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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Petitioner,

vs.

No. PCB 99-191

PANHANDLE EASTERN PIPE LINE COMPANY,

Respondent.

Proceedings held on September 21, 2000, at 9:05 a.m., at
the offices of the Illinois Pollution Control Board, 600 South
Second Street, Suite 403, Springfield, Illinois, before John C.
Knittle, Chief Hearing Officer.

VOLUME IV

Reported by: Darlene M. Niemeyer, CSR, RPR
CSR License No.: 084-003677

KEEFE REPORTING COMPANY
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A P P E A R A N C E S

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3 NUMBER MARKED ENTERED

4 Panhandle Exhibit 21 709 712

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P R O C E E D I N G S

(September 21, 2000; 9:05 a.m.)

HEARING OFFICER KNITTLE: On the record. Today is September 21st, 2000. It is about 9:05 a.m. I note for the record there are no members of the public here. We are continuing today in PCB Docket Number 1999-191, People of the State of Illinois versus Panhandle Eastern Pipe Line Company.

Are there any preliminary matters before we get going from the People?

MS. CARTER: No.

HEARING OFFICER KNITTLE: Mr. Boyd?

MR. BOYD: None.

HEARING OFFICER KNITTLE: Okay. Mr. Boyd, you are still proceeding with your case-in-chief. You may call your next witness.

MR. BOYD: Thank you. I call Charles Wait to the stand, please.

HEARING OFFICER KNITTLE: All right. Mr. Wait, please have a seat.

THE WITNESS: Thank you.

HEARING OFFICER KNITTLE: We will swear you in.

(Whereupon the witness was sworn by the Notary Public.)

HEARING OFFICER KNITTLE: Mr. Boyd, your witness.

MR. BOYD: Thank you.

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1 C H A R L E S W A I T, J R.,
2 having been first duly sworn by the Notary Public, saith as
3 follows:

4 D I R E C T E X A M I N A T I O N

5 B Y M R. B O Y D:

6 Q. Could you state your full name for the record.

7 A. Charles Wait, Jr.

8 Q. By whom are you currently employed?

9 A. CMS Energy Corporation. I work for a specific business
10 unit of Panhandle Eastern Pipe Line Company.

11 Q. How long has CMS owned Panhandle Eastern Pipe Line
12 Company?

13 A. Since April of 1999.

14 Q. Did you work for Panhandle before April of 1999?

15 A. Yes.

16 Q. How long have you worked for Panhandle?

17 A. Since March of 1988, I have worked for the corporation.

18 Q. In March of 1988, was Panhandle Eastern Pipe Line
19 Company a subsidiary of another company?

20 A. It was a subsidiary of Panhandle Eastern Corporation.

21 Q. Did Panhandle Eastern Corporation at some point --
22 strike that.

23 Is Panhandle Eastern Corporation still in existence?

24 A. No, it is not.

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1 Q. What happened to Panhandle Eastern Corporation?

2 A. It was merged into Duke Energy Company in 1997, I
3 believe.

4 Q. Was it Duke Energy Company that sold Panhandle to CMS in
5 April of 1999?

6 A. Yes, it is.

7 Q. What position do you currently hold with Panhandle?

8 A. Principal air engineer in the environmental services
9 group for Panhandle Eastern Pipe Line.

10 Q. How long have you held that position?

11 A. I was just recently promoted a month or so ago.

12 Q. What position did you hold before that?

13 A. Senior engineer, the same title.

14 Q. When did you first become a senior engineer?

15 A. 1995, I believe. It may have been 1996.

16 Q. Did your responsibilities change when you began working
17 in your current position?

18 A. As a senior engineer or --

19 Q. No, after you left being a senior engineer?

20 A. A little more responsibility, authority, but not
21 markedly so, no, sir.

22 Q. What were you doing with Panhandle before being a senior
23 engineer?

24 A. I was a division engineer. I have been basically an air

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1 engineer since early 1992.

2 Q. What were you doing with Panhandle before early 1992?

3 A. I was a field engineer, a pipeline engineer. I was
4 responsible for pipeline maintenance and operations across what
5 was known as division two. I was based in Kansas City. I
6 covered geographically --

7 (Whereupon a short recess was taken when the phone rang.)

8 HEARING OFFICER KNITTLE: Please proceed, sir.

9 THE WITNESS: Okay. The geographic region was from western
10 Kansas through Glenarm station.

11 Q. (By Mr. Boyd) How long did you hold that position?

12 A. I was there early 1990, maybe late -- I believe it was
13 early 1990.

14 Q. I am sorry. From March of 1988 through early 1990?

15 A. No, I started in the field position in 1990 and
16 completed that position in early 1992.

17 Q. Okay. What were you doing at Panhandle before early
18 1990?

19 A. I was with Texas Eastern Corporation. Texas Eastern
20 Corporation was a separate company, but was acquired by Panhandle
21 Eastern Corporation in 1989.

22 Q. What were you doing with Texas Eastern Corporation?

23 A. I was a quality assurance engineer.

24 Q. What did that role entail?

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1 A. It was specifically performing job audits and things
2 like that, making sure that policies and procedures were followed
3 on construction projects.

4 Q. Did you have any responsibility for air permitting
5 issues at all?

6 A. I did not.

7 Q. When did you first start working with air permitting
8 issues?

9 A. Early 1992.

10 Q. Okay. Can you describe the work you did from the 1990
11 to 1992 period of time, what your responsibilities were?

12 A. As a pipeline engineer I was responsible for performing
13 duties such as hydro testing, pipeline repairs, in the case we
14 had a leak or something like that, making sure that the stations
15 were compliant with DOT regulations, basically auditing or DOT
16 files also.

17 Q. And how did your responsibilities change around 1992?

18 A. The division office that I was in closed. I moved to
19 Houston and began employment in the environmental protection
20 group as a division air engineer.

21 Q. Is it fair to say you have been working in the -- I am
22 sorry. Strike that. What responsibilities did you have as

23 division air engineer?

24 A. Well, the first thing I did was get a permit in New

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1 Jersey, an air permit for a turbine. Also, I was responsible for
2 air emission inventories and offering compliance help from time
3 to time whenever we had an inspector out with a question or
4 something like that.

5 Q. Have you had responsibility for those kinds of
6 activities since 1992?

7 A. In general, yes. There was an small -- a short period
8 of time where I was not involved in environmental issues during
9 this stretch.

10 Q. What was that period of time?

11 A. It was after the Duke Energy merger. I am sorry. It
12 was about a year after the Duke Energy merger. So it was late
13 1998 or mid 1998 through the spin-off of Panhandle from Duke, so
14 it would be about a nine month period.

15 Q. All right.

16 A. I was in the facility planning group for Panhandle
17 Eastern Pipe Line.

18 Q. Okay. Beside that time away, have your responsibilities
19 included working on air permitting projects?

20 A. Yes, they have.

21 Q. You also talked about emissions inventories. Your

22 responsibilities included that as well?

23 A. Yes.

24 Q. Is it fair to say that your responsibilities have gotten

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1 more increasing levels of authority or responsibility?

2 A. Yes, they have.

3 Q. Have they changed? Have you added any additional
4 responsibilities?

5 A. Yes. There was a period of time -- in 1996 I became a
6 supervising engineer of the air permitting group or the air group
7 in the environmental compliance department at Pan Energy. I was
8 in that position until the Duke Power merger. I had one, two
9 full-time employees reporting to me and up to seven or eight
10 contract people at any given time.

11 Q. As a senior engineer your work still involves air
12 permitting projects?

13 A. Yes, it does.

14 Q. I think you said you also became division engineer or do
15 I have that backwards?

16 A. No, I was division engineer from approximately 1992 to
17 1995.

18 Q. Okay.

19 A. I did bump back from supervising engineer, a managerial
20 position, in Charlotte, to senior engineer when I went to the
21 facility planning group in 1998.

22 Q. Okay. What kind of work did you do before coming to
23 Texas Eastern Corporation?

24 A. I was in manufacturing. I was a quality -- I -- the

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1 positions I held were industrial engineering type things and also
2 quality assurance, quality compliance.

3 Q. Were you working in manufacturing as soon as you got out
4 of school?

5 A. Yes.

6 Q. Okay. What was the highest degree that you have
7 attained?

8 A. I have an MBA.

9 Q. When did you obtain that?

10 A. I obtained it in 1997 from Our Lady of the Lake
11 University in San Antonio, Texas.

12 Q. Do you have undergraduate degree?

13 A. Yes, I do.

14 Q. When did you obtain that?

15 A. In 1980.

16 Q. Where did you obtain that?

17 A. Texas A&M University.

18 Q. And what was your degree in?

19 A. Bachelor of science, mechanical engineering.

20 Q. Is it fair to say you have been working at least for the

21 last eight years in the air permitting area?

22 A. Yes, with a small excursion on facility planning.

23 Q. During that time have you become familiar with air
24 permitting requirements?

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1 A. Yes, I have.

2 Q. Have you become familiar with the air permitting
3 requirements under the Clean Air Act?

4 A. Yes.

5 Q. Can you briefly describe your understanding of the
6 permitting requirements for new sources or modifications of
7 existing sources?

8 A. Well, there is three types of permits generally. There
9 is a minor modification or a minor source permit. Then there is
10 a federal permit, a PSD permit. And then there is one that is
11 kind of in between, a PSD avoidance permit.

12 Q. What is PSD?

13 A. Prevention of Significant Deterioration.

14 Q. Can you explain what that is?

15 A. Yes. In general terms it is an exercise that you go
16 through when installing new equipment or a new source to
17 generally demonstrate that the new equipment or the new emissions
18 sources do not deteriorate the ambient air quality.

19 Q. Is PSD a federal program?

20 A. Yes, it is.

21 Q. Is it also administered by states?
22 A. Some states have administrative authority.
23 Q. What is a PSD avoidance permit?
24 A. It is really a netting exercise, I guess is the way I

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1 would look at it. PSD avoidance is as a -- in an attempt to put
2 in a new source -- let me rephrase that. Going through PSD
3 requires an enormous amount of effort, time, and to demonstrate
4 that ambient air quality is not being degraded. To avoid that,
5 if you can retire existing equipment to reduce emissions from the
6 facility so that the emissions increase as part of the project
7 does not exceed 40 tons per year for NOx. You can also go the
8 other route and take a federally enforceable emission limit,
9 generally an hours restriction or a fuel restriction, in an
10 effort to also not exceed that 40 ton increase.

11 Q. You also mentioned a minor modification permit. What is
12 that?

13 A. If you are putting in -- well, it is generally a new
14 source that does not have the ability to increase emissions from
15 the facility greater than the threshold level. In the case of
16 PSD, an existing source is 40 tons of NOx.

17 Q. You have had experience working in applying for each of
18 those three kinds of permits, PSD, PSD avoidance, and minor
19 modification permits?

20 A. Yes, I have.

21 Q. As a result of your work, have you developed an
22 understanding regarding the process for obtaining a PSD avoidance
23 or a PSD netting permit?

24 A. Yes.

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1 Q. When did you develop that understanding?

2 A. The first permit I got I believe was a netting exercise
3 that we did in New Jersey. If it was not the very first one, it
4 was one of the first ones that we did in Pennsylvania.

5 Q. So --

6 A. 1992 would be the time frame.

7 Q. On what is your understanding of the PSD netting
8 permitting process based, then?

9 A. Actual experience acquiring permits.

10 Q. And what is your understanding of the process?

11 A. Well, procedurally, the company will file an application
12 with the Agency. Generally there is a meeting that goes along
13 with that in an effort to help the Agency understand the scope
14 and nature of the project, the urgency of the project, if there
15 is some urgency. There will be some dialogue. The Agency will
16 pull together all of the information that we have provided, and
17 issue a draft permit as a result of the application.

18 Generally from that stage it goes through the public
19 comment, through a public comment period and possibly a public

20 hearing, if the state rules require it. After the -- either
21 during the public hearing or subsequent to the -- I am sorry, the
22 public comment or subsequent to that, the U.S. EPA has a chance
23 to review it. They don't always review them, but they needed to
24 be afforded the opportunity.

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1 After the comments are received and analyzed, if there is
2 subsequent changes generally the Agency and the company will
3 discuss those points. If not, there is usually a final permit
4 issued, a construction permit issued to the applicant.

5 Q. Do you --

6 A. From that --

7 Q. I am sorry. Go ahead.

8 A. Well, I was just going to go ahead and continue that
9 from that point, depending on the type of installation, there are
10 other obligations to the company. There is a permit for a
11 turbine. There is a notification of construction start and
12 notification of construction completion.

13 Q. Okay. I just want to stop at this point up until when
14 you get the permit so --

15 A. Okay. I am sorry.

16 Q. Do you have an understanding of how long the process you
17 have just described has been in place?

18 A. I believe it to be in place since the PSD rules were

19 enacted in I think 1977.

20 Q. And why do you believe that to be the case?

21 A. Looking at permits that Pan Energy held, we had PSD
22 permits on the Panhandle Eastern Pipe Line Company on the west
23 end that were received or acquired in the late 1970s or early
24 1980s. Also on the sister company, Texas Eastern, Algonquin

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1 Systems, we had a few permits through the 1980s, 1985, 1986,
2 maybe, on.

3 Q. Were these PSD permits or PSD avoidance permits? What
4 kind?

5 A. The ones through the 1980s were PSD avoidance permits.

6 Q. The process that you described, is it your understanding
7 that that process applies to state agencies administering the
8 program as well?

9 A. Yes.

10 Q. As a result of your experience, have you developed an
11 understanding of the types of limits that are contained in the
12 PSD avoidance permits?

13 A. Yes.

14 Q. And what is your understanding based on?

15 A. Review of permits that Pan Energy had.

16 Q. What is your understanding regarding the kinds of permit
17 conditions -- I am sorry. Let's go back. Strike that. Is there
18 anything else?

19 A. And that I have received.

20 Q. Okay. Beside permits in hand, is there anything else
21 that forms the basis of your understanding of the kind of PSD
22 limits that are contained in PSD avoidance permits?

23 A. Well, there is guidance from the U.S. EPA that outlines
24 what should be in a PSD permit or a PSD -- or a permit.

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1 Q. Okay. What is your understanding regarding the kinds of
2 permit conditions required in a PSD avoidance or a netting
3 permit?

4 A. Well, they need to be practically enforceable limits.

5 Q. What does that mean?

6 A. Well, generally, if you are putting -- if you are
7 permitting a piece of equipment that requires restrictions of
8 operation, there is generally an hours restriction for the pieces
9 of equipment or a fuel limit based on that. There is also a
10 pound per hour limit established in permits. And then finally a
11 cap that you have to comply with that generally is the sum of all
12 of the previously mentioned parts.

13 Q. You used the term "practically enforceable." Is that a
14 term of art? Where does that come from?

15 A. I am not 100 percent sure, but I believe that I picked
16 that up, you know, just through working through permitting
17 processes.

18 Q. Okay. What makes an hours limit practically
19 enforceable?

20 A. It is a measurable event. It is a measurable parameter,
21 if you will.

22 Q. What do you mean by "measurable"?

23 A. On a day-to-day basis I can go out to the engine or
24 through some record-keeping system and look to see where I stand

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1 in relation to the -- my ability to operate for the annual basis.

2 Q. What makes a fuel limit practically enforceable?

3 A. Basically the same thing. It is a measurable parameter
4 that the piece of equipment has.

5 Q. When you say measurable, measurable because you can keep
6 records of fuel usage?

7 A. Yes, that's correct. And, again, on a daily basis you
8 can review those or a weekly basis and understand where you stand
9 in relationship to your limit.

10 Q. What makes a pound per hour limit a practically
11 enforceable limit?

12 A. It is the part I hate. It is the emission testing. It
13 is where the rubber meets the road, if you will. That is the
14 limit that you, as a company, are required to comply with on a
15 couple of bases. The first is there is typically a compliance
16 test that you must perform when you put in a piece of equipment.
17 Subsequently, there are, on occasion, other types of testing on

18 regular intervals, whether it be through portable analyzers or
19 something like that, just to verify that those emission rates are
20 still being kept.

21 Q. You also had mentioned a cap at the end. Is a cap a
22 practical -- is an emissions cap a practically enforceable
23 limitation?

24 A. I don't consider it one, because it is not measurable.

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1 Q. What do you mean by "not measurable"?

2 A. When I -- when the facility personnel go out to look at
3 the engine, there is no way, other than sitting down through a
4 spreadsheet and running calculations.

5 Q. What do you mean by that?

6 A. I can't measure it on a -- it is something that you
7 can't go to the engine and see.

8 Q. Okay. Now, you mentioned hours, limits, fuel limits,
9 and a pound per hour limit as practically enforceable limits. Is
10 it your understanding that a PSD avoidance permit needs to
11 include all those conditions or all those limits? Or to clarify,
12 would any practically enforceable limit be sufficient?

13 A. Generally it is a mix and match of what we have
14 discussed. Generally there is not a fuel limit or an hour limit
15 in the same restriction. It is not always -- I mean, I have not
16 seen one.

17 Q. So it would be either an hour limit or a fuel limit as a
18 practically enforceable limit?

19 A. Generally.

20 Q. Are you familiar with any situations when an annual air
21 emissions limit is used as a PSD avoidance limit?

22 A. Other than the one we are discussing, no.

23 Q. The one we are discussing is the --

24 A. The Glenarm station.

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1 Q. Thank you. Are you familiar with the compressor
2 stations in Glenarm?

3 A. Yes, I am.

4 Q. How have you become familiar with it?

5 A. It began in -- as a -- during my days as a division
6 engineer in the division, but became more familiar with them
7 subsequent to my air duties in Houston.

8 Q. Have you developed an understanding of the role of the
9 Glenarm station in the system?

10 A. Yes, I have.

11 Q. What is that role?

12 A. Well, its function is to -- like every other compressor
13 station along the system, is to compress natural gas and
14 transport it down the pipeline. On average, compressor stations
15 are about 90 miles apart. The friction of the gas moving from
16 the pipeline requires that occasionally you do -- you have to

17 recompress it to move the gas down the pipeline to maintain the
18 designed volumes.

19 Q. Can you describe the engines that are currently at the
20 Glenarm station?

21 A. Yes. There are seven engines there, units 1113 through
22 1119. 1113 and 1114 are Cooper-Bessemer LSV engines. 1115 is a
23 Cooper GMV-250, as are 1116 and 17. Units 18 and 19 are
24 Cooper-Bessemer GMVHs, I believe.

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1 Q. Now, you said earlier that one of the roles of the
2 Glenarm station was to maintain the designed volumes?

3 A. Yes.

4 Q. What does that mean?

5 A. Well, the pipeline is put together in many segments. It
6 is designed to carry a certain capacity of gas. As a regulated
7 interstate natural gas company, we also are required -- we also
8 have the obligation to certificate or to get that approved
9 through the Federal Energy Regulatory Commission. So there is a
10 certain amount of volume that Panhandle Eastern Corporation has
11 to carry or be able to carry, I should say.

12 Q. What role does the station play in making sure that is
13 the case?

14 A. The horsepower there compresses the gas in an effort to
15 move and ensure that the certificated volumes do move along the

16 pipeline.

17 Q. Are any of the seven engines at the Glenarm station
18 equipped with air pollution control?

19 A. Yes, units 18 and 19 are.

20 Q. Can you describe those controls?

21 A. They are what I would couch as a first generation clean
22 burn control.

23 Q. What does that mean? What is clean burn?

24 A. Well, the generic term that is more commonly used and

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1 probably should be used here is low emission combustion. Clean
2 burn is Cooper-Bessemer's trademark name for low emission
3 combustion systems.

4 Q. What is low emission combustion systems?

5 A. It is -- for these engines, it is -- it is a
6 modification or new heads, actually, that are installed on the
7 engines. There is an ancillary chamber that -- well, let me back
8 up and say that it is a technology used to reduce emissions.
9 This is done through leaning out the combustion cylinder to pass
10 the point that combustion can be sustained. The precombustion
11 chambers are included in the heads as part of this retrofit, or
12 this control package, to add sufficient energy to support
13 combustion on a continuing basis.

14 Q. You talked about technology. What is -- is there
15 something physically added to the engines for the clean burn

16 control?

17 A. It is more than added. It is really a revision to the
18 way that the top part of the engine is designed.

19 Q. Okay. Do you know where -- strike that. Do you know
20 when engines 118 and -- I am sorry -- 1118 and 1119 were
21 installed at Glenarm?

22 A. In 1988, I believe.

23 Q. Do you know where those engines came from before being
24 installed in Glenarm?

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1 A. They came out of the Panhandle Eastern Pipe Line Hugoton
2 station. It is on the west end of the Panhandle system.

3 Q. Were they equipped with the clean burn technology when
4 they were at the Hugoton station?

5 A. Yes, they were. It was required as part of the
6 installation permit, as I recall, for Hugoton station.

7 Q. Do you know why they were removed from Hugoton?

8 A. Hugoton station was -- as I understand it, it was over
9 designed for the gas throughput of that part of the system. They
10 were surplus basically in place.

11 Q. You said earlier that the clean burn on engines 1118 and
12 1119 were first generation clean burn. You already described
13 clean burn. What do you mean by first generation?

14 A. Clean burn technology was relatively new in the 1980s.

15 I couch it as first generation because at that point in time
16 there were major modifications to the power cylinder heads that
17 had to be required. Turbo charging capabilities were not as
18 sophisticated as they are today. The control level was not
19 absolute as it is today.

20 Q. What do you mean by control level?

21 A. The emission -- the NOx emission rates for first
22 generation clean burn were typically between four and ten grams
23 per horsepower hour depending on the engine make, model, things
24 like that.

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1 Q. Was the purpose of the clean burn design to reduce NOx
2 emissions?

3 A. Yes, it is.

4 Q. Did it have any other purpose?

5 A. No. In fact, first generation clean burn is -- first
6 generation clean burn creates a three to five, maybe six percent
7 fuel penalty for the engines.

8 Q. What does that mean, "fuel penalty"?

9 A. Engines burn a certain number of BTUs per hour. The
10 general term that we use is BTUs per horsepower hour. It is
11 known as the brake specific fuel consumption. The clean burn --
12 clean burn technology at that point in time increased the BSFC
13 for those engines.

14 Q. What is BSFC?

15 A. I thought I had -- it is brake specific fuel
16 consumption. I am sorry.

17 Q. Thank you. As a result of your permitting experiences,
18 have you -- do you have an understanding of -- what is BACT?

19 A. Best Available Control Technology.

20 Q. What is that?

21 A. It is a control technology that is required as the -- it
22 is part of the PSD permitting process. It is -- I am sorry.

23 Q. Continue on. What does it mean to say Best Available
24 Control Technology?

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1 A. It is a technology -- it is an exercise -- it is a
2 technology that is selected as a result of an exercise that you
3 go through as part of the permitting process. It is an
4 evaluation from the most stringent technology to the least
5 stringent technology taking into account cost of the
6 technologies.

7 Q. When the engines at the Hugoton station, the 1118 and
8 1119, were installed, was there any determination as to whether
9 they were BACT at that time?

10 A. There was not.

11 Q. Okay. When the engines were installed in Glenarm, was
12 there a determination as to whether they were BACT?

13 A. No.

14 Q. Did you have an understanding of whether those controls
15 would have been BACT when they were installed?

16 A. Can you repeat the question a couple of questions ago?
17 I am sorry.

18 MR. BOYD: I will have to ask you to read it back. I am
19 not sure.

20 THE WITNESS: I am sorry. You asked --

21 HEARING OFFICER KNITTLE: What question a couple of
22 questions ago?

23 THE WITNESS: You asked about installed BACT a couple of --

24 MR. BOYD: Well, why don't we go back and --

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1 HEARING OFFICER KNITTLE: I don't want to go back to the
2 last three or four questions and read them back.

3 Sir, do you have a specific question? Maybe I can help you
4 out.

5 THE WITNESS: Well, the question I thought was did we
6 consider BACT on 18 and 19 when we installed them in Glenarm. I
7 just wanted some clarification if you meant Hugoton or if I
8 thought you said Hugoton and --

9 Q. (By Mr. Boyd) I did say Hugoton originally.

10 A. Okay.

11 Q. When they were installed in Hugoton, was there any
12 determination that the engines 1118 and 1119 equipped with the
13 first generation clean burn were equipped with BACT controls?

14 A. Okay. I am sorry. Afterwards I picked up on that. It
15 was -- I believe that it was, because I believe it was a PSD
16 permit. I am not 100 percent sure.

17 Q. Okay. What about when they were installed in Glenarm?

18 A. No.

19 Q. Okay. Now, do you have an understanding today as to
20 whether those controls on engines 1118 and 1119 were BACT when
21 they were installed in 1988?

22 A. Yes, I believe they were.

23 Q. What is that opinion based on?

24 A. Well, in -- currently in Texas we are going through an

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1 exercise under a program called the Voluntary Emission Reduction
2 Program. That program is a program that the Texas Agency has
3 enacted in an effort to bring grandfathered sources into the
4 permitting program. Since it is voluntary, the benefit for the
5 company is that they have to -- that to enter into it they only
6 have to install ten year old BACT. In discussions with the
7 Agency, that control level is a six to eight grams per horsepower
8 hour rate.

9 Q. So based on that --

10 A. Based on that, I -- the engines at Glenarm are around
11 four grams per horsepower hour. I believe that the emission
12 levels are lower than what BACT was in 1990.

13 Q. Okay. Let me refer you to what has been marked as
14 Panhandle Exhibit Number 14. I think it is right up there. It
15 is a sheet.

16 A. Okay.

17 Q. Do you see that?

18 A. Yes.

19 Q. You can unclip that if you would like and pull out
20 Exhibit 14.

21 A. Okay.

22 Q. Just let the record reflect it is marked at the bottom
23 as Pan 1321 through Pan 1324. Have you seen this document
24 before?

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1 A. Yes, I have. I prepared it.

2 Q. When did you prepare it?

3 A. Around May 3rd, 1995.

4 Q. Do you know where this version of the document came
5 from?

6 A. This version came from the Panhandle Eastern
7 environmental services files.

8 Q. How do you know that?

9 A. I was requested to copy the emission inventories. I am
10 the person who pulled it from the file and copied them.

11 Q. And are those files kept in the ordinary course of
12 business at Panhandle?

13 A. Yes.

14 Q. The first page, Pan 1321, is that your signature?

15 A. Yes, it is.

16 Q. If you could, look at the paragraph in the letter that
17 begins, "please note," and read that to us?

18 A. Please note that the allowable emissions for Glenarm and
19 Waverly stations, as reported in the DAPC database, do not
20 reflect emissions from all sources.

21 Q. What did you mean by that when you wrote that?

22 A. Well, as we were preparing the emission inventory,
23 looking at what would be page Pan 001324 --

24 Q. Yes.

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1 A. -- we noticed that we were above the allowable emissions
2 per year found in column one for NOx.

3 Q. Do you have an understanding of where that allowable
4 emissions per year number came from?

5 A. I have no clue how those are calculated.

6 Q. Okay. At the time you wrote this letter, were you aware
7 of any limits on the operation of engines 1116 through 1119?

8 A. I was not.

9 Q. Were you aware of any permit that existed governing the
10 operation of engines 1116 through 1119?

11 A. No.

12 Q. Sir, is the only information on allowable emissions what
13 is listed on Pan 1324?

14 A. I am sorry. I didn't catch that.

15 Q. Is the only reference in this document to allowable
16 emissions or limitations on emissions what is on Pan 1324?

17 A. Yes.

18 Q. Is it your understanding -- well, strike that. This is
19 a preprinted form, is it not?

20 A. Yes, it is.

21 Q. And where did you get this?

22 A. The Illinois EPA mailed it to us.

23 Q. Are you the one that prepared it after they mailed it to
24 you?

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1 A. Yes, I -- I was responsible for the preparation of it.
2 Whether I did or a consultant did, I am not 100 percent sure.

3 Q. Okay.

4 A. But it would definitely be under my direction if the
5 consultant did it.

6 Q. For purposes of this report, how did you determine what
7 the NOx emissions were?

8 A. We did that through a spreadsheet. It is attached to
9 this as Pan 1322. We used -- I am not 100 percent sure here, but
10 I would -- well, let me rephrase that. I believe it to be AP-42
11 factors that we used for this.

12 Q. How would you employ the AP-42 factors to determine
13 emissions for purposes of this report?

14 A. Looking at the report, most likely we used the AP-42
15 gram per horsepower hour number. To compile that we would have
16 taken the horsepower that is found in column marked horsepower,
17 the 1994 hours, as marked in the column 1994 hours, multiplied
18 that by the 11 grams per horsepower hour, divided by the
19 conversion factor of 454 and then divided by 2000 to come up with
20 tons.

