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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 November 28, 2000, at 9:50 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 VI

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

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1 P R O C E E D I N G S

2 (November 28, 2000; 9:50 a.m.)

3 HEARING OFFICER KNITTLE: Hello. My name is John Knittle,  
4 Hearing Officer with the Illinois Pollution Control Board. I am  
5 also the assigned Hearing Officer for this matter, People of the  
6 State of Illinois versus Panhandle Eastern Pipe Line Company,  
7 Pollution Control Board Docket Number 99-191. It is November  
8 28th of the year 2000. It is approximately 9:50 a.m. No members  
9 of the public are present here today.

10 We are continuing with the respondent's case-in-chief,  
11 continuation of a hearing that took place from September 18th  
12 through September 22nd of the same year. We are going to run  
13 this as last time, in accordance with Section 103.202 and 103.203  
14 of the Board's regs, which is the order of enforcement hearings  
15 and conduct of hearing. As I have already stated, we are in the  
16 middle of the respondent's case-in-chief.

17 Mr. Boyd, you can call your next witness.

18 MR. BOYD: We call Sabino Gomez.

19 HEARING OFFICER KNITTLE: Come on up, sir, and you will be  
20 sworn in.

21 Can you swear him in, please?

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

24 HEARING OFFICER KNITTLE: Mr. Boyd.

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1 MR. BOYD: Thank you.

2 S A B I N O G O M E Z,

3 having been first duly sworn by the Notary Public, saith as  
4 follows:

5 DIRECT EXAMINATION

6 BY MR. BOYD:

7 Q. Good morning. Could you state your name for the record,  
8 please.

9 A. My first name is Sabino, S-A-B-I-N-O. The last name is  
10 Gomez, G-O-M-E-Z.

11 Q. Mr. Gomez, are you currently employed?

12 A. Yes, I am.

13 Q. By whom are you employed?

14 A. I am employed -- I have my own consulting business,  
15 self-employed.

16 Q. What is the name of your consulting business?

17 A. It is Fenix Environmental. Fenix is spelled F-E-N-I-X,  
18 Environmental, Inc., in Houston.

19 Q. How long have you had your own consulting business?

20 A. Since September of 1994.

21 Q. What kind of work does your business do?

22 A. It has done primarily air regulatory permitting and  
23 compliance work. Also have done some general environmental

24 assessment work as well.

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1 Q. Before starting your own firm did you have experience  
2 working with air programs?

3 A. Yes, I have.

4 Q. How long have you had experience with air permitting,  
5 air enforcement issues?

6 A. Roughly about 18 to 18 and a half or 19 years of  
7 experience in the air pollution control management

8 (Whereupon a document was duly marked for purposes  
9 of identification as Panhandle Exhibit 27 as of  
10 this date.)

11 Q. (By Mr. Boyd) Let me show you what has been marked  
12 Panhandle Exhibit Number 27.

13 MR. BODY: Mr. Knittle, I am sorry. I have a copy for him  
14 and a copy for them, but not for you.

15 HEARING OFFICER KNITTLE: That's okay.

16 Q. (By Mr. Boyd) This document is marked Panhandle Exhibit  
17 Number 27 and it has a Bates number of Pan 1714 at the bottom.  
18 Can you identify this document?

19 A. It is my C.V. or curriculum vitae.

20 Q. When did you prepare this?

21 A. I think probably sometime in late 1999.

22 Q. Does the C.V. discuss your educational background?

23 A. Yes, it is does.

24 Q. Can you briefly describe your educational background for

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1 us?

2 A. I graduated with a bachelor's in -- a bachelor of  
3 science in biology from the University of Texas at Arlington in  
4 January of 1969. I also graduated with a master's in public  
5 health from the University of Texas at the Health Science Center  
6 in Houston in June of 1971.

7 Q. Does your C.V. -- do you have any other educational  
8 background?

9 A. These are the two degrees that I have.

10 Q. Does your C.V. discuss your experience working with air  
11 programs?

12 A. Yes, it does.

13 Q. Can you briefly describe that experience for us?

14 A. My work in air pollution control began in mid 1971 as a  
15 field investigator for the City of Houston's Department of  
16 Health, Air Pollution Control Program. In the beginning of  
17 January of 1972 I started my career with the Texas Air Control  
18 Board. Actually, at the time it was part of the State Health  
19 Department, Air Pollution Control Services and later became the  
20 Texas Air Control Board. That was from January 1972 through  
21 roughly mid August of 1989, when I left the Agency.

22 Q. What did you do after 1989?



23           A.    When I left the Agency in 1989 I joined an environmental  
24 consulting firm in Houston.  I was with that firm or versions of

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1   that firm -- they had gone through a change of hands at least  
2   once.  And I was doing general environmental work, haz waste  
3   management, site assessments, air pollution control, permitting  
4   and auditing from that time period of 1989 to about, I think, mid  
5   1990 or so.  I was primarily based out of Houston, but during  
6   that time period with one of the firms I was also in Norman,  
7   Oklahoma, at one of their offices there.

8           Q.    Did you -- is that with Toxcon?

9           A.    It started out as Toxcon Engineering and later became  
10 Simon Hydro-Search.  And it was -- I guess I ended my tenure with  
11 Simon Hydro-Search after the decision was made to close the  
12 office in Norman, Oklahoma.  That is where I was at the time.  I  
13 joined another firm, consulting firm, Espey, Huston & Associates.  
14 That is E-S-P-E-Y and Huston, H-U-S-T-O-N, after I left Simon  
15 Hydro-Search.  Espey Huston was based in Houston, Texas, and  
16 primarily did business development, program management, and air  
17 pollution control representing their interests in the Houston  
18 area, the geographic area.  They were based in Austin, Texas.  I  
19 did that for a couple of years before starting my own business in  
20 September of 1994.

21           Q.    Before starting your own business when you were in  
22 consulting, what kind of work did you do generally?

23           A.    Again, I guess the first couple of years about half my  
24 time was involved with waste management, environmental auditing,

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1    and some tank management of tank closure, UST work.  Most of my  
2    work when I was in the Norman office was I guess you would call  
3    it remediation type work.  Their office activities were primarily  
4    hydrocarbon recovery of petroleum liquids, underground  
5    contamination like that.  Again, the other half of my time with  
6    Toxcon and Simon Hydro-Search was involved with their pollution  
7    type work, either air permitting, different facilities, salt dome  
8    storage, compressor operations, glass cleaning operations, some  
9    permit exemptions of different kinds, coating operations, and  
10   also involved in air pollution monitoring, special purpose type  
11   monitoring to see -- characterize emissions around the given  
12   operations or at haz waste remediation sites.

13           Q.    Now, since opening your own firm, what kind of work have  
14 you been involved in?

15           A.    I have been involved with assisting legal offices  
16 involved with plaintiff cases or defense cases for industrial  
17 clients, providing in some instances testimony as an expert.  I  
18 guess early on that was my primary focus.  I also got involved  
19 with providing consulting and assistance in developing emissions  
20 inventories and providing permitting support for natural gas  
21 industries in the Houston area.  I guess since then that has

22 evolved into data management work as well, taking environmental  
23 management information systems and helping clients better manage  
24 their compliance through different software products.

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1 Q. You mentioned work for natural gas pipelines. Can you  
2 generally describe the kind of work you have been doing for  
3 natural gas pipelines since you have been consulting?

4 A. Development of permit applications, either new source  
5 permits, exemptions, PSD applications, emissions inventory work,  
6 doing corporate level type environmental coordination ensuring  
7 that different reports are submitted to the agencies on time.

8 Q. Have you also done work for Panhandle Eastern Pipe Line  
9 company?

10 A. I have.

11 Q. What kind of --

12 A. Similar nature to that type of work.

13 Q. Okay. Mr. Gomez, does your curriculum vitae accurately  
14 reflect your educational and work experiences?

15 A. As accurately as I could in one page, yes.

16 MR. BOYD: We move for the admission of Pan Exhibit Number  
17 27.

18 HEARING OFFICER KNITTLE: Mr. Layman?

19 MR. LAYMAN: No objection.

20 HEARING OFFICER KNITTLE: That is admitted.

21 (Whereupon said document was duly admitted into

22 evidence as Panhandle Exhibit 27 as of this date.)

23 Q. (By Mr. Boyd) Mr. Gomez, have you done work for  
24 Panhandle's compressor station at Glenarm, Illinois?

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1 A. Yes, I have.

2 Q. When did you begin providing Panhandle assistance  
3 regarding that station?

4 A. The primary effort began, I think, in mid 1997.

5 Q. What kind of assistance were you providing in mid 1997?

6 A. As a result of Mr. Wait's relocation at the time --

7 Q. Charles Wait?

8 A. Charles Wait was involved with the primary activities  
9 involving Glenarm up to that point. He was in the process of  
10 relocating to another office, and I was asked to assist in the  
11 transition, I guess, of picking up where he was going to be  
12 leaving off. And the new manager that was coming in to that  
13 particular group had primarily -- his primary background was  
14 remediation and had very little knowledge about air work. So I  
15 was asked to help him come in and complete the activities at that  
16 point.

17 Q. What specific activities were you asked to assist with  
18 in that applications?

19 A. My recollection was at that time there had been some  
20 communication between the State IEPA and Panhandle Eastern

21 regarding a noncompliance issue. There had been an initial  
22 submittal by Panhandle Eastern, and what was being done when I  
23 got involved was responding to some questions or clarifications  
24 or directions that had been received from the IEPA. And this

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1 ultimately formed a submittal that was completed, I think, in  
2 September of 1997.

3 Q. Did you have a role in relation to that September of  
4 1997 submittal?

5 A. Right.

6 Q. What role did you play?

7 A. I basically took what Charles had done to that point in  
8 time and, again, my recollection was that the primary effort at  
9 that time was to respond to the specific questions that had  
10 been -- or issues or deficiencies that had been raised by the  
11 IEPA to better present information that had previously been  
12 submitted.

13 Q. When you say better present information, are you talking  
14 about emissions information?

15 A. One respect. I also recall that I think one of the  
16 expressions was that what had been received earlier was not  
17 viewed as an application, per se, was some other form. So the  
18 information that had been submitted previously during the  
19 springtime of 1997 was transferred, if you will, into a more  
20 recognizable permit application format. I was also I think some

21 direction to provide a better characterization of emissions that  
22 had been or were being discussed. Basically all of that.

23 Q. Okay. Do you know if that September 1997 permit  
24 application was submitted to the IEPA?

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1 A. If it were?

2 Q. Yes.

3 A. Yes, it was.

4 Q. Do you know what happened to that application?

5 A. Ultimately it was -- there were some, I think, further  
6 correspondence or communications received from the IEPA  
7 indicating that it was not complete. There was still some issues  
8 that needed to be resolved. My recollection was there was an  
9 actual meeting some time later in the fall where, I guess, some  
10 further clarification and understanding was of what they were  
11 looking for or expecting. And as a consequence, an effort was  
12 made to try to amend, if you will, that application with  
13 additional information.

14 Q. Were you involved in that effort?

15 A. Yes, I was.

16 Q. What did the IEPA eventually do with that permit  
17 application?

18 A. At that time after the amendment was submitted in, I  
19 think, December of 1997, ultimately what the IEPA did was deny,

20 if you will, the application.

21 Q. Did you provide Panhandle any assistance with relation  
22 to the Glenarm station after the IEPA denied that 1997  
23 application?

24 A. Yes, I did.

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1 Q. What did you do?

2 A. Well, one of the continuing things that was done about  
3 that time period was one of the reasons for the -- well, I tried  
4 to address the reasons for the denial. I think there were  
5 basically two points that were raised in the denial letter. And  
6 one of the first things I was doing was trying to respond to  
7 those two specific points or at least was involved in the  
8 response to those two specific points.

9 There was some supplemental information, I believe,  
10 ultimately submitted later, a few months later. Subsequent to  
11 that, in 1999, there was a -- a decision was made by Panhandle  
12 Eastern to complete a PSD application, and I was involved in the  
13 development or, if you will, taking the documents that had been  
14 prepared up to that point and preparing a PSD application with  
15 those documents and submitting that to the Agency. I think that  
16 was done sometime in September or so of 1999.

17 Q. What assistance did you provide in relation to that  
18 September of 1999 permit application?

19 A. Well, basically, at that point in time I reviewed the

20 information that had been collected and presented to the Agency  
21 prior -- in the different versions of the applications, if you  
22 will, modifications or revisions to the applications. Since it  
23 was going to be a PSD application that was going to be submitted,  
24 I was -- I made sure that the information that would be required

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1 of a PSD application were included in that submittal package. So  
2 those things related to that and probably the more -- one of the  
3 more significant ones related to the development of a BACT  
4 analysis, top-down type of analysis, and conclusions from that  
5 analysis and incorporating that in terms of a proposed emission  
6 control level for the respective units all into that package.

7 Q. As a result of your work with Panhandle have you become  
8 familiar with the engines at the Glenarm station?

9 A. Yes, I have.

10 Q. Can you describe the existing engines at Glenarm?

11 A. Currently there are seven engines that are on site,  
12 three of which were part of the original configuration. Those  
13 are numerical designated as 1113, 14 and -- 1113, 1114, 1115.  
14 Those were, if you will, the three existing engines that are  
15 still in place. There have not been any changes done to those.  
16 Four additional engines, 1116 through 19, were added in the late  
17 1980s as a consequence of the removal of the 12 engines, 1101  
18 through 1112.



19 Q. So the four engines, 1116 through 1119 replaced engines  
20 1101 through 1112?

21 A. Right.

22 Q. Were, to your knowledge, any of the engines, 1101  
23 through 1112 equipped with emissions controls?

24 A. No, they were not.

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1 Q. Are any of the existing engines currently at the Glenarm  
2 station equipped with emissions controls?

3 A. Two of them are.

4 Q. Which ones are those?

5 A. 111 -- excuse me. It is 1118 and 1119.

6 Q. Can you describe the controls that are on 1118 and 1119?

7 A. They have controls that are low emission combustion type  
8 controls. A trade name for the type of control is clean burn.

9 Q. Are any of the existing engines at the Glenarm station,  
10 1113 through 1119 subject to any emissions limits?

11 A. I guess individual emission limits, is that what you are  
12 asking?

13 Q. Collective or combined?

14 A. Well, my understanding is that there is a permit in  
15 place that was issued in I would say late 1987 that affects the  
16 combined emissions from 1116 through 19.

17 Q. Do you know what the emission limit is 1116 through  
18 1119?

19           A.    To my recollection, as best as I can recall, the current  
20 limit in that permit is 461 and some tons of NOx per year.

21           Q.    As a result of your education and experience, have you  
22 become familiar with the ways in which to determine emissions  
23 from sources of air pollution?

24           A.    Yes, I have.

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1           Q.    What techniques are available generally for determining  
2 air emissions?

3           A.    They involve or include the results of continuous  
4 emissions monitoring.  The results of source testing or stack  
5 tests.  The results of vendor or manufacturer data regarding a  
6 particular type of unit.  They involve average emission rates  
7 that are associated with a specific type of emission source.  
8 These are -- well, I guess routinely referred to as emission  
9 factors, and more often than not they can be found in published  
10 documents like the EPA's AP-42 document.  Some states may have  
11 recommended factors for certain types of unit.  Engineering  
12 judgment is another type of emission estimating tool.  Roughly,  
13 those are the types of references that may be used to  
14 characterize emissions from a particular type of emission source.

15           Q.    What is the best source of information about emissions  
16 from a source?

17           A.    Well, again, the best source of information that is

18 recommended by the EPA and recognized by all of the states is  
19 actual either continuous or test data from a specific type of  
20 unit.

21 Q. Is there a hierarchy of emission determination  
22 techniques that are used in the absence of emission test data?

23 A. Well, the hierarchy that -- there is a hierarchy. The  
24 hierarchy that exists is basically the order that I discussed

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1 those emission tools.

2 Q. What does that hierarchy mean?

3 A. That given a set of references or estimated tools or  
4 values that one can use, if one has test data and one has an  
5 available emission factor in the published document, because of  
6 that priority or hierarchy, once you have used the test data to  
7 more accurately represent the emissions from that source.

8 Q. Now, does this hierarchy that you have described hold  
9 true for emissions from internal combustion engines in pipeline  
10 service?

11 A. Yes, it does.

12 Q. For purposes of this matter, Mr. Gomez, have you  
13 evaluated emissions for the pipeline compressor engines at  
14 Panhandle's Glenarm station?

15 A. Yes.

16 Q. Did you prepare a report reflecting your analysis?

17 A. Yes, I did.

18 (Whereupon said document was duly marked for  
19 purposes of identification as Panhandle Exhibit 28  
20 as of this date.)

21 Q. (By Mr. Boyd) I hand you what has been marked as Pan  
22 Exhibit Number 28. It is marked previously with the Bates  
23 numbers Pan 1683 through Pan 1712. Can you identify this  
24 document?

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1 A. Yes. This is a report that I prepared in December of  
2 1999. The title of it is a review of air pollution emission  
3 factors for the quantitative estimation of emissions from  
4 internal combustion compressor engines operated at the Glenarm  
5 compressor station in Sangamon County, Illinois.

6 Q. Can you just describe generally how this document is  
7 organized?

8 A. Generally there is a discussion of an emission source  
9 references or factors that could be used where they come from  
10 like we just got through discussing. There is a -- I guess a  
11 summary of factors that had been identified for the engines at  
12 the Glenarm station. There is a little bit of a discussion of  
13 the ranges of factors that are in -- some of those factors.  
14 There is also discussion about the affect one would see if one  
15 did estimated calculations using the different factors and  
16 analysis of that. And then based on that presentation and

17 review, then I prepared some conclusions and discussions.

18 Q. There are two appendices that are attached to this  
19 report, as well. Could you describe what those are?

20 A. There is appendix A and appendix B. Appendix A is  
21 basically a compilation of what I have referred to as time-based  
22 emission factor analyses. Appendix B is a compilation of what I  
23 have characterized as fuel-based emission factor analyses. And  
24 basically what these tables represent are just my calculations

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1 based on either actual or projected or prorated operating hours  
2 or fuel use, A and B respectively, and the emissions associated  
3 with that operating experience.

4 Q. Let me refer you to pages -- let's first go to Pan 1685  
5 in your report, if you could turn to that.

6 A. Okay.

7 Q. What is described on this page?

8 A. It is a table that summarizes different emission factors  
9 and their reference source that had been identified for the  
10 different types of engines at the Glenarm station.

11 Q. You said had been identified.

12 A. Well --

13 Q. Did you identify them?

14 A. I identified them.

15 Q. Okay. How did you identify those?

16 A. By looking at available information, which would include

17 AP-42 documents, as indicated there, as generally known. The EPA  
18 publishes -- it is an AP-42 document which is, again, a  
19 compilation of emission factors. And from time to time they will  
20 revise the estimates based on new information or -- well, new  
21 information. And so in this table there are several instances  
22 where different versions of AP-42 are sited.

23 There is also indications of some test data that had been  
24 discerned and, again, information received from manufacturers.

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1 So those basic -- there is also another reference document that  
2 is sited also published by the EPA, which is the Alternative  
3 Control Techniques document. Those are the sources of  
4 information that I had identified from which these factors were  
5 used.

6 Q. Just looking at this Pan 1685 for a second, you have a  
7 heading at the top. Could you just go through that for us and  
8 describe what you have explained here?

9 A. The heading row is unit number, description type,  
10 horsepower value, unit of measure, and that's what the UOM stands  
11 for in the reference. The unit number, again, identifies the  
12 specific units as identified at Glenarm, 1101 to 1110, for  
13 example, those units are manufactured by Cooper-Bessemer. The  
14 type is 22. That is why the Cooper-Bessemer 22 is included in  
15 the description. The type of engine is a four cycle rich burn.

16 That is what the CRB stands for. Its rated horsepower is 1,000.  
17 The value, then, of the emission factor is as listed. And as  
18 noted during my research, it ranges from a low of ten grams per  
19 horsepower hour to a high of 17 grams per horsepower hour.

20 Q. For units 1101 through 1110?

21 A. That's correct. And basically the same is indicated by  
22 the other groupings of engines.

23 Q. Okay. The -- if you could turn to Pan 1686 for a second  
24 and describe what is on that page?

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1 A. Okay. The heading -- the actual title of the table is  
2 NOx emission factor references, fuel-based. And, again, in  
3 particular, the AP-42 documents and the revisions of those  
4 documents will include an emission factor reference in various  
5 different units of measure. And this table was trying to  
6 identify emission factor references using the fuel-based emission  
7 reference with the unit of measure of pounds per million cubic  
8 foot of gas burned in these units. Again, it follows the same  
9 format as previously described. The unit numbers are presented,  
10 the description of the units, the type of engine, horsepower, the  
11 value, the published or derived value, for the emission factor,  
12 its unit of measure, and the source of that measure.

13 Q. Does your report contain conclusions regarding which of  
14 these listed emission factors you believe are the most  
15 appropriate for the various groupings of engines?

16 A. Yes, it does.

17 Q. Does your report discuss your conclusions regarding  
18 appropriate emission factors for the retired engines 1101 through  
19 1112?

20 A. Yes.

21 Q. I guess before we get into that, though, are you aware  
22 of whether there had been any stack tests done of those engines?

23 A. I don't believe any have been done.

24 Q. Okay. Do you know whether the IEPA has requested stack

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1 testing of those engines?

2 A. To my knowledge, they have not.

3 Q. Based upon your analysis of the emission factors, do you  
4 have an opinion regarding the most appropriate factor for engines  
5 1101 through 1110?

6 A. Yes, I do.

7 Q. What is your opinion?

8 A. I think the most appropriate time-based factor is 17  
9 grams per horsepower hour.

10 Q. Is that conclusion discussed on Pan 1687?

11 A. Yes.

12 Q. Is it also discussed on Pan 1691 in your conclusions?

13 A. Yes.

14 Q. Why did you conclude that the 17 grams per horsepower



15 hour value was the most appropriate factor to use in  
16 characterizing emissions from engines 1101 through 1110?

17 A. It goes back based upon the hierarchy discussion that we  
18 had earlier. The 17 gram rate basically came from some  
19 documented tests of like engines and, again, consistent with the  
20 EPA guidance that would be the preferred factor to use.

21 Q. Based on your analysis, do you have an opinion regarding  
22 the most appropriate factor for engines 1111 and 1112?

23 A. Yes, I have.

24 Q. And what is your opinion?

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1 A. Again, that the most representative emission factor  
2 would be in units of grams per horsepower hour would be 11 grams  
3 per horsepower hour.

4 Q. That discussion is located on Pan 1687 and again under  
5 the conclusions and discussion on Pan 1691?

6 A. That's correct.

7 Q. Why do you think the 11 gram per horsepower hour factor  
8 best describes emissions from engines 1111 through 1112?

9 A. The basis of that also was basically derived from  
10 available test data of like engines.

11 Q. For engines 1101 through 1112, did you also evaluate  
12 fuel-based emissions factors as well as time-based factors?

13 A. Yes, I did.

14 Q. How did you do that?

15           A.   Well, again, if one refers back to table two, where  
16 those factors were summarized, and then also in -- there is a  
17 discussion, I guess, of the affect of the fuel-based factors.  
18 That begins on page Pan 1689, and then that is supplemented by  
19 the appendix B, which summarizes that discussion and illustrates,  
20 I guess, the results of those estimates.

21           Q.   Mr. Gomez, earlier you talked about an emission limit  
22 for engines 1116 through 1119 about 461 tons per year. Do you  
23 recall that?

24           A.   Yes.

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1           Q.   Do you know how that 461 point -- that 461 or so  
2 emissions level was determined?

3           A.   Yes, I do.

4           Q.   Can you describe that?

5           A.   Well, briefly, I believe the IEPA used a fuel-based  
6 emission factor that was published at that time during the late  
7 1987 time period. That factor was 3,400 pounds per million cubic  
8 foot. And they used that factor with a one hour -- excuse me --  
9 a one year average operating experience to come up with a  
10 baseline emissions for units to be replaced. And then to that  
11 they added 39 tons, roughly, above which or at which there would  
12 not be a PSD issue.

13           (Whereupon said document was duly marked for

14 purposes of identification as Panhandle Exhibit 29  
15 as of this date.)

16 Q. (By Mr. Boyd) Okay. Let me show you what has been  
17 marked as Pan Exhibit Number 29. It is also marked Bates numbers  
18 Pan 1720 through 1721.

19 A. Okay.

20 Q. Could you tell us what this is?

21 A. Well, it is two pages from the compilation of air  
22 pollution emission factors. The first page is basically the  
23 title page of the fourth edition of AP-42, and one can determine  
24 that this was published in September of 1985, according to the

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1 upper date. The second page is table 3.2-1, entitled emission  
2 factors for heavy-duty natural gas fired pipeline compressor  
3 engines, which is an excerpt from this AP-42 document. And  
4 when -- well, so all of the emission factors for these types of  
5 engines in this service are indicated on this table.

6 Q. Is this the version of AP-42 that was available in 1988  
7 when the construction permit for engines 1116 through 1119 was  
8 issued by the IEPA?

9 A. I believe that it was.

10 Q. Does this table 3.2-1 contain the emission factor that  
11 was used by the Agency?

12 A. Yes. If one looks at the tables, there is basically two  
13 groupings, reciprocating engines and gas turbines. And under

14 reciprocating engines, under that heading, there is different  
15 units of measure including the pound per ten to the sixth SCF,  
16 which would be used as pounds per million cubic feet. Under the  
17 NOx column, there is a value of 3,400.

18 Q. Does this table contain both fuel-based and time-based  
19 emission factors for reciprocating engines?

20 A. Yes, it does, and it also contains other units of  
21 measure that could be used.

22 Q. How does your opinion regarding the appropriate emission  
23 factors for engines 1101 through 1112 compare to the factors used  
24 by the Agency in 1988 in establishing the permit limit?

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1 A. Well, it is different. I am sorry. It is different.  
2 The opinion that is presented in my December of 1999 report,  
3 again, is based on the most -- what I consider to be the most  
4 accurate representation of emissions based on the information  
5 that is available today.

6 Q. Well, let me ask you, as part of your analysis did you  
7 also determine or evaluate emissions factors for existing engines  
8 1116 through 1119?

9 A. Yes, for the December report.

10 Q. Yes, for this Pan Exhibit Number 28, the December of  
11 1999 report?

12 A. Yes.

13 Q. Okay. Before we get into those emissions factors, are  
14 you aware if there has been any emission testing done of engines  
15 1116 through 1119?

16 A. I am not aware of any testing that has been done for  
17 those engines.

18 Q. Are you aware of whether the IEPA ever required emission  
19 testing for those engines?

20 A. I am not aware that they required such testing.

21 Q. Okay. Based on your analysis of the emission factor  
22 information, do have you opinion regarding the most appropriate  
23 factor for engines 1116 through 1117?

24 A. Yes, I do.

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1 Q. What is your opinion?

2 A. I believe that 11 grams per horsepower hour most  
3 accurately represents the emission rate from 1116 and 1117.

4 Q. If I refer you to pages Pan 1687 and Pan 1691 that  
5 describes your analysis in relation to those engines?

6 A. Yes, they do.

7 Q. Why do you think the 11 grams per horsepower hour level  
8 best represents emissions from those two engines?

9 A. Again, it is derived from some test data that was found  
10 in a document, a reference document published by the American Gas  
11 Association for like engine.

12 Q. Based upon your analysis, do you have an opinion

13 regarding the most appropriate factor for engines 1118 and 1119?

14 A. Yes, I do.

15 Q. What is your opinion?

16 A. That the factor of 4.5 grams per horsepower hour would  
17 be the best characterization of NOx emissions from those two  
18 units.

19 Q. Again, is your discussion of that subject listed on page  
20 Pan 1687 and Pan 1691?

21 A. Yes, it is.

22 Q. What is the basis of your conclusion that 4.5 grams per  
23 horsepower hour emission factor is the best factor to use?

24 A. Well, it is basically a conclusion based on what

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1 information I had which included vendor information, manufacturer  
2 information, which included referencing the BACT document and --  
3 well, those two specifically.

4 Q. Why is your opinion in relation to engines 1116 and 1117  
5 different from your opinion regarding the appropriate emission  
6 factor for 1118 and 1119?

7 A. Why is the emission factor different?

8 Q. Why is it different, yes?

9 A. Well, again, 18 and 19, or 1118 and 1119, are the ones  
10 that include the clean burn configuration. And, therefore, would  
11 have less emissions associated with their operation.

12 Q. Okay. Your report not only discusses which emission  
13 factors are most appropriate, but you also estimate emissions  
14 from the existing and retired units using those emission factors.  
15 What was the purpose of that analysis?

16 A. Basically to illustrate the variation of the emissions  
17 that one can derive using different emissions factors over the  
18 recorded operating experience or in one instance what I did was  
19 project what would have been the operating experience had the  
20 engines 1101 through 1112 not been replaced.

21 Q. Let me refer you to Pan 1688 through 1691, which is part  
22 of Pan Exhibit Number 28. What are you describing on those  
23 pages?

24 A. Basically these pages describe this comparative analysis

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1 of different emission factors using the time-based emission  
2 references for those units.

3 Q. Then you also discuss the effect of using fuel-based NOx  
4 emission factors; is that correct?

5 A. That is correct, yes.

6 Q. Why did you calculate emissions using both the  
7 time-based and the fuel-based emissions factors?

8 A. Just to illustrate that they are different.

9 Q. Okay. What information do you need to calculate  
10 emissions based on the time-based emission factors?

11 A. Well, you need the emission factor. You need the

12 operating experience or in this case the run time or the hours of  
13 operation. And you would need the rated horsepower of the unit.

14 Q. Let me refer you to Pan 1704, which, again, is in your  
15 report and has been marked Pan Exhibit Number 28. Do you see  
16 that page?

17 A. Yes.

18 Q. What is described on this page?

19 A. It basically summarizes the actual run time experience  
20 for specific units where that is available or in certain -- for  
21 certain units in certain years there is some projected run time.

22 Q. What is the source of the information on run time for  
23 engines 1116 through 1119 for the years 1989 through 1998?

24 A. That came from Panhandle Eastern.

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1 Q. Okay. How did you calculate the projected run time for  
2 engines 1101 through 1112 for years 1989 through 1998?

3 A. Basically what one is to consider is, first of all,  
4 these units during that time period, 1989 through 1998,  
5 weren't -- they did not operate. But what we do know is the  
6 actual operating experience of the units that were present. And  
7 that gives us a total horsepower hour for those -- of that  
8 operating experience. A subset -- if you look at that specific  
9 page and there is a -- there is a run time and total horsepower  
10 hours for 16 through 19. If one uses that total horsepower and



11 then based on the rated horsepower of 1101 through 1112, one  
12 could prorate the same -- or what the hours would have to be to  
13 come up with the same total for 16 through 19. That is basically  
14 what I did, was go through that and see what would run and do a  
15 proration to where I got the same number of total horsepower  
16 hours. And that is basically what I did across the board for  
17 this run time projection.

