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FILE**LAW OFFICES OF JOHN K. DEMA, P.C.**

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Re: Tutu Water Wells Contamination Litigation
St. Thomas, United States Virgin Islands

Dear Attorney Praschak and Ms. Kwan:

The purpose of Tech Memo II was to "delineate the sources, and the horizontal and vertical extents and the potential migration pathways for petroleum hydrocarbon products in soil and ground water at the Tutu Service Station Investigation Site." Additionally, the evaluation of "PCE and its breakdown products" was performed as per USEPA's concern with chlorinated hydrocarbon contamination.

There are, however, technical, procedural and analytical errors in Tech Memo II which greatly affect the results and conclusions of the study.

This letter will summarize certain data which has been excluded, overlooked or otherwise distorted in an attempt by Garrety & Miller to exclude Esso from its responsibility for releasing petroleum and chlorinated hydrocarbons into the Turpentine Run Aquifer. Exhibits referred to herein will be provided at the July 8th meeting.

Introduction:

Describing chlorinated hydrocarbons as "PCE and its breakdown products" is premature and a misleading evaluation, especially in the introduction and statement of purpose. Defining the potential sources, fate and transport of these

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chemicals could not be determined beyond a reasonable degree of scientific certainty due to the methodology used in compiling this report.

There is certainly evidence for not only PCE but TCE contamination and/or other chemical releases. Clearly, limiting the conceptual parameters of the investigation in the introduction is not prudent and reduced the objectivity of the study.

Disregard of other published data in the study design:

EPA'S directive for the study originated from the discovery of contaminated ground water in production wells in the Tutu area. Ground water contamination and subsequent soil gas studies indicated major areas of hydrocarbon and VOC contamination (hot spots) at and in the vicinity of Esso, Texaco and O'Henry Dry Cleaners. Due to the results of these findings, TEIC was formed to conduct a scientific study and evaluation of the contamination sources, fate and transport. Historic data, soil gas studies, etc. should have been and should be included in the evaluation and recommendations for future investigative activities.

To date, three soil gas surveys have been performed in the vicinity of the Esso Tutu station. The first survey was conducted in the fall of 1987 by Geoscience Consultants, Ltd for Texaco. As reported by Scott Graber of CDM FPC in a November 1987 letter to Caroline Kwan:

... The ECD analysis confirmed the results of the FID, that a late peaking chlorinated hydrocarbon (PCE) is present in the areas of the Tillet Well, the Esso Station, and the Public Education Facility (formerly, the Lagging (sic) Clothe Factory, which reportedly used PCE).

Based on the results of the soil gas survey, it seems apparent that Texaco has contaminated the soil gas in the area of the tanks. The contamination appears to extend into the area underlying Rts. 38 and 384 close to the station. The values from the northern section of the Four Winds Parking Lot are orders of magnitude lower than the values closer to the station and similar background.

In the southern section of the parking lot, however, higher values suggest that Esso is at least partially responsible for hydrocarbon contamination. (Emphasis added)

In April of 1988, Esso contracted Belgedere and Associates Inc. (BAI) to conduct a soil gas survey. Although this study was plagued by mismanagement and poor planning, the results have not been entirely dismissed by CDM FPC. In another letter from Scott Graber to Caroline Kwan dated June 29, 1988, Mr. Graber reports the following:

"The following observations and subsequent conclusions can be made based on the information obtained during the Tutu Esso Soil Gas Survey. Total BTEX soil gas values were reported in excess of 1000 ppm in the southern portion of the Esso property adjacent to the petroleum underground storage tanks. This area of high BTEX soil gas contamination extends to the southwest of the Esso property into the Four Winds parking lot. (figure 1). The concentration of total BTEX is reduced from above 1000 ppm to below 1 ppm with increased distance from the southern portion of the Esso property, upgradient as well as down gradient. Unfortunately, the full extent of the soil gas contamination (i. e. values equal or below the agreed upon background level) around the Esso station was not determined due to the relatively high detection limit of 1 ppm. *However, based on the soil gas survey results and plotting the plume of petroleum hydrocarbon contamination, it seems apparent that Esso is responsible for a product release and the contamination of soil gas in at least the immediate vicinity of its service station.* (Emphasis added)

The third soil gas survey was conducted in January of 1992 by Target Environmental Services for Four Winds Plaza and PID/Harthman. In their report dated February 1992, Target states the following conclusions based on their soil gas survey:

""Map patterns and chromatographic data indicate that petroleum hydrocarbons have entered the subsurface at the Tutu Esso and have subsequently migrated northward beyond the pump islands. *Xylene map patterns suggest that the source for the occurrence is clearly associated with the Esso facility.* There is no evidence that contaminants from a reported release on the Texaco property northeast of the Four Winds Plaza have impacted the survey area.

GC/ECD analysis indicates that significant concentrations of PCE, c-1,2-DCE and TCE and lesser occurrences of t-1,2-DCE, 1,1,1-TCA and 1,1-DCE are present in the northern portion of the Tutu Esso and beneath the Four Winds Plaza parking lot. The PCE occurrence extends throughout most of the survey area, while c-1,2-DCE and TCE were detectable only on the northern portion of the Tutu Esso and beneath the adjacent Four Winds Plaza parking lot. The DCE and TCA were likely minor components of original PCE or TCE solvent mixtures or they may be breakdown products formed when original compound(s) underwent chemical transformation in the subsurface. *While no specific source point is evident, the contour patterns do not support a source outside the immediate area of occurrence.*" (Emphasis added)

Although Esso apparently disputes the Belgedere results, it is not possible to ignore the results since they have been substantially verified by two other studies.

Incomplete investigation of study area:

A) Insufficient borings:

Only one boring each was drilled and sampled on Esso property (B-9) and on the Texaco property (B-4). At the Esso site the boring was drilled at the extreme northwest corner of the property. It was also located upgradient from underground gasoline/waste oil storage tank systems (UST's), waste oil separators and/or any other potential contamination sources. Soil vapor analysis, Belgodere, 1988, indicates PCE, TCE and DCE concentrations in soil at Tutu Esso in concentrations of 262.20, 1114.00 and 2515.00 parts per million respectively. Soil vapor analysis by Target Environmental Services, Inc., 1992, also indicated "hot spots" at Tutu Esso. In the event that any release occurred from these types of sources (common to service stations) the single boring in this location is inadequate to determine the presence/absence or extent of point sources of contamination on the property.

B) 2,000 Gallon Oil/Water separator outfall:

The outfall or discharge of the 2,000 gallon oil/water separator located below the former tire service area at the Esso Tutu station has never been determined. However, on January 21, 1993, the egress pipe from this oil/water separator was found to contain a thick dark petroleum like substance. See Exhibit L, page 6. Esso unilaterally terminated any further attempts to locate this outfall.

Esso engineer, Augusto Munoz had earlier stated in his September 10, 1992 deposition:

Q. As an engineer, sir, in retail engineering for Essorico, can you tell me what purpose this vessel serves by that configuration?

A. Yes, sir. This is an oil and waste trap which separates water from grease and oil floating on water.

Q. So the vessel that we have been referring to since the deposition of Mr. Janson as a holding containment area in fact, is an oil/water separator?

A. Yes, sir.

Q. Now, sir, could you tell me where the pipes lead to from this oil/water separator?

A. If this is slanted this way--

Q. Yes, sir.

A. The water comes from this pipe. The slanting is designed in order to provide room for sediment to settle on the bottom in order to prevent from clogging this section, this opening here, which leaves space for the water to flow into the next chamber. Since the oil and greases floats on top of water, it would be

retained in this chamber. So clean water will be flowing into the next chamber without getting contaminated with the, with the oil. So, the oil will be left here in this section.

Q. Now where does the water come from that flows into this pipe?

A. Okay. The water coming from this pipe should be coming from the catch basins at the bay areas where the lifts are located. That's the only two areas - well, that's the only area where we connect, normally, connect the grease traps.

Deposition of Augusto Munoz, Vol. II, 9/10/92. Page 49 line 8 to page 50 line 17. **Exhibit J.**

Q. So it is your testimony that to the best of your engineering knowledge, Tutu has a 2,000 gallon oil/water separator that, up until the point Mr. Rosado emptied it and cleaned it, was connected to the public sewage system of the United States Virgin Islands?

A. It should be connected. I didn't say that it was connected because I haven't checked that up personally.

Q. Do you know anyone in your employ or anyone in your organization who has checked out the ingress and egress pipe from the 2,000 gallon oil/water separator identified by you today?

A. I don't know.

Q. Do you know where the connection is for the Tutu service station to sanitary sewer?

A. No, sir.

Q. Has anyone in Essorico-- Anna Gloria Ramos or any of the agents employees of Essorico, ever asked you before today where those pipes go?

A. No, sir.

Deposition of Augusto Munoz, Vol. II, 9/10/92. Page 51 line 11 to page 52 line 13. **Exhibit J.**

C) 500 gallon waste oil tank

Mr. Munoz further testified that a 500 gallon waste oil tank existed in the Esso Tutu property. This tank has not been investigated. When Mr. Munoz was asked if there are records which exist as to the volume of the underground storage tank, he stated:

A. That has to be determined in the field, because we don't know, you know, which size is there. The only thing I know now, which is a standard equipment, is the used oil tank, which is a five hundred and sixty gallon tank. The oil or grease separator or the grease trap have to be measured.

Q. So the waste oil tank is a five hundred and sixty gallon tank?

A. Yes, sir.

Q. How do you know that?

A. Because I believe it is the standard tank we use for that purpose.

Q. It's a concrete tank?

A. No, it's a steel tank.

Deposition transcript of Augusto Munoz, Vol. 1, 4/10/91. Page 67, line 7 to page 69 line 21. **Exhibit I.**

and ;

Q. Have you ever, since 1987, undertaken any efforts to determine the location of the slop oil tank at the Tutu service station?

A. No, sir.

Q. In your previous deposition of April 10th, 1990 you refer to that slop oil tank as having a manhole and a vent; do you remember that?

A. Yes, sir.

Q. Could you tell me or would you place for me a mark on Exhibit No. 3 where the manhole and vent for the 560 gallon slop oil tank it?

A. No, it's not shown here.

Q. Correct, sir. Could you put it on there?

MR. ROMERO: Did you say 560 gallons?

A. For 560-- no, I don't know where it's located.

Q. I'm sorry, 500 gallons.

A. You now, I don't know where it is located here, or if it was installed here.

Q. In your previous testimony given to us under oath--

A. Um-hum.

Q. On April 10th, 1990 you said you know that it has a manhole cover and a vent; do you remember that?

MR. ROMERO: Objection as to what he may have testified. The record speaks for itself, Mr. Dema. Do you want to confront the witness with his precise testimony?

BY MR. DEMA:

Q. Do you remember that, sir?

A. Probably. I, I mentioned that, but I cannot locate the, the precise location of that tank here.

MR. ROMERO: You're not asked to speculate, Mr. Munoz. His question is if you remember making that specific testimony; if you do or you don't, just answer his question.

A. I don't know.

Q. Could you tell me what quarter of the station it is located in?

A. It should be around this area.

Q. Could you draw--

A. Under the roof of the mechanic shop.

Q. Would you draw a circle--

A. In the general area.

Q. Just draw a circle in the general area where you think it is.

A. I think it should be located over here.

Q. Would you mark the circle with your initials so we could later tell it was your circle?

WITNESS PUT INITIALS ON CIRCLE.

Deposition transcript of Augusto Munoz, Vol. 2, 9/10/92. Page 32 line 3 to page 34 line 10. **Exhibit J.**

D) Presence of VOC's in the Oil/Water Separator

Water samples were taken from the tanks, storm drains and sumps at the Esso Tutu by the Region II Technical Assistance Team (TAT) team on August 17, 1987. The results of those samples were analyzed by Arnaldo Martinez and Douglas Henner of Weston Spill Prevention and Emergency Response Division, who noted in their January 27, 1998 report:

Samples one through eleven were analyzed for polychlorinated biphenyls (PCBs) and numbers twelve through twenty-two were analyzed for volatile organic compounds (VOCs). Split samples were provided for Tutu Texaco and Tutu Esso.

Some samples show very high levels of VOCs typical for sample collected from gasoline stations and auto body shops. See, Exhibit M.

Thomas Gutshall described how VOC's entered the waste oil pit:

Q. Up until the catch basin and the oil/water separators were installed, would you describe for me the mechanical methods of cleaning various auto parts in your full service shop?

A. Name me an auto part.

Q. How about -- you had mentioned in your testimony that you did engine breakdowns?

A. Yes.

Q. Did it ever come to pass when you were doing engine breakdowns that you had to degrease the engine parts?

A. Yes.

Q. How would you go about that?

A. If the engine was out it would be disassembled. I had a machine. I can't recall the name of the machine. It was full of liquid to pull out parts, had a pump, circulated, placed that part in it, you could leave it or you could hand clean it, remove it, wash it off and you have a clean part.

Q. I'll show you page 37 of a Selig catalog?

A. Yes, that is a parts washer.

Q. So just to keep the record straight, we'll mark this Exhibit 7.

EXHIBIT 7 WAS MARKED.

Q. Do you know whether in fact chemicals were purchased from Selig Chemical of Puerto Rico during the time we're talking about?

- A. The company name against?
Q. Selig, S-E-L-I-G?
A. I don't recall.
Q. The device described in your earlier testimony and then depicted on page 37, is that similar to the devise you described?
A. Described -- is similar.
Q. And in this particular picture there is a gentleman degreasing an auto part, supposedly?
A. Yes.
Q. And there is a 55 gallon drum?
A. Yes.
Q. Which contains the recirculated liquid?
A. Yes.
Q. In that similar to the operation you guys had?
A. Yes.
Q. This is the period of time prior to the installation of oil/water separator and the catch basins?
A. Yes.
Q. Where was the disposal of the used chemicals?
A. Dumped in the HCA holding container of the oil after it was nonusable.
Q. Which the rest of us referred to collectively as the waste oil pit?
A. Right.

Deposition of Thomas Gutshall, 6/13/91, Page 29 line 14 to page 31 line 21.
Exhibit E.

and:

- Q. Now, did you also use -- well, let's go for parts. Cleaning carburetors, did you clean carburetors with the parts cleaning device?
A. Yes.
Q. The parts washer, shall we call it?
A. Yes.
Q. How about brake drums?
A. No.
Q. Were there any times that you used spray degreaser?
A. Yes.
Q. Do you remember what the product names of the spray degreasers were?
A. No.
Q. Do you remember whether or nor you ever used Gunk products?
A. Gunk, yes.
Q. Mr. Berry had testified earlier today that they used a product called Brakleen. B-R-A-K-L-E-E-N?

- A. Yes. That is true, bought it at Western Auto.
Q. And the Gunk degreaser for carburetors, carburetor cleaner?
A. Yes. STP Carburetor Cleaner.
Q. Did you use a Gunk brake cleaner?
A. That is a possibility.
Q. Did you do grease jobs?
A. Yes.
Q. Do you remember whether you used white lithium grease?
A. On door hinges.
Q. Do you remember whether you used gasket cement?
A. Gasket sealer?
Q. Right.
A. Yes, yes.
Q. Did you clean radiators?
A. What do you mean by clean radiators?
Q. You drive in, you pour some type of--
A. Flush the radiators.
Q. Flush something in the radiators, run the car for a while?
A. Not usually, try not to.
Q. Does that happen occasionally?
A. Yes.
Q. What did you do with the flush material from the radiator?
A. Went on the ground.

Deposition of Thomas Gutshall, 6/13/91, Page 33 line 12 to page 35 line 13.
Exhibit E.

Exhibit N are invoices showing Esso Tutu purchases of Superkleen and the Material Safety Data Sheet for Superkleen which contains cresylis acid, methylene chloride, sodium dichromate and 1,1,1 trichloroethane.

Scott Graber of the CDM Federal Programs Corporation analyzed samples taken the Esso Tutu holding tank and oil/water separator and found toluene, ethyl benzene and xylene in all three samples as well as a number of benzene-containing volatile and extractable compounds. Sample eE-64 from the oil/water separator also contained detectable levels of methylene chloride, 2-butanone, 1,1,1 trichloroethane, tetrachloroethene and benzene. See Exhibit O.

According to EPA's Administrative Order dated 3/22/90, an EPA contractor collected oil samples from the ETSS UST located below the tire service area. Although the holding time was exceeded, the analysis revealed 30 ppm of tetrachloroethane and 25 ppm of 1,1,1 trichloroethane. In addition, oil samples were collected from the ETSS holding tank. Although the holding time was exceeded, this analysis revealed 63 ppm of TCE and 43 ppm of 1,1,1 trichloroethane.

E) Discharge from the Oil/Water Separator into the ground.

It has been determined that discharges from the Esso Tutu station were directed onto Four Winds property. Thomas Gutshall, Service Manager at Esso Tutu 1985 to 1987 and 1988 to 1990, testified that the pipe from a catch basin discharged liquid into the storm drain located at Four Winds and also onto the ground at Four Winds.

Q: So what was suppose to go into the catch basin?

A: Water.

Q: When you watched (sic) the stalls.

Q: So that was specifically designed to catch the water from the wash?

A: It was mixed with the water.

Q: Now, after this was installed, was that ever used as a method of, as receptacle for the parts washer liquid?

A: No, not to my knowledge.

Q: Was that ever used as a receptacle for the radiator cleaner?

A: Yes.

Q: Any used waste oil ever go in there?

A: no

Q: Now, would you describe for me the pipe that goes through the retaining wall to the south, where did that empty into? I think we have brief--previously looked at that on Exhibit No. 4.

A: That was originally hooked up to the storm drain belonging to the Virgin Islands government?

[EXHIBIT 9 WAS MARKED]

Q: Looking at Exhibit 9, I show you a recent picture, because I see Splash and Dash building back here, off the west side of the Esso Station and a storm drain that actually shows the same sign as in Exhibit No. 4 on the west wall, and ask if that was the storm drain to which the pump (sic) coming through the retaining wall was connected?

A: Yes.

Q: Who effected that connection, who made the connection?

A: Esso

Q: And how long did that connection last, to your knowledge?

A: I think about 10 days.

Q: Then what happened?

A: The Department of Public Works cut the pipe and capped it.

Q: Did it stay capped?

A: No.

Q: Why did it not stay capped?

A: The cap came off, to the best of my knowledge.

Q: Did it fall off?

A: I had seen the cap gone. That is the best I can tell you. I just happened to look and the cap was gone.

Q: Mr. Berry testified this morning that at some point in time the liquid flowed freely from the oil/water separator on to the ground immediately outside the retaining wall?

A: Is that a question?

Q: That is a statement. Would you agree with that statement?

A: Yes, I would agree with that statement.

Deposition of Thomas Gutshall, 6/13/91, Page 38, line 7 through page 40, line 18. **Exhibit E.**

and:

Q. The outflow from the oil/water separator after it was capped, how long a period of time went by before it fell off or before it lost its cap?

A. Maybe an hour after it was put on.

Deposition of Thomas Gutshall, 6/13/91, Page 42, line 12 through line 15. **Exhibit E.**

F) Leakage from the Oil/Water Separator

Thomas Gutshall testified that he witnessed evidence of leakage from the catch basin tanks:

Q. Have you personally ever checked those tanks and seen a particular level of liquid present in any of those vessels and then gone back and looked at that level and see it diminish?

A. Yes.

Q. And would you detail it for me when that was and the vessel in which you saw it?

A. I cannot tell you the dates.

Q. Could you tell me the period of employment?

A. The second period of employment after Safety Kleen emptied our pit, oil pit in the back, I think then in turn it started to, I don't want to say monitor, and to physically have someone open it, will you look in and see what is going on. The pit in time filled up. I in turn informed Esso and the discussion started with who was going to pay for it and when are we going to do it, when are we going to have normal conversation back and forth between dealer and wholesaler. I kept looking at the pit and noted that the pit had in fact lost some of its liquid, a good two feet.

Q. Over what period of time?

A. Oh, a period of about five days.

Q. Had you given anyone authority to remove any liquid from that pit?

A. No, you couldn't get to the pit or not without my key or going through the front door and office and the parts room.

Deposition of Thomas Gutshall, 6/13/91, Page 73 line 8 through page 74 line 14. **Exhibit E.**

and:

Q. Did you ever bring it to anyone's attention that the liquid in the pit had diminished a good two feet upon inspection?

A. Yes.

Q. To whose attention did you bring it?

A. Mr. Bayard.

Q. And?

A. And Mr. Gerbow, Augusto Gerbow, the V.I. Manager.

Q. First what did Mr. Bayard say or do about it?

A. Mr. Bayard, I don't know. I informed him of it. I felt that was something that he should -- you now, I just informed him about it.

Q. And what did Mr. Gerbow say or do about it?

A. Okay.

Q. Quite, unquote?

A. That was about as best I can recall. Okay, we'll look into it, check on it.

Deposition of Thomas Gutshall, 6/13/91, Page 73 line 8 through page 74 line 14. **Exhibit E.**

Carlos Garret, an engineer with Garrett, Vazquez and Associates, describes in his January 25, 1993 report at page 6 and 7 that the effluent and influent pipes were coated with a liquid with the appearance of used motor oil. **Exhibit L**

Page 6: At 03:20pm the undersigned witnessed that the plumber's snake that had been previously introduced into the inlet pipe of the large oil/water separator had been retrieved and that it was completely covered with a viscous black liquid with the visual appearance of used motor oil for a distance of approximately twenty (20) to thirty (30) feet.

Page 7: At 03:30pm the undersigned witnessed that the plumber's snake that had just been introduced into the outlet pipe of the large oil-water separator had been retrieved and that it was completely covered with a viscous black liquid with the visual appearance of used motor oil for a distance of approximately twelve (12) to fourteen (14) feet.

G) Black viscous seepage into Splash and Dash cistern excavation

Further indications of discharges from the Esso Tutu station onto Four Winds property are evidenced by the petroleum like substance draining to the car wash cistern excavation during its construction. There is numerous testimony regarding this incident. According to the deposition testimony of Lisa Bonanno, owner operator of the car wash:

Q: How deep was the pit when you walked over there with Mr. Mosa?

A: I don't know exactly how deep it was at the time when we discovered it, and I don't know exactly how deep it is right now, but we could ask George Mosa.

Q: No estimation?

A: Seven feet.

Q: And where on this seven feet-drop were you seeing something you perceived as oil?

A: If you cut the wall of the cistern, the cistern wall is 28 feet long. If you cut it in half it would be on the half closer to the street as opposed to Four Winds Plaza.

Q: Over the entire plan of it, 14 feet of it?

A: Yes

Q: Can you describe for me what the dirty burnt oil looked like?

A: Yes, it was dark, and it was thick, and it smelled, and it was seeping out the wall. It started seeping out not high, it was lower, deeper, I should say, and it was seeping out, and -- at first it didn't seem like a problem at all. It just looked like it was -- it was late in the afternoon when they finished the pit, and it didn't seem like much of a problem. George Mosa said what do we do, and I said we build a car wash. So he put plywood up, just leaned it up against the wall just so.

Deposition Transcript of Lisa Bonanno, 3/18/91. Page 164, line 20 through Page 165 line 23. **Exhibit B.**

A: At that point did you notify anyone else about the problem or the potential problem?

Q: No, because I didn't think it was a problem on that day. That night it apparently rained, and the next morning at 7:30 in the morning when I reached there, I got there at exactly 7:30 and the guys must have come on the job earlier. We start at 7:30, and one of my employees was taking a plastic cup, and filling it up, skimming the oil off the bottom of the cistern. There was a little bit of water because, as I said, it rained, skimming off the oil and pouring it into a five gallon jug. I was surprised and I said what is this guy doing. I thought it was a joke, and Mosa told me.

Q: Let me stop you for a minute. How much of this alleged oil did your friend or employee scoop up that morning?

A: The best thing to do would be to speak directly with George Mosa. It was several five gallon barrels.

Deposition Transcript of Lisa Bonanno, 3/18/91. Page 167 lines 3-22
Exhibit B.

From the deposition of George Mosa, Contractor for the construction of the car wash:

A: During the course of digging about five feet below the pavement we experienced oil mixtures or petroleum mixtures with the soil. And the deeper we went, the worse it became.

Q: Would you describe what this substance looked like?

A: I'd say at one point it was very dark liquid, oily, coming out from -- cutting, when they were cutting with the blade in the bulldozer it was exactly from the size of where the gas station wall started oozing some kind of oil liquid, which really --

Q: How, did any of this liquid substances accumulate in the bottom of the excavation?

A: Yes, when we came to the dimension I needed, the depth, and I stopped there, this was all surfacing on the bottom.

Q: Did you notify anyone from Esso?

A: We did. The manager there and Lisa Bonanno.

Q: And what did you do with the liquid accumulation on the bottom of the excavation?

A: Well every morning as worked progressed, one of my help was supposed to skim it and dump it in the Esso pit.

Q: And do you know -- do you personally know if in fact he took this liquid and gave it back to Esso?

A: Yes, that is what my instruction was, not to throw it in there -- to throw it in the pit.

Q: You mean the pit in Esso?

A: Yes, Esso.

Deposition Transcript of George Mosa, 6/13/91, Page 6 line 2 through Page 7 line 9. **Exhibit A.**

Further testimony regarding the black viscous substance emanating from the car wash excavation was made by Thomas Gutshall:

Q. Let me tell you that an excavation was made for the placement of that building and there was testimony, sworn testimony, to the fact that a dark ooze substance described this morning as goop.

A. Makes sense.

Q. Emanated from the south wall excavation of the Esso station?

MS. TURNER: The testimony this morning was not that it emanated from the south wall. I'm objecting to the characterization of Mr. Morris' testimony.

MR. DEMA: There was testimony from the same witness and earlier from Mr. Jenson of Esso that there was a similar goop-like substance that Esso contractors came in and then emptied from the catch basin?

MR. DEMA: Just to clarify the record, Mr. Morris called the liquid that, that was in the bottom of the excavation bit(sic). He didn't call it that either. He said it was liquid and dark in color and that he doubted it if was gasoline all right.

MS. TURNER: Seriously, what Mr. Morris described as, quote, goop, was the substance that the contractors took out various places of the Esso Stations and put into their drums.

MR. DEMA: Fair enough.

BY MR. DEMA:

Q. This is the Deposition Exhibit from the earlier deposition, and some 55 gallon drums were filled with a substance which Mr. Morris described as goop, a dark goopie liquid coming from areas one, two, three, four, five and six?

A. Yes.

Q. Based on you're familiarity with what was being placed into the catch basin, the only water separator and the waste oil pit up until the time you left the station, could you describe for me the visual characteristic of the liquids that would be visible in those areas?

A. In other words, the question is, what we were putting in the oil pits could possibly be what he found was mixed with water? Yes, quite easily.

Q. Was it dark in characteristic as opposed to light like gasoline?

A. It would be dark brown because the dirt was being mixed with it also.

MS. TURNER: I'm sorry, you said it was dirt being mixed?

THE WITNESS: Once (sic) mixes with the dirt and starts collecting the dirt and finally gets to a point that it's been sitting, by that time it's going to be a very dark brown, maybe even possibly black in some instances. Oil does that.

Deposition of Thomas Gutshall, 6/13/91, Page 70 line 5 to page 72 line 11.
Exhibit E.

Nelson Rosado, a civil engineer with Essorico, witnessed the incident.

Q. Yes. Mr. Rosado, upon your inspection, did you see a black, brownish liquid coming from the excavation wall by the service station?

A. Yeah.

Q. Having seen that, sir, when you went out of the pit and told the Country Manager for Esso of your findings, what did you tell him?

A. Okay. As soon as I got out from the excavation, I told Mr. Jenson what I saw in the excavation, that I saw product, a black sustance down there.

Q. I'm sorry. Did you say that you saw a problem?

A. Not a problem, a product.

Q. Did you have a conversation with Mr. Jenson as to what to do about it?

A. Yes. I told him that I'm goin gto report that to Esso Puerto Rico, and they have to decide what they're going to do. That's all what I have to do with that excavation. I only check it out and report.

Q. And it's your testimony that you went back and made that report to Mr. Augusto Munoz?

A. Yeah, I told my supervisor what I saw.

Q. Did Mr. Munoz say "Did you bring back a sample, Engineer Rosado?"

A. I don't remember if he asked about that.

Q. Could you tell me as exactly as you remember what you told him was coming out of the Esso wall?

A. Well, like I say before, it was -- between dark brown and black.

Q. Did he say "Do you think it was oil?"

A. I don't know. I can't--

Q. You don't know or you don't remember?

A. No I can't say it was oil. I don't know.

Q. I'm asking you what Mr. Munoz asked you. I'm trying to understand. You are the retail engineer in the field, and you go back to Mr. Augusto Munoz, who is head of Essorico retail engineering, and you say there is this black, brownish liquid substance coming from the excavation wall by Esso, and what does Mr. Munoz say?

A. Well, I don't remember what he say.

Q. Did he ask you whether you thought this was coming from the Esso station?

A. Yeah, he asked me.

Q. And what did you tell him?

A. Well, I told him, that I saw the-- that substance from that--that is below the area of the service station.

Q. Did he ask whether you thought it was coming from the service station?

MR. ROMERO: Did Mr. Munoz ask him that?

MR. DEMA: Yes.

A: I don't remember if he asked. I report to him what I saw.

Q. (Mr. Dema:) Do you know what--anything else that ever happened?

A. From that point?

Q. From that point.

A. No, I don't know, because I make a report, and they were with environmental problem.

Q. Do you know whether they ever did anything about this environmental problem?

A. No. I had nothing more to do with environmental section.

Deposition of Nelson Rosado, 10/14/92. Page 73 line 21 to page 76 line 8.
Exhibit C.

Analysis from the contaminated zone in the wall of the open excavation revealed total BTEX greater than 300 ppb, Methylnaphthalene 793 mg/kg, Phenanthrene 460 mg/kg. Detection limits for EPA analysis 8010/8020 was 60 ppb. Detection limits for EPA analysis 8270, 380-1800 mg/kg. This analysis is attached under Tab 4.

Prior to the backfilling of the car wash excavation, a PVC sump was installed (Waste Oil Well/TA-CR-MW1) and screened at the depth of the oil saturated zone. Analysis of liquid from this well revealed contaminants including Benzene 730 ppb, MTBE 27,000 ppb, Oil and Grease 6.2 ppb and Heavy Oil 100,000 mg/kg. Due to free product and/or extremely high concentrations of gasoline components, dilution rates for VOC analysis were as high as 100.

H) Pipeline Leakage

Esso knew that there was a pipeline leakage at the Esso Tutu. Evidence of their knowledge comes from several sources. A. Gerbaud cites this incident to C.S. Griffith, country manager of Esso, in his memorandum dated October 26, 1988.

From this date is apparent that some of the product went into the ground in March 1987 due to a leaking line. It also shows other instances where monthly losses were high... **Exhibit K.**

The Daily Liquid Motor Fuels Inventory from the Esso Tutu for the period in question clearly evidence the product loss before the pipe replacement and cessation of that after in the month of April, 1987. See, **Exhibit H.**

Esso contracted with Mr. Eugenio deArce to repair the leaking pipe. Mr. deArce states:

Q. And could you tell me with regard to Exhibit 74 dated 7 April 1987 in the amount of 5,900.00 what work you did? If we could first have the translator read into the description of work for the record.

THE INTERPRETER: Two inch piping was changed and they were installed in fiberglass. That's Number 1. Number 2, the two foot valves were changed on the tank. Item 3, the check valves, the one and a half inch check valves of the pumps were repaired. And Item 4, the pavement was repaired. Total, five thousand nine hundred.

Q. (Mr. Dema:) Do you remember the work that was done in that instance?

A. Yes.

Q. Do you remember why you were requested to do that work?

A. Excuse me?

Q. Do you remember why you were asked to do that work?

A. Yeah, because the pump, the-- one of the pump stop when the--they are -- they are pumping.

Q. It wasn't producing gas at the pump?
A. Not pump any gas.
Q. So did you go in and pressure test the line?
A. No, we check the pump. I -- I can't remember exactly how I did at that time. But to -- when I change it to lines has to be because before that they have to make a pressure test and show that the something is wrong with the pipe or with the flow valve.

Deposition of Eugenio deArce 10/15/92. Page 66 line 5 to page 67 line 7.
Exhibit G.

Thomas Gutshall testifies that he was present when the pipe was replaced on April 7, 1987.

Q. Prior to July 1987 from the point you started in 1985, were there any repairs of any type made to your knowledge to the underground storage tanks or the tank piping system?

A. Yes.

Q. Could you detail what you know of those repairs?

A. There was a leak discovered going through the set o pumps closest to the building, which would be, let's go over here.

Q. Referring to Exhibit No. 1?

A. yes, gas island closest to the building. How do you want to do it?

MS. TURNER: I'm sorry you said there was a leak where?

THE WITNESS: On the island closest to the building.

BY MR. DEMA:

Q. Were pressure tests ever conducted of that pipe?

A. I don't know.

Q. How do you know that there was a leak?

A. I was told my Mr. Bayard.

Q. Was there ever any repairs made to the pipe?

A. Oh, yes, it was replaced.

Q. Do you know who conducted the row pairs (sic)?

A. Eugenio.

Q. Approximately what period of time was this?

A. I have no idea.

Q. Prior to your, to the summer of '87 I take it?

A. It would be my first employment.

Q. Prior to the problem with the underground storage tanks? A.
(sic) Yes, oh yes.

Q. Did Mr. Bayard mention to you his estimate of the amount of product that had been replaced?

A. No.

Q. Was it ever mentioned to you whether it was a small quantity or a large quantity?

A. It was enough that it reflected a loss of money when you balanced out everything. It doesn't quite make it. At first there was suspect of some type of theft or something like that.

Q. Was that ever eliminated as a possibility?

A. Well, when they found out it was leaking, yes, the theft was gone. When it was dug up, this was evidence that the leaking pipe had rusted through.

Q. Did you ever see that?

A. Yes, I saw it.

Deposition of Thomas Gutshall 6/13/91. Page 60 line 6 to page 61 line 9.
Exhibit E.

I) BTEX releases

As was noted by Graber, BTEX was released into the ground at the Esso Tutu. Eugenio deArce was contracted to pressure test the line in August of 1985:

MR. DEMA: Showing you Exhibit Number 42, 906063B dated August 21st, 1985. If the translator could interpret the description of work.

THE INTERPRETER: Make a pressure test on the unleaded line. Beneath that, note colon, the line is broken. \$420.00.

Deposition of Eugenio deArce, 10/15/92. Page 42 line 16 to line 21.
Exhibit G.

However, according to the testimony of Mr. deArce, the line was not actually repaired until the following September:

Q. Showing you Exhibit 40, Bate Stamp 906016B. It's a 1985 invoice. The year's indecipherable. I would ask if you could make out the description of work. I can also give you two other versions of the same documents if you can compare them to see whether you can decipher what the description of the work is.

A. Okay. They say by installation was two fiberglass line from the -- from the self-serve island. They-- there was install 12 inches deep and cover with sand, then concrete on the top in the area of concrete and asphalt. In the area with asphalt.

Q. And do you remember -- well, could you tell me which one you read from so we know which one?

A. This one. That is the one more clear.

Q. That's the amount of \$4,869.00?

A. Right.

Q. Dated 18 September 1985; is that correct?

A. Yes, sir.

Q. So I'll remark that as Exhibit 40.

MR. KNOEPFEL: Exhibit Number 40?

MR. DEMA: Yes. Bate stamp 906016B. For easy reference, it's also Exhibit Number 15 in Nelson Rosado's deposition. Sir, do you remember why you replaced the lines?

A. Well, those line was replaced because when they using the line-- the pumps, they-- they-- the pumps stop pumping and then we make a pressure test to the line and show that they have a leak in -- in the line.

Deposition of Eugenio deArce, 10/15/92. Page 39 line 18 to page 40 line 21. **Exhibit G.**

J) Underground storage tank leakage

Roque Schmidt Corporation tested the underground storage tanks at the Esso Tutu station on August 10, 1987. From their report and with test result attached:

Test was set and running. It was noticed that the stand pipe was decreasing continuously and test was immediately stopped assuming there is possible leak in the tank structure. We recommend that the tank shall not be used until a thorough physical examination is performed. **Exhibit P.**

According to the Esso tutu service manager, Bayard admitted a pinhole leak in the UST.

Q. Did you ever have any discussion with anyone else besides Mr. Bayard about the integrity of the tank after it was removed.

A. Repeat that, I'm sorry.

Q. Did you ever have discussion with anyone other than Mr. Bayard about the integrity of the tank after the tank was removed?

A. Augusto Gerbow and I talked briefly. He was the manager.

Q. Would you tell me everything that you said to Mr. Gerbow and Mr. Gerbow said to you relative to the integrity of the tank?

A. The only think I ever said, do you think there was a leak. And Mr. Gerbow said I really don't think there was, but we won't know until they do a pressure check on it. He told me that would be done the next day. And when the next day the new tanks were in the ground when I arrived do work at eight o'clock in the morning. The oil-- old tank was still sitting there. I was told by Mr. Bayard that the old tank did in fact have an pinhole leak, but it could have happened caused by the pressure check itself. He said to me that they could not confirm that had been leaking.

Q. Did you ever have occasion to speak with Mr. Gerbow again?

A. No, not about that at all. I kind of took the hint.

Deposition of Thomas Gutshall, 6/13/91. Page 64 line 19 to page 65 line 23.
Exhibit E.

K) Monitoring Wells

Additional indications of a discharge onto Four Winds property from the Esso Tutu station is revealed from analyses from four shallow monitoring wells installed to depths of approximately 25 feet and located on Four Winds property around the perimeter of the Esso property. Analyses from the monitoring well located on the southeast corner (MW-3) revealed MTBE 62,000 ppb and Total BETX in excess of 100,000 ppb. Dilution factor was 1,000. MW-2 samples revealed Naphthalene 66 ppb and Ethylbenzene 120 ppb. Soil samples from MW-2 revealed MTBE 190 mg/kg and oil and grease.

Analyses from MW-1 (northeast corner of Esso) and MW-4 (northwest corner) revealed TCE, 14 and 18 ppb, Cis, Trans 1,2 DCE, 170 and 210 ppb, PCE 69 and 73 ppb respectively. Additional contaminants found were MTBE at 55 ppb (MW-1), and Xylene 5.4 ppb (MW-4).

Rejection of samples analysis detecting contamination:

One of the highest TPH (total petroleum hydrocarbon) concentrations was found in soil boring B-9 (northwest corner of Esso Tutu). This is not surprising. It is common to find high TPH levels at a gasoline station. It is surprising that the report suggests that this reading may be a "false positive". It appears to lead the reader to dismiss these sampling results without further investigation.

Misinterpretation of sample results:

The study suggests that contamination near the Esso Tutu station is limited to an area west and south of the site. As stated above, except for B-9, no other boring, test holes, monitoring wells or other investigations on Esso property were performed by Garrety & Miller to delineate the source or extent of contamination around the site. The station is clearly a demonstrated source of contamination.

The detection of high levels of contamination west and south (down gradient) of the Esso Tutu Station would indicated the necessity of additional borings, especially in and around the location of known and suspected UST's at the Esso site. Only then could a determination be made of the limits or containment of the contamination.

Section 3.3.1: Aquifer tests:

The Cooper Jacob analysis (as indicated in Figure 3-7) appears to be a Theis leaky aquifer curve match., Cooper Jacob is usually used on early time data and

should be drawn to fit the steep portion of the curve between 1 and 10 minutes. The data probably fits a leaky curve because only a small interval of the aquifer was tested instead of the full thickness of the system. A slug test would be more appropriate. More than likely, aquifer tests conducted in a fully penetrating test well would fit the delayed yield unconfined response curves.

Section 3.3.2: The data for aquifer tests as described in this section is questionable. It is not indicated what regional water levels were doing prior to initiation of the tests. Due to the very small amount of pumping and associated drawdown, it is possible that observed drawdown in CHT-6D is due to regional fluctuations. If the regional fluctuations were monitored, the water levels should be corrected to reflect real drawdown. These data do not reflect a Cooper/Jacob analysis. Higher pumping rates should have been used.

Page 4-3: It is very doubtful that TPH values are false positives since water sampled in shallow ground water monitoring well MW-9S had the highest TPH values.

Page 5-8: Shallow monitoring wells exist around Underground Storage Tanks at Texaco and Tutu Esso. These well should be sampled.

Page 5-9: Data indicates three sources: Laga, Tutu Esso and O'Henry. This is indicated by the lack of vinyl chloride in monitoring wells M-4 and M-4D and detection's in wells south of Tutu Esso.

Page 6-2: "No effect" is stated as occurring in nearby shallow wells MW-1 and MW-3; how was this determined? Were water levels monitored while the VIHA wells were shut down, allowed to recover, and then turned on? If so, where is the data?

Page 7-2: "... the distribution ... may not be sources of chlorinated VOC's."

Additional sampling and analysis:

The study recommends that the laboratory should try to detect PCE, TCE and 1,2 DCE from MW-5. Additional analysis of this type should not be limited only to samples from MW-5. The laboratory should also attempt to detect VOC's from existing wells and new borings or wells. The selected site should be located near other suspected sources of contamination as indicated by previous studies, known or suspected use/storage of products containing VOC's. Soil vapor is usually used for determining placement of soil boring and monitoring wells. Soil borings should be conducted at Tutu Esso with these locations guided by soil vapor analysis.

Page 7-1 Monitoring well location:

TUT 007 0962

A monitoring well should be installed at the northeast corner of the Tutu Esso service station building. The justification is indicated by soil vapor analysis.

Although the western, southern and northern boundaries of ground water contamination are somewhat defined, the eastern boundary has no definition as yet. Shallow and deep wells should be placed behind the Seventh Day School, behind Tillet Gardens east of the Mike's Paint and east the car wash near Doroty's House.

Deep wells are still above criteria with respect to chlorinated compounds. A deep well to the base of the aquifer should be drilled to determine concentration at depth. It is interesting that no one has defined the full thickness of the system .

Contamination Plume Source, Fate and Transport:

Potential migration pathways as currently defined indicate the direction of contamination movement at the current time. In order to fully understand the current distribution of contaminants and possible sources, it is necessary to determine flow paths when Tutu Aquifer supply wells were pumping. Supply wells such as Tillet and Four Winds had the effect of reversing ground water gradients in the area of Tutu Esso.