21 Q. All right. Turning your attention back to Pan 1324.

22 A. Yes.

23 Q. When you filled in the -- strike that. Did you or
24 somebody you were working with fill in the column on the

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1 right-hand side called source reported emissions for 1994?

2 A. Yes.

3 Q. When you did that, did you have an understanding that
4 engines 1116 through 1119 would violate the permit limit?

5 A. At that time, no, I didn't.

6 Q. Did you do anything to follow-up after you sent this
7 letter?

8 A. Unfortunately, no.

9 MR. BOYD: At this time I would like to move for the
10 admission of Panhandle Exhibit Number 14 into evidence.

11 HEARING OFFICER KNITTLE: Mr. Boyd, correct me if I am
12 wrong, but I think 1 through 14 are already admitted.

13 MR. BOYD: Oh, it is. I am sorry. You are right.

14 Q. (By Mr. Boyd) Let me turn your attention to the gray
15 book, specifically to tab 12 of the Stipulated Hearing Exhibits.

16 A. Okay.

17 Q. Could you identify that for us?

18 A. It is a transmittal letter signed by Ms. Jeanne Brooks,
19 manager of environmental compliance for Panhandle Eastern Pipe
20 Line, dated April 26, 1996. It is transmitting the 1995
21 emissions inventory reports.

22 Q. Is that her signature, do you know?

23 A. It is.

24 Q. Now, if you could turn to the next page.

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1 A. Okay.

2 Q. It looks like a BCC page?

3 A. Yes.

4 Q. Okay. Is that -- is the C. E. Wait listed there, is
5 that you?

6 A. Yes.

7 Q. Do you recall receiving a copy of this report?

8 A. Yes, I did.

9 Q. Okay. Is Ms. Brooks still with the company?

10 A. No, she is not.

11 Q. Do you recall the first time it was that you saw this
12 document?

13 A. It would probably be slightly before the April 26, the
14 date of the letter.

15 Q. Okay. If I could turn your attention to page four of
16 Stipulated Hearing Exhibit Number 12. Does this page indicate
17 the NOx emissions for 1994 that you had reported previously in
18 the Panhandle Exhibit Number 14 that we were just looking at?

19 A. I am having a tough time here.

20 Q. Under tab 12.

21 A. Okay.

22 Q. Page four?

23 A. It is page two.

24 Q. Page two of the emission report.

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1 A. Okay. Thank you. I couldn't count to four. Yes, it
2 does.

3 Q. Is that the same thing that you reported in 1994?

4 MR. LAYMAN: May I interrupt just briefly? May I ask what
5 you are referring to again.

6 MR. BOYD: Let me strike it. I think the witness and
7 Counsel were confused. Let me just rephrase it.

8 MR. LAYMAN: Where are you at?

9 MR. BOYD: It is the 12th tab, four pages in.

10 MS. CARTER: Were you also referring to another exhibit at
11 the same time?

12 MR. BOYD: Well, Exhibit Number 14 that we were just
13 looking at before.

14 MS. CARTER: Okay. Thank you.

15 Q. (By Mr. Boyd) Let me just state another question for
16 you, sir. Is the number reported in the middle column under
17 emissions reported for 1994 on the emissions report under tab 12,
18 was the number for NOx emissions in 1994 the same number that you
19 reported in the 1994 annual emissions report, which has
20 previously been marked as Panhandle Exhibit Number 14?

21 A. Hang on. Yes, it is.

22 Q. Okay. Looking again at page -- the second page of the
23 1995 Annual Emissions Report, under tab 12 here, did you report
24 the nitrogen oxide emissions for the 1995 year?

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1 A. Yes, we did.

2 Q. Where is that located?

3 A. In the right-hand column labeled source reported
4 emissions for 1995.

5 Q. And what did you report for the nitrogen oxide emissions
6 for that year?

7 A. 2073.40.

8 Q. At the time did you have an understanding that that
9 meant the engines had violated a permit limit?

10 A. No.

11 Q. Did you have any conversation with Ms. Brooks about
12 whether or not that indicated that the engines had violated the
13 permit limit?

14 A. I don't recall that we did.

15 Q. Did you have any conversations with anyone at the IEPA
16 regarding the emissions reported for either 1994 or 1995 for
17 nitrogen oxide emissions?

18 A. No.

19 Q. You also mentioned in your introductory when you were
20 going over your background that you had a responsibility for air
21 permitting. Have you been involved in any air permit application
22 relating to the Glenarm station?

23 A. The only air permits that I have prepared have been as a
24 result of --

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1 Q. Let me ask you this. An air operating permit
2 application, have you been involved in any air operating permit
3 applications for Glenarm?

4 A. The only one is the Title 5 permit application.

5 Q. What is a Title 5 permit application?

6 A. The Title 5 permit application is a federal operating
7 permit program that was created as part of the 1990 Clean Air Act
8 Amendments. It is required of all sources that are major sources

9 for generally greater than 100 tons of criteria pollutant.

10 Q. Did you have a role in preparing the Title 5 application
11 for Panhandle's Glenarm station?

12 A. I oversaw its preparation.

13 Q. What did you do in relation to overseeing the
14 preparation?

15 A. I worked closely with the people who were preparing it.
16 It was one of the first things that we prepared. We had a
17 checklist of things that we needed to do to make sure that we
18 gathered the sufficient information to complete the permit
19 application. We went out and canvased or surveyed facilities to
20 find out what equipment was actually there to make sure that we
21 understood what the equipment was. We researched the regulations
22 to make sure that all of the applicable regs that we knew of were
23 reported in the permit application, and we went to look through
24 permit files to see if there were any permits that were

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1 applicable to the facility.

2 Q. What specifically did you do to identify whether there
3 were any existing permits in relation to the Glenarm station?

4 A. I believe that we went through our environmental file to
5 see if -- to look for those.

6 Q. In reviewing your environmental file, did you find any
7 permits for the Glenarm station?

8 A. I don't think that we did.

9 Q. Was there an application for a Title 5 submitted to the
10 Agency?

11 A. Yes.

12 Q. Do you remember when it was submitted?

13 A. I believe late 1995.

14 Q. Do you recall what it said about the emissions from
15 engines 1116 through 1119?

16 A. Yes, I do in general. We reported those for 1117 and
17 1118 at the manufacturer's emission rate of around up to 15 grams
18 per horsepower hour.

19 Q. That was the 1116 and 1117, sir?

20 A. Thank you. Yes, 1116 and 1117.

21 Q. Okay.

22 A. And we also reported units 18 and 19, or 1118 and 1119,
23 as six grams per horsepower hour. That was based upon the
24 knowledge that we had clean burn technology on those units.

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1 Q. Why did you choose the 15 grams per horsepower hour rate
2 for engines 1116 and 1117?

3 A. We felt it was the best information that we had at the
4 time. We had a hierarchy that we went through. We started off
5 with actual permit numbers if we had them. We went through
6 emission test data if we had it. If not that, then through -- we
7 would default to manufacturer's data, and then finally AP-42.

8 Q. Why would you choose manufacturer's data?

9 A. We believe it to be better than AP-42.

10 Q. When you say "better," what do you mean by "better?"

11 A. Generally manufacturers have a little more working
12 knowledge of what their units produce emission wise. On the
13 other side of the coin, AP-42 is just an average of hundreds of
14 emissions tests throughout the year or throughout the -- through
15 a period of time. The AP-42 numbers I would consider an average.
16 So in general you would have a fifty-fifty chance of being above
17 it or below it.

18 Q. Did the Title 5 permit application say anything about
19 the hours of operation of the engines 1116 through 1119?

20 A. We permitted those at or near 8,760. I believe they
21 were a little bit below, taking into account -- or they were a
22 little bit below, around 8,300 hours, I believe.

23 Q. The 8,760 or so represents what?

24 A. Is seven days a week, 24 hours a day.

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1 Q. Now, did Panhandle calculate annual fees based on the
2 information on the emissions from engines 1116 through 1119?

3 A. Yes, we did.

4 Q. Does Panhandle pay an annual fee as result of that
5 information?

6 A. Yes, we do.

7 Q. How much in fees does Panhandle pay?

8 A. I believe it is slightly more than around 35,000 a year.

9 Q. Since the time that you submitted the Title 5
10 application, have you obtained other information regarding the
11 emissions factors relating to engines 1116 through 1119?

12 A. Yes, I believe that we have. I believe that we -- well,
13 on -- I will start with 18 and 19, or 1118 and 1119. Again, the
14 first generation clean burn, we believe, is around four, four and
15 a half grams per horsepower hour, would be an appropriate
16 compliance type number. And the other two engines around 11
17 grams.

18 Q. Have you ever gone back to your Title 5 application and
19 used those numbers instead of the higher numbers that you used on
20 a horsepower hour basis?

21 A. No, we have not.

22 Q. What affect does that have on the fees you are paying?

23 A. They would go down. Fees are based on allowable
24 emissions, and I would roughly estimate that those reductions

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1 would be around 5,000 a year.

2 Q. Does your Title 5 application say anything about the
3 compliance status of engines 1116 through 1119?

4 A. When we filed it in 1995, we represented as being in
5 compliance with all applicable rules, regulations and permits.

6 Q. Did it refer to the 461.3 ton per year limit for engines

7 1116 through 1119?

8 A. No, sir, it sure didn't.

9 Q. Why didn't it?

10 A. We just didn't know that it was there.

11 Q. Before submitting the Title 5 application, had you ever
12 seen a permit containing the 461.3 ton per year limit?

13 A. I don't recall seeing one.

14 Q. Before that time did anyone ever tell you that there was
15 a 461.3 ton per year limit?

16 A. No.

17 Q. Is it, in your experience, unusual to have grandfathered
18 sources on the Panhandle system without existing permits?

19 A. No, it is common. The Panhandle system -- expansion
20 along the main line system has been nonexistent for the most
21 part.

22 Q. So when you didn't find any permits for the Glenarm
23 station, that was not necessarily unusual?

24 A. It was not.

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1 MR. BOYD: We are actually at a good breaking point if you
2 want to take a break.

3 HEARING OFFICER KNITTLE: Are you finished with your direct
4 examination?

5 MR. BOYD: No, I am not.

6 HEARING OFFICER KNITTLE: Okay. Let's go off the record.

7 (Discussion off the record.)

8 HEARING OFFICER KNITTLE: Okay. Let's take a ten minute
9 break. We will come back at 10:15.

10 (Whereupon a short recess was taken.)

11 HEARING OFFICER KNITTLE: All right. We are back on the
12 record. We are continuing with the examination of Mr. Wait.

13 Mr. Wait, let me remind you that you are still under oath.

14 THE WITNESS: Okay.

15 Q. (By Mr. Boyd) Mr. Wait, when did you personally first
16 become aware of the 461.3 tons per year NOx limit?

17 A. It would be somewhere in the October of 1996 time frame.

18 Q. How did you first become aware of that limit?

19 A. We received a call from the station supervisor at
20 Glenarm. I believe his name is Mr. Hagemann. He informs us
21 that Mr. Youngblut had called him and indicated that as a result
22 of his inspection, recent inspection, I believe in August of that
23 year, he was -- had concerns about meeting the 461 -- or meeting
24 the permit limit.

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1 Q. What did you do in response to that call from the
2 station superintendent?

3 A. The first thing I did was call my boss and say, hey, I
4 think I have got a problem. The second thing we did was call Mr.
5 Youngblut to try to get some detail as to what the -- what was

6 going on, because we did not know that we had a problem.

7 Q. Did you conduct any kind of investigation internally
8 after being notified of a potential problem?

9 A. As part of the preparation for the call with Youngblut,
10 we went down to the -- we went over to the environmental
11 compliance files to hunt for a permit. Again, we didn't see one
12 in the file, as I recall. I had --

13 Q. Did you -- I am sorry. Go ahead.

14 A. We went on to try to find a permit. I believe that one
15 of the people who was working for me at the time called the
16 facility and we ended up getting the permit from there, I
17 believe.

18 Q. Did your investigation reveal any other information
19 about the permit?

20 A. Well, I saw that we had a 461 ton emission cap in it
21 that was kind of a shock to me.

22 Q. Did you find any other information in the way of an
23 application?

24 A. We found some additional data, some applications, some

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1 additional correspondence. I am not exactly sure where we found
2 that at, but we did discover some back up support, some
3 applications for the permit.

4 Q. Did that information reveal anything about the process
5 that was used to establish the 461.3 ton per year limit?

6 A. Yes, we did -- well, initially we performed calculations
7 to try to figure out what the 461 ton limit meant. We went back
8 to review the correspondence that we had found and saw just right
9 off the bat that the netting calculations for the permit were
10 done based upon 1987 operations of the retired engines, the 12
11 units that were taken out.

12 (Mr. Brown exited the hearing room.)

13 Q. (By Mr. Boyd) What does that matter?

14 A. In netting -- in PSD avoidance or netting permitting,
15 you -- at a minimum, the calculations are based upon the most
16 recent 24 month period prior to filing the application or prior
17 to construction. This only reflected one years worth of
18 operations. Alternatively, you can seek approval to come up with
19 other years within the contemporaneous period or the five year
20 period before the permit application to come up with a more
21 representative 24 month period as part of -- I mean, for your
22 netting calculations. That provision is an effort to allow
23 companies who maybe had a wreck or a crash or an equipment
24 failure of some kind to not be severely penalized because they

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1 had been down for maybe a year or something during that last 24
2 month period during the contemporaneous period.

3 Q. Let me refer you to Panhandle Exhibits 1 through 4.

4 A. Okay.

5 Q. Just in general, did you discover these documents or
6 other versions of these documents in your review of the file
7 materials?

8 A. Yes, Exhibit Number 1, we did. We may have Exhibit
9 Number 2. This is not the copy we would have had, though, I
10 don't believe. Exhibit Number 3 and 4, yes.

11 Q. Let me direct your attention to the Stipulated Hearing
12 Exhibits, the gray book.

13 A. Yes.

14 Q. Just look at Exhibit Number 1 for a second.

15 A. Okay.

16 Q. Do you have that open?

17 A. Yes, I do.

18 Q. Can you identify this for us?

19 A. It is a construction permit issued by the Illinois EPA.
20 I am hunting for a date. I don't see the date.

21 Q. Do you know when you first saw this?

22 A. It was in the late 1996 period, as part of -- after we
23 had received the call from Mr. Youngblut.

24 Q. Does this construction permit contain a PSD avoidance

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1 limit?

2 A. It has an emissions cap that was calculated by the
3 Agency, yes.

4 Q. What is the emission cap?

5 A. 461 tons -- 461.3 tons per year.

6 Q. Does the permit contain any other PSD avoidance or
7 netting limitations?

8 A. There is no other limitations at all in it.

9 Q. Were you surprised when you discovered the 461.3 ton per
10 year limit in this permit?

11 A. Yes, I was.

12 Q. Why were you surprised?

13 A. Well, first of all, I didn't know we had the permit.
14 Secondly, the quick calculations of the 461.3 ton cap of this
15 permit limits the operation of the horsepower to less than 50
16 percent at the Glenarm station. I don't know that we would have
17 knowingly accepted permit operations that restricted operations
18 to that degree.

19 Q. What was your understanding of the affect of that 461.3
20 ton per year limit on Panhandle's ability to operate the engines?

21 A. It restricted annual operations of the four engines to
22 less than half the operating time available.

23 Q. Why did that surprise you?

24 A. Well, I mean, obviously, we have FERC obligations to be

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1 able to transport natural gas across the system. We have to keep
2 those volumes up. But, geez, you know, if we were going to
3 accept a cap that limited operations of the engines to less than

4 half the time, putting in four engines, it seems like we would
5 just put in two.

6 Q. As part of your investigation following your
7 notification of Mr. Youngblut's inspection, did you investigate
8 whether anyone else at Panhandle was aware of the 461.3 tons per
9 year NOx limit?

10 A. As part of that we did.

11 Q. What did you do to ascertain whether anybody else was
12 aware of that limit?

13 A. I talked with -- well, we went through a lot of files.
14 Went through the operation files, the facility planning files,
15 construction files, project engineering files. I found out who
16 was still with the company who had some knowledge of the project,
17 and attempted to find out whether or not they knew there was a
18 permit and whether or not there was an emission limit, to their
19 knowledge.

20 Q. Who did you speak to specifically?

21 A. I talked with John Kelly, who was in facility planning
22 at the time and in operations at the time of the -- in 1986. I
23 talked with a Mr. Jim Elder, who was the project engineer, I
24 believe, who installed the -- or who designed the installation of

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1 the engines. I talked with Mr. Dick Keezer, who was in
2 construction. He had no direct knowledge either.

3 Q. Did you talk to anybody else?

4 A. I attempted to talk to the people who were noted in the
5 application and those folks are no longer with the company. I am
6 trying to think. I talked with a Mr. Holeman, who was the
7 director or -- a manager or a director of operations technical
8 services at the time also, and he had not at that time.

9 Q. Did you talk to anybody at the station?

10 A. I talked with Mr. Hagemann. I attempted to contact Mr.
11 Hurst, but I could not get ahold of him.

12 Q. Who is Mr. Hagemann?

13 A. Mr. Hagemann is the current station supervisor, I
14 believe.

15 Q. Who is Mr. Hurst?

16 A. He was the plant supervisor at the time that the permit
17 was issued.

18 Q. Is he employed by Panhandle at this time?

19 A. No, he is not.

20 Q. Was Mr. Hagemann aware of the permit?

21 A. He knew he had a permit, yes.

22 (Whereupon a document was duly marked for purposes of
23 identification as Panhandle Exhibit 21 as of this date.)

24 Q. (By Mr. Boyd) Okay. Let me show you what has been

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1 marked as Panhandle Exhibit Number 21. Can you identify this
2 document?

3 A. Yes, I can. It is a transmittal letter from a Mr. Rick
4 Smith to Mr. Jim Hurst. Rick Smith was the supervisor of the
5 environmental compliance department at the time. Again, Mr.
6 Hurst was the plant supervisor at Glenarm station. It is dated
7 August 3rd of 1990, as a transmittal letter transmitting the
8 operating permit to the facility.

9 Q. Now, just for the record, it is marked Pan 898 through
10 Pan 901. When did you first see this document?

11 A. It must have been late 1996.

12 Q. Do you know where it came from? Well, let me strike
13 that. Did you find this as part of your investigation after Mr.
14 Youngblut's inspection?

15 A. It was -- yes, we did.

16 Q. Do you recall where you found it?

17 A. I am not 100 percent sure. It may have been the
18 station. It may have been from some other source.

19 Q. Do you have any reason to believe the station did not
20 get a copy of the memo?

21 A. I have no reason to believe that.

22 Q. Do you have any understanding why the station would
23 exceed the 461.3 ton per year limit if they knew about it?

24 A. If they knew that there was a limit on operations, we

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1 would not have -- we would have done everything possible to have
2 not exceeded the limits.

3 Q. What do you mean if they knew there was a limit on
4 operations?

5 A. Well, the -- there is no guidance to the facility that
6 says you should not exceed X number of hours or burn more than X
7 cubic feet of fuel. All that is listed here is a regurgitation
8 of the permit terms. It says don't exceed 461 tons.

9 Q. When you say, all that is listed here, you are looking
10 at the --

11 A. The transmittal letter, line 2B.

12 Q. Through your investigation, did you learn whether the
13 people at the station understood that the permit limited
14 Panhandle's ability to operate the four engines?

15 A. There was no knowledge of that at all.

16 Q. Why didn't they understand that?

17 A. There is no practically enforceable conditions in here.
18 Again, there is no hour limits, no fuel limit.

19 Q. What other information would they have needed to
20 understand the 461.3 ton per year limit limited the operations of
21 those four engines?

22 A. They would have needed to have a -- have some
23 understanding of how to back calculate what the 461 ton number
24 meant. Clearly, there was no analysis or no hours limit

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1 provided. I mean, they measure hours. They don't measure tons.

2 Q. What other information would have needed to be provided
3 to the station, then, in order for them to calculate emissions?

4 A. Well, they would have had to have some sort of emission
5 factor so that they could convert hours to -- hours to tons.
6 They would -- or engine operating parameters to tons. So the
7 emission factor would have to be known. There would also have to
8 be some disclosure of a formula. There is no calculation
9 methodology included here either.

10 Q. Mr. Wait, is Panhandle Exhibit Number 21 a document that
11 Panhandle kept in the ordinary course of business?

12 A. Yes, it is.

13 MR. BOYD: Mr. Hearing officer, I would now like to move to
14 admit Exhibit Number 21.

15 HEARING OFFICER KNITTLE: Mr. Layman or Ms. Carter? Who is
16 handling this witness.

17 MR. LAYMAN: No objection.

18 HEARING OFFICER KNITTLE: This is admitted.

19 (Whereupon said document was duly admitted into evidence as
20 Panhandle Exhibit 21 as of this date.)

21 Q. (By Mr. Boyd) After you conducted your file review and
22 your investigation speaking to people, what did you do next?

23 A. Well, we were concerned because we believed that we had
24 a significant -- well, we had reason to be worried. We believed

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1 that we were violating the 461 tons per year emission limit. So

2 we attempted to call -- we started with the inspector, Mr.
3 Youngblut, attempting to understand and try to understand what
4 the State -- what the next steps were. Mr. Youngblut referred us
5 to Mr. Davidson, a permit engineer. We talked with Mr. Davidson.
6 And we sent him a letter subsequent to those conversations in an
7 effort to try to establish a meeting so that we could address the
8 issue and move forward.

9 Q. When did you first talk to Mr. Youngblut about this?

10 A. October 1996, I believe.

11 Q. Did you talk to anybody else?

12 A. He referred us to Mr. Davidson.

13 Q. Who is Mr. Davidson?

14 A. He is a permit engineer for the Illinois EPA.

15 Q. Did you also have a conversation with Mr. Davidson?

16 A. Yes, we did. A couple or three, as I recall.

17 Q. When were those conversations?

18 A. They occurred at -- after our conversation with Mr.
19 Youngblut. So I would say late October through the end of the
20 year of 1996. It maybe dragged on into 1997. I believe we also
21 talk to Mr. Romaine as part of this, but I am not 100 percent
22 sure.

23 Q. Okay. You mentioned earlier a letter that you
24 submitted?

1 A. We submitted a letter to the agency subsequent to
2 conversations with Mr. Davidson.

3 Q. Could you turn to Panhandle Exhibit Number 6. Not the
4 stipulated ones, but the Panhandle Group Exhibits.

5 A. Okay. Sorry. Okay.

6 Q. All right. Can you identify this letter?

7 A. Yes, this is a letter written by Panhandle Eastern to
8 Mr. Davidson of the Illinois EPA. It is dated November 22nd,
9 1996. It is signed by Neale Taylor who at that time was the
10 director of environmental health and safety for Pan Energy
11 corporation.

12 Q. Have you seen this before?

13 A. Yes, I have. I prepared it.

14 Q. What does this letter request?

15 A. First of all, it is a -- first of all, it is a request
16 to look at and review the netting calculations that were
17 originally done for the original construction and operating
18 permits. We believed that the -- our review demonstrated that
19 doing it -- the more proper netting exercise would have produced
20 an emission limit of around 775 tons per year. We also wanted
21 to -- we had lots of concerns with the Title 5 application that
22 is referred to as the CAAPP application in this document. We had
23 signed -- we had signed the Title 5 permit application as being
24 completely in compliance, and as a result of Mr. Youngblut's

1 inspection we were advised we had a problem, that it was not an
2 accurate statement. I guess we followed up and concluded the
3 letter with the fact that we would be calling Mr. Romaine to
4 discuss revisions of the operating permit and hopefully thought
5 we would get a meeting out of it.

6 Q. Did you follow-up with Mr. Romaine or Mr. Davidson after
7 sending this letter?

8 A. We did call Mr. Davidson and Mr. Romaine.

9 Q. What was the purpose of those calls?

10 A. Again, as a follow-up of this letter. Also in an effort
11 to try to get some movement to the issue. We wanted to try to
12 resolve this as quickly as we could. We -- I believe at the end
13 of December, into January we were basically told to wait until
14 the report, the violation report had made its way through the
15 system.

16 Q. Who told you that?

17 A. That came from Mr. Davidson.

18 Q. When you say wait until the violation report made its
19 way through the system, what do you mean?

20 A. Well, he went through a -- he explained that there was a
21 new system, a new violation notification system that was -- that
22 had recently been employed by the Agency. He didn't -- as I
23 recall, he didn't fully understand it, but he knew that it needed
24 to go over to another group within the Agency, and at that time

1 that they would issue a violation notice, and then we would have
2 to -- our chance to respond to that within a certain number of
3 days.

4 Q. Do you know whether there was a violation notice ever
5 issued by the Agency?

6 A. We did receive one.

7 Q. Let me refer you to -- this is in the gray book, at tab
8 20, in the Stipulated Exhibits.

9 A. Okay.

10 Q. Do you know what that document is?

11 A. I have seen it. It is a letter from the Illinois EPA to
12 Dave Hagemann. He is the station supervisor at the Glenarm
13 station. The letter is dated March 20th of 1997. It is written
14 by Mr. Kolaz, who is the manager of compliance and systems
15 management section.

16 Q. Have you seen this before?

17 A. Yes, I have.

18 Q. Does this letter contain any recommendations or does the
19 attachment contain recommendations?

20 A. Yes, it does. The recommendation --

21 Q. Is it page 41 at the bottom?

22 A. Yes.

23 Q. Okay.

24 A. The Agency, the Illinois EPA, suggested that Panhandle

1 take a couple of actions. One was to immediately take measures
2 to reduce NOx emissions below the 461.3 tons per year. The
3 second was within 45 days of this notice to submit the
4 appropriate PSD application addressing the emissions of NOx. And
5 it goes on to tell what those components were.

6 Q. It says the appropriate Prevention of Significant
7 Deterioration application. What did you understand that to mean?

8 A. I am sorry. I missed the middle part of your question.

9 Q. I said, in this recommendation two it says the
10 appropriate Prevention of Significant Deterioration application.
11 What did you understand that to mean?

12 A. I thought it to be a PSD application.

13 Q. What did you do after receiving the violation notice?

14 A. We called the Agency and immediately tried to set up a
15 meeting.

16 Q. I will refer you to tab 21.

17 A. Okay.

18 Q. Can you identify that document?

19 A. It is a letter from Pan Energy to Mr. Stefan of the
20 Illinois EPA. It is concerning the violation notice that we just
21 talked about. It is signed by Neale Taylor who, again, was the
22 director of EHS for Pan Energy.

23 Q. Have you seen this before?

24 A. Yes.

1 Q. When did you see it?

2 A. I prepared the document. So I probably started working
3 with it a few days before April 9th, but definitely in that
4 period of 1997.

5 Q. If you could look on the second page of the letter. At
6 the bottom it is marked 0044. It looks like you are listing
7 several mitigating considerations. Could you just quickly
8 summarize what you were listing there?

9 A. Yes, I can. The first bulleted item basically expressed
10 our concern for continued operation of the four engines at the
11 Glenarm station. The Glenarm station is critical to the
12 continued operation of the Panhandle Eastern Pipe Line Company.

13 The second is that we believe that the netting operations
14 were incorrectly done, and we indicate in here that we discuss it
15 informally -- that we had a discussion and it was informally
16 acknowledged by the permit staff that, yes, there was an issue
17 there.

18 We also indicated that we felt that the NOx limitation
19 permit -- in the permit was poorly drafted. Expressing the end
20 point in nonmeasurable terms was not the way that we felt that
21 one should have been written.

22 Q. What do you mean by nonmeasurable terms?

23 A. Again, there was no hours limits or fuel limits
24 expressed as far as the permit. There was only an annual cap.

1 Q. Were there any other mitigating circumstances that you
2 were discussing?

3 A. We were also talking about the fact that we had tried
4 several months earlier to begin the process of trying to correct
5 the situation. We felt like we could correct the permit, install
6 some controls to ensure 100 percent compliance and move forward.
7 We knew we had a problem and we wanted to fix it.

8 Q. What did you do after sending this letter? Well, let me
9 strike that. At the end of the letter you requested a meeting;
10 is that right?

11 A. That is correct.

12 Q. Was there a meeting that was held?

13 A. Yes, there was.

14 Q. When was that meeting?

15 A. It was late April. I believe, looking here at the
16 letter, we asked for a week in the April 21st, 22nd time frame,
17 the 25th time frame. I believe it to be towards the end, maybe
18 the 24th.

19 Q. Who was present at the meeting? Do you recall?

20 A. From Panhandle Eastern, it was myself, Mr. Phil Deisch,
21 Jamie Wade, who was the director of technical services, and
22 Jeanne Brooks, who was the manager of environmental health and
23 safety.