18 Q. Why did you do that for engines 1101 through 1112?

19 A. Again, I did that to illustrate had the units not been  
20 replaced, but the demand would have been equivalent to the actual  
21 experience that was recorded, that would be used -- the run time,  
22 then, the projected run time that is illustrated there would be  
23 used in the calculations that are presented in the previous  
24 tables to estimate emissions for that time period.

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1 Q. You also said that you calculated emissions based on  
2 fuel-based emission factors. What information do you need to  
3 calculate emissions based on those fuel-based emissions factor?

4 A. Again, you need an emission factor, which is going to be  
5 in units of pounds per million cubic foot, and then you need the  
6 fuel usage in -- or ultimately converted into million cubic feet  
7 per unit again for each year.

8 Q. Where did you get the information on fuel usage for the  
9 engines?

10 A. From Panhandle Eastern.

11 Q. Let me refer you to Pan 1712.

12 A. Okay.

13 Q. What is that document?

14 A. It is a summary of recorded or prorated fuel use for  
15 specific units as based on operation in specific years and also  
16 includes what would have been the prorated fuel use for units  
17 1101 through 12 when they were not operating had they operated  
18 instead of 16 through 19.

19 MR. LAYMAN: I am sorry to interrupt. Could you tell me  
20 what page you are referring to again?

21 MR. BOYD: Pan 1712.

22 MR. LAYMAN: 1712.

23 Q. (By Mr. Boyd) Mr. Gomez, how did you prorate the actual  
24 fuel use for engines 1113 through 1119 on this page?

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1 A. 1103 to 1109?

2 Q. No, 1113.

3 A. Oh, I am sorry. 1113 to 1119?

4 Q. Yes.

5 A. Okay. If one looks at the -- basically, I used the run  
6 time and the horsepower for those specific units. Each unit  
7 would have total horsepower hours. The total of all of that then  
8 would be used to develop a percentage of how much the unit  
9 operated. That percentage was applied to the total amount of

10 fuel that was metered or consumed for that station. And if you  
11 look at the top row below the borderline, it says total station  
12 fuel, that is the value that is recorded at least at the time. I  
13 am not sure now. But at the time individual units did not have  
14 fuel meters. So the best way to estimate emissions or estimate  
15 fuel consumption per unit was to go through that proration  
16 process and come up with a percentage and then apply that to the  
17 metered fuel flow for the station for that year.

18 Q. For units 1101 through 1112, how did you determine  
19 projected fuel use for those engines?

20 A. Basically a similar process that was described on the  
21 time-based. I took the estimated amount of fuel consumption for  
22 16 through 19, and through a deriving process, as I explained  
23 before, came up with an estimated amount of fuel consumption for  
24 units 1 through 12.

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1 Q. Based on your analysis did you calculate annual  
2 emissions from the engines?

3 A. Yes. This -- again, this provides fuel consumption both  
4 as recorded from actual operation and as projected, had the units  
5 not been replaced. That fuel flow is an element that is required  
6 for determination of estimated emissions using the fuel-based  
7 emission factors.

8 Q. You calculated emissions using both the time-based as  
9 well as the fuel-based emission factors, is that correct?

10 A. That's correct.

11 Q. Let's go back to the time-based for just a second. I am  
12 going to refer you to Pan 1702.

13 A. Okay.

14 Q. What is described on this page?

15 A. Basically it is a summary of estimated NOx emissions in  
16 tons per year using different emission factors for the different  
17 engines based on either recorded or projected run time for years  
18 1985 through 1998.

19 Q. On emissions factors -- well, you have a various series  
20 here, series one through series six?

21 A. Right.

22 Q. Can you describe what those are?

23 A. Well, basically series one summarizes the units that  
24 were replaced, 1101, through 1112. And the emission factor that

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1 is associated with that series is the factor that I have proposed  
2 is the more reliable, the best one to use.

3 Q. The 17 grams per horsepower hour for 1101 through 1110  
4 and 11 grams for 1111 and 1112?

5 A. That's correct.

6 Q. Okay.

7 A. And, again, using those emission factors and the run  
8 time that was recorded for 1985 through 1988 and then as

9 projected from 1989 through 1998, estimates of emissions were  
10 derived and similarly, with each subsequent series, what each  
11 subsequent series does is provide a different narration, if you  
12 will, or combination of emission factors for the same set of  
13 engines, 1116 through 19. And one could go through there and  
14 determine what the reference is, what the rate associated with  
15 that emission factor was and what the corresponding calculated or  
16 estimated emission would be.

17 Q. Which series describes or uses the emission factors that  
18 you believe are most appropriate for engines 1116 through 1119?

19 A. In this table that we are looking at, series four --

20 Q. So -- I am sorry. Go ahead.

21 A. Which indicates an emission factor of 11 grams per  
22 horsepower hour for 1116 and 1117, and 4.5 grams per horsepower  
23 hour for units 1118 and 19.

24 Q. Let's go back to the top for just a second. Can you

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1 describe how you calculated emissions for engines 1101 through  
2 1112 using those emission factors for the years the engines  
3 actually operated, 1985 to 1988?

4 A. Basically you are taking -- the unit is grams per  
5 horsepower hour and in order to get the tons per year, which is  
6 represented in those individual columns, you are going to take  
7 the grams per horsepower hour conversion factor from grams to  
8 pounds, and then -- which would give you the pounds per

9 horsepower hour. You know the rated horsepower of that, and then  
10 you would divide that by the 2000 pounds per ton to come up with  
11 this estimate.

12 Q. Can you describe how you calculated the emissions for  
13 engines 1101 through 1112 using the emissions factors for the  
14 years 1989 through 1998?

15 A. Yes, the same process. One thing not mentioned -- I am  
16 sorry -- was the run time. Obviously, you need the run time in  
17 there. The run time that was used in 1985 through 1988 was the  
18 actual run time that they had for the units. The run time that  
19 was used in 1989 through 1998 is the projected run time that was  
20 represented in another table that we discussed earlier.

21 Q. Okay. Can you describe how the series four shows how  
22 you calculated emissions for engines 1116 through 1119?

23 A. It is the same process. Basically you are taking your  
24 emission factor, grams per horsepower hour, you are converting

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1 the grams to pounds, and using your run time that you have  
2 recorded for those specific years, and then your conversion from  
3 pounds to tons.

4 Q. How did those calculated emissions in series four  
5 compare with the estimate of emissions for engines 1101 through  
6 1112 for the same time period, 1989 through 1988?

7 A. In most instances they are significantly lower.

8 Q. Let's look at 1989, for instance. How much greater  
9 would the NOx emissions have been in 1989 if Panhandle continued  
10 to use engines 1101 through 1112 instead of replacing them with  
11 engines 1116 through 1119?

12 A. Approximately 300 tons more.

13 Q. How about in 1998, the other side?

14 A. Approximately 350 tons or so.

15 Q. Right on the left center of the document, right under  
16 series one, there is a line that says 1985-1986, AVG. And below  
17 that it says CAP. Can you describe what those are?

18 A. The 1985-1986 AVG, an abbreviation for average, if one  
19 looks at the total emissions for -- in the 1985 column and the  
20 1986 column, and averaged those two totals, one would get the 756  
21 plus tons per year. So that 756 plus tons per year represents an  
22 average of the 1985 and 1986 totals. The cap refers to what  
23 would be an emissions cap. If you add 39.9 tons to the 1985-1986  
24 average, which then would be 796.33 tons of NOx.

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1 Q. Are there any years presented in series four when the  
2 emissions from engines 1116 through 1119 using those emission  
3 factors exceeded that cap of 796.33?

4 A. It looks like in 1996 there was an exceedance.

5 Q. What significance is that to you?

6 A. It has not any significance to me.

7 Q. Okay. Regardless of the emissions factor used for

8 engines 1101 through 1112, would the NOx emissions from engines  
9 1101 through 1112 always have been greater than the NOx emissions  
10 from 1116 through 1119 if you use the series four numbers?

11 A. I am sorry. Would you repeat that again?

12 Q. If you use the series four emissions factors to  
13 determine emissions for 1116 through 1119 --

14 A. Uh-huh.

15 Q. -- would the emissions from engines 1101 through 1112,  
16 regardless of the emission factor that you used, always have been  
17 greater than the emissions listed in the series four?

18 A. I believe so.

19 Q. Regardless of the emissions factors used for engines  
20 1116 through 1119, in series two through six on this page, were  
21 the emissions from engines 1116 through 1119 always above 461.3  
22 tons per year?

23 A. I think so.

24 Q. Okay. Let me refer you to Pan 1710. Well, actually

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1 strike that. Go to Pan 1703, which is right behind what we were  
2 just looking at.

3 A. Okay.

4 Q. Just tell us, what is that page?

5 A. It is a graphical representation of the emissions, which  
6 if you have a black and white copy it is difficult to discern.



7 The original report included color coding for each column.

8 Q. Okay. Go to page 1710, then.

9 A. Okay.

10 Q. What is this page?

11 A. Okay. This is a similar table as we discussed, just  
12 discussed, but based on fuel-based emission factors.

13 Q. Is it fair to say that this page does what page 1702  
14 did, only using emissions factors based on fuel-based emission  
15 factors rather than time-based emission factors?

16 A. That's correct.

17 Q. Are the emissions factors used in series one emission  
18 factors you believe are most appropriate for engines 1101 through  
19 1112 as expressed in fuel-based factors?

20 A. Yes.

21 Q. Can you describe how you calculated emissions for  
22 engines 1101 through 1112 using those fuel-based emission factors  
23 for the years the engines actually operated, 1985 through 1988?

24 A. Again, we had fuel prorated -- or fuel use from actual

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1 records, and fuel use was used in combination with the fuel  
2 factor here of 3,069 pounds per million cubic feet and converted  
3 that into tons to get the values represented in columns 1985  
4 through 1988.

5 Q. Okay. Can you describe how you calculated emissions for  
6 engines 1101 through 1112 using emission factors during the years

7 1989 through 1988?

8 A. Again, in earlier discussion we reviewed how prorated  
9 fuel use was derived for those years, and that included in the  
10 table identified as Pan 1712, that fuel use prorated projected  
11 fuel use was used in the same fashion to come up with estimated  
12 emissions for those years.

13 Q. Now, which series on this page represents the emissions  
14 factors you believe are most appropriate for engines 1116 through  
15 1119 using the fuel-based emission factor?

16 A. Series five.

17 Q. Can you describe how series five shows how you  
18 calculated emissions for engines 1116 through 1119 using those  
19 emission factors for the years the engines actually operated from  
20 1989 to 1998?

21 A. Again, we have actual fuel use for those engines and we  
22 have the preferred emission factor of 2,700 for 1116 and 1117 and  
23 1,402 pounds per million cubic feet for 1118 and 1119. Those  
24 respective emission factors were then applied to the actual

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1 prorated fuel consumption for those units for those years  
2 converted into tons.

3 Q. How did the emissions for engines 1116 through 1119, in  
4 series five, compare to the emissions for the same period of time  
5 in series one?

6           A.    It looks like to be generally lower except for one  
7 instance, I think.

8           Q.    Now, in the middle of the page, just like on the other  
9 pages that we are talking about, there is a 1985-1986 average and  
10 cap. Did you use the same process to determine average and a  
11 capital on this page as you did for Pan 1702?

12          A.    Yes, I did.

13          Q.    Okay. Looking at series five again, are there any years  
14 when the emissions from engines 1116 through 1119 exceeded that  
15 derived cap?

16          A.    There is two years, 1995, 1996. It looks like 1995. My  
17 copy is a little bit blurred, but it looks like it is 06-85  
18 and -- I am sorry. Yes, that is 1995. And also 1996 is greater  
19 than the indicated cap.

20          Q.    What is the significance to you that your calculated  
21 emissions for 1995 and 1996 were greater than that cap?

22          A.    I don't have any. I don't think it is that significant.

23          MR. BOYD: At this time I would like to move for the  
24 admission of Pan Exhibit 28 and Pan Exhibit 29.

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1           HEARING OFFICER KNITTLE: Mr. Layman, Exhibit 28?

2           MR. LAYMAN: No objection.

3           HEARING OFFICER KNITTLE: That is admitted.

4           (Whereupon said document was duly admitted into  
5 evidence as Panhandle Exhibit 28 as of this date.)

6 HEARING OFFICER KNITTLE: Exhibit 29?

7 MR. LAYMAN: The same. No objection.

8 HEARING OFFICER KNITTLE: That is admitted as well.

9 (Whereupon said document was duly admitted into  
10 evidence as Panhandle Exhibit 29 as of this date.)

11 Q. (By Mr. Boyd) Let's change gears for a minute. As a  
12 result of your education and experience, have you become familiar  
13 with the requirements to control emissions from sources of air  
14 pollution?

15 A. Yes.

16 Q. Can you briefly describe your understanding of control  
17 requirements for new sources or modifications of existing  
18 sources?

19 A. I think I can. Generally new sources or modifications  
20 of new sources may be required to control emissions to varying  
21 degrees of control based on the amount of emissions and their  
22 location of emissions.

23 Q. Do you know what BACT is?

24 A. Yes, I do.

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1 Q. What is BACT?

2 A. It is an acronym for best available control technology,  
3 and in the context of a permitting or modifications of new source  
4 review, typically is associated with -- more often associated

5 with PSD type of permits where the best available control  
6 technology is a prerequisite for -- or an inclusion of BACT is a  
7 prerequisite for approval of a PSD permit. Some states require  
8 BACT as a normal course during their permitting review regardless  
9 of PSD or not.

10 Q. How is BACT determined?

11 A. The EPA has published a document, a guideline document.  
12 I believe October of 1990 is the reference date. A guideline  
13 document has not been published since or actually revised since.  
14 But in that document it includes a procedure to follow, a  
15 recommended procedure to follow in order to ascertain or to  
16 develop best available control technology for a specific  
17 application. It is also referred to as a top-down review  
18 process.

19 Q. Can you really briefly describe that top-down process?

20 A. Basically, it requires the applicant to identify all  
21 potentially available control techniques and go through a process  
22 of elimination from the most amount of control, regardless of  
23 cost, if you will, to review what impacts that would have on  
24 reducing emissions and what impact it would have to incidental

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1 emissions because of the type of technology used or whatever, the  
2 use on environment -- I mean the affect on environment, the  
3 affect on energy consumption. And then also it provides for a  
4 cost analysis benefit ratio or benefit analysis to be done.

5           One goes through a determination to identify, again,  
6 through the hierarchy which ones are available and which ones are  
7 not. It basically drives the applicant to use the best available  
8 and requires the applicant to thoroughly justify why a particular  
9 technology is not used.

10         Q.    Is it fair to say that what is BACT for a particular  
11 type of equipment may change over time?

12         A.    Oh, yes.

13         Q.    Is the same general approach you just described for  
14 determining what is BACT apply to BACT determinations for  
15 internal combustion engines in pipeline service?

16         A.    Yes.

17         Q.    As part of your work on this project have you analyzed  
18 the existing controls on engines 1118 and 1119 at the Glenarm  
19 station?

20         A.    Yes, I have.

21         Q.    When did you do that?

22         A.    I guess the first time was in the development of the  
23 1987 and then subsequent revisions of the 1987 application. My  
24 direction, my understanding was that what the IEPA was looking

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1 for was some type of BACT review.

2         Q.    You are talking about the 1997 application?

3         A.    Yes.

4 Q. Not the 1987? You said 1987.

5 A. I am sorry. I meant 1997.

6 Q. Okay.

7 A. And so that type of review was included as an element of  
8 the applications at that point in time. I guess a more  
9 traditional BACT analysis was performed as part of the permit --  
10 the PSD permit application that was submitted in 1999.

11 Q. How did you conduct your informal control technology  
12 analysis?

13 A. Very similar to what was recommended in the EPA  
14 protocol. Basically reviewing available databases, EPA  
15 databases, information from other state agencies regarding the  
16 types of controls that had been used historically for those types  
17 of applications.

18 Q. Did you do the same type of analysis when you did your  
19 PSD BACT analysis for part of the September of 1999 application?

20 A. The same type of analysis but a little bit more thorough  
21 to ensure that all of the elements of that protocol were  
22 followed.

23 Q. As a result of that work did you develop an opinion  
24 regarding whether the existing controls on engines 1118 and 1119

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1 are BACT?

2 A. Yes, I did.

3 Q. What is your opinion?

4           A.    Well, based on my initial analysis, 1118 and 19, the  
5 controls that are there, the level of control that was there  
6 is -- I would consider to be BACT during the time that the units  
7 were first installed.

8           Q.    So for the level of control on engines 1118 through 1119  
9 it was a BACT level of control in 1988?

10          A.    I believe so.

11          Q.    Did you form an opinion as to whether that level of  
12 control is considered BACT today?

13          A.    Yes, I did formulate an opinion.

14          Q.    What is your opinion?

15          A.    That it is not.

16          Q.    What is that based on?

17          A.    Again, the development of the technology over time, and  
18 the demonstration of being able to achieve lower emission with  
19 that same type of generic technology, clean burn technology. So  
20 given those units today, if they were being permitted either in a  
21 modification or a Greenfield type context, lower emissions would  
22 be required.

23          Q.    As part of the 1999 permit application process, what  
24 level of control did you determine to be a BACT level of control

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1 for engines 1118 and 1119?

2           A.    I believe it was two grams per horsepower hour for NOx.



3 Q. What additional work would need to be done on those  
4 engines to achieve that BACT level of control today?

5 A. The Cooper or similar contractor would probably have to  
6 go in and make some modifications to the combustion configuration  
7 or maybe replace some internals in order to achieve the  
8 combustion efficiencies that are required for the lower emission  
9 rates.

10 Q. To your knowledge, has the IEPA taken any action on the  
11 1999 permit application?

12 A. I am not aware that they have.

13 Q. Do you have any reason to believe the IEPA may disagree  
14 with your conclusion regarding the level of control that is a  
15 BACT level of control today for engines 1118 and 1119?

16 A. I don't have any information that would suggest that.

17 Q. Was the level of control that was proposed for engines  
18 1118 and 1119 in the 1997 permit application context different  
19 than the level of control proposed for those engines in the 1999  
20 permit application?

21 A. Yes.

22 Q. Why was that?

23 A. Well, what was being presented early on in the 1997  
24 context essentially was an effort to avoid PSD. And developing a

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1 PSD avoidance permit would mean establishing a baseline,  
2 determining what the cap would be and then presenting emissions

3 that would be below that cap. The emission estimates that were  
4 being developed in that context for 1118 and 19 as well as 16 and  
5 17 were done again to achieve estimated emissions below this cap  
6 level. And it was -- by looking at the expected operations for  
7 those units, essentially calculations were done and said, well,  
8 if we use this emission factor of say four or four and a half or  
9 six grams, depending on the unit, one would still be able to  
10 demonstrate compliance below a revised cap. So that was the  
11 basic development of the application at the time.

12 Q. Was there any difference between the actual control  
13 being proposed, as opposed to the control level in the 1997  
14 versus 1999 permit application?

15 A. Not really. Clean burn is clean burn. It would just  
16 essentially be the same.

17 Q. As part of your work have you also analyzed potential  
18 controls available for engines 1116 and 1117?

19 A. Yes.

20 Q. When did you do that?

21 A. Well, there were some control technology considerations  
22 included in the 1997 application documents and, again,  
23 subsequently there was further refinements when the PSD  
24 application was prepared and submitted.

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1 Q. For both those purposes did you follow that analysis in

2 the 1990 guidance from the U.S. EPA?

3 A. Again, generally the guidance was followed for the  
4 development of the 1997 document. Again, it was not complete in  
5 the context of as required by full PSD permits. So there was  
6 more adherence to the procedures protocols in the later submittal  
7 for the PSD application.

8 Q. Was the level of control for engines 1116 and 1117  
9 proposed in the 1997 permit application a BACT level of control?

10 A. In the context of the EPA guidance document, no.

11 Q. Why not?

12 A. Well, one, the BACT level of control was not required in  
13 that application. And primarily because what was being prepared  
14 was a PSD avoidance application. As summarized earlier, the  
15 process involved there, again, was just identifying what the cap  
16 was and demonstrating emissions that could be achieved or run and  
17 achieved at or below the cap.

18 Q. As part of the 1999 permit application, what did you --  
19 strike that.

20 As part of the 1999 application, what control equipment did  
21 you determine to be BACT for engines 1116 and 1117?

22 A. Clean burn technology or low emission combustion  
23 technology.

24 Q. And what level of control did you determine to be BACT

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1 at that time?

2           A.    I believe it was that we were proposing two grams per  
3 horsepower hour for NOx.

4           Q.    Do you have any reason to think that the IEPA may have a  
5 basis for disagreeing with your conclusion that the control and  
6 level of control proposed in the 1999 permit application for  
7 engines 1116 and 1117 are BACT today?

8           A.    I don't have any reason to believe that they have any  
9 disagreement with that.

10          Q.    You have not heard from the Agency one way or the other?

11          A.    No, I have not.

12          MR. BOYD: Okay. Just one second. That's all I have for  
13 this witness.

14          HEARING OFFICER KNITTLE: Okay. Let's go off the record  
15 for a second.

16                (Discussion off the record.)

17          HEARING OFFICER KNITTLE: Okay. We will take a short  
18 break.

19                (Whereupon a short recess was taken.)

20          HEARING OFFICER KNITTLE: All right. We are back on the  
21 record after a short recess.

22                Sir, let me remind you that you are still under oath.

23                We are going to start again with the cross-examination of  
24 this witness.

1 MR. LAYMAN: Thank you.

2 CROSS EXAMINATION

3 BY MR. LAYMAN:

4 Q. Mr. Gomez, I have just a couple of things from the start  
5 with respect to your report, which is exhibit -- I trust you have  
6 it before you, Exhibit 28, Panhandle Exhibit Number 28.  
7 Beginning with I guess appendix A, Pan 1694, where you first  
8 depicted emissions for the various compressor engines at the  
9 facility, based on, I guess that is what you would refer to as  
10 time-based emission factors; is that correct?

11 A. Yes.

12 Q. As you go through the pages of those time-based factors  
13 and you compare 1694 with a subsequent page, 1696, is it fair to  
14 say that the only thing that is changing in your calculations are  
15 the emission estimates for the retired units 1101 through 1112?

16 A. That's correct.

17 Q. Okay. So the emissions that are depicted in your  
18 calculation of series two through series six remain the same  
19 throughout each of these pages, right?

20 A. That is correct.

21 Q. Then you undertook the same approach with respect to the  
22 fuel-based emission data that you created later in your report;  
23 is that correct?

24 A. That's correct.

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1 Q. Okay. Just a couple of things while we are on the same  
2 page, and within the context of the report, again at Pan 1694,  
3 the series two reference you have running across there, there is  
4 a reference, and I apologize that I couldn't find the specific  
5 reference in the narrative portion of your report. Or at least I  
6 couldn't find it defined. The reference to PCC with respect to  
7 1118 and 1119. Can you tell us what that is referring to?

8 A. It is basically the same type of control technology as  
9 represented by clean burn. Clean burn is the trade name that is  
10 used for the precombustion chamber, PCC technology.

11 Q. Okay.

12 A. Clean burn is a trade name that is used by Cooper.

13 Q. A trade name used by a specific manufacturer or --

14 A. Cooper.

15 Q. Cooper. Okay. Thus, the difference between the PCC and  
16 the clean burn depicted in series three, then, is simply a  
17 different manufacturer?

18 A. It is the basic same technology but a different --  
19 right, a different type of configuration perhaps. Again, these  
20 are all characterized as -- maybe characterized as lean burn  
21 control technologies, which is used as a more generic type.

22 Q. Okay.

23 A. There are some variations and that is illustrated by the  
24 different emissions factors that have been posted for each.

1 Q. Okay. You had also indicated in your testimony today  
2 that with respect to the retired compressor engines, 1101 through  
3 I think 1110, that the more appropriate emission factor to be  
4 used for those engines would be 17 grams per horsepower hour; is  
5 that correct?

6 A. That's what this report says, yes.

7 Q. Do you recall giving testimony before the Pollution  
8 Control Board in the permit appeal proceeding?

9 A. I recall testifying before, yes.

10 Q. Would it be fair to say at that time your preferred  
11 selection of emission factors for those retired units, 1101  
12 through 1110, was 15 grams per horsepower hour?

13 A. I recall indicating a range of 15 to 7 but also  
14 commenting on 15 grams as well.

15 Q. Okay. The 17 grams per horsepower hour is a factor  
16 derived from testing from similar units; is that right?

17 A. That's correct.

18 Q. Were you aware at the time of the permit appeal  
19 proceeding of that 17 gram per horsepower estimate?

20 A. Yes.

21 Q. Okay. Could you tell us, and I apologize if I make you  
22 restate the rationale that you may have used earlier under  
23 direct, but why have you determined that the 17 gram per  
24 horsepower hour is more appropriate as opposed to the 15 gram

1 estimate that you had discussed in the earlier proceeding?

2 A. Well, again, the context of the earlier proceeding, as I  
3 recall, was in response to the denial of the permit action. And  
4 I think basically testimony was limited to information that had  
5 been presented up to that point in time, to the denial itself.  
6 The information that is basically included in the conclusions  
7 that are included in my report, were generated with further  
8 development of information that I had access to but had not,  
9 again, put into the context of a complete report.

10 There was no limit to -- basically, there is no -- I was  
11 somewhat constrained, if you will, in how to characterize the 17  
12 gram. Even though I had that information, what had been  
13 presented to the Agency before in the context of the permit  
14 revision, I think in December of 1997, was a 15 gram level.  
15 There was a question about where did that come from. And we had  
16 some information from Cooper. And what I was able to do during  
17 the testimony that I provided, again, in the denial hearing was  
18 to reference the information that I had access to at about that  
19 time which, again, provided the range.

20 Q. Okay. So could you tell us why it was, then, the 17  
21 gram per horsepower hour estimate was found to be -- subsequently  
22 found to be more appropriate by you than the 15 grams per  
23 horsepower hour?

24 A. Again, there was -- the type of engine that we are



1 talking about, the 1 through 10 is a four cycle rich burn. There  
2 were additional factors. Like the ACT document had an emission  
3 factor of 16, which is greater than. There were the test data  
4 that different tests points, I guess, or emission, discrete  
5 emission values that were reviewed from the Louisiana operation  
6 had ranges greater than 17. But this, again, to me represented,  
7 based on the context of that actual test data plus some other  
8 reference in the ACT document, a higher range than 15 and I --

9 Q. And -- I am sorry.

10 A. I was going to say that I was comfortable with the test  
11 data that was recent -- from the recent application or situation  
12 in Louisiana to go with that 17 gram factor.

13 Q. Okay. The test data was based on the testing of similar  
14 lean burn types of engines?

15 A. Right. Well, it is not -- again, we are talking about  
16 the Cooper engines, the replaced engines, which at Glenarm are  
17 the Cooper type 22 and the similar type of engine from which the  
18 data was derived to come up with the 17 gram was a Cooper type  
19 24. Documentation from Cooper indicates that they are  
20 essentially the same type of unit. And they are four cycle rich  
21 burn engines, both of those.

22 Q. Okay.

23 A. They don't have any controls.

24 Q. What is the difference, other than the designation of

1 the type of unit, 22 versus 24?

2 A. I think it basically has to do with the length of the  
3 piston or stroke or something like that.

4 Q. Okay. Thank you. You indicate in your report, I  
5 believe, in the conclusions that you made in the report that no  
6 direct comparison between time-based and fuel-based factors can  
7 be made?

8 A. That's correct.

9 Q. No direct comparison between the emission estimates that  
10 you derived can be made. Why is that?

11 A. Again, when one deals with fuel-based emission factors,  
12 again, one has to consider that you have a rated fuel consumption  
13 value for each unit, which is typically expressed in BTUs per  
14 horsepower hour. Variations will occur that affect that fuel  
15 consumption rate in the normal operation. It may not be fully  
16 loaded. For example, the engine may not be operating at peak or  
17 normal rated capacity, which would affect how much gas or how it  
18 consumes that gas.

19 Q. Okay.

20 A. So even though you have a posted rating and, you know,  
21 depending on the load it may not consume that amount of gas. The  
22 heat value of the gas, the IEPA as well as preparation of the  
23 application, we used an assume heat value of 1,000 BTUs per  
24 standard cubic foot. And as indicated in the EPA references,

1 when they provide a pounds per million BTU emission rate, there  
2 is footnotes in there that indicate that it assumes an average  
3 heat -- or a fuel consumption value of I think 7,000 some odd  
4 BTUs and it assumes a heat value of the gas of 1,050.

5           Depending on where you are, where one is in a given supply  
6 area, the heat value of gas may range from 1,000 or below 1,000  
7 to 1,050 or 1,030. So there are those variations all combined  
8 which, you know, if you can take that and come up with a  
9 calculated emission rate using a fuel factor. But if you go to a  
10 grams per horsepower hour rate, you can't automatically just make  
11 that conversion. One would expect to have variations. You can't  
12 really compare apples and oranges.

13           Q. Right.

14           A. You can compare the oranges to themselves, if you will,  
15 and that is basically the reason for the analysis.

16           Q. You mentioned the engine load and you mentioned fuel  
17 heat factors. Are the fuel consumption rates another variable?

18           A. Yes.

19           Q. Okay. Could you explain a little bit what is --

20           A. Well, again, the fuel consumption rate is the -- it is  
21 similar to the horsepower, if you will. In the -- I believe in  
22 the instance of -- of the 1101 to 1112, it is indicated in the  
23 report that the rated fuel consumption value was like 12,200  
24 and -- let's see. (The witness reviewing documents.) I am sorry.

1 It was 13,000 BTUs per horsepower hour.

2 Q. Why is that something that would be considered a  
3 variable?

4 A. Well, depending on how many BTUs there are in the gas  
5 that you burn, that would be how that would be affected.

6 Q. Okay.

7 A. So, obviously, the direct variable would be the heat  
8 content of the fuel.

9 Q. If those variables were something that could be known at  
10 a particular point in time, would you expect the emissions  
11 derived from a fuel-based emission factor to approximate  
12 emissions calculated based on a time --

13 A. I wouldn't.

14 Q. On a time value?

15 A. I wouldn't. I think what -- just, again, what I have  
16 seen is that all things being -- if your question, as I  
17 understand it, is if you have all things constant --

18 Q. And known?

19 A. And known, what one can do is make the conversions from  
20 one unit to the other, and then you would come up with an  
21 equivalent rate, if you will, comparable rates, I would expect.

22 Q. Okay. I believe you indicate in your report that you  
23 have the opinion that the exclusive use of emission factors as a  
24 compliance determination tool is flawed; is that correct?

