

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ADELINO ACOSTA, et al.,)

)

Plaintiffs,)

)

vs.)

)

SHELL OIL COMPANY, et al.,)

)

Defendants.)

)

)

AND RELATED CASES.)

)

**CERTIFIED
COPY**

No. NC053643

DEPOSITION OF NICHOLAS CHEREMISINOFF, Ph.D.

Los Angeles, California

Friday, May 16, 2014

Volume 2

Reported by:

TRISHA WIENER

CA CSR No. 13576

JOB No. 305132

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Videotaped Deposition of
NICHOLAS CHEREMISINOFF, Ph.D.,
Volume 2, pages 236 through 477,
taken on behalf of Defendants, at
1126 Wilshire Boulevard, Los Angeles,
California, beginning at 9:35 a.m.
and ending at 5:05 p.m. on Friday,
May 16, 2014, before TRISHA WIENER,
California Certified Shorthand
Reporter No. 13576.

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Also Present:

ALEX KLYUSNER, Videographer

ROBERT BOWCOCK

1 Knowledge, knowledge of a release.

2 Q Knowledge of a release anywhere or knowledge
3 of a release that's impacting water?

4 A Yes, impacting water. Yes.

01:38 5 Q And I know you said something about this
6 before, but what's your evidence that Barclay had
7 knowledge of a release that was impacting water?

8 A They didn't confirm or take any measurements
9 of groundwater quality, but they had sufficient
01:38 10 evidence to show that soil had been impacted down to
11 25 feet. They didn't go beyond that 25 feet. That
12 would have triggered a logical action on their part,
13 in my opinion, to investigate whether or not the
14 groundwater had been impacted.

01:39 15 Q How deep is groundwater in the area of the
16 Kast property?

17 A I looked at that at one point. It
18 fluctuates. It can go anywhere from 24 to 40 feet.

19 THE REPORTER: You said 40?

01:39 20 THE WITNESS: 40. Over 40 feet, yeah.

21 BY MR. SELEY:

22 Q And when you say that Barclay had sufficient
23 evidence to show that soil had been impacted down to
24 25 feet, you're talking about the boring logs?

01:39 25 A Yes, yes, yes. That's the only evidence

1 I've ever seen except later days, you know, more
2 recent.

3 Q We're talking about the 1960s.

4 A Yes, correct.

01:39 5 Q The boring logs are the only evidence that
6 you've seen that they had knowledge that soil impacts
7 down to 25 feet?

8 A Yes.

9 Q Did you read the entire Dickey Act when you
01:40 10 were trying to determine if Barclay had violated it?

11 A I don't recall. I looked at the act.
12 I looked at what the principal requirements were.
13 There's some permitting issues and notification
14 issues. That's what I focused on.

01:40 15 Q Did you look at the definition section?

16 A I looked at the definition section, yeah.

17 Q Did you determine that Barclay was a
18 discharger under the Dickey Act?

19 A I determined that Shell was a discharger and
01:40 20 that -- I wouldn't view Barclay as a discharger.
21 I don't think that's a reasonable interpretation.

22 Q Are you aware of any --

23 MR. SCHRADER: Hold on one second. I'm going to
24 move to strike part of that answer with respect to
01:41 25 Shell as nonresponsive and providing a legal

1 conclusion.

2 MR. SELEY: Bob, you have a ruling on that?

3 MR. FINNERTY: Denied.

4 MR. SELEY: Okay. All right.

01:41 5 MR. SCHRADER: I didn't feel --

6 You hadn't asked that question.

7 BY MR. SELEY:

8 Q Can you name any housing developer in
9 Southern California in the 1960s who was found to
01:41 10 violate the Dickey Act under circumstances similar to
11 the circumstances in this case?

12 A I didn't look at -- no, I didn't look at any
13 compliance, historical compliance records.

14 Q All right. Are you aware of any article or
01:41 15 treatise or case that discusses a situation where a
16 housing developer was held liable for violating the
17 Dickey Act based on their removal of oil storage
18 tanks or grading of property involving oil-stained
19 soil?

01:42 20 A No, I didn't do that kind of research.

21 Q So your conclusion that Barclay violated the
22 Dickey Act was based on your reading of the act?

23 A The definitions of the act, the
24 applicability of the act. You know, I'm not calling
01:42 25 a legal interpretation. I'm not an attorney, but as

