# Appendix J

Tom Franklin, Barrett – Interview and Deposition Transcripts

Pipeline Rupture and Fire Bellingham, Washington June 10, 1999 DCA-99-MP-008

## UNITED STATES OF AMERICA NATIONAL TRANSPORTATION SAFETY BOARD

IN RE: **OLYMPIC PIPELINE COMPANY**; Pipeline Rupture and Fire, June 10, 1999, Bellingham, WA DCA-99-WP-008

INTERVIEW UNDER OATH OF THOMAS FRANKLIN

July 14, 1999

#### APPEARANCES:

MR. ALLAN C. BESHORE, NTSB Pipeline Investigator, 490 L-Enfant Plaza East, SW, Washington, D.C. 20594-2000;

MR. JOE SUBSITS, Department of Ecology, Spills Program, P. O. Box 47600, Olympia, WA 98504;

MR. DOUGLAS D. BEU, Operations Manager, Olympic Pipeline Company, P. O. Box 1800, Renton, WA 98057;

MR. TERENCE J. SCANLAN, 1301 Fifth Avenue, Suite 3401, Seattle, WA 98101-2605.

ALLEN R. EMERSON & ASSOCIATES COURT REPORTERS 1226 McGarigle Sedro-Woolley, WA 98284 (360) 856-2618/Skagit County (360) 734-2262/Whatcom County

ORIGINAL

1	Interview under oath of Mr. Thomas Franklin, a
2	witness in the above-entitled matter, taken at the instance
3	of the National Transportation and Safety Board, at the
4	Cascade Conference Room of the Best Western Lakeway Inn,
5	City of Bellingham, County of Whatcom, State of Washington,
6	before Allen R. Emerson & Associates, commencing at the hour
7	of 10:15 o'clock a.m. on Wednesday, July 14, 1999;
8	WHEREUPON, the following proceedings were had, to-
9	wit:
10	THOMAS FRANKLIN
11	Being duly sworn as a witness in this matter,
12	testified on his oath, as follows:
13	DIRECT EXAMINATION
14	MR. BESHORE:
14 15	MR. BESHORE: Q My name is Allan Beshore and I am the investigator in
15	Q My name is Allan Beshore and I am the investigator in
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15 16 17 18 19 20 21 22	Q My name is Allan Beshore and I am the investigator in charge of the NTSB investigation and I want to thank you for coming in and answering questions that we might have for you, I appreciate your cooperation. To start off, I want to ask you a few questions and when I complete my questioning these other gentlemen may also have some questions and I want you to know who they are and who they work for.
15 16 17 18 19 20 21 22 23	Q My name is Allan Beshore and I am the investigator in charge of the NTSB investigation and I want to thank you for coming in and answering questions that we might have for you, I appreciate your cooperation. To start off, I want to ask you a few questions and when I complete my questioning these other gentlemen may also have some questions and I want you to know who they are and who they work for. MR. BEU: I am Doug Beu, Olympic Pipeline

1 the Department of Ecology.

2 MR. SCANLAN: I am Terence Scanlan and I am with 3 the law firm of Skellenger & Bender on behalf of Earth 4 Tech. 5 MR. BESHORE: For the record would you state your full name? 6 0 7 Thomas William Franklin. А 8 And who are you employed by? 0 Earth Tech. 9 А 10 How long have you been employed by Earth Tech? 0 11 А For the last two years. 12 Who were you employed by prior to Earth Tech? Q 13 One of them was Barrett Construction previously to А 14Earth Tech. What time frame were you employed with Barrett? 15 Ó 16 А I retired from the State DOT in August of '93 and from that time I was with Barrett until March of '95. 17 18 And what was your role or title if you will at that Q 19 point in time? 20 А Construction representative. 21 0 Obviously you were interested in the water piping 22 project that was done at the city water treatment plant 23 and if we could just go back and you could start and 24 explain to us how you became involved in the project 25 and what your role was?

Ultimately through third party people I found the job 1 Α 2 available with Barrett and I retired from DOT in August, made arrangements in July to give notice and 3 hired on with Barrett and spent a couple of months 4 learning the project plans and then went on and came up 5 6 here during the construction phase of the reservoir 7 itself. They did some leveling of the site prior to my arriving and they proceeded during the construction to 8 the winter and by the time the EMCO project started the 9 10 reserve was I think eighty (80) percent complete. So I just moved on through that phase of the whole project 11 12 essentially as this project evolved during the spring 13 of '94 and summer I was more immersed in that one as 14 time went on. So what was your role during this process? 15 Q 16 To be involved during the construction phase and be the А 17 owner's representative. 18 So you were there on the site? Q 19 Ninety (90) percent of the time. А 20 Okay when you were there what were your duties? Q 21 Coordinate between the design in Bellevue, city people А 22 as well as the contractor and make sure things were going as planned and deal with the issues. 23

Q Okay throughout the course of the construction
activities did you have any interaction with anybody

1 from Olympic Pipeline?

2	А	There were times when I would go up and say hi, we
3		would have a conversation. Other than that type of
4		thing there were interactions during the pipeline
5		construction itself, they were always around. I didn't
6		get that involved with them once I knew they were there
7		because I was doing a lot of other things as well.
8		Basically, I guess I am not sure, I don't want to
9		ramble here and say things off the top of my head.
10	Q	I am just curious to know about any interactions you
11		had. Did they ever express any concerns about things
12		happening out there?
13		MR. SCANLAN: Are you talking about Olympic?
14		MR. BESHORE: Olympic.
15	А	There were never any issues that came up between the
16		contractor and the gas pipeline that I know of and
17		being a second party to the issue, ultimately I would
18		
		have known if there was some major issue but I wasn't
19		have known if there was some major issue but I wasn't aware of it.
19 20	Q	
	Q	aware of it.
20	Q A	aware of it. Do you recall what the names were of the Olympic
20 21		aware of it. Do you recall what the names were of the Olympic people?
20 21 22	A	aware of it. Do you recall what the names were of the Olympic people? No.

1		Greg was always making sure they were notified and
2		around to my knowledge.
3		MR. SCANLAN: Who is Greg?
4		THE WITNESS: Greg Berg (phonetic),
5		superintendent on site.
6	Q	(By Mr. Beshore) So he was your point of contact with
7		EMCO then on site?
8	A	Yes.
9	Q	Foreman or whatever?
10	А	The lead man and also a couple of other people and I
11		can't remember the names right now, Crackenberg
12		(phonetic) I believe was the last name. It was his
13		assistant, I didn't deal with him as much but there
14		were times when Greg wasn't around.
15	Q	Crackenberg?
16	A	Bob Crackenberg.
17	Q	And he was out there on the site?
18	А	About fifty (50) percent of the time. He wasn't there
19		right at the start. He came in as an office engineer
20		organizing, communicating with different subs that were
21		on site.
22	Q	Now do you recall whether Olympic Pipeline was ever
23		exposed?
24	А	Oh sure, several times it was exposed. We took pictures
25		and there were a couple of times where he had to make

some modifications to our pipes where I would have to 1 2 be aware. Okay where you modified your piping and you said you 3 Q 4 made Olympic aware of that? Yes. 5 А 6 And they never expressed any concerns? 0 7 No, didn't affect the concept of what was going on, А 8 connect here and here or one time they went and cut to 9 a valve connection so they had to realign the ditch. That's where the twenty-four (24) inch tied into the 10 0 11 sixteen (16) inch? 12 That's one of them, end of the pump station. We went А 13 straight to the connection point and couldn't make it, 14instead of having maybe a three or four foot opening 15 where the pipe is exposed it became five foot to widen 16 the trench. 17 And that was the section line? 0 18 А Yes. 19 0 Northern side? 20 А Yes. And then on the twenty-four (24) inch discharge line 21 Q 22 that was also modified is that right? 23 I believe so, yes. А 24 But that wasn't an error, that was a design change? 0 Correct, to install it the way the design was 25 А

1		originally made they had to go over the large diameter
2		pipe, just go right straight down, just east of the
3		construction.
4	Q	All right when the line was exposed, the Olympic
5		Pipeline was exposed, did you look at it closely?
6	A	Just from about two or three feet away. I didn't get up
7		close, I didn't see any obvious damage. I wasn't aware
8		of it.
ġ	Q	Did the Olympic people get up and brush it off and look
10		at it?
11	A	I believe they did. They were around it.
12	Q	They either examined it or at least had an opportunity?
13	A	Sure, certainly.
14	Q	Okay now do you remember what kind of clearance we're
15		talking about?
16	A	A picture speaks a thousand words.
	Q	Well we have been provided three pictures by the city,
18		are these the pictures you are talking about, Tom?
19	A	Yes.
20	Q	I am not sure how best to do this for the record here
21		but I guess I could label my page at the bottom and we
22		could just say page one or whatever. I want to see if
23		you can help me understand where the gas line pipe was
24		in relationship to the first three or four pages. Two
25		or three pages are the large diameter water line

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construction. Now on the third page of the photograph 1 2 there is a pipeline shown underneath it, is that a gas 3 pipeline? I believe actually that is a sixteen (16) inch water 4 А 5 line that we put in, the gas line is below. 6 The gas line is not that exposed line? 0 7 Ά Right, should be two lines visible right here. 8 0 Okay on the following page which would be page four of 9 the fourth paragraph on the left-hand side of the 10 photograph -11 MR. SCANLAN: How about if we identify this 12 particular view and label it? 13 0 Mark this a, vacant new dated May '94 and we have got a 14 xeroxed reproduction of photographs, my understanding 15 is that these were photographs taken entirely by you? 16 Correct. А 17 And we will mark this as Exhibit A. So on the fourth 0 18 page on the left-hand photograph there is a number, 19 lower pipeline and gas pipeline? 20 I believe so. А 21 And can we see the pipeline in any of the photographs? Q 22 Yes, the next page, closer up. Α 23 Is that a seventy-two (72) inch? 0 24 That is correct. Actually it is smaller at that point А 25 but it becomes a seventy-two (72) inch.

1 Q So it comes out towards you taking the picture?

2 A Yes.

3 Q On the left-hand photo on that same page is that gas
4 line pipe exposed and the ditch below?

5 A I believe it is.

Q I am going to label these pages. So we are on page four
again on the left-hand photograph and that gasoline
line - page five I am sorry.

9 Eighty (80) feet, this is pipe coming out of the clear А 10 well of the reservoir itself and this is further to the north towards Whatcom Creek than the other site. These 11 12 two are about eighty (80) to one hundred (100) feet 13 apart, same line, just different direction actually, one coming from the southwest and the other one looking 14 due east. It could be off by forty (40) degrees. There 15 16 is no north and south, east or west there.

17 Q Okay on page six is any of the gas line pipe shown in 18 any of these photos?

19 A I believe that is the gas line again, same excavation 20 right next to the pipe, right here. Just to the right 21 of the twenty-four (24) inch pipeline, that is what I 22 am looking at.

Q So this is the left-hand photo, twenty-four (24) inch T down at the bottom of the photograph? So you are looking -

Well, I need to re-evaluate that. Looking back on this, А 1 it looks like it comes out the north end of the pump 2 station. This is the original excavation for this 3 construction, pipe coming out of the pump going into 4 the system itself. This is the same one as this, same 5 location. In other words this is the pump station or 6 reservoir, the north side of the pump station is right 7 there and that is pipe coming out and it is making a 8 9 connection to discharge.

10 Q So the water line down below is the discharge line? 11 A This is the discharge line, right. This is I believe 12 the water line that the city had, that we had to 13 reinstall during the process and this is the widened 14 excavation. Originally we had to widen a couple of feet 15 to the north.

16 Q To install this line?

17 A Yes, couldn't get to that elbow. This is where the pipe 18 was, had to move it three feet to get it right.

19 Q And the gas line was exposed too?

20 A Yes. That water line is actually underneath the 21 gasoline line. They do a lot of changes and profile 22 elevations there. They went within two or three feet of 23 each other.

Q In the photograph the water line is down underneath?A The water line is over here.

- 1 Q I thought it was running along?
- 2 A The new line yes but the new system is over here that3 this connects to.
- 4 Q Okay down at the bottom of the page?
- 5 A Right.
- 6 Q I think I follow hopefully.
- 7 A Well it is misleading because you don't see much more8 than the whole so you have to look at that.
- 9 Q What about some of these others if you want to look 10 through the pictures?
- 11 A That is in the same site, same area, north of the pump 12 station. I believe all of these are at the pump site 13 area. That, I don't know what it is, can't see much 14 more than just the pipe.
- 15 Q Now is the gas line shown?
- 16 A Same picture basically same site location as the other 17 pictures, new pipe.
- 18 Q That is the new pipe that came out of the north end of 19 the pump station?
- 20 A That is correct.
- 21 Q And that is page nine and let me hand you the
- 22 photograph, it shows the new water line up and down23 through the picture and the gas line crossing the upper
- 24 pipe of the two shown in that left-hand photograph is
- 25 that correct?

1	А	That is correct, the right photograph.
2	Q	Photo ten (10) is similar, same type area?
3	Ã	There are dates on these, some don't show up as well as
4		others.
5	Q	On page eleven (11) now these photographs look like
6	×	there is - is that the new seventy-two (72) inch?
	7)	
7	A	Well, the elbow there, I would have to study it a
8		little bit and look at the plans now. There has been so
9		much time since I have been involved. There are
10		different situations where it could be in different
11		sites.
12	Q	Now page twelve (12) can you explain what that is?
13	А	The new line that was established into the Bellingham
14		system, into the pump station, pressurized system.
15	Q	So on page twelve (12) the upper photograph shows the
16		new twenty-four (24) inch line?
17	А	Yes.
18	Q	That comes out to the sixteen (16) inch?
19	A	Right.
20	Q	And that was installed as part of this project?
21	А	Yes.
22	Q	And tied in with the sixteen (16) inch?
23	А	That was the one area where there was a change in the
24		plan where this pipe was supposed to go over the
25		seventy-two (72) inch, just to the right of it and make

1 a connection on that side. That was in between the large diameter and the pipe station itself. 2 Now where would the gas line, pipeline be in 3 0 relationship to this picture do you know? 4 To my recollection it would be ten feet towards the 5 А pump station and down three or four feet. You are 6 7 asking me to speculate on that. From the other pictures 8 that would be what I would use to recall. Do you see how the two of them are at a different angle, ten feet 9 over? You are probably going to have to have ten feet 10 of difference between them horizontally. They were not 11 right on top of each other, actually twisted. My guess 12 is twenty (20) or thirty (30) degree angle between 13 14them.

15 Q So parallel?

16 A Yes.

17 Q Now on page thirteen (13) that is wrapped pipe and the 18 installation of it itself, they aren't right next to 19 each other sequence wise. Is that wrapping standard? Is 20 that pretty common?

21 A Actually for the wrap, once they want a double wrap.

22 Q Taped on there?

A Well, the second one has to be taped on. The first one
they put on together but couldn't put both of them on,
each piece. In time what they need to do is put the

wrap on before hand because of the protection system. 1 So they were allowed to put one on the first part and 2 after they got the thing together they cut the sleeve 3 and wrapped it around and tucked the tape in and that 4 is probably shown there, duct tape. 5 6 Q Is that the reason why the duct tape is on the top, on 7 page fourteen (14) of the photograph here? Same thing, the entire system, bottom picture here. 8 Α It shows that entire new piece of pipe out to the -9 0 Right, back filled on top, starting to back fill in. 10 Ά So the front of the pump station is shown there? 11 Q 12 Right. Α And looking at the last page, a couple more 13 Q photographs, that is page fifteen (15) of the 14 15 installation? 16 Correct. А All right, thank you for going through those. Okay I 17 0 18 just want to be clear. If Olympic had any concerns or 19 any kind of a conflict between Olympic and EMCO during 20 this process do you feel like you would have been aware of that? 21 22 Yes. Α And you weren't aware of any problems or concerns? 23 Q Nothing of any nature that would have come to my 24 А attention. For people who knew I was there, we had been 25

in contact with each other during the process.

Whenever Greg was sure he wasn't going to be 2 3 doing any work in the area he would tell the guys and most of the time they would leave the site if 4 there wasn't going to be anything done in the area. 5 That didn't happen very often but there were times 6 when we jumped from one activity to the other, maybe 7 8 three hundred feet away from the gas line or there wouldn't be anything going on at all for a couple of 9 days because they were short different pipes and 10 didn't get a shipment from Portland. 11 Looking at this photograph, the gasoline pipe was 12 0 13 exposed directly underneath that seventy-two inch? 14 Α Yes. What kind of fill did you put in down around the gas 15 0 16 line? 17 А The whole area was made clear and clean and then we used a concrete--a CD of backfill, controlled density 1819 fill. We don't have to compact it, it is an ideal 20 material for that type of source because it is almost 21 like cement and it holds its own shape and yet you 22 can peel it with a shovel. No real strength to it 23 but it will support everything around it. 24 That was self-compacting material? Q

25 A Yes. That is what the utilities are being backfilled

with whenever there is a sensitive area.

2 Q There was a thrust block on that one twenty-four (24) 3 inch line where it tied into it, do you recall that? 4 A Yes sir.

5 Q Do you recall when that was put in, how that was dug 6 in?

7 A Well there are pictures I believe showing the
8 excavation itself where other people stand way down
9 below the pipe and they excavate down below the pipe
10 and then they fill the whole vicinity with concrete and
11 then they put a rebar in the concrete.

12 Q Was that filled back in, compacted and dug back out for 13 the thrust block?

14 A No just dug a hole large enough for the concrete to 15 take up the space, came all the way up to support 16 itself. I don't see those pictures in here. Here is 17 thirteen (13), bottom picture, actually picture twelve 18 (12), about two feet of excavation underneath that, 19 sixteen (16) inch with water down there. That whole 20 area was filled up with concrete.

21 Q Okay, so they did this, formed that up?

A No just poured it, mud pour, a fill pour. It is called
something else right now. No forming. Concrete should
be visible in the other pictures in the vicinity.

25 Q I can't see it in the upper picture. Okay, your picture

on page twelve (12)?

2 A Yes.

3 Q Concrete down at the bottom portion?

4 A This area around it, just filled it all up, all you see
5 is the surface of the concrete.

6 MR. BESHORE: Doug, do you have any questions? 7 MR. BEU: I don't have any questions.

8 MR. BESHORE: Joe?

9 MR. SUBSITS:

10 Q Do you recall how many different locations on the 11 Olympic Pipeline was exposed during the process of the 12 trench?

13 А I think three, three different lines, two or three locations. It was exposed coming out of the clear well. 14 It was exposed for the north connection into the elbow 15 where we had to wade in deeper, widen it more to make 16 17 the connection and then the clear well opening where we went above and below the gas line, an air gap, man hole 18 19 that comes out and we saw some of the concrete but a 20 picture is worth a thousand words. One of the things 21 they did they have an emergency system to drain the 22 clear well and I don't know if the earlier people 23 explained that to you or not but this comes out of the 24 pump station and if there was something that happened 25 and the water got plugged up it comes out of the plant

into an air gap man hole and the pipe is running from the lower structure out to the out-washed piping they already have in the system. They have a way to control the water rather than have to go in the creek, they have a series of piping out aways from the creek and they use that whenever they have flushing going on for the filters and this goes into that as well.

8 MR. BESHORE: That is that photo on page five, 9 left-hand photo.

10 MR. SUBSITS:

11 Q So this structure with the black plastic around the 12 concrete block, are you looking out from the pump 13 station down the hill?

14 A Down the hill and it is north of the pump station15 probably sixty (60) feet.

16 Q I think that structure is visible on the surface.
17 A Right.

18 Q Okay that helps me out there quite a bit on what is 19 exposed. So those were the three locations, was it 20 exposed where it was installed?

A No we never went - from the other pictures there was probably a two months' time frame between this installation and when we brought that pipe out first of all. We put a large diameter pipe, see the water line and gas below it? So we knew the water line was further

1 away from the gas line and it was higher as well and we 2 had located that earlier in fact March and April they 3 went through and identified where the water line was and the gas line from the ground marks on the top to 4 5 start with. I don't believe it was ever exposed. 6 Q During that installation? 7 А No. And did they just dump their concrete down? 8 Q 9 А It was done with a bucket of material and at that point 10 they couldn't drive vehicles into the area. 11 So they couldn't get a truck in there? 0 12 А No. 13 So they would use a crane? Q 14 А Right. 15 0 What type of heavy equipment was used in that area? 16 You mean during the excavation itself? Α 17 Including the excavation, just anything that could have Q 18 been used in that area? 19 А Well normally there wouldn't have been anything out 20 there at all until the asphalt trucks would have been 21 placing the surfacing material and asphalt on top, the 22 road itself, because it was too hard to drive on. You 23 could drive a backhoe but that would be about it. 24 What about other types of equipment? 0 25 А Typically nothing.

#### 1 Q No compactors?

Well sure you would have rollers but normally you 2 А didn't have any heavy equipment out there until we 3 could protect the surface on the road because that is 4 all relatively soft compacted material. The coating of 5 the pipe is sensitive, fine graded, well graded 6 material that would not hold water at all and as a 7 result they were keeping the densities right close to 8 9 the pipe because they have a plastic coating on that pipe itself and I was concerned about that. Normally 10 you only have light equipment, nothing of any weight 11 because it gets stuck. So typically you wouldn't have 12 heavy equipment. 13

14 Q How was the trench dug?

15 A With a backhoe, a small backhoe, a Case 580, a fifteen
16 hundred (1500) pound backhoe.

17 Q Now in terms of the depth of the Olympic line or where 18 the Olympic line was at, what kind of information 19 sources? How are you able to determine where the 20 Olympic line was in terms of depth?

21 A It would show on the plans, they had it marked on the 22 plans, identified what the elevations were. They are 23 city plans, developed by Barrett.

24 Q And then once your line was constructed you surveyed 25 that line?

A When it was done yes, located at our crossing so we could be sure we could put our pipe where they could fit it and that was done sometime before I was around. I wasn't with them at that time. I hired on in August of '93 so my scope in the early part of the project is very limited, second-hand information.

7 Q These photos supplied by the city, do you have any
8 other photos of the project that aren't included?
9 A Oh yeah sure I probably have five rolls, half on this
10 project.

11 Q Do you have other photos of the Olympic line being 12 exposed?

13 А Well when the accident occurred soon afterwards I was 14 asked to come into the office and look at the 15 photographs and try to identify ones that showed the 16 pipeline and I did that. There were something like 17 thirty (30) pictures all total that may have shown the 18 pipeline. Other people sorted them. I was the one asked 19 because I had done it and I found about thirty (30) 20 pictures that originally were copies and brought up to 21 the city, but there are four or five different folders 22 of four by six pictures, about eighty (80) pictures in 23 each of the different activities going on during the 24 year and a half, but these are probably the central 25 pictures.

1 0 In terms of your work hours there, do you recall any 2 extended work hours there in terms of job activity? 3 Normally no, there may have been some miscellaneous А 4 type of things going on when I wasn't around. There 5 were times when this contract wasn't going on and the 6 other contract was on four tens but normally they 7 wouldn't work at night. There was maybe some 8 backfilling of the large diameter pipe next to the 9 reservoir that they may have chosen to do. 10 This photo on page six where you have the water line 0 going underneath, do you recall what type of clearance 11 12 it was? 13 А Not off the top of my head I don't. It seems like it 14 was probably a foot, probably two to three feet of 15 clearance in between that would be my quess, 16 speculation. 17 MR. SUBSITS: That's all I have. 18 MR. BESHORE: 19 Did EMCO do all the excavation work themselves? 0 20 Yes, there was some minor drilling done that they had a А 21 drilling contractor come in and do but all of the earth 22 work was done by EMCO. 23 Okay how did they expose the gas line? Q 24 Ã Well it was done with care, went down within a couple 25 feet of the known elevation and used, as I recall to

finish the gas line, used a bucket and it was pretty 1 2 evident as I remember when they got down into the rock 3 area, you could see some of the material where the 4 pipeline was and the material wasn't hard, it had obviously been excavated before and it was broken up, 5 6 wasn't solid like most of the excavation at that site, 7 so they could tell. It was evident from several feet 8 above it that we were in the right track. 9 Would you consider EMCO to be a good contractor? Q 10 А I had no problem with them at all. I felt they were a 11 competent firm, civil engineering type of work, very 12 competent in doing that work. 13 Q You were comfortable with their operator and equipment? 14 Α Yes. 15 Good operators? 0 16 They had brought in an operator especially for the A 17 large diameter pipe work and he was around during that 18 interim time. I don't remember his name but he is 19fifty-five (55) maybe but he was brought in because he

20 was respected by his own company for doing the work,
21 brought in specifically for this work.

Q Is there anything else you can think of that might help us during our investigation to find out what might have happened that comes to mind?

25 A No, it is a really regrettable situation. It puts a bad

1 taste in my mouth. The project was a fascinating 2 project and this kind of ruins it. MR. BESHORE: I don't have any further 3 questions. 4 5 MR. SUBSITS: One last question, where was the CDF? Where was that 6 Ο 7 applied? Was it on the seventy-two (72) inch? Right, supported the seventy-two (72) inch pipe the 8 Α full length out of the reservoir all the way down and I 9 believe it is shown in the plans actually, goes down to 10 the angle pipe where it goes into the angle right 11 straight to the reservoir and it is supported to that 12 area and it is passed all the piping, waterlines, gas 13 lines and everything else out towards Hannah Creek. 14 Any other places that you know? 15 Q I believe there was some CDF placed in the loop system 16 Α 17 that we have of valves. We backfill that I believe. Those were smaller, I think thirty-six (36) and it was 18 poured from a foot below and up to. 19 20 0 There is a reference to Cascade Pipeline. Is that 21 intended to mean Olympic? 22 It is meant for Olympic. I worked on a project in the А 23 early seventies down in the Sea-Tac area and Cascade 24 was there so I knew it was there, just one of those things. Obviously I meant to write Olympic Pipeline. 25

1	MR.	SUBSITS: Okay thank you.
2	MR.	BESHORE: Thank you.
3		(WITNESS EXCUSED at 11:15 o'clock a.m. on 7-14-99)
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STATE OF WASHINGTON)
COUNTY OF SKAGIT )

## DECLARATION

**Pursuant to the laws** of the State of Washington, I declare under penalty of perjury that the following to be true:

I have read my interview under oath and the same is true and accurate save and except for any corrections as made by me on the correction page, herein.

 Signed at
 , Washington

 on the
 day of
 , 2000.

MR. THOMAS FRANKLIN

1 STATE OF WASHINGTON)

## C-E-R-T-I-F-I-C-A-T-E

2 <u>COUNTY OF SKAGIT</u>)

- 3
- 4

5 I, ALLEN R. EMERSON, a Notary Public in and for 6 the State of Washington, do hereby certify that the 7 interviews under oath before the National 8 Transportation & Safety Board were reported in a 9 verbatim manner stenographically before me and reduced 10 typewritten form under my direction;

I further certify that the interviews under oath before the National Transportation and Safety Board are full true and correct transcript of the proceedings reported by me.

15 IN WITNESS WHEREOF, I have hereunto set my hand 16 and affixed my Official Seal this  $2^{-}$  day 17 of \_\_\_\_\_\_, 2000. 18

NOTARY PUBLIC in and for the State of Washington, residing at Sedro Woolley. My Commission expires 6/27/2000.

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DALEN V.	OLYMPIC	PIPE LINE	
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#### THOMAS W. FRANKLIN

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DEAN MOBURG & ASSOCIATES - SEATTLE, WA (206) 622-3110

DALEN V. OLYMPIC PIPE LINE	THOMAS W	FRANKLIN	6-19-00
	5		7
EXAMINATION INDEX		•	APPEARANCES
2 EXAMINATION INDEX		3	
		FOR EARTH TECH	:
5		5	TERENCE ). SCANLAN
5		ă	Attorney at Law Skellenger Bender, P.S.
-		7	1301 Fifth Avenue Suite 3401
3		а	Seattle, WA 98101-2605
3			
		FOR KING & DAL	EN:
10		11	DAVID M. BENINGER Attorney at Law
		LUVERA BARNE	TT BRINDLEY BENINGER & CUNNINGHAM
12		13	Suite 6700 Seattle, WA 98104
13		14	
		15	
15		16	
16	i	17	
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24		24	
25		. 25	
	6		······································
1		1 MR. BEN	INGER: This is the deposition of Tom
2 APPEARANCES			it to notice in the case of the Kings and
3			lympic Pipe Line, et al. Today's date is
4 FOR OLYMPIC PIPE LINE COMPANY:			The location is the Cozen and O'Connor
5 CHRISTOPHER W. NICOLL RICHARD ALLEN		1	attle, Washington.
6 Attorneys at Law COZEN and O'CONNOR			ographer, if you call me that, is
7 1201 Third Avenue Suite 5200			I'm going to be turning the camera on
θ Seattle, WA 98101-3071		1 -	n. I represent the plaintiffs and my
9 FOR EQUILON PIPELINE COMPANY:			e Columbia Center downtown Seattle now
10 NICK S. VERWOLF			of America. I guess that's it. We will
11 Attorney at Lew DAVIS WRIGHT TREMAINE			din and continue on.
12 1800 Bellevue Piece 10500 N.E. Bth Street		12 Swedi Mr. Frank	an and continue on.
13 Bellevus, WA 98004-4300		13 THOMAS W. FRA	ANKLIN, having been first duly sworn
THE MED GENERAL CONSTRUCTION COMPANY	<i>.</i>		
FOR IMCO GENERAL CONSTRUCTION COMPANY	••	14	upon oath by the Notary, testified as follows:
PRANCIS S. FLOYD		15	LESCITED OS TUTOMS.
17 FLOYD & PFLUEGER 17 Attorneys at Law		16	EVANINATION
300 Trianon Building 18 2505 Third Avenue		17 10 PK MD NICOLL	EXAMINATION
Seattle, WA 98121-1445		18 BY MR. NICOLL:	
20 FOR RON BRENTSON:		· ·	you state your full name, please?
21 LAURENCE B. FINEGOLD			s William Franklin.
Attorney at Law 22 THE FINEGOLD LAW FIRM		-	nklin, my name is Chris Nicoll and I'm
1809 7th Avenue           23         Suite 1301			neys representing Olympic Pipe Line
Seattle, WA 98101-1313			litigation arising out of the June 10,
25		· ·	nd fire. You have been asked to come here
		25 today pursuant	to a subpoena and we are grateful that

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you found the time to do it.	9 11 1 A. Seven years.
2 Have you ever had your deposition taken	2 Q. Do you anticipate remaining at that address
3 before?	3 for the next five years say?
4 A. Yes. One more, one other time.	4 A. We have talked about moving, but it takes
5 Q. What kind of matter was that?	5 time. Probably I expect to be there another three to
6 A. That was a construction injury while I was	6 five years, yeah.
7 working for the State Department of Transportation.	7 Q. Where did you live before you lived at that
Q. Mr. Franklin, a deposition as you know from	address in the second
3 that experience is the same as testimony in court. In	9 A. In Federal Way.
10 fact under certain circumstances the deposition	10 Q. How long did you live in Federal Way?
11 transcript or in this case the videotape and the	11 A. Twenty years.
12 transcript could be used in place of your actual live	12 Q. What's your date of birth?
13 testimony at trial should you later become unavailable.	13 A
14 It's not only for that reason but for a host	14 Q. Who are you employed by today?
15 of other reasons very important that you testify	15 A. Earth Teck.
16 truthfully and completely to the best of your ability.	16 Q. Could you spell Earth Teck for us, please?
17 Okay? Do you understand that?	1? A. E-a-r-t-h T-e-c-k.
18 A. Yes.	18 Q. Where is Earth Tech located?
19 Q. Due to the transcription difficulties that	19 A. In Bellevue.
20 arise, it's important that you let me finish my question	20 Q. How long have you been employed by Earth
21 before you begin your answer. Okay?	21 Tech?
22 A. Yes.	A. On and off. I was employed twice, once for a
23 Q. And it's also important that you answer	23 year and a half and this time I have been there for two
24 questions verbally, because otherwise ambiguity creeps	24 years.
25 into what you intended by a grunt or a moan or a shake	25 Q. When did this time begin?
	10 12
1 of the head. Okay?	A. This time started in June of '98.
2 A. Yes.	2 Q. And the prior time you were employed from
3 Q. Now, this deposition is likely to take some	3 when to when?
4 time. We've scheduled you for two days, today and	4 A. I believe it was August of '93 until March of
5 Thursday. Consequently your body could get stiff, you	5 '95.
é might get thirsty, need to take a break, for whatever	6 Q. In between your employments at Earth Tech,
7 reason you need to take a break, just tell us and we'll	7 the one that ended in '95 and the one that began in '98,
3 be more than happy to break. Okay?	8 were you employed by anybody else?
9 A. Okay.	9 A. Yes.
10 Q. Do we have any particular limitations on how	10 Q. Who were you employed by in between?
11 long we can go today? Terry?	11 A. Different consulting firms. The first one
12 MR. SCANLAN; No.	12 was JKM Consulting, the second one was Betty &
13 Q. Tom?	13 Associates.
14 A. No.	14 Q. Like the name Betty?
15 Q. What would your preference be?	15 A. Right.
16 A. 4 to 4:30-ish.	16 Q. What did you do for these consulting firms?
17 Q. Any problem, anybody else?	17 A. I was employed as a construction
18 MR. FLOYD: No.	13 representative or inspector under different contracts
19 MR. BENINGER: No.	19 for different agencies, twice for the Port of Seattle,
20 MR. NICOLL: With that understood, let's get	20 the State Department of Transportation for nine months.
21 started.	21 Basically those are the three.
22 Q. First could you tell us what your present	22 Q. And when you say on site inspector or
23 address is?	
24 American American American	23 representative, do you mean in the nature of an owner's
25 Q. How long have you lived at that address?	24 representative?
	25 A. Yes. 

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DALEN V. OLIMPIC FIFE LINE THOMAS W	7. FRANKLIN 0-13-00
13	15
2. Q. So you would be representing the owner of the	2 Q. What kind of projects did you work on for the
2 facility that was say under construction or redesign?	2 Department of Transportation?
3 A. That's correct.	3 A. Primarily road projects, the Valley freeway,
Q. Is that what you do for Earth Tech as well,	4 I-90, several different projects along I-5, SeaTac rest
the same sort of thing?	3 area, Hood Canal floating bridge drawspan. The benefits
a A. Yes.	8 with DOT is you get a little variety of the work.
Q. That's what you are doing for Earth Tech	7 Q. Especially around here there are so many
8 currently?	8 different types of transportation that they are involved
A. Presently I'm doing design work, but most of	9 in. Right?
10 the time I'm in the field doing construction	10 A. Yes.
11 representative work.	11 Q. So in your capacity as an employee for the
	12 State Department of Transportation, were you always an
12 Q. Why did your employment with Earth Tech end 13 in March of '95 the first time?	13 inspector of one sort or another?
A. The project in Bellingham was over and they	
15 didn't have any more work at the time.	15 to school at the University of Washington.
16 Q. So it was a layoff?	16 Q. That brings me to my next question which was
17 A. Yes.	17 education. You mentioned earlier that you graduated
3 Q. A reduction in force?	13 from high school. Where did you go to high school?
19 A. Yes.	19 A. Cascade High School in Everett.
20 Q. When you were hired again in June of '98 was	20 Q. What year was it that you graduated?
21 that for a specific project?	21 <b>A. 1968</b> .
22 A. Yes.	22 Q. Do you have any degrees beyond a high school
23 Q. Is that project over now?	23 diploma?
24 A. Yes, it is.	24 A. Yes. I have a civil engineering degree. I
25 Q. Do you know why you haven't been laid off	25 got that in 1982 from the U of W. I also have a
14	4 16
1 following that project?	1 professional engineer's license.
2 A. There has been plenty of work.	2 Q. When did you take your professional
3 Q. Plenty of work to do?	3 engineering exam?
4 A. Yes.	4 A. 1982.
5 Q. No need to reduce the force?	5 Q. And your license I assume is current?
δ A. Right.	6 A. Yes.
7 Q. Prior to working for Earth Tech by whom were	7 Q. Any other education beyond a bachelor's
a you employed?	8 degree in civil engineering?
9 A. The first time?	9 A. No.
10 Q. Right. Prior to working for Earth Tech the	10 Q. Have you spent any time in the military?
11 first time.	11 A. I was in the reserves for a year in 1968. I
12 A. I was with the State Department of	12 was discharged because I had an ulcer in 1969.
13 Transportation.	13 Q. Which branch?
Q. What was your job for the State Department of	14 A. Navy Seabees.
15 Transportation?	15 Q. Did you get any training while you were in
16 A. I entered entry level in 1968 and I	16 the Navy?
1? progressed to the chief inspector position when I	17 A. I had six weeks of training during that time.
18 retired in '93.	18 Q. Basic?
	19 A. Basic, and four weeks at Sandpoint as well as
	1
20 Department of Transportation?	20 Biloxi, Mississippi.
A. It was a Tech I, just an entry level position	21 Q. Biloxi which is the school that you go to for
22 learning how to take tickets, read plans, just an entry	22 basic Seabee training; is that right?
23 level out of high school with no training.	23 A. Yes.
24 Q. So you have a State retirement then?	24 Q. I can divine the answer to this question
25 A. Yes.	25 without even asking it but I have to ask it anyway.
DEAN MOBURG & ASSOCIATE	S - SEATTLE, WA (206) 622-3110 4

17	
: And that's have you ever been arrested for a criminal	A. No. Maybe I misunderstood your question.
2 offense?	2 Q. I asked have you reviewed any statements in
3 A. No.	$\Im$ preparation and you said not in several months.
Q. Other than the two consulting firms and Earth	4 A. Right.
5 Tech, have you been employed outside of working for the	5 Q. So I'm wondering whether it was several
6 State in the construction and design field?	6 months ago that you reviewed it?
7 A. No.	7 A. I believe during a discussion I had with
3 MR. SCANLAN: Can I interject? I don't know	3 people, with the EPA and the Attorney General's office,
9 how important it is to you guys, but we should be clear	9 I reviewed different notes that I had made at that time
10 that it was not Earth Tech back in '95. It was Barrett.	10 or daily reports that I had written.
11 MR. NICOLL: Right. I'm going to get to that	11 Q. Did you make notes during the interview?
12 thing and see what he knows about that in a few moments.	12 A. No. I had strictly discussion.
Q. I'm going to talk to you a little bit about	13 Q. Have you reviewed any videotape or
14 what you have done to prepare yourself for the	14 photographs?
15 deposition today. Okay?	15 A. At the same time we looked at photographs.
First of all, have you discussed with anyone	16 Q. This would be your interview with the NTSB
1° including Mr. Scanlan here the testimony that you will	17 and the Department of Ecology; is that correct?
13 be giving today?	18 A. That's correct.
19 A. No.	19 Q. Have you traveled anywhere to look at
20 Q. Have you discussed with anyone the fact that	20 anything to assist you in your recollection of the
21 you will be giving a deposition in this case?	21 events?
22 A. Yes.	22 A. No.
23 Q. That probably would be your family?	23 Q. Have you been I know you were interviewed
24 A. Yes.	24 in July of 1999 by the Department of Transportation and
25 Q. Outside of your family I'm going to guess	25 some others after the incident in this case. Other than
18 I people at Earth Tech as well?	20 1 that interview have you been interviewed by
2 A. Yes.	2 investigators of the federal, state, local governments?
	2 investigators of the rederal, state, local governments?
1 V 1) Who have you choken with at Earth Tech about	A No. I was interviewed by the U.S. atterney
3 Q. Who have you spoken with at Earth Tech about	3 A. No. I was interviewed by the U.S. attorney
4 that?	4 several months ago when I referred to looking at the
4 that? 5 A. Just in passing George Nordby, the person	4 several months ago when I referred to looking at the 5 document and pictures.
<ul> <li>4 that?</li> <li>A. Just in passing George Nordby, the person</li> <li>6 that will be testifying after me, just the fact that we</li> </ul>	<ul> <li>4 several months ago when I referred to looking at the</li> <li>5 document and pictures.</li> <li>6 Q. Who interviewed you? Do you remember by</li> </ul>
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THOMAS W. FRANKLIN

DALEN V. OLYMPIC PIPE LINE

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DEAN MOBURG & ASSOCIATES - SEATTLE, WA (206) 622-3110

6-19-00

DALEN V. OLY	MPIC PIPE LINE	THOMAS W.	FRANKLIN	6-19-00
		21		23
<u>і</u> А. Тһ	iere were others as well I didn't get t	heir	1 A. We looked at pictures probably	
2 cards.			$^\circ$ the time and I was explaining what I sa	w and the reasons
	R. SCANLAN: I can assist you with th	iat. It	3 I took certain pictures.	
4 was Lawre	nce Lincoln.		4 Q. These are the photographs you	took during the
3 MI	R. SCANLAN: Lawrence Lincoln was p	resent as	3 Dakin-Yew construction project?	
€ weil?			6 A. Yes.	
7 MI	R. SCANLAN: Yes. And as well as an	other	7 Q. About 1200 or so of them?	
3 U.S. attor	ney and I'm drawing a blank on her n	ame right	3 A. I was thinking in the range of t	hree to four
9 now.			9 hundred, but yeah.	
10 MR	I. FINEGOLD: Nicki.		10 Q. So most of the time was spent	looking through
	. SCANLAN: Nicki.	Ì	11 photographs. What else?	
	ow long did the interview last?		12 A. We discussed the activities that	t transpired
13 A.II	believe it was two day's time about fo		13 in Bellingham during	
14 hours each			14 Q. Was there a section I'm sorr	y. I violated
	as anything prepared for you to sign	เก	15 my own rule.	
-	that interview?		16 A during the time that I was u	
17 A. N			17 Q. Was there a section of the proj	ect that your
	ere any promises made to you prior t	o the	18 comments particularly focused on?	
19 interview	•		19 A. There was a time frame that th	•
	believe there was.		20 I had taken were primarily from, and w	ould have been
	hat promises?		21 from April to July.	
	believe I was told there was some typ	be of	22 Q. And that's in the 1994 year; co	prrect?
23 limited im	munity?		23 A. Yes, that's correct.	
	R. SCANLAN: No.		24 Q. Was there an aspect of the job	
25 <b>A. N</b>	b? I don't really know just what the		25 conversation was particularly focused?	<u></u>
		22		24
1 promises v			1 A. Probably the excavation time i	irame,
2 M	R. SCANLAN: I can fill in the blanks.		2 installing pipes.	
3 M	R. NICOLL: Why don't you do that fo	r us.	3 Q. And was there an aspect of the	
4 M	R. SCANLAN: We were given a letter	and for	4 which they were particularly focused in	
5 all of thes	e folks interviewed, George, Tom and	l John	5 conversation with government represe	
ô Hatch, we	were given a letter that just said that	it Earth	6 A. Yes. The area in the vicinity of	-
	ither Earth Tech nor any of its emplo	•	? pipeline, whenever that was exposed,	that drew major
8 targets or	subjects. There was no other promi	ses or	8 attention.	
9 representa	ations made.		<ol> <li>Q. Was there an area, a geograp</li> </ol>	
10 An	id I should also note the individuals y	'ou've	10 project itself on which the discussion v	with the
11 got there	on those cards, they were not all pre	sent for	11 government focused?	
12 all the int	erviews and not all of them participat	ed in	12 A. Once again the area in the vio	inity of the
13 all of the i	atomious			
	interviews.		13 gas pipeline.	
14 M	R. NICOLL: Thank you.		-	
14 M		s that	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran t</li> <li>15 parts of the construction area; is that</li> </ul>	hrough various
14 M	R. NICOLL: Thank you. kay. What your attorney just said, is	s that	13 gas pipeline.14Q. The gas pipeline kind of ran t15 parts of the construction area; is that16A. Yes.	hrough various right?
14 M 15 Q. O 16 your unde	R. NICOLL: Thank you. kay. What your attorney just said, is	s that	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran ti</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> </ul>	hrough various right? scussion with
14 M 15 Q. O 16 your unde 17 A. Y	R. NICOLL: Thank you. kay. What your attorney just said, is rstanding?		13 gas pipeline.14Q. The gas pipeline kind of ran t15 parts of the construction area; is that16A. Yes.	hrough various right? scussion with
14         M           15         Q. O           16 your unde           17         A. Y           13         Q. R	R. NICOLL: Thank you. kay. What your attorney just said, is rstanding? es, that is correct.	on was	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran ti</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> </ul>	hrough various right? scussion with n was focused where
14         M           15         Q. O           16 your unde           17         A. Y           13         Q. R	R. NICOLL: Thank you. kay. What your attorney just said, is irstanding? es, that is correct. eally no promises but a representatio	on was	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran ti</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> <li>18 the government in which the attention</li> </ul>	hrough various right? scussion with n was focused where
14         M           15         Q. O           16 your unde           17         A. Y           13         Q. R           19 made that           20 subjects?	R. NICOLL: Thank you. kay. What your attorney just said, is irstanding? es, that is correct. eally no promises but a representatio	on was	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran to</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> <li>18 the government in which the attention</li> <li>19 there was not a particular record that</li> </ul>	hrough various right? scussion with n was focused where
14         M           15         Q. O           16 your unde           17         A. Y           13         Q. R           19 made that           20 subjects?           21         A. T	R. NICOLL: Thank you. kay. What your attorney just said, is irstanding? es, that is correct. eally no promises but a representation t you and Earth Tech are not targets	on was or	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran t</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> <li>18 the government in which the attention</li> <li>19 there was not a particular record that</li> <li>20 been exposed?</li> </ul>	hrough various right? scussion with h was focused where the pipeline had
14         M           15         Q. O           15         your unde           17         A. Y           13         Q. R           19         made that           20         subjects?           21         A. T           22         Q. It	R. NICOLL: Thank you. kay. What your attorney just said, is instanding? es, that is correct. eally no promises but a representation t you and Earth Tech are not targets hat was what was mentioned, yes. In general I know that's a long period	on was or of	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran ti</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> <li>18 the government in which the attention</li> <li>19 there was not a particular record that</li> <li>20 been exposed?</li> <li>21 A. Not to my knowledge.</li> </ul>	hrough various right? scussion with h was focused where the pipeline had . Okay.
14         M           15         Q. O           16         your unde           17         A. Y           13         Q. R           19         made that           20         subjects?           21         A. T           22         Q. If           23         time to com	R. NICOLL: Thank you. kay. What your attorney just said, is irstanding? es, that is correct. eally no promises but a representation t you and Earth Tech are not targets hat was what was mentioned, yes. In general I know that's a long period over, eight hours worth of conversatio	on was or of on, but if	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran ti</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> <li>18 the government in which the attention</li> <li>19 there was not a particular record that</li> <li>20 been exposed?</li> <li>21 A. Not to my knowledge.</li> <li>22 Q. We'll get into all of that later</li> <li>23 Did you bring anything with y</li> </ul>	hrough various right? scussion with h was focused where the pipeline had . Okay. ou in response
14         M           15         Q. O           16         your unde           17         A. Y           13         Q. R           19         made that           20         subjects?           21         A. T           22         Q. It           23         time to cc           24         you could	R. NICOLL: Thank you. kay. What your attorney just said, is instanding? es, that is correct. eally no promises but a representation t you and Earth Tech are not targets hat was what was mentioned, yes. In general I know that's a long period	on was or of on, but if	<ul> <li>13 gas pipeline.</li> <li>14 Q. The gas pipeline kind of ran ti</li> <li>15 parts of the construction area; is that</li> <li>16 A. Yes.</li> <li>17 Q. Was there any part of your di</li> <li>18 the government in which the attention</li> <li>19 there was not a particular record that</li> <li>20 been exposed?</li> <li>21 A. Not to my knowledge.</li> <li>22 Q. We'll get into all of that later</li> </ul>	hrough various right? scussion with h was focused where the pipeline had . Okay. ou in response our attorney? We

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DALEN V. OLYMPIC PIPE LINE THOMAS V	/. FRANKLIN 6-19-0	
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i diaries, anything like that from that time frame, the	1 A. Thank you.	
2 '93 through '95 time frame.	2 Q. Other than working on the Dakin-Yew project,	
3 A. No, I didn't.	3 have you worked with IMCO General Construction Compan	
4 Q. Do you have any personal notes or diaries?	4 A. No.	
5 A. No.	5 Q. So that's the only time you have ever worked	
6 Q. Would it be fair to say that everything that	6 with that firm?	
7 you wrote down as a daily log of your activities on that	7 A. Yes.	
3 job would be contained in what we have come to know as	8 MR. FLOYD: Chris, would you mind clarifying	
9 the inspection reports?	9 what you mean working with, if he is employed by the	
10 A. I would expect that to be the case, yes.	10 city.	
11 Q. Just for identification, why don't we mark	11 Q. I don't understand you to ever have been	
12 this as Exhibit 64, the stack. Exhibit 64.	12 employed by IMCO General Construction Company based o	
13 MR. FLOYD: Why do we have two Bates stamps	13 your earlier answers to questions; is that right?	
14 on those, do you know?	14 A. That's correct.	
MR. NICOLL: I think the reason is, and this	15 Q. Have you ever worked at a job where IMCO is	
to is just a theory. I think the reason is that Earth Tech	16 also on the job in some capacity other than the	
17 assigned its own number to the documents prior to the	1? Dakin-Yew job?	
•	18 A. No.	
13 production that they made to the city. Do you know? 19 MR. SCANLAN: I don't know. Because giving		
······································		
20 things to the city was before we were involved. I don't	20 Dakin-Yew job where the City of Bellingham was either	
21 know that they numbered them or not.	21 the owner or some involved party?	
22 MR. NICOLL: This isn't a Skellenger Bender,	22 A. No.	
23 ET04359?	23 Q. Do you have any family, relatives or friends	
24 MR. SCANLAN: I'm embarrassed to say I don't	24 who work at IMCO General Construction Company or the	
25 know if it is or not.	25 City of Bellingham?	
26		
1 MR. NICOLL: The bottom number ET0006564 is	1 A. No.	
2 our number.	2 Q. Do you have any familial or friendship type	
3 MR. SCANLAN: If that's the case, then what I	3 relationship with the King family or the Tsiorvas family	
4 would expect is probably the top number is our number	4 or the family of Liam Woods?	
$\boldsymbol{5}$ and it was probably when we produced these documents to	5 A. No.	
$\epsilon$ you folks. We are going off the bottom number.	6 Q. I'm going to turn now to the project that	
7 MR. NICOLL: Right. Just for consistency	7 brings you into this deposition here, and that's the	
3 sake, we are going to go off the bottom number, the	8 Dakin-Yew pump station project. When was it that you	
9 number that has seven available digits.	9 first became involved in that project as best you can	
0 (Exhibit No. 64 is marked	10 recall?	
11 for identification)	11 A. August of 1993.	
Q. Take a look at Exhibit 64 and take a moment	12 Q. So that would be right after you started	
Is to peruse it. I don't need you to testify in any detail	13 employment with Earth Tech's predecessor Barrett?	
4 about this right now. I just want you to confirm if you	14 A. Yes.	
15 would that those are copies of the inspection reports	15 Q. Let's talk a little bit about Barrett	
to that you made out	-	
17 A. Yes.	16 Consulting Group. What is Barrett Consulting Group?	
	17 A. It is a firm that was bought by Earth Tech	
Q during the Dakin-Yew Pump Station job.	18 in I don't know just when that was.	
A. That's correct. The majority of them are.	19 Q. Was it	
20 Some are maybe other people.	20 A. After '95.	
Q. I'm going to make an assumption that from	21 Q. It was after you left?	
22 time to time you might need to refer to Exhibit 64 to	22 <b>A. Yes.</b>	
23 refresh your recollection about the events in a	23 Q. So in 1993 your employer was Barrett	
23 refresh your recollection about the events in a 24 particular day, and if you need to you might make a note	23 Q. So in 1993 your employer was Barrett 24 Consulting Group?	

		FRANKLIN 6-1
	29	
-	Q. Subsequently purchased by Earth Tech? A. Yes.	I no reason to feel like they were an incompetent compa
2		2 Q. Do you recall which conduit it was that Mr.
5	Q. Are the main people with whom you worked in	3 Dudley was interested in?
	993 on the Dakin-Yew job still working for Earth Tech?	4 A. Yes. It was a sampling system conduit that
5	A. Yes.	5 ran from the pump station out to the reservoir. He
ő	Q. And are they located in the same building?	6 didn't know what it was for and I just explained to him
	A. Yes.	7 what it was.
3	Q. So Barrett is in the same building as Earth	3 Q. He saw a drawing and just wanted an
	ech, same people who were employed by Barrett are at	9 explanation for that?
	arth Tech?	10 A. Yes.
11	A. That were involved with me, yes.	11 Q. Anything else that you can think of?
12	Q. Do you know anything about the nature of the	12 A. That was it.
	equisition of Barrett by Earth Tech?	13 Q. Any other interviews?
14	A. No.	14 A. No. After that one I talked to certain
15	Q. So you don't know if it was a merger or an	15 people and they said to not say anything to anybody
	set purchase or anything like that?	16 anymore.
17	A. No, I don't.	17 Q. Who told you not to say anything?
16	Q. Do you hold any particular position or title	18 A. My boss.
	ithin Earth Tech?	19 Q. Your boss is?
20	<ol><li>Construction representative is my title.</li></ol>	20 A. I can't remember exactly which one I talked
21	Q. Do you have authority to hire, fire	21 to. I believe it was Dirk Van Woerden.
22 <b>e</b> r	nployees?	22 Q. Did Mr. Van Woerden say why you shouldn't
23	A. No.	23 talk to anybody anymore?
24	Q. And you are not an officer of the company?	24 A. No, he didn't.
25	A. No.	25 Q. So you first became involved in the Dakin-Ye
	Q. Where is Earth Tech's headquarters if you now?	1 project in August of 1993. And refresh my recollection 2 when was it that you started work for Barrett?
3	A. Long Beach, California.	3 A. August of '93 as well.
4	Q. Have you provided verbal or written	4 Q. What was it that you were asked to do at that
	atements to any other parties other than governmental	5 time?
	gencies related to the 1999 rupture and your job, your	6 A. Just refresh myself or read the plans and
	ork during the 1993 to 1995 excavation project at	7 digest what the project was about.
	akin-Yew?	B Q. How long did that take you?
9	A. I was contacted once probably three weeks	3 A. Three weeks.
	ter the accident by a news reporter.	10 Q. Would it be fair to characterize the project
11	Q. Do you recall who that was?	11 as having really two components, one would be the
12	A. Yes. I believe his name is Brian Dudley.	12 reservoir part of the project and then the other would
	nis was before the NTSB had been in touch with me.	13 be the Dakin-Yew pump station part of the project?
14	Q. Did you give Mr. Dudley an interview?	14 A. Yes.
15	A. I talked to him over the phone for about two	15 Q. And there were actually two contractors
16 <b>m</b>	inutes I believe, yes.	16 involved as well; is that right?
17	Q. Do you recall what you told him?	17 A. Yes.
	A. He asked about what I might know about a	18 Q. On the reservoir side there was Baugh,
13	ertain conduit that was running from the pump station	19 B-a-u-g-h?
		20 A. Yes.
19 <b>се</b>	It to the reservoir, and I told him what I knew of	
19 <b>се</b> 20 <b>о</b> נ		21 Q. And on the Dakin-Yew side there was IMCO
19 ce 20 ou 21 th	at. He also asked about IMCO, the contractor.	
19 ce 20 ou 21 th 22	at. He also asked about IMCO, the contractor. Q. Do you recall what he asked?	22 General Construction Company?
19 ce 20 ou 21 th 22 23	at. He also asked about IMCO, the contractor. Q. Do you recall what he asked? A. He asked about their competency.	22 General Construction Company? 23 A. Yes.
19 ce 20 ou 21 th 22	at. He also asked about IMCO, the contractor. Q. Do you recall what he asked?	22 General Construction Company?

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commenced?	A In the pump station ensisted
	A. In the pump station project?
A. On which one?	2 Q. Yes.
3 Q. The Dakin-Yew pump station?	3 A. Well, the pump station project really didn't
4 A. No, it had not.	4 get started until early spring of '94. And I was out
5 Q. In fact, the bid hadn't even been awarded	5 I was in Bellingham from the end of September all the
6 yet?	$\epsilon$ way through through September of the next year I
A. That's correct.	🗄 believe.
3 Q. But the reservoir project was under way; is	3 Q. Did you live up in Beilingham during the
9 that right?	9 project?
0 A. Yes.	A. I had an apartment up there. I commuted back
2. Q. Did you participate in putting together the	11 and forth on the weekends as well as maybe one or two
2 bid package?	12 nights a week I went home.
3 A. For which time?	13 Q. And are you married?
4 Q. For the Dakin-Yew pump station project.	14 A. I am married.
5 A. No.	15 Q. Do you have children?
	16 A. Yes.
? bid package, if you know?	17 Q. How many kids?
A. George Nordby was the principal engineer	13 A. I have two. My wife has two.
9 involved with that.	19 Q. What are their ages?
Q. I know you were new to the company at the	20 A. They are all over 24 years old. They range
1 time so I understand if you wouldn't know the answer to	21 from 30 to 24.
2 this question. But in the bid documents there is a set	22 Q. And in '93, '94 the youngest would have been
3 of general terms and conditions. Do you know if those	23 17, 18?
4 were City generated general terms and conditions or were	24 A. 16-ish.
5 those terms and conditions generated by Barrett/Earth	25 Q. 16-ish. All right. So in September of 1994
34	
1 Tech for the City to use?	1 you relocated or at least during the week up into
2 A. I don't know.	2 Beilingham, and that's so you could commence acting as
	3 owner's rep on site during the reservoir project; is
station supposed to do, what was its purpose?	4 that right?
5 A. It was supposed to provide a power source for	5 A. Yes.
${\mathfrak f}$ water flow from the reservoir out into the different	6 Q. What involvement did you have, if any, in the
$\hat{\imath}$ sites that have smaller reservoirs in them, to provide	7 planning for the pump station project?
${f :}$ the piping, to accomplish that and tie in from the new	8 A. None.
9 reservoir to the existing system.	9 Q. Who was responsible for planning the pump
0 Q. Is there one part of the project, the overall	10 station project?
1 project, reservoir and pump station, that you were more	11 A. George Nordby. John Hatch also had input
2 involved in than another?	12 then.
3 A. No.	13 Q. Did is it Dirk Van Woerden?
4 Q. So you kind of divided your time pretty	14 A. Yes.
5 equally between the two?	
6 A. Depending on what was going on at the time,	16 knowledge?
7 yes.	17 A. I'm sure he was directing them.
8 Q. On any given day would you inspect equally	18 Q. That would be his usual role?
9 between the reservoir and the pump station?	19 A. That's correct.
0 A. It really varied quite a bit.	20 Q. Did you have draftspeople working on drawings
Q. It depended on what's going on?	21 and things like that?
2 A. Right.	22 A. There were people working on CAD drawings,
23 Q. After you finished reviewing the plans, what	23 yes.
	24 O. So the preparation of design drawings was
A was the next function that you filled in the pump 5 station project?	25 done with the assistance of a computer?

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3	39
A. Yes.	1 reservoir.
2 Q. CAD means computer assisted design?	2 Q. So for the reservoir construction you would
3 A. Yes. Drafting.	3 be interacting with Baugh Construction; right?
4 Q. Drafting?	4 A. Yes.
5 A. Yes.	5 Q. And you would be interacting with City of
Q. Who were the people if you can recall who	6 Bellingham representatives?
$\gamma$ were assisting in the preparation of drawings using the	7 A. Yes.
a computers?	3 Q. And you would be interacting with the design
9 A. I don't know. I wasn't involved or around at	9 people back in Bellevue at Earth Tech?
10 that time.	10 A. Yes.
Q. Do you know if the design drawings and drafts	11 Q. Barrett at the time; is that right?
12 of those drawings are available in electronic form as	12 A. That's correct.
13 opposed to paper form at Barrett/Earth Tech?	13 Q. Did the design people from time to time come
14 A. I believe they are available in both forms.	14 up and examine the site or did they pretty much rely on
Q. When was the last time at Earth Tech that you	15 you to tell them?
$\epsilon$ looked at drawings of the Dakin-Yew pump station site	16 A. No. They came up once every week or so
17 using the computer?	17 depending on the time, one to every two weeks.
18 A. I never did.	13 Q. Now were you involved in any way in preparing
9 Q. You never did?	19 the site for the Dakin-Yew pump station project?
20 A. Never.	20 A. No.
Q. You always looked at hard copy drawings?	21 Q. So you didn't participate in having utilities
A. Yes, that's correct.	22 come out and stake the location of their underground
23 Q. Now after you got up to Bellingham in	23 lines for example?
24 September 1994, could you describe what your duties	24 A. No. That was already done.
25 became?	25 Q. That was already done?
3	4
1 A. Well, for a while	1 A. Yes.
2 MR. FLOYD: Did you say September of 1994?	2 Q. What was the first time you went out to the
3 MR. NICOLL: I'm sorry, September '93. You	3 Dakin-Yew site and examined the area?
4 are right.	4 A. I don't remember.
5 A. The first three or four weeks actually the	5 Q. Just in a rough approximation would it have
$\boldsymbol{\varepsilon}$ work that I would be involved with wasn't being done at	6 been in the fall of '93 after the Lynden job was over?
7 the time and there was another project that I actually	7 Approximation?
8 went up and worked on up in Lynden, Washington. And	8 A. Probably not the fall. It would have been
$\boldsymbol{\theta}$ that took two, maybe three weeks during that time frame	9 the middle, wintertime, January, February time frame is
10 too. And by the time that was over, the actual	10 when I was told about the pump station and given the
11 construction of the reservoir was under way. Previous	11 preliminary set of the plans where I would try and
12 to that time they were working on the foundation of the	12 generate some knowledge about the project.
13 reservoir itself, removing rock and getting the proper	13 Q. So we know from records which we'll talk
14 stability for the ground at that time.	14 about in a moment that there was a pre-construction
	15 conference in late January 1994. Would you have been
Q. So you worked at this Lynden job and then the	
Q. So you worked at this Lynden job and then the foreservoir project gets under way. You finish with the	16 out to the job site before that pre-construction
Q. So you worked at this Lynden job and then the foreservoir project gets under way. You finish with the 17 Lynden job some three weeks later. And is that when you	16 out to the job site before that pre-construction 1? conference?
Q. So you worked at this Lynden job and then the foreservoir project gets under way. You finish with the Yunden job some three weeks later. And is that when you actually	16 out to the job site before that pre-construction17 conference?18A. Yes.
Q. So you worked at this Lynden job and then the foreservoir project gets under way. You finish with the 17 Lynden job some three weeks later. And is that when you 13 actually 19 A. I spent all my time from then on at Dakin-Yew	16 out to the job site before that pre-construction17 conference?1818A. Yes.19Q. So more likely than not sometime in early to
Q. So you worked at this Lynden job and then the foreservoir project gets under way. You finish with the Vynden job some three weeks later. And is that when you actually A. I spent all my time from then on at Dakin-Yew of in the reservoir.	<ul> <li>16 out to the job site before that pre-construction</li> <li>17 conference?</li> <li>18 A. Yes.</li> <li>19 Q. So more likely than not sometime in early to</li> <li>20 mid January 1994 was the first time you went out to the</li> </ul>
Q. So you worked at this Lynden job and then the foreservoir project gets under way. You finish with the 17 Lynden job some three weeks later. And is that when you 13 actually 19 A. I spent all my time from then on at Dakin-Yew 20 in the reservoir. 21 Q. How would you describe your duties from that	<ul> <li>16 out to the job site before that pre-construction</li> <li>17 conference?</li> <li>18 A. Yes.</li> <li>19 Q. So more likely than not sometime in early to</li> <li>20 mid January 1994 was the first time you went out to the</li> <li>21 pump station site?</li> </ul>
<ul> <li>Q. So you worked at this Lynden job and then the</li> <li>reservoir project gets under way. You finish with the</li> <li>Lynden job some three weeks later. And is that when you</li> <li>actually</li> <li>A. I spent all my time from then on at Dakin-Yew</li> <li>in the reservoir.</li> <li>Q. How would you describe your duties from that</li> <li>point on?</li> </ul>	<ul> <li>16 out to the job site before that pre-construction</li> <li>17 conference?</li> <li>18 A. Yes.</li> <li>19 Q. So more likely than not sometime in early to</li> <li>20 mid January 1994 was the first time you went out to the</li> <li>21 pump station site?</li> <li>22 A. Actually the pump station site was in</li> </ul>
Q. So you worked at this Lynden job and then the foreservoir project gets under way. You finish with the Vynden job some three weeks later. And is that when you actually A. I spent all my time from then on at Dakin-Yew A. I spent all my time from then on at Dakin-Yew O in the reservoir. Q. How would you describe your duties from that Q point on? A. Well, from that point on basically I	<ul> <li>16 out to the job site before that pre-construction</li> <li>17 conference?</li> <li>18 A. Yes.</li> <li>19 Q. So more likely than not sometime in early to</li> <li>20 mid January 1994 was the first time you went out to the</li> <li>21 pump station site?</li> <li>22 A. Actually the pump station site was in</li> <li>23 between the reservoir, and so I'm walking all the time</li> </ul>
<ul> <li>Q. So you worked at this Lynden job and then the</li> <li>reservoir project gets under way. You finish with the</li> <li>Lynden job some three weeks later. And is that when you</li> <li>actually</li> <li>A. I spent all my time from then on at Dakin-Yew</li> <li>in the reservoir.</li> <li>Q. How would you describe your duties from that</li> <li>point on?</li> </ul>	<ul> <li>16 out to the job site before that pre-construction</li> <li>17 conference?</li> <li>18 A. Yes.</li> <li>19 Q. So more likely than not sometime in early to</li> <li>20 mid January 1994 was the first time you went out to the</li> <li>21 pump station site?</li> <li>22 A. Actually the pump station site was in</li> </ul>

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1       41       61       63         2       0, When was the first time that you walked       1       1         3       1, When was the first time that you walked       1       1         3       1, A as the time time that you walked       1       1         3       1, A as the time time time and staked the hostion of time.       1       1       1         3       1, A had seen them in the fail of '93. I had       1 <td< th=""><th>Полло</th><th>· //out/cent 0 17 00</th></td<>	Полло	· //out/cent 0 17 00
1         Q. When was the first time that you walked         3 connection with the Dakin-Yew pump station job?           3 through there and were consciously aware of the fact that utilities had been three and staked the doctano of the times?         3 A. As to the time [reviewed them, If not sure is that utilities had been three and staked the doctano of the times?           3 A. Thad seen them in the fail of '93. I had seen stakes and the signs that say Olympic Pipe Line on them.         3 Q. And you specifically recail the Olympic Pipe in on them.           3 Q. And you specifically recail the Olympic Pipe Line on them.         4 (Faster the stakes and signs?)           11 A res.         Q. Take a took at the stable here. I           12 A, res.         Q. And are they coated or colored in a specific.           13 Q. Dray were?         Q. Take a took at Exthible 66.           14 pipeline utilities?         Q. Take a took at Exthible 66.           15 Q. Dray were?         G. Take a took at Exthible 66.           16 Q. Take were?         13 Q. Dray were?           13 Q. Dray were to look at a drawing would you be         14 Childre?           14 A, res.         12 profile.           15 Q. Dray were to look at a drawing would you be         13 Q. Dray were to look at a drawing would you be           14 A, res.         12 Q. Take a took at at stable the stakes were position?           20 A. It member roughly where they were.         23 Q. Prepared by Barrett Consulting Group?	-	
1 through there and were consclusily aware of the fact         1         A. As to the time in reviewed them, in not sure           1 that utilities had been there and staked the location of         1         1         A. I had seen them in the fail of '93. I had           1 seen stakes and signs?         1         A. I had seen them in the fail of '93. I had         1         1           2 A. I had seen them in the fail of '93. I had         1         1         1         1         1           2 A. I had seen them in the fail of '93. I had         1		
1 that utilities had been there and staked the location of 3 their lines?1 of that. I did review the plans. I do recognize them.3 A. I had seen them in the fail of '93. I had iseen stakes and the signs that say Olympic Pipe Line on them.5 of that. I did review the plans. I do recognize them.3 Q. And you specifically recail the Olympic Pipe Line on them and signs?5 having you locate or show us where the approximate to do that?3 Q. And you specifically recail the Olympic Pipe Line stakes and signs?5 A. No. I beliewe they are available here. I to do that?1 A. Yes.2 (And are they coated or colored in a specific to available they are.12 Q. I have some better scaled drawings actually.12 Q. And are they coated or colored in a specific to available they are.13 C. They were?14 (Exhibit Ko. 66 is marked.13 Q. Do you recail roughly the area of the go costruction site where the stakes were positioned?15 Q. Take a look at Exhibit Ko. 15's drawing to findetification)16 Q. Can you tell us what drawing number that Is?13 Q. They were?2 Q. City of Bellingham, Dakin-Yew Pump Station, 2 Q. City of Bellingham, Dakin-Yew Pump Station, 2 Q. City of Bellingham, Dakin-Yew Pump Station, 2 Q. City of Sellingham, Dakin-Yew Pump Station, 2 Q. I'm going to ask you to take a look at 2 Gournet frood/Tord is attached with one of the 3 Group dated September 1993. Do you see that?44 4 A. Yes.42A. Yes.2 Q. City of Sellingham 3 Grup dated September 1993. Do you see that?3 Q. Do you recail I know that the drawing 4 A. Yes		P
1 that lines?       3       Q. Is this too small a scale to assist us in Scale to aspectificato in the Scale to assist us in Scale to aspecific to th		
5       A. I had seen them in the fail of '33. I had       5         1       seen stakes and the signs that say Olympic Pipe line of the pipeline markings were? Would that be         3       Q. And you specifically recail the Olympic Pipe line         3       Q. And you specifically recail the Olympic Pipe         3       A. Yes.         3       Q. And you specifically recail the Olympic Pipe         3       A. Yes.         12       A. Yes.         13       Q. And you recail roughly the area of the         14       Pipeline utilities?         15       Q. Day our recail roughly the area of the         16       Q. Take a look at Exhibit 66. It's drawing         17       A. They were.         18       Construction site where the stakes were positioned?         19       Q. You areal roughly the area of the         10       Q. You areal roughly the area of the         11       C. You of portignam, Dakin-Yew Pump Station,         12       A. Tramember roughly where they were.         13       Q. It's called at a arwing ound you be         24       M. R. NICOLL: Why don't you mark this as 65.         25       Guys, this is we can be off record for this.         14       A. Yes.         26       M. R. NICOLL: Why		1 · · · · · · · · · · · · · · · · · · ·
1 seen stakes and the signs that say Olympic Pipe Line on 3 them.       1 locations of the pipeline markings were? Would that be 4 to difficult to do that?         3 Q. And you specifically recall the Olympic Pipe Li Line is takes and signs?       1 locations of the pipeline insert, but it's not very well marked.         11 A. Yes.       1 ocations of the pipeline insert, but it's not very well marked.         12 A. Yes.       1. See the pipeline itself, but it's not very well marked.         13 A. Yes.       1. Q. Inve some better scaled drawings actually.         14 A. Yes.       1. R. Yes, I believe they are.         15 A. Yes, I believe they are.       1. (Exhibit 66. It's drawing number that is?         16 Q. They were?       1. R. S drawing No. C-S.         17 Ocations of the pipeline inserving No. C-S.       1. R. S drawing No. C-S.         16 Q. They orecall roughly where they were.       1. Q. Ou do pretty much so?         17 O. They orecall roughly where they were.       2. Q. City of Bellingham, Dakin-Yew Pump Station, 2. 2 Pipelines?         16 A. Yes.       2. A. Yes.         17 M. NICOLL: Why don't you mark this as 65.       2. Q. It'y ou were to look at a drawing wold you be         18 we how what it is.       4. Yes.         19 M. NICOLL: Why don't you mark this as 65.       2. Q. It's attached with one of these         10 M. R. LOYD: I would like it on the record so       4. Yes.         19 M. NICOLL: '33.		-
i them.       i to difficult to do that?         i Line stakes and signs?       i. A. Yes.         ii A. Yes.       ii A. Yes.         ii Q. And are they coated or colored in a specific       ii See the pipeline tistification         ii Q. Yes.       iii A. Yes.         ii Q. They were?       iii Chain are they coated or colored in a specific         ii Q. They were?       iii Chain are they coated or colored in a specific         ii Q. They were?       iii Chain are they coated or colored in a specific         iii Q. They were?       iiii Chain are they coated or colored in a specific         iii Q. Do you recall roughly the area of the       iiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiiii		
3       A. Mo. 1 believe they are available here. I         11       Chever yeell marked.         12       A. Yes.         12       O. And are they coated or colored in a specific         13       Way that identifies them as hydrocarbon or petroleum         14       O. And are they coated or colored in a specific         15       A. Yes.         16       O. They were?         17       A. They were?         18       Chev were?         19       O. Do you recail roughly the area of the         10       O. Do you recail roughly where they were.         12       A. Trey were?         13       A. Pretty much so, yes.         14       (Exhibit No. 66 is marked         15       A. Pretty much so, yes.         16       Q. You do pretty much so, yes.         17       A. Pretty much so, yes.         18       A. Pretty much so, yes.         19       A. Mit's antitled?         20       You were to look at a drawing would you be         21       MR. NICOLL: Why don't you mark this as 65.         20       Guy, this is we tao he off record for this.         21       MR. NICOLL: Why don't you mark this as 65.         20       Guy this is is or we can be off reco	? seen stakes and the signs that say Olympic Pipe Line on	? locations of the pipeline markings were? Would that be
1) Line stakes and signs?       2) see the pipeline itself, but it's not very well marked.         11       A, Yes.       Q. And are they coated or colored in a specific         12       Q. And are they coated or colored in a specific.       Q. I have some better scaled drawings actually.         12       Q. And are they coated or colored in a specific.       Q. I have some better scaled drawings actually.         13       Q. Lor ye were?       C. They were?         14       (Exhibit No. 66 is marked         15       Q. They were?       G. They were?         16       Q. You do pretty much so, yes.       G. A. Prety much so, yes.         12       Q. You do pretty much so?       A. Tremember roughly where they were.         13       Q. Loy uwere to look at a drawing mould you be       Profile.         14       M. NICOLL: Why don't you mark this as 65.       Q. City of Bellingham, Dakin-Yew Pump Station,         15       M. NICOLL: This in your box. It will be       A. Yes.         16       Guins to R.G. Burnett.       Q. Drou see the date is September '93?         17       M. KICOLL: This in your box. It will be       Go Does this mark at any easier for you to         11       (Exhibit No. 65 is marked       Q. Drou see the date is September '93?         16       M. NICOLL: '93.       Q. I'm going to ask you to take a look at	3 them.	🗄 to difficult to do that?
11       A. Yes.       1       Q. In ave some better scaled drawings actually.         12       Q. And are they coated or colored in a specific       13       MR. NICOLL: Let's look at 7771 and mark it         13       ax Yes, I believe they are.       14       15       A. Yes, I believe they are.       15         13       Q. They were?       16       Q. Take a look at Exhibit 66.       14's drawing how. C-5.         14       Q. Yoo you recall roughly the area of the       15       A. Pretty much so?       13       A. I's drawing how. C-5.         15       construction site where the stakes were positioned?       14       A. T's drawing how. C-5.         13       Q. Yoo you recall roughly the area of the       15       A. Pretty much so?       13       A. I's drawing how. C-5.         14       Q. Yoo you recall roughly where they were.       14       A. T's drawing how. C-5.       14       A. T's drawing how. C-5.         13       Q. I'you were to look at a drawing would you be       24       A. Yes.       25       Q. City of Bellingham, Dakin-Yew Pump Station,         14       A. Yes.       24       A. Yes.       24       44         15       and tis intication in would you be       24       A. Yes.       24       44         16       M. NICOLL: This in your box. It wi	9 Q. And you specifically recall the Olympic Pipe	9 A. No. I believe they are available here. I
12       Q. And are they coated or colored in a specific (1) way that identifies them as hydrocarbon or petroleum (1) pipeline utilities?       12       MR. NICOLL: Let's look at 7771 and mark it (2) Exhibit 66.         13       Q. They were?       13       (2) They were?       14       (Exhibit No. 66 is marked         15       A. Yes, I believe they are.       15       for identification)       16       (2) They were?       16       Q. Take a look at Exhibit 66.       18' drawing         16       Q. They were?       16       Q. Take a look at Exhibit 66.       18' drawing         17       Q. Do you recail roughly the area of the (2) construction site where the stakes were positione?       18       A. I's drawing No. C-5.         18       Q. You do pretty much so?       20       A. I's entitled?       21       A. Cl's drawing No. C-5.         21       Q. You were to look at a drawing would you be (2) would cate on the site drawing where?       20       City of Bellingham, Dakin-Yew Pump Station, 22       22       Q. City of Bellingham, Dakin-Yew Pump Station, 23       24       A. Yes.         23       MR. NICOLL: Why don't you mark this as 65.       20, you see the date is September '93?       3       A. Yes.         24       MR. NICOLL: This in your box. It will be document Ero007770 and it's attached with one of these alligator clips to a July 30, 1993 letter from Tom 3       3       A. Yes.	10 Line stakes and signs?	10 see the pipeline itself, but it's not very well marked.
13       way that identifies them as hydrocarbon or petroleum       13       Exhibit 66.         14       (Exhibit No. 66 is marked         15       A. Yes, Ibelieve they are.       14       (Exhibit No. 66 is marked         15       A. Yes, Ibelieve they are.       15       for identification)         15       Q. Doy ou recall roughly the area of the       15       for identification)         16       Q. Doy ou recall roughly the area of the       15       for identification)         17       P. Doy ou recall roughly where they were.       13       A. It's drawing number that is?         17       A. I remember roughly where they were.       12       Q. Doy ou foreall roughly where they were.         18       A. Yes.       12       Poreine.         19       O. Doy ou precall roughly where they were.       12       Q. I'y ou were to look at a drawing would you be         14       A. Yes.       12       Poreine.       12         23       A. Yes.       12       Q. I'y ou were to look at a drawing would you be       14       A. Yes.         24       A. Yes.       14       A. Yes.       14       A. Yes.         25       Guys, this is we can be off record for this.       14       A. Yes.       15         20       <	11 A. Yes.	11 Q. I have some better scaled drawings actually.
11       (Exhibit No. 66 is marked         15       A. Yes, I believe they are.       15       for identification         15       Q. They were?       16       Q. Take a look at Exhibit Ko. 66 is marked         16       Q. They were?       16       Q. Take a look at Exhibit Ko. 66 is marked         17       A. They were.       16       Q. Take a look at Exhibit Ko. 66 is marked         18       Q. Do you recall roughly the area of the       13       A. It's drawing No. C-5.         19       Q. And It's entitled?       20       A. It's drawing No. C-5.         20       A. Pretty much so, yes.       20       A. 22-inch and 8-inch utility duct plan and         21       Q. Toy do pretty much so?       21       Profile.         22       A. Yes.       22       Q. City of Bellingham, Dakin-Yew Pump Station,         23       Watcom Falls Reservoir No. 2 Pipelines?       24         42       MR. NICOLL: Why don't you mark this as 65.       2       Q. I's that right?         3       MR. FLOYD : You'di like it on the record so       4       4         4       MR. NICOLL: This in your box. It will be       5       2. Oses this make it any easier for you to         10       MR. FLOYD : You'y 30 what?       9       10       A. Yes.	12 Q. And are they coated or colored in a specific	12 MR. NICOLL: Let's look at 7771 and mark it
15       A. Yes, I believe they are.       15       for identification)         15       Q. They were?       16       Q. Take a look at Exhibits 66. It's drawing number that is?         16       Q. They were?       17       FT0007771. Can you tell us what drawing number that is?         16       Q. Take a look at Exhibits 66. It's drawing number that is?       18         17       A. They were?       19       Q. Take a look at Exhibits 66. It's drawing number that is?         16       Q. Take a look at Exhibits 66. It's drawing number that is?       19         17       A. They were?       10       A. 72-Inch and 8-Inch utility duct plan and         18       Q. You do pretty much so?       20       A. 72-Inch and 8-Inch utility duct plan and         21       Q. You were to look at a drawing would you be       21       Watcom Falls Reservoir No. 2 Pipelines?         24       A. Yes.       22       Q. It'y ou were to look at a drawing where?       24         25       A. Yes.       26       Q. Prepared by Barrett Consulting Group?         26       MR. NICOLL: Why don't you mark this as 65.       2       Q. It's use the date is September '93?         3       M. FLOYD: I would like it on the record so       4       A. Yes.         3       MR. FLOYD: July 30 what?       10       A. Yes. It shows	13 way that identifies them as hydrocarbon or petroleum	13 Exhibit 66.
15       Q. They were?       16       Q. Take a look at Exhibit 66. It's drawing         17       A. They were.       11       ET0007771. Can you tell us what drawing number that is?         18       Q. Do you recall roughly the area of the       13       A. It's drawing No. C-5.         19       Construction site where the stakes were positioned?       20       A. 1's drawing No. C-5.         20       A. Pretty much so, yes.       20       A. 1's drawing No. C-5.         21       Q. You do pretty much so,?       20       A. 72-inch and 8-inch utility duct plan and         21       Q. It you were to look at a drawing would you be       21       A. 7es.         23       Q. It you were to look at a drawing would you be       22       Q. City of Bellingham, Dakin-Yew Pump Station,         24       able to indicate on the site drawing where?       22       Q. City of Bellingham, Dakin-Yew Pump Station,         25       A. Yes.       23       Whatcom Falls Reservoir No. 2 Pipelines?         24       MR. NICOLL: Why don't you mark this as 65.       2       Q. Is that right?         3       MR. NICOLL: This in your box. It will be       44       1       A. Yes.         4       Goutinet field it's attached with one of these       4       1       A. Yes.         3       MR. FLOYD? July 3	14 pipeline utilities?	14 (Exhibit No. 66 is marked
13       A. They were.       12       ET0007771. Can you tell us what drawing number that is?         13       Q. Do you recall roughly the area of the       13       A. It's drawing No. C-S.         14       Construction site where the stakes were positioned?       13       A. It's drawing No. C-S.         15       A. Pretty much so, yes.       13       Q. And It's drawing No. C-S.         15       A. Pretty much so, yes.       14       Q. And It's drawing No. C-S.         16       Q. You do pretty much so?       12       porfile.         17       A. It you were to look at a drawing would you be       20       A. Yes.         18       A. Yes.       20       Q. City of Bellingham, Dakin-Yew Pump Station,         18       A. Yes.       21       Q. City of Bellingham, Dakin-Yew Pump Station,         21       A. Yes.       22       Q. City of Bellingham, Dakin-Yew Pump Station,         22       A. Yes.       23       Waknow that its.         23       M. NICOLL: Why don't you mark this as 65.       2       Q. It's disc market it any easier for you to         3       M. R. NICOLL: This in your box. It will be       5       A. Yes.       2         4       Q. You see the date is September '93?       5       A. Yes.         5       M. R. FLOYD	15 A. Yes, I believe they are.	15 for identification)
13       A. They were.       12       ET0007771. Can you tell us what drawing number that is?         13       Q. Do you recall roughly the area of the       13       A. It's drawing No. C-S.         14       Construction site where the stakes were positioned?       13       A. It's drawing No. C-S.         15       A. Pretty much so, yes.       13       Q. And It's drawing No. C-S.         15       A. Pretty much so, yes.       14       Q. And It's drawing No. C-S.         16       Q. You do pretty much so?       12       porfile.         17       A. It you were to look at a drawing would you be       20       A. Yes.         18       A. Yes.       20       Q. City of Bellingham, Dakin-Yew Pump Station,         18       A. Yes.       21       Q. City of Bellingham, Dakin-Yew Pump Station,         21       A. Yes.       22       Q. City of Bellingham, Dakin-Yew Pump Station,         22       A. Yes.       23       Waknow that its.         23       M. NICOLL: Why don't you mark this as 65.       2       Q. It's disc market it any easier for you to         3       M. R. NICOLL: This in your box. It will be       5       A. Yes.       2         4       Q. You see the date is September '93?       5       A. Yes.         5       M. R. FLOYD	16 Q. They were?	16 Q. Take a look at Exhibit 66. It's drawing
13       Q. Do you recall roughly the area of the       13       A. It's drawing No. C-5.         12 construction site where the stakes were positioned?       19       Q. And It's entitled?         20       A. Pretty much so; yes.       20       A. 72-inch and 8-inch utility duct plan and         21       Q. You do pretty much so?       21       profile.         22       A. I remember roughly where they were.       22       Q. City of Bellingham, Dakin-Yew Pump Station,         23       A. Yes.       23       Whatcom Falls Reservoir No. 2 Pipelines?         24       able to indicate on the site drawing would you be       24       A. Yes.         23       A. Yes.       25       Q. Prepared by Barrett Consulting Group?         24       44       1       A. Yes.         25       Guys, this is we can be off record for this.       2       Q. Is that right?         3       MR. FLOYD: I would like it on the record so       4       Q. You see the date is September '93?         5       MR. NICOLL: This in your box. It will be       6       Q. Does this make it any easier for you to         2       Iointate Mere the markings were excuse me, the       8 stakes indicating at the site where the pipeline was         3       MR. FLOYD: July 30 what?       9       Locument Effooory770. See in the lower righ		17 ET0007771. Can you tell us what drawing number that is?
19       construction site where the stakes were positioned?       19       Q. And it's entitled?         20       A. Pretty much so, yes.       20       A. Pretty much so?       20       A. 72-inch and B-inch utility duct plan and         21       Q. You do pretty much so?       20       A. 72-inch and B-inch utility duct plan and         22       A. I remember roughly where they were.       20       Q. City of Bellingham, Dakin-Yew Pump Station,         23       able to indicate on the site drawing would you be       24       A. Yes.         24       able to indicate on the site drawing where?       24       A. Yes.         25       A. Yes.       25       Q. Prepared by Barrett Consulting Group?         24       MR. NICOLL: Why don't you mark this as 65.       2       Q. Is that right?         3       MR. FLOYD: I would like it on the record so       44         4       Q. You see the date is September '93?       5         5       MR. NICOLL: This in your box. It will be       6       Q. Does this make it any easier for you to         6       Golument ET0007770 and it's attached with one of these       9       10       A. Yes.         10       MR. FLOYD: July 30 what?       9       10       A. Yes.         11       (Exhibit No. 65 is marked       11       Pipe		18 A. It's drawing No. C-5.
20       A. Pretty much so, yes.       20       A. 72-inch and 8-inch utility duct plan and         21       Q. You do pretty much so?       21       profile.         22       A. I remember roughly where they were.       22       Q. City of Bellingham, Dakin-Yew Pump Station,         23       Q. It you were to look at a drawing would you be       23       Whatcom Fails Reservoir No. 2 Pipelines?         24       A. Yes.       24       44         25       A. Yes.       25       Q. Prepared by Barrett Consulting Group?         26       MR. NICOLL: Why don't you mark this as 65.       2       Q. Is that right?         3       MR. FLOYD: I would like it on the record so       3       A. Yes.         4       Q. You see the date is September '93?       5       A. Yes.         5       MR. NLCOLL: This in your box. It will be       5       A. Yes.       4         6       Golins to R.G. Burnett.       3       Jocated?       1         7       MR. FLOYD: July 30 what?       10       A. Yes.       10       A. Yes.         10       MR. NICOLL: '93.       10       A. Yes.       10       A. Yes.         11       (Exhibit No. 65 is marked       11       Pipeline       11       Ipeline is right at the bottom of the slope tha	19 construction site where the stakes were positioned?	-
21       Q. You do pretty much so?       21 profile.         22       A. I remember roughly where they were.       22       Q. City of Bellingham, Dakin-Yew Pump Station,         23       Q. It you were to look at a drawing would you be       23 Whatcom Falls Reservoir No. 2 Pipelines?         24       A. Yes.       23 Whatcom Falls Reservoir No. 2 Pipelines?         25       Q. Prepared by Barrett Consulting Group?       44         1       MR. NICOLL: Why don't you mark this as 65.       2 Q. Is that right?         2       MR. NICOLL: This in your box. It will be       3       A. Yes.         3       MR. FLOYD: I would like it on the record so       3       A. Yes.         4       Q. You see the date is September '93?       5       A. Yes.         3       MR. FLOYD: July 30, 1993 letter from Tom       3       A. Yes.         4       Collins to R.G. Burnett.       9 located?       9 located?         10       MR. NICOLL: '93.       10       A. Yes.       10       A. Yes.         11       (Exhibit 60, 65 is marked       13       Q. Do you recail where the pipeline was       9 located?         12       for identification)       12       10       A. Yes.       13       Q. Do you recail where the stakes were that         13       Corre draw		-
22       A. I remember roughly where they were.       22       Q. City of Bellingham, Dakin-Yew Pump Station,         23       Q. It you were to look at a drawing would you be       23       Whatcom Falls Reservoir No. 2 Pipelines?         24       A. Yes.       24       A. Yes.         25       A. Yes.       25       Q. Prepared by Barrett Consulting Group?         24       MR. NICOLL: Why don't you mark this as 65.       2       Q. Is that right?         3       MR. FLOYD: I would like it on the record so       3       A. Yes.         4       We know what it is.       2       Q. Is that right?         3       MR. FLOYD: I would alke it on the record so       3       A. Yes.         4       Q. You see the date is September '93?       5       A. Yes.         5       MR. NLCOLL: This in your box. It will be       6       Q. Does this make it any easier for you to         6       Indicate where the markings were excuse me, the       9 located?         10       A. Yes.       10       A. Yes.         11       (Exhibit No. 65 is marked       11       11 Pipe Line is right at the bottom of the slope that runs         12       for identification)       13       Q. Do you recail I know that the drawing         14       Exhibit 65, ET0007770. See in the lo		· · ·
23Q. It you were to look at a drawing would you be 24 able to indicate on the site drawing where?23Whatcom Falls Reservoir No. 2 Pipelines?24A. Yes.25Q. Prepared by Barrett Consulting Group?25A. Yes.25Q. Prepared by Barrett Consulting Group?26MR. NICOLL: Why don't you mark this as 65.1A. Yes.27MR. FLOYD: I would like it on the record so3A. Yes.3MR. FLOYD: I would like it on the record so3A. Yes.4We know what it is.4Q. You see the date is September '93?5MR. NICOLL: This in your box. It will be5A. Yes.6Gourment ET0007770 and it's attached with one of these6Q. Does this make it any easier for you to7indicate where the markings were excuse me, the858MR. FLOYD: July 30 what?10A. Yes.119MR. NICOLL: '93.10A. Yes.1210MR. NICOLL: '93.10A. Yes.1311(Exhibit No. 65 is marked11Pipe Line is right at the bottom of the slope that runs12for identification)12along the hilliside there.13Q. I'm going to ask you to take a look at13Q. Do you recail I know that the drawing14Exhibit 65, ET0007770. See in the lower right hand13shows that, but do you recail where the stakes were that15A. Yes.13g. Do you see that?13n. Heiley et hey were at the angle point. I13Goro		1 ·
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DALEN V. OLYMPIC PIPE LINE	THOMAS W	. FRANKLIN 6-19	00
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Q. We found pens. Using the red pen on2 66, would you mind just placing an X in the valid locations along the pipeline where you recall side stakes or markers showing the location of the3 locations along the pipeline where you recall side stakes or markers showing the location of the5 in the fall of '93?6 MR. FLOYD: Counsel, I think he said side7 too.8 MR. NICOLL: And signs.9 A. Yes. I remember seeing three or four10 in the three or four hundred foot stretch of the11 pipeline that we would have been involved with12 all I remember as far as actual locations. I kn13 was one probably here and then on either side14 identifying the basic outline of where the pipe15 MR. BENINGER: Would those be signs16 MR. BENINGER: The X's that you put19 in red designate signs; is that correct.20 A. Yes	Exhibit rious eeing pipeline igns of them h. That's ow there of that was. or	<ul> <li>1 Exhibit 66 where the discharge first of all color in</li> <li>2 the pump station and then second of all trace the</li> <li>3 discharge to the point of the tee intersection?</li> <li>4 A. Actually what you said isn't correct. The</li> <li>5 discharge isn't on here. This is the suction line.</li> <li>6 This draws water out of the system and sends it through</li> <li>7 the pumps and then discharges out to the north.</li> <li>8 Q. So your recollection is that the suction line</li> <li>9 is the one to the south and the discharge line is to the</li> <li>10 north?</li> <li>11 A. Yes.</li> <li>12 Q. So now you are going to trace in what you are</li> <li>13 calling the suction line?</li> <li>14 A. (Witness complies.)</li> <li>15 Q. Given the scale of this drawing, Exhibit 66,</li> <li>16 what's the distance between the tee intersection that</li> <li>17 you just highlighted in blue and the pipeline that you</li> <li>18 highlighted in pink approximately?</li> <li>19 A. Twenty feet. Actually I just see on the plan</li> </ul>	
<ul> <li>A. Yes.</li> <li>Q. Were there stakes as well in addition f</li> <li>signs?</li> <li>A. Yes.</li> <li>MR. FLOYD: At what time?</li> <li>Q. In the fall of '93.</li> </ul>	to the	<ul> <li>20 one inch equals twenty, so it was probably fifteen feet.</li> <li>21 Q. Now, during the fall and winter of '93 and</li> <li>22 the early part of '94 do you have a recollection of</li> <li>23 meeting people from Olympic Pipe Line with respect</li> <li>24 specifically to the Dakin-Yew job?</li> <li>25 A. No.</li> </ul>	
······································	46		48
<ol> <li>A. I believe there were stakes where the</li> <li>actually did expose the pipeline maybe a year</li> <li>this time, but that's all. They dug I believe tw</li> <li>different locations and had a stake by where t</li> <li>actually had dug them.</li> <li>Q. And by the digging you mean, is that</li> <li>cailed potholing?</li> <li>A. Yes.</li> <li>Q. So there had been some potholing about the state of the</li></ol>	ahead of vo hey a term	1Q. Were you involved in any of the contracting,2 drafting of contracts, executing of contracts between3 the City and Barrett/Earth Tech?4A. No.5Q. Were you involved in the drafting of6 contracts or the executing of contracts between the Cit?7 or Barrett and IMCO?8A. No.9Q. Were you involved directly in dealing with	Ŷ
<ul> <li>10 earlier to your knowledge?</li> <li>11 A. Right.</li> <li>12 Q. Do you recall approximately where th</li> <li>13 related to the earlier potholing were located?</li> <li>14 A. No. It is shown in the profile where th</li> <li>15 potholes were done though.</li> <li>16 Q. Would you use this pink marker and j</li> <li>17 the outline of the pipeline on Exhibit 66?</li> <li>13 A. (Witness complies.)</li> <li>19 Q. Now at that time, at the time of this</li> </ul>	e stakes he	10 change orders, requests for modification, adjudication         11 of change orders and things of the sort submitted by         12 IMCO?         13 A. No.         14 Q. The next exhibit         15 MR. SCANLAN: Can we put this away?         16 MR. NICOLL: Yes, you can put that away now.         17 Thanks.         18 MR. FLOYD: Were we supposed to bring a box         19 MR. NICOLL: There is a box over there.	?
19Q. Now at that time, at the time of this20 drawing, Exhibit 66, the plan was to run a 24-21 discharge line from the Dakin-Yew pump stati22 connect up with the 16-inch waterline at a tee23 that correct?24A. Yes.25Q. Could you use the blue marker to trace	on to e joint; is	19       MR. NICOLL: There is a box over there.         20       MR. NICOLL: ET0005005, it's a letter to         21 Chris Hart.       22         22       MR. SCANLAN: So you are not in the         23 inspection reports?       24         24       MR. NICOLL: Not yet, no. ET0005005 through         25 6. It's a letter from John Hatch to Chris Hart dated	n

