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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 20, 2000, at 9:07 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 III

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

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P R O C E E D I N G S

2

(September 20, 2000; 9:07 a.m.)

3

HEARING OFFICER KNITTLE: We are on the record. My name is

4

John Knittle. This is a continuation of the hearing in PCB

5

1999-191, which is People versus Panhandle Eastern Pipe Line

6

Company. Today is Wednesday, September 20th of 2000. It is

7

approximately 9:07 a.m. We are starting about a half hour

8

earlier today. I want to note for the record that there are no

9

members of the public present. Everyone here is affiliated with

10

one of the parties. We still have with us from the Board Bobb

11

Beauchamp and Brad Halloran and that is it.

12

We are starting today with the cross-examination of Dr.

13

Nosari, who we will bring up in a minute, but I do believe we

14

have some preliminary matters that the State wants to raise at

15

this point. Is that correct, Ms. Carter?

16

MS. CARTER: Yes, the State does have one preliminary

17

matter. Yesterday in, I guess, the rush to get Dr. Nosari out of

18

here we neglected to also seek to admit into evidence certain

19

annual reports and 10-K filings that he referenced in his

20

testimony that he relied upon in generating People's Exhibit 7,

21

the weighted average cost of capital. At this time I will, as

22

soon as my co-counsel gets done putting the stickers on them, I

23

will hand those to everybody.

24

MR. BOYD: Can we go off the record for a second?

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1 HEARING OFFICER KNITTLE: Sure. Let's go off the record.
2 (Discussion off the record.)

3 (Whereupon said documents were duly marked for purposes of
4 identification as People's Exhibits 28 through 31 as of
5 this date.)

6 HEARING OFFICER KNITTLE: Back on the record.

7 MS. CARTER: Mr. Hearing Officer, I was just going to again
8 indicate that People's Exhibits 28 through 31 that I just
9 provided to you, the annual reports, we are submitting these for
10 the limited purposes for, you know, where the information was
11 that Dr. Nosari pulled in generating the weighted average cost of
12 capital document, People's Exhibit Number 7.

13 HEARING OFFICER KNITTLE: Okay, Mr. Boyd.

14 MS. CARTER: I am not done yet.

15 HEARING OFFICER KNITTLE: I am sorry, Ms. Carter.

16 MS. CARTER: There will be additional ones in just a moment
17 also in regards to numbers that Dr. Nosari pulled from
18 Panhandle's 10-K forms that he referenced that he also employed
19 in generating the weighted average cost of capital, and in just a
20 moment we will get you copies of those exhibits as well.

21 HEARING OFFICER KNITTLE: Okay. When we get started maybe
22 you could give a brief description as to what each one of these
23 is.

24 MS. CARTER: Okay. I will do so.

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1 HEARING OFFICER KNITTLE: At least the ones I can't figure
2 out.

3 MS. CARTER: Okay. Do you have --

4 HEARING OFFICER KNITTLE: I have 28, 29, 30 and 31.

5 MS. CARTER: Okay.

6 HEARING OFFICER KNITTLE: Let's go off the record for a
7 minute.

8 (Discussion off the record.)

9 (Whereupon said documents were duly marked for purposes of
10 identification as People's Exhibit 32 through 35 as of
11 this date.)

12 HEARING OFFICER KNITTLE: Let's go back on the record. Ms.
13 Carter, you just handed me what total is People's 28 through
14 People's 35.

15 MS. CARTER: Okay. I will go through them one by one.

16 HEARING OFFICER KNITTLE: Well, just the ones like People's
17 28, I can't -- it starts out with a contents page, so I don't
18 really know what that is.

19 MS. CARTER: Okay. People's Exhibit Number 28 is portions
20 of the 1990 Annual Report for Panhandle. People's Exhibit --

21 HEARING OFFICER KNITTLE: Let's, if you don't mind, see
22 what Mr. Boyd thinks about the 1990 Annual Report.

23 MR. BOYD: I think you made the observation, again, that it

24 is portions of the annual report.

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1 HEARING OFFICER KNITTLE: Correct.

2 MR. BOYD: It is certainly not the original of the
3 document. If it is being introduced for the limited purpose to
4 show it is the source of the information that Mr. Nosari relied
5 on in creating People's Exhibit Number 7 and admitted for that
6 purpose only, then I have no objection.

7 HEARING OFFICER KNITTLE: Is that correct, Ms. Carter?

8 MS. CARTER: Yes.

9 HEARING OFFICER KNITTLE: That is admitted.

10 (Whereupon said document was duly admitted into evidence as
11 People's Exhibit 28 as of this date.)

12 HEARING OFFICER KNITTLE: All right. People's Exhibit
13 Number 29.

14 MS. CARTER: People's Exhibit Number 29 is portions of the
15 1991 Annual Report for Panhandle.

16 HEARING OFFICER KNITTLE: For 1991. The same, Mr. Boyd?

17 MR. BOYD: I have the same objections to that one. Again,
18 if it is limited to showing it is the source of the information
19 that Mr. Nosari used for creating People's Exhibit Number 7 and
20 limited to that purpose, then I have no objection.

21 HEARING OFFICER KNITTLE: Okay. That is also admitted as
22 noted. Ms. Carter, you agree with that as well?

23 MS. CARTER: Yes, Mr. Hearing Officer.

24 HEARING OFFICER KNITTLE: All right.

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1 (Whereupon said document was duly admitted into evidence as
2 People's Exhibit 29 as of this date.)

3 HEARING OFFICER KNITTLE: People's Exhibit 30.

4 MS. CARTER: This is, again, portions of Panhandle's annual
5 report for 1993.

6 HEARING OFFICER KNITTLE: Mr. Boyd, you don't have to go
7 over the whole speil again if you don't want, but we could admit
8 it as before.

9 MR. BOYD: The same objection. The same stipulation.

10 HEARING OFFICER KNITTLE: Okay. We will admit that as we
11 did People's 28 and 29.

12 MS. CARTER: Okay. I am kind of confused. You are
13 admitting that as what? Oh, you are admitting it as --

14 HEARING OFFICER KNITTLE: In the same way as we admitted 28
15 and 29, with the same stipulations and objections by Mr. Boyd and
16 your concurrence with those stipulations, correct?

17 MS. CARTER: Yes.

18 (Whereupon said document was duly admitted into evidence as
19 People's Exhibit 30 as of this date.)

20 HEARING OFFICER KNITTLE: Okay. People's Exhibit Number
21 31. I see a 1994 written on top.

22 MS. CARTER: Yes. This is, again, portions of the 1994

23 Annual Report from Panhandle.

24 MR. BOYD: The same objections and stipulations.

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1 HEARING OFFICER KNITTLE: That is admitted, as before.

2 (Whereupon said document was duly admitted into evidence as
3 People's Exhibit 31 as of this date.)

4 HEARING OFFICER KNITTLE: Which takes us to entirely new
5 document types here. People's Number 32.

6 MS. CARTER: People's 32 is the 10-K form for Panhandle
7 Eastern Pipe Line Company for the fiscal year ending December
8 31st of 1993.

9 HEARING OFFICER KNITTLE: Mr. Boyd?

10 MR. BOYD: If I might note, on the bottom of this document
11 it is marked Pan Exhibit 394 through Pan 437.

12 HEARING OFFICER KNITTLE: I don't see those because my
13 exhibit stickers are covering those.

14 MR. BOYD: Check the next page for Pan 395.

15 HEARING OFFICER KNITTLE: Okay. Yes, I do.

16 MR. BOYD: I think Ms. Carter referred to this as 10-Q
17 document. It is a 10-K filing with the SEC for that year. My
18 point is that during his testimony Mr. Nosari said he had not
19 been provided copies of the 10-Ks produced during discovery in
20 this matter. So this is not the document that Mr. Nosari relied
21 upon in preparing People's Exhibit Number 7. Nevertheless, we

22 are willing to stipulate that it is a true and accurate copy of
23 the 10-K form filed by Panhandle for 1993.

24 MS. CARTER: May I respond?

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1 HEARING OFFICER KNITTLE: Yes.

2 MS. CARTER: In testimony provided by Dr. Nosari he
3 indicated that he relied upon the 10-K forms of Panhandle Eastern
4 Pipe Line Company in generating People's Exhibit Number 7. While
5 these may not be the exact copy that he utilized, the contents
6 that he relied upon were the same. I don't think that there is
7 anything that Mr. Boyd is objecting to, if I am correct, as long
8 as it is provided for the same purpose that the annual reports
9 were provided for.

10 HEARING OFFICER KNITTLE: Actually, I think Mr. Boyd
11 stipulated that this is a correct version the 10-K form.
12 Correct, Mr. Boyd?

13 MR. BOYD: That's correct.

14 MS. CARTER: Okay.

15 HEARING OFFICER KNITTLE: What his objection or his comment
16 was, was that he didn't think Dr. Nosari relied upon this
17 particular version of the 10-K form. I am going to admit this,
18 and I think the testimony will show what Dr. Nosari relied upon.
19 So People's Exhibit Number 32 is admitted.

20 (Whereupon said document was duly admitted into evidence as
21 People's Exhibit 32 as of this date.)

22 HEARING OFFICER KNITTLE: I am assuming that People's 33,
23 34 and 35 are identical except for different years, correct?
24 MS. CARTER: Yes.

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1 HEARING OFFICER KNITTLE: Exhibit 33 is the 1994 10-K.
2 Exhibit 34 is the 1996, and Exhibit 35 is the -- I don't see 35.

3 MS. CARTER: Exhibit 35 is the 1997 -- did I not provide
4 you with a copy of that?

5 HEARING OFFICER KNITTLE: I have that, but I just don't see
6 the 1997 anywhere.

7 MS. CARTER: If you turn to the --

8 HEARING OFFICER KNITTLE: I trust you, Ms. Carter. I just
9 couldn't identify it on my own.

10 MS. CARTER: Turn to the second page on the top.

11 HEARING OFFICER KNITTLE: I see it.

12 MS. CARTER: Okay.

13 HEARING OFFICER KNITTLE: Mr. Boyd, you have the same
14 comments for those three?

15 MR. BOYD: I do. I would just like the record to reflect
16 the Pan numbers for each of these exhibits if you don't mind.

17 HEARING OFFICER KNITTLE: Sure.

18 MR. BOYD: So for Pan Exhibit 33 it is -- I am sorry. For
19 People's Exhibit 33 it is Pan number 439 through 472.

20 For People's Exhibit Number 34 it is Pan 508 through 539.

21 For People's Exhibit Number 35 it is Pan 541 through 566.

22 HEARING OFFICER KNITTLE: Mr. Boyd, you also agree that
23 these are correct versions of the form 10-Ks for the appropriate
24 year?

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1 MR. BOYD: Yes, sir.

2 HEARING OFFICER KNITTLE: Okay. Ms. Carter, any response
3 to his reading of the Pan numbers or anything like that? I am
4 going to admit these documents as I admitted People's 32.

5 MS. CARTER: I have no response to his reading of the
6 numbers.

7 HEARING OFFICER KNITTLE: I think the testimony of Dr.
8 Nosari will show what he relied upon. All right these are
9 admitted, People's 33, 34, and 35.

10 (Whereupon said documents were duly admitted into evidence
11 as People's Exhibits 33, 34 and 35 as of this date.)

12 MS. CARTER: Thank you.

13 HEARING OFFICER KNITTLE: Anything further, Ms. Carter.

14 MS. CARTER: I have no further preliminary matters.

15 HEARING OFFICER KNITTLE: Mr. Boyd, any preliminary matters
16 before we get to the cross of Dr. Nosari?

17 MR. BOYD: No, sir.

18 HEARING OFFICER KNITTLE: All right. Dr. Nosari, welcome
19 back. Please come up and have a seat.

20 Would you swear the witness again, Darlene. It is a new

21 day.

22 THE WITNESS: Yes, a new day.

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

24 HEARING OFFICER KNITTLE: All right. Mr. Boyd, it is your

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1 witness.

2 MR. BOYD: Okay. Thank you.

3 CROSS EXAMINATION

4 BY MR. BOYD:

5 Q. Good morning, Mr. Nosari.

6 A. Good morning.

7 Q. You have never offered testimony in a proceeding before
8 the Illinois Pollution Control Board before, have you?

9 A. No, I haven't.

10 Q. In fact, the only testimony you provided in an
11 administrative proceeding are for matters pending before the
12 Illinois Department of Public Aid?

13 A. That is correct.

14 Q. You did not analyze issues of economic benefit of
15 noncompliance in those matters, did you?

16 A. Correct.

17 Q. You were not qualified as an expert on economic benefit
18 of noncompliance in those proceedings?

19 A. Correct.

20 Q. Before this case isn't it true that you never counseled
21 anyone in your private practice in relation to the economic
22 benefit of noncompliance regulations?

23 A. Correct.

24 Q. You have never published any papers regarding

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1 calculations of economic benefit or economic benefit in general?

2 A. That's correct.

3 Q. Before this case you had not even heard what the BEN
4 Model was; is that right?

5 A. That's correct.

6 Q. In fact, before this case you had never offered
7 testimony in any proceeding regarding the time value of money;
8 isn't that right?

9 A. That's correct.

10 Q. And I think you told us before in your deposition that
11 you had never even provided consulting services relating to the
12 time value of money?

13 A. Correct.

14 Q. Okay. What you assisted Mr. Styzens with in this case
15 relates to the economic benefit component of the proposed
16 penalty; is that right?

17 A. Yes, that's correct.

18 Q. Okay.

19 A. In two areas. One is on the weighted average cost of

20 capital and the other one was on the calculation of the economic
21 benefit.

22 Q. And you have no opinion regarding the gravity component
23 of the penalty?

24 A. No.

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1 MS. CARTER: Objection. Again, this calls for a legal
2 analysis on the part of the witness, and it is not appropriate
3 testimony to be seeking to attain from a witness in this matter.

4 HEARING OFFICER KNITTLE: I am going to allow this
5 question. I don't think it calls for any legal conclusion other
6 than -- well, it just calls for whether he has an opinion on it.
7 He is not providing a conclusion in any way. So the objection is
8 overruled. Dr. Nosari, you were about to answer the question.

9 THE WITNESS: No, I do not.

10 Q. (By Mr. Boyd) Would you agree that the purpose of the
11 economic benefit component is to ensure that an entity that was
12 not complying did not benefit from its noncompliance?

13 A. Correct.

14 Q. I think you provided --

15 A. A --

16 Q. I will let you clarify through your Counsel. I think on
17 direct you also testified as to a definition of economic benefit,
18 which was how much better off an entity is as a result of making

19 a decision; is that right?

20 A. This was yesterday?

21 Q. Yesterday.

22 A. Probably.

23 Q. Okay.

24 A. I mean, I can't remember the exact words I used. I

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1 mean, I am not, you know -- yes.

2 Q. I put three exhibits from yesterday in front of you.
3 There is People's Exhibit Number 7, 26, and 27. Do you see
4 those?

5 A. Yes, I do.

6 Q. If you would, put People's Exhibit Number 7 in front of
7 you for a minute. It is true that you developed this weighted
8 average cost of capital calculation for Panhandle; isn't that
9 right?

10 A. Yes, that's correct.

11 Q. I said Panhandle, but isn't it true that the weighted
12 average cost of capital information was really for Panhandle
13 Eastern Pipe Line Company's parent; isn't that correct?

14 A. That's correct.

15 Q. You did not do an analysis of the weighted average cost
16 of capital for Panhandle Eastern Pipe Line Company itself, did
17 you?

18 A. That's correct. It was on its parent.

19 Q. You didn't take into account the fact that the parent
20 has both regulated and nonregulated subsidiaries; is that
21 correct?

22 A. That's correct.

23 Q. Okay. I think you testified earlier that there really
24 are three components of the weighted average cost of capital that

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1 you used. If you look at this Exhibit Number 7 I think what you
2 said is that you, on column -- well, on line 38 through 40 you
3 had the weighted average cost of the preferred stock, the weighed
4 average cost of the common stock, and the weighed average cost of
5 debt. You added those numbers together to derive the weighted
6 average cost of capital; isn't that correct?

7 A. That is correct.

8 Q. You did that for each year?

9 A. I did that for each year, yes.

10 Q. Okay. Now, there are two aspects of the cost of capital
11 for common stock, dividend yield and growth; is that right?

12 A. Yes, sir.

13 Q. The growth rate is a measure of how much a stock value
14 grew over a period of time?

15 A. Correct.

16 Q. And you derived the growth rate for Panhandle, didn't
17 you?

18 A. Yes, I did.

19 Q. And the number you derived was a growth rate of eight
20 percent?

21 A. Yes, sir.

22 Q. So that eight percent number suggests that Panhandle's
23 stock price increased at a rate of eight percent over a specified
24 period of time; is that right?

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1 A. That's correct.

2 Q. I think you can refer to -- I believe it is page four of
3 People's Exhibit Number 26. Is that the attachment to your
4 February 26th letter to Mr. Styzens where you describe how you
5 determined the growth rate?

6 A. Yes, it is.

7 Q. Now, you determined the growth rate by looking at the
8 closed stock price over a nine year period, didn't you, from 1987
9 to 1996?

10 A. I took the closed stock price of 1987 to 1996.

11 Q. Now, when you say closed stock price, that's the --

12 A. The close as of December 31st.

13 Q. So it is the last --

14 A. The last price.

15 Q. The last price at the end of the year?

16 A. Right.

17 Q. Okay. That was the price of the stock at that moment in

18 time?

19 A. Correct.

20 Q. Okay. You obtained those closed stock prices for
21 Panhandle's parent from the internet site called bigcharts.com?

22 A. That's correct.

23 Q. In calculating the growth rate you used the 1996 closed
24 stock price as the numerator and the 1987 closed stock price as

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1 the denominator and then interpolated a growth rate?

2 A. Correct.

3 Q. Okay. I think you said also on direct you calculated
4 the growth rate in this manner because of what you perceived as
5 volatility in the stock over that period of time; is that right?

6 A. The volatility in the earnings, which would, of course,
7 have an affect on the stock price. And also based on the fact
8 that the growth is a long-term measurement, usually it is
9 considered a long-term measurement. So I looked at 1987 to 1996,
10 and I stopped at 1996 because in 1997 they merged with Duke
11 Energy.

12 Q. You didn't do any statistical analysis of the closed
13 stock price numbers for each year over that time period, did you?

14 A. No.

15 Q. And you did not consider any other information other
16 than the closed stock price in determining the growth rate?

17 A. Other than the fact that their earnings were volatile
18 during the period, which is why I used those years, correct.

19 Q. Sir, you didn't read anything indicating how an eight
20 percent growth rate compared with the growth rate during this
21 time for other natural gas pipeline companies, did you?

22 A. No.

23 Q. So you don't know if the eight percent is higher or
24 lower than the growth rate for other natural gas pipeline

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1 companies for this period of time?

2 A. That's correct.

3 Q. Sir, over this period of time, from 1996 -- I am
4 sorry -- 1987 to 1996, did you understand that the closed stock
5 prices ranged from a low of 12.5 at the close of 1990 to 45 at
6 the close of 1996?

7 A. Would you repeat the question?

8 MR. BOYD: Would you read it back. I don't think I can.

9 HEARING OFFICER KNITTLE: Do you have it, Darlene?

10 (Whereupon the requested portion of the record was read
11 back by the Reporter.)

12 THE WITNESS: Yes.

13 Q. (By Mr. Boyd) You used the 1987 closed stock price
14 because it was your understanding that the alleged noncompliance
15 began in 1987?

16 A. Started, I believe, as 1988.

17 Q. Okay. The number you chose, the closed stock price of
18 1987, that was \$20.75; is that right?

19 A. Yes, sir.

20 Q. You chose that stock price at the close of 1987 because
21 it was the end of the year number right before the noncompliance
22 period?

23 A. Well, it would also be the start of -- the ending years
24 would also be the start for 1988, so that's why I picked that

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1 price.

2 Q. I think you said at your deposition that had you chosen
3 for determining your growth rate the closed stock price at the
4 end of 1988, instead of 1987, the growth rate would have been
5 lower; isn't that right?

6 A. That's correct.

7 Q. Okay. You are aware, aren't you, that the engines were
8 not installed until the latter half of 1988?

9 A. I know it was some time in 1988.

10 Q. Okay. I believe also at your deposition you said you
11 did not analyze how the stock price at the close of 1987 could
12 have been affected by the stock market crash of October of 1987,
13 did you?

14 A. That's correct.

15 Q. So you don't know what impact the October of 1987 had on

16 the stock price?

17 A. Correct.

18 Q. You don't know whether the stock price rebounded by the
19 close of 1987?

20 A. That would be correct.

21 Q. You didn't analyze how the closed stock price at the end
22 of 1987 would compare to the closed stock price at earlier years,
23 did you?

24 A. That is correct.

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1 Q. Now, on the other end, you used the 1996 closed stock
2 price because it was the stock price available before Panhandle's
3 sale to Duke Energy; isn't that right?

4 A. That's correct.

5 Q. And the stock price at the end of 1996 was 45?

6 A. Yes, sir.

7 Q. And, again, you didn't take into account the possibility
8 that the stock price at the close of 1996 could have been
9 affected by the announcement that Panhandle was being purchased
10 by Duke Energy; is that correct?

11 A. That's correct.

12 Q. You didn't know what affect the announcement may have
13 had on the stock price, do you?

14 A. That's correct.

15 Q. I think you said on direct you were not even sure when

16 that sale to Duke Energy took place; is that right?

17 A. I don't remember. That could be correct.

18 Q. But that announcement about the sale could have had the
19 affect of driving up the stock price, could it not?

20 A. It could have.

21 Q. But you didn't take that potential affect into account,
22 did you?

23 A. That's correct.

24 Q. Isn't it true that the closed stock price at the end of

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1 1996 was the highest it had been at the close of any year from
2 1987 to 1996?

3 A. That's correct.

4 Q. You didn't take into account at all any affect on the
5 stock price at the close of 1987 in relation to the -- any other
6 subsidiaries of Panhandle Eastern besides Panhandle Eastern; is
7 that correct?

8 MS. CARTER: Objection as to the form of the question.

9 MR. BOYD: I will rephrase it.

10 Q. (By Mr. Boyd) You are not aware of anything that
11 happened in 1997 that affected the stock price of Panhandle
12 Eastern Corporation, are you?

13 A. No, other than in reading the annual report there was --
14 they had difficulty in -- there was some changes in FERC, how

15 FERC was managing the --

16 Q. I am talking about 1997, sir?

17 A. I am talking about the 1997 Annual Report.

18 Q. Okay.

19 A. The 1997 Annual Report, in management's letter they
20 indicated that they were having difficulty in responding to how
21 FERC was managing the industry, particularly in their allowing
22 spot market sales and how they were regulating the pipe -- you
23 know, the pipeline industry in general.

24 Q. You don't know, for instance, whether the sale of any

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1 other subsidiary of Panhandle Eastern Corporation after the sale
2 to Duke -- I am sorry. Strike that.

3 You don't know whether the sale of any other Panhandle
4 Eastern Corporation subsidiary in 1987 had an affect on the stock
5 price in 1987, do you?

6 A. No.

7 Q. Isn't it true that the dividends per share that
8 Panhandle Eastern Corporation paid actually decreased over the
9 period from 1987 to 1996?

10 A. Yes.

11 Q. Isn't it true that Panhandle Eastern Corporation
12 actually lost money in at least two years during that period of
13 time?

14 A. That is correct.

15 Q. In fact, Panhandle Eastern's earnings were weak for
16 several years during that period of time; isn't that correct?

17 A. Their earnings were what?

18 Q. Weak?

19 A. Well, if by weak you mean they were less than they were
20 in 1987, that is correct.

21 Q. Isn't losing money or having lower earnings inconsistent
22 with a growth rate of eight percent?

23 A. It is. However, you have to remember that the growth
24 rate was an estimate over a long period of time from 1987 to

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1 1996, and you are relating to specific years.

2 Q. Okay. Again, sir, just to clarify, you took the stock
3 price at one point in time in 1987; isn't that correct?

4 A. Correct.

5 Q. And compared it to one point in time in 1996; isn't that
6 correct?

7 A. That is correct.

8 MS. CARTER: Objection. Asked and answered.

9 HEARING OFFICER KNITTLE: Sustained.

10 Q. (By Mr. Boyd) Let me refer you to People's Exhibit
11 Number 27 for a minute. Would you keep People's Exhibit 7 handy,
12 too, because I might refer back to that. Again, I think you
13 testified that the cost of debt is another component of the

14 weighted average cost of capital, isn't it?

15 A. Yes, sir.

16 Q. Like the eight percent growth number, you are the one
17 who determined the cost of debt for Panhandle for this case;
18 isn't that right?

19 A. Yes, sir.

20 Q. To determine the cost of debt, you first divided the
21 interest expense by the current portion of long-term debt and the
22 long-term debt; isn't that right?

23 A. Yes, sir.

24 Q. Then you deducted to account for the income tax rate to

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1 get the net cost of interest after taxes?

2 A. Yes, sir.

3 Q. And you did that for each year for 1987 to 1996?

4 A. For the years that were available, yes.

5 Q. Okay. You got those numbers from Panhandle's annual
6 reports or the 10-K filings?

7 A. Yes.

8 Q. The interest expense number represents the cost of
9 interest for both short-term and long-term debt; is that right?

10 A. If there was any interest on short-term debt, any
11 interest expense paid by Panhandle for short-term debt, that is
12 not part -- that was not part of their current portion of
13 long-term debt, that would be included.

14 Q. The current portion of long-term debt and the long-term
15 debt numbers came from the balance sheets, too?

16 A. That is correct.

17 Q. Either you or someone you worked with pulled those
18 numbers from the income statements and balance sheets?

19 A. Yes.

20 Q. Okay. On Exhibit Number 27, as you testified earlier,
21 you calculated the cost of debt twice, didn't you?

22 A. Yes.

23 Q. The first time or the first half, I guess I would say,
24 lines four through ten were your first version. And lines 13

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1 through 19 were your second version?

2 A. Correct.

3 Q. Okay. It was the lines 13 through 19 that you thought
4 should be included; is that right?

5 A. That's correct.

6 Q. Okay. If you look at lines six and fifteen, and you
7 look at the interest expense, the numbers are the same, are they
8 not, for both versions?

9 A. Yes, sir.

10 Q. Those numbers reflect the interest expense attributable
11 to both short-term and long-term debt, don't they?

12 A. That would be correct.

13 Q. Okay. But the current portion of long-term debt and the
14 long-term debt numbers on line 7 and 16 changed, didn't they?

15 A. That's correct.

16 Q. You took out the portion of short-term debt that does
17 not carry interest, the debt payable in 30 days; isn't that
18 right?

19 A. Yes.

20 Q. Okay. Those are things like accounts payable and
21 payroll taxes?

22 A. Accounts payable, payroll taxes, yes.

23 Q. When you derived the net cost of interest you included
24 that number in your worksheet, calculating the cost of capital;

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1 isn't that right?

2 A. Yes. The item on line 19, the net cost of interest.

3 Q. You just took the item from line 19, the net cost of
4 interest and transferred it to line 26 of the weighted average
5 cost of capital worksheet; is that right?

6 A. That's correct, sir.

7 Q. Okay. But on People's Exhibit Number 7, you also had
8 numbers for long-term debt and short-term portion of long-term
9 debt; isn't that right?

10 A. That's correct.

11 Q. The number for long-term debt was on line 29?

12 A. Correct.

13 Q. The number for short-term portion of long-term debt was
14 on line 30; is that right?

15 A. That's correct.

16 Q. That information also came from the annual reports of
17 the 10-K filings?

18 A. Yes.

19 Q. So if you add lines 29 and 30 on People's Exhibit Number
20 7, they should equal the number on line 16, the cost of debt
21 worksheet; is that right?

22 A. Yes, sir.

23 Q. You said that in your deposition you did some math to
24 check that, to make sure that your work reconciled, didn't you?

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1 A. Yes.

2 Q. Mr. Nosari, you also have listed on line 28 of People's
3 Exhibit Number 7, the short-term debt; is that right?

4 A. Yes, sir.

5 Q. Okay. But you did not add that number to the long-term
6 debt number on line 29, did you?

7 A. No, I did not.

8 Q. If you had, that would have led you to the numbers on
9 line 7 of the cost of debt worksheet, right?

10 A. I am sorry?

11 Q. If you had added those numbers together, it would have

12 led you to the numbers on line 7 of the cost of debt worksheet?

13 A. Oh, yes.

14 MS. CARTER: Objection. Ambiguous question.

15 HEARING OFFICER KNITTLE: Overruled.

16 THE WITNESS: That is correct.

17 Q. (By Mr. Boyd) That is what you did the first time?

18 A. Correct.

19 Q. Okay. Mr. Nosari, the interest expense number from line
20 15, on the People's Exhibit Number 27, included interest expense
21 for short-term debt as well as long-term debt, didn't it?

22 A. Yes.

23 Q. The amount of debt you used as a denominator included
24 only long-term debt and the short-term portion of long-term debt?

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1 A. That is correct.

2 Q. The number did not include short-term debt?

3 A. The number did not include short-term debt because --

4 Q. The short-term -- sir, you can have this clarified on
5 redirect. The short-term portion of the long-term debt is not
6 short-term debt, is it?

7 A. Would you repeat the question?

8 Q. Sure. The short-term portion of long-term debt is not
9 short-term debt, is it?

10 A. It is a current liability. Now --

11 Q. I am sorry. Sir, you think the short-term portion of

12 the long-term debt is a current liability?

13 A. Well, certainly. That is why it is listed on the
14 balance sheet as a current liability.

15 Q. You use --

16 A. Because it is due within the next accounting period.

17 Q. You use the amount of debt number that you did as the
18 denominator in the calculations because you couldn't find
19 information in the financial documents about the amount of
20 short-term debt; is that right?