The study suggests that based on ground water sampling analysis, the absence of PCE, TCE, 1,2 DCE and Vinyl Chloride in MW-11D and MW-12D and peak concentrations of VOC's at the Curriculum Center building and Harvey supply well, indicates two independent sources of VOC contamination. The study further concludes that the distribution of chlorinated compounds in soil and water indicated that the Esso and Texaco service stations "may" not be sources of chlorinated VOC's.

Using this logic, further study of the published data from the Tech Memo II and inclusion of previously published data in an overall analysis indicate a Vinyl Chloride "gap" between Esso and Texaco. In addition, soil gas surveys indicating a contamination "hot spot" at Esso Tutu , suggest the site as a third potential source of VOC contamination.(PCE and/or TCE)..

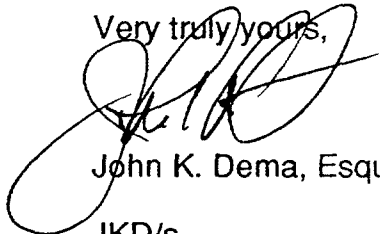
The determination of sources of chlorinated VOC's is a critical element of the study. The study recommendations state that the results of this element of the study are inclusive. We agree that additional boring and/or test holes should be drilled, including further investigation of the Tutu Esso station. To limit the investigation of the service stations to the work already performed, invites an attack on the credibility of the investigation as having been designed to limit and circumvent proper investigation of the contaminant contributions of the oil companies.

Summary:

The investigation conducted for Tech Memo II provided very valuable data and insights into the contamination at Tutu as defined by the original purpose and scope of the work.

Nevertheless, the study's assumptions and recommendations cannot be viewed independently. The data from this investigation must be interpreted and recommendations for further study, delineation of the contaminant plume(s) and eventual treatment and/or remediation plans must be made in context with all available scientific studies and information on: chlorinated VOC and hydrocarbon use, chemical storage and disposal, historical pumping patterns and all other pertinent information relating to potential contamination of ground water in the area.

Very truly yours,



John K. Dema, Esquire

JKD/s
Enclosure

cc: Quincy Development Corporation

TUTU WELL CONTAMINATION
ST. THOMAS, U.S. VIRGIN ISLANDS

EXHIBIT LIST TO LETTER OF JUNE 25, 1993

- A) DEPOSITION of **George Mosa**, Contractor for the construction of Splash and Dash Car Wash.

See, entire transcript for his description of an oil like substance "oozing" into the excavation from beneath the Tutu Esso station during late February of 1991.

- B) DEPOSITION EXCERPTS of **Lisa Bonanno**, March 18, 1991, Owner and Operator of the Splash and Dash Car Wash.

See, pp. 162-173 for her description of the oil-like substance collecting in the car wash excavation.

- C) DEPOSITION EXCERPTS of **Nelson Rosado**, October 14, 1992, Engineer of Essorico.

See, p. 66, line 20 through p. 75- Rosado climbed down into the excavation and observed a black, brownish liquid coming from the wall by the Esso station.

- D) COVER LETTER dated August 20, 1991 from Richard Smith to the EPA (Chester) with lab results of soil sample taken from car wash excavation by Marcella Jennings of Caribbean Safe Water Lab.

- E) DEPOSITION EXCERPTS of **Thomas Gutshell**, former service manager Esso Tutu.

See, pp. 30-31- Chemicals from part washer were dumped into the waste oil pit. Deposition Exhibit 7 attached.

See, pp. 37-42- Description of oil/water separator and discharge pipe. Deposition Exhibits 4 and 8 attached.

See, pp. 60-62- Discussion of pipe line replacement.

- F) LETTER from Daniel Bayard to Four Winds Plaza dated July 15, 1986 regarding discharge of oil into Four Winds parking lot.

- G) DEPOSITION EXCERPTS of **Eugenio deArce**, October 15, 1992, service station contractor at Esso Tutu

See, pp 40-41- Pipeline replacement in September of 1985.
Deposition Exhibit 40 attached.

See, pp. 66-72- Pipeline replacement on April 7, 1987 with
Deposition Exhibit 74 attached.

- H) Daily Liquid Motor Fuels Inventory Records dated March 1 through April 30, 1987, i.e. before and after April 7, 1987 pipe line replacement.

- I) DEPOSITION EXCERPTS of **Augusto Munoz**, Vol. I, April 10, 1991, engineering head of Essorico retail division.

See, pp. 67-70- The existence of a 560 gallon carbon steel waste oil tank at Esso Tutu.

- J) DEPOSITION EXCERPTS of **Augusto Munoz**, Vol. II, September 10, 1992.

See, pp. 31-34- Discussion of equipment inventory including a 500 gallon slop oil tank (item 31 on Munoz Deposition Exhibit 5).

See, pp. 48-62- Discussion of 2,000 gallon waste oil tank and associated piping.

- K) MEMORANDUM from C.S. Griffith to A. Gerbaud dated October 26, 1988- regarding "product loss" into the ground in March, 1987 due to a leaking line.

- L) REPORT of **Carlos Garrett** dated January 25, 1993.

See, p. 6 regarding "a viscous black liquid" covering the plumber's snake when it was removed from the inlet pipe of the 2,000 gallon oil/water separator.

See, p. 7 regarding same as above for outlet pipe.

- M) REPORT of Weston Sper dated January 27, 1988- results of VOC testing in the waste oil storage tanks at Esso Tutu.

- N) INVOICE from Selig Chemical Industries dated 7/21/83 showing purchase of Superkleen by Esso Tutu with MSDS sheets attached.

- O) LETTER from CDM Regional Manager, Scott Graber, to the EPA dated March 6, 1989 regarding test samples taken from the oil/water separator and holding tank at Esso Tutu.
- P) LAB RESULTS from Schmidt Corp. regarding tank testing at Esso Tutu indicating a possible leak.

1 IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
2 DIVISION OF ST. THOMAS AND ST. JOHN
3 FOUR WINDS PLAZA PARTNERSHIP,)

4 Plaintiff,) CIVIL NO. 1989/224

5 vs.) ACTION FOR DAMAGES

6 JURY TRIAL DEMANDED

7 TEXACO, INC., TEXACO CARIBBEAN,)
INC., VERNON MORGAN, ESSO STANDARD)

8 OIL, S.A., LTD., DANIEL BAYARD,)

9 Defendants.)

10 P.I.D, INC.,)

11 Plaintiff,)

12 vs.)

13 TEXACO, INC., TEXACO CARIBBEAN,)
INC., VERNON MORGAN, ESSO STANDARD) 13 OIL,

14 S.A., LTD., DANIEL BAYARD,)

15 Defendants.)

16 DEPOSITION OF:

17 GEORGE MOSA

18

19

20

21 DATED:

June 14, 1991

22

23

JULEE NORMAN, C.S.R.

Page 1

1 RITA SHEPARD, C.S.R.

2 P.O. Box 9968

3 St. Thomas, USVI 00801

4

5

Page 2

1 APPEARANCES:

2

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Attorney for Texaco.

14

15

16 The following is a transcript of the

17 deposition of GEORGE MOSA before RITA SHEPARD,
C.S.R.

18 within and for the Territory of the United States

19 Virgin Islands, on the 14th day of June, 1991, at the

20 Law Offices of Briggs, Knoepfel & Ronca, 30 Dronnigens

21 Gade, St. Thomas, USVI 00804.

22

23 *****

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1 INDEX

2 PAGE

DIRECT EXAMINATION

3 BY: Mr. Dema

4 DIRECT EXAMINATION

BY: Mr. Knoepfel

5

CROSS EXAMINATION

6 BY: Ms. Turner

7

Page 5

Page 4

• • • PROCEEDINGS

[4] GEORGE MOSA, • a witness, having
been first duly sworn, was • examined
and testified as follows:

[7] DIRECT EXAMINATION

[8] BY MR. DEMA:

[9] Q: Have you ever had your taken
deposition • before?

[11] A: Here, no.

[12] Q: Okay. This is part of a court
proceeding, • and we're going to ask you
some factual questions about • what you

saw or did with relation to an excavation
in • February and March of 1991 this
year. • If there is a question that any of
us ask • that you don't understand, ask
us to rephrase it or • repeat it and we'll
be happy to do so.

[19] A: Okay.

[20] Q: The first main rule is you have to
speak • audibly so this young lady can
hear you and be able to • make a
transcript. • Would you state your name
and address for the • record?

[25] A: My name is George Mosa,
M-O-S-A, 1-41 Bakkerø

Page 5

• • • Estate, St. Thomas.

[4] Q: And what is your trade or
profession, sir?

[5] A: I'm a general contractor. Now
I'm in the • management of
construction.

[7] Q: And in approximately February of
this year • were you involved in any
construction in the area of • Estate Tutu
in St. Thomas?

[10] A: Yes.

[11] Q: Would you describe for us what
the • construction project was?

[13] A: I was commissioned by Lisa
Bonanno and her • husband Georgio to
help them build a car wash, which •
they call Splash and Dash Car Wash.

[16] Q: I show you a picture of what has
been marked • Tom Gutshall No. 9 and
ask if that was the approximate • area
which was to the south of the Esso Tutu
station • where this car wash is being
built?

[20] A: Yes.

[21] Q: Now, would you describe what you did in terms of starting the construction?

[23] A: We have heavy equipment hired from D&C and we start digging the cistern in the foundation area.

[25] Q: And did anything out of the ordinary happen

Page 6

• • • during the course of your digging?

[4] A: During the course of digging about five feet below the pavement we experienced oil mixtures or petroleum mixtures with the soil. And the deeper we went, the worse it become.

[8] Q: Would you describe what this substance looked like?

[10] A: I'd say at one point it was very dark liquid, oily, coming out from -- cutting, when they were cutting with the blade in the bulldozer it was exactly from the size of from where the gas station wall started oozing some kind of oil liquid, which really --

[15] Q: Now, did any of this liquid substances accumulate in the bottom of the excavation?

[17] A: Yes, when we came to the dimension I needed, the depth, and I stopped there, this was all of the surfacing in the bottom.

[20] Q: Did you notify anybody from Esso?

[21] A: We did. The manager there and Lisa Bonanno.

[22] Q: And what did you do with the liquid accumulation on the bottom of the excavation?

[24] A: Well every morning as worked

progressed, one of my help was supposed to skim it and dump it in the

Page 7

• • • Esso pit?

[4] Q: And do you know -- do you personally know if in fact he took this liquid and gave it back to Esso?

[6] A: Yes, that is what my instruction was, not to throw it in there -- to throw it in the pit.

[8] Q: You mean the waste oil pit in Esso?

[9] A: Yes, Esso.

[10] Q: And what type of pipe or vessel did he use to take it?

[12] A: Well we use five-gallon paint buckets. I still have the buckets on the premises. This is the type of buckets I use on the premises and stuff, five-gallon buckets.

[16] Q: And did this happen one day or more than one day?

[18] A: It happened almost every day until I poored the slab of the cistern and then the liquids was forming around the slab on the bottom of it.

[21] Q: And how many buckets of this liquid over the course of these days?

[23] A: I can't recall, but a lot of it.

[24] Q: A lot of it?

[25] A: Yes.

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• •

[3] Q: I have no further questions. Anyone else?

[5] DIRECT EXAMINATION

[6] BY MR. KNOEPFEL:

[7] Q: Who gave you the instructions to

pour it into the Esso waste oil pit?

[9] A: The manager there.

[10] Q: The manager there?

[11] A: Yes.

[12] Q: Do you know his name?

[13] A: I think his name Danny. I don't know the last name.

[15] Q: You didn't know how many buckets were actually --

[17] A: Not really, quite a few.

[18] Q: Was it quite a few every day?

[19] A: I'd say a few. I don't know how many because I wasn't all the time there.

[21] Q: Did anyone other than Dan from Esso ever talk to you about it?

[23] A: No, not to me.

[24] Q: Thank you, Mr. Mosa?

[25] REDIRECT EXAMINATION

Page 9

• •

[3] BY MR. DEMA:

[4] Q: Mr. Mosa, there is one other question. When you were doing the excavation, there has been some statement that the wall of the Esso building to the south side was moving up and down. Could you comment on that?

[9] A: I can't. No, I never seen it move. And if that moved this would be broken by now.

[11] Q: So you inspected that wall to see whether there were any cracks or movement in that wall?

[13] A: Yes, I was paying attention to that.

[14] Q: Did you find any?

[15] A: No.

[16] Q: Thank you. No other questions.

[17] CROSS EXAMINATION

[18] BY MR. TURNER:

[19] Q: I just have a few questions, Mr. Mosa. My • name is Judy Turner, and I represent Esso. • You've testified that you saw a substance • coming from the side of the gas station wall. Did you • personally see it as it was oozing?

[24] A: Yes, we tried to stop it with all kinds of • means to come under the forms. I put plywood forms

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• • • against it this way not to disturb us, and it was • really coming out after that from the side of the form.

[5] Q: Was it coming in a stream are you saying?

[6] A: It's not a stream, it's really like oozing • like, you know, like flow, a very slow flow I would • say. Can't explain how. Not gushing.

[9] Q: How many days did you see this?

[10] A: This was the first few days. The first few • days and then subsided in different locations.

[12] Q: Are you saying it collected in the bottom of • the pit for each of these days?

[14] A: Yes. It just ran on the wall itself because • we went deeper than the part where oil was coming out, • which I believe it was four feet deeper than that • position.

[18] Q: And how much collected every day in the • bottom?

[20] A: I have no idea. But we did collect a few • buckets a day, a few.

[22] Q: Did you keep a sample of any of the substance • that you collected?

[24] A: No.

[25] Q: Did you notify any Virgin Islands government

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• • • authority?

[4] A: I notified Lisa Bonanno and the gentlemen • from Esso. That is the only thing I did. And I was • told to continue the work.

[7] Q: Did you think it was your obligation to • notify any Virgin Islands government authority?

[9] A: Not really. I was the manager and I managed • the site for the Bonannos.

[11] Q: Do you know if the Bonannos ever notified any • governmental agency?

[13] A: I have no idea.

[14] Q: Did the Bonannos ever mention to you they're • afraid their permits would be pulled if anyone from the • Virgin Islands government knew of it?

[17] A: No, it was not mentioned to me. It was just • the nature of, let's do the permits. And she wants the • car wash open as soon as possible, not to delay work.

[20] Q: Did you personally pour any of the substance • that you said was collected from the bottom of the pit • into any container at the Esso Station?

[23] A: Specifically myself, no. But my help.

[24] Q: What are the names of these workers?

[25] A: Poly Karpcartny,
P-O-L-Y-K-A-R-P-C-A-R-T-N-Y.

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• •

[3] Q: Who were the other help -- does he still work • for you?

[5] A: Yes.

[6] Q: Who were the other helpers?

[7] A: Talmoth Titer,
T-A-L-M-O-T-H-T-I-T-E-R, I • think.

[9] Q: Does he still work for you?

[10] A: Yes.

[11] Q: The names of any others?

[12] A: All my help is still there. If you need any • names, I can supply you with all of them. Everyone is • still working on the project.

[15] Q: And you've testified you never spoke to • anyone at Esso other than the Esso gas station manager • about this problem?

[18] A: Yes. I noticed that people came from Esso • management. But I never spoke to anyone other than • that other man Dan.

[21] Q: When did you first speak to Dan; on the first • day after you saw it?

[23] A: Maybe after the first or second day I saw the • oil.

[25] Q: That you saw the substance in the pit?

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• •

[3] A: Yes.

[4] Q: Did did there come a time when Esso • representatives came to look at the pit?

[6] A: I don't remember myself. I don't know the • people if they are Esso or some other people came in. • I do not know if Esso came when I was there or I wasn't • there.

[10] Q: Let's go back. How many hours a day did you • spend on that site? Did you spend all day there?

[12] A: Most of the day. But also I buy material, I • run for organizing the project. So I almost not there • eight hours a day. I can be in the office if I'm • buying water and ice?

[16] Q: But were you there most of each day?

[17] A: Most of each day, yes.

[18] Q: Now, you mentioned that you notified Dan of • this problem on what you think is the first day?

[20] A: I don't remember if it was the first or the • second day.

[22] Q: Did you ever see anyone from Esso come over • to the pit and look at the pit and the substance?

[24] A: I don't remember. I don't know if they are • from Esso or somebody else.

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• •
[3] Q: But you saw a gentleman come over and look at • the pit?

[5] A: Yes.

[6] Q: What date was that?

[7] A: I don't know dates. If you want dates I have • to look at the bills of D&C Company that I remember all • the dates they were digging there.

[10] Q: What do you have to show me what those are?

[11] A: The dates of the machinery when they were • rented.

[13] Q: Could you provide us with that?

[14] A: Yes, I can.

[15] Q: Do you have any written documentation that • reflects your

noticing the substance in the pit?

[17] A: No, no.

[18] Q: Do you have any notes regarding • conversations?

[20] A: No.

[21] Q: Do you have any notes reflecting concerns you • had either with Dan Morris or Lisa Bonanno or her • husband regarding what you saw in the pit?

[24] A: No.

[25] Q: Did either of the Bonannos every ask you to

Page 15

• • • stop excavation until a solution had been found • regarding the substance in the pit?

[5] A: No.

[6] Q: Did Dan Morris ever come over and look at the • substance in the pit?

[8] A: Yes.

[9] Q: Do you know what day he did that?

[10] A: No.

[11] Q: Did the Bonannos ever request that you take a • sample from the pit?

[13] A: No.

[14] Q: And how can this -- how did this substance • final stop oozing, when was it no longer there?

[16] A: Well, I was told by Dan that they going to • pump it, Esso going to pump oil. And I have no idea • when it was pumped or not. And as, you know, time • passed by this oil came out from the wall. The longer • we work on the job, the less oil came out. • And the end of the project when I start • covering, only the traces of oil was there because • bailing it out. And I don't know what

else I can tell • you.

[25] Q: Other than your own personal opinion, did

Page 16

• • • anyone ever make any test, to your knowledge to • determine what you say is oil, where it came from?

[5] A: To my knowledge I don't know if it was done • or anyone did tests.

[7] Q: Do you have any information to actually • determine where this substance came from?

[9] A: The only -- no. From conversations that they • did have a pit for used oil that was adjoined to the • wall there. There was a pit, and it's cracked, and • this is all, you know.

[13] Q: Is this all supposition on your part?

[14] A: Conversation with -- you know, around the gas • station. I cannot really pinpoint names. I can't • remember.

[17] Q: But you yourself or your company never made • any tests?

[19] A: No.

[20] Q: What company were you from?

[21] A: I'm self-employed.

[22] Q: And what is your phone number?

[23] A: 774-1886.

[24] Q: Do you have a foreman or are you the foreman?

[25] A: I'm the foreman/manager.

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• •
[3] Q: What stage is this Splash and Dash operation • at now?

[5] A: Almost in final stage.

[6] Q: It's almost done. Have you run into any • other problems during your building of the Splash and • Dash?

[9] A: Not really, just rocks.

[10] Q: Do you have any documents at all in your • company relating to the substance you found in the pit?

[12] A: No.

[13] Q: Did you ask the Bonannos, either of the • Bonannos to come look at the pit when you saw this • substance in the bottom?

[16] A: Yes, I did.

[17] Q: And who came?

[18] A: Lisa and Georgio.

[19] Q: When did they come?

[20] A: The same as I notified them, the same day.

[21] Q: What was their reaction?

[22] A: They're going to talk to Esso people.

[23] Q: Do you know if they ever actually talked to • Esso people?

[25] A: I have no idea. But I was told they did

Page 18

• • • talk.

[4] Q: Do you know if the Bonannos made any tests on • the substance or took any samples of the substance?

[6] A: I don't recall actually. • Excuse me, when you ask of Bonannos did they • take samples. Themselves, they didn't. But it was in • the course of their investigation and some other people • came.

[11] Q: And who were the other people?

[12] A: His firm or somebody else. His other firm • came.

[14] Q: Did a representative from Mr. Dema's office • come?

[16] A: There were representatives there.

[17] MR. KNOEPFEL: Mr. Romero, Mr. Cole?

[18] Q: What day did they come?

[19] A: I don't know about the dates. They should • have the dates. I didn't --

[21] Q: Do you know if anyone else besides the • lawyers' representatives on the day that you're • referring to came and took samples?

[24] A: To tell you the truth, I don't know all of • them who are they. It be Lisa or Esso. So they go

Page 19

• • • take samples. • There is also a pipe there on the site that • we put all the way down to the location.

[6] Q: And was this the day that you discovered the • substance?

[8] A: The day after I built the cistern.

[9] Q: So it was a long time after?

[10] A: I wouldn't say long.

[11] Q: How long, just so I know?

[12] A: I wasn't moving very fast. I was building • very fast. I would say within a week?

[14] Q: Can you provide us with the documents you • referred to about those when you were using the heavy • equipment?

[17] A: Yes, I can. I can give you the dates.

[18] MR. DEMA: You can give them to me, Mr. • Mosa. I'll make them immediately available to Ms. • Turner.

[21] A: No problem.

[22] BY MS. TURNER:

[23] Q: Other than what you've testified to about • your helpers using five gallon buckets to skim the • substance that was in the pit, and you said that they

Page 20

• • • were supposed to dump it in the Esso waste oil pit, do • you know if that substance was ever placed any place • else?

[6] A: Yes, it was never placed any place.

[7] Q: I'm sorry?

[8] A: I know that it was not placed any place else • but the thing.

[10] Q: You're saying that that was the only • receptacle that you know of?

[12] A: Yes.

[13] Q: I have no further questions.

[14] MS. HOERBER: I have no questions?

[15] MR. DEMA: Thank you, Mr. Mosa, • appreciate your time.

[17] [WHEREUPON THE DEPOSITION WAS CONCLUDED.]

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• • PROCEEDINGS

[3] LISA BONANNO, • a witness, having been first duly sworn, was • examined and testified as follows:

[6] DIRECT EXAMINATION

[7] BY MR. COLE:

[8] Q: Ms. Bonanno, for the record could you please • give your full name and your residence address?

[10] A: My name a Lisa Marie Bonanno Bertrand, • B-E-R-T-R-A-N-D. I live at 2C-A and 2C-B Estate • Bakkeroe in St. Thomas.

[13] Q: And what is your date of birth?

[14] A: It is 4/8/61.

[15] Q: How long have you been a resident of St. • Thomas?

[17] A: For two years. Well, I moved down • permanently August of '89, but I've been basically • traveling back and forth for four or five years.

[20] Q: Where was your residence prior to August of • 89?

[22] A: 311 Roseland Avenue Essex Fells, New Jersey.

[23] Q: Essex?

Page 6

[1] A: Fells. E-S-S-E-X, and then F-E-L-L-S.

[2] Q: What is your educational background, Ms. • Bonanno?

[4] A: I got a bachelor's degree at Syracuse • University with a concentrate in French at the Sorbonne • and I got a master's at Harvard.

[7] Q: What year did you obtain your degree from • Syracuse?

[9] A: I graduated in '83.

[10] Q: What was your major?

[11] A: It was in education.

[12] Q: And you say you studied at the Sorbonne?

[13] A: Yes, I did.

[14] Q: For how long?

[15] A: For one year.

[16] Q: And obtained a degree?

[17] A: A concentration in French.

[18] Q: And when was that?

[19] A: In 1982.

[20] Q: So you spent one year of your undergraduate • career overseas then?

[22] A: Exactly.

[23] Q: And then a master's degree from Harvard?

Page 7

[1] A: Yes.

[2] Q: When did you obtain that degree?

[3] A: I graduated in '84.

[4] Q: What sort of degree?

[5] A: In reading and language for education.

[6] Q: What did you do after you graduated from • Harvard?

[8] A: I taught in New Jersey in North Bergen, New • Jersey.

[10] Q: For what school?

[11] A: It was school Horris Man, was the name of • school.

[13] Q: Was that a private school?

[14] A: No, it wasn't, it was a public school.

[15] Q: What did you teach?

[16] A: Taught first grade and helped in teaching • other teachers a reading and writing program that I • developed at Harvard.

[19] Q: And that was starting in 1985?

How long did • you do that?

[21] A: I only taught for one year.

[22] Q: Until 1986?

[23] A: That's correct.

Page 8

[1] Q: Do you recall what month?

[2] A: The end of the first school year, so June.

[3] Q: What did you do after that?

[4] A: I worked for Gardner Road Construction • Company.

[6] Q: Gardner Road?

[7] A: Gardner Road Construction Company.

[8] Q: How do you spell that?

[9] A: G-A-R-D-N-E-R, and then road, R-O-A-D, • Construction Company.

[11] Q: In what capacity?

[12] A: I was the assistant to my father. My older • sister left for a year, supposedly for a year, and I • was filling in her position.

[15] Q: What position did your father have in that • company?

[17] A: He was the owner of the company.

[18] Q: What kind of business was it in?

[19] A: Constructing multi-tenant buildings and • residential units.

[21] Q: What were your duties within the company?

[22] A: My duties were basically to coordinate the • different departments and make sure that everyone was

Page 9

doing what they are supposed to do, and bring the • information back to my

EXHIBIT B

[19] Q: Are there any other shareholders?

[20] A: No, there is not.

[21] Q: It's a corporation?

[22] A: It's a corporation.

[23] Q: The permits for construction are all under

Page 162

Spash and Dash's corporate status?

[2] A: No, the permits for construction are under • Four Winds Plaza because Four Winds Plaza was building • the car wash and submitted the application for the • permit.

[6] Q: And you somehow took assignment of those?

[7] A: That's correct.

[8] Q: From what I understood, you have financing • for your building, the building; is that correct?

[10] A: Yes, that's correct, Four Winds Plaza has • nothing to do with it as of now.

[12] Q: And ground broke in February?

[13] A: Twenty-fifth.

[14] Q: And you started telling us this morning a • little bit about a problem that you encountered.

[16] A: Yes.

[17] Q: When did you first learn of that problem?

[18] A: I don't know the exact date. It may have • been on the 25th. Actually it was on the 25th. George • Mosa came to my office and said I think you should come • and see what is going on. I went there.

[22] Q: Who is George Mosa?

[23] A: He's my construction manager,

he's in charge

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of it.

[2] Q: Does he work for anyone other than himself?

[3] A: He works for himself.

[4] Q: Mosa?

[5] A: M-O-S-A

[6] Q: Now, I take it your office for the video • store is located right in Four Winds Plaza?

[8] A: That's correct.

[9] Q: And he knew to come to your office there?

[10] A: That's correct.

[11] Q: Describe to me what happened when he came to • your office?

[13] A: He said I think you better come and take a • look, and I had just been there about 15 minutes before • that when they started digging, and so I was surprised. • And we came out of my office, and on the way walking • there he said that they were digging the cistern wall, • there was seepage of some substance coming out of the • wall, and I asked him what he thought the substance was • and he said that it was oil. He called it dirty oil, • that was his words, burnt oil, dirty burnt oil he said.

[22] Q: Referring to Exhibit 1, can you mark an X • with Mr. Dema's pen where you're referring to when you

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say you were digging for the cistern wall? Where is • the wall located?

[3] A: That would be where the cistern is

in the • dark, the black pen. This is the wall of the Esso and • this is the wall of the car wash and this is the • cistern. This is where the oil was leaking out of, and • it was leaking out of the wall, it was seeping out the • wall and going down into the pit of the bottom of the • cistern.

[10] Q: At that point when you walked over with Mr. • Mosa, how deep was the pit?

[12] A: Excuse me, to clarify for the the record -- • I'm sorry, it's here. I apologize. •

[15] MR. DEMA: Okay, we've changed the • diagram to reflect that you've marked on the blue block • No. 2; correct.

[18] THE WITNESS: That's correct, and it's • correct now.

[20] Q: How deep was the pit when you walked over • there with Mr. Mosa.

[22] A: I don't know exactly how deep it was at the • time when we discovered it, and I don't know exactly

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how deep it is right now, but we could ask George Mosa.

[2] Q: No estimation?

[3] A: Seven feet.

[4] Q: And where on this seven-foot drop were you • seeing something you perceived as oil?

[6] A: If you cut the wall of the cistern, the • cistern wall is 28 feet long. If you cut it in half it • would be on the half closer to the street as opposed to • Four Winds Plaza.

[10] Q: Over an entire plan of it, 14 feet of

it?

[11] A: Yes.

[12] Q: Can you describe for me what the dirty burnt • oil looked like?

[14] A: Yes, it was dark, and it was thick, and it • smelled, and it was seeping out of the wall. It • started seeping out not high, it was lower, deeper, I • should say, and it was seeping out, and -- at first it • didn't seem like a problem at all. It just looked like • it was -- it was late in the afternoon when they • finished the pit, and it didn't seem like much of a • problem. George Mosa said what do we do, and I said we • build a car wash. So he put plywood up, just leaned it • up against the wall just so.

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[1] Q: So what?

[2] A: Just to see if it would contain it.

[3] Q: This is Mr. Mosa's idea?

[4] A: Yes, it wasn't my idea because actually I • didn't know it until the next morning when I came.

[6] Q: Let me stop you. I still want to stick with • you that first night. On the dig that was made, and • where you put the plywood up to see what happened in • the morning --

[10] A: That is not true. He put the plywood up • after. He showed it to me and he said do you think • that this is a problem, what should we do. I said I • did not feel it was a problem because it was a known • fact that there were some problems from Esso and that • everyone knew about it. I almost anticipated that, you • know, I would

see some kind of something because that • is what everyone has been talking about, and I at the • time at all I didn't think anything of it. I said -- • we didn't really discuss whether to stop or continue. • He just wanted to bring it to my attention, and I said • I was aware of it, that there was problems in that • area.

[23] Q: When you think back, was this all done the

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very first day you started construction?

[2] A: Yes, the first day at seven o'clock.

[3] Q: At that point did you notify anyone else • about the problem or the potential problem?

[5] A: No, because I didn't think it was a problem • on that day. That night it apparently rained, and the • next morning at 7:30 in the morning when I reached • there, I got there exactly at 7:30 and the guys must • have come on the job earlier. We start at 7:30, and • one of my employees was taking a plastic cup, filling • it up, skimming the oil off the bottom of the cistern. • There was a little bit of water because, as I said, it • rained, skimming off the oil and pouring it into a five • gallon jug. I was surprised and I said what is this • guy doing. I thought it was a joke, and George Mosa • told me.

[17] Q: Let me stop you for a minute. How much of • this alleged oil did your friend or employee scoop up • that morning?

[20] A: The best thing to do would be to speak • directly with George Mosa. It

was several five gallon • barrels.

[23] Q: Several?

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[1] A: That is what I was told, but I didn't see • that with my own eyes.

[3] Q: You then went around to where?

[4] A: To Esso.

[5] Q: Who at Esso?

[6] A: I spoke with the new manager.

His first name • is Don. I don't remember his last name, but I do have • a card probably in my office.

[9] Q: What did you tell him?

[10] A: I told him please come and look at what I was • seeing, and I told him that there could be a serious • problem here. I said is this what is existing or do • you have a leak right now and he said that we have -- I • said do you have any oil pits along this wall, and he • said yes. And I said are they used. He said they are • back there. I said you need to get them pumped out, • and you have to get them pumped out today, I don't want • anything to stop my car wash. He said they'll be • pumped out today. I went to George and I assumed that • they would be pumped out. The next day I came --

[21] Q: We were talking about the 26th if • construction was the 25th?

[23] A: Right.

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[1] Q: Now you're talking about the 27th?

[2] A: Right.

[3] Q: What happened on the 27th?

[4] A: I don't have an exact recollection of what • happened every single day, but I do know that when it • rained it was

more apparent. When it didn't rain it • was only a little bit to scoop off. We were getting • ready for my inspection for the slab of the cistern, • and every -- like every time -- George would come back • and forth to my office, and I would go back and forth • to the construction site, and every time I spoke with • him I asked him if Esso came and pumped out the tanks, • and he would inform me of the status.

[14] Q: Were they pumping out the tanks?

[15] A: No, they did not.

[16] Q: So I went back to Don and I told him you • don't understand the seriousness of this. I said that • I have an inspector coming out to inspect my • construction for the slab, and I need to pour the next • day, and if he noticed, there may be or may not be a • problem. Because at that point I thought maybe it • wasn't the normal problem that everyone was talking • about, that there was still oil there and it was

Page 170

leaking out. He said it would be taken care of, and so • I said great, and then the inspector came and didn't • say anything, you know, so we assumed that, you know, • there was nothing wrong and everything was fine and we • continued.

[6] Q: This was the Virgin Islands construction • inspector?

[8] A: This is Planning and Natural Resources • inspector. His name is Mr. Peters.

[10] MR. ROMERO: Are we on the 27th?

[11] THE WITNESS: I don't know the exact • date. I'm sure he has a record of when he came.

[13] BY MR. MEYERS:

[14] Q: This is Mr. Peters of DPNR that was • inspecting the slab for the cistern?

[16] A: That's right. And he inspected it, he • approved it, we poured and we started framing up the • walls. There is oil stains on the sheet rock that we • used to put, to frame the walls, and it didn't seem • like it was going away. So at that point it was • obvious that there was a leak, that it wasn't just • seepage in the ground. So I went to Don and I said, • listen, you don't understand the seriousness of this.

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[1] Q: Who is Jim Jensen?

[2] A: He is the guy who is the main person in • charge of Esso down in St. Thomas. And the way that I • knew his name was because when I was speaking to Daniel • Bayard about leasing space from them, he in the final • thing admitted that, well, he said that he talked to • Jim Jensen and Jim Jensen said that no, he had plans to • develop it to a convenience store, and there wasn't • room for a car wash. So I knew that he was ahead of it • from that. • So Don confirmed that Jim Jensen was the guy • in charge. I said call him now. I said let's take a • chance. He called and the guy was not in. He left a • massage to call me. I asked him for his number so I • could call him directly, and his fax number, and I went • back to my office and I called him and he was not •

available. I called several times during that day. I • was there at seven in the morning, so this all happened • early in the morning when I kept calling and calling.

[20] Q: Do you know the date this was?

[21] A: No, I don't know exactly right now, but it • was about two weeks ago, not more than three, and not • last week. He called me back, and I said that we have

Page 172

a serious situation here. He admitted that he was • aware of the situation, and I said, good, what are you • going to do about it. He said we're planning on • pumping them out. I said that is not good enough, it • has to be pumped out today, I have an inspection • tomorrow and if anything stops my car wash, there is • going to be a problem.

[8] MR. ROMERO: When was your inspection • going to be?

[10] A: As I said, I don't know the exact dates, but • Peter will tell you. What they did first is inspect • the slab of the cistern. Then they build forms for a • wall of the cistern and you tile all the steel in them, • and then they have to inspect the steel and the frames • before you pour. So it was after the slab inspection, • after the pouring of the slab, after making all the • forms and putting shoes on and all the steel, but • before the pouring of the walls. • The exact date I'm sure George Mosa • knows them, and so does Peters. I didn't happen to • write it down. He said that he would have them pumped •

out that day. And I left the office to take my • daughter to the doctor.

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When I got back there was no evidence of • trucks. My construction guys were gone. I called • George Mosa and he said yes, there was construction • there and it looked like they were pumping out the • tanks. Then the day after they started taking out the • lift and they took out lifts and they filled in • concrete. But apparently there is one more tank.

[8] Q: Wait, wait, wait. You're going too fast for • me. I'm just a slow country lawyer from Iowa. They • took out lifts, as in like a car lift?

[11] A: Yes.

[12] MR. ROMERO: They're still out there?

[13] A: They said that they were shipping them to St. • Croix. See, I guess what made me so upset was I didn't • know what to do with the oil, so we gave it back to • Esso and they poured it in the pit.

[17] MR. ROMERO: Which pit?

[18] A: Back in the pit that was leaking. They were • employees.

[20] Q: You said they were taking out in addition to • the lifts something else?

[22] A: No, they took out the lifts and they topped • off the pits with concrete.

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[1] MR. ROMERO: She said they pumped out • the tanks too.

[3] A: Yes they pumped out the tanks too, but not • all of them. There is one more tank they didn't pump • out yet.

[6] Q: How is it you know that?

[7] A: Because I asked the guys yesterday. I said • are all the tanks pumped out and they said no.

[9] Q: Who is they?

[10] A: The employee of Esso that work there. I said • which one is it, and they showed me, and Attorney Dema • and I said when is it being pumped out. He said • they're planning on pumping it out, it's not finished, • it's not done. That is what they said.

[15] Q: When you got your construction permits from • the DPNR, was there any kind of qualifications or • requirements placed on you regarding the testing of any • kind of soil sample or anything of that nature?

[19] A: None.

[20] Q: Were you required to notify anyone from DPNR • other than the building inspectors for the cistern • about starting the construction?

[23] A: No, my only requirement is to post a sign

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that gives my permit numbers.

[2] Q: Other than notifying Esso, did you notify any • other governmental agencies regarding what you saw?

[4] A: No, to be completely honest, I didn't.

[5] Q: You have been completely honest throughout • this deposition haven't you?

[7] A: I have. I had no idea it was a problem or a • potential problem until I told this guy and he informed • me that it had to be brought out today. Even

when he • started draining it, to me I didn't understand really • why because my assumption was everyone knows about the • situation, they knew about it before. I went in for my • permits, they knew about it while I had my permits in • review, they knew after I got my permits, they knew • about it when I dug ground and Peters already • inspected. • If there was going to be a problem they would • have said it right now. And to go back about scooping • out the oil, we didn't necessarily scoop out the oil to • hide it from anyone. We scooped it out because I • didn't want oil in my pit when I poured any concrete. • If I was going to hide it, I wouldn't give it to Esso • and watch them pour it back into the pit. So that is

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what happened. •

[3] MR. MEYERS: It's five o'clock. I've • got some more regarding those dates. •

[6] MR. DEMA: I'd love to give you a few • more minutes. The consent

judgement against Rite Way • was entered on December 26, 1989.

[9] THE WITNESS: I'm sorry, September 26, • 1989? •

[12] MR. MEYERS: December or September? •

[14] MR. DEMA: December, day after • Christmas. A call for them to surrender and vacate the • premises known as Department Store by 16 January 1990. • That is according to Judge Henry Feuerzeig. •

[19] MR. MEYERS: And the cease and

Page 6

[1] (0000) THE VIDEO OPERATOR: We are now on record. • The time is 9:40 on October 14th, 1992. We are at the • Offices of Goldman, Antonette, Ferraiuoli & Axtmayer in Hato • Rey, Puerto Rico in the American International Plaza • Building. • My name is Henry E. Tonnemacher, Video Seven • Seas, Ltd. We are here to receive deposition from Mr. • Nelson Rosado concerning the Tutu Water Wells Contamination • Litigation, Civil Number 1969/220 and Civil Number 19 -- I • believe that should have been -- pardon me -- 1989/220 and • 1989/224, Master Docket File No. 1989/107. • Present are myself, the video operator, and • also present are the following. If everyone would just • introduce themselves.

[15] MR. ZEBEDEE: John A. Zebedee with the Law • Offices of James L. Hymes, and we represent the Defendant • Vernon Morgan.

[18] MR. ROMERO: Eugenio Romero with the Law • Office of Goldman, Antonette, Ferraiuoli & Axtmayer, and we • represent the ESSO Defendants in this case.

[21] MR. DEMA: Jack Dema, I represent Four Winds.

[22] MR. KNOEPFEL: My name is Richard Knoepfel. • I'm with the Firm of Briggs, Knoepfel & Ronca, and we • represent the Plaintiffs Harthman and P.I.D.

[25] MR. DALEY: Richard Daley from the Firm of

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Pattie & Daley in Christiansted, St. Croix for the Defendant • Exxon Corporation.

[3] MR. DEMA: And if the court reporter will • swear the witness.

[5] MR. MEYERS: Addison Meyers representing • Texaco Caribbean from the Law Firm Anderson, Moss, Parks, • Meyers, Sherouse.

[8] MR. DEMA: Sorry, Sonny.

[9] (0174) NELSON ROSADO, • called as a witness, having been first duly sworn, testified • as follows:

[12] DIRECT EXAMINATION

[13] BY MR. DEMA:

[14] Q: Would you state your name and residence address for • the record, please?

[16] A: My name is Nelson Rosado. I live in Puerto Rico.

[17] Q: And would you state your street residence address?

[18] A: Okay. My address is Via La Doca, BA-26 Bosque Del • Lago, Toa Alta, Puerto Rico.

[20] Q: And where are you presently employed, sir?

[21] A: I work for ESSO Standard Oil Company, Puerto Rico.

[22] Q: And how long have you been in that employment?

[23] A: About 15 years.

[24] Q: In that same capacity?

[25] A: Yes. Like a -- I'm a civil engineer, engineering

Page 8

field.

[2] Q: And where did you graduate -- where did you get • your engineering degree?

[4] A: Okay. From Mayaguez Compos -- that's Colegio De • Agricultura y Artes Mecanicas De Mayaguez.

[6] Q: And in what field is your degree in engineering?

[7] A: Civil engineering.

[8] Q: And after you graduated with the engineering • degree, what job did you go into?

[10] A: Well, I start working with a private company in • construction. Then I work for Government one year, and then • I start working for ESSO.

[13] Q: And after your initial engineering training, have • you received any further training particularly with regards • to any environmental matters, for example?

[16] A: Yes. We in ESSO, we take some seminars, and we • take with different companies they show us about the • environmental equipment and environmental law.

[19] Q: And where do you take these seminars?

[20] A: Well, we check with a different company like • Solares, C.I.V.

[22] Q: Are all the seminars you've attended been given • here on Puerto Rico?

[24] A: Yeah, in Puerto Rico.

[25] Q: So would it be correct that you have worked, you

Page 9

said, 15 years for ESSORICO?

[2] A: Uh-huh.

[3] Q: Does that bring us approximately to 1977 is when • you started?

[5] A: Yeah, 1977. July 1977.

[6] Q: And did you start in the retail engineering • department?

[8] A: No. I start in the operation department.

[9] Q: And what were your responsibilities in the • operation department?

[11] A: Well, I work in the plants and terminals, like • maintenance engineer.

[13] Q: How long?

[14] A: Going to say about three to five years, more or • less.

[16] Q: And when you worked in plants and terminals, did • that have anything to do with the remodeling or new • construction of service stations in the Virgin Islands?

[19] A: I work in the construction, new service station, • remodeling service stations St. Croix, U.S. Virgin Islands.

[21] Q: During this first period of three to five years • during your employ?

[23] A: My first period in operation department I only work • like with maintenance, no big projects in the retail • department.

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[1] Q: Okay. So when you were in operations, is it • correct that you had nothing to do with engineering projects • in the Virgin Islands?