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DALEN V. OLYMPIC PIPE LINE THOMAS W	, FRANKLIN 6-19-00
49	51
i January 14, 1994.	1 A. No, they did not.
2 (Exhibit No. 67 is marked	2 (Exhibit No. 69 is marked
3 for identification)	3 for identification)
4 Q. Would you take a look at that exhibit,	4 Q. I'm going to mark as Exhibit 69 a stack of
5 please, Exhibit 67? Do you see where you are copied on	5 documents that are clipped together. These are numbers
E that letter?	€ ET0006723, 24, 25, 26 and 27.
7 A. Yes.	7 Now you will understand I hope that in a case
B Q. Do you have any recollection of receiving	8 like this we get a whole bunch of documents and a second in wave that may not be a second in wave that may not
9 this letter?	3 sometimes they come to us organized in ways that may not
10 A. Not that letter, but I remember attending the	10 have been the way they were organized in the files from
11 meeting.	11 which they originally came. I mean after a while things
2. Q. Do you see on the second page of Exhibit 67	12 change. But these might be shuffled, that's right.
13 where it says attendees will include representatives	13 But these were clipped together, and so I
14 from the City, Olympic Pipe Line Company, U.S. West,	14 just ask if you will take a look at Exhibit 67 for a
15 BCG which I assume means Barrett Consulting Group; is	15 moment and familiarize yourself with it.
16 that correct?	16 MR. VERWOLF: 69.
17 A. Yes.	17 MR. NICOLL: I'm sorry. 69.
18 Q. And IMCO?	18 MR. VERWOLF: Were the numbers 723 to 727?
19 A. Yes.	19 MR. NICOLL: Yes.
20 Q. Do you have a recollection of the meeting	20 Q. Have you had a chance to review the packet?
21 that was held subsequent to receipt of Exhibit 67?	21 A. Yes.
22 A. I remember the meeting being held.	22 Q. Do you recognize those documents in that
23 Q. Do you recall whether IMCO people I'm	23 organization, and in other words clipped in that way?
24 sorry, Olympic people were present?	24 A. Yes.
25 A. I don't recall that specifically. But, no, I	25 Q. What are they? Can you tell us generally
50	52
1 don't recall.	1 what they are?
2 (Exhibit No. 68 is marked	2 A. It's the agenda for the pre-construction
3 for identification)	3 meeting.
4 Q. Exhibit 68 is a document ET0005003 and 004.	4 Q. That agenda is two pages long. I am sorry,
5 Would you take a look at that letter?	
6 A. Yes.	5 three pages long and it's followed by some handwritten 6 notes. Do you see that?
	7 A. Yes.
8 A. Yes.	8 Q. Page 6726?
<b>9</b> Q. And do you recall attending the partnering	9 A. Yes.
10 workshop which is referenced in the letter?	10 Q. Whose notes are those?
11 A. Yes.	11 A. John Hatch's.
12 Q. Notice that time and date of the letter	12 Q. Do you recognize his handwriting?
13 appears to be in conflict with the time and date of the	13 A. Yes.
14 scheduled pre-construction conference referred to in	14 Q. And then 6727 which appears to be a sign-in
15 Exhibit 67. Do you see that?	15 sheet; right?
16 A. Yes.	16 A. That's right, for the pre-construction
17 Q. Were both the pre-construction conference and	1? meeting itself.
18 the partnering workshop held on the same day to your	18 Q. And you recall John Hatch being present at
19 recollection?	19 the meeting, at the pre-construction meeting?
20 A. No, they weren't.	20 A. I don't really know for sure that he was. I
21 Q. So one was rescheduled?	21 don't see his name on the list, so he probably wasn't.
22 A. Yes.	22 I would expect his name to be here but it wasn't.
23 Q. And Olympic Pipe Line representatives would	23 Q. Is it possible that he could have attended
24 not have attended did not attend the partnering	
25 workshop; is that right?	24 the meeting but not signed in?25A. That's possible.
	25 A. That's possible.

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<ol> <li>Q. Because you notice these notes, do these</li> </ol>	1 reservoir pipelines, and chemical feed?
2 notes cover items that were covered in the	2 A. Yes.
3 pre-construction meeting?	3 Q. 14, we've copied a page, project page 20,
A. They were issues that were relevant at that	4 which has the number 14 on the top of it. And it deals
5 time. Whether they were covered in the meeting or not,	5 with utility coordination and relocation. Would you
6 I couldn't say.	E take a look at that?
Q. The City were issued 23 gate door keys. Do	7 A. Okay.
8 you notice that in the second to the last line?	Q. So the second page of Exhibit 70 deals with
9 A. Right.	9 the requirement to coordinate with owners of underground
Q. Parks want about fifteen thousand cubic yards	10 utilities in the project area?
11 of waste?	11 A. Yes.
12 A. There were different issues that were evident	12 Q. So looking back now to Exhibit 69, the first
13 at the time. Whether we talked about them in the	13 page of that exhibit, this reference to coordination
14 meeting or not, I don't know for sure.	14 with other utilities (Pr 14) would appear to be a
15 Q. The references to U.S. West at the top, do	15 reference to the second page of Exhibit 70; is that
16 you see that?	16 right?
17 A. Yes.	17 A. Yes.
18 Q. And references to Olympic has delivered	13 Q. Now, to your recollection having attended the
19 package to IMCO?	19 meeting, were the requirements discussed on the second
20 <b>A. Yes.</b>	20 page of Exhibit 70 addressed at the pre-construction
21 Q. You can't tell me as you sit here I guess	21 meeting in accordance with the pre-construction meeting
22 whether or not these notes were made by Mr. Hatch during	- · · · · · · · · · · · · · · · · · · ·
23 the pre-construction meeting?	23 A. Yes.
24 A. That's correct.	24 Q. Were there representatives of U.S. West and
25 Q. And they are not your notes?	25 Olympic Pipe Line present when those requirements were
1 A. No. 54	1 discussed?
2 Q. One of the well, one of the points to be 3 covered in the pre-construction meeting was coordination	2 A. I remember the U.S. West person being at the 3 meeting. I don't remember the Olympic Pipe Line people
with other utilities and then it says next to that on	4 being there.
6 6723 PR 14. Do you see that?	5 Q. Now, could they have been there and you just
6 A. Yes. 7 O. What does PP 14 stand for?	6 can't recall it?
Q. What about it is stand for:	7 A. Weil once again, John Hatch's name isn't on
8 A. I don't know.	8 the list and I'm not sure why, but I would expect the
9 Q. Could it stand for project requirement?	9 name to be on the list if they were there.
A. It could. I'm not familiar with the code.	10 Q. The fact that the name is not on the list in
11 (Exhibit No. 70 is marked	11 your mind doesn't mean that they necessarily weren't
12 for identification)	12 there?
13 Q. Exhibit 70 is ET0009859 and ET0009985. I	13 A. That's correct. I have no explanation why
14 will represent that this is the cover page of the	14 their name isn't on the list. I can't say. I don't
15 project manual for project number 454-B and one of the	15 know why. I remember John being there. I don't
16 interior pages from that project manual. Okay?	16 remember the Olympic Pipe Line person being there.
1? A. Okay.	1? Q. Do you know Kevin Wittmer?
Q. We have the whole thing if you want to look	18 A. No.
19 at the whole thing.	19 Q. Do you know Ken Roberts?
20 MR. FLOYD: Is that in the box that we have?	20 A. Not to my knowledge.
21 MR. NICOLL: It is.	21 Q. But you do recall a discussion of
22 Q. Project number 454-B, that's the Dakin-Yew	22 coordinating with Olympic Pipe Line when working in the
23 pump station project; right?	23 pipeline right-of-way?
24 A. I believe so.	A. I remember talking to people from Olympic
25 Q. And it of course says Dakin-Yew pump station,	25 Pipe Line during the excavation work. I don't have
	to the fine stand the every steel network i set that

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57	5
1 names. I remember they were around several times and	2 Q. And it's a letter from John Hatch to Chris
2 made comments about talking to them.	2 Hart of IMCO; right?
3 Q. I mean at this pre-construction meeting. I	3 A. Yes.
4 recognize that you don't recall if Olympic people were	4 Q. And you are copied on it; is that right?
there at the pre-construction meeting, but you do recall	5 A. That's correct.
8 that there was a discussion at the pre-construction	6 Q. The letter refers to the meeting of January
meeting about the need to coordinate with Olympic Pipe	7 25th which I'm going to ask you, was that the
3 Line when working in the pipeline right-of-way?	8 pre-construction meeting?
A. Yes.	9 A. Well, yes. It
10 (Exhibit No. 71 is marked	10 Q. It was?
11 for identification)	11 A occurred the 27th.
12 Q. Exhibit 71 is a document which is numbered	12 Q. No. Well, the partnering meeting occurred on
13 IMC0001179. This is a document that we would have	13 the 27th; right?
14 received from IMCO. It's dated January 28, 1994. It's	14 A. Yes.
15 on Resolutions International letterhead and you will see	15 Q. But the pre-construction meeting occurred on
16 that in the first line it refers to the partnering	16 the 25th?
17 workshop that occurred on January 27, 1994.	17 A. That's correct.
18 A. Okay.	18 Q. And then it references this meeting. It says
19 Q. So that resolves the	19 there was some confusion during our meeting on January
20 MR. FLOYD: Could you read back that	20 25 regarding trench excavation for the telephone
21 question, please?	21 conduit. Please note that Project Requirements Section
22 (The requested question	22 14 requires the contractor to provide all coordination
23 was read by the reporter)	23 with U.S. West Communications for the relocation work.
24 A. Yes.	24 You are also required to perform all work required by
25 Q. Do you have a recollection as to whether or	25 U.S. West for relocation, including trench and
58	
1 not that workshop then in fact did occur on January 27,	1 connection pit excavation.
2 1994?	2 Do you know what confusion Mr. Hatch was
3 A. I believe it did.	3 referring to?
4 Q. And there was the development of a	4 A. No, I don't.
S communication matrix at the workshop; is that right?	5 Q. Were you personally involved in any
6 A. I believe so.	6 discussions with the contractor IMCO or its
7 (Exhibit No. 72 is marked	7 representatives concerning the scope of the work that
θ for identification)	3 Project Requirements 14 had obligated them to perform
9 Q. Exhibit 72 is a document numbered	9 within the confines and limits of the bid?
10 OPL50022330. Take a look at that document. Do you	10 A. Yes.
11 recognize it?	11 Q. And what were those discussions?
12 A. Yes.	12 A. I believe one was a trunk line for U.S. West
13 Q. Is that the communication matrix?	13 that ran through the site and the other one was a hand
14 A. Yes.	14 laid single telephone line. And I believe that was what
15 Q. And Exhibit 72 basically sets forth perhaps	15 the issue was, the fact that we had a telephone line
16 in a more formal way than was actually conducted on site	16 that wasn't really marked very well. But that's what my
1? how people are to communicate in connection with the	17 recollection is.
13 Dakin-Yew project; is that right?	18 Q. Do you know whether the confusion being
19 A. Yes. It identifies the City, Barrett as well	19 referred to here was a confusion about whether IMCO
20 as IMCO people.	20 General Construction Company was going to have to pay
	21 for the relocation of utilities out of the amount of
(Exhibit No. 73 is marked	
21 (Exhibit No. 73 is marked 22 for identification)	122 money that it out for the contract?
22 for identification)	22 money that it got for the contract?
22for identification)23Q. Take a look at Exhibit 73. It's a document	23 A. I don't know for sure, no.
22 for identification)	· -

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61	63
) and let's stick that right in front of you.	1 There is reference in here to CDF, controlled
2 On what date did the work on the Dakin-Yew	2 density fill. Could you tell us what that is?
3 pump station get under way, the work at the site?	3 A. Yes. It's a mixture of sand and cement
4 A. From what I'm seeing here, the 24th of	4 concrete and water so that when the material is
5 February.	5 deposited and settles it's a soft digable material but
6 Q. Why don't you show us and reference the page	$\epsilon$ will stand up and not settle.
? number that led you to that answer.	7 Q. So it can provide some support for whatever
A. Actually the page number was ET0006566. And	8 it is that's above it?
3 I say that because that was the earliest day where I see	A. Yes. As well as not settling, which means
15 some work being done. I'm seeing something happen	10 you don't have to compact it after you put it in place
1) earlier than that too, but I would have to spend some	11 and that's the benefit of it.
12 time looking to see what the actual first day was.	4
	12 Q. But you can dig through it?
13 Q. I don't know why these are out of order, but	A. Yes, with a shovel.
14 they do appear to be.	14 Q. However the ease of digging through it is
A. Actually I guess the 22nd would have been the	15 going to be affected by the density to which you mix the
16 first day.	16 fill; is that right?
17 Q. The 22nd?	1? A. That's correct.
18 A. Yes.	13 Q. So there were some questions early on about
Q. Of February. So it would be ET0006569?	19 the strength of the CDF that would be utilized in
20 A. Yes.	20 different applications on the job site?
Q. Here's a document that's all serial letter	21 A. Yes.
22 number 8 ET0004880 through 882. And I'll have it	22 Q. And that would be the bullet point here, the
23 marked.	23 use of a controlled density fill whose strength exceeds
4 (Exhibit No. 74 is marked	24 that in one of the sections of the project manual was
5 for identification)	25 acceptable only under structures. Controlled density
62	6
Q. Dated 2/23/94. Just to help you guys, the	1 fill within pipeline trenches shall meet the
2 inspection reports are a big stack of documents.	2 requirements of the other section. No additional
3 MR. FLOYD: Right here?	3 payment will be made for higher strength material.
4 MR. NICOLL: Right. Before that there are	4 Do you recall what it was that prompted I
5 some loose correspondence arranged chronologically.	5 realize there was a question that was asked, but what
6 MR. FLOYD: It's in here?	6 was it that occurred that prompted that question?
7 MR. NICOLL: Yes. Serial No. 8.	7 A. I couldn't say.
8 Q. Exhibit 74, could you take a look at that and	8 Q. Above that
9 identify it for us? Basically tell us what it is.	
	9 MR. FLOYD: Chris, you said a different
0 A. It appears to be questions being answered	10 section, because they look like they are exactly the
11 that had come up between the pre-construction conference	11 same.
2 and February 23rd when this letter was written.	12 MR. NICOLL: I didn't say they were different
MR. SCANLAN: Can I interject? This exhibit	13 sections. I'm sorry. If I did I apologize. But I know
appears to be an incomplete letter. There is no	14 they are referred to as the same section.
15 signature page attached to what I've got.	15 Q. I take it that section would be the section
6 MR. FLOYD: I have one.	16 that deals with the issue of controlled density fill?
MR. SCANLAN: You have it on the exhibit. My	17 A. I would assume so.
19 apologies.	18 Q. So above that there is a paragraph bullet
	19 point that says we have reviewed your proposed alternate
19 MR. NICOLL: No problem.	
·	20 route for the 60-inch waterline. This route is not
Q. You were copied on the letter?	20 route for the 60-inch waterline. This route is not 21 acceptable because the area south of the 60-inch
Q. You were copied on the letter? A. I'm sure I was. Yes.	21 acceptable because the area south of the 60-inch
Q. You were copied on the letter?A. I'm sure I was. Yes.Q. The part that I was there are several	21 acceptable because the area south of the 60-inch 22 backwash line is reserved for future parallel 60-inch
Q. You were copied on the letter?A. I'm sure I was. Yes.Q. The part that I was there are several3 things in here that I would like to talk about. They	<ul><li>21 acceptable because the area south of the 60-inch</li><li>22 backwash line is reserved for future parallel 60-inch</li><li>23 backwash line. Based on a review of the design criteria</li></ul>
Q. You were copied on the letter?A. I'm sure I was. Yes.Q. The part that I was there are several	21 acceptable because the area south of the 60-inch 22 backwash line is reserved for future parallel 60-inch

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65	67
Do you recall what the issue was there beyond	1 following on site in connection with your job. Okay?
2 what's written on the exhibit?	2 <b>A. Yes.</b>
3 A. No, I don't.	3 Q. So you can lay that aside.
4 Q. Did this issue later have an impact on a need	4 (Exhibit No. 76 is marked
5 to relocate the 24-inch line that ran from the south of	5 for identification)
6 the pump station?	Q. Exhibit 76 is a document called a project
7 A. I don't know.	7 data transmittal from IMCO to Barrett Consulting Group.
3 Q. Who is Tom Collins?	8 It's dated April 18, 1994. It is ET0002400 through
A. He was an engineer in our office.	3 2405. Could you take a look at that? Okay?
10 Q. Does he still work for you?	10 A. Okay.
11 A. No.	11 Q. First of all, were there a lot of project
12 Q. Where is he now, do you know?	12 data transmittals that you recall?
13 A. No, I don't.	13 A. Yes.
14 Q. When did he leave?	14 Q. What was the purpose of that?
15 A. During the time I was gone between '95 and	15 A. This transmittal?
16 ' <b>98.</b>	16 <b>Q. Yes.</b>
17 Q. Do you recall an eventual realignment of the	17 A. To identify the different as an example
13 72-inch pipe at the pump station?	18 formula for different concrete mixes. And to either
19 A. No.	19 require them to change it or to accept it as is would be
20 Q. You worked on site under some safety rules;	20 the normal interaction that this would lead to.
21 is that right?	21 Q. Now this particular one, refresh my
22 A. Basic safety rules, yes.	22 recollection, Exhibit No. 76, that had to do with the
23 (Exhibit No. 75 is marked	23 issue of the controlled density fill?
24 for identification)	24 <b>A. Yes.</b>
25 Q. Exhibit 75 is a handwritten memo written by	25 Q. Right?
66	61
1 somebody named Bob Morley, ET0009012, and attaching a	1 A. Yes.
2 document entitled Barrett general safety rules, office	2 Q. And that raises again the question of the
3 operations field operations ET0009013 through 9016.	3 strength of the controlled density fill being used?
4 First why don't you take a look at the safety	4 A. Yes.
5 rules attached to the handwritten memo. Do you	5 Q. Around the pipelines that were being
6 recognize those rules?	6 installed; isn't that right?
7 A. No, I don't.	7 A. That's correct.
3 Q. Take a look at the memo. This is a memo from	8 Q. The density for the density that was being
9 a guy named Bob Morley. Who is Bob Morley, do you know?	9 put to use by IMCO at that time was too strong?
10 A. He was a construction representative in our	10 A. It's too strong a mix design, yes.
11 office.	11 Q. The issue that if it's too strong you can't
12 Q. And there is a question about how Barrett	12 dig through it to get
13 Consulting Group inspectors should protect themselves	13 A. Yes.
14 when entering into confined spaces and whether or not	14 Q to the pipeline to repair the pipeline or
15 the clearwell was considered a confined space?	15 change it if you need to at some point in the future; is
16 A. Yes.	16 that right?
17 Q. And he referenced the Barrett Consulting	17 A. That's right.
13 Group safety requirements and concluded I guess that the	18 Q. As a result of this interaction did the CDF
19 clearwell wasn't a confined space?	19 have to be cut out or dug out and replaced?
20 A. That's correct.	20 A. No, they submitted a different mix design.
21 Q. In view of that, do you now recall having	21 Q. This was all at the design phase?
22 reviewed those safety regulations before, safety rules?	22 A. Yes.
23 A. I recall seeing them and reviewing them, yes.	23 Q. Before CDF was actually laid?
24 Q. I just want to make a simple record of that	24 A. Yes.
25 fact that there were safety rules that you were	25 (Exhibit No. 77 is marked

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69	71
t for identification)	1 testified earlier with respect to Exhibit 66 that the
2 Q. Exhibit 77 is ET0006189 and it's a memo to	2 blue outlined line running from the square, the pump
3 Chris Hart from John Hatch. Chris Hart was an IMCO	3 station, was a suction line and not a discharge line.
<pre>; representative; right?</pre>	4 You testified that it drew water off the 16-inch line
5 A. Yes.	5 into the pump station rather than the reverse,
6 Q. And this had to do with some changes that	$\epsilon$ discharged it out of the pump station and into the
7 were under design. Do you see that?	7 waterline.
A. Yes.	8 In view of Exhibit 77, would you like to
9 Q. You are copied on this document; correct?	9 reconsider your testimony about whether the line leaving
10 A. Yes.	10 from the south of the pump station is the discharge or
11 Q. Now, the first two bullet points, one is	11 suction line?
12 revise vertical alignment of 72-inch pipeline to clear	12 A. No. This is a suction line.
13 existing 16-inch waterline. And the other is revise	13 Q. It is a suction line?
14 alignment of 24-inch Dakin-Yew pump station discharge so	14 A. It is a suction line.
15 it does not cross the 72-inch pipeline.	15 Q. Do you have any idea what is Exhibit 77
16 I would like to look back at Exhibit 66 so	16 referring to a different line?
1? that we can have an understanding, if you are able to	17 A. It is a mistake. From what I'm seeing and
18 provide it for us, what these changes concern.	18 what I remember and know about it it wasn't a discharge.
19 A. I don't really recall the 72-inch being	19 It was a suction line that they were referring to.
20 changed. But if it was, I do remember something having	20 Q. Whether it's a suction line or a discharge
21 been done to raise it up higher, but I don't recall	21 line, Exhibit 77 is referring, is it not, to the line
22 directly what it was.	22 that is depicted on Exhibit 66 as running in a southerly
23 Q. Where does the 72-inch waterline cross the	23 direction from the pump station to a point south of the
24 16-inch waterline?	24 reducer between the 60-inch and the I guess it's a
25 A. Down here.	25 48-inch line and then to the west to where it connects
70	7:
70 1 MR. NICOLL: Do you want me to have him hold	7: 1 with a 16-inch waterline at the tee joint?
1 MR. NICOLL: Do you want me to have him hold	1 with a 16-inch waterline at the tee joint?
1 MR. NICOLL: Do you want me to have him hold 2 this up?	1 with a 16-inch waterline at the tee joint?2A. That's what it is referring to at the south
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DALEN V. OLYMPIC PIPE LINE	THOMAS W	. FRANKLIN 6-19	-00
	73		75
: MR. NICOLL: It would be a great time t		A. Yes.	
2 a break.		2 MR. FLOYD: Where are you looking at?	
3 (Off the record)		3 MR. NICOLL: Upper right hand corner.	
4 MR. BENINGER: Back on the record. T	ape	4 There's an arrow pointing to the little square pump	
5 number two of Mr. Franklin in the Olympic case	. Go	5 station.	
🗟 ahead.		6 MR. FLOYD: I got you.	
7 MR. NICOLL: The time is 11:38 or so.		Q. See drawing P-1. Let's go through those	
3 right. While we were on the break I dug out so	me	8 documents and find drawing P-1. Do you have that?	
3 drawings that I hope will get us squared away.	Let's	9 A. Yes.	
10 mark these in order.		10 Q. What exhibit is P-1?	
11 (Exhibit Nos. 78, 79, 80		11 A. It says pump station site plan.	
12 and 81 are marked for		12 Q. Exhibit 79?	
13 identification)		13 A. Right.	
14 MR. NICOLL: Exhibit 78 is a document		14 Q. So you see the pump station site plan. Now	
15 entitled the 60-inch outlet pipeline plan and pro		15 find that 24-inch line that runs off the south side of	
16 Barrett Consulting Group drawing C-4. We hav	e a Bates	16 the pump station?	
17 number for it of OPL1033478.		17 A. Yes.	
18 Exhibit 79 is drawing P-1. It's Bates nu		18 Q. Do you see that? Do you see the arrow	
19 OPL1033477. It's entitled pump station site pla	an,	19 pointing to it? It says pump station discharge.	
20 Barrett Consulting Group.		20 A. Yes, it does.	
21 Exhibit 80 is drawing number E-3 entities	edt	21 MR. FLOYD: See drawing P-11, is that what	
22 pump station site plan. It seems to be done by	Barrett	22 you are reading?	
23 Consulting Group and is it Casne?		23 MR. NICOLL: Yes.	
24 A. Yes.		24 Q. It says pump station discharge see drawing	
25 Q. Engineering, Inc. City engineering 000	002.	25 P-11. Why don't you highlight that in blue so that we	
	74		76
1 MR. FLOYD: What is 80?		1 have that.	
2 Q. 80 is city engineering 000002. And it's	s	2 A. Okay.	
3 entitled pump station site plan. And finally 81	is	3 Q. And also would you just highlight in blue	
4 IMC0001431 drawing number E-4 by Barrett Co	onsulting	4 that line that runs all the way over to the tee joint	
5 Group and Casne Engineering, Inc. entitled pun	np station	5 joining with the 16-inch waterline.	
6 power and control plans.		6 Now so we are clear, on Exhibit 79 the line	
7 You have those in front of you; right?		7 that you just highlighted is the one line that was later	
B A. Yes.		8 revised to intersect with the 16-inch line at a	
9 Q. Would you get the first one out? There	e you	9 different location. Isn't that right?	
10 go. Exhibit 78 is drawing number C-3; is that i	right?	10 A. Yes.	
11 A. Yes. C-4.		11 Q. Which is wrong? I mean I hate to put you on	
12 Q. C-4? Is it C-4?		12 the spot, but I guess	
13 MR. FLOYD: Should it be C-3?		13 A. The drawing is wrong.	
14 MR. NICOLL: Either one works.		14 Q. The drawing is wrong?	
15 MR. VERWOLF: C-3 is the 72-inch.		15 A. Yes.	
16 MR. NICOLL: I didn't mark C-3. I'm g	oing to	16 Q. It was a suction line?	
17 mark it 82.	-	17 A. Yes.	
18 (Exhibit No. 82 is marked		18 Q. So find on Exhibit 79 the discharge line	
19 for identification)		19 then.	
20 Q. Exhibit 82 is drawing C-3. It's OPL103	3480,	20 A. It's on the opposite side going out to the	
21 72-inch inlet pipeline plan and profile. Do you	•	21 large diameter pipe.	
22 Exhibit 82? The main thing I want to point out		22 Q. I hate to mix our colors, but for sake of	
23 and ask you to confirm is that next to the Daki		23 this let's draw the discharge line in red. There you	
24 pump station that is a reference that says see		24 go.	
25 P-1. Do you see that?		25 MR. FLOYD: Where did he put that under?	
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1       0. The discharge line in red runs from the north         2 side of the pump station	DALEN V. OLYMPIC PIPE LINE THO	MAS W	. FRANKLIN 6-1	9-00
<ul> <li>2 side of the pump station</li></ul>				79
MR. BENINGER: Mr. Franklin, would you mind holding tup?       3 recessarily, no.         MR. BENINGER: Mr. Franklin, would you mind holding tup?       4 Q. Can I have that exhibit back? On Exhibit 81         MR. FLOYD: Is that a 60 or 487 There's a reducer on it.       5 ome piping indicated in the drawing; is that right?         MR. FLOYD: Is that a 60 or 487 There's a       5 ome piping indicated in the drawing; is that right?         MR. FLOYD: Is that a 60 or 487 There's a       5 ome piping indicated in the drawing; is that right?         MR. FLOYD: Oxay.       3 A. Yes.         Q. Using the pipink marker would you please also locate the Olympic pipeline on the drawing, Exhibit 797       A. (Witness complies.)         A. Yes.       S one sping indicated in the drawing is the south from the puping station was not going to intersect or even come any closer than about l fifteen feet from the puping station was not going to intersect or even come any closer than about l fifteen feet from the puping ing to intersect or even come any closer than about l adking about where the discharge line was going to end l before the pipeline?         A. Yes.       M. BENINGER: Mr. Franklin, would you mind l the discharge line is here. It's called         J opeline is this along in here.       1's cousily you would 2's A. Yes.         I opeline is this along in here.       1's dually sout where it discharge in the discharge, a A. Yes.         Q. Mad would you uicrice in red the place where to the is this along in here.       1's here in the upper level plan lik solowing here indicates that it would b a a s		h	1	
4 holding it up?       4       Q. Can ( have that exhibit back? On Exhibit 81         5       A. Sure.       5       on the portion labeled upper level plan, in the upper 6         7       MR, FLOYD: Is that a 60 or 487 There's a       a       on the portion labeled upper level plan, in the upper 6         7       MR, FLOYD: Is that a 60 or 487 There's a       a       Q. Can ( have that exhibit back?         7       MR, FLOYD: Is that a 60 or 487 There's a       a       A. Wes.         2       Using the pink marker would you please also       10       A. Wes.         3       O. So where initially conceived, the 24-inch       12 asys future something or other.         3       Q. So where initially conceived, the 24-inch       15       Is the position and location of those pumps         1       fifteen feet from the pipeline; right?       A. Yes.       14 A. (Witness complies.)       15       Is the position and location of the pipe, pipe         2       A. Yes.       A. Yes.       14 the pumps and out.       Q. On the upper side?         2       A. Yes.       2. So what you would       2. So what you would       2. Q. To usuk it from the higher elevation down to         78       A. Yes.       0. In the upper level plan in discove the pipeline?       3. You suck it from the higher elevation down to         7       1			-	
5       Å Sure.         6       Q. Sure A Sure.         7       A Sure.         8       Q. And would you please also         9       MR. FLOYD: Is that a 60 or 487 There's a         9       MR. FLOYD: Statt a 60 or 487 There's a         9       MR. FLOYD: Okay.         10       Q. Using the pink marker would you please also         11       Q. Using the pink marker would you please also         12       Q. Using the pink marker would you please also         13       locate the Olympic oplepline on the drawing, Exhibit 797         4       A. (Witness complies.)         2       So on the portion labeled upper level plan, in the upper level and that say discharge         14       MR. FLOYD: Okay.         2       Q. Using the pink marker would you please also         3       Load the drawing, Exhibit 797         4       A. (Witness complies.)         5       A. Yes.         5       A. Yes.         1       pipeline is this along in here.         1       Life indicater and is that the discharge.         4       A. The discharge line is draw in blue the 16-inch         7       MR. FENINGER: And is that the discharge.         9       MAR. FeNINGER: And is that the discharge.		d		
9       Q and connects with the 60-inch line to the Inchard corner of that portion there is a pipeline or Some piping indicated in the drawing; is that right? A. Res.         9       M.R. FLOYD: Is that a 60 or 487 There's a reducer on it. A. Res.       9       Q. And that's 24-inch piping? A. Yes. Q. Using the pink marker would you please also Coate the Okympic pipeline on the drawing, Exhibit 79 A. Yes. Q. So where initially conceived, the 24-inch Inerunning to the south from the punp station was not I finer mean the pipeline; right? A. Yes. A. Witness complies.) A. Yes. A. Yes. A. Witness complies.) A. Yes. A. Witness complies.) A. Yes. A. Witness complies.) A. Yes. A. With the dischared in the drawing tathow at the bine hat the pink and the there	-		4 Q. Can I have that exhibit back? On Exhibit 81	
7         northwest: northeast sorry northwest.         ? some piping indicated in the drawing; is that right?           8         MR, FLOYD: Is that a 60 or 487 There's a         ? some piping indicated in the drawing; is that right?           9         MR, FLOYD: Is that a 60 or 487 There's a         ? Some piping indicated in the drawing; is that right?           9         MR, FLOYD: Is that a 60 or 487 There's a         ? Some piping indicated in the drawing; is that right?           9         MR, FLOYD: Us that a 60 or 487 There's a         ? Some piping indicated in the drawing;           9         MR, FLOYD: Us that a 60 or 487 There's a         ? Some piping indicated in the drawing;           9         MR, FLOYD: Us that a 60 or 487 There's a         ? Some piping indicated in the drawing;           9         MR, FLOYD: Us that a 60 or 487 There's a         ? Some piping indicated in the drawing;           9         A. Westerine inter intervent would you please also         ? Some piping indicated in the drawing;           9         A. Westerine intervent would you please also         ? Some piping indicated in the drawing;           9         A. Westerine intervent would you please also         ? Some piping indicated in the drawing;           10         Some piping indicated in the drawing;         ? Some piping indicated in the drawing;           10         Some piping indicated in the drawing;         ? Some piping indicated in the dr	5 A. Sure.		5 on the portion labeled upper level plan, in the upper	
3       MR. FLOYD: Is that a 60 or 487 There's a Freduer on it.       3       A. Yes.         9       MR. NCOLL: That's 48. That's a 60.       9       Q. And that's 24-inch piping?         1       MR. NCOLL: That's 48. That's a 60.       9       Q. And that's 24-inch piping?         2       Q. Using the pink marker would you please also locate the Orympic pipeline on the drawing, Exhibit 79       A. (Witness complies.)       1       Q. Now, at the point near the I guess you would         2       D. So where initially occereived, the 24-inch       1       I pressure transmitter something or other.         3       D. So where initially occereived, the 24-inch       15       Is the position and location of those pumps         6       Interventing to the south from the pump station was not       10       I the pressure transmitter something or other.         7       A. Yes.       15       Is the position and location of those pumps         1       Difficit is a payna and show us where you were just       12       20       On the upper side?         2       A. Yes.       10       Q. On the upper side?       2         1       Indicates that it would you also draw in blue the 16-inch       2       Q. So what you're saying is the location of the         3       What really was a suction, and that running into the       1       1       1       1 </td <td><math>\hat{e}</math> Q and connects with the 60-inch line to the</td> <td></td> <td>6 right hand corner of that portion there is a pipeline or</td> <td></td>	$\hat{e}$ Q and connects with the 60-inch line to the		6 right hand corner of that portion there is a pipeline or	
<ul> <li>Preducer on it.</li> <li>MR, NICOLL: That's 48. That's a 60.</li> <li>MR, RICOVD: Okay.</li> <li>Q. Using the pink marker would you please also</li> <li>locate the Olympic pipeline on the drawing, Exhibit 81.</li> <li>locate the Olympic pipeline on the drawing, Exhibit 81, can you tell us what Framily should you be able to in looking at</li> <li>4. A Tree discharge line intersect.</li> <li>m. BENINGER: MR. Franklin, would you mind</li> <li>tholding it up again and show us where you were just</li> <li>taking about where the discharge ine was going to end</li> <li>the pipeline?</li> <li>A. The discharge line is here. It's called</li> <li>discharge but it's actually suction line and the Olympic</li> <li>A. Yes.</li> <li>the pupeline?</li> <li>A. Yes.</li> <li>Q. And would you circle in red the place where</li> <li>the fishich waterline intersect; is that right?</li> <li>A. Yes.</li> <li>Q. And would you circle in red the place where</li> <li>the to water so miles.)</li> <li>Q. And would you circle in red the place where</li> <li>the to water ine intersect; is that right?</li> <li>A. Yes.</li> <li>Q. And hold it up so that the camera can see</li> <li>what really wate from the pupeline?</li> <li>A. Yes.</li> <li>Q. And hold it up so that the camera can see</li> <li>what you have done.</li> <li>The pointing to where the pipeline and the</li> <li>Si places?</li> <li>A. Yes.</li> <li>Q. Now let's take a look at another one of those</li> <li>G. Now, should you be able to in looking at</li> <li>A. Yes. The already gone through the pump.</li> <li></li></ul>	? northwest northeast sorry northwest.		? some piping indicated in the drawing; is that right?	
MR. NICOLL: That's 48. That's a 60.       MR. FLOYD: Okay.         MR. FLOYD: Okay.       Q. Using the pink marker would you please also         Biccate the Olympic pipeline on the drawing, Exhibit 797       A. (Witness complies.)         A. (Witness complies.)       Image and software from the puper set and the south from the puper set and the sou	3 MR. FLOYD: Is that a 60 or 48? There's a		8 A. Yes.	
1       MR, FLOYD: Okay,       11       Q. Now, at the point near the I guess you would         2       Q. Using the pink marker would you please also locate the Otympic (pipeline on the drawing, Exhibit 797       1       Q. Now, at the point near the I guess you would         2       Q. Using the pink marker would you please also locate the Otympic (pipeline) on the drawing, Exhibit 797       1       So where initially conceived, the 24-inch       15       Is the position and location of those pumps         3       Q. So where initially conceived, the 24-inch       15       Is the position and location of those pumps         1       gling to intersect or even come any closer than about       16       TA       You pump water from higher to lower.         3       Distribution was where you were just       20       A. Yes.       17       7         3       Defore the pipeline?       Q. To the upper side?       2       A. Yes.       10       10       10       10       10       10       10       14 <t< td=""><td>9 reducer on it.</td><td></td><td>9 Q. And that's 24-inch piping?</td><td></td></t<>	9 reducer on it.		9 Q. And that's 24-inch piping?	
2Q. Using the pink marker would you please also3locate the Olympic pipeline on the drawing, Exhibit 7974A. (Witness compiles.)5Q. So where initially conceived, the 24-inch6Iner running to the south from the pump station was not7A. (Witness compiles.)9A. Yes.9M. BENINGER: Mr. Frankin, would you mind1holding it up again and show us where you were just2laking about where the discharge line was going to end3before the pipeline?4A. The discharge line is here. It's called5Jippeline is this along in here.2MR. BENINGER: And is that the discharge,1pipeline is this along in here.2M. BENINGER: And is that the discharge,3Q. Would you also draw in blue the 16-inch1waterally was a suction, and that running into the3Q. And would you circle in red the place where4A. (Witness compiles.)9Q. And would you circle in red the place where10The 24-inch line?2A. (Witness compiles.)3Q. And would you circle in red the place where4105J. An Would you also draw in blue the 16-inch1wattrall was asuction, and that running into the2A. (Witness compiles.)3Q. And would you circle in red the place where5J. A. (Witness compiles.)9Q. And would you circle in red the place where10The 24-inch line extest w	10 MR. NICOLL: That's 48. That's a 60.		10 A. Yes.	
13 locate the Olympic pipeline on the drawing, Exhibit 797       13 says future pump number five and it says discharge         14 A. (Witness compiles.)       13 says future pump number five and it says discharge         14 pressure transmitter something or other.       15 sth position and location of those pumps         15 line running to the south from the pump station was not       15 sth position and location of those pumps         16 line running to the south from the pump station was not       16 consistent with a discharge as opposed to suction?         17 A, Yes.       17 A, Yes.         18 bits along in here.       12 Q. On the upper side?         19 pipeline is this along in here.       2         19 pipeline is this along in here.       78         19 pipeline is this along in here.       78         19 pipeline is this along in here.       2         19 A, Yes.       14 the pumps and out.         19 A, Yes.       14 the pumps and out.         19 A, Witness complies.)       78         10 Q, And would you also draw in blue the 15-inch       14 the pumps and out.         10 Q, And would you also draw in blue the 15-inch       78         10 Q, And would you circle in red the place where       14 consistent with it being a suction of the asys discharge         19 Q. And would you circle in red the place where       15 A, Yes.         10 Q, Now let's take a loo	11 MR. FLOYD: Okay.		11 Q. Now, at the point near the I guess you would	
4       A. (Witness complies.)       13 pressure transmitter something or other.         5       Q. So where initially conceived, the 24-inch       15 Is the position and location of those pumps         1       Joing to intersect or even come any closer than about       16 consistent with a discharge as opposed to suction?         1       Going to intersect or even come any closer than about       17 going to intersect or even come any closer than about         2       A. Yes.       19 typically via you pump water from higher to lower.         9       A. Yes.       19 typically via you pump water from higher to lower.         10 difing it up again and show us where you were just       21       Q. On the upper side?         2 taking about where the discharge line is here.       11's A. Yes. Singing water down.         2       A. The discharge line is here.       11's the pumps and out.         2       A. The discharge in the discharge,       11'the pumps and out.         3       MR. BENINGER: And is that the discharge,       1'the pumps and out.         4       A. Yes.       1'the pumps and out.         2       Witness complies.)       78         1       1'the pumps and out.       7         2       Wast really was a suction, and that running into the       1'the pumps and out.         3       A. (Witness complies.)       7 <td>12 Q. Using the pink marker would you please also</td> <td>0</td> <td>12 call it a bubble or a cloud, there is a notation that</td> <td></td>	12 Q. Using the pink marker would you please also	0	12 call it a bubble or a cloud, there is a notation that	
5       Q. So where initially conceived, the 24-inch       Is the position and location of those pumps         6 line running to the south from the pump station was not       Joing to intersect or even come any closer than about         9 (a) for the intersect or even come any closer than about       Joing to intersect or even come any closer than about         9 (b) A. Yes.       A. Yes.         9 (b) A. Yes.       Joing to intersect or even come any closer than about         10 (b) MR. BENINGER: Mr. Franklin, would you wind you must ar from higher to lower.         11 (b) A. You again and show us where you were just         12 the discharge line is here. It's called         13 before the pipeline?         14 A. The discharge line is here.         15 micro line?         78         16 pipeline is this along in here.         17 pipelline is this along in here.         16 Q. Nother the pipeline;         17 No. Voul you also draw in blue the 16-inch         18 Q. Not would you also draw in blue the 16-inch         19 Q. And would you cicle in red the place where         10 (Jympic's pipeline?         2 A. Yes.         3 Q. And hold it up so that the camera can see         4 what you have done.         10 (Jympic's pipeline?         2 A. Yes.         3 Q. Now let's take a look at another one of those	13 locate the Olympic pipeline on the drawing, Exhibit 3	79?	13 says future pump number five and it says discharge	
6 line running to the south from the pump station was not       16 consistent with a discharge as opposed to suction?         7 going to intersect or even come any closer than about       17 A. You are looking at the upper level and         8 fifteen feet from the pipeline; right?       18 typically you pump water from higher to lower.         9 A. Yes.       19 Typically it would be a suction side of the pipe, pipe         10 A. The discharge line is here.       12 Q. On the upper side?         2 taking about where the discharge line is here.       12 an sorry. I thought you just said that         2 discharge but it's actually suction line and the Olympic       23 Q. I am sorry. I thought you just said that         2 mR. BENINGER: And is that the discharge,       1 the pumps and out.         2 mR. BENINGER: And is that the discharge,       1 the pumps and out.         2 MR. BENINGER: And is that the discharge,       2 Q. So what you're saying is the location of the         3 what really was a suction, and that running into the       16 -inch         4 A. Yes.       2 Q. Notice the location of the north marker.         6 Q. Would you also draw in blue the 16-inch       3 discharge on the         4 A. Yes.       4 wat vou have done.         5 A. (Witness complies.)       7 Q. Notice the location of the north marker.         9 Q. And would you circle in red the place where       10 The 24-inch line exiting the building on the	14 A. (Witness complies.)		14 pressure transmitter something or other.	
7 going to intersect or even come any closer than about       11       A. You are looking at the upper level and         13 fifteen feet from the pipeline; right?       13       Ypically you pump water from higher to lower.         14 holding it up again and show us where you were just       13       Typically it would be a suction side of the pipe, pipe         14 holding it up again and show us where you were just       12       Q. On the upper side?         12 talking about where the discharge line is here. It's called       20       System.         14 A. The discharge line is here. It's called       21       Q. On the upper side?         15 discharge but it's actually suction line and the Olympic       78       1         16 offinitie is this along in here.       2       Q. So what you're saying is the location of the         16 offinitie is this along in here.       2       Q. So what you're saying is the location of the         3 what really was a suction, and that running into the       1       the upper level plan like showing here         6       Q. Would you also draw in blue the 16-inch       1       Q. No the upper level plan like showing here         5       A. (Witness complies.)       2       Q. So what you're saying is the location of the anorth marker.         9       Q. And would you circle in red the place where       1       3         10 lympic's pipeline?       2 </td <td>Q. So where initially conceived, the 24-inch</td> <td></td> <td>15 Is the position and location of those pumps</td> <td></td>	Q. So where initially conceived, the 24-inch		15 Is the position and location of those pumps	
3 fifteen feet from the pipeline; right?       13 typically you pump water from higher to lower.         9 A. Yes.       19 Typically it would be a suction side of the pipe, pipe         9 MR. BENINGER: Mr. Franklin, would you mind       10 tholding it up again and show us where you were just       20 On the upper side?         2 taiking about where the discharge line is here. It's called       20 On the upper side?       22 A. Yes. Bringing water down.         3 before the pipeline?       20 On the upper side?       22 A. Yes. Bringing water down.         3 before the pipeline?       20 On the upper side?       22 A. Yes. Bringing water down.         4 fipipeline is this along in here.       20 On the upper side?       22 A. You suck it from the higher elevation down to         78       78       1       1       1       1         9 And Bild in the?       2       2. So what you're saying is the location of the       3         3 discharge on the       3       4. On the upper level plan like showing here       5         6 Q. Would you also draw in blue the 16-inch       4 A. On the upper level plan like showing it.       7         9 A. Weiness complies.)       9       9 want to make sure we have this correct.         10 Supric's pipeline?       10       The 24-inch line exiting the building on the         10 Supricy spipeline?       12       A. Yes.       13	16 line running to the south from the pump station was	not	16 consistent with a discharge as opposed to suction?	
3 fifteen feet from the pipeline; right?       13 typically you pump water from higher to lower.         9 A. Yes.       19 Typically it would be a suction side of the pipe, pipe         9 MR. BENINGER: Mr. Franklin, would you mind       10 tholding it up again and show us where you were just       20 On the upper side?         2 taiking about where the discharge line is here. It's called       20 On the upper side?       22 A. Yes. Bringing water down.         3 before the pipeline?       20 On the upper side?       22 A. Yes. Bringing water down.         3 before the pipeline?       20 On the upper side?       22 A. Yes. Bringing water down.         4 fipipeline is this along in here.       20 On the upper side?       22 A. You suck it from the higher elevation down to         78       78       1       1       1       1         9 And Bild in the?       2       2. So what you're saying is the location of the       3         3 discharge on the       3       4. On the upper level plan like showing here       5         6 Q. Would you also draw in blue the 16-inch       4 A. On the upper level plan like showing it.       7         9 A. Weiness complies.)       9       9 want to make sure we have this correct.         10 Supric's pipeline?       10       The 24-inch line exiting the building on the         10 Supricy spipeline?       12       A. Yes.       13	17 going to intersect or even come any closer than abo	ut	17 A. You are looking at the upper level and	
0       MR. BENINGER: Mr. Franklin, would you mind       20 system.         1 holding it up again and show us where you were just       21 Q. On the upper side?         2 talking about where the discharge line was going to end       22 A. Yes. Bringing water down.         3 before the pipeline?       2. A. Yes. Bringing water down.         4 A. The discharge line is here. It's called       22 A. Yes. Bringing water down.         5 discharge but it's actually suction line and the Olympic       78         7 pipeline is this along in here.       78         1 holding it up again and show us where you were just       78         78       78         78       78         78       2. O. So what you're saying is the location of the         3 what really was a suction, and that running into the       1 the pumps and out.         2 MR. BENINGER: And is that the discharge,       9. So what you're saying is the location of the         3 discharge on the       4. A. On the upper level plan like showing here         5 indicates that it would be a discharge where it's lower       6 access. It's not showing it.         7 Q. And would you circle in red the place where       9 want to make sure whave this correct.         9 A. Weiters scomplies.)       10 The 24-inch line exiting the building on the         10/pmpic's pipeline?       2. Right? And you are saying that that's	18 fifteen feet from the pipeline; right?		18 typically you pump water from higher to lower.	
1 holding it up again and show us where you were just       2         1 holding it up again and show us where you were just       2         2 talking about where the discharge line was going to end       2         3 before the pipeline?       2         4 A. The discharge line is here. It's called       2         3 before the pipeline?       2         4 A. The discharge but it's actually suction line and the Olympic       2         78       7         1 pipeline is this along in here.       2         2 MR. BENINGER: And is that the discharge,       3         3 what really was a suction, and that running into the       1         1 6-inch line?       2         5 A. Yes.       1         6 Q. Would you also draw in blue the 16-inch       1         7 Waterline that it tied into?       2         3 A. (Witness complies.)       3         3 Q. And would you circle in red the place where       1         1 Olympic's pipeline?       4         2 A. (Witness complies.)       3         3 Q. And hold it up so that the camera can see       1         4 what you have done.       1         5 I'm pointing to where the pipeline and the       2         6 Jown ket's take a look at another one of those         9 A. Now let's t	19 A. Yes.		19 Typically it would be a suction side of the pipe, pipe	
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14 pipeline in relationship to the pipes that we were going       14 Q. Is that 18 or 16?         15 to install.       16 A. It says 18. Right?         16 or anywhere on the site?       16 A. It says 18. Right?         17 MR. FLOYD: All pipes where; on the diagram       17 and check that and make sure.         18 or anywhere on the site?       18 A. It says 18. Right?         19 Q. Throughout the site.       19 and check that and make sure.         19 Q. Throughout the site.       19 relocated as required.         20 Q. Out of the water treatment plant. A profile for that       20 Q. But the line it was tying into was a 16-inch         21 uot of the water treatment plant. A profile for that       20 A. It says a design layout cross referencing         21 Q. One drawing a design layout cross referenced the Olympic pipeline with the other lines would not       21 that for 16?         22 A. It aline if that line wasn't going to actually come close       21 relocated it further out and then made the angles         2 to or intersect the Olympic pipeline. Is that correct,       3 Q. Why don't you highlight in blue that existing         3 for Security in a pipe is known within the profile       3 (A. Witness complies.)         5 calls for speculation and it's vague as to form.       5 A. Usually if a pipe is known within the profile         3 of a pipe that we are installing we show the elevation       9 A. It as that, but that 24-inch dischareg line is depicted         3	DALEN V. OLYMPIC PIPE LINE T	HOMAS W.	FRANKLIN 6-	19-00
Q. Exhibit 82, we taiked about this earlier.       112 drawing number	1 A Yes	81		83
3 It's drawing number <ul> <li>MR. FLOYD: 827</li> <li>Q. 82, it's drawing number C-3. Since we've</li> <li>Stat drawing exhipt C-3?</li> </ul> 3 A. 1 don't know.           3 Description         Q. 82, it's drawing number C-3. Since we've         5 A. No., 1 can't.           5 on Exhibt 82, it says existing 16-inch percentum         9 pointe and then there is a line going down to a zero?         6 A. No., 1 can't.           9 A. Yes.         Q. If the 24-inch line was going to cross the         10 to have a profile that deprices?           12 you the document. Okay? What does that portion of the Olympic?         10 to have a profile that deprice?           13 to instail.         Q. If the going to highlight that in pink and hand           14 oplenie in relationship to the pipes that we were going         15 to have a profile that deprice?           15 to instail.         Q. Al pipes or just the 60-inch pipes?           16 on symphere on the site?         16 and check that and make sure.           17 where an the site?         17 and check that and make sure.           18 or intersect the Olympic bipline with the torber lines would not         2 waterline. If was a sit is shawing.           19 or intersect the Olympic oplenie. Is that correct, or intersect the Olympic oplenie. Is that orber lines would not a sero?         2 waterline. I think they came through earlier and the approximate dimension of the pipe.           1 a line if that line washi! is showing.         2 w	-		• •	
MR. FLOYD: 827       Q. Can you find that 24-inch line in profile on         Source       Q. Can you find that 24-inch line in profile on         Source       Q. Can you find that 24-inch line in profile on         Source       Q. Can you find that 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Q. If the 24-inch line was going to cross the         Source       Source       Reference         Source       Reference       Reference         Source       Referenc		1		
9       Q. 82, it's drawing number C-3. Since we've       5 that drawing exhibit C-3?         6 been soft middle it, do you see this notation       6 been soft middle it, do you see this notation         7       A. No, I can't.       0. If the 24-inch line was going to cross the         9 pointe on the there is a line going down to a zero?       2.4-inch, i'm sorry, the pipeline where it would be         9. A. Yes.       10 to have a profile that deputed?         11. A. Yes.       10 to have a profile that deputed?         12. You the document. Okay? What does that portion of       10 to have a profile that deputed?         13. A. It's identifying the elevation of the Olympic       13 the 16-inch petroleum.         14. Options or just the 60-inch pipes?       13. A. It says it's an existing 18-inch water         15. On or drawing a design layout cross referencing       2. A. It show specifically the 72-inch discharging         12. One drawing a design layout cross referencing       2. A. It show specifically the 72-inch discharging         12. One drawing a design layout cross referencing       2. A. It show specifically the 72-inch discharging         12. One drawing a design layout cross referencing       2. He is weas yneitine. It have the same the other lines would not         13. A that is correct.       3. Q. But the line it was thig in the was a 16-inch         14. Derole on the site?       4. It calls deal the inthe the rereise         15.				
6 been using pink to indicate it, do you see this notation <ul> <li>7 on Exhibit 82, it says existing 16-inch petroleum             <ul> <li>9 pipeline and then there is a line going down to a zero?</li> <li>9 A. Yes.</li> <li>9 out of down to a zero?</li> <li>9 A. Yes.</li> <li>9 out of down to a zero?</li> <li>9 A. It's deviction of                  12 Exhibit 82, depic? What does that portion of                  12 Exhibit 82, depic? What is it trying to depic?</li>                  13 A. It's deviction of                  12 Exhibit 82, depic? What is events of the olympic                  14 ippeline in relationship to the pipes that we were going                  15 to instal.</ul></li>                  15 Q. All pipes or just the 60-inch pipes?                  16 A. It's avers specifically the 72-inch discharging                  13 or anymere on the site?                  13 or anymere on the site?                  13 or anymere or the site?                  13 or anymere or the site?                  13 or anymere or the site?                  13 or is that too difficult and convoluted a question to                  14 possibly answer?                  14 out of the approximate dimension of the pipe.                  14 out that 24-inch what is referred to on the                  15 or instact too difficult and convoluted a question to                  14 possibly answer?                  14 page is known within the profile.                  14 sub approximate dimension of the pipe.                  14 page is known within the profile.                  14 page is known which the profile.                  15 and charge the approximate dimension of the pipe.                  14 page is known which the profile.                  15 and commig no closer really than fitten redeviation</ul>		1		Ì
1 on Exhibit 82, if Say's existing 16-inch petroleum       ?       Q. If the 24-inch line was going to cross the         2 pipeline and then there is a line going down to a zero?       ?       Q. If the 24-inch line was going to cross the         ?       Q. I'm going to highlight that in pink and hand       ?       ?         ??       Q. I'm going to highlight that in pink and hand       ?       ?         ??       Q. I'm going to highlight that in pink and hand       ?       ?         ??       Q. I'm going to highlight that in pink and hand       ?       ?         ??       Q. I'm going to highlight that in pink and hand       ?       ?         ??       A. It's identifying the elevation of the Olympic       ?       ?         ??       A. It's identifying the elevation of the Olympic       ?       ?         ??       A. It's identifying the elevation of the Olympic       ?       ?         ??       A. It's ays is 18.       ?       A. It's ays is 18.       ?         ??       Q. The updot the site?       ?       ?       A. It's ays is 18.       ?         ??       A. It's ays is 18.       ?       A. It's ays is 18.       ?       ?       ?         ??       A. It's ays is 18.       ?       A. It's ays is 18.       ?       ?       <			-	
<ul> <li>2 pipeline and then there is a line going down to a zero?</li> <li>3 Pipeline and then there is a line going down to a zero?</li> <li>3 A. It's, i'm going to highlight that in pink and hand</li> <li>1 you the document. Okay? What does that portion of</li> <li>1 A. It's don'tfying the elevation of the Olympic</li> <li>2 A. It's don'tfying the elevation of the Olympic</li> <li>3 A. It's identifying the elevation of the Olympic</li> <li>3 A. It's identifying the elevation of the Olympic</li> <li>3 A. It's don't be pipes that we were going</li> <li>3 A. It's identifying the follow by a degram</li> <li>3 A. It's identifying the 72-inch discharging</li> <li>3 A. It's a start treatment plant. A profile for that</li> <li>3 A. It's a start treatment plant. A profile for that</li> <li>3 A. It's a start treatment plant. A profile for that</li> <li>3 A. It's a start the down in the star.</li> <li>3 A. It's a start the other lines would not</li> <li>3 A. It's a start to a start the other lines would not</li> <li>4 a line if that line wasn't going to actually come close</li> <li>1 a line if that line wasn't going to actually come close</li> <li>1 a line a proximate dimension of the pipe.</li> <li>4 A. Baxbary I's appe is a form. It's</li> <li>5 Compound also. Go ahead. You can answer it if you can.</li> <li>4 A. That's correct.</li> <li>4 A. That's correct.</li> <li>4 A. That's correct.</li> <li>4 A. That's correct.</li> <li>5 Q. Op ou know whether or not that is an</li> <li>5 Pipeline and Coming no closer really than filteen feet</li> <li>4 reals for speculation.</li> <li>4 I's aline in the aprofile to into the 16-inch waterine;</li> <li>5 A. That's correct.</li> <li>5 A. That's correct.</li> <li>5 A. That's correct.</li> <li>6 A. Davi know whether or not that is an</li> <li>5 A. That's correct.</li> <li>6 A. Davi know whether or not the star an</li> <li>5 A. That's correct.</li> <li>7 A. That's correct.</li> <li>7 A. Davis I's appendive a start is a start is a start an the approximate dimension of the pipe.</li> &lt;</ul>		1	• • • • • • • • • • • • • • • • • • • •	
<ul> <li>A. Yes.</li> <li>Q. I'm oging to highlight that in pink and hand</li> <li>You the document. Okay? What does that portion of</li> <li>You the document. Okay? What does that portion of</li> <li>You the document. Okay? What does that portion of</li> <li>You the document. Okay? What does that portion of</li> <li>You the document. Okay? What does that portion of the Olympic</li> <li>A. It's identifying the elevation of the Olympic</li> <li>You the document. Okay? What is it trying to depict?</li> <li>A. It's identifying the elevation of the Olympic</li> <li>You the document. Okay? What is it trying to depict?</li> <li>A. It's identifying the elevation of the Olympic</li> <li>You the document. Okay? What is it trying to depict?</li> <li>A. It's identifying the elevation of the Olympic</li> <li>You the document. Okay? What is it trying to depict?</li> <li>A. It's identifying the elevation of the Olympic of the site.</li> <li>Q. All pipes or just the 60-inch pipes?</li> <li>A. It's shows specifically the 72-inch discharging</li> <li>Q. One drawing a design layout cross referencing?</li> <li>Q. One drawing a design layout cross referencing?</li> <li>You fit that line wasn't going to actually come close</li> <li>You fit that officult and convoluted a question to</li> <li>You shat to dofficult and convoluted a question to</li> <li>You shat to dofficult and convoluted a question to</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch what is referred to on the</li> <li>You that 24-inch discharge line is dopictd</li> <li>You that 24-inch discharge line is dopictd</li> <li>You that 24-inch what is referred to on the</li> <li>Y</li></ul>	· ·		-	
<ul> <li>Q. I'm going to highlight that in pink and hand</li> <li>you the document. Okay? What does that portion of the pipeline in relationship to the pipes that we were going to instant.</li> <li>(a) All sight of the pipes that we were going to anywhere on the site?</li> <li>(b) All pipes or just the 60-inch pipes?</li> <li>(c) All pipes or just the 60-inch pipes?</li> <li>(c) All pipes or just the 60-inch pipes?</li> <li>(c) All pipes where; on the diagram</li> <li>(c) All pipes or just the 60-inch pipes?</li> <li>(c) All sows specifically the 72-inch discharging</li> <li>(c) All or drawing a design layout cross referencing</li> <li>(c) All or drawing a design layout cross referencing</li> <li>(c) All or drawing a design layout cross referencing</li> <li>(c) All sows specifically the 72-inch discharging</li> <li>(c) All or the water treatment plant. A profile for that</li> <li>(c) All sows specifically the 72-inch discharging</li> <li>(c) All sows specifical that other lines would not</li> <li>(c) All sows specifical that dire was it is the</li> <li>(c) All sows specifical that dire was it is the</li> <li>(c) All sows specifical that dire was it if you can</li> <li>(c) All sows specifical that is referred to on the</li> <li>(c) All sows specifical in a dire you anywer?</li> <li>(c) All sows a discharge line and I'm going to refer to it as that, but that 24-inch discharge line is dopicted in the initial plans as not intersecting with the spipeline and coming no closer really than fifteen feet if you know whether or not that is an</li> <li>(c) All sows a precise rendition of the pipe:</li> <li>(c) All sows a precise rendition of the precise is posibly anywer?</li> <li>(c) All sows a precise rendition of the precise is posible and coming no</li></ul>		1		
11 you the document. Okay? What does that portion of         12 Exhibit 82 depict? What is it trying to depict?         13 A. It's identifying the elevation of the Olympic         14 pipeline in relationship to the pipes that we were going         15 or install.         16 Q. All pipes or just the 60-inch pipes?         16 Q. All pipes or just the 60-inch pipes?         17 MR. FLOYD: All pipes where; on the diagram         18 or anywhere on the site?         19 Q. Throughout the site.         11 A. Actually I was wrong. There is an 18-inch         12 A. It's always it's an existing 18-inch water         13 out of the water treatment plant. A profile for that         12 line is what it's showing.         20 Q. One drawing a design layout cross referencing         21 a line if that line wasn't going to actually come close         21 to or instrast the Olympic line with         22 or instrast the Olympic pipeline. Is that correct,         23 or is that too difficult and convoluted a question to         24 a line if that line wasn't going to actually come close         25 MR. SCANLAN: I'm going to object that it         26 alpipe that we are installing we show the elevation         3 A. Usually if a pipe is known within the profile         3 or anywhers an docimag sa so tintersecting with the         3 or pipe that we are installing we show the elevation				ed
12 Exhibit 82 depict? What is it trying to depict?       12 waterline shown in here in the profile. Right next to         13 A. It's identifying the elevation of the Olympic       13 the 16-inch petroleum.         14 Q. All pipes or just the 60-inch pipes?       14 A. It's ays 18. Right?         15 Or anywhere on the site?       13 and check that and make sure.         16 Or anywhere on the site?       13 and check that and make sure.         17 Q. Throughout the site.       13 and check that and make sure.         18 Or anywhere on the site?       13 and check that and make sure.         19 Q. Or drawing a design layout cross referenced       20 Q. But the line it was tying into was a 16-inch         21 us if is an existing 18-inch water       21 waterline. I'm not aware of any 18-inch line.         22 is is 16 or 18. But my recollection was that is the       21 waterline. I'm not aware of any 18-inch line.         22 is is 16 or 18. But my recollection was that is the       21 waterline. I'm not aware of any 18-inch line.         23 or intersect the Olympic pipeline. Is that correct,       3 or is that to difficult and convoluted a question to         3 or is that to difficult and convoluted a question to       3 Q. Why don't you highlight in blue that existing         4 possibly answer?       3 A. (Witness complies.)         5 calls for speculation and it's vague as to form.       3 A. (Witness complies.)         6 Q. That 24-inch what is referred to on the		1	•	
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14 pipeline in relationship to the pipes that we were going       14       Q. Is that 18 or 16?         15 to install.       A. It says 18. Right?         16 or anywhere on the site?       16 A. It says 18 an existing 18-inch water         19 or Anywhere on the site?       18 A. It says 16's an existing 18-inch water         19 or Anywhere on the site?       19 and check that and make sure.         10 or the water treatment plant. A profile for that       19 and check that and make sure.         21 out of the water treatment plant. A profile for that       20 and the water treatment plant. A profile for that         21 line is what it's showing.       21 it's 16 or 18. But my recollection was that is the         22 une is what it's showing.       22 it's 16 or 18. But my recollection was that is the         23 no is that too difficult and convoluted a question to       24 reason that the 72-inch had to be moved, to miss that         24 a line if that line wasn't going to actually come close       24 ifferent.         25 or intersect the Olympic pipeline. Is that correct,       3 Q. Why don't you highlight in blue that existing         3 compound also. Go ahead. You can answer if if you can.       4 if dor 16?         3 drawing as a discharge line and I'm going to refere to       11 was a precise rendition of the ines under the around you wouldn't need to have people         2 Q. Diva know whether or not that is an       19 or tot ine asa precise rendition of the location </td <td>· · · · · · · · · · · · · · · · · · ·</td> <td></td> <td>2 waterline shown in here in the profile. Right next to</td> <td></td>	· · · · · · · · · · · · · · · · · · ·		2 waterline shown in here in the profile. Right next to	
15 to install.       15 A. It says 18. Right?         16 or anywhere on the site?       16 or anywhere on the site?         17 or anywhere on the site?       18 or anywhere on the site?         18 or anywhere on the site?       19 and check that and make sure.         19 Q. Throughout the site.       19 and check that and make sure.         19 Q. Throughout the site.       19 and check that and make sure.         19 Q. Throughout the site.       19 relocated as required.         20 A. It shows specifically the 72-inch discharging       20 Q. But the line it was trying into was a 16-inch         21 une is what it's showing.       20 Q. One drawing a design layout cross referencing       21 al ine if that line wasn't going to actually come close         21 to instract the Olympic pipeline. Is that correct,       20 ris that too difficult and convoluted a question to       21 relocated it further out and then made the angles         21 cor intersect the Olympic pipeline. Is that correct,       30 Q. Why don't you highlight in blue that existing         31 and cheapproximate dimension of the pipe.       34 (With so you know whether or not         32 MR. FLOYD: I will object to form. It's       34 (Joan't know.         33 compound also. Ga abead. You can answer it foy ucan.       34 (Joan't know.         34 at shat, but that 24-inch discharge line is depicted       34 (Joan't know.         35 A. Hasying to bis into the 16-inch waterline;		· /	•	
15       Q. All pipes or just the 60-inch pipes?       15       MR. FLOYD: You better get your glasses on         17       MR. FLOYD: You better get your glasses on       17 and check that and make sure.         18       A. It says it's an existing 18-inch water         19       Q. Throughout the site.       18         20       A. It says it's an existing 18-inch water       19         21       Q. Throughout the site.       19         20       A. It says it's an existing 18-inch water       19         21       Q. Throughout the site.       19         22       Q. Due drawing a design layout cross referencing       20       Q. But the line it was thin its the         23       Q. One drawing a design layout cross referencing       21       Waterline. I'm not aware of any 18-inch line.         23       Waterline. I'm not aware of any 18-inch line.       22       Waterline. I'm not aware of any 18-inch line.         24       Ine if that line wasn't going to actually come close       21       Waterline. I'm not aware of any 18-inch line.         25       or intersect the Olympic pipeline. Is that correct,       30       Q. Why don't you highlight in blue that existing         3       18 or 167       S       A. (Witness complies.)       S         3       Compound also. Go ahead. You can anseer if y ou can			-	
17       MR. FLOYD: All pipes where; on the diagram       17 and check that and make sure.         18 or anywhere on the site?       19       A. It says it's an existing 18-inch water         19 or anywhere on the site?       19       A. It says it's an existing 18-inch water         19 or anywhere on the site?       19       relocated as required.         20 or of the water treatment plant. A profile for that       20       Q. But the line it was tying into was a 16-inch         21 out of the water treatment plant. A profile for that       20       Q. But the line it was tying into was that is the         21 out of the water treatment plant. A profile for that       21       A. It could be 16-inch. I can't tell whether         22 O. One drawing a design layout cross referencing       21 is 16 or 18. But my recollection was that is the         22 A. Throughout the site.       21 a line if that line wasn't going to actually come close       22 and the the out and then made the angles         23 or is that too difficult and convoluted a question to       40 solidy and the site of the precise       32         3 or is that too difficult and sono within the profile       3       418 or 167         5 MR. SCANLAN: I'm going to object that it       5       C. Why don't you highlight in blue that existing         4 is a stat, but that 24-inch what is referred to on the       2       C. That 24-inch what is referred to on the         3 or			, ,	ļ
13 or anywhere on the site?       13 or anywhere on the site?         14 or anywhere on the site?       13 A. It says it's an existing 18-inch water         15 or anywhere on the site?       19 clocated as required.         16 or anywhere on the site?       19 clocated as required.         17 or anywhere on the site?       19 clocated as required.         18 or anywhere on the site?       20 Che drawing a design layout cross referencing         19 clocated is the water treatment plant. A profile for that       20 Q. But the line it was tying into was a 16-inch         21 out of the water treatment plant. A profile for that       20 Q. Du drawing a design layout cross referencing       20 Q. But the line it was tying into was a 16-inch         22 or of the water treatment plant. A profile for that       21 waterline. I'm not aware of any 18-inch line.         23 Q. One drawing a design layout cross referencing       21 if is 16 or 18. But my recollection was that is the         24 the Olympic pipeline. Is that correct,       30 re hintic loging to actually come close       21 if elocated it further out and then made the angles         2 to intersect the Olympic pipeline. Is that correct,       30 Q. Why don't you highlight in blue that existing         5 an K. FLOYD: I'm object that it       5 A. (Witness complies.)       5 Q. Okay. Now, do you know whether or not         5 A. Usually if a pipe is known within the profile       9 A. It says a unouldn't need to have people			+	
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20       A. It shows specifically the 72-inch discharging       23       Q. But the line it was tying into was a 16-inch         21 out of the water treatment plant. A profile for that       24       waterline. I'm not aware of any 18-inch line.         21 out of the water treatment plant. A profile for that       24       waterline. I'm not aware of any 18-inch line.         22 Q. One drawing a design layout cross referencing       24       waterline. I'm not aware of any 18-inch line.         22 Q. One drawing a design layout cross referencing       24       waterline. I'm not aware of any 18-inch line.         23 Q. One drawing a design layout cross referencing       24       waterline. I'm not aware of any 18-inch line.         24 the Olympic pipeline with the other lines would not       24       waterline. I'm not aware of any 18-inch line.         24 the Olympic pipeline with the other lines would not       24       waterline. I'm not aware of any 18-inch line.         25 or intersect the Olympic pipeline. Is that correct,       30       Q. Why don't you highlight in blue that existing         3       18 or 167       3       Q. Why don't you know whether or not         4       pospita that its prefile to form. It's       3       A. (Witness complies.)         5       Campound also. Go ahead. You can answer it if you can.       4       5       A. (Witness you wouldn't need to have people         2       G	•	1	8 A. It says it's an existing 18-inch water	
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23 though.	-			•
DEAN MOBURG & ASSOCIATES - SEATTLE, WA (206) 622-3110 21				

