

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL CIVIL WEST

ADELINO ACOSTA, et al.,)
)
Plaintiffs,)
)
v.) No. NC053643
)
SHELL OIL COMPANY, et al.,)
)
Defendants.)
_____)
)
AND RELATED CASES)
_____)

VOLUME I

VIDEOTAPED DEPOSITION OF GEORGE BACH

Date and Time: Thursday, March 7, 2013
10:22 a.m. - 3:37 p.m.

Location: 3161 Michelson Drive, Suite 1200
Irvine, California

Reporter: Kimberly Reichert, CSR
Certificate No. 10986

Job No. 2357

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FOR THE COUNTY OF LOS ANGELES - CENTRAL CIVIL WEST

ADELINO ACOSTA, et al.,)
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Plaintiffs,)
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SHELL OIL COMPANY, et al.,)
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Defendants.)

No. NC053643

AND RELATED CASES)
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Videotaped deposition of GEORGE BACH,
Volume I, taken on behalf of the Defendants, at
3161 Michelson Drive, Suite 1200, Irvine, California
commencing at 10:22 a.m., Thursday, March 7, 2013
before Kimberly Reichert, Certified Shorthand
Reporter No. 10986.

11:54:04 1 see the roof kind of rising above that?

2 A Yes.

3 Q By the way, this -- this wall, what -- was
4 it just soft dirt or what was on the outside of it,
11:54:17 5 the -- when you're talking about the berm that went
6 all the way around the reservoir?

7 A There was some kind of a protective
8 coating on it. It had just -- perhaps they had
9 sprayed oil on it. When I say "sprayed oil," oil --
11:54:31 10 we talk about like an asphalt -- light asphalt oil
11 to keep the dust down. It's not a lot of oil, but
12 it preserves it and keeps the dust from blowing off
13 and sort of gives it a little protection against
14 rainfall and all. It was a very light protective
11:54:47 15 coating on the thing, not heavy.

16 Oil is a term in the industry. We use it
17 for asphalt, we call it oil. The black stuff that
18 you spray down on the road and all. We call it road
19 oil.

11:55:11 20 Q Is asphalt the same thing as crude oil?

21 A No, it's not the same thing.

22 Q Does asphalt turn into crude oil if you --
23 in certain circumstances?

24 A No. Crude oil can be turned into asphalt,
11:55:26 25 but asphalt doesn't become crude oil.

13:55:58 1 grading in that area. We were making it possible
2 for the vacuum trucks to come in, maneuver around
3 and go on back out again.

4 Q When you say the "swing box," there was --
13:56:10 5 describe for me what you had found in that area.

6 A When we first got into that area -- and
7 it's sort of really bright white there, you can see,
8 right next to the darker area.

9 Q Uh-huh.

13:56:25 10 A There -- there was a concrete box in the
11 ground. And it was probably 10 by 15, some fairly
12 good-size box. Pipes came in from the side of it,
13 from the tank, and the other pipes went out to the
14 south. And that's where that swing valve or that
13:56:46 15 swing box pipe was in there so we could switch it --
16 they could switch it back and forth.

17 Now, that pipe was gone, but the pipes
18 coming in were there and the box was there. And
19 being a concrete box, there was a little bit of mud
13:57:00 20 on the bottom of it. So we took all of that stuff
21 out of there and disposed of it.

22 Q Okay. I'm just trying to understand it.

23 So you had a -- you had a concrete box
24 that was in the ground; is that right?

13:57:13 25 A Yes.

14:17:51 1 A So that there was enough depth for the
2 vacuum, for the heater and for the vacuum truck to
3 pick it up.

4 Q I see. But what happened after your
14:18:24 5 sand -- did they sometimes use soil in the sand,
6 too? Was that -- to make this berm to push the
7 water and the oil?

8 A Well, it was the on-site soil, sand. And
9 if you look, it often describes the soil as sandy.
14:18:39 10 And it was that sandy material that we made the dike
11 out of. We picked some of that up there. We didn't
12 want to use the clay material because it wouldn't
13 really -- you couldn't roll it over like you could
14 sand.

14:18:51 15 Q I see. And what happened to the sand and
16 clayey material after you were done cleaning out the
17 liquids?

