

130 Cal.App.4th 69, 29 Cal.Rptr.3d 343, 35 Envtl. L. Rep. 20,114, 05 Cal. Daily Op. Serv. 4986, 2005 Daily Journal D.A.R. 6797

(Cite as: 130 Cal.App.4th 69, 29 Cal.Rptr.3d 343)

erty.”

[9] Shell's position is that though “benefits obtained” is not defined, “its plain meaning suggests that the provision acts as a disgorgement remedy forcing trespassers to give up wrongly obtained profits that accrue to the trespasser as a direct result of his or her wrongful trespass.” In counterpoint, Watson contends that a benefit is obtained by any polluter who keeps money that it should have spent remediating**350 the trespass. In our view, Shell is correct. “Benefits” are not “obtained” by reason of a wrongful occupation unless the trespass itself provided the trespasser with a financial or business advantage.

We start with the plain meaning of the statute. The word “benefits” connotes something that is advantageous, and the benefits contemplated by the statute must be obtained by reason of the wrongful occupation. In other words, a trespass must result in something advantageous for the trespasser or it does not qualify as a benefit for purposes of the statute. Here, the question is whether Shell's pipeline leakage and the resulting contamination of Watson's land can be considered something advantageous for Shell. We think *78 not. Not only did the gasoline leakage result in a loss of product for Shell, but it meant that pipelines either had to be repaired or abandoned and replaced by different pipelines at substantial cost.

We reject the notion that “benefits” include the avoidance of remediation costs. “The value of the use” is a separate component of damages from “the reasonable cost of repair or restoration of the property to its original condition.” Remediation costs fall within the umbrella of the “reasonable cost of repair or restoration.” If “benefits” included the cost of remediation (and the value of the use of the money saved, as Watson suggests), then the language permitting recovery of “the reasonable cost of repair or restoration” would be surplusage. (Civ.Code, § 3334, subd. (a).)

According to Watson, “[Civil Code] section 3334 was amended to eliminate the incentive to trespass, including as only one example defendants who dumped toxic waste on worthless desert properties to avoid the proper disposal costs. Obviously, those toxic dumpers did not generate a ‘direct profit’ dumping the waste—they simply avoided a cost thereby increasing their net profits. That is exactly

what Shell did here. The value to Shell of the cleanup costs it never spent is many times the amount of the cleanup costs.” This analogy fails. A polluter who dumps toxic waste in the desert instead of paying to properly dispose of toxic waste gains the financial advantage of getting either free disposal or cheaper disposal. No such financial advantage accrues to the owner of a leaking pipeline, at least insofar as the owner was not using the leak to effectuate disposal or to obtain some other financial gain separate from the failure to remediate the trespass.^{FN16} In the absence of an advantage, there is no need to impose a special disincentive to trespass.

FN16. Watson does not attribute any such intent to Shell.

Our interpretation is in harmony with the salutary purpose of the 1992 amendment that introduced the “benefits obtained” measure of damages to Civil Code section 3334.

The origins of the amendment can be found in resolution No. 5-9-91, which was passed by the Conference of Delegates of the State Bar of California in the summer of 1991. In writing to the legislative counsel for the State Bar, the resolution's author explained that the resolution “provides a definition for the ‘value of the use’ which eliminates Section 3334's economic incentive to dump” toxic waste when the rental value is cheaper than the cost of disposal. “The ‘value of the use’ would be ‘the greater of the reasonable rental value or the benefits obtained by the trespasser by reason of the trespass.’ The measure of damages would take into account the benefit obtained by the trespass—the cost saved by not properly disposing the pollutants.”

**351*79 Those connected to Assembly Bill No. 2663 (1991-1992 Reg. Sess.), the bill prompted by resolution No. 5-9-91 and sponsored by the State Bar to amend Civil Code section 3334, discussed the purpose of the bill in a variety of ways and used the following language: (1) “trespassers [have] earned significant business revenue (benefits) from using the land to dispose of toxic wastes” (Amelia V. Stewart, legis. representative of State Bar of Cal., letter of support for Assembly Bill No. 2663 to Assemblyman Phillip Isenberg, Chair of the Assembly Judiciary Com., Mar. 19, 1992); (2) “potential polluters would be required to disgorge the benefits obtained from

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any such wrongful occupation" (Michael D. Schwartz, letter of support for Assembly Bill No. 2663 to Amelia V. Stewart, legis. representative of State Bar of Cal., Mar. 20, 1992); (3) "the law should be clear that the damages recoverable in such cases is the economic benefit to the trespasser, if that is the greater value" (Assem. Com. on Judiciary, Analysis of Assem. Bill No. 2663 (1991-1992 Reg. Sess.); (4) "the law should encourage proper disposal of toxic wastes. [¶] By statutorily allowing recovery of 'the benefits (profits) obtained by the occupier by reason of trespass,' courts in trespass actions will have the discretion to assess damages comparable to the benefit to the wrongful trespasser that is dumping toxic wastes" (Assem. Com. on Judiciary, 3d reading analysis of Assem. Bill No. 2663 (1991-1992 Reg. Sess.)); (5) "in some cases trespassers find it to their advantage to intentionally use another's land, reap large benefits for that act, and then pay a relatively small amount of damages for the trespass" and that "polluters may find it cheaper to dump the waste on someone else's desert land and pay relatively minor damages for that trespass, than to pay the fees for the proper disposal of the waste" (Sen. Com. on Judiciary, comment on Assem. Bill No. 2663 (1991-1992 Reg. Sess.), as amended May 27, 1992, p. 2).

[10] This history demonstrates that the legislature intended to eliminate financial incentives for trespass by eradicating the benefit associated with the wrongful use of another's land. This intent would not be furthered by applying the "benefits obtained" measure of damages to a trespass for which there was no financial or business advantage. In such a case, a plaintiff is limited to recovering under the other measures of damages contemplated by the statute, i.e., the reasonable rental value of the property and the cost of restoration and recovery. Thus, the \$14,275,237 "benefits" damages awarded by the jury must be reversed.

WATSON'S CROSS-APPEAL^{FN***}

^{FN***} See footnote *, *ante*.

***80DISPOSITION**

The damages are reduced to \$3,915,851. As modified, the judgment is affirmed. The parties shall bear their costs on appeal.

We concur: DOI TODD, Acting P.J., and NOTT, J.^{FN†}

FN† Retired Associate Justice of the Court of Appeal, Second Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Cal.App. 2 Dist., 2005.

Watson Land Co. v. Shell Oil Co.

130 Cal.App.4th 69, 29 Cal.Rptr.3d 343, 35 Envtl. L. Rep. 20,114, 05 Cal. Daily Op. Serv. 4986, 2005 Daily Journal D.A.R. 6797