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	/ FRANKLIN 6-19-
85	
A. That's correct. It was potholed before the	AFTERNOON SESSION
2 plans were constructed.	2 June 19, 2000
3 Q. And I think you testified earlier that it was	3 1:25 p.m.
about a year before you came out?	4
<ol> <li>A. Yes, give or take.</li> </ol>	5 MR. BENINGER: Back on the record. It's
Q. And then Exhibit 80, would you take a look at	6 afternoon approximately 1:25 or so on June 19.
that? And this will be the last thing we talk about	? MR. NICOLL: I've got a couple more drawings
$\delta$ before we break for noon.	B that I want to mark.
9 Can you tell me what that is?	9 (Exhibit Nos. 83, 84, 85
10 A. It's says pump station site plan. I believe	10 are marked for identification)
11 it has to do with identifying the areas where power is	11 MR. NICOLL: For the record and for everybody
12 going to be run from the pump station or from the water	12 searching for their copy, Exhibit 83 is drawing number
13 treatment plan out to the pump station.	13 P-2, ET0007904. 84 is another version of drawing numb
14 Q. You notice in the upper left hand corner of	14 C-3, ET08114. And 85 is another P-1 pump station site
15 the document there is a date?	15 plan. It's ET0010329.
16 A. Yes. 6/14/99.	16 I'm putting in the other copies just because
17 Q. And you will also notice in the lower right	17 the earlier ones had some handwriting on them. I want
13 hand corner there is a reference to City ENG 000002?	18 to distinguish the ones that have handwriting from those
19 A. Yes. Correct.	19 that don't.
20 Q. Do you see that?	20 Q. Take a look at Exhibit 83. Do you recognize
21 A. Correct.	21 that drawing as one of the many drawings that were
22 Q. Do you in light of those marks know or have	22 related to the project at Dakin-Yew?
23 any idea where the document came from?	23 A. Yes.
24 A. No.	<u>,</u>
<ul> <li>25 Q. What I'm going to do is represent to you that</li> </ul>	Q. You see in the left hand, your left hand corner, there is a depiction of a tee intersection?
86	
1 this appears to have been printed out off of the City	1 A. Yes.
2 engineering computerized drawings. Okay, And it	2 Q. Would you mind highlighting that in blue?
3 appears to show the location of that 24-inch discharge	3 A. (Witness complies.)
4 line prior as originally conceived and not as later	4 Q. Is that meant to be the tie-in between the
5 constructed?	5 16-inch waterline and the 24-inch line that exits the
6 A. Yes.	6 southern side of the pump station?
6 A. Yes. 7 Q. Is that right?	6 southern side of the pump station?
7 Q. Is that right?	7 A. Yes.
<ul><li>7 Q. Is that right?</li><li>8 A. That's correct.</li></ul>	<ul> <li>7 A. Yes.</li> <li>8 Q. You notice that even on that drawing it</li> </ul>
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DALEN V. OLYMPIC PIPE LINE TH	IOMAS W. FRANKLIN	6-19-00
	89	91
$\pm$ have the handwriting that's on the Olympic Pipe L	ine 1 Q. This memo conc	erns problems encountered in
2 version of that document. Okay?		pipes. And it says if there
3 A. Yes.	3 is a high groundwater co	ndition, and the backfill over
4 Q. And let's put these over here where they	will 4 the pipes has not been o	completed, there is a possibility
S be relatively safe. All right.	5 that the pipes will float.	
6 You weren't personally involved in the ear		n that? Do you know what he
7 efforts of Barrett/Earth Tech to get the pipeline a	nd ? is talking about there?	
3 other utilities located on the job site?	A. Yes. On the res	ervoir we were installing
9 A. No.	Ithese same 72-inch diar	neter pipes. And the one section
10 Q. Have you reviewed the correspondence o	Earth 10 that comes out of the re	servoir and is exposed that this
11 Tech related to location of underground utilities?	11 pipeline would connect t	o, it was installed and during
12 <b>A. No.</b>	12 wintertime water was al	lowed to accumulate and it did
13 Q. Did you have any discussions with your	13 float. And so it is just p	reparing Olympic's people to
14 colleagues at Barrett/Earth Tech prior to commen	cement 14 remove the possibility o	f that happening in their line.
15 of the Dakin-Yew pump station job concerning wh	at had 15 Q. You mean IMCO	's people; right?
16 been done to that point to locate underground uti	lities? 16 A. Right.	-
17 A. I had been told, yes.	17 Q. So	
18 Q. Who told you and what did they tell you?	18 A. It wasn't the sa	me situation. The previous
19 A. I believe John Hatch made the comment	they 19 pipe that did float had a	flange on it that completely
20 had already come out and potholed the Olympic F	ipe Line 20 made it airtight. And as	s a result of that, that's why
21 pipe as well I'm not sure about the telephone I		
22 I don't recall them, but I believe that was the onl	y 22 didn't have any flanges.	It was all open pipe and water
23 issue was the pipeline location.	23 could go in.	• • •
24 Q. Of course you yourself saw some of the s	-	e do you have of the rupture
25 out there; right?	25 location on the Olympic	-
	90	92
1 A. Yes.	1 A. The knowledge	I have was a drawing that I had
2 Q. You saw indications that potholing had be	-	s ago with a pipeline hole location
3 done?	3 identified. That was all	
4 A. Yes.	4 O. That pipeline h	ole location was not really
5 Q. Can you describe just for those of us who		larger diameter pipes, water
6 maybe need a verbal picture of what actually it ic		o the 72-inch or the 60-inch
$\mathcal T$ like that let you know that the location had been	7 lines?	
8 potholed?	3 A. No.	
9 A. There was an indication that the earth ha	d 9 Q. It was close to	the 16-inch line; right?
10 been disturbed in the two locations. Grass had g	1 -	
11 but it wasn't normal grass that was in the surrou	4	e 24-inch line that came out
12 area.		ion, tee intersection with the
13 Q. And there was a stake at that location as		• • • • • • •
14 well or some kind of	14 A. Yes.	
A. I don't know if there was a stake. There		t then that the issues raised
16 just a hole itself. The stake had probably be disc	•	your mind don't have any
17 while the digging process was underway.	17 bearing?	year mine don't nave ary
<ul> <li>Q. And that was in the fall you said of '93?</li> </ul>	18 A. That's correct.	Vac
•	· · · ·	bit No. 87 is marked
•		entification)
21 for identification)	•	letter from Christenson
Q. Exhibit 86, back to the correspondence p		n dated May 18, 1994, and it
23 document ET0004659, memo to Chris Hart from .		The Bates numbers are ET0004634,
24 and you are copied on it. Do you see that?	24 35, 36, 37 and 38, the	last one being a fold-out
25 A. Yes.	25 drawing.	
DEAN MOBURG & ASS	OCIATES - SEATTLE, WA (206)	622-3110 2

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DALEN V. OLYMPIC PIPE LINE THOMAS W	FRANKLIN 6-19-00
93	95
Would you take a look at Exhibit 87, please?	1 (Exhibit No. 88 is marked
2 A. Okay.	2 for identification)
3 Q. Who is Christenson Engineering Corporation?	3 Q. Exhibit 88 is Bates numbered ET0004612. It's
4 A. It was a surveying firm that Barrett had	4 dated May 30, 1994. It's a memo to Paul Krakenberg from
5 hired to do the surveying of the site.	5 John Hatch. And you are copied. Who is Paul
6 Q. Is that the company that would have	6 Krakenberg?
? determined through surveying methods or whatever method	7 A. He was an assistant to Greg Burress of IMCO.
E they utilized the elevations of the work site?	8 He was on the site most of the time primarily as an
A. I don't know.	9 office type engineer.
Q. You don't know. Did you work with them	10 Q. So Paul Krakenberg was a supervisor from IMCO
11 personally?	11 to your knowledge?
12 A. During that time, yes. This was done before	12 A. Yes, second in command basically on site.
13 that time.	13 Q. The other guy you referred to is Greg
24 Q. This letter is dated May 18, 1994. Right?	14 Burress, B-u-r-r-e-s-s?
15 A. Yes.	15 A. Yes.
16 Q. And you were working	16 Q. Is he the person at IMCO that you dealt with
1? A. They did this work. I don't know whether	17 the most?
13 they were involved in potholing.	18 A. Typically, yes.
19 Q. I understand. This is an attempt to this	19 Q. More out of just curiosity, who did you deal
20 work, the work reflected on Exhibit 87, is an attempt to	20 with mostly at the City of Bellingham?
21 show what the topography, the	21 A. The plant manager.
22 A. The topography is a proper term for it.	22 Q. Bill Evans?
23 Q. In what area of the project were they looking	23 A. Yes. I believe that was his name.
24 at?	24 Q. So he was on site during a lot of the work;
25 A. Between the reservoir or primarily the Hannah	25 is that right?
94	96
1 Creek area of the site, which is between the pump	i A. Yes.
2 station and the reservoir.	2 Q. A lot of these memos are copied to a
3 Q. When a company like Christenson is doing a	3 gentleman named Wan Huang. Who was he?
4 job such as is reflected on Exhibit 87, and I apologize	4 A. He was the project manager perhaps is the
5 for the unfortunate phrasing, I don't mean to ask you to	5 term. I don't recall just exactly what his term was,
$\varepsilon$ speculate, but is this an elevation from ground level up	6 but he was the person assigned the project for the City
7 or does it go below ground as well or what?	7 as far as design goes.
A. Typically it would be a ground level up type	3 Q. Do you know if he was an engineer himself?
9 of survey.	9 A. I don't know.
10 Q. And that's what this is; right?	10 Q. Did you have a lot of personal interaction
11 A. Yes. It appears like it.	11 with Mr. Huang?
12 Q. Why was that done, do you know?	12 A. Very little.
13 A. I don't recall right now.	13 Q. Was he on the work site much?
Q. Was there some confusion or problem that was	14 A. Very little.
15 ascertained with the accuracy of the elevations that had	15 Q. Who from the City was on the work site
16 been shown on earlier drawings?	16 besides Mr. Evans and periodically Mr. Huang?
A. No. There was no problem with them. This is	17 A. The maintenance people for the City, City
18 an area outside of the drawings that were given already.	18 maintenance primarily. Ray, I don't remember Ray's last
19 Q. So to your understanding, at least of the	19 name, but Ray was the primary contact with the City
20 circumstances, Exhibit 87 is probably also not germane	20 maintenance people. I saw the pre-construction
21 to	21 conference sign if I find the name.
A. I would think that's the case, yes.	22 Q. It's probably attached. There you go.
23 Q what we are dealing with here.	23 A. Here it is. Ray Bailey is his name.
24 Next is a May 30 memo, ET0004612, which will	24 Q. Now this memo, Exhibit 88, deals with the
25 be marked as Exhibit 88.	25 subject is over-excavation at creek crossing. And it's
	- SEATTLE, WA (206) 622-3110 24

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DALEN V. OLYMPIC PIP	E LINE THOMAS W	FRANKLIN 6-19-0
	97	9
1 sent by John Hatch	who I guess, would John be your boss?	1 typical. Whenever you are around rock in a structure
2 <b>A. Yes.</b>		2 you always want a cover, a separation between them.
· ·	this refer to, this	3 Whereas the pipe itself, they showed it differently than
÷ over-excavation?		4 that, they actually showed the depth. Where this wasn't
	xcavation deals with Hannah Creek.	5 available, then you had to go deeper with the pipe.
රි The contract plans	indicated originally that they were	6 Q. Would you just hold up for the camera what it
7 going to only dig th	e pipe a certain distance and if	7 is that you are just point to the area where the
3 they didn't encount	er rock then they would have to go	8 excavation is indicated.
9 down as far as the	plans showed to support the pipes	9 A. In there.
10 across Hannah Cree	ek.	10 Q. And those are the elevation values on the
11 They misun	derstood the plans and assumed that	11 side; is that right?
	full depth of the hole. And I	12 A. Right.
	time they started doing this and I	13 Q. And what do those numbers refer to if you
4	ust how deep they were digging until	14 know, the 285?
15 after they had done		15 A. That's the actual elevation from mean sea
, · ·	hught, they being IMCO, thought	16 level typically.
• •	y had to dig down as deep as the	17 Q. So sea level being zero, some elevations
18 plans provided whe		18 above sea level are still underground?
	e plans actually had a line showing	19 A. Yes.
	lig to to make a decision whether they	20 Q. So that here, 250 feet above sea level and
	not. They went the full depth	21 the location of that pump station is underground?
	• •	
	and talking to me about it and	22 A. Yes.
	that they are as deep.	23 Q. Can you tell based on that drawing how far
24 Q. And that le		24 underground it would be?
25 A. A claim for	extra costs by them because they	25 A. From this drawing?
	98	
1 did the work.		1 Q. Yes.
	hat this means then. It's stated	2 A. From the original ground if it's shown, this
	pth of all over-excavation is to be	3 would have been the original ground, the dashed lines
	engineer. The only exception to this	4 there, and they are between 260 and 275. So 15, 20 feet
$\varepsilon$ is over-excavation '	for the pump station as shown on	5 deep.
€ drawing P-2 where	the actual depth is indicated.	6 (Exhibit No. 89 is marked
7 Let's take a	look at drawing P-2. Could you	7 for identification)
8 indicate on drawing	P-2 to Exhibit 83 where the actual	8 Q. Going back to Exhibit 88, the
9 depth of excavation	is indicated?	9 over-excavation that's mentioned in Exhibit 88 was away
10 A. It would be	in the elevation view section A.	10 from the location of the rupture; is that right?
11 Q. So that's th	e upper left hand corner?	11 A. That's correct.
12 A. Yes.		12 Q. Exhibit 89, Bates ET0004569 dated June 16,
	t these numbers and lines,	13 '94. I hope you appreciate what I'm doing here is
	an running down the page?	14 using is that right? Did I give you the right one?
	imension here of fifteen feet from	15 Okay. These are items of correspondence that you have
	dicated rock excavation. They	16 been copied on. Right?
	ot of cover below the bottom of the	17 A. Yes, right.
	t of separation between whatever rock	18 Q. That's what we are going through right now.
	tom of the pump station. So that's	19 This is a memo from John Hatch, your boss, to Wan Huan
20 what he was referri	-	20 at the City of Bellingham concerning Dakin-Yew pump
21 Q. Does this b	asically get to the point that	21 station, pump station discharge connection. Do you see
22 there was a lot of r	ock in the area where the pump	22 that?
	ser in the great where die hende	
	• •	23 A. Yes.
	be? Is that why the precise amount	
23 station was going to 24 of excavation was i	be? Is that why the precise amount	<ul> <li>A. Yes.</li> <li>Q. This has to do with the relocation of the</li> <li>pipe that exits the south side of the pump station so</li> </ul>

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DALEN V. OLYMPIC PIPE LINE	THOMAS W. FRANKLIN	6-19-00
	101	103
1 that it connects up with the 16-inch waterline a		
2 point further to the north along the 16-inch wat		d you had to get the City people there to
3 is that correct?		the 16-inch line so that you could cut into it
4 A. Yes.		uld cut into it and drain it and do everything
5 Q. Now, were you present during the discu	,	
$\hat{\epsilon}$ that John Hatch refers to with Paul Krakenberg		
<sup>7</sup> Evans?		order to get to the point of being ready
A. I don't believe I was.		re was a fair amount of work that had to
9 Q. Were you involved in any of the planning		
0 design or otherwise in connection with relocation		
1 24-inch, the southern 24-inch line and its connection	•	d as a result of that, IMCO went for some
<sup>12</sup> with the 16-inch waterline?		me into working night shifts on the job; is
A. Only in regards I know that they were to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they are to A. Only in regards I know they ar		
about it. I wasn't involved directly.		s. May I take a break now?
.5 Q. Again, this memo refers to that connec		
6 the discharge connection and it says IMCO is pl	- 1	. BENINGER: We'll go off the record now.
? install a new pump station discharge connection		(Off the record)
8 existing 16-inch waterline on July 7, 1994. Plea		. BENINGER: We are back on record now.
9 that this is a different date than discussed at or		(Exhibit No. 90 is marked
20 14 meeting, and while IMCO has materials on h	-	for identification)
11 are concerned about having sufficient labor ava	1 *	hibit 90 is Bates numbered ET0004570.
22 complete the work in a timely manner.		June 16, 1994. It's another memo from John
23 It's still your position that that line is		r boss, to Paul Krakenberg; correct?
24 not a discharge line?	24 A. Ye	
A. Well, I've been trying to think about w	hy 25 Q. An	d this deals with the issue of the night
	102	104
1 perhaps they are doing it this way and why it's		
2 that way and all I can do is speculate. I'm spe		. FLOYD: What was the number?
3 that they called it discharge because it's actual		R. NICOLL: 4570.
4 discharging out of their own system and into th		L FLOYD: Thank you.
${\rm 5}~{\rm pump}$ station. Whether that's the reason or no		ils provides approval for working a night
6 say. That's the way it's labeled.	6 shift throug	gh the end of June 30, 1994. Right?
7 Q. So maybe I'm looking at it the wrong w	vay. 7 A. Ye	25.
8 A. Me too.		ubject to certain restrictions that are
9 Q. I understand. But at any rate, there is	i no 🦳 9 itemized th	here as bullet points. Correct?
$\vartheta$ confusion in your mind, we're talking about	10 A. Ye	es. That's correct.
1 A. The 16-inch connection to the 24-inch.	11 Q. WI	hat does that last point mean, because the
2 Q. And that's the only 16-inch connection	? 12 second shi	ft has been added to accelerate your contract
3 A. That's the only place where you have t	he 13 completion	n the charge for overtime inspection as allowed
4 situation.	14 in GR Sect	ion 1-08.1(3) will be waived? Is that
5 Q. So the upshot of that memo, it appears	; that 15 overtime fo	or your services, do you know?
${\mathfrak s}$ the purpose of this memo is to get, is it correct	., 16 A. I.C	don't know.
1? approval to work more than one shift per day?	17 Q. Di	id you inspect the work that was done during
8 A. Yes. The City to be able to do this v	vork 18 late shifts	or second shifts?
9 the City had to take the 16-inch line off service		did. The next day, yes.
0 so they had to arrange their own people at the		ne following day, but you didn't stay there
I time to be able to do that. Thus that's the rea	-	ile they worked?
2 City was so involved with this project, this sect		o, I didn't.
3 the work.		id anybody from Earth Tech, then Barrett,
	2.01	
4 0. So there was a scheduling issue?	24 stay on sit	te while IMCO worked the second shift?
Q. So there was a scheduling issue? A. For personnel, yes. They had to start	· · ·	te while IMCO worked the second shift? ot to my knowledge, no.

DALEN V. OLYMPIC PIPE LI		/. FRANKLIN 6-19-
	105	
	st to leave the work site on	Q. That would be further to the east?
any typical day?		2 A. Yes.
	would be the last to leave.	3 Q. Away from the rupture location?
	ormally knock off before the	4 A. Far away. Two hundred feet maybe. Yes, a
5 contractor would?		5 hundred fifty.
	es I did leave before the	Q. This just has to do with what?
? contractor did, yes.	1	7 A. A shitty job.
• •	ave when there was still	3 Q. Over-exuberance?
	going on, people working with	9 A. Yes. A poor job.
.) backhoes, things like th		10 Q. A poor job, okay. Do you recollect how this
1 A. Not as a generation		11 was worked out ultimately, this question about
	ave when there was mechanized	12 structural damage?
3 excavation going on?		13 A. I remember things being done, yes, repairs.
4 A. Yes.		14 Q. But at any rate, it didn't happen over by
5 Q. Do you recall w	hen that was?	15 the
	luring this time frame when	16 A. Right.
7 they were working at n	-	17 Q rupture?
3 Q. So during up		13 A. It had nothing to do with the rupture at all.
3 A. Yes. I would u	sually be there on site	19 (Exhibit No. 92 is marked
0 somewhere.		20 for identification)
2 Q. But when they	were working at night, if they	21 Q. Exhibit 92 is Bates ET0006140 dated June 27,
2 were doing excavation	at night you wouldn't be there?	22 1994 to Paul Krakenberg from John Hatch, a copy to you
3 A. No.		23 And it has to do with the contract change order markup.
Q. It's correct you	i wouldn't be there; right?	24 Take a minute and look at that.
A. That's correct.		25 A. Okay.
	106	5
1 Q. And you would	know that they had done	1 Q. Do you know what this markup request was in
	ause the following day you would	2 connection with, what it had to do with?
3 see the evidence of it?		3 A. It had to do with the change order charges
4 A. That's correct.		4 and how much the contractor is allowed in addition to
5 Q. It's very tempt	ing to go off into these	5 the work they actually did.
	mportant to get through these	6 Q. Would the relocation of that 24-inch
	to come back and try to pull	7 discharge line be a change order item; do you know?
	d talk about everything in that	8 A. Not necessarily.
9 kind of context. Okay?		9 Q. You would have to look back and see at the
0 A. Okay.		10 records?
•	bit No. 91 is marked	11 A. Right. Or how the people that were in charge
1 (Exhil		
	entification)	112 of the contract decided to do the documentation for it.
2 for id	entification) xhibit 91 is Bates ET0004564	12 of the contract decided to do the documentation for it.
2 for id 3 Q. Mr. Franklin, E	xhibit 91 is Bates ET0004564	13 Q. Were you involved in, for lack of a better
2 for id: 3 Q. Mr. Franklin, E 4 dated June 22, 1994. 1	xhibit 91 is Bates ET0004564 It is a Barrett Consulting Group	13 Q. Were you involved in, for lack of a better 14 word, adjudicating change order submissions from IMC
2 for id 3 Q. Mr. Franklin, E 4 dated June 22, 1994. 1 5 letter to Paul Krakenbe	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction	13Q. Were you involved in, for lack of a better14 word, adjudicating change order submissions from IMC15A. I was the first line of defense, yes. But
2 for id 3 Q. Mr. Franklin, E 4 dated June 22, 1994. 1 5 letter to Paul Krakenbe 6 Company from John Ha	xhibit 91 is Bates ET0004564 It is a Barrett Consulting Group	13Q. Were you involved in, for lack of a better14 word, adjudicating change order submissions from IMC15A. I was the first line of defense, yes. But16 oftentimes it went above me quickly.
2 for id 3 Q. Mr. Franklin, E 4 dated June 22, 1994. 1 5 letter to Paul Krakenbe 6 Company from John Ha 7 A. Yes.	xhibit 91 is Bates ET0004564 It is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right?	<ul> <li>Q. Were you involved in, for lack of a better</li> <li>word, adjudicating change order submissions from IMC</li> <li>A. I was the first line of defense, yes. But</li> <li>oftentimes it went above me quickly.</li> <li>Q. Did you have authority to approve change</li> </ul>
2 for id 3 Q. Mr. Franklin, E 4 dated June 22, 1994. 1 5 letter to Paul Krakenbe 6 Company from John Ha 7 A. Yes. 8 Q. You're copied a	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right? is you can see on page two.	13Q. Were you involved in, for lack of a better14 word, adjudicating change order submissions from IMC15A. I was the first line of defense, yes. But16 oftentimes it went above me quickly.17Q. Did you have authority to approve change18 orders on site?
2 for idi 3 Q. Mr. Franklin, E 4 dated June 22, 1994. 1 5 letter to Paul Krakenbe 6 Company from John Ha 7 A. Yes. 3 Q. You're copied a 9 This has to do with an i	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right? is you can see on page two. ssue that apparently arose	<ul> <li>Q. Were you involved in, for lack of a better</li> <li>word, adjudicating change order submissions from IMC</li> <li>A. I was the first line of defense, yes. But</li> <li>oftentimes it went above me quickly.</li> <li>Q. Did you have authority to approve change</li> <li>orders on site?</li> <li>A. No.</li> </ul>
2 for idi 3 Q. Mr. Franklin, E 4 dated June 22, 1994. 1 5 letter to Paul Krakenbe 6 Company from John Ha 7 A. Yes. 8 Q. You're copied a 9 This has to do with an i 0 concerning demolition?	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right? is you can see on page two. ssue that apparently arose	<ul> <li>Q. Were you involved in, for lack of a better</li> <li>word, adjudicating change order submissions from IMC</li> <li>A. I was the first line of defense, yes. But</li> <li>oftentimes it went above me quickly.</li> <li>Q. Did you have authority to approve change</li> <li>orders on site?</li> <li>A. No.</li> <li>Q. What was the limit of your authority on site</li> </ul>
2for idi3Q. Mr. Franklin, E4dated June 22, 1994. If5letter to Paul Krakenbe6Company from John Ha7A. Yes.3Q. You're copied a9This has to do with an if10concerning demolition?1A. Yes.	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right? is you can see on page two. ssue that apparently arose	<ul> <li>Q. Were you involved in, for lack of a better</li> <li>word, adjudicating change order submissions from IMC</li> <li>A. I was the first line of defense, yes. But</li> <li>oftentimes it went above me quickly.</li> <li>Q. Did you have authority to approve change</li> <li>orders on site?</li> <li>A. No.</li> <li>Q. What was the limit of your authority on site</li> <li>if there is any easy way to express it?</li> </ul>
2for idial3Q. Mr. Franklin, E4dated June 22, 1994. Idial5letter to Paul Krakenbe6Company from John Ha7A. Yes.8Q. You're copied a9This has to do with an idial0concerning demolition?1A. Yes.2Q. And this has to do	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right? is you can see on page two. ssue that apparently arose	<ul> <li>Q. Were you involved in, for lack of a better</li> <li>word, adjudicating change order submissions from IMC</li> <li>A. I was the first line of defense, yes. But</li> <li>oftentimes it went above me quickly.</li> <li>Q. Did you have authority to approve change</li> <li>orders on site?</li> <li>A. No.</li> <li>Q. What was the limit of your authority on site</li> <li>if there is any easy way to express it?</li> <li>A. There really isn't an easy way. I could</li> </ul>
2for idi3Q. Mr. Franklin, E4dated June 22, 1994. Idi5letter to Paul Krakenbe6Company from John Ha7A. Yes.8Q. You're copied a9This has to do with an idi10concerning demolition?11A. Yes.12Q. And this has to13itself; is that correct?	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right? Is you can see on page two. Issue that apparently arose	<ul> <li>Q. Were you involved in, for lack of a better</li> <li>word, adjudicating change order submissions from IMC</li> <li>A. I was the first line of defense, yes. But</li> <li>oftentimes it went above me quickly.</li> <li>Q. Did you have authority to approve change</li> <li>orders on site?</li> <li>A. No.</li> <li>Q. What was the limit of your authority on site</li> <li>if there is any easy way to express it?</li> <li>A. There really isn't an easy way. I could</li> <li>agree to how much time contracted work on certain ite</li> </ul>
2for idi3Q. Mr. Franklin, E4dated June 22, 1994. Idi5letter to Paul Krakenbe6Company from John Ha7A. Yes.8Q. You're copied a9This has to do with an idi10concerning demolition?11A. Yes.12Q. And this has to13itself; is that correct?	xhibit 91 is Bates ET0004564 it is a Barrett Consulting Group rg of IMCO General Construction tch, your superior; right? Is you can see on page two. Issue that apparently arose of do with the pump station with the water treatment, the	<ul> <li>Q. Were you involved in, for lack of a better</li> <li>word, adjudicating change order submissions from IMC</li> <li>A. I was the first line of defense, yes. But</li> <li>oftentimes it went above me quickly.</li> <li>Q. Did you have authority to approve change</li> <li>orders on site?</li> <li>A. No.</li> <li>Q. What was the limit of your authority on site</li> <li>if there is any easy way to express it?</li> <li>A. There really isn't an easy way. I could</li> </ul>

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DALEN V. OLYMPIC PIPE LINE THOMAS W	. FRANKLIN 6-19-0
109	11
i so many hours of labor work on the site that might be	1 A. Yes.
2 chargeable.	2 Q. Why was that addressed to Paul Krakenberg, if
3 Q. Out of curiosity, why was Barrett/Earth Tech	3 you know?
4 even on the job site? What was your purpose of being	4 A. It was addressed to Paul because he was the
5 there?	5 one responsible for obtaining the different materials on
6 A. There was a variety of different design	6 project site and communicating with the suppliers. I
7 criterias that had to be followed.	$^{\gamma}$ had during the delivery of the pipes I would make
3 Q. But the City has a City engineering	8 measurements on a daily basis to determine what the
3 department. Why weren't	9 roundness of the pipes were from the inside.
10 A. This is a very unique project. Most cities	10 And I was finding cracks and I was finding
11 don't deal with the type of water resource installations	11 that the braces weren't properly installed to keep
12 that these were including. And so they I don't know	12 deflection at a minimum. Because you have a steel lined
3 for a fact that this is the reason, but ultimately it	13 pipe and you have lining inside of the concrete. And so
14 was specialized work.	14 you have got a lot of adhesion requirements there. And
15 Q. Did you have a sense when you were there that	15 the braces, the wood braces that were installed weren't
If the City relied upon you in any sort of way to be its	16 tight so the lining was allowed to rattle so-to-speak
I I I I I I I I I I I I I I I I I I	17 within the pipe and was causing cracks to occur during
A. No. I got no sense from the City on that.	18 the transportation of the pipe.
9 Q. What was your own understanding?	19 Q. Would this be a manufacturing problem? A
20 A. The City	20 problem with the manufacture of the pipe itself?
	A. No, not the manufacture, the transportation
2 question, the form, and it calls for speculation.	22 of the pipe.
23 Q. Your understanding of what your role was for	23 Q. The transportation of the pipe. Okay.
24 the City.	A. It came from the middle of California, I
25 A. For the City was making sure that the	25 think the Sacramento area, so it was quite a long drive.
110	11
1 contractor understood and followed the rules that were	1 Q. It would arrive on the flatbed and it would
2 set down in the contract by Earth Tech, by Barrett.	2 be out of round?
3 Q. Were you ever told by your superiors that	3 A. Exactly.
4 Barrett or Earth Tech, that you were an agent for the	4 (Exhibit No. 94 is marked
5 City on the job site?	5 for identification)
6 A. No.	6 MR. NICOLL: Before we go on to Exhibit 94, 1
Q. But you were that every day; right?	7 apologize to everybody. I should have taken my break
A. Not every day, no. There were days I had	8 when everybody else took theirs, but I have to take a
9 vacation. I had sick leave during that time.	9 short break.
	10 (Off the record)
· · · · ·	11 MR. NICOLL: Back on the record.
	12 Q. Exhibit 94 is a document dated well, it's
	13 got different dates on it. One is July 7, 1994 and the
	14 other is at the bottom. Well, July 7 I guess 1994
	15 although ten is crossed out. It's entitled contract
	16 clarification/interpretation request and it's in
	17 handwriting. It's ET0005183 and 5184. Do you see that
	17 Handwarding. It's Erobosias and Sia4. Do you see that: 18 A. Yes.
0 from John Hatch dated June 27, 1994. It's ET0004201.	
1 This is another one of those documents we are not sure	20 A. I don't remember seeing it before, no.
	21 Q. Do you recognize the handwriting on the lower
2 what it has to do with anything but we want to ask you	22 portion of the document?
3 quickly, this has to do with something about cracks	23 A. I don't recognize it, but it looks like it's
A observed in installation of large diameter pipe due to 5 inadequate bracing or apparently inadequate bracing?	24 George Nordby's writing and he signed it.
	25 Q. This has to do with that intersection between

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1131 the 24-inch and 16-inch waterlines; right?1 number. The number is ET-PH0000913.2 A. Yes.3 Q. Do you remember have you had a chance to3 review that document?4 MR. FLOYD: Could we find that first?	115
2       A. Yes.       2       MR. FLOYD: That's Exhibit 95?         3       Q. Do you remember have you had a chance to 4 review that document?       3       MR. NICOLL: That's Exhibit 95.         4       MR. FLOYD: Could we find that first?	
3       Q. Do you remember have you had a chance to       3       MR. NICOLL: That's Exhibit 95.         4 review that document?       4       MR. FLOYD: Could we find that first?	
4 MR. FLOYD: Could we find that first?	
5 A. Yes. 5 MR. NICOLL: It would be at the end of your	
6 Q. Do you remember the events that that document 6 package.	
7 is referring to, Exhibit 94? 7 MR. SCANLAN: Run that number by me one me	ore
A. As you said, the connection between the S time, please.	
9 16-inch and the 24-inch. 9 MR. NICOLL: 913.	
0 Q. Right. In general it deals with the 10 (Exhibit No. 96 is marked	
1 connection between the 16-inch and the 24-inch line, but 11 for identification)	
2 it also speaks about having to move the pipes two feet 12 Q. And Exhibit 96 is also a photograph and it is	
3 closer to the end of the retaining walls. Do you see 13 ET-PH0000919.	
4 that? 14 First of all, let's take a look at these two	
5 A. Yes. 15 pictures. Do you recognize those?	
6 Q. Do you remember that? 16 A. Yes, sir.	
A. Well, I remember the situation. The two feet 17 Q. Those are photographs that you took; right?	
8 closer didn't make any difference as far as placement of 13 A. Yes.	
9 the pipe goes. The issue was getting it underneath the 19 Q. Can you see on the photograph on Exhibit 95 a	a
0 retaining wall that's shown in the next sheet. 20 date?	
Q. The next sheet ET0005184 of Exhibit 94 shows 21 A. Yes. It looks like it's 7/18/94.	
2 the approximate location of the retaining wall, and 22 Q. So the camera that you use or that you used	
3 that's the retaining wall on the pump station; right? 23 at this time was what kind of camera?	
A. Yes. The south side of the pump station. 24 A. It was an instamatic, or actually it was a 35	
5 Q. What that basically meant was you had to move 25 millimeter camera.	
114	116
1 two feet further to the north? I'm sorry. Is that 1 MR. FLOYD: Where is the date?	
2 right? 2 A. It's hard to read. It's at the bottom there.	
A. Two feet south. Two feet away from the pipe 3 Q. And it had an automatic date stamp feature?	
1 closer to the end of the retaining wall, which would 4 A. Yes.	
5 have been north, yes. You are right. 5 Q. And you had that	
6 Q. Basically closer to the side of the pump 6 A. Turned on.	
? station? Q turned on and calibrated to the right	
A. Yes. But that didn't change the geometrics 8 date?	
9 of the situation. Moving it closer wouldn't have 9 A. Yes.	
changed where the retaining wall was because we were 10 Q. So this photograph is a photograph that show	S
1 moving it laterally. 11 the condition of the 24-inch pipe leaving the pump	_
2 Q. Right. It basically meant that you had to 12 station on the south side and connecting up with the	
3 use a little bit less pipe to connect it, the discharge 13 16-inch waterline as it was on July 18, 1994?	
side on the south side of the station to the 90 degree 14 A. That's correct.	
5 elbow? If Q. So why don't you use my pen and just on	
6 A. Basically all it did was make it more of a 16 Exhibit 95 draw a line or an arrow, if you will, to the	
7 right angle, closer to a right angle, the tee itself.	
B If it was further away from the pump station, then it 18 that A and hold it up.	
9 would have been a smaller angle than 90 degrees or 19 So A is where the 24-inch line exits the	
Q. Exhibit 95 is a photograph. Your copy of it 23 where there is some bends in this pipe before it	
4 has a second page. The second page is actually a copy 5 of the reverse of the photograph which has a Bates 5 of the reverse of the photo	

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DALEN V. OLYMPIC PIPE LINE THOMAS W.	FRANKLIN 6-19-	00
117		19
A. Yes.	<ol> <li>A. You've got the wrapping on it up there but</li> </ol>	
2 Q, Could you just circle	2 you don't have it down here, so it was before this one.	
3 MR. BENINGER: Bend or bends?	3 Q. Exhibit 96 was taken before Exhibit 95?	
4 Q. I'm going to guess there's more than one.	A. That's correct.	
5 A. Just one.	5 Q. By the way, what's the purpose of the	
€ Q. Just one bend?	6 wrapping?	
A. Yes.	<ol> <li>A. It's a corrosion protection system.</li> </ol>	
9 Q. It's a 90 degree bend?	8 Q. But it also had an electric corrosion	
9 A. Yes, sir.	9 protection system; right?	
10 Q. So there's one bend in the pipe. Circle the	10 A. Yes. Just double protection basically to	
11 bend and put a line out to the margin and call that B on	11 keep the water out. You can't have rust.	
12 Exhibit 95. 90 degree bend. Okay.	12 Q. Now to be clear, this pipe shown in Exhibit	
13 Then circle the junction between the 24-inch	13 95 was installed after the decision was made to locate	
14 line and the 16-inch line, the line out to the margin	14 it two feet closer to the pump station; right?	
15 and call that C.	15 A. Not necessarily. They could have made the	
16 A. (Witness complies.)	16 measurement there and started putting the pipe in. ${f I}$	
Q. All right. Now you are holding up an Exhibit	17 don't recall just the exact different schedule it took.	
18 95 that has the three points; A, where the 24-inch line	18 I don't remember just which was done first and at what	
	19 time.	
20 takes a 90 degree turn and proceeds in a westerly	20 Q. The decision to make sure that the pipe was	
21 direction to point C, where it connects at a tee	21 moved two feet closer to the end of the retaining wall	
22 intersection with the 16-inch waterline; is that right?	22 was made on July 7, 1994?	
23 A. Yes.	23 A. Right.	
14 MR. BENINGER: Would you mind writing that,	24 Q. And	
25 just label what the different points are so we have	25 A. Or at least they give them criteria to be	
118		120
1 something documented rather than having to turn to the	1 able to move things on that date.	
2 transcript.	2 Q. Do you have any recollection of this 24-inch	
3 MR. NICOLL: Go ahead.	3 line being installed other than according to the	
4 MR. BENINGER: Thank you.	4 instructions given in Exhibit 94?	
5 Q. You've written next to A you have written	5 A. No. It was done as given in 94, in that	
$\boldsymbol{\varepsilon}$ exit, next to B you have written 90 degree bend and next	ε exhibit.	
7 to C you have written tee, t-e-e.	Q. Was it installed according to George Nordby's	
8 MR. BENINGER: Maybe you can put tee with	8 instructions?	
9 16-inch waterline, if that's what it is.	9 A. Yes.	
10 MR. NICOLL: Done.	10 Q. Now, the problem or limitation that required	
11 MR. BENINGER: Thank you.	11 you to move two feet closer to the pump station was the	3
12 Q. Now turn back to Exhibit 94. Which direction	12 existence of CDF that had been poured for the 60-inch	
13 was it? Was the length of pipe that runs in a westerly	13 lines?	
14 direction moved two feet closer to the pump station?	14 A. 72-inch line, yes.	
15 A. Yes.	15 Q. 72-inch line?	
16 Q. So	16 A. Larger diameter, yes.	
17 A. And that was done to get away from the CDF	17 Q. Why couldn't you dig through that?	
18 fill. The CDF fill is right here. To be able to put	18 A. You could. It's just a matter of being able	
19 that tee in and be able to get this, all these fixtures	19 to get to all the fittings so that the ductile iron pipe	
20 in, it had to be moved closer to the pump station.	20 connects themselves as well as getting wrapping around	d
21 Q. These photographs were taken by you on July	21 it properly. It was still a job, you still had to dig.	
22 18, 1994; right?	22 It would have taken some time, but it was easier to do	
23 A. Yes.	23 it this way.	
24 Q. The same for 95 as well as for actually 96	24 Q. Was the CDF on the 72-inch line near the area	
25 might be an earlier photograph?	25 photographed on Exhibit 95, was that some of the high	er
	- SEATTLE, WA (206) 622-3110	3

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DALEN V. OLYMPIC PIPE LINE THOMAS W	. FRANKLIN 6-19-00
121	123
density CDF that had been	1 assembly of ductile pipe tee for Thursday's 20-inch pump
2 A. It was under the structure. Yes, it would	2 station tie-in for 16-inch existing line?
3 have been a stronger strength.	3 A. Yes.
Q. Was it the strength that was supposed to be	4 Q. Testing will be performed prior to insertion.
5 or was it stronger than it was supposed to be?	5 Is that referring to the tee joint connection between
6 A. We never really tested it. That would have	6 the 24 and the 16?
<sup>2</sup> required someone to come out and sample it properly. It	7 A. Yes.
eta wasn't really a critical item to determine what the	8 Q. There is no tee joint between any 20-inch
9 actual strength was.	9 line and 16-inch line?
10 Q. It was just as easy to move it two feet to	10 A. No. It's incorrectly labeled.
11 the north?	11 Q. So on the next day, July 6 report number 96,
12 A. Yes. As you see, the 16-inch pipe is coming	12 ET0006444, again these are all your notes; right?
13 on an angle and that required even more space to be able	13 A. That's correct.
14 to get it installed properly.	14 Q. And you signed it here Tom Franklin; right?
15 Q. Did the tee joint itself have to get	15 A. Yes.
16 relocated as a result of this decision to move the line	16 Q. The same with the prior page 6445?
17 over two feet?	13 A. Yes.
18 A. The two aren't corrected, the tee itself.	13 Q. This report provides that there was
Q. Wasn't the tee put in the hole before the	19 excavation of 24 inches between pump station and large
20 long line connecting the 90 degree elbow down to the tee 👘	20 diameter pipe?
21 was put in the hole?	21 A. Yes. That's the other side of the pump
A. Yes. That was installed first, the tee was.	22 station.
23 Q. So this change really required having to	23 Q. That's for that 24-inch line that runs out to
24 relocate the tee as well, didn't it?	24 the 72 inch. It goes to the northwest?
25 A. Yes.	25 A. Yes.
122	12
<ol> <li>Q. In order to do that you had to do some</li> </ol>	1 Q. Right?
2 additional excavating to move the tee over the two feet	2 A. That's correct.
3 or so to make the connection?	3 Q. And that's the area where the Olympic Pipe
4 A. They had already made some measurements.	4 Line representative was on site for the excavation?
5 They had exposed the pipe previous to this point in	5 A. That's correct. He was there for that one.
m 6 time, and that was what was augmenting this Exhibit 94 $-$	6 MR. BENINGER: Are we talking this is on the
7 to be sent was because they needed a little more room.	7 north side or the south side?
9 Q. Let's move back to Exhibit 64 and take a look	8 MR. NICOLL: This is on the north side of the
9 at ET0006445. I better find it for you. Report number	9 pump station to the west. In fact, let's go ahead and
0.95. It's going to be in the bunch I've pulled out	10 get C-5. Give me one of these drawings.
l1 there.	11 Q. Why don't we use Exhibit 85. And if you
2 MR. FLOYD: This is in his notes?	12 would in blue show us, just highlight in blue the
3 MR. NICOLL: This is in the inspection	13 24-inch line that's referred to on the Exhibit 64,
14 reports.	14 report number 96, page ET0006444.
15 MR. FLOYD: This is exhibit what?	15 A. Okay.
MR. NICOLL: Exhibit 64.	16 Q. Hold that up for the camera to see. So that
1? MR. FLOYD: This is all part of Exhibit 64.	1? actually what we should do is also highlight the pump
18 MR. NICOLL: Right.	18 station in blue.
19 Q. Have you had a chance to review report 95?	19 A. Okay.
20 A. Yes, I have.	20 Q. Again for our point of reference, north being
-	21 at the top of the page. The work that was being done on
/: () (s there anything in report 05 that deale	TAL ALLIE LOD ULLIE DOUC. LIE WULK LIDL WOS DENNU UUNE ON
Q. Is there anything in report 95 that deals	
22 with the	22 the 24-inch line that exited the south side of the pump
22 with the 23 MR. FLOYD: Are you saying report 95 or 89?	22 the 24-inch line that exited the south side of the pump 23 station and then joined up at the tee intersection was
22 with the	22 the 24-inch line that exited the south side of the pump

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DALEN V. OLYMPIC PIPE LINE TH	OMAS W. FRANKLIN 6-19	-00
	125	127
<ol> <li>Q. The work that the Olympic inspectors were</li> </ol>		
2 observing, the excavation that the Olympic inspectively.		
3 were observing according to report 96 as part of f		11
4 64 was along this blue line at the top of Exhibit 8	-	
5 that right?	E before they dug it out.	
6 MR. FLOYD: I object to the form of the	6 Q. They being IMCO?	
? question. What they are observing calls for	7 A. That's correct.	
B speculation. The note says work that they were o	i site. 9 Q. Now, this sentence efforts this evening on	
9 Go ahead. I'm sorry.	9 exposing 16-inch waterline for tomorrow's waterline	
10 A. I believe they were both of these pipes	10 tie-in, did you ask Olympic's representative to come	
11 were exposed at the same time and ultimately that	; was 11 back that evening?	
12 what he was observing as well was both tee down	here and 12 A. No. No, it wasn't what I was referring to	
13 the tee over here.	13 as this PM being during the afternoon. And what I was	
14 Q. Now I'm afraid that I have to object beca	se 14 referring to there is a picture of the thrust block void	
15 the answer is not responsive to the question.	15 having been dug beneath the waterline. And that was	
16 Were you with the Olympic inspectors whi	e 16 what this was for. They were actually digging by hand	
17 they were	17 underneath the waterline and exposing a void for the	
18 A. At times I was.	18 concrete to be poured into and a tee to be installed on	
19 Q on site?	19 top of that.	
20 A. At times.	20 Q. So the thrust block was installed at the same	
21 Q. And when you were with them where wer	you? 21 time the tee was installed?	
22 A. I was around the pump station.	22 A. It was, yes. It was after the tee was put	
23 Q. Around the pump station? How many peo	ble 23 there that we had new blocks, wood blocks, and then t	he
24 from Olympic were there, do you know?	24 concrete was poured in through the wood and then we	
25 A. I only remember one.	25 filled up the hole.	
	126	12
1 Q. Do you know who it was?	1 Q. Was that done before you tied the tee joint	
2 A. No.	2 into the 24-inch line or after?	
3 Q. By name?	3 A. The hole was dug while the pipe was still in	
4 A. No.	4 place, the existing waterline was in place. The next	
δ Q. Could you describe the individual?	5 day they went and cut the waterline and installed the	
6 A. No, I can't.	6 tee.	
7 Q. Had you seen that person before?	7 Q. By the time they went to cut the waterline	
8 A. Not to my knowledge, no.	8 was the thrust block in place?	
9 Q. Have you seen this person since?	9 A. No.	
10 A. No.	10 Q. So they didn't cut they didn't put the	
11 Q. Now, reading that whole section of report		
12 it reads excavation of 24 inches between pump st	, ,	
13 and large diameter pipe began. Now, am I readir		
14 right that by that you meant excavation of 24-inc		
15 between pump station and large diameter pipe be		
16 A. That's correct.	16 supported the pipe.	
17         Q. With Olympic Pipe Line representative on		
18 during excavation near line. The next sentence is		
-		
19 work tomorrow. And the next sentence is efforts		
20 evening on exposing 16-inch waterline for tomore		
21 waterline tie-in and four inch tap to drain to store		ц
22 pipe system.	22 said then. It says efforts this evening I'm sorry,	
23 So as I read this report, the excavation to	23 this PM on exposing 16-inch waterline for tomorrow's	
24 expose the 16-inch waterline hadn't even occurre	I yet; 24 waterline tie-in and four inch tap to drain to storage	
25 isn't that right?	25 pipe system.	
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	DALEN V. OLYMPIC PIPE LINE THOMAS W	. FRANKLIN 6-19-0
	129	1
	1 The four inch tap was off of the 16-inch	l line that actually had to expose the Olympic pipeline
	2 line; right?	2 because the 24-inch line was going to run under it;
	3 A. I don't really recall just	3 right?
	4 Q. Well, that's the only thing you would be	4 A. Yes.
	E draining; right?	5 MR. BENINGER: You mean the south side.
	ά A. Yes.	6 MR. NICOLL: No, on the north side.
	Q. I guess I'm not could you	MR. BENINGER: The next paragraph you are
	8 A. What I'm saying they exposed waterline, the	8 talking about?
	9 16-inch waterline, and then dug down around it by hand	9 MR. NICOLL: Yes.
	10 because they had to create a void for the tee to go into	10 Q. So
	11 as well as a void for the thrust block concrete to be	11 MR. SCANLAN: Before you just your
	12 poured in to support the whole system. So they dug the	12 comments there, I'm not sure his answer is reflecting
	13 hole that afternoon. The next day they came in and	13 what you guys were alluding to, so I would just like the
	14 drained the system as much as they could. They cut the	14 record to be clear what you are asking him.
	15 pipe and installed the tee. And after that was	15 Q. The 24-inch line that is referred to on page
	16 installed and after all the pipe was connected, then	16 ET0006442 where it says excavation continued and was
	17 they came back and poured the concrete up to this point	17 complete for 24-inch pipe to be placed beneath Olympic
	18 here.	18 line to connect pump station to loop system installed
	19 Q. Actually something else happened though;	19 previously, that is a reference to the same 24-inch line
	20 right?	20 that you highlighted on Exhibit 85 in blue?
	21 A. I don't know. What are you referring to?	21 A. Yes.
	22 Q. They had relocated the tee. We have just	22 Q. The one that's to the north and slightly west
	23 covered that.	23 of the Dakin-Yew pump station?
	A. That was done prior to them digging the hole.	24 A. Correct.
	25 Once we found out what we could do and what we couldn't	25 MR. SCANLAN: Thank you.
	130	1
	1 do as far as the logistics of the placement of the pipe,	1 Q. So what time of day do you typically write
	2 then they can go ahead and do whatever they were going 3 to do.	2 your inspection reports?
		3 A. It would really vary. Most of the time I do
		4 something at noontime and then try again mid-afternoon
	5 July 7, 1994. It says	5 and then at the end of the day.
	6 MR. FLOYD: What page?	6 Q. Do you have any record anywhere that would
	13K. NICOLL. IL 5 LI 0000442.	7 let you know or give you any basis for saying whether
	3 MR. FLOYD: Thank you.	3 the report that you wrote here on July 6, 1994,
	9 Q. It says problems arose when hole for tee was	9 ET0006444, was written at noon or 2 or 5 or 5:30?
	10 not positioned properly. And the plan to tap into	10 A. No.
	11 16-inch, 16-inch line I guess, was abandoned today with	11 Q. No?
	12 reschedule tomorrow. Revisions to the distance of 90	12 A. No.
	13 degree elbow from 12 feet to 9 feet so edge of reducers	13 Q. Notice it says that time stop 5:30 at the
	14 are not in CDF when tee is inserted.	14 top? Five lines down about.
,	15 A. Right.	15 A. What number is that? 96?
	16 Q. The pipe still needs to pass beneath the	16 Q. Yes.
	17 second wall footing. Water pressure was restored	17 A. I see something referring to 11:30.
	18 approximately 8:30 by City personnel. Some of the hole	18 Q. I'm sorry. Up at the top, towards the top of
	19 dug for today's work was backfilled and an area	19 the
	20 excavated to fit tee in near the CDF placement. Work	20 A. I see.
	i · ·	121 U. Inspection report, time start 7 0 clock. time
	21 begins at valve shut off approximately four a.m.	21 Q. Inspection report, time start 7 o'clock, time 22 stop 5:30?
	21 begins at valve shut off approximately four a.m.22And then the excavation continued on the	22 stop 5:30?
	<ul> <li>21 begins at valve shut off approximately four a.m.</li> <li>22 And then the excavation continued on the</li> <li>23 other 24-inch line.</li> </ul>	22 stop 5:30? 23 A. Right.
	21 begins at valve shut off approximately four a.m.22And then the excavation continued on the	22 stop 5:30?

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11       Q. Do you recall seeing the excavation work that         12       was done to expose the 16-inch waterline for the         12       was done to expose the 16-inch waterline for the         13       waterline tie-in?         14       waterline tie-in?         15       In report 96, it says efforts this PM on exposing         16       16-inch waterline for tomorrow's waterline tie-in?         17       A. Yes.         18       Q. Now as I read this, it looks like you are         19       asying that this is what is going to happen rather than         10       Us signing that did happen. But I don't want to         21       A. As I recall, it was what happened. And then         21       A. As I recall, it was what happened. And then         21       A. As I recall, it was what happened. And then         21       A. As I recall, it was what happened. And then         22       then ext day once we had to move the system further away         23       M. No, it wasn't.         24       Q. Was it also necessary to pick up the tee and         3       A. No, it wasn't.         4       Q. It wasn't in the hole yet?         5       A. Right.         6       Q. So how was the hole for the tee, inch         13       A.	DALEN V. OLYMPIC PIPE LINE	THOMAS W. FRANKLIN	6-19-00
2       A. Actually I think that they are the source of start and stop times.       2         3       A. Actually I think that they are the source of start and stop times.       3         4       Q. Are you sure?       3         5       A. That's normally what I write would be his terms, not mine.       5         6       A. That's normally what I write would be his terms, not mine.       5         7       Q. Do you recall being on site when the City 2       7         7       A. Yes, I was there.       7         10       Q. Do you recall being the excavation work that 12       8         11       Q. Da you recall senigh the excavation work that 12       9         12       A. Are you areall senigh the excavation work that 12       9         13       Q. And you restimon J big this reported in report number 967       11         14       Q. And you restimon J is that you observed       12         15       A. Freadil, it was what happened. And then 20       9         15       A. Freadil, it was what happened. And then 20       9         15       A. Arecall, it was what happened. And then 20       9         14       A. Wes.       3       10         15       A. Arecall, it was what happened. And then 20       3         14       A. Arec			135
3 contractor's start and stop times.       3 already been dug?         4 Q. Are you sure?       4 A. Yes.         9 consonal closed the valves on the 15-inch line on July       6 A. They had dug it during the atternoon of the         9 personnel closed the valves on the 15-inch line on July       7 the you recall being on site when the City         9 personnel closed the valves on the 15-inch line on July       7 the you was they were actually going to install the tee.         10 Q. Do you recall seeing the extavation work that       10 do the yacs during the was due with hand shovels?         11 Q. Do you recall seeing the extavation work that       10 do the yacs during the was due work a couple fest         12 was due to expose that 15-inch waterline tri-in?       10 do the you were there and observed the IMCO workers digging the         12 A. res.       10 do the you were and yobserved the MCO workers digging the         13 Q. Now as I recall, it was what happened. And then       13 and the pipe in place.         14 MR, BENINGER: We are going off the perior 12 the werk due to move the system further away       10 do the you were they be were due to the record.         14 Q. Was it also necessary to pick up the tee and       10 dw the you was the hole for the tee.         13 Q. Was it also necessary to pick up the solut the solut if not marking.       13 dw the pipe bit place.         14 Q. It wasn't in the hole yet?       14 MR, BENINGER: We are back on record.         15 obt blow the pipe and ro		1 Q. So I guess I must be mi	issing something here.
4       Q. Are you sure?       4       Å yes.         5       A. That's normally what I write would be his       5       Q. Sometime earlier?         6       A. They had dug it during the afternoon of the         7       Q. Do you recall being on site when the City       5       Q. Sometime earlier?         8       A. Yes., i was there.       3       Q. And that hole was dug with hand shovels?         10       Q. Do you recall seeing the excavation work that       1       a. A. Yes. And then they moved it two feet Closer         11       A. Yes., i was there.       3       Q. And your testimony is that you observed         12       down to kerpose the 16-inch waterline te-in?       1       a. Yes.       3         15       is excavation on July 6th as reported in report number 96?       1       3       Q. Now as I read this, it loops like you are         13       Q. Now as I read this, it loops like you are       3       a. Now as I read this, it loops like you are       3       a. Now as I read this, it loops like you are         13       Q. Now as I read this, it loops like you are       3       a. No, It wasn't.       3       A. Right.       3       A. M. FLOYD: Would this be a good time for a         2       Marchine and roughly three and a half foot on       3       1       M. R. BENINGER: We are going of the fiec	2 A. Actually I think that they are the	2 The hole that had to be refilled a	was a hole that had
i A, That's normally what I write would be his       i       Q. Boyu recall being on site when the City         gersonal closed the valves on the 15-inch line on July       i       A. They had dug it during the afternoon of the         gersonal closed the valves on the 15-inch line on July       i       A. They had dug it during the afternoon of the         gersonal closed the valves on the 15-inch line on July       i       A. They had dug it during the afternoon of the         gersonal closed the valves on the 15-inch line on July       i       A. They had dug it during the afternoon of the         gersonal closed the valves on the 15-inch line on July       i       A. They had dug it during the afternoon of the         gersonal closed the valves on the 15-inch line on July       i       A. They had dug it during the afternoon of the         i A, Yes, i was there to the observe that       i       A. And the pipe station on the record it         is wetriline the in? Were you there to observe that       i       O dut to accomplish that.         i A, Ry is also necessary to pick up the tee and       i       A. Ry is.       i         i C, So how was the hole for the tee.       i       MR. NECHINGER: We are going off the record.       iiii i the is is hard is is is hard the aging dianeer         i Q. In order to get down to that 16-inch       iiiii the hole yet?       iiiiii A, iiiiiiiiiiiiiiiiiiiiiiiiiiiii	3 contractor's start and stop times.	3 already been dug?	
<ul> <li>± times, not mine.</li> <li>Q. Do you recall being on site when the City personnel closed the valves on the 16-inch line on July 37th 2 Look at report 97, the first page.</li> <li>Q. Do you recall seeing the excavation work that Q. Do you recall seeing the excavation work that 12 was done to expose the 16-inch waterline for the 13 waterline time? Were you there to observe that 14 excavation on July 5th as reported in report number 96?</li> <li>I. A. Yes. I was there to observe that 15 of close at 10 to the pump station and they had to move a couple feet 13 of close at 10 to the pump station and they had to move a couple feet 13 of close at 10 to the pump station and they had to ave a picture of it 13 as well. I termember seeing a picture of it 13 as well. I remember seeing a picture of it 14 and 10 to move and expose the pump station and they make the pies nil pice.</li> <li>A. No recall, it was what happend. And then 12 the next day once we had to move the system further away 13 from the pine patation or closer to the pump station or closer to the pump station or 12 was nit.</li> <li>Q. Was it also necessary to pick up the tee and 2 waterline.</li> <li>Q. Was it also necessary to pick up the tee and 2 waterline.</li> <li>Q. Was it also necessary to pick up the tee and 2 waterline.</li> <li>Q. Was it also necessary to pick up the tee and 2 waterline.</li> <li>Q. In order to get down to that 16-inch 2 waterline was and then dia yut to 2. In order to get down to that 16-inch 2 waterline was and the pies of the center of the tee.</li> <li>Q. In order to get down to that 16-inch 2 waterline was at the bots of the trep oth of the 13 of the orgon 12 was at the sate picture in the day to think you will find some pictures here both of the 13 of the point of at last let say was at the day at rend. The record 12 was at let point of the record 13 think at an earlier point in the project 2 waterline was at the bots of the trep oth of the 13 was at the source of the trend nad the was at the source of the tee or wea</li></ul>	4 Q. Are you sure?	4 <b>A. Yes.</b>	
Q. Do you recail being on site when the City         2 day before they were actually going to install the tee.           3 personnel closed the valves on the 16-inch line on July         2 And +           3 A. Yes, I was there.         3 A. Yes, I was there.           1 Q. Do you recail seeing the excavation work that         1 to the pump station and they had to move a couple feet           2 was done to expose the 16-inch waterline for the         2 of dirt to accomplish that.           3 was done to expose the 16-inch waterline for the         2 of dirt to accomplish that.           4 excavation on July Git as reported in report of, it says efforts this PM on exposing         1 wow sere there and observed the IMCO workers digging the pine in place.           5 for inch waterline tie-in?         2 was this is what is going to happen rather than           3 way ing that did happen. But I don't want to         2 Q. Of the hole dug?           1 A. As I recail, it was what happened. And then         2 waterline.           2 the next day once whad to move the system further awa?         2 waterline.           3 A. No, it wasn't.         2 MR, FLOYD: Would this be a good time for a           1 Q. It wasn't in the hole yet?         3 (Off the record)           3 A. No, it wasn't.         3 (Off the record)           4 Q. It wasn't in the hole yet?         3 (MR, FLOYD: Would this be a good time for a           1 Q. It wasn't in the hole yet?         3 (Off the reco	5 A. That's normally what I write would be	his 5 Q. Sometime earlier?	
3 personnel closed the valves on the 15-inch line on July 3 7th7, Look at report 97, the first page.5 And3 Charles a construction of the second term of terms of the solution of terms of the solution of terms of the term of the solution of terms o	é times, not mine.	6 A. They had dug it during	the afternoon of the
<ul> <li>3 Q. And that hole was dug with hand shovels?</li> <li>4 Yes, I was there.</li> <li>1 Q. Do you recall seeing the excavation work that</li> <li>12 was done to expose the 16-inch waterline for the</li> <li>13 waterline ite-in? Ware you there to observe that</li> <li>14 excavation on July fits as reported in report number 95.</li> <li>15 In report 96, it says efforts this PM on exposing</li> <li>16 i-finch waterline for tomorrow's waterline tie-in?</li> <li>17 A. Yes.</li> <li>18 O. And your testimony is that you observed</li> <li>14 excavation on July fits as reported in report of the report 96, it says efforts this PM on exposing</li> <li>15 i-finch waterline for tomorrow's waterline tie-in?</li> <li>16 -inch waterline for tomorrow's waterline tie-in?</li> <li>18 and the pipe in place.</li> <li>19 and the pipe in place.</li> <li>20 Q. of the hole dug?</li> <li>21 A. As I recall, it was what happened. And then</li> <li>21 A. Yes.</li> <li>21 A. Yes.</li> <li>21 A. As I recall, it was what happened. And then</li> <li>22 waterline.</li> <li>23 we didn't need it anymore.</li> <li>134 A. No, it wasn't.</li> <li>24 Unew ti?</li> <li>3 A. No, it wasn't.</li> <li>3 A. No, it wasn't.</li> <li>4 Q. It wasn't in the hole yet?</li> <li>5 A. Right.</li> <li>5 A. Right.</li> <li>6 Q. So how was the hole for the tee joint?</li> <li>7 excavated?</li> <li>3 A. No, it wasn't.</li> <li>3 A. No, it wasn't.</li> <li>4 Q. It wasn't in the hole yet?</li> <li>5 A. Right.</li> <li>5 A. Right.</li> <li>6 Q. So how was the hole for the tee joint?</li> <li>7 excavated?</li> <li>7 A. Yes. And that was just an</li> <li>134 A. Yes. Nicolet: Yes.</li> <li>135 and we are still deposing Mr. Franklin.</li> <li>6 Q. So how was the hole for the tee.</li> <li>9 A. With shovels, hand shovels. We went down a</li> <li>9 A. With shovels hand shovels. We went down a</li> <li>13 A. No, it wasn't.</li> <li>14 Q. In order to get down to that 16-inch</li> <li>15 and we are still deposing Mr. Franklin.</li> <li>16 Q. In order to get down to that</li></ul>	Q. Do you recall being on site when the C	ity 7 day before they were actually g	oing to install the tee.
13       A, Yes, I was there.       13       A, Yes, I was there.         14       Q. Do you recail seeing the excavation work that       13       the pump station or chorser to the pump station.         14       Was dine to expose the 16-inch waterline for the       13       Q. And your testimony is that.       13       Q. And you restimony is that.       14       10       of the tota cocomplish that.       13       Q. And your testimony is that.       14       14       the pump station or chorser to the pump station.       15       16       17       17       17       17       17       18       16	3 personnel closed the valves on the 16-inch line	on July 8 And	
11       Q. Do you recall seeing the excavation work that       11 to the pump station and they had to move a couple feet         12 was done to expose the 15-inch waterline for the       13 Q. And your testimmory is that you observed         14 was excluded in the port number 967       13 mew hole, the new hole that had to be moved two feet         15 in report 96, it says efforts this PM on exposing       15 mew hole, the new hole that had to be moved two feet         16 inch, waterline for tomorrow's waterline tie-in?       14 you were there and observed that LNCO workers digging the         15 in report 96, it says efforts this PM on exposing       15 mew hole, the new hole that had to be moved two feet         15 inch waterline for tomorrow's waterline tie-in?       13 A. Yes.         16 Q. Now as I read his, it looks like you are       13 awaill. Temember seeing a picture of the hole dug         17 A. A SI Tecall, it was what happened. And then       24 mew had to move more dirt and fill in the hole where         16 move it?       134         17 Q. Was it also necessary to pick up the tee and       134         18 A. Noi, it wasn't.       134         19 Q. It wasn't in the hole yet?       3 A. Noi, it wasn't.         20 Q. So how was the hole for the tee joint       134         18 Q. It wasn't in the hole yet?       3 A. With shovels, hand shovels. We went down a         3 A. Noi, it wasn't.       4 Q. It wasn'to member. I can't really	9 7th? Look at report 97, the first page.	9 Q. And that hole was dug v	with hand shovels?
12 was done to expose the 16-inch waterline for the       12 of dirt to accomplish that.         13 waterline tie-in?       0, And your testimony is that you observed the         14 was done to expose the 16-inch waterline to beserve that       13 Q. And your testimony is that you observed the         15 In report 96, it says efforts this PM on exposing       15 new hole, the new hole that had to be moved two feet         15 In report 96, it says efforts this PM on exposing       15 new hole, the new hole that had to be moved two feet         16 John Waterline for tomorrow's waterline tie-in?       16 A. Yes.         17 A. Yes.       A slipt. Yes. And I do have a picture of it         18 you ware three and doid did papen. Abut to       20 O. Of the hole dug?         19 and the pipe still being there, the       21 A. As I recall, it was what happened. And then         21 hen we had to move more dirt and fill in the hole where       20 O. Of the hole dug?         21 Q. It wasn't in the hole yet?       134         3 A. No, it wasn't.       3 (Off the record)         4 Q. It wasn't in the hole yet?       3 (Off the record)         5 A. Right.       3 (Off the record)         6 Q. So how was the hole for the tee joint       7 kocked?         19 Q. It wasn't in the hole where       3 (Off the record)         11 Q. In order to get down to that 16-inch       3 (If the acarine point in the project?	10 A. Yes, I was there.	10 A. Yes. And then they mo	ved it two feet closer
13 waterline tie-in? Were you there to observe that       13       Q. And your testimony is that you observed         14 waterline for tomorrow's waterline tie-in?       14 you were there and observed the IMCO workers digging the         15 in report 96, it says efforts this PM on exposing       15 were to the north?         16, Yes.       1       A. Right. Yes. And I do have a picture of it         17, A. Yes.       1       A. Right. Yes. And I do have a picture of the hole dug         18 waterline to move more what happened. And then       1       A. And the pipe in place.         19 waterline to move more what happened. And then       1       A. And the pipe still being there, the         19 waterline to move more dirt and fill in the hole where       2       2       2         19 was it also necessary to pick up the tee and       2       3       MR. FLOYD: Would this be a good time for a         19 was it also necessary to pick up the tee and       13       4       13       14         19 was it also necessary to pick up the tee and       2       14       13       14         10 was it?       3       3       (Off the record)       2       14         10 was it?       3       (Off the record)       2       14       13       13         11 was at inf renk hole sorts       3       14 <td< td=""><td>11 Q. Do you recall seeing the excavation we</td><td>ork that 11 to the pump station and they ha</td><td>id to move a couple feet</td></td<>	11 Q. Do you recall seeing the excavation we	ork that 11 to the pump station and they ha	id to move a couple feet
14 excavation on July 6th as reported in report number 967       14 you were there and observed the IMCO workers digging the         15 In report 96, it says efforts this PM on exposing       15 new hole, the new hole that had to be moved two feet         16 I-inch waterline tor comorrow's waterline tie-in?       16 whole, the new hole that had to be moved two feet         17 A. Yes.       16 whole, the new hole that had to be moved two feet         18 over to the north?       13 whole, the new hole that had to be moved two feet         19 over the set day once we had to move the system further away       13 and the pipe still being there, the         12 the next day once we had to move the system further away       21 A. And the pipe still being there, the         10 the need it anymore.       13 MR. FLOYO: Would this be a good time for a         11 Q. Was it also necessary to pick up the tee and       13 MR. BENINGER: We are going off the record.         12 move it?       134         13 Q. It wasn't.       3 (Off the record)         14 Q. It wasn't.       4 (MR. BENINGER: We are going off the record.         15 over to get down to that 16-inch       3 (Inc. I think the term would be, hanging         16 ot blow the pipe and roughly three and a half foot on       13 (MR. SENINGER: We are solid of the 16-inch         17 Wring to remember. I can't really       13 think at an earlier point in the project?         12 waterline, how was that digging done?       <	12 was done to expose the 16-inch waterline for t	he 12 of dirt to accomplish that.	
15 In report 96, it says efforts this PM on exposing       15 new hole, the new hole that had to be moved two feet         16 Inch waterline for tomorrow's waterline the-in?       16 over to the north?         17 A. Yes.       17 A. Right. Yes. And I do have a picture of it         18 aying that this is what is going to happen rather than       19 and the pipe in place.         19 and the pipe in place.       20 Q. Of the hole dug?         21 A. As I recall, it was what happened. And then       21 A. As I recall, it was what happened. And then         21 henxt day once we had to move the system further away       22 waterline.         23 from the pump station or closer to the pump station,       23 MR. FLOYD: Would this be a good time for a         24 then we had to move more dirt and fill in the hole where       26 MR. NICOLL: Yes.         18 Q. Was it also necessary to pick up the tee and       134         19 Q. Was it also necessary to pick up the tee and       134         10 Q. Was it also necessary to pick up the tee and       14 MR. BENINGER: We are going off the record.         24 move it?       3         3 A. No, it wasn't.       3         4 Q. It wasn't in the hole yet?       5         5 A. Right.       5         2 Go how was the hole for the tee.       1         3 A. With shovels, hand shovels. We went down a       5         5 foot below the pipe and ro	13 waterline tie-in? Were you there to observe th	at 13 Q. And your testimony is t	hat you observed
16 16-inch waterline for tomorrow's waterline tie-in?       16 0-inch waterline for tomorrow's waterline tie-in?       16 0-inch waterline for tomorrow's waterline tie-in?         17 Q. Now was I read this, it looks like you are       13 A. Right. Yes. And I do have a picture of it         18 asying that this is what is going to happen rather than       10 A. As I recall, it was what happened. And then         18 the waterline day once we had to move the system further away       20 Q. Of the hole dug?         21 A. As I recall, it was what happened. And then       20 Q. Of the hole dug?         21 A. As I recall, it was what happened. And then       20 Q. Of the hole dug?         21 A. As I recall, it was what happened. And then       20 Q. Of the hole dug?         21 A. As I recall, it was what happened. And then       21 A. And the pipe still being there, the         22 then ext day once we had to move more dirt and fill in the hole where       23 MR. FLOYD: Would this be a good time for a         24 break?       24 break?         25 we didn't need! tanymore.       26 dof tape two.         26 urove it?       3 A. No, it wasn't.         3 A. No, it wasn't.       3 (Off the record)         4 Q. It wasn't in the hole yet?       4 MR. BENINGER: We are back on record. It's         3 A. With shovels, hand shovels. We went down a       5 (OFf the record)         4 Q. In order to get down to that 16-inch       8 line, 1 think the term would be, hanging	14 excavation on July 6th as reported in report nu	mber 96? 14 you were there and observed th	e IMCO workers digging the
13       A. Yes.       13       A. Right. Yes. And I do have a picture of it         13       asying that this is what is going to happen rather than       13       13       as well. I remember seeling a picture of the hole dug         13       asying that this is what is going to happen. And then       14       as well. I remember seeling a picture of the hole dug         14       A. As I recall, it was what happened. And then       19       and the pipe sing thet, the         21       A. As I recall, it was what happened. And then       20       Q. Of the hole dug?         21       A. As I recall, it was what happened. And then       21       A. And the pipe sing thet, the         22       then we had to move more dirt and fill in the hole where       21       M. And the pipe sing off the record         23       M. No, it wasn't.       25       MR. NICOLL: Yes.       134         14       Q. It wasn't in the hole yet?       3       (Off the record)       4         4       Q. It wasn't in the hole yet?       3       (Off the record)       5         5       A. Right.       5       3:15 and we are still deposing Mr. Franklin.       6       Q. We spent a little bit of time trying to         7       excavated?       1       G. Cavated?       1       A. Yes.       1         14	15 In report 96, it says efforts this PM on exposing	g 15 new hole, the new hole that had	i to be moved two feet
13       Q. Now as I read this, it looks like you are       13       13       24         13       asymp that this is what is going to happen rather than       15       and the pipe in place.         21       A. As I recall, it was what happened. And then       15       and the pipe still being there, the         22       the next day once we had to move the system further away       25       MR. FLOYD: Would this be a good time for a         23       the we had to move more dirt and fill in the hole where       25       MR. NICOLL: Yes.         21       Q. Was it also necessary to pick up the tee and       24       MR. BENINGER: We are going off the record.         2       Lift wash't.       3       1       MR. BENINGER: We are book on record. It's         3       A. No, it wasn't.       3       1       MR. BENINGER: We are called of the record.         4       Q. It wasn't in the hole yet?       4       MR. BENINGER: We are called of the 16-inch         3       A. With shovels, hand shovels. We went down a       3       50       53:15 and we are still deposing Mr. Franklin.         6       Q. So how was that digging done?       10       Q in a trench that had been excavated you         11       Q. In order to get down to that 16-inch       10       Q in a trench that was labeled in the diary to         14	16 16-inch waterline for tomorrow's waterline tie-	in? 16 over to the north?	
13 saying that this is what is going to happen rather than       19 and the pipe in place.         14 saying that this is what is going to happen rather than       10 dot thappen. But I don't want to         12 the next day once we had to move the system further away       12 do n't wan't in the pump station or closer to the pump station,         15 from the pump station or closer to the pump station,       21 A. And the pipe still being there, the         14 the we had to move more dirt and fill in the hole where       22 waterline.         15 more it?       3 A. No, it wasn't.         1 Q. Was it also necessary to pick up the tee and       134         1 Q. Was it also necessary to pick up the tee and       134         1 Q. Was it also necessary to pick up the tee and       134         1 Q. Was it also necessary to pick up the tee and       134         1 Q. It wasn't.       3 (0ff the record)         4 N, SENINGER: We are back on record. It's       5 3:15 and we are still deposing Mr. Franklin.         6 Q. So how was the hole for the tee joint       6 Q. We spent a little bit of time trying to         7 locate a photograph that you recalled of the 16-inch       8 line, I think the term would be, hanging         9 A. I'm trying to remember. I can't reaily       13 twas a time frame that was labeled in the diary to         14 need of the secsion of it and all they had to do was mark where       14 have done that.         15	17 A. Yes.	17 A. Right. Yes. And I do h	ave a picture of it
20       Q. Of the hole dug?         21       A. As I recall, it was what happened. And then         22       M. As I recall, it was what happened. And then         23       M. S I recall, it was what happened. And then         24       M. And the pipe still being there, the         25       M. R. FLOYD: Would this be a good time for a         24       M. FLOYD: Would this be a good time for a         24       M. R. FLOYD: Would this be a good time for a         24       M. R. PLOYD: Would this be a good time for a         24       M. R. BENINGER: We are going off the record.         25       M. No, it wasn't.         3       A. No, it wasn't.         4       Q. It wasn't in the hole yet?         5       A. Right.         6       Q. So how was the hole for the tee joint         7       excavated?         3       A. With shovels, hand shovels. We went down a         3       Got below the pipe and roughly three and a half foot on         10       Q. In order to get down to that 16-inch         12       Waterline, how was that digging done?         13       A. I'm trying to remember. I can't really         14       A. I'm trying to remember. I can't really         15       Q. So the excavation, I just want to be really<	18 Q. Now as I read this, it looks like you are	e 18 as well. I remember seeing a p	victure of the hole dug
21       A. As I recall, it was what happened. And then       21       A. And the pipe still being there, the         22 then ext day once we had to move the system further away       23       MR, FLOYD: Would this be a good time for a         23 then we had to move more dirt and fill in the hole where       24 break?       25       MR, FLOYD: Would this be a good time for a         24 then we had to move more dirt and fill in the hole where       25       MR, FLOYD: Would this be a good time for a         25 we didn't need it anymore.       134       136         20 Was it also necessary to pick up the tee and       1       MR, BENINGER: We are going off the record.         2 move it?       3       (0ff the record)       4         3 A. No, it wasn't.       3       (0ff the record)       4         4 Q. It wasn't in the hole yet?       5       3:15 and we are still deposing Mr. Franklin.       6         5 A. Right.       6       Q. So how was the hole for the tee joint       7       10cate a photograph that you recalled of the 16-inch         3 foot below the pipe and roughly three and a half foot on       9       A. Yes.       9       A. Yes.         12 waterline, how was that digging done?       12       A. Yes. Weil, around the 6th or 7th of July.       13         13 diameter pipe trenct and installed the large diameter       19       14 have done that. <td>19 saying that this is what is going to happen rath</td> <td>ner than 19 and the pipe in place.</td> <td></td>	19 saying that this is what is going to happen rath	ner than 19 and the pipe in place.	
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17 think you will find some pictures here both of the17 down to the point of at least let's say the top of the18 waterline and the gasline. And that was just an18 16-inch line was done on somewhere around July 6th, 7th?19 extension of it and all they had to do was mark where19A. Yes.20 the waterline was and then dig out. It was already20Q. And part of that digging was done with a21 exposed basically. They had dug a trench five foot wide21 backhoe or some kind mechanical digger?22 and the waterline was at the bottom of the trench and22A. The smaller backhoe that was a 580.23 they put the CDF in, they removed the top couple of feet24A. Yes.	-		•
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24 down to where the pipe was and the rest of it was done 24 A. Yes.			nat was a 580.
	· · · · · · · · ·		
25 by hand. 25 Q. Is that the yellow one?		l l	
	25 by hand.	25 Q. Is that the yellow one	?