24 On the Illinois EPA side, we had Mr. Kolaz there, Mr.

1 Stefan, Mr. Brown, the attorney, was there. We also had Mr.
2 Romaine, Mike Davidson, the permit engineer, and I believe Mr.
3 Youngblut was there.

4 Q. Was this the first time you had a chance to sit down
5 with the IEPA permit staff with Mr. Youngblut's inspection?

6 A. It was the first face-to-face meeting.

7 Q. What was the purpose of the meeting?

8 A. As outlined in the letter here we, first of all, wanted
9 to express our sincere desire to get the situation corrected as
10 quickly as possible. That's one of the reasons we brought the
11 director of operations in. I mean, we felt this was an
12 important, critical issue to us. We also wanted to discuss the
13 ability to continue to run while we resolved the process because
14 of the criticality of the Glenarm station. And we also wanted to
15 try to resolve the netting issue. We felt the 461 ton limit was
16 way off base, and we felt as though we had some recourse to
17 correct that, and also wanted to find -- we also kind of wanted
18 to treat it as a pre-permit meeting so that we could move forward
19 with installing controls on the two uncontrolled units.

20 Q. Did you discuss the recommendations in the violation
21 notice at the meeting?

22 A. Yes, we did.

23 Q. Let me refer you back to the tab 20 again and those
24 recommendations.

1 A. Okay.

2 MR. LAYMAN: Where are you at, Eric? I am sorry.

3 MR. BOYD: At tab 20, the beginning of attachment A. On
4 the bottom it is marked 0041.

5 Q. (By Mr. Boyd) Did you discuss this first recommendation
6 about immediately taking steps to reduce NOx emissions below the
7 461.3 tons per year level for subject units?

8 A. As part of the meeting we did get to that point. We
9 did. We -- we had discussed the netting issues, as I recall. We
10 had several good discourse of the conversation there. We
11 discussed seasonality. Mr. Romaine had brought up the
12 seasonality of it and that --

13 Q. What do you mean seasonality? I am sorry.

14 A. Seasonality of emissions, traditionally gas transmission
15 companies operate heavily during the winter and very light during
16 the summer. We indicated -- Mr. Wade indicated, as I recall,
17 that the recent history was quite the opposite. We had heavy
18 summer operations. I believe Mr. Romaine was looking for
19 possibly some curtailment of NOx emissions during the ozone
20 season. So that's the reason he brought up seasonality.

21 We moved into the criticality of the Glenarm operation at
22 that point. And as I recall, we kind of all looked -- I mean, we
23 were discussing that we needed to continue the operation. I
24 believe Mr. Stefan indicated that by our being there and showing

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1 the sincere effort that we had satisfied recommendation one to
2 immediately take measures to reduce NOx emissions.

3 Q. You talked about netting a minute ago. What specific
4 information did you discuss with the Agency representatives
5 regarding netting?

6 A. We had kind of a presentation that we walked in with, as
7 I recall. We laid out the way that we saw that it had been
8 calculated using one year's fuel use. We laid out the five year
9 contemporaneous operating history of those 12 retired engines.
10 And we suggested that if we used the 1985-1986 emissions -- or I
11 am sorry -- operations, that the true -- a more proper netting
12 exercise would produce a different emission cap.

13 Q. And what was the reason for those discussions?

14 A. Well, we believed that the 461 ton emission limit in the
15 existing permit was done in error. It only used the one month --
16 sorry. I mean, the one year's worth of data. It should have
17 used two.

18 Q. Were you seeking to revise that limit?

19 A. We were seeking to revise it as part of the meeting and
20 the path forward.

21 Q. Did anybody at the meeting tell you that you couldn't
22 revise that limit?

23 A. No. The -- it was quite the opposite. We felt as -- I
24 felt as though coming out of the meeting that we had some

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1 encouragement. We had some good dialogue with Mr. Romaine about
2 how do we use alternative years, how do we -- I mean, basically
3 what he did not want to -- what he didn't want to see was us
4 picking or cherry-picking the netting years that were basically
5 business related. He wanted to make sure that they were related
6 to other means so --

7 Q. What do you mean by related to other means?

8 A. Well, the gas pipeline business is typically related to
9 weather and seasonal conditions. What he -- so, you know, we
10 operate -- when you have a hot winter, you don't operate as much
11 traditionally. When you have a cold winter, you tend to operate
12 more.

13 So the thing that we were able to do and -- or document was
14 that 1987 was an exceptionally warm winter. 1986 and 1987 were
15 exceptionally warm and emissions had -- I am sorry. Run time for
16 those facilities had been diminished during that period.

17 Q. During this meeting, did anyone from Panhandle indicate
18 a desire to install controls on engines 1116 and 1117?

19 A. We had a good dialogue concerning the controls that we
20 needed to -- that we wanted to employ on those engines.

21 Q. What was discussed?

22 A. We wanted to put low emission combustion on those units.

23 Q. I am sorry? Low emission combustion?

24 A. Clean burn, emissions controls. We were proposing to

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1 put controls on in the four to six gram per horsepower hour
2 range. Mr. Romaine, as I recall, had some concern because he did
3 not -- he thought that the number should be more in the two gram
4 per horsepower hour range.

5 Q. Why did he think that, if you know?

6 A. I don't know specifically other than he was talking
7 about BACT analyses at that time.

8 Q. Why were you proposing something in the four to six gram
9 per horsepower hour range?

10 A. That is all we needed to comply with the permit as we
11 saw the new cap should be.

12 Q. What do you mean, the new cap?

13 A. Well, we were proposing, as I recall, to put an emission
14 cap in the 770 to the 775 ton range. Given that emission limit,
15 plus controlling the emissions for those two engines down to the
16 four or six gram per horsepower hour range, was enough to comply
17 with the emission cap, as we were proposing.

18 Q. Did Panhandle take any steps to follow-up after this
19 meeting?

20 A. Yes, we did. As part of the meeting, Mr. Kolaz
21 indicated -- again, he went through the steps that we needed to
22 do to comply with the violation notice, and we filed -- I am
23 losing the term. We subsequently filed a compliance plan.

24 Q. Look at tab 22. That may refresh your recollection.

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1 A. Thank you. We did file the proposed compliance
2 commitment agreement as required by the violation notice.

3 Q. Can you identify what has been marked at tab 22?

4 A. Yes. It is a document from Panhandle Eastern to Mr.
5 Stefan of the Illinois EPA. It is dated May 15th of 1997.

6 Q. What role did you have in preparing this document, if
7 any?

8 A. I prepared it.

9 Q. What were you requesting in this letter?

10 A. Well, the first thing we did was we went through the
11 emission netting exercise. We had -- we were requesting a
12 different netting period.

13 Q. Is that the discussion on page 176 and the beginning of
14 page 177?

15 A. Yes, it is.

16 Q. Okay.

17 A. We had -- we had proposed using 1985 and 1986 instead of
18 1987 as done -- as it was performed in the operating permit. And
19 we justified that through some weather considerations. Mr.
20 Romaine, as part of our meeting, on page 177, had asked us to
21 address the complex netting issue. He supplied us some
22 background or some guidance from EPA from that -- for that
23 subject, and we did address that as best we could.

24 We also sought a minor source construction permit as part

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1 of this package, wanting to install the controls that we had
2 proposed during the meeting to come into compliance with the
3 proposed emissions limit that we were -- that we thought that we
4 needed. And also Mr. Romaine had asked us to perform an informal
5 BACT analysis, a BACT lite analysis, if you will.

6 Q. I am sorry. A BACT what?

7 A. BACT lite.

8 Q. Like, what, in the beer, L-I-T-E?

9 A. Yes.

10 Q. Okay.

11 A. Sorry. It is a term we coined as we were putting it
12 together.

13 (Laughter.)

14 A. The thought process and the guidance that I thought we
15 had as part of this was to review the technologies as we
16 understood them for the two engines, 1116 and 1117, in an effort
17 to demonstrate that the combustion controls that we were going to
18 employ were more state-of-the-art than maybe some others, some
19 lesser controls. Generally what we -- we also proposed an
20 installation schedule, again, the criticality of the facility.

21 Q. I am sorry. Where?

22 A. I am sorry. Page 183 of the record.

23 Q. Okay.

24 A. It is page nine of the letter. We proposed an

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1 installation schedule. Also as part of the meeting we -- and in
2 trying to emphasize the criticality of the facility's continued
3 operation, we needed to have some assurance that whatever permit
4 we received did not require us to install everything maybe in a
5 six month period or something like that.

6 Q. Why is that important?

7 A. To install low emission combustion controls on the two
8 engines requires that you have the engines down for an extended
9 period of time or a potentially extended period of time. It
10 requires you to take the engine heads, the manifolds, and the
11 turbochargers off the engine and then replace it with new parts,
12 new heads that have the precombustion chamber in it or the
13 ancillary chamber. And it also requires rearing or replacement
14 of the turbocharger which typically is an extremely long lead
15 item.

16 Q. Well, why would that matter? Why would the fact that
17 the engines had to be down for a long time matter to you?

18 A. We have FERC obligations to transport or certificated
19 amount of gas across the system. When and where the gas moves is
20 not in our control.

21 Q. Okay. Now, I just want to direct your attention to the
22 bottom of page 182. It is page eight of the letter.

23 A. Okay.

24 Q. Do you see the term "environmental dispatch" there?

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1 A. Yes, yes. Okay.

2 Q. Can you explain what you meant by that and what the
3 discussion meant?

4 A. We had taken -- we wanted to make sure that we were
5 doing everything possible during the interim period while we were
6 getting the permit to construct the control equipment. We wanted
7 to make sure that we were doing everything possible to try to
8 comply with the permit. Even though we had some acknowledgment
9 from the Agency, we wanted to do the right thing. So we employed
10 environmental dispatch. Generally what that means is that we run
11 the off permit engines before we run the on permit engines, the
12 units 1113, 1114, 1115. In fact, we have been doing that since
13 this letter was written.

14 Q. How do you know that?

15 A. Direct communication with the maintenance
16 superintendent, who is responsible for the area that covers
17 Glenarm. I have been in several meetings with him over the last
18 few months, and he continually asks me when I am going to get
19 this issue resolved so that he can quit running units 14 and 15.
20 Those are extremely high maintenance engines and not very fuel
21 efficient.

22 Q. Again, environmental dispatch meant running --

23 A. Running units 13, 14, and 15 prior to running the on
24 permit engines 16, 17, 18, and 19. We would make every effort to

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1 put those on first and take them off last.

2 Q. Do you know if the Agency responded to your proposed
3 compliance commitment agreement?

4 A. Yes, they did, shortly afterwards.

5 Q. What did they do?

6 A. We received a letter. I believe it was a notice of
7 incompleteness, is what it was.

8 Q. Let me show you tab 23 first.

9 A. Okay.

10 Q. Okay.

11 A. Okay. Rejection. I am sorry.

12 Q. You may not be wrong here. Can you tell us what this
13 tab 23 is?

14 A. Tab 23 is a rejection of compliance commitment agreement
15 from the Agency to Mr. Dave Hagemann, dated June 18th of 1997,
16 signed by Mr. Kolaz from the Agency. It is referencing the
17 rejection of the compliance commitment agreement for the
18 violation notice.

19 Q. I would also like you to look at People's Exhibit Number
20 2 on the left-hand side over there. Do you see that?

21 A. I have it.

22 Q. Can you identify that?

23 A. It is a notice of incompleteness dated June 18th of
24 1997.

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1 Q. It says it was sent to you. Did you get this?

2 A. I did get it.

3 Q. What did the notice of incompleteness say?

4 A. It says that the referenced construction permit
5 application that we had filed was incomplete for several reasons.
6 Going through the list, it indicates that we did not furnish any
7 manufacturer's data for clean burn emission systems for units
8 1116 and 1117.

9 Q. Let me just ask this. Did you have an understanding,
10 after receiving this letter, that the Agency no longer thought
11 that revising the 461.3 ton per year limit was appropriate?

12 A. No. We moved forward along the lines that we thought
13 that the revised netting calculations would occur.

14 Q. What did you do in response to receiving this letter,
15 Exhibit Number 2?

16 A. We attempted to address the requests within this letter.

17 Q. Okay. Around this time did you leave your capacity as
18 being responsible for permitting?

19 A. This was the -- yes, I did.

20 Q. What did you do?

21 A. I -- approximately two weeks or so after this -- I am

22 not sure of the exact time frame -- I moved to Charlotte as
23 manager of air issues in -- for the corp EHS department.

24 Q. How long were you there?

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1 A. Approximately a year.

2 Q. Okay.

3 A. As I recall, we had a conference call to discuss this as
4 we attempted -- as the people who replaced me tried to address
5 this and move forward. I participated in a conference call after
6 this. This was my first day in Charlotte.

7 Q. Who else was on the phone?

8 A. I know Mr. Romaine was. I believe Mr. Davidson was. I
9 am sure that there was legal assistance on the phone. Most
10 likely Mr. Brown. I am not 100 percent sure. Phil Deisch was.
11 Myself. I believe you were. We also had David Felcman who was
12 the new supervisor of air and Jeanette Liang, who was an employee
13 of mine.

14 Q. What was discussed during this phone call?

15 A. We were discussing --

16 Q. If you recall?

17 A. We had an emission rate discussion. I recall that. I
18 have to admit that during part of the conversation I was
19 distracted. Mainly because I felt as though I didn't have to
20 mess with this anymore.

21 Q. During the part where you were not distracted, do you
22 recall discussing anything regarding whether or not a PSD
23 avoidance permit application was still appropriate?

24 A. I do believe that in conversation -- the conversation

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1 did go through along those lines. I do believe Mr. Romaine
2 indicated that if we would continue to support the effort that we
3 had done, that we could continue to go forth from there.

4 Q. Even though you moved to Charlotte, did you come to
5 understand that there was a permit application submitted?

6 A. There was a subsequent one submitted.

7 Q. What kind of application was that?

8 A. It was a non PSD -- it was PSD avoidance application.

9 Q. How did the Agency respond to that application?

10 A. It is my understanding, through conversations with Mr.
11 Felcman, that it was rejected the end of 1997 or -- yes,
12 rejected.

13 Q. And was that the subject of the permit appeal before the
14 Board?

15 A. It was.

16 Q. And the permit appeal to the fourth district?

17 A. Yes, it was.

18 Q. Okay. Now, did Panhandle do anything after filing the
19 appeal to the fourth district to attempt to obtain a new permit
20 for engines 1116 through 1119?

21 A. Yes, we have refiled a permit application with the
22 Agency. We filed that in August of last year.

23 Q. And what were you requesting in that permit application?

24 A. We were requesting a PSD permit for the four engines.

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1 Q. Okay. Does the permit application discuss what is BACT
2 control for engines 1116 through 1117?

3 A. Yes.

4 Q. What does it say about that?

5 A. It -- we are looking at installing low emission
6 combustion equipment on the four engines down to two grams per
7 horsepower hour.

8 Q. Using what kind of controls?

9 A. Clean burn technologies, the Cooper low emission.

10 Q. That is the same kind of controls that were proposed in
11 1997 permitting?

12 A. Yes. Engine modifications, yes.

13 Q. What was your role in relation to the August of 1999
14 permit application?

15 A. It was prepared under my direction. We busted tail to
16 get it out.

17 Q. Does the permit application seek to add additional
18 controls on engines 1118 and 1119?

19 A. Yes, it does.

20 Q. What do they attempt to do there?

21 A. To reduce the emissions from the current four gram range
22 down to the two paragraph range requires the reengineering of the
23 existing turbochargers on the units. Reengineering, in general
24 terms, means that we make the turbocharger more efficient so that

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1 it produces more air for the engine operation, leans it out.

2 Q. Has the IEPA taken any action on the permit application?

3 A. 179 days afterwards we received a frantic call from the
4 permit staff asking us to extend the permit window. We have not
5 heard anything since. I am kind of disappointed. We really
6 worked hard to get it out in 20 something days.

7 Q. All right. So -- I am sorry. You said 179 days after
8 you submitted it, they asked to extend the time to review?

9 A. Yes. The permit engineer who is in charge of it asked
10 us to extend the review period.

11 Q. Did you extend the review period?

12 A. We granted that.

13 Q. How long did you extend the review period?

14 A. Another 180 days.

15 Q. So 360 days?

16 A. A year, basically.

17 Q. Has more than a year passed since then?

18 A. Yes.

19 Q. Do you know what the status of that permit application

20 is?

21 A. I have no idea. I would assume state rules would say I
22 have no operating -- or construction permit, but I think the feds
23 would disagree.

24 MR. BOYD: Mr. Knittle, I have maybe five more questions.

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1 I suggest I finish and then we could take a break and then do
2 cross.

3 MR. LAYMAN: That's fine.

4 Q. (By Mr. Boyd) Since the August of 1996 inspection,
5 Panhandle has continued to operate these four compressor engines?

6 A. Yes, we have.

7 Q. Did the Agency ever tell you since that time that you
8 had to stop using engines 1116 through 1119?

9 A. No. It was quite the contrary. Mr. Kolaz indicated
10 that we had met the obligations of the violation notice to reduce
11 emissions.

12 Q. You mentioned the environmental dispatch earlier. Do
13 you know whether that has had an affect on emissions?

14 A. They have gone down. The emission -- the hours of
15 operation for the three off permit engines are significantly
16 higher than historical. While the on permit engines, those hours
17 of operation have fallen.

18 Q. Have you continued to file annual emission reports with

19 the Agency since then?

20 A. Yes.

21 Q. Are you familiar with them?

22 A. Yes.

23 Q. How are you familiar with them?

24 A. They are prepared under my direction.

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1 Q. Let me refer you again to the gray book and to Exhibit
2 Number 14.

3 A. Okay.

4 Q. Can you tell me what that is?

5 A. Emission inventory report for Glenarm station, 1997
6 report, for -- I am sorry -- for 1997 emissions.

7 Q. Does this report indicate anything about the emissions
8 of NOx from engines 1116 through 1119?

9 A. It does not. Well, hang on. It was longer than I
10 thought. No.

11 Q. Okay.

12 A. It has emission rates, hours of operation, but there is
13 no requirement within the report to hold those together on an
14 individual basis.

15 Q. Does it indicate anything on total NOx emissions from
16 the facility?

17 A. Yes, it does.

18 Q. If I could direct your attention to the second page

19 there, does that indicate information on NOx emissions?

20 A. Yes. It says that NOx emissions for 1997 for the
21 facility were 1,948 tons approximately.

22 Q. Looking at this form can you tell whether that is more
23 or less than the emissions of NOx for the preceding year?

24 A. It is less by approximately 300 tons. In 1996 it was

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1 around 2,300 tons.

2 Q. Let me show you Exhibit 15 as well and see if you can
3 identify that.

4 A. Yes. It is the -- it is the 1999 report for 1998
5 emissions from Glenarm station.

6 Q. Does this have any specific information on emissions of
7 NOx from 1116 through 1119 only?

8 A. Let me make sure. No. Again, it only offers emission
9 rates and hours of operation and fuel burned.

10 Q. I will refer you to the third page of Stipulated Hearing
11 Exhibit Number 15. Does this page indicate the NOx emissions for
12 the Glenarm station for the reporting year 1998?

13 A. Yes, it does.

14 Q. What does it say about that?

15 A. There is approximately 1,440 tons.

16 Q. How does that compare to the nitrogen oxide emissions
17 from the station the previous year, 1997?

18 A. It is significantly lower, 500 tons less, approximately,
19 25 percent less.

20 MR. BOYD: Okay. Just one second. I might be done.
21 That's all I have right now.

22 HEARING OFFICER KNITTLE: All right. Let's go off the
23 record.

24 (Discussion off the record.)

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1 HEARING OFFICER KNITTLE: Okay. Let's take a five minute
2 break.

3 (Whereupon a short recess was taken.)

4 HEARING OFFICER KNITTLE: We are back on the record after a
5 short recess. We are starting with the cross-examination of Mr.
6 Wait.

7 Mr. Wait, let me remind you that you are still under oath.

8 THE WITNESS: Okay.

9 HEARING OFFICER KNITTLE: Mr. Layman.

10 MR. LAYMAN: Thank you.

11 CROSS EXAMINATION

12 BY MR. LAYMAN:

13 Q. Mr. Wait, you testified a little bit earlier that an
14 hourly limit for an emission limit based on a pound per hour
15 basis, you found that to be a more accurate limit, if you will,
16 in terms of measuring emissions than the annual limit that had
17 been established in the construction permit from 1988. Do you

18 follow the question?

19 MR. BOYD: I am going to object that it is ambiguous.

20 HEARING OFFICER KNITTLE: Mr. Layman?

21 MR. LAYMAN: That's why I am asking the witness the
22 question in this particular case, because I found the testimony
23 so ambiguous. I will rephrase.

24 HEARING OFFICER KNITTLE: Why don't you rephrase.

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1 MR. LAYMAN: I will rephrase my particular question.

2 Q. (By Mr. Layman) You indicated that you felt like an
3 hourly limit was more appropriate for a permit of the type that
4 Panhandle was governed by beginning in 1988 as a result or
5 because you can see where you stand. I think those were your
6 words exactly. Does that refresh your testimony?

7 A. I don't think that is exactly what I said. I believe
8 the "because you can see where you can stand" was offered for
9 emission for hourly limits, fuel limits. The pound per hour
10 number is a number that you can measure and judge through an
11 emission test.

12 Q. Okay. Through emissions testing?

13 A. Yes.

14 Q. Did Panhandle conduct any sort of emission testing that
15 you are aware of for the engines that were constructed in 1988?

16 A. No, sir, there is no requirement.

17 Q. Okay. When you talked a little bit about the
18 appropriateness of the limit in terms of either it being a fuel
19 limit or an hourly limit, you indicated that both of them were
20 measurable parameters?

21 A. Yes, they are.

22 Q. In other words, do you mean by that that you can keep
23 records of fuel usage?

24 A. Yes.

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1 Q. Those records would be used to verify or determine
2 compliance with a particular limit; is that right?

3 A. Yes, that is correct.

4 Q. And the same would be said with respect to an hourly
5 limit?

6 A. Yes.

7 Q. Having said that, with respect to that type of parameter
8 is it fair to say that a daily limit is also a measurable
9 parameter?

10 MR. BOYD: Objection to the form as to what is meant by a
11 daily limit. A limit of what?

12 HEARING OFFICER KNITTLE: Sustained.

13 Q. (By Mr. Layman) Well, let me clarify that by asking the
14 witness what form or what types of daily limits would you
15 normally find in a permit or what has your experience been with
16 respect to?

17 A. With continuously operating fuel combustion type sources
18 I have never seen a daily limit.

19 Q. Okay. What have you seen, then? Simply an hourly limit
20 as well as an annual limit?

21 A. Generally the permits are structured along the lines of
22 an hourly limit, pounds per hour. If there is a cap that is
23 short of 8,760 hours then there is a do not exceed hourly limit.
24 We have also been on the fuel side doing the same thing where we

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1 have a pound per million BTU burn number and if there is a
2 restriction that is less than 24 a day, seven days a week type of
3 operation, then there would be a fuel limit that is imposed on
4 those engines or turbines.

5 Q. Okay. You have never heard of any type of monthly limit
6 being imposed on those type of compressor engines?

7 MR. BOYD: Again, objection to the form. A monthly limit
8 of what.

9 Q. (By Mr. Layman) Well, to either fuel usage or hourly
10 production?

11 A. We have never had a monthly limit. We have had record
12 keeping that required monthly totaling of hours or fuel and/or
13 fuel.

14 Q. And where -- when you say -- well, strike that. When
15 you indicate that you have had those types of record keeping

16 requirements, what are you referring to?

17 A. Generally it is a -- you keep a running total of the
18 hours operated and the -- and/or the fuel burned for a facility
19 on a running total. I mean, usually monthly, if that is a
20 requirement that the Agency has placed on the facility.

21 Q. Is that part of the requirement to maintain or assess
22 compliance with an annual rolling average or an annual rolling
23 limit, if you will?

24 A. Let me think for a second, because I am --

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1 Q. Well, let me rephrase it for you, and maybe it will help
2 you understand better the nature of my question. You indicated
3 that you have had permits that -- Panhandle has had permits that
4 have contained a monthly limit and you used the word rolling I
5 believe or averaging?

6 A. No.

7 Q. No?

8 A. No, I did not.

9 MR. BOYD: Objection.

10 THE WITNESS: It was a monthly total.

11 MR. BOYD: He did not use the word monthly limit either.

12 HEARING OFFICER KNITTLE: The witness answered the
13 question. I am going to overrule the objection.

14 MR. LAYMAN: I am sorry?

15 HEARING OFFICER KNITTLE: I said I have overruled the

16 objection.

17 MR. LAYMAN: Okay.

18 THE WITNESS: I think my answer was no.

19 MR. LAYMAN: The witness already answered, I think, the
20 question.

21 HEARING OFFICER KNITTLE: Well, the witness answered no,
22 that he didn't. Mr. Boyd's objection was that you misstated
23 testimony, and the witness indicated that you did, in fact,
24 misstate the testimony, so I don't think there is any error here.

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1 MR. LAYMAN: Okay.

2 HEARING OFFICER KNITTLE: If there is, it is harmless.

3 Q. (By Mr. Layman) I guess what I am trying to get at, Mr.
4 Wait, is where did you see those types of monthly record keeping
5 requirements? In other permits?

6 A. Yes.

7 Q. Permits relating to what facilities?

8 A. For one, I believe the Waverly compressor -- or the
9 Waverly storage facility in Illinois has that type of record
10 keeping requirement.

11 Q. Uh-huh.

12 A. In Pennsylvania when we were part of the Pan Energy
13 companies we had two facilities, one would be the Holbrook
14 facility, and the other may or may not be the Uniontown facility

15 where we were required to keep a rolling record of hours run.

16 Q. Okay. Were there any requirements with respect to those
17 permits as to any type of monthly limit on fuel usage? Or was it
18 just pertaining to the hours of operation?

19 A. I don't believe that the Waverly facility has any limits
20 placed on it at all. It is a grandfathered facility, and it is
21 only a record keeping requirement. The Holbrook and Uniontown
22 facilities over in Pan Energy were, I believe, hourly based.
23 There may have been a fuel component. I just don't know.

24 Q. Okay. How many facilities does Panhandle have,

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1 compressor station facilities in Illinois?

2 A. Five, I believe.

3 Q. Okay.

4 A. I would have to look at a system map to be 100 percent
5 sure.

6 Q. Can you identify them by name?

7 A. Going across it would be Pleasant Hill compressor
8 station in Pike County, the Waverly storage facility. It is
9 really not a compressor -- well, it is a semi-compressor
10 facility. The Glenarm station. There is Tuscola. There is one
11 more.

12 Q. Okay. That is fine. When you were transferred in 1992
13 to Houston, I think you had indicated in your testimony --

14 A. Yes.

15 Q. -- that you became a member of the -- it is fair to say
16 the environmental management group or what --

17 A. The exact title was the environmental protection group.

18 Q. Okay. Since being transferred to that position and
19 assuming those responsibilities, did you -- you did become
20 familiar with the other Panhandle compressor stations operating
21 in Illinois; is that fair to say?

22 A. I have become familiar with most every facility, not to
23 the working knowledge that I have of Glenarm, for obvious
24 reasons. But, yes, I have a fairly good understanding of the

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1 Panhandle Eastern facilities up and down the system.

2 Q. Can you tell us what the permit limits were for the
3 other remaining Illinois compressor stations?

4 A. They are grandfathered. There is no permit limit.

5 Q. Okay. For all of them?

6 A. To my knowledge, yes.

7 Q. Okay. Do they have permits at all?

8 A. There is Title 5 operating permits for Pleasant Hill,
9 Illinois and also for Waverly and we are still waiting for the
10 rest.

11 Q. Okay. Can you tell us whether you -- strike that. Can
12 you tell us whether -- a company that possess an annual limit on
13 emissions, can you tell us what your experience has been with

14 respect to the record keeping requirements that they usually have
15 to maintain?

16 A. Generally, where I have had annual emissions limits I
17 have also had a pound per hour limit and if there was a
18 restriction of hours, some knowledge within the bounds of the
19 permit of those hourly restrictions, I believe.

20 Q. And in order to determine compliance with that annual
21 limit then you would go to what sources of information?

22 A. To determine compliance I would use the emission rate,
23 the permitted emission rate. I would use -- depending upon the
24 factors of the emission rate, I would use hours of operation or

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1 fuel burned and multiply those together and come up with -- and
2 divide by 2000 and come up with a ton per year number.

3 Q. Okay. Is it your belief that -- well, strike that.
4 Isn't it true that an annual emission limit is also a measurable
5 parameter?

6 A. No, it is calculated.

7 Q. If a -- okay. Strike that. Is a company's compliance
8 with a -- well, strike that.

9 When you say, Mr. Wait, that it is a calculated number,
10 what do you mean by that?

11 A. It requires that you use operating parameters plus a
12 factor and then do some math to come up with what that number is
13 given whatever period you are calculating against.