[4] A: Well, I work in the Virgin Islands in maintenance • for the St. Thomas plant and also St. Croix plant, the • terminal that we have over there.

[7] Q: So those --

[8] MR. ROMERO: Are you referring to the first • three to five years still?

[10] MR. DEMA: Yes.

[11] A: Yeah.

[12] Q: (Mr. Dema:) So during your first three to five • years, you did come to the Virgin Islands and worked at the • plants both in St. Croix and St. Thomas?

[15] A: Yeah, that's correct.

[16] Q: And what type of work did you perform?

[17] A: Well, like I say, maintenance. We come to change • valve, we come to replace pipes, we have to fix any problem • with any tanks in the U.S. Virgin Islands.

[20] Q: And during that period of three to five years, did • you have any problems with any tanks in the Virgin Islands?

[22] A: No, I don't remember if we have a big problem. • Only we can say to replace a valve, to replace a vent, or • checking the tanks.

[25] Q: Now during your first three to five years when you

Page 11

were in operations doing maintenance in the Virgin Islands, • could you tell us whether there was an ongoing tank • replacement program in the Virgin Islands?

[4] A: For the service station?

[5] Q: For the service station, for the replacement of • underground service

tanks.

[7] A: Well, in those years, I don't be involved in the • retail department. I can't say if they change tanks or • something like that.

[10] Q: Okay. After your stay in the operations • department, what was your next job assignment?

[12] A: Well, as soon as I finish with the operation • department, they transfer me to the retail department.

[14] Q: And where in the retail department did you work?

[15] A: I work with the sales department in charge of • maintenance in the service station and the remodeling and • construction of new service stations.

[18] Q: And is this in what is referred to as retail • engineering?

[20] A: Yeah.

[21] Q: So do you have an approximate date or year when you • started with retail engineering?

[23] A: No. I don't have the exact date.

[24] Q: So it's some time between 19 -- if you started in • July of 1977 and worked approximately three to five years,

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we could then say it is some time between 1980 and 1982; is • that correct?

[3] A: Yeah, more or less.

[4] Q: And from that point you have been in charge of both • remodeling and new construction and maintenance?

[6] A: From that point I start working with the • maintenance of the service station and some minor in the • service station.

[9] Q: Now specifically in reference to St.

remember we discuss • about this, because this is a very old construction.

[14] MR. ROMERO: A very what?

[15] THE WITNESS: A very old construction.

[16] MR. ROMERO: Old.

[17] A: It's very old, this grease trap. After the new • one, I don't know about this. After I went to clean the new • grease trap, that's when I saw that.

[20] Q: (Mr. Dema:) You were, in fact, in charge of • cleaning it, were you?

[22] A: Yes, I sent to clean the grease trap.

[23] Q: Were you there when it was cleaned?

[24] A: Yeah.

[25] Q: How long did it take?

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[1] A: It don't take too long.

[2] Q: It don't take too long?

[3] A: No. To clean the grease trap, it don't take too • long.

[5] Q: How did you do it?

[6] A: Well, they pick up the water and the oil, and they • put it in drums.

[8] Q: Who's they?

[9] A: Devira Corporation.

[10] Q: Sir?

[11] A: Devira. That's De Arce's company.

[12] Q: So Mr. De Arce again?

[13] A: Yeah.

[14] Q: And what did he do with it?

[15] A: Well, they put the oil and the water in drums, and • they let the drums in the service station.

[17] Q: What happened to the drums?

[18] A: I can't answer that.

[19] Q: What else did they do?

[20] A: That's all, that we clean the grease trap, and we • left the drums.

[22] Q: Did you wash it?

[23] A: What area?

[24] Q: This tank we're referring to.

[25] A: They cleaned those tanks.

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[1] Q: Well, Exhibit No. 8 shows me climbing down into • that tank. I'll show you Exhibit No. 9, which shows me in • the bottom of the tank.

[4] MR. MEYERS: Rather ungracefully, I might • add.

[6] MR. DEMA: I try my best, Sonny.

[7] Q: (Mr. Dema:) And as you can see in the picture, • which we will hold up for the camera, there is neither oil • nor water nor residue of either in the bottom of that tank. • Could you tell me why that is?

[11] A: Well, because we cleaned the tank. We cleaned it.

[12] Q: With what?

[13] A: We take out all the grease and the oil.

[14] Q: Right. Then what?

[15] A: And then we -- we cleaned the walls to take out any • grease that we have in that tank.

[17] Q: And how did you do that?

[18] A: Well, they do it with some piece of cloth. They • clean the walls.

[20] Q: With a piece of cloth?

[21] A: Yeah.

[22] Q: What else did you do after you cleaned the walls • with a piece of cloth?

[24] A: Well, that's it.

[25] (4596)

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[1] Q: Well, I'll show you Exhibits 10 and 11, sir, which • we'll hold up for the camera to look at, which are pictures • showing the interior of the tank and the floor of the tank. • And I would ask you whether you did anything else besides • rub the walls with a cloth?

[6] A: Okay. Well, they use a like -- like you paint a • wall, they use water with some -- they mix water with • concrete, and they paint the wall to keep it clean.

[9] Q: So they mixed water with concrete and applied that • to the walls and floor; is that your testimony?

[11] A: Yeah. Just like you paint a wall.

[12] Q: Do you know what this product was that is a mixture • of water and concrete?

[14] A: Yeah, it's water and concrete.

[15] Q: So that's what they did, they --

[16] A: Yeah.

[17] Q: mixed up water and concrete and put it on?

[18] A: Yeah.

[19] Q: A fresh coat?

[20] A: Yeah, it's just like you paint a wall, that's it, • with a brush.

[22] Q: Anything else they did?

[23] A: No.

[24] Q: As an engineer for ESSORICO, did you ever ask where • the pipes shown in Exhibit 12 went?

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[1] A: No, I didn't check with all those pipes.

[2] Q: At any point from 1982 until today, have you ever • identified where those --

have you ever seen any document, • any drawing, any as-built plan that shows where those pipes • go?

[6] A: No. I don't see anything.

[7] Q: Are you at all curious?

[8] A: No.

[9] Q: Thank you, Mr. Rosado. • Could you tell me within ESSORICO engineering • did you ever have meetings with your supervisor or other • engineers regarding how the service stations in the Virgin • Islands are being maintained?

[14] A: Well, sometimes we discuss our major work that we • have to do in the service station that we have to put new • identification, that we have to put new tanks, and we have • to replace pumps. That's when we meet to discuss about the • service station.

[19] Q: Well, with reference to the Virgin Islands, did you • ever attend any meetings at retail engineering which • discussed an underground storage tank replacement program • for the Virgin Islands?

[23] A: Well, the underground storage tank, replacement • storage tank was handled by the other engineers in the ESSO • section.

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[1] Q: Was there an underground storage tank replacement • program?

[3] A: Yes, it's underway.

[4] Q: When did it start?

[5] A: I think we start three or four years ago, more or • less.

[7] Q: And when you say the other engineers in the ESSO • section are

doing it, what section?

[9] A: That's in the retail department, in the section • that I am in.

[11] Q: So would you identify it by name for me, sir, the • other engineers that are involved in the underground storage • tank replacement program?

[14] A: Well, Carlos Fuentes, Angel Roman, and Samuel Cruz.

[15] Q: Are they all there still?

[16] A: No, only Samuel Cruz and Carlos Fuentes.

[17] Q: Where is Mr. Roman?

[18] A: Roman is -- right now he's a contractor.

[19] Q: Does he work for ESSO?

[20] A: Yeah, sometimes he work for ESSO.

[21] Q: One big happy family. • Did you ever -- were you ever involved in • doing micro assessments of the Virgin Islands service • stations?

[25] A: No.

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[1] Q: Do you know whether anyone ever did?

[2] A: No.

[3] Q: So then you were not involved with this underground • storage tank replacement program at all?

[5] A: Not in Tutu.

[6] Q: Anywhere in the Virgin Islands?

[7] A: Yeah, we change tanks in Hans Oriol Service • Station.

[9] Q: In Hans Oriol's Service Station?

[10] A: Yeah.

[11] Q: As part of the underground storage tank replacement • program?

[13] A: That's correct.

[14] Q: What did you do in preparation for that?

[15] A: Well, we get permits from the government to start • working with replacement of the tanks.

[17] Q: Did you ever conduct a coarsivity analysis of the • soil?

[19] A: No.

[20] Q: Did you ever do a pH of the soil?

[21] A: No.

[22] Q: Did anyone ever show you a micro assessment of Mr. • Oriol's service station?

[24] A: No.

[25] Q: Do you know what a micro assessment is relative to

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the underground storage tank replacement program?

[2] A: No, I'm not very clear about that, because that's • the environmental field. ESSO has a section that deal with • environmental. I only work in

replacement of the tank. If • we have any environmental problem, we refer the problem to • that section.

[7] Q: Please tell me who's in charge of that section.

[8] A: Well, in ESSO we have Hernon Flores to work with • environmental.

[10] Q: He just was hired not too long ago, right?

[11] A: Yeah, that's right.

[12] Q: So besides Mr. Flores, who is a recent hire, who • else is there?

[14] A: Ana Gloria Ramos is the other engineer who handle • environmental.

[16] Q: Anyone else other than Ana Gloria?

[17] A: No. Well, right now they hire a new engineer. I • don't remember the name.

[19] Q: Okay. When you do these repairs, for example, or • installations, do you ever make written reports?

[21] A: Well, if we have any problem, I go to my supervisor • that if we have any problem, if we have any contamination.

• Also, we have a company Soil Tech. Any time that we make a • replacement of tanks, they go -- they go to the area, and • they pick up some sample of the soil. We have any problem,

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they make a report to the Environmental Quality Board and to • the ESSO Company.

[3] Q: And do you ever make any reports to Mr. Munoz?

[4] A: About what?

[5] Q: Well, you spent -- you supervised \$9,200 worth of • construction of Mr. De Arce putting in the oil water • separator. Did you ever make a report to Mr. Munoz about • it?

[9] A: In that case, in that kind of project, yes, we talk • to him, we finish the project, whatever, how is the project • running.

[12] MR. ROMERO: He wants to know if you prepared • a written report.

[14] A: No. A written report, no.

[15] Q: (Mr. Dema:) When Mr. Munoz told you to empty the • oil water separator and to empty the 2,000-gallon oil water • separator, did you make a written report after you finished • that work?

[19] A: No. No, we didn't make a written report.

[20] Q: Well, tell me what Mr. Munoz referred to, this tank • that we're looking at in Exhibits 8 through 12, when he said • to empty it and clean it and flash it with new concrete, • what did he -- what did he call it?

[24] (4920) MR. ROMERO: Objection to the • characterization of what Mr. Augusto Munoz's testimony may

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have been. • You want to quote his express testimony?

[3] Q: (Mr. Dema:) What did Mr. Munoz call that?

[4] A: What, to clean the --

[5] Q: Well, he had to say, Mr. Rosado, would you clean --

[6] A: Yeah.

[7] Q: something.

[8] A: Yeah.

[9] Q: What did he call it?

[10] A: He told me to clean the grease trap and the pit and • this tank, also. That's it.

[12] Q: So he called that a tank?

[13] A: Well, I don't remember if he called it a tank or • slop oil tank or whatever. I have instructions to go over • the grease trap and other one.

[16] Q: Did you ever go and report back to Mr. Munoz and • said, "Mr. Munoz, we cleaned the tank, and there are these • pipes that lead in and out of the tank, and we don't know • where they go"?

[20] A: We cleaned the -- I cleaned the area, but I don't • pay attention to where those lines run.

[22] Q: So when you were cleaning that tank, did you clean • on the inside of that pipe a few inches?

[24] A: We clean the tank, and we cleaned -- yes, maybe • they cleaned a few inches from the pipe. But the main thing

Page 65

is to clean the tank.

[2] Q: And did you see whether there was any residue • inside those pipes?

[4] A: No.

[5] Q: Did you ever look inside the pipe?

[6] A: No, I didn't look inside the pipe.

[7] (Respite).

[8] (5000)

[9] Q: I'll show you what we will mark as Deposition • Exhibit No. 14, bears Bates Stamp 906015B. It's an invoice. • First showing it to counsel.

[12] (Respite).

[13] Q: When you've had a chance to look at that, sir, • would you let us know?

[15] A: Uh-huh.

[16] (Respite).

[17] A: Okay.

[18] Q: Is that your signature in the middle of the page on • the stamp?

[20] A: Yeah.

[21] Q: And could you tell us what this work was for?

[22] A: First, I don't know which service station it is. I • don't remember the -- I know service contract for '87, but I • don't know which one is the service station.

[25] Q: These documents were produced by Mr. De Arce for

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worked performed at ESSO Tutu.

[2] A: Is that for ESSO Tutu?

[3] Q: Could you tell us, based on what is being charged • and what you signed off, the work that was done?

[5] A: Well, this invoice is for replacement of some • fiberglass line.

[7] Q: And what is the nota?

[8] A: It says emergency work.

[9] Q: Do you remember what nature that work was?

[10] A: No, I don't remember right now.

[11] (5165)

[12] Q: I'll show you what we'll mark as Exhibit No. 15, • showing it to your counsel. I'll also mark the other • invoices. For the record, 15 bears Bates Stamp 906016B. • Exhibit marked 16 bears Bates Stamp 906034B. Exhibit 17 • bears Bates Stamp 906101B.

[17] MR. ROMERO: You want this exhibit to be two • pages?

[19] MR. DEMA: No.

[20] Q: (Mr. Dema:) While they're looking at that, sir, I • would direct your attention to approximately February of • 1991, and ask if you remember being in St. Thomas and • getting a call to join one Mr. Jenson, Country Manager for [24] ESSO V.I., at the ESSO Tutu station to look at an excavation • site immediately next to it?

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[1] A: Yeah.

[2] Q: And did you go to that excavation site?

[3] A: Yes, I went to the excavation site.

[4] Q: And who was there?

[5] A: Well, on the excavation site was Mr. Jim Jenson, • Eugenio De Arce, Ramos, one of his employees, Nestor Ramos.

[7] Q: And who is Nestor Ramos?

[8] A: That's one of De Arce's employees.

[9] Q: And once you arrived there, could you tell us what • you did?

[11] A: Well, as soon as I get to the service station, I • went to the excavation, I check the excavation.

[13] Q: Who went into the excavation?

[14] A: I went with Nestor Ramos.

[15] Q: Did Mr. De Arce accompany you into the excavation?

[16] A: I think that De Arce was outside the excavation. I • don't remember if he go down to the excavation.

[18] Q: Before you went down into the excavation pit, what • were you told was the problem?

[20] A: Well, they told me that they have some leak from • the ESSO Service Station to the excavation.

[22] Q: Who told you that?

[23] A: Mr. Jenson.

[24] Q: Did you discuss this leak with Mr. Jenson?

[25] A: Well, as soon as I saw the problem at the service

Page 68

station, I told to him what I saw.

[2] Q: Well, before you went into the pit, Mr. Jenson told • you they had a leak from the service station, did you have • any other discussion with him about it?

[5] (5329) MR. ROMERO: Objection. That's not what he • said. His

testimony is not that Mr. Jenson said that there • was a leak from the service station.

[8] Q: (Mr. Dema:) Do you remember the question, sir?

[9] A: Yeah. Can you repeat it?

[10] Q: Before you climbed down into the excavation pit, • did you have any other discussion with Mr. Jenson or with • Mr. De Arce or anyone present, Mr. Ramos, about the nature • of the problem?

[14] A: No.

[15] Q: Then could you tell us your findings when you • climbed down into the pit next to the ESSO station?

[17] A: Okay. I went down to the excavation, I saw a black • between a black and brown product.

[19] Q: I'm sorry, I missed the last word.

[20] A: Product.

[21] Q: Product?

[22] A: Yeah, product.

[23] Q: As in petroleum product?

[24] A: I can't say that's a petroleum product.

[25] Q: Would you describe for me what you mean by the word

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product"?

[2] A: Okay. You can say that I see a substance.

[3] Q: A substance?

[4] A: Yeah. I can't identify like any petroleum product, • because I'm not an expert in that area.

[6] Q: So it was a black or brown substance. Could you • describe for us the physical characteristics of this •

substance?

[9] A: Yeah, it was between black and brown, dark brown, • black more or less.

[11] Q: Was it solid or liquid?

[12] A: It was liquid.

[13] Q: Did you take any sample of it?

[14] A: Well, Nestor, he take a small sample.

[15] Q: What did Nestor do with the sample?

[16] A: I don't remember. It was a small one in a cone, • and then I think that we throw the glass -- the cone.

[18] Q: A cone?

[19] A: Yeah.

[20] Q: What type of cone?

[21] A: It's like a -- like a triangle one. One you use to • drink water.

[23] MR. ROMERO: A paper cup?

[24] THE WITNESS: Paper cup, yeah.

[25] Q: (Mr. Dema:) A paper cup?

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[1] A: Yeah, paper cup.

[2] Q: So he took this liquid -- this black, brownish • liquid into a paper cup?

[4] A: Yeah.

[5] Q: And did he take it out of the pit with him?

[6] A: I don't remember we take out from the pit. I think • that we show that to Mr. Jenson.

[8] Q: And what did Mr. Jenson say to do with the sample • that you took of this liquid?

[10] A: I don't remember. I don't remember. I think that • we dispose of it.

[12] Q: You disposed of it?

[13] A: Yeah. I don't think that we take out the sample • with us.

[15] Q: Was it of any concern to you as the ESSORICO • engineer on site as to what that brownish, blackish liquid • on the side of the excavation wall next to ESSO might be?

[18] A: Yes. I told to Mr. Jenson what I saw, and as soon • as I get here in Puerto Rico, I told to Engineer Munoz what • I saw.

[21] Q: What did you tell him you thought it was?

[22] A: I saw a liquid substance below the area, and that's • what I saw.

[24] Q: And what did Mr. Munoz say when you told him that?

[25] A: Well, my part in that situation was just to check

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it out and report what I saw, then the -- the people that • work in the environmental area, they handle the --

[3] Q: They did something?

[4] A: I don't know. I can't answer that. I only do what • I have to do. That's to check it out what I saw over there.

[6] Q: Did Mr. Munoz ever say does that stuff belong to • us?

[8] A: No, I don't remember, because I report to him, and • then he discuss that with the environmental people. I don't • know what they do.

[11] Q: Did Mr. Jenson ever say, "Engineer Rosado, do we • have a problem"?

[13] A: I don't remember if he asked about that.

[14] Q: If he had asked that question, sir,

"Engineer • Rosado, do we have a problem," what would have been your • response?

[17] (5490) MR. ROMERO: Objection to the speculative • nature of the question.

[19] MR. DEMA: You're quite correct, sir.

[20] Q: (Mr. Dema:) We took Mr. Jenson's deposition on • April 11th, 1991, and on Page 65, on Line 14 we asked him • this question, "Did you think it important to conduct an • integrity test of the pipeline between the catch basin and • the oil water separator?" And his answer was, "I had • concern because of the proximity of the excavation to my

Page 72

structure, and I was relying on Mr. Rosado's opinion as to • whether or not I was going to have a problem as a result. • He indicated he did not believe so. And I rely on my • support staff to provide the expertise that does not -- is • not within my organization." • Do you remember that conversation?

[7] A: I don't remember that conversation, but he say that • we don't have any problem, referring to what? To excavation • or to what?

[10] Q: Apparently, Mr. Jenson sent you down into this • excavation pit to look at this dark, blackish, brown liquid • that was staining the wall next to the ESSO station and • said, Mr. Rosado, -- "Engineer Rosado, do we have a • problem"?

[15] MR. ROMERO: No. You care to

read back to • Mr. Rosado, and he's asked you to do so, to understand what • Mr. Jenson was referring to when you quoted his answer?

[18] MR. DEMA: I will be delighted to read back • to him.

[20] Q: (Mr. Dema:). Answer, "I had concern because of the • proximity of the excavation to my structure, and I was • relying on Mr. Rosado's opinion as to whether or not I was • going to have a problem as a result. He indicated he did • not believe so. I rely on my support staff to provide the • expertise that does not -- is not within my organization."

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[1] Q: Does that help your recollection of the • conversation that you and Mr. Jenson had when you came out • of the pit?

[4] A: Well, what Mr. Jenson doesn't say there, what I • want to know, what I'm not clear about is his referring • about the excavation, proximity of the excavation to the • service station, or he's referring to the -- to the • substance that was over there.

[9] Q: Well, Mr. -- Engineer Rosado, we would like to know • the same thing, and you were there. So do you know -- can • you tell us what the conversation was between you and Mr. • Jenson when you came out of the pit and said after • collecting this sample in a water cup, there is this black, • brownish liquid coming from the wall by the ESSO Station?

[15] (5636) MR. ROMERO:
Objection. Mr. Rosado has not •

testified that that was his testimony.

[17] Q: (Mr. Dema:) Mr. Rosado, was there a black, • brownish liquid coming from the excavation wall by the ESSO • Service Station?

[20] A: Can you rephrase it again?

[21] Q: Yes. Mr. Rosado, upon your inspection, did you see • a black, brownish liquid coming from the excavation wall by • the service station?

[24] A: Yeah.

[25] Q: Having seen that, sir, when you went up out of the

Page 74

pit and told the Country Manager for ESSO of your findings, • what did you tell him?

[3] A: Okay. As soon as I get out from the excavation, I • told to Mr. Jenson what I saw in the excavation, that I saw • a product, a black substance down there.

[6] Q: I'm sorry. Did you say that you saw a problem?

[7] A: Not a problem, a product.

[8] Q: A product?

[9] A: Yeah, a product.

[10] Q: Did you have a conversation with Mr. Jenson as to • what to do about it?

[12] A: Yes. I told to him that I'm going to report that • to ESSO Puerto Rico, and they have to decide what they're • going to do. That's all what I have to do with that • excavation. I only check it out and report.

[16] Q: And it's your testimony that you went back and made • that report to Mr. Augusto Munoz?

[18] A: Yeah, I told to my supervisor

what I saw.

[19] Q: Did Mr. Munoz say, "Did you bring back a sample, • Engineer Rosado"?

[21] A: I don't remember if he asked about that.

[22] Q: Could you tell me as exactly as you remember what • you told him was coming out of the ESSO wall?

[24] A: Well, like I say before, it was a -- between dark • brown and black.

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[1] Q: Did he say, "Do you think it was oil"?

[2] A: I don't know. I can't --

[3] Q: You don't know or you don't remember?

[4] A: No, I can't say it was oil. I don't know.

[5] Q: I'm asking you what Mr. Munoz asked you. • I'm trying to understand. You are the retail • engineer in the field, and you go back to Mr. Augusto Munoz, • who is head of ESSORICO retail engineering, and you say • there is this black, brownish liquid substance coming from • the excavation wall by ESSO, and what does Mr. Munoz say?

[11] A: Well, I don't remember what he say.

[12] Q: Did he ask you whether you thought this was coming • from the ESSO Station?

[14] A: Yeah, he asked me.

[15] Q: And what did you tell him?

[16] A: Well, I told him, that I saw the -- that substance • from that -- that is below the area of the service station.

[18] Q: Did he ask you whether you

thought it was coming • from the service station?

[20] MR. ROMERO: Did Mr. Munoz ask him that?

[21] MR. DEMA: Yes.

[22] A: I don't remember if he asked. I report to him what • I saw.

[24] Q: (Mr. Dema:) Do you know what -- anything else that • ever happened?

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[1] A: From that point?

[2] Q: From that point.

[3] A: No, I don't know, because I make a report, and they • and they were with environmental problem.

[5] Q: Do you know whether they ever did anything about • this environmental problem?

[7] A: No. I had nothing more to do with environmental • section.

[9] MR. DEMA: We have to take a brief recess • with regard to changing a tape.

[11] (5766) THE VIDEOTAPE

OPERATOR: It is now 11:39. We • are going off record to change videotapes in the deposition • of Mr. Rosado of 10-14-92.

[14] (Short recess taken).

[15] (0000) THE VIDEOTAPE

OPERATOR: This is the • beginning of Tape No. 2. It is 12:01, October 14th, '92, • continuation of the deposition of Mr. Nelson Rosado.

[18] (0041)

[19] Q: (Mr. Dema:) Mr. Rosado, I will show you what's • been marked Deposition Exhibit No. 15, which is a bill from • Mr. De Arce, from 18 September 1985, and see if you are • familiar with

that billing.

[23] (Respite).

[24] A: Okay.

[25] Q: And are you familiar with it, sir?

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[1] A: Well, I don't remember it.

[2] Q: What is the project it describes?

[3] A: It describes the replacement fiberglass line, to • put a new fiberglass line.

[5] Q: And is this type of work for \$4,869 something that • would come under your purview as the maintenance engineer • for ESSORICO?

[8] A: Well, that can be handled by me or that can be • handled by other engineer. I don't remember.

[10] Q: Do you have a record as to what fiberglass line was • replaced?

[12] A: No.

[13] Q: How do you know?

[14] MR. ROMERO: He's telling you.

[15] A: Because what I written here, I know that they're • replacing -- this is for replacing two lines of fiberglass, • but I don't remember which line.

[18] Q: (Mr. Dema:) Are there any documents that would • tell us which lines were replaced?

[20] A: I don't know, but ----

[21] Q: Well, Mr. Rosado, if there are a certain number of • lines, some of which are steel and some of which are • fiberglass at a service station, are you telling me that • engineering does not keep any record of when a particular • line was replaced?

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[1] MR. ROMERO: He has not told you anything as • to what kind of records are kept by engineering, Mr. Dema. • Would you care to make a specific question?

[4] Q: (Mr. Dema:) Do you remember the question?

[5] A: No.

[6] MR. DEMA: Would you read the question back • to him?

[8] (Following read by reporter: • Well, Mr. Rosado, if there are a certain • number of lines, some of which are steel and some of which • are fiberglass at a service station, are you telling me that • engineering does not keep any record of when a particular • line was replaced?").

[14] (0317) MR. ROMERO: I'll make the objection for the • record.

[16] A: Well, when we replace lines, if this is not a major • project, this is a minor project, just go and replace maybe • 20 feet of line, 100 feet of line, this is not a big • project, and we send to replace the line, and we paid the • invoice, and that's it. • When we keep record is when we make a big • project. A complete new service station, something like • that, we make a file with the service station, but for minor • problems like this ----

[25] Q: (Mr. Dema:) So when ESSORICO made this service

Page 79

station in 1969, I take it then there's a big file?

[2] A: Yeah.

[3] Q: Have you looked for that file?

[4] A: I go to Catano area to try to find something about • the service station, but I couldn't find nothing about the • service station, the construction of the service station.

[7] Q: How does this come to the attention of ESSORICO • Engineering, this type of line replacement for \$4,800?

[9] A: Well, they -- it can be the dealer have any • problem.

[11] Q: Well, how do we know why the line was replaced?

[12] A: Well, ESSO replace a line in case -- first, we • make --

[14] MR. ROMERO: He wants to know how you find • out. How you find out.

[16] A: Okay. If we have, suspect that we have any • problems in service station, we make a pressure test to the • line.

[19] MR. ROMERO: How do you find out what was • done there? Why?

[21] Q: (Mr. Dema:) Exhibit No. 15, why did ESSO change • those lines?

[23] MR. ROMERO: Do you know?

[24] A: Well, if we change the lines, they're supposed to • maybe we have --

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[1] MR. ROMERO: I'm sorry, Mr. Rosado, I'm going • to ask you not to speculate. You either know or you don't • know.

[4] THE WITNESS: Okay.

[5] MR. DEMA: You stopped him just in time, Mr. • Romero, congratulations. • Mr. Romero, -- I wish I could ask you • questions.

[9] MR. ROMERO: I gladly would answer.

[10] Q: (Mr. Dema;) Engineer Rosado, could you tell me the • reasons why lines would be replaced at the ESSO Tutu Service • Station?

[13] A: Well, they can be replaced because they are old • lines, and because there is a problem in the line.

[15] Q: Two reasons; they're old or there is a problem in • the line?

[17] A: That's right.

[18] Q: Would you tell me all the engineering • considerations that go into replacing old lines?

[20] A: Old lines, for -- by the age, they are very old • lines, we replace the line to avoid any problem.

[22] Q: Okay. Now based on Exhibit No. 15, were these old • lines that you were replacing?

[24] A: Uh-huh.

[25] MR. ROMERO: Are you asking him if the age of

Page 81

the lines can be -- is reflected?

[2] Q: (Mr. Dema:) I'm asking -- referring to the lines • that were changed out, shown in Exhibit No. 15, and we are • looking at the receipt, were they old lines?

[5] A: I don't know if it was old lines.

[6] Q: What was replaced?

[7] A: From what I see here, these lines, gasoline lines, • they change for fiberglass.

[9] Q: Were they -- the lines that were replaced, were • they fiberglass or were they metal?

[11] A: I don't know if they were metal or fiberglass.

[12] Q: Does ESSORICO have a maintenance program where they • keep track of the age of the pipelines and replace them on a • preset basis?

[15] A: Well, right now we have a program, and we have all • the ages of the tanks from the installation of each service • station here in Puerto Rico and the U.S. Virgin Islands, we • have all the ages. The basis of that we are replacing • tanks.

[20] Q: I understand you have a program now.

[21] A: Yeah.

[22] Q: I'm asking in September of 1985, sir, did you at

[23] ESSORICO keep track of how old those lines were?

[24] A: No.

[25] Q: So then how would you know that you were going to

Page 82

replace the line by reason of age?

[2] MR. ROMERO: Are you referring to Mr. Rosado • personally keeping record of the age of the lines at the • stations or ESSORICO in general or retail engineering • department? • Is that clear to Mr. Rosado, --

[7] THE WITNESS: No.

[8] MR. ROMERO: -- which of the three you are • talking about?

[10] Q: (Mr. Dema:) Mr. Rosado, let me start again.

[11] MR. ZEBEDEE: He did answer the question.

[12] MR. ROMERO: Does he know which one he was • referring to?

[14] Q: (Mr. Dema:) One of the reasons

you gave us to • replace lines was age. Does ESSORICO, to your knowledge, • keep track of the age of the lines at ESSO Tutu?

[17] A: Well, ESSO has a file for putting the installation • of the old equipment that we have, and they can know the age • of the lines on the tanks.

[20] Q: Very good. And we have been trying to locate that • file for almost two years. So could you tell us where it • is?

[23] A: I don't know. I don't know where the file.

[24] Q: So then how can you say with such certainty that

[25] ESSORICO has a file where they keep track of the age of

Page 83

their equipment?

[2] A: The file -- they have the age more or less the • installation of those service stations, the tanks, lines, • pumps, because when we install any equipment, that's capital • money, and that goes to a -- to the capital equipment, and • you can look in that -- in that record, and you can see the • age of when the -- the equipment was installed.

[8] Q: We have a record of new construction, and there's a • 500-gallon slop oil tank which Mr. Munoz testified was a • steel tank. Where do I go to find out where that tank is • and what its age is?

[12] A: Well, we can check in the -- in the -- it's a • record that we call P98.

[14] Q: P98?

[15] A: Yeah.

[16] Q: In preparation for your

deposition today, did you • check the P98 records?

[18] A: No.

[19] Q: Why not?

[20] A: I didn't think about that.

[21] Q: What are the P98 records?

[22] MR. ROMERO: Would you remind Mr. Rosado the • topics as to which he was noticed to that he would be • examined upon?

[25] Q: (Mr. Dema:) Where are the P98 records kept?

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[1] A: That's in ESSO office.

[2] Q: Where is that ESSO office located?

[3] A: Here in Guaynabo, Puerto Rico.

[4] Q: Is that the San Patricio office?

[5] A: San Patricio office, that's right.

[6] Q: And what department are they located in?

[7] A: That's in the accounting department.

[8] Q: And does the accounting department also have the • records for all the repairs that were done at that service • station?

[11] A: Not for the repairs. Just only for, like I say • before, capital project.

[13] Q: Who has the records for the repairs?

[14] A: Well, like I say before, minor maintenance repair • was done directly with the people in the U.S. Virgin • Islands. We have a major repair, it's done by ESSO Puerto • Rico.

[18] Q: Where are the documents for the major repairs kept?

[19] A: Well, when I make a project like a new service • station, I open a file for

every invoice, for any item that • I put in the service station to handle the construction. I • keep a file, and then that file is -- as soon as we finish, • we keep that file, and we send to the Catano area.

[24] Q: What about remodeling?

[25] A: Remodeling, yes, we open file for remodeling.

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[1] Q: And who keeps the file?

[2] A: The engineering shop open a file for the project. • As soon as we finish the project, we send the file to • Catano.

[5] Q: Where are the -- the amount of \$4,800 that's shown • in Exhibit 15, where would that record be kept, the receipt?

[7] MR. ROMERO: Referring to Exhibit --

[8] MR. DEMA: 15.

[9] MR. ROMERO: Would you show it to him?

[10] MR. DEMA: I did.

[11] A: Would you ask it again? Can you rephrase it?

[12] Q: (Mr. Dema:) Where are the records of the receipts • for this type of expenditure kept?

[14] A: When we make any repair, that repair is expense, • it's -- we make the job, and we pay -- we prepare a purchase • order for the contractor, we pay the contractor for the job, • and those -- those records we keep in the -- in the • accounting department they have file, and they keep those • files for I don't know how many years, and then they send • Catano area. They have a lot of

files over there.

[21] Q: And I take it you did not check with accounting to • see any documents they may have with regard to repairs at [23] ESSO Tutu?

[24] A: No. No.

[25] (1183)

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[1] Q: I show you Exhibit 16, Bates Stamp 906034B. Could • you tell us what that job was?

[3] A: This is for -- make a connection between two tanks.

[4] Q: And why was that done?

[5] A: Well, maybe -- we change product in the U.S. Virgin • Islands. Before we have leaded and unleaded product, then • we change for unleaded only, and then we have premium and • regular, and we have -- like example, we have three tanks or • four tanks. Then we have -- you have three tanks with • premium, with leaded, one tank with unleaded. Then they • switch, they connect two tanks just for the capacity to have • more capacity in the service station.

[13] Q: And how do you know that that describes the invoice • shown on Deposition Exhibit 16?

[15] A: I can't answer you on that -- that question. • That's what we do when we have problem with capacity in • tanks in the service station.

[18] Q: So your answer was just speculation?

[19] A: Yes, sir.

[20] (1315)

[21] Q: I'll show you Exhibit 17, marked 9 November 1981, • and it says call by

something Rosado.

[23] A: Uh-huh.

[24] Q: Is that you?

[25] A: Yeah.

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[1] Q: So then we could at least with some certainty say • that on November 9th, 1981 you had already started • overseeing maintenance in the Virgin Islands; is that • correct?

[5] A: That's right.

[6] (1368)

[7] Q: I'll show you what is marked -- what we'll mark as • Exhibit 18, Bates Stamp 906020B, Purchase Order 131, and • after showing it to counsel, we'll ask you to look at it.

[10] (Respite).

[11] Q: What was done with regard to that service call?

[12] A: I don't understand what it's saying right here. • It's not clear.

[14] Q: Okay.

[15] A: I can't read that.

[16] Q: Where would I find Purchase Order 131?

[17] A: Well, 1986, you can try to find it in the ESSO • Catano area. This is a very old one, '86.

[19] Q: Sir, looking back at Exhibit 14 and Exhibit 15, is • there any way to tell which pipelines were replaced?

[21] A: Can you ask the question again?

[22] Q: Is there any records that we could look at to tell • to locate -- physically locate the location of the • pipelines that were replaced?

[25] A: To find records, if we have any record of that,

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it's in the Catano area. That's the only place that we • find, because these invoices are very old.

[3] Q: You said that there were two reasons to replace • pipelines; one is age, and the second is a problem.

[5] A: Uh-huh.

[6] Q: If there is a problem, for example, a hole in the • line, do you keep any separate records with regard to that • fact?

[9] A: No. They only replace the line, and that's it.

[10] Q: Is there anything in engineering where back in '85, • '86, '87 you were making notifications of a release of • product in these situations, if, in fact, there was a • release of product?

[14] A: No, I don't have nothing about that.

[15] Q: With reference to ESSO Rodriguez, sir, are you • familiar with that station?

[17] A: Yes, I know that is a service station.

[18] Q: From your maintenance visits to the Virgin Islands, • have you ever had occasion to have anything to do with the [20] ESSO Rodriguez station?

[21] A: No. Only one time we replace the pumps for new • ones.

[23] Q: And when was that?

[24] A: I think that was last year.

[25] Q: Was that the incident where you received a stop

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work order?

Hppp RWS/Mon 3-31/15

8/04/91

LAW OFFICES OF JOHN K. DEMA, P.C.

plse call
Caroline Kwan
714 Flast.
Thh
Am

20 August 1991

Amy Chester, Esquire
Assistant Regional Counsel
United States Environmental Protection
Agency, Region II
26 Federal Plaza, Room 400
New York, New York 10278

Post-It™ brand fax transmittal memo 7671 # of pages 1	
To: Rich Smith	From: DAH
Co. PRODUCED to	Co. ESSO
Dept. By UHerr	Phone #
Fax #	Fax #

Re: Esso Tutu, St. Thomas, U.S.V.I.

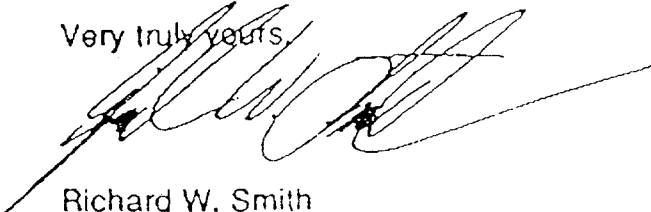
Dear Attorney Chester:

Enclosed are copies of some deposition transcripts of former employees of the Esso Tutu Car Care Center. Attorney Dema thought you might be interested in reading their comments regarding waste oil.

I have also enclosed a copy of the lab report from an analysis of a soil sample taken from the bottom of the cistern excavation immediately adjacent to the Esso Tutu property. We also took a liquid sample but, unfortunately, the sample was destroyed in transit to the lab in New York.

I hope everything is going well with you and I want to thank you again for meeting with me when I was in New York earlier this spring. If you have any questions, please do not hesitate to call.

Very truly yours,


Richard W. Smith
Research Assistant

RWS/s
Enclosures

20000045

42-43 STRAND STREET, CHRISTIANSTED, ST. CROIX, USVI 00820 • (809) 773-6142 • TELEX: 3475014 A/B VECCHIO • FAX: (809) 773-0477

(607) 365-2893

Apr 2, 1991

LAB SAMPLE ID : 27646

Caribbean Safe Water Lab
 Marcella Jennings
 P.O. Box 7669
 St. Thomas, V.I. 00801

P.O. # :
 Client site : FOUR WINDS CAR WASH
 Origin : SOIL
 Description : COMPOSITE
 Sampled on : 03/21/91 by CSWL
 Date received : 03/27/91
 PWS ID # :

Key	Method	Analyst	Date Analyzed	Notebook Reference
1	SW846/5030/8010	PC	03/28/91	91-029-571
2	SW846/5030/8020	PC	03/28/91	91-029-571

Compound Detected	Concentration	Units	Key
Tetrachloroethene	ND<60	ppb	1
Benzene	150	ppb	2
Toluene	ND<60	ppb	2
Ethylbenzene	184	ppb	2
p-Xylene	ND<60	ppb	2
m-Xylene	ND<60	ppb	2
o-Xylene	ND<60	ppb	2
Surrogate Recovery	91	percent	2

Approved by : *[Signature]*
 Manager, Organics

The information in this report is accurate to the best of our knowledge and ability. In no event shall our liability exceed the cost of these services. Your samples will be discarded after 14 days unless we are advised otherwise.

cc :

DETECTABLE/EXTRACTABLE COMPOUNDS

Laboratory Name: CISO Laboratories, Inc.
 Client Name: PHL Environmental Services
 Project/Facility Name: Caribbean Safe Water
 Sample Location: PH177646
 Matrix: Soil
 Method: EPA 8270

Sample ID: 1471-01
 Date Collected: 03/21/91
 Date Received: 03/28/91
 Date Extracted: 04/02/91
 Date Analyzed: 04/10/91
 Date Reported: 04/11/91

COMPOUND	Detection Limit (ug/kg)	Sample Conc. (ug/kg)	Q	COMPOUND	Detection Limit (ug/kg)	Sample Conc. (ug/kg)	Q
Phenol	1310.00	1	0	1,4-Dinitrotoluene	1310.00	1	0
Bis(2-Chloroethyl) ether	1310.00	1	0	3-Nitroaniline	1100.00	1	0
2-Chlorophenol	1310.00	1	0	Isocyanaphthene	1310.00	1	0
1,3-Dichlorobenzene	1310.00	1	0	1,4-Dinitrophenol	1100.00	1	0
1,4-Dichlorobenzene	1310.00	1	0	4-Nitrophenol	1310.00	1	0
Benidine	11500.00	1	0	2,4-Dinitrotoluene	1310.00	1	0
Benzyl alcohol	1310.00	1	0	Diethylphthalate	1310.00	1	0
1,3-Dichlorobenzene	1310.00	1	0	4-Chlorophenyl-phenylether	1310.00	1	0
1,3-Diphenylhydrazine	1310.00	1	0	Fluorene	1310.00	1	0
2-Ethylphenol	1310.00	1	0	4-Nitroaniline	1100.00	1	0
Bis(2-Chloroisopropyl) ether	1310.00	1	0	4,6-Dinitro-2-ethylphenol	1100.00	1	0
3-Nitrodimethylaniline	1310.00	1	0	3-Nitrosodiphenylamine (1)	1310.00	1	0
4-Ethylphenol	1310.00	1	0	4-Nitrophenyl-phenylether	1310.00	1	0
3-Nitroso-4-n-propylaniline	1310.00	1	0	Hexachlorobenzene	1310.00	1	0
Hexachloroethane	1310.00	1	0	Pentachlorophenol	1100.00	1	0
Nitrobenzene	1310.00	1	0	Phenanthrene	1310.00	1	460.0
Isophorone	1310.00	1	0	Anthracene	1310.00	1	0
2-Nitrophenol	1310.00	1	0	Di-n-butylphthalate	1310.00	1	0
1,4-Diethylphenol	1310.00	1	0	Fluoranthene	1310.00	1	0
Benzoic acid	11000.00	1	0	Pyrene	1310.00	1	0
Bis(2-Chloroethyl) acetate	1310.00	1	0	Butylbenzylphthalate	1310.00	1	0
2,4-Dichlorophenol	1310.00	1	0	1,1'-Dichlorobenzidine	1310.00	1	0
1,2,4-Trichlorobenzene	1310.00	1	0	Benzo(a)anthracene	1310.00	1	0
Naphthalene	1310.00	1	0	Chrysene	1310.00	1	0
4-Chloroaniline	1310.00	1	0	Bis(2-Ethylhexyl) phthalate	1310.00	1	0
Hexachlorobenzene	1310.00	1	0	Di-n-octylphthalate	1310.00	1	0
4-Chloro-3-ethylphenol	1310.00	1	0	Benzo(b)fluoranthene	1310.00	1	0
2-Ethylnaphthalene	1310.00	1	793.0	Benzo(k)fluoranthene	1310.00	1	0
Hexachlorocyclopentadiene	1310.00	1	0	Benzo(a)pyrene	1310.00	1	0
2,4,6-Trichlorophenol	1310.00	1	0	Indeno(1,2,3-cd)pyrene	1310.00	1	0
2,4,5-Trichlorophenol	1310.00	1	0	Benzo(a,h)anthracene	1310.00	1	0
2-Chloronaphthalene	1310.00	1	0	Benzo(g,h,i)perylene	1310.00	1	0
2-Nitroaniline	11000.00	1	0				
Diethylphthalate	1310.00	1	0				
Isocyanaphthene	1310.00	1	0				

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(607) 565-2893

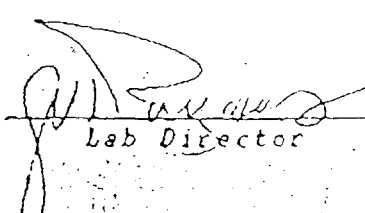
LAB SAMPLE ID : 27646

Apr 11, 1991

Caribbean Safe Water Lab
Marcella Jennings
P.O. Box 7669
St. Thomas, V.I. 00801

P.O. # :
Client Site : FOUR WINDS CAR WASH
Origin : SOIL
Description : COMPOSITE
Sampled on : 03/21/91 by CSWL
Date received : 03/27/91

ANALYSIS	RESULT	ORITS	DATE	ANALYSIS DONE BY
RETROD 8270	See Attach		04/11/91	LAB ID 10310
% Solids	81		04/11/91	LAB ID 10310

Approved by : 
Lab Director

The information in this report is accurate to the best of our knowledge and ability. In no event shall our liability exceed the cost of these services. Your samples will be discarded after 14 days unless we are advised otherwise.

cc :

60000051

1 IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
2 DIVISION OF ST. THOMAS AND ST. JOHN
3 FOUR WINDS PLAZA PARTNERSHIP,)

4 Plaintiff,) CIVIL NO. 1989/224

5 vs.) ACTION FOR DAMAGES

6 JURY TRIAL DEMANDED

7 TEXACO, INC., TEXACO CARIBBEAN,)

8 INC., VERNON MORGAN, ESSO STANDARD)

9 OIL, S.A., LTD., DANIEL BAYARD,)

10 Defendants.)

11 P.I.D, INC.,)

12 10 Plaintiff,)

13 11 vs.)

