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

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

September 4, 1992

Deposition of ROGER E. HATTON, taken on behalf of Plaintiff.

GORE REPORTING COMPANY

Boatmen's Tower, Suite 1175 - 100 North Broadway
St. Louis, Missouri 63102

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v.	)	No. BC 026959
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Deposition of ROGER E. HATTON, taken on behalf of Plaintiff, at the offices of Bryan, Cave, McPheeters & McRoberts, 500 North Broadway in the City of St. Louis, State of Missouri, commencing at 9:00 a.m. on the 4th day of September, 1992, before J. Bryan Jordan, certified shorthand reporter and notary public.

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APPEARANCES:

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Whereupon. . .

ROGER E. HATTON

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

EXAMINATION

BY MR. TALLON:

Q. Good morning, Dr. Hatton.

A. Good morning.

Q. I know you've testified in this case once already, but just so that we're sure that we're in the same zone for purposes of this deposition, I wonder if you could just tell me, were you in the Functional Fluids Group of the Industrial Chemicals Section of Monsanto at any time in your career with Monsanto?

A. Yes.

Q. And when did you begin in the Functional Fluids Group?

A. I joined the company in '46; would have been sometime during '48.

Q. And from '48 -- and approximately when did you terminate your responsibilities

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with the Functional Fluids Group?

A. I had some functions up until I retired in 1982, from part to almost nothing.

Q. During the period between 1948 and 1982, did you have -- was there a period during which you had responsibility for, among other things, communicating with Texas Eastern Transmission Corporation?

A. Yes, mm-hmm.

Q. And over what period of time would you say that you had that responsibility?

A. I do not remember the dates exactly, but it was quite a period of time.

Q. We -- I just didn't happen to bring your last deposition transcript with me because of limited space in my briefcase, but would it be fair to say that your responsibilities with respect to Texas Eastern began in the late Fifties? And if you don't have a recollection, you can also say that.

MR. ZIMMER: Well, I'm sure that was adequately covered in his first session, Counsel.

MR. TALLON: Right.

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MR. ZIMMER: Well, I want to make my point clear. I'm letting you take care of these housekeeping matters as you term them, but this isn't properly in the scope of what we agreed to produce him for today, so why don't we defer to his first trasncript.

MR. TALLON: I'm just trying to --

MR. ZIMMER: Well, it's on his first transcript, is my point.

MR. TALLON: I just want to lay a foundation to the question.

MR. ZIMMER: For what, is what I don't understand.

MR. TALLON: So I know we're talking about the same time period. Why is it a big deal?

MR. ZIMMER: I'll stipulate we're talking about the same time period he talked about in his first deposition.

MR. TALLON: If the witness can answer his question, let him answer.

MR. ZIMMER: I'm not going to let him answer much more on this area. That's the point. We're not here to do that. We're here to talk about five different documents.

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MR. TALLON: Fritz, we're not talking about five different documents.

MR. ZIMMER: That's, indeed, what we're talking about, if you want to call your office, if you want to call your office and have him read the letters to you.

MR. TALLON: What I want to do is call Stillwell.

MR. ZIMMER: That's fine, too. I'm going to pull him out of here if you don't want to continue per the agreement that I reached with your office.

MR. TALLON: Do you have a written agreement with our office?

MR. ZIMMER: I sure do.

MR. TALLON: May I have it?

MR. ZIMMER: Yeah. Why don't we have copies made and marked as an exhibit?

I'll note for the record that, among other things, the primary letter from your office concerning the scope of Dr. Hatton's continued deposition is of May 28, from Saied Kashani. I'd like to make a copy of this before we mark it because I've got highlighting on it, but I'm happy to show it

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to you in this form.

MR. TALLON: Well, you can go to the receptionist and ask her to make a copy for you.

MR. ZIMMER: There are also other letters that were exchanged that I don't happen to have copies with now, but if I need to, I can be happy to have them faxed here so we can mark them to the deposition, but you can take a look at that and particularly, the second --

(Mr. Tallon peruses said document.)

MR. TALLON: Where do you see a reference to a limitation to five documents in here?

MR. ZIMMER: "Such deposition will be limited to inquiry regarding subjects raised by the newly-produced documents, including Dr. Hatton's knowledge of the development of Turbinol and the operation of the compressor equipment."

MR. TALLON: Okay, yeah.

MR. ZIMMER: I have also further limited that in my correspondence to Mr.

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Kashani, which was accepted without challenge.

MR. TALLON: What correspondence are you referring to? You are referring to your letter of the other day which said that you were going to limit this deposition to an hour?

MR. ZIMMER: No, I said that I would limit it to the topics agreed upon and that I, therefore, expected that it would take an hour or so.

