

Appendix P

Paul Krakenberg, IMCO – Deposition Transcript

00001

1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR THE COUNTY OF WHATCOM

3 KATHERINE DALEN, Individually
4 and as the Personal Represent-
5 ative of the Estate of STEPHEN
6 M. TSIORVAS, and as Guardian
7 ad Litem for ANDREW R. TSIORVAS
8 and GEORGE K. TSIORVAS,

Plaintiffs,

-vs-

No. 99-2-01468-1

9 OLYMPIC PIPE LINE COMPANY, a
10 foreign corporation, EQUILON
11 PIPELINE COMPANY LLC, a foreign
12 corporation, and EQUILON
13 ENTERPRISES, LLC, a foreign
14 corporation, and FRED CROGNALE,
15 FRED HOPF, RON BRENTSON and
16 JOHN DOES,

Defendants.

17 OLYMPIC PIPE LINE COMPANY, a
18 foreign corporation,

Third-Party Plaintiff,

-vs-

19 IMCO GENERAL CONSTRUCTION, a
20 domestic corporation,
21 Third-Party Defendant.

VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION OF

PAUL KRAKENBERG

March 20, 2001

24 Susan Cannon, CCR
25 Court Reporter
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1 FRANK S. KING, as the Personal
2 Representative of the Estate
of WADE B. KING, and FRANK S.
KING and MARY L. KING, individ-

3 ually, and TRACY K. BELL,
4 individually, and JASON KING,
5 individually,

6 Plaintiffs,

7 -vs- No. 99-2-01467-3

8 OLYMPIC PIPE LINE COMPANY, a
9 foreign corporation, EQUILON
10 PIPELINE COMPANY LLC, a foreign
11 corporation, and EQUILON
12 ENTERPRISES, LLC, a foreign
13 corporation, and FRED CROGNALE,
14 FRANK HOPF, RON BRENTSON and
15 JOHN DOES,

16 Defendants.

17 OLYMPIC PIPE LINE COMPANY, a
18 foreign corporation,

19 Third-Party Plaintiff,

20 -vs-

21 IMCO GENERAL CONSTRUCTION CO., a
22 domestic corporation, and JOHN
23 DOE DEFENDANTS ONE THROUGH FOUR,

24 Third-Party Defendants.

25 VIDEOTAPED DEPOSITION OF PAUL KRAKENBERG

26 9:30 a.m.
27 March 20, 2001
28 999 Third Avenue
29 44th Floor
30 Seattle, Washington

31 Susan Cannon, Court Reporter

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A P P E A R A N C E S

4 FOR OLYMPIC PIPE LINE COMPANY:

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VIDEOGRAPHER: BROOK T. YOUNG
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* * * * *

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1 MR. TOLLEFSON: We are here for the
2 deposition of Paul Krakenberg. We will stipulate that this
3 is being videotaped and to the standard stipulations
4 regarding the tape. If you would swear the witness, please.

5
6 PAUL KRAKENBERG, having been first duly sworn upon
7 oath by the Notary, testified as
8 follows:
9

10 EXAMINATION

11 BY MR. TOLLEFSON:

12 (Exhibit No. 299 is marked
13 for identification.)

14 Q. Mr. Krakenberg, handing you what's been marked
15 as Exhibit 299 to your deposition, do you recognize that as
16 a copy of the subpoena that you received in connection with
17 this deposition?

18 A. Yes.

19 Q. And in response to that subpoena have you
20 brought with you certain documents today?

21 A. Yes.

22 Q. Let's just go through what you have brought with
23 you while we are waiting for Mr. Beninger to arrive. I
24 understand he is on his way.

25 First of all, let me ask you, in general are all

00011

1 these documents from the same general location? Are these
2 your documents? Are they company documents? What are they?

3 A. Those are my documents. They are company
4 documents as well.

5 Q. Did these come from a variety of locations?

6 A. Those came from, like you see there, my
7 personnel or employee handbook, a copy of crisis management
8 training that I went through.

9 Q. I guess we are going to have to do this a
10 document at a time then.

11 MR. TOLLEFSON: Can we mark the originals
12 and then copy them, or how do you want to handle that?

13 MR. FLOYD: Val, he might be confused.
14 You're asking where they came from. I think if you ask him,
15 you will find these all came from a box that he had kept at
16 his house.

17 MR. TOLLEFSON: Okay. That's what I
18 thought I was asking.

19 MR. FLOYD: And I think what he was
20 interpreting where it came from like one job.

21 Q. (By Mr. Tollefson) Let me ask the question this
22 way. In response to the subpoena did you make a search to
23 see if you had any documents responsive to the subpoena?

24 A. Yes.

25 Q. And did you find such documents?

00012

1 A. Yes, I did.

2 Q. Where did you find them?

3 A. I found them in a box in my basement.

4 Q. And all of the documents and things you brought
5 with you today are out of that box?

6 A. Yes.

7 Q. Where else did you search in an effort to see if
8 you had any responsive documents?

9 A. I searched my house.

10 Q. Where are you employed now?

11 A. Where am I employed now?

12 Q. Yes.

13 A. With Swinerton Builders.

14 Q. When were you last employed by Imco?

15 A. I don't remember the specific date.

16 Q. Approximately?

17 A. '97.

18 Q. That's close enough for today.

19 MR. TOLLEFSON: I think what I pose is that
20 we are just going to mark the originals of these as exhibits
21 and then when we are all done here, we'll arrange for
22 copies. So why don't we just go off the record and get
23 everything marked.

24 (Off the record.)

25 MR. TOLLEFSON: Let's go back on the

00013

1 record.

2 Q. (By Mr. Tollefson) Could you give us your full
3 name for the record, please?

4 A. Paul Robert Krakenberg.

5 Q. And, Mr. Krakenberg, have you ever had your
6 deposition taken before?

7 A. No.

8 Q. My name is Val Tollefson. We met before we got
9 started today. I represent Olympic Pipe Line in this case.

10 I'm going to be asking you some questions today and the
11 court reporter will be taking your testimony down.

12 We may have occasion to use your testimony at
13 some future point in this case and I don't want to be
14 responsible for you telling me later on that you didn't
15 understand what I was asking. So please if I ask something
16 that you don't understand, get me to clear it up before you
17 give me an answer. Can I ask you to do that?

18 A. Yes.

19 Q. In response to the subpoena that you received in
20 connection with this deposition, you brought with you a
21 number of documents today that we have just marked as
22 exhibits to your deposition and we will be talking about
23 later on.

24 I understand that those documents all came from
25 a single box in the basement of your house; is that correct?

00014

1 A. Correct.

2 Q. And these are documents that for one reason or
3 another you personally retained when you left the employ of
4 Imco Construction?

5 A. Yes.

6 Q. Other than these documents that you brought with
7 you today, are you aware of any other documents that exist
8 that would be responsive to the subpoena but for the fact
9 that somebody else has them and you don't?

10 A. No.

11 Q. Are you represented here today --

12 A. I am.

13 Q. -- by an attorney or more than one attorney?

14 A. More than one attorney. Both Francis and Paul
15 Cullen.

16 Q. When did you retain Mr. Floyd as your attorney?

17 A. Shortly -- I don't know when it was.

18 Q. Was it within the last half hour? This morning?

19 A. I don't know exactly how to respond to that.

20 Q. When did you first become aware that Mr. Floyd
21 was going to act as your attorney at the deposition today?

22 A. Some months ago.

23 Q. You have personally retained Mr. Cullen as your
24 attorney; is that correct?

25 A. Yes.

00015

1 Q. And although Mr. Floyd is acting as your
2 attorney here today, you have not personally retained him.
3 Is that not correct?

4 A. That is correct.

5 Q. Could you tell me what your current residence
6 address is?

7 A. -----

8 Q. And how long have you lived at that address?

9 A. Two years.

10 Q. How old are you?

11 A. 31.

12 Q. And your social security number, please?

13 A. -----

14 Q. Tell us what your educational background is,
15 please, starting with high school graduation.

16 A. I graduated high school in 1987, graduated
17 college in 1992. I have a Bachelor of Science in
18 construction management.

19 Q. Where did you go to high school?

20 A. White River.

21 Q. White River, Washington?

22 A. White River High School, Buckley, Washington.

23 Q. And where did you go to college?

24 A. Central Washington University, Ellensburg.

25 Q. And tell me again when you graduated.

00016

1 A. From which?

2 Q. From Central.

3 A. 1992.

4 Q. How have you been employed since you graduated
5 from Central?

6 A. Can you clarify that?

7 Q. What was your first employment after you
8 graduated from college?

9 A. Imco General Construction.

10 Q. When did you go to work for Imco?

11 A. 1992.

12 Q. Have you ever had any military service?

13 A. No.

14 Q. When you were hired, were you hired immediately
15 after graduation by Imco?

16 A. I was hired prior to.

17 Q. Prior to graduation. Did you work for Imco
18 prior to graduating?

19 A. No.

20 Q. Had you had any construction related employment
21 experience prior to graduation from college?

22 A. Yes.

23 Q. What?

24 A. I worked with a residential contractor here in
25 Seattle.

00017

1 Q. What contractor?

2 A. Trig Lundquist.

3 Q. Doing what?

4 A. Labor work. Carpentry.

5 Q. Any other pre-graduation construction related
6 experience?

7 A. No.

8 Q. Is there any kind of practical or on-the-job
9 training experience as part of your degree requirement in
10 construction management from Central?

11 A. No.

12 Q. When you were hired by Imco, what were you hired
13 as? What was your job?

14 A. It was a superintendent in training program.

15 Q. Describe for me what the superintendent in
16 training program consisted of.

17 A. I was to spend a year on a project working in
18 the field with the various trades as well as some office

19 experience.

20 Q. Was there a written syllabus or curriculum for
21 the supervisor in training program?

22 A. There was a brief outline.

23 Q. Is that outline among the documents that you
24 brought with you here today?

25 A. I don't believe so.

00018

1 Q. Were there any other participants in the
2 superintendent in training program when you were hired by
3 Imco?

4 A. No.

5 Q. How many employees did Imco have when you were
6 hired approximately?

7 A. 35.

8 Q. How did you spend your first year as an Imco
9 employee?

10 A. On the job site with the various trades.

11 Q. On what job site or sites?

12 A. The Port Townsend secondary wastewater treatment
13 facility.

14 Q. When you say you spent that on the job with the
15 various trades, what were you actually doing on the job
16 during that year?

17 A. I worked with the carpenter crews forming for
18 the concrete. I was a laborer in the ditch with the dirt
19 crew, some small amount with the mechanical piping.
20 Primarily with the carpenters.

21 Q. Did you have any supervisory responsibilities at
22 all during that first year?

23 A. No.

24 Q. Did any of the work at the Port Townsend
25 secondary wastewater treatment facility to your knowledge

00019

1 involve coordinating Imco's work with the owners or
2 operators of any petroleum pipelines?

3 A. No.

4 Q. Did any of your work during that first year
5 involve any coordination with any One Call service?

6 A. No.

7 Q. Did you have any responsibilities at all during
8 that first year for coordination of Imco work with the
9 owners of any other utilities, underground utilities?

10 A. No.

11 Q. During that first year did you have any office
12 responsibilities at all?

13 A. Yes.

14 Q. Such as?

15 A. I reviewed the handrail shop drawings, ensured
16 the delivery dates of the handrail, some schedule updating.

17 Q. Anything else in the office?

18 A. Exposure to the Imco manhour reporting
19 procedures.

20 Q. This was all work done in the on-site project
21 office for Imco at Port Townsend?

22 A. Yes.

23 Q. After you had been employed by Imco for about a

24 year, did your job responsibility with Imco change?

25 A. Yes.

00020

1 Q. What was your next job responsibility with Imco?

2 A. I was assigned to the Black Creek hydroelectric
3 facility out of Snoqualmie as an assistant project manager.

4 Q. What creek is that?

5 A. Black.

6 Q. Black Creek. What was the nature, general
7 nature of the work being done by Imco on that project?

8 A. Primarily just the structure, the concrete site
9 work, masonry roof structure.

10 Q. How long were you on that project?

11 A. Approximately six to eight months.

12 Q. Were you assistant project manager the whole
13 time?

14 A. Yes.

15 Q. Who was the project manager?

16 A. Chris Hart.

17 Q. And how big a crew did Imco have on that
18 project?

19 A. Less than ten.

20 Q. Where does the superintendent job, general job
21 of superintendent fit into the job structure at Imco or did
22 it while you were employed there?

23 A. If I understand the question correctly, you are
24 asking where did the -- what was the responsibility of the
25 superintendent.

00021

1 Q. Yes. Let me back up. You --

2 MR. FLOYD: He is asking the hierarchy.

3 Q. (By Mr. Tollefson) Let me back up. You were in
4 the superintendent in training program during your first
5 year with Imco. Did you ever work as a superintendent for
6 Imco?

7 A. Yeah. Yes.

8 Q. And what are the job responsibilities of a
9 superintendent?

10 A. The job responsibilities of a superintendent are
11 you are primarily responsible for safety and production.

12 Q. And does the superintendent -- who does the
13 superintendent ordinarily report to on a job?

14 A. Project manager.

15 Q. On the Black Creek hydro project was there a
16 superintendent?

17 A. Yes.

18 Q. Who was that?

19 A. Kelly Brown.

20 Q. So as the assistant project manager on the Black
21 Creek project, what were your responsibilities?

22 A. I processed the submittals. I scheduled
23 material arrival dates, scheduled the subcontractors to the
24 job site, schedule updating, some budget reporting.

25 Q. And what would Mr. Hart's responsibilities as

00022

1 project manager have been then?

2 A. He had the responsibility for the bottom line

3 outcome of the project.

4 Q. As assistant project manager were you on the
5 Black Creek hydro project basically full-time all week while
6 you were doing that project?

7 A. Yes.

8 Q. What about Mr. Hart, was he physically there or
9 was he somewhere else?

10 A. He was there on a weekly basis.

11 Q. Weekly basis meaning he would come sometime
12 during the week or he was there all week?

13 A. He would come sometime during the week.

14 Q. Did he also have other responsibilities for Imco
15 then at the time?

16 A. Yes.

17 Q. After the Black Creek hydro project, what was
18 your next job for Imco?

19 A. The Dakin-Yew pump station.

20 Q. Approximately when did you go to work on the
21 Dakin-Yew pump station project?

22 A. I don't remember. Prior to 1994.

23 Q. You believe it was sometime in 1993?

24 A. I can't be sure.

25 Q. When you first went to the Dakin-Yew project,

00023

1 what was your job there?

2 A. Assistant project manager.

3 Q. And who was the project manager?

4 A. Chris Hart.

5 Q. As assistant project manager were your
6 responsibilities the same on the Dakin-Yew project as they
7 had been on the Black Creek project?

8 A. Yes.

9 Q. Did you at some point become the project manager
10 on Dakin-Yew?

11 A. Yes.

12 Q. When was that?

13 A. Towards the final end of the project.

14 Q. Do you recall whether that was in 1994 or 1995?

15 A. No.

16 Q. During the Dakin-Yew project was Mr. Hart's
17 physical presence on the project similar to what it had been
18 on the Black Creek project?

19 A. Yes.

20 Q. So he was there more or less on a weekly basis
21 while he was project manager, but you were there all the
22 time?

23 A. Correct.

24 Q. Tell me what you have done, Mr. Krakenberg, to
25 prepare for your deposition today.

00024

1 A. I met with my attorneys.

2 Q. When?

3 A. Yesterday.

4 Q. Just the one day, just yesterday?

5 A. Yes.

6 Q. For how long?

7 A. A few hours.

8 Q. Who all was present?
9 A. Mr. Floyd, Mr. Cullen, and Doug Weigel.
10 Q. Did you review any documents?
11 A. Only what I have brought today.
12 Q. Did you discover any documents in your search
13 for documents responsive to the subpoena that you have not
14 provided here today?
15 A. No.
16 Q. There are no documents that to your knowledge
17 are being withheld from production here today for any
18 reason?
19 A. No.
20 Q. Just so I'm clear, other than whatever time you
21 may have spent looking at the documents that you have
22 provided here today, you didn't read anything in connection
23 with your preparation for this deposition?
24 A. Such as?
25 Q. Anything.

00025

1 A. No.
2 Q. How about photographs, did you look at
3 photographs other than the ones that you have brought here
4 today?
5 A. Some months ago.
6 Q. Let's talk about yesterday first of all.
7 A. No.
8 Q. How about videos, did you view any videos
9 yesterday?
10 A. No.
11 Q. Let's go back to the -- just for context, let me
12 ask you this. When were you last employed by Imco?
13 Sometime in 1997? Is that right?
14 A. That would be close, yes.
15 Q. After you left Imco, where did you go to work
16 next?
17 A. Mountain States Construction.
18 Q. Where are they located?
19 A. Sunnyside, Washington.
20 Q. What kind of construction work does Mountain
21 States do?
22 A. They are involved in utility construction, Corps
23 of Engineer type construction as well as servicing the
24 private fruit industry tilt-up steel buildings.
25 Q. Why did you leave Imco?

00026

1 A. I wanted a change and moved to Eastern
2 Washington.
3 Q. What were your general job responsibilities
4 while you worked for Mountain States?
5 A. The same as at Imco.
6 Q. You were a project manager?
7 A. Correct.
8 Q. I guess I didn't ask you, but I should so the
9 record is clear.
10 After Dakin-Yew was over, you went on to work on
11 some other project or projects for Imco?
12 A. Yes.

13 Q. In each case were you the project manager?
14 A. No.
15 Q. What was your job after Dakin-Yew for Imco?
16 A. I spent a small amount of time on the Lynnwood
17 overpass.
18 Q. What was your job there?
19 A. Assistant project manager.
20 Q. Who was the project manager?
21 A. Chris Hart.
22 Q. And after that?
23 A. The Everett effluent.
24 Q. Is that a substance or a project?
25 A. Both.

