

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

3 DEPARTMENT NO. 31 HON. G. KEITH WISOT, JUDGE

4
5 TRANSWESTERN PIPELINE COMPANY,)
6 A DELAWARE CORPORATION,)

7 PLAINTIFF,)

8 VS.)

NO. BC 026959

9 MONSANTO COMPANY AND DOES 1)
10 THROUGH 200, INCLUSIVE,)

11 DEFENDANTS.)
12

13 REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

14 DECEMBER 16, 1993

15 VOLUME 21

16 PAGES 3150 TO 3305
17

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23 FOR DEFENDANT:

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1 THAT TIME I'M REALLY NOT AWARE
2 OF.

3 STRICTLY FROM THROUGHPUT LOSS, IF
4 THROUGHPUT IS WORTH "X" CENTS PER
5 MCF, THEN INFLATION WOULD TEND TO
6 INCREASE THAT NUMBER. FAILURE TO
7 DELIVER CONTRACT AT VOLUMES COULD
8 RESULT IN OTHER PENALTIES OF SOME
9 TARIFFS BUT I'M REALLY UNFAMILIAR
10 WITH THAT ONE.

11 Q LET ME BACK UP, THEN.
12 IF THE LABYRINTH SEALS ARE
13 EXCESSIVE, THE TENDENCY IS TO
14 ALLOW MORE GAS TO GET INTO THE
15 SYSTEM?
16 MORE GAS WOULD GET INTO THE AREA
17 OF THE SEAL RING FIRST, RIGHT?

18 A YES, YES.

19 MR. ZIMMER: THAT CONCLUDES THE READING.

20 THE COURT: ALL RIGHT.

21 AND WE HAVE A FURTHER WITNESS,
22 MR. PREUSS?

23 MR. PREUSS: YES, YOUR HONOR, MONSANTO WISHES
24 TO CALL LARRY BRADFORD AT THIS TIME.

25 THE COURT: MR. AMADOR, LET ME ASK YOU TO MOVE
26 FROM YOUR PRESENT CHAIR TO THE CHAIR IN THE JURY
27 BOX.

28 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

1 CHARLES LARRY BRADFORD,
2 CALLED AS A WITNESS BY THE DEFENDANT, MONSANTO, WAS
3 SWORN AND TESTIFIED AS FOLLOWS:
4

5 THE WITNESS: I DO.

6 THE CLERK: PLEASE, BE SEATED.

7 PLEASE STATE AND SPELL YOUR NAME FOR THE
8 RECORD.

9 THE WITNESS: CHARLES LARRY BRADFORD,
10 C-H-A-R-L-E-S, L-A-R-R-Y, B-R-A-D-F-O-R-D.

11 THE COURT: MR. PREUSS.

12 MR. PREUSS: THANK YOU, YOUR HONOR.
13

14 DIRECT EXAMINATION

15 BY MR. PREUSS:

16 Q GOOD MORNING, MR. BRADFORD.

17 A GOOD MORNING.

18 Q WHERE DO YOU LIVE, SIR?

19 A ST. LOUIS.

20 Q WHERE WERE YOU BORN AND RAISED?

21 A BORN IN BENTON, MISSOURI AND RAISED
22 THERE.

23 Q AND HOW LONG HAVE YOU LIVED IN ST. LOUIS?

24 A ON AND OFF I HAVE PROBABLY LIVED THERE 30
25 YEARS.

26 Q DO YOU HAVE A FAMILY, SIR?

27 A I DO.

28 Q WHAT DOES YOUR IMMEDIATE FAMILY CONSIST

1 OF, SIR?

2 A WELL, I HAVE A WIFE AND I HAVE A DAUGHTER
3 AND I HAVE TWO SONS.

4 Q OKAY. WHAT IS YOUR OCCUPATION?

5 A I WORK FOR A PACKAGING COMPANY IN A
6 CURRENT JOB AS VICE-PRESIDENT OF SALES AND MARKETING,
7 RESEARCH AND DEVELOPMENT.

8 Q NOW, WHAT IS THE NAME OF THE COMPANY?

9 A JEFFERSON SMURFIT, S-M-U-R-F-I-T,
10 CORPORATION.

11 Q AND HOW LONG HAVE YOU BEEN WITH THAT
12 COMPANY, SIR?

13 A I HAVE BEEN WITH THEM SINCE JANUARY OF
14 1983.

15 Q AND YOUR PRESENT POSITION IS WHAT, AGAIN?

16 A VICE-PRESIDENT OF SALES, MARKETING,
17 RESEARCH AND DEVELOPMENT.

18 Q AND PRIOR TO YOUR PRESENT JOB, SIR, YOU
19 WERE EMPLOYED BY WHOM?

20 A I WAS WITH A COMPANY CALLED POTLATCH
21 CORPORATION.

22 I WAS LOCATED IN MC GEHEE, ARKANSAS
23 RUNNING A PAPER MILL.

24 Q AND WHAT IS THE BUSINESS OF POTLATCH?

25 A POTLATCH'S BUSINESS IS ALSO PRIMARILY
26 PACKAGING.

27 BUT THEY MAKE PRINTING PAPERS AND THEY
28 HAVE WOOD PRODUCTS, LUMBER, THAT SORT OF THING.

1 BUT THEY MAKE PAPERBOARD AND THEY USED TO
2 MAKE THE LITTLE GABLED MILK CARTONS THAT YOU SEE.

3 Q WHAT ASPECT OF THE BUSINESS OF POTLATCH
4 WERE YOU INVOLVED IN WHILE WORKING WITH THAT
5 ORGANIZATION?

6 A I HAD THREE DIFFERENT RESPONSIBILITIES.
7 I STARTED OUT AS A MARKETING DIRECTOR FOR
8 THEIR PACKAGING DIVISION.

9 AND THEN I BECAME THE -- WELL, I HAD FOUR
10 POSITIONS, I SUPPOSE.

11 I BECAME THE MANAGER OF THEIR CONTAINER
12 SALES, THE CORRUGATED BOXES THAT WE SEE.

13 THEN I BECAME THE VICE-PRESIDENT OF THEIR
14 PACKAGING DIVISION WHICH HAD THREE DIFFERENT TYPES OF
15 PACKAGING THEY SOLD.

16 THEN I BECAME THE VICE-PRESIDENT OF THIS
17 MILL IN ARKANSAS.

18 Q WHEN DID YOU START WITH POTLATCH?

19 A I STARTED WITH POTLATCH IN JANUARY OF
20 1973, I BELIEVE.

21 Q AND YOU WERE THERE TEN YEARS BEFORE
22 STARTING YOUR PRESENT JOB IN '83?

23 A THAT'S CORRECT.

24 Q OR PRESENT EMPLOYER, I SHOULD SAY?

25 A UH-HUH.

26 Q TELL US WHAT YOUR EDUCATIONAL BACKGROUND
27 IS, PLEASE, SIR.

28 A I WENT TO GRADE SCHOOL IN BENTON,

1 MISSOURI.

2 I WENT TO HIGH SCHOOL IN BENTON AND THEN
3 TWO DIFFERENT SCHOOLS IN CAPE GIRARDEAU, MISSOURI,
4 BOTH IN SOUTHEASTERN MISSOURI.

5 THEN I WENT TO ST. LOUIS UNIVERSITY AND
6 HAVE A DEGREE IN ELECTRICAL ENGINEERING FROM
7 ST. LOUIS U AND THEN I WENT TO HARVARD TO LAW SCHOOL
8 FOR A YEAR AND A HALF.

9 Q WHEN WERE YOU GRADUATED FROM ST. LOUIS
10 UNIVERSITY?

11 A IN 1958.

12 Q AND AFTER ATTENDING LAW SCHOOL FOR A YEAR
13 AND A HALF, WHAT DID YOU DO AT THAT TIME?

14 A I LEFT LAW SCHOOL, WENT HOME FOR A MONTH
15 OR SO.

16 THEN I WENT INTO THE UNITED STATES ARMY.

17 Q AND HOW LONG DID YOU SERVE WITH THE ARMY?

18 A I WAS ON ACTIVE DUTY FOR SIX MONTHS.

19 AT THAT TIME THEY HAD A SIX-YEAR PROGRAM
20 TO SATISFY YOUR OBLIGATION. YOU GO ON ACTIVE DUTY
21 FOR SIX MONTHS AND THE ACTIVE RESERVE FOR FIVE AND A
22 HALF YEARS, WHICH IS WHAT I DID.

23 Q AFTER THE SERVICE DID YOU SEEK
24 EMPLOYMENT?

25 A I DID.

26 Q AND WHAT WAS YOUR FIRST JOB?

27 A MY FIRST JOB WAS WITH A COMPANY CALLED
28 UNIVERSAL MATCH CORPORATION.

1 Q AND WHAT WAS YOUR JOB RESPONSIBILITY
2 THERE?

3 A I WAS -- I THINK THE TITLE WAS CALLED A
4 SALES ENGINEER.

5 THEY HAD A COUPLE OF DIVISIONS.

6 I WAS IN WHAT THEY CALLED THE UNIDYNAMICS
7 DIVISION.

8 WE HAD DEVICES THAT WENT ON AIRPLANES AND
9 MILITARY AIRPLANES.

10 SO MY JOB WAS TO REPRESENT THOSE TO THE
11 BUREAU OF WEAPONS, TO TRAVEL TO PLACES LIKE WHITE
12 SANDS MISSILE RANGE AND PRESENT THEM TO THE ARMY, THE
13 AIR FORCE.

14 Q HOW LONG DID YOU STAY WITH UNIVERSAL
15 MATCH?

16 A I WAS WITH UNIVERSAL MATCH PERHAPS TWO
17 YEARS.

18 Q AND YOUR NEXT JOB?

19 A MY NEXT JOB WAS WITH A COMPANY CALLED
20 WARRANTY SERVICE COMPANY, LIKE A SPECIALITY INSURANCE
21 COMPANY THAT SOLD THE FIVE-YEAR WARRANTIES THAT MOST
22 OF US GET WHEN WE BUY AN APPLIANCE THAT HAS A
23 REFRIGERATING COMPRESSOR IN IT.

24 Q OKAY. AND HOW LONG DID YOU STAY WITH
25 WARRANTY SERVICE?

26 A I STAYED WITH WARRANTY SERVICE PERHAPS A
27 YEAR, YEAR AND A HALF.

28 Q AND YOUR NEXT EMPLOYMENT?

1 A WAS WITH MONSANTO COMPANY.

2 Q AND THAT WOULD HAVE BEEN WHAT YEAR DID
3 YOU START WITH MONSANTO?

4 A I THINK IT WAS IN -- I THINK IT WAS LIKE
5 1963.

6 Q OKAY. AND WHAT WAS YOUR FIRST JOB
7 POSITION WITH MONSANTO?

8 A MY FIRST JOB POSITION WITH MONSANTO WAS I
9 WAS WHAT THEY CALLED AN ADVERTISING ASSISTANT.

10 THERE WAS AN ADVERTISING DEPARTMENT OR
11 MARKETING DEPARTMENT, IF YOU WILL, IN THE ORGANIC
12 CHEMICALS DIVISION.

13 SO MY JOB WAS TO HELP PREPARE ADVERTISING
14 TO HELP WITH BROCHURES AND THE LIKE.

15 Q OKAY. AND THE ORGANIC DIVISION HANDLED
16 WHAT TYPE OF PRODUCTS, SIR?

17 A WELL, THE ORGANIC DIVISION HANDLED -- I'M
18 NOT A CHEMIST, BUT CHEMICALS CAN BE BROKEN DOWN INTO
19 ORGANIC, INORGANIC, VARIOUS WAYS.

20 SO THEY GROUPED WHAT THEY CALLED THEIR
21 ORGANIC OR CARBON CHEMICALS IN ONE DIVISION.

22 I WAS IN THAT DIVISION.

23 THEN THEY HAD A BUNCH OF PRODUCTS THAT
24 WERE NOT, SHALL WE SAY, LARGE COMMODITY CHEMICALS.

25 THEY CALLED THAT THE SPECIALITY CHEMICALS
26 GROUP.

27 I WAS IN THAT GROUP.

28 Q AND HOW LONG DID YOU WORK AS AN

1 ADVERTISING ASSISTANT IN THE SPECIALITY GROUP, SIR?

2 A I THINK IT WAS APPROXIMATELY A YEAR.

3 Q ALL RIGHT. WHAT WAS YOUR NEXT POSITION,
4 SIR?

5 A MY NEXT POSITION WAS A SALESPERSON IN
6 THE, AGAIN, THE SPECIALITY PRODUCTS OR SPECIAL
7 CHEMICALS GROUP.

8 Q OKAY. AS A SALESPERSON, THEN, YOU SOLD
9 THE PRODUCTS IN THE SPECIALITY GROUP?

10 A THAT IS CORRECT, SOLD SOME OF THEM, NOT
11 ALL OF THEM.

12 Q ALL RIGHT. AND WHAT WAS YOUR SALES
13 TERRITORY, SIR?

14 A MY SALES TERRITORY WAS -- ON THE EAST IT
15 WOULD HAVE BEEN PERHAPS HALF OF INDIANA ON A LINE
16 RUNNING TO THE GULF.

17 THEN IT WOULD HAVE CROSSED OVER THROUGH
18 MISSOURI AND ON OUT TO PROBABLY THE BORDERS OF
19 COLORADO AND THEN SOUTH TO TEXAS AND EVERYTHING IN
20 THAT TERRITORY.

21 Q WHAT PRODUCTS DID YOU SELL FOR MONSANTO?

22 A I SOLD THE INDUSTRIAL FLUIDS, AS WE
23 CALLED THEM. I SOLD THE HEAT TRANSFER FLUIDS AND I
24 SOLD THEIR AVIATION FLUIDS FOR THEM.

25 Q OKAY. DID THEY HAVE NAMES?

26 DID MONSANTO HAVE NAMES THAT THEY GAVE TO
27 THESE GROUPS OF PRODUCTS?

28 A WELL, THEY HAD TRADE NAMES, BRAND NAMES,

1 FOR THE PRODUCTS.

2 FOR EXAMPLE, IN THE AVIATION FLUIDS THE
3 BRAND NAME WAS SKYDROL AND THEN IN THE INDUSTRIAL
4 FLUID WE HAD PRIMARILY THE PYDRAULS AND TURBINOL OR
5 MCS-153.

6 IT WAS IN THAT GROUP.

7 THEN ON THE HEAT TRANSFER FLUIDS, THE
8 TRADE NAME WAS THERMINOL.

9 Q SO ONE OF YOUR PRODUCTS WAS MCS-153?

10 A THAT'S CORRECT.

11 Q AND TO WHOM DID YOU SELL THAT PRODUCT,
12 SIR?

13 A I SOLD THAT TO TEXAS EASTERN TRANSMISSION
14 CORPORATION.

15 Q ALL RIGHT. AND WHO WERE YOUR CONTACTS AT
16 THAT ORGANIZATION?

17 A THE -- I HAD TWO LOCATIONS IN THAT
18 COMPANY.

19 THEY HAD THEIR PURCHASING. AND I BELIEVE
20 THEIR CORPORATE HEADQUARTERS WERE IN HOUSTON.

21 SO I WOULD CALL THERE ON TED HARRISON, I
22 BELIEVE THE FELLOW'S NAME WAS AND CALLED ON OLLIE
23 FLETCHER, I BELIEVE, IN PURCHASING.

24 THEN IN SHREVEPORT, LOUISIANA THEY HAD
25 THEIR OPERATIONS AND THEIR ENGINEERING GROUP AND I
26 CALLED ON A NUMBER OF PEOPLE THERE. BUT TWO NAMES
27 THAT COME TO MIND ARE WALTER WOODS AND A BUCK
28 JARNAGIN.

1 Q AND WHEN YOU MADE YOUR SALES CALL, DID
2 YOU GO TO BOTH HOUSTON AND SHREVEPORT?

3 A I DID, NOT NECESSARILY SEQUENTIALLY, ONE
4 ONE DAY AND ONE THE OTHER, BUT I CALLED ON BOTH
5 LOCATIONS.

6 Q WAS TEXAS EASTERN AN IMPORTANT CUSTOMER
7 OF YOURS?

8 A TEXAS EASTERN WAS A SPECIAL CUSTOMER OF
9 MINE, YES.

10 AND I IDENTIFIED WITH THEM, GOT VERY
11 CLOSE TO THEM AND ENJOYED THE RELATIONSHIP THERE.
12 THEY WERE A SPECIAL CUSTOMER.

13 Q WHEN YOU SAY "A SPECIAL CUSTOMER," WHAT
14 DO YOU MEAN?

15 A WELL, THERE WERE A COUPLE OF THINGS, I
16 SUPPOSE, THAT MADE IT SPECIAL.

17 FIRST OF ALL, MY FATHER WORKED FOR THE
18 COMPANY.

19 Q WORKED FOR TEXAS EASTERN?

20 A WORKED FOR TEXAS EASTERN.

21 Q WHERE DID HE WORK?

22 A HE WORKED TWO PLACES.

23 HE STARTED OFF IN THEIR PUMPING STATION
24 IN MISSOURI AT ORAN, O-R-A-N.

25 THEN HE GOT A PROMOTION WHEN THEY BUILT
26 THE 30-INCH LINE RUNNING UP THROUGH KENTUCKY. HE GOT
27 A PROMOTION TO RUN THE KENTUCKY DANVILLE STATION.

28 HE FINISHED OUT HIS CAREER WITH THEM

1 THERE.

2 THAT WAS ONE OF THE THINGS.

3 SECONDLY, WHEN I CAME TO THE ACCOUNT
4 TEXAS EASTERN HAD BEEN AN ACCOUNT OF MONSANTO OF SOME
5 LONG STANDING. AND THE HISTORY OF THE ACCOUNT HAD
6 BEEN A GOOD ONE.

7 THEY WERE VERY OPEN. WE WERE VERY OPEN
8 WITH THEM.

9 IT WAS A VERY FRIENDLY, COURTEOUS
10 RELATIONSHIP AND A VERY PROFESSIONAL ONE. I WOULDN'T
11 IMPLY ANYTHING ELSE.

12 IT WAS A GREAT ACCOUNT TO WORK WITH
13 BECAUSE YOU COULD TALK TO WHO YOU NEEDED TO TALK TO
14 AND THEY COULD TALK TO YOU.

15 Q OKAY. YOU MENTIONED THAT YOUR FATHER
16 WORKED AT A COUPLE OF INSTALLATIONS OF TEXAS EASTERN.

17 DID YOU HAVE THE OCCASION TO VISIT THOSE
18 STATIONS IN CONNECTION WITH SEEING YOUR FATHER FROM
19 TIME TO TIME?

20 A I VISITED BOTH OF THOSE STATIONS.

21 WHEN I WAS YOUNGER HE MOVED, I BELIEVE,
22 TO DANVILLE IN 1950.

23 SO THAT WOULD HAVE MADE ME LIKE 14 AT THE
24 TIME.

25 BUT I DO RECALL VISITING THE STATION AT
26 ORAN.

27 THEN WHEN HE MOVED TO DANVILLE, THEY
28 HAD -- THE WAY THEY DID THAT WAS, THEY BUILT HOMES

1 RIGHT ON THE PROPERTY SO THAT THE PUMPING STATION AND
2 THE HOMES WERE WITHIN WALKING DISTANCE OF EACH OTHER.

3 AND SO I REMEMBER A NUMBER OF TIMES
4 VISITING WITH HIM THERE IN THE STATION, SINCE
5 ALTHOUGH I NEVER LIVED IN DANVILLE OVER THE SCHOOL
6 YEAR, I WAS, AT THAT POINT IN TIME, GOING AWAY TO
7 SCHOOL WHEN I VISITED THERE IN THE SUMMER OR HOLIDAYS
8 WHY IT WAS QUITE COMMON FOR ME TO, YOU KNOW, PERHAPS
9 TAKE HIM HIS LUNCH OR DINNER.

10 THEY HAD SHIFT WORK.

11 THEY HAD WHAT THEY CALL A SOUTHERN SWING
12 SHIFT.

13 THEY HAD FOUR PEOPLE FOR THREE JOBS.

14 SO HE WAS ALWAYS WORKING ONE SHIFT OR
15 ANOTHER.

16 HE WOULD WORK MIDDNIGHTS ONE WEEK AND THEN
17 DAYS A SECOND WEEK AND THEN EVENINGS A THIRD WEEK.

18 SO HE WOULD GET -- IT WAS A LONELY
19 OPERATION. AND THERE WEREN'T VERY MANY PEOPLE IN
20 THOSE STATIONS.

21 I THINK AT ONE TIME THEY HAD TWO AND THEN
22 THEY REDUCED IT TO ONE MAN RUNNING THIS ENTIRE
23 STATION.

24 SO I WOULD GO UP THERE AND MAYBE VISIT
25 HIM FOR A FEW MINUTES, TAKE HIS MEALS, SOMETHING LIKE
26 THAT.

27 Q NOW, BASED ON YOUR WORK AS A SALES
28 REPRESENTATIVE THERE, WAS THIS RELATIONSHIP THAT YOU

1 HAD WITH TEXAS EASTERN MORE THAN A BUSINESS
2 RELATIONSHIP?

3 A YES. IT WAS.

4 YOU KNOW, IT WAS -- I WOULD SAY IT WAS A
5 MUCH MORE PERSONAL RELATIONSHIP WITH TEXAS EASTERN
6 THAN ANY OTHER CUSTOMER I HAD OR ANY OTHER CUSTOMER I
7 WAS AWARE OF THAT MONSANTO HAD.

8 I RECALL, YOU KNOW, WHEN I WOULD GO TO
9 HOUSTON I CAN RECALL SEVERAL TIMES EATING DINNER OR
10 LUNCH WITH THE FELLOWS IN PURCHASING.

11 AND I RECALL GOING TO SHREVEPORT AND I
12 RECALL GOING BIRD HUNTING WITH BUCK JARNAGIN, THAT
13 WAS THE THING TO DO WITH LOUISIANA, HUNTING WITH A
14 COUPLE OF BIRD DOGS THAT HE KEPT AND YOU DIDN'T HAVE
15 TO GO FAR OUT OF SHREVEPORT TO BE IN GOOD
16 BIRD-HUNTING COUNTRY.

17 Q DID TEXAS EASTERN, WHEN YOU WERE
18 CONTACTING THEM AND DEALING WITH THEM IN CONNECTION
19 WITH THE MCS-153, IMPRESS YOU AS KNOWLEDGEABLE ABOUT
20 THE PRODUCT, SIR?

