

FOR THE COUNTY OF LOS ANGELES

HON. G. KEITH WISOT, JUDGE

SUPERIOR COURT
CASE NO. BC 026959

2 occurrences "#"

1 # # 1 of 2 Page 3306 Line 1
1 LOS ANGELES, CALIFORNIA FRIDAY, 12-17-93 # 9:40 A.M.

1 # # 2 of 2 Page 3392 Line 1
1 LOS ANGELES, CALIFORNIA FRIDAY, 12-17-93 # 1:32 P.M.

9 occurrences "+"

9 + # 1 of 9 Page 3313 Line 9
CARL CLAY, +

13 + # 2 of 9 Page 3313 Line 13
DIRECT EXAMINATION +

23 + # 3 of 9 Page 3332 Line 23
CROSS-EXAMINATION +

11 + # 4 of 9 Page 3374 Line 11
JOHN FREDERIKSEN, +

21 + # 5 of 9 Page 3374 Line 21
DIRECT EXAMINATION +

10 + # 6 of 9 Page 3392 Line 10
JOHN FREDERIKSEN, +

14 + # 7 of 9 Page 3392 Line 14
DIRECT EXAMINATION, +

17 + # 8 of 9 Page 3421 Line 17
CROSS-EXAMINATION +

9 + # 9 of 9 Page 3443 Line 9
KENNETH PESHIKAI, +

13 occurrences "="

11 = # 1 of 13 Page 3322 Line 11
(MARKED FOR ID: = 156, 5-15-70 CALL REPORT)

27 = # 2 of 13 Page 3325 Line 27
(MARKED FOR ID: = 546, 5-14-70 CALL REPORT)

16 = # 3 of 13 Page 3326 Line 16
(MARKED FOR ID: = 805, 5-28-70 CALL REPORT)

= # 4 of 13 Page 3328 Line 17

17 (MARKED FOR ID: = 557, 7-8-70 LETTER)
= # 5 of 13 Page 3330 Line 23
23 (MARKED FOR ID: = 567, 7-1-71 CALL REPORT)
= # 6 of 13 Page 3355 Line 22
22 (MARKED FOR ID: = 202, 6-2-71 CALL REPORT)
= # 7 of 13 Page 3356 Line 20
20 (MARKED FOR ID: = 203, 6-14-71 CALL REPORT)
= # 8 of 13 Page 3369 Line 19
19 (MARKED FOR ID: = 188, 1-25-71 LETTER)
= # 9 of 13 Page 3403 Line 12
12 (MARKED FOR ID: = 566, 6-28-71 CALL REPORT)
= # 10 of 13 Page 3410 Line 17
17 (MARKED FOR ID: = 237, 2-11-72 MEMO)
= # 11 of 13 Page 3414 Line 20
20 (MARKED FOR ID: = 601, 2-10-72 CALL REPORT)
= # 12 of 13 Page 3416 Line 14
14 (MARKED FOR ID: = 244, 8-2-72 CALL REPORT)
= # 13 of 13 Page 3418 Line 5
5 (MARKED FOR ID: = 612, 12-19-72 CALL REPORT)

1 THE COURT: AND RESUMING AGAIN WITH ALL THE JURORS
2 AND COUNSEL AND IN THEIR APPROPRIATE PLACES.

3 THANK YOU FOR YOUR PATIENCE, YOU KNOW, FOR
4 STARTING A FEW MINUTES LATE.

5 MR. ZIMMER, YOU WERE ON DIRECT. YOU MAY
6 CONTINUE.

7 MR. ZIMMER: THANK YOU, YOUR HONOR.

8
9 CARL CLAY, +
10 DEFENDANTS' WITNESS, RESUMED THE STAND AND TESTIFIED
11 FURTHER AS FOLLOWS:

12
13 DIRECT EXAMINATION +
14 BY MR. ZIMMER: (RESUMED)

15 Q. GOOD MORNING, MR. CLAY.

16 A. GOOD MORNING.

17 Q. DO YOU RECALL YESTERDAY WE WERE ABOUT TO LOOK
18 AT SOME EXHIBITS, AND I'D LIKE TO ASK YOU TO TURN AROUND
19 AND FIND THE BINDER THAT WOULD HAVE EXHIBIT 125 IN IT,
20 PLEASE.

21 A. THAT WOULD BE THE TRANSWESTERN TRIAL
22 EXHIBITS, 125?

23 Q. RIGHT. I THINK IT'S IN THE BLUE BINDER.
24 DO YOU HAVE THAT?

25 A. YES.

26 Q. IS THIS A MEMO YOU WERE COPIED ON, SIR, IN
27 1970?

28 A. THAT IS CORRECT.

1 Q. DO YOU RECALL THE AUTHOR MR. JOHNSON?

2 A. YES.

3 Q. WHO IS HE?

4 A. HE AT THE TIME WAS OUR SALES MANAGER.

5 Q. DID YOU REPORT TO HIM?

6 A. NO. I REPORTED TO REGINAL HATTER WHO IN TURN
7 REPORTED TO NORM JOHNSON.

8 Q. YOU REPORTED AGAIN TO?

9 A. LARRY JOHNSON -- OR LARRY BRADFORD. SORRY.

10 Q. ALL RIGHT. THANK YOU.

11 DO YOU RECALL THE CONCEPTS THAT ARE DISCUSSED
12 IN THIS MEMO?

13 A. YES, I DO.

14 Q. AND WHAT DID YOU DO WITH THAT INFORMATION?

15 A. TRIED TO PUT IT INTO APPLICATION. TRIED TO
16 MORE OR LESS FOLLOW THE GUIDELINES, TRIED TO IMPLEMENT WHAT
17 WE WERE ATTEMPTING TO DO IN THE MARKETPLACE WITH RESPECT TO
18 PCB'S.

19 Q. LET'S TAKE A LOOK AT THE SECOND PARAGRAPH
20 WHEREIN MR. JOHNSON SAYS, "WE WANT TO AVOID ANY SITUATION
21 WHERE A CUSTOMER WANTS TO RETURN FLUID."

22 DO YOU RECALL THAT BEING A POLICY OF
23 MONSANTO?

24 A. YES, IT WAS.

25 Q. WHAT WAS YOUR UNDERSTANDING OF WHY THAT WAS?

26 A. I THOUGHT IT WAS FAIRLY SIMPLE. WE WANTED TO
27 DO A NUMBER OF THINGS WITH THE PCB OR THE PYDRAULS.

28 WHAT WE WERE MOST CONCERNED ABOUT WAS

1 ESTABLISHING OR -- AND PREVENTING FROM HAVING OCCUR IN THE
2 FIELD A PANIC.

3 AT THAT TIME, PCB'S WERE NOT INDICTED. THEY
4 WERE MORE OR LESS OF A CONCERN, AND PEOPLE WERE EVALUATING,
5 IS THIS A PROBLEM OR IS IT NOT. SO WE WANTED TO AT LEAST
6 KEEP THE SITUATION STABLE, BUT AT THE SAME TIME, INFORMING
7 CUSTOMERS THAT, HEY, WE'VE GOT SOMETHING HERE THAT WE'RE
8 CONCERNED ABOUT, THAT YOU SHOULD BE CONCERNED ABOUT, BUT WE
9 DON'T THINK YOU SHOULD BE CONCERNED ABOUT IT ENOUGH TO
10 PANIC AND CHANGE YOUR SYSTEM OUT.

11 Q. FURTHER DOWN IN THAT SAME PARAGRAPH, THERE'S
12 A PORTION THAT'S UNDERLINED THAT SAYS, "WE DON'T WANT TO
13 TAKE THE FLUID BACK; SELL HIM THE REPLACEMENT."

14 DO YOU KNOW WHAT THAT REFERS TO?

15 A. SAME CONTEXT. AGAIN, IF WE TAKE THE FLUID
16 BACK, IF PCB'S ARE ULTIMATELY INDICTED -- AT THAT POINT IN
17 TIME THEY WERE NOT -- IF WE TAKE THE FLUID BACK, WE RUN A
18 VERY DEFINITE RISK OF SPILLAGE PROBLEMS AND TRANSFER IN
19 RECEIVING THE FLUID.

20 Q. I SKIPPED OVER ONE THING I WANTED TO REFER
21 YOU TO IN THE FIRST PARAGRAPH WHERE IT SAYS, "YOU CAN GIVE
22 VERBAL ANSWERS; NO ANSWERS SHOULD BE GIVEN IN WRITING."

23 DO YOU REMEMBER THAT BEING A MONSANTO POLICY?

24 A. ABSOLUTELY.

25 Q. AND WHY WAS THAT THE CASE AT THIS POINT IN
26 TIME?

27 A. THAT MADE MY -- AND IT ACTUALLY MADE MY LIFE
28 A LITTLE EASIER, I GUESS, FROM THE STANDPOINT I CAN REFER

1 ALL QUESTIONS BACK TO ST. LOUIS TO THE EXPERTS IN MEDICAL
2 AND IN TECHNICAL. I WASN'T THE EXPERT, NOR DID I WANT TO
3 TAKE ANY CHANCES ON ATTEMPTING TO BE THE EXPERT, SO I
4 REFERRED EVERYTHING BACK TO ST. LOUIS.

5 Q. IN THE LAST PARAGRAPH ON THIS PAGE, MR.
6 JOHNSON SAYS, "WE (YOUR CUSTOMER AND MONSANTO) ARE NOT
7 INTERESTED IN USING A PRODUCT WHICH MAY PRESENT A PROBLEM
8 TO OUR ENVIRONMENT."

9 WAS THAT YOUR PERCEPTION, SIR, AT THIS POINT
10 IN TIME?

11 A. YEAH. AND I LOOKED AT THAT AGAIN. IT'S BEEN
12 A LONG TIME, BUT I RECALL LOOKING AT THAT VERY POSITIVELY
13 FROM THE STANDPOINT THAT MONSANTO WAS ATTEMPTING TO BE THE
14 RESPONSIBLE -- THERE'S NO QUESTION IN MY MIND THAT THIS WAS
15 A PROFESSIONAL WAY OF HANDLING THE SITUATION AND THAT WE
16 WANTED TO BE RESPONSIBLE ENOUGH WITH THE CUSTOMERS NOT FOR
17 THIS TO GET OUT AND CREATE SOME PROBLEMS IN THE MARKETPLACE
18 THAT WOULD CREATE LIABILITIES FOR THE CUSTOMERS.

19 Q. SIR, LET ME ASK YOU TO SKIP TO THE SECOND
20 PAGE OF THAT MEMO, IF YOU WOULD, NEAR, I THINK -- GUESS
21 IT'S THE FIRST PARAGRAPH IN THE SECOND TO LAST -- LET ME
22 START OVER AGAIN.

23 FIRST SENTENCE IN THE SECOND TO LAST
24 PARAGRAPH READS, "WE CAN'T AFFORD TO LOSE ONE DOLLAR OF
25 BUSINESS."

26 DO YOU RECALL THAT BEING A COMPANY GOAL?

27 A. WELL, I THINK THAT WAS MORE -- I THINK THAT
28 WAS MORE OF AN OBJECTIVE; IS THAT THAT EMPHASIZES WHAT I

1 MENTIONED EARLIER IN THE SENSE THAT WE WANTED TO CREATE OR
2 PREVENT PANIC FROM OCCURRING IN THE MARKETPLACE.

3 AT THIS POINT IN TIME, ALL WE WERE HEARING
4 WAS -- FROM NOT ONLY COMPETITION, BUT ALSO FROM A NUMBER OF
5 DIFFERENT STUDIES -- THAT PCB'S WERE CREATING PROBLEMS. WE
6 COULDN'T PROVE THAT THEY WERE. WE COULDN'T PROVE AT THAT
7 TIME, I DON'T BELIEVE, THAT THEY WEREN'T.

8 BUT AT THE SAME TIME, WE WERE IN THE BUSINESS
9 TO WORK WITH CUSTOMERS, TO KEEP THE PYDRAUL THAT THEY WERE
10 USING IN THEIR SYSTEMS, AND THEN WE WOULD REFORMULATE AND
11 TOP IT OFF.

12 SO THAT'S MORE IN THE CONTEXT OF A SOUND
13 BUSINESS DECISION.

14 Q. YOU'VE BEEN MENTIONING "PYDRAULS."

15 WAS IT YOUR UNDERSTANDING THAT'S WHAT THIS
16 MEMO RELATED TO?

17 A. YES.

18 Q. ONE OTHER QUESTION ON THIS LAST PAGE HERE.

19 THE START OF THE SECOND PARAGRAPH, IT SAYS,
20 "WE SHOULD ALSO RECOGNIZE (POINT THIS OUT TO YOUR CUSTOMER)
21 WE MUST CLEAN UP."

22 AND THEN IT GOES ON TO DISCUSS A "CHEMICAL
23 WEEK" ARTICLE WHICH IS ENCLOSED.

24 AND MY QUESTION, SIR, IS: WHAT DID YOU USE
25 -- I'M SORRY -- WHAT DID YOU USE THAT INFORMATION FOR WITH
26 YOUR CUSTOMERS?

27 MR. TALLON: OBJECTION. FOUNDATION.

28 THE COURT: OVERRULED.

1 YOU MAY ANSWER.

2 THE WITNESS: WOULD YOU REPEAT THE QUESTION, PLEASE.

3 THE COURT: IN RESPONSE TO THAT INFORMATION, WHAT
4 DID YOU DO?

5 IS THAT THE QUESTION, MR. ZIMMER?

6 MR. ZIMMER: YES, YOUR HONOR.

7 THE WITNESS: WITH RESPECT TO, "WE MUST CLEAN UP"?

8 Q. BY MR. ZIMMER: YES, SIR.

9 A. I DON'T RECALL THE CONTEXT, TO BE HONEST WITH
10 YOU. "WE MUST CLEAN UP," I'M ASSUMING THAT THAT REFERENCES
11 THE RESPONSIBILITY THAT MONSANTO HAD IN WORKING WITH THE
12 CUSTOMERS TO KEEP CONTROL OF THE PCB SITUATION.

13 Q. DID YOU FOLLOW THE MEMO IN POINTING THIS OUT
14 TO YOUR CUSTOMERS?

15 A. I'M SURE I DID, BUT I DON'T RECALL THE
16 SPECIFICS.

17 Q. SIR, IF I COULD ASK YOU TO PICK UP ANOTHER
18 EXHIBIT. ACTUALLY, IT'S PROBABLY IN THE SAME BOOK. THIS
19 TIME, NO. 128.

20 DO YOU HAVE THAT?

21 A. YES.

22 Q. SIR, DO YOU RECALL THIS LETTER OR MEMO FROM
23 MR. GARRETT THAT IT SHOWS YOU WERE COPIED ON?

24 A. I RECALL IT NOW, YES. I RECALL IT FROM THE
25 STANDPOINT THAT THERE WERE SOME DISCUSSIONS ABOUT
26 DISCUSSIONS WITH TEXAS EASTERN.

27 Q. THE BOTTOM PARAGRAPH ON THE FIRST PAGE REFERS
28 TO A REQUEST FROM CARL CLAY TO DISCUSS THE TOXICITY OF

1 TURBINOL-153.

2 DO YOU RECALL ANY SUCH REQUEST?

3 A. I DO NOT RECALL ANY REQUESTS SPECIFIC TO THIS
4 MEMO.

5 Q. OKAY. LET'S SKIP OVER TO THE SECOND PAGE.

6 AND THERE'S A PORTION THAT READS, "IN THE
7 CASE OF THE TEXAS EASTERN REQUEST, THEY WANT TO KNOW WHAT
8 THE DECOMPOSITION PRODUCTS OF TURBINOL-153 WOULD BE; WE
9 CANNOT GIVE THIS INFORMATION TO THE CUSTOMER WITHOUT
10 REVEALING THAT IT IS PRINCIPALLY A CHLORINATED ORGANIC."

11 AND, SIR, SINCE YOU'VE ALREADY TOLD ME YOU
12 DIDN'T REMEMBER THIS REQUEST SPECIFICALLY, MY ONLY QUESTION
13 IS: WAS IT YOUR UNDERSTANDING THAT INFORMATION ABOUT
14 TURBINOL BEING A CHLORINATED ORGANIC HAD ALREADY BEEN
15 IMPARTED TO TEXAS EASTERN BY THIS POINT IN TIME?

16 A. IN MY OPINION, THERE'S NO QUESTION, REALLY.
17 CHLORINATED ORGANIC -- I WOULD HAVE TO SAY, YOU GO BACK TO
18 WHAT WE CALLED PCB'S AT THAT TIME, AND IT WAS CHLORINATED
19 POLYPHENYLS OR HY -- CHLORINATED HYDROCARBONS.

20 THIS CHLORINATED ORGANIC, I DON'T KNOW WHAT
21 IS MEANT BY THAT OTHER THAN A CHLORINATED POLYPHENYL WOULD
22 BE SIMILAR TO IT, I'VE GOT TO ASSUME.

23 Q. BY FEBRUARY OF 1970, HAD YOU DISCUSSED
24 TOXICITY AND SAFE HANDLING CHARACTERISTICS OF TURBINOL WITH
25 TEXAS EASTERN?

26 A. I RECALL ONLY ONE INSTANCE IT CAME UP, YES,
27 AND THAT WAS WITH REFERENCE TO A PAINT REQUEST; THE
28 COMPATIBILITY OF PAINT; THAT THEY WANTED TO KNOW WHAT PAINT

1 OR WHAT PARTICULAR PAINT COULD BE USED IN -- THAT WERE
2 COMPATIBLE TO TURBINOL-153.

3 Q. ALL RIGHT. SIR, LET ME LEAD YOU TO ANOTHER
4 EXHIBIT IN THAT BINDER, I BELIEVE, NO. 149, AND COULD YOU
5 IDENTIFY THAT, SIR, FOR THE RECORD.

6 A. YES. THAT'S A PAPER WRITTEN BY ONE OF THE
7 TEXAS EASTERN PEOPLE, EARL FARMER, AS IT STATES, ON THE USE
8 OF FIRE RESISTANT LUBRICANTS AND GAS TURBINES, IN THIS
9 PARTICULAR INSTANCE, TURBINOL-153.

10 Q. DO YOU RECALL MR. FARMER?

11 A. YES, I DO.

12 Q. AND WHO WAS HE?

13 A. HE WAS AN ENGINEER, I BELIEVE, WITH TEXAS
14 EASTERN.

15 Q. WAS HE ONE OF THE PEOPLE WHO YOU DEALT WITH
16 IN SERVICING THAT ACCOUNT?

17 A. YES, I HAD MET HIM.

18 Q. DID YOU HAVE OCCASION, SIR, TO REVIEW THIS
19 PAPER WHILE YOU WERE AT MONSANTO?

20 A. YES.

21 Q. AND IN WHAT CONTEXT?

22 A. IN THIS PARTICULAR INSTANCE, I USED THIS
23 PAPER BECAUSE IT WAS REALLY TRULY A TESTIMONIAL BY FARMER
24 AT TEXAS EASTERN IN SUPPORT OF TURBINOL-153.

25 AND I USED IT AT ONE PARTICULAR ACCOUNT, AS I
26 MENTIONED YESTERDAY; PROVIDED THIS PAPER TO COLUMBIA GULF
27 GAS TRANSMISSION, WHO WAS LOOKING AT OR CONTEMPLATING THE
28 USE OF TURBINOL-153 THEMSELVES, AND THEY USED THIS AS A

1 TESTIMONIAL FOR ON BEHALF OF TEXAS EASTERN FOR THE PRODUCT.

2 Q. SIR, COULD I ASK YOU TO MOVE INTO THE BODY OF
3 THAT PAPER TO THE PAGE THAT HAS A BATES STAMP NUMBER AT THE
4 BOTTOM TW-1, HYPHEN, 0000320, ANOTHER HYPHEN AND THREE
5 ZEROS. IT'S A LONG NUMBER. THAT'S ALL IT IS. I THINK THE
6 320 WOULD BE THE EASIEST THING TO FIND.

7 DO YOU SEE THAT?

8 A. I HAVE IT.

9 Q. I JUST WANT TO REFER YOU TO THE LAST
10 PARAGRAPH FOR A MOMENT WHEREIN THERE'S A REFERENCE TO THIS
11 FLUID, "OUR PRESENT" --

12 MR. TALLON: OBJECT TO THIS, YOUR HONOR.

13 THE COURT: IS THIS STILL PART OF 149, MR. ZIMMER?

14 MR. ZIMMER: YES, YOUR HONOR.

15 THE COURT: THE OBJECTION?

16 MR. TALLON: ITS FOUNDATION. I DON'T KNOW IF THE
17 WITNESS IS BEING CALLED ON TO INTERPRET THIS DOCUMENT. HE
18 DIDN'T WRITE --

19 THE COURT: WE HAVEN'T HEARD THE QUESTION YET.
20 LET'S HEAR THE QUESTION.

21 GO AHEAD.

22 Q. BY MR. ZIMMER: SIR, ALL I WANT TO ASK YOU:
23 THERE'S A REFERENCE TO THIS FLUID, "OUR PRESENT GAS TURBINE
24 LUBRICANT STANDARD IS FORMULATED WITH A CHLORINATED
25 POLYPHENYL AND A PHOSPHATE ESTER."

26 IS IT YOUR UNDERSTANDING THAT THAT WAS
27 TURBINOL-153?

28 MR. TALLON: OBJECTION.

1 THE COURT: OVERRULED.

2 YOU MAY ANSWER.

3 THE WITNESS: YES.

4 Q. BY MR. ZIMMER: AND THE TERM "CHLORINATED
5 POLYPHENYL," IS THAT WHAT YOU DESCRIBED TO US YESTERDAY
6 THAT YOU USED SYNONYMOUSLY WITH PCB'S?

7 A. YES, THAT'S CORRECT.

8 Q. SIR, COULD YOU TURN TO EXHIBIT 156, PLEASE.
9 DO YOU HAVE THAT?

10

11 (MARKED FOR ID: = 156, 5-15-70 CALL REPORT)

12

13 THE WITNESS: YES. I'M SORRY. YES, I DO.

14 Q. BY MR. ZIMMER: LET ME ASK YOU TO TAKE A LOOK
15 THROUGH THAT, IF YOU WOULD, PLEASE.

16 A. ALL RIGHT.

17 Q. IS THIS A CALL REPORT THAT YOU AUTHORED, SIR?

18 A. IT OBVIOUSLY IS, YES.

19 Q. AND DO YOU RECALL THE PURPOSE OF THIS VISIT?

20 A. IT APPEARS THAT IT WAS THE FIRST VISIT THAT I
21 MADE TO COLUMBIA GULF IN ATTEMPTING TO DISCUSS TURBINOL-153
22 AND TO PROMOTE 153 WITH COLUMBIA GULF GAS TRANSMISSION.

23 Q. WHO WAS COLUMBIA GULF?

24 A. COLUMBIA GULF WAS A GAS TRANSMISSION LINE
25 LOCATED IN HOUSTON. THAT'S ABOUT ALL I CAN TELL YOU AT
26 THIS POINT.

27 Q. AND THIS VISIT OCCURRED WHEN?

28 A. MAY 14TH AND 15TH, 1970.

1 Q. DO YOU RECALL WHO YOU DEALT WITH AT COLUMBIA
2 GULF ON THIS VISIT?

3 A. READING THE NAMES HERE, HERB VAN DYNE, JIM
4 SIMPSON.

5 Q. DO YOU RECALL -- DO YOU HAVE A PRESENT
6 RECOLLECTION OF THOSE GENTLEMEN?

7 A. NO.

8 Q. DO YOU RECALL -- DO YOU REMEMBER THE NAMES OF
9 ANYONE ELSE AT COLUMBIA GULF WHO YOU DEALT WITH?

10 A. ONE VERY SPECIFIC WAS FRED RAYMOND.

11 Q. WHERE WAS MR. RAYMOND LOCATED?

12 A. HE, I BELIEVE, WAS IN NASHVILLE, TENNESSEE.

13 Q. IF YOU COULD SKIP TO THE SECOND PAGE OF THIS
14 MEMO, SIR, OR, RATHER, CALL REPORT.

15 AND I REALIZE I EITHER HAVE AN INCOMPLETE
16 COPY OR -- WHAT DOES YOURS SAY?

17 "RESULTS CONTINUED" AT THE TOP OF THE SECOND
18 PAGE?

19 A. ON THE SECOND PAGE, YES.

20 Q. ALL RIGHT. I DON'T HAVE THAT ONE IN FRONT OF
21 ME, SO I'LL JUST ASK YOU QUESTIONS ABOUT IT WHILE MR.
22 PREUSS ATTEMPTS TO FIND IT.

23 COULD YOU READ THE LAST SENTENCE OF THAT
24 FIRST PARAGRAPH ON THE PAGE AND THE ONE BEGINNING, "HE
25 STATED," AND THROUGH THE END OF THAT PARAGRAPH?

26 A. "HE STATED THAT HE WOULD CERTAINLY CONTACT GE
27 SPECIFICALLY WITH REGARD TO TURBINOL-153."

28 Q. AND THEN I BELIEVE THERE'S ANOTHER SENTENCE

1 THAT CONTINUES THERE.

2 A. "IT IS APPARENT NOW THAT FOR THE USE TO GET
3 TURBINOL-153 IN THESE NEW GAS TURBINES, ALL GE HAS TO DO IS
4 TO GIVE THEIR STAMP OF APPROVAL ON THE USE OF
5 TURBINOL-153."

6 Q. MY QUESTION, SIR -- NOW, I HAVE THAT THERE.
7 I APOLOGIZE I DIDN'T HAVE IT TO SHOW EARLIER.

8 WAS IT IMPORTANT FOR YOU AS A SALESMAN TO
9 SOLICIT THE APPROVAL OF EQUIPMENT MANUFACTURERS?

10 A. NUMBER ONE, YES, IT WAS CRITICAL.

11 NUMBER TWO, WE DIDN'T SOLICIT. IT WAS MUCH
12 MORE OF A CONCERTED EFFORT ON BEHALF OF OUR TECHNICAL GROUP
13 IN ST. LOUIS.

14 THE MANUFACTURER OF TURBINES IN THIS
15 PARTICULAR INSTANCE, GE, HAD TO GIVE APPROVAL FOR USE OF
16 PRODUCTS PRIOR TO THEIR BEING USED. WE COULDN'T WALK INTO
17 A TEXAS EASTERN OR A COLUMBIA GULF AND HAVE THEM USE
18 TURBINOL-153 WITHOUT HAVING THE ABSOLUTE BLESSING OF THE
19 MANUFACTURER FROM, OBVIOUSLY, FROM A LIABILITY STANDPOINT.

20 Q. SIR, LET ME ASK YOU TO SKIP TO THE FOURTH
21 PAGE OF THAT CALL REPORT, IF YOU WOULD, PLEASE.

22 IN THE FIRST PARAGRAPH THERE, THERE'S A
23 SENTENCE THAT READS, "HE CONTACTED BUCK JARNAGIN AT TEXAS
24 EASTERN AND, ACCORDING TO HANEY, WHEN I WALKED IN THE DOOR,
25 JARNAGIN SAID THEY NEVER USED MONSANTO'S FLUID."

26 DO YOU RECALL ANY CONFUSION ARISING AT THIS
27 VISIT?

28 A. I RECALL CONFUSION, BUT I DON'T RECALL

1 SPECIFICALLY WHAT IT WAS. BUT I RECALL CONFUSION AS TO,
2 WELL, WE DIDN'T HEAR SOMETHING POSITIVE FROM TEXAS EASTERN.

3 Q. WAS THAT LATER RESOLVED?

4 A. YES, IT WAS.

5 Q. HOW WAS THAT RESOLVED?

6 A. THAT WAS THE USE OF THE EARL FARMER REPORT ON
7 GAS TURBINE LUBRICANT, WHICH I PROVIDED. I SOLICITED THE
8 USE OF THAT FROM TEXAS EASTERN AND GAVE IT TO COLUMBIA
9 GULF, WHICH THEY IN TURN USED AND, OBVIOUSLY, SUPPORTED
10 THEIR DECISION ON GOING TO THE USE OF TURBINOL-153 IN ONE
11 OF THEIR TURBINES.

12 Q. WHO AT COLUMBIA GULF DID YOU PROVIDE THAT
13 PAPER TO?

14 A. I BELIEVE IT WAS SPECIFICALLY FRED RAYMOND.

15 Q. IS THAT THE GENTLEMAN WHO IS LISTED DOWN HERE
16 AS BEING IN NASHVILLE, TENNESSEE?

17 A. YES. CORRECT.

18 Q. DO YOU RECALL HOW LONG AFTER THIS VISIT YOU
19 CONTACTED MR. RAYMOND?

20 A. I THINK IT WAS DEFINITELY WITHIN THE TWO- OR
21 THREE-WEEK PERIOD AFTER THIS CALLING.

22 Q. ALL RIGHT. THANK YOU, SIR.

23 COULD I HAVE YOU LOOK IN ONE OF THE BLACK
24 BINDERS AND FIND EXHIBIT 546.

25 LOTS OF PAPER IN THERE, I KNOW.

26

27 (MARKED FOR ID: = 546, 5-14-70 CALL REPORT)

28

1 Q. BY MR. ZIMMER: DO YOU HAVE THAT, SIR?

2 A. I CERTAINLY DO.

3 Q. DOES THAT APPEAR TO YOU TO BE THE SAME CALL
4 REPORT THAT WE WERE JUST LOOKING AT?

5 A. THAT'S CORRECT.

6 Q. AND YOU AUTHORED THAT?

7 A. THAT'S CORRECT.

8 Q. LET'S, THEN, SIR, LOOK AGAIN AT ANOTHER
9 BINDER. I MIGHT WANT TO LEAVE THAT ONE THERE, HOWEVER.
10 THIS ONE WOULD HAVE EXHIBIT 805.

11 A. BLACK?

12 Q. I BELIEVE SO.

13 DO YOU HAVE THAT ONE, SIR?

14 A. YES, I DO.

15

16 (MARKED FOR ID: = 805, 5-28-70 CALL REPORT)

17

18 Q. BY MR. ZIMMER: IS THIS A CALL REPORT THAT
19 YOU AUTHORED?

20 A. YES.

21 Q. AND DO YOU KNOW WHEN YOU AUTHORED THIS
22 REPORT?

23 A. LOOKS LIKE THIS IS THE FOLLOW-UP TO THE CALL
24 REPORT THAT WE JUST REVIEWED. IN LOOKING AT THE DATE,
25 5-28, THAT WOULD HAVE TO BE '70, 1970.

26 Q. OKAY. SO A FOLLOW-UP TO YOUR VISIT WITH THE
27 GENTLEMAN THAT YOU COULDN'T SPECIFICALLY RECALL AT COLUMBIA
28 GULF?

1 A. YEAH. I COULDN'T -- I DON'T RECALL THE
2 PEOPLE AT COLUMBIA GULF IN HOUSTON, BUT THEY ASKED ME TO
3 SATISFY -- THEY SAID THAT THE ULTIMATE DECISION MAKER WAS
4 FRED RAYMOND IN NASHVILLE. THAT'S THEIR FOLLOW-UP ON WHO I
5 NEEDED TO CONTACT TO GET THE BALL ROLLING ON TURBINOL-153,
6 IF POSSIBLE.

7 Q. WHO DID YOU CONTACT DURING THIS VISIT?

8 A. FRED RAYMOND.

9 Q. AND WHAT WAS THE PURPOSE OF THIS VISIT?

10 A. IT WAS MORE OR LESS TO INTRODUCE THE CONCEPT
11 OF TURBINOL-153, AND I WAS TOLD IN HOUSTON THAT HE WOULD BE
12 THE KEY DECISION MAKER ON SELECTION OF FLUID IN THIS NEW
13 TURBINE, SO I WANTED TO MAKE SURE AND CONTACT HIM AND MAKE
14 SURE THAT HE WAS AWARE THAT TURBINOL-153 WAS A CANDIDATE,
15 AND AS A RESPONSIBLE SALESMAN, TRIED TO CONVINCE HIM THAT
16 153 WOULD WORK IN HIS TURBINE.

17 Q. NOW, THEY HADN'T BOUGHT ANY FLUID FROM YOU
18 YET; IS THAT RIGHT?

19 A. THAT IS CORRECT. THIS WAS THE FIRST CALL
20 THAT I THINK ANYONE AT THE FLUIDS GROUP HAD MADE ON FRED
21 RAYMOND.

22 Q. UNDER "OBJECTIVE" HERE, IT SAYS, "FOLLOW-UP
23 ON ADVICE OF W.B. HANEY, SUPERINTENDENT OF OPERATIONS IN
24 HOUSTON, IN DISCUSSING TURBINOL-153 USAGE."

25 A. YES.

26 Q. WHAT DID YOU MEAN BY THE TERM "USAGE," SIR?

27 A. THAT WAS MY TERMINOLOGY FOR SAYING MORE OR
28 LESS, PAST TENSE, IS THERE A POSSIBILITY FOR THE CUSTOMER

1 TO USE THE PRODUCT; THE USE OF, RATHER THAN USAGE.

2 THEY, OBVIOUSLY, WEREN'T USING THE PRODUCT
3 BECAUSE I WAS THERE ATTEMPTING TO SELL THE TURBINOL-153, SO
4 THIS WAS JUST A TERM THAT I USED.

5 Q. DID COLUMBIA GULF SUBSEQUENTLY PURCHASE
6 TURBINOL-153 FROM MONSANTO?

7 A. THEY DID.

8 Q. WERE YOU INSTRUMENTAL IN THAT SALE?

9 A. I LIKE TO THINK SO.

10 Q. LET ME HAVE YOU LOOK AT ANOTHER EXHIBIT, SIR.
11 I THINK IT'S IN THE BINDER I HAD YOU KEEP THERE. 557.

12 A. DID YOU SAY 557?

13 Q. YES, SIR.

14 Q. DO YOU SEE THAT, SIR?

15 A. I DO.

16

17 (MARKED FOR ID: = 557, 7-8-70 LETTER)

18

19 Q. BY MR. ZIMMER: IS THAT A LETTER THAT YOU
20 WROTE ON OR ABOUT JULY 8TH, 1970?

21 A. YES. IT HAS MY NAME ON IT, YES.

22 Q. WERE YOU SHOWN THIS LETTER, SIR, AT YOUR
23 DEPOSITION?

24 A. I DON'T RECALL. I HAD A NUMBER OF EXHIBITS
25 THAT I WAS SHOWN DURING THE DEPOSITION THAT I DID NOT
26 RECALL.

27 IN FACT, FROM AN EXHIBIT STANDPOINT, I
28 RECEIVED THE DEPOSITION FROM THE APPROPRIATE ATTORNEYS, AND

1 IT DID NOT INCLUDE EXHIBITS. SO I CALLED MONSANTO AND
2 ASKED THEM TO PLEASE SEND EXHIBITS AND WITH THIS, I BELIEVE
3 ONE CAME.

4 Q. IS THIS ONE THAT YOU'VE REVIEWED SINCE THE
5 TIME OF YOUR DEPOSITION?

6 A. YES.

7 Q. AND IT SAYS, "IN YOUR LETTER, I AM ENCLOSING
8 EARL FARMER'S PRESENTATION AT THE SCLE CONVENTION IN
9 CHICAGO ON FIRE RESISTANT LUBRICANTS IN GAS TURBINES."

10 MY QUESTION, SIR, IS: IS THE REFERENCE THERE
11 REFERRING TO EXHIBIT 149 THAT WE LOOKED AT EARLIER FROM MR.
12 FARMER'S PAPER?

13 A. TO MY BEST RECOLLECTION, IT IS THE PAPER OF
14 EARL FARMER THAT WE HAVE.

15 Q. AND WHAT WAS THE PURPOSE OF YOU SENDING THAT
16 TO MR. SIMPSON AT COLUMBIA GULF?

17 A. WELL, AGAIN, AS I HAD MENTIONED EARLIER, THE
18 EARL FARMER PAPER WAS QUITE A TESTIMONIAL FOR TURBINOL-153,
19 SO I DEFINITELY WANTED TO GET IT INTO THE COLUMBIA GULF
20 PEOPLE'S HANDS FOR THEIR STUDY AND ALSO, HOPEFULLY, IT
21 WOULD HELP THEM BECOME CONVINCED THAT TURBINOL-153 WAS AN
22 OKAY PRODUCT TO USE IN THEIR TURBINES.

23 Q. COULD YOU READ THE SECOND PARAGRAPH OF YOUR
24 LETTER, SIR?

25 A. (READING:)

26

27

28

"TEXAS EASTERN HAS USED OUR
PHOSPHATE ESTER BASED FLUIDS EXCLUSIVELY FOR

1 12 YEARS. INITIAL FORMULATION INTRODUCED AT
2 TEXAS EASTERN WAS MONSANTO'S OS-81, A
3 DEVELOPMENT FLUID. AFTER A FEW YEARS OF
4 OPERATION AND EXPERIENCE ON THIS FLUID, WE
5 INTRODUCED OUR MCS-153, OR AS IT IS NOW
6 CALLED, TURBINOL-153. THIS FLUID HAS SHOWN
7 TO BE A SUPERIOR FLUID EXHIBITING THE DESIRED
8 PROPERTIES INHERENT TO EXCELLENT TURBINE
9 LUBRICATION AS TESTIFIED TO BY TEXAS
10 EASTERN."

11
12 Q. SIR, WHAT WAS OS-81?

13 A. LOOKING AT THIS DOCUMENT, IT WAS THE FOUNDING
14 FATHER, I GUESS YOU COULD SAY, OF TURBINOL-153.

15 Q. DOES THIS HELP REFRESH YOUR MEMORY IN THAT
16 REGARD?

17 A. YES, IT DOES.

18 Q. LET ME HAVE YOU LOOK, PLEASE, AT EXHIBIT 567.

19 A. 567?

20 Q. 567.

21 A. I HAVE IT.

22

23 (MARKED FOR ID: = 567, 7-1-71 CALL REPORT)

24

25 Q. BY MR. ZIMMER: COULD YOU IDENTIFY THAT, SIR.

26 A. THAT IS A CALL REPORT THAT WAS WRITTEN ON AN
27 ACCOUNT TURNOVER CALL THAT I MADE WITH OUR SALESMAN IN
28 HOUSTON WHEN I TURNED THE COLUMBIA GULF ACCOUNT OVER TO

1 ANOTHER SALESMAN.

2 Q. DO YOU RECALL THIS CALL?

3 A. I DO.

4 Q. AND WHO WAS THE OTHER PERSON YOU MADE IT
5 WITH?

6 A. DON STEGEN WAS OUR SALESPERSON IN HOUSTON.

7 Q. WAS WHAT THIS PURPOSE OF THIS VISIT TO TEXAS
8 EASTERN?

9 A. IT WAS REALLY TO INTRODUCE -- AS I THINK I
10 MENTIONED YESTERDAY, WE HAD THE PRACTICE OF WHEN WE LEFT
11 ONE TERRITORY OR WENT INTO A NEW TERRITORY, WE HAD THE
12 PRACTICE OF TURNING OVER THE ACCOUNT PERSONALLY. IT WAS
13 JUST A LITTLE BETTER MORE OF A PROFESSIONAL WAY OF HANDLING
14 THE INTRODUCTION OF A NEW PERSON THAT WOULD BE RESPONSIBLE
15 FOR THE ACCOUNT.