00027

1 Q. What was your job on that project?
2 A. Project manager.
3 Q. Was that your last project for Imco?
4 A. No.
5 Q. After that what did you work on?
6 A. I also worked on the Ice Harbor navigational
7 lock gate.
8 Q. Anything else?
9 A. At the same time there was a McNary Dam fishway
10 and watering pumps and then Whidbey Island Naval Station
11 sewer treatment plant.
12 Q. Did any of your jobs with Imco after Dakin-Yew
13 involve coordinating Imco work with the owners of or
14 operators of any petroleum pipelines?
15 A. No.
16 Q. As best as you can recall it, you have now told
17 me about all the projects or identified all the projects you
18 worked on for Imco?
19 A. There was one more, Baywood at Preston Point
20 simultaneously with the Everett effluent project.
21 Q. What kind of a project was that?
22 A. It was a large dirt work project to clear a log
23 loading area.
24 Q. And your job there was?
25 A. Between assistant project manager and project

00028

1 manager.
2 Q. You mean you were assistant for part of the time
3 and project manager for part of the time or your
4 responsibilities kind of overlapped?
5 A. The duties were the same. It was a project that
6 needed little overseeing.
7 Q. You went to work for Mountain States after Imco
8 and you stayed there how long?
9 A. Two years.
10 Q. What was your next employment after Mountain
11 States?
12 A. V.K. Powell.
13 Q. What is B.K. Powell?
14 A. V as in V.K. They are a general contractor.
15 Q. Located where?
16 A. Yakima, Washington.
17 Q. What was your job with them?

18 A. Same, project manager estimating and training,
19 primarily estimating and training.
20 Q. That was trainee project manager?
21 A. No, project management and estimating training.
22 Q. How long did you work for Powell?
23 A. Less than a year.
24 Q. Did any of your work at Mountain States involve
25 coordinating utility work with the owners or operators of

00029

1 any petroleum pipelines?
2 A. No.
3 Q. Where did you go to work after Powell?
4 A. Shimizu America Corporation.
5 Q. Where were you based when you worked for them?
6 A. Portland, Oregon.
7 Q. What did you do for them?
8 A. I was an assistant project manager.
9 Q. What was the nature of the work you were doing?
10 A. Commercial.
11 Q. Commercial construction?
12 A. Correct.
13 Q. By commercial construction do you mean
14 commercial buildings?
15 A. Commercial buildings.
16 Q. How long did you work for Shimizu?
17 A. Just over a year.
18 Q. How were you next employed?
19 A. Swinerton Builders.
20 Q. That's your current employment?
21 A. Correct.
22 Q. How long have you been there?
23 A. A year this April.
24 Q. What's the nature of the work?
25 A. Commercial.

00030

1 Q. What is your job with Swinerton?
2 A. I am a project engineer with Swinerton.
3 Q. As project engineer what are your
4 responsibilities?
5 A. The same responsibilities as previously
6 described as an assistant project manager and/or project
7 manager.
8 Q. How did you first become aware of the pipeline
9 rupture and fire of June 10, 1999 in Bellingham?
10 A. I believe I heard it via the news.
11 Q. When did you first learn that the rupture was at
12 a location where Imco had had a project?
13 A. Later that summer.
14 Q. How did you learn?
15 A. I was contacted by John Abb.
16 Q. He is an attorney in Bellingham?
17 A. He is a prior employee of Imco.
18 MR. BENINGER: Abbey was the attorney
19 there.
20 Q. (By Mr. Tollefson) His name is Abb?
21 A. Yes.
22 Q. Spelled?

23 A. A-b-b.
24 MR. BENINGER: He is in there.
25 MR. FLOYD: There is a picture of him in

00031

1 there.
2 Q. (By Mr. Tollefson) What did Mr. Abb have to say
3 when he contacted you?
4 A. He told me that he had been contacted by the
5 Imco attorneys and they were requesting my phone number and
6 asked if I was willing to let him share that with them.
7 Q. And you provided him with that information?
8 A. I did.
9 Q. What was your next contact with regard to this
10 incident?
11 A. Two federal investigators showing up at my door.
12 Q. That was before you had talked to any attorney?
13 A. Correct.
14 Q. Do you know what agency the federal
15 investigators were from?
16 A. I believe it was from the Environmental
17 Protection Agency as well as the Department of
18 Transportation.
19 Q. Approximately when was that?
20 A. The Tuesday before Christmas last year.
21 Q. Tuesday before Christmas in the year 2000?
22 A. In 1999.
23 Q. 1999. So the same year as the incident just
24 before Christmas?
25 A. Yes.

00032

1 Q. How do you happen to remember it was the Tuesday
2 before Christmas?
3 A. It made an impact on me.
4 Q. You may have already said this. Did they show
5 up unannounced or did they have an appointment?
6 A. They showed up unannounced.
7 Q. At your home?
8 A. Yes.
9 Q. In the evening?
10 A. Yes.
11 Q. And did you talk to the investigators on that
12 occasion?
13 A. Yes.
14 Q. Did you consult with an attorney at all before
15 talking to the investigators?
16 A. No.
17 Q. How much time did you spend with them?
18 A. Probably just under an hour.
19 Q. Did you provide any kind of a written or tape
20 recorded statement to the investigators?
21 A. No.
22 Q. What did they ask you?
23 A. Primarily they were there not asking but telling
24 me of a rumor.
25 Q. What was the rumor they were telling you?
00033
1 A. The rumor they were telling me was that

2 individuals employed at the Dakin-Yew project were stating
3 that there was a strike of the Olympic pipeline by Imco
4 excavators, that I was notified that I instructed
5 individuals to cover that up.

6 Q. Did the investigators ask you whether there was
7 any truth to the rumor?

8 A. They did.

9 Q. What did you tell them?

10 A. I told them there was no truth to that rumor.

11 Q. Did they show you any documents?

12 A. No.

13 Q. Did they show you any photographs?

14 A. No.

15 Q. Did they provide you with any warning at that
16 point that information that you provided to them could be
17 used against you?

18 A. No.

19 Q. Did they tell you what the source or who the
20 source of the rumor was?

21 A. No.

22 Q. You indicated that they were there mainly
23 telling you about the rumor. Did they incidentally as part
24 of that time they spent with you ask you any questions about
25 anything that went on on the project?

00034

1 A. Not much more beyond the specifics.

2 Q. The specifics?

3 A. Of that rumor.

4 Q. Did they indicate to you at what time during the
5 project the rumor was that this incident happened?

6 A. No.

7 Q. I'm just trying to picture in my own mind why it
8 would take an hour to tell you about the rumor and ask if
9 there was any truth to it and wonder what else would have
10 gone on in the conversation that would have occupied that
11 time.

12 Do you recall anything?

13 A. They gave me the basics of -- asked if I was
14 familiar with the project, you know, was I on site. That
15 prior to this rumor surfacing, they did not know who I was
16 or that I had any involvement. They took their time in
17 their questions. They went on to ask my opinion of Mr.
18 Lukes and that's --

19 Q. What did you tell them about Mr. Lukes?

20 A. I told them that I thought Britt was an okay
21 guy.

22 Q. Did you tell them anything else about Mr. Lukes?

23 A. No.

24 Q. They told you in the course of telling you about
25 this rumor that the rumor was that Mr. Lukes had been the

00035

1 equipment operator at the time of the incident?

2 A. Yes.

3 Q. Did you relate to the investigators any problems
4 you had had with Mr. Lukes on the project?

5 A. No.

6 Q. Did you relate to the investigators any

7 criticism at all of Mr. Lukes' performance of his work on
8 the project?
9 A. No.
10 Q. After this initial interview were you ever
11 interviewed again by any federal or any investigators from
12 any federal or state agency?
13 A. I received a phone call the next day.
14 Q. From who?
15 A. The same agent.
16 Q. What was the subject of that phone call?
17 A. He asked if I would like to meet again.
18 Q. He asked if you would like to or if you would be
19 willing to?
20 A. The same as far as I know.
21 Q. He was asking for another interview?
22 A. Yes.
23 Q. And did you meet again?
24 A. No.
25 MR. FLOYD: Can you go another 15 minutes?

00036

1 A. You bet.
2 Q. (By Mr. Tollefson) After the unannounced
3 interview when the investigators came to your house and the
4 time you talked to the investigator on the telephone the
5 next day, had you had contact with somebody else regarding
6 this matter?
7 A. No.
8 Q. Had you talked to an attorney in the interim?
9 A. Yes.
10 Q. That would be at least one person that you had
11 contact with.
12 A. Sorry, I must not have understood.
13 Q. What attorney did you contact?
14 A. I contacted Mr. Cullen.
15 Q. And how did you happen to contact Mr. Cullen as
16 opposed to the millions of other available attorneys? Was
17 he recommended by somebody?
18 A. Yes. I contacted my sister who lives here in
19 Seattle and has a personal attorney, and through that
20 recommendation I was put in touch with Mr. Cullen.
21 Q. Did you retain Mr. Cullen then at that point?
22 A. Yes.
23 Q. And since you retained Mr. Cullen have you been
24 interviewed by any investigator from any state or federal
25 agency?

00037

1 A. No.
2 Q. Have you ever been subpoenaed to testify before
3 a grand jury?
4 A. No.
5 Q. Have you ever been asked to take a polygraph or
6 lie detector test?
7 A. Yes.
8 Q. Have you taken one?
9 MR. FLOYD: Object to the admissibility.
10 MR. CULLEN: In connection with this case?
11 MR. FLOYD: In connection with this case?

12 MR. TOLLEFSON: Yes.
13 MR. FLOYD: Okay. I will still object.
14 It's still not admissible, but you can ask him.
15 Q. (By Mr. Tollefson) Have you taken a polygraph
16 or a lie detector test in connection with this case?
17 A. I was offered the opportunity by the federal
18 investigators.
19 Q. Did you take one?
20 A. No.
21 Q. Have you taken one at all in connection with
22 this case?
23 A. Yes.
24 Q. When?
25 MR. CULLEN: I object to work product and
00038
1 attorney-client.
2 MR. TOLLEFSON: I'm a little confused as to
3 who the attorney is here is today.
4 MR. FLOYD: There are two today.
5 MR. TOLLEFSON: I think I should only have
6 to deal with one.
7 MR. VERWOLF: We have double coupons.
8 MR. FLOYD: We have had the same thing with
9 the other Olympic witnesses. We had two people objecting.
10 MR. TOLLEFSON: You can have two people,
11 but I don't think you get two people to talk. I mean, I
12 could line up a bunch of other attorneys who represent
13 Olympic, but I don't think they get to ask questions if I'm
14 asking the questions.
15 MR. FLOYD: Well, he is going to do it.
16 MR. TOLLEFSON: Are you instructing him not
17 to answer when he took the polygraph?
18 MR. CULLEN: Yes.
19 MR. FLOYD: The reason he is doing that is
20 because I wasn't involved in that so he has knowledge of it
21 and he is going to assert the privilege.
22 MR. TOLLEFSON: You are admirable and
23 meritorious reasons have nothing to do with my objection to
24 having to deal with two of you.
25 MR. FLOYD: You don't think I'm going to
00039
1 change your mind by doing this?
2 MR. TOLLEFSON: No. Well, I wouldn't put
3 that past you, a sweet talking guy like you.
4 MR. FLOYD: I'll just be quiet then.
5 MR. WOLFE: The question that's being
6 objected to and the instruction not to answer is what?
7 MR. TOLLEFSON: When the polygraph was
8 taken.
9 MR. CULLEN: For the record, I asserted an
10 objection to the first question in terms of when. It's
11 unclear as to when the federal agents asked him to take a
12 polygraph. He answered that question. As to any time
13 afterwards, I am going to assert the privilege and work
14 product objection.
15 MR. BENINGER: Was there actually an
16 instruction not to answer or did they just object?

17 MR. TOLLEFSON: Let's just clear up the
18 record this way. Okay?

19 Q. (By Mr. Tollefson) You were asked by federal
20 investigators to take a polygraph examination and you
21 declined; is that correct?

22 A. That is correct.

23 Q. But since this incident you have in fact taken a
24 polygraph examination?

25 MR. CULLEN: We object to that in terms of
00040

1 work product.

2 MR. TOLLEFSON: He has already answered
3 that. That's already been waive. He has already answered
4 that one yes. And then the next question was when did you
5 take it, and you have instructed him not to answer that.

6 MR. CULLEN: I instruct him not to answer.
7 The first question was unclear to me as far as time in terms
8 of federal question or otherwise. So that's the source of
9 the objection.

10 Q. (By Mr. Tollefson) Where did you take the
11 polygraph examination?

12 MR. CULLEN: Same objection. Same
13 instruction.

14 Q. (By Mr. Tollefson) And when you took a
15 polygraph examination were you informed whether or not you
16 passed it?

17 MR. CULLEN: Same objection and
18 instruction.

19 MR. FLOYD: Could we take a brief break?

20 MR. TOLLEFSON: Sure. Why don't we take a
21 regular break.

(Off the record.)

22 MR. TOLLEFSON: Back on the record.

23 MR. FLOYD: Just so the record is clear, we
24 are not changing our position at all regarding any
25

00041
1 polygraphs that were taken or may or may not have been taken
2 by the witness at the instruction of his attorneys.

3 And I think Mr. Cullen misunderstood your
4 question to have meant the federal polygraph and not one
5 that may or may not have been instructed by him. So that's
6 our position.

7 MR. TOLLEFSON: Well, let me ask the
8 following questions, because I think I'm entitled to
9 answers. I understand I'm not going to get the answers, but
10 this deposition isn't going to be over until we have had a
11 ruling on whether I am entitled to the answers.

12 Q. (By Mr. Tollefson) So the question is when did
13 you take a polygraph. And I understand your attorney will
14 instruct you not to answer that question; is that correct?

15 MR. FLOYD: Yes. That is correct.

16 A. Yes.

17 Q. (By Mr. Tollefson) Where did you take the
18 polygraph?

19 MR. FLOYD: Instruct him not to answer.

20 Q. (By Mr. Tollefson) Who administered the
21 polygraph?

22 MR. FLOYD: Instruct him not to answer.

23 Q. (By Mr. Tollefson) Did you take a polygraph on
24 more than one occasion?

25 MR. FLOYD: Instruct him not to answer.

00042

1 Q. (By Mr. Tollefson) Have you been advised
2 whether or not you passed any polygraph examination you have
3 taken?

4 MR. FLOYD: Object to foundation, assumes
5 the polygraph was taken and that it was completed, but I
6 also instruct him not to answer.

7 Q. (By Mr. Tollefson) Are you aware of whether or
8 not the results of any polygraph examination you have taken
9 have been communicated to anybody other than Mr. Cullen?

10 MR. FLOYD: I will allow him to answer
11 that.

12 A. No.

13 Q. (By Mr. Tollefson) You don't know whether or
14 not it's been communicated to anybody other than Mr. Cullen?

15 MR. FLOYD: Object to foundation, assumes
16 that there were results.

17 MR. TOLLEFSON: You can't have it both
18 ways. That's the question I asked.

19 MR. FLOYD: I'm objecting on foundation.
20 I'm not instructing him not to answer, but I'm objecting on
21 foundation that there were results that could have been
22 communicated.

23 Q. (By Mr. Tollefson) Now, the question is, to
24 which he has objected to the foundation, I understand your
25 answer to be that the results of the polygraph -- you don't

00043

1 know whether or not the results of the polygraph have been
2 communicated to anybody other than Mr. Cullen?

3 A. That is correct.

4 Q. Do you know if you have ever been requested to
5 appear and testify before the grand jury?

6 A. Do I know if I have been requested?

7 Q. Yes.

8 A. Yes.

9 Q. Have you been requested?

10 A. No.

11 Q. My question is not whether or not you've
12 received a subpoena. My question is whether or not anybody
13 has ever advised you that the grand jury wanted to talk to
14 you. And your answer is you have not been so advised?

15 A. That is correct.

16 Q. Have you ever been interviewed by any
17 representative of the United States Attorney's office?

18 MR. FLOYD: Other than the interview that
19 you had previously referenced the first time?

20 Q. (By Mr. Tollefson) Attorney from the United
21 States Attorney's office.

22 A. No.

23 Q. Have you ever been asked any question by anyone
24 at any time relating to the pipeline rupture and fire in
25 June of 1999 or related to Imco Construction work to which

00044

1 you have refused to provide an answer based on your rights
2 under the Fifth Amendment?
3 A. No.
4 Q. Have you ever learned that the grand jury wished
5 to have you appear before it and testify?
6 A. No.
7 Q. Back to the time around the time when you were
8 first interviewed by the investigators from the EPA, you
9 were contacted the following day and asked if you would
10 agree to another interview and you declined. What was your
11 next activity with regard to this case?
12 A. To meet with my attorney.
13 Q. Mr. Cullen?
14 A. Mr. Cullen.
15 Q. Who have you discussed the case with? And by
16 discussing the case I mean generally having a conversation
17 relating either to the lawsuit or to Imco's work on the
18 Dakin-Yew project. Who have you discussed the case with
19 other than your attorney since you first learned of the
20 incident?
21 A. Nobody in any great detail.
22 Q. Have you had any conversations with any
23 employee, officer or employee of Imco Construction other
24 than Mr. Abb?
25 A. Not since the agent showed up on my doorstep.
00045
1 Q. Mr. Abb called you before then?
2 A. Correct.
3 Q. And he was the only contact that you have had
4 with anybody from Imco?
5 A. Yes.
6 Q. Have you had any conversations with any ex-Imco
7 employees regarding this incident?
8 A. Since the meeting with the agent?
9 Q. At any time.
10 A. Yes.
11 Q. Who?
12 A. Chris Hart.
13 Q. Pardon me?
14 A. Chris Hart.
15 Q. When did you talk to Mr. Hart?
16 A. Shortly after I received the phone call from
17 John Abb. In the summertime.
18 Q. So that would have been the summer of the
19 incident?
20 A. Yes.
21 Q. And what did you talk to Mr. Hart about?
22 A. I asked Mr. Hart what was going on.
23 Q. Did he call you or did you call him?
24 A. I called him.
25 Q. What did he tell you?
00046
1 A. He said that there was an explosion of the
2 Olympic gas line.
3 Q. What else did he tell you?
4 A. That it was a large community concern.
5 Q. What else did he tell you?