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1           A.    That's correct.

2           Q.    Could you tell us a little bit about why you believe  
3 that to be the case?

4           A.    Primarily taking the cue from what EPA has published in  
5 their document, AP-42 document, the EPA in its AP-42 document  
6 characterizes emission factors as average rates, which implies  
7 and they so state in further explanation, and they caution  
8 against using emission -- AP-42 emission factors as a basis for  
9 permits rates. The reason that they give is that being an  
10 average one would expect that estimated emissions or calculated  
11 emissions using an AP-42 average would give one values greater  
12 than a permitted rate based on AP-42 factor half the time and  
13 values than the AP-42 rate the other half. So what the flaw  
14 there is is why would an agency want to permit something based on  
15 AP-42 knowing or expecting that half the time they are going to  
16 be in violation.

17          Q.    Okay. Now, when you speak to the use of emission  
18 factors as a compliance determination tool, you are also  
19 referring to the use of emission factors to determine permit  
20 limits; is that right?

21          A.    No. I think the context of what that -- if you will  
22 point me to that page, I will look and see if I can -- is it in  
23 the conclusion?

24          Q.    I believe so. I guess my question was are those terms

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1 interchangeably, the reference to compliance determination and  
2 the reference to using the emission factors for a permit limit?

3 MR. BOYD: Let me just object to any additional questions,  
4 Rob, until you tell him where you are looking.

5 MR. LAYMAN: Okay.

6 THE WITNESS: There is that discussion on Pan 1692. Is  
7 that where you are --

8 Q. (By Mr. Layman) 1692, yes, I think that's where I am  
9 looking right now.

10 A. Okay. What was your question again?

11 Q. Hold on just a second, if I may. I guess your opinion  
12 refers to -- well, strike that.

13 You indicate in your report on page 1692 that the EPA  
14 further cautions against using AP-42 emission factors to  
15 establish permit limits?

16 A. Right.

17 Q. Okay. I think U.S. EPA's AP-42 emission factors or  
18 AP-42 documents also refers to the use of emission factors for  
19 compliance determination purposes. I just wanted to make sure  
20 there was a distinction between using emission factors to  
21 determine permit limits and using emission factors for compliance  
22 demonstration purposes?

23 A. I can't recall in the AP-42 document having read that  
24 the EPA is recommending that AP-42 values be used as a compliance

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1 determination method except perhaps in the context of a screening  
2 methodology.

3 Q. Pardon?

4 A. Screening methodology.

5 Q. What is that?

6 A. In other words, for an agency, for example, to review or  
7 a source to review their operations in the absence of, say, test  
8 data, we have this type of emission unit and we go to a reference  
9 method, we know what our operating experience is and we apply the  
10 factor there, what does that tell us about our emissions. And it  
11 may be an indicator that, well, seemingly we are below some  
12 prescribed level, either rule or permit. It may indicate that  
13 there is an exceedance of some prescribed level, in which case  
14 that provides the screening value or screening activity, if you  
15 will and it would further prompt the Agency or the source to do  
16 further investigations to see if, in fact, there are those  
17 excursions or exceedances occurring. Again, that is why I make  
18 that distinction there, possibly using it as a screening tool.

19 Q. Okay. Isn't it true that the U.S. EPA recognizes the  
20 use of emission factors in permitting decisions where it may be  
21 necessary as a last resort?

22 A. That, I don't know. Again, I am familiar with what the  
23 EPA's cautions were. Again, it has been my experience where  
24 agencies have been permitting facilities to establish essentially

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1 a preliminary emission limit and then would confirm those or  
2 re-establish those final limits after performance testing or some  
3 kind of performance documentation had occurred once the unit was  
4 in place.

5 Q. Okay. But you are not aware, then, of whether U.S. EPA  
6 has accepted or recognized the use of emissions factors where  
7 there is no source specific or vendor performance data available  
8 for a particular type of engine?

9 A. I am not aware of it.

10 Q. Okay. Do you have any understanding as to whether  
11 Panhandle identified any source specific testing data or other  
12 vendor type of information about the various compressor engines  
13 that were operating at the facility in 1988 at that time?

14 A. No, I don't.

15 Q. Are you aware of when, exactly, Panhandle undertook an  
16 effort to ascertain or to find source specific testing data or  
17 other vendor information for the various compressor engines?

18 A. I am aware when I got involved with that and prior to  
19 that point, I was not aware of whether any of that activity was  
20 occurring.

21 Q. Okay. Again, you got involved probably in the midpoint  
22 of 1997?

23 A. Yes.



24 Q. Is that correct?

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1 A. That's correct.

2 Q. It took you an extensive period of time to conduct a  
3 search for testing data and other vendor information, did it not?

4 A. Well, yes. About -- how long did it take? I am  
5 thinking probably, what, six, seven months, something like that.

6 Q. Okay.

7 A. Again, each time we were trying to respond to, I think,  
8 IEPA's request for additional documentation or whatever, so  
9 proceeding along that path included, I guess, with our report of  
10 December of 1999.

11 Q. Okay. Are you aware of whether Panhandle has proposed  
12 to conduct any emissions testing on engines 1116 through 1119?

13 A. I am not aware.

14 Q. Are you aware of whether they have installed previously  
15 any kind of continuous emissions monitoring equipment on those  
16 engines?

17 A. No, I am not aware.

18 Q. Do you know of any plans by Panhandle to do so in the  
19 future?

20 A. On the Glenarm engines?

21 Q. I am sorry?

22 A. On the Glenarm engines.

23 Q. Right.

24 A. I am not aware of any plans to do so.

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1 Q. Okay. Is it true that one of the down sides to source  
2 specific emission tests is that the results will only be  
3 applicable to the conditions existing at the time of the test?

4 A. That certainly is a consideration and limitation to a  
5 one time only type of performance test.

6 Q. How is that kind of consideration -- well, strike that.

7 What is done to assure that type of consideration does not  
8 become a problem over time?

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

10 HEARING OFFICER KNITTLE: Mr. Layman?

11 MR. LAYMAN: I don't understand the --

12 MR. BOYD: Well, what is done by whom? In what context?

13 MR. LAYMAN: Well, I guess by the industry or -- I tell you  
14 what, I will rephrase the question.

15 Q. (By Mr. Layman) You indicated that the fact that testing  
16 will only indicate results that are applicable to the conditions  
17 at the time of the test, you indicated that was a limitation, if  
18 you will; is that correct?

19 A. That's correct.

20 Q. How do you address that limitation?

21 MR. BOYD: The same objection.

22 HEARING OFFICER KNITTLE: Mr. Layman, who are you referring

23 to when you mean you?

24 MR. LAYMAN: Well, I said how does he refer to --

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1 HEARING OFFICER KNITTLE: How does he address that  
2 situation?

3 Do you still have an objection, Mr. Boyd?

4 MR. BOYD: Yes.

5 HEARING OFFICER KNITTLE: Maybe you could explain your  
6 objection to me.

7 MR. BOYD: Well, again, he is not issuing a permit in this  
8 context. I am not sure "you" is the right person to be  
9 addressing the question to.

10 HEARING OFFICER KNITTLE: I am going to overrule.  
11 You can answer the question, sir. Do you understand it?

12 THE WITNESS: I think I do. As a consultant, I guess I  
13 would be involved with -- as a consultant for a client, I would  
14 be involved in negotiating with the state agency, as other state  
15 agencies typically do require the development of permits and  
16 conditions to permits. They typically draft conditions. Some  
17 states already have recipes, if you will, lists of proposed draft  
18 conditions. As a consultant, I think I would try and develop  
19 reasonable provisions in the permit that would ensure an accurate  
20 or reasonable way to ensure compliance both for the permit holder  
21 as well as for the Agency to assure, if you will, that compliance  
22 was occurring.

23           The Agency, I guess, would have the first call in -- based  
24 on its experience with that type of industry in terms of what it

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1       would expect to see for those types of permit conditions, on how  
2 it would assure itself that compliance were occurring.

3           So I think I would first look to the Agency to give the  
4 applicant the guidance, well, okay, what is it that you are  
5 looking for. And based on any inputs or suggestions that the  
6 agency might have on a proposed or recommended or expected  
7 procedures for compliance assurance, which you are talking about,  
8 then I would probably review those proposals in the context of,  
9 well, in fact, is there some basis for that. Is there a history  
10 there that would be transferable or, if you will, expected that  
11 would be required of my client.

12           And then to see if, in fact, they had a -- where those  
13 types of permits had been issued, what the experience, actual  
14 operating experience has been for that particular permit holder.  
15 So that if there are any concerns based on the actual experience  
16 those could be expressed during the negotiation process.

17           Again, I would expect that, depending on the Agency's  
18 initiative and in some instances I would expect now with Title 5  
19 and different federal initiatives agencies might be viewing with  
20 more interest in the final development of permits some compliance  
21 assurance features. And I would look to the permit engineer

22 typically to provide that guidance and help negotiate what would  
23 be a reasonable way to do that.

24 Q. Would continuous emission monitoring be a type of

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1 compliance assurance measure that would be considered by you or  
2 other consultants in that kind of context?

3 A. It would be considered for specific types of industries  
4 or specific types of sources. Again, one would have to look at  
5 the source being permitted to determine whether it is even  
6 feasible, what is practical, whether there have been similar  
7 proposals or similar types of assurance procedures in place  
8 before just saying cart blanche that CEMs is the way to go for  
9 any and all applications. That is an over generalization.

10 Q. Would it be fair to say that periodic testing would be  
11 another type of compliance assurance measure that would be  
12 considered?

13 A. That's another alternative to be considered.

14 MR. LAYMAN: Okay. If I may have just a moment.

15 HEARING OFFICER KNITTLE: Yes, sir. Let's go off the record  
16 for a second.

17 (Discussion off the record.)

18 MR. LAYMAN: I don't believe I have anything further.

19 HEARING OFFICER KNITTLE: Nothing further, Mr. Layman?

20 MR. LAYMAN: That's correct?

21 HEARING OFFICER KNITTLE: Mr. Boyd, do you need a second

22 for redirect?

23 MR. BOYD: Just one second.

24 HEARING OFFICER KNITTLE: Okay.

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1 MR. BOYD: I think we are done.

2 HEARING OFFICER KNITTLE: Mr. Boyd, are you finished then?

3 Any more redirect? Or any redirect, I should say?

4 MR. BOYD: No redirect.

5 HEARING OFFICER KNITTLE: Thank you, sir. You may step

6 down.

7 (The witness left the stand.)

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

9 (Discussion off the record.)

10 HEARING OFFICER KNITTLE: Okay. We will take a lunch break

11 and come back at 1:00.

12 (Whereupon a lunch recess was taken from 11:55

13 to 1:05 p.m.)

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AFTERNOON SESSION

(November 28, 2000; 1:05 p.m.)

HEARING OFFICER KNITTLE: After a lunch break, it is about 1:05 p.m. I note for the record there are still no members of the public here. We are continuing with the respondent's case-in-chief.

Mr. Boyd, call your next witness, please.

MR. BOYD: We call Dr. Bruce Dumdei, D-U-M-D-E-I.

HEARING OFFICER KNITTLE: Could you swear him in, please.

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

HEARING OFFICER KNITTLE: Okay, Mr. Boyd.

B R U C E D U M D E I,

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

DIRECT EXAMINATION

BY MR. BOYD:

Q. Good afternoon, Dr. Dumdei. Could you state your full name for the record.

A. Bruce Dumdei.

21 Q. Are you currently employed?  
22 A. Yes, I am.  
23 Q. By whom are you currently employed?  
24 A. URS Corporation.

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1 Q. Where is that located?  
2 A. In Rolling Meadows, Illinois.  
3 Q. How long have you worked for URS Corporation?  
4 A. Approximately two years now.  
5 Q. What did you do before that?  
6 A. I worked for ENSR Corporation, which is another  
7 environmental consulting firm, for 13 years.  
8 THE COURT REPORTER: Could you spell that for me, please.  
9 THE WITNESS: E-N-S-R.  
10 Q. (By Mr. Boyd) And what kind of work did you do with  
11 ENSR?  
12 A. I was the regional manager of the air group for their  
13 national organization doing air quality studies, air permitting,  
14 basically issues related to air services for our industrial  
15 clients.  
16 Q. Do you have a curriculum vitae?  
17 A. Yes.  
18 (Whereupon said document was duly marked for  
19 purposes of identification as Panhandle Exhibit



20 30 as of this date.)

21 Q. (By Mr. Boyd) Let me show you what has been marked as  
22 Panhandle Exhibit Number 30. Can you identify that for us?

23 A. Yes, this is my C.V.

24 Q. Do you know when this was prepared?

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1 A. About December of 1999.

2 Q. Okay.

3 A. About a year ago.

4 Q. Does this C.V. describe your educational background?

5 A. Yes, it does.

6 Q. Could you briefly describe your educational background  
7 for us?

8 A. I have a bachelor of arts in chemistry from St. Olaf  
9 College in Northfield, Minnesota, and a Ph.D. in environmental  
10 sciences and resources, chemistry, from Portland State University  
11 in Portland, Oregon.

12 Q. When did you receive your Ph.D.?

13 A. I received the Ph.D. in 1984.

14 Q. Could you describe briefly what your Ph.D. program  
15 consisted of?

16 A. The Ph.D. program at Portland State was an  
17 interdisciplinary studies program with chemistry, physics,  
18 biology, and geology. You took course work to graduate level  
19 courses in each of those disciplines and then you specialized in

20 one of those four disciplines for thesis work and research. My  
21 specialization was in chemistry, environmental science and  
22 research, chemistry. A majority of my study was on atmosphere  
23 chemistry, organic mechanisms, transformations of chemistry, smog  
24 chemistry in particular.

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1 Q. Thank you. Does your curriculum vitae describe your  
2 professional history, working history?

3 A. Yes, it does.

4 Q. Could you briefly describe for us your professional  
5 working history?

6 A. Sure. I joined Dames & Moore Group in February of 1999.  
7 That has since been merged with URS Corporation and has become  
8 URS. Dames & Moore URS is one of the largest engineering firms  
9 in the world. It has something like 14,000 engineers and  
10 scientists. I work out of our Chicago group, which consists of  
11 two groups, the downtown Chicago office and the Rolling Meadows  
12 suburban office, totaling about 250 scientists and engineers.

13 I am a principal within the air quality services group. We  
14 do a wide range of projects for industrial clients and also some  
15 government agencies, such as the Air Force or Navy, who are also  
16 regulated by the EPA and occasionally also municipalities such as  
17 the City of Libertyville recently on a project.

18 Q. You mentioned earlier that you worked for ENSR before

19 coming to Dames & Moore, which is now URS?

20 A. Right.

21 Q. Was the kind of work you were doing for ENSR the same  
22 kind of work you just described?

23 A. Yes, it is the same type of work. Again, as a national  
24 tactical resource, both in permitting, air measurements, to a

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1 certain extent air monitoring projects as well, permitting  
2 projects from new source review to minor source permits, to  
3 helping facilities determine what the applicable requirements are  
4 for their facility in terms of the air regulations. Prior to  
5 ENSR, I worked at TRC for about two and a half years in their  
6 measurements group there with a mobile measurements unit that  
7 went around the country making air toxics measurements.

8 Q. Part of that time you were at Portland State getting  
9 your Ph.D.?

10 A. Right.

11 Q. Okay. Since leaving Portland State, has your work been  
12 in the Chicago area?

13 A. Yes. I took the job at TRC, and was actually in Boston  
14 for about two and a half years, and then the ENSR job was here in  
15 Chicago.

16 Q. Okay. Does your curriculum vitae reflect any technical  
17 specialties that you have developed?

18 A. Yes, it does.

19 Q. Is that on the first page there, Pan 1447?

20 A. Yes.

21 Q. Can you briefly describe those technical specialties?

22 A. The technical specialties are as it says on the C.V.,  
23 the source ambient measurement monitoring programs for both the  
24 criteria pollutants as well as I specialized somewhat in the air

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1 toxics measurements and programs as well, determining emission  
2 inventories for facilities, helping them decide, again, what  
3 regulations apply to a given situation for a facility, both at  
4 the time of permitting and also ongoing compliance, and then also  
5 have done quite a bit of work with the permitting of new  
6 facilities or modifications to existing facilities.

7 Q. Have you published any papers or given any presentations  
8 relating to those technical specialty areas?

9 A. Yes, both on the transformation in organic chemistry  
10 issues both in graduate school and work since then, as well as  
11 more practical issues such as new source performance standards  
12 and applicability and compliance with those kinds of issues. And  
13 those are listed in the C.V. as well.

14 Q. Does your C.V. accurately reflect your academic  
15 qualifications, the professional affiliations, your technical  
16 specialties, publications, papers presented and professional work  
17 history?

18           A.    Yes.  The papers presented and the publications I would  
19 have to say are more examples than a complete listing.  A  
20 complete listing would be about twice that long.

21           MR. BOYD:  We now move for the introduction of Panhandle  
22 Exhibit Number 30.

23           HEARING OFFICER KNITTLE:  Mr. Layman?

24           MR. LAYMAN:  No objection.

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1           HEARING OFFICER KNITTLE:  That is admitted.

2           (Whereupon said document was duly admitted into  
3 evidence as Panhandle Exhibit 30 as of this date.)

4           Q.    (By Mr. Boyd) Have you done any work with Panhandle  
5 Eastern Pipe Line Company before you were asked to assist with  
6 this particular case?

7           A.    No, I haven't.

8           Q.    As a result of your training and experience, have you  
9 become familiar with the kinds of emissions from internal  
10 combustion engines in the pipeline service?

11          A.    Yes.

12          Q.    How have you become familiar with emissions from  
13 internal combustion engines?

14          A.    Through, again, the number of years in consulting for  
15 projects and for companies that have combustion sources.  I am  
16 familiar with what kind of emissions they need to permit and what  
17 kind of emissions are emitted from those kinds of sources.

18 Q. What sources of information are you familiar with  
19 regarding such emissions?

20 A. Both sources from actual source measurements I have  
21 conducted as part of the testing team all the way to EPA  
22 documents and industry documents, vendor documents, all relating  
23 to emissions from these types of sources.

24 Q. What kinds of emissions or what kind of pollutants are

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1 emitted from internal combustion engines in the pipeline service,  
2 natural gas combustion engines?

3 A. Most common emissions are the criteria pollutants,  
4 nitric oxides, NO<sub>2</sub> in particular, unburned hydrocarbons regulated  
5 as VOC, carbon monoxide, and sulfur dioxides, and depending on  
6 the fuel, particulate matter.

7 Q. Which criteria pollutant is emitted in the largest  
8 quantities from internal combustion engines burning natural gas?

9 A. For natural gas burning combustion sources, generally it  
10 is carbon monoxide and nitric oxides are the two biggest  
11 pollutants.

12 Q. Okay. What are nitrogen oxides?

13 A. Nitrogen oxides are compounds that contain nitrogen and  
14 oxygen in various ratios. Generally in terms of criteria  
15 pollutants, they are defined as generally nitric oxide, NO, and  
16 nitrogen dioxide, NO<sub>2</sub>, and to a lesser extent other forms of

17 nitric oxides, NO<sub>3</sub>, and nitrous oxide and things like that.

18 Q. As a result of your training and experience, have you  
19 become familiar with other types of stationary sources that emit  
20 nitrogen oxides?

21 A. Yes. Basically most combustion sources that burn  
22 hydrocarbon fuels emit those types of pollutants. Any high  
23 temperature processes that may or may not involve combustion also  
24 have nitric oxides and carbon monoxide as part of the emissions.

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1 Q. As part of your work on this matter, have you  
2 investigated how much nitrogen oxides are emitted from stationary  
3 sources of nitrogen oxide emissions?

4 A. Yes.

5 Q. What did you do to investigate that?

6 A. We looked at both national databases as well as state  
7 databases, and looked at what types of sources emitted nitric  
8 oxides in particular, and looked at the relative quantities of  
9 emissions from these various sources.

10 Q. What information did you review regarding nationwide NO<sub>x</sub>  
11 emissions?

12 A. We did survey most of it on the worldwide web as far as  
13 major emission sources for nitric oxides.

14 Q. Let me show you what we have marked as Pan Exhibit  
15 Number 31.

16 (Whereupon said document was duly marked for

17 purposes of identification as Panhandle Exhibit 31  
18 as of this date.)

19 Q. (By Mr. Boyd) It is -- it also has the Bates number of  
20 Pan 1461 through 1464. Can you identify this document?

21 A. Yes. This is a copy of the web page for the Natural  
22 Resource Defense Council's web site listing the top 50 generators  
23 of emissions.

24 Q. Where did the information come from?

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1 A. From the NRDC organization web site, National Resource  
2 Defense Council web site.

3 Q. Do you know where they got the numbers to put in this  
4 table?

5 A. They took this from emission inventories provided by the  
6 various states on their emission control programs.

7 Q. What did the review of this document tell you about the  
8 largest sources of nitrogen oxides in the United States?

9 A. Generally the list here includes the major utilities  
10 from the major metropolitan areas, especially the eastern  
11 utilities burning coal. And those types of emissions are in the  
12 hundreds of thousands of tons of nitric oxides per year.

13 Q. What information did you review regarding nitrogen oxide  
14 emissions from stationary sources in Illinois?

15 A. We reviewed the emission database established by the



16 Illinois EPA in their annual emissions reports and published both  
17 in their annual report and also in the stacks database that they  
18 keep track on a source by source basis

19 (Whereupon said document was duly marked for  
20 purposes of identification as Panhandle Exhibit 32  
21 as of this date.)

22 Q. (By Mr. Boyd) Let me show you what has been marked as  
23 Pan Exhibit Number 32 and it is also marked Bates number Pan 1459  
24 through 60. Can you identify that document?

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1 A. Yes, it is a copy of, again, a web page off the Illinois  
2 EPA web site listing the annual emission trends for the various  
3 criteria pollutants from 1981 through 1996.

4 Q. Do you know where the information on the amounts of  
5 emissions came from?

6 A. This is a summary from the annual emission reports that  
7 the IEPA collects from sources and compiles each year.

8 Q. What did the information tell you about emissions of  
9 nitrogen oxide in the State of Illinois?

10 A. The data for nitrogen oxide from 1981 through 1996  
11 generally you see a downward trend in the total emissions of  
12 nitric oxides for the state.

13 Q. What information did you review regarding nitrogen oxide  
14 emissions from Sangamon County stationary sources?

15 A. Again, the Illinois EPA tracks not only the state-wide

16 emissions but the county-by-county wide emissions and the  
17 individual sources of emissions within the counties. We reviewed  
18 that EPA data, that IEPA data, and compiled the information for  
19 Sangamon County.

20 (Whereupon said documents were duly marked for  
21 purposes of identification as Panhandle Exhibits  
22 33 and 34 as of this date.)

23 Q. (By Mr. Boyd) I am going to show you two documents. One  
24 is marked Panhandle Exhibit Number 33 and with a Bates number of

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1 Pan 1450 and the other is marked Pan Exhibit Number 34 with a  
2 Bates number of Pan 1451.

3 A. Okay.

4 Q. If you could look at 33 first. Well, first, can you  
5 identify these two exhibits, 33 and 34, for us?

6 A. These are both tables prepared by URS summarizing the  
7 data contained in the footnoted reference there.

8 Q. The footnoted reference being the IEPA --

9 A. Summarized emission past summary report.

10 Q. Where did that information come from?

11 A. Again, this came from the IEPA database on emissions  
12 sources within the State.

13 Q. What is the difference between Exhibit 33 and 34?

14 A. Exhibit 33 is a summary of the actual emissions from the

15 listed sources within Sangamon County. Exhibit 34 is a  
16 compilation of the allowable -- according to the state's  
17 emissions from the various sources within Sangamon County.

18 Q. What did this information tell you about sources of  
19 nitrogen -- stationary sources of nitrogen oxide in Sangamon  
20 County?

21 A. The sources of nitrogen oxide in Sangamon County are  
22 dominated by the City, Water and Power emission source.

23 Q. What do you mean by that?

24 A. They are approximately 20 times higher, the next largest

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1 source within the county, and make up about 90 percent of the  
2 emissions over all of the county.

3 Q. Now, did you compare the nitrogen oxide emission sources  
4 in Sangamon County and Illinois with nitrogen oxide emission from  
5 Panhandle's Glenarm compressor station?

6 A. Yes, sir, I did.

7 Q. What did you do?

8 A. We took the emission data that we have summarized from  
9 the IEPA database and basically compiled the table showing the  
10 relative absolute amount of emissions and relative amount of  
11 emissions between the site and other total emissions from the  
12 state as well as the county.

13 (Whereupon said document was duly marked for

14 purposes of identification as Panhandle Exhibit 35

15 as of this date.)

16 Q. (By Mr. Boyd) Let me show you what has been marked as  
17 Panhandle Exhibit Number 35. It is a two-page document with a  
18 Bates number of Pan 1443 and Pan 1444.

19 A. Okay.

20 Q. Could you identify that for us?

21 A. Yes. This is the table summarizing the emissions  
22 state-wide, county-wide, and from the Panhandle site.

23 Q. Who prepared this document?

24 A. This was prepared by an engineer in my group under my

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1 direction.

2 Q. When was this document prepared?

3 A. In December of 1999.

4 Q. Now, what is the difference between Pan 1443 and Pan  
5 1444?

6 A. The only difference between them is the emissions listed  
7 for the Panhandle NOx emissions in the fourth column. In Exhibit  
8 Number 35 they are based on the grams per horsepower hour  
9 emissions rate, and on 44 they are based on the pounds per  
10 million cubic feet of gas emission rate.

11 Q. I think you said on Panhandle Exhibit 35, but they are  
12 both Panhandle Exhibit Number 35.

13 A. Oh, I am sorry. On the 1443 exhibit it is based on the

14 grams per horsepower hour emission rate factor and on 1444 it is  
15 on the pounds per million cubic feet emission factor.

16 Q. Well, let's look at 1443 for just a second. The first  
17 column you have there is year. What is the second column?

18 A. This is a recompilation of the emissions, the state-wide  
19 NOx emissions taken from the Illinois EPA reports, the air  
20 quality reports, for each of the years 1989 through 1998. It is  
21 state-wide total NOx emissions.

22 Q. What about the third column?

23 A. The third column is the county-wide NOx emissions for  
24 the same time periods. The first four years the county-by-county

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1 wide data on emissions information is not available on the  
2 Illinois reports.

3 Q. Okay. What is your fourth column?

4 A. Those are the emissions, the actual emissions from the  
5 Panhandle site over the same time period.

6 Q. Where did that information come from?

7 A. From Mr. Gomez's report.

8 Q. There is a footnote two there. What does that refer to?

9 A. That, again, refers to the emission rate factors that  
10 were used for calculating emissions for each of those years.

11 Q. And the emissions -- strike that. What emissions  
12 factors were used to calculate emissions for engines 1116 and  
13 1117?

14 A. 11 grams per horsepower hour.  
15 Q. What about for engines 1118 and 1119?  
16 A. 4.5 grams per horsepower hour.  
17 Q. What is the fifth column?  
18 A. That is a simple subtraction of the Panhandle emissions  
19 from column four minus 461.3 tons.  
20 Q. Let me go back for a second. Have you been asked to  
21 form any opinions regarding whether those emission factors listed  
22 in footnote two are appropriate?  
23 A. No, I haven't.  
24 Q. Go back to column five for a second. The subtraction of

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1 461.3, what is that 461.3 number?  
2 A. It was, again, the allowables that were based on the  
3 State's interpretation of allowables for the site.  
4 Q. Have you been asked to formulate an opinion regarding  
5 whether the 461.3 is the appropriate allowable emission?  
6 A. No.  
7 Q. So column five, just walk us through this. You took  
8 column four and then subtracted 461.3 and you got column five?  
9 A. That's correct.  
10 Q. Okay. What is column six?  
11 A. Column six, again, is the Panhandle emissions from  
12 column four minus 796.33 tons per year.

13 Q. What is your understanding of the 796.33 tons per year  
14 number?

15 A. That's the Panhandle allowable number.

16 Q. Do you know where that number came from?

17 A. Again, from Mr. Gomez's report.

18 Q. Have you been asked to form any opinion regarding  
19 whether the 796.33 tons per year number is the appropriate  
20 allowable emissions level?

21 A. No.

22 Q. When you subtracted the 796.33 from the numbers in  
23 column four, what did that reveal?

24 A. It showed that the actual emissions are actually below

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1 the allowable emissions, using the 796 ton per year number.

2 Q. Did any year result in a positive number?

3 A. Only 1996.

4 Q. Do you have any opinion regarding what that 1996 number  
5 means?

6 A. No.

7 Q. Could you tell us sort of briefly what are columns seven  
8 through ten, the last four columns of this chart?

9 A. Sure. Those are basically ratios of the -- in the first  
10 case the Panhandle percent of the State emissions, total State  
11 emissions for that year, the Panhandle emissions versus the  
12 county emissions total emissions for Panhandle, and then the

13 relative emissions of the Panhandle less the 461 or the -- versus  
14 the State and the county emissions. So they are relative  
15 percents of the totals compared to the site's emissions.

16 Q. So either you or someone under your direction did those  
17 calculations?

18 A. Right. This was set up in a spreadsheet to do the  
19 multiplication and division.

20 Q. Okay. Let me refer you to the next page, Pan 1444.  
21 Could you just quickly run through the columns here and tell us  
22 are they the same as the columns in Pan 1443?

23 A. The columns are the same as far as the calculation  
24 method used for each one.

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1 Q. Okay.

2 A. The Panhandle emissions in column four are based on  
3 2,700 pounds per million cubic feet of natural gas for engines  
4 1116 and 1117, and 1,402 pounds per million cubic feet of gas for  
5 engines 1118 and 1119. Since those numbers are different than  
6 the column four in the previous table, the subtractions and the  
7 relative percents then change accordingly.

8 Q. In column six what did the subtractions reveal to you?

9 A. Again, the -- in that case, using 676 tons as the  
10 allowables, the actual emissions were less than the allowables in  
11 all years except for 1995 and 1996.



12 Q. Do you have any opinion regarding what the 1995 and 1996  
13 numbers mean?

14 A. No.

15 Q. Besides the information on national, state and county  
16 NOx emissions from stationary sources, did you also look at any  
17 information regarding NOx concentrations in the atmosphere?

18 A. Yes.

19 Q. What did you review?

20 A. I reviewed the annual average nitrogen dioxide trends,  
21 again, published in the Illinois EPA annual reports each year.

22 Q. Why did you do that?

23 A. To see if the ambient concentrations would reflect the  
24 same trends as the emission rate trends.

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1 (Whereupon said document was duly marked for  
2 purposes of identification as Panhandle Exhibit 36  
3 as of this date.)