END OF DOCUMENT

GENERAL AREA AROUND THE WATSON CENTER

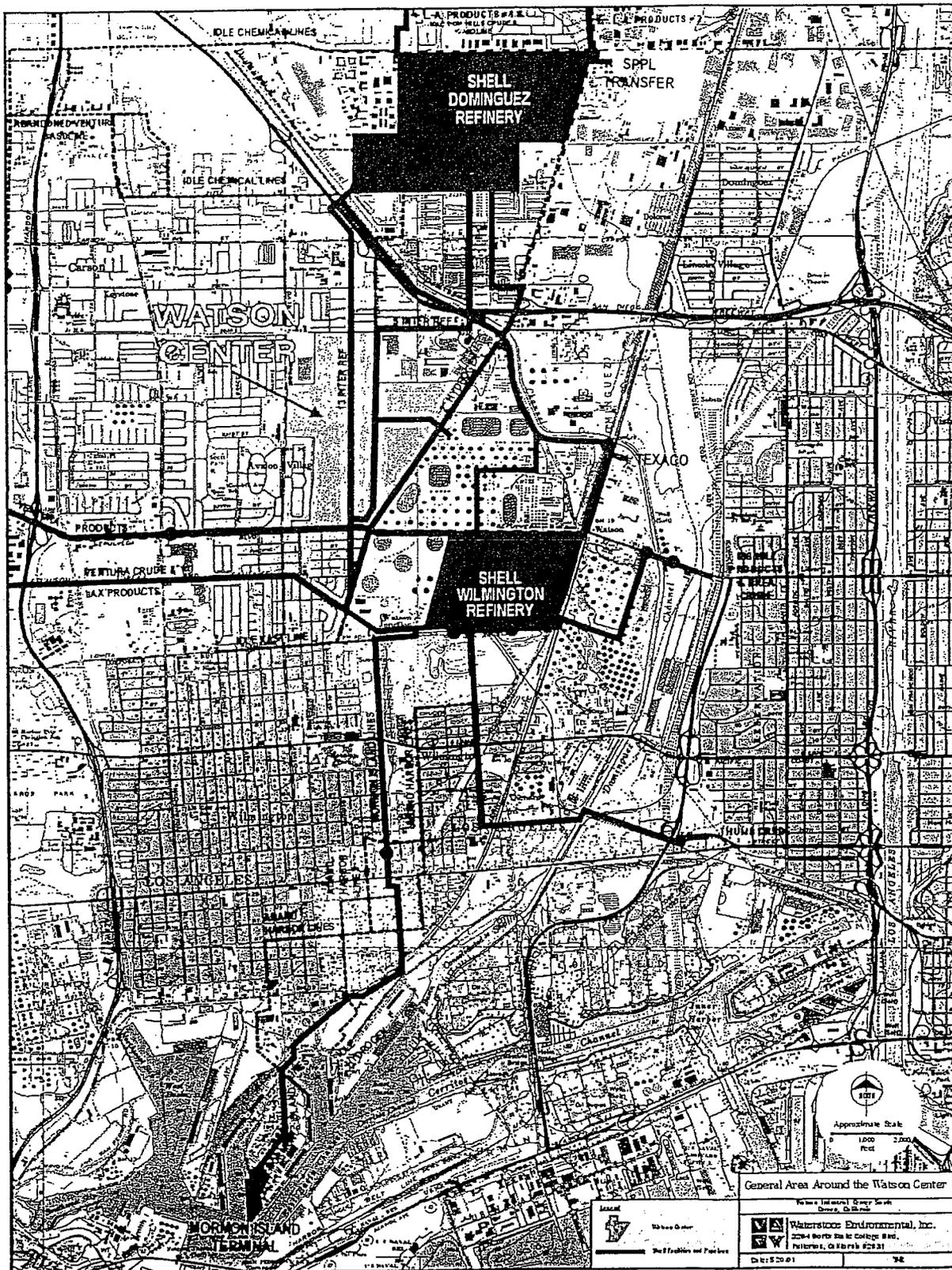


EXHIBIT H

WATSON CENTER PLOT PLAN

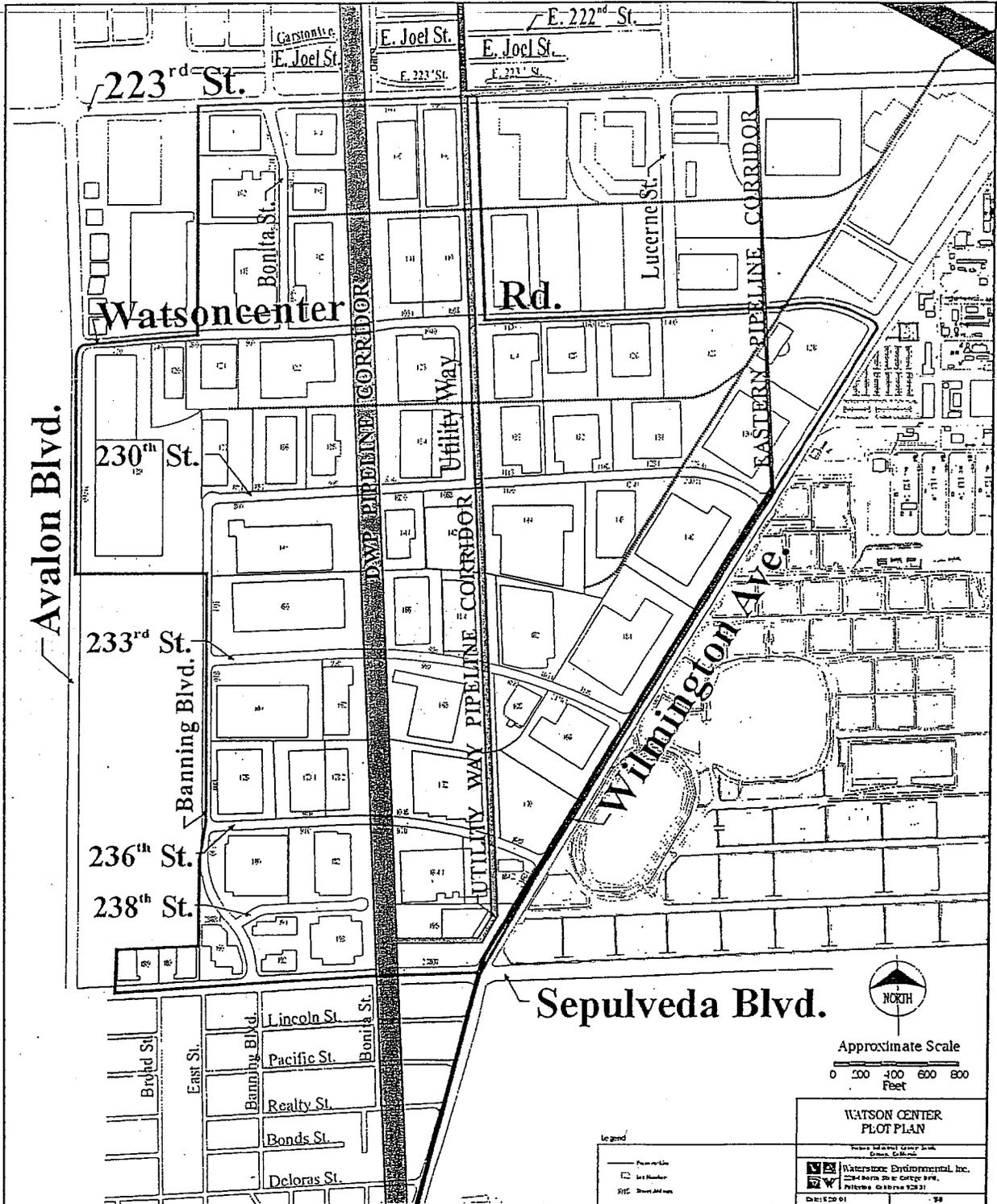


EXHIBIT I

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4 Glendale, CA 91203-2620
5 Telephone: (818) 242-4700
6 Facsimile: (818) 242-9255

7 Attorneys for Defendant and Cross-
8 Defendant SHELL OIL COMPANY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF LOS ANGELES
11 CENTRAL CIVIL WEST COURTHOUSE

12 WATSON LAND COMPANY, a California
13 corporation,

14 Plaintiff,

15 v.

16 ATLANTIC RICHFIELD COMPANY, a
17 Pennsylvania corporation; GEORGE
18 PEARSON, an individual dba G&M OIL
19 COMPANY, INC., a California
20 corporation; TEXACO REFINING AND
21 MARKETING, INC., a Delaware
22 corporation; TRMI HOLDINGS, INC., a
23 Delaware corporation; REMEDIATIONS
24 CAPITAL CORPORATION, a Nevada
25 corporation; MONSANTO CHEMICAL
26 COMPANY, a Delaware corporation;
27 STAUFFER MANAGEMENT COMPANY,
28 a Delaware corporation; RHÔNE-
POLENC BASIC CHEMICALS
COMPANY, a Delaware corporation;
SHELL OIL COMPANY, a Delaware
corporation; and DOES 1 through 200,
inclusive,

Defendants.

Case No. BC 150161

SHELL OIL COMPANY'S
RESPONSE TO WATSON LAND
COMPANY'S FIRST SET OF
REQUESTS FOR ADMISSIONS

Action Filed: May 16, 1996
Discovery Cut-off: January 12, 2001
Motion Cut-off: February 14, 2001
Trial Date: March 12, 2001

AND RELATED CROSS-ACTIONS.

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PROPOUNDING PARTY : PLAINTIFF and CROSS-DEFENDANT
WATSON LAND COMPANY

RESPONDING PARTY : DEFENDANT and CROSS-DEFENDANT
SHELL OIL COMPANY

SET NO. : ONE

Defendant SHELL OIL COMPANY's ("SHELL") responses hereinafter set forth are provided subject to each of the following reservations:

- (a) SHELL's investigation and discovery with regard to the subject matter of this litigation are not yet complete and are continuing; and
- (b) SHELL's responses are limited to the extent that it has, as yet, not completed its own independent investigation into the subject matter of this litigation; and
- (c) Although SHELL's responses to WATSON LAND COMPANY's ("WATSON") First Set of Requests for Admissions are complete to the extent of SHELL's knowledge based upon its review of its files and records to date, such responses are given without prejudice to SHELL's right to introduce other facts or information which SHELL may discover or upon which SHELL may subsequently come to rely at time of trial.

1 RESPONSES TO REQUESTS FOR ADMISSIONS NOS. 1-26

2 REQUEST FOR ADMISSION NO. 1:

3 SHELL constructed twelve new pipelines in the UTILITY WAY
4 CORRIDOR in 1965.

5 RESPONSE TO REQUEST FOR ADMISSION NO. 1:

6 Deny.

7 REQUEST FOR ADMISSION NO. 2:

8 The twelve new pipelines that SHELL constructed in the UTILITY WAY
9 CORRIDOR in 1965 were used as inter-refinery pipelines for SHELL's refinery in
10 Carson, California.

11 RESPONSE TO REQUEST FOR ADMISSION NO. 2:

12 Deny.

13 REQUEST FOR ADMISSION NO. 3:

14 The twelve new pipelines that SHELL constructed in the UTILITY WAY
15 CORRIDOR in 1965 were designed for a thirty-year life span.

