

IN THE DISTRICT COURT OF
MIDLAND COUNTY, TEXAS,
238TH JUDICIAL DISTRICT

HALLIBURTON ENERGY SERVICES,) No. CV-44,964
INC. and HALLIBURTON GROUP)
CANADA)
Plaintiffs,)
vs.)
PACKERS PLUS ENERGY SERVICES,)
INC.; PACKERS PLUS ENERGY)
SERVICES, INC. USA; PACKERS PLUS)
ENERGY SERVICES (U.S.A.) LIMITED)
PARTNERSHIP; DANIEL THEMIG;)
PETER KRABBen; and KENNETH)
PALTZAT)
Defendants.

**WEATHERFORD
INTERNATIONAL, LLC, et al.**

EXHIBIT 1008

**WEATHERFORD
INTERNATIONAL, LLC, et al.**
v.
**PACKERS PLUS ENERGY
SERVICES, INC.**

CONTINUED DEPOSITION OF
DANIEL JON THEMIG

Calgary, Alberta, Canada
January 8, 2007

Volume 3

L. V. Payne, Esq. For Halliburton Energy Services, Inc. and
D. R. Wilson, Esq. Halliburton Group Canada
W. M. Imwalle, Esq.

R. R. Fletcher, Esq. For Packers Plus Energy Services Inc.,
Packers Plus Energy Services, Inc. USA,
and Packers Plus Energy Services
(U.S.A.) Limited Partnership

K. Nash, Esq. For Daniel Themig, Peter Krabben, and
Kenneth Paltzat

Alana C. Douglas, CSR(A) Realtime Reporter

1 (PROCEEDINGS RESUMED AT 9:13 A.M.)
 2 THE VIDEOGRAPHER: Here begins Videotape
 3 Number 1 in the videotaped deposition of
 4 Daniel Themig in the matter of Halliburton Energy
 5 et al. vs. Packers Plus Energy et al. in the
 6 District Court of Midland County, Texas, 238th
 7 Judicial District, Action Number CV-44,964.
 8 Today's date is January 8th, 2007. Time on the
 9 video monitor is 0913.

10 This video deposition is
 11 taking place at the office of Macleod Dixon in
 12 Calgary, Alberta, Canada. The video operator
 13 today is Lee O'Geil of Independent Reporters.
 14 Court reporter today is Alana Douglas of
 15 Independent Reporters.

16 Would all those present
 17 please identify yourselves for the record.

18 MR. PAYNE: Les Payne for plaintiff.
 19 MR. WILSON: Douglas Wilson for
 20 plaintiff.
 21 MR. IMWALLE: William Imwalle for
 22 plaintiff.
 23 MR. SIMPSON: Jim Simpson, Packers Plus
 24 Energy Services Inc.
 25 MR. KRABBEN: Peter Krabben,

1 Packers Plus.
 2 MR. PALTZAT: Ken Paltzat, Packers Plus.
 3 MR. NASH: Kevin Nash for
 4 Daniel Themig, Peter Krabben, and
 5 Kenneth Paltzat.
 6 MR. FLETCHER: Rick Fletcher for the
 7 Packers Plus entities.
 8 THE WITNESS: And Dan Themig, with
 9 Packers Plus.
 10 MR. PAYNE: Can you swear him in,
 11 please.

12 DANIEL JON THEMIG, duly resworn.
 13 Q MR. PAYNE: Mr. Themig, good morning.
 14 A Good morning.
 15 MR. PAYNE: Alana, did you give him
 16 Exhibits 62 through 65?

17 EXHIBIT NUMBER 62:
 18 NOTICE OF VIDEOTAPED DEPOSITION OF
 19 PACKERS PLUS ENERGY SERVICES INC.
 20
 21 EXHIBIT NUMBER 63:
 22 NOTICE OF VIDEOTAPED DEPOSITION OF
 23 PACKERS PLUS ENERGY SERVICES, INC. USA,
 24
 25

1 EXHIBIT NUMBER 64:
 2 NOTICE OF VIDEOTAPED DEPOSITION OF
 3 PACKERS PLUS ENERGY SERVICES (U.S.A.)
 4 LIMITED PARTNERSHIP.
 5

6 EXHIBIT NUMBER 65:
 7 NOTICE OF VIDEOTAPED DEPOSITION OF
 8 DANIEL THEMIG.

9 Q MR. PAYNE: Mr. Themig, you have
 10 Exhibits 62, 63, 64, and 65 in front of you,
 11 correct?

12 A Yes.

13 Q These are various deposition notices; 62 is the
 14 depo notice for the Canadian entity, correct?

15 A Yes.

16 Q It's my understanding that you will testify today
 17 for the Canadian entity on all of the topics
 18 listed in this notice, with the exception of
 19 Topics 6, 7, 8, 9, 10, and 20; is that correct?

20 A Yes.

21 Q Exhibit 63 is the notice for the Delaware entity,
 22 correct?

23 A Yes.

24 Q It's my understanding that you will testify for
 25 the Delaware entity today on all topics in that

1 notice marked as Exhibit 63, with the exception
 2 of 2, 3, 4, and 5; is that correct?

3 A Yes.

4 Q Exhibit 64 is the notice for the partnership,
 5 correct?

6 A Yes.

7 Q Let me back up. I've just got it noted.
 8 Exhibit 62, I don't know if it's clearer based on
 9 what we've discussed so far, but you're going to
 10 testify as to Topic 6 as well, correct?

11 MR. PAYNE: Rick, you want to help him
 12 out there?

13 MR. FLETCHER: Which one are you looking
 14 at, Les?

15 MR. PAYNE: Exhibit 62, Topic 6, it's
 16 my understanding that Mr. Themig is going to
 17 testify about that topic as well, correct?

18 MR. FLETCHER: I mean, to the extent that
 19 he has knowledge about that, he'll testify to it.
 20 That draws a legal conclusion that he's not --
 21 when he's not qualified to testify to that.

22 MR. PAYNE: He's the corporate
 23 representative today for Topic 6 of Exhibit 62,
 24 right?

25 MR. FLETCHER: That's correct.

1 Q MR. PAYNE: Mr. Themig, is that
2 correct?
3 A That is correct.
4 Q We were talking about Exhibit 64, which is the
5 partnership notice, and it's my understanding
6 that you're going to testify today on behalf of
7 the partnership as to all of the topics in this
8 notice, other than 2, 3, 4, and 5, correct?
9 A Yes.
10 Q Exhibit 65 is your individual deposition notice,
11 correct?
12 A Yes.
13 Q You're here to testify in your individual
14 capacity as well, correct?
15 A Yes.
16 Q In respect to the topics on which you're going to
17 testify today for the various entities, can you
18 tell me how much time you spent preparing for
19 those topics.
20 A Several hours.
21 Q Can you be more specific, please.
22 A Probably around ten hours.
23 Q Did you consult with anyone else at Packers Plus
24 outside the presence of your counsel on any of
25 those topics?

1 A No.
2 Q You didn't talk to anyone else at Packers Plus to
3 educate yourself on those topics in connection
4 with these depo notices?
5 A Not specifically on the depo notices.
6 MR. PAYNE: Let's mark this as the
7 next exhibit, please.
8 EXHIBIT NUMBER 66:
9 PACKERS PLUS ENERGY SERVICES INC. WEB
10 SITE MATERIALS.
11 Q MR. PAYNE: Mr. Themig, you have
12 Exhibit 66 in front of you, correct?
13 A Yes.
14 Q This is, I'll represent to you, a printout of the
15 recurrent Packers Plus Web site materials. Does
16 that look correct to you?
17 A It does.
18 Q Let's turn to the page that's Bates stamped the
19 last three digits 382, please. Under "Completion
20 Products" you list five products, correct?
21 A Yes.
22 Q Retrievable Packers, Seal Bore Packers, Open Hole
23 Packers, Production Accessories, and Service
24 Tools, correct?
25 A Yes.

1 Q And those are your five different types of
2 completion products that Packers Plus offers
3 currently; is that correct?
4 A The list is on our Web page; probably not
5 inclusive.
6 Q So this listing is not exhaustive?
7 A I don't know whether it is or not.
8 Q What other categories would you add to describe
9 completion products that Packers Plus currently
10 offers, if any?
11 A We might add flow control. There might be
12 others. Nothing else comes to mind, although
13 flow control might be covered in production
14 accessories.
15 Q Yes, I believe flow control is under one of these
16 topics.
17 Is there anything else?
18 A Not that I can think of right now.
19 Q The reference to "Open Hole Packers," which is
20 Item 3, is a reference to your RockSeal product
21 line, correct?
22 A It's a reference to RockSeal packers or
23 inflatable packers.
24 Q What inflatable packers do you offer?
25 A We offer service tools or inflatable packers for

1 external-casing packers, production and testing
2 packers, and some inflatable production packers
3 as well.
4 Q Are the RockSeal packers used primarily in open
5 hole?
6 A They're used both in open hole and cased hole.
7 Q The question is, Are they used primarily in open
8 hole?
9 A They've been used more in open hole than they
10 have in cased hole.
11 Q Can you quantify how much more.
12 A Probably 90 percent open hole; 10 percent in
13 cased hole.
14 Q What other packers does Packers Plus offer that
15 are used in open-hole situation, other than
16 RockSeals?
17 A We use the RockSeals, we use inflatable packers,
18 we use external-casing packers for stage
19 cementing jobs, we use certain test tools,
20 resettable packers as well.
21 Q We'll briefly go over your product line here and
22 get a better feel for the complete line. Let's
23 turn to the page that's Bates stamped at the last
24 three digits 384, please.
25 A 384?

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1 Q Yes. This page lists various retrievable
 2 packers, correct?
 3 A Yes.
 4 Q Are any of these packers used in open-hole
 5 situation?
 6 A I believe the CP Packoff Hanger potentially is,
 7 GV-Cup Packers --
 8 Q Hang on one second. The CP Packoff Hanger,
 9 that's Number 2?
 10 A Yes.
 11 Q What other packers might be used in open hole?
 12 A The GV-Cup Packers. There's one of the tension
 13 packers that is used in open hole.
 14 Q Which one is that?
 15 A It may potentially be the 1R or 1S.
 16 Q Do you know which one?
 17 A I don't.
 18 Q You want to look at that page for the 1R and 1S
 19 real quickly and let me know if you can tell me?
 20 A Yes. The 1R is and the 1S also.
 21 Q But the 1R and 1S are used in open hole?
 22 A Yes.
 23 Q Anything else under "RETRIEVABLE PACKERS" that's
 24 used in the open-hole situation?
 25 A There's a version of the Plus-4 that would be

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1 used.
 2 Q Okay. Anything else under "RETRIEVABLE PACKERS"?
 3 A That's all that's in this section.
 4 Q For open-hole situations, correct?
 5 A Yeah. All that's included in here; it's not all
 6 the open-hole packers, but it --
 7 Q I'm asking you under the listing that comprises
 8 "RETRIEVABLE PACKERS" on this specific page to
 9 identify all the packers that can be used in
 10 open-hole situation, and you've done your best to
 11 identify those packers, correct?
 12 A Yes, sir.
 13 Q Can any of those packers be used by themselves to
 14 isolate zones in the open hole?
 15 A Yes.
 16 Q Without the use of RockSeals?
 17 A Yes.
 18 Q Can all of them that you listed accomplish that
 19 function?
 20 A They should all -- I believe they could all be
 21 used to isolate zones.
 22 Q Are any of these designs proprietary to
 23 Packers Plus? I'm talking about the designs
 24 under "RETRIEVABLE PACKERS" on page 384. Let me
 25 back up. Do you know what I mean by

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1 "proprietary"?
 2 A That we're the only ones that sell them?
 3 Q Yes, basically that as opposed to a product
 4 that's manufactured by a third party pursuant to
 5 the third party's designs and sold to companies
 6 other than Packers Plus.
 7 A I believe that the 1R and the 1S and a version of
 8 the Plus-4 and the GV-Cup Packer would have some
 9 potential applications that would be -- like,
 10 that could be proprietary. Probably not the GV
 11 packer, I don't think it would be, but there are
 12 some of these that have a derivation that is
 13 proprietary to us.
 14 Q I want to make sure I understand. The Type
 15 GV-Cup Packer listed here is not proprietary to
 16 Packers Plus; is that what you're saying?
 17 A No, it wouldn't be.
 18 Q It would not be?
 19 A It would not be.
 20 Q But you listed the 1R, 1S, and possibly the
 21 Plus-4 --
 22 A Yes.
 23 Q -- as being proprietary to Packers Plus, correct?
 24 A A version of them.
 25 Q Certain versions of them?

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1 A A modification of them would be proprietary to
 2 us.
 3 Q Can you be more specific as to which versions,
 4 you know, in terms of a date or a model number
 5 or, you know, nomenclature, anything of that
 6 nature.
 7 A Those tools are included in our RockSeal Straddle
 8 Packers and our test tools.
 9 Q Okay. So when you say "applications," do you
 10 mean they're used in proprietary applications
 11 versus proprietary designs that Packers Plus has
 12 created?
 13 A You would have to be more specific. I don't
 14 understand those terms.
 15 Q You used the word "applications" I think in your
 16 testimony.
 17 A Okay.
 18 Q I assume you meant the way they're used downhole;
 19 is that correct?
 20 A It would be I think the designs of the tools, and
 21 it may include some of these; they potentially
 22 could be used downhole.
 23 Q So to be clear, let's talk about the designs of
 24 the tools, okay?
 25 A Okay.

1 Q You listed the IR, IS, and Plus-4 as being
 2 proprietary to Packers Plus as far as the designs
 3 of those tools, correct?
 4 A A derivation of those tools, yes.
 5 Q Is that your testimony?
 6 A That is my testimony, sir.
 7 Q Let's move to page 403 of Exhibit 66, please,
 8 which is a listing of your seal bore packers,
 9 correct? Or at least it's entitled "Seal Bore
 10 Packers," correct?
 11 A Yes, it's titled "Seal Bore Packers."
 12 Q Can any of these packers be used in an open-hole
 13 situation?
 14 A In the --
 15 Q Let me clarify the question, I'm sorry. Have any
 16 of these packers listed under "Seal Bore Packers"
 17 been used in the open-hole situation?
 18 A The Retrievable PBR System has been used.
 19 Q Has been used in open hole, correct?
 20 A Yes.
 21 Q Anything else?
 22 A Yeah. A number of the accessories listed in this
 23 section have been used as well.
 24 Q Which ones?
 25 A Seal Bore Extension.

1 Q Can you tell me where you're reading from,
 2 please.
 3 A 415.
 4 Q Fifteen, 415?
 5 A Yeah, 13415.
 6 Q Okay.
 7 A Pump-Out Plug, Knock-Out Plug, Tubing Adapter
 8 Bottom, Wireline Re-Entry, Mill-Out/Seal Bore
 9 Coupling, Mill-Out Extension, Seal Bore
 10 Extension.
 11 Latch Seal Locator, Anchor
 12 Latch Seal --
 13 Q Where are you reading now?
 14 A 416.
 15 Anchor Latch Seal
 16 Assembly, Tubing to Seal Crossover, Seal Unit,
 17 and a form of Severe Service One Piece Seal
 18 Assembly.
 19 Q Anything else listed under "Seal Bore Packers" on
 20 page 403 that can be used or has been used in
 21 open hole?
 22 A The Seal Bore -- Perma-Plus Seal Bore Packers,
 23 Perma -- I believe the Seal Bore -- Perma-Plus
 24 Seal Bore -- Permanent-Plus Seal Bore Packers
 25 have been used in open hole too.

1 Q I'm not sure which item you're referring to. Is
 2 that Item 2 in the list?
 3 A Page 405, 406.
 4 Q Anything else?
 5 A I believe that probably is it.
 6 Q With respect to those items you just listed under
 7 "Seal Bore Packers" that are used in an open-hole
 8 environment, can any of those products by
 9 themselves isolate zones in open hole?
 10 A Yes.
 11 Q Which ones?
 12 A The Permanent-Plus Seal Bore Packers could
 13 isolate zones, and the Permanent-Plus ELB Packer
 14 could be used to isolate zones. The
 15 Permanent-Plus Continuous Seal Bore Packer could
 16 be used to isolate zones. The Severe Service
 17 (HPHT) Permanent-Plus Seal Bore Packer could be
 18 used to isolate zones. The RSB Retrievable Seal
 19 Bore Packer could be used to isolate zones in
 20 open hole, and the LT Liner Tie-Back
 21 Permanent-Plus Packer could be used to isolate
 22 zones.
 23 Q Have any of those packers actually been used by
 24 Packers Plus to isolate zones by themselves?
 25 A I gave you that list at the start, that I believe

1 all of those have been used.
 2 Q You said --
 3 A Your question to me at that point was, What have
 4 you guys used to isolate zones, or what has
 5 Packers -- anyway, sorry.
 6 Q But in your testimony I heard you say "could be
 7 used." I just want to make sure I understand
 8 which ones have actually been used for that
 9 purpose specifically to seal or isolate zones in
 10 an open-hole environment.
 11 A Okay. Your first question specifically was that,
 12 so I gave you that list, and my understanding of
 13 your second question was what could be used to
 14 isolate zones, and so the second list was not the
 15 same as the first. The first one would be
 16 inclusive of things that we have used. The
 17 second one would be inclusive of things that
 18 could be used as well.
 19 Q Okay. Which of these designs under "Seal Bore
 20 Packers" would you consider to be proprietary
 21 designs to Packers Plus?
 22 A There is a version of the LT Liner Tie-Back
 23 Permanent-Plus Packer that is proprietary to us,
 24 and there's a version that is not. I think
 25 that's it.

1 Q That's the complete listing under "Seal Bore
2 Packers"?)
3 A (No verbal response.)
4 Q You --
5 A Yes.
6 Q -- have to give an audible response. That's
7 okay.
8 A Yes. Yes.
9 Q Let's move on to the next category in the Web
10 site materials, which is on page 420. This page
11 is entitled "Open Hole Packers," correct?
12 A It is.
13 Q It lists four different versions of the RockSeal
14 product line, correct?
15 A It does.
16 Q Are there other RockSeal products that are not
17 listed here on page 420? In other words, I'm
18 trying to get a feel for the extent of the
19 RockSeal product line. There are four things
20 listed here. I want to know if there's anything
21 else that's not listed here that falls under the
22 umbrella of the RockSeal product line. Do you
23 understand what I'm asking?
24 A I believe I do understand. I think these
25 categories would cover the RockSeal product line.

1 Q You think this is an exhaustive listing?
2 A I believe it is.
3 Q I've seen some drawings that are called something
4 to the effect of RockSeal cut-release drawings.
5 Are you familiar with that nomenclature?
6 A Yes.
7 Q I don't see the so-called cut-release RockSeal
8 product listed on here.
9 A It's not a separate product line; it's just a
10 subset of the RockSeal II or the IIS.
11 Q The cut release is a subset of the II or IIS?
12 A Yes.
13 Q Are there any more subsets that would fall under
14 any of these four categories that you could tell
15 me about?
16 A There's other releasing mechanisms for the tools.
17 Q Such as . . . ?
18 A Such as a shear release, such as, I believe, a
19 ball-and-seat release. You mentioned the cut
20 release, and there's a collet shifting release.
21 Q "Collet" shifting?
22 A Collet. It's a mechanical device that locks the
23 packer in the set position and then later can be
24 shifted to release it so you can pull it out of
25 the hole.

1 And we've got different
2 trim and different packing elements, different
3 coatings that we can put on the packers,
4 different threads: premium threads, EUE threads.
5 We've got different diameters of the tools for
6 different hole sizes. We've got different tubing
7 sizes. We've got different pressure ratings.
8 We've got different materials that we build the
9 tools out of. We've got CRA applications that we
10 can build the tools out of. So there's a lot of
11 variations of these.
12 Q Is it correct that the RockSeal product line is
13 the most popular Packers Plus product line for
14 open-hole applications?
15 A Not necessarily.
16 Q Why do you say that?
17 A We've got a series of frac ports and circulating
18 devices that are probably equivalent as far as
19 numbers installed in open hole.
20 Q The frac ports are used with RockSeal packers,
21 correct?
22 A Sometimes they are; sometimes they're not.
23 Q Are they used by themselves to seal a hole?
24 A They are used by themselves to place fluids,
25 which is a purpose. They don't have any purpose

1 in sealing anything.
2 Q They have -- the frac ports have to be used with
3 packers, correct?
4 A Not necessarily, but typically they are.
5 Q As far as your packers, is it a true statement
6 that the RockSeal product line is the most
7 popular packer product line for open-hole
8 applications?
9 A No.
10 Q Why is that not true?
11 A Because Baker's impasse, they probably run four
12 times as many as we do, Baker's inflatable --
13 Q I'm talking about Packers Plus sales now.
14 A Oh, as far as --
15 Q Not the whole industry. I'm just talking about
16 Packers Plus sales. I apologize, I wasn't
17 specific. I want to know if the RockSeal product
18 line is Packers Plus' most popular packer product
19 line for open-hole applications.
20 A Yes.
21 Q Far and away?
22 A It's the most popular one for open hole for us.
23 Q Let's move to page 422, which discusses your
24 RockSeal II packers, correct?
25 A Yes.

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1 Q Is the RockSeal II the most popular RockSeal
 2 packer?
 3 A Taken as a whole and all its derivations, yes, it
 4 would be the most popular.
 5 Q You say in the first sentence the RockSeal II
 6 packer is a first for the oil and gas industry,
 7 correct?
 8 A Yes.
 9 Q Why is the RockSeal II packer a first?
 10 A I'm not sure why that statement is there.
 11 Q Well, do you agree with the statement?
 12 A No.
 13 Q You think the statement I just read about the
 14 RockSeal II packer being a first is false?
 15 A As far as this tool goes, yes.
 16 Q Who wrote that sentence?
 17 A I'm not sure.
 18 Q Can you give me some candidates, please.
 19 A Could have been somebody from marketing. Could
 20 have been somebody from our sales group. It
 21 could have been our tech services people.
 22 Q Give me some specific names, please.
 23 A It could have been Darlys Bates, Cindy Duckett,
 24 Bryce Fletcher. Could have been me. It could
 25 have been John Zukowski. Peter Krabben

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1 potentially. Might have been Sloane Muscroft.
 2 Maybe Margaret Kirkland.
 3 Q Do you know how long this statement has been in
 4 your Web site materials?
 5 A No.
 6 Q Hasn't it been there since the beginning?
 7 A I don't know.
 8 Q Are you going to take it off of your Web site
 9 materials?
 10 A I don't know whether we will or not.
 11 Q You might keep a false statement in your Web site
 12 materials?
 13 MR. NASH: Objection. Form.
 14 MR. FLETCHER: Objection.
 15 OBJECTION TO QUESTION
 16 A I don't know whether we'll keep it or not.
 17 MR. NASH: Les, can we have an
 18 agreement that if one of us makes an objection,
 19 we don't have to repeat it?
 20 MR. PAYNE: Yes, sure. That's fine.
 21 MR. NASH: If we speak
 22 simultaneously, not much we can do about that.
 23 Q MR. PAYNE: Why is the statement not
 24 accurate according to you?
 25 A From the standpoint of a dual-element hydraulic

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1 packer, Baker had a Twin Seal packer that had
 2 been on the market for over ten years. When we
 3 left Halliburton, D&L was already making a
 4 dual-element packer. Guiberson had made a
 5 dual-element packer. Guiberson had made a
 6 triple-element packer. Weatherford had built a
 7 similar packer to the Wizard packer. Baker had
 8 built an impasse packer, which is an open-hole
 9 hydraulic -- or hydrostatic set packer.
 10 And then as far as
 11 open-hole compression element packers,
 12 Halliburton had built DST tools like that, as
 13 well as Schlumberger had, for probably 40 years
 14 before we ever -- I ever even entered the
 15 industry.
 16 Q Is it accurate that the RockSeal II is a first in
 17 the sense that its collection of features were
 18 not found on any pre-existing packer?
 19 A No.
 20 Q Do you think all of the features of the
 21 RockSeal -- now I'm speaking about the
 22 RockSeal II specifically -- were those features
 23 found on a pre-existing packer, a single packer?
 24 A I believe that they were.
 25 Q List those packers for me.