MR. TALLON: You better get your correspondence out, Mr. Zimmer, because this letter says that after Dr. Hatton's deposition, Texas Eastern produced a large number of documents pertaining to the development of Turbinol, including correspondence between Dr. Hatton and Texas Eastern employees, and then it cites, "For example, five documents," and then goes on to discuss some of those documents. Nothing in this letter limits the scope of this continued deposition to five documents.

MR. ZIMMER: Well, all the Bates numbers and stamps of the documents are

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referenced in this letter, and they constitute five different ones.

MR. TALLON: Yes, and it cites those as example. You'll recall that "See e.g." is a signal that says "See ergo gratia," the Latin for "For example."

MR. ZIMMER: Thank you for the Latin lesson.

MR. TALLON: Sure, anytime.

MR. ZIMMER: But why don't we, rather than devolve into further debate about this, see how far you are going to go, and if I think it's beyond the scope, I'll simply instruct him that, but I was letting you know early that the things that you are covering at the outset were covered more than adequately in the first session and we are not producing him for a rehash of those subjects.

MR. TALLON: And I do not intend to rehash any subjects. I do intend to examine Dr. Hatton with respect to a limited number of documents from among a large number of documents produced by Texas Eastern, including Monsanto correspondence that was

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not produced by Monsanto before Dr. Hatton's deposition, documents we didn't have before Dr. Hatton's deposition, some of which were cited for example in that letter of May 28, 1992, which you have put on the table.

MR. ZIMMER: Well, I would be surprised if all those that your office considered important wouldn't have been cited in this letter, but all I can tell you is that my discussions about this and correspondence with Mr. Kashani of your office would limit the scope of his deposition to the letters cited in here and the subjects that are mentioned by Mr. Kashani.

MR. TALLON: Well, you wrote a letter to Mr. Kashani earlier this week saying that you intended to limit this deposition to an hour. If it wasn't clear, I categorically reject that. You have no power to limit my questioning to an hour based on your determination of how long you think it ought to take.

MR. ZIMMER: Well, as I indicated before, I didn't limit it to an hour. I had

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said that the subjects would be limited per your office's representation, and I estimated that that would take an hour or so, so let's have that straight, and as far as my right to limit your questions, we'll see about that, because we're going to get up and walk out if it exceeds the limit of what we have agreed to produce him for.

MR. TALLON: Well, we called for the continued deposition of Dr. Hatton because after the date of Dr. Hatton's deposition, Texas Eastern Transmission Company produced a number of documents which were not available --

MR. ZIMMER: That's correct.

MR. TALLON: -- before Dr. Hatton's deposition. I have some of those with me today, and I have attempted to limit the scope of those severely in order to not bother Dr. Hatton with additional deposition questions after he's gone through the deposition in this case.

MR. ZIMMER: Let's go through some of them and we'll consider the --

MR. TALLON: Excuse me, Mr.

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Zimmer, I'd appreciate if you would show me the courtesy of letting me finish a statement before interrupting.

MR. ZIMMER: I'm sorry if I interrupted you.

MR. TALLON: Thank you.

I intend to go through these documents. If you try to inordinately restrict the scope of the deposition, I will have no hesitation to call Judge Stillwell or Judge Wisot, because the way that you have approached this deposition so far is not a good sign, refusing to permit the witness to even answer the question of if he's able to state whether his responsibilities with respect to Texas Eastern began in the late Fifties, which was solely for the purpose of giving the witness a frame of reference for the questioning which was to come.

MR. ZIMMER: And given the stipulations I offered, also completely unnecessary, but if you feel the need to call either Judge Wisot or Judge Stillwell, you are welcome to do so.

MR. TALLON: Is there a problem

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with having the witness --

BY MR. TALLON:

Q. Can you answer the question of when you started? I mean, yes or no.

MR. ZIMMER: I didn't instruct him not to answer it. I simply wanted to make my objection clear as to what I considered the proper scope of this deposition.

MR. TALLON: And are you -- you have stipulated that his responsibilities for dealing with Texas Eastern began in the late Fifties?

MR. ZIMMER: Began when they said, or rather when he said they did in his first session.

MR. TALLON: Fritz, I just want to have a time frame with the witness.

MR. ZIMMER: Okay. Well, let him tell you what he's told you before, if he remembers.

MR. TALLON: That would be very nice. Thank you.

A. It began in the late, middle to late Fifties. I do not have a date or anything.

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MR. TALLON: Thank you. That's all I wanted to have from you, Dr. Hatton.