14 Q. Okay. So you use -- if you were using an AP-42
15 emissions factor, based on a fuel based reference --
16 A. Uh-huh.
17 Q. -- you would use what?
18 A. I believe the number is either the 3.2 pounds per
19 million BTU or 3.4. I usually have to look that up. I also
20 would use the metered fuel from the engine.
21 Q. Okay. And what about the hours of operation?
22 A. For a fuel based emission factor there is no need for
23 hours of operation.
24 Q. Right. Okay. The hourly based limit derived from that

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1 component of an AP-42 emission factor is expressed in terms of
2 hours -- I am sorry -- grams per horsepower hour; is that
3 correct?
4 A. That's correct.
5 Q. What else would you need with respect to calculating
6 emissions based on that type of --
7 A. Based upon the AP-42 gram per horsepower hour number?
8 Q. Yes.
9 A. Generally all you need is hours. There is -- the unit
10 of horsepower is known, so the calculation is relatively simple.
11 You take the name plate horsepower of the engine and multiply it
12 by the hours that you are concerned about, divide it by 454,

13 which is the conversion from grams to pounds and then divide by
14 2000.

15 Q. Okay. Can you tell us when Panhandle was -- strike
16 that. Panhandle was submitting annual emissions reports to the
17 Agency beginning when, would you say?

18 A. Without looking, I would say back to the days -- back to
19 when the Agency started soliciting them.

20 Q. Is it fair to say that upon assuming your new
21 responsibilities in Houston back in 1992, that you began working
22 with -- or part of your responsibilities were working with annual
23 emission reports for the various compressor stations owned by
24 Panhandle?

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1 A. That is correct.

2 Q. Okay?

3 A. It is good training ground for a trainee.

4 Q. How did you -- how do you typically do that? When did
5 that effort begin? Well, strike that.

6 When you prepare an annual emission report for a
7 facility --

8 A. Yes.

9 Q. -- is it fair to say that you would begin the next year
10 following the year that you are reporting for?

11 A. (The witness shrugging shoulders.)

12 Q. You have -- well, let me rephrase that. If you are

13 filling out an annual emission report for 1994, when do you begin
14 that effort?

15 A. When you say 1994, what do you mean? For 1994 -- the
16 operation in 1994 or the emission inventory of 1994?

17 Q. Assessing the emission inventories of 1994?

18 A. The 1994 inventory would be completed for operation of
19 1993.

20 Q. Okay. Let me go through this one step at a time. The
21 facility has maintained compliance records for the year 1993.
22 Beginning in what month of that following year would you begin to
23 prepare the calculations that would support your annual emission
24 report for that year?

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1 A. Okay. I think I follow your question.

2 Q. Okay.

3 A. Typically in January we download engine hours. We
4 download fuel burned.

5 HEARING OFFICER KNITTLE: Sir, January of 1994?

6 THE WITNESS: Yes, January of the year in question.

7 HEARING OFFICER KNITTLE: Okay.

8 THE WITNESS: Then whenever the Agency mails us the
9 emission inventory we would begin completing the forms then.
10 There is some preparatory work that we generally take somewhere
11 in the interim potentially, it depends upon the work load, of

12 completing an internal worksheet that we do for the facility that
13 does the calculation.

14 Q. (By Mr. Layman) When did the Agency typically provide
15 you the emission inventory forms that you reported on your annual
16 emissions reports?

17 MR. BOYD: I am just going to object again to the term
18 typically.

19 HEARING OFFICER KNITTLE: Overruled. I think that is an
20 answerable question. Sir.

21 THE WITNESS: Without looking, I have dealt with up to 22
22 states. I don't know when Illinois mails theirs.

23 Q. (By Mr. Layman) Okay. But it is fair to say, is it not,
24 that you would have one or two months after to -- strike that.

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1 It is fair to say, is it not, that when you were preparing
2 your reported emissions for the year 1993, you would have a two
3 or three-month period beginning in 1994 to prepare those numbers
4 and report them to the Agency?

5 A. Speaking in general terms, emission inventories are due
6 to agencies across the nation beginning in March, February in one
7 that I can remember, and then through as late as December the
8 following year.

9 Q. Okay. So it is fair to say the company would always
10 wait until after the 12 month period in 1993 before it began
11 assessing whether or not -- I am sorry -- assessing its emissions

12 for that period of time in 1993?

13 MR. BOYD: Object to the form, in assessing the emissions.
14 We are talking about preparing the annual emissions reports.

15 MR. LAYMAN: And what you are preparing in an annual
16 emissions report is emissions.

17 HEARING OFFICER KNITTLE: Sir, do you understand the
18 question?

19 THE WITNESS: Yes, I think I do. But as soon as I said
20 that, I drew a blank on the question. I am sorry.

21 HEARING OFFICER KNITTLE: Mr. Layman, maybe you could
22 rephrase it.

23 MR. LAYMAN: Actually, if I could have it read, just so I
24 can remember what it was.

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1 HEARING OFFICER KNITTLE: Okay, go ahead, Darlene.

2 (Whereupon the requested portion of the record was read
3 back by the Reporter.)

4 THE WITNESS: I think it is kind of a misstatement. You
5 are correct in saying that we would not do any calculations or
6 assessments, to use your term, of annual emissions before the end
7 of the year, because we are still operating at the end of the
8 year. Any evaluation of -- let's say you do a calculation in
9 November of 1993. You still have two years data to -- it is a
10 wasted effort to do it until after the period is complete.

11 Q. (By Mr. Layman) Okay. Would it not have been possible
12 for Panhandle to have done that, during the year 1993?

13 MR. BOYD: To do what? I think the question is ambiguous.

14 HEARING OFFICER KNITTLE: Can you rephrase, Mr. Layman.

15 MR. LAYMAN: I will help the witness along.

16 Q. (By Mr. Layman) Would it have been possible for
17 Panhandle to have attempted to calculate its emissions in 1993
18 prior to the end of that year?

19 MR. BOYD: Again, objection to the form. It is asking for
20 a hypothetical.

21 HEARING OFFICER KNITTLE: Overruled.

22 THE WITNESS: There was a possibility. We generally don't
23 because at that point in time engine hours of operation were --
24 it was a manual type of effort, recording the hours from the

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1 field, reporting them into Houston. The people who are
2 responsible for the FERC Form 2 refilings, which is a report of
3 what we did during the year, the people who are responsible for
4 filing that did the QAQC check on those numbers, and those
5 numbers do and did change depending on what was reported from the
6 station.

7 Q. (By Mr. Layman) Uh-huh. So there was a downtime
8 involved, if you will, in collecting the data, preparing it and
9 calculating it; is that correct?

10 MR. BOYD: Objection to the form.

11 HEARING OFFICER KNITTLE: How so?

12 MR. BOYD: To the term "downtime," sir. I don't understand
13 what he is talking about.

14 HEARING OFFICER KNITTLE: Mr. Layman, do you mean lapse in
15 time?

16 MR. LAYMAN: Yes, exactly.

17 HEARING OFFICER KNITTLE: Overruled.

18 THE WITNESS: A lapse, yes.

19 Q. (By Mr. Layman) Yet you testified earlier that
20 Panhandle, at least in one instance, I believe, for a facility in
21 Illinois had a monthly limit on the hours of production; is that
22 right?

23 A. No, sir.

24 Q. Okay. What was the monthly limit? Refresh my memory

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1 again, please.

2 A. There was not a monthly limit. It was a monthly record
3 keeping requirement.

4 Q. Okay. Pertaining to what, again?

5 A. I believe it is hours of operation.

6 Q. Okay.

7 A. It may be fuel also. But most definitely hours of
8 operation.

9 Q. Okay. It could have also been fuel usage for the

10 engines at the compressor station?

11 A. (Nodded head up and down.)

12 Q. How would you comply with that limit?

13 MR. BOYD: Objection to the form.

14 MR. LAYMAN: I will restate that.

15 Q. (By Mr. Layman) How do you keep track of records? How
16 do you document -- well, strike that.

17 How did Panhandle document the hours of operation that
18 would have occurred in one month?

19 MR. BOYD: I am going to object to the form, in terms of
20 lack of knowledge. This witness has testified that he prepares
21 annual emissions reports. He -- there has been no foundation
22 laid that he has responsibility for --

23 MR. LAYMAN: He also indicated that at least in one
24 Panhandle facility that they are required to maintain records

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1 based on either fuel usage or the hours of operation on a monthly
2 basis.

3 HEARING OFFICER KNITTLE: I am going to overrule the
4 objection. I think this witness has -- enough sufficient
5 foundation has been laid that he can adequately testify to this
6 question.

7 THE WITNESS: It is my understanding that the facility --
8 the facility -- well, strike that.

9 The facility records those hours of operation on a daily

10 basis. They are totaled manually at the facility or on a
11 computer. I am not sure exactly what the process is. The
12 facility personnel do keep those records as a normal part of
13 business and also as they report them back up to Houston.

14 Q. (By Mr. Layman) Okay. So the facility in that instance
15 is keeping track of records on a daily basis so that you can
16 be -- so that you can determine compliance with your reporting
17 requirements on the monthly basis; is that right?

18 A. That's not exactly -- they keep those records for the
19 permit requirement because it is a record keeping requirement.
20 The word compliance does not enter into it.

21 Q. When do they tally those records?

22 A. I don't know for sure. I don't have familiar enough
23 working knowledge of the Waverly station to know whether they are
24 done on a PC, on the back of an envelope, or a piece of paper or

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1 how they do it. I just know the records are kept.

2 MR. LAYMAN: Okay. I may be at a pretty good stopping
3 point, Mr. Hearing Officer, with respect to my questions if you
4 want to --

5 HEARING OFFICER KNITTLE: Do you have more?

6 MR. LAYMAN: I am sorry. Did you want to continue through
7 until 12:30?

8 HEARING OFFICER KNITTLE: I have no preference. I want to

9 do what is going to be best for both parties here. Do you have
10 more than a half hour's worth of cross-examination for this
11 witness?

12 MR. LAYMAN: I would imagine, at the rate that we are going
13 now.

14 HEARING OFFICER KNITTLE: All right. Let's take a break
15 for lunch. Mr. Boyd, do you have an objection to that?

16 MR. BOYD: Can we come back by 1:00?

17 HEARING OFFICER KNITTLE: Yes, that would be my preference.

18 MR. BOYD: Okay. That is fine.

19 (Whereupon a lunch recess was taken from approximately
20 12:05 p.m. to 1:05 p.m.)

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1 A F T E R N O O N S E S S I O N

2 (September 21, 2000; 1:05 p.m.)

3 HEARING OFFICER KNITTLE: We are back on the record after a
4 lunch recess.

5 Mr. Wait, you are still under oath.

6 THE WITNESS: Okay.

7 HEARING OFFICER KNITTLE: Mr. Layman, I am assuming you
8 still want to continue your cross-examination.

9 MR. LAYMAN: Yes. Thank you.

10 Q. (By Mr. Layman) Mr. Wait, can you describe for us the
11 environmental management process that was in place at Panhandle
12 when you assumed your new responsibilities in 1992?

13 A. I am thinking. The answer is yes, I can.

14 Q. Would you describe them for us, please?

15 A. I may be off a couple years on some of the programs that
16 we had. We performed external audits on a rotating basis of
17 facilities to check compliance of facilities along the pipeline.
18 Not every facility was audited every year. We also -- that was
19 the big thing that we did. We also began a training program
20 called -- or have a training program called Positive Impact. I
21 am not sure of exactly when that started. That is a program that
22 is still ongoing where we educate the people in the field on
23 proper environmental practices, file keeping, how to deal with
24 spills, how to deal with air permits and things like that.

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1 Q. Uh-huh. How many people were involved with the
2 environmental management group, if you will, at that time?

3 A. I would not consider it a group.

4 Q. What would you characterize it as?

5 A. You said system. Are you talking about the
6 environmental protection department?

7 Q. Uh-huh, that's correct.

8 A. Okay. In the environmental protection we had eight
9 people. We also had in environmental compliance somewhere in the
10 range of five people, maybe six people. We also have an
11 environmental remediation program, and I do not recall how
12 staffed that was.

13 Q. Okay. Could you tell me again -- you said there was an
14 environmental compliance group?

15 A. Yes.

16 Q. And the environmental -- the first one that you referred
17 to?

18 A. Protection.

19 Q. Environmental protection?

20 A. Yes.

21 Q. What is the distinction between those two groups?

22 A. It is really kind of simple. Environmental protection
23 for the most part was a permit seeking group, a permitting group,
24 if you will.

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1 Q. Uh-huh.

2 A. That group worked closely with construction and design
3 in an effort to properly permit construction projects as they
4 were going through the design process and into construction.
5 Environmental compliance was more of the policing activity, if
6 you will. It was the group that was in charge of the day-to-day
7 compliance activities of the pipeline system.

8 Q. Would you say it is fair to say that when the facility
9 had to obtain a permit, the environmental protection group is the
10 one responsible for making sure that that takes place?

11 A. In 1992, that is correct.

12 Q. Okay. When a facility had problems documented by
13 environmental regulators, for instance, alleged violations, at a
14 given facility, who was in charge -- or who would be responsible
15 for working on that type of a project, the environmental
16 compliance or the --

17 A. The environmental compliance would be the point contact
18 as far as working the complete issue. I don't recall any
19 environmental compliance issues at that point in time on any of
20 the four pipelines.

21 Q. Okay. Again, you work in the environmental protection,
22 the permitting side of things?

23 A. Yes.

24 Q. And not the environmental compliance?

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1 A. Air permitting was -- after I was there for six months
2 became the exception to the rule that I just stated. We saw
3 where, especially with state operating permits, we were renewing
4 permits a lot of states had state operating -- Indiana, for
5 example, had a state only state operating permit.

6 Q. Uh-huh.

7 A. That required renewal on an ongoing basis. The thing
8 that we saw immediately was that the -- there was a little bit of
9 a disconnect between environmental or air permitting and air
10 compliance. We wanted to wrap that up into one group. We also
11 brought in under the wings of environmental protection the air
12 and environmental protection emission inventory. Again, it was
13 an effort or is an effort or was an effort to focus air duties
14 into a group of trained personnel rather than a cross of a broad
15 group of people.

16 Q. Could you tell us when that disconnect was that it was
17 noticed?

18 MR. BOYD: Objection to the form of the question.

19 HEARING OFFICER KNITTLE: Mr. Layman?

20 MR. LAYMAN: I am sorry?

21 HEARING OFFICER KNITTLE: Mr. Layman, do you want to
22 respond to the objection?

23 MR. LAYMAN: The witness referred to a disconnect between
24 the environmental protection and the environmental compliance

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1 group, and I guess all I am asking him to get to is when was that
2 disconnect something that was first brought to the attention of
3 the witness.

4 HEARING OFFICER KNITTLE: Overruled. Can you answer that,
5 sir?

6 THE WITNESS: Actually, I am the one who tried to pull the

7 function together into one group. And, again, disconnect is
8 probably too strong a word. The people who are permitting, the
9 people with the knowledge of air rules and regulations were doing
10 the permitting. There was not that type of expertise in the
11 compliance group.

12 Q. (By Mr. Layman) Okay. And it is fair to say that when
13 you made those efforts, those efforts took place during or after
14 1996?

15 A. No.

16 Q. Did it start to occur when you assumed your
17 responsibilities in 1992?

18 A. Yes. I was the person who recommended to my director,
19 Don Porter, that is what we needed to do.

20 Q. Okay. You came to those conclusions just based on your
21 work experience and -- well, why did you arrive at the conclusion
22 that there was that disconnect?

23 A. Relatively simple. I was being asked questions by four
24 people how to do emission inventories. I felt as though it was

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1 taking more time, more effort for four people to do it at half
2 the speed that one person could.

3 Q. Okay.

4 A. So that is what spurred it.

5 Q. Okay. When you refer to the people who were working on

6 emission inventory, are you referring to the people, again, who
7 were working with the environmental protection or the
8 environmental compliance group?

9 A. It would be the compliance group.

10 Q. Okay. And emission inventory, is it fair to say that is
11 simply the compilation or compiling of emissions related
12 information for purposes of, say, annual emission reports?

13 A. Yes.

14 Q. Okay. Anything beyond that? I will rephrase. Anything
15 other than collecting and reporting data on annual emissions?

16 MR. BOYD: I am going to object. It is ambiguous.

17 THE WITNESS: I am not following the entire question, I
18 guess.

19 HEARING OFFICER KNITTLE: Sustained.

20 Q. (By Mr. Layman) When you refer to environmental -- I am
21 sorry. When you refer to emission inventories, what is it,
22 again, that you are referring to?

23 A. Emission inventories is required on an annual basis by
24 state agencies.

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1 Q. Okay. Nothing else?

2 A. When I say emission inventories, that's what I mean.

3 Q. Okay. Can you tell us where the environmental records
4 were maintained for Panhandle Eastern Pipe Line during the period
5 of time when you first came on board in 1992?

6 MR. BOYD: Objection to the form, in terms of what records.

7 HEARING OFFICER KNITTLE: Mr. Layman?

8 MR. LAYMAN: Well, I think I mentioned environmental
9 records. We can specify the different types of records as we go
10 through the testimony.

11 HEARING OFFICER KNITTLE: Overruled.

12 THE WITNESS: Well, it depends on what environmental
13 records they are. The construction permits for hydro -- let me
14 rephrase that. For hydro test permits, land clearance permits,
15 air permits, if they were received at that point in time, were
16 generally kept in the environmental protection files. Those
17 permits also were copied and sent to construction, engineering
18 design --

19 Q. I am sorry? They were sent where?

20 A. To construction.

21 Q. Uh-huh.

22 A. Engineering design.

23 Q. Okay.

24 A. Anybody else who may be affected by the project, such as

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1 project management. If it was an ongoing long-term permit, such
2 as a -- such as an air permit, the permit also went to the
3 environmental compliance group.

4 Q. Okay. Did the compressor stations usually receive a

5 copy of the permit?

6 A. Depending on the type of permit that it was, yes, they
7 did. There is -- well, it is my understanding that there is a
8 requirement that in air permitting, for instance, that the permit
9 resides on site. For hydro test permits, typically it depends on
10 the state agency whether they have a permit on site. The land
11 use permits, the wetland disturbance permits, generally no.

12 Q. Okay. You previously characterized the environmental
13 protection group as consisting of approximately eight people, is
14 that right, at that time?

15 A. I believe that to be the count.

16 Q. And approximately six in the compliance related group?

17 A. It may have been more, but I think it was six. I wasn't
18 in the group.

19 Q. What was the nature of the supervision of those separate
20 groups? Was there a supervisor for each group?

21 A. Actually, when I joined the environmental protection,
22 there was a director of both groups. The director of
23 environmental protection at the time was Mr. Don Porter and Rick
24 Smith of the environmental compliance group. Those groups were

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1 put under one director sometime after I arrived, I would guess
2 within 12 months.

3 Q. So there was just one director head, if you will, and
4 not supervisors below him?

5 A. That is correct.

6 Q. Okay. Can you tell us how the emission related data was
7 maintained by the environmental management group? And allow me
8 to define emissions related data as the engine hours and the fuel
9 usage of a compressor station.

10 A. How it was kept?

11 Q. Yes, how it was kept.

12 A. Engine hours resided in the environmental protection
13 group along with fuel use, but we did not use fuel use very often
14 back when I -- in 1992. We generally used the grams per
15 horsepower hour numbers, so we were focused on engine hours.

16 Q. Okay. How did the group come to obtain access to that
17 information?

18 A. It was published on an annual basis from the
19 transmission group or the operations group. They are the ones
20 who compile the information or -- and are responsible for the
21 authenticity and accuracy of that information.

22 Q. Okay. The operation group is yet a third group of the
23 ones we have talked about?

24 A. Well, I use the word transmission and operations

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1 interchangeably.

2 Q. Okay.

3 A. It is the people who actually run the pipeline.

4 Q. Do the people who are employed by Panhandle that work
5 for that operations group work primarily at Houston or are they
6 out at the various compression stations?

7 A. Both.

8 Q. Okay.

9 A. I mean, the transmission people -- the transmission
10 people work at the Glenarm station and work at all the stations
11 along the pipeline. There is also a coordinating group for the
12 activities in Houston.

13 Q. Okay.

14 A. So, yes, both.

15 Q. I am trying to get a feel of where the process started
16 and where the origin of the fuel usage and the hours of
17 operation --

18 A. Sure.

19 Q. -- came from. So did it start at the compressor station
20 level and then find its way, by hard copy or computer generated
21 data, to the environmental management group in Houston?

22 A. In a roundabout way, yes.

23 Q. Okay.

24 A. I mean, there is various steps through there. In 1992,

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1 the -- as I understand it, and there are definitely exceptions to
2 this rule, I am sure. But in general the engine hours are
3 collected at the facility on an ongoing basis. They are compiled

4 there. They are summed, totalled, and moved up to the division
5 office, which is an office having responsibility for -- at this
6 point in time there is two division offices. So they have
7 responsibility for about half the pipeline each. Those numbers
8 are then --

9 Q. I am sorry to interrupt, but you are talking about the
10 single pipeline then?

11 A. I am talking about Panhandle Eastern Pipe Line.

12 Q. Where are those division offices located?

13 A. In 1992 it was Indianapolis and Liberal, Kansas.

14 Q. Okay.

15 A. So those numbers were rolled up again from the
16 individual stations, compiled, and transmitted to Houston
17 transmission or operations group. There, they are again compiled
18 from the two division offices, and I don't know what happens to
19 the numbers. I don't -- but they are put into an annual report,
20 and we obtained a copy from them.

21 Q. Okay. And your characterization of that process was for
22 both information relating to the hours of operation as well as
23 fuel usage or --

24 A. That would only be for hours of operation.

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1 Q. Okay. What about fuel usage? How would that -- what
2 was the origin of that type of information?

3 A. In 1992 we didn't use it, to my knowledge, except for
4 maybe on unique circumstances like another pipeline, Texas
5 Eastern, that was part of the Pan Energy group, we were required
6 to use fuel usage for emission reports up in the northeast in
7 some states. But along the Panhandle pipeline I don't recall
8 getting fuel information until later.

9 Q. How much later?

10 A. Maybe two or three years later. We changed the
11 methodology a little bit and started using fuel where we could to
12 complete the emission inventories.

13 Q. Do you have any idea whether that type of information
14 was, in fact, being documented at the division level?

15 A. I do not --

16 MR. BOYD: Objection to the form, in terms of the timing.

17 HEARING OFFICER KNITTLE: Mr. Layman.

18 Q. (By Mr. Layman) Relative to 1992?

19 A. As I understand the way it worked or the way it works,
20 is that the -- it is presently -- I will describe the way it is
21 right now and how I think that -- I believe it to be the same at
22 most facilities then. The gas is measured at a meter through an
23 electronic gas measuring device, an EGM. That data is relayed
24 through a communications system from the facilities to a central

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1 computer in Houston.

2 Q. Okay.

3 A. There it is compiled, stored, and through database
4 programs you have the ability to access it. Back in 1992, I
5 believe it to be the same because -- one of the reasons I do
6 believe that is as a part of one of the projects that I did in
7 the field we put the EGM or electronic gas metering devices on
8 almost every meter on the system.

9 (Mr. Brown entered the hearing room.)

10 Q. (By Mr. Layman) When you say every meter on the system,
11 you mean every meter located at all of the various facilities on
12 the pipeline?

13 A. Yes, sir, both receipts, deliveries, and I believe
14 engine compressors at the time. I may be wrong on the timing,
15 but that would be close.

16 Q. Okay. Is it fair to say the fuel usage information in
17 1992 probably would not have been available to individuals
18 working at the compressor station like that at Glenarm?

19 A. No. It is and it isn't. I will explain.

20 Q. Okay.

21 A. It is not like going to the gasoline pump and saying I,
22 okay, I put eight gallons of gas in my car, okay, and have a
23 quantitative deal. It is electronically measured. It goes to
24 Houston, where the calculations are calculated because it is a

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1 series of calculations and they are rather complex. It requires

2 pressures, temperatures, things like that, through an orifice
3 meter. It is measured through an orifice meter. Those numbers
4 are calculated in Houston, as I understand the way that the
5 computer program works. Then if the station needs those records
6 for any reason whatsoever they have the ability to call them back
7 up. Whether it is through manual methods or automatically, I
8 don't know. Today it is automatically that I believe they can
9 pull them. In 1992 I don't know.

10 Q. Okay. Do you have an understanding as to whether or not
11 in 1992 if an Agency field inspector went to the Glenarm facility
12 and conducted inspections, would he have been provided with
13 immediate access to information concerning the hours of
14 production or the hours of operation?

15 A. I don't have any direct knowledge of that.

16 Q. You don't know whether he would have been able to obtain
17 it on that date or not?

18 A. I am not at a facility, so I don't know.

19 Q. Okay. If an inspector would have went to the facility
20 at Glenarm in 1992 and asked for that particular information on
21 the hours of operation, is that something that the environmental
22 compliance group would have dealt with, do you think?

23 A. At that time, no. I -- we did not furnish that data to
24 the station so that they could give it to an inspector.

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1 Q. The same would be said then with respect to the fuel

2 usage data?

3 A. That is correct.

4 Q. Okay. Upon a field inspector's request, do you have any
5 idea who in the environmental management process would have
6 responded to that request and compiled the information and sent
7 it out?

8 A. Within our group it was me. I was handling most of the
9 emission inventories in 1992.

10 Q. Okay.

11 A. There were a few exceptions. There were two of us in
12 the group and I kind of tried to take the lion's share of them if
13 I could so I could learn.

14 Q. When you say there were a few exceptions, you are
15 referring to people who were working in --

16 A. Other folks.

17 Q. And those people would have been working, again, in the
18 environmental compliance?

19 A. Protection.

20 Q. Okay. Do you have any idea whether or not there would
21 have been any information regarding AP-42 emission factors at the
22 Glenarm facility?

23 A. I sincerely doubt it.

24 Q. Have you reviewed records that have been kept at the

1 Glenarm facility?

2 A. Only what we as a group received from them when we asked
3 them to give us what they had.

4 Q. Okay. So after 1996 when the Agency informed Panhandle
5 of the apparent violations that are cited in this case, you did
6 not review information specific to documents or reports or the
7 like that were kept at the Glenarm facility?

8 A. Again, we asked for all of the permit information that
9 they had.

10 Q. Okay. That information in turn was fed to you from the
11 Glenarm facility and perhaps in other --

12 A. Other sources.

13 Q. Other groups?

14 A. Yes.

15 Q. Okay. Anyone else other than -- well, strike that. Can
16 you tell us what kind of communications occurred between the
17 group that you worked with and Houston and the individual
18 compressor stations regarding environmental matters?

19 MR. BOYD: Objection to the time frame.

20 HEARING OFFICER KNITTLE: Mr. Layman?

21 Q. (By Mr. Layman) Well, let's start with 1992.

22 A. I can't -- from the group I worked in, it was more of a
23 one-way communication generally, in general.

24 Q. And by that you mean all of the information was coming

1 to you?

2 A. Usually if we needed to talk to them we would talk to
3 them and ask them for information and then we would receive that
4 from them. There was not -- most of the system is grandfathered.
5 It has grandfathered emission sources, therefore, there was not
6 that much of a reason to communicate on a continuing basis with
7 the people with the facilities.

8 Q. Okay. So because there were no applicable regulatory
9 requirements, if you will, because the units were grandfathered,
10 all Panhandle would have been concerned about for those
11 facilities would be the emissions inventory for one year to the
12 next; is that correct?

13 A. Well, at --

14 MR. BOYD: Objection to the form of the question in terms
15 of what Panhandle is concerned about.

16 MR. LAYMAN: I am sorry?

17 HEARING OFFICER KNITTLE: He objected as to what Panhandle
18 is concerned about.

19 MR. LAYMAN: Well, let's make it relative to the Glenarm
20 facility.

21 HEARING OFFICER KNITTLE: Is that your objection?

22 MR. BOYD: No, sir. My objection is that this witness --
23 we are talking about the environmental protection group that this
24 witness was a part of and then he changes the question to say the

1 entire -- you know, what was Panhandle concerned about. I don't
2 know if this witness has the sufficient foundation to know what
3 Panhandle was concerned about.

4 HEARING OFFICER KNITTLE: Mr. Layman, are you willing to
5 limit your question?

6 MR. LAYMAN: I don't know that I do. I guess --

7 HEARING OFFICER KNITTLE: Do you want to respond to the
8 objection?

9 MR. LAYMAN: No. I will rephrase the question.

10 Q. (By Mr. Layman) You characterized the communications
11 that were occurring between the compressor stations and the
12 environmental management group -- I take that back -- just your
13 group as being one-way; is that right?