4 Q. (By Mr. Boyd) Let me show you what has been marked as  
5 Panhandle Exhibit Number 36. It is Pan 1445 and Pan 1446.

6 A. Okay.

7 Q. Can you identify that for us?

8 A. Yes, this is table, again, a spread sheet made up from  
9 the data contained in the Illinois Annual Air Quality Reports  
10 from 1988 through 1998, for the years 1977 through 1998.

11 Q. Who prepared these documents, these two pages?

12 A. This was prepared by an engineer under my supervision.

13 Q. Where did the information come from?

14 A. It came from the Annual Air Quality Reports from 1988 to  
15 1998.

16 Q. Is that what is referenced in your footnote one there on  
17 the first page?

18 A. That's correct. Each of the air reports goes back ten  
19 years, so we had to go back through the 1988 report to get 1997  
20 data.

21 Q. What does this information reveal about the NOx  
22 concentrations in the State of Illinois over the period of time  
23 of 1977 through 1998?

24 A. The table is graphed on page two that more easily shows

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1 the trend of the nitrogen oxide concentrations going up through  
2 1980 and then a pretty steady decrease, a downward trend since  
3 1980.

4 Q. Did you look at any similar information on nitrogen  
5 oxide concentrations in the atmosphere in just Sangamon County?

6 A. No, I didn't.

7 Q. Why didn't you do that?

8 A. The specific data for Sangamon County is not compiled  
9 over the same time period.

10 MR. BOYD: Okay. At this point I would like to move for

11 the admission of Panhandle Exhibits 31 through 36.

12 HEARING OFFICER KNITTLE: Okay. Let's take them one at a  
13 time, Mr. Layman.

14 MR. LAYMAN: Yes, one at a time.

15 HEARING OFFICER KNITTLE: Exhibit 31?

16 MR. LAYMAN: Exhibit 31, I will object to on, I guess,  
17 grounds of relevancy. I don't exactly know what purpose would be  
18 served by providing the Board estimates of emission summaries for  
19 the top 50 generators across the United States, when what we are  
20 dealing with here, for all ostensible purposes, the impact of  
21 Panhandle Eastern's emissions on air quality in the PSD  
22 attainment area of Illinois.

23 HEARING OFFICER KNITTLE: Mr. Boyd?

24 MR. BOYD: One of the things that Dr. Dumdei was asked to

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1 do was to compare the emissions from the area with other  
2 emissions, and part of his opinion is based on the information in  
3 Exhibit Number 31. I believe that when I ask him more  
4 specifically about what his opinions are later on it will be more  
5 relevant. If you would like, we can hold off on this document  
6 and seek the admission of the document after he renders his  
7 opinion.

8 HEARING OFFICER KNITTLE: Let's do that.

9 MR. BOYD: Okay.

10 HEARING OFFICER KNITTLE: Exhibit 32, Mr. Layman.

11 MR. LAYMAN: I have no objection to Exhibit Numbers 32, 33,  
12 34, and Exhibit 35 collectively. I have no objection to those.  
13 Let me contemplate, for a moment, Exhibit Number 36.

14 HEARING OFFICER KNITTLE: All right. Just for the record,  
15 I am admitting Panhandle Exhibits 32 through 35.

16 (Whereupon said documents were duly admitted into  
17 evidence as Panhandle Exhibits 32 through 35 as of  
18 this date.)

19 MR. LAYMAN: Just for clarification purposes, I will ask  
20 opposing Counsel if, in fact, the witness testified that this  
21 data was derived from the Illinois Annual Air Quality Reports.  
22 Is that correct?

23 MR. BOYD: That's what the footnote says.

24 MR. LAYMAN: Okay. That is what the footnote --

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1 MR. BOYD: That's what he said in his testimony, too.

2 MR. LAYMAN: Okay. That's what I wanted to make sure of.

3 MR. BOYD: Yes.

4 MR. LAYMAN: I couldn't specifically recall. To that  
5 extent, I don't believe we have any opposition or objections to  
6 Panhandle Exhibit Number 36.

7 HEARING OFFICER KNITTLE: Then Exhibit Number 36 will be  
8 admitted as well.

9 (Whereupon said document was duly admitted into

10 evidence as Panhandle Exhibit 36 as of this date.)

11 (Discussion off the record.)

12 HEARING OFFICER KNITTLE: Let's go off the record real  
13 quick.

14 (Discussion off the record.)

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

16 Q. (By Mr. Boyd) Dr. Dumdei, did you develop any opinions  
17 regarding the emissions from engines 1116 through 1119 as a  
18 result of your review?

19 A. Yes.

20 Q. Did you prepare a report describing your opinions?

21 A. Yes, I did.

22 (Whereupon said document was duly marked for  
23 purposes of identification as Panhandle Exhibit 37  
24 as of this date.)

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1 Q. (By Mr. Boyd) Let me show you what has been marked as  
2 Panhandle Exhibit Number 37, and it is also marked Bates numbers  
3 Pan 1441 and Pan 1442.

4 A. Okay.

5 Q. Can you identify that for us?

6 A. This is a letter report to you from me dated December  
7 10th of 1999.

8 Q. So you prepared this?

9 A. Yes, I did.

10 Q. In the first paragraph it says the following draft  
11 bullet points are included. Did you prepare any subsequent  
12 documents to this?

13 A. No, I didn't.

14 Q. Does this letter reflect your conclusions based on the  
15 review of the information that you have already discussed?

16 A. Yes, it does.

17 Q. Do you have an opinion regarding how the NOx emissions  
18 from engines 1116 through 1119 at the Glenarm station compare to  
19 the total NOx emissions in Sangamon County?

20 A. Compared to the total Sangamon County, they are a very  
21 small fraction of the Sangamon County emissions.

22 Q. What is that opinion based on?

23 A. Based on the summary presented in Exhibit Number 35,  
24 which shows the relative total amounts of Sangamon County

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1 emissions relative to the Panhandle and relative to the emissions  
2 in excess of the allowables for the four different scenarios.

3 Q. Do you have an opinion regarding how the NOx emissions  
4 from engines 1116 through 1119 at the Glenarm station compare to  
5 the total NOx emissions in the State of Illinois?

6 A. That is even a smaller fraction and even a more  
7 insignificant portion of the emissions.

8 Q. That opinion is based on what?

9           A.    Again, based on review of the State wide total emissions  
10 on the Illinois EPA data and the calculated emissions from the  
11 site.

12           Q.    Do you have an opinion regarding whether the NOx  
13 emissions from engines 1116 through 1119 at the Glenarm station  
14 are relevant to the IEPA's -- strike that -- are relevant to the  
15 IEPA's strategy relating to maintaining NOx compliance in  
16 Sangamon County?

17           A.    The NO2 emissions, again, are not significant compared  
18 to the overall emissions from Sangamon County and other sources  
19 that contribute to Sangamon County's annual air quality for that  
20 pollutant.

21           Q.    So what is your opinion regarding the affect of those  
22 emissions on the Agency's strategy?

23           A.    That the Panhandle emissions, in and of themselves, are  
24 not significant to the attainment or the continued attainment of

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1 the NO2 standard in Sangamon County.

2           Q.    Do you have an opinion regarding whether the NOx  
3 emissions from engines 1116 through 1119 at the Glenarm station  
4 are relevant to the IEPA's strategy relating to maintaining  
5 compliance with the ozone ambient air quality standard in  
6 Sangamon County?

7           A.    Yes.

8           Q.    What is your opinion based on?

9           A.    Again, it is based on the total State-wide emissions as  
10 well as the effectiveness of nitric oxides in contributing to the  
11 ozone attainment or nonattainment status of the county.

12           Q.    And what is your opinion?

13           A.    That the size of these emissions compared to the total  
14 emissions within Sangamon County and other contributing sources  
15 to Sangamon County are insignificant compared to the attainment  
16 status.

17           Q.    The information we previously discussed on Panhandle  
18 Exhibits 33 and 34, those discuss emissions of nitrogen oxide  
19 from certain stationary sources in Sangamon County; is that  
20 right?

21           A.    That's correct.

22           Q.    They don't discuss emissions of nitrogen oxide from  
23 other sources; is that right?

24           A.    That's correct.

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1           Q.    Okay. Do you have an understanding of what contribution  
2 to nitrogen oxide the stationary sources in Sangamon County  
3 provide?

4           A.    The Sangamon County emissions would contribute to the  
5 majority of the emissions from -- for the nitric oxides  
6 concentrations within the county.

7           Q.    What about sources like mobile sources?



8           A.    Mobile sources, all of the previous statements are based  
9    on stationary sources and their relative contributions.

10          Q.    Okay.

11          A.    Mobile sources, in fact, generate about 67 percent,  
12    approximately 67 percent of the total nitric oxide emissions  
13    within the State.

14          Q.    And that would be true in -- approximately true in  
15    Sangamon County, as well?

16          A.    It may be a little lower percentage within Sangamon  
17    County. It is not as urban as the State on an average, on the  
18    whole.

19          Q.    Okay.

20          A.    But greater than 50 percent of the emissions.

21          Q.    Do you have an opinion regarding whether the NOx  
22    emissions from engines 1116 through 1119 at the Glenarm station  
23    are relevant to the IEPA's strategy relating to the Chicago area  
24    ozone nonattainment area?

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1           A.    Yes.

2           Q.    What is your opinion based on?

3           A.    Again, it is based on the magnitude of the emissions  
4    from the station compared to the magnitude of the nitric oxide  
5    emissions from both other stationary sources and mobile sources  
6    within the State, the transport times to the Chicago  
7    nonattainment areas, as well as the relative contribution that

8 nitric oxides has compared to volatile organic compounds in  
9 allowing the pollution of ozone to build to a level where it  
10 reaches a nonattainment concentration.

11 Q. So what is your opinion?

12 A. Basically there is not enough emissions from the  
13 Sangamon station to contribute significantly to any kind of  
14 policy decisions or anything else for attainment or nonattainment  
15 strategies, anything that -- regulations or anything else that  
16 would be written in response to those kinds of levels of  
17 emissions.

18 Q. Dr. Dumdei, are you familiar with the current activities  
19 of the IEPA and the Pollution Control Board regarding regulations  
20 to control NOx emissions from large sources?

21 A. Yes, I am.

22 Q. How are you familiar with that?

23 A. Both attended several of the hearings and other  
24 workshops given by the IEPA describing their current NOx

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1 strategies as well as read through the NOx SIP Call document that  
2 proposed regulations for the State of Illinois.

3 Q. And do you have an understanding that certain  
4 regulations have been proposed?

5 A. Yes.

6 Q. And what is the basis of your understanding?

7           A.    Again, the basis is that the State of Illinois plans to  
8 regulate the largest basically electrical generating units, big  
9 power plants, within the State to use as the NOx portion of their  
10 demonstration of compliance for ozone within the State of  
11 Illinois.

12           Q.    I will refer you back to Exhibit Number 31 that we  
13 talked about before.  We were talking about the largest sources  
14 and you said coal-fired utilities?

15           A.    Right.  This basically confirms the largest sources are  
16 the large utilities, not just in Illinois but throughout the  
17 whole United States.  The Illinois strategy for their new SIP  
18 regulations are based on regulating the biggest sources, getting  
19 the most reductions from those sources and not having to regulate  
20 smaller sources in order to demonstrate compliance with the ozone  
21 standard by the time required.

22           Q.    Do the regulations proposed now address natural gas  
23 compressor engines of the type and size of the engines 1116  
24 through 1119 at the Glenarm station?

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1           A.    They are not included.  They are too small to be  
2 applicable to the proposed rule.

3           Q.    Do you know whether the Agency or the Board are  
4 considering requiring additional NOx controls on natural gas  
5 compressor engines that are the type and size of engines 1116  
6 through 1119 at the Glenarm station?

7           A.    It is my understanding that they are currently not  
8 considering anything that small within the NOx regulations.

9           Q.    What is that understanding based on?

10          A.    Mainly attending the hearings associated with where they  
11 have stated their opinions on what sources should be included and  
12 what sources have not been included, including statements by, for  
13 example, Dennis Lawler, that those sources won't be considered  
14 unless for some reason the strategy would fail.  And they have  
15 stated several times they think the strategy will work for the  
16 State of Illinois, both in their demonstration -- in the rule and  
17 the reasonable further progress documents that are supplied to  
18 the U.S. EPA.

19          MR. BOYD:  At this time I move for the admission of Exhibit  
20 Number 37 as well as, again, the admission of Exhibit Number 31.

21          HEARING OFFICER KNITTLE:  Okay.  Exhibit 37 first, Mr.  
22 Layman.  We will come back to Exhibit Number 31.

23          MR. LAYMAN:  I have no objection to Exhibit Number 37.

24          HEARING OFFICER KNITTLE:  How do you feel about Exhibit 31?

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1          MR. LAYMAN:  I still have continuing concerns about the  
2 relevancy of Exhibit Number 31.

3          HEARING OFFICER KNITTLE:  Okay.  I did admit 37.  I am  
4 sorry.

5          MR. LAYMAN:  Okay.

6 (Whereupon said document was duly admitted into  
7 evidence as Panhandle Exhibit 37 as of this date.)

8 HEARING OFFICER KNITTLE: Okay. Do you want to restate  
9 those, Mr. Layman, or have you stated them sufficiently for your  
10 benefit?

11 MR. LAYMAN: You know, in all fairness I heard the witness  
12 testify about the impact of certain generators here in Illinois.  
13 I don't know, again, what relevancy the generators outside of  
14 Illinois would have relative to the issue presented in this case.

15 HEARING OFFICER KNITTLE: All right. Mr. Boyd?

16 MR. BOYD: Again, the witness testified that he was  
17 reviewing the proposals currently being considered by the Agency  
18 and the Board and that it is his understanding that only the  
19 largest sources are being controlled. This exhibit helps  
20 establish what is understood by the largest NOx sources.

21 MR. LAYMAN: The largest NOx sources in Illinois or the  
22 largest NOx sources in the United States? I can't tell from this  
23 exhibit which sources are unique or found within the boundaries  
24 of the State of Illinois and which sources are not. Unless you

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1 just want to --

2 MR. BOYD: Well, the document does not specifically  
3 reference any one -- I mean, it does not specifically address  
4 sources only in Illinois.

5 MR. LAYMAN: Right. The Board --

6 MR. BOYD: It does not mean it is not relevant.

7 MR. LAYMAN: The proposed NOx rules relative to the  
8 Agency's involvement and the Pollution Control Board's  
9 involvement addressed only those regulations that would be  
10 administered and enforced in the State of Illinois and not  
11 elsewhere.

12 HEARING OFFICER KNITTLE: Okay. I am going to note your  
13 objection. I am going to admit this exhibit over your objection  
14 and leave it up to the Board to determine how much weight they  
15 want to give to this particular exhibit.

16 (Whereupon said document was duly admitted into  
17 evidence as Panhandle Exhibit 31 as of this date.)

18 MR. BOYD: Give me one second. I might be done.

19 HEARING OFFICER KNITTLE: Okay. We will go off the record.

20 (Discussion off the record.)

21 MR. BOYD: Okay. That's all I have.

22 HEARING OFFICER KNITTLE: All right. Thank you.

23 Mr. Layman, do you want to take some time before we  
24 continue, or are you ready now?

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1 MR. LAYMAN: I am prepared to go forward now --

2 HEARING OFFICER KNITTLE: Does anyone need a break?

3 MR. LAYMAN: -- unless anyone needs a break.

4 MR. BOYD: No.

5 THE WITNESS: No.

6 HEARING OFFICER KNITTLE: If we go too long, I will take a  
7 break.

8 MR. LAYMAN: Okay. I don't think it will take any more  
9 than 20 or 25 minutes.

10 HEARING OFFICER KNITTLE: Okay. Let's proceed, then, with  
11 cross-examination.

12 MR. LAYMAN: Thank you.

13 CROSS EXAMINATION

14 BY MR. LAYMAN:

15 Q. Dr. Dumdei, I would like to, if I may, pick up on a  
16 subject matter that you left off with. You had indicated that  
17 you were aware that certain natural gas compressors stations or  
18 facilities were being addressed by the U.S. EPA in a NOx SIP  
19 Call?

20 A. No, I didn't.

21 Q. Okay.

22 A. I didn't say that.

23 Q. Okay. Were you referring to just proposed regulations  
24 that are currently before the Pollution Control Board?

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1 A. The Illinois proposed rule that responds to the federal  
2 SIP Call.

3 Q. Okay. You are not aware that there are any plans for  
4 proposed regulations affecting natural gas compressor stations?

5           A.    There are other regulations affecting natural gas  
6 compressor stations, yes, I am aware of those.

7           Q.    As part of the NOx SIP Call?

8           A.    Not as part of the proposed rule that the IEPA is  
9 proposing as part of the response to the SIP Call.

10          Q.    Okay.  What are those other regulations you are  
11 referring to?

12          A.    There is other ongoing regulatory development for both  
13 air toxics from internal combustion stations under the max  
14 standard.  There is other ongoing development of regulations for  
15 RACT standards and guidance for new internal combustion engines,  
16 you know, in the works at the U.S. EPA.  None have been  
17 promulgated yet.

18          Q.    Okay.  I gathered, and maybe I am just mistaken, but I  
19 got the impression from your earlier testimony that with respect  
20 to the NOx SIP Call that U.S. EPA -- actually, let me restate  
21 that.  The IEPA, the State of Illinois, was concentrating on the  
22 larger generators, if you will, of NOx emissions as opposed to  
23 the smaller ones; is that correct?

24          A.    That's correct.

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1           Q.    And you had indicated that the smaller ones, such as the  
2 natural gas compressor stations located at the Glenarm facility  
3 are off the table, they are not being considered?



4 A. They are not being -- that is correct.

5 Q. Okay. The larger ones, though, are being considered as  
6 part of the NOx SIP Call?

7 MR. BOYD: Objection to the form. Larger ones what?

8 HEARING OFFICER KNITTLE: Mr. Layman, do you want to  
9 restate it?

10 MR. LAYMAN: Yes, let me rephrase the question.

11 Q. (By Mr. Layman) Is it fair to say that larger natural  
12 gas compressor stations are being addressed by U.S. EPA in its  
13 NOx SIP Call?

14 A. I am not aware of any compressor stations that are large  
15 enough to make the 25 megawatt cut off.

16 Q. Okay. I would like to call your attention, if I may, to  
17 the very first bullet point that you identified in your letter to  
18 Mr. Boyd of December 10th of 1999, Panhandle Exhibit Number 37.  
19 I must confess, I am having a little difficulty with the wording  
20 that you use. I would like to ask you at this point to clarify a  
21 little something if you may.

22 You state that the incremental estimated additional NOx  
23 emissions from the Panhandle Eastern site were not significant.  
24 Could you tell us what you meant by incremental estimated

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1 additional NOx emissions?

2 A. Sure. That refers to, referring back to Exhibit Number  
3 35, basically the last two columns of those two tables where the

4 subtraction of the allowables to the actual emission rate. So  
5 those .013 percent kinds of numbers are not significant.

6 Q. Okay. So what you are really focusing on is the amount  
7 of emissions generated by the facility above that 461 ton per  
8 year limit; is that right?

9 A. That's correct.

10 Q. Okay. I just wanted to make sure. I take it given the  
11 presentation in your resume that you have some familiarity with  
12 the PSD program. You may have indicated --

13 A. Yes.

14 Q. -- a little bit of that in reference to your earlier  
15 testimony. Isn't it true that the PSD program requires a major  
16 source or a major modification to conduct an air quality analysis  
17 of the ambient impact associated with the project?

18 MR. BOYD: I am just going to object that this is beyond  
19 the scope of the direct examination.

20 HEARING OFFICER KNITTLE: Mr. Layman?

21 MR. LAYMAN: Well, he testified as to the impact -- the air  
22 quality impact of emissions generated by Panhandle Eastern. I  
23 guess I would like to understand exactly what he means by air  
24 quality impact. And I guess part of my approach is to pursue a

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1 line of questioning that has to do with how air quality impacts  
2 are measured by the PSD program. That is the nature of the

3 violation that we dealing with presented in this case, and I  
4 think it is appropriately relevant for that purpose.

5 HEARING OFFICER KNITTLE: Anything further, Mr. Boyd?

6 MR. BOYD: No.

7 HEARING OFFICER KNITTLE: The objection is overruled.

8 Sir, do you recall the question?

9 THE WITNESS: No. If you could restate it for me, please.

10 Q. (By Mr. Layman) I have it written down. Let me give it  
11 to you one more time. Isn't it true that the PSD program  
12 requires that a major source or a major modification conduct an  
13 air quality analysis of the ambient impact associated with the  
14 project?

15 A. Yes.

16 Q. Is it your understanding that the air quality analysis  
17 under PSD is meant to demonstrate that the new emissions from the  
18 project, when compared with emissions from existing sources, will  
19 not cause a violation of an applicable NAAQS? And by that I mean  
20 the National Ambient Air Quality Standard for the PSD increment?

21 A. It is my understanding that the intent of that analysis  
22 is to demonstrate compliance with the NOx standard.

23 Q. Okay.

24 A. The NAAQS standard.

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1 Q. Okay. What is your understanding of what a PSD air  
2 quality analysis is comprised of?

3 A. That --

4 MR. BOYD: Excuse me. Again, I object because this is way  
5 beyond the scope of his direct examination.

6 MR. LAYMAN: Again, I don't know that it is entirely beyond  
7 the scope, in part, because part of the testimony that was  
8 offered by the witness had to do with -- give me just a second.

9 MR. BOYD: I don't remember the witness saying anything  
10 about PSD. That is my objection.

11 MR. LAYMAN: Well, there were references to NOx annual  
12 concentrations and comparisons to that, so that is certainly a  
13 threshold issue presented by PSD analysis on air quality impact.

14 HEARING OFFICER KNITTLE: I will allow it to go on for a  
15 while. I don't want to get too deep into it. I understand your  
16 basis for wanting to ask these questions, and I think it is  
17 important that we get it out, but it is tenuous.

18 MR. LAYMAN: Okay. I will try to be as quick as I can.

19 HEARING OFFICER KNITTLE: No pressure, Mr. Layman. I am  
20 just trying to let you know.

21 MR. LAYMAN: Shall I rephrase the question?

22 THE WITNESS: There is basically several parts of the air  
23 quality analysis having to do with modeling, emissions from the  
24 source, and projecting those emissions to receptors downwind from

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1 the source to determine compliance with the NAAQS standard.

2 Q. (By Mr. Layman) Isn't it true that modeling is  
3 oftentimes part of the analysis under PSD for determining air  
4 quality impact for a project?

5 A. Depending upon the level of emissions, modeling may or  
6 may not be require as part of a PSD demonstration.

7 Q. Okay. By that you mean there is a cut off, if you will,  
8 or a threshold that has to be reached first before any further  
9 more intensive inquiry into air quality impact is measured?

10 A. There is a significant emission rate that has to be met  
11 prior to the requirement to do actual modeling, impact modeling.  
12 And there are several stages along what type of modeling is done  
13 as well.

14 Q. Okay. Have you performed that type of air quality  
15 analysis before consisting, among other things, of air modeling?

16 A. I have managed such projects. I have not personally  
17 flipped the model switches and run the models myself.

18 Q. Is it fair to say you have not done so on behalf of  
19 Panhandle --

20 A. No, I have not.

21 Q. -- at this time?

22 A. No.

23 Q. Have you done any sort of modeling on behalf of  
24 Panhandle?

1 A. No, I have not.

2 Q. Okay. Is it fair to say, then, that when the -- strike  
3 that.

4 Is it fair to say that your air quality analysis that you  
5 presented in your testimony today consists of looking at existing  
6 ambient data and not -- well, simply that ambient data that you  
7 pulled from various sources?

8 MR. BOYD: I am going to object to that. Obviously, he  
9 talked about not only ambient concentration data, but emissions  
10 information from various sources too, Rob.

11 HEARING OFFICER KNITTLE: Mr. Layman?

12 MR. LAYMAN: I guess I just want to make sure that -- well,  
13 I think we are fine. I think we are fine. I will withdraw the  
14 question.

15 HEARING OFFICER KNITTLE: You don't want me to rule on  
16 that?

17 MR. LAYMAN: No, I think we are fine with respect to what  
18 we were looking for.

19 Q. (By Mr. Layman) It is apparent, Dr. Dumdei, from your  
20 testimony, that you considered ambient data from Sangamon county  
21 in assessing the air quality impact from Panhandle Eastern's  
22 operation. Did you consider any ambient data from surrounding or  
23 adjacent counties?

24 A. We did not look at specific ambient trends as we did for

1 Sangamon County as far as the decreasing NOx emissions over those  
2 years.

3 Q. I am sorry? What was the last part of that?

4 A. We did not look at the surrounding county's specific  
5 data as we did for Sangamon County to show the downward trends of  
6 the nitric oxides over those years presented.

7 Q. Okay. You indicated in one of the bullet points, as  
8 well as in your testimony, that emission levels associated with  
9 Panhandle Eastern's project were not significant in terms of -- I  
10 believe the reference you used was the Agency's NOx strategy for  
11 the State or the county. When you refer to the Agency's NOx  
12 strategy for the State, could you be a little bit more specific  
13 as to what you are referring to?

14 MR. BOYD: I am just going to object and ask that if you  
15 are referring to Exhibit Number 37, that you point out in Exhibit  
16 Number 37 exactly where you are referring.

17 HEARING OFFICER KNITTLE: Mr. Layman, any response?

18 MR. LAYMAN: I am looking at bullet point four, emission  
19 levels of those associated with the project in question are not  
20 significant in terms of the Agency's NOx strategy for the State  
21 or the county. I guess all I am doing is asking the witness to  
22 identify what he means by the Agency's NOx strategy for the  
23 State.

24 THE WITNESS: That is -- that is the regulations and other

1 strategy proposed by the State for continuing compliance with the  
2 NO2 standard on NAAQS standard for the State.

3 MR. BOYD: Excuse me. Just to clarify, NAAQS is N-A-A-Q-S.

4 Q. (By Mr. Layman) So you were not referring to any other  
5 regulatory programs that might require sources to control NOx  
6 emissions?

7 A. No individual regulations, no.

8 Q. Okay.

9 A. Just the overall influence of this small a source on  
10 decisions being made for future regulations for ongoing  
11 compliance with that standard.

12 Q. Okay. And I think this may play into what you just  
13 answered. But when you say that Panhandle's emissions levels are  
14 not significant in terms of those combined strategies, and by  
15 combined strategies, I mean both the State and the local that you  
16 referred to, you are not referring to the significance level as  
17 measured by PSD?

18 A. No, I am --

19 Q. Just in terms of strategy?

20 A. Just in general terms that they are not changing their  
21 strategy that they have on the books right now as far as  
22 demonstrating ongoing compliance based on emission levels of that  
23 level, whether it is from this site or any other place.

24 Q. Okay. In reference to Panhandle Exhibit Number 36 I



1 believe you identified some data that had been prepared from the  
2 Illinois Annual Air Quality Reports, and it pertains specifically  
3 to NOx annual concentration. As part of your work in this case,  
4 did you identify the annual increase in the average annual NOx  
5 concentration that would have resulted from Panhandle's  
6 operation?

7 A. I did not do that calculation, no.

8 Q. Okay. Did you consider any cumulative impact -- strike  
9 that. I believe you have already answered that.

10 Do you have an opinion as to what level of emissions would  
11 have been -- had to have been generated by Panhandle Eastern in  
12 order to be significant to the Agency's State or county NOx  
13 strategy?

14 A. The level of emissions for the term significant has to  
15 be within the realm of the air associated with the database to  
16 begin with as well as the adjustments they make in their various  
17 scenarios they present for the U.S. EPA. That presents generally  
18 around 20 percent of the total NOx inventory for the State. So  
19 about 20 percent of the total State's emissions is generally  
20 enough to slightly adjust the models within the State. Anything  
21 less than that basically has no affect on the strategy because it  
22 has no affects on the overall compliance models that they use to  
23 demonstrate ongoing compliance with the State.

24 Q. Okay. You derive that 20 percent criteria from the U.S.

1 EPA, again, you said?

2 A. From the criteria that the State presents on how much  
3 their data varies from scenario to scenario.

4 Q. Okay?

5 A. And having heard all of the testimony at the hearings  
6 for those compliance strategies. That is also located -- you  
7 know, data is located on their web site to document all of those  
8 conclusions as well.

9 Q. Okay. Would you -- hypothetically, would you think that  
10 if every source of NOx emissions identified by you in Sangamon  
11 County were to increase their emissions by the same proportions  
12 that Panhandle did, would it be more likely that there would be a  
13 significant air quality impact?

14 MR. BOYD: I will object to the form of the question and  
15 the lack of foundation for this witness to answer a question like  
16 that.

17 HEARING OFFICER KNITTLE: Mr. Layman?

18 MR. LAYMAN: Well, I guess he just got through answering  
19 what I thought was a question posed to him about what impact  
20 would be significant. All this is is just a little bit -- well,  
21 it is a similar question with just a little different twist, and  
22 that is what kind of impact might be expected if every source in  
23 the county would increase its emission proportional to what  
24 Panhandle did.

1 HEARING OFFICER KNITTLE: I am going to overrule the  
2 objection and allow the question. I think he has been qualified  
3 to answer the question.

4 MR. LAYMAN: I am sorry? The last point?

5 HEARING OFFICER KNITTLE: I think he has been qualified by  
6 Mr. Boyd to answer the question.

7 MR. LAYMAN: Just to be clear, I am not objecting based on  
8 his qualifications. I am objecting based on his knowledge, based  
9 on the sources in Sangamon County. He has provided limited  
10 information on the sources in Sangamon County. And if Mr. Layman  
11 is going to limit his question based on what has already been  
12 already presented, that might be different. But the question was  
13 so broad that it encompassed things beyond the scope of his  
14 testimony.

15 HEARING OFFICER KNITTLE: Anything else, Mr. Layman?

16 MR. LAYMAN: No.

17 HEARING OFFICER KNITTLE: Like I said, I am going to allow  
18 the question. I think he can answer that. It is within the  
19 realm of his knowledge.

20 MR. LAYMAN: Would you like me to repeat the question?

21 THE WITNESS: I don't know what you mean by increase, the  
22 word increase. The total emissions from the county we have  
23 documented here, but I don't know what you mean by increase in  
24 the same relative amount.

1 Q. (By Mr. Layman) Okay. By increased I guess I was  
2 focusing on that level above the -- for comparative purposes, the  
3 level above the 461 tons per year limit that Panhandle had and  
4 the actual emissions that were emitted, the difference between  
5 the actual and that permitted limit. You made the comparison,  
6 and I --

7 A. For each of the four scenarios, some of them are  
8 negative. So the answer to that one, of course, would be if all  
9 of them went down by the same amount, then --

10 Q. Right. I guess I am just concerned about if you took  
11 one of the worse case scenarios where emissions were greater than  
12 100 or a 150 ton increase and other sources in Sangamon County  
13 did the same thing, had a similar type of increase, wouldn't it  
14 be more likely than not that you would be looking at a  
15 significant air quality impact?