6 A. He didn't tell me anything else.
7 Q. In reference to the rupture and fire on June 10
8 of 1999, when did you talk to Mr. Hart, how long after that?
9 A. I'm sorry, can you repeat the question? I was
10 interrupted by the phone.
11 Q. How long --
12 MR. FLOYD: It wasn't your phone though
13 just so the record is clear. It was Mr. -- we won't say his
14 last name.
15 Q. (By Mr. Tollefson) How long after the fire did
16 you talk to Mr. Hart?
17 A. It was in the time frame of months.
18 Q. Did Mr. Hart tell you whether or not any claims
19 were being made as to Imco's involvement at that time?
20 A. Did Mr. Hart ask me if there --
21 Q. Did he tell you whether or not any claims --
22 A. No.
23 Q. -- were being made at that time regarding Imco's
24 involvement?
25 A. No.

00047

1 Q. Had you heard from any other source prior to
2 your meeting with the federal investigators in December of
3 1999 of the rumor that Imco had damaged the pipeline?
4 A. No.
5 Q. Did Mr. Hart make any requests of you when you
6 talked to him during the summer of 1999?
7 A. No.
8 Q. Did he ask you to let him know or anyone else
9 know if you were contacted by anyone regarding the incident?
10 A. No.
11 Q. Other than talking to Chris Hart did you talk to
12 any other Imco employee or ex-employee since that time?
13 A. No.
14 Q. When did you first talk to Mr. Floyd or Mr.
15 Weigel or any representative of their office?
16 A. In the near future after having met with the
17 agents.
18 Q. Sometime during Christmas season that year or
19 after New Year's?
20 A. I believe it was after, in the New Year's.
21 Q. And how did that meeting happen to take place?
22 A. It was arranged through my attorney.
23 Q. Where did it take place?
24 A. At Mr. Floyd's office.
25 Q. Was Mr. Cullen present?

00048

1 A. Yes.
2 Q. Anybody present other than Mr. Floyd, Mr. Cullen
3 and perhaps Mr. Weigel?
4 A. No.
5 Q. Did you understand at that time that Mr. Floyd
6 was representing Imco?
7 A. Yes.
8 Q. And what did you talk about in that meeting?
9 MR. FLOYD: Object to -- object,
10 privileged. Don't answer the question.

11 MR. TOLLEFSON: What's the basis of the
12 privilege?
13 MR. FLOYD: Attorney-client privilege.
14 MR. TOLLEFSON: Whose attorney-client
15 privilege are you asserting?
16 Mr. FLOYD: I'm asserting -- I'm
17 representing him, and it was a joint defense meeting.
18 MR. TOLLEFSON: Is there a written joint
19 defense agreement, Counsel?
20 MR. FLOYD: I don't know.
21 MR. TOLLEFSON: I guess you would know if
22 there was one. So I take that as a negative.
23 Q. (By Mr. Tollefson) Have you --
24 MR. TOLLEFSON: That was such a powerful
25 objection it ran my pen out of ink.
00049
1 MR. FLOYD: You know, I was in awe of it so
2 I couldn't even respond.
3 MR. TOLLEFSON: Give me one second.
4 (Off the record.)
5 Q. (By Mr. Tollefson) Has anybody ever advised
6 you, Mr. Krakenberg, that you are exposed to a risk of
7 criminal prosecution?
8 A. Yes.
9 Q. When were you first so advised?
10 MR. FLOYD: With the exception of any
11 attorney, okay? Did you understand that? He is asking you
12 anyone other than your attorney --
13 MR. TOLLEFSON: I'm asking him anybody. If
14 you want to object and instruct him to something -- I will
15 ask the questions and you make the objections.
16 MR. FLOYD: I will object then as to the
17 question may be seeking advice that he was given by his
18 attorneys.
19 MR. FINEGOLD: Attorney or attorneys?
20 MR. FLOYD: Attorneys, plural.
21 MR. VERWOLF: The question has been asked
22 and answered.
23 Q. (By Mr. Tollefson) Have you at any time --
24 other than for purposes of representing you at this
25 deposition today, have you at any time entered into an
00050
1 attorney retainer agreement with Mr. Floyd or his firm?
2 A. No.
3 Q. Have you at any time asked them to represent you
4 in connection with any matter arising out of the June 10,
5 1999 incident?
6 A. Have I asked them?
7 Q. Yes.
8 A. No.
9 Q. Did you at the time you met with Mr. Floyd or
10 members of his firm in January of 2000 have any discussions
11 at that time as to whether or not Mr. Floyd was acting as
12 your attorney?
13 MR. FLOYD: Don't answer that question.
14 Instruct him not to answer.
15 Q. (By Mr. Tollefson) Did you have any discussions

16 at that time as to whether or not any conversations you had
17 in Mr. Floyd's presence would be privileged conversations?

18 MR. FLOYD: Don't answer that question
19 either. I'm asserting the privilege.

20 MR. FINEGOLD: The joint defense privilege
21 or the attorney-client privilege?

22 MR. FLOYD: Both.

23 Q. (By Mr. Tollefson) Have you at some point been
24 told by someone that Mr. Floyd is your attorney?

25 MR. FLOYD: If it relates to any

00051

1 conversations you have had with anybody in my office, don't
2 answer the question. You can answer it as it would relate
3 to any conversations that someone may have told you outside
4 of my office.

5 MR. CULLEN: Or any other attorneys.

6 MR. FLOYD: Or other attorneys, yes.

7 A. I'm still unclear.

8 MR. FLOYD: The question --

9 Q. (By Mr. Tollefson) The question is unclear or
10 whether or not you are allowed to answer it?

11 A. I'm unclear as to which specific people might
12 have asked me the question and to who I would respond if it
13 was that person. And if you could please repeat the
14 question again.

15 Q. When you completed your meeting with Mr. Floyd
16 in January of 1999 and had left his presence, did you at
17 that time believe that he was your attorney in connection
18 with this case?

19 A. Yes.

20 Q. And what was the basis for that belief?

21 MR. FLOYD: Object to the form of the
22 question as it would relate to any conversations that we had
23 during the meeting.

24 Don't tell him about anything that was said
25 during the meeting, but you can advise him on any other

00052

1 basis you might have.

2 Q. (By Mr. Tollefson) Why did you believe he was
3 your attorney?

4 A. I was told by --

5 MR. FLOYD: That's the problem. Don't --
6 if it was somebody from my office, don't answer the question
7 as to what we said. Okay? If it was somebody else other
8 than Mr. Cullen or someone from his office or somebody from
9 my office, you can answer the question.

10 Q. (By Mr. Tollefson) Had you agreed to accept Mr.
11 Floyd -- had you personally agreed to accept Mr. Floyd as
12 your attorney in January of 2000?

13 A. Yes.

14 Q. And had you signed anything that reflected that
15 agreement?

16 MR. FLOYD: You can answer that, too.

17 A. No. I believe I understand.

18 MR. FLOYD: Fine. There is no question

19 pending.

20 I didn't mean to cut you off, Val.

21 Q. (By Mr. Tollefson) Has anybody agreed to pay
22 the fees of your attorneys on your behalf in this case?

23 A. No.

24 Q. Have you paid any fees at all to Mr. Floyd or
25 his firm?

00053

1 A. No.

2 Q. I take it you have paid fees to Mr. Cullen?

3 A. Yes.

4 Q. Has anybody agreed to reimburse you for those
5 expenses?

6 A. No.

7 Q. Have you asked anybody to reimburse you for
8 those expenses?

9 A. No.

10 Q. Once you went to work on the Dakin-Yew project
11 for Imco, was that your sole job responsibility for Imco as
12 long as that project was in process? Did you have other
13 responsibilities other than Dakin-Yew while Dakin-Yew was
14 going on?

15 A. No and yes.

16 Q. I understand the no part. Tell me about the yes
17 part.

18 A. The yes part came at the very end of the
19 project. There was a very small handrail project for the
20 City of Bellingham that I oversaw.

21 Q. And at the very end you would have reference to
22 the last couple months or something?

23 A. Yes.

24 Q. How big was the Imco crew when you first started
25 on the Dakin-Yew project?

00054

1 A. Approximately seven to ten people.

2 Q. Did the size of the crew change appreciably at
3 any time during the project?

4 A. No.

5 Q. You were originally the assistant project
6 manager?

7 A. Yes.

8 Q. Do you recall when you became the project
9 manager?

10 A. Towards the end of the project.

11 Q. You told me that, didn't you? Did your pay from
12 Imco vary depending on whether or not you were the assistant
13 project manager or project manager?

14 A. I can't recall if I received an increase at the
15 time of the status change.

16 Q. How was the status change reflected or indicated
17 to you? What happened that caused you to know you are now
18 the project manager?

19 A. It was just told to me that I would then take on
20 the project management responsibilities, and then that
21 information was told to the Barrett Consulting Group.

22 Q. What new responsibilities did you have for Imco
23 when you became project manager?

24 A. At that time I took over the budget updating. I
25 penned all of the letters and received the letters of

00055

1 correspondence back and forth from Barrett Consulting.

2 Q. Prior to your becoming project manager, project
3 correspondence would be signed by Chris Hart?

4 A. Correct.

5 Q. Now were there one or more superintendents for
6 Imco on the Dakin-Yew project?

7 A. There was one superintendent.

8 Q. Who was that?

9 A. Gregg Burress.

10 Q. I believe you told us earlier that the
11 superintendent's primary responsibilities are safety and
12 production.

13 MR. FLOYD: I think -- you were asking
14 about project manager I think at that time, but I will
15 object. But go ahead.

16 Q. (By Mr. Tollefson) Tell me what the
17 superintendent's responsibilities are.

18 A. Safety and production.

19 MR. FLOYD: I withdraw my objection. I'm
20 sorry.

21 Q. (By Mr. Tollefson) And specifically with regard
22 to safety, what do you as the project manager or assistant
23 project manager expect of the superintendent?

24 A. We expect that they enforce all of the
25 guidelines and rules.

00056

1 Q. What guidelines and rules are you talking about?

2 A. All OSHA requirements.

3 Q. So that would -- when you say OSHA requirements,
4 you actually intend to include any kind of government agency
5 requirements regarding safety on the job site?

6 A. Yes.

7 Q. If the superintendent is not on the job for some
8 reason, sick, has a day off, whatever, is somebody else then
9 appointed to act as superintendent for that period of time?

10 A. The project manager would likely fill in and/or
11 a foreman.

12 Q. Who were the foremen on this project?

13 A. Cal Vanderpol, Britt Lukes, John Avena. I
14 believe that's it.

15 Q. And other than a foreman, the other category of
16 Imco employee would be what, laborer?

17 A. No.

18 Q. Equipment operator; what?

19 A. Carpenter, laborer, equipment operator.

20 Q. What are the foreman's responsibilities?

21 A. They are responsible for their individual crew
22 production as well as safety.

23 Q. How many people on a crew?

24 A. It varies.

25 Q. What does it vary depending on?

00057

1 A. Scope of work.

2 Q. Pardon me?

3 A. The scope of the work.

4 Q. Just using as an example Calvin Vanderpol on the

5 Dakin-Yew project, would his crew vary from time to time
6 depending on what was going on on the job?
7 A. Yes.
8 Q. How does a laborer know on any given day whose
9 crew he is on?
10 A. He is assigned to a foreman.
11 Q. He is assigned to a foreman?
12 A. Yes. I was going to say a crew or a foreman.
13 Q. How does that assignment -- did that assignment
14 take place on the Dakin-Yew project?
15 A. Specifically, I can't answer.
16 Q. If I'm a laborer working for Imco and I come to
17 work on Wednesday morning, how do I know what I'm supposed
18 to do?
19 A. Either the superintendent would direct you or
20 foreman would direct you.
21 Q. Is there typically any kind of written schedule
22 of work -- was there any kind of written schedule of work
23 published by Imco on the Dakin-Yew project on a daily basis?
24 A. Not on a daily basis.
25 Q. On a weekly basis?
00058
1 A. Yes.
2 Q. What form did that take?
3 A. I believe there was a two-week schedule. I
4 can't actually be sure of that. That's a standard practice.
5 Q. It's a standard practice by Imco or a standard
6 practice in the industry?
7 A. Standard practice in the industry that I would
8 have to assume happened.
9 Q. Do you have a specific recollection of there
10 being a written biweekly schedule for Imco on the Dakin-Yew
11 project?
12 A. No.
13 Q. Do you have any recollection of a particular
14 form that was used by Imco for such purpose during that
15 period of time?
16 A. Yes.
17 Q. This is a good time to go through some of these
18 documents that you have brought with you today and get them
19 identified.
20 (Exhibit No. 300 is marked
21 for identification.)
22 Q. I will hand you what's been marked as Exhibit
23 300. Can you tell us what that is, please?
24 A. It is a set of drawings for the Dakin-Yew pump
25 station.
00059
1 Q. Does that particular set of drawings have a
2 date?
3 A. Yes.
4 Q. What is the date?
5 A. Here under the location map is -- it's dated
6 October 1993.
7 Q. How did you happen to have a set of these
8 drawings in the box at your home?
9 A. I was -- I archived the project. I had a box of

10 my office files that I took with me from job to job, and it
11 landed in there.

12 Q. When you say you archived the project, what do
13 you mean?

14 A. That's a process that happens at the end of a
15 project, that you take the field files and incorporate them
16 with the office set of files for the project, toss any of
17 the duplicates, and then that group of documents then goes
18 to archive.

19 Q. On the Dakin-Yew project when you archived the
20 project, what was the volume of documents that you ended up
21 with?

22 A. I would say it was approximately three boxes.

23 Q. Boxes meaning regular old banker box kind of
24 things, that kind of box?

25 A. Yes.

00060

1 Q. Do you know whether Imco had a policy on how
2 long it kept project documents?

3 A. I don't remember the specifics. I remember that
4 their policy guidelines were per the law requirements.

5 Q. Were they written down somewhere, the policy
6 guidelines?

7 A. Not that I ever saw.

8 Q. Where were the archives kept? Once you had
9 archived, where did they go?

10 A. Above the shop.

11 Q. And did you have occasion to see what other kind
12 of documents were up there in the archives from other jobs?

13 A. No, nothing beyond just viewing a large bunch of
14 boxes.

15 Q. A lot of boxes up there. During the time you
16 worked for Imco, were you ever asked to retrieve any
17 documents from archives from any other job?

18 A. No.

19 Q. Do you know in fact how long Imco was keeping
20 their archives at the time you completed the Dakin-Yew
21 project?

22 A. At the time I believe I knew.

23 Q. Do you recall how long that was?

24 A. No.

25 Q. How would you have known?

00061

1 A. It was a discussion, probably a question, you
2 know, how long do we keep this stuff.

3 Q. Who would you have asked that question of?

4 A. Chris Hart.

5 Q. Is the set of drawings that has been marked as
6 Exhibit 300, is that the same kind of drawings that Imco had
7 on the job site at Dakin-Yew?

8 A. Yeah.

9 Q. So would it have been another similar bound set
10 or other bound sets that Imco would have had to work with on
11 the job?

12 A. Yes.

13 Q. And they would be drawings of that size they
14 used during construction of the project?

15 A. Both full size and, what this is, half size.
16 Q. Did Imco have a complete set of full sized
17 drawings on the job site?
18 A. Yes.
19 Q. And how were those drawings kept up to date
20 during the project?
21 A. As changes were made either by addendum, by RFI,
22 they were red-lined.
23 Q. Who actually did the red-lining?
24 A. Both Gregg Burress and myself.
25 Q. Would the red-lining be done on both sets of

00062

1 drawings or just on the full sized ones or just on the half
2 sized?

3 A. A combination of both.
4 Q. What kind of combination?
5 A. The full sized set, the as-built set would be
6 kept as current as possible. The other sets, the working
7 sets, would be kept current as it pertained to the scope of
8 work.

9 Q. I'm only waiting because it didn't sound like
10 you finished the sentence. Are you done?

11 A. All I was going to add more was the carpenters
12 would take, you know, the changes made pertinent to their
13 work. They didn't really care beyond the scope of the
14 carpentry. The same with the mechanical, same with the
15 civil.

16 Q. Now was there more than one set of the full size
17 drawings for Imco on the job?

18 A. I don't recall.

19 Q. How about the half size drawings, was there more
20 than one set?

21 A. Yes.

22 Q. Did different individuals have their own sets of
23 half sized drawings?

24 A. Yes.

25 Q. Which individuals had sets of half sized

00063

1 drawings?

2 A. Foreman and above.

3 Q. Whose responsibility was it to ensure that the
4 foremen were working from an updated version of whatever
5 drawing they might be using on a particular part of the
6 project?

7 A. The superintendent.

8 Q. How would he make sure that that had been done?

9 A. Helping with the layout or planning for any
10 particular phase of work.

11 Q. Would do what?

12 A. They would review the drawings and check to see
13 if there was any addendums or RFIs pertinent to that area.

14 Q. Some of these that we have marked we probably
15 aren't going to have to talk about in any great length, and
16 this may be one of them.

17 (Exhibit No. 301 is marked
18 for identification.)

19 Q. Exhibit 301, can you tell me what that is?

20 A. That is a sample of a subcontract blank that
21 would be sent to a subcontractor.
22 Q. Why did you happen to save that?
23 A. I thought Imco did a good job in presenting a
24 complete document to the subcontractors.
25 (Exhibit No. 302 is marked
00064
1 for identification.)
2 Q. Exhibit 302 is what?
3 A. An employee handbook.
4 Q. Was that handbook current as of the time you
5 went to work for Imco or as of the time you left or some
6 other time?
7 A. I do not recall if this was the one that I was
8 provided when I first came to work or if it was one that was
9 provided after.
10 Q. Do you have a date on it anywhere that indicates
11 when it was revised? I should say did it have an obvious
12 date on it anywhere? You don't have to review the whole
13 thing.
14 A. No.
15 (Exhibit No. 303 is marked
16 for identification.)
17 Q. Exhibit 303, can you identify that for us,
18 please?
19 A. That is a binder containing the crisis
20 management plan information provided by Imco.
21 Q. And how do you happen to have that document in
22 your personal possession?
23 A. I believe, like I mentioned before, I had that
24 box that I carried with me from job site to job site that
25 had this in it, my employee handbook, and it inadvertently
00065
1 was carried and moved one too many times.
2 Q. Do you know if that crisis management document
3 was updated at any time you worked for Imco?
4 A. No.
5 Q. And do you know whether or not that document is
6 still in effect with Imco?
7 A. No.
8 (Exhibit No. 304 is marked
9 for identification.)
10 Q. Exhibit 304?
11 A. The question is what is this?
12 Q. Yes. I'm sorry, just identify it for us,
13 please.
14 A. It's a brochure of what Imco does.
15 Q. Let me go back to 303 a second. You were given
16 a copy of that crisis management document as a -- originally
17 as a superintendent in training?
18 A. No. That was a subsequent training that
19 happened after.
20 Q. And what employees of Imco would have been
21 provided with that document?
22 A. Superintendents, project managers, foremen.
23 Q. And what use -- did you have some formal
24 training in connection with receiving this document?