14 A. One-way or maybe probably a more appropriate way would
15 be -- the description would be on an as needed basis. I mean, it
16 was limited is what I am trying to say.

17 MR. LAYMAN: Okay. Could I have just a moment?

18 HEARING OFFICER KNITTLE: Yes.

19 (Discussion off the record.)

20 MR. LAYMAN: Okay. Thank you.

21 Q. (By Mr. Layman) I would like to call the witness'
22 attention to Panhandle Exhibit Number 14. You identified that
23 document earlier as a May 3rd of 1995 letter to the Agency
24 regarding the 1994 Annual Emission Report; is that correct?

1 A. Yes.

2 Q. The cover letter refers to four stations, four
3 compressor stations; is that right?

4 A. Yes.

5 Q. Has it been your experience that whenever the company
6 provided annual emission reports to the Agency that it would
7 include all of the stations inventories in one package?

8 MR. BOYD: Objection to the form.

9 HEARING OFFICER KNITTLE: Mr. Layman?

10 MR. LAYMAN: Which means what?

11 HEARING OFFICER KNITTLE: That is my question, too, Mr.
12 Boyd.

13 MR. BOYD: Well, I am not sure what he means by all of the
14 pages in one packet. I am not sure what he is talking about. It
15 is ambiguous.

16 MR. LAYMAN: Then I will steer the witness in the right
17 direction.

18 Q. (By Mr. Layman) Did you submit emissions inventories for
19 all four Illinois facilities, that are identified on this page,
20 in one envelope?

21 A. According to letter, the cover letter, yes, we did.

22 Q. And given that you mentioned several letters, is it fair
23 to say that would have been the practice --

24 MR. BOYD: Again, objection to the form.

1 Q. -- (continuing by Mr. Layman) of submitting --
2 MR. LAYMAN: Do we have an objection standing?
3 HEARING OFFICER KNITTLE: I am not sure.
4 MR. BOYD: Finish your question, Rob. I am sorry.
5 Q. (By Mr. Layman) Is this 1995 submittal for the annual
6 emission report, is that the only instance in which Panhandle
7 submitted a group annual emission report to the Agency?
8 A. To the Agency, being the Illinois EPA?
9 Q. That is correct.
10 A. I don't know, without going and looking through the
11 other -- through the other years data.
12 Q. Well, when did you have the first occasion to submit an
13 annual emission report to the Agency, the IEPA?
14 A. I am not sure of the exact first date.
15 Q. Did you in 1992?
16 A. I don't know.
17 Q. Would it refresh your memory if we had you identify the
18 annual emission report provided to the Agency for 1992?
19 A. I don't know.
20 Q. It is Exhibit Number 9.
21 A. Okay. I have the exhibit.
22 Q. I am sorry?
23 A. I have the exhibit.
24 Q. Okay. Can you tell from this submittal whether you

1 would have been involved in the preparation of it to the IEPA?

2 A. I honestly don't know.

3 Q. Okay.

4 A. Not from what is here.

5 Q. Okay. Would you look at Exhibit Number 10 of the
6 Stipulated Hearing Exhibits?

7 A. Okay.

8 Q. Can you tell from the cover letter that is with the
9 annual emission report from 1993 that was submitted, can you tell
10 from that letter that you would have been involved?

11 A. Yes, I can.

12 Q. And how can you determine that?

13 A. From the cover letter looking at the initials at the
14 bottom of the letter, the -- it is a big C, big E, big O.

15 Q. Uh-huh?

16 A. Slash little D, little A, little A.

17 Q. Okay.

18 A. The CEO is -- was Chi Onwuchekwa.

19 Q. So I take it you were not involved in the preparation of
20 this document?

21 A. No, I was not.

22 Q. Okay. It is pretty clear from the document, is it not,
23 that Panhandle, in this letter, submitted annual emission reports
24 to the Agency on a group basis, if you will?

1 A. That is correct.

2 Q. Okay. If you could turn your attention to Exhibit

3 Number 11. Can you tell from the cover letter of the May 3rd of

4 1995 submittal from Panhandle to the Agency whether you had any

5 involvement with the preparation of that document?

6 A. I did.

7 Q. Again, that refers to all four facilities for Panhandle

8 in Illinois, does it not?

9 A. This is correct.

10 Q. Is it fair to say, then, there was probably a practice

11 on the part of Panhandle of submitting data in this respect?

12 A. Not limited to the Illinois EPA, yes. I know that we

13 did do it for other states.

14 Q. Okay. And you did it for --

15 A. For Illinois also.

16 Q. Okay. Could you turn your attention back to Exhibit

17 Number 14?

18 A. Okay.

19 Q. Got it?

20 A. (Nodded head up and down.)

21 Q. The cover letter that you pointed to earlier in your

22 testimony, the paragraph beginning right below the identification

23 of the various stations and the ID numbers, can you call your

24 attention to that?

1 A. Yes.

2 Q. The cover letter states that all emissions for Glenarm
3 and the Waverly stations as reflected in the DAPC database do not
4 reflect emissions from all sources.

5 MR. BOYD: I am sorry. That is not what it says. If you
6 could try it again. That is not what it says.

7 HEARING OFFICER KNITTLE: Is that an objection, Mr. Boyd?

8 MR. BOYD: It is an objection that he is misreading the
9 letter.

10 HEARING OFFICER KNITTLE: Which --

11 MR. LAYMAN: I will rephrase.

12 HEARING OFFICER KNITTLE: -- document?

13 Q. (By Mr. Layman) Does the letter state that allowable
14 emissions for Glenarm and Waverly stations as reported in the
15 DAPC database do not reflect emissions from all sources?

16 A. Yes.

17 Q. What does that mean exactly?

18 A. If you refer back to page two of the emission inventory
19 which is also labeled Pan 1324, it was clear at that point in
20 time when I was looking at this that the allowable emissions were
21 low. I did not believe that it reflected all of the equipment
22 that was at the Glenarm station.

23 Q. And you are specifically referring to the first column
24 identified as allowable emissions and the NOx allowable emissions

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1 for that year of 1,287 --

2 A. That is correct.

3 Q. -- .4176?

4 A. Yes.

5 Q. Okay. How had you come to identify that discrepancy? I
6 take it that was just based on your preparation of reported
7 emissions for the facility for that year? How did you make that
8 determination?

9 A. Well, yes, I do believe that the source reported
10 emissions for NOx since they were higher, I had questioned -- had
11 questioned why they were higher. The only thing I could come up
12 with what the 1,287 referred to was whenever you flip to page
13 three, which is labeled as Pan 1325, it says there are four new
14 compressor engines. Looking at the dates that those were
15 constructed, those were -- you look at the potential to emit and
16 those are the four engines that we are talking about today, 16,
17 17, 18, and 19, and that's the potential to emit using roughly
18 AP-42 factors. That's all I had to go on.

19 Q. Okay. Had the company, to your knowledge, reported NOx
20 emissions in earlier years to the Agency that had exceeded the
21 allowable emissions identified in the annual emission report
22 form?

23 A. I would have to look. I don't know.

24 Q. Let's do that, shall we. I call your attention to

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1 Exhibit 9, I believe.

2 A. Okay.

3 Q. Can you tell us whether or not the source of emissions
4 reported for that year exceeded the allowable emissions for NOx?

5 A. They did.

6 Q. I call your attention to Exhibit Number 10. I will ask
7 you the same question?

8 A. No, they did not. The allowable emissions changed.

9 Q. They certainly did. I call your attention to -- just a
10 second -- Exhibit Number 11. That's the one we are referring to
11 now, I believe, right?

12 A. Yes.

13 Q. It changed back, did it not?

14 MR. BOYD: I am sorry. Objection to the form of it changed
15 back.

16 Q. (By Mr. Layman) The allowable emissions that were
17 identified in the annual emissions report changed back?

18 A. Yes, back to the 1,287.

19 Q. Okay. The cover letter -- referring your attention back
20 to Exhibit Number 14?

21 A. Yes.

22 Q. It indicated that the allowable emissions only reflect
23 permitted modifications to these facilities?

24 A. Yes.

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1 Q. Can you explain what that means?

2 A. Again, referring back to page three of the emission
3 inventory that was transmitted from the Agency to Panhandle
4 Eastern, and it is also labeled Pan 1325, I found that this sheet
5 within the inventory that indicated that we had four new engines.
6 Looking back at the engine data that I had, I knew we had four
7 engines that were installed in the mid 1980s. What I did was I
8 took AP-42, multiplied it by the horsepower, and multiplied it
9 by 8760 and came up with the number that approximated 1,287.

10 Q. Okay. Can you tell us, then, with reference to Pan
11 number 01322?

12 A. Yes.

13 Q. Is that the document that you created?

14 A. It was either created by me or within my direction.

15 Q. You are not sure as to who would have created the
16 document?

17 A. Occasionally we used consultants to do emissions
18 inventories. It tends to become a tedious task.

19 Q. Okay. You don't recall whether you would have used a
20 consultant in this case?

21 A. Not at this point in time, no.

22 Q. Well, if you would have created this document would it
23 have been relative to just the Glenarm and the Pleasant Hill
24 facility?

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1 A. Generally, no, it is a state specific spreadsheet.

2 Q. Is it your testimony today that this document was
3 created by you or someone under your direction --

4 A. Yes.

5 Q. -- in response to your observation identified in the
6 cover letter of this annual emission report?

7 A. No.

8 Q. Okay. Explain why this document was created?

9 A. This document was created to calculate emission
10 inventories. I have a sheet similar to this for the whole
11 pipeline system for every compressor station.

12 Q. This document here is created?

13 A. Yes.

14 Q. How often is it created in this way?

15 A. This format has been around since 1992.

16 Q. Are you aware of whether or not that format was around
17 prior to 1992?

18 A. I do not know.

19 Q. It was around in 1993?

20 A. I believe it to be, yes.

21 Q. It was -- I believe you answered that it had been around
22 since 1992; is that correct?

23 A. Yes, that's correct.

24 Q. Okay. So Panhandle would have created this document

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1 every year since then?

2 MR. BOYD: Objection. Asked and answered.

3 HEARING OFFICER KNITTLE: Mr. Layman?

4 MR. LAYMAN: I will withdraw.

5 Q. (By Mr. Layman) The form that I am looking at, years
6 other than what is identified here in 1994 would have been set
7 out or identified in a similar form?

8 A. Yes. We recreate the spreadsheet annually and just plug
9 in the hours for fuel used to refresh the sheet. The
10 calculations remain close to the same.

11 Q. I am getting the impression that you do this relative to
12 all of your compressor stations along the line?

13 A. Sure.

14 Q. Okay. Is it common for you to set them out -- I am
15 sorry. Strike that. Is it common for the facility in this type
16 of form to identify emissions --

17 MR. BOYD: I would -- I am sorry. Finish your question.

18 Q. -- (continuing by Mr. Layman) on a unit by unit basis?

19 MR. BOYD: Objection to the form. He said the facilities
20 on a unit by unit basis, and that is not what Mr. Wait has said.

21 HEARING OFFICER KNITTLE: Mr. Layman?

22 MR. LAYMAN: I don't know how to respond to that. I can
23 rephrase the question.

24 HEARING OFFICER KNITTLE: Try to rephrase it. If we can't,

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1 I will -- actually, I am going to overrule the objection. I
2 don't see why he can't answer the question. Whether or not it is
3 the testimony that has been elicited, it is a fair question.

4 THE WITNESS: Is your question does every facility list the
5 emissions sources source by source?

6 Q. (By Mr. Layman) Why don't we get at it this way --

7 A. I am just trying -- I didn't follow the question
8 exactly.

9 Q. That's fine. When Panhandle used this form in 1992, to
10 identify its emissions relative to the Glenarm station, would
11 have created that form in much the same way that it is set out
12 here in this Exhibit, 1322?

13 A. Yes.

14 Q. So it would have identified emissions on an engine per
15 engine basis?

16 A. Yes. How else would you calculate them?

17 Q. I am sorry?

18 A. How else would you calculate them?

19 Q. Well, I have been wondering that myself. I think with
20 your testimony I think maybe we are getting somewhere.

21 Can you identify the reference on this exhibit for engines
22 1116? Can you identify that on the document or can you refer to

23 it on the document?

24 A. Yes, I can.

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1 Q. Have you found it? Can you tell us what the annual NOx
2 emissions were reported for for that year?

3 A. I believe it to be -- again, I probably should have a
4 set of reading glasses, because this copy is rather smudged. I
5 believe it to be 284 or 294.

6 Q. Okay. Can you do the same for engine 1117?

7 A. I believe it to be 208 and a fraction.

8 Q. And 1118?

9 A. 89.87, I believe.

10 Q. And one last one, 1119?

11 A. 72.

12 Q. Okay.

13 A. And some fraction.

14 Q. Is it fair to say that the combined total from those
15 units exceeds the 461.3 tons per year limit that governs those
16 particular units?

17 A. Yes.

18 Q. And this form would have been created by Panhandle in
19 1992 --

20 MR. BOYD: Objection to the form. I am sorry.

21 Q. -- (continuing by Mr. Layman) for what -- let me
22 rephrase that.

23 Panhandle would have created this document in 1992 for what
24 purpose?

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1 MR. BOYD: I am going to object to the use of the term
2 Panhandle. Panhandle is a corporation and the corporation does
3 not create the document.

4 HEARING OFFICER KNITTLE: Response, Mr. Layman?

5 MR. LAYMAN: We can take it one step at a time. That is
6 fine. I will be glad to rephrase the question.

7 Q. (By Mr. Layman) Mr. Wait, you have testified here today
8 that either you or someone under your direction would have
9 created this document, and it was created seemingly in 1995, was
10 it not?

11 A. Yes. Well, yes.

12 Q. And it was found in your files contained within a copy
13 of the 1994 Annual Emission Report that was supposedly submitted
14 to the IEPA; is that correct?

15 A. Yes, it was contained within the document.

16 Q. Okay. You testified that this same form had been around
17 for years; is that correct?

18 A. It has been around since 1992, yes, at least.

19 Q. Okay. Before you took the initiative to have this form
20 developed or created by either yourself or some unknown
21 consultant, was this form being processed or developed in 1992?

22 A. Again, in 1992, when I was in the group, yes, we had the
23 form. I cannot tell you what happened prior to 1992 for the use
24 of the form.

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1 Q. Okay. Maybe it would help if you could identify what
2 you mean by the word form?

3 A. I am talking about the sheet that we have been
4 discussing, labeled 1322, the spreadsheet.

5 Q. Okay. Would Panhandle, in 1992, have filled out the
6 1994 hours and the emissions for all of those pollutants that run
7 a top -- that run across the top of this heading?

8 A. Not in 1992, no.

9 Q. Why not?

10 A. Because you said 1994 hours.

11 Q. They would have expressed those hours in terms of 1992
12 hours?

13 A. Yes, sir.

14 MR. BOYD: I would object again only because he used the
15 term Panhandle, what would Panhandle do. Panhandle is the
16 corporation.

17 HEARING OFFICER KNITTLE: Mr. Layman?

18 MR. LAYMAN: Panhandle Eastern Pipe Line Company.

19 MR. BOYD: That's a corporation, too.

20 HEARING OFFICER KNITTLE: Further response, Mr. Layman?

21 MR. LAYMAN: I guess I would think that any employee or

22 agent, such as a consulting firm or engineer, would be employed
23 by Panhandle Eastern Pipe Line Company. So I fail to make the
24 distinction that Mr. Boyd seems to insist upon.

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1 MR. BOYD: Unfortunately, a corporation cannot fill out a
2 form or create a form. Individuals can. If you are going to ask
3 about an individual at a particular time, I won't have an
4 objection. But to the extent that he is saying Panhandle created
5 the form or Panhandle generated this, I do have an objection.

6 MR. LAYMAN: Well, let's make it easy then. Anytime I am
7 referring to Panhandle Eastern Pipe Line Company or Panhandle, I
8 would ask the witness to understand that I am referring to the
9 corporation's employees and not its corporate entity. Is that
10 fair enough?

11 MR. BOYD: I don't believe that is fair.

12 HEARING OFFICER KNITTLE: I am going to rule here, Mr.
13 Layman. At least in terms of environmental affairs, I think this
14 witness has been properly qualified to speak to what Panhandle
15 would or would not have done. I am going to overrule the
16 objection and allow Mr. Layman to proceed as such. If, in fact,
17 we branch into an area that I don't think this witness has been
18 properly qualified for, I would be willing to sustain an
19 objection, but for environmental decision making for this
20 company, I am going to allow Mr. Layman to refer to Panhandle and

21 have this witness answer.

22 MR. LAYMAN: I apologize, but I don't recall what the
23 standing question is for the witness. Could we have the court
24 reporter read it back.

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1 HEARING OFFICER KNITTLE: Most definitely.

2 MR. LAYMAN: Thank you.

3 HEARING OFFICER KNITTLE: If you would, Darlene, please.

4 (Whereupon the requested portion of the record was read
5 back by the Reporter.)

6 MR. BOYD: Could we go off the record for just a second.

7 HEARING OFFICER KNITTLE: Yes, sure.

8 (Discussion off the record.)

9 HEARING OFFICER KNITTLE: All right. Let's take a short
10 break.

11 (Whereupon a short recess was taken.)

12 HEARING OFFICER KNITTLE: All right. We are back on the
13 record.

14 Mr. Layman, we are continuing with your cross.

15 MR. LAYMAN: Yes. Thank you.

16 Q. (By Mr. Layman) Mr. Wait, I am afraid I am going to have
17 to again call your attention to Panhandle Exhibit Number 01322,
18 which is part of Exhibit Number 14.

19 A. I have it.

20 Q. Can you tell us generally what the purpose of this

21 particular form would have been?

22 MR. BOYD: Objection. Asked and answered.

23 HEARING OFFICER KNITTLE: Mr. Layman?

24 MR. LAYMAN: I don't know that we have really got to the

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1 bottom of that yet. That is what I am hoping to do.

2 HEARING OFFICER KNITTLE: I am going to allow the question.

3 THE WITNESS: It is used to -- I am sorry.

4 HEARING OFFICER KNITTLE: Objection overruled. I am sorry,

5 sir. I was still -- it is my fault. I was slow on the draw.

6 You can answer.

7 THE WITNESS: It is used to complete emission inventories.

8 It is an emission calculation sheet.

9 Q. (By Mr. Layman) Okay. So this would have been used in
10 prior years as well as subsequent years to 1994 to aid you in
11 preparing emission inventories?

12 A. That's correct, as I said, from 1992 on.

13 Q. Okay. I take it, then, once this document was prepared,
14 you would assess the total emissions of all the various
15 pollutants identified at the top of the heading and fill out the
16 appropriate annual emission report inventories; is that correct?

17 A. We totaled the emissions for each column and then -- or
18 put them on the emission inventory forms for the states.

19 Q. Okay. Typically all you were ever concerned about were

20 the total emissions that were identified from this form; is that
21 right?

22 A. Correct.

23 Q. Okay. You never bothered to look at the engine by
24 engine NOx emissions in this case for the Glenarm facility

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1 because of what reason?

2 A. I am not saying that I never looked at the engine by
3 engine numbers. But in general we were grandfathered up and down
4 the facility, up and down the pipeline system. Therefore, there
5 was no real need to look at engine by engine data.

6 Q. And you didn't report engine by engine data to the IEPA
7 in the annual emission report either, did you?

8 A. It was not required.

9 Q. I am sorry?

10 A. You are correct. It was not required.

11 Q. Well, it was required in the AER form, the annual
12 emission report form, that the Agency sent to Panhandle, a total
13 number for emissions; is that correct?

14 A. That's correct.

15 Q. You indicated in your earlier testimony that this
16 document was, in your view or belief, submitted to the IEPA as
17 part of the 1994 annual emission report submittal?

18 A. By document you mean --

19 Q. Pan 01322?

20 A. Based upon finding it attached to the emission
21 inventory, I have no reason to believe that it was not.

22 HEARING OFFICER KNITTLE: Mr. Layman, can you identify what
23 exhibit we are talking about for this case.

24 MR. LAYMAN: Exhibit 14 still.

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1 HEARING OFFICER KNITTLE: Okay.

2 Q. (By Mr. Layman) I am going to have to ask you, Mr. Wait,
3 when you reviewed the documents after the Agency -- strike that.

4 After the Agency informed Panhandle of potential violations
5 in 1996, you discovered this document, I take it, as a result of
6 your investigation into the potential allegation or the potential
7 violations alleged?

8 A. At some point during this process over the last four
9 years, yes, we have copied that.

10 Q. Okay. Was the form that had been generated for the 1992
11 emissions from the Glenarm facility, had that been -- had that
12 been in the file that you reviewed?

13 MR. BOYD: Objection to the form in terms of what you mean
14 by "the form."

15 HEARING OFFICER KNITTLE: Mr. Layman?

16 MR. LAYMAN: Well, let me get about this a different way.
17 I will rephrase.

18 Q. (By Mr. Layman) In your review of the file that you

19 investigated after the Agency identified noncompliance in 1996,
20 did you find the 1992 emissions form in the files that you
21 reviewed?

22 A. I don't recall finding this, a form like this 1322, for
23 1992 in the file.

24 Q. Okay.

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1 A. It was not -- it was not attached to the emissions
2 inventory report if it was there. All I did was pull emission
3 inventory reports as part of this effort.

4 Q. Okay. What about for 1993?

5 A. I do not believe it to be attached.

6 Q. Was it attached in any --

7 A. I don't --

8 Q. -- annual emission report other than this one that you
9 see in front of you?

10 A. Generally those are stand-alone documents. What we
11 typically -- I mean, if we keep them in the file they are kept
12 alone or kept apart from the submissions.

13 Q. These forms are kept alone a part from the emission
14 inventories?

15 A. The spreadsheet, yes.

16 Q. Who keeps those records?

17 A. Those are kept in the environmental services files. I
18 do.

19 Q. Okay.

20 A. In an about way.

21 Q. The environmental services file is a file that I take it
22 is for the environmental protection group; is that correct?

23 A. Yes, it has evolved into that.

24 Q. Is there any particular reason why that is treated as a

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1 stand-alone document from year-to-year?

2 A. In general we don't submit them with it.

3 Q. You just used them for purposes of preparing your annual
4 emissions inventory?

5 A. It is a tool, yes.

6 Q. Okay. Is it always used?

7 A. For the most part it is. There may be some occasions
8 where it has not been.

9 Q. Well --

10 A. I can't vouch for what Mr. Chi had done during the
11 emission inventories he did. We also experimented with an
12 automated program that would calculate the emission inventories.
13 It may or may not have been used for those, but in general this
14 is the form that we have relied on for the vast majority of
15 emission inventories.

16 Q. Okay. I would like to turn your attention to Panhandle
17 Exhibit Number 21.

18 A. Okay.

19 Q. Can you tell us, Mr. Wait, when was the first occasion
20 in which you saw this document?

21 A. Sometime in -- let me get my years right. In the 1996,
22 1997 time frame.

23 Q. Where did you locate this document?

24 A. I do not know for sure where this document came from.

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1 There is no stamp on it signifying where it came from. It was
2 received in -- as part of the effort to try to understand, you
3 know, the document search for the potential violation.

4 Q. Okay. At the top right-hand corner of the document
5 there is reference to CO, slash DIV. I recognize the division.
6 What's the CO referring to?

7 MR. BOYD: I am sorry. Could you tell us where you are
8 looking?

9 MR. LAYMAN: I am looking at the front page of Panhandle
10 Exhibit Number 21, right below the top right-hand corner,
11 interoffice correspondence.

12 MR. BOYD: Thank you.

13 Q. (By Mr. Layman) I would like the witness to identify
14 what it refers to there?

15 A. Quite frankly, I have no idea.

16 Q. Okay. Do you have any recognition of the two words that
17 state environmental compliance?

18 A. Yes. That would be the other group that we have talked
19 about this afternoon.

20 Q. Okay. Would it be logical to assume that this document
21 came from the environmental compliance group of Panhandle Eastern
22 Pipe Line Company?

23 A. I mean, that could be a logical assumption, yes.

24 Q. But it could have been --

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1 A. It also could have come from the station. It also could
2 have come from transmission, from either of those groups.

3 Q. Okay. The memorandum itself is two pages. I believe
4 you testified earlier that attached to it is an operating permit?

5 A. Yes, this is correct.

6 Q. Could you identify the date or the issuance of the
7 operating permit?

8 A. June 5th of 1990.

9 Q. Can I redirect your attention to the cover letter again,
10 or I should say cover memorandum?

11 A. Yes.

12 Q. Didn't you testify earlier that the environmental
13 compliance group would not have had anything to do with
14 permitting matters?

15 A. For new permits, that is correct.

16 Q. Would there be a reason why this operating permit that

17 is attached here would have found its way into a file maintained
18 or kept by the environmental compliance group?

19 A. I think so. Again, as part of the effort, I had
20 initiated -- my first year or so there was to bring all that, you
21 know, everything back under one hat, if you will. I think --

22 Q. Mr. Wait --

23 A. Go ahead.

24 Q. Were you employed in that capacity on August 3rd of

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1 1990?

2 A. No.

3 Q. Okay. I guess my question relates to why it is that
4 this particular memorandum would have found its way into the
5 environmental compliance group?

6 A. I was trying to answer that.

7 Q. Okay. I am sorry.

8 A. As I said, the new permits were acquired by the
9 environmental protection. I was going on to say that the
10 day-to-day and ongoing activities were pulled together by
11 environmental compliance. That's one of the things I saw as
12 something that needed to change.

13 MR. LAYMAN: Okay. Thank you. May we have a moment,
14 please.

15 HEARING OFFICER KNITTLE: Off the record.

16 (Discussion off the record.)

17 HEARING OFFICER KNITTLE: Back on the record.

18 MR. LAYMAN: Thank you.

19 Q. (By Mr. Layman) I believe perhaps you were continuing,
20 Mr. Wait, with the explanation as to why the operating permit,
21 then, would have been attached to the interoffice correspondence,
22 the cover memo?

23 A. I thought I had answered that after you had -- but I
24 will go on to state that the day-to-day activities, the renewals,

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1 things like that were generally handled by environmental
2 compliance prior to 1993, somewhere in there.

3 Q. Okay. In this instance the operating permit that was
4 dated June 5th of 1990 would have been considered simply a
5 renewal permit?

6 A. It would have been as part of that effort, yes.

7 Q. You had identified in your earlier testimony Mr. Hurst
8 as being a supervisor; is that correct? And I apologize if I
9 misstate his capacity. Was he a supervisor at the Glenarm
10 facility?

11 A. That's a fair assessment. He was responsible for the
12 plant side of the station.

13 Q. Plant manager?

14 A. No, there was a person over him.

15 Q. Okay.

16 A. It was divided up so that you had a manager or a
17 supervisor who was in charge of the plant. He had a pipeline
18 manager, a guy who was responsible for activities outside the
19 fence. He was the inside the fence guy.

20 Q. Okay. My memory, I am afraid, does not serve me well
21 with respect to who you identified a Mr. R. E. Smith as?

22 A. He is -- at that time he was the supervisor,
23 environmental compliance.

24 Q. Okay. So he would have been located in your offices in

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1 Houston; is that correct?

2 A. I believe he was located in Houston at the time.

3 Q. Okay. So Mr. Smith, we can assume, from this
4 memorandum, would have sent this to Mr. Hurst at the plant in
5 Glenarm because of the renewal of the 1990 operating permit; is
6 that correct?

7 A. Yes.

8 Q. Is it fair to say that from the context of this memo
9 that Mr. Hurst identified -- I am sorry -- that Mr. Smith
10 identified the 461.3 tons per year limit in the permit?

11 A. Yes.

12 Q. Is it also fair to say that he identified in the memo
13 that records are to be kept of the hours of operation and gas
14 usage of each of the new compressor engines?

15 A. Yes.

16 Q. Okay.
17 A. You are talking about line 2C?
18 Q. Correct.
19 A. Yes.
20 Q. And then line 2D, as well, that records would be kept
21 for two years and available to Agency inspectors upon request?
22 A. Yes.
23 Q. You are not aware, given your testimony today, whether
24 records were kept at the Glenarm station facility, though; isn't

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1 that true?
2 MR. BOYD: Objection to the form. Asked and answered.
3 HEARING OFFICER KNITTLE: Mr. Layman?
4 MR. LAYMAN: I don't know if I have a response, but I would
5 like an answer to the question.
6 HEARING OFFICER KNITTLE: I don't recall this question
7 being asked. I am going to overrule it.
8 THE WITNESS: I do not have direct knowledge of the filing
9 system of Glenarm at this time.
10 Q. (By Mr. Layman) Okay. Thank you. I believe you also
11 indicated in your earlier testimony that you had no reason to
12 believe that Mr. Hurst would not have received the memo and its
13 attachment; is that true?
14 A. I have no reason to know whether he received it or not.

