

1 in contact, but the other two were.

2 Q Okay. Well --

3 A So that may be -- but again, that was the one that
4 was still being protected by the cathodic protection. And
5 we -- and it was an STIP-3 tank, so my question would be
6 is what's protecting that tank? Is it the factory
7 installed STIP, or is it the impressed current?

8 If there was a -- you know, I think it would take
9 some more further investigation as to see what was going
10 on with that particular tank; was that particular tank
11 included in the impressed current system.

12 So I would have to say that that particular one was
13 not in contact with soil or water.

14 Q All right. I just wanted to make sure I followed
15 you.

16 A Uh-huh.

17 Q When we turn page 16 upside down, you have -- you
18 have four tanks shown on there. The third from the top in
19 this diagram has a line through it; that's the closed one.

20 A Yes, that's an abandoned one.

21 Q Okay. So the top one -- I'm looking for the
22 language --

23 A Look where it says, "unleaded, regular."

24 Q Yes, sir.

25 A Okay. Over to the right, there's a circle there

1 which stands for -- it says, "STP in water." I don't know
2 if that says "soil" or "contact." It was in -- in other
3 words, I was noting there --

4 Q Okay.

5 A -- that it was in contact with -- with other
6 materials.

7 Q All righty.

8 A And also for the diesel, "STP in water," which means
9 that it was also in contact.

10 Q All righty.

11 A The only one that I have to say that I did not write
12 that, I put the next one, which with the -- I can't
13 remember which that one was -- the premium. I did say,
14 "STP not in soil or water."

15 Q Okey-doke.

16 A So that was not in contact.

17 Q All right.

18 A However, there still was a discrepancy as to how that
19 tank was being protected if it was tied into the impressed
20 current.

21 If the impressed current -- and the assumption I made
22 was that the STIP -- even though it was an STIP-3 tank,
23 for some reason, it was included in the impressed current
24 system.

25 So if the impressed current system was being part of

1 this -- if it was protecting this tank for -- you know,
2 whoever designed this apparently included all the tanks in
3 there. So if the impressed current was on this, it would
4 not be protected. If it was off, it would not be
5 protected.

6 Q All right, sir. You were concerned, of course, if
7 there were a pump manifold that was leaking, and
8 pressurized gasoline was being forced through there, it
9 might leak. But we have leak detectors on this same
10 system which passed, right?

11 A I think there's two requirements you got to keep in
12 mind here. What I am concerned is corrosion protection
13 (sic). It has nothing to do with leak protection.

14 Corrosion protection is long-term deterioration of
15 the metal that will -- that can cause a release. Maybe
16 I'm not -- you better ask your question again. I want
17 to --

18 Q Okay. I understood your concern with the, as you
19 indicated, with the unprotected pump manifold --

20 A Right.

21 Q -- was that product might be being pumped through it,
22 and if there were a rust hole, that it would leak through
23 that.

24 So my question was, wasn't there a leak detection
25 system on this site which passed that would have caught

1 that?

2 A Well, if you are talking about, specifically, the
3 Automatic Line Leak Detectors that are in place on
4 pressurized systems --

5 Q Uh-huh.

6 A -- there was. However, the Automatic Line Leak
7 Detector will only detect catastrophic leaks downstream of
8 it.

9 Your Automatic Line Leak Detectors are actually off
10 the manifold. So anything from off the manifold to the
11 dispenser will be picked up as a release. However, any
12 release from a pump manifold will not be detected by an
13 Automatic Line Leak Detector, whether it's mechanical or
14 electronic.

15 Q Okay. These tanks which show that they were new in
16 1998 or 2000, these are all the type, I guess, that had a
17 50-year life even without cathodic protection?

18 A And I'm not sure what you mean "without cathodic
19 protection."

20 Q Well --

21 A If it's an STIP-3 tank, it is cathodically protected.

22 Q All right.

23 A Okay.

24 Q We have seen documents which show 50-year life on
25 these tanks as being the standard in the industry for --

1 before they are going to rust through.

2 A I'm not so sure I agree with that. I don't know
3 where that came from. An Underground Storage Tank's life
4 expectancy depends solely on where it's installed.

5 For example, if it's in New Mexico and it's installed
6 in dry sand and the sand is dry for 25 years, most likely
7 that tank is going to last a very, very long time.

8 Keep in mind, it's not particularly what type of soil
9 it's in; it's in how much moisture is in that soil. Soil
10 doesn't cause corrosion, it's the moisture. Soil is just
11 a media for holding the water.

12 Q Okay.

13 A Therefore, the -- the life expectancy -- and that was
14 said yesterday, that a bare steel tank's life expectancy
15 is 50 years, and I do not agree with that.

16 Q Okay.

17 A However, there are situations where it may last
18 longer than 50. As a matter of fact, EPA even has
19 regulations that say you do not have to have corrosion
20 protection if a NACE-certified specialist will come out,
21 analyze your soil, take readings, do all types of
22 scientific studies and says, "this facility, based on the
23 soil that you have, will not cause corrosion," you don't
24 have to have anything on it.

25 Q Okay. Let me ask you to turn to Respondent's Exhibit

1 Number 10, which is admitted in this case. And it's a
2 NACE corrosion specialist --

3 MS. BEAVER: Objection, Your Honor.

4 MR. SHIPLEY: I'm so sorry, Respondent's
5 Exhibit 10. I apologize.

6 Q (By Mr. Shipley:) This is a NACE corrosion
7 specialist who has certified that the Citgo Quik Mart
8 system has been designed in concert with the required
9 corrosion protection. Is that the document that you
10 wanted to see before you would say this was okay?

11 MS. BEAVER: Your Honor, this document is not
12 for the facilities that Respondent's counsel is
13 questioning.

14 THE WITNESS: Yeah, it's --

15 MS. BEAVER: So I need clarification on -- you
16 were asking about the Thrif-T-Mart facilities; this
17 is not a Thrif-T-Mart document.

18 THE WITNESS: No. That's -- that's for the Quik
19 Mart.

20 MR. SHIPLEY: You are right. Pardon me.
21 Fifteen; I'm sorry, that's the Citgo Thrif-T-Mart.
22 Just turn back by -- we get confused in our own
23 depths or documents here.

24 Thank you, Counsel.

25 Q (By Mr. Shipley:) All right. Same NACE corrosion

1 specialist, a stipulated document or entered into evidence
2 as all -- virtually all these documents are, except three
3 already in the record.

4 Part of the evidence in this case showing that the
5 cathodic protection is certified and designed by NACE
6 corrosion specialist Jack Dunlop for the Citgo
7 Thrif-T-Mart.

8 Q Is that the document that you indicated that you
9 would need to see before you felt comfortable with the way
10 this system was designed, having both built-in suspenders
11 with a STIP-3 tank which has the built-in cathodic
12 protection from the tank when it arrives, plus additional
13 CP installed on site.

14 A Now, which exhibit are you talking about now? You're
15 still with this one, this Number 10?

16 Q (By Mr. Shipley:) No, sir, I'm very sorry. We're on
17 15?

18 A Okay. Fifteen? Yeah, that is the Thrif-T-Mart.

19 Q Fifteen is the NACE corrosion specialist
20 certification; it applies to the site that we have been
21 discussing here on -- on Plaintiff's Exhibit 1 at page 14.

22 A Yeah. This -- this tells me that Mr. Jack Dunlop was
23 a NACE corrosion specialist, certifying that the CP system
24 or the impressed current system is protecting all those
25 three tanks. That's what -- that's what I'm -- that's

1 what I'm gathering from what he says here.

2 Q It says he certifies, as a NACE-qualified corrosion
3 specialist as defined by EPA Underground Storage Tank
4 rules: "All assessments, recommendations, designs, and
5 evaluations for the system noted above have been made in
6 accordance with the applicable law, accepted standards,
7 and in keeping with the public health and protection of
8 the environment to prevent release due to further
9 deterioration caused by soil" --

10 A That -- that's his certification that he is a
11 qualified NACE specialist that could design that system.
12 And I -- and I would -- I would say yes, that would --
13 that would verify that -- now, it would be nice to have
14 his -- his field notes and how he designed this, but it is
15 a certification that he designed the system.