25
00066

A. Yes.

1 Q. What kind of training did you have?

2 A. There was a presentation at the office.

3 Q. By whom?

4 A. I don't recall the entity.

5 Q. Was it a presentation by some employee or

6 officer of Imco or somebody outside the company?

7 A. No. It was outside.

8 Q. Was it a presentation by a lawyer or a law firm
9 or by some other entity?

10 A. It was another entity.

11 Q. Do you know if it was by an insurer or by a
12 public relations consultant?

13 A. I recall it was a public relations type. I
14 don't remember any lawyer type person.

15 Q. Do you recall approximately when that took
16 place?

17 A. No.

18 Q. Was it during the Dakin-Yew project?

19 A. I can't recall if it was.

20 Q. Do you recall whether it was before or after?

21 A. It would have been either during or after.

22 (Exhibit No. 305 is marked
23 for identification.)

24 Q. Could you tell me what Exhibit 305 is?

25 A. 305 is a brochure of the City of Bellingham's

00067

1 water treatment plan or procedures or -- it's a brief
2 description of how they treat the water from source to end
3 user.

4 Q. It was something that you came into possession
5 of while you were working out there, just picked one up or
6 something?

7 A. Yes.

8 (Exhibit No. 306 is marked
9 for identification.)

10 Q. Showing you what's been marked as Exhibit 306,
11 it's just a blank form and it's out of a folder that you
12 provided called manhours per cost code forms. They all look
13 like the same form so we just marked one of them. Can you
14 tell me what that is?

15 A. That was a form to track the manhours per cost
16 code of any given activity so that it could be assessed
17 whether it was estimated correctly or incorrectly.

18 Q. What are cost codes?

19 A. Cost code is a number -- I don't know how to say
20 -- used or utilized throughout the cost accounting program.
21 Dollars are assigned to a cost code as a budget. Costs on
22 the job are then tracked against that budget.

23 Q. On any given daily basis, how is a determination
24 made as to how to allocate all of the manhours that Imco
25 puts on a job to a particular cost code or number of cost

00068

1 codes?

2 A. Each employee was to fill out a daily report,
3 give a brief description of their activities. That

4 information would then be deciphered into a cost code or
5 allocated to a cost code based on the work performed.

6 Q. And that allocation would be made by who?

7 A. Both the superintendent and double checked by
8 the project manager.

9 (Exhibit No. 307 is marked
10 for identification.)

11 Q. Exhibit 307 is a similar deal. It's one form
12 out of a folder of similar forms or identical forms called
13 records of submittals. If you can tell us what 307 is.

14 A. 307 is exactly that. It's a record of
15 submittal. You would identify each submittal as it goes to
16 the architect or engineer or whoever you were working for,
17 description of it, and it tracks the time frame of
18 submission versus return and approval.

19 Q. And was this form used on the Dakin-Yew project?

20 A. I can't recall that it was.

21 Q. If it was not used, was there some other means
22 for accomplishing the same purpose?

23 A. Yes.

24 Q. What was that?

25 A. An Excel spread sheet.

00069

1 Q. How do you happen to have these forms among the
2 things that you have kept?

3 A. Again, it happened to land in that same box on
4 -- could have come from any one of the projects I was
5 working with Imco on. I either used it or thought it was a
6 good tool that I might be able to utilize in the future.

7 Q. Do you know in fact whether on the Dakin-Yew
8 project you were using an Excel spread sheet instead of this
9 form?

10 A. I believe I was.

11 Q. What other job records did you keep on computer
12 other than the record of submittals, if any?

13 A. The schedule and the submittals.

14 Q. And by schedule, what do you mean?

15 A. The project schedule, it would be a primavera
16 sure track.

17 Q. Critical path?

18 A. Critical path type, yes, project schedule.

19 Q. Was the information that you kept on your -- and
20 this was on a laptop computer or a desktop in the job shack
21 or what?

22 A. I can't recall if we had laptops. I believe it
23 was a desktop unit.

24 Q. Was the information that was kept on submittals
25 and job schedule copied or duplicated or backed up and

00070

1 delivered to the Imco home office on any regular basis?

2 A. No.

3 Q. Were backups or copies made and kept by you on
4 any regular basis?

5 A. No.

6 Q. So when your computer crashed, would you just
7 back it to ground zero and have to recreate the information
8 or did you --

9 A. No. When I answered no, I was thinking more
10 specifically of falling into the habit of keeping very
11 accurate backups which I am in the habit of now. The
12 schedule would definitely land on a disk. I don't think I
13 was very diligent back then of anything beyond that.

14 Q. When you say land on a disk, you mean you would
15 copy it onto a floppy?

16 A. Yes.

17 (Exhibit No. 308 is marked
18 for identification.)

19 Q. Showing you what's been marked as 308, can you
20 tell me what that is?

21 A. That is an agreement to work overtime, Imco
22 standard form.

23 Q. It appears to be a collection of documents. Are
24 they related somehow? They are paperclipped together. Are
25 they generally employment --

00071

1 A. Right. It looks like there is a number of
2 things here, and I would not say that they are related. I
3 would say that they are not related.

4 Q. Can I look at them again, please?

5 MR. FINEGOLD: Mr. Krakenberg, do you want
6 more water?

7 A. Yes, that would be great.

8 Q. (By Mr. Tollefson) What I'm going to do here is
9 I do want to ask you a couple questions about some of these.
10 So just for the record, we will have 308 be the one that you
11 have just identified. And I've taken the paperclip off and
12 over the lunch break I will ask the court reporter to mark
13 the rest and we will talk about them.

14 MR. FLOYD: Okay. So 308 is one page then?

15 MR. TOLLEFSON: Yes.

16 (Exhibit No. 309 is marked
17 for identification.)

18 Q. (By Mr. Tollefson) 309, tell us what that is.

19 A. It's an application for employment standard Imco
20 form.

21 Q. Is this the application form that you filled out
22 or is there some other reason that you have this in your
23 box?

24 A. I believe that was probably a document or packet
25 that landed in my job site box that inadvertently was left

00072

1 there.

2 (Exhibit No. 310 is marked
3 for identification.)

4 Q. Exhibit 310, tell us what that is.

5 A. It's -- I believe it was part of the application
6 packet that came to a new employee and it's an
7 acknowledgment that they have received the employee
8 handbook.

9 Q. It all appears to be employment related
10 information?

11 A. Yes. It looks like it's all just standard.

12 Q. 309 and 310 were in that envelope. If you care,
13 you can put them back in there.

14 MR. FLOYD: Val, are you done with these?
15 MR. TOLLEFSON: Don't hide them away.
16 (Exhibit No. 311 is marked
17 for identification.)

18 Q. (By Mr. Tollefson) Exhibit 311?
19 A. That is my assigned supervisors handbook from
20 Imco.
21 Q. Is this something you were provided when you
22 were first hired by Imco?
23 A. I don't believe so.
24 Q. Do you recall how or when you got it?
25 A. Not specifically.

00073

1 Q. Is it something that was provided to you in the
2 form that it exists there or somebody else put this together
3 for you?
4 A. Yes.
5 Q. Did you update or add to this handbook from time
6 to time?
7 A. I would say it looks like I received some
8 revisions here.
9 Q. You are looking at some things that are tucked
10 inside the cover, some loose documents?
11 A. Uh-huh.
12 Q. The documents that are actually in the binder in
13 the ring portion of the binder, is that basically as it was
14 provided to you?
15 A. Yeah. I believe so.
16 Q. And then the stuff that's loose inside the cover
17 was stuff you got later on and decided to put in there for
18 one reason or another?
19 A. Yeah.

20 (Exhibit No. 312 is marked
21 for identification.)
22 Q. Exhibit 312 is an envelope containing a computer
23 disk. Can you identify that disk for us?
24 A. This appears to be the original Dakin-Yew
25 schedule.

00074

1 Q. Could I just take a quick look? The white label
2 that is scotchtaped to the disk is a label that was on the
3 disk when you found it in the box? That's the way it
4 existed?
5 A. Yes.
6 Q. It's got a yellow post-it. Was that also on the
7 disk when you found it in the box?
8 A. Yes.
9 Q. Can you tell us what the post-it says?
10 A. It says schedule.
11 Q. You don't need to read it word for word. I just
12 want to know what information is on there.
13 A. The information is that in going through the
14 requirements for the subpoena, I went to my box, and I found
15 these disks there and I went to see what was on them. I
16 opened -- tried to open the schedule, found that it -- I
17 could not open it and that there was also a sub log, a
18 submittal log on this disk that appeared to -- I have been

19 able to open and I found it not to be responsive to the
20 subpoena.
21 Q. So the yellow post-it is writing that you put on
22 the disk in the process of responding to the subpoena?
23 A. Correct.
24 Q. Okay. Did you take anything off of that disk
25 because you thought that it was not responsive?
00075
1 A. No. Absolutely not.
2 Q. So it's just got some information on there that
3 you don't think has anything to do with this?
4 A. Correct.
5 Q. That goes back in the envelope that was 312.
6 MR. FLOYD: Val, how do you want to handle
7 these disks?
8 MR. TOLLEFSON: Let's talk about it
9 afterwards. We are not going to plug it in over lunch.
10 MR. FLOYD: Before anyone tries to do
11 anything, we'll have an agreement on what we will do?
12 MR. TOLLEFSON: Yes. I do agree with that.
13 We'll figure something out before we leave today.
14 (Exhibit No. 313 is marked
15 for identification.)
16 Q. (By Mr. Tollefson) 313 is what?
17 A. This is another disk found in the box that I
18 found to have the submittal log for the Dakin-Yew project.
19 Q. Did that disk also appear to have a virus on it?
20 A. I don't remember which disk had a virus on it.
21 I didn't know it had a virus on it when I plugged it in, and
22 I have a current Norton anti-virus that contained it,
23 quarantined it. So I then went ahead and tried to open up
24 both schedules and other files to see what was the contents.
25 So I don't think it's a major --
00076
1 MR. FINEGOLD: It's probably the same virus
2 that Beninger has.
3 (Exhibit No. 314 is marked
4 for identification.)
5 Q. (By Mr. Tollefson) Exhibit 314 is what?
6 A. That is an employee evaluation of mine from
7 1994.
8 Q. Does it have a date on it?
9 A. Yes. It's June 17th.
10 Q. And it's an evaluation of your performance?
11 A. Yes.
12 Q. Prepared by who?
13 A. Chris Hart.
14 (Exhibit No. 315 is marked
15 for identification.)
16 Q. And Exhibit 315?
17 A. It is an evaluation. This was done by Dean
18 Irwin at the same time.
19 Q. Who is Mr. Irwin?
20 A. He was the vice-president of Imco.
21 (Exhibit No. 316 is marked
22 for identification.)
23 Q. And Exhibit 316, what's that?

24 A. This was the -- my previous employee performance
25 evaluation.

00077

1 Q. What's the date on that?

2 A. 2/24/92.

3 Q. What did you understand Imco's procedure to be
4 with regard to evaluating the performance of its
5 superintendents and project managers?

6 A. I can't recall if it was a yearly or not or
7 performance based. I don't recall the procedure.

8 (Exhibit Nos. 317A, 317B and 317C
9 are marked for identification.)

10 Q. Exhibit 317 is three photographs. We have put
11 them together so we could get them color copied on a sheet
12 of paper. Could you tell us -- those photographs appear to
13 have dates on them.

14 A. Yes.

15 Q. They are all August 18th; are they?

16 A. Yes, they are.

17 Q. 1994?

18 A. Yes.

19 Q. Are these photographs that you took?

20 A. I couldn't verify that I took them or not.

21 Q. Did you take photographs of the job at

22 Dakin-Yew?

23 A. Yes.

24 Q. With your personal camera?

25 A. No.

00078

1 Q. Did the company have a camera that it kept on
2 the site?

3 A. Yes.

4 Q. And that's the camera that you would use to take
5 photographs?

6 A. Yes.

7 Q. Do you know how these photographs happen to be
8 in your possession now?

9 A. I believe it's the same as a lot of this
10 material. It landed in the box.

11 Q. Based on your recollection of the project, do
12 those photographs appear to accurately reflect the condition
13 of the -- I mean does it appear that what you see in the
14 pictures correlates with the date on the -- roughly with the
15 date?

16 A. I couldn't tell you if it did or not. I have no
17 reason to doubt that the date would be false on the stamp.

18 Q. Do you recall ever having used that camera and
19 actually verified that the date that was showing was the
20 correct date?

21 A. I have no direct memory of that.

22 (Exhibit Nos. 318A, 318B and 318C
23 are marked for identification.)

24 Q. Exhibit 318 is another three color photographs.
25 They each also have a date stamp -- it looks like one of

00079

1 them is the 18th and a couple others are the 15th of August,
2 1994; correct?

3 A. Uh-huh. Yes.
4 Q. And your responses would be the same with regard
5 to those photographs, you don't have any specific
6 recollection?
7 A. Yes.
8 Q. Okay.
9 MR. TOLLEFSON: Shall we quit?
10 MR. FLOYD: Sure.
11 (Noon recess taken at
12 11:55 a.m.)
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15
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18
19
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22
23
24
25

00080

1 AFTERNOON SESSION
2 March 20, 2001
3 1:30 p.m.
4

5 MR. TOLLEFSON: Back on the record.
6 (Exhibit No. 319 is marked
7 for identification.)
8

9 EXAMINATION

10 BY MR. TOLLEFSON:

11 Q. Mr. Krakenberg, when we broke for lunch, we had
12 talked about photographs 317 and 318 and a folder that's a
13 bunch of copies of a drawing, one of which we have had
14 marked as Exhibit 319 to your deposition. Can you confirm
15 for me that that has absolutely nothing to do with
16 Dakin-Yew, or does it?

17 A. It does. These are welding procedures for tying
18 in the Amaron type pipe to an existing pipe.

19 Q. And the explanation for this particular folder
20 being in the box, any explanation in particular?

21 A. No.

22 (Exhibit No. 320 is marked
23 for identification.)

24 Q. Exhibit 320 is a folder containing information
25 that appears to be about some sort of a claim on some pumps.

00081

1 Can you tell us what that is?

2 A. It is exactly that. It is the documentation of
3 the late material delivery of the vertical turbine pumps.

4 Q. The only question I've got about the documents
5 in this exhibit, if you could flip to I think the first
6 yellow page? That's got some information on there about
7 insurance.

8 Is this just a handwritten attempt to calculate
9 damages that you were claiming as a result of whatever delay
10 you had experienced in getting the pumps?

11 A. Yes.

12 (Exhibit No. 321 is marked
13 for identification.)

14 Q. So Exhibit 321 is a binder, the front of which
15 says Personnel File No. 1313. Can you tell us what that is?

16 A. This is a binder that has -- we were instructed
17 to keep on the job site. Both Gregg Burress and I would
18 write notes in this if there were any positive and/or
19 negative comments to go into a particular personnel file.

20 Q. What does the 1313 refer to? Is that the job
21 number?

22 A. That's the job number.

23 Q. How does this binder happen to be in your box as
24 opposed to in the archives?

25 A. It didn't -- I don't have an explanation for why

00082

1 it would end up one place or the other.

2 Q. Do you know -- you've looked through this binder
3 since you discovered it in the box?

4 A. Yes.

5 Q. Do you know whether or not it is complete with
6 regard to information that was put in that binder during the
7 job?

8 A. I believe that it is.

9 (Exhibit Nos. 322, 323 and 324
10 are marked for identification.)

11 Q. I think that 322, 323 and 324 are all related.
12 Can you tell us what those are?

13 A. The Hydra-Stop is a technology that was used on
14 the Dakin-Yew project for stopping an existing line, the
15 flow of any fluid in it if you needed to attach or do any
16 work on a segment that was not capable of being valved off
17 by existing valves.

18 Q. And Exhibit 322 is what?

19 A. This is a videotape provided by Hydra-Stop that
20 explained what it does and what products they offer.

21 Q. And 323 is?

22 A. I think just basically literature on -- I
23 believe, I'm not positive, it was specific to the type of
24 stop that they used on the Dakin-Yew project. I don't
25 remember exactly what type they used.

00083

1 Q. But this is literature from the same company?

2 A. Yes, it is.

3 Q. And 324 is what?

4 A. More product literature of the type of products
5 that they carry.

6 (Exhibit No. 325 is marked
7 for identification.)

8 Q. The next documents are out of that packet that
9 were all originally paperclipped together. Just real quick,
10 325 is a form of a termination slip. Was that in use while
11 you were working as the project manager on Dakin-Yew?

12 A. I can't say that it was or was not, if it was

13 provided prior to, during or after, but this was an Imco
14 termination slip.

15 Q. As the project manager at Dakin-Yew did you have
16 the authority to hire and fire?

17 A. Not necessarily.

18 Q. Did you -- what do you mean not necessarily?

19 A. I didn't really have the experience or technical
20 expertise to really ascertain whether somebody was a good
21 laborer or carpenter, pipe worker at that time. So while
22 that would fall under the general guidelines of a general
23 project manager, my skill level at the time, they would not
24 have put me in position. That would have been hired on by
25 the superintendent or the foremen or other people.

00084

1 Q. During the time that you were working at
2 Dakin-Yew were any Imco personnel assigned to that job
3 fired?

4 A. Yes, I believe there was.

5 Q. Who?

6 A. I don't recall the guy's name.

7 Q. Do you recall why?

8 A. I believe there was an -- I think he came up
9 positive on a drug test.

10 Q. What was the Imco --

11 A. No. He wasn't fired for that.

12 Q. I'm sorry, I interrupted you.

13 A. I don't believe that he was actually fired for
14 that. I think he was given an opportunity for
15 rehabilitation or other program.

