.

THE WITNESS: Yes.

A. And the answer is, I can't answer the question.

BY MR. KASHANI:

Q. If a customer in 1971 or some period after you received training and construction from Monsanto on Turbinol 153, if a customer asked you if Turbinol 153 is unchangeable, what would your response be?

A. I wouldn't, I wouldn't be able to answer that one way or the other because I don't know how to answer that question.

Q. If the customer asked if the, if Turbinol 153 would break down in usage, normal usage, what would your response be?

A. I'd say I'd ask the research people in St. Louis to answer that question.

Q. Who would those research people

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be?

A. That would be the Product Group. I would ask that question in a call report normally and request that to be, to be answered.

Q. Would that be Roger Hatton?

A. Likely, I would have originally requested that to be someone in the Product Group and they would tell me who that is that needs to answer that.

Q. And what would be the procedure for you to obtain the answer to that question beyond writing the call report?

A. I'd wait for the answer.

Q. Would the answer come from the Product Group to you or directly to the customer?

A. The person with the knowledge would usually come to the customer and pass that information along.

Q. I'm sorry, I didn't understand your answer.

MR. MAYER: Well, that's not a question. There's nothing to respond to.

BY MR. KASHANI:

Q. Do you mean that someone from the Product Group would contact the customer directly?

A. That's, that's correct.

Q. And was it a normal procedure at the time to pass on questions like the question I asked, to the Product Group for answer?

A. Yes.

MR. KASHANI: Let's mark another exhibit.

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

BY MR. KASHANI:

Q. Have you ever seen this document before?

(Witness peruses said document.)

A. It's hard for me to say yes or no. It's almost certain that I did. Do I recognize it? You know, I honestly don't, but I'm -- I feel fairly sure I've seen this or something like it.

Q. Do you know what this document was

or what this document is? What it -- well, that question.

A. Again, I don't understand what you are asking.

Q. Do you know what this document would be used for?

MR. MAYER: Well, the question is vague and lacks foundation. There's an explanation what the document is on the introduction, so the document speaks for itself.

A. That's what, it seems to me that the document pretty well speaks for itself.

BY MR. KASHANI:

Q. Do you recall ever using this document or a document like this in making sales of Turbinol or attempting to make sales of Turbinol?

A. I certainly would have. I mean, I don't recall, as I say, I don't recall specifically ever seeing this particular piece of literature, but it would be something that would be done by a salesman like myself, yes.

Q. Would you give a document like

this to a customer?

A. Absolutely.

Q. Do you recall ever giving this document to Texas Eastern or anyone at Texas Eastern Corporation?

A. Not specifically.

Q. Do you recall ever giving a document like this to someone at Texas Eastern?

A. Again, I don't recall specifically giving anything like this to, to any customer, anything -- I don't -- let me rephrase that, please. I don't recall this specific document. It would be my function as a salesperson to make sure that all customers requiring such information would receive it. I have no doubt that I would have made sure that a customer, like any customer that I had that had a product like this, that they were, they were using, I would be sure that they had this piece of literatur as part of the job as a salesperson.

Q. Do you recall what Turbinol 153 was used for?

A. Yes.

Q. What was it used for?

A. It's a lubricating fluid for compressors.

Q. Are these natural gas compressors?

A. The dealings that I had were the use of compressors used in compressing natural gas on a pipeline, yes, sir.

Q. And did you know at the time how the lubricant was used in the compressor?

MR. MAYER: At what time, Counsel?

MR. KASHANI: 1971-72.

A. I was aware that the fluid was being used in a compressor. What specific way, I do not know. You know, to respond to your question specifically, "How was it used in the compressor," I'm, I'm not aware of that.

BY MR. KASHANI:

Q. Do you know if it was used for lubricating the parts, moving parts in the compressor?

A. The use -- the fluid is used to lubricate and to move within the given compressor, but past that, I mean as far as

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the specific where does it travel, where doesn't it travel, what does it do, I wasn't privy to that information.

Q. Do you know who was privy to that information?

A. I, you know, I'm certain that the research technical people in St. Louis were, obviously, fully aware of that type of information.

Q. Does that include Roger Hatton?

A. Yes.

Q. Do you recall if you knew at the time whether or not Turbinol was being used in part to form a seal to maintain pressure in the compressor?

A. Yeah. Yeah, I feel as though I was aware of that. Again, it's a long time ago, but --

MR. MAYER: I'm sorry, sir, I didn't understand your answer. Do you mean that you are aware this was used?

MR. KASHANI: I understood, Counsel. I understood his answer.

MR. MAYER: I don't care. I'm entitled to understand my own client's

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answer, thank you.

Did you mean that you understood that it was used to maintain a seal, or that you understood at the time that its use may or may not have been used to maintain a seal?

A. You know, I'm fairly certain that I was aware that the fluid was permeating the whole system, and amongst those would be the use as a, you know, in the fluid system that is in and around the seal. Okay?

MR. MAYER: Fine. Thank you.

BY MR. KASHANI:

Q. Mr. Frederiksen, you just said that the fluid, you were aware that the fluid was permeating the whole system. What do you mean by the whole system?

A. Well, I need to clarify this. I wasn't -- you know, my function in all of this was primarily a commercial one. To ask me how the fluid was used in a particular unit is, do I -- I was not aware of the specifics. I tried to explain that just a minute ago, and that's all I can tell you. Technically, you know, our responsibilities were, were, you know, somewhat limited. It's

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hard for me to remember exactly how these fluids were used.

Q. I understand, but you just used the phrase, "the whole system." Perhaps I can be more specific. Did you mean by that the whole pipeline system, meaning the pipeline, where the gas flowed?

A. No.

Q. What did you mean by the whole system, then?

A. I was referring to the hydraulic system within a given compressor.

Q. Were you aware at the time that there was any connection -- I'll take that back. Were you aware at the time that there was any leakage of lubricant, Turbinol 153, from the compressor into the gas pipeline?

MR. MAYER: Objection. The question lacks foundation and assumes facts not in evidence.

BY MR. LASJAMO:

Q. You can answer.

A. I was -- again, I'm specifically not aware of that type information. I just, I don't know and didn't know at the time, the

facts of that type of thing.

Q. Did you ever hear or did anyone tell you at any time that Turbinol 153 was traveling from the compressor into the gas pipelines?

A. I say again, you know, the specifics of the use of that fluid were things that I, I don't have information on, was not given specific information on. I can tell you no more than that.

Q. Did you ever see a compressor?

A. Sure. Yes, I have.

Q. Do you recall which ones?

A. I've seen a number of different compressors in different plants and that sort of thing, if that's what you are asking.

Q. Did you ever see a gas turbine compressor?

A. Yes.

Q. Jet turbine?

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

Q. Do you recall where that was?

A. The only one that I recall seeing was one up in -- in Kentucky or Tennessee. I

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don't remember. Was it in Frankfort? I think it was Frankfort, Kentucky. I don't recall specifically. It was up in that Tennessee-Kentucky area somewhere, and that was as a salesperson for Monsanto.

Q. Was that a Texas Eastern compressor?

A. Yes, it was.

Q. Do you recall approximately when that was?

A. It was in 1973.

Q. Do you recall who from Texas Eastern showed you around?

A. No. No, I really don't remember the names. I would remember meeting with some Texas Eastern people but I'm -- I just simply don't remember their names.

Q. At that time did Texas Eastern people show you how the compressor worked?

A. I don't remember the specifics of the, of the meeting other than we were there.

Q. Did you watch the compressor in operation?

A. Sure.

Q. Turning to the period of 1971-72

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when you were in functional fluids --

MR. KASHANI: This may have been asked and answered, Counsel, I don't know, but -- was one of the fluids you were selling Turbinol?

MR. MAYER: You are right.

A. Yes.

MR. MAYER: Objection; asked and answered.

A. Yes, and yes.

BY MR. KASHANI:

Q. What were -- do you recall any competing fluids from Monsanto that could have been used instead of Turbinol in a gas turbine compressor?

A. No.

MR. MAYER: I'll interpose an objection that the question poses a complete hypothetical and lacks foundation.

BY MR. KASHANI:

Q. Did Monsanto offer any products that could have been used as a replacement for Turbinol, or instead of Turbinol, during the period 1971 to 1972?

MR. MAYER: Same objections.

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A. I think you asked two questions.

BY MR. KASHANI:

Q. Okay, let's go back. Let's talk about the year 1971 only. During that year, did Monsanto offer a product that could have been used instead of Turbinol 153 in a gas turbine compressor?

MR. MAYER: Objection. The question poses an incomplete hypothetical and lacks foundation.

A. In answer to your specific question, could have been used? Your specific question is, you know, does it -- doesn't make sense to me.

BY MR. KASHANI:

Q. I see. If someone from Texas Eastern had asked what fluid could we use, is there a fluid that we could use instead of Turbinol in our gas compressor that would work as well as Turbinol, would there -- what would your answer be at that time? This is 1971.

MR. MAYER: Same objections.

A. We, we don't think there was a fluid that was as good as Turbinol.

BY MR. KASHANI:

Q. What about fluids offered by other companies? Were there competing fluids?

MR. MAYER: Same objections.

A. I'm having trouble. There's a, there's a lot of information that I've forgotten that would be required to answer that question.

BY MR. KASHANI:

Q. Well, first of all, let's -- I'm going to make sure the period is clear. We're talking about the year 1971 and not 1972. To refresh your recollection, do you know if Houghton Company had a competing fluid?

A. I can tell you that Houghton had a -- is a fluid company. I have no doubt they had a competitive fluid, but I have no specific memory of that.

Q. And do you remember Stauffer, Stauffer Chemical as a completing fluid?

A. That's another fluid competitor. You know, do I remember specifically? Stauffer seems to me to be one that I would remember would have been a stronger

competitive product.

Q. Did you know in 1971 that Turbinol 153 contained PCBs?

A. Yes.

Q. How did you learn that?

A. It was something that we were, we were told when we were introduced to the Fluids Group.

Q. Were you told why Turbinol has PCBs?

A. Well, I was aware of the fact that it was a very stable -- I mean, what they told us was that that particular component was one that is a very stable chemical and therefore,it would be something that would be very useful in a fluid like this.

Q. Did the competing products offered by Houghton and Stauffer contain PCBs?

A. Not that I know of.

Q. Did this give Turbinol an advantage over the competing products?

MR. MAYER: Did what give an advantage?

MR. KASHANI: The PCB content.

A. We -- that's, that's my memory.

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BY MR. KASHANI:

Q. And do you recall what that advantage was?

A. The advantage that we sold that I was told about was the fact that the PCBs were considerably -- well, let me rephrase it. More stable: How much more, I can't answer, but I was to understand that they were more stable than, you know, other chemicals, and therefore, were superior performers, so that would give us, any fluid having PCB's would be at an advantage versus other fluids without PCBs.

Q. Did you communicate this advantage to people at Texas Eastern?

A. We certainly did our best to do that.

Q. In 1971, when you began working in the functional fluids area and Monsanto gave you some training in Turbinol, did anyone in Monsanto ever tell you about possible toxic problems with Turbinol?

MR. MAYER: Objection; vague ambiguous; lacks foundation.

