BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Complainant,	)	
vs.	)	DOCKET NO. TO-001156
TIDEWATER TERMINAL COMPANY Respondent.	)	Volume 1 Pages 1 - 59

A hearing in the above matter was held on August 17, 2000, at 1:32 p.m., at 1300 South Evergreen Park Drive Southwest, Olympia, Washington, before Administrative Law Judge C. ROBERT WALLIS, Chairwoman MARILYN SHOWALTER, Commissioners RICHARD HEMSTAD and WILLIAM GILLIS.

The parties were present as follows:

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by JEFFREY D. GOLTZ, Senior Assistant Attorney General, 1400 South Evergreen Park Drive Southwest, Post Office Box 40128, Olympia, Washington 98504-0128.

TIDEWATER TERMINAL COMPANY, by BRIAN J. KING, Attorney at Law, Schwabe, Williamson & Wyatt, 1211 Southwest Fifth Avenue, Suites 1600-1800, Portland, Oregon 97204-3795.

Kathryn T. Wilson, CCR

Court Reporter

PANEL MEMBERS FOR WUTC:

Dennis E. Lloyd - Pipeline Safety Engineer
Kim L. West - Pipeline Safety Engineer
Joe Subsits, P.E. - Utility Engineer

PANEL MEMBERS FOR TIDEWATER TERMINAL COMPANY:

Stephen A. Frasher - President
Dennis McVicker - General Manager, Liquid Products Division

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P R O C E E D I N G S

JUDGE WALLIS: Let's be on the record. This hearing will please come to order. This is a hearing of the Washington Utilities and Transportation Commission pursuant to due and proper notice to all interested persons being held at Olympia, Washington, on August 17 of the year 2000. This is Docket No. TO-001156, which is a complaint by the Commission against Tidewater Barge Lines, Incorporated.

This hearing is being held before the Commissioners and myself. My name is Robert Wallis, administrative law judge. Let's begin by hearing appearances of counsel.

MR. GOLTZ: For Commission staff, Jeffrey Goltz, senior assistant attorney general.

MR. KING: My name is Brian King. I'm with the law firm Schwabe, Williamson and Wyatt, representing Tidewater Terminal Company.

JUDGE WALLIS: Could you state your office address?

MR. KING: My office address is 1200 Fifth Avenue, Portland, Oregon, 97204.

JUDGE WALLIS: Thank you very much. We will begin with statements from counsel.

MR. GOLTZ: Yes, members of the Commission,

Judge Wallis, the Commission issued its complaint and emergency order on July 28th ordering Tidewater Barge Lines -- as you will see in our documents, it's Tidewater Terminal Company -- to cease its operation of its pipelines near Pasco and perform certain tests as a condition to resuming operations, and pursuant to the Administrative Procedure Act, set a hearing in that complaint, in that emergency order, for August 8th.

Prior to August 8th, the Company and the Commission staff and counsel conferred and agreed that it was worth pursuing settlement to this, and we sought and received an extension of the continuance of that hearing date until the 17 and 18th of August during which time we've continued settlement negotiations, and as of several days ago, it became clear we were going to reach a settlement, and we finally got the final language this morning and filed an unexecuted draft with the Commission first thing this morning and then upon noon filed an executed version of that.

What we would like to do today is present that settlement, and to do that, Mr. King and I would just briefly describe the settlement and maybe more importantly, what it doesn't include, and then give you a preview of what the witness panel will present and in what order.

The Settlement is a settlement of the emergency order. It is confined to that. It is not intended to cover everything in the universe. It's meant to just settle those issues that were raised and to impose agreed-upon requirements upon the Company to undertake a number of tests that will be described to you before they can recommence operations, and that will set the motion into process by which once the data from these at least three separate complementary tests -- some people may think they are redundant, but they really are complementary, but the data will be analyzed, correlated, and excavations will be performed where the data warrant that, and again, upon that physical inspection, if it's necessary, there will be repairs or replacement of pipelines where there are, for example, welds, and those welds will be inspected. At every step in the process, Commission staff will be monitoring it along the way.

Only after all those tests, inspections, repairs, or replacements are completed, then there will be a report back to the Commission, and then we are suggesting that the Commission then, upon proving that those are satisfactorily completed, should authorize the recommencement of operations of one or more of the three pipelines. There is three pipelines on the site,

as you will hear, but beyond that, we are requiring product protection, which will be described, and also requiring additional testing on intervals down the road.

What we did not come to resolution of, and we didn't even discuss these except to say they are not on the table, was possible enforcement actions including penalties for past noncompliance. We are not talking about the environmental issues. That's a Department of Ecology operation, and we aren't really talking here about potential in the long-term or longer than immediate, anyway, replacement of the pipeline. That is something that the Commission staff recommends the Company evaluate that, and pursuant to the Agreement, they would submit a report back after that evaluation, but those issues are reserved. In our view, what we need to resolve here is the issues that are in the four corners of the emergency order and not go beyond that.

So what we plan to do today after hearing from Mr. King is the Company and Mr. King will describe what the Company witnesses will discuss. Ms. Kim West of the Commission staff will make sort of a corresponding presentation on behalf of Commission staff. We will bounce back and forth chronologically, first with the Company talking about the facility and

the event. Then Ms. West will talk about what the Commission staff did in response to notification, then back to the Company to describe the proposals and the settlement and the issues, and then back to Ms. West, but Mr. Dennis Lloyd and Joe Subsits of the Commission staff are also here to answer any technical questions.

JUDGE WALLIS: Mr. King?

MR. KING: All I'd like to add to that -- I think Mr. Goltz did a good job of summarizing the legal aspects of this -- as you look at the Stipulation and Settlement Agreement, you will see that most of the components of it relate to technical requirements regarding pipeline, testing, integrity testing, different techniques that are used to evaluate the condition and strength of pipelines, and rather than having me try in a layman's way to describe that, I think what we propose to do this afternoon is to have Steve Frasher, who is the president of the Company, give you initially an overview of the facility: the number of pipelines that are in use there, how the pipelines are used, what materials are transported through the pipeline, so to just put all of this in some sort of context for the Commission and for Judge Wallis.

We plan to follow that then with Dennis

McVicker, who is the general manager of the Pasco facility where the leak occurred, to describe for the Commission and for Judge Wallis how the Company responded to the leak once it was discovered, and then finally for our part of the presentation, we will go back to Steve Frasher, who I think will explain in some detail the technical provisions of the Stipulation Agreement and why we feel that those provisions are in the best interests of both Tidewater and its employees and the public health and safety of the people of the State of Washington. So in a nutshell, that's what we hope to accomplish with our presentation this afternoon.