When you began work in the Functional Fluids Group with respect to Texas Eastern, did you perform or have performed at your direction any tests with respect to the solubility of any functional fluid being sold to Texas Eastern in methane?

A. I don't recall that.

Q. Do you recall, when you began work with respect to Texas Eastern, whether you learned of tests being performed with respect to any functional fluid that was sold to Texas Eastern with regard to its solubility in methane?

A. I have no recollection.

Q. All right, let me show you a document produced by Texas Eastern Transmission Company on Monsanto Chemical Company staionery, dated September 3rd, 1958, and which bears production numbers TW2-2006487 through 6491, and we'll ask the court reporter to mark this as the next exhibit in order, which is number 673.

(Plaintiff's Deposition

Exhibit 673 marked for identification.)

BY MR. TALLON:

Q. Doctor, you may please take as much time as you feel necessary to review this copy of the letter I've put before you as Exhibit 673. It is not a particularly clear copy, but I suppose we have its age to thank for that. I am mostly interested in asking you whether your review of the first and second pages refreshes your recollection as to any knowledge you have with respect to tests performed regarding the solubility of methane in OS-81.

(Witness peruses said document.)

A. First two pages?

Q. Well, yes, and please feel free to read the balance of the letter if you think that would be helpful to you, but my specific question to you is whether your review of the first two pages refreshes your recollection as to any knowledge you had with about tests performed by Monsanto regarding the solubility of methane in OS-~~18~~ 81.

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A. I do not recall these experiments. They were -- it is a type of experiment which my men would have done, which we had the equipment for determining solubility of air and other gases in fluids.

Q. And by your men, you are referring to what group of people, Doctor?

A. I had a group of chemists, technicians, working for me as a group leader.

Q. And did James Davis report to you?

A. No. Jim Davis worked in the Development Department, and this report would have been given to him for transfer outside the company.

Q. One other question, Doctor, to refer specifically to see if it jars your recollection. On page 2, there's a reference to saturation of OS-~~1~~81 at 1,000 psi. Do you see that?

A. Yes.

Q. Does that refresh your recollection as to any kind of testing done for Texas Eastern by Monsanto regarding OS-81?

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A. That property was, if requested by Texas Eastern, the data would have been supplied.

MR. ZIMMER: Doctor, his question was, if it refreshed your recollection that that sort of testing was done for Texas Eastern.

A. No.

MR. TALLON: No recollection?

A. No recollection of --

BY MR. TALLON:

Q. In general, do you have any understanding as to why such testing would be performed by Monsanto?

MR. ZIMMER: Calls for speculation, lacks foundation.

A. In response, such information would be determined at the request of a customer.

BY MR. TALLON:

Q. Do you have any understanding of the purpose for determining the solubility of methane in OS-81?

A. No.

MR. TALLON: Let me show you

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another document, Doctor, to see if it enhances your recollection in any respect, and this is a document produced by Texas Eastern, bearing production numbers TW2-2004024 through 26, and it's a letter on Monsanto Chemical Company staionery dated July 31, 1958. I'm going to ask the court reporter to mark that as Exhibit 674.

(Plaintiff's Deposition Exhibit 674 marked for identification.)

BY MR. TALLON:

Q. Doctor, please take such time as you feel you you need to review this two and a half-page letter. I'm particularly interested in asking you whether your review of the second full paragraph on page 2 refreshes your recollection in any respect as to tests performed by Monsanto regarding the fluid physical properties on OS-81, saturating it with natural gas.

(Witness peruses said document.)

A. The second paragraph is the one of interest?

BY MR. TALLON:

Q. The second full paragraph, which is the one that begins, "We have determined the effect on fluid physical properties of saturating it with natural gas."

A. Yes.

Q. Did you see that?

A. Yes.

Q. And my specific question to you, Doctor, was whether that particular paragraph or anything in this letter refreshed your recollection of any tests performed by Monsanto regarding the effect of -- pardon me, the effect on fluid physical properties of saturating OS-81 with natural gas.

A. It does not strike a chord of memory of that specific information.

Q. Do you -- I'm not sure I completely understand your answer. Do you have any knowledge with respect to tests regarding the saturation of OS-81 or other Functional Fluids with natural gas?

A. Not beyond my previous answer.

Q. By that, you mean your previous answer just today?

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A. To the previous exhibit.

Q. And I'm sorry if I seem confused, but I understood you to say that if such a test had been requested, it would be performed?

A. Yes.

Q. And that is the extent of your knowledge?

A. Yes.

Q. In other words, you don't have any personal recollection of such testing being done?

A. I do not.

Q. Doctor, in the late 1950's, did you personally discuss with the Gas Turbine Division of General Electric the requirements for gas turbine lubrication?