A. Yes.

BY MR. KASHANI:

Q. Do you recall what it is they told you?

A. Well, you know, unfortunately, not specifically. I simply -- it's hard to remember what about, you know, this particular concern I learned when.

Q. Do you recall if anyone told you in the year 1971 that Turbinol might be toxic?

MR. MAYER: Same objections.

A. That's pretty broad. Again, to try to remember exactly when it was told what about the situation with the PCBs and their content in the Turbinol and the amount of information that I was told about, you know, the concern about the PCB situation, it's just, it's very difficult for me to remember, you know, how much I learned when.

Q. Do you recall receiving any documents from Monsanto which talked about the environmental hazards or toxicity of PCBs?

MR. MAYER: Same objections.

A. Questions like this were certainly

referred to St. Louis for clarification. We didn't really get involved in the specifics of, you know, the information regarding that problem. I was, you know, I was aware that the PCB -- there was information beginning to come out about concerns about PCB, and certainly, you know, any information that we received and that we transmitted was, was communicated based on information we got from St. Louis.

Q. Did anyone at Monsanto ever give you advice or instructions about how to respond to inquiries about the toxicity of Turbinol or PCBs?

A. Oh, yeah. Mm-hmm.

Q. Do you recall what that advice was?

A. There was no question -- all of those questions were to be referred to, to St. Louis for clarification.

Q. Do you mean that the customer would be referred to St. Louis?

A. That's correct. We -- to make sure that the information -- we were not well informed on the questions that they would be

asking. I mean, I was aware that there was a situation, but as far as the details, we were, we were -- in order to give the customer an appropriate, full answer, we were instructed to go ahead and have the, have the question referred to St. Louis.

Q. Did Monsanto, during the year 1971, or anyone at Monsanto, tell you that PCBs might persist in the environment?

A. I'm going to refer to what I said before. When I learned what, if you were asking the year 1971, I don't know when I was told what about the PCB situation, so I can't answer. I don't remember.

Q. Did anyone at Monsanto ever tell you that PCBs are suspected of persisting in the environment?

A. Sure.

Q. But you don't recall the exact time?

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

Q. Do you recall whether that was before or after the decision was made to stop marketing Turbinol 153 with PCBs?

A. Well, I was certainly aware of it

before that happened.

Q. Do you recall how much time before?

A. You know, recognizing that I was a new person in fluids at the time, and recognize that I just, I can't tell you when I was instructed in what, certainly I was -- anytime information about the PCB situation that had to do with my customers was, was available, I was told that information, and there was no question about that at all. There was a great concern about that, as a matter of fact. In terms of keeping people like myself and also our customers aware of, aware of what was being -- what was known about the PCB information that was being generated at the time.

Q. And did you have instructions to pass that information along to the customers directly?

A. I'm not sure, I think we answered that question before, but can you clarify it?

A. Before we discuss the question of how to -- you would refer inquiries from customers about PCBs, you just said -- and

you can correct me if I'm mischaracterizing your testimony --

A. Okay.

Q. -- that there was concern that the salesmen, including yourself, be notified of new information about PCBs as it became available. Did you have instructions to, in turn, automatically or within a short period of time, pass along that new information to the customers after you received it?

A. That was the reason I was told.

Q. Were you told to pass along automatically, or only in response to inquiry?

A. We were, we were in the position of informing our customers as rapidly as possible any information that we were given.

Q. Let's be concrete. Do you recall any specific time during the year 1971 or thereafter when Monsanto gave you some new -- meaning it had not been known to you before -- information about PCBs and their possible hazards, and you, in turn, immediately gave that information to Texas Eastern or any other customer?

A. If I can -- once again, we're in the year '71-'72. There's no doubt in my mind that we passed information to Texas Eastern. Exactly when, you know, in sequence that happened, I'm -- I simply don't have the ability to remember, and certainly, you know, we were -- we were in -- we were involved in a program at that point in time -- I mean during that whole period, to keep our customers aware of, and you know, obviously up-to-date with the problem with the PCBs, but do I remember specifically, you know, going to Texas Eastern with some information I got from St. Louis? No. I simply don't remember.

Q. Okay, I'm going to show you one exhibit, then we can take a break.

A. Let me clarify that last answer. If I can add on in 1971, as I said before, there's no question in my mind that we went to Texas Eastern with a whole series of questions and answers, and back and forth, in terms of what did Turbinol contain, you know, and that sort of thing. No question in my mind. It's just to answer you a specific

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1971 question, I'm not sure when that happened, so I just want to make sure that answer gets clear.

MR. KASHANI: I apologize for the poor quality of this copy.

I show you a document that's going to be marketed Exhibit 7.

(Plaintiff's Deposition Exhibit 7 marked for identification.)

MR. KASHANI: And why don't we take a break.

(Witness peruses said document.)

BY MR. KASHANI:

Q. Have you read the exhibit?

A. Mm-hmm.

MR. MAYER: You have to answer audibly.

A. Yes. Sorry.

BY MR. KASHANI:

Q. Does this exhibit refresh your recollection as to any specific times when Texas Eastern asked you or any of the salesmen that you were aware of about

possible toxicity or environmental hazards of PCBs?

A. No.

Q. Does this refresh your recollection about anytime when Monsanto gave you information about the toxicity of PCBs and you, in turn, directly passed that information on to Texas Eastern during the year 1971?

A. No.

Q. There's a reference in the second paragraph on the first page to the general party line concerning PCB. Have you, during the period of -- no, I take that back. Do you know what the individual could be referring to, the author of this could be referring to when he says "the general party line concerning PCB"?

MR. MAYER: Well, let me object. The question is incomplete in that it does not quote the entire sentence in context. It says quote "I gave class on the general party line concerning PCB, its industrial uses and its analysis." Also, the question calls for speculation.

A. I can't answer that. I don't know what, what he's referring to.

BY MR. KASHANI:

Q. When you were in the functional fluids area and selling Turbinol, was there something that you would call the party line on PCBs?

A. No, sir. Not to my knowledge. "I gave Klassen the general party line concerning PCB."

BY MR. KASHANI:

Q. Do you remember or know anything about the -- well, I don't want to say event referenced here, because Counsel will object that it assumes facts not in evidence, but do you have any information about a time when Carl Clay may have received a request from Texas Eastern to discuss the toxicity of Turbinol 153?

A. No.

Q. Did you ever receive such a request from Texas Eastern?

A. By that, I mean a specific request for information on the toxicity of Turbinol 153.

A. I don't remember any such request. If I can clarify, of a specific request. I don't remember any specific request.

Q. Do you remember any request in general?

A. Realizing that we had discussions about the PCB situation, as I joined, you know, joined the effort to sell product to -- or as the people at Texas Eastern became a customer of mine, but there was information that we had conversations about PCBs in Turbinol 153, clearly. That's -- we've talked about that before. Do I remember specifically Texas Eastern asking me for toxicity information about PCBs? I, frankly, don't remember.

Q. Did Texas Eastern, prior to 1972, know that -- to your knowledge, did Texas Eastern know that Turbinol contained PCBs?

A. Prior to '72?

Q. Yes.

A. As far as I know, they did.

Q. What's the basis of that knowledge?

A. Well, certainly the, you know, the

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information that I remember we were giving to Texas Eastern was that, you know, this is what one of the products that was in Turbinol 153. That was my -- this is my memory. Can I, you know, document that? No.

Q. Do you recall approximately when that was or when that could have been?

A. It started right at the beginning, as far as I know.

Q. Do you recall yourself specifically telling Texas Eastern at any time prior to 1972 that Turbinol contains PCBs?

A. Well, no. Not specifically.

Q. To your knowledge, to your personal knowledge, did anyone else at Monsanto or anyone at Monsanto prior to 1972 inform Texas Eastern that Turbinol contains PCBs?

A. As far as I know, yes.

Q. Do you know who told them?

A. I don't know specifically. I mean I don't remember that far back. Again, conversations that I remember having, you know, outside of and also with Texas Eastern,

certainly to my, the way I remember it, indicated that PCBs were one of the components of the Turbinol.

Q. And did these conversations take place prior to 1972?

A. I believe they started right away.

Q. Do you recall the circumstances of any of those conversations?

A. You know, once again, it was -- I don't remember the specifics other than that we were, you know, in the sequence in those two years, we indicated that, that -- or I thought it was ongoing when I joined the sales effort in 1971, recognized the situation and concern for PCBs, you know, and then, of course, offered a substitute fluid and were involved in that process. It seemed to me we were talking about PCBs from the beginning.

Q. From the beginning, you mean from --

A. From the first contact that I had with Texas Eastern.

Q. In 1971?

A. That's my memory.

Q. Do you recall any specific communications or conversations during 1971 in which anyone from Monsanto told anyone from Texas Eastern that PCBs could be hazardous or toxic?

A. We, you know, if I can say again, your need, your definition of 1971 versus '72 is difficult for me to differentiate. There's no doubt while we were there, while I was responsible for Texas Eastern, that we discussed this matter in detail, not only with myself and Texas Eastern people, but also when I had Monsanto people from St. Louis with me, I mean we certainly did discuss the situation vis-a-vis PCBs in Turbinol 153 and what Monsanto was prepared to do about it.

Q. Do you recall approximately when the first such conversation took place?

A. That's what I was trying to answer. I'm telling you I don't remember specific timings of when these conversations would have taken place.

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

(Discussion off the record.)

MR. KASHANI: Back on the record. Here's another exhibit.

(Plaintiff's Deposition Exhibit 8 marked for identification.)

MR. KASHANI: Let me show you Exhibit next in order. This is Exhibit 8.

BY MR. KASHANI:

Q. Do you recognize this document?

A. No.

Q. Have you ever seen --

A. I know what it is, but I mean, I don't recognize it, per se.

Q. What is it?

A. It's a, it's a sales summary. I think the document pretty well speaks for itself.

Q. And what does the document indicate?

MR. MAYER: Well, the question is, is overbroad. It indicates a lot of things.

BY MR. KASHANI:

Q. Does the document indicate sales of products by Monsanto to the various listed

companies?

A. That's correct.

Q. Customers?

A. That's what it appears to.

Q. When you were working in the functional fluids or working at any time in Monsanto, did you have occasion to see and use sales summaries like this document?

A. Sure.

Q. And were documents like this document generated in the ordinary course of business at Monsanto?

A. Of course.

Q. And was it important to Monsanto's business that these documents be accurate and truthful?

MR. MAYER: Objection; argumentative.

A. Yes.

BY MR. KASHANI:

Q. Could we turn to what's been marked Bates number TRAN -- T-R-A-N --85052? Let me refer you, let me refer you to the top of the document where it gives some numbers and then MCS 153, and under that it has two

lines, listing Texas Eastern Transmission, the second line is "Texas Eastern Transmission, Shrevep," and do those two lines, with the numbers that follow, indicate sales of MCS 153 to Texas Eastern?

MR. MAYER: Objection; may call for speculation.

A. I can't confirm or deny that, you know, the sale being made. That's what this document would normally show.

Q. If you were handed this document in 1971, would you conclude from the information in the first two lines that the indicated number of sales were made to Texas Eastern during that year?

MR. MAYER: During 1971 or December 1962?