JUDGE WALLIS: Do the commissioners have any questions at this point? What I would like to do at this time is swear in the witnesses, and then I will identify for purposes of the record the documents that have previously been distributed so that witnesses may refer to them in the testimony. At this time, I would like to ask all five of the witnesses to please stand, raise your right hands.

(Witnesses sworn.)

JUDGE WALLIS: In conjunction with the appearance of these witnesses, several documents have been distributed. The first is entitled, Drawing for

Tidewater, Stratum Surveying and Mapping, and it purports to be a map or diagram of the Tidewater facility which will be described. The second document is a color print of what appears to be a photograph of a pipe with a hole in it. I'm marking that as Exhibit 2 for identification. Marking as Exhibit 3 for identification, a document that purports to be a photograph of a hole with three pipes in it. Marking as Exhibit 4 for identification, a document that appears to be representation of a photograph of a roadway, a chain-link fence, and buildings and petroleum storage tanks behind it.

In addition, let me at this time mark for identification the document that the counsel previously referred to, which is the Stipulation and Settlement Agreement between the Commission and the Company. That will be Exhibit 5 for identification. So with that, let's proceed, and counsel, could you as a predicate to the presentations of your witnesses please have them state their names, business addresses, and qualifications for the record.

MR. KING: Certainly, Judge. Steve, could you please describe for the record name, address, title, and job responsibilities?

MR. FRASHER: Stephen Frasher. The address

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for Tidewater is P.O. Box 1210, Vancouver, Washington, 98666. I have been president of Tidewater for approximately one year. I've been in the transportation industry for about 30. I'm a graduate of an engineering school with an engineering degree. I started out working with the railroads for approximately 15 years, and then about 1984, went to Cincinnati, Ohio and spent 15 years with a barge and terminal and transportation company that operated on the Ohio River and the Mississippi River system and then proceeded to Tidewater as president.

MR. KING: Judge Wallis and the Commissioners, with your leave, I would like to instead of leading Steve Frasher through a detailed list of direct questions, just ask him to generally describe for the Commission the facility in Pasco, the operation of the facility, and use Exhibit No. 1 as a basis for educating the commissioners and Judge Wallis on the facility.

JUDGE WALLIS: Please proceed.

MR. FRASHER: The terminal in question is located in Franklin County on the outskirts of the city of Pasco, and you can see from Exhibit 1 the word "Snake River." We are on the banks of the Snake River, and this particular location is about a mile or so up

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from the mouth of the Snake River where it enters the Columbia River. This facility is served by rail, by truck, and by barge. It has approximately 30 employees, works around the clock seven days a week, and it's primary function is to receive petroleum products and fertilizers, and that would be gasoline, jet fuel, diesel, and then a variety of liquid fertilizers, store them and then distribute them by rail or truck.

In the particular case of the pipeline, we also provide a connection for the purpose of distributing products for our customers between our terminal and a Chevron terminal that's approximately a mile away that's engaged in the business of storing and distributing petroleum products only, and that pipeline performs a number of functions.

First, there are three pipelines that are essentially parallel, approximately 4900 feet in length, and for all practical purposes, almost all underground. The pipelines are six inches in diameter, and the services they provide are the receipt of gasoline or petroleum from either the Chevron storage facility or the Chevron pipeline, or in return, the distribution of petroleum from our tank farm to the Chevron pipeline that goes to Spokane from Pasco, and

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that's essentially the business that we are in.
On the date in question, we had received a batch of gasoline from the Chevron pipeline, and we had determined, checking our calculations which would indicate what we thought we received compared to with what we thought Chevron sent us or Chevron reported sending us, that there was significant difference that we could not account for, and then we proceeded undertaking an investigation of why that would be, and in the process of doing that investigation, we discovered late in the afternoon, early evening of July 21st, a wet spot on the surface of the soil in the location of -- and if you will just follow. We've highlighted the pipeline for you with a highlighter, and to the upper right is essentially our tank farm and to the lower left is the Chevron tank farm, and the location where the product in the ground was found was essentially -- you will see at the Chevron pipeline Tank No. 19. Well, that elbow, right in the proximity of Tank 19 is essentially where the soil that showed a wetness and a smell of gasoline was found.
That was approximately 5:30 in the afternoon. All the agencies were reported immediately thereafter, and Dennis McVicker, who is the general manager, and I'm about to pass this over to him, was notified. He

notified me, and he, David Godel, who is the head of our environmental and safety and health group at Tidewater, and one of his assistants, Jim Underwood, went to Pasco that evening to participate in the investigation of what had happened with this pipeline, why and essentially what we can do about correcting the situation.

MR. KING: Steve, before we go on to Dennis, could you spend a few minutes describing the frequency of use of the pipelines, the pressure of the pipelines, some of those technical details, please?

MR. FRASHER: These are what would be considered low pressure pipelines, and that means they are operating at pressures that are typically significantly below their maximum operating pressure. So for example, one pipeline operates -- actually, the one that we found the leak in operates at about 30 pounds per square inch. One of the other pipelines, which is almost exclusively engaged in pushing product into Chevron's pipeline, operates at around 150 pounds per square inch.

The high-pressure line, which is not the line we are talking about, is almost continuously used. The terminal at Pasco handles about 300 million gallons of product a year, and about half of that goes through

that one pipeline, the high-pressure pipeline. The other two pipelines actually are engaged in allowing us to receive product from Chevron, either diesel or jet fuel in one pipeline or gasoline in the other. It is the gasoline receiving pipeline that sustained a hole and the leak. That pipeline only handles about five percent of the total business that goes through our facility, and because of that, it's not continuously used. In fact, it's characterized as being used at intervals of as short at three to five days to ten days between times that batches of gasoline are sent to our terminal in that pipeline.

MR. KING: Unless there are questions from the Commission or Judge Wallis, this would conclude this portion of Steve Frasher's testimony. He will be talking a little later on about the Stipulation itself and the provisions of the Stipulation.

JUDGE WALLIS: Are there questions at this point?

CHAIRWOMAN SHOWALTER: Is a six-inch pipeline six inches from outside to outside?

MR. FRASHER: It's nominally a six-inch diameter pipeline.

CHAIRWOMAN SHOWALTER: So from outside?

MR. FRASHER: Inside diameter.