21 A. Well, the short term -- the total current liabilities,
22 which you see here as short-term debt, that's the total current
23 liabilities. Included in that is the long -- is the short-term
24 portion of the long-term debt. So the part that I excluded would

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1 be the portion that related to accounts payable, items that
2 related to payroll taxes. Now, if it happened that Panhandle
3 Eastern had some short-term debt that they were paying interest
4 on, such as let's say a 180 day note or something like that, that
5 information, of course, is not disclosed in the balance sheet.
6 So I, obviously, could not adjust for that since I did not have
7 that information.

8 Q. Okay. That was my point, sir. You used the interest
9 expense for long-term debt and the short-term debt because it was
10 a number available in the financial statements; isn't that right?

11 A. That's correct.

12 Q. Okay. But isn't it true by including the interest cost
13 for short-term debt in the numerator but not including the amount
14 of short-term debt in the denominator, the cost of debt number is
15 actually overstating the cost of debt?

16 A. That would be true if Panhandle Eastern paid a large
17 portion of interest expense for short-term borrowings.

18 Q. And you have not evaluated what portion of their
19 short-term -- their interest related short-term debt was, did
20 you?

21 A. The information was not available.

22 Q. Okay.

23 MR. BOYD: Just give me one minute. I might be finished.

24 HEARING OFFICER KNITTLE: Sure. Let's go off the record.

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1 (Discussion off the record.)

2 HEARING OFFICER KNITTLE: Back on the record. All right.

3 Are you finished, Mr. Boyd?

4 MR. BOYD: Yes, we are. Thank you.

5 HEARING OFFICER KNITTLE: All right. Do you have a
6 redirect?

7 MS. CARTER: We will have a redirect. If I could have just
8 a moment, please.

9 HEARING OFFICER KNITTLE: Sure. Let's go back off the
10 record.

11 (Discussion off the record.)

12 HEARING OFFICER KNITTLE: All right. We are back on the
13 record.

14 Ms. Carter, do you have a redirect examination of Dr.
15 Nosari?

16 MS. CARTER: Yes.

17 HEARING OFFICER KNITTLE: Proceed.

18 REDIRECT EXAMINATION

19 BY MS. CARTER:

20 Q. Does the fact that a company is regulated or not impact
21 your economic benefit analysis?

22 A. No. I mean, only in the sense that it would operate in
23 that environment.

24 Q. When conducting an economic benefit analysis, is the

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1 growth rate for a specific company preferred over the growth rate
2 for that industry in which the company operates?

3 A. The growth rate of the particular company would be more
4 preferred.

5 Q. Is the fact that a stock price may rise to its highest
6 level ever a factor that is representative of a company's growth?

7 MR. BOYD: Objection to the form. She is leading this
8 witness through these questions, which is not appropriate for
9 redirect.

10 HEARING OFFICER KNITTLE: Sustained.

11 MS. CARTER: Just a moment.

12 Q. (By Ms. Carter) How does a stock price affect a
13 company's growth?

14 A. Well, the growth, the manifestation of growth, is
15 measured, can be measured by the change in the stock price. In
16 fact, that is what I used and that is what most people would use,
17 is the change in stock price over a period of time, which is what
18 I used, 1980 -- December 31st of 1987, to December 31st of 1996.

19 Q. What impact does a high stock price have on a company's
20 growth?

21 A. Well, if it is the ending stock price, it would have --
22 you know, you would use that to calculate the growth rate. So it
23 has a significant impact.

24 Q. Does it represent part of a company's growth?

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1 MR. BOYD: Objection to the form of the question. It is
2 ambiguous, what she means by "represent."

3 HEARING OFFICER KNITTLE: Overruled.

4 THE WITNESS: Yes. It would be a manifestation of the
5 increase in value of the company, which would be reflected in its
6 growth which, again, is manifested -- you know, the growth of a
7 company and the increase in its value and earning power would be
8 reflected in its selling price of its stock.

9 MS. CARTER: Thank you. I have no further questions, Mr.

10 Knittle.

11 HEARING OFFICER KNITTLE: Recross?

12 MR. BOYD: No recross.

13 HEARING OFFICER KNITTLE: Dr. Nosari, you may step down.

14 Thank you for your time.

15 THE WITNESS: Thank you.

16 (The witness left the stand.)

17 HEARING OFFICER KNITTLE: Are there any further witnesses
18 for the State?

19 MS. CARTER: We have no further witnesses. But before we
20 close our case, Mr. Layman has a statement.

21 HEARING OFFICER KNITTLE: Mr. Layman, I am excited to hear
22 this statement.

23 MR. LAYMAN: It may very well be predictable at this point.
24 But before we formally close our case-in-chief, the State would

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1 like to renew the objection with respect to the Hearing Officer's
2 ruling on the admissibility of People's Exhibit Number 5, based
3 on the argument or an argument that was not previously identified
4 by the State at the time of the initial ruling. I am compelled
5 to make this argument in order to preserve for the record and
6 prior to the close of our case-in-chief this alternative basis
7 for admitting People's Exhibit Number 5. And I want to apologize
8 for any appearance that the State is at this time trying to wear

9 down the Hearing Officer with respect to the earlier ruling.

10 I will be succinct in our rationale. Exhibit Number 5 can
11 be admitted on the grounds that it does not constitute
12 inadmissible hearsay because it can be considered as proof in the
13 Illinois EPA's actions following the receipt of the U.S. EPA's
14 letter. In other words, it bears upon the IEPA's --

15 THE COURT REPORTER: Excuse me. I am sorry.

16 HEARING OFFICER KNITTLE: Mr. Layman, do you mind taking it
17 down to 33 rpm's for us.

18 MR. LAYMAN: Sure. I am sorry. Exhibit Number 5 can be
19 admitted on the grounds that it does not constitute inadmissible
20 hearsay because it can be considered as proof of the Illinois
21 EPA's actions following receipt of the U.S. EPA's letter. In
22 other words, it bears upon the IEPA's subsequent conduct and is
23 not being offered for the truth of the matter asserted.

24 Panhandle has painted a picture that the IEPA's letter to

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1 the U.S. EPA requesting guidance, in this case People's Exhibit
2 Number 4, constituted an acceptance of Panhandle's proposed use
3 of revised emission factors and a revised emissions baseline. In
4 fact, the IEPA did not subsequently agree to or adopt Panhandle's
5 proposed use of emission factors and emissions baseline. To the
6 contrary, the IEPA has not issued any kind of permit to the
7 facility and has pursued enforcement for past violations of PSD
8 in this action in a manner that is consistent with the U.S. EPA's

9 guidance letter.

10 I think there is ample case authority for allowing the
11 admissability of the document on this basis. Having said that, I
12 would respectfully ask the Hearing Officer to reverse his earlier
13 ruling or, in the alternative, at least take this matter under
14 advisement and consider ruling upon the same at some point prior
15 to the end of this hearing. I would note that this will be our
16 final objection with respect to this document for purposes of
17 this hearing. Thank you.

18 HEARING OFFICER KNITTLE: All right, Mr. Layman. Mr. Boyd,
19 do you have any response to that?

20 MR. BOYD: I will be very brief. This is the third time
21 that you have been asked to reconsider your earlier ruling.
22 There is some things that Mr. Layman said that I must respond to.
23 First, Mr. Layman is himself becoming a witness by providing
24 facts that are not in evidence in this case at this point in

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1 time, and I object to his statements to the extent that he is
2 doing so.

3 I also object to the extent that he is introducing a new or
4 a -- I would say new legal positions, because we have not had a
5 chance to research that and provide a response to that. I think
6 his comment that it is not hearsay because it is proof of the
7 IEPA's conduct is not correct. It is not an appropriate point.

8 Nothing about the letter says anything about what the IEPA did or
9 did not do.

10 The letter from the U.S. EPA states or it potentially
11 states a position by the U.S. EPA and the only reason they want
12 to get that into the record is that it is perceived to be Agency
13 guidance. The author of the document is not here. There is no
14 testimony to suggest that it is the proper foundation for that
15 purpose, and we renew our objection.

16 HEARING OFFICER KNITTLE: Okay, Mr. Boyd. I agree that we
17 don't want Mr. Layman testifying on behalf of the IEPA without
18 being sworn in. So to the extent that he did so, and I can't
19 recall, I would sustain that objection.

20 On the second point, this is the third time this has come
21 up. I don't have a problem with that if, in fact, you have come
22 up with a new legal position that you think allows the
23 admissibility of this document. I want the right ruling. I
24 don't want to make sure that the document doesn't get in just

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1 because the State didn't have its ducks in a row to start off
2 with on this document. However, they have had time to research
3 this issue and I don't imagine the respondents have been doing
4 any nighttime research on this particular issue.

5 I am going to withhold ruling on what I take to be sort of
6 a state of mind argument of the EPA that this document would be
7 admissable for the state of the collective mind, so to speak, of

8 the Illinois Environmental Protection Agency. If you want to
9 provide a response, either orally or after the hearing, you can
10 do so, and I will rule upon this in my hearing report on this
11 document.

12 MR. LAYMAN: Thank you.

13 HEARING OFFICER KNITTLE: The hearing report, by the way,
14 comes out three days after I receive the transcript, which would
15 give either side plenty of time to address it in their
16 post-hearing brief if they don't like the ruling.

17 MR. BOYD: Just to clarify, you are not changing your
18 ruling?

19 HEARING OFFICER KNITTLE: At this point, I am not going to
20 change my ruling, but nor am I ruling on Mr. Layman's new motion
21 to admit this People's Exhibit Number 5.

22 MR. BOYD: Okay. That's fine. Thank you.

23 HEARING OFFICER KNITTLE: It is a little -- I don't want to
24 rule out -- I want to think about it, and I am cognizant of the

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1 fact that you have not had any time to address this issue, and I
2 want to give you the appropriate time to do so, if you so desire.
3 You are under no obligation to, and I am not saying if you don't
4 address it I am going to agree with Mr. Layman. I just have not
5 had a chance to think about it myself.

6 MR. BOYD: Thank you.

7 HEARING OFFICER KNITTLE: All right. Mr. Layman, Ms.
8 Carter, any other case-in-chief issues?

9 MS. CARTER: No, Mr. Hearing Officer.

10 HEARING OFFICER KNITTLE: Okay. Let's move on, then, to
11 the respondent's case-in-chief. Mr. Boyd.

12 MR. BOYD: Thank you. We have a few preliminary matters.
13 Just one second. I am going to ask my colleague, Ms. Smetana, to
14 handle it.

15 HEARING OFFICER KNITTLE: All right. Ms. Smetana?

16 MS. SMETANA: We have just two preliminary matters before
17 we begin. The first is that we would like lead to file with you,
18 Mr. Hearing Officer, Panhandle's motion for judgment in its favor
19 at the close of complainant's evidence. We are going to file
20 with you an original of this and will serve complainant with a
21 copy, and ask leave to file the additional nine copies at a later
22 date to allow us time to get recycled paper, as is required under
23 the Board rules.

24 HEARING OFFICER KNITTLE: All right. Ms. Carter, Mr.

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1 Layman, which one wants to address this? Which one of you, I
2 should say.

3 MS. CARTER: I have a hard time addressing it when I don't
4 know exactly what I am addressing.

5 HEARING OFFICER KNITTLE: Well, I am going to ask you if
6 you have a response to the motion for leave to file. That is all

7 we can address right now. We have not seen the motion. She is
8 requesting a motion of leave to file this single document without
9 the requisite number of copies with the Hearing Officer. Is that
10 correct?

11 MS. SMETANA: That's correct.

12 MS. CARTER: I am sorry. I was actually having a
13 conversation with --

14 MR. LAYMAN: I don't think we have any problem with them
15 filing on recycled paper.

16 HEARING OFFICER KNITTLE: Yes, it is a matter of form.

17 MR. LAYMAN: Yes, I think that's fine.

18 HEARING OFFICER KNITTLE: Okay. I will accept the motion.
19 So the motion for leave to file is granted.

20 MS. SMETANA: Okay.

21 MR. BOYD: Let the record reflect that Ms. Smetana is
22 handing a copy of the motion to both Counsel for the State and to
23 the Hearing Officer.

24 HEARING OFFICER KNITTLE: Are you requesting a ruling on

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1 the motion for judgment in your favor at the close of the
2 complainant's evidence?

3 MS. SMETANA: No. I believe this is the type of motion
4 that the Board would hear.

5 HEARING OFFICER KNITTLE: Correct.

6 MS. SMETANA: And would not be -- let the record reflect
7 that we filed this motion.

8 HEARING OFFICER KNITTLE: The record shall so reflect. I
9 will put this with Mr. Layman's appearance to file in Chicago
10 when I get back. But it is filed as of today.

11 (Whereupon documents were duly marked for purposes of
12 identification as Panhandle Exhibits 1 through 14 as of
13 this date.)

14 MS. SMETANA: Thank you. In addition, we wanted to provide
15 copies of Panhandle Exhibits 1 through 14, which the parties
16 previously stipulated as admissable at the beginning of this
17 hearing.

18 HEARING OFFICER KNITTLE: Mr. Layman, is that correct that
19 you have so stipulated?

20 MR. LAYMAN: That's correct.

21 (Ms. Smetana handed copies of the exhibits to the Hearing
22 Officer and to Counsel for the State.)

23 HEARING OFFICER KNITTLE: There is no need for us to go
24 through these one-by-one is there? We are going to address them

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1 during your case-in-chief?

2 MS. SMETANA: Correct.

3 HEARING OFFICER KNITTLE: You have agreed to the admission
4 of all of these?

5 Can we take it that you are moving these into evidence at

6 this point in time?

7 MS. SMETANA: Yes.

8 MR. LAYMAN: I think we have stipulated to the
9 admissibility.

10 MS. SMETANA: We have stipulated.

11 HEARING OFFICER KNITTLE: No objection?

12 MS. CARTER: Just one second. I would like to flip through
13 it real quick if you don't mind.

14 HEARING OFFICER KNITTLE: Sure. We will go off the record.
15 (Discussion off the record.)

16 HEARING OFFICER KNITTLE: Any objection to these?

17 MS. CARTER: No.

18 HEARING OFFICER KNITTLE: Okay. This will be admitted.
19 (Whereupon said documents were duly admitted into evidence
20 as Panhandle Exhibits 1 through 14 as of this date.)

21 HEARING OFFICER KNITTLE: Any other preliminary matters?

22 MS. SMETANA: That is all.

23 HEARING OFFICER KNITTLE: All right. You can call your
24 first witness.

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1 MS. SMETANA: Panhandle would like to call Laurie Brinkmann
2 as the first witness.

3 HEARING OFFICER KNITTLE: Ms. Brinkmann, do you want to
4 come up and have a seat.

5 Darlene, would you swear her in, please.

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

7 HEARING OFFICER KNITTLE: Your witness.

8 L A U R I E B R I N K M A N N,

9 having been first duly sworn by the Notary Public, saith as
10 follows:

11 DIRECT EXAMINATION

12 BY MS. SMETANA:

13 Q. Could you please state your full name for the record.

14 A. Laurie Ann Brinkmann.

15 Q. Ms. Brinkmann, who is your current employer?

16 A. The Illinois Environmental Protection Agency.

17 Q. And how long have you been with the IEPA?

18 A. Since April the 1st of 1992.

19 Q. So approximately eight years?

20 A. Uh-huh, yes.

21 Q. You need to answer yes. Thank you. Which department do
22 you currently work?

23 A. The Division of Air Pollution Control, Field Operations
24 Section.

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1 Q. Have you always been in that department?

2 A. Yes.

3 Q. What is your job title currently?

4 A. Environmental Protection Engineer.

5 Q. And is that the same as a district engineer?
6 A. Yes.
7 Q. Has that always been your job title?
8 A. Yes.
9 Q. As a district engineer, what responsibilities do you
10 have?
11 A. Conduct inspections, respond to complaints.
12 Q. To whom do you presently report?
13 A. Steve Youngblut.
14 Q. Have you always reported to Steven Youngblut?
15 A. Yes.
16 Q. Have you worked at the Agency since graduating from
17 school?
18 A. Yes.
19 Q. And where did you go to school?
20 A. The University of Illinois at Urbana-Champaign.
21 Q. When did you graduate?
22 A. January of 1992.
23 Q. And what degree did you earn?
24 A. A bachelor's in industrial engineering.

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1 Q. What type of courses did you take specific to that
2 degree?
3 A. I took mechanics of materials, mechanisms and dynamics

4 of machinery, quality control, manufacturing processes,
5 production process and control. I had an electrical engineering
6 class and a couple of mechanical engineering classes.

7 Q. Were any of your courses specific to environmental
8 engineering?

9 A. No. I had one environmental studies class, but it was
10 not environmental engineering.

11 Q. Did the environmental studies class address any air
12 issues?

13 A. I don't remember specifically.

14 Q. When you were hired as a district engineer, what type of
15 training did you receive?

16 A. I received on-the-job training.

17 Q. And who was that on-the-job training with?

18 A. Steve Youngblut.

19 Q. What, exactly -- when you say on-the-job training, what
20 does that mean?

21 A. I would go with him to inspections that he would
22 conduct.

23 Q. And did he point out specific things in the inspections?

24 A. He would explain the processes to me, and also it was

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1 just learning the way you do an inspection, watching what he did.

2 Q. And did that include learning what to do before an
3 inspection?

4 A. Yes.

5 Q. And also what to do after an inspection?

6 A. Yes.

7 Q. Did you have any other type of training -- any classroom
8 training?

9 A. I took a couple of classes through the EPA, and then I
10 had one class through the U of I.

11 Q. What type of classes?

12 A. One of the U.S. EPA classes was combustion evaluation, I
13 think it was called. And I had another class called -- it was
14 about inspection safety and procedures, but I don't remember if
15 that was from the U.S. EPA.

16 Q. Were any of the classes specific to air issues?

17 A. I had -- the class I had through U of I was a civil
18 engineering class and it was on air pollution.

19 Q. When did you take that class?

20 A. I don't remember the exact year. It was several years
21 ago.

22 Q. So within the first five years or the second part
23 after --

24 A. I would say within the first two years of starting with

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1 the Agency.

2 Q. How long did you receive on-the-job training from Steve

3 Youngblut?

4 A. A few months.

5 Q. So you began in -- when did you begin again?

6 A. April 1st of 1992.

7 Q. So until what time would you say you were in training
8 with him?

9 A. I don't remember when they started sending me out by
10 myself, but I would say it was a few months.

11 Q. So around July of 1992?

12 A. Possibly.

13 MS. CARTER: Objection. Leading the witness.

14 HEARING OFFICER KNITTLE: Ms. Smetana?

15 MS. SMETANA: I believe this witness is established as an
16 adverse party and under the Board rules it is appropriate to
17 question this witness as if under cross-examination.

18 MS. CARTER: We just want to look at the Board rules here
19 real quick for just a moment.

20 MR. LAYMAN: It is my general impression that in order to
21 be able to cross-examine the witness on direct you first had to
22 show the requirements of hostility being met on the part of the
23 witness.

24 HEARING OFFICER KNITTLE: Are you looking at 103.209?

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1 MS. CARTER: We are getting there.

2 HEARING OFFICER KNITTLE: For the record, 103.209(a) is

3 where you want to look. And that -- I am going to sustain the
4 objection.

5 MS. SMETANA: Well, at this point, I was just really trying
6 to establish background information.

7 HEARING OFFICER KNITTLE: Well, I think it would be a good
8 idea to get this out in the open though.

9 MS. SMETANA: Okay.

10 HEARING OFFICER KNITTLE: It is any party or the officers,
11 directors, managing agents, or foreman of any party of the action
12 may be called and examined under -- as if under cross-examination
13 as an adverse witness. Otherwise, you do have to show hostility.
14 At least that's my reading of this regulation.

15 MS. SMETANA: Okay.

16 HEARING OFFICER KNITTLE: If you guys have a different
17 reading, I would happy to hear it.

18 MS. SMETANA: At this point in time I think we are fine.

19 HEARING OFFICER KNITTLE: Okay. If you change your mind,
20 let me know.

21 Is that okay, Ms. Carter?

22 MS. CARTER: Yes. I just wanted to make sure that was
23 clear.

24 HEARING OFFICER KNITTLE: Okay. You can -- so the

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1 objection is sustained and you may proceed with your direct

2 examination.

3 MS. SMETANA: Okay.

4 Q. (By Ms. Smetana) Ms. Brinkmann, what types of facilities
5 did you go to on your on-the-job training?

6 A. While I was with Steve?

7 Q. Yes.

8 A. I don't remember.

9 Q. Did you have on-the-job training with anyone else other
10 than Steve?

11 A. No.

12 Q. Did you ever go to a natural gas compression station
13 during your on-the-job training?

14 A. No.

15 Q. How are you assigned to the facilities that you inspect?

16 A. I am given a work plan that I have to complete each
17 year.

18 Q. What is the work plan?

19 A. It is a list of facilities I have to go to within our
20 fiscal year.

21 Q. Is that work plan specific to facilities?

22 A. What do you mean?

23 Q. Is the work plan specific to a certain region?

24 A. Yes.

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1 Q. What is that?

2 A. To my district, district 207, which contains nine
3 counties.

4 Q. Which counties are in that district?

5 A. Morgan, Macoupin, Montgomery, Pike, Calhoun, Jersey,
6 Greene, Scott, and I believe Brown.

7 Q. And have you always been in that same set of counties?

8 A. When I first started my counties were part of Steve's
9 district. I think he had -- something like 17 counties,
10 approximately.

11 Q. And do you know which counties were a part of that
12 district?

13 A. The counties I just named and Adams, Cass, Sangamon,
14 Menard. If I looked at a map I could show you, but I --

15 Q. Okay. Thank you. What types of inspections do you
16 conduct?

17 A. I go to a variety of facilities. Quarries, asphalt
18 plants, chemical plants.

19 Q. Are the inspections annual?

20 A. Yes, most of them.

21 Q. Typically what type of information is available to you
22 before an inspection?

23 A. Our file, which contains permits, applications, past
24 inspection reports, and whatever letters, whatever correspondence

1 has been between the Agency and the company.

2 Q. What do you mean by our files?

3 A. The Agency files. We have a set of files at the
4 regional office, a copy.

5 Q. What information, specifically, do you review before an
6 inspection?

7 A. Past inspection reports and permits.

8 Q. Do you review any of the other information that you just
9 described that is in the file?

10 A. What do you mean? Do I review --

11 MS. SMETANA: Can you read -- could I have the question
12 read back.

13 HEARING OFFICER KNITTLE: Sure.

14 (Whereupon the requested portion of the record was read
15 back by the Reporter.)

16 THE WITNESS: I look at the permit applications, past
17 inspection reports. I might look at whatever is in the file.

18 Q. (By Ms. Smetana) Okay. Do the files ever contain annual
19 emission reports?

20 A. Not usually.

21 Q. Can you get copies of annual remission reports?

22 A. Yes.

23 Q. How would you do that?

24 A. If I wanted a copy, and I was going to a facility, I

1 would ask for it from the facility. Or if I had already been to
2 the facility and I decided later that I needed it I would call
3 someone in the Agency to get a copy.

4 Q. What is the purpose of an annual inspection?

5 A. To determine compliance with the permit and the
6 regulations.

7 Q. Have you ever visited the Glenarm station?

8 A. Yes.

9 Q. What is the Glenarm station?

10 A. A natural gas compression station.

11 Q. When was the first time you visited the Glenarm station?

12 A. It was in 1992, I believe.

13 Q. Can you describe the station?

14 A. There were several engines.

15 Q. What did it look like?

16 A. The engines are in buildings.

17 Q. Do you recall what month it was in 1992 when you visited
18 the Glenarm station?

19 A. It is on my inspection reports.

20 Q. Who inspected the Glenarm station before you did?

21 A. Steve Youngblut.

22 Q. Did you talk to Steve Youngblut before visiting the
23 Glenarm station?

24 A. I probably did.

1 Q. Did you inspect the Glenarm station more than that one
2 time?

3 A. Yes.

4 Q. Do you recall how many times?

5 A. I think two more times.

6 Q. What was your purpose of the inspections of the Glenarm
7 station?

8 A. To determine compliance with the permit and the
9 regulations.

10 Q. Based on inspection, how do you determine compliance?

11 A. I tour the facility and request whatever data I may
12 need.

13 Q. How do you determine compliance of the facility when
14 there is an annual emission limit?

15 A. I would look at what the production was that was being
16 limited, that the emissions from were being limited, and request
17 the production data.

18 Q. Can you explain what you mean by production data?

19 A. Like if a quarry crushed so much rock and they are
20 limited to emissions or if they are burning fuel, a compression
21 station burning fuel.

22 Q. So what would be the production data?

23 A. I would ask for how much fuel they burned.

24 Q. Anything else?

1 A. I don't know without looking at a permit or --

2 Q. Once you had the production data, how would you then
3 determine compliance with the annual limit?

4 A. Depending on what the numbers were, if there is an
5 annual limit, often there is an annual -- if there is an annual
6 emission limit, often there is an annual production limit. And
7 if the production limit -- if the actual production that I got
8 from the facility was less than the production limit then I am
9 going to know that the emissions are going to be less than the
10 limit.

11 Q. If there is no production limit and there is only an
12 annual emission limit, how would you determine compliance with
13 the production data?

14 A. I would need to use emission factors.

15 Q. And can you describe what you mean by emission factors?

16 A. A number that is multiplied by the production data to
17 get the emission number.

18 Q. What source would you go to for emission factors?

19 A. Probably the AP-42.

20 MR. BOYD: Darlene, did you get that?

21 THE COURT REPORTER: Probably the AP-42.

22 MR. BOYD: Okay.

23 Q. (By Ms. Smetana) Do you keep a copy of that in your
24 office?

1 A. Yes.

2 Q. Using emissions factors that you just described, what
3 information from a natural gas compression station would you
4 need?

5 A. I couldn't say for certain without knowing what was
6 needed in the equation that I would be using.

7 Q. Do you remember being deposed in this case by Eric Boyd?

8 A. Yes.

9 Q. On November 8th of 1999?

10 A. Yes.

11 Q. Let me just refresh your recollection.

12 MS. SMETANA: For Counsel, this is page 38.

13 A. (By Ms. Smetana) "Question: For natural gas compressor
14 engines using an AP-42 emission factor, what information from the
15 facility would you need to determine emissions from the facility?

16 Answer: Probably the fuel usage.

17 Question: Anything else?

18 Answer: Not that I recall.

19 Question: Could you do it based on hours of operation?

20 Answer: I don't think so."

21 Does that refresh your recollection?

22 A. Uh-huh.

23 Q. Okay.

24 A. Yes.

1 Q. So, again, using emission factors, what information from
2 a natural gas compressor station facility would you need to
3 determine compliance?

4 A. I would need at least the fuel usage data, and I am
5 uncertain as to whether I would need anything other than that
6 without an equation.

7 Q. Could you calculate emissions using hours of operation?

8 A. I don't believe so, using only hours of operation.

9 Q. Do you know if there are different types of emissions
10 factors for natural gas compressor station type facilities?

11 MS. CARTER: Could I have -- Mr. Hearing Officer, I am
12 sorry. Could I have that question read back for me, please.

13 HEARING OFFICER KNITTLE: The most recent one?

14 MS. CARTER: Just the most recent one if that would be
15 possible. Thank you.

16 HEARING OFFICER KNITTLE: Darlene, could you read it back.

17 (Whereupon the requested portion of the record was read
18 back by the Reporter.)

19 MS. CARTER: Thank you.

20 HEARING OFFICER KNITTLE: Ms. Brinkmann, do you recall the
21 question?

22 THE WITNESS: Yes. I am not sure what you mean, different
23 types of emission factors.

24 Q. (By Ms. Smetana) What types of emission factors in AP-42

1 are there for natural gas compressor stations?

2 A. I don't remember. It is probably all of the criteria of
3 pollutants.

4 MS. SMETANA: Just a moment, please.

5 Q. (By Ms. Smetana) Do you know if there is emission
6 factors based on fuel usage for natural gas compressor stations?

7 A. I don't recall. I would have to look it up. But it is
8 probably based on the fuel burnt.

9 Q. Do you know if there is an emission factor based on
10 hours of operation for natural gas compressor stations?

11 A. I don't know that there is not, but I don't see why
12 there would be.

13 Q. Do you ever remember using an emission factor to
14 calculate emissions for natural gas compressor stations?

15 A. I don't recall what I did when I did those inspections.

16 Q. When you inspected the Glenarm station in 1992, what
17 information did you review before the inspection?

18 A. I don't remember specifically what I did, but just based
19 on my general practice, is I probably went through the file.

20 Q. What would have been in the file?

21 A. Everything that I listed before, past inspection
22 reports, permits, applications, correspondence.

23 Q. Did you look at the prior inspection reports?

24 MS. CARTER: Objection. Asked and answered.

1 MS. SMETANA: Specific to this facility, I don't believe
2 that question was asked.

3 HEARING OFFICER KNITTLE: Overruled.

4 THE WITNESS: I don't recall specifically doing that but,
5 again, it is my common practice to do that.

6 Q. (By Ms. Smetana) Prior to the 1992 inspection, do you
7 recall looking at the permit?

8 A. I don't recall specifically doing that, but it is my
9 common practice to do that.

10 Q. Again, you recall being deposed in this matter in
11 November of 1999 by Eric Boyd?

12 A. Yes.

13 Q. On page 20 of the deposition transcript it says -- the
14 question was, before going to --

15 MS. CARTER: Again, I hate to interrupt. I am going to
16 have to object at this point if they are going to be reading in
17 portions of the deposition transcript unless they are going to
18 introduce it into evidence or something along those lines.
19 Because it seems to me that they are simply taking portions of
20 the deposition transcript and reading it into evidence.

21 HEARING OFFICER KNITTLE: Are you attempting to impeach?

22 MS. SMETANA: I am attempting to impeach the witness.
23 Before objecting, I am not reading pages of the deposition
24 transcript. I am simply going to read one question and answer.