MR. KASHANI: During the year listed on the document, December 1962.

A. That's correct, that's what I would surmise.

BY MR. KASHANI:

Q. Would you turn to Page 085062? I'm sorry for the quality of that. It's highlighting that did not reproduce. This is

the way we got the document.

A. Say the number again, please. 62?

MR. MAYER: 085062. Let me say for the record that the quality of the document is the same quality as we received from Monsanto. I mean, whatever problems are with reading the document did not originate at our end, but this is how we received the document from Monsanto.

BY MR. KASHANI:

Q. I'm going to refer you to about the middle of the document where it reads "Turbinol 153," and below that, where it reads, "Texas Eastern" and "Texas East" different locations.

MR. MAYER: Or "Texas East" with an "N."

MR. KASHANI: Yes.

BY MR. KASHANI:

Q. What is the meaning of the different locations? For example, there would be a "Texas Eastern Tran White CA LA," "Texas Eastern Tran Barton AL," do you know what the meaning of the different --

A. I -- this, to me, would mean sales

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to different locations within Texas Eastern.

Q. When a sale was made to one of these locations, would the salesman deal with someone at that location, or someone at a central location?

A. I've got to assume some things. I don't remember specifically. Texas Eastern would -- I'm going to assume a normal situation would be for, you know, for Texas Eastern to purchase material out of a central location and indicate that it needs to be sent to one of their specific outlying areas. That's -- that would be my memory.

Q. What was your experience, your personal experience?

A. Of what, sir?

Q. Of how sales were handled for the different locations. Would you deal with a central location?

A. Did I deal with a central location?

Q. Yes, you personally.

A. I called on the Shreveport office of Texas Eastern.

Q. And do you recall if the

Shreveport office would make decisions to purchase Turbinol for different Texas Eastern locations?

A. I was not responsible for dealing with that specific type of thing.

Q. Did you ever take orders, write down orders?

A. As I say, I was responsible for calling on Texas Eastern at Shreveport, and that was not something that I did.

Q. Who would be responsible for taking down information as to where an order is to be shipped?

A. Who?

Q. Who at Monsanto.

A. Who at Monsanto?

Q. Would you take down the information from Texas Eastern as to where an order from Texas Eastern would be shipped?

A. You are still not -- that's still a little -- can you --

Q. I understand.

A. -- be more specific?

Q. When Texas Eastern placed an order --

A. Right.

Q. -- for Turbinol 153 --

A. Right.

Q. -- who would receive that order at Monsanto's end?

A. Okay, that would normally be a customer service person that would be phoned by whoever the customer is, be it Texas Eastern or anyone else.

Q. Would that be a customer service person in St. Louis?

A. That's correct.

Q. Do you remember who was the customer, who would take those orders for Turbinol?

A. The name Joe Kleffner comes to mind.

Q. How do you spell that?

A. K-l-e-f-f-n-e-r. Joe Kleffner.

Q. And did Mr. Kleffner write down where the shipments were to go?

A. That was -- it would be his responsibility to take all the information about the shipments.

Q. Referring again to 085062, there's

a line for Texas Eastern Tran Corona, New Mexico. I assume it's New Mexico. It says "NM." I don't know what it is. And then there could be some numbers there, but I don't know because they're blanked out, but --

MR. MAYER: Not blanked, Counsel. It's possible they're highlighted and the highlighting transferred on to the xerox.

BY MR. KASHANI:

Q. Would any numbers in that row indicate shipments to Texas Eastern Transmission at Corona?

A. Again, I'm not sure what you are asking.

Q. Looking at the row which is --

A. Corona, yes, I'm on the right row.

Q. If there were any numbers or if there were any numbers we could read past that row, say, under last year's sales, for sales current year to date, would that indicate sales of Turbinol that was shipped to Corona?

A. Yeah, if there are numbers in there, that would indicate, based on what I

know about the system, that would be what would be there, that's correct.

Q. And that would be for the year 1969, which is the year of this document?

A. That's correct.

Could we go off the record, please?

MR. MAYER: Hold on.

(Discussion off the record)

(Whereupon Mr. Mayer and the witness left the deposition room briefly, and returned.)

MR. MAYER: We're back on the record.

BY MR. KASHANI:

Q. Turning to Page 085063, which is the next one --

A. Okay.

Q. -- about the middle of the page, we see, starting to say "Texas Eastern," "Texas East Trans, Houston, Texas."

A. Mm-hmm.

Q. And all other Texas locations, and Turbinol 153 below them.

A. Yes.

Q. Do the figures to the right of those names indicate sales of Turbinol to those locations -- sales of Turbinol shipped to those locations?

A. They would. That would be normally what this document would show, that's correct.

Q. For the year 1970?

A. For whatever year that's indicated, right. This document, the one you just referred to, '63, refers to 1970, yes.

Q. Okay, and turning to 085064, again about the middle of the page, it says, "Texas East Trans Houston TX," then some other Texas Eastern locations.

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

Q. Do the numbers to the right of that indicate sales of --

A. Same thing.

Q. Let me go back. Same thing.

I -- well, the document speaks for itself. I assume by the star near the top of the document, under the highlighting, is Turbinol 153. That's what I'm assuming.

MR. MAYER: Yeah, so?

A. I --

MR. MAYER: Hold it. There's no question pending.

THE WITNESS: Sorry.

MR. MAYER: Is that what you are assuming, Counsel?

MR. KASHANI: Yes.

MR. MAYER: Are you asking the witness if he agrees with you? Because I'm not going to let him answer that.

MR. KASHANI: The document will speak for itself, but I believe you were starting to say that it does appear to be Turbinol 153.

MR. MAYER: Well, I'll move to strike. That's not a proper question.

BY MR. KASHANI:

Q. Were you going to say that it looks like Turbinol 153 under the highlighting up by the star?

A. It is hard to read.

I know it's hard to read, but were you going to say that it looks like Turbinol 153?

MR. MAYER: Objection, argumentative.

You can answer if you have an answer.

A. The last part looks like it, anyway.

BY MR. KASHANI:

Q. Now, going back down towards the bottom of the page, it says, "Parent Cust.," -- C-u-s-t period, tot - Texas East Tran," do you know what that means?

A. Yes, that would normally mean the total of all the columns. Parent customer, total, Texas Trans, you know, transmission, Texas Eastern Transmission, that would be the total of all the products that were sold to Texas Eastern.

Q. And this would be for the year ending December 1971, which is --

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

Q. That was the year you were working on the account?

A. Yeah, for part of that year, that's correct.

Q. What is meant by "Parent customer"?

A. In this case, Texas Eastern has a number of different locations. The parent customer would be the parent company in an organization. The parent company is the parent over which all of these other locations are, you know, are -- belong to, if you will.

Q. Does parent customer mean like the head office in Shreveport of Texas Eastern?

A. No, it would refer to the total. Say, you know, here we have Texas Eastern who owns a number of different locations; okay? Texas Eastern is the parent company. That's the terminology in our -- in the reporting system that shows, hey, there's a bunch of Texas Eastern or Kodak, or, you know, whatever different locations for a given customer. This is the total for that customer. Okay? Do you understand what I'm saying?

Q. Yes, sir.

A. Okay.

Q. Now, going right under "Parent

customer," it's listed "Transwestern Pipe Cronoa NM" with some numbers.

A. Yes.

Q. Do any of those numbers indicate sales shipped to -- sales of -- well, we don't know what it says up there, but sales of whatever is set by the star, whatever product is there, shipped to Corona, New Mexico?

A. It was a long question. Ask it again, will you, please?

Q. Do the columns to the right of where it says "Transwestern Pipe Corona NM --

A. Okay, I'm with you.

Q. Do those indicate sales of that product?

A. That's what this document says, yes, sir.

Q. Okay. That was shipped to Corona?

MR. MAYER: During what year, Counsel?

MR. KASHANI: Year 1971, the year of the document.

A. Okay, that's what this document would normally say, would normally tell you.

Q. Okay, I guess let me make my question more specific. I'm looking at the three columns that are to the right of "Transwestern Pipe Corona," and one of the columns is labeled "Potential," the first column. What does that column mean? What does "potential" mean?

A. In the sales business that indicates what we estimate the total potential of that particular customer might be.

Q. Would that be the potential for the year 1971, in the case of this document?

A. That would be, that would be correct.

Q. And the second column says, "Last year sales." I assume that's self-explanatory?

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

Q. And then the third column, "Sales goal for current year," what does that mean?

A. Again, it's a guess, guess as to, you know, based on a number of different factors as to what, what this, you know, this

particular customer might consume. That's strictly a guess made six months prior in the previous year.

Q. Okay. Do you know why -- does -- in these documents, do you know if -- and I'm asking for a yes or no, I'm not sure -- do you know if "Texas Eastern Tran Corona NM" in document 085062 is referring to the same compressor, the same location, as Transwestern Pipe Corona NM" in document 058064? I'm just asking yes or no if you know whether those refer to the same location.

A. I would assume so.

Q. Do you know -- and the question is just asking for a yes or no -- do you know why in 1969 that location is referred to as Texas Eastern Tran, Corona," and for '71, it's referred to as "Transwestern Pipe Corona"?

A. No.

Q. Okay, fair enough.

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

(Discussion off the record.)

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MR. KASHANI: This is our next three exhibits.

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

(Recess)

(Discussion off the record.)

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

MR. KASHANI: Counsel for Monsanto and I have entered into a conditional stipulation regarding the exhibits which have been marked Exhibits 9, 10 and 11. This stipulation is that Monsanto will stipulate that these are business records under the California statute, California Evidence Code, the hearsay exception, and the stipulation is conditional to the extent that if Monsanto does not abide by that stipulation or revoke said, Transwestern will be allowed to call Mr. Frederiksen back for deposition regardless of whether the deposition has been otherwise concluded.

MR. MAYER: That is generally true. I'd like to see the exhibits, though,

so I know what I'm stipulating to.

MR. MAYER: As Counsel stated, we're conditionally stipulating that these exhibits can be made admissible as hearsay records as defined in the California Evidence Code.

If we subsequently find we must revoke the stipulation for whatever reason, we will agree to make Mr. Frederiksen or another appropriate Monsanto witness available for deposition to lay the foundation for these documents as business records.

I should add that the stipulation does not apply to those documents marked on Exhibit 9 by Bates stamp number TW 1-0000502-000 and the following document, TW 1-0000503-000. These appear to be handwritten notes, and I certainly cannot determine what they are. The same is true also for a document in Plaintiff's Exhibit number 10 marked TW 1-0000502-zero -- whoops, hold on. I think 9 and 10 are the same thing, Counsel. There's been a mistake.

MR. KASHANI: Let's go off the

record.

(Discussion off the record.)

MR. MAYER: Okay, while we were off the record, we determined that some exhibits had been mismarked. We've now cleared that up. I think. Exhibit 9 are the series of Monsanto or what appear to be Monsanto sales invoices commencing with the Bates stamp number TW-000508, et seq. Among these are documents to which the conditional stipulation does not apply. Exhibit 10 now commences with the Bates stamp number TW 1-0000494, et seq., similarly, within this exhibit, there are no documents to which the conditional stipulation does not apply.