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1 A Well, it would have been the Baker Twin Seal.
 2 Would have been potentially the tandem hydraulic,
 3 the Wizard packer. Weatherford has --
 4 Q Hold on a second. Tandem hydraulic, that's a
 5 Guiberson packer?
 6 A It is a Guiberson packer, and Halliburton had
 7 one, and Baker had one as well.
 8 Q You're saying with respect to the so-called
 9 tandem hydraulic packer that Guiberson had a
 10 version, Baker had a version, and Halliburton had
 11 a version; is that correct?
 12 A They did.
 13 Q Is that your testimony?
 14 A Yes.
 15 Q You're saying that's one of the packer designs
 16 that you think makes this statement false?
 17 A I believe it is.
 18 Q You mentioned the Wizard as well, right?
 19 A I did mention the Wizard.
 20 Q So right now I've written down the Baker Twin
 21 Seal packer, the tandem hydraulic packer sold by
 22 Guiberson, Baker, and Halliburton, and the
 23 Wizard, which is an original Guiberson design.
 24 Is that your testimony so far?
 25 A No. There's more.

1 Q I want to understand every single packer that you
 2 think renders this statement a falsity.
 3 A Okay.
 4 Q So I've got the listing today correct, right?
 5 A That's a partial listing.
 6 Q So let's go through the rest of them.
 7 A Okay. Halliburton has a Wizard III packer.
 8 Q The Wizard III didn't exist before the
 9 RockSeal II was designed, correct?
 10 A No.
 11 Q I'm talking about packers that existed before the
 12 RockSeal II was designed. I think we can agree
 13 that -- let's just use a date of January 2000,
 14 okay?
 15 A Okay.
 16 Q I'm talking about packers that existed before
 17 January of 2000.
 18 A Okay.
 19 Q And I want a complete listing of those packers
 20 that you think renders this statement about the
 21 RockSeal II being a first false. Do you follow
 22 what I'm getting at?
 23 A Yep.
 24 Q So you've talked about the Baker Twin Seal
 25 packer, correct?

1 A No, sir. You would have to talk to Weatherford.
 2 Q Any other packers?
 3 A Yes. The G-77.
 4 Q Anything else?
 5 A Would you read the list back, please.
 6 Q Sure. The Twin Seal packer, the G-77, the tandem
 7 hydraulic packer, the Wizard packer, and this
 8 Weatherford packer whose name you can't recall.
 9 A Okay.
 10 Q Is that a complete listing?
 11 A No.
 12 Q Or are there others?
 13 A There's others. The Baker impasse. D&L had a
 14 packer. It was -- I can't remember the name of
 15 it, but they had an open-hole packer as well.
 16 Q Is it your testimony that D&L before January of
 17 2000 had an open-hole packer that renders this
 18 statement that we focused on at page 422 a
 19 falsity?
 20 A I believe it could render it.
 21 Q I'm not talking about "could." I want your
 22 position on this.
 23 A Okay.
 24 Q It's your opinion that this statement that we
 25 focused on about the RockSeal II packer being a

1 A Yes.
 2 Q That's before January of 2000, correct?
 3 A Yes.
 4 Q We've talked about the tandem hydraulic packer.
 5 A Yes.
 6 Q That's before January 2000, correct?
 7 A Yes.
 8 Q We've talked about the Wizard packer too.
 9 A Yes.
 10 Q That's before January of 2000, correct?
 11 A Yes.
 12 Q Give me any other packers that existed before
 13 January of 2000 that you think renders this
 14 statement a falsity.
 15 A Okay. Weatherford.
 16 Q Which packer specifically?
 17 A There's an open-hole version similar to the
 18 Wizard packer.
 19 Q What was it called?
 20 A I don't know the name of it.
 21 Q How would I find out that name?
 22 A You would have to talk to Weatherford.
 23 Q Is there a document I can look at to figure out
 24 that name or that you can look at to figure out
 25 that name?

1 first is inaccurate, correct?
 2 A At the time, in January of 2000, yes. Okay.
 3 Yes, D&L had a packer that would render this
 4 statement untrue.
 5 Q What was it called?
 6 A I don't know. I don't have D&L's catalog here,
 7 so I can't recall the name of it.
 8 Q Are they selling that packer today?
 9 A Yes, they are.
 10 Q Is Weatherford selling the packer you were
 11 referring to today?
 12 A I believe they are, but I'm not certain of that.
 13 Q So you can't give me any more specific
 14 information about that D&L packer to which you're
 15 referring?
 16 A Not here, not now, no.
 17 Q You would have to look at a D&L brochure?
 18 A Anybody could look it up. I believe it's still
 19 on their Web page.
 20 Q Is there anything else you want to add to the
 21 list?
 22 A Not that I could think of right now.
 23 Q The packers that you've just listed that you
 24 think make this statement false, are they all
 25 open-hole packers?

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1 A They can be run either in open hole or cased
2 hole.
3 Q They can all be run in open hole?
4 A Yes.
5 Q Can they all be used by themselves to isolate or
6 seal zones in open-hole environment?
7 A Yes.
8 Q What is it specifically about those packers
9 you've listed that you think makes this statement
10 untrue?
11 A They would be similar in capabilities and
12 features to what this tool does.
13 Q Let's go on with page 422 and talk about some of
14 the features that are listed here. The first
15 feature that's listed is the double element,
16 correct?
17 A Yes.
18 Q Is that a critical feature of the RockSeal II?
19 A It's not a critical feature.
20 Q It's not?
21 A No.
22 Q Do you remember giving some testimony in the Peak
23 case about the double element being a critical
24 feature?
25 A No, I don't remember that testimony.

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1 Q You don't remember, okay. We might just come
2 back to that.
3 So I just want to make
4 sure today it's your testimony that the double
5 element on the RockSeal II is not a critical
6 element.
7 MR. FLETCHER: What are you referring to
8 as the "double element"?
9 MR. PAYNE: It's listed here on
10 line 1. It says (quoted):
11 "The packer is a double element, solid
12 body packer."
13 Q MR. PAYNE: You know what I'm talking
14 about, the double element?
15 A Yes.
16 MR. FLETCHER: If you refer to the
17 "Features" down at 3.1.2.
18 Q MR. PAYNE: There's two rubber
19 elements on the RockSeal II, correct?
20 A Correct.
21 Q Are those two rubber elements a critical feature
22 for the RockSeal II?
23 A No.
24 Q Are they an important feature?
25 A I'm not sure how they would rate as far as

1 importance compared to others offered in the
2 industry.
3 Q Well, it's the first feature you list on your Web
4 site materials, isn't it?
5 A Typically on packers, on features they'll list
6 how many elements that they have.
7 Q Mr. Themig, it's the first feature listed in your
8 Web site materials, correct?
9 A That is correct, yep.
10 Q Another element listed on line 3 is the
11 dual-piston setting cylinder, correct?
12 A I don't see that. Where are you at?
13 Q Line 3 on page 422.
14 A Yes.
15 Q The dual-piston setting cylinder is another
16 feature of the RockSeal II, correct?
17 A It is.
18 Q Is that a critical feature?
19 A No.
20 Q Is it an important feature?
21 A It's a feature that is included in this packer.
22 It's not important as far as setting a packer.
23 Q Is it important for this particular packer
24 design? We're talking about the RockSeal II.
25 A Yes, it's important for this design because you

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1 have items you're trying to set at both ends.
2 Q The next feature that's mentioned here on line 3
3 is a mechanical body-lock system, right?
4 A Right.
5 Q Is that a critical feature of the RockSeal II?
6 A It's a critical feature of nearly every hydraulic
7 set packer, I believe.
8 Q So the answer to my question is yes?
9 A Yes.
10 Q Can you briefly describe that feature.
11 A It's a ratcheting thread that the locks set in.
12 Once you apply pressure, the hydraulic cylinders
13 stroke, and they move to either compress elements
14 or set slips. And then once the pressure is
15 released, this ratcheting device holds that force
16 into the elements or in the slips on the packer.
17 Q The next paragraph talks about the RockSeal II
18 being "short in length." Do you see that
19 language, sir?
20 A Yes.
21 Q Is it important that the RockSeal II is short in
22 length?
23 A Not necessarily.
24 Q What do you mean by "not necessarily"?
25 A I mean that we run packer assemblies that are

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1 anywhere from a few feet in length to several
 2 hundred metres in length.
 3 Q Wouldn't a preferential design for an open-hole
 4 application be a shorter packer?
 5 A Not necessarily.
 6 Q Well, what benefit would the short length have?
 7 A People picking up the packer on the rig, less
 8 structure to handle while you're picking it up.
 9 Q Easier to maneuver downhole, around bends, for
 10 example?
 11 A It would be easier to maneuver around bends, yes.
 12 Q That's another benefit for the short length,
 13 correct?
 14 A For a short packer, yes.
 15 Q Any other benefits?
 16 A Manufacturing costs.
 17 Q Anything else?
 18 A Less machining required, less total materials.
 19 Those are probably the main ones.
 20 Q Let's move on to paragraph 3, which talks about
 21 the anti-pre-set feature on the RockSeal II,
 22 correct?
 23 A Yes.
 24 Q Is the anti-pre-set feature a critical feature of
 25 the RockSeal II?

1 front of him so he can see it.
 2 MR. PAYNE: We'll see. We'll see.
 3 Q MR. PAYNE: So we've talked about the
 4 RockSeal II features, including the double
 5 element, the dual-piston setting cylinder, a
 6 mechanical body-lock system, and an anti-pre-set
 7 feature, correct?
 8 A Yes.
 9 Q Let's go back to that listing of packers that you
 10 claim existed before January 2000, okay? Are you
 11 with me?
 12 A Yes.
 13 Q Did any of those packers have all four of those
 14 features that I've just recited?
 15 A Would you restate the features you talked about.
 16 Q Sure. Sure. Number 1, the double element.
 17 A Okay.
 18 Q Let's be more specific. Two elements on the
 19 packer in a single-body packer --
 20 A Okay.
 21 Q -- at opposing ends of the packer. Do you
 22 understand that's Feature 1?
 23 A Yes.
 24 Q Number 2, the dual-piston setting cylinder, okay?
 25 A Okay.

1 A Not necessarily.
 2 Q What do you mean by "not necessarily"?
 3 A I mean that the RockSeals could be run without
 4 the anti-pre-set. It makes it more rugged to get
 5 in the hole, though, when you have that feature,
 6 and most hydraulic packers actually have an
 7 anti-pre-set built in, including, like, the G-77,
 8 the Twin Seal. Most all of the hydraulics that
 9 are built have an anti-pre-set feature built into
 10 them.
 11 Q Would you agree that the anti-pre-set feature for
 12 the RockSeal II is an important feature for that
 13 packer design?
 14 A Not necessarily. I've already answered that
 15 question.
 16 Q You don't remember giving testimony to that
 17 effect in the Peak case?
 18 A That the anti-pre-set is important?
 19 Q Yes.
 20 A If you could show me the testimony, I could
 21 recall it.
 22 Q Do you remember it or not?
 23 A I don't remember it.
 24 MR. FLETCHER: Les, if you're going to
 25 reference the Peak case, you need to put it in

1 Q Number 3, the mechanical body-lock system, okay?
 2 A Okay.
 3 Q Number 4, the anti-pre-set device, okay?
 4 A Okay.
 5 Q Those are the four features, and I want to know
 6 if any of those packers that you listed as being
 7 in existence before January of 2000 included all
 8 four of those features.
 9 A I believe the Baker Twin Seal did.
 10 Q Anything else in that listing?
 11 A The other packers contain partial features, but
 12 that would have been the one that would have
 13 fulfilled your list.
 14 THE VIDEOGRAPHER: Got about six minutes.
 15 Q MR. PAYNE: When did the Baker Twin
 16 Seal come into the market?
 17 A I think it was 20 years ago. I'm not sure.
 18 Q Well, you told me 10 years ago.
 19 MR. FLETCHER: No, he told you 20.
 20 Q MR. PAYNE: Was it 20 years ago?
 21 A I don't know the exact date, but approximately.
 22 Q Around 1985, 1990, something like that?
 23 A You know, I can't give you the exact time.
 24 Q Just do your best.
 25 A That would be my best.

1 Q To your knowledge, the Baker Twin Seal was used
 2 in open-hole environment?
 3 A I don't know whether it was or not.
 4 Q Do you have any specific evidence that it was
 5 used in open hole?
 6 A I don't have any evidence one way or another.
 7 Q Well, do you know if it was used in cased hole?
 8 A It was used in cased hole, yes.
 9 MR. PAYNE: Lee, you want to go ahead
 10 and change your tape.
 11 THE VIDEOGRAPHER: Sure.
 12 Q MR. PAYNE: Do you want to take a
 13 break?
 14 A Sure.
 15 THE VIDEOGRAPHER: Going off the record.
 16 Time is 1005.
 17 (BRIEF ADJOURNMENT)
 18 THE VIDEOGRAPHER: So here begins Videotape
 19 Number 2 in the deposition of Daniel Themig.
 20 Going on the record. Time is 1016.
 21 Q MR. PAYNE: Mr. Themig, with respect
 22 to those pre-January 2000 packers that you
 23 listed, are all those mechanical packers as
 24 opposed to inflatables?
 25 A All of those are mechanically set elements.

1 Q If I say "mechanical packers," is that clear to
 2 you meaning not inflatables, or what terminology
 3 would you like to use?
 4 A Probably a compression element.
 5 Q Compression element, and "compression element" to
 6 you distinguishes over an inflatable element,
 7 right?
 8 A Yes.
 9 Q So with respect to those pre-January 2000 packers
 10 that you listed, do all of those have compression
 11 elements?
 12 A Yes.
 13 Q They're not inflatable packers, right?
 14 A No.
 15 Q You told me that you're not certain one way or
 16 the other whether the Baker Twin Seal was used in
 17 open hole, correct?
 18 A Correct.
 19 Q How was it used in a cased hole?
 20 A It was used to seal between tubing and casing.
 21 Q For production purposes or stimulation purposes,
 22 fracing purposes? What application specifically
 23 do you know about?
 24 A I don't know specifically. It's a Baker product.
 25 Q It's your testimony that the Baker Twin Seal had

1 two compression elements on either end of a
 2 single-body packer; is that correct?
 3 A Yes.
 4 Q That's correct?
 5 A Yes, that is correct.
 6 Q It also had a dual-piston setting cylinder
 7 between those two elements; is that correct?
 8 A Yes.
 9 Q And it had a mechanical body-lock system?
 10 A Yes.
 11 Q As well as an anti-pre-set feature?
 12 A I believe it did.
 13 Q Let's focus on the first two features right now,
 14 which are the double-compression elements on
 15 either end of the single-body packer and the
 16 dual-piston setting cylinder, okay?
 17 A Okay.
 18 Q Are there any other pre-January 2000 packers that
 19 you've listed that include those two features?
 20 A Yeah. Most of the hydraulic sets had dual
 21 elements and had dual-acting hydraulic cylinders.
 22 In fact, nearly every tool did, with the
 23 exception of probably the tandem hydraulic.
 24 Q I want to be clear about this. So it's your
 25 testimony that the impasse Baker packer had those

1 two features?
 2 A I don't know for sure.
 3 Q You don't know, okay. What about the D&L packer
 4 that you mentioned?
 5 A The D&L had a mechanical setting system.
 6 Q So it did not have the first two features that
 7 I've listed, right?
 8 A It had the dual element, and it didn't have
 9 dual-acting hydraulic cylinders.
 10 Q You've told me that the tandem hydraulic packer
 11 did not have those two features either, right?
 12 A Tandem hydraulic had a dual element, and it had a
 13 body-lock ring.
 14 Q No, no, no.
 15 A It would have had a dual --
 16 Q I'm focused on the first two features, which are
 17 the double-compression elements on either end of
 18 the packer, Number 1.
 19 A Okay.
 20 Q Number 2, the dual-piston hydraulic setting
 21 cylinder system, okay?
 22 A Yes.
 23 Q I just want to be clear. You understand what I'm
 24 asking you, right?
 25 A Yes.

1 Q And you've told me you don't know whether the
 2 Baker impasse packer had those two features,
 3 right?
 4 A I don't know all the details on the Baker
 5 impasse.
 6 Q You don't know whether it had those two features,
 7 correct?
 8 A I do not know.
 9 Q You've told me that the D&L packer did not have
 10 those two features, correct?
 11 A Yes.
 12 Q Now we're talking about the tandem hydraulic
 13 packer.
 14 A Okay.
 15 Q Okay. It's my understanding that that packer did
 16 not have the double-compression elements; is that
 17 correct?
 18 A No, that's not correct. It did have
 19 double-compression elements.
 20 Q What did those double-compression elements look
 21 like?
 22 A They were solid pieces of nitrile elastomer, and
 23 they would have been shaped at an angle to
 24 compress of a certain fashion.
 25 Q Were those compression elements on either end of

1 A I do.
 2 Q In between those two compression elements, on
 3 either end of the RockSeal II, is a so-called
 4 dual-piston hydraulic setting cylinder, correct?
 5 A Yes.
 6 Q You understand those two features I'm talking
 7 about, right?
 8 A Yes.
 9 Q So let's go back to the Baker Twin Seal, okay?
 10 A Yes.
 11 Q Did the Baker Twin Seal have those two features?
 12 A It did.
 13 Q It did. It had two compression elements on
 14 either end of a single-body packer, right?
 15 A Right.
 16 Q And they were activated by a hydraulic setting
 17 cylinder system in between those two packers?
 18 A Yes.
 19 Q You don't know whether the impasse packer had
 20 those two features, right?
 21 A I do not.
 22 Q You don't think the D&L packer had those
 23 two features, correct?
 24 A Correct.
 25 Q Is it correct that the tandem hydraulic packer

1 the packer?
 2 A No.
 3 Q They were all together, weren't they?
 4 A They were together.
 5 Q Well, I guess we're going to have to go back and
 6 clarify, then, because I'm not looking for
 7 testimony about packers that have two packing
 8 elements that are together. You understand?
 9 A I believe that that was the question that you
 10 asked me, is dual elements and dual-acting
 11 cylinders.
 12 Q Well, we're going to have to go back, Mr. Themig.
 13 Let's talk about the RockSeal II for now, okay?
 14 A Okay.
 15 Q Let's look at this figure that Mr. Fletcher has
 16 pointed out. To me, it has one compression
 17 element on one end of the packer and another
 18 compression element on the other end of the
 19 packer, correct?
 20 A Correct.
 21 Q So that's what I'm -- that type of design is what
 22 I'm talking about when I'm referring to the
 23 "double-compression element."
 24 A Okay.
 25 Q Do you understand what I'm saying?

1 did not have those two features?
 2 A Not the way you've described them, no.
 3 Q It's correct that the way I've described these
 4 features, they were not present in the tandem
 5 hydraulic packer, right?
 6 MR. FLETCHER: He just answered your
 7 question, Les.
 8 MR. PAYNE: I just want to be clear,
 9 Rick, because obviously there's some confusion
 10 about this, and I want to be clear.
 11 MR. FLETCHER: Your time is running out.
 12 MR. PAYNE: I want to be clear about
 13 this, Rick. I'm entitled to have a clear record.
 14 Q MR. PAYNE: So the tandem hydraulic
 15 packer did not have these two features as I've
 16 described them, correct?
 17 A Correct.
 18 Q Let's move on to the G-77. It did not have those
 19 two features as I've described them, correct?
 20 A Correct.
 21 Q Is it also true that the Weatherford packer to
 22 which you refer did not have those two features
 23 as I've described them?
 24 A I haven't seen the drawings of the Weatherford
 25 packer. I'm just aware that they were

1 manufacturing one in January of 2000.
 2 Q The Weatherford packer you're talking about was
 3 manufactured in January of 2000?
 4 A It was in -- it was being manufactured at that
 5 time.
 6 Q Well, do you know whether it had the
 7 dual-compression elements on either end?
 8 A I don't.
 9 Q Do you know whether it had a hydraulically
 10 actuated cylinder setting system in between?
 11 A My understanding is, it did have -- it was
 12 hydraulic set, yes.
 13 Q But you don't know if the hydraulic setting
 14 cylinders were in between the dual-element
 15 packers, right?
 16 A I don't, no.
 17 Q It's also true that the so-called Wizard II did
 18 not have those two features that were focused on,
 19 correct?
 20 A Yes.
 21 Q So just to be clear, with respect to those
 22 two features we focused on, it's your testimony
 23 today that the only packer that was in existence
 24 before January of 2000, to your knowledge, that
 25 had those two features is the so-called Baker

1 Twin Seal packer, correct?
 2 A To my knowledge, yes.
 3 Q Can you draw the Baker Twin Seal packer for me.
 4 MR. FLETCHER: No, he can't.
 5 MR. PAYNE: I'm not asking you, Rick.
 6 Q MR. PAYNE: Can you draw it.
 7 A No.
 8 Q Do you know what it looks like or not?
 9 A I've seen a product catalog on it.
 10 Q How recently?
 11 A Probably a few days ago.
 12 MR. PAYNE: Let's mark this as the
 13 next exhibit, please.
 14 EXHIBIT NUMBER 67:
 15 BLANK PAGE.
 16 MR. FLETCHER: Les, if you're going to
 17 ask him to draw a picture, he's not going to do
 18 it. If you've got a picture to show him of that,
 19 and you want him to describe that, that's fine,
 20 but he's not going to draw you a picture.
 21 MR. PAYNE: Rick, can you explain to
 22 me why he can't draw a picture.
 23 MR. FLETCHER: Because he doesn't within
 24 his knowledge have the ability to do that at this
 25 point.

1 MR. PAYNE: Let's see what he has
 2 knowledge of.
 3 Can you give him
 4 Exhibit 67, please.
 5 Q MR. PAYNE: Mr. Themig, you have
 6 what's been marked Exhibit 67 in front of you,
 7 which is a blank piece of paper, correct?
 8 A Yes.
 9 Q Can you draw for me the features, to the best of
 10 your ability, of the Baker Twin Seal packer to
 11 which you've testified.
 12 MR. NASH: Objection. Form.
 13 MR. FLETCHER: Form. He's been advised
 14 by counsel that he will not draw any pictures.
 15 OBJECTION TO QUESTION
 16 Q MR. PAYNE: You saw a picture of that
 17 particular packer several days ago, correct?
 18 A Which packer?
 19 Q The Baker Twin Seal packer, Mr. Themig.
 20 A Yes.
 21 Q Where did you see it?
 22 A In the Baker catalog, I believe.
 23 Q What was the approximate date of that catalog?
 24 A I don't know.
 25 Q Do you have that catalog in your possession?