21 MR. TALLON: OBJECTION, CALLS FOR A CONCLUSION.

22 THE COURT: OVERRULED.

23 YOU MAY ANSWER.

24 THE WITNESS: TEXAS EASTERN WAS A VERY
25 PROFESSIONAL COMPANY.

26 THEY HAD -- THEY WERE WELL STAFFED.

27 AND THEY WERE STAFFED WITH VERY
28 INTELLIGENT, DEDICATED EMPLOYEES.

1 SO MY ANSWER WOULD BE, YES, THEY WERE A
2 VERY KNOWLEDGEABLE COMPANY.

3 THEY RAN THEIR BUSINESS VERY WELL.

4 Q DO YOU HAVE ANY UNDERSTANDING AS TO THE
5 ORIGIN OF THE PRODUCT IN TEXAS EASTERN'S INVOLVEMENT,
6 IF ANY, WITH THAT?

7 A WELL, AT SOME POINT IN TIME I CAME TO
8 LEARN THAT TEXAS EASTERN HAD HELPED DEVELOP THE
9 PRODUCT.

10 MR. TALLON: OBJECTION, FOUNDATION.

11 THE COURT: HOLD ON, PLEASE.

12 LAY SOME FOUNDATION, MR. PREUSS.

13 Q BY MR. PREUSS: IN CONNECTION WITH YOUR
14 CONTACTS WITH TEXAS EASTERN, DID YOU HAVE THE
15 OCCASION TO DISCUSS THE PRODUCT WITH TEXAS EASTERN
16 REPRESENTATIVES?

17 A YES.

18 Q AND IN CONNECTION WITH THOSE DISCUSSIONS
19 DID YOU LEARN INFORMATION ABOUT THE HISTORY OF THAT
20 PRODUCT?

21 A I DID.

22 Q AND WAS THAT INFORMATION UPON WHICH YOU
23 GAINED AN UNDERSTANDING OF THE CLIENT AND GUIDED YOUR
24 RELATIONSHIPS AND CONTACTS WITH THE CLIENT?

25 A WELL, THE PRODUCT WAS THE CONNECTION,
26 REALLY, BETWEEN THE TWO COMPANIES.

27 IF WE HAD NOT HAD THE PRODUCT OR IF THEY
28 HAD NOT NEEDED THE PRODUCT, ALTHOUGH WE MIGHT HAVE

1 BEEN ON FRIENDLY TERMS, WE WOULD NOT HAVE HAD A
2 BUSINESS RELATIONSHIP.

3 I LEARNED THEY WERE ALWAYS INTERESTED IN
4 ANYTHING THAT I COULD SAY ABOUT THE PRODUCT.

5 AND I WAS INTERESTED IN ANYTHING THAT
6 THEY COULD SAY ABOUT HOW THEY USED IT OR WHAT THEY
7 LIKED OR DIDN'T LIKE ABOUT IT, WHATEVER.

8 SO THE PRODUCT WAS ALWAYS A SUBJECT OF
9 DISCUSSION, YES.

10 Q ALL RIGHT. AND DID YOU GAIN AN
11 UNDERSTANDING WITH RESPECT TO HOW THE PRODUCT
12 ORIGINALLY WAS CREATED?

13 A WELL, YES, I DID.

14 Q AND WHAT UNDERSTANDING?

15 A THEY LET IT BE KNOWN THAT IT WAS -- THEIR
16 PRODUCT.

17 MR. TALLON: EXCUSE ME, YOUR HONOR, I WILL
18 OBJECT TO TEXAS EASTERN'S STATEMENTS BEFORE 1967 AS
19 HEARSAY.

20 THE COURT: THE OBJECTION IS SUSTAINED.

21 THE WITNESS: I'M NOT SURE I UNDERSTAND.

22 THE COURT: WAIT FOR A FURTHER QUESTION,
23 PLEASE.

24 Q BY MR. PREUSS: IN CONNECTION WITH YOUR
25 CONTACTS WITH TEXAS EASTERN, DID THEY EXPRESS
26 SATISFACTION TO YOU WITH RESPECT TO THE PRODUCT WHILE
27 YOU WERE WORKING AS THE SALES REPRESENTATIVE?

28 A I WOULD SAY THEY WERE EXTREMELY SATISFIED

1 WITH THE PRODUCT.

2 THEY HAD HELPED INVENT IT.

3 MR. TALLON: SAME OBJECTION, YOUR HONOR.

4 THE COURT: SUSTAINED.

5 MR. TALLON: I WILL MOVE TO STRIKE THAT AS
6 BEING NON-RESPONSIVE.

7 THE COURT: THE LAST ANSWER IS STRICKEN, LADIES
8 AND GENTLEMEN. YOU SHOULD DISREGARD IT.

9 THE COURT: MR. PREUSS.

10 Q BY MR. PREUSS: WHEN YOU WERE WITH TEXAS
11 EASTERN DURING THE '65-'67 TIME FRAME, AFTER BECOMING
12 SALES REPRESENTATIVE, YOU WERE THERE A COUPLE OF
13 YEARS AS THE SALES REP?

14 A THAT'S CORRECT.

15 Q DURING THAT TIME FRAME, SIR, DID YOU
16 COMMUNICATE YOUR DISCUSSIONS AND AGREEMENTS AND
17 ARRANGEMENTS WITH TEXAS EASTERN IN WRITING?

18 A SOMETIMES.

19 Q OKAY. AND WERE OTHER -- ON OTHER
20 OCCASIONS DID YOU DEAL WITH THEM ON AN ORAL BASIS?

21 A I WOULD SAY MOST OF THE TIME IT WAS ON AN
22 ORAL BASIS.

23 Q WHY WAS THAT?

24 A YOU JUST SIMPLY CAN'T WRITE EVERYTHING,
25 PLUS THE FACT, YOU KNOW, WRITING TAKES TIME.

26 IT'S A PAIN.

27 SO I DON'T THINK ANY SALESPERSON LIKES TO
28 WRITE ANYTHING IF THEY DON'T HAVE TO.

1 Q OKAY. AND WAS YOUR RELATIONSHIP SUCH
2 THAT YOU COULD RELY ON THE ORAL WORD OF TEXAS
3 EASTERN?

4 A VERY MUCH SO.

5 I MEAN, THEY DIDN'T ASK FOR THINGS IN
6 WRITING AND TO THE -- MY COMPANY DIDN'T INSIST ON
7 IT.

8 USUALLY WE HAD TO WRITE CALL REPORTS.

9 BUT THAT WAS ABOUT THE EXTENT, AS I
10 RECALL, OF THE FORCED WRITING.

11 SO THE OBJECTIVE WAS TO KEEP TEXAS
12 EASTERN HAPPY, TO KEEP THE PRODUCT TO THEM ON TIME
13 AND TO THE EXTENT WE DID THAT THAT DIDN'T REQUIRE
14 WRITING, WE DIDN'T DO IT.

15 Q OKAY. DID ANYBODY AT TEXAS EASTERN
16 DURING THE TIME FRAME '65 TO '67 EXPRESS ANY CONCERNS
17 ABOUT HEALTH ISSUES INVOLVING THE PRODUCT TO YOU?

18 MR. TALLON: OBJECTION.

19 THE COURT: OVERRULED.

20 YOU MAY ANSWER.

21 THE WITNESS: I DON'T RECALL EVER ANY CONCERN
22 ABOUT HEALTH ISSUES.

23 THEY NEVER, TO MY KNOWLEDGE, NO ONE EVER
24 COMPLAINED NOR DID THEY HAVE ANY HEALTH PROBLEMS AT
25 ANY OF THE STATIONS BY ANY OF THE PEOPLE.

26 AS I MENTIONED, MY FATHER WAS USING THE
27 PRODUCT AT DANVILLE.

28 MCS-153 AND LATER TURBINOL-153 WAS

1 ACTUALLY USED THERE.

2 MY FATHER WAS AROUND IT.

3 SO I WOULD HAVE BEEN PARTICULARLY ALERT
4 TO ANY HEALTH HAZARDS THAT I PERCEIVED.

5 Q NOW, YOU INDICATED THAT YOU WERE A SALES
6 REP ROUGHLY FOR A TWO-YEAR PERIOD.

7 AT THAT POINT, SIR, DID YOU MOVE ON TO
8 ANOTHER JOB AT MONSANTO?

9 A I DID.

10 AS I RECALL, THE WAY MOVES NORMALLY
11 HAPPENED THERE WAS THAT YOU WOULD GO INTO THE FIELD
12 OR SELLING OR THEN BACK INTO, IF YOU WILL, THE
13 PRODUCT GROUP.

14 I CAME BACK, I BELIEVE, MAYBE AS A
15 PRODUCT SUPERVISOR.

16 Q WHERE WERE YOU BASED FOR THAT JOB?

17 A I WAS BASED IN ST. LOUIS AT THAT POINT IN
18 TIME.

19 I WAS BASED IN ST. LOUIS AS A SALESMAN
20 AND, AGAIN, BASED IN ST. LOUIS AS A PRODUCT
21 SUPERVISOR, AS I RECALL.

22 Q A SALES REP, THEN, YOUR HOME BASE WAS
23 ST. LOUIS AND YOU WOULD GO AND COVER YOUR TERRITORY?

24 A THAT'S CORRECT, TRAVELING OUT OF
25 ST. LOUIS.

26 AS A PRODUCT SUPERVISOR THERE WAS USUALLY
27 A LOT LESS TRAVELING INVOLVED.

28 Q WHAT PRODUCTS DID YOU SUPERVISE AFTER

1 TAKING THE NEW POSITION?

2 A I WAS STILL IN THE SPECIALTY PRODUCTS
3 GROUP.

4 Q SO THAT WOULD HAVE BEEN PYDRAULS,
5 SKYDROLS AND HEAT TRANSFERS?

6 A MY MEMORY IS LITTLE HAZY ON THAT.
7 I'M SURE THAT I WOULD HAVE HAD
8 RESPONSIBILITY FOR THE PYDRAULS AT THAT POINT IN
9 TIME.

10 I CAN'T RECALL, THEY CAN, WHETHER I HAD
11 THE SKYDROLS OR THE HEAT TRANSFER FLUIDS.

12 Q OKAY. BY THE WAY, WHAT ARE PYDRAULS,
13 SIR?

14 A "PYDRAUL" IS A BRAND NAME FOR MONSANTO'S
15 FIRE-RESISTANT HYDRAULIC FLUIDS.

16 AND, YOU KNOW, THE -- THE MARKET FOR THEM
17 WAS ANY INDUSTRY THAT HAD HYDRAULIC SYSTEMS THAT WERE
18 AROUND SOURCES OF IGNITION.

19 THERE HAD BEEN INSTANCES IN THE PAST OF
20 PEOPLE USING PETROLEUM OILS, WHICH IS THE LOWEST-COST
21 HYDRAULIC FLUID.

22 YOU SPRING A LEAK BECAUSE THESE SYSTEMS
23 OPERATE AT VERY HIGH PRESSURES, AND IT'S JUST LIKE A
24 FIRE HOSE.

25 YOU SQUIRT A FINE MIST OF PETROLEUM FLUID
26 ON A SOURCE OF IGNITION AND YOU HAVE A FIRE AND SOME
27 OF THEM RESULTED IN, YOU KNOW, GREAT LOSS OF PROPERTY
28 AND LOSS OF LIFE.

1 SO THAT WAS THE THING THAT CUSTOMERS WERE
2 TRYING TO PREVENT WHEN THEY BOUGHT A FIRE-RESISTANT
3 HYDRAULIC FLUID.

4 Q HOW MANY CUSTOMERS DID YOU HAVE WHEN YOU
5 WERE SELLING THE MCS-153?

6 A THE MCS-153 BASICALLY WAS A ONE-CUSTOMER
7 PRODUCT.

8 THAT WAS TEXAS EASTERN.

9 Q HOW ABOUT WITH RESPECT TO THE PYDRAUL
10 PRODUCT?

11 A PYDRAUL HAD A VERY BROAD RANGE OF
12 CUSTOMERS.

13 THE DIE CASTING INDUSTRY, DIE CASTING
14 MACHINES ARE ALL OPERATED HYDRAULICALLY AND YOU ARE
15 DEALING WITH MOLTEN ALUMINUM AT 1400 DEGREES
16 FAHRENHEIT.

17 SO THAT WAS A MAJOR MARKET.

18 THE SEAL INDUSTRY, MANY OF THESE FURNACES
19 ARE HYDRAULICALLY OPERATED SO THERE WAS A LARGE
20 MARKET THERE.

21 THERE WERE -- THOSE WERE THE MAIN
22 INDUSTRIES, BUT THOSE WERE LARGE.

23 Q DID YOU HAVE SMALLER CUSTOMERS THAT
24 PURCHASED YOUR PYDRAUL PRODUCTS?

25 A WE HAD CUSTOMERS OF ALL SIZES.

26 I MEAN, SOME OF THE DIE CASTING SHOPS
27 MAYBE AS SMALL AS A MACHINE.

28 AS I RECALL, GENERAL MOTORS HAD PLANTS

1 THAT HAD, YOU KNOW, DOZENS OF MACHINES, JOHNSON
2 MOTORS HAD DOZENS OF MACHINES JUST LINED UP, USING
3 THIS FLUID.

4 Q WHAT WAS THE LEVEL OF SOPHISTICATION OF
5 YOUR PYDRAUL CUSTOMERS?

6 A WELL, I WOULD SAY IN TERMS OF PYDRAUL, IT
7 WAS A LOT LESS.

8 THAT IS NOT TO SAY THEY WEREN'T
9 SOPHISTICATED MARKETERS, BUT THE COMPLEXITY OF THE
10 EQUIPMENT AND THE VALUE OF THE HYDRAULIC SYSTEMS WAS
11 SUCH THAT THEY WERE FAR MORE INTERESTED IN PRODUCTION
12 THAN THEY WERE NECESSARILY IN NEATNESS, ORDERLINESS
13 OR FINE ENGINEERING.

14 Q WAS TEXAS EASTERN A PYDRAUL CUSTOMER, TO
15 YOUR KNOWLEDGE?

16 A TO MY KNOWLEDGE, THEY WERE NOT.

17 Q HOW LONG DID YOU REMAIN IN YOUR POSITION
18 AS PRODUCT SUPERVISOR IN ST. LOUIS?

19 A I RECALL APPROXIMATELY A YEAR, MAYBE
20 CLOSER TO TWO YEARS.

21 IT'S HARD TO SAY.

22 Q OKAY. AND WHERE DID YOU GO NEXT IN THE
23 MONSANTO ORGANIZATION?

24 A I NEXT MOVED TO -- OUT HERE TO LOS
25 ANGELES.

26 I WAS WHAT THEY CALL A REGIONAL SALES
27 MANAGER, AGAIN FOR THE FUNCTIONAL FLUIDS GROUP.

28 Q OKAY. AND FUNCTIONAL FLUIDS, AGAIN?

1 A FUNCTIONAL FLUIDS WERE THE HEAT TRANSFER
2 FLUIDS, THE AVIATION FLUIDS AND THE INDUSTRIAL
3 FLUIDS.

4 INDUSTRIAL FLUIDS, AGAIN, INCLUDING
5 PYDRAUL, TURBINOL, PYDRAUL AC, THAT TYPE OF THING.

6 Q OKAY. DID YOU HAVE MCS-153 AS A PRODUCT
7 THAT YOU HAD SUPERVISION OVER?

8 A THAT'S CORRECT, I DID.

9 Q AND DURING THAT TIME FRAME DID YOU HAVE
10 OCCASION TO VISIT YOUR TEXAS EASTERN CONTACTS THAT
11 YOU HAD ESTABLISHED EARLIER?

12 A I HAD OCCASION TO. IT WAS MUCH LESS
13 BECAUSE AT THAT POINT IN TIME I WAS NOT THE DIRECT --
14 THE DIRECT RESPONSIBILITY WOULD HAVE BEEN THE
15 SALESMEN IN THAT TERRITORY.

16 SO I WOULD HAVE NOT BEEN WITH THEM AS
17 SUCH, NO.

18 Q BUT YOU DID SEE THEM FROM TIME TO TIME
19 DURING THAT TIME FRAME?

20 A I DON'T RECALL SPECIFIC VISITS DURING
21 THAT TIME FRAME.

22 BUT I'M CERTAIN THAT I DID. I'M CERTAIN
23 THAT I TALKED TO THEM ON THE PHONE, YES.

24 Q AND DURING THAT JOB PERIOD IN LOS ANGELES
25 HERE, DID TEXAS EASTERN COMMUNICATE AN AWARENESS OF
26 PCB'S IN TURBINOL OR MCS-153, SIR?

27 MR. TALLON: OBJECT TO THAT ON FOUNDATION.

28 THE COURT: MAY I HEAR THE QUESTION AGAIN,

1 MR. PREUSS?

2 MR. PREUSS: YEAH.

3 Q WHILE YOU WERE SERVING IN LOS ANGELES,
4 SIR, DID TEXAS EASTERN COMMUNICATE TO YOU AN
5 AWARENESS OF THE EXISTENCE OF PCB'S IN THE MCS-153?

6 THE COURT: OVERRULED.

7 YOU MAY ANSWER.

8 THE WITNESS: THERE WAS NEVER ANY QUESTION.

9 I DON'T RECALL SPECIFICALLY AT THAT TIME,
10 BUT THEY KNEW.

11 THEY HELPED DESIGN THE FLUID. THEY KNEW
12 WHAT WAS IN THE FLUID FROM BEGINNING TO END.

13 SO THERE WAS NEVER AN ISSUE AS TO WHAT
14 WAS IN THE FLUID.

15 AS I RECALL, THE PEOPLE WHO BUILT THE
16 TURBINES, GE, NEVER REALLY LIKED TURBINOL-153 BECAUSE
17 IT HAD THE POLYCHLORINATED BIPHENYLS IN THEM AND THEY
18 ARGUED AGAINST IT.

19 MR. TALLON: YOUR HONOR, I OBJECT TO THIS
20 TESTIMONY THAT IS NOT RESPONSIVE ON WHAT GE KNEW AND
21 WHAT THE THOUGHTS OF TEXAS EASTERN PEOPLE WERE.

22 I MOVE TO STRIKE IT.

23 THE COURT: THE OBJECTION IS SUSTAINED.

24 LADIES AND GENTLEMEN, THE LAST ANSWER
25 WILL BE STRICKEN.

26 MR. BRADFORD, WHEN YOU HEAR A QUESTION,
27 PLEASE LIMIT YOUR ANSWER TO JUST THE INFORMATION
28 ASKED FOR IN THE QUESTION.

1 LISTEN CAREFULLY TO THE QUESTION AND JUST
2 ANSWER THE QUESTION, PLEASE.

3 THE WITNESS: OKAY.

4 THE COURT: MR. PREUSS.

5 MR. PREUSS: I WILL RE-ASK THE QUESTION, THEN.

6 Q DID TEXAS EASTERN COMMUNICATE TO YOU
7 WHILE YOU WERE IN LOS ANGELES IN YOUR NEW POSITION,
8 SIR, AN AWARENESS OF PCB'S AS AN INGREDIENT IN THE
9 MCS-153?

10 A I DON'T RECALL SPECIFICALLY THEM PHONING
11 UP AND SAYING, "HEY, WE KNOW THERE IS PCB'S IN
12 TURBINOL."

13 Q WAS IT YOUR UNDERSTANDING, BASED ON YOUR
14 CONVERSATIONS WITH THEM, THAT THEY DID HAVE SUCH AN
15 AWARENESS?

16 A NO QUESTION.

17 Q HOW LONG DID YOU REMAIN AS THE REGIONAL
18 SALES MANAGER IN LOS ANGELES, SIR?

19 A I WOULD SAY IT WAS ABOUT TWO YEARS, A
20 LITTLE LESS.

21 Q AND THAT TAKES US UP TO, WHAT, THE LATE
22 60'S, EARLY 70'S?

23 A IT WOULD HAVE BEEN THE LATE 60'S.

24 Q AND WHAT WAS YOUR NEXT POSITION, SIR?

25 A I WAS TRANSFERRED BACK TO ST. LOUIS AS --
26 I WANT TO SAY THE TITLE WAS MARKETING MANAGER FOR THE
27 AVIATION FLUIDS AT THAT POINT IN TIME AND THE
28 PYDRAULS, INCLUDING TURBINOL.

1 AND WHEN I SAY "MARKETING," THE
2 DIFFERENCE THERE WOULD BE THAT I HAD PEOPLE REPORTING
3 TO ME WHO WERE DAY-TO-DAY RESPONSIBLE FOR THE
4 INDIVIDUAL PRODUCTS AND MY RESPONSIBILITY WAS FOR
5 THAT OVERALL BUSINESS GROUP.

6 Q OKAY. SO YOU TENDED TO SPEND MORE TIME
7 IN HOME BASE?

8 A RIGHT.

9 Q NOW, WERE YOU IN LOS ANGELES OR
10 ST. LOUIS?

11 A I WAS IN ST. LOUIS, THEN.

12 Q SO YOU WENT FROM L.A. BACK TO ST. LOUIS?

13 A YES.

14 Q WAS THERE MORE THAN ONE TURBINOL PRODUCT
15 THAT YOU RECALL WHILE YOU WERE HANDLING THAT?

16 A I RECALL TURBINOL BEING THE PRODUCT
17 DURING THE PERIOD OF TIME.

18 THEN TOWARDS THE END OF MY CAREER WITH
19 MONSANTO I RECALL EFFORTS TO REFORMULATE TURBINOL.

20 Q HOW LONG DID YOU REMAIN AS THE PRODUCT
21 MANAGER IN ST. LOUIS, SIR?

22 A PROBABLY ABOUT TWO YEARS.

23 Q AND WHAT -- DID YOU HAVE ANOTHER JOB
24 POSITION AT MONSANTO?

25 A AT THE -- MY LAST POSITION WITH MONSANTO
26 I WAS TRANSFERRED OVER INTO THE INORGANIC CHEMICALS
27 DIVISION.

28 THEY ALSO HAD A SPECIALTY CHEMICALS GROUP

1 THAT HAD NOTHING TO DO WITH THE POLYCHLORINATED
2 BIPHENYLS.

3 SO THAT WAS THE LAST JOB I HAD WITH
4 THEM.

5 Q OKAY. AND WHEN DID YOU LEAVE MONSANTO?

6 A I LEFT MONSANTO IN, I BELIEVE, JANUARY OF
7 1973.

8 Q WHILE WORKING FOR MONSANTO, SIR, DID YOU
9 HAVE THE OCCASION TO OBSERVE ANY OF THE LABELS THAT
10 ACCOMPANIED THE MCS-153 AND TURBINOL-153?