1 So I would like to continue.

2 HEARING OFFICER KNITTLE: This is proper impeachment if
3 there is an impeachable statement.

4 MS. CARTER: Okay. Again, what page?

5 MS. SMETANA: Page 20.

6 MS. CARTER: Thank you.

7 Q. (By Ms. Smetana) The question was -- tell me if you
8 recall this:

9 "Question: Before going to the Glenarm station for the
10 first time, did you have an understanding of what the permits for
11 the facility said.

12 Answer: I read them."

13 Does that -- then do you recall looking at the permit prior
14 to the inspection?

15 A. I don't recall specifically doing that, but that is what
16 I do. So I think it is safe to assume that I did that.

17 Q. Have you seen the permit for the Glenarm station?

18 A. Not a recent one.

19 Q. Have you seen the 1988 construction permit for the
20 Glenarm station?

21 A. I don't recall.

22 Q. Do you know what type of emission limit governs the
23 Glenarm station for NOx emissions?

24 A. I don't recall.

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1 Q. Do you know if the Glenarm station was required to
2 maintain any records?

3 A. I don't recall if that was specifically on the permit.

4 Q. If I could turn your attention to what has been
5 previously marked as Stipulated Hearing Exhibit Number 7. I
6 think it is in the bound volume.

7 A. Okay.

8 Q. If you go to tab number 7, and if you can turn to
9 approximately the middle of that section. Actually, it is the
10 third to the last page.

11 A. Okay.

12 Q. Ms. Brinkmann, could you please identify the document
13 before you?

14 A. It is an inspection report.

15 Q. For what year?

16 A. 1992.

17 Q. Did you prepare this report?

18 A. Yes.

19 Q. Are the initials in the bottom left corner yours?

20 A. The typed initials?

21 Q. Yes.

22 A. LB is me.

23 Q. At the top of the text of that report it says
24 pre-investigation status. Can you explain what that means?

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1 A. It says work plan, which means it was on the work plan
2 to be done. If it is a complaint, it would say complaint.

3 Q. Okay. What were the inspection findings based on this
4 1992 inspection?

5 A. It says no violation.

6 Q. What does this mean?

7 A. It means I found no violation.

8 Q. More specifically, what does that mean?

9 MS. CARTER: Objection. Asked and answered.

10 Q. (By Ms. Smetana) Of what did you find no violation?

11 A. Of the regulations.

12 Q. Of anything else?

13 MS. CARTER: Again, objection. Asked and answered.

14 HEARING OFFICER KNITTLE: I don't understand the question.
15 What did you say? Of anything else?

16 MS. SMETANA: Of anything else. You found no violations.
17 Was there anything else of which you found no violation?

18 HEARING OFFICER KNITTLE: That I will overrule the
19 objection and let her answer that.

20 THE WITNESS: I would say the regulations and the permits
21 is what I look at.

22 Q. (By Ms. Smetana) The inspection report states that the
23 engines were operating -- I am reading from the report here -- in
24 1991 and 1992 during the following hours. And then it lists

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1 hours of operation. Was that information provided during the
2 inspection?

3 A. I don't recall if I got it during the inspection or
4 after.

5 Q. What was the exact date of the inspection?

6 A. December 18th of 1992.

7 Q. What was the date of the inspection report?

8 A. December 21st of 1992.

9 Q. Okay. I am going to show you what has been previously
10 marked as Panhandle Exhibit Number 7, and it is in that package
11 of clipped documents to your right, the lower right-hand corner.

12 A. Okay.

13 Q. It should be marked 7 at the bottom.

14 A. Yes.

15 Q. Do you recognize this document?

16 A. It looks like a list of hours.

17 Q. Is this your handwriting on the document?

18 A. This looks like my handwriting, the total hours of
19 operation.

20 Q. Can you, for the record, just identify what this
21 document is?

22 A. There is a list of engines, and on the columns are the
23 months of the year.

24 Q. And for which year is this pertaining to?

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1 A. 1991.

2 Q. The handwritten part that you were referring to before,
3 at the bottom, did you do that calculation for total hours of
4 operation?

5 A. I think I did. I probably went through the rows and
6 added them up.

7 Q. Why did you do that?

8 A. Because the facility didn't do it.

9 Q. Was this information provided -- this document provided
10 to you during your inspection?

11 A. I don't recall if I got it during the inspection or
12 after.

13 Q. Are these hours in this document, Exhibit Number 7, the
14 same hours of operation that appear in your report under where it
15 says op hours for 1991?

16 A. Yes.

17 Q. If you could turn two pages further. I will show you
18 what is marked as Panhandle Exhibit Number 9.

19 A. Okay.

20 Q. If you could just identify this document?

21 A. It is the same document as before but only for 1992.

22 Q. So it is the same type of document?

23 A. Yes.

24 Q. What is that?

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1 A. There is a list of the engines and a list of the months
2 of the year with operating hours.

3 Q. For the Glenarm station?

4 A. Yes.

5 Q. And is this your handwriting on this document?

6 A. Yes.

7 Q. What does your handwriting show?

8 A. I, again, added up the hours for each engine and listed
9 them.

10 Q. What is -- the column that says total hours of operation
11 for 1992 excluding December, what does that mean?

12 A. I went -- I listed the engines and then I added all of
13 the months up for each engine and listed the hours.

14 Q. So when you say excluding December, why did you write
15 that on there?

16 A. Because I didn't get any December data.

17 Q. What time of year -- what month was it, again, when you
18 performed your inspection?

19 A. December the 18th.

20 Q. Why did you add the hours of operation?

21 A. It is more concise than to list this whole table in my
22 inspection report.

23 Q. Can you tell me are the numbers that are added up here
24 in your handwriting, is that the same information that is in your

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1 1992 inspection report under the column marked op hours for 1992?

2 A. Yes.

3 Q. Okay. That's all with that document. Turning your
4 attention back to your inspection report, the report says the
5 facility would forward the engines fuel usage from 1991 and 1992
6 in the near future. Do you know if that information was ever
7 provided?

8 A. I don't recall at that time, but recently Steve told me
9 that he found a sheet with that data on it. I am not sure if it
10 was this data but some data.

11 Q. For these years?

12 A. I don't remember.

13 Q. Was the facility required to keep records of hours of
14 operation?

15 A. I don't remember.

16 Q. Why did you ask for information on the hours of
17 operation?

18 A. I don't remember.

19 Q. Did you ask for information on -- strike that. Why did
20 you ask for information on gas usage?

21 A. I don't remember.

22 Q. What did you do with the information on hours of

23 operation?

24 A. I put them into my report.

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1 Q. For your 1992 inspection, how did you determine
2 compliance?

3 A. I don't remember.

4 Q. Do you remember calculating emissions for the facility
5 as part of your 1992 report?

6 A. I don't remember calculating them or not calculating
7 them.

8 Q. If you had calculated them, would that be reflected in
9 your report?

10 A. Not necessarily.

11 Q. If you did not calculate emissions, how would you have
12 determined compliance?

13 A. As I -- I don't recall what was on the permit. But as I
14 explained before, if there was a limit to how much gas they could
15 burn and they burned less than that, then the emission limits are
16 based on their fuel usage limits. If their actual fuel usage was
17 less than their limits, then I could assume that the emissions
18 were also.

19 Q. If you could, in that same bound volume, turn to tab
20 one. This is Stipulated Group Exhibit Number 1. It is the
21 February 10th of 1988 construction permit. Ms. Brinkmann, have

22 you seen this document before?

23 A. I don't recall.

24 Q. If I could turn your attention to tab 5. This is

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1 Stipulated Exhibit Number 5. It is the operating permit for the
2 Glenarm station, issued July 26th of 1991. Ms. Brinkmann, have
3 you seen this document before?

4 A. I don't recall.

5 Q. Does either the document under tab five or under tab one
6 include a fuel production limit?

7 MS. CARTER: Objection to the form of the question.

8 HEARING OFFICER KNITTLE: How so?

9 MS. CARTER: Because it is in conjunction. I would ask
10 that it be broken apart into two distinct questions for Ms.
11 Brinkmann.

12 HEARING OFFICER KNITTLE: Sustained. Do you want to take
13 them one at a time?

14 MS. SMETANA: Sure.

15 Q. (By Ms. Smetana) Does the document labeled Stipulated
16 Exhibit Number 5, which is under tab five, contain a fuel usage
17 limit?

18 A. I need a moment to look at it.

19 Q. Okay.

20 A. I don't see a fuel usage limit, but it says that the
21 emissions were based on gas usage from the most recent one year

22 period.

23 Q. What type of limit is contained in this permit?

24 A. It has emission limits.

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1 Q. What type of emission limit?

2 A. Tons per year.

3 Q. For -- is that an annual emission limit?

4 A. Yes.

5 Q. If you can turn to tab one again, the construction
6 permit, are these permit conditions the same as what you just
7 read under tab 5, the operating permit?

8 A. Yes, it looks like it is.

9 Q. Going back to under tab five, the operating permit,
10 would this operating permit have been in effect at the time of
11 your December 1992 inspection?

12 A. Yes.

13 Q. Okay. That's it for those documents for now. After
14 your 1992 inspection report, did you ever receive the 1991 or
15 1992 fuel usage information that your report said was going to be
16 forwarded to you?

17 A. I don't recall, but like I said, Steve said he found
18 some sheets of fuel usage data, but I am not positive if it was
19 from these years.

20 Q. Okay. I am going to turn your attention back to the

21 other stack of documents. If you could go to what has been
22 marked previously as Panhandle Exhibit Number 8. It is in the
23 lower right-hand corner. Do you have that document?

24 A. Yes.

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1 Q. If you could identify that, please?

2 A. It says Panhandle Eastern Pipe Line Company, Glenarm
3 location, 1991 engine hours operated.

4 Q. Do you recognize this document?

5 A. I don't know.

6 Q. Have you ever seen it before?

7 A. I am not sure.

8 Q. Okay. If you could keep that document out and then also
9 take out what has been marked -- the document right before
10 Exhibit Number 7, and put them side by side?

11 A. (Witness complied.)

12 Q. Ms. Brinkmann, how do the -- let me strike that. What
13 information is depicted in Exhibit Number 8?

14 A. There is a list of the months and a list of the engines
15 and the operating hours and total fuel used.

16 Q. Ms. Brinkmann, how did the operating hours in Exhibit 8
17 compare to the operating hours in Exhibit Number 7 that you
18 previously explained to us?

19 A. They are the same.

20 Q. If I could turn your attention now to Exhibit Number 10

21 in that same stack of documents. You won't need those two
22 anymore.

23 A. Okay.

24 Q. If you could just identify what Exhibit Number 10 is?

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1 A. It is a list of the engines and the months and it says
2 1992 engine hours operated, and there is also a column of total
3 fuel used.

4 Q. Is this the type of document that the Agency would have
5 prepared?

6 A. It is unlikely.

7 Q. Do you know if you received this from the facility?

8 A. There are no -- there is -- there is not a letterhead,
9 but I would assume that it came from the company.

10 Q. Have you seen Exhibit Number 10 before?

11 A. I am not sure.

12 Q. If you could get out again Exhibit Number 9, which was
13 the computer printout of the 1992 hours of operation. How do the
14 hours of operation in Exhibit Number 10 compare to the hours of
15 operation in Exhibit Number 9?

16 A. They are different.

17 Q. How are they different?

18 A. For engine 1113, Exhibit 10 has higher operating hours.

19 The same for engine 1114 and 1115 and 1116 and 1117, and the same

20 for 1118, and the same for 1119.

21 Q. Does Exhibit 10 contain additional hours of operation
22 that were not in Exhibit 9?

23 A. Since all of the numbers are higher, I would say yes.
24 It probably contains the month of December, which is not included

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1 in Exhibit Number 9.

2 Q. Can you tell looking at these two reports that Exhibit
3 10 includes the month of December?

4 A. Yes.

5 Q. Okay. That's all with those documents.

6 HEARING OFFICER KNITTLE: Let's go off the record for a
7 second.

8 (Discussion off the record.)

9 HEARING OFFICER KNITTLE: Let's take a short break.

10 (Whereupon a short recess was taken.)

11 (Bobb Beauchamp not present after the recess.)

12 HEARING OFFICER KNITTLE: We are back on the record. We
13 are continuing with the direct examination of Ms. Brinkmann.

14 Ms. Brinkmann, let me remind you that you are still under
15 oath.

16 THE WITNESS: Yes.

17 Q. (By Ms. Smetana) Ms. Brinkmann, after your 1992
18 inspection of the Glenarm station, when was your next inspection?

19 A. I don't recall, but the date is on my report.

20 Q. If I could have you turn back to tab 7, Stipulated
21 Exhibit Number 7, and go to the second to the last page. Does
22 this refresh your memory?

23 A. It says January 10th of 1994.

24 Q. So was that your next inspection after the December of

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1 1992 inspection?

2 A. I believe so.

3 Q. On the inspection report, this 1994 inspection report,
4 does it indicate the date of the last inspection?

5 A. Yes.

6 Q. So this -- was this then your next inspection, 1994,
7 after the 1992 inspection?

8 A. Yes.

9 Q. Did you review any information in the file before your
10 1994 inspection?

11 A. I don't recall specifically what I did, but I probably
12 went through the file.

13 Q. Do you recall if you received any information from
14 Panhandle since your last inspection in 1992?

15 A. I don't recall.

16 Q. Prior to this inspection, did you look at your last
17 inspection report?

18 A. I don't recall, but that's my general practice.

19 Q. What was your basis for the 1994 inspection?

20 A. The pre-investigation status says that it was on the
21 work plan.

22 Q. What were your inspection findings in your 1994
23 inspection?

24 A. It says no violation.

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1 Q. What does that mean?

2 A. It means that I did not find a violation.

3 Q. Of what did you not find a violation in your 1994
4 inspection?

5 A. Of --

6 MS. CARTER: Again, I am just going to object to make sure
7 that it is clarified for Ms. Brinkmann. I am unclear in terms of
8 what Counsel for the respondent is referring to.

9 HEARING OFFICER KNITTLE: I am going to overrule that
10 objection.

11 If you can answer, Ms. Brinkmann, please do.

12 THE WITNESS: No violation of the regulations or permit,
13 probably.

14 Q. (By Ms. Smetana) What was your basis for this finding as
15 part of your 1994 inspection?

16 A. I don't recall.

17 Q. Did you prepare this 1994 inspection report?

18 A. I wrote it, but I didn't type it.

19 Q. If you could look at the lower right-hand corner of the
20 report. It looks like there is initials SSY, dated 01-20-93 or
21 1994. What does this mean?

22 A. Those are my supervisors initials. He gets my reports
23 and signs off on them.

24 Q. At what stage does he get your reports?

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1 A. After I finish it and before it gets sent to Peoria.

2 Q. When you say sent to Peoria, what do you mean by that?

3 A. Our reports go to our regional manager, Richard
4 Jennings, who is in Peoria.

5 Q. Okay. Is it the standard practice for your supervisor
6 to sign-off on your reports?

7 A. Yes.

8 Q. And, again, I don't believe -- could you identify those
9 initials for us?

10 A. SSY.

11 Q. Who is that?

12 A. Steve Youngblut.

13 Q. In the text of the report, it says that the engines were
14 operated the following hours during 1993. And then it lists the
15 hours of operation. Is that information that was provided to you
16 as part of your inspection?

17 A. I don't recall if I was given the information during the

18 inspection or after.

19 Q. What was the exact date of your inspection?

20 A. January 10th of 1994.

21 Q. And what was the date that you -- of this inspection
22 report?

23 A. January 18th of 1994.

24 Q. Okay. If I can turn your attention to what has been

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1 marked as Panhandle Exhibit Number 11 that is in this stack of
2 documents.

3 A. Okay.

4 Q. This document is Panhandle Exhibit Number 11 marked with
5 document IAG00877. Ms. Brinkmann, could you please identify this
6 document?

7 A. It is a list of months and a list of the engines with
8 the operating hours beneath and the total fuel used.

9 Q. And what is the title of it?

10 A. It says Panhandle Eastern Pipe Line Company, Glenarm
11 location.

12 Q. For what year?

13 A. 1993.

14 Q. Could you compare the information in this chart to the
15 operating hours in your report and could you tell me how those
16 hours of operation compare?

17 A. They are the same.

18 Q. Was this document, which is marked as Exhibit Number 11,
19 the source of the operating hours that appear in your report?

20 A. I don't recall.

21 Q. Have you ever seen Exhibit Number 11 before?

22 A. I don't recall.

23 Q. Have you ever seen anything that looks like Exhibit
24 Number 11 from another year?

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1 A. The ones that you showed me earlier for 1991 and 1992.

2 Q. Do you recall seeing these in any files in your office?

3 A. I don't recall.

4 Q. Have you heard about these charts before?

5 A. What do you mean, "heard about"?

6 Q. Earlier you testified that your supervisor had mentioned
7 receiving some --

8 MS. CARTER: Objection. Leading the witness.

9 HEARING OFFICER KNITTLE: I am --

10 MS. SMETANA: I am trying to explain my question.

11 HEARING OFFICER KNITTLE: Yes, I am going to overrule. I
12 think she can direct her to the certain point in testimony that
13 she wants to focus on.

14 Q. (By Ms. Smetana) Earlier when we were going over similar
15 charts for 1992 and 1991, you had mentioned that your supervisor
16 had mentioned to you finding certain hours of operation for this

17 facility, and I am wondering if this -- if you are aware that
18 this is the type of information that he was referring to?

19 A. I don't know.

20 Q. Do you know where this Exhibit Number 11 came there?

21 A. I would say it came from the facility.

22 Q. Do you know in your 1994 inspection report the source of
23 information for the operating hours that you list there?

24 A. Could you repeat that?

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1 MS. SMETANA: Could you have the question read back,
2 please.

3 HEARING OFFICER KNITTLE: Please, Darlene
4 (Whereupon the requested portion of the record was read
5 back by the Reporter.)

6 THE WITNESS: I don't recall.

7 Q. (By Ms. Smetana) Would operating hours have been
8 something that you requested during your inspection?

9 A. Probably.

10 Q. How else would you have gotten the operating hours?

11 A. I don't know. If they gave them to me.

12 Q. Do you know how you got the operating hours that are in
13 your 1994 inspection report?

14 A. I don't recall.

15 Q. Would that have been the type of information that you
16 would have gotten from Panhandle during an inspection?

17 A. I don't know if they gave it to me during the inspection
18 or after.

19 Q. Would that have been -- did you receive -- you received
20 the operating hours before you wrote your inspection report,
21 correct?

22 A. Yes.

23 Q. In the last paragraph of your inspection report, it says
24 in the second -- in the third sentence, the total amount of gas

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1 used during 1993 was 878,904 thousand cubic feet. Do you see
2 where that is?

3 A. Yes.

4 Q. Do you know where you got that information?

5 A. I don't recall.

6 Q. Did you request that during your inspection?

7 A. I don't recall, but I probably did.

8 Q. If you didn't request it during your inspection, how
9 would you have gotten it?

10 A. I don't know.

11 Q. Again, if you could turn your attention to Panhandle
12 Exhibit Number 11, and look at the -- what does the last column
13 depict?

14 A. Total fuel used.

15 Q. And what is the total fuel used in 1993 that is

16 indicated on Exhibit Number 11?

17 A. 878,904.

18 Q. And is that total number added up on that chart?

19 A. It appears to be.

20 Q. How does the number on the chart marked Exhibit Number
21 11 compare to the information in your inspection report?

22 A. It is the same.

23 Q. From the information in your 1994 inspection report, the
24 production data information, could you determine the NOx

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1 emissions for 1993?

2 A. Probably.

3 Q. How would you do that?

4 A. I would look it up in the AP-42 for an emission factor.

5 Q. What would you do with the emission factor?

6 A. I would multiply it by whatever information was needed
7 to figure out the emissions.

8 Q. Specifically in -- with respect to the 1994 report?

9 A. At the least, it would call for, I would think, the fuel
10 use used.

11 Q. Do you remember using an AP-42 emission factor to
12 calculate emissions based on the information that you collected
13 in your 1994 inspection?

14 A. I don't recall.

15 Q. If you had calculated the emissions, do you know what

16 result you would have gotten?

17 A. No, not right now.

18 Q. If you had done the calculations and there had been a
19 violation of the limit, would that be in your report?

20 A. I would think so. If I found a violation, I would not
21 have written no violation.

22 Q. Do you now know if you had done that calculation it
23 would have shown the violation of the 461 ton per year NOx limit?

24 A. I don't know.

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1 Q. When was your next inspection after 1994?

2 A. Without looking at the reports I don't know.

3 Q. Okay. If you could turn the page to the next document.
4 If you could please identify that document. We are still under
5 Stipulated Exhibit Number 7.

6 A. It is my inspection report.

7 Q. For which year?

8 A. 1995.

9 Q. And what was the date of your inspection?

10 A. April 25th.

11 Q. Of 1995?

12 A. Yes.

13 Q. What was the date of your inspection report?

14 A. May 15th of 1995.

15 Q. Did you visit the facility in 1995?
16 A. Yes.
17 Q. Do you recall who the contact person was?
18 A. It says Dave Roybal.
19 Q. Do you recall that without looking at the inspection
20 report?
21 A. No.
22 Q. Prior to your 1995 inspection, did you review any
23 information?
24 A. I don't recall specifically what I did. But most likely

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1 I reviewed the file.
2 Q. Did you review an annual emissions report?
3 A. Not unless it was in the file.
4 Q. Did you prepare this 1995 inspection report?
5 A. I wrote it, but I didn't type it.
6 Q. Who did type it?
7 A. A secretary, Reba Robertson.
8 Q. Is it your practice to review it after it is typed?
9 A. Yes.
10 Q. Again, if you could look to the lower right-hand corner,
11 there is some handwritten initials there with the date. If you
12 could tell us what that says?
13 A. It says 05-16-95, SSY.
14 Q. What does that indicate?

15 A. That Steve Youngblut signed off on it on May 16th of
16 1995.

17 Q. Then to the left there is also some handwritten initials
18 with the date. If you could read that and tell me what that
19 means?

20 A. It says RJ, 05-22-95, and that tells me that Richard
21 Jennings signed off on it on May 22nd of 1995.

22 Q. Is that the standard practice?

23 A. Yes.

24 Q. And where would it have gone after Richard Jennings

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1 signed off on it?

2 A. It would have gone to Miles Zamco.

3 Q. Who is he?

4 A. He was our field operations section manager.

5 Q. What were your inspection findings in your 1995
6 inspection?

7 A. It says no violation.

8 Q. And, again, what does no violation mean?

9 A. No violation of the regulations or permit.

10 Q. The report towards the middle of the text states that
11 the engines were operated at the following hours during 1994, and
12 then gives two columns, an engine number column and operating
13 hours column. Do you recall receiving that information?

14 A. I don't recall receiving it.
15 Q. Was that information provided during your inspection?
16 A. I don't know if it was provided during or after.
17 Q. Would that operating hours information have been
18 provided before the date of your inspection report?
19 A. No.
20 Q. How was the operating hours information in the
21 inspection report if you didn't get it before the date of your
22 inspection report?
23 A. Oh, I am sorry. I thought you meant before the
24 inspection.

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1 Q. Okay.
2 A. Yes, I got it before I wrote the report.
3 Q. Okay. I am going to show you what has been marked as
4 Panhandle Exhibit Number 12. It is in that other stack. It is
5 also marked to the right IAG00872. Ms. Brinkmann, if you could
6 identify this document, the title for us, please?
7 A. It says Panhandle Eastern Pipe Line Company, Glenarm
8 location, 1994 engine hours operated.
9 Q. What information is contained in this document?
10 A. There is a list of the engine numbers and the months of
11 the year with the operating hours and total fuel used.
12 Q. Are the total operating hours given by engine?
13 A. Yes.

14 Q. Do you recognize this document?
15 A. Yes, it looks like the previous documents.
16 Q. Have you seen this document before today?
17 A. Yes, I think I did.
18 Q. When did you see it?
19 A. I don't recall.
20 Q. Did you see this document around the time of your
21 inspection and inspection report?
22 A. I don't recall specifically when I saw it.
23 Q. Was this document sent to the Illinois Environmental
24 Protection Agency?

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1 A. Was it sent to the EPA?
2 Q. Yes.
3 A. I don't know if it was sent through the mail or if I got
4 it during the inspection.
5 Q. Was this document received by the Illinois Environmental
6 Protection Agency?
7 A. Yes.
8 MS. CARTER: Objection. I think this question calls for
9 speculation. Ms. Brinkmann is simply one employee of the
10 Illinois EPA. The question pertains to the entire Agency.
11 MS. SMETANA: I am simply trying to establish how -- I am
12 simply trying to establish the -- whether Ms. Brinkmann has seen

13 this document before and its source.

14 HEARING OFFICER KNITTLE: I will sustain the objection to
15 the extent that Ms. Brinkmann can't speak for the entire Illinois
16 Environmental Protection Agency and whether or not they received
17 this document. She can only speak to her own personal knowledge.

18 Q. (By Ms. Smetana) Ms. Brinkmann, if you can look to the
19 lower half of this page, of the document Exhibit Number 12 in
20 front of you, and can you tell me what it states?

21 A. It says received, Springfield Region, and the date, May
22 11th of 1995.

23 Q. What does it say beneath that?

24 A. Environmental Protection Agency, State of Illinois.

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1 Q. And how does this information appear on the document?

2 A. The secretary stamps it.

3 Q. Which secretary?

4 A. I don't know which one. Whoever opens the mail or
5 receives a fax that stamps it with a date.

6 Q. What does the Springfield region refer to?

7 A. That is where I work.

8 Q. Is that the office in which you work?

9 A. Yes.

10 Q. Where would a document that the secretary stamps when it
11 is received go?

12 A. It would go to -- if it was an air pollution document,

13 it would go to the air pollution in box.

14 Q. Is this considered an air pollution document?

15 A. Yes.

16 Q. And once something is in the air pollution in box, what
17 happens to the document?

18 A. Steve Youngblut goes through it, and if it is something
19 that pertains to my district, he puts it in my in box.

20 Q. Once something is in your in box, what happens to the
21 document?

22 A. Then I receive it when I check my in box.

23 Q. How does the date stamp, May 11th of 1995 on Exhibit 12
24 compare to the date of your 1995 inspection

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1 (Mr. Layman exited the hearing room.)

2 A. It was received after my inspection.

3 Q. How does the date of May 11th of 1995 compare to the
4 date of your inspection report?

5 A. It was received before the date of my inspection report.

6 Q. Ms. Brinkmann, if you can compare the total hours of
7 operation set forth in Exhibit Number 12 to the operating hours
8 in your 1995 inspection report, how do those operating hours
9 compare?

10 A. The operating hours on my inspection report are higher
11 except for engine 1127.

12 Q. Can you explain how the operating hours on your
13 inspection report are higher than the operating hours in the
14 chart labeled 1994 engine hours operated?

15 A. No.

16 Q. Do you know why the operating hours in your report might
17 be higher than the 1994 engine operating chart marked Exhibit
18 Number 12?

19 A. No.

20 Q. Do you know why there is a difference, then, between
21 operating hours in your report and in this chart marked Exhibit
22 Number 12?

23 A. No.

24 Q. If you could look in the lower paragraph, the last

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1 paragraph of your report, in the fourth sentence, it says the
2 total amount of gas used during 1994 was 1,071,843 thousand cubic
3 feet. Do you see that?

4 A. Yes.

5 Q. Do you know what the source was for that information?

6 A. I don't recall.

7 Q. Do you know where you would have gotten that type of
8 information?

9 A. From the facility.

10 Q. Did you receive that information from the facility
11 before your inspection report?

12 A. Yes.

13 Q. Do you know how you received that information from the
14 facility?

15 A. I don't recall.

16 Q. If you can look back to what is marked as Exhibit Number
17 12, and the last column that says total fuel used. What on
18 Exhibit Number 12 is the total fuel used?

19 A. 1,071,843.

20 Q. How does that compare to the total fuel used reflected
21 in your 1995 report?

22 A. It is the same.

23 Q. Ms. Brinkmann, with the operating hours information and
24 total fuel use information in your 1994 report, what did you do

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1 with that information?

2 A. I don't recall.

3 Q. Did you do anything with that information?

4 A. I don't recall.

5 Q. From the operating hours and fuel use information in
6 your report, could you determine the emissions for the facility?

7 A. Possibly from the fuel usage, but I don't know if there
8 would be more information that I would need.

9 Q. So from the fuel use information how would you determine
10 the emissions, NOx emissions as part of your 1995 report?

11 A. I would look up the emission factors in the AP-42 to see
12 what I would need, if I needed more than the fuel usage.

13 Q. What other type of information do you think you would
14 need?

15 A. I don't recall what I would need for natural gas, but I
16 know for fuel oil you have to have sulfur content.

17 Q. So for natural gas to determine NOx emissions, would the
18 fuel use information be enough?

19 A. I don't recall.

20 Q. Did you calculate the 1994 emissions, NOx emissions as
21 part of your 1995 inspection report?

22 A. I don't recall.

23 Q. If you had the emissions factors could you have
24 calculated the emissions?

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1 A. Like I said, I am not sure if there was anything else
2 that I would need than what is on my reports.

3 Q. Do you know that if you had calculated the emissions for
4 1994 that would have shown a violation of the annual emissions
5 limit for NOx for this facility?

6 A. I don't know.

7 MS. CARTER: Objection. Well, she already answered.

8 Q. (By Ms. Smetana) If you had calculated the emissions and
9 those emissions exceeded the limit, would that be reflected in
10 your report?

11 MS. CARTER: Objection. Calls for speculation.
12 HEARING OFFICER KNITTLE: Overruled.
13 THE WITNESS: Was the question if I --
14 MS. SMETANA: Do you want it read back to you?
15 THE WITNESS: Yes.
16 HEARING OFFICER KNITTLE: Please, Darlene.
17 (Whereupon the requested portion of the record was read
18 back by the Reporter.)
19 THE WITNESS: If I found a violation I would not have
20 written no violation.