DALEN V. OLYMPIC PIPE LINE THOMAS W	
137	13
A. No. That's a Cat.	1 And if you would with your blue marker just fill in in
2 Q. That's a Cat. I have a photograph of it.	2 blue the Dakin-Yew pump station.
A. No. That's the Cat too.	3 A. (Witness complies.)
Q. It is. It wasn't the Hyundai or Hitachi	4 Q. And then again in blue will you please
arather and it wasn't the Cat. Describe the shovel, if	6 highlight the 24-inch line that runs out of the pump
á you will?	${\mathfrak f}$ station to the south and then to the west to the point
A. It was a Case 580. The shovel I remembered	? that it connects in a tee intersection with the 16-inch
was truck driven. I mean it was something you could	3 line?
mount on the back of a flatbed. And, you know, small,	9 A. Okay.
) it was a smaller piece of equipment. It wouldn't weigh	10 Q. Would you hold that up? Now is that the way
1 more than maybe three ton.	11 in which the plan to tie-in to the 16-inch line had been
Q. And would you lower it into the hole?	12 revised?
A. No. You excavate from outside the hole. And	13 A. Yes.
it also has a bucket that you can scoop material out of.	14 Q. Do you know, and I fully understand that you
Q. What does the bucket look like?	15 might not, but do you know if Exhibit 97 is an as-built
A. The front bucket was about five foot wide and	16 drawing that takes into account the two foot or so move
two foot deep. The back excavating mechanism had a	17 of the line to the north to get closer up to the station
B reach of about 12 foot from two sections and it had an	18 itself?
erticulating bucket.	13 A. It wouldn't be an as-built. It would be
•	
• • • • • • • • • • • • • • • • • • • •	20 something other than as-built because as-built would
t then when you say it had an articulating bucket, what do	21 have the actual dimensions of the pipe that were
you mean by that?	22 measured and it would also have normally an elevation.
A. Just that it could rotate probably about 150	23 Q. So to your understanding Exhibit 97 is not an
degrees from one end, one extreme to the other. It had	24 as-built drawing?
o no life arm on it so it was just a backhoe bucket.	25 A. Right.
138	1
Q. Was the excavating tool flat edged or did it	1 Q. Now, would you take the pink marker that we
have teeth?	2 have been using for this purpose and highlight please
A. I believe it had teeth.	3 the Olympic pipeline if you can find it displayed on
Q. I will find a photograph of it later. I	4 Exhibit 97, drawing P-1?
tried to pull out pictures of all the different things	5 A. (Witness complies.)
that were being used.	6 Q. Hold that up for the camera, please.
(Exhibit No. 97 is marked	7 A. (Witness complies.)
for identification)	8 Q. That's actually even written on the drawing
Q. This is Exhibit 97. This is Bates numbered	9 as well, isn't it, it says Olympic pipeline?
City-ENG000001. There is handwriting at the top that	10 A. Yes, it is.
says October, Oct. 1993, but in the upper left hand	11 Q. Now, you testified to this earlier, but you
corner there is a date of 6/11/99 which I assume is the	12 have an understanding of the approximate location of the
day on which it was printed.	13 rupture point?
But for our purposes I would like to take a	14 A. Yes.
look at the Dakin-Yew pump station. This is drawing	15 Q. Would you take that red marker that you have
number P-1 pump station site plan. See the Dakin-Yew	16 there and circle in red the approximate location of the
pump station in the middle?	17 rupture point as you understand it?
A. Yes.	18 A. (Witness complies.)
Q. Over in the lower left hand corner above the	19 Q. And hold that up. Why don't you show it to
computer stamp there is a revised pump station discharge	20 the guys at the table.
pipe and it seems to be revision number three. And	21 MR. FLOYD: Thank you.
alahanah isla hand sa naad. Y hadaana te a dasa t	22 Q. So that would be a point slightly to the
annough it's hard to read, I delieve the date is	
2 although it's hard to read, I believe the date is 3 5/13/94. Do you see that?	23 north of the, somewhat to the north of the intersection,
5/13/94. Do you see that?	23 north of the, somewhat to the north of the intersection, 24 the new intersection tee joint, the 16-inch line and the
5/13/94. Do you see that?	24 the new intersection tee joint, the 16-inch line and the 25 24-inch line?

DALEN V. OLYMPIC PIPE LINE	THOMAS W	. FRANKLIN 6-19-00
	141	143
1 A. Yes.		<ol> <li>Q. By you I mean first you personally.</li> </ol>
2 Q. I would like you to hand me back that		<ol> <li>A. I thought I had made a comment in my daily</li> </ol>
3 handwritten document. I am going to refer you	back to	3 report that I did give them a copy of the revised plan.
4 Exhibit 94 and specifically to the second page of		Q. Okay. You have got the daily report there.
5 Exhibit 94 which is ET0005184. Now you did no	t do that	E Which one? One of the ones you were just reading?
E drawing yourself; right?		a A. Yes.
7 A. That's correct.		? Q. Why don't you take a look at that again and
3 Q. Can you tell who did?	:	<pre>9 point me to it.</pre>
9 A. No.		9 MR. FLOYD: Are we on Exhibit 64?
10 Q. Do you know who did the drawing?		10 MR, NICOLL: Exhibit 64. And I assume we are
		11 looking at the entries.12A. Around the 7th of July.
		•
13 the depth of the 24-inch line and the point at wi		13 Q. It would be the 7th of July?
14 it's going to connect to the 16-inch waterline; ri	gntr	14 A. Right.
15 A. Yes.		15 Q. So that would be ET0006442 and 443.
16 Q. Now, is there anywhere shown on that i		16 A. Apparently I didn't write it that way. On
1? the location in profile of the pipeline, of the Oly	npic	17 the 6th I made the comment he was there and I believe
19 pipeline?	I	18 that's when I gave it to him.
19 A. No.		19 Q. Let's back up on these inspection reports for
20 Q. And yet you know, do you not, that the		20 a minute. What's the purpose of these inspection
21 pipeline was approximately three feet more or l	ess below	21 reports as you understand it?
22 that 16-inch waterline?		22 A. To give the people in my office an idea of
23 A. Yes.		23 what's going on in the field and to deal with issues
24 Q. Would you normally expect to see the p	ipeline	24 that come up.
25 depicted in elevation?		25 Q. Isn't one of the purposes to make a record, a
	142	14
1 MR. FLOYD: Counsel, where does it say		1 written record of significant or important events?
2 feet? If you look at Exhibit 84 it's over five feet		2 A. Sure. Yes.
3 MR. VERWOLF: Counsel, I'm going to ol		3 Q. And in view of what the Olympic pipeline is,
4 on the record to your testifying. Why don't you	-	4 isn't a crossing of the Olympic pipeline in your mind a
5 ask the witness questions.	jusc	
		5 significant event?
	nree	6 A. Yes, sir.
7 feet. It's not in Exhibit 94.		7 Q. And isn't in fact Exhibit 97, this drawing,
8 MR. VERWOLF: I join in that objection t		8 if you would please hold that up, doesn't Exhibit 97 in
9 Q. The evidence will show whatever it sho	ws	9 fact show that because of this decision to relocate the
10 about exactly where the line was.		10 joinder of the 16 and 24-inch lines that there was now
But whether it's five feet or three feet o	-	11 going to be a crossing of Olympic pipeline where before
12 two feet or six inches, whatever, when doing an		12 one had not been planned?
13 elevation in an area where the drawings show a		13 A. What was the question?
14 underground utility and pipeline would be or is I	-	14 Q. Doesn't Exhibit 97 show the crossing of the
15 would you normally expect to see that undergro	und	15 Olympic pipeline by the tee intersection of the 24 and
16 utility identified in the profile drawing?		16 16-inch.
17 A. Sometimes.		17 A. It's on top of it, yes.
18 Q. Sometimes?		18 Q. And previous to Exhibit 97 all other prior
19 A. Sometimes.		19 drawings of that vicinity for this project did not
20 Q. Do you have any record that Olympic P	ioe Line	20 depict a crossing by the tee joint?
21 was provided with a copy of Exhibit 97 showing	•	21 A. That's correct.
22 relocation of the tie-in of the 24-inch line to the		22 Q. So you also know, don't you, that Olympic was
	Ì	
23 16-inch waterline?	<b>C</b> . 1	23 pretty insistent, in fact the rules themselves for this
24 MR. SCANLAN: I'll object to the form o	i the	24 particular project were pretty insistent that Olympic be
25 question.		25 notified whenever there is to be a crossing or digging
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	FRANKLIN 6-19-00
: or excavation near the Olympic pipeline?	147
2 A. Yes, sir.	1 very cautious reporter on these reports, on these 2 inspection reports?
3 Q. You made those inspection reports at or about	3 A. No. I wasn't real cautious.
the time of the events that are written in each report;	4 Q. So there were some things that might have
5 right?	5 happened that were important but you didn't put them in
	6 the inspection reports?
<ul> <li>A. Yes, sir.</li> <li>Q. Would you carry a clipboard around that had a</li> </ul>	A. It's kind of hard
6 form with an inspection report on it and make notes as	
9 you went? 0 A. No.	9 question, argumentative. 10 Q. I don't mean to be argumentative. I just
	11 want to get a sense of the outside parameters of how far
• • • • •	- •
	12 might it go before you would say no, if something like
• • •	13 that happened I would put it in the report but there
•	14 might be this gray area of things that might not
	15 necessarily get into the report.
•	16 A. They are very likely little things that
	17 didn't get in the report. Things like when you break a
-	13 waterline, that clearly made it and entered in the
	19 report. And anything of any damage or anything of
0 A. A hundred feet.	20 significance I would try to put it in the report.
1 Q. And it's to the east; right?	21 Q. Now, you noted when the Olympic Pipe Line
2 A. Yes.	22 people were present during excavation on the 24-inch
23 Q. Would you normally go to your car and write	23 line, the northwest line; right?
, , , , , , , , , , , , , , , , , , , ,	24 A. Yes.
25 through the day?	25 Q. The following day that was on July 6th;
146	14
1 A. Periodically through the day.	1 right?
2 Q. What was your customary practice for filling	2 A. Yes.
3 in these reports?	
	3 Q. The following day, July 7th, we know that
	<ul> <li>Q. The following day, July 7th, we know that</li> <li>4 there was digging in connection with relocating the</li> </ul>
A. I would at least get it started at noontime, if not before then, and then I would go back on a two	
<ul> <li>A. I would at least get it started at noontime,</li> <li>if not before then, and then I would go back on a two</li> <li>6 hourly basis or sometimes not until the end of the day</li> </ul>	<ul> <li>4 there was digging in connection with relocating the</li> <li>5 position of that tee joint?</li> <li>6 A. Yes.</li> </ul>
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DALEN V. OLYMPIC PIPE LINE THOMAS W	FRANKLIN 6-19-00
149	151
giving Exhibit 97 or a copy of Exhibit 97 showing the	: copy of the plan sheet.
2 relocated tie-in between the 24-inch and the 16-inch	2 Q. So at the time of these events, around the
3 line to one of the Olympic inspectors?	3 late May, June, July time frame, John Hatch, your
4 A. Yes.	4 superior, suggested to you that you provide the Olympic
5 Q. But when you reviewed the inspection reports	5 representative with a copy of Exhibit 97, the drawing
6 you found that there wasn't a reference in the reports	$\epsilon$ showing the relocated tie-in?
7 to having done so; isn't that right?	7 A. That's correct.
3 A. That's correct.	8 Q. And because of that conversation you have a
9 Q. Now, the fact that there is no reference in	9 recollection of having complied with his request?
10 the inspection reports to your having provided such a	10 A. That's correct.
11 revised drawing to the Olympic inspectors, doesn't that	11 Q. But you have no written record of it?
12 mean that you didn't give them one of those?	12 A. No.
13 A. No, it doesn't.	13 Q. You didn't note it in your inspection report?
14 Q. Do you have a specific recollection of doing	14 A. No. Apparently not. I didn't find it.
15 so?	15 Q. Is this the first time you have looked at
A. I don't have the recollection of doing so,	16 those inspection reports since the project?
1? but I believe I did.	1? A. Yes, sir.
18 Q. Why do you believe you did?	18 Q. We are going to get together again on
19 A. Because I can't prove that I didn't. I don't	19 Thursday. I want you to have every opportunity to read
20 have anything saying that I did but I remember doing it.	20 those reports and confirm for yourself what is or isn't
21 I remember.	21 in them. So if you don't have a copy of your own I
22 Q. You remember doing it?	22 think we have got a spare box. You are welcome to take
<ul> <li>A. I remember talking to him and giving him a</li> </ul>	23 a copy and read it if you like. I will leave it to
24 copy the plan sheet. But I don't have any way of	24 Terry to tell you what you should or shouldn't do, but I
25 proving that since I didn't write it down. That's why I	25 would personally prefer that you had the chance to
150	152
1 had thought I had written it down too.	1 really scour those things if you want. Okay?
2 Q. Did you keep contemporaneous notes or note	2 A. Sure.
3 pads, things like that?	3 Q. Can you describe the person from Olympic to
4 A. No.	4 whom you have a recollection of providing the revised
5 Q. Did you have any specific kind of procedure	5 drawing?
6 besides noting when they were there for reporting	6 A. No, I don't have any recollection of his
7 internally at Barrett/Earth Tech about the presence of	7 description.
3 representatives of underground utilities on site?	8 Q. Was he tall?
9 <b>A. No.</b>	9 A. Average. There was nothing specific that I
10 Q. So for example you wouldn't call in and say	10 recall about him.
11 well, we have got Olympic people on site or anything	11 Q. Dark hair, light hair. Don't recall?
12 like that?	12 A. No, I don't recall.
13 A. That might have happened, but I didn't	
13 A. That might have happened, but I didn't	13 Q. Do you recall where you were when you gave it
· · · · · · · · · · · · · · · · · · ·	<ul> <li>Q. Do you recall where you were when you gave it</li> <li>14 to him?</li> </ul>
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DALEN V. OLYMPIC PIPE LINE	THOMAS W. FRANKLIN	6-19-00
	153	155
A. See, he had come out and said we wer	e going I A. It says one to ten.	
2 to do both of the small pipe, the 24-inch on eit	her side 2 Q. Horizontal that's the pi	rofile.
3 of the pump station at the same time.	3 MR. FLOYD: See where d	own by approved?
Q. I guess I have to object to that on the	4 Q. May I see that? Yes. Or	ne inch equals ten
5 grounds of speculation and non-responsive.	5 feet. So two feet would be a fifth	of an inch?
6 But did he tell you why he came out?	6 A. Yes.	
7 A. Because he was told asked to come	out 7 MR. FLOYD: I don't think	the 97 either is
3 by	8 half size, is it? Do you see that a	nywhere on there? I
9 Q. By IMCO?	9 think it's only half size just so the	e record is clear.
10 A. Right.	10 MR. NICOLL: Okay. Yes.	. I think you are
11 Q. Did you see where I think we covere	ed this 11 right.	
12 before, but did you see where he stood during :	the time 12 MR. FLOYD: If you take t	hem and superimpose
13 that he was there?	13 them you can see.	
14 A. Not specifically. I don't recall locations	s. 14 MR. NICOLL: And do a tr	ansparency or
15 Q. Do you know whether you made a note	e each time 15 something.	
16 somebody from Olympic came out?	16 Q. Okay. I would like to tur	n away just for a
17 A. I'm sure I didn't. I wouldn't have, that	t 17 little while we're going to come	back to these
18 wasn't my goal.	18 inspection reports and go back	to the correspondence.
19 Q. Exhibit 79, could you just take a look a	at 19 (Exhibit No. 98	is marked
20 Exhibit 79 again and compare that with Exhibit	97? 20 for identification	1)
21 A. Okay.	21 Q. Exhibit 98 is a letter date	d July 25, 1994.
22 Q. Exhibit 79 is the version of drawing P-:	1 22 It's ET0004212. And it consists of	of one it seems to
23 before the change; is that right?	23 consist of five pages ending at 42	16. And it has to do
24 A. Yes, sir.	24 with some damage out of round o	
25 Q. And Exhibit 97 is the version after the		
· · · · · · · · · · · · · · · · · · ·	154	15
1 change?	1 A. Yes, sir.	
2 <b>A. Yes.</b>	2 Q. Is this the same problem	that was referenced
3 Q. So I'm clear in my mind about this, is	the 3 earlier or is this a different	
4 location of the length of pipe exiting the south	end of 4 A. It's a congruence of even	rything, yes. It was
5 the pump station on Exhibit 97 and the length	of pipe 5 what we talked about earlier.	
$\boldsymbol{\varepsilon}$ joining the 90 degree bend with the tee joint, i	is that 6 Q. Again the large diameter	pipes are in a
$\gamma$ in actuality two feet to the north where it was	7 different location; right?	
3 installed?	8 A. Yes.	
9 A. I don't know.	9 Q. Does that also address t	he pipe deflection
10 Q. It could have been?	10 problems that had or is that the	pipe deflection
11 A. I would think it would be, yes.	11 problem?	
12 Q. You think it would be. Since the date		o as a deflection,
13 this revision predates the field change that wa		•
14 July 7th, more likely than not the location of th		is marked
15 the 24-inch line is actually two feet or so to th		
16 north?	16 Q. 99 is a fax from IMCO di	•
A. That's correct. This was drawn 6/13 o		
13 something like that so odds are it's probably to		
19 something like that so outs are it's probably to 19 further north.	19 8796. Do you see that?	na crooodiyo ahouya
• • • • • • • • • • • • • • • • • • • •		shout the deflection
21 half size by the way.	21 Q. Again raising questions	
A. It should be one to fifty, the small pie	· · · · ·	
23 paper.	23 and who is required to go forwar	a with the project; is
24 MR. BENINGER: It's one to ten it says 25 below.		

DALEN V. OLYMPIC PIPE LINE TH	HOMAS W. FRANKLIN	6-19-00
A dra these arabiers	157	159
Q. Are these problems I don't know if it's	1 A. Right.	
2 fair to call them problems. I'm just searching for	a 2 Q. It doesn't cost the City	anything?
3 word that won't sound argumentative. But these	issues, 3 A. Right.	
4 are these cost issues for both parties? Do they b		-
E questions of who is going to end up bearing the c		
6 doing the follow-up work, the inspection work, the		the number on that?
replacement work and that kind of thing?	7 MR. NICOLL: 101.	460
A. Yes, that's always an issue in a situation		MCO.
9 like this.	9 MR. NICOLL: Yes.	
<ol> <li>Q. I'm just eliminating a couple of document</li> </ol>	-	metning. Let's mark
11 I go here.	11 it	<b>0 1 1 1 1</b>
12 (Exhibit No. 100 is marked	12 (Exhibit No. 1)	
13 for identification)	13 for identificati	•
14 Q. Exhibit 100 has something to do with	14 Q. Exhibit 102, why don't	-
15 installation of angles attaching the vault to the	15 real quickly and tell us what it i	
16 ballast slab in the wrong location and directing so		
17 remedial work.	17 pictures printed from, the pictu	res that we were looking
19 MR. BENINGER: September 15th, a one p	-	
19 memo?	19 Q. Okay.	2 to 1/05
20 Q. Right. September 15, 1994 ET0004098.	20 A. Enclosed. It was 12/93	
21 A. Yes.	21 Q. For the record we have	
22 Q. And you were copied on it?	22 Tech, the parties have received	
23 A. Yes.	23 approximately 1200 photograph	
Q. Are you familiar with the issue that was	24 MR. BENINGER: It sour	-
25 raised here?	25 Q. Each of these documen	
	158	160
1 A. I would have to read it a little bit. But	1 the development envelope for e	each of those sets of
2 ballast, I don't remember that.	2 photographs?	
3 Q. This deals with something that wouldn't	3 A. That's correct.	
4 actually be related to anything physical that hap	pened 4 MR. FLOYD: There is a	lso a picture.
5 at or about the location of the rupture?	5 MR. NICOLL: There is	? Which page is it?
6 A. Right.	6 MR. BENINGER: 428.	
7 Q. It may be a cost issue, but it's not a	7 A. Which page?	
8 direct physical rupture thing; right?	8 Q. 428.	
9 A. Right.	9 A. I'm totally ignorant of	it. It looks like a
10 (Exhibit No. 101 is marked	10 pile of dirt though.	
11 for identification)	11 Q. Well, these photograp	hs that we have, some of
12 Q. Exhibit 101 is an another memo that you	were 12 which we have marked as exhi	bits and many more of which
13 copied on to Paul Krakenberg from John Hatch.	It has to 13 we will be marking as exhibits,	, have, as we discussed
14 do with repairing of the 60-inch line that was day	maged 14 earlier, some dates stamped in	the lower right hand
15 because it was up against a rock or something lil	ke that? 15 corner depending on the view,	one's take of it?
16 A. Yes.	16 <b>A. Yes.</b>	
17 Q. Again the 60-inch line really doesn't hav	4	tes are easily visible
18 anything to do directly with the rupture; right?	18 just because of the way the fil	
19 A. That's correct.	19 light happens to be or the bac	
20 Q. But this again is a cost question, a cost	20 <b>A. Yes.</b>	-
21 issue. Somebody is going to bear the cost for ha		when we were off record
22 repair that work?	22 that some of the that the ne	
23 A. This really isn't even a cost issue becaus		
	24 A. I believe they do.	
24 it was something they accept responsibility.25Q. They accept responsibility for it?	25 Q. And that would be on	the reverse side of the

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DALEN V. OLYMPIC PIPE LINE THOMAS W	. FRANKLIN 6-19-00
161	163
1 negative?	1 MR. SCANLAN: You're missing
2 A. I don't know.	2 MR. NICOLL: We're missing 32.
3 Q. Who has the negatives now?	3 MR. SCANLAN: And some others.
4 A. I believe they are all turned in. I don't	4 MR. NICOLL: And some others.
5 know who has them.	5 MR. SCANLAN: You are missing like three in
6 MR. SCANLAN: I can answer that. He wouldn't	6 March.
7 know. United States Attorney's office,	7 MR. NICOLL: Let me see if I can augment
3 Q. United States Attorney office has them.	8 that. This might be the most complete set that we have.
9 Okay. I wonder if they have like a chart that aids in	9 Q. But anyway, take a look at it. Do those
1) the determination of the date of these photographs.	10 minutes look familiar?
11 MR. FLOYD: They have contact negatives I	11 A. Yes.
12 think. They have taken the negatives and made a contact	12 Q. You have seen them?
13 sheet and you can read the date off of that if it was on	13 A. I've seen some of them.
14 the negative. I have requested a set of contact sheets	14 Q. Similar ones or at least some of those in the
15 from them. So if you want to get a set too.	15 past; right?
16 MR. NICOLL: Sure. That would be great.	16 A. That's correct.
17 Q. And when the U.S. Attorney's office asked you	1? Q. I would like you to take a look at the
13 for that it was never mind. I won't ask that	18 meeting minutes from June 7, 1994. It's ET0004585.
19 question. I will leave that for Mr. Finegold.	19 A. Okay.
20 (Exhibit No. 103 is marked	20 Q. By June 7, 1994 the decision had already been
21 for identification)	21 made, had it not, to change the location of the tie-in
22 Q. During the project, the Dakin-Yew project,	22 between the 16-inch and the 24-inch?
23 there were weekly meetings; is that right?	23 A. I believe that's true.
24 A. Yes.	24 Q. It was changed to the location as shown on
25 Q. And did you attend those meetings?	25 Exhibit 97, the revised drawing P-1?
162 1 A. Yes.	164
	1 A. Yes.
2 Q. All of them or most of them? 3 A. Most of them.	2 Q. Now, this also talks about under item 15.3
	3 the tie-in of the 24-inch tee into the 16th line will be
4 Q. And minutes were prepared from those	
	4 tentatively the 22nd of this month at night. Do you see
5 meetings; is that right?	5 that?
5 meetings; is that right? 6 A. Yes.	5 that? 6 A. Yes.
5 meetings; is that right? 6 A. Yes. 7 Q. Did you receive copies of the weekly meeting	5 that? 6 A. Yes. 7 Q. And this is at about the time that IMCO was
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<ul> <li>5 meetings; is that right?</li> <li>A. Yes.</li> <li>Q. Did you receive copies of the weekly meeting</li> <li>9 minutes?</li> <li>9 A. I did not, no.</li> <li>10 Q. Have you ever seen them?</li> <li>11 A. I may have seen some, but it wasn't a regular</li> <li>12 basis.</li> <li>13 Q. I'm going to show you Exhibit 103 which</li> <li>14 contains documents Bates numbered ET0004852?</li> <li>15 MR. SCANLAN: They are not in sequential</li> <li>16 order.</li> <li>17 MR. NICOLL: They are out of order but I</li> <li>13 think they go from reverse to forward.</li> <li>19 MR. SCANLAN: You also have some other OPL</li> <li>20 numbers in there.</li> <li>21 MR. NICOLL: They sure do.</li> <li>22 Q. It looks like about 29 packages of minutes</li> </ul>	<ul> <li>S that?</li> <li>A. Yes.</li> <li>Q. And this is at about the time that IMCO was</li> <li>B receiving authority to run two shifts?</li> <li>A. Within a month of that time, yes.</li> <li>Q. Is there any significance to the number</li> <li>11 sequence here, the way this paragraph on status of</li> <li>12 clarification is numbered? Is it just the third item</li> <li>13 from the fifteenth weekly project meeting?</li> <li>A. That's what it was.</li> <li>Q. That's all it is?</li> <li>A. Yes.</li> <li>Q. What kinds of things would normally be</li> <li>18 addressed in these weekly meetings?</li> <li>A. Basically they would start out with issues,</li> <li>20 whatever was coming up, had come up during that week or</li> <li>21 will come up. And we talked about some submittals after</li> <li>22 that, whatever is needing to be provided before they do</li> </ul>

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DALEN V. OLYMPIC PIPE LINE	THOMAS W	. FRANKLIN	6-19-00
	165		167
i about impacts on plan operation, pay estimates		<ol> <li>A. I would think there would have</li> </ol>	
2 pretty good example of the different types of th	ings	2 in earlier meetings talking about that si	
3 that would come up.		3 during the time they were actually doin	
4 Q. How long would the meetings usually la	st, or	4 Q. Would that kind of thing norma	lly be raised
5 would it vary widely?		b at a meeting?	
6 A. Half hour to an hour typically.	l	6 A. I would think they would make	
7 Q. Where were they usually held?		7 the fact they were going to be contactir	ig them or
3 A. Inside the filtration plant. They had a		8 something in that regard, yes.	
$\exists$ table set up where it was quiet and was not acc	essible	9 Q. Is that the kind of mention follo	
10 to outside traffic.		10 that you would expect normally to be re	eflected in the
<ol> <li>Q. Who was assigned, if assigned is the right</li> </ol>	ght	11 minutes of these meetings?	
12 word, the task of preparing the minutes?		12 A. Some comment on them, yes.	
13 A. I believe John was.		13 Q. Were there other report forms	or not forms,
14 Q. John Hatch?		14 just reports of any type or description t	hat you were
15 A. Yes.		15 responsible for maintaining, preparing a	at the Dakin-Yew
16 Q. He would keep notes during		16 job?	
1? A. Yes.		17 A. No.	
13 Q the meetings? Yes?		18 Q. You just did your inspection re	port?
19 A. Yes.		19 A. My inspection report and the e	stimate. I
20 Q. Did anybody else keep notes during the	se	20 should have clarified that a little bit. I	was
21 weekly meetings that you know of?		21 responsible for communicating and neg	otiating with the
22 A. Not to my recollection, no.		22 contractor what his estimate values we	re for each month.
23 Q. You didn't notice anybody sitting there		23 Q. So you would get weekly pay, i	not weekly,
24 jotting things down?		24 monthly pay estimates. You would get	an estimate. The
25 A. Not regularly, no.		25 first estimate would come in in advance	e of the month or
	166		168
1 Q. Normally in attendance would be yourse		1 following?	
2 John Hatch, Greg Burress from IMCO?		2 A. Usually it was the 25th of the r	nonth we would
3 A. Yes.		3 come up with something and by the en	
4 Q. Yes. What, Paul Krakenberg maybe?		4 would be all agreed upon and given to	
5 A. Most times.		5 documentation.	
6 Q. Who else?		6 Q. So for Thursday I would have t	o have the pay
A. The City people, Wan Huang.		7 estimates here. Okay. Those are kind	
8 Q. Bill Evans?		8 documents. Right?	
<ul> <li>A. And Bill Evans would be the primary on</li> </ul>	AC	9 A. Yes, sir.	
Q. Is this circulation of minutes like this, i		10 Q. And the pay estimate, this rev	ised work on
11 this s pretty standard project like the Dakin-Ye		11 the 16-inch, 24-inch tie-in would have	
12 treatment plan?	**	12 the pay estimates for the month of o	
A. For big projects like this, yes.		13 probably; right?	Ji June 2501
		14 A. Yes.	
15 larger projects when you worked for the State?		15 Q. Possibly even on May 25th?	he end for st
A. That's right.	5 hb a	16 A. If there was anything it would	•
17 Q. On the June 7 minutes, in my review of		17 that time. Normally you don't pay for	
18 anyway, I didn't see any reference to the need	-	18 it's installed and you have some way o	r measuring
19 Olympic Pipe Line of the relocation of the 24-in	-	19 something if it's a measuring item.	1
20 16-inch tie-in. And I'm wondering if your own	review of	20 Q. Okay. All right. I'm about to	
21 the minutes confirm?		21 launch into a more detailed examination	
A. For this meeting that's true. I didn't s		22 photographs that I have had copied. A	
23 anything either. I think that maybe there woul	d have	23 if it might be better to break now rath	er than to get
24 been something in the earlier meetings.		24 into that because we'll just end up sto	oping in fifteen
25 Q. Pardon me?		25 minutes anyway.	
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DALEN V. OLYMPIC PIPE LINE	THOMAS W	, FRANKLIN	6-19-00
	169		171
MR. SCANLAN: We'll have to revisit.		1	GERTIFICATE
2 MR. NICOLL: Yes,		2 STATE OF WASH	INGTON )
3 MR. SCANLAN: Let's do it.		3 COUNTY OF KIN	G )
		4 I do hereby	/ certify:
		5 1. That I a	am a Notary Public in and for the
5 MR. BENINGER: No objection from me.	. I'm	s State of Weshin	gton;
6 going to turn the tape off for today.		7 2. That sa	ch witness before examination was by
7 MR. NICOLL: Yes.			to testify to the truth, the whole truth
Recessed at 4:15 p.m.)		y and nothing but	
9			
10		10 3. That th	s foregoing deposition was taken
		11 stenographically	y by me and reduced to transcript form
12		12 under my direct	ilen;
		13 4. That I a	am not a relative or employee or
13		14 attorney or cou	nael of any of the parties to said
114		15 action, or a rela	tive or employee of any such attorney
115		16 or counsel, and	that I am not financially interested in
16		17 the said action	or the outcome thereof;
17			the opportunity
18			n the deposition after the same was
19		-	
20			ess indicated in the record that the
21		1	h witness weived the signing;
22		22 6. That ei	i objections made at the time of said
23		23 exemination to	my qualifications or the manner of taking
24		24 the deposition,	or to the conduct of any party, have
25		25 been noted by r	me upon said deposition;
L AFFIDAVIT	170	1 7. That th	e deposition as transcribed is a full,
2 STATE OF WASHINGTON )		2 true and correc	t transcript of the testimony, including
) ##. 3 COUNTY OF KING )		3 questions and a	inewers, and all objections, motions, and
4		4 exceptions of c	ounsel made and taken at the time of the
5 I have read my within deposition, and		5 foregoing exam	ination:
6 the same is true and accurate, save and except	fa-		have made arrangements for delivery of
<sup>7</sup> changes and/or corrections, if any, as indicated			to the appropriate place of filing.
a on the correction sheet hereof.		8	
		1	
9		9	
1.5			55 HEREOF, I have hereunto set my hand
11		11 and effixed my	official seal this day of
12 THOMAS W. FRANKLIN		12	, 2000.
13		13	
14		14	
15		15	
16 Subscribed and sworn to before me this	•	16	
17 day of	2000.	17	
19		16	Notary Public in and for the State of Washington,
19		19	residing at Kirkland, Commission expires 5-13-02
		l .	CANNIESION SEPTES 5-13-02 CA-NN-05-507P9
20		20	
Notary Public in and for the		21	
22 State of Washington, residing in		22	
23 Commission expires	<b>-</b>	23	
24 Susan Cannon, Court Reporter		24	
25 Deposition taken on: 6-19-00		25	

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1	1 APPEARANCES
2 EXAMINATION INDEX	2 FOR EARTH TECH:
3	3 TERENCE J. SCANLAN Attorney at Law
4 BY MR. NICOLL: PAGES: 180 - 733	4 SKELLENGER BENDER
5	1301 Fifth Avenue 5 Suite 3401
6	Seattle, WA 98104-2605
	7 FOR KING & DALEN:
7	
8	8 DAVID M. BENINGER Attorney at Law
9	9 LUVERA BARNETT BRINDLEY BENINGER & CUNNINGHAM 701 Fifth Avenue
10	10 Suite 6700
11	Seattle, WA 98104
	12 FOR KYRIACOS TSIORVAS:
12	
13	13 DAMON A. PLATIS Attorney at Law
14	14 PLATIS LAW FIRM 4202 198th Street S.W.
15	15 Lynnwood, WA 98036-6725
16	16
17	COURT REPORTER: SUSAN CANNON 17 DEAN MOBURG & ASSOCIATES
	1201 Third Avenue 18 Suite 2760
18	Seattle, WA 98101
19	19
20	20
21	21
22	22
23	23
24	24
	25
25	*3
176	180
1	1 MR. BENINGER: We are on number three. We are
2 APPEARANCES	-
3	2 about halfway through this particular tape and we'll
4 FOR OLYMPIC PIPE LINE COMPANY:	3 continue on until it finishes off. This is Mr. Franklin's
	4 continuation deposition.
5 CHRISTOPHER W. NICOLL RICHARD F. ALLEN	5 You are still under oath. So let's proceed.
6 Attorneys at Lew COZEN and O'CONNOR	6
7 1201 Third Avenue	7 THOMAS W. FRANKLIN, having been previously sworn
6 Seettie, WA 98101-3071	
9	8 upon oath, testified as
FOR EQUILON PIPELINE COMPANY:	9 follows:
NICK S. VERWOLF	10
11 Attorney at Law DAVIS WRIGHT TREMAINE	11 EXAMINATION
12 1800 Sellevue Place 10500 N.E. äth Street	12 BY MR. NICOLL:
13 Beilevue, WA 98004-4300	13 Q. Thanks. Mr. Franklin, the same rules as Monday.
14	•
FOR IMCO GENERAL CONSTRUCTION COMPANY:	14 We are taking your deposition. As David just said you are
FRANCIS S. FLOYD	15 still under oath. And as before, if you have trouble with a
FLOYD & PFLUEGER	16 question that I'm asking, if you don't understand it, just
17 300 Trianon Building 2505 Third Avenue	17 tell me and I will try and rephrase it. And also if you
18 Seattle, WA 98121-1445	18 need to take a break, just tell us and we can do that.
19	
FOR RON BRENTSON:	19 Okay?
LAURENCE B. FINEGOLD	20 A. Okay.
THE FINEGOLD LAW FIRM	21 Q. I was about to get into the photographs when we
22 1809 7th Avenue Suite 1301	22 broke on Monday. And I'm going to get to that very shortly,
23 Senttle, WA 98101-1313	
24	23 but when I was going back through the materials I realized
25	24 there was a letter with some drawings that I didn't get into
	25 the record. So I'm going to go a little bit out of my

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1 planned order and have you examine and then identify Exhibit	1 A. Yes, I do.
2 116.	2 Q. Now, is Exhibit 116 a letter that communicates
3 (Exhibit No. 116 is marked	3 to IMCO, Mr. Chris Hart, the changes with respect to the
4 for identification)	4 tie-in location between the 24-inch line and the 16-inch
5 MR. NICOLL: And while he is doing that I will	5 line on the south side of the pump station?
6 tell the rest of you that our copy service made a mistake	6 A. Yes.
7 and unintentionally failed to copy drawings, an extra set of	7 Q. And then the drawings that are attached to it
8 the large drawings of P-1, P-10 and P-11.	$\theta$ are drawings that incorporate that revision as a specific
9 MR. BENINGER: Did not get P-10 and P-11?	9 change on each of those drawing sets; is that correct?
10 MR. NICOLL: P-1, P-10 and P-11 did not get	10 A. As well as other things.
11 copied.	11 Q. As well as other things, okay. While we are at
12 MR. SCANLAN: Into this set?	12 it, let's go back to this whole question of discharge and
13 MR, NICOLL: To the set that's attached to that	13 suction.
14 letter.	14 Since you testified on Monday, you recall on
	15 Monday you were telling us that the 24-inch line that exited
15         MR. SCANLAN: Okay.           16         MR. BENINGER: Okay. You have marked the whole	16 the south side of the pump station was a suction line?
	17 A. Yes.
17 thing. We have some letters and we've got some drawings,	
18 all 116.	
19 MR. VERWOLF: Chris, you've got several letters	19 with anybody about that issue?
20 here and you've got a whole bunch of photographs.	20 A. I did.
21 MR. NICOLL: No.	21 Q. Who did you speak with?
22 MR. VERWOLF: It's not everything in the clip?	22 A. Dirk Van Woerden and George Nordby.
23 MR. NICOLL: No, it's not everything in the	23 Q. Dirk Van Woerden is the president of Barrett
24 clip.	24 who is Dirk Van Woerden?
25 MR. SCANLAN: What is 116 then?	25 A. He is the supervisor of the water division of
182	
1 MR. NICOLL: 116 is supposed to be the May 16,	1 Earth Tech.
2 1994 letter.	2 Q. So he is one of your bosses?
3 MR. SCANLAN: Not the June 15?	3 A. Yes.
4 MR. NICOLL: No. It's the May 16 letter.	4 Q. And George Nordby is your other boss?
5 MR. SCANLAN: Okay, All right.	5 A. That's correct.
6 MR. NICOLL: May 16 letter and the drawings that	6 Q. Did you discuss the issue of whether that
7 follow it.	7 24-inch line coming out of the south side of the station was
8 MR. SCANLAN: Okay.	8 a discharge or suction?
9 MR. NICOLL: What's missing from the package but	9 A. Yes.
10 you will get shortly are the three or four drawings that Tom	10 Q. What did they say to you?
11 has in his hand.	11 A. That I was incorrect.
12 MR. FLOYD: What exhibit is this?	12 Q. That it was a discharge line?
13 MR. NICOLL: 116.	13 A. That's correct.
14 MR. FLOYD: Thank you. Are those drawings	14 Q. And not a suction line?
15 significant at all, Chris?	15 A. Yes.
16 MR. NICOLL: No. P-1, it's all the same thing	16 Q. Do you accept that?
17 basically. Different views of the same thing.	17 A. Yes.
18 MR. FLOYD: All right.	18 Q. So we can go back to calling it the 24-inch
<ol> <li>MR. FLOYD: All right.</li> <li>MR. BENINGER: May 16, several drawings are all</li> </ol>	18 Q. So we can go back to calling it the 24-inch 19 discharge line.
18MR. FLOYD: All right.19MR. BENINGER: May 16, several drawings are all20 part of 116?	<ul> <li>18 Q. So we can go back to calling it the 24-inch</li> <li>19 discharge line.</li> <li>20 A. Yes, sir.</li> </ul>
18MR. FLOYD: All right.19MR. BENINGER: May 16, several drawings are all20 part of 116?21MR. NICOLL: Yes.	<ol> <li>Q. So we can go back to calling it the 24-inch</li> <li>9 discharge line.</li> <li>A. Yes, sir.</li> <li>Q. Thanks. So Exhibit 116 concerns the relocation</li> </ol>
18MR. FLOYD: All right.19MR. BENINGER: May 16, several drawings are all20 part of 116?21MR. NICOLL: Yes.22Q. Do you see that?	<ul> <li>18 Q. So we can go back to calling it the 24-inch</li> <li>19 discharge line.</li> <li>20 A. Yes, sir.</li> <li>21 Q. Thanks. So Exhibit 116 concerns the relocation</li> <li>22 of the tie-in between the 24-inch discharge line and the</li> </ul>
18MR. FLOYD: All right.19MR. BENINGER: May 16, several drawings are all20 part of 116?21MR. NICOLL: Yes.22Q. Do you see that?23A. Yes.	<ul> <li>Q. So we can go back to calling it the 24-inch</li> <li>9 discharge line.</li> <li>A. Yes, sir.</li> <li>Q. Thanks. So Exhibit 116 concerns the relocation</li> <li>of the tie-in between the 24-inch discharge line and the</li> <li>16-inch waterline?</li> </ul>
18MR. FLOYD: All right.19MR. BENINGER: May 16, several drawings are all20 part of 116?21MR. NICOLL: Yes.22Q. Do you see that?	<ul> <li>18 Q. So we can go back to calling it the 24-inch</li> <li>19 discharge line.</li> <li>20 A. Yes, sir.</li> <li>21 Q. Thanks. So Exhibit 116 concerns the relocation</li> <li>22 of the tie-in between the 24-inch discharge line and the</li> </ul>

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1 Exhibit 97 which I have, and if you would just read off the	Q. And daylight means that at that elevation 260
2 lower right hand corner. That's drawing P-1; right?	2 feet above sea level you are above ground?
3 A. That's correct.	3 A. It means it's at the ground level.
4 Q. Now, in the stack of folded up sheets you should	4 Q. At ground level?
5 have a larger version of Exhibit P-1?	5 A. So anything that comes out of it would flow out.
6 A. Yes.	6 Q. And of course all along this drawing, Exhibit
7 Q. Could you open that up, please? Now, could you	7 97, drawing P-1 attached to Exhibit 116, are contour lines
8 take a look in the lower left hand corner of drawing P-1	8 indicating changes in elevation?
9 attached to Exhibit 116 and tell us what the date is of the	9 A. Yes.
10 revision concerning the location of the 24-inch discharge	10 Q. Now, as you go north on the pipeline on that
11 line?	11 dashed pipeline towards the pump station you reach right on
12 A. 5/13/94.	12 the pipeline a circle with an X through it and next to that
13 Q. 5/13/94. Okay. Because the reason I wanted to	13 circle are the letters el 253.0. Do you see that?
14 get to that is on our copy here on Exhibit 97 it was a	14 A. Yes.
15 little blurry.	15 MR. SCANLAN: I don't think that's a point zero.
16 A. Yes.	16 MR. NICOLL: It's point something else.
17 Q. There are some aspects of P-1 I would like	17 Q. On Exhibit 116 drawing P-1 it's clearer to read,
18 you to have the larger version of P-1 out to assist in doing	18 so why don't you read it off of that.
19 this, but we'll do the drawing actually I think on Exhibit	19 A. It says elevation 253.6.
	20 Q. On Exhibit 97 using this green highlighter would
20 97. So here's Exhibit 97.	21 you please highlight the circle with the X in it and the
21 On Exhibit 97, if you would find the dashed	22 elevation symbol?
22 Olympic pipeline that's represented on there, the dashed	
23 line that's the Olympic pipeline. And you can look at the	
24 large P-1 as well.	<ul> <li>Q. Now, what do you understand that to mean?</li> <li>A. As I understand it, that was the location that</li> </ul>
25 A. Okay.	25 A. AS I understand R, that was the location that
186	188
1 Q. Do you see that on both drawings?	1 they potholed the existing Olympic pipeline at and
	2 identified it.
1 Q. Do you see that on both drawings?	2 identified it. 3 Q. And "they" were do you know who?
1Q. Do you see that on both drawings?2A. Yes.	<ol> <li>2 identified it.</li> <li>Q. And "they" were do you know who?</li> <li>A. I believe it was Christenson Brothers Surveying.</li> </ol>
1Q. Do you see that on both drawings?2A. Yes.3Q. Down in the lower left bottom of the page, close	<ul> <li>2 identified it.</li> <li>Q. And "they" were do you know who?</li> <li>A. I believe it was Christenson Brothers Surveying.</li> <li>Q. Do you know if that elevation was taken off the</li> </ul>
1Q. Do you see that on both drawings?2A. Yes.3Q. Down in the lower left bottom of the page, close4 to the bottom, of the Olympic pipeline on the south end of	<ol> <li>2 identified it.</li> <li>Q. And "they" were do you know who?</li> <li>A. I believe it was Christenson Brothers Surveying.</li> </ol>
1Q. Do you see that on both drawings?2A. Yes.3Q. Down in the lower left bottom of the page, close4 to the bottom, of the Olympic pipeline on the south end of5 the pump station you see a notation with an arrow pointing	<ul> <li>2 identified it.</li> <li>Q. And "they" were do you know who?</li> <li>A. I believe it was Christenson Brothers Surveying.</li> <li>Q. Do you know if that elevation was taken off the</li> </ul>
1Q. Do you see that on both drawings?2A. Yes.3Q. Down in the lower left bottom of the page, close4 to the bottom, of the Olympic pipeline on the south end of5 the pump station you see a notation with an arrow pointing6 towards the direction of the pipeline and it reads daylight	<ul> <li>2 identified it.</li> <li>3 Q. And "they" were do you know who?</li> <li>4 A. I believe it was Christenson Brothers Surveying.</li> <li>5 Q. Do you know if that elevation was taken off the</li> <li>6 top of the pipeline or the bottom of the pipeline or the</li> </ul>
1Q. Do you see that on both drawings?2A. Yes.3Q. Down in the lower left bottom of the page, close4 to the bottom, of the Olympic pipeline on the south end of5 the pump station you see a notation with an arrow pointing6 towards the direction of the pipeline and it reads daylight7 at elev. 260.0. Install two inch beehive strainer on pipe	<ul> <li>2 identified it.</li> <li>3 Q. And "they" were do you know who?</li> <li>4 A. I believe it was Christenson Brothers Surveying.</li> <li>5 Q. Do you know if that elevation was taken off the</li> <li>6 top of the pipeline or the bottom of the pipeline or the</li> <li>? middle of the pipeline?</li> </ul>
1Q. Do you see that on both drawings?2A. Yes.3Q. Down in the lower left bottom of the page, close4 to the bottom, of the Olympic pipeline on the south end of5 the pump station you see a notation with an arrow pointing6 towards the direction of the pipeline and it reads daylight7 at elev. 260.0. Install two inch beehive strainer on pipe8 end. Do you see that?	<ul> <li>2 identified it.</li> <li>3 Q. And "they" were do you know who?</li> <li>4 A. I believe it was Christenson Brothers Surveying.</li> <li>5 Q. Do you know if that elevation was taken off the</li> <li>6 top of the pipeline or the bottom of the pipeline or the</li> <li>7 middle of the pipeline?</li> <li>8 A. I don't know.</li> </ul>
1Q. Do you see that on both drawings?2A. Yes.3Q. Down in the lower left bottom of the page, close4 to the bottom, of the Olympic pipeline on the south end of5 the pump station you see a notation with an arrow pointing6 towards the direction of the pipeline and it reads daylight7 at elev. 260.0. Install two inch beehive strainer on pipe8 end. Do you see that?9A. Yes.	<ul> <li>2 identified it.</li> <li>Q. And "they" were do you know who?</li> <li>A. I believe it was Christenson Brothers Surveying.</li> <li>Q. Do you know if that elevation was taken off the</li> <li>6 top of the pipeline or the bottom of the pipeline or the</li> <li>? middle of the pipeline?</li> <li>B. A. I don't know.</li> <li>9 Q. You don't know. Because you weren't there?</li> </ul>
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DALEN vs. OLYMPIC PIPE LINE

DALEN VS. OLIMITIC THE LINE THOMAS W. FR	
189	191
1 Christenson Brothers and others went out and dug down to the	1 A. Yes.
2 pipeline, identified where it was and then calculated that	2 Q. Now, there are a number of other things as you
3 above sea level?	3 run along the pipeline here, some of which we have
4 A. Yes.	4 identified the other day.
5 MR. FLOYD: Object to the form of the question.	5 But off slightly to the left which would be to
6 Lack of foundation when you say "and others".	6 the east I'm sorry west of that number 3 is an entry
7 Q. Your understanding you expressed to us before	7 on this drawing that says see detail, and then a circled two
8 was that Christenson Brothers did the potholing?	B over P-2 with an arrow pointing towards what appears to be
9 A. That's what I was told, yes.	9 the tee joint?
10 Q. Who told you that?	10 A. Yes.
<ol> <li>A. I believe George and John.</li> </ol>	11 Q. Is that a reference to another drawing that will
12 Q. George Nordby and John Hatch?	12 give you further information about how the tee joint is to
13 A. Right.	13 be assembled?
14 Q. Did they tell you anything else about the	14 A. Yes, P-2.
15 potholing?	15 Q. Now, as you testified the other day, this tee
16 A. No.	16 joint appears to be situated above both the 16-inch
17 Q. Did they tell you this because they just	17 waterline and the 16-inch Olympic pipeline; right?
18 generally wanted you to know or did you have questions about	18 MR. FLOYD: I'm sorry. The tee joint above the
19 it?	19 water?
20 A. I had asked where we got the information from	20 Q. This tee joint appears to join the 16-inch
21 and they had told me.	21 waterline at a point above the 16-inch Olympic pipeline;
22 Q. When did you ask that question?	22 right?
23 A. During the first part of my introduction to the	23 A. Yes.
24 project.	24 Q. Then as you continue to move north along the
25 Q. And why did you ask the question?	25 Olympic pipeline we come to the words Olympic pipeline and
190	192
1 A. Just to know.	1 then come to another circle above the words PVC utility
2 Q. Did you know anything at all about Christenson	2 duct?
3 Brothers at the time, the surveying firm?	3 A. Yes.
4 A. No.	4 Q. And the letters next to the circle with the X
5 MR. SCANLAN: I don't think it's actually	5 through it, el 256.0. Do you see that?
6 Christenson Brothers.	6 A. Yes.
7 Q. Christenson Engineering I think is the name of	? Q. As we did with the other elevations, would you
8 the company.	8 highlight on Exhibit 97.
9 A. No, I didn't.	9 A. (Witness complies).
10 Q. All right. As we move north then along the	10 Q. Again would you hold it up and I will point to
11 Olympic pipeline on Exhibit 97 the drawing P-1 we come to a	11 it as you do. You highlighted up on Exhibit 97 the area
12 number 3 with what looks like a comet tail running off of it	12 that I'm pointing to now that's in yellow. Right?
13 pointing towards an area of piping that is encircled in a	13 A. Right.
14 cloud-like drawing. Do you see that?	14 Q. What's your understanding of what that circle
15 A. Yes.	15 with an X in it on the dashed Olympic pipeline is?
16 Q. And you see that also on P-3?	16 A. That again is another pothole location.
17 A. Yes, I do.	17 Q. And as with the one to the south, the elevation
18 Q. What does that number 3 refer to?	18 on that would be 256 feet above sea level?
19 A. It's referring to the changes that they	19 A. Yes.
20 identified on the bottom left corner revision to pump	20 Q. Comparing the two elevations, the one to the
21 station discharge pipe.	21 south and the one that we just looked at, is the Olympic
22 Q. That number 3 refers to revision 3?	22 pipeline gaining elevation, in other words getting closer to
23 A. That's correct.	23 the surface, as it moves through that area?
24 Q. The May 13, 1994 revision of the discharge line	24 MR. SCANLAN: Object to the form of the
25 to the 16-inch tie-in?	25 question, vague.
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DALEN VS. OLYMPIC PIPE LINE

THOMAS W. FRANKLIN - VOL. II

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193	195
1 A. It is raising in elevation.	1 Q. What do you recall about whether the 16-inch
2 MR. BENINGER: As you go north.	2 waterline as it traversed the area shown on Exhibit 97 as to
3 A. As you go north, right.	3 whether it was gaining elevation or losing elevation through
4 Q. In fact, if you wanted, you could probably	4 that area? Was it going up towards the surface or down
5 compare those two numbers and perhaps the third elevation	5 deeper?
6 and actually calculate how much elevation it gains per foot	6 MR. SCANLAN: I'm going to object. It's one
7 or per yard?	7 thing to say the pipeline may be going up or down relative
8 A. Yes, you could.	θ in elevation but you are not correlating it to the
9 Q. I'm looking along the 16-inch waterline which is	9 topography of the surface. So that you characterizing it as
10 represented by the sort of two parallel dashed lines running	10 being something that's closer to the surface or not is not
11 through that area. Do you see it?	11 necessarily there.
12 A. Yes.	12 MR. NICOLL: I appreciate that. Why don't we
13 Q. Just for sake of completeness, why don't you	13 just do the elevation then.
14 highlight the entire 16-inch waterline on Exhibit 97 in	14 Q. Was it going up in elevation or down in
15 blue?	15 elevation?
16 A. (Witness complies).	16 A. It wasn't clear whether it was going up or down.
17 Q. Thanks. Now if you would hold that up just	17 Q. From south to north was it going up or down in
18 briefly, remember to put it over to your right a little bit	18 elevation?
19 so in theory the camera picks it up. You have highlighted	19 A. It wasn't clear.
20 in blue the entire length of the 16-inch line on Exhibit 97?	20 Q. It wasn't clear to you?
21 A. Yes.	21 A. It wasn't clear. The ground slopes were a
22 Q. That corresponds to the same 16-inch line on	22 variety of different slopes and the grade to the west of the
23 drawing P-1?	23 pump station itself was relatively flat.
24 A. That's correct.	24 Q. The grade to the west was flat but the grade to
25 Q. Looking at the two of them, do you see any	25 the east of the 16-inch waterline in the vicinity of the
194	196
1 indications along that drawing of potholing of that 16-inch	1 pipeline was sloped; right?
2 line?	2 A. Yes. The grade was but the pipe wasn't
2 line? 3 A. No.	- ··· -·····
3 A. No.	3 necessarily. That fill was built during the construction of
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6-22-00

197	
	199
1 that line, but we'll talk about that later when we get into	1 Now, the letter which we have marked as Exhibit
2 the inspection reports again.	2 116 if you want to close 97, that's fine. You can close
3 As you move north along the Olympic pipeline on	3 drawing P-1 as well if you want.
4 Exhibit 97, and you can again refer to drawing P-1, do you	4 The letter we marked as Exhibit 116 says in the
5 see any other potholes noted?	5 first paragraph that the revision of the 24-inch discharge
6 A. I don't believe so, no. I only saw the two.	6 line from the Dakin-Yew pump station was made at the request
7 MR. FLOYD: I'm going to object to the use of	7 of IMCO to avoid crossing under the 72-inch line. Do you
8 the word potholes. There is nothing on the exhibit shows	8 see that?
9 the pothole elevation.	9 A. Yes.
10 MR. NICOLL: You're right.	10 Q. Do you recall the events surrounding why the
11 Q. Do you see any other elevations of the Olympic	11 revision was made?
12 pipeline noted?	12 <b>A. Yes.</b>
13 A. Not on P-1, no.	13 Q. We have looked at a lot of letters and things
14 Q. Are you able to tell by looking at drawing P-1,	14 like that, but could you tell us what you recall about when
	15 these discussions concerning revision of the 24-inch line
15 Exhibit 97, at what elevation ground level was? 16 A. There are contour drawings, contour lines	16 occurred?
17 identifying the elevations.	
18 Q. I know, but which of those elevations would be	18 talk about it because the waterline was in the vicinity of
19 ground level. Well, I suppose that answers my question,	19 where the 72-inch piping was going to go.
20 doesn't it.	20 So they had to do something one way or other to
21 At about the southern elevation on the Olympic	21 install the 72-inch pipe system.
22 pipeline, the 253.6 elevation, by looking at the drawing P-1	22 Q. They being IMCO?
23 are you able to tell what elevation was ground level?	23 A. The contractor, yes. And as a result they
24 A. Yes.	24 explored different options that they had and decided this
25 Q. What elevation was ground level based on this	25 was the most appropriate choice.
194	8 200
1 drawing?	1 Q. The next sentence says it also allows more
2 A. Elevation 260 contour line runs right through	2 flexibility when the connection to the existing 16-inch pipe
1 3 it.	3 is made. That was a scheduling issue I guess. Do you know?
4 Q. So that would put the Olympic pipeline at that	
1	4 A. It had to do with when they can install the tee
5 location approximately, what, six point	4 A. It had to do with when they can install the tee 5 and if the piping system itself was designed to be able to
	,
5 location approximately, what, six point	5 and if the piping system itself was designed to be able to
<ul> <li>5 location approximately, what, six point</li> <li>6 A. Five and a half, six and a half feet.</li> </ul>	5 and if the piping system itself was designed to be able to 6 accept the tee and be able to be closed so that the
<ul> <li>5 location approximately, what, six point</li> <li>6 A. Five and a half, six and a half feet.</li> <li>7 Q. Six and a half feet, six feet four inches or so?</li> </ul>	5 and if the piping system itself was designed to be able to 6 accept the tee and be able to be closed so that the 7 remaining of the piping can be installed.
<ul> <li>5 location approximately, what, six point</li> <li>6 A. Five and a half, six and a half feet.</li> <li>7 Q. Six and a half feet, six feet four inches or so?</li> <li>8 MR. SCANLAN: 6.4.</li> </ul>	<ul> <li>5 and if the piping system itself was designed to be able to</li> <li>6 accept the tee and be able to be closed so that the</li> <li>7 remaining of the piping can be installed.</li> <li>8 Because the system was on line and so they</li> </ul>
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DALEN VS. OLYMPIC PIPE LINE THOMAS W. FR	ANKLIN - VOL. II 6-22-00
201	203
Tech's and IMCO's files we found only the letter. We didn't	1 those drawings at least as reflected on this letter to
2 find the drawings or this drawing attached to it, but we	2 Olympic Pipe Line?
3 were able to by searching through all the records pull	3 A. That's correct,
4 together all the drawings showing this specific revision and	4 Q. Do you know if a copy of the letter was given to
5 found it in another location, Exhibit 94, which is why this	5 Olympic Pipe Line even though not reflected there?
6 exhibit isn't attached to that letter.	6 A. No, I don't.
7 Looking at that exhibit, we talked about this	7 MR. NICOLL: Let's take a short break.
8 the other day, but on Exhibit 94 there is no reference to	8 (Off the record).
9 the Olympic pipeline; right?	9 Q. Why don't you flip through the drawings there
10 A. No, there isn't.	10 and look for C-1.
11 Q. But there are elevations indicated in the grid?	11 MR. FLOYD: Is that on 116?
12 A. Yes.	12 MR. NICOLL: Yes, Exhibit 116 drawing C-1.
13 Q. And if you can let me take a look at that	13 Q. And I know it's kind of a dark copy because
14 quickly. This concept is drawn out, as that elevation is	14 there are a lot of contour lines that run through there.
15 drawn out here on Exhibit 94, it appears that the bottom of	15 Would you find the Olympic pipeline and
16 the tee intersection where it connects with the 16-inch and	16 highlight that in pink?
17 the 24-inch line is between elevations 255 and 260; is that	17 A. (Witness complies).
1	18 Q. Okay. If you would please also find the revised
18 right?	
19     A. Yes.       20     Q. But when this was installed it had to be	19 discharge line and the pump station which is indicated I
	20 think with the two and the arrow pointing to that location.
21 installed in a different location as I recall? 22 A. Yes.	21 A. (Witness complies).
	22 Q. And you highlighted it in blue; right?
23 Q. So it was actually installed in the location	23 A. Yes.
24 different than was planned?	24 Q. Now, that number two refers to the revision in
25 A. Yes.	25 the lower left hand corner of drawing C-1. And that's dated
202	204
1 Q. It was installed in a location that was	1 5/13/94 revised pump station discharge pipe; is that right?
2 different than as shown on the elevation as well on this	2 <b>A. Yes.</b>
3 partial plan profile, Exhibit 94?	3 Q. Why don't you turn to Exhibit 116 drawing C-2,
4 A. I don't know that. I don't know what the tee	4 the next drawing. This is essentially the same thing, just
5 elevation is or the waterline elevation is.	5 kind of a focused view; is that right?
6 Q. Did anybody determine the elevation during the	6 A. Yes. It's a very focused view of the same.
7 dig?	<ol> <li>Q. Again, as you could with the drawing before, you</li> </ol>
8 A. Yes.	8 are able to see the pipeline; right?
9 Q. How was that done?	9 A. I'm able to see the dashed lines for it, yes.
10 A. With a rod and a level.	10 Q. And you can actually see the words Olympic
11 Q. A rod, explain that?	11 pipeline there?
12 A. We have a measuring device and an instrument	12 A. You can make them out, yes.
13 that sees on a level plane and you view the rod and	13 Q. And then the pump station in blue not in
14 determine what the elevation is from the plane at the	14 blue, but the pump station and then the revised discharge
15 instrument height.	15 line?
16 Q. Somebody holds the rod down at the bottom of the	16 A. Yes.
17 hole?	17 Q. Drawing revision number 3.
18 A. Or on top of the pipe and they get an elevation.	18 MR. FLOYD: Are you talking about C-3?
<ul> <li>Q. Now, going down the second page of Exhibit 116</li> </ul>	19 MR. NICOLL: It's C-3, revision 3 attached to
20 you see that there are some CC recipients of the letter?	20 Exhibit 116. It has both a profile and kind of a close-up
•	
	21 view of that area. Do you see that?
22 Q. One of those of course is you and the other is	22 A. Yes.
23 Wan Huang from the City of Bellingham?	23 Q. Do you see any of the elevation markings that we
24A. Yes.25Q. And there is no copy provided of this change and	24 saw on Exhibit 97 on this particular drawing?
25 Q. And there is no copy provided of this change and	25 A. You mean contour lines?

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6-22-00

DALEN VS. OLTHING THE LINE THUMAS W. FR	AIAKTIN - AOF. II
205	207
1 Q. Remember the elevation that was drawn in on the	1 A. It's to be able to get the profile on the same
2 pipeline itself?	2 piece of paper.
3 A. Yes, I do.	3 Q. There's not much happening between those two
4 Q. Just a little bit south of the 72-inch line?	4 points, so you just changed the elevation between those two
5 A. Right.	5 points so you could fit the whole thing on that piece of
6 Q. Do you see that here?	6 paper?
7 A. No.	7 A. Yes. It looks like there was a ten foot
8 Q. Would you take that pink marker and just mark	8 difference in elevation, one side versus the other.
9 the Olympic pipeline as it goes through the planned view on	9 Q. Would you in pink please mark the Olympic
10 the top?	10 pipeline, existing 16-inch Olympic pipeline, that little "o"
11 A. (Witness complies).	11 and then a line going down to it?
12 Q. And in blue just mark that dashed 16-inch	12 A. (Witness complies).
13 waterline and the discharge line and the pump station.	13 Q. And that shows the existing line as being
14 A. (Witness complies).	14 between 250 and 255 feet above sea level; is that right?
•	15 A. Yes.
16 view which is just below it. Do you see that? 17 A. Yes.	16 Q. And that would seem, would it not, to correspond
	17 with the elevation that was shown on drawing P-1 in Exhibit
18 Q. This also shows elevations, does it not?	18 97 as being, if I recall, 253.6?
19 A. There are elevations indicated by the lines and	19 A. Yes.
20 some of the drawings have elevations on them, yes.	20 Q. Now, looking immediately to the right of that
21 Q. There is a grid behind these drawn in things.	21 which you just highlighted in pink is a representation of
22 And this grid, at least the horizontal lines along the grid,	22 existing 16-inch W. I assume that's 16-inch waterline?
23 are intended to be elevations above sea level; is that	23 <b>A. Yes.</b>
24 right?	24 Q. And if you would highlight that in blue going
25 A. That's correct.	25 down to the circle.
206	208
1 Q. Now if you go over to the right side as you look	1 A. (Witness complies).
2 at that drawing you will see a little circle in elevation	2 Q. This whole thing is in a cloud or a bubble?
3 between 240 and 245? I'm sorry. I see the elevation	3 A. The waterline is, yes.
4 changes when you get down there.	4 Q. And maybe all those words ought to be
5 You see this dark line about two-thirds of the	5 highlighted in blue, but what does crown elevation 258.48
6 way across the page to the right?	6 station four plus 64.60 i.e 262 mean? What does this mean?
7 MR. SCANLAN: Which dark line?	7 A. The station that you see off to the right is the
8 MR. NICOLL: If you hand it to me I will	B angle point of the 72-inch line. That doesn't have anything
9 highlight it in green.	9 to do with the waterline. But it does have to do with the
10 MR. FLOYD: There are two different profiles,	10 change order because they changed the profile of the 72-inch
11 counsel.	
	11 tine.
·	12 Q. And because the profile of the 72-inch line was
	13 changed, that meant you weren't going to go under the line.
14 highlighted in green a dark line that runs vertically down	14 You were going to take the discharge line and connect to the
15 through that grid and then highlighted two numbers, one of	15 16-inch line at a point to the north of the 72-inch line?
16 them is 250 and other 255?	16 A. That's correct.
17 A. Yes.	17 Q. What does crown elevation 258.48 mean?
18 Q. Am I correct in assuming that the elevation, the	18 A. That's the top of the waterline. Crown is the
19 representation of elevation changes from the point of the	19 top.
20 line that I highlighted in green and on to the right?	20 Q. So there is an elevation representation of the
21 <b>A. Yes.</b>	21 top of the 16-inch line of 258.48 feet above sea level; is
22 Q. But the elevation representation at any rate is	22 that right?
23 different in the grid that's to the left?	23 A. Yes.
24 A. That's correct.	24 Q. At least at that station point?
at a latter to the to the second second	
25 Q. Why is that; do you know?	25 A. Right.

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	NKLIN - VUL. 11 6-22-	
209	2	211
1 Q. Which is between station point four plus zero	1 A. As I understand it, yes.	
2 and five plus zero?	2 Q. Attached to that Exhibit 87 is a drawing. It's	
3 A. Yes.	3 a pull-out drawing, an exhibit from Barrett Consulting	
4 Q. Explain what station points are, would you,	4 Group.	(
5 please?	5 A. Okay.	
6 A. Stationing is just a way of measuring distance	6 Q. You notice the 60-inch and 72-inch pipeline are	
7 along a given item. Station is just a term that has been	7 represented to the left of that drawing?	
8 accepted as an identifying point and it's identified by	8 A. Yes.	
9 feet.	9 Q. And then there are elevation marks it appears	
10 Q. It's sort of a latitudinal representation.	10 anyway in here. Can you explain what these triangles with	
11 You've got elevation on one side of the grid and then along	11 points and X's in them, what these mean?	j
-	12 A. They are identified as grade breaks with a north	
12 the bottom of the grid you are going out from zero?	13 and an east coordinate and an elevation on it.	
13 A. Horizontal dimension, right.		
14 Q. Now on this representation of the pipeline the	14 Q. For those of us who don't understand these	
15 actual elevation isn't inserted, but it's representationally	15 things, what is a grade break?	
16 noted by where it's placed on that grid; right?	16 A. It just identifies the angles within the land,	
17 A. Yes.	17 the way the land lays, and it identifies the primary profile	
18 Q. Do you know how this detailed elevation of the	18 points.	
19 top of the 16-inch waterline at that station was obtained?	19 Q. Do you know why this kind of survey and report	Í
20 A. I believe that it was obtained by measuring it	20 would be done?	
21 while it was exposed during excavation of the 72-inch line.	21 A. This one was done because the contract didn't	
22 Q. So there was a time for several days when that	22 deal with clearing and grubbing requirements out to Hannah	
23 16-inch line was exposed as was the Olympic pipeline below	23 Creek and to the next project.	
24 it?	24 MR. BENINGER: Clearing and?	
25 A. That's correct.	25 A. Clearing of the land where the pipes were going	
210	·····	212
1 O. We have some photographs and we'll talk about	1 to go, the contract didn't appropriately deal with the	
1 Q. We have some photographs and we'll talk about 2 that.	1 to go, the contract didn't appropriately deal with the 2 clearing and grubbing item. The previous contract paid for	
2 that.	2 clearing and grubbing item. The previous contract paid for	
2 that. 3 A. Yes.	2 clearing and grubbing item. The previous contract paid for 3 clearing and grubbing up to Hannah Creek.	
<ol> <li>that.</li> <li>A. Yes.</li> <li>Q. Why don't you hold up for the camera as well</li> </ol>	<ul> <li>2 clearing and grubbing item. The previous contract paid for</li> <li>3 clearing and grubbing up to Hannah Creek.</li> <li>4 This contract had to pay IMCO to do the work and</li> </ul>	
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THOMAS W. FRANKLIN - VOL. II

6-22-00

DALLA VS. DETAILED	
213	215
1 a difficult drawing.	1 First I'm going to circle in red some objects to the left of
2 But if you just orient Hannah Creek and where	2 the 60 or 72-inch waterline and ask you to identify those if
3 the two pipes are, the place where the see, this is	3 уой сал.
4 totally wrong. It's a bad drawing.	4 A. I see what appears to be some stakes in the
5 Q. It's hard to locate anything on there. Okay.	5 ground.
6 Let's bypass it then. You can close it up.	6 Q. Do you have any recollection of what those
7 I would like to turn now to consideration of	? stakes were?
8 these photographs and so I've got a stack of photographs	8 A. I believe they are Olympic Pipe Line stakes
9 that somebody has pulled together for me.	9 marking their pipeline location.
10 MR. NICOLL: I'm going to try to go through	10 Q. I'm going to circle those hard hats or heads or
11 these in the order you guys have them. Okay?	11 whatever they were in red.
12 (Exhibit No. 117 is marked	12 <b>A. Yes</b> .
13 for identification)	13 Q. That's the location that you are talking about?
14 Q. I'm going to show you Exhibit 117. And I will	14 A. That's correct.
15 represent to you as you can see from the Bates number in the	15 MR. NICOLL: A will be the stakes, B will be the
16 lower right hand corner that this is an IMCO photograph or	16 location that he indicated as the approximate location of
17 one that we got out of IMCO's records. It appears to be a	17 the excavation for the tie-in between the 16-inch and
18 composite.	18 24-inch discharge line.
19 Take a look at the scene and tell me first of	19 MR. BENINGER: Thank you. I will change the
20 all have you seen the photograph before?	20 tape. This is the end of the third tape.
21 A. No, I haven't.	21 A. Can we take a break now?
22 Q. Does the scene look familiar to you?	22 Q. Sure.
23 A. Yes.	23 (Off the record)
Q. Can you tell us what the photograph depicts?	24 MR. BENINGER: We are back on the record. This
25 A. It shows the 72-inch waterline having been	25 will be tape number four of the deposition of Tom Franklin.
214	216
214	
1 placed at least out to where Hannah Creek is. It shows the	1 Q. Mr. Franklin, we were talking about Exhibit 117,
2 pipe anchors at Hannah Creek, or at least one of them. And 3 it also shows it appears to be a 60-inch pipe being stored	2 the compilation photograph from the records of IMCO.
., .	3 I have circled an item on the photograph that's
4 over on the ground to the right side. And they have 5 installed it up to a point where perhaps the angle of the	4 on the bottom of the page. Do you see that? 5 A. Yes.
6 60-inch is.	6 Q. Can you identify that for us?
7 Q. Is this a photograph of the area of the pump	7 A. It appears to be an Olympic Pipe Line flexible
8 station before or after installation and backfilling of the	
-	8 guide post. That's what they were using to mark their
9 24-inch discharge from the south of the pump station? 10 A. It would be before.	9 pipeline location.
	10 Q. Would you draw a line into that circle and write
11 Q. It would be before, okay. And could you point,	11 C next to the line? C is the flexible guide post for
12 for my purposes and then we'll do a drawing on the	12 Olympic that you indicated.
13 photograph, to on the photograph approximately where the	13 MR. BENINGER: Would you mind putting next to
14 16-inch, the excavating for the 16-inch tie-in with the	14 those letters, actually speil out the different things? One
15 24-inch line would have been or was to be?	15 was the stake and one was the guide post and something else?
16 A. It appears as if it's where I see two people or	16 Q. A is the Olympic stake that you mentioned before
17 two heads at least, maybe fifteen feet to the right of the	17 next to the on the south side of the 72-inch line; is
18 pipe.	18 that right?
19 MR. BENINGER: Mr. Franklin, if you hold that up	19 A. Yes.
20 I will zero in for you.	20 Q. B is the two hard hatted heads that is the
21 Q. Point to those two heads for us. I will do it.	21 approximate location of the excavation that was done to do
22 MR. BENINGER: Thank you.	22 the tee joint for the 16 and 24-inch line; right?
23 A. Maybe it's safety helmets is what I see	23 A. Yes.
24 actually, not heads.         25       Q. Now, I'm going to do a couple things here.	24 Q. And then C, the photograph on the bottom, is

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DALEN VS. OLYMPIC PIPE LINE THOMAS W. FRA	NKLIN - VOL, 11 6-22-00
217	219
1 A. Yes.	1 Q. Which is in the upper right hand corner; is that
2 Q. Marking the approximate location of their line?	2 right?
3 A. Yes.	3 A. Yes.
4 MR. FLOYD: Is there a difference between a	4 Q. What's this piece of equipment to the left of
5 flexible guide post or a stake or is it one in the same?	5 the photograph above the 72-inch line?
6 A. You can't see. It could be the same type.	6 A. That's a rubber tire loader.
7 Q. Looking at the two photographs that are a part	7 Q. So it has nothing to do with digging holes?
8 of Exhibit 117, would you say that the one on the bottom is	8 A. No.
9 taken at an earlier point in time than the photographs	9 (Exhibit No. 118 is marked
10 making up the composite on the top?	10 for identification)
11 A. It appears to be, yes.	11 Q. Please take a look at Exhibit 118 and tell us if
12 Q. What is it that enables you to say that?	12 you recognize it.
13 A. You can see the two ends or the end of the	13 A. I recognize the location, yes.
14 72-inch pipe and it doesn't progress past the hole that's	Q. I'm going to represent to you that this is one
15 already dug there.	15 of the photographs that was produced by Earth Tech. It's
16 Q. And that's on the bottom photograph; correct?	16 photograph ET-PH0000520. Do you see that on the back?
17 A. That's correct.	17 A. Yes.
18 Q. Could you draw a line to the end of the 72-inch	18 Q. Do you see a date stamp in the lower right hand
19 pipe and circle it there? Draw it out, write the letter D.	19 corner?
20 Thanks.	20 A. Yes.
21 A. (Witness complies).	21 Q. Can you read it?
22 Q. So what I'm pointing to then is the point where	22 A. I believe it says 6/6/94. It's hard to tell.
23 the 72-inch line has reached at the point of the photograph	23 It's either 5/6 or 6/6.
24 on the bottom part of Exhibit 117; right?	24 Q. Look at the next photograph as well. Never
25 A. Yes.	25 mind. You don't have a next photograph.
218	
1 Q. The point in time that that photograph was	1 What is the photograph showing, No. 118?
2 taken?	2 A. I'm seeing two people working on the valve for
3 A. Yes.	3 the 72-inch waterline. It appears as if they are excavating
4 Q. There are some other reference points I think	4 the hole for the pump station.
5 that are useful to have from this composite. One would be	5 Q. I want to show you now report 54, your
6 the pump station itself or what one can see of the pump	6 inspection reports from Exhibit 64, and tell me what date
<sup>7</sup> station in the composite photograph. Could you circle that	7 does report 54 relate to.
8 with that red pen and label it E?	B A. 5/6/94.
9 A. (Witness complies).	9 Q. And can you tell me, I'm pointing to a section
10 Q. And hold it up and show it. So E you've circled	10 of that report that reads excavation of. Would you read
11 is the pump station, at least the pump station at that point	11 that?
12 in the construction process?	12 A. Yes. Excavation of pump station foundation
13 <b>A. Yes.</b>	13 under way.
14 Q. As we go through the documents you may be better	14 Q. Based on that report and what you can see of the
15 able to tell us later the approximate date based on stage of	15 date stamp in the lower right hand corner and what you see
16 completion that the composite photograph was taken. But as	16 in the photograph itself, wouldn't you agree that that
17 you look at it now, do you have a sense based on your	17 photograph was taken on May 6, 1994?
18 recollection of when it would have been?	18 A. It appears like it, yes.
19 A. No.	19 Q. Would you grab that red permanent marker and
20 Q. In the photograph, Exhibit 117, do you see any	20 just draw a line out to the 72-inch waterline that you
21 of the excavation equipment that you referred to on Monday	21 referenced?
22 that was used to excavate the area around the 16-inch line?	22 A. (Witness complies).
23 A. No. I only see the large backhoe.	23 Q. And put A I guess next to that.
24     Q. You only see the large backhoe?	24 A. (Witness complies).
25 A. That's right.	25 Q. So point A on Exhibit 118 is the 72-inch

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DALEN VS. OLYMPIC PIPE LINE THOMAS W. FK	ANKLIN - VOL. II 6-22-0	20
221	2.	23
1 waterline at least to the point where it had been completed	1 A. No.	
2 as of May 6, 1994; is that right?	2 Q. Is the area that you marked C outside of the	
3 A. Yes.	3 area that's depicted in photograph Exhibit 118, or can you	1
4 Q. Let's go back for a moment to Exhibit 117 and	4 tell?	
5 the bottom photograph on that exhibit. Comparing Exhibit	5 A. Outside of the area?	1
6 117 with Exhibit 118, can you tell me which of those two	6 Q. Yes.	
7 photographs was taken earlier?	7 A. I'm confused about what we are talking about.	
8 A. Probably the one on 117.	8 Q. So am I. What I'm trying to get at is, is the	
9 Q. Why do you say that?	9 area where this marker that you marked C located within the	ł
10 A. Because the hole isn't being dug.	10 area that's now disturbed as part of the overall project and	
11 Q. The hole for the pump station?	11 depicted in Exhibit 118?	
12 A. That's correct.	12 A. Yes.	
13 Q. Now, looking at Exhibit 118, are you able to see	13 Q. Can you see the marker that you identified as C	
14 the Olympic Pipe Line marker?	14 on Exhibit 117, this precise marker, anywhere on Exhibit	
15 A. I see something in the ground down by right in	15 118?	
16 front of where the bucket for that yellow backhoe is. I	16 A. I can't see it, no.	
17 can't tell if that's the same stake that you had shown here	17 Q. Do you know whether during the excavation	
18 on Exhibit 117 or not.	18 utility markers placed there by utilities to locate their	
	19 lines, including Olympic markers, were removed by workers?	
19         Q. Would you circle what you are talking about?           20         A. Yes. Mark it B?	20 A. They would have been removed if they had been	
	21 doing work in that same location, yes.	
21Q. Yes, please. Let me hold that up.22I realize that you don't know if that's a stake	22 Q. Do you have a specific recall of markers being	i
· ·	22 Q. Do you have a specific recail of markets being	
23 for Olympic or not, but the item that you just circled as	24 A. No.	
24 exhibit B is a point to the north of where the foundation	25 Q. Did you ever see anybody remove a marker?	
25 for the pump station is being dug; is that right?		
222	-	224
1 A. That's correct.	1 A. Not that I recall.	
2 Q. I want to make sure I've got the orientation of	2 Q. Let me ask you this. Do you have a recollection	
3 the photograph correct.	3 of markers being there at some point and then later during	
4 And based on earlier photographs that we have	4 the project being gone?	
5 reviewed and your own recollection, at a point to the south	5 A. No, I don't recall that they were necessarily	
6 of the 72-inch line or at least where the trench for the	6 gone. I don't recall anything like that, no.	
7 72-inch line was being dug there was another Olympic Pipe	7 Q. When you compare Exhibit 117 with Exhibit 118,	
8 Line marker; is that right?	8 does it appear to you that the markers shown in Exhibit 117	
9 A. Yes.	9 is no longer there by the time the work that's being done in	
10 Q. Now, on Exhibit 117 we see the item that you	10 Exhibit 118 is being carried out?	
11 marked as C in the photograph that you just said was	11 MR. SCANLAN: Objection. It calls for	
12 probably taken before the photograph Exhibit 118?	12 speculation.	
13 A. Yes.	13 Q. You can answer the question.	
14 Q. And what do you call that again?	14 A. I see something there I don't know what	
15 A. Well, what they use on highways is the flexible	15 it is on the bottom of page 118.	
16 guide post and they have a reflector on the top, and in	16 Q. What is it that you see?	
17 areas where you don't have a guard rail you would drive	17 A. The things I circled.	
18 these into the ground. They had apparently gotten them and	18 Q. I see. The items that you circled at point B.	
19 painted them with their own special paint and installed them	19 A. Yes. These easily could be a variety of	
20 in the ground.	20 different things. These could be construction stakes for	
· · · · · · · · · · · · · · · · · · ·	-	
21 O. And that looks like the flexible ouide posts for	21 alignment of the pipe that goes through that area. It also	
21 Q. And that looks like the flexible guide posts for 22 Olympic that you had seen on other occasions?	21 alignment of the pipe that goes through that area. It also 22 was in the same vicinity as the open air manhole, the gap	
22 Olympic that you had seen on other occasions?	22 was in the same vicinity as the open air manhole, the gap	
<ul><li>22 Olympic that you had seen on other occasions?</li><li>23 A. Yes.</li></ul>	22 was in the same vicinity as the open air manhole, the gap 23 manhole for the drainage.	
22 Olympic that you had seen on other occasions?	22 was in the same vicinity as the open air manhole, the gap	

6-22-00

DALEN VS. OLTHPITCHICE CALL THOMAS IV. HIG	
225	227
1 the approximate location of the 72-inch line to the left of	1 know if you are able to tell us based on things that you
2 the photograph to the pipe stored to the right of the	2 recognize in the photograph whether any part of Exhibit 118
3 photograph?	3 depicts the ground above the 16-inch waterline and the
4 A. Yes.	4 Olympic pipeline?
5 Q. And that's the approximate location of where	5 A. Yes, it does.
6 that 16-inch waterline ran; isn't that right?	6 Q. Why don't you, before drawing, point to the area
7 A. Well, no. The 16-inch waterline ran across	7 and then tell me how you know the area is shown there.
6 diagonally through this area. This was put there to allow	8 A. The area that I circled is approximately in the
9 the loader to haul material back and forth to the pipe	9 same location that the 16-inch waterline existed as well as
10 behind the area that we can see.	10 the Olympic pipeline.
11 Q. So that was actually built up?	11 Q. Why don't you make that C.
12 A. Yes.	12 A. (Witness complies).
13 Q. At one point the 16-inch line had been exposed	13 Q. How do you know that?
14 and then this was built up over it. Is that what you are	14 A. From the valve and the excavation for the pump
15 saying?	15 station I know the approximate location.
16 A. This is built up to get access to the area in	16 Q. So it's an area that's approximate as far as you
17 between the reservoir and the pump station. The 16-inch	17 are concerned?
18 waterline is still down buried as shown in the drawings and	18 <b>A. Yes</b> .
19 crosses it.	19 Q. Thanks. You probably ought to hold this up. To
20 Q. I don't know how I'm going to show that. Why	20 recapitulate, in this photograph the pipe marked A is the
21 don't you put a line out showing the beginning of the area	21 72-inch line; is that right?
22 that was built up to allow access and the end of the area at	22 <b>A. Yes.</b>
23 least as shown so far in photograph 117.	23 Q. At the end of that pipe where the two workers
24 A. (Witness complies).	24 are working is a valve?
25 Q. And mark that F.	25 A. Yes.
226	
1 A. (Witness complies).	1 Q. The item marked B are some stakes in the ground
2 Q. So you have circled the area and marked it F	2 that you have said you don't know if they are construction
3 that was built up to allow access of the front end loader?	3 stakes or what they are, but they could be Olympic markings?
4 A. Yes.	4 A. Yes.
5 Q. I have circled an area and I've marked it G.	5 Q. The area marked C is the area you recall from
$\epsilon$ Okay. Is that the area under which the 16-inch line is	6 drawings and your involvement on the work site as being the
7 buried?	7 area through which the 16-inch waterline and the Olympic
8 A. That's part of the area. Actually the 16-inch	8 pipeline ran?
9 line is more of a diagonal across that space, but yes.	9 <b>A. Yes.</b>
10 Q. Is that also the area, at least as we know from	10 MR. FINEGOLD: Could you show it this way?
11 looking at the diagram, under which the Olympic pipeline is	11 (Exhibit No. 119 is marked
12 buried?	12 for identification)
13 <b>A. Yes.</b>	13 Q. Why don't you take a look at Exhibit 119, Mr.
14 Q. Now, can you see in the top photograph of	14 Franklin. Flip it over and look at the back too.
15 Exhibit 117, this area that we are calling G, the marker	15 Exhibit 119 is a photograph that we obtained
16 that you've identified as C at all? It's hard to see. I	16 from Earth Tech. ET-PH0000012; is that right?
17 understand if you don't. But can you make anything out in	17 A. Yes.
18 there?	18 Q. Do you recognize this as a photograph similar to
19 A. I can't see other than on C.	19 others that you took on the job site at the Dakin-Yew pump
20 Q. Are you able to tell by looking at Exhibit 118	20 station?
21 whether the area, the surface above the 16-inch waterline	21 A. Yes.
22 and the Olympic pipeline is depicted in that photograph?	22 Q. It's hard to see, but there is a date stamp in
23 MR. SCANLAN: Objection. It calls for	
· · · · · · · · · · · · · · · · · · ·	23 the lower right hand corner, which if you look at it long
24 speculation.	24 enough you will start to believe it says May 6, 1994.
25 Q. I'm not asking you to speculate. I just want to	25 A. Okay.

