



## **EXHIBIT 8**

### **Marcel Moreau Deposition Excerpts**

- Pages 187-188, 200, 204, 767, 773-774, 780 from the deposition testimony of Marcel Moreau, taken April 4, 2012 and April 11, 2012.

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1 A. I don't have any record specific to  
 2 a spill bucket, and I don't see any permit  
 3 applications. A permit would have been required  
 4 if the work was done. I don't know exactly when  
 5 that would have started. Sometime in the early  
 6 '90s, if not sooner. So the available evidence  
 7 indicates or doesn't indicate that a spill bucket  
 8 was added to this facility in the 1990 time frame  
 9 or any time in the 1990's.

10 Q. So there is soil contamination in  
 11 the vicinity of the tank area, and the precise  
 12 cause of that contamination cannot be identified  
 13 because of the lack of documentation in the  
 14 records as they exist today?

15 MS. O'REILLY: Vague and ambiguous.  
 16 Go ahead.

17 A. As far as the records that I have  
 18 reviewed, there are no records that point to  
 19 specific releases associated with what I would  
 20 call the tank area. There is contaminated soil,  
 21 so something happened in the area. The records  
 22 of what those events might be are not present in  
 23 the record.

24 Q. With regard to the piping and  
 25 dispenser area releases, there is a reference to

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1 an inspection in August of 2000 where evidence of  
 2 fuel releases were found in the dispenser  
 3 containment sumps with an active leak in one  
 4 dispenser.

5 Are the dispenser containment sumps  
 6 referred to on Page 5 of 6 of your report for the  
 7 Red Triangle facility under pan -- pardon me --  
 8 under dispenser pans which contain leaks from the  
 9 dispensers and prevent them from entering the  
 10 environment?

11 MS. O'REILLY: Assumes facts, lacks  
 12 foundation. Go ahead.

13 A. The purpose of a dispenser pan is  
 14 to capture releases from the -- any of the  
 15 dispenser components above the dispenser pan.  
 16 It's not uncommon for dispenser pans to not be  
 17 liquid tight, even though that's what they're  
 18 suppose to do. In cases such as this, I would  
 19 look for testing records that would establish the  
 20 integrity of the dispenser pan. In this  
 21 particular case, we were not able to find or we  
 22 did not have any testing records for the  
 23 containment sump, so we don't know whether that  
 24 sump was liquid tight or not.

25 Q. With regard to the opinions you've

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1 formed in this case, is it your opinion that a  
 2 leak into the environment occurred after 1998  
 3 from the containment sumps in the vicinity of the  
 4 dispenser area?

5 A. We don't have any post '98 soil  
 6 sampling results from underneath the dispensers.  
 7 So we have identified some instances when there  
 8 were releases from within the dispenser cabinet.  
 9 I'm not able to establish whether those releases  
 10 were successfully contained or whether they made  
 11 it into the environment.

12 Q. For the period prior to 1998, do  
 13 you have any maintenance records indicating that  
 14 maintenance was performed and leaks were observed  
 15 at the dispensers at the Red Triangle facility?

16 MS. O'REILLY: Asked and answered.

17 A. This was leaks in dispensers and  
 18 piping?

19 Q. It's for the period 19 -- prior to  
 20 1998, do you have any records indicating that  
 21 maintenance was performed and leaks were observed  
 22 at the dispensers at the Red Triangle facility?

23 A. Yes.

24 Q. And what records do you have?

25 A. If we look at the document listing,

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1 Page 11 of 22, the bottom entry.

2 Q. I'm with you.

3 A. There's an indication that there  
 4 was a leak in a union at a sump found as well as  
 5 the plug above the impact valve, the bottom  
 6 language.

7 Q. And this is in August of 1998?

8 A. I have it as June of '98.

9 Q. Okay.

10 A. Wait a minute. Wait a minute.  
 11 Yeah, the general entry is June of '98, but the  
 12 specific reference appears to be an August '98  
 13 event.

14 Q. And the August '98 event that's  
 15 described is for a release of diesel product; am  
 16 I correct?

17 A. That specific incident was for  
 18 diesel, that's correct.

19 Q. Are there any records of  
 20 maintenance having occurred at the facility prior  
 21 to 19 -- in or prior to 1998 which indicated that  
 22 leaks were observed in the dispensers with  
 23 gasoline being the product released?