18 A That was the final cleanup and that all
19 went to the dump.

14:19:06 20 Q So that went the way of the saturated
21 soils?

22 A Yes, with the final cleanup it all went.

23 Q I see.

24 MR. LOEWEN: I'm going to ask the court
14:20:01 25 reporter to mark as -- Exhibit 8?

14:20:04 1 THE REPORTER: Yes.

2 MR. LOEWEN: -- a letter from Barclay Hollander
3 to Shell Oil Company dated April 4, 1966, SOC 0092
4 through 0093.

14:20:14 5 After the court reporter marks it, I'd
6 like you to have a look at it, please.

7 (Defendants' Exhibit 8 was marked for
8 identification by the deposition officer and is
9 bound under separate cover.)

14:20:31 10 MR. LOEWEN: I'll tell you what, why don't we
11 take a break before we get into this, too. I'm
12 getting kind of tired myself.

13 THE VIDEOGRAPHER: We're going off the record.
14 The time is 2:20 p.m.

14:20:39 15 (A recess was taken from 2:20 p.m. to
16 2:40 p.m.)

17 THE VIDEOGRAPHER: We are back on the record.
18 The time is 2:40 p.m.

19 MR. LOEWEN: Back on the record.

14:41:01 20 Q You're still under oath. Do you
21 understand that?

22 A Yes, sir.

23 Q I wanted to back up just on one thing
24 before we get going on this series of exhibits.

14:41:13 25 A minute ago we talked about the stockpile

14:41:16 1 that had oil and things that went off-site.

2 Do you remember that discussion?

3 A Yes, I said that.

4 Q Okay. And you talked about that you had
14:41:31 5 seen oil-saturated soil that went off-site; correct?

6 A Yes.

7 Q And -- and you saw that in the location of
8 the swing pipe area that you described for us?

9 MR. SCHRADER: Objection; I think that
14:41:50 10 misstates his testimony and is leading.

11 MR. LOEWEN: It is leading. So if you don't
12 want me to do it that fast, let me just ask you to
13 restate it for me.

14 Q Explain to me the occasion on which you
14:42:04 15 saw the oil-saturated soil at the site.

16 A Okay. The stockpile, original stockpile
17 started when we dug out the swing pit. We took the
18 concrete out. The soil around there was moist,
19 gooey mud. It was -- it was not necessarily oil,
14:42:31 20 there was some oil in there because where the pipes
21 came out of the ground there was oil in the pipes.
22 When they took this stuff apart, the oil would run
23 out of the pipes. It was there, but not a lot.

24 Q So let me interrupt you for a second.

14:42:46 25 So whatever oil was in the soil, you're

14:42:48 1 saying that came from residual oil that was in the
2 pipes?

3 A Yes.

4 MR. SCHRADER: Objection; leading.

14:42:53 5 I was liking his answer better than the
6 leading question.

7 MR. LOEWEN: Well, I'm clarifying. This is
8 okay.

9 Q So is that what you're telling me?

14:43:03 10 A The oil that was there came out of the
11 pipes. When we took -- the pipes came out, the oil
12 went into the pit. And when they -- probably when
13 they took the original mechanical stuff out, they
14 might have even -- some of it went into the pit, but
14:43:15 15 that's why the pit was there, to catch that stuff.
16 Okay.

17 So we had -- we started a stockpile for
18 that material and the material around there. Then
19 if somewhere else on the site if they picked up a
14:43:31 20 pipe and there was some oil in it, that went into
21 that thing. I did not see that. I just saw the
22 results of it, but there was never any oil or oil
23 material left on the site. Anything that had that
24 was picked up and put in this thing.

14:43:47 25 It became a trash pile you might even

14:43:48 1 think. It started out as a stockpile of oil, but
2 then anything that was -- they thought was
3 contaminated in any way went into that pile. It was
4 a cleanup area and ultimately we took it all away,
14:44:02 5 but the only thing that I personally saw them do was
6 take the material out of the pit. But then I saw
7 where there were -- other material had been put in
8 there, which was cleanup material.

9 Q And the cleanup material could be what?
14:44:15 10 What sort of material would go -- what sort of other
11 material would go into this pile?