11 A I DID.

12 Q ALL RIGHT. AND HOW DID YOU HAVE SUCH
13 OCCASION TO VIEW THOSE?

14 A WELL, THEY -- ALTHOUGH IT WAS NOT VERY
15 OFTEN, WE WOULD VISIT A PLANT WHERE THE PRODUCTS WERE
16 MADE AND THEN, OF COURSE, WHEN I WOULD VISIT MY
17 FATHER I HAD A SPECIAL INTEREST IN THIS PRODUCT.

18 AND I SAW THE LABEL THERE, I CAN RECALL,
19 AT THE PLANT.

20 MR. TALLON: OBJECTION, RELEVANCE.

21 THE COURT: ASK YOUR NEXT QUESTION,
22 MR. PREUSS.

23 MR. PREUSS: EXCUSE ME?

24 THE COURT: ASK YOUR NEXT QUESTION, PLEASE.

25 Q BY MR. PREUSS: YOU INDICATED THAT WHEN
26 YOU WERE VISITING YOUR FATHER YOU HAD THE OCCASION TO
27 VISIT THE STATION WHERE HE WAS WORKING?

28 MR. TALLON: OBJECTION, RELEVANCE.

1 THE COURT: OVERRULED.

2 YOU MAY ANSWER.

3 THE WITNESS: I VISITED MY FATHER AND THE
4 QUESTION WAS DID I SEE THE LABEL?

5 I WOULD SEE IT AT THE STATION WHERE HE
6 WORKED.

7 MR. TALLON: I WILL OBJECT TO THAT, YOUR HONOR,
8 AS IRRELEVANT.

9 I WILL MOVE TO STRIKE IT BECAUSE THE
10 WITNESS IS, AGAIN, NOT RESPONDING TO THE QUESTION.

11 THE COURT: MR. BRADFORD -- I'M GOING TO
12 OVERRULE THE OBJECTION AND DENY THE MOTION TO
13 STRIKE.

14 BUT, AGAIN, I WILL CAUTION YOU,
15 MR. BRADFORD, THE LAWYERS ARE VERY SKILLED AT
16 BRINGING OUT THE INFORMATION THAT THEY THINK THE
17 JURORS NEED TO KNOW.

18 YOU SHOULD WAIT FOR A QUESTION AND ANSWER
19 ONLY THE QUESTION WITHOUT VOLUNTEERING INFORMATION
20 NOT ASKED FOR.

21 THE WITNESS: ALL RIGHT, SIR.

22 THE COURT: MR. PREUSS.

23 Q BY MR. PREUSS: YOUR HONOR, WOULD YOU
24 LIKE ME TO RE-ASK THE QUESTION?

25 THE COURT: THE ANSWER STANDS.

26 Q BY MR. PREUSS: I WOULD LIKE TO HAVE YOU
27 REACH BEHIND, SIR, AND LOOK FOR EXHIBIT 721, PLEASE.

28 IF YOU PREFER, YOU CAN JUST TAKE A LOOK

1 AT THE SCREEN HERE, MR. BRADFORD.

2 YOU CAN READ IT FROM THERE.

3 A OKAY.

4 Q MY QUESTION IS -- DID YOU OBSERVE THIS
5 LETTER OR THIS LABEL WHEN YOU WERE VISITING YOUR
6 FATHER AT THE STATION IN DANVILLE?

7 A I DID.

8 Q AND WHERE DID YOU SEE THAT LABEL, SIR?

9 A ON THE DRUMS OF MCS-153.

10 Q OKAY. MR. BRADFORD, AT SOME POINT IN
11 TIME DID YOU BECOME AWARE THAT PCB'S HAD BEEN FOUND
12 IN BIRD WILDLIFE?

13 A YES.

14 Q AND DO YOU RECALL APPROXIMATELY WHEN THAT
15 WAS, SIR?

16 A I SEEM TO RECALL IT WAS WHEN I WAS ON --
17 WHEN I WAS IN LOS ANGELES AS A FIELD SALES MANAGER.

18 Q AND HOW DID YOU BECOME AWARE OF THIS,
19 SIR?

20 A THE COMPANY, AS I RECALL, PUBLISHED IT, A
21 COMMENTARY ON IT, AT LEAST, IN A MEMO FORM SAYING
22 THERE HAD BEEN STUDIES AND IT HAD BEEN FOUND AND TO
23 LET US KNOW WHAT WAS GOING ON.

24 Q OKAY. WOULD YOU BE GOOD ENOUGH TO TURN
25 AROUND, SIR, AND LOOK FOR EXHIBIT 75 WHICH IS IN THE
26 BLUE --

27 A 75?

28 Q 75.

1 A YES, I HAVE IT HERE.

2 Q I WILL ASK YOU, SIR, IF THIS IS THE MEMO
3 YOU HAD IN MIND WHEN YOU ANSWERED THE QUESTION?

4 A YES, IT IS.

5 Q AND YOU RECEIVED IT ON OR ABOUT MARCH OF
6 1969?

7 A THAT'S CORRECT.

8 Q AND THIS WAS THE MEMO THAT ADVISED YOU OF
9 THE FINDINGS AND WHAT MONSANTO WAS DOING ABOUT IT?

10 A THAT'S CORRECT.

11 Q AND --

12 THE COURT: MR. PREUSS, WE GOT STARTED LATE SO
13 I HAVE DELAYED THE MORNING BREAK UNTIL NOW.

14 WE WILL TAKE THE MORNING RECESS NOW, AND
15 RESUME AT 10 AFTER 11.

16 PLEASE RETURN AT THAT TIME SO WE CAN
17 RESUME.

18 (RECESS.)

19 THE COURT: AND RESUMING.

20 MR. PREUSS.

21 MR. PREUSS: THANK YOU, YOUR HONOR.

22 Q MR. BRADFORD, WE WERE TALKING ABOUT THE
23 MEMO YOU RECEIVED FROM ST. LOUIS WITH RESPECT TO THE
24 ARTICLE IN THE CHRONICLE AND THE FINDING OF PCB'S IN
25 THE WILDLIFE.

26 DO YOU RECALL THAT?

27 A YES.

28 Q DID YOU SUBSEQUENTLY RECEIVE INFORMATION

1 ON A PERIODIC BASIS FROM MONSANTO AS TO THE STATUS OF
2 MONSANTO'S INVESTIGATION OF THAT SUBJECT?

3 A WE DID.

4 Q AND WAS THAT INVESTIGATION PART OF YOUR
5 JOB RESPONSIBILITIES, SIR?

6 A NO, IT WAS NOT.

7 Q DID YOU HAVE ANY COMMUNICATIONS OR
8 CONTACT WITH CUSTOMERS ON THAT ISSUE?

9 A YES.

10 Q OKAY. AND HOW DID YOU HANDLE THAT
11 COMMUNICATION, SIR?

12 A WELL, WE -- IF WE WERE ASKED QUESTIONS WE
13 WOULD TRY TO ANSWER IT.

14 IF WE WEREN'T ASKED QUESTIONS WE THOUGHT
15 WERE PERTINENT, WE WOULD VOLUNTEER IT.

16 Q AND IF YOU NEEDED INFORMATION THAT WASN'T
17 IN YOUR POSSESSION, HOW DID YOU HANDLE THOSE
18 SITUATIONS?

19 A THE WAY THE BUSINESS WAS SET UP, WE HAD
20 THE FIELD SALES GROUP THAT HAD THIS RELATIONSHIP
21 DIRECTLY WITH THE CUSTOMERS THEN WE HAD THE PRODUCTS
22 GROUP IN ST. LOUIS WHO WAS RESPONSIBLE FOR THE
23 DEVELOPING AND ANSWERING QUESTIONS FOR FIELD SALES OR
24 CUSTOMERS.

25 SO WE WOULD TAKE IT BACK TO THEM.

26 Q IF YOU WOULD, SIR, WOULD YOU LOCATE
27 EXHIBIT 206, WHICH IS IN THE JURY NOTEBOOK.

28 A I HAVE IT.

1 Q OKAY. AND IS THIS DOCUMENT FAMILIAR TO
2 YOU, SIR?

3 A IT IS.

4 Q OKAY. IS IT A DOCUMENT THAT YOU
5 PREPARED, SIR?

6 A I CAN'T SAY EXACTLY.

7 I THINK THAT I DID.

8 Q OKAY. WHAT ABOUT IT MAKES YOU FEEL THAT
9 WAY, SIR?

10 A WELL, IT CERTAINLY REFLECTS MY THINKING
11 ON THE SUBJECT.

12 IT LOOKS LIKE MY STYLE OF WRITING.

13 Q CAN YOU PLACE IT IN TIME, SIR?

14 A I WOULD -- NOT EXACTLY, SINCE THERE IS NO
15 DATE ON THE DOCUMENT.

16 I WOULD BELIEVE THIS WOULD HAVE BEEN
17 PREPARED WHEN I WAS IN MY FINAL JOB BACK IN ST. LOUIS
18 AS MARKETING MANAGER FOR THESE PRODUCTS.

19 Q THAT WOULD HAVE BEEN ROUGHLY IN --

20 A THAT WOULD HAVE BEEN IN EITHER LIKE THE
21 1969, '70, '71 PERIOD, SOMEPLACE IN THERE.

22 Q OKAY. LET'S TAKE A LOOK AT THE FIRST
23 PARAGRAPH, FIRST, SIR.

24 THE SECOND SENTENCE TALKS ABOUT THEY
25 CHOSE OS-81 --

26 A YES.

27 Q -- CONTAINING PCB'S BECAUSE IT GAVE THEM
28 MAXIMUM FIRE RESISTANCE AND GOOD LUBRICATION.

1 HOW DID YOU GAIN THAT UNDERSTANDING, SIR?

2 A WELL, THAT CAME FROM MY EXPERIENCE WITH
3 THESE PRODUCTS.

4 YOU KNOW, THIS WAS THE ENDING YEAR OF A
5 10-YEAR CAREER IN THESE PRODUCTS.

6 Q AND BASED ON YOUR CONTACTS WITH TEXAS
7 EASTERN, WHAT FEATURE OF THAT PRODUCT WAS DESIRABLE
8 TO TEXAS EASTERN FOR USE IN THEIR TURBINES?

9 A I WOULD SAY BOTH OF THESE, FIRE
10 RESISTANCE AND GOOD LUBRICATION WERE DESIRABLE.

11 BUT OF THE TWO, FIRE RESISTANCE WAS
12 PRIMARY.

13 Q AT THE TIME THAT THIS MEMO WAS PREPARED
14 WERE YOU AWARE OF ANOTHER PRODUCT ON THE MARKET THAT,
15 TO YOUR KNOWLEDGE, HAD FIRE-RESISTANT QUALITIES EQUAL
16 TO OR BETTER THAN THE MONSANTO MCS-153, THAT OR
17 TURBINOL?

18 A TO MY KNOWLEDGE THERE WAS NO PRODUCT ON
19 THE MARKET THAT WAS EQUAL TO THIS PRODUCT IN FIRE
20 RESISTANCE AND CERTAINLY NOT IN FIRE RESISTANCE AND
21 LUBRICATION.

22 Q AND WHILE YOU WERE WORKING WITH MONSANTO
23 AND IN CONNECTION WITH YOUR DEALING WITH TURBINOL AND
24 TEXAS EASTERN, WERE YOU AWARE OF ANY FIRE THAT
25 OCCURRED ON THE TEXAS EASTERN SYSTEM WHILE USING THIS
26 PRODUCT, SIR?

27 A I DO NOT RECALL ANY FIRES IN THE TEXAS
28 EASTERN SYSTEM DURING MY TEN YEARS WITH MONSANTO.

1 Q AND WHAT WAS YOUR UNDERSTANDING OF WHY
2 TEXAS EASTERN DESIRED FIRE RESISTANCE AS A QUALITY
3 FEATURE FOR TURBINOL?

4 A WELL, THEY WERE TRYING TO ACCOMPLISH
5 SEVERAL OBJECTIVES.

6 THEIR JOB WAS TO SEND GAS FROM THE
7 SOUTHWEST TO THE NORTHEAST.

8 THEY HAD BIG USERS IN NEW YORK CITY.

9 AND SO THEIR OBJECTIVE WAS TO KEEP THE
10 GAS FLOWING, PARTICULARLY IN THE WINTERTIME WHEN THE
11 RESERVOIRS WOULD BE DOWN.

12 SO THEY COULD NOT AFFORD LOSING ANY OF
13 THEIR PUMPING CAPACITY WHICH IS WHAT THESE TURBINES
14 WERE FOR, PLUS THE FACT THESE TURBINES WERE VERY
15 EXPENSIVE, PLUS THE FACT THEY HAD HUMAN BEINGS THAT
16 WERE WORKING AROUND THESE AND WHOSE LIVES WOULD BE
17 ENDANGERED IF THERE WERE A FIRE AND AN EXPLOSION.

18 Q ALL RIGHT. LET'S GO TO THE BOTTOM
19 PARAGRAPH THERE.

20 YOU SAY, "WE CHOSE TO STAY IN THIS MARKET
21 BECAUSE, WITH CARE, THE USER CAN CONTROL ANY FLUID
22 LOSSES TO THE ENVIRONMENT AND IT WOULD BE VERY
23 DIFFICULT AND EXPENSIVE TO CONVERT TO ANOTHER
24 FLUID."

25 HOW WAS THAT UNDERSTANDING REACHED BY
26 YOU, SIR?

27 A WELL, THAT WAS -- MY UNDERSTANDING WAS
28 REACHED THERE THROUGH CONVERSATIONS WITH TEXAS

1 EASTERN.

2 Q AND YOU GO ON TO SAY, "GAS TURBINE
3 LUBRICANTS ARE CLOSED LOOP."

4 WHAT DID YOU MEAN BY THAT?

5 A MY UNDERSTANDING OF A CLOSED LOOP SYSTEM
6 IS ONE WHERE YOU HAVE, IN THE CASE OF A LUBRICATING
7 SYSTEM, IS WHERE THE LUBRICANT IS DESIGNED TO
8 CONSTANTLY RECIRCULATE.

9 I THINK AN EXAMPLE WOULD BE AN AUTOMOBILE
10 LUBRICATION SYSTEM, A CLOSED LOOP. IF IT'S WELL
11 MAINTAINED, YOU PUT OIL IN. AND UNTIL YOU DRAIN IT
12 IT STAYS THERE.

13 Q GOING ON TO THE NEXT SENTENCE, SIR, YOU
14 SAY, "ANY TURBINOL-153 THAT MIGHT POSSIBLY LEAK PAST
15 SEALS AND INTO THE GAS STREAM IS REMOVED WITH OTHER
16 LIQUIDS IN REGULARLY INSTALLED PIPELINE KNOCK-OUT
17 TRAPS"?

18 A RIGHT.

19 Q FIRST OF ALL, SIR, DID YOU HAVE AN
20 UNDERSTANDING AT THAT TIME THAT THERE WAS A
21 POSSIBILITY THAT SOME OIL COULD GET INTO THE
22 PIPELINE?

23 A YES.

24 Q AND HOW DID YOU GAIN THAT UNDERSTANDING?

25 A WELL, IT WAS JUST COMMON SENSE, I GUESS
26 IS THE BEST WAY TO SAY THAT.

27 BECAUSE, YOU KNOW, IF YOU HAVE OIL
28 LUBRICATING SEALS, ON THE OTHER SIDE OF THAT SEAL IS

1 THE PIPELINE. SOME OF IT, BY THE NATURE OF IT, IS
2 GOING TO GET INTO THE PIPELINE.

3 Q OKAY. AND DID YOU HAVE AN UNDERSTANDING
4 AS TO IF IT DID GET INTO THE PIPELINE WHAT WOULD
5 HAPPEN TO IT WITH RESPECT TO THE CONTROL OF THAT
6 FLUID?

7 A WELL, THE PIPELINES WERE DESIGNED UNDER
8 THE ASSUMPTION THAT THINGS WOULD GET IN THE PIPELINE
9 OTHER THAN NATURAL GAS.

10 SO THEY HAD A SYSTEM FOR TAKING PIGS, AS
11 THEY CALL IT, AND RUNNING IT FROM STATION A TO
12 STATION B AND THEN FORCING EVERYTHING AHEAD OF THAT
13 PIG INTO A TRAP AT STATION B WHERE THEY COULD THEN
14 REDUCE THE PRESSURE, AT THAT POINT IN TIME, ISOLATE
15 IT FROM THE MAIN LINE, CLEAN THE TRAP OUT AND THE
16 LINE WOULD BE CLEAN AND THEY COULD DISPOSE OF
17 PROPERLY WHAT THEY TOOK OUT FROM THE TRAP.

18 Q WAS IT YOUR UNDERSTANDING THAT IF LEAKS
19 DID OCCUR IN THE TEXAS EASTERN COMPRESSOR UNIT THAT
20 THE MATERIAL THAT HAD LEAKED OUT WOULD BE RECOVERED
21 THROUGH THESE TRAPS?

22 A YES.

23 Q AND HOW WAS THAT UNDERSTANDING GAINED?

24 A WELL, THERE WAS A TRAP AT THE DANVILLE
25 STATION WHERE MY FATHER WORKED.

26 THAT IS WHERE I LEARNED HOW THE THINGS
27 WORKED.

28 Q GOING ON TO THE SECOND PAGE, SIR.

1 YOU SAY, "IF WE WITHDRAW TURBINOL-153
2 FROM THE MARKET, USERS WOULD BE FORCED TO PERHAPS
3 REBUILD THEIR TURBINES AND REVERT BACK TO FLAMMABLE
4 AND EXPLOSIVE PETROLEUM OIL."

5 WHAT DID YOU MEAN BY THAT, SIR?

6 A WELL, THIS WAS SPECULATION ONLY.

7 BUT WHEN YOU BUY A TURBINE, JUST LIKE
8 WHEN YOU BUY A CAR, YOU CHOOSE WHAT KIND OF LUBRICANT
9 YOU ARE GOING TO PUT IN IT.

10 ONCE YOU PUT A LUBRICANT IN IT, THEN, AND
11 IT WORKS, IT IS FAR LESS RISKY TO CONTINUE USING THE
12 SAME LUBRICANT THAN IT IS TO DRAIN THAT OUT AND PUT
13 ANOTHER LUBRICANT IN.

14 SO THERE WAS, TO MY KNOWLEDGE, THERE WAS
15 NO DIRECT REPLACEMENT FOR TURBINOL-153 IN THEIR
16 TURBINES AS THEY HAD BEEN DESIGNED. BECAUSE THEY HAD
17 DESIGNED THEIR TURBINES TO USE TURBINOL-153.

18 SO I FEARED THAT THEY COULD PUT SOMETHING
19 IN THESE TURBINES THAT WOULD DAMAGE THEM, WOULD CAUSE
20 LOSS OF TIME, IF YOU WILL, FOR THEM AND COULD BE
21 HAZARDOUS, IF THEY WERE FORCED TO GO ALL THE WAY BACK
22 TO A PETROLEUM OIL.

23 Q HAZARDS FROM THE FIRE PERSPECTIVE?

24 A YES.

25 Q YOU GO ON TO SAY, SIR, "WE BELIEVE THE
26 CASE" -- I'M SORRY.

27 "THE EASE"?

28 A EASE.

1 Q "WE BELIEVE THE EASE WITH WHICH
2 TURBINOL-153 CAN BE CONTROLLED, THE RELATIVE SAFETY
3 IT BRINGS TO HAZARDOUS PIPELINE OPERATIONS AND THE
4 DEPENDABILITY AND RELIABILITY OF CONTINUED GAS SUPPLY
5 IT OFFERS TO THE ULTIMATE USERS MORE THAN JUSTIFY OUR
6 CONTINUING TO SUPPLY TURBINOL 153."

7 WHAT WAS YOUR UNDERSTANDING OR WHAT WAS
8 THE BASIS OF YOUR UNDERSTANDING ABOUT THE CONTROL OF
9 THIS PRODUCT THAT LED TO THIS RECOMMENDATION, SIR?

10 A WELL, AS I SAID EARLIER THERE WAS A
11 SYSTEM.

12 THE ASSUMPTION WAS THAT THINGS WOULD GET
13 INTO THE PIPELINE. THERE WAS A SYSTEM DESIGNED INTO
14 THEM TO COLLECT ANY LEAKAGE IN THE PIPELINE.

15 Q AT THE TIME YOU WROTE THIS MEMO, SIR,
16 WERE YOU TRYING TO KEEP THE FACT THAT PCB'S WERE IN
17 THE PRODUCT A SECRET?

18 A ABSOLUTELY NOT.

19 Q OKAY. WAS IT YOUR UNDERSTANDING THAT
20 TEXAS EASTERN WAS AWARE OF PCB'S BEING IN THE
21 PRODUCT?

22 A ABSOLUTELY.

23 Q MR. BRADFORD, WOULD YOU PLEASE TURN TO
24 EXHIBIT 209, SIR.

25 IS THIS A MEMO YOU PREPARED, SIR, ON OR
26 ABOUT SEPTEMBER 16TH, 1971?

27 A THAT IS WHAT IT WOULD INDICATE, YES.

28 Q ALL RIGHT. I WOULD LIKE YOU TO TURN TO

1 PAGE 2, SIR, IF YOU WOULD, PLEASE.

2 A RIGHT.

3 Q THAT IS YOUR SIGNATURE THERE, SIR?

4 A THAT IS CORRECT.

5 Q ALL RIGHT. I DIRECT YOUR ATTENTION TO
6 PARAGRAPH 4, PLEASE, SIR.

7 A RIGHT.

8 Q YEAH, NUMBERED PARAGRAPH 4.

9 AND YOU SAY, "ON TURBINOL-153 WE DO NOT
10 PLAN TO APPROACH TEXAS EASTERN UNTIL WE HAVE RECEIVED
11 APPROVAL FROM GENERAL ELECTRIC FOR USE OF ONE OF OUR
12 NEW NC ESTERS IN GAS TURBINES."