229	231
1 Q. Based on the work that's being done and the	1 A. There is a wood stake that would normally be
2 daily report that we looked at before and our examination of	2 used to identify a construction point. The range rod that's
3 photograph Exhibit 118, are you prepared to agree that that	3 colored red and white is probably an engineering
4 photograph is dated May 6, 1994?	4 Q. I'm sorry. First do you know what it is?
5 MR. FLOYD: I'm going to object to that	5 A. No, I can't tell for sure what it is.
6 question. You are testifying, counsel. I can't see any	6 Q. I know that you don't know. Do you have a
7 date at all on mine.	7 belief as to what it probably is?
8 MR. NICOLL: You need to get your eyes examined.	8 MR. SCANLAN: Objection. It calls for
	9 speculation.
	10 MR. NICOLL: I understand. I just want to know.
10 vision.	-
11 Q. Would you agree it's on or about May 6, 1994?	
12 A. Yes.	12 for surveying.
13 Q. And the work that's being done here, is that	13 Q. Something that a surveyor would use?
14 work for excavating the foundation of the pump station?	14 A. Yes.
15 A. I can't really tell.	15 Q. Inside the circle marked A is another painted
16 Q. It's hard to tell. Look at Exhibit 118. Which	16 circle, orange circle painted on the ground. Do you see
17 piece of gear, what piece of equipment is being used to	17 that?
18 excavate the pump station in Exhibit 118?	18 A. Yes.
19 A. A larger backhoe.	19 Q. Do you know what that is or why it's there?
20 Q. A larger backhoe?	20 A. No.
21 A. Hm-mmm.	21 Q. Now, if I could have the photograph back, I'll
22 Q. And what's being used here in Exhibit 119?	22 take a stab at drawing a couple of arrows to these orange
23 A. It appears to be the same one.	23 painted lines. I don't know what to label them. I've just
24 Q. Now, there are some things on this exhibit that	24 drawn some arrows at some of but not all of the orange
25 I would like to try to understand. And first of all, you	25 painted lines that are visible in Exhibit 119.
230	232
1 see these orange lines painted on the ground in different	1 And I would like you to first take a look at my
2 places?	2 arrows and confirm that they are going out to the orange
3 A. Yes.	
1 J A. 163.	3 painted lines.
	3 painted lines. 4 A. Yes, they are.
4 Q. And an orange circle in the foreground around a	4 A. Yes, they are.
	<ul> <li>A. Yes, they are.</li> <li>Q. Those are the orange lines that you testified</li> </ul>
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DALEN VS. OLYMPIC PIPE LINE

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DALEN VS. OLYMPIC PIPE LINE THOMAS W. F	RANKLIN - VOL. II 6-22-0
2	23
1 else?	1 A. I believe so.
2 A. Looking westward.	2 Q. And there is a gentleman, well, a man, standing
3 Q. So looking in the direction of the reservoir?	3 on top of what looks like a manhole?
4 A, Yes.	4 A. Yes.
5 Q. And the water treatment plant would be behind?	5 Q. And this connects with the 72-inch waterline,
6 A. Yes.	6 does it not?
7 Q. And the 72-inch line would be to the left of the	7 A. Yes, it does.
8 photograph?	8 Q. So the aspect of the photograph is looking
9 A. Yes.	9 towards the northeast; is that correct?
0 Q. Are you able based on that to tell us whether	10 A. Yes, it is.
If the area of ground above the 16-inch waterline and the	11 Q. And behind and to the left of the photographer
2 Olympic pipeline is depicted in the photograph that we see	12 is the area where the 16-inch waterline runs and where the
••••	
3 here, Exhibit 119?	13 Olympic pipeline runs?
A. Yes.	14 A. Yes.
15 Q, Is it in the photograph?	15 Q. That area is not actually depicted in this
A. Part of it is.	16 photograph?
7 Q. Are you able to circle it?	17 A. That's correct.
8 A. I could.	18 Q. Exhibit 120 shows some equipment in it. And
9 Q. Why don't you circle it and mark it C.	19 let's start with the piece of equipment, yellow piece of
0 A. (Witness complies).	20 equipment immediately behind the manhole. What is that?
MR. FLOYD: What was that area again?	21 A. That's a boom crane.
22 Q. C marks if I understand your testimony right,	22 Q. Doesn't excavate; right?
23 and you correct me if I'm wrong you drew a circle around	23 A. Right.
24 the area that you believe is approximately the area of the	24 Q. To the left of the boom crane appears to be a
25 ground above the location of both the 16-inch waterline and	25 John Deere front end loader with a backhoe. Do you see
	234 2
1 the Olympic pipeline?	1 that?
2 A. Yes, as far as it goes.	2 A. Yes.
3 Q. Just out of curiosity, are you able to identify	3 Q. On Monday you testified that there was a piece
4 the people in this photograph?	4 of equipment, another type, a Case piece of equipment.
5 <b>A. No.</b>	5 C-a-s-e; is that right?
6 (Exhibit No. 120 is marked	6 A. Right.
7 for identification)	7 Q. Is this the piece of equipment that you were
8 Q. Take a look at Exhibit 120, the front and the	8 referring to?
9 back. Exhibit 120 I'll represent to you is another Earth	9 A. It appears to be. I didn't mean to imply it was
0 Tech photograph that we obtained from your counsel. And	10 a Case 580. I mean it was that type of equipment when I was
1 it's marked ET-PH0000015.	11 referring to that.
2 A. Yes.	-
	12 Q. I want to clarify that because I've been all
3 Q. Do you see that?	12 Q. I want to clarify that because I've been all 13 through the inspection reports and I know that you pretty
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<ul> <li>Q. Do you see that?</li> <li>A. Yes.</li> <li>Q. Do you recognize the scene depicted in the photograph?</li> <li>A. Yes.</li> <li>Q. To the right is a building in the upper right hand corner. Is that the water treatment plant?</li> </ul>	<ul> <li>Q. I want to clarify that because I've been all</li> <li>13 through the inspection reports and I know that you pretty</li> <li>14 diligently reported on what equipment was being used on the</li> <li>15 job; right?</li> <li>A. Yes.</li> <li>Q. And I couldn't find a Case 580, but I could find</li> <li>18 continual reference to this John Deere.</li> <li>A. Right.</li> </ul>
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6-22-00

237	239
1 MR. BENINGER: Do you mind if we show that?	1 A. I believe that's where we had some of our office
2 MR. NICOLL: In fact, what I'm going to do,	2 weekly meetings.
3 David, is just quickly circle these things that we have	3 Q. Other than the weekly meetings would you go in
4 identified. Okay?	4 there for other reasons?
5 Q. Let's hold that up. Point A is the excavation	5 A. Communication with contractors, yes.
6 for the pump station that you referred to; is that right?	6 Q. And the guy that you communicated with mostly
7 A. Yes.	7 was Greg Burress; is that right?
<ul> <li>A. Tes.</li> <li>Q. On Exhibit 120. Point B is the manhole cover</li> </ul>	8 A. Yes.
9 that connects to the 72-inch waterline; is that correct?	9 Q. Did they, IMCO, have a set of drawings in this
10 A. Yes.	10 office site?
10 A. Tes. 11 Q. Although I haven't drawn any letter to it, in	11 A. Yes.
12 the upper right hand corner of the photograph is the water	12 Q. When you were on the job site did you also have
13 treatment plant; is that right?	13 a set of drawings with you?
14 A. Yes.	14 A. Yes.
	15 Q. Where did you keep your set of drawings?
16 a northeasterly direction; is that right? 17 A. I believe so, yes.	<ul><li>16 A. In the plant.</li><li>17 Q. In the water treatment plant?</li></ul>
1	•
18 Q. The piece of equipment marked C is the boom	18 A. Yes.
19 crane; is that correct?	19 Q. After the job was finished did you take your
20 A. Yes.	20 personal set of drawings with you?
21 Q. And the piece of equipment marked D in the	21 A. Yes.
22 background is the John Deere front end loader with the	22 Q. And where did you put those?
23 backhoe attachment?	23 A. Those were brought down to the Bellevue office
24 A. Yes.	24 where I was working at the time.
25 Q. Let's talk for a moment about dates. Again in	25 Q. Did you like write on your drawings, make notes?
238	240
1 the lower right hand corner, tell me if you are able to	1 A. Yes.
2 discern the date of that photograph.	2 Q. Have you since the time of the construction
3 A. It appears to be 5/9/94.	3 project seen your drawings with your handwritten notes on
4 Q. Obviously the excavation for the pump station	4 them?
5 has progressed beyond where it was on 5/6/94 from the	5 A. No.
ε photographs; right?	6 Q. Do you know if they still exist?
7 A. Yes.	A. Well, they were accumulated into an as-built
8 Q. So even if hard to read, nonetheless you are	8 plan and that as-built plan has to be existing, yes.
9 satisfied that that's on or about May 9, 1994?	9 Q. Most likely the City of Bellingham would have
10 A. Yes.	10 that, or do you know?
11 Q. Can you identify the person standing on top of	11 A. I don't know directly who got copies of it.
12 the manhole cover?	12 Q. Did you keep personal copies of any of your
13 A. No.	13 notes and drawings that you made during the project?
14 Q. Can you identify the person operating the boom	14 A. No.
15 crane?	15 Q. So you didn't bring anything home?
16 A. No.	16 A. No.
17 Q. What's the trailer in the background? Can you	17 (Exhibit No. 121 is marked
18 identify that with the honey bucket next to it?	18 for identification)
, , ,	1
119 A. It was the contractor's omce site.	119 MK. MILULL: WILL I HAVE DUILE IS I HAVE LAKEN
19     A. It was the contractor's office site.       20     O. IMCO's office site?	19 MR. NICOLL: What I have done is I have taken 20 there was a new set of photographs and I have merged them
20 Q. IMCO's office site?	20 there was a new set of photographs and I have merged them
20Q. IMCO's office site?21A. Yes.	20 there was a new set of photographs and I have merged them 21 with the old photographs from Monday. So you may want to
20Q. IMCO's office site?21A. Yes.22Q. Had you been in that office site?	20 there was a new set of photographs and I have merged them 21 with the old photographs from Monday. So you may want to 22 have your photographs from Monday out and that way you can
<ul> <li>Q. IMCO's office site?</li> <li>A. Yes.</li> <li>Q. Had you been in that office site?</li> <li>A. Yes.</li> </ul>	20 there was a new set of photographs and I have merged them 21 with the old photographs from Monday. So you may want to 22 have your photographs from Monday out and that way you can 23 interchange.
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241	243
1 MR. NICOLL: If you want, since I need to get up	1 Q. When you say running elevations, you mean
2 anyway and stretch my legs for a second, maybe it would save	2 determining height above sea level basically?
3 everybody some time if I just have the court reporter mark	3 A. Yes.
4 all the photographs in order and then I will circulate the	4 Q. There is a pool, it looks to me anyway like a
5 photographs and you guys can shuffle them.	5 pool of water, muddy water at the bottom. Do you see that?
6 MR. BENINGER: Off the record for a few moments.	6 A. Yes.
7 (Off the record)	7 Q. Is that what it is?
8 (Exhibit Nos. 123 through 148	8 A. I believe so, yes.
9 are marked for identification)	9 Q. How would you characterize the earth that the
10 MR. BENINGER: Back on the record after a break,	10 backhoe, the digger, is digging through there?
11 continuing with the deposition of Mr. Franklin.	11 MR. SCANLAN: Object to the question as vague.
12 Q. Mr. Franklin, we have gone through and tried to	12 Q. Are there different ways or words that engineers
13 organize these photographs. But before we move on to I	13 use to describe the nature quality compaction content, if
14 think it's Exhibit 122 I wanted to take a look back for a	14 you will, of earth through which one digs through a project?
15 moment at Exhibit 118. Could you flip back?	15 <b>A. Yes.</b>
16 I'm going to draw a line out to two pieces of	16 Q. Using terms that are understandable to you and
17 equipment that are operating in the background and I'm going	17 then perhaps we can explain them, how would you characterize
18 to call these two points D. And I have written it up in the	18 the earth through which this digger is digging for the pump
19 top. There is D.	19 station foundation?
20 Do you see that equipment in the background?	20 A. It appears to be rock.
21 A. Yes.	21 Q. That's a term I think I understand. Would you
22 Q. First what are those pieces of equipment?	22 agree that this photograph is probably taken on or around
A. One is a backhoe and the other is a forklift.	23 May 9, 1994 based on the other photographs that we have seen
24 Q. Can you tell me what they are doing, do you know	24 and the daily inspection reports that you prepared?
25 by looking at the photograph or by memory?	25 A. Yes.
242	244
1 A. No, I don't know what they are doing.	1 Q. Now we go to the next photograph which is
2 Q. Is the backhoe digging?	2 Exhibit 122. And this appears to be, would you agree with
3 A. I can't tell.	3 this, is a photograph taken on the same day of the same
4 Q. It might be just sitting there?	4 hole?
5 A. Right.	5 A. Yes.
6 Q. Okay. Now we are looking at Exhibit 121. See	6 Q. Go back to 121 for a moment. In this photograph
7 at the top of Exhibit 121 the end of the 72-inch line	7 is the camera angle pointed in a direction basically
8 protruding?	8 southerly?
9 A. Yes.	9 A. Yes.
10 Q. And in the lower right hand corner, it's hard to	10 Q. So the backhoe tracks in the photograph are
11 make out but you might be able to make it out, date stamp?	11 situated towards the west; is that right?
12 A. There is something there. I can't tell what it	12 A. Actually towards the east. I mean the backhoe
13 is.	13 is facing eastward.
Q. The excavation that's depicted in the	14 Q. The backhoe is pointed to the east, but the 15 tracks are on the west side of that hole?
15 photograph, can you tell us what that is for?	
<ul> <li>A. The bottom part of the pump station.</li> <li>Q. Can you identify the individual who is</li> </ul>	16 A. Yes. 17 O. And you notice that three yellow legs are
18 photographed down in the hole?	18 underneath the articulating arm of the backhoe? 19 A. Yes.
19     A.     No.       20     Q.     Can you tell us what the long tube or pipe or	
- , , , , , , , , , , , , , , , , , , ,	20 Q. What are those to; do you know?
21 stake, whatever that item is in the left hand corner of the	<ul> <li>A. Those are probably level legs.</li> <li>Q. What does that mean?</li> </ul>
22 photograph?	
A. It appears to be an engineering rod.	A. It's a leg that supports an instrument that
24 Q. What's that used for?	24 determines the horizontal elevation and the horizontal
25 A. For running elevations.	25 plane.

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245	1
1 Q. And do you know who was using that equipment?	1 Q. Beyond speculation you don't know; is that
2 A. IMCO would have been.	2 right?
3 Q. If you can hand me the photograph I'm going to	3 A. Right.
4 do a litcle bit of drawing on it here.	4 Q. In Exhibit 122 I have circled that paint and
5 I've marked some items in the photograph that we	5 marked it B. Okay?
6 have been discussing. First, do you agree that A is the	6 A. Yes.
7 72-inch line that runs out from the water treatment plant?	7 Q. I asked you this before but I will ask again.
B A. Yes.	8 Do you recognize and can you identify the individual who is
9 Q. B is the engineering rod I think you identified?	9 at the bottom of the pit?
10 A. Yes.	10 A. No.
11 Q. C is the pool of muddy water at the bottom of	11 Q. As with the photograph before, this photograph
12 the foundation that's being dug for the pump station?	12 is looking in sort of a southerly, this one maybe perhaps
13 A. Yes.	13 more southeasterly direction; is that correct?
14 Q. D is the tracks of the backhoe that's doing the	14 A. Yes.
15 excavating?	15 Q. Let's flip to Exhibit 123. Exhibit 123, if you
16 <b>A. Yes.</b>	16 look at the front of it and also the second page, Exhibit
17 Q. And finally E is the tripod for shooting	17 123 is an Earth Tech photograph 0000783. Do you see that?
18 elevations?	18 <b>A. Yes.</b>
19 A. Yes.	19 Q. Is this a photograph of an area that you
20 Q. And the rock is obvious I guess in the	20 recognize?
21 photograph.	21 <b>A. Yes.</b>
22 Where on this photograph, if you are able to	22 Q. And the area is what?
23 determine, would the 16-inch waterline and the Olympic	23 A. The area is in the vicinity of the 72-inch
24 pipeline be running?	24 installation from the reservoir or from the filtration
25 A. Approximately in the location of where the	25 plant to where the 72-inch is encased in CDF eventually.
245	248
1 tripod is. Maybe further to the west of that, ten, fifteen	1 Q. Eventually encased in CDF. Why don't you hold
2 feet.	2 it up.
3 Q. Somewhere around the tripod maybe further to the	3 A. (Witness complies).
4 west ten or fifteen feet?	4 Q. Now let's identify some objects in that
5 A. Yes.	5 photograph. Okay? First would you put an arrow running to
6 Q. Go to 122. And we might as well state for the	6 the 72-inch line out to the margin?
7 record that 122 is an Earth Tech photograph 0000011. Now,	7 A. (Witness complies).
8 we've talked about this a little bit and this has a lot of	8 Q. Mark that A. Next would you put an arrow to the
9 the same features as the one before.	9 general area of the pump station excavation out to the
10 One thing I wanted to point out and circle in	10 margin and mark that B?
11 the photograph is the top of that engineering rod which I	11 A. (Witness complies).
12 will call A. Why is that orange bit on there? What's that	12 Q. Thanks. Next would you take a look down in this
13 for?	13 corner down near the exhibit number and there is a date
14 A. That appears to be prism for an electronic	14 there. Can you read that date?
15 distance measuring device, EDM for short.	15 A. Yes. 5/10/94.
16 Q. So that confirms to you that it was being used	16 Q. That was the date made by your camera?
1? to shoot elevation?	17 A. Yes.
18 A. Yes.	18 Q. Above that date in that very corner there is a
19 Q. Down at the bottom of this pit there appears to	19 partially visible white and red stake. Do you see it?
20 be some orange marking. Do you see that; some more paint on	20 A. Yes.
21 the ground?	21 Q. Could you circle that?
22 A. Yes.	22 A. (Witness complies).
23 Q. Do you know what that is and why it's there?	23 Q. Mark it C.
1/4 A. I would speculate that it's the corner of a number	•
A. I would speculate that it's the corner of a pump 5 station.	<ul> <li>24 A. (Witness complies).</li> <li>25 Q. And tell us what it is, if you know.</li> </ul>

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DALEN VS. OLYMPIC PIPE LINE THOMAS W. FRA	NKLIN - VOL. II 6-22-0	20
249	25	51
1 A. I don't know.	<ol> <li>Q. Why don't you hold the two of them up. Go like</li> </ol>	
2 Q. Is this to the best of your knowledge some type	2 this. I will do it for you.	
3 of utility marker?	3 So the manhole the man is standing on in Exhibit	
4 A. I don't really know.	4 120 is the manhole shown in the photograph just above the	
5 Q. Now, in the photograph you will see two exposed	5 72-inch line marked A in Exhibit 123; is that right?	
6 pipelines; right?	6 <b>A. Yes</b> .	
7 A. Yes.	7 Q. On Exhibit 123 is item A the 72-inch line?	
8 Q. The top pipeline, why don't you draw a line to	8 <b>A. Yes.</b>	
9 that out to the margin and mark it D.	9 Q. And item B is the area of the pump station	
10 A. (Witness complies).	10 excavation?	
11 Q. And could you tell us what pipeline that is?	11 A. Yes.	
12 A. Yes. That's the 16-inch waterline.	12 Q. Item C is a marker of some sort?	Ì
13 Q. Now, if you would, please, go to the pipeline	13 A. That's right.	
14 that's exposed below that, draw a line out towards it and	14 Q. Item D is the 16-inch waterline?	
15 out to the margin and mark it E and tell us what that is.	15 <b>A. Yes.</b>	
-	16 MR. BENINGER: Please point where item D goes	ļ
16 A. That appears to be the Olympic pipeline.	17 to.	
17 Q. That's the Olympic pipeline exposed in the	18 MR. NICOLL: Yes.	
18 trough that's eventually going to be where that 72-inch line		
19 runs out?		
20 A. Yes.	20 Q. That I'm pointing to right now, that's the	
21 Q. Now, I'm going to tax your memory a little bit,	21 16-inch waterline; is that right?	
22 but if it's too hard go back to the drawing.	22 A. Yes.	1
23 Do you remember the elevation that was shown on	23 Q. Item E is the Olympic pipeline?	
4 Exhibit 97 and drawing P-1 attached to Exhibit 116?	24 A. Yes.	
25 A. I remember the drawing.	25 Q. And south you have indicated is along the right	_
250	2	252
1 Q. You remember the drawing. And you remember that	1 side of this photograph?	
2 elevation of 253.6 feet?	2 A. That's correct.	
3 A. I believe so, yes.	3 Q. Now, at the point in time at which photograph	
4 Q. Was that elevation, that shot, was that	4 123, Exhibit 123, 5/10/94 was taken, the CDF had not been	
5 elevation put on the drawing, located on the drawing, to the	5 poured along the trench; is that right?	
6 south of these exposed pipes?	6 A. Yes.	
7 A. Yes.	7 Q. The building shown in the background, that's the	
8 Q. Would you indicate on the drawing where south of	8 water treatment plant, water treatment facility?	
9 the exposed pipes would be located just by putting a S below	9 A. Yes.	
10 the letter E. I'm sorry. I'm telling you what to do.	10 Q. What's this white piece of tape or string or	
11 Wherever you think south is.	11 rope?	
12 A. South is on the right of the drawing.	12 A. A measuring tape.	
13 Q. It's on the right of the photograph?	13 Q. A measuring tape running from the west opening	
14 A. There is no place to really write it properly.	14 of that 72-inch line to some point further to the west; is	
15 Right here.	15 that right?	
16 Q. So you put an S and circled it. Thank you.	16 A. Yes.	
17 Do you see the 72-inch line that you marked as	17 Q. What was that for; why was it being used?	
18 item A?	18 A. We were identifying the extent of where the CDF	
	· -	
	19 was going to go.	
20 Q. Above that line is what happens to be a manhole	20 Q. Flip to the next	
21 cover or a manhole; is that right?	21 MR. FLOYD: Can I see that photograph? Chris,	
22 A. Yes.		
	22 it's 12 o'clock.	
23 Q. Is that the manhole that the fellow was standing	23 MR. NICOLL: It's fine with me.	

DALEN VS. OLITHITOTICO INTE THOMAS W. THO	
253	255
1 MR. BENINGER: We are going off the record.	1 Q. It could be either the pump station or the
2 This will be the lunch break for Mr. Franklin's deposition	2 trench for the 72-inch?
3 on tape four.	3 A. The trench for the 72-inch and 60-inch across
4 (Noon recess)	4 Hannah Creek, that was excavated deeper than the rest of the
5	5 pipes.
6	6 Q. Do you see it looks like visqueen and the hose
7	7 and in the upper right hand corner?
8	8 <b>A. Yes.</b>
Ģ	9 Q. Look at Exhibit 123. You see the section or the
10	10 part of Exhibit 123 that you marked as or we marked or
11	11 somebody marked as being the area of the pump station
12	12 excavation?
13	13 A. Yes.
14	14 Q. See how part of that is covered in visqueen?
15	15 <b>A. Yes.</b>
16	16 Q. Can you look again at the visqueen in Exhibit
17	17 124 in the upper right hand corner?
19	18 A. Yes.
19	19 Q. Can you tell me from your memory was visqueen of
20	20 that sort being used in connection with the excavation of
	21 the trench for the 72 and 60 inch lines?
21	
22	22 A. Yes, it was.
23 •	23 Q. So that actually doesn't help you to decide
24	24 whether it's the pump station or
25	25 A. No.
254	256
1 AFTERNOON SESSION	1 Q. Or the trench? Okay. Let's move to the next
2 June 22, 2000	2 photograph, Exhibit 125. Exhibit 125 is a photograph from
3 1:20 p.m.	3 Earth Tech. It's ET-PH0000454. Do you see that?
4	4 A. Yes.
5 MR. BENINGER: We are back on the record for the	5 Q. You recognize the scene depicted in this
6 afternoon with Mr. Franklin, a continuation of tape number	6 photograph?
7 four. Go ahead.	7 A. Yes.
8	8 Q. And do you see the date in the lower right hand
9 EXAMINATION	9 corner?
10 BY MR. NICOLL:	10 A. Yes.
11 Q. Mr. Franklin, now you have in front of you	11 Q. Can you tell us what that date is?
12 Exhibit 124. If you look in the lower right hand corner of	12 A. 5/11/94.
13 that exhibit there is a date stamp like many of the others.	13 Q. And that's the date made on the photographs from
14 Can you	14 the camera you used; is that correct?
15 A. I'm guessing, but it looks like it's 5/11/94.	15 A. Yes.
16 Q. That's what I concluded. When I look at this	16 Q. This is a photograph that shows a particular
	17 event occurring. Can you tell us what that event is?
17 photograph, and for the record it's ET-PH0000543, it looked	18 A. They are forming up for the foundation of the
18 to me like a photograph of excavation of the trench for the	
19 72-inch line, but I just wasn't sure.	19 pump station base.
20 I'm wondering if you look at this and, based on	20 Q. Do you see in the upper section of the
21 your seeing and perhaps the other photographs and your	21 photograph towards the left of the center that same 72-inch
22 memory, tell us accurately what this particular excavating	22 waterline? Is that right?
23 project is related to.	23 A. Yes.
24 A. I can't really. It could be two different	24 Q. And to the right of the photograph there are
25 things.	25 several things that you can see. One is the tracks, if you

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2	57	259
1 will, of one of those excavation one of the pieces of	<ol> <li>Q. Do you recognize any of the people photographed</li> </ol>	
2 excavation equipment. Do you see that?	2 in Exhibit 125?	
3 A. Yes.	3 A. No.	
4 Q. And you see that green hose as well?	4 Q. When you took this picture do you remember why	
5 A. Yes.	5 you took it?	
6 Q. What was that used for, the green hose?	6 A. No.	
7 A. It would have been pumping out water.	7 Q. Just documenting progress?	
	B A. Yes.	
1		
9 A. From the hole where the pump station will be,	9 Q. It's probably becoming very clear to everybody,	ļ
10 yes.	10 but because of the different ways that transcripts might be	
11 Q. Now, you see that ladder that's coming out of	11 used in the course of a case I wanted to just make clear on	
12 the corner of the hole?	12 the record that this photograph, Exhibit 125, is looking in	
13 A. Yes.	13 a direction due south?	
14 Q. And if you go to the top of the ladder and	14 A. Yes,	
15 slightly over to the left and above, there appears to be	15 Q. To the left would be the water treatment plant,	
16 some stakes there or a stake, I'm not sure which. Can you	16 to the right would be Hannah Creek and the reservoir?	
17 see that?	17 A. Yes.	
19 A. Yes.	18 Q. And where the worker with the blue shirt and the	
19 Q. Can you tell us what that is?	19 white hard hat whose back is to us at the far side of the	
- ,	20 pump station foundation form is standing on the side of the	
1 ··· - ··		
21 Q. The Olympic pipeline?	21 pump station where that 24-inch discharge line eventually	
22 A. Yes.	22 will come out?	
23 Q. Let's find that red pen that's there in front of	23 A. Yes.	
24 you and do a couple of things. If you would allow me to	24 Q. It comes out at a higher level, but it comes	
25 I will do the drawing for this so I know exactly what I want	25 out?	
······	258	260
1 to circle here.	1 A. Yes.	200
, .	•	
3 first. Are you able to see that on the camera?	3 A. You know, excuse me a minute. On 125	
4 MR. BENINGER: Yes.	4 Q. Yes.	
5 Q. I have circled in a bubble and marked as A the	5 A. The thing I marked as B very easily could be the	
6 72-inch line at the top of Exhibit 125; is that right?	6 telephone connection as well as a hand hole or something	
7 A. Yes.	7 like that for the telephone. I believe that went across in	
8 Q. And I have marked as B in another bubble the	8 the same location.	
9 Olympic pipeline marker in the upper portion of Exhibit 125;	9 Q. It could be the pipeline marker, it could be a	
10 is that right?	10 telephone marker?	
11 A. Yes.	11 <b>A. Yes.</b>	
12 Q. Now, looking at Exhibit 125, can you indicate	12 Q. We know from Exhibit 123 let's hold up 123	
13 the area, if it's visible here, that shows the surface, the	13 here. We know from Exhibit 123 that the Olympic pipeline	
	• • • •	
14 ground surface below which the 16-inch waterline and the	14 runs at a level below the 16-inch line to the west of the	
15 Olympic pipeline ran on Exhibit 125?	15 opening of that 72-inch line; right?	
16 A. Yes.	16 <b>A. Yes.</b>	
17 Q. Okay.	17 Q. The Olympic line is item E, the 72-inch line is	
18 A. (Witness complies).	18 item A; right?	
19 Q. You've marked as C, you have put a big circle	19 A. That's correct.	
20 and marked as C as shown on Exhibit 125 the area where both		
21 the 16-inch waterline and the Olympic pipeline ran; is that		
	21 marker that's shown as point number C in the upper right	
22 correct?	22 hand corner of Exhibit 112. Do you remember that?	
23 A. Yes.	23 A. Yes.	
24 MR. NICOLL: The rest of you, can see that?	24 Q. Now if you look at Exhibit 125 again, I'm going	
25 MR. FLOYD: Thanks.	25 to continue to hold this up. Do you see any similarity	
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261 1 between the marker and you have marked as item C on Exhibit	1 there as well. What I see here looks like it's an opening
2 123 and item B on Exhibit 125?	2 for a hand hole of a telephone line and that's what caused
3 A. Yes. I see a similarity. I also see that up on	3 me to wonder just what it was.
the top of the hill, and this appears as if it's down below	4 Q. Let's move on, Let's look at Exhibit 126.
5 and that's what's causing me concern. I see two different	5 Exhibit 126, if you look in I think what is the upper left
6 locations.	6 hand corner it depends on how you hold that exhibit
7 Q. What you are seeing of course is that you have	7 is there a date stamp on it?
8 got one view in Exhibit 123 that's looking straight on at	B A. There is a date stamp.
9 the opening of the 72-inch line; right?	9 Q. And it's a photograph ET-PH0000456.
10 A. Yes.	10 A. Yes.
11 Q. And then you have another view that's looking at	11 Q. This is a different vantage point or a vantage
12 the same general location but from the side?	12 point different from the photograph shown in Exhibit 123; is
13 A. Right. I don't know what that is. That could	13 that right?
14 be something besides a marker for the Olympic pipeline.	14 A. Yes.
15 From what I'm seeing, this is higher than this is. This	15 Q. But essentially the same scene although
16 appears like it's over here up by item A.	16 apparently a day later?
17 Q. Does your camera have a telephoto lens on it?	17 A. That's correct.
18 A. No.	18 Q. Now this photograph has some differences from
19 Q. Does it have a telephoto feature where you can	19 the this one, 126, is different in some ways from 123.
20 push a button	20 For example, there is a small piece of what appears to be
21 A. No.	21 conduit or something that is now in the foreground closer to
22 Q and it comes up closer? Do you have any	22 the photographer than the Olympic pipeline and the 16-inch
23 expertise in reading photographs, two dimensional	23 waterline; is that right?
24 photographs for purposes of determining distance and that	24 A. Yes.
25 sort of thing?	25 Q. Do you know what that conduit is?
262	
1 A. No.	A. I believe that's a telephone system conduit.
2 Q. You'll notice how the stake in the upper right	2 Q. Do you see on the right portion of the
3 hand corner of Exhibit 123 is in a grassy patch. Do you see	3 photograph below that clump of grass on Exhibit 126 a white
4 that?	4 object that looks like a stake to me anyway?
5 A. Yes.	5 A. I see something there. I'm not sure what it is.
6 Q. Do you notice how in Exhibit 125 the stake	6 Q. You are not sure what it is, okay.
7 that's marked B is also in a grassy patch?	7 MR. SCANLAN: Counsel, do you want to mark what
<b>a</b> A. There is grass around it, yes.	8 you are talking about? I want to make sure.
9 Q. Do you notice how there seems to be some	9 MR. NICOLL: Actually I'm going to get to the
10 excavation material I think we always call dirt that runs	10 marking of all of this stuff.
11 along the side of the 72-inch line, from a point of the	11 Q. Take a look at that.
12 72-inch line down to some point at the ground level near	12 A. Okay.
13 that stake, item B?	13 Q. I will hold it up. We are looking at Exhibit
14 A. Yes.	14 126 and I'm going to take you through the various things I
15 Q. You'll notice how on Exhibit 123 there seems to	15 have marked. Okay?
16 be dirt that's I think probably also excavation material,	16 A. Okay.
17 but you can tell me, running down to the grassy section that	17 Q. First I have marked as A the conduit which you
18 the stake is on?	18 have identified as appearing to be the telephone line
A. It appears to be.	19 conduit?
20 Q. I'm going to ask the question a slightly	20 A. Yes.
21 different way. And that is, do you have a recollection	21 Q. And that's there. Then I've marked as B this
22 independent of the photographs of there being any markers	22 little white thing on the side of the picture which you are
23 for a utility at the approximate location of B on Exhibit	23 not sure what it is?
145 IVI B WINNY BLUNC BUPIVAINALC IVLALIVIT VI D VIL EXHIVIL	123 HOL BUIC WHOL IL IS!
	24 & That's correct
24125 and C on 123 other than the Olympic pipeline?25A. I believe there was a telephone line marking out	24     A. That's correct.       25     Q. I've marked as C the segment of Olympic Pipe

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26	761 7671		
	5 267		
Line's exposed pipeline?			
A. Yes.	2 Q. The reason I ask is that it just looks to me,		
Q. I've marked as D the segment of the exposed	3 and I again could be wrong, but it looks to me like this on		
16-inch waterline?	4 Exhibit 125, if you look at the hose, the hose running out		
) A. Yes.	5 of the pump station appears to go over the top of the berm I		
Q. I've marked as E a couple of stakes in the back	6 guess between the two holes and into the trench for the		
ground of the photograph?	7 72-inch line. Do you see that?		
A. Yes.	8 A. Yes.		
Q. And I've marked as F the portion of the opening	9 Q. Is that what it appears like to you as well?		
) of the 72-inch line that you can see in the top of the	10 A. Yes.		
photograph on Exhibit 126?	11 Q. Can you explain that?		
A. Yes.	12 A. Other than the fact that the trench continued		
Q. And I've marked as G some what is that?	13 downward towards Hannah Creek, it would have been natural		
-	14 for them to drain it into that area. It would have been the		
A. That's extra lean concrete.			
Q. Pardon me?	15 lowest place to drain.		
A. It's concrete that was poured around the 72-inch	16 Q. Both of these photographs were taken on May		
previously and there was extra so they deposited it in the	17 11th?		
hole.	18 A. Yes.		
Q. That's just	19 Q. As you can see, right: You notice that the		
A. Waste.	20 green hose in Exhibit 125 runs down into the trench pretty,		
Q leftover waste concrete?	21 well, not pretty far, but further to the west and almost in		
A. Yes.	22 line with where the track on the backhoe was located. Do		
Q. Now, look at the markings labeled as E. When	23 you see that?		
you look at those markings, does that help you in any way to	24 A. Yes.		
determine what those particular stakes or markings relate	25 Q. Now you see in this head-on view on Exhibit 126		
	268		
to?	1 that the hose, and are you pretty satisfied that the hose		
A. They appear to be on top of where the Olympic	2 that I'm pointing at in the upper left hand corner of		
pipeline was.	3 Exhibit 126 is the same hose as shown in Exhibit 125?		
Q. And do you recall from memory what the markings	4 A. It very easily could be.		
around the Olympic pipeline or for the Olympic pipeline on	5 Q. Well, I don't see any other green hoses that go.		
6 that work site said? Was there any writing on them or	6 You tell me.		
coloring, anything like that?	7 A. I would assume it is, yes.		
A. There was a writing on it identifying it as	8 Q. There is certainly no other green hoses draining		
Olympic pipeline. As I recall they were white with a red	9 out of the pump station; right?		
marking on them.	10 A. No.		
Q. Was there any significance to this waste	11 MR. SCANLAN: Objection. It calls for		
2 concrete that you can think of?	12 speculation.		
3 A. No.	13 Q. From your memory was there any other hose that		
Q. It's just dumped there?	14 drained the pump station excavation but one?		
5 A. Right.			
-	15 A. Not to my knowledge.		
-	16 Q. Would you agree based on Exhibit 126 that the		
for the pump station being drained into the trench being dug	17 hose that drains the pump station comes in at a point in the		
of for the 72-inch line? Is that what the green hose was for?	18 trench for the 72-inch line further to the west from both		
A. No. That green hose would have been to pump it	19 the 16-inch waterline and the Olympic pipeline?		
	20 <b>A. Yes.</b>		
Q. So you were trying to pump water out of the	21 MR. SCANLAN: I will object. It assumes facts		
2 trench for the 72-inch line?	22 not in evidence.		
3 <b>A. Yes.</b>	23 Q. The green hose in the upper left hand corner of		
Q. As well as pump water out of the hole for the	24 the photograph, Exhibit 126, enters the trench, wherever it		
5 pump station?	25 comes from, at a point further to the west from the Olympic		
0 out. 1 Q. So you were trying to pump water out of the 2 trench for the 72-inch line? 3 A. Yes.	<ul> <li>20 A. Yes.</li> <li>21 MR. SCANLAN: I will object. It assumes facts</li> <li>22 not in evidence.</li> <li>23 Q. The green hose in the upper left hand corner of</li> </ul>		

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1 pipeline and the 16-inch waterline. Do you agree with that?	1 for the telephone line?	
2 A. Yes.	2 A. Yes.	
3 Q. Let's look at Exhibit 127. Exhibit 127 is also	3 Q. G is that odd little white thing that we don't	
4 a photograph taken by you dated May 11, 1994; is that right?	4 know what it is; is that right?	
5 A. May 12.	5 A. That's right.	
6 Q. I'm sorry. May 12? May I?	6 Q. Do you now have a better idea of what it might	
7 MR. VERWOLF: Is 128 the one you want?	7 be in light of this photograph?	l
8 MR. NICOLL: It might be.	8 A. Well, not really. It's not real clear.	
9 Q. Let's look at 128. Thanks. Exhibit 128 is a	9 Q. And H is another stake with an orange top; is	
10 photograph dated May 11, 1994. And you took it; is that	10 that correct?	
11 right?	11 A. Yes.	
12 A, Yes.	12 Q. Do you know what that is?	1
13 Q. It's photograph ET-PH0000457; is that right?	A. I believe it's a cut stake for the alignment of	
14 A. Yes.	14 the 72-inch.	
15 Q. I'm going to take a couple seconds with this	15 Q. It's part of the overall Dakin-Yew pump station	
16 photograph and draw some circles on it. Okay? Take a look	16 project?	
17 at what I've marked up there.	17 A. Yes.	
18 A. Okay.	18 Q. And then of course there is the date stamp of	ļ
19 Q. Let's hold it up. Now, Exhibit 128 has been	19 5/11/94 in the lower right hand corner; right?	
20 marked up so that we can identify landmarks here. A is the	20 A. Yes.	
21 opening with the manhole cover of the 72-inch line?	21 Q. This is a photograph that looks pretty much to	
22 A. Yes.	22 the east at the treatment plant?	1
23 Q. B is the 16-inch waterline exposed in the trench	23 <b>A. Yes.</b>	
24 for the 72-inch line?	24 Q. And the pump station is to the left where the	
25 A. Yes.	25 white visqueen is?	
270		272
1 Q. C is the Olympic pipeline exposed in the trench	1 A. Yes.	4
2 for the 72-inch line?	2 Q. Now I guess we go to 127.	
3 A. Yes.	3 A. Okay.	
4 Q. D are some stake markings along the southern	4 Q. I want to make sure that I have the same one	
5 side of the trench for the 72-inch line?	5 that you have. Yes.	
€ A. Yes.	6 Is Exhibit 127 a photograph that you took on	
7 Q. Are these the ones that you testified a few	7 about 5/12/94?	
8 moments ago with respect to a different photograph appear to	8 A. Yes.	
9 be markings for the Olympic pipeline?	9 Q. And it is photograph ET-PH0000368?	
10 A. Yes.	10 A. Yes.	
11 Q. E is the green hose that we were talking about	11 Q. It shows you looking to the east towards the	
12 in photographs 126 and 125; is that right?	12 water treatment plant; right?	
13 A. Yes.	13 A. Yes.	
Q. And looking at E you can see, can you not, that	14 Q. Now, is there a crane that's lowering another	
15 it goes towards the hole for the pump station foundation?	15 section of the 72-inch line to join up with the valve that	's
16 A. Yes.	16 shown in Exhibit 128 at point A?	
17 Q. Marked as F is the conduit for the telephone	17 A. Yes.	
18 line; is that right?	18 Q. Do you remember how long that section was?	
19 A. Yes.	19 A. No.	
20 Q. Marked as G	20 Q. I notice also in the trench that I can't see the	
	-	
	21 Olympic pipeline any longer. Do you see that?	
22 awful lot of things that he said he thinks probably what	22 A. Yes.	
23 they are and you are now asserting they are and I want to	23 Q. What happened there; do you recall?	
24 avoid that confusion.	A. I don't recall just what happened at that time.	
25 Q. F is what you thought probably was the conduit	25 Q. What does it look like to you?	

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1 A. It appears there is CDF placed in the trench	1 MR. NICOLL: Somebody from Olympic specifically		
2 bottom.	2 different from the contract specifications.		
3 Q. That's that controlled density fill you spoke	3 MR. SCANLAN: Oral or written or all the above?		
4 about the other day?	4 MR. NICOLL: Oral, written, all of the above.		
5 A. Yes.	5 Just his own recollection of what the requirements of		
6 Q. Do you recall if there was any representative of	6 Olympic Pipe Line were with respect to notification when		
? Olympic Pipe Line present when its line was covered with	7 backfilling.		
8 CDF?	8 A. No, I don't recall getting anything from Olympic		
9 A. No, I don't.	9 Pipe Line.		
10 Q. Do you recall there later being an issue, a	10 Q. You didn't get anything personally from Olympic		
11 level of concern about whether Olympic was going to object	11 Pipe Line?		
12 to its pipeline having been covered with CDF?	12 A. No.		
13 A. No.	13 Q. Did you ever get anything from George Nordby		
14 Q. Was this the CDF that was mixed too dense or was	14 regarding Olympic Pipe Line's requirements and		
15 it properly mixed?	15 specifications for the right-of-way and the pipeline?		
16 A. In this area I don't know. I don't know the	16 <b>A. No.</b>		
17 location of what the original CDF was for.	17 Q. Any instructions from George Nordby or any of		
18 Q. Do you recall attempting to scrape through this	18 your superiors about when and under what circumstances		
19 CDF to see if it would be easy to dig through?	19 Olympic Pipe Line representatives should be at the site?		
20 <b>A. No.</b>	20 A. Only in regards to what the contractor was		
21 Q. Do you recall if anybody else did it?	21 supposed to do, and that was notify them of any activity on		
22 A. I don't recall if they did or not.	22 site.		
23 Q. On the job site who took responsibility, if you	23 Q. If you were aware that the contractor had not		
24 know, for contacting Olympic to make sure that Olympic	24 notified Olympic Pipe Line when Olympic was supposed to be		
25 representatives were present when events were taking place	25 notified, would you bring that to the contractor's		
274	276		
1 in connection with the pipeline?	1 attention?		
2 A. The contractor's representative.	2 A. Yes.		
3 Q. So IMCO?	3 MR. SCANLAN: Objection. It calls for		
4 A. Yes.	4 speculation.		
5 Q. That's not a responsibility that you took on	5 Q. At least as you understood your duties on the		
$\epsilon$ yourself; is that right?	$\boldsymbol{\varepsilon}$ job site, you would consider it to be one of your duties to		
7 A. That's correct.	7 make sure that the contractor notified Olympic Pipe Line?		
8 Q. Was there ever a time when you thought an	8 A. Yes.		
9 Olympic representative should be contacted but had not been	9 MR. SCANLAN: Object to the form of the		
10 contacted on this job site?	10 question. It calls for speculation.		
11 A. Not to my knowledge.	11 Q. Looking back at Exhibit 127, it's a little bit		
12 Q. Do you recall whether or not an Olympic pipeline	12 washed out I guess, but do you see in the right hand side of		
13 representative was supposed to be present whenever its	13 the photograph another one, that tripod, yellow tripod?		
14 pipeline was backfilled, covered over with CDF or dirt or	14 A. Yes.		
15 any other material?	15 Q. What was that?		
16 MR. SCANLAN: Would you repeat the first part of	16 A. It's a level instrument.		
17 that question?	17 Q. For taking elevations?		
18 Q. Do you recall if there was a directive or	18 A. For carrying elevations, yes.		
19 instruction from Olympic Pipe Line as to whether or not its	19 Q. This is an instrument that was operated by the		
20 representative was supposed to be present whenever its	20 contractor, IMCO?		
21 pipeline was covered over with dirt or fill or CDF or other	21 A. Yes.		
22 material?	22 Q, Are you able to make out the pipeline markings		
23 MR. SCANLAN: Just so I'm clear, you are	23 or what we have been calling the pipeline markings on		
24 referring to the contract specifications or are you in terms	24 Exhibit 127?		
25 of Olympic			
fea ar arkithing -	25 A, No.		

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Q. Just take a look at what I have circled and	1 marker for the Olympic pipeline?	
2 marked. On Exhibit 127 I have circled and marked as	the 2 A. I believe it is.	
3 tripod that we just spoke about for shooting elevations		
4 A. Yes.	4 would be given the coloration of the marker and its location	n
5 Q. I have circled and marked as B the length of	5 and your memory?	
6 72-inch pipe that's being lowered into place to connec		
7 at the valve fitting; is that right?	7 Q. Exhibit 129 is another photograph I'm holding up	
8 A. Yes, that's correct.	8 now and I'm going to give to you to look at. This is the	
9 Q. And then I have circled and marked as C the		
10 of CDF that has been I guess poured over the top of th		
11 Olympic pipeline; is that right?	11 Q. You took it on May 12, 1994; is that correct?	
12 A. Yes.	12 <b>A. Yes.</b>	
13 MR, BENINGER: Point to Clagain. Thank you	13 Q. It's photograph ET-PH0000379; is that right?	
<ol> <li>Q. In the background between C and B you can</li> </ol>		
15 the 16-inch waterline still exposed; right?	15 Q. Is this a photograph taken either shortly before	
16 A. Yes.	16 or shortly after photograph number 127? And I would as	(
<ol> <li>A. Tes.</li> <li>MR. FLOYD: Did he indicate that you couldn't</li> </ol>	17 you to take a look at the man in 127. He is crouching and	
18 see the pipeline markers?	18 the same man in 129 is walking away?	
	19 A. Yes.	
	20 Q. It appears to be taken about the same time; is	
20 MR. FLOYD: I can see it clearly. 21 Q. Why don't you look over here. See where I'i	20 Q. It appears to be taken about the same time, is 21 that right?	
	22 <b>A. Yes</b> .	
22 pointing? Can you tell if those are the markers?		
A. I can't tell. I can see something but I don't		
24 know what it is. It's real light	24 just gave us a slightly closer-up view of the CDF material.	
25 Q. Why don't I circle what you can see and we'l	25 And that's what I'm pointing to here in 129 is the CDF tha	
	278	28
1 just mark it as D and say that.	1 covers the Olympic pipeline as of May 12th; right?	
2 MR. SCANLAN: Let's be clear that he didn't	2 <b>A. Yes.</b>	
3 previously testify that they were the pipeline markers,	out 3 Q. Underneath the tripod that you can see in	
4 he thought it was possible they were there.	4 Exhibit 127 and 129 is a white stake, white and orange or	
5 MR. NICOLL: What we've been calling them.	5 white and red stake. Do you see that?	
6 MR. SCANLAN: I just don't want later someo	e 6 A. I see something there. I don't think it's a	
$\mathbb{P}$ saying Tom Franklin testified these are the pipeline m	rkers 7 stake.	
8 and that's not what he has testified to.	8 Q. What do you think it is?	
9 MR. VERWOLF: I believe he did indeed testif	9 A. I think it's an extension rod for running	
10 that he believed those to be the pipeline markers.	10 levels.	
11 MR. SCANLAN: I think there is a difference	om 11 Q. So it's part of the equipment used by the	
12 saying believed to be and were. Why don't we ask th	12 contractor to shoot elevations during the project?	
13 witness to clarify if he knows for certain what they ar	• · · ·	
Q. I will go back to that in a minute. But for th		3
15 record, what Francis said, just pointed out as somethi	· · ·	
16 that can be seen there, I have circled and marked as	•	
17 A. Yes.	17 Q. And it is photograph ET-PH0000361; is that	
<ol> <li>Q. And this is what you just indicated, that you</li> </ol>	18 correct?	
19 can see something there but you really can't tell what		
20 is?		
	20 Q. Now, does this photograph show an additional	
21 A. That's right.	21 section or sections of the 72-inch line being lowered into	
22 Q. Now let's go back to Exhibit 128. Do you se		
23 A. Yes.	23 <b>A. Yes.</b>	
24 Q. Do you see D there on Exhibit 128, the	24 Q. Look on the left hand side of the photograph	
25 photograph from May 11, 1994? Is one of those mar	rs a 25 which would be the southerly side of the photograph. Do	o you

13       Q. Now, they are sitting in some kind of cement       18       Q. It's clearly shown that no excavation of the         19 like looking material. Is that CDF?       16       16       16         20       A. Yes.       20       16       16         21       Q. And behind that there is a front end loader with       22       Q. At this time, right.         23       A. Yes.       24       A. At the bind that there is a front end loader with       25       a hother thing probably worth         23       A. Yes.       22       Q. At this time, right.       22       Q. At this time, right.         24       A. Yes.       28       28       28       28         25       a backhoe attachment at the back?       280       284         26       A. Yes.       282       284         2       Q. Is that the John Deere tractor that was used for       38 owa los covered with the CDF material; is that right?         3       A. Yes.       2       Q. What are these blue things sticking up over near         3       Some of the excavation?       3       4. Those are conduits.       6         4       A. Yes.       2       Q. What are these blue things sticking up over near       3         3       G. Would you draw an arrow to where that area is? <th>DALEN VS. CETTURE</th> <th></th>	DALEN VS. CETTURE			
2 side of that trench?         2 treatment plant was dug that there was also excavation           3 A. Yes.         3 exposing the 16-inch line across, and 1 thought you said           4 Q. And are those the same stakes or markings that         5 the area where the pipeline - or 1'm sory - the pump           5 we've been referring to as the ones for the Olympic         5 the area where the pipeline - or 1'm sory - the pump           6 Q. Why don't you circle those and call them A.         8 these photoprophs.         5 the area where the pipeline - or 1'm sory - the pump           1 A. A brace that would be werk suitable.         16 these photoprophs.         5 the area where the pipeline - or 1'm sory - the pump           1 A. A brace that would be werk suitable.         16 these photoprophs.         9 these photoprophs.           1 A. A brace that would be werk suitable.         16 the yes the second why as so become the pump           1 A. A brace or a block of some kind.         16 Q. And that's clearly shown?           1 A. A brace or a block of some kind.         16 Q. And that's clearly shown?           2 Q. A they are sitting in some kind of crement         16 Q. The pipeline - or the reports?           3 A. Yes.         2 Q. At this time, right.           2 Q. Do you see the crane in the middle of the         20 po you see the crane in the middle of the           2 boordgraph, which is Nay 13, 1994, the 16-inch waterline is         2 photograph Stath 30 the soft you skid				
3       A. Yes.       3       accosing the 15-inch line across, and 1 houghy ou said         4       Q. And are those the ones for the Olympic       5       the area where the pipeline - or 1m sorry - the pump         5       Q. Why don't you circle those and call them A.       5       the area where the pipeline - or 1m sorry - the pump         3       Q. Why don't you circle those and call them A.       5       the area where the pipeline - or 1m sorry - the pump         3       Q. Why don't you circle those and call them A.       5       the area where the pipeline - or 1m sorry - the pump         3       Q. Why don't you circle those and call them A.       5       the separator where the pipeline - or 1m sorry - the pump         3       Q. Why don't you circle those and call them A.       5       the separator where the pipeline - or 1m sorry - the pump         10       Q. When you are referring to athese?       5       the separator where the separator where the separator where the pump         13       A. Abrace that would be work suitable.       10       for the ?2-inch line watch separator sing of what was to become the pump         14       A. Abrace that would be work suitable.       11       sort, the weather sing of what was to become the pump         15       A. Abrace that would they be called?       12       A. At this time. Another the pump site of the secovation of the         16       <		- 1		
4       Q. And are those the same stakes or markings that       4       exposing the 16-inch line across the area even in front of         5       we've been referring to as the ones for the Olympic       5       the area where the pipeline or I'm sorry the pump         6       Q. Why don't you circle those and call them A.       5       those potporphs.       5         10       Q. The phymod or whatever that woid is that's       1       16 for the 72-inch line was dug further excavation og to the         11       Q. The phymod or whatever that woid is that's       1       16 for the 72-inch line was dug further excavation og to the         12       Q. When you are referring to those pieces in       1       A. A brace or a block of some kind.         13       A. Abrace or a block of some kind.       1       A. What's clearly shown in these photographs we         14       Q. Now, they are sitting in some kind of cement       1       A. What's clearly shown in the occavation of the         15       Ino thas been performed?       1       A. What's clearly shown in the occavation of the         15       Ino thas been performed?       1       A. What's clearly shown in the publicy play, the 16-inch the material. Is that right?         16       Q. Now, they are sitting in some kind       1       A. It appears that way, yes.         16       Q. And bhind that there is a front end loader with<	2 side of that trench?	· · · · · · · · · · · · · · · · · · ·		
5 we're been referring to as the ones for the Olympic         5 the area where the pipeline or Tm sorry the pump           6 pipeline?         5 that area where the pipeline or Tm sorry the pump           7 A. It appears as if they are, yes.         5 that area where the pipeline or Tm sorry the pump           8 Q. Why don't you circle those and call them A.         6 these photographs.           9 Q. Why don't you circle those and call them A.         6 these photographs.           10 Q. The plywood or whatever that wood is that's         1 north along the 16-inch line were said further ecavable og in the tench           11 Q. When you are infering to those pieces in         12 orry, the western side or what was to become the pump           13 A. A brace that would the work suitable.         13 station had also been performed?           14 A. No car a block of some kind.         13 A. A that's clearly shown in these photographs we           15 inspection reports or other reports in the construction         13 A. Yes.           12 Q. Now, they are sitting in some kind of cement         13 A. Yes.           13 Q. Where on Exhibit 130 has the hole for the pump         13 onling in Exhibit 130 has the hole for the pump           14 A. Yes.         2 A. At a spears that way, yes.         2 Q. What are these blue things sticking up over near           14 A. Yes.         2 A. Yes.         2 A. This pipe installation over here, that's a           2 Q. Where on Exhibit 130 has the				
6 pipeline?       6 stition foundation had been dug. But I could be wrong in my         7 A. It appears as if they are, yes.       6 stition foundation had been dug. But I could be wrong in my         7 A. It appears as if they are, yes.       7 recollection of that. But it is the reason why I selected         8 Q. Why don't you circle those and call them A.       5 A. Writess complies).       5 It your position that at the time the trench         9 A. A brace that would be work suitable.       11 onth along the 15-inch lines output the excavation oging the         11 a. A brace or a block of some kind.       12 story, the western side of what was to becrea the pump         13 a. A brace or a block of some kind.       13 A. A brace or a block of some kind.         14 A. Yes.       14 A. Yes.         20 Q. Do you see the crane in the middle of the       19 for the 72-sich?         14 A. Yes.       20 And behind that there is a front end loader with         15 a backboe attachment at the back?       20 A. It is stition foundation had been dug.         14 A. Yes.       20 J. Is that the John Deere tractor that was used for         15 a wastice sample).       20 What are these blue things sticking up over near         3 d. Pres.       20 What are thas blue hole for the pump         16 A. Hress complie).       224 A. It appears that way, yes.         2 Q. What are thas would be been that area is?       284 for this istite reaps in wasteride and the 16-i		1 1 1 1		
A. It appears as if they are, yes.       7 recollection of that. But it is the reason why I selected         B. Q. Why don't you circle those and call them A.       8 these photographs.         B. Q. Why don't you circle those and call them A.       9 these photographs.         B. Q. The plywood or whatever that wood is that's       10 for the 72-inch line was dug further exeavation going to the         B. D. The plywood or whatever that wood is that's       10 for the 72-inch line was dug further exeavation going to the         B. D. Arb orace that would be work suitable.       10 for the 72-inch line was dug further exeavation going to the         B. D. Arb orace or a block of some kind.       13 k. A brace that would be work suitable.       13 k. A brace that would be work suitable.         B. D. Arb orace or a block of some kind.       14 A. No, sin.       15 is-pection reports or other reports in the construction       15 A. What's clearly shown in these photographs we         B. Thoraks.       10 provide exercise in the middle of the       11 A. A this time, right.         B. D. Arb or a be cover on back of some kind.       14 A. Yes.       14 A. Yes.         B. Q. And behind that there is a front end loader with       15 photograph. which is May 13, 1994, the 16-inch waterline is         B. Thoraks.       2 Q. Is that the lohn Deere tractor that was used for       2 A. Yes.         B. Q. Worke on Exhibit 130 has the hole for the pump       2 A. Yes.       2 Q. What are these blue things stic				
<ul> <li>Q. Why don't you circle those and call them A.</li> <li>A. (Witness complies).</li> <li>Q. Thenks. You have draw an arrow with the 15th.</li> <li>A. Pres.</li> <li>Q. And behind that there is a front end loader with</li> <li>S a Azice a shoke of some kind.</li> <li>A. Yes.</li> <li>Q. And behind that there is a front end loader with</li> <li>S a backboe attachment at the back?</li> <li>A. Yes.</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>B. Thanks.</li> <li>Q. What you fact the area is where that area is?</li> <li>Q. Would you indicate the area through which these some flor you skeed approximately?</li> <li>A. Yes.</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Are you able to see some ground, surface</li> <li>Q. Are you able to read the area through which these is a front end prove many thanks.</li> <li>Q. Thanks. You have draw an arrow with the letter</li> <li>Q. Are you able to read the area through which these is a front end prove many thanks.</li> <li>Q. Are you able to read the area through which these is a front end prow and the some through you frageness that this.</li> <li>Q. Are</li></ul>		-		
§       A. (witness complies).       Is it your position that it the time the tench         10       Q. The phywood or whatew that wood is that's       10         11       descent the type of the type called these?       11         12       these braces or what do you call those?       12         13       A. A brace that would be work suitable.       13       11         14       A. When you are referring to those pieces in       14       A. No, sir.         15       inspection reports or other reports in the construction       15       Q. And that's clearly shown in these photographs we         15       inspection reports or other reports in the construction       15       Q. And that's clearly shown?         16       Q. Now, they are sitting in some kind of cement       13       A. What's clearly shown?         16       Q. Now, they are sitting in some kind of cement       13       Q. It's clearly shown?       14         17       A. Wat's clearly shown?       12       Q. And that's neexcavation of the       15         18       ichave subse been performed?       14       A. Wat's clearly shown?       14         18       ichave subse been performed?       12       A. A this time, Another thing probably worth         13       A. Yes.       14       A. It appears that way, yes.       <		· · · · · · · · · · · · · · · · · · ·		
10       Q. The plywood or whatever that wood is that's         11       underneath the 72-inch line, what do you call those?         12       in orth along the 16-inch line on the esterm side 1'm         13       A. A brace that would be work suitable.       11 north along the 16-inch line on the esterm side 1'm         13       A. A brace that would be work suitable.       13 station had also been performed?         14       Q. When you are referring to those pieces in       13         15       Q. And that's clearly shown in these photographs we         16       project, what would they be called?       13         17       A. A brace or a block of some kind.       13       Q. And that's clearly shown in these photographs we         16       project, what would they be called?       13       Q. And that's clearly shown that ne excavation of the         18       Q. The upper portion?       13       Q. And that's clearly shown that ne excavation of the         19       Do you see the crane in the middle of the       14       15       16         19       Q. O you see the crane in the middle of the       12       14       14       15         20       Q. Is that the lohn Deere tractor that was used for       23       16       16       16         21       A. Yes.       2       Q. What ar	B Q. Why don't you circle those and call them A.			
11 underneath the 72-inch line, what do you call those?       11 north along the 16-inch line on the eastern side — I'm         12 those braces or what do you call those?       12 story, the western side of what was to become the pump         13 A. A brace trait would they be work suitable.       13 station thad also been performed?         14 Q. When you are referring to those pieces in       14 A. No, sir.         15 inspection reports or other reports in the construction       16 Avery suitable.         16 A. brace or a block of some kind.       17 A. What's clearly shown in these photographs we         16 A. Yes.       17 A. What's clearly shown that no excavation of the         18 Look was been down that per portion?       20 A this time, right.         21 Q. Do you see the crane in the middle of the       21 A. At this time, right.         22 photograph on the upper portion?       22 A. Yes.         23 A. Yes.       22 At this time. Another thing probably worth         23 A. Yes.       22 A. Yes.         24 A. Yes.       22 A. Yes.         25 A. Where on Exhibit 130 has the hole for the pump       5 A. Those are conduits.         5 A. Where so mightes).       22 A. What are these bues dor what?         7 A. On the right corner.       23 A. Yes.         8 Q. Would you draw an arrow with the letter       16 A. Yes.         18 D. Thanks. You have drawn an arrow with the letter       17				
12 those braces or what do you call those?       12 sorry, the western side of what was to become the pump         13 A. A brace that would be work suitable.       13 station had also been performed?         14 A. No, sir.       14 A. No, sir.         15 inspection reports or other reports in the construction       15 Q. And that's clearly shown in these photographs we         16 project, what would they be called?       16 have just been looking at; right?         17 A. A brace or a block of some kind.       17 A. What's clearly shown?         18 Q. Now, they are sitting in some kind of cement       18 Q. It's clearly shown that no excavation of the         19 like looking material. Is that CDF?       18 A. Yes.         21 Q. Do you see the crane in the middle of the       21 A. At this time, right.         17 A. A bres.       20 In bas been performed?         21 Q. Do you see the crane in the middle of the       21 A. At this time, right.         22 Q. And behind that there is a front end loader with       23 not was ocvered with the CDF material; is that right?         24 A. Yes.       20 Where on thibit 130 has the hole for the pump         5 you day ou draw an arrow to where that area is?       5 A. Wots.         5 Q. Would you draw an arrow to where that area is?       6 Q. Lengths of conduit to be used for what?         7 A. On the right ranks.       20 And these conduits.         8 drain pipe that you asked about earrier in	10 Q. The plywood or whatever that wood is that's	-		
13       A. A brace that would be work suitable.       13       station had also been performed?         14       A. No, sir.         15       inspection reports or other reports in the construction       15       Q. And that's clearly shown in these photographs we         16       project, what would they be called?       16       A. No, sir.         17       A. A brace or a block of some kind.       17       A. What's clearly shown in these photographs we         18       Q. Now, they are sitting in some kind.       17       A. Wat's clearly shown?         18       Q. Now, they are sitting in some kind.       17       A. Wat's clearly shown?         19       Q. Now, they are sitting in some kind.       18       Q. It's clearly shown?         18       Q. Do you see the crane in the middle of the       19       16-inch line outside of the immediate trench for the 72-inch         12       A. Yes.       Q. At this time, right.       21       Q. At this time, right.         13       A. Yes.       20       Q. At this time, another thing probably worth       23         2       a. Yes.       2       Q. What are the solut thing sticking up over near       24         3       a. Yes.       2       Q. Wat are these blue things sticking up over near       24         4       A. Yes.	11 underneath the 72-inch line, what do you call those? Are	-		
14       A. No, sir.         15 inspection reports or other reports in the construction       14       A. No, sir.         15 inspection reports or other reports in the construction       15       Q. And that's clearly shown in these pholographs we         16 in posted and the scaled?       16 have just been looking at; right?         17       A. Mat's clearly shown in these pholographs we         18       Q. Now, they are sitting in some kind of cement       19         19       A. Yes.       17       A. What's clearly shown?         20       Do you see the crane in the middle of the       19       10         21       A. Yes.       21       A. At this time, right.         22       Q. And behind that there is a front end loader with       23 noting in Exhibit 130 is that by the date of this         23       a. Yes.       284       1       A. It appears that way, yes.       284         2       Q. Where on Exhibit 130 has the hole for the pump       5       A. The same thing.       284       4. The same thing.       284         3       A. Were on Exhibit 130 has the hole for the pump       5       A. Tho same of the excavation?       5       A. Those are conduits.       6       Q. Lengths of conduit to be used for what?         3       A. Would you draw an arrow to where that area is?       9	12 those braces or what do you call those?	12 sorry, the western side of what was to become the pump		
15       Q. And that's clearly shown in these photographs we         16       16 have just been looking at; right?         17       A. Abrace or a block of some kind.       17         18       Q. Now, they are sitting in some kind of cement       18         19       Ike looking material. Is that CDF?       18         20       A. Yes.       20         21       Q. Do you see the crane in the middle of the       21         22       Q. And behind that there is a front end loader with       23         23       A. Yes.       23         2       Q. Do you see the crane in the middle of the       21         23       A. Yes.       23         2       Q. And behind that there is a front end loader with       23         25       a backhoe attachment at the back?       28         2       Q. Statt the John Deere tractor that was used for       29         3       A. Yes.       2       Q. What are these blue things sticking up over near         3       Station been dug?       6       Q. Lengths of conduits.         6       Q. Would you draw an arrow with the letter       16       A. The same thing.         18       Thanks.       20       Watt are these one they stotion?         2       Would yo	13 A. A brace that would be work suitable.	13 station had also been performed?		
16 project, what would they be called?       16 have just been looking at; right?         17       A. A brace or a block of some kind.       17       A. What's clearly shown?         18       Q. Now, they are sitting in some kind of cement       18       Q. It's clearly shown?         19       Q. Now, they are sitting in some kind of cement       18       Q. It's clearly shown that no excavation of the         19       A. Yes.       19       16-inch line outside of the immediate trench for the 72-inch         20       Do you see the crane in the middle of the       20       A. At this time, right.         21       A. Yes.       20       At this time. Another thing probably worth         23       A. Yes.       21       A. At this time. Another thing probably worth         24       D. Ad behind that there is a front end loader with       21 photograph, which is May 13, 1994, the 16-inch waterline is         25       a decknee attachment at the back?       280       284         1       A. Yes.       21       A. It appears that way, yes.       29         2       Q. St that the John Deere tractor that was used for       3 the point that you marked as B coming out of the hole for         4       A. Yes.       2       Q. What are these blue things sticking up over near         3       Some of the excavation?       3	14 Q. When you are referring to those pieces in	14 A. No, sir.		
13       A. A brace or a block of some kind.       17       A. What's clearly shown?         13       Q. Now, they are sitting in some kind of cement       18       Q. It's clearly shown?         14       Q. Now, they are sitting in some kind of cement       18       Q. It's clearly shown?         14       Q. Now, they are sitting in some kind of cement       19       16-inch line outside of the immediate trench for the 72-inch         15       A. Yes.       20       Q. Do you see the crane in the middle of the       21       A. A this time, right.         16       Q. Not her paper portion?       20       A. At this time, right.       22         24       Q. And behind that there is a front end loader with       23 noting in Exhibit 130 is that by the date of this         25       a Ares.       2       Q. At this time, right.       284         2       Q. Is that the John Deere tractor that was used for       3 one also covered with the CDF material; is that right?         2       Q. Where on Exhibit 130 has the hole for the pump       5       A. Tra spears that way, yes.       2       Q. What are these blue things sticking up over near         3 the point that you marked as B coming out of the hole for       4       4       Yes.       3       A. This spie installation over here, that's a         6       Q. Where on Exhibit 130 has the hole for the	15 inspection reports or other reports in the construction	15 Q. And that's clearly shown in these photographs we		
13       Q. Now, they are sitting in some kind of cement       18       Q. It's clearly shown that no excavation of the         19 like looking material. Is that CDF?       16       16       16         20       A. Yes.       20       16       16         21       Q. And behind that there is a front end loader with       22       Q. At this time, right.         23       A. Yes.       24       A. At the bind that there is a front end loader with       25       a hother thing probably worth         23       A. Yes.       22       Q. At this time, right.       22       Q. At this time, right.         24       A. Yes.       28       28       28       28         25       a backhoe attachment at the back?       280       284         26       A. Yes.       282       284         2       Q. Is that the John Deere tractor that was used for       38 owa los covered with the CDF material; is that right?         3       A. Yes.       2       Q. What are these blue things sticking up over near         3       Some of the excavation?       3       4. Those are conduits.       6         4       A. Yes.       2       Q. What are these blue things sticking up over near       3         3       G. Would you draw an arrow to where that area is? <td></td> <td>16 have just been looking at; right?</td>		16 have just been looking at; right?		
19 like looking material. Is that CDF?       19 16-inch line outside of the immediate trench for the 72-inch         20 A. Yes.       20 line has been performed?         21 Q. Do you see the crane in the middle of the       21 A. At this time, right.         23 A. Yes.       20 A. At this time. Another thing probably worth         23 A. Yes.       20 A. At this time. Another thing probably worth         23 A. Yes.       20 A. At this time. Another thing probably worth         24 D. And behind that there is a front end loader with       25 now also covered with the CDF material; is that right?         25 a backhoe attachment at the back?       282         284       A. Yes.         29 Q. Is that the John Deere tractor that was used for       3 not the excavation?         4 A. Yes.       2         9 Q. Where on Exhibit 130 has the hole for the pump       5 the point that you marked as B coming out of the hole for         4 A. Yes.       6 Q. Lengths of conduits.         6 Q. Wold you draw an arrow to where that area is?       8 drain pipe that you asked about earlier in the day to drain         9 Now, are you able to see some ground, surface       13 Q. Draining the same manhole or draining something?         11 area, ground surface area beneath which the 16-inch       13 Q. Draining the same manhole or draining something?         14 A. Yes.       16 Q. And these conduits over in the hole for the pump		· · · · · · · · · · · · · · · · · · ·		
20       A. Yes.       20       line has been performed?         21       Q. Do you see the crane in the middle of the       21       A. At this time. Another thing probably worth         23       A. Yes.       20       Inte has been performed?         24       Q. And behind that there is a front end loader with       22       Q. At this time. Another thing probably worth         23       A. Yes.       22       Q. At this time. Another thing probably worth         25       a backhoe attachment at the back?       282         26       282       284         1       A. Yes.       20       Is that the John Deere tractor that was used for         3 some of the excavation?       20       What are these blue things sticking up over near         3 some of the excavation?       20       What are these blue things sticking up over near         3 the point that you marked as B coming out of the hole for       4       1         5       Q. Would you draw an arrow to where that area is?       5       A. Those are conduits.         6       S. Anot the right corner.       3       A. This per bins thing.         9       A. (Witness complies).       1       Q. How mach of and the 16-inch         11       B. Thanks.       10       Q. Anot these conduits over in the hole for the pump	18 Q. Now, they are sitting in some kind of cement	18 Q. It's clearly shown that no excavation of the		
21       Q. Do you see the crane in the middle of the       21       A. At this time, right.         22       Q. At this time, right.       22       Q. At this time, right.         23       A. Yes.       23       and behind that there is a front end loader with       23       and behind that there is a front end loader with       23       anoting in Exhibit 130 that there is a front end loader with       23       anoting in Exhibit 130 that there is a front end loader with         25       a A. Yes.       262       282       284         1       A. Yes.       20       J. A. It appears that way, yes.       22       284         1       A. Yes.       20       Q. What are these blue things sticking up over near       3       3       the pump station?       3       the pump station?       4       A. Yes.       2       Q. What are these blue things sticking up over near       3       the pump station?       5       A. Those are conduits.       6       Q. Lengths of conduit to be used for what?       7       A. On the right corner.       6       Q. Lengths of conduit to be used for what?       7       A. For this pipe installation over here, that's a       6       6       G. and these conduits.       6       9       Are this ume, right.       10       Q. And these conduits.       11       11       12       A. The same thing.	19 like looking material. Is that CDF?	19 16-inch line outside of the immediate trench for the 72-inch		
22 photograph on the upper portion?       22       Q. At this time. Another thing probably worth         23 A. Yes.       23 noting in Exhibit 130 is that by the date of this         24 Q. And behind that there is a front end loader with       23 noting in Exhibit 130 is that by the date of this         25 a backhoe attachment at the back?       282         24 A. Yes.       282         25 now also covered with the CDF material; is that right?         26 Q. Is that the John Deere tractor that was used for         3 some of the excavation?       1         4 A. Yes.       2         2 Q. Where on Exhibit 130 has the hole for the pump         5 station been dug?       5         7 A. On the right corner.       6         8 Q. Would you draw an arrow to where that area is?       7         9 A. (Witness complies).       6         10 Q. Thanks.       2         12 Now, are you able to see some ground, surface         13 area, ground surface area beneath which the 16-inch         14 waterline and the 16-inch Olympic pipeline run on this         15 photograph Exhibit 130?         16 A. Yes.         17 Q. Would you indicate the area through which those         18 run to the best of your knowledge approximately?         19 A. (Witness complies).         10 Q. You have circled an area which appe	20 <b>A. Yes.</b>	20 line has been performed?		
23       A. Yes.       23 noting in Exhibit 130 is that by the date of this         24       Q. And behind that there is a front end loader with       24 photograph, which is May 13, 1994, the 16-inch waterline is         25 a backhoe attachment at the back?       282       284         2       282       284         1       A. Yes.       282       284         1       A. Yes.       2       Q. Is that the John Deere tractor that was used for       3 some of the excavation?       2       Q. What are these blue things sticking up over near         3 some of the excavation?       3       the point that you marked as B coming out of the hole for         4       A. Yes.       2       Q. Where on Exhibit 130 has the hole for the pump       5       A. Those are conduits.       6       Q. Lengths of conduit to be used for what?       7       A. For this pipe installation over here, that's a       8       drain pipe that you asked about earlier in the day to drain       9       9       A. It is anowhole.       10       Q. And these conduits over in the hole for the pump       11       A. The same thing.       11       11       12       A. The same thing.       11       12       A. The same thing.       11       12       A. The same thing.       12       A. The same thing.       12       A. The same thing.       13       Q. Draining the same manho				
24       Q. And behind that there is a front end loader with       24 photograph, which is May 13, 1994, the 16-inch waterline is         25 a backhoe attachment at the back?       282       282         282       284         1       A. Yes.       2         2       Q. Is that the John Deere tractor that was used for       2         3 some of the excavation?       2       Q. What are these blue things sticking up over near         3 some of the excavation?       3       the point that you marked as B coming out of the hole for         4       A. Yes.       2       Q. What are these blue things sticking up over near         3 some of the excavation?       3       the point that you marked as B coming out of the hole for         4       A. Yes.       6       Q. Lengths of conduit to be used for what?         7       A. On the right corner.       6       Q. Lengths of conduits.         8       Q. Would you draw an arrow to where that area is?       8       drain pipe that you asked about earlier in the day to drain         9       Thanks.       10       Q. And these conduits over in the hole for the pump         11       B. Thanks.       11       Q. Thanks. You have drawn an arrow with the letter         10       Q. And these conduits over in the hole for the pump       11         13				
25 a backhoe attachment at the back?       25 now also covered with the CDF material; is that right?       282         1       A. Yes.       282       284         1       A. Yes.       2       Q. What are these blue things sticking up over near         3 some of the excavation?       3       the point that you marked as B coming out of the hole for         4       A. Yes.       2       Q. What are these blue things sticking up over near         3 some of the excavation?       3       the point that you marked as B coming out of the hole for         4       A. Yes.       2       Q. What are these blue things sticking up over near         3 some of the excavation?       3       the point that you marked as B coming out of the hole for         4       A. Yes.       6       Q. Lengths of conduits         6       Would you draw an arrow to where that area is?       6       Q. Lengths of conduits over in the hole for the pump         18       Thanks.       10       Q. And these conduits over in the hole for the pump         11       B. Thanks.       10       Q. And these conduits over in the hole for the pump         11       Waterline and the 16-inch Olympic pipeline run on this       14       A. Some the system or something.         12       Now, are you able to see some ground, surface       13       Q. Oraining the				
2821A. Yes.2Q. Is that the John Deere tractor that was used for3 some of the excavation?14A. Yes.5Q. Where on Exhibit 130 has the hole for the pump6 station been dug?57A. On the right corner.8Q. Would you draw an arrow to where that area is?9A. (Witness complies).10Q. Thanks. You have drawn an arrow with the letter11B. Thanks.12Now, are you able to see some ground, surface13 area, ground surface area beneath which the 16-inch14 waterline and the 16-inch Olympic pipeline run on this15 photograph Exhibit 130?16A. Yes.17Q. Would you indicate the area through which those18 run to the best of your knowledge approximately?19A. (Witness complies).20Q. You have circled an area which appears that this21Crane is sitting basically on top of and labeled it C; is22A. Part of the area is where the crane is, yes.23A. Part of the area is where the crane is, yes.	•			
1A. Yes.1A. It appears that way, yes.2Q. Is that the John Deere tractor that was used for32Q. What are these blue things sticking up over near3 some of the excavation?3the point that you marked as B coming out of the hole for4A. Yes.4the pump station?5Q. Where on Exhibit 130 has the hole for the pump5A. Those are conduits.6G. Lengths of conduit to be used for what?77A. On the right corner.7A. For this pipe installation over here, that's a8Q. Would you draw an arrow to where that area is?8drain pipe that you asked about earlier in the day to drain9A. (Witness complies).9the manhole.10Q. Thanks. You have drawn an arrow with the letter10Q. And these conduits over in the hole for the pump11B. Thanks.11station near point B, those are going to be used for what?12Now, are you able to see some ground, surface13Q. Draining the same manhole or draining something?14waterline and the 16-inch Olympic pipeline run on this14A. Some other system or something.15photograph Exhibit 130?15Q. Flip to the next photograph. I think it's 131.16A. Yes.16MR. BENINGER: We have ten minutes, Mr. Nicoll.17Q. Would you indicate the area through which those17Q. Tell us what Exhibit 131 is, what it shows.18run to the best of your knowledge approximately?18A. It shows the upper level of the pump station <td>25 a backhoe attachment at the back?</td> <td>25 now also covered with the CDF material; is that right?</td>	25 a backhoe attachment at the back?	25 now also covered with the CDF material; is that right?		
2Q. Is that the John Deere tractor that was used for3 some of the excavation?3 the point that you marked as B coming out of the hole for4A. Yes.4 the pump station?5Q. Where on Exhibit 130 has the hole for the pump56 station been dug?6Q. Lengths of conduit to be used for what?7A. On the right corner.6Q. Lengths of conduit to be used for what?8Q. Would you draw an arrow to where that area is?8drain pipe that you asked about earlier in the day to drain9A. (Witness complies).9He manhole.1010Q. Thanks. You have drawn an arrow with the letter10Q. And these conduits over in the hole for the pump11B. Thanks.11station near point B, those are going to be used for what?12Now, are you able to see some ground, surface11A. The same thing.13area, ground surface area beneath which the 16-inch13Q. Draining the same manhole or draining something?14waterline and the 16-inch Olympic pipeline run on this14A. Some other system or something.15Q. Flip to the next photograph. I think it's 131.16M. BENINGER: We have ten minutes, Mr. Nicoll.17Q. You have circled an area which appears that this11forming and rebar.20Q. You have circled an area which appears that this20Q. Are you able to read the date of this photograph21that right?22A. Some of it.2323A. Part of the area is where the crane is, yes.23<	282	284		
3 some of the excavation?3 the point that you marked as B coming out of the hole for4A. Yes.4 the pump station?5Q. Where on Exhibit 130 has the hole for the pump5A. Those are conduits.6 station been dug?6Q. Lengths of conduit to be used for what?7A. On the right corner.7A. For this pipe installation over here, that's a8Q. Would you draw an arrow to where that area is?9B drain pipe that you asked about earlier in the day to drain9A. (Witness complies).9the manhole.10Q. Thanks. You have drawn an arrow with the letter10Q. And these conduits over in the hole for the pump11B. Thanks.11station near point B, those are going to be used for what?12Now, are you able to see some ground, surface12A. The same thing.13area, ground surface area beneath which the 16-inch13Q. Draining the same manhole or draining something?14waterline and the 16-inch Olympic pipeline run on this14A. Some other system or something.15photograph Exhibit 130?15Q. Flip to the next photograph. I think it's 131.16A. Yes.16MR. BENINGER: We have ten minutes, Mr. Nicoll.17Q. Would you indicate the area through which those19forming and rebar.20Q. You have circled an area which appears that this20Q. Are you able to read the date of this photograph21The area is sitting basically on top of and labeled it C; is21In the lower right hand corner? <td>1 A. Yes.</td> <td></td>	1 A. Yes.			
4A. Yes.4 the pump station?5Q. Where on Exhibit 130 has the hole for the pump5A. Those are conduits.6 station been dug?6Q. Lengths of conduit to be used for what?7A. On the right corner.7A. For this pipe installation over here, that's a8Q. Would you draw an arrow to where that area is?8drain pipe that you asked about earlier in the day to drain9A. (Witness complies).9the manhole.10Q. Thanks. You have drawn an arrow with the letter10Q. And these conduits over in the hole for the pump11 B. Thanks.11station near point B, those are going to be used for what?12Now, are you able to see some ground, surface12A. The same thing.13 area, ground surface area beneath which the 16-inch13Q. Draining the same manhole or draining something?14 waterline and the 16-inch Olympic pipeline run on this14A. Some other system or something.15photograph Exhibit 130?15Q. Filp to the next photograph. I think it's 131.16M. Yes.16MR. BENINGER: We have ten minutes, Mr. Nicoll.17Q. Would you indicate the area through which those17Q. Tell us what Exhibit 131 is, what it shows.18run to the best of your knowledge approximately?18A. It shows the upper level of the pump station19A. (Witness complies).19forming and rebar.20Q. You have circled an area which appears that this20Q. Are you able to read the date of this photograph2				
5Q. Where on Exhibit 130 has the hole for the pump5A. Those are conduits.6 station been dug?6Q. Lengths of conduit to be used for what?7A. On the right corner.7A. For this pipe installation over here, that's a8Q. Would you draw an arrow to where that area is?9drain pipe that you asked about earlier in the day to drain9A. (Witness complies).9the manhole.10Q. Thanks. You have drawn an arrow with the letter10Q. And these conduits over in the hole for the pump11B. Thanks.11station near point B, those are going to be used for what?12Now, are you able to see some ground, surface12A. The same thing.13area, ground surface area beneath which the 16-inch13Q. Draining the same manhole or draining something?14waterline and the 16-inch Olympic pipeline run on this14A. Some other system or something.15photograph Exhibit 130?15Q. Filp to the next photograph. I think it's 131.16A. Yes.16MR. BENINGER: We have ten minutes, Mr. Nicoll.17Q. Would you indicate the area through which those17Q. Tell us what Exhibit 131 is, what it shows.18run to the best of your knowledge approximately?18A. It shows the upper level of the pump station19A. (Witness complies).20Q. Are you able to read the date of this photograph21crane is sitting basically on top of and labeled it C; is21In the lower right hand corner?22A. Part of				
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		22 A. Some of it.		
24 Q. Now, on Monday I think you testified, or at 24 A. It looks like it's 6/29/94.	••	23 Q. How much of it?		
	24 Q. Now, on Monday I think you testified, or at	24 A. It looks like it's 6/29/94.		
25 least my recollection of your testimony is, that at the time 25 Q. That's how I read it. Is it correct to say that				