1 A I have just the pages from it.
 2 Q Where is it?
 3 A It would be probably in my office.
 4 Q How many pages is it?
 5 A It's two pages, I believe.
 6 MR. PAYNE: Rick, do you know if you
 7 guys have produced that or not?
 8 MR. FLETCHER: I don't have any idea, to
 9 tell you the truth.
 10 MR. PAYNE: Would you produce that for
 11 me.
 12 MR. FLETCHER: I'll look at your request
 13 for production, and if it's a producible
 14 document, I'll provide it to you.
 15 MR. PAYNE: Can you talk off the
 16 record with him and see if you can get those
 17 two pages faxed here for me, please.
 18 MR. FLETCHER: No.
 19 MR. PAYNE: I mean just talk off the
 20 record at the next break. Are you saying you're
 21 not going to do that?
 22 MR. FLETCHER: I will look and see if
 23 that is a producible document to you, yes, and if
 24 it's producible, I would be glad to do that. I
 25 mean, it's a Baker Hughes catalog, Les. If you

1 want to get it, go get it from Baker.
 2 MR. PAYNE: Well, he's got it in his
 3 possession.
 4 MR. FLETCHER: I understand that. He
 5 says he may have it in his office.
 6 Q MR. PAYNE: Do you have it in your
 7 office?
 8 A I don't know for sure.
 9 Q When did you see it specifically?
 10 A Maybe a week ago.
 11 MR. NASH: I'd make the point that if
 12 it's a Baker catalog, it's equally available to
 13 Halliburton as it is to Packers Plus. I'm sure
 14 they have plenty of copies that you could just
 15 call up your client right now and get them to --
 16 MR. PAYNE: All right, Kevin.
 17 Q MR. PAYNE: Can you draw the packer
 18 for me on Exhibit 67, please, Mr. Themig.
 19 MR. FLETCHER: He's been advised by
 20 counsel he's not drawing a picture of a packer
 21 for you.
 22 MR. PAYNE: You're instructing him not
 23 to draw the packer.
 24 MR. FLETCHER: I'm instructing him not to
 25 draw the packer.

1 MR. PAYNE: What's your specific
 2 objection to doing that?
 3 MR. FLETCHER: The packer is a very
 4 detailed specification, and he is not going to
 5 draw you a picture of that packer that you
 6 apparently have a picture that you want to show
 7 him of at some point.
 8 MR. PAYNE: What's the legal
 9 objection, Rick?
 10 MR. FLETCHER: I'm advising him not to
 11 draw a picture of the packer. It's that basic.
 12 MR. PAYNE: Is there a legal ground on
 13 which you're relying?
 14 MR. FLETCHER: He's not drawing you a
 15 picture, Les.
 16 OBJECTION TO QUESTION
 17 MR. PAYNE: So you will check to see
 18 whether those two pages or three pages, or
 19 whatever, are in his possession, Number 1, and
 20 Number 2, whether you're willing to produce those
 21 to --
 22 MR. FLETCHER: Absolutely.
 23 MR. PAYNE: Thank you.
 24 Q MR. PAYNE: Do you know what kind of
 25 anti-pre-set feature the Baker Twin Seal packer

1 used?
 2 A No.
 3 Q Before January 2000?
 4 A No.
 5 Q You just know that it had one?
 6 A I believe it had one. I don't know for sure.
 7 Q You're not certain whether it had an anti-pre-set
 8 feature?
 9 A Well, nearly all hydraulic set packers have an
 10 anti-pre-set feature, and I believe the Baker
 11 Twin Seal is no exception.
 12 Q But you can't give me the specifics of the
 13 particular design that was used by the Baker Twin
 14 Seal as far as the anti-pre-set feature, right?
 15 A I don't have the design information on that tool.
 16 It's not our product; it's a Baker product.
 17 Q Can you not describe it for me?
 18 A No.
 19 Q And that's fine. I just want to know what you
 20 know, okay? That's what I'm asking you.
 21 A Okay.
 22 Q Can you describe the general features of the
 23 mechanical body-lock system on the Baker Twin
 24 Seal packer.
 25 A Mechanical body locks are all basically similar.

1 They have a ratchet thread that locks the setting
 2 once it's straddled.
 3 Q Let's move on to Page Bates Number 423 in
 4 Exhibit 66. I may have said Exhibit 10 before,
 5 and if I did, I'm sorry. But we're talking about
 6 Exhibit 66 and page 423, which is a page that
 7 discusses and depicts the RockSeal IIS packer,
 8 correct?
 9 A Yes.
 10 Q In that particular general depiction of the
 11 RockSeal IIS, it's shown kind of at the bottom
 12 right-hand corner of this page, correct?
 13 A Correct.
 14 Q Is this RockSeal IIS design typically run with a
 15 RockSeal II packer?
 16 A Not necessarily.
 17 Q Well, I use the word "typically" to qualify my
 18 question.
 19 A Okay. In some cases it is.
 20 Q In most cases it is?
 21 A No.
 22 Q In less than 50 percent of the cases, the
 23 RockSeal IIS is run with the RockSeal II?
 24 A I don't know what those numbers would be.
 25 Q You don't know specifically -- you can't quantify

1 for me how often the RockSeal IIS is run with the
 2 RockSeal II in various open-hole applications?
 3 A No.
 4 Q You guys don't have any internal information that
 5 would give me those types of numbers or
 6 percentages?
 7 A No, not to my knowledge.
 8 Q How is the RockSeal IIS used in conjunction with
 9 the RockSeal II?
 10 A Can you be more specific.
 11 Q There are many instances where the RockSeal II
 12 packer and the RockSeal IIS packer are run
 13 together, correct?
 14 A There are, yes.
 15 Q Well, can you generally describe those instances.
 16 A Sure. We'll use them to shut off the toe. We'll
 17 use them to anchor into open hole, and we'll use
 18 them to do a cement squeeze. We use them to
 19 squeeze polymers. We use them to isolate the
 20 heel of a well. We use them to isolate the
 21 midsection of a well. We use them to do
 22 stimulation jobs. We use them to do sand frac,
 23 to do acid frac. We'll use them to anchor for a
 24 whipstock application. We use them as a
 25 doorstep. Those would be some of the

1 applications.
 2 Q In fact, there are a lot of RockSeal IIS
 3 applications listed at the bottom of the page
 4 that we've been discussing, correct?
 5 A Yes.
 6 Q What feature or features are found in the
 7 RockSeal IIS that aren't found in the RockSeal II
 8 such that the IIS would be used with the
 9 RockSeal II?
 10 A It's got a set of slips that anchor to casing or
 11 the open hole.
 12 Q So the IIS is run both in open hole and cased
 13 hole?
 14 A Yes.
 15 Q Is it primarily run in open hole?
 16 A I'm not sure what the numbers are. Probably
 17 close to 50/50.
 18 Q You think the IIS is run in cased-hole
 19 environments and open-hole environments in about
 20 the same numbers?
 21 A Yeah, I don't have those numbers, but to take a
 22 guess, I would say probably that's fairly close.
 23 Q If the RockSeal IIS is being run with the
 24 RockSeal II in open hole, where would the IIS be
 25 located in relation to the RockSeal II?

1 A It would be either above it or below it.
 2 Q So it would serve as kind of an anchor for the
 3 string; is that correct?
 4 A It depends on the application.
 5 Q Well, in, for example, your StackFRAC
 6 application, is it used as an anchor?
 7 A No.
 8 Q When is it used as an anchor in connection with
 9 the RockSeal IIs?
 10 A Normally on a bridge plug application.
 11 Q Anything else?
 12 A Possibly on a squeeze job or a cement job or a
 13 polymer treatment. Possibly on isolating a
 14 section of the well.
 15 Q I want to just be clear about its location, the
 16 IIS' location relative to the II. If you have a
 17 string, for example, of, let's say,
 18 six RockSeal IIs, is it always going to be the
 19 case that where the IIS is used with that string
 20 of six IIs, it's going to either be below all six
 21 or above all six?
 22 A Not necessarily.
 23 Q Could it be in between some of the six?
 24 A It could be.
 25 Q Is it typically either below or above all six?

1 A I don't know. I would . . . Not necessarily.
 2 Q My question is, Is it typically?
 3 A It's not necessarily. I don't know that I can
 4 answer that question.
 5 Q If you don't know, that's fine.
 6 A I don't know.
 7 Q You're here today to testify about the
 8 functionality of the RockSeal. That's part of
 9 the corporate notices. But if you don't know,
 10 just tell me and we'll move on.
 11 So are there any in-house
 12 numbers of Packers Plus that would give me the
 13 answer to my question?
 14 A Not to my knowledge.
 15 Q Let's look at the first line on page 423 that
 16 describes the RockSeal IIS. It reads as follows
 17 (quoted):
 18 "The RockSeal IIS anchor packer is a
 19 first for the oil and gas industry."
 20 Did I read that correctly,
 21 Mr. Themig?
 22 A Yes.
 23 Q Do you agree with that statement?
 24 A Not necessarily.
 25 Q Do you disagree with that statement?

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- 1 A In some cases I would probably disagree with it.
 2 Q So it's true in some cases, and it's not true in
 3 some cases; is that right?
 4 A I believe that would be marketing terminology as
 5 to -- similar to "it's the best in the industry"
 6 or something like that, so I'm not sure if it's a
 7 first. It's a marketing statement.
 8 Q Well, let's just talk about the design features
 9 of the RockSeal IIS and put aside the
 10 applications, okay?
 11 A Okay.
 12 Q So are the design features of the IIS a "first"
 13 for the oil and gas industry?
 14 A Not necessarily.
 15 Q You don't know one way or the other?
 16 A I believe that they are not a first necessarily.
 17 Q Why is that?
 18 A Well, part of the thing about the compression set
 19 elements is, when I was at Guiberson, we learned
 20 that we could just take cased-hole packers and
 21 put them in the open hole, and they would
 22 function and they would work.
 23 So the tandem hydraulic
 24 was never built for cased hole -- or, sorry, it
 25 was never built for open hole. But when we first

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- 1 decided to try hydraulics at open-hole packers,
 2 we learned that we could set them in open hole
 3 and that they would isolate and they would
 4 function. So the elements were designed for
 5 casing, but they worked in open hole.
 6 When we designed the
 7 Wizard packer, which I was involved in, we took
 8 all cased-hole elastomers and put them on a
 9 hydraulic cylinder and we ran them, and again,
 10 they functioned in open hole.
 11 And then I remember at
 12 least one occasion where we just took a G-77,
 13 which was totally designed for cased hole. It
 14 had slips, it had dual elements, it had an
 15 anti-pre-set, had -- or had slips, and we ran it
 16 in open hole as well, so --
 17 Q Did it work?
 18 A Yes, sir.
 19 So, basically, as far as
 20 what we had discovered, I guess, was that
 21 anything that we could run in casing we could
 22 also run in open hole, and it would function
 23 provided the open hole was competent.
 24 Q You said anything that you run in casing can
 25 function in open hole, correct?

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- 1 A Provided that the formation is competent.
 2 Q That's a pretty broad statement, isn't it?
 3 A No, I don't think it is.
 4 Q Let's just go back to the RockSeal II real
 5 quickly. I want to make sure I understand your
 6 testimony. Is it true that you believe that the
 7 Baker Twin Seal is the packer that was in
 8 existence before January of 2000 that's the
 9 closest in design to the RockSeal II?
 10 A No. I think the closest to design would have
 11 been probably the Weatherford, Halliburton Wizard
 12 packer.
 13 Q You think the Wizard packer was the closest in
 14 design as far as packers in existence in January
 15 of 2000?
 16 A Both the Weatherford and the Halliburton Wizard
 17 packer were probably the closest in design.
 18 Q Was the Weatherford packer that you've testified
 19 to today similar in design to the Wizard?
 20 A Yes.
 21 Q It had one compression element on one end of the
 22 packer?
 23 A No. It had I believe five compression elements.
 24 Q That were together?
 25 A That were together.

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- 1 Q On one end of the packer, correct?
 2 A Yes.
 3 Q Specifically the top end, correct?
 4 A Right.
 5 Q Or was it the bottom end?
 6 A It would have been the top end, I believe. It
 7 would have been the bottom end on the tandem
 8 hydraulic and the top end on the Wizard.
 9 Q So you said the Weatherford's compression
 10 elements were at the . . . ?
 11 A Oh, sorry.
 12 Q Let's --
 13 A It's been seven years since I worked for
 14 Guiberson, so I'm going back off memory, and I
 15 believe that --
 16 Q Well, the Wizard -- let's just talk about the
 17 Wizard. The Wizard had compression elements on
 18 the top end, correct?
 19 A No. I think they were at the bottom.
 20 Q You think the Wizard was at the bottom?
 21 A I believe it was at the bottom, and the tandem
 22 hydraulic was at the top.
 23 Q And for the Wizard, the setting cylinder was
 24 above the compression elements, right?
 25 A Yes.

16 (Pages 498 to 501)

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1 Q The tandem hydraulic packers that you testified
2 to had the compression elements at the top of the
3 packer, right?
4 A I believe that's correct.
5 Q It's your testimony that the Weatherford
6 compression elements were at the top or bottom of
7 the packer you've been testifying to?
8 A I don't recall. I think they were at the bottom,
9 but I'm not sure.
10 Q In any event, as far as packers in existence in
11 January of 2000, it would be the Wizard or this
12 Weatherford packer that was the closest in design
13 to the RockSeal II, right?
14 A Probably, yes.
15 Q Same question as to the RockSeal IIS: What packer
16 in existence in January of 2000 was closest in
17 design to the RockSeal IIS?
18 A Probably the G-77 or the G-10, the RSB, the
19 Baker . . .
20 Q What's the RSB? The RSB is a Baker product?
21 A The RSB is a D&L, a D&L product.
22 The Baker SC-2, the G-77
23 possibly. And I can't remember what other ones
24 there might be, but there's probably a number of
25 tools that look similar to this.

1 Q Page 423 of the IIS refers to the dual-piston
2 setting cylinder, correct?
3 A Yes.
4 Q Is that an important feature of the IIS?
5 A Yes.
6 Q The mechanical body-lock system is an important
7 feature of the IIS as well, correct?
8 A In some applications it's important, and in some
9 applications it's not important, just like the
10 RockSeal II.
11 Q The RockSeal IIS is designed with an anti-pre-set
12 feature, correct?
13 A Yes.
14 Q Is that an important feature for the IIS?
15 A In some applications it's important, and some
16 it's not important.
17 Q As far as the RockSeal product line, is the IIS
18 the second-biggest seller behind the RockSeal II?
19 A I'm not sure.
20 Q Let's go to page 424, which is a discussion on
21 the RockSeal Test Packer, correct?
22 A Yes.
23 Q There's a depiction of that packer kind of in the
24 middle of the page, correct?
25 A Yes.

1 Q Does it have two different sets of compression
2 elements?
3 A Yes.
4 Q Is there a hydraulic cylinder system between
5 those two elements?
6 A No.
7 Q How are those two elements compressed?
8 A With tubing weight.
9 Q I'm sorry, what?
10 A Tubing weight.
11 Q So there's no hydraulic actuation system between
12 those two elements?
13 A No.
14 Q The page we're talking about says that the Test
15 Packer (quoted):
16 "...{utilizes} a combination of
17 mechanical and hydraulic setting
18 systems...."
19 Correct? At the bottom of
20 the first paragraph.
21 A I'm sorry, would you repeat the question, please.
22 Q Yes. I'm focusing on the last sentence in the
23 first paragraph on this page 424.
24 A Okay.
25 Q That refers to a combination of mechanical and

1 hydraulic setting systems, right?
2 A I believe it refers to this particular tool,
3 which is mechanically set.
4 Q Was there a hydraulic setting system for this
5 particular tool, the RockSeal Test Packer?
6 A No.
7 Q So this statement that's at the end of the first
8 paragraph is an error?
9 A (Quoted):
10 "The {tools} can be run in {either}
11 vertical or horizontal wells...packing
12 {elements} can be adjusted to suit
13 various well conditions."
14 There's nothing mentioning
15 hydraulic cylinders in there.
16 Q I don't think we're on the same page, Mr. Themig.
17 A Oh.
18 Q Or are we?
19 A Sorry, I was reading the last sentence of the
20 third paragraph.
21 Q Okay. We're talking about the first paragraph of
22 page 424 in the last sentence, okay?
23 A Yes.
24 Q And it refers to both mechanical and hydraulic
25 setting systems, correct?

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1 A Yes.
 2 Q Does the RockSeal Test Packer have some sort of
 3 hydraulic setting system?
 4 A Probably what they're referring to in that
 5 statement is that they'll mechanically activate
 6 and then use hydraulics to finalize the packoff
 7 on it.
 8 Q To finalize the what?
 9 A The packoff.
 10 Q What does that mean?
 11 A To finalize the compression into the elements.
 12 Q So some form of hydraulic actuation is used to
 13 compress the mechanical elements on the RockSeal
 14 Test Packer?
 15 A It can be, yes.
 16 Q Is it typically or not?
 17 A It depends on the application.
 18 Q Is it always set mechanically?
 19 A It's initially always set mechanically.
 20 Q And you're saying that after initially setting
 21 compression elements for the Test Packer, at
 22 least on some occasions you would add additional
 23 compression through hydraulic actuation?
 24 A Yes.
 25 Q At the end of the Test Packer there's some sort

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1 of slip design, correct?
 2 A Yes.
 3 Q How is the slip actuated?
 4 A Through manipulation of the tubing string.
 5 Q Is the Test Packer slip design the same as the
 6 IIS' slip design?
 7 A No.
 8 Q They're different?
 9 A Yeah.
 10 Q What type of -- give me an example of a typical
 11 application for this Test Packer, please.
 12 A We typically would use it to swab test a section
 13 of the well maybe. We may use it to production
 14 test. We may use it to do stimulation, spot
 15 fluids, to pump liquids. We may use it to get
 16 into a specific lateral in a well and to isolate
 17 that lateral from the other sections of the well.
 18 We could potentially use it for production as
 19 well, and we could use it for chemical treating
 20 of some sort.
 21 Q Does the Test Packer have an anti-pre-set device?
 22 A Yes.
 23 Q What are the general features of the
 24 anti-pre-set?
 25 A It's a locking device that keeps the elements

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1 from packing off prior to getting to your desired
 2 setting depth.
 3 Q Is it a ball-and-groove design, or is it some
 4 other design?
 5 A It's a J-slot and lug design.
 6 Q Let's move on to the RockSeal Straddle System,
 7 which is on page 425, please. The Straddle
 8 System is depicted kind of in the middle of the
 9 page here, correct?
 10 A Yes.
 11 Q It appears to me that the Straddle System at the
 12 end or the right side of the depiction is
 13 basically the same as the Test Packer that we
 14 just discussed; is that correct?
 15 A It's similar, and it may not be identical,
 16 though.
 17 Q But it's similar in the sense that it's got the
 18 two compression elements spaced apart and also a
 19 slip design below the last compression element,
 20 right?
 21 A Yes.
 22 Q And then up above those particular features are
 23 two more compression elements, right?
 24 A Right.
 25 Q How would this particular system be used?

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1 A It can be used to production test and be used for
 2 stimulation or spotting fluids. It can be used
 3 to steer into a lateral and test a specific
 4 segment in the well. It can be used for I guess
 5 acidizing or something like that, and I guess it
 6 could be used in either casing or in open hole,
 7 either one.
 8 Q Is the RockSeal Test Packer run sometimes with
 9 the RockSeal II?
 10 A I don't think so.
 11 Q Same question as to the RockSeal Straddle System:
 12 Is it ever run with the RockSeal II?
 13 A I don't believe so.
 14 Q Are the Test Packer or Straddle System ever run
 15 with the RockSeal IIS?
 16 A I don't believe so.
 17 Q Let's move to page 426, please, of Exhibit 66.
 18 This is a page that lists production accessories,
 19 correct?
 20 A Yes.
 21 Q I think you testified before that some of these
 22 accessories are used in open-hole environments,
 23 correct?
 24 A Yes.
 25 Q Which of these production accessories are

1 proprietary to Packers Plus as far as the design
 2 features? Let's just focus on the ones listed on
 3 page 426.
 4 A There would be a derivation of pump-out plugs
 5 that would be used, would be proprietary to us.
 6 Q Anything else?
 7 A Not that I can think of right now.
 8 Q Could you just quickly list which of these
 9 production accessories are used in open-hole
 10 applications, please.
 11 A Yeah. The PL On-Off Tool, the PX Landing Nipple,
 12 PXN Landing Nipple, PF Landing Nipple, PR Landing
 13 Nipple, PXL Sliding Sleeve, PXA Sliding Sleeve,
 14 PL Sliding Sleeve, Type K Expansion Joint,
 15 Pump-Out Plug, Rotational/Shear-Out Safety Joint,
 16 and any of the gas separators can be run in open
 17 hole.
 18 Q Let's move to page 447, Exhibit 66, please. This
 19 page lists various service tools, correct?
 20 A Yes.
 21 Q Which of these tools that are listed on page 447
 22 can be used and have been used in open-hole
 23 applications?
 24 A The WR Bridge Plug, the DB5-00 Bridge Plug, the
 25 DB-10 Bridge Plug, the HM-1 Bridge Plug, the HM-2

1 Bridge Plug, the Cement Retainer, the PCR Cement
 2 Retainers, a derivative of the Type T Squeeze
 3 Packer, the Selective Treating Assembly.
 4 Q Okay. Which of the service tools listed on 447
 5 are proprietary designs for Packers Plus?
 6 A It's possible a Selective Treating Assembly might
 7 be a proprietary design, but I'm not sure on
 8 that.
 9 Q Anything else?
 10 A I don't believe.
 11 Q Let's move to pages 463 and 464, please. Those
 12 two pages list various Packers Plus specialty
 13 completions, correct?
 14 There's something about my
 15 question that's bothering you.
 16 A Yeah. Can you restate it, please.
 17 Q Yes. Listed on these two pages are six what I'll
 18 call processes or systems; is that correct? What
 19 would you call these things? Systems; processes;
 20 specialty completion applications? What
 21 terminology are you comfortable with?
 22 A Probably systems.
 23 Q Systems, okay. So there's six systems listed on
 24 pages 463 and 464, right?
 25 A Yes.