Exhibit 11 will now commence with Bates stamp number TW 1000500, et seq. Within this document, those pages Bates stamped TW 1-0000502, 503, are not subject to the conditional stipulation because they are handwritten notes, the source of which we cannot identify. Off the record.

(Discussion off the record.)

MR. MAYER: Back on the record, those documents marked within Exhibit 11

which are Bates stamp numbered 505 and 506, while they are not copies of sales invoices, appear to be copies of rate adjustments. They are apparently records normally kept in the normal course of Monsanto's business, and on that basis, they will also be subject to the conditional stipulation.

MR. KASHANI: Off the record.

MR. KASHANI: On the record.

BY MR. KASHANI:

Q. Mr. Frederiksen, I'm going to show you Bates number 0000509-000, TW1 series, and point to you where it reads "Customer service representative, Jay Kleffner" --

A. Mm-hmm.

Q. -- and ask you, does that confirm what you said earlier, that Jay Kleffner was the fellow who took orders for Texas Eastern -- from Texas Eastern?

A. That confirms, yes, that's what this means. Joe Kleffner, that means Joe Kleffner took this particular order, if this document is accurate.

Q. And I'm going to refer you to document TW 1-0000519, and it lists the

customer service representative as one Gordon. Do you remember any Gordon?

A. Yes, I remember the name. I can't remember his first name or her first name. I don't remember. But I do remember a person with -- I don't remember their first name, whoever it was, but this would indicate that that particular individual would be the one that received the phone call and was responsible for generating the order that was called in from the customer.

Q. Do you mean Gordon? Do you remember meeting him or her?

A. I'm, I'm pretty sure I did.

Q. Well, is he or she based in St. Louis?

A. Yes.

(Plaintiff's Deposition Exhibit 12 marked for identification.)

BY MR. KASHANI:

Q. I ask you to read Exhibit 12.

(Witness peruses said document.)

A. All right. Okay.

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(Witness peruses said document.)

A. All right.

BY MR. KASHANI:

Q. Mr. Frederiksen, have you seen Exhibit 12 before or a copy of it?

A. Mm-hmm.

MR. MAYER: You have to answer out loud.

A. I'm sorry. Yes.

BY MR. KASHANI:

Q. Do you recall when?

A. I saw it in 1972.

Q. Did you write -- I'm sorry.

A. I wrote this document.

Q. We have a number of documents that followed a similar format. Do you know what this document is, what this format is called?

A. It's a standard Monsanto call report.

Q. And are these call reports generally filled out in the same manner?

A. Yes. Mm-hmm.

Q. From looking at a call report, could you tell who wrote it?

A. Yes.

Q. Where does that information appear?

A. That would be the salesman.

Q. So in general, the person listed under "Salesman" is the person who wrote the call report?

A. For a sales call report, the salesman is responsible for the call and for generating the document.

Q. And was that the usual practice at Monsanto?

A. Yes.

Q. At that time?

A. It sure was.

MR. KASHANI: We can go off the record for a minute.

(Discussion off the record.)

MR. KASHANI: Okay. Counsel for Monsanto and I have entered into a conditional stipulation with regards to what's been marked Exhibit 12, and potentially with regards to future exhibits. The stipulation is that the parties stipulate that this document, Exhibit 12, is a business

record under the California Evidence Code and is subject to the hearsay exception. And for any future document to which the conditional stipulation I've just stated applies, I will ask counsel for Monsanto whether the conditional stipulation applies, and if he signifies yes, then the same stipulation I've just stated will apply to that future document, as well.

MR. MAYER: So stipulated, conditionally.

MR. KASHANI: And the condition is that if Monsanto revokes the stipulation, revokes the agreement, we can recall Mr. Frederiksen to authenticate the document.

MR. MAYER: Correct.

MR. KASHANI: Regardless of whether Mr. Frederiksen's deposition has been otherwise concluded.

MR. MAYER: That's right.

BY MR. KASHANI:

Q. Mr. Frederiksen, what was the purpose of these call reports, or -- what was the purpose of the call report, sales call report?

A. Are you asking generally?

Q. Generally.

A. Generally, to communicate information about a particular call to anybody that had influence or, you know, was responsible for the sale of that product to that customer.

Q. Going back to the format, is the sales call report addressed to the individual listed after "2"?

A. That's correct, mm-hmm.

Q. And are copies sent to the individuals listed after "CC:"?

A. That's correct.

Q. And where it says "Contacted," does that mean that the salesman listed in the salesman's box contacted individuals listed after "Contacted"?

A. Normally would, yes, mm-hmm.

Q. And does the sales call report signify in any way whether the contact was by telephone or in person?

A. It usually does.

Q. How does -- how was that indicated?

A. It was my practice to put, you know, contacted when I did it in person and by phone when I did it by phone.

MR. KASHANI: I'll bring in another exhibit, here.

I'll ask if you could keep both of these exhibits out at the same time. This one can be marked 13.

(Plaintiff's Deposition Exhibit 13 marked for identification.)

BY MR. KASHANI:

Q. I ask you to look at what's been marked Exhibit 13.

A. Mm-hmm. Let me read it.

Q. And on Exhibit -- the -- does the conditional stipulation apply to Exhibit 13, Counsel?

MR. MAYER: Yes.

BY MR. KASHANI:

Q. Exhibit 13, after "Contacted," reads a name, a title, and then in parentheses, "By phone." What does that signify?

A. As I explained, that would

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indicate that that particular contact was made by phone.

Q. Okay.

A. Not in person.

Q. And back to Exhibit 12.

A. This is marked 002761?

Q. Yes. Looking at the date of call, on the box indicated "Date of call," is that self-explanatory?

A. Yes.

Q. And "Date typed," is that the date that the salesman would dictate the document or the date that the typist would type it up?

A. That's the date that it was typed by a typist.

Q. Is there any way to tell by this document when the information was dictated?

A. Clearly, between the 3rd and the 6th of April of 1972. Because the date of the call is April 3rd, it was received in Houston on the 6th of April, so I dictated it between those two dates, but when, I can't tell you.

Q. Did you dictate all of the reports that you made, that you recall?

A. That's an all-or-nothing question. It was my normal practice to dictate. Many -- I'm sure there were times times when I wrote them, but I would normally dictate them and send them to Houston for typing and later to Atlanta.

Q. And other than the boundaries that you set out, is there any other, is there any way to tell specifically the date that you dictated this report or any other report by looking at the report?

A. No.

Q. In generating these reports, was it your practice to include everything which was said which you considered to be important at the time?

A. Yeah. Yes. I was -- well, when you write a call report, that's, that's what we intend to do, is to get the information that's important for those people that are needing to be aware of it. That was part of our job, yes.

Q. If the customer called on you, either in person or by telephone, would you prepare a call report?

A. Not always.

Q. What times, when would you prepare one and when not, in general? I mean, what was your practice?

A. I certainly didn't document every contact, if that's what you are asking.

Q. Did you document those contacts which at the time you considered to be important?

A. Not always.

Q. You would have called -- I'm sorry.

A. I'm just saying that there were -- there would always be times when I would contact a customer, wouldn't necessarily put it down on a piece of paper. I mean, it's sometimes something important happened that never made it to a call report. That would -- I mean that, I'm sure, happens.

Q. Do you recall any instances of that happening during the year 1971?

A. Not specifically, no.

Q. If Texas Eastern, if someone from Texas Eastern had called you and asked whether Turbinol contains PCBs, would it have

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been your normal practice to write up a call report reflecting that contact?

MR. MAYER: Objection; poses an indeplete hypothetical.

A. It, the question really doesn't mean anything. It's hard to answer.

BY MR. KASHANI:

Q. If someone from Texas Eastern called you during the year 1971 and told you that they wanted to know whether Turbinol contained PCBs or not and they were asking you whether Turbinol contains PCBs, would you have written that up in a call report or some other memorandum reflecting that that contact had taken place?

MR. MAYER: Same objection.

A. It may or may not have been. I mean, if I -- there would be many times when I would just simply pick up the phone and call someone in St. Louis for an answer to a particular question. You know, whether I documented it or not, you know, sometimes I did, sometimes I didn't. You know, I'm not trying to fuzz the issue, I'm just saying that it's entirely possible that a question

like that might have been done by phone without my documenting it as a, quote, "call report," end quote.

Q. If someone from Texas Eastern had called and expressed concern about potential hazards of Turbinol environmental or toxicity hazards and asked you if Turbinol is toxic or if Turbinol is hazardous to the environment, would you have documented that contact in a memorandum or call report?

MR. MAYER: Objection; poses an incomplete hypothetical.

A. Same, I have the same problem. It's something that's difficult for me to answer yes or no. There is no yes-or-no answer to that.

BY MR. KASHANI:

Q. If in the year 1971, during which your -- you were receiving information from Monsanto about possible hazards of PCBs, Texas Eastern or someone from Texas Eastern had called and asked about possible hazards of Turbinol because of the PCBs or otherwise, would you have considered that to be important?

A. Absolutely.

Q. If during -- referring to those contacts which are documented in call reports, contacts where you did prepare a call report, if, in the context of one of those contacts or during one of those contacts, someone from Texas Eastern had told you that they want to know whether Turbinol contains PCBs or not and asked you if Turbinol contains PCBs, would you have included that in the call report that you prepared?

A. Absolutely.

MR. MAYER: Let me interpose an objection, here. These questions are argumentative, and in saying so, Counsel, you've got the call reports that Mr. Frederiksen prepared from 1971, and if you want to find out what he thought was important enough to put in them, I think it makes sense to show him the call report, rather than test his memory as to what he might or might not have put in or what might or might not have been his practice. We have the documents which indicate what he wrote

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down based on his sales calls to Texas Eastern, and to me, that's the best record of what he did. I would suggest questioning him on the records.

BY MR. KASHANI:

Q. Mr. Frederiksen, if, referring again to those contacts where you did prepare a call report, if someone from Texas Eastern had asked you if Turbinol is hazardous to the environment or is toxic, because of the PCBs or otherwise, would you have included that in the call report which you did prepare of that contact?

MR. MAYER: Well, I'll object again. The question is argumentative. I assume, Counsel, you are going to show him the document and say, "Why didn't you put this in there" if it's not in there.

BY MR. KASHANI:

Q. You can answer the question.

A. Yeah. I mean, if -- given the circumstances, there is no question that I would indicate that in the document. If I could clarify, I want to underline the fact of the answer that I gave to you before, the

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fact is that there is no way that you can document everything that happens between a customer and a salesperson, and there were times when, you know, you just simply didn't have the time or there wasn't enough time to use that document and use that communication method, so we, we used what was the best thing to use at the time. Sales reports, call reports were generally used for recording purposes: Occasionally for action, but mostly to inform. If you had something that really needed to be done, you picked up the phone.

BY MR. KASHANI:

Q. Let's mark this next document, the next exhibit in order as Exhibit 14.

(Plaintiff's Deposition Exhibit 14 marked for identification.)

BY MR. KASHANI:

Q. Could you please just take the time to glance at the names that are listed in the report?

A. Specific names of -- which names do you want me to look at?

Q. The names that are listed under "CC:"

A. All right.

Q. The listed under "Present for Texas Eastern" and listed under "Present for Monsanto."

A. Okay.

(Witness peruses said document.)