16 RESPONSE TO REQUEST FOR ADMISSION NO. 3:

17 Deny.

18 REQUEST FOR ADMISSION NO. 4:

19 Prior to 1965, SHELL constructed six pipelines in the UTILITY WAY
20 CORRIDOR.

21 RESPONSE TO REQUEST FOR ADMISSION NO. 4:

22 Deny.

23 REQUEST FOR ADMISSION NO. 5:

24 At least four of the pipelines constructed by SHELL in the UTILITY WAY
25 CORRIDOR prior to 1965 were used as inter-refinery pipelines for SHELL's refinery in
26 Carson, California.

27 RESPONSE TO REQUEST FOR ADMISSION NO. 5:

28 Deny.

1 **REQUEST FOR ADMISSION NO. 6:**

2 A portion of SHELL'S VENTURA PRODUCTS LINE was located in the
3 UTILITY WAY CORRIDOR until sometime in the 1960's.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

5 Admit.

6 **REQUEST FOR ADMISSION NO. 7:**

7 Prior to 1965, SHELL had twelve inter-refinery pipelines for its refinery in
8 Carson, California located in the EASTERN CORRIDOR.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

10 Admit.

11 **REQUEST FOR ADMISSION NO. 8:**

12 In 1965, SHELL abandoned all of its inter-refinery pipelines for its refinery
13 in Carson, California located in the EASTERN CORRIDOR.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

15 Admit.

16 **REQUEST FOR ADMISSION NO. 9:**

17 SHELL constructed thirteen new pipelines in the DWP CORRIDOR in
18 1973.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

20 Admit.

21 **REQUEST FOR ADMISSION NO. 10:**

22 The thirteen new pipelines that SHELL constructed in the DWP
23 CORRIDOR in 1973 were used as inter-refinery pipelines for SHELL's refinery in
24 Carson, California.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

26 Admit.

27 **REQUEST FOR ADMISSION NO. 11:**

28 During the period between (a) SHELL's abandonment of the inter-refinery

1 pipelines in the EASTERN CORRIDOR in 1965 and (b) SHELL's construction of new
2 inter-refinery pipelines in the DWP CORRIDOR in 1973, all of SHELL's inter-refinery
3 pipelines for its refinery in Carson, California were located in the UTILITY WAY
4 CORRIDOR.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

6 Deny.

7 **REQUEST FOR ADMISSION NO. 12:**

8 After SHELL's completion of thirteen new pipelines in the DWP
9 CORRIDOR in 1973, SHELL never again used its inter-refinery pipelines within the
10 UTILITY WAY CORRIDOR, except for those pipelines identified as inter-refinery line
11 nos. 8 through 12.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

13 Admit.

14 **REQUEST FOR ADMISSION NO. 13:**

15 SHELL never conducted hydrostatic testing of its pipelines that were
16 located on the EASTERN CORRIDOR.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

18 Deny.

19 **REQUEST FOR ADMISSION NO. 14:**

20 SHELL never conducted hydrostatic testing of any of its pipelines located
21 in the UTILITY WAY CORRIDOR prior to 1982.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

23 Deny.

24 **REQUEST FOR ADMISSION NO. 15:**

25 SHELL never conducted hydrostatic testing of any of its pipelines located
26 in the DWP CORRIDOR prior to 1982.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

28 Deny.

1 REQUEST FOR ADMISSION NO. 16:

2 SHELL has never conducted a hydrostatic test of any idle pipeline within
3 the UTILITY WAY CORRIDOR.

4 RESPONSE TO REQUEST FOR ADMISSION NO. 16:

5 Deny.

6 REQUEST FOR ADMISSION NO. 17:

7 Motor gasoline that included lead additives was transported through one
8 or more of the SHELL pipelines in the UTILITY WAY CORRIDOR until 1973.

9 RESPONSE TO REQUEST FOR ADMISSION NO. 17:

10 Admit.

11 REQUEST FOR ADMISSION NO. 18:

12 Aviation gasoline that included lead additives was transported through
13 one or more of the SHELL pipelines in the UTILITY WAY CORRIDOR until 1973.

14 RESPONSE TO REQUEST FOR ADMISSION NO. 18:

15 Admit.

16 REQUEST FOR ADMISSION NO. 19:

17 Motor gasoline that included lead additives was transported through one
18 or more of SHELL's pipelines in the DWP CORRIDOR from 1973 until the
19 manufacturing of leaded gasoline ceased at SHELL's refinery in Carson, California.

20 RESPONSE TO REQUEST FOR ADMISSION NO. 19:

21 Admit.

22 REQUEST FOR ADMISSION NO. 20:

23 Aviation gasoline that included lead additives was transported through
24 one or more of SHELL's pipelines in the DWP CORRIDOR from 1973 until the
25 manufacturing of aviation gasoline ceased at SHELL's refinery in Carson, California.

26 RESPONSE TO REQUEST FOR ADMISSION NO. 20:

27 Admit.

28

1 **REQUEST FOR ADMISSION NO. 21:**

2 Excluding pipelines owned by utilities or by ARCO, SHELL currently owns
3 all of the pipelines within the UTILITY WAY CORRIDOR.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

5 Deny.

6 **REQUEST FOR ADMISSION NO. 22:**

7 Excluding pipelines owned by utilities or by GATX, SHELL currently owns
8 all of the pipelines in the DWP CORRIDOR.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

10 Deny.

11 **REQUEST FOR ADMISSION NO. 23:**

12 Prior to 1982, none of SHELL's inter-refinery pipelines for its refinery in
13 Carson, California was equipped with any type of leak detection device.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

15 Deny.

16 **REQUEST FOR ADMISSION NO. 24:**

17 SHELL has never sampled the soil in the EASTERN CORRIDOR to
18 analyze for the presence of petroleum hydrocarbons.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

20 Deny.

21 **REQUEST FOR ADMISSION NO. 25:**

22 SHELL has never sampled the soil in the UTILITY WAY CORRIDOR to
23 analyze for the presence of petroleum hydrocarbons.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

25 Deny.

26 **REQUEST FOR ADMISSION NO. 26:**

27 SHELL has never sampled the soil in the DWP CORRIDOR to analyze for
28 the presence of petroleum hydrocarbons.

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RESPONSE TO REQUEST FOR ADMISSION NO. 26:

Deny.

DATED: December 21, 2000

LAW OFFICES OF DAVID J. EARLE


David J. Earle
Attorneys for Defendant and Cross-
Defendant SHELL OIL COMPANY

PROOF OF SERVICE

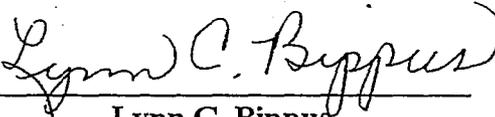
I am over eighteen years of age, not a party in this action, and my business address is 138 North Brand Boulevard, Suite 303, Glendale, California 91203. On

December 29, 2000, I served the foregoing document described as **SHELL OIL COMPANY'S RESPONSE TO WATSON LAND COMPANY'S FIRST SET OF REQUESTS FOR ADMISSIONS**, on Plaintiff's counsel in this action by transmitting the same **via facsimile**, as follows:

Brian L. Becker, Esq.
Bright and Brown
550 N. Brand Boulevard, Suite 2100
Glendale, CA 91203
Facsimile: (818) 243-3225

I declare, under penalty of perjury under the laws of the State of California, and of my own personal knowledge, that the above is true and correct.

Executed this 29th day of December, 2000, at Glendale, California.



Lynn C. Bippus

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a
4 party to the within action; my business address is 138 North Brand Blvd., Suite 303, Glendale, CA
91203.

5 On December 29, 2000, I served the document(s) described as **SHELL OIL COMPANY'S**
6 **RESPONSE TO WATSON LAND COMPANY'S FIRST SET OF REQUESTS FOR**
7 **ADMISSIONS** on the interested parties in this action by placing true copies in a sealed envelope(s)
8 addressed as follows:

9 Brian L. Becker, Esq.
10 Bright and Brown
11 550 North Brand Boulevard, Suite 2100
12 Glendale, CA 91203-1414
13 Attorneys for **WATSON LAND COMPANY**

14 Richard L. Denney, Jr., Esq.
15 Denney & Painter LLP
16 101 South Madison Avenue, Suite A
17 Pasadena, CA 91101
18 Attorneys for **GATX STORAGE TERMINALS**
19 **CORPORATION**

20 Matthew S. Covington, Esq.
21 Steinhart & Falconer LLP
22 333 Market Street, Suite 3200
23 San Francisco, CA 94105
24 Attorneys for **ATLANTIC RICHFIELD**
25 **COMPANY**

26 Mary Ellen Hogan, Esq.
27 McDermott, Will & Emery
28 2049 Century Park East, 34th Floor
Los Angeles, CA 90067
Attorneys for **MOBIL OIL CORPORATION**
AND **SOCONY MOBIL COMPANY, INC.**

- 29 **(BY MAIL)** I caused such envelope(s) to be deposited in the mail at Glendale, California.
30 The envelope(s) was mailed with postage thereon fully prepaid. I am "readily familiar" with
31 the firm's practice of collection and processing of documents for mailing. It is deposited with
32 the U. S. Postal Service on that same day in the ordinary course of business. I am aware that
33 on motion of party served, service is presumed invalid of postal cancellation date, if postage
34 meter date is more than 1 day after date of deposit for mailing affidavit.
- 35 **(BY PERSONAL SERVICE)** I caused such envelope(s) to be delivered by hand to the
36 person(s) listed above or their representatives.
- 37 **(BY OVERNIGHT DELIVERY)** I caused such envelope(s) to be delivered by overnight
38 mail to the person(s) listed above or their representatives.
- 39 **(BY FACSIMILE)** I caused such document(s) to be delivered by telefax to the numbers
40 shown below.