16 AND THIS SPECIFICALLY WAS, I WAS IN ATLANTA
17 AND I WAS GIVING UP THAT REGION, AND I WAS TURNING THE
18 ACCOUNT OVER TO THE LOCAL SALESMAN IN HOUSTON, DON STEGEN.

19 Q. WAS THIS THE LAST CALL THAT YOU MADE ON TEXAS
20 EASTERN?

21 A. THAT IS CORRECT. THIS WAS QUITE A CALL, AND
22 THE REASON I REMEMBER IT WAS, AS I STATED HERE, THERE WERE
23 QUITE -- I REMEMBER THE CALL. THIS IS ONE OF THE FEW CALLS
24 I REMEMBER SPECIFICALLY.

25 BUT I REMEMBER THIS CALL AS BEING THAT
26 FLETCHER AND HARRISON, WHO, AGAIN, AS I MENTIONED
27 YESTERDAY, WHO WERE IN PURCHASING, WERE VERY PROUD OF THEIR
28 USE AND PARTICIPATION IN THE DEVELOPMENT OF TURBINOL-153.

1 Q. ALL RIGHT. LET ME SHOW YOU ANOTHER EXHIBIT,
2 SIR, NO. 570. I'M SORRY. I MISSPOKE.

3 I'LL RELIEVE YOU FROM LOOKING AT THE BOOK
4 FURTHER, BUT LET ME ASK YOU ONE OR TWO OTHER QUESTIONS.

5 WHEN YOU WERE SELLING TURBINOL-153, DID YOU
6 BELIEVE THAT IT WAS A SUPERIOR PRODUCT TO OTHERS OFFERED BY
7 COMPETITORS?

8 A. ABSOLUTELY, YES.

9 Q. AND WHY WAS THAT?

10 A. AGAIN, IT GETS BACK TO WHAT WE DISCUSSED
11 YESTERDAY ABOUT THE STABILITY OF PCB'S OR STABILITY OF
12 CHLORINATED POLYPHENYLS OR WHATEVER YOU WANTED TO CALL IT.

13 IT HAD AN INHERENT STABILITY THAT OTHER
14 PRODUCTS AT THAT TIME AND OTHER COMPETITIVE PRODUCTS DID
15 NOT HAVE. AND IT WAS A BEST OF BOTH WORLDS. COMPETITIVE
16 PRODUCTS WERE PHOSPHATE ESTER. TURBINOL-153 WAS TOTALLY A
17 CHLORINATED POLYPHENYL, PCB MIXED WITH SOME PHOSPHATE
18 ESTER, SO IT GAVE IT THE BEST OF ALL WORLDS, IN MY OPINION.

19 MR. ZIMMER: THANK YOU, SIR.

20 NOTHING FURTHER AT THIS TIME.

21 THE COURT: ALL RIGHT. MR. TALLON.

22

23 CROSS-EXAMINATION +

24 BY MR. TALLON:

25 Q. MR. CLAY, HOW ARE YOU DOING?

26 A. FINE.

27 Q. DO YOU THINK THAT FORD SALESMEN THINK THEIR
28 PRODUCTS ARE BETTER THAN CHEVYS?

1 A. I WOULD THINK THAT YOU AS A SALESMAN WOULD
2 HAVE TO BE CONVINCED, NORMALLY, THAT YOUR PRODUCT IS THE
3 BEST RATHER THAN NOT, SO, YES, I WOULD.

4 Q. OKAY. THAN NOT.

5 ALL RIGHT. NOW, A COUPLE OF THINGS.

6 YOU WERE LOOKING AT MR. FARMER'S ARTICLE
7 EARLIER, RIGHT?

8 A. YES.

9 Q. AND PART OF YOUR JOB AS A SALESMAN WAS TO
10 KNOW THE CHARACTERISTICS OF THE FLUID, LIKE POUR POINT?

11 A. I THINK -- I DON'T -- THAT'S DEBATABLE.

12 Q. VISCOSITY?

13 A. VISCOSITY.

14 ON ALL PRODUCTS?

15 Q. LET'S TALK TURBINOL.

16 A. AGAIN, TURBINOL WAS AN EASY PRODUCT FOR ME
17 BECAUSE I HAD AN ACCOUNT WITH TEXAS EASTERN, ONE ACCOUNT AT
18 THE TIME, THAT WAS A MAINTENANCE ACCOUNT, AND I REALLY GOT
19 INTO VERY LITTLE DISCUSSION ON THE TECHNICALITIES OF THE
20 PRODUCT BECAUSE THEY WERE ALREADY KNOWN, AND IF THEY
21 WEREN'T KNOWN -- I MEAN, I'M SURPRISED THEY WOULDN'T BY
22 THEN -- THEY WOULD REFER BACK TO THE TECHNICAL PEOPLE IN
23 ST. LOUIS FOR DISCUSSIONS LIKE THAT, SO I REALLY, AS FAR AS
24 TURBINOL IS CONCERNED, HAD IT FAIRLY EASY, TECHNICALLY.

25 Q. WELL, DID YOU READ MR. FARMER'S ARTICLES THAT
26 MR. ZIMMER WAS JUST QUESTIONING YOU ABOUT BEFORE YOU TOOK
27 THE STAND?

28 A. I READ PART OF IT, YES.

1 Q. YOU DIDN'T READ ANYTHING IN THERE ABOUT
2 TURBINOL BEING AN ENVIRONMENT CONTAMINATE, RIGHT?

3 A. I DON'T RECALL.

4 Q. THERE'S NOTHING THERE THAT YOU READ THAT SAYS
5 THAT, THOUGH, RIGHT?

6 A. I DON'T RECALL IT.

7 Q. BECAUSE WHAT MR. FARMER TALKS ABOUT IN THAT
8 ARTICLE IS THAT IT'S A FLUID THAT HAS GOOD LUBRICITY,
9 RIGHT?

10 A. AGAIN, I DON'T RECALL.

11 Q. DO YOU REMEMBER HE SAID IT HAD GOOD
12 VISCOSITY?

13 A. OKAY.

14 Q. DO YOU REMEMBER THAT?

15 A. NO, I DON'T.

16 Q. THAT IT HAD GOOD POUR POINT?

17 A. NO.

18 Q. IT WAS A GOOD LUBRICATING FLUID, RIGHT?

19 A. WHAT I RECALL SPECIFICALLY, AS COMPARED --
20 AND WHAT I LOOKED AT WAS THE COMPARISON OF THE TURBINOL-153
21 WITH PHOSPHATE ESTER, AND I THINK THE KEY ELEMENT THERE WAS
22 A STABILITY, AS I MENTIONED.

23 Q. AND STABILITY MADE IT MORE FIRE RESISTANT?

24 A. NOT NECESSARILY. STABILITY MADE IT MORE
25 LONGER LASTING.

26 Q. IN THE ENVIRONMENT?

27 A. NO. NO. AGAIN, IF YOU HAD IT IN A TURBINE,
28 AND YOU HAD IT EXPOSED TO HEAT IN HIGH TEMPERATURE OR ROUGH

1 WATER, IF YOU WILL, THAT IT WAS MORE STABLE WITH RESPECT TO
2 THAT.

3 Q. AND THE PRODUCT HAD A SIDE EFFECT WHICH WAS
4 THAT IT WAS AN ENVIRONMENTAL CONTAMINATE?

5 A. DURING THE TIME OF WORKING WITH TEXAS EASTERN
6 THAT I HAD, IT HAD NOT BEEN PROVEN THAT IT WAS AN
7 ENVIRONMENTAL CONTAMINATE. THERE WAS QUESTIONS OF WHETHER
8 IT WAS A PROBLEM --

9 Q. WELL --

10 A. -- AS I RECALL.

11 Q. LET'S FOCUS ON THAT FOR A SECOND.

12 YOU SAY IT HADN'T BEEN PROVEN.

13 WHEN YOU TOOK OVER THIS ACCOUNT, DID YOU TAKE
14 A LOOK AT THE LETTER THAT MONSANTO GOT IN NOVEMBER 1966
15 FROM SWEDEN THAT SAID THAT PCB'S WERE BEING FOUND IN
16 SAMPLES OF FIR TREES AND FISH?

17 A. NO.

18 Q. DID YOU TAKE A LOOK AT SCOTT TUCKER'S
19 THREE-PAGE ANALYSIS OF PCB SAMPLES TAKEN FROM FISH AND
20 BIRDS AND WATER AND AIR?

21 A. NO.

22 Q. DID YOU TAKE A LOOK AT MR. PAPAGEORGE'S MEMO
23 SAYING PCB CONTAMINATION IN THE ENVIRONMENT IS CONFIRMED?

24 A. I DON'T RECALL THAT, BUT I THINK, AGAIN,
25 TURBINOL-153 WAS AN EASY PRODUCT FOR ME BECAUSE THERE WERE
26 PEOPLE THAT HAD RESPONSIBILITIES TO ADDRESS THAT.

27 REALLY, MY CONCERN WAS TO MAKE SURE THAT THE
28 ACCOUNT WAS HAPPY WITH THEIR SALES AND SERVICE AND

1 DELIVERIES.

2 Q. RIGHT. SO WHEN YOU SAY IT WASN'T PROVEN, YOU
3 MEAN IT WASN'T PROVEN TO YOU?

4 A. IT WAS -- AT THAT POINT IN TIME, IT WAS NOT
5 AN ISSUE WITH ME.

6 Q. THAT WOULDN'T HAVE BEEN PARTICULARLY HELPFUL
7 INFORMATION TO HAVE ON A SALES CALL, THOUGH?

8 A. NO. BECAUSE I HAD HELP AUTOMATICALLY BY
9 REFERENCING THE CUSTOMER TO OUR TECHNICAL AND MEDICAL
10 PEOPLE IF THEY HAD ANY QUESTIONS ON PCB'S.

11 Q. RIGHT. YOUR JOB WAS TO MAKE THE SALE, RIGHT?

12 A. OR TO MAKE SURE THE CUSTOMER WAS HAPPY, IN
13 THIS PARTICULAR INSTANCE, WITH OUR SERVICE.

14 Q. SO YOU DIDN'T HAVE TO KNOW THAT MUCH ABOUT
15 THE PCB PROBLEM?

16 A. WITH TURBINOL-153, I KIND OF FELL BACK ON
17 THAT BECAUSE IT WAS NOT A SITUATION -- AGAIN, THE DIALOGUES
18 WERE THERE UP AND DOWN THE ORGANIZATION, AND MY PURPOSE WAS
19 NOT NECESSARILY TO CORRECT OR TO TALK WITH THEM OR DISCUSS
20 PCB SITUATIONS. IT WAS MORE JUST, ARE YOU HAPPY WITH THE
21 SERVICE, WITH THE SALES.

22 Q. SO IT WAS SOMEBODY ELSE'S JOB TO COMMUNICATE
23 WITH TEXAS EASTERN OR OTHER TURBINOL CUSTOMERS ON THE PCB
24 ENVIRONMENTAL PROBLEM?

25 A. WELL, AT THAT TIME, IT WAS A QUESTION OF --
26 THE PCB ENVIRONMENTAL QUESTION WAS JUST SURFACING, AS I
27 RECALL, SO IT HADN'T FORMALIZED INTO A FULL-BLOWN
28 NATIONWIDE CONCERN, AS I RECALL.

1 Q. JUST SURFACING IN WHAT YEAR?

2 A. I'M GUESSING FROM THE DOCUMENTS THAT WE'VE
3 LOOKED AT, '71, '70.

4 Q. OKAY. BUT YOU DON'T RECALL SEEING DOCUMENTS
5 DATING BACK TO NOVEMBER '66 RAISING A PCB PROBLEM?

6 A. I DON'T RECALL.

7 Q. OKAY. YOU DON'T RECALL SEEING ANY INTERNAL
8 DOCUMENTS AT MONSANTO DATED 1967 TALKING ABOUT ADDRESSING
9 THE PCB ENVIRONMENTAL PROBLEM?

10 A. I DO NOT RECALL. THAT'S NOT TO SAY THAT THEY
11 DIDN'T EXIST.

12 Q. LET'S TALK ABOUT YOUR ROLE WITH TEXAS
13 EASTERN. ALSO, FOR AN OPINION. YOU SAID IT WAS A
14 MAINTENANCE ACCOUNT.

15 DOES THAT MEAN THAT, BASICALLY, WHEN YOU
16 ARRIVED IN POSITION AS A SALESMAN, THEY WERE ALREADY BUYING
17 TURBINOL?

18 A. CORRECT.

19 Q. AND EVERY YEAR THERE WERE MORE ORDERS?

20 A. I CAN'T CONFIRM WHETHER THERE WERE MORE.
21 THERE WERE ORDERS EVERY YEAR. WHETHER THERE WERE MORE OR
22 NOT, I DON'T RECALL.

23 Q. WELL, PERHAPS MORE IS THE WRONG WORD.

24 EVERY YEAR, THERE WERE ADDITIONAL ORDERS FOR
25 TURBINOL?

26 A. I CAN ONLY RECALL THAT IF THERE WERE ANY
27 ADDITIONAL ORDERS FOR TURBINOLS, IT MEANT THAT THERE WAS A
28 NEW TURBINE ON SCREEN THAT --

1 Q. IS THAT WHAT YOU THOUGHT; THE ONLY WAY
2 ADDITIONAL TURBINOL WOULD BE SOLD WAS IF THERE WAS A NEW
3 TURBINE?

4 A. IN THE CONTEXT OF WHAT WE'RE TALKING HERE, I
5 WOULD ASSUME THAT IF THEY HAD ADDITIONAL ORDERS THAT CAUGHT
6 MY ATTENTION, THEY WOULD BE FOR NEW TURBINE START-UP.

7 Q. IS IT YOUR TESTIMONY, MR. CLAY, THAT THE ONLY
8 REASON TEXAS EASTERN BOUGHT ADDITIONAL TURBINOL WAS TO FILL
9 A NEW TURBINE?

10 MR. ZIMMER: OBJECTION, YOUR HONOR. CALLS FOR
11 SPECULATION.

12 THE COURT: OVERRULED.

13 YOU MAY ANSWER.

14 THE WITNESS: I DON'T RECALL. THERE MAY HAVE BEEN
15 SOME OTHER SITUATIONS, BUT THE PRIMARY ONE WOULD BE THE
16 FILL, TURBINE FILL.

17 Q. BY MR. TALLON: BUT DON'T YOU RECALL, MR.
18 CLAY, AS THE SALESMAN TO TEXAS EASTERN, THAT EVERY YEAR
19 TEXAS EASTERN WAS BUYING HUNDREDS OF THOUSANDS OF POUNDS OF
20 TURBINOL?

21 A. THAT WAS IN THE TIME THAT I WORKED WITH TEXAS
22 EASTERN. THAT WAS FAIRLY CONSISTENT FROM YEAR TO YEAR, AS
23 I RECALL.

24 Q. MAYBE YOU SHOULD TAKE A LOOK AT EXHIBIT 769.
25 IT'S IN ONE OF THE BLACK BINDERS. PERHAPS WE CAN JOG YOUR
26 RECOLLECTION.

27 BEFORE YOU START LOOKING AT THAT, LET ME ASK
28 YOU A COUPLE OF QUESTIONS.

1 AS PART OF YOUR JOB AS A SALESMAN, YOU HAD TO
2 SHUFFLE PAPERWORK, RIGHT?

3 A. (NODS HEAD UP AND DOWN.)

4 Q. YOU'D GET --

5 A. CORRECT. YES. SORRY.

6 Q. YOU'D GET PERIODIC UPDATES ON SALES FOR
7 CUSTOMERS, RIGHT?

8 A. NORMALLY, YES.

9 Q. AND ACCOUNTS THAT YOU HAD TO MANAGE WERE
10 ASSIGNED IDENTIFIERS, NUMBERS, LIKE ACCOUNTS RECEIVABLE
11 NUMBERS?

12 A. I'M SURE THEY WERE, YES.

13 Q. OKAY. AND PERIODICALLY, YOU GOT FROM ST.
14 LOUIS OR FROM THE REGIONAL OFFICE COMPUTER PRINTOUTS
15 SHOWING THE STATUS OF CUSTOMERS' SALES BY CUSTOMER AND BY
16 PRODUCTS?

17 A. YES.

18 Q. THOSE WERE IMPORTANT TOOLS TO YOU BECAUSE YOU
19 HAD TO KNOW WHERE YOU STOOD, RIGHT?

20 A. KNOW WHERE YOU STOOD OR HAVE ANY CUSTOMERS
21 ORDERED -- HAVE ANY CUSTOMERS THAT YOU'VE BEEN WORKING ON
22 ENTER ORDERS FOR MATERIALS THAT WERE --

23 Q. AND NOT ONLY ENTERED ORDERS, BUT IT'S ALSO
24 PART OF A JOB AS A SALESMAN TO MAKE THE SALE AND COLLECT --
25 MAKE SURE THE CUSTOMER IS PAYING, RIGHT?

26 A. NO.

27 Q. YOU NEVER HAD ANYTHING TO DO WITH MAKING SURE
28 CUSTOMERS PAID?

1 A. AS I RECALL -- AND I PRACTICE THIS NOW IN MY
2 CURRENT RESPONSIBILITIES -- THAT I WAS -- I BELIEVE
3 MONSANTO WAS NOT EXCITED ABOUT PUTTING THE CUSTOMER IN THE
4 MIDDLE; THAT IS, BETWEEN OUR ACCOUNTS RECEIVABLE DEPARTMENT
5 AND THE CUSTOMER.

6 THE SALESMAN HAD A RELATIONSHIP AND A RAPPORT
7 WITH THE CUSTOMER. IT WAS DIFFICULT TO ASK THAT SALESMAN
8 AT THE SAME TIME GOING IN AND SAY SAYING, OKAY, HAVE YOU
9 PAID YOUR BILLS, I WANT TO COLLECT ON THEM. IT PUT THE
10 SALESMAN IN A DIFFICULT SITUATION.

11 Q. IF THE CUSTOMER WAS NOT PAYING, WOULD THE
12 SALESMAN HELP TO GIVE A GENERAL REMINDER SAYING, YOU KNOW,
13 YOU MAY BE GETTING A CALL FROM OUR HEAD OFFICE?

14 A. IT WAS USUALLY THE OTHER WAY; THAT THE
15 CUSTOMER WOULD SAY, HEY, I'M CONCERNED ABOUT SOMETHING HERE
16 BECAUSE I'M GETTING SOME -- I'M GETTING D & B'D, OR DUNN &
17 BRADSTREET'D, AND YOU KNOW, AND NOT PAYING THE BILL. CAN
18 -- YOU KNOW, WHAT'S GOING ON. AND I WOULD THEN GO BACK TO
19 ST. LOUIS AND INVESTIGATE WHAT IT WAS.

20 Q. SO YOU'D HEAR ABOUT IT ONE WAY OR ANOTHER?

21 A. ONLY, NORMALLY, FROM THE STANDPOINT WHEN THEY
22 WERE GETTING D & B'D, IF YOU WANT TO CALL IT THAT.

23 Q. OKAY.

24 A. AGAIN, WE HAD VERY LITTLE ACTIVITY IN THE
25 COLLECTION.

26 Q. LOOK AT THE EXHIBIT THAT I ASKED YOU TO LOOK
27 AT, MR. CLAY. IT'S A REAL -- THE THICKEST ONE.

28 A. WHAT NUMBER WAS IT?

1 Q. IT'S 769.

2 OKAY. AND IT STARTS -- AND IT'S THAT
3 COMPUTER PAGE YOU CAN SEE THERE. YOU DON'T NEED TO LOOK
4 TOO CLOSELY AT THAT PAGE BECAUSE WHAT I'D LIKE YOU TO DO IS
5 FLIP THROUGH THE BOOK. IT'S ORGANIZED ALPHABETICALLY, AND
6 I'D LIKE YOU TO FLIP TO THE PAGE FOR TEXAS EASTERN
7 TRANSMISSION, DANVILLE, KENTUCKY.

8 A. DOES THAT HAVE A NUMBER?

9 Q. ACTUALLY, THE PAGES ARE NOT NUMBERED SO YOU
10 NEED TO FLIP UNTIL YOU FIND IT.

11 MAY I APPROACH THE WITNESS?

12 THE COURT: YES. MR. TALLON, WOULD YOU APPROACH AND
13 FIND THE PAGE.

14 MR. TALLON: YEAH.

15 Q. DANVILLE, KENTUCKY.

16 OKAY. TAKE A LOOK AT THAT AND SEE IF THAT
17 REFRESHES YOUR RECOLLECTION AS TO THE AMOUNT OF SALES MADE
18 OF TURBINOL DURING THE TIME THAT YOU WERE THE SALESMAN FOR
19 TEXAS EASTERN?

20 A. THE ONLY THING THAT IT SAYS TO ME IS THAT
21 TURBINOL-153, OBVIOUSLY, WAS USED AT THIS LOCATION.

22 Q. RIGHT. THEN DO YOU REMEMBER WHETHER THEY
23 ADDED NEW TURBINES AT THAT LOCATION?

24 A. I HAVE NO -- NO RECALL WHATSOEVER ON THAT.

25 Q. ALL RIGHT. HOW ABOUT, COULD YOU FLIP TO THE
26 PAGE FOR LA ROSA.

27 A. IS THAT THE NEXT ONE?

28 Q. IT SHOULD BE. LET ME JUST GIVE YOU A HAND

1 THERE.

2 THERE WE GO. DOES THAT HELP YOU RECOLLECT AT
3 ANY LENGTH ABOUT THE AMOUNT OF SALES OF TURBINOL?

4 A. AGAIN, I'D HAVE TO BE VERY HONEST ABOUT IT;
5 IS THAT I DON'T HAVE A SPECIFIC RECOLLECTION NOW OR EVEN AT
6 THE TIME WORKING WITH TURBINOL-153 BECAUSE I REALLY JUST
7 LOOKED AT -- WE DIDN'T TRACK WHERE THE TURBINOL WENT. I
8 DIDN'T.

9 WE JUST MADE SURE, ARE THEY HAPPY. THE ONE
10 CRITICAL THING THAT WE HAD TO BE CONCERNED ABOUT IS, DO WE
11 HAVE THE INVENTORIES, SO WE WOULD TRACK THEIR CONSUMPTION
12 ON THAT BASIS. AS I RECALL, THAT WAS THE PRIME REASON FOR
13 LOOKING AT THEIR CONSUMPTIONS.

14 Q. DO YOU REMEMBER WHETHER 51,000 POUNDS WERE
15 SOLD FOR THE USE AT THE LA ROSA STATION IN 1969?

16 A. ABSOLUTELY NOT.

17 Q. DO YOU REMEMBER IF 31,000 POUNDS WERE SOLD
18 FOR LA ROSA IN --

19 A. NO.

20 Q. BASED ON THE WORK THAT YOU DID WITH TEXAS
21 EASTERN, WOULD YOU THINK THAT ALL OF THAT WOULD BE
22 ACCOUNTED FOR BY ONE NEW TURBINE OR SEVERAL NEW TURBINES?

23 A. I HAVE NO IDEA. I HAVE NO RECOLLECTION OF
24 THIS STATION -- OF ANY STATION.

25 Q. OKAY. SO IF TEXAS EASTERN WAS BUYING 300,000
26 POUNDS OF TURBINOL EVERY YEAR, YOU WOULDN'T KNOW WHERE THAT
27 WAS GOING?

28 A. WE DIDN'T TRACK IT. I JUST WAS HAPPY FROM

1 YEAR TO YEAR TO YEAR THAT THEY CONSUMED THE SAME QUANTITY
2 OF MATERIAL. I PROBABLY WOULD HAVE BEEN THE LAST TO KNOW
3 IF THERE WAS A PROBLEM.

4 Q. TAKE A LOOK, IF YOU WOULD, AS LONG AS WE'RE
5 IN THAT BOOK. COULD YOU FLIP BACK FOR A SECOND TO -- LET'S
6 SEE -- THE PAGE THAT SAYS, "TEXAS EASTERN TRANSMISSION,"
7 OAKSVILLE, KENTUCKY.

8 IT SHOULD BE THE ONE IMMEDIATELY -- DO YOU
9 HAVE THAT NOW?

10 A. YES.

11 Q. WHAT YOU'RE LOOKING AT IS THE SALES SUMMARY,
12 RIGHT, THE TYPED PAGE?

13 FLIP AND SEE, IF YOU WOULD. THE ORGANIC
14 DIVISION, FUNCTIONAL FLUIDS, COMPUTER REPORT.

15 DO YOU HAVE THAT?

16 A. IS THAT THE SECOND PAGE?

17 Q. YES.

18 A. YES.

19 Q. IF YOU LOOK THERE.

20 NO. EXCUSE ME. THIRD PAGE.

21 RIGHT ON THE BOTTOM OF THE PAGE, YOU SEE IT'S
22 PRINTED OVER ON THE LEFT-HAND SIDE, TEXAS EASTERN,
23 OAKSVILLE, KENTUCKY?

24 A. CORRECT.

25 Q. AND THEN OVER TO THE -- IN THE RIGHT JUST
26 BEFORE THE RIGHT-HAND SIDE, IT SAYS, "AR," AND THEN A
27 NUMBER?

28 A. YES.

1 Q. IS THAT AN ACCOUNT RECEIVABLE NUMBER?

2 A. I HAVE -- I CANNOT -- I HAVE NO IDEA.

3 Q. SO YOU DON'T RECOLLECT WORKING WITH ACCOUNT
4 RECEIVABLE NUMBERS LIKE THIS ONE?

5 A. NO, NOT AT ALL.

6 Q. LET ME ASK YOU ABOUT A COUPLE OF SPECIFIC
7 THINGS ABOUT TEXAS EASTERN, MR. CLAY.

8 NOW, WHEN YOU WERE WORKING FOR MONSANTO BACK
9 IN THE '70'S, YOU KNEW THAT PCB'S COULD CAUSE LIVER DAMAGE,
10 RIGHT?

11 A. I DON'T THINK IT WAS CONCLUSIVE, AS I RECALL.
12 I THINK THAT'S THE FIRST STUDY THAT I HEARD ABOUT, BUT I
13 DON'T RECALL IT BEING CONCLUSIVE.

14 Q. AND YOU DIDN'T GIVE THAT INFORMATION TO TEXAS
15 EASTERN, RIGHT?

16 A. I DON'T RECALL GIVING THEM ANY INFORMATION.

17 Q. YOU DON'T KNOW WHETHER ANYONE ELSE DID
18 EITHER, RIGHT?

19 A. AGAIN, THAT COULD HAVE BEEN HANDLED WITH THE
20 MEDICAL PEOPLE FROM ST. LOUIS.

21 Q. COULD HAVE BEEN, BUT YOU DON'T KNOW?

22 A. I CAN'T RECALL ANY SPECIFICS.

23 Q. YOU DON'T, IN FACT, RECALL ANY SPECIFIC
24 DISCUSSIONS WITH TEXAS EASTERN ABOUT WHAT TURBINOL WAS MADE
25 OF, DO YOU?

26 A. I'M SURE THAT WE TALKED ABOUT IT. WE HAD TO
27 HAVE TALKED ABOUT CHLORINATED POLYPHENYLS. IT'S JUST A
28 MATTER OF DIALOGUE ON TURBINOL-153, BUT I CANNOT RECALL

1 SPECIFICALLY.

2 Q. I JUST WANT TO BE CLEAR ON THAT, MR. CLAY,
3 BECAUSE WE'RE ASKING FOR YOUR BEST RECOLLECTION.

4 A. OKAY.

5 Q. YOUR BEST RECOLLECTION IS, YOU HAVE NO
6 RECOLLECTION OF TALKING WITH TEXAS EASTERN ABOUT WHAT WAS
7 IN TURBINOL, CORRECT?

8 A. I CAN'T, OTHER THAN THE TOXICITY SITUATION
9 THAT AROSE YESTERDAY THAT I MENTIONED REGARDING THE PAINT.

10 Q. THE PAINT?

11 A. PAINT COMPATIBILITY, I'M SURE -- NOT SURE,
12 BUT I'M ASSUMING IT CAME UP IN THAT SITUATION.

13 Q. SO YOU CAN'T REMEMBER?

14 A. I CANNOT SPECIFICALLY GIVE YOU AN INSTANCE
15 THAT I -- OTHER THAN IT WAS AUTOMATIC.

16 Q. IN FACT, YOU CAN'T EVEN SAY THAT THE GENERAL
17 CHARACTERISTICS OF TURBINOL WAS DISCUSSED WITH TEXAS
18 EASTERN BY YOUR MEMORY?

19 A. I'M SURE THEY WERE.

20 Q. BUT YOU DON'T RECALL THAT?

21 A. BUT I CAN'T RECALL SPECIFIC INSTANCES.

22 Q. IN FACT, YOU HAVE NO RECOLLECTION OF
23 CONVERSATIONS WITH TEXAS EASTERN ABOUT THE FACT THAT
24 TURBINOL CONTAINED PCB'S, DO YOU?

25 A. I WOULD SAY -- I WOULD ASSUME THAT IF YOU
26 LOOK AT THE EARL FARMER PAPER WHERE THE POLY -- CHLORINATED
27 POLYPHENYLS ARE MENTIONED IN THERE, THAT IT MAY NOT HAVE
28 BEEN WITH TEXAS EASTERN, BUT IT WAS SPECIFICALLY -- I

1 DISCUSSED THAT WITH COLUMBIA GULF USING TEXAS EASTERN'S
2 TERMINOLOGY.

3 Q. WELL, MY QUESTION, THOUGH, WAS: YOU HAVE NO
4 RECOLLECTION OF CONVERSATIONS WITH TEXAS EASTERN ABOUT THE
5 FACT THAT TURBINOL CONTAINED PCB'S, RIGHT?

6 A. AGAIN, PCB'S, OR POLYCHLORINATED BIPHENYL, OR
7 ALSO, BY THAT TERM, IT IS CHLORINATED POLYPHENYL AND
8 CHLORINATED HYDROCARBON. THOSE CAME UP IN DISCUSSIONS, I'M
9 SURE. I CAN'T RECALL SPECIFICALLY.

10 Q. LET'S TALK TO THOSE TERMS.

11 YOU CAN'T BE SURE, BUT YOU THINK THEY DID?

12 A. THAT THEY HAD TO HAVE. I'M GOING ON THAT
13 ASSUMPTION THAT WITH AS MUCH DIALOGUE AS WE HAD, IF IT
14 DIDN'T COME FROM ME, IT CAME FROM OTHER PEOPLE IN THE
15 ORGANIZATION.

16 Q. BUT THAT'S AN ASSUMPTION YOU'RE MAKING?

17 A. THAT IS CORRECT.

18 Q. CHLORINATED HYDROCARBON -- YOU'RE NOT A
19 CHEMIST, RIGHT?

20 A. I'M NOT A PRACTICING CHEMIST. I DON'T WANT
21 TO GET INTO HOW MUCH I RETAINED FROM COLLEGE.

22 Q. OKAY. WELL, I'M NOT A CHEMIST EITHER, BUT
23 LET ME ASK YOU THIS: CHLORINATED HYDROCARBONS IS A TERM, A
24 CHEMICAL TERM, THAT INCLUDES THOUSANDS OF COMPOUNDS, RIGHT,
25 AND AMONG THEM WOULD BE PCB'S, RIGHT?

26 A. YES.

27 Q. BUT CHLORINATED HYDROCARBONS IS NOT
28 SYNONYMOUS WITH PCB'S?

1 A. IT DEPENDS ON WHAT LEVEL. IF WE'RE TALKING
2 -- HERE, I GUESS YOU COULD -- IT IS IN THE EYES OF THE
3 BEHOLDER, SORT TO SPEAK.

4 I GUESS IN GENERAL DISCUSSIONS, YOU COULD SAY
5 IT COULD BE. IF YOU WANT TO GET MORE SPECIFIC, THEN PCB'S
6 WOULD NOT BE EQUIVALENT TO CHLORINATED HYDROCARBON.

7 Q. SO IF I WERE TO SAY, CAR IS EQUIVALENT TO
8 AUTOMOBILE, YOU'D AGREE WITH THAT?

9 A. CORRECT.

10 Q. BUT CHLORINATED HYDROCARBONS IS NOT
11 EQUIVALENT TO THE PCB'S IN THE SAME WAY?

12 A. CORRECT.

13 Q. AND CHLORINATED POLYPHENYLS IS A TERM THAT
14 DIFFERS, TOO, ISN'T IT?

15 A. FROM MY UNDERSTANDING AND THE WAY I USED IT,
16 I DIDN'T THINK THERE WAS A DIFFERENCE.

17 Q. BUT THERE IS A DIFFERENCE?

18 A. I HAVE TO TAKE YOUR WORD FOR IT.

19 Q. LET ME ASK YOU, MR. CLAY.

20 YOU CAN'T RECALL ANY TIME WHEN YOU WERE IN
21 DISCUSSIONS WITH TEXAS EASTERN WHEN PCB'S EVEN CAME UP AS A
22 SUBJECT OF DISCUSSION, RIGHT?

23 A. THAT IS CORRECT.

24 Q. YOU AREN'T AWARE OF ANYONE FROM MONSANTO
25 TELLING TEXAS EASTERN THAT TURBINOL CONTAINED PCB'S, AM I
26 RIGHT?

27 A. SPECIFICALLY, IF IT HAD TO HAVE BEEN
28 DISCUSSED, CHLORINATED POLYPHENYLS HAD TO HAVE BEEN

1 DISCUSSED IN THE DEVELOPMENT OF THE CHEMISTRY WHICH WAS
2 DONE BY MONSANTO AND TEXAS EASTERN.

3 Q. BUT YOU DON'T KNOW ANYTHING PERSONALLY ABOUT
4 THE DEVELOPMENT OF TURBINOL, DO YOU?

5 A. NO, I WAS NOT THERE.

6 Q. OKAY. SO YOU DON'T KNOW WHAT WAS DISCUSSED,
7 DO YOU?

8 A. NO.

9 Q. OKAY. AND MR. CLAY, I JUST WANT TO BE SURE I
10 UNDERSTAND THIS.

11 YOU'RE SAYING THAT YOU DON'T RECALL ANY OF
12 THE SPECIFIC DISCUSSIONS, BUT YOU'RE SURE THEY TOOK PLACE?

13 A. IN MY OPINION, IS THAT IT WAS INEVITABLE.

14 AGAIN, IT WAS SOMETHING THAT HAD PRECEDED MY
15 TAKING OVER THE ACCOUNT AS A MAINTENANCE ACCOUNT, AND THAT
16 WHEN WE REFERENCE PRODUCTS AS CHLORINATED HYDROCARBONS OR
17 CHLORINATED POLYPHENYLS, THAT THAT WAS SOMETHING THAT CAME
18 UP AS OFTEN AS TURBINOL-153, BUT IT SPECIFICALLY CAME UP
19 WITH COLUMBIA GULF WHEN WE STARTED WORKING OR WHEN I
20 ATTEMPTED TO SELL COLUMBIA GULF THE TURBINOL-153.

21 Q. IN FACT, THERE AREN'T ANY DISCUSSIONS THAT
22 YOU HAD WITH TEXAS EASTERN THAT STAND OUT IN YOUR MIND,
23 RIGHT?

24 A. THAT'S CORRECT.

25 Q. NOW, ONE THING WE COULD LOOK AT WOULD BE CALL
26 REPORTS TO SEE WHAT WAS DISCUSSED?

27 A. EXACTLY.

28 Q. AND YOU PREPARED CALL REPORTS IF SOMETHING

1 SIGNIFICANT WAS DISCUSSED, RIGHT?

2 A. AS I SAID YESTERDAY, I WAS SUPPOSED TO HAVE
3 PREPARED CALL REPORTS THAT HAD SIGNIFICANCE. MORE TIMES
4 THAN NOT, I DIDN'T. I WAS DELINQUENT IN THAT, AS I SAID
5 YESTERDAY.

6 Q. AND THE PEOPLE THAT YOU REPORTED TO GOT ON
7 YOUR CASE FOR THAT, RIGHT?

8 A. I WOULD SAY THEY WEREN'T HAPPY.

9 Q. AND THEY WANTED YOU TO PREPARE CALL REPORTS?

10 A. THEY REQUESTED THAT, YES.

11 Q. BECAUSE CALL REPORTS WERE AN IMPORTANT PART
12 NOT ONLY OF YOUR JOB FUNCTION BUT OF THEIRS?

13 A. MORE TIMES THAN NOT, YES.

14 Q. SO YOU WOULD AGREE WITH ME THAT WHILE YOU
15 LAPSED, FELL INTO SIN ON NOT DOING CALL REPORTS ALL THE
16 TIME, YOU TRIED TO DO IT?

17 A. UM, I TRIED TO DO IT WHERE I COULD. TO BE
18 PERFECTLY HONEST, WHERE I COULD GET AWAY WITH IT, I DIDN'T
19 DO IT.

20 Q. I SEE.

21 A. AND I'VE GOT TO GO BACK TO TEXAS EASTERN, IN
22 ALL HONESTY, AND SAY THAT I COULDN'T -- THAT THAT WAS A
23 MAINTENANCE ACCOUNT, SO MANY PEOPLE WERE INVOLVED IN IT,
24 THAT I JUST DIDN'T -- I COULD GET AWAY WITH IT THERE MORE
25 THAN I COULD ON A NEW ACCOUNT.

26 YOU SEE, CALL REPORTS FROM COLUMBIA GULF, I
27 WAS VERY EXCITED ABOUT THAT. I WANTED TO PUBLISH THAT,
28 HEY, I'VE MADE -- I'M SUCCESSFUL, I MADE A SALE, SO I WROTE

1 CALL REPORTS ON THAT. SO I WAS PICKY.

2 Q. WAS YOUR COMPENSATION AT ALL TIED UP IN THE
3 VOLUME OR AMOUNT OF SALES YOU MADE?

4 A. NONE WHATSOEVER. THE --

5 Q. I'M SORRY.

6 A. THE GREAT THING ABOUT WORKING FOR MONSANTO AT
7 THE TIME IS THAT WE WERE NOT ON COMMISSION. IT WAS ALL
8 SALARY, NO BONUS, WHICH GAVE US THE LUXURY OF TIME TO WORK
9 WITH CUSTOMERS. WE DIDN'T HAVE THE PRESSURE OF HAVING TO
10 MAKE A SALE TOMORROW OR THE NEXT DAY IN ORDER TO MAKE
11 MONEY.