24 MS. O'REILLY: Asked and answered.

25 A. For the period 1998 and before,

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1 Q. Is there any evidence to indicate  
 2 that the tanks at the Red Triangle facility prior  
 3 to 1998 failed a integrity test?  
 4 A. All the test records that we  
 5 reviewed from the 1990's had a passing test  
 6 result.  
 7 Q. With respect to the tanks installed  
 8 in '98, were there any tests indicating that the  
 9 post '98 tank field experience, or post '98 tanks  
 10 experienced any failures of integrity tests?  
 11 MS. O'REILLY: Vague and ambiguous.  
 12 A. I believe the only test results we  
 13 have were the installation testing of the tanks,  
 14 and it appears the tanks passed the tests in  
 15 September of '98.  
 16 Q. Prior to 1998, are there any  
 17 documents indicating that any of the product  
 18 lines or associated equipment failed an integrity  
 19 test?  
 20 A. Prior to 1998, there's no  
 21 indication of a failed tightness test on the  
 22 lines. That test would not have included, most  
 23 likely would not have included the STPs or the  
 24 dispensers, however.  
 25 Q. With regard to the period after

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1 1998 and the new tanks were installed, were there  
 2 any tests indicating that the product lines  
 3 failed an integrity test after 1998?  
 4 A. It appears they may have had some  
 5 issues passing the original tightness test in  
 6 September of '98, but I don't believe we have any  
 7 tightness test results after that date.  
 8 Q. Based on your review of the records  
 9 in this case, is it your opinion that there was a  
 10 release from the new tank system with secondary  
 11 containment installed after 1998?  
 12 MS. O'REILLY: Vague and ambiguous,  
 13 overbroad.  
 14 A. I don't believe we have any soil  
 15 information, soil contaminant, or let me see. We  
 16 don't have any soil samples taken after 1998 from  
 17 relevant areas that would reveal whether there  
 18 were post-1998 releases, so I can't say whether  
 19 or not we have evidence of that.  
 20 Q. Is it your opinion, though, that  
 21 there were releases from the 1998 installed tank  
 22 system?  
 23 MS. O'REILLY: Asked and answered.  
 24 Go ahead.  
 25 A. I would say given the lack of

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1 evidence, I don't think I have -- I don't have an  
 2 opinion as to whether or not there were releases  
 3 from the post-'98 storage system.  
 4 Q. Was there any evidence that you  
 5 reviewed in this case that prior to 1998 there  
 6 was documentation indicating there were repairs  
 7 or replacement of a leaking STP at the Red  
 8 Triangle station?  
 9 MS. O'REILLY: Same objections,  
 10 vague and ambiguous.  
 11 A. There were few, if any, what I  
 12 would call maintenance or repair records present  
 13 in the file for the pre-1998 period, so I don't  
 14 have any specific repair records, but releases  
 15 from STPs are fairly common occurrences.  
 16 Q. Did you see any URR reporting that  
 17 there had been a release from any STP prior to  
 18 1998 at the Red Triangle facility?  
 19 MS. O'REILLY: Assumes facts. Go  
 20 ahead.  
 21 A. I believe I've already indicated  
 22 that we don't have any URRs for the Red Triangle  
 23 facility, at least not in the documents that we  
 24 reviewed. That doesn't mean that releases didn't  
 25 occur, just that they weren't reported.

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1 Q. With regard to the STPs prior to  
 2 1998, when the tank system was replaced, was  
 3 there any documentation of the removal of  
 4 contaminated or saturated soils in the vicinity  
 5 of the STPs at this facility?  
 6 MS. O'REILLY: Vague and ambiguous.  
 7 A. We have a statement that some  
 8 petroleum hydrocarbon odors were noted from the  
 9 tank pit at the west end of the pit under the  
 10 gasoline tanks, and this is for the December 28th  
 11 UST removal report, so this is the tank that was  
 12 removed in December of '98. What I don't have  
 13 is, or at least I'm not recalling whether I have  
 14 a diagram that indicates which end of the tanks  
 15 the STPs for that particular tank field were  
 16 located. So we have indications of contamination  
 17 at one end of the tanks. I would need do some  
 18 research to determine whether that was the STP --  
 19 whether that was the end of the tanks where the  
 20 STPs were located.  
 21 Q. And looking at your report, there  
 22 are some 1998 graphics for the Red Triangle  
 23 facility, and specifically we are referring to  
 24 RWQCB-FRESNO-009928 and 009936.  
 25 Are those the only graphics that