16 And that's my point, is that he designed an impressed
17 current for those three tanks. The fact that the STIP-3
18 tank is normally, generally speaking, a self-sustaining
19 corrosion protection system in itself; however, once you
20 tie it into an impressed current system, that STIP-3
21 system -- or STIP-3 system -- no longer can you say is
22 protecting that system.

23 Just because it's a STIP-3 tank system tied into an
24 impressed current does not mean that -- in other words,
25 what I'm saying is that if you are tying the impressed

1 current system in, I have no guarantee that the STIP-3
2 tank is working once that system is off.

3 Because if it's tied in to all those tanks, that
4 STIP-3 system that was designed for one tank is now --
5 could possibly try to -- start trying to protect all the
6 tanks.

7 Therefore, that STIP-3 system that's good by itself
8 with the 4,000-gallon tank could mess everything up as
9 soon as that CP system is turned off; in other words, you
10 can't just tie in an STIP-3 tank to an impressed current
11 and expect it to work properly when it's on; you can't
12 expect it to work when it's off, because you have --
13 there's dynamics going on between the two systems, and it
14 has to be -- it has to be rectified before you tie it into
15 the system.

16 And all I am saying is that at the time of the
17 inspection, it was my understanding that the tanks, all
18 three tanks were included in this -- in an impressed
19 current system. That impressed current system, at the
20 time of my inspection, was not in service at the time that
21 I was there.

22 And that's why I included that in the -- in the
23 violations. Not only that, but also the fact that the
24 pump manifolds, that leaves two of the three systems was
25 not being protected, without an impressed current system.

1 So as it stands now, the violation, as far as I'm
2 concerned, still stands. If there's further information
3 that you want to provide me later on, I mean -- I mean
4 would have to leave it to my counsel to decide what they
5 want to accept or not.

6 Q If the EPA, based upon Respondent's Exhibit 15,
7 withdrew their concerns about the proper design and
8 installation --

9 MS. DIXON: Objection, Your Honor. It was
10 regarding this individual being NACE certified,
11 right. It's mischaracterizing. We withdrew counts
12 based upon this individual, Mr. Dunlap, being NACE
13 certified.

14 Q (By Mr. Shipley:) If I understand your testimony
15 correctly, not only do you need this NACE certification
16 that was designed and installed properly, but you need the
17 field notes of the men who did it. Is that what you said?

18 A I forget what the counts were on that, to tell you
19 the truth.

20 Q All right.

21 A I don't even know what the count was. This is count
22 what?

23 MR. KELLOGG: Seven.

24 THE WITNESS: Okay.

25 MS. BOYD: Seven.

1 MR. SHIPLEY: Seven.

2 MS. BEAVER: Your Honor, if we are all going to
3 be looking at the same counts, we need to be on the
4 same page. So I would just ask for Respondent's
5 counsel to help everybody be on the same page --

6 THE WITNESS: Okay, I got it.

7 MS. BEAVER: -- with what he's asking and what
8 he's dealing with, because I'm thoroughly confused at
9 this point.

10 THE WITNESS: I am, too. Let's see.

11 Okay. Count 7 is just what I thought; was
12 failure to operate cathodic protection system
13 continuously.

14 This is a certification that your NACE
15 specialist apparently designed that system. And I
16 don't think that was the -- that was not what this
17 violation is concerning.

18 This violation, Count 7, has to do with the fact
19 that the cathodic protection system was not in
20 operation at the time of the inspection.

21 Now, regardless of whether it was an STIP-3
22 tank, whether it was a lined tank, really doesn't
23 make any difference as far as this count is
24 concerned.

25 Q (By Mr. Shipley:) Okay. Your Honor -- one final

1 question. And that is when you met with Twilah Monroe and
2 she brought in additional documents to answer some of your
3 questions, did you -- describe for me what -- what she
4 brought into the room, in terms of her records for your
5 review.

6 A I mean I wouldn't know. She brought a lot of stuff
7 in. She brought readings from CP systems, she brought in
8 tank line tightness tests, line leak detector tests. We
9 were there quite a long time, so I mean for me to tell you
10 what --

11 Q Okay.

12 A -- what I asked for, I don't know. I mean we went
13 down the list, type of thing; went to each facility, that
14 type of thing.

15 Q Nonetheless, she probably brought in something two
16 feet thick in terms of the records accumulated on these
17 sites in response to your concerns; is that a fair
18 characterization?

19 A She brought a lot of stuff in, but I mean I don't
20 know. I would ask her for a particular document.

21 Q Fine.

22 A Okay.

23 MR. SHIPLEY: Your Honor, I move the admission
24 of Respondent's Exhibit 70, except as to the last
25 page, which we will have to have identified by

1 Ms. Monroe.

2 MS. BEAVER: And Your Honor, we would object on
3 behalf of the Complainant to this exhibit as being
4 irrelevant and immaterial, misleading.

5 This document, it does not have a date received
6 stamp by the OCC. When we request from the OCC its
7 documents, we receive the documents with the OCC date
8 stamp on there.

9 We have no way of knowing whether this document
10 was ever presented to the OCC, especially since,
11 apparently, it's dated some years -- for 2000, but we
12 have no record from the OCC that such a document was
13 ever received.

14 If this document was submitted to the OCC and
15 received by OCC, we would ask that the Respondent
16 would present the document, date stamped, to show
17 that it was actually submitted to OCC, not something
18 with a handwritten note on the top by whomever that
19 it was mailed.

20 MR. SHIPLEY: Your Honor, this document is
21 consistent with the summary that is shown on page 18.
22 And the document which follows that, the OCC document
23 which follows that, 20 through 22, is not consistent
24 with the summary.

25 This document is consistent with the information.

1 that is shown on page 14. The document that EPA put
2 in the record in the Corporation Commission is
3 clearly not the proper information.

4 MS. BEAVER: It's the Respondent's
5 responsibility to update the records with OCC. It's
6 not clear that this document was ever presented to
7 OCC, which is Respondent's responsibility. And so we
8 would need a document that was formally submitted to
9 the OCC, date stamped and received by the OCC.

10 MR. SHIPLEY: If their summary, which is used
11 here on page 18, is consistent with the document that
12 was sent in in 2000, and not consistent with the
13 document they attached that was sent in in 1998, that
14 leads us to the conclusion that this is a proper
15 document.

16 MS. BEAVER: It leads to the conclusion that if
17 there were changes since the document's been at OCC,
18 those changes should have been submitted by
19 Respondent subsequently, because it's their
20 responsibility to do so.

21 MR. SHIPLEY: I think you said it was the OCC's
22 responsibility.

23 MS. BEAVER: No, it's the Respondent's
24 responsibility to update.

25 MR. SHIPLEY: Please talk to the Judge, not me.

1 MS. BEAVER: I am talking to the Judge; I happen
2 to be looking at you.

3 MR. SHIPLEY: Well, look at -- look at the
4 Judge --

5 MS. BEAVER: Your Honor, again, the
6 responsibility to update the records is OCC -- is the
7 Respondent's responsibility to submit to OCC
8 documentation that they have changed their system.

9 What OCC relies on is documentation to -- to
10 this effect, documentation that was submitted by
11 Respondent.

12 MR. SHIPLEY: The record shows that we did
13 submit it. They modified it, then they later
14 connected the wrong document with their summary, as
15 shown on 18. It reflects the fact that they received
16 and used --

17 MS. BEAVER: So then we should have a document
18 that's date stamped by OCC, not a document that has
19 handwritten notes, by someone on behalf of
20 Respondent, that it was mailed.

21 THE COURT: Well, if it's consistent with other
22 information in the record, then I think your
23 objection isn't well taken. But you had indicated
24 that the last page of the document, you were
25 reserving your motion to admit?