12 WE COULD WORK WITH THEM FOR A YEAR OR TWO
13 YEARS OR WHATEVER, BE COMPENSATED WITH A SALARY AND NOT
14 FEEL THE STRESS OR PRESSURE OF HAVING TO HAVE MONEY COMING
15 IN BASED UPON THE CONSUMMATED SALE. SO, YEAH, WE HAD --
16 THERE WAS NO COMPENSATION OTHER THAN SALARY.

17 Q. WELL, WE DID TAKE A LOOK AT A COUPLE OF CALL
18 REPORTS YOU MADE ON TEXAS EASTERN, RIGHT?

19 A. I DON'T RECALL.

20 Q. WE LOOKED AT THEM TODAY.

21 A. OKAY.

22 Q. OKAY. WELL, PERHAPS WE SHOULD SHOW YOU A
23 COUPLE.

24 LET'S SEE. MR. ZIMMER SHOWED YOU 567.

25 DO YOU STILL HAVE THAT BOOK OR IS THAT A
26 DIFFERENT BOOK?

27 I THINK IT'S A DIFFERENT BOOK.

28 THE COURT: WE'LL TAKE THE MORNING BREAK AT THIS

1 POINT, MR. TALLON.

2 MR. TALLON: OKAY, YOUR HONOR.

3 THE COURT: WE'LL BE RECESS, LADIES AND GENTLEMEN,
4 UNTIL 11 O'CLOCK. PLEASE RETURN AT 11 O'CLOCK SO WE CAN
5 RESUME.

6

7 (RECESS.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 THE COURT: AND RESUMING. GO AHEAD, MR. TALLON.

2 Q. BY MR. TALLON: MR. CLAY, WE WERE TALKING
3 JUST A MOMENT AGO ABOUT CALL REPORTS. BUT BEFORE WE DID
4 THAT, I WANTED TO ASK YOU A QUESTION.

5 YOUR TESTIMONY IS THAT YOU WERE AWARE THAT
6 TURBINOL CONTAINED PCB'S, RIGHT?

7 A. CORRECT.

8 Q. DID YOU KNOW BEFORE SOMEBODY TOLD YOU THAT
9 PCB'S WERE AN ENVIRONMENTAL CONTAMINATE?

10 A. WOULD YOU REPEAT THAT, PLEASE.

11 Q. DID YOU KNOW BEFORE SOMEBODY TOLD YOU THAT
12 PCB'S WERE AN ENVIRONMENTAL CONTAMINATE?

13 A. NO.

14 Q. SO YOU'RE SAYING THAT BASED ON YOUR READING
15 OF EARL FARMER'S ARTICLE, HE KNEW THAT TURBINOL CONTAINED
16 CHLORINATED POLYPHENYLS, RIGHT?

17 A. RIGHT.

18 Q. SO YOU WOULDN'T ASSUME THAT HIS KNOWING THAT
19 MEANT THAT HE KNEW IT WAS AN ENVIRONMENTAL CONTAMINATE,
20 RIGHT?

21 A. IT WAS THE SAME ISSUE WITH ME. IS THAT
22 POLYCHLORINATED POLYPHENYLS WERE THE SAME THING AS PCB'S.
23 PCB'S CAME MORE THEREAFTER, AFTER THE FACT, AN EMOTIONAL --
24 WHEN THEY CAME BECAME EMOTIONAL, IF YOU WILL,
25 ENVIRONMENTALLY.

26 Q. SURE. BUT YOU WOULD SAY, I TAKE IT, BASED ON
27 YOUR RESPONSE, THAT KNOWING THAT A PRODUCT CONTAINS
28 POLYCHLORINATED -- CHLORINATED POLYPHENYL IS NOT THE SAME

1 THING AS KNOWING THAT IT'S AN ENVIRONMENTAL CONTAMINATE?

2 A. I WOULD SUBJECT, I GUESS, THAT TO CHEMICAL.
3 YOU KNOW, IS ONE CHEMICAL THE SAME AS THE OTHER, AND DO YOU
4 CALL IT AN APPLE OR DO YOU CALL IT A -- THAT'S A POOR
5 ANALOGY. DO YOU CALL IT APPLES AND APPLES.

6 MY BELIEF WAS AT THE TIME THAT
7 POLYCHLORINATED POLYPHENYLS WAS THE SAME AS PCB'S.

8 Q. OH, I UNDERSTAND. AND I ASKED YOU A MOMENT
9 AGO IF YOU KNEW IT CONTAINED PCB'S, WHATEVER YOU CALLED IT,
10 RIGHT?

11 A. CHLORINATED POLYPHENYLS, RIGHT.

12 Q. BUT YOU DIDN'T KNOW UNTIL SOMEBODY TOLD YOU
13 THAT THE PCB WAS AN ENVIRONMENTAL CONTAMINATE?

14 A. OR THERE WERE CONCERNS ABOUT IT AT THE TIME.

15 Q. RIGHT. YOU DIDN'T KNOW UNTIL SOMEBODY TOLD
16 YOU?

17 A. CORRECT.

18 Q. SO YOU'RE NOT SAYING THAT IF MR. FARMER KNEW
19 THAT TURBINOL CONTAINED CHLORINATED POLYPHENYL, THEREFORE,
20 HE ALSO HAD TO KNOW THAT IT WAS AN ENVIRONMENTAL
21 CONTAMINATE, RIGHT?

22 A. AGAIN, I WOULD ASSUME THAT IF WE CALLED IT
23 CHLORINATED POLYPHENYL, THAT THAT WOULD BE PCB. THAT WOULD
24 BE -- THAT'S MY RECOLLECTION. THAT IS, I USE THAT
25 INTERCHANGEABLY. PCB WAS THE DEFINITION AFTER THE FACT OF
26 THAT CHEMISTRY.

27 Q. OH, I UNDERSTAND.

28 A. EASIER WAY THAN TO SAY IT. OBVIOUSLY, WE'RE

1 SAYING CHLORINATED POLYPHENYLS --

2 Q. SHOULD WE USE THE TERM PCB?

3 A. YES.

4 Q. OKAY. BUT MY QUESTION WAS: YOU'RE NOT
5 SAYING, ARE YOU, THAT IF FARMER KNEW THAT PCB'S WERE
6 TURBINOL, HE ALSO HAD TO KNOW THAT PCB'S WERE AN
7 ENVIRONMENTAL CONTAMINATE?

8 A. I DON'T KNOW WHETHER -- I DON'T KNOW WHETHER
9 HE MADE THAT CONNECTION OR NOT.

10 Q. WELL, YOU DIDN'T TELL HIM THAT?

11 A. NO, I DON'T RECALL MAKING THAT STATEMENT.

12 Q. AND AS FAR AS YOU KNOW, NO ONE AT MONSANTO
13 TOLD HIM THAT EITHER?

14 A. I DON'T HAVE A FEEL FOR WHAT IT WAS. I'M
15 SURE MONSANTO TALKED TO HIM ABOUT IT, BUT I WASN'T PRIVY TO
16 THE CONVERSATION. IT MAY HAVE BEEN AFTER MY TIME.

17 Q. SO WHEN DID YOU GET OFF THE ACCOUNT?

18 A. I THINK IT WAS '71.

19 Q. I TAKE IT, YOUR TESTIMONY IS, YOU DON'T KNOW
20 ONE WAY OR THE OTHER?

21 A. WHAT?

22 Q. YOU DON'T KNOW ONE WAY OR THE OTHER WHETHER
23 ANYONE AT MONSANTO TOLD EARL FARMER THAT PCB'S WERE AN
24 ENVIRONMENTAL CONTAMINATE?

25 A. I CAN ONLY ASSUME.

26 Q. AND IN FACT, YOU CAN'T RECALL TELLING ANYONE
27 AT TEXAS EASTERN THAT PCB WAS AN ENVIRONMENTAL CONTAMINATE,
28 RIGHT?

1 A. THAT IS CORRECT.

2 Q. AND YOU CAN'T SAY THAT ANYONE AT MONSANTO
3 TOLD TEXAS EASTERN THAT PCB'S WERE AN ENVIRONMENTAL
4 CONTAMINATE, RIGHT?

5 A. I CAN ONLY ASSUME WITH THE CLOSE DIALOGUE
6 THAT EXISTED BETWEEN THE TWO COMPANIES THAT CONVERSATION
7 HAD EXISTED ALONG THOSE LINES.

8 Q. I UNDERSTAND. BUT WHEN YOU USED THE TERM, "I
9 CAN ONLY ASSUME," THAT MEANS YOU DON'T KNOW WHETHER OR NOT
10 THAT HAPPENED?

11 A. NO, I DID NOT WITNESS IT.

12 Q. AND YOU DON'T KNOW WHETHER OR NOT IT
13 HAPPENED?

14 A. I CAN'T TELL YOU.

15 Q. OKAY. NOW, LET'S LOOK AT ONE OF THE EXHIBITS
16 THAT MR. ZIMMER SHOWED YOU.

17 I'M SORRY. I OPENED THAT BOOK IN FRONT OF
18 YOU FOR A PURPOSE AND I FORGOT ABOUT IT. TRANSWESTERN 202.

19 DO YOU HAVE THAT?

20 A. YES.

21

22 (MARKED FOR ID: = 202, 6-2-71 CALL REPORT)

23

24 Q. BY MR. TALLON: OKAY. THAT'S A CALL REPORT
25 THAT YOU DID DO, RIGHT?

26 A. THAT'S CORRECT.

27 Q. OKAY. AND THAT'S ONE MORE A CALL ON THE
28 TENNESSEE VALLEY AUTHORITY?

1 A. CORRECT.

2 Q. OKAY. AND IT'S WHEN, SUMMER OF '71?

3 A. APPEARS TO BE.

4 Q. SO IF I WERE TO READ UP IN THE FAR RIGHT-HAND
5 CORNER, DOES THAT SAY, "DATE OF CALL"?

6 A. RIGHT.

7 Q. 6-2-71?

8 A. CORRECT. APPEARS TO BE.

9 Q. AND THAT WAS A CALL THAT YOU MADE -- MAY I?
10 THAT WAS A CALL THAT YOU MADE ON THE FOLKS AT
11 TVA TO TRY TO SELL THEM TURBINOL?

12 A. EXACTLY.

13 Q. AND NOTHING THAT APPEARS IN THIS CALL REPORT
14 SAYS ANYTHING ABOUT TURBINOL OR PCB'S BEING AN
15 ENVIRONMENTAL CONTAMINATE, RIGHT?

16 A. THAT'S CORRECT.

17 Q. AND TAKE A LOOK, IF YOU WOULD, AT 203.
18 THAT'S A FOLLOW-UP CALL TO TVA?

19

20 (MARKED FOR ID: = 203, 6-14-71 CALL REPORT)

21

22 THE WITNESS: EXCUSE ME. THIS IS THE FIRST TIME
23 I'VE SEEN THESE IN 20-SOME-ODD YEARS, SO . . .

24 I CAN'T SAY IT'S A FOLLOW-UP CALL
25 SPECIFICALLY BECAUSE IT SAYS HERE, I SHOULD CONTACT BOB
26 RECTOR FOR FURTHER DISCUSSIONS ON THIS REPORT.

27 IT SAYS, BOB RECTOR WAS NOT CONTACTED, SO I
28 DON'T KNOW IF THERE'S A CONNECTION BETWEEN THE TWO.

1 Q. BY MR. TALLON: BUT IT WAS AN ADDITIONAL CALL
2 ON TVA?

3 A. YES.

4 Q. TVA, THAT'S THE TENNESSEE VALLEY AUTHORITY?

5 A. THAT'S CORRECT.

6 Q. IN THIS CASE, YOU WERE PITCHING THE SALE OF
7 PYDRAUL-135 AND TURBINOL-153?

8 A. YES.

9 Q. AND THIS IS A TWO-PAGE CALL REPORT, SO THIS
10 ONE GOT A LITTLE BIT MORE DETAILED THAN THE ONE WE JUST
11 LOOKED AT, RIGHT?

12 A. CORRECT.

13 Q. BUT AMONG THE DETAILS, THERE'S BEEN NOT ONE
14 WORD ABOUT ENVIRONMENTAL CONTAMINATION?

15 A. EXACTLY. PRIMARILY, BECAUSE AT THAT POINT IN
16 TIME, PCB'S WERE BEING DISCUSSED BUT HAD NOT BEEN INDICTED,
17 SO WE WERE FREE TO TALK ABOUT THE PRODUCT AND HAVE THE
18 UTMOST CONFIDENCE IN THE PRODUCT, ESPECIALLY WHEN THE
19 APPLICATION THAT WE'RE TALKING ABOUT IN A CLOSED SYSTEM
20 WITH TURBINES. SO THERE YOU HAD A DEGREE OF CONFIDENCE.

21 Q. A DEGREE OF CONFIDENCE THAT IT WOULD NEVER
22 LEAK AT ALL?

23 A. NO. IT WAS A CLOSED SYSTEM. YOU DIDN'T RUN
24 THE RISK AS YOU DO WITH A CLOSED LOOP, WHICH IS
25 RECIRCULATING FLUID UNDER HIGH PRESSURE, WHERE YOU
26 DEFINITELY CAN COUNT ON SOME LEAKS.

27 Q. DEFINITELY CAN COUNT ON SOME LEAKS?

28 A. MORE TIMES THAN NOT, LET'S SAY. GOOD

1 HOUSEKEEPING WOULD DICTATE.

2 Q. IN FACT, YOU KNEW THAT TURBINOL COULD LEAK
3 FROM THE COMPRESSOR, RIGHT?

4 A. AS I SAID YESTERDAY, BECAUSE OF SEAL FAILURES
5 OR THE INAPPROPRIATE SEALS OR BECAUSE OF POOR MAINTENANCE,
6 YOU COULD HAVE A PROBLEM. YOU COULD HAVE SOME LEAKAGE WITH
7 THE SEALS.

8 Q. IN FACT, YOU KNEW THAT TURBINOL WAS GETTING
9 INTO THE PIPELINE?

10 A. I ABSOLUTELY DID NOT.

11 Q. DO YOU KNOW IF TURBINOL COULD GET INTO THE
12 PIPELINE?

13 A. I'M SURE THERE'S A POSSIBILITY, BUT I DIDN'T
14 KNOW IT FOR A FACT.

15 Q. THAT'S A CONCLUSION YOU WOULD DRAW?

16 A. I NEVER -- I NEVER TRACKED WHERE THE FLUID
17 WAS GOING OR WAS COGNIZANT OF WHERE IT WAS GOING IN THE
18 SYSTEM.

19 Q. BUT IT'S A CONCLUSION THAT YOU WOULD DRAW
20 NOW, CERTAINLY?

21 A. I'M NOT SURE I COULD STILL DRAW THAT ON THE
22 BASIS OF WHAT I RECALL, BUT I WOULD ASSUME THE POSSIBILITY
23 EXISTED.

24 Q. WELL, LET ME READ FROM YOUR DEPOSITION, MR.
25 CLAY, PAGE 136, STARTING WITH LINE 2 GOING THROUGH LINE 20.

26 A. IS THERE A PAGE?

27 Q. YOU DON'T HAVE IT.

28 MR. ZIMMER: THROUGH LINE?

1 MR. TALLON: SORRY.

2 MR. ZIMMER: THROUGH LINE WHAT?

3 MR. TALLON: THROUGH LINE 20.

4 MR. ZIMMER: OKAY.

5 THE COURT: GO AHEAD.

6 Q. BY MR. TALLON: (READING):

7

8 "WHAT ABOUT -- LET'S SEE? DO
9 YOU KNOW IF TURBINOL COULD LEAK IN THE GAS
10 PIPELINE?

11 "A. I WOULD ASSUME IF THERE'S A
12 SEAL THERE AND THERE'S INTERFACE OF THE
13 SYSTEM WITH THE PIPELINE THAT YOU WOULD HAVE
14 -- COULD HAVE A LEAK THERE, YES. IF THAT'S
15 WHERE SEALS ARE PREVALENT. I DON'T KNOW THE
16 INTIMATE STRUCTURE OF SEALS AND HOW THEY
17 INTERFACE WITH THE ACTUAL LIQUID OR GAS
18 THAT'S IN THE SYSTEM, BUT I WOULD SAY, YEAH,
19 YES, THAT WOULD BE A CONCLUSION THAT YOU
20 COULD DRAW."

21

22 SO THAT WOULD BE A CONCLUSION THAT YOU COULD
23 HAVE DRAWN THEN AS WELL AS NOW?

24 A. THAT'S WHAT I -- THAT'S WHAT I WAS TRYING TO
25 -- THAT'S WHAT I THOUGHT I HAD STATED.

26 Q. OKAY. LET'S, IF YOU WOULD, FLIP ON TO THE
27 OTHER DOCUMENT I WANTED TO SHOW YOU, WHICH WAS 125

28 A. IS IT IN THIS BOOK?

1 Q. I DON'T KNOW. IF YOU NEED TO, ON THE SPINE
2 OF EACH BINDER THERE'S A LIST OF WHAT'S IN IT.

3 SO IT'S 125.

4 NOW, IT'S A MEMO MR. ZIMMER ASKED YOU ABOUT
5 FROM NORM JOHNSON, AND ALL THE PEOPLE WHO ARE IN THIS
6 COLUMN WHERE YOUR NAME APPEARS WERE ALL SALESMEN; IS THAT
7 RIGHT?

8 A. AS I RECALL, YES.

9 Q. OKAY. AND THAT'S DATED FEBRUARY 16, 1970,
10 RIGHT?

11 A. YES.

12 Q. OKAY. NOW, WERE YOU TOLD AT THE TIME THIS
13 MEMO CAME OUT THAT IT WAS ESTABLISHED THAT AROCLOR-1264 AND
14 -1260 WERE BEING FOUND IN THE ENVIRONMENT?

15 A. AS I RECALL FROM THIS LETTER, THAT IS, THERE
16 WAS A CONCERN ABOUT 1254 AND 1260.

17 Q. AND WHAT YOU WERE TOLD BY MR. JOHNSON IN THIS
18 MEMO WAS, "WE WANT TO AVOID ANY SITUATION WHERE A CUSTOMER
19 WANTS TO RETURN FLUID," RIGHT?

20 A. RIGHT.

21 Q. AND WHAT MR. JOHNSON FURTHER TOLD YOU WAS, WE
22 WOULD PREFER THAT THE CUSTOMER USE UP HIS CURRENT INVENTORY
23 AND PURCHASE OTHER PRODUCTS, WHEN AVAILABLE, RIGHT?

24 A. EXACTLY.

25 Q. AND THAT THE CUSTOMER COULD THEN TOP THAT
26 WITH THE NEW FLUID; EVENTUALLY, ALL THE AROCLOR-1254 AND
27 -1260 WILL BE OUT OF HIS SYSTEM, RIGHT?

28 A. CORRECT.

1 Q. SO WHAT MR. JOHNSON WAS TELLING YOU WAS --
2 WELL, YOU KNEW THAT 1254 AND 1260 WERE BEING FOUND IN THE
3 ENVIRONMENT, RIGHT?

4 A. I GUESS I'M A LITTLE UNCOMFORTABLE WITH "FOUND
5 IN THE ENVIRONMENT." I KNEW THAT 1254 AND 1260 WERE OF
6 CONCERN BECAUSE --

7 Q. SERIOUS CONCERN.

8 A. WELL, AT THAT TIME, AT THE TIME -- AT THAT
9 TIME, THEY WERE BEING -- THERE WAS CONCERN, BUT THERE
10 WEREN'T ANY INDICTMENTS AT THAT TIME, AS I RECALL. BUT,
11 YEAH, IF IT WAS FOUND IN THE ENVIRONMENT --

12 Q. OKAY.

13 A. -- THAT'S PROBABLY WHY THERE WAS A CONCERN.

14 Q. BUT WHAT MR. JOHNSON WAS PROPOSING, AS YOU
15 UNDERSTOOD IT, WAS THE CUSTOMER USE UP WHAT THEY'VE GOT
16 AND, EVENTUALLY, IT WILL BE USED UP IN THEIR SYSTEMS,
17 RIGHT?

18 A. IT WOULD EVENTUALLY, YES.

19 Q. SO CONTINUE TO USE THE STUFF THAT WE KNOW IS
20 BEING FOUND IN THE ENVIRONMENT AND THEN WE CAN SELL THEM
21 THE NEW PRODUCTS?

22 A. WELL, AGAIN, THERE'S -- AS I VIEW IT, THERE'S
23 TWO ASPECTS TO THAT.

24 ONE, THAT WE'RE DEALING WITH PYDRAUL AND
25 RECIRCULATING SYSTEMS WHERE YOU HAVE LEAKAGE. IT'S ALMOST
26 IMPOSSIBLE NOT TO, FROM MY STANDPOINT, OR AS I RECALL.

27 AND NUMBER TWO, YOU STILL WERE DEALING WITH
28 THE CONCERN THAT THE 1254 AND THE 1260 -- THERE WAS A

1 CONCERN, BUT THERE WAS NOT AN INDICTMENT. SO WE WERE
2 TRYING TO DEAL WITH THE CUSTOMER AS FUNDAMENTALLY AND AS
3 PROFESSIONALLY AS POSSIBLE IN LETTING THEM KNOW WHAT WAS
4 GOING ON, AND WE DID NOT WANT TO ESTABLISH, AS I SAID
5 EARLIER, A PANIC IN THE SITUATION, BECAUSE WE DID NOT KNOW
6 IT AT THAT TIME THAT THERE WAS A GREAT CONCERN WITH PCB'S.
7 ALL WE KNEW IS THAT THERE WAS NOT AN INDICTMENT. ALL WE
8 KNEW IS THAT THERE WAS A CONCERN, AND WE WERE CONCERNED
9 ABOUT IT AS THE CUSTOMER WAS.

10 Q. ARE YOU SAYING THAT THE SALES FORCE DIDN'T
11 KNOW THAT OR THAT MANAGEMENT DIDN'T KNOW THAT?

12 A. DIDN'T KNOW?

13 Q. ARE YOU SAYING THAT THE SALES FORCE DIDN'T
14 KNOW THERE WAS A PROBLEM WITH PCB'S OR THAT MANAGEMENT
15 DIDN'T KNOW?

16 A. I'M SAYING THAT THE -- THERE WAS A CONCERN
17 ABOUT PCB'S, GENERALLY, BUT THERE WAS, AS FAR AS AN
18 INDICTMENT AGAINST PCB'S, THERE WAS NOT.

19 SO THIS -- IN THAT CONTEXT, WE WERE ABLE TO
20 WORK WITH THE CUSTOMER, SAY, DON'T PANIC, WE HAVE THINGS
21 UNDER CONTROL, WE WILL DEVELOP REPLACEMENT PRODUCTS SO
22 THERE'S NOT ANY LONG-TERM LIABILITIES WITH YOU, MR.
23 CUSTOMER, WE DON'T SEE ANY REASON FOR YOU TO BE CONCERNED
24 TODAY, WE WILL GIVE YOU NEW FORMULATED PRODUCT THAT YOU CAN
25 TOP OFF YOUR SYSTEM WITH.

26 Q. YOU SAW NO REASON TO BE CONCERNED ABOUT
27 AROCLOR-1254 AND -1260 AT THE TIME OF THIS MEMORANDUM?

28 A. THAT'S WHAT I'M TRYING TO SAY.

1 Q. I SEE. SO FAR AS YOU WERE CONCERNED, IT WAS
2 OKAY FOR THE CUSTOMER TO CONTINUE TO USE UP THE SUPPLY ON
3 HAND OF THOSE PRODUCTS, RIGHT?

4 A. EXACTLY.

5 Q. WHETHER OR NOT THAT WAS LEAKING OR SPILLING
6 OR GOING INTO THE ENVIRONMENT?

7 A. AGAIN, AT THAT TIME, WE WERE BEING TOLD WHAT
8 EVERYBODY ELSE WAS BEING TOLD AS TO, THERE ARE CONCERNS
9 ABOUT THIS, BUT WE DON'T SEE THE CONSEQUENCES OF THOSE
10 CONCERNS BEING SUCH THAT YOU WOULD HAVE TO DO ANYTHING
11 DIFFERENT FROM WHAT WE'RE RECOMMENDING.

12 Q. MR. CLAY, YOU DON'T KNOW WHAT EVERYONE ELSE
13 IS BEING TOLD TO YOU?

14 A. NO, NOT AT ALL.

15 Q. SO WHEN YOU'RE USING THAT TERM REPEATEDLY,
16 WHAT YOU'RE SAYING IS, I'M ASSUMING THAT'S WHAT OTHER
17 PEOPLE KNEW?

18 A. OTHER PEOPLE. YEAH. I HAVE TO ASSUME THAT.

19 Q. OKAY. NOW, "WE DON'T WANT TO TAKE FLUID
20 BACK."

21 THAT'S BECAUSE THAT WOULD BE A COST TO
22 MONSANTO, RIGHT?

23 A. WELL, IF YOU LOOK AT IT, IT WOULD BE A COST
24 TO MONSANTO, NO QUESTION. THAT, TO ME, WAS A GIVEN.

25 AS I RECALL, IN LOOKING AT THIS, THE BIG
26 ISSUE WAS THAT IF WE DO HAVE A PROBLEM, NOT THAT WE DID AT
27 THE TIME, BUT WE WERE SUSPECT; THAT LET'S KEEP THAT FLUID
28 IN ONE SPOT, LET'S GO THROUGH THE NORMAL PROCEDURES, LET'S

1 TOP OFF.

2 IF WE TRY TO DRAIN THAT SYSTEM AND TRANSPORT
3 IT BACK AND WE DO HAVE A PROBLEM, EVEN WE RUN THE
4 CONSEQUENCE AND RISK OF HAVING SPILLAGE OR WHATEVER.

5 Q. SO YOU WERE PREPARED TO MAKE THE DECISION FOR
6 YOUR CUSTOMERS RATHER THAN LET THEM MAKE IT?

7 A. NO. THE ULTIMATE DECISION WAS ABSOLUTELY
8 WITH THE CUSTOMER.

9 Q. SO WHY DIDN'T THIS MEMO SAY, LET'S TELL THE
10 CUSTOMERS, BUT THEY CAN RETURN IT, BUT WE'LL GIVE THEM
11 SAFETY INSTRUCTIONS ON HOW TO DO IT?

12 A. BECAUSE AT THAT TIME, WE DIDN'T WANT TO
13 CREATE A PANIC IN THE MARKETPLACE. WE DIDN'T THINK WE HAD
14 TO CREATE A PROBLEM.

15 Q. WHAT PANIC WAS GOING TO BE CAUSED?

16 A. WELL, JUST THAT EVERYBODY WOULD ALL OF A
17 SUDDEN SAY, HEY, PCB'S ARE BAD WHEN THEY WERE NOT PROVEN TO
18 BE BAD, AND WE WERE TRYING TO PRECLUDE THAT. WE WERE
19 TRYING TO DO THIS IN A PROFESSIONALLY ORDERLY FASHION AS
20 FAR AS PHASING IN NEW PYDRAULS AND REPLACING THE OLD.

21 Q. ISN'T IT THE FACT, MR. CLAY, THAT WHAT YOU
22 REALLY WANTED TO DO WAS NOT TAKE BACK THE OLD PRODUCTS
23 BECAUSE THAT WOULD BE A COST TO MONSANTO, AND YOU WANTED TO
24 SELL THE NEW PRODUCTS INSTEAD AT A PROFIT?

25 A. NO. AGAIN, I'M NOT -- I'M NOT SURE THERE WAS
26 MUCH PROFIT TO BEGIN WITH BECAUSE OF THE INVESTMENT IN
27 REFORMULATING PRODUCTS, BUT THAT'S SPECULATION, SHEER
28 SPECULATION.

1 Q. OKAY.

2 A. I READ THIS AS, HOW DO WE WORK WITH THE
3 CUSTOMER. IF WE CANNOT TAKE THE MATERIAL BACK, THAT
4 INSURES THAT WE HAVE LESS EXPOSURE OF THAT MATERIAL TO THE
5 ENVIRONMENT, AND THAT THE CUSTOMER DOESN'T GET INTO A PANIC
6 OR DOESN'T GET INTO A GREAT CONCERN ABOUT, HEY, I'VE GOT A
7 POISON IN MY PLANT OR WHATEVER, I'VE GOT TO GET RID OF IT.

8 WE FELT THAT BEING OPEN WITH THE CUSTOMER AND
9 TALKING WITH HIM ABOUT REPLACING THESE PRODUCTS WITH
10 REFORMULATED PRODUCTS THAT DID NOT HAVE PCB'S, THAT THAT
11 WAS THE BEST APPROACH.

12 Q. SO YOU FELT COMFORTABLE MAKING THIS DECISION
13 FOR THE CUSTOMER?

14 A. NO. ONCE AGAIN, I HAVE TO REITERATE, THE
15 ULTIMATE DECISION WAS WITH THE CUSTOMER. IF WE WALKED IN
16 AND SAID, OKAY, WE DON'T WANT THE FLUID BACK, THE CUSTOMER
17 SAYS, I WANT TO SEND IT BACK, THE OBVIOUS THING IS, WE
18 WOULD TAKE THE FLUID BACK.

19 Q. YOU DON'T SEE ANY MEMOS INDICATING THAT YOU
20 TOOK FLUID BACK, DO YOU?

21 A. I DON'T HAVE A MEMO, NO. I HAVEN'T SEEN A
22 MEMO, BUT WE DID SET UP RECLAMATION, OR WE HAD SOME
23 RECLAMATION FACILITIES SET UP, BUT I DON'T RECALL WHAT
24 CONTEXT THAT WAS WITH THE PCB'S.

25 Q. OR WHEN IT WAS?

26 A. THAT'S CORRECT.

27 Q. LET'S SEE. SO WHEN MR. JOHNSON WROTE TO YOU
28 TO SELL THEM THE REPLACEMENT, YOU INTERPRETED THAT AS THAT

1 WOULD BE THE BEST THING FOR THE CUSTOMER?

2 A. AT THAT POINT IN TIME, I HAD TO BELIEVE THAT
3 WAS THE BEST THING FOR THE CUSTOMER. AND THE CUSTOMERS, I
4 BELIEVE, AGREED IN HINDSIGHT.

5 Q. TAKE A LOOK AT PAGE 2 OF THAT, WILL YOU.
6 "WE CAN'T AFFORD TO LOSE ONE DOLLAR OF
7 BUSINESS."

8 IS THAT, IN YOUR MIND, CONSISTENT WITH WE
9 WERE WILLING TO TAKE FLUID BACK?

10 A. CONSISTENT WITH THAT WE'RE WILLING TO TAKE
11 FLUID BACK?

12 Q. YEAH.

13 A. I SEE IT MORE AS BEING CONSISTENT WITH, HEY,
14 WE DON'T WANT TO LOSE MONEY IN THIS SITUATION, WE'RE CAUGHT
15 IN THE MIDDLE. WE HAVE PCB'S ON ONE SIDE THAT WE'RE NOT
16 SURE WHERE THIS ISSUE IS GOING TO TAKE US AND HOW SERIOUS
17 IT'S GOING TO GET, AND ON THE OTHER HAND, WE HAVE
18 COMPETITION OUT THERE KNOCKING ON THE DOORS, AS I SAID
19 YESTERDAY, THAT WERE USING THE PCB ISSUE AS AN EXTREMELY,
20 EXTREMELY VIABLE TOOL IN ATTACKING US ON THE PYDRAUL, WHICH
21 WAS NOT -- WHICH WAS A PCB, OF COURSE.

22 Q. SO THERE WON'T HAVE BEEN A PANIC ON THE PART
23 OF CUSTOMERS BECAUSE OF SHORTAGE OF MATERIALS BECAUSE THEY
24 COULD HAVE GONE TO ONE OF YOUR COMPETITORS?

25 A. THAT WAS A REAL POSSIBILITY, YES. THAT'S WHY
26 COMPETITION WAS SO ANXIOUS TO DROP THE WORD "PCB" AT AS
27 MANY ACCOUNTS AS THEY COULD THAT WE HAD.

28 Q. AND IN FACT, THERE WERE COMPETITIVE PRODUCTS

1 FOR TURBINOL, RIGHT?

2 A. YES.

3 Q. THERE WAS FYRQUEL MADE BY STAUFFER?

4 A. RIGHT.

5 Q. THAT DIDN'T CONTAIN PCB'S?

6 A. NO.

7 Q. THERE WAS HOUGHT-O-SAFE MADE BY HOUGHTON

8 COMPANY?

9 A. I DON'T RECALL THAT. I RECALL THE FYRQUEL.

10 Q. YOU RECALL THE FYRQUEL?

11 A. YEAH.

12 Q. AND THERE WAS CELLULUBE, RIGHT?

13 A. I'M NOT CLEAR ON WHETHER THAT WAS OR WAS NOT

14 FYRQUEL, TO BE HONEST. I DON'T KNOW WHETHER THAT WAS ONE

15 IN THE SAME OR THAT WAS SOMEBODY ELSE'S PRODUCT.

16 Q. BUT THOSE WERE COMPETITIVE PRODUCTS THAT WERE

17 AVAILABLE TO BE USED IF THE CUSTOMER DIDN'T WANT TO USE

18 TURBINOL?

19 A. CORRECT.

20 Q. COULD YOU TURN TO THE NEXT PAGE ON THAT

21 EXHIBIT.

22 YOU'VE SEEN THAT LETTER, RIGHT?

23 A. RECENTLY, YES.

24 Q. THAT WENT OUT TO CUSTOMERS, RIGHT?

25 A. TO MY KNOWLEDGE, IT DID. I DON'T RECALL.

26 Q. WELL, IT'S DATED FEBRUARY 9, 1970, RIGHT?

27 A. OKAY.

28 Q. AND PARAGRAPH 2, "PCB'S WITH CHLORINE CONTENT

1 OF LESS THAN 54 PERCENT HAVE NOT BEEN FOUND IN THE
2 ENVIRONMENT AND APPEAR TO PRESENT NO POTENTIAL PROBLEM IN
3 THE ENVIRONMENT."

4 DO YOU SEE THAT LAST PARAGRAPH ON THAT FIRST
5 PAGE?

6 A. WOULD YOU POINT THAT OUT AGAIN.

7 Q. LAST PARAGRAPH.

8 A. OKAY. YES.

9 Q. OKAY. AS A SALESMAN SELLING THESE PRODUCTS,
10 YOU MUST HAVE KNOWN THAT WASN'T TRUE?

11 A. I DON'T UNDERSTAND.

12 Q. AS A SALESMAN SELLING PRODUCTS WITH AROCLOR
13 1242 IN IT, YOU MUST HAVE KNOWN THAT THIS STATEMENT, "PCB'S
14 WITH CHLORINE CONTENT OF LESS THAN 54 PERCENT HAVE NOT BEEN
15 FOUND IN THE ENVIRONMENT AND APPEAR TO PRESENT NO POTENTIAL
16 PROBLEM TO THE ENVIRONMENT," THAT WAS NOT TRUE?

17 A. I DON'T THINK I HAD ANY WAY OF KNOWING IT WAS
18 NOT TRUE. I'M ASSUMING COMING FROM MONSANTO THAT THEY'D --
19 FROM THE HIERARCHY, IT WOULD HAVE BEEN WELL EXPLORED AND
20 THEY WERE FREE TO MAKE THAT STATEMENT.

21 Q. WELL, IN THE SALES FORCE, WERE YOU GETTING
22 REPORTS FROM DR. TUCKER AND DR. KELLER ABOUT THE FACT THAT
23 THEY WERE FINDING 1242 IN THE ENVIRONMENT?

24 A. I DON'T RECALL.

25 Q. IN FACT, THE SALES FORCE REALLY WASN'T KEPT
26 UP TO DATE ON WHAT TUCKER AND KELLER WERE DOING?

27 A. ONLY THING I RECALL IS THAT MONSANTO MADE
28 EVERY EFFORT, IN ALL HONESTY, TO KEEP THE SALES FORCES

1 UPDATE AS POSSIBLE, BECAUSE WE WERE THE FRONT LINE WITH THE
2 CUSTOMER.

3 BUT I KNOW THAT I RELIED ALMOST EXCLUSIVELY
4 ON THE MEDICAL AND TECHNICAL PEOPLE IN ST. LOUIS FOR ANY
5 COMMENTS TO CUSTOMER, AND THEY WOULD HAVE BEEN THE ONES
6 EITHER THROUGH ME OR DIRECTLY TO PROVIDE THAT KIND OF
7 INFORMATION.

8 Q. BUT YOU WEREN'T GIVEN THAT INFORMATION
9 BECAUSE IT WAS SOMEBODY ELSE'S JOB TO PASS IT ON?

10 A. I'M SURE I WAS EXPOSED TO IT, BUT I DON'T
11 RECALL GIVING IT OUT

12 Q. LOOK, IF YOU WOULD, AT TRANSWESTERN 188,
13 PLEASE, MR. CLAY. THAT'S IN VOLUME 4.

14 A. THANK YOU.

15 THE COURT: THAT NUMBER AGAIN, MR. TALLON?

16 MR. TALLON: 188.

17 THE COURT: THANK YOU.

18

19 (MARKED FOR ID: = 188, 1-25-71 LETTER)

20

21 Q. BY MR. TALLON: THAT'S ANOTHER MEMO FROM NORM
22 JOHNSON ABOUT A YEAR LATER, JANUARY 25, '71, RIGHT?

23 A. RIGHT.

24 Q. AND YOU'RE ONE OF THE RECIPIENTS SHOWN ON THE
25 FIRST PAGE IN THE RIGHT-HAND COLUMN?

26 A. CORRECT.

27 Q. OKAY. AND HIS MEMO TO YOU AND OTHERS IS THE
28 SECOND PAGE OF THAT EXHIBIT, RIGHT?

1 A. CORRECT.

2 Q. THE SECOND PARAGRAPH OF THAT MEMO THAT WAS TO
3 YOU AND OTHERS SAYS, "WE STILL HAVE SOME INVENTORY OF
4 PYDRAUL F-9, PYDRAUL FC AND PYDRAUL 625; THESE MUST BE
5 MOVED IN THE NEXT 60 DAYS," RIGHT?