41 Executed on December 29, 2000 at Glendale, California.

- 42 **(STATE)** I declare under penalty of perjury under the laws of the State of California that the
43 above is true and correct.
- 44 **(FEDERAL)** I declare that I am employed in the office of a member of the Bar of this Court
45 at whose direction the service was made. I declare under penalty of perjury under the laws of
46 the United States of America that the foregoing is true and correct.

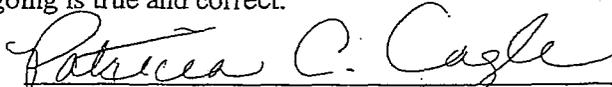
47 
48 Patricia C. Cagle

EXHIBIT K

BENZENE GROUNDWATER CONCENTRATION CONTOURS ON THE WATSON CENTER

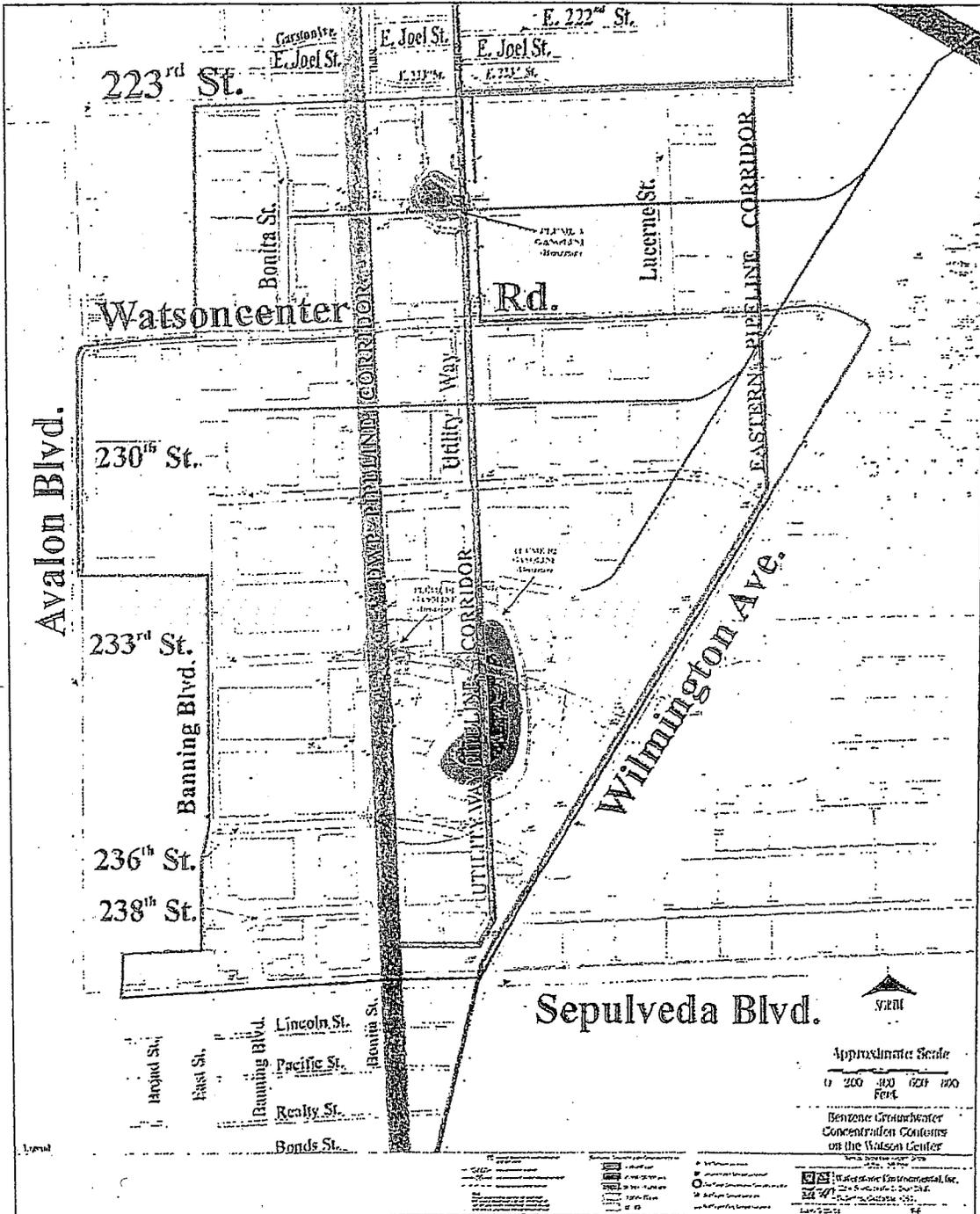
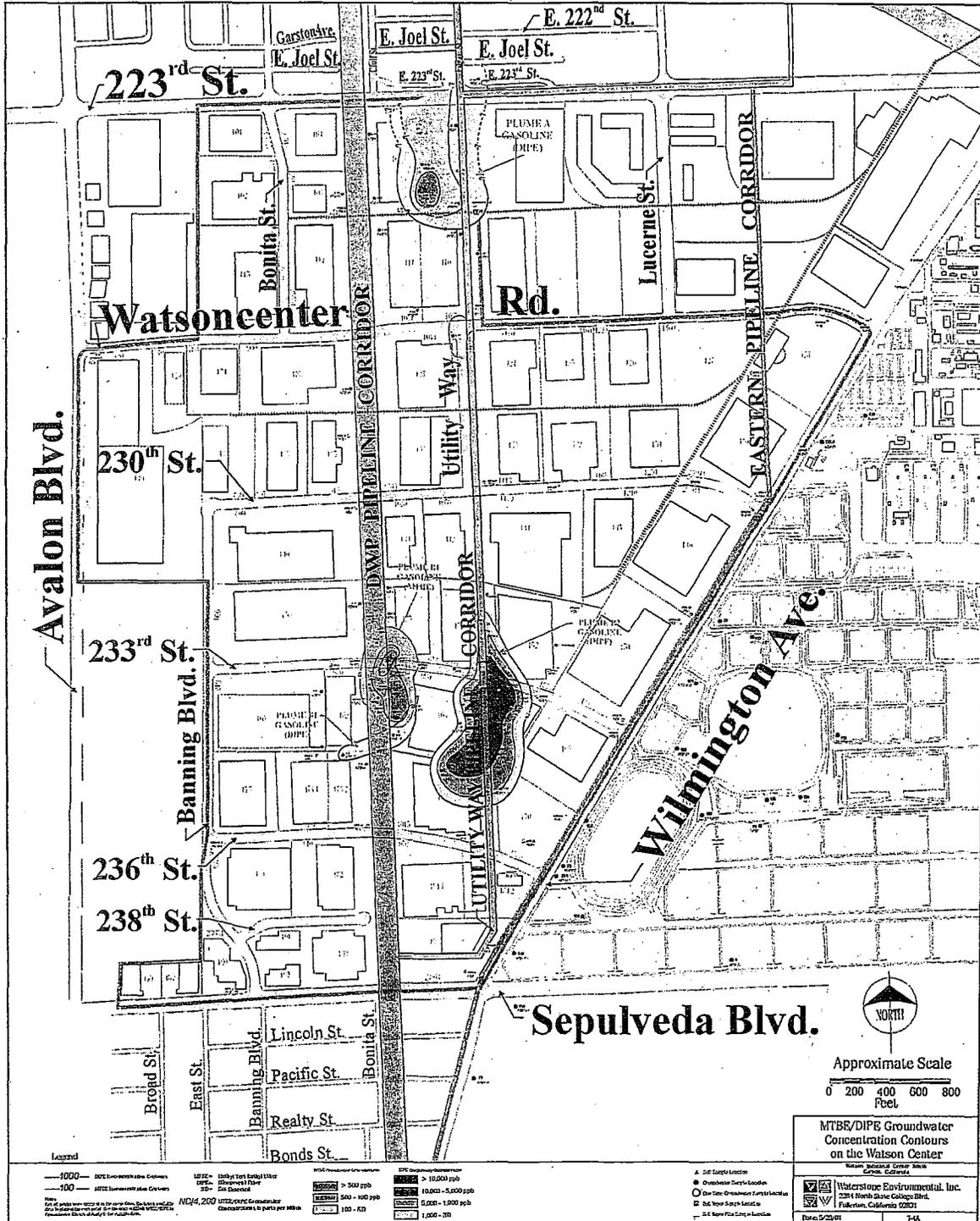