13 WHAT DID YOU MEAN BY THAT, SIR?

14 A I MEANT BY THAT I WAS SORT OF IN THE
15 MIDDLE BETWEEN WHAT I THOUGHT THE -- WHERE THE
16 COMPANY WAS GOING AND WHERE I THOUGHT TEXAS EASTERN
17 WANTED TO GO AND WHERE I THOUGHT THAT WE OUGHT TO
18 GO.

19 AND I DIDN'T THINK THAT TEXAS EASTERN
20 HAD -- I KNEW THEY DIDN'T HAVE AN ALTERNATIVE THAT
21 THEY WANTED TO GO TO.

22 NEVERTHELESS, I FEARED WE WERE GOING TO
23 BE OUT OF THIS BUSINESS SOONER OR LATER.

24 MY IDEA, HERE, WAS TO COME UP WITH A
25 TURBINOL THAT COULD EITHER DISPLACE THIS OR BE ADDED
26 TO THIS DEPENDING ON WHAT THEY CHOSE TO DO BECAUSE
27 THEY WERE HOLDING ALL THE CARDS.

28 SO THAT IS WHAT I HAD IN MIND.

1 Q HOW DID YOU COME TO YOUR UNDERSTANDING
2 THAT THEY DID NOT WANT TO USE AN ALTERNATIVE PRODUCT?

3 A WELL, THEY DIDN'T CONSIDER ANYTHING ELSE
4 ON THE MARKET THE EQUIVALENT OF THIS.

5 Q ALL RIGHT. DO YOU HAVE AN UNDERSTANDING
6 AS TO WHAT THE LUBRICANT WAS THEY WERE USING PRIOR TO
7 THEIR USE OF THE TURBINOL PRODUCT?

8 A YES, I DO.

9 Q AND WHAT WAS THAT?

10 A THEY WERE USING THE STAUFFER -- I THINK
11 IT WAS CALLED FYRQUEL, A STRAIGHT PHOSPHATE ESTER.
12 IT WAS THE ONLY OTHER POSSIBLE
13 ALTERNATIVE THEY HAD.

14 AND THEY HAD CHOSEN TO NOT USE THAT AND
15 CHOSEN TO GO TO THIS PRODUCT MANY YEARS AGO.

16 SO IT WAS CLEAR TO ME THEY DIDN'T WANT TO
17 GO BACK TO IT BECAUSE IT WAS NOT AS FIRE RESISTANT AS
18 TURBINOL-153, NOR WAS IT AS GOOD A LUBRICANT.

19 Q YOU INDICATED IN DEVELOPING, IF THERE
20 WERE A SUBSTITUTE PRODUCT, YOU HAD AN UNDERSTANDING
21 THAT TEXAS EASTERN WAS INTERESTED IN FINDING A
22 COMPATIBLE PRODUCT THAT WOULD WORK WITH THE EXISTING
23 TURBINOL; IS THAT CORRECT?

24 MR. TALLON: OBJECTION, LEADING.

25 THE COURT: SUSTAINED.

26 Q BY MR. PREUSS: WAS, TO YOUR KNOWLEDGE,
27 MONSANTO INVOLVED IN THE DEVELOPMENT OF AN ESTER
28 PRODUCT AT THAT TIME, THE TIME OF YOUR MEMO?

1 A I DON'T RECALL THE TIMING, BUT THIS IS
2 SEPTEMBER 16, 1971.

3 BUT THAT WAS CERTAINLY OUR THINKING AS TO
4 HOW TO TAKE CARE OF THESE CUSTOMERS, WAS TO GO
5 ENTIRELY AWAY. AT SOME POINT IN TIME GO ENTIRELY
6 AWAY FROM POLYCHLORINATED BIPHENYLS AND TO GO TO SOME
7 OTHER PRODUCT AND PHOSPHATE ESTERS WAS ONE OF THOSE
8 OPTIONS.

9 Q WAS IT YOUR GOAL TO FIND A PRODUCT THAT
10 WOULD BE COMPATIBLE WITH THE EXISTING TURBINOL-153?

11 A THAT, IN GENERAL, WOULD HAVE BEEN THE
12 GOAL OF ANY USER OF THIS PRODUCT.

13 THEY WOULD HAVE WANTED SOMETHING THAT --
14 THIS WOULD APPLY NOT ONLY TO TEXAS EASTERN BUT TO ANY
15 USERS OF A HYDRAULIC FLUID.

16 MR. TALLON: I OBJECT TO THE USER PART.

17 THE COURT: SUSTAINED.

18 MR. TALLON: AND MOVE TO STRIKE.

19 THE COURT: STRICKEN.

20 MR. PREUSS: DOES THE ANSWER STAND AS TO TEXAS
21 EASTERN?

22 THE COURT: NO.

23 YOU SHOULD RE-ASK THE QUESTION ABOUT
24 TEXAS EASTERN, MR. PREUSS.

25 AND, AGAIN, MR. BRADFORD, LISTEN TO THE
26 QUESTION.

27 JUST ANSWER THE QUESTION.

28 MR. PREUSS: YOU KNOW, I FORGOT THE QUESTION.

1 THE COURT: WAS IT YOUR GOAL TO FIND A PRODUCT
2 THAT WOULD BE COMPATIBLE WITH THE EXISTING
3 TURBINOL-153?

4 MR. PREUSS: THANK YOU.

5 THE WITNESS: THE ANSWER IS YES.

6 Q BY MR. PREUSS: WAS THAT ALSO SOMETHING
7 BASED ON YOUR CONTACTS WITH TEXAS EASTERN YOU
8 BELIEVED TEXAS EASTERN TO DESIRE, AS WELL?

9 A ABSOLUTELY.

10 Q ALL RIGHT. MR. BRADFORD, I WOULD LIKE,
11 NEXT, TO ASK YOU, IF YOU WOULD, TO TAKE A LOOK AT
12 EXHIBIT 582, SIR.

13 A I HAVE IT HERE.

14 Q ALL RIGHT. AND IS THIS A DOCUMENT, SIR,
15 THAT YOU HAVE PREPARED ON OR ABOUT NOVEMBER 17TH,
16 1971?

17 A IT LOOKS LIKE IT WAS JOINTLY PREPARED BY
18 MYSELF AND ANOTHER FELLOW, YES.

19 Q ALL RIGHT. AND THE OTHER FELLOW WAS
20 WHOM, WHO?

21 A NORMAN T. JOHNSON.

22 Q HOW IS HE RELATED TO YOU, JOBWISE, AT
23 THAT TIME?

24 A WELL, OKAY.

25 AS I SAID, THE ORGANIZATIONAL STRUCTURE
26 WAS THERE WAS A PRODUCT GROUP, A PRODUCT AND FIELD
27 SALES GROUP.

28 NORMAN HAD RESPONSIBILITY FOR THE FULL

1 SALES GROUP AND I HAD RESPONSIBILITY FOR THE
2 PRODUCTS.

3 Q OKAY. AND THE MEMO WAS ADDRESSED TO A
4 T. L. GOSSAGE?

5 A TOM GOSSAGE WAS OUR BOSS.

6 Q WHAT WAS HIS JOB TITLE?

7 A I BELIEVE HE WAS DIRECTOR OF MARKETING
8 FOR THIS WHOLE SPECIALTY PRODUCTS GROUP.

9 Q WHAT WAS THE REASON FOR THE PREPARATION
10 OF THIS MEMO, SIR?

11 MR. TALLON: EXCUSE ME, YOUR HONOR.

12 MAY I JUST VOIR DIRE THE WITNESS WITH ONE
13 QUESTION?

14 THE COURT: NO.

15 GO AHEAD, MR. PREUSS.

16 YOU MAY ANSWER THE QUESTION.

17 THE WITNESS: I THINK IT'S ANSWERED IN THE
18 FIRST PARAGRAPH HERE.

19 IT LOOKS LIKE TOM GOSSAGE HAD POSED A
20 QUESTION AS TO WHAT WOULD HAPPEN SHOULD WE COMPLETELY
21 REMOVE POLYCHLORINATED BIPHENYLS AND POLYCHLORINATED
22 TERPHENYLS FROM OUR INDUSTRIAL FLUIDS.

23 THEN HE HAD ASKED NORMAN AND I THAT
24 QUESTION.

25 THIS MEMO HERE WAS IN RESPONSE TO THAT
26 QUESTION.

27 Q BY MR. PREUSS: IT WAS A RESPONSE ON A
28 PRODUCT-BY-PRODUCT BASIS; IS THAT RIGHT?

1 MR. TALLON: OBJECTION, LACK OF FOUNDATION.

2 THE COURT: SUSTAINED.

3 Q BY MR. PREUSS: WAS IT YOUR INTENT IN
4 PREPARING THIS MEMO TO RESPOND TO MR. GOSSAGE'S
5 QUESTION ON A PRODUCT-BY-PRODUCT BASIS WITH REGARD TO
6 THOSE PRODUCTS FOR WHICH YOU HAD RESPONSIBILITIES?

7 MR. TALLON: SAME OBJECTION AND IT ASSUMES
8 FACTS NOT IN EVIDENCE.

9 THE COURT: SUSTAINED.

10 MR. PREUSS: I MISSED THE LAST PART OF THE
11 OBJECTION.

12 I'M SORRY.

13 THE COURT: ASK A DIFFERENT QUESTION,
14 MR. PREUSS.

15 Q BY MR. PREUSS: DID YOU RESPOND TO THAT
16 QUESTION WITH RESPECT TO TURBINOL-153?

17 A I DID.

18 Q AND DOES THAT RESPONSE BEGIN ON THE
19 BOTTOM OF PAGE 1, SIR?

20 A IT DOES.

21 MR. TALLON: I WILL OBJECT TO THIS.

22 THERE IS NO FOUNDATION FOR TESTIMONY FROM
23 THE DOCUMENT.

24 THE COURT: THE OBJECTION IS OVERRULED.

25 Q BY MR. PREUSS: DID YOU INDICATE ON THE
26 SECOND PARAGRAPH HERE, SIR, YOU SAY, "TO OUR
27 KNOWLEDGE THERE IS NO APPROVED FIRE-RESISTANT
28 LUBRICANT THAT CAN DIRECTLY REPLACE TURBINOL-153."

1 WHAT WAS THAT UNDERSTANDING BASED ON,
2 SIR?

3 A THIS WAS BACK TO THE SAME ISSUE WE WERE
4 DISCUSSING EARLIER.

5 I WAS NOT AWARE OF ANYTHING THAT COULD
6 SIMPLY BE POURED ON TOP OF TURBINOL-153, IF THAT IS
7 WHAT TEXAS EASTERN CHOSE TO DO.

8 Q WHAT DO YOU MEAN "POURED ON TOP"?

9 A AGAIN, LET ME USE THE CAR ANALOGY.

10 IF YOUR CAR GETS A QUART OF OIL LOW, YOU
11 HAVE TWO CHOICES, YOU CAN DRAIN IT OUT AND PUT IN ALL
12 NEW OIL OR POUR ANOTHER QUART ON TOP.

13 ADDING IT WOULD BE LIKE PUTTING ANOTHER
14 QUART OF OIL IN YOUR CAR.

15 Q GO AHEAD. I INTERRUPTED YOU.

16 A I ALSO WAS NOT AWARE OF ANY PRODUCT ON
17 THE MARKET THAT WOULD ALLOW THEM TO SIMPLY DRAIN
18 THEIR TURBINES AND WITH NO RISK ADD -- PUT THIS NEW
19 FLUID IN AND FIRE THEM UP AND HAVE NO TROUBLE.

20 Q A "RISK" BEING WHAT, TO THE EQUIPMENT?

21 A THE RISK -- THE MAIN RISK WOULD HAVE
22 BEEN, AT THAT POINT OF TIME, WOULD HAVE BEEN TO THE
23 EQUIPMENT.

24 THAT'S CORRECT.

25 BUT IF IT WERE LESS FIRE RESISTANT, THAT
26 WOULD HAVE BEEN A RISK, ALSO.

27 Q OKAY. SINCE YOUR DEPOSITION, SIR, HAVE
28 YOU HAD A CHANCE TO RE-EXAMINE THIS MEMO?

1 A YES, I HAVE.

2 Q AND HAVING DONE THAT, DOES THAT
3 REFRESH -- DID THAT REFRESH YOUR RECOLLECTION ABOUT
4 YOUR AUTHORSHIP OF IT, SIR?

5 MR. TALLON: OBJECTION.

6 THE COURT: OVERRULED.

7 YOU MAY ANSWER.

8 THE WITNESS: YES.

9 Q BY MR. PREUSS: SIR, WOULD YOU TURN TO
10 THE SUMMARY PARAGRAPH, PLEASE.

11 A YES, I HAVE IT.

12 Q THANK YOU.

13 AT THE TIME YOU PREPARED THIS SUMMARY,
14 SIR, WAS THERE A CONCERN ON YOUR PART ABOUT THE
15 ABILITY TO SUPPLY CUSTOMERS WITH A PHOSPHATE ESTER
16 ALTERNATIVE PRODUCT?

17 A THAT'S CORRECT, AND/OR WATER GLYCOL, AS
18 THIS INDICATES HERE.

19 Q AND WHAT WAS YOUR CONCERN IN THAT REGARD?

20 A WELL, THE CONCERN HERE WAS IF THERE WAS A
21 SHORTAGE, THAT THE INDUSTRY WAS BUILT, YOU KNOW, ON
22 THE LAW OF SUPPLY AND DEMAND.

23 THE WAY THE INDUSTRY HAD BEEN BUILT UP,
24 THERE WAS ENOUGH SUPPLY TO SATISFY THE DEMAND.

25 IF WE PULLED OFF OUR SUPPLY OF ALL THE
26 FLUIDS THAT HAD PCB'S IN THEM, THERE WAS A GOOD
27 CHANCE THAT THE REMAINING FLUIDS WOULDN'T BE -- THERE
28 WOULDN'T BE ENOUGH QUANTITY OF THEM TO SATISFY ALL

1 THE USERS.

2 Q NOW, IN YOUR POSITION WORKING WITH
3 FUNCTIONAL FLUIDS WITH MONSANTO, SIR, AS PART OF YOUR
4 JOB, DID YOU KEEP TRACK OF THE SALES OF THE VARIOUS
5 PRODUCTS THAT YOU HAD RESPONSIBILITY FOR, SIR?

6 A YES, WE DID.

7 Q AND WAS THAT INFORMATION AVAILABLE TO YOU
8 ANY TIME YOU WANTED?

9 A YES.

10 Q AND WAS TURBINOL, DURING THE TIME FRAME
11 YOU WERE WORKING WITH MONSANTO AND HAD RESPONSIBILITY
12 FOR THAT, AN IMPORTANT PRODUCT TO MONSANTO?

13 A YES, IT WAS.

14 Q AND WAS IT -- CAN YOU EXPLAIN YOUR
15 ANSWER, SIR.

16 A WELL, FIRST OF ALL, ALL PRODUCTS WERE
17 IMPORTANT TO MONSANTO.

18 SOME MORE IMPORTANT THAN OTHERS, BUT
19 TURBINOL WAS IMPORTANT TO MONSANTO BECAUSE WE HAD A
20 GOOD CUSTOMER THERE.

21 WE HAD ONE THAT WAS VERY SATISFIED
22 THERE.

23 AND THERE -- THEY WERE ONLY ONE OF A
24 NUMBER OF PIPELINES THAT WE FELT WE MIGHT SELL THIS
25 PRODUCT TO.

26 SO THE REAL VALUE OF TURBINOL WAS THAT WE
27 KNEW WE HAD A GREAT PRODUCT. THE QUESTION WAS, HOW
28 COULD WE INTEREST OTHER PEOPLE IN USING THIS

1 PRODUCT.

2 Q AND ON A FINANCIAL BASIS WAS IT AN
3 IMPORTANT PRODUCT IN TERMS OF REVENUES FROM THAT
4 PARTICULAR PRODUCT AS OPPOSED TO OTHER PCB-CONTAINING
5 PRODUCTS THAT MONSANTO SOLD?

6 A NO, NOT PARTICULARLY.
7 THERE JUST WASN'T ENOUGH VOLUME HERE TO
8 MAKE IT PARTICULARLY ATTRACTIVE TO MONSANTO.

9 Q OKAY.

10 A THAT IS MY OPINION.

11 I MEAN, I'M NOT PRIVY TO --

12 Q I WOULD LIKE TO SHOW YOU EXHIBIT 791,
13 SIR.

14 YOU CAN GET THAT OR YOU CAN LOOK AT THE
15 SCREEN, IF YOU LIKE, EITHER WAY.

16 A YEAH, I CAN SEE IT, YES.

17 Q AND AS YOU CAN SEE IT, THIS IS A GRAPH OF
18 THE GROSS SALES OF TURBINOL FROM THE TIME PERIOD OF
19 '54 TO '74 WITH THE DOLLAR FIGURES ON THE LEFT AND
20 THE YEARS ON THE HORIZONTAL SIDE.

21 A RIGHT.

22 Q AND HAVE YOU TAKEN A LOOK AT THAT, SIR?

23 A YES, I HAVE.

24 Q AND IS THAT -- ARE THOSE SALES FIGURES
25 REFLECTED IN THOSE BAR GRAPHS ESSENTIALLY CONSISTENT
26 WITH YOUR RECOLLECTION OF THE PRODUCTS, SALES
27 PROCEEDS TO MONSANTO DURING THE TIME FRAME YOU WERE
28 INVOLVED WITH THE PRODUCT?

1 MR. TALLON: OBJECTION, FOUNDATION.

2 THE COURT: SUSTAINED.

3 Q BY MR. PREUSS: DO YOU HAVE AN
4 UNDERSTANDING OF THE SALES FIGURES, GENERALLY, DURING
5 THE TIME FRAME THAT YOU WERE WORKING THERE OF
6 TURBINOL-153, SIR?

7 A YES.

8 Q AND IS THAT GRAPH CONSISTENT WITH YOUR
9 UNDERSTANDING?

10 A THERE IS NOTHING INCONSISTENT WITH THAT
11 GRAPH.

12 IF I SAW THE GRAPH, EVEN AT THIS LATE
13 STAGE, I WOULDN'T SAY THERE IS ANYTHING THERE THAT
14 LOOKS INCONSISTENT WITH WHAT I KNEW TO BE SALES OF
15 THE PRODUCT.

16 Q AND IN THE GRAPH THE YELLOW IS REFLECTED
17 SALES TO TEXAS EASTERN; IS THAT CORRECT?

18 A THAT'S CORRECT.

19 Q WITH RESPECT TO SALES OF THIS PRODUCT,
20 SIR, WERE YOUR CONTACTS WITH TEXAS EASTERN, YOUR
21 SALES CONTACTS WHEN YOU WERE IN THE FIELD SALES REP?

22 A YES.

23 Q TEXAS EASTERN PERSONNEL; IS THAT CORRECT?

24 A THAT IS CORRECT.

25 Q HAD YOU HEARD OF TRANSWESTERN?

26 A NEVER.

27 Q AND WHEN YOU MADE SALES CALLS, DID YOU
28 MAKE CALLS AT THE STATIONS OR SOMEPLACE ELSE?

1 A MADE CALLS EITHER AT SHREVEPORT OR IN
2 HOUSTON.

3 Q AND IS THAT --

4 A NEITHER OF THOSE ARE STATION LOCATIONS.

5 Q THOSE ARE HEADQUARTER LOCATIONS?

6 A THOSE ARE HEADQUARTER LOCATIONS.

7 Q NOW, MR. BRADFORD, AT SOME TIME DID YOU
8 BECOME AWARE THAT MONSANTO WAS NO LONGER GOING TO
9 SELL TURBINOL?

10 A YES.

11 Q DO YOU RECALL APPROXIMATELY WHEN THAT
12 WAS, SIR?

13 A WELL, I THINK IT MUST HAVE BEEN IN VERY
14 LATE '71 OR IN EARLY 1972, BASED UPON THE MEMOS WE
15 HAVE SEEN.

16 Q ALL RIGHT. AND HOW DID YOU BECOME AWARE
17 OF THAT FACT, SIR?

18 A I DON'T RECALL EXACTLY WHO TOLD ME THAT.

19 Q OKAY. AND DID YOU HAVE -- DID YOU
20 CONTACT TEXAS EASTERN WITH RESPECT TO THIS DECISION?

21 A YES, I DID.

22 Q ALL RIGHT. AND, WOULD YOU, SIR, GET
23 EXHIBIT 229.

24 A YOU NEED A LIBRARIAN FOR THIS JOB.
25 I HAVE IT.

26 Q ALL RIGHT. AND WAS THIS A LETTER THAT
27 YOU WROTE ON OR ABOUT JANUARY 7TH, 1972, SIR?

28 A THAT IS CORRECT.

1 Q AND YOU ADDRESSED IT TO WHOM?

2 A TED HARRISON, PURCHASING AGENT OF TEXAS
3 EASTERN.

4 Q AND WAS THAT THE SAME TED HARRISON YOU
5 MENTIONED THE TIME BEFORE?

6 A YES, THAT'S CORRECT.

7 Q AND WAS HE THE CONTACT PERSON THAT YOU
8 DEALT WITH WITH RESPECT TO SALES?

9 A IN PURCHASING, HE WAS, YES.

10 Q AND WHAT WAS YOUR PURPOSE OF SENDING THIS
11 LETTER, SIR?

12 A WELL, AT THIS POINT IN TIME WE HAD
13 CLEARLY DECIDED THAT WE WERE NOT GOING TO SELL
14 TURBINOL-153 PAST A CERTAIN POINT AND THAT WE WEREN'T
15 GOING TO SELL IT, AT ALL, IF THEY DID NOT AGREE TO
16 THE SPECIAL UNDERTAKING.

17 Q OKAY. AND YOU INDICATE THERE THAT A
18 MEETING IS TO OCCUR.

19 YOU ARE REQUESTING A MEETING; IS THAT
20 RIGHT?

21 A THAT IS CORRECT.

22 Q AND THAT WAS A MEETING REQUESTED BY YOU;
23 IS THAT RIGHT?

24 A THAT IS CORRECT.

25 Q AND DID THAT MEETING OCCUR, SIR?

26 A IT DID.

27 Q AND WERE YOU IN ATTENDANCE?

28 A I WAS.

1 Q AND WHAT HAPPENED AT THAT MEETING, SIR?

2 A WELL, THE -- THERE WERE A NUMBER OF
3 THINGS THAT HAPPENED AT THE MEETING.

4 BUT THE THING THAT I RECALL MOST VIVIDLY
5 IS THAT I HAD TO GO TO THIS MEETING TO PRESENT TO
6 THEM THIS SPECIAL UNDERTAKING, REALLY, WHICH THEY HAD
7 IN THEIR HANDS AND TO ANSWER ANY QUESTIONS AND TO LET
8 THEM KNOW THAT WE HAD A CERTAIN AMOUNT OF INVENTORY
9 OF TURBINOL-153 AND THAT WE WERE WILLING TO LET THEM
10 HAVE THAT UP TO A CERTAIN POINT.