6 A. OKAY.

7 Q. AND THOSE ARE THE PRODUCTS THAT IN MR.
8 JOHNSON'S MEMO OF FEBRUARY 16, 1970 THAT WE JUST LOOKED AT,
9 TRANSWESTERN 125, THOSE ARE THE PRODUCTS THAT YOU WERE
10 TELLING US CONTAINED 1254 AND 1260, RIGHT?

11 A. OKAY.

12 Q. SO A YEAR LATER, YOU WERE STILL SELLING THOSE
13 PRODUCTS, RIGHT?

14 A. RIGHT. AGAIN, I'D HAVE TO SAY WHETHER -- I
15 DON'T KNOW WHAT THE TIME FRAME WAS WITH REFERENCE TO THE
16 CONCERN VERSUS CONSEQUENCE OR INDICTMENT OF PCB.

17 Q. INDICTMENT OF PCB. WHAT IS THAT, EXACTLY, IN
18 YOUR MIND?

19 A. IN MY MIND, IT'S, HEY, WE'VE GOT A BAD
20 PROBLEM HERE, WE'VE GOT TO GET IT OUT OF THE ENVIRONMENT.
21 IT'S OFFICIAL.

22 Q. TO YOUR MIND, WHEN WAS IT OFFICIAL?

23 A. I DON'T RECALL. I WAS PRETTY MUCH OUT OF THE
24 LOOP ON PCB PRODUCTS WHEN I WAS IN ATLANTA, SO --

25 Q. SO WHEN DID YOU GO TO ATLANTA?

26 A. JANUARY OR FEBRUARY, 1971.

27 Q. 1971. SO '71.

28 SO YOU HADN'T HEARD ANYTHING FROM NOVEMBER

1 1966 THROUGH JANUARY 1971 THAT MADE IT OFFICIAL IN YOUR
2 MIND?

3 A. NOVEMBER '66, I WAS STILL IN SCHOOL.

4 Q. OKAY.

5 A. '68, I JOINED MONSANTO.

6 FROM '68 OR '69, REALLY, WHEN I GOT INTO THE
7 FIELD, TO '71, WAS WHEN THE ISSUE CAME UP ON PCB'S.

8 Q. CAME UP?

9 A. WE WERE ALERTED TO PCB EXISTED AND THAT THERE
10 WAS A CONCERN ON PCB'S.

11 Q. WHEN WAS THAT?

12 A. IT WAS IN THAT TIME FRAME, '70, '71.

13 Q. BY THE WAY, JUST TAKE ANOTHER LOOK AT THAT
14 SAME MEMO WE WERE JUST LOOKING AT, TRANSWESTERN 188, AND
15 THE LAST PARAGRAPH.

16 THIS IS BEFORE YOU GO TO ATLANTA, RIGHT?

17 A. IT'S PRETTY CLOSE WHEN I WENT TO ATLANTA. I
18 CAN'T RECALL SPECIFICALLY WHEN I MOVED THERE.

19 Q. AGAIN, MR. JOHNSON WAS A PRETTY AGGRESSIVE
20 SALESMAN, AM I RIGHT?

21 A. MR. JOHNSON?

22 Q. YEAH.

23 A. HE WAS OUR SALES MANAGER.

24 Q. RIGHT. HE WAS A PRETTY AGGRESSIVE SALES
25 MANAGER?

26 A. IT DEPENDS ON HOW YOU DEFINE AGGRESSIVE, I
27 GUESS.

28 Q. OKAY.

1 A. HE WAS THE HEAD MAN AS FAR AS SALES WERE
2 CONCERNED.

3 Q. HE WAS TELLING YOU IN THIS MEMO HE WOULD
4 PREFER NOT TO SHIP THE NEW FORMULATIONS TO ANY CUSTOMERS
5 UNTIL THE OLD FORMULATIONS HAVE BEEN SOLD OUT FROM THE
6 QUEENEY PLANTS OR WAREHOUSES IN YOUR AREA, RIGHT?

7 A. RIGHT.

8 Q. THERE WILL BE EXCEPTIONS, BUT THEY MUST BE
9 MINIMIZED, RIGHT?

10 A. RIGHT.

11 Q. SO THE PROGRAM WAS TO GET RID OF YOUR
12 INVENTORY AND THEN DEAL WITH THE NEW PRODUCTS?

13 A. CORRECT. AGAIN, IT WAS PRETTY MUCH IN LINE
14 AND CONSISTENT WITH WHAT HE TALKED ABOUT ON THE OTHER MEMO.

15 Q. SO WHAT YOU WANTED TO DO WAS TO SELL OUT ALL
16 THE PRODUCTS THAT HAD PCB'S IN THEM BEFORE YOU STARTED
17 PUTTING ON LINE THE PRODUCTS THAT HAD BEEN REFORMULATED TO
18 REMOVE PCB'S?

19 A. IF THE CUSTOMER WAS NOT OVERLY ALARMED OR
20 ALARMED AT ALL BY USING THE PRODUCT. AGAIN, IT GETS BACK
21 TO THE WILLINGNESS OF THE CUSTOMER TO ACCEPT THE PRODUCT.
22 THE CUSTOMERS KNEW ABOUT THE PRODUCTS. THEY KNEW WHAT THE
23 SITUATION WAS BECAUSE WE MADE EVERY ATTEMPT TO INFORM THEM.
24 THEY STILL HAD THE ULTIMATE DECISION AS TO WHETHER THEY
25 ACCEPTED OR REJECTED THE PRODUCT.

26 Q. SO THAT WAS KIND OF A BUYER BEWARE THEORY?

27 A. I DON'T KNOW WHAT THAT THEORY WOULD BE.

28 Q. WELL, WHAT I'M SUGGESTING, MR. CLAY, IS IF

1 YOU KNEW THAT PCB'S ARE A PROBLEM AND YOU WERE SELLING
2 PRODUCTS, WHAT YOU WERE SAYING IS, IT'S UP TO YOU, IT'S
3 YOUR RISK?

4 A. NO. AGAIN, I GUESS I HAVE TO LOOK AT IT ON
5 THE BASIS THAT I KNEW -- WE KNEW THAT THERE WAS A CONCERN
6 FOR PCB'S, BUT THAT WHERE THERE HADN'T BEEN -- THERE WAS NO
7 CONSEQUENCES OR INDICTMENT OF THAT PRODUCT AT THAT POINT,
8 SO WE COULD WORK WITH THE CUSTOMER.

9 IF THEY'RE WILLING TO WORK WITH US, IF WE HAD
10 SOME OF THESE PCB-CONTAINING PRODUCTS STILL AVAILABLE,
11 THERE WOULD BE -- AT THAT POINT IN TIME, IT WAS NOT ANY
12 DIFFICULTY, AS I RECALL, IN SELLING THAT PRODUCT TO THE
13 CUSTOMER. IT WAS JUST, COULD THEY -- WOULD THEY ACCEPT IT
14 OR REJECT IT WAS --

15 Q. I'M SORRY. WERE YOU FINISHED?

16 A. YEAH.

17 Q. AND AS FAR AS YOUR CUSTOMERS, YOU CAN'T SAY
18 THAT YOU EVER TOLD ANYONE AT TEXAS EASTERN ABOUT THE FACT
19 THAT PCB WAS AN ENVIRONMENTAL CONTAMINATE?

20 A. AGAIN, I CANNOT RECALL SAYING IT IN THOSE
21 TERMS OR EXPRESSING IT IN THAT WAY AT ALL.

22 Q. OR AT ALL?

23 A. YEAH.

24 MR. TALLON: NOTHING FURTHER.

25 THE COURT: REDIRECT, MR. ZIMMER.

26 MR. ZIMMER: NOTHING FURTHER, YOUR HONOR.

27 THE COURT: MAY THIS WITNESS NOW BE EXCUSED, MR.
28 ZIMMER?

1 MR. ZIMMER: HE MAY.

2 THE COURT: AND MR. TALLON?

3 MR. TALLON: YES, YOUR HONOR.

4 THE COURT: THANK YOU, SIR, FOR YOUR ATTENDANCE AT
5 THIS TRIAL. YOU'RE EXCUSED FROM FURTHER ATTENDANCE.

6 THE COURT: ANY FURTHER WITNESS, MR. ZIMMER?

7 MR. ZIMMER: YES, YOUR HONOR. MONSANTO CALLS JOHN
8 FREDERIKSEN.

9 THE CLERK: RAISE YOUR RIGHT HAND, SIR, TO BE SWORN.

10

11 JOHN FREDERIKSEN, +
12 DEFENDANT MONSANTO'S WITNESS, HAVING BEEN FIRST DULY SWORN,
13 TESTIFIED AS FOLLOWS:

14 THE CLERK: PLEASE BE SEATED.

15 PLEASE STATE AND SPELL YOUR NAME FOR THE
16 RECORD.

17 THE WITNESS: MY NAME IS JOHN FREDERIKSEN, AND THE
18 NAME IS SPELLED, F-R-E-D-E-R-I-K-S-E-N.

19 THE COURT: MR. ZIMMER.

20

21 DIRECT EXAMINATION +

22 BY MR. ZIMMER:

23 Q. GOOD MORNING, MR. FREDERIKSEN.

24 A. GOOD MORNING.

25 Q. I THINK IT'S STILL MORNING.

26 HOW ARE YOU TODAY?

27 A. FINE.

28 Q. WHERE DO YOU LIVE, SIR?

1 A. I LIVE IN ST. LOUIS.

2 Q. MISSOURI?

3 A. MISSOURI, YES, SIR.

4 Q. ARE YOU MARRIED, SIR?

5 A. YES. I'M MARRIED.

6 Q. DO YOU HAVE A FAMILY?

7 A. I HAVE TWO GIRLS, ONE IN HIGH SCHOOL AND A
8 JUNIOR IN COLLEGE.

9 Q. AND WHAT'S YOUR OCCUPATION?

10 A. I'M A PRODUCT MANAGER FOR A DISTRIBUTION
11 COMPANY IN ST. LOUIS. WE DISTRIBUTE PRODUCTS AND EQUIPMENT
12 FOR THE CONSTRUCTION INDUSTRY.

13 Q. WHAT'S THAT COMPANY CALLED?

14 A. COMPANY IS GOEDECKE. IT'S SPELLED,
15 G-O-E-D-E-C-K-E, GOEDECKE.

16 Q. WHAT SORT OF CONSTRUCTION PRODUCTS DO YOU
17 SELL?

18 A. WE SERVICE THE FULL RANGE OF CONSTRUCTION
19 PRODUCTS FOR THE MAJOR CONTRACTORS WHO BUILD ROADS AND THE
20 COMMERCIAL FOLKS WHO PUT UP BUILDINGS, AND ALSO, WE SERVE
21 THE CITY'S UTILITIES AND THAT SORT OF THING IN TERMS OF
22 THEIR PROBLEMS.

23 IN MY PARTICULAR CASE, I SELL PRODUCTS THAT
24 REPAIR AND SEAL CONCRETE, CONCRETE REPAIR PRODUCTS. WE'RE
25 INVOLVED IN REBUILDING THE INFRASTRUCTURE.

26 Q. HOW LONG HAVE YOU BEEN WITH GOEDECKE?

27 A. THREE YEARS.

28 Q. AND WHERE DID YOU WORK PRIOR TO THAT?

1 A. I WORKED AT A COMPANY NAMED BROUK COMPANY.
2 IT'S B-R-O-U-K, BROUK. A SMALL COMPANY INVOLVED,
3 BASICALLY, IN THE SAME BUSINESS THAT I'M INVOLVED IN RIGHT
4 NOW.

5 Q. AND HOW LONG WERE YOU WITH BROUK?

6 A. LET'S SEE. TWO-AND-A-HALF YEARS.

7 Q. HOW ABOUT PRIOR TO THAT?

8 WHERE DID YOU WORK PRIOR TO THAT?

9 A. JUST PRIOR TO THAT, I WORKED FOR A COMPANY
10 CALLED MISSISSIPPI LIME COMPANY. IT'S A LARGE MANUFACTURER
11 OF LIME PRODUCTS LOCATED JUST OUTSIDE OF ST. LOUIS IN
12 ALTON, ILLINOIS.

13 Q. WERE YOU IN A SALES ROLE WITH MISSISSIPPI
14 LIME?

15 A. I WAS A DIRECTOR OF MARKET DEVELOPMENT FOR
16 THAT COMPANY. WE WERE INVOLVED IN HELPING THE COMPANY
17 LOCATE NEW USES FOR LIME PRODUCTS.

18 LIME IS USED IN THE MANUFACTURER OF CONCRETE
19 AND IN THE BUILDING OF ROADS AND A NUMBER OF OTHER USES,
20 BUT THERE ARE A NUMBER OF OTHER THINGS THAT WE COULD DO
21 WITH IT, SO THAT WAS MY FUNCTION, WAS TO HELP THE COMPANY
22 LOOK FOR NEW USES FOR THE PRODUCTS THAT THEY MADE, THE
23 LIME-BASED PRODUCTS.

24 Q. AND HOW LONG DID YOU WORK FOR MISSISSIPPI
25 LIME COMPANY?

26 A. YEAR-AND-A-HALF.

27 Q. WHERE WERE YOU EMPLOYED PRIOR TO THAT?

28 A. I WAS EMPLOYED AT THE MONSANTO COMPANY IN ST.

1 LOUIS.

2 Q. AND HOW LONG WERE YOU EMPLOYED BY MONSANTO?

3 A. ALMOST 20 YEARS.

4 Q. WHEN DID YOU FIRST START THERE?

5 A. I STARTED THERE IN 1968.

6 Q. WHAT WAS YOUR JOB AT THAT TIME?

7 A. MY FIRST JOB WITH MONSANTO WAS RIGHT OUT OF
8 SCHOOL, AND I STARTED AS A PRODUCT SPECIALIST IN THE PAPER
9 CHEMICALS GROUP, AND THE PAPER CHEMICALS ARE A GROUP OF
10 CHEMICALS WITHIN MONSANTO THAT -- THESE WERE THINGS THAT
11 MADE THESE HUGE PAPER MACHINES. YOU HAVE ADDITIVES AND
12 THINGS THAT YOU PUT INTO PAPER TO MAKE IT DO ITS JOB AND TO
13 KEEP THE MACHINE RUNNING BETTER AND A COUPLE OF THINGS THAT
14 WOULD IMPROVE THE ENVIRONMENTAL EFFECTS OF YOUR PRODUCTS
15 THAT ARE GENERATED FROM A PAPER COMPANY.

16 Q. YOU MENTIONED STARTING RIGHT OUT OF SCHOOL.
17 COULD YOU TELL US BRIEFLY YOUR EDUCATIONAL
18 BACKGROUND?

19 A. SURE. SURE. I WENT TO PURDUE UNIVERSITY IN
20 LAFAYETTE, INDIANA WHERE I RECEIVED A BACHELORS OF SCIENCE
21 IN MECHANICAL ENGINEERING.

22 AND FROM THERE, WENT DIRECTLY TO WASHINGTON
23 UNIVERSITY IN ST. LOUIS, MISSOURI, WHERE I RECEIVED A
24 MASTERS IN BUSINESS ADMINISTRATION.

25 Q. NOW, WHAT'S A PRODUCTS SPECIALIST?

26 A. IT'S A PERSON THAT'S TECHNICALLY ORIENTED AS
27 I WAS. I WAS TRAINED TECHNICALLY IN THIS -- AS A PRODUCT
28 SPECIALIST, I WORKED CLOSELY WITH THE SALESPeOPLE WHO WERE

1 INVOLVED IN SELLING THE PAPER CHEMICALS THAT WE WERE
2 SELLING, AND WHAT MY FUNCTION WAS WAS TO HELP THEM WITH THE
3 TECHNICAL ASPECTS OF THE PAPER CHEMICALS THAT THEY WERE
4 SELLING.

5 IF THEY HAD A PROBLEM WITH ONE OF OUR
6 PRODUCTS, I WOULD GO OUT AND TRY TO HELP FIGURE OUT, HEY,
7 WHAT'S THE PROBLEM, HOW DO YOU FIGURE -- HOW CAN WE FIX IT,
8 HOW CAN WE MAKE IT WORK BETTER, AND THEN IF WE WERE TRYING
9 NEW PRODUCTS, THAT WAS ALSO SOMETHING THAT I GOT INVOLVED
10 IN IN TERMS OF FINDING A MACHINE THAT WE COULD TRY A NEW
11 PRODUCT ON AND GO AHEAD AND RUN THAT TRIAL.

12 Q. HOW LONG DID YOU WORK AS A PRODUCTS
13 SPECIALIST?

14 A. ABOUT TWO YEARS. A LITTLE LESS THAN TWO
15 YEARS.

16 Q. OKAY. AND WHAT WAS YOUR NEXT POSITION WITHIN
17 MONSANTO?

18 A. AFTER I LEFT ST. LOUIS AS A PRODUCT
19 SPECIALIST, I WENT TO WORK AS A SALESPERSON IN KALAMAZOO,
20 MICHIGAN, AND I WAS SELLING THE PAPER CHEMICALS THAT I WAS
21 SERVICING FROM THE ST. LOUIS AREA, SO I WAS SELLING THOSE,
22 THE PAPER CHEMICALS, UP IN THE MICHIGAN VALLEY AND DOWN
23 INTO OHIO AND OVER INTO ERIE, PENNSYLVANIA.

24 Q. AT SOME POINT, DID YOU JOIN THE FUNCTIONAL
25 FLUIDS GROUP?

26 A. YES, SIR, I DID.

27 Q. AND WHEN WAS THAT?

28 A. THAT WAS IN 1971.

1 MONSANTO JOINED A GROUP OF THE PAPER
2 CHEMICALS GROUP. THIS GROUP OF CHEMICALS I WAS INVOLVED IN
3 SELLING, AND ALSO THE SO-CALLED FUNCTIONAL FLUIDS GROUP,
4 THIS JUST WAS A CONVENIENT NAME FOR A GROUP OF PRODUCTS
5 THAT WERE FLUID IN NATURE THAT WE WENT OUT AND DID
6 DIFFERENT THINGS, AND THEY JOINED THOSE TWO GROUPS
7 TOGETHER.

8 SO IN APRIL OF 1971, SHORTLY AFTER MY
9 MARRIAGE, AS A MATTER OF FACT, I MOVED FROM -- MY WIFE AND
10 I MOVED FROM KALAMAZOO TO SHREVEPORT WHERE I TOOK ON
11 RESPONSIBILITY FOR SELLING PRODUCTS TO THE PAPER INDUSTRY
12 THERE, AND ALSO TO THE FLUID -- THE FUNCTIONAL FLUID
13 CUSTOMERS THAT WERE LOCATED IN THE AREA AS WELL.

14 Q. HOW LONG DID YOU CONTINUE TO SELL PRODUCTS IN
15 THOSE AREAS?

16 A. I LEFT THAT AREA IN FALL OF 1973.

17 Q. SO A LITTLE MORE THAN TWO YEARS?

18 A. IT WAS -- YES. ALMOST TWO-AND-A-HALF YEARS.

19 Q. DID YOU HAVE OTHER JOBS WITHIN MONSANTO?

20 A. YES, SIR. AFTER I CAME FROM SHREVEPORT AND
21 WENT INTO ST. LOUIS, I WAS A -- HERE WE GO WITH TERMINOLOGY
22 AGAIN -- BUT I WAS A PRODUCT SUPERVISOR IN THE POLYMERS AND
23 PETROCHEMICALS GROUP.

24 THIS IS BASICALLY A MARKETING FUNCTION WHERE
25 WE WERE RESPONSIBLE FOR A GROUP OF PRODUCTS THAT WERE
26 PETROLEUM BASED THAT MONSANTO MADE AND SOLD TO A NUMBER OF
27 DIFFERENT INDUSTRIES, AND WHAT THE PRODUCT SUPERVISOR'S OR
28 PRODUCT MANAGER'S JOB WAS, IS BASICALLY TO UNDERSTAND THE

1 CUSTOMER'S NEEDS, TO FILL THOSE NEEDS AS BEST WE COULD WITH
2 THE PRODUCTS THAT WE HAD AND GENERATE PLANS AND FIGURE OUT
3 WAYS THAT WE CAN DO THAT JOB BETTER.

4 Q. COULD YOU GIVE US SOME EXAMPLES OF POLYMERS
5 AND PETROCHEMICALS?

6 A. SURE. THE PLANTS GENERATED -- WE MADE -- WE
7 MADE A LOT OF PRODUCTS. SEVERAL OF THE BIGGEST ONES WERE
8 INVOLVED IN THE MAKING OF PLASTICS WE MADE FROM THE
9 PETROLEUM THAT YOU TAKE OUT OF THE GROUND, THE BLACK GOO.
10 WE EXPOSED THAT TO HIGH TEMPERATURE, AND WE
11 ENDED UP WITH A NUMBER OF DIFFERENT PRODUCTS, BUT THERE
12 WERE FOUR OR FIVE PRODUCTS THAT WERE MADE FROM THIS PROCESS
13 THAT WENT INTO THE MAKING OF PLASTICS, WHICH WOULD BE
14 SIMILAR TO THE PLASTICS THAT WOULD, PERHAPS, BE IN SOME OF
15 THE LININGS OF THE CHAIRS OR THE PLASTIC -- THE CAR PARTS
16 WHICH ALL ARE ACCUSTOMED TO, THE PANELS AND THINGS LIKE
17 THAT.

18 SO THE MAJORITY OF THE PRODUCTS THAT WE MADE
19 IN THAT PARTICULAR PLANT WERE GENERATED FOR MONSANTO'S
20 PLASTICS BUSINESS.

21 Q. HOW LONG WERE YOU A PRODUCT SUPERVISOR IN
22 THAT AREA?

23 A. ABOUT TWO YEARS.

24 Q. AND THEN WHAT WAS YOUR NEXT JOB WITH
25 MONSANTO?

26 A. AT THAT POINT IN TIME, I BECAME A PRODUCT
27 MANAGER FOR A LARGER PORTION OF THE PLANT, THE POLYMERS AND
28 PETROCHEMICALS PLANT IN HOUSTON. WE HAD SEVERAL PLANTS

1 DOWN THERE.

2 Q. DID YOU HAVE ANY OTHER POSITIONS WITHIN
3 MONSANTO BEFORE YOU LEFT THERE?

4 A. TWO OTHERS. ONE WAS IN 1968. MONSANTO WAS
5 IN THE PROCESS OF JOINING WITH THE CONOCO OIL COMPANY IN A
6 JOINT VENTURE BECAUSE MONSANTO AND CONOCO -- THIS WOULD BE
7 SOMETHING THAT MONSANTO AND CONOCO BOTH WOULD BENEFIT FROM
8 BECAUSE WE WOULD BE ABLE TO MAKE PRODUCTS MORE EFFECTIVELY
9 AT A LOWER COST.

10 AND SO AS A PART OF THAT JOINT VENTURE, I WAS
11 INVOLVED IN THE COMMERCIAL -- BASICALLY, THE ENTIRE
12 COMMERCIAL ASPECTS OF ALL OF THOSE, WHICH WOULD BE MAKING
13 THE CUSTOMER CONTACTS, WHO SHOULD WE SELL TO, WHO SHOULD WE
14 NOT SELL TO, AND DEVELOP THE PLANS FOR HOW TO GET THAT
15 ACCOMPLISHED, TO SELL THE PRODUCTS THAT WOULD BE GENERATED
16 FROM THIS NEW PLANT WHICH STARTED UP IN 1970, VERY
17 SUCCESSFULLY.

18 AND WE -- AT THAT POINT IN TIME, THAT JOB
19 BECAME REALLY A NON-JOB, SO I WAS APPOINTED PRODUCT
20 DEVELOPMENT MANAGER IN THE FIBERS AND INTERMEDIATES GROUP.

21 Q. AND WHEN -- I'M SORRY -- DID YOU WORK WITH
22 THE MONSANTO/CONOCO JOINT VENTURE?

23 A. BETWEEN 1968 AND 1970.

24 Q. OKAY. AND YOU THEN MENTIONED YOU MOVED INTO
25 THE FIBERS AND INTERMEDIATES AREA; IS THAT RIGHT?

26 A. PARDON ME. WE'RE IN THE MID '70'S. I'M
27 SORRY. I MISSED 10 YEARS. EXCUSE ME. LET ME BACK UP
28 AGAIN.

1 WENT TO SHREVEPORT -- WE'RE TALKING ABOUT THE
2 MID '70'S NOW. HEADING TOWARD 1980. I'M SORRY. THE '73
3 TO '75 -- IF I SAID '60, I MEANT '70. 1973 TO '75.

4 THEN FROM '75 THROUGH '78, OR THEREABOUTS,
5 WAS INVOLVED IN THIS WHOLE PRODUCT MANAGER JOB, AND THEN
6 FROM ABOUT 1978 THROUGH 1980, I WAS THE PROJECT COORDINATOR
7 FOR THE CONOCO/MONSANTO JOINT VENTURE.

8 I APOLOGIZE FOR THE CONFUSION.

9 Q. NO PROBLEM.

10 TELL ME, THEN, WHAT YOUR LAST POSITION WAS AT
11 MONSANTO?

12 A. THEN IN 1980, I BECAME PRODUCT DEVELOPMENT
13 MANAGER FOR A DIFFERENT GROUP WITHIN MONSANTO. THIS IS THE
14 FIBERS AND INTERMEDIATES GROUP.

15 Q. AND WHAT ARE FIBERS AND INTERMEDIATES?

16 A. THAT'S THE GROUP WITHIN MONSANTO THAT
17 MANUFACTURERS NYLON, THE RAW MATERIAL NYLON WHICH IS THE
18 NYLON THAT'S USED IN THE WEARDATED CARPETING THAT'S SOLD
19 COMMERCIALY. THAT'S A PRODUCT THAT MONSANTO MAKES. THEIR
20 NYLON IS USED IN THE MANUFACTURER OF CARPETING THAT HAS THE
21 WEARDATED LABEL, AND THAT'S A MAJORITY OF WHAT THAT COMPANY
22 DID.

23 Q. AND YOU LEFT THAT POSITION IN?

24 A. 1985.

25 Q. AND WHY DID YOU LEAVE MONSANTO?

26 A. THERE WERE -- MONSANTO WAS REORGANIZING AND
27 DOWNSIZING CONSIDERABLY BETWEEN THE LATE '70'S, AND THEY'VE
28 CONTINUED TO DO THAT THROUGH THE '80'S AND EARLY '90'S.

1 I WAS MADE AN OFFER TO A PARACHUTE OF SORTS,
2 IF YOU WILL. I WAS OFFERED A MEANS TO LEAVE MONSANTO WITH
3 SOME HELP AND, INDEED, I DECIDED AT THAT POINT IN TIME THAT
4 IT WAS THE BEST THING FOR ME TO DO.

5 Q. AND THAT'S WHEN YOU THEN STARTED WITH
6 MISSISSIPPI LIME?

7 A. THAT'S CORRECT.

8 Q. NOW, LET'S MOVE TO APRIL '71, AND AGAIN, YOUR
9 POSITION AT THAT TIME WAS?

10 A. I WAS A SALESMAN IN PAPER CHEMICALS, AND IN
11 APRIL OF '71, I BECAME A SALESMAN IN THE NEWLY FORMED
12 SPECIALTY PRODUCTS AREA WHICH IS FUNCTIONAL FLUIDS AND
13 PAPER CHEMICALS IN SHREVEPORT, LOUISIANA.

14 Q. WHAT WERE THE PRODUCTS THAT YOU SOLD AT THAT
15 POINT IN TIME?

16 A. THE PRODUCTS THAT WE WERE SELLING WHEN I WAS
17 IN THE JOB IN SHREVEPORT WERE TWO BASIC GROUPS OF PRODUCTS.

18 ONE WAS THE PAPER CHEMICALS THAT I WAS
19 TALKING ABOUT IN TERMS OF THE THINGS THAT PAPER MACHINES
20 NEED TO RUN BETTER, AND TO MAKE PAPER DO DIFFERENT THINGS.

21 AND THEN THE OTHER GROUP OF PRODUCTS WERE THE
22 PRODUCTS THAT WERE CALLED FUNCTIONAL FLUIDS, AND THESE WERE
23 PRODUCTS THAT WERE USED IN THE LUBRICATION, HEAT TRANSFER
24 AND THAT TYPE OF APPLICATION AND IN SOME DIFFERENT TYPES OF
25 MACHINERY.

26 BASICALLY, THESE FLUIDS WOULD EITHER MOVE
27 HEAT AND/OR THEY DID BOTH, AND LUBRICATE THE MACHINE THAT
28 THEY WERE INVOLVED -- THEY WERE USED IN.

1 Q. DID THOSE PRODUCTS INCLUDE TURBINOL-153?

2 A. YES, THEY DID.

3 Q. DO YOU RECALL THE COMPOSITION OF
4 TURBINOL-153?

5 A. TURBINOL-153 WAS A PRODUCT THAT WAS MADE
6 PRIMARILY -- WELL, THE LARGEST PORTION OF THE PRODUCT WAS A
7 PRODUCT CALLED, IN MONSANTO'S HISTORY, IS CALLED
8 AROCLOR-1242, AND THEN THERE WERE -- THERE WAS ANOTHER
9 AROCLOR, WHICH I BELIEVE WAS A LOWER NUMBER OF SOME SORT.
10 I MEAN -- 12 -- I CAN'T REMEMBER THE EXACT NUMBER.

11 BUT THERE WAS ANOTHER AROCLOR PRODUCT THAT
12 WAS OF A SMALLER AMOUNT, AND THEN THERE WAS SOME -- THERE
13 WAS A PHOSPHATE ESTER OR TWO THAT WAS ADDITIVE, AND THEN
14 SEVERAL OTHER THINGS, AND THEN THERE WAS -- I'M SURE THERE
15 WAS AN ANTI-FOAM ALSO ADDED TO THE PRODUCT.

16 Q. WAS THAT A PRODUCT THAT YOU KNEW TO HAVE BEEN
17 PREVIOUSLY CALLED MCS-153?

18 A. YES, SIR.

19 Q. SIR, WHEN YOU TOOK OVER THIS POSITION, DID
20 YOU ASSUME THE RESPONSIBILITIES OF SOMEONE ELSE?

21 A. I DID, RIGHT.

22 Q. WHO WAS THAT?

23 A. THAT WAS CARL CLAY.

24 Q. DID YOU RECEIVE ANY TRAINING FOR YOUR SALES
25 FUNCTION WITH FUNCTIONAL FLUIDS?

26 A. I DID. NOT ONLY WAS CARL, OF COURSE, VERY
27 HELPFUL IN TERMS OF FILLING ME IN ON WHAT HAD BEEN GOING ON
28 UP UNTIL THE POINT THAT I TOOK OVER THE CUSTOMER, BUT MY

1 FIRST -- MY FIRST ACTIVITY REALLY IN THIS NEW JOB AND NEW
2 FUNCTION IN SHREVEPORT WAS TO GO TO ST. LOUIS FOR A
3 WEEK-LONG SALES MEETING, WHICH THE GROUP INVOLVED TOOK
4 ADVANTAGE OF THAT IN TERMS OF BRINGING ME UP TO DATE ON THE
5 THINGS THAT I WOULD SPECIFICALLY BE INVOLVED IN, WHICH, OF
6 COURSE, INCLUDED THE TURBINOL PRODUCT AND WHERE IT WAS USED
7 AND THE TYPE OF THINGS THAT HAD BEEN -- HAD GONE ON UP
8 UNTIL THAT POINT, AND THEN -- SO WE DID SPEND QUITE A BIT
9 OF TIME.

10 THERE WAS ONE OTHER WAY THAT WE WERE TRAINED,
11 AND WE WERE TRAINING ALL THE TIME, BASICALLY, BUT WOULD BE
12 FOR THE TECHNICALLY TRAINED FOLKS, THE SUPPORT FOLKS OUT OF
13 ST. LOUIS WOULD COME AND TRAVEL WITH US AND BASICALLY GIVE
14 US SOME TECHNICAL HELP, AND DURING THE TIME WE'RE TOGETHER,
15 THAT WAS A TIME FOR US TO BASICALLY BE TRAINED IN THE AREAS
16 THAT WE NEEDED TO BE TRAINED IN.

17 SO I WAS QUITE, QUITE TRAINED.

18 Q. GENERALLY, WHAT TOPICS DO YOU RECALL ARISING
19 DURING A WEEK-LONG SALES MEETING THAT YOU MENTIONED?

20 A. A NUMBER OF DIFFERENT THINGS.

21 OF COURSE, I WAS NEW TO THE FUNCTIONAL FLUIDS
22 SIDE OF THE BUSINESS, AND I ACTUALLY DID SOME TRAINING ON
23 THE PAPER CHEMICAL SIDE, SO WE TRADED OFF. THE EXPERTISE
24 ON BOTH SIDES TRADED BACK AND FORTH.

25 BUT MUCH OF WHAT WE WERE DOING WAS TO, AND
26 THE TRAINING THAT I RECEIVED, WAS BASICALLY FINDING OUT,
27 HEY, WHAT ARE THE FUNCTIONAL FLUIDS, HOW ARE THEY USED,
28 WHAT ARE THEY MADE UP OF, WHY ARE THEY MADE UP OF WHAT THEY

1 ARE.

2 WE RECEIVED THE PRODUCT LITERATURE AND WERE
3 GIVEN AS MUCH HISTORY AS THERE WAS TIME TO BE GIVEN, BUT,
4 OF COURSE, THAT'S ABOUT ALL I REMEMBER. BUT I REMEMBER
5 RECEIVING THE LITERATURE OF THE PRODUCTS THAT I WOULD BE
6 SELLING IN MY TERRITORY, AND I WAS GIVEN, I'M SURE, A
7 NUMBER OF DIFFERENT PIECES OF INFORMATION IN TERMS OF, HEY,
8 THIS IS WHAT THE PRODUCT IS, THIS IS WHY THEY'RE BEING USED
9 IN THE END USES THAT THEY'RE BEING USED IN, THIS IS WHAT TO
10 WATCH OUT FOR. YOU KNOW, HERE'S HOW TO USE THEM SAFELY.

11 A NUMBER OF -- JUST THE WHOLE LAUNDRY LIST OF
12 THINGS THAT WERE IMPORTANT TO SOMEONE IN OUR POSITIONS AS
13 SALESPeOPLE.

14 Q. WAS THERE ANY DISCUSSION DURING THOSE SALES
15 TRAINING MEETINGS OF CONCERNS ABOUT PCB'S AND/OR THE
16 ENVIRONMENT?

17 A. CERTAINLY, YES.

18 Q. WHAT DO YOU RECALL IN THAT REGARD?

19 A. WELL, THE FUNCTIONAL FLUIDS GROUP, THIS GROUP
20 OF PRODUCTS THAT WERE A PART OF MY NEW PACKAGE OF THINGS
21 THAT I WAS RESPONSIBLE FOR, THEY WERE IN THE PROCESS OF
22 BEING EVALUATED VERY CLOSELY WITHIN MONSANTO BECAUSE OF THE
23 NOW CALLED PCB SITUATION.

24 THERE WERE A NUMBER OF REPORTS THAT WERE
25 BEING ANALYZED AND GENERATED AND PUBLICIZED AND RETRACTED
26 AND ALL. THERE WAS A LOT OF INFORMATION FLOWING IN THE
27 LATE, LATE -- LAST YEAR OR TWO, THE '60'S, THAT THAT -- AND
28 MONSANTO BEING, OBVIOUSLY, A MAJOR PRODUCER OF THE PCB

1 PRODUCTS.

2 AT THAT POINT IN TIME, WE WERE IN THE PROCESS
3 OF EVALUATING, HEY, WHAT DO WE WANT TO DO WITH THE
4 PCB-CONTAINING PRODUCTS, AND THERE WERE SEVERAL IN OUR
5 FUNCTIONAL FLUID LINE, SO . . .

6 Q. LET'S STICK WITH TURBINOL-153 FOR A MOMENT.

7 A. OKAY.

8 Q. WHEN YOU BEGAN IN APRIL OF '71, WHO WERE YOUR
9 CUSTOMERS FOR THAT PRODUCT?

10 A. I HAD ONE CUSTOMER FOR TURBINOL-153, AND THAT
11 CUSTOMER WAS THE TEXAS EASTERN PIPELINE TRANSMISSIONS
12 COMPANY, I THINK THEIR TITLE IS.

13 Q. DID YOU REFER TO THEM AS TEXAS EASTERN?

14 A. WE DID.

15 Q. WAS A COMPANY CALLED TRANSWESTERN PIPELINE
16 COMPANY A CUSTOMER OF YOURS?

17 A. NO, SIR.

18 Q. DID YOU EVER HEAR OF TRANSWESTERN PIPELINE
19 COMPANY?

20 A. THIS IS A VAGUE BUT FAIRLY CLEAR MEMORY OF --
21 I'M FAIRLY SURE IT WAS IN THE TEXAS EASTERN TECHNICAL --
22 THEIR TECHNICAL FACILITY IN SHREVEPORT, AND I REMEMBER
23 SEEING A MAP ON WHICH THE PIPELINES WERE -- THIS WAS A MAP
24 OF THE UNITED STATES.

25 AND WHAT WAS THE PURPOSE OF THIS MAP WAS TO
26 SHOW WHERE THE PIPELINES WERE IN THE GROUND SHOWING FROM
27 THE GAS GENERATING AREAS TO UP INTO THE EAST, WHICH IS A
28 VERY IMPORTANT PIPELINE TO SUPPLY NATURAL GAS TO THE

1 EASTERN STATES. AND I'M NEXT TO SURE THAT I REMEMBER
2 TRANSWESTERN'S. I REMEMBER PIPELINES RUNNING OUT, AND THAT
3 MEMORY IS JUST A MEMORY THAT I HAVE OF TRANSWESTERN BEING A
4 PIPELINE ON THAT MAP.

5 Q. WAS THIS A TEXAS EASTERN MAP?

6 A. I DON'T RECALL.

7 Q. HOW WOULD YOU DESCRIBE THE NATURE OF THE
8 SALES RELATIONSHIP THAT YOU INHERITED FROM MR. CLAY BETWEEN
9 MONSANTO AND TEXAS EASTERN?

10 A. YOU'RE ALWAYS HAPPY TO GET INVOLVED IN A
11 CUSTOMER RELATIONSHIP LIKE MONSANTO AND TEXAS EASTERN HAD.
12 IT'S A LITTLE FRUSTRATING IN THE SENSE THAT I'M A BRAND NEW
13 SALESMAN WALKING INTO AN ALREADY WELL-ESTABLISHED
14 RELATIONSHIP. BUT IT WAS VERY OBVIOUS TO ME WHEN I WALKED
15 IN GREEN TO THE SITUATION THAT MONSANTO AND TEXAS EASTERN
16 HAD BEEN FRIENDS FOR A LONG TIME, BOTH TECHNICALLY AND
17 PERSONALLY.