EXHIBIT L

MTBE/DIPE GROUNDWATER CONCENTRATION CONTOURS ON THE WATSON CENTER



PLUME A - GASOLINE: MAP OF DIPE GROUNDWATER CONCENTRATIONS

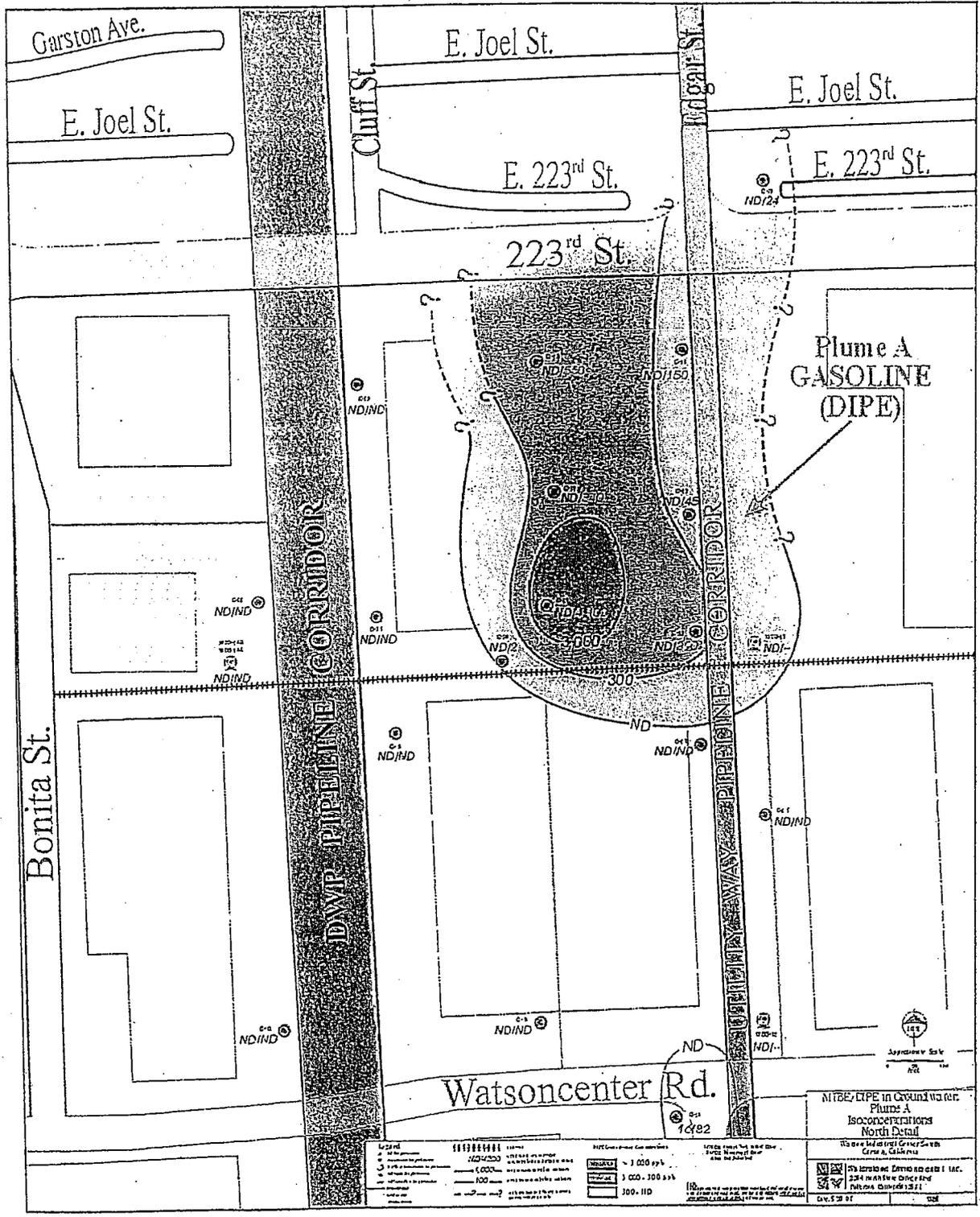


EXHIBIT N

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

WATSON LAND COMPANY,)

PLAINTIFF-RESPONDENT,)

VS.)

ATLANTIC RICHFIELD COMPANY,)
ETC., ET AL.,)

DEFENDANTS-APPELLANTS,)

) SUPERIOR COURT
) CASE NO. BC 150161

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE WENDELL MORTIMER, JR., JUDGE PRESIDING

REPORTER'S TRANSCRIPT ON APPEAL

MAY 30, 2001

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213.629.9040

VOLUME 9 OF 37 VOLUMES
PAGES 857 THROUGH 1047, INCLUSIVE

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LISA RIDLEY, CSR NO. 5886
OFFICIAL REPORTER

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

DEPARTMENT 307 HON. WENDELL MORTIMER, JR., JUDGE

WATSON LAND COMPANY, A CALIFORNIA CORPORATION,

PLAINTIFF,

VS.

ATLANTIC RICHFIELD COMPANY, ETC.,
ET AL.,

SUPERIOR COURT
CASE NO. BC 150161

DEFENDANTS,

REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MAY 30TH, 2001

VOLUME 8

PAGES 857 THROUGH 1047, INCLUSIVE

APPEARANCES:
(SEE APPEARANCE PAGE)

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LISA C. RIDLEY, C.S.R. NO. 5886
OFFICIAL REPORTER

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1 "SHELL RESPONDS THAT IT IS
2 PRODUCING ALL RELEVANT DOCUMENTS IN
3 ITS FILES IN RESPONSE TO PLAINTIFF'S
4 FIRST AND SECOND DEMAND FOR PRODUCTION
5 OF DOCUMENTS. ANY AND ALL INFORMATION
6 FALLING WITHIN THE PARAMETERS OF THIS
7 INTERROGATORY IS CONTAINED IN THE
8 Y-MAPS RELATED TO THE SUBJECT AREA
9 WHICH ARE READILY ASCERTAINABLE WITHIN
10 SHELL'S PRODUCTION OF DOCUMENTS."

11
12 SUPPLEMENTAL RESPONSE TO SPECIAL
13 INTERROGATORY NUMBER 12:

14
15 "SHELL RESPONDS THAT
16 PIPELINE NUMBER 3, 8, 9, 10, 11, 13,
17 14, 16, 18 AND 19, HAVE BEEN IDLE,
18 ADDITIONALLY SEVERAL UNNUMBERED ONES
19 WERE IDLE IN UTILITY WAY IN
20 APPROXIMATELY 1972.

21 "THESE -- THESE LINES ARE
22 REFERENCED ON Y-MAP 5157A AND INCLUDE
23 A 26-INCH LINES, THREE-INCH LINES AND
24 A TEN-INCH LINES."

25
26 SPECIAL INTERROGATORY NUMBER 13:

27
28 "FOR EACH AND EVERY PIPELINE

1 EVER INSTALLED BY SHELL WITHIN THE
2 WATSON CENTER THAT IS CURRENTLY IDLE,
3 STATE THE DATE THAT EACH SUCH PIPELINE
4 BECAME IDLE."

5
6 RESPONSE TO SPECIAL INTERROGATORY
7 NUMBER 13:

8
9 "SHELL RESPONDS THAT IT IS
10 PRODUCING ALL RELEVANT DOCUMENTS IN
11 ITS FILES IN RESPONSE TO PLAINTIFF'S
12 FIRST AND SECOND DEMANDS FOR
13 PRODUCTION OF DOCUMENTS. ANY AND ALL
14 INFORMATION FALLING WITHIN THE
15 PARAMETERS OF THIS INTERROGATORY IS
16 CONTAINED IN THE Y-MAPS RELATED TO THE
17 SUBJECT AREA WHICH ARE READILY
18 ASCERTAINABLE WITHIN SHELL'S
19 PRODUCTION OF DOCUMENTS."

20
21 SUPPLEMENTAL RESPONSE TO SPECIAL
22 INTERROGATORY NUMBER 12:

23
24 "SHELL BELIEVES THAT THOSE
25 NUMBERED LINES REFERENCED IN RESPONSE
26 TO INTERROGATORY NUMBER 11 WERE IDLE
27 IN OR ABOUT 1991. SHELL BELIEVES THAT
28 THE UNNUMBERED LINES IN UTILITY WAY

1 REFERENCED IN RESPONSE TO
2 INTERROGATORY NUMBER 11 WERE IDLE IN
3 OR ABOUT 1972. HOWEVER, SHELL IS
4 STILL SEEKING INFORMATION TO PROVIDE
5 ADDITIONAL CONFIRMATION OF THESE
6 DATES."