1 MR. SHIPLEY: Yes, Your Honor, because the --
2 the witness, while he has incorporated the
3 information from the Tank Liners document, which is
4 the next to the last document, I don't -- I didn't
5 ask the question, because I didn't expect that he
6 would remember the final document, but maybe I should
7 not pass that opportunity up.

8 Q (By Mr. Shipley:) Mr. Cernero, looking at the final
9 page in Respondent's Exhibit 70, which is an invoice for a
10 4,000-gallon STIP-3 tank, which we believe is and
11 Ms. Monroe will testify is Tank Number 2, the 4,000-gallon
12 tank shown on your page 14.

13 Do you remember receiving a document like this when
14 you were at the RAM headquarters in February, 2005?

15 A I do remember seeing this, but again, I was still
16 confused because of the discrepancy between what the State
17 said was supposed to be there and what that shows. And
18 then, of course, on this one, does not show what facility
19 this was for --

20 Q Okay.

21 A -- unless I am missing that.

22 Q You were shown this --

23 A I -- I remember something to the effect that we had
24 discussed it, even Mr. Roberts and I had discussed it, and
25 we still were really not sure which one was right. But I

1 do remember receiving this, yes.

2 MR. SHIPLEY: Okay. All right. Then I move
3 admission of all the pages of Respondent's
4 Exhibit 70, Your Honor.

5 THE COURT: Well, I'm going to admit it. I
6 recognize there is some -- some argument as to its
7 authenticity, but then that's something you can
8 address on brief.

9 Proceed.

10 MR. SHIPLEY: Thank you. We pass the witness.
11 Thank you, Mr. Cernero. And sorry we took longer
12 than we thought.

13 MS. BEAVER: We have no questions for the
14 witness, Your Honor.

15 THE COURT: Thank you, Mr. Cernero. You may be
16 excused.

17 And we will take a short recess at this time.

18 *****

19 (A break was taken, after which the following
20 continued:)

21 THE COURT: The hearing will be in order. You
22 may call your next witness, Mr. Shipley.

23 MR. SHIPLEY: Thank you, sir. Your Honor, we
24 call Twilah Monroe.

25 THE COURT: Do you have any objection to taking

1 an oath, Ms. Monroe?

2 THE WITNESS: No, sir.

3 THE COURT: Raise your right hand.

4 Do you solemnly swear that the testimony you are
5 about to give shall be the truth, the whole truth,
6 and nothing but the truth, so help you God?

7 THE WITNESS: Yes, sir.

8 THE COURT: You may be seated.

9 *****

10 TWILAH MONROE

11 was called as a witness, and after having been
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. SHIPLEY:

15 Q Good morning.

16 A Good morning.

17 Q You and we have spent a lot more time in the evenings
18 together than we have in the daylight, but good to see
19 you.

20 A Good to see you.

21 Q If you would, tell the Court your name and what your
22 job is with RAM.

23 A Twilah Monroe. And I'm the office manager and I
24 oversee the convenience stores and all the environmental
25 records.

1 Q All righty. And Ms. Monroe, how long have you held
2 this job?

3 A With -- the total with RAM is 15 years. About 10
4 being the office manager.

5 Q Okey-doke. I know there's a lot of street noise
6 behind you, and if it -- if you can't hear me, you might
7 just be aware that you need to speak into the microphone,
8 as well. Thank you.

9 Going back to 2005, what was your first information
10 about the fact that EPA was coming to inspect some of
11 RAM's facilities?

12 A John Roberts had called me the day before and made an
13 appointment with me, because I had -- he knows I have the
14 records in different places, I have to gather them up.
15 And also, I'm not in the office a lot, and he had to make
16 sure I'd be there.

17 Q All righty. And did he tell you anything other
18 than --

19 MS. BEAVER: Objection, Your Honor, leading.
20 This is direct.

21 THE COURT: Let him finish the question first.

22 Q (By Mr. Shipley:) Did he tell you anything other
23 than what you have just described?

24 A He said there was an EPA inspector coming, and he
25 wanted these five stations, records.

1 Q And he identified the stations? All righty. That
2 was in February of '05. Excuse me.

3 Could you tell when Mr. Cernero and the OCC gentleman
4 arrived, whether they had completed their inspection or
5 not?

6 A They had been all -- to all sites. I don't know if
7 it was completed.

8 Q Okay. Did Mr. Cernero show you any documents that he
9 had prepared as a result of his investigation while he was
10 in your presence on February at the office?

11 A He was filling out the paperwork as we were talking.
12 And at the end of the session, I asked for a copy of his
13 field notes.

14 Q Okey-doke. Let me -- let me -- the brown folder are
15 the Government exhibits, and I want to ask you to look at
16 Tab Number 1.

17 And see if you'll just thumb through those that are
18 there; I'm not asking you to read each one, but I want you
19 to confirm for the record that this generally appears to
20 be, or not, a copy of what Mr. Cernero left with you at
21 the -- we'll call it the post-inspection meeting.

22 A No. All he gave me is what he had written on. I
23 didn't receive the OCC registration, the computerized one,
24 or my handwritten ones. I did not receive those at the
25 time.

1 Q Very good.

2 A A copy of them.

3 Q All right. So documents such as -- well, let me --
4 just look at the first four or five pages of this
5 Government's Exhibit 1, and tell us which of those pages
6 would have been the type of pages -- the type of documents
7 that he left with you post-inspection.

8 A The one that -- the one that says "Citgo Quik Mart,"
9 the page 1 and page 2. Citgo Quik Mart has 2 at the top,
10 page 1 and page 2 and page 3 and page 4.

11 Q Okey-doke. And I'll just point out, for ease of
12 reference, that these have what we call Bates stamps
13 numbers. You'll notice on the bottom of the first
14 exhibit, in Government 1, 00001, and then 00002 on the
15 next page. So that will help us all stay with you --

16 A Okay.

17 Q -- if we refer to particular documents within
18 Government's Exhibit 1.

19 A Okay.

20 Q All right. When you were given a copy of the results
21 of Mr. Cernerio's field inspection, did he ask anything of
22 you?

23 A No. He just handed me the notes, and that was
24 basically the end of the inspection.

25 Q During the post-inspection meeting, did you supply

1 any documents or information to Mr. Cernerero?

2 A Yes.

3 Q Of what nature, generally?

4 A Line leak detector tests, lined tank results, line
5 leak detectors, inventory control. Whatever I had that he
6 requested, I tried to give it to him.

7 Q Were you able, as the -- let me ask you roughly how
8 long this post-inspection meeting lasted.

9 A I don't know, maybe 30 minutes to an hour. I don't
10 remember. I don't think it was that long. I mean he went
11 down the questions and I handed it to him real -- pretty
12 quick.

13 Q All righty. Directing your attention to Bates Stamp
14 Number 4, the bottom right of the 4 -- and that's the
15 Government Exhibit 1 -- there is, in the middle of this
16 form, entitled "Inspector's Observation Report," there's a
17 list, a handwritten list of 11 items.

18 A On which one, now?

19 Q Page 4, Bates Stamp 4.

20 A Okay. Oh, okay. Of Quik Mart?

21 Q Yes, ma'am. Are these the type, these 11 handwritten
22 items, are those the type of items that you refer to that
23 he gave you as a list of the problems that he saw at
24 the -- at this site?

25 A This is the list of them, yes.

1 Q Okay. And he gave you such a list for each of the
2 five gasoline stations that he inspected?

3 A Yes.

4 Q All right. Now, I want to leave -- I want to fast
5 forward here a moment to when, approximately, did you
6 become aware that this inspection in February of '05 had
7 turned into a -- a fine violation and a fine in the order
8 of \$278,000?

9 A We received that in August.

10 Q Of '05?

11 A Yes.

12 Q All right. And did you have any indication during
13 this February meeting that -- that Mr. Cernero intended to
14 seek such a magnitude of a fine for RAM?