16 MR. BOYD: Objection to the form and lack of foundation for  
17 the question.

18 HEARING OFFICER KNITTLE: The objection is noted.

19 You can answer the question, sir.

20 THE WITNESS: The worse case -- like I said, in some of the  
21 scenarios there is actually a negative decrease, so the air would  
22 actually get better in those cases if all of the sources did  
23 that. The worse possible case is only about 20 percent of the  
24 total emissions. If you take 20 percent of the City Light and

1 Power, which is the largest source, about 20 times bigger, that  
2 would still probably not be significant on the total air strategy  
3 of the State. It would not be 20 percent of the total State's  
4 emission. It would only be a 20 percent increase in Sangamon  
5 County's emissions in and of itself in the very worse case of the  
6 four scenarios presented here.

7 Q. Okay. Even in the very worse case scenario then your  
8 opinion would be that there would not be a significant increase  
9 or --

10 A. It would not affect the policy decisions on how the  
11 models demonstrating future compliance by the 2007 compliance  
12 date, how the Agency would look at that, no. Again, the biggest  
13 power source here is regulated under the strategy that they have  
14 comprised and not the smaller sources. So an increase by the  
15 City, Light and Power actually would fall under the NOx SIP Call  
16 proposed regulations.

17 Q. Okay.

18 A. So it is already part of that strategy being controlled.  
19 If it would increase -- it would not be allowed to increase under  
20 the current strategy.

21 Q. Okay. But if the phenomena were to take place on just  
22 the county level, you are saying it would not impact the  
23 State-wide strategy as much or at all?

24 MR. BOYD: Objection to phenomena. He is asking for

1 hypotheticals here that are not particularly clear.

2 HEARING OFFICER KNITTLE: I don't understand that one  
3 either. If you could rephrase. I sustain that objection.

4 MR. LAYMAN: All right. Give me a moment to consider what  
5 I have just heard and see if I have anything else.

6 HEARING OFFICER KNITTLE: Okay.

7 MR. LAYMAN: I believe that's all we have for this witness.

8 HEARING OFFICER KNITTLE: Okay. Thank you, Mr. Layman.

9 Mr. Boyd, do you have a redirect?

10 MR. BOYD: Just a couple of quick questions.

11 REDIRECT EXAMINATION

12 BY MR. BOYD:

13 Q. Dr. Dumdei, Mr. Layman was asking you about PSD and PSD  
14 modeling. Do you recall that line of questions?

15 A. Yes.

16 Q. Okay. As part of your work on this matter did you have  
17 occasion to review the PSD application that Panhandle submitted  
18 in August or September of 1999?

19 A. Yes, I did.

20 Q. Was there modeling that was performed as part of that  
21 application?

22 A. Yes.

23 Q. What did that modeling reveal?

24 A. It demonstrated the necessary requirements to obtain a

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1 permit.

2 MR. BOYD: Okay. Thank you. That's all I have.

3 HEARING OFFICER KNITTLE: Mr. Layman, any recross on that  
4 limited issue?

5 RECROSS EXAMINATION

6 BY MR. LAYMAN:

7 Q. You didn't participate in the preparation of that  
8 modeling work that was done on the recent permit application  
9 submitted by Panhandle?

10 A. No, I didn't.

11 Q. Do you know who was?

12 A. I don't recall offhand.

13 MR. LAYMAN: Okay. That's fine. That's all.

14 HEARING OFFICER KNITTLE: Mr. Boyd, any re-redirect?

15 MR. BOYD: No. Thank you.

16 HEARING OFFICER KNITTLE: Thank you, sir. You may step  
17 down.

18 (The witness left the stand.)

19 HEARING OFFICER KNITTLE: Okay. Let's  
20 take a ten minute recess.

21 (Whereupon a short recess was taken.)

22 HEARING OFFICER KNITTLE: Mr. Boyd, your next witness?

23 MR. BOYD: We call John Stefan.

24 HEARING OFFICER KNITTLE: Could you swear him in, Darlene.

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

3 J O H N S T E F A N,  
4 having been first duly sworn by the Notary Public, saith as  
5 follows:

6 DIRECT EXAMINATION

7 BY MR. BOYD:

8 Q. Good afternoon, Mr. Stefan. Are you currently employed?

9 A. Yes.

10 Q. By whom are you employed?

11 A. The Illinois EPA.

12 Q. How long have you been employed by the Illinois EPA?

13 A. Six and a half years.

14 Q. And what current capacity do you have with the IEPA?

15 A. Environmental Protection Engineer.

16 Q. What are your responsibilities as an Environmental  
17 Protection Engineer?

18 A. I work at the Bureau of Air doing emission inventory and  
19 compliance activities.

20 Q. How long have you been working in the Bureau of Air?

21 A. Six and a half years.

22 Q. Okay. Has your title as Environmental Protection  
23 Engineer changed over that time?

24 A. No, it has not.



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1 Q. Have your responsibilities changed?

2 A. The responsibilities have changed in the six and a half  
3 years yes.

4 Q. Can you describe generally how they have changed?

5 A. I started out in the emission inventory with the annual  
6 emission reports and since then we have expanded into compliance  
7 activities.

8 Q. When you say we --

9 A. The section in general.

10 Q. Is your section the air systems management section or  
11 was it called the air systems management for a while?

12 A. It initially was called the air systems management,  
13 that's correct.

14 Q. Did that name change?

15 A. It changed to the compliance and systems management  
16 section.

17 Q. Do you know when that occurred?

18 A. I don't know the exact date.

19 Q. Do you recall if it was 1994?

20 A. It would have been 1995, 1996, in that time frame. I am  
21 just guessing.

22 Q. Okay. And besides the name change, were there any other  
23 changes that took place at that time?

24 A. The compliance activities were added to the section at

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1 that point.

2 Q. Can you describe sort of generally the emissions  
3 inventory function of that section?

4 A. The Bureau of Air has a large oracle database which  
5 started out on the state's mainframe and has since been moved to  
6 a server residing at the Illinois EPA. We use the database for  
7 the annual emission reports and for other reporting functions.

8 Q. As a result of your work with the Agency, have you  
9 become familiar with the annual emissions reports?

10 A. That's correct.

11 Q. What role does your section play with respect to the  
12 annual emissions reports?

13 A. We have the responsibility of issuing the reports to the  
14 facilities and then we take the data from the database, put it  
15 down in a paper format, and send it out to the facilities.

16 Q. Anything else?

17 A. We have the responsibility to collect those. We have a  
18 deadline of May 1st every year to collect them from the  
19 facilities and to enter that data into the database.

20 Q. Do you know if that role has changed over time?

21 A. Basically that was the role from the start and has been  
22 the role all the way through.

23 Q. Do you know how long annual emission reports have been

24 required by the Agency?

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1 A. I don't know.

2 Q. Do you know what -- do you know whether reports were  
3 required prior to 1992?

4 A. To my recollection a report of some form or another was  
5 required by the law.

6 Q. Do you understand what that report looked like?

7 A. That was before my time. I have no recollection.

8 Q. Okay. Was that a form that was sent out to facilities?

9 A. I am not even sure of that.

10 Q. Okay. Do you know what was done with that report?

11 A. I do not.

12 Q. Okay. It is my understanding that sometime around 1992  
13 that reporting emission form changed. Do you have that  
14 understanding?

15 A. There was a change in the law in, I believe, 1993.

16 Q. Okay.

17 A. We then instituted the 1994 annual emission report.

18 Q. Okay.

19 A. Prior to that, I don't know what was required.

20 Q. Do you know what changes occurred in that time frame to  
21 the emission report?

22 A. I believe that is when we instituted the new format for  
23 the annual emission report and the actual criteria pollutants

24 were added in 1994. I believe that is what -- I think Section

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1 254 of the law came about from the 1994 changes.

2 Q. Is that 35 Ill. Admin. Code Part 254?

3 A. Correct.

4 Q. After that change, what information -- well, strike  
5 that.

6 Was it still the case that your section sent out forms to  
7 the facilities?

8 A. Correct.

9 Q. What information was on those forms when they were sent  
10 out to the facilities?

11 A. It depended on the emission level of the facility of the  
12 potential or the allowable emission level as to whether they got  
13 a long or a short report. A short report being essentially just  
14 the address of the facility, which permits were associated with  
15 the facility, and the summary emissions for the facility.

16 The long report would have that information required or  
17 actually sent out with the forms plus an additional number of  
18 sheets which would list emission unit by emission unit, the  
19 operating parameters and the emission rates associated with it.

20 Q. Did both the short and the long form then have  
21 information on allowable emissions for the facility or for the  
22 units?

23           A.    The long and the short would both have allowable  
24 emissions associated with the facility wide.

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1           Q.    Would they also have information on past reported actual  
2 emissions?

3           A.    They would have the facility reported actual emissions  
4 from the year before.

5           Q.    Okay.  Now, who put input onto that form or into your  
6 system the information on allowable emissions?

7           A.    Allowable emissions were put in by the permitting  
8 section.

9           Q.    Okay.  Do you know where they got that information?

10          A.    The allowable -- historically, going way back, a lot of  
11 the allowables were put in depending on whether or not there was  
12 a specific requirement for that facility or the actions that they  
13 were in were put in either as a potential to emit or if there was  
14 a point of law, what the law allowed for the facility.

15          Q.    Do you know how the permit people would input  
16 information about allowable emissions so that it would show up on  
17 the form?

18          A.    It was coded in through the State's mainframe.

19          Q.    They could do that through computer terminals in their  
20 offices?

21          A.    Correct.

22          Q.    Would those forms also include information on estimated

23 emissions?

24 A. The annual emissions reports?

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1 Q. Uh-huh.

2 A. Yes, the estimated would show up on the annual emission  
3 reports.

4 Q. Who input the information on the estimated emissions, do  
5 you know?

6 A. The permit section.

7 Q. And they do it the same way they input information on  
8 allowable emissions?

9 A. The estimated would be based upon the information that  
10 was provided by the facility on the application for the permit.

11 Q. When they were actually inputting it they could do it --  
12 the permit people could do it on their computers?

13 A. Yes, that's correct.

14 Q. What about information on the actual emissions from the  
15 previous year, was that input on those forms as well?

16 A. Well, the actual was what we received back from the  
17 facility and that would have been put in by us.

18 Q. So --

19 A. By the compliance section.

20 Q. So let's say for a form in 1995 that you had sent out,  
21 would it also include the actual emissions listed that were

22 reported by the facility for 1994?

23 A. Correct.

24 Q. Who input that information into the system?

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1 A. That would have been our responsibility, the compliance  
2 and systems management section.

3 Q. Okay. How did you do that?

4 A. Through our computers.

5 Q. Right there at your desk?

6 A. At the desk, correct.

7 Q. And once these forms were sent out to the facilities,  
8 you said they were required to be sent back by a certain date.  
9 What were they required to do with them besides turn them back in  
10 to you by a certain date?

11 A. Well, they were required by law to provide the best  
12 available data in response to this form and submit them back to  
13 us and verify that the information was correct.

14 Q. Which data are you talking about? What kind of data was  
15 required by those forms?

16 A. Their actual emissions for the year, for the calendar  
17 year.

18 Q. Once the information was sent in by the facility, was  
19 that received by your section?

20 A. Correct, yes.

21 Q. Okay. What was done with it after that?

22           A.   Well, we would receive it, date stamp it in, and put it  
23 in holding bins for data entry.

24           Q.   Okay.  And do you have any understanding what happened

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1 after you put it in the holding bins?

2           A.   Well, the engineers that worked in the section would  
3 select a report, review it, and then enter the data.

4           Q.   When you say the section, you mean your section?

5           A.   That's correct.

6           Q.   Okay.  Now, it is my understanding that, again, the  
7 forms changed in 1996 or thereabouts; is that right?

8           A.   I do not recall.

9           Q.   Is there the term tier one, or tier two, or tier 3 forms  
10 that -- I am sorry.  Strike that.  That is not right.

11           Was there more specific information required at some point  
12 as a result of the Title 5 regulations, do you recall?

13           A.   The law changed so that the detailed reporting -- the  
14 detailed reporting was required of more facilities.  The criteria  
15 for detailed reporting went to 25 tons combined allowables or  
16 potential to emit 25 tons NOx or VOM.

17           Q.   Did that apply in places other than the Chicago ozone  
18 nonattainment area?

19           A.   Across the State.

20           Q.   Was there any additional information that was required



21 by those forms then?

22 A. The detailed reports would require an emission unit by  
23 emission unit determination of what the hours of operation were,  
24 throughput, and the emission rate.

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1 Q. Okay. Is the same thing true for those forms, that once  
2 they were received back from the facilities someone in your  
3 section would input the information into the computer?

4 A. That's correct.

5 Q. Once that was done, once the information was input by  
6 your section, who had access to that information?

7 MS. CARTER: I am going to object just because I am  
8 wondering what time frame Mr. Boyd is referring to. If I could  
9 have clarification.

10 HEARING OFFICER KNITTLE: Mr. Boyd?

11 MR. BOYD: Sure.

12 Q. (By Mr. Boyd) Let's limit it to the early 1990s when you  
13 first got there?

14 A. Well, through FOIA everybody would have access to it.

15 Q. I meant within the Agency. For instance, specifically,  
16 the permit section. Strike that.

17 How about the field inspectors, would they have access to  
18 that information?

19 A. The annual emission reports would reside in our file  
20 cabinets so anybody within the EPA that wanted to walk down and

21 look at it could.

22 Q. So prior to an inspection the field inspector could come  
23 over to your office and look at it in the file cabinets?

24 A. That's correct.

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1 Q. Okay. So they could just walk over and pull out the  
2 emission report forms?

3 A. Correct.

4 Q. Were there ever times when the inspectors would call you  
5 and ask you about information in those reports?

6 A. Correct.

7 Q. What about a permit writer? Could the permit writers  
8 obtain the information the same way?

9 A. Yes.

10 Q. In other words, before they issued a permit or renewal  
11 they could come by and pull the annual emission report form?

12 A. Correct.

13 Q. Or they could call you on the phone and ask you what the  
14 report said?

15 A. That's correct.

16 Q. Okay. Over what time period is this true?

17 A. It is my understanding that since the -- that since 1992  
18 when the laws were enforced for the annual emission reports that  
19 that data -- I think we have reports going back to 1992.

20 Q. Well, if there were emission reports that were submitted  
21 before 1992, then an inspector could come by and look at those  
22 reports in your office, too, couldn't they?

23 A. I have no idea where they are.

24 Q. All right. Do you know if access to that information in

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1 those reports filed by facilities was also available via  
2 computer?

3 A. The computer system has more recently been available to  
4 permits and to the field inspectors.

5 Q. Do you know when that occurred?

6 A. I don't recall the exact date.

7 Q. There is a book in front of you called Stipulated  
8 Hearing Exhibits. I am going to ask that you turn to Stipulated  
9 Hearing Exhibit Number 9.

10 A. Okay.

11 Q. Do you see that?

12 A. Yes.

13 Q. Can you identify this for us?

14 A. It appears to be a copy of a 1992 annual emission report  
15 from Panhandle Eastern.

16 Q. Does this include information on allowable emissions?

17 A. Page two lists allowable emissions.

18 Q. What are the NOx emissions that are allowable listed  
19 there?

20 A. 1,287.4176 tons per year.

21 Q. Do you know the basis for that information, for that  
22 allowable level?

23 A. I don't know.

24 Q. Did you say earlier that it was permits who would input

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1 that information?

2 A. It was their responsibility to put it in.

3 Q. Okay. Does this Stipulated Hearing Exhibit Number 9  
4 contain information on actual emissions?

5 A. Yes.

6 Q. And, in fact, does it list actual NOx emissions for  
7 1992?

8 A. Yes.

9 Q. What does it list for actual NOx emissions?

10 A. 1,701.57 tons.

11 Q. Do you know what was done with this report by your  
12 section once it was submitted by Panhandle?

13 MS. CARTER: Objection. Calls for speculation in terms of  
14 his entire division. He can only testify as to what his personal  
15 knowledge is.

16 HEARING OFFICER KNITTLE: Mr. Boyd?

17 MR. BOYD: Well, I agree he can testify to his personal  
18 knowledge. He can testify generally as to what happens in

19 general with these permits.

20 HEARING OFFICER KNITTLE: I am going to overrule the  
21 objection.

22 Sir, if you know, you can answer the question.

23 THE WITNESS: It would just be speculation that the  
24 information, the actual reported, would be entered into the

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1 database.

2 Q. (By Mr. Boyd) Do you know, was there any action taken as  
3 a result of the actual NOx emissions being reported by Panhandle  
4 being greater than the allowable emissions listed in this  
5 document?

6 A. I know of no action that was taken.

7 Q. You took no action yourself?

8 A. I am not sure that I was the one that looked at it and  
9 entered the data.

10 Q. You don't recall taking any action yourself?

11 A. I don't recall myself taking any action on this specific  
12 annual emission report, no.

13 Q. You don't know whether anyone else in your department  
14 took any action?

15 A. I know of no action taken.

16 Q. You know of no action taken by anyone at the Agency as a  
17 result of this?

18 MS. CARTER: Again, I am going to have to object to this

19 line of questioning. This pertains to an annual emission report  
20 detailing 1992 emissions that was received in 1993. He has  
21 previously testified that he began at the Agency in 1994, so it  
22 would definitely call for speculation on his part by the witness.

23 HEARING OFFICER KNITTLE: I am going to overrule. I think  
24 he can answer it and it is not speculation if he knows. He can't

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1 state what anybody else did with it. But for him to answer if he  
2 knows what happened with the report is not speculation, so it is  
3 overruled.

4 THE WITNESS: Well, historically we have not had the  
5 responsibility to make a determination that the actuals exceeded  
6 the allowables. There was some question as to validity and  
7 accuracy of allowables in the database to begin with. In 1993 I  
8 think there was only one engineer, I think, who was temporarily  
9 assigned to enter the data.

10 Q. (By Mr. Boyd) Sir, I understand that. That is not my  
11 question. My question, sir, was whether you knew of any action  
12 taken by anyone at the Agency as a result of the fact that the  
13 NOx emissions reported for 1992, that the actual levels were  
14 greater than what was listed here as allowable levels?

15 A. I know of no action.

16 Q. Okay. Let me show you the next exhibit, Number 10, if  
17 you could flip to that for a second. Can you identify this for

18 us?

19 A. It appears to be a copy of a letter dated May 16th of  
20 1994 to David Kolaz from Panhandle Eastern submitting a number of  
21 1993 annual emission reports it looks like for four facilities.  
22 That is the cover page.

23 Q. What about the pages following that?

24 A. Okay. The next page is a copy of the 1993 annual

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1 emission report from the Panhandle Eastern Glenarm facility.

2 Q. And the following page?

3 A. Page three would be a summary page or page two of the  
4 annual emission report.

5 Q. And the last page?

6 A. Which is -- this is the listing of the permits that we  
7 had on file for that facility.

8 Q. Have you seen this Exhibit Number 10 before?

9 A. Not that I specifically recall.

10 Q. Well, if you would look at the first page you will see  
11 on the bottom right-hand corner Stefan Exhibit Number 3?

12 A. Correct.

13 Q. Do you recall looking at this at your deposition?

14 A. Not specifically.

15 Q. Okay. If I could refer you back to page two of the  
16 report form. Does the report list allowable emissions for  
17 nitrogen oxides?

18 A. Yes.

19 Q. Okay. What does it list?

20 A. 2,574.8352 tons.

21 Q. Do you know who inputted that information into the

22 database?

23 A. I have no knowledge.

24 Q. It is greater than the allowable emissions listed in the

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1 1992 report, isn't it?

2 A. To my recollection.

3 Q. Do you know why it is greater than that?

4 A. I have no idea.

5 Q. The report also lists actual emissions for 1993, does it

6 not?

7 A. Yes.

8 Q. What does it list as actual emissions for 1993 for NOx?

9 A. For NOx emissions 1,380.94 tons.

10 Q. That is lower than the amount listed there as the

11 allowable emissions; is that right?

12 A. That's correct.

13 Q. If you go back to page two of Exhibit Number 9, the

14 actual emissions listed for 1992 for NOx are lower than the

15 allowable emissions listed in the 1993 report; is that right?

16 A. Could you say that again.



17 Q. Sure. The actual emissions for NOx in the 1992  
18 report -- well, let's make it easier. On page two of Exhibit  
19 Number 9 it lists the NOx emissions report for 1992 is 1,701.57.  
20 Do you see that?

21 A. Yes.

22 Q. If you go to page two of Exhibit 10, it lists the  
23 emission report for 1992, does it not?

24 A. Yes.

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1 Q. And it lists 1,701.57 there, as well?

2 A. It is 1,380.94.

3 Q. I am talking about four 1992, sir, the third column.

4 A. Okay. For 1992 is 1,701. For 1993 was 1,380.

5 Q. Right. My point is the emission reported for 1992 as  
6 well as emissions reported for 1993 were both below the allowable  
7 emissions listed in the 1993 report of the 2,574 and change; is  
8 that right?

9 A. That's correct.

10 Q. Do you have any knowledge as to whether your section  
11 took any action with respect to this annual emission report?

12 A. I have no knowledge of taking any action.

13 Q. Okay. Let me refer you to Number 11 for a second. This  
14 is Stipulated Hearing Exhibit Number 11. Can you identify that  
15 for us?

16 A. This is a letter dated May 3rd of 1995 for Panhandle

17 Eastern to the compliance system. It is a cover letter noting  
18 that it looks like four annual emission reports for 1994 were  
19 included.

20 Q. Let me just refer your attention to page two of that  
21 annual emission report for 1994. Do you see that?

22 A. Page two of the --

23 Q. Of the report.

24 A. Of the report. Okay.

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1 Q. Are you there, sir?

2 A. Yes.

3 Q. I would like you to look at what is listed there as the  
4 allowable emissions for 1994. Do you see that?

5 A. Yes.

6 Q. What are the allowable NOx emissions listed on this  
7 report for 1994?

8 A. 1,287.4176.

9 Q. Do you know why -- well, strike that. That is different  
10 than the allowable emissions listed in the 1993 report; isn't  
11 that correct?

12 A. That's correct.

13 Q. Do you know why it is different?

14 A. I have no idea.

15 Q. The actual emissions listed for 1993 are also listed on

16 this report, aren't they?

17 A. 1994.

18 Q. Well, for both.

19 A. I am sorry. You are right.

20 Q. And 1994.

21 A. You are correct.

22 Q. We will take it one step at a time.

23 A. Okay.

24 Q. Is that right for 1993 emissions?

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1 A. Correct.

2 Q. This form lists that the actual emissions for 1993 were  
3 greater than what is listed as the allowable emissions for NOx;  
4 is that right?

5 A. That's correct.

6 Q. Again, for 1994 the form lists the actual NOx emissions?

7 A. Correct.

8 Q. Again, that number is greater than the allowable  
9 emissions; is that right?

10 A. Correct.

11 Q. Now, do you know -- strike that. Did you take any  
12 action in relation to receiving this form?

13 A. I have no recollection of taking any action.

14 Q. Do you have any knowledge as to whether anyone in your  
15 section took any action?

16 A. I have no knowledge.

17 Q. Okay. Do you have any information as to whether anyone  
18 at the Agency at all took action in relation to the information  
19 reported on this annual emission report?

20 A. I have no knowledge of anyone taking any action.

21 Q. Okay. Under what circumstances would your section take  
22 action if the facility reported actual emissions were greater  
23 than the allowable emissions listed on the form?

24 A. We have no procedures which would dictate that we

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1 compare the two numbers.

2 Q. Sir, do you remember being deposed in this matter back  
3 in November of 1999?

4 A. I remember being deposed back then. That was a year  
5 ago.

6 Q. I know. Do you recall at that time me asking you this  
7 question and you providing the following response?

8 MS. CARTER: Mr. Boyd --

9 MR. BOYD: If you want to follow along, it is on page 25  
10 and 26 of the transcript.

11 MS. CARTER: Thank you.

12 Q. (By Mr. Boyd) I will read the question and the answer.

13 "Question: You said in most cases you would just enter the  
14 data. Are there any cases where you wouldn't just enter the

15 data?

16 Answer: If there were facilities that grossly exceeded the  
17 allowable, and if they were identified as facilities where there  
18 was an additional interest for whatever reason, there could be  
19 legal activity going on or compliance where somebody requested us  
20 to look out for those, then we would make a more thorough  
21 analysis and report it."

22 Do you recall me asking you that question --

23 A. Correct.

24 Q. -- and you giving that answer?

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1 A. Yes.

2 Q. So unless someone determined that the emissions grossly  
3 exceeded an allowable level, your section would not take action?

4 A. Well, it was a personal decision. There were numerous  
5 facilities that we were aware of that we were tracking or that  
6 the attorneys would have us watch or that the inspectors would  
7 have us watch and look out for. There is no set procedures for  
8 doing it. It was on a case by case and engineer by engineer  
9 basis.

10 Q. You said in your deposition that you would not worry  
11 about it unless it grossly exceeded the allowable. What did you  
12 mean by grossly exceed?

13 A. That there was no -- there was no set guidelines for  
14 that. It would have to be something that really stuck out. It

15 would have to be a special facility, and it would have to be VOM  
16 in the Chicago area.

17 Q. Do you recall at this time whether during the time that  
18 you had been at the Agency you were concerned about looking at  
19 NOx emissions from any facilities in relation to reported  
20 allowable emissions?

21 A. I don't remember NOx ever being a criteria or that we  
22 really were concerned about it.

23 Q. Let me refer you to Stipulated Hearing Exhibit Number  
24 12. Again, can you identify that for us?

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1 A. It is an April 26th of 1996 letter from Panhandle  
2 Eastern to Division of Air Pollution Control, a cover letter  
3 attaching four annual emission reports for 1995.

4 Q. Again, I refer you to page two of the annual emissions  
5 report. This page lists the allowable emissions for NOx for --  
6 on this page; is that right?

7 A. Correct.

8 Q. Do you know what the source of the information, again,  
9 is for the allowable emissions for NOx?

10 A. I have no idea.

11 Q. It also lists the emission reported for 1994 and for  
12 1995; is that right?

13 A. Correct.

14 Q. For both years the actual emissions listed exceeded the  
15 allowable emissions listed; is that right?

16 A. That's correct.

17 Q. Are you aware of whether you took any action in relation  
18 to receiving this report?

19 A. I have no recollection.

20 Q. Are you aware of whether anybody in your division or  
21 section took any action?

22 A. I am not aware of any action that was taken.

23 Q. Are you aware of whether anybody at the Agency took  
24 action in relation to this report?

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1 A. I am not aware of any action.

2 Q. Okay. Now, your section became involved with the  
3 Panhandle Glenarm station after Mr. Youngblut's inspection in the  
4 fall of 1996; isn't that right?

5 A. That's correct.

6 Q. After Mr. Youngblut's inspection you were the section  
7 employee who helped determine whether a violation had occurred?

8 A. That's correct.

9 Q. Okay. When did you first get involved after the  
10 inspection?

11 A. I don't recall when it was directly assigned to me.

12 Q. Do you recall if it was in the fall of 1996?

13 A. I don't recall the exact date.

14 Q. Okay. Do you know how you first became involved in  
15 relation to Mr. Youngblut's inspection?

16 A. I think Mr. Kolaz assigned the Panhandle Eastern file to  
17 me.

18 Q. What did you do when you first got involved?

19 A. I think I reviewed the file, what Steve had put into the  
20 file.

21 Q. Steve Youngblut?

22 A. Steve Youngblut, yes.

23 Q. Anything else?

24 A. Well, that is how I would have started.

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1 (Whereupon said document was duly marked for  
2 purposes of identification as Panhandle Exhibit 38  
3 as of this date.)

4 Q. (By Mr. Boyd) Let me show you what has been marked as  
5 Panhandle Exhibit Number 38. This is also marked as IAG 1145 at  
6 the bottom right-hand corner. Can you identify this document?

7 A. Yes. It is a copy of a letter from myself to Angela  
8 Tin, dated December 13th of 1996.

9 Q. You talked about before you were not sure when you first  
10 got involved with this, but it was obviously before December 13th  
11 of 1996?

12 A. That's correct.



13 Q. Do you know now how far before that date?  
14 A. I have no recollection of that date.  
15 Q. Was this document prepared on that date?  
16 A. On December 13th?  
17 Q. Yes, or around that date?  
18 A. That is correct.  
19 Q. Do you know why it was prepared?  
20 A. Well, I see my handwriting, for CDG.  
21 Q. What does that mean to you?  
22 A. That is the compliance decision group.  
23 Q. There is some other writing on this paper, too. Is  
24 there any other writing that you recognize?

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1 A. It says applied for 8,736 hours per year. See John  
2 Stefan. Oh, the handwriting or the actual typing?  
3 Q. Well, do you know whose handwriting that is? Is that  
4 yours?  
5 A. Well, CDG is my handwriting. See John Stefan would not  
6 be my handwriting. Applied for 8,736 hours per year, I don't  
7 know whose handwriting that is.  
8 Q. What about down under paragraph two, do you know whose  
9 handwriting that is?  
10 A. No, I have no recollection.  
11 Q. Before preparing this memo did you have any discussions  
12 with anybody from Panhandle?

13 A. Not that I recollect.

14 Q. Did you review any background information before it was  
15 prepared?

16 A. I don't remember what I reviewed before writing it,  
17 other than the file that Steve Youngblut had submitted.

18 Q. Well, I am going to ask you to read the section marked  
19 background. Just read it to yourself right now.

20 A. Okay. (Witness complied.)

21 Q. Let me know when you are done.

22 A. Correct.

23 Q. After reviewing that section, do you have any  
24 understanding of what information may have been in Mr.

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1 Youngblut's file?

2 A. Well, either he had a copy of the application for the  
3 construction permit or I went down and read the construction  
4 permit.

5 Q. It looks like not only the construction permit  
6 application but also the correspondence relating to the  
7 construction permit application?

8 MS. CARTER: Objection. Leading.

9 HEARING OFFICER KNITTLE: Mr. Boyd?

10 MR. BOYD: I will rephrase it.

11 Q. (By Mr. Boyd) What other information do you recall now

12 reviewing before writing this letter besides the actual  
13 construction permit application?

14 A. Well, there was probably correspondence accompanying the  
15 application for the construction permit that had this information  
16 in it. I don't remember specifically finding it there.

17 Q. When you wrote this memorandum, what was your  
18 understanding regarding the -- regarding what number of hours per  
19 year Panhandle had requested to operate the engines?