21 Q. (By Ms. Smetana) Turning your attention back to what has
22 been marked as Panhandle Exhibit Number 12. This is the chart of
23 the 1994 hours of operation, the total fuel use. On the top of
24 it, it looks like there is some handwriting that says ID Number

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1 167801. Do you recognize that handwriting?

2 A. It is my handwriting.

3 Q. Do you recall marking this document?

4 A. Not specifically.

5 (Mr. Layman entered the hearing room.)

6 Q. (By Ms. Smetana) What does that ID number refer to?

7 A. It is the ID number of the facility.

8 Q. With your handwriting on this document, does that mean
9 that at some point you saw this document?

10 A. Yes.

11 Q. Do you recall when?

12 A. No.

13 Q. After 1995, did you conduct any further inspections at
14 the Glenarm station?

15 A. I don't recall. I don't believe so.

16 Q. Excuse me?

17 A. I don't believe so.

18 Q. After 1995, did you have any further involvement with
19 the Glenarm station?

20 A. No.

21 Q. Did you have any involvement with the Glenarm station
22 after 1995?

23 A. I inspected the Waverly station and during one of those
24 inspections the man who toured the facility with me wanted to go

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1 to the Glenarm station to get data that I was requesting. So I
2 followed him there. But I did not inspect the Glenarm station.

3 Q. Was that Waverly data?

4 A. Yes.

5 Q. Do you know why you didn't conduct inspections at the
6 Glenarm station after 1995?

7 A. It is not in my district.

8 Q. So at some point after 1995 your district assignments
9 were changed?

10 A. I don't recall at what date I had my own district.
11 Q. Do you know who conducted inspections at the Glenarm
12 station after you no longer did?
13 A. Steve Youngblut.
14 Q. Did Mr. Youngblut ever talk to you about the Glenarm
15 station?
16 A. I know that we have talked about it.
17 Q. Did he talk to you after your 1995 inspection?
18 A. About my 1995 inspection?
19 Q. About any of your inspections?
20 A. I don't remember.
21 Q. What have you told Mr. Youngblut about the Glenarm
22 station?
23 A. I don't recall.
24 Q. Have you recently spoken to Mr. Youngblut about the

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1 Glenarm station?
2 A. Just about the trial, the hearing.
3 Q. During those conversations did you discuss your
4 inspection reports in 1992, 1994, or 1995?
5 A. No.
6 MS. SMETANA: If I could just have a minute.
7 HEARING OFFICER KNITTLE: Yes. Let's go off the record.
8 (Discussion off the record.)

9 HEARING OFFICER KNITTLE: Let's go back on the record.

10 MS. SMETANA: I just have a couple more questions.

11 Probably just one more.

12 Q. (By Ms. Smetana) Ms. Brinkmann, did Mr. Youngblut or
13 anyone else ever tell you that your findings of no violation in
14 the 1992, 1994, and 1995 inspection reports were wrong?

15 A. No one specifically told me that.

16 Q. Have you come to learn that your findings in the 1992,
17 1994, and 1995 inspection reports for the Glenarm station with
18 respect to no violations are wrong?

19 MS. CARTER: Objection. First of all, that calls for
20 conjecture and possibly legal analysis in terms of what, you
21 know, constitutes a violation and things of that sort.

22 HEARING OFFICER KNITTLE: Do you have a response, Ms.
23 Smetana?

24 MS. SMETANA: I don't think it calls for a legal analysis.

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1 As part of Ms. Brinkmann's job, she has testified, is to collect
2 production data, that she knows how to calculate emissions, and I
3 am simply asking her -- and she said that if she calculates
4 emissions and found there to be an exceedance of a limit that
5 would mean there is a violation. So I am trying to get to that
6 point.

7 HEARING OFFICER KNITTLE: I am going to overrule this. I
8 have overruled objections on Panhandle's behalf on this same

9 issue that you guys have argued on the other side. So I want to
10 be consistent. The objection is overruled. You can make that
11 determination.

12 MS. SMETANA: Could you have the question read back,
13 please.

14 HEARING OFFICER KNITTLE: Yes.

15 MS. SMETANA: Thank you.

16 HEARING OFFICER KNITTLE: Could you, Darlene.

17 (Whereupon the requested portion of the record was read
18 back by the Reporter.)

19 THE WITNESS: I guess so, just from what I have heard about
20 the problems at Panhandle.

21 MS. SMETANA: We have no further questions.

22 HEARING OFFICER KNITTLE: All right. Ms. Carter, do you
23 have cross?

24 MS. CARTER: Yes, I do.

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1 CROSS EXAMINATION

2 BY MS. CARTER:

3 Q. Ms. Brinkmann, did you conduct an inspection of the
4 Glenarm station in 1992?

5 A. Yes.

6 Q. Okay. If I could direct your attention to Stipulated
7 Hearing Exhibit 7 and, again, referring you to three pages from

8 the end of the Stipulated Hearing Exhibit Number 7. Are you
9 there?

10 A. Yes.

11 Q. Okay. Did you attain operating hours data during the
12 course of your inspection?

13 A. I don't know if it was during the inspection or after.

14 Q. Okay. Did you obtain fuel usage data during the time of
15 your inspection?

16 A. I don't know if it was during the inspection or after.

17 Q. Does it indicate in your inspection report that you
18 attained fuel usage data at the time of your inspection?

19 A. It says that the company will be forwarding the engines
20 fuel usage for 1991, 1992 in the near future.

21 Q. What does that indicate to you?

22 A. That I didn't get it during the inspection or before I
23 wrote my report.

24 Q. Okay. Do you recall any conversations with any

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1 representatives of Panhandle during the course of your
2 inspection?

3 A. No.

4 Q. Do you recall whether any representatives of Panhandle
5 made any inquiries of you during the course of your inspection?

6 A. I don't know what you mean by inquiries. If they
7 requested something from me?

8 Q. Did anybody ask you any questions?
9 A. I don't recall.
10 Q. Okay. Do you recall whether or not you provided an
11 inspection report to the company after your inspection?
12 A. I don't recall doing that, but I don't do that. So I
13 would say that I didn't.
14 Q. Okay. Was an inspection conducted in 1993 by you?
15 A. No.
16 Q. Do you know why you didn't conduct an inspection in
17 1993?
18 A. I don't recall why, but it probably was not on the work
19 plan that year.
20 Q. Did you conduct an inspection in 1994 of the Glenarm
21 station?
22 A. Yes.
23 Q. Did you obtain operating hours data during that year?
24 Or during that inspection? I apologize.

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1 A. I don't know if it was during the inspection or after.
2 Q. Did you obtain fuel usage at the time of your
3 inspection?
4 A. I don't recall if it was during the inspection.
5 Q. If I could direct your attention to the bottom paragraph
6 of the January 10th of 1994 inspection report, Ms. Brinkmann, the

7 fourth line within that bottom paragraph. What does that line
8 say?

9 A. The fourth line?

10 Q. Excuse me. The fourth -- the fourth sentence in the
11 bottom paragraph of the January 10th of 1994 inspection report?

12 A. It says the total amount of gas used during 1993 was
13 878,904 thousand cubic feet.

14 Q. What does that sentence mean to you?

15 A. That was the amount of gas that the engines burned
16 during that year.

17 Q. And when you refer to engines what are you referring to
18 in this sentence? What specific engines at the facility were you
19 referring to?

20 A. The engines listed in the middle of the page.

21 Q. Again, what engines are those?

22 A. Engine numbers 1113 through 1119 and also 1127.

23 Q. Ms. Brinkmann, if I could direct your attention to
24 Stipulated Hearing Exhibit Number 1. Are you there?

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1 A. Yes.

2 Q. Can you identify this document for me?

3 A. It is a construction permit.

4 Q. Are there certain limits set forth within the
5 construction permit?

6 A. Yes.

7 Q. Can you tell me what those are?
8 A. There is a NOx emission limit of 39.9 tons.
9 Q. Are there any other limits?
10 A. There is a NOx emission from the four new compressors
11 shall not exceed 463.3 tons per year.
12 Q. Do you know what engines are being specifically referred
13 to in this statement for new compressors?
14 A. I could not say without looking through the rest of the
15 file.
16 MS. CARTER: Okay. Just one moment, please.
17 HEARING OFFICER KNITTLE: Let's go off the record.
18 (Discussion off the record.)
19 HEARING OFFICER KNITTLE: Okay. We are back on the record.
20 Q. (By Ms. Carter) In your earlier testimony today, you
21 indicated that you may be able to determine NOx emissions based
22 on the total amount of gas used as set forth within the
23 inspection report of January 10th of 1994. Can I direct your
24 attention again to the line that you were referring to, Ms.

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1 Brinkmann. I am on the January 10th of 1994 inspection report,
2 which is in Stipulated Hearing Exhibit Number 7.
3 A. Okay.
4 Q. Are you there?
5 A. Yes.

6 Q. And specifically, the fourth sentence within that bottom
7 paragraph.

8 A. Okay.

9 Q. How would -- how could you utilize the total amount of
10 gas used for these engines in determining NOx emissions for the
11 four new compressor engines? Maybe I could rephrase that for
12 you. Do you want me to rephrase?

13 A. No, I understand the question.

14 Q. Okay.

15 A. This number is a lump sum of all of the engines, so the
16 four new ones are not segregated.

17 Q. To determine the NOx emissions for the four new
18 compressor engines, what information would you need?

19 A. I would at least need to know what specific fuel amounts
20 those four new engines burned.

21 Q. Okay. Do you recall any conversations with any
22 representatives of Panhandle during the course of your January
23 10th of 1994 inspection?

24 A. No.

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1 Q. Okay. Did you provide a copy of this inspection report
2 to any representatives of Panhandle upon your completion of it?

3 A. I don't think so. That's --

4 MS. SMETANA: I am just going to object. I think the
5 witness has already answered this question and said it is not her

6 practice to do so.

7 MS. CARTER: Again, I was asking her specifically whether
8 or not she provided this inspection report to representatives of
9 Panhandle.

10 HEARING OFFICER KNITTLE: The objection is overruled. You
11 can answer the question, Ms. Brinkmann.

12 THE WITNESS: I don't think that I did.

13 Q. (By Ms. Carter) Okay. If I could direct your attention,
14 Ms. Brinkmann, to your April 25th of 1995 inspection report. Did
15 you obtain operating hours data during your inspection?

16 A. I obtained operating hours, but I don't know if they
17 were -- if I received them during my inspection.

18 Q. Did you obtain fuel usage data at the time of your
19 inspection?

20 A. I don't know if I received it during my inspection.

21 Q. If I could just direct your attention to the bottom
22 paragraph of the April 25th of 1995 inspection report,
23 specifically, the fifth sentence down. Can you read that for me?

24 A. The total amount of gas used during 1994 was 1,071,843

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1 thousand cubic feet.

2 Q. Based on the information contained within this
3 inspection report and this sentence could you calculate the NOx
4 emissions for the four new compressor engines?

5 A. No.

6 Q. Okay. Do you recall any conversations that you had with
7 a representative of Panhandle during your May -- excuse me --
8 your April 25th of 1995 inspection?

9 A. No.

10 Q. Do you recall whether or not you provided a copy of this
11 inspection report to anybody from Panhandle after your April 25th
12 of 1995 inspection?

13 A. I don't recall.

14 Q. All right. Subsequent to your last inspection, did you
15 do any investigation to determine whether your prior inspection
16 observations were accurate?

17 A. I don't recall doing that.

18 Q. Has anyone provided to you any documentation
19 demonstrating your observations during your inspections are not
20 accurate?

21 A. No.

22 MS. CARTER: Okay. I have no further questions.

23 HEARING OFFICER KNITTLE: Ms. Smetana, do you have a
24 redirect examination?

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1 MS. SMETANA: We have no further questions.

2 HEARING OFFICER KNITTLE: Ms. Brinkmann, you may step down.
3 Thank you for your time.

4 THE WITNESS: Thank you.

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

6 (Discussion off the record.)

7 HEARING OFFICER KNITTLE: All right. We will take a lunch
8 break. Let's be back at 1:15.

9 (Whereupon a lunch recess was taken from approximately
10 12:10 p.m. to 1:26 p.m.)

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1 AFTERNOON SESSION

2 (September 20, 2000; 1:26 p.m.)

3 HEARING OFFICER KNITTLE: We are back on the record. Good

4 afternoon. My name is John Knittle. We are continuing with the
5 matter before us, Pollution Control Board Docket Number 99-191,
6 People of the State of Illinois versus Panhandle Eastern Pipe
7 Line Company. It is approximately 1:26 p.m., and we are
8 continuing with the respondent's case-in-chief.

9 Mr. Boyd, your next witness, please.

10 MR. BOYD: Before we call our next witness, I would like to
11 note for the record that Merlin Remmenga, R-E-M-M-E-N-G-A,
12 General Counsel for Panhandle Eastern Pipe Line Company, has
13 joined us and is sitting in the rear. He is sitting in the front
14 row. Excuse me.

15 HEARING OFFICER KNITTLE: All right. Duly noted, sir.

16 MR. BOYD: We will call Shashi Shah as our next witness.

17 HEARING OFFICER KNITTLE: Sir, if you could come up and
18 have a seat, please. Sir, you can go ahead and sit down. Could
19 you spell your name for the court reporter.

20 THE WITNESS: My name is Shashi Shah, and it is spelled
21 S-H-A-S-H-I, one word. The last name is Shah, S-H-A-H.

22 HEARING OFFICER KNITTLE: Thank you, sir. Could you swear
23 him in, please, Darlene.

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

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1 HEARING OFFICER KNITTLE: Mr. Boyd or Ms. Smetana?

2 MR. BOYD: Mr. Boyd.

3 HEARING OFFICER KNITTLE: Mr. Boyd, your witness.

4 MR. BOYD: Thank you.

5 S H A S H I S H A H,

6 having been first duly sworn by the Notary Public, saith as

7 follows:

8 DIRECT EXAMINATION

9 BY MR. BOYD:

10 Q. Good afternoon, Mr. Shah. My name is Eric Boyd. I am
11 going to be asking you a series of questions this afternoon. By
12 whom are you currently employed?

13 A. Illinois Environmental Protection Agency.

14 Q. How long have you worked for the IEPA?

15 A. I started working since April of 1987.

16 Q. What are your current responsibilities?

17 A. I am an environmental protection engineer. My basic
18 function is to review incoming permit applications.

19 Q. Any particular kind of permit applications?

20 A. Currently I have been more involved in permits related
21 to utilities type of industries.

22 Q. Are you talking about air permits?

23 A. Yes.

24 Q. Okay. Are you with a particular division at the IEPA?

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1 A. I am in the permit section.

2 Q. Of the Division of Air Pollution Control?

3 A. Yes, that is correct.

4 Q. And you have been with the Division of Air Pollution
5 Control since 1987?

6 A. Yes.

7 Q. Okay. You said you currently are looking at utility
8 permits. Have you always looked at the utility permits?

9 A. I -- since I started on and off I have been involved
10 with utility related permits.

11 Q. What has changed recently so that you are spending more
12 time on utility permits?

13 A. An internal rearrangement of concentration of work load.

14 Q. When did that rearrangement take place?

15 A. Somewhere like three years, four years.

16 Q. What were you doing before that rearrangement?

17 A. I still was doing permitting, air permitting.

18 Q. Did you have responsibility for any particular kind of
19 industry?

20 A. When I started out I was more involved in a variety of
21 kind of industries that may necessitate air pollution related
22 permits. So that may include varieties of industry sectors.

23 Q. Did that change over time, or were you always
24 responsible for a variety of industry sectors?

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1 A. For many years in the beginning I have handled varieties
2 of industry applications as related to air pollution.

3 Q. You mentioned utilities and reviewing permit
4 applications for utilities. What do you mean by utilities?

5 A. Basically something that generates steam, electric
6 power, so you are talking about IC engines, turbines, boilers,
7 that kind of thing.

8 Q. What did you do before coming to the IEPA in 1987?

9 A. I used to work for Doyme & Associates in Chicago.

10 Q. Can you spell that for the court reporter?

11 A. It is D, like David, O, Y, N, like Nancy, E, and
12 associates.

13 MR. BOYD: Darlene, did you get that?

14 THE COURT REPORTER: Yes. Thank you.

15 Q. (By Mr. Boyd) What were you doing with them?

16 A. I was involved with temporary assignment as related to
17 industrial projects, engineering.

18 Q. Had you had any experience reviewing air pollution
19 control permit applications before coming to the Agency in 1987?

20 A. Not directly.

21 Q. What do you mean by that?

22 A. For any of the industries that I have worked prior, I
23 have not created air pollution related permits.

24 Q. Had you had any experience prior to coming to the Agency

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1 with respect to the federal Prevention of Significant

2 Deterioration program?

3 A. Not really.

4 Q. Had you had any experience with internal combustion
5 engines before coming to the Agency in 1987?

6 A. I did my study in engineering, so for many years when I
7 went for bachelor's and master's degree at times I had picked up
8 courses that would deal with how IC engines work.

9 Q. Mr. Shah, do you recall that in December -- I am
10 sorry. In November 1999 we took your deposition for this case?

11 A. Yes.

12 Q. Do you recall me asking you the following questions and
13 you providing the following answers during that deposition?

14 It is on page 23, for your information. I am sorry.

15 "Question: What did you do for Sargent & Lundy?

16 Answer: I was in design group when I started. Later on I
17 went into engineering mechanics design.

18 Question: What is that division?

19 Answer: That is called engineering mechanics division,
20 which primarily deals with power plant piping, stress analysis
21 systems and related problems.

22 Question: Did you gain any experience relating to internal
23 combustion engines while working with Sargent & Lundy?

24 Answer: Not there.

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1 Question: Someplace else before coming to the Agency?

2 Answer: No."

3 Do you recall that series of questions and providing that
4 series of answers?

5 A. Yes, that is correct.

6 Q. What kind of training did you receive when you first
7 came to the IEPA?

8 A. When I started with the IEPA back in April 1987 in a
9 short-term time frame I attended course work in Dubuque, Iowa,
10 that directly dealt with combustion and control techniques for
11 air pollution.

12 Q. I am sorry. What did you say it was?

13 A. It was a course work for combustion and control
14 techniques for air pollution.

15 Q. Where was the course?

16 A. It was in Dubuque, Iowa.

17 Q. You began at the Agency in April of 1987; is that right?

18 A. Yes.

19 Q. When did you take that class?

20 A. I don't recollect the date. It is in a short time
21 frame. My guess would be a month or two.

22 Q. Okay. What did that -- what kind of training was
23 provided by that course?

24 A. It was a basic refresher course for air pollution

1 control technology for varieties of processes or scenarios.

2 Q. Did you have any other training when you first came to
3 the Agency?

4 A. I was exposed to engineers who worked with me at that
5 time who were seniors, my supervisor. Exposure to regulations
6 and other manuals that enhanced working processes, how things
7 work.

8 Q. Did you have any information or materials on hand to
9 assist you in evaluating air pollution control permit
10 applications?

11 A. There were some technical manuals, permit manual, AP-40,
12 which is -- I don't know the exact title, but it is an air
13 pollution control manual. AP-42, which also indirectly deals
14 with several industries of all kinds giving an overview of
15 pollution related information.

16 Q. Besides the permit manual AP-40 and AP-42, was there any
17 other materials available to you to assist you in your review of
18 the air permit applications?

19 A. Basically those were the main things.

20 Q. I didn't hear what you said. I am sorry.

21 A. Those were the main things.

22 Q. Okay. When you first came to the Agency in 1987, what
23 kind of permits -- what kind of air permits did you handle?

24 A. I was given a variety of permits after a couple of

1 weeks. It was not specific to one type of industry.

2 Q. Were they operating permits or construction permits?

3 A. It would be a blend of both at a time normally, and I
4 would have been assigned something in the order of 10 to 16
5 permits at a time.

6 Q. When you came to the Agency, did you have an
7 understanding or did you learn what the standards for issuance of
8 a permit were? Let's start with an operating -- I am sorry.
9 Start with the construction permit first.

10 A. Yes.

11 Q. What was your understanding of the standards for issuing
12 a construction permit?

13 A. Right when I started for the Agency, I also have seen
14 very many permits that have gone out the door in the process that
15 made me well aware of the permitting process along with the
16 manuals and along with colleague engineers who were senior to me,
17 including my supervisor, who dictated from time to time an
18 elaboration of how things are reviewed technically.

19 MR. BOYD: I am sorry. Could you read -- could I ask that
20 his answer be read back? I am not sure that it was responsive to
21 my question.

22 HEARING OFFICER KNITTLE: His answer or the question.

23 MR. BOYD: Well, I want the question read back and then the
24 answer to the question.

1 HEARING OFFICER KNITTLE: Please, Darlene.

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

4 MR. BOYD: I am just going to ask that his answer be
5 stricken as nonresponsive and ask it again.

6 HEARING OFFICER KNITTLE: Any response?

7 MR. LAYMAN: I guess I don't know the basis for having -- I
8 would not understand why it would not be responsive to the
9 question.

10 HEARING OFFICER KNITTLE: I found it nonresponsive also. I
11 will grant the motion to strike.

12 MR. BOYD: Could you again read back my question? Or could
13 I have the question read back, Mr. Hearing Officer, and have Mr.
14 Shah answer it again.

15 HEARING OFFICER KNITTLE: Okay. Darlene, could you read
16 the question back again.

17 (Whereupon the requested portion of the record was read
18 back by the Reporter.)

19 THE WITNESS: The manuals that were given to me, along with
20 instructions that were given by my supervisor and senior
21 colleagues who were working with me have given me a conceptual
22 view of how the permitting process was to go on for the
23 construction permit. As far as the process goes, when the
24 application comes in, you need to review whether you understand

1 the process in itself, whether you understand any of the relation
2 to the specific facts that that particular project may have. So
3 that would be the scope of issuing the construction permit.

4 Q. (By Mr. Boyd) Are you aware of any standards for
5 issuance of construction permits in the rules and regulations
6 issued by the Pollution Control Board?

7 A. Yes. There is the 35 Illinois Administrative Code that
8 narrates the requirements for the construction permit to be
9 issued, yes.

10 Q. What is your understanding of what that code section
11 provides?

12 A. It does provide the standards for the issuance.

13 Q. Again, sir, my question is what is your understanding of
14 the standards that it spells out in that code section?

15 A. If the applicant meets all of the applicable
16 requirements for the construction permit application, then the
17 Illinois EPA will issue the construction permit. If it meets the
18 applicable requirements, the regulation requirements.

19 MR. BOYD: Would you read his answer back, please.

20 HEARING OFFICER KNITTLE: Could you, please.

21 (Whereupon the requested portion of the record was read
22 back by the Reporter.)

23 Q. (By Mr. Boyd) What is your understanding of -- what do
24 you mean by applicable requirements?

1 A. Whether the particular source for which the application
2 is in-house, meets the regulations for the pollutants that that
3 project would entail, would be in line with the regulations that
4 are applicable to that project, as far as air pollution.

5 Q. Sir, in the 1987 time frame when you came to the Agency,
6 were there different kinds of construction permits?

7 A. I actually don't understand what you are asking.
8 Construction permits are the same as what they used to be, even
9 now.

10 Q. No. What I am saying is in 1987, were there different
11 kinds of construction permits? Was there just one kind of
12 construction permit that would be issued by your group?

13 A. Yes. There is one kind of construction permit for the
14 project that -- for which the application has been made.

15 Q. Are you familiar with the term PSD permit?

16 A. Yes, I am.

17 Q. Okay. Is that different than a state construction
18 permit?

19 A. Yes.

20 Q. Okay. Have you heard the term PSD avoidance permit?

21 A. Yes, I have.

22 Q. Okay. Is that different than a state construction
23 permit?

24 A. Yes.

1 Q. Were those three items, the PSD permit, the PSD
2 avoidance permit, and the state construction permit, were they
3 all in existence in 1987?

4 A. Yes, they were.

5 Q. Do you recall what the first permit you issued was when
6 you came to the Agency in 1987?

7 A. I can't recall. That is too far back.

8 Q. Do you recall what the first PSD permit was that you
9 worked when you came to the Agency in 1987?

10 A. I can't recall that for sure also.

11 Q. What about the first PSD avoidance permit, do you recall
12 that?

13 A. One of them is the one that we -- that is the subject of
14 today, and there are others which I don't remember as of now.

15 Q. When you say the subject of today, you mean for the
16 Glenarm station?

17 A. Yes.

18 Q. Did you have an understanding in 1987 as to whether
19 there were different standards of issuance for the different
20 kinds of construction permits?

21 A. Any construction permit that comes in would be reviewed
22 in light of applicable regulations. So all you need to see is
23 whether a particular regulation applies to the one that you are
24 reviewing.

1 Q. In 1987 were you aware of the standards for issuance of
2 operating permits?

3 A. Yes.

4 Q. Can you describe your understanding of that?

5 A. The operating permit would be issued if basically the
6 conditions that are spelled out or stated in the construction
7 permit that was issued prior have been fulfilled, and if there is
8 no change other than what was spelled out in the construction
9 permit.

10 Q. What do you mean by no change?

11 A. Well, you have to consider something enough that prior
12 to the operating permit that there would be some modification
13 that was not part of the construction permit.

14 Q. Would there be an occasion to issue operating permits
15 subsequent to the first operating permit?

16 A. Yes.

17 Q. And would --

18 A. There would be --

19 Q. I am sorry.

20 A. Yes.

21 Q. Would the standards of issuance for those subsequent
22 permits be different than the standards for issuance of the first
23 operating permit following the construction permit?

24 A. The second operating permit would be reviewed again

1 whether there is any change prior to -- whether there is any
2 change subsequent to the previous permit that was granted in the
3 regulation or modification or any sort of change. If it is
4 status quo, unchanged, and the regulations also do not affect in
5 that time frame when it comes for renewal of the operating
6 permit, then it would be issued, provided there are no other
7 changes or controversial concerns.

8 Q. Do you understand -- strike that. Was it your
9 understanding in 1987 that the standards for issuing operating
10 permits or the renewal of operating permits included a
11 requirement to determine whether the source would be in
12 compliance with applicable requirements after issuance?

13 MR. LAYMAN: Objection. I think the witness has been asked
14 that in a number of various ways in this line of testimony. I
15 think he has already answered it.

16 HEARING OFFICER KNITTLE: Mr. Boyd?

17 MR. BOYD: It is not asked and answered. It is a new line
18 of questioning.

19 HEARING OFFICER KNITTLE: I will let the question stand.
20 The objection is overruled.

21 Do you need the question read back, sir?

22 THE WITNESS: Yes, sure.

23 MR. BOYD: Would you, please.

24 HEARING OFFICER KNITTLE: Yes, Darlene, go ahead.

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

3 THE WITNESS: Yes, it would be renewed if, like I indicated
4 before, the conditions were unchanged.

5 Q. (By Mr. Boyd) So if there was information, for instance,
6 regarding noncompliance with an existing permit condition, would
7 that be something you would consider in determining whether to
8 issue a renewal operating permit?

9 A. Yes.

10 Q. Okay. Likewise, if there was information regarding
11 noncompliance with a regulatory requirement in the code you would
12 consider that as well; is that right?

13 MR. LAYMAN: Objection as to the reference to code.

14 MR. BOYD: Illinois Administrative Code is what I meant.

15 HEARING OFFICER KNITTLE: Is that sufficient Mr. Layman?

16 MR. LAYMAN: That's fine.

17 HEARING OFFICER KNITTLE: Okay.

18 THE WITNESS: Yes.

19 Q. (By Mr. Boyd) And was it your job, as a permit reviewer,
20 before issuing those renewal permits to make sure that the
21 facility was in compliance with the existing permit limitations?

22 A. Yes.

23 Q. And it was your job, as a permit reviewer, to make sure
24 that a facility was in compliance with any applicable

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1 requirements from the Illinois Administrative Code before issuing
2 a renewal permit; is that right?

3 A. That is correct.

4 Q. Sir, there is a some documents to your -- right in front
5 of you, I believe, that I am going to refer to now. They are
6 Panhandle Exhibit Numbers 1 through 5. Just look at Number 1
7 first, if you would. Just for your reference, again, these are
8 the first five of the Panhandle Exhibits that we stipulated to at
9 the beginning of the case.

10 Soon after coming to the Agency, was it your responsibility
11 to review a construction permit application for Panhandle Eastern
12 Pipe Line Company's Glenarm compressor station?

13 A. Yes, the permit was given to me, yes.

14 Q. Okay. If you could look at Panhandle Exhibit Number 1.
15 I will just note for the record that it is a document marked
16 pages 1 through 26 on the bottom. Can you identify that for us?

17 A. This application came in-house to construct compressor
18 engines.

19 Q. Before receiving this application, had you personally
20 worked on any permit applications involving natural gas
21 pipelines?

22 A. I may or I may not have. I don't recollect.

23 Q. Do you recall whether you had any experience handling
24 permit applications involving internal combustion engines?

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1 A. I do not recollect.

2 Q. What kind of permit did this construction permit
3 application request?

4 A. It is requesting construction permit application for --
5 what it looks like is four engines from Panhandle Eastern Pipe
6 Line Company for the Glenarm operation.

7 Q. Do you know when the Agency first received this
8 document?

9 A. It is dated 09-17-87.

10 Q. What are you looking at, sir?

11 A. Right in the right-hand side, upper corner. There is a
12 date.

13 Q. Where it says for Agency use only?

14 A. Yes.

15 Q. There also looks like a stamp in the middle of the page.
16 Do you see that?

17 A. On my copy -- yes. Okay. I can see that, yes.

18 Q. What does that stamp say?

19 A. September 17, 1987, received.

20 Q. What is your understanding of what that indicates?

21 A. When the application was received, that's when it was
22 stamped by the receiving clerk.

23 Q. Do you know when you first saw this document?

24 A. I would not know for sure which date I first saw this.

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1 Q. Did this application request a PSD permit for these
2 engines?