A. All right.

Q. Who was H. R. Ford? Is that the same as Ray Ford?

A. That's correct.

Q. Who was P. L. Slayton, S-l-a-y-t-o-n?

A. Phil was another person, regional manager, like Ray Ford.

Q. Was he involved in functional fluids?

A. That would be indicated here. My memory is a little foggy on the issue, but that would be why he would be copied here.

Q. Do you recall which region he was in charge of?

A. That would be Eastern.

Q. Does Eastern include Atlanta?

A. No. No, Ray Ford was in Atlanta. Atlanta is the Southern region.

Q. Do you know which states are included in Eastern region?

A. Generally, they're the Northeastern states.

Q. Those include Pennsylvania and New York?

A. Yes. I would, I would assume so.

Q. Who was D. R. Hansen?

A. Doug was California.

Q. What was his role?

A. Regional Manager, Functional Fluids.

Q. Is he the same level as Mr. Slayton and Mr. Ford?

A. That's right, mm-hmm.

Q. Was he in the Western region or California?

A. I'm pretty sure we called it Western region, yeah, which would be the Western United States.

Q. Did that include Arizona and New Mexico?

A. I don't specifically remember, but I assume so. Mm-hmm.

Q. My initial hope in presenting this document to you is that perhaps it would refresh your recollection as to some of these names in going back. Who was in charge of the Texas Eastern account for Turbinol at Monsanto?

A. It was a combination of Ray -- excuse me, of Don Stegen and myself.

Q. And who was in charge above Don Stegen?

A. Okay, Don reported to Ray Ford. We've documented that before.

Q. Who were the people that you contacted at Texas Eastern?

A. The people that I -- I don't understand your question. I'm sorry.

Q. Who were the people that you would talk to, or work with, or be in communication with at Texas Eastern regarding purchases of Turbinol?

A. I'm not trying to evade your question. The people that were present for Texas Eastern, that was the group that was

primarily involved in -- their interest was in the use of Turbinol in their turbines, so if that's your question, the people here are the key people within Texas Eastern that would be responsible for, you know, deciding which fluid was being used.

Q. Do you recall what these people did, starting with Walter Woods?

A. You are going to, you know, you are asking for memory, and I'm sorry. If, you know, you can refer to titles that I've written in call reports or what have you, but I don't remember them specifically.

Q. Do you recall if Walter Woods was an engineer?

A. I'm pretty sure he was, but I don't remember specifically.

Q. Do you recall A. B. Jarnagin, who I believe was Buck Jarnagin?

A. Mm-hmm, yes. Buck and Walter were two people that I talked with on a regular basis.

Q. Were they engineers?

A. I don't remember specifically. Because they were in the position they were

in, I'm assuming they were technically competent.

Q. Who was B. R. Purgitorio?

A. I don't remember.

Q. Do you remember if he was with Texas Eastern?

A. From this document, it says it. I don't remember his name.

Q. Do you remember E. P. Farmer, I believe it's Earl Farmer?

A. That's a name that I recognize, but I thought he was a Monsanto person, honestly, when you first brought him up. Again, it's -- I just don't, you know --

Q. Do you recall R. E. Moore?

A. That one I don't remember.

Q. How about D. H. Sloane, which I believe is Don Sloane?

A. That's another name that I would have associated with this period, but I'm not sure. Gene Riall is one I do recognize, if I can anticipate.

Q. Do you remember what his role was?

A. He was another person that I spoke with on a regular basis, but you know, we can

go back to the documents and verify, but I don't remember specifically.

Q. What about Jack Simpon, which could be Simpson? I'm not sure if that's --

A. Again, you know, looking at the document I'm saying, "Yeah, sure, of course I remember," but I specifically don't remember.

Q. How about J. Y. Briggs?

A. Again, not a person that I regularly called on within Texas Eastern.

Q. When you were calling on Texas Eastern to market Turbinol, and I'm referring to Turbinol prior to -- I should clarify that unless I say otherwise, I mean Turbinol that contained PCB and not later formulations of Turbinol which may or may not have contained PCB, I'm referring to Turbinol 153 that was sold prior to January 1972.

A. Mm-hmm.

Q. When you were making contacts at Texas Eastern or -- well, when making contacts to sell Turbinol, were all your contacts with people in Shreveport?

A. That's correct.

Q. Do you ever recall calling on

someone in Houston for sales of Turbinol to Texas Eastern?

A. I don't remember it specifically, no.

Q. And I should clarify -- well, let me reask the question. Do you recall where, when you sold or attempted to sell Turbinol for use in the Texas Eastern system, would you make your calls, all your calls in Shreveport?

A. Yes.

Q. And let me ask the other question. Do you recall ever talking to someone or making a cull or telephoning someone in Houston for purposes of selling or attempting to sell Turbinol for use on the Texas Eastern pipeline system?

A. I have no specific memory. There would be no reason why I wouldn't call Purchasing in Houston, but I don't remember specifically.

Q. Is that Purchasing for Texas Eastern?

A. That's correct.

Q. Do you recall who was there?

A. Well, no, I really don't. I don't remember the gentleman's name in Houston. No.

Q. In the context of selling or attempting to sell Turbinol for use on the Texas Eastern system, did the name Transwestern ever come up that you recall?

A. I have a memory of Transwestern. You know, exactly how it fit into the system, you know, that is, is hard for me to remember.

Q. Do you recall in what context Transwestern came up?

A. I remember seeing a map of the pipeline and, you know, part of the map bent up into the East and part of the pipeline went out West, and I believe that was the, that was the context in which I remember hearing, you know, the name Transwestern.

Q. Did you know at the time that Turbinol was being used at a compressor in Corona, New Mexico?

A. Asking me today do I remember that it was used there? No. I don't.

From the documents that we've

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read, it would certainly suggest that. I have no specific memory.

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

(Discussion off the record.)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. Do you recall the first time that Monsanto informed you that they were going to withdraw product from the market because the product contained PCBs?

A. Not specifically, no.

Q. Here I have a document which may help; I don't know.

MR. KASHANI: We could go off the record and take a break, if you like. I don't have it at hand.

MR. MAYER: I don't care.

(Pause)

(Discussion off the record.)

MR. KASHANI: Back on the record. Let's mark this exhibit next in order, which is 15.

(Plaintiff's Deposition Exhibit 15 marked for

identification.)

(Witness peruses said document.)

BY MR. KASHANI:

Q. This document talks about a meeting on January 10 and 11 of, I assume, 1971, since the document is dated January 3, 1971, quote, "To discuss the discontinuation of our old Pydraul formulations and the substitution with you with the new NC ester," unquote. Do you recall such a meeting taking place?

A. I really don't remember it.

Q. Does this -- earlier, you said that you started in the Functional Fluids Group in February of 1971. Does this refresh your recollection about the exact date that you may have started in the Functional Fluids Group? One of the reasons I say that is that some of the people here you previously identified as people in the Paper Products Group and they are listed under "Pydraul meeting," and I understand that Pydraul is a functional fluid.

A. Yes.

MR. MAYER: What are you answering "Yes" to, sir?

BY MR. KASHANI:

Q. My question is, does this mean, is it possible that you started in the Functional Fluids Group earlier than February 1971, based on -- does this refresh your recollection that you may have?

MR. MAYER: Let me interpose an objection, Counsel, and by that, not being argumentative, but I note on the document Mr. Frederiksen's name appears to be crossed out, and we need no establish a foundation as to whether he even received this document before you ask whether it refreshes his recollection.

MR. KASHANI: I know that.

A. I, I have every reason to believe that I started in April of 1971. That was the day that -- I mean, that's what I recollect.

BY MR. KASHANI:

Q. Do you recall any meetings to discuss the reformulation -- I'm sorry, the discontinuation of old formulations of

functional fluids and replacement with new formulations?

MR. MAYER: Objection; overbroad.

A. Yeah, can you --

BY MR. KASHANI:

Q. Do you recall any meetings concerning Pydraul?

A. Well --

Q. Or discussions concerning Pydraul?

A. Sure, I remember discussions concerning Pydraul and the changeout, yes, mm-hmm.

Q. Do you remember when those discussions first took place?

A. They took place shortly after I joined the group in April that I recall.

Q. Do you remember when the first discussions took place about changing out Turbinol?

A. It's my assumption again that those discussions would have happened shortly after I joined the group in April.

MR. KASHANI: The next exhibit.

(Plaintiff's Deposition Exhibit 16 marked for

identification.)

(Discussion off the record.)

(Witness peruses said document.)

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

While you were out, Counsel, Mr. Frederiksen pointed out to me the reason why he is confident of the date that he started with Functional Fluids Group in April of 1971, and I think it would help if you brought that on the record for your information.

MR. KASHANI: Sure, of course.

A. Let me do that. My wife and I were married on April 17th of '71, and I -- we had a week's honeymoon and I joined the group after that week, so I can almost be specific to April the 23rd, 1971, as being the date that I actually became involved in functional fluids. I think the two groups joined, the Paper Chemicals and the other Fluids Group joined sometime prior to that, obviously even prior to January 3rd, 1971. I'm not sure when they came together.

Q. Great.

A. But that's where my activity started, was on April the 23rd; you know, 1971.

Q. Thank you. Helpful.

Now, does document 16 refresh your recollection as to when you were first informed that -- first informed by someone at Monsanto that the formulation of Turbinol might be changed?

A. Let me read the document.

Q. Sure. I'm sorry.

A. Please. That's okay.

(Witness peruses said document.)

A. All right. I've read it.

Q. I'll just restate the same question. Does this refresh your recollection about when you were first told or first came to know from someone at Monsanto that Monsanto planned to change the formulation of Turbinol 153?

A. I think the document speaks for itself.

Q. Do you recall this --

A. It does not refresh my memory.

Q. Do you recall this meeting that took place, according to the document, on June 28th, 1971?

A. Again, not specifically. As I read this and I'm sure this meeting happened, I do remember the meeting in, you know, in quality but not in quantity. I will say that --

Q. Do you -- I'm sorry.

A. -- well, the way I would have said this would indicate to me that we already were aware of the PCB problem, but that's, you know, realize that this is my first call there, but --

Q. First of all --

MR. KASHANI: Counsel, can we enter into conditional stipulation with respect to this Exhibit 16?

MR. MAYER: Yes.

BY MR. KASHANI:

Q. Do you recall the question that's referenced starting at the very end of the first page and going on to the second page, where I quote, "Walter Woods questioned

whether Turbinol 153 had been reformulated without Texas Eastern's knowledge"?

A. Mm-hmm, yes.

Q. And was your answer words to the effect as reflected here, quote, "We assured Woods that Texas Eastern would be included at the initial stages of any reformulation of 153"?

A. That's what I remember.

Q. Did that, in fact, take place? Was Texas Eastern included at the initial stages of the reformulation of 153?

A. They were -- we told Texas Eastern step by step what we were doing.

Q. Do you recall telling Texas Eastern back in April that Monsanto had plans to reformulate Turbinol 153?

MR. MAYER: Objection. The question mischaracterizes prior testimony. This is his first call, Counsel.

MR. KASHANI: I know.