15 Q. Okay. Mr. Wait, I would like to call your attention now
16 to some of the events that took place after 1996 and the Agency
17 issuance of the violation notice to Panhandle. Isn't it true
18 that Panhandle, throughout the permitting process or the attempts
19 to obtain a permit, isn't it true that they were insistent that a
20 PSD permit need not be obtained for the facility at Glenarm?

21 A. Yes. I think it is still true today.

22 Q. Panhandle never did represent that it would be willing
23 to obtain a PSD permit?

24 A. There is no reason to obtain a PSD permit. With proper

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1 netting and the engine controls that we outlined and proposed
2 there is no need.

3 Q. The company always communicated its desire to obtain a
4 PSD avoidance permit to the Agency during the course of
5 discussions about the enforcement and the permitting matters?

6 A. Yes, I believe that to be the truth.

7 Q. Isn't it also true that Illinois EPA representatives
8 were always willing to listen to Panhandle's proposal but always
9 insisted that Panhandle provide supporting information for its
10 proposal?

11 A. Yes, and I thought we were doing that.

12 Q. All right. Isn't it also true that the IEPA never
13 informed the facility that the company could avoid having to
14 obtain a PSD permit?

15 A. To my knowledge, there was no direct communication that
16 said, no, you do not have to have a PSD permit.

17 MR. LAYMAN: Okay. Just a moment, please.

18 HEARING OFFICER KNITTLE: Off the record.

19 (Discussion off the record.)

20 HEARING OFFICER KNITTLE: Back on the record.

21 Q. (By Mr. Layman) Isn't it true, Mr. Wait, that emission
22 control equipment at the Glenarm facility must still be installed
23 in order for the facility to comply with PSD regulations?

24 MR. BOYD: Objection to the form of the question.

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1 HEARING OFFICER KNITTLE: How so?

2 MR. BOYD: I am not sure what he means by still be -- what
3 engines he is talking about or still be installed. I am not sure
4 what he is talking being about.

5 HEARING OFFICER KNITTLE: Mr. Layman?

6 MR. LAYMAN: I will rephrase.

7 Q. (By Mr. Layman) Isn't it true that emission control
8 equipment must still be placed on engines 1116 and 1117 at the
9 Glenarm facility?

10 A. Not necessarily.

11 Q. You believe that the facility can demonstrate compliance
12 without the installation of control equipment on those two
13 engines?

14 A. If we demonstrate compliance with the properly netted
15 permit, yes. There would have to be provisions in the permit
16 that enumerated an hours restrictions for that to occur.

17 Q. You have indicated in your direct examination you had
18 experience throughout the late 1980s and 1990s dealing with
19 permitting operations for Panhandle; is that correct?

20 A. No.

21 Q. You did not have any involvement with Panhandle's
22 permitting operations in the late 1980s?

23 A. This is correct.

24 Q. Okay. Only beginning in 1992 did you have those

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1 responsibilities?

2 A. That's correct.

3 Q. You also indicated in your testimony that there was a
4 period of time in which the company would typically seek to
5 obtain PSD avoidance permits; is that correct?

6 A. Companies within the Pan Energy family of companies had
7 acquired PSD avoidance permits, yes, we as a family had PSD
8 avoidance permits.

9 Q. Do you say that as a matter of course or routine or, I
10 mean, was it common for the company to insist upon complying with
11 PSD through avoidance requirements?

12 A. Sure. It is too painful to go through PSD. Quite
13 frankly, if you are doing a replacement project and you can

14 retire emissions put in new sources and not have to go through
15 PSD, through the PSD exercise, you are better off. Up in the
16 northeast where we couldn't do PSD avoidance, we would go
17 electric rather than go through PSD.

18 Q. Through your work for Panhandle beginning in 1992, did
19 you become familiar with the operations at the Houstonia plant in
20 the State of Missouri?

21 A. I am familiar with Houstonia.

22 Q. How are you familiar with the operations at Houstonia?

23 MR. BOYD: I am going to object to this line of questioning
24 as being beyond the scope of direct testimony.

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1 HEARING OFFICER KNITTLE: Mr. Layman?

2 MR. LAYMAN: I guess my response at this point in time is
3 that the testimony of the witness on direct was to, among other
4 things, operations generally throughout the pipeline or along the
5 pipeline. In this particular case, I don't know that there is
6 any reason to distinguish between the Houstonia compressor
7 station than that for the Pleasant Hill or the Tuscola or the
8 Waverly compressor stations.

9 HEARING OFFICER KNITTLE: Mr. Boyd, where is Houstonia?

10 THE WITNESS: Pettis County, Missouri. It is about, 60 or
11 70 miles --

12 HEARING OFFICER KNITTLE: It is not the Illinois station

13 that you couldn't recall the name of?

14 THE WITNESS: No, it is not.

15 HEARING OFFICER KNITTLE: Mr. Boyd?

16 MR. BOYD: There is no relevance for any discussions
17 regarding the Houstonia station.

18 HEARING OFFICER KNITTLE: I am more inclined on it beyond
19 the scope. I think we --

20 MR. BOYD: Well, it is beyond the scope.

21 HEARING OFFICER KNITTLE: -- have had a fair amount of not
22 quite so relevant matters to this point anyway. I am going to
23 sustain his objection that it is beyond the scope.

24 MR. LAYMAN: I would -- I guess I would at this point

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1 state, on the record, that the testimony is clearly relevant with
2 respect to the permitting of operations up and down the pipeline.
3 The fact that operations may occur in some other state apart from
4 Illinois, I guess I just don't see that as a distinction.

5 HEARING OFFICER KNITTLE: I didn't find -- first of all, I
6 would be interested in hearing how it is relevant. I didn't
7 think it was relevant on direct examination. I am not sure it is
8 relevant on cross. However, there was no objection on the direct
9 examination whether it was relevant. I was not upholding his
10 objection on the fact that it was not relevant. I was upholding
11 it because I think it was beyond the scope of the direct
12 examination.

13 MR. LAYMAN: Well, I guess that is why I am a little
14 confused. I apologize for that. But Mr. Boyd, I don't believe,
15 mentioned anything about the Pleasant Hill compressor station,
16 the Tuscola or the Waverly compressor station. And I think he
17 generally put in to issue on his direct examination of the
18 witness issues pertaining to the permitting operations up and
19 down the pipeline.

20 HEARING OFFICER KNITTLE: Mr. Boyd?

21 MR. BOYD: I don't believe that is the case. We talked
22 about the Glenarm station and his familiarity with the
23 permitting. But this line of questioning is not intended to
24 elicit testimony regarding Panhandle's permitting operations

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1 throughout its facility.

2 It is intended to elicit information about an environmental
3 litigation involving the Houstonia facility and I object to the
4 line of questioning for that ground as being way beyond the scope
5 of direct testimony.

6 HEARING OFFICER KNITTLE: Mr. Layman, I do think it is
7 beyond the scope. I think we were on direct. And I could be
8 wrong, so I will allow you to make an offer of proof if you want.
9 But my impression was that on direct we were qualifying this
10 witness as an expert on Panhandle permitting matters and things
11 like that. I didn't want to get into the specifics of various

12 permitting situations at different facilities.

13 Because it has been awhile since we had direct examination,
14 I am not so sure that it is beyond the scope. So I would allow
15 you to make an offer of proof. That way when the transcript
16 comes in I can take a look and the Board can take a look and see
17 what it is.

18 MR. LAYMAN: That's acceptable. Thank you.

19 HEARING OFFICER KNITTLE: You could make your offer of
20 proof by informing us what you think this witness would testify
21 to. I don't want to get into all sorts of questions as the offer
22 of proof.

23 MR. LAYMAN: Okay. So with respect to the offer of proof,
24 you just want -- you don't want to go through question by

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1 question with the witness or --

2 HEARING OFFICER KNITTLE: Let's go off the record for a
3 second.

4 (Discussion off the record.)

5 HEARING OFFICER KNITTLE: We are back on the record. Mr.
6 Boyd, do you want to go through that again.

7 MR. BOYD: As I said earlier, I believe that this line of
8 questioning is intended to elicit comments from this witness
9 regarding an environmental enforcement case, which is not
10 relevant to this proceeding, and that -- to that extent, I
11 believe the offer of proof will be eliciting questions, even if

12 not, you know, entered into evidence, which could be prejudicial.

13 HEARING OFFICER KNITTLE: Mr. Layman, how is it relevant?

14 MR. LAYMAN: How is it relevant?

15 HEARING OFFICER KNITTLE: Well, of course, we have not
16 heard what it is yet.

17 MR. LAYMAN: Right.

18 HEARING OFFICER KNITTLE: But what is the relevancy of what
19 you are trying to introduce?

20 MR. LAYMAN: I guess the relevancy of what we are
21 attempting to get at in this case is that there is a pattern or a
22 practice, if you will, of avoiding very important permitting
23 requirements that don't end with just the Glenarm facility. In
24 this particular instance, I think we want to be able to admit

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1 into evidence testimony concerning the operations at another
2 facility that lies outside this state but, nonetheless, seems to
3 me to be relevant in terms of establishing any aggregating
4 factors when it comes to the Board's consideration of issues like
5 penalty.

6 MR. BOYD: May I respond?

7 HEARING OFFICER KNITTLE: Yes, you may.

8 MR. BOYD: Well, Mr. Layman has failed to return to the
9 Environmental Protection Act which describes for us what is
10 relevant for the Board's consideration. Section 42 (h) of the

11 Act allows the Board in determining a civil penalty or any
12 matters of record in mitigation or aggravation of the penalty
13 including the number, proximity, time and gravity of previously
14 adjudicated violations of the Act by the violator.

15 MR. LAYMAN: Mr. Boyd, that is not an exclusive standard.
16 You even repeated the words. The words themselves say any
17 matters of record in mitigation or aggravation of penalty,
18 including but not limited. I guess my response to that is
19 notwithstanding the fact that it may not have been an adjudicated
20 violation because of facts that we can get into later in the
21 offer of proof, I hope. It, nonetheless, is going to be a matter
22 that should be considered or could be considered by the Board in
23 aggravation.

24 HEARING OFFICER KNITTLE: As I said, I can see how it could

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1 possibly be relevant. I think under the Act it could be a
2 mitigating factor. However, I do think it is beyond the scope
3 and not appropriate for this witness to testify to. So that is
4 why I have denied -- I have granted -- I am confusing myself. I
5 have sustained Mr. Boyd's objection as beyond the scope. I
6 suppose if there is a second objection as to relevancy, you know,
7 I am going to overrule that. Since I have already sustained the
8 objection as to beyond the scope, we don't really come into play
9 here.

10 In order to get this testimony in with this witness you are

11 going to have to make an offer of proof. Can you make that offer
12 of proof by informing the Board what you -- the questions you
13 want to elicit or do we have to go through question by question
14 with this witness?

15 MR. LAYMAN: I would prefer to go through question by
16 question with the witness.

17 HEARING OFFICER KNITTLE: I don't doubt that.

18 MR. LAYMAN: Only because I generally identified this
19 subject matter -- I mean, I am perfectly willing to do that, but
20 in order to assure that the facts get in the record relative to
21 what the witness has to testify on, I think I have to go through
22 a question by question basis.

23 HEARING OFFICER KNITTLE: How long do you anticipate
24 something like that taking?

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1 MR. LAYMAN: Well, I would hope in normal circumstances to
2 do it in probably ten minutes time.

3 HEARING OFFICER KNITTLE: All right. Now, let's go back to
4 Mr. Boyd here.

5 MR. BOYD: Sir, we have already approached a
6 cross-examination that is almost as long as my direct
7 examination. I spent approximately two hours in the direct
8 examination, and according to my calculations we are just about
9 to two hours for Mr. Layman's cross-examination. I think the

10 scope of his cross-examination has been extensive. And having
11 said all of that, the -- hold on one second.

12 Having said all of that, the State has not attempted to
13 bring in their case-and-chief any evidence to this effect, which
14 I think would have been what they were required to do under the
15 standards of the Board procedures. So to spend this much time
16 with this witness and to try to elicit at this point in time in
17 his testimony this kind of offer of proof with very shaky
18 relevance grounds and which could possibly be very prejudicial, I
19 think is offensive.

20 HEARING OFFICER KNITTLE: Anything further, Mr. Layman?

21 MR. LAYMAN: Well, I think I indicated that I was prepared
22 to make an offer of proof in the time span of approximately ten
23 minutes. If I have gone on for two hours, it is not because I
24 have not had reason to go on for two hours and I recognize it has

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1 been an extensive cross-examination. At least this
2 cross-examination will differ with respect to the direct
3 examination that was pretty much verbatim out of the earlier
4 permit appeal proceedings. But that may be neither here nor
5 there.

6 I guess my point is I think that the State should be
7 entitled to present an offer of proof, even if it takes 12 or 13
8 minutes, to ensure that we have this witness address this issue.
9 If it makes Mr. Boyd feel any better, I will have no further

10 questions to address to the witness after we get through this
11 subject matter.

12 MR. BOYD: Well, I am not so sure that I won't.

13 MR. LAYMAN: Well, then, how does the length of time that I
14 have for cross-examination bear on any length of time you may
15 wish to give to this witness on redirect?

16 MR. BOYD: Well, because, as I said, I don't believe this
17 is even within the scope of the direct. And I think it is,
18 again, inappropriate for me to have to spend time on this witness
19 on redirect on things that we did not even discuss on direct.

20 MR. LAYMAN: Well, that is your litigation strategy, is it
21 not? You can choose to do so or not.

22 HEARING OFFICER KNITTLE: Mr. Layman, please address these
23 arguments to me. I don't want you guys -- I hate to use the word
24 spatting back and forth. But I don't want you arguing back and

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1 forth.

2 I am going to allow the offer of proof to stand. I am
3 going to limit it to ten minutes. If you can get it in, you can
4 get it in. If not, that is just going to be too bad. I do think
5 we are going to be going longer than this week here. If worse
6 comes to worse, and you feel you have been prejudiced by only
7 having ten minutes, then maybe you can bring him back next time.
8 I am not going to go beyond ten minutes for the offer of proof.

9 MR. LAYMAN: Okay.

10 HEARING OFFICER KNITTLE: Mr. Boyd, in terms of what you
11 want to do to address this situation -- I am not accepting it
12 into evidence. As you know, it is an offer of proof. I am not
13 going to disallow it. I don't want to mandate that we have to
14 call this witness back if the offer of proof is granted by the
15 Board.

16 MR. BOYD: Do you mind if we take a five minute break first
17 since we have been going since approximately a little bit before
18 2:15?

19 HEARING OFFICER KNITTLE: No, let's -- I do, actually. I
20 want to finish this and then we can take any amount of time you
21 would like before you do your redirect.

22 MR. BOYD: Okay.

23 HEARING OFFICER KNITTLE: I don't have a problem with that.
24 I want to get the cross-examination done, which it essentially is

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1 except for the offer of proof, Mr. Layman?

2 MR. LAYMAN: That's correct.

3 HEARING OFFICER KNITTLE: Okay. Let's note for the record
4 that the offer of proof is commencing now.

5 OFFER OF PROOF EXAMINATION

6 BY MR. LAYMAN:

7 Q. Mr. Wait, to your knowledge, has the Houstonia facility
8 located in the State of Missouri maintained the necessary

9 operating permits at its facility?

10 MR. BOYD: Objection to the form of the question.

11 HEARING OFFICER KNITTLE: Now, hold on. Let's lay some
12 ground rules here. I will allow you to object to a limited
13 degree, but I don't want a lot of objections pushing us past what
14 Mr. Layman thinks is going to be the ten minute period.

15 MR. LAYMAN: Otherwise, I am going to need 25 minutes.

16 MR. BOYD: Well, what does he mean by necessary forms of
17 the permits. That is an ambiguous question. We can't have an
18 offer of proof even to be saddled with ambiguous and misleading
19 questions.

20 HEARING OFFICER KNITTLE: We can have -- in fact, I can
21 allow leading questions any --

22 MR. BOYD: I didn't say leading.

23 HEARING OFFICER KNITTLE: Well, you did.

24 MR. BOYD: Misleading I said.

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1 HEARING OFFICER KNITTLE: Okay. Well, I can allow leading
2 questions if I think they are necessary to speed things along.
3 In this particular instance, I do think they are necessary to
4 speed things along.

5 Mr. Layman, if you want to rephrase and start over again,
6 that would be helpful.

7 MR. LAYMAN: I will be glad to rephrase.

8 HEARING OFFICER KNITTLE: But I am restarting the clock,
9 the ten minute clock.

10 MR. LAYMAN: That's fine. Thank you very much.

11 Q. (By Mr. Layman) Can you tell us, Mr. Wait, of your
12 familiarity with the permitting operations at the Houstonia
13 facility in Missouri?

14 A. Yes.

15 Q. What can you tell us about that?

16 A. I can start forwards and work back.

17 Q. Okay.

18 A. We have a Title 5 operating permit. We have a PSD
19 permit that we acquired roughly three years ago. Prior to that
20 we had a situation where we did not have the proper operating
21 permit to operate engines there. I believe it was four engines.

22 Q. What kind of engines are they?

23 A. I don't know for sure.

24 Q. They are compressor engines, is that not --

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1 A. Yes.

2 Q. Okay. And what were the circumstances surrounding the
3 company's failure to maintain the necessary permits for those
4 engines?

5 A. Well, having done some of the same work that I have done
6 for the Glenarm facility, talking with the people who were in
7 charge, I believe that the management and environmental folks at

8 the time believed that the project that occurred in the 1980s did
9 not require a construction permit.

10 Q. What kind of project was that in the early 1980s?

11 A. It was a retirement of -- it was a modernization
12 project, retirement of "X" number of horizontal engines,
13 replacement with modern engines.

14 Q. Would you characterize it as a very similar project that
15 was undertaken by Panhandle in 1988?

16 A. Yes.

17 Q. Okay. What happened as a result of the facility not
18 obtaining the necessary permits for those engines at the
19 Houstonia facility?

20 A. We received an NOV for that.

21 Q. Can you describe what that is?

22 A. A notice of violation.

23 Q. From what authority?

24 A. The Missouri DNR.

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1 Q. Okay. Do you recall what they cited you in violation
2 of?

3 A. Not specifically, no.

4 Q. Was it PSD related?

5 A. I don't know if they referenced the federal code or not.
6 It was like I previously mentioned.

7 Q. You are suggesting that perhaps Missouri has an approved
8 PSD program and thus they would have cited to Missouri law for --

9 A. That's possible.

10 Q. -- the violation?

11 A. I am not entirely -- I mean, it has been a long time
12 since I have seen the documents.

13 Q. Do you recall whether or not the circumstances involved
14 the facility causing a major modification under PSD?

15 A. I believe that the -- that when you look at the project
16 in its entirety in today's light, yes, it was a potential major
17 modification, or it should have been netted out.

18 Q. Okay. I trust that because the facility had not
19 obtained the necessary permits at the Houstonia facility,
20 emissions that were emitted during a period of time exceeded
21 certain thresholds that were allowed for those engines; is that
22 correct?

23 A. I don't know for sure. I mean, quite honestly, this
24 boiled back to not having a proper construction permit. I don't

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1 know what the emissions were.

2 Q. What was the outcome of the permitting aspect of the
3 problem? Did the facility obtain the permits?

4 A. We ended up getting a PSD permit.

5 Q. Did the facility have to obtain -- strike that. Did the
6 facility have to install control equipment?

7 A. We installed control equipment.

8 Q. Did the -- strike that. How did the -- the enforcement
9 matter that was initiated by the Missouri Department of Natural
10 Resources, how did that resolve itself?

11 A. I have no direct knowledge of that. I was in Charlotte
12 when that occurred.

13 Q. You don't recall seeing any files or -- strike that.
14 You don't recall seeing any documents or information pertaining
15 to the resolution of that matter?

16 A. The only thing I know from that matter is that we filed
17 a PSD application. I did the prerequisite monitoring for the
18 facility. We began to negotiate the permit. I went to
19 Charlotte. I came back and I have installed the controls under
20 my watch. I don't know --

21 Q. So you filed at some point, then, a PSD application with
22 the State of Missouri; is that correct?

23 A. That is correct.

24 Q. You had previously not filed any sort of construction

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1 permit when you initiated the project?

2 A. In talking with the project manager, who was responsible
3 for that, or who I believe to be responsible for that, they
4 reviewed the regulations. The way that the Missouri regulations
5 are written is you go down the page for requirements for

6 construction permits. It says like kind replacements do not
7 recall permits. It is under an exemption clause. The permit
8 engineers at that time deemed that no construction permit was
9 required.

10 Q. Okay. Upon the issuance of the PSD permit to the
11 facility, was BACT demonstrated for the control equipment that
12 was installed?

13 A. Yes.

14 Q. Okay.

15 A. We performed a BACT analysis.

16 Q. Do you recall the particular type of engines that you
17 were dealing with?

18 A. Reciprocating engines.

19 Q. Was it clean burn technology?

20 A. The engines?

21 Q. Uh-huh.

22 A. Or the technology?

23 Q. The control equipment.

24 A. It was low emission clean -- represented as the low

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1 emission clean burn technology. That is not what we installed on
2 all engines.

3 MR. LAYMAN: Okay. May I have just a moment to confer and
4 then I think we will finish up.

5 HEARING OFFICER KNITTLE: Okay.

6 MR. LAYMAN: I have one, maybe two follow-up questions.

7 Q. (By Mr. Layman) Do you have any idea of the kind of time
8 frame that Panhandle was dealing with with respect to the
9 violations that were cited by the Department of Natural
10 Resources?

11 A. I don't understand "time frame."

12 Q. Do you know how many years the company operated without
13 the necessary permits?

14 A. I honestly don't know. I could go back to my file and
15 look, but --

16 Q. So you don't know whether it was one year or ten years?

17 A. More than -- definitely more than one. It was --

18 Q. Several years?

19 A. Five.

20 Q. Okay.

21 A. I don't know how much more than that. I don't know when
22 the project occurred and I cannot remember when we were cited.

23 Q. Do you have any understanding as to why it is that the
24 facility -- well, strike that. I have one more question if I can

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1 just formulate it.

2 HEARING OFFICER KNITTLE: You still have about a minute and
3 a half, something like that.

4 MR. LAYMAN: Okay. Thank you.

5 HEARING OFFICER KNITTLE: We didn't talk about time-outs.

6 MR. LAYMAN: I think we will call it a day on the offer of
7 proof.

8 HEARING OFFICER KNITTLE: All right. Thank you, Mr.
9 Layman. As I recall, you had no further questions for this
10 witness?

11 MR. LAYMAN: I believe that is correct.

12 HEARING OFFICER KNITTLE: Mr. Boyd, I am going to allow you
13 during your redirect a similar opportunity to respond to the
14 offer of proof within the context of the offer of proof if you
15 want to. You are under no obligation to do so. As you know, you
16 can address it in the posthearing brief, if you so desire. If
17 you want to ask questions of this witness relating to the offer
18 of proof, I am going to want to limit it in a similar fashion as
19 I limited Mr. Layman.

20 MR. BOYD: I have no redirect and no information to elicit
21 regarding the offer of proof.

22 HEARING OFFICER KNITTLE: Okay. Do you have a redirect at
23 all?

24 MR. BOYD: None.

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1 HEARING OFFICER KNITTLE: All right. Sir, you may step
2 down.

3 (The witness left the stand.)

4 HEARING OFFICER KNITTLE: I thought you wanted a break

5 before we reached that determination.

6 MR. BOYD: Oh, well, I apologize for that. Thank you,
7 though.

8 HEARING OFFICER KNITTLE: All right. Let's go off the
9 record.

10 (Discussion off the record.)

11 HEARING OFFICER KNITTLE: All right. We will take a break
12 now.

13 (Whereupon a short recess was taken.)

14 HEARING OFFICER KNITTLE: Okay. We are now back on the
15 record.

16 Sir, can you state your name, please, for the record.

17 THE WITNESS: My name is William W. Grygar.

18 HEARING OFFICER KNITTLE: Thank you. Before I jump the
19 gun, Mr. Boyd, this is your next witness, correct?

20 MR. BOYD: It is. Thank you.

21 HEARING OFFICER KNITTLE: Okay. Could you swear him in,
22 please.

23 (Whereupon the witness was sworn by the Notary Public.)

24 HEARING OFFICER KNITTLE: It is your witness.

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1 MR. BOYD: Thank you.

2 W I L L I A M W. G R Y G A R ,

3 having been first duly sworn by the Notary Public, saith as

4 follows:

5 DIRECT EXAMINATION

6 BY MR. BOYD:

7 Q. Good afternoon, Mr. Grygar.

8 A. Good afternoon.

9 Q. By whom are you currently employed?

10 A. I am employed by Panhandle Eastern Pipe Line Company,
11 which is a subsidiary of CMS Energy Corporation.

12 Q. What is your position with Panhandle Eastern Pipe Line
13 Company?

14 A. I am Vice President of Rates and Regulatory Affairs.

15 Q. How long have you been Vice President of Rates and
16 Regulatory Affairs?

17 A. Since 1991.

18 Q. What did you do with -- were you at Panhandle before
19 that?

20 A. Yes, I was.

21 Q. What did you do with Panhandle before that time?

22 A. I began work with Panhandle in February of 1973. I
23 generally progressed in positions of responsibility in the rates
24 and regulatory affairs department to my position as Vice

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1 President of Rates and Regulatory Affairs.

2 Q. What are your responsibilities as Vice President of
3 Rates and Regulatory Affairs?

4 A. I am responsible for all of the company's interaction
5 with the Federal Energy Regulatory Commission. I prepare
6 certificates of public convenience and necessity. I prepare rate
7 filings. I prepare various compliance and reporting type filings
8 on behalf of the company.

9 MR. BOYD: Could I ask that the answer be read back?

10 HEARING OFFICER KNITTLE: Sure

11 (Whereupon the requested portion of the record was read
12 back by the Reporter.)

13 Q. (By Mr. Boyd) Sir, what is a certificate of public
14 convenience and necessity?

15 A. A certificate is a permit or an authorization that is
16 required by the FERC before the pipeline, any interstate pipeline
17 including Panhandle, move forward with the construction of new
18 facilities. It also is required for changes in service.

19 Q. What do you mean by changes in service?

20 A. Services are the contracts that Panhandle utilizes to
21 provide service for primarily today transportation and storage
22 customers.

23 Q. What does changes in service mean?

24 A. A change in service would be some modification to that

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1 service or the request to provide a new service.

2 Q. You also said your responsibility includes rate filings.

3 What is a rate filing?

4 A. A rate filing would be an application by the company to
5 change the rates that it charges for its services.

6 Q. You also mentioned various compliance and reporting type
7 documents. What did you mean by that?

8 A. The FERC requires interstate pipelines to provide a
9 variety of data on its operations and I prepare that data and
10 file it with the FERC.

11 Q. Before becoming Vice President of Rates and Regulatory
12 Affairs, did you have -- or did you work on each of those three
13 different kinds of areas?

14 A. Yes.

15 Q. Did you -- what is the highest level of education you
16 have attained, sir?

17 A. I have a master's in business administration from
18 Southwest Texas State University.

19 Q. When did you obtain that?

20 A. In December of 1972.

21 Q. What was your undergraduate degree in?

22 A. I have an undergraduate degree in finance from the
23 University of Texas.

24 Q. When did you obtain that degree?

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1 A. In 1969.

2 Q. Did your undergraduate degree and your MBA prepare you

3 for your work with rates and regulatory affairs at Panhandle?

4 A. It provided the proper background in business and
5 accounting, finance, economics. Much of the rate and regulatory
6 work is learned on the job.

7 Q. Have you consistently been -- strike that. Did you go
8 to work for Panhandle after getting your MBA?

9 A. Yes.

10 Q. Okay. Now, we talked about rates and service. In your
11 capacity dealing with the rates and the regulatory affairs, have
12 you become familiar with the types of services that Panhandle
13 provides to customers?

14 A. Yes.

15 Q. Can you describe the services provided to customers
16 today?

17 A. Yes. Panhandle provides a variety transportation and
18 storage services.

19 Q. Excuse me. Let me stop you. When you say
20 transportation services, what do you mean?

21 A. Transportation service involves Panhandle taking gas on
22 behalf of a shipper at a point of receipt, transporting it
23 through its interstate pipeline system and delivering it to that
24 customer at a point of delivery. An example may be a customer

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1 giving Panhandle gas in Oklahoma for transportation to Central

2 Illinois Light Company here in Illinois.

3 Q. You also mentioned one of the services provided is
4 storage?

5 A. Yes.

6 Q. What is that?

7 A. Storage service entails Panhandle taking gas from a
8 shipper, injecting it into its storage fields, maintaining the
9 inventory of gas in the storage field and redelivering it to the
10 customer on demand. Generally storage involves the injection of
11 gas during the several months which run for storage injection
12 purposes. The summer months are identified as the period from
13 April 1 to October 31, and the withdraw period is the period from
14 November 1 through March 31.