CHAIRWOMAN SHOWALTER: What is the thickness?
MR. FRASHER: 14-thousandths plus or minus of an inch.
JUDGE WALLIS: Mr. King, would you also ask Mr. McVicker to introduce himself to us?
MR. KING: Dennis, would you please state for the record your name, your address, your job responsibilities and experience, please.
MR. MCVICKER: My name is Dennis McVicker. I work with Tidewater. I'm the general manager of our liquid products division. I've held that job since December of 1999. I have an engineering degree. I have approximately 17 years of experience in the petroleum petrochemical business, working for Chevron during that entire time. Most recently, about eight years of experience working with Chevron Pipeline Company, and again, just came to work for Tidewater in December of last year. I also work at Tidewater's Vancouver, Washington office, Post Office Box 1210, Vancouver, Washington, 98666.
If I might for the record, the pipeline in question is a six-and-five-eighths-inch outside diameter with a nominal wall thickness of .14 inches.
MR. KING: Thank you. Again, with the leave of the commissioners and Judge Wallis, I would like to

pose just a general question to Dennis asking him to describe the actions that he and the Company took upon the discovery of the leak of the pipeline on July 21st.

MR. MCVICKER: I was notified approximately 5:30 in the evening on July 21st that we had discovered a leak. I was in Vancouver, Washington at the time on my way home from work, and immediately, as Steve has mentioned, got together with Dave Godel and Jim Underwood and went to the site in Pasco. In route, I personally was handling the applications to the NRC -- got to talk to Kim West, actually -- the notification to the UTC, also contacted the Washington SCRC, attempted to contact the U.S. EPA, as well as attempted to contact the Eastern Region of the Department of Ecology.

We arrived at Pasco late in the evening, and at that point, the pipeline had already been shut down and isolated and at least partially drained back into our terminal. We came out the following morning working with local Tidewater employees, excavated the area, uncovered the three pipes, and discovered the hole, which is approximately a one-quarter-inch by three-eighths-inch hole going through the top of the pipe. If you look at the cross section of the pipe like a clock, it would be approximately the one o'clock

position on the clock.
We had also recognized just from the odor contamination of the local soil -- the soil is a very sandy soil. We had identified contamination in the soil so began to put together a plan for assessment of the extent of contamination.
COMMISSIONER HEMSTAD: What was the volume of the leak?
MR. MCVICKER: The volume of the leak has not been totally identified yet. Looking back through our records, we have stated to Staff that there is a total of approximately 41 thousand gallons of product that is unaccounted for between our measurement and Chevron's measurement.
CHAIRWOMAN SHOWALTER: Was that just the original discovery, or did it also include your efforts to track down where the leak was by putting more fluid through?
MR. MCVICKER: No. As we look back at our records over a period of time, that's the total amount of product that's unaccounted for. That would not include any product that was lost in looking for the leak; though I believe that amount would be fairly insignificant, especially compared to 41 thousand gallons.

MR. KING: Dennis, could you also speak to, in relation to the amount of product lost, the work that's been done on the remediation and assessment front and their estimate of what product loss might be?

MR. MCVICKER: We might say we've really had two lines of work going on. Probably since we identified the leak, the priority has been assessing the extent of contamination and putting together a plan for remediation. We've had a couple of consultants working with use, including CH2M Hill, in doing that assessment, and at this point, we have a pretty good picture of the flume. The numbers that they are calculating based on soil samples and based on what they see on the water seem to substantiate a leak in the order of magnitude of 40 thousand gallons. I think the numbers they've turned over to us are about 36 thousand gallons.

MR. KING: Can you go back then, Dennis, to, I think, the analysis that the Company did regarding the cause of the leak?

MR. MCVICKER: Let me step right back to the evening of the leak. We have worked not only that evening but ever since then to make sure our first priority is to maintain safety of our own personnel as well as safety of the public. As you can see in one of

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the pictures you have, the leak was right on the side of a road that accesses Chevron's facility as well as, I believe it's a state park on down the road. So we made sure that we isolated the area that evening. As work was going on the following morning, we had even a flagger there that was handling traffic for us. That evening, we quickly identified whether or not there was any hydrocarbon vapors, and we had verified through testing that there were really no hydrocarbon vapors above ground, so no real potential for fire hazard or for someone getting into the hydrocarbon vapors.

We've continued to work with safety procedures and safety meetings each morning and safety equipment to make sure that as we did the work assessing the extent of the leak, again, both our employees and the public were kept in safe conditions. There is a lot of work that's happened in the last several weeks to assess the extent. That's been one priority. Another priority has been to evaluate the pipeline, evaluating the failure itself, the hole itself to try to understand what the cause of failure was, evaluating other aspects of the pipeline to see if we might have other problems.

There are three pipelines that have similar designs, similar age, basically located in the same

pipeline trench. They are underground, but they were installed at the same time. So we've decided to look at all three of those pipelines, not just the pipeline that sustained the hole and the leak but all three pipelines. We very quickly cut out a section of this pipe that included the failure, included the hole, and turned that over to PSI Inspections out of Portland, Oregon. They did a number of tests on that pipe to both understand the likely mechanism of failure and also understand the general condition of the pipe, and I have a report of theirs that we have turned over to Commission staff.

I can mention just a couple of things out of the report. They felt that -- I'll just read a couple of items here -- "Examination of a sample taken adjacent to the wall penetration consists of essentially 100 percent ferrite and exhibits preferential attack along grain boundaries. This condition often occurs during stray current corrosion," and that's what they've identified as the likely failure mechanism is stray current corrosion. We can talk a little bit more about what that means in a few minutes. "Visual examination of pipe section submitted revealed the following: The I.D. surface is clean and completely free of any corrosion, erosion, or pitting."

That's the inside diameter. "The outside diameter surface contains a fairly uniform layer of corrosion product. The average measured wall thickness was found to be 0.131 inches. Except for the localized penetration of the wall, no other local pits or local deep corroded areas were found," and they gave an opinion that based upon the I.D. measurement, the original wall thickness was a .14 inch, and being very conservative with the pressure, the maximum amount of working pressure of this pipe, they still give the pipe over 100 years of life in it. So in general, they found the pipe, other than this localized hole, they found the pipe in good condition.

MR. KING: Dennis, could you generally describe stray current corrosion and what that means?

MR. MCVICKER: Very generally. Whenever there is an opportunity for electrical current to flow through a pipe, if you have a localized area where that current can leave that pipe, it can set up corrosion right there at that site. That's what they are referring to here. I'm not a metallurgist, but evidently they do tests on the steel itself, and they can tell whether that is a likely cause of corrosion at that site, and those tests reveal that is the likely cause.

They also recommended that a close interval pipe to soil potential survey be performed, and that survey basically looks at the pipe itself compared to the soil and identifies where there might be a higher potential for current to leave the pipe, and it's really just measuring in millivolts the potential between the two. So we contracted another company, Corrpro, to come out and do that close interval survey, and their results showed that this location actually does have a bit lower potential than the rest of the pipe, so could be --

COMMISSIONER HEMSTAD: What do you mean lower potential?

MR. MCVICKER: They are measuring the millivolt potential between the pipe and the soil and where that millivolt potential decreases. That would be a lower potential. That would actually be a place where current could possibly leave the pipe.