7
8 A REQUEST FOR ADMISSION NUMBER 2:

9
10 "THE 12 NEW PIPELINES THAT
11 SHELL CONSTRUCTED IN THE UTILITY WAY
12 CORRIDOR IN 1965 WERE USED AS
13 INTER-REFINERIES PIPELINES FOR SHELL'S
14 REFINERIES IN CARSON, CALIFORNIA."

15
16 SUPPLEMENTAL RESPONSE TO REQUEST
17 FOR ADMISSION NUMBER 2:

18
19 "SHELL ADMITS THAT ITS
20 PIPELINES IN UTILITY WAY PRIOR TO
21 1972, SLASH, '73 WERE USED AS
22 INTER-REFINERY PIPELINES CONNECTING
23 THE DOMINGUEZ AND WILMINGTON PORTIONS
24 OF SHELL'S REFINERY IN CARSON,
25 CALIFORNIA."

26
27 REQUEST FOR ADMISSION NUMBER 6:

28 / / / /

1 "ADMIT."

2

3 REQUEST FOR ADMISSION NUMBER 12:

4

5 "AFTER SHELL'S COMPLETION OF

6 13 NEW PIPELINES IN THE DWP CORRIDOR

7 IN 1973, SHELL NEVER AGAIN USED ITS

8 INTER-REFINERY PIPELINES WITHIN THE

9 UTILITY WAY CORRIDOR, EXCEPT FOR THOSE

10 PIPELINES IDENTIFIED AS INTER-REFINERY

11 LINE NUMBERS 8 THROUGH 12."

12

13 RESPONSE TO REQUEST FOR ADMISSION

14 NUMBER 12:

15

16 "ADMIT."

17

18 NEXT IS SPECIAL INTERROGATORY

19 NUMBER 167:

20

21 "HAS SHELL EVER USED ANY

22 PIPELINE WITHIN THE WATSON CENTER FOR

23 ANY PURPOSE OTHER THAN AS AN

24 INTER-REFINERY PIPELINE?"

25

26 RESPONSE TO SPECIAL INTERROGATORY

27 NUMBER 167:

28 / / / /

1 "NO, UNTIL THE SALE OF THE
2 WILMINGTON SECTION OF THE REFINERY IN
3 1991."

4
5 MS. BRIGHT: (READING:)

6
7 SPECIAL INTERROGATORY NUMBER 18:

8
9 "HAS SHELL EVER TRANSPORTED
10 PETROLEUM OR PETROLEUM PRODUCTS OF ANY
11 KIND THROUGH ANY OF ITS PIPELINES THAT
12 ARE OR EVER HAVE BEEN LOCATED WITHIN
13 THE WATSON CENTER?"

14
15 RESPONSE TO SPECIAL INTERROGATORY
16 NUMBER 18:

17
18 "YES."

19
20 SPECIAL INTERROGATORY NUMBER 19:

21
22 "IF SHELL HAS EVER
23 TRANSPORTED PETROLEUM OR PETROLEUM
24 PRODUCTS OF ANY KIND THROUGH ANY OF
25 ITS PIPELINES THAT ARE OR EVER HAVE
26 BEEN LOCATED WITHIN THE WATSON CENTER,
27 DESCRIBE IN DETAIL EACH SUCH PRODUCT,
28 INCLUDING, BUT NOT LIMITED TO, COMMON

1 NAMES USED TO DESCRIBE SUCH PRODUCTS
2 (E.G., CRUDE OIL, GASOLINE,
3 CONDENSATE, JET FUEL, FUEL OIL, BUNKER
4 FUEL, ET CETERA.), THE RANGE WITHIN
5 THE CARBON CHAIN FOR SUCH PRODUCTS,
6 (E.G., C-1 THROUGH 6, C-12 THROUGH
7 C-30, ET CETERA) AND TRADE NAMES."

8
9 RESPONSE TO SPECIAL INTERROGATORY
10 NUMBER 19:

11
12 "CRUDE OIL, CC FEED, COKER
13 GAS OIL, CAT GAS OIL, DIESEL BASE, JET
14 DISTILLATE, PLATFORMER FEED, JET,
15 DIESEL, REGULAR AND PREMIUM GASOLINE,
16 MID-GRADE GASOLINE, PLATFORMATE,
17 ALKYLATE, LIGHT AND HEAVY CAT
18 GASOLINE, MTBE, SOLVENTS, CLARIFIED
19 OIL, FLASHER FEED, SOUR NUMBER 20, LOW
20 SULFUR CAT FEED, NORMAL BUTANE,
21 ISO-BUTANE, MIXED BUTANE, STRAIGHT RUN
22 GASOLINE, LIGHT COKER GAS OIL C3C4
23 OLEFINS, AVIATION GASOLINE, LEADED
24 GASOLINE (REGULAR, PREMIUM,
25 MID-GRADE), NUMBER 6 FUEL OIL,
26 HYDROGEN."

27
28 SPECIAL INTERROGATORY NUMBER 12:

1 "IF SHELL HAS EVER
2 TRANSPORTED PETROLEUM OR PETROLEUM
3 PRODUCTS OF ANY KIND THROUGH ANY OF
4 ITS PIPELINES THAT ARE OR EVER HAVE
5 BEEN LOCATED WITHIN THE WATSON CENTER,

6 STATE THE TIME PERIODS DURING WHICH
7 EACH PIPELINE TRANSPORT OF EACH SUCH
8 PRODUCT."

9
10 RESPONSE TO SPECIAL INTERROGATORY
11 NUMBER 20:

12
13 "SUBSEQUENT TO THE
14 CONSTRUCTION OF THE WILMINGTON AND
15 DOMINGUEZ REFINERY. SPECIFIC TIME
16 PERIODS ARE UNKNOWN."

17
18 SPECIAL INTERROGATORY NUMBER 346:

19
20 "HAS ANY SUBSTANCE BEEN
21 TRANSPORTED THROUGH ANY CARSON PLANT
22 LINE IN THE DWP CORRIDOR WHICH HAS
23 CONTAINED MTBE?"

24
25 RESPONSE TO SPECIAL INTERROGATORY
26 NUMBER 346:

27
28 "YES."

1
2
3
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5
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28

DESCRIBES ANY POLICY, GUIDELINE OR
PRACTICE OF SHELL WITH RESPECT TO THE
CIRCUMSTANCES UNDER WHICH A PIPELINE
SHOULD BE REPLACED."

RESPONSE TO SPECIAL INTERROGATORY

NUMBER 45:

"NOT APPLICABLE."

REQUEST FOR ADMISSION NUMBER 17:

"MOTOR GASOLINE THAT
INCLUDED LEAD ADDITIVES WAS
TRANSPORTED THROUGH ONE OR MORE OF THE
SHELL PIPELINES IN THE UTILITY WAY
CORRIDOR UNTIL 1973."

RESPONSE TO REQUEST FOR ADMISSION

NUMBER 17:

"ADMIT."

REQUEST FOR ADMISSION NUMBER 19:

"MOTOR GASOLINE THAT
INCLUDED LEAD ADDITIVES WAS
TRANSPORTED THROUGH ONE OR MORE OF

1 1496.

2 I WONDER IF YOU, LET'S TURN, FIRST,
3 TO THE INSTALLATION OF VARIOUS PIPELINES ON THE
4 WATSON CENTER PROPERTY BY SHELL OIL.

5 CAN YOU TELL US WHAT DOCUMENTS YOU
6 REVIEWED IN ORDER TO COME UP WITH THE CONSTRUCTION
7 SEQUENCE?

8 A. YES. I HAVE RELIED IN THE MAJORITY
9 ON THE AS-BUILT, SHELL'S AS-BUILT MAPS. AND
10 SUPPLEMENT THE INFORMATION I FOUND THERE BY
11 RELEVANT PAGES OF LEASE AGREEMENTS, EASEMENT
12 AGREEMENTS AND SO ON AND SO FORTH AND THEIR
13 CORRESPONDING DESCRIPTIONS, BUILT FROM THESE
14 RELEVANT LEASE AGREEMENT PAGES.

15 ALSO, I HAVE LOOKED AT SHELL'S
16 RESPONSE TO REQUEST FOR ADMISSIONS, AS WE WERE
17 HEARING HERE, AS WELL AS SHELL'S RESPONSE TO
18 INTERROGATORIES.

19 Q. ALL RIGHT.

20 NOT TO SIMPLIFY THINGS, AND RATHER
21 THAN TAKING US THROUGH A HISTORY FROM THE 1920'S
22 FORWARD, WHY DON'T WE START IN 1965, AND IF I CAN
23 ASK YOU, MR. KARLOZIAN, TO, WITH THE COURT'S
24 PERMISSION, TO STAND UP AND APPROACH EXHIBIT 1496?

25 THE COURT: THAT'S FINE.

26 Q BY MR. BRIGHT: CAN YOU TELL US
27 WHAT INTER-REFINERY PIPELINES SHELL OIL HAD, AT THE
28 VERY BEGINNING OF 1965, AND WHERE THEY WERE

1 LOCATED?

2 A. I WILL BE GLAD TO.

3 PRIOR TO '65, SHELL HAD 12

4 INTER-REFINERY PIPELINES IN THIS CORRIDOR HERE

5 (INDICATING), KNOWN AS THE EASTERN CORRIDOR.