15 A I don't think penalties were discussed at that time.

16 Q All righty.

17 A Or I never discussed them with him.

18 Q All right. When you received the August complaint
19 advising you that there was a fine of sizable proportions,
20 did you take any actions or did anyone else at RAM take
21 any actions to augment the personnel who would help you
22 work on these issues?

23 A Yes.

24 Q What did you do?

25 A I started doing the integrity tests on the tank.

1 Q This was after August?

2 A No.

3 Q Listen to the question.

4 A Oh, after August?

5 Q After you received --

6 A Oh.

7 Q -- the Complaint in August of '05, did you do
8 anything to augment the personnel who would assist you in
9 coming to RAM's aid in addressing the EPA issues?

10 A We hired counsel and hired GMR as a consultant. And
11 Rick Heck does our work, and we've spoke with him a lot,
12 too, and he's inspected some of my books.

13 Q All right. And didn't have counsel advising you
14 until after receipt in August of '05?

15 A Yes.

16 Q You didn't have Mr. Mike Majors giving you consulting
17 assistance?

18 A No.

19 Q All righty. Now, let's go back to -- now, we're
20 going to go back to the post-inspection meeting. You have
21 been given, as you testified, a list of the results of
22 Mr. Cernero's inspection.

23 And what did you do, if anything, from February until
24 August of '05 when you received a complaint to begin to
25 address any of these issues?

1 A Well, I had started the integrity test on the
2 facilities, because he had listed it on his field notes.
3 And that would be the logical -- where to start.

4 Q Perhaps it would be even more helpful if I were to
5 ask you to walk through the Complaint violation --
6 violation -- is this --

7 MS. BOYD: Exhibit 7.

8 MR. SHIPLEY: Exhibit 7 from the Government?

9 THE WITNESS: In there?

10 Q (By Mr. Shipley:) In Government's Exhibit packet 7.

11 And what -- what we will do is turn to page 4 of the
12 Complaint, which is regarding the Citgo Quik Mart:

13 "Failure to Provide Spill Prevention for New Tanks."

14 And tell us, in summary form, what you did to address
15 the issues described in Count 1, please.

16 A Reinstalled spill buckets on the north fill ports.

17 Q All right. Okay. And turning to page 6 in Count 2,
18 tell us what you did with regard to the failure to provide
19 adequate spill prevention capacity at this station.

20 A I spoke to the manager and the assistant manager of
21 the location and told them to keep the spill buckets
22 clean. We have purchased pumps for our drivers, when they
23 deliver to this location, and they have been instructed
24 to -- to clean out or remove any gasoline in the spill
25 bucket at the time of delivery.

1 Q Do you own this service station?

2 A No.

3 Q What does -- when I say "you," of course, you
4 understand, that I am talking about RAM.

5 A RAM.

6 Q What portion of this facility does RAM own?

7 A A hundred percent.

8 Q Of?

9 A They -- we operate the business as a convenience
10 store and own the real estate.

11 Q All right. And you own -- you own the land?

12 A Yes.

13 Q You own the store?

14 A Yes.

15 Q All right. And so people that run this store are
16 your employees?

17 A Yes.

18 Q All right. And anything else come to mind with
19 regard to things that you -- you did between February and
20 the time that you received the Complaint in August, with
21 regard to Count 2?

22 Let's just turn to page 7. I promised the Judge we
23 are going to try to move this and get it finished today.

24 Count 3.

25 A We have implemented SIR at this location.

1 Q All right.

2 A As leak detection.

3 Q All righty. And with respect to Count 4 on page 9,
4 what did you do to address the failure to conduct the
5 monthly release detection monitoring?

6 A On all the tanks, they are -- we are doing SIR at
7 this location.

8 Q All righty. Page 11 of the complaint. Oh, sorry.
9 We've -- they dismissed 5 and 6.

10 Let's skip over to page 14, Count 7: "Failure to
11 Operate Detection System Continuously."

12 You heard -- now, this is the Citgo Thrif-T-Mart.
13 And you were here for Mr. Cernero's testimony, I believe,
14 on this issue.

15 A We have repaired the CP system. And also, if I don't
16 have it in my records yet, I can't remember which ones
17 I've got; we have a new NACE-certified design and
18 certification.

19 Q All right. You -- you heard Mr. Cernero's testimony
20 which, as I understood it, phrased his concern that while
21 the three tanks at that site were likely to be or
22 apparently are lined and may not otherwise need cathodic
23 protection, that because the impressed current system was
24 also installed, that there may be some problem between
25 the -- that system and the manufacturer-installed cathodic

1 protection system in those STIP-3 tanks.

2 A Yes.

3 Q Did you hear that?

4 A Yes.

5 Q Is there anything that you are aware of that might
6 make that concern not applicable?

7 A Well, after looking at the registration that the OCC
8 had, and there's one of the tanks that's a STIP-3, not --
9 I don't know the wording, the F-whatever tank.

10 Q Uh-huh.

11 A Without looking at it. It's probably in his field
12 notes.

13 MR. SHIPLEY: If I may --

14 THE WITNESS: Okay.

15 MR. SHIPLEY: -- approach --

16 MS. BOYD: It's in there.

17 MR. SHIPLEY: Seven is in there?

18 Q (By Mr. Shipley:) Okay. Do you have, in the black
19 book, Respondent's Exhibit 70 at the end?

20 A Yes.

21 Q Here, this may be easier, let me just give you -- all
22 right. Sorry.

23 A This is fine.

24 THE COURT: Is this a document that was
25 retrieved from RAM's records, Ms. Monroe?

1 THE WITNESS: Yes, this is a record -- and
2 that's my writing at the top when I mailed it to the
3 state.

4 THE COURT: Thank you.

5 Q (By Mr. Shipley:) I'm sorry, I missed that. Did you
6 address what you know about the site that may make
7 Mr. Cernero's concerns that the impressed system might
8 interfere with the built-in STIP-3 cathodic protection on
9 two of the tanks?

10 A Yes.

11 Q What do you know?

12 A That they had their own cathodic protection. And
13 that -- that both those tanks, those two small ones that
14 were later installed, were both STIP-3 tanks.

15 (An off-the-record conversation was held, after
16 which the following continued:)

17 Q (By Mr. Shipley:) Are the STIP-3 tanks close enough
18 to the cathodic protection system that's installed there
19 for the latter to appear with the factory-installed
20 cathodic protection on the STIP-3 tanks?

21 A I'm not sure about the feet. The older tanks were to
22 the south of the property and the north -- the other two
23 tanks were on the north side of the property.

24 Q How far are the -- as you say, the other two tanks
25 from the older one?

1 A Well, I'm not for sure which one is closer in place,
2 but the two are on the south side, and I believe they go
3 to the second pump on that location. And then there's
4 another pump island, and I believe one of them is on the
5 north side of that north pump island, and the other one is
6 to the northeast side. I'm not sure exactly where that's
7 located in that second pump island.

8 Q Would those tanks be further than 20 or 30 feet away?

9 A I don't know.

10 Q Okay.

11 A I mean I don't know.

12 Q I got it. We've covered 7 here, have we not?

13 With regard to the time period from February to
14 August, what was done with regard -- with regard to the
15 concerns raised by EPA's Count 8 that begins on page 15,
16 and the Citgo Thrif-T-Mart: "Failure to Test Automatic
17 Line Leak Detector Annually."

18 A I had called Rick Heck to do the test; I believe it
19 was due in November, and he went there in November. I
20 think he came back in December and the water tables were
21 too high for him to get into where the leak detectors are,
22 and it was underwater.

23 I don't know if it was -- I mean he said it was
24 underwater, so he did it at a later date. I'm not
25 familiar with -- or I don't remember what date, exactly.