12 A It was anything. It could have been some
13 rebar, it could have been the filters when they
14 changed -- when they maintained the diesel engines
14:44:31 15 at night, there would be filters. They went into
16 that. Anything, you know -- say they put oil into
17 one of the diesel engines and they had oil cans, you
18 know, into it. It was a trash pile.

19 Q Okay. And -- and so when you talked about
14:44:49 20 what you had heard about other people seeing and
21 disposing of oil-saturated soil, was that based upon
22 actual knowledge of any particular incident of
23 oil-saturated soil?

24 A No, not that I saw. No, I just know that
14:45:10 25 things kept winding up in the pile. Not a lot, but

15:03:10 1 like you to have a look at it, please.

2 (Defendants' Exhibit 12 was marked
3 for identification by the deposition officer and is
4 bound under separate cover.)

15:03:25 5 BY MR. LOEWEN:

6 Q This -- in the second paragraph it says,
7 "All of the oil has been removed from the
8 reservoirs."

9 Is that your recollection, that by the
15:04:03 10 middle of August all the oil had been removed from
11 all three of the reservoirs by that date?

12 A Yes, it is.

13 Q Tell us what you remember about your first
14 visit to the No. 7 reservoir immediately after -- on
15:04:34 15 the first day after the final liquids had been
16 removed.

17 A After the final liquids had been removed,
18 we were able to go down in seven -- and, in fact, we
19 were in seven -- and you could walk around, drive
15:04:48 20 around. It was just relatively clean. There was
21 no -- you know, there was nothing there. Like I
22 said, I walked all over the place and had no problem
23 with it at all. Nothing stuck to my shoe, nothing.

24 Q Was there residual oil around?

15:05:14 25 A No. Lee had cleaned it up really well.

15:05:18 1 He picked up everything he possibly could and it was
2 clean.

3 Q To the best of your knowledge, was there
4 any significant quantity of liquid discharged into
15:05:30 5 the environment at the site from any of the three
6 reservoirs after Barclay took over the site?

7 MR. SCHRADER: Objection; lacks personal
8 knowledge, calls for speculation.

9 MR. FINNERTY: Join.

15:05:41 10 THE WITNESS: No.

11 BY MR. LOEWEN:

12 Q And where did the liquids that were in the
13 tanks at the time that you arrived go after you
14 arrived there?

15:05:54 15 MR. FINNERTY: No foundation.

16 THE WITNESS: The only liquid that was in any
17 of the tanks when I arrived there was in seven. And
18 all of that material had been picked up with a
19 vacuum truck and exported. And seven had been
15:06:09 20 cleaned out.

21 BY MR. LOEWEN:

22 Q And where did it -- where was it exported
23 to?

24 A It went to the Montebello class A dump,
15:06:15 25 Agajanian Montebello dump.

15:16:53 1 reservoir.

2 Q Was there sufficient volume in the berms,
3 in the soil in the berms to fill up the former tanks
4 or reservoirs?

15:17:07 5 A There should be, yes.

6 Q Well, was there when you finished?

7 A Yes.

8 Q Did you bring any fill soil in from
9 off-site in order to complete this project?

15:17:21 10 A No, we did not bring -- we didn't import
11 any material.

12 Q So it was a complete balance by the time
13 you were done?

14 A Yes, it balanced out.

15:17:33 15 Q At some point you did take some soil
16 off-site?

17 A Yes.

18 Q So it wasn't a complete balance in that
19 sense?

15:17:39 20 A Well, no, not in that sense, but we had
21 enough when we were done that we could complete the
22 grading, even allowing for what we exported.

23 Q Was the soil -- based on your observation,
24 as you took the soil from the berms and brought it
15:18:17 25 down to become fill soil, did you observe oil in the

15:18:24 1 berms?

2 A No.

3 Q That was clean?

4 A Yes.

15:18:47 5 Q If you look at the second-to-last
6 paragraph on the first page of this exhibit --
7 what's the exhibit number again, five?