20 A. Could you rephrase that question again?

21 Q. Sure. When you wrote this memorandum, did you have an  
22 understanding as to what Panhandle was looking for in the  
23 construction permit application in terms of the hours per year to  
24 operate the engines?

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1 A. No.

2 Q. Did you have an understanding that they were going to be  
3 operating the engines full-time?

4 A. No.

5 Q. Did you have an understanding that they would be  
6 operating the engines 8,736 hours per year?

7 A. No.

8 Q. Did you have an understanding when you wrote this  
9 regarding how much more efficient the new engines, the four new  
10 engines you referenced, would be as opposed to the 12 old engines  
11 that were taken out?

12 A. Yes.

13 Q. What was your understanding?

14 A. That they were more efficient.

15 Q. Okay. What do you mean by that?

16 A. Well, in the amount of energy consumed by the engine in  
17 compressing a stated amount -- a stated volume of gas, it would  
18 be more efficient.

19 Q. Therefore, they would result in fewer pollutants emitted  
20 as well?

21 A. That's correct.

22 Q. Okay. Did you -- at the time you reviewed the  
23 information, did you consider the request by Panhandle in 1987 to  
24 replace these 12 engines with four new engines to be a pollution

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1 reduction activity?

2 A. No.

3 Q. Sir, I am going to refer you back to your background  
4 section. Isn't it true that you say after describing the -- let  
5 me go back a second. You say in 1987 the subject applied for a  
6 construction permit to replace 12 compressor engines (13,200 HP)  
7 with four new engines (12,140 HP). A few lines later you say,  
8 one would think this type of pollution reduction activity would  
9 be welcomed and rewarded but, and then you have a number of  
10 asterisks. Isn't that what you said?

11 A. Correct.

12 Q. Okay. Now, let me refer you to paragraph two of this  
13 memorandum. Again, could you just read that to yourself, please.

14 A. (Witness complied.) Okay.

15 Q. Okay. Based on reviewing that paragraph, do you now  
16 have a recollection of what you understood Panhandle was looking  
17 for in terms of ability to operate the four new engines?

18 A. I have a recollection of what I thought their intent  
19 was.

20 Q. What was that?

21 A. That their intent was to operate them as much as they  
22 could.

23 Q. At maximum rated capacity?

24 A. Correct.

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1 Q. Okay. Was there anything in your review of the permit  
2 application or the correspondence to suggest that Panhandle would  
3 agree to operate the four new engines at anything less than  
4 maximum rated capacity?

5 A. Yes.

6 Q. What was that?

7 A. In the construction permit they took the limit on  
8 increasing emissions from the modification.

9 Q. As you sit here today, do you have any information as to  
10 whether Panhandle could operate those four engines at the maximum

11 rated capacity and comply with the NOx emissions limit of 461.3  
12 tons per year?

13 A. Could you say the question again?

14 MR. BOYD: I would just like it read back, if I could, Mr.  
15 Knittle.

16 HEARING OFFICER KNITTLE: Yes. Could you read it back,  
17 Darlene.

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

20 THE WITNESS: Yes.

21 Q. (By Mr. Boyd) What is your understanding?

22 A. By operating at a reduced number of hours.

23 Q. Was there anything in the permit application or the  
24 correspondence relating to the permit application, not the actual

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1 permit that was issued, but the application or the correspondence  
2 relating to the application that would suggest that Panhandle  
3 would operate less than maximum hours?

4 A. I don't recall.

5 Q. Okay. In paragraph two you also state the following.  
6 It says, subject supplied information relating to the emission  
7 factors and PTE to permits but there is no record of anything  
8 being done with this information. What did you mean by that?

9 A. I don't recall.

10 Q. Let me refer you to paragraph three. Could you read  
11 that to yourself, please.

12 A. (Witness complied.)

13 Q. Let me know when you are done.

14 A. Okay.

15 Q. Mr. Stefan, you state or you explain in that paragraph  
16 your understanding of how the Agency determined an emissions  
17 limit for the four now engines; is that right?

18 A. I tried to explain my interpretation of what they did.

19 Q. And what did you mean when you said at the end of that  
20 paragraph, by doing this they have crippled subject's capability  
21 to efficiently operate their business and compete?

22 A. They explained that there was a lot of confusion and  
23 misinformation about trying to determine what PSD really is. And  
24 early on I had no comprehension really of what PSD is. The law

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1 would seem to allow several different scenarios, three different  
2 scenarios.

3 Q. Sir, I appreciate that but, again, I am asking you  
4 specifically about your statement in paragraph three about what  
5 it meant that the emission limit issued by the Agency crippled  
6 the subject's capability to efficiently operate their business.

7 A. In --

8 MS. CARTER: Excuse me just a moment. I believe that he  
9 was trying to respond to the earlier question, however, he did

10 not get an opportunity to completely respond because of Counsel's  
11 objection in the middle of it.

12 MR. BOYD: Mr. Knittle, if I may, there will be time on  
13 cross-examination for the Agency to bring out whatever additional  
14 testimony they would like. I would like an answer to my specific  
15 question here. I think I am entitled to that. I think he is  
16 going on -- way beyond the scope of my question.

17 HEARING OFFICER KNITTLE: I am going to overrule the  
18 objection and allow Mr. Boyd to reask the question. I don't  
19 think it was responsive.

20 Mr. Boyd, do you recall your question?

21 MR. BOYD: It was not responsive, so you are overruling the  
22 objection?

23 MR. DEISCH: Hers.

24 MR. BOYD: Oh. I am sorry. You are overruling --

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1 HEARING OFFICER KNITTLE: You didn't object, Mr. Boyd. I  
2 think you are in the clear here.

3 MR. BOYD: I apologize.

4 HEARING OFFICER KNITTLE: I didn't think his answer was  
5 responsive to your question, so I overruled her objection. I am  
6 going to let you reask unless you need Darlene to restate it.

7 MR. BOYD: I will just reask the question.

8 Q. (By Mr. Boyd) What did you mean in paragraph three of



9 this document that the way in which the Agency determined the  
10 emissions level for those four engines crippled the subject's  
11 capability to efficiently operate their business, comma, and  
12 compete?

13 A. Based on my incomplete knowledge and understanding of  
14 PSD, I made several comments that in light of historical  
15 information are not entirely accurate. There was some question  
16 as to whether -- what permits did in issuing the permit was in  
17 keeping with the law, and that was the -- my comments were  
18 relating to that.

19 Q. Well, sir, you don't say here, do you, that they didn't  
20 comply with the law. You say it crippled their ability to  
21 efficiently operate their business and compete?

22 A. Correct.

23 Q. And I am asking you what you mean by that.

24 MS. CARTER: Objection. Asked and answered. He is also

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1 being argumentative with the witness.

2 HEARING OFFICER KNITTLE: Overruled. You should answer the  
3 question.

4 THE WITNESS: Okay. In my mind-set back in 1996, if  
5 permits had used the calculation of potential to emit before and  
6 after the modification, Panhandle would have been able to operate  
7 their engines wide open with no problems. However, the feds do  
8 not allow that calculation to be done in that manner. I did not

9 know that in 1996. That subsequently came about through several  
10 meetings and very involved research. So back in 1996, going in  
11 with the basic understanding that they had updated their engines  
12 so that they could compress all of the gas that was available, it  
13 was my assumption at that point.

14 MR. BOYD: I am sorry to do this. Could I ask that the  
15 question be read back and that the answer be read back. I am not  
16 sure that it was responsive.

17 HEARING OFFICER KNITTLE: Yes, Darlene, could you read it  
18 back

19 (Whereupon the requested portion of the record was  
20 read back by the Reporter.)

21 Q. (By Mr. Boyd) It is your understanding at the time you  
22 wrote this memorandum that Panhandle was given no opportunity to  
23 provide input regarding which years would be representative of a  
24 normal source operation; isn't that right?

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1 MS. CARTER: Objection. Leading.

2 HEARING OFFICER KNITTLE: Mr. Boyd?

3 MR. BOYD: In light of the last few questions I think have  
4 established this witness is somewhat hostile. I think it is an  
5 appropriate question.

6 MS. CARTER: Mr. Hearing Officer, I don't think that he has  
7 established this witness is hostile at all. This witness has

8 attempted to respond to the questions posed by Mr. Boyd.  
9 However, simply since Mr. Boyd does not like the responses does  
10 not necessarily mean that this witness is hostile.

11 MR. BOYD: If I just may, Mr. Knittle, again, I don't think  
12 he answered my question specifically. I am not going to ask it  
13 again and keep asking it over and over again. I am not sure that  
14 he can explain what he said here. But I would like to follow-up  
15 and ask a few more questions about this document. That's what I  
16 have begun to do.

17 HEARING OFFICER KNITTLE: I don't mind you asking questions  
18 about the document. I am going to sustain the objection. I  
19 don't think he has been shown to be hostile. I am not so sure  
20 you couldn't do that. However, at this point in time that  
21 showing has not been made. So I will sustain the objection.

22 Q. (By Mr. Boyd) Mr. Stefan, at the time you wrote this,  
23 what was your understanding as to the input that Panhandle had  
24 regarding the baseline years for determining the emissions limit?

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1 A. It was my understanding that they had submitted one  
2 year's worth of data.

3 Q. Well, sir, in paragraph three don't you state that the  
4 baseline determination failed to take into account a two year  
5 period?

6 A. Correct.

7 Q. Okay. And the one year of information for which gas

8 usage was provided was during a year when the engines were in a  
9 sense idle; is that right?

10 MS. CARTER: Objection. Leading.

11 THE COURT REPORTER: I didn't hear the witness' answer.

12 HEARING OFFICER KNITTLE: That is okay. She objected  
13 before he could answer.

14 Mr. Boyd, do you have a response to the --

15 MR. BOYD: No response.

16 HEARING OFFICER KNITTLE: I am going to sustain the  
17 objection, as before.

18 Q. (By Mr. Boyd) What was your understanding, Mr. Stefan,  
19 of how the engines were operated -- strike that. How the retired  
20 engines were operated during the one year for which the baseline  
21 determination was made?

22 A. That there was a low level of usage.

23 Q. Sir, was it your understanding that they were, in a  
24 sense, idle?

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1 A. That's what I wrote there.

2 Q. Okay. When you wrote this memorandum, did you have an  
3 opinion regarding whether using one year for determining the  
4 baseline was appropriate?

5 A. It would seem that that's -- that's what I put in  
6 paragraph three.

7 Q. Is it your opinion when you wrote this that using one  
8 year was not appropriate?

9 A. That's correct.

10 Q. Okay. Did you have an opinion when you wrote this as to  
11 what -- did you have an understanding when you wrote this as to  
12 what input Panhandle had in the decision to use only one year for  
13 purposes of developing the baseline?

14 MS. CARTER: Mr. Hearing Officer, can I have that question  
15 read back, please, for myself?

16 HEARING OFFICER KNITTLE: Please, Darlene.

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

19 HEARING OFFICER KNITTLE: Sir, can you answer that  
20 question?

21 THE WITNESS: It is my recollection that the permit  
22 engineer had some difficulties in getting data out of Panhandle  
23 Eastern, and there was some discussions between him and  
24 Panhandle.

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1 Q. (By Mr. Boyd) Just one second. I am going to refer you  
2 back to your deposition, sir. Just a second.

3 MR. BOYD: Sally, it is on page 68 and 69.

4 MS. CARTER: Okay.

5 Q. (By Mr. Boyd) At the time I was asking you about your  
6 statement in paragraph three or number three that by doing this

7 they have crippled the subject's capability to efficiently  
8 operate their business and compete. And I asked you what you  
9 meant by that, and then you provide a little history. Okay.

10 Sally, it is on page 69.

11 Is it true that one of the things you said was, "when I  
12 looked at what permit had done in taking one year and the  
13 previous year, it was my opinion that by taking just the one year  
14 and not allowing a two year or a facility input as to the years  
15 of operation, that they were placing restrictions on the  
16 facility." Do you recall giving that answer then, sir?

17 A. I don't recall that.

18 MR. BOYD: Mr. Knittle, I am not quite sure how to do this,  
19 but I am going to move for the introduction of the pages of the  
20 transcript where he did make that statement. I don't have a copy  
21 of the whole thing with me at this point in time.

22 HEARING OFFICER KNITTLE: Are you doing that now?

23 MR. BOYD: Well, again, I am not sure if I should do it now  
24 or should do it later on. The statement was made. The answer

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1 was given. He does not recall that and I think it should be --

2 HEARING OFFICER KNITTLE: Ms. Carter?

3 MS. CARTER: Yes, I do have a response to that. I don't  
4 understand what the purpose is for introducing one page.

5 You are asking to introduce, what, simply page 69?

6 MR. BOYD: Page 68 and 69.

7 HEARING OFFICER KNITTLE: From the deposition transcript?

8 MR. BOYD: Yes, for impeachment purposes.

9 HEARING OFFICER KNITTLE: I take it Mr. Boyd is trying to  
10 impeach this witness. Since he answered that he didn't recall  
11 giving that statement, he is well within his rights to attempt to  
12 introduce the deposition.

13 MS. CARTER: My only --

14 HEARING OFFICER KNITTLE: So if you have an objection to  
15 that --

16 MS. CARTER: My only objection is that he read it into the  
17 record, so I don't know why this whole deposition has to come in.  
18 And also I wanted to make sure that it was not simply that one  
19 paragraph but the entire context in which the question and the  
20 response were provided. Simply because pointing one paragraph  
21 out is not necessarily an appropriate mode. The surrounding  
22 responses may clarify what the deponent was meaning at that point  
23 in time. But I would --

24 HEARING OFFICER KNITTLE: What part of the deposition

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1 transcript, Mr. Boyd, are you moving to enter?

2 MR. BOYD: I will move my question and his entire answer.

3 HEARING OFFICER KNITTLE: Any objection to that, Ms.  
4 Carter?

5 MS. CARTER: If I could just --

6 HEARING OFFICER KNITTLE: Sure. Take a second.  
7 MS. CARTER: Thank you.  
8 HEARING OFFICER KNITTLE: We are off the record.  
9 (Discussion off the record.)  
10 HEARING OFFICER KNITTLE: We are back on the record. Ms.  
11 Carter?  
12 MS. CARTER: That is fine so long as it is the complete  
13 response, which starts on line 23 on page 68 and goes through  
14 line four on page 70.  
15 HEARING OFFICER KNITTLE: Can we get copies of that  
16 afterwards, or do you want to read it, Mr. Boyd? How do you want  
17 to do it?  
18 MR. BOYD: I will get you copies.  
19 HEARING OFFICER KNITTLE: Okay. Then that will be -- let's  
20 admit it as an exhibit.  
21 MR. BOYD: How about Panhandle Exhibit 50? How about that?  
22 HEARING OFFICER KNITTLE: Yes, I was going to say just go  
23 to the end or we could do 38A, or however you want to do it.  
24 MR. BOYD: I am not quite done yet.

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1 HEARING OFFICER KNITTLE: Okay.  
2 MR. BOYD: It could be 38A. That's fine. That is actually  
3 a good idea.  
4 HEARING OFFICER KNITTLE: That will be admitted as 38A.



5 Mr. Boyd, I am going to leave it up to you to provide what I  
6 think -- Ms. Carter, is it a two-page?

7 MS. CARTER: Well, actually, it covers three pages, Mr.  
8 Hearing Officer.

9 HEARING OFFICER KNITTLE: Okay. Three pages of the  
10 deposition transcript.

11 MR. BOYD: Okay.

12 HEARING OFFICER KNITTLE: As we stated on the record.

13 MR. BOYD: I will get it tomorrow.

14 HEARING OFFICER KNITTLE: Whenever. Sometime this week is  
15 fine.

16 MR. BOYD: Okay.

17 (Whereupon said document is to be duly marked for  
18 purposes of identification and admitted into  
19 evidence as Panhandle Exhibit 38A.)

20 Q. (By Mr. Boyd) It was your understanding as well when you  
21 wrote this memorandum that Panhandle was not given a draft permit  
22 to review in 1988 before the final permit was issued; is that  
23 right?

24 A. I don't recall that.

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1 MR. BOYD: All right. I am going to move now for the  
2 introduction of Panhandle Exhibit Number 38.

3 HEARING OFFICER KNITTLE: I didn't get a copy of that.  
4 What is it, Mr. Boyd?

5 MR. BOYD: It is a December 13th of 1996 memorandum from  
6 Mr. Stefan to Angela Tin, T-I-N.

7 MS. CARTER: No objection.

8 HEARING OFFICER KNITTLE: All right. That is admitted.

9 (Whereupon said document was duly admitted into  
10 evidence as Panhandle Exhibit 38 as of this date.)

11 HEARING OFFICER KNITTLE: You may continue, Mr. Boyd.

12 MR. BOYD: Okay. Thank you.

13 (Whereupon said document was duly marked for  
14 purposes of identification as Panhandle Exhibit 39  
15 as of this date.)

16 Q. (By Mr. Boyd) I am going to hand you another document  
17 that you prepared. Well, I will ask you whether you prepared it.  
18 It is Panhandle Exhibit Number 39. It has been marked IAG 1146,  
19 and there is another copy at the back. It is 1180, and we will  
20 talk about both of those.

21 A. Okay.

22 Q. Can you identify Exhibit Number 39 for us, sir?

23 A. It appears to be a memo from myself to Angela Tin dated  
24 January 9th of 1997, for use at the CDG, Wednesday the 15th.

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1 Q. Now, you are looking at the handwriting at the top of  
2 that first page here?

3 A. That's correct.

4 Q. Is that your handwriting?

5 A. It is consistent with my handwriting.

6 Q. Okay. Can you look at page 1146 and 1180, and tell me  
7 are these the same documents and just one has writing on it and  
8 one doesn't?

9 A. It appears to be, yes.

10 Q. I think you identified this other, but I don't recall.  
11 Who is Ms. Tin?

12 A. She was the compliance unit manager.

13 Q. Was she your supervisor at the time?

14 A. He was my supervisor.

15 Q. And why did you prepare this document?

16 A. For discussion at the CDG.

17 Q. Could you read for us the last sentence of the second  
18 paragraph? Just read it to yourself.

19 A. In essence, the subject was thrown into PSD without an  
20 applicability determination being performed to determine if, in  
21 fact, PSD can even be applied.

22 Q. What did you mean by that?

23 A. The frustration that I went through with trying to  
24 determine PSD was, in part, due to the applicability

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1 determination that is in the PSD draft document.

2 Q. I am sorry. What do you mean by PSD draft document?

3 A. The federal EPA issued a PSD draft document in 1990 for

4 interpreting PSD, and in there it relates to an applicability  
5 determination that needs to be or could be issued or performed to  
6 see if the facility should even be in PSD.

7 Q. Okay. At the time you wrote this, had you developed any  
8 conclusions as to whether Panhandle had triggered the PSD  
9 requirements?

10 A. I had an opinion at that time.

11 Q. And what was your opinion?

12 A. That they had not.

13 Q. I will refer you to the last paragraph of this report.  
14 You state a conclusion there?

15 A. Yes.

16 Q. What was your conclusion?

17 A. The subject's PTE would definitely be reduced by their  
18 change. They did not meet the criteria for PSD review.

19 MR. BOYD: I move now for the introduction of Panhandle  
20 Exhibit Number 39.

21 HEARING OFFICER KNITTLE: Ms. Carter?

22 MS. CARTER: No objection.

23 HEARING OFFICER KNITTLE: It is admitted.

24 (Whereupon said document was duly admitted into

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1 evidence as Panhandle Exhibit 39 as of this date.)

2 MR. BOYD: Hold on one second. I am sorry.

3 HEARING OFFICER KNITTLE: That's okay. Let's take a short  
4 break.

5 (Discussion off the record.)

6 HEARING OFFICER KNITTLE: We are back on the record.

7 (Whereupon said document was duly marked for  
8 purposes of identification as Panhandle Exhibit 40  
9 as of this date.)

10 Q. (By Mr. Body) Let me show you what has been marked as  
11 Panhandle Exhibit Number 40. It is a -- it also has Stefan  
12 Exhibit Number 16 on it. I think it was for purposes of your  
13 deposition. And it is marked IAG 1162 through 1163. Can you  
14 identify this document?

15 A. Yes, the cover page dated 03-03 of 1997 is the note from  
16 myself to -- or a copy of a note from myself to Dave Kolaz  
17 regarding a fax that I sent him during the PSD workshop.

18 Q. This is your handwriting?

19 A. It is my handwriting, yes.

20 Q. Who is Mr. Kolaz?

21 A. David Kolaz was the section manager at that time.

22 Q. He has moved up in the world, hasn't he?

23 A. Yes.

24 Q. What is his current position?

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1 A. Bureau Chief.

2 Q. Is it fair to say that up to this point you were still

3 evaluating whether PSD applied to the Glenarm situation?

4 A. That's correct.

5 Q. What is page two, page IAG 1163?

6 A. Page two is a copy of the form that I used to send my  
7 question in for the workshop, the PSD workshop.

8 Q. Do you participate in the workshop by teleconference?

9 A. Teleconference, that's correct.

10 Q. The form indicates that it was a workshop dated February  
11 the 26th of 1997. Is that your recollection, that that is when  
12 the workshop occurred or around that time?

13 A. Around that time.

14 Q. Okay. Sir, is the handwriting on page IAG 1163 your  
15 handwriting?

16 A. Yes, that's correct.

17 Q. This was a question that you submitted to the workshop  
18 to get an answer during that time?

19 A. Correct.

20 Q. What response did you get from the presenter? Well,  
21 strike that. Who was the presenter of the program?

22 A. It was the federal EPA.

23 Q. Did you receive a response to your question?

24 A. Yes.

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1 Q. What response did you receive?

2 A. That it was not a major modification.

3 Q. Okay. Is that response reflected on page one of this  
4 exhibit, the IAG 1162?

5 A. That's correct.

6 Q. This exhibit, Panhandle Exhibit 40, is what you provided  
7 to Mr. Kolaz after the workshop?

8 A. Correct.

9 MR. BOYD: Okay. I now move for the introduction of  
10 Panhandle Exhibit Number 40.

11 HEARING OFFICER KNITTLE: Ms. Carter?

12 MS. CARTER: No objection.

13 HEARING OFFICER KNITTLE: That will be admitted.

14 (Whereupon said document was duly admitted into  
15 evidence as Panhandle Exhibit 40 as of this date.)

16 Q. (By Mr. Boyd) Isn't it true that the Agency made a  
17 determination about the PSD applicability soon after you sent  
18 this Exhibit 40 to Mr. Kolaz?

19 A. I don't have a recollection of when the actual date was,  
20 but it was sometime around there.

21 Q. Let me show you -- if you could, turn to Stipulated  
22 Hearing Exhibit Number 20.

23 A. Okay.

24 Q. Could you identify that document?

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1 A. Yes. It is a copy of a violation notice that we sent to

2 Panhandle Eastern dated March 20th of 1997.

3 Q. Okay. What role did you have in relation to this  
4 document?

5 A. I prepared it.

6 Q. There is an Attachment A as well. Do you see that?

7 A. Correct.

8 Q. Did you prepare that?

9 A. Yes.

10 Q. Okay. When was this -- was it signed by Mr. Kolaz? Is  
11 that his signature on the second page?

12 A. Yes.

13 Q. And the letter is dated March 29th of 1997 on the first  
14 page. Do you see that?

15 A. Yes.

16 Q. Do you know whether this letter was sent to Panhandle on  
17 or about March 20th of 1997?

18 A. That would be my understanding.

19 Q. Was it your understanding that the letter was sent out  
20 more than 180 days from the date of Mr. Youngblut's inspection?

21 MS. CARTER: Objection. This line of questioning goes to a  
22 matter that has recently been decided upon by the Illinois  
23 Pollution Control Board in an order that was entered just a few  
24 weeks ago. So based on that, any line of questioning pertaining

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1 to this has already been decided upon by the Board, nor is it  
2 relevant at this point in time.

3 HEARING OFFICER KNITTLE: Mr. Boyd?

4 MR. BOYD: I believe what Ms. Carter is referring to is our  
5 motion for judgment after the State's case-in-chief. It is true  
6 that the Board entered an order last -- I think it was last  
7 Thursday in relation to that matter. But, again, we have  
8 affirmative defenses that we have established and we have, I  
9 believe, an opportunity and a right at this hearing to present  
10 further factual support of those affirmative defenses.

11 MS. CARTER: May I respond, Mr. Hearing Officer?

12 HEARING OFFICER KNITTLE: Certainly.

13 MS. CARTER: I don't think it is relevant, though, in terms  
14 of the affirmative defenses that have been alleged by Panhandle  
15 Eastern in this matter. It is my understanding that there is an  
16 affirmative defense that has been alleged in terms of the statute  
17 of limitations. However, that is not the same thing as what he  
18 is attempting to maintain in terms of a Section 31 argument.  
19 Therefore, I would not deem it to be relevant because it is has  
20 not been alleged as an affirmative defense and the Board has  
21 already ruled on this matter.

22 HEARING OFFICER KNITTLE: Mr. Boyd?

23 MR. BOYD: I don't have anything further. I think it is  
24 something that we should be able to pursue with this witness at

1 this time.

2 HEARING OFFICER KNITTLE: I have a couple of questions.

3 MR. BOYD: Yes, sir.

4 HEARING OFFICER KNITTLE: I am not concerned with the fact  
5 that the Board has ruled on this, because I think they have ruled  
6 upon this upon the context of a motion for essentially a directed  
7 verdict of sorts.

8 So, Ms. Carter, that I would overrule, that objection.  
9 However, if this has not been alleged as an affirmative defense,  
10 I don't know that I want to get into it.

11 MR. BOYD: I believe it has, sir. I believe Ms. Carter is  
12 narrowly construing the affirmative defenses, so I think that is  
13 inappropriate at this point in time.

14 HEARING OFFICER KNITTLE: Go ahead, Ms. Carter.

15 MS. CARTER: Mr. Hearing Officer, I do not know where  
16 within their answer and affirmative defenses that has been filed  
17 before the Pollution Control Board, there is any affirmative  
18 defense pertaining to a perceived compliance or lack thereof with  
19 Section 31 of the Illinois Environmental Protection Act. I do  
20 not see it set forth anywhere listed in his affirmative defenses.

21 HEARING OFFICER KNITTLE: Mr. Boyd, anything else?

22 MR. BOYD: We do talk about both the statute of limitations  
23 and estoppel, Laches, those kinds of things, which go to the  
24 Agency's delay in acting in this particular matter. This is

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1 definitely an issue that goes to the Agency's delay in acting in  
2 this particular matter.

3 MS. CARTER: Mr. Hearing Officer, may I respond?

4 HEARING OFFICER KNITTLE: Yes.

5 MS. CARTER: Thank you. In terms of the statute of  
6 limitations, they are talking about the provisions that are set  
7 forth within 735 ILCS 5/13-205 pertaining to a statute of  
8 limitations in defense of violations that occurred more than five  
9 years ago. That has absolutely nothing to do with requirements  
10 set forth in Section 31.

11 HEARING OFFICER KNITTLE: Mr. Boyd, I note that you are  
12 looking something up.

13 MR. BOYD: Well, I am just looking up the affirmative  
14 defenses. I am going to hand you a copy of them so you can take  
15 a look and you can decide for yourself whether you think it is  
16 relevant. The affirmative defenses -- this matter was  
17 originally -- the complaint was filed at the end of July of 1998.  
18 The affirmative defenses were filed -- I am sorry. That is not  
19 right. The end of June of 1998. I am sorry. Strike that. June  
20 of 1999. The affirmative defenses were filed the end of July of  
21 1999. I will hand them to you right now. I think you will see  
22 that they are broad enough to encompass this type of question.

23 HEARING OFFICER KNITTLE: Mr. Boyd, how much do we have on  
24 this issue?

1           MR. BOYD: I was going to make that point, too. I have a  
2 very limited amount. I am almost done here today.

3           MS. CARTER: May I --

4           HEARING OFFICER KNITTLE: Yes, you may respond.

5           MS. CARTER: -- please respond? I don't know exactly what  
6 Mr. Boyd was referring to when he handed you his copy of the  
7 affirmative defenses. I cited to you the fifth affirmative  
8 defense before and he may have been citing to you the fourth  
9 affirmative defense, which talks about unreasonable delay over a  
10 period of approximately eight years which, again, has absolutely  
11 nothing to do with 180 day time period that is set forth within  
12 the Environmental Protection Act. Unfortunately for respondent,  
13 it appears as if he is referring to something else and not  
14 referring to the 180 day time period. I don't see how that falls  
15 within the purview of either of these affirmative defenses.

16           HEARING OFFICER KNITTLE: All right. I am going to allow  
17 it in. I am going to give him some latitude here mainly because  
18 I don't want to come back a third time and address this if it  
19 pops up. This is going to be a limited issue.

20           Ms. Carter, I am going to give you the right to address  
21 this to the Board after the hearing if you think that it is  
22 something that needs to be addressed. Of course, you have that  
23 anyway, since you can overrule one of my decisions. But I think  
24 that it could conceivably be included in the fourth affirmative

1 defense and maybe even in the fifth affirmative defense. It does  
2 not specifically state Section 31. However, it does talk about  
3 undue delay.

4 MS. CARTER: May I simply ask a question for clarification,  
5 please?

6 HEARING OFFICER KNITTLE: You certainly may.

7 MS. CARTER: Since there is going to be direct questioning  
8 of the witness pertaining to this matter, if the State was to  
9 follow-up on cross with questions pertaining to this, it will not  
10 prejudice the State in any way, shape, or form if we want to  
11 appeal this decision to the Board?

12 HEARING OFFICER KNITTLE: Not at all and --

13 MS. CARTER: Okay.

14 MR. LAYMAN: We want to preserve the objection.

15 MS. CARTER: Yes, we want to preserve the objection.

16 HEARING OFFICER KNITTLE: Yes, you can have a standing  
17 objection to this line, the complete line of testimony, both on  
18 direct and cross-examination. You are not waiving any objection  
19 to the testimony on direct by doing a cross, or a recross or a  
20 re-recross, as the case may be.

21 MS. CARTER: Okay. Thank you.

22 MR. BOYD: All right. Now, there has been a lot that has  
23 happened. So let me just restate the question. I don't want  
24 Darlene to read the whole thing back.

1 HEARING OFFICER KNITTLE: Okay.

2 Q. (By Mr. Boyd) Was the violation notice, which is in  
3 Stipulated Hearing Exhibit Number 20, sent more than 180 days  
4 from the date of Mr. Youngblut's inspection?

5 A. I don't recall what the date of his inspection was.

6 Q. Do you ever recall discussing the fact that the  
7 violation notice was sent out more than 180 days before the  
8 inspection? Or more than 180 days after the inspection?

9 A. I don't recall discussing that.

10 (Whereupon said document was duly marked for  
11 purposes of identification as Panhandle Exhibit 41  
12 as of this date.)