16 Q. You don't recall who that was though?

17 A. I do not recall the guy's name.

18 Q. What was the Imco procedure regarding drug
19 testing?

20 A. Pre-employment, for cause and random.

21 Q. And the individual who you recall running afoul
22 of a drug test was somebody who tested positive on a random
23 test?

24 A. I believe that's correct.

25 Q. You said that person wasn't terminated. Do you

00085

1 recall whether anybody was fired from the crew on the
2 Dakin-Yew project?

3 A. No.

4 Q. You don't recall or you don't believe there was
5 anybody?

6 A. Beyond the individual that I was discussing, no.

7 Q. You don't recall or you don't believe there was
8 anybody?

9 A. I don't believe that there was anybody.

10 (Exhibit No. 326 is marked
11 for identification.)

12 Q. Exhibit 326 is a multi-page kind of self-copying
13 form for the daily report? Was that form in use during the
14 Dakin-Yew project?

15 A. Yes.

16 Q. Whose responsibility was it to complete the
17 form?

18 A. Superintendent.
19 Q. And what was done with the forms after they were
20 completed?
21 A. They were filed.
22 Q. All of them? I mean there are multiple copies.
23 A. I believe one is the site file and one is an
24 office file.
25 Q. Do you know if the daily reports were -- copies
00086

1 of these daily reports were provided either to Barrett
2 Consulting or the City of Bellingham?
3 A. No.
4 Q. You don't know or they weren't?
5 A. I don't believe that they were. This is to my
6 knowledge an internal document.
7 (Exhibit No. 327 is marked
8 for identification.)
9 Q. Exhibit 327 is another form of daily report.
10 Seems to have the same information, but looks like it's
11 typed or something. Was that used for some other purpose?
12 A. No. This has on it the project name of Whidbey,
13 and it looks like it was generated by a computer. And I
14 know the project manager on the Whidbey Island project was
15 very computer literate, so I imagine that he duplicated the
16 Imco form on a computer.
17 Q. And do you have any idea why you would have that
18 form in your bag of tricks?
19 A. I worked on the Whidbey Island Naval project,
20 and along came the box and in the box went some gear from
21 here and there.
22 (Exhibit No. 328 is marked
23 for identification.)
24 Q. Exhibit 328, can you tell us what that is?
25 A. It's a weekly schedule, blank form.
00087

1 Q. Weekly schedule of what -- or for what?
2 A. This would be used by a foreman or
3 superintendent to outline a week's activities.
4 Q. You told us earlier, as I recall, that you
5 thought that there might have been a bi-weekly schedule that
6 was published. Would this be something different than what
7 you had been referring to earlier?
8 A. The only difference is this only shows a week, a
9 single week where the other would show two.
10 Q. Do you know whether or not this form was used on
11 the Dakin-Yew project?
12 A. Not a hundred percent sure, no. Similar.
13 Q. A similar form was used and you believe that it
14 would reflect two weeks at a time?
15 A. Yes, I believe so.
16 Q. So the current week and the next week?
17 A. Yes.
18 (Exhibit Nos. 329 and 330 are
19 marked for identification.)
20 Q. 329 and 330 are different versions of a document
21 called a foreman's daily report. Was that a document that
22 was in use on Dakin-Yew?

23 A. I believe so.
24 Q. And I take it from the title that it was
25 intended to be filled out by the foreman?

00088

1 A. Yes.

2 Q. And was this handled basically the same as the
3 daily report completed by the superintendent?

4 A. Yes, in that the foreman would fill it out, copy
5 in both places or maybe that even stayed only at the job
6 site.

7 Q. When you archived the Dakin-Yew project, did you
8 review the records kept on the job site to see whether or
9 not there were duplicates kept in the office and eliminate
10 duplicates, or did it all go together?

11 A. I would toss away the duplicates.

12 Q. Were the records that were maintained on the job
13 site returned to the main office at the conclusion of the
14 project or were they sent somewhere else?

15 A. They were returned to the main office.

16 (Exhibit No. 331 is marked
17 for identification.)

18 Q. 331 is what?

19 A. That is a form used by Imco for tracking of
20 costs on a force account activity.

21 Q. Which is what?

22 A. A force account is an agreement or direction,
23 agreement with and/or direction by the entity we are working
24 for that there is not time to forward price a lump sum or
25 bottom line and costs are tracked on a T&M basis and signed

00089

1 off daily by both entities that this is what happened, the
2 costs incurred.

3 (Exhibit No. 332 is marked
4 for identification.)

5 Q. Exhibit 332?

6 A. That is an outline for toolbox safety meetings.

7 Q. That indicates that safety meetings are to be
8 held on the job site on a weekly basis?

9 A. I would have to review it to see if that
10 information is there, but that is a standard.

11 Q. Is that what it says on the top beginning of the
12 form?

13 A. Hold meetings weekly, correct.

14 Q. Is that in fact what you did?

15 A. The superintendent was responsible for holding
16 the safety meetings.

17 Q. Did you attend the safety meetings?

18 A. Yes.

19 Q. So is that what happened? Were there weekly
20 safety meetings?

21 A. I believe there was.

22 Q. Were minutes kept of the safety meetings?

23 A. I believe so.

24 Q. Was anybody provided with copies of the minutes
25 of the safety meetings other than Imco's office?

00090

1 A. No.

2 Q. Do you know whether or not a subject of any
3 weekly safety meetings was the existence of the Olympic
4 pipeline going through the job site at Dakin-Yew?
5 A. I don't specifically remember that.
6 (Exhibit No. 333 is marked
7 for identification.)
8 Q. Exhibit 333 is what?
9 A. The title says record of hazard observed.
10 Q. Is that a form that was used at the Dakin-Yew
11 project?
12 A. This is actually a form I'm not familiar with.
13 Q. You don't know where this would have come from
14 then? Other than the fact it came out of your box, you
15 don't know what the source of it is?
16 A. Right. I can only guess it came from maybe
17 possibly the crisis management or the handbook.
18 Q. You don't recall a form like that being used by
19 Imco at Dakin-Yew?
20 A. No.
21 (Exhibit No. 334 is marked
22 for identification.)
23 Q. How about 334, do you recall anything like that
24 being used?
25 A. I'm familiar with this form. I can't say that I
00091
1 remember its specific use on the Dakin-Yew project.
2 Q. Was there any kind of --
3 A. I think that relates directly back to the
4 previous form possibly.
5 Q. Excuse me.
6 A. I can't say for sure.
7 Q. Okay. Do you recall there being any mechanism
8 for Imco employees on the Dakin-Yew project to communicate
9 in writing any hazardous conditions they observed on the
10 job?
11 A. The daily time sheet was an excellent form for
12 that. Not only describe what they did, they could put any
13 concerns on there.
14 Q. Do you know if in fact that happened?
15 A. No.
16 Q. Do you recall being advised by any Imco employee
17 at Dakin-Yew that they had observed a condition or a -- a
18 condition that they considered to constitute a hazard?
19 A. No.
20 (Exhibit No. 335 is marked
21 for identification.)
22 Q. Exhibit 335 is what?
23 A. A hazard communication program for Imco.
24 Q. And was that program in effect during the
25 Dakin-Yew construction?
00092
1 A. Again, I can't confirm. I know that this talks
2 to container labeling which the labels were kept on all
3 products.
4 Q. My question is simply whether this refers to a
5 program, and my question simply is whether or not you
6 believe that the program this refers to was in effect during

7 the Dakin-Yew project.
8 A. Again, I can't remember specifically.
9 (Exhibit No. 336 is marked
10 for identification.)
11 Q. Exhibit 336 is what?
12 A. Copies of a supervisor's report of an accident.
13 (Exhibit No. 337 is marked
14 for identification.)
15 Q. And 337 is what?
16 A. An accident report form.
17 Q. Were either or both of these forms in use during
18 the Dakin-Yew project?
19 A. Again, I can't remember if those specifically
20 were the forms to be used or not.
21 Q. Do you recall whether or not Imco had any
22 reportable injuries to employees during the Dakin-Yew
23 project? By reportable I mean reportable to the Department
24 of Labor and Industries.
25 A. No.
00093
1 Q. You don't recall or they did not?
2 A. To my recollection they did not.
3 Q. What was the process at Dakin-Yew as far as
4 coordinating Imco's work with the work of others on the job
5 site? And by others I mean either Triad Electric or the
6 City of Bellingham in connection with the operation of the
7 water treatment plant or telephone company coming on site to
8 work, how would you go about coordinating with other people?
9 A. There was a weekly owners' meeting.
10 Q. Anything else?
11 A. There is daily discussions between the foremen
12 and superintendent with any other foremen of subcontractors
13 on the job site. Subcontractors if I remember were at the
14 daily -- or excuse me, the weekly owners' meetings. The
15 schedule was reviewed.
16 Q. Whose responsibility from Imco's standpoint was
17 it to know who else was working on the job site other than
18 Imco people?
19 A. I am unclear to your question.
20 Q. Did anyone as far as Imco have primary
21 responsibility to keep track of people other than Imco
22 personnel who were working on the job site?
23 MR. FLOYD: Could you read that back one
24 more time.
25 (The previous question was
00094
1 read by the reporter.)
2 A. Can I clarify further by so was a daily log of
3 people on and off?
4 Q. (By Mr. Tollefson) I just want to know if from
5 Imco's standpoint, for instance, and this is purely
6 hypothetical, I'm not referring to any particular instance,
7 but let's just say the phone company had a problem and
8 wanted to come and do some work. I mean, do you have any --
9 did Imco have any concern about people who weren't Imco
10 people coming on the job site and doing work that was
11 independent of Imco's work? Anybody try to keep track of

12 that?

13 A. I can't recall anybody being specifically
14 responsible for tracking any activities of other contracts.
15 It was coordinated -- if we knew somebody was coming on
16 site, it would -- that activity would be discussed with them
17 and, you know, work around or say, no, we are in that area
18 or to that effect and that would be with the superintendent
19 to coordinate and facilitate anybody and all activities on
20 the job site.

21 Q. Let's take one second while I grab some
22 exhibits.

(Off the record)

(Exhibit No. 338 is marked
for identification.)

00095

1 MR. BENINGER: Is this another copy of an
2 exhibit?

3 MR. TOLLEFSON: It's the same drawing as
4 Exhibit 97 but without the highlighting.

5 Q. (By Mr. Tollefson) I have handed you what's
6 been marked as Exhibit 338, Mr. Krakenberg. Do you
7 generally recognize that as a drawing of the project at
8 Dakin-Yew?

9 A. Yes.

10 Q. Are you able to indicate on that drawing or
11 maybe it doesn't -- maybe this isn't big enough, but where
12 was your job shack on the site?

13 A. You are correct. It's not big enough to show
14 where the job shack was. It was approximately off of the
15 page to the top.

16 Q. It was off the page at the top?

17 A. Yes, to the north.

18 Q. Approximately -- say from the pump station
19 building, approximately how far was it up there just
20 estimating?

21 A. A hundred yards.

22 Q. And during a normal day on the job, what would
23 be your routine? Come to work what time?

24 A. Probably before 7 o'clock.

25 Q. How would you typically spend your day?

00096

1 A. In the job trailer.

2 Q. Doing what?

3 A. Calling material suppliers, if there was any
4 more material to be purchased, scheduling, subcontract
5 rivals, letters back and forth to Barrett pricing out any
6 new changes in the work, reviewing addendums, if there were
7 any submittals to be handled. Primarily all the paperwork
8 involved with the project.

9 Q. Would there be occasions from time to time that
10 you would go out on the job site for one thing or another?

11 A. Yes.

12 Q. And give us examples of some kinds of things or
13 some kinds of occasions that may have caused you to go out
14 actually where the work was being done.

15 A. There is a number of reasons why. End of the
16 day to take pictures, if I needed clarification on something

17 I was pricing, if there was something the guys were doing
18 that had incorporated a submittal, they needed an
19 explanation and it was easier to show in real terms versus a
20 discussion in the trailer. Those types of reasons.

21 Q. You indicated one reason would be to take
22 photos. Was there some general program or plan you were
23 trying to accomplish with photographs? Was there some
24 general policy or procedure that Imco had as far as
25 documenting the work by photography?

00097

1 A. There is no written specific plan. Just go out
2 and take pictures of the progress in a general sense.

3 Q. Was that something that you would try to do on a
4 daily basis, a weekly basis, any particular routine?

5 A. I would say at least weekly.

6 Q. And were you the person primarily charged with
7 the responsibility to do that?

8 A. I would say yes or no, both. Gregg Burress and
9 I were free rein to take pictures at will.

10 Q. As far as Gregg is concerned, did he have a desk
11 in the job shack, also?

12 A. Yes.

13 Q. And on an average day what would be his
14 activity?

15 A. He would primarily be out on the job site for
16 the most part. There would be times where he could come
17 back in, review the drawings, plan the work for the next day
18 or upcoming activities and then be back out on the job site.

19 Q. Did you get called out on the job site from time
20 to time to deal with problems that might arise in the course
21 of the construction?

22 A. It could have happened.

23 Q. For instance, the records indicate that on a
24 number of occasions Imco equipment did various kinds of
25 damage on the project, either hitting telephone lines or --

00098

1 MR. TOLLEFSON: Do you want to take a
2 break?

3 MR. FLOYD: No. I'm putting my hand up
4 because I'm going to object, but go ahead and finish your
5 question. I don't want to interrupt you.

6 Q. (By Mr. Tollefson) The records indicate that on
7 a number of occasions Imco did various damage on the project
8 with equipment whether it was breaking a watermain or
9 breaking telephone lines or doing structural damage to the
10 pump house. And would those be occasions when you would go
11 out on the site to see what would have happened?

12 MR. FLOYD: Object to the form of the
13 question. Mischaracterizes the testimony. Go ahead and
14 answer.

15 A. Yes.

16 Q. (By Mr. Tollefson) When there was property
17 damage done on the job, did you have the obligation to fill
18 out any kind of report?

19 A. No.

20 Q. Did you fill out any kind of report?

21 A. Can we clarify property damage?

22 Q. Backhoe breaks telephone lines.

22 A. No.
23 Q. Backhoe breaks watermain.
24 A. No.
25 Q. The kind of property damage that you might have

00099

1 to fill out some paperwork on would be something that might
2 result in an insurance claim, for instance, to your own
3 equipment?

4 A. Not that I'm aware of that would fall under the
5 responsibilities of myself.

6 Q. So who else other than you and Mr. Burress
7 worked out of the job shack?

8 A. There was a secretary.

9 Q. And that was who?

10 A. I can't remember her name.

11 Q. Was it the same secretary for the entire job?

12 A. I believe so. I think -- I can't remember a
13 hundred percent.

14 Q. Were you assigned to the Dakin-Yew project at
15 the time that pre-construction meetings were held?

16 A. I was assigned prior to the work being started
17 on site, and I don't know the exact timing of the
18 preconstruction meetings as you mean them, but I was
19 assigned prior to construction.

20 Q. Do you recall prior to construction attending
21 any meetings that were attended by Olympic Pipe Line
22 representatives?

23 A. No.

24 Q. At what point did you become aware that an
25 Olympic pipeline traversed the job site?

00100

1 A. I can't recall the specific time.

2 Q. It would have been before construction began?

3 A. Presumably.

4 Q. You are presuming that it would have been before
5 construction began?

6 A. Sure.

7 Q. What did you know about the requirements --
8 what, if anything, do you know about the requirements of
9 contacting Olympic Pipe Line during your construction at
10 Dakin-Yew?

11 A. I know we -- there is a requirement to call a
12 1-800 locate service which identified all the utilities in
13 the area and that was or Olympic Pipe Line was run one of
14 the utilities located.

15 Q. Do you know with regard to -- specifically with
16 regard to the Olympic Pipeline when you were obligated to
17 call a 1-800 number?

18 A. Prior to any excavation.

19 Q. And prior to any excavation where?

20 A. In the relative area.

21 Q. Relative to what?

22 A. To the pipeline.

23 Q. How close to the pipeline?

24 A. I don't know a specific dimension.

25 Q. Did you have any personal responsibility to make

00101

1 those calls?

2 A. No.

3 Q. Was it your responsibility to see to it that the
4 calls were made?

5 A. Not at the time.

6 Q. Not at what time?

7 A. During the initial stages of the project I was
8 an assistant project manager, and that was -- those types of
9 things were handled either by the superintendent, foreman
10 and then I would imagine Chris was as acting project manager
11 ensuring they were done.

12 Q. Do you know what Chris did to ensure that those
13 calls were made on a timely basis?

14 A. No.

15 Q. I believe you indicated earlier that you didn't
16 remember exactly when you took over as project manager, but
17 you believed it was toward the end of the project.

18 A. Yes.

19 (Exhibit No. 339 is marked
20 for identification.)

21 Q. Does what's been marked as Exhibit 339 appear to
22 you to be a copy of the certification of -- basically
23 payroll certification, I suppose, or hours worked by Imco
24 personnel for the month of June 1994?

25 A. Yes.

00102

1 Q. And based on or looking at those documents, does
2 it appear to you that Mr. Hart is listed as the project
3 manager for each week including the week ending June 25th,
4 1994?

5 MR. FLOYD: You want the week of the 25th?

6 MR. TOLLEFSON: The last week.

7 MR. FLOYD: The third to the last page.

8 A. I believe so, yes.

9 (Exhibit No. 340 is marked
10 for identification.)

11 Q. (By Mr. Tollefson) Now I will hand you what, I
12 guess, is 340 which is the same compilation documents for
13 July of 1994. And you can review these documents, but I
14 will tell you that what they reflect is that although you
15 are shown as project manager assistant on these documents,
16 Mr. Hart doesn't show up at all.

17 And my question is, would this timing be
18 consistent with the time that you in fact took over as
19 project manager, the beginning of July or the end of June
20 1994?

21 A. I can't say specifically.

22 Q. Do you have any explanation for why Mr. Hart no
23 longer shows on the payroll certification?

24 A. Very possible he was billing his time to another
25 project.

00103

1 Q. If he was assigned to another project, he
2 wouldn't be assigned to this project; is that accurate?

3 A. Assignments -- when you have an assignment to a
4 project and/or have a new assignment, it doesn't mean that
5 you don't know anything about or have the history from the

6 previous job you just left. And especially in a situation
7 where I was new and young, Chris was available, and, you
8 know, it's possible that he was charting his time out
9 otherwise and still working on this project.