8 A Five.

9 Q Exhibit 5. The last sentence says, "Work
15:19:07 10 is underway at the present time to waste from the
11 site the water and sludge present in the
12 reservoirs." And this is plural. So that was
13 suggesting there was liquids in more than one
14 reservoir as of the time of this -- of this report.

15:19:28 15 Do you have some explanation for that?
16 Why that's different than what you were just saying?

17 MR. SCHRADER: Objection; leading, calls for
18 speculation.

19 THE WITNESS: No, I have -- I have no knowledge
15:19:40 20 about why he -- why it was worded that way.

21 The only reservoir that had anything in it
22 was seven.

23 BY MR. LOEWEN:

24 Q The last -- if you turn the page to
15:20:29 25 page 2, the last sentence before the heading "Field

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DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

I, Kimberly C. Reichert, hereby certify:

I am a duly qualified Certified Shorthand Reporter in the State of California, holder of Certificate Number CSR 10986, issued by the Court Reporters Board of California and which is in full force and effect. (Bus, & Prof. 8016.)

I am not financially interested in this action and am not a relative or employee of any attorney of the parties, or of any of the parties. (Civ. Proc. 2025.320 (a); 2025.540(a))

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the deponent was first duly sworn by me. (Civ. Proc. 2025.320, 2025.540(a))

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a true record of the testimony given. (Civ. Proc. 2025.540(a))

I have not, and shall not, offer or provide

1 any services or products to any party's attorney or
2 third party who is financing all or part of the action
3 without first offering same to all parties or their
4 attorneys attending the deposition and making same
5 available at the same time to all parties or their
6 attorneys. (Civ. Proc. 2025.320 (b))

7 I shall not provide any service or product
8 consisting of the deposition officer's notations or
9 comments regarding the demeanor of any witness,
10 attorney, or party present at the deposition to any
11 party or any party's attorney or third party who is
12 financing all or part of the action, nor shall I collect
13 any personal identifying information about the witness
14 as a service or product to be provided to any party or
15 third party who is financing all or part of the action.
16 (Civ. Proc. 2025.320(c))

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18 Dated: March 18, 2013.

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KIMBERLY C. REICHERT

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VOLUME II

VIDEOTAPED DEPOSITION OF GEORGE BACH

Date and time: Monday, March 11, 2013
10:40 a.m. - 4:59 p.m.

Location: 3161 Michelson Drive, Suite 1200
Irvine, California

Reporter: Kimberly Reichert, CSR
Certificate No. 10986

Job No. 2362

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Videotaped deposition of GEORGE BACH,
Volume II, taken on behalf of the Defendants, at
3161 Michelson Drive, Suite 1200, Irvine,
California, commencing at 10:40 a.m., Monday, March
11, 2013 before Kimberly Reichert, Certified
Shorthand Reporter No. 10986.

11:29:15 1 investigations should be undertaken to determine
2 whether there was greater contamination deeper down?

3 A No. As we went deeper, the staining and
4 the smell dissipated and nobody suggested or
11:29:38 5 required that we go any deeper than that.

6 MR. FINNERTY: Move to strike, foundation.

7 BY MR. LOEWEN:

8 Q Except for the analysis and information
9 provided by Pacific Soils Engineering in this report
11:30:43 10 plus whatever they told you, did you have any other
11 source of information about oil under the slabs of
12 the reservoirs?

13 A No, not that I can recall. This was
14 pretty much the extent of it.

11:31:23 15 Q When you were -- when Mr. Vollmer's crews
16 were ripping the floors of the reservoirs, were you
17 able to see the dirt underneath and see whether
18 there was oil in the dirt underneath?

19 A In the trenches, yes, we could, uh-huh.

11:31:46 20 Q You could see dirt underneath?

21 A No, we could see -- well, the dirt -- as
22 he ripped it, the dirt came up with the concrete.
23 There would be a certain amount of turnover from the
24 ripper tooth.

11:31:57 25 Q And did you see oil in it?