18 THERE WAS A LOT OF INFORMATION AND
19 RELATIONSHIPS THAT HAD BEEN ESTABLISHED BETWEEN SOME OF THE
20 MANAGEMENT FOLKS, THE PEOPLE IN ST. LOUIS AND THE TEXAS
21 EASTERN MANAGEMENT PEOPLE AS WELL. SO THERE WAS -- IT WAS
22 A VERY CLOSE WORKING RELATIONSHIP.

23 Q. AS THE NEW KID ON THE BLOCK, IF YOU WILL, HOW
24 WERE YOU FIRST INTRODUCED TO TEXAS EASTERN?

25 A. CARL AND I MADE A, WHAT WE CALL A TURNOVER
26 CALL, WHICH IS A WAY OF GETTING A SALESMAN WHO IS NEW TO A
27 PARTICULAR CUSTOMER ACQUAINTED WITH THE CUSTOMER BY HAVING
28 THE PERSON THAT'S BEEN CALLING ON THAT CUSTOMER FOR AWHILE,

1 TO INTRODUCE THEM TO THE PEOPLE AND THE CUSTOMER, SO THAT
2 WAS THE FIRST EXPERIENCE THAT I HAD WITH THEM, WAS A
3 TURNOVER CALL. CARL AND I MADE THAT CALL TOGETHER.

4 Q. DO YOU REMEMBER WHERE THAT WAS?

5 A. THAT'S IN SHREVEPORT. THAT'S THE ONLY
6 LOCATION THAT I CALLED ON -- THAT I HAD THE RESPONSIBILITY
7 TO CALL ON, IF YOU WILL.

8 Q. AND YOU WERE LIVING IN SHREVEPORT?

9 A. IN SHREVEPORT, YES, SIR, I WAS.

10 Q. WOULD YOU DESCRIBE THE RELATIONSHIP BETWEEN
11 MONSANTO AND TEXAS EASTERN AS A FORMAL ONE?

12 A. IT HAD ITS FORMAL ASPECT IN THE SENSE THAT
13 TEXAS EASTERN WAS, AND I SUPPOSE STILL IS, A VERY
14 TECHNICALLY REPUTABLE COMPANY. THEIR PEOPLE WERE TRAINED
15 WELL. IT WAS OBVIOUS THAT THEY KNEW A LOT ABOUT WHAT THEY
16 WERE DOING.

17 AND I THINK IN THAT SENSE THERE WAS A
18 RESPECTFUL KIND OF A FORMAL RELATIONSHIP BETWEEN MONSANTO'S
19 TECHNICAL FOLKS AND MYSELF AS A SALESPERSON, KIND OF A
20 FACILITATOR, IF YOU WILL. BUT IN ADDITION TO THE
21 FORMALITY, THERE WAS ALSO SOME PERSONAL RELATIONSHIPS THAT
22 HAD BEEN ESTABLISHED, AND I MADE A FEW OF MY OWN, SO --

23 Q. DID YOU REPORT TO YOUR SUPERIORS ABOUT
24 CONTACTS THAT YOU HAD WITH FOLKS AT TEXAS EASTERN?

25 A. I SURE DID.

26 Q. AND HOW DID YOU GO ABOUT DOING THAT?

27 A. WE DID THAT -- MANY TIMES -- WELL, THE MOST
28 OBVIOUS ONE IS THE ONE WHERE YOU MAKE A CALL AND YOU WRITE

1 A CALL REPORT AND THAT OCCURRED OCCASIONALLY.

2 MANY TIMES, YOU WOULD MAKE A CONTACT WITH THE
3 CUSTOMER AND SIMPLY PICK UP THE PHONE AND TALK TO WHOMEVER
4 IT IS THAT YOU NEEDED TO TALK TO TO GET THE THING DONE THAT
5 YOU NEEDED TO GET DONE.

6 I MEAN, IF A CUSTOMER HAD A PROBLEM, TEXAS
7 EASTERN BEING ONE, OR ANY OF MY CUSTOMERS HAD A PARTICULAR
8 PROBLEM THAT NEEDED ATTENTION, YOU KNOW, I SURE WASN'T
9 GOING TO WAIT FOR A CALL REPORT TO GET THAT DONE. I WOULD
10 GENERALLY PICK UP THE PHONE AND MAKE SURE THAT I GOT THE
11 INFORMATION TO WHOMEVER IT IS THAT WE NEEDED TO GET IT TO
12 AND, LIKEWISE, WOULD FOLLOW-UP, AND THEN OCCASIONALLY WOULD
13 WRITE A CALL REPORT ON EITHER SOMETHING THAT WAS MAJOR, A
14 CHANGE, THAT TYPE OF THING.

15 Q. FOR WHAT PURPOSES DID YOU WRITE CALL REPORTS?

16 A. USUALLY AS A -- IT USUALLY WAS A RECORDING
17 DEVICE. I MEAN, THAT WAS -- THE MAIN PURPOSE OF A CALL
18 REPORT IS TO TELL ME AND WHOMEVER IT IS THAT -- AND PRODUCT
19 -- THE PRODUCT MANAGER'S -- THE PEOPLE IN ST. LOUIS WHO
20 WERE RESPONSIBLE FOR OUR PRODUCTS, TO LET THEM KNOW WHAT IT
21 IS THAT HAD BEEN DONE.

22 BUT, YOU KNOW, SO WE MANY TIMES WROTE CALL
23 REPORTS; MANY TIMES, WE DID NOT. JUST DEPENDED ON WHETHER
24 WE HAD TIME TO, AND MANY TIMES, WE DIDN'T, BUT WE DID TRY
25 TO RECORD AS MUCH AS WE COULD.

26 Q. WAS THERE ANY COMPANY POLICY THAT REQUIRED
27 CALL REPORTS TO BE MADE FOR CERTAIN CIRCUMSTANCES?

28 A. NOT REALLY. I DON'T THINK ANYBODY, AS A

1 SALESPERSON, ANYBODY FELT IT WAS A REQUIREMENT AT ALL.
2 BASICALLY, IT WAS USED AS A RECORDING DEVICE.

3 THERE WERE TIMES WHEN WE DIDN'T WRITE ENOUGH
4 CALL REPORTS AND WERE INSTRUCTED TO GET BETTER ON IT, BUT,
5 YOU KNOW, YOU STILL HAD YOUR JOB TO DO, AND IT WAS ALWAYS
6 CLEAR TO TAKE CARE OF THE THINGS THAT HAD TO BE TAKEN CARE
7 OF, AND THEN CALL REPORTS WOULD BE SECONDARY TO THAT, I
8 THINK.

9 Q. DID YOU SPEAK WITH YOUR --

10 A. THAT'S THE WAY I DID IT ANYWAY. IT WAS CLEAR
11 TO ME, I HAD NO -- I HAD NO INTENTION TO LET CALL REPORTS
12 GET IN THE WAY OF WORK WE HAD TO DO TO TAKE CARE OF OUR
13 CUSTOMER AND DO OUR JOB WELL.

14 THE COURT: MR. ZIMMER, WE'VE REACHED THE NOON
15 RECESS.

16 LADIES AND GENTLEMEN, WE'LL BE IN RECESS
17 UNTIL 1:30. PLEASE RETURN AT THAT TIME.

18 YOU MAY STEP DOWN.

19
20 (AT 12:00 P.M., A LUNCH RECESS WAS
21 TAKEN UNTIL 1:30 P.M. OF THE SAME DAY.)
22
23
24
25
26
27
28

1 LOS ANGELES, CALIFORNIA FRIDAY, 12-17-93 # 1:32 P.M.
2 DEPT. 31 HON. G. KEITH WISOT, JUDGE
3 APPEARANCES: (AS NOTED ON TITLE PAGE.)
4
5
6

- - O - -

7 THE COURT: YOU MAY RESUME, MR. ZIMMER.
8
9

10 JOHN FREDERIKSEN, +
11 DEFENDANTS' WITNESS, RESUMED THE STAND AND TESTIFIED
12 FURTHER AS FOLLOWS:
13

14 DIRECT EXAMINATION, +
15 BY MR. ZIMMER: (RESUMED)

16 Q. MR. FREDERIKSEN, WHEN WE LEFT OFF BEFORE
17 LUNCH, WE WERE TALKING ABOUT YOUR RELATIONSHIP WITH TEXAS
18 EASTERN BEFORE YOU MANAGED OTHER PRODUCTS.

19 WAS THAT AN ACCOUNT YOU ENJOYED WORKING ON?

20 A. I SURE DID.

21 Q. WAS TEXAS EASTERN A GOOD CUSTOMER?

22 A. THEY SURE WERE. THEY WERE A GOOD FRIEND OF
23 MONSANTO'S AND MONSANTO WAS A GOOD FRIEND OF TEXAS EASTERN.
24 IT WAS PRETTY CLEAR WHEN I JOINED THAT THERE WAS A
25 RELATIONSHIP. THE RELATIONSHIP BETWEEN MONSANTO AND TEXAS
26 EASTERN WAS A VERY GOOD AND CLOSE WORKING RELATIONSHIP.

27 Q. DURING THE TIME THAT YOU SOLD TEXAS EASTERN
28 TURBINOL-153, WAS IT YOUR IMPRESSION THAT THEY WERE

1 SATISFIED WITH THE FLUID?

2 A. ABSOLUTELY. SURE. THEY LIKED THE FLUID A
3 LOT. IT HAD BEEN WORKING VERY WELL IN THEIR TURBINES AND
4 HAD SOLVED A NUMBER OF PROBLEMS THAT THEY HAD HAD IN YEARS
5 PAST WITH THEIR TURBINES.

6 Q. WE ALSO TALKED A BIT ABOUT CALL REPORTS, AND
7 I JUST HAD ANOTHER QUESTION, TOO, IN THAT AREA.

8 A. SURE.

9 Q. DID YOU EVER CONTACT YOUR SUPERIORS BY
10 TELEPHONE OR ANY OTHER MEANS?

11 A. SURE.

12 Q. TO NOTIFY THEM OF WHAT YOU WERE UP TO?

13 A. ABOSOLUTELY. SURE.

14 Q. IN WHAT FASHION WOULD YOU DO THAT?

15 A. IF I NEEDED SOME SOME TYPE OF A RESPONSE OR,
16 ESPECIALLY, IF IT WAS TIMELY, I WOULD PICK UP THE PHONE,
17 AND INSTEAD OF DOING ANYTHING ELSE, JUST RELY ON THE
18 TELEPHONE TO GET THE ANSWER TO WHATEVER QUESTION WE HAD TO
19 GET.

20 Q. DURING THE TIME THAT YOU WERE A SALESMAN IN
21 THE FUNCTIONAL FLUIDS GROUP, DID YOU EVER MAKE USE OF THE
22 TERM "CLOSED SYSTEM"?

23 A. SURE DID.

24 Q. AND WHAT DID YOU MEAN BY THAT.

25 A. WELL, IN THE CONTEXT OF THAT PARTICULAR
26 PERIOD OF TIME AND IN THE FLUIDS BUSINESS THAT WE WERE
27 EVALUATING WHAT WE WERE GOING TO DO WITH IT, WE WERE
28 CONCERNED ABOUT WHERE THE FLUIDS WERE IN THESE SYSTEMS THAT

1 WE WERE SELLING, WHERE THESE FLUIDS WERE GOING, AND SO WHAT
2 WE DID WAS WE WERE -- WE AS MONSANTO WERE TRYING TO
3 DESIGNATE WHICH FLUID SYSTEMS WERE MORE OR LESS LIKELY TO
4 BE LEAKING FLUID, AND CLOSED SYSTEM WAS REFERRING TO THE
5 TYPE SYSTEM THAT WAS -- AS WE EVALUATED AND AS THE CUSTOMER
6 EVALUATED, IT WAS A SAFER SYSTEM BECAUSE THERE WAS LESS
7 FLUID THAT WAS AVAILABLE TO BE LEAKED INTO ANYTHING,
8 INCLUDING THE ENVIRONMENT, WHICH IS OUR QUESTION HERE.

9 Q. HOW DID YOU CATEGORIZE NATURAL GAS TURBINES
10 AND COMPRESSORS AS FAR AS CLOSED OR OPEN SYSTEMS?

11 A. THE TURBINE SYSTEM WAS DEFINITELY A CLOSED
12 SYSTEM. IT WAS -- THESE ARE VERY EXPENSIVE PIECES OF
13 MACHINERY, AS WELL WE KNOW. THERE WAS A VERY CLEAR SAFETY
14 ITEM IN TERMS OF THEIR RUNNING WITHOUT PEOPLE ON-SITE IN
15 SOME CASES, AND SO THE MAINTENANCE OF THEM AND THE
16 HOUSEKEEPING AND THAT SORT OF THING WERE VERY IMPORTANT TO
17 PROTECT THE INVESTMENT AND FOR TEXAS EASTERN TO END UP
18 DOING EXACTLY WHAT THEY NEEDED TO DO, AND THAT WAS TO GET
19 THE GAS DOWN THE PIPELINE SAFELY AND DO IT IN AN EFFICIENT
20 MANNER.

21 Q. WAS THE PCB CONTENT OF TURBINOL EVER KEPT A
22 SECRET?

23 A. NOT AT ALL.

24 Q. WAS THAT SOMETHING THAT YOU HAD OCCASION TO
25 DISCUSS WITH TEXAS EASTERN?

26 A. I DID.

27 Q. DID YOU EVER FIELD FROM TEXAS EASTERN OR
28 OTHER CUSTOMERS QUESTIONS ABOUT TOXICITY OR SAFE HANDLING

1 OF PRODUCTS THAT CONTAINED PCB'S?

2 A. SURE. WE DEFINITELY DID. WE TALKED TO ANY
3 OF THE CUSTOMERS THAT WE DEALT WITH ABOUT RESPECTING THE
4 PRODUCTS THAT WE SOLD THEM. THAT STARTS WHEN YOU START
5 WITH THE CHEMICAL COMPANY.

6 BUT, YOU KNOW, WE TEACH A RESPECT TO TREAT
7 THEM SAFELY. IN MOST CASES, WE WERE INVOLVED IN
8 INSTRUCTING, YOU KNOW, DOWN TO EVEN WEARING GLOVES AND
9 GOGGLES AND THIS SORT OF THING BECAUSE OF THE -- JUST THE
10 NATURE OF THE CHEMICAL BUSINESS AND THE CHEMICAL USER FOR
11 THEIR SAFETY. WE WANTED TO MAKE SURE THEY UNDERSTOOD. WE
12 NEED TO RESPECT THE PRODUCTS THAT WE'RE SELLING YOU. SO WE
13 TALKED ABOUT THAT QUITE A BIT.

14 Q. COULD YOU THINK OF ANY PARTICULAR THINGS THAT
15 YOU PARTICULARLY WOULD TELL A CUSTOMER THAT HAD TOXICITY OR
16 OR SAFE HANDLING QUESTIONS?

17 MR. TALLON: OBJECTION. RELEVANCE.

18 THE COURT: SUSTAINED.

19 Q. BY MR. ZIMMER: DO YOU REMEMBER GETTING ANY
20 QUESTIONS FROM TEXAS EASTERN ABOUT TOXICITY OR SAFE
21 HANDLING OF TURBINOL-153?

22 A. YES. WE DISCUSSED -- WE DISCUSSED THE
23 TOXICITY OF THE -- I MEAN, LET ME TAKE TOXICITY AWAY.

24 WE DISCUSSED THE, AT THE TIME, PCB QUESTION
25 ALONG THE WAY. I MEAN, WE MADE SURE THAT THEY WERE AWARE
26 OF THE CONTENT OF THE PRODUCT AND, AS A MATTER OF FACT,
27 THERE WERE CERTAINLY NO SECRET ABOUT THE CONTENTS AND THERE
28 WAS ALSO CERTAINLY NO SECRET ABOUT THE CONCERNS THAT WERE

1 BEGINNING TO EVOLVE ABOUT THE PCB PRODUCTS IN GENERAL.

2 Q. LET'S TALK ABOUT THOSE CONCERNS A BIT.

3 DO YOU RECALL THE ISSUE OF PCB'S PERSISTING
4 IN THE ENVIRONMENT TO BE ONE THAT WAS DISCUSSED WITHIN
5 MONSANTO?

6 A. ABSOLUTELY.

7 Q. AND WHEN DO YOU FIRST RECALL HEARING ABOUT
8 THAT?

9 A. THE MEMORY THAT I HAVE IS THAT IT WAS IN THE
10 LATE -- WE'RE TALKING ABOUT LATE '60'S. I MEAN, WHETHER --
11 SPECIFIC TIMES IS VERY DIFFICULT FOR ME TO PIN DOWN, BUT
12 PERHAPS '69 OR '70, IN THERE, THERE WAS NO QUESTION THAT
13 SOME OF THE INFORMATION AND CONCERNS WERE BEGINNING TO
14 SURFACE, YOU KNOW, AS THEY WERE BEING GENERATED, AND THAT
15 INFORMATION WAS THEN PASSED ON TO MONSANTO PEOPLE.

16 Q. DID YOU HEAR ABOUT THAT BEFORE YOU JOINED THE
17 FUNCTIONAL FLUIDS GROUP?

18 A. I DID.

19 Q. AND IN WHAT CONTEXT?

20 A. MEMORY SERVES ME CORRECTLY, I'M REMEMBERING
21 SOME DOCUMENTS THAT WE RECEIVED FROM MONSANTO CORPORATELY
22 INDICATING THAT A PRODUCT OF MONSANTO'S WAS, YOU KNOW,
23 CONTAINED PCB'S, AND THAT THERE WAS SOME CONCERNS ABOUT IT,
24 AND THAT INFORMATION WAS FLOWING, I'M SURE, BEFORE I JOINED
25 THE FLUIDS GROUP.

26 Q. AND WHAT PRODUCTS WERE YOU SELLING WHEN YOU
27 FIRST HEARD THAT INFORMATION?

28 A. I WAS SELLING PAPER CHEMICALS.

1 Q. DID THOSE PRODUCTS CONTAIN PCB'S?

2 A. NO, SIR, THEY DID NOT.

3 Q. WAS THE ISSUE OF PCB'S HAVING BEEN FOUND IN
4 THE ENVIRONMENT SOMETHING THAT YOU DISCUSSED WITH TEXAS
5 EASTERN?

6 A. I DID.

7 Q. WHO DID YOU DEAL WITH AT TEXAS EASTERN?

8 A. THE PEOPLE THAT I DEALT MAINLY WITH WERE --
9 AGAIN, I WAS CALLING SPECIFICALLY ON THE SHREVEPORT
10 LOCATION, WHICH WAS WHERE THEIR TECHNICAL CENTER WAS. THEY
11 HAD A PURCHASING OFFICE IN HOUSTON, AND, YOU KNOW, WE HAD A
12 DIFFERENT PERSON CALLING ON PURCHASING IN HOUSTON THAN
13 MYSELF WAS CALLING ON SHREVEPORT.

14 THE PEOPLE THAT I DEALT MOSTLY WITH IN TEXAS
15 EASTERN WERE BUCK JARNAGIN, GENE RIAL, AND MR. WOODS, AS I
16 REMEMBER, BUT THE TWO SPECIFIC PEOPLE THAT I DID AN AWFUL
17 LOT WITH WERE BUCK AND GENE RIAL.

18 Q. DOES WALTER WOODS RING A BELL?

19 A. EXCUSE ME. WALTER WOODS IS POSSIBLE. THAT
20 SOUNDS LIKE HIS FIRST NAME, RIGHT.

21 Q. ARE YOU AWARE, SIR, OF ANY CUSTOMER
22 PURCHASING TURBINOL OTHER THAN TEXAS EASTERN DURING THE
23 TIME YOU SOLD THAT PRODUCT?

24 A. NO.

25 Q. NOW, HOW WERE ORDERS TAKEN AND FILLED FOR
26 TURBINOL-153?

27 A. THE WAY THAT WAS DONE WAS, I'M SURE --
28 THOUGH, I HAD NOTHING TO DO WITH IT -- BUT I'M SURE

1 WHOMEVER ON THE PIPELINE SYSTEM WAS --

2 MR. TALLON: OBJECTION. FOUNDATION.

3 THE COURT: SUSTAINED.

4 Q. BY MR. ZIMMER: ALL RIGHT. SO OU YOURSELF
5 WEREN'T INVOLVED IN ANYTHING BEYOND THE SALES CALLS; IS
6 THAT RIGHT?

7 A. THAT'S -- I WAS NOT INVOLVED IN THE ORDER
8 PROCESS, SPECIFICALLY, NO, SIR.

9 Q. OKAY. WHEN YOU TOOK -- WELL, LET ME STRIKE
10 THAT.

11 WHEN YOU WOULD MAKE A SALES CALL ON TEXAS
12 EASTERN, HOW DID YOU LEARN THAT AN ORDER HAD BEEN MADE?

13 A. THAT WAS DONE JUST BY SOME OF THE SALES
14 REPORTING INFORMATION THAT WAS SENT TO ME.

15 Q. DID YOU KNOW WHERE A PARTICULAR BATCH OF
16 FLUID, IF YOU WILL, WAS TO BE SENT WHEN AN ORDER WAS MADE?

17 A. I TRULY DON'T REMEMBER THE REPORTS THAT I
18 SAW. I THINK WE GENERALLY SAW SUMMARY REPORTS AS OPPOSED
19 TO SPECIFIC INDIVIDUAL REPORTING.

20 Q. SIR, DO YOU RECALL SOMETHING CALLED THE
21 APPROVED CUSTOMER LIST?

22 A. YES, I DO.

23 Q. DO YOU REMEMBER THAT IN THE CONTEXT OF
24 TURBINOL-153?

25 A. I DO.

26 Q. AND WHY WAS THERE AN APPROVED CUSTOMER LIST?

27 A. WELL, AS WE WERE TALKING BEFORE ABOUT THE
28 OPEN VERSUS CLOSED SYSTEM, WHAT MONSANTO WAS ABOUT WAS, THE

1 DECISIONS WERE BEING MADE AS TO WHICH CUSTOMERS SHOULD BE
2 ALLOWED TO CONTINUE TO RECEIVE MATERIAL THAT HAD THE PCB'S
3 IN THEM AND WHICH ONES WE SHOULD BE MORE CONCERNED ABOUT AS
4 WE EXPLAINED THE CLOSED SYSTEM.

5 THOSE WOULD BE CUSTOMERS THAT DURING THAT
6 TIME PERIOD, WE'D BE LESS CONCERNED ABOUT. SO THE APPROVED
7 LIST WAS ONE THAT IN THE JUDGMENT OF THE INFORMATION THAT
8 MONSANTO FOLKS HAD AT THE TIME, YES, THESE SYSTEMS WOULD BE
9 MORE LIKELY TO BE SAFE AND LET'S CONCENTRATE ON THE MORE --
10 THE LESS -- THE MORE LEAKIER SYSTEMS, IF YOU WILL.

11 Q. WHO WAS ON THE APPROVED CUSTOMER LIST FOR
12 TURBINOL-153?

13 A. THERE WAS THE CUSTOMER FOR TURBINOL-153 AND
14 THAT WAS TEXAS EASTERN.

15 Q. SIR, ARE YOU AN EXPERT IN TURBINE AND
16 COMPRESSOR OPERATION?

17 A. NO, I'M NOT.

18 Q. WHAT INFORMATION DID YOU ACQUIRE DURING YOUR
19 SALES CAREER ABOUT THE OPERATIONS OF THAT MACHINERY?

20 A. I WAS AWARE, BECAUSE OF THE POSITION THAT I
21 HAD OF SELLING FLUIDS, I WAS AWARE OF WHAT THE FLUID
22 FUNCTION WAS, WHAT THE PERFORMANCE NEEDS OF THE FLUID WERE
23 IN THE PERFORMANCE OF THE TURBINE.

24 BUT I HAD MANY CUSTOMERS. I HAD A LOT TO DO
25 AND A LOT OF THINGS TO TAKE CARE OF, AND WE SIMPLY WEREN'T
26 REQUIRED TO GET THAT FAR INTO WHAT TEXAS EASTERN WAS DOING
27 BECAUSE THEY WERE, OBVIOUSLY, WELL AWARE OF WHAT THEY WERE
28 DOING THEMSELVES. THEY WERE TECHNICALLY CAPABLE OF DOING

1 THE THINGS THAT THEY DID.

2 AND SPEAKING ABOUT ME PERSONALLY, THERE WERE
3 -- THERE WAS AN AWFUL LOT OF -- THERE WERE A NUMBER OF
4 PEOPLE IN ST. LOUIS WHO WERE DEFINITELY AWARE OF MORE THE
5 TECHNICAL ASPECTS OF THE OPERATION OF A TURBINE AND THAT
6 SORT OF THING.

7 SO IN MY CAPACITY, I WAS MORE COMMERCIAL IN
8 WHAT I WAS DOING. I WAS MORE INTERESTED IN FACILITATING
9 THE CONTINUATION OF THIS RELATIONSHIP AND THE SALES THAT WE
10 WERE MAKING AS OPPOSED TO UNDERGO THE TECHNICAL ASPECTS OF
11 WHAT THEY WERE DOING.

12 Q. WERE YOU EVER TOLD, SIR, BY TEXAS EASTERN
13 THAT TURBINOL WAS LEAKING OUT OF ITS TURBINE AND COMPRESSOR
14 UNITS AND INTO ITS PIPELINE?

15 A. NOT THAT I RECALL.

16 Q. NOW, YOU ALSO SOLD PYDRAULS, CORRECT?

17 A. I DID.

18 Q. IS TURBINOL A PYDRAUL?

19 A. NO. TURBINOL IS NOT A PYDRAUL.

20 Q. WHAT'S THE DISTINCTION IN YOUR MIND?

21 A. TURBINOL IS A VERY SPECIFICALLY DESIGNED
22 PRODUCT FOR USE IN THE LUBRICATION SYSTEM OF THE TURBINE,
23 AND A PYDRAUL -- THERE ARE A SERIES OF DIFFERENT PYDRAULS
24 THAT ARE USED IN A DIFFERENT TYPE OF APPLICATION.

25 Q. NOW, WE DISCUSSED BRIEFLY, I THINK ALREADY,
26 THE REFORMULATION OF PYDRAULS?

27 A. RIGHT.

28 Q. WHEN WAS IT, AGAIN, THAT YOU FIRST BECAME

1 AWARE OF THAT?

2 A. SPECIFICALLY, I BECAME AWARE OF IT IN APRIL
3 OF 1971 WHEN I JOINED THE FLUIDS GROUP, AND I BECAME AWARE
4 THAT THAT EFFORT HAD BEEN GOING ON FOR SOME PERIOD BEFORE
5 THAT, THE REFORMULATION AND EVALUATION OF WHICH CUSTOMERS
6 WE WERE MORE CONCERNED ABOUT AND NOT CONCERNED ABOUT.

7 SO THAT EFFORT HAD ALREADY BEEN ONGOING. I
8 RECEIVED -- I REMEMBER SEEING THE QUESTIONNAIRE THAT WE
9 SENT TO CUSTOMERS BECAUSE THAT WAS SOMETHING THAT I GOT
10 INVOLVED IN WHILE I WAS IN THAT SALES POSITION AND A NUMBER
11 OF OTHER THINGS. BUT THAT'S ONE SPECIFIC THING I DO
12 REMEMBER.

13 Q. WAS TURBINOL REFORMULATED?

14 A. TURBINOL WAS ULTIMATELY REFORMULATED, IT SURE
15 -- IT REFORMULATE -- WE ALTERED -- MONSANTO DID RESEARCH
16 AND ULTIMATELY CAME UP WITH ANOTHER FLUID TO DO THE JOB
17 THAT TURBINOL-153 WAS DOING.

18 Q. WHEN DO YOU FIRST RECALL ANY DISCUSSION
19 WITHIN MONSANTO ABOUT REFORMULATING TURBINOL?

20 A. THE FIRST TIME THAT IT WAS BROUGHT UP AS A
21 FACT WAS, AGAIN, MY BEST MEMORY -- AND IT'S DIFFICULT TO
22 GET DOWN TO SPECIFIC MONTHS -- BUT IT WAS, PERHAPS, SUMMER
23 OR FALL OF THE 1971 PERIOD. IT WAS AFTER I JOINED.

24 Q. IS THAT A SUBJECT THAT YOU DISCUSSED WITH
25 TEXAS EASTERN PRIOR TO THE END OF 1971?

26 A. YES, SIR, IT IS.

27 Q. PRIOR TO THE REFORMULATION OF TURBINOL, WAS
28 THE PCB CONTENT OF THAT PRODUCT A SELLING POINT?

1 A. IT SURE WAS. THE FACT THAT TURBINOL-153
2 CONTAINED THE PCB'S, THAT WAS SOMETHING THAT WE USED AS A
3 SELLING TOOL.

4 THERE ARE A NUMBER OF DIFFERENT WAYS THAT
5 FLUIDS CAN BE MANUFACTURED. THE FACT IS THAT THE PCB
6 CONTENT OF TURBINOL, BECAUSE TURBINOL -- I MEAN, BECAUSE
7 THE POLYCHLORINATED BIPHENYL PRODUCT IS A VERY, A VERY
8 STABLE CHEMICAL, IT LASTS A LONG TIME. IT IS VERY
9 TEMPERATURE RESISTANT.

10 IT WON'T -- IT DOES NOT BREAK DOWN QUICKLY IN
11 TEMPERATURE AND WHEN EXPOSED TO TEMPERATURE, AND IT IS ALSO
12 VERY, WHAT'S KNOWN IN THE BUSINESS, AS SHEAR RESISTANT, IN
13 THE SENSE THAT WHEN YOU SQUEEZE IT VERY TIGHTLY, IT DOESN'T
14 BREAK DOWN, EITHER, VERY EASILY. IT WILL BREAK DOWN, BUT
15 NOT VERY EASILY.

16 THOSE CHARACTERISTICS, THAT INFORMATION ABOUT
17 THE PERFORMANCE OF THE PCB'S MADE IT A VERY DEFINITE
18 SELLING POINT THAT WE HAD FOR TURBINOL-153, ABSOLUTELY.

19 Q. SIR, DID YOU EVER HAVE ANY CONTACT WITH A
20 COMPANY CALLED COLUMBIA GULF TRANSMISSION COMPANY?

21 A. NO.

22 Q. DO YOU KNOW WHETHER THEY EVER BOUGHT TURBINOL
23 FROM MONSANTO?

24 A. I DO. I KNOW THAT THEY ULTIMATELY DID, BUT
25 THEY WERE NOT A CUSTOMER OF MINE.

26 Q. WERE THEY ALSO ON THE APPROVED CUSTOMER LIST?

27 A. YES, THEY WERE.

28 Q. BUT YOU DEALT SPECIFICALLY WITH TEXAS

1 EASTERN?

2 A. THAT'S CORRECT.

3 Q. SIR, LET ME ASK YOU TO TURN TO EXHIBIT 566 IN
4 THE BINDERS BEHIND YOU IF YOU WOULD, PLEASE.

5 A. SAY THE NUMBER AGAIN. 566?

6 Q. 566, YES, SIR.

7 A. 566.

8 A. OKAY.

9 Q. TAKE YOUR TIME. DO YOU HAVE THAT?

10 A. I DO HAVE THAT.

11

12 (MARKED FOR ID: = 566, 6-28-71 CALL REPORT)

13

14 Q. BY MR. ZIMMER: IS THIS A CALL REPORT THAT
15 YOU AUTHORED?

16 A. IT IS.

17 Q. AND WAS THIS YOUR FIRST VISIT TO TEXAS
18 EASTERN?

19 A. THAT'S CORRECT.

20 Q. WHAT WAS THE PURPOSE OF THIS CALL?

21 A. THIS CALL REPORT SAYS, THE MAIN FUNCTION OR
22 THE MAIN REASON WHY THIS CALL TOOK PLACE WAS TO INTRODUCE
23 MYSELF AS THE SALESMAN THAT WOULD BE RESPONSIBLE FOR
24 CALLING ON THE SHREVEPORT LOCATION OF TEXAS EASTERN AND
25 THAT WAS A JOINT CALL. THAT WAS WITH CARL CLAY.

26 Q. AND AS I THINK YOU TOLD US, THAT WAS A JOINT
27 CALL THAT YOU MADE WITH MR. CLAY?

28 A. THAT'S CORRECT.

1 Q. WAS THAT A COMMON PRACTICE, TO MAKE JOINT
2 CALLS?

3 A. IT WAS, INDEED. IT WAS QUITE COMMON WHEN A
4 TERRITORY WAS BEING TURNED OVER OR A CUSTOMER WAS BEING
5 TURNED OVER, ONE SALESPERSON TO ANOTHER, WHY, THE TWO
6 SALESPEOPLE CAME IN TOGETHER TO MORE OR LESS PASS ON THE
7 PAST, MAKE THE PERSONAL CONTACT AND GET TO KNOW THE ACCOUNT
8 FROM THE PERSON THAT KNEW THE PEOPLE TO A NEW SALESMAN. IT
9 WAS A VERY COMMON OCCURRENCE.

10 Q. SIR, ON THIS CALL REPORT, YOU WROTE UNDER
11 "OBJECTIVES," "INTRODUCE JGF TO ACCOUNT"?

12 A. RIGHT.

13 Q. THAT'S YOU, I TAKE IT?

14 A. THAT'S ME. RIGHT.

15 Q. NO. 2 IS, "DETERMINE TURBINE INSTALLATION
16 PLANS FOR 1971."

17 DO YOU RECALL WHAT YOU MEANT BY THAT?

18 A. WE JUST WANTED TO KNOW WHAT THEIR PLANS WERE
19 IN THE 1971 PERIOD FOR ANY NEW INSTALLATIONS FOR TURBINES
20 THAT THEY WERE GOING TO MAKE OR CHANGES IN THEIR SYSTEM
21 THAT WOULD REQUIRE FLUID OR CHANGE IN THEIR FLUID
22 REQUIREMENTS FROM NOW TO ME AS A SALESMAN.

23 Q. AND HOW ABOUT THE NEXT ITEM, "CHECK ON
24 CURRENT FILING REGARDING TURBINOL-153."

25 WHAT DID YOU MEAN BY THAT?

26 A. WELL, WE WANTED TO MAKE SURE THAT THE TEXAS
27 EASTERN COMPANY WAS CONTINUING TO BE HAPPY WITH THE
28 TURBINOL-153 PRODUCT, WHICH IS OUR NATURE, AND THAT'S WHAT

1 WE WERE -- THAT'S WHAT WE WERE ALL ABOUT. WE WANTED TO
2 MAKE SURE THAT THEY KNEW WHAT WAS GOING ON WITH REGARD TO
3 ANYTHING WE WERE DOING, AND I NEEDED TO UNDERSTAND THAT AS
4 WELL, SO WE WANTED TO DELVE INTO THAT A BIT.

5 Q. NOW, YOU ALSO WROTE UNDER "RESULTS," "IN
6 TALKING WITH THE ABOVE PEOPLE, THERE WAS NO MENTION OF ANY
7 DISCONTENT WITH 153."

8 A. THEY WERE VERY --

9 Q. WHAT DID YOU MEAN BY THAT?

10 A. THEY WERE REALLY HAPPY WITH THE FLUID. IT
11 WAS VERY APPARENT FROM THE INFORMATION, THE CONVERSATION
12 THAT WE HAD -- I EVEN HAVE A SPECIFIC MEMORY OF THE
13 MEETINGS AND THE FEELING THAT WE HAD COMING AWAY FROM
14 THERE.

15 THEY LIKED WHAT TURBINOL-153 WAS DOING. IT
16 WAS DOING THE JOB THAT THEY NEEDED TO HAVE DONE IN THEIR
17 TURBINES.

18 Q. I'M GOING TO ASK YOU TO LOOK AT THE SECOND
19 PAGE OF YOUR CALL REPORT.

20 FIRST LINE THAT YOU WROTE SAYS, "WOODS
21 QUESTIONED WHETHER TURBINOL-153 HAD BEEN REFORMULATED
22 WITHOUT TEXAS EASTERN'S KNOWLEDGE."

23 A. RIGHT.

24 Q. WHAT DID YOU MEAN BY THAT?

25 A. THE INFORMATION ABOUT PCB'S WERE ALREADY
26 FLOATING AROUND THE INDUSTRY AT THE TIME AND THERE WAS SOME
27 CONCERN, I TAKE IT, AND I WAS NEW TO IT AT THE TIME, SO
28 WHEN I WAS READING THIS OUT, I WAS BEING VERY -- I WASN'T,

1 YOU KNOW, WASN'T SURE WHERE THEY WERE, BUT WHEN WE GOT IN
2 THERE AND TALKED WITH THEM, IT WAS CLEAR TO ME THAT THEY
3 WERE AWARE OF THE PCB SITUATION.

4 MR. TALLON: OBJECTION TO WHAT THEY WERE AWARE OF.

5 THE COURT: SUSTAINED.

6 THE WITNESS: UM --

7 Q. BY MR. ZIMMER: GO AHEAD. LET ME ASK ANOTHER
8 QUESTION.

9 A. PLEASE.

10 Q. DO YOU RECALL WHAT THE ASSURANCE WAS THAT IS
11 INDICATED HERE WHERE IT SAYS, "WE ASSURED WOODS THAT TEXAS
12 EASTERN WOULD BE INCLUDED AT THE INITIAL STAGES OF ANY
13 REFORMULATION OF TURBINOL"?

14 A. I HAVE AN ABSOLUTE MEMORY OF THAT, AND THEY
15 WERE.

16 Q. LET'S TURN TO EXHIBIT 236, IF YOU COULD BE SO
17 KIND TO FIND THAT ONE.

18 A. I'M WITH YOU.

19 Q. DO YOU HAVE THAT ONE?

20 A. I DO.

21 Q. COULD YOU IDENTIFY THAT CALL REPORT FOR THE
22 RECORD?

23 A. YES. IT'S A JANUARY 14, 1972 CALL THAT WAS
24 MADE BY THE MONSANTO PEOPLE. PRESENT, LARRY BRADFORD, DON
25 STEGEN -- DON STEGEN BEING THE PERSON WHO CALLED ON
26 PURCHASING IN HOUSTON -- MYSELF AND ROGER HATTON WHO IS A
27 ST. LOUIS PERSON.