11 BUT AS I RECALL, SOMETIME IN THE EARLY
12 SUMMER OF THAT YEAR WE WERE GOING TO WITHDRAW THAT
13 FLUID ENTIRELY, PERIOD.

14 THERE WOULD BE NO MORE SALES OF
15 TURBINOL-153.

16 AND THEN SOMEWHERE, ACTUALLY DURING THE
17 MEETING, AS I RECALL, I GOT A PHONE CALL FROM TOM
18 GOSSAGE TELLING ME THAT WE WERE NOT GOING TO SELL
19 THEM EVEN THE INVENTORY, THAT WE HAD ALREADY SOLD
20 THEM EVERY POUND OF TURBINOL-153 WE WERE GOING TO
21 SELL THEM AND THEY WOULD HAVE TO FIND OTHER
22 ALTERNATIVES, PERIOD.

23 Q AND WHAT WAS THE REACTION?

24 A WELL, I THINK THE REACTION WAS MIXED.
25 I THINK THERE WAS, YOU KNOW, PROBABLY
26 STARTING WITH, I BELIEVE, ANGER, IRRITATION.

27 THEY WERE NOT HAPPY WITH US, AT ALL, THAT
28 WE WERE CUTTING THEM OFF OF THIS PRODUCT WHICH THEY

1 FELT THEY NEEDED TO RUN THEIR PIPELINE THROUGH WITH
2 NO MORE NOTICE THAN THAT.

3 Q WAS THERE ANY CONCERN EXPRESSED ABOUT THE
4 PCB ISSUE AND THE ENVIRONMENTAL ISSUE WITH RESPECT TO
5 PCB'S?

6 A NO, I DON'T RECALL ANY CONCERN WITH
7 THAT.

8 THAT WAS WELL KNOWN, YOU KNOW, SO THERE
9 WAS NOTHING NEW.

10 I THINK WE WENT OVER IT THERE AT THE
11 MEETING, BUT THERE WAS NOTHING NEW TO BE TALKED ABOUT
12 THERE.

13 THE CONCERN HERE WAS SIMPLY KEEPING THE
14 PIPELINE OPERATING AND DOING IT WITH TURBINOL-153 AND
15 HOW WERE THEY GOING TO DO THAT IF WE DIDN'T SELL THEM
16 ANYMORE.

17 MR. TALLON: I WILL OBJECT TO THE ANSWER AND
18 MOVE TO STRIKE IT AS NON-RESPONSIVE, PARTICULARLY AS
19 TO WHAT WAS KNOWN.

20 MR. PREUSS: IT'S BASED ON HIS UNDERSTANDING.

21 THE COURT: OVERRULED.

22 THE ANSWER STANDS.

23 Q BY MR. PREUSS: WHAT WAS YOUR REACTION TO
24 THE INSTRUCTIONS YOU RECEIVED FROM MR. GOSSAGE?

25 A I WAS ABOUT AS UPSET AS TEXAS EASTERN
26 WAS.

27 YOU KNOW, I HAD FOUGHT LONG AND HARD TO
28 TRY TO TAKE CARE OF THIS CUSTOMER.

1 I FELT LIKE I HAD LET THEM DOWN. I WAS
2 EMBARRASSED.

3 YOU KNOW, THESE WERE MY FRIENDS AS WELL
4 AS MY CUSTOMERS. AND I FELT LIKE I HAD CUT THEIR
5 LEGS OUT FROM UNDER THEM.

6 SO I WASN'T VERY HAPPY WITH IT.

7 I DID WHAT I WAS ASKED TO DO AS
8 PROFESSIONALLY AS I KNEW HOW TO DO IT. BUT
9 PERSONALLY I WASN'T VERY HAPPY WITH IT.

10 MR. PREUSS: THANK YOU, MR. BRADFORD.

11 THE COURT: ALL RIGHT.

12 MR. TALLON?

13 MR. TALLON: OKAY.

14

15 CROSS EXAMINATION

16 BY MR. TALLON:

17 Q MR. BRADFORD, WAS TED HARRISON YOUR
18 FRIEND?

19 A I WOULD SAY TED HARRISON WAS, IN THIS
20 BUSINESS RELATIONSHIP, WOULD HAVE BEEN MORE OF A
21 BUSINESS ASSOCIATE.

22 HE WAS NOT ONE OF THE PEOPLE AT TEXAS
23 EASTERN.

24 I WAS NOT UNFRIENDLY WITH TED NOR WAS I
25 AWARE THAT HE WAS UNFRIENDLY WITH ME.

26 BUT OUR RELATIONSHIP WAS MORE
27 PROFESSIONAL, I WOULD SAY.

28 Q IN FACT, MR. BRADFORD, YOU DON'T RECALL

1 ANY CONTACTS WITH MR. HARRISON; ISN'T THAT RIGHT?

2 A I THINK THAT HAS BEEN REFRESHED IN THESE
3 DOCUMENTS.

4 Q I WOULD LIKE TO READ FROM YOUR DEPOSITION
5 OF JULY 8TH, 1992.

6 PAGE 105, STARTING WITH LINE 3 THROUGH
7 LINE 5.

8 THE COURT: GO AHEAD.

9 MR. TALLON: (READING):

10 "Q. DO YOU RECALL CONTACTS WITH TED
11 HARRISON?

12 "A. NOT REALLY, NO."

13 Q IN FACT, YOU DON'T REMEMBER WHO TED
14 HARRISON IS, DO YOU?

15 A I DO NOW.

16 Q LET ME READ FROM YOUR DEPOSITION, SAME
17 PAGE, LINE 6 AND 7.

18 "Q. DO YOU REMEMBER TED HARRISON?

19 "A. NO."

20 DID YOUR MEMORY IMPROVE SINCE THEN,
21 MR. BRADFORD?

22 A YES, IT HAS.

23 Q DID IT IMPROVE AFTER YOU MET WITH THE
24 LAWYERS FROM MONSANTO?

25 A I HAVE HAD A LOT OF HELP WITH MY MEMORY.
26 THERE HAS BEEN A LOT OF DOCUMENTS HERE THAT YOU HAVE
27 COPIES OF THAT HAVE BEEN VERY HELPFUL TO ME.

28 Q IN FACT THE DOCUMENT YOU WERE BEING

1 EXAMINED WITH WHEN YOU SAID YOU DIDN'T REMEMBER TED
2 HARRISON WAS THE EXACT SAME DOCUMENT WE WERE JUST
3 LOOKING AT; IS THAT CORRECT?

4 A I DON'T KNOW.

5 Q WOULD YOU LIKE TO SEE IT?

6 A I CERTAINLY KNOW YOU ARE AN HONORABLE
7 MAN.

8 Q LET'S TALK ABOUT THAT DOCUMENT THAT
9 MR. PREUSS WAS EXAMINING YOU ON, THE TWO-PAGE
10 DOCUMENT THAT IS NOT DATED THAT YOU THINK YOU MIGHT
11 BE THE AUTHOR OF.

12 A YES.

13 Q 206.

14 WOULD YOU GET THAT OUT, PLEASE?

15 A I HAVE IT.

16 Q I TAKE IT YOU RECALL THAT DOCUMENT TODAY
17 BETTER THAN YOU DID AT YOUR DEPOSITION; IS THAT
18 RIGHT?

19 A NO.

20 I CAN'T SAY THAT I DO.

21 Q IN FACT, YOU DON'T RECALL IT AT ALL, DO
22 YOU?

23 A I DO NOT RECALL WRITING THIS DOCUMENT,
24 NO.

25 Q YOU HAVE NO KNOWLEDGE ABOUT WHO THE
26 AUTHOR IS, DO YOU?

27 A I HAVE SOME SUPPOSITIONS WHICH I STATED
28 EARLIER.

1 Q WELL, LET'S TURN TO YOUR DEPOSITION,
2 AGAIN, PAGE 167, LINE 22 THROUGH 24.

3 THE COURT: GO AHEAD.

4 MR. TALLON: (READING):

5 "Q. ANY KNOWLEDGE ABOUT WHO THE AUTHOR
6 OF THIS DOCUMENT IS?

7 "A. NO."

8 MR. PREUSS: YOUR HONOR, I OBJECT TO THAT.
9 IT'S A PARTIAL READING OF THE THOUGHT.

10 THE COURT: YOU CAN SUPPLEMENT THE READING ON
11 REDIRECT, MR. PREUSS.

12 MR. PREUSS: THANK YOU, YOUR HONOR.

13 Q BY MR. TALLON: AFTER YOU ANSWERED THAT
14 QUESTION AT YOUR DEPOSITION YOU WERE ASKED, "ALL
15 RIGHT, YOU DIDN'T AUTHOR IT." DO YOU REMEMBER THAT?

16 A I DON'T RECALL IT, NO.

17 Q AND YOU SAID, "I DIDN'T SAY THAT. I
18 MIGHT HAVE," RIGHT?

19 A YOU'VE GOT THE DOCUMENT.

20 Q YOU DIDN'T KNOW THAT THERE WAS ANY
21 TURBINOL IN THE PIPELINE, DID YOU?

22 A I ASSUMED THAT THERE WAS.

23 Q LET'S LOOK AT YOUR DEPOSITION, PAGE 169,
24 LINE 16 THROUGH 20.

25 THE COURT: GO AHEAD.

26 MR. TALLON: (READING):

27 "Q. OKAY. WHAT ELSE DID YOU KNOW ABOUT
28 THE OPERATION OF THE TURBINOL IN THE PIPELINE OR THE

1 LUBRICANT IN THE --

2 "A. I DIDN'T KNOW THERE WAS ANY IN THE
3 PIPELINE."

4 Q YOU DON'T RECALL ANYTHING ABOUT
5 INFORMATION THAT TURBINOL MIGHT POSSIBLY LEAK PAST
6 SEALS, DO YOU?

7 A AS I SAID, IT WAS COMMON SENSE THAT IT
8 WOULD LEAK PAST.

9 I DON'T RECALL ANY TECHNICAL INFORMATION
10 THAT SAYS IT DOES, NO.

11 Q IN FACT, WHEN YOU WERE ASKED THAT
12 QUESTION AT YOUR DEPOSITION YOU SAID YOU DIDN'T
13 RECALL ANY INFORMATION; IS THAT RIGHT?

14 A I DON'T RECALL.

15 Q YOU DON'T RECALL ANYONE EVER TELLING YOU
16 THAT TURBINOL GOT PAST SEALS, DO YOU?

17 A IT SEEMS TO ME LIKE THERE WERE SOME
18 THINGS IN THESE REPORTS WHICH WE HAVE READ INDICATING
19 THAT TURBINOL WAS GETTING PAST THE SEALS.

20 Q THEN YOU DON'T RECALL ANYONE TELLING YOU
21 THAT, DO YOU?

22 A IF YOU ARE ASSUMING THAT READING A CALL
23 REPORT ISN'T THE SAME AS SOMEONE TELLING ME THAT, THE
24 ANSWER IS, NO, I DON'T RECALL IT.

25 BUT IF READING IS THE SAME AS THAT, THEN
26 THE ANSWER IS THESE DOCUMENTS SHOW THERE WERE
27 INSTANCES WHERE TURBINOL LEAKED PAST SEALS.

28 Q LET'S LOOK AT PAGE 175 OF YOUR

1 DEPOSITION, STARTING AT LINE 4 GOING THROUGH LINE 8.

2 "Q. DID ANYONE TO YOUR RECOLLECTION EVER
3 TELL YOU THAT TURBINOL-153 HAD LEAKED PAST THE
4 SEALS?

5 "A. I DON'T RECALL ANYBODY TELLING ME
6 THAT."

7 YOU ARE SAYING THAT NOW YOU REMEMBER
8 WRITING THIS DOCUMENT, MR. BRADFORD?

9 A NO, I'M NOT.

10 Q ARE YOU SAYING THAT NOW YOU KNOW WHY IT
11 WAS PREPARED?

12 A WELL, IF I DIDN'T WRITE IT, I WOULDN'T
13 KNOW WHY IT WAS PREPARED.

14 Q SO I GUESS THE UNDERSTANDING THAT YOU
15 WERE READING OFF OF THIS DOCUMENT, BEFORE, FROM
16 MR. PREUSS WOULD ALL BE JUST CONJECTURE ON YOUR PART?

17 A I THINK IT'S MORE THAN CONJECTURE.

18 ONE KNOWS ONE'S SIGNATURE. ONE KNOWS
19 ONE'S WRITING STYLE. ONE KNOWS ONE'S THOUGHTS.

20 I SAID THERE IS A LOT HERE IN COMMON WITH
21 THE WAY I WRITE AND THE WAY OTHER PEOPLE WROTE AND
22 THE WAY I THOUGHT ABOUT THIS PRODUCT.

23 SO I WOULD SAY IT'S FAR MORE THAN JUST A
24 50-50 CHANCE.

25 Q 50-50 CHANCE OF BEING CONJECTURE?

26 A THAT I WROTE THIS DOCUMENT.

27 Q SO YOU DO RECALL WRITING IT NOW?

28 A NO, I DO NOT RECALL WRITING IT NOW.

1 I'M TELLING YOU THAT THE EVIDENCE THAT I
2 HAVE HERE WOULD INDICATE TO ME THAT I PROBABLY WROTE
3 THE DOCUMENT.

4 I DO NOT RECALL WRITING THE DOCUMENT.

5 Q YOU NEVER HEARD THE TERM "SEAL LUBRICANT"
6 AT ALL, DID YOU?

7 A WELL, I'M SURE I DID.

8 Q I'M SORRY?

9 A I'M SURE I MUST HAVE.

10 Q OKAY. LET'S LOOK AT PAGE 21 OF YOUR
11 DEPOSITION, LINES TWO THROUGH SIX.

12 THE COURT: GO AHEAD.

13 MR. TALLON: (READING):

14 "Q. HAVE YOU EVER HEARD THE TERM 'SEAL
15 LUBRICANT'?

16 "A. SEAL LUBRICANT?

17 "Q. YES.

18 "A. NO."

19 YOU HAVE NEVER HEARD THE TERM "LIQUID
20 SEAL," HAVE YOU?

21 A I DON'T RECALL LIQUID SEAL.

22 Q YOU HAVE NEVER HEARD OF WHAT A CLOSED
23 SYSTEM IS AT ALL, HAVE YOU?

24 A I THINK IN MY DEPOSITION I SAID THAT.

25 I CERTAINLY RECALL IT NOW, AFTER ALL OF
26 THIS BACKGROUND.

27 Q SO WHEN YOUR DEPOSITION WAS TAKEN IN THIS
28 CASE UNDER OATH, YOUR TESTIMONY WAS THAT YOU DIDN'T

1 RECALL IT.

2 TODAY YOU DO?

3 A THAT'S CORRECT.

4 Q IS THAT AFTER THE MEETINGS THAT YOU HAD
5 WITH MONSANTO'S LAWYERS TO PREPARE FOR THE CASE?

6 A AFTER I READ SOME OF THESE DOCUMENTS.

7 Q THE SAME DOCUMENTS THAT WERE SHOWN TO YOU
8 AT THE DEPOSITION?

9 A I DON'T RECALL.

10 Q YOU WEREN'T VERY GOOD ABOUT LEARNING AS
11 MUCH AS YOU COULD ABOUT CUSTOMER RELATIONS, WERE YOU,
12 MR. BRADFORD?

13 A I DON'T THINK I MET MY STANDARDS.
14 RELATIVE TO OTHER PEOPLE I DON'T KNOW HOW
15 I STOOD.

16 Q YOU NEVER HEARD THE TERM "OPEN SYSTEM"
17 EITHER, DID YOU?

18 A I DON'T RECALL HEARING THE TERM "OPEN
19 SYSTEM."

20 Q TURBINOL WAS A SMALL PART OF YOUR
21 BUSINESS, WASN'T IT?

22 A IN TERMS OF POUNDS IT WAS A SMALL PART.
23 IN TERMS OF, YOU KNOW, INVOLVEMENT OR
24 PERSONAL INTEREST, IT WAS LARGER THAN THE POUNDS
25 WOULD INDICATE.

26 Q MOST OF YOUR BUSINESS WAS PYDRAULS,
27 WASN'T IT?

28 A THE -- IN TERMS OF POUNDS THERE WERE MORE

1 POUNDS OF PYDRAUL SOLD THAN THERE WERE OF TURBINOL
2 SOLD.

3 Q IN FACT IN THE FUNCTIONAL FLUIDS GROUP
4 TURBINOL WAS TREATED AS A PYDRAUL?

5 A BY SOME PEOPLE, PERHAPS.

6 Q BY YOU?

7 A NO, I TREATED IT AS A TURBINOL.

8 Q AS A TURBINOL.

9 SO A PRODUCT LINE WITH ONE PRODUCT IN IT,
10 IS THAT WHAT YOU'RE SAYING?

11 A THAT IS WHAT THIS WAS.

12 THERE WAS ONE PRODUCT HERE AND THERE WAS
13 BASICALLY ONE CUSTOMER.

14 WE TRIED TO TREAT IT THAT WAY.

15 Q OKAY. LET'S -- WHY DON'T YOU TURN
16 AROUND AND GET TRANSWESTERN 224, MR. BRADFORD.

17 A OKAY.

18 Q I DON'T KNOW IF IT'S IN THE SAME VOLUME,
19 IS IT?

20 A IT IS.

21 Q THAT IS A MEMO THAT YOU AND JERRY
22 DAVIDSON WROTE DATED DECEMBER 8TH, 1971, RIGHT?

23 A THAT IS WHAT IT INDICATES, YES.

24 Q AND THE SUBJECT WAS "INDUSTRIAL HYDRAULIC
25 FLUIDS TRANSITION PLAN," RIGHT?

26 A THAT'S CORRECT.

27 Q AND THE MEMO HAD A SERIES OF APPENDICES,
28 RIGHT?

1 A THAT IS WHAT IT LOOKS LIKE, YES.

2 Q CAN YOU SEE THE PAGE THAT SAYS "TOP 20
3 CUSTOMERS FOR PYDRAUL," MR. BRADFORD?

4 A LET'S SEE HERE.

5 Q IF IT WOULD BE HELPFUL TO YOU, THERE IS
6 THE NUMBER ON THE BOTTOM, STR 001825.

7 A OKAY. I HAVE IT.

8 Q OKAY. "TOP 20 CUSTOMERS FOR PYDRAUL,
9 CUSTOMER NUMBER 12, TEXAS EASTERN, TURBINOL-153,"
10 RIGHT?

11 A RIGHT.

12 Q SO I GUESS WHEN YOU AND JERRY DAVIDSON
13 SENT OUT THIS MEMO YOU WERE TREATING TURBINOL AS A
14 PYDRAUL?

15 A NO.

16 WE WERE TREATING THIS AS ONE OF THE
17 TOP-20 CUSTOMERS.

18 Q TOP-20 CUSTOMERS FOR PYDRAUL?

19 A THAT'S RIGHT.

20 Q AND YOU TOLD MR. PREUSS WHEN HE WAS
21 EXAMINING YOU THAT TEXAS EASTERN DIDN'T BUY PYDRAULS,
22 THEY BOUGHT TURBINOL, RIGHT?

23 A THAT'S CORRECT.

24 I SAID I DIDN'T RECALL THEM BUYING
25 PYDRAULS.

26 Q WELL, THIS PRODUCT, TURBINOL-153 IS ON
27 THIS LIST, "TOP-20 CUSTOMERS FOR PYDRAUL," CORRECT?

28 A THAT'S CORRECT.

1 Q KEEP FLIPPING IN THAT, IF YOU WOULD,
2 THERE, PLEASE, MR. BRADFORD, TO THE PAGE NUMBERED AT
3 THE BOTTOM STR 0001829.

4 A IS THAT FURTHER ALONG?

5 Q IT IS.

6 IS IT A MEMO FROM NORM JOHNSON TO YOU OF
7 NOVEMBER 24, 1971?

8 A I'M HAVING TROUBLE FINDING IT.

9 Q IT SHOULD BE RIGHT TOWARDS THE END
10 THERE.

11 IT'S A LITTLE MIXED UP IN THAT PARTICULAR
12 EXHIBIT.

13 YOU MAY NEED TO START AT THE BEGINNING.

14 A I HAVE GOT IT NOW.

15 Q YOU HAVE GOT IT?

16 A YES.

17 Q THAT IS NOVEMBER 24, 1971, A MEMO FROM
18 NORM JOHNSON TO YOU, CC TOM GOSSAGE, RIGHT?

19 A THAT'S CORRECT.

20 Q AND NORM JOHNSON IS TELLING YOU THAT SOME
21 CUSTOMERS, SOME ACCOUNTS, ARE GOING TO REQUIRE
22 PRODUCT GROUP PARTICIPATION DURING THE TRANSITION TO
23 REFORMULATED PYDRAULS, RIGHT?

24 A THAT'S CORRECT.

25 Q TEXAS EASTERN TRANSMISSION, HOUSTON,
26 TEXAS, RIGHT?

27 A RIGHT.

28 Q SO MR. JOHNSON CONSIDERED TEXAS EASTERN

1 TRANSMISSION TO BE A PYDRAUL CUSTOMER, RIGHT?

2 A IN THIS MEMO THE TERMINOLOGY HE IS USING
3 WOULD INDICATE THAT.

4 Q AND THEY BOUGHT TURBINOL, RIGHT?

5 A THAT'S CORRECT.

6 Q FUNCTIONALLY THERE WAS NO DIFFERENCE IN
7 MAKING PYDRAULS AND MAKING TURBINOL, RIGHT?

8 A I DON'T KNOW HOW THE TWO WERE MADE.
9 BUT THEY WERE CERTAINLY FUNCTIONAL
10 DIFFERENCES IN USE.

11 Q BY THE WAY, MR. BRADFORD, THERE ARE TWO
12 VERSIONS OF THIS DECEMBER 8, 1971 MEMO, AREN'T THERE?

13 A DECEMBER 8TH?

14 Q YEAH.

15 A OH, WE ARE BACK TO THAT.

16 Q LOOK AT THE TOP PAGE.

17 A I DON'T KNOW.

18 Q WELL, WHY DON'T YOU TAKE A LOOK, IF YOU
19 WOULD, FIND YOUR MEMO THAT IS ALSO PART OF THAT SAME
20 EXHIBIT DATED DECEMBER 22, 1971, FROM C. L. BRADFORD
21 TO HOWARD BERGEN AND OTHERS.