1 Q Are each of those systems proprietary to
 2 Packers Plus?
 3 A There are competing technologies on the market, I
 4 think, so I don't know that I could answer that
 5 question.
 6 Q You don't know whether they're proprietary or
 7 not?
 8 A No.
 9 Q In any event, these are six systems that
 10 Packers Plus implements, right?
 11 A Yes.
 12 Q It's my understanding that the RockSeal
 13 technology is used in connection with the
 14 Horizontal StackFRAC system; is that correct?
 15 A I'm sorry, could you repeat the question.
 16 Q Did you not understand the question?
 17 A I did not.
 18 Q We've talked about RockSeal packers today, right?
 19 A Yes.
 20 Q It's my understanding that in at least some
 21 cases, RockSeal packers are used in connection
 22 with the Horizontal StackFRAC system, correct?
 23 A Correct.
 24 Q Is it also true that the RockSeal technology is
 25 sometimes used with the Horizontal RapidMATRIX

1 system?
 2 A Be more specific, please.
 3 Q In what way?
 4 A When you state "RockSeal technology," I don't
 5 know what that means.
 6 Q Any of the RockSeal packers we've talked about.
 7 We've talked about the RockSeal II, RockSeal IIS,
 8 right?
 9 A Right.
 10 Q So let's go back to Horizontal StackFRAC. Are
 11 either the RockSeal IIs or IISs used in
 12 connection with that system?
 13 A With which system?
 14 Q The Horizontal StackFRAC.
 15 A Yes.
 16 Q Is the RockSeal II or RockSeal IIS used in
 17 connection with the Horizontal RapidMATRIX
 18 system?
 19 A In some cases it is.
 20 Q Is any RockSeal packer used in connection with
 21 the Vertical Cased Hole StackFRAC system?
 22 A In some cases they are.
 23 Q Which ones specifically?
 24 A In which -- can you --
 25 Q For the Vertical Cased Hole StackFRAC, is the

1 RockSeal II used?
 2 A In some cases it is.
 3 Q Is the RockSeal IIS used?
 4 A Yes, in some cases it is.
 5 Q Let's move on to the Open Hole Stimulation
 6 system. You see that on page 464?
 7 A Yes.
 8 Q It's my understanding that various RockSeal
 9 packers are used in connection with the Open Hole
 10 Stimulation process; is that correct?
 11 A No.
 12 Q That's not correct?
 13 A No. There would only be -- the RockSeal Straddle
 14 Packer System or the RockSeal Test Packer would
 15 be used.
 16 Q Not the II or the IIS in connection with Open
 17 Hole Stimulation system?
 18 A I don't believe so.
 19 Q Which RockSeal packers are used for the ZoneBoss
 20 Monitoring system?
 21 A It could be the -- actually, we don't -- I don't
 22 believe that we run a RockSeal packer with the
 23 ZoneBoss Monitoring system.
 24 Q If you turn to page 479, there's a discussion
 25 about the ZoneBoss system, correct?

1 A Yes.
 2 Q Does page 479 discuss the so-called ZoneBoss
 3 Monitoring system?
 4 A It does.
 5 Q Below the language on page 479 is a depiction,
 6 correct?
 7 A Yes.
 8 Q RockSeal IIs are shown in that depiction,
 9 correct?
 10 A Correct.
 11 Q So is it accurate RockSeal IIs are used
 12 occasionally in connection with the ZoneBoss
 13 Monitoring system?
 14 A I don't believe that's true. This is a
 15 depiction, but I don't think they have been used.
 16 Q So this depiction is misleading in the sense that
 17 it shows RockSeal IIs, but it's your testimony
 18 that the RockSeal IIs are not used or have not
 19 been used in connection with the
 20 ZoneBoss Monitoring system?
 21 MR. FLETCHER: Objection. Form.
 22 OBJECTION TO QUESTION
 23 Q MR. PAYNE: Is that correct?
 24 A Would you restate the question, please.
 25 Q Well, I'm just trying to find out whether the

1 RockSeal IIs are used in connection with the
 2 ZoneBoss Monitoring system. That's all I'm
 3 trying to find out.
 4 A Would you restate the question.
 5 Q Are they used or have they been used in
 6 connection with the ZoneBoss Monitoring system?
 7 A I don't believe they have.
 8 Q Are any of the RockSeal packers used in
 9 connection with the CBM Monitoring system that's
 10 listed on page 464?
 11 A I don't believe they are or they have been.
 12 Q Do you consider Packers Plus to be pioneers of
 13 open-hole fracturing systems?
 14 A I don't understand the question.
 15 Q Okay. Well, let's look at 465, which is part of
 16 your Web site materials, right? Right,
 17 Mr. Themig?
 18 A I don't know if this is part of the Web site or
 19 if it's a PDF that's available for printing. I
 20 don't think it shows up on the Web site.
 21 Q I'll represent to you it's part of the Web site.
 22 A Okay.
 23 Q It was printed out off of your Web site.
 24 A Okay.
 25 Q About halfway down it says (quoted):

1 "As pioneers of open hole fracturing
 2 systems..."
 3 Correct?
 4 A Yes.
 5 Q Do you agree with this statement?
 6 A It's a statement from a marketing brochure, so
 7 have we developed open-hole fracturing system?
 8 Yes. Are we pioneers? I don't know whether I
 9 would agree or disagree with that statement.
 10 Q Okay.
 11 THE VIDEOGRAPHER: There's about
 12 eight minutes.
 13 MR. PAYNE: Eight?
 14 THE VIDEOGRAPHER: Yes.
 15 Q MR. PAYNE: Let's look at page 467,
 16 please, and specifically focus on the
 17 RockSeal IIS description, please, okay? Are you
 18 with me?
 19 A Yes.
 20 Q The last sentence says (quoted):
 21 "The packer is typically run together
 22 with {the} RockSeal II packer..."
 23 Correct?
 24 A Yes.
 25 Q Do you agree with that statement?

1 A It depends on the application, but more often
 2 than not, there is a RockSeal II in the same
 3 installation as the RockSeal IIS.
 4 Q I thought we went over that before, and you
 5 couldn't tell me whether the RockSeal IIS was
 6 typically run with the RockSeal II. I guess I
 7 misunderstood your testimony, so I just want to
 8 make sure. You're saying now that more often
 9 than not, the RockSeal IIS would be run with the
 10 RockSeal II?
 11 A You have to put my previous testimony in front of
 12 me, because . . .
 13 Q Don't worry about that. I want to be clear about
 14 this.
 15 MR. FLETCHER: If you're going to testify
 16 on his behalf, then you put the testimony in
 17 front of him.
 18 Q MR. PAYNE: I want to know if you
 19 agree with the statement or not that the
 20 RockSeal IIS is typically run with the
 21 RockSeal II.
 22 MR. FLETCHER: Objection to the sidebar
 23 comment. And if he wants to put the testimony
 24 that he previously discussed in front of him,
 25 he'll be glad to compare the two.

1 OBJECTION TO QUESTION
 2 MR. FLETCHER: Otherwise, you can answer
 3 the question.
 4 A Okay. Probably more often than not the two tools
 5 are run together.
 6 Q MR. PAYNE: Let's move to the page
 7 Bates marked 476, please, which discusses your
 8 RapidMATRIX system, correct?
 9 A Yes.
 10 Q At the end of this discussion, it talks about the
 11 RapidMATRIX system resulting in an average of
 12 75 percent increase in production from each well,
 13 correct?
 14 A Yes.
 15 Q Is that a fairly typical figure?
 16 A I think it's only specifically for this
 17 one project that's being discussed.
 18 Q Is that above average?
 19 A I don't know those numbers.
 20 Q Is it accurate that the RockSeal technology
 21 increases production?
 22 A Can you restate the question.
 23 Q What is it that you don't understand?
 24 A I don't understand the way the question is
 25 phrased. I don't understand some of the terms in

1 it.
 2 Q Well, it's talking about -- this is your Web
 3 site. It's talking about an increase in
 4 production from each well, right?
 5 A Mm-hmm.
 6 Q So in the same context that an increase in
 7 production is used here in your Web site, my
 8 question is, Does the RockSeal technology result
 9 in "increase in production"?
 10 A I'm going to ask you to be more specific.
 11 Q Well, what does this mean in your Web site, where
 12 it says "increase in production"?
 13 A What sentence are you talking about? The last
 14 paragraph?
 15 Q Yes.
 16 A It means that this operator experienced an
 17 increase in production from each well for the
 18 project that's discussed here.
 19 Q That project used RockSeal packers, correct?
 20 A I believe RockSeal packers were installed in
 21 these wells.
 22 Q So at least for these jobs, the RockSeal
 23 technology in part resulted in an increase in
 24 production for these wells, correct?
 25 A I don't believe I could answer that with the way

1 it's stated. Can you restate it, please.
 2 Q Sorry, I really can't do any better. You can't
 3 understand the question?
 4 A No, I can't understand the question.
 5 Q So these jobs that you ran resulted in an
 6 increase in production for the wells, right?
 7 A The RapidMATRIX systems that we ran -- actually,
 8 the systems that were run didn't -- it was a
 9 stimulation job, so it would have resulted in the
 10 production increases for the well.
 11 Q Did those stimulation jobs include RockSeal
 12 packers?
 13 A Yes.
 14 Q So doesn't it necessarily follow that the
 15 RockSeal packers contributed to the increase in
 16 production of these wells?
 17 A I don't know that I could draw that conclusion.
 18 Q Why is that?
 19 A Because I'm not familiar with the formation. I
 20 don't know the stimulation treatments that were
 21 pumped. I don't know anything about it. It
 22 wasn't a well I was even involved in.
 23 Q Do RockSeal packers ever contribute to increases
 24 in production for wells?
 25 A I think I would have to have you restate that

1 question. I can't answer that question the way
 2 it's stated.
 3 Q You don't understand whether RockSeal packers can
 4 contribute to increases in production in the same
 5 context as increases are discussed in this
 6 paragraph we've been talking about?
 7 A If the question you're asking is, does a RockSeal
 8 packer contribute to production, RockSeal packers
 9 is a sealing mechanism, so my answer would be no.
 10 Q Isn't it important to seal or isolate the
 11 productions of the packers?
 12 A It depends on the application.
 13 Q Well, what are the -- what contributions do the
 14 RockSeal packers make in the context of any of
 15 the systems we've discussed in the Packers Plus
 16 systems?
 17 A They provide the ability to seal in open hole or
 18 cased hole.
 19 Q Or isolate zones in open hole or cased hole,
 20 right?
 21 A Yes.
 22 Q That's their primary function?
 23 A Yes.
 24 THE VIDEOGRAPHER: About two minutes.
 25 MR. PAYNE: Let's go ahead and change

1 the tape.
 2 THE VIDEOGRAPHER: So here marks the end of
 3 Tape 2 in the deposition of Daniel Themig. Going
 4 off the record. Time is 1114.
 5 (BRIEF ADJOURNMENT)
 6 THE VIDEOGRAPHER: So here marks the
 7 beginning of Tape Number 3 in the deposition of
 8 Daniel Themig. Going on the record. Time is
 9 1117.
 10 EXHIBIT NUMBER 68:
 11 JULY 15, 2004, EXCERPT OF DEPOSITION
 12 TESTIMONY OF DANIEL J. THEMIG IN THE
 13 PEAK COMPLETION TECHNOLOGIES, INC.
 14 LITIGATION.
 15 Q MR. PAYNE: Mr. Themig, you have
 16 Exhibit 68 in front of you, correct?
 17 A Yes.
 18 Q This is deposition testimony you gave in
 19 connection with the Peak litigation, correct?
 20 A Yes.
 21 Q Let's look at page 175 of your testimony,
 22 starting at line 23 through page 176, line 3.
 23 See that, sir?
 24 A Yes.
 25 Q That testimony relates to the RockSeal II design,

1 correct?
 2 A Yes.
 3 Q You say (quoted):
 4 "...that when you have pressure from
 5 one side, it force-loads into the second
 6 packing system so that it's a
 7 self-energized packer in the way -- in
 8 the shape and the way that it's designed
 9 and the way that {it's} built."
 10 Right?
 11 A Yes.
 12 Q Can you explain what you meant there by being
 13 "self-energized."
 14 A Sure. Any packer that has multiple elements,
 15 when pressure sees -- or pressure is applied on
 16 one side, each of the elements in the system
 17 progressively push harder and harder into the
 18 other elements in the system. So a dual-element
 19 system would -- the first element would load into
 20 the second one because hydraulic forces increase
 21 the packoff.
 22 In a triple-element
 23 system, the same thing happens. The elements
 24 push on one side, and they put additional forces
 25 into the elements that are on the low-pressure

1 side.
 2 So a dual-, triple-, a
 3 five-piece element, the elements loaded on
 4 one side are energized when forces go into the
 5 high-pressure side of it.
 6 Q So you're talking about self-energized here in
 7 the context of an element system that has more
 8 than one element together; is that right?
 9 A It's the same science for either one.
 10 Q So the RockSeal II, as we've discussed today, has
 11 two different compression elements on either end
 12 of the tool, right?
 13 A Right.
 14 Q So when you talk about being self-energized, are
 15 you talking about the upper compression elements
 16 by themselves being self-energized?
 17 A Sorry, you have to repeat.
 18 Q Well, let's back up. At least in the original
 19 RockSeal II design, there were three different
 20 pieces, if you will, for each of the compression
 21 elements, correct? For example, specifically I'm
 22 looking at a drawing that talks about a rubber
 23 and rubber backup.
 24 A Yeah, the one that had backups had three pieces
 25 on each.

1 Q So are you talking about those three pieces that
 2 are together being self-energized?
 3 A Those three pieces wouldn't, but, like, on a G-77
 4 or a Baker Model R or anything like that, the
 5 elements will subsequently load into each other
 6 so that the high-pressure side loads into the
 7 next element, loads into the next one, and loads
 8 into the next one. So they all self-energize.
 9 But on that, the outer
 10 items are backups. They're not packing elements.
 11 Like, on the Wizard packer, which was a
 12 three-element design, each element loads
 13 progressively into the low-pressure side, so the
 14 more pressure you apply on one side, the more you
 15 get a packoff on the lower -- or on the
 16 low-pressure side.
 17 Q So when you gave this testimony about the
 18 RockSeal II, what features were you talking about
 19 being self-energized?
 20 A It had a two-element system, so the high-pressure
 21 side loads into the element that's on the
 22 lower-pressure side.
 23 Q So the top element, if you will, loads into the
 24 bottom element, correct?
 25 A No, the high-pressure side.

1 contains an assembly drawing for the RockSeal --
 2 or RockSeal II. Do you see that on the first
 3 page?
 4 A Yes.
 5 Q There are various other drawings behind the
 6 assembly drawing that are listed on the assembly
 7 drawing, and these were out of your production.
 8 As you can see, there's Bates numbers on them.
 9 A Okay.
 10 Q And each of these pages or drawings that are part
 11 of Exhibit 69 contains a stamp that says the
 12 information is the exclusive property of
 13 Packers Plus, correct?
 14 A Yes.
 15 Q Do you believe that to be true for each of these
 16 pages that make up Exhibit 69?
 17 A Yes.
 18 Q Each of these pages are treated as confidential
 19 information at Packers Plus?
 20 A I believe they are.
 21 Q And would you consider all of the information in
 22 these various drawings as confidential
 23 information for Packers Plus?
 24 A I believe I would, yes.
 25 Q Why is that, sir?

1 Q What's the high-pressure side?
 2 A Well, it'll be top, or it could be bottom.
 3 Depends on the application.
 4 Q So, in any event, you're discussing in your
 5 testimony that the concept of one of the
 6 compression elements on one side is serving to
 7 self-energize the other compression element on
 8 the other side; is that correct?
 9 A Yes.
 10 MR. FLETCHER: Les, the drawings you're
 11 referring to, can you give me my Bates number on
 12 that.
 13 MR. PAYNE: Yes, sure. I'm going to
 14 mark it, but it's 77377.
 15 MR. FLETCHER: Thank you.
 16 THE VIDEOGRAPHER: Sixty-nine.
 17 EXHIBIT NUMBER 69:
 18 PACKAGE OF PACKERS PLUS ENERGY SERVICES
 19 INC. DRAWINGS, FIRST PAGE OF WHICH
 20 CONTAINS AN ASSEMBLY DRAWING FOR THE
 21 ROCKSEAL II.
 22 Q MR. PAYNE: You have Exhibit 69 in
 23 front of you, correct?
 24 A Yes.
 25 Q I'll represent to you that this Exhibit 69

1 A It's because they're engineering and machine
 2 drawings, and typically you do not release these
 3 to anybody, except for our machine shops that
 4 manufacture these parts.
 5 Q So each of the features shown in these drawings
 6 would be considered confidential to Packers Plus,
 7 correct?
 8 A Yes.
 9 Q They would only be shared with the various
 10 machine shops that actually manufacture the
 11 products for you; is that correct?
 12 A That would typically be correct, yes.
 13 Q Would they be shared with anyone else?
 14 A There may be times when a specific part drawing
 15 may be sent to a fishing company, or something
 16 like that, to recover parts out of a well, or
 17 they may be shown to the fishing company.
 18 Q Anything else? I'm talking about showing these
 19 drawings to third parties.
 20 A Mm-hmm. Yeah. There may be times when we would
 21 show something to a customer for a specific
 22 application.
 23 Q Okay. The first drawing is what I call an
 24 assembly drawing. Is that what you call it?
 25 A Yes.

1 Q The drawings that follow are -- what do you call
 2 these drawings? Machine drawings or engineering
 3 drawings or both? What do you call these?
 4 A I would call them a machine drawing.
 5 Q Machine drawing. You said before engineering and
 6 machine drawings in your testimony. What did you
 7 mean by "engineering drawings"?
 8 A They're design drawings done by our engineering
 9 group.
 10 Q Design drawings that are not machine drawings,
 11 right?
 12 A No. An engineering drawing would encompass
 13 machine drawings as well, but it may also include
 14 some dimensional drawings that wouldn't be
 15 regarded necessarily as confidential.
 16 Q I see. So machine drawings, in your view, are
 17 kind of a subset of engineering drawings; is that
 18 right?
 19 A Yes.
 20 Q Would you consider all of Packers Plus' machine
 21 drawings to be confidential to Packers Plus?
 22 A No, not all of them.
 23 Q Can you give me some examples that would not be
 24 confidential.
 25 A We may have a drawing of something nontechnical

1 A I believe my statement was, when you asked about
 2 machine drawings, are they all confidential, and
 3 I stated that some are and some are not.
 4 Q Okay.
 5 A With regard to . . .
 6 Q So let's just focus on RockSeal machine drawings.
 7 A I mean, you asked specifically what would not be
 8 considered confidential, so I went through the
 9 drawing of the packer and listed all the things
 10 that were available aftermarket that would be
 11 included in this assembly or listed in this
 12 assembly but not limited to the set of drawings
 13 that you have behind here. So I was trying to
 14 answer it based on the assembly drawing, which is
 15 the front page that you've given me.
 16 Q I see. So let's just focus on Exhibit 12, part
 17 of which is a bottom connection, a shear pin, the
 18 chrome steel ball, a set screw, and an O-ring
 19 drawing, right?
 20 A Number 12?
 21 MR. FLETCHER: Exhibit what?
 22 Q MR. PAYNE: I'm sorry, Exhibit 69.
 23 A Which page?
 24 Q Let's just talk about the bottom connection,
 25 which is Item 16 listed on the assembly drawing,

1 that -- for example, possibly a centralizer,
 2 possibly a rubber element, O-rings, a ball,
 3 potentially a pump-out plug, on-off tool; things
 4 that are pretty much available through third
 5 parties and stuff wouldn't necessarily be
 6 considered confidential information.
 7 Q Let me limit my question to the RockSeal packers,
 8 okay?
 9 A Okay.
 10 Q Would you consider all the RockSeal packer
 11 machine drawings to be confidential to
 12 Packers Plus?
 13 A No.
 14 Q Which ones would not be confidential to
 15 Packers Plus?
 16 A Bottom connection; a shear pin; a chrome steel
 17 ball; a set screw; O-rings.
 18 Q Are you reading from the first page of
 19 Exhibit 69?
 20 A Yep.
 21 Q Well, I guess we need to go back over this. I
 22 thought I heard you say before that the drawings
 23 that comprise Exhibit 69 are confidential to
 24 Packers Plus. Are you now saying that they're
 25 not necessarily confidential to Packers Plus?

1 right?
 2 A Yes.
 3 Q Do you believe that machine drawing for the
 4 bottom connection is confidential to
 5 Packers Plus?
 6 A I wouldn't consider it confidential because it's
 7 a commercially available crossover.
 8 Q Let's go to the fifth page of Exhibit 69, which I
 9 believe is the bottom connection drawing, Part
 10 Number 100022, right?
 11 A Yes.
 12 Q Which is the bottom connection that's listed on
 13 the first page of Exhibit 69, right?
 14 A Yes.
 15 Q Is it your testimony that this drawing, which is
 16 a machine drawing for a bottom connection for the
 17 RockSeal packer, is not confidential to
 18 Packers Plus?
 19 A I wouldn't consider it confidential.
 20 Q Why does it say (quoted):
 21 "EXCLUSIVE PROPERTY OF PACKERS PLUS
 22 ENERGY SERVICES INC. AND IS NOT TO BE
 23 REPRODUCED. THE INFORMATION MUST BE
 24 TREATED AS CONFIDENTIAL MATERIAL?"
 25 A Because we use the same header on all of our

1 engineering drawings, so it would be up to the
 2 judgment of the individual person as to whether
 3 that's truly a confidential item or not a
 4 confidential item.
 5 Q So in certain cases where you use this
 6 confidentiality header for machine drawings, it
 7 may not actually apply; is that correct?
 8 A It would depend on the circumstances, but I would
 9 not regard every drawing in here to be something
 10 that we'd need to protect, and including this
 11 crossover because it's something that you can go
 12 buy at a supply store pretty much.
 13 Q When you said "crossover," you're talking about
 14 the bottom connection, right?
 15 A The bottom connection, yes.
 16 Q Is there anything in this bottom connection
 17 drawing that's Bates stamped 77290 that's
 18 confidential to Packers Plus?
 19 A I wouldn't consider anything confidential on this
 20 drawing.
 21 Q Are you testifying that third parties have access
 22 to this information, which makes the information
 23 nonconfidential?
 24 MR. NASH: Objection. Form.
 25 OBJECTION TO QUESTION

1 A Can you restate the question, please.
 2 Q MR. PAYNE: Do these specific features
 3 that appear in this machine drawing as 100022
 4 appear in other bottom connections that other
 5 companies make and/or sell?
 6 A I don't know if they would be exactly the same,
 7 but this is a part that I could go to a supply
 8 store and buy as a crossover from, more than
 9 likely, on whatever material that we decide to
 10 buy it on.
 11 So from the standpoint of,
 12 does anything else that anybody else manufactures
 13 look exactly identical to this, I don't know the
 14 answer to that. But if it's a commodity product
 15 that I could go buy at a supply store, then I
 16 don't necessarily consider it a confidential
 17 engineering drawing or machine drawing.
 18 Q You don't go to a supply store to buy bottom
 19 connections for the RockSeal, do you?
 20 A I believe that we have gone to buy bottom
 21 connections, but I don't know that that's a
 22 regular practice for us. I think we get them
 23 manufactured for quality control issues more than
 24 anything.
 25 Q Typically, the RockSeal bottom connections are

1 manufactured by your third party manufacturing
 2 houses, right?
 3 A Typically, they would be, yes.
 4 Q Pursuant to these machine drawings, right?
 5 A Can you restate it.
 6 Q Well, do the manufacturing houses use these
 7 machine drawings that make up part of Exhibit 69?
 8 A Yes, they do.
 9 Q You mentioned the shear pin before as not being
 10 confidential, correct? Is that correct?
 11 A That is correct.
 12 Q Let's go to the shear pin drawing, which is the
 13 last page of Exhibit 69. Are you there?
 14 A I am.
 15 Q Do you consider anything in this shear pin
 16 drawing that is 100059 to be confidential to
 17 Packers Plus?
 18 A No.
 19 Q Why is that?
 20 A Because the shear pins are typically purchased
 21 from a third party supplier that sells to a
 22 number of different companies.
 23 Q Is that the case for Packers Plus or --
 24 THE VIDEOGRAPHER: We've got somebody's
 25 BlackBerry coming through, or cellphone or

1 something.
 2 COURT REPORTER: Sorry, could you please
 3 repeat that question.
 4 Q MR. PAYNE: That's okay. We're
 5 talking about the shear pin features on
 6 Drawing 100059.
 7 A Yes.
 8 Q Right, Mr. Themig?
 9 A Yes.
 10 Q And specifically shear pins used for the RockSeal
 11 designs?
 12 A Yes.
 13 Q Does Packers Plus buy its shear pins from third
 14 party suppliers who are not its manufacturing
 15 houses?
 16 A Yes.
 17 Q Well, do you give the shear pin machine drawing
 18 to your manufacturing house?
 19 A If we were getting it manufactured, we give them
 20 the drawing. If we're buying them third party,
 21 then we would just send an order in for them.
 22 Q Well, do you typically have the shear pins
 23 manufactured separately for the RockSeal packers
 24 that are manufactured for you?
 25 A No.