28 Q. SO YOU WERE PRESENT AT THIS MEETING?

1 A. I WAS THERE, YES, SIR.

2 Q. AND YOU WERE COPIED ON THIS CALL REPORT?

3 A. THAT'S CORRECT. THAT'S WHAT SHOWS IN THE
4 UPPER RIGHT-HAND CORNER AS I'M COPYEE, AND I RECEIVED A
5 COPY OF THIS.

6 Q. DO YOU RECALL HOW THIS MEETING WAS ARRANGED?

7 A. AS I RECALL, THIS WAS A MEET THAT WAS SET UP
8 REQUESTED BY LARRY BRADFORD, AND IT WAS MY FUNCTION TO
9 REALLY MAKE SURE THAT THE PEOPLE THAT WERE NECESSARY TO BE
10 THERE WERE INFORMED THAT IT WAS GOING TO TAKE PLACE AND THE
11 SUBJECT OF THE MEETING AND THE TIME OF IT AND THAT SORT OF
12 THING.

13 Q. WHO DID YOU KNOW AMONG THE PEOPLE WHO WERE
14 LISTED AS PRESENT FOR TEXAS EASTERN?

15 A. AS I SAID BEFORE, THE PEOPLE THAT I TALKED TO
16 MOST OFTEN WERE GENE RIAL AND A.B., BUCK, JARNAGIN. THOSE
17 WERE THE TWO FOLKS ON THAT LIST THAT I DID MOST OF MY
18 TALKING TO. WALTER WOODS' NAME AND I RECOGNIZE LESS
19 VIVIDLY A COUPLE OF THE OTHER NAMES THAT I HAD DEALT WITH.

20 Q. WHICH OTHER NAMES DO YOU RECOGNIZE?

21 A. FARMER AND MOORE ARE THE TWO THAT, I GUESS,
22 IN LOOKING AT THE DOCUMENTATION. SINCE THEN, I'VE BEEN
23 MORE REMINDED AS OPPOSED TO ANYTHING ELSE. BUT I DID MOST
24 OF MY TALKING TO GENE RIAL AND BUCK JARNAGIN.

25 Q. DID YOU EVER MEET A DON SLOAN?

26 A. NO. NOT THAT I RECALL.

27 Q. WERE YOU INTRODUCED TO A MR. SLOAN AT THE
28 TIME OF THIS MEETING?

1 A. AGAIN, I DON'T REMEMBER SPECIFICALLY MEETING
2 DON SLOAN.

3 Q. DO YOU RECALL WHETHER ANYONE WHO WAS
4 IDENTIFIED AS A D.H. SLOAN SPOKE AT THIS MEETING?

5 A. NOT THAT I REMEMBER.

6 Q. NOW, WHAT WAS THE PURPOSE OF THIS MEETING?

7 A. THE PURPOSE OF THIS MEETING WAS TO ALLOW
8 LARRY TO INTRODUCE -- TO LET TEXAS EASTERN KNOW THAT
9 MONSANTO HAD MADE A COUPLE OF DECISIONS ABOUT THE
10 TURBINOL-153 FLUID TO TEXAS EASTERN.

11 AND ONE OF THE THINGS THAT THEY WANTED TO GET
12 ACROSS, THAT LARRY WANTED TO GET ACROSS IN MANAGEMENT'S
13 DECISION-MAKING PROCESS, THAT WE WERE DISCONTINUING THE
14 SALE OF THE TURBINOL PRODUCT TO TEXAS EASTERN, AND THAT WAS
15 THE MAIN PURPOSE.

16 THERE WERE SEVERAL OTHER THINGS. THE ONE
17 OTHER THING THAT'S CLEAR FROM READING THIS -- AND I HAVE,
18 AGAIN, A MEMORY OF IT -- IS THIS IDEA OF IF TEXAS EASTERN
19 WANTED TO PURCHASE ADDITIONAL MATERIAL PAST THIS DATE,
20 WHICH I BELIEVE IS THE 15TH OF THE MONTH OR SO, THAT THEY
21 WOULD BE REQUIRED TO SIGN THIS DOCUMENT, WHICH IS BASICALLY
22 SAYING, YOU KNOW, THE PRODUCT IS FOR SALE, BUT MONSANTO IS
23 NOT RESPONSIBLE FOR IT.

24 Q. SIR, IF I COULD ASK YOU TO LOOK AT THE BOTTOM
25 OF THAT FIRST PAGE, AND THEN MOVING ON TO THE TOP OF THE
26 SECOND. IT SAYS, "A MORE CAREFUL ANALYSIS WILL BE MADE TO
27 DETERMINE THE EXACT TIME OF DEPLETION; THIS WILL BE DONE ON
28 A STATION-BY-STATION BASIS AND INCLUDE TRANSFERRING NEW

1 FLUID AROUND AS REQUIRED."

2 DO YOU RECALL THAT ISSUE BEING DISCUSSED AT
3 THE MEETING?

4 A. YES.

5 Q. IT GOES ON TO SAY, "A DESIRE WAS EXPRESSED TO
6 ORDER A SMALL AMOUNT OF ADDITIONAL FLUID IF IT COULD BE
7 OBTAINED BEFORE THE DEADLINE OF SIGNING THE AGREEMENT
8 LETTER."

9 WHAT WAS THE AGREEMENT LETTER?

10 A. AS I REMEMBER, IT WAS A LETTER BASICALLY
11 SAYING AS OF, I BELIEVE IT WAS THE 15TH OF, I THINK,
12 JANUARY, AS I READ IT, BUT I'M REMEMBERING THAT AS WELL,
13 THAT MONSANTO WOULD STOP SELLING TURBINOL-153.

14 AND I BELIEVE IT'S BASICALLY THE WEEK BETWEEN
15 THE TIME OF THE CALL THAT WE MADE AND THE TIME OF THE DATE
16 ON THE LETTER.

17 Q. DO YOU KNOW WHETHER ANY ADDITIONAL FLUID WAS
18 EVER SUPPLIED TO TEXAS EASTERN AFTER THIS MEETING?

19 A. I HONESTLY DON'T REMEMBER.

20 Q. THE FIRST SENTENCE OF THE NEXT PARAGRAPH
21 SAYS, "THE ENVIRONMENTAL SITUATION WITH THE PCB-CONTAINING
22 TURBINOL-153 WAS DISCUSSED IN DETAIL."

23 A. RIGHT.

24 Q. DO YOU RECALL THAT?

25 A. I DO.

26 Q. WHAT DO YOU RECALL ABOUT THAT DISCUSSION?

27 A. WELL, WHAT I REMEMBER WAS THAT WE REVIEWED
28 WITH THE TEXAS EASTERN PEOPLE WHERE THE PCB SITUATION HAD

1 OCCURRED IN THE PRIOR TIME, WE WERE REVIEWING WHERE IT HAD
2 EVOLVED, AND THEN BRINGING THEM UP TO DATE ON WHAT WE KNEW
3 ABOUT THE PCB SITUATION AT THE TIME OF THAT MEETING.

4 Q. SIR, LOOKING BACK UP AT THE FIRST PARAGRAPH,
5 DO YOU RECALL A DESIRE HAVING BEEN EXPRESSED DURING THIS
6 MEETING BY TEXAS EASTERN TO ORDER ADDITIONAL FLUID?

7 A. THERE WAS NO QUESTION THEY WANTED TO BUY MORE
8 FLUID. THEY WERE NOT HAPPY WITH MONSANTO DECIDING TO DO
9 THIS.

10 Q. AND BY THIS, YOU MEAN?

11 A. BY THIS, I MEAN DISCONTINUE THE SALE OF THE
12 PRODUCT. TEXAS EASTERN WAS DEFINITELY NOT HAPPY WITH THIS
13 DECISION.

14 Q. ALL RIGHT, SIR. IF I COULD ASK YOU TO MOVE
15 TO THE NEXT EXHIBIT IN ORDER, 237, PLEASE.

16

17 (MARKED FOR ID: = 237, 2-11-72 MEMO)

18

19 Q. BY MR. ZIMMER: AND IF YOU COULD IDENTIFY
20 THAT FOR THE RECORD.

21 A. THAT'S A CALL REPORT OF A JOINT CALL THAT
22 MYSELF AND ROGER HATTON MADE TO TEXAS EASTERN. THE DATE OF
23 THE CALL WAS EARLY IN FEBRUARY, FEBRUARY 4TH, AS THE
24 DOCUMENT SHOWS.

25 Q. AND WERE YOU -- YOU WERE PRESENT AT THIS
26 CALL?

27 A. I WAS, INDEED.

28 Q. WERE YOU ALSO COPIED ON THE CALL REPORT?

1 A. RIGHT. I SURE WAS.

2 Q. WHAT DO YOU RECALL ABOUT THIS MEETING?

3 A. THIS WAS A MEETING WHERE, AGAIN, WE WERE
4 INVOLVED AT THAT PARTICULAR TIME IN BEGINNING TO INTRODUCE
5 TEXAS EASTERN TO ADDITIONAL -- TO SOME NEW FORMULATIONS --
6 NOT REFORMULATE TURBINOL, BUT BASICALLY NEW FORMULATIONS
7 FOR DOING THE JOB THAT TURBINOL-153 HAD DONE BEFORE.

8 Q. AT THE BOTTOM OF THE PAGE UNDER THE HEADING
9 "DETAILS," THE CALL REPORT STATES, "THIS MEETING WAS CALLED
10 BY WALTER WOODS TO REVIEW THE INFORMATION PROVIDED ON
11 MONSANTO'S ALL PHOSPHATE ESTER TURBINE LUBRICANT MCS-1223
12 COMPARED TO TURBINOL-153."

13 LET'S START WITH THAT PORTION OF IT. DO YOU
14 RECALL HOW THIS MEETING WAS ARRANGED?

15 A. BASICALLY, IT WAS MONSANTO'S -- IT WAS
16 MONSANTO'S -- IT WAS REQUESTED BY MONSANTO TO DO EXACTLY
17 THAT. TO BEGIN TO COMPARE, HEY, THIS IS THE NEW FLUID, THE
18 PROPERTIES IN THE NEW FLUID VERSUS THE PROPERTIES OF THE
19 TURBINOL-153.

20 Q. AND WHAT WAS MCS-1223?

21 A. MCS-1223 IS A -- WAS THE FIRST OF, I THINK,
22 TWO OR THREE DIFFERENT PRODUCTS THAT MONSANTO HAD PUT
23 TOGETHER TO ATTEMPT TO SATISFY WHAT IT WAS THAT TEXAS
24 EASTERN NEEDED IN THEIR TURBINES.

25 Q. THE SENTENCE THAT WE LEFT OFF AT THE BOTTOM
26 OF THAT PAGE CONTINUES AT THE TOP OF THE NEXT TO SAY --

27 A. RIGHT.

28 Q. -- "THE INFORMATION HAD BEEN PROVIDED IN

1 BULLETIN FORM EARLIER IN THE WEEK BY JOHN FREDERIKSEN AND
2 RESULTED IN THIS REQUEST FOR FURTHER DISCUSSION BY THE
3 UNDERSIGNED."

4 A. RIGHT.

5 Q. HAD YOU PROVIDED A BULLETIN?

6 A. I DID, UH-HUH.

7 Q. SKIP, IF YOU WOULD, SIR, TO THE THIRD PAGE OF
8 THIS CALL REPORT. AND IN REFERRING TO THAT SECOND
9 PARAGRAPH, WHY DON'T YOU JUST READ THE FIRST COUPLE OF
10 SENTENCES THERE, IF YOU WOULD, PLEASE.

11 A. SURE. (READING:)

12
13 "WALTER WOODS POINTED OUT THAT
14 THERE APPEARED TO BE SOME DIFFERENCES IN FIRE
15 RESISTANCE BETWEEN MCS-1223 AND TURBINOL-153.
16 THIS OPENING WAS USED TO INDICATE WHY WE HAD
17 STAYED SO LONG WITH CHLORINATED MATERIALS IN
18 SPITE OF THE OPPORTUNITY OF CERTAIN UNITS" --
19 EXCUSE ME -- "OPPOSITION BY CERTAIN UNITS OF
20 GENERAL ELECTRIC. WE INDICATED THAT THE" --
21

22 Q. YOU CAN STOP THERE. ACTUALLY, JUST THE FIRST
23 TWO?

24 A. ALL RIGHT. YOU SAID FIRST TWO.

25 Q. LET ME ASK YOU FIRST, SIR, IF YOU RECALL
26 DIFFERENCES IN FIRE RESISTANCE BETWEEN MCS-1223 AND
27 TURBINOL?

28 A. I DO, YES. THERE WAS NO QUESTION ABOUT THE

1 REASON WHY -- THERE WAS NO QUESTION IN MY MIND AT ALL THAT
2 THE REASON WHY MCS -- LET ME START OVER AGAIN.

3 TURBINOL-153'S FIRE RESISTANCE, THEIR
4 PROPERTIES IS CONSIDERABLY HIGHER THAN OR IS MEASURABLY
5 HIGHER THAN THE NON-AROCOR CONTAINING PRODUCTS. THERE'S
6 JUST NO QUESTION IN MY MIND.

7 Q. UM --

8 A. AND BASICALLY, THAT'S WHAT THESE -- THIS
9 COMMENT SAYS.

10 Q. DO YOU RECALL THAT THERE WAS OPPOSITION BY
11 CERTAIN UNITS OF GENERAL ELECTRIC TO THE PRESENCE OF
12 CHLORINATED MATERIALS IN LUBRICANTS?

13 A. YES.

14 Q. SKIP, IF YOU WOULD, TO THE LAST PAGE OF THIS
15 CALL REPORT.

16 A. OKAY.

17 Q. AND THERE'S SOME DISCUSSION OF COMPATIBILITY
18 OF THE FLUIDS. I JUST WANT TO HAVE YOU READ FROM THIS
19 POINT DOWN, IF YOU SEE WHERE I AM THERE. "COLOR MADE" --

20 A. YOU'RE STARTING THE SECOND SENTENCE.

21 Q. "DURING THIS COMPATIBILITY DISCUSSION," IF
22 YOU COULD READ FROM THERE.

23 DO YOU SEE WHERE I'VE HIGHLIGHTED ON THE
24 SCREEN?

25 A. I'M WITH YOU. YES. THE REPORT -- ROGER
26 WRITES (READING):

27

28

"DURING THIS COMPATIBILITY

1 DISCUSSION, IT WAS POINTED OUT THAT
2 MONSANTO'S BASIC POSITION WOULD BE THAT THEY
3 OUGHT TO DRAIN THE UNITS AS WELL AS POSSIBLE
4 AND THEN START OPERATION WITH THE NEW FLUID.
5 IT WAS POINTED OUT THAT THIS RECOMMENDATION
6 IS BASED PRIMARILY ON ECOLOGY CONSIDERATIONS
7 AND NOT ON PERFORMANCE."

8
9 AND I ASSUME HE MEANT, OBVIOUSLY, THE FLUID.

10 Q. NOW, DO YOU RECALL THAT DISCUSSION TAKING
11 PLACE?

12 A. YES, I DO. I REMEMBER WE MADE THIS
13 DISCUSSION AT SEVERAL TIMES DURING THIS PERIOD.

14 Q. LET ME ASK YOU, SIR, IF YOU COULD MOVE TO
15 EXHIBIT 601?

16 A. 601.

17 Q. DO YOU HAVE THAT ONE.

18 A. I AM WITH YOU. YES.

19

20 (MARKED FOR ID: = 601, 2-10-72 CALL REPORT)

21

22 Q. BY MR. ZIMMER: IS THIS A CALL REPORT THAT
23 YOU AUTHORED?

24 A. YES, IT IS.

25 Q. DOES THIS RELATE TO THE SAME MEETING AS THE
26 CALL REPORT WE JUST REVIEWED IN EXHIBIT --

27 A. THAT'S THE SAME, EARLY FEBRUARY.

28 Q. -- 237?

1 A. YES.

2 Q. I'M SORRY, SIR.

3 A. THESE ARE CALL REPORTS ABOUT THE SAME CALL.

4 Q. NOW, SKIPPING TO THE SECOND PAGE OF THIS CALL
5 REPORT AT THE BOTTOM --

6 A. OKAY.

7 Q. -- WHERE IT SAYS, "CHANGEOVER."

8 COULD YOU READ THAT --

9 A. SURE.

10 Q. -- SENTENCE AND THEN CONTINUE ON TO THE END
11 OF THE FIRST PARAGRAPH ON THE NEXT PAGE, PLEASE.

12 A. RIGHT. THE NO. 6 ITEM IS "CHANGEOVER." IT
13 READS (READING):

14

15 "THE QUESTION WAS RAISED
16 WHETHER MCS-1223, THE NEW FLUID" -- WHICH
17 IT'S A NEW FLUID -- "COULD BE ADDED AS A
18 TOP-OFF MATERIAL FOR TURBINOL-153. ROGER
19 INDICATED HE THOUGHT IT WOULD PROBABLY BE
20 POSSIBLE TO DO THIS, BUT FROM AN
21 ENVIRONMENTAL STANDPOINT, IT WOULD BE TO
22 THEIR ADVANTAGE TO CHANGE THE MATERIALS OUT
23 COMPLETELY."

24

25 Q. IS THAT YOUR REPORTING OF THE SAME THING WE
26 JUST DISCUSSED FROM DR. HATTON'S CALL REPORT?

27 A. SURE IS.

28 Q. DO YOU RECALL THIS CHANGEOVER ISSUE COMING UP

1 ON OTHER OCCASIONS?

2 A. YES. UH-HUH.

3 Q. DO YOU RECALL THERE EVER BEING ANY DIFFERENCE
4 IN MONSANTO'S ADVICE AS TO WHETHER TO CHANGE OUT OR NOT?

5 A. NO. NOT REALLY. I THINK WE CONTINUED TO SAY
6 BASICALLY THE SAME MESSAGE ANY TIME WE HAD AN OPPORTUNITY
7 TO. WE WERE TRYING TO ANSWER SOME OF TEXAS EASTERN'S
8 QUESTIONS ABOUT THE ABILITY TO MIX THE TWO PRODUCTS, BUT WE
9 CONTINUED TO TALK ABOUT CHANGE-OUT AS THE BEST WAY TO DO
10 IT.

11 Q. SIR, LET ME HAVE YOU LOOK NOW IN ANOTHER
12 BINDER, IF YOU WOULD, PLEASE, AT EXHIBIT 244.

13

14 (MARKED FOR ID: = 244, 8-2-72 CALL REPORT)

15

16 Q. BY MR. ZIMMER: AND COULD YOU IDENTIFY THAT
17 CALL REPORT FOR US, PLEASE?

18 A. THAT IS ROGER HATTON'S CALL REPORT OF THE
19 JULY 24TH, 1972 MEETING BETWEEN TEXAS EASTERN AND MONSANTO.

20 Q. AND YOU WERE PRESENT AT THAT MEETING?

21 A. I WAS THERE.

22 Q. AND DO YOU RECALL THE MEETING?

23 A. I DO.

24 Q. WHAT WAS THE PURPOSE OF THE MEETING?

25 A. AGAIN, THIS WAS IN STEP, A CONTINUATION OF
26 THE EVALUATION OF OR THE PRESENTATIONS THAT WE MADE TO
27 TEXAS EASTERN WITH THE PRODUCTS THAT WE WANTED TO REPLACE
28 TURBINOL-153 WITH, AND CLEARING UP THE ITEMS THAT WERE ON

1 TEXAS EASTERN'S MIND AS FAR AS WHAT PRODUCTS IT IS AND
2 SITUATIONS THEY HAD WITH THE PRODUCTS.

3 Q. I'LL ASK YOU TO TURN TO PAGE 3. AND ABOUT
4 MIDWAY THROUGH, IT SAYS (READING):

5
6 "DURING THIS DISCUSSION, THEY
7 INDICATED THEY HAVE REDUCED THEIR STOCK OF
8 TURBINOL-153 FROM APPROXIMATELY 60,000
9 GALLONS AS OF JANUARY 1 TO 49,000 GALLONS.
10 IT IS THEIR PRESENT INTENTION TO CONTINUE TO
11 OPERATE WITH TURBINOL-153 MOVING IT FROM
12 STATION TO STATION UNTIL IT IS ESSENTIALLY
13 ALL CONSUMED."

14
15 DO YOU RECALL THAT DISCUSSION, SIR?

16 A. YES, I DO.

17 Q. DID THAT CAUSE YOU ANY CONCERN?

18 A. WE -- IT WAS -- REALLY DID. WELL, WE WERE IN
19 THE POSITION OF TELLING TEXAS EASTERN THAT WE WERE GOING TO
20 DISCONTINUE THE PRODUCT SALES BECAUSE IT WAS LOOKING MORE
21 EVIDENT THAT THERE WAS A PROBLEM WITH PCB'S, AND FOR THEM
22 TO CONTINUE TO USE THIS PRODUCT WAS A CONCERN FROM
23 MONSANTO'S AND WAS FOR ME PERSONALLY.

24 Q. ALL RIGHT, SIR. LET ME ASK YOU TO LOOK AT
25 ONE FURTHER EXHIBIT, THAT BEING NO. 612. IT MIGHT BE IN
26 THAT SAME BINDER YOU HAVE. I SENT TO THE WRONG ONE.
27 SORRY.

28 A. IT'S -- YOU SAID 612?

1 Q. YES, SIR.

2 A. OKAY.

3 Q. COULD YOU IDENTIFY THAT, PLEASE.

4

5 (MARKED FOR ID: = 612, 12-19-72 CALL REPORT)

6

7 THE WITNESS: WHOOPS. I'M ON THE WRONG ONE.

8 OKAY. I NOW HAVE IT. THIS IS A CALL REPORT
9 THAT I WROTE. IT'S RECORDING A TELEPHONE CONVERSATION THAT
10 I HAD WITH MR. WOODS, WITH WALTER WOODS.

11 Q. BY MR. ZIMMER: WHAT WAS THE PURPOSE OF THIS
12 DISCUSSION WITH MR. WOODS?

13 A. WHAT I WAS LOOKING FOR AT THE TIME WAS TO
14 LOOK AT, HEY, WHEN IS IT THAT TURBINOL WAS GOING TO BE USED
15 BY THE TEXAS EASTERN FOLKS, THE NEW TURBINOL, THE NEW
16 PRODUCT.

17 Q. REFORMULATED TURBINOL?

18 A. EXACTLY.

19 Q. NOW, THERE'S A PORTION OF THIS THAT SAYS,
20 ATTENTION, R.E. HATTON, ST. LOUIS.

21 DOES THAT MEAN THAT'S A POSTSCRIPT OR
22 SOMETHING DIFFERENT THAN THE CALL REPORT?

23 A. THAT'S REALLY A CONFIRMATION OF A REQUEST FOR
24 ACTION. YOU KNOW, I PROBABLY CALLED ROGER, TALKED TO HIM
25 ABOUT THE SITUATION, WANTED TO LET MY OWN SPECIFIC, YOU
26 KNOW, MY BOSS KNOW WHAT WAS GOING ON, AND SO THAT WAS --
27 THAT WAS A REQUEST FOR SOME EFFORT BY ROGER.

28 Q. AND WAS THAT ACTION OR EFFORT THAT YOU

1 REQUESTED SOMETHING TO DO WITH THIS NEW TURBINOL?

2 A. YES, IT WAS.

3 Q. AND THE NEW TURBINOL, AS YOU PUT IT, DID NOT
4 CONTAIN PCB'S, CORRECT?

5 A. IT DID NOT. THAT'S CORRECT.

6 Q. NOW, UNDER THIS HEADING, "FLUID
7 INCINERATION," COULD YOU READ THAT INTO THE RECORD, PLEASE.

8 A. SURE. IT'S -- THERE WERE A COUPLE OF THINGS
9 THAT I WAS DISCUSSING AND TRYING TO GET CLARIFICATION FROM
10 ST. LOUIS FROM OUR BOSSES AND, BASICALLY, IT'S -- FLUID
11 INCINERATION WAS ONE OF THESE THINGS THAT I WAS ASKING FOR.
12 IT SAID, AT THE END OF THE YEAR, YEAR-AND-A-HALF TO TWO
13 YEARS SINCE THEY HAVE DECIDED TO CONSUME THE PRODUCT,
14 "TEXAS EASTERN WOULD HAVE USED UP MOST OF THE TURBINOL-153
15 MATERIAL AND WILL NOT HAVE ENOUGH TO BE WORTHWHILE SAVING
16 AND USING. I THINK WE SHOULD OFFER TO INCINERATE THE LAST
17 REMAINING AMOUNTS OF FLUID TURBINOL-153, WITHIN LIMITS,
18 FREE OF CHARGE."

19 Q. DO YOU KNOW IF THAT OFFER WAS MADE?

20 A. I REALLY DON'T KNOW FOR SURE.

21 Q. HAD YOU RECOMMENDED THAT IT BE MADE?

22 A. I DID RECOMMEND THAT IT BE MADE.

23 Q. HOW ABOUT THE SECOND POINT THAT YOU'RE
24 DISCUSSING. IF YOU COULD READ THAT AS WELL, WITH RESPECT
25 TO FLUSH FLUID.

26 A. RIGHT. (READING:)

27

28 "BECAUSE OF THE ADDED EXPENSE

1 OF HAVING TO FLUSH THE SYSTEM PRIOR TO THE
2 INITIAL FILL OF THE 1122, I FEEL WE SHOULD
3 OFFER TEXAS EASTERN SOME AMOUNT OF FLUSH
4 FLUID AT NO CHARGE."

5

6 Q. WHAT DID THAT RELATE TO?

7 A. BY FLUSH FLUID, WE'RE TALKING ABOUT THE
8 SAFEST WAY TO CHANGE OUT A TRANS. -- TRANSFORMER -- A
9 COMPRESSOR OF THE TYPE THAT TEXAS EASTERN WAS USING WAS
10 BASICALLY TO DRAIN THE FLUID THAT'S IN RESERVOIR AND THEN
11 FLUSH THEM SOME CLEAN FLUID THROUGH IT TO MAKE SURE THAT
12 WHAT WAS LEFT OVER THE FIRST TIME, YOU DRAIN IT TO MAKE
13 SURE THAT WAS DILUTED AND DRAINED OUT AS WELL.

14 SO THAT IS WHAT FLUSH FLUID REFERRED TO; IS
15 THAT FLUID THAT THEY USED TO DILUTE THE SYSTEM AND CLEAN IT
16 OUT.

17 Q. OKAY. I AM GOING TO REFER YOU BACK TO ONE
18 OTHER BINDER.

19 A. SURE.

20 Q. IF I COULD ASK YOU TO LOOK AT EXHIBIT 231,
21 PLEASE.

22 A. OKAY.

23 Q. ARE YOU FAMILIAR WITH THIS FORM, SIR?

24 A. I'M FAMILIAR WITH THIS GENERAL FORM, YES.

25 Q. IS THAT SOMETHING OR FORMS OF ITS TYPE THAT
26 YOU WOULD HAVE USED IN YOUR JOB?

27 A. IT IS.

28 Q. IT'S AWFULLY HARD TO REPRODUCE HERE ON THE

1 OVERHEAD, BUT LET ME TRY AND FOCUS IN A BIT ON THIS
2 LEFT-HAND COLUMN AND ASK YOU, SIR, WHAT THAT LEFT-HAND
3 COLUMN REFLECTS TO YOU.

4 A. THIS IS A LISTING OF THE DIFFERENT PLACES
5 WHERE THE PRODUCTS WERE SHIPPED. FOR INSTANCE, ANY ONE
6 LINE INDICATES THE PLACE, A SPECIFIC PLACE WHERE A PRODUCT
7 WOULD BE SHIPPED TO.

8 Q. NOW, IS A PLACE WHERE A PRODUCT WOULD BE
9 SHIPPED TO THE SAME THING AS A CUSTOMER?

10 A. NO, IT CERTAINLY ISN'T. A CUSTOMER IS
11 BASICALLY WHO ORDERS IT, AS OPPOSED TO WHERE IT'S SHIPPED,
12 NECESSARILY.

13 MR. ZIMMER: THANK YOU, SIR.

14 NOTHING FURTHER AT THIS TIME.

15 THE COURT: ALL RIGHT. MR. TALLON.

16

17 CROSS-EXAMINATION +

18 BY MR. TALLON:

19 Q. I'M SORRY. I THOUGHT YOU LEFT THAT. WHY
20 DON'T YOU TAKE THAT SAME ONE OUT FOR A SECOND, MR.
21 FREDERIKSEN. I HAVE A COUPLE OF QUESTIONS ON THAT.

22 A. WE ARE AT 231?

23 Q. YES, PLEASE.

24 DID YOU JUST SAY THAT THAT FORM SHOWS ONLY
25 SHIPPED-TO INFORMATION?

26 A. I SAID THAT THE LISTING ON THE LEFT-HAND
27 COLUMN IDENTIFIES THE PLACES WHERE PRODUCT WAS SHIPPED.

28 Q. SO HOW MANY CUSTOMERS ARE ON THAT PAGE?

1 JUST ONE?

2 A. I HAVE NO WAY OF TELLING.

3 Q. WELL, LET'S TAKE A CLOSER LOOK AND SEE IF WE
4 CAN TELL. IT STARTS AT TURBINOL-153 WHERE A LITTLE
5 ASTERISK IS.

6 DO YOU SEE THAT?

7 A. YES, I DO.

8 Q. AND THE FIRST GROUP UNDER THAT LEGEND IS
9 "COLUMBIA GULF TRANS., STANTON, KENTUCKY," RIGHT?

10 A. THAT'S WHAT IT SAYS, RIGHT.

11 Q. SO THEN THERE'S ONE, TWO, THREE, FOUR OTHER
12 ENTRIES FOR COLUMBIA GULF, AND THEN THERE'S A LINE THAT
13 SAYS, "PARENT CUSTOMER TOTAL, COLUMBIA GAS, NEW YORK,"
14 RIGHT?

15 A. THAT'S WHAT IT SAYS.

16 Q. AND THEN THERE'S A COUPLE OF OTHER
17 INDICATIONS, "GARDNER DENVER COMPANY, QUINCY, ILLINOIS,"
18 AND ONE RIGHT AFTER THAT -- CAN'T READ THAT NEXT ONE VERY
19 WELL. LOOKS LIKE "PUBLIC SERVICE ELECTRIC GAS, LINDEN, NEW
20 JERSEY," AND THEN A SLEW OF TEXAS EASTERN NAMES, THEN IT
21 SAYS, "PARENT CUSTOMER TOTAL, TEXAS EASTERN TRAN," RIGHT?

22 YOU WITH ME SO FAR?

23 A. THAT'S WHAT IT SAYS.

24 Q. AND THEN IT SAYS, "TRANSWESTERN PIPE, CORONA,
25 NEW MEXICO," OKAY?

26 A. RIGHT.

27 Q. AND THEN IT SAYS, "TENNESSEE VALLEY
28 AUTHORITY, CHATTANOOGA, TENNESSEE," RIGHT?

1 A. RIGHT.

2 Q. AND THEN IT SAYS -- WELL, ACTUALLY, WHAT IT
3 SAYS IS "TENN. VALLEY AUTHOR., CHATTANOOGA TENN.," BUT YOU
4 KNOW THAT MEANS TENNESSEE VALLEY AUTHORITY, CHATTANOOGA,
5 TENNESSEE, RIGHT?

6 A. SURE.

7 Q. AND THEN IT SAYS, "WKM VALVE, MISSOURI CITY,
8 TEXAS," RIGHT?

9 A. RIGHT.

10 Q. SO HOW MANY CUSTOMERS ON THIS PAGE BY YOUR
11 COUNT?

12 A. I HAVE NO WAY OF TELLING.

13 Q. WELL, DO YOU THINK THAT COLUMBIA GULF IS
14 DIFFERENT THAN TEXAS EASTERN?

15 A. YES, IT IS.

16 Q. AND SO THERE'S TWO CUSTOMERS?

17 A. RIGHT.

18 Q. SO IT'S JUST NOT LOCATIONS, IS IT?

19 IT JUST DOESN'T RECORD SHIPMENT INFORMATION;
20 IT RECORDS INFORMATION ABOUT SEPARATE CUSTOMERS OF
21 MONSANTO?

22 A. I DIDN'T -- I DIDN'T DO THIS REPORT. WHAT I
23 CAN TELL YOU IS A REPORT LIKE THIS INDICATES THE INDIVIDUAL
24 SHIPPED-TO LOCATIONS AND THAT'S WHAT'S DESIGNATED ON THE
25 LEFT-HAND COLUMN.

26 Q. I UNDERSTAND YOU DIDN'T PREPARE IT, BUT YOU
27 JUST DID THIS INTERPRETATION OF IT FOR MR. ZIMMER, AND NOW
28 I'M ASKING FOR SOME FURTHER INTERPRETATION, OKAY?

1 A. YES.

2 Q. AND I'M ASKING YOU: IT'S CLEAR FROM THIS TO
3 YOU AS A MONSANTO SALESMAN THAT COLUMBIA GULF WAS ONE
4 CUSTOMER, RIGHT?

5 A. THAT INDICATES THE SHIPPED-TO LOCATIONS FOR
6 COLUMBIA GULF ON THE LEFT-HAND COLUMN, THAT'S RIGHT.

7 Q. AND WOULD YOU AGREE WITH ME THAT COLUMBIA GULF
8 IS A SEPARATE CUSTOMER THAN TEXAS EASTERN?

9 A. SURE.

10 Q. AND THAT GARDNER DENVER COMPANY IN QUINCY,
11 ILLINOIS WAS A SEPARATE CUSTOMER THAN TEXAS EASTERN?

12 A. I MEAN, THEY'RE SEPARATE FROM TEXAS EASTERN,
13 YES.

14 Q. OKAY.

15 A. THEY'RE A SEPARATE SHIPPED-TO LOCATION, ALSO.

16 Q. RIGHT. AND YOU SEE THAT IN THE CASE OF
17 COLUMBIA GULF, ALL THE COLUMBIA GULF INFORMATION IS TOTALED
18 UP UNDER THE LEGEND "PARENT CUSTOMER TOTAL" COLUMBIA GAS,
19 NEW YORK, RIGHT?

20 A. THAT'S CORRECT.

21 Q. AND THEN LET'S SEE IF WE'VE GOT TEXAS EASTERN
22 ONLY ON HERE. START WITH TEXAS EASTERN TRAN. IT SAYS,
23 "TEXAS EAST TRANS., HOUSTON, TEXAS," THAT FIRST HOUSTON,
24 TEXAS ENTRY, OKAY?

25 A. RIGHT.

26 Q. AND ON THE FAR LEFT-HAND SIDE, THERE'S TWO
27 NUMBERS NEXT TO THAT. IT SAYS, 19, THEN THE FORM HAS A
28 LINE IN IT, AND THEN IT SAYS, 68.

1 DO YOU SEE THAT?

2 A. I DO.

3 Q. THAT'S THE IDENTIFIER OF THE SALES REP,
4 RIGHT?

5 MR. ZIMMER: NO FOUNDATION, YOUR HONOR.

6 THE COURT: OVERRULED. YOU MAY ANSWER.

7 THE WITNESS: FROM THE -- FROM THE DESIGNATION FROM
8 THE TOP, THAT'S WHAT IT LOOKS LIKE, BUT AGAIN, I DIDN'T PUT
9 THIS TOGETHER.

10 Q. BY MR. TALLON: SO THAT'S NOT YOUR
11 IDENTIFIER, 68?

12 A. I DON'T REMEMBER WHAT MY NUMBER WAS.

13 Q. OKAY. BUT YOU HAD ONE?

14 A. I DID.

15 Q. OKAY. AND THEN YOU WOULD AGREE WITH ME THAT
16 IF YOU LOOK DOWN THAT PAGE, STARTING WITH "TEXAS EASTERN
17 TRANS., HOUSTON, TEXAS," THERE'S "TEXAS EASTERN, TUSCAMBIA,
18 ALABAMA, TEXAS EASTERN TRAN., DANVILLE, KENTUCKY," SO ON?

19 A. RIGHT.

20 Q. THEN YOU COME TO A LINE THAT SAYS, "PARENT
21 CUSTOMER TOT."?

22 A. RIGHT.

23 Q. "TEXAS EASTERN TRAN.," AND THAT LINE EXTENDS
24 ALL THE WAY ACROSS THE PAGE, ALTHOUGH WE'RE ONLY SEEING A
25 LITTLE BIT OF IT ON THE SCREEN?

26 A. RIGHT.

27 Q. AND IF YOU ADD UP THE NUMBERS STARTING WITH
28 "TEXAS EASTERN TRAN., HOUSTON, TEXAS," ALL OF THOSE LITTLE

1 NUMBERS IN THAT ONE COLUMN UP HERE, THAT ADDS UP TO 342,
2 RIGHT?

3 A. I DIDN'T ADD THEM UP, BUT I'M ASSUMING THAT'S
4 WHAT THAT IS.

5 Q. RIGHT. AND THAT FIRST COLUMN STANDS FOR --
6 IT SAYS AT THE TOP, "POTENTIAL," SO THOSE WERE POTENTIAL
7 SALES, RIGHT?

8 A. THAT'S RIGHT.

9 Q. IT'S WRITTEN IN WHAT I REFER TO AS FINE
10 PRINT, RIGHT?

11 A. THAT'S WHAT THE COLUMN SAYS, IT SURE DOES.

12 Q. OKAY. AND THEN AFTER THE 39, WE JUST LOOKED
13 AT IT, SAYS, "PARENT CUSTOMER TOTAL, TEXAS EASTERN TRAN.,"
14 THERE'S ANOTHER LINE THAT SAYS, "TRANSWESTERN PIPE, CORONA,
15 NEW MEXICO," RIGHT?

16 A. THAT'S RIGHT.

17 Q. AND IF YOU LOOK TO THE LEFT, RATHER, TO THE
18 RIGHT OF THAT, THERE'S NOTHING IN ANY OF THOSE BOXES FOR
19 THE LINE TRANSWESTERN PIPE, CORONA, NEW MEXICO?

20 A. RIGHT.

21 Q. AND WHAT THAT REPRESENTS IS THAT AFTER YOU
22 GOT YOUR JOB ON THIS ACCOUNT IN APRIL 1971, THERE WERE NO
23 FURTHER SALES TO TRANSWESTERN, RIGHT?

24 A. FROM THIS REPORT, THAT'S WHAT IT SAYS.

25 Q. AND IF YOU LOOK BACK UP AT TEXAS EASTERN, IT
26 INDICATES, FOR EXAMPLE, FOR TEXAS EASTERN TRANSMISSION,
27 YAZOO, MISSISSIPPI, FOR EXAMPLE, THERE WERE SALES OF
28 TURBINOL IN THAT SAME PERIOD AND THOSE ARE REPORTED ON THIS

1 FORM.

2 SO WHAT YOU'RE SAYING, I GUESS, IS THAT WHEN
3 YOU WERE THE SALESMAN ON THIS ACCOUNT, YOU DIDN'T MAKE
4 SALES TO TRANSWESTERN, RIGHT?