1 But they were done and they did pass.

2 Q Would you say that it was done as soon as the ground
3 water level --

4 A Yes.

5 Q -- allowed it?

6 A Yes.

7 Q All right.

8 A I believe he checked the area every time he was in
9 the area doing other tests, then he did it as soon as --

10 Q Thank you.

11 A -- he could.

12 Q Turn to page 17, Count 9. Same station: "Failure to
13 Test Pressure Lines Annually." What was done between the
14 February post-inspection meeting and the time that you
15 received the Complainant?

16 A I believe this has to do with the line leak detector
17 test, because they are both tested at the same time.

18 Q So the same answer?

19 A Yes.

20 Q Right. Okey-doke.

21 On page 18, Count 10. Now, we're up to Goodwin's One
22 Stop. Count 10: "Failure to Provide Adequate Spill
23 Prevention for Tanks."

24 Looking at the time period again, the post-inspection
25 meeting to receipt of the Compliant in August of '05?

1 A All three spill buckets have been changed out.

2 Q All right. Count 11 was dismissed. Let's go to
3 Count 12, page 21: Failure to Conduct Stick readings as
4 required.

5 A On this, we have a new marketer in the store, so we
6 signed a new Marketing Agreement. And in the Marketing
7 Agreement, I have installed, as an exhibit, "Doing
8 Inventory Right," and it's an EPA document.

9 And I can't remember the wording on the -- on the
10 Marketing Agreement, but they are supposed to adhere to
11 all laws.

12 Q So you contractually requested and required the
13 people who are operating that store to follow these laws?

14 A Yes.

15 Q You understand, of course, that that would not
16 insulate RAM from ultimate liability --

17 A Yes.

18 Q -- if those people who are on the site daily fail to
19 do that.

20 A Yes.

21 Q All right. If you would, turn in the big black book
22 to the Respondent's exhibit -- exhibits, sorry -- to 46.
23 And this is a marketing exhibit which EPA has not yet
24 stipulated to the admissibility of.

25 I want you to identify, if you can, what store this

1 Marketing Agreement relates to.

2 A The one right here doesn't have the signed copy.
3 This is our generic one that we would change, according --
4 no.

5 Q Okay, I'm sorry.

6 (An off-the-record conversation was held, after
7 which the following continued:)

8 Q (By Mr. Shipley:) I'm sorry; 46, wasn't it? It was
9 48.

10 A Forty-eight?

11 Q Looking at 48, a Marketing Agreement, you can
12 identify which store that that -- store or stores that
13 that relates to?

14 A Goodwin's in Hartshorne.

15 Q Okay. And are you familiar with this document? Is a
16 copy of this in your business files?

17 A Yes.

18 Q And it bears what appears to be Ronnie Allford's
19 signature on page 11 of it. You are familiar with his
20 signature?

21 A Yes.

22 Q Is that his?

23 A Yes, and I notarized it.

24 Q And you have notarized it on the next page, correct?

25 A Yes.

1 MR. SHIPLEY: Move the admission of Respondent's
2 Exhibit 48.

3 MS. DIXON: No objection, Your Honor.

4 THE COURT: Without objection, Respondent's
5 Exhibit 48 is admitted into evidence.

6 MR. SHIPLEY: For the record, Your Honor, we'll
7 note that this was produced under the confidentiality
8 regulations of EPA for business confidentiality;
9 pardon me.

10 Q (By Mr. Shipley:) Turn, if you would, to 60.

11 MS. BOYD: Sixty-three.

12 Q (By Mr. Shipley:) Yes. All right. Turn to
13 Respondent's Exhibit 63. And I'm going to ask if you can
14 identify what that document is, for the Court.

15 A That's our inventory control at Quik Mart.

16 Q All right. And is this kept in the normal course of
17 business under your supervision?

18 A Yes.

19 Q And is it a true and accurate copy of what you have
20 in your files?

21 A Yes.

22 MR. SHIPLEY: All right. Move the admission of
23 Respondent's Exhibit 63.

24 MS. DIXON: No objection.

25 THE COURT: Without objection, Respondent's

1 Exhibit 63 is admitted into evidence.

2 MR. SHIPLEY: Thank you.

3 Q (By Mr. Shipley:) I ask you to look at Respondent's
4 Exhibit 64, and see if you can identify that for us.

5 A This was an inspection for Quik Mart that John
6 brought into my office and I signed. And it's a copy --
7 it's a carbon copy -- it's a copy of a carbon copy that I
8 received from John, John Roberts.

9 MR. SHIPLEY: All right. I misread. That's
10 already been admitted by stipulation, 64, correct?

11 MS. DIXON: (Nods head.)

12 MR. SHIPLEY: And 65 has not, correct?

13 MS. BEAVER: Correct.

14 (An off-the-record conversation was held, after
15 which the following continued:)

16 Q (By Mr. Shipley:) Let me ask you to turn,
17 Ms. Monroe, to Respondent's Exhibit 65, and ask if you can
18 identify that document.

19 A That's Inventory Control for Goodwin's at Hartshorne.

20 Q Okey-doke. Is this kept in a normal course of
21 business under your supervision?

22 A Yes. Sometimes we just store the information in the
23 computer and print it out when it's requested, or it's in
24 the file.

25 Q And the document here that is Respondent's Exhibit 65

1 is a true and accurate copy of what you have in your
2 records?

3 A Yes. I -- I believe this is the one that John
4 Cernero looked at at the time of the inspection.

5 MR. SHIPLEY: All righty. We move the admission
6 of Respondent's Exhibit 65.

7 MS. DIXON: Your Honor, if I'm not mistaken, you
8 already agreed to admit it, based upon verification.

9 THE COURT: Yes, I think 65 has been admitted.

10 MR. SHIPLEY: Thank you.

11 THE COURT: Subject to your authenticating it,
12 and I think you have just done that.

13 (An off-the-record conversation was held, after
14 which the following continued:)

15 Q (By Mr. Shipley:) Sixty-six is a copy -- if you can,
16 just identify that for us, please, ma'am.

17 A Sixty-six is part of a copy of a registration that,
18 at the time, I was -- I believed to be upgrading the
19 tanks.

20 Q All right. And this is a true and accurate copy of a
21 registration that was filled out by Ronnie Allford as it
22 shows here?

23 A Yes, and also Jimmy Countz.

24 Q And did you send this document in to the Oklahoma
25 Corporation Commission?

1 A Yes, but there was -- I have 1 of 2. There was
2 actually another set of four tanks on this upgrade.

3 Q All right. Nonetheless, what we have here are these
4 four pages you have identified as part of your business
5 record that you all filled out?

6 A Yes.

7 Q Is it a true and accurate copy of what's in your
8 records?

9 A Yes.

10 MR. SHIPLEY: Move the admission of
11 Respondent's 66.

12 MS. DIXON: Your Honor, I'm a little confused.
13 Is the exhibit being offered to show that you mailed
14 it to OCC, or that it's an official document of OCC?

15 THE WITNESS: I mailed it personally. My
16 writing is at the top. The certified mail is my
17 writing.

18 MR. SHIPLEY: That shows the certified mail
19 document number that you -- when you sent it to OCC?

20 THE WITNESS: The tracking number, yes.

21 MS. DIXON: The Plaintiff would have no
22 objection to the fact that it was mailed to OCC. I
23 would object that it is an official record of OCC.

24 THE COURT: It's your contention that because it
25 doesn't have an OCC stamp, that that is not an

1 official OCC document?

2 MS. DIXON: Exactly, Your Honor.

3 THE COURT: Well, I'm going to admit it. And
4 again, whether OCC received it and acted upon it,
5 that's another question.

6 MR. SHIPLEY: Fine, Your Honor. Thank you.

7 Q (By Mr. Shipley:) Let me ask you to turn to
8 Respondent's Exhibit 69, and ask if you can identify that
9 document for us, please.