A. Yes, mm-hmm.

Q. And with whom did you communicate at General Electric?

A. I don't remember a name.

Q. Do you remember the physical location of the persons with whom you spoke?

A. Schenectady.

Q. And actually, my previous question

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may have assumed a fact in error. Did you actually speak with representatives of the Gas Turbine Division of General Electric or was it -- or did you have communications in writing?

A. It was a visit to their site and face-to-face discussions.

Q. Were you a part of the visit to their site and the face-to-face discussions?

A. Yes.

Q. Were you accompanied by Mr. Davis?

A. I do not remember specifically in this case.

Q. Well, do you not remember specifically who accompanied you or you do not remember specifically whether Mr. Davis accompanied you?

A. I do not remember even if I was accompanied.

Q. And do you have any ability to recall whether you were meeting with one person or more than one person at General Electric?

A. Several.

Q. And I take it from your prior

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answer that you are not today able to recall the names or identities of any of those persons?

A. It's thirty-four years ago. No.

Q. Okay. Do you recollect whether you were provided by, or rather, with any written materials by the Gas Turbine Division of General Electric at the time of your visit?

A. No. I just don't remember.

Q. And can you state in brief the purpose for that visit?

A. To, to discuss the requirements, physical and chemical requirements of lubricants for gas turbines.

Q. And was that, was the acquisition of that knowledge important to any job responsibilities that you had to discharge?

A. It was very useful.

Q. In what respect?

A. To further define the physical and chemical requirements of the materials we were developing.

Q. To further refine or define? Excuse me; I didn't catch that.

A. To further refine.

Q. And to what purpose was that refined knowledge put?

A. To select the specific materials of interest in developing the lubricant.

Q. I understand that this is some years ago, Doctor, but do you have any ability to state approximately when that interest took place?

A. No, I don't have.

Q. Do you recall recording any memoranda or other information developed during your visit, for use by your colleagues in working with gas turbines?

A. A call report would have been written.

Q. If you were the only person on that trip, if that's a correct statement based on your testimony, would that call report have emanated from you?

A. Yes.

Q. Do you recollect whether the information you acquired in that visit to General Electric to meet with their Gas Turbine Division employees was used in the

process of selling OS-18 or other functional fluids to Texas Eastern?

A. Would you repeat that last part of that question, please?

Q. Do you recollect whether any of the information you acquired during that visit with the Gas Turbine Division employees of General Electric was useful to you in dealing with Texas Eastern Transmission with respect to OS-81 or other functional fluids sold to them?

A. Yes.

Q. Doctor, do you have any present recollection of having performed any tests on determining whether protective coatings such as epoxy or nylon-based products were resistant to OS-81?

A. I do not recall personally doing any such tests.

Q. Do you have a recollection that you requested others reporting to you to perform such tests?

A. I do not have a specific memory that I did.

Q. When you state in your answer that

you don't have a specific recollection, are you indicating that you have a generalized recollection that such a test or series of tests was conducted?

A. Anytime that we developed a new fluid, we ran compatibility tests with other things that might be in the system, and these were run by the group. Specific products, specific test conditions I do not remember.

Q. But I take it from your answer that in any event, the responsibility for actually conducting the tests would not have fallen to you; correct?

A. That's correct.

Q. You would have -- it would have been your responsibility to see to it that someone else actually conducted the test?

A. That's -- yes.

Q. And would it have been part of your responsibility to report the results of such testing to a customer of Monsanto?

MR. ZIMMER: Incomplete hypothetical.

BY MR. TALLON:

Q. Not your sole responsibility, but

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would that have fallen among your responsibilities, responsibilities you might have shared with others?

A. That latter question, I would answer yes.

Q. Let me show you a document produced by Texas Eastern on the staionery of Monsanto Chemical Company dated September 25, 1961, to a Mr. W. J. Kluse (Phonetic), or Klaus (Phonetic) -- it's not clear from the copy, from Roger E. Hatton, project manager, Development Department. This document bears production numbers TW2-2003979 through 3982. I'll ask the court reporter to mark that as the next exhibit in order, which is 675.

(Plaintiff's Deposition Exhibit 675 marked for identification.)

(Witness peruses said document.)

BY MR. TALLON:

Q. Did you get an opportunity to review that exhibit, Doctor?

A. Yes.

Q. Can you identify it for the

record?

A. I did not remember the letter specifically. It was written to a Mr. Kloss of Pratt & Whitney Aircraft. They made turbine engines.

Q. Did the letter emanate from you?

A. Yes.

Q. Does numbered paragraph 5 on page 4 of the letter refresh your recollection in any respect as to any knowledge you have with respect to testing of resistance of protective coatings to OS-81?