1 Q Typically, the shear pins that are used in the
 2 RockSeals are all kind of off the shelf?
 3 A Yes.
 4 Q From third party suppliers?
 5 A Yes.
 6 Q When would this machine drawing that relates to
 7 the shear pin be used for the RockSeal packers
 8 that are manufactured for you?
 9 A I'm sorry, can you --
 10 Q When would it be used as opposed to you going out
 11 and buying shear pins kind of off the shelf?
 12 A I'm not sure that it's ever been used.
 13 Q You don't think the shear pin machine drawing
 14 that we're talking about has ever been used by
 15 your manufacturing houses?
 16 A I don't think so.
 17 Q You think it's always been the case that with
 18 respect to your RockSeal packers that the shear
 19 pins in those packers were bought off the shelf?
 20 A I believe that's true, yes.
 21 Q Who would know more information about that issue,
 22 and who could tell me one way or the other if
 23 it's true or not?
 24 A As far as where we purchase them, probably
 25 Jim Fehr would be able to tell you whether he's

1 Q So you don't know one way or the other whether
 2 you have machine drawings for set screws?
 3 A I don't know. I don't think that we do.
 4 Q So with respect to set screws and RockSeal
 5 packers that are manufactured for you, are those
 6 set screws bought as kind of off-the-shelf items?
 7 A Typically, they would be, yes.
 8 Q To your knowledge, they're not manufactured
 9 pursuant to Packers Plus machine drawings?
 10 A Not currently.
 11 Q Have they ever been?
 12 A Not to my knowledge.
 13 Q Let's talk about the O-ring, which is Item 5 on
 14 the assembly drawing, right?
 15 A Mm-hmm. Yes.
 16 Q Are those O-rings bought off the shelf for
 17 RockSeal packers?
 18 A Yes, I believe they are.
 19 Q Do you have machine drawings for O-ring seals --
 20 A No.
 21 Q -- for the Packers Plus line?
 22 A No. It's just a call-out item.
 23 Q Are there any other drawings listed on this
 24 assembly drawing that's part of Exhibit 69 that
 25 you don't think contains Packers Plus

1 ever had them manufactured or if they're always
 2 just ordered.
 3 Q Why would you have a machine drawing for a shear
 4 pin if you simply buy off-the-shelf shear pins?
 5 A I think it's just part of due diligence in our
 6 engineering.
 7 Q Let's talk about the chrome steel ball that's
 8 listed on the first page of Exhibit 69. Is that
 9 an off-the-shelf product as well?
 10 A Yes, I believe it is.
 11 Q That product isn't manufactured pursuant to
 12 Packers Plus drawings?
 13 A No.
 14 Q Is that always the case?
 15 A I believe it's always the case.
 16 Q You also mentioned the set screw, which on
 17 Exhibit 69 is Part Number 100060, correct?
 18 A Yes.
 19 Q Does the set screw machine drawing contain
 20 Packers Plus confidential information?
 21 A I don't recall seeing a set screw drawing.
 22 Q There's not one in Exhibit 69, but obviously
 23 there's one that is Drawing Number 100060,
 24 correct?
 25 A There may not be a drawing for it.

1 confidential information? In other words, we've
 2 talked about the bottom connection, shear pin,
 3 chrome steel ball, set screw, and O-ring, right?
 4 A Yes.
 5 Q Are there others that don't contain Packers Plus
 6 confidential information?
 7 A Not as far as I can tell looking at this.
 8 Q So as far as you can tell, the other drawings
 9 listed on this assembly drawing would contain
 10 Packers Plus confidential information, correct?
 11 A Yes.
 12 Q Has Packers Plus ever manufactured a RockSeal II
 13 mechanical set packer?
 14 A Yes.
 15 Q As opposed to a hydraulic set packer?
 16 A Yes.
 17 Q When was that?
 18 A I think we manufactured probably in 2003, maybe
 19 2004.
 20 Q Is that part of your product line, the mechanical
 21 set RockSeal II packers?
 22 A Yes.
 23 Q So you have a design for the RockSeal II that is
 24 not hydraulically set?
 25 A Yes.

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1 Q Is that a popular design as compared to the
2 hydraulic set, or most of the packers that are
3 RockSeal II packers are still hydraulic set
4 packers?
5 A Depends on the location or what district we're
6 working out of as to whether it's more or less
7 popular.
8 Q How would I know whether a RockSeal II packer got
9 sold as a mechanical set packer or a hydraulic
10 set packer? Is there some sort of nomenclature?
11 A It would say it on the -- probably on a proposal
12 drawing or something like that.
13 Q What about on the field ticket or the invoice?
14 A Yes, I believe it would differentiate it there as
15 well, and plus the mechanical sets are typically
16 run as a service tool.
17 Q So the mechanical set RockSeal IIs are service
18 tools typically?
19 A Typically, they are.
20 Q As opposed to completion tools?
21 A As opposed to a production packer or a
22 permanently installed production packer.
23 MR. PAYNE: Do you guys want to take a
24 break and then go for another hour and then grab
25 lunch?

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1 MR. FLETCHER: Yes, whatever works for
2 you.
3 MR. PAYNE: Okay. Let's do that,
4 then.
5 THE VIDEOGRAPHER: Take a break? Going off
6 the record?
7 Going off the record.
8 Time is 1144.
9 (BRIEF ADJOURNMENT)
10 THE VIDEOGRAPHER: We are back on the record.
11 Time is 1158.
12 EXHIBIT NUMBER 70:
13 PACKERS PLUS ENERGY SERVICES INC. TOOL
14 DESIGN JOURNAL.
15
16 EXHIBIT NUMBER 71:
17 AFFIDAVIT OF SLOANE MUSCROFT, SWORN
18 MARCH 15, 2005.
19 Q MR. PAYNE: Mr. Themig, you have
20 Exhibit 70 in front of you, correct?
21 A Yes.
22 Q This is a Packers Plus tool design journal,
23 correct?
24 A Yes.
25 Q At least that's what it's titled, right?

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1 A That's what it's titled.
2 Q Who prepared this document? Was it one person, a
3 collection of people, do you know?
4 MR. PAYNE: Rick, I don't know what
5 you just did, but if you're trying to help him
6 answer the question, please don't do that.
7 MR. FLETCHER: No, I'm not trying to help
8 him; I'm just referencing something on the
9 document that you put in front of him.
10 Q MR. PAYNE: So what's being referenced
11 there, Mr. Themig?
12 A There's some fine print called "Muscroft
13 Production Documents - Non Confidential."
14 Q Do you know who prepared it? If you don't know,
15 just tell me. I don't want to spend a bunch of
16 time on that question. Do you know or not?
17 A I don't know.
18 Q Do you know whether Mr. Muscroft played a hand at
19 preparing this document?
20 A I don't know for sure who would have done it. I
21 don't know who prepared this.
22 Q Did you prepare part of it?
23 A I believe I did.
24 Q Who prepared the pages on the RockSeal packers,
25 which are pages 5, 6, 7, and 8?

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1 A I don't know who did that.
2 Q Is there an updated version of this document?
3 A Not to my knowledge.
4 Q Does this list every packer or tool that
5 Packers Plus has ever designed?
6 A Probably not.
7 Q Have you seen this document before today?
8 A I've seen parts of this document. I don't know
9 that I've seen it in its entirety.
10 Q So do you know what the purpose is or not?
11 A It's -- I think the description probably fits it.
12 It's a tool design journal of some sort,
13 prepared -- I'm not sure when as far as the dates
14 go.
15 Q Do you know whether Packers Plus has possession
16 of other tool design journals?
17 A Not to my knowledge.
18 Q Let's turn to page 5 of Exhibit 70, which
19 describes the "Rockseal Isolation Packer,"
20 correct? At least that's the title, right?
21 A That's the title, yes.
22 Q This is referring to the RockSeal II, correct?
23 A It doesn't state that.
24 Q Well, it says "Design date - Jan 2000," correct?
25 A It does.

27 (Pages 542 to 545)

1 Q What RockSeal packers was Packers Plus designing
 2 in January of 2000?
 3 A I'm not sure.
 4 Q They were designing the RockSeal II, correct?
 5 A I don't know if it was January. The only date
 6 for sure is February 14th here, so I don't think
 7 that any design work took place in January.
 8 Q You don't think Mr. Muscroft prepared drawings in
 9 January for the RockSeal II?
 10 A Well, it's seven years ago, so I don't recall
 11 whether it was or not.
 12 Q So you're questioning the date of January 2000?
 13 A Yeah. I don't -- I can't sit here today,
 14 seven years later, and say January of 2000 we did
 15 whatever it is. There is one specific date here
 16 that's listed as February of 2000, but there's
 17 also some other dates that I'm not sure are
 18 correct in here, Mr. Payne. A Retrievable Upper
 19 PBR design date October 2000, I have no idea
 20 whether --
 21 Q Hold on. Hold on. I'm sorry, I'm just going to
 22 focus on the RockSeal. Do you see any dates in
 23 the RockSeal pages that are wrong?
 24 A I only see one date: February 14th of 2000.
 25 Q Well, the first date that's given is January

1 Packers Plus.
 2 Q I'm looking at Exhibit 71, which is
 3 Mr. Muscroft's affidavit from the Canadian
 4 matter, correct?
 5 I'll represent to you it's
 6 his affidavit from the Canadian matter,
 7 Mr. Themig. If you look at paragraph 2, he says
 8 (quoted):
 9 "Once I began working for Packers Plus,
 10 I prepared a design for the RockSeal II
 11 Packer, which I completed within about
 12 two weeks."
 13 Do you see that language,
 14 sir?
 15 A Yes.
 16 Q You don't have any reason to dispute that time
 17 frame, do you, sir?
 18 A I don't.
 19 Q So at least when Mr. Muscroft started working at
 20 Packers Plus, his first design project was the
 21 RockSeal II, correct?
 22 A No, that's not necessarily correct.
 23 Q What else would he have been working on
 24 initially?
 25 A Pump-out plugs; unloaders. I'm not sure what he

1 2000, at least the first month that's given is
 2 January 2000, right?
 3 A Yes.
 4 Q In any event, you and Mr. Paltzat and Mr. Krabben
 5 and Mr. Muscroft were all still employed at
 6 Halliburton for at least part of January of 2000,
 7 correct?
 8 A Yes.
 9 Q Is it true that the RockSeal packer was the very
 10 first design project at Packers Plus?
 11 A I don't know whether it was or not.
 12 Q Is it true that the RockSeal packer was the first
 13 packer design project at Packers Plus?
 14 A I'm not sure whether it was or not.
 15 Q What would be before it?
 16 A I don't know.
 17 Q Don't know? Can't think of anything?
 18 A Not today.
 19 Q Isn't it true that your first design project at
 20 Packers Plus was the RockSeal design?
 21 A No. I think the first thing we designed was a
 22 pump-out plug.
 23 Q Who is "we"?
 24 A Sloane Muscroft designed -- but you asked as
 25 Packers Plus, so I guess we would be

1 would have worked on initially.
 2 Q Well, you know one of his initial products at
 3 least -- projects at least was for the RockSeal,
 4 right?
 5 A One of his projects was the RockSeal, yes, sir.
 6 Q In fact, that was his focus initially, correct?
 7 A Not necessarily.
 8 Q You don't think that Mr. Muscroft's focus
 9 initially at Packers Plus was to design the
 10 RockSeal II packer?
 11 A It was one of his first projects.
 12 Q Was it his focus? Was it his primary focus?
 13 A At the start?
 14 Q Yes.
 15 A I don't think it was necessarily. He did a
 16 number of things.
 17 Q Do you think it's possible that Mr. Muscroft
 18 could have prepared the RockSeal II design in
 19 two weeks without using Halliburton drawings?
 20 MR. NASH: Objection. Form.
 21 MR. FLETCHER: Objection. Form.
 22 OBJECTION TO QUESTION
 23 Q MR. PAYNE: Can you answer, please.
 24 MR. NASH: I fail to understand
 25 what's funny.

1 MR. FLETCHER: Yes, what's so funny?
 2 MR. PAYNE: In unison. I thought one
 3 of you was going to give objections, but go
 4 ahead.
 5 MR. NASH: As I said, it would be
 6 hard if we could make -- avoid making them in
 7 unison.
 8 A Yes.
 9 Q MR. PAYNE: You think it is possible
 10 that he could have designed the RockSeal II
 11 without using Halliburton drawings?
 12 A Yes.
 13 Q Were you at Mr. Muscroft's depositions?
 14 A You'll have to restate.
 15 Q Well, did you attend any of Mr. Muscroft's
 16 deposition days?
 17 A I did attend his depositions in Edmonton, and I
 18 attended part of his depositions in Calgary.
 19 Q So you attended several days of his depositions,
 20 correct?
 21 A Yes.
 22 Q Have you read his deposition transcripts as well?
 23 A No, I haven't.
 24 Q So you're familiar with at least some of
 25 Mr. Muscroft's deposition testimony, correct, by

1 virtue of you being present?
 2 A If you want to question me on anything in his
 3 depositions, you'll have to place it before me so
 4 I can read it.
 5 Q Do you remember Mr. Muscroft testifying, for
 6 example, that he used Halliburton drawings to
 7 design the RockSeal II?
 8 A You'll have to put that deposition in front of
 9 me, Mr. Payne, if you want me to comment on it.
 10 Q I want to know if you remember him giving
 11 testimony to that effect.
 12 A No.
 13 Q You can't remember that?
 14 A I just answered the question.
 15 Q You can't remember -- can you remember his
 16 testimony that he took from Halliburton a host of
 17 Halliburton confidential information?
 18 A You'll have to --
 19 MR. FLETCHER: Objection. Form.
 20 OBJECTION TO QUESTION
 21 A You'll have to put the testimony in front of me
 22 if you want me to comment on it.
 23 Q MR. PAYNE: You were at his -- at
 24 least some of his depositions, correct?
 25 A Yes.

1 Q Sitting there today, you can't recall one way or
 2 the other whether he testified that he took
 3 Halliburton confidential information? Is that
 4 your testimony today?
 5 MR. FLETCHER: Objection. Form.
 6 OBJECTION TO QUESTION
 7 A If you want me to comment on his depositions, put
 8 it in front of me, and I'll comment on it.
 9 Q MR. PAYNE: I'm not going to give you
 10 any of his deposition testimony, Mr. Themig. I'd
 11 like an answer to my question. Do you remember
 12 him testifying that he took Halliburton
 13 confidential information?
 14 MR. NASH: Objection. Form.
 15 OBJECTION TO QUESTION
 16 A I do not remember whether he made that statement
 17 or not.
 18 Q MR. PAYNE: Do you believe that
 19 Mr. Muscroft took Halliburton confidential
 20 information when he came to Packers Plus?
 21 A Restate the question, please.
 22 Q No. I'd like you to answer that question,
 23 please.
 24 A Okay. I believe Muscroft took Halliburton
 25 confidential information but not associated with

1 Packers Plus. He had taken confidential drawings
 2 from Baker Hughes that he worked at before he
 3 worked for Halliburton, and he was in possession
 4 of them when he worked for Halliburton. He then
 5 took Halliburton's drawings. He then took our
 6 drawings. He took D&L's drawings. He took
 7 Essel's drawings.
 8 And he had -- at the time
 9 we did the deposition on him, he already taken
 10 confidential drawings from Canadian Advanced, who
 11 he worked for at that time, during the
 12 depositions, and he also admitted they had no
 13 knowledge that he had the files at his house.
 14 So he's taken confidential
 15 information from a number of companies but not
 16 associated with Packers Plus. He did it on his
 17 own.
 18 MR. FLETCHER: Les, the agreement was
 19 that you were not going to go into prior
 20 testimony in other depositions that you've taken
 21 with Mr. Themig. That's all information that
 22 you've already talked to him about.
 23 MR. PAYNE: Your former partner or
 24 current partner -- I don't know where Clark
 25 stands right now -- would not let any witness

1 give testimony about information they learned in
 2 those depositions, Rick. That's my recollection.
 3 So if I'm mistaken, I apologize, but --
 4 MR. FLETCHER: And I believe you are.
 5 MR. PAYNE: Well, there were numerous
 6 objections.
 7 MR. FLETCHER: You took over 10 1/2 hours
 8 of deposition of Mr. Themig. That's all prior
 9 information that you've already talked to him
 10 about.
 11 MR. PAYNE: Well, I was not allowed to
 12 get answers to my questions about what he learned
 13 in those depositions based on Clark's objections.
 14 I can guarantee that. I can go back and show you
 15 the transcripts. I mean, it's clear that he
 16 objected numerous times. We had a disagreement
 17 about that. I thought it was improper at the
 18 time, but he made the objections, and that's my
 19 recollection. So it doesn't really matter at
 20 this point. I'm not trying to refile on ground.
 21 I mean, Rick, the witness
 22 told me on the one hand he couldn't remember
 23 whether Mr. Muscroft testified that he took
 24 Halliburton confidential information.
 25 MR. FLETCHER: No, that's not what you

1 A It's my understanding he was in possession of
 2 Halliburton confidential information when we did
 3 the Anton Piller search on his home.
 4 Q Is it your understanding that he was in
 5 possession of that Halliburton confidential
 6 information while he was employed at
 7 Packers Plus?
 8 A Yes, he was in possession of it.
 9 Q While he was employed at Packers Plus, correct?
 10 A Yes.
 11 Q Is it your understanding as well that he used
 12 some of that Halliburton confidential information
 13 while he was employed at Packers Plus?
 14 A It's my understanding that in one instance, he
 15 brought drawings to our shop to compare to
 16 another drawing or to another set of drawings to
 17 check dimensions that resulted in no change in
 18 any design work. And they were not products that
 19 we manufactured; they were a third party
 20 supplier. That is my understanding of the extent
 21 of what he claims his use was.
 22 Q Is that the instance in which Mr. Paltzat was
 23 involved?
 24 A It is.
 25 Q But you're not aware of any other instance where

1 asked him.
 2 MR. PAYNE: And then he just told me
 3 that he took Halliburton confidential
 4 information. He said he admitted it in his
 5 deposition.
 6 MR. FLETCHER: What you asked him --
 7 MR. PAYNE: I don't want to play games
 8 in this deposition.
 9 MR. FLETCHER: Well, and that's exactly
 10 what you're doing, and you've been doing it from
 11 the time you started this thing.
 12 MR. PAYNE: Rick . . .
 13 MR. FLETCHER: Now, what you asked him
 14 was a very specific statement about what he heard
 15 in that deposition. That's wrong, and you know
 16 that.
 17 MR. PAYNE: It's wrong for me to --
 18 MR. FLETCHER: For you to ask that
 19 particular question in that manner. He answered
 20 your question. It was over objection. Now, if
 21 you want to ask him a different question and get
 22 the information a different way, ask it.
 23 Q MR. PAYNE: So it's your understanding
 24 that Mr. Muscroft did in fact take Halliburton
 25 confidential information, correct?

1 Mr. Muscroft used Halliburton confidential
 2 information at Packers Plus?
 3 A I'm not -- I don't have specific knowledge of
 4 anything that he would have used drawings for.
 5 Q Is it fair to say that when you left Halliburton,
 6 you were excited about the new RockSeal design?
 7 A No.
 8 Q Is it fair to say that you couldn't wait to get
 9 started on that RockSeal design right after you
 10 left Halliburton?
 11 A I don't recall anything other than apprehension,
 12 I think, as far as leaving an employer for 15 --
 13 that I had been with for 15 years.
 14 Q So you had apprehension as to the RockSeal design
 15 or just general apprehension?
 16 A General apprehension.
 17 Q What were your views at that point about the
 18 RockSeal?
 19 A You'll have to be more specific.
 20 Q What feeling did you have when you left
 21 Halliburton and started working at Packers Plus
 22 about the RockSeal design, specifically in the
 23 months of January and February of 2000?
 24 A Given the fact it was seven years ago, I don't
 25 know. I don't recall how I felt.

1 Q You don't remember being excited about that
 2 particular design?
 3 A No.
 4 Q Did you feel that it might be a very good seller
 5 for Packers Plus?
 6 A I don't know that I -- I don't know that I had a
 7 view on whether it would be or not.
 8 Q Why is it that -- well, let me back up. Did you
 9 instruct Mr. Muscroft to make the RockSeal design
 10 one of his first projects at Packers Plus?
 11 A I don't recall what conversations took place.
 12 Q Who made that decision?
 13 A As to what we worked on first?
 14 Q As to what Mr. Muscroft worked on first.
 15 A Probably the four of us collectively may have
 16 decided that that's what we wanted to do first or
 17 early on.
 18 Q The four of you meaning yourself, Mr. Muscroft,
 19 Mr. Krabben, and Mr. Paltzat?
 20 A Yes.
 21 Q Well, do you remember why the RockSeal design
 22 project was selected as one of Mr. Muscroft's
 23 first projects?
 24 A No.
 25 Q Can't remember right now?

1 Specifically what month, I'm not sure.
 2 Q The fall of 2001, you said?
 3 A Yes.
 4 Q Let's move to Exhibit 71, please. On page 2 of
 5 Mr. Muscroft's affidavit, which is marked as
 6 Exhibit 71, there's a chart listing various
 7 RockSeal II drawings, correct?
 8 A Yes.
 9 Q The third column is titled "Drawn By Date,"
 10 correct?
 11 A Yes.
 12 Q And the fourth column is "File Creation Date,"
 13 correct?
 14 A Yes.
 15 Q There are a lot of dates in there in January of
 16 2000, correct?
 17 A Yes.
 18 Q Does that refresh your recollection about when
 19 Mr. Muscroft started working on the RockSeal II
 20 design?
 21 A No.
 22 Q Do you have any reason to disagree with those
 23 dates that are listed in Columns 3 and 4?
 24 A Well, I don't agree or disagree with them. I'm
 25 just not -- it's his statement, so I'll let it

1 A No.
 2 Q Is it because someone at Packers Plus thought
 3 that design could be a very lucrative design?
 4 A No, not necessarily.
 5 Q You never held that belief back in January or
 6 February of 2000?
 7 A No.
 8 Q I notice that in Exhibit 70 there's a reference
 9 on page 3 to "CENTRALIZERS" in connection with
 10 the January 2000 date. Do you see that, sir?
 11 A Yes.
 12 Q Were the centralizers one of the early design
 13 projects at Packers Plus?
 14 A I'm not sure when we designed the centralizers.
 15 Looks like March of 2001 is one of the dates
 16 that's listed here as something specifically
 17 taking place.
 18 Q The first date given in connection with the
 19 FracPort tool is September of 2001 on page 23,
 20 correct?
 21 A Yes.
 22 Q Is September of 2001 the general time frame in
 23 which Packers Plus started designing the FracPort
 24 tool?
 25 A I think it would have been in the fall of 2001.