6 AND AGAIN, PRIOR TO '65, SHELL HAD
7 SIX INTER-REFINERY PIPELINES IN THIS CORRIDOR KNOWN
8 AS THE UTILITY WAY PIPELINE CORRIDOR.

9 Q. FOR A TOTAL OF 18?

10 A. YES, THAT IS CORRECT, SIR.

11 Q. NOW, CAN YOU TRACE THAT EASTERN
12 CORRIDOR ALL THE WAY DOWN FOR US?

13 A. YES. IT STARTS FROM THE NORTH
14 HERE, AND THEN IT GOES DOWN, PARALLEL TO WILMINGTON
15 AND INTO THE WILMINGTON REFINERY HERE (INDICATING).

16 Q. ALL RIGHT. WHAT HAPPENED IN 1965?

17 A. IN 1965, SHELL CONSTRUCTED OR BUILT
18 12 INTER-REFINERY PIPELINES IN THIS UTILITY WAY
19 CORRIDOR AND AFTER CONSTRUCTION OF THESE 12
20 PIPELINES IN THIS CORRIDOR, IT -- THIS USED ALL THE
21 12 PIPELINES THAT EXISTED IN THE EASTERN CORRIDOR.

22 Q. SO AFTER THIS PROJECT, THERE WERE
23 STILL 12 INTER-REFINERY PIPELINES? EXCUSE ME.

24 A. 18.

25 Q. 18?

26 A. YES.

27 Q. ALL RIGHT. WHAT WAS THE NEXT
28 DEVELOPMENT?

1 A. THE NEXT PHASE OF DEVELOPMENT TOOK
2 PLACE IN '72, '73, DURING WHICH SHELL CONSTRUCTED
3 OR BUILT 13 PIPELINES IN THIS CORRIDOR, KNOWN AS
4 THE DWP CORRIDOR. AND AFTER CONSTRUCTION, THEY
5 ALSO DISUSED, EITHER ABANDONS OR WHATEVER, DISUSED,
6 13 EXISTING PIPELINES IN THE UTILITY WAY CORRIDOR
7 AND SEVEN OF THOSE PIPELINES WERE ONLY ABOUT SEVEN,
8 EIGHT YEARS OLD.

9 Q. AND THAT LEFT HOW MANY THAT THEY
10 CONTINUED TO USE IN UTILITY WAY?

11 A. FIVE, SIR.

12 Q. SO HOW MANY TOTAL INTER-REFINERY
13 LINES DID THEY HAVE AFTER THIS 1972, '73 PROJECT?

14 A. 13 AND FIVE, THAT MAKES 18.

15 Q. SAME NUMBER?

16 A. SAME NUMBER, YES.

17 Q. IS THAT THE LAST CONSTRUCTION
18 PROJECT THROUGH, SAY, 1991, WHEN THE REFINERY, THE
19 WILMINGTON REFINERY WAS SOLD TO UNOCAL?

20 A. THAT IS CORRECT, SIR.

21 Q. MR. KARLOZIAN, TURNING TO ANOTHER
22 TOPIC THAT YOU INDICATED THAT YOU WERE ASKED TO
23 LOOK AT, YOU SAID YOU WERE MAKING -- WERE GOING TO
24 MAKE A FLOW RATE COMPARISON.

25 CAN YOU BE SPECIFIC AND TELL US THE
26 TWO GROUPS OF INTER-REFINERY LINES THAT YOU
27 COMPARED?

28 A. YES, I WILL BE VERY HAPPY TO.

1 Q. WILL YOU GIVE US THAT OPINION?

2 A. YES, I WILL BE HAPPY TO.

3 THE FIRST GROUP OF 18 PIPELINES,
4 WHICH CONSISTED OF ALL PIPELINES IN THIS CORRIDOR
5 HERE (INDICATING), THE FLOW RATES ADDED TO, JUST
6 OVER 29,000 GALLONS PER MINUTE.

7 THE FLOW RATE OF THE SECOND GROUP
8 OF PIPELINES, 13 IN THIS CORRIDOR AND FIVE IN THIS
9 CORRIDOR, ADDED UP TO JUST UNDER 34,000 GALLONS PER
10 MINUTE FOR A NET FLOW INCREASE OF MERELY 20
11 PERCENT.

12 Q. ALL RIGHT. MR. KARLOZIAN, IS THERE
13 ANY INDUSTRY STANDARD FOR HOW LONG PETROLEUM
14 PRODUCT PIPELINES ARE EXPECTED TO LAST?

15 A. YES, THERE ARE.

16 Q. AND WHAT'S THE NORMAL USEFUL LIFE
17 OF THE PETROLEUM PRODUCT PIPELINE?

18 A. IT'S VERY CUSTOMARY IN OUR INDUSTRY
19 TO DESIGN PIPELINES FOR 20 TO 30 YEARS, SIR.

20 Q. WHAT -- WHY NOT BUY CHEAPER PIPE
21 AND HAVE A SHORTER PIPELINE LIFE?

22 A. IT JUST DOESN'T MAKE ECONOMIC SENSE
23 BECAUSE THE COST OF CONSTRUCTING PIPELINES MAINLY
24 CONSISTS OF THE COST OF CONSTRUCTION AND THE COST
25 OF MATERIAL, MAINLY, PIPELINES, AND FITTINGS.

26 TO DESIGN A PIPELINE FOR A SHORT
27 LIFESPAN, YOU MAY SAY A LITTLE BIT OF MONEY BY
28 BUYING CHEAPER PIPE, BUT THE INCREMENTAL COST,

1 MEANING THAT THE DIFFERENCE OF COSTS OF PIPE, OF
2 BETTER GRADE, BETTER QUALITY, IS SO SMALL THAT IT
3 DOESN'T MAKE ECONOMIC SENSE TO BUY LOW GRADE PIPE
4 AND THEN HAVE A LIFESPAN OF ONLY A SHORT, YOU KNOW,
5 MUCH SHORTER THAN THE 20- TO 30-YEAR LIFESPAN.

6 Q. PETROLEUM PRODUCT PIPELINES
7 SOMETIMES LAST LONGER THAN 30 YEARS?

8 A. THEY SURE DID. I HAVE SEEN SOME,
9 YES.

10 Q. NOW, DOSE YOUR LIFESPAN, OR LIFE
11 EXPECTANCY ASSUME PIPELINES ARE WELL CONSTRUCTED
12 WHEN THEY ARE FIRST PUT IN?

13 A. OF COURSE. THEY DO. YES, IT DOES.

14 Q. AND WELL MAINTAINED?

15 A. AND WELL MAINTAINED AS WELL, OF
16 COURSE.

17 Q. NOW, AS I RECALL, YOUR TESTIMONY,
18 YOU SAID THAT SEVEN OF THE 13 PIPELINES THAT WERE
19 TAKEN OUT OF SERVICE BY SHELL, IN 1972, '73, AS A
20 RESULT OF CONSTRUCTION PROJECT WERE ONLY SEVEN OR
21 EIGHT YEARS OLD?

22 A. THAT IS RIGHT, SIR.

23 Q. EXCUSE ME. THAT IS RIGHT. I AM
24 SORRY.

25 MR. KARLOZIAN, I WOULD LIKE TO SHOW
26 YOU A DOCUMENT THAT'S BEEN MARKED FOR
27 IDENTIFICATION AS EXHIBIT 12.

28 MAY I APPROACH THE WITNESS?

1 THE COURT: YOU MAY.

2 Q BY MR. BRIGHT: IT'S BEEN MARKED
3 FOR IDENTIFICATION AS EXHIBIT 12 AND IT IS A SHELL
4 OIL Y-MAP, Y5158.

5 CAN YOU TAKE A LOOK AT THAT,
6 MR. KARLOZIAN.

7 A. OKAY.

8 Q. WHILE YOU ARE LOOKING AT THAT, WE
9 ARE GOING TO TRY TO USE THE ELMO, PUT IT UP ON THE
10 SCREEN HERE.

11 A. OKAY.

12 Q. FOR THE JURY TO SEE.

13 HAVE YOU SEEN THAT DOCUMENT BEFORE?

14 A. YEAH, I HAVE SEEN THIS DOCUMENT
15 BEFORE.

16 Q. CAN YOU READ THAT FOR US,
17 MR. KARLOZIAN?

18 A. WHERE IT IS INDICATED AT?

19 Q. YES.

20 A. YES. OKAY.

21 IT'S AN ASTERISK AND IT SHOWS SIX
22 INCH -- THE ASTERISK IS AS A SIX-INCH IDLE LINE AND
23 THE WORDS SAY THE FOLLOWING.

24

25 "LINE IS IDLE BUT IN POOR
26 CONDITION. NOT TO BE USED FOR PRODUCT
27 SERVICES."