10 A Yes. It's a suitability study for Longtown Citgo
11 that Cielo Vista Corrosion did.

12 COURT REPORTER: Who?

13 THE WITNESS: Cielo Vista Corrosion, Inc., did
14 upon my request.

15 Q (By Mr. Shipley:) And this was maintained under your
16 supervision as a business record of RAM?

17 A Yes.

18 Q A true and accurate copy of what's in your records,
19 correct?

20 A Yes, it's what's in my records.

21 MR. SHIPLEY: Move for admission of Respondent's
22 Exhibit 69.

23 MS. DIXON: I'm a little confused. I thought
24 that this had already been admitted.

25 MR. SHIPLEY: We understood that you are

1 requiring further identification.

2 THE COURT: I think that's right. It has not
3 previously been admitted.

4 MS. DIXON: No objection.

5 MR. SHIPLEY: Thank you.

6 THE COURT: Okay. Without objection,
7 Respondent's Exhibit 69 is admitted into evidence.

8 MR. SHIPLEY: Thank you, Your Honor.

9 Q (By Mr. Shipley:) Turn your attention now to
10 Respondent's Exhibit 70 -- 70. Tell us if you can
11 identify the -- I'll just ask if you can identify that
12 document.

13 A Yes. It's -- after we installed the tank in 2000, I
14 sent this document to OCC.

15 Q All right. And it has to do with the first four
16 pages and the final two pages of -- Mr. Cernero has stated
17 that it is his recollection and it's reflected in his
18 Inspection Reports and notes after speaking to you, that
19 the fifth page being a Tank Liner, Inc. invoice, as
20 something that he looked at in February of '05.

21 Is the Tank Liner, Inc., document part of business
22 records that are kept in your supervision under RAM?

23 A Yes, it's in that facility's file.

24 Q Is it a true and accurate copy of it?

25 A Yes.

1 Q All right. And same question with regard to the next
2 page which is a W.E. Mack Shipping Order for a STIP-3
3 tank, 4,000-gallon. Is this a true and accurate copy of a
4 record kept under your supervision in the business records
5 of RAM?

6 A Yes.

7 Q Okey-doke. Can you tell us whether or not this
8 particular 4,000-gallon STIP-3 tank is the 4,000-gallon
9 tank which is installed at the Citgo Thrif-T-Mart?

10 A Yes.

11 MR. SHIPLEY: Thank you. We've already admitted
12 that document, Your Honor, with Mr. Cerner's
13 testimony, but I wanted to clarify for the record
14 that we were able to identify it further with
15 Ms. Monroe.

16 Q (By Mr. Shipley:) Now, we may turn, please, to
17 Respondent's Exhibit 39. This is a Visual Inspection,
18 Inc., cathodic protection certification bearing the
19 signature of Jack Dunlap. Is this document kept in the
20 business records under your supervision at RAM?

21 A Yes.

22 Q Is it a true and accurate copy of what's in your
23 business records at RAM?

24 A Yes.

25 MR. SHIPLEY: Move the admission of Respondent's

1 Exhibit 39.

2 THE COURT: Respondent's Exhibit 39 is admitted
3 into evidence.

4 MR. SHIPLEY: Thank you, sir.

5 Q (By Mr. Shipley:) Ms. Monroe, please turn to
6 Respondent's Exhibit 42. This is a Visual Inspection,
7 Inc., Cathodic Protection Certification, bearing the
8 signature of Jack Dunlap having to do with the Longtown
9 Citgo.

10 A Yes.

11 Q Is this a true and accurate copy of a business record
12 kept under your supervision at RAM?

13 A Yes, sir.

14 MR. SHIPLEY: Move the admission of Respondent's
15 Exhibit 42.

16 THE COURT: It is so admitted.

17 MR. SHIPLEY: Thank you.

18 There seems to be some confusion as to whether
19 or not -- on our part as to whether Respondent's
20 Exhibit 48 has been admitted. It's a Marketing
21 Agreement.

22 THE COURT: I don't believe it was formally
23 admitted.

24 MR. SHIPLEY: Thank you, Your Honor. We can
25 clear that up in 30 seconds.

1 Q (By Mr. Shipley:) Turning your attention,
2 Ms. Monroe, to Respondent's Exhibit 48, a Marketing
3 Agreement signed the 10th of August, 1998. Can you
4 confirm to the Court that this is a true and accurate
5 copy --

6 A Yes.

7 Q -- of a business record kept under the supervision of
8 RAM?

9 A Yes.

10 MR. SHIPLEY: Move the admission of
11 Defendant's 48.

12 THE COURT: It is admitted.

13 Q (By Mr. Shipley:) And once again, this was turned
14 over to EPA and used under the business confidentiality
15 regulations of EPA.

16 If you would, please, ma'am, let's go back to the
17 Complaint. Turn to page 21. Looking at Count 12, again
18 having to do with the Goodwin's One Stop.

19 Count 12 has to do with failure to conduct stick
20 readings, and no release detection. What did you do from
21 the period of the post-inspection conference with
22 Mr. Cernero and Roberts until you received the Complaint
23 in August?

24 A Well, even before he was there, we have changed our
25 Marketing Agreements for each location that has the

1 A I remember they gave me the EPA "Doing Inventory
2 Right" at that inspection. I don't remember any other --
3 the pamphlet. I don't remember any other details, that's
4 been so long ago. It had to have been early '90s.

5 Q They gave you a pamphlet?

6 A Uh-huh.

7 Q And what was this pamphlet concerning?

8 A How to do stick readings and doing inventory
9 reconciliation.

10 Q And what did you do with that pamphlet, if anything?

11 A At that time, I had given it to all the marketers.

12 Q All the marketers that people --

13 A That lease our -- our stations.

14 Q All right. And the purpose of giving that stick
15 reading EPA pamphlet to the marketers was to assist them
16 in what?

17 A Learning how to do it correctly and showing them the
18 importance of the need for it. And also, we gave it to
19 our employees that we were running stations.

20 Q Let me ask you to turn back to Exhibit 46, at the --
21 and I think earlier, you actually mentioned it as an
22 addendum or an attachment to the Marketing Agreement.
23 It's a, oh, maybe a dozen-page document -- I'll be more
24 specific than that.

25 Well, it's a 12-page document entitled: "Doing

1 Inventory Control Right for Underground Storage Tanks."

2 A Yes.

3 Q Is this the document that you referred to that
4 Mr. Cernero gave you in the early '90s?

5 A Yes.

6 Q And this is the one that you are talking about having
7 passed out to your marketers as -- to direct --

8 A And employees.

9 Q -- and assist them in doing their job right?

10 A And employees, yes.

11 Q And employees? Thank you.

12 Let's turn, if you will, please, ma'am, to page 25,
13 Monroe's Service Station, Count 14. And ask what, if
14 anything, you did with regard to the concerns raised in
15 Count 14 between the post-inspection meeting and the
16 receipt of the Complaint in August '05?

17 A The liquid was removed from the tank, and we -- well,
18 to release detection. The liquid was removed from the
19 tank, and then we certified the cathodic protection
20 system, and now the tanks are out of the ground.

21 Q This was one of the instances where a -- did you
22 believe this tank was empty?

23 A Yes. We rely on our truck drivers to pull out the
24 product, and apparently, one of the tanks didn't get
25 emptied.

1 Q Do you have any clue what the value -- the gallonage
2 of how much nine inches of product would be?

3 A I think it was around 65 to 70 gallons, so \$250 or
4 so, at this price.

5 Q Wouldn't leave that laying there intentionally, would
6 you?

7 A No.

8 Q I'm sorry. That was leading.

9 Page 26, Count 15: "Failure to Operate Corrosion
10 Protection System for Tanks that are in Temporary
11 Closure."

12 What did you do between the meeting and receiving the
13 Complaint?

14 A We certified it, the system.

15 Q And with regard to Count 16, page 27, what was done
16 between the meeting and the receipt of the Complaint?

17 A I mean the system was certified, and I'm not for sure
18 about the metal flex connectors, but they weren't there at
19 the time of the inspection. I do believe they have to do
20 with the pumps, and the pumps were removed.