22 THE COURT: IS THAT 831 AT THE BOTTOM?

23 MR. TALLON: YES, STR 0001831.

24 Q YOU MIGHT FIND IT TOWARDS THE BACK.

25 A I HAVE IT NOW.

26 Q OKAY. AND LET'S LOOK IF WE CAN BACK UP A
27 LITTLE BIT.

28 IS THAT YOUR SIGNATURE THERE, C. L.

1 BRADFORD?

2 A OKAY.

3 Q AND WHAT YOU ARE ASKING THOSE PEOPLE TO
4 DO IS TO RETURN PAGES FOUR AND FIVE OF THAT ORIGINAL
5 DECEMBER 8, 1971 MEMO, CORRECT?

6 A THAT IS WHAT IT SAYS.

7 Q AND YOU HAVE ATTACHED TO YOUR MEMO TWO
8 NEW PAGES, FOUR AND FIVE, RIGHT?

9 A THAT IS WHAT IT SAYS, YES.

10 Q AND WHAT YOU ASK THEM TO DO IS TO
11 SUBSTITUTE NEW PAGES FOUR AND FIVE FOR OLD PAGES FOUR
12 AND FIVE, RIGHT?

13 A CORRECT.

14 Q AND, IN FACT, WHAT YOU ASKED THEM TO DO
15 WAS "PLEASE RETURN THE OLD PAGES FOUR AND FIVE TO ME
16 IMMEDIATELY," RIGHT?

17 A THAT'S CORRECT.

18 Q AND THAT IS BECAUSE OLD PAGE 4 YOU
19 ADMITTED THAT YOU HAD SENT A LETTER TO YOUR CLIENTS
20 THAT WAS FALSE?

21 A I DON'T -- DO WE HAVE OLD PAGE FOUR HERE?

22 Q ISN'T THAT RIGHT, MR. BRADFORD?

23 A I DON'T KNOW.

24 I DON'T SEE WHAT WAS RECALLED.

25 WHERE IS THAT?

26 Q DO YOU RECALL THAT THAT HAPPENED?

27 A NO.

28 I DON'T KNOW WHAT WE ARE TALKING ABOUT

1 HERE.

2 I'M LOOKING AT THIS MEMO THAT SAYS,
3 "PLEASE USE THESE PAGES AND GIVE ME BACK OLD
4 PAGES."

5 BUT I DON'T KNOW WHY THAT WAS FROM THIS
6 DOCUMENT HERE.

7 Q WELL, LET'S TAKE A LOOK AT
8 TRANSWESTERN --

9 THE COURT: WE HAVE REACHED THE NOON RECESS,
10 MR. TALLON.

11 DID YOU WANT TO COMPLETE THIS QUESTION?

12 MR. TALLON: NO, WE CAN BREAK.

13 THE COURT: WE WILL BE IN RECESS, LADIES AND
14 GENTLEMEN, UNTIL 1:30.

15 PLEASE RETURN AT THAT TIME SO WE CAN
16 RESUME.

17 (AT 12:00 NOON, A RECESS WAS TAKEN
18 UNTIL 1:30 P.M. OF THE SAME DAY.)

1 LOS ANGELES, CALIFORNIA; THURSDAY, DECEMBER 16, 1993

2 1:30 P.M.

3 DEPARTMENT NO. 31

G. KEITH WISOT, JUDGE

4 ---0---

5 (APPEARANCES AS HERETOFORE NOTED.)

6 (DAVID A. SALYER, OFFICIAL REPORTER.)

7
8 THE COURT: AND RESUMING.

9 GO AHEAD, MR. TALLON.

10 MR. TALLON: THANK YOU, YOUR HONOR.

11
12 CHARLES LARRY BRADFORD,
13 CALLED AS A WITNESS BY THE DEFENDANT, MONSANTO,
14 HAVING BEEN PREVIOUSLY SWORN TESTIFIED AS FOLLOWS:

15
16 CROSS EXAMINATION (CONTINUED.)

17 BY MR. TALLON:

18 Q MR. BRADFORD, YOU SENT A LETTER ON APRIL
19 14, 1971 TELLING THEM THERE WERE NO MORE PCB'S IN
20 PYDRAUL, RIGHT?

21 A I DON'T RECALL THE DATE.

22 I DID SEND A LETTER STATING THAT.

23 Q AND THAT STATEMENT MADE IN THAT LETTER,
24 THAT THERE WERE NO PCB'S IN PYDRAULS, WAS FALSE,
25 CORRECT?

26 A IT WAS A FACTUAL ERROR, YES.

27 Q AND IN DECEMBER, IN FACT, IN A DECEMBER
28 8, 1971 MEMO THAT WE WERE LOOKING AT A FEW MOMENTS

1 AGO, THIS ORIGINAL VERSION OF THAT MEMO, ON PAGE 4
2 YOU INFORMED ALL THE RECIPIENTS OF THAT MEMO,
3 INTERNAL TO MONSANTO, THAT, IN FACT, THAT HAD BEEN
4 FALSE, RIGHT?

5 A THAT IT WAS IN ERROR?

6 Q THAT IT WAS NOT A TRUE STATEMENT.

7 A THAT IS CORRECT.

8 Q IN FACT, ONE OF THE THINGS YOU SAID IN
9 THE ORIGINAL VERSION OF THAT DECEMBER 8, 1971 MEMO
10 WAS THAT FALSE STATEMENT HAD MADE THE BAY CITY
11 DIVISION OF CHEVROLET ANGRY BECAUSE THEY KNEW IT
12 WASN'T TRUE; IS THAT RIGHT?

13 A I RECALL THAT SAYING SOMETHING TO THE
14 EFFECT THEY HAD CALLED IT TO OUR ATTENTION, YES.

15 Q IN FACT, WHAT IT SAYS WAS, "THE BAY
16 CITY'S DIVISION OF CHEVROLET IS ANGRY BECAUSE THEY
17 KNEW THAT STATEMENT WASN'T TRUE WHEN WE MADE IT"?

18 A I DON'T RECALL SAYING THAT THEY KNEW IT
19 WAS NOT TRUE WHEN WE MADE IT.

20 NO, I DON'T RECALL IT.

21 Q YOU DO RECALL THEY WERE ANGRY BECAUSE IT
22 WASN'T A TRUE STATEMENT?

23 A I DO RECALL THAT.

24 Q OKAY. AND WHEN YOU AND JERRY DAVIDSON
25 SENT OUT THAT DECEMBER 8, 1971 MEMO, YOU THOUGHT IT
26 WAS NOT A GOOD IDEA TO HAVE A MEMO GOING AROUND
27 INTERNAL TO MONSANTO ADMITTING THAT YOU HAD GIVEN
28 YOUR CUSTOMERS FALSE INFORMATION?

1 A NO.

2 I THOUGHT IT WAS A GOOD IDEA.

3 THAT IS THE REASON I SENT IT OUT
4 ORIGINALLY THAT WAY.

5 Q THEN YOU SENT OUT A MEMO ON DECEMBER 22
6 SAYING, "SEND ME BACK THOSE PAGES IMMEDIATELY,"
7 RIGHT?

8 A RIGHT.

9 Q AND IN THE NEW PAGES YOU TOOK OUT THE
10 PART ABOUT HOW YOU HAD GIVEN YOUR CUSTOMERS FALSE
11 INFORMATION?

12 A ERRONEOUS INFORMATION, YES, THAT'S TRUE.

13 Q AND THE REASON YOU DIDN'T WANT THAT
14 PARAGRAPH SITTING IN TEXAS EASTERN'S FILES WAS THAT
15 YOU KNEW THAT THAT WAS AN ADMISSION OF A LIE?

16 A NO. I DO NOT KNOW THAT THAT WAS THE
17 ADMISSION OF A LIE.

18 A LIE IMPLIES THERE WAS SOME INTENT IN
19 THE ORIGINAL LETTER TO MISLEAD OUR CUSTOMERS.

20 THAT IS PATENTLY FALSE.

21 Q YOU KNEW THAT THE STATEMENT YOU MADE IN
22 THAT LETTER OF APRIL 14, 1971 WAS FALSE?

23 A I DID NOT KNOW IT WHEN I WROTE THE
24 LETTER, NO.

25 THAT'S NOT TRUE.

26 Q YOU DIDN'T KNOW AS THE PRODUCT DIRECTOR
27 FOR PYDRAULS THAT THERE WERE PCB'S IN PYDRAULS?

28 A WHY WOULD I HAVE SAID IN THE LETTER THAT

1 THERE WERE NONE IF I THOUGHT THERE WERE SOME?

2 Q OKAY. LET'S TALK ABOUT TURBINOL.

3 IN FACT, YOU ANSWERED SOME QUESTIONS FROM
4 MR. PREUSS ABOUT TALKING TO TEXAS EASTERN ABOUT PCB'S
5 IN TURBINOL; IS THAT RIGHT?

6 A PERHAPS.

7 Q OKAY. IN FACT, YOU DIDN'T KNOW UNTIL THE
8 TIME OF YOUR DEPOSITION WHAT THE COMPOSITION OF
9 TURBINOL WAS, DID YOU?

10 A I STILL DON'T KNOW TECHNICALLY WHAT THE
11 COMPOSITION IS IN TERMS OF PERCENTAGES AND THAT SORT
12 OF THING.

13 Q IT WASN'T PART OF YOUR JOB TO KNOW WHAT
14 WAS IN IT, WAS IT?

15 A I KNEW IT HAD PCB'S IN IT.

16 I KNEW IT HAD OTHER COMPONENTS IN IT.

17 Q IT'S A TRUE STATEMENT, ISN'T IT,
18 MR. BRADFORD, THAT IT WASN'T IMPORTANT TO YOUR
19 FUNCTION AS A SALESMAN TO KNOW WHAT TURBINOL WAS MADE
20 OF?

21 A NO. THAT'S NOT TOTALLY TRUE.

22 THAT IS MISLEADING.

23 I THINK IT WAS IMPORTANT FOR ME TO
24 GENERALLY KNOW WHAT THE FLUIDS WERE MADE OF.

25 IT WAS NOT IMPORTANT FOR ME TO KNOW THE
26 EXACT PERCENTAGES.

27 Q OKAY. LET'S LOOK AT YOUR DEPOSITION,
28 PAGE 127, LINES 14 THROUGH 22. (READING):

1 "Q. DOES THIS REFRESH YOUR
2 RECOLLECTION ABOUT THE
3 COMPOSITION OF MCS-153?

4 "A. THIS IS THE FIRST TIME
5 I HAVE EVER KNOWN WHAT IT WAS
6 MADE OF.

7 "Q. IT WASN'T IMPORTANT TO
8 YOUR FUNCTION AS A SALESMAN TO
9 KNOW WHAT IT WAS COMPOSED OF?

10 "A. NO."
11 NOW, THE FIRST TIME YOU HEARD ANYTHING
12 ABOUT PCB'S BEING IN THE ENVIRONMENT WAS FROM THAT
13 NEWSPAPER ARTICLE THAT WAS PUBLISHED IN THE SAN
14 FRANCISCO CHRONICLE?

15 A THAT IS MY BEST RECOLLECTION.

16 Q AND, IN FACT, YOU GOT THAT MEMO THAT WAS
17 CIRCULATED TO ALL SALES PERSONNEL THAT MR. PREUSS
18 SHOWED YOU EARLIER?

19 A CORRECT.

20 Q OKAY. AND WHEN YOU READ ABOUT THAT, YOU
21 DID NOT PASS ON TO ANY CUSTOMER INFORMATION ABOUT
22 THAT WEST COAST ARTICLE, DID YOU?

23 A I CAN'T RECALL WHETHER I DID OR NOT.

24 Q WELL, LET'S LOOK AT YOUR DEPOSITION.
25 PAGE 45, STARTING WITH LINE 13.
26 STRIKE THAT.

27 YOU DON'T RECALL TELLING ANYBODY THAT
28 PCB'S PERSISTED IN THE ENVIRONMENT, DO YOU?

1 A NO, I DIDN'T SAY THAT.

2 Q YOU DIDN'T SAY WHAT?

3 A I DIDN'T SAY, "I DON'T RECALL EVER SAYING
4 THAT PCB'S PERSISTED IN THE ENVIRONMENT" TO OUR
5 CUSTOMERS.

6 Q BUT IS IT A TRUE STATEMENT THAT YOU NEVER
7 TOLD ANYONE, ANY CUSTOMER, THAT PCB'S PERSISTED IN
8 THE ENVIRONMENT?

9 A NO, I DON'T THINK THAT IS A TRUE
10 STATEMENT.

11 I DON'T RECALL SAYING THAT, BUT I DON'T
12 THINK IT WOULD BE TRUE TO SAY I NEVER TOLD A CUSTOMER
13 THAT WAY.

14 Q LET'S LOOK AT PAGE 45 AND 46 OF YOUR
15 DEPOSITION, STARTING WITH LINE 25 ON PAGE 45.

16 THE COURT: AND GOING TO?

17 MR. TALLON: GOING TO PAGE 46, LINE 3.

18 THE COURT: GO AHEAD.

19 MR. TALLON: OKAY. (READING):

20 "Q. DO YOU RECALL TELLING ANYBODY THAT
21 PCB'S HAD BEEN FOUND IN THE ENVIRONMENT?

22 "A. NO."

23 A ISN'T THAT IN RELATION TO THAT ARTICLE?

24 Q HOW DID YOU UNDERSTAND THE QUESTION?

25 A WELL, I HAVE BEEN STUDYING THIS THING
26 LIKE YOU HAVE FOR, YOU KNOW, A DAY OR SO.

27 Q STUDYING IN PREPARATION FOR YOUR
28 TESTIMONY?

1 A TRYING TO READ THESE DOCUMENTS SO I COULD
2 UNDERSTAND THEM, YES.

3 Q NOW, YOU WERE TESTIFYING ABOUT THE SALES
4 OF TURBINOL.

5 MR. PREUSS SHOWED YOU A CHART, RIGHT?

6 A THAT IS CORRECT.

7 Q THE OVERALL SALES OF TURBINOL WERE VERY
8 SMALL IN COMPARISON TO THE TOTAL SALES OF FUNCTIONAL
9 FLUIDS; IS THAT RIGHT?

10 A THAT'S CORRECT.

11 Q SO WHEN YOU LOOKED AT MR. PREUSS' CHART
12 YOU WERE ABLE TO REMEMBER THAT BASICALLY THAT
13 DEPICTED TOTAL SALES OF TURBINOL IN VOLUME?

14 A I THINK THE WAY I SAID THAT WAS WHAT I
15 SAW THERE WAS NOT INCONSISTENT WITH WHAT I COULD
16 RECALL.

17 Q LET'S LOOK AT TRANSWESTERN 355.

18 IS TRANSWESTERN 355 CONSISTENT OR
19 INCONSISTENT WITH YOUR BEST RECOLLECTION OF SALES OF
20 PCB PRODUCTS IN YOUR AREA?

21 A THAT, AGAIN -- MY ANSWER WOULD BE THE
22 SAME. IT'S NOT INCONSISTENT WITH GENERALLY WHAT I
23 RECOLLECT.

24 Q SO TURBINOL WAS REALLY A FRACTION OF THE
25 TOTAL SALES OF THE FUNCTIONAL FLUIDS BUSINESS?

26 A IT WOULD APPEAR THAT WAY, YES.

27 Q NOW, YOU HAVE NO RECOLLECTION OF ANY
28 DISCUSSIONS WITH ANYONE AT MONSANTO ABOUT WITHDRAWING

1 TURBINOL AS A PRODUCT, RIGHT?

2 A WELL, I MUST HAVE HAD SOME DISCUSSIONS
3 BECAUSE I THINK WE WROTE SOME MEMOS HAVING TO DO WITH
4 TURBINOL.

5 Q AND YOU DIDN'T MAKE THE DECISION TO
6 WITHDRAW TURBINOL, RIGHT?

7 A I DID NOT MAKE THE DECISION TO WITHDRAW
8 TURBINOL.

9 Q NOW, YOU REFERRED WHEN YOU WERE
10 TESTIFYING IN RESPONSE TO QUESTIONS FROM MR. PREUSS
11 ABOUT THE SPECIAL UNDERTAKING.

12 DO YOU RECALL THAT TESTIMONY?

13 A I DO.

14 Q AND THAT WAS A HOLD HARMLESS AGREEMENT,
15 CORRECT?

16 A I DON'T KNOW WHAT YOU WOULD CALL IT.

17 I CALL IT A SPECIAL UNDERTAKING.

18 Q AND THE SPECIAL UNDERTAKING WAS, "WE WILL
19 CONTINUE TO SELL THIS PRODUCT TO YOU IN EXCHANGE FOR
20 YOUR AGREEMENT NOT TO SUE US," RIGHT?

21 A I DON'T KNOW THAT I COULD CATEGORIZE IT
22 THAT SIMPLY, BUT PERHAPS.

23 Q THAT IS THE EFFECT OF IT, RIGHT?

24 A I DON'T KNOW, I'M SAYING.

25 YOU ARE THE LAWYER.

26 I DID NOT WRITE THE DOCUMENT, A LAWYER
27 DID.

28 IF THAT IS WHAT THE LAWYER SAID, YOU TELL

1 THE JURY WHAT IT SAID.

2 Q YOU WENT TO HARVARD LAW SCHOOL FOR A YEAR
3 AND A HALF, RIGHT?

4 A I LEFT, THOUGH.

5 Q AT THAT MEETING -- THAT WAS JANUARY,
6 1972, RIGHT?

7 A THAT'S CORRECT.

8 Q AND YOU WERE IN ATTENDANCE?

9 A THAT'S -- WELL, WAS THIS THE MEETING AT
10 TEXAS EASTERN AT SHREVEPORT YOU ARE TALKING ABOUT, IS
11 THAT THE DATE?

12 Q I AM.

13 A YES, I WAS IN ATTENDANCE, YES.

14 Q ROGER HATTON WAS THERE, RIGHT?

15 A THAT'S CORRECT.

16 Q NOW, ONE OF THE THINGS OUT THERE WHEN YOU
17 GOT THERE WAS EVERYBODY SIGNED A SIGN-IN SHEET,
18 CORRECT?

19 A I DON'T RECALL THAT BUT THAT IS PROBABLY
20 TRUE.

21 Q WELL, WHY DON'T YOU TURN AROUND, PLEASE,
22 MR. BRADFORD, AND SEE IF YOU COULD PULL UP, IN THE
23 BLACK BINDER, EXHIBIT 588.

24 A OKAY.

25 Q OKAY.

26 A I HAVE IT HERE.

27 Q OKAY. NOW, THE THIRD NAME FROM THE
28 BOTTOM IS YOURS, RIGHT?

1 A YES, IT IS.

2 Q AND "C. L. BRADFORD, MONSANTO," THAT IS,
3 IN FACT, YOUR HANDWRITING?

4 A IT LOOKS LIKE IT, YES.

5 Q YOUR RECOLLECTION IS THAT THIS WAS PASSED
6 AROUND AT THE MEETING AND EVERYBODY SIGNED?

7 A THIS WOULD INDICATE THAT IS TRUE.

8 Q AND, IN FACT, ONE OF THE PEOPLE SIGNING
9 IN WAS D. H. SLOAN, TWP COMPANY, RIGHT?

10 A THAT IS WHAT THIS SHOWS, YES.

11 Q DID YOU REMARK AT THAT TIME, "WHAT IS TWP
12 COMPANY?"

13 A I DON'T RECALL THAT I DID, NO.

14 Q AND, IN FACT, YOUR TESTIMONY TO
15 MR. PREUSS WAS YOU DIDN'T RECALL TRANSWESTERN?

16 A THAT'S CORRECT.

17 Q BUT YOU WOULD AGREE WITH ME THAT YOU
18 MIGHT HAVE HAD CUSTOMERS THAT WERE BUYING THE FLUID
19 THAT YOU WOULDN'T HAVE KNOWN ABOUT AND THAT YOU
20 DIDN'T CALL ON?

21 A WELL, THAT IS ALL POSSIBLE.

22 Q THAT IS TRUE, ISN'T IT?

23 A WHAT IS TRUE?

24 Q IT'S TRUE THAT YOU MIGHT HAVE HAD
25 CUSTOMERS THAT WERE BUYING THE FLUID THAT YOU
26 WOULDN'T HAVE KNOWN ABOUT, THAT YOU DIDN'T CALL ON?

27 A I MIGHT HAVE HAD CUSTOMERS BUYING THE
28 FLUID THAT I DIDN'T KNOW ABOUT THAT I WOULD NOT HAVE

1 CALLED ON?

2 Q THAT YOU DIDN'T CALL ON?

3 A THAT'S TRUE.

4 Q NOW, WHEN YOU FOUND OUT ABOUT THIS SAN
5 FRANCISCO CHRONICLE ARTICLE, YOU ALSO LEARNED THAT
6 THAT WAS REALLY THE FIRST PUBLIC -- THE FIRST MENTION
7 OF THE PCB PROBLEM IN THE POPULAR PRESS, RIGHT?

8 A I'M ASSUMING THAT THAT'S TRUE.

9 I DON'T RECALL SEEING OR HEARING ANYTHING
10 BEFORE THAT TIME.

11 Q AND AFTER THAT YOU KNEW THAT QUESTIONS
12 ABOUT PCB'S WERE TO BE PASSED ON TO BILL PAPAGEORGE
13 IN ST. LOUIS?

14 A IS THAT WHAT THAT MEMO SAID?

15 Q NOW, I'M JUST ASKING YOU FOR YOUR
16 RECOLLECTION.

17 IF YOU HEARD ABOUT THE PCB PROBLEM, YOU
18 UNDERSTOOD THAT QUESTIONS ABOUT PCB'S WERE TO BE
19 PASSED ON TO BILL PAPAGEORGE?