CHAIRWOMAN SHOWALTER: So a lower potential means a greater possibility of leaving the pipe?

MR. MCVICKER: Of current leaving the pipe at that location, which gives you a greater possibility of corrosion at that location. So those two reports seem to back up that the likely failure mechanism is stray current through the pipe that was leaving the pipe at

that position causing this corrosion, and I would just say that your staff also has technical background and probably opinion on that issue as well.

We also decided to hydrotest one of the three pipelines. The pipeline that Steve mentioned is the outbound line that gets heavier use. We decided to hydrotest it to see what condition it was in in general, and in a hydrotest, you are just filling it with water and taking it to a point 25 percent above the maximum amount of the working pressure of the pipe, holding it for four hours and reducing it to 110 percent, holding it for another four hours. We did that and actually have an engineering report that reviewed all the data and stated that that pipeline was without leak.

The three pipelines that we had initially uncovered, we hired a company to come in and do wall thickness gauging on those pipelines. They have a device they can do that from the outside of the pipe, and they verified that the areas where they checked, we also did not have general corrosion beyond what would be normally accepted minimum corrosion. We uncovered another area of the pipe and did the same thing, wall thickness gauging in several places on all three pipes with the same results, pretty much backing up what the

lab tests showed on the wall thickness of the pipe. So in general in the two areas of all three pipes that we've looked at, this one hole is the only area that we found that either has significant pitting or significant general corrosion.

That's pretty much the work that we've done to date. We have worked with Staff to identify other testing that we can do on the pipe, and before we get into that, maybe it would be appropriate for Kim to comment on the work Staff has done with us in the field.

MR. KING: Are there any questions for Dennis at this time?

JUDGE WALLIS: Mr. McVicker, could you assist us by looking at the three photographic representations that have been presented, Exhibits 2, 3, and 4 for identification, and tell us what is pictured in each of those?

MR. MCVICKER: I can do that. I should say that these exhibits were presented by Staff. I didn't take these. I do have knowledge of what they are so I can certainly do that, unless it would be more appropriate for Staff to do that.

MR. KING: I don't have any objection to you, Dennis, based on your recollection of what you saw at

the time, trying to explain that for Judge Wallis.
MR. MCVICKER: The first picture is a picture of the pipe in question. This is the incoming gasoline line, and this is the piece of pipe that sustained the leak. This is the hole that I referred to that's approximately a quarter-inch by three-eighths inches in diameter.
The second picture is the area that we first excavated on the pipe where the leak existed. These are the three pipelines that we've discussed. The pipeline in the picture on the right is the pipeline in question that had the leak, and actually, if you look very close on the top end of that pipe, there is a little black dot that is the leak. (Witness indicating.)
JUDGE WALLIS: That's Exhibit 3 for identification.
MR. MCVICKER: Exhibit 4 is the location, the general location of the leak. In the middle of the picture, you will see a concrete marker posted maybe a foot high, and the area that was excavated with the three pipes is just to the right of that. This is Chevron's facility. This is the outside fence of their facility. The three pipelines cross this road, go under this fence into their facility, and the leak

occurred directly under this fence. (Witness indicating.)
COMMISSIONER HEMSTAD: I'd like to understand a little bit more about the matter of the electric current. Is there typically a continuous electric current flow in buried pipe, or is that an unusual circumstance? I don't understand what the right term is, the electronics of it all. Where did it come from? Is it simply a natural occurrence you find in pipes, and then why does it leave?
MR. MCVICKER: There are several possible sources of that. You may or not be familiar with cathodic protection systems, and some cathodic protection systems on pipelines actually induce the current on the pipe.
COMMISSIONER HEMSTAD: For what purpose?
MR. MCVICKER: For protection against corrosion. This system does not have cathodic protection on it. There are neighboring pipelines that have cathodic protection on them. That could be a source of the current in the pipe.
COMMISSIONER HEMSTAD: In that circumstance, the current would migrate to the --
MR. MCVICKER: If another system has a cathodic protection similar on it and is electrically

bonded to this system then that could be a source of current. These pipelines go into both our tank farm and Chevron's tank farm and connect to our tanks. There may be different opportunities for current from our tank systems, whether it's during welding operations and grounding and so forth, that could provide sources of current.

A pipeline in and of itself without connection to an electrical system won't have current flow through it, but there are electrical systems that are actually designed to be connected to the pipe to protect it, and there are other possible sources of electricity that would not be designed to protect it.

CHAIRWOMAN SHOWALTER: But if there are two tanks in the middle of a desert and a pipeline between them, you are not going to find electricity flowing through that pipe, are you?

MR. MCVICKER: That's correct, unless, again, there is some electrical system tied to those tanks or that pipe that would induce that current.

COMMISSIONER HEMSTAD: Maybe you covered this, but what would induce it to leave the pipe or depart? At that point, do you factor eroding?

MR. MCVICKER: I've got to be careful here because I'm not necessarily an expert on cathodic

protection systems, and I'm not an electrical engineer, but basically, if you put a current on a pipe, it's going to look for a route back to its source or route to ground, and it's going to look for an opportunity to leave the pipe. The soil in this area is highly resistive to current flow, but it may look for an area where maybe there is a pocket of soil that's not resistant to current flow, or maybe there is another device touching the pipe where the current can leave, but the current is going to look for a path, actually, to ground or back to its source.

COMMISSIONER HEMSTAD: And that would typically be something external to the pipe itself. A thinning of the pipe wall itself, would that be an inducement to departure?

MR. MCVICKER: Not that I know of, but I'm not qualified to answer that question. The current leaving the pipe can cause corrosion and cause thinning of the pipe wall. Whether a pipe wall that's actually already thin would create an area for the current to leave, I don't believe so, but I'm not an expert on that.

COMMISSIONER HEMSTAD: I'm looking at the map. I don't quite understand what I'm looking at, but the Chevron pipeline, I take it then, continues on the

dotted line that goes off the top into the map; is that right? In other words, at the left-hand side of the map, we have a straight line pipe, and then we have the angle into, apparently, the Tidewater tank farm where it shows a line.

MR. MCVICKER: That's correct.

COMMISSIONER HEMSTAD: That would be the continuation of the Chevron pipeline.

MR. MCVICKER: That's correct.

COMMISSIONER HEMSTAD: As shown here, is this the entire length of the Tidewater pipeline?

MR. MCVICKER: Probably the only portions missing would be piping on into our tankage --

COMMISSIONER HEMSTAD: The feeder lines.

MR. MCVICKER: Yes.

COMMISSIONER HEMSTAD: What is the length of that?

MR. MCVICKER: Approximately 4900 feet. Maybe one thing I will point out, you see perpendicular to it is a highway, State Route 12. Everything on the Tidewater side of that is Tidewater property, so the pipeline runs completely on Tidewater property.