14 12 TEXACO, INC., TEXACO CARIBBEAN,)

15 INC., VERNON MORGAN, ESSO STANDARD) 13 OIL,
S.A., LTD., DANIEL BAYARD,)

16 14 Defendants.)

17 16 DEPOSITION OF:

18 17 THOMAS GUTSHALL

19 18

20 19 DATED:

21 June 13, 1991

22 20

23 21

24 22

25 23 JULEE NORMAN, C.S.R.

26 RITA SHEPARD, C.S.R.

27 Page 1

28 1 P.O. Box 9968

29 2 St. Thomas, USVI 00801

30 3

31 4

32 5

33 6

34 7

35 Page 2

36 1 APPEARANCES:

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19 14

20 *****

21 15

22 16 The following is a transcript of the

23 17 deposition of THOMAS GUTSHALL, before RITA

24 SHEPARD,

25 18 C.S.R, within and for the Territory of the United

26 19 States Virgin Islands, on the 13th day of June, 1991.

27 20 at the Law Offices of Briggs, Knoepfel & Ronca, 30

28 21 Dronnigens Gade, St. Thomas, USVI 00804.

29 22

30 23 *****

31 Page 3

32 INDEX

33 2 PAGE

34 DIRECT EXAMINATION

35 3 BY: Mr. Dema

36 4 DIRECT EXAMINATION

37 BY: Mr. Knoepfel

38 5

39 *****

40 6

41 EXHIBITS

42 7 MARKED

43 8 EXHIBIT 1

44 9 EXHIBIT 2

45 10 EXHIBIT 3

46 11 EXHIBIT 4

47 12 EXHIBIT 5

48 13 EXHIBIT 6

49 14 EXHIBIT 7

50 15 EXHIBIT 8

51 16 EXHIBIT 9

52 17 EXHIBIT 10

53 18 EXHIBIT 11

54 14

55 Page 5

Page 4

• • • PROCEEDINGS

[4] THOMAS GUTSHALL, • a witness,
having been first duly sworn, was
examined • and testified as follows:

[7] DIRECT EXAMINATION

[8] BY MR. DEMA:

[9] Q: Would you state your name,
residence and • business address for the
record, please?

[11] A: Thomas Gutshall 100-13 Estate
Contant, home. • Smith Bay Texaco,
business.

[13] Q: How do you spell your name?

[14] A: G-U-T-S-H-A-L-L.

[15] Q: What is your main trade or
profession, sir?

[16] A: Gasoline automotive.

[17] Q: And what do you do with that
trade or • profession?

[19] A: Retail fuel.

[20] Q: Where did you learn the trade?

[21] A: Amaco Standard Oil of Indiana.

[22] Q: When did you first come to the
Virgin • Islands?

[24] A: In '71. Pardon me, 1980.

[25] Q: We're going to be asking you
some questions

Page 5

• • • today, Mr. Gutshall, about your
experiences in the • Virgin Islands
with regard to a certain employment at
• Estate Tutu. • Have you ever had your
deposition taken • before? • The first
rule of a deposition is that --

[9] A: Don't shake your head.

[10] Q: She's got to hear it. That is the
principal • thing. • Second, and no less
important really, is that • you
understand what I ask or any of the
other attorneys • ask. And sometimes
we botch the question, so if there • is
something that is not clear to you, please
ask us to • repeat it or rephrase it and
we will. Or if you don't • hear it or for

any reason ask us, tell us and we'll try • to rephrase it.

[19] A: Okay.

[20] Q: Briefly, I represent Four Winds Plaza. My • name is Jack Dema, in a suit which presently is again • various Texaco and Esso affiliates. Mrs. Judith Turner • represents Esso, Esso Standard Oil, Ltd., and Mr. • Knoepfel represents the Harthmans and P.I.D., which is • a development entity, concentrating in the Tutu area.

Page 6

• •

[3] A: Yes.

[4] Q: And mist Mary Hoerber represents Texaco • affiliates, TCI, Texaco Caribbean, Inc. • When we refer to Texaco and Esso, and I will • try, and everyone does try to refer to, for example,

[8] TCI being Texaco Caribbean, Inc., and depending on what • years you tell us about, it will either be ESSOSA, • which is a short term for Esso Standard Oil Limited or • Esso Virgin Islands, which is Esso Virgin Islands, Inc. • Can you tell us, to the best of your memory, • your dates of employment at Esso Tutu?

[14] A: There were two occasions. The first occasion • would be '85 to '87. The second occasion would be from • 88 to '90.

[17] Q: Now would you briefly recite your experience • in the Virgin Islands between 1980 and 1985?

[19] A: I worked for Caribbean AMCG. I was the • general manager and also for

Autowise. It's a chain • out of the states.

[22] Q: And what came to pass that you started • working for Esso Tutu in '85?

[24] A: When I worked for Autowise that is where I • met the owner of Tutu Esso. He was looking for a

Page 7

• • • service manager, so we negotiated and I took the job.

[4] Q: Now, being lawyers we have to draw a slightly • finer distinction. Did you meet a gentleman by the • name of Danny Bayard?

[7] A: Yes.

[8] Q: And based on other documents in this case I • think we could all stipulate for the record that Danny • Bayard was the lessee of Esso Tutu?

[11] A: He owned it. He owned the business.

[12] Q: Business that was operating there?

[13] A: Right.

[14] Q: And what position were you hired for?

[15] A: Service manager.

[16] Q: Could you briefly detail for us your job • responsibilities in that position?

[18] A: Scheduled the shop with its repairs, oversee • those said repairs, collect the money on those repairs, • coordinate the parts to the mechanics, coordinate the • information to the customer in reference to their car.

[22] Q: And did you go on a period of training or did • you just jump on and start?

[24] A: What do you mean by a period of training? • With Danny Bayard?

Page 8

• •

[3] Q: With Danny Bayard.

[4] A: No, I had already had enough experience in • that field.

[6] Q: Now, with regard to the station itself, could • you tell us what was explained to you with regard to • the original equipment that you found at the station • when you got there in 1985? In particular with regard • to the area of the service bays and the underground • tanks?

[12] A: What underground tanks? Are you speaking of • gas tanks?

[14] Q: Let's forget about the underground tanks • first. If you first detail for me the equipment that • was present in the service bays when you first got • there?

[18] A: Are you talking stationary equipment or are • you talking equipment that you could move around to • work on vehicles?

[21] Q: Stationary equipment, hoists, underground • pipes, catch basins?

[23] A: There were no catch basins. There were three • hoists, which were operated underground, hydraulic air, • and one alignment machine, which was operated on top of

Page 9

• • • the ground, hydraulic and electrical, and one above • ground electric hoist, and one flat stall.

[5] Q: One flat stall?

[4] Q: Was Mr. Griffith aware that you were running • a repair operation out of the station?

[6] A: Yes.

[7] Q: Was Mr. Griffith aware during the period 1985 • to the point that the oil/water separator was being put • in that you were changing oil?

[10] A: I don't know. I can only assume, and I don't • want to • assume.

[13] Q: If you do ever assume throughout the course • of this deposition, sir, just tell us you're making an • assumption. If you're talking a guess, tell us you're • guessing?

[17] A: I would assume Mr. Griffith came on the • property. I don't know how he would not know that oil • was being changed in a full service shop. But I can't • sit here and say he actually saw one of us changing oil • in a car. But I would assume any amount of • intelligence would tell you that.

[23] Q: And you indeed were purchasing a fair amount • of oil from ESSOSA?

[25] A: I never purchased it, so I wouldn't know how

Page 29

• • • much was being purchased.

[4] Q: Who was in charge of purchasing?

[5] A: Mr. Bayard in the first timeframe of my • employment.

[7] Q: Since we have it handy, looking at Exhibit 6, • it details a purchase of a product called a floor • degreaser. Are you familiar with that product?

[10] A: Yes.

[11] Q: You had referred earlier in your testimony to • an Amway concrete floor

cleaner?

[13] A: Same thing.

[14] Q: Up until the catch basin and the oil/water • separators were installed, would you describe for me • the mechanical methods of cleaning various auto parts • in your full service shop?

[18] A: Name me an auto part.

[19] Q: How about -- you had mentioned in your • testimony that you did engine breakdowns?

[21] A: Yes.

[22] Q: Did it ever come to pass when you were doing • engine breakdowns that you had to degrease the engine • parts?

[25] A: Yes.

Page 30

• •

[3] Q: How would you go about that?

[4] A: If the engine was out it would be • disassembled. I had a machine. I can't recall the • name of a machine. It was full of liquid to pull out • parts, had a pump, circulated, placed that part in it, • you could leave it or you could hand clean it, remove • it, -- wash it off and you have a clean part.

[10] Q: I'll show you page 37 of a Selig catalog?

[11] A: Yes, that is a parts washer.

[12] Q: So just to keep the record straight, we'll • mark this Exhibit 7.

[14] [EXHIBIT 7 WAS MARKED.] • Do you know whether in fact chemicals were • purchased from Selig Chemical of Puerto Rico during the • time we're talking about?

[18] A: The company name again?

[19] Q: Selig, S-E-L-I-G?

[20] A: I don't recall.

[21] Q: The device described in your earlier • testimony and then depicted on page 37, is that similar • to the device you described?

[24] A: Described -- is similar.

[25] Q: And in this particular picture there is a

Page 31

• • • gentlemen degreasing an auto part, supposedly?

[4] A: Yes.

[5] Q: And there is a 55 gallon drum?

[6] A: Yes.

[7] Q: Which contains the recirculated liquid?

[8] A: Yes.

[9] Q: Is that similar to the operation you guys • had?

[11] A: Yes.

[12] Q: This is the period of time prior to the • installation of oil/water separator and the catch • basins?

[15] A: Yes.

[16] Q: Where was the disposal of the used chemicals?

[17] A: Dumped in the HCA holding container for the • oil after it was nonusable.

[19] Q: Which the rest of us refer to collectively as • the waste oil pit?

[21] A: Right.

[22] Q: Do you have any memory as to where the • cleaner product for this degreasing operation was • obtained?

[25] A: Number One Automotive Consolidated.

Page 32

• •

[3] Q: Number One Automotive Consolidated?

[4] A: Number one was Consolidated Auto Parts owned • by Dough Smith and numerous others.

[6] Q: Do you remember the product?

[7] A: No.

[8] Q: Do you remember the brand name?

[9] A: No.

[10] Q: Did it come in 55 gallon drums?

[11] A: Or five gallon pales. We always bought it in • the five gallons. It was easier to store.

[13] Q: With what frequency did you change?

[14] A: Basically on the request of the technician, • when he felt it was too dirty.

[16] Q: So that went into the HCA, waste oil pit -- • pit and the used oil went into the waste oil pit?

[18] A: Yes.

[19] Q: Did there ever come a point in time between • 1985 and 1987 when your period of employ was • interrupted that the waste oil pit was cleaned up?

[22] A: Well -- while I wasn't there?

[23] Q: While you were there?

[24] A: It was cleaned out, yes.

[25] Q: And how was it cleaned out?

Page 33

• •

[3] A: We sold it to WAPA. I don't recall the name • of the company or the gentlemen who would do it. He'd • come in with a tanker truck, drop his hose, pump it • out, take it to WAPA

and sell it to them.

[7] Q: With what frequency was that?

[8] A: As needed.

[9] Q: Do you have any idea about how many times a • year that was?

[11] A: No.

[12] Q: Now, did you also use -- well, let's go for • parts. Cleaning carburetors, did you clean carburetors • with the parts cleaning device?

[15] A: Yes.

[16] Q: The parts washer, shall we call it?

[17] A: Yes.

[18] Q: How about brake drums?

[19] A: No.

[20] Q: Were there any times that you used spray • degreaser?

[22] A: Yes.

[23] Q: Do you remember what the product names of the • spray degreasers were?

[25] A: No.

Page 34

• •

[3] Q: Do you remember whether or not you ever used • Gunk products?

[5] A: Gunk, yes.

[6] Q: Mr. Berry had testified earlier today that • they used a product called Brakleen, B-R-A-K-L-E-E-N?

[8] A: Yes. That is true, bought it at Western • Auto.

[10] Q: And the Gunk degreaser for carburetors, • carburetor cleaner?

[12] A: Yes STP Carburetor Cleaner.

[13] Q: Did you use a Gunk brake cleaner?

[14] A: That is a possibility.

[15] Q: Did you do grease jobs?

[16] A: Yes.

[17] Q: Do you remember whether you used white • lithium grease?

[19] A: On door hinges.

[20] Q: Do you remember whether you used gasket • cement. ?

[22] A: Gasket sealer?

[23] Q: Right?

[24] A: Yes, yes.

[25] Q: Did you clean radiators?

Page 35

• •

[3] A: What do you mean by clean radiators?

[4] Q: You drive in, you pour some type of --

[5] A: Flush the radiators.

[6] Q: Flush something in the radiators, run the car • for a while?

[8] A: Not usually, try not to.

[9] Q: Does that occasionally happen?

[10] A: Yes.

[11] Q: What did you do with the flush material from • the radiator?

[13] A: Went on the ground.

[14] Q: Did you ever use products called Mac's, Mac's • Brake and Motor Cleaner?

[16] A: I don't recognize the name.

[17] Q: Ever recognize the name Heavy Duty Brake • Cleaner?

[19] A: No, I don't recall.

[20] Q: Do you recall the product name for the • radiator flush?

[22] A: No, I can't recall the name. I can identify • it if I saw the product. But I could not give you the • name.

[25] Q: Now after you had this

conversation with the

Page 36

• • • gentlemen from ESSOSA or witnessed the conversation, • what happened with regard to the installation or lack • of installation of an oil/water separator?

[6] A: We installed it.

[7] Q: Can you tell us everything you remember about • that process?

[9] A: Yes, it upset me that I had to close down • half of my shop at the time because they had to run • lines from -- in the vicinity of stall No. 3 and to dig • a pit there and went over and dug a pit on the west • wall, which I've already identified where the drain • comes out, Exhibit 4, and they dug it out and made an • oil separator and a drain on the south side. I believe • it was in stall 3 actually, I think. It's hard to • remember exactly where, but it was designed to catch • the water and whatever from these stalls into here, • over to here, automatically flow. These two here had • to drain --

[21] Q: Before you go on, because when we look at • this later and you say these two, since we don't yet • have you on video tape, we have to be a little more • careful about the record. Could you, using a dark pen --

[25] MR. KNOEPFEL: Jack, for clarification

Page 37

• • • we put it on a separate sheet.

[4] [EXHIBIT 8 WAS MARKED.]

[5] Q: What we'll identified as Exhibit

No. 8, Mr. • Gutshall, would you be so kind as to depict for us the • changes that occurred once the catch basins. Drains • and oil/water separators were installed?

[9] A: Drained here -- drain here. Do you want the • piping also?

[11] Q: Yes, please.

[12] A: It went across. This was your actual • separator and this -- which side do you want to call • this?

[15] Q: West.

[16] A: West, south. The drain for stalls 1, 3 and • 4, which is on the south wall and connected to the oil • separator, which is stalls 5 and 6 on the west wall, • then the exit drain was put through the wall.

[20] Q: Now, if we could label O slash W as an • oil/water separator. And the box you made is the catch • basins and the double lines type?

[23] A: Yes, that is the drain pipe.

[24] Q: Sorry go ahead.

[25] A: You had three compartments in your separator.

Page 38

• •

[3] Q: One, two, three, labeling them as sduch on • the diagram? The catch basin on the south side, was • that connected to any of the traps in the hoists?

[6] A: Not to my knowledge.

[7] Q: So what was supposed to go into the catch • basin?

[9] A: Water.

[10] Q: Where did the water come from?

[11] A: When you watched the stalls.

[12] Q: So that was specifically designed to catch • the water from the wash?

[14] A: It was mixed with the water.

[15] Q: Now, after this was installed, was that ever • used as a method of, as receptacle for the parts washer • liquid?

[18] A: No, not to my knowledge.

[19] Q: Was that ever used as a receptacle for the • radiator cleaner?

[21] A: Yes.

[22] Q: Any used waste oil ever go in there?

[23] A: No.

[24] Q: Now, would you describe for me the pipe that • goes through the retaining wall to the south, where did

Page 39

• • • that empty into? I think we have brief -- previously • looked at that on Exhibit No. 4.

[5] A: That was originally hooked up to the storm • drain belonging to the Virgin Islands government?

[7] [EXHIBIT 9 WAS MARKED.]

[8] Q: Looking at Exhibit No. 9, I show you a recent • picture, because I see Splash and Dash building back • here, off the west side of the Esso Station and a storm • drain that actually shows the same sign as in Exhibit • No. 4 on the west wall, and ask if that was the storm • drain to which the pump coming through the retaining • wall was connected?

[15] A: Yes.

[16] Q: Who effected that connection, who made the • connection?

[18] A: Esso.

[19] Q: And how long did that connection

last, to • your knowledge?

[21] A: I think about ten days.

[22] Q: Then what happened?

[23] A: The Department of Public Works cut the pipe • and capped it.

[25] Q: Did it stay capped?

Page 40

• •

[3] A: No.

[4] Q: Why did it not stay capped?

[5] A: The cap came off, to the best of my • knowledge.

[7] Q: Did the cap fall off?

[8] A: I had seen the cap gone. That is the best I • can tell you. I just happened to look and the cap was • gone.

[11] Q: Mr. Berry testified this morning that at some • point in time the liquid flowed freely from the • oil/water separator on to the ground immediately • outside the retaining wall?

[15] A: Is that a question?

[16] Q: That was a statement. Would you agree with • that statement?

[18] A: Yes, I would agree with that statement.

[19] Q: Now, Mr. Berry also testified that various • types of liquids, clues -- including water, radiator • vents and the like were placed into the catch basin?

[22] A: Yes.

[23] Q: You -- he testified to that during the -- his • stay, the oil/water separator, except for one period of • flooding, never overflowed. Could you tell me how that

Page 41

• • • was physically possible?

[4] A: What physically possible?

[5] Q: What is -- what is your question?

[6] Q: Seemingly a continuing stream of liquids of • various types went into a receptacle with a limited • quantity?

[9] A: Yes.

[10] Q: That receptacle never seemed to overflow. • And miracle could you explain physically why that was?

[12] A: That was taken out by hand by buckets and • dumped into our oil pit on a need be basis.

[14] Q: And how was that need expressed?

[15] A: What do you mean?

[16] Q: How often did that happen?

[17] A: That could have happened once a week.

[18] Q: And did anyone ever attempt to measure the • levels in that particular containment area?

[20] A: You're talking about the oil separator?

[21] Q: Yes.

[22] A: When you say measure, what do you mean?

[23] Q: In other words --

[24] A: We would open the top to see if it's full or • how much longer we would do that like that.

Page 42

• •

[3] Q: Was the quantity of liquid that went in ever • measured?

[5] A: No.

[6] Q: Was there any way of determination whether it • ever had a leak?

[8] A: The oil separator?

[9] Q: Yes?

[10] A: No, there is no way of determination whether • it had a leak or not.

[12] Q: The outflow from the oil/water separator, • after it was capped, how long a period of time went by • before it fell off or before it lost it's cap?

[15] A: Maybe an hour after it was put on.

[16] Q: Now, with regard to the waste oil pit, was • any attempt ever made to measure that on a regular • basis?

[19] A: No, it would be inspected to see how much oil • was in it so you could judge when to call somebody to • empty it.

[22] Q: And on what basis was that inspected and by • whom?

[24] A: I never inspected it personally, per se, went • to look to see how much oil was in there. I would send

Page 43

• • • one of the shop runners to check the pit and see how • full it is and let me know, and maybe at that time walk • back and look myself. But there was no set schedule to • inspect it.

[7] Q: Was an examination ever made by anybody in • your employ or by yourself with regard to -- any • containment vessel which showed the possibility that a • leak might exist?

[11] A: Repeat that? I'm sorry.

[12] Q: With regard to any containment for any of • these waste -- any containment vessels or any of these • waste products?

[15] A: Yes.

[16] Q: Was any inspections made by you

memory serves, we used this.

[7] Q: Esso took all the forms exemplified by Exhibit 3 • in Oriol's deposition?

[9] A: Yes.

[10] Q: So we can keep this straight, I guess I ought • to run a couple copies of this.

[12] [BRIEF RECESS.]

[13] [EXHIBITS 10 and 11 WERE MARKED.]

[14] BY MR. DEMA:

[15] Q: So for the record, we've marked as Exhibit 10 • the exhibit marked Deposition Exhibit 3 and Hans • Oriol's deposition as Exhibit 11, the exhibit marked 4 • in Hans Oriol's deposition?

[19] MS. TURNER: Could you tell me who Hans • Oriol is so I'll know?

[21] MR. DEMA: He is a gentleman.

[22] MS. HOERBER: He's Bayard's partner.

[23] MS. TURNER: No one did apparently • except when we took the deposition.

[25] THE WITNESS: She said it was Bayard's

Page 59

• • • partner.

[4] MS. HOERBER: According to Mr. Oriol.

[5] BY MR. DEMA:

[6] A: What dates?

[7] Q: From 1982?

[8] A: And still to this day?

[9] MS. HOERBER: No.

[10] MR. KNOEPFEL: No.

[11] BY MR. DEMA:

[12] Q: To 1988.

[13] A: Okay, yes. Very good.

[14] Q: Now, referring to our deposition No. 10? • Exhibit No. 10, was it your testimony that you had seen • that during your first round of employment?

[17] A: Yes.

[18] Q: And it was being used during your first round • of employment?

[20] A: To the best of my knowledge.

[21] Q: Do you have any personal knowledge as to how • frequently the reconciliations were made during your • first round of employment?

[24] A: No.

[25] Q: Did you ever see any reconciliation sheets at

Page 60

• • • that time that showed weekly or monthly • reconciliations?

[5] A: No.

[6] Q: Prior to July 1987 from the point you started • in 1985, were there any repairs of any type made to • your knowledge to the underground storage tanks or the • tank piping system?

[10] A: Yes.

[11] Q: Could you detail what you know of those • repairs?

[13] A: There was a leak discovered going through the • set of pumps closest to the building, which would be, • let's go over here.

[16] Q: Referring to Exhibit No. 1?

[17] A: Yes, gas island closest to the building. How • do you want to do it?

[19] MS. TURNER: I'm sorry you said there • was a leak where?

[21] THE WITNESS: On the island closest to • the building.

[23] BY MR. DEMA:

[24] Q: Were pressure tests ever conducted of that • pipe?

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• •

[3] A: I don't know.

[4] Q: How do you know that there was a leak?

[5] A: I was told by Mr. Bayard.

[6] Q: Was there ever any repairs made to the pipe?

[7] A: Oh, yes, it was replaced.

[8] Q: Do you know who conducted the row pairs?

[9] A: Eugenio.

[10] Q: Approximately what period of time was this?

[11] A: I have no idea.

[12] Q: Prior to your, to the summer of '87, I take • it?

[14] A: It would be my first employment.

[15] Q: Prior to the problem with the underground • storage tanks? • Yes, oh, yes.

[18] Q: Did Mr. Bayard mention to you his estimate of • the amount of product that had been replaced?

[20] A: No.

[21] Q: Was it ever mentioned to you whether it was a • small quantity or a large quantity?

[23] A: It was enough that it reflected a loss of • money when you balanced out everything. It doesn't • quite make it. At first there was suspect of some type

Page 62

• • • of theft or something like that.

[4] Q: Was that ever eliminated as a possibility?

[5] A: Well, when they found out it was leaking, • yes, the theft was gone. When it was dug up, this was • evidence that the leaking pipe had rusted through.

[8] Q: Did you ever see that?

[9] A: Yes, I saw it.

[10] Q: So you personally observed the rusted through • pipe between the gas station island and the underground • storage tank. • Did you ever have a discussion with Mr. • Bayard as to how he kept his records at that point?

[15] A: No.

[16] Q: Did you ever have a discussion with Mr. • Bayard as to inventory records around the time that • there was a suspected leak in the underground storage • tank?

[20] A: No.

[21] Q: Did you ever have a discussion with anyone • with regard to whether a conclusion was made as to • whether their's was a leak in the underground storage • tank?

[25] A: Repeat the question.

Page 63

• •

[3] Q: Did you ever have any discussion with anyone • with regard to whether a conclusion was formed as to • the presence of a leak in the underground storage tank?

[6] A: No.

[7] Q: Did you ever know of any facts which would • indicate to you that there was a leak in the • underground storage tank?

[10] A: Prior to it actually being taken

out, no.

[11] Q: After it was removed did you ever have • occasion to see it?

[13] A: Yes.

[14] Q: When you looked at it was there anything • which gave you reason to believe that there might have • been a leak?

[17] A: The only thing that I can say I saw on the • tank, and that would be closest the way the tank was • sitting towards the south end of tank as it was sitting • in there towards the south wall, was a wet area with • material stuck to it when the tank came out. That is • the only thing I ever saw. • I was not present for the pressure test. I • guess I wasn't invited. It was done after normal • working hours.

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• •

[3] Q: With a select cast?

[4] A: Very select, invitation only.

[5] Q: Were you present when the tank was physically • removed from the pit?

[7] A: Yes.

[8] Q: Did you have occasion to go into the pit?

[9] A: No, not into the pit.

[10] Q: Did you see any evidence of product in the • pit?

[12] A: No.

[13] Q: Did you detect any smell of the product when • the tank was uncovered?

[15] A: You could smell product before the tank was • uncovered. With the gas there it's impossible to not • smell gasoline. I mean while it's even sealed,

• covered, capped, your going to smell gasoline.

[19] Q: Did you ever have any discussions with anyone • else besides Mr. Bayard about the integrity of the tank • after it was removed?

[22] A: Repeat that, I'm sorry.

[23] Q: Did you ever have discussions with anyone • other than Mr. Bayard about the integrity of the tank • after the tank was removed?

Page 65

• •

[3] A: Augusto Gerbow and I talked briefly. He was • the manager.

[5] Q: Would you tell me everything that you said to • Mr. Gerbow and Mr. Gerbow said to you relative to the • integrity of the tank?

[8] A: The only thing I ever said, do you think • there was a leak. And Mr. Gerbow said I really don't • think there was, but we won't know until they do a • pressure check on it. He told me that would be done • the next day. And when the next day the new tanks were • in the ground when I arrived for work at eight o'clock • in the morning. The oil -- old tank was still sitting • there. I was told by Mr. Bayard that the old tank did • in fact have an pinhole leak, but it could have • happened caused by the pressure check itself. • He said to me that they could not confirm • that that had been leaking.

[20] Q: Did you ever have occasion to speak with Mr. • Gerbow again?

[22] A: No, not about that at all. I kind of took • the hint.

-- the car wash.

[23] Q: Somewhere we have a picture here which I'd like to show you. If you look at Exhibit No. 9, you see a concrete structure immediately adjacent to the

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• • • south wall of the Esso Station?

[4] A: Yes.

[5] Q: Let me tell you that an excavation was made for the placement of that building and there was testimony, sworn testimony to the fact that a dark ooze substance described this morning as goop.

[9] A: Makes sense.

[10] Q: Emanated from the south wall excavation of the Esso Station?

[12] MS. TURNER: The testimony this morning was not that it emanated from the south wall. I'm objecting to the characterization of Mr. Morris' testimony.

[16] MR. DEMA: There was testimony from the same witness and earlier from Mr. Jenson of Esso that there was a similar goop-like substance that Esso contractors came in and then emptied from the catch basin?

[21] MR. DEMA: Just to clarify the record, Mr. Morris called the liquid that, that was in the bottom of the excavation bit. He didn't call that either. He said it was liquid and dark in color and that he doubted if it was gasoline all right.

Page 71

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[3] MS. TURNER: Seriously, what Mr. Morris described as, quote, goop was the substance that the contractors took out of various places of the Esso Stations and put into the drums.

[7] MR. DEMA: Fair enough.

[8] BY MR. DEMA:

[9] Q: This is the Deposition Exhibit from the earlier deposition, and some 55 gallon drums were filled with a substance which Mr. Morris described as goop, a dark goopie liquid coming from areas one, two, three, four, five and six?

[14] A: Yes.

[15] Q: Based on your familiarity with what was being placed into the catch basin, the only water separator and the waste oil pit up until the time you left the station, could you describe for me the visual characteristics of the liquids that would be visible in those areas?

[21] A: In other words, the question is, is what we were putting in the oil pits could possibly be what he found was mixed with water? Yes, quite easily.

[24] Q: Was it dark in characteristic as opposed to light like gasoline?

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• •

[3] A: It would be the dark brown because the dirt was being mixed with it also.

[5] MS. TURNER: I'm sorry, you said it was dirt being mixed?

[7] THE WITNESS: Once mixes with the dirt and starts collecting the dirt and finally gets to a point that it's been sitting, by that time it's going to be a

very dark brown, maybe even possibly black in some instances. Oil does that.

[12] BY MR. DEMA:

[13] Q: Now, throughout the time you -- that you were in either stage of employment, did you have any reason to suspect that there might be an escape into the environment of the dark liquid that was being collected in any of those places?

[18] A: No, it never even crossed my mind. You just don't -- it's the Virgin Islands. There is every shade tree mechanic dumping oil right now on the ground. I couldn't tell you how many times I have watched people change oil in the parking lot right there. Well, I'll leave it at that.

[24] Q: With regard to these particular tanks, though, sir, which particular tanks?

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• •

[3] A: Any of the tanks we referred to as -- or that Esso refers to as holding on a cement area, which are number rated in this picture as one, two, three, four, five and six. And in your diagram as catch basin, and one, two, three oil/water separator and HCAs.

[8] Q: Have you personally ever checked those tanks and seen a particular level of liquid present in any of those vessels and then gone back and looked at that level and see it diminish?

[12] A: Yes.

[13] Q: And would you detail it for me when that was and the vessel in which you saw it?

[15] A: I cannot tell you the dates.

[16] Q: Could you tell me the period of employment?

[17] A: The second period of employment after • Safety-Kleen emptied our pit, oil pit in the back, I • think then in turn it started to, I don't want to say • monitor, and to physically have someone open it, will • you look in and see what is going on. The pit in turn • filled up. • I in turn informed Esso and the discussion • started with who was going to pay for it and when are • we going to do it, when are we going to next have

Page 74

• • • normal conversation back and forth between dealer and • wholesaler. • I kept looking at the pit and noted that the • pit had in fact lost some of its liquid, a good two • feet.

[8] Q: Over what period of time?

[9] A: Oh, a period of about five days.

[10] Q: Had you given anyone authority to remove any • liquid from that pit?

[12] A: No, you couldn't get to the pit or not • without my key or going through the front door and • office and the parts room.

[15] Q: During your first period of employment I • believe you testified that occasionally this waist • product was sold to WAPA?

[18] A: Yes.

[19] Q: And I believe you testified that at some • interval someone would check the pit to see whether it • was high enough to call for a pick up?

[22] A: Yes.

[23] Q: Was there ever a time during the

first period • of employment when you looked at the level of the pit • trying to estimate when WAPA would come and pick it up

Page 75

• • • and notice that?

[4] A: WAPA did not come and pick it up. It was • sold to WAPA and independent trucker who had an oil • tanker. I don't know who it was, where he is at. He • was put out of business when WAPA refused to buy the • oil that was removed from his truck and take it to

[9] WAPA. If he was paid, I don't know if Danny was paid. • I don't know. I know it was sold to WAPA.

[11] Q: Did there come a time that an observation was • made of that oil pit and the decreasing level was seen?

[13] A: Not to my knowledge.

[14] Q: And have you no idea who that trucker was?

[15] A: None whatsoever, none.

[16] Q: Did you ever bring it to anyone's attention • that the liquid in the pit had diminished a good two • feet upon inspection?

[19] A: Yes.

[20] Q: To whose attention did you bring it?

[21] A: Mr. Bayard.

[22] Q: And?

[23] A: And Mr. Gerbow, Augusto Gerbow, the V.I. • manager.

[25] Q: First what did Mr. Bayard say or do about it?

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• •
[3] A: Mr. Bayard, I don't know. I informed him of • it. I felt that that was something that he should -- • you know, I just informed him about it.

[6] Q: And what did Mr. Gerbow say or do about it?

[7] A: Okay.

[8] Q: Quote, unquote?

[9] A: That was about as best I can recall. Okay, • we'll look into it, check on it.

[11] Q: Are you personally aware of whether anyone • from Esso checked into it?

[13] A: Safety-Kleen came back and emptied the tank • again and we were asked not to use the tank -- or the • pit. I should not say tank.

[16] Q: And this was up until the 1990 period?

[17] A: It kind of worked out well because we had • opened up the Long Bay facility. We closed the shop in • February, there was no reason to use the oil pit • anymore, it was a dead issue. So it just kind of -- it • was stopped right there.

[22] Q: February of what year?

[23] A: Ninety.

[24] Q: February '90?

[25] A: Yes.

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• •
[3] Q: Can you tell me why in March of 1991 when the • contractors came they were able to take many barrels, • 55 gallon drums of liquid out of those areas as • described in Mr. Morris' Exhibit 1?

[7] A: No.

[8] Q: Fair enough. Thank you, sir, for your • patients. I will turn you over to the next • questioning.

[11] DIRECT EXAMINATION

[12] BY MR. KNOEPFEL:

[13] Q: Mr. Gutshall, could you describe for me this • waste oil pit?

[15] A: Basically like a cistern, same thing, • concreted. I never saw the bottom actually. The only • thing I ever saw on the bottom would be I saw some, • looked as if it was cans, oil filters, junk. I never • physically saw the bottom of the pit, I saw the walls • which were concrete.

[21] Q: Can you tell us the dimensions of that pit?

[22] A: No, I can't. It was oblong. But I'm not -- • it was covered. Whenever I looked in the pit only half • of the top would open up, so you never really opened up • the hole pit. There is a steel cover over the whole

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• • • thing.

[4] Q: The part that you could see cuts the • approximate dimensions of what you could see?

[6] A: Five by five maybe, five foot by five foot.

[7] Q: And you think that was -- is that half of • what --

[9] A: That would be the half that I could see. I • never really saw even when they emptied it out, • Safety-Kleen or previous to that it was never really • opened up. I took a flashlight once and looked in it. • And I said that is -- you

know, I was done with that.

[14] Q: To your knowledge, from what you could see • this five by five was that approximately one half of • the entire pit?

[17] A: I would say.

[18] Q: So it could be ten feet?

[19] A: It was a big pit.

[20] Q: Do you have any idea how deep it was?

[21] A: Fifteen feet.

[22] Q: Fifteen feet?

[23] A: Yes.

[24] Q: You said you could see things on the bottom?

[25] A: I took a flashlight and looked down in there.

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• •

[3] Q: And you would say it's as deep as 15 feet?

[4] A: I would say 15 feet, yes.

[5] Q: This cover was the steel cover covering the • entire top of this?

[7] A: Yes.

[8] Q: Was that in one piece or two pieces?

[9] A: Two pieces, I believe.

[10] Q: Was it hinged?

[11] A: Yes, it was hinged, made of steel. Danny • made it, had it made.

[13] Q: So to open up -- to get access to the pit • you'd have to somehow open this steel cover?

[15] A: Right, I would never do it. It was too • heavy.

[17] Q: Was the opening when you opened up the steel • cover five by five approximately?

[19] A: No, less than that, maybe three, three.

[20] Q: And when it was pumped out, how was it pumped • out?

[22] A: Which?

[23] Q: Which way?

[24] A: Several.

[25] Q: Describe those?

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• •

[3] A: First occasion that I was there the gentlemen • just drop the hose in and with a lawn mower engine on • his truck would pump it into his tanker. Safety-Kleen • had very elaborate measuring devices in between their • pump, their suction pump and would measure their tank • after they were done where the other gentlemen never • did that, they were just pumped out and let's go.

[10] Q: Can you tell me the approximate dimensions of • the oil/water separator?

[12] A: Approximately four feet deep with three • compartments. And I would say the compartments are • approximately three by two on each compartment.

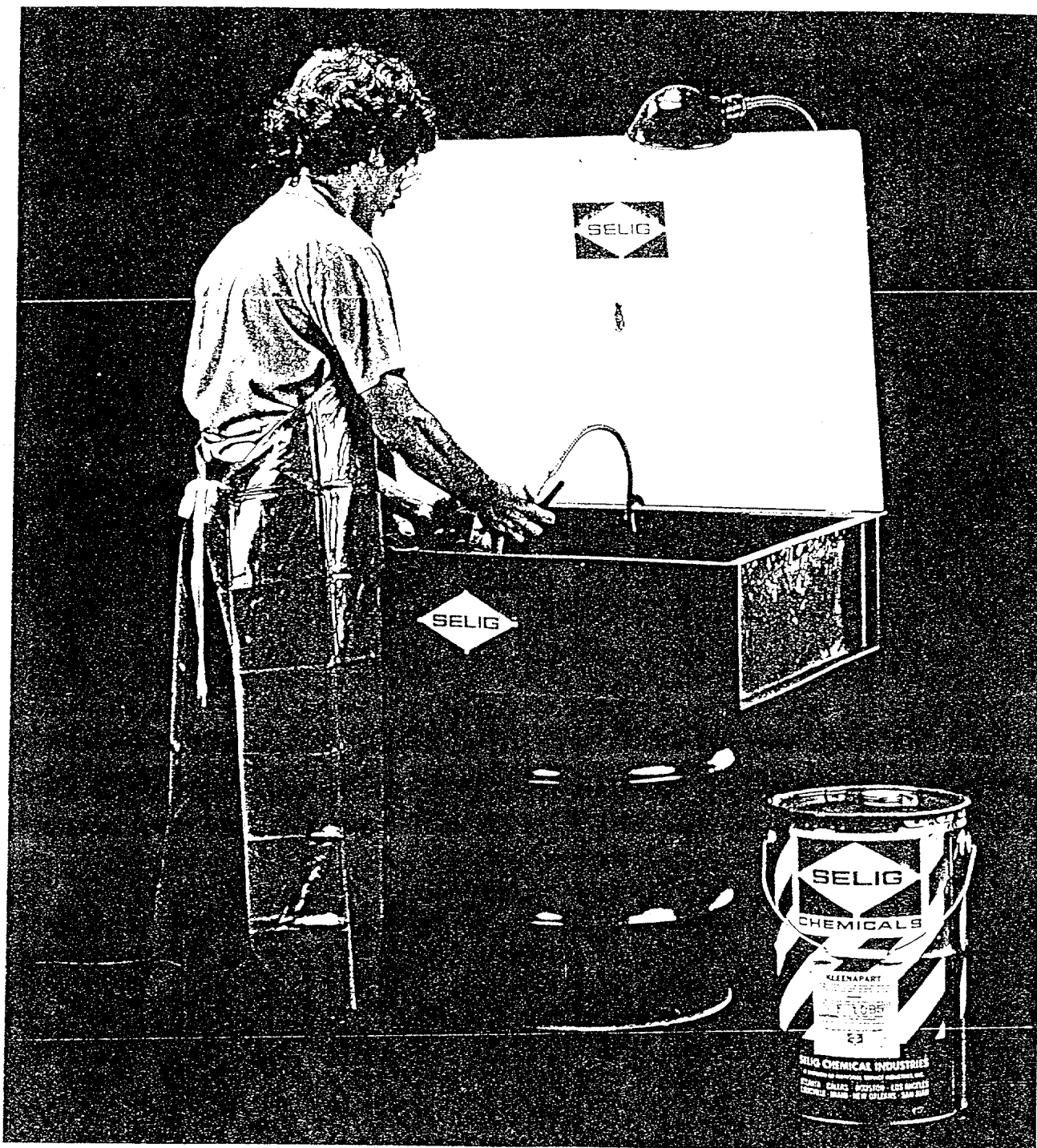
[15] Q: Were these compartments connected?