20 A NO.

21 I DON'T RECALL THAT THAT CAME UNTIL
22 SOMETIME LATER.

23 Q SOMETIME LATER, BUT DO YOU RECALL THAT
24 QUESTIONS WERE TO BE PASSED ON TO BILL PAPAGEORGE?

25 A AT SOME POINT IN TIME BILL PAPAGEORGE WAS
26 TO RECEIVE QUESTIONS ON THE SUBJECT, I DO RECALL.

27 Q AND YOU NEVER REFERRED ANY QUESTIONS TO
28 BILL PAPAGEORGE FROM TEXAS EASTERN OR TRANSWESTERN OR

1 ANYBODY?

2 A I DON'T KNOW IF THAT IS TRUE OR NOT.

3 Q OKAY. LET'S TAKE A LOOK AT YOUR
4 DEPOSITION AT PAGE 44.

5 STARTING WITH LINE 8 AND ENDING WITH LINE
6 12.

7 THE COURT: GO AHEAD.

8 MR. TALLON: (READING):

9 "Q. WHAT KINDS OF QUESTIONS DID YOU PASS
10 ON TO BILL PAPAGEORGE?

11 "A. I DON'T RECALL EVER PASSING ANY ON
12 TO HIM, SPECIFICALLY. I JUST RECALL THAT HE WAS TO
13 BE THE RECIPIENT OF ANY QUESTIONS."

14 THE WITNESS: I THINK THAT IS JUST WHAT I TOLD
15 YOU NOW.

16 THAT DOESN'T MEAN THAT I DIDN'T PASS THEM
17 ON, I JUST DON'T RECALL IT.

18 Q BY MR. TALLON: YOU NEVER HAD ANY
19 DISCUSSIONS WITH ANYBODY AT MONSANTO ABOUT THE WORK
20 THAT THE SWEDISH SCIENTISTS HAD BEEN DOING ON PCB'S,
21 RIGHT?

22 A I DON'T RECALL HAVING THOSE DISCUSSIONS.
23 BUT THAT WOULDN'T MEAN THAT I DIDN'T LEARN ABOUT IT
24 SOMEWHERE ALONG THE LINE.

25 Q OKAY. AND YOU DIDN'T PASS ON ANY
26 INFORMATION TO CUSTOMERS ABOUT WHAT THOSE SWEDISH
27 SCIENTISTS WERE FINDING?

28 A I DON'T KNOW IF THAT'S TRUE OR NOT.

1 Q YOU SAID THAT -- SO WHEN YOU SAY YOU
2 DON'T KNOW IF IT'S TRUE OR NOT, I TAKE IT WHAT YOU
3 ARE MEANING IS YOU DON'T REMEMBER DOING IT?

4 A I DON'T REMEMBER PASSING IT ON
5 SPECIFICALLY AND I HAVEN'T SEEN ANYTHING IN THE
6 DOCUMENTS INDICATING THAT I DID, BUT THAT WOULDN'T
7 TELL ME THAT I DID NOT.

8 Q YOU KNEW THAT WARNINGS ABOUT PCB'S WERE
9 SUPPOSED TO BE PUT IN WRITING TO CUSTOMERS, RIGHT?

10 A AT SOME POINT IN TIME.

11 BUT, AGAIN, THAT WAS LATER IN THE GAME.

12 Q AND YOU TOLD MR. PREUSS THAT THERE WAS
13 REALLY ONLY ONE CUSTOMER FOR TURBINOL-153, CORRECT?

14 A I THINK THAT IS WHAT I TOLD HIM.

15 Q IN FACT, THAT IS WRONG.

16 BECAUSE COLUMBIA GULF ALSO BOUGHT IT,
17 RIGHT?

18 A IF THIS IS WHAT THE DOCUMENTS INDICATE,
19 THEY DID BUY SOME, YES.

20 Q IN FACT YOU DID VISIT WITH COLUMBIA GULF
21 BECAUSE OF PROBLEMS THEY WERE HAVING WITH TURBINOL,
22 RIGHT?

23 A I THINK THEY WERE HAVING TROUBLE WITH
24 THEIR EQUIPMENT.

25 THEY WEREN'T SURE IF IT WAS THE TURBINOL
26 OR THE EQUIPMENT.

27 THE RECORDS DO INDICATE THAT I VISITED
28 WITH THEM.

1 Q AND AT THAT TIME YOU HAD SOMETHING CALLED
2 AN "APPROVED CUSTOMER LIST," RIGHT?

3 A I DON'T RECALL WHETHER WE HAD THAT AT
4 THAT TIME OR NOT.

5 Q DO YOU RECALL THAT IN THE FALL OF 1971,
6 BEFORE YOU DISCONTINUED THE SALE OF TURBINOL, THAT
7 MONSANTO ESTABLISHED SOMETHING CALLED AN APPROVED
8 CUSTOMER LIST?

9 A I MIGHT HAVE. THERE IS ONE HERE IN THE
10 RECORDS SOMEPLACE.

11 Q SO YOU DO RECALL THAT?

12 A I DO.

13 Q AND YOU RECALL THAT COLUMBIA GULF WAS ON
14 THAT?

15 A I DO NOT RECALL THAT.

16 I WOULD HAVE TO GO LOOK AT THAT.

17 Q SO WAS TURBINOL BEING SOLD TO COLUMBIA
18 GULF BUT THEY WERE NOT ON THE APPROVED CUSTOMER LIST?

19 A I JUST SAID I DON'T RECALL.

20 Q YOU DO RECALL TURBINOL WAS BEING SOLD TO
21 THEM?

22 A I DO RECALL THAT TURBINOL WAS BEING SOLD
23 TO THEM AND I DON'T RECALL IF THEY WERE ON THE
24 APPROVED CUSTOMER LIST OR NOT.

25 Q IN ADDITION TO THE APPROVED CUSTOMER LIST
26 YOUR SALESMEN IN THE FIELD WERE STILL TRYING TO MAKE
27 SALES TO CUSTOMERS; IS THAT CORRECT?

28 A CORRECT.

1 Q THERE WERE SALES ATTEMPTED TO THE SOLAR
2 DIVISION OF INTERNATIONAL HARVESTER IN THE SUMMER OF
3 1971?

4 A I THINK THAT THAT WAS MORE OF A DESIRE TO
5 HAVE THEM DESIGN THEIR TURBINES SO THAT THEIR
6 CUSTOMERS COULD BUY TURBINOL OR SOME FOLLOW-UP
7 PRODUCT TO TURBINOL.

8 BUT I DON'T THINK THEY WERE CONSIDERED TO
9 BE A USER OF TURBINOL.

10 Q IN FACT, THEY WERE REDESIGNING THEIR
11 TURBINES TO ACCEPT TURBINOL?

12 A THAT COULD BE TRUE.

13 Q AND YOU KNEW IN THE SUMMER OF 1971 THAT
14 THOSE SALES WOULD GO THROUGH?

15 A I -- AGAIN, I WASN'T CONCERNED ABOUT
16 SELLING TURBINOL TO SOLAR.

17 I WAS CONCERNED ABOUT THEM DESIGNING
18 THEIR TURBINES SO THAT IF THERE WERE A TURBINOL AT
19 THE TIME THEY SOLD ONE OF THESE TURBINES THAT WE
20 COULD SELL THEM TURBINOL.

21 Q AND YOU HOPED THERE WOULD BE A TURBINOL?

22 A ABSOLUTELY.

23 Q AND YOU ALSO ATTEMPTED TO MAKE SALES
24 THROUGH YOUR SALESMEN TO THE TENNESSEE VALLEY
25 AUTHORITY AT THE SAME TIME, SUMMER OF 1971?

26 A I THINK THAT IS WHAT THE RECORDS
27 INDICATE, YES.

28 Q YOU HOPED THERE WOULD CONTINUE TO BE

1 SALES OF TURBINOL BECAUSE YOU THOUGHT IT WAS A GOOD
2 PRODUCT?

3 A I THINK THAT THE RECORDS SHOW THAT I NOT
4 ONLY THOUGHT IT WAS A GOOD PRODUCT THAT IT WAS A GOOD
5 PRODUCT AND CONTROLLABLE AND THAT IT SERVED A
6 CONSIDERABLE, VALUABLE FUNCTION IN THE INDUSTRIAL
7 WORLD, YES.

8 Q IT WAS FIRE RESISTANT?

9 A IT WAS FIRE RESISTANT AND IT WAS A GOOD
10 LUBRICANT.

11 Q BUT IT ALSO HAD AN UNFORTUNATE SIDE
12 EFFECT, DID IT NOT?

13 A THAT BEING?

14 Q THAT BEING THAT IT WAS AN ENVIRONMENTAL
15 POLLUTANT.

16 A WELL, I NEVER CONSIDERED IT A POLLUTANT.
17 I UNDERSTOOD IT WAS PERSISTENT.

18 Q YOU UNDERSTOOD THAT IT PERSISTED IN THE
19 ENVIRONMENT?

20 A THAT'S RIGHT.

21 Q AND YOU UNDERSTOOD THAT IS WHY PCB'S
22 MANUFACTURE AND USE WAS SEVERELY RESTRICTED BY THE
23 TOXIC SUBSTANCES CONTROL ACT, RIGHT?

24 A I DON'T KNOW WHAT THE RELATION IS TO THE
25 TOXIC SUBSTANCE CONTROL ACT NOR DO I RECALL ANYTHING
26 IN HERE COMMENTING ON THAT.

27 Q YOU KNOW PCB'S ARE NO LONGER MAILED OR
28 SOLD IN THE UNITED STATES?

1 A WELL, THERE ARE PROBABLY A LOT OF THINGS.
2 THAT DOESN'T MEAN THEY ARE ON THAT LIST.

3 Q YOU KNOW THE REASONS THAT PCB'S ARE NO
4 LONGER SOLD IN THE UNITED STATES IS BECAUSE THEY HAVE
5 BEEN OUTLAWED?

6 A I DON'T KNOW THAT, NO.
7 MR. PREUSS: OBJECTION, ARGUMENTATIVE.
8 THE COURT: OVERRULED.

9 Q BY MR. TALLON: LET ME ASK YOU A COUPLE
10 OF QUESTIONS ABOUT TURBINOL, MR. BRADFORD.

11 YOU SAID THERE WERE NO ALTERNATIVE
12 PRODUCTS FOR FIRE-RESISTANT LUBRICANTS?

13 A I FORGET WHAT THE TERMINOLOGY WAS.
14 WE PROBABLY OUGHT TO LOOK AT THAT. I
15 DON'T WANT TO AGREE TO SOMETHING I DIDN'T SAY.

16 Q SO AT THE TIME MONSANTO WAS SELLING
17 TURBINOL AS A LUBRICATING FLUID TO BE USED IN GAS
18 TURBINES, THERE WERE COMPETITIVE PRODUCTS ON THE
19 MARKET?

20 A THERE WERE COMPETITIVE PRODUCTS.

21 Q AND NONE OF THOSE CONTAINED PCB'S?

22 A TO MY KNOWLEDGE, THEY DID NOT.

23 Q AND, IN FACT, ONE OF THEM WAS FYRQUEL,
24 RIGHT?

25 A THAT'S TRUE.

26 Q AND ONE OF THEM WAS?

27 A PERHAPS, I DON'T KNOW.

28 Q CELLULUBE.

1 AND ONE OF THEM WAS HOW-TO-SAFE, MADE BY
2 E. F. HOUGHTON COMPANY?

3 A ARE WE TALKING ABOUT PYDRAULS OR TURBINOL
4 HERE?

5 Q I'M TALKING ABOUT TURBINOL HERE.

6 A I WAS NOT AWARE THAT THERE WAS A
7 HOW-TO-SAFE SUBSTITUTE FOR TURBINOL.

8 Q WHAT PERCENTAGE OF THE MARKET FOR THESE
9 PRODUCTS DID MONSANTO HAVE?

10 A I DON'T KNOW.

11 Q YOU WERE AWARE THAT THERE WERE OTHER
12 COMPETITORS IN THE MARKETPLACE TRYING TO GET AT YOUR
13 BUSINESS, RIGHT?

14 A THAT'S TRUE.

15 Q SO YOU KNEW THAT THERE WERE OTHER
16 PRODUCTS THAT A CUSTOMER LIKE TEXAS EASTERN COULD
17 PICK, RIGHT?

18 A THEY HAD PICKED STAUFFER AT ONE TIME AND
19 THREW IT OUT.

20 Q AND, IN FACT, TEXAS EASTERN WENT TO
21 FYRQUEL LATER, RIGHT?

22 A I'M NOT SURE OF THAT.

23 Q IN FACT, TRANSWESTERN WENT TO FYRQUEL,
24 RIGHT?

25 A PERHAPS.

26 Q OKAY. AND, IN FACT, TRANSWESTERN
27 ULTIMATELY WENT TO MINERAL OIL, RIGHT?

28 A I DON'T KNOW.

1 Q IN FACT, YOU DON'T KNOW ANY FIRES THAT
2 OCCURRED ON THE TEXAS EASTERN LINE AFTER THEY
3 SWITCHED OVER TO A NEW PRODUCT, DO YOU?

4 A NO, I DON'T.

5 Q SO WHEN YOU -- LET'S TAKE A LOOK AGAIN AT
6 THAT UNDATED DOCUMENT THAT MAYBE YOU AUTHORED, 206.

7 IS THAT STILL IN THE BINDER IN FRONT YOU?

8 A 206?

9 Q YEAH.

10 A YEAH, I SHOULD HAVE IT HERE.

11 YEAH, I HAVE IT.

12 Q YOU LOOKED AT THAT DOCUMENT A COUPLE OF
13 TIMES AND YOU ARE REALLY NOT SURE YOU WROTE IT,
14 CORRECT?

15 A I'M NOT POSITIVE.

16 Q BUT ACTUALLY WHAT THAT IS IS A PROPOSAL
17 TO -- THAT WAS MADE TO YOUR SUPERIORS SO THAT YOU
18 COULD CONTINUE TO SELL TURBINOL, CORRECT?

19 A THAT IS WHAT IT WOULD APPEAR TO BE, YES.

20 Q AND THE JUSTIFICATION OR ONE OF THE
21 JUSTIFICATIONS THAT YOU OFFERED UP FOR CONTINUING TO
22 SELL TURBINOL WAS THAT THE CUSTOMERS, IF THEY DIDN'T
23 HAVE TURBINOL, MIGHT HAVE TO GO BACK TO FLAMMABLE AND
24 EXPLOSIVE PETROLEUM OIL.

25 THAT IS ON PAGE 2.

26 A FORCED TO PERHAPS REBUILD THEIR TURBINES
27 AND REVERT BACK TO FLAMMABLE AND EXPLOSIVE -- SORT OF
28 LIKE YOU ARE SAYING THESE GUYS DID DO, RIGHT?

1 AT COLUMBIA THEY WENT BACK TO PETROLEUM
2 OIL.

3 Q LET'S TALK ABOUT COLUMBIA GULF FOR A
4 SECOND.

5 IN FACT, THEY USED TURBINOL AT ONLY ONE
6 LOCATION?

7 A AND THEY WENT BACK TO FLAMMABLE PETROLEUM
8 OIL.

9 Q IF THEY DID, IF THEY WERE ONLY USING
10 TURBINOL AT ONE LOCATION, THEY MUST HAVE BEEN USING
11 SOMETHING ELSE AT OTHER LOCATIONS, RIGHT?

12 A IF THEY HAD OTHER LOCATIONS. I'M NOT
13 AWARE THAT THEY DID.

14 Q YOU KNOW COLUMBIA GULF RUNS A PIPELINE
15 THAT GOES OUT TO THE EASTERN SEABOARD, RIGHT?

16 A YOU ARE AWARE THAT TURBINES AREN'T THE
17 ONLY WAY TO PUMP NATURAL GAS, ARE YOU NOT.

18 Q I AM AWARE OF THAT.

19 ARE YOU AWARE THAT THEY HAD OTHER
20 TURBINES FROM YOUR EXPERIENCE?

21 A NO, I'M NOT AWARE OF THAT FROM MY
22 EXPERIENCE.

23 Q AT THE TIME THAT YOU WROTE THAT CUSTOMERS
24 MIGHT BE FORCED TO REVERT TO FLAMMABLE OIL, YOU KNEW
25 THERE WERE PRODUCTS AVAILABLE THAT WERE NOT
26 FLAMMABLE?

27 A THAT WERE LESS FIRE RESISTANT THAN
28 TURBINOL BUT NOT AS FLAMMABLE AS PETROLEUM OIL.

1 I DID KNOW THEY EXISTED.

2 Q WHEN YOU SAID "LESS RESISTANT THAN
3 TURBINOL," MR. BRADFORD, ARE YOU MEANING THAT THERE
4 WAS A SUBSTANTIAL DIFFERENCE IN THE DEGREE OF
5 FAHRENHEIT FOR FLASH POINT?

6 A IT WAS MY UNDERSTANDING THAT THE TURBINOL
7 HAD A HIGHER FLASH POINT THAN THE COMPETITIVE
8 PRODUCTS.

9 Q YOU DON'T KNOW HOW MUCH HIGHER, THOUGH,
10 DO YOU?

11 A NO..

12 Q AND, IN FACT, WHEN YOU ARE TALKING ABOUT
13 THE FACT THAT TURBINOL IS BETTER, YOU ARE REALLY
14 TALKING ABOUT THE KIND OF PRIDE YOU ASSOCIATE WITH
15 THIS PRODUCT AS A SALESMAN FOR IT, RIGHT?

16 A WELL, NO, I DON'T THINK SO.

17 THAT IS A MATTER OF DEGREE.

18 YOU DON'T KNOW AT WHAT TEMPERATURE YOU
19 ARE LIKELY TO HAVE A FIRE.

20 SO IF YOU ARE CONCERNED ABOUT NOT HAVING
21 FIRES, ANY DEGREE THAT IS BETTER IS SOMETHING THAT
22 YOU WANT.

23 Q YOU DON'T KNOW WHAT THE DIFFERENCE IN
24 FLASH POINT BETWEEN TURBINOL AND FYRQUEL IS, RIGHT?

25 A I DON'T KNOW WHAT IT IS, BUT IT'S LESS
26 LIKELY TO CAUSE YOU A FIRE.

27 Q BUT AT THE TIME YOU WROTE THIS, IN FACT,
28 THERE WERE ALTERNATIVES TO EXPLOSIVE PETROLEUM OIL?

1 A THAT'S CORRECT.

2 Q NOW, LET'S TALK ABOUT THAT FIRST PAGE OF
3 THAT FOR A SECOND.

4 YOU CAN PUT THAT BACK.

5 ANY TURBINOL-153 THAT MIGHT POSSIBLY LEAK
6 PAST SEALS AND INTO THE GAS STREAM IS REMOVED WITH
7 OTHER LIQUIDS IN REGULARLY INSTALLED PIPELINE
8 KNOCK-OUT TRAPS, RIGHT?

9 A THAT IS WHAT THIS SAYS.

10 Q AND YOU TESTIFIED EARLIER THAT YOUR
11 UNDERSTANDING OF TRAPS WAS BASED ON YOUR EXPERIENCE
12 WITH THE DANVILLE KENTUCKY STATION, RIGHT?

13 A THAT'S CERTAINLY A PART OF IT.

14 Q WHEN YOU WROTE THIS, WERE YOU CONSIDERING
15 WHETHER YOU COULD GET THE PCB FLUID OUT OF THE TRAP
16 TO THE LEVEL OF, LET'S SAY, 10 PARTS PER BILLION?

17 A WHAT DO YOU MEAN?

18 THAT YOU WOULD CLEAN THE TRAP AND ONLY 10
19 PARTS PER BILLION OF WHATEVER WAS LEFT WOULD BE
20 PCB'S?

21 Q YES.

22 A I WASN'T CONSIDERING THAT, NO.

23 Q AT THAT TIME MONSANTO WAS MONITORING THE
24 EMISSION FROM ITS OWN PLANTS DOWN TO THE LEVEL OF 10
25 PARTS PER BILLION, RIGHT?

26 A THAT IS GOOD INFORMATION FOR ME.

27 I DIDN'T KNOW THAT.

28 Q DID YOU THINK THAT BECAUSE OF THE

1 QUALITIES OF TURBINOL AS A PCB IT WOULD BE VERY
2 DIFFICULT TO GET THE TURBINOL OUT OF THE PIPELINE?

3 A WELL, I DON'T KNOW EXACTLY HOW TO ANSWER
4 THAT.

5 I THINK ANY TIME YOU PUT SOMETHING IN A
6 PIPELINE TO GET IT OUT, THAT WAS THE PROBLEM WITH THE
7 LETTER THAT I WROTE.

8 I SAID, "THERE ARE NO PYDRAULS."

9 I MEAN, NO PCB'S IN PYDRAULS, THAT WE
10 WERE SAYING THERE THAT I DIDN'T KNOW THAT THERE WERE
11 ANY.

12 APPARENTLY THERE WERE SOME PARTS PER
13 BILLION.

14 SO THERE WOULD PROBABLY BE PARTS PER
15 BILLION TODAY IN TRANSWESTERN'S PIPELINES AND
16 COLUMBIA PIPELINES. I DON'T KNOW THAT FOR A FACT.

17 Q AND IN SOCAL'S PIPELINE?

18 A I DON'T KNOW.

19 Q ARE YOU SAYING THAT AT THE TIME YOU WROTE
20 THIS YOU DON'T KNOW WHETHER ANY OR ALL THE PCB'S
21 WOULD BE TAKEN OUT IN TRAPS?

22 A I DON'T -- ALL I'M SAYING IS THAT THEY
23 WOULD CLEAN THESE PIPELINES OUT.

24 WHAT CAME INTO THE TRAP THEY COULD
25 CONTROL.

26 THEY COULD MANAGE IT.

27 Q BUT I TAKE IT FROM YOUR ANSWER THAT YOU
28 UNDERSTOOD THAT THE TRAPS WERE NOT 100 PERCENT

1 EFFECTIVE TO REMOVE ALL PIPELINE LIQUIDS?

2 A NO.

3 I'M NOT SAYING THAT.

4 I MEAN, LET'S PUT IT THIS WAY.

5 IT'S IN THE PIPELINE.

6 IF IT STAYS IN THE PIPELINE IT'S NOT ANY
7 HARM TO ANYBODY, IS IT?

8 Q WHERE DO PIPELINES GO, MR. BRADFORD?

9 A FROM THE GAS WELLS, USUALLY, TO STORAGE
10 TANKS.

11 Q AND WHERE DO PIPELINES END UP PUSHING THE
12 GAS TO?

13 A THE PIPELINES PUSH THEM INTO STORAGE
14 TANKS AND FROM THERE THEY ARE RETRANSMITTED THROUGH
15 OTHER LINES, I BELIEVE.