21 Q You said they weren't there. Are you talking about
22 the records weren't there?

23 A The pumps was removed.

24 Q I know.

25 A So that part....

1 Q With regard to Count 17 on page 29, between the
2 meeting and the receipt of the Complaint, what did you do
3 to address those issues?

4 A We didn't do an integrity test, because we had
5 contracted to pull the tanks.

6 Q All right. And turning to -- let's see here, they've
7 dropped 18, they've dropped 19, and now we move to
8 page 20 -- to page 33, Count 20, at the Longtown Citgo:
9 "Failure to Conduct Integrity Tests Prior to Installing
10 Cathodic Protection System."

11 We've already established that once you installed a
12 cathodic protection system, and you haven't done the
13 integrity test, you can never correct the technical
14 violation. But did you ever do anything in response to
15 this issue?

16 A I think at the time of the inspection the document
17 wasn't signed, and so I sent it back to Jack to sign it
18 that had originally installed it.

19 Q You had, in your records, a certification by Jack
20 Dunlap?

21 A With his name and number underneath it, it just
22 wasn't signed.

23 Q And you received this how?

24 A Through Visual Inspections at the beginning of that
25 company.

1 Q You contracted with Visual Inspections to do what?

2 A Excuse me?

3 Q And you had contracted with Visual Inspections to do
4 what?

5 A Oh, to install and -- the CP.

6 Q Okay.

7 A At several locations.

8 Q Design, install?

9 A Yes.

10 Q And it was your -- this was a company that -- why did
11 you use this company?

12 A I think we were doing bids at the time, trying to get
13 prices, and I think they were more competitive at the
14 time.

15 Q And they were, as far as you know, fully certified to
16 perform all those activities?

17 A Yes. And I asked Jack if he's still -- the other day
18 still certified in NACE, and yes, he was.

19 Q Okay. And as far as you know, the work had been done
20 by Mr. Dunlap?

21 A Yes.

22 Q And he had -- simply had failed to sign the form that
23 he sent you which showed that?

24 A Yes.

25 Q Thank you. All right. Let me ask you to come back

1 to page 26, Count 15: "Failure to Operate the Cathodic
2 Protection System." After the last order was issued in
3 August of '05, did you take any action with regard to the
4 cathodic protection system then?

5 A Yes, it was certified. And we called -- we are
6 required every 60 days to get a reading, and we called for
7 the readings.

8 Q All right.

9 A The voltage.

10 Q And were those tanks removed?

11 A Yes.

12 Q All right. In their removal, was there any evidence
13 of any leakage to the ground?

14 A The OCC didn't make us do any cleanup on the site. I
15 haven't seep the record, but --

16 Q Right.

17 A -- there was no further work needed after the tank
18 removal.

19 Q All right.

20 MR. SHIPLEY: Your Honor, let me take a few
21 minutes here, and we'll wrap up.

22 Q (By Mr. Shipley:) Do you remember, Ms. Monroe, ever
23 refusing to comply with any request by either Mr. Roberts
24 or Mr. Cernero as to any of their concerns regarding USTs
25 owned or operated by RAM?

1 A By either one of them? No.

2 Q Huh?

3 A No.

4 MR. SHIPLEY: I thank you for your attention,
5 and I -- we -- no further questions.

6 Please answer these ladies' questions, ma'am.

7 THE WITNESS: Okay.

8 *****

9 CROSS EXAMINATION

10 BY MS. BEAVER:

11 Q Hi, Ms. Monroe.

12 A Hi.

13 Q My name is Yerusha Beaver. And I don't want to keep
14 you very long, just hopefully go about five or ten
15 minutes, tops.

16 A Okay.

17 Q And I don't know how you feel, but there's no need to
18 be nervous or anything like that.

19 Prior to receiving the case in point, did RAM have an
20 environmental consultant on staff?

21 A Not on staff. Well, we did -- no.

22 Q No?

23 A We've retained one, used certain ones through the
24 years on certain deals.

25 Q Periodically?

1 A Uh-huh.

2 Q On occasion?

3 A As needed.

4 Q So besides that, you did most of the work?

5 A Yes.

6 Q Do you know what NACE -- N-A-C-E -- stands for?

7 A It's National Association of Corrosion --

8 Q Engineers.

9 A -- Engineers.

10 Q Cool. Do you know what's required to become NACE
11 certified?

12 A No.

13 Q Are you NACE certified?

14 A No.

15 Q You seem to do a great job, so you seem to be
16 qualified to do your job. Do you feel qualified to do
17 your job?

18 A Yes.

19 Q Have you ever attended or taken any environmental
20 compliance training regarding the UST program?

21 A No.

22 Q Do you have any formal education regarding
23 environmental regulations and/or UST program?

24 A No.

25 Q I want to go quickly to Respondent's Exhibit 70 that

1 you testified about. Do you have that?

2 A Yes.

3 Q Okay. First, how long does it take, in general, do
4 you know, to install a tank?

5 A Well, it depends on the weather, or if you ordered a
6 tank, or -- I mean it -- I -- it's different times. It
7 depends on the situation.

8 Q Longer than a year?

9 A No.

10 Q Shorter than a year? Like months?

11 A Should be within a month or two.

12 Q Looking at the -- I think it's the last page of that
13 exhibit, Respondent's Exhibit 70, which I believe is your
14 testimony that this was a STIP-3 tank, remind me what the
15 facility was this was installed at.

16 A Thrif-T-Mart.

17 Q Thrif-T-Mart? And it looks like the tank was ordered
18 on 5-7-98 -- '97, so, looks like it was ordered May 7th,
19 1997, based on this shipping order.

20 A Yes.

21 Q Right?

22 A This one --

23 Q And -- go ahead.

24 A This was an amended, adding the 6,000-gallon tank
25 that was installed in 2000. The other tanks were already

1 registered with the tank -- with the OCC, the other three.

2 Q Okay. I think I am now a little bit confused. This
3 particular shipping order says 4,000-gallon, seven -- I
4 guess that's seven feet by 14 feet STIP-3 tank, right?

5 A Yes.

6 Q And it shows an order date of May 7, 1997.

7 A Yes.

8 Q And it shows the date required, May 30, 1997.

9 A Yes.

10 Q And so is this the tank that was installed at the
11 Citgo Quik Mart or Thrif-T-Mart?

12 A Thrif-T-Mart, but it was installed in '98.

13 Q Why was it installed in '98 if it was -- when was it
14 received? Was it received on --

15 A We ordered it -- we ordered it in '97, when we lined
16 the two original tanks that were there, and we intended to
17 have three tanks at the site.

18 Q So was it received around May 30th '97?

19 A I assume so, because we did receive the tank; I do
20 know that.

21 Q But it wasn't installed until July of '98?

22 A Right.

23 Q Any particular reason why?

24 A Well, at this property, it was just property with two
25 tanks, there wasn't a store or anything on this property,

1 so we were building the store at this location. So I
2 don't know if they were waiting -- what the construction
3 of the store was.

4 Q Okay.

5 A At that time. But the two 10,000s were in the ground
6 and we lined them.

7 Q Do you know the effect or the potential effect that
8 having an impressed current system and a cathodic
9 protection system on a STIP-3 tank can have?

10 A I mean --

11 Q Let me rephrase. Do you know the effect that it can
12 have to have both an impressed system and the corrosion
13 protection system of a STIP-3 tank?

14 A Well, I listened to John's discussion earlier.

15 Q Did you know before that, the negative potential of
16 the effect of that?

17 A I don't really know the technical -- how the tank
18 works. Like you said, I'm not NACE certified, so I
19 can't....

20 Q Okay. Let's talk a little bit about the Goodwin's
21 One Stop and the stick reading issue. That concern, I
22 believe, was Count 12. How many ways are there to take a
23 stick reading at your facilities?

24 A Just one way. You just open the tank and lower the
25 stick. And it has inches, and then you have to convert

1 the inches to gallons.

2 Q How do you report those measurements?

3 A Whoever is on site has a daily report or a shift
4 report, and they record them on that. And then it's taken
5 to our office and translated -- I mean it's put into our
6 computer system.