[16] A: The only way they were connected would be at • the top so the water could flow through the hole, • separate from the oil and it would flow over.

[19] Q: Concrete walls dividing each of these three • compartments?

[21] A: Right. I would say maybe they're four inches • thick.

ADJUTANT CLEANERS AND DEGREASERS



KLEENAPART

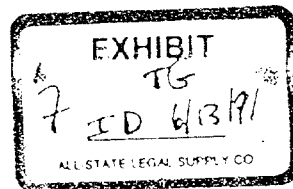
PARTS X ASHING COMPOUND

Insert the 1/2" Jig into the Ad-Batt. The jig will hold the Ad-Batt. Just drop the washers, spacers, fuel pump, 1/2" bushings, washer, spacers, bolts and nuts into the Jig. Drop the Ad-Batt. into the Ad-Batt. Washer and let Kleenmag to the rest. Remove the washers, spacers, bolts and nuts in the Jig. The washers, spacers, bolts and nuts are in the Jig. Use the Jig to wash the washers.

SWIPE

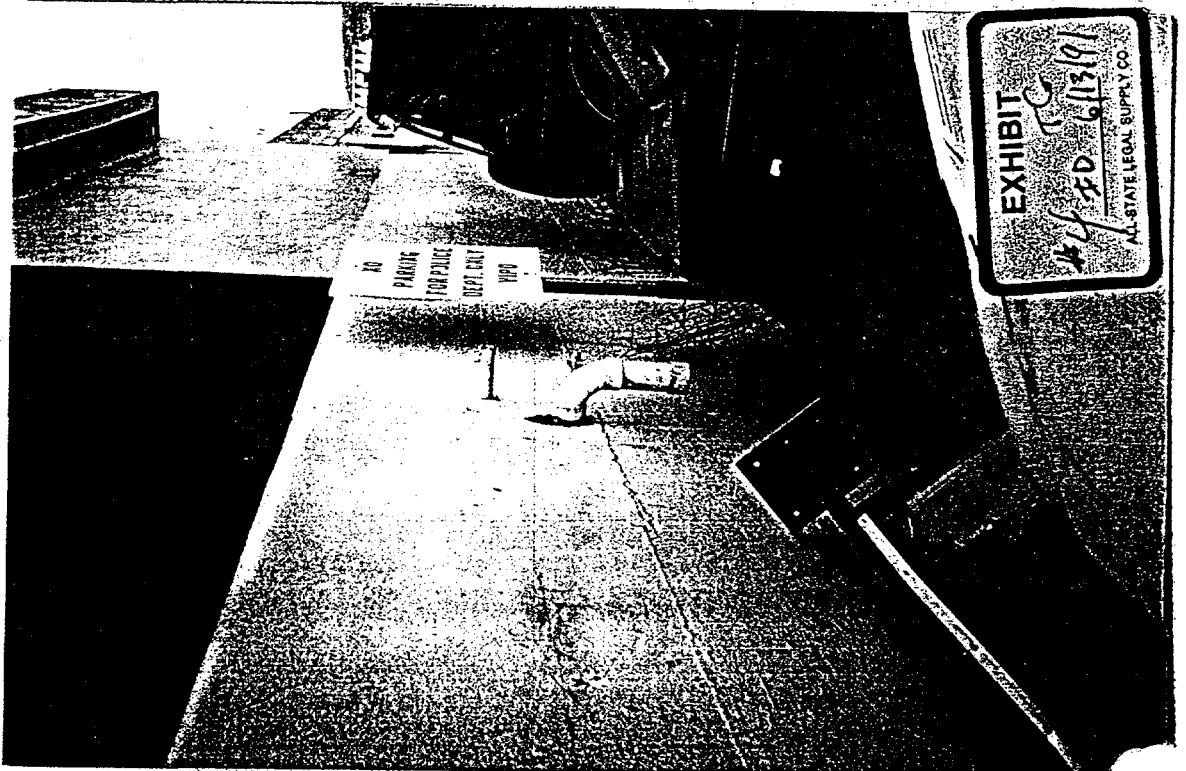
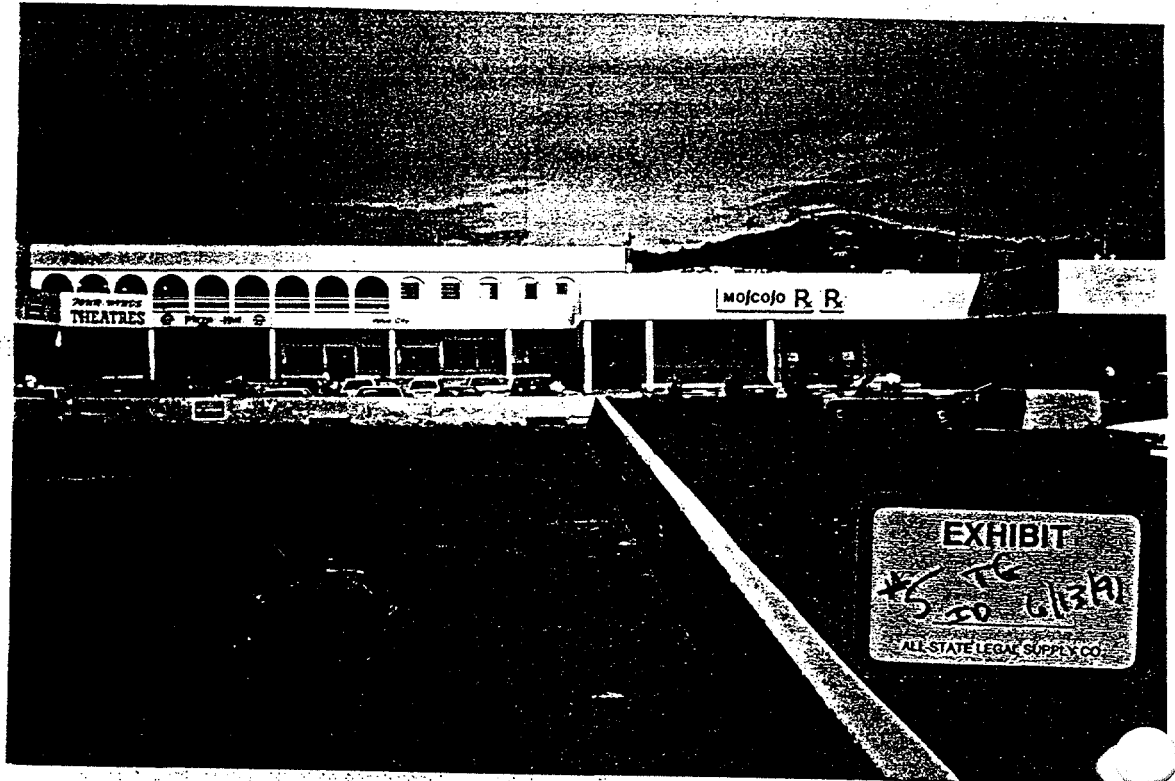
^a The number of subjects who were included in each group was 10.

THE DELUXE WINNER PARTS WASHER

[illegible]

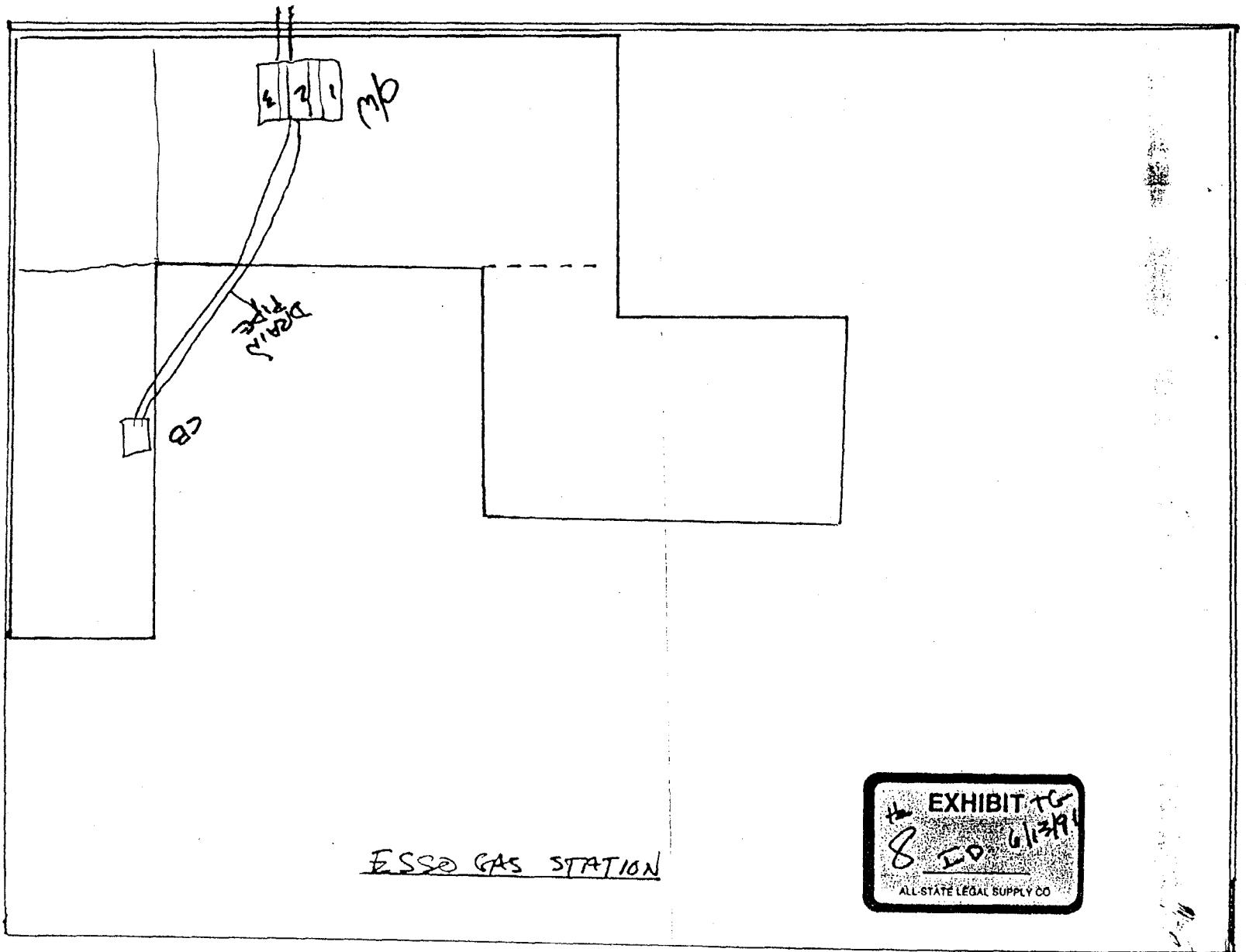
TUT 007 1005

TUL 007 1006



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TUT 007 1007

S/S CONSTRUCTION & EQUIPMENT ESTIMATE

November 26, 1968 (Date)

ESTATE TUTU

ST. THOMAS, V.I.

PUERTO RICO

\$ 117,000

Location

City or Highway

Division

Element	LAND OWNED	Cost, \$USA
L 1.	Dimensions: Prin. Street <u>125</u> ft; Secondary St. _____ ft.	
2.	Depth <u>116</u> ft. Area <u>14,520</u> sq. ft. (Irregular, see plot attached)	<u>42,000</u>
A 3.	Legal Expense, Surveys, Title Guarantees	<u>1,000</u>
4.	Removal of existing structures, trees, poles, etc.	
M 5.	Cut and Fill Costs, site preparation	<u>2,000</u>
6.	Other	
D 7.	TOTAL	TOTAL \$ <u>45,000</u>
8.	Building type <u>SPECIAL DESIGN</u> No. of bays <u>2</u>	
9.	Construction Materials <u>R. CONC., BLOCKS, ETC</u>	
10.	Special Features	
11.	Canopy Cost \$ <u>8,000</u> Complete Structure Cost	<u>40,000</u>
12.	Air Conditioning	
13.	Merchandising Equipment	
14.	Other <u>SANITARY DISPOSAL FAC., ELEC. SUPPLY, ETC.</u>	<u>3,500</u>
I 15.	TOTAL BUILDING COST \$	<u>43,500</u>
N 16.	Driveway: Concrete <u>300</u> Sq. Yd. at \$ <u>10⁰⁰</u>	<u>3,000</u>
17.	Asphalt <u>1,000</u> Sq. Yd. at \$ <u>6⁵⁰</u>	<u>6,500</u>
18.	Drainage System	
R 19.	Curbing <u>200</u> ft.; Entrances (No. <u>2</u>)	<u>1,000</u>
20.	Sidewalk, Concrete _____ Sq. Yd. at \$	
O 21.	Fence, Kind _____ at \$	
22.	Sodding and Shrubbery	<u>2,000</u>
V 23.	Gravel Surface _____ Sq. Yd. at \$	
24.	<u>1</u> Pump Island(s), dimensions <u>5</u> X <u>25</u>	<u>500</u>
E 25.	<u>1</u> Pump Island(s), dimensions _____ X _____	
26.	Other (e.g. Retaining Wall)	
N 27.	TOTAL DRIVEWAY & YARD COST \$	<u>13,000</u>
E 28.	<u>1</u> Pumps, single at \$ <u>550</u> ; <u>1</u> ; double at \$ <u>1,100</u>	<u>1,650</u>
29.	<u>2</u> Tanks, <u>6,000</u> gals. at \$ <u>900</u> ; _____ Tanks _____ gals. at \$	
N 30.	Tanks, _____ gals. at \$; _____ Tanks _____ gals. at \$	<u>1,800</u>
31.	Slop oil tank, size <u>500</u> Gls.	<u>750</u>
32.	Installation Costs of Pumps & Tanks	<u>3,500-800</u>
T 33.	Lift, <u>8,000</u> pounds; Equip. Cost \$ <u>550</u> , Install. \$ <u>450</u>	<u>1,000</u>
34.	Lift, <u>8,000</u> pounds; Equip. Cost \$ <u>550</u> , Install. \$ <u>450</u>	<u>1,000</u>
35.	Compressor, <u>3</u> HP, \$ <u>675</u> , Air Stand <u>1</u> at \$ <u>150</u>	<u>825</u>
S 36.	Installation Cost, Compressor & Air Stand(s)	<u>375</u>
37.	Floodlights, type <u>COBRA</u> ; <u>3</u> at \$ <u>315</u>	<u>975</u>
38.	Island Lights, type <u>NIS</u> ; _____ at \$	
39.	Ident. Sign, oval, type <u>PLASTIC</u> , <u>1</u> at \$ <u>700</u>	<u>700</u>
40.	Installation Cost, Lighting and Ident. Equipment	<u>1,200</u>
41.	Island Cabinets _____ at \$	
42.	Driveway Merchandise Cabinets _____ at \$	
43.	Other <u>NIS</u>	<u>1,725</u>
44.	TOTAL EQUIPMENT COSTS \$	<u>15,500</u>
45.	Permit Cost	
46.	Performance Bond Cost	
47.	Other (Engineering, Architect, etc.)	
48.	TOTAL MISCELLANEOUS COSTS \$	
49.	Total Improvements Costs \$	<u>75,000</u>
50.	GRAND TOTAL PROJECT COSTS \$	<u>117,000</u>

APPROVALS:

Engineering

Sales

EXHIBIT

5

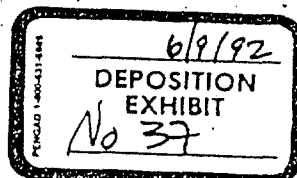
AM 9/10/92

Division Manager

NOTE - Not Included: \$5,000 IN ENG'G, ETC. FEES. TO BE EXPENDED

Please attach plot of site of proposed project

BOO 1007 TUT



ESSO CAR CARE CENTER
P.O. BOX 7441
ST. THOMAS, U.S.V.I.
(809) 775-2360

July 15, 1986

Four Winds Plaza
Executive Office
St. Thomas, V.I.

Gentlemen:

The Department of Conservation and Cultural Affairs, Virgin Islands Government, sighted the Toto Esso Service Center for oil mixed with water being discharged in the Four Winds parking lot. Hence, the Esso Standard Oil Company has spent a considerable amount of energy in constructing a high capacity oil separator which is separating the oil from the water, and retaining the oil in a storage area for proper disposal. Our next step was a letter addressed to Mr. Burns dated May 13, 1986 requesting the permission to do the following on your lot:

- 1 Removal of asphalt to accomodate the installation of a 4" drain pipe
- 2) Installation of this line to your drainage pipe.
- 3) replacement of excavated asphalt.

Your support in our commitment to improve service to our community would be highly appreciated. We look forward to your reply.

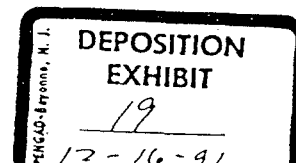
Sincerely,


Daniel D. Bayard

DOB:bm

TUT 007 1009

EXHIBIT F



FW00070

0006

Page 6

[1] (0000) THE VIDEO OPERATOR: We are now on record. • The time is 2:46 p.m. on October 15th, 1992. We are here at • the offices of Goldman, Antonette, Ferraluoli & Axtmayer in • the American International Plaza Building, Hato Rey, Puerto • Rico to hear deposition from Mr. Eugenio de Arce concerning • the case of Tutu Water Wells Contamination Litigation in • District Court of the Virgin Islands. Master Docket File • Number 1989-107 concerning Cases 1989-220 and 1989-224. • My name is Henry E. Tonnemacher of Video • Seven Seas, Limited, the video operator. Also present are • the following:

[12] MR. ZEBEDEE: John A. Zebedee, the Law • Offices of James L. Hymes, III on behalf of the defendant • Vernon Morgan.

[15] MR. ROMERO: Eugenio Romero from the Law • Office of Goldman, Antonette, Ferraluoli & Axtmayer on behalf • of ESSO defendants.

[18] MR. DEMA: Jack Dema on behalf of the Law • Firm of John K. Dema, P.C. of Christiansted, St. Croix on • behalf of Four Winds.

[21] THE INTERPRETER: Carlos Mangual, the • interpreter.

[23] MR. KNOEPFEL: Richard Knoepfel, Briggs, • Knoepfel & Ronca Firm in St. Thomas representing the • Harthmans and PID, plaintiffs.

Page 7

[1] MR. DALEY: Richard Daley for EXXON • Corporation.

[3] MR. KNOEPFEL: Mary?

[4] MS. HOERBER: Yes, appearing by telephone my • name is Mary Hoerber. I'm from the Law Firm of Anderson, • Moss, Parks, Meyers & Sherouse in Miami representing the • defendant, Texaco.

[8] MR. DEMA: And would the court reporter • please swear the interpreter?

[10] (0182) CARLOS MANGUAL LOPEZ, • interpreter, after having been first duly sworn to accurately • and truthfully translate English to Spanish and Spanish to • English, was called to translate as follows:

[14] (0210) EUGENIO DE ARCE FLORES, • called as a witness, after having been first duly sworn, • testified as follows:

[17] DIRECT EXAMINATION

[18] (0222) BY MR. DEMA:

[19] Q: Mr. de Arce, in -- in this case were you served a • subpoena and a Deposition Notice?

[21] A: Pardon me?

[22] Q: Were you served a notice of the deposition today?

[23] A: If I receive it?

[24] Q: Yes.

[25] A: Yes.

Page 8

[1] Q: And did you read it?

[2] A: Yes.

[3] Q: And did you read the documents that we requested • you bring with you today?

[5] A: Yes.

[6] Q: And did you bring any documents with you?

[7] A: Yes, sir. I have it here.

[8] Q: Would you please show them to us?

[9] A: (Witness complies).

[10] Q: Now, you've handed me a group, two groups of • documents. Is there any difference in each group?

[12] A: No, it's two because all of them don't fit in one • envelope.

[14] Q: And what do these documents represent, sir?

[15] A: Those represent the label we develop in the Virgin • Island to ESSO Tutu and to Rodriguez Service Station.

[17] Q: From what point in time?

[18] A: About six year, five or six year back.

[19] Q: Very well. Are they in chronological order?

[20] A: No, I don't think so because that was collected by • my employee and give it to me.

[22] Q: And who prepared these documents?

[23] A: Well, those documents prepared by office. Those • invoices.

[25] Q: Now, most of these documents are typewritten.

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[1] A: Yes, sir.

[2] Q: Are they prepared in your office?

[3] A: Yes, sir.

[4] Q: Do you have an office staff?

[5] A: Well, I have just office with people who make the • invoice and take care of the telephone calls.

[7] Q: Now, some of the documents are

in English and some • of the documents are in Spanish.

[9] A: That's true.

[10] Q: Is there any -- could you tell me why you use one • language one time and another language the other time?

[12] A: Yeah, before in -- in the past I deal with people • who speak Spanish. Then from sometime they -- they put • people that don't speak Spanish and they ask me for -- • present the document in English.

[16] Q: Approximately what year was that?

[17] A: Well, that about one year, two years ago, maybe a • little more.

[19] Q: Okay. Well, let's start. Now, some of the • documents are clipped together by paper clip. Is there any • significance to the paper clip?

[22] A: Let me see it. I think all these, a group of • document belong to one -- one station, Dan Bayard Service • Station. All of them belong to that service station. • Probably they put all the -- the papers from one station

Page 10

together from different years. See this, all of them is for • 49 -- '89? All of them for '89 and all of them say Danny • Bayard. That's name that all of them belong to the same • station on the same year.

[5] Q: And then all the other documents do you think • belong to Rodriguez?

[7] A: No. Well, they have some -- this is for '89.

[8] Q: Okay.

[9] A: For different years, you see? This

is Rodriguez, • Rodriguez, all of these Rodriguez in '92. This is Tutu.

[11] Q: Is it possible for you to go through and separate • out the documents that belong to ESSO Tutu and for the • documents that belong to ESSO Rodriguez so we could start • with one service station first? So I'll hand them all back • to you. If you could make two piles, one for Tutu ESSO and • one for Rodriguez ESSO and then we'll start marking.

[17] (0750) MR. ROMERO: While Mr. de Arce is doing that, • let -- let me state that from the prior deposition of Mr. de • Arce, taken on April the 8th of 1991 and Exhibit Number 4 was • used as part of that deposition which exhibit was practically • illegible and we have been able to get a better copy of that • exhibit as anticipated during the course of that deposition • and are presenting it to the plaintiffs for substitution of • the exhibit or at least for reference to that exhibit during • this deposition.

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[1] (0820) MR. DEMA: Well, for reference we will mark • as Exhibit 1 for today's deposition.

[3] MR. ROMERO: Okay.

[4] MR. DEMA: It bears Number 0674 on the upper • right-hand corner and it's in the amount of \$2,480.00.

[6] MR. ROMERO: Would you confirm that this • appears to be a legible copy of what was marked as • Plaintiff's Exhibit 4 to Mr. de Arce's prior deposition?

[9] MR. KNOEPFEL: That would be a

good thing.

[10] MR. ROMERO: Not really.

[11] MR. DEMA: Attorney Romero, if you make the • representation that is what it is, I fully accept it.

[13] MR. ROMERO: Thank you, very much. I do • make that representation.

[15] MR. DEMA: Perhaps while Mr. de Arce is • separating out the two stacks, so we don't lose any time, if • the interpreter is able to put a translation of Exhibit 1 • into the record, we can start there.

[19] (0900) THE INTERPRETER: Okay. Job Order Number and • date in black, the printed number on the Invoice, 0674. • Customer, ESSO Standard Oil. Address, Danny Bayard Service • Station. The rest of the form is language until we got • materials and parts where it states item one for making an • excavation to discover or uncover lines of the tanks. • Number 2, unexcavate lines of a tank. I'm

Page 12

sorry, disconnect lines of a tank and connect them to another • tank. That's Item Number 2. • And Item Number 3, to cover everything back • and repair the pavement and concrete. Total job, two • thousand four hundred and eighty and the document is marked • as Deposition Exhibit 1 dated 10-15-92.

[7] MR. DEMA: Thank you, sir.

[8] (1020) MR. MARTINEZ: And for the record, this is • Patricio Martinez Lorenzo. I'm appearing on behalf of • L'Henri.

[11] MR. DEMA: May I suggest that we

Four meters. Total two eighty.

[18] Q: (Mr. Dema:) Is that generated in the normal • course of your work, sir?

[20] A: Yes, sir.

[21] (4062) MR. DEMA: Thank you.

Exhibit 38, Bate Stamp • 906059B, 2-21-85. If the interpreter would translate the • description of work.

[24] THE INTERPRETER: Replace computer. I can't • make out the second line. Replace compressor. At the bottom

Page 39

says something compressor and taxes.

[2] Q: (Mr. Dema:) Are you able to read your writing • for us, sir?

[4] A: Replace Quincy compressor.

[5] Q: Sorry, missed the word. Which word was that • before computer?

[7] A: Quincy. That is the brand of the compressor.

[8] Q: Okay. Was that invoice generated in the normal • course of your work?

[10] A: Yes, sir.

[11] Q: (4106) Exhibit 39, Bate Stamp 906060B, are you • able to make that out, sir? It's a very poor reproduction.

[13] A: It's a -- it's a repair handle and repair electric • reset.

[15] Q: Was that generated in the normal course of your • work?

[17] A: Yes, sir.

[18] Q: (4133) Showing you Exhibit 40, Bate Stamp • 906016B. It's a 1985 invoice. The year's indecipherable. I • would ask if you could make out the description of work. • I can also give you two other versions of the • same document if you can compare them to

see whether you can • decipher what the description of work is.

[24] A: Okay. They say by installation was two fiberglass • line from the -- from the self-serve island. They -- there

Page 40

was install 12 inches deep and cover with sand, then concrete • on the top in the area of concrete and asphalt. In the area • with asphalt.

[4] Q: And do you remember -- well, could you tell me • which one you read from so we know which one?

[6] A: This one. That is the one more clear.

[7] Q: That's the amount of \$4,869.00?

[8] A: Right.

[9] Q: Dated 18 September 1985; is that correct?

[10] A: Yes, sir.

[11] Q: So I'll remark that as Exhibit 40.

[12] MR. KNOEPFEL: Exhibit Number 40?

[13] MR. DEMA: Yes, Bate Stamp 906016B. For • easy reference, it's also Exhibit Number 15 in Nelson • Rosado's deposition. • Sir, do you remember why you replaced the • lines?

[18] A: Well, those line was replaced because when they • using the line -- the pumps, they -- they -- the pumps stop • pumping and then we make a pressure test to the line and show • that they have a leak in -- in the line.

[22] Q: When was the pressure test done?

[23] A: Before the job.

[24] Q: Is that --

[25] A: That was --

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[1] Q: Is that something that you charge for?

[2] A: For the pressure test?

[3] Q: Yes, sir.

[4] A: Well, it's -- it's not in the same job. I • supposed to give him a charge, an extra charge for that.

[6] Q: So we just haven't come across that charge yet?

[7] A: I don't understand.

[8] Q: It is your normal practice to charge separately • for the pressure test; is that true?

[10] A: Well, it's not normal, but if they -- they want • to -- to make a pressure test to the line, then we make the • pressure test separate and then -- then I made the job they • gave me another job. That mean separate -- separate charges.

[14] Q: Do you remember who called you for this job?

[15] A: No, I don't remember.

[16] Q: Would a job like this in the amount of \$4,869.00 • be done pursuant to a contract?

[18] A: Not necessary. Not necessary.

[19] Q: Who would you report to when you excavated the old • lines and found that there was a leak?

[21] A: Well, there -- there are so many people, you know, • from -- from the time I start over there and they -- they • change the people. And when they -- somebody send me to do • it, you know, that is different people, the person I have to • give the answer.

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[1] Q: Okay. Did you inform Mr. Bayard that there was a • leak in the line?

[3] A: Probably.

[4] Q: And was this invoice generated in the normal • course of your business?

[6] A: Yes, sir.

[7] (4368) MR. DEMA: Exhibit Number 41, Bate Stamp • 906062B dated sometime in October 1985, if the translator • would interpret the description of work.

[10] THE INTERPRETER: For changing the handle on • the pump. Number 2, for repairing the pump which was • rejected by the government.

[13] Q: (Mr. Dema:) Was that generated in the normal • course of your work, sir?

[15] A: Yes, sir.

[16] (4391) MR. DEMA: Showing you Exhibit Number 42, • 906063B dated August 21st, 1985. If the translator could • interpret the description of work.

[19] THE INTERPRETER: Make a pressure test on • the unleaded line. Beneath that, note colon, the line is • broken. \$420.00.

[22] MR. DALEY: Mr. Dema, just for a second, on • Exhibit 37, what was the date that you subscribe to that?

[24] MR. DEMA: I didn't. There's -- I did not • find one decipherable. I said sometime in '85.

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[1] Q: (Mr. Dema:) Sir, referring back to Exhibit Number • 40.

[3] MR. DALEY: Could we see Number

40? He's • identified it. Before you ask anymore, could you circulate • that please?

[6] Q: (Mr. Dema:) Comparing Exhibit 40 which is the • replacement of the lines.

[8] A: Uh-huh.

[9] Q: With Exhibit 42 which refers to a pressure test • and a broken line.

[11] A: Yes, sir.

[12] Q: Could you tell me whether the test done in August • was the pressure test that we were talking about moments ago?

[14] A: Uh-huh.

[15] Q: So from the point in August of 1985 when you • conducted the pressure test and found that there was not • integrity in the line.

[18] A: Uh-huh.

[19] Q: Do you know whether the pumps were operating?

[20] A: Well, I can't -- I can't tell you that. Maybe • they stop to use those -- those pump in the meantime.

[22] MR. DALEY: I thought the witness previously • testified that the pumps wouldn't draw -- that they wouldn't • draw any? I can't remember the word that he used, but that • he was called because the pump wouldn't draw any pressure.

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[1] MR. ROMERO: That's what he explained, yes.

[2] MR. DEMA: Do you know of your own • knowledge, sir, whether or not --

[4] A: Um-mum.

[5] Q: the loss of pressure in that line

affected all • the pumps to the station?

[7] A: No, not necessary. In that case they have two -- • two different pumps, two different lines separate that I • remember.

[10] Q: (4525) Sir, I'm going to show you a copy of an • exhibit that we marked in your first deposition as Exhibit • Number 1.

[13] A: Uh-huh.

[14] Q: Which is a schematic plan of the station. Do you • recognize the station from that schematic plan?

[16] A: Yes, sir.

[17] Q: Sir, if I hand you a small ruler and a pen, to the • best of your memory could you draw in the lines that you • replaced in September of 1985?

[20] A: (Witness complies). I don't remember if it was on • this side or this side, but, okay, right here they supposed • to show two tanks.

[23] Q: Yes, sir. Let's assume there are two tanks • somewhere within that area.

[25] A: Okay. They supposed to have one tank right here,

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one tank right hear. Okay. Over here you have one product. • You have one product here and another product here. That • means this pump come to here and connect to this tank, right?

[4] Q: Yes, sir.

[5] A: And this one come and connect to this tank. • Okay. This one, this is a double pump. This one connect • right here and right here and this one, like right here and • connect to the other

one, okay?

[9] Q: Okay.

[10] A: Okay. Then this one, this one come across to this • tank and this one come to this tank. That -- that was the • system.

[13] Q: Very good.

[14] A: They have two lines.

[15] Q: Yes, sir.

[16] A: They have two tanks, two lines to this, these two • pump and two lines for this two pump.

[18] Q: Sir, would you do me a favor?

[19] A: Yeah.

[20] Q: Would you hold it up like this and then explain to • that -- to the eye of the camera what you just explained us?

[22] A: All right.

[23] MR. KNOEPFEL: Could Mr. de Arce square it • off a little bit?

[25] A: That mean I can't see it. Okay. You have two

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tanks here, right?

[2] Q: (Mr. Dema:) Yes, sir.

[3] A: And they have four pumps. Okay, we have two line • from -- from each tank to those two pump, there are double • pump for two prongs, and this -- from this side we bring two • pipe to the both tanks for the two prongs. One of them is • connected to one tank and connected to the either two or the • same prong pump and the other is come from the other tank and • connect to the other, two difference prongs tank, okay? • The other island is doing the same. One is • connected to one prong tank and other is connected to the • other prong tank and

both of them is separate for the two • pumps, double pumps.

[14] Q: Very good, sir. Now, when you replaced all that • piping does that mean you removed all the metal pipes and put • in fiberglass pipes?

[17] (4715) MR. ROMERO: Objection to the • characterization. I'm not sure Mr. de Arce has testified • that he replaced all the piping.

[20] MR. DEMA: Good question. I'm sorry if I • assumed something.

[22] A: Um.

[23] Q: (Mr. Dema:) With regard to the piping connecting • the pump islands to the underground storage tanks.

[25] A: Uh-huh.

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[1] Q: Could you tell us how much you replaced?

[2] A: I -- I -- I can't remember if I change all the • piping or one side only.

[4] Q: Okay.

[5] A: At that time.

[6] Q: But whatever pipes you replaced, were metal; is • that right?

[8] A: Uh-huh. Yes, sir.

[9] Q: And you placed them with fiberglass?

[10] A: That's correct.

[11] Q: And put a bed of sand?

[12] A: That's correct.

[13] Q: Very good. Thank you, sir. • Sir, could you just put your initials where • you made the drawings so we know that it's you?

[16] A: (Witness complies.)

[17] Q: (4766) Thank you, sir. • Showing you Exhibit Number 43, Bate Stamp •

906102B, cannot make out the date.

Would the translator • please interpret the description of work. • To make the record clear, we have had Mr. de • Arce draw on a copy of what was Exhibit Number 1 to his • original deposition. In order to maintain some sequence, we • will mark it Exhibit Number 69 to Mr. de Arce's second • deposition (4800).

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[1] (4815) THE INTERPRETER: Okay. The first item is • paint the pump islands. Two, re-identify the pumps. Three, • replace two glasses on the pumps. And four, repair a broken • pump, the one in the self-service island. Total four twenty.

[5] Q: (Mr. Dema:) Is that document generated in the • normal course of your work, sir?

[7] A: Yes, sir.

[8] Q: (4844) Showing you Exhibit Number 44, Bate Stamp • 906064B. Date is not decipherable. I show you and ask if • you can make out what is admittedly a poor reproduction?

[11] A: Yes.

[12] Q: Can you read as best you can what it says?

[13] A: Oh, yeah. This -- change motor, electric motor to • a Pump Number 3.

[15] Q: Okay. And is that generated in the normal course • of your work?

[17] A: Yes, sir.

[18] (4878) MR. DEMA: Thank you. Exhibit 45, 906065B • bearing date of 9-5-85, if the interpreter could translate • the description of work.

[21] THE INTERPRETER: Install motor

[16] Q: So you'll report back to us and share with the • interpreter what the language set forth in the description of • work is?

[19] A: Yeah. Sure.

[20] Q: (1207) Okay. Then with regard to Exhibit 61 • comparing it with Exhibit 54, could you tell me whether the • same work is being described? One is handwritten, one is • typed.

[24] A: Yes, sir.

[25] Q: All right.

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[1] MR. ROMERO: Can I see that?

[2] MR. MARTINEZ: Excuse me, he answered yes?

[3] A: Yes.

[4] MR. DEMA: Yes.

[5] Q: (1254) (Mr. Dema:) And could you tell me with • regard to Exhibit 74 dated 7 April 1987 in the amount of • 5,900.00 what work you did? If we could first have the • translator read into the description of work for the record.

[9] THE INTERPRETER: Two inch piping was • changed and they were installed in fiberglass. That's Number • 1. Number 2, the two foot valves were changed on the tank. • Item 3, the check valves, the one and a half inch check • valves of the pumps were repaired. And Item 4, the pavement • was repaired. Total, five thousand nine hundred.

[15] Q: (Mr. Dema:) Do you remember the work that was • done in that instance?

[17] A: Yes.

[18] Q: Do you remember why you were requested to do that • work?

[20] A: Excuse me?

[21] Q: Do you remember why you were asked to do that • work?

[23] A: Yeah, because the pump, the -- one of the pump • stop when they -- they are -- they are pumping.

[25] Q: It wasn't producing gas at the pump?

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[1] A: Not pump any gas.

[2] Q: So did you go in and pressure test the line?

[3] A: No, we check the pump. I -- I can't remember • exactly how I did at that time. But to -- when I change it • to lines has to be because before that they have to make a • pressure test and show that the -- something is wrong with • the pipe or with the flow valve.

[8] Q: So based on the price that you charged.

[9] A: Uh-huh.

[10] Q: Could you tell me or does it say how much line you • replaced?

[12] A: I don't remember exactly, but over here it say by • change two foot valve from the tank. Probably -- probably we • change one side of the -- of the -- of the lines only because • they are supposed to be four -- four check valve and foot • valve, one for each -- each line. They have two one side and • two in the other side. They say change two fuel valve. That • means one side only.

[19] Q: So could you, in Exhibit Number 69, you had drawn • for us some work that you had done in -- on 18 September 1985 • in the amount of \$4,869.00.

[22] A: Uh-huh.

[23] Q: Replacing some fiberglass lines.

[24] A: Uh-huh.

[25] Q: Could you look at that same diagram and tell me

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which lines you replaced pursuant to the invoice on • Deposition Number 74?

[3] A: Okay. Let me ask you a question. This is not the • same one that before? That's a different date?

[5] Q: Let me show you just so you know.

[6] A: Uh-huh.

[7] Q: We asked you earlier about Deposition Exhibit • Number 40 which was 18 September 1985.

[9] A: Oh, this is 7 April 1987. That mean that what I • told --

[11] Q: Two years.

[12] A: That what I telling you is the -- exactly what • happened because in -- in two difference year they change the • fiberglass pipe. I mean, they change one side first and then • the other in -- by looking the documents, you know, not from • my mind.

[17] Q: Now, explain to me just so we understand clearly • and referring to the diagram.

[19] A: Uh-huh.

[20] Q: What was changed in 1987?

[21] A: Okay. In 1987 I can't tell you which one was • changed, but I think by the documents, not by my mind because • I don't remember. I remember the job, but not which one was • first or of the other ones later. But by the document have • to be one of this -- this size have to be changed. This

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cover, this -- this one, this -- this one, the Number 74 is • covered one of the size of this -- this line. But what they • say. By what they say.

[4] Q: So in Exhibit 74 when you changed the lines and • replaced two-inch fiberglass lines, is it your testimony that • you replaced metal lines with fiberglass?

[7] A: I think that was the -- the job; to -- to replace • the metal for fiberglass.

[9] Q: So the first time you replaced the lines in • September of '85 when you found that the line was leaking and • the pipe was broken, that was just one set?

[12] (1673) MR. ROMERO:
Objection, that has not been his • testimony.

[14] Q: (Mr. Dema:) My question is, in '85 was it just • one side that you replaced or did you replace both sides?

[16] A: No, has to be one side because two year later we • changed another one and not supposed to be doing that • completely two years. That took forever. That is for long, • long time.

[20] Q: So --

[21] A: And -- and if -- if you change, if you change one • part of the line in -- in '80 - '85, you say '85? If other • document.

[24] Q: September '85.

[25] A: 85, and then you change -- you do the same in

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87, that mean you change part of the line

at the time.

[2] Q: Now, do you have a personal memory of that?

[3] A: Personal memory?

[4] Q: In other words, are you --

[5] A: I know -- I know I work on the lines.

[6] Q: Right. But are you clear that in '87 you took out • metal and put in fiberglass?

[8] A: Yes, we took metal and we put fiberglass.

[9] Q: And in '85 you took out metal and put fiberglass? • Are you -- do you have personal memory of that?

[11] A: I don't have that personal memory. I talking by • the documents I remember I did the job.

[13] Q: Right. But on the documents?

[14] A: But I don't remember.

[15] Q: But on the documents does it say you took out • metal line?

[17] A: Well, they say here change line two-inch for • fiberglass. That mean that -- that means that we -- we took • metal and put fiberglass.

[20] Q: Okay.

[21] A: Uh-huh.

[22] Q: When you did the excavation, do you remember which • side you excavated in '87 and which side you excavated in • 85?

[25] A: I don't remember, but I am more -- more -- more in

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my memory it was this side over here, the first one.

[2] Q: Would you point that for the camera?

[3] A: Yeah. Let me see how is the -- okay. This side. • This side. The side near to the building.

[5] Q: And which year was that?

[6] A: Well, the document saying '85, I think this was • the first one. I'm not sure, but I think this one in my • memory, I think it was this one, the one near to the • building.

[10] Q: And in 1987 it was the one away from the building • closer to the road?

[12] A: Right.

[13] Q: Do you have memory of the condition of the metal • lines when you took them out?

[15] A: I remember this one. I remember when I -- when I • take this one out, it was rusty. But the part that was • damaged is covered with -- with dirt, completely.

[18] Q: Yes, we have a document where you said the line • was broken.

[20] A: Uh-huh.

[21] Q: In '87 do you remember the condition of the line?

[22] A: You mean the one that we took out?

[23] Q: In 1987.

[24] A: Well, oh, 1987 I can't tell you. I can't told you • about this side. I think this side over here, okay? In --

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in this one I'm sure that I work over here, you see? But • this one, I don't remember.

[3] Q: And is it your testimony that you do not remember • whether you did the pressure test?

[5] A: When I did?

[6] Q: Is it your testimony that you do not remember • whether you or your employees did the pressure test in 1987?

[8] A: You mean 1987 or the other old one?

[9] Q: 1987.

[10] A: 1987, I don't remember.

[11] MR. DEMA: Okay. I have no further • questions during this section and we will meet again after we • have an opportunity to translate all the documents so that • way it will be quicker. Thank you, very much for your help.

[15] MR. MARTINEZ: Can I see Exhibit 56 before • going off record?

[17] MR. DEMA: Yes. Exhibit 56.

[18] CROSS EXAMINATION

[19] (1956) BY MR. ROMERO:

[20] Q: Mr. de Arce, regarding the identification that you • have made of these documents, is there a specific way in • which you refer to the Danny Bayard station as a matter of --

[23] A: Well, we use Danny Bayard Gas Station or Tutu

[24] ESSO.

[25] Q: Danny Bayard Gas Station or Tutu ESSO.