285	287
1 this photograph is looking in a northwesterly direction?	1 Q. I say long. Who knows how long they are, but
2 <b>A. Yes.</b>	2 they are lengths of large diameter pipe; right?
3 Q. So you as the photographer are standing with	3 A. That's correct.
4 your back to the water treatment facility, the existing	4 Q. Those pipe, they don't stick out of the pump
5 water treatment facility?	5 station, do they?
6 A. It would be in that direction.	6 A. No.
7 Q. And the man standing in the foreground with the	7 Q. So they are resting on solid ground somewhere to
${f  heta}$ white T-shirt has his hand resting on the portion of the	8 the north and west of the pump station?
9 pump station where the 24-inch discharge line exits on the	9 <b>A. Yes.</b>
10 south side; is that right?	10 Q. If you look at that ladder and take that as our
11 A. Yes.	11 sort of point of reference and you move to the left on the
12 Q. What is all the iron rebar? It's all rebar;	12 photograph which would be to the south from the ladder,
13 right?	13 there appears to be the top of a crane; is that correct?
14 A. Yes.	14 A. Yes.
15 Q. That's for the form for pouring the concrete	15 Q. And the crane appears not to be in use at the
16 wall?	16 time as the boom is boomed all the way back; is that
17 A. Yes. The walls in the pump station.	17 correct?
18 MR. BENINGER: Hold that up while we talk.	18 A. Yes.
19 Q. What I'm pointing to is all the rebar for the	19 Q. Now that crane is not down in a hole, is it?
20 concrete wall on the upper portion of the pump station;	20 <b>A. No.</b>
21 right?	21 Q. It's on level ground next to the pump station?
22 A. Yes.	22 <b>A. Yes.</b>
23 MR. BENINGER: Mention the discharge as well.	23 Q. Do you know what the piece of yellow equipment
24 Q. And I'm pointing now to the exit of the 24-inch	24 in the upper right hand corner or northwest corner of the
25 discharge on the south side of the pump station; is that	25 photograph is doing?
286	288
1 correct?	1 A. No.
2 A. Yes, that's correct.	2 Q. What's all the wood around the exterior of the
3 Q. Now, why was all this visqueen around the	3 pump station on the east side? What's that wood there for?
4 exterior of the ditch?	4 A. That's a form support for pouring concrete.
5 A. It's a standard practice to keep erosion	5 Q. Are the workers then in the process of adding
6 controlled.	6 this wood or taking it off?
q. In other words, when it rains the rain is going	7 A. They are putting it on.
8 to run off and not	8 Q. The concrete for the lower section has obviously
9 A. Saturate the area.	9 already been poured?
Q. And not saturate the area. You notice at the	10 A. Yes.
11 top of the pump station there is a ladder that comes up. Do	11 MR. BENINGER: We have about three minutes
12 you see the top of the ladder coming up?	12 whenever would be good for you.
13 A. Yes, I do.	13 MR. NICOLL: Why don't you go off record for a
Q. And that's on the northwest corner of the pump	14 minute, David.
15 station; right?	15 MR. BENINGER: Going off record.
16 A. Yes.	16 (Off the record)
17 Q. And then there is a man crouching next to that.	17 MR. BENINGER: Back on the record. This is the
19 If you would hold that up so the camera can see it?	18 continuation of Tom Franklin's deposition. This is tape
19 A. Yes.	19 number five.
20 Q. I don't imagine that you can look at that guy	20 Q. Mr. Franklin, I've taken Exhibit 131 that we've
21 and remember back and know what he was doing so I'm not	21 been talking about and circled some of the features that we
22 going to ask you that. But if you look directly to the	22 identified.
23 north of him there appear to be two long lengths of large	23 First would you agree that A is the 24-inch
24 diameter pipe; is that right?	24 discharge on the south side of the pump station?
25 <b>A. Yes.</b>	25 A. Yes.
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289	291
1 Q. B is the large diameter pipe that's resting on	1 Q. By width do you mean the way that I'm indicating
2 the ground to the north and west of the pump station?	2 with my pen?
3 A. Yes.	3 A. Yes.
4 Q. C is the crane that is resting on the ground to	4 Q. And length you mean that way?
5 the west on the west side of the pump station?	5 A. That's correct.
6 A. Yes.	6 Q. And I'm going to do another little drawing
7 Q. And D is some equipment that's working to the	? exercise here. So I've drawn two arrows, one indicating
8 northwest of the pump station doing something?	8 length, the other width. Why don't you fill in the
9 A. It's sitting there.	9 approximate dimensions of those?
10 Q. Or maybe not working?	10 A. (Witness complies).
11 A. It's sitting there.	11 Q. Those are feet; right?
12 Q. You know it's not working?	12 A. That's correct.
13 A. I didn't see anybody in the cab. That's why I	13 Q. Eight feet by four feet approximately. And how
14 said I wasn't sure if it was running or not.	14 much of the 16-inch line was exposed? Was it also
15 Q. Again this is the state of things on June 29,	15 approximately eight feet?
16 1994; is that correct?	16 A. That would be correct, yes.
17 <b>A. Yes.</b>	17 Q. Is this the first hole that was dug or the
18 Q. As of that date was the hole to expose the	18 second hole that was dug?
19 section of the 16-inch waterline that the 24-inch discharge	19 MR. SCANLAN: Object as to vague.
20 line was going to tap into dug?	20 Q. Well, is this the first hole that was dug to
21 A. I don't know. I don't know.	21 expose the 16-inch waterline for purposes of installing the
22 Q. Let's go to the next photograph which is Exhibit	22 tee joint to connect the 24-inch discharge line?
23 132. Exhibit 132 is an Earth Tech photograph, ET-PH0000358.	23 MR. SCANLAN: Withdraw the objection.
24 A. Yes.	A. I believe it's the first hole.
25 Q. Do you remember taking this photograph?	25 Q. What is it about the photograph that leads you
200	1
290	
1 A. Yes.	1 to believe that it's the first hole?
1A. Yes.2Q. I cannot find a readable date on the photograph.	<ol> <li>to believe that it's the first hole?</li> <li>A. They are already as far to the south as they can</li> </ol>
1A. Yes.2Q. I cannot find a readable date on the photograph.3 Can you?	<ol> <li>to believe that it's the first hole?</li> <li>A. They are already as far to the south as they can</li> <li>go. The CDF that was supporting the 72-inch pipe is already</li> </ol>
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<ol> <li>A. Yes.</li> <li>Q. I cannot find a readable date on the photograph.</li> <li>3 Can you?</li> <li>A. No.</li> <li>Q. Do you remember the date on which you took this</li> <li>6 photograph?</li> <li>A. No.</li> <li>Q. Can you tell us what this is a photograph of?</li> <li>A. Yes. As I was talking last Monday, there was a</li> <li>9 picture taken showing the waterline having been excavated</li> <li>11 for the thrust block and where the tee would go in prior to</li> <li>12 the removal of that 16-inch waterline, and that's what this</li> <li>13 is of.</li> <li>Q. So this is the 16-inch waterline shown running</li> <li>15 through Exhibit 132; is that right?</li> <li>A. Yes.</li> <li>Q. Could we hold that up? Do you mind if I circle</li> <li>18 that? It's obvious. I have circled as A the 16-inch</li> <li>19 waterline in the hole that you just described on Exhibit</li> <li>20 132; is that right?</li> <li>A. Yes.</li> <li>Q. Can you give us the approximate dimensions of</li> </ol>	<ul> <li>1 to believe that it's the first hole?</li> <li>A. They are already as far to the south as they can</li> <li>3 go. The CDF that was supporting the 72-inch pipe is already</li> <li>4 at the south end of what we see and we couldn't have gone</li> <li>5 we wouldn't have planned to go any further.</li> <li>6 MR. VERWOLF: You haven't identified the angle</li> <li>7 of the photograph yet. Can you do that?</li> <li>8 Q. Where on this photograph, if you know, is south,</li> <li>9 and where is north, where is east, where is west?</li> <li>10 A. South is ahead of you.</li> <li>11 Q. Does that</li> <li>12 A. To the north and south and east instead of north</li> <li>13 and west. The pipeline ran that direction, northwest,</li> <li>14 southeast in direction.</li> <li>15 Q. So the photographer's back, your back, is to the</li> <li>16 north?</li> <li>17 A. Yes.</li> <li>18 Q. And you are looking south?</li> <li>19 A. Yes.</li> <li>20 Q. So the four foot width indicator at the top of</li> <li>21 the photograph is the southern portion of the photograph and</li> <li>22 then the letter A at the bottom of the circle around the</li> </ul>

1 if you can see it.       293       293       293       293         1 if you can see it.       1 henefit of some of those photographs.       293       293       293         2 A. The CDF is where the XS are on either side of 1       304       204       304       204       304				
2       First of all, you note the equipment in use on         3       Where the pipe is.         4       A. The equipment hat was on site that day, yes.         5       Where the you look at it, to indicate where the CDF is. How do         5       We not that solve at it. to indicate where the CDF is. How do         7       A. Because of the vertical wall. It was poured and         7       A. Because of the vertical wall. It was poured and         7       A. Because of the vertical wall that was stripped and forms         10 and left as is.       10 identified as portion of the hole dug for access to the         21 binder with the backhoe attachment that you described         12 equipment the use of a quipment is the one       12         13       A. Yes.         14       A. Yes.         15       Q. And that piece of equipment is the one         16       A. Yes.         12       Q. Let's turn to trabible 34, the daily inspection         13       A. Yes.         24       They are in order.         23       Q. They are in order.         24       They are in order.         25       A. Yes.         26       A. Yes.         27       Q. The tat solve are out in order.         28       A. Yes.	293	295		
3 where the pipe is.       3 that day. Do you see that?         4 Q. You have put two X's or plus marks, depending on         5 where the pipe is.       6 O. On state quipment that was on site whether it was used or not you         7 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         8 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         9 (Put have put two X's or plus marks, depending on       9 (Put have put that was on site whether it was used or not you         7 (Put have put two X's or plus marks, depending on       9 (Put have put that was on site whether it was used or not you         9 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         9 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         9 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         1 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         1 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         1 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on         1 (Put have put two X's or plus marks, depending on       9 (Put have put two X's or plus marks, depending on				
i       A. The equipment that was on site that any res.         i       A. The equipment that was on site that any res.         i       A. The equipment that was on site that any res.         i       A. The equipment that was on site that any res.         i       A. The equipment that was on site that any res.         i       A. Because of the vertical wall. It was poured and forms         i       A. Because of the vertical wall. It was poured and forms         i       A. Because of the vertical wall that was stripped and forms         i       A. New.         i       A. New.         i       A. The equipment that was on site that day, res.         i       A. Because of the vertical wall that was stripped and forms         i       A. Yes.         i       A. The equipment that was on site that day, res.         i       A. Yes.         i       A. Yes.         i       A. Yes.         i       A. The equipment that on order.         i       A. Yes.         i       A. The equipment that a point out to the northwest         i       A. The equipment that on order.				
5 how you look at it, to indicate where the CDF is. How do       5       Q. On site, cary. Some of that equipment all of       5         6 how you look at it, to indicate where the CDF is. How do       A. Because of the vertical wall. It was poured and       filled up to support, filled to the top of the 72-inch pipe       6         7 filled up to support, filled to the top of the 72-inch pipe       7       7         9 and it created a vertical wall. It was stripped and forms        7         10 and tert as is.        1       0. Now a portion of the hole dug for access to the        1         11 A. Yes.        1       0. How a portion of the hole dug for access to the        1         11 A. Yes.        12       0. Lis that the ID4/1087          12 out its that right?        13       A. Yes.          13 A. Yes.        14       Q. Backhoe; right?          14 A. Yes.        15       A. Yes.        16         15 A. Yes.        16       Q. Now, we talked about this section. It says in        11         15 A. Yes.        16       Q. How yee not in order.        16       17         16 Q. Let's turn to Exhibit 64, the dally inspection        16       16       16       17       16       17         17 ou to were acor in order.        3. A Oka				
£ you know that that's CDF?£ that equipment was on site, whether it was used or not you7 A. Because of the vertical wall. It was poured and filled up to support, filled to the top of the 72-inch pipe5 A. That's correct.9 and it created a vertical wall that was stripped and forms 13 and left as is.6 A. That's correct.11 Q. Now a portion of the hole dug for access to the 21 ficht waterline was dug using the John Deere front end 12 ficht waterline was dug using the John Deere front end 12 q. That's the right?1 A. Yes.11 Gent lifts 2 A. Yes.2 Q. Let's turn to Exhibit 64, the daily inspection 2 Q. Let's turn to Exhibit 64, the daily inspection 2 Q. Let's turn to Exhibit 64, the daily inspection 2 Q. Let's turn to Exhibit 64, the daily inspection 2 Report. Humber 96.10 That's the excavation between the northwest 2 I correr of the pump station and a point out to the northwest 2 I correr of the pump station and a point out to the northwest 2 I correr of transmital is dated July 12.2941 Liss in the stack of reports that ends with July 2 12 1 think.2941 says more work tomorrow.2 A. Yes.11 A. Yes.2943 A. Okay.295Q. That's your signature in the lower right hand 10 correr?2944 A. Yes.Q. Do you have report number 96 in front of you?2945 Q. That's your signature in the lower right hand 11 line beforehand?2941 A. Yes.Q. A the time you made this report the events that 11 ine beforehand?2941 A. Yes.Q. That's how you wrep calkmarks pipe?A. Nes.6 Q. That's your signature in the lower right hand 12 your eport had docurred within a relatively short		.,		
A. Because of the vertical will. It was poured and 5 filled up to support, filled to the top of the 72-inch pipe 9 and it created a vertical will that was stripped and forms 10 and left as is.       7 don't know?         B and it created a vertical will that was stripped and forms 10 and left as is.       7 don't know?         Context and that was stripped and forms 10 and left as is.       9 Q. Is boh. Decref form and loader with the tractor 10 with the backhoe strachment that you described 11 A. Yes.         12 Gon't know?       13 A. Yes.         13 A. Yes.       14 A. Yes.         14 Q. And that piece of equipment is the one 15 Q. Lefts turn to Exhibit 64, the daily inspection 15 A. Yes.       16 Q. Now, we talked about this section. It says in 11 the middle of the second paragraph 1 guess reads excavation 13 don't know?         15 Q. Lefts turn to Exhibit 64, the daily inspection 13 agravating.       16 Q. Now, we talked about this section. It says in 11 the middle of the second paragraph 1 guess reads excavation 13 don't know?         14 Q. They are in on order.       16 Q. Now, we talked about this section. It says in 14 the backhoe araction between the northwest 12 cortient out that great big diameter pipe; 13 agravating.         12 Li think.       20 That's he excavation between the northwest 21 cortient of the pump station and a point of you?         23 A. Yes.       24 A. Yes.         24 Q. And it says on the out maker fift for the second generation of the 24-inch line 4 between the pump station and the large diameter pipe; 13 A. Yes.         24 Do you have report number 96 in front of you?				
3 filled up to support, filled to the top of the 72-inch pipe       4. That's correct.         9 and it created a vertical well that was stripped and forms       9. Is John Deere front end loader with the tractor         10 and left as is.       9. Is John Deere front end         11 Gent with the backhoe assembly located here as equipment?       11         11 Gent with the backhoe assembly located here as equipment?       11         11 Gent with the backhoe assembly located here as equipment?       11         12 Gent with the backhoe assembly located here as equipment?       11         13 A. Yes.       12         14 derive is of a fight?       13 A. Yes.         15 derive with the backhoe assembly located here as equipment?       14         16 derive is the assembly located here as equipment?       14         17 identified as 0 on schibit 120; is that right?       15         18 A. Yes.       15         19 derive is order in a different way because       10         11 Her arie in order in a different way because       12         11 Her sin the stack of reports that ends with July       12         11 It's in the stack of reports that ends with July       12         12 A. Yes.       29         13 A. Ves.       12         14 Urip varia in order in a different way because       12         15 A. Yes.		· · ·		
3 and it created a vertical wall that was stripped and forms       5       Q. Is John Decree front end loader with the tractor         10 and left as is.       10 with the backhoe assembly located here as equipment?         11 Q. Now a portion of the hole dug for access to the       10 with the backhoe assembly located here as equipment?         11 A. Yes.       11 A. Yes.         12 Is-inch waterline was dug using the John Decre front end       12 G. Now, we talked about this section. It says in         13 A. Yes.       13 A. Yes.         14 Q. Let's turn to Exhibit 120; is that right?       13 A. Yes.         13 A. Yes.       18 of 24-inch between pump station and a point out to the northwest         12 report number 96.       12 corner of the pump station and a point out to the northwest         12 A. They are in order.       20 That's the excavation between the northwest         13 A. Okay.       12 is in the stack of reports that ends with July         14 It's in the stack of reports that ends with July       12 says more work tomorrow.         15 A. Yes.       294         16 Q. That's how you work backwards from there. Got it?       3 A. Okay.         17 A. Nes.       19 says more work tomorrow.         18 Q. That's how you work backwards from there. Got it?       4 I would assume that's the case, yes.         17 A. Yes.       19 or the next line reads efforts this p.m. on         1				
10 and left as is.       10 with the backhoe assembly located here as equipment?         11 Q. Now a portion of the hole dug for access to the       11 A. Yes.         12 G-inch waterline was dug using the John Deere front end       12 Q. Is that the DA10B7         13 G-inch waterline was dug using the John Deere front end       12 Q. Is that the DA10B7         14 earlier; is that right?       13 A. Yes.         15 A. Yes.       15 A. Yes.         16 Q. And that piece of equipment is the one       16 Q. Now, we talked about this section. It says in         17 identified as Don Exhibit 120; is that right?       15 A. Yes.         16 Q. Let's turn to Exhibit 64, the daily inspection       16 Q. Now, we talked about this section. It says in         17 identified as Chickly as a concert of the yare in order in a different way because       10 That's the excavation between the northwest         17 Q. They are in order in a different way because       23 A. Yes.         18 A. Okay,       23 A. Yes.         19 Q. So the letter of transmittal is dated July 12.       24 A the syour wignature in the lower right hand         10 Corner?       Q. Do you have report number 96 in front of you?         3 A. Okay,       1 Is as the the put of a about this a relatively short period of         11 A. Yes.       294         12 Q. Do you have report number 95 in front of you?       3 A. Okay,         13 A. Yes.				
11       Q. Now a portion of the hole dug for access to the       11       A. Yes.         12 16-inch waterline was dug using the lohn Deere front end       11       A. Yes.         13 Loader with the backhoe attachment that you described       13       A. Yes.         14 earlier; Is that right?       13       A. Yes.         15       A. Yes.       13       A. Yes.         16       Q. Now, wa talked about this section. It says in       11         17 identified as D on Exhibit 120; is that right?       15       A. Yes.         18       A. Yes.       16       Q. Now, wa talked about this section. It says in         17 identified as D on Exhibit 120; is that right?       16       Q. Now, wa talked about this section. It says in         19       Q. Iter's turn to Exhibit 64, the daily inspection       17       18       0         12 reports. Specifically I would like you to take a look at       20       That's the excavation between the northwest         11       A. Yes.       21       19       19         12 A. They are in in order.       20       10       That's the stack of reports that ends with July         21 If think.       21       11       11       11       11         2 A. Thes.       20       11       12       14       24		•		
12       16-inch waterline was dug using the John Deere front end         12       16-inch waterline was dug using the John Deere front end         12       16-inch waterline was dug using the John Deere front end         13       A. Yes.         14       Q. Backhoe; right?         15       A. Yes.         16       Q. And that right?         17       A. Yes.         18       Q. And that right?         19       A. Yes.         10       E. C's turn to Exhibit 40, the daily inspection         10       They are in order.         12       Q. They are in order in a different way because         11       They are in order in a different way because         12       A. Tres.         13       A. Yes.         14       Q. So the letter of transmittal is dated July 12.         15       A. Yes.         16       Q. Do you have report number 96 in front of you?         16       A. Yes.         11       Met syour signature in the lower right hand         12       Q. That's two your work tais, right?         13       A. Yes.         14       Q. So althoen you work back off reports that end format right?         15       A. Yes.         16<	1			
13       A. Yes.         14       artify; is that right?       14         15       A. Yes.       15         16       Q. And that piece of equipment is the one       16         17       identified as D on Exhibit 120; is that right?       15         18       A. Yes.       16         19       identified as D on Exhibit 54, the daily inspection       16       Q. Now, we talked about this section. It says in         19       report. Thore are in order.       16       Q. Now, we talked about this section. It says in         10       report. Thore are in order.       20       That's the excavation between the northwest         21       a. Yes.       21       bit into it order.       22       bit into it order.         23       A. They are not in order.       22       bit into it order.       22       bit into it order.       22       bit into it order.       23       A. Yes.       24       C. A. Yes.       24       Q. And it says with Olympic Pipe Line       25       25       representative on site during excavation of the 24-inch line       4       24       A. Yes.       294       1       says more work on the excavation of the 24-inch line       4       1       says more work on the excavation of the 24-inch line       4       between the pump station and the large diame				
14 earlier; is that right?       14       Q. Backhoe; right?         15       A. Yes.       15       A. Yes.         16       Q. And that piece of equipment is the one       15       A. Yes.         17       Iteritied as D on Exhibit 12D; is that right?       15       A. Yes.         18       Q. Let's turn to Exhibit 64, the daily inspection       16       Q. Now, we talked about this section. It says in         18       A. Yes.       16       Q. Now, we talked about this section. It says in         19       Q. Let's turn to Exhibit 64, the daily inspection       17       the middle of the second paragraph I guess reads excavation         19       Q. Let's turn to Exhibit 64, the daily inspection       10       That's the excavation between the northwest         21       A. Yes.       20       They are in order.       21       21         2       A. They are in order in a different way because       21       21       21       21       21       22       3. A Yes.       23       23       24       Q. And it says with Olympic Pipe Line       22       23       24       Q. And it says with Olympic Pipe Line       25       25       26       15       27       27       28       296       15       296       15       296       15       29       <	12 16-inch waterline was dug using the John Deere front end	12 Q. Is that the JD410B?		
15       A. Yes.         16       Q. And that piece of equipment is the one         17       He middle of the second paragraph J guess reads excavation         18       A. Yes.         19       Q. Let's turn to Exhibit 120; is that right?         19       A. Yes.         19       Q. Let's turn to Exhibit 64, the daily inspection         19       The middle of the second paragraph J guess reads excavation         19       Q. They are in order in a different way because         21       A. They are in order in a different way because       21         23       aggravating.       22         24       Q. And it says with Olympic Pipe Line       23         25       representative on site during excavation of the 24-inch line         24       Q. And it says with Olympic Pipe Line       25         25       A. Yes.       294         1       It's in the stack of reports that ends with July       22         2       1 says more work on the excavation of the 24-inch line         3       A. Okay.       1 says more work on the excavation of the 24-inch line         4       Yes.       20         6       A. Yes.       20         7       A. Yes.       20         8       Q. That's y	13 loader with the backhoe attachment that you described	13 A. Yes.		
11       Q. And that piece of equipment is the one       16       Q. Now, we talked about this section. It says in         11       11       the middle of the second paragraph I guess reads excavation         13       A. Yes.       16       Q. Now, we talked about this section. It says in         13       A. Yes.       16       Q. Now, we talked about this section. It says in         14       De schibit 120; is that right?       17       The middle of the second paragraph I guess reads excavation         14       De schibit 120; is that right?       18       07       Ports. Specifically I would like you to take a look at         17       They are not in order.       20       That's the excavation between the northwest         23       A. Yes.       21       they are not in order.       22         24       they are not in order.       22       to tier no that says with Olympic Pipe Line         25       agarvating.       294       1 says more work tomorrow.         21       I this in the stack of reports that ends with July       2       Your reference to more work tomorrow.         21       I think.       29       Your reference to more work tomorrow.       16         3       A. Okay.       1       says more work tomorrow.       16         4       Q. So the letter of tr	14 earlier; is that right?			
17       identified as D on Exhibit 120; is that right?       13       A. Yes.         13       A. Yes.       13       the middle of the second paragraph I guess reads excavation         14       0       Let's turn to Exhibit 64, the daily inspection       13       of 24-inch between pump station and large diameter pipe         15       Q. Let's turn to Exhibit 64, the daily inspection       15       began.       15         16       of 24-inch between pump station and a point out to the northwest       21       15         17       they are in order in a different way because       23       A. Yes.       24       Q. And it says with Olympic Pipe Line       25         12       11       It's in the stack of reports that ends with July       294       294       296         12       11       It's in the stack of reports that ends with July       20       Your reference to more work tomorrow.       296         12       12       11       A. Yes.       20       Oyou work backwards from there. Got it?       5       A. Yes.       2       Your reference to more work tomorrow.       18       2       296       1       34       3       reference to more work tomorrow.       2       296       1       says more work tomorrow.       1       1       1       1       1	15 A. Yes.	15 A. Yes.		
19       A. Yes.       18 of 24-inch between pump station and large diameter pipe         19       Q. Let's turn to Exhibit 64, the daily inspection       15 began.         19       Q. Let's turn to Exhibit 64, the daily inspection       15 began.         11       That's the excavation between the northwest       21 corner of the pump station and a point out to the northwest         21       Provide the order they were sent to Wan Huang. So it's       23       A. Yes.         23       Q. They are in order in a different way because       23       A. Yes.         24       Q. They are in order in a different way because       23       A. Yes.         25 aggravating.       294       294       296         1       It's in the stack of reports that ends with July       294       1 says more work tomorrow.         21 Li think.       2       Your reference to more work tomorrow, is that a         3       A. Okay.       3 reference to more work tomorrow.       296         4       A. Yes.       9. Or bub setter of transmittal is dated July 12.       1 says more work tomorrow.       296         5       A. Yes.       9. That's your signature in the lower right hand       10 ecoursed in the set or transmittal is dated July 12.       1 word basume that's the case, yes.       1 wour basume that's the case, yes.         10	16 Q. And that piece of equipment is the one	16 Q. Now, we talked about this section. It says in		
19       Q. Let's turn to Exhibit 64, the daily inspection         10       reports. Specifically I would like you to take a look at         11       report number 96.         22       A. They are in order in a different way because         21       they are in the order they were sent to Wan Huang. So it's         23       a. Yes.         21       It's in the stack of reports that ends with July         21       It's in the stack of reports that ends with July         21       It's in the stack of reports that ends with July         21       It's in the stack of reports that ends with July         21       It's in the stack of reports that ends with July         22       Isays more work tomorrow.         21       It have seen to nore work tomorrow.         21       It have seen to nore work tomorrow.         22       It have seen to more work tomorrow.         23       A. Yes.         2       Q. So the letter of transmittal is dated July 12.         5       A. Nes.         2       Q. Do you have report number 96 in front of you?         3       A. Yes.         2       Q. That's your signature in the lower right hand         10       Correr?         11       A. Yes.         2	17 identified as D on Exhibit 120; is that right?	17 the middle of the second paragraph I guess reads excavation		
20 reports. Specifically I would like you to take a look at       20         21 report number 96.       21 corner of the pump station and a point out to the northwest         22 A. They are in order in a different way because       21 they are in order in a different way because         21 they are in the order they were sent to Wan Huang. So it's       22 to tie-in to that great big diameter pipe; right?         23 A. Yes.       24 Q. And it says with Olympic Pipe Line         25 aggravating.       294         1 It's in the stack of reports that ends with July       21 Ithink.         2 A. Yes.       294         1 A. Okay.       2 So the letter of transmittal is dated July 12.         3 A. Okay.       2 Your reference to more work tomorrow, is that a         3 A. Okay.       3 reference to more work tomorrow, is that a         4 Q. So the letter of transmittal is dated July 12.       5 A. I would assume that's the case, yes.         5 A. Yes.       6 Q. That's how you wrote it; right?         7 Q. Do you have report number 96 in front of you?       7 A. Right.         8 Q. That's ury signature in the lower right hand       9 exposing 16-inch waterline for tomorrow's waterline tie-in         10 corner?       10 reading that right?         12 Q. At the time you made this report the events that       13 Q. Would that mean then that the photograph that is         13 Q. The sis a report that you wae c	18 A. Yes.	18 of 24-inch between pump station and large diameter pipe		
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23       Q. They are in order in a different way because       23       A. Yes.         24       Q. And it says with Olympic Pipe Line       25         25       aggravating.       294       294         1       It's in the stack of reports that ends with July       294       294         2       1       asys more work tomorrow.       296         1       It's in the stack of reports that ends with July       294       294         2       1       Sand then you work backwards from there. Got it?       294         3       A. Okay.       294       1         4       Q. So the letter of transmittal is dated July 12.       5       A. I would assume that's the case, yes.         5       A. Yes.       6       Q. That's wour signature in the lower right hand       10       6         10       corner?       7       A. Right.       8       Q. Then the next line reads efforts this p.m. on         14       A. Yes.       10       and four inch tap to drain to storage pipe system. Am I       11         15       A. Yes.       12       A. Yes.       13       Q. Would that mean then that the photograph that is         14       time beforehand?       13       Q. So although we can't see the date stamp on here,         16 <td>21 report number 96.</td> <td>21 corner of the pump station and a point out to the northwest</td>	21 report number 96.	21 corner of the pump station and a point out to the northwest		
23       Q. They are in order in a different way because       23       A. Yes.         24       Q. And it says with Olympic Pipe Line       25         25       aggravating.       294       294         1       It's in the stack of reports that ends with July       294       294         1       It's in the stack of reports that ends with July       294       294         2       It's in the stack of reports that ends with July       294       294         2       It's in the stack of reports that ends with July       294       294         3       A. Okay.       3       reference to more work tomorrow.       294         4       Q. So the letter of transmittal is dated July 12.       5       A. It would assume that's the case, yes.       6         6       A. Yes.       Q. Do you have report number 96 in front of you?       7       A. Right.       8         8       Q. That's your signature in the lower right hand       10 and four inch tap to drain to storage pipe system. Am I       11         11       A. Yes.       12       A. Yes.       12       A. Yes.         13       Q. At the time you made this report the events that       13       Q. Would that mean then that the photograph that is         14       time beforehand?       13       Q.	22 A. They are not in order.	22 to tie-in to that great big diameter pipe; right?		
24       Q. And it says with Olympic Pipe Line         25 aggravating.       24       Q. And it says with Olympic Pipe Line         25 aggravating.       294       296         1       It's in the stack of reports that ends with July       294       296         1       It's in the stack of reports that ends with July       294       296         1       It's in the stack of reports that ends with July       1       says more work tomorrow.       296         2       Your reference to more work tomorrow.       296       1       396         3       A. Okay.       1       says more work tomorrow.       2       Your reference to more work on the excavation of the 24-inch line         4       Q. So the letter of transmittal is dated July 12.       5       A. I would assume that's the case, yes.       6         5       A. Yes.       6       Q. That's how you work backwards from there. Got it?       7       A. Right.       8         6       Q. That's your signature in the lower right hand       9       9       9       10       10       10       10       10       11       12       A. Yes.       11       12       A. Yes.       12       A. Yes.       13       Q. Would that mean then that the photograph that is       13       11       11	23 Q. They are in order in a different way because	· · · · · ·		
25 aggravating.       25 representative on site during excavation near line. Then it       294         1       It's in the stack of reports that ends with July       294       294         1       It's in the stack of reports that ends with July       1 says more work tomorrow.       294         2       Your reference to more work tomorrow, is that a       3 reference to more work on the excavation of the 24-inch line         4       Q. So the letter of transmittal is dated July 12.       5 A. I would assume that's the case, yes.       6 Q. That's how you wrote it; right?         5       A. Yes.       6 Q. That's your signature in the lower right hand       9 exposing 16-inch waterline for tomorrow's waterline tie-in         10 corner?       10 and four inch tap to drain to storage pipe system. Am I       11 reading that right?         12       Q. At the time you made this report the events that       12       A. Yes.         13       You report had occurred within a relatively short period of       13       Q. Would that mean then that the photograph that is         14       the beforehand?       15       A. Yes.       16       A. Yes.         12       Q. The entries that you made in the ordinary       16       A. Yes.       17       Q. So although we can't see the date stamp on here,         18       as Barrett Consulting Group field representative on the       19 know this photogr		24 Q. And it says with Olympic Pipe Line		
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24     Q. Now, we talked about this a little bit on     24 not or do we know.	22 at the time you made them?	22 A. Yes.		
	23 A. Yes.	23 MR VERWOLE: Was the nicture taken on July 6 or		
25 Monday, but I want to go into a little more detail with the 25 Q. Do you know?	24 O Now we talked about this a little hit on	125 The reterior that the pretare taken on say of the		
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DALEN VS. OLYMPIC PIPE LINE THOMAS W. FRA	ANKLIN - VOL. II 6-22-00
297	299
1 A. Idon't know.	1 going on in another section of the job and that was it says
2 Q. But the range it couldn't have been taken on	2 carpenters why don't you read that, carpenters pour.
3 July 5th?	3 A. Carpenters pour of second level pump station
4 A. No.	4 began at 8:10 a.m. and grout placement procedure went well.
5 Q. You are saying it could have been taken on July	5 Treemies t-r-e-e-m-i-e. Treemies, two and more used
6 7th because the hole was dug on July 6th?	6 and plus or minus three foot lifts with vibration progressed
7 A. Yes.	7 until a 11:30 completion. The wall top was covered with wet
8 Q. But no work was done on July 6th beyond digging	8 burlap and rebar straightened.
9 the hole. The pipe wasn't cut?	9 Q. What is this line? What are treemies?
10 A. Right.	10 A. It's a hose device to allow the concrete to
11 Q. Nobody was inserting tee joints?	11 slide down into the concrete forms without hitting the
12 A. That's correct.	12 reinforcing bar.
13 Q. So on July 6th we know that the work did not	13 Q. What's being described here is that the concrete
14 progress beyond what's shown on Exhibit 132?	14 for the second level was being poured into the forms that
15 A. Yes.	15 the carpenters had built, those wood forms around the iron
16 Q. But we don't know for sure it progressed this	16 rebar?
$1^{\circ}$ Q. But we don't know for sure it progressed this $1^{\circ}$ far, as far as it's shown on Exhibit 132 on July 6th?	17 A. Yes.
	18 Q. And I note it also says the rebar was
19 Q. There could have been additional excavating on 20 July 7th?	19 straightened on July 5th. Do you see that?
	20 A. Yes.
	21 Q. Looking back at Exhibit 131, and in light of
· · · · · · · · · · · · · · · · · · ·	22 everything we have been discussing with Exhibit 132 and the
23 on July 7th?	23 inspection reports, can you tell me whether or not the crane
24 A. Yes.	24 that's identified as item C is sitting, or any part of it is
25 Q. Let's go back a day to July 5th. It's page	25 sitting on or near the area for the excavation to expose the
298	300
1 ET0006445. Part of Exhibit 64; do you see that?	1 16-inch waterline?
2 A. Yes.	2 MR. SCANLAN: Objection. It calls for
3 Q. This is your report 95; right?	3 speculation.
4 A. Yes.	4 A. No, you can't tell.
5 Q. And it's dated July 5, 1994 and you signed it?	5 Q. Let's turn to report number 97. So you have to
6 A. Yes.	6 flip a couple of pages the other way.
? Q. As with all the other reports, this is a record	7 Report number 97 is a record of your activities
8 of your regular activities on the job site for Barrett?	8 on the site of the Dakin-Yew pump station job for Barrett
9 <b>A. Yes.</b>	9 Consulting; is that right?
10 Q. And the events that are recorded here occurred	10 A. Yes.
11 at or about the time you wrote it down?	11 Q. We see your signature in the lower right hand
12 <b>A. Yes.</b>	12 corner?
13 Q. And it's true and correct?	13 A. Yes.
14 A. Yes.	14 Q. It consists of two pages; is that right?
15 Q. You'll notice that on July 5th there was	15 A. Yes.
16 assembly of ductile pipe tee for Thursday's 20-inch pump	16 Q. And you signed the second page as well?
17 station tie-in to 16-inch existing line. Testing will be	17 A. Yes.
18 performed prior to insertion. Do you see that?	18 Q. Did you make the entries on report 97 or at
19 <b>A. Yes</b> .	19 about the time the events are recorded?
20 Q. The reference to a 20-inch pump station tie-in,	20 A. Yes.
21 you really intended that be 24 inches; right?	
22 A. Yes.	•
23 Q. July 5th was a Tuesday; is that correct?	23 Q. Now, this exhibit provides or says that City
24 A. Yes.	24 personnel were on site and began closing valves on the
25 Q. Above that there is some discussion of what's	25 16-inch. I take that to mean the waterline?

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1 A. Yes.	1 Q. The solution for taking care of the water		
2 Q. To isolate work at 5:05 a.m. and complete at	2 apparently was arrived at. You say use of 55 gallon can to		
3 5:40.	3 catch water from tee and pump from there. Could you explain		
4 So you started your day that day at five o'clock	4 that?		
5 in the morning and you were there when the City workers were	5 A. Yes. Perhaps that's not the best way to		
6 shutting off the valves for the 16-inch line?	6 describe what was done. But what they had was they had a 55		
7 A. Yes.	7 gallon drum cut so that they had an end that would hold		
8 Q. While this work was going on it appears the next	8 water. So they used the end that would hold water and they		
9 line says, three man crew was working on removing material	9 put that underneath the pipe and pumped out of it.		
10 from beneath the 16-inch line. Is that right?	10 Q. How did they dewater the pipe?		
11 A. Yes.	11 A. With a pump. A lot of		
12 Q. Does that mean, if I understand correctly, that	12 Q. How did they get into the pipe to dewater it?		
13 some guys got down in the hole that is shown on Exhibit 132	13 A. They cut the pipe and that drained the water		
14 and were digging?	14 from the pipe.		
15 A. Yes.	15 Q. And they cut the pipe on July 7th?		
16 Q. Did you see them personally dig?	16 A. I don't know. I have to read more about it. I		
17 A. Yes.	17 don't remember the exact date.		
18 Q. So you know that they were down there. Were	18 Q. Why don't you read the whole thing?		
19 they using a backhoe?	19 A. It says problems arose when the hole to the tee		
20 A. No. They were using hand shovels.	20 was not positioned properly and the plan to tap into the		
21 Q. Hand shovels. So does it appear to you, and	21 16-inch was abandoned today with rescheduled tomorrow.		
22 when you look at Exhibit 132, that the material beneath the	22 Do you want me to read more?		
23 16-inch line in the hole that's depicted there has been	23 Q. No. That's fine. Do you take it from that that		
24 removed by somebody who has shoveled?	24 they did not tap into the 16-inch waterline on the 7th?		
25 A. Some of it has.	25 A. That's right. They did it the next day		
30	304		
1 Q. So based on that and reviewing report number 97,	1 according to this report.		
2 what do you think is more likely; that Exhibit 132 was taken	2 Q. Do you have a memory of that or are you going		
3 on the 6th of July or the 7th of July?	3 solely by the report?		
4 A. It's more likely to be the 7th.	4 A. I'm going by the report actually. I don't		
5 Q. And is that what you recall or you just have no	5 recall the specifics intimately.		
6 recollection?	6 Q. Who dug the hole for the tee, the hole that we		
7 A. I don't have any recollection of it.	7 see on Exhibit 132? Who was the person who initially		
8 Q. According to report number 97 you then had some	∂ excavated that hole, if you know?		
9 discussions with Greg about how water was going to be	9 A. I don't know his name.		
10 drained out of the hole; is that right?	10 Q. Are there some of the people at IMCO who operate		
11 A. Yes.	11 equipment whose names you do know?		
12 Q. Where was this water going to come from?	12 A. No.		
13 A. From within the pipe.	13 Q. You don't know the names of any of the people?		
14 Q. So what was going to happen? What was going to	14 A. No.		
15 happen to the pipe as a result of water getting into the	15 Q. I'm going to state some names and you tell me if		
16 hole given that the valves to the 16-inch line had been shut	16 they are recognizable to you.		
17 and that segment of line had been isolated?	17 A. Okay.		
18 A. It still has water in it. When they go to cut	18 Q. Calvin Vanderpol?		
19 the pipe, water will come out. And if you have a way to	19 A. Yes, I remember the name.		
20 control the water, it's certainly a lot easier to deal with.	20 Q. But you don't know if he was the one who		
21 Q. And were you satisfied initially with the way	21 operated the backhoe to dig that hole?		
22 that Greg, I guess that's Greg Burress from IMCO, had chosen	22 A. No.		
23 to dewater or control the water in that hole?	23 Q. Britton Lukes?		
A. I don't know about satisfying is a right word.	24 A. I don't remember the name.		
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1 in Exhibit 132 selected; who selected that position?	1 representative present when the hole dug on Exhibit 132 was
2 A. I don't know.	2 excavated?
3 Q. Were you involved in or consulted in deciding	3 A. Do I
4 whether the hole should be dug in one spot as opposed to	4 Q. Do you recall having such a conversation?
5 another?	5 A. No, I don't remember talking to him. It was a
6 A. No. That was determined by the designer and	$\epsilon$ known fact that we would contact them when we were doing
7 IMCO during the process of forming the change order.	7 work around the pipeline.
8 Q. If you know, who would normally or usually have	8 Q. The contractor would do that?
9 been involved on the job site in determining where a hole	9 A. Yes.
10 such as the one shown in Exhibit 132 would be dug?	10 Q. You didn't feel it was necessary to tell the
11 A. Well, if we had already established the change	11 contractor that?
12 order plans of where the location was supposed to be, the	12 A. That had been discussed over time and everybody
13 surveyor and the contractor would get the stakes done and	13 was aware that they were supposed to be on site.
14 proceed from staking typically.	14 Q. Were you present when the hole in Exhibit 132
15 Q. Well, of course by this time the location of the	15 was dug?
<ul> <li>16 16-inch and 24-inch tie-in had been determined?</li> <li>A. We knew where it was, yes. We knew where the</li> </ul>	16 A. I may
,,, _,	17 Q. Not with shovels but with the backhoe.
<ul> <li>18 pipes were.</li> <li>Q. You had the plans. They had been delivered on</li> </ul>	18 MR. FLOYD: You are saying the portion of 132
• • • • • • • • • • • • • • • • • • • •	19 that was dug with the backhoe; correct?
20 May 13th or 16th, or whatever it was; right? 21 A. Yes.	20 Q. The portion of 132 that was dug with a backhoe.
	21 A. I may not have been there specifically at that
	22 time, but I was around at that time, yes.
23 the excavation had been painted such as it was painted for 24 the excavation of the pump station?	23 Q. Do you remember witnessing, watching the
25 A. I don't recall that being done, no.	24 backhoe digging the backhoe portion of the 16-inch pipeline 25 hole?
2.5 A. I don't recan that being done, no.	
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1 Q. If it had been done do you think you would	1 A. No, I don't.
2 recall it?	2 Q. Go back to report number 97. It says problems
3 A. Yes.	3 arose when hole for tee was not positioned properly and the
4 Q. Do you recall there being similar stakes as were	4 plan to tap into the 16-inch was abandoned today with
5 shown in the foundation excavation site for the pump	5 reschedule tomorrow.
6 station? What do you call them, contractor's stakes or	6 The tapping in to the line as you just described
7 engineering stakes, the ones that were painted orange on the	
	? it was basically you were just going to cut into it?
$\boldsymbol{\theta}$ top, do you recall those being in the ground at the corners?	8 A. Yes.
<ul> <li>8 top, do you recall those being in the ground at the corners?</li> <li>9 A. What I recall is the contractor identifying or</li> </ul>	<ul> <li>8 A. Yes.</li> <li>9 Q. Because you had to remove a section of the line</li> </ul>
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	3	09		311
1 0	<ol><li>So you are talking about the side of the tee</li></ol>		Q. Let me ask the question differently. If	f you
	hat's going to connect into or join into the southern		2 were reporting on something that you hadn't pe	
	the 16-inch line that goes into the CDF?		3 observed, would you note it in the report? In o	
	A. As well as the north end, yes.		4 I was told by Greg that such and such happened to	
	Q. There is CDF in the north end?		5 differentiate the situation where perhaps you didn't see	
	A. No. There is reducers at the north end.		6 that such and such happened but you were told	
	Q. Right. But there is no CDF at the north end?		7 it happened.	,
	A. That's correct. No.		8 A. That's my normal trend is to respond t	by saving
1	Q. So basically the problem with the hole on		9 who is responding to my statement or who said	
1	it 132 is that it wasn't long enough. Instead of eight		0 If it's secondhand I will usually respond by nam	·
1	ong it needed to be like ten feet or more longer?		1 person that I was told by.	
	A. That's correct.		2 Q. The reason for that is you want to be a	ahle to
1	Q. So you could move it		3 differentiate later between that which you saw i	
	A. To the south		4 which you learned because someone else told y	
		1	5 A. Yes.	UU!
	Q to the tee joint down?			these
	A. To the north and west, yes.		6 Q. And that's important to you in writing	liese
	2. Then it says the pipe still needs to pass		? reports; is that correct?	
1	the second wall footing. But that's the 24-inch	1	8 A. Yes.	
1	irge line that has to pass through the second wall	1	9 Q. I'm assuming it's important to you wh	
20 footing		1	0 would probably be important to anybody writin	-
	A. Yes.	1	1 It says, and area excavated to fit tee in	n near
	Q. And it says water pressure was restored at		2 the CDF placement.	
	ximately 8:30 by City personnel. Is that 8:30 a.m.?		3 Heip me here. Does that mean that th	
	A. Yes.		4 wide area was widened or does that mean that	
25 <b>C</b>	Q. So all the decisions concerning whether or not		5 necessary to elongate the hole was lengthened,	, or both?
	3	10		312
1 you're	going to be able to proceed on July 7th with		1 A. I really don't remember. From my re-	collection,
2 Inserti	ion of the tee joint in the hole that's shown on		2 the reason we moved and manipulated things v	was because it
3 Exhibi	t 132 were made by 8:30 a.m.?		3 wasn't just a 90 degree angle. We had a pipeli	ine that was
4 /	A. Yes.		4 coming on an angle like this and we had more	than just a 90
5 0	Q. And that work was called off?		5 degree angle to deal with.	-
6 /	A. Yes.		6 We had to also swing the pipe more th	ian just 90
7 0	Q. And the tee joint was not inserted on July 7?		7 degrees so we could get a 90 degree on the wa	iteriine.
1	A. That's correct.		8 Q. You had an odd?	
9 <b>C</b>	2. And you are positive about that?		9 A. Right.	
	A. That's what I wrote.		Q. Odd angle to catch it?	
	Q. Now then it says, some of the hole dug for		A. That was what I was referring to by h	aving to
	s work was backfilled and an area excavated to fit tee		2 dig and adjust to get the pipe properly aligned.	•
-	r the CDF placement. Work begins at valve shut off		<ol> <li>Q. Now you will forgive me, but because</li> </ol>	
	ximately 4 a.m.		4 written this way it made me think that what ha	
15	using Exhibit 132 and pointing to whatever you	- 1	15 there must have been some widening of the ho	
	call, how much of the hole was backfilled and where	1	to there must have been some widening of the no to some of the hole for today's work was backfille	•
	backfilled?		7 excavated to fit tee in near the CDF placement	
	A. I really don't know. I don't remember.		Because the CDF placement, is that th	
	2. Did you see it or were you told that?		19 located on Exhibit 132 where you put the two 3	-
	A. No, I was I saw it.	- 1		n əy tiylir:
	•		20 A. Yes.	6 46 4
	2. If you hadn't seen it you wouldn't have written		Q. In order to further excavate in the are	
22 <b>it dow</b>			22 CDF you really would have to widen it, wouldn	rt you, or
	A. Right.	•	23 would you deepen it?	
	Q. Did you only write down things that you saw?		A. What I was referring to necessarily w	
25 <b>F</b>	<ol><li>That's a hard question to answer all the time.</li></ol>		25 been in the direction where the tee went to. T	he tee came

DALEN vs. OLYMPIC PIPE LINE

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DALEN VS. OLITITE	
313	315 1 it?
1 off in this direction. What we had to do was widen the	2 A. I might not have been there all the time. I'm
2 alignment of the pipe trench so that we could come across at	3 not claiming I can be any place at any given time unless I
<ul> <li>3 a direct right angle to the system.</li> <li>4 It wasn't necessarily the pipe width here that</li> </ul>	4 know for surc I was.
4 It wasn't necessarily the pipe width here that 5 was messed with. It was the area out in front.	5 Q. You didn't write down which way they did the
	6 excavation. So can we take it that you are making an
6 Q. So if you would, using the red marker, circle	7 assumption about how it was excavated?
7 the approximate area where the additional widening or	8 MR. FLOYD: Object to the form of the question.
$\theta$ additional excavating was done in order to fit the tee joint	9 That's not what he said.
9 in.	10 Q. I want to be clear about what you said.
10 A. It would have been in this vicinity here as well	11 A. Just because I didn't identify what I was
11 as back up the hill to where the pipe alignment actually	12 talking about doesn't mean that I wasn't there when it was
12 was, because they had placed they had planned to put it	13 being done.
13 in one position and came to recognize that this wasn't going	14 Q. I understand that. And just because you don't
14 to work that way. They had to have more angles into the	15 remember it doesn't mean you weren't there either, and I
15 pipe system. And so they had to widen the trench up here.	16 understand that.
<ul><li>Q. They had to widen the trench towards the east?</li><li>A. Yes.</li></ul>	1? A. That's right.
	18 Q. Look again in report 97 up to the third line
	19 where you wrote three man crew was working on removing
<ul> <li>19 Am I right? Or just towards the east?</li> <li>20 A. Just towards the east. And that was really the</li> </ul>	20 material from beneath the 16-inch line. Do you see that?
	21 A. Yes.
21 primary location. They also removed dirt from back here.	22 Q. And when you wrote that, you testified earlier,
22 So that once they got the thrust block in place that would	23 that you meant they got shovels and they dug by hand to
23 have been formed properly as well.	24 remove the material from underneath that line?
24 Q. They removed some earth from the west side where	25 <b>A. Yes.</b>
25 you have just indicated.	
314	
1 A. That's right.	1 Q. Now later here you write some of the hole dug
2 Q. And then when was the excavation work done to	2 for today's work was backfilled and an area excavated to fit
3 lengthen the hole from eight to ten or more feet?	3 tee in near the CDF placement.
4 A. It would have been the day of the 7th, the day	4 A. Yes.
5 of the 7th for the position for the new alignment.	5 Q. I note the difference in how you described guys
6 Q. So now I've put B in the area of the additional,	6 digging using shovels around that line and how you describe
? approximate location of the additional widening, excavating	7 the excavating to fit tee in near the CDF placement. Now
8 done to widen that hole to the east and C in the area that	8 you know yourself better than I know you. And you know why
9 you drew showing the area of additional excavating to widen	9 you select words better than I know why you select words and
10 the hole towards the west?	10 you were there and I wasn't there.
11 A. Yes.	11 Based on your writing of this inspection report
12 Q. Is that correct?	12 can you tell us whether or not the backhoe was used to do
13 A. Yes.	13 the additional excavating that's referred to on report
14 Q. Was this done on July 7th?	14 number 97 as having occurred after the water pressure was
15 A. I believe so, yes.	15 restored at approximately 8:30?
16 Q. Now, was this additional widening on B and C	16 A. Well, from what I see, basically the area for
17 done using that John Deere backhoe?	17 the tee, this area B here, would have probably been
18 A. To my knowledge it was done by hand any time we	18 excavated by a backhoe. The stuff behind it in C, perhaps
19 went down to the level of the pipe itself.	19 an area up above the pipe would have been scraped and
20 Q. Above the level of the pipe, of the 16-inch	100 means of his the healthes
	20 removed by the backhoe.
21 pipe, it would be done by backhoe, but once on a level with	20 removed by the backhoe. 21 Q. What part of the hole, Exhibit 132, was
21 pipe, it would be done by backhoe, but once on a level with	<ul> <li>Q. What part of the hole, Exhibit 132, was</li> <li>backfilled; do you recall?</li> <li>A. It would have been the area over next to the CDF</li> </ul>
21 pipe, it would be done by backhoe, but once on a level with 22 the 16-inch pipe the guys went out with the shovels and dig	21 Q. What part of the hole, Exhibit 132, was 22 backfilled; do you recall?

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317	319
1 bonded to the CDF.	1 Q. What you said makes no sense to me at all. I'm
2 Q. How much of that was backfilled; do you recall?	2 sorry.
3 A. I don't recall.	3 A. There are pictures, drawings in here that show
4 Q. Was it backfilled before the additional	4 the 24-inch line installed and that would help describe what
5 excavation work alongside the areas B and C was done?	5 I'm talking about.
6 A. My recollection is it was done at the same time.	6 Q. We'll get to that and we'll come back and you
7 They would take some of the dirt and position it.	7 can explain it better. So what I'm going to do is hold this
9 Q. They take a little bit over here and they dump	8 out and it will help us understand what happened with
9 it over there?	9 Exhibit 132.
10 A. Right.	10 Just a couple more points on report 97. At the
11 Q. So they dig a little bit from the area around B	11 bottom you say excavation continued and was complete for
12 or C and then they dump it into the area where the two X's	12 24-inch pipe to be placed beneath Olympic line to connect
13 are on Exhibit 132; is that right?	13 pump station to loop system installed previously.
14 A. Yes.	14 That again refers to the 24-inch suction line
15 Q. And did they not fill it all the way up to level	15 that's going off to the northwest to connect up with the
16 with the top?	16 large diameter pipes; is that right?
17 A. No.	17 A. Yes.
18 Q. Just around the pipe?	18 Q. Let's move to report 98. Now, on report 98 we
19 A. Right.	19 have another report of your inspection, inspection report.
20 Q. Did they cover the pipe back in that area?	20 And on this report you have signed it in the lower right
21 A. I don't recall. I don't believe so.	21 hand corner?
22 Q. Were they at the same time lengthening the hole	22 <b>A. Yes.</b>
23 in Exhibit 132 to its full ten foot or more or less length?	23 Q. And it's a two page report so you signed the
24 A. It was already wide enough I believe to be able	24 second page as well; right?
25 to accept it. I don't believe we widened anything more than	25 A. Yes.
318	320
1 what was already there. We just created more of a space.	1 Q. These reports are Bates numbered ET0006440 and
2 Q. We are thinking the eight feet this way and this	2 441; right?
3 way as length and the four foot this way as width.	3 A. Yes.
4 A. Right.	4 Q. You report on the equipment on the job site; is
5 Q. So you are saying they didn't actually need to	5 that correct?
6 go two feet further to the north?	6 A. Yes.
7 A. Not that I remember. I believe they had already	7 Q. And that equipment includes the 410B backhoe; is
8 exposed it wide enough for the tee to be dug and placed.	8 that correct?
9 Q. But I thought I mean forgive me if I'm wrong,	9 <b>A.</b> Yes.
10 but I thought that you wrote problems arose when hole for	10 Q. Now, could you read that first paragraph for us
11 tee was not positioned properly. And the plan to tap in to	11 of your report?
12 16-inch was abandoned. Reschedule tomorrow. And then it	12 A. City of Bellingham water valve crew began
13 says revisions to the distance of 90 degree elbow. That's	13 closing the 16-inch waterline down at 4 a.m. and IMCO
14 the elbow on the east end of that length of 24-inch	14 personnel on site at 5:15 p.m. to begin draining line for
15 discharge line; right?	15 tee insertion for 20-inch pump station connection.
16 A. Yes. That was moved.	16 Q. By that you meant the 24-inch pump station
17 Q. That was moved two to three feet or so closer to	17 connection?
18 the pump station?	18 A. Correct.
19 A. Yes.	19 Q. Keep going.
20 Q. And that didn't necessitate a relocation of the	20 A. The connecting area has been excavated near
21 tee?	21 72-inch pipe CDF insulation by I believe it's supposed to
22 A. No. No. That was the same angle of approach	22 be insulation by bulk and IMCO began cutting pipe 6 a.m.
23 that I was talking about earlier where we came down from the	23 The pipe was mostly drained by 6:30.
24 90 degree angle and had to come up with another angle to get	24 Q. Now, let's take a couple of things here. First,
25 to where the waterline alignment was.	25 what was the connecting area; what is that?

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DALEN VS. OLYMPIC PIPE LINE TROMAS W. FR.	ANKLIN - VOL. II 6-22-00
321	323
i A. That's where the tee went in.	1 A. Yes.
2 Q. That's the area that was being excavated in	2 Q. Did he see was he there when the pipe was
3 connection with what we see in Exhibit 132?	3 cut?
4 A. Yes.	4 A. I don't recall.
5 Q. This says the connecting area has been excavated	5 Q. Do you recall if he observed any part of the
6 near 72-inch pipe CDF. Is CDF insulation?	6 assembly of the tee joint?
7 A. No. That's the term I used at the time.	7 A. He did.
8 Q. It says the connecting area has been excavated	8 Q. So he was there to observe that?
9 near 72-inch pipe CDF insulation by bulk. What do you mean	9 A. Yes.
10 by bulk?	10 Q. On the same day you asked Greg Burress from IMCO
11 A. The insulation is a one piece unit or bulk	11 to repair the 16-inch. Is it the 16-inch or a 16-inch?
12 space. They filled the whole volume in CDF.	12 A. It's the same 16-inch pipe.
13 Q. You weren't referring to the excavation?	13 Q. The same 16-inch near the 60, 48-inch tie-in
14 A. No.	14 that was damaged in late May. And this was undertaken while
15 Q. As bulk excavation, whatever that would be?	15 work on the tee was in progress; is that right?
16 A. I don't know what that is either.	16 A. Yes.
1? Q. And IMCO began cutting pipe at approximately 6	17 Q. Let's look at Exhibit 133. What does 133 show?
18 a.m.; is that right?	18 A. It shows four of IMCO's people working on the
19 A. Yes.	19 tee installation.
20 Q. And you saw that; you witnessed that?	20 Q. Installing it looks like the northern most
21 A. Well, that's one I might have I don't recall	21 reducer to the 16-inch pipe; is that right?
22 that specifically. I see my time start was 7:30, 7 to 5:30	22 <b>A. Yes.</b>
23 and I believe I wrote that in every day because that was my	23 Q. And the pipe, the tee is being held in place by
24 normal work time. From what I remember, I was there the	24 straps suspended from something above; is that right?
25 entire time from four on.	25 <b>A. Yes.</b>
322	-1
1 Q. If that pipe was cut, water would have come	1 Q. Do you remember what was holding it in place?
2 flowing out of it; right?	2 A. No.
3 A. Yes.	3 Q. Can you tell if the tee is connected on the
4 Q. And do you recall being there when the 16-inch	4 southern end, the reducer of the tee is already connected oi. 5 southern end to the 16-inch line?
5 pipe was cut and water was flowing out of it? 6 A. Yes.	
1	6 A. No, you can't. 7 O. And to the back of the puys who are leaning
Q. So you saw something like that?	· Q. Mild to the back of the gays this are isening
B A. Yes.     O. And the pipe was mostly drained by 6:30 Now	8 against and bent over the pipe is basically a wall of earth?
	9 A. Yes.
10 again, you touched on this and let's make it clear. The	10 Q. There seems to be a pump to drain water out of
11 start time here says 7 o'clock. But your testimony is and	11 the hoie?
12 your recollection is that you were actually there earlier	12 A. Yes.
13 than 7 o'clock; is that right?	13 Q. And there is a box behind the guy with the blue
14 A. Yes.	14 sweatshirt, hooded sweatshirt, that has some kind of green
15 Q. Is report number 98 a portion of Exhibit 64?	15 rags or something in it. Do you see that?
16 <b>A. Yes</b> .	16 A. Yes.
17 Q. Does it record the events at or about the time	17 Q. And this is the work that is occurring in
18 that those events occurred?	18 connection with report 98?
19 <b>A. Yes</b> .	19 <b>A. Yes.</b>
20 Q. Is it true and correct?	20 Q. Did these guys ever install how far did IMCO
21 A. Yes.	21 get before the work was called off on July 7?
22 Q. It says Ray Bailey came to the site. Ray Bailey	22 A. I don't recail.
23 is a City employee; right?	23 Q. Did they cut the pipe open? Look back at report
24 A. Yes.	24 number 97. The paragraph says problems arose when hole for
25 Q. And observed the progress; is that right?	25 tee was not positioned properly. And the plan to tap into
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325	327
1 16-inch was abandoned today with reschedule tomorrow.	1 my own camera for the last several years.
2 Right?	2 Q. For part of the job were you using a camera
3 A. Yes.	3 supplied by Earth Tech?
4 O. I mean if they had already cut into the line	4 A. Yes.
5 there wouldn't be any need to do a valve shut off the	5 Q. Do you know if that camera still exists?
€ following day; right?	6 A. That was the one that had gotten lost and I had
7 A. Not necessarily. From what I'm reading here	7 to go buy one of my own after that.
8 they probably did not cut into the pipe.	8 Q. What kind of camera was the one that took
9 Q. Water pressure was restored by 8:30 in the	9 Exhibit 133?
10 morning by City personnel?	10 A. I don't know. It might have been my camera. It
11 A. Right. That tells me they probably did not cut	11 might have been the other camera that I bought, the second
12 into the pipe, because I don't remember a collar being	12 camera that I bought. I don't know.
13 installed on this pipe system.	13 Q. But you are sure it wasn't the first Earth Tech
14 Q. What's the date of Exhibit 133?	14 camera?
15 A. 7/7/94.	15 A. No, I'm not sure of that.
16 Q. It's July 7, 1994. On July 7, 1994, according	16 Q. It could have been the first Earth Tech camera?
17 to Exhibit 93, these guys from IMCO are inserting the tee	17 A. It could have been.
18 into the 16-inch waterline; is that right?	18 Q. Look ahead a couple of photographs.
19 A. That's what the date says.	19 A. Which one?
20 Q. Do you have any explanation for that?	20 Q. Keeping going. That photograph, pull that out.
21 A. The camera probably had the wrong date on it.	21 Take a look at Exhibit 136. And it is ET-PH0000353. Can
22 It may be a day late or something.	22 you identify that scene?
23 Q. Well, did you have to calibrate the date on the	23 A. Yes. That's the location of the 16-inch
24 camera every day?	24 waterline that was repaired in report 98 referred to.
25 <b>A</b> , No.	25 Q. So you will notice on this exhibit well, did
320	6 328
1 Q. What kind of camera	1 you use the same camera to take this picture as you used to
2 A. But that was in the area that was a time	2 take Exhibit 133?
3 frame when I had lost a camera and then used my own for a	3 A. I don't know.
4 certain length of time and then had to go and buy another	4 Q. Were you carrying around two cameras on the same
5 one. I don't remember the exact time frame, but that	5 day?
6 happened in June or July of that year.	6 A. No. I wouldn't think so.
7 So there is a possibility that this might have	7 Q. Were you ever carrying around two cameras on the
8 been my own personal camera. And I noticed there were a	B job site?
9 couple of pictures that had been returned to me when they	9 A. No.
10 made copies of relatives that were part of the picture	10 Q. Exhibit 136 is a photograph of work being done
11 negatives. So that could explain that situation.	11 to repair the 16-inch near the 60, 48-inch tie-in; is that
12 Perhaps I had a different camera and it didn't	12 right?
13 have the right date on it.	13 A. Yes.
14 Q. Up until this date all the other dates have	14 Q. The following day July 8 by the way was a
15 corresponded or seemed to correspond with	15 Friday; right?
16 A. Within a couple days.	16 A. Yes.
17 Q the inspection reports?	17 Q. The following day, the day after July 8 was
18 A. Within a couple days, yes.	18 Saturday and no work was done. And the next time that
19 Q. Do you still own the camera that produced	19 people were working on the job was what, July 11th; is that
20 Exhibit 133?	20 right?
21 A. No.	21 <b>A.</b> Yes.
22 Q. You don't. What happened to that camera?	22 Q. I'm going to guickly look at July 11th here.
23 A. You lose cameras relatively often in the	23 It's report number 99, part of Exhibit 64. Scanning it for
24 construction industry, whether they fall or they get	24 the second time I don't see any reference to the repair of
25 misplaced. This was six years ago and I haven't had to use	25 the 16-inch waterline. Do you?
The methode is the set and an and the set in the set of	23 the 10-mult watering. Do you

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329	331
1 A. No. It would have been the 8th. The 8th was	1 believe they cut the collar and cut some of the pipe and put
2 the date it was repaired.	2 a five foot piece of pipe or something in there and repaired
3 Q. So it was repaired on the 8th. Take a look at	3 it in that manner.
4 Exhibit 136 and tell me is there a date on the photograph?	4 Q. Can you tell me if what's photographed in
5 A. Yes.	5 Exhibit 136, is that the beginning of the repair process or
6 Q. What is that date?	6 the middle or the end?
7 A. July 8, 1994.	7 A. I believe it's at the beginning of the repair
8 Q. July 8, 1994?	8 process itself.
9 A. Yes.	9 Q. Do you recall what time of day the beginning of
10 Q. And the date on Exhibit 133 showing the workers	10 the repair process on the damaged section of the 16-inch
11 assembling the tee joint and connecting it to the 16-inch	11 waterline started?
12 waterline, if I understand your testimony, was taken using	12 A. No.
13 the same photograph as took Exhibit 136; is that right?	13 Q. Do you recall what time of day the clock meter
14 MR. BENINGER: Same camera.	14 on your camera would switch over?
15 Q. Same camera?	15 A. I never paid attention, no.
16 A. That's my I don't know for a fact that it	16 MR. NICOLL: That takes us right up to 3:30.
17 was, but I believe it was the only way. It had to have been	17 MR. SCANLAN: If you have a couple questions in
18 the same camera.	18 this thread you want to do I will
19 Q. So, photograph 136, it corresponds, the date on	19 MR. NICOLL: All I wanted to do was to identify
20 that photograph corresponds nicely with the work that was	20 some things on photographs so that we just did it while it
21 done and reported on report 98 for repair of the damage to	21 was fresh in my our minds which is why I was looking for the
22 the 16-inch waterline; correct?	22 red marker.
23 A. Yes.	23 Could you give me 136, please? Thank you.
24 Q. But the date on Exhibit 133 showing work being	24 Q. We are going to be able to get back to it but
25 done on the tee intersection with the 16-inch waterline line	25 for now, just to close up, I'm going to ask you to look at
330	332
1 does not correspond because of the date of July 7th on the	1 what I've circled on Exhibit 133 and put an A next to it and
2 photograph?	2 hold it up for the camera.
3 A. That's correct. That's what I'm seeing.	3 Is that the date stamp on the photograph,
4 Q. So do you have an explanation for that?	4 Exhibit 133, showing the date of July 7, 1994?
5 A. No.	5 A. Yes.
6 Q. Take a look at the south end of Exhibit 133. I	6 Q. And hold up 136. And show actually if you
7 know we have to stop in just a few minutes and so I will try	7 could hold it so it's turned that way. There you go.
8 to get this in.	8 This is Exhibit 136. And is what I'm pointing
9 Do you know what time of day the work was done	9 to and what is marked and circled as A, is that the date of
10 to repair the 16-inch waterline shown on 136?	10 that photograph showing July 8, 1994?
11 A. No, I don't.	11 A. Yes, it does.
12 Q. It says that the work to repair that line was	12 Q. One last question. Do you, and if I have asked
13 done while the work on the tee was in progress. Do you	13 it before I apologize.
14 remember what time of day the work on the tee was in	14 Do you have any recollection at all of what make
15 progress?	15 or model of camera it was that you were using for these
16 A. They started working on it very early in the	16 photographs 132 and 136?
17 morning on the 8th.	17 A. No.
18 Q. Cracking open on the 16-inch line well, in	18 Q. None at all?
19 order to repair that 16-inch line did they have to crack it	19 A. It was just a cheap model I bought at K-Mart
20 open to take the segment out that was damaged and replace it	20 that had a date thing on it. That was the only thing that
21 with good pipe?	21 counted.
22 A. They cut it, yes.	22 Q. Did you personally calibrate the date on it, set
23 Q. And is that what's shown here on Exhibit 136?	23 the date?
A. What I'm seeing on 136 is the place where they	24 A. Yes.
25 put a collar on. And when they went back to replace it I	25 Q. And did it come with instructions for how to do

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	333	335
1 that?	2 STATE OF WASHINGTON )	ļ
2 A. Yes, it did.	3 COUNTY OF KING )	
3 Q. Did you follow those instructions?		
4 A. I don't recall quite honestly.	4 I do hereby certify:	
5 MR. NICOLL: Okay. That's all I have for today.	5 1. That I am a Notary Public in and for the State	
6 MR. BENINGER: We'll go off the record now?	6 Washington;	
7 MR. NICOLL: Yes.	7 2. That each witness before examination was by	me
8 (The deposition adjourned	B duly sworn to testify to the truth, the whole truth and	
	9 nothing but the truth;	
• •	10 3. That the foregoing deposition was taken	
10	11 stenographically by me and reduced to transcript form	under
11	12 my direction;	
12	13 4. That I am not a relative or employee or attor	ney
13	14 or counsel of any of the parties to said action, or a	
14	15 relative or employee of any such attorney or counsel, i	and
15	16 that I am not financially interested in the said action o	r
16	17 the outcome thereof;	
1?	18 5. That each witness was given the opportunity t	.0
18	19 read and sign the deposition after the same was trans-	
19	20 unless indicated in the record that the parties and eac	
20	21 witness waived the signing;	
21	22 6. That all objections made at the time of seld	
22		
23	23 exemination to my qualifications or the manner of taki	
24	24 deposition, or to the conduct of any party, have been	10560
25	25 by me upon said deposition;	
1 AFFIDAVIT	334 1 7. Thet the deposition as transcribed is a full,	336
		336
1 AFFIDAVIT	<ol> <li>7. That the deposition as transcribed is a full,</li> </ol>	
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AFFIDAVIT S There read my within deposition, and	1 7. That the deposition as transcribed is a full, 2 true and correct transcript of the testimony, including 3 questions and answers, and all objections, motions, ar 4 exceptions of counsel made and taken at the time of t 5 foregoing examination;	nd he
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# DALEN VS. OLYMPIC PIPE LINE

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### DALEN VS. OLYMPIC PIPE LINE

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00337

# IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF WHATCOM -----

No.

KATHERINE DALEN, Individually and as the Personal Representative of the Estate of STEPHEN M. TSIORVAS, and as Guardian ad Litem for ANDREW R. TSIORVAS and GEORGE K. TSIORVAS,

#### Plaintiffs,

99-2-01468-1

OLYMPIC PIPE LINE COMPANY, a foreign corporation, EQUILON PIPELINE COMPANY LLC, a foreign corporation, and EQUILON ENTERPRISES, LLC, a foreign corporation, and FRED CROGNALE, FRANK HOPF, RON BRENTSON and JOHN DOES,

Defendants.

OLYMPIC PIPE LINE COMPANY, a foreign corporation,

Third-Party Plaintiff,

-vs-

-vs-

IMCO GENERAL CONSTRUCTION, a domestic corporation,

Third-Party Defendant.

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DEPOSITION UPON ORAL EXAMINATION

OF

THOMAS FRANKLIN, VOLUME 3 --

October 24, 2000

Cheryl Macdonald, Court Reporter MA-CD-OC-A457LC

00338 FRANK S. KING, as the Personal Representative of the Estate of WADE B. KING, and FRANK S. KING and MARY L. KING, individually, and TRACY K. BELL, individually, and JASON KING, individually, Plaintiffs, -vs-99-2-01467-3 OLYMPIC PIPE LINE COMPANY, a foreign corporation, EQUILON PIPELINE COMPANY LLC, a foreign corporation, and EQUILON ENTERPRISES, LLC, a foreign corporation, and FRED CROGNALE, FRANK HOPF, RON BRENTSON and JOHN DOES, Defendants. OLYMPIC PIPE LINE COMPANY, a foreign corporation, Third-Party Plaintiff, -vs-IMCO GENERAL CONSTRUCTION CO., a domestic corporation, and JOHN DOE DEFENDANTS ONE THROUGH FOUR. Third-Party Defendants.

No.

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# DEPOSITION OF THOMAS FRANKLIN,

VOLUME 3

\_\_\_\_\_

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9:45 a.m. October 24, 2000 1201 Third Avenue Suite 5200 Seattle, Washington

Cheryl Macdonald, Court Reporter

00339

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00342 1 (Marked Exhibit 252.) THE VIDEOGRAPHER: This is the 2 videotaped 3 portion in the deposition of Tom Franklin. My name is 4 Steve Dahl. I am the videographer from ProVideo 5 Seattle, located at 80 South Washington, Suite 200 in 6 Seattle, Washington, 98104. This deposition is being 7 recorded this 24th day of October 2000. The time is 8 approximately 9:44 a.m., and we are at 1201 Third

9 Avenue, Suite 5200 in Seattle, Washington. This deposition is being 10 recorded in the matter of Katherine Dalen, et al., vs. 11 Olympic Pipe Line Company, et al., case No. 99-2-12 01468-1 in the 13 Superior Court of the state of Washington in and for 14 the county of Whatcom and was noticed by Christopher 15 Nicoll. Will counsel and all present 16 please identify 17 themselves for the record and will the court reporter 18 please swear in the witness. MR. NICOLL: Well, for the record 19 the 20 witness is already sworn. This is the third dav of 21 your deposition, Mr. Franklin. You recognize that 22 you're still under oath; is that right? 23 THE WITNESS: Yes. MR. NICOLL: I'm Chris 24 Nicoll. I'm 25 representing Olympic Pipe Line at this deposition. 00343 MR. WOLFE: I'm John Wolfe or behalf of 2 Frank Hopf. MS. MARCHESE: Lisa Marchese on 3 behalf of 4 the city of Bellingham. MR. VERWOLF: Nick Verwolf on 5 behalf of Equilon Enterprises and Equilon Pipeline 6 Company. 7 MS. ANDERSON: Patricia Anderson for the 8 plaintiffs. MR. FLOYD: Francis Floyd for G Imco. MR. SCANLAN: Terry Scanlan 10

representing 11 Earth Tech. 12 13 EXAMINATION 14 BY MR. NICOLL: Mr. Franklin, when we last left 15 Ο. off we were 16 talking about some odd date stamping on photographs depicting work that was being done to put 17 the tee joint in the ground connecting the 16-inch wire 18 line with the 19 24-inch discharge line from the pump station. Do you 20 recall that? 21 A. Yes. Q. Since the deposition I know some 22 period of 23 time has passed, but since the date of that deposition, 24 have you gone back and done any investigating or 25 further induiry to see if you can find or understand an 00344 1 explanation for why those dates were what thev were? Ζ. 2 Nc. Q. I'd like to move on, then, in the 3 inspection reports to the inspection report for July 4 11th, and in 5 front of you there's a stack of exhibits. What I need 6 you to do is to pull out the one, Exhibit 64. So in 7 Exhibit 64, if you would turn, please, to the inspection report for July 11, and as you'll 8 recall, they're arranged kind of oddly because 9 they're all 10 attached to transmittal letters to the city. 11 You said 6 and 11? Α. No, July 11, 7-11. Should be 12 Q. report No. 99.

13 A. Okay, I've got it. 14 All right. Now, July 11th was, Ο. according to this report, a Monday; is that correct? 15 16 Α. Yes. And again, as with other reports, 17 Q. you listed 18 the equipment that was in use on that date, right? 19 Α. Yes. 20 Ο. You identified what the weather was like, the condition of the site, the temperature 21 of the air. 22 those sorts of things? 23 A. Yes. 24 Now, if you'll turn your ç. attention to the 28 second paragraph. You state here, "Welding of joints 00345 1 was completed over the weekend and tested by Harbor 2 Mechanical." Earlier in this case, a fair amount of time ago now, we took a deposition of a 3 fellow named 4 Rodney Staples, who was, we thought or believed, was the Harbor Mechanical representative on 5 the job. 6 However, Mr. Staples told us that on that iob he wasn't 7 working as Harbor Mechanical. He was simply working as 8 an employee of Imco. 9 And I wanted to clarify, at least for my own 10 understanding, when you refer to Harbor Mechanical in 11 the inspection reports, are you actually referring to 12 Rodney Staples or would you know? Can you even 13 remember? A. As far as I knew, Harbor 14 Mechanical was a

15 name that was on his equipment and that's where I got 16 that name from. I assumed he was a subcontractor. 17 Q. But you know who Rodney Staples is? A. Yes, I do. 18 19 And you know, looking at this Q. entry on 20 report No. 99, "welding of joints was completed over 21 the weekend and tested by Harbor Mechanical," can we 22 correctly or fairly take that to mean was -- that welding of joints was completed over the 23 weekend and 24 tested by Rodney Staples? 23 A. Yes. 00348 Q. There's no other individual that you 2 identified with Harbor Mechanical? A. If I recall, there was another 3 individual 4 that came in halfway through the project, and because 5 he was behind on his welding he also assisted in it. 6 That's the only recollection I have. 7 Q. Do you remember that person's name? A. No, I don't. 8 ç. Next paragraph says, "I talked 9 to Curt of 10 Bellingham maintenance and arranged for him to turn 11 system off within the plant so piping can be removed," 12 et cetera. Do you see that entry? 13 Α. Yes. 14 Q. Do you remember Curt's full name? 15 A. No. 16 Q. And when you say of Bellingham maintenance, 17 did you mean city of Bellingham?

