UNITED STATES OF AMERICA

BEFORE FEDERAL TRADE COMMISSION

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:
David W. Beehler and Bethany D. Krueger
Robins, Kaplan, Miller & Ciresi, L.L.P.
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, Minnesota 55402

On Behalf of the Federal Trade Commission:
Chong S. Park and Lisa D. Fialco
Federal Trade Commission
Bureau of Competition
601 New Jersey Avenue, N.W., Drop 6264
Washington, D.C. 20001
1. 1991 public consultation meeting notice that went out; isn't it?
A. This is the invite to the public consultation meeting for an August 14th workshop.
Q. And so this document is dated August 1, 1991, and it's advising people that there will be a workshop on August 14, 1991; right?
A. That is correct.
Q. If you turn to page 16 of this document, sir --
A. Which page 16? I'm a little confused.
Q. Could you hand that over to me, please? I think this may be a document that two copies were made. We're going to solve that.
No, actually it has the preliminary draft attached to it, so I'm going to just leave the document alone. I'm going to refer you to a Bates number. Okay?
Looking at RX 184, sir, would you please turn to page TP5566.
A. 5566.
Q. There's also a CARB reference document of 3057.
A. Okay.
Q. So on August 1, 1991 your CARB actually put
out a public notice suggesting that your standards
for distillation temperatures for T50 would be 200
degrees. Do you see that?

A. Yes, I do.

Q. So before Unocal released anything on
confidentiality, your staff had publicly put out a
T50 of 200 degrees; isn't that right, sir?

MR. PARK: Objection to form.

A. Certainly we put this draft out, yes.

Q. Before Unocal released any confidentiality
on anything; right?

MR. PARK: Objection, form.

A. I would assume that is correct. It's
before the August letter.

Q. How was the 200 degrees figure determined?

A. At this time I'm not -- don't recall how it
was derived at.

Q. Did you use the Unocal equations, which
were still confidential at that time?

A. At this time I --

That would not have been our practice.

Q. You shouldn't have used confidential
information to put out a public document.

A. Well we should not release --

MR. PARK: Objection, form.
Q. Well sir, you don't even use confidential information if that's going to be the basis of a regulation; do you?

MR. PARK: Objection, argumentative.

A. The use of the confidential information becomes a problem if we have to defend the -- well, to support the regulation as it is finally adopted.

Q. Yeah. But to step back, as I understand it, you don't know how this -- I'm sorry.

You don't know how this 200-degree figure was arrived at.

A. At this time I don't recall how the 200 degrees figure was arrived at. The concept of a Driveability Index had been introduced at a June workshop.

Q. Okay. I'm not talking about Driveability Index right now.

Page 16 of this document that we're looking at has a separate section for Driveability Index; doesn't it? See that in the middle of the page, paragraph (c).

A. It has a paragraph (c) for Driveability Index.

Q. And the Driveability Index here is 1100
1 degrees -- I mean 1100; isn't it?
2 A. That is correct.
3 Q. Okay. So let's go back to just paragraph
4 (b) at this point. Do you know how that 200-degree
5 figure was determined by your staff?
6 MR. PARK: Objection, asked and answered.
7 A. At this time I don't recall how we would
8 have come up with that.
9 Q. Do you know why, within a matter of days,
10 you would go from 190 degrees to 200 degrees?
11 A. At this time I don't know why we would do
12 it. For this type of workshop we would tend to round
13 things off.
14 Q. Do you know why you would have changed 1050
15 on a Driveability Index to 1100 within a week?
16 A. At this point in time I don't know why we made the change. The 1050 would be very restrictive
17 on the production of gasoline.
18 Q. Would it be restrictive on the production
19 of gasoline and also a potential problem on
20 driveability, or wasn't performance an issue in that?
21 MR. PARK: Objection, form.
22 A. At this time I don't recall why we would
23 have went from 1050 to 1100. In terms of
24 acceptability of either number and vehicle