1 stand on its own.
 2 Q Let's move to page 3, paragraph 8, of Exhibit 71,
 3 where Mr. Muscroft describes his work from
 4 January 23 to February 14 of 2000 as including
 5 designing parts for the RockSeal II packer and a
 6 prototype being built and examined and making
 7 design changes. He's saying that the entire
 8 process took 22 days. Do you see that, sir?
 9 A I do.
 10 Q Do you have any reason to disagree with the
 11 description of those activities in that 22-day
 12 period?
 13 A Twenty-two days sounds like a reasonable amount
 14 of time to complete a design.
 15 Q Is the 22 days, as far as you know, accurate in
 16 this context discussed in paragraph 8?
 17 A I don't know whether it is or not.
 18 Q You don't have a different recollection today, do
 19 you?
 20 A I don't recall one way or another.
 21 Q Is it your testimony that it's reasonable to
 22 complete the activities described in paragraph 8
 23 in the 22-day period?
 24 A In which paragraph, sorry?
 25 Q Paragraph 8.

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1 A I believe that would be a reasonable time period.
 2 Q Is that a time period in which those activities
 3 could be completed without using Halliburton
 4 confidential information?
 5 A I believe it is.
 6 Q So it's your testimony that starting from
 7 scratch, Mr. Muscroft and anybody else involved
 8 in the RockSeal project at Packers Plus could
 9 complete all of these activities described in
 10 paragraph 8 in 22 days without using Halliburton
 11 information, correct?
 12 A Yes.
 13 Q Do you know whether Halliburton information was
 14 used in that 22-day period?
 15 A I don't believe it was, but I don't have any way
 16 to know.
 17 Q You don't know because you don't know what
 18 Mr. Muscroft did or did not do in that 22-day
 19 period?
 20 A I don't have specific knowledge, no.
 21 Q Do you have an understanding that Mr. Muscroft
 22 believes that he used Halliburton drawings in
 23 connection with designing the RockSeal?
 24 A I don't believe that -- I don't know whether
 25 that's true or not, and I don't know what you're

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1 referring to. To my knowledge, he's never made
 2 that claim.
 3 THE VIDEOGRAPHER: About five minutes.
 4 MR. PAYNE: Okay.
 5 Q MR. PAYNE: I'm going to hand you
 6 what's been marked as Exhibit 8 previously. Turn
 7 to the page -- I mean paragraph 38, please.
 8 Exhibit 8 is an affidavit that you signed,
 9 correct?
 10 I'll represent to you
 11 Exhibit 8 is an affidavit you signed, Mr. Themig.
 12 A Yes.
 13 Q Back in Exhibit 71, which is Mr. Muscroft's
 14 affidavit, paragraph 11 says that he communicated
 15 with you throughout that time regarding the
 16 design plans and the one prototype. Do you see
 17 that, sir? Paragraph 11, Exhibit 71.
 18 Mr. Themig. Exhibit 71, do you have that?
 19 Paragraph 11. He's referring to a time frame
 20 from January 23, 2000, to February 19, 2000,
 21 correct?
 22 A Yes.
 23 Q And he's talking about his design work for the
 24 RockSeal II, correct?
 25 A Yes.

1 Q And he says (quoted):
 2 "I communicated with Themig throughout
 3 that time regarding the design plans and
 4 the one prototype."
 5 Correct?
 6 A That's what he says, yes.
 7 Q Is that an accurate statement?
 8 A I don't recall what our communications were
 9 seven years ago. I don't have a clear
 10 recollection of this time period.
 11 Q You can't remember much about the RockSeal design
 12 in January, February of 2000?
 13 A No.
 14 Q Let's go back to Exhibit 8, please.
 15 MR. PAYNE: How much time do we have,
 16 Lee?
 17 THE VIDEOGRAPHER: Two and a half.
 18 MR. PAYNE: Two and a half?
 19 Q MR. PAYNE: Let's move to
 20 paragraph 38, which is on page 15, please. Are
 21 you there?
 22 A Yes.
 23 Q This is a paragraph that deals with your
 24 assessment that you didn't think Peak could do a
 25 design between November 25 and December 15 of

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1 2003 without using Packers Plus drawings,
 2 correct?
 3 A That's not what this statement states.
 4 MR. FLETCHER: I object to the form.
 5 MR. PAYNE: Well, it says -- it'll
 6 speak for itself, but the date --
 7 MR. FLETCHER: You're trying to speak for
 8 it, Les. If you want him to read it and testify
 9 to it --
 10 MR. PAYNE: Okay, Rick.
 11 OBJECTION TO QUESTION
 12 Q MR. PAYNE: The date range is
 13 November 25 to December 15, 2003, correct?
 14 A Yes.
 15 Q That was a date range that applies to a certain
 16 tool that was designed by Peak Completion; is
 17 that correct?
 18 A That's not what this statement's talking about.
 19 Q Okay. What is this statement talking about?
 20 A It's talking about going from a concept to
 21 full-blown manufacturing in a period of roughly
 22 two weeks.
 23 Q Two weeks, okay.
 24 A And to have machine drawings on machines and to
 25 be manufacturing full blown at a machine shop,

32 (Pages 562 to 565)

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1 with no time for prototyping, no time for
 2 design-checking. It's a totally different
 3 concept than what we were talking about before,
 4 because this --
 5 Q What do you mean "talking about before"?
 6 A Well, than what we were talking about as far as a
 7 time period for just a design that we went
 8 through with Muscroft.
 9 Q On the RockSeal --
 10 A So 22 days to do a design and a revision for just
 11 a design on one specific tool.
 12 Q Okay.
 13 A And --
 14 Q And you're saying the Peak --
 15 MR. NASH: Can he finish his answer,
 16 please. He was still testifying.
 17 Q MR. PAYNE: Did you have some more?
 18 A Yes, I did have more, yeah.
 19 And my understanding,
 20 although I didn't see it first-hand, but I was
 21 told about it, was that within this time frame --
 22 and I actually believe that the December date
 23 probably was earlier than that -- they went from
 24 nothing to having full-blown machining being done
 25 on a number of different tools in a period of

1 just a couple weeks. And it wasn't building one
 2 prototype; it was full-blown manufacturing.
 3 Q But at Packers Plus in that 22-day period, you
 4 had manufactured at least one RockSeal by that
 5 point, correct?
 6 A We had manufactured one prototype.
 7 Q One RockSeal prototype --
 8 A Yes.
 9 Q -- in those first -- how long did it take you to
 10 manufacture the first RockSeal prototype, do you
 11 remember?
 12 A I have no idea.
 13 THE VIDEOGRAPHER: Yeah, that's the end.
 14 MR. PAYNE: Okay.
 15 THE VIDEOGRAPHER: Here marks the end of Tape
 16 Number 3 in the deposition of Daniel Themig.
 17 Going off the record. Time is 1230.
 18 (PROCEEDINGS ADJOURNED AT 12:30 P.M.)
 19 (PROCEEDINGS RESUMED AT 1:17 P.M.)
 20 THE VIDEOGRAPHER: This marks the beginning
 21 of Tape Number 4 in the deposition of
 22 Daniel Themig. Going on the record. Time is
 23 1317.
 24 Q MR. PAYNE: Mr. Themig, we were
 25 talking about Exhibit 71, which is Mr. Muscroft's

1 affidavit, and in paragraph 8 he talks about this
 2 22-day period during which the seven-inch
 3 RockSeal II packer prototype was built. Do you
 4 remember if the prototype that he's referring to
 5 was actually built in that 22-day period?
 6 A I believe it was.
 7 Q Who manufactured the prototype for you guys?
 8 A I think that would have been -- Jeez, I can't
 9 remember the name of the shop now.
 10 Q Was it Kwestor?
 11 A No. It was -- can I ask somebody in the room
 12 that'll know?
 13 Q Sure.
 14 MR. PALTZAT: Precimax.
 15 A It was Precimax.
 16 Q MR. PAYNE: Can you spell that for me.
 17 A P-r-e-c-i-m-a-x, I believe.
 18 Q Are they based in Calgary?
 19 A Edmonton.
 20 Q Or Edmonton? Are they still around?
 21 A Yes.
 22 Q Do you guys use Precimax to manufacture tools
 23 today?
 24 A I don't think we use them today except that it's
 25 where Halliburton gets all their profile nipples

1 cut for on-off tools, so we take our ori-off tools
 2 there to get Halliburton nipples cut in them.
 3 Q Was Precimax ever a manufacturer for you guys for
 4 the RockSeal -- commercial RockSeal line?
 5 A Yes.
 6 Q They actually made RockSeals that were made for
 7 sale?
 8 A Yes.
 9 Q Did Kwestor also make RockSeals for you?
 10 A Yes.
 11 Q Anybody else?
 12 A We had different components made from a number of
 13 different companies, and we do to this day. We
 14 probably have maybe six or eight shops that build
 15 different components for them.
 16 Q Who is the main manufacturing house as far as the
 17 RockSeal manufacturing?
 18 A I think it's --
 19 THE WITNESS: Ken, do you know who there
 20 is in that?
 21 MR. PALTZAT: It's probably split up
 22 between five or six different shops.
 23 A I can't recall the names of them. I'd know on
 24 the fire -- but there was about five shops who
 25 build various components and parts for us.

1 Q MR. PAYNE: With respect to this first
 2 RockSeal II prototype, was it tested downhole?
 3 A No.
 4 Q How was it tested, if at all?
 5 A It would have just been tested on surface, just
 6 pressuring up and see if it stroked.
 7 Q How would you do that?
 8 A You would put a bull plug in one end and a plug
 9 in the other end, and you'd fill it with fluid
 10 and you'd pressure up and you'd watch it stroke.
 11 Q Where would that have been done? In Edmonton?
 12 A That would have been in Edmonton.
 13 Q At the machine shop or at your shop?
 14 A It would have been at our shop.
 15 Q So by pressuring up, you mean you would have
 16 tested whether the cylinders worked to compress
 17 the elements; is that correct?
 18 A Yes.
 19 Q What did you find?
 20 A I wasn't there for the test, but apparently they
 21 stroked and it functioned.
 22 Q Were some of the RockSeal II drawings revised
 23 after the prototype was tested in that manner?
 24 A I believe they were.
 25 Q Mr. Muscroff's affidavit talks about the creation

1 prototype was built, you can't remember if
 2 another prototype was built in between?
 3 A No.
 4 Q Did you ever test downhole any RockSeal
 5 prototypes before you made the first sale?
 6 A I don't believe we did.
 7 Q So at least with respect to this initial
 8 prototype that's referred to in paragraph 8, you
 9 don't think that one was tested downhole?
 10 A I don't believe it was.
 11 Q Is that common to go into commercial production
 12 for a packer without testing it downhole?
 13 A It's common for us. I don't know that it was
 14 common for Halliburton or for Guiberson or
 15 Dresser or Baker.
 16 Q Was it uncommon for Halliburton?
 17 A I would say it's probably very uncommon for
 18 Halliburton to do that.
 19 Q Typically, Halliburton would test their packers
 20 downhole before they go into commercial
 21 production?
 22 A They've got test wells that they'll put them in
 23 and set them and function test them and release
 24 them.
 25 Q So before you made that first sale of the

1 of an additional part drawing, right?
 2 A Yes.
 3 Q Is that one of the changes that was made after
 4 the testing?
 5 A I don't have specific knowledge, but it may have
 6 been another part that was designed and built for
 7 the tool after testing.
 8 Q Tell me what you remember as far as the changes
 9 that were made after the prototype was tested.
 10 A I think we may have changed the top connection;
 11 we might have changed the thimbles; possibly a
 12 bottom connection. I'm not sure what else.
 13 Q Was another prototype built after the initial
 14 prototype?
 15 A I don't recall what we did, what we did after
 16 that.
 17 Q You can't remember if another prototype was
 18 built?
 19 A No.
 20 Q Do you remember when the first seven-inch
 21 RockSeal II was sold by Packers Plus?
 22 A I think we produced something on that, I think it
 23 might have been right at the end of April or
 24 maybe June. I don't recall for sure.
 25 Q Before that first sale and after the first

1 RockSeal IIS in April or around that time frame
 2 in 2000, did you have a good feeling that it
 3 would perform as advertised?
 4 A I'm not sure that we had any advertising out on
 5 the tool at that point, so I don't -- you know, I
 6 don't want to comment on it.
 7 Q Okay. I was speaking colloquially, okay?
 8 Did you have a good
 9 feeling at that point before the first sale that
 10 the RockSeal would perform the functions that it
 11 was intended to perform?
 12 A I thought it would perform based on my experience
 13 in the industry, so I did think it would work.
 14 Q You thought, for example, that it would seal an
 15 open hole, correct?
 16 A Yes.
 17 Q That thinking was driven I guess in part by the
 18 prototype that was built; is that correct?
 19 A It was probably driven more by the work we had
 20 done at Guiberson using solid-element open-hole
 21 packers and knowing that we could put tools that
 22 weren't even -- or tools that were from cased,
 23 cased-hole applications, and run them in open
 24 hole, they would function and they would seal.
 25 Q Do you know who was present when that first

1 prototype was tested?
 2 A No.
 3 Q Was Mr. Paltzat there?
 4 A I don't know.
 5 Q Can you generally describe your role in the
 6 design work for the RockSeal II.
 7 A Yep.
 8 Q Please do.
 9 A Okay. My role would have been to get with Sloane
 10 to sketch up a tool and then discuss the function
 11 of it to see if we could reduce the number of
 12 parts and simplicity of the design, to make sure
 13 it could be assembled and disassembled, and then
 14 he would do the mechanical engineering design
 15 work on the tool.
 16 Q Did you supervise Mr. Muscroft's work in
 17 connection with the RockSeal II design?
 18 A I did.
 19 Q Did you communicate with him on that design work
 20 on a daily basis early on in January 2000?
 21 A Probably not.
 22 Q Did Mr. Paltzat or Mr. Krabben serve any role in
 23 connection with the RockSeal II design?
 24 A Not to my knowledge.
 25 Q So it was you and Mr. Muscroft who were

1 responsible for the RockSeal design project,
 2 correct?
 3 A Yes.
 4 Q Anybody else at Packers Plus?
 5 A No.
 6 Q Before lunch you were drawing a distinction
 7 between Mr. Muscroft's 22-day period and the
 8 20-day period in your affidavit --
 9 A Yes.
 10 Q -- with respect to Peak's work, correct?
 11 A That's correct.
 12 Q You mentioned that Peak's work involved what you
 13 called "full-blown manufacturing"; is that
 14 correct?
 15 A Yes.
 16 Q When did Packers Plus have "full-blown
 17 manufacturing" of the RockSeal II?
 18 A Probably in 2001, 2002, something like that.
 19 Q You were running full-blown manufacturing for the
 20 RockSeal II when you started selling that product
 21 in around April of 2000?
 22 A No. We didn't have a lot of funding for
 23 manufacturing on speculation. We didn't have any
 24 business for the tool. It took us almost
 25 three months before we even were able to find a

1 customer that would buy one from us, along with
 2 our other work. So what we did was built just a
 3 couple at a time because it was about all we
 4 could afford at the time.
 5 So we didn't really go
 6 into full-blown manufacturing, which would be
 7 orders in certain quantities, and for us,
 8 full-blown manufacturing would be building
 9 probably 20 packers, something like that. I'm
 10 guessing that we probably didn't do that until
 11 maybe late 2001, maybe 2002 before we could set
 12 up to build that many tools. Before then it was
 13 just generally a few at a time.
 14 Q Was there anything different that you had to do
 15 to go into full-blown manufacturing for the
 16 RockSeal II as opposed to manufacturing one or
 17 two at a time, other than having a lot of money?
 18 A No, to go into full-blown manufacturing where
 19 we're ordering things in quantities, typically
 20 you would have to get a price quote. You would
 21 get pricing in. You would put your order in.
 22 They would have to order specific raw materials
 23 for that work.
 24 Then they would set them
 25 up on a CNC machine so that they could run a

1 number of parts that are electronically
 2 manufactured. So then that takes some
 3 programming time for the machine shops and stuff.
 4 And then they would turn out, you know,
 5 20 mandrels or 20 setting cylinders at a time.
 6 If you're ordering in
 7 small quantities, you know, a few at a time,
 8 typically they'll just build them on a manual
 9 machine, so they just take the drawing up and
 10 chuck it up and manufacture the parts. And
 11 normally they'll have -- or some of the shops
 12 would have some materials available that would
 13 suit for the manufacturing process.
 14 Q When was Packers Plus ready to have a
 15 manufacturing shop build a RockSeal IIS for sale?
 16 A Pardon?
 17 Q When was Packers Plus ready to have a
 18 manufacturing shop manufacture a RockSeal IIS for
 19 sale to a customer.
 20 A We probably had one built that we could have run
 21 sometime in early March.
 22 Q Early March of 2000, correct?
 23 A Yes.
 24 Q That was about two months after you started the
 25 company; is that correct?

1 A About 2 1/2 months probably.
 2 Q About two months after Muscroft came on board,
 3 right?
 4 A Yes.
 5 Q When did you start trying to sell the
 6 RockSeal IIS design to a customer?
 7 A I don't recall.
 8 Q Was it in January of 2000?
 9 A I don't have any idea when it would have been.
 10 Q Did any significant design work take place for
 11 the RockSeal IIS -- or excuse me. Did any
 12 significant design work take place for the
 13 RockSeal II between that March 2000 time frame
 14 and when you say you went into full-blown
 15 production in 2001?
 16 A Yes.
 17 Q What took place?
 18 A We designed other sizes. We designed different
 19 packing elements. We designed options for
 20 different threads. We would have designed
 21 different backups and different thimble sets. We
 22 would have designed some releasing mechanisms and
 23 certain accessories for it and things like that.
 24 Q When did Packers Plus start designing the
 25 RockSeal IIS?

1 A I don't think we ever discussed it. The view had
 2 been that when I was with Guiberson, we had
 3 considered patenting the Wizard packer, so --
 4 Q Let's -- I'm sorry.
 5 MR. NASH: Let him finish his answer,
 6 and then you can make your objection.
 7 MR. PAYNE: Hold on. Hold on. I
 8 don't want him talking about confidential
 9 Halliburton information or Halliburton
 10 attorney-client privilege information in front of
 11 these guys necessarily. So I just want to make
 12 sure if -- that that's where you're going, so I'm
 13 not trying to interrupt, and if he needs to go
 14 back, then I just need to understand that.
 15 Q MR. PAYNE: So is that where you're
 16 headed?
 17 A It wouldn't have been discussions with an
 18 attorney that I had had, but, I mean, I don't
 19 have to answer it if you don't want me to.
 20 Q No, no. I just want to make sure you're not
 21 going to testify about discussions you had with a
 22 Halliburton attorney.
 23 A No, I won't.
 24 Q So go ahead.
 25 A Okay. So anyway, when I was still with

1 A Don't recall for sure, but I think it would have
 2 been somewhere in the middle of 2000, maybe in
 3 the spring.
 4 Q Of 2000?
 5 A Yes.
 6 Q So it was several months after the design work on
 7 the RockSeal II was started that you started on
 8 the IIS design work, right?
 9 A Well, I'm not sure on those dates.
 10 Q What documents would show me those dates? Would
 11 it be the first RockSeal IIS drawings?
 12 A Probably, yes.
 13 Q Did you guys build any RockSeal IIS prototypes?
 14 A I believe that we would have built a prototype.
 15 Q Do you recall? You said you believe. I just
 16 want to make sure.
 17 A I don't recall.
 18 Q You're not sure one way or the other?
 19 A No.
 20 Q So I assume you don't recall whether a
 21 RockSeal IIS prototype was tested downhole?
 22 A I believe I could answer that question. I don't
 23 think anything was tested downhole.
 24 Q Did you guys ever discuss seeking patent
 25 protection on the RockSeal II design or concept?

1 Guiberson, and we built the Wizard packer, I told
 2 Bill Lynch we should send it down for
 3 consideration for patenting, which he did,
 4 supposedly. They evaluated at engineering and
 5 said that they didn't think there was merit to
 6 filing a patent on it.
 7 So to my knowledge with
 8 this, because in our opinion it was based on
 9 things that were sold publicly, we didn't see any
 10 way there was going to be ability to defend
 11 anything, so I don't think we ever even discussed
 12 the possibility of patenting it.
 13 Q Did you personally ever think about the
 14 possibility of filing a patent application on the
 15 RockSeal II design?
 16 A I don't recall ever considering that.
 17 Q In any event, you guys never consulted an
 18 attorney on that topic, right?
 19 A I don't believe we did.
 20 Q Do you remember who in Halliburton engineering
 21 made a decision or was involved in the decision
 22 not to seek patent protection on the Wizard?
 23 A I think Bill told me that Don Greenlee had
 24 reviewed it, and he was our vice-president of
 25 engineering, and it could have been Gary Ellis,

1 but I'm pretty sure it was Don Greenlee that
 2 called him back and said we don't see anything to
 3 patent.
 4 Q Do you know why?
 5 A No. Bill didn't give me any of the details. He
 6 just told me, he said they're not going to file
 7 anything on it.
 8 Q Did you have an opinion at that point that you
 9 thought the Wizard was patentable?
 10 A You know, I didn't know whether it was or whether
 11 it wasn't, but I do know that at one point, when
 12 Dresser and Halliburton were separate companies,
 13 that Halliburton -- or sorry, Dresser had filed
 14 for a patent on a tandem hydraulic packer, so a
 15 slipless hydraulic packer.
 16 And my understanding is
 17 that they sent a cease-and-desist letter to
 18 Halliburton, in which case Halliburton sent them
 19 back a reply letter saying that those concepts
 20 already existed, and that was the end of it. And
 21 so after that, it wasn't -- I believe that it
 22 would have been fairly close to those discussions
 23 as well.
 24 Q Do you have an opinion about whether the
 25 RockSeal II concept was patentable?

1 A 2001, I believe.
 2 Q Did you work with Mr. Fehr on that project?
 3 A Yes.
 4 Q What contributions did you make to the FracPort
 5 design?
 6 A I would have probably sketched up a concept for
 7 it and then reviewed it with him, and then we
 8 would have together looked at optimization and
 9 reducing the length and manufacturing cost,
 10 making sure we could assemble it, and then he
 11 would have done the design work after that.
 12 Q You mean he would have prepared the machine
 13 drawings, for example?
 14 A Yes.
 15 Q Did Mr. Fehr come up with any of the concepts
 16 that were incorporated into the FracPort tool?
 17 A I don't recall what each of us contributed. It
 18 was kind of a joint effort.
 19 Q Before the FracPort design, did Packers Plus
 20 design any sliding sleeve systems or tools?
 21 A Nothing comes to mind right now.
 22 Q Did Packers Plus use sliding sleeves before the
 23 FracPort design?
 24 A Yes.
 25 Q How did Packers Plus use those?

1 A I don't think there was any way it was
 2 patentable.
 3 Q Because you believe those features that were part
 4 of the RockSeal II were found in other packers?
 5 A I believe there was a number of products already
 6 on the market that would have been either similar
 7 or very close, and as far as I knew, none of
 8 those even had patents on them.
 9 Q Let's talk about Topic 5, which is related to
 10 your company's sliding sleeves. Is Jim Fehr the
 11 Packers Plus employee who was responsible for
 12 designing the FracPort?
 13 A I believe he was.
 14 Q Anyone else?
 15 A There may have been others that have worked on
 16 variations of the FracPort after that, but to my
 17 knowledge, he was the one that designed the
 18 FracPort originally.
 19 Q Your testimony before I think was that the
 20 FracPort design work started in the spring of
 21 2001; is that right?
 22 A No.
 23 Q I'm sorry, then when was it?
 24 A I think it was the fall.
 25 Q Fall of 2001?