3 A. All it said is construction, which is marked on the very
4 first page. It does not conclude that it is a PSD application.

5 Q. Did the permit request PSD avoidance limits?

6 A. You cannot tell on a cursory review that I had from the
7 information that was submitted.

8 Q. When you received this, did you have an idea of how much
9 time you had to review the application and make a decision?

10 A. My recollection is a 90 day time frame is what is given
11 by the Act.

12 Q. What action did you take following receipt of this
13 permit application?

14 A. Since this application lacked information for one to
15 understand anything about emissions, and there is no dictation
16 whatsoever as far as what is the scope of this project, I believe
17 the first thing I did was called the point of contact
18 correspondence, which is the address on the first page.

19 Q. Are you referring to line four of the first page
20 relating to Mr. Kelly?

21 A. Yes, logically I may have done that.

22 Q. Do you recall, sitting here today, speaking to Mr.
23 Kelly?

24 A. I don't know who was at the other end. I called the

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1 number for contact to get things going.

2 Q. Okay. And did you request any information of that
3 contact?

4 A. I must have talked to him about the deficiency I noted
5 about the application that was submitted.

6 Q. Do you recall, if anything, what you talked about?

7 A. I really cannot recall anything.

8 Q. Okay. Let me show you what is marked Pan Exhibit Number
9 2, the next document there?

10 A. Okay.

11 Q. Can you identify that for us? I am sorry. Just for the
12 record, it is marked 27 to 31 at the bottom.

13 A. Yes.

14 Q. Can you identify it for us?

15 A. It is Exhibit Panhandle 2, date October 28, 1987.

16 Q. And what is it?

17 A. That letter provides additional information in reference
18 to initial information that was submitted prior by the same
19 company.

20 Q. What did you do after receiving this letter?

21 A. I reviewed it, and I still had questions.

22 Q. Did you do anything after that?

23 A. After that --

24 Q. If you recall?

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1 A. Well, from what I have seen in the application file,
2 what I can tell logically is that there was another telephone
3 call and conversation where I asked for information.

4 Q. As you sit here today, sir, do you recall that
5 subsequent telephone call?

6 A. Logically there has to be a subsequent telephone call.

7 Q. But you don't recall?

8 A. As I am recalling it, that call must have taken place.

9 Q. But, again, sir, today as you are sitting here, do you
10 have any recollection of that call? Granting that it had to take
11 place, do have any recollection of what the subject matter of the
12 call was?

13 A. Yes, we would have talked, yes, yes.

14 Q. Again, let me just go back. As you are sitting here
15 today, do you know anything that you conversed about in that
16 subsequent call?

17 A. I don't remember the content or the words or topic about
18 it. Logically what I could say is the first response that came
19 from them was not sufficient, which must have triggered a second
20 call.

21 Q. Let me show you what has been marked as Panhandle
22 Exhibit Number 3, the next document. It is marked on the bottom

23 pages 33 through 36. Can you identify that for us?

24 A. Yes. That is a letter that came from Panhandle in

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1 response to -- subsequent to a second call that we made to the
2 company. And when I say second call, the second conversation
3 that dealt with substance which you see is responded to in this
4 letter.

5 Q. Let me refer you back to Panhandle Exhibit Number 2 for
6 a minute.

7 A. Sure.

8 Q. From the information in Panhandle Exhibit Number 2,
9 could you tell whether Panhandle was requesting a PSD avoidance
10 or PSD netting permit?

11 A. From the information what I could tell is the intention
12 of the company was to do netting.

13 Q. There was nothing in the letter that mentioned the term
14 netting, though, was there?

15 A. No, I purely don't see that word.

16 Q. Let me show you the December 18th letter again. There
17 is nothing in that letter that refers to netting either, is
18 there?

19 A. (Witness reviewing document.) The word netting is not
20 reflected in the letter, yes.

21 Q. After receiving Panhandle Exhibit Number 3, the December
22 18th letter, what did you do?

23 A. I reviewed it from a technical point of view in
24 reference to the applicable regulations.

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1 Q. Did you determine whether the letter responded to the
2 request for information that you made in your earlier phone call?

3 A. There was some elaboration in that context, yes.

4 Q. Did the letter respond to the information that you had
5 requested in the phone call?

6 A. I don't recollect whether they covered all basis of the
7 conversation that we had at that time.

8 Q. Again, sir, do you recall your deposition in this matter
9 in November of 1999?

10 A. Yes.

11 Q. Specifically, November 9th of 1999?

12 A. Yes, if that's the date that it was given, yes.

13 Q. And you recall being under oath during the time you were
14 being deposed?

15 A. Yes.

16 Q. Do you recall me -- this is on page 42, for your
17 reference. Sorry. Do you recall me asking you the following
18 question and you providing the following answers? Actually, it
19 is a little further in the page that I say:

20 "Look at the few pages. I believe it is 33 through 36, if
21 you will. Can you identify this?" You do identify it. Then a

22 few lines down I question:

23 "Question: This letter responded to the questions that Mr.
24 Romaine posed to Mr. Adams in a telephone call on December 14th

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1 of 1987?

2 Answer: Yes."

3 Do you recall that?

4 A. Yes.

5 Q. Did you recall receiving any additional information from
6 Panhandle after this December 18th of 1987 letter?

7 A. Yes. After that what I can see here is your Exhibit
8 Number 4. That was the recent information that was submitted.

9 Q. That is pages 37 and 38?

10 A. That is correct.

11 Q. Now, sir, if you could take a look at Exhibits 1, 2, 3,
12 and 4 collectively. You have seen all of those documents before,
13 have you not?

14 A. Yes, I have.

15 Q. Okay. You said you had conducted a review of your
16 permit file in relation to this matter?

17 A. Can you repeat your question, please?

18 Q. Sure. I think you said earlier you looked at your file,
19 your permitting file, in relation to this matter, have you not?

20 A. Yes.

21 Q. Okay. And all of these correspondence, Exhibits 1

22 through 4, were in your file; is that right?

23 A. That is correct.

24 Q. Okay. So taking a look at Exhibit Number 4, can you

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1 identify that for us?

2 A. The letter of January 25, 1988 submitted from Panhandle
3 Eastern Pipe Line Company reflecting 1987 fuel and hours operated
4 data for the machines that were in existence at the site.

5 Q. If you would look, sir, in the first line, it says, per
6 your request, please find attached a listing of the hours of
7 operation and fuel consumed (in MCF) during 1987 for Panhandle
8 Eastern's Glenarm station. Do you see that?

9 A. Yes.

10 Q. Okay. Is it your understanding that Mr. Adams provided
11 this information to you in response to your request?

12 A. Yes, in a way.

13 Q. Sir, what do you mean by "in a way?"

14 A. We had a prior conversation also, at least two times,
15 which generated the October 28 and December 18 letters, dated
16 1987. So that was the discussion at these two times specifically
17 for a minimum. And there may have been a third time around,
18 which may have triggered the January 25th of 1988 letter. So
19 somehow what was submitted is part of what we talked about.

20 Q. As you sit here today, do you have any independent

21 recollection of what you talked about?

22 A. I really don't remember exactly what I talked about.

23 (Whereupon said document was duly marked for purposes of
24 identification as Panhandle Exhibit 16 as of this date.)

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1 Q. (By Mr. Boyd) Okay. Sir, I am handing you what has been
2 marked as Panhandle Exhibit Number 16. Can you take a look at
3 that and identify it for us?

4 A. Yes, this is a note to my supervisor, who is Pat, and
5 also to me, from Chris Romaine. It is dated January 12, 1988.

6 Q. Whose handwriting is it on the note?

7 A. I believe it is Chris' own handwriting.

8 Q. Do you recall seeing this note before?

9 A. Yes, I have.

10 Q. Do you remember when you first saw the note?

11 A. It had to be on 01-12 or thereafter. I would not know
12 the exact date when I have seen it.

13 Q. Would it have been before you issued a permit to
14 Panhandle?

15 A. Well, that is for sure. It has to be.

16 Q. Okay. You mentioned Chris Romaine. Who is the Pat that
17 is referenced on top?

18 A. Pat Dennis who was my supervisor at that time.

19 Q. On the fourth bullet there it has a note to Pat, as
20 well. Is that same Pat Dennis?

21 A. Yes.

22 Q. Did you have any discussions about this -- strike that.
23 Do you know where this memo came from?

24 A. That had been inserted into the permit file, the permit

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1 application file.

2 Q. Okay. Let the record reflect it is marked IAG01140.
3 That permit file is kept in the ordinary course of business?

4 A. Yes.

5 Q. Did you discuss this memo with anybody?

6 A. I must have.

7 Q. Do you recall any discussions about the memo?

8 A. Yes.

9 Q. What do you recall?

10 A. I discussed these topics with Pat, my supervisor, Pat
11 Dennis.

12 Q. When was that?

13 A. That has to be after I received this note.

14 Q. Do you recall what you discussed?

15 A. The topics that are included here.

16 Q. There is four bullet points listed here. Let's go
17 one-by-one. Do you recall discussing with Mr. Dennis the bullet
18 that says analysis sheet should quantify emissions?

19 A. Yes.

20 Q. What did you discuss with him about that bullet point?

21 A. I don't recollect details of it. Logically, what I
22 could say is I would have gone over all of these topics in order
23 for me to create the construction permit.

24 Q. The second bullet says, need some limitation on

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1 operation of new turbines. Do you see that?

2 A. Yes.

3 Q. Do you recall any discussions that you had with Mr.
4 Dennis about that bullet?

5 A. Yes, it has to be.

6 Q. Again, sir, what was the subject of those conversations,
7 if you recall?

8 A. I don't recall the details. But these topics, the four
9 subtopics that the second bullet has are important criteria that
10 we discussed.

11 Q. When you say important criteria, what do you mean by
12 that?

13 A. That the construction permit while reviewed should also
14 be reviewed in aspect of this whole related topics.

15 Q. All right. The third bullet says, records should be
16 relative to this limit. What did you understand that to mean?

17 A. The permit would have limitations. Records should be a
18 requirement of the construction permit in order that those limits
19 can be verified.

20 Q. What does it mean that the records should be relative to
21 the limit?

22 A. The limits are reflected in the construction permit.
23 You need to ask or reflect in the construction permit the records
24 that will take you back in order for you to assess whether those

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1 limitations are met, which is part of the construction permit.

2 Q. If there was a limit on annual nitrogen oxide emissions,
3 what kind of records would be relative to that limit?

4 A. Well, the approach is that you use emission factors,
5 which is a standard emission factor as published by the U.S. EPA
6 documents, and the next simplest thing would be in a way to find
7 out the particular throughput that is used in order for you to
8 assess the emissions.

9 Q. I am confused, sir. What kind of records would be
10 relative to a NOx annual emissions limit?

11 A. As a minimum, the natural gas throughput that inherently
12 produces nitrogen oxide emissions in the air would be needed, as
13 a minimum.

14 Q. Anything else?

15 A. There are a list of things that could be cited, yes,
16 like hours of operation.

17 Q. Anything else?

18 A. I think those are the two things which I believe. I

19 have to see the permit to make sure.

20 Q. I am not asking you what the permit says, sir. I am
21 asking you what you meant by or what you understood to mean by
22 records should be relative to the limit?

23 A. In this case records should be at least carefully
24 reviewed for the natural gas throughput which is combusted.

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1 Q. Sir, if there had been a limit on the compressed gas
2 throughput, as specified in bullet two, what kind of record would
3 have been relative to that limit?

4 A. That is one approach an engineer can choose if he feels
5 comfortable, yes, if that can be correlated to emission factor
6 which is correlated with nitrogen oxide based on compressed gas
7 throughput.

8 Q. To clarify, if there was a compressed gas throughput
9 limit then records of the compressed gas throughput would be
10 relative to that limit; is that right?

11 A. If the U.S. EPA had established some kind of emission
12 factor, which could be valid enough for an engineer's judgement
13 to accept that route, that is one option.

14 Q. If there had been a limit on natural gas throughput,
15 what records would be relative to that limit?

16 A. The records for the throughput for the engines, which
17 are the subject of this application, the amount that it will
18 consume on a yearly basis.

19 Q. If the limitation had been specified in terms of
20 horsepower hours, what records would have been relative to that
21 limit?

22 A. Then in that case you are to use the emission factor
23 that is in line with estimating NOx, so that the emission factor
24 that you chose would have to be along that line.

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1 Q. And, again, what kind of records would the company then
2 have been required to keep relative a horsepower hour limitation?

3 A. Then they have to keep hours of operation, horsepower at
4 which the machine is running on an hourly basis for each of the
5 machines.

6 Q. Mr. Shah, was it your understanding that the second
7 bullet was a list of -- sort of a pick and choose list of the
8 kind of limitations that you could include?

9 A. The assessment and the confidence level that he at that
10 time may have, as far as confirming the compliance in a more
11 confidence level judgment, would be the one that the engineer
12 would pick.

13 Q. The fourth bullet says Pat, dash, want to confirm that
14 you are recommending not going to public notice on this netting
15 project which involves hundreds of ton per year of NOx. Do you
16 see that?

17 A. Yes, I do.

18 Q. Do you recall having a discussion with Mr. Dennis about
19 that bullet?

20 A. Yes.

21 Q. And do you recall the subject or what was discussed?

22 A. The discussion dialogue involved whether we need to go
23 for public notice on NOx for this project for this scenario while
24 at the same time the applicant is choosing to offset emissions by

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1 discarding some of their existing engines.

2 Q. Did you make a determination as to whether a public
3 notice was appropriate?

4 A. I had discussions with Pat about this thing. It was his
5 consensus that he felt not pursuing that.

6 Q. Did you discuss with him the reasons why he did not want
7 to pursue public notice?

8 A. I don't exactly remember what we discussed. What I
9 could guess is the whole scenario that is submitted in your three
10 exhibits, Number 2, 3, and 4 in light of the review and in light
11 of assessment I believe for that discussion.

12 Q. What about those exhibits, sir, leads you to think that
13 public notice was not required in this case?

14 A. What we are doing here is you are combining Exhibits 2
15 3, and 4 and the consensus you are making is that it is not a
16 controversial project.

17 Q. I am sorry. It is not a what?

18 A. A controversial project.

19 Q. Controversial?

20 A. Yes, something that people oppose or that there is a
21 public outcry. And there was an environmental benefit that was
22 seen by doing so, as far as removing old engines and replacing
23 them with new engines.

24 Q. Let me refer you to, in that big gray book in front of

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1 you, the Stipulated Exhibit Number 6. If you would look at that
2 for me.

3 A. Yes.

4 Q. Have you seen that before?

5 A. Yes, it is a calculation backup sheet that I completed
6 myself.

7 Q. When was this prepared?

8 A. Well, it is dated 02-10-88.

9 Q. Is that the date that it was prepared?

10 A. I can't say that for sure, but when I do calculation
11 sheets, I just jot down everything at one time, and that way I
12 will have it.

13 Q. So if I look at Exhibit 4, this was prepared after you
14 received the last information from Panhandle; is that right? I
15 am looking at Panhandle Exhibit 4, which is pages 37 and 38.

16 A. Yes.

17 Q. Do you normally prepare calculation sheets when you are
18 reviewing permit applications?

19 A. Normally I do that almost in all cases at the end of the
20 permit whenever I am about to get them out the door.

21 Q. In the middle of that document, there is a discussion.
22 It says NOx emissions based on something. Could you read that
23 and explain what you are saying there?

24 A. Well, what it is, is -- the mechanics that is spelled

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1 out here is how will you estimate NOx emissions. What is
2 reflected here is a standard emission factor that comes from the
3 U.S. EPA documents, AP-42, that has been used in order to figure
4 out, based on natural gas throughput in a year time frame to
5 estimate what level of NOx emissions will go out in the air.

6 Q. Does this sheet reference the AP-42 emission factor that
7 you used?

8 A. At that point in time, yes, it should have.

9 Q. Well, does it?

10 A. It should have.

11 Q. Is it in here? Can you identify it?

12 A. 3,400 pounds per million cubic feet.

13 Q. So is it fair to say that is an emission factor based on
14 the amount of natural gas throughput?

15 A. Yes.

16 Q. Now, in the second paragraph it says old -- I can't read

17 that. Could you read that, the second paragraph?

18 A. What it says is in order to avoid --

19 Q. I am sorry, sir. It is the second paragraph in your
20 sheet.

21 A. Old compressors, 1987 gas usage (per letter from
22 Panhandle Eastern Pipe Line, dated 01-25-88) is equivalent to
23 247.9 times standard to six, standard cubic feet.

24 Q. Did you consider any other information about the

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1 emissions from the 12 engines taken out other than the year 1987?

2 A. That is what Panhandle furnished us.

3 Q. Did you consider any other emission factors other than
4 the one you just testified to?

5 A. No.

6 Q. Now, the fourth paragraph -- the fourth and fifth
7 paragraph, could you read those for us?

8 A. The fourth paragraph reads, in order to avoid
9 applicability of 40 CFR --

10 HEARING OFFICER KNITTLE: Sir, can we have that again?

11 THE WITNESS: Yes. In order to avoid applicability of 40
12 CFR 52.21, the rules for Prevention of Significant Deterioration
13 (PSD) the net increase in emissions allowed for NOx is equal to
14 39.9 tons per year.

15 Q. Could you read the next paragraph, too?

16 A. Which is total allowable net NOx emissions equal to
17 421.4 tons per year plus 39.9 tons per year, which makes it 461.3
18 tons per year.

19 Q. Now, if you could also look at the very last line on
20 this exhibit, which is Stipulated Hearing Exhibit Number 6. It
21 is not the one that says supplement to the administrative record,
22 69, but the one right above that. Could you read that?

23 A. You mean the paragraph or the last --

24 Q. The last line. Does it say recommended to --

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1 A. It is recommended to grant the construction permit.

2 Q. Okay. Was the construction permit eventually granted?

3 A. Yes.

4 Q. Before the construction permit was granted, did you
5 provide Panhandle with a copy of this calculation sheet?

6 A. Not that I recollect.

7 Q. Did you have any discussions with anyone from Panhandle
8 following the receipt of the information that is sent on January
9 25th of 1988, which has been marked as Panhandle Exhibit Number
10 4?

11 A. I would not remember for sure whether I had this
12 discussion or not. I would not remember.

13 Q. So you don't recall discussing the fact that you were
14 using the 1987 emissions at the time frame?

15 A. Can you repeat your question again?

16 MR. BOYD: Could you just read it back.
17 HEARING OFFICER KNITTLE: Please, Darlene.
18 (Whereupon the requested portion of the record was read
19 back by the Reporter.)
20 MR. LAYMAN: I will object on the grounds that it is
21 leading.
22 HEARING OFFICER KNITTLE: Mr. Boyd?
23 MR. BOYD: I am not trying to suggest an answer. I am just
24 asking a question.

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1 HEARING OFFICER KNITTLE: It is a leading question. I will
2 sustain the objection.
3 THE WITNESS: I don't recollect for sure.
4 HEARING OFFICER KNITTLE: Sir --
5 MR. LAYMAN: Move to strike.
6 THE WITNESS: I don't --
7 HEARING OFFICER KNITTLE: Sir --
8 MR. LAYMAN: Mr. Shah, wait until there is a question
9 pending.
10 HEARING OFFICER KNITTLE: Yes. Mr. Shah, when I sustain an
11 objection, that sometimes means that you don't get to answer.
12 Okay. So I will grant the motion to strike.
13 MR. LAYMAN: Thank you.
14 HEARING OFFICER KNITTLE: Let's go off the record for a

15 second.

16 (Discussion off the record.)

17 HEARING OFFICER KNITTLE: Let's take a short break.

18 (Whereupon a short recess was taken.)

19 HEARING OFFICER KNITTLE: All right. We are back on the
20 record.

21 Mr. Boyd, your witness.

22 MR. BOYD: Thank you.

23 HEARING OFFICER KNITTLE: Sir, I will remind you that you
24 are still under oath.

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1 THE WITNESS: Yes.

2 Q. (By Mr. Boyd) Let me -- you can put that book in front
3 of you away for just a second, and let me just take you back to
4 Panhandle Exhibit Number 2 for a minute. Do you see that, sir?

5 A. Yes.

6 Q. At the very top it has some handwriting. Is that your
7 writing?

8 A. No.

9 Q. Do you know whose writing it is?

10 A. That likely is from person who receives this letter
11 initially in the Agency.

12 Q. Do you know what that says?

13 A. It says cc: FOS. That means a copy has gone to FOS.

14 And I can't read it clearly, but it looks like to SS, so it could

15 be me.

16 Q. Okay. What does it say -- when it says, cc: FOS, what
17 does that mean?

18 A. That means the same copy is copied to FOS.

19 Q. What is FOS?

20 A. Field Office Section.

21 Q. Okay. If I could direct your attention to Panhandle
22 Exhibit Number 4 again. Do you see that?

23 A. Yes.

24 Q. On the top of that page there is also some writing. Do

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1 you see that?

2 A. Yes, it says cc: FOS.

3 Q. There is something else there. Could you read that?

4 A. There is an arrow and it reflects something like SRS.

5 That could be me.

6 Q. Okay. Is it your understanding that the cc: FOS is,
7 again, the Field Operations Section?

8 A. Yes.

9 Q. Okay. Thank you. Now, a few minutes ago you were
10 talking about the reasons that you did not feel it was necessary
11 to include anything other than an annual emission limitation in
12 the permit. I think you said that you had confidence that the
13 facility could meet the 461.3 ton per year limit. Do you

14 remember that, the 461.3 ton per year NOx limit?
15 A. Is that in the permit, the 461.3?
16 Q. Well, sir, go to first book for a second.
17 A. Yes.
18 Q. Okay. Look at Exhibit Number 1.
19 A. Yes.
20 Q. Okay. Can you identify that?
21 A. Yes. That's the construction permit that we sent out
22 back in February, 1988.
23 Q. Does that contain an annual emissions limit?
24 A. Yes.

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1 Q. What is that?
2 A. 461.3 tons per year.
3 Q. Does that contain any other limitations?
4 A. Not in this permit.
5 Q. Now, again, just to ask you again, is the reason you did
6 not include another limit in here is that you had confidence that
7 the facility could comply with the 461.3 ton per year limit?
8 A. I would not say that. What I would say is that if you
9 go back to condition one, that puts you in a condition to have
10 condition two, in order that condition one stays.
11 Q. Well, based on that condition, did you have an
12 understanding of whether Panhandle could comply with the 461.3
13 tons per year NOx emissions limit?

14 A. Based on the exhibits that were submitted which were 3,
15 4 and 2, along with the initial application, 1, if the company
16 requested to receive construction permit and based on the
17 scenario that is reflected, the PSD avoidance permit would put
18 them in a scenario not to have emissions beyond 461.3 tons per
19 year.

20 Q. When you drafted this -- let's back up. You drafted
21 this construction permit, did you not?

22 A. Yes, I did.

23 Q. When you drafted it, did you have an understanding of
24 whether the 461.3 ton per year limit would limit the hours the

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1 new engines could operate?

2 A. I would logically guess the company may have to choose
3 some restrictions along that line.

4 Q. I don't want you to guess. I asked you did you have an
5 understanding in 1987 or 1988 when this construction permit was
6 issued, as to whether that limit that you calculated would limit
7 the hours the new engines could operate?

8 MR. LAYMAN: Objection. I think the witness has already
9 answered that question, notwithstanding the fact that he said it
10 was a guess, that was his response to the earlier question.

11 HEARING OFFICER KNITTLE: Mr. Boyd?

12 MR. LAYMAN: Why should he have to answer it again?

13 HEARING OFFICER KNITTLE: Mr. Boyd, do you have a response?

14 MR. BOYD: I want to know his knowledge, what he knew, not
15 what he is guessing. If he has no knowledge, he should tell me.

16 HEARING OFFICER KNITTLE: I am going to overrule the
17 objection, sir. But we do want you to answer from your own basis
18 and personal knowledge. If you are speculating --

19 THE WITNESS: I specifically have not calculated what kind
20 of hours the company would be limited to run these new machines.
21 What I logically have seen from the information that they
22 submitted, is that they would have to abide by gas throughput
23 used, and meaning, thereby, I specifically did not -- if the
24 question is geared towards did I make some calculations --

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1 Q. (By Mr. Boyd) Sir, I am sorry. Could you put your face
2 away from the microphone? Because I cannot hear you.

3 A. Sure. If the question was geared towards did I make
4 some specific calculations as to how many hours the company can
5 operate, I may not have done that specifically, and I may not
6 have included that specifically in my calculation sheet, but
7 based on information that are given in the exhibits, the
8 logistics would be that the company has to watch the amount of
9 natural gas that they consumed, thereby, they would be having
10 some limitation on hours. I specifically have not calculated how
11 many hours or what kind of hours.

12 Q. If you could look at the construction permit again, sir,

13 it is Exhibit Number 1. Does this permit specify the emission
14 factor that you used to determine the 461.3 ton per year NOx
15 limit?

16 A. I --

17 Q. Sir, I am sorry. You are looking at the wrong thing.
18 Look at the gray book in front of you right there, the first
19 exhibit. It is Exhibit 1, the construction permit.

20 A. Yes.

21 Q. Would you like me to repeat my question?

22 A. Yes, please.

23 Q. Does this construction permit reference the emissions
24 factor that you used in your calculation sheet to determine the

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1 461.3 ton per year NOx emissions limit?

2 A. No, it does not.

3 Q. Does this --

4 A. But it does say how it would be done if you keep reading
5 condition two continuously.

6 Q. Read that for me and tell me what you mean?

7 A. This limit is based upon emission rates calculated from
8 standard emission factors. So one variable is standard emission
9 factor. The second variable is the gas usage from the most
10 recent one year period. So that is two variables clarifying how
11 this 461.3 came up to begin with reflecting that they either cut

12 off the level or increase to award the PSD also have been
13 accounted for in this number, 461.3.

14 Q. Does this permit specify the manner in which the company
15 is to determine compliance with the 461.3 ton per year limit?

16 A. If you read condition two, it reflects basic mechanics.

17 Q. Sir, doesn't condition two tell you just how that 461.3
18 ton per year limit was derived?

19 A. Yes.

20 Q. Is there anything in here that tells you specifically
21 how to comply with the 461.3 ton per year limit?

22 A. Condition two and condition three in combination.

23 Q. Condition three says that they should keep hours of
24 operation and the gas usage information; is that right?

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1 A. Right.

2 Q. Okay. But does this permit specify that the hours the
3 new engines could operate would have to be limited in order to
4 meet the 461.3 ton per year NOx emission limit?

5 A. It does not.

6 Q. Does this permit indicate that the amount of natural gas
7 that the engines use would have to be limited in order to meet
8 the 461.3 tons per year NOx emission limit?

9 A. It does not reflect.

10 Q. Before issuing this permit, did you know that Panhandle
11 Eastern Pipe Line Company was regulated by the Federal Energy

12 Regulatory Commission?

13 A. No, I was not aware of it.

14 Q. Do you know whether Panhandle could legally restrict
15 hours of operation of the engines under the license they received
16 from FERC?

17 A. I would not know about it.

18 Q. Did you ever provide Panhandle with a draft construction
19 permit before issuing this permit?

20 A. Not that I can recall.

21 Q. Is it fair to say, sir, that there was no communication
22 from the Agency to Panhandle before this permit was issued, no
23 written communication?

24 A. No written communication? Yes.

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1 Q. Did you provide the U.S. EPA with a draft of a
2 construction permit?

3 A. I don't recall that I did.

4 Q. Did you even prepare a draft construction permit?

5 A. Yes.

6 Q. You did prepare a draft?

7 A. What I mean there -- what I mean is --

8 HEARING OFFICER KNITTLE: Sir, can you move the microphone
9 back? I think we are having the same problems. It is hard to
10 hear because of the --

11 MR. BOYD: You don't have to speak right into it.
12 THE WITNESS: What I mean is the --
13 MR. BOYD: Sir, if you could move your head back away from
14 the mic just a little bit. That's fine.
15 THE WITNESS: The draft just did not happen, formulate a
16 final form for the very first time. So internally I may have
17 kept one for the draft. That's exactly what I mean.
18 Q. (By Mr. Boyd) But do you have any independent
19 recollection today that you did that?
20 A. I may have done --
21 Q. Sir, I am not asking what you have may have done. I am
22 asking, do you recall, sitting here today, preparing a draft for
23 this final permit?
24 A. Yes, I may have done that.

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1 MR. BOYD: I would just ask that the answer be stricken as
2 not responsive.
3 THE WITNESS: The reason is --
4 HEARING OFFICER KNITTLE: Sir. Mr. Layman.
5 MR. LAYMAN: The witness said yes, he may have done that.
6 How is that not responsive to the question?
7 HEARING OFFICER KNITTLE: Mr. Boyd?
8 MR. BOYD: I asked him if he specifically recalled doing it
9 today. He said he may have. That's not the answer to the
10 question.

11 HEARING OFFICER KNITTLE: I will sustain the objection and
12 grant the motion to strike. You can try asking him again.

13 Q. (By Mr. Boyd) Sir, let me just say this. Do you recall,
14 again, being deposed in this matter on November 9th of 1999?

15 A. Yes.

16 Q. And you recall being under oath at the time?

17 A. Yes.

18 Q. I was there. Do you recall that, me asking you
19 questions?

20 A. Yes.

21 Q. And Ms. Carter was there?

22 A. Yes.

23 Q. Okay. At the time on page 53, I asked you:

24 "Question: Did you prepare a copy of a draft construction

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1 permit.

2 Answer: I don't recall at this time whether I did that."

3 Do you recall that?

4 A. Yes.

5 Q. All right.

6 A. What I would like to clarify is I don't know what you
7 exactly mean by draft. What I am saying is the final permit that
8 you see in front of you had not happened just the first time I
9 wrote it. So internally, on my own, I may have done a revision

10 in order to formulate the final copy that you see in front of
11 you.