10 Q. So working for the City of Bellingham for
11 nothing? The purpose of this is to figure out how you are
12 going to charge for the project; isn't it?

13 A. Yes.

14 Q. Let's just assume that what you thought might be
15 the case was the case. Let's assume that Mr. Hart went off
16 on another project but he was available to you. And let's
17 further assume that it comes time for Imco to do some
18 digging that would require a call to Olympic Pipe Line under
19 the One Call program. Would it be your responsibility as
20 the assistant project manager on the job to see to it that
21 those calls were made, or would it be Mr. Hart's
22 responsibility as the project manager working somewhere else
23 to see to it that the calls were made?

24 MR. FLOYD: Object to the form of the
25 question.

00104

1 A. I believe it's the superintendent's
2 responsibility to ensure that those calls were made.

3 Q. (By Mr. Tollefson) Whose responsibility is it
4 to see to it that the superintendent does his job?

5 A. The project manager's.

6 Q. And that would be Mr. Hart's responsibility no
7 matter if he was around or not?

8 A. In a black and white sense, yes.

9 Q. And as the assistant project manager, although
10 you were the senior guy on the job, you would have no
11 responsibility to do that. Is that your testimony?

12 A. I don't believe that what you said there was
13 completely true. I don't know as I was seen as the senior
14 guy on the job site.

15 Q. Who during the month of July according to the
16 payroll certification was senior to you on this job?

17 A. Chris Hart was always senior to me.

18 Q. He doesn't appear to be on the payroll
19 certification. So who that is on the payroll certification
20 in the month of July would have been senior to you?

21 A. I think you are drawing the lines of seniority,
22 especially in terms of a young -- a young assistant project
23 manager, new project manager, if the more experienced field
24 guy, he has much more say in what happens or does not happen
25 based on his experience than a guy coming out of college

00105

1 just because he has a title.

2 Q. So at least as far as you are concerned during
3 the month of July, whether or not you might have been
4 expected to be fulfilling the functions of project manager
5 on this job, you weren't qualified to do that; is that
6 correct? Is that your testimony?

7 A. I was qualified to handle all of the reporting,
8 scheduling, cost analysis, development of bids, all the
9 functions of a project manager.

10 Q. Except seeing to it that other people under you

11 did their jobs?

12 A. Can you say that again?

13 Q. I know you told me this earlier, but was
14 Dakin-Yew the first project where you actually were
15 ultimately assigned as the project manager?

16 A. Yes.

17 Q. At some point, and I believe that that point was
18 sometime late June. Give me a second here. Let me ask you
19 this way.

20 If the normal work schedule for Imco on
21 Dakin-Yew was four 10-hour days Tuesday through Friday --

22 A. Monday through Friday four 10-hour days.

23 Q. So the job --

24 A. Monday through Thursday would be tough to
25 squeeze four in.

00106

1 Q. Monday through Thursday was the normal workweek?

2 A. Correct.

3 Q. There came a time sometime I think in late June
4 -- we can pin that down -- when you started running two
5 shifts. Do you recall that?

6 A. No.

7 Q. You don't recall running two shifts at all?

8 A. No.

9 Q. You don't have any recollection of running a
10 second shift that was working out until 10:00 or 10:30 at
11 night?

12 A. Not unless it had to do with the specific
13 shutdown.

14 Q. Without regard to what it had to do with, you
15 just don't have a recollection of that unless I can refresh
16 your recollection?

17 A. Yes.

18 Q. I hate it when that happens.

19 MR. FLOYD: He has to do his job now. You
20 have to do your job, Val. He is going to go into his bag of
21 tricks now.

22 MR. BENINGER: I have a couple of minutes
23 of questions if I can steal some time at some point.

24 MR. TOLLEFSON: What's that?

25 MR. BENINGER: If I could steal some time

00107

1 before the end of the day, I have a couple of questions.

2 MR. TOLLEFSON: Absolutely. If you want to
3 jump in now, you go ahead.

4

5

EXAMINATION

6

BY MR. BENINGER:

7

Q. Mr. Krakenberg, my name is David Beninger. I
8 represent the families of the two boys who died.

9

During the course of the Dakin-Yew project, do
10 you recall any employee from Imco striking an open pipeline?

11

A. No.

12

Q. Do you recall any other employee or other worker
13 on the site during the Dakin-Yew project striking the
14 Olympic pipeline?

15

A. No.

16 Q. If anyone had struck an Olympic pipeline, in
17 your position as project manager or assistant project
18 manager, should that have been brought to your attention?

19 A. Yes.

20 Q. Why?

21 A. It would have come to everyone's attention.

22 Q. Why?

23 A. Because it's a significant -- any utility strike
24 would be a significant source of conversation or discussion
25 or bring it out in the open.

00108

1 Q. During the course of the Dakin-Yew project and
2 all the way up until the time of the rupture and explosion
3 in June 1999, do you remember or recall any conversations of
4 anybody striking the Olympic pipeline?

5 A. No.

6 Q. If someone had struck the Olympic pipeline back
7 in 1994 during the Dakin-Yew project, what would your
8 concern have been?

9 A. For the integrity of the pipeline.

10 Q. In what respect?

11 A. The structural integrity of the pipeline.

12 Q. How would you know whether or not it was damaged
13 at all?

14 A. I wouldn't.

15 Q. What would you do if somebody had struck the
16 pipeline and brought it to your attention? What would have
17 been done?

18 A. Called the operating company, the Olympic Pipe
19 Line.

20 Q. How would you know how to locate Olympic?

21 A. If I remember correctly, their phone number was
22 on the wall in the trailer.

23 Q. So if someone had struck the pipeline and you
24 had been aware of that, your response would have been to
25 call the company like Olympic Pipe Line to come and do what?

00109

1 A. Investigate, assess the damage.

2 Q. Would you have been aware of any type of
3 protective coating that would have been on the Olympic
4 pipeline?

5 A. No.

6 Q. You are not aware of any sort of coating that
7 goes on gas type pipelines?

8 A. No.

9 Q. Do you know Tom Franklin?

10 A. Yes.

11 Q. Describe your relationship with him.

12 A. Tom was the inspector on the project.

13 Q. We have testimony of you all disagreeing near
14 the end of the project maybe in some loud terms. Would you
15 agree with that or not?

16 A. Yes.

17 Q. Would you describe why?

18 A. Probably, if I remember Tom, he was a retired
19 DOT inspector, fairly set in his ways. I was a young
20 project manager, assistant project manager. I didn't have

21 the skills to deal with difficult or different types of
22 personalities to push them my way.
23 I probably came to everybody one direction and
24 that was the way I came at them and had not been polished in
25 the ways of talking -- I don't know, the correct term for
00110
1 this would be just learning to work with people in a more
2 cohesive way regardless of there differences or position.
3 Q. Did you end up -- did the working relationship
4 with Tom Franklin develop into where you were shouting at
5 each other near the end of the project?
6 A. Not a daily basis, no.
7 Q. On a fairly frequent basis?
8 A. I can't even say that it was that frequent. I
9 know there were instances where we would both raise above a
10 normal talking or even heated discussion.
11 Q. Mark Graham, describe your relationship with
12 him.
13 A. My relationship with Mark Graham was no more
14 than we discussed we both had a common interest in hunting.
15 Other than that, the discussions were job related.
16 Q. Enemies, might he be out to get you that you can
17 remember?
18 A. No.
19 Q. How about John Muder, any reason that he would
20 be out to get you for any reason?
21 A. No.
22 Q. Do you have any reason in your mind as to why
23 either John Muder or Mark Graham would have said that
24 someone struck a pipe at the Olympic pipeline during the
25 Dakin-Yew project? Any reason why they would say that?
00111
1 A. No.
2 Q. You have been made aware that in fact both Mark
3 Graham and John Muder have said that the pipe was struck
4 during the project?
5 A. I have been aware --
6 MR. FLOYD: I object to the fact that a
7 pipe not the pipe. Go ahead.
8 A. I have been made aware that Mark Graham said
9 specifically that the Olympic pipe had been hit. I'm not
10 aware that John Muder has said that.
11 Q. (By Mr. Beninger) Have you talked with either
12 Mark Graham or John Muder about their testimony that a pipe
13 had been hit?
14 A. No.
15 MR. BENINGER: That's all I have for you.
16 Thanks. Thanks, Mr. Tollefson.
17 MR. FLOYD: Val, have you found your stuff
18 yet?
19 MR. TOLLEFSON: No. I give up.
20 MR. FLOYD: Would any other attorney like
21 to go on at this time?
22 MR. TOLLEFSON: I'm going to go ahead and
23 continue here.
24
25

00112

1 FURTHER EXAMINATION

2 BY MR. TOLLEFSON:

3 Q. Mr. Krakenberg, with regard to John Muder, you
4 are aware that he testified that you were called out in
5 connection with some damage to a pipeline; are you not?

6 A. Yes.

7 Q. Do you recall that incident?

8 A. No.

9 Q. Do you believe that Mr. Muder is mistaken in his
10 testimony?

11 A. Yes.

12 Q. Let me ask you about this Exhibit 321, if I can,
13 so I understand these things when I look at them a little
14 later.

15 This is the document that I think you said was a
16 notebook that was kept for you and Gregg Burress to make --
17 maybe that's a different notebook. Is this the notebook
18 that was for you and Gregg Burress to make comments in on
19 the job?

20 A. Correct.

21 Q. And it's got tabs that appear to have names of
22 various people that worked for you, worked for Imco on that
23 job; is that right?

24 A. Yes.

25 Q. Looking under the tab, first tab for John Avena,

00113

1 what I see is a document that looks like a copy of a job
2 description for area foremen, and then somebody has written
3 in in hand some comments under the various elements of the
4 job description. Is that your handwriting?

5 A. No, it is not.

6 Q. Do you know if it's Gregg's?

7 A. I believe it is Gregg's.

8 Q. And do you know what the purpose would have been
9 for him to be making those kind of notes on this job
10 description? Was that a standard procedure of some kind?

11 A. It was an evaluation with the employee. And the
12 notes were either written prior to, during or after -- I
13 guess that covers all bases, but it's a summary of the
14 discussion, as I understand.

15 Q. Did you have a particular routine for evaluating
16 employees' performance during Dakin-Yew?

17 A. Not specifically I can remember. I'm
18 remembering the goal was possibly yearly, but I can't verify
19 that.

20 Q. In flipping through these tabs, I see that some
21 of the employees have a similar sort of thing, notes made on
22 the job description. Some just have a couple random notes.
23 Apparently some of them are dated. Maybe all are dated.

24 Is there a difference between just making a note
25 and somebody actually having this form filled out? Was this

00114

1 a formal review or something?

2 A. Yes. That was a formal review.

3 Q. And the other comments would be just as things
4 came up that somebody thought was noteworthy to put them in

5 the book?
6 A. Right.
7 Q. So the notation under Britton Lukes for July 26,
8 is that your handwriting or is that Gregg's?
9 A. I would believe that that is Gregg's
10 handwriting.
11 Q. And then August 29th, is that your handwriting
12 then?
13 A. Yes.
14 Q. So what was it, if you recall, as of August 29th
15 that caused you to comment about Mr. Lukes that he didn't
16 look at plans and wasn't production oriented?
17 A. I don't remember the specific on that day.
18 Q. You also made a note that he does not run a
19 crew, quote, period, unquote. Do you recall what generated
20 that comment?
21 A. No.
22 Q. What was your relationship with Mr. Lukes like
23 on the job?
24 A. Fine. Again similar interests so we had
25 something to talk about. As far as daily interactions, that
00115
1 was pretty much it. His normal interactions were directly
2 with Gregg Burress regarding the job.
3 Q. Did you ever have occasion during the Dakin-Yew
4 project at all to have discussions with Mr. Lukes in which
5 you suggested that he was causing problems on the job?
6 A. Not that I can remember.
7 Q. Did you ever criticize him to his face for being
8 responsible for too much damage to utilities on the job?
9 A. Nothing more than I might have shown
10 disappointment or, you know, wished it wouldn't happen in
11 the event of the phone lines.
12 Q. Would any of the Imco guys on the Dakin-Yew
13 project remember you as somebody that had a temper?
14 A. Yes.
15 Q. I would like to ask you a little bit more about
16 Tom Franklin. What would be the nature -- given how you
17 normally spent your day, what would be the nature of your
18 usual interaction with Tom Franklin on the job?
19 A. It was actually fairly limited. Tom would
20 probably initiate the conversation, come into the office.
21 Q. But as far as you knew, he was mainly out on the
22 job site?
23 A. Tom?
24 Q. Yes.
25 A. Yes.
00116
1 Q. And since you weren't mainly out on the job
2 site, you wouldn't be the best witness as to how much he was
3 there and what he did when he was there?
4 A. No. I wouldn't be.
5 Q. Did you have any particular contact with people
6 from Barrett Consulting other than Tom Franklin yourself?
7 A. There was a previous inspector from Barrett
8 Consulting on the job site prior to Tom Franklin and John
9 Hatch.

10 Q. Who was who?
11 A. He was the project manager for Barrett
12 Consulting.
13 Q. And who was the inspector prior to Tom?
14 A. I don't remember his name.
15 Q. And do you recall the time in mid-May when the
16 72-inch line was laid across the or made a crossing of the
17 Olympic line on the site?
18 A. Not specifically.
19 Q. Do you have a personal recollection of ever
20 seeing the Olympic line exposed on this project?
21 A. No.
22 Q. Do you have any personal knowledge of Olympic
23 personnel ever being on the job site?
24 A. I have a recollection of one evening after the
25 crew had gone home walking to the job site with Gregg
00117
1 Burress and I asked him who two individuals were that
2 happened to be on the job site. And I remember him saying
3 that they were with Olympic Pipe Line.
4 Q. Do you remember when that was?
5 A. Not a specific day.
6 Q. Do you remember what phase of the project was
7 going on?
8 A. No.
9 Q. Do you remember why you were walking the job
10 with Gregg that particular day?
11 A. Not specifically.
12 Q. Did you routinely walk the job with Gregg at the
13 end of the day?
14 A. Not as a daily routine, but it was common
15 practice.
16 Q. And what would be the purpose of those tours of
17 the job site?
18 A. Review the production of the day.
19 Q. He would point out to you particular things that
20 were going on?
21 A. This is how far we got, this is where we are
22 going tomorrow.
23 Q. Do you know if there were any markings on the
24 job site that indicated the location of the Olympic
25 pipeline?
00118
1 A. I believe there were, yes.
2 Q. What were they?
3 A. There were stakes on either end of the project
4 indicating a line that the Olympic pipeline ran.
5 Q. Looking at Exhibit 338, would you be able to
6 indicate the approximate location of those stakes?
7 A. Yes. There would have been a stake
8 approximately here. I wish there was a grid line. I would
9 say south of the 72-inch line over the 16-inch water.
10 Q. Why don't I give you a red pen and why don't you
11 mark approximately where you believe that stake was.
12 A. In this area.
13 Q. And why don't you write on -- you know, write
14 somewhere around there and draw an arrow to it saying maybe

15 OPL stake.
16 A. (Witness complies.)
17 Q. You have drawn -- you have indicated a general
18 area. Is that about as good as you can do from your own
19 memory?
20 A. Yes.
21 Q. And then you indicated there was one up in the
22 other end. Could you do the same up there, please?
23 A. It's really off of the page.
24 Q. Why don't you just draw an arrow in the
25 direction.
00119
1 A. (Witness complies.)
2 Q. And maybe you could tell us approximately how
3 far up in distance from -- you see that near the top of the
4 page where there is a junction between the 24-inch suction
5 line and the 48-inch line?
6 A. Mm-hmm.
7 Q. How far up from that approximately would the
8 stake have been?
9 A. Fifty yards.
10 Q. Could you make a note to that effect and write
11 OPL stake? Maybe OPL fifty yards or plus or minus fifty
12 yards.
13 A. (Witness complies.)
14 Q. Other than those two stakes was there anything
15 else on the job site that indicated the location of the
16 Olympic pipeline?
17 A. No.
18 Q. Do you know from your personal recollection of
19 whether or not it was throughout the job, the course of the
20 job, whether it was always possible to see both of those
21 stakes from any point along the pipeline?
22 A. I believe that it was possible to see those
23 stakes throughout the course of the project.
24 Q. Do you know if you ever reviewed any Olympic
25 Pipe Line documents regarding procedures for doing
00120
1 construction within their right-of-way?
2 A. Do I know if I had reviewed?
3 Q. Yes.
4 A. Yes. I know that I -- I'm not clear on the
5 question.
6 Q. Did you ever have the opportunity to review
7 documents, any information provided by Olympic Pipe Line
8 with regard to procedures for construction within their
9 right-of-way?
10 A. No.
11 MR. TOLLEFSON: When you guys are done with
12 that drawing, give it back to the witness.
13 MR. FLOYD: I have an exemplar of that that
14 is not quite as good as the other.
15 MR. TOLLEFSON: I'm going to have him do
16 some more drawing.
17 Q. (By Mr. Tollefson) You are aware, Mr.
18 Krakenberg, of the 24-inch discharge line from the pump
19 station teeing into a 16-inch watermain? You know that that

20 generally happened?

21 A. Yes.

22 Q. And you also recall that as originally designed
23 the line was supposed to tee in down after crossing the
24 72-inch line and then it was redesigned so it could avoid
25 that crossing?

00121

1 A. Yes.

2 Q. Do you know whether or not the revised drawings
3 showing the tee into the 16-inch line occurring over the
4 Olympic pipeline, do you know if this drawing was ever
5 provided to Olympic?

6 A. No, I do not.

7 Q. Were you on the construction site observing the
8 work when the 24-inch line was actually -- when the tee was
9 installed and the 24-inch line was connected to the 16-inch
10 line?

11 A. I was on site during that time.

12 Q. You did observe that work?

13 A. Not --

14 Q. I mean were you out on the job site watching the
15 work happen?

16 A. I was in my normal routine of being in the job
17 trailer on the job site during the time that that activity
18 was taking place.