28 / / / /

1 Q. MR. KARLOZIAN, WHAT'S THE DATE ON
2 THAT?

3 A. THE DATE APPEARS TO BE FEBRUARY
4 '83.

5 Q. NOW, MR. KARLOZIAN, FOR AN ENGINEER
6 REVIEWING A PIPELINE, AS-BUILT DIAGRAM LIKE THIS,
7 WHAT WOULD THAT TELL YOU?

8 A. IT WILL TELL ME WHAT THE FACTS ARE
9 OF THE PIPELINE, CONDITION OF THE PIPELINE.

10 Q. WHICH IS?

11 A. WHICH IS THAT, AS THE WORDS ARE
12 VERY SIMPLE:

13
14 "LINE IS IDLE BUT IN POOR
15 CONDITION. NOT TO BE USED FOR PRODUCT
16 SERVICE."

17
18 Q. MR. KARLOZIAN, I WOULD LIKE TO
19 CHANGE TOPICS ON YOU AGAIN. YOU INDICATED THAT ONE
20 OF YOUR ASSIGNMENTS WAS TO PROVIDE AN OPINION
21 WHETHER OR NOT ANY OF THE -- WHETHER OR NOT THE
22 SHELL OIL CONSTRUCTION PROJECT IN 1972, '73, WHERE
23 13 BRAND NEW LINES WERE BUILT IN DWP, AND 13 TAKEN
24 OUT OF SERVICE IN UTILITY WAY CAN BE JUSTIFIED FROM
25 AN ENGINEERING ECONOMIC STANDPOINT; IS THAT RIGHT?

26 A. THAT IS CORRECT, SIR, YES.

27 Q. AND HAVE YOU DEVELOPED AN OPINION
28 ON THAT SUBJECT?

1 PER CAPSA, YES, THE FIRE MARSHALS' OFFICE HAS TO BE
2 NOTIFIED THREE DAYS IN ADVANCE OF TESTING.

3 Q. SO THAT MEANS THEY KNOW THEY ARE
4 GOING TO BE GETTING SOME TEST RESULTS?

5 A. OF COURSE.

6 Q. ALL RIGHT. AND WHAT IS THE
7 FREQUENCY OF HYDROTESTING THAT'S REQUIRED BY CAPSA?

8 A. MOST COMMONLY EVERY FIVE YEARS,
9 HOWEVER, THERE ARE SOME CATEGORIES OF PIPELINES
10 KNOWN AS HIGH RISK AND THEY WOULD BE MORE
11 FREQUENTLY TESTED THAN FIVE YEARS.

12 THE COURT: COUNSEL, LET'S TAKE OUR
13 AFTERNOON BREAK AT THIS TIME. AND DUE TO A COURT
14 SCHEDULING CONFLICT WE ARE GOING TO TAKE A HALF
15 HOUR BREAK THIS AFTERNOON, NORMALLY IT WON'T BE
16 THAT LONG, BUT WE WILL BE IN RECESS UNTIL 3:15.

17
18 (AT THIS TIME, A RECESS
19 WAS TAKEN.)

20
21 (THE FOLLOWING PROCEEDINGS WERE
22 HELD IN OPEN COURT, IN THE
23 PRESENCE OF THE JURY:)

24
25 THE COURT: BACK ON THE RECORD, YOU MAY
26 CONTINUE.

27 MR. BRIGHT: THANK YOU, YOUR HONOR.

28 Q. MR. KARLOZIAN, ONE OF QUESTIONS I

1 NEGLECTED TO ASK YOU. IF I CAN DIRECT YOUR
2 ATTENTION AGAIN TO EXHIBIT 12.

3 CAN YOU TELL FROM THAT Y-MAP
4 WHETHER OR NOT THE SIX-INCH LINE THAT'S INDICATED
5 TO BE IN POOR CONDITION WAS A LINE THAT WAS

6 INSTALLED BY SHELL OIL IN THE UTILITY WAY CORRIDOR
7 IN 1965?

8 A. I WILL TAKE A LOOK. YES, I CAN
9 TELL YOU THAT, SIR.

10 Q. IS IT?

11 A. IT IS ONE OF THOSE PIPELINES BUILT
12 IN 1965, THAT IS CORRECT, SIR.

13 Q. ALL RIGHT.

14 NOW, GOING BACK TO HYDRO -- YOU
15 INDICATED YOU CAN MAKE THIS COMPENSATING ADJUSTMENT
16 TO GET A CALCULATED FLUID LOSS BY HAND, IS THERE
17 ANY OTHER WAY IT'S DONE?

18 A. YEAH, YOU CAN DO IT BY COMPUTER AS
19 WELL. WHICH OBVIOUSLY MAKES IT MUCH FASTER THAN
20 MANUAL CALCULATIONS.

21 Q. IS THERE ANY PROGRAM THAT'S
22 AVAILABLE TO THE PUBLIC IN GENERAL THAT YOU CAN USE
23 TO CALCULATE FLUID LOSS FOR A HYDROTEST?

24 A. YES, THERE IS PROGRAMS THAT YOU CAN
25 DO THE SAME CALCULATIONS BY COMPUTER.

26 Q. CAN YOU TELL ME WHERE SOME OF THOSE
27 MIGHT BE AVAILABLE?

28 A. RIGHT. YES. THERE ARE.

1 CAN YOU TELL US THE PROCESS THAT
2 YOU, YOU WENT THROUGH TO DETERMINE WHETHER OR NOT
3 EACH OF THESE SHELL DOCUMENTS SETTING FORTH THE
4 HYDROTEST WAS A PASSING HYDROTEST?

5 A. YES, I WILL BE GLAD TO.

6 I LOOKED AT THE HYDROTEST AND FROM
7 IT, MY MANY YEARS OF EXPERIENCE, I CAN TELL WHETHER
8 A HYDROTEST IS A GOOD TEST OR A BAD TEST FROM THE
9 TWO VARIABLES OF PRESSURE AND TEMPERATURE.

10 SO I TOOK SOME HYDROTEST REPORTS
11 THAT WERE SUBMITTED TO US AND DID THE CALCULATIONS
12 FOR THE ONES I SUSPECT THAT MAY BE A FAILED TEST.

13 Q. HOW MANY HYDROTESTS OF THE ENTIRE
14 PIPELINE LENGTH OF THE INTER-REFINERY PIPELINE DID
15 YOU ANALYZE?

16 A. I LOOKED AT 167 HYDROTEST REPORTS,
17 FOR THE FULL LENGTH OF THE PIPE TEST.

18 Q. AND THESE ARE ALL VARIOUS
19 INTER-REFINERY PIPE LINES?

20 A. YES, CORRECT. IT'S BASICALLY
21 COVERED ALMOST VIRTUALLY EVERY LINE THAT, WHERE --
22 BETWEEN REFINERIES, YES.

23 Q. DID YOU ALSO SEE DOCUMENTS THAT
24 WERE HYDROTESTS OF LESS THAN THE ENTIRE
25 INTER-REFINERY LINE?

26 A. YES, I HAVE SEEN MANY HYDROTEST
27 REPORTS, MANY SHORT PIECES OF PIPE, SOME AS SHORT
28 AS 20 FEET, SOME, OF COURSE, LONGER, SOME

1 MODIFICATIONS THAT THEY HAVE DONE TO THE PIPE. THE
2 LAW REQUIRES THAT THAT PIECE THAT THEY ARE
3 MODIFYING, THEY ARE GOING TO PUT IN THE PIPELINE,
4 ITS GOT TO BE TESTED AS WELL.

5 SO I HAVE SEEN A LOT OF HYDROTESTS
6 OF SMALL, NOT FULL-LENGTH HYDROTEST, YES.

7 Q. BUT YOU CONFINED YOUR INVESTIGATION
8 TO THE HYDROTESTS OF THE FULL LENGTH OF THE, WHAT,
9 THREE MILE LENGTH OF THE INTER-REFINERY PIPELINES?

10 A. YES, THE 167 HYDROTEST REPORTS I
11 LOOK AT WERE ALL FULL-LENGTH HYDROTEST REPORTS,
12 YES, SIR.

13 Q. AND MR. KARLOZIAN, DID ANY OF THE
14 HYDROTESTS THAT YOU REVIEWED THAT WERE CONDUCTED BY
15 SHELL OIL ON THESE INTER-REFINERY PIPELINES
16 INDICATED A HYDROTEST FAILURE APPLYING THE CAPSA
17 REQUIREMENTS?

18 A. YES, THEY DID.

19 Q. CAN YOU TELL US OUT OF 167
20 HYDROTEST REPORTS THAT YOU REVIEWED, HOW MANY
21 FAILED HYDROTESTS THERE WERE?

22 A. I FOUND, ACCORDING TO MY
23 CALCULATIONS, 39 FAILED HYDROTESTS OUT OF 167, SIR.
24 AND JUST TO PUT THINGS IN PERSPECTIVE, THAT WORKS
25 TO APPROXIMATELY 23 PERCENT FAIL RATE.

26 Q. ALMOST ONE IN FOUR?

27 A. YES.

28 Q. IS A ONE TIME IN FOUR FAILURE