11:31:59 1 A No, I never did.
2 MR. LOEWEN: Why don't we take a break.
3 THE VIDEOGRAPHER: We're going off the record.
4 The time is 11:32 a.m.
11:32:24 5 (A recess was taken from 11:32 a.m.
6 to 11:53 a.m.)
7 THE VIDEOGRAPHER: We are back on the record.
8 The time is 11:53 a.m.
9 BY MR. LOEWEN:
11:53:41 10 Q We're back on the record and you're still
11 under oath.
12 Do you understand that?
13 A Yes, I do.
14 Q While you were working on the Carousel
11:53:47 15 project, did the subject of the oil stains below the
16 slab ever come up in a context other than
17 permeability and drainage?
18 A No, not that I recall.
19 Q Did the soils engineers explore the soil
11:54:08 20 beneath the slabs in the other two tanks?
21 A To the best of my knowledge, yes. I think
22 there's borings in the other tanks somewhere.
23 Q Did they -- did they find oil stains
24 there, too?
11:54:23 25 MR. SCHRADER: Object to the extent it may lack

15:11:06 1 A After we graded it? No, because that's
2 not -- that's not what was there. We -- in other
3 words, from my -- from my standpoint, we did not
4 leave petroleum product on the property.

15:11:23 5 Q Is it your testimony that all of the soil
6 that was contaminated by petroleum product was
7 removed from the property?

8 A All of the product -- all of the soil that
9 had what we considered, I considered to be
15:11:38 10 contaminated with petroleum was exported from the
11 property.

12 Q Okay. And to where did you export that
13 soil?

14 A The Montebello -- Agajanian's Montebello
15:11:47 15 dump.

16 Q And have you ever made an attempt to
17 determine whether or not there are actual records of
18 that excavation and dumping of soil?

19 A No.

15:12:00 20 Q Have you asked anyone that was associated
21 with that development whether or not there were
22 actually any records that exist to support your
23 belief that the contaminated soil was removed from
24 the property?

15:12:12 25 A No.

16:13:22 1 pipe later when we moved over to the grading
2 operations. So we took it out -- whatever was in
3 our way today, we got it out of the way so we could
4 continue to work.

16:13:30 5 Q Yeah, and what -- I guess what I'm trying
6 to understand is in that process sometimes there
7 would be some oil that would spill out?

8 A Some that was left in the pipe, yeah.

9 Q Right.

16:13:36 10 A When you picked it up, it would drain out,
11 uh-huh.

12 Q And was there an effort to remove all of
13 that soil, some of it, or what was the process as
14 you understood it?

16:13:45 15 A Pretty much all of it.

16 Q Was there any left behind from those sorts
17 of spills?

18 A Not that I know of.

16:13:54 19 Q Can you say one way or another whether
20 there was any left?

21 A No, I can't because I wasn't there all the
22 time, but I don't know of any case where it was.

23 Q Okay. Now, let's take a look at
24 Exhibit 20, please, which is the March 11, 1966
16:14:15 25 Pacific Soils report.

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DEPOSITION OFFICER'S CERTIFICATE

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COUNTY OF ORANGE)

I, Kimberly C. Reichert, hereby certify:

I am a duly qualified Certified Shorthand Reporter in the State of California, holder of Certificate Number CSR 10986, issued by the Court Reporters Board of California and which is in full force and effect. (Bus, & Prof. 8016.)

I am not financially interested in this action and am not a relative or employee of any attorney of the parties, or of any of the parties. (Civ. Proc. 2025.320 (a); 2025.540(a))

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the deponent was first duly sworn by me. (Civ. Proc. 2025.320, 2025.540(a))

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a true record of the testimony given. (Civ. Proc. 2025.540(a))

I have not, and shall not, offer or provide

1 any services or products to any party's attorney or
2 third party who is financing all or part of the action
3 without first offering same to all parties or their
4 attorneys attending the deposition and making same
5 available at the same time to all parties or their
6 attorneys. (Civ. Proc. 2025.320 (b))

7 I shall not provide any service or product
8 consisting of the deposition officer's notations or
9 comments regarding the demeanor of any witness,
10 attorney, or party present at the deposition to any
11 party or any party's attorney or third party who is
12 financing all or part of the action, nor shall I collect
13 any personal identifying information about the witness
14 as a service or product to be provided to any party or
15 third party who is financing all or part of the action.
16 (Civ. Proc. 2025.320(c))

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18 Dated: March 19, 2013.

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KIMBERLY C. REICHERT

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