A. I do not remember the specific materials tested or the data available.

Q. Do you recollect being asked to perform tests on protective coatings by representatives of Texas Eastern?

A. I don't remember that the request.

Q. Do you -- I'm sorry, I thought you were finished with your answer.

Do you recall that the tests were performed without specific reference to whether you recall the request?

MR. ZIMMER: Assumes facts not in evidence.

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A. I don't remember.

BY MR. TALLON:

Q. Do you have a recollection of having discussed compressor journal bearing problems with any representative of Texas Eastern Transmission?

A. What type of bearing problems?

Q. Compressor journal bearing problems.

A. And you are limiting your question to problems?

Q. Well, let me put it this way. Do you recollect having discussions with representatives of Texas Eastern relating to the compressor journal bearings and their operations?

A. Yes.

Q. And do you recollect having had such discussions with Ollie Fletcher?

A. Yes.

Q. Do you recollect over what period of time you had such discussions?

A. Bearings and their performance were discussed with Ollie Fletcher during most of the years that I knew him, at various

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times.

Q. And among the issues discussed were problems, operational problems associated with those compressor journal bearings?

A. The area discussed was the interactions between bearings and the lubricant.

Q. And do you have an understanding as to what a compressor journal bearing is?

A. Superficially.

Q. What?

A. A great big shaft about so big (Indicating) with a circular part of the device that the journal goes through, the journal being a shaft, so to speak, and provision made to provide lubricant to the space between the two and to provide lubrication to that bearing.

Q. Doctor, from time to time in the course of the relationship with Texas Eastern for which you had partial responsibility, did Texas Eastern Transmission send to you samples of functional fluids from their turbines and compressors for analysis and

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testing by Monsanto?

A. Yes.

Q. And do you recollect ever having communicated with Walter Woods with respect to analysis performed by Monsanto on such samples?

A. Yes. If samples were submitted, answers were returned, and I do remember getting samples.

Q. And in general, can you state the purpose for which you believe samples were submitted to Monsanto?

A. The purpose was to determine the condition of the lubricant at a certain time, at a certain place.

Q. And part of the process in which Monsanto is involved was in testing the lubricant after a certain number of hours of use in the turbine compressor machinery?

A. That could have been the purpose.

Q. Do you recall ever having discussed or communicated with Mr. Woods about fluid loss from a Texas Eastern turbine due to a seal leak?

A. No, not -- no.

Q. Did you ever -- okay, did you ever acquire knowledge that any Monsanto product leaked from a Texas Eastern turbine due to a seal leak?

A. I don't remember a specific conversation.

Q. Let me show you a document produced by Texas Eastern on Monsanto Chemical Company stationery dated November 7, 1961, a letter to Mr. Walter Woods of the Texas Eastern Transmission Corp. and sent by Roger Hatton, Roger E. Hatton, Project Manager, Development Department, bearing production numbers TW2-2006537 through 539. I'll ask the court reporter to mark that as Exhibit 676 and ask you if you could please take a moment to review that.

(Plaintiff's Deposition Exhibit 676 marked for identification.)

(Witness peruses said document.)

MR. ZIMMER: Jim, off the record.

(Discussion off the record.)

BY MR. TALLON:

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Q. My specific question to you, Dr. Hatton, is whether reading the highlighted portion on page 2-A of this letter refreshes your recollection in any respect about any communications you had with Mr. Woods about loss of fluid from Texas Eastern turbines by a seal leak.

A. No, this doesn't strike a -- anything beyond what's written here.

Q. Do you believe that you sent this letter to Mr. Woods?

A. I do.

Q. Do you have any understanding as to whether turbine fluid could be lost through a seal leak?

A. Yes, if the seal misfunctioned or was not operating correctly, fluid could leak through it.

Q. Do you --

A. Past it, out of it.

Q. Do you have any recollection of any other circumstances under which turbine fluid could be lost through a seal?

A. I think my general testimony has covered most of them.

Q. Let me show you one other document which has already been marked as an exhibit in this case, for the purpose of determining whether or not it refreshes your recollection as to the loss of fluid through seal leaks, and it's TW 122.

MR. ZIMMER: I will object as part of my continuing objection to the scope of the continued deposition, but I'll let him answer if it refreshes his memory, my point being that this document was readily available at the time he was first deposed.

(Witness peruses said document.)

MR. ZIMMER: If there is a question pending, I forgot.

MR. TALLON: There is a question pending. The question is whether a review of this document refreshes the doctor's recollection as to whether -- well, actually, I think we better have the question reread, because now I've forgotten it.