COMMISSIONER HEMSTAD: But it's a Chevron line?

MR. MCVICKER: No. This is a Tidewater

pipeline. What's been highlighted for you in yellow is Tidewater pipeline.

COMMISSIONER HEMSTAD: The entire yellow is Tidewater, but then the other description of the 33-foot pipeline easement, that's Chevron?

MR. MCVICKER: That's correct. After the pipeline crosses the road, it immediately goes onto Chevron property, runs down Chevron property parallel to, I believe that road is called Sacajawea Road, where it makes a 90-degree turn, comes across the road, and enters Chevron's property on the other side of the road. Right after it crosses the road where it reenters their property is where the leak occurred.

CHAIRWOMAN SHOWALTER: Was it literally right under the fence?

MR. MCVICKER: Literally right under the fence.

CHAIRWOMAN SHOWALTER: I know we are not here for fact finding, but is a metal fence a possible cause of these straying electrons?

MR. MCVICKER: The metal fence itself wouldn't necessarily be a possible cause. Again, you need to have an electrical source. It could set up a location for the current to the leave the pipe and enter back into the fence.

JUDGE WALLIS: Any further questions? Mr. McVicker, does that conclude your presentation?

MR. MCVICKER: Yes, it does.

JUDGE WALLIS: I would believe we would proceed now to Ms. West's testimony. Mr. Goltz, for convenience, perhaps you could have Ms. West, Mr. Subsits, and Mr. Lloyd introduce themselves to us.

MR. GOLTZ: Why don't we do all three of you now; although, Mr. Subsits and Mr. Lloyd are available for questions, Ms. West will give the presentation. Why don't we start with you, Ms. West, and give your name, job description, your job title, what you do, and some of your educational background.

MS. WEST: My name is Kim West. I'm a pipeline safety engineer here at the Commission. I'm an engineer by education. I've worked outside of the Commission in the paper industry as both a project engineer and a compliance engineer. My job here involves doing audits on companies as well as investigations as you've seen here.

MR. SUBSITS: I'm Joe Subsits. I'm also with the Commission. I have a degree in thermal environmental engineering. I'm a registered professional engineer in the State of Washington. I've been working on compliance issues, regulatory for over

20 years. I've been working with the oil industry for over 10.

MR. LLOYD: I'm Dennis Lloyd, Washington Utilities and Transportation Commission, gas and hazardous liquid program manager for the State of Washington for about eight years. I also worked with two other commissions, Kansas and Arizona. I have a total years of experience of about 20 in the regulatory area. I have a Bachelor of Science in Business Administration as well as a Bachelor of Science in Construction Engineering. We've attended all the required OPS training classes in terms of pipeline safety and have been the program manager for approximately six years.

MR. GOLTZ: OPS is office of pipeline...

MR. LLOYD: The Federal Office of Pipeline Safety.

MR. GOLTZ: Ms. West, when did you hear of the release of petroleum products that was described by Mr. McVicker and Mr. Frasher?

MS. WEST: On Friday, July 21st, I received a telephonic report from Mr. Dennis McVicker reporting that he understood there was a release at this Tidewater facility in Pasco. At that point, I jotted down the information he gave me and asked him some more

questions about the condition of the pipe and what was happening. At that point, he said they were planning on having a safety meeting in the morning and at that point they would assess the pipe. The pipe was shut down and no product was flowing so I decided to come by in the morning.

So I drove the next morning, Saturday, the 22nd. I drove over to Pasco, and I met them around ten o'clock, and we had discussion about their site safety plan, and they told me that they had the fire department there available and would we be interested in going out to the site. We walked out to the site and looked at what was there. At that point, the pipelines weren't fully uncovered, so one of their crew members noticed something interesting in the soil, and he traced back and was able to find the hole in the pipe. At that point, the Company decided to open up the ditch a little further to see and investigate the condition of the pipe, and that's what you are seeing in the picture Exhibit No. 3.

MR. GOLTZ: Did you take these pictures that were reproduced from Exhibit 2, 3, 4 that day?

MS. WEST: Yes.

MR. GOLTZ: At that time that morning, were all three pipelines shut down?

MS. WEST: My understanding is all three pipelines were shut down. I understand there was a shipment on the 21st, but at the time I was there, all three pipelines were shut down.
MR. GOLTZ: What did you do during that day in Pasco at the site?
MS. WEST: So I was there at the site when the Company exposed the pipe, and they were in the process of evaluating the situation, and we came back to the office and talked about a plan of action.
MR. GOLTZ: Came back to Olympia?
MS. WEST: No, came back to their office, the Tidewater facility.
MR. GOLTZ: Just a couple more background questions relating to the facility. We heard that the pipe was 4500 feet in length --
MS. WEST: 4900 feet.
MR. GOLTZ: Do you happen to know the age of the pipe?
MS. WEST: I understand that the older section, which is the bare pipe, was from the '50's, and they have replaced some pipe on the Tidewater side of highway from the '80's.
MR. GOLTZ: So you are saying that looking at Exhibit 1, the pipeline that's on the Chevron side of

State Route 12 is the older pipe?
MS. WEST: Correct.
MR. GOLTZ: And the pipeline on the Tidewater side is the aged pipe.
MS. WEST: Correct.
MR. GOLTZ: You refer to some of the pipe as bare. What do you mean by that?
MS. WEST: What I mean by bare is the pipeline isn't coated. The section from the '80's is a coated pipe.
MR. GOLTZ: It's coated with what?
MS. WEST: It can be either a polymer, such as a polyethylene that's wrapped over the pipe so it can be wrapped in the field with an epoxy.
MR. GOLTZ: Am I correct that a coated pipe has nothing to do with whether it's cathodically protected?
MS. WEST: Coating is done separately. It's one form of protecting the pipe as well as cathodic protection.
CHAIRWOMAN SHOWALTER: What does it protect the pipe from?
MS. WEST: Stray current. Any electrons in the area would help to shield it from that action.
MR. GOLTZ: You are hearing a lot about stray

current. So at this point, I was going to offer pictures Exhibits 2, 3, and 4. They've already been described by Mr. McVicker. Was Exhibit 2, was that picture taken while the pipe was in the ground, or was it taken later?

MS. WEST: That was taken when it was in the ground on that Saturday.

MR. GOLTZ: Exhibit 4 then, just to be clear, if I were to look at the map on Exhibit 1, I gather this is generally facing south, this picture; is that true?

MS. WEST: I'm going to have to reorient myself here.

MR. GOLTZ: In other words, is it above the pipeline looking towards the bottom of the page, or is it below the pipeline looking to the top?

MS. WEST: The easiest way to describe this would be if you were looking down at the map and looking at the pipeline, you would be facing Tank 19.