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Is there any other station by the name of • Bayard in the St. Thomas that you know of?

[3] A: Well, they -- they -- he have right now a car • dealer and -- and they have gas station.

[5] Q: By the name of Bayard?

[6] A: Bayard Motor.

[7] Q: Bayard Motor?

[8] A: Bayard Motors.

[9] Q: Bayard Motors?

[10] A: Yeah.

[11] Q: Well, my question to you, is there any other • service station to which you may have provided services that • could be referred to as Bayard Service Station from 1980 to • present in St. Thomas other than the one at Tutu?

[15] A: Well, the -- the one -- the one that they -- that • they use -- have now, when we refer to it, we don't refer to • Bayard. We refer to -- what is the name? I don't remember • the name, but it's not the same. We don't use Bayard for • identifying that one.

[20] Q: Okay.

[21] A: Uh-huh.

[22] MR. ROMERO: Thank you.

[23] CROSS EXAMINATION

[24] (2060) BY MR. MARTINEZ:

[25] Q: I'd like to make a question concerning this

Page 74

exhibit. Mr. de Arce.

[2] A: Yes.

[3] Q: I'm going to give you to explain Exhibit 56 again.

[4] A: Uh-huh.

[5] Q: If I'm not mistaken and correct me if I'm wrong.

[6] A: Uh-huh.

[7] Q: In response to Mr. Dema's questions --

[8] A: Uh-huh.

[9] Q: you said that you did not recognize that -- the • job that's indicated in that exhibit; is that correct?

[11] A: No. That I want to say is that I

don't remember • that this job have been done at Bayard Station.

[13] Q: Okay.

[14] A: Or Rodriguez.

[15] Q: But you do recognize the document?

[16] A: I recognize the document, yes.

[17] Q: And the document is one that was generated by your • company?

[19] A: Yes, sir.

[20] Q: So what you're not sure of --

[21] A: Is --

[22] Q: is where that job was performed?

[23] A: Right.

[24] Q: Okay. Thank you.

[25] A: Right. I'm not sure.

Page 75

[1] Q: But -- but you recognize the document as one --

[2] A: Yes, sir.

[3] Q: of your company records?

[4] A: Very. I know that this.

[5] Q: That's one of your company records?

[6] A: Yes.

[7] Q: Okay.

[8] MR. DEMA: Thank you, Mr. de Arce. Anyone • else?

[10] MS. HOERBER: No questions.

[11] MR. KNOEPFEL: At this time.

[12] MS. HOERBER: Thank you. I would like • copies. John, could you pick up for a second?

[14] MR. ZEBEDEE: Sure.

[15] MR. DEMA: Mary?

[16] MS. HOERBER: Uh?

[17] MR. DEMA: Do you wish to have a translated • copy of the documents on a pro rata basis?

[19] MS. HOERBER: Well, just what I was going to • ask John about.

[21] MR. DEMA: Okay. Pick up John.

[22] THE VIDEO OPERATOR: Should we go off • record?

[24] MR. DEMA: Yes.

[25] (2176) THE VIDEO OPERATOR: Okay. It is now 6:55.

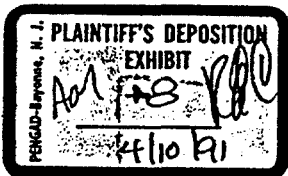
Page 76

It is -- this concludes Mr. Eugenio de Arce's deposition for • today. We are now off record.

[3] (Whereupon the deposition was adjourned • at 6:55 p.m.)

TUT 007 1018

TUT 007 1019



EUGENIO DE ARCE
Box 1564
Carolina, Puerto Rico 00630

752-8
757-3765

0601

JOB ORDER

NO: []

Date

7 April 1991

Customer

Esso Standard Oil

Address

Bayard Service Station
Saint Thomas V.I.

Call by

Installation

Repair

Repair on Site

Repair on Shop

Equipment

Model

Serial

8	9	10	11	12	1	2	3	4	5	EXTRA

Item	MATERIAL and PARTS	Each	TOTAL
1	de Cambiar Linea		
2	de 2" y se montaron de		
3	Fiber Glass.		
4	de Cambiar por 2		
5	Foot Valve del Tanque		
6	de Reparacion check valve		
7	de 1 1/2" de los bombas.		
8	de reparo pavimento -		
9			
10			

TOTAL PARTS and MATERIAL

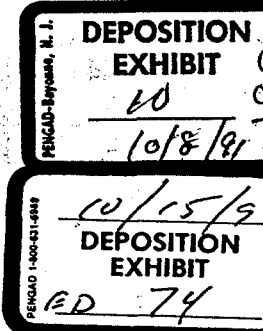
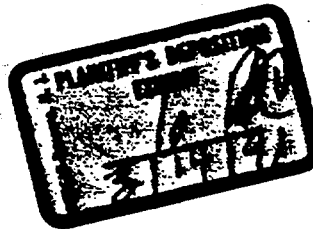
LABOR

TOTAL JOB

\$5900

Job Accepted By:

REMARKS:—



Daily Liquid Motor Fuels Inventory Record

(with month-to-date cumulative over/short)

Date March 1-15

Dealer's Name _____

Pump Totalizer Readings (Whole Gallons or Liters)

Step-by-Step Procedures

Enter product name and pump identification number.

Read pump totalizers in whole gallons or liters and record by product.

Pump / Letter	Product	Pump / Letter	Product	Pump / Letter	Product	Pump / Letter	Product
1	3047.8	6	4252.9	11	3697.1		
2	3662.8	7	4239.7	12	4325.8		
3	3873.8	8	3448.5	13	4546.8		
4	3714.2	9	4209.6	14	4179.9		
5	3939.6	10	3701.9	15	3124.8		

(If all of pump totalizer readings. (Convert to gallons.)

Entries from this point on should be made in gallons.

Enter Total pump totalizer readings for previous day.

Deduct #4 from #3 for Total Sales

58459

Storage Tank Inventory

1. Gauge all storage tanks and enter all readings as whole gallons.

2. Add and enter the "Actual Gallons on Hand" by product.

3. Enter totals by product on line #12.

Tank #	Product		Tank #	Product		Tank #	Product		Tank #	Product	
	Feet/Inches	Gallons		Feet/Inches	Gallons		Feet/Inches	Gallons		Feet/Inches	Gallons
1.			1.			1.			1.		
2.			2.			2.			2.		
3.			3.			3.			3.		
Actual Gallons on Hand		2011	Actual Gallons on Hand			Actual Gallons on Hand			Actual Gallons on Hand		

Inventory Reconciliation

Enter actual inventory from previous day. (Line #12)

Enter Deliveries since last report.

Total #7 and #8.

Enter Sales from #5.

Deduct #10 from #9 for Book Inventory

Actual product inventory from #6.

Enter difference between #11 and #12. (This is your daily over/short.)

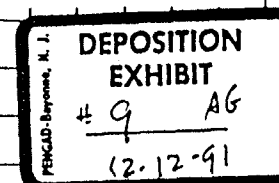
Enter month-to-date cumulative over/short from line #15 previous day.

Add or subtract #14 to/from #13 for cumulative over/short.

4595
57000
61595
58459
3136
2011

-1125

-1125



700005

with month-to-date cumulative over/short)

Date _____

Dealer's Name

March 16 - 31

Pump Totalizer Readings (Whole Gallons or Liters)

Step-by-Step Procedures

1. Enter product name and pump identification number.
2. Read pump totalizers in whole gallons or liters and record by product.

[illegible]

entries from this point on should be made in gallons.

[illegible]

Storage Tank Inventory

- A. Gauge all storage tanks and enter all readings as whole gallons.

- B. Add and enter the "Actual Gallons on Hand" by product.

- C. Enter totals by product on line 112.

Product			Product			Product			Product		
Tank #	Feet/Inches	Gallons	Tank #	Feet/Inches	Gallons	Tank #	Feet/Inches	Gallons	Tank #	Feet/Inches	Gallons
1.			1.			1.			1.		
2.			2.			2.			2.		
3.			3.			3.			3.		
Actual Gallons on Hand		5277	Actual Gallons on Hand			Actual Gallons on Hand			Actual Gallons on Hand		

Inventory Reconciliation

Enter actual inventory from previous day. (Line #12)	2011				
Enter Deliveries since last report.	65000				
Total #7 and #8	67011				
Enter Sales from #5.	61150				
Deduct #10 from #9 for Book Inventory	5861				
Actual product inventory from #6.	5277				
Enter difference between #11 and #12. (This is your daily over/short.)	-584				
Enter month-to-date cumulative over/short from line #15 previous day.	-1125				700006
Add or subtract #14 to/from #13 for cumulative over/short.	-1709				

007 1022

(with month-to-date cumulative over/short)

Dealer's Name

Pump / Letter	Product	Pump / Letter	Product	Pump / Letter	Product	Pump / Letter	Product
1	3334,5	6	3691,6	11	3593,8		
2	3477,8	7	3727,3	12	3191,0		
3	3401,6	8	3313,5	13	3530,2		
4	3960,1	9	3930,6	14	3615,6		
5	2658,1	10	3931,3	15	3805,9		

al of pump totalizer readings. (Convert to gallons.)

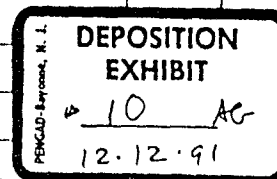
[illegible]

Tank #	Product		Tank #	Product		Tank #	Product		Tank #	Product	
	Feet/Inches	Gallons		Feet/Inches	Gallons		Feet/Inches	Gallons		Feet/Inches	Gallons
1.			1.			1.			1.		
2.			2.			2.			2.		
3.			3.			3.			3.		
Actual Gallons on Hand		5088	Actual Gallons on Hand			Actual Gallons on Hand			Actual Gallons on Hand		

Enter Actual inventory from previous day. (Line #12)	5277
Enter Deliveries since last report.	53000
Total #7 and #8.	58277
Enter Sales from #5.	53163
Deduct #10 from #9 for Book Inventory	5114
Actual product inventory from #6.	5088
Enter difference between #11 and #12 (This is your daily over/short.)	-26
Enter month-to-date cumulative over/short from line #15 previous day.	-26
Add or subtract #14 to/from #13 for cumulative over/short.	-26

DEPOSITION EXHIBIT
P-10 AG

700037



10523 0007 1071

Daily Liquid Motor Fuels Inventory Record

(with month-to-date cumulative over/short)

Date

April 16 - 30

Dealer's Name

Pump Totalizer Readings (Whole Gallons or Liters)

Step-by-Step Procedures

Enter product name and pump identification number.

Read pump totalizers in whole gallons or liters and record by product.

Pump # Letter	Product	Pump # Letter	Product	Pump # Letter	Product	Pump # Letter	Product
16	5245.8	21	3743.7	26	3378.1		
17	3202.7	22	4969.2	27	3810.3		
18	3977.0	23	4283.2	28	3705.5		
19	3007.9	24	4682.1	29	4267.3		
20	3862.9	25	4703.9	30	5285.8		

of pump totalizer readings. (Convert to gallons.)

Entries from this point on should be made in gallons.

Enter Total pump totalizer readings for previous day.

Product #4 from #3 for Total Sales

62126

Storage Tank Inventory

Gauge all storage tanks and enter all readings as whole gallons.

Add and enter the "Actual Gallons on Hand" by product.

Enter totals by product on line #12.

Tank #	Product		Tank #	Product		Tank #	Product		Tank #	Product	
	Feet/ Inches	Gallons		Feet/ Inches	Gallons		Feet/ Inches	Gallons		Feet/ Inches	Gallons
1.			1.			1.			1.		
2.			2.			2.			2.		
3.			3.			3.			3.		
Actual Gallons on Hand		5029	Actual Gallons on Hand			Actual Gallons on Hand			Actual Gallons on Hand		

Inventory Reconciliation

Enter actual inventory from previous day. (Line #12)

Enter Deliveries since last report.

Total #7 and #8.

Enter Sales from #5.

Product #10 from #9 for Book Inventory

Actual product inventory from #6.

Enter difference between #11 and #12. (This is your daily over/short.)

Enter month-to-date cumulative over/short from line #15 previous day.

Add or subtract #14 to/from #13 for cumulative over/short.

5088
62000
67088
62126
4962
5029
+ 67
- 26
+ 41

700008

01 IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
 02 DIVISION OF ST. THOMAS - ST. JOHN
 03 -----x
 04 P.I.D., INC., :
 05 Plaintiff, :
 06 vs. : CASE NO.
 07 TEXACO, INC., TEXACO CARIBBEAN, INC., : 1989-220
 08 VERNON MORGAN, ESSO STANDARD OIL, S.A., :
 09 LTD., DANIEL BAYARD, :
 10 Defendants. :
 11 -----x
 12 FOUR WINDS PLAZA PARTNERSHIP, :
 13 Plaintiff, :
 14 vs. : CASE NO.
 15 TEXACO CARIBBEAN, INC., VERNON MORGAN, :
 1989-224
 16 ESSO STANDARD OIL, S.A., LTD., DANIEL :
 17 BAYARD, :
 18 Defendants. :
 19 -----x
 20 BE IT REMEMBERED that, the deposition of
 21 AUGUSTO MUNOZ LACOT
 22 was taken by plaintiffs in the above-captioned matters
 23 on Wednesday, April 10th, 1990, at 8:25 a.m. in the
 24 forenoon thereof at Goldman & Antonetti, 701 Ponce de
 25 Leon Avenue, 4th Floor, Santurce, Puerto Rico.
 01 APPEARANCES
 02
 03 FOR PLAINTIFFS: JOHN K. DEMA, ESQ.
 04 Attorney for Four Winds Plaza
 05 42-43 Strand Street.
 06 Christiansted, St. Croix
 07 U.S. Virgin Islands 00820
 08
 09 RICHARD R. KNOEPFEL, ESQ.
 10 Attorney for P.I.D., Inc.
 11 Briggs, Knoepfel & Ronca
 12 30 Dronningens Gade
 13 P. O. Box 6286
 14 St. Thomas, U.S.V.I. 00801
 15
 16
 17 FOR DEFENDANTS: MARY E. HOERBER, ESQ.
 18 Attorney for Texaco, Inc.
 19 Anderson, Moss, Parks & Russo, P.A.
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 22 Miami, Florida 33132
 23
 24
 25
 01 APPEARANCES (Continued)
 02
 03 FOR DEFENDANTS: JOHN A. ZEBEDEE, ESQ.
 04 Attorney for Vernon Morgan
 05 P. O. Box 990
 06 St. Thomas, U.S.V.I. 00801

06 Emancipation Garden Station
 07 Charlotte Amalie
 08 U. S. Virgin Islands 00804-0990
 09
 10 EUGENIO C. ROMERO, ESQ.
 11 Attorney for Esso Standard Oil
 12 Goldman, Antonetti, Ferraioli &
 13 Axtmayer
 14 Centro de Seguros Building
 15 701 Ponce de Leon Avenue
 16 Santurce Puerto Rico 00936
 17
 18 NOTARY PUBLIC: JOHN K. DEMA, ESQ.
 19
 20
 21
 22
 23
 24
 25
 01 INDEX
 02
 03 DEPONENT: DIRECT CROSS REDIRECT
 04 AUGUSTO MUNOZ LACOT
 05 Examination by:
 06 Mr. Dema: 5 -- 102
 07 Mr. Knoepfel: - 82 ---
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 15 No. 2 23
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 17 No. 4 34
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 19 No. 6 49
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 21 No. 8 57
 22 No. 9 79
 23
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[1] MR. DEMA: Mr. Carroll.
 [2] (Court Reporter duly sworn by John K. Dema, • Esq., a duly licensed Notary Public in and • for the U. S. Virgin Islands).
 [5] MR. DEMA: Mr. Munoz, would you swear • or affirm that the answers

you give in these • proceedings will be the whole truth to the • best of your knowledge?

[9] THE DEPONENT: I do.

[10] MR. DEMA: Thank you, sir.

[11] A: stipulation for the record that • attorney for a party was allowed to give the • oaths.

[14] WHEREUPON,

[15] AUGUSTO MUNOZ LACOT, • having been previously duly sworn, was examined orally • upon his oath, and testified as follows:

[18] DIRECT EXAMINATION BY MR. DEMA:

[19] Q: Would you state your full name, • residence and business address for the record, please?

[21] A: My name is Augusto Munoz Lacot. • I live in Street 3B, F-9 Hillside in Rio • Piedras, Puerto Rico. I am working right now for Esso • Standard Oil Company Puerto Rico.

[25] Q: Mr. Munoz, for the convenience of

Page 6

everyone, we will refer to Esso Standard Oil Company of • Puerto Rico throughout this deposition as ESSORICO?

[3] A: Yes, sir.

[4] Q: And we will refer to Esso Standard Oil • S.A. limited as ESSOSA?

[6] A: That is correct, sir.

[7] Q: And we will refer to Esso Virgin • Islands, Inc., as Esso Virgin Islands, Inc., unless • anyone -- is there a name that Esso uses for Esso • Virgin Islands, Inc., that is a short form?

[11] A: No, it's the same that you just mentioned.

[13] Q: Fine. The reason for that is so that we are all clear when we later read this deposition, and so you have a nice strong voice, because one of the rules of a deposition is that this gentleman has to hear both of us or anyone else speaking, and if there is a question I ask, because I am not familiar with your profession, which is unclear or which you feel you can't answer, please tell me and I will try to rephrase it or repeat it?

[23] A: Okay.

[24] Q: Okay. Similarly, at any time if you wish to

Page 7

talk to attorney Romero, please do so, either whisper in his ear or go outside in the hall.

[3] A: Um hum.

[4] MR. DEMA: Go outside in the hall.

[5] MR. ROMERO: Yeah, so you don't get jealous.

[7] CONTINUED BY MR. DEMA:

[8] Q: Would you first state your educational background, please, starting with college?

[10] A: Yes, sir, I am a mechanical engineer graduated from the College of Mechanical arts in Mayaguez.

[13] Q: And did you get a B.A. in Mechanical Engineering?

[15] A: Yes, sir, in 1971.

[16] Q: And did you have any further schooling after graduation from that institution?

[18] A: No, sir.

[19] Q: Did you have an any further training in your profession after graduation from that institution?

[21] A: Related to my work with Esso.

[22] Q: And what training was that?

[23] A: Safety trainings, trainings in supervision, technical trainings in different areas related to my work.

Page 8

[1] Q: With regard to training in environmental areas, would you please state for us the type of training that Esso has given to you?

[4] A: I have attended several seminars in that field in the College of Engineers & Surveyors, Puerto Rico.

[7] Q: Sorry, I didn't hear the fire word?

[8] A: The College of Engineers & Surveyors.

[9] Q: And what was the content of those courses, those seminars?

[11] A: Basically, general information on new regulations of EPA and the local Environmental Quality Board regulations.

[14] Q: Did you ever go to any seminars that gave you instruction on the rules and regulations of the environmental laws of the United States Virgin Islands?

[18] A: No, sir.

[19] Q: Have you ever made a study on your own of the environmental rules and regulations of the United States Virgin Islands?

[22] A: No, sir.

[23] Q: Do you know what the environmental rules and regulations of the United States Virgin Islands are?

[25] A: As far as I can tell, the regulations

Page 9

applying in the U. S. Virgin Islands are the same as

[2] EPA.

[3] Q: And upon what do you base that conclusion?

[5] A: Based on the regulation that applies to U. S. territories, as well as here in Puerto Rico, and adopted by the Environmental Quality Board in Puerto Rico.

[9] Q: Do you know what regulations the Virgin Islands have adopted besides the EPA regulations?

[11] A: No, sir.

[12] Q: When did you first -- would you detail now for me your job history, starting the period after 1971 when you graduated?

[15] A: Okay, I started with the company back in 1972 as a project engineer.

[17] Q: And when you say "the company", do you mean ESSORICO?

[19] A: Esso Standard Oil, yes, I do.

[20] Q: Okay,

[21] A: In 1972 I started with the company as a project engineer up until 1974, which I was transferred to the sales department as what you call a technical in retail, the analytical supervisor for the retail section.

Page 10

In that position I spent three years, after which I was transferred to the operations department as the truck fleet supervisor.

[19] A: I was at the service station.

[20] Q: You were at the service station?

[21] A: Well, while they were removing the -- • what you call -- the lifts, but that was it.

[23] Q: While they were removing those?

[24] A: No, they already had done the job.
• We just passed by the outlet to review

Page 66

the -- what you call the condition of the service • station, but we just went there five minutes and left.

[3] Q: And Mr. Janson was with you?

[4] A: Yes, sir.

[5] Q: Anyone else?

[6] A: Tony Fernandez.

[7] Q: Who is Tony Fernandez?

[8] A: Tony Fernandez is the new business • advisor for the division here in Puerto Rico.

[10] Q: What is his job responsibilities as • business advisor for the division?

[12] A: He deals with the acquisition of • properties, he manages the rent program, the • negotiations, the capital budget preparation and • monitoring, and several other functions related to the • business.

[17] Q: So you, Mr. Janson and Mr. Fernandez • were at the TuTu station, you yourself saw that the • lifts had been removed and no one mentioned to you that • your neighbor claimed that petroleum product was • running into their excavation immediately adjacent to • the Esso retaining wall?

[23] A: No, not at that time. I lost -- well, I • heard that afterwards to Ana Gloria.

[25] Q: So at the time that you were standing

Page 67

there with Mr. Janson, Mr. Janson never told you as • head of retail engineering in charge of maintenance, • Mr. Munoz, they dug a pit next door, there is oil • claimed to have run into it and it's claimed to have • run from the station?

[6] A: No.

[7] Q: Are there any records which exists as to • the volume of the underground concrete storage tanks at • the Esso station?

[10] A: No, that has to be determined in the • field, because we don't know, you know, which size is • there. • The only thing I know now, which is a • standard equipment, is the used oil tank, which is a • five hundred and sixty gallon tank. The oil or grease • separator or the grease trap have to be measured.

[17] Q: So the waste oil tank is a five hundred • and sixty gallon tank?

[19] A: Yes, sir.

[20] Q: How do you know that?

[21] A: Because I believe it is the standard • tank we use for that purpose.

[23] Q: It's a concrete tank?

[24] A: No, it's a steel tank.

[25] Q: What about the concrete waste oil tank?

Page 68

[1] A: No, I don't have the information on that • now.

[3] MR. ROMERO: What about the concrete • waste oil tank? • He hasn't mentioned any concrete waste • oil tank.

[7] CONTINUED BY MR. DEMA:

[8] Q: In response to the EPA's request for • information, your company through Ana Gloria Ramos • identified a two thousand gallon concrete waste oil • tank as existing on the TuTu property. • Do you know of it?

[13] A: No.

[14] Q: What is the construction material of the • five hundred and sixty gallon tank?

[16] A: It's a carbon steel tank.

[17] Q: And when was that put in?

[18] A: I have to check in my record to see, you • know, the exact date, which I don't know.

[20] Q: Was it put in while you were there?

[21] A: I can't recall. I can't recall. • I have to check on the file to see when • it was installed.

[24] Q: Do you know where it's located?

[25] A: In the -- what you call -- in the survey

Page 69

plan, you know, I can't pinpoint it, but it should be • close to this area, to this area over here.

[3] Q: Looking at Deposition Exhibit 1, would • you be so kind as to ...

[5] A: Okay, this is the oil and water • separator over here.

[7] Q: Referring to the box drawn by Mr. de • Arce, the larger of the two boxes drawn by Mr. de Arce?

[9] A: This one over here, yes.

[10] Q: Yes?

[11] A: Yes, and then the oil tank should be in • this area, but from this drawing I cannot pinpoint • exactly in which location, but I can produce you, you • know, a site drawing of the facility indicating the • manhole for that tank.

[16] Q: And to what is that five hundred and • sixty gallon tank connected?

[18] A: No, it's not, it's just a receiving tank • with the manhole and a vent. • Nothing else is interconnected with that • one.

[22] Q: How do you know that?

[23] A: That is the standard we have.

[24] MR. ROMERO: But Mr. Dema is asking if • you know that tank, not whether you're

Page 70

familiar with the standard requirements, but • whether you are familiar with this particular • tank. • Right?

[5] MR. DEMA: Correct.

[6] THE DEPONENT: No, I am not familiar • with that one, I am not.

[8] CONTINUED BY MR. DEMA:

[9] Q: And since you do not know of the • existence of a two thousand gallon concrete tank, I • take it you are also not familiar with what that tank • connects, if anything?

[13] A: That is correct, I am not familiar with • that.

[15] Q: Are you familiar with the maintenance of • the pipelines between the catch basin and the oil water • separator?

[18] A: No, sir.

[19] Q: From the time in 1980 when you became • head of retail engineering, do you know what was • happening to the waste oil at that location?

[22] A: No.

[23] Q: Are there any records with regard to any • maintenance inspections being conducted of the concrete • waste oil tank?

Page 71

[1] A: Not that I can refer to or I have • knowledge of.

[3] Q: How often do you visit the stations in • the Virgin Islands?

[5] A: Not very often.

[6] Q: Could you approximate for me on a • yearly basis how often you visit them?

[8] A: Probably four or five times.

[9] Q: And what do you do when you go?

[10] A: Depending on the needs, you know, if • there is a major project that have to be implemented, • then I am requested to go there. • But if it is, let's say, a • renegotiation, then I go in order to develop estimates • and plans of action, you know, for each case, but since • the market is so small, you know, that doesn't happen • very often. • So I spend most of the time here in • Puerto Rico and the Virgin Islands is mostly handled by • the manager there.

[21] Q: When they did the modification and • installed the concrete oil water separator and the • additional catch basin and piping system in 1984, did • you go to inspect that either before or after?

[25] A: No, sir. No, sir.

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[1] Q: Do you know from your personal knowledge • whether any one of your engineers from retail • engineering gave the instructions to place the outflow • line from the oil water separator into the sewage area • in the Four Winds parking lot?

[6] A: No, I don't have any knowledge.

[7] Q: But you say there is a correspondence • file including permits and permit applications that are • kept by your department for work undertaken by your • department?

[11] A: If the project is handled by my section. • This, this specific project, you know, • wasn't handled by our section.

[14] Q: So if Mr. de Arce testified that it was • a retail engineer who directed him as to where to place • the pipe, it's your believe and your testimony that he • is incorrect?

[18] A: No, what I am trying to say is that • Eugenio could have talked to one of my engineers on one • of the visits to the area. • The project was handled by the U.S.V.I. • supervisor at that time and I was not requested to make • any -- what you call -- any study or requesting permit • for such activity.

[25] Q: Did you ever have any involvement in any

Page 73

product audit that was undertaken with regard to the • Esso TuTu Station?

[3] A: No, sir.

[4] Q: Were you ever notified of a

suspected • leak at the Rodriguez Esso Service Station?

[6] A: Not that I can tell.

[7] Q: Do you know where the Rodriguez service • station is?

[9] A: Yes, sir, I know.

[10] Q: Do you know that the tanks were • replaced?

[12] A: They were replaced.

[13] Q: Do you know that Soil Tech conducted • an investigation of the tanks?

[15] A: Yes, because that is a normal procedure • for each tank replacement for several years.

[17] Q: When Soil Tech conducted the inspection • after wire brushing some of the tanks, there were found • to be pinholes in them. • Are you aware of that?

[21] A: No.

[22] Q: When the tanks were taken from the • ground, there was free product remaining in the pits • from which the tank was taken. • Are you aware of that?

Page 74

[1] A: No, sir.

[2] Q: Are you aware ...

[3] A: Well, excuse me. Excuse me.

[4] Q: Um hum?

[5] A: At one time I talked to the Soil Tech -- • what you call -- owner, which is Agrelot, and, yes, and • he mentioned to me that while digging, well, when they • took out the tanks there was water in the hole and a • sheen of product on top of it, which for me is a normal • event, you know,

based on the -- what you call -- on • the area and a tank pit.

[12] Q: Are you aware that Mr. Rodriguez • informed Esso that his product verifications led him to • suspect a leak?

[15] A: No, sir, I never heard of that.

[16] Q: I understand your testimony to be that • as head of retail engineering since December of 1988, • you are the party responsible for the reporting of • suspected leaks under the federal regulations, is that • correct?

[21] A: No, sir, the party responsible to report • anything for EPA or the local Environmental Quality • Board is Ana Gloria Ramos, and she has been handling • the U.S.V.I. reporting and this kind of situations for • several years.

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That is why I am not directly involved • into that function. What I do is I do -- I perform the • physical requirements of the work being developed in • the area, like replacing the tanks, requesting the • contractors to perform the tests and that kind of • thing, but the actual reporting and the communication • between either the dealer, the supervisor and the • contractors has been channeled through her.

[9] Q: Who makes the decision as to whether she • is to report?

[11] A: Excuse me, I didn't hear that.

[12] Q: Who makes the decision as to whether Ana • Gloria is to report a suspected leak?

[14] MR. ROMERO: If you know.

[15] THE DEPONENT: I don't know. She • receives her notice from the supervisor or • from us and then she handles the, you know, • the rest of the reporting.

[19] CONTINUED BY MR. DEMA:

[20] Q: So as head of retail engineering in • charge of the maintenance program of underground • storage tanks, you have no reporting responsible with • regard to suspected leaks, is that correct?

[24] A: I receive notice of a suspected leak.

[25] Q: And what do you do?

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[1] A: We perform all the standard tests that • are required and I inform those to Ana Gloria and then • she performs the reporting to the proper regulatory • agency.

[5] Q: Does she report to you?

[6] A: No.

[7] Q: So when you inform her ...

[8] A: She takes care of ...

[9] Q: of your knowledge that there has been • a claim of a leak, that follow up responsibility is • then delegated to her, is that correct?

[12] A: Yes, sir.

[13] Q: We earlier reviewed a document, Exhibit • No. 5, which spoke to engineering considerations and it • was your testimony that testing the corrosive quality • of the soil was not an engineering consideration, is • that correct?

[18] A: Not exactly that we don't take that into • consideration. Our

1 IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

2
IN RE:

3
TUTU WATER WELL CONTAMINATION LITIGATION
) MASTER DOCKET

4 _____)
FILE NO.

RHODA J. HARTHMAN, CHARLOTTE A. LaBARRE,)
1989/107

5 ALBERT E. HARTHMAN, ARTHUR E. HARTHMAN,)
AUSTIN E. HARTHMAN, EDGAR A. HARTHMAN,)

6 SAMMY E. HARTHMAN, and P.I.D., INC.,)
WATER SERVICES LIMITED and TUTU SERVICES,)

7 LIMITED,)
Plaintiffs,)

8)

vs.)

9) CASE NO.

EXXON CORPORATION, ESSO VIRGIN ISLANDS,)
1989/220

10 INC., ESSO STANDARD OIL COMPANY (PUERTO)
RICO), ESSO STANDARD OIL S.A., LTD.,)

11 DANIEL BAYARD, TEXACO, INC., TEXACO)
CARIBBEAN, INC., VERNON MORGAN, THE DUPLAN)

12 CORPORATION, LAGA INDUSTRIES, LTD.,)
PANEX INDUSTRIES, LTD., PANEX CO.,)

13 PAUL LAZARE and ANDREAS GAL,)
) 14 Defendants,)

) 15 vs.)

) 16 ESSO STANDARD OIL, S.A.,)

) 17 Defendant and)

Third Party Plaintiff,)

18)

vs.)

19)

LAGA INDUSTRIES, LTD., DUPLAN CORPORATION,)

20 PANEX COMPANY, PAUL LAZARE and ANDREAS)
GAL, L'HENRI, INC., RAMSAY MOTORS, INC.,) 21)

Third Party Defendants.)

22 _____)

Page 1

1 FOUR WINDS PLAZA PARTNERSHIP,)

)

2 Plaintiff,)

)

3 vs.) CASE NO.

) 1989/224

4 EXXON CORPORATION, ESSO VIRGIN ISLANDS,)
INC., ESSO STANDARD OIL COMPANY (PUERTO)

5 RICO), ESSO STANDARD OIL S.A., LTD.,)

DANIEL BAYARD, TEXACO, INC., TEXACO)

6 CARIBBEAN, INC., VERNON MORGAN, THE DUPLAN)

CORPORATION, LAGA INDUSTRIES, LTD.,)
PANEX INDUSTRIES, LTD., PANEX CO.,)

7 PANEX INDUSTRIES, LTD., PANEX CO.,)
PAUL LAZARE and ANDREAS GAL,)

8)

Defendants,)

9)

vs.)

10)

ESSO STANDARD OIL, S.A.,)

11)

Defendant and)

12 Third Party Plaintiff,)

) 13 vs.)

) 14 LAGA INDUSTRIES, LTD., DUPLAN
CORPORATION,)

PANEX CO., PAUL LAZARE and ANDREAS GAL,)

15 L'HENRI, INC., RAMSAY MOTORS, INC.,)

) 16 Third Party Defendants.)

_____) 17

VOLUME II

18

DEPOSITION OF AUGUSTO MUNOZ 19

DATED:

20 September 10, 1992

21

JULEE NORMAN, C.S.R. 22 P.O. BOX 9968

ST. THOMAS, USVI 00801

Page 2

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12 The following is a transcript of the

13 deposition of AUGUSTO MUNOZ, before JULEE
NORMAN,

14 C.S.R., a Notary Public within and for the Territory of

15 the United States Virgin Islands, on the 10th day of

16 September, 1992, at the Law Offices of JAMES L. HYMES,

17 III, No. 10 Norre Gade, St. Thomas, United States

18 Virgin Islands.

19 ---

20

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2 DIRECT EXAMINATION

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4 BY: MR. DEMA Page 26

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5

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7 ---

8 EXHIBITS

9 Exhibit No. 1 9/14/92 Notice Page 7

Exhibit No. 2 6/3/92 Notice Page 8

10 Exhibit No. 3 Drawing Page 13

Exhibit No. 4 Flores No. 12 Page 36

11 Exhibit No. 5 Flores No. 37 Page 36

Exhibit No. 6 Flores No. 38 Page 36

12 Exhibit No. 7 Flores No. 20 Page 37

Exhibit No. 8 Flores No. 2 Page 40

13 Exhibit No. 9 Flores No. 3 Page 40

Exhibit No. 10 Flores No. 4 Page 40

TUT 007 1030

EXHIBIT J

14 Exhibit No. 11 Flores No. 5 Page 40
 Exhibit No. 12 Flores No. 6 Page 40
 15 Exhibit No. 13 Photo Page 41
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 16 Exhibit No. 15 Photos Page 43
 Exhibit No. 16 Photos Page 52
 17 Exhibit No. 17 Photos Page 55
 Exhibit No. 18 Photos Page 56
 18 Exhibit No. 19 Site Plan Page 77

Page 5

Page 6

• • • P R O C E E D I N G S

[4] AUGUSTO MUNOZ, • having been first duly sworn under oath, was examined • and testified as follows:

[7] DIRECT EXAMINATION

[8] BY MR. KNOEPFEL:

[9] Q: Good afternoon, Mr. Munoz. My name is • Richard Knoepfel. You may recall we met April of 1991 • when we took your prior deposition.

[12] A: Yes, sir.

[13] Q: Would you state your name for the record, • please?

[15] A: Yes. My name is Augusto Munoz LaCotte.

[16] Q: And your occupation?

[17] A: I am working for Esso in Puerto Rico as the • engineering head for the retail division.

[19] Q: And which Esso company are you employed by?

[20] A: Esso Rico.

[21] Q: Esso Rico? That's Esso Standard Oil --

[22] A: Company.

[23] Q: Puerto Rico?

[24] A: Puerto Rico; that's right.

[25] Q: Okay. Now, Mr. Munoz, you recall that we

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• • • took your deposition back on April 10th, 1991?

[4] A: Yes, sir.

[5] Q: The same rules apply. If you have any • questions about anything I ask, you can ask me to • rephrase my questions or whatever; and if Mr. Romero • makes any objection, you'll hold your answer until he • has an opportunity to put his objection on the record.

[10] A: Okay.

[11] [EXHIBIT NO. 1 WAS MARKED.]

[12] BY MR. KNOEPFEL:

[13] Q: I show you what's marked as Exhibit 1 for • this deposition, and ask you to take a look at it. • Now that your counsel has pointed out some • features of that document, can you tell me whether • you've ever seen that document before, sir?

[18] A: Yes, sir.

[19] Q: And when did you see it?

[20] A: Excuse me, this particular, this paper is • what you're --

[22] Q: This entire document that you have in your • hands; have you ever seen that before?

[24] A: Yes, sir.

[25] Q: When did you see it?

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• • •
 [3] A: In my, in my, in my office. It was given to • me by our counselor.

[5] Q: And who is that?

[6] A: Mr. Otto Bustelo.

[7] Q: And when did he give it to you?

[8] A: I don't know exactly the date.

[9] Q: But approximately.

[10] A: Approximately, about a month ago.

[11] Q: About a month ago?

[12] A: Um-hum.

[13] Q: All right.

[14] MR. ROMERO: So I'd make the record • reflect that Mr. Munoz must not be referring to the • document that he's been shown because this document is • dated September 4, 1992.

[18] MR. KNOEPFEL: Oh, I'm sorry. I have • the wrong one marked. I have the original document for • the June 9th, 1992, which was marked as Exhibit 2.

[21] MR. ROMERO: Yes, because the one you • just showed me was faxed after business hours last • Friday.

[24] [EXHIBIT NO. 2 WAS MARKED.]

[25] BY MR. KNOEPFEL:

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• • •
 [3] Q: Look at Exhibit No. 2, Mr. Munoz, which I'll • represent to you is dated June 3rd, 1992, and ask you • if that's the document that you saw approximately a • month ago?

[7] A: Yes, sir.

[8] Q: Okay. What did Mr. --

[9] MR. ROMERO: Is that the one you meant • to have marked as Exhibit 1?

[11] MR. KNOEPFEL: I meant to have it marked • as Exhibit 1, but it's now marked as Exhibit 2. This • is the June 9th notice of deposition for the 30(b)(6).

[14] BY MR. KNOEPFEL:

[15] Q: When Mr. Bustelo gave you this

overlooked, and that that was it.
 [17] Q: Well, Exhibit 12 for Mr. Flores' deposition • is an unexecuted architectural agreement between Mr. • John J. Whelan and Esso Rico for the construction of an • Esso service center in Tutu Estates, which you have • testified you have never seen before.

[22] A: Yes, sir.

[23] Q: Since you have testified today how meticulous • your search was for all documents having to do with the • design and construction of Esso Tutu station, sir,

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• • • could you tell me where this document might be in • Puerto Rico?

[5] A: I don't know.

[6] Q: In preparation for your deposition here • today, did you make any attempt to ascertain the • whereabouts of Mr. John J. Whelan?

[9] A: If I had seen that, probably, yes, but the, • the document which shows here doesn't mean that this • was the architect that prepared the -- what you call -- • the drawings, the original drawings for that, for that • particular project, because I don't have any, any • document which relates. I haven't seen the original • drawings prepared for that project and the ones • approved by the government agencies. So I don't know, • you know, who designed the, the project itself.

[18] Q: Yes, sir. My question was, in preparation • for your testimony as a 30(b)(6) deponent here today, • did you make any attempt to ascertain the

whereabouts • of Mr. John J. Whelan?

[22] A: No, I didn't.

[23] Q: I show you what was marked as Deposition • Exhibit No. 37 in Mr. Flores' deposition. Have you • ever seen that document before, sir?

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• •

[3] A: Yes, sir.

[4] Q: And where did you see that document?

[5] A: In the, in the, in the box which our • counselor has.

[7] Q: In the box that your counsel has. Now --

[8] A: Mr. Otto Bustelo.

[9] Q: Well, in preparation for your deposition here • today, did your search include the documents in the • possession of Mr. Bustelo?

[12] A: In that particular box, yes. Yes, sir.

[13] Q: Did you compare the deposition transcript of • Mr. Flores, with the documents in the box in the • possession of your attorney, Mr. Bustelo?

[16] A: No, sir.

[17] Q: How did you know, sir, in preparation for • your 30(b)(6) deposition today, what documents in the • box of Mr. Bustelo would have been produced for us?

[20] A: Well, I assumed that the documents in that, • in that box were already reviewed by the counselors, • Mr. Bustelo as well as Mr. Romero, and all the • documents pertaining this case, you know, would have • been submitted already, because we have

gone through • that box several times, sir.

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• •

[3] Q: Would you describe this box to me?

[4] A: It's a regular archive box that holds files • in order -- in preparation for storage.

[6] Q: And where did this box come from?

[7] A: It is located at the, at the file room.

[8] Q: Now on Exhibit 37 from Flores' deposition, • item number 31 refers to a slop oil tank; does it not?

[10] A: Yes, sir.

[11] Q: Referring to Exhibit No. 3, sir, could you • tell me every effort undertaken by you to determine the • location of that slop oil tank at the Tutu service • station?

[15] A: It's not shown there.

[16] Q: That wasn't my question, sir. I said, would • you detail for me --

[18] A: Um-hum.

[19] Q: ever effort you personally made to • determine the location of that slop oil tank at the • Tutu service station?

[22] A: No, I didn't.

[23] MR. ROMERO: He answered your previous • question as well.

[25] BY MR. DEMA:

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• •

[3] Q: Have you ever, since 1987, undertaken any • efforts to determine the location of the slop oil tank • at the Tutu service station?

[6] A: No, sir.

[7] Q: In your previous deposition of April 10th, • 1990, you refer to that slop oil tank as having a • manhole and a vent; do you remember that?

[10] A: Yes, sir.

[11] Q: Could you tell me or would you place for me a • mark on Exhibit No. 3 where the manhole and vent for • the 560-gallon slop oil tank is?

[14] A: It's not located there.

[15] Q: I understand it is not on Exhibit 3.

[16] A: No, it's not shown here.

[17] Q: Correct, sir. Could you put it on there?

[18] MR. ROMERO: Did you say 560 gallons?

[19] A: For 560 -- no, I don't know where it's • located.

[21] MR. KNOEPFEL: Five hundred gallons.

[22] Q: I'm sorry, 500 gallons.

[23] A: You know, I don't know where it is located • here, or if it was installed here.

[25] Q: In your previous testimony given to us under

Page 33

• • • oath --

[4] A: Um-hum.

[5] Q: on April 10th, 1990, you said you know • that it has a manhole cover and a vent; do you remember • that?

[8] MR. ROMERO: Objection as to what he may • have testified. The record speaks for itself, Mr. • Dema. Do you want to confront the witness with his • precise testimony?