THE COURT REPORTER:

"Q. Let me show you one other document which has already been marked as an

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exhibit in this case, for the purpose of determining whether or not it refreshes your recollection as to the loss of fluid through seal leaks, and it's TW 122."

A. It describes a memory in that on a visit to one of the installations, we discussed the function of leaks due to malfunction in the seal system and the fact that any fluid which did leak into the line was removed by some knock-out traps and they pointed out where they were, which was at the edge of the pumping station, and they indicated that that's where, that was standard practice.

Q. I'm sorry, you were referring to visit to Texas Eastern?

A. Yes.

Q. Were you alone on that visit, or as best you recollect?

A. I never walk into a plant alone. I was with Texas Eastern personnel.

Q. I'm sorry, I meant to ask whether you were accompanied by anyone from Monsanto.

A. I do not remember.

Q. And you were with Texas Eastern

personnel?

A. Yes.

Q. Do you remember who that was?

A. No, I do not.

Q. Do you remember approximately when that visit occurred?

A. Late Fifties, early Sixties.

Q. And Doctor, you may have already impliedly answered this in your statement of a moment ago, but do you recollect the location that you visited?

A. No. I do not.

Q. Was the location a gas compressor station?

A. Yes.

Q. And was it a turbine-powered gas compressor?

A. It was a combination station, they had gas turbine compressors set up in the newer part of the station and they had the -- these huge, twelve-cylinder diesel engines driving compressors in another part of the station. My visit was limited to the, primarily, to the gas turbine end.

Q. And just one other point on this

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while you are here. When you used the term "knock-out traps," what did you refer to?

A. It was a device designed into the line so that any liquids in the gas stream would be knocked out, or trapped, or removed so that they were collected in that portion of the piping setup and it would be removed from there.

Q. In your last answer, in referring to "the line," are you referring to the main gas line through which gas was pumped?

A. Yes.

Q. One other question, Dr. Hatton. Do you know who the author of that Exhibit TW 122 is?

A. No.

Q. You never saw it before?

A. I do not remember ever seeing this.

Q. Dr. Hatton, during the period you had as part of your responsibilities, communicating with Texas Eastern Transmission Corporation, do you recollect ever having had any communications with Larry Sunsky?

A. Yes, I remember Larry Sunsky.

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Q. What was Mr. Sunsky's position, as best you recall?

A. I do not remember an exact title, but he was the gentleman who was in charge of the crew that was installing two gas turbine compressor setups at Danville.

Q. Danville, what state?

A. I think it's Kentucky.

Q. And you had occasion to communicate with Mr. Sunsky, as best you recall?

A. My recollection here is that I visited the location and met Mr. Sunsky face to face, and he's a man you don't forget easily.

Q. Why is that?

A. Huge, friendly, and extremely competent.

Q. Just to see if we're talking about the same thing, was your visit to Danville the same visit which you described in your testimony of a few moments ago where you visited a location where there were diesel compressors and turbine compressor?

A. I do not remember that. I do not

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remember what else was at the station. I know that the two turbines that I was looking at were there.

Q. I understand. I was just trying to determine if your visit to Danville was another visit to a Texas Eastern location or the same one that you described earlier.

A. I am certain it was another one.

Q. And the purpose for your visiting the Danville installation, or location?

A. New equipment was being installed, and it was to be charged with fire-resistant lubricant, and I was down to see what was going on and lend any advice that I could.

Q. When you used the word "charged" in your last answer, do you mean to say loaded, that the turbine compressor was loaded with a Monsanto fluid, a lubricating oil?

A. The definition of "charged" we generally use to mean to fill the equipment, the reservoir plus the necessary operating lines, with the material.

Q. Okay, so "charge," as you use that term in your answer, is, equates with to

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fill.

A. Yes.

Q. Okay. Was either of the units started in your presence?

A. I don't remember the -- I don't, don't know.

Q. Do you have a recollection of Mr. Sunsky communicating with you with respect to the status of the turbines for which he had responsibility?

A. No.

Q. Let me show you a document which we'll ask the court reporter to mark as the next exhibit, number 677, and that one-page letter, dated December 11th, 1961, to Mr. L. J. Sunsky of Texas Eastern Transmission Corporation in Danville, Kentucky, from Roger E. Hatton, Project Manager, Development Department, bears Texas Eastern production number TW2-2003906.

(Plaintiff's Deposition Exhibit 677 marked for identification.)

(Witness peruses said document.)

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BY MR. TALLON:

Q. I'm sorry, did you get a chance to read that, Doctor?

A. Yes.

Q. My specific question to you, Doctor, is whether your review of this letter, either in its entirety or particularly with respect to the last sentence of the last paragraph, refreshes your recollection in any respect as to whether or not Mr. Sunsky kept you informed on the status of the turbines for which he had responsibility.