5 A. WHAT I'M TELLING YOU IS THAT I WAS UNAWARE
6 THAT TRANSWESTERN WAS A CUSTOMER.

7 Q. AND THIS FORM SHOWS YOU THAT TRANSWESTERN
8 WAS, CORRECT?

9 A. I CAN'T CONFIRM THAT, BECAUSE THAT'S NOT MY
10 MEMORY.

11 Q. THAT'S NOT YOUR MEMORY, BECAUSE AFTER YOU
12 TOOK YOUR JOB ON APRIL 23RD, 1971, YOU MADE PERSONALLY NO
13 SALES TO TRANSWESTERN; ISN'T THAT RIGHT?

14 A. I DON'T KNOW.

15 Q. THAT'S WHAT THIS SHOWS, ISN'T IT?

16 A. AGAIN, THAT'S WHAT THE REPORT -- THE NUMBERS
17 ON THE REPORT SHOW, BUT I DIDN'T GENERATE THE REPORT. I
18 JUST DON'T KNOW.

19 Q. OKAY. SO YOU'RE LESS SURE ABOUT WHETHER OR
20 NOT TRANSWESTERN WAS A CUSTOMER?

21 A. I'M LESS SURE. I DON'T KNOW WHETHER
22 TRANSWESTERN WAS EVER A CUSTOMER OF MINE, OF OURS, OF
23 ANYBODY'S.

24 Q. WOULD YOU, FOR EXAMPLE, RELY ON MR. BRADFORD
25 TO MAKE THAT INTERPRETATION AS YOUR BOSS?

26 A. I'M NOT SURE. WHAT ARE YOU ASKING?

27 I DON'T KNOW WHAT YOU'RE ASKING.

28 Q. WELL, WOULD MR. BRADFORD KNOW?

1 A. I DON'T KNOW WHETHER LARRY WOULD KNOW OR NOT.

2 Q. OKAY. LOOK OVER ON THE FAR RIGHT-HAND
3 COLUMN. THOSE ARE -- WHAT'S THAT SAY AT THE TOP?

4 LET'S SEE IF WE CAN --

5 A. WHAT, THE COLUMN?

6 Q. YEAH. ALL THE WAY AT THE RIGHT-HAND SIDE,
7 TOP OF THE COLUMN?

8 A. SURE. IT SAYS. "CUSTOMER I.D.," AND IT
9 INDICATES THE MAJOR GROUP.

10 Q. MAJOR GROUP?

11 A. I'M NOT SURE WHAT THE CENTER PART MEANS.

12 Q. OKAY. AND LET'S LOOK AGAIN AT THE PART OF
13 THIS FORM THAT DEALS WITH TEXAS EASTERN, WHICH STARTS WITH
14 THE DESIGNATION 0048186.

15 ARE YOU WITH ME?

16 A. I KNOW WHERE YOU ARE, UH-HUH.

17 Q. AND THEN IF YOU FOLLOW ME DOWN THAT COLUMN,
18 FOLLOWING 48186, THAT'S THE NUMBER THAT'S ASSOCIATED WITH
19 TEXAS EASTERN TRANS., HOUSTON, TEXAS, RIGHT?

20 A. FROM -- THAT'S WHAT THIS REPORT'S NUMBER IS,
21 THAT IS CORRECT.

22 Q. OKAY. AND IF YOU GET DOWN TO THAT PARENT
23 CUSTOMER TOTAL, TEXAS EASTERN TRAN. LINE AND FOLLOW THAT
24 ACROSS THE PAGE --

25 A. UH-HUH.

26 Q. -- THAT SAME NUMBER IS ASSOCIATED WITH THE
27 TOTAL LINE, 48186, AM I RIGHT?

28 A. THAT'S WHAT IT SAYS.

1 Q. AND THEN IF WE GET DOWN TO -- LET'S SEE --
2 WHERE IS THAT LINE -- TRANSWESTERN PIPE, CORONA, NEW
3 MEXICO, THAT'S A DIFFERENT NUMBER, DIFFERENT CUSTOMER I.D.,
4 CORRECT?

5 A. YEAH. ALONG WITH THE OTHER LOCATIONS THAT
6 ARE SHIPPED TO FOR ALL OF THE OTHER LINES, LINE ITEMS ON
7 THIS PAGE, RIGHT.

8 Q. OKAY. MR. ZIMMER WAS ASKING YOU TO LOOK AT
9 -- LET'S SEE -- WHICH ONE IS THIS?

10 244. 244.

11 A. YEAH.

12 A. 244.

13 Q. YEAH, 244.

14 A. WOULD YOU LIKE ME TO GET 244?

15 Q. WOULD YOU, PLEASE.

16 A. OH, IT'S IN HERE. SORRY.

17 Q. SAME BOOK?

18 A. SAME BOOK.

19 Q. OKAY.

20 A. OKAY.

21 Q. THAT WAS THE CALL REPORT WRITTEN BY DR.
22 HATTON FOR THE MEETING OF JULY 24, 1972?

23 A. THAT'S RIGHT, UH-HUH.

24 Q. AND YOU WERE LOOKING WITH MR. ZIMMER AT THE
25 TOP OF PAGE 3, CORRECT?

26 A. THAT'S CORRECT.

27 Q. AND DO YOU REMEMBER AT THE MEETING WHAT IT
28 SAYS HERE (READING):

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

"WALTER WOODS POSED A DIRECT
QUESTION AS TO WHAT MONSANTO'S RESPONSIBILITY
WOULD BE, ALONG WITH TEXAS EASTERN'S, IF THE
EPA BANNED PCB'S AND TOLD TEXAS EASTERN THAT
THEY WOULD HAVE TO CHANGE OUT ALL REMAINING
UNITS."

A. I REMEMBER THAT CAME UP.

Q. WAS IT INDICATED, AS IT SAYS HERE, THAT "THIS
PROBLEM WOULD HAVE TO BE DISCUSSED WITH OUR MANAGEMENT AND
THAT WE WOULD PROVIDE AN ANSWER"?

A. THAT'S CORRECT. THAT'S WHAT WE DID WITH
QUESTIONS LIKE THAT.

Q. DID YOU GET BACK TO TEXAS EASTERN AND SAY,
DON'T WORRY ABOUT IT, WE'LL STAND UP FOR OUR STUFF?

A. I DON'T REMEMBER SPECIFICALLY THE RESPONSE
THAT WE MADE TO THAT QUESTION.

Q. WAS YOUR RESPONSE TO THIS QUESTION LIKE THE
HOLD HARMLESS AGREEMENT YOU TRIED TO GET TEXAS EASTERN TO
SIGN AT THE JANUARY 14TH, 1972 MEETING?

MR. ZIMMER: ARGUMENTATIVE, YOUR HONOR.

THE COURT: SUSTAINED.

Q. BY MR. TALLON: DO YOU REMEMBER THE JANUARY
14, 1972 MEETING --

A. SURE.

Q. -- MR. FREDERIKSEN?

A. I DO.

1 Q. AND AT THAT MEETING, ONE OF THE THINGS THAT
2 WAS DISCUSSED WAS THE HOLD HARMLESS AGREEMENT?

3 A. THAT'S CORRECT.

4 Q. AND YOU UNDERSTOOD THAT THE EFFECT OF THAT
5 HOLD HARMLESS AGREEMENT WAS THAT IF TEXAS EASTERN SIGNED
6 IT, THEY WOULD NOT BE ABLE TO SUE MONSANTO IN CONNECTION
7 WITH SALES OF TURBINOL?

8 A. IT WAS MY UNDERSTANDING IT WAS FOR ANY
9 TURBINOL THAT WAS SOLD PAST THE DATE OF THE AGREEMENT.

10 Q. AND YOU UNDERSTOOD THAT THE PURPOSE OF THAT
11 WAS TO SHIFT THE RISK OF USING TURBINOL FROM MONSANTO TO
12 TEXAS EASTERN?

13 A. SURE. BECAUSE WE WERE CONCERNED ABOUT IT
14 BEING LOST INTO THE ENVIRONMENT.

15 Q. I THOUGHT YOU SAID THIS WAS A CLOSED SYSTEM?

16 A. I WAS TALKING ABOUT THE GENERAL CONCERN ABOUT
17 PCB'S AND OUR POSITION WITH THEM BEING CONSERVATIVE AS WE
18 ARE, WE WANTED TO GET THAT UNDERWAY.

19 Q. LET'S TALK ABOUT THAT CLOSED SYSTEM ISSUE FOR
20 A MOMENT.

21 DURING THE TIME THAT YOU WERE THE SALESMAN ON
22 THIS ACCOUNT, YOU WERE AWARE THAT TEXAS EASTERN WAS BUYING
23 ADDITIONAL TURBINOL, AM I RIGHT?

24 A. I WAS, UH-HUH. SURE.

25 Q. WHERE DID YOU THINK IT WAS GOING?

26 A. I REALLY DID NOT KNOW WHERE IT WAS GOING.

27 Q. WELL, HOW DID YOU -- IF YOU GOT INFORMATION
28 THAT A PRODUCT ORDER HAD BEEN PLACED, DID YOU EVER SAY TO

1 YOURSELF, HOW WERE THEY USING THIS, DID THEY KEEP ASKING
2 FOR MORE?

3 A. GENERALLY, I DIDN'T, REALLY. I WAS MORE ON
4 THE STARTUP MODE, AT LEAST FOR THE TIME, THE FIRST COUPLE
5 OF MONTHS THAT WE WERE INVOLVED. IT WAS MORE GETTING USED
6 TO WHAT THE ACCOUNT WAS. I WASN'T REALLY ASKING SPECIFIC
7 QUESTIONS ABOUT ORDERS.

8 Q. WAS IT AT ALL IMPORTANT TO YOU WHERE IT WAS
9 GOING, HOW THEY WERE USING IT UP?

10 A. IT SURE BECAME MORE IMPORTANT AS WE LEARNED
11 MORE ABOUT THE PCB SITUATION AND I DID MYSELF.

12 Q. WELL, LET'S FOCUS ON THAT FOR A SECOND.

13 WHEN YOU SAY YOU BEGAN TO LEARN MORE ABOUT
14 THE PCB SITUATION -- YOU SWITCHED TO FUNCTIONAL FLUIDS ON,
15 I THINK YOU TOLD US, APRIL 23RD, 1971?

16 A. THAT'S CORRECT.

17 Q. THAT WAS A WEEK AFTER YOUR WEDDING?

18 A. THAT'S CORRECT. THAT'S RIGHT.

19 Q. AND THAT'S HOW YOU'RE ABLE TO REMEMBER THAT
20 DAY?

21 A. VERY DEFINITELY. I'LL NEVER FORGET IT.

22 Q. OKAY. WELL, THAT'S HOW I REMEMBERED IT, SO
23 WE'RE ON THE SAME WAVELENGTH.

24 MR. FREDERIKSEN, WHAT DID YOU KNOW AT THAT
25 POINT?

26 WHAT WAS THE STATE OF PLAY IN YOUR MIND AS TO
27 THE STORY OF PCB'S AT MONSANTO?

28 A. WELL, IT WAS DURING THAT -- IT WAS DURING

1 THAT WEEK THAT I FOUND OUT MORE ABOUT IT.

2 ARE YOU TALKING ABOUT BEFORE OR AFTER?

3 I MEAN, WHAT I FOUND OUT ABOUT IT WAS THAT
4 THERE WAS SOME INFORMATION THAT WAS BEING GENERATED ABOUT
5 PCB'S, AND I HAD ACTUALLY BEGUN TO LEARN ABOUT IT
6 BEFOREHAND FROM INFORMATION THAT WE HAD GOTTEN FROM VARIOUS
7 SOURCES, INCLUDING MONSANTO. UM --

8 Q. I'M SORRY. WERE YOU FINISHED?

9 A. NOT REALLY. I WAS JUST GOING TO SAY --

10 Q. GO AHEAD.

11 A. -- THAT, YOU KNOW, THE INFORMATION THAT I HAD
12 AT THAT POINT IN TIME AND MY IDEAS ABOUT IT WERE THAT ME,
13 PERSONALLY, WE SHOULD BEGIN TO BE CONCERNED PCB'S, BUT I
14 DIDN'T HAVE SPECIFIC INFORMATION ABOUT HOW CONCERNED WE
15 SHOULD BE. IT WAS A CONFUSING ISSUE AT THE TIME.

16 Q. CONFUSING TO YOU?

17 A. IT WAS CONFUSING TO ME.

18 Q. WERE YOU GIVEN ANY INFORMATION FROM SCOTT
19 TUCKER ABOUT RESEARCH HE HAD DONE ON PCB'S IN 1967?

20 A. I DON'T REMEMBER SCOTT TUCKER.

21 Q. WERE YOU GIVEN ANY INFORMATION FROM DR.
22 KELLER ABOUT WORK THAT WAS BEING DONE AT MONSANTO TO LOOK
23 AT THE PCB'S SITUATION STARTING IN DECEMBER 1976?

24 A. NO.

25 Q. WERE YOU GIVEN ANY INFORMATION FROM DR.
26 KELLY'S OFFICE ABOUT BIO-ACCUMULATION?

27 A. THAT DOESN'T -- I DON'T KNOW THAT FOR A FACT.
28 I DON'T KNOW WHAT YOUR QUESTION IS. I DON'T RECOGNIZE YOUR

1 QUESTION.

2 Q. YOU MEAN, YOU DON'T RECOGNIZE THE WORD
3 "BIO-ACCUMULATION"?

4 A. BIO-ACCUMULATION DOESN'T MAKE ANY SENSE TO
5 ME, NO, SIR.

6 Q. WERE YOU GIVEN ANY INFORMATION FROM DR. KELLY
7 OR ELMER WHEELER ABOUT BIO-MAGNIFICATION?

8 HAVE YOU EVER HEARD OF THAT TERM?

9 A. AGAIN, THE TERM BIO-MAGNIFICATION IS NOT ONE
10 THAT I REMEMBER.

11 Q. WERE YOU GIVEN ANY INFORMATION FROM MR.
12 PAPAGEORGE ABOUT THE BIODEGRADABILITY OF AROCLOR-1242?

13 A. YES.

14 Q. WHAT WERE YOU GIVEN?

15 A. WELL, AGAIN, THE SPECIFICS OF WHAT WE LEARNED
16 FROM BILL PAPAGEORGE AT THE TIME AND BEFOREHAND, I CAN'T
17 REMEMBER THE SPECIFICS, OTHER THAN THAT FROM A COMMERCIAL
18 STANDPOINT, WE WERE IN THE PROCESS OF CHANGING OUT THE
19 PYDRAUL FLUIDS AT THAT POINT IN TIME FROM A PCB-CONTAINING
20 PRODUCT TO A NON-PCB CONTAINING PRODUCT, AND I BECAME AWARE
21 OF MONSANTO'S -- THEREFORE, THEIR CONCERN ABOUT WHAT WAS
22 GOING ON COMMERCIALLY.

23 Q. AND AT THE TIME YOU TOOK OVER YOUR JOB IN
24 APRIL OF 1971 SELLING FUNCTIONAL FLUID, HOW MANY FUNCTIONAL
25 FLUIDS STILL HAD PCB'S IN THEM?

26 A. I DON'T REALLY KNOW THE NUMBER.

27 Q. ACTUALLY, WASN'T IT JUST TURBINOL IN THE
28 SANTOVACS?

1 A. I DON'T RECALL WHEN THE -- I MEAN, I DO KNOW
2 FOR A FACT THAT THE CHANGEOVER PROCESS FOR THE PYDRAUL
3 PRODUCTS WAS IN PROCESS. NOW, WHETHER IT WAS COMPLETED AT
4 THE TIME OR NOT, I'M NOT SURE.

5 Q. DID YOU HAVE A SENSE WHEN YOU WERE ON YOUR
6 JOB ABOUT HOW THE PCB MARKET WITHIN MONSANTO IS SPLIT UP;
7 HOW MUCH IS SOLD FOR DIELECTRICS, HOW MUCH IS SOLD FOR HEAT
8 TRANSFER FLUIDS, HOW MUCH WAS SOLD FOR PLASTICIZERS?

9 A. UH-HUH. YOU'RE ASKING WHAT AGAIN?
10 I'M SORRY.

11 Q. WHEN YOU TOOK ON YOUR JOB IN THE FUNCTIONAL
12 FLUIDS GROUP, DID YOU COME TO ANY UNDERSTANDING OF HOW
13 MONSANTO'S PCB BUSINESS WAS DIVIDED UP; AND BY DIVIDED UP,
14 I MEAN, WHAT PERCENT OF SALES WAS REPRESENTED BY DIELECTRIC
15 CUSTOMERS, HEAT TRANSFER CUSTOMERS, PLASTICIZER CUSTOMERS?

16 A. I DON'T REMEMBER THAT SPECIFICALLY.

17 Q. DO YOU REMEMBER THAT TURBINOL WAS A FRACTION
18 OF MONSANTO'S TOTAL PCB SALES?

19 A. AGAIN, I DON'T RECALL. IT WASN'T MY JOB TO
20 KNOW THAT. I WAS INVOLVED IN PURSUING THE SALE OF THE
21 PRODUCT.

22 Q. RIGHT. WELL, YOUR JOB WAS AS A SALESMAN?

23 A. THAT'S CORRECT.

24 Q. AND YOUR JOB WAS TO GO OUT AND DO THINGS TO
25 ASSIST A CUSTOMER TO, SAY, REACH A DECISION TO BUY THE
26 MONSANTO PRODUCT?

27 A. THAT'S ONE OF THE THINGS THAT WE DID AS
28 SALESPEOPLE, THAT'S CORRECT.

1 Q. TAKE A LOOK AT 612. THAT'S IN ONE OF THE
2 BLACK BINDERS ON THE BOTTOM SHELF, IF YOU PLEASE.

3 A. IS THIS FRESH?

4 MS. GRADY: I DON'T THINK SO.

5 THE WITNESS: COULD I HAVE A GLASS OF WATER?

6 WOULD THAT BE POSSIBLE?

7 YOU SAID THE NUMBER AGAIN IS?

8 Q. BY MR. TALLON: IT IS 6 -- WHERE DID I GO?
9 612.

10 A. ALL RIGHT.

11 Q. THAT WAS THE CALL REPORT THAT YOU WROTE ON A
12 CALL ON WALTER WOODS?

13 A. UH-HUH.

14 Q. AND THE DATE OF THE CALL OR THE DATE OF THE
15 MEETING WAS DECEMBER 6, 1972?

16 A. RIGHT.

17 Q. IT WAS A PHONE CALL?

18 A. UH-HUH.

19 Q. IT WAS A PHONE CALL?

20 A. YES, SIR.

21 Q. OKAY. AND WE WERE LOOKING AT THE FLUID
22 INCINERATION AND FLUSH FLUID PLAN THAT YOU WERE
23 RECOMMENDING?

24 A. UH-HUH.

25 Q. LET'S LOOK AT THE NOTE THAT'S THERE. THAT'S
26 NOT YOUR HANDWRITING, IS IT?

27 A. TO THE LEFT, NO.

28 Q. YEAH. IS THAT CUMMING PATON'S HANDWRITING?

1 A. PROBABLY.

2 Q. AND CUMMING PATON WAS YOUR BOSS?

3 A. ULTIMATELY.

4 Q. AND DID HE WRITE TO YOU "JGF, NEEDS TO BE
5 SPECIFIC ON VOLUMES INVOLVED"?

6 A. THAT'S WHAT THE NOTE SAYS, UH-HUH.

7 Q. AND YOU UNDERSTOOD THAT TO BE A RESPONSE TO
8 YOUR PROPOSAL THAT YOU TAKE BACK TEXAS EASTERN FLUID FOR
9 INCINERATION AND GIVE THEM FLUSH FLUID?

10 A. SURE.

11 Q. AND WHAT YOU UNDERSTOOD MR. PATON TO SAY WAS,
12 DEPENDS ON HOW MUCH IT COSTS?

13 A. WELL, I THINK I SAY THAT ALREADY IN MY
14 COMMENT ON THE SHEET. I MEAN, WE CERTAINLY WERE NOT IN
15 POSITION TO TAKE A HUGE QUANTITY OF MATERIAL BACK. THAT
16 WOULD NOT BE PRUDENT. THAT WOULD NOT BE POSSIBLE FOR US TO
17 DO.

18 Q. OKAY. NOW, FLUSH FLUID, THAT WAS GOING TO BE
19 USED FOR DOING WHAT?

20 A. FLUSHING OUT THE TURBINOL, AND YOU DRAIN THE
21 TURBINOL, THEN THIS WOULD BE THE FLUID THAT WOULD BE USED
22 TO FLUSH OUT AN EXISTING TURBINOL-CONTAINING TURBINE AND
23 PUT IN NEW FLUID.

24 Q. AND THE REASON TO FLUSH -- SO WHAT YOU'RE
25 RECOMMENDING, I GUESS, IS FIRST YOU DRAIN THE MACHINE OF
26 TURBINOL, RIGHT?

27 A. RIGHT.

28 Q. AND THEN YOU COULD PUT IN A FLUSH FLUID AND

1 RUN THE MACHINE FOR AWHILE?

2 A. AND DILUTE WHAT WAS LEFT OVER WHEN YOU
3 DRAINED IT, THAT'S CORRECT.

4 Q. AND THE PURPOSE OF FLUSHING WOULD BE, TO USE
5 YOUR TERM, TO DILUTE WHATEVER WAS LEFT, RIGHT?

6 A. TO REDUCE THE AMOUNT OF REMAINING AROCLOR IN
7 THE SYSTEM, RIGHT.

8 Q. TO CLEAN IT OUT?

9 A. TO CLEAN IT OUT, SURE.

10 Q. THIS CALL WAS ON DECEMBER 6, 1972, RIGHT?

11 A. UH-HUH.

12 Q. DID MR. WOODS TELL YOU THAT BY DECEMBER 6,
13 1972, TRANSWESTERN AT ITS CORONA STATION HAD DRAINED ITS
14 CENTRIFUGAL COMPRESSOR AND TURBINE OF TURBINOL?

15 A. I DON'T REMEMBER.

16 Q. DID HE TELL YOU THAT AS OF THAT DATE,
17 TRANSWESTERN HAD ALSO WIPED DOWN THE UNIT IN THE SUMP AND
18 IN THE STORAGE TANK TO REMOVE ALL THE TURBINOL?

19 A. I DON'T RECALL ANYTHING LIKE THAT, NO.

20 Q. DID HE TELL YOU --

21 A. I JUST DON'T REMEMBER.

22 Q. I'M SORRY?

23 A. I DON'T REMEMBER.

24 Q. DID HE TELL YOU THAT BY THAT DATE,
25 TRANSWESTERN HAD FLUSHED THE UNIT TWICE TO TRY TO GET RID
26 OF THE TURBINOL?

27 A. AGAIN, I DON'T -- I DON'T RECALL ANY OF THIS.
28 MR. TALLON: DO YOU WANT TO TAKE THE BREAK?

1 THE COURT: MR. TALLON, WE'LL TAKE THE AFTERNOON
2 BREAK AT THIS POINT.

3 LADIES AND GENTLEMEN, WE'LL RETURN AT 3
4 O'CLOCK. PLEASE RETURN AT THAT TIME.

5
6 (RECESS.)

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 THE COURT: AND RESUMING. GO AHEAD, MR. TALLON.

2 MR. TALLON: THANK YOU, YOUR HONOR.

3 Q. MR. FREDERIKSEN, COULD YOU TURN TO 229. IT'S
4 IN THE VOLUME 4 OF THE BLUE BINDERS.

5 A. OKAY.

6 Q. TAKE A MINUTE TO LOOK AT THAT EXHIBIT, WOULD
7 YOU, PLEASE.

8 A. SURE.

9 OKAY.

10 Q. THAT EXHIBIT 229, THAT'S THE HOLD HARMLESS
11 THAT YOU AND I WERE TALKING ABOUT JUST A FEW MINUTES AGO,
12 SPECIAL UNDERTAKING?

13 A. THAT'S THE SPECIAL UNDERTAKING, AS WE KNEW
14 IT, RIGHT, IT SURE IS.

15 Q. AND THAT WAS PRESENTED AND DISCUSSED AT THE
16 JANUARY 14TH, 1972 MEETING?

17 A. YEAH, IT SURE WAS.

18 Q. AND TEXAS EASTERN REFUSED TO SIGN IT?

19 A. THAT'S CORRECT.

20 Q. IN TALKING WITH MR. ZIMMER, YOU HAD SAID THAT
21 THE PRODUCT WAS FOR SALE BUT MONSANTO IS NOT RESPONSIBLE
22 FOR IT, TO DESCRIBE THIS, RIGHT?

23 A. THAT WAS MY COMMENT TO DESCRIBE THERE WAS A
24 POINT IN TIME PAST WHICH THE PRODUCT THAT WE WOULD SELL TO
25 TEXAS EASTERN WAS A PRODUCT THAT WE WOULD BE HELD HARMLESS
26 FROM THE USE OF IT, THAT'S CORRECT.

27 Q. AND SO BEFORE THAT, YOU WERE RESPONSIBLE FOR
28 IT?

1 A. THERE'S -- THAT'S AN AREA THAT I'M NOT
2 ACTUALLY IN THE POSITION TO TALK ABOUT.

3 Q. DO YOU KNOW WHAT CHANGED?

4 WHAT CAUSED THE SWITCH OVER FROM BEFORE TO
5 AFTER; WHY THE HOLD HARMLESS?

6 A. I'M NOT SURE WHAT YOU'RE ASKING.

7 Q. PREVIOUSLY, YOU HAD BEEN SELLING TURBINOL TO
8 TEXAS EASTERN, RIGHT?

9 A. SURE, UH-HUH.

10 Q. AND TO OTHER CUSTOMERS, TRUE, RIGHT?

11 A. YES.

12 Q. AND --

13 A. TO ANOTHER CUSTOMER, UH-HUH.

14 Q. YEAH. AND WITHOUT A SPECIAL AGREEMENT
15 SAYING, CUSTOMER, YOU CAN'T SUE US OVER THESE SALES?

16 A. SURE.

17 Q. BUT THEN THERE CAME A TIME IN JANUARY '72
18 WHERE YOU SAID, IF YOU WANT TO CONTINUE BUYING THIS
19 PRODUCT, YOU MUST SIGN THIS?

20 A. THAT SURE IS WHAT WE TOLD THEM, YOU BET.

21 Q. OKAY. AND MY QUESTION TO YOU WAS: WHAT
22 CHANGED?

23 A. MY MEMORY IS THAT THE CONCERN OVER THE PCB
24 QUESTION, THE ENVIRONMENTAL CONCERNS OVER THE PCB'S, WHAT
25 THEY DID IN THE ENVIRONMENT AND THAT WHOLE ISSUE WAS
26 EVALUATED BY MONSANTO AND FELT TO BE, AS MORE INFORMATION
27 BECAME APPARENT, FELT TO BE IMPORTANT ENOUGH TO DO
28 SOMETHING ABOUT RIGHT AWAY.

1 Q. DO YOU KNOW IF IT WAS DECIDED THAT MONSANTO
2 WOULD ASK CUSTOMERS FOR THIS HOLD HARMLESS LETTER BECAUSE
3 MONSANTO HAD BEEN SUED FOR PCB PROBLEMS?

4 A. I'M NOT AWARE OF THAT AT ALL.

5 MR. TALLON: NOTHING FURTHER.

6 THE COURT: ALL RIGHT. REDIRECT, MR. ZIMMER?

7 MR. ZIMMER: NO QUESTIONS, YOUR HONOR.

8 THE COURT: MAY THIS WITNESS NOW BE EXCUSED, MR.

9 ZIMMER?

10 MR. ZIMMER: HE MAY, YOUR HONOR.

11 THE COURT: AND MR. TALLON?

12 MR. TALLON: YES, SIR, YOUR HONOR.

13 THE COURT: THANK YOU, SIR, FOR ATTENDING THIS
14 TRIAL. YOU ARE EXCUSED.

15 ANY FURTHER WITNESS, MR. ZIMMER OR MR.
16 PREUSS?

17 MR. ZIMMER: YES, YOUR HONOR. AT THIS TIME, WE'D
18 LIKE TO READ FROM THE DEPOSITION OF KENNETH PSHIAKAI,
19 P-E-S-H-I-A-K-A-I.

20 THE COURT: AND THE DATE OF THE DEPOSITION, PLEASE?

21 MR. ZIMMER: JUNE 2, 1992.

22 THE COURT: WOULD IT BE FAIR TO PROMISE THE JURORS
23 THAT AS SOON AS THIS DEPOSITION IS COMPLETED, THEY GO HOME
24 FOR THE WEEKEND?

25 MR. ZIMMER: SOONER THAN THAT, IF YOUR HONOR
26 DECIDES.

27

28 (LAUGHTER.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MR. TALLON: TOUCHE.

THE COURT: GO AHEAD, MR. ZIMMER.

MR. ZIMMER: I DON'T THINK MR. PESHIAKAI WOULD MIND
EITHER.

KENNETH PESHIAKAI, +
DEPOSITION READ, A DEFENDANT MONSANTO'S WITNESS:

MR. ZIMMER: (READING:)

"Q. WHAT'S YOUR DATE OF BIRTH, MR.
PESHIAKAI?

"A. 1-18-38.

"Q. DID YOU GRADUATE FROM HIGH
SCHOOL, SIR?

"A. YES.

"Q. WHERE DID YOU GRADUATE FROM
HIGH SCHOOL?

"A. GANADO. GANADO, ARIZONA.

"Q. DID YOU ATTEND COLLEGE, SIR?

"A. NO.

"Q. DID YOU HAVE ANY FORMAL
EDUCATION FOLLOWING HIGH SCHOOL?

"A. NO.

"Q. WERE YOU IN THE MILITARY?

"A. YES.

"Q. WHEN DID YOU ENTER THE

1 MILITARY?

2 "A. SEPTEMBER 1956.

3 "Q. AND WHAT BRANCH OF THE
4 MILITARY?

5 "A. NAVY.

6 "Q. HOW LONG DID YOU SERVE IN THE
7 NAVY?

8 "A. FOUR YEARS.

9 "Q. DID YOU GET OUT THEN IN 1960?

10 "A. YES.

11 "Q. WHAT TYPE WORK DID YOU DO WHEN
12 YOU WERE IN THE NAVY?

13 "A. I WORKED ON GUNFIRE CONTROL
14 RADAR.

15 "Q. DID YOU DO ANY OTHER TYPE WORK
16 WHILE YOU WERE IN THE NAVY?

17 "A. NO.

18 "Q. WHAT WAS YOUR FIRST FULL-TIME
19 EMPLOYMENT AFTER YOU LEFT THE NAVY?

20 "A. I WENT TO WORK FOR
21 TRANSWESTERN PIPELINE.

22 "Q. WHEN DID YOU BEGIN WORK FOR
23 TRANSWESTERN?

24 "A. IN DECEMBER OF 1960.

25 "Q. WHERE DID YOU BEGIN WORK FOR
26 THEM?

27 "A. AT THOREAU, NEW MEXICO.

28 "Q. THAT'S T-H-O-R-E-A-U, CORRECT?

1 "A. RIGHT.

2 "Q. WHAT JOB DID YOU HOLD WHEN YOU
3 BEGAN WORK?

4 "A. LABORER.

5 "Q. HOW LONG DID YOU WORK AT THE
6 THOREAU, NEW MEXICO FACILITY?

7 "A. THROUGH 1966.

8 "Q. DID YOUR POSITION CHANGE FROM
9 LABORER DURING THAT PERIOD?

10 "A. YES.

11 "Q. WHAT OTHER POSITIONS DID YOU
12 HOLD AT THOREAU DURING THAT PERIOD?

13 "A. I WENT FROM UTILITY MAN TO B
14 REPAIRMAN.

15 "Q. B REPAIRMAN?

16 "A. YES.

17 "Q. IS THAT THE POSITION YOU HELD
18 WHEN YOU LEFT THE THOREAU FACILITY?

19 "A. YES.

20 "Q. WHAT WERE YOUR DUTIES AND
21 RESPONSIBILITIES AS A LABORER?

22 "A. I WORKED ON THE RIGHT-OF-WAYS,
23 SERVICED MAIN LINE VALVES, AND JUST EROSION
24 CONTROL AND THAT SORT OF THING.

25 "Q. EROSION CONTROL?

26 "A. YEAH.

27 "Q. WHAT IS EROSION CONTROL?

28 "A. PLACES PIPELINE WASHING OUT OR

1 BEING UNCOVERED.

2 "Q. AND WHAT WERE YOUR DUTIES AND
3 RESPONSIBILITIES AS A UTILITY MAN?

4 "A. I WORKED IN THE -- WORKED ON
5 THE PIPELINE AND IN THE COMPRESSOR STATION
6 THERE AT THOREAU.

7 "Q. WHAT SORT OF WORK DID YOU DO
8 ON THE PIPELINE?

9 "A. OH, THE SAME THING, SERVICE
10 VALVES, DID MAINTENANCE ON THE RIGHT-OF-WAY.

11 "Q. AND WHAT SORT OF WORK DID YOU
12 DO YOU IN THE COMPRESSOR STATION?

13 "A. WORKED ON THE ENGINES, THE
14 EQUIPMENT.

15 "Q. WHAT SORT OF EQUIPMENT DID YOU
16 WORK ON?

17 "A. OH, THE GAS ENGINES, THE
18 COMPRESSOR, AIR COMPRESSORS, GEAR BOXES,
19 PUMPS, IGNITION.

20 "Q. DID YOU WORK ON THE GAS
21 COMPRESSORS?

22 "A. YES.

23 "Q. WHAT KIND OF GAS COMPRESSORS
24 DID THEY HAVE AT THOREAU DURING THAT PERIOD?

25 "A. CENTRIFUGAL COMPRESSORS.

26 "Q. HOW MANY CENTRIFUGAL
27 COMPRESSORS DID THEY HAVE?

28 "A. TWO.

1 "Q. DO YOU KNOW WHETHER THEY WERE
2 MANUFACTURED BY COOPER-BESSEMER?

3 "A. YES.

4 "Q. WERE THEY?

5 "A. COOPER-BESSEMER.

6 "Q. DID YOU DO ANY WORK ON THE
7 SEALS ON THOSE COOPER-BESSEMER COMPRESSORS?

8 "A. YES.

9 "Q. WHAT KIND OF WORK DID YOU DO
10 ON THE SEALS?

11 "A. OVERHAUL THE SEALS.

12 "Q. I THINK THE SEAL OIL SEAL IS
13 THE SAME AS THE LIQUID FILM SEAL THAT I'M
14 TALKING ABOUT. CAN YOU DESCRIBE FOR ME WHAT
15 YOU MEAN BY A SEAL OIL SEAL?

16 "A. THAT'S WHERE YOU USE OIL
17 TO SEAL OFF THE GAS FROM COMING PAST THE
18 SHAFT.

19 "Q. ON THE TWO COOPER-BESSEMER
20 CENTRIFUGAL COMPRESSORS AT THOREAU BETWEEN
21 1960 AND 1966, DO YOU KNOW WHETHER THOSE HAD
22 A SEAL OIL SEAL?

23 "A. YES..

24 "Q. DID THEY?

25 "A. YES.

26 "Q. DID YOU OVERHAUL THE SEAL OIL
27 SEAL ON EITHER OF THOSE COMPRESSORS?

28 "A. YES, ONCE.

1 "Q. JUST GENERALLY, WHAT'S
2 INVOLVED IN OVERHAULING THAT SEAL?

3 "A. DISASSEMBLY, CLEANING IT,
4 INSTALLING NEW PARTS.

5 "Q. SO THERE WAS ONE OIL SYSTEM
6 FOR THE COMPRESSOR AND THAT SUPPLIED OIL FOR
7 BOTH THE LUBRICATION OF THE COMPRESSOR AND
8 THE SEAL OIL; IS THAT RIGHT?

9 "A. YES.

10 "Q. DID THOSE USE SYNTHETIC OIL?

11 "A. NO.

12 "Q. THEY USED PETROLEUM-BASED OIL?

13 "A. YES.

14 "Q. WHAT WERE DUTIES AS B
15 REPAIRMAN?

16 "A. I OPERATED THE STATION;
17 OPERATED THE ENGINES, THE COMPRESSORS.

18 "Q. IN 1966, YOU LEFT THE THOREAU
19 FACILITY; IS THAT CORRECT?

20 "A. YES.

21 "Q. AND WHAT POSITION DID YOU THEN
22 TAKE?

23 "A. IN JANUARY OF '67, I WENT TO
24 KLAGETOH STATION AS A REPAIRMAN A.

25 "Q. WHAT WERE YOUR DUTIES AS
26 REPAIRMAN A?

27 "A. I WAS DIRECTLY UNDER THE
28 STATION SUPERVISOR.

1 "Q. HOW WERE YOUR DUTIES DIFFERENT
2 FROM YOUR DUTIES AS REPAIRMAN B?

3 "A. THEY WERE THE SAME, EXCEPT I
4 HAD MORE RESPONSIBILITY RUNNING THE STATION.

5 "Q. IN MARCH 1973, YOU LEFT THE
6 KLAGETON STATION?

7 "A. YES.

8 "Q. WHERE DID YOU GO FROM THERE?

9 "A. I WENT TO THE CORONA STATION.

10 "Q. AND WHAT WAS YOUR POSITION
11 THAT YOU HELD AT THE CORONA STATION WHEN YOU
12 ARRIVED?

13 "A. I WAS STATION SUPERVISOR.

14 "Q. WHO HAD BEEN THE IMMEDIATELY
15 PRECEDING STATION SUPERVISOR AT CORONA?

16 "A. EARL SELMAN.

17 "Q. AND AS STATION SUPERVISOR AT
18 CORONA, WHAT WERE YOUR DUTIES AND
19 RESPONSIBILITIES?

20 "A. I WAS IN CHARGE OF THE
21 OPERATION AND MAINTENANCE OF THE STATION.

22 "Q. YOU HAD OVERALL RESPONSIBILITY
23 FOR ALL THE OPERATION OF THE STATION?

24 "A. YES.

25 "Q. HOW MANY EMPLOYEES REPORTED
26 TO YOU WHEN YOU FIRST TOOK THE POSITION AS
27 STATION SUPERVISOR AT CORONA?

28 "A. THERE WERE TWO.

1 "Q. WHAT WERE THEIR NAMES?

2 "A. BUTCH RUSSELL -- JAMES RUSSEL
3 AND MELVIN SULTEMEIR.