12 Q. If you had done that, did you -- do you have any
13 recollection of discussing that draft with anybody?

14 A. That is part of my own review. That's how I consider
15 it.

16 Q. So you would have done it for yourself, and not for --

17 A. Yes, for myself, just in order to get it ready for the
18 final format or fine print.

19 Q. Do you recall whether there was ever a public notice
20 that the Agency would be issuing this construction permit?

21 A. No, I don't recall that.

22 Q. Was there ever a public meeting to discuss the permit?

23 A. No.

24 Q. There was no public hearing to discuss the permit?

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1 A. No.

2 Q. Okay. Mr. Shah, again, looking at Exhibit Number 1 of
3 the Stipulated Exhibits, in that gray book, when this permit was
4 submitted or sent to Panhandle Eastern Pipe Line Company, was
5 Panhandle advised that it could appeal this permit if it needed
6 to?

7 A. Not that I can recollect.

8 Q. Was it advised that it could seek revision or
9 modification or correction of the permit?

10 A. Not that I can recollect.

11 Q. Okay. Thank you. After granting the construction
12 permit did you have any other role in relation to air permits at
13 the Glenarm station?

14 A. No.

15 Q. Did you -- were you ever involved in reviewing operating
16 permit applications for the station?

17 A. Yes.

18 Q. Let me refer you to Number 2 in this gray book of
19 Stipulated Hearing Exhibits. Do you see that?

20 A. Yes.

21 Q. Can you identify that?

22 A. That's an operating permit issued August 30, 1988, for
23 the same, four new compressor engines.

24 Q. Do you recall receiving an operating permit application

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1 for this?

2 A. Yes, I must have.

3 Q. Do you recall conducting a review of the operating
4 permit?

5 A. Yes.

6 Q. I am sorry. The operating permit application?

7 A. Yes.

8 Q. Could you take a look at -- and could you compare the

9 construction permit in tab one to the operating permit in tab
10 two, and tell me if there is any substantive conditions or
11 substantive changes to the special conditions?

12 A. It looks the same except it does reflect an expiration
13 date of the operating permit.

14 Q. When was the operating permit issued?

15 A. August 30, 1988.

16 Q. And the expiration date listed is August 28, 1990?

17 A. Yes.

18 Q. Do you -- strike that.

19 (Whereupon a document was duly marked for purposes of
20 identification as Panhandle Exhibit 17 as of this date.)

21 Q. (By Mr. Boyd) I have just handed you what is marked as
22 Panhandle Exhibit Number 17. Can you take a look at that and
23 identify it for us?

24 A. Yes. That is a calculation sheet prepared by me. And

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1 it is dated date received 06-17-89.

2 Q. Is that date that the application was received?

3 A. I think there is a mix up here, it looks like.

4 Q. I gave you the wrong one.

5 (Whereupon a document was duly marked for purposes of
6 identification as Panhandle Exhibit 18 as of this date.)

7 Q. (By Mr. Boyd) Let me hand you what is marked as
8 Panhandle Exhibit Number 18. Can you identify that document?

9 A. Yes. This is a calculation sheet. It is pretty hard to
10 read, but it looks like the date received on that calculation
11 sheet is July 28, 1988.

12 Q. And is there a date on the top left-hand side indicated
13 when you prepared this calculation sheet?

14 A. Yes. It looks like 08-25-88. I can't read the 25
15 clearly. It could be 28. I don't know.

16 Q. Can you read what this thing says in the body of the --

17 A. Yes, I will try.

18 Q. Okay.

19 A. The application to operate four new compressor engines.
20 Construction permit for new -- for four new reciprocating
21 compressors was granted February 10, 1988. Conversation with Ron
22 Childs revealed that the operation of new units would start in a
23 month or so. That replacement for the existing ten Cooper and
24 two Clark compressors will take place simultaneously. For

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1 details please refer to calculation dated -- it looks like
2 February 10 of 1988. And then it says it is recommended to grant
3 the operating permit.

4 Q. Thank you, sir. The calculation date of 02-10-88, is
5 that the sheet that is included in the Stipulated Group Exhibits
6 under tab six?

7 A. Yes.

8 Q. Is this your handwriting?

9 A. That is my handwriting.

10 Q. Okay.

11 HEARING OFFICER KNITTLE: Mr. Boyd, handwriting for which
12 exhibit?

13 MR. BOYD: Panhandle Exhibit Number 18. Thank you.

14 Q. (By Mr. Boyd) Is it fair to state that this is the
15 calculation sheet that you prepared in relation to the operating
16 permit that is listed under tab two?

17 A. Yes.

18 Q. It looks like it was prepared a couple of days before
19 the permit was issued; is that right?

20 A. Yes. It looks like five days or sometimes what happens
21 is I may have been done with my calculation on that date and
22 actually the typing process may have taken time. So the date
23 that you see could have been that scenario.

24 Q. Do you recall reviewing any information on the emissions

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1 from those four new engines before issuing that operating permit?

2 A. No, I don't recall.

3 Q. Okay. Now I would like to take you back to the previous
4 one, Panhandle Exhibit Number 17, for a second. I think that's
5 the right one. Yes, 17. I will refer you to the operating
6 permit at tab three of the Stipulated Hearing Exhibits. Do you
7 see that?

8 A. Yes.

9 Q. Could you just identify first what Panhandle Exhibit
10 Number 17 is?

11 A. It is a backup calculation sheet for operating permit
12 that was revised which was received June 19th of 1989. It is the
13 revised operating permit.

14 Q. I am sorry. I am talking about this other sheet. Your
15 calculation sheet relating to operating permit revision, Exhibit
16 Number 17?

17 A. Yes, that's the back up calculation sheet for the
18 revised operating permit that was received June 19th of 1989.

19 Q. If I could direct your attention to the middle of that
20 Panhandle Exhibit Number 17, there is a paragraph beginning three
21 existing units. Do you see that?

22 A. Yes.

23 Q. Could you read that for us?

24 A. The existing units 1113, 1114, and 1115 do not have any

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1 modification nor any change in operation. Per conversation with
2 Ryan Childs and Rita Mandez, these three units are operating and
3 it is okay to incorporate them into permit number 87090038,
4 bracket, permit consisting of four new compressors that replace
5 ten Cooper and two Clark compressor engines that previously
6 existed on permit number 73010574, end bracket.

7 Q. Could you read the next paragraph, too, please?

8 A. No emission standards for these three existing units
9 apply. It is okay to incorporate them into operating permit for
10 four new compressors. The permit 87090038 expires August 28,
11 1990, and remains unchanged.

12 Q. Sir, let me refer you to tab three again in that book.
13 Can you identify that for us?

14 A. Yes, that's the operating permit revised and date issued
15 is September 14, 1989.

16 Q. Is it fair to say that the revision was to incorporate
17 those three other existing engines 1113, 1114, and 115 into the
18 permit for the four engines that had been issued on August 30th
19 of 1988?

20 A. That is correct.

21 Q. Did you look at any information regarding emissions from
22 those four engines, 1116 through 1119, before issuing this
23 operating permit?

24 A. No, I had not.

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1 Q. Did you look at any information to determine whether
2 engines 1116 through 1119 were meeting the requirements in the
3 permit application -- I am sorry -- in the existing operating
4 permit?

5 A. The reason basically was done to include operation of
6 existing -- three existing engines. So basically that was the

7 main aspect of the review to be looked at. So simply or
8 technically, incorporation or the revision to the operating
9 permit was made solely or primarily to include those three
10 existing engines.

11 Q. I appreciate that, but that is not my question. My
12 question was, did you do anything to calculate emissions -- I am
13 sorry. Did you do anything to calculate or determine whether
14 those four existing engines, 1116 through 1119, were in
15 compliance with the existing operating permit when you issued
16 this revised operating permit?

17 A. From my backup sheet, while I look at it, I do not
18 recall. I may have done that.

19 Q. Well, if you had done that, it would be reflected in
20 your backup sheet, wouldn't it?

21 A. Likely.

22 Q. Let me turn you to the next one. I think it is group
23 Exhibit Number 4.

24 (Whereupon a document was duly marked for purposes of

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1 identification as Panhandle Exhibit 19 as of this date.)

2 Q. (By Mr. Boyd) I am handing you what has been marked as
3 Panhandle Exhibit Number 19?

4 A. Okay.

5 Q. Could you identify that document for us?

6 A. Yes, that the backup calculation sheet for the operating
7 permit that was received May 24th of 1990.

8 Q. Does it correspond with the operating permit that was
9 issued, the one at tab four of the Stipulated Exhibits?

10 A. Yes. It is a renewal operating permit, yes.

11 Q. When did you prepare this calculation sheet?

12 A. The date I see reflected is June 5th of 1990.

13 Q. I am sorry. This is your handwriting on this sheet?

14 A. Yes.

15 Q. On the right-hand side it has a date rec. Do you see
16 that?

17 A. Yes.

18 Q. What does that mean?

19 A. That is the date that the renewal application has been
20 received.

21 Q. Could you read for us what the body of the document
22 says, beginning with renewal application?

23 A. Yes. Seven gas compressor engines. The applicant
24 neither reflects any change in operation nor any modification.

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1 The reciprocating natural gas fired compression engines are in
2 compliance.

3 Q. And the line at the bottom?

4 A. It is recommended to grant operating permit.

5 Q. What did you do when you prepared this calculation sheet

6 to determine that the reciprocating natural gas fired compression
7 engines were in compliance?

8 A. The application that had been submitted reflects there
9 are no changes in operation nor any modification done to the
10 engines, and also on the sheet that goes in the permit -- the
11 renewal, did not reflect any adverse information. So the
12 calculations that were done at the time the construction permit
13 was issued were presumed to be in line.

14 Q. Did you do anything to calculate actual emissions from
15 those engines before issuing the operating permit on June 5th of
16 1990?

17 A. No.

18 Q. I think there is one last one here. I am going to refer
19 you to tab five in the gray book again.

20 (Whereupon a document was duly marked for purposes of
21 identification as Panhandle Exhibit 20 as of this date.)

22 Q. (By Mr. Boyd) I am handing you Panhandle Exhibit Number
23 20. Can you identify that for us?

24 A. That is the back up calculation sheet for the operating

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1 permit renewal that was received June 26th of 1991.

2 Q. Is this a sheet that you prepared?

3 A. Yes.

4 Q. And that is your handwriting?

5 A. Yes.

6 Q. When did you prepare this sheet?

7 A. It says 07-29-91.

8 Q. Is it fair to say that -- well, let me show you -- I

9 will refer you to Exhibit Number 5 for a second in the Stipulated

10 Exhibits. Can you identify that document. It is in the gray

11 book again, sir. I am sorry.

12 A. In the gray book?

13 Q. Yes?

14 A. Okay. Yes, that's the operating permit renewal.

15 Q. When was that issued, that renewal?

16 A. July 26, 1991.

17 Q. Now, up in the left-hand column of your calculation

18 sheet, Panhandle Exhibit Number 20, does that say July 29th of

19 1991?

20 A. Yes.

21 Q. Did you prepare this calculation sheet after issuing the

22 permit?

23 A. No, practically on a physical basis the permit, when I

24 see it, never goes out from my hand without calculations. Even

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1 though the date is printed July 26, which may have been the case,

2 because it was done on that day, but practically it must have

3 gone out on July 29 or thereafter.

4 Q. Okay.

5 A. As far as leaving the door.

6 Q. Okay.

7 A. It is just a coordination --

8 Q. That is all right. I just want to make sure. Is
9 Panhandle Exhibit 20 the calculation sheet that you prepared in
10 relation to the Stipulated Exhibit Number 5, the operating permit
11 issued on July 26, 1991?

12 A. Yes.

13 Q. Okay. Could you read on Exhibit Number 20 the second
14 paragraph?

15 A. IC engines greater than 1500 horsepower require a
16 permit. These seven compressors are in compliance with 40 CFR
17 52.21, meaning the installation of four new compressors had NOx
18 increase of less than 40 tons per year (insignificant increase).

19 Q. And, again, sir, before issuing the operating permit on
20 July 26, 1991, or thereabouts, what did you do to determine
21 whether those four engines were in compliance with the permit
22 limit?

23 A. The application that Panhandle sent reflects there was
24 no modification or no change in operation and there was no

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1 adverse information to my knowledge at the time of the renewal
2 for any problem area. So it was assumed to have this operation
3 in compliance.

4 Q. You said assumed that the operation was in compliance.
5 Did you look at any information at all to suggest what the actual
6 emissions from those four engines of nitrogen oxide were?

7 A. I don't recall seeing -- doing that.

8 Q. If you had, it would be reflected in your calculation
9 sheet?

10 A. If I had, it may or may not be reflected on my
11 calculation sheet.

12 Q. Well, is it fair to say if you looked at the
13 calculations and determined that they were not in compliance with
14 the limit, that would be reflected in your calculation sheet?

15 A. Definitely.

16 MR. BOYD: Okay. Just give me a minute. I might be done.

17 HEARING OFFICER KNITTLE: Yes. We can go off.

18 (Discussion off the record.)

19 HEARING OFFICER KNITTLE: All right. We are back on the
20 record.

21 Q. (By Mr. Boyd) Other than the documents relating to the
22 one construction permit and the four operating permits, do you
23 recall any other permits that you reviewed or that you assisted
24 with in relation to the Panhandle Glenarm station?

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1 A. Can I hear the question back?

2 Q. Sure. Besides the one construction permit and the four
3 operating permits that we have talked about this afternoon, do

4 recall assisting with any other permits in relation to the
5 Panhandle Glenarm station?

6 A. Do you mean at the time that I was working for any of
7 the permits? Is that what the question is geared to?

8 Q. Were there any other permits that you worked on relating
9 to the Glenarm station?

10 A. Oh. I can't recollect. I may have or I may not have.
11 I just have to go back to the records. I can't recollect at this
12 point in time.

13 Q. Do you recall providing any role in review of a Title 5
14 permit application for the Glenarm station?

15 A. No, I don't think I have done that.

16 Q. Do you know whether Panhandle has submitted a Title 5
17 application for the Glenarm station?

18 A. I have not physically seen that or checked that, but
19 from what I know, from my office, I believe that the application
20 is in.

21 Q. Okay. Have you seen any subsequent construction permit
22 applications relating to the Glenarm station?

23 A. No, I have not seen that.

24 MR. BOYD: Okay. That's all I have.

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1 HEARING OFFICER KNITTLE: Mr. Layman, do you have a cross
2 examination?

3 MR. LAYMAN: Yes. I have a few questions, if I may.

4 HEARING OFFICER KNITTLE: Sure.

5 CROSS EXAMINATION

6 BY MR. LAYMAN:

7 Q. Mr. Shah, I would like to direct your attention, if I
8 may, to the big gray volume in front of you.

9 A. Yes.

10 Q. To Exhibit 2. Do you have it?

11 A. Yes.

12 Q. Is this the first operating permit that was issued to
13 Panhandle immediately after that February of 1988 construction
14 permit?

15 A. That is correct.

16 Q. Do you recall whether Panhandle submitted any kind of
17 information to the Illinois EPA in its permit application that
18 would have enabled you to determine whether they were in
19 compliance with the NOx limit in that construction permit?

20 A. I do not believe that they have submitted along with
21 this permit application the one that came in for the first time
22 operating permit application.

23 Q. Okay. Can you tell us why you believe that to be the
24 case?

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1 A. If it would have been, then I would have seen
2 information as related to what is an emissions scenario in light

3 of condition two that is reflected on the operating permit. What
4 I would have assessed is where are they.

5 Q. Okay. Thank you. What about the subsequent operating
6 permits? Would Panhandle, to your recollection, have provided
7 any information in those permit applications --

8 A. No, I haven't seen one.

9 Q. -- that would have --

10 A. Sorry.

11 Q. That would have allowed you or enabled you to determine
12 their compliance with that NOx limit in the earlier construction
13 permit?

14 A. Yes. If that was submitted, I would have assessed it,
15 yes.

16 Q. But do you recall them submitting that information to
17 you in those permit applications?

18 A. No.

19 Q. Okay. Thank you. I would also like to direct your
20 attention to Panhandle Exhibit Number 4. That is the January
21 25th of 1988 letter from Alan J. Adams to you. It is marked
22 Exhibit Number 4 down at the bottom.

23 A. Yes.

24 Q. Do you have it?

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1 A. Yes.

2 Q. You testified earlier that you don't generally recall
3 the communication with Panhandle prior to your receipt of this
4 letter regarding the need for fuel usage data; isn't that true?

5 MR. BOYD: I am just going to object. The question is
6 ambiguous. I am not sure what time frame he is talking about.

7 MR. LAYMAN: I will rephrase.

8 Q. (By Mr. Layman) You indicated in your earlier testimony
9 that you did not recall the communications that took place prior
10 to receiving this letter; is that true?

11 A. For the gas uses, whether that was reflected or not?

12 Q. Yes. Do you recall any conversation? You testified
13 that you did not recall that; isn't that correct?

14 A. Yes. And I could confirm I don't recall that for sure.

15 Q. Okay. You don't recall asking Panhandle to submit only
16 fuel usage data for only 1987; is that correct?

17 A. That is correct.

18 Q. What is possible is that you may have simply asked
19 Panhandle to submit fuel usage data that was representative of
20 the retired engines; is that correct?

21 MR. BOYD: Objection to the form as speculative and
22 requiring the witness to speculate. A lot of different things
23 are possible.

24 MR. LAYMAN: Exactly. That's all I am attempting to get

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1 the witness to respond to. He has indicated that he may have

2 done something and he may not have done something.

3 MR. BOYD: Sir, I would suggest that that is appropriate
4 for briefing and not for this witness.

5 HEARING OFFICER KNITTLE: I am going to overrule the
6 objection. If you can answer, sir, please do.

7 MR. LAYMAN: Do you want me to restate it?

8 THE WITNESS: Yes.

9 Q. (By Mr. Layman) It is possible that you may have simply
10 asked Panhandle to submit fuel usage data that was representative
11 of the retired engines; isn't that right?

12 MR. BOYD: The same objection.

13 HEARING OFFICER KNITTLE: Noted.

14 Q. (By Mr. Layman) You can answer the question.

15 A. That is quite possible.

16 Q. Okay. I would like to direct your attention to
17 Panhandle Exhibit Number 16. It is a memorandum to you.

18 A. Yes.

19 Q. From Chris Romaine?

20 A. Yes.

21 Q. Isn't it true that the memo states Mr. Romaine's belief
22 that some limitation on the operation of the new engines is
23 needed?

24 MR. BOYD: Objection to the form. The record speaks for

1 itself and the witness didn't testify as to any communications
2 with Mr. Romaine other than what is written on this
3 communication.

4 MR. LAYMAN: Well, if the document speaks for itself we
5 wouldn't have had to sit through 15 minutes of testimony on all
6 four bullet points in this memo.

7 MR. BOYD: I didn't ask the witness what Mr. Romaine
8 thought.

9 HEARING OFFICER KNITTLE: Could I have the question read
10 back, Darlene.

11 (Whereupon the requested portion of the record was read
12 back by the Reporter.)

13 HEARING OFFICER KNITTLE: I am going to sustain the
14 objection in part. I think it is appropriate for this witness to
15 testify as to his impression as to what the memo states, but I
16 don't want him speculating as to what Mr. Romaine meant when he
17 wrote it.

18 MR. LAYMAN: Okay.

19 HEARING OFFICER KNITTLE: So in light of that, maybe you
20 could rephrase the question.

21 MR. LAYMAN: I will certainly do so.

22 Q. (By Mr. Layman) Mr. Shah, can you read for me again the
23 second bullet point identified in that memorandum?

24 A. Need some limitation on the operation of new turbines.

1 For example, NOx emissions, compressed gas throughput, natural
2 gas throughput, horsepower hours.

3 Q. When you read that, could you have read that simply to
4 mean that only one of those examples was necessary?

5 A. Yes.

6 Q. It did not mean that all four were necessary, right?

7 MR. BOYD: Objection to the form.

8 HEARING OFFICER KNITTLE: How so?

9 MR. BOYD: He is saying it didn't mean that it meant all
10 four. If he is testifying as to his understanding that is one
11 thing.

12 MR. LAYMAN: I will rephrase.

13 Q. (By Mr. Layman) Is it your understanding that those
14 bullet points meant that you had to impose all four of those
15 examples in the permit?

16 A. No.

17 MR. LAYMAN: Okay. I believe that's all we have.

18 HEARING OFFICER KNITTLE: All right. Thank you, Mr.
19 Layman.

20 Mr. Boyd, do we have a redirect examination?

21 MR. BOYD: Yes. One second.

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

23 (Discussion off the record.)

24 HEARING OFFICER KNITTLE: All right. Let's go back on the

1 record.

2

REDIRECT EXAMINATION

3

BY MR. BOYD:

4

Q. In response to a question by Mr. Layman, relating to the
5 renewal permit applications, I think you suggested that you
6 relied on the information that Panhandle submitted; is that
7 right?

8

A. Yes.

9

Q. Okay. You testified earlier that your role as a permit
10 engineer included determining whether the grounds for issuing a
11 permit were met in an application; isn't that correct?

12

A. That's correct.

13

Q. You had an independent obligation to determine whether
14 or not the four engines, 1116 through 1119, were in compliance
15 with the permit limit when you determined whether to issue a
16 renewal permit; isn't that right?

17

A. Like I indicated, the application that came in did
18 reflect there was no change in the operation and there was no
19 modification that took place for these engines, and there was no
20 adverse information in the application that I received from
21 Panhandle.

22

MR. BOYD: Could you read my question back, because that
23 was not responsive to my question. Could we have it read back.

24

HEARING OFFICER KNITTLE: Please, Darlene.

1 MR. BOYD: I actually move to strike his response.

2 HEARING OFFICER KNITTLE: I don't need it read back, unless
3 you need it to refresh your recollection as to which question you
4 asked, Mr. Boyd. I am going to grant your motion to strike as
5 nonresponsive.

6 MR. BOYD: I would like to have the witness directed to
7 answer the question. Maybe reading it back --

8 HEARING OFFICER KNITTLE: Do you need it read back, then?
9 Sir, do you need it read back?

10 THE WITNESS: Yes.

11 HEARING OFFICER KNITTLE: Okay. Read it back, Darlene.
12 (Whereupon the requested portion of the record was read
13 back by the Reporter.)

14 THE WITNESS: Yes.

15 MR. BOYD: That's all of the questions I have.

16 MR. LAYMAN: Nothing further.

17 HEARING OFFICER KNITTLE: Thank you, sir. You may step
18 down.

19 (The witness left the stand.)

20 MR. BOYD: I would just also like to move at this time for
21 the admission of Panhandle Exhibits 16 through 20 into evidence.

22 HEARING OFFICER KNITTLE: All right. We will take them one
23 at a time.

24 Mr. Layman, Exhibit 16, the note.

1 MR. LAYMAN: I don't believe I have any objections to
2 Panhandle Exhibit Numbers 16, 17, 18, 19, or 20.

3 HEARING OFFICER KNITTLE: Thank you, Mr. Layman. You have
4 saved us a bunch of time. We will admit them all
5 (Whereupon said documents were duly admitted into evidence
6 as Panhandle Exhibits 16 through 20 as of this date.)

7 MR. BOYD: Mr. Hearing Officer, might I suggest a five
8 minute break and then we will be ready for our next witness, John
9 Alholm.

10 HEARING OFFICER KNITTLE: Is there any objection? Okay.
11 Let's do it.
12 (Whereupon a short recess was taken.)
13 (Mr. Layman and Mr. Brown are not present after the
14 recess.)

15 HEARING OFFICER KNITTLE: All right. We are back on the
16 record.

17 MR. BOYD: We would like to call John Alholm.

18 HEARING OFFICER KNITTLE: How do you spell your last name?

19 THE WITNESS: It is Alholm, A-L-H-O-L-M.

20 HEARING OFFICER KNITTLE: Could you have a seat, please,
21 sir.
22 Darlene, could you swear him in.
23 (Whereupon the witness was sworn by the Notary Public.)
24 HEARING OFFICER KNITTLE: Mr. Boyd.

1 J O H N A L H O L M,
2 having been first duly sworn by the Notary Public, saith as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. BOYD:

6 Q. Good afternoon, Mr. Alholm.

7 A. Good afternoon.

8 Q. Can you state your full name for the record.

9 A. John A. Alholm.

10 Q. Mr. Alholm, are you currently employed?

11 A. Yes, I am. I am self-employed.

12 Q. What do you mean by self-employed?

13 A. I am a consultant.

14 Q. Okay. How long have you been a consultant?

15 A. For seven years.

16 Q. Do you have your own consulting business?

17 A. Yes, I do.

18 Q. Does it have a name?

19 A. Yes, it does. It is the John Alholm Company.

20 Q. Okay. What kind of consulting do you do?

21 A. Typically project consulting related to the pipeline
22 business.

23 Q. What did you do before starting your own consulting
24 business?

1 A. I was in the employment of Panhandle Eastern Pipe Line
2 Company, Panhandle Eastern Corporation, for 35 years.

3 Q. Well, let's start with 35 years ago. Did you go to
4 Panhandle out of college?

5 A. Yes, I did.

6 Q. Okay. What was the first position you had at Panhandle?

7 A. I believe the title was junior engineer, but after a
8 while I outgrew that and I, in 1982, was elected vice president
9 of the company and was the vice president for 11 years prior to
10 my retirement.

11 Q. And did you have a specific title as vice president?

12 A. Vice President of Engineering.

13 Q. And --

14 A. And that was somewhat broader than engineering. It also
15 included environmental affairs and later on also included
16 materials which meant the purchasing and materials management.

17 Q. When did you begin as Vice President of Engineering, do
18 you recall?

19 A. It was 1982. I don't recall the exact month.

20 Q. So 11 years up until --

21 A. 1993. January of 1993 I retired.

22 Q. Did your position as Vice President of Engineering --
23 did your responsibilities change over time?

24 A. Yes, they did. Originally I was involved in Panhandle

1 Eastern Pipe Line Company, Trunkline Gas Company activities
2 primarily, along with some other subsidiaries of Panhandle
3 Eastern Corporation. In 1990 Panhandle Eastern Corporation and
4 Texas Eastern Corporation merged, and I was the Vice President of
5 Engineering and Environmental Affairs and Materials for Panhandle
6 Eastern Corporation, which included other pipelines that came
7 with Texas Eastern Corporation.

8 Q. Besides the changes that you just communicated in
9 relation to the -- was it a merger with Texas Eastern?

10 A. Yes.

11 Q. Okay. Were there any other changes in your
12 responsibilities as Vice President of Engineering over the period
13 of 1982 until when you retired?

14 A. I am sure there were, but I am not recalling anything
15 specific other than what I think would have been covered in what
16 I just said.

17 Q. Before 1990, did you have people reporting to you?

18 A. Yes.

19 Q. And who reported to you?

20 A. Planning, design, drafting, construction management,
21 project management, environmental affairs.

22 Q. And were there individuals in charge of each of those
23 different areas?

24 A. Yes.

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1 Q. Were they vice president level individuals?

2 A. No, they were not.

3 Q. And I assume that each one had others working for them,
4 as well?

5 A. That is correct

6 (Mr. Brown entered the hearing room.)

7 Q. (By Mr. Boyd) What about after 1990, did you have any
8 changes to that list that you just provided?

9 A. It was expanded because of the size of the pipeline
10 system had expanded through the merger with Texas Eastern
11 Corporation.

12 Q. Did you still have planning, design, drafting -- and I
13 can't remember the others -- construction, project management and
14 environmental affairs?

15 A. Yes.

16 Q. Okay. Did you have any other folks reporting to you?

17 A. I think that the list that we just went through pretty
18 much covers the people that reported to me.

19 Q. Just that there were more of them after the Texas
20 Eastern merger?

21 A. Yes, yes.

22 Q. Okay. As Vice President of Engineering, did you have an
23 opportunity to become familiar with the natural gas compressor
24 station in Glenarm, Illinois?

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1 A. Yes, I did.

2 Q. How did you become familiar with it?

3 A. I became very familiar with the compressor station at
4 Glenarm, Illinois, in 1964, where I was the resident engineer of
5 construction that installed unit 1114. I can continue and --

6 Q. Can you take a moment and describe for us sort of the
7 history of the engines at the Glenarm station, the history of the
8 Glenarm station?

9 A. Yes, I can. I will make this brief. Panhandle Eastern
10 Pipe Line Company was started in 1929 and originally called MoKan
11 Pipe Line Company. That name changed, I believe, in 1930, and
12 that system was constructed from Liberal, Kansas, to Illinois.
13 There were three original compressor stations on the system. The
14 original station at Liberal, Kansas, and the midpoint compressor
15 station at Louisburg, Kansas, south of Kansas City, and Glenarm
16 compressor station in Illinois.

17 Q. So Glenarm was one of the original stations in the
18 Panhandle system?

19 A. Yes, it was.

20 Q. Okay.

21 A. Construction of Glenarm station, if my memory serves me
22 correct, was started in 1930.

23 Q. Okay. Then in 1930, what construction activities are
24 you talking about?

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1 A. Some of the horizontal engines that were removed in
2 later years were installed in 1930, and Glenarm compressor
3 station grew to include ten horizontal engines and two relatively
4 small vertical engines, meaning that the power system, the power
5 cylinders on the units were in a vertical position rather than a
6 horizontal. But anyway, the original equipment was a horizontal
7 engine to drive the gas compressors.

8 Q. When were those original horizontal engines installed?

9 A. Starting in 1930 through probably about 1945 and then
10 the two smaller vertical engines would have been installed, I
11 would say, in 1948.

12 Q. Did those ten horizontal original engines have numbers?

13 A. Yes.

14 Q. Can you identify those numbers?

15 A. 1101 through 1110.

16 Q. Were those all manufactured by the same --

17 A. Cooper-Bessemer Corporation.

18 Q. Do they have any kind of control number or
19 identification number?

20 A. They were Cooper-Bessemer I want to say type 24. There
21 may be some type 22 and some type 24 compressors.

22 Q. Okay. And the two small vertical systems, when were
23 those installed?

24 A. I believe in 1948.

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1 Q. Okay. Did those have numbers as well?