A. I can't recall the meeting.

Q. Is this a letter that you sent to Mr. Sunsky?

A. Yes.

Q. Doctor, were you ever a member of the Fire Resistant Turbine Fluids Study Group?

A. Yes, sir.

Q. And was that a group, a subgroup of another organization?

A. I assume the group that you are -- that specific title was used for is a rather

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broad term, as well as a title. This particular one had to do with ASTM, I believe, which is the American Society of Testing and Materials.

Q. Do you recollect ever having been secretary of the fire resistant turbine fluid study group?

A. Yes.

Q. And was it part of your responsibility as secretary for that group to take notes at meetings and to prepare minutes?

A. Yes.

Q. Let me show you a document which we'll mark at this deposition as the next exhibit in order, number 678, document produced by Texas Eastern numbered 000907815 through 825, titled "Minutes of Meeting, Fire-Resistant Turbine Fluid Study Group, Atlantic City, New Jersey, June 25, 1963," signed by R. E. Hatton or indicating R. E. Hatton, Secretary, and R. G. Knight, Chairman, on page 7 of the minutes. For the record, there is attached to the minutes a document titled "Members Section 2 Technical

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Committee N" about which I will not question the witness, and we'll ask the court reporter to mark that.

(Plaintiff's Deposition Exhibit 678 marked for identification.)

MR. ZIMMER: Before he reviews this, is this a document that was produced by Texas Eastern that was not available at the time of this first deposition?

MR. TALLON: That's correct. This was withheld -- well, I don't know if you had it or not, but Texas Eastern withheld it until not long ago.

MR. ZIMMER: Well it has an Exhibit Number Hatton 12, 1-24-90, as having been used before.

MR. TALLON: It was used before as a deposition exhibit as Dr. Hatton's deposition in the Texas Eastern case.

MR. ZIMMER: Well, I'll just, not knowing the answer to my own question, I will object and move to strike any testimony generated about a document which had, indeed, been available at the time of his first

session.

MR. TALLON: For the record, the exhibit now marked as Exhibit 678 at this deposition was deemed by Texas Eastern to be a protected exhibit and not furnished to us under the terms of whatever confidentiality order they had in their case until somewhat recently. I don't know the precise date.

BY MR. TALLON:

Q. Doctor, were you the secretary for the meeting described in these minutes?

A. Yes.

Q. And did you author these minutes?

A. Yes.

Q. Do the minutes accurately reflect the presentations made at the meeting?

A. I cannot remember those presentations made at that time.

Q. There is a portion of the minutes which refers to a presentation by Ollie Fletcher of Texas Eastern.

A. Yes.

Q. Do you see that? Do you have any doubt that what's written with respect to that presentation accurately reflects the

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presentation of Mr. Fletcher?

MR. ZIMMER: Argumentative; calls for speculation.

BY MR. TALLON:

Q. Doctor, I'm not -- let me be clear for the record, I'm not attempting to trick you. This is a subject about which you testified in the Texas Eastern case, and I have a copy of a portion of your deposition transcript here which was recently produced to us by Texas Eastern, and I'm simply trying to make a record for this case. Do you recall being asked a question at that deposition, "Do you have any doubt that what's written here accurately reflects the presentation to Mr. Fletcher," and do you recall giving the answer, "No, it reflects what I heard at the time and what I would have reported as such"?

MR. ZIMMER: So the question is, does he recall being asked that question and giving that answer?

MR. TALLON: And giving that answer.

A. Yes.

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BY MR. TALLON:

Q. You do recall giving the answer?

A. Yes.

Q. And that if I asked you today, does the portion of the minutes relating to the presentation of Mr. Fletcher from Texas Eastern, is it accurately represented in the minutes, would your answer be the same?

A. To the best of my knowledge.

Q. Just for the record, Doctor, on page, the bottom of page 3 and the top of page 4, that's the section that refers to Mr. Fletcher's comments at the meeting?

A. How much did you want me to read?

Q. Well, I just wanted to establish for the record that Mr. Fletcher's comments under the caption -- are under the caption, "Use of fire-resistant fluids in gas turbines," which begins on page 3 and carries over to the top of page 4.

A. Yes.

Q. Okay, and those are the comments of Mr. Fletcher to which I referred in my questioning of a moment ago, asking you if those comments were accurately reflected in

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the minutes.

A. Yes.

Q. Is that what you understood me to refer to?

A. Yes.

Q. Do you have any recollection of having discussed with Mr. Fletcher or any other representative of Texas Eastern a seal system used by Texas Eastern which operated at about 1,000 pounds per square inch?