4 "Q. WAS THE CORONA STATION MANNED
5 CONTINUOUSLY WHEN YOU ARRIVED THERE? WAS
6 THERE SOMEONE ON DUTY IN THE STATION 24 HOURS
7 A DAY?

8 "A. ON DUTY? YOU MEAN WORKING?

9 "Q. YES.

10 "A. NO.

11 "Q. WAS THERE SOMEONE THERE 24
12 HOURS A DAY?

13 "A. YES. YES, THERE WAS.

14 "Q. IF THEY WEREN'T WORKING, WHAT
15 WERE THEY DOING?

16 "A. THEY WERE JUST THERE, STANDBY.

17 "Q. WERE THEY REQUIRED TO BE AWAKE
18 WHILE THERE WERE THERE?

19 "A. NO.

20 "Q. THERE WAS A PLACE FOR THEM TO
21 SLEEP?

22 "A. RIGHT.

23 "Q. WAS THERE A PARTICULAR REASON
24 TO HAVE SOMEONE THERE 24 HOURS A DAY?

25 "A. WELL, WE HAD PROBLEMS WITH THE
26 EQUIPMENT AT -- IF WE HAD PROBLEMS WITH THE
27 EQUIPMENT AT NIGHT OR ALARMS, WHATEVER --

28 "Q. THEN THERE WOULD BE SOMEONE

1 THERE?

2 "A. -- THEN YOU HAVE TO HAVE
3 SOMEBODY TO CORRECT THOSE PROBLEMS.

4 "Q. WAS HAVING SOMEONE THERE 24
5 HOURS A DAY A PROCEDURE THAT YOU ADOPTED WHEN
6 YOU BECAME A SUPERVISOR?

7 "A. NO. THAT WAS ALREADY IN
8 PLACE.

9 "Q. DO YOU KNOW WHO PUT IT IN
10 PLACE?

11 "A. THAT'S THE WAY WE ALWAYS
12 WORKED.

13 "Q. HOW LONG WERE YOU AT THE
14 CORONA STATION?

15 "A. I LEFT CORONA IN MAY OF '78.

16 "Q. WHERE DID YOU GO FROM THERE?

17 "A. TO LAGUNA STATION.

18 "Q. WERE YOU THE STATION
19 SUPERVISOR AT CORONA THROUGH MAY '78?

20 "A. YES.

21 "Q. DID YOUR DUTIES AND
22 RESPONSIBILITIES CHANGE IN ANY WAY DURING
23 THAT TIME?

24 "A. NO.

25 "Q. SO IN MAY 1978, YOU
26 WENT TO LAGUNA, NEW MEXICO. WHAT POSITION
27 DID YOU HOLD WHEN YOU ARRIVED AT LAGUNA, NEW
28 MEXICO?

1 "A. I STILL HAD THE SAME TITLE.

2 "Q. STATION SUPERVISOR?

3 "A. YES.

4 "Q. HOW LONG DID YOU STAY AT THE
5 LAGUNA, NEW MEXICO STATION?

6 "A. THREE YEARS.

7 "Q. DO YOU REMEMBER THE MONTH AND
8 YEAR THAT YOU LEFT?

9 "A. MAY OF '81.

10 "Q. AND WERE YOU STATION
11 SUPERVISOR THAT WHOLE PERIOD?

12 "A. YES.

13 "Q. WHERE DID YOU GO FROM LAGUNA?

14 "A. I WENT TO THE -- LEUPP,
15 ARIZONA --

16 "Q. WOULD YOU SPELL IT?

17 "A. -- COMPRESSOR STATION. L-U --
18 L-E-U-P-P.

19 "Q. AND WHAT WAS YOUR TITLE WHEN
20 YOU ARRIVED THERE?

21 "A. I WAS STILL THE SUPERVISOR.

22 "Q. AND HOW LONG DID YOU STAY AT"
23 -- I'M AFRAID TO SAY IT -- "LEUPP?

24 "A. I LEFT IN MAY -- NO, JUNE OF
25 '81 -- I MEAN '91.

26 "Q. SO A LITTLE OVER 10 YEARS AT
27 LEUPP.

28 "AND WERE YOU STATION

1 SUPERVISOR THAT WHOLE PERIOD?

2 "A. YES.

3 "Q. WHERE DID YOU GO FROM LEUPP?

4 "A. I WENT TO THE FLAGSTAFF
5 DISTRICT OFFICE.

6 "Q. WHAT WAS YOUR POSITION WHEN
7 YOU ARRIVED AT THE FLAGSTAFF DISTRICT OFFICE?

8 "A. PIPELINE SUPERVISOR.

9 "Q. IS THAT THE POSITION YOU HOLD
10 TODAY?

11 "A. YES.

12 "Q. AND YOU HELD IT CONTINUOUSLY
13 SINCE APPROXIMATELY JUNE 1991?

14 "A. UH-HUH.

15 "Q. WHAT ARE YOUR DUTIES AND
16 RESPONSIBILITIES AS A PIPELINE SUPERVISOR?

17 "A. MAINTAIN THE PIPELINE, THE
18 RIGHT-OF-WAY, MAIN LINE VALVES.

19 "Q. AND WHEN YOU SAY THAT THOSE
20 ARE YOUR RESPONSIBILITIES, I TAKE IT THAT YOU
21 SUPERVISE OTHER PEOPLE, MAKE SURE THEY DO
22 THAT; IS THAT CORRECT?

23 "A. YES.

24 "Q. AND WHAT STATIONS ARE INCLUDED
25 WITHIN THE FLAGSTAFF DISTRICT?

26 "A. THE KLAGETOH STATION, THE
27 LEUPP STATION, FLAGSTAFF, AND THE SELIGMAN
28 STATION.

1 "Q. WHEN YOU ARRIVED AT THE CORONA
2 STATION, WAS THERE A WRITTEN SET OF SAFETY
3 PROCEDURES?

4 "A. YOU MEAN FOR THE COMPRESSORS
5 OR FOR WHAT?

6 "Q. FOR THE EMPLOYEES.

7 "A. YES, THERE WAS, I BELIEVE.

8 "Q. DO YOU REMEMBER WHAT IT WAS
9 CALLED?

10 "A. I THINK THERE WAS A BOOK
11 TITLED OPERATING PROCEDURES MANUAL.

12 "Q. AND WAS THAT OPERATING
13 PROCEDURES FOR THE WHOLE STATION?

14 "A. EVERYTHING.

15 "Q. WERE THERE SEPARATE OPERATING
16 MANUALS FOR THE COMPRESSOR AND THE TURBINE
17 THAT RAN THE COMPRESSOR? I'M TALKING ABOUT
18 THE CENTRIFUGAL COMPRESSOR?

19 "A. YES.

20 "Q. SO THERE WAS A SEPARATE
21 OPERATING MANUAL FOR THE GE TURBINE; IS THAT
22 CORRECT?

23 "A. YES.

24 "Q. AND THERE WAS ANOTHER
25 OPERATING MANUAL FOR THE COOPER-BESSEMER
26 CENTRIFUGAL COMPRESSOR?

27 "A. RIGHT.

28 "Q. WHERE WERE THOSE KEPT?

1 "A. IN THE OFFICE THERE AT THE
2 STATION.

3 "Q. WHEN YOU CAME TO THE CORONA
4 STATION, DID YOU MAKE ANY CHANGES IN ANY
5 SAFETY PROCEDURES?

6 "A. NO.

7 "Q. DID YOU MAKE ANY CHANGES IN
8 ANY MAINTENANCE PROCEDURES?

9 "A. NO.

10 "Q. DID YOU MAKE ANY CHANGES IN
11 ANY RECORD KEEPING PROCEDURES?

12 "A. NO.

13 "Q. DID YOU MAKE ANY CHANGES AT
14 ALL THAT YOU CONSIDERED SIGNIFICANT AT THAT
15 TIME?

16 "A. NO, I DON'T THINK SO.

17 "Q. THROUGHOUT THE PERIOD THAT
18 YOU WERE AT THE CORONA STATION, AND THAT WAS
19 UNTIL MAY OF 1978, DID YOU MAKE ANY CHANGES
20 IN SAFETY PROCEDURES?

21 "A. NO.

22 "Q. DID YOU MAKE ANY CHANGES IN
23 MAINTENANCE PROCEDURES?

24 "A. NO.

25 "Q. DID YOU MAKE ANY CHANGES IN
26 RECORD KEEPING PROCEDURES?

27 "A. NO.

28 "Q. DID YOU MAKE ANY CHANGES WHICH

1 YOU CONSIDERED SIGNIFICANT?

2 "A. NO.

3 "Q. DID YOU RECEIVE ANY FORMAL
4 TRAINING TO PREPARE YOU TO BE A STATION
5 SUPERVISOR?

6 "A. NO.

7 "Q. THE TRAINING THAT YOU
8 RECEIVED, THEN, WAS ON-THE-JOB TRAINING THAT
9 YOU HAD ACQUIRED DURING YOUR PREVIOUS WORK
10 WITH TRANSWESTERN; IS THAT RIGHT?

11 "A. YES.

12 "Q. WAS THERE ANY OTHER TRAINING
13 THAT YOU RECEIVED BESIDES THAT?

14 "A. NO.

15 "Q. DID YOU RECEIVE ANY TRAINING
16 IN THE OPERATION OF THE GE TURBINE THAT WAS
17 AT THE CORONA STATION WHEN YOU ARRIVED?

18 "A. NO.

19 "Q. DID YOU RECEIVE ANY TRAINING
20 IN THE OPERATION OF THE COOPER-BESSEMER
21 CENTRIFUGAL COMPRESSOR THAT WAS AT THE CORONA
22 STATION?

23 "A. NO.

24 "Q. HAD THERE BEEN A GE TURBINE AT
25 ANY OF THE STATIONS THAT YOU WORKED THAT WAS
26 SIMILAR TO THE GE TURBINE AT CORONA?

27 "A. NO.

28 "Q. HAD THERE BEEN ANY

1 COOPER-BESSEMER CENTRIFUGAL COMPRESSOR
2 SIMILAR TO THE ONE AT CORONA AT ANY OF THE
3 STATIONS WHICH YOU HAD WORKED?

4 "A. YES.

5 "Q. I THINK YOU TOLD ME THAT AT
6 THE THOREAU --

7 "A. YES.

8 "Q. -- STATION THERE WERE
9 COOPER-BESSEMER CENTRIFUGAL COMPRESSORS; IS
10 THAT RIGHT?

11 "A. YES.

12 "Q. WERE THOSE THE ONES THAT WERE
13 SIMILAR TO THE ONES AT CORONA?

14 "A. SIMILAR, YES.

15 "Q. WHO HIRED YOU AS STATION
16 SUPERVISOR AT CORONA?

17 "A. MR. SISSON.

18 "Q. DID HE TELL YOU WHAT WAS
19 EXPECTED OF YOU AS THE STATION SUPERVISOR AT
20 CORONA?

21 "A. YES.

22 "Q. WHAT DID HE TELL YOU?

23 "A. HE WANTED ME TO KEEP THE PLACE
24 RUNNING.

25 "Q. HE DIDN'T WANT IT SHUT DOWN?

26 "A. TO A MINIMUM.

27 "Q. SHUTDOWNS KEPT TO A MINIMUM?

28 "A. UM-HUM.

1 "Q. WAS THERE ANY COMPETITION
2 AMONG THE STATIONS IN REGARD TO CONTINUOUS
3 OPERATIONS OF THE STATIONS?

4 "A. I DON'T KNOW.

5 "Q. DID YOU EVER SEE ANY REPORTS
6 WHICH COMPARED THE TRANSWESTERN COMPRESSOR
7 STATIONS IN TERMS OF NUMBER OF DAYS THEY HAD
8 BEEN OPERATING OVER A CERTAIN PERIOD OF TIME?

9 "A. NO.

10 "Q. AS TO THE THROUGHPUT FROM
11 THOSE STATIONS DURING THAT PERIOD OF TIME?

12 "A. I'VE NEVER SEEN THEM.

13 "Q. SO YOU'RE NOT AWARE OF ANY
14 COMPETITION AT ALL AMONG THE STATIONS TO SEE
15 WHICH COULD HAVE THE FEWEST SHUTDOWNS OVER A
16 PERIOD OF TIME?

17 "A. NO.

18 "Q. I THINK YOU MENTIONED EARLIER
19 THAT DEMAND FOR GAS WOULD CHANGE FROM TIME TO
20 TIME; IS THAT CORRECT?

21 "A. YES.

22 "Q. WERE YOU INFORMED OF THOSE
23 CHANGES IN DEMAND?

24 "A. USUALLY.

25 "Q. GIVE ME AN EXAMPLE OF WHAT
26 THEY WOULD TELL YOU IN REGARD TO A CHANGE IN
27 DEMAND?

28 "A. WELL, WHETHER IT WAS GOING TO

1 BE UP OR DOWN OR WHETHER WE WAS GOING TO NEED
2 MORE COMPRESSION OR SOMETIMES EVEN TAKE UNITS
3 OFF 'CAUSE YOU DON'T NEED THEM.

4 "Q. WHEN YOU SAY TAKE UNITS OFF,
5 YOU MEAN TAKE A COMPRESSOR OFF?

6 "A. YES.

7 "Q. WOULD THEY TELL YOU HOW MUCH
8 IT WOULD BE INCREASED IF IT WAS GOING TO
9 INCREASE?

10 "A. THEY NORMALLY GIVE YOU A FLOW
11 RATE.

12 "Q. ALL RIGHT. HOW IS THAT FLOW
13 RATE EXPRESSED? IN MILLION CUBIC FEET PER
14 DAY?

15 "A. YES.

16 "Q. WAS THERE A SO-CALLED NORMAL
17 FLOW RATE WHEN YOU WERE AT CORONA?

18 "A. I DON'T THINK THERE WAS ANY
19 NORMAL FLOW RATE.

20 "Q. DO YOU KNOW HOW MUCH REVENUE
21 YOU WOULD HAVE LOST IF THE CENTRIFUGAL
22 COMPRESSOR WENT DOWN FOR A WEEK?

23 "A. I DON'T KNOW.

24 "Q. WAS THAT EVER DISCUSSED WITH
25 YOU WHILE YOU WERE AT CORONA?

26 "A. NO.

27 "Q. HAVE YOU HEARD THE TERM PCB'S?

28 "A. YES.

1 "Q. DO YOU REMEMBER WHEN YOU FIRST
2 HEARD THAT TERM?

3 "A. PROBABLY SOMEWHERE AROUND 1981
4 FIRST TIME I HEARD ABOUT IT.

5 "Q. I THINK YOU TOLD ME THAT WHEN
6 YOU GOT TO CORONA IN 1973, A STAUFFER
7 SYNTHETIC OIL WAS USED IN THE TURBINE AND
8 COMPRESSOR; IS THAT RIGHT?

9 "A. YES.

10 "Q. CAN YOU TELL ME APPROXIMATELY
11 HOW OFTEN DURING THE FIVE YEARS YOU WERE AT
12 CORONA YOU GOT CALLS FROM DISPATCHERS TO
13 CHANGE THE THROUGHPUT?

14 "A. NO, I DON'T REMEMBER.

15 "Q. WAS THIS A WEEKLY OCCURRENCE
16 OR WAS IT FAR MORE INFREQUENT THAN THAT?

17 "A. THERE WASN'T A SET AMOUNT. IT
18 CHANGED ACCORDING TO THE DEMAND.

19 "Q. HOW OFTEN WAS THE OIL SUPPLY
20 IN THE TURBINE AND COMPRESSOR CHECKED?

21 "MR. MARKS: WHEN HE WAS CORONA'S
22 SUPERINTENDENT?

23 "MR. PULLIAM: YES.

24 "Q. BY MR. PULLIAM: ALL THESE
25 QUESTIONS STILL PERTAIN TO WHEN YOU WERE THE
26 CORONA SUPERINTENDENT AT THE CORONA STATION.
27 IF I WANT TO CHANGE, I WILL LET YOU KNOW.

28 "A. ALL RIGHT.

1 "Q. DO YOU REMEMBER THE QUESTION?

2 "A. YES. DAILY.

3 "Q. SO SOMEONE CHECKED --

4 "A. WHILE IT WAS RUNNING.

5 "Q. WHAT DID THE -- WHO MADE THE
6 CHECK?

7 "A. HE WAS CALLING THE -- HE WAS
8 CALLED THE OPERATOR. HE MADE CHECKS ON THE
9 EQUIPMENT DAILY, EVERY MORNING, MADE SURE
10 EVERYTHING WAS RUNNING. HE TOOK READINGS.

11 "Q. DID ANYONE EVER TELL YOU TO BE
12 CAREFUL ABOUT HOW MUCH OIL ENTERED THE GAS
13 STREAM AT CORONA?

14 "A. NO.

15 "Q. WERE YOU CONCERNED ABOUT
16 MINIMIZING THE AMOUNT OF OIL THAT GOT INTO
17 THE GAS STREAM AT CORONA?

18 "A. YES.

19 "Q. WHY WERE YOU CONCERNED?

20 "A. INCREASE COST OF MAINTENANCE
21 AND UPKEEP.

22 "Q. HOW WOULD THAT INCREASE THE
23 COST OF MAINTENANCE?

24 "A. COST OF REPLACING THE OIL
25 LOST.

26 "Q. WHEN YOU WERE STATION
27 SUPERVISOR AT CORONA, DID YOU HAVE REGULAR
28 SAFETY MEETINGS WITH THE PERSONNEL AT THE

1 STATION?

2 "A. NOT AT THE STATION.

3 "Q. DID YOU HAVE ANY REGULAR
4 SAFETY MEETINGS ANYWHERE WITH ANYONE WHEN YOU
5 WORKED AT THE CORONA STATION?

6 "A. YES.

7 "Q. WITH WHOM?

8 "A. WITH THE CREW MEMBERS AND THE
9 REST OF THE DISTRICT PERSONNEL.

10 "Q. NOW, YOU SAY CREW MEMBERS.
11 WHO ARE THE CREW MEMBERS?

12 "A. WE HAD A MAINTENANCE CREW IN
13 ROSWELL THAT WORKED DIFFERENT STATIONS.

14 "Q. HOW OFTEN WOULD YOU MEET WITH
15 THOSE PEOPLE REGARDING SAFETY?

16 "A. ONCE A MONTH.

17 "Q. WHERE WERE THOSE MEETINGS
18 HELD?

19 "A. IN ROSWELL.

20 "Q. WERE THERE AGENDA FOR THOSE
21 MEETINGS?

22 "A. THERE WAS SAFETY SUBJECTS THAT
23 YOU WENT THROUGH.

24 "Q. WERE YOU SUPPOSED TO
25 COMMUNICATE WITH THE WORKERS AT THE CORONA
26 STATION WHAT YOU LEARNED AT THOSE MEETINGS?

27 "A. YES.

28 "Q. DID YOU LEARN ANYTHING AT ANY

1 OF THOSE MEETINGS REGARDING THE RISK OF FIRE
2 OR EXPLOSION?

3 "A. YES.

4 "Q. WAS THAT GENERALLY REGARDED AS
5 THE NUMBER ONE RISK TO SAFETY AT THE
6 COMPRESSOR STATION?

7 "A. NO.

8 "Q. WHAT WAS REGARDED AS THE MOST
9 SERIOUS RISK AT THE COMPRESSOR STATION?

10 "A. I DON'T KNOW. OUR PRIMARY
11 CONCERN WAS KEEPING WORKERS HEALTHY.

12 "Q. WHAT WAS REGARDED AS THE MOST
13 SERIOUS RISK TO THE WORKERS' HEALTH?

14 "A. I DON'T KNOW WHAT THAT WOULD
15 BE.

16 "Q. WERE PCB'S MENTIONED IN ANY OF
17 THESE SAFETY MEETINGS DURING THE TIME YOU
18 WERE AT CORONA?

19 "A. NO.

20 "Q. WERE CHLORINATED COMPOUNDS
21 MENTIONED DURING ANY OF THESE SAFETY MEETINGS
22 WHEN YOU WERE AT CORONA?

23 "A. I DON'T REMEMBER.

24 "Q. WAS THE MONSANTO OIL MENTIONED
25 DURING ANY OF THESE SAFETY MEETINGS WHEN YOU
26 WERE AT CORONA?

27 "A. I DON'T REMEMBER.

28 "Q. IS OIL CONSUMED IN THE TURBINE

1 ITSELF DURING OPERATION?

2 "A. PROBABLY COULD BE.

3 "Q. HOW COULD IT BE?

4 "A. GETS PAST THE BEARINGS.

5 "Q. PAST THE BEARINGS IN THE
6 TURBINE?

7 "A. INTO THE TURBINE.

8 "Q. INTO THE TURBINE. AND IF IT
9 DID THAT, WOULD IT THEN VAPORIZE AND GO OUT
10 INTO THE EXHAUST?

11 "A. PROBABLY.

12 "Q. LET'S TALK ABOUT THE
13 COMPRESSOR NOW. CAN OIL BE CONSUMED IN THE
14 COMPRESSOR ITSELF?

15 "A. IT COULD LEAK INTO THE
16 COMPRESSOR, YES.

17 "Q. CAN OIL GET PAST THE
18 COMPRESSOR SEALS INTO THE GAS STREAM?

19 "A. YES.

20 "Q. WAS IT YOUR UNDERSTANDING WHEN
21 YOU CAME TO CORONA THAT THAT COULD HAPPEN?

22 "A. YES.

23 "Q. HOW DID YOU GET THAT
24 UNDERSTANDING?

25 "A. WORKING ON IT AND SEEING HOW
26 THE SYSTEM WORKED.

27 "Q. YOU SAY WORKING ON IT?

28 "A. YES.

1 "Q. WORKING ON WHAT?

2 "A. THE COMPRESSOR.

3 "Q. THE COMPRESSOR AT CORONA?

4 "A. YES.

5 "Q. WHEN DID YOU WORK ON THE
6 COMPRESSOR AT CORONA?

7 "A. IT WAS OVERHAULED WHILE I WAS
8 THERE.

9 "Q. DO YOU REMEMBER APPROXIMATELY
10 WHEN IT WAS OVERHAULED THE FIRST TIME WHEN
11 YOU WERE THERE?

12 "A. I THINK IT WAS THE FALL OF
13 '73.

14 "Q. AND THAT'S WHEN YOU FIRST
15 LEARNED THAT OIL COULD GET PAST THE SEALS AND
16 INTO THE GAS STREAM; IS THAT RIGHT?

17 "A. YES.

18 "Q. AND YOU SAY YOU LEARNED THAT
19 BY WORKING ON IT?

20 "A. YES.

21 "Q. DID YOU READ AN OPERATIONS
22 MANUAL?

23 "A. YES.

24 "Q. DID THE OPERATING MANUAL SAY
25 THAT OIL COULD LEAK PAST THE SEALS INTO THE
26 GAS STREAM?

27 "A. YES. I REMEMBER -- I THINK --
28 I THINK HE DID EXPLAIN THAT.

1 "Q. DO YOU KNOW WHETHER THERE WERE
2 DRAINING CAVITIES IN THE CENTRIFUGAL
3 COMPRESSOR AT CORONA?

4 "A. NOT THAT I KNOW OF.

5 "Q. WHEN I USE THE TERM DRAINING
6 CAVITIES, I AM REFERRING TO CAVITIES WHERE
7 OIL WHICH GETS PAST THE SEAL CAN DRAIN AND
8 THEN BE RECIRCULATED SO THAT IT DOESN'T ENTER
9 THE GAS STREAM. THAT'S WHAT I'M TALKING
10 ABOUT. DO YOU HAVE ANY UNDERSTANDING OF
11 WHETHER SUCH THINGS EXISTED ON THAT
12 COMPRESSOR AT CORONA?

13 "A. NOT THAT I KNOW OF.

14 "Q. WHEN YOU WERE AT CORONA, DID
15 YOU HAVE ANY UNDERSTANDING OF WHAT A NORMAL
16 LEVEL OF OIL CONSUMPTION WAS FOR THE TURBINE
17 AND COMPRESSOR?

18 "A. I DON'T REMEMBER.

19 "Q. YOU DON'T REMEMBER WHETHER YOU
20 HAD ANY UNDERSTANDING?

21 "A. I DON'T RECALL ANY AMOUNT.

22 "Q. WHEN YOU WERE AT CORONA, HOW
23 OFTEN WAS OIL CONSUMPTION MEASURED?

24 "A. IT WAS PROBABLY DONE DAILY.

25 "Q. YOU'RE NOT SURE?

26 "A. NO.

27 "Q. DO YOU REMEMBER EVER SEEING
28 ANY REPORTS REGARDING HOW MUCH OIL WAS BEING

1 USED UP IN THE TURBINE AND COMPRESSOR WHILE
2 YOU WERE AT CORONA?

3 "A. YES. THERE WAS -- THERE'S --
4 THERE WAS A MONTHLY REPORT -- OIL REPORT
5 PREPARED.

6 "Q. AND WAS THAT MONTHLY OIL
7 REPORT PREPARED BY ONE OF THE REPAIRMAN?

8 "A. I PREPARED THAT REPORT.

9 "Q. WHAT DID YOU USE TO PREPARE
10 THAT REPORT?

11 "A. THE DAILY REPORTS.

12 "Q. AND THE DAILY REPORTS WERE
13 REPORTS WRITTEN DOWN BY ONE OF THE REPAIRMEN;
14 IS THAT RIGHT?

15 "A. YES.

16 "Q. ANY VIBRATION PROBLEMS WITH
17 THE COMPRESSOR WHEN YOU WERE AT THE CORONA
18 STATION?

19 "A. NO.

20 "Q. WAS THERE INSTRUMENTATION THAT
21 MEASURED VIBRATION ON THE TURBINE AT CORONA
22 WHEN YOU WERE THERE?

23 "A. THERE WAS A VIBRATION
24 SHUTDOWN.

25 "Q. COULD YOU ADJUST THE LEVEL OF
26 VIBRATION AT WHICH THE SHUTDOWN WOULD OCCUR?

27 "A. YES.

28 "Q. WAS THAT LEVEL EVER ADJUSTED

1 WHILE YOU WERE AT THE CORONA STATION?

2 "A. IT WAS CHECKED.

3 "Q. WHO CHECKED THEM?

4 "A. THE REPAIRMEN.

5 "Q. DID YOU EVER CHECK THEM?

6 "A. YES.

7 "Q. DID YOU EVER ADJUST THE LEVEL
8 OF VIBRATION AT WHICH SHUTDOWN WOULD OCCUR?

9 "A. YES.

10 "Q. HOW OFTEN DID YOU MAKE THAT
11 ADJUSTMENT?

12 "A. THEY WERE CHECKED EVERY THREE
13 MONTHS.

14 "Q. WAS PREVENTIVE MAINTENANCE
15 DONE ON THE TURBINE WHEN YOU WERE THE STATION
16 SUPERVISOR AT ANY TIME?

17 "A. YES.

18 "Q. WAS IT REGULARLY SCHEDULED
19 MAINTENANCE?

20 "A. YES. SOME OF IT WAS.

21 "Q. WHAT PREVENTIVE MAINTENANCE ON
22 THE TURBINE WAS REGULARLY SCHEDULED?

23 "A. OH, CHECKING OPERATION
24 CLEARANCES AND CONDITIONS OF THE BEARINGS.

25 "Q. HOW OFTEN WAS THAT DONE?

26 "A. I DON'T RECALL. NOT
27 EVERYTHING WAS CHECKED AT ONE TIME. IT WAS
28 -- SOME WERE CHECKED MONTHLY; OTHERS WERE

1 CHECKED QUARTERLY; OTHERS, ONE A YEAR.

2 "Q. WAS THAT BASED ON THE
3 MANUFACTURER'S RECOMMENDATIONS?

4 "A. YES.

5 "Q. WAS ANY OF THAT CHECKING DONE
6 BY THE REPAIRMAN WHO WORKED AT THE STATION?

7 "A. YES.

8 "Q. DID YOU EVER DO ANY OF THAT
9 CHECKING PERSONALLY?

10 "A. YES.

11 "Q. DID YOU DO ANY PREVENTATIVE
12 MAINTENANCE ON THE COMPRESSOR WHILE YOU WERE
13 AT THE CORONA STATION?

14 "A. YES.

15 "Q. WHAT TYPE PREVENTIVE
16 MAINTENANCE WAS DONE ON THE COMPRESSORS WHILE
17 YOU WERE THERE?

18 "A. CHECKING THE BEARINGS IN IT.

19 "Q. HOW OFTEN --

20 "A. CHECK THE SEALS IN IT.

21 "Q. I'M SORRY.

22 "HOW OFTEN -- HOW MUCH WOULD
23 YOU CHECK THE SEALS IN THE COMPRESSOR?

24 "A. PROBABLY AT LEAST A COUPLE
25 TIMES A YEAR.

26 "Q. DID YOU TO GET APPROVAL TO
27 SHUT DOWN THE COMPRESSORS FOR PREVENTIVE
28 MAINTENANCE?

1 "A. YES.

2 "Q. FROM WHOM DID YOU HAVE TO GET
3 APPROVAL?

4 "A. THE DISTRICT SUPERINTENDENT.

5 "Q. DID HE EVER TELL YOU YOU
6 SHOULDN'T SHUT DOWN THE COMPRESSORS FOR
7 PREVENTIVE MAINTENANCE?

8 "A. SOMETIMES WE COULDN'T BECAUSE
9 OF DEMAND.

10 "Q. AND DISTRICT SUPERINTENDENT,
11 THAT WAS MR. GREESON?

12 "A. YES.

13 "Q. AND SO ON SOME OCCASIONS, YOU
14 CALLED AND SUGGESTED THAT THE COMPRESSOR BE
15 SHUT DOWN FOR MAINTENANCE AND HE TOLD YOU YOU
16 COULDN'T BECAUSE OF THE DEMAND; IS THAT
17 RIGHT?

18 "A. YES.

19 "Q. HOW OFTEN DID THAT HAPPEN
20 DURING THE FIVE YEARS YOU WERE AT CORONA?

21 "A. I DON'T. I DON'T REMEMBER.

22 "Q. MORE THAN TEN TIMES, DO YOU
23 THINK?

24 "A. PROBABLY.

25 "Q. MORE THAN TWENTY TIMES?

26 "A. I DON'T KNOW.

27 "Q. I BEG YOUR PARDON?

28 "A. I DON'T KNOW.

1 "Q. YOUR BEST RECOLLECTION WOULD
2 BE --

3 "A. I DON'T REMEMBER.

4 "Q. I UNDERSTAND YOU DON'T
5 REMEMBER. I'M JUST TRYING TO GET THE BEST
6 RECOLLECTION YOU HAVE.

7 "IS YOUR BEST RECOLLECTION
8 THAT IT WAS BETWEEN TEN AND TWENTY TIMES?

9 "A. PROBABLY.

10 "Q. DID YOU EVER COMMUNICATE TO
11 SOCAL GAS REGARDING OIL ENTERING THE GAS
12 STREAM?

13 "A. NO.

14 "Q. DO YOU KNOW IF ANYONE AT
15 TRANSWESTERN EVER DID?

16 "A. I DON'T KNOW.

17 "Q. DID YOU EVER HEAR THAT ANYONE
18 AT TRANSWESTERN EVER DISCUSSED WITH ANYONE AT
19 SOCAL GAS THE AMOUNT OF OIL THAT ENTERED THE
20 GAS STREAM?

21 "A. NO.

22 "Q. DID THE A AND B REPAIRMEN AT
23 CORONA HAVE ACCESS TO THE OPERATING MANUAL
24 FOR THE TURBINE?

25 "A. YES.

26 "Q. DID THEY ALSO HAVE ACCESS TO
27 THE OPERATING MANUAL FOR THE COMPRESSOR, THE
28 CENTRIFUGAL COMPRESSOR?

1 "A. YES.

2 "Q. WERE THOSE MANUALS KEPT IN THE
3 STATION SUPERVISOR'S OFFICE?

4 "A. YES.

5 "Q. WHILE YOU WERE AT THE CORONA
6 STATION, DID ANYONE FROM COOPER-BESSEMER
7 EVER VISIT THE CORONA STATION IN CONNECTION
8 WITH THE CENTRIFUGAL COMPRESSOR?

9 "A. YEAH. A REPRESENTATIVE CAME
10 BY.

11 "Q. HOW OFTEN?

12 "A. I DON'T REMEMBER. IT SEEMED
13 LIKE HE CAME TWO OR THREE TIMES A YEAR.

14 "Q. DID YOU EVER READ THE
15 OPERATING MANUAL FOR THE COMPRESSOR,
16 CENTRIFUGAL COMPRESSOR?

17 "A. YES.

18 "Q. DID YOU EXPECT TO LOSE OIL
19 WHEN YOU STARTED UP THE UNIT?

20 "A. YES. BECAUSE YOU PUMPED UP
21 THE SEAL OIL TANK BEFORE YOU PUT ANY PRESSURE
22 IN THE COMPRESSOR.

23 "Q. HOW ABOUT SHUTTING DOWN? DID
24 YOU EXPECT TO LOSE OIL WHEN YOU SHUT DOWN?

25 "A. PROBABLY.

26 "Q. WHY?

27 "A. BECAUSE YOU WOULD STILL HAVE
28 SEAL OIL WHEN YOU WILL BLOWED THE COMPRESSOR

1 DOWN.

2 "Q. AND WHAT KEPT THE SEAL OIL
3 FROM ENTERING THE GAS STREAM WAS THE GAS
4 PRESSURE; IS THAT RIGHT?

5 "A. YES.

6 "Q. AND SO WHEN YOU'RE STARTING
7 UP, YOU'RE PUMPING UP THE SEAL OIL BEFORE YOU
8 GOT THE GAS PRESSURE; IS THAT RIGHT?

9 "A. YES.

10 "Q. SO YOU DON'T HAVE THE GAS
11 PRESSURE TO HOLD THE OIL IN, AND EVEN WHEN
12 YOU SHUT DOWN, YOU'RE REDUCING THE GAS
13 PRESSURE BEFORE YOU REDUCE THE SEAL OIL
14 PRESSURE; IS THAT RIGHT?

15 "A. YES.

16 "Q. AND THE REASON FOR THAT IS
17 IT'S MORE DANGEROUS TO HAVE THE GAS ESCAPING
18 FROM THE LINE INTO THE EQUIPMENT THAN IT IS
19 TO HAVE THE OIL GETTING INTO THE GAS STREAM;
20 IS THAT RIGHT?

21 "A. YES.

22 "Q. MR. PSHIAKAI, HAVE YOU EVER
23 AT ANY TIME HAD ANY DISCUSSIONS WITH ANY
24 TRANSWESTERN WORKERS REGARDING RISKS TO THEIR
25 HEALTH FROM EXPOSURE TO PCB'S?

26 "A. NO.

27 "Q. BUT DID YOU EVER RECEIVE
28 INSTRUCTION FROM ANYONE THAT WHEN CONSUMPTION

1 GOT BEYOND ANY SPECIFIC LEVEL THAT YOU WERE
2 SUPPOSED TO SHUT THE COMPRESSOR DOWN?

3 "A. NO.

4 "Q. YOU NEVER RECEIVED GUIDELINES
5 FROM ANYONE? THAT'S WHAT I'M TRYING TO GET
6 AT.

7 "A. NO.

8 "Q. THAT WAS YOUR OWN DECISION
9 BASED ON YOUR EXPERIENCE THAT WHEN IT
10 EXCEEDED A LEVEL THAT YOU CONSIDERED ABNORMAL
11 THAT YOU WOULD RECOMMEND THAT IT BE SHUT
12 DOWN?

13 "A. YES."

14

15 MR. ZIMMER: THAT CONCLUDES THIS, YOUR HONOR.

16 THE COURT: ALL RIGHT. THEN, LADIES AND GENTLEMEN,
17 AS PROMISED, LET ME REMIND YOU NOT TO THINK ABOUT THE CASE,
18 FORM ANY IMPRESSION IN YOUR OWN MIND OR SAY ANYTHING TO
19 ANYBODY ELSE HAVING TO DO WITH THE CASE.

20 WE'LL RESUME ON MONDAY MORNING AT 9:30.

21 LET ME TELL YOU NOW THAT NEXT WEEK, WE WILL
22 STOP AT THURSDAY, NOON, AND RECESS, THEN, UNTIL
23 JANUARY 3 --

24 JUROR'S VOICE: 3.

25 THE COURT: SO THAT'S -- SO YOU CAN PLAN.

26 HAVE A NICE WEEKEND. WE'LL SEE YOU MONDAY
27 MORNING. STAY HEALTHY.

28

1 (AT 3:31 P.M., THE JURY EXITED THE
2 COURTROOM, AND THE FOLLOWING PROCEEDINGS
3 WERE HELD IN OPEN COURT:)
4

5 THE COURT: WITH THE JURORS HAVING LEFT THE
6 COURTROOM, COUNSEL, ANYTHING FOR THE RECORD BEFORE WE GO
7 OFF THE RECORD TO DISCUSS SCHEDULING?

8 MR. TALLON: DOESN'T HAVE TO BE ON THE RECORD.

9 THE COURT: MR. PREUSS, MR. ZIMMER?

10 MR. PREUSS: JUST ON THE SCHEDULING, NEXT WEEK --

11 THE COURT: WE CAN GO OFF THE RECORD FOR SCHEDULING?

12 MR. PREUSS: YES. I'M SORRY.

13 THE COURT: WE'RE OFF THE RECORD.
14

15 (DISCUSSION HELD OFF THE RECORD.)
16

17 (AT 3:32 P.M., AN ADJOURNMENT WAS TAKEN
18 UNTIL MONDAY, JANUARY 20, 1993 AT 9:30 A.M.)
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 31

HON. G. KEITH WISOT, JUDGE

TRANSWESTERN PIPELINE COMPANY,
A DELAWARE CORPORATION,

PLAINTIFF,

VS.

MONSANTO COMPANY AND DOES 1
THROUGH 200, INCLUSIVE,

DEFENDANTS.

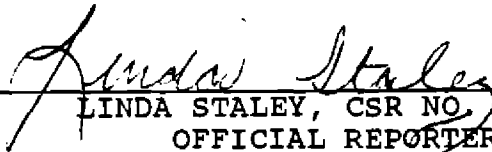
SUPERIOR COURT
CASE NO. BC 026959

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

I, LINDA STALEY, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY
OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES
3306 THROUGH 3475, INCLUSIVE, COMPRISE A TRUE AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED
MATTER REPORTED BY ME ON DECEMBER 17, 1993.

DATED THIS 20TH DAY OF DECEMBER 1993.


LINDA STALEY, CSR NO. 3359
OFFICIAL REPORTER