MR. GOLTZ: Thank you.

MS. WEST: Facing southeast.

MR. GOLTZ: Maybe you can just take us through the chronology. What happened after you met with the Company in their offices near Pasco?

MS. WEST: After we visited the site, we went

back to their office in Pasco and talked about what their next plan of action would be. At that point, we all returned home and came back on Thursday, and we understood the Company was preparing the hydrotest.

MR. GOLTZ: You went back to Pasco on Thursday, July 27th.

MS. WEST: July 27, returned to Pasco. The Company was planning on doing a hydrotest in anticipation of the Washington Utilities and Transportation Commission requirement for integrity assessment of pipe. So I drove over early in the morning to observe the test, and that's when I met up with the Department of Ecology, and at that point, we discussed what a plan of action would be.

We met back with the Company on that Friday in anticipation of order from both the Department of Ecology and the Washington Utilities and Transportation Commission. We sat with the Company, and they discussed their site plan evaluation and what would be the next steps involved.

MR. GOLTZ: The next day on Friday, July 28, both an order from the Department of Ecology and the emergency order from the UTC, which started this proceeding, both those orders were served?

MS. WEST: Both those orders came in. The

Department of Ecology's order came in around 3:30, and ours was received around 5:30.

MR. GOLTZ: Let me go back and ask you a little bit, without trying to get into another physics lesson, but basically, Mr. McVicker reported on some tests that they had commissioned and offered some views as to what the cause of this release of petroleum was. Have you or the other members of your staff, the Commission pipeline safety staff, reached a conclusion as to what caused the event?

MS. WEST: At this point, we haven't reached a conclusion. We've asked for additional tests, and we will decide later after reviewing the tests.

MR. GOLTZ: That's all I have for this witness right now. Do you have anything else to add in response to what you heard the Company say?

MS. WEST: The only thing I would like to add is that the pipeline safety staff does not consider the hydrotest an integrity assessment tool. Keep in mind the hydrotest just gives us an idea, like a snapshot, of that moment. That's the one thing I wanted to add.

MR. GOLTZ: What we hope to do now is then go back to the Company representatives and let them describe the settlement, and then we will go back to Ms. West for comments on that.

MR. KING: I'd like to direct these questions to Steve Frasher. Steve, what I'm going to ask you to do is take a look at what I think has been marked by Judge Wallis as Exhibit No. 5, which is the Stipulation and Settlement Agreement that we signed this morning, and if you would, I would like you to go through the Agreement, and I'm focusing primarily on Section 1 of the Agreement and describe for the Commission in general terms what the Company has agreed to and provide any additional explanatory comments that you think are appropriate.

MR. FRASHER: Following the incident, we had met with Commission staff both in the field, here at Olympia, and on several conference calls in order to really formulate a plan that everybody felt would end up with a goal of providing safety to our employees and the public and environmental protection, and I can say that Kim's staff has probably matched our staff with intensity since this incident. Dennis and I personally have done nothing but work on this project, and key members of our staff have done nothing but work on this project, and I can say that overall, we are very pleased with the support and guidance that we got from your staff.

Having said that, needless to say, when we

sat down, we didn't agree on a lot of things. Dennis talked about the engineering tests, the cross section that we took, the indication that the pipe had only lost about eight percent of its thickness and would last another hundred years, and the fact that half the pipeline was coated for reasons that are lost in history -- excuse me. Three-quarters of the pipeline was coated in 1980. The whole pipeline was hydrotested at that time, generally accepted procedure for that period of time, was lost in history why the remaining one-quarter of the pipeline was not replaced with a coated pipeline. We felt, from our perspective, comfortable with what we thought we had in terms of an integral pipeline.

The staff was able to look at the perspective from their broader experience and view and ultimately made recommendations that we agreed with that we not only support but we think do achieve the objectives everybody here wants to achieve. So what I'd like to do is go down the order and not only just give you a brief description but give an indication of where we initially disagreed and why we agree today.

First of all, we were ordered to shut the pipeline down as of July 28. That's Item 1. For the record, the pipeline that had the leak was shut down

immediately after that was discovered. The rest of the pipeline was shut down as of 5:15 a.m. July 23rd, so almost a full five days before we received this order, and we've not provided any service in those pipelines since. B is an order to replace the damaged pipeline, and there was no debate about that between the two of us.

C, Tidewater must conduct a hydrostatic pressure test for 24 hours. The major difference there was that we had already conducted one test, and they typically are for eight hours, and we felt eight hours would be sufficient, but the 24-hour test is not only unprecedented, but I think it gives us, both parties, the level of comfort considering the age of the pipe. We can get a lot of engineering analysis, but the fact is, it's been in the ground for 45 years. I think it can give us all a level of comfort about that particular aspect of the pipeline, its ability to take pressure and not sustain a release.

Part D, we had the most interesting discussions around this concept, and that would be an internal inspection of the entire length of each of the pipelines, and that would be done by either magnetic flux leakage or an ultrasonic tool. We have elected to take the magnetic flux leakage approach. Our first

disagreement was we thought that was probably overkill for a 4900-foot-six-inch-long pipe system that, in the scope of things, really didn't handle a lot of product, and we were concerned about the availability of that small a diameter of electronic device, but we got on the phones, and we actually found a number of vendors that had that kind of device. We found engineering consultants that were familiar with the operation and interpretation of the results that come from that, and I think lastly in our conversation with Staff, what became important to us was that initially, our pipeline was not designed to take one of these devices. It's a long cylindrical device that needs gentle curves in order to progress through the length of the pipeline. We had old technology of 45-degree angle mitered joints which clearly this kind of device couldn't take, but what we felt was the one-time redesign of our pipeline to accommodate that provided not only an opportunity to perform this test but to add this kind of testing into ongoing maintenance procedure, which we then offered up to Staff to do this kind of test every five years, and we thought that ultimately was a good prudent practice for us.

Then in E, this is really just a follow-up of agreeing that we would perform an internal kind of

test, and that is evaluate all of the anomalies, replace those in accordance with specific engineering standards, and replace some, essentially, in a manner that's prescribed and approved by Staff. In F, we had considerable discussion about this because we were at first uncertain about what a corrosive survey was, but it said that Tidewater must conduct a corrosive survey over the pipeline system, and essentially, what the corrosive survey involves is a three-step procedure, a close interval pipe to soil potential which we had already done on all of the uncoated piping already, stray current analysis, and a soil resistivity survey. What that provides us the opportunity to do is look at our pipeline from -- it could best be characterized in a different perspective. We are going to send a device through the center of our pipeline to an internal looking-in-outward view. This provides us an opportunity to kind of pattern the dynamics. Where today is current stray? Where today is soil conducive to allowing electric currents to exit the pipeline and into the soil and possibly other areas, and so our goal is to overlay this kind of environmental external view of what's happening what with our pipeline with an internal, essentially engineering view of its integrity to make sure the two devices are looking at the same

thing from a different perspective and we are not missing an opportunity to eliminate a potential safety or spill hazard in the future.

