UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

In the Matter of

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

DEPOSITION OF ROBERT D. FLETCHER

VOLUME I, PAGES 1 - 256

July 8, 2003

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

APPEARANCES:

On Behalf of Union Oil Company of California:

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Q. Now during the time when these regulations were being developed and these differing views being included, did you believe it was reasonable of these people to have differing opinions?

MR. GRAYBILL: Objection, vague.

A. Yes.

Q. (Respondent's Exhibit 176 was marked for identification.)

BY MR. BEEHLER:

Q. Sir, I've handed you what's been marked as RX 176, and I want to spend the next section of your -- your deposition discussing how T50 came to be in your regulations, just to give you a little bit of context here, sir.

First of all, looking at RX 176, do you recognize these to be notes of Tom Jennings?

A. I would have said that these would have been Tom Jennings' handwriting, yes.

Q. And they are dated June 4, 1990, "CLEAN FUELS WORKSHOP." Do you see that?

A. Yes.

Q. You were typically present at these workshops?

A. I would not have been present at this workshop.
1. Q. It was too much in advance.
2. A. Yes.
3. Q. This would have been Phase 1.
4. A. I'm not sure this was -- whether this was
5. Phase 1 or -- or some other workshop. I assume it
6. was related to Phase 1.
7. Q. Would you turn, sir, to page 29084, and I'm
8. going to refer just to the bottom paragraph and the
9. following top of the paragraph and ask you if you
10. were made aware of this information at any point.
11. These notes, looking at the very last line, appear to
12. reflect a discussion with Jonathan Haines from
13. Toyota, and it says, "T50 is essential for existing
14. regulations." If you go over to the top, "Really
15. wants control of T50 within a narrow range." And I'm
16. not sure I can read the next line, but then there's
17. the initials SVH. Did you understood that to be a
18. reference to Susan Huscroft?
19. A. It could be, yes. That would likely be
20. Susan.
21. Q. Susan was involved from time to time in --
22. in these workshops; correct?
23. A. She was.
24. Q. And it appears to be a question from Susan
25. Huscroft, "What about T10, T90?" And the response
written here by Mr. Jennings is "They've looked at that, but they think T50 is by far the most important part of the distillation range."

Did anyone tell you, sir, during the development of the Phase 2 regulations that Toyota had given this information to staff on June 4, 1990?

A. I'm not specifically aware that this information -- and I'm not sure, when I think about it, whether this is related to Phase 1 or whether this -- this is some other -- other workshop, so I'm -- I'm not clear about that. But relative to Toyota's interest in T50, when I came into the section, that there was already, you know, some -- some knowledge base of the people who had been working on Phase 1, so that they had access to information that I -- I did not, but it was clear through the proceedings that Toyota had -- did believe that T50 was an important specification, had done some work on that issue.

Q. And expressed -- and -- and expressed that view apparently as early as June 4, 1990 to CARB staff.

A. It would appear that that's the case from that perspective. But it was -- it wouldn't be uncommon for someone to take a very, you know, strong
view with their perspective.

Q. Of course.

(Respondent's Exhibit 177 was marked for identification.)

BY MR. BEEHLER:

Q. Looking at RX 177, do you recognize this, if you look at the very front page, to be a document produced by CARB as reference number 49 to the technical support document?

A. I don't recognize it specifically in that context of TSD number 45 -- 49.

Q. Okay. If you would look at the document, though, do you see that it's dated as of October 1990?

A. Yes.

Q. And it's from Toyota?

A. Yes.

Q. Would you turn to page 18079, and beginning on that page you see it is entitled "Study of the Effect of Distillation Characteristics on Exhaust Emissions." Do you see that?

A. Yes.

Q. Is this a document you reviewed before?

A. Yes, I believe it is.

Q. If you turn over to page 18081 --
Q. Would you turn back to the third page of this RX 180 where it says "TEST BLEND ANALYSES SUMMARY" for ARCO EC-X.

A. I'm sorry, what page?

Q. 831 are the last three numbers.

A. Thank you. Okay.

Q. Do you understand this page to be specifications for demonstration fuels that ARCO was looking at as part of its EC-X test program?

A. Yes.

Q. Written in, not -- not typed in, but written in are the T50 numbers; aren't there?

A. Yes.

Q. Including a T50 of 200 for fuel one; right?

A. Yes.

Q. Is that your handwriting?

A. Yes.

Q. Why was the T50 written in there?

A. Well in the course of, again, the regulation development we were looking at all sorts of specifications. They did not include that specification in the table. I'm sure that this addition was in response to a question that we had asked about did you know what the -- what the T50 specifications were.
Q. And you would have asked them that because you were interested in potentially regulating T50.
A. We were interested in that, yes.
Q. And in fact the T50 of 200 is what ended up being proposed by staff as one of the limits.
A. Yes.
Q. I bet you're going to say it's Peter Venturini's handwriting now that you identified it, but would you turn to page 838, sir. And just if -- if you can read that for me, I'm not sure what it says. Do you have an understanding of what is written there and whose handwriting it is?
A. It's Peter's handwriting.
Q. Meaning Peter Venturini of course.
A. Yes, Peter Venturini.
Q. Do you know what it says?
A. Well I think that it says the formulation is more potent than 12/90.
Q. What was that in reference to, a formulation that they had showed you in December of 1990?
MR. GOLDMAN: Objection, calls for speculation.
MR. BEEHLER: If you recall.
A. I don't -- I --