

1 UNITED STATES OF AMERICA
 2 BEFORE FEDERAL TRADE COMMISSION
 3 - - - - -
 4 In the Matter of
 5 Union Oil Company of California, Docket No. 9305
 a corporation.
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8 DEPOSITION OF ROBERT D. FLETCHER
 9 VOLUME I, PAGES 1 - 256
 10 July 8, 2003

11 (The following is the deposition of ROBERT
 12 D. FLETCHER, taken pursuant to Notice of Taking
 13 Deposition, via videotape, at the Hyatt Regency
 14 Hotel, Capitol Board Room, Sacramento, California,
 15 commencing at approximately 9:04 o'clock a.m., July
 16 8, 2003.)

17 APPEARANCES:

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13:29:55 1 Q. Now during the time when these regulations
13:29:58 2 were being developed and these differing views being
13:30:03 3 included, did you believe it was reasonable of these
13:30:11 4 people to have differing opinions?

13:30:13 5 MR. GRAYBILL: Objection, vague.

13:30:17 6 A. Yes.

13:30:33 7 (Respondent's Exhibit 176 was
13:30:35 8 marked for identification.)

13:30:35 9 BY MR. BEEHLER:

13:30:37 10 Q. Sir, I've handed you what's been marked as
13:30:40 11 RX 176, and I want to spend the next section of
13:30:51 12 your -- your deposition discussing how T50 came to be
13:30:57 13 in your regulations, just to give you a little bit of
13:31:00 14 context here, sir.

13:31:03 15 First of all, looking at RX 176, do you
13:31:06 16 recognize these to be notes of Tom Jennings?

13:31:08 17 A. I would have said that these would have
13:31:10 18 been Tom Jennings' handwriting, yes.

13:31:12 19 Q. And they are dated June 4, 1990, "CLEAN
13:31:17 20 FUELS WORKSHOP." Do you see that?

13:31:19 21 A. Yes.

13:31:20 22 Q. You were typically present at these
13:31:21 23 workshops?

13:31:22 24 A. I would not have been present at this
13:31:23 25 workshop.

13:31:24 1 Q. It was too much in advance.

13:31:26 2 A. Yes.

13:31:27 3 Q. This would have been Phase 1.

13:31:36 4 A. I'm not sure this was -- whether this was
13:31:36 5 Phase 1 or -- or some other workshop. I assume it
13:31:36 6 was related to Phase 1.

13:31:41 7 Q. Would you turn, sir, to page 29084, and I'm
13:31:52 8 going to refer just to the bottom paragraph and the
13:31:55 9 following top of the paragraph and ask you if you
13:31:57 10 were made aware of this information at any point.

13:32:01 11 These notes, looking at the very last line, appear to
13:32:05 12 reflect a discussion with Jonathan Haines from
13:32:10 13 Toyota, and it says, "T50 is essential for existing
13:32:15 14 regulations." If you go over to the top, "Really
13:32:19 15 wants control of T50 within a narrow range." And I'm
13:32:26 16 not sure I can read the next line, but then there's
13:32:28 17 the initials SVH. Did you understand that to be a
13:32:33 18 reference to Susan Huscroft?

13:32:37 19 A. It could be, yes. That would likely be
13:32:39 20 Susan.

13:32:39 21 Q. Susan was involved from time to time in --
13:32:42 22 in these workshops; correct?

13:32:44 23 A. She was.

13:32:45 24 Q. And it appears to be a question from Susan
13:32:49 25 Huscroft, "What about T10, T90?" And the response

13:32:53 1 written here by Mr. Jennings is "They've looked at
13:32:56 2 that, but they think T50 is by far the most important
13:33:01 3 part of the distillation range."

13:33:06 4 Did anyone tell you, sir, during the
13:33:08 5 development of the Phase 2 regulations that Toyota
13:33:13 6 had given this information to staff on June 4, 1990?

13:33:19 7 A. I'm not specifically aware that this
13:33:23 8 information -- and I'm not sure, when I think about
13:33:26 9 it, whether this is related to Phase 1 or whether
13:33:29 10 this -- this is some other -- other workshop, so
13:33:36 11 I'm -- I'm not clear about that. But relative to
13:33:41 12 Toyota's interest in T50, when I came into the
13:33:45 13 section, that there was already, you know, some --
13:33:52 14 some knowledge base of the people who had been
13:33:54 15 working on Phase 1, so that they had access to
13:33:57 16 information that I -- I did not, but it was clear
13:34:02 17 through the proceedings that Toyota had -- did
13:34:07 18 believe that T50 was an important specification, had
13:34:09 19 done some work on that issue.