A. I --

BY MR. KASHANI:

Q. Can you --

A. Ask the question again, just let's

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make sure we're talking on the same page, here.

Q. Well, I'm trying to connect the two dates.

A. Which two days?

Q. The two dates.

A. I'm -- again, which two dates are you talking about?

Q. You had stated that they planned to reformulate Turbinol 153, you first became aware of it approximately in April of 1971.

MR. MAYER: Objection; mischaracterizes his testimony.

THE WITNESS: Thank you.

MR. KASHANI: Well, the record will speak for itself. I mean, that's all we can do with this. I mean -- I'm trying to get to the bottom of the issue. I'm not trying to trap anyone here, I'm just trying to see when the plan was started to reformulate Turbinol 153, whether it was in April of 1971 or after June of 1971.

MR. MAYER: Well, no, and I appreciate that, Counsel. I think the problem is that he testified that the first

discussions that he recalls involving the changeout of Turbinol generally occurred shortly after he joined the group on April 23rd.

MR. KASHANI: Okay.

MR. MAYER: But this document would indicate the first time this issue was discussed with Texas Eastern specifically by him, or involving him, would have been at the time of this meeting, and I think the question that I objected to initially was, "Do you recall discussing this with Texas Eastern," -- him personally -- "around April." That's the problem.

MR. KASHANI: Fine.

A. If I may clarify again, this discussion says only that we were -- I was trying to make clear in this call report based on my own reading of my own words, that we would, we would certainly tell Texas Eastern before we would reformulate Turbinol 153, and we wouldn't reformulate it without telling them. That's all I'm saying here. That doesn't speak to when we told them the PCBs occurred. As a matter of fact, you

know, reading again my own words and interpreting what I meant, this says to me that the PCB situation was already discussed with them because the words say it to me. I mean, it -- we discussed with them Monsanto's position and, you know, the PCB problem, indicating that that was something that they were already aware of.

BY MR. KASHANI:

Q. Let's try another possibility. Are you aware that -- I didn't mean that in a sinister sense. Just this is --

MR. MAYER: Well, just ask the question.

MR. KASHANI: I'm sorry if that's the way you --

MR. MAYER: It's the prefaces that get me.

MR. KASHANI: I'm sorry.

BY MR. KASHANI:

Q. Are you aware that Turbinol 153 as originally formulated contained araclors 1242 and 1232?

A. I'm aware that Aroclor 1242 is a number that I remember the number. Whether

they were part of Turbinol 153, I can't tell you. I just simply don't know.

MR. KASHANI: Thank you.

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

BY MR. KASHANI:

Q. Let me show you Exhibit 17 and ask if this refreshes your recollection.

(Witness peruses said document.)

A. Your question?

BY MR. KASHANI:

Q. Does this refresh your recollection whether Turbinol contained Aroclor 1232 and 1242?

A. No.

Q. I'm going to show you Exhibit 18 and ask the same question and refer you to Page 1. That's numbered 1 of Exhibit 18.

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

(Witness peruses said document.)

A. Okay, I've looked at it.

BY MR. KASHANI:

Q. Does it refresh your recollection?

A. Of what, sir?

Q. Of whether Turbinol contained Aroclors 1232 and 1242.

A. No, it doesn't.

Q. Do you recall at some point in 1971 Monsanto stopped making Aroclor 1232?

A. I don't remember.

Q. I'll show you a document and see if it refreshes your recollection, if it does. It may not.

MR. MAYER: Off the record.

(Discussion off the record.)

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

(Discussion off the record.)

MR. KASHANI: Back on the record.

BY MR. KASHANI:

Q. Does that refresh your recollection as to whether Monsanto stopped producing Aroclor 1232 in 1971?

A. No.

Q. Do you know if Monsanto actually manufactured any Turbinol 153 during 1971? Meaning ran production.

A. I have no specific knowledge of that, no.

Q. Do you know who would know that?

A. I have no idea.

Q. Do you at the time or now know the people who were in charge of manufacturing of Turbinol?

A. No.

Q. So back to my question, do you know if sometime during 1971 or at some other time, Monsanto reformulated Turbinol 153 so that it consisted only -- it included only Aroclor 1242 and no longer included Aroclor 1232?

A. I have no knowledge of that.

Q. Is it possible that the reformulation that's referenced in Exhibit 16 is a reformulation of Turbinol 153 to contain different aroclors, as opposed to a reformulation to stop containing PCBs entirely?

MR. MAYER: Objection; calls for

speculation; requires him to consider what Walter Woods intended by his question.

A. I'll let my words speak for themselves.

BY MR. KASHANI:

Q. Okay. Fine. When you worked at, as a salesman at Functional Fluids, what other customers did you call on?

MR. MAYER: I'm sorry, repeat the question, please?

BY MR. KASHANI:

Q. When you were at Functional Fluids, aside from Texas Eastern, do you recall any other customers you called on?

MR. MAYER: Objection. The question seeks to violate the constitutional privacy rights of Monsanto and its other customers which are not at issue in this case, and therefore, you can answer the question yes or no, but you may not identify your other customers.

A. Yeah, and I wouldn't tell you, for that reason. I mean, I I wouldn't tell you even if there was no stipulation.

BY MR. KASHANI:

Q. Did you have any involvement in sales of Aroclor 1242 to NCR, National Cash Register Company?

A. Not that I remember.

(Discussion off the record.)

MR. KASHANI: Okay, back on the record.

BY MR. KASHANI:

Q. Did you know at the time during 1971 how Texas Eastern used the Turbinol in terms of -- to be more specific, the Turbinol was poured into the compressor? Do you recall if Texas Eastern would buy an initial charge and pour it into the compressor and not buy anymore, or whether they would have to buy some more for that same compressor? In other words, did you know at the time that the Turbinol was being used up in any way by a compressor?

MR. MAYER: Objection; vague.

A. I was aware that Turbinol was being purchased along the way, if that's what you are asking.

BY MR. KASHANI:

Q. Were you aware that the

compressors were -- did anyone tell you or did you ever hear that the compressor -- a compressor could use up the Turbinol and require new Turbinol?

MR. MAYER: Objection vague with respect to the term "use up."

BY MR. KASHANI:

Q. Use up in the sense that they would require more Turbinol, the same compressor would require more Turbinol.

A. Yes, I think I understood that, if I remember right.

Q. Do you recall if that was -- did anyone ever tell you or did you know that the compressors were using -- that a given compressor would use up Turbinol and require more Turbinol?

MR. MAYER: Same objection.

A. Yes.

BY MR. KASHANI:

Q. Did you ever hear, or know, or did anyone tell you where the Turbinol was going?

A. No. No, that was not something that we were, I was aware of.

Q. Did you ever have discussions with

anyone at Texas Eastern about where the Turbinol was going?

A. You know, I, quite frankly, don't remember.

Q. Did you have discussions with anyone at Monsanto about where the Turbinol might have been going?

A. Again, I, you know, I just simply don't remember.

Q. Let me show you a document we'll mark 20 and ask you if this refreshes your recollection as to whether you had any discussions with anyone at Texas Eastern or Monsanto about where where the Turbinol was going.

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

(Witness peruses said document.)

A. I don't believe I've ever seen this document before.

BY MR. KASHANI:

Q. I should clarify one thing. I show you documents from time to time that I

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have no reason to believe that you've ever seen before --

A. Okay.

Q. -- in the hope that the document will, nonetheless, refresh your recollection.

MR. MAYER: You are saying he had memory of the issue at one time, of course.

A. What is your question, again?

BY MR. KASHANI:

Q. My question is, does this refresh your recollection about any discussions you may have had with Texas Eastern, or with anyone at Texas Eastern, or with anyone at Monsanto about where the Turbinol was going that was being used up in the compressors?

A. It doesn't.

Q. Do you recall yourself ever telling anyone at Texas Eastern or anyone at Monsanto telling someone at Texas Eastern that you are aware of that Texas Eastern should be careful about avoiding leaks of Turbinol or avoiding losses of Turbinol into the environment?

A. Yes.

Q. Do you recall when those

discussions took place, approximately?

A. We're back at the 20-year memory program. There's -- I have no specific recollection, but there would be absolutely no doubt in my mind that that would be something that would be covered anywhere and everywhere on a regular basis. It was part of our function as sales people to keep, keep our customers aware of the safe handling and use of products, and regardless of which, especially if they happened to be a fluid-type product.

Q. And would the safe handling of Turbinol require that the Turbinol be kept from leaking into the environment?

A. We instructed all of our customers to keep all fluids from entering the environment.

Q. Would you have put that sort of instruction in writing? And I don't mean you personally, but Monsanto.

A. Any opportunity that Monsanto had to put that in writing, I think they would.

Q. Do you recall any discussions with anyone at Texas Eastern about the possibility

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that Turbinol was causing undue corrosion in the seals or leaks in the compressor?

MR. MAYER: Objection. The question lacks foundation, assumes facts not in evidence.

A. No, I don't, I don't recall specifically.

MR. KASHANI: Off the record.

(Discussion off the record.)

(Plaintiff's Deposition Exhibit 21 marked for identification.)

(Witness peruses said document.)

MR. KASHANI: Back on the record. Can we enter into conditional stipulation with respect to Exhibit 21?

MR. MAYER: We can. I note that the salesman identified as the preparer of this Monsanto sales call report is Don Stegen and Mr. Frederiksen is identified only as a carbon copy, but certainly, the conditional stipulation can apply to this.

BY MR. KASHANI:

Q. Does this refresh your

recollection to when you might have told or when anyone at Monsanto might have told people at Texas Eastern that it was important not to let the Turbinol leak into the environment?

MR. MAYER: That's a different question than the one you previously asked. I think before you were asking if it contributed to leaking seals.

MR. KASHANI: Oh, I'm sorry. Well, I was going to ask this one, too, so --

A. Would you clarify which seals you are talking about?

BY MR. KASHANI:

Q. Seals on the compressor.

MR. MAYER: That question lacks foundation and assumes facts not in evidence.

BY MR. KASHANI:

Q. I'm not suggesting that they were.

A. This is not relevant.

Q. No, I didn't -- I show it to you in hopes that it would refresh your recollection regardless.

A. This document doesn't refer to, you know, leaky seals at all.

Q. I understand.

MR. MAYER: What he's asking you, though, Mr. Frederiksen, is does it refresh your recollection regardless of its content as to whether you recall any such discussions ever taking place.

A. The answer is no.

THE WITNESS: Thank you.

BY MR. KASHANI:

Q. Thank you. Does it refresh your recollection as to when you might have had or anyone at Monsanto might have had discussions with anyone at Texas Eastern about the importance of not letting Turbinol leak into the environment?

A. Those discussions would have started at the beginning of our relationship with Texas Eastern and continued through my, my relationship with them. Anybody that had anything to do with fluids or any products within Monsanto that could get into the environment would be so notified.

Q. Do you remember any specific times when you told people at Texas Eastern not to let Turbinol leak into the environment?

A. No, but that's not something that you, you know, document. It's something that you do just on a regular basis.

MR. MAYER: Off the record.

(Discussion off the record.)

