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UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

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In the Matter of

Union Oil Company of California, Docket No. 9305
a corporation.

- - - - -
DEPOSITION OF DEAN C. SIMEROTH

VOLUME I, PAGES 1 - 261

July 9, 2003

(The following is the deposition of DEAN C.

SIMEROTH, taken pursuant to Notice of Taking

Deposition, via videotape, at the Hyatt Regency

Hotel, Capitol Board Room, Sacramento, California,

commencing at approximately 9:02 o'clock a.m., July

9, 2003.)

APPEARANCES:

On Behalf of Union Oil Company of California:

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Bureau of Competition
601 New Jersey Avenue, N.W., Drop 6264
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13:55:58 1 1, 1991 public consultation meeting notice that went
13:55:58 2 out; isn't it?

13:56:01 3 A. This is the invite to the public
13:56:03 4 consultation meeting for an August 14th workshop.

13:56:08 5 Q. And so this document is dated August 1,
13:56:11 6 1991, and it's advising people that there will be a
13:56:14 7 workshop on August 14, 1991; right?

13:56:18 8 A. That is correct.

13:56:19 9 Q. If you turn to page 16 of this document,
13:56:20 10 sir --

13:56:32 11 A. Which page 16? I'm a little confused.

13:56:35 12 Q. Could you hand that over to me, please? I
13:56:36 13 think this may be a document that two copies were
13:56:40 14 made. We're going to solve that.

13:56:54 15 No, actually it has the preliminary draft
13:56:56 16 attached to it, so I'm going to just leave the
13:56:59 17 document alone. I'm going to refer you to a Bates
13:57:01 18 number. Okay?

13:57:02 19 Looking at RX 184, sir, would you please
13:57:05 20 turn to page TP5566.

13:57:11 21 A. 5566.

13:57:15 22 Q. There's also a CARB reference document of
13:57:18 23 3057.

13:57:25 24 A. Okay.

13:57:27 25 Q. So on August 1, 1991 your CARB actually put

13:57:31 1 out a public notice suggesting that your standards
13:57:38 2 for distillation temperatures for T50 would be 200
13:57:44 3 degrees. Do you see that?

13:57:50 4 A. Yes, I do.

13:57:52 5 Q. So before Unocal released anything on
13:57:56 6 confidentiality, your staff had publicly put out a
13:58:00 7 T50 of 200 degrees; isn't that right, sir?

13:58:07 8 MR. PARK: Objection to form.

13:58:09 9 A. Certainly we put this draft out, yes.

13:58:12 10 Q. Before Unocal released any confidentiality
13:58:16 11 on anything; right?

13:58:19 12 MR. PARK: Objection, form.

13:58:22 13 A. I would assume that is correct. It's
13:58:24 14 before the August letter.

13:58:27 15 Q. How was the 200 degrees figure determined?

13:58:36 16 A. At this time I'm not -- don't recall how it
13:58:40 17 was derived at.

13:58:41 18 Q. Did you use the Unocal equations, which
13:58:45 19 were still confidential at that time?

13:58:50 20 A. At this time I --

13:58:53 21 That would not have been our practice.

13:58:56 22 Q. You shouldn't have used confidential
13:58:57 23 information to put out a public document.

13:59:02 24 A. Well we should not release --

13:59:04 25 MR. PARK: Objection, form.

13:59:06 1 A. -- any confidential information.

13:59:07 2 Q. Well sir, you don't even use confidential
13:59:09 3 information if that's going to be the basis of a
13:59:13 4 regulation; do you?

13:59:15 5 MR. PARK: Objection, argumentative.

13:59:16 6 A. The use of the confidential information
13:59:18 7 becomes a problem if we have to defend the -- well,
13:59:24 8 to support the regulation as it is finally adopted.

13:59:28 9 Q. Yeah. But to step back, as I understand
13:59:34 10 it, you don't know how this -- I'm sorry.

13:59:39 11 You don't know how this 200-degree figure
13:59:41 12 was arrived at.

13:59:45 13 A. At this time I don't recall how the 200
13:59:47 14 degrees figure was arrived at. The concept of a
13:59:50 15 Driveability Index had been introduced at a June
13:59:53 16 workshop.

13:59:54 17 Q. Okay. I'm not talking about Driveability
13:59:56 18 Index right now.

14:00:00 19 Page 16 of this document that we're looking
14:00:02 20 at has a separate section for Driveability Index;
14:00:04 21 doesn't it? See that in the middle of the page,
14:00:13 22 paragraph (c).

14:00:14 23 A. It has a paragraph (c) for Driveability
14:00:17 24 Index.

14:00:17 25 Q. And the Driveability Index here is 1100

14:00:20 1 degrees -- I mean 1100; isn't it?

14:00:22 2 A. That is correct.

14:00:22 3 Q. Okay. So let's go back to just paragraph

14:00:25 4 (b) at this point. Do you know how that 200-degree

14:00:30 5 figure was determined by your staff?

14:00:34 6 MR. PARK: Objection, asked and answered.

14:00:35 7 A. At this time I don't recall how we would

14:00:38 8 have come up with that.

14:00:39 9 Q. Do you know why, within a matter of days,

14:00:42 10 you would go from 190 degrees to 200 degrees?

14:00:51 11 A. At this time I don't know why we would do

14:00:53 12 it. For this type of workshop we would tend to round

14:00:58 13 things off.

14:00:59 14 Q. Do you know why you would have changed 1050

14:01:05 15 on a Driveability Index to 1100 within a week?

14:01:11 16 A. At this point in time I don't know why we

14:01:13 17 made the change. The 1050 would be very restrictive

14:01:19 18 on the production of gasoline.

14:01:21 19 Q. Would it be restrictive on the production

14:01:23 20 of gasoline and also a potential problem on

14:01:26 21 driveability, or wasn't performance an issue in that?

14:01:30 22 MR. PARK: Objection, form.

14:01:41 23 A. At this time I don't recall why we would

14:01:43 24 have went from 1050 to 1100. In terms of

14:01:48 25 acceptability of either number and vehicle