2 A. The Panhandle Eastern station number is 1111 -- I am
3 sorry. 1111 and 1112.

4 Q. Okay. Thank you. What kind of engines were those?

5 A. They were manufactured by Clark Corporation.

6 Q. How many natural gas pipelines did those engines serve
7 up to that point in time?

8 A. Primarily two.

9 Q. When was --

10 A. Starting in about 1950 there was a third pipeline
11 started and those same engine compressors units were to serve the
12 third pipeline as well.

13 Q. Okay. When was the -- were the first two pipelines put
14 in at the same time along the Panhandle system?

15 A. No.

16 Q. When was the first pipeline put in?

17 A. Starting in 1929.

18 Q. Okay. When was second one put in?

19 A. Starting in I think 1942.

20 Q. Is it fair to say additional -- the engines, those
21 horizontals and the verticals were installed when the second
22 pipeline was installed?

23 A. Additional equipment was, yes. You start with one and

24 then go to two and so on.

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1 Q. Okay. At some point in time there was a third pipeline
2 added to the Panhandle system?

3 A. That's correct.

4 Q. When was that?

5 A. Starting in 1950.

6 Q. Were there any other engines added to the station in
7 1950 to service the third pipeline, if you recall?

8 A. I am not recalling there was additional compression
9 equipment added.

10 Q. Okay. What did the station look like in the early 1960s
11 when you said you first visited the station?

12 A. All of the equipment up until 1962 was installed in one
13 building. And in 1962, an additional engine room was added and
14 it was for the installation of a 4,000 horsepower Cooper-Bessemer
15 engine compressor unit.

16 Q. Was that engine compressor unit installed when you got
17 to the facility?

18 A. It was -- that unit was installed 1962. I installed a
19 second very similar unit in 1964.

20 Q. Does that unit that was installed in 1962 have a Glenarm
21 station number?

22 A. 1113.

23 Q. I think you said the one you helped install was 1114?

24 A. Yes.

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1 Q. Were these engines installed -- strike that. Why were
2 these engines installed in the early 1960s?

3 A. There was a major expansion program on the Panhandle
4 Eastern system that required additional compression equipment to
5 move gas through the pipeline, through the new pipeline that was
6 being constructed.

7 Q. The fourth pipeline?

8 A. Yes, the fourth pipeline.

9 Q. Right now are there four pipelines with the system?

10 A. Yes.

11 Q. That has not changed since the early 1960s?

12 A. No.

13 Q. Can you describe what your role was in relation to the
14 installation of engine 1114?

15 A. 1114.

16 Q. Yes, 1114.

17 A. I was a design engineer and designed the addition of
18 unit 1114 and then went to the field with that design and was the
19 resident engineer for construction of the unit.

20 Q. How long were you in the field constructing that unit?

21 A. About a year.

22 Q. This was another Cooper engine?

23 A. Yes.

24 Q. Okay. Were there any other engines added to the station

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1 in the 1960s?

2 A. I believe the unit 1115 would have been added sometime
3 in the late 1960s.

4 Q. Do you know who manufactured that engine?

5 A. Cooper.

6 Q. Do you know what the horsepower was? Was it another
7 4,000?

8 A. It was either 4,000 or 5,000 horsepower.

9 Q. Okay. Were you involved in the installation of that
10 engine at Glenarm?

11 A. Not directly.

12 Q. Okay.

13 A. I was as part of the engineering organization, but I was
14 not at Glenarm participating in the installation.

15 Q. Do you know why that engine 1115 was added in the late
16 1960s?

17 A. Additional gas volumes were added to pipeline system
18 along with most likely some additional pipeline segments all on
19 the fourth pipeline. There needed to be more compression added
20 to the system.

21 Q. At the end of the 1960s, can you describe how many
22 engines were present at the Glenarm station?

23 A. Fifteen.
24 Q. 1101 through 1115?

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1 A. Yes.
2 Q. Okay. And what was compression capacity of those
3 engines at that time, do you recall?
4 A. I would have to speculate on that. The horizontal
5 engines were in excess of 1,000 horsepower each, and the two
6 small verticals that were there were probably something in the
7 range of 1,500 or 1,600 horsepower each.
8 Q. Okay. So --
9 A. I could quickly do the math and say that there was
10 10,000 to 12,000 horsepower in the horizontal engines and another
11 4,000 in the -- so 16,000 horsepower, possibly 17,000.
12 Q. Okay. Had there been any other changes in the number or
13 type of engines at Glenarm?
14 A. I am not aware of any other changes.
15 Q. Are you aware of any changes that took place in the mid
16 1980s at Glenarm?
17 A. Yes.
18 Q. Okay. I believe you testified earlier that in the mid
19 1980s you were the Vice President of Engineering; is that right?
20 A. That is correct.
21 Q. Were you involved in a modernization project for the

22 Glenarm station in the mid 1980s?

23 A. Yes, I was.

24 Q. Can you describe that role?

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1 A. Yes. As Vice President of Engineering I, along with
2 other management people, reviewed the pipeline system and
3 determined that modernization of certain segments of the
4 Panhandle Eastern Pipe Line system should be modernized.

5 Q. What do you mean by modernized?

6 A. To remove some of the aging equipment and going back to
7 the 1930s and 1940s that the equipment -- I think the year that
8 we looked at in terms of modernization was equipment installed
9 prior to 1950 as a candidate for removal.

10 Q. When did this modernization project first become
11 discussed within Panhandle?

12 A. In the 1970s.

13 Q. Okay.

14 A. There were other locations where modernization had taken
15 place prior to Glenarm. So Glenarm was not the first location
16 but was a location and because of its aging equipment, was a
17 strong candidate for modernization.

18 Q. When were discussions concerning modernization of the
19 Glenarm station initiated? Do you recall?

20 A. Well before the modernization activity took place, but
21 in terms of preparing capital budgets for such a project, because

22 it is a sizable expenditure, I would say that the Glenarm
23 modernization was probably well into the planning stages in 1986,
24 for inclusion then in budget preparations for 1988 that would

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1 have taken place in 1987.

2 Q. What was your first involvement with the modernization
3 project for the Glenarm station?

4 A. I was an advocate of modernization for many obvious
5 reasons. I am a believer that mechanical devices over time will
6 fail. And when equipment has been running since 1930, 1931,
7 1932, right on through all of those years to 1987, it is time to
8 introduce equipment change, bring in modern equipment. It is
9 more efficient, and it can be -- what is the word I am seeking.
10 It is remotely controlled. You can put controls on modern
11 equipment that you cannot -- it would be very difficult to
12 modernize -- automate is the word I am looking for. Automate a
13 piece of equipment designed and put into service in 1930.

14 Q. Okay.

15 A. It would be like modernizing a Model T.

16 Q. Okay. You said you were a proponent of modernization.
17 Were there discussions in the organization regarding
18 modernization?

19 A. Oh, absolutely.

20 Q. How did it first come up?

21 A. Reliability.

22 Q. Well, let me get back -- I am trying to figure out who
23 with the organization first pushed this.

24 A. Oh, I am sorry. I did.

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1 Q. You did?

2 A. Along with operating management people.

3 Q. Okay. This --

4 A. So it had to be done from a planning standpoint to
5 include other corporate entities because of the capital
6 expenditure involved and there were other projects ongoing that
7 needed to be attended to, and we are talking about a fairly
8 sizable expenditure on a project of this magnitude.

9 Q. Was there any need to increase the horsepower capacity
10 of the Glenarm station through the modernization project?

11 A. No. The capacity of the Glenarm station is a regulated
12 capacity. And the amount of horsepower that can be installed at
13 Glenarm is regulated under the Federal Energy Regulatory
14 Commission as is the capacity of the station. And there is an
15 obligation to meet deliveries by moving gas through Glenarm.

16 The driving force behind the modernization project is to
17 increase reliability, reduce maintenance and operating costs, and
18 have the ability to minimize the station operating personnel on a
19 24 hour basis, around the clock operation. So that the operation
20 of the station could easily be monitored from a gas control

21 center and putting the safety and the type of equipment on the
22 units so that they would shut down in the event of an emergency.

23 Q. You had mentioned FERC a minute ago. Through your work
24 as Vice President of Engineering have you become familiar with

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1 the requirements that you -- that a pipeline like Panhandle has
2 to undertake to increase or decrease capacity through FERC?

3 A. FERC is the regulatory body that oversees companies like
4 Panhandle Eastern, and the modernization of the Glenarm station
5 was not one that would necessarily change the conditions for the
6 existence of Glenarm station, I believe, from the FERC's point of
7 view.

8 Q. Do you know why that is?

9 A. There is a certificated capacity of Glenarm station.
10 This project was not to change that certificated capacity.

11 Q. When you say certificated capacity, what do mean by
12 that? Is it the horsepower that we are talking about?

13 A. There is a certain volume of gas that Glenarm station
14 has the capability of moving through the pipeline system. That
15 is well documented with the FERC.

16 Q. Is it your understanding that if that capacity had been
17 increased that there would have to be something done through FERC
18 to allow that increase?

19 A. Absolutely.

20 Q. What does FERC stand for?

21 A. The Federal Energy Regulatory Commission.

22 Q. Thank you. If the capacity of the pipeline or the
23 compressor station decreased, what is your understanding as to
24 approval necessary through FERC for that process?

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1 A. If it was going to be a decrease in capacity, I believe
2 that decrease in capacity would have to be reported to FERC.
3 Authorization would have to be gained from FERC to decrease the
4 capacity of the station.

5 Q. Was there any authorization from FERC obtained relating
6 to this modernization project at Glenarm?

7 A. I am not aware that there was, but most likely there was
8 a notification made to FERC that there was going to be a
9 modernization of the station itself.

10 Q. Well, Mr. Grygar will be speaking to us tomorrow. Would
11 Mr. Grygar be in a better position to testify as to whether or
12 not there were any kind of notifications to FERC, do you think?

13 A. Definitely.

14 Q. Okay. So there was a decision to upgrade the engines or
15 to modernize the equipment?

16 A. (Nodded head up and down.)

17 Q. Was there a decision made as to which engines needed
18 modernizing?

19 A. Yes.

20 Q. Which engines needed the modernizing?

21 A. There was all of the equipment from 1101 through 1112.

22 Q. And that is because it was all manufactured or installed
23 before 1950?

24 A. That's my recall. That was sort of the benchmark year,

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1 1950 and before.

2 Q. Okay. Now, after that decision was made, was there a
3 decision as to what you were going to replace those 12 engines
4 with?

5 A. Was there a decision made as to what we were going to
6 replace the engines with?

7 Q. Yes.

8 A. Yes.

9 Q. And how was that decision determined or arrived at?

10 A. Well, number one, you would seek out a like amount of
11 horsepower, something very close to that. Number two, you would
12 want to have at least the same amount of capacity in the
13 compression equipment.

14 Q. Okay. Sir, is there any -- was there an analysis or a
15 review that you did to find engines that met those criteria?

16 A. Yes.

17 Q. What did you do?

18 A. We looked over the Panhandle Eastern system to see

19 whether or not there was any horsepower installed or not
20 installed that may be surplus to the pipelines needs. And the
21 other source of equipment was the used equipment market. And I
22 think both the four engines that were installed in 1988 came from
23 those two sources. Some equipment was owned by the company and
24 other equipment had to be purchased.

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1 Q. Is it fair to say that you had authority regarding this
2 modernization project, that you were the one responsible for the
3 modernization project?

4 MS. CARTER: I am going to have to object to the leading.

5 HEARING OFFICER KNITTLE: Sustained.

6 MR. BOYD: Okay. I will start with something else.

7 Q. (By Mr. Boyd) Who was it that the -- strike that. You
8 mentioned looking at the surplus engines on the system and
9 looking at the used equipment market?

10 A. (Nodded head up and down.)

11 Q. Whose task was it to look at those sources to identify
12 potential replacement equipment?

13 A. We had people in our planning group and in our design
14 group that specifically formed a team to go out and find that
15 equipment, but ultimately it was because I was the vice president
16 of the department and it was my responsibility to say that would
17 be the equipment that we would buy.

18 Q. So those people reported to you?

19 A. Yes.

20 Q. Okay.

21 A. I am sure that -- let me add on to that that we had some
22 operating people that also reviewed the equipment that we were
23 going to be installing. So they had full awareness of the
24 equipment selection.

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1 Q. Was there equipment that was selected from within the
2 Panhandle system?

3 A. Yes.

4 Q. Okay. And when was that decision made?

5 A. In 1987.

6 Q. Where did you find engines?

7 A. There were two units in western Kansas at I believe our
8 Hugoton location that were available.

9 Q. Why were they available?

10 A. They were not in service at the time.

11 Q. Do you know -- can you describe those two units?

12 A. I believe they were 220, 250 or 2,400 horsepower units
13 manufactured by Cooper-Bessemer. I think the designation was GMV
14 or GMWH. That may not be correct.

15 Q. Could it have been GMVH-10?

16 A. I bet you are right.

17 Q. Okay. Now, did those engines from the Hugoton, Kansas

18 station -- I am sorry. Could you tell us what the Hugoton,
19 Kansas station is? It is not a compressor station is it?

20 A. Yes, it is.

21 Q. It is?

22 A. It is a compressor station and it is on a segment of
23 pipeline west of Liberal, Kansas, that moves gas to the Liberal
24 location.

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1 Q. Moves it from where?

2 A. The Hugoton field in Kansas, from Hugoton, Kansas to the
3 Liberal, Kansas compressor station where it enters the main
4 pipeline system.

5 Q. Okay. Do you recall whether those two engines from
6 Hugoton, Kansas were equipped with any emission control
7 equipment?

8 A. I am unaware that they were.

9 Q. Do you recall the term clean burn?

10 A. I recall that terminology.

11 Q. Do you recall if these were equipped with any kind of
12 clean burn technology?

13 A. I don't know that for sure.

14 Q. Okay. We have talked about these two engines. Were
15 there two other engines that you located as well?

16 A. Yes, there were two other engines also manufactured by
17 Cooper that were located in the Houston, Texas area. I

18 believe --

19 Q. Where did you find those?

20 A. I believe they were with Tenneco Chemical Company and
21 they were surplus to that chemical plant.

22 Q. So they were selling those in the market?

23 A. Yes.

24 Q. And approximately when was the decision to add those two

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1 engines?

2 A. I would say 1987. The timing of that selection is
3 critical. In order to have them ready for installation in 1988
4 you have to find that equipment, get it ready for operation the
5 prior year, because it takes a little time to get it ready, to
6 make sure they are in good operating condition.

7 Q. Okay.

8 A. They have to configure the gas compressors.

9 Q. Okay.

10 A. That also gives you an opportunity, once you make that
11 selection, that you can determine the fuel rating, that means how
12 much fuel that engine is going to burn, and the emissions that
13 would come off that engine.

14 Q. Okay. That's a nice segue. Hold on one second. I
15 believe in front of you there is a sheet marked Panhandle Exhibit
16 Number 1?

17 A. Yes.
18 Q. Do you see that?
19 A. Yes.
20 Q. It has pages 1 through 26 on the bottom. Can you
21 identify this for us?
22 A. Yes, I can.
23 Q. What is that?
24 A. That's an application to the Environmental Protection

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1 Agency, the State of Illinois, and I recognize my signature.
2 Q. Is that on the bottom right-hand side?
3 A. Yes.
4 Q. And when did you sign this document?
5 A. September 14th of 1987.
6 Q. Why did you sign the document?
7 A. The applications for a permit of this type typically are
8 signed by an officer in charge of the activity. And I think it
9 demonstrates responsibility by the company for making the
10 application.
11 Q. At the time the application was made, had the decision
12 been made to install the two units from the Hugoton, Kansas
13 station and the two units from Tenneco Chemical at the Glenarm
14 station?
15 A. It was the basis for making that decision that the
16 equipment was available and that we would proceed with an

17 application, like the one in front of us, and then this project
18 would be included in the budget for the following year. But you
19 typically create your budgets a year or six months ahead of the
20 calendar year that you are going to make the installation.

21 Q. Okay. If you look at this Panhandle Exhibit Number 1,
22 it is hard to see, but you see on the first page there is a
23 designation of Glenarm engine 1116. Do you see that?

24 A. Designation of --

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1 Q. At the very top of the first page.

2 A. Okay. I see it.

3 Q. Okay. Now, if you go to page eight, you will see
4 Glenarm engine 1117. Do you see that?

5 A. Yes.

6 Q. Were these two engines the two Cooper-Bessemer engines
7 that came from the Tenneco Chemical?

8 MS. CARTER: I have to object as to leading.

9 MR. BOYD: It is slightly leading, but I am trying to move
10 along through a little bit of the background information.

11 MS. CARTER: Well, it seems like this entire testimony will
12 be background information and I don't think that gives Counsel
13 the right to lead the entire way through it.

14 MR. BOYD: I have not been leading the entire way through
15 it. That is not a fair representation.

16 HEARING OFFICER KNITTLE: I am going to sustain the object.
17 It is a leading question. I think you can direct his attention
18 to those items without leading him.

19 MR. BOYD: All right.

20 Q. (By Mr. Boyd) Mr. Alholm, if you look at the first page
21 of Panhandle Exhibit Number 1, can you tell by looking at this
22 page the source of the Cooper-Bessemer V-250-12 engine that is
23 listed here?

24 A. I don't know that the source of the equipment is

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1 mentioned on this page, but the size of the equipment tells me
2 that it is a 4,000 horsepower unit that I believe is one of the
3 units that came from Tenneco Chemical.

4 Q. If you look at page eight --

5 A. It is the same style engine.

6 Q. Does that indicate to you that it came from Tenneco
7 Chemical?

8 A. Yes.

9 Q. Okay. If I could refer you to page 15.

10 A. Yes.

11 Q. Does any information on this page indicate where that
12 engine came from?

13 A. I believe that engine came from Hugoton, Kansas.

14 Q. What is the basis of that belief?

15 A. The designation of GMVH-10.

16 Q. I direct your attention to page 20. Do you know where
17 this engine came from?

18 A. I believe Hugoton.

19 Q. Okay. Did you play any role in the preparation of
20 Panhandle Exhibit Number 1?

21 A. No, other than signing it.

22 Q. On the left-hand side there is a Steven D. Kelly listed.
23 Do you see that?

24 A. Yes.

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1 Q. Who is Mr. Kelly?

2 A. I believe he was -- it says he was senior engineering
3 technician in our environmental group.

4 Q. Where would he have been located?

5 A. In Kansas City.

6 Q. By the way, where were you located at the time?

7 A. In Kansas City.

8 Q. Is Mr. Kelly still with Panhandle?

9 A. I am unaware. I don't know where Mr. Kelly is.

10 Q. Do you know what role he played in preparation of this
11 application?

12 A. He would have gathered the information relative to these
13 units referenced, and would have filled out these forms for
14 submission to the Illinois EPA.

15 Q. Do you know the name Alan Adams?
16 A. I recall that name.
17 Q. How do you recall that?
18 A. He also worked for Panhandle Eastern and he was an
19 engineering technician, I believe, and I think he also worked in
20 the environmental group.
21 Q. Do you know if he had any role in relation to the
22 application relating to these -- to the installation of these
23 engines?
24 A. Very likely.

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1 Q. Do you know is Mr. Adams still employed with Panhandle?
2 A. I am unaware.
3 Q. Do you know where he is today?
4 A. I do not.
5 Q. When you signed the application, which is Panhandle
6 Exhibit Number 1, did you have an understanding of the affect of
7 the proposed modernization on air pollutant emissions?
8 MS. CARTER: Again, objection. Leading.
9 HEARING OFFICER KNITTLE: Mr. Boyd?
10 MR. BOYD: I am just asking if he had an understanding.
11 HEARING OFFICER KNITTLE: I will allow that one.
12 MS. CARTER: I do have another objection, as well, Mr.
13 Hearing Officer. There is no foundation for that question
14 whatsoever that has been laid by Counsel for respondent.

15 HEARING OFFICER KNITTLE: Mr. Boyd?

16 MR. BOYD: He has talked about installing engines and
17 talked about understanding the nature of the engines and the
18 emissions from the engines. So I think there is foundation.

19 HEARING OFFICER KNITTLE: I will overrule this objection.
20 You can answer the question, sir.

21 THE WITNESS: Yes, I did have an awareness of --

22 Q. (By Mr. Boyd) What was your understanding based on?

23 A. The understanding I have of this project and other
24 projects where we modernized compressor stations, but I will talk

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1 about Glenarm, Illinois, is we were removing ten -- I am sorry --
2 well, ten horizontals and two small vertical engines. There was
3 a certain emissions amount that the exhaust from the burning of
4 the fuel created.

5 In the selection of these units, it was critical that we
6 choose units that did not exceed, if at all possible, the amount
7 of emissions going to the atmosphere from the installation and
8 the operation of the new equipment. And so that the
9 environmental group, of which Mr. Kelly, Mr. Adams, and others
10 belonged to, were a part of the calculation of that emissions to
11 atmosphere when we selected these pieces of equipment and when we
12 put this application together to the State of Illinois, so that
13 we would not exceed the emissions that we felt were allowable by

14 the removal or the offsetting of the emissions from the removal
15 of the other 12 units that were installed.

16 Q. Did you have an understanding of what the emissions
17 would be -- I am sorry. Strike that. What the emissions from
18 the old engines were?

19 A. I do not.

20 Q. Did you have an understanding of what the emissions of
21 nitrogen oxide would have been after the removal of the old
22 engines and replacing them with these four new engines?

23 MS. CARTER: Again, I am going to object to this line of
24 questioning. There has not been foundation laid for this

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1 question. Again, it should be noted that he has previously
2 testified that he had no role in the preparation of these -- of
3 the construct permit. He simply signed off on them as an officer
4 of the company. So I don't understand what foundation has been
5 laid relative to his basis of information on whether or not the
6 replacement of engines would exceed the limits set forth within
7 the permit.

8 HEARING OFFICER KNITTLE: Mr. Boyd?

9 MR. BOYD: I really have no response.

10 HEARING OFFICER KNITTLE: I am going to allow this
11 question. I think we can ask if he had an understanding without
12 getting into whether specific foundation has been laid. If he
13 starts to provide whether or not those engines exceed the

14 emissions standards or how they affect the emission standards or
15 anything thereon, I would like some foundation laid. So that
16 specific objection is overruled.

17 Sir, do you need the question read back to you?

18 THE WITNESS: I think I can respond. It was critical
19 during the planning of this project that we selected equipment
20 that would not exceed the emissions that was already going to
21 atmosphere from the installed equipment, units 1 through 12, at
22 Glenarm station. My direction to the people that selected the --
23 went out and selected the equipment, prepared these documents,
24 was such that we could not move forward with a project that would

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1 cause an increase in emissions at Glenarm station if we felt that
2 we wanted the project to succeed.

3 So, therefore -- and I am not a person that got involved in
4 the details of the preparation of these documents nor in the
5 review of the emissions that came from the equipment, other than
6 to say here is what we need to do. If we are going to modernize
7 the Glenarm station, we have to select equipment to replace the
8 existing equipment that does not put us in violation of the air
9 emissions rules. But we don't know until we make an application
10 and then we get a permit to construct back from the permitting
11 agency.

12 Q. (By Mr. Boyd) Well, when you made the application, what

13 was your understanding as to how you wanted to operate the four
14 engines?

15 MS. CARTER: Again, I am going to have to object to the
16 form of the question. Mr. Alholm has previously testified that
17 he did not make this permit application.

18 HEARING OFFICER KNITTLE: Could you read the question back
19 to me, Darlene.

20 (Whereupon the requested portion of the record was read
21 back by the Reporter.)

22 MR. BOYD: Well, I strike it.

23 HEARING OFFICER KNITTLE: Your response, Mr. Boyd?

24 MR. BOYD: Well, again, when I say you made the

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1 application, I meant when Panhandle filed the application.

2 Q. (By Mr. Boyd) When you signed it, did you have an
3 understanding of how you wanted to operate these engines?

4 A. Yes.

5 Q. Okay. What was your understanding?

6 A. The understanding was that I did not want to decrease
7 the capacity for throughput at the Glenarm station, so we
8 selected, in effect, a like amount of horsepower and compression
9 equipment that would not reduce the throughput capacity at the
10 Glenarm station. But in the selection of the equipment to
11 replace the existing equipment at Glenarm, we had to select
12 equipment that allowed us to operate the equipment. If we can't

13 get an air emissions permit from the State of Illinois then, in
14 effect, we can't move forward with the project.

15 Q. Before this project, had you been involved in other
16 projects where obtaining air permits was required?

17 A. Yes.

18 Q. Okay. What role did you play in the permit process, if
19 any, after you signed the construction permit application that is
20 marked as Panhandle Exhibit Number 1?

21 A. What role did I play?

22 Q. In relation to obtaining a permit from the IEPA?

23 A. Once the application is made to the Illinois EPA, my
24 concern then is that we get the permit and that if we are having

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1 any difficulty that I be made aware of that difficulty because it
2 involves then moving forward with a major capital expenditure.
3 Without having proper authorizations, we would not do it.

4 Q. Were you informed by anyone that there were problems in
5 obtaining a permit or getting a permit?

6 A. I don't recall any problems.

7 Q. Do you recall being told that you had obtained a permit?

8 A. I know I would have been told because in processing
9 major projects it is critical that all permits be secured prior
10 to starting the work. Otherwise, you are starting to introduce
11 some high level risk to the project activities. That's a

12 managerial type thing.

13 Q. Let me show you or direct your attention to Exhibit
14 Number 1 in the Stipulated Hearing exhibits?

15 A. Are we in the gray book?

16 Q. The gray book.

17 A. Which one, Number 1?

18 Q. Number 1.

19 A. Okay.

20 Q. Do you know what this document is?

21 A. A construction permit.

22 Q. Have you ever seen it before?

23 A. I don't recall that I can say that I did see it before,
24 but I knew it was in existence.

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1 Q. When you say you knew it was in existence, what do you
2 mean?

3 A. We would not have moved forward with the project unless
4 we had all permits in hand.

5 Q. Can I direct your attention to special condition number
6 two. It says NOx emissions from the four new compressor
7 engines -- sorry -- new compressors shall not exceed 461.3 tons
8 per year. Do you see that?

9 A. Yes, I do.

10 Q. Have you ever seen that before?

11 A. I can't say that I have seen it. If I did see it, I

12 don't know if I could relate to that number.

13 Q. Okay.

14 MS. CARTER: Objection. Move to strike that portion of the
15 testimony. It was nonresponsive to the question posed by Counsel
16 for the respondent.

17 HEARING OFFICER KNITTLE: I will grant that, Mr. Boyd. The
18 motion to strike is granted.

19 MR. BOYD: Okay.

20 Q. (By Mr. Boyd) What does a 461.3 ton per year NOx
21 emission limit mean to you?

22 MS. CARTER: I will object again on this basis, that Mr.
23 Alholm previously testified that he could not recall whether or
24 not he had even seen this construction permit before. He has not

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1 laid approach foundational testimony for him to be even
2 testifying to what that limit may or may not mean to him.

3 HEARING OFFICER KNITTLE: Mr. Boyd?

4 MR. BOYD: I asked him what his understanding of a 461.3
5 ton per year NOx emission limit was. That's all.

6 HEARING OFFICER KNITTLE: I am going to overrule this
7 objection.

8 Sir, you can answer the question.

9 THE WITNESS: 461 tons of nitrogen oxide emissions on an
10 annual basis to me is a lot of gas. Now, whether or not that is

11 an amount that these four engines should operate at on an annual
12 basis fully loaded, operating 24 hours a day, 7 days a week, I
13 have -- I do not have an understanding of this volume of NOx
14 emissions relative to that type of operation. What I do know is
15 if that is not enough tonnage of NOx emissions from these units
16 that would allow them to operate at a level that they were
17 intended to operate at, that would have been, in effect, a show
18 stopper.

19 Q. What do you mean by show stopper?

20 A. We would have gone back to find out how many hours of
21 operation that would have represented. If that was not close to
22 8,000 hours a year for each one of these units, then that would
23 have been in question as to why not and should we go ahead with
24 the project.

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1 MS. CARTER: I am going to have to object at this point as
2 well and move to strike a portion of the witness' testimony,
3 because the question, I believe, was what was his understanding
4 of the 461.3 ton per year limit. He is going off on additional
5 matters at this time that didn't have anything to do with that.

6 HEARING OFFICER KNITTLE: Was there a second question, Mr.
7 Boyd?

8 MR. BOYD: I would have to have it all read back. I
9 thought he answered my question.

10 HEARING OFFICER KNITTLE: Darlene, can you see if there was

11 a question? The immediately preceding question is what I am
12 looking for.

13 MR. BOYD: Could I ask that the answer be read, too?

14 HEARING OFFICER KNITTLE: Yes. I want her to read the
15 question first.

16 (Whereupon the requested portion of the record was read
17 back by the Reporter.)

18 HEARING OFFICER KNITTLE: There was another question.

19 MS. CARTER: Oh, okay.

20 HEARING OFFICER KNITTLE: I am going to overrule the
21 objection and deny the motion to strike.

22 Were you finished with your answer, sir? Do you want her
23 to continue and take up from where you left off?

24 THE WITNESS: No, I probably need another question.

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1 Q. (By Mr. Boyd) Okay. I will start again. Mr. Alholm,
2 did anybody communicate to you that the permit issued to
3 construct these engines would limit your ability to operate the
4 engines?