1 A We used the sliding sleeves for production
 2 applications, allow us to kill a well, allow a
 3 person to produce the annulus of a well by
 4 kicking the well off of the sliding sleeve and
 5 then being able to close it.
 6 We used them for multiple
 7 production applications, where we would produce
 8 between two or three or four packers and open a
 9 sleeve to produce them and close the sleeve to
 10 shut it back off. We may have used them in
 11 stimulation jobs. I don't know for sure, but we
 12 commonly would run the sliding sleeves with
 13 production packers for a standard completion.
 14 Q Before the FracPort was designed?
 15 A Yes.
 16 Q Did you buy those sliding sleeve devices off the
 17 shelf, so to speak?
 18 A Yeah. Well, there were two places that we
 19 principally got them. One was from Halliburton.
 20 We had certain customers that required us to use
 21 Halliburton flow control equipment.
 22 Q Was that the ZoneMaster?
 23 A No. It would have been like an XA or XO sliding
 24 sleeve.
 25 And the other place was a

1 supplier of reverse-engineered products, which we
 2 used at Guiberson for the whole time I was there
 3 to buy reverse-engineered Otis -- or Halliburton
 4 flow control equipment, so sliding sleeves, XAs,
 5 XO's, no-profile sliding sleeves, and then landing
 6 nipples, X and XNs, and that kind of stuff, and
 7 then also to purchase Baker reverse-engineered
 8 sliding sleeves, which were Type L sleeves and
 9 then F and R landing nipples, so . . .
 10 Q Who was that second supplier? Was that D&L?
 11 A No. That supplier was Essel, Essel Tool.
 12 Q E-s-s-e-l?
 13 A Yes.
 14 Q Where were they located?
 15 A They were here in Calgary, and then they had
 16 another shop in the US for -- you know, like the
 17 Guiberson shops in the US would buy from there,
 18 and then the Canadian ones would buy from here.
 19 Q Let's talk about D&L a little bit. Who from
 20 Packers Plus contacted D&L before Packers Plus
 21 was formed for the purpose of working with
 22 Packers Plus?
 23 A Ken Paltzat and I did.
 24 Q What about Mr. Krabben?
 25 A I don't believe so.

1 Q When did the first contact take place?
 2 A I think in December of 1999.
 3 Q You don't remember contacting D&L or Mr. Paltzat
 4 contacting D&L for the purposes of working with
 5 Packers Plus before December of '99?
 6 A I don't recall.
 7 Q You don't remember a trip down there to D&L in
 8 the summer of '99, for example?
 9 A I don't believe we went down in the summer of
 10 '99. I thought it was December of '99.
 11 Q Who did you meet with at D&L at that time? Let
 12 me back up. Was it you and Mr. Paltzat who went
 13 to D&L in December of '99?
 14 A Yeah. And we didn't go just to D&L. We went to
 15 Team Oil Tools, to Bolt Oil Tools, and to D&L on
 16 the trip. But yeah, we met with Lee Eslicker,
 17 and I think A. J. Tucker was the other guy that
 18 we met with there.
 19 Q What was discussed as far as what you expected of
 20 D&L at that time?
 21 A You know, that was seven years ago. I don't know
 22 exactly what our discussions consisted of.
 23 Q You were interviewing them as a possible supplier
 24 to Packers Plus, correct?
 25 A Well, Packers Plus didn't exist then, but we were

1 visiting to see what companies offered tools for
 2 purchase on the market as, you know, commodity
 3 suppliers.
 4 Q But you weren't at D&L in December of '99 as part
 5 of your duties and responsibilities at
 6 Halliburton, were you?
 7 A I was on vacation, and so when we made that trip,
 8 it was to investigate whether there were sources
 9 of commodity-based products available if a person
 10 wanted to purchase something.
 11 Q So to be clear, you weren't there representing
 12 Halliburton at that time?
 13 A No. I was on vacation. I wasn't representing
 14 anybody.
 15 Q Well, you were there representing Packers Plus,
 16 so to speak, right?
 17 A No.
 18 MR. FLETCHER: Objection. Form.
 19 OBJECTION TO QUESTION
 20 Q MR. PAYNE: Were you there to find out
 21 what D&L's capabilities were to supply the
 22 company that later became Packers Plus? Is that
 23 why you were there?
 24 A I was there or we were there to find out what
 25 products were available as far as commodity-based

1 products. At the time that was the purpose of
 2 our trip.
 3 Q You were looking into commodity products that
 4 were available that could be supplied to what
 5 became Packers Plus, correct?
 6 A Packers Plus wasn't an entity. We didn't even
 7 know we were forming it. I wasn't sure that that
 8 company was even going to be formed at that
 9 point. So no, I wasn't there for that purpose,
 10 Mr. Payne. I was there to find out if there was
 11 a source of available commodity-based products
 12 for whatever direction I went and whatever I did
 13 and not for the purposes that you've stated.
 14 Q But it wasn't the case that you were there for
 15 purposes of finding out what commodity products
 16 existed that Halliburton used, correct?
 17 A I was on my own business. I was on vacation. I
 18 was not there to investigate anything for
 19 Halliburton.
 20 Q Okay. You weren't there, okay. That's fine.
 21 Are there particular
 22 commodity products that D&L manufactured that you
 23 learned about at that time that you were
 24 interested in?
 25 A Yes.

1 Q Can you list for me what those products are or
 2 were.
 3 A I can list some of them. It would have been a
 4 series of open-hole tension and compression
 5 packers. It would have been permanent packers,
 6 landed seal assemblies, wire line set and tubing
 7 set, mechanical packers, tubing anchors. We went
 8 to Bolt Oil Tools to look at cement retainers and
 9 bridge plugs. We went to Team Oil Tools to kind
 10 of evaluate their line of retrievable and
 11 permanent packers and then also I guess service
 12 tools as well.
 13 Q Did you talk to D&L about the G-6 design before
 14 you formed Packers Plus?
 15 A No.
 16 Q Did you talk to them about the G-77 design before
 17 you formed Packers Plus?
 18 A No.
 19 Q Did you talk to them about whether they could
 20 supply any packers that were similar to the G-6
 21 or G-77 before you formed Packers Plus?
 22 A No.
 23 Q When was that topic about the G-77s or G-6s first
 24 broached with D&L?
 25 A We were looking for a source of inexpensive

1 A No.
 2 Q Did Mr. Paltzat?
 3 A Can you restate the question, please.
 4 Q Well, at some point in time you started buying
 5 what I'll call G-6- or G-77-type packers from
 6 D&L, correct?
 7 A Correct.
 8 Q But what do you want to call those packers?
 9 A The G series.
 10 Q The G series, okay.
 11 A Yes.
 12 Q So I'm trying to find out who at Packers Plus was
 13 responsible for working with D&L on designing
 14 those G-series packers, if anyone.
 15 A There was nobody to my knowledge at Packers Plus
 16 that participated in design work on the G series,
 17 and in fact, the G-6 packers D&L already
 18 manufactured they already sold.
 19 So after I talked to
 20 Mike Pitts, I called Lee Eslicker and asked him
 21 whether they sold G-6s, asked him who their
 22 customers were, and they told us that they did
 23 manufacture them and that Halliburton was one of
 24 their biggest customers for that tool. And we
 25 had nothing to do. We just started buying tools

1 packers, so I talked to a guy that I knew that
 2 worked for Weatherford, and Weatherford sells
 3 commodity-based products, and I had heard that
 4 they were selling G-6 packers. So I called
 5 Mike Pitts out of Midland, Texas, and asked him
 6 if we could buy G-6 packers from him, and he
 7 checked with their management apparently, and
 8 they weren't going to sell to us, and so he told
 9 me then that --
 10 Q You're talking about Weatherford now, right?
 11 A That's Weatherford, yes.
 12 So he told me that when
 13 they couldn't get G-6 packers, they would call
 14 D&L, and that was the first time that I found out
 15 that D&L built G-6 packers, and that would have
 16 been through Weatherford.
 17 Q What time frame did those discussions take place?
 18 A I don't know. Maybe -- I just don't know.
 19 Q But at some point after Packers Plus was formed?
 20 A I believe it was probably, like, the fall of
 21 2000.
 22 Q Did you personally participate in any G-6-,
 23 G-77-type design work that D&L did for the G-6-,
 24 G-77-type products that were manufactured for you
 25 guys?

1 from them at that point.
 2 Q Well, are you aware that someone from
 3 Packers Plus sent D&L a G-6 technical manual, for
 4 example?
 5 A I'm not aware of that.
 6 Q Are you aware that someone from Packers Plus sent
 7 D&L a Halliburton G-77 technical manual?
 8 A I have no knowledge of what you say.
 9 Q Do you have any knowledge of anyone at
 10 Packers Plus supplying D&L with any Halliburton
 11 confidential information?
 12 A I don't know what would be regarded as
 13 confidential information and whether any such
 14 material would have been sent.
 15 Q So you don't have any knowledge?
 16 A No.
 17 Q For example, you don't have any knowledge about
 18 Packers Plus employees sending D&L a Guiberson
 19 machine drawing?
 20 A I don't know that that ever happened.
 21 Q You understand that Halliburton sued D&L
 22 recently?
 23 A I don't know any of the details on what happened.
 24 Q Do you understand that that lawsuit has now been
 25 resolved and that a final judgment has been

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1 entered?

2 A I didn't know there was even a lawsuit for sure.

3 Q Have you had any discussions with Lee Esticker

4 about the lawsuit that Halliburton brought

5 against D&L?

6 A He's told me that he wasn't able to discuss the

7 lawsuit, other than that he did tell me that he

8 had met with you guys, and there were ongoing

9 discussions.

10 MR. PAYNE: Let's mark this as the

11 next exhibit, please.

12 THE VIDEOGRAPHER: That's 72.

13 EXHIBIT NUMBER 72:

14 AGREED FINAL JUDGMENT IN THE MATTER OF

15 HALLIBURTON ENERGY SERVICES, INC. AND

16 D&L MANUFACTURING, INC.

17 Q MR. PAYNE: Is D&L providing

18 Packers Plus any G-series packers today?

19 A I don't believe so.

20 Q When did that stop?

21 A I don't recall.

22 Q When's the last time you tried to purchase

23 G-series packers from D&L?

24 A I have no idea.

25 Q You understand that D&L has been enjoined from

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1 selling those type of G-series packers to any

2 third parties?

3 A I don't understand that term. Can you restate

4 it, please.

5 Q Do you know what an "injunction" is?

6 A Do I know what an "injunction" is?

7 Q Yes.

8 A Yes.

9 Q Do you know that an injunction has been entered

10 against D&L that prevents them from selling the

11 G-series packers to third parties?

12 A No.

13 Q Let's look at paragraph 4 of Exhibit 72, please,

14 and Exhibit 72 is an agreed final judgment from

15 the Halliburton and D&L case, I'll represent to

16 you. It was signed by the judge in May of last

17 year. Do you see that, sir? If you'll just turn

18 to the second page.

19 A I need to read the first page first, if I could.

20 Q Sure.

21 MR. FLETCHER: Les, are you representing

22 that you've given Packers Plus notice of this?

23 MR. PAYNE: I'm sorry, Rick, I didn't

24 follow your question.

25 MR. FLETCHER: Are you representing that

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1 you're giving Packers Plus notice of this

2 injunction.

3 MR. PAYNE: Yes, I'm giving him notice

4 right now. I believe this document has been

5 produced in the litigation as well. I believe

6 you've had it for sometime.

7 MR. FLETCHER: The final judgment on

8 this?

9 MR. PAYNE: Yes.

10 MR. FLETCHER: I don't think so.

11 MR. PAYNE: If I'm mistaken, I

12 apologize. If you want me to check into that, I

13 will.

14 MR. FLETCHER: I would like to know that,

15 please.

16 MR. PAYNE: Okay.

17 Q MR. PAYNE: Are you ready, Mr. Themig?

18 A Just about.

19 Yes, I'm ready.

20 Q So this is an agreed final judgment that was

21 signed by the judge in May of 2006, correct?

22 A Yes.

23 Q Did you read paragraph 4?

24 A "D&L Manufacturing, Inc. --"

25 Q You don't have to read out loud. Did you read

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1 paragraph 4.

2 A Oh, did I read it?

3 Q Yes.

4 A Yes, I did read it.

5 Q You understand paragraph 4 says that D&L is

6 permanently enjoined from making, except for

7 Halliburton, the G-series packers, correct?

8 A Yes.

9 Q So you understand that pursuant to paragraph 4

10 that Packers Plus did not buy those G-series

11 packers from D&L, correct?

12 A Yep. Yes.

13 Q And you don't intend to do that, do you?

14 A No.

15 Q Did you read paragraph 3 as well?

16 A I did read it.

17 Q It says that D&L's G-series packers contain

18 proprietary technology developed by Halliburton,

19 correct?

20 A That's what the paragraph says.

21 Q You understand this is a court order, correct?

22 MR. NASH: Clarification. It's an

23 agreed final judgment.

24 MR. PAYNE: Are you disputing whether

25 it's a court order?

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1 MR. NASH: I just want to make the
2 record clear that this is referred to as an
3 "agreed final judgment."
4 MR. PAYNE: I want to know if you
5 don't think it's a court order, Kevin.
6 MR. NASH: That's all I have to say.
7 MR. PAYNE: It is a court order, isn't
8 it, Kevin?
9 MR. NASH: I'm not here to do the
10 testifying.
11 MR. FLETCHER: Les, is there a
12 file-marked copy of this?
13 MR. PAYNE: Sorry?
14 MR. FLETCHER: Is there a file-marked
15 copy of this somewhere.
16 MR. PAYNE: What do you mean a
17 "file-marked copy"?
18 MR. FLETCHER: One that indicates that
19 this is a document filed with this court.
20 MR. PAYNE: You mean filed -- filed
21 with what court? Filed with the southern
22 district?
23 MR. FLETCHER: Yes. Is there a
24 file-marked copy of this order in the court's
25 records?

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1 MR. PAYNE: I'm sure, sure.
2 MR. FLETCHER: And you're not producing
3 that file-marked copy today?
4 MR. PAYNE: No. I think it's been
5 produced to you.
6 MR. FLETCHER: The file-marked copy, it
7 is? I mean, all you have here is a piece of
8 paper that indicates you've got signatures on it.
9 There's no confirmation of this that this has
10 ever gone through that court, other than some
11 scribble on this that it's Lynn Hughes' signature
12 on it.
13 MR. PAYNE: Are you wondering whether
14 Judge Hughes signed this document? Is that your
15 question?
16 MR. FLETCHER: No. I'm wondering if
17 you've got a file-marked copy of this that you
18 feel like you're giving somebody notice of
19 something.
20 MR. PAYNE: I'm putting Mr. Themig and
21 Packers Plus on notice of this final judgment
22 that was entered by Judge Hughes, and I can tell
23 you that's his signature, okay? So if you want
24 some sort of file stamp on it, is that what you
25 want?

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1 MR. FLETCHER: Yes, I would like to see
2 that this has been filed within a court.
3 MR. PAYNE: It's not only been filed,
4 it's been signed by the judge, Rick.
5 MR. FLETCHER: Well, where's the
6 indication it's been filed? I mean, is that not
7 your normal course of action, Les, as an
8 attorney, to get file-marked copies of final
9 judgments and orders?
10 MR. PAYNE: It doesn't matter if it's
11 file-stamped or not.
12 MR. FLETCHER: It sure does.
13 MR. PAYNE: If you want one, I can get
14 you one, though. I mean, if you're questioning
15 the authenticity of this document --
16 MR. FLETCHER: Not that you were
17 questioning Mr. Nash's request that you identify
18 this as an agreed final order.
19 Q MR. PAYNE: So you're not testifying,
20 Mr. Themig, about Topics 7, 8, 9, or 10, correct,
21 in Exhibit 62?
22 A No.
23 Q Do you have some personal knowledge about those
24 topics, though, 7, 8, 9, and 10?
25 A No.

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1 Q You don't have any personal knowledge about the
2 total revenue of Packers Plus for the periods
3 2000 to 2006?
4 A We've selected a corporate representative to
5 discuss those issues, so he is prepared for that,
6 Mr. Payne, but I'm not.
7 Q But you have a knowledge about the annual
8 revenues of Packers Plus, don't you? I'm not
9 asking you to testify as a corporate
10 representative; I just want to know if you have
11 knowledge of that subject.
12 A Do I have some knowledge of what our revenues
13 are?
14 Q Yes.
15 A I have some knowledge, but I'm not prepared to
16 discuss that.
17 Q Let's move on to Topic 11, which is the facts and
18 circumstances relating to Packers Plus'
19 employment of Sloane Muscroft. When did you make
20 a decision -- or who was it that made a decision
21 to hire Sloane Muscroft at Packers Plus?
22 A Nobody specifically made a decision. He --
23 Sloane and Peter and Ken and I all discussed the
24 possibility of leaving Haliburton and starting a
25 competing entity, and Sloane was part of those

41 (Pages 598 to 601)

1 opinion?
 2 MR. NASH: Same objection.
 3 OBJECTION TO QUESTION
 4 A I can draw an opinion on our engineering
 5 drawings. I'll leave it to Halliburton to draw
 6 their own opinions.
 7 Q MR. PAYNE: You mentioned that you got
 8 the opinion of a Halliburton engineer; is that
 9 right?
 10 A We -- yes.
 11 Q So in connection with whether Mr. Muscroft or
 12 Peak had done something improper; is that
 13 correct?
 14 A That is correct.
 15 Q What Halliburton engineer are you referring to?
 16 A That would have been Ray Smith.
 17 THE VIDEOGRAPHER: About ten minutes.
 18 Q MR. PAYNE: Let's just finish up here.
 19 Was it you who contacted
 20 Ray Smith, or was it somebody else at
 21 Packers Plus?
 22 A No. It was me.
 23 Q When did you contact Mr. Smith at Halliburton?
 24 A The -- if I can get the year right.
 25 MR. PAYNE: Rick, are you showing him

1 a document there?
 2 MR. FLETCHER: Les, I am looking at a
 3 document. I'm not showing him anything.
 4 MR. PAYNE: What are you doing over
 5 there, Rick?
 6 MR. FLETCHER: Is it really any of your
 7 business what I'm doing over here?
 8 MR. PAYNE: Yes. I think you're
 9 instructing him how to answer, so --
 10 MR. FLETCHER: I'm not -- did anybody in
 11 here think that --
 12 MR. PAYNE: Please don't --
 13 MR. FLETCHER: -- I was instructing him
 14 how to answer that question?
 15 MR. PAYNE: The record will reflect
 16 that you're thumbing through an exhibit, and
 17 you're --
 18 MR. FLETCHER: It's an affidavit of
 19 Dan Themig, and I'm not -- I'm just looking
 20 through the affidavit. I'm not instructing him
 21 how to answer anything.
 22 Q MR. PAYNE: Mr. Themig, was
 23 Mr. Fletcher, your attorney, nodding for you to
 24 look at that document?
 25 A I didn't get to see anything in the document.

1 Q Okay. Fair enough.
 2 So when did you contact
 3 Ray Smith?
 4 A Prior to when we filed for an Anton Piller Order.
 5 Q Was it -- so that would have been sometime in
 6 2004; is that correct?
 7 A I don't know when the date was.
 8 Q What did you discuss with Mr. Smith at that --
 9 let me ask you this: How many times did you
 10 contact him about the subject? Was it just once?
 11 A I believe I contacted him once by phone and
 12 discussed what we had suspected had happened, and
 13 then I either sent him an e-mail or he sent me an
 14 e-mail as an industry expert who had worked on
 15 tool design and time frames and things like that.
 16 Q So what did you discuss with Mr. Smith when you
 17 contacted him via phone?
 18 A I discussed the time frame from which Ray Hofman
 19 left Packers Plus to the approximate time frame
 20 when they had nine or ten machines building
 21 packers down in West Texas. I discussed that
 22 Mr. Muscroft had access to these drawings, and
 23 our suspicion was that he had our machine
 24 drawings and our engineering files at his home
 25 computer and at his house.

1 Q Why did you approach Mr. Smith on that subject?
 2 A I was looking for some I guess industry experts
 3 that had related experience. So I had worked
 4 with Ray Smith, knew him personally, and had
 5 worked with him on development of multilateral
 6 systems.
 7 And so we worked together
 8 with Sperry-Sun on the first installation in the
 9 North Sea in the Norwegian sector and testing a
 10 number of different equipment, and I kind of
 11 headed up that effort or part of that effort for
 12 several years, so I spent an extensive amount of
 13 time with Ray Smith.
 14 So I contacted Ray Smith;
 15 John Nash, who was sales manager for Site Oil
 16 Tools and later for Polar; Thane Russell with
 17 Absolute Energy, who worked for Secure; and what
 18 was another name? Kevin . . . ? Anyway, I think
 19 there were two -- there may have been two others
 20 that are contacted.
 21 But to describe the
 22 situation and ask them to write a supporting
 23 letter if they believed that there was a good
 24 chance that Muscroft was in possession of our
 25 materials.

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1 Q Based on the time frame?
 2 A Based on the time frame and . . .
 3 Q That it took Peak to develop the product at
 4 issue, right?
 5 A That it took Peak to go from leaving our
 6 employment to full-blown manufacturing, yes.
 7 Q You're talking specifically about what Peak
 8 product?
 9 A I believe that within a couple weeks, they were
 10 manufacturing several different products.
 11 Q Which products were at issue?
 12 A I didn't have first-hand knowledge of it.
 13 Q Do you know the names of the products? Is it the
 14 Strata-Pak or the Iso-Pak, or do you know?
 15 A To this day, they never -- I don't think they've
 16 produced the invoices and the POs for those, so I
 17 don't know to this day for sure what they were
 18 manufacturing.
 19 Q So did Ray Smith give you an opinion?
 20 A Yes.
 21 Q A written opinion?
 22 A I believe he wrote an e-mail back to me or some
 23 type of written opinion, along with four other
 24 industry people.
 25 MR. PAYNE: Rick, do you know if

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1 that's been produced or not?
 2 MR. FLETCHER: I don't know. I don't
 3 know that it's been requested.
 4 Q MR. PAYNE: Do you know whether you
 5 still have possession of that particular e-mail?
 6 A I'm not sure.
 7 Q What would you need to do to check?
 8 A I'd have to check my files.
 9 Q So it's your belief right now that Ray Smith sent
 10 you an e-mail opining on this issue?
 11 A I don't understand that word.
 12 Q Is it your testimony that Ray Smith sent you an
 13 e-mail giving his opinion about this issue that
 14 you discussed with him?
 15 A Yes.
 16 Q What was that opinion?
 17 A The opinion was that they couldn't have gone to
 18 full-blown manufacturing -- no prototype, no
 19 nothing, ordering equipment and materials -- in
 20 that short of a time period. And he wasn't the
 21 only one. Everybody agreed that that time period
 22 was too quick.
 23 THE VIDEOGRAPHER: Got about three minutes or
 24 so.
 25 MR. PAYNE: Let's go ahead and take a

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1 break.
 2 THE VIDEOGRAPHER: This marks the end of Tape
 3 Number 4 in the deposition of Daniel Themig.
 4 Going off the record. The time is 1414.
 5 (BRIEF ADJOURNMENT)
 6 THE VIDEOGRAPHER: So here begins Videotape
 7 Number 5 in the deposition of Daniel Themig.
 8 Going on the record. The time is 1430.
 9 Q MR. PAYNE: Can you describe the scope
 10 of Mr. Muscroft's duties and responsibilities
 11 during the first year of his employment at
 12 Packers Plus.
 13 A Yep. He initially had to go out and buy a desk,
 14 source a computer. We didn't have the money to
 15 buy AutoCAD, so he set up a deal where we could
 16 lease AutoCAD, because it's a \$5,000 program.
 17 And then his job was a number of different
 18 things, because most of the time he -- or part of
 19 the time, anyway, he was the only guy in the
 20 Edmonton office, especially when we first
 21 started. It was he and Ken in Edmonton.
 22 So he ended up with
 23 responsibilities, the time to repair tools, to
 24 get stuff ready to ship out, to order equipment,
 25 and things like that.