[12] BY MR. DEMA:

[13] Q: Do you remember that, sir?

[14] A: Probably, I, I mentioned that, but I cannot • locate the, the precise location of that tank here.

[16] MR. ROMERO: You're not asked to • speculate, Mr. Munoz. His question is if you remember • making that specific testimony; if you do or you don't, • just answer his question.

[20] A: I don't know.

[21] Q: Could you tell me what quarter of the station • it is located in?

[23] A: It should be around this area.

[24] Q: Could you draw --

[25] A: Under the roof of the mechanic shop.

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• •

[3] Q: Would you draw a circle --

[4] A: In the general area.

[5] Q: Just draw a circle in the general area where • you think it is.

[7] A: I think it should be located over here.

[8] Q: Would you mark the circle with your initials • so we could later tell it was your circle?

[10] A: [WITNESS PUT INITIALS ON CIRCLE.]

[11] Q: May I see the area you've marked, sir? • Thank you.

[13] MR. ROMERO: Draw a line from your • initials to the boundary of that circle.

[15] MR. DEMA: Trust pervades these • proceedings.

[17] MR. ROMERO: I've been learning.

[18] BY MR. DEMA:

[19] Q: I'll next show you what was

marked as • Deposition Exhibit No. 38 for Mr. Flores deposition. • It's a document entitled Location Justification, and • ask if you've seen that document, sir?

[23] A: This one, yes, sir.

[24] Q: And when --

[25] MR. ROMERO: I'm sorry; you're not

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• • • making any of these exhibits to the deposition; are • you, Mr. Dema?

[5] MR. DEMA: I'm just assuming we have • enough paperwork. Since we already have -- all have • them in Mr. Flores' deposition, I didn't see the need • to duplicate, but if you would like me to, I will.

[9] MR. ROMERO: I'm just asking what you • prefer to do.

[11] A: Okay. This one, I remember.

[12] Q: And when did you see this, sir?

[13] A: To the best of my, to the best of my • knowledge, I think it was after the first deposition.

[15] Q: Which -- whose deposition?

[16] A: My deposition. Excuse me.

[17] Q: And how did you come across it?

[18] A: Looking through the, the box of files that • was at the file room.

[20] Q: Now the Location Justification asks on number • nine for a sketch or a reproduction of the trade area • to be produced and annexed to this document, and it • gives instructions on page 3 as to how to mark up that • sketch.

[25] MR. ROMERO: Is that a question or are

system installed at Tutu Esso • service station?

[10] A: It was not a repair. It was just a closing. • And I, and I -- as a record for repair, we don't keep • them in my office, neither at the retail file room. It • was just a, just a job, you know, to close down the • facilities. And the only document which might exist is • an invoice for -- or a, what you call a purchase order • for the particular contractor.

[17] Q: So that in reference to all the categories • that are on this page that called for documents • regarding the repairs of the septic system, repairs of • the oil/water separator, repairs of the waste oil • collection system, repairs of the piping system, I take • it that you did not look for any documents because they • were not in your department; is that correct?

[24] A: Yes, sir.

[25] Q: That is correct?

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• •

[3] A: Yes, sir.

[4] MR. ROMERO: You made reference to • Rosario?

[6] MR. DEMA: The witness did, I believe.

[7] MR. ROMERO: Rosario or Rosado?

[8] THE WITNESS: Nelson Rosado.

[9] MR. ROMERO: Rosado.

[10] BY MR. DEMA:

[11] Q: Nelson Rosado, R-o-s-a-d-o?

[12] A: Yes, sir.

[13] Q: Sir, if you could flip that picture over. In • this holding containment

area, there is a wall which • separates one part of the containment area from • another.

[17] A: Yes, sir.

[18] Q: And there is a wall, which separates one part • of the containment area from another, with a • pass-through at the bottom of it?

[21] A: Yes, sir.

[22] Q: The bottom is slanted into a lower area than • the section on the other side of that wall that has the • pass-through.

[25] A: Right.

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• •

[3] Q: And there is piping, both on this side and -- • if you will accept my word for the moment -- on the • other side opposite the separation wall.

[6] MR. ROMERO: Objection.

[7] A: Yes, sir.

[8] Q: As an engineer, sir, in retail engineering • for Esso Rico, can you tell me what purpose this vessel • serves by that configuration?

[11] A: Yes, sir. This is an oil and waste trap, • which separates water from grease and oil floating on • water.

[14] Q: So the vessel that we have been referring to • since the deposition of Mr. Janson as a holding • containment area, in fact, is an oil/water separator?

[17] A: Yes, sir.

[18] Q: A 2,000-gallon oil/water separator?

[19] A: Yes, sir.

[20] Q: Now, sir, could you tell me where the pipes • lead to from this oil/water separator?

[22] A: If this is slanted this way --

[23] Q: Yes, sir.

[24] A: The water comes from this pipe. The slanting • is designed in order to provide room for sediment to

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• • • settle on the bottom, in order to prevent from clogging • this section, this opening here, which leaves space for • the water to flow into the next chamber. Since the oil • and greases floats on top of water, it would be • retained in this chamber. So clean water will be • flowing into the next chamber without getting • contaminated with the, with the oil. So the oil will • be left here, in this section.

[11] Q: Now where does the water come from that flows • into this pipe?

[13] A: Okay. The water coming from this pipe should • be coming from the catch basins at the bay areas where • the lifts are located. That's the only two areas -- • well, that's the only area where we connect, normally • connect the grease traps.

[18] VIDEO TECHNICIAN: Will you show me the • pipe that you're talking about?

[20] A: It shows only the pipe --

[21] VIDEO TECHNICIAN: Okay.

[22] A: in the, in the water separator.

[23] Q: Now, sir, the pipe that is the -- is on the • other side, where you said the clean water would be --

[25] A: This other side?

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• •

[3] Q: Yes.
 [4] A: There should be another pipe.
 [5] Q: Yes, there is.
 [6] A: Flowing out.
 [7] Q: Where does that flow to?
 [8] A: It should be flowing into the sewer line • towards the main pipeline at the, at the road, which • feeds into the primary sewer line.
 [11] Q: So it's your testimony that to the best of • your engineering knowledge, Tutu has a 2,000-gallon • oil/water separator that, up until the point Mr. Rosado • emptied it and cleaned it, was connected to the public • sewage system of the United States Virgin Islands?
 [16] A: It should be connected. I didn't say that it • was connected because I haven't checked that up • personally.
 [19] Q: Do you know anyone in your employ or anyone • in your organization who has checked out the ingress • and egress pipes from the 2,000-gallon oil/water • separator identified by you today?
 [23] A: I don't know.
 [24] Q: Do you know where the connection is for the • Tutu service station to the sanitary sewer?

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• •
 [3] A: No, sir.
 [4] Q: Has anyone in Esso Rico -- Anna Gloria Ramos • or any of the agents/employees of Esso Rico -- ever • asked you before today where those pipes go?
 [7] A: No, sir.
 [8] Q: Has anyone from the organization

ever asked • you what is hooked up to the sanitary sewer system of • the United States Virgin Islands from that station?

[11] A: What is hooked up?
 [12] Q: Right.
 [13] A: No, sir.
 [14] Q: I will mark as Exhibit 16 for today's • deposition picture 1.36a and 4.7, and ask if you would • look at those pictures, and then hold them in a way • that would show for the camera.
 [18] [EXHIBIT NO. 16 WAS MARKED.]
 [19] BY MR. DEMA:
 [20] Q: Now, sir, the 2,000-gallon waste oil • separator, was previously identified as over behind • this grating; is that correct?
 [23] A: Yes, sir.
 [24] Q: And, for example, the area shown in these • three basins are to the south, and they are the areas

Page 53

• • • that previously had the lifts; are they not?
 [4] A: Yes, sir.
 [5] Q: Are you able to tell me, sir, based on your • testimony that the traps would have connected by piping • to the ingress pipe to the 2,000-gallon oil/water • separator, could you show us and the camera where the • pipes would run across that station?
 [10] A: If they are located, if the --
 [11] MR. KNOEPFEL: Point the area out.
 [12] A: Knowing that the --
 [13] Q: You could use this pointer, sir.
 [14] A: that the water separator is over

here, • they should be interconnected or independently • connected towards this area. So the flow should be • either this way, into the grease trap, or flowing • independently into the, into the trap, or filling in • into the primary or original pipeline that goes into • the trap.
 [21] Q: Looking at the bottom picture, sir, and • bringing your attention to these two vents, vent pipes • that go above the roof line.
 [24] A: Yes, sir.
 [25] Q: Could you tell me what those two vent pipes

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• • • are venting?
 [4] A: They should be venting the tanks.
 [5] Q: Which tanks?
 [6] A: Either the new tanks or the old ones.
 [7] Q: The old ones are no longer there; correct?
 [8] A: Yes. But in the old days, it was, it was our • procedure to pipe -- to run the pipes next to the • building, either through the columns and on top of the • roof. But in this particular case, I can't recall • where the new vent pipes were located. So what I'm • saying, that this could be either the new ones or the • existing ones that were abandoned right there.
 [15] Q: Sir, referring back to the previous • deposition Exhibit 15, and looking at page -- at • picture 1.27a on the top --
 [18] A: Um-hum.
 [19] Q: If you could hold that for the camera, sir. • Does that picture show the mechanics area that you •

previously had preferred to in Exhibit 3? And I will • show you the circled area with your initials previously • marked by you in Exhibit 3.

[24] A: The question is if this, if this is located • in this area?

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• •
[3] Q: Yes, sir. On Exhibit 3 -- camera focus on • that -- we have your circle with your initials, saying • that there was a 560-gallon slop oil tank.

[6] MR. ROMERO: I must correct you again, • Mr. Dema.

[8] Q: Five hundred gallon -- sorry -- slop oil tank • in this approximate area. My question to you, sir, • looking at picture 1.27a, is that the mechanic shop • area, which you had circled on Exhibit 3?

[12] A: I can't, I can't recall from this picture.

[13] MR. ROMERO: You cannot tell from that • picture?

[15] A: I cannot tell from this picture; that's • right.

[17] Q: Now, sir, I'll mark as Exhibit No. 17 • pictures 4.16 and 4.18, and ask if you could identify • for me what is depicted in those two pictures?

[20] A: For me, here it shows a water -- an oil/water • separator.

[22] Q: A second oil/water separator; is that • correct?

[24] MR. ROMERO: Objection.

[25] A: Another separator; I don't know which one.

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• •

[3] MR. ROMERO: He's telling you what he • can observe from that picture. If it's a first or a • second or a third, that's your testimony, Mr. Dema.

[6] MR. DEMA: Thank you for correcting me, • sir.

[8] [EXHIBIT NO. 17 WAS MARKED.]

[9] BY MR. DEMA:

[10] Q: Are you familiar with the location of that • oil/water separator at the Tutu station?

[12] A: No, sir.

[13] Q: I will show you what we'll mark as Exhibit • 18. And if you could look at Exhibit 18, showing • pictures 1.6a and 1.5a, and then hold them up for the • camera, sir.

[17] [EXHIBIT NO. 18 WAS MARKED.]

[18] BY MR. DEMA:

[19] Q: Would you identify for me, sir, what the • grating is on the interior of the boundary wall of the • Tutu Esso station, and what the pipe is on -- coming • through the exterior of that wall?

[23] A: The piping should be a drain pipe for, for, • for storm water; and the drainage, I don't know if it • is a catch basin for water accumulating in this area or

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• • • or not. I don't know; I cannot tell from this photo.

[4] Q: In preparation for your testimony here today, • sir, did you ever ascertain where the exit pipe from • the oil/water separator in that area of the station • goes to?

[8] A: No, sir.

[9] Q: In preparation for your testimony here today, • sir, did you ever ascertain whether that oil/water • separator had been hooked up to any sewer drain?

[12] A: One of the oil and water separators here in • this, in this service station was connected previously • to, to a point inside, inside this area. But after a • couple of days, it was blocked and removed.

[16] MR. ROMERO: Pointing to the Four Winds • parking lot?

[18] A: Exactly right. It was blocked and removed.

[19] MS. D'ANNA: Excuse me. Can I ask that • you turn that so the rest of us can see what you're • pointing at? • All right. Could you just point at -- • well, the picture was facing you, and I have no idea • what you were talking about. If you could just repeat • it, and show us what you're talking about.

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• •

[3] A: Yes. My answer is I'm not referring to this • particular pipe, because I don't know which one was • utilized to connect to, to a manhole inside the parking • lot -- if this was or not. • What I'm saying is that I know for a fact • that one of the grease traps was connected to a catch • basin, as instructed by somebody from the Four Winds • Plaza. And after a couple of days, it was disconnected • by instruction from a government agency, and I think it • was either DPNR -- I think it was DPNR, and we • disconnected that one.

[14] Q: Excuse me, sir. Perhaps I misheard your • testimony. You're saying that the oil/water • separator pipe --

[17] MR. ROMERO: I don't think you misheard • him. I think you heard him too well.

[19] Q: was connected to a storm drain in the Four • Winds parking lot by Four Winds, and that it was • disconnected by Esso?

[22] A: No, sir; no, sir.

[23] MR. ROMERO: No, that's not what he • said.

[25] Q: Could you tell me -- could you repeat that

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• • • again then?

[4] A: What I'm saying is that --

[5] Q: And holding it for the camera.

[6] A: Yes. At one point in time, one of the grease • traps -- and I don't know which one -- was connected to • one of the storm sewer drains at the Four Winds Plaza • parking lot, as instructed by one of the, one of the • administrators of the, of the shopping center.

[11] A: couple of days later, it was disconnected. • It may have been before -- I don't know if it was used • or not, but it was disconnected and blocked.

[14] Q: So it's your testimony that an administrator • of the Four Winds Shopping Center instructed Esso to • hook up the exit pipe from their oil/water separator to • something inside Four Winds?

[18] A: Yes, sir.

[19] Q: And upon what do you base that

assertion, • sir?

[21] A: I was told that beforehand.

[22] Q: And by whom were you informed of this • information?

[24] A: I think it was Nelson Rosado.

[25] Q: Did Mr. Rosado have anything to do with the

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• • • installation of that particular piping system and • oil/water separator?

[5] A: I think that he supervised the construction • of the, of the grease trap. And the eventual • connection -- I don't know if he was present or not • during that process, but he was in charge of the, of • the construction of the grease trap.

[10] Q: And when Mr. Rosado was designing this • oil/water separator --

[12] MR. ROMERO: Objection.

[13] Q: was he doing it -- well, fair enough. • Thank you. • Was this oil/water separator, to which you're • referring, designed by retail engineering at Esso Rico?

[17] A: We utilize normally, as a standard, the • standard -- well, a standard drawing for the grease • trap which repeats in all outlets that have been built.

[20] Q: And where does the standard drawing come • from?

[22] A: Mostly from government agencies. In a • particular case, in Puerto Rico, from the, from the • aquaduct agency. They give us the parameters and then • we incorporate that in our drawings.

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• •
[3] Q: In preparation for your testimony here today, • did you ascertain who constructed that oil/water • separator, being supervised by Mr. Nelson Rosado of • your department?

[7] A: It was, it was built by Mr. Eugenio DeArce, • which was already presented, and all documents • pertaining to that particular job.

[10] Q: I'm sorry, I missed the last transmission.

[11] A: The documents for that construction were • presented in this case previously by the counselors.

[13] Q: Are you telling me that there are • construction documents for the oil/water separator that • was supervised by Mr. Nelson Rosado?

[16] A: No. What I'm saying is that the event of • that construction was covered already by the -- by Mr. • Eugenio DeArce, and all documents pertaining to that • job were handed to the counselors. I don't know which • ones.

[21] Q: So you do not know, nor have you made • inquiry, as to whether or not there are any • construction documents for that job?

[24] A: No, sir.

[25] Q: And you do not know, nor have you inquired,

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• • • whether or not that job was permitted by the Government • of the Virgin Islands?

[5] A: No, sir.

[6] Q: No, sir, you do not know; or no, sir, it was • not, you were not able to find the permit?

[8] A: No, I don't know.

[9] Q: At least, sir, I take it you do not have a • permit in your possession?

[11] A: I haven't seen it.

[12] MR. DEMA: If you'll give me moment, • take a break.

[14] [A SHORT RECESS WAS TAKEN.]

[15] BY MR. DEMA:

[16] Q: Mr. Munoz, just so the record is clear, you -- • we have been speaking of two oil/water separators: • One, approximately 2,000 gallons, as identified on • today's Exhibit 15; and one of a smaller capacity, • identified on Exhibit 17; is that correct?

[21] A: Yes, sir.

[22] MR. DEMA: Thank you. I have no further • questions.

[24] MS. D'ANNA: I just have a couple.

[25] CROSS EXAMINATION

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• •

[3] BY MS. D'ANNA:

[4] Q: Mr. Munoz, how long did you say that you were • working in your present position?

[6] A: As an engineer head?

[7] Q: Yes.

[8] A: Since 1980, approximately.

[9] Q: And prior to that, were you, were you working • in the same department?

[11] A: Previously, I was in the operations • department. The functions were divided, and then I • assumed the engineering head position for the retail • part of the business.

[15] Q: Does Esso Standard Oil use the same • contractor or Esso Rico use the same contractor for • building its service stations?

[18] A: Not necessarily. We use several contractors.

[19] Q: Do you use the same group of contractors? • During, like, during a given period of time, like, say, • say, the late sixties or early seventies, would you • have used the same group of contractors?

[23] A: Some of them.

[24] Q: Do you recall the names of any of the • contractors that you might have used during the late

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• • • sixties or early seventies?

[4] A: No.

[5] Q: Okay. Were you working, were you working in • this -- in an area where you would have known what • contractors Esso was using in the late sixties or early • seventies?

[9] A: No. I started with the company back in 1972, • and I was assigned primarily projects in Puerto Rico.

[11] Q: Is there anybody in the Esso organization, to • your knowledge, who might know the names of the • contractors that Esso might have used during that • period?

[15] A: Not at this time.

[16] Q: Is there any records that might indicate • what, what contractors would have been used during that • period?

[19] A: Sure.

[20] Q: Where would someone locate those records?

[21] A: If we looked at the records for other • projects in, in the division, probably, let's say, an • outlet here in St. Thomas or St. Croix, we might, we • might be able to find names of the contractors that • actually built this particular outlet.

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• •

[3] Q: If you were for some reason interested in the • names of the contractors who Esso might have used • during the late sixties or early seventies how would • you go about asking for those records? I mean, who, • who would you -- first off, who would you go to, to ask • for those records?

[9] A: Well, I know where the records are for • different projects, construction projects.

[11] Q: Where would -- well, tell me where they are. • Pretend, pretend you are telling me basically how --

[13] A: Yes.

[14] Q: The road map for how to find out this • information; what's the road map?

[16] A: Okay. The documents for these projects are • located at the Catano warehouse, which I previously • stated, and most of these projects have their files • located there.

[20] Q: Okay. And if someone was to, someone was to • ask for records, construction records, for Esso service • stations, say, from 1968 to 1972, do you have any idea • how, how burdensome a task that would be to pull out • those records?

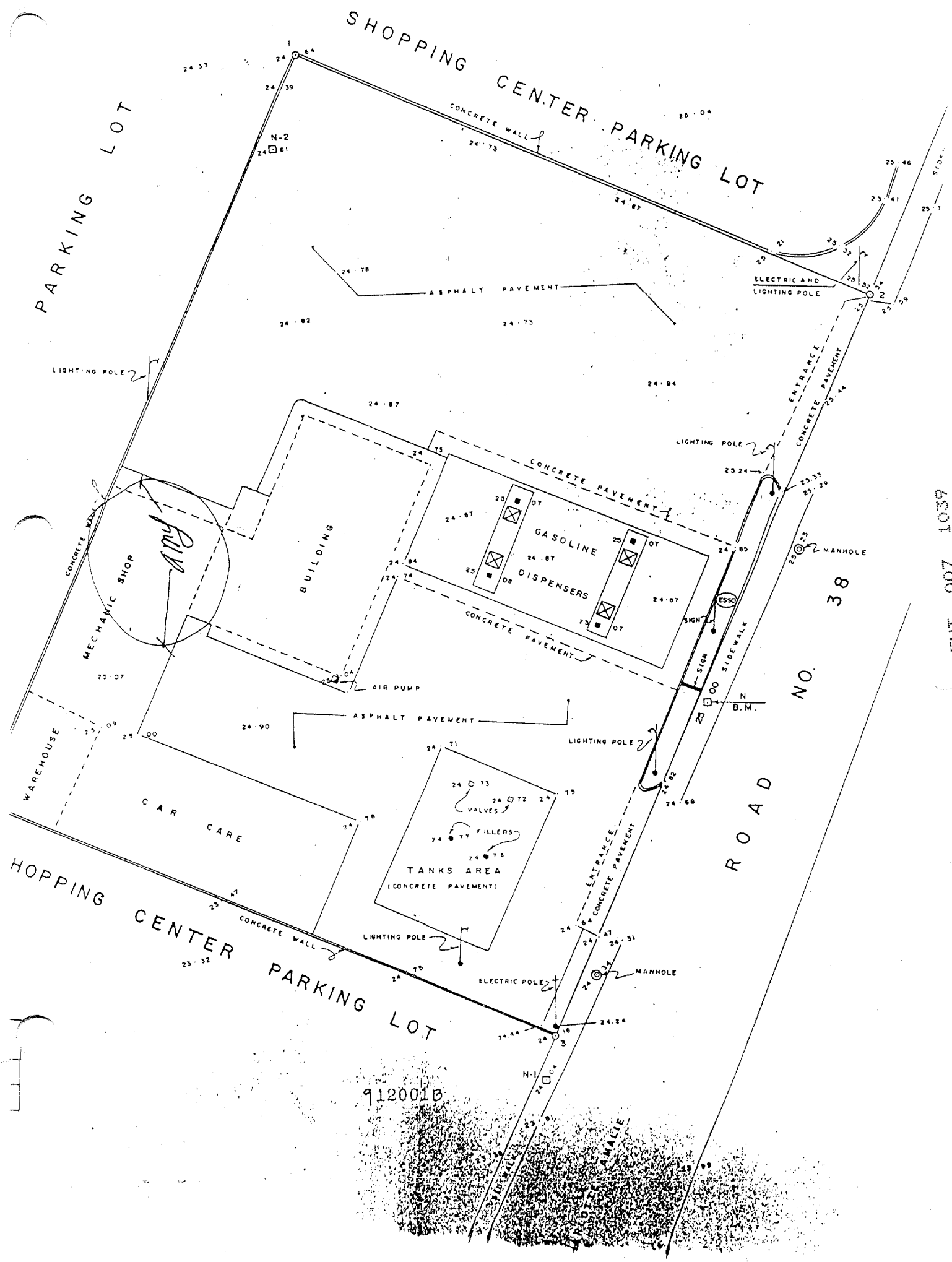


EXHIBIT
3
AM 8/10/92

MEMORANDUM

October 26, 1988

TO: C.S. Griffith

FROM: A. Gerbaud

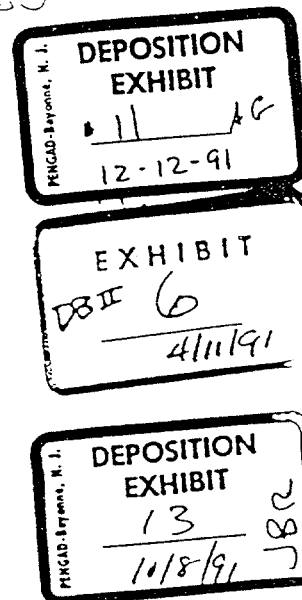
TUTU S/S - RECORD ANALYSIS

Excellent records kept since January 1987. Numbers have been recorded and analyzed daily in 1988 and bi-weekly in 1987:

MONTHLY (LOSS)/GAIN

	<u>1987</u>	<u>1988</u>
January	(91)	(609)
February	(277)	(638)
March	(1709)	(2094)
April	41	(1075)
May	(163)	(189)
June	(205)	98
July	(159)	(36)
August	(624)	(193)
September	(1387)	(185)
October	(382)	
November	(384)	
December	<u>(289)</u>	
TOTAL	(5623)	(4921)
Volume Sold	1,358,451	856,931
(Loss)/Gain	(0.41%)	(0.57%)

905001



Mr. Griffith
Page 2
October 26, 1988

- * In March 1987 a line was found leaking and replaced.
- * In August 1987 one of the tanks failed a Petrotite test and was taken out of service. The station has been operating with only one tank ever since.
- * The new St. Thomas plant began delivering gasoline to the service stations at the end of April 1988. Before that WICO made deliveries.

From this data it is apparent that some product went into the ground in March 1987 due to a leaking line. It also shows other instances where monthly losses were high, but it has been inconsistent and, therefore, recordkeeping and possible product thefts are to blame.

Numbers prior to 1987 are available all the way back to January 1982. However, they were not maintained or analyzed the same way they are now, and an enormous effort is required to turn these daily sales reports and daily purchase reports into useful data. Bayard already arranged for all this material to be available at the service station next week (many boxes) and Hiram Mendez will do the number crunching. There is one daily sales report and one daily purchase report, so in order to analyze 1982-1986 at least one week will be necessary.

I cannot speculate the result of this analysis at this time and from recent conversations with Bayard they do not have the slightest idea of what was happening with their inventory. Apparently he was satisfied with the bottom line and also sales that increased every single year.

	<u>AVG. SALES (KGM)</u>
1982	69
1983	83
1984	86
1985	92
1986	115.

As soon as this analysis is completed, a more detailed report will be presented.

Regards,

A. Gerbaud

A. Gerbaud
Manager Virgin Islands

/jg

(4)

905002

TUT 007 1041

GARRETT, VAZQUEZ & ASOCIADOS
INGENIEROS - AMBIENTALISTAS

CARLOS R. GARRETT
LEOVIGILDO VAZQUEZ - INIGO

R E P O R T

On January 15, 1993 the Hon. Geoffrey W. Barnard, Chief Magistrate, Judge in the District Court of the Virgin Islands, Division of St. Thomas-St. John pursuant to Four Winds Plaza Partnership Motion to Compel ORDERED as follows:

THIS MATTER was brought on by Plaintiff Four Winds Plaza Partnership's Motion to Compel Esso Standard Oil of the Virgin Islands, Inc. (hereinafter "ESSOVI") to allow Plaintiff to conduct a site inspection. The Plaintiff's Motion requested trenching across an area in the northeast corner of the site where ground penetrating radar ("GPR") had detected the presence of an "anomaly". It also called for the tracing of certain piping which connects the Esso Tutu oil water separators with traps and pits as well as effluent piping from these systems to outfall termination points. This Motion was opposed by Defendant ESSOVI which wished to reserve the right to inspect and investigate an alleged anomaly on its own property. The ESSOVI investigation would consist of further GPR studies and magnetometer studies, as well as hand augering bore-holes to a depth of five feet below land surface ("BLS") or refusal.

1. Investigation of this anomaly and the tracing of the location and construction of influent and effluent piping to the oil/water separator and waste oil containment structures at the Tutu Esso Service Station will commence as soon as ESSOVI can achieve mobilization and will be concluded as set forth herein.-

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11.

IT IS FURTHER ORDERED that the location and construction of influent and effluent piping to the oil water separator and waste oil containment structures at the Tutu Esso stations shall proceed as follows:

1. A combination of mechanical/fluid pipe tracing techniques, as well as, physical measurements will be employed.
2. All floor drains beneath the service station and within the former repair bays will be traced to ascertain outfall locations, including the catchments in the former lift pits. As a result of these activities, a schematic diagram of the piping system shall be developed to include:
- pipe influent and effluent locations to outfall termination
 - pipe dimensions and composition
3. Mechanical pipe tracing, where applicable, will be conducted through the use of a steel pipe snake. In circumstances where this technique is not applicable, a fluid trace shall be conducted with either tap water or tap water with a nontoxic fluorescent dye (MSDS attached as Exhibit "A"). Alternatively, fluids in the oil/water separator and drain system could be emptied into a containment vessel and a smoke generator could be attached to the influent pipes and utilized to trace the piping system.
4. Should additional definition of the piping system be required, GPR may be used to provide information about the pipe diameter, depth of burial, and composition, as well as the type of cover material (i.e., soil asphalt or concrete) and the presence/absence of steel reinforcement rod.

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5. If this is not sufficient to locate the effluent outfall location, excavation of the piping will be required, as necessary, to develop a complete schematic diagram of the waste containment and piping system at the Esso Tutu Service Station.
6.

The undersigned was advised by Mr. Richard Smith (for Four Winds Plaza Partnership) that the acts ordered by the Court would be performed during Thursday and Friday 21 and 22 JAN 93.

V.R. Mr. Smith requested that the undersigned be present at the site regarding the matter of location and construction of piping as described in the Court ORDER.

The undersigned arrived at the site at approximately 11:30 am on January 21, 1993.

Shortly after his arrival Mr. Eugenio Romero, Esq. (for Esso Standard Oil of the Virgin Islands, Inc.) logged-in the undersigned.

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There exist at the site two (2) oil water separators; the smallest one being referred-to as the "small oil-water separator" and the largest of the two as the "large oil-water separator."

The small oil-water separator is located to the Southwest of the large oil-water separator, near the West boundary of the property.

2.2.g. Work on pipe tracing began at 01:40 pm with the burning of the welds that hold shut the steel covers of the small oil-water separator.

The steel covers of the small oil-water separator were lifted open at 01:51 pm.

Inside the three (3) compartments of said small oil-grease separator there existed liquid with the appearance of soiled water up to the level of the invert (invert: the bottom of the interior of a pipe) of a capped (not necessarily sealed) pipe of approximately four inch nominal size located in the West wall of the South compartment of the separator..

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Inside the North compartment of said small oil-grease separator there also showed two (2) additional pipes of apparent nominal size of two (2) and three (3) inches and whose inverts were located at approximately six (6) inches above the liquid level.

At approximately 02:00 pm the mechanics started to burn the welds that hold shut the steel covers of the large oil-water separator and had said covers open at 02:10 pm.

At 02:30 pm the technicians initiated the process of ascertaining connection between the capped pipe inside the small oil-water separator and the plastic pipe draining into the pavement at the parking lot between the ESSO Tutu Service Station and the V.I. Police office West thereof. Said connection was ascertained mechanically, not hydraulically.

The connection between the two (2) sink drains located near and in-between the oil-water separators was ascertained hydraulically. No effort was made to ascertain if said sink drains had any other connection.

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Since the liquid within the small oil-water separator seemed to be holding a definite level, the undersigned, at 02:55 pm, suggested to Mr. Romero that liquid be added to said small oil-water separator in order to ascertain the presence/absence of an unknown drain from the separator.

At 03:16, and after consulting with his advisers, Mr. Romero informed that no more experiments would be conducted and ordered the covers of the small oil-water separator to be shut and welded. At 03:17 the mechanics started to close and seal the small oil-water separator.

At 03:20 pm the undersigned witnessed that the plumber's snake that had been previously introduced into the inlet pipe of the large oil-water separator had been retrieved and that it was completely covered with a viscous black liquid with the visual appearance of used motor oil for a distance of approximately twenty (20) to thirty (30) feet.

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At 03:30 pm the undersigned witnessed that the plumber's snake that had just been introduced into the outlet pipe of the large oil-water separator had been retrieved and that it was completely covered with a viscous black liquid with the visual appearance of used motor oil for a distance of approximately twelve (12) to fourteen (14) feet.

2.2.9
At 03:55 pm the technicians started to pour dyed water into the outlet of the large oil-water separator and looked for the discharge of said water in the stormwater catch basin located in the pavement in the parking lot between the ESSO Tutu Service Station and the V.I. Police office West thereof. The discharge pipe of the large oil-water separator filled-up without any of the dyed water showing at the stormwater catch basin.

At 04:50 pm Mr. Smith informed the undersigned that Mr. Romero had expressed that the process of pipe tracing had been concluded. At that moment the undersigned exited the site.

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TUT 007 1048

In analyzing the Court ORDER versus work done by the pipe tracing team, the undersigned concludes that the following items of said Court Order have not been complied with:

- V.R.g.
2. All floor drains beneath the service station and within the former repair bays will be traced to ascertain outfall locations, including the catchments in the former lift pits. As a result of these activities, a schematic diagram of the piping system shall be developed to include:
 - pipe influent and effluent locations to outfall termination
 - pipe dimensions and composition
 3. Mechanical pipe tracing, where applicable, will be conducted through the use of a steel pipe snake. In circumstances where this technique is not applicable, a fluid trace shall be conducted with either tap water or tap water with a nontoxic fluorescent dye (MSDS attached as Exhibit "A"). Alternatively, fluids in the oil/water separator and drain system could be emptied into a containment vessel and a smoke generator could be attached to the influent pipes and utilized to trace the piping system.
 4. Should additional definition of the piping system be required, GPR may be used to provide information about the pipe diameter, depth of burial, and composition, as well as the type of cover material (i.e., soil asphalt or concrete) and the presence/absence of steel reinforcement rod.
 5. If this is not sufficient to locate the effluent outfall location, excavation of the piping will be required, as necessary, to develop a complete schematic diagram of the waste containment and piping system at the Esso Tutu Service Station.

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The observations of the undersigned are that the effort to determine the location and construction of influent and effluent piping to and from the oil water-separators and waste oil containment structures to their corresponding sources and outfalls was incomplete and that as a consequence thereof it will not be possible to prepare a schematic diagram of the piping systems to include pipe influent and effluent locations to outfall termination and pipe dimensions and composition.

2. Furthermore, the observations of the undersigned are that no effort whatsoever was made to trace all floor drains beneath the service station and within the former repair bays, including the catchments in the former lift pits and that as a consequence thereof it will not be possible to prepare a schematic diagram of the piping systems to include pipe influent and effluent locations to outfall termination and pipe dimensions and composition.

At the end of the day's work not one iota of evidence was obtained as to the whereabouts of the oil-water separator effluent locations to outfall termination.

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At the end of the day's work not one iota of evidence was either looked-for or obtained as to the whereabouts of the route of piping from the former lift pits and repair bays to any of the two (2) oil-water separators.

At the end of the day's work not one iota of evidence was either looked-for or obtained as to the whereabouts of the route of piping from the floor drains beneath the service station and within the former repair bays to whatever their outfall be.

In essence, the undersigned concludes, perforce, that as pertains the location and construction of influent and effluent piping to the oil water separators and waste oil containment structures at the Tutu Esso Service Station, the Court ORDER was not complied with.

Respectfully submitted,

In San Juan, Puerto Rico
this 25th day of January, 1993


Carlos R. Garrett

o o o

CAROLINE



Suite 201, 1090 King Georges Post Road,
Edison, NJ 08837 • (201) 225-6116

TECHNICAL ASSISTANCE TEAM FOR EMERGENCY RESPONSE REMOVAL AND PREVENTION
EPA CONTRACT 68-01-7367

TAT-02-F-04398

MEMORANDUM

TO: Carlos O'Neill
U.S. EPA Caribbean Field Office

FROM: Arnaldo Martinez, TAT II PM *AM*
Douglas Henney, TAT II QC

SUBJECT: St. Thomas, Tutu HSL + 40
Sampling Results

DATE: January 27, 1988

The following letter report is provided in accordance with
TDD #02-8709-29.

The completed analysis report of the HSL+40 sampling of the
Tutu well site was received on January 18, 1988. A copy of
the laboratory report was delivered to the EPA PM on January
20, 1988.

Table #1 shows the concentration of contaminants found in
each well. The major contaminants found are 1,2-
transdichloroethylene (DCE), trichloroethylene (TCE),
tetrachloroethylene (PCE) and tertbutyl methyl ether (TBME).
TBME was not detected during previous samplings. Other
compounds found in low or trace concentration are: 1,1,1-
trichloroethane; benzoic acid; 4-methoxy-1,1-dimethyl ethyl
phenol; 2-butoxyethyl phosphate; 1,2-dichlorobenzene; 2-ethyl-
1-hexanol; N-2-dimethyl -1- propanamine; chloroform; toluene;
pentachlorophenol, methylene chloride and 2-methyl naphtalene.

A high concentration (120,000 ug/l) of methylene chloride was
found in the Harvey's Well. Toluene was detected in low or
trace concentrations in two wells (Byran's and Leonard's).
Unlike previous samplings, benzene was not detected in any of
the sampled wells.

TUT 007 1052

The following wells show no detectable concentration of any of the organic compounds tested: Rodriguez Auto, Devcon #1, Devcon #3, Dench, and Harthman Estate.

Table #2 shows the compounds and metals that are regulated under CERCLA, their reportable quantities (RQ) and their Drinking Water Standards Maximum Contaminant Level (MCL), if any.

Of the metals tested, arsenic, selenium and zinc were found in greater than trace concentrations. Arsenic was found only in the Harthman Crusher Well. Zinc concentrations ranged from nondetectable in Devcon #1 to 460 ug/l in Smith Well. Other metals found in detectable but not quantifiable concentrations are chromium, copper, thallium and antimony. The concentration of metals found in each well is listed in Table #1.

Cyanide was found in five wells. The concentrations ranged from detectable but not quantifiable (trace), to 58 ug/l in Eglin #1 well. The concentration of cyanide found in each well is listed in Table #1.

The HSL+40 sampling results confirm that the major pollutants in the Tutu well site are DCE, TCE and PCE. Seven wells show concentrations greater or equal to 100 ppb of one or more of these compounds.

A new major contaminant was found in this sampling. Six wells show a concentration greater or equal to 100 ppb of tertbutyl methyl ether.

Benzene was not detected in any of the samples taken for this analysis. Previous analysis with the photovac portable chromatograph and GCMS confirmation samples had shown concentrations greater than 1000 ppb in the Tillet Well. This was also found in the photovac samples for the month of November. Samples for photovac analysis taken concurrently with the HSL samples show a concentration of 46 ppb of benzene in the Tillet Well.

The cause of this discrepancy is unknown at present, TAT will review previous data to identify potential causes for this occurrence as well as discuss the analysis with the presently contracted laboratory.

OCT.1987

TABLE 1
CONTAMINANT CONCENTRATIONS (ug/l) FOUND
IN TUTU WELL SITE
October 1987

Bryan's Well

Toluene	Trace
Zinc	Trace

Tillet's Well

1,2-transdichloroethylene	600
Trichloroethylene	25
Tetrachloroethylene	140
Tertbutylmethyl ether	470
1,2-dichlorobenzene	Trace
Trichlorobenzene	Trace
2-methyl naphthalene	Trace
Chromium	Trace
Copper	Trace

Four Winds Plaza #1

1,2-transdichloroethylene	280
Trichloroethylene	18
Tetrachloroethylene	140
Tertbutylmethyl ether	470
Chromium	Trace
Copper	Trace
Zinc	51

Elgin #3

1,2-transdichloroethylene	78
Trichloroethylene	8.4
Tetrachloroethylene	40
Tertbutylmethyl ether	270 estimated
Chromium	Trace
Copper	Trace
Thallium	Trace
Zinc	98

Eglin #2

1,2-transdichloroethylene	57
Trichloroethylene	7.5
Tetrachloroethylene	21
Tertbutylmethyl ether	390 estimated
Copper	Trace
Zinc	200

TABLE 1
CONTAMINANT CONCENTRATIONS (ug/l) FOUND
IN TUTU WELL SITE
(Continued)

Eglin #1

1,2-transdichloroethylene	56
Trichloroethylene	10
Tetrachloroethylene	100
Tertbutylmethyl ether	270 estimated
Copper	Trace
Zinc	82
Cyanide	58

Francois Well

1,2-transdichloroethylene	100
Trichloroethylene	15
Tetrachloroethylene	130
Tertbutylmethyl ether	180 estimated
Chromium	Trace
Zinc	Trace
Cyanide	Trace

VIHA #1

1,2-transdichloroethylene	4.9
1,1,1-trichloroethane	Trace
Trichloroethylene	Trace
Tetrachloroethylene	Trace
Benzoic Acid	Trace
Copper	Trace
Zinc	Trace
Cyanide	23

VIHA #3

Methylene chloride	6.9
Trichloroethylene	Trace
Benzoic acid	Trace
4-methoxy-1,1-dimethyl ethyl phenol	2.1 estimated
2-butoxy ethyl phosphate	3.1 estimated
Copper	Trace
Selenium	Trace
Zinc	Trace
Cyanide	Trace

TABLE 1
CONTAMINANT CONCENTRATIONS (ug/l) FOUND
IN TUTU WELL SITE
(Continued)

Demitri's Well

Tetrachloroethylene	Trace
Copper	20 estimated
Selenium	Trace
Zinc	40 estimated

Harthman Estate Well

Selenium	Trace
Zinc	Trace

Rodriguez Auto Well

Copper	Trace
Zinc	Trace

Ramsey Motors Well

1,2-transdichloroethylene	6.3
Trichloroethylene	Trace
Tetrachloroethylene	22
Antimony	Trace
Zinc	Trace
Cyanide	Trace

Steele's Well

1,2-transdichloroethylene	47
Trichloroethylene	15
Tetrachloroethylene	320
Tertbutylmethyl ether	37
1,2-dichlorobenzene	Trace
Chromium	Trace
Copper	Trace
Antimony	Trace
Zinc	Trace

Harvey's Well

Methylene chloride	120,000
1,2-transdichloroethylene	49
Trichloroethylene	23
Tetrachloroethylene	2,000
Chromium	Trace
Copper	Trace
Zinc	340

TUT 007 1056

TABLE 1
CONTAMINANT CONCENTRATIONS (ug/l) FOUND
IN TUTU WELL SITE
(Continued)

Mathias

Trichloroethylene	Trace
Tetrachloroethylene	3.6
2-ethyl-1-hexanol	4.7 estimated
N,2-dimethyl-1-propanamine	32 estimated
Copper	Trace
Selenium	5.6
Zinc	Trace

Smith's Well

1,2-transdichloroethylene	100
Chloroform	Trace
Trichloroethylene	21
Tetrachloroethylene	150
Tertbutylmethyl ether	34 estimated
Copper	7
Selenium	3
Zinc	460

Devcon #1 Well

None detected

Devcon #3 Well

Chromium	Trace
Selenium	7.1
Zinc	Trace

Alpha Leonard Well

Tetrachloroethylene	Trace
Toluene	22
Selenium	8.5

DeDe Well

Pentachlorophenol	Trace
Copper	Trace
Zinc	Trace

TABLE 1
CONTAMINANT CONCENTRATIONS (ug/l) FOUND
IN TUTU WELL SITE
(Continued)

Harthman Crusher Well

1,2-transdichloroethylene	Trace
Trichloroethylene	Trace
Tetrachloroethylene	6.2
Arsenic	15
Zinc	Trace

Dench Well

Copper	Trace
Antimony	Trace
Thallium	12
Zinc	68

Harthman Bakery Well

1,2-transdichloroethylene	Trace
Trichloroethylene	Trace
Benzoic acid	Trace
Antimony	Trace
Zinc	Trace

NOTE: These results have been corrected for contaminants found in the field blanks and laboratory blanks.