13 Q. (By Mr. Boyd) I want to show you what has been marked as  
14 Panhandle Exhibit Number 41. Can you identify this document? It  
15 is actually also marked IAG 1181.

16 A. It appears to be e-mail that Richard Jennings sent to me  
17 on March 19th, it looks like.

18 Q. Which part is the part that he sent and which part is  
19 the response?

20 A. The lower paragraph would be what he sent to me.

21 Q. And the top part beginning "you are correct," is that  
22 what you wrote back to him?

23 A. It would appear that is my response to this e-mail.

24 Q. What was the question that Mr. Jennings had asked you?

1 A. He asked if he was missing something.

2 Q. Missing something about what?

3 A. About the trigger date or the date of awareness.

4 Q. What was your response?

5 A. Okay. That he was correct, and that it was over 180  
6 days from the date of the inspection.

7 MR. BOYD: All right. I am going to now move for the  
8 introduction of Panhandle Exhibit Number 41.

9 HEARING OFFICER KNITTLE: Ms. Carter?

10 MS. CARTER: Continuing objection --

11 HEARING OFFICER KNITTLE: To --

12 MS. CARTER: -- Mr. Hearing Officer, to Exhibit Number 41.

13 HEARING OFFICER KNITTLE: You are not objecting on a  
14 foundational basis.

15 MS. CARTER: I am again objecting to the fact that the  
16 State does not deem it to be relevant and also based on the fact  
17 that --

18 HEARING OFFICER KNITTLE: You have that standing objection.  
19 I guess what I wanted to know is are you objecting that  
20 sufficient foundation has not been laid or that this would --  
21 assuming it is relevant, otherwise not be an admissible exhibit?

22 MS. CARTER: In terms of foundation, I do not have any  
23 objection.

24 HEARING OFFICER KNITTLE: You have your standing objection,

1 correct?

2 MS. CARTER: I have my standing objection, which I would  
3 like to continue to this specific exhibit, please.

4 HEARING OFFICER KNITTLE: The standing objection can apply  
5 to this objection. That made no sense. The standing objection  
6 can apply to this exhibit. However, this exhibit will be  
7 admitted.

8 (Whereupon said document was duly admitted into  
9 evidence as Panhandle Exhibit 41 as of this date.)

10 MR. BOYD: That's all the questions I have.

11 HEARING OFFICER KNITTLE: Do you need a couple of minutes?

12 MS. CARTER: Yes, I would like a couple of minutes, please.

13 HEARING OFFICER KNITTLE: Okay. Let's take five.

14 (Whereupon a short recess was taken.)

15 HEARING OFFICER KNITTLE: All right. We are back on the  
16 record after a short recess.

17 Mr. Boyd, you were done, correct, with your direct  
18 examination?

19 MR. BOYD: Yes, I am.

20 HEARING OFFICER KNITTLE: All right. Sir, let me remind  
21 you that you are still under oath.

22 THE WITNESS: Yes.

23 HEARING OFFICER KNITTLE: We can start with your  
24 cross-examination, Ms. Carter.



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1 MS. CARTER: Thank you.

2 CROSS EXAMINATION

3 BY MS. CARTER:

4 Q. Mr. Stefan, you discussed a great deal during your  
5 direct examination about annual emission reports. When the  
6 annual emission reports came in from a specific facility, they  
7 were not assigned to a specific reviewer within the Illinois EPA,  
8 were they?

9 A. That's correct, they were not.

10 Q. And as such you did not review each annual emission  
11 report as it came into the Illinois EPA, did you?

12 A. Could you read that question again?

13 Q. So when the annual emission reports came in, it was not  
14 your responsibility to review each annual emission report that  
15 came into the Illinois EPA?

16 A. That's correct.

17 Q. Nor did you have a responsibility for logging in the  
18 annual reports?

19 A. That's correct.

20 Q. The annual emission reports?

21 A. That's correct.

22 Q. And at the time that the annual emission reports came  
23 into the Illinois EPA, you don't recall specifically seeing them,  
24 do you?

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1 A. Correct.

2 Q. Can you just tell me on average about how many annual  
3 emission reports the Illinois EPA was receiving during this time  
4 period when you initially were employed with them?

5 A. On the order of 8,000 a year.

6 Q. Okay. If I could just direct your attention to the book  
7 in front of you, the Stipulated Hearing Exhibits, beginning with  
8 Stipulated Hearing Exhibit Number 9.

9 A. Okay.

10 Q. In terms of the allowable emissions, if I could direct  
11 your attention there, let me ask you in general first Mr. Stefan,  
12 what is the purpose of the Illinois EPA's reference to allowable  
13 emissions in the annual emission report form? I can rephrase if  
14 you would like me to.

15 A. Would you?

16 Q. Yes. Do you know what this information is used for,  
17 this allowable emissions, this data in the annual emissions  
18 reports?

19 MR. BOYD: I am just going to object as to vagueness in  
20 terms of use for by whom and what context.

21 HEARING OFFICER KNITTLE: Ms. Carter, do you want to  
22 rephrase?

23 MS. CARTER: By the Illinois EPA. I can definitely ask the  
24 question again.

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1 HEARING OFFICER KNITTLE: No, that's sufficient if you say  
2 by the Illinois EPA.

3 Sir, do you understand the question?

4 THE WITNESS: No, I don't.

5 MS. CARTER: Okay.

6 HEARING OFFICER KNITTLE: Ms. Carter, maybe you could  
7 rephrase.

8 MS. CARTER: Yes.

9 Q. (By Ms. Carter) Mr. Stefan, what is your understanding  
10 of the term allowable emissions?

11 A. It is the emission rate that is assigned to the  
12 facility. It is information that is just dumped out of the  
13 database.

14 Q. Who is it assigned by?

15 A. The number would be put in by the permit section that  
16 would assign that number to the database to that facility.

17 Q. Do you know what that limit is used for? The allowable  
18 emissions data, do you know what that is used for?

19 A. I don't know what that is used for.

20 Q. Do you have an opinion as to the accuracy of the  
21 allowable emissions reference?

22 MR. BOYD: I am just going to object again. It is not an  
23 opinion witness and there has been inadequate foundation for any  
24 opinion testimony.

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1 MS. CARTER: I can rephrase that. I don't have a problem  
2 with rephrasing that.

3 HEARING OFFICER KNITTLE: Okay.

4 Q. (By Ms. Carter) How accurate is the allowable emissions  
5 reference identified in a given facility's annual emission report  
6 form?

7 MR. BOYD: I am going to object again to the lack of  
8 foundation and again to the vagueness of any facility's form.

9 MS. CARTER: I can refer -- I am asking him a question in  
10 terms of generalized facilities in terms of any allowable  
11 emissions data. I don't want to specifically limit myself to  
12 Panhandle in this instance because he indicated previously that  
13 he was not the assigned reviewer for each of these annual  
14 emissions reports. His knowledge is facility wide.

15 HEARING OFFICER KNITTLE: If you would lay some foundation  
16 as to how he got that knowledge, then he can testify as to what  
17 you want him to testify to and I would overrule the objection.  
18 As for now, I think I am going to sustain it.

19 Q. (By Ms. Carter) Mr. Stefan, can you tell me a little bit  
20 about your duties within the Illinois EPA?

21 A. I am responsible for reviewing annual emission reports,  
22 for entering the data into the database, and for compliance  
23 activities relating to the Bureau of Air.

24 Q. I am sorry?

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1 A. And compliance activities related to the Bureau of Air.  
2 Those are my duties today.

3 Q. Okay. Were those the same duties that you had when you  
4 first became employed with the Illinois EPA back in 1994?

5 A. They were not.

6 Q. What were your duties back then?

7 A. It was reviewing the annual emission reports and putting  
8 the data into the database.

9 Q. Okay. In your review of annual emission reports, did  
10 you look to the information that includes the allowable  
11 emissions?

12 A. We did not.

13 Q. Just a moment, sir. Mr. Stefan, you previously  
14 indicated that the permit section input the allowable emissions  
15 into the database. How do you know that?

16 A. When the inventory system was explained to me, it was  
17 explained that it was the permit section's responsibility to put  
18 the raw data into the database, the allowables, estimated,  
19 actual, and some other data which does not appear.

20 Q. Okay. Who explained this to you?

21 A. It would have been my supervisor, David Kolaz.

22 Q. When you refer to the database, what exactly are you  
23 referring to?

24           A.    The large oracle.  What used to be on the State's

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1   mainframe is now our oracle database from which is generated this  
2   data which comes out of the CARE system.

3           Q.    Okay.  Once that information has been inputted into the  
4   database, how does that information find its way into an annual  
5   emission report?

6           A.    Every year after the close of the calendar year, we  
7   download the data from the database and generate the annual  
8   emission reports.

9           Q.    Okay.  And is the allowable emissions a formal limit  
10  imposed on a subject facility, or is it merely an administrative  
11  tool to the Illinois EPA?

12           MR. BOYD:  Objection.  It is a compound question.

13           MS. CARTER:  I can break it down, if need be.

14           HEARING OFFICER KNITTLE:  Okay.

15           Q.    (By Ms. Carter) Is the allowable emission a formal  
16  emission imposed on a subject facility?

17           A.    Probably the answer to that is things have changed since  
18  1992.  Today in Title 5 the allowable limit is a formal federal  
19  enforceable limit.  In 1992 there was significant -- there was no  
20  real definition as to what allowable was.  So it could be the  
21  potential to emit or it could be some point of law that was  
22  applied to that facility, which is why it was essentially

23 neglected by --

24 Q. I am sorry?

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1 A. Which is why it was essentially not used by our section.

2 Q. Okay. So in this time period of 1992 or an earlier  
3 period that you were discussing, is it -- was it merely an  
4 administrative tool to the Illinois EPA?

5 MR. BOYD: Objection to the form.

6 HEARING OFFICER KNITTLE: How so, Mr. Boyd?

7 MR. BOYD: Would you mind if I have the question read back  
8 and I will be more specific.

9 HEARING OFFICER KNITTLE: Sure. Darlene, could you.

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

12 MR. BOYD: Well, I think it is, first, compound but,  
13 second, it is vague in terms of what she means by an  
14 administrative tool.

15 HEARING OFFICER KNITTLE: I am going to overrule that  
16 objection.

17 Sir, can you answer the question, please.

18 THE WITNESS: There was some question as to why it was even  
19 put on the annual emission report. There were several  
20 suggestions that it be taken off altogether.

21 Q. (By Ms. Carter) Why so?

22 A. Because the data was questionable.

23 Q. Why was the data questionable?

24 A. Because the per permit section was not faithful in

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1 coding in useful information. To follow-up on that, the --  
2 recently the compliance section has taken on the responsibility  
3 of coding in the allowable emissions and the permit data.

4 Q. Okay. Do you know whether the reference to the  
5 allowable NOx emissions identified in Stipulated Exhibit Number 9  
6 is accurate?

7 A. I have no knowledge.

8 Q. What about for the Stipulated Hearing Exhibit Number 10?  
9 I can pose the same question to you, Mr. Stefan, if you need --

10 A. I have no knowledge.

11 Q. Mr. Stefan, if I could just direct your attention to  
12 Stipulated Hearing Exhibit Number 10, on page two, where it  
13 indicates the allowable emissions for NOx to be 2,574, does that  
14 simply appear to you to be double of what that was previously  
15 reported for allowable emissions in the previous report in  
16 Stipulated Hearing Exhibit Number 9?

17 A. That's the way it appears.

18 Q. Do you have an explanation for that?

19 A. Well, there are a number of things that would happen  
20 with the inventory, which I have no explanation for.

21 Q. Okay. If I could just direct your attention back to



22 Stipulated Hearing Exhibit Number 9, please.

23 A. Okay.

24 Q. Does the annual emission report form submitted by

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1 Panhandle for 1993 identify the NOx emissions generated on a unit  
2 by unit basis?

3 A. Number 9 is the 1992 annual emission report.

4 Q. Oh, I apologize. For the 1992 annual emissions.

5 A. Okay. The question again was?

6 Q. Yes. Does this form identify the NOx emissions  
7 generated by Panhandle on a unit by unit basis?

8 A. It does not.

9 Q. Does it indicate or identify NOx emissions by Panhandle  
10 on an engine by engine basis?

11 A. It does not.

12 Q. Can you tell from looking at this annual emission report  
13 what the NOx emissions were reported by Panhandle in 1992 for  
14 engines 1116 through 1119?

15 A. No.

16 Q. Are you aware that engines 1116 through 1119 were  
17 required to comply with a minor source permit limit of 461.3 tons  
18 per year?

19 A. Was I aware of that in 1992?

20 Q. No, are you aware of that today, sir?

21 A. Could you say the question again.

22 Q. Yes, sir. Sitting here today, are you aware that  
23 engines 1116 through 1119 were and are required to comply with  
24 the minor source permit limit of 461.3 tons per year?

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1 A. No, I am not.

2 Q. Can you just tell me, though, just assuming for a moment  
3 that they are required to apply with that limit, looking at the  
4 total reported NOx emissions for 1992, whether Panhandle's  
5 emissions from engines 1116 through 1119 exceeded this limit?

6 A. I can't tell.

7 Q. Mr. Stefan, this was your first review of a potential  
8 PSD violation, wasn't it?

9 A. Yes.

10 Q. And during the course of your review of this potential  
11 PSD violation, your understanding of the requirements surrounding  
12 PSD developed over time as well, didn't it?

13 A. Yes, it did.

14 Q. How so?

15 A. Well, I guess historically when I was assigned it, I  
16 started out with meetings with the permit section, the permit  
17 writer, trying to determine why the permit was written the way it  
18 was, how PSD could or should be applied to it, and found it to be  
19 very frustrating. The answers I would get from permit was, well,  
20 this is the way we have always done it. Which in my mind-set was

21 not, nor was it in Mr. Kolaz's mind-set sufficient to write the  
22 violation notice. So it took months of meetings with permits  
23 with the CDG between Mr. Kolaz and myself and the draft PSD  
24 document and this video telecourse to eventually realize what PSD

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1 was meant by the feds to be implemented.

2 MS. CARTER: If I could have just a moment, Mr. Hearing  
3 officer.

4 HEARING OFFICER KNITTLE: Okay.

5 MS. CARTER: Thank you.

6 Q. (By Ms. Carter) Mr. Stefan, in terms of your development  
7 of your thoughts pertaining to PSD over time, do you recall  
8 discussing that during your deposition on December -- excuse  
9 me -- on November 10th of 1999?

10 A. To a certain extent I do, yes.

11 MS. CARTER: If I could have one moment. I apologize.

12 HEARING OFFICER KNITTLE: Okay. We will go off the record.

13 MS. CARTER: Thank you.

14 (Discussion off the record.)

15 HEARING OFFICER KNITTLE: Okay. We are back on.

16 Q. (By Ms. Carter) Mr. Stefan, I believe on direct  
17 examination you talked about your opinions pertaining to any  
18 calculation or determination of a baseline for the original  
19 permit; is that correct?

20 MR. BOYD: I am sorry. Because it took so long, do you

21 mind if I have it read back, Mr. Knittle?

22 MS. CARTER: I can just restate it.

23 HEARING OFFICER KNITTLE: Can she just restate it?

24 MS. CARTER: I can restate it. I don't have a problem with

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1 that.

2 MR. BOYD: I apologize.

3 Q. (By Ms. Carter) In your direct examination you discussed  
4 quite a bit your opinion pertaining to the development of a  
5 baseline in the original permit; isn't that correct?

6 A. Yes.

7 Q. Okay. And also did you indicate -- I don't recall  
8 specifically if you did, and I apologize if you did -- that your  
9 opinion pertaining to the original development of the baseline  
10 changed over time?

11 A. Yes, it did.

12 Q. How so?

13 A. Well, initially I had thought that it was incorrectly  
14 figured. Later on, after getting a better feel for PSD, it was  
15 within the confines of the law.

16 Q. Okay. And do you recall testifying -- excuse me --  
17 stating that in the deposition that you were the deponent in  
18 November of 1999?

19 A. That I was what?

20 Q. That you were the deponent in, that you were questioned  
21 pertaining to this? Do you recall testifying or discussing this  
22 in your deposition back in November of 1999?

23 A. Yes.

24 Q. Okay. Do you recall sitting here today that you

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1 discussed the change in your opinion pertaining to the  
2 development of the baseline in the original construction permit?

3 MR. BOYD: I am just going to object in terms of relevance  
4 as to what he said in his deposition. If this is for impeachment  
5 purposes -- I don't know quite what she is getting at.

6 MS. CARTER: Well, I -- excuse me. He previously -- or  
7 excuse me -- Counsel previously went through an indication of  
8 this line of discussion in terms of the deposition. And it is  
9 simply to get a full picture and understanding of what his  
10 opinion was in terms of that development of that baseline. He  
11 was insistent upon getting this page admitted.

12 HEARING OFFICER KNITTLE: Mr. Boyd, you mean?

13 MS. CARTER: I am sorry?

14 HEARING OFFICER KNITTLE: Mr. Boyd?

15 MS. CARTER: I apologize. Mr. Boyd was an insistent in  
16 getting this page admitted into evidence to discuss his  
17 original -- Mr. Stefan's original opinion pertaining to the  
18 development of the baseline. Now, what the State is simply  
19 attempting to do is to discuss how his opinion changed over time

20 pertaining to the original development of the baseline.

21 HEARING OFFICER KNITTLE: I am going to overrule the  
22 objection.

23 Do you have something further to say, Mr. Boyd?

24 MR. BOYD: I would just say that then ask him how his

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1 opinion changed rather than referring back to the deposition  
2 testimony.

3 MS. CARTER: My response to that is simply that I will  
4 handle my portion of the questioning if it is permissible with  
5 the Hearing Officer.

6 HEARING OFFICER KNITTLE: We will allow it to go forward  
7 for a little bit.

8 MS. CARTER: Okay. Thank you.

9 Q. (By Ms. Carter) In your deposition did you indicate the  
10 following answer to the following question? If I can just find  
11 it.

12 MR. BOYD: I am going to object to this, too. This is not  
13 impeachment. These are hearsay statements made out-of-court, and  
14 if she is going to ask him what his opinion is now about certain  
15 things, that is one thing. But if she is going to start reading  
16 parts of the deposition into evidence in this matter, that is an  
17 entirely different matter.

18 MS. CARTER: May I respond?

19 HEARING OFFICER KNITTLE: You can respond.

20 MS. CARTER: Thank you. This is rehabilitative of what the  
21 impeachment purposes that he already went through, Mr. Boyd  
22 already went through. In addition to that, it is not hearsay.  
23 We have the witness here who previously discussed this during the  
24 deposition. He is an employee of the Illinois EPA, therefore, he

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1 is a party opponent because of that. So, therefore, it would be  
2 deemed admissable. It is not hearsay.

3 HEARING OFFICER KNITTLE: Mr. Boyd?

4 MR. BOYD: I didn't understand her response to why it is  
5 not hearsay. But, again, my point would be she is just trying to  
6 read in portions of this deposition. If she has specific  
7 questions about this witness' specific beliefs or understandings  
8 or how they have changed, she can just ask him without going back  
9 to the deposition and piecemealing it. I think that's --

10 HEARING OFFICER KNITTLE: I am going to sustain it. But  
11 insofar as you think there is something in the deposition  
12 transcript that needs to come in for clarification purposes as to  
13 the previous impeachment that Mr. Boyd did, I would think about  
14 that. However, I do think if you have questions it is easier to  
15 ask him what the questions are. So I am going to sustain his  
16 current objection and we will see where we go.

17 MS. CARTER: Okay. Just a moment, please.

18 Q. (By Ms. Carter) In terms of this baseline, who has the

19 responsibility within the Illinois EPA to make determinations as  
20 to the appropriateness of baseline in any given permit?

21 A. The permit section.

22 Q. So when you previously were expressing an opinion  
23 pertaining to the baseline that was established in the original  
24 construction permit, you were expressing an opinion that is

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1 normally reserved to those in the permitting section?

2 A. That's correct.

3 MR. BOYD: I will object to the form of the question, in  
4 terms of normally reserved.

5 HEARING OFFICER KNITTLE: Do you understand the question,  
6 sir?

7 THE WITNESS: I believe so.

8 HEARING OFFICER KNITTLE: I am going to overrule that one.

9 MS. CARTER: Thank you.

10 HEARING OFFICER KNITTLE: You can answer the question.

11 THE WITNESS: Yes.

12 Q. (By Ms. Carter) I believe on direct you testified that  
13 the U.S. EPA wouldn't permit the selection of a baseline data in  
14 this case?

15 A. I don't understand.

16 MR. BOYD: Objection to the form.

17 HEARING OFFICER KNITTLE: How so, Mr. Boyd?



18 MR. BOYD: Again, there is no context in terms of what she  
19 means by U.S. EPA permitting something. It is totally vague and  
20 unclear.

21 HEARING OFFICER KNITTLE: Okay. Ms. Carter?

22 MS. CARTER: I can attempt to clarify. I was just trying  
23 to rephrase what I thought the witness indicated on direct  
24 examination. So I can attempt to be more succinct. Just a

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1 moment.

2 HEARING OFFICER KNITTLE: All right

3 (Discussion off the record.)

4 HEARING OFFICER KNITTLE: We will go back on the record.

5 Q. (By Ms. Carter) In your direct testimony, Mr. Stefan,  
6 didn't you previously testify that the U.S. EPA possibly had a  
7 different view than you did pertaining to the original baseline  
8 data?

9 A. Yes.

10 Q. How are you aware of that?

11 MR. BOYD: I am going to object to the form of the question  
12 in terms of the context.

13 HEARING OFFICER KNITTLE: In "how are you aware of that?"

14 MR. BOYD: It is really the first question. I tried to get  
15 an objection out before Mr. Stefan answered. The context is  
16 totally unclear. I think additional foundation needs to be laid  
17 in terms of the question for the answer to be appropriate.

18 MS. CARTER: Mr. Hearing Officer, the first question was  
19 already out there, responded to by the witness, and then I asked  
20 a second question. I would --

21 HEARING OFFICER KNITTLE: I am going to allow the first  
22 question to stand. Do you have an objection to this follow-up  
23 question that she has asked?

24 MR. BOYD: I do, because I think it is moving towards a

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1 line of questioning that has been prohibited in the past, and I  
2 will --

3 HEARING OFFICER KNITTLE: Prohibited by me?

4 MR. BOYD: Yes.

5 HEARING OFFICER KNITTLE: Oh. Well, I don't like that.

6 (Laughter.)

7 HEARING OFFICER KNITTLE: I don't see that coming yet, so  
8 if it gets there let me know, and I will --

9 MR. BOYD: I think it is big-time back door, so that's my  
10 objection.

11 MS. CARTER: Well --

12 HEARING OFFICER KNITTLE: We are going to have to explain  
13 that later, because I don't know what that means but --

14 MR. BOYD: All right.

15 HEARING OFFICER KNITTLE: I don't think there is any  
16 objection to the question that is pending.

17 So, sir, can you answer that?

18 THE WITNESS: I have forgotten the question.

19 Q. (By Ms. Carter) The question, sir, was how you were  
20 aware that the U.S. EPA had a different view than you did of that  
21 baseline determination?

22 HEARING OFFICER KNITTLE: Do you have an objection to that  
23 question, Mr. Boyd?

24 MR. BOYD: Yes.

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1 HEARING OFFICER KNITTLE: What is it? Explain it to me,  
2 because I -- I am not trying to be difficult. I just don't quite  
3 understand where we are headed here.

4 MR. BOYD: Because he did not testify on direct examination  
5 about any understanding of the U.S. EPA's position regarding the  
6 specific baseline.

7 HEARING OFFICER KNITTLE: So your argument is that it is  
8 beyond the scope of the direct examination?

9 MR. BOYD: Yes, it is. That's one argument.

10 HEARING OFFICER KNITTLE: I want you to state your  
11 objections now.

12 MR. BOYD: That is one of them.

13 HEARING OFFICER KNITTLE: Okay.

14 MR. BOYD: But in addition to that -- well, I will leave it  
15 at that one right now. But I think that's definitely the case.

16 HEARING OFFICER KNITTLE: Ms. Carter?

17 MS. CARTER: Mr. Hearing Officer, it is my recollection of  
18 the direct examination and the answers that were provided that  
19 the witness indicated that the United States EPA had a different  
20 position or possibly had a different position pertaining to the  
21 allowance of one year for the baseline determination.

22 MR. BOYD: Sir, what I am talking about is in relation to  
23 this specific case. He never testified that the U.S. EPA in this  
24 specific case had any specific issue. He was talking about in

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1 general. What Ms. Carter is trying to get to is some position by  
2 the U.S. EPA in this specific case. That's my objection.

3 HEARING OFFICER KNITTLE: Okay. Ms. Carter, anything else?

4 MS. CARTER: Regardless of whether or not his original  
5 testimony was pertaining to a general position of the U.S. EPA or  
6 a specific position, it is still relevant to the specifics of  
7 this case because if it is the U.S. EPA's general position, it is  
8 applicable to this case. If it is a broad, encompassing  
9 position, it seems like it would fall within the specifics of  
10 this case as well. So I don't understand what basis he has for  
11 indicating that it is beyond the scope of direct.

12 HEARING OFFICER KNITTLE: Well, I am going to overrule the  
13 beyond the scope of the direct examination objection.

14 Sir, can you answer the question?

15 MR. BOYD: Mr. Knittle, if I may, and I would like to make

16 a statement without the witness being present. Can we ask that  
17 he be excused for a moment?

18 HEARING OFFICER KNITTLE: Have a little in camera?

19 MR. BOYD: Yes.

20 HEARING OFFICER KNITTLE: Ms. Carter, do you have an  
21 objection to that? I am going to allow it, but if you want to  
22 voice an objection, then --

23 MS. CARTER: Well, it just seems unprecedented, but if you  
24 are going to allow it, then, I mean, there is no reason for --

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1 HEARING OFFICER KNITTLE: I mean, I am going to allow it  
2 unless you can tell me a reason I shouldn't.

3 MS. CARTER: I do not know for what reason. I can only  
4 speculate.

5 HEARING OFFICER KNITTLE: We can't know until he tells us,  
6 and I don't think he wants to tell us until the witness is not  
7 here.

8 MR. BOYD: That's correct.

9 HEARING OFFICER KNITTLE: So I think in order to be fair  
10 and give him a chance to speak his piece colloquially, I think we  
11 will let him do that.

12 Sir, could you step outside in the hall. Don't take any  
13 glasses and put them to the door either.

14 (Laughter.)

15 THE WITNESS: Okay.

16 (The witness exited the hearing room.)

17 HEARING OFFICER KNITTLE: We are on the record, though.

18 All right, Mr. Boyd. Go ahead.

19 MR. BOYD: As you may recall, Mr. Knittle, there were  
20 correspondence or was correspondence from the IEPA to the U.S.  
21 EPA in this matter and there was a letter from the U.S. EPA to  
22 the IEPA.

23 HEARING OFFICER KNITTLE: Yes.

24 MR. BOYD: You admitted the letter from the IEPA to the

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1 U.S. EPA. You did not admit the letter from the U.S. EPA to the  
2 IEPA. What I believe --

3 HEARING OFFICER KNITTLE: For foundational reasons, as I  
4 recall.

5 MR. BOYD: Yes, for foundational reasons.

6 HEARING OFFICER KNITTLE: Okay.

7 MR. BOYD: But what I believe is happening here is that Ms.  
8 Carter is trying to introduce that letter through this witness.  
9 This witness has absolutely no information about that letter.  
10 This witness testified on direct that his position originally  
11 regarding one year versus two years for the baseline might be  
12 different from the U.S. EPA's position in the regulations, and  
13 had nothing to do with any kind of guidance or information that  
14 he has received from the U.S. EPA. So I object that Ms. Carter

15 is -- you know, this is the fourth or the fifth time that they  
16 have tried to introduce that letter. I object to their trying to  
17 do it through this witness.

18 HEARING OFFICER KNITTLE: Ms. Carter, a response?

19 MS. CARTER: Yes, I would like to response, please. The  
20 first thing is that there is no basis for Mr. Boyd's statement  
21 that this witness does not know, you know, anything about the  
22 U.S. EPA's position or the U.S. EPA providing any sort of  
23 position to the Illinois EPA. We have not even gotten to that  
24 point if that's where we are going. We have not even gotten to

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1 that point. So I don't understand what basis he has for making  
2 the statement that this witness has no basis of knowledge  
3 pertaining to any letter. Obviously, you know, that would be  
4 within the witness' purview -- or excuse me -- discretion to  
5 answer if that is what, you know, the witness has knowledge to.

6 The second thing that I would like to state is that I don't  
7 believe on direct examination the witness indicated that he had  
8 reviewed any documents from the U.S. EPA, because I don't think  
9 there was a question posed by Counsel for the respondent  
10 pertaining to that. I don't recall that specific question or  
11 anything pertaining to that entire area.

12 MR. BOYD: Mr. Knittle, if I may, that's the exact point I  
13 make. That's why it is beyond the scope of direct.

14 MS. CARTER: No, but --

15           MR. BOYD:  It was not brought up and it has nothing to do  
16 with what his direct testimony was.  She is trying to introduce  
17 through the back door, what I think is a particularly  
18 under-handed way of doing this, a document that they tried to do  
19 three or four times before and they couldn't.  So there is  
20 nothing that this witness said that makes that document relevant  
21 or indicates that there has been a foundation laid for that  
22 document.

23           HEARING OFFICER KNITTLE:  Let me just state something.  I  
24 don't think it is beyond the scope essentially, because I do

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1 recall this line of testimony on direct and I would allow it.  I  
2 am not -- he is not going to be able to qualify that document for  
3 admission here if that is what you are attempting to do, because  
4 I don't think he has the foundational capability to do that.  So  
5 if you are trying to introduce the letter, then I would agree  
6 with Mr. Boyd that the letter -- I am going to stand by my  
7 previous ruling that the letter is not admissable.  But if he can  
8 testify based on his knowledge or what he knows, I would allow  
9 that testimony to go forward.

10           MR. LAYMAN:  Well, if I may, that is all contingent upon  
11 the witness' recollection that he actually understood the U.S.  
12 EPA to say something different from what he had earlier expressed  
13 in his memoranda.  I guess if he indicates that, yes, he was



14 aware that the U.S. EPA had a difference of opinion on that issue  
15 that was different from his own, again, from the opinions  
16 expressed in his memoranda, it seems to me that we ought to be  
17 permitted to have that line of testimony introduced, at the very  
18 least, as part of an offer of proof to support or provide  
19 additional support for the Agency's claim that the document  
20 should be allowed to be in and is not hearsay. I think that was  
21 the grounds that --

22 HEARING OFFICER KNITTLE: Like I said, I don't see how this  
23 impacts the document so it should all --

24 MR. LAYMAN: Well, it is all dependent on us being able to

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1 ask the question that --

2 HEARING OFFICER KNITTLE: But if he can testify based on  
3 that memorandum, I am going to be hard-put not to allow that  
4 testimony.