19 Q. The records I believe -- and this one I can do
20 better than I did the last one -- I know that we have lots
21 of copies of this in one of these exhibits.

22 (Exhibit No. 341 is marked
23 for identification.)

24 Q. Exhibit 341 is a Barrett Inspection Report No.
25 96 dated July 6, 1994. And the second sentence in the

00122

1 second paragraph indicates that on that day in the afternoon
2 Imco was exposing the 16-inch waterline for tomorrow's
3 waterline tie-in. Do you see that?

4 A. No, sir. I was trying to read at the same time
5 you were explaining.

6 Q. Go ahead and look at that.

7 A. Which area of the document?

8 Q. Second paragraph.

9 A. Second paragraph, okay.

10 MR. FLOYD: I don't see anything about this
11 afternoon.

12 MR. TOLLEFSON: This p.m.

13 MR. FLOYD: Efforts this p.m.?

14 MR. TOLLEFSON: This p.m.

15 MR. FLOYD: Were you talking about the
16 first sentence or the second?

17 MR. TOLLEFSON: I said the second sentence.
18 I think I was talking about the second sentence.

19 MR. FLOYD: I misunderstood you. Weren't
20 you also talking about the Olympic representatives?

21 MR. TOLLEFSON: Not yet.

22 MR. FLOYD: I guess I was ahead of you
23 then.

24 Q. (By Mr. Tollefson) Do you see that?

25 A. Do I see this paragraph?

00123

1 Q. Have you read the paragraph?

2 A. Yes, I have read that.

3 Q. Do you see that this report reflects in the
4 second sentence of the second paragraph that on the
5 afternoon of July 6th, Imco was exposing the 16-inch
6 waterline for tomorrow's waterline tie-in?

7 A. Yes.

8 (Exhibit No. 342 is marked
9 for identification.)

10 Q. I will come back to that exhibit. Exhibit 342
11 is Report No. 97 for July 7, 1994, and if you just read that
12 so you have in general in mind what it's talking about.

13 A. I have read it.

14 MR. FLOYD: Did you read the second page,
15 too?

16 A. No, I did not.

17 MR. TOLLEFSON: The second page we won't be
18 concerned about right now, Francis.

19 Q. (By Mr. Tollefson) The second paragraph of
20 Exhibit 342 refers to a problem in making the or positioning
21 connection that resulting in the tee actually being moved a
22 couple feet to avoid some CDF. Do you see that?

23 A. Yes.

24 Q. Do you recall that generally? Do you recall
25 getting involved in this because there was a need to

00124

1 relocate the tee slightly?

2 A. No.

3 Q. Do you recall being out on the scene watching
4 this work being done?

5 A. No.

6 Q. So for instance, when in the first paragraph it
7 refers to a three-man crew working on removing material from
8 below the 16-inch line, you don't have any recollection of
9 that either?

10 A. Well, I remember -- I can see a picture of that
11 line in an open excavation.

12 Q. That line being the 16-inch waterline?

13 A. The 24-inch.

14 Q. The 24-inch. You are talking now about the
15 24-inch discharge line --

16 A. Mm-hmm.

17 Q. -- that tee'd into the 16-inch?

18 A. It was open for a period of time. Over days.

19 Q. Going back to Exhibit 341 which is the note from
20 the day before, and again looking at the second paragraph,
21 the first sentence in that paragraph says excavation of
22 24-inch between pump station and large diameter pipe begun
23 with Olympic Pipe Line representative on site during
24 excavation near line. Do you see that?

25 A. I do.

00125

1 Q. And then skipping back to 342 again, beginning
2 down in the bottom of the first page, there is a line that
3 starts excavation continued and was complete for 24-inch

4 pipe to be placed beneath Olympic line to connect pump
5 station to loop system installed previously. Do you see
6 that?

7 A. I do.

8 Q. If you can take Exhibit 338, the drawing, I
9 don't want you to draw anything yet, but I would like you to
10 point out to us on that drawing where the 24-inch pipe that
11 is to be placed beneath the Olympic pipeline to connect the
12 pump station to the loop system is. Is that the suction
13 line on the other side of the pump station?

14 MR. FLOYD: Other side from what?

15 Mr. TOLLEFSON: The other side from the
16 discharge line.

17 A. I believe the loop system is what they are
18 considering around the 38-inch bypass here around that
19 48-inch section.

20 Q. (By Mr. Tollefson) Right. And so the 24-inch
21 line that's being referred to here is the 24-inch line that
22 goes from the north side of the pump station up to the far
23 end of that loop; is that correct?

24 A. Yes.

25 Q. Would you take the purple pen, please, and

00126

1 highlight that 24-inch line?

2 A. (Witness complies.)

3 Q. And that line, that 24-inch line at least
4 according to these notes was intended to pass underneath the
5 Olympic pipeline at the point where the pipeline is
6 indicated on the drawing, Exhibit 338; right?

7 A. Yes.

8 Q. Now take another wonderful color. Why don't we
9 take a green pen, and if you could draw a circle for us
10 around the place where the 24-inch discharge line tees into
11 the 16-inch waterline.

12 A. (Witness complies.) Did I answer correctly to
13 your question?

14 Q. You did fine. I'm not real happy with the width
15 of the lines those pens are making, but I guess that's my
16 problem.

17 MR. FLOYD: Would you like to extend it
18 about 12 feet beyond the tee?

19 Q. (By Mr. Tollefson) So we got to July 7, Exhibit
20 342, and they ran into a problem positioning the tee and had
21 to move the location slightly. And so now I will hand you
22 what's going to be Exhibit 343.

23 (Exhibit No. 343 is marked
24 for identification.)

25 Q. Exhibit 343 then is Report 98 for July 8 of

00127

1 1994, and this is the day that the tee was actually
2 installed at that location that you circled in green on
3 Exhibit 338; right?

4 A. I believe that's correct.

5 MR. FLOYD: Val, could we take a break?

6 MR. TOLLEFSON: You bet. We are going to
7 be in good shape here.

8 MR. FLOYD: Let's take a quick break.

9

(Off the record.)

10 Q. (By Mr. Tollefson) Exhibit 343, the notes from
11 July 8, third paragraph states that Tom Franklin asked Gregg
12 accomplish repair of 16-inch near 60/48 inch tie-in that was
13 damaged in late May.

14 Do you see on the drawing that's Exhibit 338 the
15 general location that he is talking about?

16 A. I don't know what he is referring to here.

17 Q. 16-inch line near the 60-inch/48 inch tie-in.
18 Do you see that?

19 A. I see on the report here, but if I'm
20 understanding what Tom is writing, the 60 to 48-inch tie-in
21 happened off of this sheet.

22 Q. Do you see down to the south of the pump station
23 point where a 48-inch line becomes a -- that's a 72-inch
24 line it goes to, huh?

25 A. Uh-huh.

00128

1 Q. Then I don't know what he is talking about
2 either. Looking north along the 16-inch waterline from the
3 point of the tie-in with the 24-inch discharge line, you see
4 a point where the waterline appears to go under the larger
5 line at a point where the 48-inch line becomes a 60-inch
6 line?

7 A. Yes.

8 Q. Do you know whether or not that is the location
9 that's being referred to in Franklin's notes of July 8th?

10 A. No.

11 Q. Okay. Now, after the tee was installed at the
12 point that I guess you have circled in green on your
13 exhibit, Exhibit 338, do you know that a thrust block was
14 then poured at that location?

15 A. I know that that would be standard.

16 Q. Do you recall whether or not you witnessed the
17 pouring of the thrust block?

18 A. I do not recall.

19 Q. So if you don't recall that, you wouldn't recall
20 anything that happened immediately after that; is that
21 correct?

22 A. That would be correct.

23 Q. Do you have any general knowledge as to what the
24 concrete supplier's drivers would do after making a delivery
25 to the site if the entire load that or amount that had been

00129

1 ordered by Imco was not actually used?

2 A. It varies depending on job site to job site.
3 Specific to this one, I can't remember if that material
4 would be utilized somewhere else on the project not specific
5 to its original destination.

6 Q. That's one possibility, that it could be
7 actually used somewhere else?

8 A. Uh-huh.

9 Q. Would it also be the fact that from time to time
10 if there was only a small amount left, it might be just
11 dumped in an excavation where it wouldn't do any harm?

12 A. Yeah.

13 Q. Now, let me see here. If you could look at

14 Exhibit 340, the time records, and specifically find the
15 second week's worth of records there which is for the week
16 ending July 8th or July 9th, I guess. Do you see that?

17 A. Can you tell me approximately which page?

18 Q. Starting on the fourth page.

19 A. Okay. Please repeat that again. I'm on the
20 fourth page.

21 Q. Go on the fifth page because that's where you
22 appear for the time period ending July 9, 1994; correct?

23 A. Correct.

24 Q. And for July 8 you are shown as having two hours
25 on the job that day?

00130

1 A. Correct.

2 Q. Do you have any recollection what took you off
3 the job on Thursday, July 8th?

4 A. No.

5 Q. Or is it Friday, July 8th?

6 MR. FINEGOLD: It's a Wednesday.

7 Q. (By Mr. Tollefson) Regardless whether it's
8 Thursday or Friday, you don't have any recollection?

9 A. Right.

10 Q. Same day. It's the same day no matter whether
11 it was Thursday or Friday.

12 For the week of July 8th, you also show that
13 your work hours were you amended to work five days that week
14 and were putting in eight hours a day on other days, two
15 hours on the 8th. Was it a routine that although the job
16 was being run four days a week and people were working ten
17 hours, you were working five days a week and working five
18 hours?

19 A. No.

20 Q. If you would look at the prior week, which would
21 be the second page, as far as your name is concerned, that
22 week appears that you logged time on five days and logged a
23 half a day on one of those days or four hours on one day,
24 eight hours on the other day.

25 Does that refresh your recollection at all as to

00131

1 whether or not during that period of time you were working
2 five days a week instead of four days a week?

3 A. I was working five days a week.

4 Q. I'm misunderstanding something then. The job
5 ran four days a week?

6 A. Yes.

7 Q. Ten hours a day. But you worked five days a
8 week eight hours a day?

9 A. I worked the four 10 hours a day on the job
10 site, and then I spent Fridays in the office. And I was
11 salaried and logged eight hours a day regardless.

12 Q. So if I understand correctly then, the eight
13 hours that show next to your name doesn't have anything to
14 do with how long you actually worked. That just is
15 allocating the 40 hours that you are going to be paid for or
16 it's allocating part of a 40-hour week that since you are an
17 exempt employee is probably expected to be a 65-hour week;
18 right?

19 A. It's a portion thereof, yes.
20 Q. If that's the case, then why are only partial
21 parts of the eight hours shown on some days if you are
22 salaried and this is just an allocation of your full work,
23 full workweek?
24 A. It must have been billed out to another,
25 possibly another job.

00132
1 Q. Do you recall having responsibilities on another
2 job in July of 1994?
3 A. No, not specifically. It might have also been
4 holiday pay or sick pay or that would have been the other
5 two options.
6 Q. You mean that you would be taking time off?
7 A. Yes.
8 Q. The week of July 23rd, which is probably about
9 eight pages in there or so, it appears that week that you
10 logged eight hours for the first two days and four hours the
11 rest of the week. Is there anything going on during the
12 summer of 1994 that was routinely taking you off the job and
13 out of the office for half a day multiple days during the
14 week?
15 A. Not specifically that I can remember. Not
16 during that time period.
17 (Exhibit No. 344 is marked
18 for identification.)
19 Q. Handing you what's been marked as Exhibit 344,
20 Exhibit 344 is the Franklin Inspection Report No. 120 from
21 August 11, 1994. And at the very bottom of the first page
22 of that report there is some discussion of excavation work
23 and the comment by Franklin, the excavated material is
24 choking the site.
25 Look at whatever you need to look at on that

00133
1 document, and my question is whether you remember a
2 situation about August 11th where the job site was choked
3 with excavated material.
4 A. Choked is an arbitrary term. What's choked to
5 an inspector or other person regardless of title might not
6 be choked to the person doing the work.
7 Q. Well, I guess my question is do you recall a
8 stage of the construction around August 11, 1994 where there
9 was a problem maneuvering around the job site because of
10 piles of excavated material?
11 A. Not specifically to that time period. The job
12 site was always tight.
13 Q. The job site was always tight in terms of the
14 need to have somewhere to put what you were excavating and
15 still do the work and then get access to it and backfill and
16 that sort of thing?
17 A. Correct.
18 Q. The last paragraph of this document where it
19 refers or is talking about -- the last paragraph of the
20 first page where it's talking about excavation of pump
21 station, having read that paragraph do you recall generally
22 what work was going on at that time?
23 A. It looks like he is describing excavation of the

24 pump station.

25 Q. I'm asking whether or not you recall that

00134

1 general phase of the construction.

2 A. Yes.

3 Q. And when it refers to excavation of the pump
4 station, then what is your understanding as to what he is
5 referring to?

6 A. The new pump station.

7 Q. Excavation for the new pump station, or was the
8 pump station already there?

9 A. It appears that he is describing the excavation
10 for the pump station.

11 Q. Do you recall being advised on this day that
12 telephone conduit at the southwest corner of the pump
13 station had been damaged by one of your loaders?

14 A. I remember being advised that the telephone line
15 had been hit. Specific to the day, I can't recall.

16 Q. Do you recall being advised of telephone lines
17 being hit on more than one occasion?

18 A. Yes.

19 Q. What about waterlines, do you recall being
20 advised that waterlines had been hit by Imco equipment on
21 more than one occasion?

22 A. Yes.

23 Q. Did you ever personally supervise any repairs to
24 waterlines that had been damaged by Imco equipment?

25 A. No.

00135

1 Q. Did you ever specifically give instructions to
2 any Imco personnel as to how to make repairs to waterlines
3 that had been damaged by Imco equipment?

4 A. No.

5 Q. Did you ever witness any repairs to waterlines
6 that had been damaged by Imco equipment?

7 A. No.

8 Q. Were you ever made aware of the necessity to
9 re-excavate at the location of the tie-in of the 24-inch
10 discharge line to the 16-inch watermain to correct some
11 misaligned valve box sleeves at that location?

12 A. I can't recall that specifically.

13 Q. Do you recall generally knowing that
14 re-excavation had to occur at one or more locations to
15 correct misaligned valve box sleeves?

16 A. I remember the valve box sleeves alignment being
17 in issue, but a complete excavation to re-align, I don't
18 remember if it was ever necessary.

19 Q. Do you recall how the issue was resolved?

20 A. It was accepted. They were finally accepted,
21 and that was the resolution.

22 Q. Do you remember that there were valve box
23 sleeves that were inoperable after having been backfilled
24 because of misalignment?

25 A. Again, I don't remember completely inoperable.

00136

1 I remember there was discussion and issues around the
2 alignment not being completely perfect or plumb.

3 Q. You don't remember anything about valves being
4 inoperable because the box sleeves were misaligned?
5 A. No.
6 Q. So it would be fair to say that you don't recall
7 witnessing any re-excavation to correct those problems if
8 they existed?
9 A. That would be correct. I did not recall
10 witnessing that.
11 Q. Were you personally aware of any time that Imco
12 did any work within the Olympic Pipe Line right-of-way
13 without providing notice, advanced notice to Olympic Pipe
14 Line?
15 A. No.
16 Q. Do you know if Olympic was required to
17 physically be on the site at any time Imco was doing work
18 within its right-of-way?
19 A. No.
20 Q. You don't know or you don't believe they were
21 required to be?
22 A. I do not know the requirement.
23 Q. Would that be the sort of requirement that Chris
24 Hart as the project manager would be aware of?
25 A. I'm not clear as to who would create the

00137

1 stipulation to have a representative of the utility on site
2 during any and all construction.
3 Q. If there was such a requirement, whose
4 responsibility would it be to know about it and comply with
5 it?
6 A. I believe the superintendent's.
7 Q. Do you recall when we looked earlier at Exhibit
8 341 which was the Tom Franklin note for July 6th and
9 contained a reference to the 24-inch line, 24-inch suction
10 line north of the pump station, Olympic Pipeline being
11 pipeline representative on site during that excavation? Do
12 you recall that?
13 A. No.
14 Q. Do you see it now?
15 A. I was answering the question of whether I was
16 aware of the representative being on site during the
17 excavation.
18 Q. Let me ask the question again. We are now
19 looking at Exhibit 341. And that note or that report of Tom
20 Franklin indicates that there was an Olympic Pipe Line
21 representative on site during the excavation of that 24-inch
22 line, suction line north of the pump station; right?
23 A. Yes.
24 Q. Do you have any idea how that Olympic Pipe Line
25 representative came to be there?

00138

1 A. No.
2 Q. You don't have any personal knowledge of any
3 kind of notice that would have been given to cause that
4 person to be on site that day?
5 A. That would be correct. I do not know of a
6 notice for that person to be on site.
7 Q. Were you ever made aware by the City of

8 Bellingham that it had discovered damage to pipelines on the
9 project that had occurred without, apparently without
10 knowledge of Imco personnel?

11 A. No.

12 Q. Do you recall being advised in mid-September by
13 Bill Evans that he had discovered damage to a 60-inch line?

14 A. No.

15 Q. Do you know if the markers that you have
16 indicated on Exhibit 338 that indicated the location of
17 Olympic pipeline on the two ends the project, do you know if
18 those were ever removed at any time during the job?

19 A. No.

20 Q. You don't know?

21 A. I don't know that they were ever removed during
22 the course of the job.

23 Q. Do you know that they weren't?

24 A. No. I recall that they weren't, that they were
25 there.

00139

1 Q. You don't recall them ever not being there? I'm
2 just trying to get the extent of what you do know. I mean,
3 you are not --

4 A. Yeah.

5 Q. You are not able to tell me that they weren't
6 removed, you just remember them being there all the time?

7 A. Yes.

8 Q. Do you recall any time when there was actual
9 paint sprayed on the ground to indicate the location of the
10 Olympic pipeline?

11 A. I don't remember witnessing the actual layout.
12 I don't have a recollection of the paint line on the ground
13 showing its location.

14 Q. Do you have a recollection of there being paint
15 lines on the ground from time to time indicating location of
16 other utilities?