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1 you have from Parker Environmental or any other  
 2 consultant or agency illustrating the location of  
 3 the tanks at the Red Triangle facility that were  
 4 removed in December 1998?  
 5 MS. O'REILLY: Vague and ambiguous,  
 6 overbroad. Go ahead.  
 7 A. I would say those are probably not  
 8 the only graphics. Having gone through this  
 9 exercise in other cases, I determined that it  
 10 would be helpful to have some diagrams when we  
 11 were going through our deposition, and so as I  
 12 was reviewing documents, I would select out  
 13 graphics, primarily ones that showed soil sample  
 14 locations. So these are just not quite random,  
 15 but they're selections of the graphics that were  
 16 available.  
 17 If I were trying to identify the  
 18 location of an STP, I would first start with some  
 19 of the tank test records that we have, 'cause  
 20 those often times include a diagram of the site  
 21 and would indicate where the STPs might be  
 22 located.  
 23 Q. And do you have any of those in  
 24 your collection of documents that reflect the  
 25 location of the submerged turbine pumps on this

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1 particular tank field?  
 2 MS. O'REILLY: Asked and answered.  
 3 Go head.  
 4 A. They may be present in my hard  
 5 drive, but I would need to go look them up.  
 6 Q. And with respect to the reference  
 7 to this particular facility and tank field, are  
 8 you talking about the UST removal at 2808 South  
 9 Chestnut or are you referring to the removal at  
 10 the adjacent facility? 'Cause there were two,  
 11 correct?  
 12 MS. O'REILLY: Okay. There are  
 13 two, Bill, but I think they're at the same  
 14 address. Why don't you have him explain his  
 15 report.  
 16 Q. More importantly, it's just when  
 17 you made reference to this notation, do you know  
 18 which tank field they were talking about, was it  
 19 the one just with the gasoline tanks or is it the  
 20 location where they had a combination of kerosene  
 21 and diesel and gasoline?  
 22 A. If you look just a couple pages  
 23 ahead.  
 24 Q. Okay.  
 25 A. There's a diagram right -- the very

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1 first diagram.  
 2 Q. Okay. I got it.  
 3 A. You got it?  
 4 Q. That would be RWQCB-FRESNO-010508?  
 5 A. Correct. So my understanding of  
 6 this facility is that in the lower left corner of  
 7 that diagram there was essentially a retail fuel  
 8 facility that contained some storage tanks and  
 9 dispensers, and then sort of in the middle of  
 10 that diagram there's a dotted line that says  
 11 "Former UST Locations," and those would be the  
 12 ones that contained gasoline, diesel, and I think  
 13 weed oil in one of those tanks. I believe the  
 14 releases from the tanks that I was describing  
 15 earlier are the ones from the non-retail side of  
 16 the facility, the ones that would be in the  
 17 middle of that diagram. So in my mind, they were  
 18 distinguished as retail and non-retail.  
 19 Q. And the non-retail were used for  
 20 fueling a fleet of vehicles?  
 21 A. It was never clear to me what they  
 22 were used for. They didn't particularly appear  
 23 to be associated with dispensers. I couldn't  
 24 quite determine what exactly those tanks were  
 25 used for, whether this was a bulk plant of some

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1 kind or a repackaging facility of some kind or  
 2 what was going on.  
 3 Q. With regard to the Red Triangle  
 4 facility, did you have any information by which  
 5 you could estimate the volume of gasoline sold at  
 6 this facility prior to 1998 on an annual basis?  
 7 A. From the retail or non-retail or  
 8 either?  
 9 Q. Either.  
 10 A. Based on my recent review of the  
 11 document listing, it doesn't appear that -- oh,  
 12 wait a minute.  
 13 We had some inventory quarterly,  
 14 the quarterly inventory reconciliation documents  
 15 that were submitted in the early '90s for this  
 16 facility. I would go there first to see if they  
 17 had some through-put information, but I don't  
 18 have any on the top of my head.  
 19 Q. With respect to the work that you  
 20 did in this case, did you determine what the  
 21 allowable stock loss tolerance would be for the  
 22 tanks that were in use at the facility prior to  
 23 1998, either retail or non-retail?  
 24 A. What the inventory tolerance might  
 25 be?