(Recess)

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

BY MR. KASHANI:

Q. We had a discussion off the record about scheduling depositions and in the context of that, I brought up an issue of sales manuals, and I apologize if this question has been asked before, but from what was said, it seems that it needs to be asked, and I'm going to ask Mr. Frederiksen, did you receive any -- were you given by Monsanto any sales manuals which related to your work in the Functional Fluids Division?

A. Well, my answer was and still is, I don't remember any specific sales manual. I would have received literature, documents, describing the products that would be, that I would be selling to individual customers.

Q. Let me clarify. Did you receive

literature or documents pertaining to the products, which literature or documents were available only to salesmen and not to customers?

A. I remember nothing like that. There would be, there would be no documents that I remember, or know of, that would have been, you know, something that I would have not given to a customer. That would be the purpose that I would receive it.

MR. KASHANI: Okay, off the record.

(Discussion off the record.)

MR. KASHANI: Back on the record.

MR. MAYER: By the way, for the record, we have agreed that we will go till 5:30 this evening the deposition will continue tomorrow at 9:00 a.m. and will be concluded by 12:00 noon. Right, Counsel?

MR. KASHANI: Well, subject to our ability to call the witness back if, if grounds exist to call the witness back, yes.

MR. MAYER: Well, assuming good cause can be shown for such a purpose, and that would always be the right of parties.

BY MR. KASHANI:

Q. In the context of PCB-containing fluids, do you recall Monsanto making a distinction between open and closed systems?

A. Yes.

Q. What is that distinction?

A. Memory serves me correctly, an open system is one that has some access to the atmosphere and a closed system is one that doesn't.

Q. Let me see if I have a document.

(Pause)

Q. (Continuing) Do you recall if Texas Eastern's compressors were considered open or closed systems by Monsanto?

A. No.

Q. Let me show you a document that's been marked Exhibit 17 and ask you if this refreshes your recollection. I refer you specifically -- oh, I'm sorry, I'm sorry.

A. Exhibit which?

Q. Exhibit 22. I'm sorry, Exhibit 22. I refer you to the second-to-last paragraph, third sentence in particular.

(Plaintiff's Deposition

Exhibit 22 marked for identification.)

(Witness peruses said document.)

A. Yeah.

BY MR. KASHANI:

Q. Does that refresh your recollection as to whether Texas Eastern's compressors were considered an open or closed system?

A. The answer is the same. I have no recollection.

Q. Do you recall any rules or procedures that Monsanto put in place in terms of selling PCB-containing products to open or closed, as opposed to closed systems?

A. Yes.

Q. Do you recall what those rules were?

A. At some point in time, when the concern was -- when we were becoming more aware of the concern for PCBs, closed systems were not as -- not of as great a concern immediately to us, as opposed to open systems.

Q. Was there a point in time when Monsanto would -- Monsanto stopped selling PCB-containing fluids to open systems?

A. There was -- I don't remember your -- the answer specifically. I do remember that there was a time past which there was a list of, or a point in time when we made a decision as to when we were comfortable with some customers and not comfortable with others or end uses. That I do remember, where we would choose to stop selling these PCB-containing fluids to some type customers because of our concern about the -- their handling of the product, as opposed to others. Their safe handling, if you will.

Q. Were you involved in any of the decision-making process in terms of Monsanto's deciding when to stop selling PCB-containing products to certain customers?

A. No.

Q. Were you involved in the decision-making process in terms of Monsanto's deciding to stop selling Turbinol, PCB-containing Turbinol to Texas Eastern?

A. No.

Q. Do you recall -- I'll withdraw that.

Do you have any familiarity with a Monsanto product called Therminol, T-h-e-r-m-i-n-o-l?

A. Yes, I do.

Q. Did you sell or attempt to sell Therminol to any customers?

A. What do you -- what are you asking? Yes. The answer is yes to both.

Q. Let me show you a document which we'll label 23.

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

(Witness peruses said document.)

BY MR. KASHANI:

Q. Do you recall making, giving any specific warnings to customers of Therminol -- oh, I'm sorry.

(Witness peruses said document.)

A. Okay.

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BY MR. KASHANI:

Q. Do you recall giving any specific warnings to customers of Therminol as to keeping their systems leak-free and avoiding leaks?

A. Yes.

Q. Do you recall when you made such warnings?

A. No.

Q. Do you recall to which customers?

A. No.

MR. MAYER: Well -- well, you can say -- that's fine, "No."

BY MR. KASHANI:

Q. Does this document refresh your recollection as to any specific time you might have told anyone at Texas Eastern to keep the system leak-free?

A. No.

Q. Do you recall anytime in discussions at Monsanto that discussion being made between degradable and non -- I'm sorry, biodegradable and nonbiodegradable aroclors?

A. No.

Q. Do you recall a distinction being

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made that higher-numbered aroclors are nonbiodegradable but lower-numbered aroclors are degradable?

A. No.

Q. At some point, were you informed by people at Monsanto that Monsanto would stop producing and stop selling PCB-containing at that Turbinol?

A. Yes.

Q. Do you recall approximately when that was, when you first learned that would be the case?

A. We've had the same question, you know, sometime during that period. Exactly when, I don't remember. That period being the two years that I was responsible for calling on Shreveport's, Texas Eastern location.

Q. Let me show you Exhibit next in order --

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

BY MR. KASHANI:

Q. -- and ask you to read that.

(Witness peruses said document.)

A. Okay.

Q. Down at the bottom where it says "Future action. JGF - send Therminol and Turbinol literature to Soukup" -- S-o-u-k-u-p -- is that referring to PCB-containing Turbinol?

A. From the document, yes.

Q. At the time you made this call, this contact on the Williams Brothers Pipeline Company, were you aware or had Monsanto told you that Monsanto was going to stop producing PCB-containing Turbinol?

A. I have no way of knowing.

Q. Well, I guess I should have rephrased that. This document reflects that you made a call on May 26, 1971, on this company to try to sell Turbinol, PCB-containing Turbinol. Would you have made that call on a new customer if you were informed at the time that Monsanto was going to stop making PCB-containing Turbinol?

A. Probably not. If I could add a comment to that, I'm three weeks old in the fluids business at this point.

MR. KASHANI: Can we enter into the conditional stipulation with respect to document Exhibit 24?

MR. MAYER: Yes.

MR. KASHANI: Let's go to Exhibit 25.

(Plaintiff's Deposition Exhibit 25 marked for identification.)

MR. KASHANI: I recognize that Mr. Frederiksen did not write this; nor, apparently, did he receive this, but I ask nonetheless if Counsel would enter into the conditional stipulation with respect to this document.

MR. MAYER: Yes.

MR. KASHANI: Okay.

(Witness peruses said document.)

A. All right.

BY MR. KASHANI:

Q. Do you have any reason to doubt or any reason not to believe that Don Stegen made this call and had these discussions as reflected in this document on the date that's

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indicated, October 20, 1971?

MR. MAYER: Well, the question is argumentative.

MR. KASHANI: Well, let me ask --

A. What's your question again.

BY MR. KASHANI:

Q. Let me ask a question. Do you have any personal knowledge of this call which as reflected in the document, took place on October 20, 1971, with Don Stegen calling on personnel at Columbia Gulf Transmission? Do you have any personal knowledge of that, of this call's taking place?

A. No.

Q. Do you have any personal knowledge of this customer being a customer for Turbinol?

A. Not specifically. I think I remember Columbia Gulf Transmission, yeah. It's vague.

Q. Did you ever call on Columbia Gulf Transmission?

A. Not that I remember.

Q. This call report at the bottom

states, "Don Stegen says, "I presented a contact to Brunson." Appears to be someone at Columbia Gulf Transmission for 1972 quoting bulk prices. "He appeared happy with this and will let me know his decision in a few weeks."

Based on this document, do you have any reason to believe that that did not occur?

MR. MAYER: Well, the question is argumentative and calls for him to speculate.

A. I don't know how to answer your question. I really don't.

BY MR. KASHANI:

Q. Do you have any reason to believe that this call report that Don Stegen wrote is inaccurate?

MR. MAYER: Objection, argumentative. I suggest you depose Don Stegen.

A. Yeah, I mean I'm, again, I'm not sure what you are asking.

BY MR. KASHANI:

Q. Okay, I'm asking if you have any reason to believe that this event did not

occur.

MR. MAYER: And Counsel, he's told you he doesn't have personal knowledge of the events, so I'm not sure that it's relevant. That's the other objection, quite frankly, all of these questions are irrelevant.

A. Yeah, I mean what -- you want to ask the question again?

BY MR. KASHANI:

Q. Yes or no, do you have any reason to believe that this did not occur? This is a call report. It's prepared by Don Stegen.

MR. MAYER: Same objection as irrelevant.

You can answer.

A. It looks like a standard call report. I mean, look at it. It's a standard call report.

BY MR. KASHANI:

Q. So the answer is yes. I mean, the answer is no.

A. I have absolutely no reason to not believe what I'm reading here, you know, I mean it's a standard call report from a Monsanto person.

Q. Based on your knowledge of the time, at the time, do you know if Don Stegen was told before you were told, that Turbinol would be discontinued?

A. I have no knowledge of that.

Q. Based on the relationship, the business relationship between you and Don Stegen, do you believe that Don Stegen in the ordinary course would have been told before or at least at the same time as you were told?

MR. MAYER: Objection, calls for speculation, lacks foundation.

A. And with that, you know, Don and I would -- I reported to Don, you know. I wouldn't have any reason to know, you know, when Don Stegen was told, you know, what was, that he was told.

BY MR. KASHANI:

Q. Does this document specifically the fact that the document states that in October, on October 20 of 1971, Don Stegen took a bulk contract for 1972 for Turbinol to Columbia Gulf Transmission? Does this refresh your recollection as to when you were

told that Texas Eastern -- that Monsanto would stop producing Turbinol 153?

MR. MAYER: Wait a minute, Counsel. I'll object to the question. I think you are misinterpreting the document. I believe you are making an unwarranted inference. The document says, quote, "I presented a contract to Brunson for 1972 quoting bulk prices." It says nothing about this referring to Turbinol at all. I think you are making an assumption that's unwarranted.

MR. KASHANI: Counsel, I could show the witness anything and ask him if it -- we're not making any assumptions about the document. I'm simply asking for --

MR. MAYER: But your question as phrased is unfair to the witness because it's drawing an inference from the document that you are asking him to assume. Sure, you can ask him if the sky is pink based on this document, but I'm saying, for the record to be protected, I'm going to tell you that I think the question is unfair in that it lacks foundation, it's calling for speculation, and

it's also mischaracterizing the terms of the document.

BY MR. KASHANI:

Q. Let's go back to Exhibit 21. The date of call on this call report is January 7, 1972. If at that time you were aware that -- no, I take that back. If on January 7, 1972, you had told or discussed with the people at Texas Eastern that Monsanto would be -- would stop producing Turbinol, would that be reflected in the call report?

MR. MAYER: Objection; vague, ambiguous and unintelligible.

Counsel, are you asking him about this specific call report or just any call report in general where that representation would have been made to Texas Eastern?

MR. KASHANI: You can re --

A. Rephrase the question. What are you asking? Let's be sure we're asking -- I'm understanding what you are asking, here.