G requires that Tidewater install a cathodic protection system before September 30th. Actually, by the spring of this year, we had already contacted three companies to place bids on installing a cathodic protection system. We are still under way and have every expectation of meeting or beating this target date. H and I essentially talk about our requirement to do repairs in accordance with API standards and to notify the Commission staff so they would have an opportunity to have an inspector on site, if they so desire, to observe any repair procedures that we follow in the field.

J will help us understand whether that particular pipeline is subject to surges, what I'll call peak high-pressure waves that might propagate through the line in a manner that you would consider destructive. Is there some high-pulse pressure that might actually burst that pipe, take it way beyond any pressure limits that we had ever expected it to do? We think that's a good idea. The technology and engineering help is there to do that, and from that, we get an opportunity to see if our pipe is susceptible in

the way we use it in those kinds of surges, and if they are, what kind of modifications we can make to either our procedure or our physical plant to eliminate that kind of surge. We expect to be in business for a long time so we are going to take the steps to make sure we do that safely and in accordance with our own and the State's environmental desires.

K requires us to put everything that we've done together into a comprehensive report for the Commission and Staff to review. The last provision is Paragraph 1 is the provision that we offered to the Staff and that is, if we are going to undertake magnetic flux internal inspection of our pipeline, then we are going to do that on an interval of five years so that we can continue to assess the integrity of our pipeline in that manner.

MR. KING: Steve, could you also address the steps the Company has already taken to meet the requirements of this stipulation agreement?

MR. FRASHER: Yes. As this stipulation agreement evolved, and we agreed with Staff that it made a lot of sense in our particular operation and with our particular physical plant to undertake these, we have, in essence, already done an interval test on the uncoated portion of our pipe. We've

hydrostatically tested at least one pipe, but that was only for eight hours, and we will hydrostatically test that pipe again, plus the other two, for the 24-hour period.

We have an internal inspection device and its associated consultants on order and expected to be here the last week of August. We have set up kind of a hotline communication with Staff on issues that we need their approval on, such as repairs and any anomalies that we might find as a result of our inspection, and we've actually added one element to our testing that is not required here, but we felt it was important as a precondition to getting a proper internal inspection of our line, and that is we are going to put what's called a geometric pig through our pipelines, which some refer to as a dumb pig. There are smart pigs which have electronic internal measuring devices, and then there are dumb pigs that kind of get battered around and survive, and this is a dumb pig. It will help us identify any areas where our pipeline is not round, may have any conformance issues, and that will provide additional data to us to understand what really the internal structure of our pipeline is, number one, and number two, it will assure that the smart pig will do its job as intended.

MR. KING: Steve, the last thing I would like to address your attention to is Section 4 of Exhibit 5 where the Stipulation talks about Tidewater evaluating the need to replace bare uncoated sections of pipeline. Could you comment on that, please?

MR. FRASHER: Yes. After we submit our report to you, and of course both parties are using those same findings, we are going to evaluate what the condition is of our uncoated pipeline and consult with Staff and consult with our own engineers and report back on January 31st, 2001, as to the necessity to replace the uncoated portion of our three pipelines, remaining uncoated portion of our three pipelines.

So I think in summary, if I may, there is really about five kinds of tests that overlay themselves that I wouldn't call particularly redundant. I think each one is going to give us a little different picture of the integrity of that pipeline so we can make sure we can operate safely, and kind of in summary review, the hydrostatic test for 24 hours, the geometric pig test, the smart test, the corrosion survey, and then finally, the installation and the follow-up testing that goes with a cathodic protection system, and literally, all of those activities are scheduled as we speak, and so I think in recognition of

that, the thing we would like to have you do is consider our proposal, and a timely response would be great because we are ready, and this is all we are doing in life today.

MR. KING: I have no further questions for Steve.

JUDGE WALLIS: Is there any follow-up or response from Commission staff?

MR. GOLTZ: Yes, we have a few questions for Ms. West. Basically, if you could just respond to what Mr. Frasher described about both the process of negotiation and also about the Settlement. First the process; did he accurately describe that, or is there any other elements to the process of negotiation that you would like to elaborate on?

MS. WEST: I think he described it quite well. Staff's concerns were for the public health and safety first, and we had some other concerns before we went into this for stray current -- I know we've talked about that to death -- corrosion on the pipe. This pipeline has not seen cathodic protection so we went into this thinking that's a big concern, and we need to address that and that we proposed some extra tests and the Company has agreed to do this.

Looking at some of the things we've requested

that go beyond the code, a hydrostatic test was one of the things, as he mentioned earlier, that it's normally done at an eight-hour period. Staff has asked that they go beyond that and do a 24-hour test. In the event there are small leaks that we can't find over the 24-hour period, those should show up, and the Company has readily agreed to do that. Pigging is not currently a requirement of the federal or state requirements.

MR. GOLTZ: Could you describe pigging?

MS. WEST: We talked earlier about an internal inspection device, or what he called a smart pig, which should go into the pipeline and look at some anomalies, thinning of the walls, deformation. The other thing we looked at is the repair criteria. We asked them to look at some standards and base their repairs on these standards, and the Company agreed.

We looked at one failed pipe, but we had concerns about the other two pipes also, so the Company has addressed all of their concerns to all three pipelines, not simply the one that failed. We wanted to see more details on the cathodic protection system, and so they've offered to do a close survey and a complete corrosion survey on the entire length of pipe for all three pipes. That's something that's

additional that Staff has asked and Company agreed to. They've volunteered to notify the Commission staff so we can be on site if there are any repairs or replacements or any actions to the pipelines, and the Company has agreed to that. They volunteered a surge analysis, and they will be willing to do that. That's something that goes beyond the code to insure the integrity of the system.

They are also providing an integrity assessment report so we can evaluate the system in total. We've also looked at radiographing all welds. Currently, the code does not require that you do all the welds, and the Company has agreed to do that as an assurance for integrity.

MR. GOLTZ: These are the welds that may be put into place with repairs they make?

MS. WEST: Correct. They took out a 15-inch section of pipe to do analysis on. That has to be put back in the line, and that needs to be welded in addition to the changes they made to accommodate the internal inspection device, so all of those areas will be welded in and 100-percent radiograph inspection or an x-ray.