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1 we have would point to submersible pumps and  
2 deliveries. The record really is silent about what  
3 was happening in the middle of the tanks. So we can  
4 definitely identify submersibles and delivery  
5 spills, and we don't really have enough information  
6 to say whether tank top fittings may have been an  
7 additional source of release or not.  
8 BY MR. PÉREZ:  
9 Q. On page 2 of 4 in the February 18th,  
10 1999 entry, you mentioned product line trenches, and  
11 indicate that no analytes were detected in the simple  
12 sample collected -- in the single sample collected,  
13 excuse me, at 3 feet bgs. Do you see that?  
14 A. I see that, yes.  
15 Q. Is it your opinion that the product  
16 lines are not a potential source of releases at  
17 Beacon 3519?  
18 MS. O'REILLY: Misstates the document.  
19 Vague and ambiguous.  
20 THE WITNESS: No. It would be my opinion  
21 that, based on a single soil sample, there was no  
22 contamination associated with that particular  
23 location of the piping. There were other locations  
24 along the piping where samples might have been taken  
25 but were not.

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1 So the record we have doesn't point to  
2 piping releases, but I wouldn't offer the opinion  
3 that there were no piping releases from this site.  
4 BY MR. PÉREZ:  
5 Q. Would your answer to the question of  
6 when the earliest release of MTBE -- or MTBE gasoline  
7 occurred at the site be the same as it was when I  
8 asked the same question regarding 5th Wheel?  
9 MS. O'REILLY: Vague and ambiguous.  
10 Go ahead.  
11 THE WITNESS: Yes, it would. But the --  
12 that customer spillage is a routine event and  
13 probably would have -- would have begun to occur very  
14 shortly after the first load of MTBE gasoline was  
15 delivered to the site.  
16 BY MR. PÉREZ:  
17 Q. And would you answer that question  
18 the same way for the remaining sites that we're  
19 discussing?  
20 A. Unless we have reference to a  
21 specific spill, I believe -- at some of these other  
22 sites, then I believe the answer would be the same.  
23 Q. With respect to the customer spills,  
24 do you have any information indicating the occurrence  
25 of a small spill during vehicle fueling activities at

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1 this site?  
2 A. The Facility Summary doesn't describe  
3 any specific spill events that we discovered in  
4 reviewing the documents associated with this site.  
5 So we don't have a -- any documentation of a specific  
6 spill event.  
7 Q. If the customer spill section reads  
8 as this one does for this site, as many of them do  
9 for other sites, can we assume from this -- from  
10 these two sentences, that you have used with respect  
11 to many sites, that you found no documentation in  
12 your document review that indicated the occurrence of  
13 a specific customer spill or a spill during vehicle  
14 fueling activities at the site?  
15 MS. O'REILLY: Vague and ambiguous.  
16 Misstates testimony.  
17 Go ahead.  
18 THE WITNESS: I believe that would generally  
19 be correct. That if we found documentation of a  
20 specific spill, it was certainly our intent to  
21 include it in this section of the report.  
22 And so if there is no -- there are no  
23 references to specific spills, then I think it's a  
24 fair -- it's fair to conclude that we did not find  
25 any specific documentation relative to spills in the

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1 documents that we reviewed.  
2 BY MR. PÉREZ:  
3 Q. Did you evaluate for this site  
4 whether any off-site source contributed to the  
5 presence of MTBE at the site?  
6 MS. O'REILLY: Assumes facts. Lacks  
7 foundation.  
8 THE WITNESS: For our purposes, we were just  
9 trying to determine whether the facilities at this  
10 site had had a release. There is ample evidence of  
11 soil contamination immediately adjacent to the tank  
12 and dispenser components at this site and well above  
13 the water table. So we did not investigate whether  
14 there might have been an off-site contribution to the  
15 groundwater contamination at this site.  
16 BY MR. PÉREZ:  
17 Q. On page 3 of 4 in the March 15th,  
18 2004 entry you mention a well, City of Fresno  
19 Municipal Well 30A that's located about 600 feet west  
20 of the site, correct?  
21 A. That's the general content of that  
22 sentence, yes.  
23 Q. You don't have any opinions regarding  
24 whether contamination from this site or any other  
25 site impacted or threatens to impact any particular