13:34:13 20 Q. And expressed -- and -- and expressed that
13:34:15 21 view apparently as early as June 4, 1990 to CARB
13:34:19 22 staff.

13:34:19 23 A. It would appear that that's the case from
13:34:21 24 that perspective. But it was -- it wouldn't be
13:34:26 25 uncommon for someone to take a very, you know, strong

13:34:29 1 view with their perspective.

13:34:31 2 Q. Of course.

13:34:43 3 (Respondent's Exhibit 177 was

13:34:46 4 marked for identification.)

13:34:46 5 BY MR. BEEHLER:

13:34:47 6 Q. Looking at RX 177, do you recognize this,

13:34:53 7 if you look at the very front page, to be a document

13:34:56 8 produced by CARB as reference number 49 to the

13:35:00 9 technical support document?

13:35:03 10 A. I don't recognize it specifically in that

13:35:05 11 context of TSD number 45 -- 49.

13:35:09 12 Q. Okay. If you would look at the document,

13:35:12 13 though, do you see that it's dated as of October

13:35:16 14 1990?

13:35:17 15 A. Yes.

13:35:18 16 Q. And it's from Toyota?

13:35:19 17 A. Yes.

13:35:21 18 Q. Would you turn to page 18079, and beginning

13:35:38 19 on that page you see it is entitled "Study of the

13:35:40 20 Effect of Distillation Characteristics on Exhaust

13:35:43 21 Emissions." Do you see that?

13:35:45 22 A. Yes.

13:35:45 23 Q. Is this a document you reviewed before?

13:35:54 24 A. Yes, I believe it is.

13:35:54 25 Q. If you turn over to page 18081 --

14:17:43 1 Q. Would you turn back to the third page of
14:17:45 2 this RX 180 where it says "TEST BLEND ANALYSES
14:17:53 3 SUMMARY" for ARCO EC-X.
14:17:55 4 A. I'm sorry, what page?
14:17:56 5 Q. 831 are the last three numbers.
14:17:59 6 A. Thank you. Okay.
14:18:05 7 Q. Do you understand this page to be
14:18:09 8 specifications for demonstration fuels that ARCO was
14:18:13 9 looking at as part of its EC-X test program?
14:18:17 10 A. Yes.
14:18:19 11 Q. Written in, not -- not typed in, but
14:18:22 12 written in are the T50 numbers; aren't there?
14:18:28 13 A. Yes.
14:18:28 14 Q. Including a T50 of 200 for fuel one; right?
14:18:32 15 A. Yes.
14:18:34 16 Q. Is that your handwriting?
14:18:35 17 A. Yes.
14:18:37 18 Q. Why was the T50 written in there?
14:18:40 19 A. Well in the course of, again, the
14:18:43 20 regulation development we were looking at all sorts
14:18:45 21 of specifications. They did not include that
14:18:48 22 specification in the table. I'm sure that this
14:18:53 23 addition was in response to a question that we had
14:18:55 24 asked about did you know what the -- what the T50
14:18:59 25 specifications were.

14:19:00 1 Q. And you would have asked them that because
14:19:01 2 you were interested in potentially regulating T50.
14:19:05 3 A. We were interested in that, yes.
14:19:08 4 Q. And in fact the T50 of 200 is what ended up
14:19:11 5 being proposed by staff as one of the limits.
14:19:15 6 A. Yes.
14:19:24 7 Q. I bet you're going to say it's Peter
14:19:27 8 Venturini's handwriting now that you identified it,
14:19:31 9 but would you turn to page 838, sir. And just if --
14:19:39 10 if you can read that for me, I'm not sure what it
14:19:42 11 says. Do you have an understanding of what is
14:19:45 12 written there and whose handwriting it is?
14:19:55 13 A. It's Peter's handwriting.
14:19:58 14 Q. Meaning Peter Venturini of course.
14:20:00 15 A. Yes, Peter Venturini.
14:20:07 16 Q. Do you know what it says?
14:20:23 17 A. Well I think that it says the formulation
14:20:25 18 is more potent than 12/90.
14:20:31 19 Q. What was that in reference to, a
14:20:32 20 formulation that they had showed you in December of
14:20:36 21 1990?
14:20:37 22 MR. GOLDMAN: Objection, calls for
14:20:38 23 speculation.
14:20:39 24 MR. BEEHLER: If you recall.
14:21:01 25 A. I don't -- I --