15 Q. Are there different rates charged for the different
16 transportation and storage services?

17 A. Yes.

18 Q. Okay. The services that Panhandle provides -- strike
19 that. Are transportation and storage the only services that
20 Panhandle provides customers today?

21 A. Those are the principal services. We have other
22 services such as park and lending services. But generally
23 transportation and storage are the primary services that
24 Panhandle provides today.

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1 Q. Now, have the types of services Panhandle provides

2 changed over time?

3 A. Yes, they have.

4 Q. Are you familiar with the types of services that were
5 provided in the early 1980s?

6 A. Yes.

7 Q. Can you describe that?

8 A. In the early 1980s the principal service that Panhandle
9 provided was a sales service.

10 Q. What is the sales service?

11 A. Sales service entailed Panhandle purchasing gas at the
12 well head in the production areas on its system, which consists
13 of the Panhandle of Oklahoma and Texas and central Kansas,
14 aggregating that gas, gathering it, transporting it, storing it,
15 and delivering it to sales customers on demand. We were buying
16 and selling gas in the early 1980s.

17 Q. Today, do you buy and sell gas?

18 A. No, we do not.

19 Q. So the gas transported through the Panhandle pipeline
20 system, is that owned by Panhandle?

21 A. No. Today the gas is owned by the shippers with whom we
22 contract for transportation and storage services.

23 Q. But in the early 1980s it was owned by Panhandle; is
24 that right?

1 A. Yes.

2 Q. Okay. You described the sales service how long had
3 Panhandle been providing that kind of sales service up until the
4 early 1980s?

5 A. From the beginning of the pipeline, which would be in
6 the 1930s.

7 Q. Did something change in the 1980s to change the type of
8 services being provided?

9 A. Commencing in the mid 1980s the FERC began modifying the
10 services that interstate pipelines provided. They began
11 restructuring the industry.

12 Q. What do you mean by modifying the services provided?

13 A. In 1985, the Commission issued Order 436. That order
14 permitted the sales customers to convert, over a five year
15 period, a portion of their sales contract demand to
16 transportation. That order also permitted pipelines to charge a
17 rate between the minimum and the maximum rate to give us more
18 flexibility to provide the changing transportation services.

19 Q. Okay.

20 A. That order also established a new way for pipelines to
21 sell their services to what is called first come, first serve.
22 The way that worked is as customers came to us and requested
23 service, they were put into a cue. As capacity became available,
24 then the first person in the cue was offered a contract for the

1 service that was being requested.

2 Q. Was that different than the system that had operated
3 before?

4 A. Primarily before, we had long-term contracts with our
5 sales customers for the sale of gas.

6 Q. You mentioned that the Order 436 permitted sales
7 customers to convert to transportation. What does that mean?

8 A. Over a five year period a sales customer could gradually
9 convert from taking all of its gas from Panhandle and no longer
10 buying it from Panhandle and instead contracting for that gas on
11 its own behalf in the production area and having Panhandle
12 transport that gas to its city gate.

13 Q. You also mentioned the Order 436 allowed pipelines like
14 Panhandle to charge between the minimum and the maximum rate.
15 What are those two terms? What is a minimum rate and a maximum
16 rate?

17 A. The minimum rate includes the pipelines variable costs.
18 All of the other costs are included in the maximum rate. Well,
19 in addition to the variable cost the maximum rate would be a
20 combination of the minimum rate and the fixed costs that are
21 included in the -- I didn't explain that very well, so let's
22 start over. The maximum rate is the total rate that the company
23 can charge for its transportation and storage services. The
24 minimum rate is only the variable costs.

1 Q. Okay. How did -- strike that. Did Order 436 lead to
2 changes in the types of services that Panhandle provided to its
3 customers?

4 A. Yes. Order 436 resulted in the pipeline offering its
5 transportation services on a self-implementing basis. That means
6 that a customer can come to Panhandle and Panhandle can contract
7 for that service with that customer without prior FERC approval.
8 Prior to Order 436, any customer that requested service would
9 have to be individually certificated by the FERC prior to that
10 service commencing.

11 Q. Were there any other changes to the services that
12 Panhandle provided customers as a result of Order 436?

13 A. I think that those were the principal changes of Order
14 436.

15 Q. Were there -- earlier you had, in relation to the
16 minimum rates, you had discussed variable costs. What are
17 variable costs?

18 A. Those are the costs that vary with the throughput on the
19 system, the costs that vary with the level of the throughput.

20 Q. When you say throughput, you mean the amount of natural
21 gas being piped through the system?

22 A. Yes.

23 Q. Okay. Besides Order 436, were there other FERC orders
24 in the mid to late 1980s that affected the services that

1 Panhandle was providing?

2 A. The other order in the 1980s that modified the pipeline
3 services was Order 380. Order 380 eliminated the pipelines
4 minimum bill, the pipelines fixed cost minimum bill.

5 Q. I am sorry? Eliminated the pipelines fixed cost minimum
6 bill?

7 A. Yes.

8 Q. What do you mean by that?

9 A. Minimum bill is a feature or was a feature of the
10 pipelines sales contracts. The pipeline entered into a contract
11 with a sales customer and the sales customer agreed that it would
12 take a minimum quantity of gas. Normally on Panhandle it was 75
13 percent of the annual contract quantity. That varied from
14 pipeline to pipeline and service to service. The quid pro quo
15 for that requirement, that the customer could take up to 75 per
16 cent of the annual contract quantity, was that Panhandle would go out
17 and buy the reserves to meet that customer's requirement for the
18 total length of that contract. So there was a -- there was a
19 sharing of responsibility. Panhandle bought the gas in the field
20 and the customer agreed to take the gas at the city gate.

21 Q. How did Order 380 change that?

22 A. Order 380 eliminated the sales customers requirement to
23 buy gas from Panhandle.

24 Q. What affect did that have on Panhandle's services?

1 A. The --

2 Q. Can I -- maybe I could just ask another question. I
3 have heard of the term take or pay. What does that mean?

4 A. Well, take or pay is a feature that Panhandle had in its
5 contracts with producers of gas. Since we had the contracts with
6 the sales customers that required the sales customers to take gas
7 from us, the producer accepted a comparable provision in the gas
8 purchase contract. So the pipelines often agreed to a take or
9 pay clause which required them to buy the gas that the producer
10 was able to produce under the various contracts. When the
11 Commission decoupled the obligations between the pipeline and
12 the -- between the pipeline sales customers and the pipelines
13 producers contracts, that resulted in the take or pay problem
14 that the industry had to deal with during this time period.

15 Q. That decoupling was as a result of the Order 380?

16 A. Yes.

17 Q. We have mentioned Order 436 and Order 380. Were those
18 orders applicable to all natural gas pipeline companies?

19 A. Yes.

20 Q. I am sorry. What was the take or pay problem that
21 developed as a result of that 380 Order?

22 MS. CARTER: Objection. Asked and answered.

23 HEARING OFFICER KNITTLE: Mr. Boyd?

24 MR. BOYD: I can restate it.

1 Q. (By Mr. Boyd) What problems did Order 380 cause
2 Panhandle?

3 A. Panhandle had a significant quantity of gas in their
4 contract with producers and it was unable to sell that gas under
5 its sales contracts because the sales customers were no longer
6 required to buy gas from Panhandle.

7 Q. What did Panhandle do about that?

8 A. Panhandle went to its producer/suppliers and
9 renegotiated those contracts.

10 Q. Were there any other FERC orders in the mid or late
11 1980s that affected the types of services that Panhandle was
12 providing its customers?

13 A. Not services specifically that I recall.

14 Q. How would you generally describe the activities of FERC
15 in the 1980s and the early 1990s? What were they trying to do?

16 A. The FERC was trying to restructure the natural gas
17 pipeline industry. Their goal was to increase competition, give
18 the customers more alternatives as to where they sourced their
19 gas. They were generally trying to introduce more players in the
20 buying, transporting, and selling of gas.

21 Q. You said in the early 1980s you had the sales type
22 services. Did that change with this activity by FERC?

23 A. Yes, it was ultimately eliminated with Order 636 in
24 1991, I believe, or maybe perhaps it might have been in 1992.

1 But as a result of Order 636 pipelines were required to make
2 compliance filings. Panhandle's filing went into effect in 1993
3 and with that filing we were totally out of the sales function.

4 Q. When you say compliance filing, what do you mean by
5 that?

6 A. This particular compliance filing modified Panhandle's
7 tariff and modified Panhandle's services. The modification to
8 the services was to unbundle the various functions that Panhandle
9 provides. After 636 Panhandle had a separately stated gathering
10 service, a separately stated transportation service, and a
11 separately stated storage service.

12 Q. I think you mentioned earlier that today Panhandle's
13 services include transportation and storage; is that right?

14 A. Yes.

15 Q. Sometime in between the early 1990s and today what
16 happened to the gathering service?

17 A. Panhandle's gathering facilities were transferred to a
18 field services affiliate over about a three year period starting
19 in 1994. So that today we no longer have any gathering
20 facilities. We only have transportation and storage facilities.

21 Q. Is it fair to say that over a period in the early 1980s
22 to the early 1990s the type of services that Panhandle was
23 providing changed from the sales services to the unbundled
24 services?

1 A. Yes.

2 Q. When we began you mentioned that one of your
3 responsibilities involves filing rate proceedings; is that right?

4 A. Yes.

5 Q. What is a rate case?

6 A. A rate case is a filing that interstate pipelines are
7 permitted to make to adjust the rates that they charge for the
8 services that they provide.

9 Q. Mr. Grygar, on what are the rates that Panhandle is
10 permitted to charge based?

11 A. Under the Commission's regulations and policies and
12 practices, a pipeline's rates are based upon its cost of
13 providing those services. The term of art that the FERC uses is
14 cost of service.

15 Q. What is included in the term of art cost of service?

16 A. The cost of service includes the pipeline's operating
17 and maintenance expenses, which would include labor and supplies
18 and material. It would include a component for depreciation
19 expense, a component for property taxes, a component for state
20 income taxes and other local state taxes, a component for federal
21 income tax, a component for administrative and general expenses,
22 which would include functions like the regulatory affairs
23 department, legal, accounting, purchasing, human resources. It
24 would also include a component for earnings on the investment in

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1 the pipeline's facilities.

2 Q. What do you mean earnings on investment in the
3 pipeline's facilities?

4 A. A pipeline is permitted to earn a rate of return on the
5 investment in gas, plant, and service.

6 Q. Have the rates always been based on those things you
7 just enumerated?

8 A. Yes.

9 Q. Have the rates always been based on earnings on
10 investment in the pipeline facilities?

11 A. Yes.

12 Q. So have they always included a rate of return on the
13 investment?

14 A. Yes.

15 Q. When is a rate case filed?

16 A. The pipelines make that determination. Generally a rate
17 case is filed when the costs of providing the pipeline services
18 have increased or the volume determines that are utilized to
19 calculate the various rate components have changed.

20 Q. Are you familiar with rate cases filed in the late 1980s
21 and early 1990s?

22 A. Yes.

23 Q. Were rate cases filed more frequently during that time
24 period than the earlier time period?

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1 A. From about 1987 through 1992, that was true. Panhandle
2 had several rate cases during that time period.

3 Q. Why was that?

4 A. Well, this was the time period that we were previously
5 discussing, the time period during which the FERC was
6 restructuring the pipeline industry. So during this time period
7 we had a large number of changes in the customer mix, the type of
8 customers that we were serving, the change from the sales
9 function to the transportation function, so that during this
10 period the cost of providing service often were misallocated
11 between the various mix of customers that we were serving. So
12 rate proceedings were filed to better match the cost of providing
13 the service with the customers who were actually utilizing the
14 services that the pipelines were providing.

15 Q. Do you have an understanding of how the rate of return
16 allowed in these proceedings changed or was affected?

17 A. The rate of return that was allowed during this time
18 period was in the 12 to 13 percent range. This is the return on
19 equity.

20 Q. Was that before tax or after tax or --

21 A. That would be after tax.

22 Q. How did that range compare to the ranges in the early
23 1980s?

24 A. It was somewhat higher.

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1 Q. Okay. Can you describe the process that Panhandle
2 undergoes to -- can you describe the process that Panhandle
3 undergoes to initiate a rate case?

4 A. Panhandle would review its cost of service from the
5 prior rate case. We would evaluate the cost underlying the
6 current rates and see how those costs had changed. If the cost
7 had changed significantly, then we would prepare a new rate case
8 filing to modify the rates.

9 Q. What do you mean by new rate case filing? Is that
10 something filed with FERC?

11 A. Yes.

12 Q. What is included in that filing?

13 A. That filing would include all of the support for the
14 rates that the interstate pipeline is requesting. It would
15 include support for all of the costs that I have previously
16 identified as being components of the cost of service and it
17 would also include detailed support of the customers that were
18 receiving those services.

19 Q. Over what period of time are the costs considered for
20 the rate case?

21 A. Under the Commission's regulations, a cost of service is
22 based upon 12 months of actual experience. This period is called
23 the base period. To the base period a pipeline is permitted to
24 make adjustments for a nine month test period. So that when a

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1 rate case is filed we have, in effect, a 21 month period of
2 evaluation.

3 Q. Has the process you just described regarding rate cases
4 changed over time?

5 A. Generally, no. There have been some changes in the kind
6 of information that is required to be provided. We provide more
7 information today on transportation customer volumes, since we no
8 longer have a sales function. So we no longer provide
9 information on gas purchases, for example. But outside of that,
10 the basic rate case model has remained unchanged.

11 Q. You were talking about costs of service and the elements
12 of the cost of service. Are there kinds of costs that FERC does
13 not allow?

14 A. Generally the only cost that comes to mind that FERC has
15 not allowed would be in the nature of penalties, fines, something
16 of that nature. In my experience most other costs of providing
17 the services has been permitted to be recovered.

18 Q. What about the costs of operating compressor stations?

19 A. Yes, those certainly are a component of our cost of
20 service.

21 Q. And maintenance regarding those costs of the compressor
22 stations?

23 A. Yes.

24 Q. What if you were replacing equipment and adding new

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1 compressor engines, would that be included in the cost of service
2 for a rate case?

3 A. Yes, it would.

4 Q. Okay. How does FERC treat costs of environmental
5 controls?

6 A. The FERC would consider those to be one of the
7 requirements of changing regulation and as those facilities are
8 added by the pipeline they would be treated as any other pipeline
9 facility.

10 Q. Besides rate cases I think you told me at the beginning
11 that you have also responsibility in rates and regulatory affairs
12 for certificates of public convenience and necessity; is that
13 right?

14 A. Yes.

15 Q. What are those?

16 A. Certificates of public convenience and necessity are
17 permits. If a pipeline needs to expand its transportation
18 facilities, it would be required to request a permit from the
19 FERC prior to expanding the pipeline system.

20 Q. When you say expanding the pipeline system, what do you
21 mean by that?

22 A. Increasing the throughput.

23 Q. Would an approval by FERC also be necessary if you were

24 decreasing the throughput?

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1 A. Yes.

2 Q. Okay.

3 A. Those would be called abandonment proceedings.

4 Q. Have those proceedings changed over time?

5 A. No.

6 Q. In your capacity with Panhandle have you become familiar
7 with the Glenarm compressor station?

8 A. Yes.

9 Q. Do you understand generally what the role of the
10 Panhandle station is in the Panhandle natural gas distribution
11 system?

12 A. Yes.

13 Q. Can you describe that just generally for us?

14 A. Glenarm is one of the main line compressor stations that
15 is located on the Panhandle pipeline system.

16 Q. Have you ever been involved in any FERC filings or
17 notices involving increasing or decreasing the certificated
18 capacity at Glenarm?

19 A. No. All of the authorizations to modify the compression
20 at Glenarm took place prior to my employment with Panhandle. I
21 am familiar with those filings. I have looked at them in the
22 files, but they were not filed at the time that I was employed

23 with the company.

24 Q. When you were employed with the company are you aware

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1 that there was a modernization of the Glenarm station in the mid
2 1980s or the late 1980s?

3 A. Yes.

4 Q. Did that require any kind of filing with FERC, that
5 modernization?

6 A. The modernization itself did not. Under the
7 Commission's rules, a pipeline is permitted to replace facilities
8 that become aged or obsolete or which for liability reasons need
9 to be replaced. The filing that was made in conjunction with the
10 Glenarm compressor station was to abandon two compressor units at
11 the Hugoton compressor station. And in conjunction with the
12 filing we told the FERC that we were going to be moving those two
13 engines to Glenarm.

14 Q. Were you involved in that -- was that an abandonment
15 proceeding?

16 A. Yes.

17 Q. When did that take place?

18 A. I believe it was filed on September 30th of 1986.

19 Q. So at that point in time you knew that you were going to
20 be moving engines from Hugoton to Glenarm?

21 A. Yes.

22 Q. If the capacity at the Glenarm station was going to be

23 decreased as a result of the moving of those engines to Glenarm
24 would a filing with FERC have been required?

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1 A. Yes.

2 Q. That is the abandonment type process that took place at
3 Hugoton?

4 A. Yes.

5 Q. You were talking before about the rate proceedings in
6 the late 1980s and early 1990s. Do you know if the costs that
7 Panhandle incurred to take out the 12 old engines at Glenarm and
8 replace them with four new engines as part of that modernization
9 were covered in any rate proceeding?

10 A. Yes, I do.

11 Q. How do you know that?

12 A. In 1988 Panhandle prepared a rate filing. It was filed
13 on September 30th of 1988 in Docket Number RP88-262. That filing
14 was prepared under my direction and supervision. In conjunction
15 with that filing, there was an adjustment to gas plant to be
16 included in that filing for the Glenarm modernization program.

17 Q. What do you mean by gas plant? I am sorry.

18 A. Gas plant would be all of the pipeline, compressor,
19 storage fields, compressor building, our home office building,
20 the trucks and cars and the computer equipment, all of the plant
21 that is utilized by the company to provide the transportation and

22 storage services.

23 Q. In that rate proceeding -- I am sorry -- did you say
24 RP88-262?

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1 A. Yes.

2 Q. Did you detail the costs that Panhandle spent to take
3 out the 12 old engines and replace them with the four new
4 engines?

5 A. Yes.

6 Q. Do you have an understanding or memory of what those
7 costs were?

8 A. Yes, it was approximately \$20 million.

9 Q. Do you know how that amount relates to the amounts at
10 the time that Panhandle was spending yearly for routine
11 maintenance and replacement?

12 A. Panhandle spends approximately \$50 million for those
13 type of activities.

14 Q. Was that a typical number for that period of time, 50
15 million?

16 A. Yes.

17 Q. Okay.

18 A. That's an annual number.

19 Q. That does not relate to one particular station? It
20 relates to all of the entire pipeline; is that right?

21 A. Yes.

22 Q. Was general rate proceeding RP88-262 intended to recover
23 other costs and not just the modernization project at Glenarm?

24 A. Yes. Glenarm, of course, would only be a very small

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1 component of all of the costs that were included in that filing.

2 Q. Do you recall what the total cost in service was that
3 was being sought in that rate proceeding?

4 A. The total cost of service was about \$650 million.

5 Q. What does that represent?

6 A. It is an accumulation of all of the costs components
7 that we were describing, the operation and maintenance expenses,
8 the depreciation expense, the state and local taxes, federal
9 income taxes, return on our investment.

10 Q. Did FERC ultimately allow the rate increase requested in
11 RP88-262?

12 A. Yes.

13 Q. Did they allow the costs associated with the Glenarm
14 modernization to be included as part of the plant and service
15 costs?

16 A. Yes.

17 Q. Were any of those costs disallowed?

18 A. No.

19 Q. Were the rates that Panhandle charged increased as a
20 result of the rate case RP88-262?

21 A. Yes, they were.

22 Q. If the costs at Glenarm modernization had been increased
23 by \$300,000.00 what affect would that have had on Panhandle's
24 rates?

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1 A. It would have had no affect on rates.

2 Q. Why do you say that?

3 A. An additional \$300,000.00 in gas plant would have only a
4 negligible increase in the total cost of service.

5 Q. Well, what if the increased costs had been \$500,000.00?

6 A. It would still have had no affect on rates.

7 Q. Mr. Grygar, do you know Jasbinder Singh?

8 A. Yes, I have met Mr. Singh.

9 Q. When did you first meet him?

10 A. In some of the preliminary discussions in conjunction
11 with this proceeding yourself and Mr. Singh and Mr. Deisch asked
12 me to meet with Mr. Singh to discuss the federal regulatory
13 process, the rate process, how costs are recovered in rates, and
14 we had a general discussion about that process.

15 Q. Kind of similar to the talk we just had today?

16 A. Yes.

17 Q. Did you know Mr. Singh before this case?

18 A. No.

19 Q. How often have you talked to him since you first met
20 him?

21 A. Since the initial meeting we had one, perhaps two,
22 telephone conversations. I also met him and spoke with him at
23 the time of my deposition and, of course, this week.

24 Q. Did Mr. Singh ask you questions regarding FERC

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1 regulations of the natural gas pipelines?

2 A. Yes.

3 Q. Did you answer his questions?

4 A. Yes.

5 MR. BOYD: Okay. That's all I have.

6 HEARING OFFICER KNITTLE: Mr. Layman, Ms. Carter, do you
7 have a cross?

8 MS. CARTER: Yes, there will be a cross. If I could have
9 five minutes, please.

10 HEARING OFFICER KNITTLE: Yes, let's take a five minute
11 break.

12 (Whereupon a short recess was taken.)

13 HEARING OFFICER KNITTLE: All right. We are back on the
14 record.

15 I will remind you that you are still under oath, sir.

16 THE WITNESS: Yes, sir.

17 HEARING OFFICER KNITTLE: Ms. Carter, your witness.

18 MS. CARTER: Thank you.

19

CROSS EXAMINATION

20

BY MS. CARTER:

21 Q. Mr. Grygar, in your direct testimony you spoke of the
22 regulatory changes by FERC in the mid 1980s, specifically those
23 pertaining to the decontrolling of well head prices of natural
24 gas. Does the decontrolling of the well head prices of natural

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1 gas create a more competitive well head market where market
2 forces could play a more significant role in determining the
3 supply?

4 MR. BOYD: I am going to object to the form as ambiguous.
5 I don't remember anything about decontrolling well head gas
6 prices in the direct testimony.

7 HEARING OFFICER KNITTLE: Ms. Carter?

8 MS. CARTER: He spoke specifically to the fact that prior
9 to a certain time period, I believe the mid 1980s, that the
10 company was, you know, a seller of natural gas. And then after a
11 certain time period they no longer were. He discussed this in
12 the context of the Federal Energy Regulatory Commission. And he
13 also spoke specifically of the unbundling of the services that
14 were provided by Panhandle. When he spoke of unbundling, again,
15 he spoke of the distinction between, you know, that which was
16 pertaining to well head and the transportation and the storage
17 factors. So I do think it falls within the scope of direct.

18 HEARING OFFICER KNITTLE: I am going to allow the question.
19 The objection is overruled.

20 Did you understand it though, sir? I didn't but then,
21 again, I am not someone who understands this type of thing as a
22 general rule. If you understood it, I would be happy to let the
23 question go.

24 THE WITNESS: I know the topic that she is talking about.

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1 I didn't --

2 MS. CARTER: I can break it down.

3 HEARING OFFICER KNITTLE: Why don't we break it down to a
4 couple of questions.

5 MS. CARTER: Okay.

6 Q. (By Ms. Carter) In terms of the decontrolling of the
7 well head prices, didn't this, in essence, create a more
8 competitive well head market?

9 A. Yes, it -- yes.

10 Q. And in this creation of this more competitive well head
11 market, couldn't the market forces then play a more significant
12 role in determining supply and demand?

13 MR. BOYD: Objection to the form. It is asking for
14 speculation.

15 HEARING OFFICER KNITTLE: Ms. Carter?

16 MS. CARTER: No, I don't think it is asking for speculation
17 at all. This expert has -- or this opinion witness -- I
18 apologize -- has provided background information into his

19 credentials pertaining to the Federal Energy Regulatory
20 Commission and what was going on at that time. I believe he has
21 over 20 years of experience in this area. I don't think it calls
22 for speculation on his part.

23 MR. BOYD: I am also going to object, Mr. Knittle, that it
24 is going beyond the scope of the direct testimony. Just like Mr.

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1 Layman before her, she is trying to get into areas that were not
2 covered on direct testimony.

3 HEARING OFFICER KNITTLE: Just so you know, I --

4 MS. CARTER: May I respond to that?

5 HEARING OFFICER KNITTLE: You may in one second. Before we
6 get to the beyond the scope, which I can't rule on yet because,
7 of course, I have not heard your response, but I would overrule
8 the previous objection.

9 MS. CARTER: Well, pertaining to the second objection that
10 it goes beyond the scope, it pertains to the immediate -- the
11 immediately preceding question in which you already overruled
12 that objection. It pertains to, again, the unbundling of the
13 prices -- or excuse me -- the unbundling of the well head prices
14 from the other storage and transportation components that you
15 already ruled upon. And specifically --

16 HEARING OFFICER KNITTLE: I will -- go ahead.

17 MS. CARTER: And also specifically, I think, if I am
18 correct, it actually pertains to Order 380, which he did testify

19 directly to.

20 HEARING OFFICER KNITTLE: I will overrule it. I don't want
21 to go too far afield into this area. I am not entirely -- this
22 is a technical area that I don't have a lot of expertise in. I
23 am going to give you some latitude because I am not exactly sure
24 what flows from what, in terms of what is an acceptable scope on

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1 cross-examination. That's my real problem here, Mr. Boyd and Ms.
2 Carter. But to the extent that I think it is -- to the extent
3 that you can explain to my satisfaction why it is not beyond the
4 scope, I am going to allow it to go on, and you did that time.
5 So the objection is overruled.

6 MS. CARTER: Thank you.

7 Q. (By Ms. Carter) Do you need the question read back, Mr.
8 Grygar?

9 A. Or restated.

10 HEARING OFFICER KNITTLE: Which one, Ms. Carter? Can you
11 restate it?

12 MS. CARTER: I will try to restate it because I don't want
13 to have to ask the court reporter to go back that far.

14 Q. (By Ms. Carter) Didn't these regulatory changes,
15 specifically FERC Order 380, regarding the decontrolling of the
16 well head prices, didn't it affect or -- let me back up. Let me
17 strike that. Okay. Because I don't think I am being clear.

18 Didn't these specific regulatory changes pertaining to the
19 decontrolling of the well head prices play a significant role in
20 determining supply and demand in the industry?

21 A. The regulation that you are referring to there is the
22 Natural Gas Policy Act of 1978.

23 Q. Actually at that point in time I was not referring to
24 the Natural Gas Policy Act of 1978, but we can take it back that

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1 far if you would like to, sir.

2 A. Well, if you want to talk about the decontrol of natural
3 gas prices, that would be where you --

4 Q. I think that's --

5 A. -- would need to start.

6 Q. -- the appropriate time period and let's begin there.

7 MR. BOYD: Is there a question pending?

8 MS. CARTER: I did provide him a question. I can put it
9 back out there again.

10 HEARING OFFICER KNITTLE: Sir, do you understand the
11 question in the context of 1978 time frame?

12 THE WITNESS: Yes, I believe so. Generally the answer
13 would be, yes, that the Congress initiatives that were
14 implemented with the Natural Gas Policy Act of 1978 did have an
15 affect on the supply and demand of natural gas supplies at the
16 well head.

17 Q. (By Ms. Carter) Okay. Also didn't the Natural Gas

18 Policy Act of 1978, specifically the decontrolling of the well
19 head prices -- well, let me strike that and let me just move on.
20 I apologize.

21 I believe in your direct testimony, Mr. Grygar, you
22 indicated that during the mid 1980s regulatory changes resulted
23 in a separation of transactions between the sale of gas and the
24 transportation of gas. Were you then specifically referring to

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1 Order Number 436?

2 A. If we were talking about the mid 1980s, yes.

3 Q. Okay. And as a result of Order Number 436, wasn't the
4 sale of gas by the pipelines no longer regulated by the Federal
5 Energy Regulatory Commission?

6 A. No. The sale of gas by interstate pipelines was always
7 regulated by the FERC, both before and after Order 436.

8 Q. And when you refer to sale of gas here, are you speaking
9 to both the transportation and the actual sale of the gas?