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1 California gasoline.  
2 So June of '98 would be the last time or the  
3 last event where evidence of a release was  
4 discovered -- of gasoline that contained MTBE.  
5 BY MR. PÉREZ:  
6 Q. And with respect to the January of  
7 2009 and January 2010 releases that you just  
8 mentioned, you state for both of those, quote, "This  
9 release likely did not contribute to the MTBE  
10 contamination at this facility," closed quote.  
11 Correct?  
12 A. Well, the first part of that sentence  
13 is, "MTBE should not have been present in California  
14 motor fuel in 2010." One of them should have said  
15 209 (sic).  
16 So this release likely did not contribute to  
17 the MTBE contamination at this facility, that's  
18 correct.  
19 Q. And this is a case where in the  
20 "Customer Spill" section you do mention a specific  
21 customer release occurring in August of 2005,  
22 correct?  
23 A. That is correct.  
24 Q. And that was also after the time that  
25 MTBE was no longer in use in California gasoline,

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1 right?  
2 A. It should not have been present in  
3 the gasoline, that's correct.  
4 Q. For this site did you consider the  
5 possibility that any off-site source could have  
6 contributed to the presence of MTBE at the site?  
7 A. Again, the thrust of our  
8 investigation was to determine whether releases had  
9 occurred at the storage systems at this particular  
10 site.  
11 In this particular case, there was ample  
12 evidence of soil contamination immediately adjacent  
13 to the storage systems, well above the water table.  
14 So I did not feel the need to investigate whether  
15 off-site sources of contamination may have  
16 contributed to the contamination at this site.  
17 Q. On page 4 of 5, with respect to the  
18 June of 1998 release discussed in the last paragraph;  
19 do you see that?  
20 A. I do.  
21 Q. You mention possible sources of that  
22 release being delivery spills or leaks from the  
23 submersible pump or adjacent piping. Do you have any  
24 opinion with respect to which of those two possible  
25 sources that you mention is more likely than the

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1 other to have been the source of the release?  
2 MS. O'REILLY: Vague and ambiguous.  
3 Overbroad.  
4 THE WITNESS: In general, I would say that  
5 the submersible pump and adjacent piping is likely --  
6 is more likely to be a significant source of release  
7 or a more significant source than a delivery spill.  
8 I need to go and look up the soil sample  
9 results, if you wanted to get more specific than that  
10 for this specific site.  
11 MR. PÉREZ: Not necessary.  
12 Q. For all -- for any of the releases  
13 that you discussed in the "Identification of MTBE  
14 Releases" section, were you able to calculate the  
15 volume of the release?  
16 A. At this site?  
17 Q. Yes.  
18 MS. O'REILLY: Vague and ambiguous.  
19 THE WITNESS: Except for the customer spill  
20 in August of 2005, the volume released was not able  
21 to be determined for the other release incident or  
22 for the evidence of releases that was discovered at  
23 various times.  
24 BY MR. PEREZ:  
25 Q. Were you able to determine the

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1 duration of any of the releases that you identified  
2 for this site?  
3 A. For the active release discovered in  
4 June of '94, the statement in the report is that,  
5 "When the leak began is not known." So we were not  
6 able to establish a start point for that release.  
7 And then for the other evidence of releases,  
8 the statement is that the releases were likely  
9 intermittent.  
10 Q. On page 3 of 5, September --  
11 September 27th, 1998 entry you note that, "The Tank  
12 Closure Report indicated that the tanks removed were  
13 in good condition and there were no holes or pitting  
14 observed in any of the USTs." Do you see that?  
15 A. I see that, yes.  
16 Q. Does that indicate to you that there  
17 was never a release from the tanks themselves at this  
18 site?  
19 MS. O'REILLY: Vague and ambiguous.  
20 Overbroad.  
21 THE WITNESS: As I've discussed before, the  
22 type of observations that are made during tank  
23 removal are typically very cursory. So I take this  
24 to be an indication that there was no obvious holes  
25 in the tank from the outside.