16 I'M NOT AN EXPERT ON THIS, TO CONSUMERS.

17 Q DID YOU THINK ABOUT THAT WHEN YOU WROTE
18 THIS RECOMMENDING THAT TURBINOL STILL BE SOLD?

19 A DID I THINK ABOUT WHAT?

20 Q DID I THINK ABOUT THE FACT THAT THE PCB'S
21 THAT YOU KNEW WERE GETTING INTO THE PIPELINE WERE
22 PART OF A GAS STREAM THAT WAS GOING INTO CONSUMERS'
23 HOMES?

24 A IT'S NOT CLEAR TO ME EVEN TODAY THAT
25 THESE WOULD GET INTO CONSUMERS' HOMES.

26 IS THERE EVIDENCE OF THAT?

27 Q I'M JUST ASKING YOU WHAT YOU THOUGHT
28 ABOUT AT THE TIME.

1 A AS I SAID, I'M NOT AWARE TODAY THAT PCB'S
2 GET INTO CONSUMERS' HOMES FROM ANYBODY'S PIPELINES.

3 Q OKAY. SO THAT IS NOT SOMETHING YOU
4 CONSIDERED WHEN YOU WANTED TO SELL TURBINOL?

5 A THAT IS TRUE.

6 Q YOUR JOB WAS TO KEEP SALES UP?

7 A MY JOB WAS TO TAKE CARE OF CUSTOMERS AND
8 TEXAS EASTERN WAS ONE OF THEM.

9 Q OKAY. AND YOU WERE FAMILIAR WITH THE
10 CUSTOMERS THAT WERE PURCHASERS OF PRODUCT FOR
11 MONSANTO, RIGHT?

12 A I WAS AWARE OF SOME OF THEM.

13 AS I SAID EARLIER I MIGHT NOT BE AWARE OF
14 ALL OF THEM.

15 Q IN FACT, FROM TIME TO TIME, YOU SAW
16 REPORTS OF WHO CUSTOMERS WERE, RIGHT?

17 A THAT'S TRUE.

18 Q AND EVERY YEAR THERE WOULD BE A
19 COMPUTER-BASED SUMMARY OF ALL THE CUSTOMERS WHO WERE
20 BUYING PRODUCTS FROM YOU?

21 A THAT'S PROBABLY TRUE.

22 I DON'T RECALL.

23 Q WELL, WHY DON'T YOU SEE IF YOU COULD TURN
24 AROUND THERE FOR A SECOND, MR. BRADFORD, AND LOOK AT
25 EXHIBIT 60.

26 A OKAY.

27 Q THAT IS A COMPUTER-GENERATED MONSANTO
28 SALES SUMMARY FOR SALES OF MCS 153 FOR 1968, CORRECT?

1 A THAT'S WHAT IT SAYS.

2 Q AND WHAT IT SAYS IS THAT THERE ARE
3 SEVERAL CUSTOMERS BUYING THAT PRODUCT, RIGHT?

4 A WELL, LET'S SEE HERE.

5 Q IT'S KIND OF HARD TO READ AT THE TOP,
6 RIGHT?

7 A YES, IT DOES SAY THAT.

8 Q AND IF YOU LOOK ABOUT FOUR OR FIVE LINES
9 DOWN ON THAT SALES SUMMARY OF THIS COMPUTER-GENERATED
10 MONSANTO DOCUMENT, IT SAYS "729887, TEXAS EASTERN,
11 TRAN HOUSTON," CORRECT?

12 A THAT'S CORRECT.

13 Q AND THAT "TRAN" IS FOR TRANSMISSION,
14 RIGHT?

15 A THAT'S CORRECT.

16 Q AND THE NEXT LINE IS A DIFFERENT NUMBER,
17 739844, TRANSWESTERN PIPELINE, CORRECT?

18 A THAT'S CORRECT.

19 Q AND AS YOU READ ACROSS THE DOCUMENT, THE
20 DOCUMENTS, IT HAS SALES FOR THE MONTH AND SALES FOR
21 THE YEAR, RIGHT?

22 A THAT'S CORRECT.

23 Q AND THIS DOCUMENT INDICATES SALES OF
24 TURBINOL OR, EXCUSE ME, MCS-153 TO TEXAS EASTERN TRAN
25 HUGHES AND TRANSWESTERN PIPELINE AND THE SALES IN THE
26 YEAR-TO-DATE COLUMNS, RIGHT?

27 A THAT'S CORRECT.

28 Q LOOK FOR A MOMENT, IF YOU WOULD, PLEASE,

1 MR. BRADFORD, AT THE SUMMARY FOR -- LOOK AT EXHIBIT
2 64.

3 THAT WOULD BE THE EASIEST WAY TO FIND
4 IT.

5 A OKAY, I HAVE IT.

6 Q THAT IS ANOTHER COMPUTER PRINTOUT FOR THE
7 SALES FOR THE ORGANIC DIVISION OF FUNCTIONAL FLUIDS,
8 RIGHT?

9 A THAT'S CORRECT.

10 Q THOSE WERE -- THAT WAS YOUR AREA?

11 A THAT'S CORRECT.

12 Q AND IF YOU LOOK ON THE FIRST PAGE OF THAT
13 DOCUMENT IN THE LEFT-HAND COLUMN WHERE ALL THE NAMES
14 ARE JUST BARELY VISIBLE BECAUSE IT'S PRINTED, IT SAYS
15 "TURBINOL-153," RIGHT?

16 A WHERE THE ASTERISK IS?

17 Q YES.

18 A IT LOOKS LIKE THAT IS WHAT IT SAYS.

19 Q TO THE RIGHT OF THE ASTERISK.

20 THEN THERE ARE A SERIES OF CUSTOMER
21 NAMES, CLARK BROTHERS, IS THAT RIGHT?

22 MR. PREUSS: OBJECTION, YOUR HONOR, NO
23 FOUNDATION.

24 THE COURT: OVERRULED.

25 GO AHEAD.

26 Q BY MR. TALLON: CLARK BROTHERS, RIGHT?

27 A YES.

28 Q AND THEN COOPER-BESSEMER, MOUNT VERNON,

1 OHIO, RIGHT?

2 A YES.

3 Q DRESSER INDUSTRY, RIGHT?

4 A RIGHT.

5 Q DRESSER MANUFACTURING, BRADFORD, PA.?

6 A RIGHT.

7 Q THE PUBLIC SERVICE ELECTRIC COMPANY,
8 ELECTRIC AND GAS IN LINDON, NEW JERSEY?

9 A RIGHT.

10 Q OKAY. AND THEN ANOTHER PUBLIC SERVICE
11 ELECTRIC IN LINDON, NEW JERSEY, RIGHT?

12 A THAT IS CORRECT.

13 Q SO THEY WERE ALL PURCHASERS OF TURBINOL?

14 A I CAN'T READ THE NUMBERS. BUT PERHAPS
15 THEY ARE.

16 Q AND THEN THERE IS A WHOLE SLEW OF TEXAS
17 EASTERN NAMES, TEXAS EASTERN TRANSMISSION, BARTON,
18 ALABAMA, RIGHT?

19 A THAT'S CORRECT.

20 Q THAT'S THE FIRST ONE.

21 THEN WE HAVE, LET'S SEE, ABOUT A THIRD OF
22 THE WAY DOWN, TEXAS EASTERN TRANSMISSION, WHITE
23 CASTLE, LOUISIANA, RIGHT?

24 A YES.

25 Q SO ALL OF THOSE ARE SEPARATE ACCOUNTS,
26 DIFFERENT LOCATIONS FOR TEXAS EASTERN, RIGHT?

27 MR. PREUSS: NO FOUNDATION, YOUR HONOR.

28 THE COURT: OVERRULED.

1 THE WITNESS: THEY ARE DIFFERENT SHIPMENTS TO
2 LOCATIONS FOR ONE CUSTOMER.

3 Q BY MR. TALLON: LOOK AT THE TOP OF THE
4 NEXT PAGE.

5 THAT VERY FIRST LINE IS A LITTLE HARD TO
6 READ, ISN'T IT? YOU COULD READ IT TO SAY, "PARENT
7 CUSTOMER TOTAL, TEXAS TRAN," RIGHT?

8 A I CAN'T READ THAT, NO.

9 Q CAN YOU READ THE PART THAT SAYS C-U-S-T,
10 T-O-T, PERIOD TEXAS TRAN?

11 A I CAN SEE C-U-S-T PERIOD AND I CAN SEE
12 E-S-T -- T SOMETHING A-M.

13 Q OKAY. AND THEN THE FOLLOWING LINE SAYS,
14 TRANSWESTERN PIPE, CORONA, NEW MEXICO AND THE NEXT
15 LINE SAYS TRANSWESTERN PIPE, ROSWELL, NEW MEXICO,
16 RIGHT?

17 A CORRECT.

18 Q AND EACH OF THOSE HAS A SEPARATE NUMBER
19 ASSOCIATED WITH IT IN THE CUSTOMER I.D. PART OF THE
20 DOCUMENT, ALL THE WAY OVER ON THE RIGHT-HAND COLUMN?

21 A THAT'S CORRECT.

22 Q AND THOSE CUSTOMER ID'S ARE DIFFERENT
23 THAN ALL THE CUSTOMER ID'S FROM TEXAS EASTERN, RIGHT?

24 A I DON'T KNOW THAT, BUT I PRESUME WE WOULD
25 GIVE A DIFFERENT NUMBER TO EACH CUSTOMER SHIPPED ON
26 THE LOCATION.

27 Q TAKE A LOOK, PLEASE, IF YOU WOULD,
28 MR. BRADFORD, AT 231.

1 THAT MAY BE IN THE SAME VOLUME.

2 A OKAY, I HAVE IT.

3 Q THAT IS THE COMPUTER PRINTOUT, MONSANTO
4 COMPUTER PRINTOUT FOR SALES FOR 1971 FOR THE ORGANIC
5 DIVISION, RIGHT?

6 A IT LOOKS THAT WAY, YES.

7 Q AND, AGAIN, IN THE LEFT-HAND COLUMN WE
8 HAVE GOT THE CUSTOMERS LISTED, RIGHT?

9 A THAT'S CORRECT.

10 Q AND THERE IS AN ASTERISK AND SOMEBODY HAS
11 PROBABLY HIGHLIGHTED THIS BEFORE ME, IT SAYS
12 TURBINOL-153?

13 A UH-HUH.

14 Q AND THEN THE FIRST, ONE, TWO, THREE,
15 FOUR, FIVE NAMES ARE COLUMBIA GULF TRANSMISSION, A
16 CUSTOMER FOR TURBINOL, RIGHT?

17 A THAT'S CORRECT.

18 Q AND EACH OF THOSE SEPARATE LINES
19 REPRESENTS A DIFFERENT PLACE WHERE STUFF WAS SHIPPED,
20 RIGHT?

21 A THAT IS WHAT IT LOOKS LIKE, YES.

22 Q AND THEN UNDER COLUMBIA GULF THERE IS A
23 LINE THAT SAYS "PARENT CUSTOMER, TOTAL, COLUMBIA GAS,
24 NEW YORK," RIGHT?

25 A WHERE IS THAT?

26 I SEE, YES.

27 Q AND THAT INDICATES THAT ALL OF THOSE
28 ACCOUNTS ARE BEING TOTALED UP UNDER THE PARENT

1 CUSTOMER, COLUMBIA GAS, NEW YORK, CORRECT?

2 A THAT IS WHAT IT LOOKS LIKE.

3 Q IT LOOKS LIKE GARDNER, DENVER.

4 THEN WE HAVE A SLEW OF TEXAS EASTERN
5 STARTING WITH TEXAS EASTERN TRANSMISSION, HOUSTON
6 TEXAS, RIGHT?

7 A THAT'S CORRECT.

8 Q AND THEN ALL THE WAY AT THE BOTTOM OF
9 THAT LIST OF TEXAS EASTERN LOCATIONS IT SAYS, "PARENT
10 CUSTOMER, TEXAS EASTERN TRANSMISSION," RIGHT?

11 A RIGHT.

12 Q SO THAT ACCUMULATES ALL OF THE SHIPMENTS
13 AND SALES TO TEXAS EASTERN, RIGHT?

14 A THAT IS WHAT IT LOOKS LIKE, YES.

15 Q THEN RIGHT UNDER THAT, IN A SEPARATE
16 LINE, IT SAYS, "TRANSWESTERN PIPE, CORONA, NEW
17 MEXICO," AM I RIGHT?

18 A THAT IS CORRECT.

19 Q AND THE NUMBER, 0094811, IS DIFFERENT
20 THAN ALL OF THE CUSTOMER I.D. NUMBERS FOR ALL THE
21 TEXAS EASTERN DELIVERY POINTS AND FOR THE PARENT,
22 RIGHT?

23 A WELL, LET ME SEE HERE.

24 I DON'T SEE ANY NAMES THAT LOOK LIKE THAT
25 ONE, NO.

26 MR. TALLON: NOTHING FURTHER.

27 THE COURT: ALL RIGHT.

28 REDIRECT, MR. PREUSS?

REDIRECT EXAMINATION

BY MR. PREUSS:

Q MR. BRADFORD, LET'S TAKE ANOTHER LOOK AT
231.

I'M SORRY TO MAKE YOU GET THAT OUT
AGAIN.

A ALL RIGHT.

Q YOU DIDN'T PREPARE THIS DOCUMENT, DID
YOU?

A NO, I DID NOT.

Q AND IT'S YOUR UNDERSTANDING OR IS IT YOUR
UNDERSTANDING THAT THESE ARE SHIPPED TO POINTS?

MR. TALLON: OBJECTION, LEADING.

THE COURT: SUSTAINED.

Q BY MR. PREUSS: DO YOU HAVE AN
UNDERSTANDING AS TO WHETHER THE LEFT COLUMN ITEMS ARE
SHIPPED TO POINTS?

A YES, I DO.

Q AND WHAT IS YOUR UNDERSTANDING, SIR?

A MY UNDERSTANDING IS THESE ARE SHIPPED TO
POINTS.

Q AND IF YOU LOOK AT THE RIGHT, SIR, THE
COLUMN THERE, YOU WERE ASKED IF THE NUMBERS UNDER THE
COLUMN "CUSTOMER I.D.," DO YOU SEE THAT?

A YES, I DO.

Q THERE IS A WHOLE LIST THERE OF TEXAS
EASTERN AND DIFFERENT LOCATIONS?

A RIGHT.

1 Q AND THOSE ARE ALL -- THOSE ARE ALL
2 DIFFERENT STATIONS THAT TEXAS EASTERN HAD, RIGHT?

3 A YES, I THINK SO.

4 Q AND IF YOU LOOK ON THE RIGHT, ALL OF
5 THOSE HAVE DIFFERENT CUSTOMER I.D. NUMBERS, RIGHT?

6 A THAT IS CORRECT.

7 Q NOW, WITH RESPECT TO THE MISTAKE YOU MADE
8 WITH RESPECT TO THE APRIL, '71 LETTER AND THE LATER
9 ONE YOU SENT OUT ON PAGES FOUR AND FIVE, SIR.

10 A YES.

11 Q WAS -- WERE THE PYDRAUL PRODUCTS
12 REFORMULATED?

13 A YES, THEY WERE.

14 Q AND IN THE REFORMULATION WERE PCB'S
15 INCLUDED AS AN INGREDIENT, I MEAN, PART OF THE
16 RECIPE, IF YOU WILL?

17 A NO.

18 Q AND IS IT YOUR UNDERSTANDING THAT AT A
19 LATER TIME, I.E. AROUND DECEMBER OF '71, THAT TRACES
20 OF PCB WERE FOUND IN THESE REFORMULATED PRODUCTS?

21 A AT SOME POINT IN TIME WE LEARNED THAT
22 WHAT I HAD SAID IN THE LETTER THAT, NO, THAT WAS NOT
23 TECHNICALLY CORRECT.

24 Q THE REASON IT WAS NOT TECHNICALLY CORRECT
25 IS BECAUSE THEY WERE FINDING TRACE AMOUNTS OF PCB'S
26 IN THE PRODUCT?

27 A IT WOULD SEEM THAT WAY, YES.

28 Q DO YOU HAVE ANY IDEA HOW THOSE TRACE

1 AMOUNTS GOT INTO THE REFORMULATED PRODUCTS?

2 A NOT REALLY, NO.

3 Q NOW, HAVE YOU HEARD OF THE TSCA OR TOXIC
4 SUBSTANCE CONTROL ACCOUNT?

5 A I HAVE HEARD OF IT, YES.

6 Q RIGHT.

7 DO YOU HAVE ANY IDEA AS TO WHEN IT WAS
8 ENACTED?

9 A NO IDEA.

10 Q WITH RESPECT TO MONSANTO'S STOPPING SALES
11 OF PYDRAUL PRODUCTS AND OTHER PRODUCTS, INCLUDING
12 TURBINOL THAT HAD PCB'S, DO YOU HAVE AN UNDERSTANDING
13 AS TO WHETHER THOSE ACTIONS WERE VOLUNTARY ON
14 MONSANTO'S PART?

15 A THEY WERE VOLUNTARY ON MONSANTO'S PART.

16 Q NOW, WOULD YOU BE GOOD ENOUGH, SIR, TO
17 TAKE A LOOK AT EXHIBIT 236.

18 A OKAY. I HAVE IT.

19 Q ALL RIGHT. AND YOU WERE SHOWN AS AN
20 INDIVIDUAL THAT RECEIVED A COPY OF THIS; IS THAT
21 CORRECT?

22 LOOK AT THE TOP UPPER RIGHT-HAND COLUMN.

23 A THAT'S CORRECT.

24 Q AND IS THIS DOCUMENT RELATED TO THE
25 MEETING YOU HAD WITH THE TEXAS EASTERN PERSONNEL IN
26 SHREVEPORT?

27 A YES.

28 Q SHREVEPORT ON JANUARY 14TH?

1 A THAT IS CORRECT.

2 Q ALL RIGHT. AND YOU WILL SEE THERE THERE
3 ARE INDIVIDUALS LISTED THAT SAYS "PRESENT FOR TEXAS
4 EASTERN"?

5 A RIGHT.

6 Q AND IS THERE ANYTHING THAT SAYS "PRESENT
7 FOR TRANSWESTERN"?

8 A NO, THERE IS NOT.

9 Q AND DID YOU KNOW A D. H. SLOAN AT THE
10 TIME OF THE MEETING?

11 A I DON'T RECALL KNOWING MR. SLOAN, NO.

12 Q HAD YOU HEARD AT THAT TIME THAT
13 TRANSWESTERN WAS A CUSTOMER OF MONSANTO FOR
14 TURBINOL-153?

15 A I DON'T RECALL KNOWING, DESPITE WHAT THE
16 DOCUMENTS SHOW, REGISTERING IT IN MY MIND, I DON'T
17 RECALL EVER KNOWING THAT TRANSWESTERN WAS EVER A
18 CUSTOMER OF MONSANTO.

19 Q AND YOU HAD HANDLED THE TEXAS EASTERN
20 ACCOUNT FOR SEVERAL YEARS, EITHER DIRECTLY OR THROUGH
21 RESPONSIBILITY TO HIGHER MANAGEMENT LEVEL?

22 A THAT'S CORRECT.

23 Q DO YOU KNOW OF ANYONE AT MONSANTO UNDER
24 YOUR DIRECTION OR OTHERWISE THAT CALLED ON
25 TRANSWESTERN AS A SEPARATE CUSTOMER?

26 A I DON'T RECALL ANYBODY CALLING ON
27 TRANSWESTERN AS A SEPARATE CUSTOMER, NO.

28 Q TO THE BEST OF YOUR KNOWLEDGE, WAS

1 TRANSWESTERN A CUSTOMER OF MONSANTO?

2 A WELL, TO THE BEST OF MY KNOWLEDGE AT THIS
3 MINUTE, THE ANSWER IS YES.

4 BECAUSE IT SHOWS HERE WE SHIPPED THEM
5 PRODUCT.

6 BUT I NEVER CONSIDERED, NEVER KNEW THEY
7 WERE A CUSTOMER.

8 MR. PREUSS: THANK YOU, SIR.

9 THE COURT: ANYTHING FURTHER, MR. TALLON?

10 MR. TALLON: NO.

11 THE COURT: MAY THIS WITNESS NOW BE EXCUSED
12 MR. PREUSS?

13 MR. PREUSS: YES.

14 THE COURT: AND MR. TALLON?

15 MR. TALLON: YES.

16 THE COURT: THANK YOU FOR YOU YOUR ATTENDANCE
17 AT THIS TRIAL.

18 YOU ARE EXCUSED FROM FURTHER ATTENDANCE.

19 THE WITNESS: THANK YOU, YOUR HONOR.

20 THE COURT: A FURTHER WITNESS, MR. PREUSS?

21 MR. ZIMMER: YOUR HONOR, MONSANTO WOULD CALL
22 CARL CLAY.

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

25 CARL CLAY,
26 CALLED AS A WITNESS BY THE DEFENDANT, MONSANTO, WAS
27 SWORN AND TESTIFIED AS FOLLOWS:

28 ///

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT NO. 31 HON. G. KEITH WISOT, JUDGE
4
5 TRANSWESTERN PIPELINE COMPANY,)
6 A DELAWARE CORPORATION,)
7 PLAINTIFF- RESPONDENT,)
8 VS.)
9 MONSANTO COMPANY AND DOES 1)
10 THROUGH 200, INCLUSIVE,)
11 DEFENDANTS- APPELLANTS.)

12 STATE OF CALIFORNIA)
13 COUNTY OF LOS ANGELES) SS.
14
15 I, DAVID ALAN SALYER, OFFICIAL REPORTER OF THE
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
17 COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
18 FOREGOING PAGES, 3,150 THROUGH 3,305, INCLUSIVE,
19 COMPRISE A TRUE AND CORRECT TRANSCRIPT OF THE
20 PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER, AS
21 DESIGNATED BY COUNSEL TO BE INCLUDED IN THE
22 TRANSCRIPT ON APPEAL, REPORTED BY ME ON December 16,
23 1993.
24 DATED THIS _____ DAY OF APRIL, 1994.
25
26 _____, CSR # 4410
27 OFFICIAL REPORTER
28