18 Α. Yes. Would you have gone anywhere to 19 Q. speak with him or spoke with him by phone or do you 20 recall? I don't recall. 21 Α. 22 Were there city people, city of Q. Bellingham 23 people, present at the job site from time to time? 24 Α. Yes. 25 Q. The job site itself was sort of right next 00347 1 to a big water treatment facility, a big brick 2 building; is that right? 3 Yes. Α. Were there city employees working Q. in that brick building during the construction 5 project? Α. 6 Yes. -About how many were in that Ç. building, if you 8 know? 9 A. There was always someone there, I would say, 10 one to five people. 11 Were there any supervisory people Q. there, as 12 far as you're aware? 13 Α. Yes. 14 ç. And who would they be? Who were they? 15 Α. A man that was supervisor of the treatment 16 plant was there most of the time. 17 Q. Was that Bill Evans? 18 Α. Yes. I don't even remember the name. 19 Q. I'm sorry, Tom Evans? No, it wasn't Tom. 20 Α. 21 Q. Bill Evans? 22 Α. Yes. Q. And how about a fella named 23 McCourt?

24 A. At times he came to the site. Bill was primarily the supervisor that was on site 25 most of the 00348 1 time. Bill Evans? 2 Ο. 3 Α. Evans. Ο. Any others from the city from 4 time to time? This fellow Curt perhaps and others? 5 6 Α. Not usually. They may have come to the 7 site, but typically, no. Looking at the second page of 8 Ο. report No. 99, 9 you'll see at the top on the continuation of the report it reads, "Pipe wrapping and repair of 10 damaged areas being done this p.m." What did you mean by 11 pipe 12 wrapping? The large diameter pipe that was 13 Α. to carry 14 fresh water from the treatment plants had a plastic 15 wrap around it for protection. The joints between each of the sections of the pipe were left 16 unwrapped, and 17 those were wrapped at the time after the testing and 18 welding had been completed. 19 Q. When you refer to large diameter pipes, do 20 you include the 24-inch line or are you specifically speaking about the 60-inch and 48-inch 21 lines? 22 Α. Both of them had plastic wrap. All of them 23 had plastic wrap. All of them had plastic wrap. 24 Q. So they were 25 all wrapped in the same way with plastic wrap around00349 them when all the testing and welding was 1 completed? Yes. 2 Α. 3 You recall seeing during various 0. times during the project the Olympic pipeline 4 exposed, right? 5 Α. Yes, sìr. It was not wrapped with the 6 Q. plastic wrap, 7 was it? 8 Α. No. Now, the next part of that 9 Ο. sentence reads, "and repair of damaged areas being done this 10 11 afternoon." So, pipe wrapping and repair of damaged 12 areas. Do you recall what damaged areas were being 13 repaired? 14 The damaged areas I'd be А. referring to would be damage to the large diameter pipes, 54 15 and 60-inch 16 or 60 and 72-inch pipes. When they would be moved from 17 one place to the other you'd get damage from the 18 ground surfaces being rubbed up against them. Those would be repaired. 19 20 Q. So that would be damage on the exterior of 21 the pipe? 22 Α. Yes. 23 0. And these water pipes were made of steel? 24 Α. Yes. 25 Q. What was their thickness again? 00350 1 Α. Approximately a quarter inch. 2 How would those pipes be Q. repaired? 3 Α. You'd remove the plastic wrap and wrap it again with undamaged wrapping material so 4

that you had the same protection on that section of pipe. 6 Q. So this was damage to the wrapping and not 7 damage to the pipe? 8 Α. That's correct. 9 0. Were there any times when the exterior of 10 the pipes themselves, the water pipes that were being 11 installed during the project, had, you know, marks or 12 gouges or anything like that in them that needed to be 13 addressed in the context of construction, needed to be 14 taken care of? 15 A. Not to my knowledge. Q. Then it says, "An effort by 16 operator of hoe īΞ pack mounted on J. D. 792 to begin backfill of 72, 18 60-inch trench this p.m. was stopped as no special 19 effort to compact beneath the pipes, such as jumping 20 jack tampers, has been done, and labor working on pipe 21 wrapping." 22 Could you explain what was going on here? 23 What was that all about? 24 They were backfilling areas that Α. needed 25 immediate labor attention to be able to do it properly, 00351 1 hand work, and they didn't have the people to do it, 2 and so I just suggested to Greg that he wait on the 3 backfilling material until he had the people to do the 4 work properly. He wasn't getting compaction so we just 5 stopped the activity. Q. And if I understand you correctly 6

-- correct 7 me if I'm wrong -- the issue there was the ground needed to be sufficiently compacted so that 8 these pipes would be properly supported after all 9 backfilling was 10 concluded; is that right? Yes, that's correct. 11 Α. 12 And what you saw on July 11 was Q. that the 13 preliminary compaction to backfilling wasn't being done 14 properly because there wasn't enough labor? 15 Α. Yes. 16 Ο. And then the last entry that I have a question about reads, "Work assembling angle 17 at 24-inch DIT begun with a 33-degree bend inserted off 18 a one-foct flange using a mega lug." First of all, the 19 initials 20 DI, what do those means? 21 A. Ductile iron. 22 And then the word tee, T E E, Q. that's the tee 23 joint, right? 24 A. That's correct. 25 Q. That's the tee joint that we've been talking 00352 1 about that connected the 16-inch main to the 24-inch 2 discharge line coming off the pump station? 3 Yes. Α. The 30-degree bend was something 4 0. that was 5 going to be used to be able to connect that tee joint 6 to the 24-inch line that was coming off the pump 7 station; is that right? 8 Α. Yes. 9 Q. And a one-foot flange, am I reading that 10 correctly?

11 Α. Yes. 12 What would this -- what was this Q. flange 13 going to be used for? I don't know. 14 Α. 15 And a mega lug, is that a kind Ο. of a tool? Mega lug is a device that 16 Α. attaches to the bell of the pipe itself and is used to 17 restrain it. 18 Why don't we look at the next Ο. report which 19 is report No. 100, July 12. As with all the other 20 reports you've identified the subcontractors on site, 21 the size of the crew, the day of the week, the weather 22 conditions, all those things, right? 23 А. Yes. 24 Q. This is \_eport No. 100, correct? Yes. 25 A. 00353 1 Q. Now, the main guestion I have on this one 2 has to do with the paragraph in the middle. It says, 3 "During our weekly meeting Imco brought up their plan 4 to enlarge the" -- I can't really read that word but --5 "second floor door removal to obtain an eight-foot-by-eight-foot hole to pass soda ash silos 7 through it. John Hatch said that wouldn't be possible, 8 that assembly in place was expected. An effort to cut 9 the silo in half and assemble parts will be planned." 10 Is it fair to say that there was some 11 conflict that developed between Earth Tech, or Barrett 12 at that time, and Imco at that time over how the soda

13 ash assembly was going to be conducted and carried out? 14 Α. Yes. 15 And this conflict started to really Ο. arise 16 about this time on July 12? 17 Α. Yes, yes. Barrett didn't want and said that 18 0. it could 19 not be done to enlarge the door on the second floor in order to put the silos in, in order to put 20 the silos 21 into the second floor? 22 A. Well, actually I think what Imco said, or 23 what Barrett said, was that the plans showed an opening in the wall to be cut for the silo bin 24 itself, and that 25 was a certain dimension, and structurally it was 00354 1 determined by Earth Tech people that that was the 2 largest opening that would be allowed for this. And 3 the contractor went ahead prior to discussing that with 4 us and assembled a silo as one piece, and that's the 5 conflict. Q. Do you know if this had an impact 6 for Im.co 7 in terms of the -- its cost in order to complete this 8 job? 9 Α. No, I don't. 10 MR. FLOYD: Objection to the form of the 11 question, lack of foundation. 12 You don't know? Q. 13 Α. No, I don't know. 14 Let's turn to July 13th, report Q. 101. Again, 15 this report was prepared by you, right? 16 Α. Yes.

17 Q. Towards the -- it's, I guess, the third paragraph of the narrative, you wrote, "Work 18 extending the 24-inch ductile iron were from tee to 19 pump station 20 placing an 11-degree bend next to 33-degree bend and working toward pump station wall footing. 21 A five gallon container of chlorine solution 22 being used on 23 pieces being installed." When the line connecting the 24 discharge to 25 the pump station and to the tee was being installed, 00355 1 was it being worked backwards from the tee to the station? 2 That's what I remember, yes. F. . And that's what this says, 4 Ç. right? 5 Α. Yes. ç. At the time that you were 6 installing the 7 discharge line or that Imco was installing the 8 discharge line and that you were there observing it, 9 was the footing for that wall already in place? 10 A. No. 11 Q. You knew where it would be? 12 Yes. Α. So you wanted to make sure that 13 0. the 14 discharge line wouldn't conflict with the footing? 15 Α. That's correct. 16 And that has something to do Q. with the way 17 these bends were being worked out; is that right? 18 Α. Yes. 19 There was a reference at the end Q.

that was a 20 little bit confusing to me, and I was wondering if you could explain it. It says, "The material 21 will not 22 obtain more than 94.8 percent" -- this is with reference to densities -- "at second 23 joints of the 60 and 72-inch pipes. It's felt that 24 material will be 25 contaminated from edge of trench material." 00356 MR. FLOYD: Wait a minute. 1 You're reading 2 this thing backwards now, aren't you? MR. NICOLL: No. 3 MR. FLOYD: You read "the 4 material will not 5 obtain more than 94.8 percent"? MR. NICOLL: Right. And then I 6 **~** – 7 MR. FLOYD: You read the line before that. 8 Now you're reading the line after it. MR. NICOLL: Yes. The material C, -- I'm 10 referring -- okay. Why don't I just read the whole 11 paragraph. "Densities at second joints of 12 Q. 60 and 72inch pipes pass except for south side of 13 72-inch. The material will not obtain more than 94.8 14 percent. It's felt that material may be contaminated from 15 edge of 16 trench material. With backfill stockpiled, completed 17 efforts to remove and replace this material will be 18 made and will return at 9:30 a.m. tomorrow." Working backwards, Anville, was 19 Anville the

20 company that was doing the testing to make sure that 21 the CDF densities were acceptable? 22 A. Yes. Q. And backfill stockpile, what was 23 the 24 backfill stockpile? 25 A. That is a good well-draining granular 00357 1 material used to fill the hole that was created for the 2 pipe excavation. Q. But that's not the CDF, that's 3 something 4 else? 5 A. · No. Right, that's correct. It's not CDF. Q. And is this the material, the 6 backfill 7 material, that was felt to have been contaminated from 8 the edge of the trench? 9 A. Yes. 10 So, in other words, just normal Ç. dirt was 11 getting mixed in with the nice drainage stuff? 12 A. That's right. --3 Q. And that was going on south of the 72-inch 14 line, not in the area of the tee joint? 15 A. That's correct. THE VIDEOGRAPHER: Pardon me, we 16 need to 17 turn off cell phones. It's causing quite a bit of 18 disruption. Thank you very much. Pardon me. 19 MR. NICOLL: Did we get that last testimony? 20 Q. Now, let's turn to report No. 103, July 18. 21 MR. FLOYD: Which one are you on? 22 MF. NICOLL: Report 103, July 18. 23 MR. FLOYD: I've got 103. 24 MR. SCANLAN: You're looking at

July 15. 25 MR. FLOYD: There's two report 103's so 00358 1 maybe you should --MR. NICOLL: Let's clarify that, 2 clear that 3 up. Q. Look at -- before we get to 103, 4 look at 5 report 102 dated July 14. Do you see that? 6 · Yes. Α. 7 Q. And you wrote that report; is that correct? A. Yes, I did.Q. Now, if you would flip to report 8 9 No. 103. 10 the first 103. 11 MR. FLOYD: Dated July 15? 12 Okay. Ā. 13 Q. Do you see that one that reports, "no 14 activity on site today, contractor working four 10-hour 15 shifts"? Yes. 16 Α. 17 Ο. And you wrote that report? A. I did.Q. Now let's look to July 18th, 18 19 1994. A. Yes. 20 21 That's also numbered report No. Q. 103 and it 22 consists of two pages; is that right? 23 Α. Yes. 24 Q. Did you just accidentally misnumber that? 25 A. I made a mistake, yes, sir. 00359 1 MR. FLOYD: That throws all the subsequent 2 reports off then. 3 MR. NICOLL: We'll just go by dates. I'm 4 sure we can handle it. 5 MR. FLOYD: Have to throw them all out now.

Q. Couple of things about this. 6 First, you 7 note on July 18 that Triad is a subcontractor on site 8 and that it has two electricians. Do you see that? Yes. 9 Α. You also notice the equipment 10 Q. that's being 11 used on the site as you've done in the past? 12 Α. Yes. You note crew sites, and I just 13 Q. want to make 14 sure I've got these abbreviations correctly. It says "three carp." Does that mean carpenter? -15 16 A. Yes. 17 "Three op." Does that mean Ç. equipment 18 operators? 19 A. Yes. And three laborers? 20 ο. Ā. Yes. 21 22 Q. People doing noncarpentry, nonequipment 23 operation? 24 A. Yes. Q. And then of course there was the 25 00360 1 superintendent or foreman named Greg Burris; is that 2 correct? A. Yes.Q. Was Greg usually on the site? 3 Was he the 5 one who was usually on the site for Imco? 6 Α. Yes. 7 Q. What about Paul Krakenberg? Was he usually 8 on site? 9 Α. Typically, yes. Q. What role did -- if you know, what 10 role did 11 Paul play with respect to Greg? Who was the 12 superintendent? A. Greg was the superintendent. Paul 13 was the

14 office engineer. O. So Paul would report to Greg? 15 16 Α. Yes. All right. And towards the end of 17 Q. the third paragraph there's a reference here which 18 reads, "I talked to Greg about material above the 90 19 percent density requirements. There's plus 1.5 feet 20 above the 21 pipe which will require 96 percent test results. 22 Piping on the south side and middle of pipes require 23 excavation and movement of material." 24 Earlier in this paragraph there = a 25 reference to backfilling of 60 and 72-inch pipes. Is 00361 1 your reference in this paragraph to the requirement for 2 excavation on the south side and the middle of the pipes a reference to required excavation 3 around the 60 4 and 72-inch pipes? 5 A. I believe so. 6 ç. And that would be, again, to the south of 7 the connection between the 24-inch line and the tee 8 joint? 9 Yes, to the south and west, Α. primarily west. 10 Q. Now, bottom line of the first page of the July 18 report there's a sentence that 11 reads, "Excavations for 24-inch DI connecting pump 12 station to 13 60-inch was begun, again, as trench did not run true to 14 line and error made in layout which made connection 15 impossible. A widened trench was dug to the north and past the gas line with gas company personnel 16 present to 17 allow pipe placement. This work will proceed 18 tomorrow." What I'd like to do with respect 19 to this is 20 take a look at some of the old photographs that we've been looking at before in this case. And 21 specifically, if you could hand me the 140, 141 and 142, 22 would you take a look at those, and first of all, it's 23 going to be important to sort of hold them up so the 24 camera can 25 see them. 00362 Α. (Indicating). 1 That's Exhibit 140. That shows 2 Ο. an excavator doing some digging in the trench along the 3 south side 4 of the pump station; is that right? 5 Α. Yes. Could you look at the next one, 6 Q. 141? A. (Indicating). 7 8 Q. And 141 also shows the same thing, an excavator doing some digging in a trench 9 along the 10 south side of the pump station? 11 Α. Yes. And finally 142, can you hold that 12 Ο. up? (Indicating). 13 Α. 14 That shows the 24-inch tee joint Ο. with the 24-inch line wrapped in plastic; is that 15 correct? 16 Α. Yes. Let's look at 142 for a moment. 17 Q. Tell me, does 142 have a visible date stamp in the 18

lower 19 right-hand corner? Well, there's a date stamp there 20 Α. but I can't 21 read it. It's too light. All I can read is -- make 22 out -- is 94. Can you recall looking at the 23 0. photograph Exhibit 142, and based on the description in 24 the July 25 18 report, which direction was the trench widened? 00363 A. Well, this isn't referring to 1 this pipe. 2 It's referring --0. Oh, it's not? It's referring to 3 a different 4 one? 5 A. Yes. "Excavation for 24-inch DI ê Q. connecting pump 7 station to 60-inch was begun, again, as trench did not run true to line." Okay. So is this 8 talking about the 9 one on the north side of the pump station? 10 A. Yes, sir. Q. The suction line, the 24-inch 11 suction line? A. The one on the north side, I'm not 12 going to 13 do there. 14 Q. You're not going to go there any more, okay. Did this have to be -- did the trench on the 15 north side 16 then have to be dug after it had been once backfilled? 17 Α. No. 18 ο. It was still open? 19 Α. Yes. 20 Q. And this is the trench where the pipeline 21 was -- the Olympic pipeline was hanging exposed for a

22 while? A. Yes, sir. 23 24 MR. SCANLAN: Just so we're clear, when 25 you're saying "this," you're referring to a photograph 00364 1 or to a report? MR. NICOLL: I'm going to go 2 back to that 3 photograph, actually. I think we've got that one in 4 the record. 5 MR. FLOYD: I'm going to object to the 6 phrase it was "hanging" because I don't think it was 7 ever hanging. It may have been exposed, but I don't 8 think it was hanging. MR. NICOLL: I apologize to 9 everybody. I 10 didn't bring a copy of this. I thought it was already 11 in the record. (Marked Exhibit 253.) 12 13 Mr. Franklin, I'm going to show Q. you Exhibit 14 253, which is a color Xerox of a photograph that we 15 obtained from Earth Tech. MR. VERWOLF: What's the Earth 16 Tech number? 17 MR. NICOLL: Why don't you read the Earth Tech number off the back. 18 THE WITNESS: 856. Four zeros, 19 856. ETPH. 20 MR. NICOLL: Why don't you hold that up. MS. MARCHESE: I'm sorry, didn't 21 hear the 22 last part of the number. 23 THE WITNESS: 856, four zeroes first. 24 Does Exhibit 253 photograph the ç. trench to

25 the north side of the pump station that report July 18, 00365 1 1994 refers to needing to be widened? That is the location, yes. 2 Α. MR. SCANLAN: Do you want to put 3 the date of the photo in the record since it's not 4 corresponding to the report you're referring to? 5 MR. NICOLL: Right. Well, this 6 appears to 7 be a July 26, 1994 date. 8 Ο. Can you see that? Okay, yes. 9 Α. Q. So this would be a photograph that 1.0 would 11 have been taken apparently after the work that's referred to in the July 18, '94 report; is 12 that 13 correct? Yes. 14 Ā. 15 MR. NICOLL: I'm sorry for the confusion. 16 I just wanted to clarify that for myself. It wasn't 17 that clear to me in the report. 16 Q. Do you recall on the following day -- I 19 imagine -- was it on July 18, 1994 that Olympic Pipe 20 Line people were present? 21 A. I believe so. That's what it's labeled. That's what this references? 22 0. 23 What the report says, yes. Α. 24 Q. But you can't recall their names or --25 No. I didn't get involved with Α. them. 00366 1 Q. Did you personally see them there or did you 2 base your report on what others reported to vou? 3 A. No. I saw them there.

4 Q. How did you identify them as Olympic Pipe 5 Line people? A. I could have gone up and asked 6 them. I 7 believe I did. Q. And were you there while they 8 were there? 9 A. Yes. Did you observe how they -- what 10 Q. they did 11 during this excavation work? 12 A. No, I didn't. Q. Did they remain present during 13 the 14 excavation that was done? A. As far as I know, yes. 15 16 Q. Do you recall any report of a difficulty 17 getting the Olympic people to attend the excavation 18 work that's reported on July 18? 19 A. No. 20 MR. SCANLAN: No, you don't recall or no, 21 there wasn't any? 22 A. I don't recall of any difficulty. 23 Q. Let's look at the report on -well, let me 24 just double-check my notes here -- the report on July 25 19th. Now, this report is numbered 104. I believe 00367 1 it's the only 104; is that correct? 2 A. It is numbered 104. 3 Q. You wrote the report? Yes. 4 Α. It's your signature at the 5 Q. bottom? A. Yes, sir.Q. Again, it refers to two Triad 6 7 electricians 8 on site, right? A. Yes. Q. The part about this report is --9 10

says, "Assembly of 24-inch DI was begun without 11 bedding. I asked bedding be placed and compacted 12 before pipe assembly and all joints have mega lugs." 13 So we're clear, is this the 24-inch ductile iron 14 pipe to the north of the pump station about which --15 or which is depicted in photograph 253, or is this the 16 one on the 17 south side, or do you know? I don't know. 18 Α. Do you recall there being a 19 Ο. problem with assembly or laying of the 24-inch discharge 2C line 21 without bedding? I don't recall of it. 22 Α. 23 I know there's a photograph in Q. here that 24 will help us. Look at Exhibit 141, would you, and in the lower -- why don't you hold that up for 25 the camera, 00368 1 first of all. Am I correct that Exhibit 141 is a photograph of the process of laying the 24-2 inch discharge line along the south side of the 3 amuq 4 station? Yes, it is. 5 Α. If you look in the lower right-6 Ο. hand corner, does that date appear to you to be July 19, 7 1994 or can 8 you tell? 9 Α. I really can't tell. 10 Ο. The earlier reports that we've been reviewing, for example, the report on July 11 11th, talks about work assembling angle at 24-inch DIT 12

had begun, and then the July 13 report says, "work 13 extending the 24-inch DI from tee to pump station placing 14 11-degree bend next to the 33-degree bend and working 15 toward the 16 pump station wall footing." When I read that it sounded to 17 me like the 18 pipe was being laid earlier on July 11th, 12th, 13th, connecting the tee joint to the discharge 19 side of the 20 pump station? All I mentioned was that the 21 A. bends were 22 being put on, and that's there at the bottom near the 23 tee. Q. So this reference, then, in the 24 Julv 19 25 report could be a reference to a problem with the 00369 bedding underneath the discharge line on the south side 2 of the pump station? MR. SCANLAN: Object to the form 3 of the 4 question. MR. FLOYD: Yeah. It's already 5 been asked 6 and answered. He says he doesn't know. 7 A. They were working on both pipes at the same 8 time. 9 ο. If Exhibit 141 is a photograph taken on July 10 19 -- just assume that it was -- would that mean that the work being described in the July 19 11 report must 12 have been on the north section? 13 MR. SCANLAN: Object to the form of the 14 question. Calls for speculation.

15 MR. NICOLL: Terry, I respect the fact that 16 you're here in the dep, and I don't have any problem 17 with that, but you're not really representing a party 18 here, and that would really be a party's objection. 19 MR. SCANLAN: Well, I'm going to make mv 20 record. 21 MR. FLOYD: I'll make the objection. 22 MR. NICOLL: You kick Francis and he'll say. 23 MR. FLOYD: No, I think he can handle it 24 himself, 20 MR. VERWOLF: Actually, Mr. Nicoll żε 00370 1 correct. Mr. Scanlan does not represent a party in the 2 litigation. He represents the witness to protect 3 privilege. 4 MR. NICOLL: I have no problem with that 5 part of it. MR. SCANLAN: I'll make a record 6 as long as I go along, and if later you guys want to do 7 what you 8 want to do, that's fine. 9 THE VIDEOGRAPHER: You're getting a little 10 bit in the picture. I need to make sure that you guys 11 aren't too close together. 12 MR. NICOLL: I'll state the question again. Q. If this photograph, Exhibit 141, 13 was taken 14 on July 19, would that have to mean that the work 15 described in the July 19th report regarding assembly of

16 the 24-inch ductile iron was begun without bedding, 17 would that have to mean that that report was referring to the ductile iron pipe connecting the 18 north side to 19 the 60-inch line from the --20 MR. FLOYD: Object to the form of the 21 guestion. It's compound and confusing. Go ahead and 22 answer. MR. SCANLAN: And I'm going to 23 make the same objection. 24 A. From what I'm seeing, the picture 25 havinq 00371 been taken 6-22 with assembly in one place, that when I'm referring to beginning of assembly of the 24-inch 3 ductile iron, it must be the north. Q. Don't be misled by the 6-22 4 that's 5 handwritten down there. That's the date when the 6 picture was put into evidence. You'll see that that's 7 6-22-00. 8 Α. That's correct. Ο. You testified earlier that you C, couldn't read 10 the faint red date --11 Α. That's correct. 12 -- in the lower right-hand corner Q. that's 13 actually on the photograph, and I'm just -vou know, maybe someday we'll get a better copy 14 of that photograph and we'll be able to read the date 15 better, 16 and if the date says July 19, right, if the date on the photograph is July 19, if the photograph was 17 taken on

18 July 19 by you, would that not -- wouldn't that mean 19 that the work described in the July 19 report must have 20 been going on on the north side? MR. FLOYD: I'm going to object 21 again to the form. It's compound and it's getting 22 argumentative 23 because the witness has previously testified that he 24 used different cameras and the dates did not always 25 coincide. 00372 MR. NICOLL: Now you're 1 coaching the 2 witness. It's not necessary. MR. FLOYD: No. I'm objecting and 3 making a 4 record. Go ahead and answer. MR. SCANLAN: I'm going to note an 5 objection 6 just that it calls for speculation. 7 A. My guess is I'm referring to the north side. MR. FLOYD: And I'll move to 8 strike. 9 Calling for -- he said he guessed. Speculation. 10 Q. Don't want you to guess. And I know that 11 because I'm asking you to assume a fact sort of 12 inherently calls for that, but I still don't want you to guess. What I want you to do is to 13 assume that the 14 photograph, Exhibit 141, was taken on July 19. If that 15 was true, if that photograph was actually taken by you 16 on July 19, would it then mean that the work described 17 with respect to the 24-inch ductile iron pipe in your 18 report of July 19 must have been on the

north side, the 19 suction line, or whatever you want to call it? 20 MR. SCANLAN: Same objection. MR. FLOYD: Same objections. 21 22 Yes. Α. Let's move on to the July 20th 23 Q. report. Do 24 you have that in front of you? 25 A. Yes. 00373 Q. You wrote this report? 1 MR. WOLFE: What's the number of 2 the report? MR. NICOLL: It's numbered 105. 3 A. I did write it. 4 And you signed it? ç. . <u>5</u> Yes. 6 Α. It refers to two Triad 7 Ç. electricians being on 8 site and two Norton people, right? <u>C</u> A. Yes. Norton was Norton Corrosion; is 10 Q. that right? - - -I believe so. Α. Now, the reference that I wanted 12ç. to talk 13 about here is -- look at the middle. It says, "The 24-inch DI" -- ductile iron -- "south of 14 pump station is being backfilled for fitting of first 15 wall panel." Do you see that? 16 17 Α. Yes. 18 Ο. And then it talks about "Densities of sub grade will be taken before steel placement. 19 Densities 20 on sub grade attain 99 percent and are acceptable." Is 21 that right? 22 A. Yes. Q. Now, that's of course referring 23 to the 24 connection between the tee joint and the discharge side

25 of the pump station? 00374 Α. Yes. 1 Now, the next paragraph cures the 2 Q. problem, 3 and I apologize. It says, "Now the bedding is now in place for the 24-inch DI north of pump 4 station." So that clarifies the earlier problem, and I 5 apologize for 6 taking us through that. So now we know that the day 7 before, July 19, was actually in fact talking about 8 bedding problems on the north of the pump station, 9 right? Α. 10 Yes. 11 And just as with the line on the Q. discharge 12 side, the line on the other side, the north side, was 13 going to be plastic wrapped? 14 A. Yes. 15 Look at the report for July 21, Q. please. 16 You'll notice that this is another report made by you. 17 It's report No. 106? 18 A. Yes. 19 **0**. Signed by you? 20 Α. Yes. 21 ç. This report refers to, at the bottor. "concerns about space for soda ash supply 22 caused me to request any further progress be terminated 23 as it may interfere with soda ash activities." Do you 24 see that? 25 A. Yes, sir. 00375 Q. Did that decision on your part 1 cause any 2 conflict between yourself, Barrett and Imco? 3 A. Not that I recall.

Q. It goes on and says, "pour 4 started on roof 5 approximately 12-30." That would be pouring concrete 6 on the roof of the pump station? 7 A. Yes. "First placement in MH." What 8 Q. does MH mean? A. Manhole.
Q. "And footing for retaining wall 9 10 has no 11 fibers in concrete." 12 Α. Right. 13 Q. What does -- what are you referring to, "no 14 fibers in concrete"? What does that mean? 15 A. The fibers that were placed in the concrete 10 that was supposed to be part of the roof construction, 17 plastic fibers are installed, and it aids in tension 16 for the concrete itself. You wouldn't have needed them 19 for channeling a manhole or other items that they had 20 done before. So they would do that first. 21 Q. So because there was no fibers in the 22 concrete you used the concrete for something other than 23 the roof? 24 A. Prior to, yes. 25 Q. Prior to the roof. And then it says, "Once 00376 1 these are poured remainder of truckload rejected as 2 it's past time." Did you make the decision to reject 3 the truckload? 4 A. I don't recall. Could have been myself or 5 Anville. 6 Why was it past time, if you Q. remember? A. I don't remember. 7

8 Q. Then it says, "With appropriate mix the roof 9 took until 4 p.m. and the cleanup load of four" -- is 10 that "cubic yards" --11 A. Yes. 12 0. -- "delivered at 4:30 p.m. for 31 cubic 13 yards total in roof area. A swale was established near 14 vent on the north side to keep water flow east to curb. The top will be brush-finished and burlap-15 saturated and 16 will be placed with a soaker hose at high end for 17 cure." Did I read all that correctly? 18 Yes. Α. 19 Q. Do you recall if there was any excess 20 concrete material? 21 A. No, I don't. 22 Sc naturally it would follow you Q. wouldn't 23 know if there was what was done with it? A. That's right. 24 25 I wanted to pop back for a moment Q. to a 00377 1 report on July 19. 2 MR. FLOYD: On July 19? 3 MR. NICOLL: Yeah, report No. 104. Q. There's a reference in the last 4 paragraph 5 that says, "Plumber, Greg Burris, Bill Evans and I 6 determined location of process piping from garage vault 7 to flume. Some pipe will not have 2-inch TYP spacing 8 as indicated in plans." Is plumber a person or a 9 position? 10 Α. A position. 11 Q. Do you remember who the person was? 12 A. No, I don't.

13 O. Greg Burris, we know. Bill Evans, that's 14 the supervisor at the water treatment facility? 15 Α. Yes. 16 Did you note in your inspection Q. reports 17 every time that Bill Evans came down to the construction site? 18 Α. 19 No. Q. All right. Now, 7-25-94, report 20 No. 107. 21 This is your report. You wrote it, you signed it? 22 Α. Yes. Again, it refers to 23 Q. subcontractors, in this case Triad, two electricians, right? 24 25 A. Yes. 06378 Q. Action Concrete cutting one and 1 two laborers 2 from Norton Corrosion, is that right? 3 A. Yes. <u>ू</u>. The third paragraph reads, "The 4 second layer 5 of plastic to be placed around 24-inch suction line to pump station will receive wrapping that's 6 been cut for ease of application, John hatch approved the 7 method of 8 sealant." Now, I know that earlier in the 9 deposition we had some confusion about which side was 10 the suction and which side was the discharge. As you sit 11 here today, do you know, is this reference, 24-12 inch suction, 13 a reference to the pipe that connected the 60-inch line 14 to the north side of the pump station? 15 MR. FLOYD: Did you say 60 or 16? 16 MR. NICOLL: 60, six zero. 17 A. I don't know.

18 Q. Skip down to the last paragraph on this page, and it says, "Backfilling area near 19 24-inch tee and retaining wall footings. Forms being 20 constructed for first wall pattern and dowels being 21 epoxy placed into southwest pump station corner. Once 22 backfill is approximately two feet above pipe hand 23 compacting ended 24 and hoe pack used plus 96 percent densities were 25 obtained by hand compaction." 00379 1 Sc if I could have the photograph book. If we look at the -- at photograph 145, you can 2 hold up 3 145 for the camera. MR. FLOYD: Exhibit or photograph 4 number? 3 MR. NICOLL: It's Exhibit 145. 6 Hold it up just again for a Ç. second. 7 Α. (Indicating). 8 ç. In the lower left-hand corner of the photograph you can see that some of the pipe 9 there is 10 covered with earth. Do you see that? 11 **7** Yes. 12 MR. SCANLAN: You mean right here 13 (indicating)? 14 MR. NICOLL: Yes. 15 Q. And in the lower right-hand corner of the 16 photograph I think the date is pretty clearly there, Julv 25th? 17 18 Α. Yes. 19 Q. Now, look at -- and of course that 20 photograph shows the south side of the pump station; 21 is that correct?

22 A. Yes. 23 O. Do you recognize the laborer in the 24 photograph? Do you know who that is? A. No, I don't. I do recognize him, 25 but I 00380 1 don't know who he is. Do you recall who he worked for? 2 Ο. 3 No. Α. Why don't you flip to the earlier 4 0. photograph, I think it's 144, and hold that 5 one up. A. (Indicating). 6 Q. That's also a photograph of the 7 south side 8 of the pump station; is that right? 9 Α. Yes, it is. 10 Q. And it shows how the pipe wrapped in plastic 11 runs down to the tee joint? 12 Α. Yes. 13 Now, the date on Exhibit 144 is ç. not as clear 14 as the date on Exhibit 145 was, but nonetheless, based 15 on a comparison of the two photographs, can you tell us whether it appears they were both taken on 16 the same day? 17 18 No. I can't tell whether they're F. . taken on the same day, but 144 was taken before 145. 19 Q. And how do you know that? 20 A. Because 144 shows the footing 21 forms in 22 place, and 145 shows the footing have been poured. 23 And that's -- and the forms were Q. constructed 24 on the 25th, according to the July 25th report, 25 inspection report; is that right? 00381 1 Α. Yes. Q. So if we look at the July 26th 2

inspection report, No. 108, prepared and signed by 3 you, right? 4 Α. Yes. 5 There's a note in the middle of Q. the page that says, "Norton Corrosion personnel are 6 continuing to drill annode beds near filter storage 7 pipe." What 8 were they using to drill these annode beds? A. Well, they started out with an 9 auger. Q. Can you describe the auger for 10 us? A. From my recollection it was about 11 a one-fost 12 diameter auger, maybe a foot and a half, had flights of 13 about six foct in length and it was part of a drill · 14 assembly. 1 5 And is it listed on any of the Ο. equipment on report No. 108 of July 26, '94? 16 No, it's not. 17 Α. Would you normally list 18 Q. subcontractor 19 equipment? 20 Α. Normally, yes. Where was the filter storage pipe 21 Q. located on 22 the job site? 23 The filter storage pipe was along Α. a corridor 24 of Whatcom Creek. There was a driving corridor that 25 went down to the waste site and out into the streets 00382 itself. It was north and west of the pump 1 station. Q. So it was away from -- some 2 distance away from the tee joint intersection with the 3 16-inch line

and the 24-inch line? 4 Yes. It was on the other side 5 Α. of the pump 6 station, easily. Q. Easily on the other side of the 7 qmuq 8 station? A. Yes. Roughly in the same area 9 as the gap 10 manhole, air gap. Q. Now, it says, as you read on, it 11 . says, "Layout for the four annodes to be connected 12 to 24-inch 13 suction line to pump station." That would be on the north side, right? 14 Yes. 15 Α. "They're ten feet from oil Q. 16 pipeline and 30 feet from closest 24-inch pipe in front of 17 button floor 18 of pump station (sic)." MR. FLOYD: Bottom floor. 19 20 MR. NICOLL: I'm sorry, bottom floor. Q. Bottom floor of pump station. 21 Did I 22 eventually get that right? Yes. 23 A. Because they were ten feet from 24 Ο. the 25 pipeline, did you feel it was unnecessary to call or 06383 1 ask for the pipeline representatives to be present 2 during that drilling? 3 A. I had nothing to do with it. That was Greg 4 Burris's decision to call him. So Norton was a subcontractor of 5 0. Imco? A. Yes. 6 And it was entirely up to Imco 7 Q. to decide 8 when and whether it was appropriate for

Olympic people 9 to be out there. Is that what you're saving? MR. FLOYD: Object to the form of 10 the 11 question. Lack of foundation. Calls for speculation. Q. As far as you know. 12 What was the question again? 13 Α. As between yourselves and, Imco 14 Q. you're telling me that it was Imco's responsibility 15 to decide when and whether to call out Olympic Pipe 16 Line to be 17 present during work of this sort, the drilling, the 18 work that was being done by Norton Corrosion? A. Yes. 19 Look at the report of July 20 Ο. 27th. Again, this is report No. 109 prepared by you and 21 signed by 22 you; is that right? 23 A. Yes. 24 Q. There's a reference here to Norton having 25 two people on site and Harbor Mechanical having two 00384 1 people on site. I guess the Harbor Mechanical people would be Rodney Staples and whoever that 2 other person 3 was who was assisting him? 4 A. Yes. At the top it says, "Carpenters 5 Q. working on 6 preparing forms to pour the lower wall panel next to 7 south pump station wall placing spreaders into treemies 8 to pour grout and concrete beginning at one p.m." Could you look back at the photograph that 9 was Exhibit

10 -- I think it's 144, the one that had the form poured? 11 MR. SCANLAN: 145. 12 145. 0. 13 I was looking for a wallboard. Α. They're all 14 the same pictures. Is the work that is shown as 15 Q. having been completed on Exhibit 145 different from the 16 work that I just described, read from your report dated 17 July 27th? A. Well, the 27th date, July 27 18 report is 19 referring to the wall itself. The footing is what was 20 poured and shown in the picture. The same wall and focting one versus the other. 21 22 0. Right. In the middle there's a reference, 23 savs "laborer for Imco" is waiting the second level of 24 pump station walls -- I'm sorry -- "is coating the 25 second level of pump station walls with first coat of 00385 1 coal tar. About eight gallons used." What is this 2 coal tar material? 3 A. Coal tar is a material that is applied to 4 the outside of a concrete wall that's going to be 5 buried in dirt to keep moisture from passing through. Q. Do you recall what the brand was 6 of this 7 coal tar manufacturer? 8 A. No. 9 Q. Was it a common brand, one that you were 10 familiar with? 11 A. Well, I wouldn't have paid any attention to

12 it. Typically I would have looked at it for its material acceptability, but that would have 13 been it, and I don't recall. 14 Do you recall where Imco stored 15 Q. this stuff? 16 Α. No. Welding and shields -- looking ' 17 0. down on the same exhibit, report 109. "Welding and 18 shields completed on 24-inch suction line and blind 19 flange 20 placed between" -- is that OI or DI? 21 F., DI. 22 -- "DI and steel pipe for testing Q. 24-inch 23 DI. Again, this is on the north side of the qmuq 24 station, the suction line; is that right? 25 A. Yes. 00386 Q. And am I correct in assuming here 1 that the 2 backfill of the 24-inch and placement of access ramp referred to thereafter all relates to the 3 suction line 4 on the north side of the pump station? 5 A. Yes. 6 Q. By this time, by July 27th, was the 7 backfilling of the discharge line on the south side 8 completed? 9 A. I don't know for sure. 10 Q. Look at July 28th, report No. 110 or 11 numbered 110. 12 Α. Did you say 110? 110, dated July 28, '94. Looking 13 ç. at report 14 No. 110, you prepared it, you signed it? 15 Α. Yes.  $1\epsilon$ Q. And at the very top of the narrative it

reads, "Norton personnel completing annode 17 bed placement in front of pump station, lower 18 area 20 feet 19 to 30 feet from door, six feet deep. This allows the 20 24-inch suction line to be wrapped a second time and 21 backfilled prior to pressure test." 22 Where was this annode bed placement taking place with respect -- in relation to the 23 location of 24 the tee joint assembly? 25 The tee joint assembly is to the Α. south and 00327 west of the pump station. The annode beds 1 were installed to the north and west. 2 3 C. Can you give us an idea of how many feet away from the tee joint assembly the annode 4 beds were? F A. Probably 80 feet. Now, there's a reference here to Q. 6 a pressure 7 test. What was the pressure test going to be? A. Of the ductile iron pipe to 8 validate its 9 leak proof capabilities. Q. Would that be the ductile iron 10 pipe on the 11 north side only or the south side as well? 12 North side. А. 13 North side only. The north side Q. only was 14 the ductile iron or was there south? 15 A. Both of them had ductile iron. 16 I'd like to just take a look at a Q. couple of 17 photographs here that are of some interest. Would you 18 take a look at and compare Exhibits 142 and 146? These 19 are on two photographs. First hold up on

142. Α. (Indicating). 20 Exhibit 142 is a photograph, is it 21 0. not, of 22 the installed tee joint connected to the 24inch 23 discharge line with the wrap, with the plastic wrap 24 around it? 25 A. Yes. 00388 Now, you'll notice that in the Ο. 1 foreground, between the end of the earthen wall and the 2 beginning of the tee joint, there's no concrete, 3 right? A. Yes. 4 5 Ç. I'm correct? You're referring to the lean Æ. E concrete 7 surface or face? O. No. Why don't you hold it up 8 again and I'll 9 help you out there. Do you see at the bottom where the 10 shims are, the wood? 11 Yes. Α. And do you see where the valve Q. 12 stem is? 13 Α. Yes. 14 Could you hold that up and point Ç. to the 35 valve stem for us. (Indicating). 16 Α. There's actually two valve stems 17 Q. there, 18 aren't there? Yes, there is. 19 Α. There's one where your finger is 20 Q. pointing and then there's one right up above that on 21 the other 22 side of the pipe? 23 Yes. Α. Now, I mean to the bottom of the 24 Q. photograph

25 from there. Between the bottom of the photograph and 00389 -1 the tee joint there's no concrete; is that correct? 2 A. Well, there's some shims in there, yes, 3 that's what you see, and open air space or light. Now look at the other Q. 4 photograph that I 5 asked you to --Α. 6 145. 146. Do you see 146, could you 7 Q. hold that up 8 for us? A. (Indicating). Q. Can you see that? Now, 146 is a 9 10 Q. photograph -11 that has a date stamp in the lower right-hand corner. 12 Can you read the date stamp? 13 A. 7-21-94. - 14 Q. And what does it show? It shows a form in a V shape with 15 *L*. concrete 16 filled inside it. Q. And where is that form with 17 concrete filled 18 inside it in relation to the tee joint and the 24-inch. 19 discharge? It's opposing the 24-inch on the 20 A. 21 opposite side resisting movement. Is this what would be called a 22 ο. thrust block? 23 Α. Yes. So that shows that the thrust block 24 0. was 25 poured on about July 21st, '94? 00390 1 A. Yes, yes. 2 Do you recall who poured that? Q. Was that an 3 Imco pour? 4 A. Yes, it would have been. 5 Q. And looking back at July 21st we

```
see -- if
     you go back to the July 21st inspection
 6
report, No. 106
 7 -- are you on 106 there? There are
references to
 8 concrete being poured and MH and footing for
retaining
 9 walls, et cetera, right?
          A. On the roof, yes, and concrete for
 10
the
 11 manhole and footing for retaining walls.
               I mean, I couldn't find a
 12
          0.
reference in the
13 inspection report specifically to pouring for
                    a thrust
    block. Do you recall whether inclusion of
14
the thrust
    block was sort of an added on item, an
 15
additional thing
 16 that was requested?
17
         A. Yes. It was added on and
requested.
         Q. Who requested it?
A. Earth Tech. Earth Tech and --
Q. Barrett?
 18
 19
 20
        A.
    21
    Barrett.
 22
       Q. And
the city?
 23
         A. And
the city.
 24
                Do you recall, did the request
          Q.
                   originate
 25 with the city or with Earth Tech?
00391
               From my recollection it was
  1
          Α.
something that
  2 the city asked for.
               MR. FLOYD: Time for a break?
  3
  4
                MR. NICOLL: Now would be a good
time for a
  5 break.
  6
                THE VIDEOGRAPHER: Going off the
record.
  7 The time is approximately 10:59 a.m.
  8
                (Recess.)
                 THE VIDEOGRAPHER: Back on the
  9
```

record. The time is approximately 11:14 a.m. 10 Q. All right. Mr. Franklin, I have 11 a couple of 12 questions. I wanted to go back to a photograph that we talked about earlier, weeks and weeks ago, 13 which is 14 Exhibit 95. And for everybody's benefit, I'll just 15 hold up what that exhibit is. MR. VERWOLF: Which one? 16 MR. NICOLL: Exhibit 95. And 17 it's a 18 photograph where the date stamp is visible of July 19 18th. Would you take a look at that and 20 Ç. hold it up 21 for the camera? 22 (Indicating). Α. That's a photograph that shows, 23 Ο. again, the wrapped discharge line coming out of the 24 south side of 25 the pump station and ending in the tee joint; is that 00392 1 right? A. Yes.Q. And do you see the date stamp of 2 3 July 18, 4 '94? 5 F. . ïes. MR. NICOLL: I'd like to have 6 this next 7 photograph marked. It's ETPH 0000975. I think it will be Exhibit 254. 8 (Marked Exhibit 254.) 9 MR. NICOLL: It's photograph No. 10 975. It 11 will be Exhibit 254. Way back when I gave you guys a set of photos this would have been in the 12 set. Q. Why don't you hold this up for 13

the camera, Mr. Franklin, and you can haul it down and 14 take a look at it. That's a photograph, you can see a 15 date stamp in the lower right-hand corner of July 25, 16 '94; is that 17 correct? 18 Yes. Α. And that shows the initial stages 19 Q. of 20 backfilling over top of the -- what we know to be the discharge line on the south side of the pump 21 station; 22 is that right? 23 Α. Yes. 24 Ç: There are two black tubes coming up from 25 around the vicinity of where the tee joint would be. 00393 Do you see those two black tubes? 1 Α. Yes. 2 3 Q. Can you tell us what those are? Why don't you show them also at the same time. 4 5 A. (Indicating). Point to them, if you would. Q. 6 7 Α. (Indicating). What are those two black tubes? 8 Ç. A. Those are the ductile iron pipe C, used for 10 accessing the valves through the valve stems. 11 Q. Now, you'll recall we talked about a 12 photograph a few moments ago. I think it was Exhibit 146. No, it's 143. 142. Why don't you 13 hold up 142. 14 Point again at the valve stems. 15 Α. (Indicating). 16 Ο. The two valve stems right there? 17 There and there (indicating). Α. 18 Is that where those ductile iron Q. tubes would

19 have connected? They go down and fit over top of those 20 two valve stems you just showed us in Exhibit 142? 21 Α. Yes. 22 Q. And would those also be referred to 23 sometimes as risers? 24 A. Yes. The pipe would be. 25 Ο. Pipe would be referred to as a riser and 00394 1 that's for access to the valve stem? 2 Yes, correct. Α. Q. How do you turn the valves on the 3 -- on that 4 tee joint, once the earth is in place? 5 A. Inside the pipe is a retainer rod that sets  $\epsilon$  down on top, and it comes up to within a couple of 7 inches of the top where it's cast into a concrete 6 piece. And then there's another hexagonal shape or 9 square shape tool that you would actually connect onto, 10 and that would drive down to the valve stem and turn 11 it. So inside these risers are another piece of metal 12 that you'd use to actually make the connection. 13 Q. And that piece of metal would fit over top 14 of the hexagonal shape, the nut on the top of the valve 15 itself? 16 Α. Yes. 17 Q. And then those, the tops of the risers, are 18 those -- were those visible above grade after the 19 compacting was completed? 20 A. Yes. The concrete pad would be poured on --21 around the top of the pipe, and that would

allow you to 22 be able to find it and have a stable environment for 23 the valve cover. 24 Q. That was done sometime later, the pouring of 25 that concrete pipe? 00395 A. Right. After you completed the 1 fill of the 2 roadway. The fill of the what? 3 Ο. The fill of the road above the 4 Α. pipe. 5 Q. And approximately when was that all 6 completed? 7 Late summer, early fall. Α. Ç. September time frame? C, September-ish. A. Let's move on or march through 10 Q. these 11 reports. I think we're now on the report for August 12 3rd, which actually you reach by going backwards. 13 Α. Here we are. 14 ç. Now, the report on August 3rd is numbered 15 114; is that correct? 16 A. Yes. 17 Q. You wrote it and you signed it?
A. Yes. 16 A. 19 Ο. It refers back to a report of August 1, and 20 then the report of August 1 also refers back to -- the report of August 1 lists as subcontractors 21 and 22 equipment on the job site. Take a quick look back and 23 confirm that. Yes, it does. 24 Α. The first paragraph of the 25 Q. narrative for 00396 1 report numbered 114 reads, striping. Is

that right, 2 striping forms? 3 Α. Stripping forms. "Stripping forms" --4 Ο. So that should be S T R I P P I 5 N G? Could be. 6 Α. -- "forms inside pump station 7 Ο. completed and removal of wall forms as well. Pressure in 8 24-inch DI suction line up to 92 PSI and John Hatch 9 approved test at that PSI, not 100 PSI as required. The 10 system had 11 92 PS before I saw it so gauge was taken from system 12 to zero, then twisted back on and read 92 PSI. 13 Will check PSI in a.m. to validate no leaks." One 14 guarter hour allowed? 15 A. One quart. 16 Q. "One quart per hour allowed." Now, to be clear, are you referring to the 24-inch 17 ductile iron 18 line to the north of the pump station? 19 A. Yes. So not the discharge line? 20 Q. Α. 21 No. 22 Was the discharge line pressure Q. tested? 23 Α. I don't recall. 24 The paragraph -- I'm sorry. The Q. report goes 25 on into the next paragraph and says, "I arrived on site 00397 1 at approximately noon and found that bedding densities 2 for Hannah Creek crossing pipe were tested in the 3 morning and backfill began." Was it unusual for you to 4 arrive at the work site at noon? 5 A. Yes.

0. And if you did arrive late at the 6 work site 7 for some reason, you'd always reflect that or report 8 it? 9 I would try to. Α. Q. That paragraph goes on after the 10 sentence 11 that I just read and says, "I found the center of east and center pipes filled to near top and 12 nothing west of 13 center. The round pipe was out of alignment by 14 approximately four inches. I asked Greg to halt use of ram hoe in pipe vicinity and backfill full 15 length both 16 sides of all pipe." This work was being done away from 17 the area 18 of the discharge line; is that right? A. Well, I need to get a little 19 background into 20 what I am referring to. From what I'm rememberina, I 21 believe this is the area along Hannah Creek -- or not 22 Hannah Creek but Whatcom Creek. It would be the large 23 diameter pipe near the outwash system. It would be 24 away from pump station. 25 Q. And so the alignment or the outof-alignment 00398 1 problem was in a different section of pipe? 2 Yes. In the area where it was Α. going to be connecting onto the existing water system 3 itself. 4 Q. Then the next paragraph starts with, 5 "Excavation for air gap manhole foundation and 6 placement of steel for support wall." That is all work

that was occurring to the north side of the 7 pump 8 station; is that right? 9 Α. Yes. Now, there's a reference at the 10 Ο. bottom which says, "Triad mobilizing to site today." And 11 then there's a reference at the top that says, 12 13 "Subcontractors Triad three people in afternoon." Could you explain what you meant by that, as 14 best you 15 can recall, what was happening? During the project at times there 16 Α. would be work that was available to the electricians. 17 Other 15 times there would be nothing for them to do because the 19 work that they need to do was in the same vicinity as 20 what work Imco needed to do. So off and on they'd be 21 on the site or be gone for up to a week or two at a 22 time. Q. So they were -- when you say 23 mobilizing to 24 the site they were bringing their equipment on and getting ready to do some work? 25 00399 1 Æ. Yes. 2 Switch to August 4th. This is ç. report 3 numbered 115 and you prepared it and you signed it? Is 4 that all right? 5 Α. Yes. Ο. It's a two-page report --6 7 Α. Yes. 8 Q. -- but I'm mainly interested in the first paragraph which reads, "The pressure test 9 of 24-inch 10 ductile iron suction line for pump station

lost only 11 one and a half PSI overnight. The line was accepted regarding leak test. The refilling effort 12 was unsuccessful as apparatus lost much water 13 during pump up and only 60 feet pressurized. Other 14 water lines with higher loading will require correct 15 equipment and 16 procedures. There was much air in the pipe. This may 17 have prohibited adequate measurement of water loss 18 over" -- is that "16 hours"? 19 Α. Yes. Is the system that was pressure 20 Q. tested and 21 leak tested referred to here, does that also include 22 the discharge side of the pump station? A. No. It would only be the 23 suction line. 24 That was the only line that was tested with a blind 25 flange. 00400 Q. At that time the pumps and things 1 weren't 2 hooked up so that it was a complete system? 3 Α. Right. You had the blind flange on the -4 с. - cr 5 suction, I guess, on the inlet side of the pump station so you could test that entire system for 6 pressure? 7 A. Yes. 8 Did you also have at that time a Q. blind flange -- why would you have, but a blind 9 flange on the 10 discharge side of the pump station? 11 No, we wouldn't have. Α. 12 Ο. Instead what was happening, if I understand

13 correctly, is that the valve connecting the 24-inch 14 line at the tee joint was closed to allow water to flow 15 through the 16-inch main; is that right? 16 Α. Yes. In order to do the pressure 17 Ο. testing for the 24-inch suction line on the north side of 18 the pump station, would it have been necessary to 19 close the 20 water main at the tee joint? On the north side? 21 Α. 22 Yeah. Ο. There's no tee joint on the north 23 Α. side. 24 No, nc. I mean, would it have Ç. bean 25 necessary to shut the water off from flowing through 00401 1 the 16-inch water main in order to test -in order to 2 pressure test the system on the north side of the pump 3 station? A. No. 4 They're not connected? They're not connected. 5 С. 6 Æ. There's a reference, then, in ç. the next paragraph that says, "Electrical work - 8 inside the pump station was planned by Triad." Did you 9 meet with the 10 Triad people at that time? 11 No, not normally I wouldn't. Α. 12 Ο. Did you know that -- in the most general 13 sense, did you recognize, identify the Triad people? 14 Α. Yes. 15 Do you recall sitting here who Q. they were? 16 A. No. 17 Q. Had you worked with them before?

A. No, I hadn't. Q. After the 4th, go to August 8th -18 19 - I note, by the way, that there's a report from 20 August 5, report numbered 116 which says that there was no 21 activity on 22 the site on that day because the contractor was working 23 four 10-hour shifts; is that correct? Α. Yes, he was. 24 25 Ο. And on August 8 you prepared a report 00402 1 numbered 117 and you signed it; is that right? 2 A. Yes. 3 Q. And that's the report that you're looking at 4 in Exhibit 64? 5 Α. Yes. 6 Ç. On this day there was a -the following equipment at the site. It was a Hitachi 7 ES 150 8 backhoe, right? 9 A. Yes. Q. Was that the larger of the 10 backhoes? 11 A. I believe so. 12 Q. There's a JD 792 with hoe pack, a Cat 950 13 loader, a Hyster forklift, a JD -- that's John Deere, I 14 guess -- 410 B backhoe and an air compressor? 15 Α. Yes. 16 Q. Third paragraph says, "Work began on 17 interior of pump station grinding and sacking the exposed concrete surfaces." Could you 18 just quickly 19 explain what that means? 20 A. Removing the debris that was left after the 21 concrete was poured from the forms. You'd

have lips of concrete that would be ground off and tie 22 holes filled 23 in so that you'd have a smooth surface. 24 Q. The next paragraph reads, "Triad personnel 25 preparing to place the next section of PVC electrical 00403 ducts from existing CDF ducts to pump 1 station." Where was that work taking place in the pump 2 station, as you 3 recall? A. Well, actually it was outside the 4 gmug 5 station, between the pump station and the garage of the 6 filter plant. 7 Q. So on the east side of the pump station? A. Yes.Q. The next paragraph says, "Norton 8 9 Corrosion 10 personnel on site this p.m. welding connections to 60 11 and 72-inch pipes and beginning annode bed along reservoir north of pipe. Excavation is 12 encountering 13 hard rock." I want to be sure the excavation referreà 14 to here is the excavation in connection with beginning the annode bed along the reservoir north of 15 the pipe? 16 A. Yes. 17 Q. Let's skip to report dated August 9, report 18 No. 118, prepared and signed by you; is that correct? 19 Α. Yes. 20 Q. Now, this report, which is part of Exhibit 21 64, with respect to equipment tells us to refer back to 22 8-18-1994 IDR?

A. 8-8. 23 24 Q. Do you see that? 25 A. It says, "see 8-8 IDR." 00404 Q. IDR means what? A. Independent 1 2 daily report. Inspection 3 Q. daily report? Which would have -- 8-8 is the Α. 4 one before 5 it, 117. Q. So the same equipment as on 6 August 8th was 7 there on August 9th? A. Yes. 8 Now, at the top it says, "Imco 9 Ο. backhoe 10 backfilling the four-inch DI and two-anda-half-inch PVC placed in between the 60 and 72-inch 11 pipes along 12 access to reservoir." In relation to the tee joint, is 13 that to the north or to the south or is it more to the 14 west? A. What was the question again? 15 Q. In relation to the tee joint, is 16 the 17 location of this backhoe backfilling to the north or to 18 the south? 19 A. It's to the west, actually. 20 Q. It then goes on and says, "I asked the wrapping be folded properly and gave Greg 21 specifications on plastic wrapping of ductile 22 iron pipe. I asked he obtain AWWA procedures." 23 What does 24 AWWA stand for? A. American Waterworks Association. 25 00405 Q. And had there been any problem in 1

how Imco 2 was wrapping ductile iron pipe up to that point? A. No, there hadn't. But this is a 3 smaller 4 pipe and I assume different material being used. 5 Q. At the bottom, it says, "Triad is continuing assembly of PVC electrical conduit mating 6 with pump station penetrations. By Friday sacking and 7 grinding 8 pump stations should be done." This refers back to the 9 same work you were talking about on the east side of 10 the pump station outside near the roof? 11 Α. Yes. 12 Ο. And the sacking and grinding is basically 13 smoothing out the interior concrete walls? 14 Α. Yes, 15 Ο. Then the next line says, "Excavation this 16 p.m. to correct valve for 60-inch pipe pumpout. The 17 valve would not open due to slanting valve box sleeve. 18 Both pipe" -- and I lose the ability to read this. I 19 think it says "needs" but I can't --20 *E.* That's correct, it does. 2 ç. "Both pipe needs this." What pipes? 22 Α. The two pipes that we had seen earlier, the 23 ones that are shown in this black -- the two pipes that 24 go up vertically. Q. Could you point those out in 25 Exhibit 254? 00406 1 Α. (Indicating). 2 ç. Those are those ductile iron risers to the 3 valve stems on the 24-inch -- I'm sorry --

on the tee 4 joint to the 24-inch and 16-inch lines? 5 A. Yes. 6 MR. FLOYD: Is he talking about the same 7 valve in that exhibit or is he giving that as an 8 illustration? 9 THE WITNESS: I was talking about the same 10 valves. 11 Q. What was the -- what was the problem with, 12 if you know, with those valves, those valve stems? 13 A. From what I remember the stems did not stay 14 in absolute alignment. They were allowed to move one 15 way or another during the compaction process, and they 16 didn't put the extension in for the valve connection at 17 that time, because it wasn't appropriate as far as they 18 were concerned, and as a result the stems came out of 19 alignment. They weren't able to do that. So they had 20 to go back and take it out. 21 Q. And the "they" that you're referring to, is 22 that Imcc? 23 A. Yes. Q. Now, it says the bottom section 24 of -- well, 25 the rest of this report refers to other things, PVC, 00407 1 utility conduit, the soda ash bin and other things. Do 2 you see that on the next page? These other things are 3 not --4 A. Yes. 5 Q. These things are not related to the tee

joint or the 24-inch discharge line? 6 7 Α. No. 8 MR. NICOLL: Could you show the witness Exhibit 252. 9 10 MR. VERWOLF: Sorry, Chris, was the last report No. 118? 11 12 MR. NICOLL: It was. I have been going through some of 13 Q. these 14 documents and trying to understand them in the context of what we're doing, and so one of the ones 15 that I 16 pulled out, Mr. Franklin, is Exhibit 252, which is Bates numbered IMC 0000639 through 643. 17 Do you see 18 that? 19 Α. Yes. That appears to be a letter dated 20 0. August 8, 1994 to Paul Krakenberg of Imco from John 21 Hatch of 22 Barrett Consulting Group copying Huang Wan of the city of Bellingham and yourself? 23 24 Α. Yes. 25 Ο. Now, do you recall generally this letter or 00408 this issue? 1 2 Α. No, I don't. Taking a look at the letter, this 3 Q. seems to have something to do with lining the pump 4 station suction and discharge headers, and I wanted 5 to ask you a question about that. Where are the 6 suction and discharge headers? Are they in the pump 7 station itself internally? 8 9 Yes. Α. So this doesn't have to do with 10 Q.

the piping going out of the pump station -- lining of 11 the piping going out of the pump station and going 12 underground? No, it doesn't. 13 Α. And the issue raised in the letter 14 Ο. August 8, 1994, Exhibit 252, would not have 15 necessitated any 16 excavation? 17 Α. No. So correcting the problem wouldn't 18 Ο. have required anybody to dig anything? 19 20 Α. No. Let's look at August 10, 1994. 21 Ο. This is a report numbered 119 prepared and signed by 22 you; is that 23 correct? 24 Yes. Α. This report lists equipment on the 25 Q. job site 00409 as JD 792 hoe ram, Hitachi EX 150 backhoe, 1 JD, John Deere, 410 B backhoe, Cat 950 loader, two 2 Hyster forklifts and an air compressor? 3 Α. Yes. 4 5 0. It also shows that there was two Triad people and two Norton people as 6 subcontractors on site? 7 Yes. Α. 8 And there was one operator, one Q. equipment operator, from Imco? 9 10 Α. Yes. And six laborers? 11 Q. 12 Yes. Α. 13 You also circled the day of the Q. week I noticed, this being a Wednesday? 14 I did. 15 Α. Imco personnel, looking at the 16 Q.

narrative, it 17 reads, "Imco personnel continuing installation of four-18 inch and will make connection to 16-inch water line. Chlorine powder has been added to line and 19 the valve 20 will be open to fill four-inch for bacteria testing and 21 closed for pressure test." Where was the four-inch 22 connected to the 16-inch water line? 23 I don't remember. Α. Do you recall generally if it was 24 Q. -- was it to the north of the tee joint? 25 00410 1 Α. I'm sorry. 2 Q. Then there was some work over in the vicinity of that annode bed which was, as 3 you said, 80 feet to the north --4 5 Α. To the north, yes. 6 -- of the tee joint. And then Q. there was some work moving rock at the annode bed 7 in that same 8 location, right? 9 Yes. Α. 10 Q. It says here "the work taking most of the day," right? 11 12 Α. Yes. 13 Q. Would the Imco -- was the Imco backhoe operator, the equipment operator, the 14 person who was doing that work, pulling the rock out? 15 16 Α. Yes. And then "The Imco labor 17 Ο. personnel were grinding and sacking the pump station in 18 the upper 19 level." Do you see at the middle of the page? 20 Α. Yes.

21 And the Imco laborer was also Q. working on the 22 soda ash bins? 23 Α. Yes. 24 Which would also be in the upper Q. level of 25 the --00411 No, that's in the plant. 1 Α. 2 Back in the plant. That's Ο. right. The next paragraph reads that "CDF was placed around 3 the electrical duct work to the pump station 4 this p.m." Who would have poured the CDF or shoveled 5 it or 6 whatever? It would have been either Imco 7 Α. or Triad. Could have been Triad people. 8 Q. And that's in the vicinity of 9 that work on the east side? 10 11 Α. Yes. 12 Of that pump station again? Q. 13 Α. Yes. 14 Ο. Now, let's look at the report from Auqust 15 11, '94. The report on August 11, '94 is numbered 120, and was prepared and signed by you; is that 16 correct? 17 Α. Yes. Again, there was one operator and 18 Ο. five 19 laborers? 20 Α. Yes. Not again. On the previous day there had 21 Q. been six 22 laborers? 23 Α. Right. The equipment in use on August 24 Q. 11th was the same equipment that was in use on August 25 10th, 00412

according to your report; is that correct? 1 2 Α. Yes. 3 0. And that would have included the Hitachi backhoe? 4 5 Α. Yes. As well as the John Deere 6 Ο. backhoe? 7 Α. Yes. 8 The subcontractors on site were Ο. two Triad 9 electricians. Do you recall who they were? 10 Α. No. 11 Q. Do you recall if one of those Triad electricians was the Triad foreman or 12 supervisor? No, I don't. 13 Α. Now, it says in the first 14 Q. paragraph of the narrative, "Imco earth work activity 15 includes 16 completing backfill of four-inch wire line and areas in pump station vicinity, excavation of 17 chlorine manifold vault and drainage items from wetlands which 18 flowed to 19 Hannah Creek." 20 At the bottom you'll see a paragraph that reads, "Excavation of pump station using 21 ram hoe and 22 Hitachi backhoe is taking several hours, about two thirds of the day. The operator is back 23 and forth 24 using both pieces of equipment. One third of the time 25 both pieces are used. Confining space is an obvious 00413 reason in duration. The excavated material 1 is choking 2 the site." 3 Where was this excavation taking place?

A. Well, I believe I misstated the 4 fact that it was a pump station excavation. I assume it 5 was the manifold vault for the reservoir, because 6 that's what they were doing the excavation for, and that was next to the reservoir, probably 300 feet away 8 from the pump 9 station. Well, look at that first line. 10 Ο. It says, "Imco earth work activity includes 11 completing backfill of four-inch water line at areas in pump 12 station vicinity." Is that erroneous, do you 13 think? Well, the four-inch pipe very 14 Α. easily could have come from the pump station, but the 15 excavation that they're referring -- I'm referring to 16 down at the bottom would have been the vault, because 17 that was much larger activity and was right next to the 18 reservoir, and there was a lot of rock in that vicinity. 19 And 20 that's where the area would have been choked up because they didn't have room. 21 22 Q. Was Imco doing the excavating in the 23 vicinity of the reservoir? 24 Α. Yes. They were? Wasn't that Baugh? 25 Q. 00414 Baugh was through with it in that 1 Α. area. Look at the next page. I'll read 2 Q. from the first paragraph. It says, "The 3 telephone conduit in front of southwest pump station corner 4

15 feet from the 72-inch line was damaged severely by 5 Imco loader. It was only approximately one-and-a-half 6 feet below grade at that time. About half the wires 7 were cut. U S WEST personnel on site repairing wires. 8 Two people 9 from noon on working on wires." Do you see that? 10 Α. Yes. Does that refresh your 11 Q. recollection about 12 where the excavation was occurring? No, not really. The loader would 13 Α. have been hauling material from the excavation of that 14 vault through that area and to the stockpile, 15 which would have been to the north of the pump 16 station. MR. FLOYD: Five minutes remain 17 on 18 videotape. MR. NICOLL: Like to turn to 19 some photographs, and since I want to do that 20 I'm thinking maybe we should break a couple of minutes 21 early for lunch and come back a couple of minutes 22 early. THE VIDEOGRAPHER: This is the 23 end of tape No. 1 in the deposition of Tom Franklin. 24 The time is approximately 11:51 a.m. Going off the 25 record. 00415 (Lunch recess.) 1 THE VIDEOGRAPHER: Back on the 2 record. This is the beginning of tape No. 2 in the 3 deposition of Tom Franklin. The time is approximately 1:34 4

p.m. BY MR. NICOLLS: 5 We're back on the record. Before 6 Q. we broke we were talking about inspection report 120 7 from August 11, 1994, and you still have that open in 8 front of you? 9 Yes, I do. Α. On August 11, '94, do you recall 10 Ο. what time you arrived at work? 11 12 Α. No. There's no notation in your report 13 Q. that you arrived at a time different than the 7:00 14 start time, 15 but did you usually arrive at a time different than the 16 7:00 start time? I would usually be there at No. 17 Α. 7:00. And where would you usually 18 0. report? I didn't report. I just went to 19 Α. the site and started observing the activities or went 20 to work doing one thing or whatever I was going to do 21 that day. Where would you be when you'd be 22 Q. filling out the inspection reports? In your car? 23 Most of the time in my truck. 24 Α. 25 And your truck would be parked Ο. where? 00416 In the parking lot right in the 1 Α. filtration plant area. 2 3 Ο. That would be on the sort of north side of the filtration plant? 4 5 Α. Yes. Do you have a recollection 6 Q. independent of the inspection report for August 11, '94 of 7

what you were doing on that day on the job? 8 9 Α. No. 10 Ο. Of course you took photographs, as we've already discussed, from time to time on the 11 job site? 12 Ά. Yes. In front of you, you should have 13 0. exhibits from a different deposition but are all 14 part of this 15 case. Starting at Exhibit 194, why don't you flip open 16 this binder, take a look at Exhibit 194. Going to hold that up for the camera. 17 18 Α. (Indicating). 19 Ο. Do you see in the lower right-hand corner of the exhibit, there is a date stamp of 8-11-20 94? 21 Yes. Α. 22 I recognize that we've earlier 0. identified that there can be, I suppose, a question 23 about the 24 accuracy of those date stamps. But what is that, the 25 photograph on 8-11-94, a photograph of? 00417 It's a photograph of the inside 1 Α. of the 2 reservoir. The reservoir is the portion of 3 0. the job that was being worked by Baugh Construction not 4 by Imco; is that right? 5 That's correct. 6 Α. Do you have a recollection, based 7 Q. on looking at that photograph, of having been inside 8 the reservoir on August 11, 1994? 9 Yes. 10 Α. You do? 11 Ο.

I would have taken the picture. 12 Α. Okay. Do you recall why you were 13 Q. in the reservoir on that date? 14 Not particularly. 15 Α. Why don't you flip through the 16 Ο. next couple of photographs, Exhibit 195, also a 17 photograph of the inside of the reservoir? 18 19 Α. Yes. And 196, is that also a photograph 20 Ο. of the inside of the reservoir? 21 22 Α. No. Is there anything in Exhibit 195 23 Q. or 196 that you can tell from looking at it that you're 24 specifically focusing on? 25 00418 1 Α. No. How about 194? 2 0. 3 Α. No. Is it fair to say that you 0. 4 usually took photographs in order to make a record of 5 a specific thing? 6 No, not necessarily. 7 Α. Just went in there, checked 8 0. it out? Yeah. You get a lot of other Α. Q, activities coinciding just by taking pictures a lot of 10 times, and in the future you can go back to pictures 11 and it will help you to reconstruct different things, 12 different 13 activities. In order to get inside the 14 0. reservoir, did you have to gain access through a manhole 15 cover on the 72-inch pipe? 16 No. 17 Α. 18 Q. There was another way to get at

it? Through the roof. 19 Α. 20 From the roof? 0. 21 Α. Yes. Do you recall if that's probably 22 Ο. how you got 23 in on this day? Yes, sir. 24 Α. 25 Do you recall ever going in Ο. through the 00419 72-inch line? 1 Never. 2 Α. Do you recall whether anybody was 3 Q. accompanying you inside the reservoir on the 4 day that you took Exhibit 194 and 195? 5 No. I don't recall. Α. 6 Would it have been unusual for 7 0. you to go into the reservoir unaccompanied? 8 No, it would not be unusual. 9 Α. Now, Exhibit 196 is another 10 Q. photograph. Why don't you hold that up for the camera. 11 12 (Indicating). Α. It also has a clearer date stamp 13 Q. of 8-11-94, 14 right? Yes. 15 Α. Ο. That looked to me to be a 16 photograph of the soda ash bin, but I don't know. 17 That is correct. 18 Α. That's correct? 19 0. 20 Α. Yes. So that meant that through --21 Q. on the day that you took the photograph, Exhibit 196, 22 you were spending at least some of that time up in 23 the water 24 treatment facility? 25 Yes. Α. 00420 Do you recall looking at that 1 Q. photograph

that you were in fact in the water 2 treatment facility on August 11, 1994? 3 4 Α. Yes. In fact, it's also referred to 5 0. in report 120, the August 11, '94 inspection report, 6 isn't it? Α. What is? 7 "Work on soda ash silos 8 0. continuing today"? 9 Α. Yes. 10 Is there something that you're Q. focusing on in photograph Exhibit 196, in particular? 11 Perhaps. I really don't know. 12 Α. The description in your 13 Ο. inspection report says, "Welding legs to east silo and 14 installing more steel beams for floor support are planned. I 15 talked to Rodney Staples and Imco people about gap in 16 existing floor to the bottom of the beam. That gap is 17 being filled upon beam placement." (sic) 18 MR. SCANLAN: Actually, I think 19 that's to 20 the top of the beam. MR. NICOLL: Top of beam, yes. 21 22 Do you see that? Q. 23 Α. Yes. Is any of that description on this 24 Q. August 11 report reflected in the photograph, Exhibit 25 196? 00421 Α. No. 1 How about in the next photograph, 2 Q. Exhibit 197? Could you hold that up? 3 4 Α. (Indicating). Is the gap in the existing floor 5 0. to the top of the beam depicted in that photograph? 6 7 Α. No.

Q. How about the welding? 8 9 Α. The welding is shown. There are welds shown in here that are fresh. 10 11 O. And areas where more steel beams might be 12 installed. Is that shown in the photograph? 13 Α. Yes. 14 So what part of your day on Q. August 10 -- I'm sorry -- August 11, '94 were you in the 15 reservoir and in the water treatment facility? What time 16 of day? 17 Morning, afternoon or do you recall? 18 A. I don't know. I don't recall. Where were you, if you 19 Q. remember, when you 20 first learned that the Imco backhoe operator had struck, as reported on the second page of the 21 August 11th inspection report, and damaged the 22 telephone 23 conduit? 24 A. I don't remember. Do you remember whether you 25 Ο. witnessed it? 00422 I remember that I probably -- I 1 Α. just don't 2 remember. 3 MR. FLOYD: Counsel, I'm going to object to Mischaracterizes the 4 your question. exhibit. You said Imco backhoe operator. It said Imco loader, 5 two very 6 distinct pieces of equipment. 7 MR. NICOLL: Oh, okay. So basically you don't remember 8 Ο. whether you saw it happen or whether somebody told you 9 about it? That's correct. 10 Α. You do remember going there and 11 Q. looking at

it, though? 12 13 Yes. Α. And you remember that U S WEST 14 Q. personnel came on site? 15 16 Α. Yes. 17 0. Do you remember photographing them? 18 Α. No. Did you know any of the U S WEST 19 0. personnel 20 who came? 21 Α. No. Do you remember if anybody else 22 Ο. was assisting them in the repair work that they 23 were doing? MR. SCANLAN: Just point of 24 clarification, you mean anyone else other than U S WEST 25 employees? 00423 MR. NICOLL: Yeah. 1 No, I don't remember. 2 Α. In your report, the second page 3 Q. of the August 11, '94 report, you state, "U S WEST 4 personnel on site repairing wires. Two people from 5 noon on working on wires." 6 7 What date is this? Α. Second page of your August 11, 8 Q. '94 report. About four lines down, exactly four lines 9 down it says, "U S WEST personnel on site repairing wires. 10 Two people from noon on working on wires." 11 12 Α. Yes. 13 0. Do you see that? 14Yes. Α. 15 As you read that report, do you Q. have any recollection of who those two people were 16 that you were 17 referring to?

18 Α. No. 19 Can you tell us whether you were 0. referring 20 to people different from the U S WEST personnel or do you just not remember? 21 22 Α. I just don't remember. 23 Q. Did you typically leave the job site at any 24 point as a matter of routine at any point in the 25 morning? 00424 1 Α. Not on a routine, no. 2 Again, a coffee break or 0. something else like 3 that? 4 Α. Sure. It typically wouldn't be a routine like that because I don't drink coffee. 5 And when would you normally break 6 0. for lunch 7 or did you not have a routine? No. I'd break for lunch. It 8 Α. would be right 9 around noon. 10 That would be, what, about an Ο. hour break? 11 Α. A half hour. And would you typically eat 12 Q. lunch in your 13 truck or somewhere on the site? 14 Not on the site typically. Α. So you'd drive somewhere? 15 Q. 16 Yes. Α. 17 Now, the last part of the first Ο. page of report numbered 120 says, "Excavation of 18 pump station using ram hoe and Hitachi backhoe is 19 taking several 20 hours. About two thirds of the day the operator is back and forth using both pieces of 21 equipment." Were 22 you personally observing this or was that reported to

you by someone else? 23 24 Α. I would have been observing it. So you would be sort of paying 25 Q. attention on 00425 and off between doing other things? 1 2 Α. Yes. 3 Did you fill in this report as the Q. day progressed? 4 5 Α. Typically, yes. So the stuff that you have at the 6 Q. beginning, 7 "The Imco earth work activity includes backfill of four-inch wire line," et cetera, is something 8 that you observed early in the day? 9 10 Α. Yes. And then the "completion of annode 11 Q. bed near reservoir" is something that you observed 12 sort of next? Or at the same time. 13 Α. 14 Q. Would you have gone -- would you have gone to that annode bed near the reservoir if 15 you wrote it in this report? 16 17 Α. Yes. MR. SCANLAN: Objection, calls for 18 19 speculation. 20 MR. NICOLL: Well, I'm just asking as a 21 matter of practice. Q. As a matter of practice, do you 22 write down things that you do? 23 24 Yes. Α. 25 MR. SCANLAN: Same objection. 00426 1 So do you have a recollection of Q. having gone to the annode bed near the reservoir on 2 August 11, '94? 3 Α. No. 4 But based on your practice would Q.

you say 5 it's likely that you did? 6 MR. SCANLAN: Objection, calls for 7 speculation. 8 Α. Yes. 9 Ο. Now, if you went to the annode bed near the reservoir, was that about that time, probably 10 the time, 11 at least in the chronology of events that occurred on August 11, that you would have gone into the 12 reservoir 13 to see what's happening inside? 14 Perhaps. Α. 15 Well, this description reads, Ο. "Completion of 16 annode bed near reservoir and backfilling as other bed 17 was done"? 18 Yes, that's what's written. Α. 19 "Using detail of revised drawing Ο. provided by 20 ICS." Who is ICS? 21 Intermountain Corrosive Services, Α. I believe 22 is the name of the company. 23 Q. Then it says, "Splicing is being covered with wraps of electrical tape half-inch thick 24 layers." What splicing are they referring to -- are 25 you 00427 1 referring to there? Is that of the anticorrosion 2 stuff? 3 Α. Yes. So that would be on equipment in 4 0. the annode bed outside of the reservoir? 5 6 Α. I believe so, yes. 7 Now, do you have a recollection 0. of whether you went into the reservoir on August 11, 8 '94 before or after checking on the status of the soda ash 9

silos? 10 Α. I wouldn't -- I don't remember. 11 But again, chronologically, on, Q. or at least in order of writing, on report numbered 120, 12 reference 13 to events occurring near the reservoir precede 14 reference to events occurring at the soda ash silos. 15 Do you agree with that? 16 Α. Yes. 17 And again, based on your Q. practice, does it make it then more likely that you went to 18 the reservoir and took the photographs that we saw, 19 Exhibits 194 and 20 195, prior to going on to the soda ash silos? 21 MR. SCANLAN: Objection, calls for 22 speculation. MR. NICOLL: Just asking for your 23 practice. 24 More likely. Α. Do you recall how much time you 25 0. spent over 00428 there by the reservoir looking at the annode 1 bed and related stuff and how much time you spent in 2 the reservoir examining it, taking photographs? 3 4 Α. No. 5 How much time would it take you 0. to get into the reservoir? 6 7 15 minutes maybe. Α. Because you got to get up to the 8 0. top and 9 then climb down a ladder, right? 10 Α. Right. And how much time would it take 11 Q. you to get out of the reservoir? Same or a little 12 longer?

Approximately the same amount of 13 Α. time. Now, would it be fair to say 14 0. that, you know, you've got how many rungs on the vertical 15 ladder going from the top of the reservoir down into the 16 bottom? Probably 25. 17 Ά. Is that something that you did on 18 Ο. a fairly -- on a regular or irregular basis going 19 into the 20 reservoir? I would say irregular. 21 Α. That would be because it's 22 Q. cumbersome getting down there, right? 23 Among other things, yes. 24 Α. Dark, cold? 25 Q. 00429 1 Α. Well, you had to put on a safety harness as well to go inside even just on the ladder. 2 The 15 minutes that you just 3 Ο. mentioned to us, did that incorporate the time that it took to put the safety harness on and everything else? 5 6 Α. Yes. So when you go into the Q. 7 reservoir, given that it's on an infrequent basis, would you 8 take more time than what, I don't know, but take a 9 fair amount of time in inspecting the interior of the 10 reservoir? 11 Α. Yes. So about how long on average --12 Q. and I assume there aren't that many times -- would you 13 spend in the reservoir when you went in to inspect it? 14 I would inspect it probably 45 15 Α. minutes to an 16 hour.