TABLE 2
REGULATED COMPOUNDS

COMPOUND NAME	CERCLA REG.	RQ (Pds)	MCL (ug/l)	RMCL (ug/l)
1,2-transdichloroethylene	X	1,000		
Trichloroethylene	X	1,000		
Tetrachloroethylene	X	1		
Tertbutylmethyl ether				
1,1,1-trichloroethane	X	1,000	200	
Benzoic acid	X	5,000		
Methylene chloride	X	1,000		
4-methoxy-1,1-dimethyl ethyl phenol				
2-butoxy ethyl phosphate				
1,2-dichlorobenzene	X	100		
2,ethyl-1- hexanol				
N,2-dimethyl-1-propaneamine				
Chloroform	X	5,000	100 (total trihalomethane)	
Toluene	X	1,000		
Pentachlorophenol	X	10		
2-methyl naphtalene				
Chromium	X	1 (dusts)	50	
Copper	X	1 (dusts)		1,000
Zinc	X	1 (dusts)		
Cyanide	X	1 (dusts)		
Thallium	X	1 (dusts)		
Selenium	X	1 (dusts)	10	
Antimony	X	1 (dusts)		
Arsenic	X	1 (dusts)	50	

Some volatile organic compounds were detected in some samples. Some samples were very low. The samples were analyzed for volatile organic compounds. The results are listed in the table above.

TUT 007 1059

EP000069

From
RUB at
5:00 PM

11/2/87

John

page 1 of 2

Ken Wells
X5353

7/28/87

4:30 PM

preliminary-verbal results - Tutu wells, USVI

QA/QC to be performed after receipt of hard copy. These are verbally reported results. We will have TAT QA/QC then once hard copy received. Expect hard copy, week of August 3.

Note - Some benzene showed up in analysis of blank which was run after the high contamination sample. It is being re-run to see if this was residue from the run of the high contamination sample.

Based on verbal results, the closed Tillet well is definitely contaminated + decision to shut down is fully supported. The other wells sampled did not appear to have ~~benzene~~ gasoline contamination.

Tillet well had high non-gasoline (halogenated hydrocarbon) contamination as well - a surprising finding - and the other wells had lower level contamination, such as was found in a 1982 Gieraty + Miller report which included the housing authority well (which we believe is closed + which we used as a background check relative to the gasoline plume).

ntinued

page 2 of 2

Tillet well :

benzene, 633 ppb from surface sample, 6,950 ppb
when pumped

toluene, 452 ppb

xylene results pend

~~other~~ other: ethylbenzene 951 ppb
tetrachloroethylene 2,400 ppb
1,1,1-trichloroethane 58 ppb
trichloroethylene 711 ppb

Other wells :

ranged

7 ppb to 18.8 ppb trichloroethylene
3 ppb to ~~102 ppb~~ tetrachloroethylene
102 ppb

NSDEP Drinking Water Certified Lab "California..."

(X)

SUMMARY OF LABORATORY RESULTS
FOR OIL AND WATER SAMPLES
COLLECTED FROM TANKS, STORM DRAINS
AND SUMPS AT GASOLINE STATIONS
AND AUTO BODY SHOPS IN
TUTU, ST. THOMAS,
U.S. VIRGIN ISLANDS
ON AUGUST 17, 1987

Personnel from the Region II Technical Assistance Team (TAT) and the St. Thomas Department of Planning and Natural Resources (DPNR) collected eleven oil and water samples on August 17, 1987, from various storage tanks, storm drains and sumps at gasoline stations and auto body shops in Tutu, St. Thomas, as directed by TDD Numbers 02-8708-16 and 02-8708-32. Table I provides descriptions of all samples.

The Tutu oil samples were taken from waste oil storage tanks, sumps and storm drains. Sample numbers one through eleven were analyzed for polychlorinated biphenyls (PCBs) and numbers twelve through twenty-two were analyzed for volatile organic compounds (VOCs). Split samples were provided for Tutu Texaco and Tutu Esso.

VOC analysis was performed in an attempt to match the VOCs found in the contaminated Tutu Wells with those found in these samples. Note that sample numbers one through eleven correspond to sample numbers twelve through twenty-two.

The samples were shipped on August 26, 1987 to S-Cubed Laboratories in San Diego, California. The samples were detained in customs and not received by the laboratory until September 15, 1987. The sample analysis was conducted through the Contract Laboratory Program (CLP).

The CLP designated holding times for VOCs were exceeded, and the samples were warm upon arrival at the laboratory. The PCB samples, however, do not require preservation and did not exceed their designated holding times. The PCB data meets the EPA quality assurance/quality control (QA/QC) requirements and is acceptable. The results indicate that all samples analyzed for PCBs were below the method detection limits of 80 and 160 ug/kg.

Table II illustrates the volatile organic compounds (VOCs) identified in the samples. Some samples show very high levels of VOCs typical for samples collected from gasoline stations and auto body shops. In addition to those compounds found in Table II, several unknowns were detected as tentatively identified compounds.

TUT 007 1062

Attachments

DRAFT

EP000074
4 of 10

(X)

TABLE I

<u>Sample Number</u>	<u>Description</u>
3239B-1.....	Bay #1 sump, Tutu Texaco
3239B-2.....	Bay #2 sump, Tutu Texaco
3239B-3.....	Bay #3 sump, Tutu Texaco
3239B-4.....	Oil and water separator, Tutu Texaco
3239B-5.....	Waste oil tank, Tutu Texaco
3239B-6.....	Storm drain, Tutu Texaco
3239B-7.....	Gutter, Consolidated Auto Parts
3239B-8.....	Storm drain, Consolidated Auto Parts
3239B-9.....	Waste oil storage tank, Ramsey Motor
3239B-10.....	Virgin Islands Housing Authority (VIHA) waste oil Underground Storage Tank (UST)
3239B-11.....	Oil and water separator, Tutu Esso
3239B-12.....	Bay #1 sump, Tutu Texaco
3239B-13.....	Bay #2 sump, Tutu Texaco
3239B-14.....	Bay #3 sump, Tutu Texaco
3239B-15.....	Oil and water separator, Tutu Texaco
3239B-16.....	Waste oil tank, Tutu Texaco
3239B-17.....	Storm drain, Tutu Texaco
3239B-18.....	Gutter, Consolidated Auto Parts
3239B-19.....	Storm drain Consolidated Auto Parts
3239B-20.....	Waste oil storage tank, Ramsey Motor
3239B-21.....	VIHA waste oil UST
3239B-22.....	Oil and water separator, Tutu Esso

TUT 007 1063

DRAFT

EP000075

II

T-100

PPH

01/19/80
Separation
Texas

CONCENTRATION:
ug/kg

Cons. J. / Ramon
Oil
Storage
Tank

UHA
WASTE
OIL

01/4
Hwy
ESSO

FILE	32398-12	32398-13	32398-14	32398-15	32398-16	32398-17	32398-18	32398-19	3239-20	32398-21	32398-22
ne Acetone	1400	1500	2200		1900	2200	2100				
anone Butanone	3000	3100	4100	5300	6300	4000	4200	2600	150000		
ne Benzene		270		2800					210000	97000	59000
ne Toluene		2300	870	43000		1100	780	100J	1400000	98000	970000
benzene Ethylbenzene		1300	960	14000	1000	660	390		290000	500000	200000
xylenes Toluene xylene		9100	7000	110000	9300	4400	2600		1700000	2900000	1200000
oform Chloroform			260								
Trichloroethane				2400 ✓							58000 ✓
chloroethene											110000 ✓
imated Value											

TUT 007 1064

EP0000076

6880

(X)

SAS 32398 (XII-IV - 2) VII-2

CHAIN OF CUSTODY RECORD

ENVIRONMENTAL PROTECTION AGENCY - REGION II
Environmental Services Division
EDISON, NEW JERSEY 08817

Name of Unit and Address					
US EPA / TAT (Carlos O'Neill) c/o Roy F. Weston Inc. Region II TAT Edison, NJ 08817			Tutu Well Site St. Thomas, U.S.V.I.		
Sample Number	Number of Containers	Description of Samples			
32398-1	1	TAT ID# OW-001 Bay #1 Sump, Tutu Texaco	1 x 40 ml	VOA Bottle	
32398-2	1	TAT ID# OW-002 Bay #2 Sump, Tutu Texaco	"	"	
32398-3	1	TAT ID# OW-003 Bay #3 Sump, Tutu Texaco	"	"	
32398-4	1	TAT ID# OW-004 Oil & H ₂ O Separator, Tutu Texaco	"	"	
32398-5	1	TAT ID# OW-005 Waste oil tank, Tutu Texaco	"	"	
32398-6	1	TAT ID# OW-006 Storm Drain, Tutu Texaco	"	"	
32398-7	1	TAT ID# OW-007 Gutter, Consolidated Auto parts	"	"	
32398-8	1	TAT ID# OW-008 Storm Drain, Consolidated Auto parts	"	"	
32398-9	1	TAT ID# OW-009 Ramsey Motor Waste Oil Storage	"	"	
32398-10	1	TAT ID# OW-010 VINTA Waste oil UST	"	"	
32398-11	1	TAT ID# OW-011 Oil Separator, Tutu Esso	"	"	
32398-12	1	TAT ID# OW-001A Bay #1 Sump Tutu Texaco	"	"	
32398-13	1	TAT ID# OW-002A Bay #2 Sump Tutu Texaco	"	"	
32398-14	1	TAT ID# OW-003A Bay #3 Sump Tutu Texaco	"	"	
32398-15	1	TAT ID# OW-004A Oil & H ₂ O Separator Tutu Texaco	"	"	
32398-16	1	TAT ID# OW-005A Waste oil tank Tutu Texaco	"	"	
32398-17	1	TAT ID# OW-006A Storm drain Tutu Texaco	"	"	
32398-18	1	TAT ID# OW-007A Gutter, Consolidated Auto parts	"	"	
32398-19	1	TAT ID# OW-008A Storm Drain Consolidated Auto parts	"	"	

Person Assuming Responsibility for Sample

Sample Number	Relinquished By	Received By	Time	Date	Reason for Change of Custody
#157-F1	Chris D. O'Neil	Chris D. O'Neil	1000hrs	8/24/77	SHIP TO LAB
	Chris D. O'Neil	Elaine Walter	12:15	9-15-77	Rec'd by Lab

EP000077

JAN 19 1988 08:40

(X)

P.3

CHAIN OF CUSTODY RECORD

ENVIRONMENTAL PROTECTION AGENCY - REGION II
Environmental Services Division
EDISON, NEW JERSEY 08817

Name of UAC and Address: USEPA/TAT, (CARLOS O'NEILL) Tutu Well Site
40 Roy F. Weston Inc. ST. Thomas, USVI
Region II TAT
Edison, NJ 08817

Sample Number	Number of Containers	Description of Samples	Initials
239B-20	1	TAT ID# OW-009A Ramsey motor waste oil storage tank	12/20/87 VOA
239B-21	1	TAT ID# OW-010A VIHA waste oil UST	12/20/87
239B-22	1	TAT ID# OW-011A oil separator Tutu CSSC	12/20/87

Person Assuming Responsibility for Sample

Carlo D'Onofrio

1600 hrs 8/25/87

Sample Number	Relinquished By	Received By	Time	Date	Reason for Change of Custody
239B-22	Carlo D'Onofrio	Michael Kelly	1000 hrs	8/24/87	SHIP TO LAB
		Elaine Dattilo	12:15	9-15-87	Rec'd by Lab

EP000078

802/10

TUT 007 1066



THE SELIG CHEMICAL INDUSTRIES
A DIVISION OF NATIONAL SERVICE INDUSTRIES, INC.

**MANUFACTURERS OF INDUSTRIAL AND INSTITUTIONAL
MAINTENANCE AND PROCESS CHEMICALS**
ESTABLISHED 1896

BILL TO: SAME AS SHIP TO
UNLESS OTHERWISE INDICATED

SHIP TO:

TUTU ESSO
ESTATE TUTU
BOX 7441
ST. THOMAS, V.I. 00801

OFFICE — PLANTS
IN PRINCIPAL CITIES

TUT 007 1067

106240
SHIPPERS NUMBER

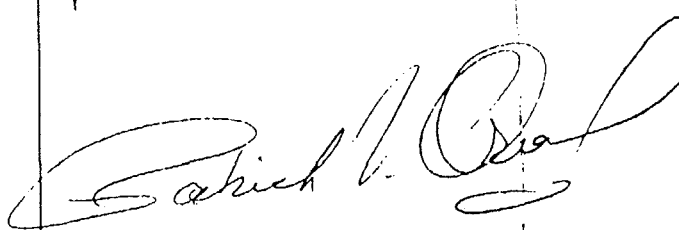
TELEPHONE NUMBER		ACTIVITY CODE	BRANCH CODE	CUSTOMER NUMBER	SALESMAN CODE	SHIPPER'S NUMBER	DATE SHIPPED	FREIGHT	TERMS
		11	416	A00743	600	106240			
ROUTING VIA		SALESMAN NAME	SALESMAN ORDER NO.	ORDERED BY	F.O.B.	CUSTOMER ORDER NUMBER	SALESMAN ORDER DATE		
DOLPHIN		BENJAMIN			PP		7/21/83		
PRODUCT NUMBER	QUANTITY ORDERED	QUANTITY SHIPPED	UNIT OF ISSUE DESCRIPTION		ITEM DESCRIPTION			PRICE PER MEASUR	
	5 3 1 1	5 ~~3~~ 2 1 1	50# BAG. 150# BBL X 6-GAL. CAN EACH		A P ABSORBENT WASHKLEEN XXXX SUPER KLEENAKARB 7-GAL. DIPPING BASKET \$404.48 				
ATLANTA INVOICE NO.		OPER INT.	PRICE O.K.		CREDIT O.K.				

EXHIBIT N

PACKING SLIP

CUSTOMER COPY

THE



CHEMICAL INDUSTRIES

A DIVISION OF NATIONAL SERVICE INDUSTRIES, INC.

ORDER NUMBER

- ☐ P.O. BOX 43106, ATLANTA, GEORGIA 30378
☐ P.O. BOX 47221, DALLAS, TEXAS 75247
☐ P.O. BOX 15161, HOUSTON, TEXAS 77020
☐ P.O. 58265, LOS ANGELES, CALIFORNIA 90058
☐ 2700 McCONE AVE., HAYWARD, CALIFORNIA 94545

- ☐ P.O. BOX 1016, LOUISVILLE, KENTUCKY 40201
☐ P.O. BOX 97, HIALEAH, FLORIDA 33011
☐ P.O. BOX 29149, NEW ORLEANS, LOUISIANA 70129
☐ P.O. BOX 1882, CAROLINA, PUERTO RICO 00830

BILL TO	COMPANY NAME <i>Luta Ess</i>		ORDER DATE <i>9/21/83</i>	REQUESTED SHIPPING DATE	F.O.B. SHIPPING POINT
	STREET ADDRESS <i>St Thomas</i>		SHIPPING VIA	TERMS: NET 30 DAYS	
	CITY	STATE <i>C.I.</i>	ZIP CODE	CUSTOMER ORDER NO.	
				BUYER'S SIGNATURE AND TITLE	
SHIP TO	COMPANY NAME		BRANCH USE ONLY		
	STREET ADDRESS		ACTV. CODE	BRANCH CODE	CUSTOMER NO.
	CITY		SALESMAN CODE & NAME <i>B. N. Antero Be</i>		
	STATE		SPECIAL INSTRUCTIONS:		
ATTENTION OF			BRANCH USE ONLY		
BILL TO SAME AS SHIP TO: UNLESS OTHERWISE INDICATED					
PRODUCT NUMBER	QUANTITY ORDERED	UNIT OF ISSUE	PRODUCT DESCRIPTION		PRICE PER MEASURE
	5	Bag	AP. Absorbent		20.25
	3	150# Cut	Washklean XXXX		84.25
	1	7 gal can	Super Kleen		16.85
	1	only	Dipping Basket		1.00

THIS ORDER IS PAYABLE UPON FINAL ACCEPTANCE BY THE SELIG CHEMICAL INDUSTRIES AND REPRESENTS THE ENTIRE AGREEMENT BETWEEN THE PARTIES HERETO.

RETURNS ALLOWED ONLY UPON WRITTEN AUTHORIZATION BY SELIG CHEMICAL INDUSTRIES. SUBSEQUENT INVOICE INCORPORATED HEREIN BY REFERENCE.

TUT 007 1068



MATERIAL SAFETY DATA SHEET

PAGE 1 OF 2

SE
CHEMICAL INDUSTRIES
DIVISION OF
NATIONAL SERVICE INDUSTRIES

DATE : 01/17/89 SUPER KLEENAKARB
SUPERSEDES: 06/27/88 PRODUCT NUMBER: 1376

SECTION I - EMERGENCY CONTACTS

SELIG CHEMICAL INDUSTRIES LOCAL POISON CONTROL CENTER TELEPHONE
840 SELIG DRIVE, S.W.
ATLANTA, GA. 30378
TELEPHONE (404)691-9220
TRANSPORTATION EMERGENCY
CHEMTREC: TOLL-FREE 1-800-424-9300 ALL CALLS RECORDED
BETWEEN 8:00A.M. - 5:00P.M. DISTRICT OF COLUMBIA (202)483-7616 ALL CALLS RECORDED
(EASTERN TIME ZONE)

SECTION II - HAZARDOUS INGREDIENTS

	CAS	%
@ 1 CRESYLIC ACID	1319-77-8	20-25
@ 2 METHYLENE CHLORIDE	75-09-2	45-55
@ 3 SODIUM DICHROMATE	10588-01-9	0-1
@ 4 1,1,1 TRICHLOROETHANE	71-55-6	2-5

IDENTIFIES CHEMICALS LISTED UNDER SARA-SECTION 313 FOR RELEASE REPORTING

SECTION III - PHYSICAL DATA

BOILING POINT (F) : 100	SPECIFIC GRAVITY : 1.25
VAPOR PRESSURE(MMHG): UNK	PERCENT VOLATILE BY VOLUME (%) : 75
VAPOR DENSITY(AIR=1): UNK	EVAPORATION RATE(NA =1) : UNK
SOLUBILITY IN WATER : EMULSIFIES	PH(CONCENTRATE) : NA
	PH(USE DILUTION OF NA) : NA

APPEARANCE & ODOR: YELLOW-BROWN COLOR, BIPHASE LIQUID, ODOR OF CRESOL

SECTION IV - FIRE AND EXPLOSION DATA

FLASH POINT(F)(METHOD USED): NONE (NA)
FLAMMABLE LIMITS LEL UNK UEL UNK
EXTINGUISHING MEDIA : NA
SPECIAL FIRE FIGHTING: NA
UNUSUAL FIRE HAZARDS : NA

SECTION V - HEALTH HAZARD DATA

SYMPTOMS

SKIN : CORROSIVE TO SKIN.
EYES : CORROSIVE TO EYES.
INHALE: CAN CAUSE DIZZINESS, NAUSEA AND HEADACHE.
INGEST: CORROSIVE TO THROAT AND STOMACH

TUT 007 1069

FIRST AID

SKIN : WASH IMMEDIATELY WITH SOAP AND WATER. TREAT FOR CARBOLIC ACID BURNS
EYES : FLUSH IMMEDIATELY WITH PLENTY OF WATER FOR 15 MINUTES. CONSULT PHYSICIAN
INHALE: MOVE TO FRESH AIR. ADMINISTER OXYGEN IF NEEDED. SEE DOCTOR
INGEST: RINSE MOUTH AND GIVE PLENTY OF WATER, FOLLOWED BY MILK, EGG WHITE OR GELUL
DO NOT INDUCE VOMITING. IMMEDIATELY SEEK MEDICAL ATTENTION.



MATERIAL SAFETY DATA SHEET

PAGE 2 OF 2

CHEMICAL INDUSTRIES
VISION OF
NATIONAL SERVICE INDUSTRIES

DATE : 01/17/89 SUPER KLEENAKARB
SUPERSEDES: 06/27/88 PRODUCT NUMBER: 1376

SECTION VI - R E A C T I V I T Y D A T A

STABILITY : STABLE
INCOMPATIBILITY(AVOID) : CATIONIC MATERIAL
POLYMERIZATION : WILL NOT OCCUR
HAZARDOUS DECOMPOSITION:
THERMAL DECOMPOSITION MAY YIELD PHOSGENE, CHLORINE, HCL AND CO.

SECTION VII - S P I L L A N D D I S P O S A L P R O C E D U R E S

STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED
ABSORB ON AN ABSORBANT SUCH AS SELIG'S AP ABSORBANT AND PLACE IN A SEALED
DRUM FOR DISPOSAL. OPEN DOORS AND WINDOWS TO IMPROVE VENTILATION. WASH SPILL
AREA WITH SOAP AND WATER.

WASTE DISPOSAL METHOD

UNUSED PRODUCT MAY HAVE TO BE ABSORBED ON AN INERT MATERIAL (SELIG'S AP
ABSORBENT) AND DISPOSED OF AS HAZARDOUS WASTE. SMALL HAZARDOUS WASTE GENERATORS
SHOULD CONSULT C.F.R. TITLE 40, PART 261.5 FOR POSSIBLE EXEMPTION. SINCE REGU-
LATIONS VARY CONCERNING THE DISPOSAL OF THESE CHEMICALS CONSULT LOCAL STATE &
FEDERAL AGENCIES FOR PROPER DISPOSAL PROCEDURES IN YOUR AREA.

FEDERAL HAZARDOUS WASTE NUMBER(S): D002, F001, F004, D007

SECTION VIII - S P E C I A L P R O T E C T I O N I N F O R M A T I O N

RESPIRATORY PROTECTION : CHEMICAL CARTRIDGE RESPIRATOR IF IN AN UNVENTILATED ARE
VENTILATION : LOCAL-BEST
PROTECTIVE CLOTHING : RUBBER OR NEOPRENE GLOVES
EYE PROTECTION : SAFETY GOGGLES, FULL FACE SHIELD

SECTION IX - S P E C I A L P R E C A U T I O N S

KEEP OUT OF REACH OF CHILDREN. HARMFUL IF SWALLOWED.
AVOID CONTACT WITH SKIN AND EYES.
AVOID PROLONGED EXPOSURE TO VAPORS
STORE IN COOL PLACE.

TUT 007 1070

THE INFORMATION HEREIN IS GIVEN IN GOOD FAITH
BUT NO WARRANTY, EXPRESS OR IMPLIED, IS MADE

CDM Federal Programs Corporation

March 6, 1989

Ms. Caroline Kwan
U.S. Environmental Protection Agency
26 Federal Plaza
New York, New York 10278

Project: EPA Contract No. 68-01-7331
Document No: T648-C02-EP-CZUU-1

Subject: CLP Sample Analysis Data Summary
Case No. 3900 I Ser 25
Tutu Wellfield Area
Work Assignment 648

Dear Ms. Kwan:

Enclosed please find the summary CLP analyses results for samples taken in the Tutu Wellfield Area, St. Thomas, U.S. Virgin Islands on September 12 and 15, 1988. The samples were analyzed by Cenref Labs Brighton, Colorado. The identification and location of the three samples are given below:

<u>Sample #</u>	<u>Sample Location</u>
eT-62	Tutu Texaco Service Station - oil/water separator
eE-63	Tutu Esso Service Station - holding tank
eE-64	Tutu Esso Service Station - oil/water separator

We have taken the liberty to limit the list of compounds to include benzenes, substituted benzenes, dichloroethane, dichloroethene, trichloroethane, trichloroethene, tetrachloroethane, tetrachloroethene compounds, toluene, xylene and any other compounds found above detection limits. These compounds (BTEX and chlorinated hydrocarbons) were identified as groundwater contaminants in past EPA sampling events conducted in the Tutu Wellfield Area. Alkanes and related compounds were not included.

It can be seen from the results that toluene, ethylbenzene and xylene were found in all three samples. A number of benzene-containing volatile and extractable compounds were tentatively identified in all three samples. Sample eE-64 from the Esso oil/water separator also contained detectable levels of methylene chloride, 2-butanone, 1,1,1 - trichloroethane, tetrachloroethene and benzene. Copies of the laboratory analysis data sheets for the three samples are attached.

TUT 007 1071

EXHIBIT O

58000282

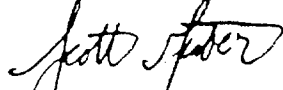
Ms. C. Kwan
Page Two

All three of these sampling locations will be resampled later this month due to a break in the chain-of-custody during the original sample shipment.

Should you have any questions regarding these data, please do not hesitate to call me at (212) 393-9634.

Sincerely,

CDM Federal Programs Corporation



Scott Graber
TES III Regional Manager

SG/rw

Attachment

cc: P. Fischetti
J. Claypoole
NYC File
Document Control

(WP8/47)NY-GMO

TUT 007 1072

LAB ANALYSIS DATA SHEETS

CENREF LABS

SAS No. 3900I, Set 25

TUT 007 1073

VOLATILE ORGANIC COMPOUNDS (mg/kg)

Compound:	eT-62	eE-63	eT-64
methylene chloride	25u	250u	57 ✓
1,1-dichloroethene	25u	250u	25u
1,1-dichloroethane	25u	250u	25u
1,2-dichloroethene (total)	25u	250u	25u
1,2-dichloroethane	25u	250u	25u
2-butanone	50u	500u	62 ✓
1,1,1-trichloroethane	25u	250u	100 ✓
trichloroethene	25u	250u	25u
1,1,2-trichloroethane	25u	250u	25u
tetrachloroethene	25u	250u	65 ✓
1,1,2,2-tetrachloroethane	25u	250u	25u
benzene	25u	250u	29 ✓
toluene	140	1800	2900*
ethylbenzene	400	230	4500*
xylene (total)	160	1600	1900*

Tentatively identified compounds:

propyl benzene	-	1200J	890J
ethyl methyl benzene	860J	6000J	1600J
C3 substituted benzene	-	2200J	-
C3 substituted benzene	-	1800J	-
trimethyl benzene	370J	8000J	1000J
ethyl methyl benzene	-	1700J	940J
trimethyl benzene	1300J	-	1900J
trimethyl benzene	390J	-	1000J
methyl propyl benzene	470J	1400J	1000J
methyl methyl ethyl benzene	550J	-	1100J
C4 substituted benzene	280J	2000J	760J
C4 substituted benzene	-	1200J	-
C4 substituted benzene	-	950J	-
ethyl dimethyl benzene	440J	-	-
tetramethyl benzene	-	-	680J
ethyl methyl benzene	-	-	940J
tetramethyl benzene	400J	-	-

u - below the detection limit

J - estimated value

* - value from analysis of a diluted aliquot of this sample

EXTRACTABLE ORGANIC COMPOUNDS (mg/kg)

<u>Tentatively identified compounds:</u>	eT-62	eE-63	eT-64
C4 substituted benzene	220J	930J	1400J
C4 substituted benzene	-	620J	-
ethyl dimethyl benzene	-	690J	780J
1-methyl-3-(1-methyl ethyl)-benzene	-	720J	1600J
tetramethyl benzene	-	540J	360J
tetramethyl benzene	-	710J	410J
methyl-propyl benzene	-	-	720J
dihydro-methyl benzene	260J	-	-
dimethyl-(methyl ethyl)-benzene	260J	-	-
methyl naphthalene	-	990J	-
substituted methyl naphthalene	390J	-	290J
dimethyl naphthalene	250J	-	-
dihydro-methyl-indene	-	690J	490J
dihydro-dimethyl-indene	-	-	270J

J - estimated concentration

Schmidt Corp.
Box 58
ce, PR 00734

August 10, 1987

TO: Esso Standard Oil Co. (P.R.)
GPO Box 4269 - San Juan, P.R.



WE HEREBY CERTIFY that on July 27 and 28, 1987 we performed Petro Tite tank testings at ESSO's TUTU Service Station facilities, operated and managed by Mr. Danny Bayard. Tests were made on the tank systems in accordance with test procedures prescribed for Petro-Tite, as detailed on attached test charts, with results as follows:

REGULAR UNLEADED

Tank Results - -.041

Tank is tight and meets the criteria established by the National Fire Protection Association.

PREMIUM UNLEADED

Test was set and running. It was noticed that the stand pipe was decreasing continuously and test was immediately stopped assuming there is a possible leak in tank structure. We recommend that the tank shall not be used until a thorough physical examination is performed.

ROQUE SCHMIDT CORPORATION

BY:

TUT 007 1076

RSC/alod

EXHIBIT P

ES000001

Petro Tite
LINK 1131B

100 ROSCA DRIVE
P.O. BOX CS-700
STOKIMTON, MA 02072-1581

CONSULTANTS

14. Dix Exxon - Tolu ESSO 5/3
Name of Owner Survey of Owner Address (No. and Street)

St Thomas VI 7/25/87
City State Date of Test

15. TANK TO FRONT LEFT TANK #2
Capacity of Tank
Brand and Grade of Product

16. CAPACITY
Nominal Capacity 6000 Gallons
Is there doubt as to True Capacity? ☐
See Section "DETERMINING TANK CAPACITY"

By most accurate capacity chart available 6131 Gallons

From
☐ Station Chart
☐ Tank Manufacturer's Chart
☐ Company Engineering Data
☐ Charts supplied with Petro Tite
☐ Other

17. FILL-UP FOR TEST

Stick Water Bottom before Fill-up _____ Gallons
to 1/4 in. _____ Gallons

Stick Readings to 1/4 in. _____ Gallons Total Gallons on Reading _____
Inventory _____
Fill up, STICK BEFORE AND AFTER EACH COMPARTMENT DROP OR EACH METERED DELIVERY QUANTITY

Tank Diameter 72" x 29'

Product in full tank (up to fill pipe)

18. SPECIAL CONDITIONS AND PROCEDURES TO TEST THIS TANK

See manual sections applicable. Check below and record procedure in log (28).

☐ Water in Tank ☐ High water table in tank excavation ☐ Line(s) being tested with LVLLT

95 VAPOR RECOVERY SYSTEM
58.0 Stage I
Stage II

19. TANK MEASUREMENTS FOR TSTT ASSEMBLY

Bottom of tank to Grade _____
Add 36" for 4" L _____
Add 24" for 2" L or 6" seal _____
Total tubing to assemble Approximate _____

20. EXTENSION MOSE SETTING

Extend hose on suction tube 6" or more below tank top _____
If fill pipe extends above grade, use top of fill _____

21. TEMPERATURE/VOLUME FACTOR (a) TO TEST THIS TANK

Is today warmer? () Colder? () °F Product in Tank _____ °F Fill-up Product on Truck _____ °F Expected Change (+ or -)

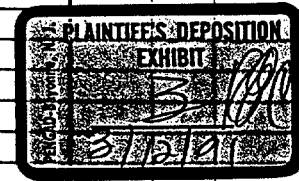
22. Thermal-Sensor reading after circulation 51.10 85.31 °F

23. Digits per °F in range of expected change 311 Digits

24. 6131 total quantity in full tank (18 or 17) 6000 coefficient of expansion for involved product = 2.7812126 gallons volume change in this tank per °F

25. 3.4873128 volume change per °F (24) 311 Digits per °F in test Range (23) = 0.1117322 This is test factor Compute to 4 decimal places.

26. LOG OF TEST PROCEDURES		29. HYDROSTATIC PRESSURE CONTROL		31. VOLUME MEASUREMENTS (IN RECORD TO UNIT CAL.			34. TEMPERATURE COMPENSATION USE FACTOR (d)			38. NET VOLUME CHANGES EACH READING		39. ACCUMULATED CHANGE	
27. DATE	28. Record details of setting up and running test. (USE full length of line if needed.)	29. Reading No.	30. Standard Level at Hatch		32. Product in Substrate		35. Product Recovered (+)		36. Thermal Sensor Reading	37. Change Higher (+) Lower (-) (d)	37. Compensation (+) (-) = Expansion - Contraction =	38. Temperature Adjustment	39. In High Level recover Total and Substrate
			Beginning of Reading	Level to which Returned	Before Reading	After Reading	Product Recovered (+)						



TUT 007 1077

ES000003

Data Chart for Tank System Tightness Test

petro title

TANK TESTER

PLEASE PRINT

1. OWNER	Property ☒	Esso Standard Oil Company San Juan		792-2923
	Tank(s) ☒	Name Same	Address	Telephone
2. OPERATOR	Name Danny Bayard			
3. REASON FOR TEST (Explain Fully)	Requested by company.			
4. WHO REQUESTED TEST AND WHEN	Name Diana Bolivar Engineering		Esso Standard Oil Co. 7-26-87	
	Address H. P. O. Box 4269 San Juan, P.R. 00936		Date 7-27-87	
5. WHO IS PAYING FOR THIS TEST?	Company, Agency or Individual Esso Standard Oil Co.		Person Authorizing Diana Bolivar	
	Billing Address H. P. O. Box 4269 San Juan, P.R. 00936		Title Date 7-27-87	
6. TANK(S) INVOLVED	Identify by Direction		Capacity	Brand/Supplier
	Near Street 2nd		6,000	Premium unleaded
7. INSTALLATION DATA	Location South Entrance		Cover Concrete	Fills 3"
	North inside driveway, Rear of station, etc.		Concrete, Black Top, Earth, etc.	Size, Title/Make, Drop tubes, Remote Fills
8. UNDERGROUND WATER	Depth to the Water table		Is the water over the tank? ☐ Yes ☐ No	
	Tanks to be filled		Arranged by	
9. FILL-UP ARRANGEMENTS	Extra product to "top off" and run TSTT.		How and who to provide? Consider NO Lead.	
	Terminal or other contact for notice or inquiry		Company Name Telephone	
10. CONTRACTOR, MECHANICS, any other contractor involved	Bregue Schmidt Oil Equipment Contractors			
11. OTHER INFORMATION OR REMARKS	Additional information on any items above. Officials or others to be advised when testing is in progress or completed. Visitors or observers during test etc.			
12. TEST RESULTS	Tests were made on the above tank systems in accordance with test procedures prescribed for as detailed on attached test charts with results as follows:			
	Tank Identification	Tight	Leakage Indicated	Date Tested
13. CERTIFICATION	Premium unleaded	- .041	Test stop due to possible leak	7-27-87
	Regular unleaded			7-28-87



ES000004

This is to certify that these tank systems were tested on the date(s) shown. Those indicated as "Tight" meet the criteria established by the National Fire Protection Association Pamphlet 329.

Rogee Schmidt Rogee Schmidt Oil Equipment
 Date 8/2/87 Testing Contractor or Company By Signature

1078
007
TUT

15. TANK TO TEST

Filled left tank #2
Unfilled Right

CAPACITY

Nominal Capacity 6000
Gallons
Is there doubt as to True Capacity? ☐
See Section "DETERMINING TANK CAPACITY"

Is most accurate capacity short probable 6131
Gallons

- From
- ☐ Section Chart
 - ☐ Tank Manufacturer's Chart
 - ☐ Company Engineering Data
 - ☐ Charts supplied with Porto Top
 - ☐ Other

17. FILL-UP FOR TEST

Stick Water Bottom before Filling _____
to ft. _____
Gallons _____

FILL UP STICK BEFORE AND AFTER EACH COMPARTMENT DROP OR EACH METERED DELIVERY QUANTITY

Tank Diameter 72" x 29'

Product in full tank (up to fill point)

Stick Readings to ft. in.	Gallons	Total Gallons on Reading

18. SPECIAL CONDITIONS AND PROCEDURES TO TEST THIS TANK

See manual sections appropriate. Check below and record procedure in log (29).

- ☐ Water in tank ☐ High water table in tank excavation ☐ Line(s) being tested with LFLUT

950
58.0

VAPOR RECOVERY SYSTEM

- ☐ Stage I
☐ Stage II

19. TANK MEASUREMENTS FOR TEST ASSEMBLY

Bottom of tank to Grade _____
Add 30" for 4" L _____
Add 24" for 2" L of air seal _____
Total tubing to assemble. Approximate _____

20. EXTENSION HOSE SETTING

Tank top to grade _____
Extend hose on suction tube 2" or more
below tank top _____

* If all pipe extends above grade, use top of LR

21. TEMPERATURE/VOLUME FACTOR (a) TO TEST THIS TANK

Is Today Warmer? ☐ Colder? ☐ Product in Tank _____ Fill-up Product on Truck _____ Expected Change (+ or -)

22. Thermal Sensor reading after circulation 21610 38-89
digits

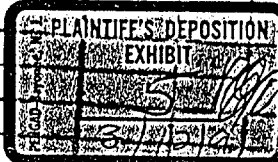
23. Digits per °F in range of expected change 311
digits

24. 6131 0.00056887 = 3.4873128
Total quantity in full tank (18 or 17) Coefficient of expansion for involved product Volume change in this tank per °F

25. 3.4873128 311 = 0.112132
Volume change per °F in test Range (°F) Digits per °F in test Range (°F) Volume change per digit. Compute to 4 decimal places. This is Test Center (a)

LOG OF TEST PROCEDURES

28. Record details of setting up and running test (Use full length of line if needed)	29. Reading at	30. HYDROSTATIC PRESSURE CONTROL		31. VOLUME MEASUREMENT (V) RECORD IN RTI ML		32. TEMPERATURE COMPENSATION FOR FACTOR (a)			33. NET VOLUME CHANGE AFTER ADJUSTMENT		34. ACCUMULATED CHANGE
		Standpipe Level at Surface	Level in tank after 10 min	Product in Cistern	Product Applied (-)	Thermal Sensor Reading	Change Higher or Lower - (a)	Temperature Adjustment (a) x (1) = Expansion + Contraction -	Temperature Adjustment	Volume after Expansion (+) or Contraction (-) (b)(1) - (b)(2)	
1. Pump Primed + Running	0	42"									
	1	45.5	42"	790	1.00	610					
	2	45.5	42"	575	785	633	+43				
	3	45.2	42"	285	470	657	+24				
	4	44.4	42"	470	635	679	+22				
	5	45.0	42"	625	800	697	+18	+1.202	-0.47		
2. Start Low Level Test	6	44.5	42"	330	475	714	+17	+1.190	-0.15		
	7					729	+15	+1.168	-0.23		
	8	15.2	12"	475	660	746	+17	+1.190			
	9	14.8	12"	460	810	759	+13	+1.146	+0.004		
	10	14.4	12"	225	360	771	+12	+1.134	+0.001	+0.005	
	11	14.2	12"	360	520	788	+16	+1.171	-0.019	-0.014	
	12			520	605	799	+10	+1.112	-0.027	-0.041	
	13										
	14										



מחזור

From

☐ Statistic Chart

☐ Time Manufacturer's Chart

☐ Company Engineering Data

☐ Charts supplied with ~~existing~~ new ~~unit~~ unit

☐ Other _____

Normal Capacity 10000
Gears

Is there demand to use Full Capacity? ☐

See Section "DETERMINING TAX CAPACITY"

Expt. Number	Customer	Total Charges to Customer
100-101	...	...
100-102	...	...
100-103	...	...
100-104	...	...
100-105	...	...
100-106	...	...
100-107	...	...
100-108	...	...
100-109	...	...
100-110	...	...
100-111	...	...
100-112	...	...
100-113	...	...
100-114	...	...
100-115	...	...
100-116	...	...
100-117	...	...
100-118	...	...
100-119	...	...
100-120	...	...
100-121	...	...
100-122	...	...
100-123	...	...
100-124	...	...
100-125	...	...
100-126	...	...
100-127	...	...
100-128	...	...
100-129	...	...
100-130	...	...
100-131	...	...
100-132	...	...
100-133	...	...
100-134	...	...
100-135	...	...
100-136	...	...
100-137	...	...
100-138	...	...
100-139	...	...
100-140	...	...
100-141	...	...
100-142	...	...
100-143	...	...
100-144	...	...
100-145	...	...
100-146	...	...
100-147	...	...
100-148	...	...
100-149	...	...
100-150	...	...
100-151	...	...
100-152	...	...
100-153	...	...
100-154	...	...
100-155	...	...
100-156	...	...
100-157	...	...
100-158	...	...
100-159	...	...
100-160	...	...
100-161	...	...
100-162	...	...
100-163	...	...
100-164	...	...
100-165	...	...
100-166	...	...
100-167	...	...
100-168	...	...
100-169	...	...
100-170	...	...
100-171	...	...
100-172	...	...
100-173	...	...
100-174	...	...
100-175	...	...
100-176	...	...
100-177	...	...
100-178	...	...
100-179	...	...
100-180	...	...
100-181	...	...
100-182	...	...
100-183	...	...
100-184	...	...
100-185	...	...
100-186	...	...
100-187	...	...
100-188	...	...
100-189	...	...
100-190	...	...
100-191	...	...
100-192	...	...
100-193	...	...
100-194	...	...
100-195	...	...
100-196	...	...
100-197	...	...
100-198	...	...
100-199	...	...
100-200	...	...

Product in full tank (up to full glow)

VAPOR RECOVERY SYSTEM

☐ Water in Lands ☐ High water table in lands observation ☐ Link(s) being tested with LVLT

21. TEMPERATURE/VOLUME FACTOR (b) TO TEST THIS TANK

Bottom of tank to Grade
Add 30" for 4" L
Add 24" for 5" L or pipe
Total tubing to assemble Approximate

27. Thomas-Bonger reading after circulation 21914 89-90

23. Digito and T in range of expected values 311

$$24. \frac{6.131}{\text{total quantity in fuel tank (10 or 17)}} \times \frac{0.00556106}{\text{coefficient of expansion for involved product}} = \frac{3.439491}{\text{volume change in this tank per } ^\circ\text{F}}$$

Take log to grade*
Errors here on question 1-4 of 5 or more
below line 100

$$25. \frac{3.43441}{\text{volume change per } ^\circ \text{ (24)}} + \frac{311}{\text{Drops per } ^\circ \text{ in test Range (22)}} = \frac{.0110571}{\text{Volume change per deg. Convert to 4 decimal places.}} \quad \text{This is the factor (A)}$$

FD000005