BY MR. KASHANI:

Q. If in this call report, if in this call, Texas Eastern had been told that Monsanto would stop producing Turbinol, would

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that be reflected in the call report?

MR. MAYER: Objection; calls for speculation. This is not a call report that Mr. Frederiksen authored.

A. I can do no more than tell you to read the call report and I would interpret it the same way you would. I mean, the words speak for themselves.

BY MR. KASHANI:

Q. Do you recall any discussions at Monsanto or any consideration at Monsanto that Monsanto should delay in forming Texas Eastern that they, Monsanto, would be reformulating Turbinol to remove the PCBs until such time as General Electric approved the replacement product for Turbinol? I'll supply you some background.

A. No. Just no.

MR. KASHANI: Perhaps this document -- I'll show you this exhibit --

MR. MAYER: There's no question pending.

THE WITNESS: Thank you.

MR. KASHANI: I'll show you this exhibit and see if it refreshes your

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recollection.

(Plaintiff's Deposition Exhibit 26 marked for identification.)

MR. KASHANI: This is 26, and it would be the last two paragraphs on the first page and the first paragraph on the second page.

THE WITNESS: I'll read it. Thank you.

(Witness peruses said document.)

A. All right, I've read that.

BY MR. KASHANI:

Q. Okay, I'm going to ask a couple of subsidiary questions and then a recollection question. Did General Electric manufacture some or all of the turbine compressors that Texas Eastern was using?

A. I believe they manufactured all of them.

Q. Did General Electric approve the use of Turbinol 153, I mean PCB-containing Turbinol 153?

A. Absolutely.

Q. Do you know or recall when they approved that?

A. No, sir. I had nothing to do with it.

Q. I'll ask the question again. Does this document refresh your recollection of whether you knew at the time, meaning late 1971, whether Monsanto had decided to delay telling Texas Eastern that Monsanto would stop producing PCB-containing Turbinol 153 until such time as General Electric approved the replacement product?

MR. MAYER: Hold on a sec.

THE WITNESS: Thank you.

MR. MAYER: Yeah, the question lacks foundation and mischaracterizes the content of the document.

You can go ahead.

THE WITNESS: Could we talk for a minute, please?

MR. MAYER: Yes. Off the record.

(Whereupon, Mr. Mayer and the witness left the deposition room briefly and returned.)

MR. MAYER: Let's go back on the

record.

Counsel, I think in fairness to you, Mr. Frederiksen needs to explain the situation this is contemplated by this document in answering your question.

MR. KASHANI: I'd like nothing more.

MR. MAYER: Please.

A. Let me see if I can tell you what I would understand from this. Your question indicates, gee, would Monsanto not tell Texas Eastern anything until General Electric approved it. Again, it's my understanding that number one, General Electric and Texas Eastern talk all the time about their turbines because there is a warranty situation as far as Texas Eastern is concerned vis-a-vis the GE turbines that they have employed, so Texas Eastern won't do anything until General Electric approves it. So the thought that, you know, Monsanto would possibly withhold information from Texas Eastern with a reformulation until General -- and not tell Texas Eastern until General Electric approved it, it just doesn't make

any sense. There would be -- there's nothing that this says that would even indicate that, but it was actually quite, it's actually quite the opposite. We communicate fully with all parties involved. All right? And so it's -- this, this tells me that what Monsanto is intending to do is to say how can we facilitate safely the transition between the fluid, safely vis-a-vis the performance of the General Electric tricks turbines, how can we facilitate that very conveniently and very smoothly but yet still bring, take into account the fact that General Electric has to approve the fluid. That's what this says to me, so -- does that -- do you understand what I just explained?

BY MR. KASHANI:

Q. I heard it.

A. Yeah.

Q. I heard what you said.

A. All right.

Q. A lot of information contained in that.

Let me think step by step.

The document does say, quote, "To

our knowledge, there is no approved fire-resistant lubricant that can directly replace Turbinol 153."

A. Yes.

Q. I'm not asking you what that means because you did not write the document, but having read that, do you know whether at that time, this is the date of the document November 1971, there were any products approved by General Electric which could be used in their turbines in the Texas Eastern turbines instead of Turbinol 153?

A. I don't know of any. I think the document speaks to that. It indicates that General Electric would require some time on a turbine before they would approve a replacement product for Turbinol. That's what this says to me. And that makes sense.

Q. Would you interpret this to mean that Monsanto would approve -- would prefer to have an approved product in place prior to withdrawing Turbinol 153?

A. Well, we're back to the same question again. Okay? In order to keep the turbines running it needs a fluid, okay?

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Before General Electric is going to approve a fluid, they're going to have to have a test so what this says is, in order to keep the turbines running, which obviously the Northeast can't be without natural gas, in order to keep gas flowing to the Northeast, some fluid would have to be approved by General Electric before Turbinol could be removed from the turbines. Okay? So that's what this is saying, this is saying to me. And it makes logical sense to me.

Q. Does this fluid have to be a Monsanto fluid or could it be a fluid from a competitor?

A. Again, I'm not sure what you are asking.

Q. For the purposes you stated, which is that these gas pipelines have to keep running, we have to have a lubricant that works, does that lubricant have to be from Monsanto or could it be from a competitor?

A. General Electric does not compare what, as long as the fluid works in their system, you know, they're not truly very concerned about who makes it, they just want

to make sure whichever fluid is used works.

Q. And does General Electric -- did General Electric at that time have some formal approval process for approving products for approving lubricants?

A. I'm not specifically aware of it.

Q. But you mentioned that there would have to be some testing?

A. I'm reading, I'm reading from here and it certainly agrees that if you've got a million-dollar piece of equipment you certainly wouldn't want to put a fluid in it that has not been tested.

Q. And is that something that you recall from your personal knowledge or just based on reading the document?

A. Some of both.

MR. KASHANI: Let's go to a new document.

BY MR. KASHANI:

Q. Let me ask this first.

What do you know about the development of Turbinol 153 or MCS 153?

MR. MAYER: Well, objection. That is overbroad, calls for a narrative.

BY MR. KASHANI:

Q. What did you know in 1971 about how the fluid had been developed generally?

A. I knew very little about it.

Q. Did you know if any companies were involved in its development other than Monsanto?

A. I don't know.

Q. I show you a document that's been marked 27 or will be marked Exhibit 27.

(Plaintiff's Deposition Exhibit 27 marked for identification.)

(Witness peruses said document.)

A. Okay.

MR. KASHANI: Counsel, can we take the conditional stipulation with respect to Exhibit 27, recognizing that it was not written by Mr. Frederiksen.

MR. MAYER: Yes.

BY MR. KASHANI:

Q. Do you remember a fella named Oliver Fletcher, O. V. Fletcher?

A. I knew the name.

Q. Do you remember what he did?

A. I'm refreshed by your call report, but Ollie Fletcher was, was in Houston that I remember, doing purchasing for Texas Eastern.

Q. Do you ever remember personally calling on Ollie Fletcher in Houston?

A. Not no, not that I remember.

Q. Does this document refresh your recollection as to any other companies that might have been involved in the development of Turbinol 153?

A. Not at all.

Q. Do you remember Ted Harrison?

A. It's a name that I knew because he was the purchasing agent for Texas Eastern and Don Stegen called on him.

Q. Does -- you've read this document. Do you recall when you were making calls or trying to get Texas Eastern to purchase Turbinol 153? And I mean PCB-containing Turbinol 153, before it was withdrawn, do you recall who would make the decision whether or not, who at Texas Eastern would make the decision whether or not to buy Turbinol 153 or what quantities were required?

MR. MAYER: I'm sorry, would you --

BY MR. KASHANI:

Q. The question is who made the purchasing decisions for sure Turbinol 153 at Texas Eastern before the formulation was changed?

A. There was no one person. We understood it to be a joint decision.

Q. Among which people?

A. Among a number of people either at Shreveport or Houston. The specific individuals, you know, we only surmised.

Q. Was --

A. Some of this is in the documents, too.

Q. Was Ollie Fletcher one of the individuals?

A. We -- I have no specific knowledge that Ollie -- we suppose that he was but I have no specific knowledge that he was -- I mean on its face, he's a decision maker. He's director of purchasing.

Q. Do you know if Ted Harrison was involved in making those decisions?

A. We supposed, and I have no specific knowledge of how much influence either one of these people had on deciding.

Q. Do you know if Don Sloane had any involvement in making the decisions?

A. I really have to give the same answer. I really, no. We took guesses. I don't remember whether, you know, that particular individual was, you know, the decision maker. We think that there was more than one.

Q. What about Walter Woods?

A. He would have been one that would have been contributing, in our opinion. It's a stated opinion in the documents.

Q. This is based on -- to understand your opinion, is your opinion based on your interactions with the people at Texas Eastern and then going back and comparing notes with people at Monsanto and trying to determine or guess who was making the decisions at Texas Eastern?

A. Yes, that's correct.

Q. And was Gene Riall one of the people?

A. Gene Riall was one of the people, right, that would have been one that, in my opinion, would have been involved, yes.

Q. Buck Jarnagin?

A. Yes.

MR. MAYER: I see that it's 5:30, Counsel, if we've reached a convenient breaking point.

MR. KASHANI: Yeah, just a couple of more names and then --

BY MR. KASHANI:

Q. Do you remember if Earl Farmer was involved in making those decisions?

A. It's another name. I don't -- that wasn't, wasn't a specific person that we were most concerned about. Wait a minute, Earl Farmer. No. If I could see the document, it might help, but I don't remember Mr. Farmer.

Q. It's Exhibit 14.

A. 14?

Q. Here.

(Witness peruses said document.)

A. Let's see. Gosh. Again, you know

that's, it's long enough to go that I don't remember.

Q. But --

A. About Earl Farmer, if you will, which is the question we have right now.

Q. Right. So your answer is, you don't remember of Earl Farmer?

A. I don't remember about Earl. It seems to me that he was fairly important, but that's a memory of an opinion, so --

Q. What about R. Moore? It's either Robert Moore or Roland Moore.

A. Roland Moore is what I remembered. It seemed to me that Roland was, I think he was pretty important.

Q. Would it refresh your recollection that Roland Moore was an executive?

A. Yeah, I think that -- that seems to me that Roland Moore was fairly important.

Q. Do you mean by that, important in making decisions to purchase?

A. Exactly. That's what we're talking, yeah, in this context of who's the decision makers.

Q. And I mean the decision to

purchase the PCB-containing -- Turbinol?

A. I understand your question. That's what I mean, yes.

Q. Okay. Any of the other people listed on this Exhibit 14?

A. No.

Q. You don't recall if any of the others were involved in making decisions or were decision makers in deciding to purchase PCB-containing Turbinol?

A. You've heard the ones that I remember were important.

Q. And the others as you recall were not important, or you don't remember if they were important?

A. It's not black and white, but I don't remember if they were.

MR. KASHANI: Okay, thank you.

THE WITNESS: Sure.

MR. KASHANI: Thank you, very much. That's it for today.

MR. MAYER: All right, we will --

MR. KASHANI: I think we'll be all right. We'll be all right for tomorrow.

MR. MAYER: We'll be here at nine

o'clock tomorrow morning.

(Whereupon, at 5:30 p.m., the deposition was recessed.)

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