5 A. No.

6 MS. CARTER: Objection. Leading.

7 HEARING OFFICER KNITTLE: Sustained.

8 Q. (By Mr. Boyd) Did anyone have any discussion with you
9 about the conditions of this permit?

10 A. No.

11 Q. Were you aware that the permit limited your ability to
12 operate the engines?

13 MS. CARTER: Objection. Leading.

14 HEARING OFFICER KNITTLE: Mr. Boyd?

15 MR. BOYD: That is not leading. I am asking him a
16 question.

17 HEARING OFFICER KNITTLE: I am going to have to have it
18 read back to me, please.

19 MR. BOYD: A leading question suggests an answer. I am
20 not suggesting an answer.

21 MS. CARTER: I don't need an education from Counsel for
22 respondent on what is or is not a leading question.

23 HEARING OFFICER KNITTLE: Well, I still want it read back
24 to me.

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

3 HEARING OFFICER KNITTLE: I am going to overrule that
4 objection.

5 You may answer, sir.

6 THE WITNESS: No.

7 Q. (By Mr. Boyd) If you had understood that the permit
8 limited your ability to operate those new engines, what would you
9 have done?

10 A. I would have questioned my environmental people as to
11 why there was a limitation on operations and entertain some
12 further discussions with the Illinois EPA, through my
13 environmental staff or others in the management of the company.
14 But had I sanctioned a project to go forward, understanding that
15 there were limitations, I think I would have been highly
16 criticized. And that my awareness that we had a construction
17 permit was fundamentally what I needed to know. And I don't know
18 that anybody else understood this construction permit to limit
19 operations that worked for me or elsewhere in the corporation.

20 MS. CARTER: I am going to have to make an objection and
21 move to strike the latter part of his testimony. The question
22 is, as I recall Mr. Hearing Officer, what would you have done --
23 maybe I can have it read back. What would you have done if you
24 had known that this limit was in excess of the limits within the

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1 permit. Now he is going on to testify about something that does
2 not fall within the scope of that question.

3 HEARING OFFICER KNITTLE: Do you want it read back?

4 MS. CARTER: I would appreciate if it could be read back,
5 the question and the answer.

6 HEARING OFFICER KNITTLE: Okay. Please read it back.

7 (Whereupon the requested portion of the record was read
8 back by the Reporter.)

9 MS. CARTER: The part that I am referring to, Mr. Hearing
10 Officer, is the last clause that was read back by the court
11 reporter pertaining to that he or his staff did not understand
12 the limit set forth within the construction permit.

13 HEARING OFFICER KNITTLE: Mr. Boyd?

14 MR. BOYD: I thought it was responsive to the question.

15 HEARING OFFICER KNITTLE: It is a close call, Ms. Carter.
16 I am going to leave it in, because I don't think I can strike it
17 without striking more of it and have it not make any sense. I
18 also think that it is something that could be gotten to by Mr.
19 Boyd with a simple question if I did strike it. So I am denying
20 your motion to strike.

21 Mr. Boyd.

22 MR. BOYD: Thank you.

23 Q. (By Mr. Boyd) Mr. Alholm, at any time before the
24 construction permit was issued, did Panhandle consider installing

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1 clean burn technology on engines 1116 and 1117?

2 A. I am unaware of it.

3 Q. Do you know whether there was any evaluation at all done
4 relating to installing clean burn on engines 1116 and 1117?

5 A. If the emission levels from these units was such that it
6 did not exceed the already existing emissions from the Glenarm
7 station, from units 1 through 12, in effect, there is no need to
8 introduce clean burn technology, unless through the application

9 for the permit to the Illinois EPA would have received a response
10 from the Illinois EPA questioning why Panhandle Eastern did not
11 consider clean burn technology as part of this installation.

12 Q. Do you have an understanding as to whether the IEPA
13 questioned whether a clean burn was not part of the installation
14 of 1116 through 1117?

15 A. I do not recall it from when I was involved with this
16 project back in 1987 or 1988.

17 Q. What if they had? What if they had said we want you to
18 install clean burn on these engines?

19 MS. CARTER: Objection. That calls for speculation.

20 HEARING OFFICER KNITTLE: Mr. Boyd?

21 MR. BOYD: It does to some extent call for speculation, but
22 this is a gentleman who was involved in the entire project and
23 this is kind of the key issue in the case. I think he can
24 testify as to what he would have done.

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1 HEARING OFFICER KNITTLE: I am going to take it in the form
2 of a hypothetical question and allow the question to go forward.

3 THE WITNESS: That would have brought about discussions
4 with the Illinois EPA with our environmental staff and possibly
5 consultants and the engine manufacturers and the people with
6 clean burn technology. The issue would have resulted in an
7 additional expenditure and that would have meant the solicitation

8 of additional capital funds from the corporation to move forward
9 with the project.

10 Q. (By Mr. Boyd) Do you have an understanding, as you sit
11 here today, what the capital expenditures relating to the
12 modernization of the Glenarm station were?

13 A. It has been a long time, but I would estimate the
14 expenditure to be something in the neighborhood of 15 million
15 dollars or more, 15 to 20 million.

16 Q. Do you have any understanding, as you sit here today, as
17 to the amount that would be required to install clean burn on
18 those engines in 1988?

19 MS. CARTER: Objection. He has not laid the foundation --

20 MR. BOYD: I am asking if he has an understanding. I
21 didn't ask him what his understanding was.

22 MS. CARTER: But even to ask if he has an understanding of
23 how much it would cost to install clean burn technology, there
24 should be appropriate foundation laid.

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1 HEARING OFFICER KNITTLE: Such as?

2 MS. CARTER: Well, the fact that he has not laid any
3 foundation pertaining to his experience with the implementation
4 of clean burn technology, the cost in general at other places
5 that he may have worked on to install clean burn technology. He
6 has not laid any of that foundation for this to provide any kind
7 of testimony pertaining to those costs.

8 HEARING OFFICER KNITTLE: Mr. Boyd?

9 MR. BOYD: Actually, that is a good point. I will withdraw
10 it and ask this.

11 Q. (By Mr. Boyd) Through your experience as the Vice
12 President of Engineering, did you have any understanding of what
13 the costs for clean burn conversion for engines 1116 and 1117
14 would have been in 1988?

15 MS. CARTER: I just want my objection noted. I apologize.

16 HEARING OFFICER KNITTLE: Are you making another objection?

17 MS. CARTER: I am making the same objection.

18 HEARING OFFICER KNITTLE: He has withdrawn the first
19 question. Now if you want to object again, you have to object
20 again.

21 MS. CARTER: I would like another objection noted, please,
22 on the same basis.

23 HEARING OFFICER KNITTLE: Okay. Mr. Boyd, I think this is
24 an appropriate question for this witness. I would ask you to lay

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1 some foundation. I don't think he has to have done extensive
2 studies in this. But I think we have to show that he at least
3 discussed the issue with people or had some understanding based
4 upon his position within the company.

5 MR. BOYD: Okay.

6 HEARING OFFICER KNITTLE: Does that make any sense?

7 MR. BOYD: Yes, it does.

8 Q. (By Mr. Boyd) Sir, have you had any discussions with --
9 strike that. Have you investigated at all what it would have
10 cost to install clean burn on engines 1116 and 1117 in 1988?

11 A. No.

12 Q. Okay. I will ask you another hypothetical if I can
13 without it being objected to.

14 MS. CARTER: If is another hypothetical, I do want to make
15 an objection as well calling for speculation.

16 HEARING OFFICER KNITTLE: I want to wait. I am not taking
17 that objection until I actually hear the question.

18 MS. CARTER: Okay.

19 MR. BOYD: Thank you.

20 Q. (By Mr. Boyd) If the cost to add clean burn technology
21 to engines 1116 and 1117 was between \$300,000.00 and \$500,000.00
22 in 1988, what impact would that have had on a decision to install
23 clean burn on engines 1116 and 1117 if it had been required by
24 the IEPA?

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1 MS. CARTER: I do want to make that objection.

2 HEARING OFFICER KNITTLE: The speculation objection?

3 MS. CARTER: Yes. Thank you.

4 HEARING OFFICER KNITTLE: Speculation as to what part of
5 it.

6 MS. CARTER: In terms of what the costs would have been,

7 you know -- that portion of the hypothetical where he is
8 referring to what portion of the costs would have been and how
9 would that have affected the decision, you know, to or to not
10 install the clean burn technology.

11 MR. BOYD: I think it is very ironic, since their witness
12 relied on that same number as the basis of their economic benefit
13 calculation. So I will object to that on that grounds.

14 HEARING OFFICER KNITTLE: Ms. Carter?

15 MS. CARTER: What I am saying, though, is that I am
16 objecting, though, because there has not been adequate foundation
17 laid for this witness to testify to anything pertaining to that
18 matter. It is because there has not been adequate foundation
19 laid for that, that I am saying it would call for speculation on
20 his part to answer that question.

21 HEARING OFFICER KNITTLE: I am going to overrule it,
22 because I don't think it is calling for speculation on his part
23 to testify what the company would do if faced with that factual
24 scenario. I think he has been well qualified as a witness since

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1 he was in charge of this particular area of that company at that
2 time and could testify as to what he thinks he would have done.
3 So that objection is overruled.

4 Do you understand the question, sir? Do you need --

5 THE WITNESS: I think so.

6 HEARING OFFICER KNITTLE: Okay. Please proceed.

7 THE WITNESS: Had we been noticed by the Illinois EPA that
8 clean burn technology would have been required for this
9 construction permit to be issued, or -- okay, for this
10 construction permit to be issued, that would have caused us to go
11 back to the Illinois EPA to discuss that issue. If that resulted
12 in the installation of clean burn technology on these compressor
13 units, on these engines, two things would have happened. We most
14 likely would have incurred delay in the project, which is a major
15 negative, and additional costs.

16 And because I did have some awareness of clean burn
17 technology developments 15 years ago, and for that matter maybe
18 even going back 20 years ago, the technology was less than proven
19 and it was expensive. And I would say that to move forward with
20 clean burn technology on this particular project would have added
21 a million to two million dollars of expenditure.

22 MR. BOYD: Can I have the question read back, sir?

23 HEARING OFFICER KNITTLE: Yes. Please do, Darlene.

24 (Whereupon the requested portion of the record was read

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1 back by the Reporter.)

2 MR. BOYD: (Breaking in while the question is being read
3 back.) Was that the question?

4 THE COURT REPORTER: Yes.

5 HEARING OFFICER KNITTLE: Yes.

6 MR. BOYD: That was the question? Then I am going to move
7 that the whole answer be stricken as nonresponsive, because he
8 didn't answer that question.

9 HEARING OFFICER KNITTLE: I am going to need to hear the
10 whole question and the answer then.

11 (Whereupon the requested portion of the record was read
12 back by the Reporter.)

13 HEARING OFFICER KNITTLE: Ms. Carter?

14 MS. CARTER: Yes. Mr. Hearing Officer, I do think that
15 answer was responsive to the question. The question posed was
16 what --

17 HEARING OFFICER KNITTLE: Don't read the question back to
18 me.

19 MS. CARTER: I wasn't. I was just going to summarize. I
20 won't.

21 HEARING OFFICER KNITTLE: Yes, I don't think it was
22 unresponsive. I am going to allow the question and the answer to
23 stand.

24 MR. BOYD: Well, sir, I had posed a hypothetical to this

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1 witness and he didn't understand it and he didn't answer my
2 hypothetical.

3 HEARING OFFICER KNITTLE: You can reclarify on your
4 continued direct examination, if you want, Mr. Boyd, but it

5 seemed like a responsive answer to me and that's my ruling.

6 MR. BOYD: All right. I will ask another question.

7 Q. (By Mr. Boyd) All right. If the additional costs to add
8 clean burn to the engines would have been in the \$300,000.00 to
9 the \$500,000.00 range over and above the 15 or 16 million that
10 you just talked about, and the IEPA said that clean burn had to
11 be installed on these two engines, how would that have affected
12 your decision?

13 A. The decision still would be to have a discussion with
14 the Illinois EPA to determine the requirement for clean burn
15 technology. And in analyzing the impact of the decision to add
16 clean burn technology to these two units, in looking at the
17 delays and the additional costs, it is very likely the project
18 would have gone ahead if they required -- if there was an
19 established need for clean burn, technology, number one. That we
20 probably -- strike that.

21 Q. Sir, would you like the question re-read?

22 A. No, I understand the question. I am trying to think of
23 how we would have couched the situation had it occurred. It did
24 not occur so I am somewhat speculative here. What I am saying is

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1 that you move ahead on one cost and schedule basis and that comes
2 under project management. You introduce these additional costs
3 and these additional delays and, believe me, there are delays
4 because this technology was not something that you grab off a

5 shelf. It is specific to these engine units. You can speculate
6 on the effectiveness as well. That would be the discussion with
7 the Illinois EPA.

8 When I responded to the question earlier I was thinking in
9 terms of all four units. I didn't hear you were limiting the
10 question to units 16 and 17. I would drop my cost estimate
11 number back to something maybe less than a million dollars for
12 those two units. But a million dollars would have been very
13 close to --

14 MS. CARTER: Mr. Hearing Officer, I am going to have to
15 object to this latter portion of the witness' testimony. It is
16 nonresponsive to the specific question that has been provided to
17 him by Counsel for the respondent.

18 HEARING OFFICER KNITTLE: Mr. Boyd?

19 MR. BOYD: I think it is convenient that when Ms. Carter
20 hears something she likes she thinks it is okay, but when she
21 hears something that she does not like then she thinks it is
22 nonresponsive.

23 HEARING OFFICER KNITTLE: Well, that is why I am here, and
24 I do think that one was nonresponsive. So that part will be

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1 stricken. Mr. Boyd, you can always reask the question and get
2 there if you would like.

3 MR. BOYD: All right.

4 Q. (By Mr. Boyd) Sir, if I can, this million dollar
5 estimate that you just talked about, okay, as you are sitting
6 here today, I want you to disregard what you think it might have
7 cost to install clean burn on engines 1116 and 1117. Do you
8 understand that?

9 A. Yes.

10 Q. Okay.

11 MS. CARTER: Objection. This is leading.

12 MR. BOYD: Well --

13 HEARING OFFICER KNITTLE: I am going to --

14 Q. (By Mr. Boyd) What I would like you to consider --

15 HEARING OFFICER KNITTLE: Hold on, Mr. Boyd.

16 MR. BOYD: Okay.

17 HEARING OFFICER KNITTLE: I am going to allow him to go on.
18 I don't think we have done a question yet. I think we are still
19 laying the actual question.

20 MR. BOYD: That's correct.

21 MS. CARTER: That was not a question, though. He is
22 telling him how in which to respond. I want you to think about
23 it in terms of X, Y and Z.

24 HEARING OFFICER KNITTLE: That's a proper question, I

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1 think, Ms. Carter, isn't it? Tell me why that wouldn't be a
2 proper question.

3 MS. CARTER: Well, it would be like, if it was like posing,

4 you know, a certain scenario or something. But he was like
5 laying down like a framework for which he must respond within
6 basically to try to limit his question or the answer. To me it
7 appeared to be leading.

8 HEARING OFFICER KNITTLE: Mr. Boyd, can you address that?

9 MR. BOYD: Yes. I am trying to set forth a hypothetical
10 clearly to Mr. Alholm. That is what I am trying to do. His
11 testimony for the last three times has been based on what his
12 understanding of the cost of clean burn is. That is not the
13 basis of my hypothetical.

14 HEARING OFFICER KNITTLE: What is the basis of your
15 question?

16 Q. (By Mr. Boyd) The basis of the question is assuming that
17 the additional costs to install clean burn on engines 1116 and
18 1117 were between \$300,000.00 and \$500,000.00 in 1988, assuming
19 that fact, not assuming anything else that you may know about the
20 clean burn, but the additional costs were between \$300,000.00 and
21 \$500,000.00, what affect would that have on your decision if you
22 had been required to install clean burn on those engines. Would
23 it have a material affect on the project cost?

24 HEARING OFFICER KNITTLE: Ms. Carter, anything? Wait just

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1 a second, sir. It looked like Ms. Carter wanted to object. I
2 want to provide her that opportunity if she so desires.

3 MS. CARTER: I would hate to have the appearance of
4 badgering my opposing Counsel so no.

5 HEARING OFFICER KNITTLE: Okay. We are going to -- I am
6 going to ask that we not have two many more hypothetical
7 questions. I think it is confusing everybody and it is going to
8 be unclear for the Board.

9 MR. BOYD: I apologize. I had one hypothetical question
10 that I was looking for an answer to, and that's what I am still
11 seeking.

12 HEARING OFFICER KNITTLE: Okay. Sir, you can answer that
13 one.

14 THE WITNESS: All right. I think I understand the
15 question. Would it have a material affect on the project based
16 on the cost numbers previously provided. Cost is one issue, and
17 whatever those costs were that were previously stated,
18 \$300,000.00 to \$500,000.00 for the installation in 1988, that is
19 one feature, and assuming those numbers are fairly close to
20 accurate, you have to provide that additional \$300,000.00 to
21 \$500,000.00, that money has to come from someplace within the
22 corporation.

23 The other negative that is not mentioned is the delay. And
24 had we known that at the time that this construction permit was

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1 issued, we may have been able to deal with it, but it would have
2 introduced delay along with the additional costs.

3 Q. (By Mr. Boyd) If there had been delay, how would that
4 have impacted the decision? Would you have just installed these
5 four engines anyway?

6 A. No.

7 MS. CARTER: Objection. Leading.

8 HEARING OFFICER KNITTLE: Sustained.

9 MR. BOYD: All right.

10 Q. (By Mr. Boyd) What impact would that have had on your
11 decision if there was delay involved in installing clean burn on
12 engines 1116 and 1117?

13 A. Most likely we would have delayed the project.

14 Q. Let me go back to earlier. Why did the modernization at
15 Glenarm take place in 1988?

16 MS. CARTER: Objection. Asked and answered.

17 HEARING OFFICER KNITTLE: Sustained.

18 MR. BOYD: All right.

19 Q. (By Mr. Boyd) Let me go at it this way, sir. If capital
20 funding had not been available until 1993, could you have waited
21 that long to replace the old engines, 1101 through 1112?

22 A. Could we have waited?

23 Q. Yes.

24 A. Yes, but this had substantial benefit and it was on the

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1 basis of those benefits that the project was slated to move ahead

2 in 1987, and then in the 1988 year was the construction year.

3 Q. But my point is there wasn't -- these engines were not
4 falling apart so that you had to replace them immediately; is
5 that right?

6 MS. CARTER: Objection. Leading.

7 HEARING OFFICER KNITTLE: Sustained.

8 MR. BOYD: Okay.

9 Q. (By Mr. Boyd) What were the conditions of engines 1101
10 through 1112 in 1987 when they were removed? Or 1988 when they
11 were removed? Excuse me.

12 A. The condition of the equipment, obviously, has been --
13 the equipment has been allowed to operate through good
14 maintenance. And I don't know if I can do the math, but a piece
15 of equipment installed in 1930, and the year is 1988, that seems
16 like it is about 50 years. Is it? No, 40. What is 1930 from
17 1988? That's fifty --

18 HEARING OFFICER KNITTLE: That is 58 years, sir.

19 THE WITNESS: That is 58 years. That's a long time to
20 expect a piece of equipment to operate. It is manpower
21 intensive. In order to get spare parts they have to be
22 manufactured. The manufacturer no longer maintains a stockpile
23 of the spare parts required by these engines. You have to go to
24 specialty shops and get the parts manufactured. It is like

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1 driving a Model T every day to work. You can do it, but you

2 would be repairing it every night. That's the same philosophy
3 that you have to apply to this equipment. We have staffs of
4 people that operate and maintain this equipment, and without
5 those people, this equipment literally would fall apart, would no
6 longer run, certainly not run efficiently. There is a pressing
7 need to replace this type of equipment, hence, a modernization
8 program, for lack of better terminology.

9 Q. (By Mr. Boyd) Let me direct your attention to Panhandle
10 Exhibit Number 5 that should be sitting in front of you.

11 A. Number 5.

12 HEARING OFFICER KNITTLE: Before we find that, let's go off
13 the record.

14 (Discussion off the record.)

15 HEARING OFFICER KNITTLE: All right. We are back on the
16 record.

17 Q. (By Mr. Boyd) Do you have Panhandle Exhibit Number 5?

18 A. Is it in the gray book?

19 Q. No. It is in front of you.

20 A. Oh, I have got it.

21 Q. Can you identify this for us? Again, it is marked 42
22 through 58 on the bottom.

23 A. Did you say 48 to 52?

24 Q. It is 42 to 58.

1 A. Oh, 42 to 58. Okay. I have it.

2 Q. What is this?

3 A. This is a letter from Ryan Childs to Mr. Shah.

4 Q. Let me show you page 43.

5 A. Okay.

6 Q. Is that your signature on that page?

7 A. Yes, it is.

8 Q. Did you have any role in the preparation of this
9 document, other than signing it?

10 A. No.

11 MR. BOYD: Okay. That's all of the questions I have.

12 HEARING OFFICER KNITTLE: Okay. Let's go off the record
13 for a minute.

14 (Discussion off the record.)

15 HEARING OFFICER KNITTLE: All right. Let's take a short
16 break.

17 (Whereupon a short recess was taken.)

18 HEARING OFFICER KNITTLE: All right. We are back on the
19 record.

20 Mr. Alholm, let me remind you that you are still under
21 oath.

22 THE WITNESS: Yes.

23 HEARING OFFICER KNITTLE: Ms. Carter, cross-examination.

24 MS. CARTER: Thank you.

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CROSS EXAMINATION

BY MS. CARTER:

Q. Mr. Alholm, if I could direct your attention to Panhandle Exhibit Number 1, which is before you.

A. I have it.

Q. Okay. At the time of the submittal of Panhandle Number 1, you didn't know for certain that the NOx emissions from engines 1116 through 1119 would not exceed the 461.3 ton per year limit in subsequent years, did you?

MR. BOYD: Objection to the form since the 461.3 ton per year limit had not even been established when the application was submitted.

HEARING OFFICER KNITTLE: Ms. Carter, where are you referring to?

MS. CARTER: I can refer to a different document if need be, Mr. Hearing Officer. I can rephrase the question. No problem.

Q. (By Ms. Carter) If I could direct your attention, Mr. Alholm, to Stipulated Hearing Exhibit Number 1.

A. In the gray book?

Q. Yes, sir.

A. Okay.

Q. Just a moment. Let me actually just back up. I apologize. Let me refer you back to Panhandle Number 1. Prior

1 to affixing your signature to Panhandle Exhibit Number 1, you did
2 not know for certain that the NOx emissions would not exceed any
3 limit set forth within a subsequent construction permit, did you?

4 MR. BOYD: Objection to the form. Again, it is totally
5 ambiguous what she means by a "subsequent limit."

6 MS. CARTER: I can --

7 HEARING OFFICER KNITTLE: Can you rephrase? Is that what
8 you were going to suggest?

9 MS. CARTER: I can clarify in terms of it being the
10 subsequent limit set forth in the construction permit, yes.

11 MR. BOYD: Well, that was my objection in the first
12 question.

13 MS. CARTER: I am saying I can clarify it and put that in
14 there.

15 HEARING OFFICER KNITTLE: Let's start over, Ms. Carter.
16 Try asking it again and we will see where we are at. I am a
17 little confused myself.

18 MS. CARTER: Okay. Let me make sure I have it straight
19 before I get it out there, okay.

20 HEARING OFFICER KNITTLE: We will go off the record.

21 (Discussion off the record.)

22 HEARING OFFICER KNITTLE: All right. We are back on the
23 record. Go ahead, Ms. Carter.

24 Q. (By Ms. Carter) Did you make an independent

1 investigation relative to whether or not the NOx emissions from
2 engines 1116 through 1119 would emit an exceedance of 461.3 tons
3 per year?

4 MR. BOYD: Objection to the form, in terms of what she
5 means by "independent."

6 HEARING OFFICER KNITTLE: I am going to let this one stand.
7 It is overruled. Sir.

8 THE WITNESS: The answer to the question is yes and let me
9 explain.

10 Q. (By Ms. Carter) Okay. Go ahead.

11 A. The environmental affairs staff would have taken a look
12 at the engines we selected, these --

13 Q. Mr. Alholm, I don't believe you are being responsive to
14 my question. I asked if you made an independent interpretation.

15 A. Me personally?

16 Q. Yes.

17 A. No.

18 Q. Okay. Thank you. Isn't it true, Mr. Alholm, that a
19 company's decision to install air pollution control equipment is
20 not within the decision of the Illinois EPA?

21 MR. BOYD: Objection to the form, in terms of the company's
22 decision. If she is talking about this particular case we can
23 talk about it. But in terms of a company in general this witness
24 has no foundation to testify to that.

1 HEARING OFFICER KNITTLE: I would sustain that.

2 Q. (By Ms. Carter) Isn't it true, Mr. Alholm, that
3 Panhandle's decision to install air pollution control equipment
4 is solely the decision of Panhandle Eastern Pipe Line Company?

5 A. At this particular location or any location?

6 Q. At this particular location.

7 A. The decision was made by Panhandle Eastern not to
8 install emission control equipment over and above what was
9 supplied with the engines from the manufacturers.

10 Q. Okay. So in that regards, any decision made by
11 Panhandle Eastern Pipe Line Company to install or not install air
12 pollution control equipment is not made at the request of the
13 Illinois EPA?

14 MR. BOYD: Objection to the form.

15 HEARING OFFICER KNITTLE: How so, Mr. Boyd?

16 MR. BOYD: Well, it is ambiguous what she means.

17 HEARING OFFICER KNITTLE: Once again, I am overruling that.
18 Sir, do you understand the question?

19 THE WITNESS: I think I do.

20 (Discussion off the record when the phone rang.)

21 MR. BOYD: Sir, do you need the question read back?

22 THE WITNESS: Please.

23 HEARING OFFICER KNITTLE: Yes, could you please read it
24 back.

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

3 MR. BOYD: Again, it is an ambiguous question.

4 HEARING OFFICER KNITTLE: I am going to overrule. I think
5 the witness has stated that he understands the question.

6 Is that correct, sir?

7 THE WITNESS: I think so. While it may be the decision --
8 or it is not the decision of the Illinois EPA to specify air
9 pollution control equipment --

10 Q. (By Ms. Carter) Sir, could you just answer my question.
11 It is a yes or a no question, sir.

12 MR. BOYD: Well, I am just going to object. Obviously, he
13 is -- answering the way he is, he didn't understand it to be a
14 yes or a no question.

15 MS. CARTER: Obviously, there is room for Counsel for
16 respondent to elicit further testimony from the witness during
17 redirect if he chooses to do so.

18 HEARING OFFICER KNITTLE: Yes, I think it can be answered
19 with -- it is a yes or a no question, sir. So to that extent I
20 would direct you to do so.

21 THE WITNESS: The question is whether or not the Illinois
22 EPA can direct the installation of emission control equipment?

23 MS. CARTER: No, sir. Could you read back the question
24 again or I can reclarify it.

1 HEARING OFFICER KNITTLE: Why don't you state the question
2 again.

3 MS. CARTER: Okay.

4 Q. (By Ms. Carter) Is the company -- it isn't -- let me
5 back up for just a second.

6 It isn't the Illinois EPA's decision for Panhandle Eastern
7 Pipe Line Company to install pollution control equipment, is it?

8 MR. BOYD: Objection to the form of the question. It is
9 ambiguous.

10 HEARING OFFICER KNITTLE: Once again, I think it is a clear
11 question, sir.

12 THE WITNESS: No.

13 Q. (By Mrs. Carter) All right. And as you sit here today,
14 Mr. Alholm, you don't know whether the NOx emissions for engines
15 numbered 1116 through 1119 are in exceedance of 461.3 tons per
16 year, do you?

17 A. No.

18 MS. CARTER: Okay. I have no further questions.

19 HEARING OFFICER KNITTLE: Redirect, Mr. Boyd?

20 MR. BOYD: Yes, just a couple redirect.

21 REDIRECT EXAMINATION

22 BY MR. BOYD:

23 Q. Sir, I believe on cross in response to a question you
24 said something to the effect that there was -- that Panhandle

1 didn't make a decision not to install the clean burn on engines
2 1116 through 1117. My question is, was there any consideration
3 given one way or the other to installing or not installing clean
4 burn on 1116 and 1117?

5 A. I would have to say no. The consideration was we were
6 offsetting the emissions that were from the first 12 units that
7 are going to be removed or replaced by the four new units. And
8 if our calculations showed that the emissions from the new units
9 did not exceed the emission from the old units, we did not see a
10 need to think about clean burn.

11 MR. BOYD: Okay. Thank you. That's all I have.

12 HEARING OFFICER KNITTLE: Ms. Carter?

13 MS. CARTER: Nothing further.

14 HEARING OFFICER KNITTLE: Sir, you may step down. Thank
15 you very much for your time.

16 THE WITNESS: Thank you very much.

17 (The witness left the stand.)

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

19 (Discussion off the record.)

20 HEARING OFFICER KNITTLE: Back on the record. I want to
21 note for the record that I see no members of the public here.
22 Are there any members of the public here? No. If, in fact, they
23 were here, they would, of course, be able to provide public
24 comment. Since they are not here, we will move on. We will see

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1 you all tomorrow.

2 MS. CARTER: What time?

3 MR. BOYD: 9:00 again?

4 HEARING OFFICER KNITTLE: Do we have any objection to 9:00,
5 Ms. Carter? Or, Dennis, do you have an objection?

6 MS. CARTER: That is fine.

7 MR. BROWN: Whatever is convenient for everyone. Don't we
8 have like ten witnesses yet to go through.

9 MS. CARTER: Something like that.

10 HEARING OFFICER KNITTLE: We are on the record you guys.

11 MS. CARTER: Oh, we are on the record? I apologize.

12 HEARING OFFICER KNITTLE: That is okay. All right. 9:00
13 tomorrow morning.

14 MR. BOYD: Thank you.

15 MS. CARTER: Thank you.

16 (Hearing Exhibits retained by Hearing
17 Officer Knittle.)

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

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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 231 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 20th 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 13th day of October A.D., 2000.

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Notary Public and
Certified Shorthand Reporter and
Registered Professional Reporter

CSR License No. 084-003677
My Commission Expires: 03-02-2003

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