5 MR. BOYD: Mr. Knittle, if I may, this is way beyond the  
6 scope of direct. If they were going to have a witness to  
7 introduce that document, they have had three months to figure  
8 this out, who they should use. Okay. They don't have any other  
9 witnesses on rebuttal.

10 HEARING OFFICER KNITTLE: I agree with you on the document.  
11 I am not going to --

12 MR. BOYD: And this is not directed on direct. So I think  
13 it is inappropriate to use this witness for even foundational

14 purposes. I mean, it is way beyond the scope of direct. For  
15 that purpose, I strenuously object to this.

16 MR. LAYMAN: I am intrigued by that because the witness  
17 responded to a question of Mr. Boyd's pertaining to why it was  
18 that -- or what was the basis of the opinion paragraph three in  
19 that one memorandum, and the witness answered that he -- that it  
20 had to do something with the fact that the U.S. EPA was involved  
21 or had a different view. It was at that point in time, I  
22 believe, that Mr. Boyd objected to any further inquiry along  
23 those lines and indicated that the state would have full and  
24 ample opportunity to cross-examine the witness and bring out any

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1 information pertinent to that particular issue on  
2 cross-examination.

3 HEARING OFFICER KNITTLE: I do recall, maybe not verbatim  
4 what Mr. Layman is stating, but I recall that line of testimony  
5 on direct examination.

6 Do you, Mr. Boyd?

7 MR. BOYD: I don't recall that at all, sir. In fact, I  
8 would have followed up with it at that point in time. What I do  
9 recall is that he was getting into a line of testimony explaining  
10 the reasons why he was changing his position. I said that could  
11 come out in direct. He did not say that he received guidance  
12 from --

13 HEARING OFFICER KNITTLE: Cross.

14 MR. BOYD: What?

15 HEARING OFFICER KNITTLE: You mean cross, right?

16 MR. BOYD: On cross. Right. I am sorry. I get confused.

17 On cross.

18 HEARING OFFICER KNITTLE: That's okay.

19 MR. BOYD: He did not say that he had received any kind of  
20 memorandum from the U.S. EPA. He did not say he reviewed any  
21 memorandum from the U.S. EPA. All he said in response to Ms.  
22 Carter's last question was that he found out that the use of the  
23 one year was within the law. That's all he said. Nothing about  
24 a memorandum. And, you know, again, I don't --

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1 HEARING OFFICER KNITTLE: But they could ask him, couldn't  
2 they, how he found out that it was within the law? I mean, that  
3 would not be beyond the scope.

4 MR. BOYD: I think that question would probably be okay.

5 HEARING OFFICER KNITTLE: Yes. I don't see how that's  
6 beyond the scope of the direct examination.

7 MR. BOYD: But you see where my objection is coming from.  
8 She is going down this whole line here and --

9 HEARING OFFICER KNITTLE: I see the objection, however, he  
10 can testify whatever he can properly testify do, regardless if it  
11 is a back-door method of getting this letter in or helping them  
12 get the letter in before the Board.

13 MR. BOYD: Well, Mr. Layman just told us that that was the  
14 whole purpose of the question.

15 HEARING OFFICER KNITTLE: All I can do is allow appropriate  
16 testimony to come in. I think that if he has testimony and he  
17 can testify as to why he thinks that was no -- why he changed his  
18 opinion as to what the lay of the law was at that particular  
19 time, he can testify to that.

20 Now, I do agree that had they wanted to get this letter in  
21 even in rebuttal they could have brought someone in from the U.S.  
22 EPA and attempted to lay the appropriate foundation to get that  
23 in. They are not prohibited from doing that or they weren't. So  
24 that's why I don't think that I want to revisit the letter issue

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1 again, and I am not going to. That ruling is going to stand, at  
2 least on my part.

3 So I guess we should bring him back in and see where we are  
4 going. But to the extent that he touches on some of this stuff,  
5 if it is appropriate testimony I am not going to bar it.

6 (The witness entered the hearing room.)

7 HEARING OFFICER KNITTLE: Sir, were you listening in at the  
8 door?

9 (Laughter.)

10 THE WITNESS: Yes.

11 (Laughter.)

12 HEARING OFFICER KNITTLE: You are on the record. Do you  
13 want to rethink that one?

14 (Laughter.)

15 MR. BOYD: Put laughter on there, too, Darlene.

16 (Laughter.)

17 THE WITNESS: It would not have done any good. My hearing  
18 is not that good anyway.

19 (Laughter.)

20 HEARING OFFICER KNITTLE: All right. We have had an  
21 on-the-record discussion, sir, about appropriate testimony and  
22 what is not appropriate. We have come to a sort of  
23 understanding. So there may be some objections, just so you  
24 know, coming up. We are going to proceed with the line of

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1 testimony that we were already starting.

2 So, Ms. Carter, you may continue.

3 MS. CARTER: Yes.

4 HEARING OFFICER KNITTLE: We are not going to be able to  
5 read it back. It is way too far to go back.

6 MS. CARTER: I know. I am just sitting here trying to  
7 figure out where we were. Let me back up for a second.

8 Q. (By Ms. Carter) I believe we left off, Mr. Stefan, with  
9 an understanding that you had that the U.S. EPA might possibly  
10 have a different position pertaining to the baseline that was  
11 established in the original construction permit; is that correct?

12 A. I still don't quite understand the question.

13 Q. Okay. Did you previously testify on direct that the  
14 U.S. EPA possibly had a different position pertaining to the  
15 appropriateness of the baseline that was established in the  
16 original construction permit?

17 A. Not that I recall.

18 Q. If I could just direct your attention to Panhandle's  
19 Exhibit Number 40. That should be before you somewhere.

20 A. Yes.

21 Q. If I could just direct your attention to what has  
22 previously been marked as IAG 01163?

23 A. Correct.

24 Q. In your fax to the U.S. EPA, did you reveal that the

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1 existing major facility was subject to a minor source permit  
2 limit of 461.3 tons per year?

3 A. No, I did not.

4 Q. In your fax to the U.S. EPA, did you reveal that the NOx  
5 emissions after the project -- after the project caused the  
6 facility to exceed the minor source permit limit? I can state  
7 that again for you.

8 A. Yes.

9 Q. Okay. In your fax to the U.S. EPA did you reveal that  
10 the NOx emissions after the project caused the facility to exceed

11 the minor source permit limit?

12 A. No, I did not.

13 Q. It is not your responsibility, is it, to make a decision  
14 pertaining to the Illinois EPA's date of awareness?

15 A. It is not my determination.

16 Q. Nor is it CASM's responsibility to make a decision  
17 pertaining to the Illinois EPA's date of awareness?

18 A. I am not sure.

19 HEARING OFFICER KNITTLE: Ms. Carter, CASM's?

20 MS. CARTER: I apologize. It is C-A-S-M. It stands for  
21 compliance air systems --

22 THE WITNESS: Compliance and systems management.

23 MS. CARTER: Okay. Thank you. That's where he works.

24 HEARING OFFICER KNITTLE: Okay. Division of the Illinois

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1 Environmental Protection Agency.

2 MS. CARTER: Yes, it is within the Bureau of Air at the  
3 Illinois EPA.

4 HEARING OFFICER KNITTLE: Okay.

5 MS. CARTER: If I could have just a moment, we may be about  
6 done with cross.

7 HEARING OFFICER KNITTLE: Sure.

8 MS. CARTER: Thank you.

9 HEARING OFFICER KNITTLE: Let's go off.

10 (Discussion off the record.)

11 HEARING OFFICER KNITTLE: Back on the record. We are ready  
12 whenever you are.

13 MS. CARTER: Thank you.

14 Q. (By Ms. Carter) In your earlier testimony, you indicated  
15 that annual emission reports were submitted by Panhandle in the  
16 early 1990s?

17 A. Correct.

18 Q. Okay. If I could just call your attention to Stipulated  
19 Hearing Exhibit Number 11.

20 A. Yes.

21 Q. It is in the book in front of you?

22 A. Yes.

23 Q. Are you there, sir?

24 A. Yes.

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1 Q. Do you recall if you have seen this document before?

2 A. I don't recall seeing it.

3 Q. If I could just have you look to all four pages within  
4 Stipulated Hearing Exhibit Number 11 for just a moment. Have you  
5 found that?

6 A. Number 11?

7 Q. Yes.

8 A. Okay. I am there. Yes.

9 Q. From your review of Stipulated Hearing Exhibit Number



10 11, does it appear to be a complete copy of an annual emission  
11 report submitted by Panhandle?

12 MR. BOYD: I am going to object, because there has been  
13 another version of this that has been prepared and submitted in  
14 the testimony. To the extent that this witness has already  
15 testified that he has no knowledge of it and has never seen it  
16 before, he would have no information to suggest whether it is  
17 complete or not.

18 MS. CARTER: May I respond, please?

19 HEARING OFFICER KNITTLE: Yes.

20 MS. CARTER: This witness has indicated in the past that he  
21 has been responsible for reviewing I don't know how many annual  
22 emission reports. So it is within his area of knowledge to be  
23 able to testify to what a typical annual emission report is and  
24 what the contents thereof are.

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1 HEARING OFFICER KNITTLE: What was the exact question  
2 again, Ms. Carter?

3 MS. CARTER: My question was just looking to Stipulated  
4 Hearing Exhibit Number 11, does this appear to be a complete copy  
5 of an annual emission report for the Panhandle Glenarm facility.

6 HEARING OFFICER KNITTLE: I am going to allow that  
7 question. It is overruled.

8 Sir?

9 THE WITNESS: Yes, it does.

10 Q. (By Ms. Carter) If I could just direct your attention,  
11 sir, there should be a pile of exhibits sitting in front of you.  
12 In front of you is there a pile?

13 A. Yes.

14 Q. If you flip through the pile you should eventually see  
15 one that has been previously marked as Panhandle Exhibit Number  
16 14.

17 A. Okay.

18 Q. Do you have that document?

19 A. Yes, I do.

20 Q. Can you simply identify this document for me?

21 A. Page one --

22 Q. Can you identify the first page for me?

23 A. Page one is a letter from Panhandle Eastern dated May  
24 3rd of 1995 to the compliance and system management section,

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1 annual emission reports, attaching four annual emission reports.

2 Q. Can you turn to the next page which is also reference  
3 Pan 01322. Can you simply identify this page for me?

4 A. It appears to be a Panhandle Eastern spreadsheet  
5 identifying two facilities, and the emission -- the individual  
6 emission units from those two facilities.

7 Q. Have you seen this page before?

8 A. Not that I recall.

9 Q. Can I just direct your attention to Pan number 1323,  
10 1324, and 1325?

11 A. Yes.

12 Q. Can you simply identify for me what those are?

13 A. A copy of the 1994 annual emission report from Panhandle  
14 Eastern.

15 Q. Is this what would typically constitute what you have  
16 previously referred to as a short form?

17 A. Correct.

18 Q. Okay. Turning your attention back to Pan 1322.

19 A. Yes.

20 Q. Does this page bear any resemblance to a document that  
21 would be submitted in a short form of an annual emission report?

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

23 HEARING OFFICER KNITTLE: What part?

24 MR. BOYD: Well, in terms of with this particular

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1 application in general, it is obviously not an IEPA generated  
2 form.

3 HEARING OFFICER KNITTLE: Ms. Carter?

4 MS. CARTER: I think I am talking in terms of general  
5 terms, typically would this sheet be submitted by a company with  
6 a short form.

7 HEARING OFFICER KNITTLE: Do you still have an objection,  
8 Mr. Boyd?

9 MR. BOYD: I object in the sense of is it part of the short  
10 form, is that what she is asking? Or would it be submitted with  
11 the short form. The witness has already testified he does not  
12 know what was submitted with this application, or with the  
13 document.

14 MS. CARTER: The question is whether or not it would be  
15 typically submitted with a short form.

16 HEARING OFFICER KNITTLE: I will allow that question. The  
17 objection --

18 THE WITNESS: No, it would not.

19 HEARING OFFICER KNITTLE: -- is overruled. Pardon, sir? I  
20 didn't hear your answer.

21 THE WITNESS: No, it would not be normally submitted with a  
22 short form.

23 Q. (By Ms. Carter) Mr. Stefan, just directing your  
24 attention to Pan 1322, do you know whether or not this page was

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1 submitted to the Illinois EPA with the short form?

2 A. I have no knowledge of that being submitted.

3 MS. CARTER: Okay. Thank you. No further questions.

4 HEARING OFFICER KNITTLE: Mr. Boyd?

5 MR. BOYD: I have just a couple quick follow-ups.

6 REDIRECT EXAMINATION

7 BY MR. BOYD:

8 Q. Mr. Stefan, you don't know whether -- you don't know, as  
9 you sit here today, that Pan 1322 was not submitted to the Agency  
10 with the May 3rd of 1995 letter, do you?

11 MS. CARTER: Objection. Leading.

12 HEARING OFFICER KNITTLE: Mr. Boyd, do you have a response  
13 to that?

14 MR. BOYD: No. It is leading. But at this late date, I  
15 apologize. I was trying to get done quickly.

16 Q. (By Mr. Boyd) Mr. Stefan, do you have any understanding  
17 of what was submitted to the IEPA along with this May 3rd of 1995  
18 letter that is marked Pan 1321?

19 A. Would you give me that question again?

20 Q. Yes. As you sit here today, do you have any knowledge  
21 as to what was submitted with this letter dated May 3rd of 1995,  
22 numbered Pan 1321? Do you have any idea of what consisted of the  
23 complete submittal?

24 A. No, I don't.

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1 MR. BOYD: I think that's all I have.

2 HEARING OFFICER KNITTLE: Okay.

3 MS. CARTER: Nothing further.

4 HEARING OFFICER KNITTLE: Thank you, sir. You may step  
5 down.

6 THE WITNESS: I am done?

7 HEARING OFFICER KNITTLE: Yes, you are.

8 (The witness left the stand.)

9 HEARING OFFICER KNITTLE: Mr. Boyd, do you have any other  
10 witnesses?

11 MR. BOYD: No other witnesses.

12 HEARING OFFICER KNITTLE: Okay. You mentioned earlier that  
13 you had a housekeeping matter or something to do before the end  
14 of the case-in-chief?

15 MR. BOYD: When we last met, Mr. Singh discussed the BEN  
16 User's Manual. At the time there was an objection to the BEN  
17 User's Manual as being a current or existing version.

18 HEARING OFFICER KNITTLE: Right.

19 MR. BOYD: I believe he had a few pages from the April of  
20 1999 version. You, at the time, allowed us to file that version  
21 as Panhandle Exhibit Number 25. You also provided leave to file  
22 a -- the more recent version or the updated version of the BEN  
23 User's Manual, which is September of 1999. That is what I would  
24 like to present now, Panhandle Exhibit Number 25A. Again, I

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1 believe you had already given leave to file this.

2 HEARING OFFICER KNITTLE: I think so, too. I just want to  
3 make sure that there is no objection.

4 MR. LAYMAN: No. I think we would stand on our earlier  
5 objection to the introduction of the document and any associated  
6 testimony presented by their expert witness on the grounds

7 that --

8 HEARING OFFICER KNITTLE: As noted on the record at the  
9 time and date?

10 MR. LAYMAN: Pardon?

11 HEARING OFFICER KNITTLE: As previously noted on the  
12 record?

13 MR. LAYMAN: Yes.

14 HEARING OFFICER KNITTLE: Okay.

15 MS. CARTER: And it is still being offered for the limited  
16 purpose that it was previously entered into evidence. It was my  
17 understanding before, Mr. Knittle, and correct me if I am wrong,  
18 that it was simply offered for the limited purpose to, you know,  
19 demonstrate or to indicate what Mr. Singh relied upon in  
20 formulating his testimony. It is my understanding it was only,  
21 you know, admitted for that purpose. I just want to make sure  
22 that I am correct. They were specifically referring to certain  
23 pages within the BEN User's Manual, as well, and if I recall it  
24 was pages 318 through 325.

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1 HEARING OFFICER KNITTLE: Both sides could say whatever  
2 they wanted and I would not recall without someone showing me the  
3 transcript.

4 MR. BOYD: I have it marked. I will find it for you in  
5 just a second.

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

7 for a second.

8 (Discussion off the record.)

9 MR. BOYD: I am going to hand you -- there was a lot of  
10 discussion about this point.

11 HEARING OFFICER KNITTLE: Okay.

12 MR. BOYD: The last discussion occurred on page 988 and 989  
13 of the transcript. I will just hand you that right now. In  
14 particularly, Mr. Layman began his third or fourth discussion of  
15 the point on the bottom of page 988, and your ruling was on the  
16 middle of 989.

17 HEARING OFFICER KNITTLE: Okay. Thanks. Let's go back off  
18 the record. You can note the Hearing Officer is reading.

19 (Discussion off the record.)

20 HEARING OFFICER KNITTLE: All right. Could we go back on.

21 In the pages that Mr. Boyd has shown me, I note that Mr.  
22 Layman makes his additional objection of hearsay, and I state  
23 that I -- I want to restate that I have granted Panhandle leave  
24 to file a current version of the BEN User's Manual and if

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1 necessary a complete version. It will be up to Mr. Boyd to  
2 provide them which, of course, you have now done. Do you know  
3 where I am restating from?

4 MR. BOYD: You don't -- you mean --

5 HEARING OFFICER KNITTLE: Well, on page 989 of the



6 transcript I state that I am restating that I have granted you  
7 leave to file the current version, but I don't get into whether  
8 it is for any limited purpose or anything like that.

9 MR. BOYD: I think that's the only place.

10 HEARING OFFICER KNITTLE: Do you have the previous place  
11 where we grant leave?

12 MR. BOYD: I don't think so. Let me check.

13 MS. CARTER: I am just going back, and there is a good 20  
14 pages of discussion on this. I was looking, at least to begin  
15 with, on page 973 talking about willing to admit this for a  
16 limited purpose.

17 HEARING OFFICER KNITTLE: That was Mr. Boyd, though, right?

18 MS. CARTER: That was your statement, sir.

19 HEARING OFFICER KNITTLE: But in response to Mr. Boyd's  
20 offer?

21 MS. CARTER: Yes.

22 MR. BOYD: If I may, that was for purposes of 25, the  
23 limited pages that we had available. And then I specifically  
24 recall you providing leave to provide the full BEN Manual, and

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1 that's what we have done.

2 MS. CARTER: If --

3 HEARING OFFICER KNITTLE: Here is what I am going to do. I  
4 have reached a decision.

5 MR. BOYD: Okay.

6 HEARING OFFICER KNITTLE: If the only objection to this is  
7 a hearsay objection that is withstanding now, I am going to  
8 overrule that objection. I am going to admit the whole BEN  
9 User's Manual. I think it is appropriate testimony. I think it  
10 is -- let me quote -- the type of evidence that serious persons  
11 would rely upon in the pursuit of serious affairs. No.  
12 Reasonable people would rely upon in the pursuit of serious  
13 affairs, which, as you know, is the Board's evidentiary standard  
14 in this matter.

15 To the extent that I have ruled otherwise in a previous  
16 portion of this hearing, I am going to go back and review what we  
17 did on this and I will read the whole thing. But to the extent  
18 that I have ruled otherwise, I will reconsider it and, Rob,  
19 Sally, Mr. Layman and Ms. Carter, I don't want to redo what I  
20 have done before. I would want to think about it again. If that  
21 happens, I will call you both up and we will have a telephone  
22 status conference.

23 But my recollection is that I had no foundational concerns,  
24 and I didn't address the hearsay objection, per se, because we

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1 were admitting it for a limited purpose. But if Mr. Boyd thinks  
2 that he wanted to admit the whole BEN User's Manual, I wouldn't  
3 have a problem with that because I don't think this is  
4 objectionable evidence. You can respond.

5 MS. CARTER: May I respond?

6 HEARING OFFICER KNITTLE: Sure.

7 MS. CARTER: If I could just -- I know you don't want to go  
8 back through this, but if I could just direct your attention, Mr.  
9 Hearing Officer, to page 976 and 977, where you stated, Mr.  
10 Hearing Officer, you are moving this document as it is into  
11 evidence or for a limited purpose. Mr. Boyd stated, for the  
12 limited purpose that these are the pages that Mr. Singh relied  
13 upon in developing his testimony.

14 HEARING OFFICER KNITTLE: Right.

15 MS. CARTER: Again, I just want to indicate on page 977 you  
16 said your foundational concerns had been cured, and for the  
17 limited purpose of showing what this witness relied upon, I am  
18 going to accept this and admit it into evidence. That is what  
19 you indicated on page 977.

20 HEARING OFFICER KNITTLE: Right. Then if you read 988 and  
21 989, there is -- I am going both on my recollection and with what  
22 the transcript shows. On 988 to 989 -- I don't have it in front  
23 of me anymore, but it looks like I am admitting it for the  
24 limited purpose and granting leave to file a new BEN User's

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1 Manual with the latest version. And I don't state there that I  
2 am granting leave to file that or to accept that for a limited  
3 purpose, and it was not my intention to do so if I did.

4 MR. BOYD: And if I may, just to respond --

5 HEARING OFFICER KNITTLE: Yes.

6 MR. BOYD: The discussion that Ms. Carter is referring to  
7 on page 977 clearly relates to the portion of the BEN Manual that  
8 was presented as Exhibit Number 25, and not the whole BEN Manual.

9 HEARING OFFICER KNITTLE: Mr. Boyd, was it your intention  
10 to submit the whole BEN Manual as an exhibit if we had the latest  
11 version?

12 MR. BOYD: That is what we were doing.

13 HEARING OFFICER KNITTLE: Okay.

14 MR. LAYMAN: We have no foundation as to the entire BEN  
15 Manual. We had foundation with respect to only that portion of  
16 the BEN Manual that was relied upon by the witness.

17 HEARING OFFICER KNITTLE: Right. What I am saying now is I  
18 think I had foundational problems with the BEN User's Manual  
19 because it was a -- we had a small portion, a small number of  
20 pages that was pulled off the internet, and we didn't have any  
21 testimony at the time how he got it off the internet. We had  
22 that testimony and that's what cured my foundational concerns for  
23 those limited pages.

24 If what we have here is the official BEN User's Manual

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1 distributed by the United States Environmental Protection  
2 Agency -- is that the case, Mr. Boyd?

3 MR. BOYD: That is the case.

4 HEARING OFFICER KNITTLE: Then I can't see how I cannot  
5 accept this into evidence. It clearly falls within the Board's  
6 admissable evidence provision at 103.204, which allows me to  
7 receive -- the Hearing Officer shall receive evidence which is  
8 admissable under the rules of evidence, may receive evidence  
9 which is material, relevant, and would be relied upon by  
10 reasonably prudent persons in the conduct of serious affairs,  
11 provided that the rules relating to the privileged communications  
12 and the privileged topics shall be observed.

13 I don't see that -- I think this is what a reasonably  
14 prudent person would rely upon in pursuit of serious affairs. I  
15 don't see that there is any privilege concerns with this.

16 MS. CARTER: Mr. Hearing Officer, may I ask a question?

17 HEARING OFFICER KNITTLE: Yes. One second, though. I am  
18 still in the middle of an end-of-the-day rant. I think this is  
19 also the type of document that I can take notice of. Can anyone  
20 help me out with that? Here is an official notice, 103.206. I  
21 think it is clearly admissable evidence. I can also take  
22 official notice of all facts of which judicial notice may be  
23 taken and of other facts within the specialized knowledge and  
24 experience of the Board.

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1 I think the BEN User's Manual, promulgated by the United  
2 States Environmental Protection Agency, would fall under that  
3 category as well. Those are the reasons I would be admitting it

4 in its entirety.

5 MS. CARTER: Mr. Hearing Officer, we are --

6 HEARING OFFICER KNITTLE: Oh, hold on. I have one more.

7 MS. CARTER: I am sorry. I didn't mean to interrupt you.

8 HEARING OFFICER KNITTLE: And it is also -- I want to get  
9 it all out of the way.

10 MS. CARTER: Okay.

11 HEARING OFFICER KNITTLE: 103.204(d), relevant, scientific,  
12 or technical articles, treatises, or materials may be introduced  
13 into evidence subject to reputation or disputation through any  
14 introduction of comparable documentary evidence or expert  
15 testimony.

16 I think the BEN User's Manual might also be a scientific  
17 material of sorts. It is definitely more technical than I can  
18 follow, and I do have a bachelor's of science degree in biology  
19 from the University of Illinois. So I would consider that a  
20 scientific material as well.

21 For all of those reasons I would admit it. But like I  
22 said, if I have ruled otherwise previously, I want to revisit the  
23 issue.

24 MS. CARTER: Mr. Hearing Officer, the State still has the

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1 right to file, you know, some sort of a motion with the Board for  
2 hearing on this specifically pertaining to the fact that this is

3 a computer-generated document and the admissibility of such a  
4 document is contained throughout the case law, so we could still  
5 address that?

6 HEARING OFFICER KNITTLE: Yes, clearly.

7 MS. CARTER: Okay. Thank you.

8 HEARING OFFICER KNITTLE: Yes, Mr. Boyd?

9 MR. BOYD: The only other final thing I wanted to say was  
10 to respond to something that Mr. Layman said, was that was  
11 foundational. At the close of the hearing the last time I said  
12 we are not going to fly Mr. Singh back here just to lay  
13 foundation for this. That's what you agreed to, and that's why  
14 at the time you would give us leave to provide now a complete  
15 version of the current BEN Manual.

16 HEARING OFFICER KNITTLE: Yes. This would not normally be  
17 foundationally -- that's a good point, Mr. Boyd. This would not  
18 normally be foundationally accurate just on Mr. Boyd's say-so  
19 that it is the current version and the accurate version. But I  
20 do recall granting you that leave to file, which is part of the  
21 decision here.

22 Okay. Let's go off the record for a second.

23 (Discussion off the record.)

24 HEARING OFFICER KNITTLE: Back on the record. Mr. Boyd, do

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1 you have any further witnesses?

2 MR. BOYD: No further witnesses.

3 HEARING OFFICER KNITTLE: Any other matters before we close  
4 your case-in-chief?

5 MR. BOYD: None.

6 HEARING OFFICER KNITTLE: All right. Your case-in-chief is  
7 now closed.

8 Mr. Layman, Ms. Carter, we are going to do rebuttal  
9 testimony tomorrow?

10 MS. CARTER: Yes.

11 HEARING OFFICER KNITTLE: How many witnesses, how many  
12 rebuttal witnesses do we have?

13 MS. CARTER: Can I have just a moment? I apologize. We  
14 were off the record and we have not had a chance to confer since  
15 the completion of their case-in-chief.

16 HEARING OFFICER KNITTLE: Okay.

17 MR. LAYMAN: I think I previously indicated that we would  
18 have two barring --

19 HEARING OFFICER KNITTLE: Yes, barring any testimony that  
20 came up.

21 MR. LAYMAN: -- any issues that might be --

22 HEARING OFFICER KNITTLE: Before we go off the record  
23 again, and I want to do this tonight before we head home, to get  
24 an idea of what you want on rebuttal, the BEN User's Manual,

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1 Panhandle Exhibit Number 25A, which I have accepted, Mr. Layman



2 expressed some concerns off the record that if he brought any  
3 rebuttal testimony or Ms. Carter brought any rebuttal testimony  
4 concerning the BEN User's Manual, they would be waiving their  
5 objections that they have made on the record. I want it noted on  
6 the record that I do not think -- it is not my impression that  
7 you will be waiving any objections that you have before the  
8 Board.

9 I think it is only fair for you to be allowed a chance to  
10 question people off of rebuttal testimony about the BEN User's  
11 Manual without waiving the objections you have already made on  
12 the record, especially in light of the fact that those  
13 objections, a lot of them, are going to the Board and we are a  
14 little different than a court of law here. We want to get as  
15 much testimony in as we can since we would have to come back and  
16 do it again if the Board didn't have enough information before  
17 it. So any objections that you have are standing and I view them  
18 as standing.

19 MR. LAYMAN: Okay. Thank you.

20 HEARING OFFICER KNITTLE: Let's take a break and you guys  
21 can discuss rebuttal witnesses.

22 MS. CARTER: Okay. Thank you.

23 (Whereupon a short recess was taken.)

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

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1 We are on the record after another short recess. It is about

2 5:30 p.m. Mr. Layman and Ms. Carter, we were talking about  
3 rebuttal witnesses and how many you think you are going to have  
4 now that the case-in-chief is closed. What do we have?

5 MR. LAYMAN: At this point in time I think we will have no  
6 more than four and three of those witnesses are definite. One  
7 will be Dr. Nosari, who testified in the State's direct  
8 case-in-chief earlier. Gary Styzens will be another witness who  
9 also testified in the direct case-in-chief, and Dave Kolaz, and  
10 possibly one other employee of the Agency who would be considered  
11 a custodian of annual emission reports.

12 HEARING OFFICER KNITTLE: Okay.

13 MR. BOYD: Just for the record, obviously, to the extent  
14 that proper foundation can be laid for each of these witnesses  
15 for them to proffer the testimony that will be presented, then I  
16 won't have an objection. But I am going to just state now for  
17 the record that if the sole purpose of bringing Mr. Kolaz in is  
18 to try to get the U.S. EPA letter, then I am going to object  
19 strenuously to that again as like the fifth time that that  
20 document was trying to be put in by an IEPA witness.

21 HEARING OFFICER KNITTLE: I will address that if and when  
22 it comes into play.

23 MR. BOYD: Thank you.

24 HEARING OFFICER KNITTLE: Anything further, Mr. Boyd?

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1 MR. BOYD: That's all.  
2 HEARING OFFICER KNITTLE: Mr. Layman, or Ms. Carter?  
3 MS. CARTER: No.  
4 HEARING OFFICER KNITTLE: All right. Let's meet here  
5 tomorrow at 9:00. Can we all make it at 9:00?  
6 MR. BOYD: Fine.  
7 MS. CARTER: Yes.  
8 HEARING OFFICER KNITTLE: And we will start with Gary  
9 Styzens, I take it?  
10 MR. LAYMAN: Yes, we will try to have Gary first thing.  
11 HEARING OFFICER KNITTLE: Okay. We are off the record.  
12 See you tomorrow.

13 (Hearing Exhibits retained  
14 by Hearing 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  
4

5 I, DARLENE M. NIEMEYER, a Notary Public in and for the  
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that  
7 the foregoing 223 pages comprise a true, complete and correct  
8 transcript of the proceedings held on the 28th of November 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 7th day of December A.D., 2000.

15

16

17

18

19 Notary Public and  
Certified Shorthand Reporter and  
20 Registered Professional Reporter

21 CSR License No. 084-003677  
My Commission Expires: 03-02-2003

22

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