7 Q Okay. You talked about the "Doing Inventory Control
8 Right" pamphlet. Does that include sample documents of
9 how to record stick readings?

10 A I do believe, yes.

11 Q Have you read the document?

12 A A long time ago.

13 Q Okay. Do you know whether or not you all used those
14 sample documents, or you use your own?

15 A No, we use our own. Every station has different
16 tanks.

17 Q Okay.

18 A Different information.

19 Q Okay. Do you recall telling Mr. Cernerero, at the time
20 of the inspection, that the product remaining in the three
21 tanks were not measured every day?

22 A He looked at the inventory and discovered that
23 himself. He was looking at my paper and it would say
24 zero; and apparently, on those days, they didn't do a
25 stick reading.

1 Q So you don't recall telling him that the measurements
2 were not taken every day?

3 A He discovered it by looking at the document. I gave
4 him the document to look at.

5 Q Did you discuss it with him?

6 A Yes, afterwards.

7 Q Are all of your facilities leased?

8 A No, two are leased -- well, three are leased.

9 Q Of the five? Of the five?

10 A Three are leased and two are company stores.

11 Q Okay. Whose responsibility is it to conduct the
12 stick readings at your facilities, at all of them?

13 A The manager is responsible at our convenience stores
14 that we operate, and the marketer is responsible for
15 getting them at the lease stores.

16 Q So the responsibility to take the stick readings, you
17 put on the marketer at the lease facilities, at the three
18 lease facilities?

19 A Well, I mean they can delegate it. They can't be
20 there 365 days, either.

21 Q Okay. So, but as far as you're concerned, who do you
22 tell to be responsible for conducting the stick
23 readings --

24 A I told the --

25 Q -- at the lease facilities?

1 A -- the marketer that signed the lease.

2 Q And at the two facilities that are not leased, who's
3 responsible for doing the stick reading?

4 A The manager.

5 Q Are you a manager at one of those facilities?

6 A No, I'm over all the facilities.

7 Q Okay. You manage them?

8 A I manage them, all facilities.

9 Q So you manage the managers at the facilities?

10 A Yes.

11 Q Okay. And you said that you provide the "Doing
12 Inventory Control Right" pamphlet to all of those, the
13 managers and the product marketers?

14 A Yes.

15 Q Do you know whether or not they have read that
16 document?

17 A No, I do not.

18 Q Do you have any system in place to ensure that they
19 have read the document?

20 A Well, I know my managers know how to stick the tanks.
21 I mean, and, you know, we take that information and put it
22 into our system for inventory control.

23 Q Is there some type of training that teaches your
24 managers and marketers how to do the stick readings and
25 perform the other requirements?

1 A Well, we do that in the office off the paperwork. We
2 do the inventory reconciliation in the office off the
3 paperwork. They fax it to us.

4 Q Is there some type of training that teaches your --

5 A I --

6 Q -- managers and marketers how to take stick readings
7 and how to comply with the regulation?

8 A I give them the paper, the EPA paper, and I tell them
9 how to stick the tanks. And that is transmitted to our
10 office, and we put it into the computer there. And I
11 trained that lady personally how to do the inventory.

12 Q Which lady is that?

13 A Right now, her name is Sue Crisinger (spelled
14 phonetically).

15 Q And who is she?

16 A She is our retail station entry lady. I mean she
17 does all the reports.

18 Q She does data entry?

19 A Yes.

20 Q Oh, okay. But she's not a manager or a marketer?

21 A No.

22 Q Okay. I think I just have a few more. Thank you for
23 bearing with me.

24 There was some testimony about -- and I just had a
25 couple of fun facts. There was some testimony about

1 gasoline and its impact on ground water and so forth. Are
2 you aware that it only takes one gallon of gasoline to
3 contaminate one million gallons of water?

4 A I didn't know that fact, no.

5 Q I just learned it from Mr. Cernero.

6 Also, are you aware that 50 percent of our nation's
7 drinking water comes from ground water?

8 MR. SHIPLEY: Your Honor, I object to this line
9 of testimony by the EPA.

10 MS. BEAVER: Your Honor, I was simply attempting
11 to respond to what appears to be an examination
12 regarding the potential for harm of leaks and so
13 forth, but I will go on to my next question.

14 THE COURT: Yes, please do so.

15 MS. BEAVER: Okay.

16 Q (By Ms. Beaver:) There was testimony about pulling
17 the tanks at Monroe. Do you know when you contracted to
18 have those tanks pulled, the date that you contracted to
19 have those pulled?

20 A Not right offhand.

21 Q Do you recall --

22 A It was after --

23 Q Do you remember if it was after the inspection?

24 A It was after the Complaint.

25 Q The Complaint?

1 A Uh-huh.

2 Q And the inspection?

3 A Yes.

4 Q And prior to removing those tanks -- never mind,
5 that's already been testified, so I don't need to get more
6 testimony there.

7 One question regarding Count 3, which was failure to
8 do the monthly release detection monitoring, and that was
9 regarding the 12,000-gallon diesel tank at the Citgo Quik
10 Mart. Do you recall telling Mr. Cernero that that tank
11 was not in use?

12 A I told him that it wasn't in use.

13 Q Yeah.

14 A I didn't -- I told him I didn't know it had product;
15 I didn't think they had been using that tank.

16 Q Okay. And did you mention anything to him about that
17 tank being an emergency tank?

18 A Well, sometimes, if a semi comes in and a stick
19 reading has been read wrong, and they have too much
20 product on the truck, we would put it in that tank,
21 because the truck has to go to its next location.

22 Q But are you aware that doesn't constitute an
23 emergency tank, under the regs?

24 A I mean that was what we used it for, is an emergency
25 tank.

1 Q Okay. If you needed it to put extra --

2 A Right. Right, if the truck was overloaded.

3 Q Okay. Do you -- have you found Mr. Roberts to be
4 helpful in making sure that you guys know what is required
5 of you and what you need to do under the UST regs?

6 A Yes. I mean I take his instruction and I -- you
7 know, if he finds something, I try to comply.

8 Q Okay. So has he, at any time, communicated to you
9 since -- since September of 2000 some things that you guys
10 need to do differently?

11 A He has told us -- I mean not on -- I don't think --

12 Q Just verbally, for example. Verbally, has he given
13 you compliance assistance?

14 A He's told -- yes.

15 Q Okay. At any time, has Mr. Roberts called you and
16 said, "hey," you know, quote unquote, like "Ms. Monroe,"
17 or "hey, Twilah, is everything okay?"

18 A I mean he usually has something else, you know, to
19 talk about when he calls me.

20 Q Yeah.

21 A He doesn't call me just for a friendly conversation.

22 Q No, I don't -- I'm sorry, I didn't mean to imply that
23 he calls you to be friendly, as much as has he, at any
24 time, called you to ask you, "are things okay with the
25 facility? Are things in order with the facilities?"

1 A I mean usually when he does, he has asked me, you
2 know, for testing, and then he will come get a copy of it
3 or something if he's at a site, and then he comes and
4 brings the paperwork down there to be signed.

5 Q Would it surprise you to know that Mr. Roberts has
6 said at times that he's called you to say, "hey, is
7 everything okay with the facilities?"

8 A I mean usually he's talking about a certain facility.
9 I mean he's just not saying, "is everything all right." I
10 mean not usually -- I don't remember.

11 Q In your time with the -- because you said you have
12 been with RAM for 15 years.

13 A Uh-huh.

14 Q And the -- I understand the inspections are annual
15 that Mr. Roberts performs.

16 A He's in my office more than that.

17 Q He's in your office more than once a year?

18 A Yes. Because facilities are due at different times,
19 or he may be doing a calibration check at the stores,
20 or --

21 Q Regarding each facility, is he in your office --
22 take, for example, Monroe's -- well, let's do Quik Mart.
23 Is he in your office more than one time a year --

24 A Yes.

25 Q -- for the Quik Mart facility?