MR. GOLTZ: In conclusion, in your view, the view of Commission staff, if Tidewater does everything

called for in the Agreement, do you believe it would be safe for them to resume operation of the pipeline?
MS. WEST: Based on what we see and depending on what the results show, Staff will review that and see if those results show the pipe is fit for service, at which point we will say yes.
MR. GOLTZ: Do you believe in sum that this agreement adequately protects the public health and safety?
MS. WEST: At this point, I do.
MR. GOLTZ: We have nothing more. We have the rest of the technician staff here or others available for questions, or Mr. King and I can respond to questions as well.
CHAIRWOMAN SHOWALTER: I have one question for Ms. West on Page 2 of the Settlement, No. E, little "I" double "I" et cetera. It says, "Anomalies that are detrimental must be replaced," and as stated, that looks like a subjective test, but if you look up above, it says it's to be based on this manual. My question is, are the criteria in the manual relatively objective? In other words, will there likely be no dispute as to whether the pipeline does or doesn't need to be replaced?
MS. WEST: We are assuming that there will

not be, but there may be. This is subject to interpretation.

CHAIRWOMAN SHOWALTER: But it's not solely a judgment on your part. Isn't it subject to some kind of criteria that are in that manual about thickness or something like that?

MS. WEST: There is criteria called out for in the standard, so it won't solely be on our judgment.

MR. GOLTZ: That was a concern, and there is a check on that built into the Agreement, but basically where that would arise is if the Commission staff says, "I'm sorry, that's an anomaly that is dangerous to the integrity of the pipeline and should be remedied," and the Company says, "No, that's not. That's just normal." If there is that sort of agreement where that would get resolved would be at the end of the process, come back to the Commission and they say, "We are done with our report," and presumably the Commission staff if they think they aren't done would say, no, they aren't done, and then that would be the opportunity where this commission would make that determination.

CHAIRWOMAN SHOWALTER: But at least for starters, there are more objective criteria than we see on this page. That's what I'm getting at.

MR. GOLTZ: Maybe I should save this for

closing, but in my observation, the Commission staff and the Company have been operating on very good faith here and have been, in fact, agreeing to agree in the future on some things, and I think everyone is optimistic that if there are some disagreements, they will be resolved adequately.

CHAIRWOMAN SHOWALTER: I just want to make one comment. It seemed to me that on the basis of the written materials that came in, the Company and Company's lawyer made very constructive suggestions and the tone was very cooperative, and I think in this hearing that it has been the same thing. It's a pleasure to see, because we've been somewhat primed for this case by the Bellingham explosion in which there were very different postures by the Company and the regulator, which wasn't us, in that case, but where the Staff and the Company can come to agreement that protects the public interest as well as the interests of the Company, that's really the textbook way it's supposed to work.

I also want to say that this is the clearest explanation of the some of the physics involved that I've heard, and it may be because I've attempted to understand it about three or four times before so I'm ready for it, but really, everyone here was exceedingly

lucid in their explanations, and I really appreciate it. I'm also impressed that the president of the Company would come, and not only come, but be the one to go over the Agreement and show us that you really understand it, which there is nothing like the person at the top being able to internalize what procedures are going to be followed, so it's very impressive.

MR. FRASHER: I owned this at 5:30 p.m. on July 21st.

COMMISSIONER HEMSTAD: I just have a couple of really rather peripheral questions. First, I realize that there are matters to be determined here, but do you have an approximate sense of the nonrecurring and recurring costs that you are undertaking here?

MR. FRASHER: Right now, we've forecasted on our own about one million dollars.

COMMISSIONER HEMSTAD: I'm curious about Tidewater Terminal Company. Is the barge and operations an affiliate?

MR. FRASHER: Actually, I'm president of Tidewater Holdings, and Tidewater Terminal is a subsidiary. Tidewater Barge Line is a subsidiary. Sundial Marine is a subsidiary.

COMMISSIONER HEMSTAD: Is Tidewater Holdings,

is there a parent company to that?
MR. FRASHER: No. There are investors in it but not a parent company concept that you would think.
COMMISSIONER HEMSTAD: So is it privately owned or publicly traded?
MR. FRASHER: Private.
JUDGE WALLIS: I have a couple of administrative or general questions. First of all, is there any objection to the receipt of Exhibits 1 through 5 for identification? It appears there are no objections, so we will receive those documents. I do have a draft of Exhibit 5 that is not signed, and I take it we will receive the original document bearing the original signatures, and it would be my proposal to substitute that as the official exhibit in this document.
MR. GOLTZ: That was signed just shortly after noon, and there was one typographical error corrected on that.
JUDGE WALLIS: So we will use that as the official exhibit. Could we hear very briefly what the status is of the ecology investigation and action? Has that been concluded or is it still in progress?
MR. KING: I think maybe Steve Frasher could speak to at least our understanding of where we are in

that process.
MR. FRASHER: We are currently in what I would call the emergency phase; in other words, we are characterizing the extent of the spill, but we are down to what I would call the microscopic levels. We have 12 holes drilled. We are out about 175 feet, and the water that's coming up, it's not clear visually that it has any contamination so we are doing lab analysis on it.

In addition, beginning within two days, we started remediation with a vapor extraction system, and as we sit here today, we have a permanent vapor extraction system in operation. We have been removing free-flowing liquid product by pump for the last eight days, and that's in essence where we are at.

JUDGE WALLIS: Do you expect that Ecology would be in a position to approve restart approximately the same time that the Commission would be?

MR. FRASHER: I'm not sure why they might disagree, but I think very quickly we will be in the official toxic group and in the remediation phase of the spill.

JUDGE WALLIS: Do the parties anticipate, and this is directed to counsel, I believe, that there would be a further order of the Commission authorizing

restart?
MR. GOLTZ: Yes.
MR. KING: Yes. I would add to that the way the Stipulation Agreement is worded, it would give the Commission in its discretion the ability to approve the recommencement of operation without a hearing, depending on the information that's put before the hearing, so that the only qualifier that we would have is we would like the Commission to consider that possibility.
MR. GOLTZ: I think to add on that, in the process of negotiation, there is really good faith going on all around, and I think one thing that we would agree to is to do this as expeditiously as possible, and there was a concern expressed that we wanted there to be sort of this last final check, and they had a concern that there would be a scheduling problem that you might not be able to get everyone together for several weeks. So we agreed that if everything seemed to go well and the Commission staff really in response to reports said yes, this is fine, that it would be possible just to, in effect, do this on the papers and get an order in without a hearing, but that would be up to you.
MR. KING: Certainly.

JUDGE WALLIS: Do the parties have anything to add at this time?

MR. GOLTZ: I don't have anything more.

MR. KING: I don't think we have anything either.

JUDGE WALLIS: Is there anything further from Commissioners? It appears there is not. I also wish to express my appreciation to the counsel and the witnesses for the conduct of today's proceeding as well as the events leading up to it. This hearing is concluded.

(Hearing concluded at 3:00 p.m.)