17 Do you remember on August 11, 1994 Q. how long you actually spent in the reservoir? 18 19 Α. No. 20 If it had been significantly Ο, shorter or longer than your average amount of time, do 21 you think that would be something that you'd remember? 22 23 Perhaps. Α. 24 Ο. Or if there had been a reason to note the 25 need for additional time at the reservoir, you would 00430 1 have noted it in your inspection report? 2 Α. Yes, that's correct. 3 Ο. So after spending approximately somewhere around an hour and a half in conjunction 4 with going into the reservoir -- and by the way, how 5 much time did you spend at the annode bed? 6 7 I really don't know. Α. 8 Q. Was there a usual amount of time you spent 9 looking at the annode bed? I'm going to quess there probably wasn't but --10 11 Α. No. 12 Did you watch -- did you actually Q. watch the backfilling of the annode bed occur? 13 I don't recall it. 14 Α. Did you watch the splicing of 15 Q. being covered with wraps of electrical tape by ICS? 16 17 I would have seen that, yes, some Α. of it at 18 least. 19 But you don't have a specific Q. recollection 20 of it? 21 Ά. Right. 22 Q. Your belief that you would have seen it is

23 based upon the fact that you wrote it down in such 24 detail? 25 Α. Yes. 00431 And then you'd have to go from 1 Ο. the reservoir back to the main plant, the water treatment 2 facility, in order to get to the soda ash silos? 3 Α. Yes. 4 Now, that would require walking 5 Ο. back through or around the pump station area; is that 6 right? 7 Α. Yes. Do you recall doing that on 8 Q. August 11? 9 Α. No. Upon -- but it would take you, 10 Q. what, about five, ten minutes to get from the reservoir 11 to the 12 treatment facility? 13 Α. Approximately, yes. When you got to the water 14 Ο. treatment facility, you went inside, obviously, and 15 went to the 16 area where they were working on the soda ash silos. Do you recall how much time you spent there? 17 18 Α. No. Was that something that you did 19 Ο. on a recurring enough basis to be able to tell us 20 what an average amount of time would have been? 21 Yes. I would say probably 20 22 Α. minutes I would have spent minimum in there doing that, 23 talking to the people and looking at the activity. 24 Given the description of the work 25 0. here, 00432 "work on soda ash silos continuing today, 1

welding legs 2 to east silo and installing more steel beams for floor support are planned," you talked to Rodney Staples and Imco people about gap in existing floor, 4 does that tickle or refresh any kind of recollection 5 about the precise amount of time you spent up there? 6 7 Α. No. Given the detail of that 8 0. description, were 9 you reporting on things you actually observed or things that you were told or do you know? 10 11 Α. Both. Both. Now, again, based on your 12 ο. practice of how you complete these inspection reports, 13 do you 14 believe or is it your opinion that likely it was after you went to the reservoir and examined the 15 inside of the reservoir that you then went to the soda 16 ash silos? 17 MR. SCANLAN: Objection, calls for 18 speculation. 19 More likely. Α. Now, the next entry in the report 20 Ο. says, "A guestion about whether the inside of pump 21 station 22 gets sealed came up. Specification indicates sealer is applied but not pigment sealer inside the 23 structure. A 24 letter requesting CO" -- which I guess means change order -- and costs will be sent." Do you see 25 that? 00433 1 Α. Yes. 2 Q. Do you recall having a discussion about that issue? 3

Α. Not particularly. Not 4 specifically, I don't, no. 5 In light of that I'm going to 6 Q. take it that you also don't recall where such a 7 discussion would have occurred? 8 9 No, I don't. Α. Now, this latter part, excavation 10 Ο. of pump station using ram hoe and Hitachi backhoes 11 taking several hours, about two thirds of the 12 day, the operator is back and forth, we've 13 gone over this description before. Written as it 14 is, after the section about questions about the inside 15 of the pump station, and based on your practice, can 16 you tell us whether your observations of the 17 activities, of the excavation activities, occurred after your 18 discussion about use of sealer inside the pump 19 station? 20 Α. I really can't say. It could have happened directly as I list things, but there's a 21 possibility it 22 didn't as well. Would it be fair to say, based on 23 0. this report, and whatever recollections you have, 24 as well as your photographs, that at least for the 25 first part of 00434 the day, your attention was focused on the 1 annode beds, the inside of the reservoir and the soda ash 2 silos? 3 Α. Yes. It was later, then, that your 4 Q.

attention got refocused on the excavation activities by 5 virtue of your comment about excavated material 6 choking the site and telephone conduit being damaged. Is 7 that fair? Yes, yes. 8 Α. 9 Q. Now, you say about -- you say that the telephone conduit was only approximately one-10 and-a-half feet below grade at the time. How did you 11 determine 12 that, or do you recall? I don't recall how I determined 13 Α. that. 14 Ο. You don't recall if you measured it yourself 15 or if you were told it by somebody else or anything 16 like that? 17 Α. No. Did you know a fellow named 18 0. Britton Lukes? Name doesn't sound familiar. 19 Α. Did you know any of the backhoe or 20 Q. Imco 21 operators by name? 22 I could have at the time. I don't Α. recall at 23 this time. Could you recall a description of 24 Q. the person 25 who was operating the backhoe -- sorry -loader at the 00435 time that the telephone wires were damaged? 1 2 Α. No. Do you recall how much time you 3 Ο. spent out of your day dealing with, reporting on, inspecting, whatever, the telephone conduit damage? 5 6 Actually, it wasn't conduit. Α. It was just 7 the wires. I think they were laid bare in

the hole, but I really don't know. It wouldn't have 8 been 9 something I would have spent a whole lot of time on, because the people that are doing the work 10 are responsible for their own wiring 11 connections, and if things go bad then they have to come back 12 and fix it. I wouldn't have been too involved in that. 13 Well, in light of that why did 14 Q. you make a note of it? 15 Because it was a function that was 16 Α. occurring 17 on site, and I felt I needed to make note of it. You felt that you needed to make a 18 Q. note of 19 damage that was caused by the general contractor? 20 Α. Yes. The next thing you note is that 21 Q. Imco was continuing sacking of pump station interior 22 upper and lower rooms, which is what we were talking 23 about before, smoothing out the walls basically, 24 right? 25 Α. Yes. 00436 In order to make that statement, 1 Q. would it be fair to say that you went into the pump 2 station and saw what they were doing? 3 Yes. 4 Α. 5 Q. Do you recall, again, how much time you spent in there? 6 7 No, I don't. Α. August 11, as you report, it was a 8 Q. nice day. The weather was fair, the temperatures 9

between 56 and 10 80 degrees, the site condition was good? Α. Yes. 11 Based upon that, can you tell us 12 Q. whether it was more or less likely that you spent more of 13 your time indoors or outdoors? 14 MR. SCANLAN: Objection, calls for 15 16 speculation. I don't know. 17 Α. You don't have any specific 18 Q. practice in that 19 regard? 20 No. Α. The last entry deals with the 21 0. excavation of the chlorine vault, which you and Greg 22 discussed. "The rock excavation depth is seven feet, two feet 23 is extra. When the work is done times of active use by 24 operators of equipment versus standby time will be 25 determined." 00437 1 Α. Yes. 2 Q. Do you see that? Yes. 3 Α. Where was the chlorine vault 4 Q. going to be put? 5 It was right next to the 6 Α. reservoir along the pipeline, the water large diameter pipe. 7 That was what I had made a comment about earlier that I 8 thought probably was what I was talking about when 9 I said excavation of pump station using ram hoe 10 and Hitachi backhoe on the first page. 11 It says here, "When the work is 12 Ο. done times of active use by operators of equipment 13 versus standby

time will be determined." As you read 14 that, can you confidently say that what you and Greg were 15 discussing was not something that was yet to occur but 16 something that was in the process of occurring? 17 18 Α. No. It's something that was in the process 19 of occurring. 20 Now, you weren't present, were 0. you, when Imco did the work required in order to fix 21 the valve stems on the two valves on the tee joint? 2.2 I don't remember being there. 23 Α. You don't remember witnessing 24 0. it? 25 Α. Right. 00438 And you didn't make a notation, 0. 1 as far as I can tell from having read your inspection 2 reports, of having seen it? 3 4 Α. No. I'd draw your attention to 5 0. report 124, numbered 124, dated August 17, 1994. 6 Second full paragraph reads, "Excavation of valve stem 7 for 72-inch pump-out system at Hannah Creek being done this a.m." Do you see that? 9 10 Α. Yes. Then the bottom line says, "The 11 Ο. 72-inch pump 12 out valve stem was straightened and permanent 13 extensions placed in both 60-inch and 72-inch pump-out stems, two spacers each." Do you see that? 14 15 Α. Yes. I've searched through your 16 Q. inspection reports and couldn't find a similar entry for 17

the valve stems related to the 22-inch -- I'm sorry --18 24-inch 19 discharge and the tee joint. Would it be fair to say, sir, that if you had witnessed those valve 20 stems being straightened yourself you would have made a 21 note of it 22 in your inspection report? 23 Yes. Α. Did anybody report to you, as far 24 Ο. as you can recall, when the -- when after August 9, 25 1994 the valve 00439 stems on the tee joint were repaired? 1 2 MR. FLOYD: I'm going to object to the form of the question because there's no evidence 3 that the valve stems were ever damaged or required 4 repair. There's a difference between straightening 5 the valve stems and straightening the conduit leading 6 from the 7 valve stem. MR. NICOLL: Whatever. 8 I don't recall them telling me 9 Α. when it was fixed. I don't recall them telling me when 10 it was 11 fixed. 12 But at some point obviously you Q. became aware that it was fixed? 13 Yes. 14 Α. Do you remember when that 15 Q. was, becoming 16 aware that it was fixed? 17 No. Α. In order to correct the 18 0. problem of the seating of the valve stem, excavation 19 of that area around the tee joint would have been 20

necessary, right? 21 MR. FLOYD: Object to the form of the 22 question. They would have had to dig down a 23 Α. certain They wouldn't necessarily have to 24 distance. go all the way down to the nut itself to straighten the 25 stem out. 00440 Do you recall being involved in 1 Ο. discussions in which the extent of digging in order to 2 do the work on the valve stem on the tee joint was 3 brought up? 4 Α. No. 5 At that point, on August 11 --0. I'm sorry, August 9, 1994 -- how would you describe your level of confidence in the people operating the Imco 7 excavation 8 equipment? 9 MR. FLOYD: Object to the form of the question, lack of foundation. 10 11 I'm asking about your confidence Ο. in their 12 performance. MR. FLOYD: You haven't asked him 13 if he even has an opinion regarding that. 14 At that time I had no concern 15Α. over their confidence of operation of the backhoes. I 16 wasn't aware nor had a need to be concerned about 17 it. How about subsequently? 18 Q. Object to the form. MR. SCANLAN: 19 Vaque as 20 to time. 21 Subsequent to August MR. NICOLL: 9, 1994. 22 MR. SCANLAN: Same objection.

No. I don't have any recollection 23 Α. of a lack 24 of confidence. Do you recall whether you spoke 25 Q. with anybody 00441 at Imco about the need to fix or correct, or 1 call it what you will, the valve stem connections 2 on the tee 3 joint? Yes. I would have talked to Α. Δ Greg about 5 that. That would have been your 6 Q. practice? Yes, only because he had to use 7 Α. it time and It wasn't a question of me having 8 again. to make sure they did it right. He had to do it right 9 because he had to turn it on and off several times 10 within the next 11 month. This is something he would have 12 Q. known he 13 needed to do? 14 Α. Sure. 15 More likely than not he brought it 0. to your attention; is that right? 16 I wouldn't say that. 17 Α. So you were walking around on the 18 Q. site and 19 checking to make sure that things like valves are properly hooked up and that sort of --20 I would have been talking to him 21 Α. primarily about doing the backfilling operation, 22 making sure it stayed straight up, and paid attention to 23 that aspect 24 of backfilling. Now, regardless of how much 25 Q. digging had to

00442 be done to get those valve stems fixed or 1 proper, some excavation had to be done, right? 2 3 Α. Yes. 4 We know from prior testimony and ο. from all these exhibits that underneath the 5 intersection of the tee joint with that 16-inch water line the 6 Olympic pipeline ran, right? 7 8 Α. Yes. 9 Ο. Was there any discussion -- when the issue of work to fix these two valve stems came 10 up, was there any discussion at all about contacting 11 Olympic Pipe Line to make sure they were present for any 12 digging 13 that was done? I don't recall. 14 Α. 15 There's no reference in your ο. August 9, August 10 or August 11 reports about Olympic 16 Pipe Line or gas company personnel being contacted, 17 you agree 18 with that, right? 19 Α. Yes. There's no reference in those 20 Q. about Olympic Pipe Line or gas company personnel being 21 present, do 22 you agree with that? 23 No reference to them, yes. Α. 24 0. If they had been present it's the kind of thing you typically noted in your reports, 25 isn't it? 00443 Typically, yes. 1 Α. 2 Q. Did anybody ever report to you, anybody, 3 that on August 11, sometime in the morning, an Imco

4 equipment operator while digging down to uncover those valve stems struck the Olympic Pipe Line 5 with the backhoe? 6 7 Α. No. Q. Did anybody ever report to you 8 that after that occurred the pipeline was uncovered 9 using hand shovels and the people present saw visible 10 damage on 11 the exterior of the pipeline? 12 No. Α. 13 Q. Was it ever reported to you, sir, that one of those people present ordered the others 14 not to 15 report the incident to you? 16 Α. No. 17 Q. How did you get along with Paul Krakenberg? Oh, okay, adequately. 18 Α. 19 No friction between the two of 0. you? 20 Oh, there'd be times when we'd Α. have 21 disagreements. 22 Did you trust him? ο. 23 I had no reason not to trust Α. him. Yes, I trusted him. 24 25 Q. Now, Paul Krakenberg, where was he usually 00444 located? 1 2 Α. They had a trailer on site that was their office and that would typically be his 3 location. 4 0. If he wasn't the superintendent or the 5 foreman on the job but was the site engineer, whatever you referred to him as, you wouldn't have 6 listed him on 7 your inspection report; is that right?

8 What was the question again? Α. 9 Ο. Well, Imco had other people on the site 10 other than Greg Burris and five laborers on August 8, 11 1994; is that right? 12 Well, typically, no. You mean as Α. far as --13 I'm not sure -- ask the question again. 14 When you would fill out these Ο. inspection 15 reports about people who were on the site working from 16 Imco, would you include the people in the trailer? 17 Α. No. 18 So there came a point in time, Q. didn't there, when Greg Burris left the Dakin-Yew facility 19 to work at another job somewhere up in the San Juan 20 Islands? 21 Α. There might have been a short period of 22 I don't recall if that happened or time. Seemed not. 23 like there was a point in time when Greg was gone for a 24 week or two. I wouldn't -- I don't remember it being 25 any longer than that. 00445 And Paul Krakenberg became his 1 Q. replacement 2 during the period that he was gone, Greg was gone? 3 Α. Yes. Didn't during this period of time 4 Q. you and --5 who was your boss -- John Hatch --6 Α. John Hatch. 7 Q. -- express concern to Imco over the level 8 and guality of supervision at the work site? 9 I don't recall that. Α. Didn't you ask for Greg Burris to 10 0. come back?

11 Α. If I did I don't remember it. 12 Did you know Mark Graham from Ο. Triad 13 Electrical? 14 A. Yes. I recall the name now. I remember 15 seeing it in my daily reports Mark from Graham. Mark 16 who? Mark Graham from Triad. 17 Ο. 18 Α. Yes. Did you have much interaction 19 0. with him? It was on and off. Like I 20 Α. mentioned, they were on the site at times and gone -- I 21 had some. Т 22 wouldn't say it was a lot. It's hard to tell from looking 23 0. at the 24 inspection reports reading through them. Did you have any problems with performance of Triad? 25 00446 No. 1 Α. Did you have any specific 2 Q. problems with Mark Graham? 3 The only problems I had with Mark 4 Α. were problems he had with Imco, like difficulty 5 with schedules and that. If the contractor 6 wasn't ready he couldn't do his work and that created some 7 friction between the two companies. 8 9 0. Could you explain to us or describe for us what the problem was? Was it Mark who was 10 late or was it Imco who was late? 11 Typically it would be Imco 12 Α. impeding on his 13 progress. So Mark would be ready to go 14 Q. forward, but

Imco wasn't ready for him so he'd have to do 15 nothing? 16 Α. Yes. 17 Ο. And did these interactions with Mark cause you to become doubtful of his word or his 18 honesty? 19 Α. No. 20 Did you know him personally? 0. 21 Α. No. 22 Did you know him at all by Ο. reputation? 23 Α. No. Do you now know him either 24 Q. personally or by 25 reputation? 00447 Α. 1 No. Did you know some of the laborers 2 0. on the job site, on the work site, the Imco laborers? 3 What do you mean know? You mean 4 Α. by name? 5 0. Yeah. Did you know like, say, by name or anything like that? 6 7 Α. Just by name. Did you know of a laborer by the 8 ο. name of Johnnie, an Imco laborer named Johnnie? 9 10 I remember the name, yes. Α. 11 Ο. Do you recall whether he was one of the Imco laborers working or that you saw him working 12 at the job site in August 11th, 10th, 9th? 13 14 Α. I remember him being on site. Τ don't remember the specific days or activities. 15 Do you have some recollection, 16 Ο. even if you can't tie it to a specific date, of 17 excavation being 18 done in the August time frame to uncover the valve stems near the tee joint? 19 20 Α. No.

21 Do you have any recollection of Q. disturbed soil near those valve stems? 22 No, I don't. 23 Α. 24 Ο. Do you recall whether or not the valve stems 25 for the tee joint were repaired at least by the time 00448 the valve stems for the 60-inch were 1 repaired later in August? 2 3 No, I don't. Α. You just have no recollection 4 0. about that? Α. I don't know when it was done, 5 no. On August 11, the same equipment 6 Q. that was listed on August 10 was on the site and in 7 use; isn't that right? 8 9 Α. Yes. One of those pieces of 10 Q. equipment was an Hitachi EX 150 backhoe. Do you agree with 11 that? 12 Α. Yes. Which of the backhoes was that? 13 Q. Can you describe it for us, generally? 14 It was a larger backhoe. 15 It was Α. larger than the Cat or the JD -- I shouldn't say Cat. I 16 don't remember whether it was JD, but it was the 17 larger of the pieces of equipment there. 18 Do you remember how it was --19 Ο. there's no notation here, so I can't tell, but do 2.0 you have any specific recollection as to what kind of 21 bucket or shovel was attached to it on August 11? 22 23 Α. No, I don't. There were times, were there not, 24 Ο.

on the job 25 site, when it was using a straight-edged bucket or a 00449 flat-edged bucket? 1 2 Α. Yes. 3 0. And there were also times when it was using a bucket that had teeth? 4 5 Α. Yes. How many teeth would be on a 6 Q. particular bucket? It would depend on the width of the 7 bucket, right? 8 9 Α. Yes. Do you recall whether in light of Ο. 10 the type of excavation that was going on on August 11 11, 1994 the Hitachi EX 150 was using a narrower or a 12 wider bucket? I don't recall. 13 Α. 14 Part of the work they were doing Q. involved digging through some pretty -- digging 15 through rock; is that right? 16 17 Α. Yes. 18 When digging through rock would Q. the Hitachi backhoe typically use one type of a bucket 19 as opposed 20 to another? 21 MR. SCANLAN: Calls for speculation. If you know. 22 Q. You would typically use one that 23 Α. had teeth in it, but it only takes five minutes to 24 change a bucket on a backhoe so they could have very 25 easily 00450 changed five or six times that day. 1 But you don't know if they did? 2 Q. Α. No. 3

Q. Are you sure there was no 4 excavation around 5 the pump station on August 11? MR. FLOYD: Object to form of the 6 question, argumentative. He's already answered the 7 question. MR. NICOLL: He hasn't. 8 9 MR. FLOYD: He has. That's what I remember. 10 Α. Pardon? 11 Q. That's what I remember was the 12 Α. excavation was for the vault next to the reservoir. 13 I know, but you write here in, 14 Ο. well, really three separate places about excavation in 15 the vicinity of the pump station on your August 11, 1994 16 report, 17 right? 18 MR. FLOYD: Counsel, can you reference those for him, please? I only see one. 19 MR. NICOLL: I'll be happy to. 20 In the first two lines of the 21 Q. report you say, "Imco earth work activity includes 22 completing 23 backfill of a four-inch water line at areas in pump station vicinity." Later you write on 24 the bottom, "Excavation of pump station using ram hoe and 25 Hitachi 00451 backhoes taking several hours. The 1 excavated material is choking the site." And then finally at 2 the end you write, "The telephone conduit in front of 3 southwest pump station corner 15 feet from the 72-inch 4 line was damaged severely by Imco loader." 5 MR. FLOYD: I'm going to object 6 that that is

very misleading because they obviously are 7 identifying 8 three different areas. MR. VERWOLF: Counsel, I'm going 9 to object 10 \_\_\_ 11 MR. NICOLL: Yeah. This is getting a little bit --12 13 MR. FLOYD: No, it's not. 14 MR. NICOLL: Yes, it is actually. MR. FLOYD: What you're doing is 15 wrong. 16 MR. NICOLL: I can't possibly mislead a quy 17 who's got the report in front of him. And I object to what you're doing, Francis, because you're 18 trying to 19 coach him into a response. 20 MR. FLOYD: I object. He doesn't need 21 coaching. What you're doing is --MR. NICOLL: Well, then, why don't 22 you just 23 say object to the form of the question. Ι think 24 you're mischaracterizing. Let the record speak for 25 itself. 00452 MR. FLOYD: You're 1 mischaracterizing the 2 testimony. Tom, I'm not asking you to guess 3 0. at anything other than what's in the report. I mean, 4 you wrote the 5 report? 6 Α. Yes. Is it fair to say that on three 7 Q. separate occasions you refer to equipment operation 8 in the 9 vicinity of the pump station? 10 Α. Yes, I do. Were you in error on each of 11 Q.

those three separate times? 12 13 Α. I only made reference to error about the excavation of the pump station using the 14 ram hoe and 15 Hitachi backhoe in relationship to the chlorine vault 16 construction, that that was what that activity was for. 17 Q. But you said that they were -- that he was back and forth? 18 19 Α. No. I said he was hauling dirt back and forth with a loader to remove the 20 excavation from the 21 vault site. Do you recall whether this 22 0. excavation was 23 occurring in the afternoon or the morning or both? 24 Both. Α. So, in light of what you're 25 Q. saying, why, if 00453 you know -- I mean, maybe you don't know. 1 What would have put the operator in a position to be 2 digging in 3 front of the southwest pump station corner so as to be 4 able to damage the U S WEST cable? 5 MR. SCANLAN: Object to the form of the 6 question. 7 Α. I'm not sure that the digging was what damaged it. Perhaps the back loader movement 8 could 9 have damaged the wire as well. 10 Is it fair to say that you can't 0. say, based 11 on your own observations, that there wasn't digging using a piece of equipment by Imco in front of 12 the pump

13 station on August 11, 1994? 14 MR. SCANLAN: Object to the form of the 15 question. 16 MR. FLOYD: Same objection. 17 No, I --Α. 18 MR. FLOYD: What do you mean by "in front of 19 the pump station"? Compared to what? 20 Let's say that you can't say that Q. there was 21 no digging using Imco equipment? 22 MR. SCANLAN: Can you answer the 23 question? 24 MR. NICOLL: Let me rephrase the question. 25 You cannot say that there was no Q. digging on 00454 August 11, 1994 by Imco personnel using Imco 1 equipment in the vicinity of those two risers from the 2 tee joint? No. From the information that's 3 Α. on the report I cannot say that they did not do 4 that. 5 It's possible? Q. 6 It's possible they were, yes. I'm Α. firming 7 a negative, yes. 8 (Recess.) 9 THE VIDEOGRAPHER: Going off the record. 10 The time is approximately 2:29 p.m. 11 (Recess.) 12 THE VIDEOGRAPHER: Back on the record. The time is approximately 2:41 p.m. 13 We were talking a moment ago 14 Q. about, I'm sorry, about report No. 120. I wanted to 15 show you a 16 photograph which is Exhibit 200 and was used in the 17 deposition of Mark Graham. Take a look at that.

MR. VERWOLF: What was that? 18 19 MR. NICOLL: 200. Try not to be influenced by the 20 Q. writing on the photograph. 21 22 Α. (Indicating). 23 There are a couple of stem-Q. shaped looking 24 things that are orange on the top. Do you see those? They're actually inside a circle that's 25 labeled 00455 "valve stem risers." But I'm not going to 1 ask you to agree -- I'm going to ask you if you agree 2 with that. Is that the approximate location of the 3 valve stem risers off the tee joint? 4 5 Α. Yes. So do you agree with the 6 0. representation that those are the valve stem risers? 7 It could be. 8 Α. 9 In the lower right-hand corner of 0. that photograph there's a date stamp which is 10 hard to read, but looks to me, at any rate, like August 9, 11 1994. Can 12 you read it? It could say that. 13 Α. Yes. 14 Ο. Does the condition of the progress of the construction that's depicted in Exhibit 200 15 sort of qo along with your recollection of what the 16 status was on that date, August 9, 1994? 17 18 Α. Yes. If you hand me back the photos 19 ο. you'll see that later on, if you look at Exhibit 23, 20 later on August 22nd, do you see the date in the 21 lower

right-hand corner of Exhibit 203? 22 23 Α. Yes. 24 MR. FLOYD: Is it --MR. NICOLL: 203. 25 00456 1 Q. Hold up 203, thanks. 2 Α. ΄ (Indicating). 3 That's an August 22, 1994 date Ο. stamp photograph, right? 4 5 Α. Yes. 6 Ο. And you took the photograph? 7 Α. Yes. 8 In fact, you took all these 0. photographs? Most all of them I believe I did. 9 Α. 10 And that shows further progress Q. from the earlier photograph, Exhibit 200, on the 11 outside of the 12 pump station; is that right? 13 Α. Yes. 14 (Marked Exhibit 255.) 15 Exhibit 255, if you turn it over, Ο. has a 16 number associated with it. It's ETPH 0000958. Do you 17 see that? 18 Α. Yes. 19 Now, rather than lug all the Ο. photographs up here, I just had this photograph made during 20 the lunch 21 break. This is a photograph of a couple of fellows working next to a U S WEST truck that I 22 obtained from a 23 set of photographs that contain those August 11 dated 24 photographs that we had earlier, the ones of the inside 25 of the reservoir and of the soda ash silos. But I 00457 1 can't read a date on it. Does anything about this photograph, Exhibit 255, refresh any 2

recollections for 3 you? 4 Α. It appears to be the same time frame as the 8-11 damage to the telephone wiring. 5 But does it actually refresh your 6 0. 7 recollection in that regard? That I'm sure that it's that date 8 Α. or that this is the function? 9 10 Q. Yes. 11 Α. No, I'm not positive of it. 12 Do you recognize the people in Q. the 13 photograph? 14 Α. I recognize that they were out there, yes. I remember the -- this does appear as if 15 it's the same situation that I referred to in --16 17 Q. August 11? -- in the August 11 activity. 18 Α. 19 Do you remember the two guys in Q. the photograph? 20 Just from observation. No. 21 Α. That's all. 22 MR. SCANLAN: I'm sorry, Chris, are you asking him whether these guys are 23 construction guys or U S WEST guys? 24 MR. NICOLL: No. I'm just asking 25 if he 00458 remembered them. 1 2 MR. SCANLAN: Okay. I can't tell very well myself, 3 Q. but can you tell by looking at the photograph which 4 direction you were pointing your camera? Was it to the 5 west and 6 north, south to east, northwest? 7 I can't tell. Α. Q. You notice the pile of earth in 8 the

background. There's like a triangle at the 9 top of the photograph that's formed on one side by the 10 truck, on the top by, you know, the bucket and then on 11 the bottom by the pile of earth. Do you see that? 12 13 Α. Yes. 14 See how it's black in the Q. background? 15 Α. Yes. Was the back of the -- I'm sorry. 16 Ο. By August 17 11, 1994, had some of the exterior bulkheads on the 18 pump station been treated or painted with that tar material? 19 I don't recall. 20 Α. Take a look at Exhibit 201. Hold 21 Q. it up for 22 the camera. 23 Α. (Indicating). Exhibit 201 has a fairly clear 24 Q. date stamp of August 9, 1994; is that right? 25 00459 1 Yes. Α. 2 You took Exhibit 1, you took that Q. 3 photograph? I believe I did. 4 Α. 5 Ο. That shows the easterly and northerly exterior walls of the upper level of the 6 pump station; 7 is that right? 8 Α. Yes. And it shows that they're painted 9 0. black? Α. 10 Yes. What is that black stuff? 11 Q. That is the coal tar that we 12 Α. talked about earlier. 13 14 Do you remember I showed you a Q. photograph 15 earlier? I think it was Exhibit 95.

Exhibit 95 -- I 16 apologize, Tom. It's not Exhibit 95. It's Exhibit 17 193. Hold up Exhibit 193. 18 (Indicating). Α. 19 Exhibit 193 is a photograph of 0. the southern 20 exterior wall of the pump station; is that right? 21 Α. Yes. 22 Q. And are you able to see a date on that 23 photograph? 24 I can see something there, Α. No. but I can't make it out. 25 00460 1 That shows, though, that the Ο. bulkhead hasn't been poured yet, right, the retaining wall? 2 The second wall section? 3 Α. The second wall section. 4 0. 5 Yes. First one has been poured Α. but the second one hasn't. 6 7 So that would put the date of Q. that photograph somewhere prior to August 11, is 8 that right, based on the earlier inspection reports? 9 10 Α. I don't remember when the second wall 11 section was worked on. Well, because we're getting 12 Q. towards the end of the afternoon we'll let the reports speak 13 for themselves for now, but what is that man 14 in the photograph applying to the wall? 15 It appears as if he's applying 16 Α. coal tar. Black coal tar? 17 Q. 18 Α. Yes. Now, in Exhibit 255, can you 19 Q. tell whether 20 the area that I'm pointing to on the top

of the photograph, that triangular area that I 21 described 22 earlier, is the coal tar wall, coal tarred wall of the 23 pump station? 24 MR. SCANLAN: First as a shadow, you're 25 asking? 00461 MR. NICOLL: Yeah. 1 2 I can't tell whether it's the Α. building or just the background of the forest behind the 3 south 4 side. Obviously the telephone line went north/south. 5 Right. Q. So we're either looking south 6 Α. towards the trees and the native growth behind where 7 this truck is or we're looking --8 Back towards the pump station? 9 Q. Right. Could be either way. 10 Α. So you took a photograph that was 11 Q. either -since the line is oriented north/south, the 12 orientation 13 of the photograph itself is north/south -either 14 towards the south or towards the north? Yes. And from looking at what 15 Α. I'm seeing there, we're probably looking to the south 16 because shadows from the overhang appear to be going 17 northward. So I would speculate that we're looking 18 southward. Do you know what time of day this 19 Q. photograph 20 was taken? No. 21 Α. So how does shadowing help you 22 Q. determine the 23 direction?

24 Α. If it's on one side or the other you know 25 that the south side is where the shadows wouldn't go. 00462 Going to turn your attention now 1 Q. to the meeting minutes which is Exhibit 103. Do 2 you know who prepared the meeting minutes? 3 If I remember, Paul Krakenberg Α. 4 was the one that would normally do that. 5 The first meeting minutes that I 6 Ο. see are from March 1, 1994. Do you see that one? 7 Yes. 8 Α. 9 Ο. It has a Bates number of ET 0004852. And it says that there's going to be a meeting every 10 Tuesday 11 at 9:00 a.m.? 12 A. Yes. Why don't you turn to page ET 13 Q. 0004786 for the meeting minutes of March 22, 1994. 14 4786? 15 Α. 16 Q. 4786. I'm not sure I know where that's 17 Α. at. Well, it's three pages in. 18 0. Ιt should be 19 just three pages in. I'm going to go chronologically through these things. 20 21 Α. 4786? 22 Q. Right. 23 Α. Okay. Use the darker number. This is 24 Q. under 25 submittals. It talks about the difference between shop 00463 1 drawings and design specifications.

Statement is that "Paul mentioned that transmittal No. 20 was 2 not reviewed by Bob. John replied the reason 3 being the 4 office interpreted the transmittal as a shop drawing. 5 The definition of project data that required specifically by the specifications for the 6 project. Α shop drawing is everything else. Shop 7 drawings are unofficially reviewed. Barrett stays away 8 from field dimensions and fits which are Imco's 9 area. On items such as pipe layout Barrett will do a 10 math check on angles, et cetera, or look at the details 11 from the suppliers required by the 12 specifications." 13 What I was going to ask you about was who was responsible, if you recall, for 14 putting together 15 the as-built drawings? Who actually put the as-built 16 drawings together for this project? 17 Α. Me. You did? 18 Ο. Yes. 19 Α. 20 So who was in possession of the Q. as-built 21 drawings? 22 I'm not sure they were in the Α. project 23 records when I left. 24 Are you still working for Barrett Q. -- or I'm 25 sorry, Earth Tech? 00464 1 Α. Yes. 2 0. Do you know if the city has asbuilt 3 drawings? 4 Α. No, I don't.

5 The next page 4787 says, "Greg Q. handed in contract clarification No. 1 proposing to 6 reroute the conduit trench, et cetera, and then Dean 7 asked Greg to ensure Triad is aware of all clarifications." 8 And then 9 the next statement says, "A contract clarification log will be kept here on site by Jane." Is Jane 10 Jane 11 Campbell? 12 I don't know. Α. You don't know. Was a contract 13 Q. clarification log kept? 14 15 Α. I'm not aware of that either. 16 Ο. Did you ever see one? 17 Α. No. 18 So you wouldn't know where the log Q. is today? 19 Α. No. 20 Flip ahead to page 4770, which is Ο. the 21 meeting on March 29, 1994. First look at the first 22 That's 4769. Shows that you page of that. were 23 present? Α. 24 Yes. 25 Q. I see also that Bill Evans was there. 00465 1 Α. ·Yes. 2 Q. From the city of Bellingham, right? 3 Α. Yes. And who is Jeffrey Sathe? 4 Q. I don't know. 5 Α. 6 Did you have any idea what he 0. did with the city of Bellingham? 7 8 Α. No. 9 0. Was there always a representative from the 10 city of Bellingham at these meetings? I don't know that that's the 11 Α.

case. Usually? 12 Q. Usually, yes. 13 Α. What would they do? What would 14 Ο. these city 15 representatives do at the meetings, typically? 16 Well, primarily Bill was there Α. because most 17 of the time or the times that he would be there we would be doing an inside in his area. A 18 lot of times we'd have our meetings in the filtration 19 plant itself where there was more room. 20 21 Q. So the meeting was being held at the treatment facility and it was good to 22 invite Bill? 23 Well, not only that, but a lot of Α. activity 24 was in the plant itself, and so we were right close by and could refer to different activities, 25 easily. 00466 1 Switching over to the next page, Q. 4770. 2 Under work quality section 5.3, says, "Tom advised Imco 3 to be attentive to the plans and to do things right the first time. Iron workers need to be more 4 attentive to details per drawings." Do you recall what 5 it was that 6 \_ \_ 7 Iron workers not paying attention Α. to what 8 they needed to do. 9 This is based on your Q. observations? 10 Α. Yes. 11 The next item under schedule says Q. item 5.4. 12 The sentence I'm interested in here says,

"All utility locators have been to site. Greg will be 13 potholing for 14 the 60-inch and 48-inch lines. He will dig up where 15 Imco plans to make final connection to the 48-inch John suggested Imco know the line. 16 whereabouts of the 36-inch line. Greg will inform Bill of his 17 plans for potholing." 18 19 My question here is, you know, could you 20 explain what the context of all this discussion about potholing was? Why was there the 21 discussion going on at that time? 22 23 No, I can't really. March 29 Α. would have been the first month of the project. My 24 assumption is 25 that we're just locating the different utilities and 00467 different actions that need to be addressed 1 so that they can be addressed properly at the 2 right time. 3 Digging was about to get under Q. way? 4 Α. Yes. 5 And it was important to you and Q. to Imco to know where the underground utilities were? 6 7 Α. Yes. So that during digging they 8 Q. wouldn't be 9 struck or damaged? 10 Α. Right. 11 Page 4762, which is the second Ο. page of the 12 meeting minutes for April 5, 1994. Do you see that? 13 Yes. Α. 14 Q. You were there?

15 Α. I was labeled, yes. And Bill Evans and Jeffrey Sathe 16 0. were also 17 there? 18 Yes. Α. 19 0. Along with Paul Krakenberg, Greg Burris and 20 Jane Campbell. 21 MR. SCANLAN: Are you asking if he recalls or if he's just reading what's on the piece 22 of paper? 23 Do you recall it being any Q. differently than 24 is reflected on the piece of paper? I don't recall one way or the 25 Α. other. 00468 Do you recall what role Jane 1 Q. Campbell played at these meetings? 2 3 Α. No. Have no idea what her position 4 0. was? 5 Α. (Shaking head). 6 Q. No? 7 No, I don't. Α. 8 Q. If you bumped into her on the street you wouldn't know her? 9 MR. SCANLAN: Asked and answered. 10 No. 11 Α. Looking at item 6.4, ET 0004762. 12 Q. It says, "John requested that any impacts on 13 operations be shown on the three weeks scheduled. Imco will 14 comply. Greq will be potholing this afternoon. There is 15 a conflict 16 with the 60-inch and 36-inch pipes. Will be looked at after the meeting. Paul warned Bill to be 17 prepared for line breakage since there is always a risk 18 when 19 digging. Bill will try to fill the

reservoirs before 20 potholing after lunch. John asked for a schedule 21 update." 22 Do you recall that exchange? 23 No. Α. Do you know -- well, the only Bill 24 0. listed on 25 the list of attendees was Bill Evans. Do you recall 00469 1 what his response was at all? MR. SCANLAN: Asked and answered. 2 No. I don't. 3 Α. Skip ahead to the meeting for May 4 0. 3, '94 which is ET 0004764. According to the 5 document you were in attendance along with John Hatch. 6 Do you have any reason to doubt that? 7 8 Α. No. On this page under work quality 9 0. it says, "Tom said during pipe excavation more 10 stakes are 11 needed. John said he will get Christenson to make offsets. Tom asked Greg to show him where 12 he wants offsets." Since the only Tom on the list 13 is you, I'm going to ask you, do you recall these 14 events? Do you 15 recall saying, "We need more stakes during excavation"? 16 Α. Yes. What stakes? What kind of stakes 17 Q. were 18 needed? 19 Α. We needed more stakes across Hannah Creek. 20 We hadn't cleared that area and it was going to be cleared, and I believe it came up earlier in 21 our conversations about having a survey crew 22

come out and provide survey stakes going out to the 23 reservoir from 24 the angle of the large diameter pipe coming out of the clear well. 25 00470 Did this have anything to do with 1 Ο. locating utilities or was it just to mark the 2 direction --The pipe. 3 Α. 4 Q. -- the pipe was going to go? 5 Just the pipe. Α. And Christenson was the survey 6 Q. company? 7 Α. Yes. Did you know this individual from 8 Q. the city Diane Kil-wane or Kil-wine? 9 No, I didn't. 10 Α. Did you know what her role was or 11 Q. what her position was? 12 13 She had just been hired, if I Α. remember right. She had come up from Arlington or 14 something and she was just getting her feet wet. She 15 wasn't involved in the project at this stage. 16 17 So you don't really know why she Q. was there? 18 Α. No. 19 Flip to the minutes for May 10, Ο. '94. Look at page -- well, first ET 0006720 showing 20 that you and John Hatch were there from Barrett, right? 21 Yes. 22 Α. Now, look under safety item 11.4. 23 Q. It says, "Barrett called to have L and I come out and 24 inspect pump station excavation. It is their 25 policy to call 00471

L and I whenever they don't feel the site 1 is safe." And then, "Imco complied with L and I 2 regulations and had a PE inspect and design our slopes. Was 3 asking in the future more notice is given to Imco 4 about Barrett's 5 concerns. Imco would also like the opportunity to call L and I on their own." Did you call L and 6 Ι? 7 Yes, sir. Α. Were you instructed to do that or 8 Q. did you just do it on your own? 9 I did it on my own after talking 10 Α. to John. After talking to John Hatch? 11 Q. 12 Α. Yes. Had you raised the issue with Imco 13 0. prior to calling L and I? 14 We had talked about it, yes. 15 Α. And I take it you weren't 16 Q. satisfied with their responsiveness? 17 Well, no. I would be much more 18 Α. satisfied having an L and I person come out who has 19 experience in excavation and quick capability of 20 determining whether a site is safe or not. 21 22 This had to do with like shoring Ο. and sloping of the sides of trenches and things like 23 that? Yes. We were going down 20 feet 24 Α. deep and with a slope that was approximately three 25 quarter to 00472 1 one. 2 And this didn't cause you to Q. be concerned about the quality of the Imco excavators? 3

No. Very common this occurs. 4 Α. 5 Go to item 11.9, which is on page Q. 6722. Do 6 you see it? 7 Yes. Α. It says, "Greg asked John if the 8 0. gas company is okay about the CDF. John said he spoke 9 to Steve at Olympic Pipe Line and their main concerns 10 are cathartic protection and excavating again." 11 Do you remember this discussion about CDF? 12 13 Not particularly, no. Α. This had to do with pouring CDF 14 Ο. over the Olympic pipeline after it was buried and 15 after the 72-inch line had been put in place; is 16 that right? I believe so. 17 Α. Do you know -- and if you don't 18 Q. it's okay, but do you know why John Hatch called OPL 19 instead of 20 Greg Burris or somebody from Imco? No, I don't. 21 Α. MR. SCANLAN: Objection, 22 mischaracterizes 23 This says, "John said he spoke the exhibit. with." It doesn't say that he made a call. 24 MR. NICOLL: Sorry. 25 00473 1 MR. SCANLAN: Well, I mean, it suggests he took an affirmative steps and that's what 2 it says. MR. NICOLL: You're right. 3 Let's look at May 17. This is 4 Q. page 4648. First of all, let's check the attendees. 5 You were in attendance along with John Hatch? 6 7 Yes. Α. 8 Bill Evans and Wan Huang were Q.

there from the 9 city of Bellingham? 10 Α. Yes. 11 MR. SCANLAN: Are you testifying that you 12 recall that or that you're basing it on what's written 13 ---What's written on the --14 Α. Q. You don't recall anything 15 differently, though, right? 16 17 Α. No. There's a reference here about 18 Ο. -- on item 19 11.2 on page 4648. It says, "Intermountain checked pipe as okay although there was 20 mechanical damage. John asked that any damage to coating be 21 fixed immediately." Is this Intermountain 22 Corrosion Service, 23 do you know? I would assume that. I don't know 24 Α. for a 25 fact that it is Intermountain. 00474 Q. Now, the reason I ask is because 1 there was some reference somewhere else to an 2 Intermountain gas -- Intermountain Natural Gas or 3 Intermountain Gas Company or something like that, and I just 4 wanted to determine, if you know, whether this is the 5 б Intermountain Corrosion Services people or if this is 7 Intermountain something else? 8 Α. Well, from the references they're making in the note I would say it was Intermountain 9 Corrosion. 10 Q. And the references that lead you to that 11 conclusion have to do with the damage to

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coating? 12 Α. Yes. 13 If you look at page 4649, item Q. 12.9, 14 there's a reference here that "John gave Paul plans with piping changes. Greg asked if Imco 15 should backfill walls before laying the 24-inch. 16 John is 17 meeting with a fireman at 10 a.m. today to see if we will be able to drain the line." 18 Do you know whether these are 19 the piping 20 changes related to the 24-inch discharge line which 21 were reflected in drawings dated May 13? No. I don't know that that could 22 Α. be -- that 23 is the case. It could have been the large diameter pipe changes that we made as well. 24 Let's look at the minutes for May 25 0. 31, '94. 00475 1 These don't have an ET number. Instead they seem to have an OPL 5002354 number, which I will 2 represent means they came from the city of Bellingham 3 records. This is a meeting that it appears you were 4 not present 5 for. Do you see the attendance list? 6 Α. Yes. 7 Who is Bob Morley? 0. 8 Α. He is a person that works for -worked for 9 Barrett at the time. Did he sometimes come up and 10 Q. spell you as on-site inspector? 11 12 Α. Yes. 13 Q. There are references in here to a broken 14 water line, 16-inch permanent repair. Do you

see that, 15 item, 14.2 and 14.3? 16 Yes. Α. 17 0. Do you recall during excavation by Imco a section of the 16-inch water line being 18 broken? 19 Yes. I remember, there were Α. pictures of it 20 as well. 21 And this didn't cause you to be 0. concerned 22 about the quality of Imco excavation? 23 Α. No, as it happens that utility lines can get 24 damaged during excavation. It happens. Look at the June 7 meeting 25 0. minutes, page 00476 This is a meeting that you were 1 0004585. present for; is that right? 2 3 Yes. It's listed. Α. That's what it says? 4 Ο. 5 Α. Right. 6 And you don't have any reason to Q. disagree? 7 Α. No. 8 There was, under item 15.3, there Q. was discussion about scheduling the tie-in to 9 the 24-inch 10 tee. We've discussed that earlier in your deposition? 11 Α. Yes. 12 Q. This does seem to suggest that the schedule had to be changed. You'll recall that the 13 tie-in 14 actually occurred somewhere around the 7th or the 8th of July, and this seems initially to be 15 scheduled for the 22nd of June, right? 16 17 Α. Yes. Primarily because they're asking for 18 -- we were asking for a three-week schedule

so they 19 were starting to project that out. But as we know that got changed 20 Q. later? 21 Α. Yes. And, in fact, if you turn to the 22 Ο. minutes for June 21, 1994, 0006710? 23 24 June 24? Α. June 21. Meeting No. 17. At this 25 0. meeting 00477 it appears, at least, you're listed as 1 having been there? 2 3 Α. Yes. And it also lists several people Ο. 4 from the city of Bellingham, and I want to pause just 5 for a moment and ask you, Wan Huang, was he the 6 engineer in charge of this project from the city side or 7 do you 8 know? 9 He was project manager, I guess Α. is what 10 you'd call it, for the city. Bill Evans, as we know, was the 11 Q. 12 superintendent out at the --Filtration plant. 13 Α. 14 0. Filtration plant. Bill McCourt, you didn't 15 recall what he did. Do you recall? He's maintenance superintendent. 16 Α. 17 Q. And Gary Hess, who was he? What did he do? I don't remember. 18 Α. 19 0. Now, this says that the tie-in to the 24-inch tee and the 16-inch line will be 20 postponed to the 7th of July. Do you see that? 21 Yes. 22 Α. Do you remember if the city had 23 Q. any specific input as to scheduling on that? 24

25 Α. Yes. They were the ones that had to shut 00478 down the system so that it could be drained. 1 2 Okay. Now, let's look at the Q. minute meetings on July 5th, page 4261. 3 Take you -- I'm going to ask you to take a couple of seconds just 4 to scan through this because I'm going to ask you 5 some 6 questions about it. 7 MS. MARCHESE: Sorry, date again, counsel? MR. NICOLL: July 5. The page 8 numbers are 9 4261 and 4262. MR. FLOYD: Would this be a good 10 time for a 11 five-minute break? MR. NICOLL: Sure, it's fine with 12 me. THE VIDEOGRAPHER: Going off the 13 record. The time is approximately 3:20 p.m. 14 15 (Recess.) 16 THE VIDEOGRAPHER: Back on the record. The time is approximately 3:30 p.m. 17 Why don't you turn to the minute 18 Q. meetings for July 5th if you hadn't already. You 19 were there, okay. Talked a little bit about the 20 attendance list. I'm going to focus on this one again. You 21 don't have any reason to believe you weren't there as 22 reported on this document, do you? 23 No, I don't. 24 Α. 25 Listed as attending for the city Q. of 00479 Bellingham are Wan Huang, who we've already 1 spoken

2 about, and Gary Hess, who we've spoken about, and Bill McCourt, who we've spoken about. There's a 3 fourth person here is Ray Bailey. Do you know who 4 Ray Bailey is? 5 He was maintenance 6 Α. superintendent for the city as well. 7 Any recollection as to why he Ο. 8 was attending the meeting on July 5th? 9 I believe he was directly Α. 10 involved with the 11 crew that was going to be shutting down the water line 12 for the tee installation. O. The installation of the tee joint 13 into the 16-inch water line? 14 15 Α. Yes. I also asked you to review this 16 Q. document, the July 5 meeting minutes. Have you had a 17 chance to 18 do that? Α. I read through it once, yes. 19 You notice under schedule 19.1, 20 Q. "Greg Burris went over the three-week schedule, there was 21 discussion 22 about the shut down." That's the shut down of the 16-23 inch water line; is that right? 24 Α. Yes. "It was determined that since the 25 Q. operation 00480 should take approximately six hours, five 1 a.m. would be a better time to start"? 2 3 Α. Yes. Now, as I read through this I Ο. didn't see any mention of scheduling Olympic Pipe Line 5 inspectors or

observers, did you? 6 7 I don't see any mention of it. Α. I don't see any mention of 8 Ο. calling the one call utility locator service or anything 9 like that. Did you see anything about that? 10 No, I didn't. 11 Α. Independent of what's contained 12 Ο. on these minute meetings -- meeting minutes -- do 13 you recall a discussion about trying to schedule the 14 utility -underground utility locator or somebody from 15 the Olympic Pipe Line in connection with the shut 16 down? Not specifically, no. 17 Α. Now, let's look at the next 18 Ο. minutes, which is July 12, '94. Do you have those in front 19 of you? 20 Α. Yes. 21 This document says that you were Q. present for 22 the meeting. Do you have any reason to doubt that? 23 Α. No, I don't. 24 Document says that Wan Huang and 0. Gary Hess 25 from the city of Bellingham were there. I note under 00481 item 20.1, "Paul mentioned that Imco may 1 need to demo the door. Greq measured the silo. Will not 2 fit in the doorway. Imco and Barrett will have to 3 decide how to get the silo in the building." Is that 4 when the issue about how to get the soda ash silo into the 5 building first reared its head? 6 7 Yes, I believe. Α. There's a reference under 8 Q.

schedule, item 20.12 sub one on page 6702. It says that John had a few comments. The only John on the list is 10 John Hatch? 11 Α. Yes. 12 The first comment was, "When 0. installing the 24-inch piping make sure you know how the 13 pipes should be installed and tested." Do you know, do 14 you recall, 15 why he said that? MR. SCANLAN: I object to the form 16 of the 17 question. Are you asking for what he said or are you asking to perceive a state of mind? 18 MR. NICOLL: I'm asking, first 19 of all, if John -- I'm sorry -- if Tom knows from his 20 discussions with John why John mentioned this. 21 No, I don't. 22 Α. Had there been a problem in the 23 Q. installation of the 24-inch pipe that preceded this 24 project meeting 25 on July 12, '94? 00482 I'm not sure. I know the first 1 Α. time we went to actually go and do the work that we 2 abandoned it and went back the next day because we weren't 3 prepared. There's a reference to tested, 4 Q. how the 24-inch piping should be tested. Do you 5 know of your own knowledge what the reference to how the 6 pipe should 7 be tested was? No, I don't. 8 Α. 9 Q. Can't recall it? 10 Α. No. Q. Do you recall there being any 11

problem with testing the piping? 12 13 No problem with testing it, no. Α. 14 Q. Now, I notice on -- in the narrative, at least, of the meeting that there was no 15 mention or 16 reference of Olympic Pipe Line? I didn't see any either. 17 Α. 18 ο. I'm looking at the schedule or what appears to be a schedule attached to it. 19 This would be the 20 three-week schedule. Am I right? 21 Yes. Α. 22 There's an item on the first Ο. page of the schedule that says 16x24 tee. Do you see 23 that about seven lines down? 24 25 Α. Yes. 00483 That's the tee joint? 1 Q. 2 Α. Yes. It's listed as -- there's 3 Q. shadowed in or colored in is the box for 7-7? Δ 5 Α. Yes. And then it says -- underneath 6 Ο. that it says, "Assemble 16 by 24 tee and air test," and 7 that's shadowed in as July 5, right? 8 9 Α. Yes. 10 Q. Do you recall that occurring? 11 Α. No. I had some questions about some of 12 Q. these other things just real quickly. There's an 13 item 14 underneath that says S.A.S.O.G. Do you see that? Yes, I do. 15 Α. 16 Q. Do you know what that is? 17 I assume it's -- no, I don't, Α. but I would guess it's the soda ash they're referring 18

to. 19 Q. At the bottom of the page there's a 20 reference to 24-inch pipe at PS, P/S, and a four-inch 21 drain? 22 MR. SCANLAN: Are you sure that's not PVC? MR. NICOLL: It looks like P/S 23 to me, but why don't you tell us, Tom, if you know. 24 No, I don't know. 25 Α. 00484 Was there any 24-inch PVC being 1 Q. used at that 2 site? 3 No, not that I recall. Α. MR. SCANLAN: The only reason why 4 I raise that is you've got the documents you used 5 earlier that referenced the intersection of the PVC and 6 the four-7 inch. 8 MR. NICOLL: I don't know. Well, it's something to look back into. 9 And then on the next page, 10 ο. there's a reference at the top line to 24-inch exterior 11 pipe at 12 PS. Do you see that? 13 Α. Yes. What -- is that something 0. 14 different than the 24-inch discharge or suction? 15 I would assume -- my guess would 16 Α. be it's both. He's talking about both pieces of 17 pipe. For some kind of work scheduled 18 Q. between the 11th and the 14th of July? 19 20 Α. Right. 21 Q. And then there's a reference in the third 22 page. It's hard to read. Third page of the

schedule 23 at the top. It seems to say pressure test -- something 24 -- all lines. Do you see that? Α. I see something there, yeah. 25 Pressure. Т 00485 think it says pressure test. 1 And it seems to be scheduled for 2 Q. July 28th? Α. 25th and 28th. 3 25th and 28th, you're right. 4 Ο. And then backfill both 24-inch lines seems to be 5 scheduled for the 28th? 6 7 Α. Yes. Does that pretty much comport 8 Ο. with your recollection about when things actually 9 occurred, when 10 those things actually occurred? Yes. 11 Α. 12 0. Look at the minute meetings -meeting minutes for July 26th, page 6706. 13 14 Α. Yes. 15 ο. The first page there's a reference to a person in attendance named Mark Ladin, L A D 16 I N? 17 Α. Yes. 18 Ο. Do you know who that person is? 19 Α. No. 20 Somebody from the city of Ο. Bellingham? That's what it says, yeah. 21 Α. Item 22.3 on the next page, 6705. 22 Ο. There's a 23 reference here to "Tom said the bags on the 24-inch line south of the pump station are damaged. 24 There's no 25 easy way to walk around down there. Imco is aware of 00486 1 both situations and is attending to it."

Are these the plastic bags that were around the 24-inch 2 line? I guess. I don't really know. 3 Α. You don't remember? 4 Q. 5 Α. I didn't write it so I don't know what he's referring, to quite honestly. 6 Backfilling wouldn't have been 7 Q. completed by July 26, though? 8 9 Α. I don't know. Look at, attached to that set of 10 Q. minutes, 11 page 6707. It's the first page of, I guess what would be, the three-week calendar, three-week 12 schedule? 13 Α. Yes. There's a reference to "start 14 Ο. electrical and P/S as much as possible between 8-3 and 8-15 4." Do you 16 see that? 17 Yes. Α. And then there's also a reference 18 Ο. to "exposed PVC in pump station," and the 19 calendar seems to scratch in 8-9 and 8-10. That would be -20 - PVC would 21 be internal to the pump station, wouldn't it? 22 Α. Yes. 23 Ο. Let's look at the meeting on August 9. I'm sorry, August 2nd. There's a reference on 24 page 4190 under item 23.9. Says "Bill Evans and Wan 25 Huang will 00487 be on vacation the week of August 15, '94." 1 Do you have any knowledge of -- well, did it mean 2 anything to 3 you that those two guys wouldn't be there? 4 Α. No.

5 Q. Look at August 9, 1994. Do you see the first page? 6 7 Α. Yes. Any reason to believe that you 8 Ο. weren't at 9 that meeting? 10 Α. No. Look at page 4162, item 24.5. 11 0. There's a 12 statement here that says, "Barrett feels an additional 13 foreman is needed to oversee the whole operation on 14 site. Imco agrees and has placed Greg in the field more often." Do you remember earlier I 15 asked you a question about whether there were any 16 issues between yourself and Paul Krakenberg, whether you 17 had confidence in Paul, and I had asked you to 18 take a look at this comment under work quality item 19 24.5. Do you recall that issue being raised, the issue 20 raised in 24.5, at the 21 meeting? 22 Α. No, I don't. Do you recall having any kind of 23 Q. concerns 24 about the quality of the Imco supervision on the job 25 site at around that time? 00488 1 I don't recall that, no. Α. 2 Was John Hatch regularly at the Q. job site? 3 Α. No. 4 0. You were the one who was there? 5 Α. Yes. As between yourself and John, in 6 0. light of the fact that you were the one who was on 7

the site and 8 he wasn't, who, between the two of you, would have been more likely the person to raise a concern like that, as is raised here at 24.5? 10 11 Α. Me. But as you sit here you can't 12 Ο. remember that 13 you had the concern or what it was based upon? 14 Α. That's right. 15 What would be a better indication Ο. of what 16 was going on in your mind at the time? Would it be how 17 you feel today or what you remember today or what's 18 written in the meeting minutes? 19 MR. SCANLAN: Object to the form of the Calls for speculation. 20 question. 21 The meeting minutes. Α. 22 Ο. Item 24.6 states, "Tom asked that copies of 23 the specifications to the work currently being 24 performed be available in the field." Do you recall 25 that? 00489 1 Α. Not specifically, I don't, no. Do you have any reason to doubt 2 Q. that you 3 asked that? No. I very easily could have. 4 Α. 5 Q. Would it sitting here today -- I mean, would it surprise you that specifications weren't 6 available 7 in the field? No, it wouldn't surprise me. 8 Α. That's kind of routine. Is that 9 Q. routine? Yes. It's not unusual for people 10 Α. to do the 11 work without the plans handy to them.

12 Q. Would that include heavy equipment operators, backhoe operators? 13 14 Well, no. I was referring to Α. laborers doing work inside a vault or inside the pump 15 station. As I recollect, that is what I would have been 16 referring to. We had a lot of problem with the chlorine 17 vault because there were plumbing activities that needed 18 specific people to do them, and we didn't get people 19 with a 20 qualified background to do that work, and we had some problems and had to go and replace some of 21 the valves within the chlorine vault, which is next 22 to the 23 reservoir. Was the problem the quality of 24 0. the people 25 doing the work or the level of instruction that they 00490 1 were given? My guess is it was a level of 2 Α. instruction they were given. 3 Δ Which is why you wanted the specs Ο. available? 5 Α. Right. Did you know that there weren't 6 Ο. 7 specifications available on site through Imco, at, say for example, their trailer? 8 9 I knew it was at the trailer. Α. You just wanted it to go from the 10 Q. trailer to 11 the people in the pump station? 12 Α. Yes. 13 There's a mention on item 24.8 Ο. about Bill voicing concerns of the soda ash door being 14 open for

long periods of time for security reasons. 15 Do you have any recollection of that independent of 16 what's written 17 here? 18 Α. No. 19 Oh, I noticed also in the minutes 0. for August 9 that there was no reference in here to OPL 2.0 or the gas 21 or oil company or the pipeline or anything like that. Did you notice that as well? 22 I didn't notice it, but I don't 23 Α. see it. 24 Look now at August 16 meeting. 0. It's 4147 Do you see it? 25 ET 0004147. 00491 1 Α. Yes. 2 Ο. Any reason to believe that you weren't at that meeting as represented? 3 4 Α. No. Item 25.5 indicates that "Bill 0. 5 McCourt asked for a space to be cleared on the chlorine 6 loading dock." Do you know why? Do you recall it? 7 I don't recall it, but that's 8 Α. what it says 9 here. Okay. Look at the minutes for 10 0. the meeting 11 on August 23rd, 1994. Says ET 0004138. Do you have 12 any reason to believe you weren't at this meeting? No, I don't. 13 Α. 14 Why don't you look at the item Q. under 26.1, just read it to yourself. 15 (Complying). 16 Α. 17 MR. NICOLL: Why don't we go ahead and stop and change the tape. 18 19 THE VIDEOGRAPHER: This is the

end of tape No. 2 in the deposition of Tom Franklin. 20 The time is 21 approximately 3:58 p.m. Going off the record. Let me correct that. It's 3:53 p.m. going off the 22 record. 23 (Recess.) 24 THE VIDEOGRAPHER: Back on the This record. is the beginning of tape No. 3 in the 25 deposition of Tom 00492 Franklin. The time is approximately 3:58 1 p.m. Have you got August 23rd in front 2 Q. of you? I asked you to take a look at 26.1. Do I read 3 this correctly that this is saying that Greg 4 Burris had been transferred to another job? 5 Yes. 6 Α. 7 Q. Do you recall that? Α. I believe he did, yes. 8 Q. We talked about this a little bit 9 earlier, 10 and at that time you didn't have a recollection that he had transferred to a different job? 11 12 Right. Α. 13 0. But this refreshes your recollection about 14 that? 15 At least for a certain length of Α. time he 16 I don't remember if he was gone for went. good or not. I don't think he was. I thought he came 17 back. 18 Now, is this statement here Ο. accurate as far 19 as you recall that John Hatch was concerned about the 20 lack of supervision of the operation? 21 Α. Yes.

22 Q. Were you also concerned? 23 I guess, yes, if that's the proper Α. term for it, yes, I was concerned. 24 The next statement that I saw was, 25 Q. "John was 00493 concerned about the line of communication." 1 Do you see 2 that? 3 Yes. Α. Is that an accurate statement 4 0. about what 5 John said at that meeting? I don't remember the meeting, Α. 6 quite honestly. I don't remember activities going 7 on during that meeting. 8 9 Ο. Do you recall John being concerned about the communication? 10 11 Α. Yes. Did you share that concern? Q. 12 A. Yes, I did. 13 14 Q. The next statement says, "What was being said didn't always get to the person in 15 the ditch"? 16 Α. Yes. 17 Did you share that belief? 0. 18 Α. Yes. It says, "The dirt work and the 19 Q. outside piping are near completion. Greg will be 20 back to shoot 21 the coordinates again." Do you remember what that means, "shoot the coordinates"? 22 I can only --23 Α. Well, don't speculate. If you 24 Q. don't know 25 just say you don't. 00494 No, I don't. 1 Α. 2 Q. Can you recall any specific ways

in which the communication issues addressed in 3 paragraph 26.1 manifested themselves, you know, some examples of how the person in the ditch didn't get word from 5 the office or whomever about what needed to be done? 6 Yes. I mentioned earlier I was 7 Α. concerned about the plumbing within the chlorine 8 manifold, and that vault system itself was a major 9 problem. I felt that it needed to be taken apart and 10 redone again 11 because it wasn't done properly the first time. 12 Q. Was that the only one? That's the only thing I can 13 Α. remember right 14 now, yes. Look at item 26.5. It's on page 15 0. ET 0004139. This seems to have something to do with work 16 around the 17 creek itself? 18 Α. Yes. 19 Do you recall that, what that was Ο. about? 20 It was just backfilling the pipe Α. that carried Hannah Creek, that they had put the 21 gravel and rock inside the pipe the way they were 22 supposed to, but they hadn't finished the backfilling on the 23 sides so 24 that we wouldn't get sediment from the backfill into 25 the creek. 00495 1 Q. There was some concern, I guess, about altering the creek itself during this 2 construction? Putting sediment into it would 3 Α.

be something that isn't desirable, and the fact that 4 once you get your backfill completed and they put rock on top of it 6 that would hold the sediment in place and that hadn't 7 been done yet. Look at item -- well, on the 0. 8 next page there's an item about -- impacts on plant 9 operations is the heading. It's ET 0004140. And item 10 26.14 reads that "Bill said the tee handle for operating 11 the valves was transformed by someone. Imco can use it 12 for the duration of the project but he would like it 13 returned to him afterwards." Do you have any 14 recollection about 15 this and what it's about? Α. No, I don't. 16 Does this -- do you know if this 17 Q. has anything to do with the valve stems off the 18 tee joint? MR. SCANLAN: Asked and answered. 19 20 No. Α. Take a look at the minutes for 21 Q. August 30, 22 '94. 23 August 30? Α. 24 Yeah. That should be 0004131. Q. 25 Α. Okay. 00496 Item 27.1 seems to deal with Ο. 1 problems encountered in the context of the soda ash 2 silos? 3 Α. Yes. 4 Now, this report says that you Q. were present? It does. 5 Α. 6 Q. Do you have any reason to disbelieve that?

7 Α. No. It also says that Mark Graham, for 8 Ο. that matter, from Triad was present and Wan 9 Huang, Bill Evans from the city of Bellingham. Any 10 reason to doubt the accuracy of that? 11 12 Α. No. 13 It says -- do you have any Ο. recollection of the discussion at this meeting concerning 14 the soda ash silo problem, the problem that Imco claimed 15 to have been encountering and receiving compensation 16 in 17 relation to that problem and the effect that it had on trust between Barrett and Imco? 18 No. I don't remember it changing 19 Α. anything or having an impact or reflecting an impact. 20 Do you remember the discussion, 21 Q. though, at 22 the meeting? I remember it being 23 Α. No. discussed. I don't remember the discussion. 24 The last two sentences in that 25 Q. paragraph 00497 27.1, at least on the first page, page 4131, 1 read, "Barrett feels Imco could have mentioned 2 this more appropriately. It all comes down to how 3 things are presented. Paul said it all comes down 4 to the 5 unwritten rule of trust and respect both of which are lacking on this job." 6 That sounds like a pretty 7 incendiary statement. I'm not going to ask you again. 8 Are you

sure you don't remember that discussion? 9 MR. SCANLAN: Objection, asked and 10 answered. 11 MR. FLOYD: I'll join in that objection. MR. NICOLL: I think I'm allowed 12 to problem 13 his memory a little bit. 14 MR. FLOYD: Same objection. 15 No, I don't remember it. Α. You don't remember, okay. Any 16 Ο. reason to 17 disbelieve it? 18 Α. No. Turn to the next page. At the 19 Q. top, the last sentence, it's reported in these minutes 20 that "Barrett 21 agreed there was a lack of respect and trust on this 22 project and they would discuss this with Imco at a later date." Do you remember making that 23 statement? 24 Α. No. 25 Do you disagree with that Q. statement? 00498 MR. SCANLAN: Object to the 1 form. 2 Α. Yes. MR. SCANLAN: Just so I'm 3 clear, are you asking if he disagrees that he made the 4 statement or 5 just that the statement was made by someone? MR. NICOLL: Why don't I put 6 it this way, then. You're right, that's a good point. 7 Do you disagree -- are you 8 Q. contending that nobody from Barrett made that statement? 9 You're contending that John Hatch didn't make that 10 statement? 11 I don't remember John Hatch making Α.

12 statement. And do you feel that there was or 13 0. was not a lack of respect and trust between Imco and 14 Barrett on 15 that job? There was no lack of respect on the 16 Α. project. 17 I don't know about trust. I can only talk about I didn't have any lack of trust for 18 myself. Imco. 19 Q. Do you recall whether you spoke out at that 20 meeting to contradict the statement that's reported in the minutes? 21 22 Α. No. I don't believe I did. You don't believe you did? 23 Ο. 24 Α. I did not. You did not. Do you know a guy 25 Ο. named Ken 00499 1 Zangari? 2 Α. No. Do you know a guy named Dan 3 0. Karrer? No. 4 Α. 5 Where inside the treatment Q. facility were the offices of Bill Evans, do you recall? 6 7 Yes. The front area next to the Α. stairways. Would you be able to identify it Q. by looking at a photograph of the exterior? 9 Well, his office wasn't visible 10 Α. directly 11 from the exterior. Do you know if he had a window 12 0. looking out? Yes, he did. 13 Α. Which direction did he look in 14 Q. from the treatment facility? 15 It would have been westward. 16 Α.

that

Towards the project? 17 0. 18 Α. Yes. Based on your recollection of his 19 Q. office, could Mr. Evans sit in his office and 20 look out the 21 window and see what was going on in the project? I believe so. 22 Α. 23 This is a photograph that's Ο. not in the record right now. Why don't we mark 24 it. (Marked Exhibit 256.) 25 00500 Is his window visible in this 1 Ο. photograph? Yes. I believe it's the two or 2 Α. three windows on the right edge of the bank of 3 windows. Why don't you take my pen and 4 0. just circle those and draw a line out to them and 5 write "Evans." (Complying). 6 Α. 7 Thanks. Could you hold up the 0. photograph and just point to it for the video camera? 8 (Indicating). 9 Α. 10 That's the area, those three Q. windows? Right here (indicating). 11 Α. 12 MR. NICOLL: For everybody else it's these three double tall windows here 13 (indicating). How frequently was, if you 14 0. know, was Mr. Evans at work during the project? 15 16 Α. Nearly all the time. 17 How often did he come out of the Q. office and come down to the job site, as you recall? 18 Oh, probably two or three times 19 Α. a week. 20 Q. Did you know what his specific

role was in 21 connection with the project? 22 Facilitator. Α. 23 So he kind of facilitated on the Ο. operational 24 side of things? 25 Α. Yes. 00501 Did he participate in the 1 Q. meetings? We've been through a bunch of minutes, but did he 2 participate in the meetings that were held between the 3 subcontractor and Barrett and other Δ subcontractors? As appropriate for scheduling, 5 Α. yeah. In any other way? 6 Q. 7 Α. Well, he's not really -- I believe only in issues that he was involved in. 8 9 Were you ever present when Mr. Ο. Evans took photographs of the project? 10 11 Α. I believe I remember seeing him take 12 pictures, yes. 13 Were you ever present when Mr. Q. Evans took videotape of the project? 14 Could be. I believe so, but I 15 Α. can't say for 16 sure. I don't remember specifically. Did you ever take video of the 17 0. project? 18 Α. No. 19 Do you know of anybody besides Q. Mr. Evans who took videotape -- and yourself -- who took 20 video of the 21 project? 22 Α. No. Do you know of anybody besides Mr. 23 Ο. Evans and yourself who took photographs of the 24 project? I believe Imco first personnel 25 Α.

did, Greq 00502 Burris, Paul. 1 2 Q. Greg Burris, Paul Krakenberg? 3 Right. Α. Any others? 4 Q. 5 Α. Not that I recall. Do you know whether copies or 6 Q. duplicates of the videos or photographs taken by others, 7 Imco, city, were shared with Earth Tech? 8 Perhaps they could have been. I 9 Α. don't 10 recall any. Did Bill McCourt have offices at 11 0. the 12 treatment facility? 13 Α. No. Do you know where his offices 14 0. were? 15 Α. No, I don't. Did Mr. Wan Huang have offices at 16 Q. the 17 treatment facility? 18 Α. No. Do you know where his offices 19 0. were? I believe they were in the city 20 Α. engineering 21 department. 22 Did you ever visit him there? Q. No. Take that back. I did, 23 Α. actually, during a precon meeting. I believe I did see 24 him in 25 the offices by city hall. 00503 Were there other city of 1 Q. Bellingham employees who came to meetings or came on 2 the job site who have offices in the treatment facility 3 other than Mr. Evans? 4 5 No. Α. 6 Q. How about that Diane whateverher-name-was? 7 I can't remember her last name. She was only there just a short 8 Α. time frame. So Bill Evans was obviously not 9 Ο. the only Do you recall 10 person in that building. others who were, by name? 11 12 Α. No. 13 None that you interacted with? Ο. 14 Α. Right. Were there specific types of 15 Q. things that you were required to report to the city while you 16 were filling the role as on-site inspector? 17 18 Α. No. You didn't have any specific 19 Q. quidance or requirements that you knew you were obliged 20 to report? Α. No. 21 22 Did you receive written Ο. correspondence, you yourself personally receive written 23 correspondence, from city representatives in the context of 24 this job? There could have been 25 Α. correspondence that I 00504 was expected to pass on to Bellingham -- I 1 mean, to Bellevue office, because I went back and 2 forth once or 3 twice a week. But nothing specifically directed 4 Ο. to you that you can recall? 5 6 Α. Right. Is it fair to say that you were 7 Q. the 8 representative of the city on that job site? 9 Α. No. You don't think so? 10 Ο. 11 A. (Shaking head).

12 Q. You worked for Earth Tech or Barrett? Barrett at the time, yes. 13 Α. 14 And what was Barrett's Q. relationship to the city, do you know? 15 16 Α. They were designer of the treatment plant 17 modifications. So what -- I understand that but 18 Q. why were -if you know, why were you on site, because 19 you weren't involved with design, were you? 20 Not directly, no. I was on site 21 Α. as to be a 22 construction representative of Barrett for the activities going on. 23 And your inspection reports would 24 Q. be sent to 25 whom? 00505 Α. Barrett. 1 Anywhere else? 2 Q. From Barrett they would go to 3 Α. other places like the city. 4 5 The city? Q. 6 Right. I knew of that, but that Α. was the only one I knew of. 7 8 Q. Do you recall if any other types of recordings were made at the work site such 9 as, for 10 example, records of tests on piping or valves, welds, that sort of thing? 11 Yes. There were records taken 12 Α. of welding activities and proof of the welding 13 testing. Other 14 . materials also would get -- would be sent as well. I mean, rebar, they'd send rebar 15 certifications

for amended materials, those type of 16 material 17 documentations. Do you recall anybody 18 0. coming out and 19 performing tests, inspections, that sort of thing, who 20 didn't provide a report to Earth Tech/Barrett? Not that I know of. 21 Α. Do you have any recollection of 22 Q. having 23 yourself personally provided warnings to any of the 24 Imco employees regarding the location of the pipeline through the work site, verbal warnings? 25 00506 Could you say that again? 1 Α. 2 Do you have any recollection of 0. yourself personally providing verbal warnings to Imco З. employees about the location of the pipeline, the Olympic pipeline, through the work site? 5 No. I don't recall myself saying 6 Α. anvthing 7 to them. As the excavation in the site 8 Ο. progressed, what happened to the markings that denoted 9 the location of the pipeline? I know earlier in your 10 deposition we talked about the presence of stakes and 11 things like 12 that. 13 MR. SCANLAN: By pipeline you mean the --MR. NICOLL: The Olympic 14 pipeline. 15 I don't recall. Α. Wasn't there also -- weren't there 16 Ο. also like 17 painted -- spray painted markings on the ground that

showed where the pipeline ran through the --18 Yes, there was. 19 Α. -- through the site? So it would 20 Q. connect up the stakes that were at either end of the 21 work site? Yes. I remember doing it myself 22 Α. at times. As excavation progressed, 23 0. obviously things were driving over the site, these markings, 24 these 25 painted markings, would be rubbed out; is that right? 00507 They could have been. 1 Α. Well, why -- would you go back 2 Q. and respray 3 paint? Sometimes, yes, I would. 4 Α. 5 You would? Q. 6 Yes. Α. 7 Q. And do you recall what color spray paint you 8 used? No, I don't. 9 Α. Why did you do that? 10 Ο. Just to keep everybody aware of 11 Α. what --12 to remind everybody of the concerns everybody has. 13 To remind everybody of where Q. the pipe --14 where this gas pipeline was running through the 15 construction site? 16 Α. Yes. And was there anybody else 17 Q. besides yourself who was doing that? 18 I believe both Greg and Paul also 19 Α. did the 20 same thing. So there will be -- well, you 21 0. believe it or you remember it? 22 I remember it being done besides 23 Α.

myself. 24 Other people also did it. I wasn't always around to see it being done or know who did it. 25 00508 1 Q. And what would you do to make sure that people were aware that this spray painted 2 line, to the extent that you were doing the spray 3 painting, was -represented the Olympic pipeline? 4 5 Well, I really didn't have to. Α. Everybody 6 knew what it was all about. Everybody was aware of 7 what was going on. 8 Have you been called to Q. give testimony before the grand jury in the western 9 district of 10 Washington? 11 Α. No, I haven't. You have been interviewed, as I 12 Ο. recall, by 13 the U.S. attorney, though, right? 14 Yes. Α. 15 And I'm sorry, but was that under Ο. a grant of immunity or was it just you were given a 16 statement that 17 you weren't a target or something like that? MR. SCANLAN: We were given a 18 statement as to Earth Tech and as to Tom Franklin, John 19 Hatch and George Nordby that we were neither target nor 20 subject. 21 Have you given a verbal or Q. written statement to anybody else other than in this 22 deposition, other than, obviously, to Earth Tech's and your 23 attorney? 24 I mentioned earlier in one of Α. the 25 depositions that a newspaper person had

contacted me, 00509 and I did talk to him for about three or 1 four minutes, and then the NTSB people. 2 Right. You've given a statement 3 0. or had a statement taken by the NTSB? 4 5 Α. Yes. 6 Ο. Have you heard any rumors prior to testifying today about what happened to the 7 pipeline? MR. SCANLAN: Objection. 8 9 No. Α. MR. SCANLAN: Relevance. 10 11 MR. NICOLL: Could lead to the discovery of 12 relevant evidence. I think it's appropriate. 13 Q. Have you? No, I haven't. 14 Α. Earlier I told you or I asked 15 Ο. you whether you had heard that on August 11 during 16 excavating an Imco backhoe struck the pipeline, the 17 Olympic pipeline, that it was uncovered, the damage 18 was seen, and that a person at the site instructed 19 those present not to say anything to you. Do you remember 20 those questions? 21 I remember you asking that. 22 Α. Based on your dealings and 23 Q. involvement with Paul Krakenberg, would it surprise you if 24 Paul 25 Krakenberg had instructed the people present not to say 00510 1 anything to you? 2. MR. FLOYD: Object to the form of the 3 question. Go ahead and answer.

Would it surprise me if he had 4 Α. said that? 5 Yeah. Q. MR. SCANLAN: You're asking him 6 to 7 speculate? MR. NICOLL: No. I'm asking him 8 to -- this is a way of getting at their --9 understanding what 10 their relationship was and what Tom's feelings and appreciation for Paul Krakenberg was. 11 MR. SCANLAN: Can you rephrase the 12 question 13 then. 14 MR. NICOLL: Yeah. Would it surprise you if Paul 15 Q. Krakenberg was the person who instructed the others not to 16 say 17 anything to you? MR. SCANLAN: Calls for 18 speculation. 19 MR. FLOYD: Same objection. Speculation, 20 lack of foundation. I don't know how to answer that. 21 Α. I wouldn't 22 have expected him to do something like that, no. So you would feel that it would be 23 Ο. out of 24 character for the guy? 25 Yes. Α. 00511 MR. SCANLAN: Objection. 1 But you really don't know 2 Q. anything about him 3 outside of work? 4 Α. That's correct. 5 MR. NICOLL: I'm sorry it took so long guys, but that finishes me up. 6 7 MR. FLOYD: That's the way it qoes. THE VIDEOGRAPHER: This adjourns 8

the 9 deposition of Tom Franklin. The time is approximately 10 4:26 p.m., and this is the end of tape No. 3. ProVideo Seattle in Seattle, Washington will retain 11 the original videotapes. Here ends the deposition. 12 13 (Deposition adjourned at 4:30 p.m.) 14 15 16 17 18 19 20 21 22 23 24 25 00512 1 AFFIDAVIT 2 3 STATE OF WASHINGTON ) 4 ) ss. 5 COUNTY OF KING ) 6 7 I have read my within deposition, and the same is true and accurate, save and except 8 for changes and/or corrections, if any, as indicated by 9 me on the 10 correction sheet hereof. 11 12 13 TOM FRANKLIN 14 15 SUBSCRIBED AND SWORN to before me 16 this \_\_\_\_ day of\_\_\_\_\_, 2000. 17 18

19 20 21 Notary Public in and for 22 the State 23 of Washington, residing at 24 25 00513 CERTIFICATE 1 2 3 STATE OF WASHINGTON ) 4 ) ss. 5 COUNTY OF KING ) 6 I, the undersigned Notary Public in 7 and for the 8 State of Washington, do hereby certify: That the annexed and foregoing 9 deposition of each witness named herein was taken 10 stenographically before 11 me and reduced to typewriting under my direction; I further certify that the deposition 12 was submitted to each said witness for 13 examination, reading and signature after the same was transcribed, 14 unless indicated in the record that the parties and 15 each witness waive the signing; 16 I further certify that all objections 17 made at the time of said examination to my qualifications 18 or the 19 manner of taking the deposition, or to the conduct of any party, have been noted by me upon said 20 deposition; I further certify that I am not a 21 relative or employee or attorney or counsel of any of 22 the parties 23 to said action, or a relative or employee

of any such attorney or counsel; 24 25 I further testify that I am not in any way 00514 financially interested in the said action or 1 the outcome 2 thereof; I further certify that each witness 3 before examination was by me duly sworn to testify 4 the truth, the whole truth and nothing but the truth; 5 I further certify that the 6 deposition, as 7 transcribed, is a full, true and correct transcript of the testimony, including questions and 8 answers, and all objections, motions, and exceptions of 9 counsel made and taken at the time of the foregoing 10 examination. 11 12 IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 13 day of 14 , 2000. 15 16 17 18 19 CHERYL MACDONALD 20 21 Notary Public in and for 22 the State of Washington, 23 residing at Seattle. 24 25 00515 DEAN MOBURG & ASSOCIATES COURT REPORTERS

1201 THIRD AVENUE, SUITE 2760 SEATTLE, WA 98101 206-622-3110

TO: TERENCE SCANLAN DATE: October 31, 2000 1301 Fifth Avenue Suite 3401 Seattle, WA 98101-2605

IN RE: OLYMPIC PIPE LINE LITIGATION

DEPOSITION(S) OF: TOM FRANKLIN, VOL. 3

XXX ENCLOSED IS YOUR COPY OF THE DEPOSITION OF THE ABOVE-NAMED DEPONENT PLUS A CORRECTION SHEET AND SIGNATURE PAGE. PLEASE HAVE THE DEPONENT READ THE DEPOSITION, SIGN THE CORRECTION SHEET AND SIGNATURE PAGE AND RETURN SAME TO ME WITHIN 30 (THIRTY) DAYS OF THIS LETTER. I WILL THEN SEND THE ORIGINAL DEPOSITION TO THE ORDERING PARTY AND FURNISH ALL PARTIES WITH A COPY OF THE CORRECTION SHEET.

ENCLOSED IS THE ORIGINAL DEPOSITION OF THE ABOVE-NAMED DEPONENT. SINCE DEPOSITIONS ARE NO LONGER FILED IN SUPERIOR AND FEDERAL COURT, I AM SENDING THE ORIGINAL DEPOSITIONS TO YOU FOR RETENTION UNTIL TIME OF TRIAL.

REGARDING THE ABOVE ENTITLED MATTER:

SINCERELY, DEAN MOBURG & ASSOCIATES

- BY: CHERYL MACDONALD, CCR

CC: Nick Verwolf Chris Nicoll Patricia Anderson Francis Floyd