10 A. Yes.

11 Q. And is that in existence still today?

12 A. No.

13 Q. When did that change take place?

14 A. With the implementation of the Commission's initiatives
15 under Order 636.

16 Q. Order 636?

17 A. In the early 1990s.

18 Q. So it was in this time period, though, of the mid 1980s
19 through the early 1990s, though, that you previously testified
20 that Panhandle was, I guess, shifting the company's focus in
21 terms of whether or not they would be focusing on the sale of the
22 gas or the transportation of the gas or the storage of the gas?

23 MR. BOYD: I am going to object. It is ambiguous what she
24 means by shifting the company's focus.

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1 MS. CARTER: I specifically indicated what I was referring
2 to. I indicated that I was referring to the transportation, the
3 storage or the sale of the gas. I can be more specific.

4 HEARING OFFICER KNITTLE: Mr. Boyd, is that necessary in
5 light of her --

6 MR. BOYD: I find it to be necessary.

7 HEARING OFFICER KNITTLE: Why don't you rephrase at this
8 point.

9 MS. CARTER: Okay.

10 Q. (By Ms. Carter) During the time period of the mid 1980s
11 to the early 1990s, did Panhandle Eastern Pipe Line Company shift
12 their focus from the sale of natural gas to the transportation
13 and storage of natural gas?

14 A. Well, during this period of time in conjunction with
15 implementing Order 436, the pipeline's customer base was shifting
16 from sales customers to transportation customers. If that is

17 what you are referring to, yes, that is what happened during this
18 time period.

19 Q. Okay. Doesn't the change in the role of the pipeline,
20 Mr. Grygar, after the issuance of Order Number 436 demonstrate
21 the increased competition facing the industry subsequent to 1985?

22 A. I suppose it could be one component of competition.

23 Q. Are you familiar with the term spot market?

24 A. Yes.

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1 Q. What does that term mean?

2 A. The spot market evolved as a result of the Commission
3 issuing Order 380, and the pipeline is no longer buying the
4 majority of the producers gas to supply their sales customers.
5 The spot market began as the -- that extra gas that was no longer
6 being bought by the pipelines that the producers were now selling
7 on a month to month basis. It gradually evolved to today, where
8 it is a very sophisticated market and virtually all gas is bought
9 and sold in the spot market.

10 Q. Doesn't the creation of the active spot market for gas
11 at this time demonstrate the increased competition in the sale of
12 natural gas?

13 A. Yes.

14 Q. Okay. And in addition, didn't Order 436 authorize
15 pipelines to discount their transportation rates below the

16 maximum rate in order to adjust the price?

17 A. Yes, we were permitted to charge between the minimum and
18 the maximum rate to give us additional flexibility in meeting the
19 demands for transportation services.

20 Q. Doesn't this allowance to address transportation rates
21 below the maximum rates have the affect of adjusting price to
22 meet competition from competitive fuels or other pipelines?

23 A. That's one of the reasons that we discount, yes.

24 Q. Weren't there times in 1988 that Panhandle discounted

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1 their maximum rate that they charged?

2 A. Yes, we did discount some of our rates during that time
3 period.

4 Q. Wasn't one reason for this discount to try to attract
5 new customers to the system away from other pipelines?

6 A. Yes, that was one of the other reasons for discounting.

7 Q. Okay. In fact, since 1988, hasn't Panhandle continued
8 to discount the maximum rate allowable through FERC?

9 A. Yes, we do discount our services from time to time
10 today, yes.

11 Q. Okay. I believe in your direct examination, sir, you
12 indicated that Order 380 eliminated the customers requirements to
13 buy gas from the pipelines?

14 A. Yes.

15 Q. Okay. Prior to -- when was Order 380 enacted, passed?

16 A. I believe it was in 1983.

17 Q. Okay. From the time period of 1985 to approximately
18 1993 -- excuse me. Let me rephrase that.

19 From the mid 1980s to the early 1990s, wasn't Panhandle's
20 transitioning out of the purchase and sale of natural gas?
21 Wasn't that your earlier testimony?

22 A. Yes, that was going on. We were renegotiating a lot of
23 our gas purchase contracts and we were reducing the amount of gas
24 that we had under contract. The sales customers were converting

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1 some of their sales capacity to transportation capacity.

2 Q. And as a result of this, didn't Panhandle have to
3 subsequently work harder to maintain their customers, their
4 customer base?

5 A. During this time period that is generally true. We did
6 have to work harder to maintain customers. Customers were no
7 longer required to buy gas from Panhandle. The customers that
8 had alternatives to other pipeline supplies had the opportunity
9 to have their gas requirements transported on those pipelines.
10 So Panhandle was required to compete with those other pipelines
11 during this time period. Some customers interconnected with
12 other pipelines, as well as Panhandle also took the opportunity
13 to interconnect with customers that were not previously connected
14 to Panhandle.

15 Q. And you just spoke about some of Panhandle's
16 competitors. In the late 1980s, wasn't Panhandle facing
17 competition from other pipelines, such as Natural Gas Pipe Line
18 Company of America?

19 A. Yes, that is one of the pipelines.

20 Q. In the late 1980s wasn't Panhandle facing competition
21 from ANR Pipeline Company?

22 A. Yes.

23 Q. And in the late 1980s wasn't Panhandle facing
24 competition from Texas Gas Transmission Corporation?

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1 A. Yes.

2 Q. Were there any other pipeline companies that Panhandle
3 was facing competition from in the late 1980s?

4 A. Those are the three largest pipelines. There are some
5 smaller systems like Midwest Gas Transmission Company. But those
6 three are the largest.

7 MS. CARTER: Just one moment.

8 HEARING OFFICER KNITTLE: We will go off the record.

9 (Discussion off the record.)

10 HEARING OFFICER KNITTLE: Back on the record.

11 (Whereupon a document was duly marked for purposes of
12 identification as People's Exhibit 36 as of this date.)

13 Q. (By Ms. Carter) Mr. Grygar, I just handed you People's
14 Exhibit Number 36. Have you seen that document before?

15 A. Yes, I have.

16 Q. Can you identify it for me?

17 A. It is a summary of return on rate base and return on
18 common equity that was prepared by Texas Eastern Transmission
19 Corporation.

20 Q. Okay. I believe in your direct testimony you testified
21 to rate increases that were sought by Panhandle during the late
22 1980s and early 1990s. If you would turn to what has been marked
23 as actually Pan 1764?

24 A. Yes, I have that.

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1 Q. Are you on that page, sir?

2 A. Yes.

3 Q. Oh, you are. Okay. Does the bottom portion of Pan
4 document 1764 document the rate increases that were filed and
5 attained by Panhandle during the 1980s and 1990s?

6 A. Yes, those are identified.

7 Q. Are they all identified?

8 A. There was one additional proceeding in the 1990s,
9 RP92-166 that is not on this analysis.

10 Q. I apologize if you already answered this question, sir,
11 but does Panhandle make use of this document?

12 A. It is just a resource or a reference. It would not have
13 any use other than that.

14 Q. But you have seen this before, sir?

15 A. Yes.

16 Q. Who updates this document?

17 A. It was maintained by my counterparts at Texas Eastern
18 Transmission Corporation after Panhandle Eastern Corporation
19 merged with Texas Eastern Corporation in 1989 perhaps early 1990.
20 The Rates and Regulatory Affairs Department of the combined
21 companies updated this material.

22 Q. So is it fair to say that subsequent to a merger with
23 Texas Eastern Transmission Corporation that Panhandle continued
24 to update this document?

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1 A. Yes, we did.

2 Q. Okay. Is it updated through today?

3 A. It is not currently being maintained by my staff. I do
4 not know whether it is being maintained by Texas Eastern or not,
5 the regulatory personnel at this time.

6 Q. Do you know through what date it was continued to be
7 updated by Panhandle?

8 A. This document that you gave me indicates that it was
9 updated in October of 1991. I don't recall if it was updated
10 again after that time.

11 Q. Okay. Isn't it true that Panhandle has not always
12 achieved the specific rate increase that Panhandle has sought
13 before the Federal Energy Regulatory Commission?

14 A. That is true.

15 Q. Is that indicated on this document before you,
16 specifically page Pan 1764?

17 A. This document would capture what may have happened to
18 one component of rates, the requested return on equity. It does
19 not look at the overall picture.

20 Q. Okay. When you are referring to return on equity, what
21 exactly are you referring to? By that I mean I am looking for a
22 definition, sir. I can rephrase again. How would you define
23 return on equity?

24 MR. BOYD: I will object. How it is defined here or how

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1 does he define it in general?

2 MS. CARTER: I can clarify.

3 Q. (By Ms. Carter) Mr. Grygar, how would you -- how does
4 this document define return on equity on page Pan 1764?

5 A. This document reflects the requested return on equity by
6 the various pipeline companies and the settlement return on
7 equity that resulted from various rate proceedings. The return
8 on equity is the component of the overall return that is utilized
9 to determine one of the components of the cost of service. That
10 component would be the amount of return that the pipeline is
11 permitted to earn on its investment in its pipeline facilities.

12 Q. I think you specifically referred to rate case number

13 RP88-262 in your direct testimony, didn't you, sir?

14 A. Yes.

15 Q. And I believe you specifically indicated that FERC
16 allowed Panhandle a rate increase per that rate filing?

17 A. Yes.

18 Q. Did FERC allow Panhandle the specific rate increase that
19 Panhandle sought in rate case 88-262?

20 A. No, it did not.

21 Q. Do you recall the rate that was sought by Panhandle in
22 rate case 88-262?

23 A. Rate is too broad a term.

24 Q. I can clarify for you, sir. Do you recall the return on

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1 equity that Panhandle sought in rate case 88-262?

2 A. Well, with the help of Exhibit Number 36, we requested a
3 16 percent return on equity.

4 Q. Do you recall the return on equity that was approved by
5 FERC in rate case 88-262?

6 A. I believe we achieved a 13.25 percent.

7 Q. Do you recall why FERC did not provide Panhandle with
8 the full rate increase that they sought in rate case 88-262?

9 A. The FERC found that we did not justify the amount that
10 we requested.

11 Q. Were there specific portions that the Federal Energy
12 Regulatory Commission determined that Panhandle did not justify

13 in seeking a rate increase in 88-262?

14 A. You are asking me about the rate of return on equity?

15 Q. Yes, sir.

16 A. It would be the difference between 16 percent and 13.25
17 percent.

18 Q. No, sir, what I am referring to is -- let me back up for
19 just a second -- whether or not you recalled the reason why the
20 Federal Energy Regulatory Commission did not grant Panhandle the
21 return on equity that it sought in that rate case?

22 A. I don't recall the reasons specifically.

23 Q. Okay. In other rate making that you have been involved
24 with in Panhandle, where Panhandle has not attained the return on

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1 equity in which they sought, do you recall the rationale or the
2 reasons why FERC did not provide that amount which Panhandle had
3 sought?

4 MR. BOYD: I am just going to object to the form in terms
5 of the amount that they sought. I am not sure if it is the rate
6 on return of equity you are talking about or the specific amount
7 of the rates or --

8 MS. CARTER: I can do it again.

9 HEARING OFFICER KNITTLE: Will you rephrase, Ms. Carter?

10 MS. CARTER: You got it.

11 Q. (By Ms. Carter) Mr. Grygar, in terms of the rate making

12 that you have been involved with, that have not attained the full
13 return on equity that Panhandle sought before FERC, do you recall
14 the reasons for lack of justification that the Federal Energy
15 Regulatory Commission indicated?

16 A. It would be a combination of reasons. Anything from
17 updating the data from the time that the company filed to the
18 time that the company issued its decision, that data may have
19 reflected different elements in the dividend yield or the price
20 of the company's stock, a different evaluation of the company's
21 risk, business risk and financial risk. A different evaluation
22 of the estimated or the risk premium or the changes in debt that
23 may have took place after the company made filings. It is some
24 combination of all of those. I can't give you anything specific

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1 with any of these particular filings.

2 Q. Okay. Doesn't Panhandle have a procedure in place to
3 set aside money to refund customers if FERC does not approve a
4 rate increase sought by the company?

5 A. I believe you are referring to generally accepted
6 accounting principles, which require a company to disclose to
7 shareholders and creditors if there is a possibility of a
8 material event and in conjunction with rate filings, the company
9 does establish such a provision in the event that there would be
10 a difference between the company's filed requested rates and the
11 ultimate outcome at the FERC.

12 Q. Mr. Grygar, are you aware of any time period within the
13 1990s that Panhandle had a net loss?

14 A. There may have been a time in the early 1990s when we
15 had a net loss.

16 Q. Do you recall the specific year?

17 A. No, I do not.

18 MS. CARTER: You are going to have to bear with me. If I
19 could have just a moment, Mr. Knittle.

20 HEARING OFFICER KNITTLE: Let's go off the record.

21 (Discussion off the record.)

22 HEARING OFFICER KNITTLE: All right. We are back on the
23 record. Yes, Mr. Boyd?

24 MR. BOYD: I just wanted to pose an objection that this is

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1 beyond the scope of the direct examination again.

2 HEARING OFFICER KNITTLE: This question? To be honest with
3 you, I can't recall where we are at. Could you read it back to
4 me, Darlene.

5 (Whereupon the requested portion of the record was read
6 back by the Reporter.)

7 HEARING OFFICER KNITTLE: So there is not a questioning
8 pending at the moment.

9 MR. BOYD: Then I will withdraw my objection.

10 MS. CARTER: I will anticipate it.

11 Q. (By Ms. Carter) Mr. Grygar, are you aware whether
12 Panhandle Eastern Pipe Line Company had a net loss for the fiscal
13 year ending December 31st of 1988?

14 MR. BOYD: I am going to interpose my objection now. This
15 is beyond the scope of direct.

16 HEARING OFFICER KNITTLE: Ms. Carter?

17 MS. CARTER: May I respond? Thank you. In direct
18 testimony I believe it was elicited from Mr. Grygar the different
19 steps that were employed in fashioning a rate making proceeding.
20 Specifically they referred to the fact that they looked to
21 different factors that were included in a rate making, those
22 different factors. And I am just trying to elicit whether or not
23 this information would have an affect on the rates that were
24 being sought by the company.

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1 MR. BOYD: If she follows up with further questions
2 regarding how that might have an affect on rates, then I will
3 withdraw my objection.

4 MS. CARTER: That's exactly where I am going.

5 HEARING OFFICER KNITTLE: Okay. We will give her some
6 leeway. So the objection has been withdrawn.

7 MS. CARTER: Okay. I cannot recall my last question, Mr.
8 Hearing Officer.

9 HEARING OFFICER KNITTLE: That's the question that you
10 just -- that we waited that break for for you to ask, though,

11 correct?

12 MS. CARTER: The --

13 HEARING OFFICER KNITTLE: That was your very first question
14 after the break, so you should have that question ready to go.

15 MS. CARTER: I don't have it written down. I will try to
16 find it.

17 Q. (By Ms. Carter) Mr. Grygar, do you recall whether
18 Panhandle had a net loss for fiscal year ending December 31st of
19 1998?

20 A. Sitting here today, I do not recall.

21 Q. Okay.

22 HEARING OFFICER KNITTLE: Do we need to go off the record
23 again?

24 MS. CARTER: I apologize.

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1 HEARING OFFICER KNITTLE: Is that a yes that we need to go
2 off the record?

3 MS. CARTER: Yes, just for a second, please.

4 HEARING OFFICER KNITTLE: Off the record.

5 (Discussion off the record.)

6 HEARING OFFICER KNITTLE: All right. We are back on the
7 record.

8 Q. (By Ms. Carter) Mr. Grygar, do you recall whether or not
9 Panhandle Eastern Pipe Line company had a net loss for fiscal

10 year ending December 31st of 1989?

11 A. Again, I do not recall.

12 Q. And, again, do you recall whether or not Panhandle
13 Eastern Pipe Line Company had a net loss for fiscal year ending
14 December 31st of 1990?

15 A. Not from information that I can recall. No, I do not
16 know.

17 Q. You previously testified that you did recall that
18 Panhandle Eastern Pipe Line Company had a net loss sometime in
19 the early 1990s?

20 A. Yes, that is my recollection.

21 Q. Okay. I believe you also previously testified on your
22 direct examination that Panhandle Eastern Pipe Line Company was
23 entitled to earn a rate of return on pipeline service?

24 MR. BOYD: I am just going to object to the form of the

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1 question, what she means by pipeline service.

2 MS. CARTER: Rate of return on pipeline service, on
3 transportation service.

4 HEARING OFFICER KNITTLE: Sufficient, Mr. Boyd?

5 MR. BOYD: Pipeline service is not a term I understand or
6 know.

7 MS. CARTER: I can totally rephrase.

8 HEARING OFFICER KNITTLE: Please do.

9 Q. (By Ms. Carter) I believe in your direct testimony, Mr.

10 Grygar, you indicated that in making -- in determining a rate,
11 the pipeline is entitled to earn a rate of return on
12 transportation service?

13 A. It is gas plant service.

14 Q. Okay. What is gas plant service?

15 A. Gas plant service is all of our pipeline facilities, our
16 compressor stations, our storage fields.

17 Q. Okay.

18 A. Our office buildings, our warehouses, computer
19 equipment, furniture, trucks, other heavy equipment that we may
20 own to perform work, maintenance on the pipeline.

21 Q. Okay.

22 A. It is all aggregated into a plant or an accounting term
23 that is called gas plant, and the service means it has been
24 constructed and it is in service and being utilized by the

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1 company to provide the transportation and storage service as
2 opposed to under construction, which would not be in service.

3 Q. Okay. How does a net loss comport with your previous
4 testimony that the pipeline was entitled to earn a rate of return
5 on this service?

6 A. You are thinking of and looking at net loss associated
7 with an accounting net loss. That doesn't compute in terms of
8 are we or are we not earning a return on our investment. Those

9 are two -- they are not totally different concepts, but they
10 are -- there is a lot that would have to be taken into account
11 and evaluated before you could make a general statement that net
12 loss translates into not earning a return.

13 Q. How would an operating loss comport with the company or
14 Panhandle Eastern Pipe Line Company having the -- strike that.

15 How would an operating loss or how does an operating loss
16 comport with the pipeline's ability to earn a rate of return on
17 their service?

18 MR. BOYD: Objection. Asked and answered. That is what he
19 just answered.

20 HEARING OFFICER KNITTLE: Ms. Carter?

21 MS. CARTER: I am asking him about an operating loss and
22 not a net income loss.

23 HEARING OFFICER KNITTLE: Overruled. Sir?

24 THE WITNESS: The answer would be the same for an operating

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1 loss.

2 HEARING OFFICER KNITTLE: Ms. Carter?

3 MS. CARTER: Just one second.

4 HEARING OFFICER KNITTLE: Do you need to go off the record?

5 Is that raising one index finger means?

6 MS. CARTER: No, just one second.

7 HEARING OFFICER KNITTLE: Okay.

8 Q. (By Ms. Carter) Mr. Grygar, isn't the natural gas

9 transported by -- strike that.

10 Isn't the natural gas that is transported by Panhandle
11 actually transported to consumers such as utility companies?

12 A. Much of it is, yes.

13 Q. Who else are the customers that Panhandle transports to?

14 A. Panhandle transports gas for a variety of customers. In
15 addition to the utilities that you mentioned, such as Central
16 Illinois Light Company or Central Illinois Public Service Company
17 or Illinois Power Company that you may be familiar with here in
18 Illinois, we transport gas for industrial uses. An example of
19 that might be Archer Daniels Midland in Decatur. We also
20 transport gas on behalf of marketers and then resell the gas
21 perhaps to those same utilities or industrial customers that we
22 may serve directly.

23 Q. Okay. But in terms of the natural gas that is
24 transported to consumers, such as utility companies, the utility

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1 companies don't always represent the end consumer, though, do
2 they?

3 MR. BOYD: Objection to the phrase end consumer. It is
4 ambiguous.

5 HEARING OFFICER KNITTLE: Ms. Carter?

6 MS. CARTER: I guess I don't understand what is ambiguous
7 about the term end consumer.

8 HEARING OFFICER KNITTLE: I am going to overrule that
9 objection. Sir?

10 THE WITNESS: The utilities normally are now purchasing the
11 gas to serve their customers, so principally residential and
12 small commercial customers behind their city gate. For example,
13 Panhandle provides natural gas to the City of Springfield.
14 Utilities also transport gas in a similar fashion to Panhandle.
15 By that I mean that they take gas from Panhandle and then they
16 transport it through their distribution system directly to an end
17 user.

18 Q. Okay.

19 MR. BOYD: Mr. Hearing Officer, I would like to note for
20 the record that it is now 5:13. The cross-examination began at
21 4:23. My direct examination lasted 50 minutes. The cross has
22 now lasted 50 minutes. So both the cross of Mr. Wait and the
23 cross of Mr. Grygar has lasted longer than the direct
24 examination.

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1 HEARING OFFICER KNITTLE: I don't know whether the -- I
2 have not been keeping track, but your representation is on the
3 record.

4 Do you have a response?

5 MR. LAYMAN: I guess my formal response for the record
6 would be so what.

7 HEARING OFFICER KNITTLE: I can note it for the record, Mr.

8 Boyd, but to be honest with you, I have not been keeping track of
9 the times of the direct and the cross, both of which I think have
10 been fairly lengthy today. But I do want to know how much time
11 we have to go on the cross.

12 MS. CARTER: I have probably one or two more questions.

13 HEARING OFFICER KNITTLE: One or two more questions? Okay.
14 Are you ready to continue?

15 MS. CARTER: Yes, I am.

16 Q. (By Ms. Carter) Did Panhandle, from 1988 through 1996,
17 pass all the pipeline operational costs on through rate
18 increases?

19 A. I would say during that time period that all of our
20 costs were included in our rates. I don't recall a component of
21 cost that, you know, may not have been -- or that it may have
22 been excluded from the rates.

23 Q. What about take or pay?

24 A. Take or pay, you would -- I think you were talking about

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1 operating costs, and that was the context in which I answered it.
2 Take or pay was a special category of costs. We did incur a
3 significant level of costs to reduce the take or pay exposure
4 under our gas purchase contracts, some 400 million dollars.

5 The FERC had a special provision for pipelines to file for
6 the recovery of such costs. Panhandle elected to utilize a

7 provision that the FERC established that resulted in recovering
8 only half of those costs. And Panhandle and the shareholders
9 absorbed half of those costs. So we expensed approximately \$200
10 million. I don't recall the year in which that event took place,
11 but it was in the late 1980s.

12 MS. CARTER: Okay. Mr. Grygar, thank you. I have no
13 further questions.

14 THE WITNESS: Thank you.

15 HEARING OFFICER KNITTLE: Mr. Boyd, do you have a redirect
16 for this witness?

17 MR. BOYD: Just one second. I have a few quick questions.

18 HEARING OFFICER KNITTLE: Let's go off.

19 (Discussion off the record.)

20 HEARING OFFICER KNITTLE: All right. We are back on the
21 record.

22 REDIRECT EXAMINATION

23 BY MR. BOYD:

24 Q. Let me refer you to what has been marked as People's

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1 Exhibit Number 36 for a minute. I think it is page Pan 1764.

2 A. Yes, I have that.

3 Q. I think you said on cross-examination that this page
4 lists the return on equity as requested in various rate filings
5 by Panhandle and the return on equity settlements that Panhandle
6 was allowed by FERC; is that right?

7 A. Yes.

8 Q. What significance is it that the return on equity as
9 filed is different than the return on equity in the settlement?

10 A. The pipelines generally request the maximum allowed rate
11 of return that they believe is warranted given the financial
12 conditions at the time of the filing. Those various parameters
13 and situations change and/or the regulator has a different
14 opinion about the level of return that the pipeline should be
15 allowed and accordingly they reduce that level. By "they" I mean
16 the FERC.

17 Q. Was it unusual for the rate of return on equity as
18 filed -- I am sorry. Strike that. The return on equity in the
19 settlement to be less than the return on equity as filed?

20 A. No, that is a regular occurrence at the FERC. It is a
21 regular practice.

22 Q. If you look at this page, just this one page, Pan 1764,
23 wasn't the return on equity in the settlement for each of the
24 companies listed different than the return on equity as filed in

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1 the rate cases?

2 A. That is correct.

3 Q. What significance does the settlement return on equity
4 have to Panhandle's ability to recover its cost of plant and its
5 service?

6 A. It has no impact on the recovery of the cost of plant
7 and service. That component of our rates is depreciation
8 expense.

9 Q. Ms. Carter also asked you about discounting. What is
10 discounting of rates?

11 A. Discounting began when the Commission permitted
12 pipelines to state their rates on a maximum and a minimum basis.
13 A discount is when the pipeline charges less than the maximum
14 rate, but at least or more than the minimum rate.

15 Q. So this was something that FERC allowed all pipelines to
16 do?

17 A. Yes.

18 Q. Why did they allow them to do that?

19 A. The FERC permitted that rate form to give pipelines more
20 flexibility to adjust their price to meet competition, to attract
21 customers, to better recover their costs.

22 Q. And did Panhandle discount rates in the 1990s?

23 A. Yes.

24 Q. How about the late 1980s?

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1 A. Yes, we did.

2 Q. What was the purpose of discounting rates, if you know?

3 A. There were multiple reasons. The principal ones are to
4 meet competition, competition from other pipeline transportation
5 service providers, competition from alternate fuels where

6 customers have dual fuel capability. Pipelines discount their
7 services to attract new customers or to maintain existing
8 customers. Sometimes pipelines will -- discounts were given to
9 secure a longer term contract.

10 Q. Over the period of the late 1980s through the present,
11 have the rates that Panhandle has charged even with discounting
12 been sufficient to recover its cost of plant and service?

13 A. Yes.

14 Q. And to obtain a fair return on equity?

15 A. Yes.

16 Q. Ms. Carter also asked you about the competition facing
17 Panhandle in the mid to late 1980s. Why was Panhandle
18 experiencing competition at that time frame or increased
19 competition during that time frame?

20 A. I think the principal reasons for that are that the
21 demand for gas was declining at that period of time, and so in
22 the Midwest there was an excess of pipeline capacity. So we were
23 competing with other pipelines who also had excess pipeline
24 capacity to try to transport as much gas as we could. Also, not

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1 in the late 1980s but after the 1980s, there were some new
2 pipeline suppliers introduced into the Midwest which introduced
3 new supplies of gas, so Panhandle also must compete with that
4 additional supply.

5 Q. Now, is it fair to say that the increased competition
6 had something to do with the way that FERC was regulating the
7 natural gas pipeline industry in the late 1980s, the early 1990s?

8 A. Yes, I believe it is, yes.

9 Q. What steps, if any, did FERC take to ease risks
10 pipelines were facing as a result of that increasing competition?

11 A. Well, in addition to the rates, the minimum and maximum
12 rates, the FERC permitted pipelines to put all of their fixed
13 cost in their reservation charge or their demand charges, which
14 are fixed monthly charges. The Commission also made it easier
15 for pipelines to develop and implement new services, new types of
16 services, so that we could attract and maintain different types
17 of load profiles. A good example of that today is the
18 construction of new power plants that Panhandle is attempting to
19 hookup to its system as well as the other pipelines are also
20 competing to try to hook those plants up. So I think those are
21 the principal things, the flexibility to provide our services in
22 a different way and to collect our rates in a different way to
23 better recover our costs, maintain throughput, maintain
24 customers.

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1 MR. BOYD: Thank you. That's all of the questions I have.

2 HEARING OFFICER KNITTLE: Recross?

3 MS. CARTER: Nothing further.

4 HEARING OFFICER KNITTLE: Sir, you may step down. Thank

5 you for your time.

6 THE WITNESS: Thank you.

7 (The witness left the stand.)

8 HEARING OFFICER KNITTLE: I think we are done for the day.

9 What time do we want to start tomorrow?

10 MR. BOYD: 9:00 for me.

11 HEARING OFFICER KNITTLE: Is 9:00 okay or do we want to go
12 back to 9:30? We are noticed up for 9:30. I don't think there
13 is a big push to -- let's go off.

14 (Discussion off the record.)

15 HEARING OFFICER KNITTLE: We are going to start at 9:30
16 tomorrow morning, September 22nd.

17 (Hearing Exhibits retained by Hearing
18 Officer Knittle.)

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3 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4

5 I, DARLENE M. NIEMEYER, a Notary Public in and for the
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 216 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 21st of September A.D.,
9 2000, at 600 South Second Street, Springfield, Illinois, in the
10 matter of People of the State of Illinois v. Panhandle Eastern
11 Pipe Line Company, in proceedings held before John C. Knittle,
12 Chief Hearing Officer, and recorded in machine shorthand by me.

13 IN WITNESS WHEREOF I have hereunto set my hand and affixed
14 my Notarial Seal this 16th day of October A.D., 2000.

15

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Certified Shorthand Reporter and
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