A. The seal system on the compressor shown me was indicated to operate at a thousand, from 700 to 1200 pounds per square inch.

Q. And can you describe the type of seal system shown to you?

A. It was a pressurized liquid seal.

Q. Just for the sake of clarity, when was that pressurized liquid seal system shown to you?

A. I don't recall the specific time it was shown to me.

Q. Do you recall the location of which that seal system was shown to you?

A. No.

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Q. Is it your understanding that the seal system shown to you that you do recollect was common to the turbine and compressor operations of Texas Eastern Transmission?

A. Yes.

Q. And when you are referring to a liquid seal system, are you referring to a seal system which employs or employed the Monsanto lubricating oil as part of the sealing?

A. Either, either the synthetic fluid or the hydrocarbon-based fluid that was used if the unit was not operating on fire-resistant fluids.

Q. If the unit was lubricated with a Monsanto product such as Turbinol 153, then the Turbinol 153 would be used or would be part of the liquid seal system?

A. Yes.

Q. And for the sake of clarity on the record, Doctor, you have -- you do not today recollect where or when you were shown that system?

A. I do not.

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Q. Was it your understanding, Doctor, that the liquid in that liquid seal system came into contact with the natural gas in the compressor unit?

A. Yes.

Q. Did you ever get copies of any papers delivered by Earl Farmer of Texas Eastern Transmission Corporation?

A. Yes, mm-hmm.

Q. Let me show you one particular paper and ask you whether you've ever seen that paper before, a paper titled "Fire Resistant Lubricants in Gas Turbines" by Earl P. Farmer, Jr., and it's produced by Texas Eastern under production number TW 1-0000313-000 through 326-000, the numbering system only decipherable by Covington & Burling, no doubt. I'll ask the court reporter to mark that as Exhibit 679, Doctor, and when he's done so, I'll ask you if you've seen this particular paper before.

(Plaintiff's Deposition Exhibit 679 marked for identification.)

(Witness peruses said

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document.)

BY MR. TALLON:

Q. The pending question, Doctor, after you've had sufficient opportunity to review Exhibit 679, is whether you had seen this particular paper by Mr. Farmer before.

A. Yes, I have.

Q. On page 3 of the report, Doctor, in the first full paragraph, the report states that, "Besides meeting all requirements for satisfactory lubrication of the gas turbine and natural gas compressor rotating elements, those synthetics must also function as a seal oil in the gas compressor." Is that consistent with the description you were just giving me of your understanding of the seal oil mechanism?

A. Yes. Mm-hmm.

MR. TALLON: Okay, thank you.

MR. ZIMMER: Thank you, sir, for your time, Doctor.

(Whereupon, at 10:20 a.m., the deposition was concluded.)

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COMES NOW THE WITNESS, ROGER E. HATTON, and having read the foregoing transcript of the deposition taken on the 4th day of September, 1992, acknowledges by signature hereto that it is a true and accurate transcript of the testimony given on the date hereinabove mentioned.

_____

ROGER E. HATTON

Subscribed and sworn to before me this _____ day of _____, 1992.

My Commission expires: _____

_____

Notary Public

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STATE OF MISSOURI)
SS:)
CITY OF ST. LOUIS)

I J. Bryan Jordan, notary public in and for the State of Missouri, duly commissioned, qualified and authorized to administer oaths and to certify depositions, do hereby certify that pursuant to agreement in the civil cause now pending and undetermined in the Superior Court of the State of California, in and for the County of Los Angeles, to be used in the trial of said cause in said court, I was attended at the offices of Bryan, Cave, McPheeters & McRoberts, in the City of St. Louis, State of Missouri, by the aforesaid witness and by the aforesaid attorneys, on the 4th day of September, 1992.

The said witness, being of sound mind and being by me first carefully examined and duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the case aforesaid, thereupon testified as is shown in the foregoing transcript, said testimony being by me

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reported in shorthand and caused to be transcribed into typewriting, and that the foregoing pages correctly set forth the testimony of the aforementioned witness, together with the questions propounded by counsel and remarks and objections thereto, and is in all respects a full, true, correct and complete transcript of the questions propounded to and the answers given by said witness; that signature of the deponent was not waived by agreement of counsel.

I further certify that I am not of counsel or attorney for either of the parties to said suit, not related to nor interested in any of the parties or their attorneys.

Witness my hand and notarial seal at St. Louis, Missouri, this 6th day of October, 1992.

My commission expires July 20, 1994.

J. Bryan Jordan

J. Bryan Jordan

Notary Public in and for the

State of Missouri

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