17 A. Yes.

18 Q. And you just don't specifically recall that with
19 regard to the Olympic pipeline?

20 A. Correct.

21 Q. Do you know whether Imco had any procedures for
22 working in the vicinity of known underground utilities that
23 were designed to minimize the chance of damaging those
24 utilities?

25 A. Yes.

00140

1 Q. What were those procedures?

2 A. There was to be a laborer in the ditch when you
3 got within a certain distance of a known utility or in the
4 area of a utility, then you would excavate by hand until you
5 found that utility.

6 Q. Do you know how, for instance, a backhoe
7 operator is supposed to know if there is a utility in the
8 area?

9 A. It's a coordination of the drawings. The
10 utility locates will show you the line or where it is, and
11 in some instances I have seen where they will actually show
12 a depth, approximate depth of the buried line.

13 Q. And if there is no depth shown for the utility,
14 is there some particular precaution that Imco operators are
15 supposed to take to avoid damage?

16 A. Not beyond what I just described.

17 Q. If Imco personnel are observing those
18 precautions, what explains the breaking of utilities that
19 did occur during the Dakin-Yew project?

20 A. I don't know exactly how to term a response to
21 that. They didn't follow those guidelines or it wasn't --
22 thinking specifically to my memory of the telephone strike,
23 it was described, I forget which exhibit number, that wasn't
24 an excavation. That was a front-end loader. So that is a
25 different activity. And so the rules, I guess, didn't apply

00141

1 but --

2 Q. A loader operator would be expected, if he was
3 going to do something that was going to result in taking
4 dirt off the existing grade, would be expected to determine
5 whether there are any utilities in there that his work would
6 interfere with; would he not?

7 A. Yes.

8 Q. So when a utility is damaged by Imco personnel,
9 it's either because it was mislocated, not located or the
10 Imco employee wasn't following procedures?

11 A. Yes.

12 Q. Did you have -- during your time on the
13 Dakin-Yew project, did you have any knowledge of any
14 vandalism occurring on the project in off hours nighttime?

15 A. Not specifically.

16 Q. Did anybody ever give you any information that
17 led you to believe that any unauthorized personnel had
18 gotten access to any of your equipment and operated it
19 without permission other than during normal working hours?

20 A. No.

21 Q. How was it determined by Imco who was authorized
22 to operate equipment?

23 A. I don't know.

24 Q. That was something that would be determined by
25 the supervisor on that job as far as you are concerned?

00142

1 A. Yes.

2 Q. I follow from that that you don't know
3 personally whether or not people other than the normal
4 operators were operating some of the heavy equipment from
5 time to time?

6 A. Can you restate that again?

7 Q. You don't know whether or not there were people
8 other than the Vanderpols or Britton Lukes operating the
9 heavy equipment, the backhoes from time to time, for
10 instance?

11 A. The laborers would -- would be able to use the
12 loaders. I can remember a time towards the very end of the
13 project where I even operated a loader.

14 Q. What qualified you? What were you doing with a
15 loader?

16 A. I was just moving material from place to place.

17 Q. Just like every kid needs to run heavy

18 equipment; doesn't he?

19 Mr. FLOYD: That's right.

20 Q. (By Mr. Tollefson) Did you ever operate a
21 backhoe on the job?

22 A. No.

23 MR. TOLLEFSON: Why don't you give me --
24 why don't we just take five or so. I may be done.

25 (Off the record.)

00143

1 (Exhibit No. 345 is marked
2 for identification.)

3 Q. (By Mr. Tollefson) Exhibit 345 is Franklin's
4 Report No. 69 dated May 27, 1994. The fourth paragraph
5 starts out between 11:30 and 12:30, and it talks about a
6 16-inch waterline in the vicinity where a 16-inch crosses
7 the back-wash pipe.

8 And my question is, are you able to show me on
9 Exhibit 338 what location that is?

10 A. No.

11 Q. You don't know what the back-wash pipe is that's
12 referred to in that?

13 A. No. It's just not on this sheet.

14 Q. It's not on this sheet. Where is it located
15 generally?

16 A. It's in what's the pipe corridor.

17 Q. North of the sheet?

18 A. Northwest.

19 (Exhibit No. 346 is marked
20 for identification.)

21 Q. 346 which is Report No. 127 dated August 22,
22 1994, beginning in the third paragraph, it says Paul
23 Krakenberg is now taking over for Gregg Burress today. And
24 I'll represent to you that the remainder of the inspection
25 reports by Franklin show you as the superintendent foreman

00144

1 on this job.

2 Beginning at that point were you acting both as
3 the project manager and the superintendent?

4 A. Yes.

5 Q. Yes?

6 A. Yes.

7 Q. As of August 22, 1994, did you consider yourself
8 qualified both by reason of knowledge and experience to
9 fulfill the duties both of project manager and
10 superintendent?

11 A. For the remainder of the scope of work left,
12 yeah.

13 Q. And how many people did you have on the job as
14 Imco employees at that point?

15 A. I believe less than five.

16 Q. Up in the upper left-hand corner where it says
17 crew size, what does that indicate? Upper left-hand corner
18 of Exhibit 346.

19 A. One operator, one carpenter and five laborers.

20 Q. So a crew of seven --

21 A. Yes.

22 Q. -- is that correct? And Triad had people on the

23 job according to this report?

24 A. Yes.

25 Q. And Harbor Mechanical had a welder on the job?

00145

1 A. Yes.

2 MR. TOLLEFSON: That concludes the
3 questioning that I can accomplish until we have resolved the
4 issues of privilege that have been raised by your
5 instructions to the witness not to answer and my review of
6 the couple documents here that are kind of voluminous and
7 may have something, but that is the limit to what I'm
8 reserving my right to inquire.

9 Next please.

10

11

EXAMINATION

12

BY MR. VERWOLF:

13

Q. Mr. Krakenberg, my name is Nick Verwolf. I'm
14 counsel for Equilon Enterprises and Equilon Pipeline Company
15 in this matter.

16

I wanted to be clear about some of your testimony.
17 Do I understand correctly that since June 10 of 1999 you
18 have only spoken with two present or past employees of Imco
19 with regard to the Dakin-Yew project?

20

A. Correct.

21

Q. And that was Mr. Abb and Mr. Hatch or -- I'm
22 sorry?

23

A. Hart.

24

Q. Excuse me?

25

A. Chris Hart.

00146

1 Q. Chris Hart. And I understand that you contacted
2 Mr. Hart after you were told by Mr. Abb that the
3 investigators were looking for you?

4

A. No. That's not correct.

5

Q. When did you get ahold of Mr. Hart?

6

A. When John Abb called me and asked if I agreed to
7 him giving my phone number to the Imco attorneys, I then
8 called Chris Hart and asked him what he knew of the
9 situation.

10

Q. What prompted you to call Mr. Hart following Mr.
11 Abb's phone call?

12

A. I consider Mr. Hart a friend.

13

Q. Was Mr. Hart still employed by Imco?

14

A. No.

15

Q. Did you keep a daily log on the Dakin-Yew job,
16 diary, daily log, anything of that nature?

17

A. Only the superintendent reports when I was
18 acting as superintendent.

19

Q. And these were the items that you turned in on a
20 daily basis, one copy you kept on the job, one at the
21 office?

22

A. Correct.

23

Q. Did you know what was done with those after the
24 job was over?

25

A. They were -- the duplicates were tossed out

00147

1 during the archiving process, and the originals were then

2 archived.
3 Q. Were there other employees who kept similar
4 records on the job?
5 A. Beyond the foreman reports and superintendent
6 reports, no.
7 Q. The foreman kept a daily log of some sort?
8 A. He had his daily report.
9 Q. That would be like Mr. Vanderpol --
10 A. Yes.
11 Q. -- would keep that and Mr. Lukes?
12 A. Yes.
13 MR. VERWOLF: I have nothing further.
14 MR. FLOYD: I guess you are next, Larry.
15

16 EXAMINATION

17 BY MR. FINEGOLD:

18 Q. I'm Larry Finegold. I represent Ron Brentson, a
19 party in this case.
20 How long was it from the time that Mr. Abb
21 called you regarding your phone number until Imco lawyers
22 actually called you?
23 A. The Imco lawyers did not call me.
24 Q. You called them at some point later?
25 A. My attorney contacted them.

00148

1 Q. In addition to the EPA and DOT and federal
2 investigators, have you had any other contact with any
3 federal investigators or law enforcement officials in this
4 matter?
5 A. Only that I believe he might have been an agent
6 that delivered a subpoena to my girlfriend. I wouldn't
7 consider that contact if I misquoted that previously.
8 Q. That subpoena was for you or for your
9 girlfriend?
10 A. Girlfriend.
11 Q. And was that a grand jury subpoena?
12 A. Correct.
13 Q. And was your girlfriend -- did your girlfriend
14 appear at the grand jury?
15 A. Yes.
16 Q. And was she represented by counsel?
17 A. Yes.
18 Q. Who was her lawyer?
19 A. I do not recall his name.
20 Q. Not one of the gentlemen who are with you today?
21 A. No.
22 Q. Did she testify at the grand jury?
23 A. Yes, sir.
24 Q. Did she tell you what she was asked about?
25 A. Yes.

00149

1 Q. Would you tell us what she told you?
2 A. It would be reiteration of most everything that
3 we have discussed today.
4 Q. She was asked about --
5 A. Did I say anything, have a revelation of an
6 incident.

7 Q. She was asked questions about whether she had
8 ever disclosed to you -- whether you had ever disclosed to
9 her any information about striking a pipe of some sort?

10 A. Correct.

11 Q. Do you know when it is that she testified --
12 when, I'm sorry, when she testified?

13 A. I don't remember the specific date.

14 Q. Can you approximate? Was it this year?

15 A. It was this year.

16 Q. Sometime in the year 2001?

17 A. Yeah. Late -- no. I apologize. 2000.
18 Wintertime.

19 Q. Winter of the year?

20 A. 2000.

21 Q. And at the time she was subpoenaed were you
22 represented by counsel?

23 A. Yes.

24 Q. Can you tell us her name, please?

25 A. Lynn Hedrick.

00150

1 Q. Where is Ms. Hedrick to be located?

2 A. Same address as mine.

3 Q. And that's for the record H-e-a-d --

4 A. H-e-d-r-i-c-k.

5 Q. Was Ms. Hedrick called to the grand jury more
6 than once?

7 A. No.

8 Q. Was she granted immunity, if you know?

9 A. No.

10 Q. You do not know or she was not granted immunity?

11 A. I do not believe she was granted any immunity.

12 Q. Have any other friends or relatives of yours
13 been subpoenaed to the grand jury?

14 A. No.

15 Q. Any other friends or relatives of yours that you
16 know of have been questioned by federal investigators? By
17 federal investigators I mean EPA, DOT, U.S. Attorney's
18 office.

19 A. Yes.

20 Q. Or any other federal agency?

21 A. Yes.

22 Q. Can you tell us who those individuals are?

23 A. My ex-wife.

24 Q. Her name, please?

25 A. Kerrie -- current name is Rodriguez.

00151

1 COURT REPORTER: Can you spell her name,
2 please?

3 A. Not correctly.

4 Q. (By Mr. Finegold) Where does your former wife
5 Kerrie live?

6 A. Yakima.

7 Q. Do you know where in Yakima?

8 A. I don't know an address.

9 Q. And the circumstances of her contact with the
10 government, grand jury subpoena, interview, both?

11 A. Interview.

12 Q. Was she ever called to the grand jury?
13 A. No.
14 Q. Did you talk with her about the questions she
15 was asked and the answers she gave?
16 A. Yes. She contacted me after the interview.
17 Q. What were the nature of the questions that were
18 asked of her?
19 A. If I had ever mentioned any instance of, you
20 know, incident where the -- any Olympic pipeline had been
21 struck.
22 Q. And do you know what she told them?
23 A. She told them no.
24 Q. Was she represented by counsel or was she
25 represented?
00152
1 A. No.
2 Q. You said that others were also questioned.
3 Anyone else in addition to Kerrie?
4 A. Not outside of Imco employment.
5 Q. Have you spoken with other Imco employees who
6 have been questioned by federal investigators or law
7 enforcement generally?
8 A. Only I guess, if you call him an Imco employee.
9 He worked on the project a short term.
10 Q. Who was that?
11 A. Allen Brown.
12 Q. Was he taken to the grand jury or questioned by
13 investigators or both, if you know?
14 A. Investigators. Questioning.
15 Q. Did he tell you the nature of the questions
16 asked of him?
17 A. The same. Whether I had ever told him or if he
18 had ever remembered.
19 Q. Do you recall what Mr. Brown said he told the
20 agents?
21 A. That he did not remember anything.
22 Q. By the way, do you know when Ms. Rodriguez was
23 contacted and interviewed?
24 A. About two weeks ago.
25 Q. So that's sometime in late February, early March
00153
1 of this year?
2 A. Yes.
3 Q. How about Mr. Brown?
4 A. Same time frame.
5 Q. In the last two weeks?
6 A. Yes.
7 Q. Do I understand your testimony to be that as you
8 sit here today, you have not been the recipient of a grand
9 jury subpoena or an invitation to appear and testify in some
10 manner?
11 A. That is correct. I have not been.
12 Q. As of this date?
13 A. As of this date.
14 MR. FINEGOLD: I have no other questions.
15 MR. FLOYD: We are done.
16 MR. TOLLEFSON: I have a couple follow-up.

17
18

FURTHER EXAMINATION

19 BY MR. TOLLEFSON:

20 Q. When were you divorced?

21 A. In 1997.

22 Q. And when did Allen Brown work for Imco?

23 A. During the Dakin-Yew project.

24 Q. During what part of the Dakin-Yew project?

25 A. The very end of the Dakin-Yew project.

00154

1 Q. How would it happen that he would be contacted?
2 Do you have any idea why he would be contacted and
3 interviewed with regard to your knowledge? Was he a
4 roommate of yours or something?

5 A. He was -- the reasoning that the agents told him
6 was that they got his name off of the payroll for the
7 Dakin-Yew project.

8 Q. So is he a personal friend of yours, Allen
9 Brown?

10 A. He is a personal friend of mine.

11 Q. Did you know before he actually talked to the
12 agents that he was going to be talking to the agents?

13 A. No.

14 Q. Have you been given any information that you
15 should expect to be called to testify before the grand jury?

16 A. No.

17 MR. TOLLEFSON: That's all I have got.

18 Thank you.

19

20

FURTHER EXAMINATION

21 BY MR. VERWOLF:

22 Q. There was something I needed to check out here.
23 I think it's Exhibit 300. Do you remember Exhibit 300, the
24 drawings from the Dakin-Yew project that you previously
25 identified?

00155

1 A. Yes.

2 Q. These were ones you kept in your possession
3 during the job?

4 A. No. Those aren't actually -- I don't believe
5 those are my working set of the drawings.

6 Q. I notice, for instance, on Drawing C-5 there are
7 handwritten notations and colorations, et cetera. Are those
8 yours or somebody else's?

9 A. Those are somebody else's.

10 Q. Do you know whose?

11 A. Not a hundred percent.

12 Q. Do you have any idea?

13 A. I would guess that those are Gregg Burress'
14 notations.

15 Q. So this may have been Gregg Burress' set of
16 drawings?

17 A. Probably not. A working set, but a set that he
18 used at some point.

19 Q. For instance, look on C-4 if you would. You
20 notice there is a lot of marking and notations on that page.

21 A. Right.

22 Q. Would you expect those are Gregg Burress'?'
23 A. I would.
24 Q. Thanks.
25 MR. VERWOLF: That's all I have.

00156

1 MR. FINEGOLD: I just have one thing.
2

3 FURTHER EXAMINATION

4 BY MR. FINEGOLD:

5 Q. You were asked earlier about the secretary who
6 you said was in the same job shack you worked in. And you
7 had trouble recalling her name. Does Jane Campbell ring a
8 bell?

9 A. Yes.

10 Q. Was she there the entire time?

11 A. I believe so.

12 Q. And when is the last time you saw Jane Campbell?

13 A. At the end of the Dakin-Yew project.

14 Q. Have you talked to her at all since the events
15 of June 10, 1999 occurred?

16 A. No.

17 MR. FINEGOLD: I have no other questions.

18 MR. FLOYD: We are done. Is that true?

19 MR. TOLLEFSON: That is true.

20 (Deposition concluded at
21 4:20 p.m.)
22
23
24
25

00157

1
2 A F F I D A V I T

3

4 STATE OF WASHINGTON)
) ss.
5 COUNTY OF KING)
6

7 I declare under penalty that I have read my
8 within deposition, and the same is true and accurate, save
9 and except for changes and/or corrections, if any, as
10 indicated by me on the correction sheet.

11
12 Dated this _____ day of
13 _____, 2001.
14
15
16
17
18

PAUL KRAKENBERG

19
20
21
22

23

24

25 Susan Cannon, Court Reporter

00158

1 C E R T I F I C A T E

2 STATE OF WASHINGTON)

3 COUNTY OF KING)

4 I do hereby certify:

5 1. That I am a Notary Public in and for the State of
6 Washington;

7 2. That each witness before examination was by me
8 duly sworn to testify to the truth, the whole truth and
9 nothing but the truth;

10 3. That the foregoing deposition was taken
11 stenographically by me and reduced to transcript form under
12 my direction;

13 4. That I am not a relative or employee or attorney
14 or counsel of any of the parties to said action, or a
15 relative or employee of any such attorney or counsel, and
16 that I am not financially interested in the said action or
17 the outcome thereof;

18 5. That each witness was given the opportunity to
19 read and sign the deposition after the same was transcribed,
20 unless indicated in the record that the parties and each
21 witness waived the signing;

22 6. That the deposition as transcribed is a full,
23 true and correct transcript of the testimony, including
24 questions and answers, and all objections, motions, and
25 exceptions of counsel made and taken at the time of the

00159

1 foregoing examination;

2 7. That I have made arrangements for delivery of the
3 deposition to the appropriate place of filing.

4

5

6 IN WITNESS HEREOF, I have hereunto set my hand and
7 affixed my official seal this _____ day of
8 _____, 2001.

9

10

11

12

13

14 _____
Notary Public in and for
the State of Washington,
residing at Kirkland.
15 Commission expires 5-13-02
CCR# CANNOS507P9

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