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1 I would point out that internal corrosion  
 2 holes are very difficult to spot. So the indications  
 3 are that there were no holes observed when these  
 4 tanks were removed. I wouldn't go so far to say that  
 5 the tanks themselves never leaked.  
 6 BY MR. PÉREZ:  
 7 Q. Let's go on to the next site, please,  
 8 which is Fresno Valley Gas. If you could look at the  
 9 Site Specific Report you prepared for that site.  
 10 It's located at 2139 South Elm Street in Fresno.  
 11 A. I have that.  
 12 Q. Looking at the "Identification of  
 13 MTBE Releases" section, would you agree that among  
 14 the releases discussed here in both the "Tank Area  
 15 Releases" and the "Piping and Dispenser Area  
 16 Releases" section, for those releases prior to 1992,  
 17 none of those contributed to the presence of MTBE at  
 18 the site; is that correct?  
 19 MS. O'REILLY: Misstates the document.  
 20 Vague and ambiguous.  
 21 THE WITNESS: There's several actual release  
 22 incidents -- or active releases that were discovered  
 23 in the time period before 1992. And the statement  
 24 associated with those in the report is that MTBE was  
 25 not commonly present in California gasoline in --

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1 insert the appropriate date -- but it would be before  
 2 the fall of 1992. So it's unlikely that this release  
 3 contributed to the MTBE contamination at this  
 4 facility.  
 5 So without having specific information about  
 6 a gasoline supplier, sort of the default opinion is  
 7 that a release of MTBE was unlikely prior to the fall  
 8 of '92.  
 9 BY MR. PÉREZ:  
 10 Q. For any of the releases discussed in  
 11 the "Identification of MTBE Releases" section for  
 12 this site, were you able to determine the volume of  
 13 the release?  
 14 MS. O'REILLY: Asked and answered. Vague  
 15 and ambiguous.  
 16 Go ahead.  
 17 THE WITNESS: A specific volume for any of  
 18 the releases or any of the evidence of releases that  
 19 was discovered could not be determined with the  
 20 documentation that was provided.  
 21 BY MR. PÉREZ:  
 22 Q. Were you able to determine the  
 23 duration of any of these releases?  
 24 MS. O'REILLY: Same objections.  
 25 THE WITNESS: With regard to the actual

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1 release incidents, I was not able to determine the  
 2 start of the release for any of those incidents that  
 3 were identified.  
 4 With regard to the evidence of a release  
 5 provided by soil contamination, the report states  
 6 that the releases were likely intermittent.  
 7 BY MR. PÉREZ:  
 8 Q. And were you able to identify the  
 9 source for any of the releases you identified in this  
 10 section for this site?  
 11 A. There were a number of sources  
 12 identified. Do you want to go through the list?  
 13 Q. Sure.  
 14 A. In August of '89, the unleaded  
 15 turbine pump was observed to be leaking. A fill  
 16 riser was found to be leaking in April of 1992. The  
 17 specific tank is not identified. Piping and  
 18 dispensers 4 and 6 were observed to be leaking in  
 19 August of '89.  
 20 A piping leak was identified in the Premium  
 21 dispenser in October of 1990. A piping leak in a  
 22 dispenser riser, the particular dispenser is not  
 23 identified, was observed in April of 1992. A leak in  
 24 the Unleaded piping was repaired in August of 1999.  
 25 A piping leak near the southern dispenser islands was

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1 repaired in November of '99.  
 2 I think that's it for the actual releases  
 3 that were identified.  
 4 Q. Do you have any opinions regarding  
 5 the occurrence of a release at this site between the  
 6 fall of 1992 and August of 1999?  
 7 MS. O'REILLY: Vague. Ambiguous.  
 8 Overbroad.  
 9 BY MR. PÉREZ:  
 10 Q. If you look on page 4 of 5, just to  
 11 help you answer the question. Under the "Piping and  
 12 Dispenser Area Releases," the third paragraph talks  
 13 about a spill in April of 1992. And you have stated  
 14 earlier that MTBE was not commonly present in  
 15 California gasoline beginning in the fall of 1992,  
 16 correct?  
 17 And the next paragraph talks about a release  
 18 or a line leak repair in August of '89.  
 19 So in between those two incidents, do you  
 20 have any opinion regarding the occurrence of any  
 21 release in that time frame?  
 22 MS. O'REILLY: Vague. Ambiguous.  
 23 Overbroad. Asked and answered.  
 24 THE WITNESS: The documented release  
 25 incidents are -- or there's a gap in the documented