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1 And then as we continued
 2 to, I guess, to work and to add a few employees,
 3 then his job became mostly to do mechanical
 4 design and get prototypes built, handle some of
 5 the manufacturing, handle some of the equipment
 6 ordering, and to I guess generally make sure we
 7 had equipment in stock at certain times.
 8 And Ken would normally
 9 handle that, but if he were in the field for any
 10 reason, then Sloane would -- that would fall back
 11 to Sloane. So he did some packer redress and
 12 packer repairs and things like that, and --
 13 Q So part of his -- I'm sorry. You were --
 14 A Oh, and then as we continued on, he kind of just
 15 became our lead design engineer.
 16 Q So part of his responsibilities included
 17 designing packers, for example?
 18 A Yes.
 19 Q Part of his responsibilities also included
 20 preparing machine drawings?
 21 A Yes.
 22 Q Did part of his responsibilities include
 23 preparing a Packers Plus engineering manual?
 24 A He may have contributed. I don't know if he
 25 prepared it or not. He may have prepared the

44 (Pages 610 to 613)

1 whole thing. I'm not sure.
 2 Q Did part of his responsibilities at Packers Plus
 3 include preparing a parts database?
 4 A Yes.
 5 Q Anything else you can think of as far as his
 6 responsibilities at Packers Plus right now?
 7 A He would have done calculations on strength and
 8 pull strength and burst strength, things like
 9 that, general engineering calculations. That
 10 would have probably covered most of what his
 11 duties and responsibilities were.
 12 Q And then you said he was the chief design
 13 engineer at Packers Plus in 2000; is that
 14 correct?
 15 A No. I said he became the lead design engineer.
 16 Q How many engineers did Packers Plus have in 2000?
 17 A I'm not sure when Jim Fehr joined us, but up
 18 until that point, we had one, and then Jim Fehr
 19 came to work for us, so I believe that would have
 20 been in 2000. I'm not sure. Might have been
 21 2001.
 22 Q You think Mr. Fehr came to work for Packers Plus
 23 in 2000?
 24 A I don't know.
 25 Q Well, other than yourself -- you're an engineer,

1 right?
 2 A Yes.
 3 Q Other than yourself and Mr. Muscroft and
 4 Mr. Fehr, you can't think of any other engineers
 5 at Packers Plus back in 2000?
 6 A No.
 7 MR. FLETCHER: With the caveat, Leslie,
 8 he's not sure that Mr. Fehr was there in 2000.
 9 MR. PAYNE: Right, right, right.
 10 Q MR. PAYNE: Let's talk about Topic 12
 11 in Exhibit 62, which is also a topic for the
 12 other two entities. Do any of the Packers Plus
 13 entities have a document retention policy?
 14 A No, I don't believe they do.
 15 Q You guys have never had a document retention
 16 policy in any of the companies?
 17 A Not to my knowledge.
 18 Q How do you determine whether documents are to be
 19 retained or destroyed?
 20 A That's probably at the discretion of whoever is
 21 in possession of the documents or creates the
 22 documents.
 23 Q Anything else? I mean, are there any guidance
 24 that the founders, for example, provided their
 25 employees as far as retaining or destroying

1 documents?
 2 A Not to my knowledge.
 3 Q It's just up to the individual employee?
 4 A Yes.
 5 Q What kind of -- do you have an e-mail server?
 6 A No.
 7 Q You've had e-mail at Packers Plus since it
 8 formed, right?
 9 A Yes.
 10 Q Through the present, right?
 11 A Yes.
 12 Q Has it ever been the case that you've had servers
 13 or other computers that backed up, so to speak,
 14 e-mails?
 15 A Our e-mail server is through Shaw, through the
 16 cable company, and to the best of my knowledge,
 17 that's the server. So there's not a system, as
 18 far as I know, that backs up anything regarding
 19 e-mails.
 20 Q So Packers Plus itself doesn't have an e-mail
 21 server, so to speak, and never has owned one?
 22 A No.
 23 Q That function is provided by a third party called
 24 Shaw; is that right?
 25 A It's either Shaw or Telus; I'm not sure which one

1 it is.
 2 Q That's who you have your e-mail service through?
 3 A Yes.
 4 Q Do you know what that company's policy is as far
 5 as retaining e-mails for Packers Plus?
 6 A No.
 7 Q How would you -- for your personal e-mails, how
 8 would you go about searching what e-mails you
 9 have?
 10 A I could search my inbox and my outbox and my
 11 deleted files.
 12 Q Do you use Microsoft Outlook?
 13 A Yes.
 14 Q How far back do your e-mails go, do you know?
 15 A Three months.
 16 Q You have some sort of default feature that
 17 deletes e-mails after three months?
 18 A Yeah. It's -- like, it's set up to clear --
 19 yeah, to delete e-mails over more than
 20 three months old.
 21 Q So if an e-mail is in your inbox, and it's more
 22 than three months old, it's going to be deleted?
 23 A It's deleted in -- I'm going off memory, but I
 24 think it's deleted in the inbox and the sent
 25 items and in the deleted items.

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1 Q How long has that three-month deletion default
2 functionality been in place on your computer?
3 A On this computer, probably a month, because I've
4 just got a new computer. Previously it had been
5 several years, I think.
6 Q Is that true for Mr. Paltzat's and Mr. Krabben's
7 computers as well?
8 A I don't know.
9 Q So have you personally made any attempt to
10 preserve e-mails that would be relevant to this
11 lawsuit, or are those e-mails periodically
12 deleted pursuant to the process you just
13 described?
14 MR. FLETCHER: What are you asking? What
15 are you actually looking for?
16 MR. PAYNE: I'm asking -- if you have
17 an objection, Rick, you can make it. If you want
18 to object to form, that's fine, but let's let him
19 answer the question if he can.
20 Q MR. PAYNE: Can you answer it, please.
21 A Could you restate the question.
22 MR. PAYNE: Can you read it back,
23 please, Alana.
24 COURT REPORTER: (by reading)
25 Q So have you personally made any

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1 attempt to preserve e-mails that would
2 be relevant to this lawsuit, or are
3 those e-mails periodically deleted
4 pursuant to the process you just
5 described?
6 A I believe that the e-mail files were searched
7 upon receiving a document request from
8 Halliburton as far back as the records were at
9 that point in time. And so yes, those were
10 preserved, and they're in your possession, and
11 they would be far older than three months old
12 right now, because those requests came probably a
13 year ago.
14 Q MR. PAYNE: Well, have you searched
15 recently on your e-mail system for any relevant
16 documentation?
17 A I'm not sure that I have.
18 Q Well, are you doing anything to preserve e-mails
19 that might be relevant to this lawsuit at this
20 point, or is the three-month deletion process
21 still in place?
22 A I didn't know we -- I don't know that we're
23 required to change our e-mail deletion process.
24 If a relevant document is found, we would produce
25 it to you.

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1 Q Do you have any official policy at Packers Plus
2 on how machine drawings are prepared?
3 A There's a standard by which we name the files and
4 by which we save them, and there's a
5 predetermined directory structure that they're
6 saved in. And then there's a certain, kind of
7 out of the AutoCAD manual, certain way that views
8 are set up, and so that I guess would qualify as
9 a standard.
10 MR. PAYNE: Let's go ahead and mark
11 those, please.
12 EXHIBIT NUMBER 73:
13 TWO-PAGE DOCUMENT ENTITLED "WORK
14 INSTRUCTION," EFFECTIVE DATE MARCH 2004.
15
16 EXHIBIT NUMBER 74:
17 PACKERS PLUS ENERGY SERVICES INC.
18 ENGINEERING MANUAL.
19 Q MR. PAYNE: Mr. Themig, you have
20 Exhibits 73 and 74 in front of you, correct?
21 A Yes.
22 Q I understand from your counsel these are
23 documents -- well, these are documents that we
24 received from your counsel yesterday. Are you
25 familiar with these two documents?

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1 A I have seen these, yes.
2 Q When did you first have knowledge for anything
3 about Exhibit 74?
4 A Yesterday.
5 Q You hadn't seen it before yesterday?
6 A No.
7 Q You said no?
8 A I said "no."
9 Q You mentioned that machine drawings are prepared
10 in a certain way. Are they prepared based on
11 what's in this engineering manual?
12 A This wouldn't be considered an engineering
13 manual; it's more instructions on how to name and
14 save files. So as far as the standards on
15 engineering -- the tolerances, the finishes,
16 material specifications, calculations -- there's
17 none of that in this document.
18 Q You're talking about Exhibit 74, right?
19 A I am talking about Exhibit 74, yes.
20 Q So what documents are used to prepare the machine
21 drawings at Packers Plus?
22 A I'm not aware of documents that are used to
23 prepare machine drawings.
24 Q Is there an engineering manual, for example, at
25 Packers Plus?

1 A Not that I know of.
 2 Q This document marked as Exhibit 74 is called an
 3 engineering manual, correct?
 4 A It is called that.
 5 Q Is it your understanding that Mr. Muscroft
 6 prepared this document?
 7 A I don't know who prepared it.
 8 Q How was it found?
 9 A It was found while we were continuing to go
 10 through the notice --
 11 MR. FLETCHER: Just hold it.
 12 Attorney-client privilege of the meeting that we
 13 ran yesterday, so to the extent that you don't
 14 talk about anything we talked about in that
 15 meeting, but you can tell him how we found the
 16 document.
 17 A Okay. We found it yesterday by having one of our
 18 guys go to our Edmonton facility to look for
 19 anything that could qualify for the document.
 20 Q MR. PAYNE: Qualify for what?
 21 A For the discussions, I guess, in Section 12.
 22 Q Of Exhibit 1 -- I mean Exhibit -- is it --
 23 MR. NASH: Sixty-two.
 24 Q MR. PAYNE: -- 62?
 25 A Yes.

1 Q Before that time was there any conscious effort
 2 to search the Edmonton facility for documents
 3 relevant to this lawsuit?
 4 A I believe there was considerable effort that went
 5 into that, including efforts from our counsel in
 6 Texas, as well as some people from Calgary and
 7 our Edmonton staff.
 8 Q Can you tell me who found Exhibit 74 yesterday.
 9 A Chris Desranleau.
 10 Q Chris...?
 11 A Desranleau.
 12 Q Desranleau?
 13 You don't know who
 14 prepared Exhibit 74?
 15 A I don't.
 16 Q Has Exhibit 74 ever been used by anyone at
 17 Packers Plus?
 18 A We don't even use the software that's listed in
 19 here anymore, so to my knowledge, I don't think
 20 anybody uses this document.
 21 Q I'm not talking about currently, or I'm not
 22 limiting my question to currently; I'm talking
 23 about ever.
 24 A Okay.
 25 Q Has anyone ever used Exhibit 74 at Packers Plus?

1 A I don't have direct knowledge as to whether they
 2 would or not.
 3 Q Do you have indirect knowledge?
 4 A I have been told one of the engineers had
 5 reviewed this when they first came to work.
 6 Q Which engineer was that?
 7 A Jim Fehr.
 8 Q So when Jim Fehr first came to work at
 9 Packers Plus, he reviewed Exhibit 74?
 10 A That's my understanding.
 11 Q What were the circumstances with respect to that
 12 review?
 13 A I don't know.
 14 Q Did someone ask him to review it?
 15 A I don't know.
 16 Q Did Mr. Fehr tell you he reviewed it?
 17 A He did.
 18 Q When did he tell you that? Yesterday?
 19 A He told me that yesterday.
 20 Q Do you know how he used this engineering manual
 21 labelled as Exhibit 74 after he reviewed it
 22 initially?
 23 A My understanding is, he reviewed it because it
 24 goes through how to name assemblies and assign
 25 part numbers and that kind of stuff, and so my

1 understanding is that his use of it was to
 2 clarify how files are stored, how they're named,
 3 things like that.
 4 Q Do you know whether he periodically used this
 5 document marked as Exhibit 74 during his
 6 employment at Packers Plus?
 7 A No.
 8 Q Do you know whether he ever used it again after
 9 he initially reviewed it?
 10 A No.
 11 Q Has he told you one way or the other whether he
 12 did or didn't?
 13 A No.
 14 Q So is there some -- has there ever been any sort
 15 of official engineering manual at Packers Plus?
 16 A Not as far as I know.
 17 Q Does Packers Plus have an electronic version of
 18 Exhibit 74?
 19 A I believe there may be an electronic version.
 20 Q Where would that reside?
 21 A In Edmonton.
 22 Q On the Packers Plus computer system?
 23 A Yes.
 24 Q Let's turn to the fifth page of Exhibit 74. Just
 25 so that -- the date of May 15, 1998, is given

1 twice, correct?
 2 A Yes.
 3 Q Do you know why that date is there?
 4 A No.
 5 Q So other than Jim Fehr, you don't know anyone
 6 else at Packers Plus who's reviewed this
 7 Exhibit 74 in connection with their employment at
 8 Packers Plus?
 9 A No.
 10 Q On the next page of Exhibit 74 under, Chapter 2,
 11 2.1, it says (quoted):
 12 "Design is the single most important
 13 product we offer to our customers."
 14 Do you see that?
 15 A Yes.
 16 Q Do you agree with that statement?
 17 A No.
 18 Q Why not?
 19 A Probably our field service is the most important
 20 thing that we offer.
 21 Q Where would design rank?
 22 A Probably third or fourth.
 23 Q What else is ahead of it?
 24 A Applications engineering, so systems designed for
 25 wells, field service and installation, and

1 A Yes.
 2 Q Do you know what that spreadsheet template is?
 3 A I don't know for sure.
 4 Q What do you think it may be?
 5 A I think it's just a spreadsheet that does API
 6 calculations on burst and collapse and burst
 7 strength.
 8 Q Do you understand that's a spreadsheet that
 9 Mr. Muscroft prepared while he was at
 10 Halliburton?
 11 A I don't know that to be true.
 12 Q Do you know that to be untrue?
 13 A I don't know that to be true, nor do I know it to
 14 be untrue.
 15 Q Do you know when it was prepared and by whom?
 16 A No, I don't.
 17 Q Is the CALCULATIONS.XLT spreadsheet still part of
 18 Packers Plus?
 19 A I'm not sure whether it is or not.
 20 Q Who would know?
 21 A Probably Chris Desranleau.
 22 Q Chris Desranleau?
 23 A Yes.
 24 Q Do you know whether anyone at Packers Plus has
 25 ever used the Excel spreadsheet template

1 probably our QA, QC, our final manufactured
 2 parts.
 3 Q It says under 2.2 that (quoted):
 4 "A design folder is to be created for
 5 all major design projects...."
 6 Do you see that language?
 7 A Yes.
 8 Q Was that done at Packers Plus?
 9 A I don't know for sure.
 10 Q Was a design folder created for the RockSeal
 11 design project?
 12 A I believe there is a design folder for the
 13 RockSeal.
 14 Q Is it the document we discussed earlier, or is it
 15 another document?
 16 A It's a folder where those documents reside.
 17 Q Do you know whether that folder, RockSeal design
 18 folder, has been produced in this litigation?
 19 A I believe it has.
 20 Q How long is the RockSeal design folder? How many
 21 pages approximately, do you know?
 22 A I don't know.
 23 Q Let's go to the next page. The second paragraph
 24 refers to an Excel spreadsheet template
 25 CALCULATIONS.XLT. Do you see that?

1 CALCULATIONS.XLT?
 2 A No, I don't know.
 3 Q The next topic in this document marked as
 4 Exhibit 74 is "Part Numbers" under 2.3, correct?
 5 A Yes.
 6 Q And the second paragraph refers to the database,
 7 right?
 8 A Yes.
 9 Q Does Packers Plus have a parts database?
 10 A Yes, we do.
 11 Q Can you generally describe that parts database,
 12 please.
 13 A Generally, it's a Microsoft Office template where
 14 they put --
 15 Q You said "Office." Did you mean Access or
 16 Office?
 17 A It's a Microsoft Office template in which they
 18 put part numbers and descriptions and some
 19 engineering calculations in to store a certain
 20 amount of information about the machine drawings
 21 that they do.
 22 Q Has that parts database been part of Packers Plus
 23 since early on?
 24 A Yes.
 25 Q Did Mr. Muscroft create the parts database

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1 initially?

2 A Mr. Muscroft was charged with the responsibility

3 to set up a parts database and drawing templates

4 and so on and so forth, yes.

5 Q He did that too, right?

6 A He did that, yes.

7 Q Was anybody else involved in initially setting up

8 the parts database?

9 A I don't believe.

10 Q You weren't involved in that project?

11 A No.

12 Q If one were to print out the parts database at

13 Packers Plus, do you know how many pages it would

14 be?

15 A No.

16 Q I assume it would be hundreds of pages, correct?

17 A I don't know.

18 Q Are you familiar with the parts database?

19 A I am familiar with it.

20 Q So can you tell me roughly how many pages it

21 would be.

22 A No.

23 Q It's a voluminous document, right?

24 A It's directly related to the amount of data

25 fields that we've put in, so to print out the

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1 entire database as far as our part numbers would

2 probably be a document that would be 40 pages

3 long, including all the part numbers and our

4 descriptions, something like that.

5 Q Do you know if that document has been produced in

6 connection with this litigation?

7 A I believe it has.

8 Q Do you know one way or the other?

9 A I believe that all the contents in the database

10 have been produced. There's a number of

11 different print formats that we can use, but the

12 information from the database should have been --

13 I believe it was produced.

14 Q It would be about a 40-page document; is that

15 what you're telling me?

16 A It depends on how it's printed.

17 Q I'm reading from a letter dated October 31, 2006,

18 from one of your attorneys, Mr. Guerrero to me,

19 and it says (quoted):

20 "Please be advised we have produced all

21 Packers Plus parts drawings, but

22 Packers Plus does not maintain a

23 specific parts database such as you have

24 requested."

25 Do you want to see a copy

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1 of this letter?

2 A Yep.

3 THE VIDEOGRAPHER: Seventy-five.

4 EXHIBIT NUMBER 75:

5 TWO-PAGE LETTER DATED OCTOBER 31, 2006,

6 TO MR. PAYNE AND FROM MR. GUERRERO.

7 Q MR. PAYNE: You have Exhibit 75 in

8 front of you, Mr. Themig?

9 A Yes.

10 Q Look at the second page, first paragraph,

11 Mr. Themig.

12 A Yes, I'm reading it.

13 Q Are you on the second page?

14 A No, I'm not.

15 Q I don't want you to read the whole letter; I want

16 you to focus on the second page, first paragraph.

17 Can you read that paragraph and let me know when

18 you're done, please.

19 MR. FLETCHER: And I'll object to this

20 opposition to read the whole document.

21 OBJECTION TO QUESTION

22 A I'll read the --

23 Q MR. PAYNE: No, I don't want you to

24 read the whole document.

25 MR. FLETCHER: You just put a document in

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1 front of him that he has the opportunity to

2 review so that he can put the context in which

3 you are going to ask the question to.

4 MR. PAYNE: And I'm specifically

5 asking him not to spend time to review this

6 entire document. The record's clear on that.

7 MR. FLETCHER: He doesn't need to be

8 answering questions as to the document.

9 MR. PAYNE: Rick, Rick, I don't have

10 to let him read every single sentence of every

11 single exhibit before I ask him questions about

12 exhibits. You know that.

13 MR. FLETCHER: No, I don't know that.

14 That's not the way I do business.

15 MR. PAYNE: Do you agree with that

16 concept, Kevin, or not?

17 MR. NASH: I think the witnesses has

18 a right to review the document --

19 MR. PAYNE: Okay. Well, I'm asking

20 him not to do that.

21 MR. NASH: -- that is presented in

22 front of him.

23 MR. FLETCHER: You may review the

24 document.

25 MR. NASH: That's always been my --

49 (Pages 630 to 633)

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1 Q MR. PAYNE: I want you to focus on the
 2 second page, first paragraph, and it says
 3 (quoted):
 4 "...Packers Plus does not maintain a
 5 specific parts database such as you have
 6 requested."
 7 Do you understand that
 8 Halliburton has served production requests on
 9 Packers Plus for Packers Plus to produce its
 10 parts database?
 11 A I'm going to read the document in context.
 12 Q Do you understand that we have served production
 13 requests on Packers Plus asking Packers Plus to
 14 produce the parts database.
 15 A You've asked a question on this document. I'm
 16 going to read it first.
 17 Q No, I'm not on the document right now. I want to
 18 know the answer to the question that's on the
 19 table right now, please. Do you have an
 20 understanding of that?
 21 A I have not seen that.
 22 Q And you've testified that the Packers Plus parts
 23 database uses Microsoft Office software; is that
 24 correct?
 25 A Yes.

1 by Mr. Muscroft early on, correct?
 2 A Yes.
 3 Q Is it updated periodically?
 4 A Yes.
 5 Q For example, the new parts numbers come into
 6 being?
 7 A Yes.
 8 Q Does the parts database include all of the parts
 9 numbers that Packers Plus uses?
 10 A Yes.
 11 Q And it has various information about each of
 12 those part numbers, correct?
 13 A It does.
 14 Q Is the information that is included for each of
 15 those part numbers along the lines of what's
 16 listed in Exhibit 74 under Section 2.3? Sorry, I
 17 don't have Bates numbers here. Are you with me
 18 on 2.3?
 19 A You're on 2.3?
 20 Q Yes, yes, of Exhibit 74.
 21 A Okay.
 22 Q And there's a listing that starts about halfway
 23 down. Do you see that?
 24 A Yes.
 25 Q "PART #," "REV #," "DRAWN BY," do you see that?

1 Q Does it use Microsoft Access software?
 2 A Yes.
 3 Q So it uses both Office and Access software,
 4 correct?
 5 A Well, Office would include Access.
 6 Q So is Access part of Office, or is it the other
 7 way around?
 8 A It's part of Office.
 9 Q Do you have any understanding as to why
 10 Mr. Guerrero was telling me that (quoted):
 11 "...Packers Plus does not maintain a
 12 specific parts database such as you have
 13 requested?"
 14 A Without the document request, I don't know the
 15 description of what you had asked for.
 16 Q Okay. Well, I'll represent to you we asked for
 17 the Packers Plus parts database.
 18 A Okay. I'd have to see the specific request so
 19 that I would understand whether this is a true
 20 statement or not.
 21 Q What's a true statement?
 22 A What he has stated to you.
 23 Q I'm trying to understand whether it's true or not
 24 too, and I think you've told me that there is a
 25 parts database at Packers Plus that was started

1 A Yes,
 2 Q And it carries over into the next page. Do you
 3 see that?
 4 A Yes.
 5 Q Is that the type of information that's listed in
 6 the Packers Plus parts database?
 7 A That information is listed both in the parts
 8 database, and it's listed on the drawings. So as
 9 far as producing this information to you, it was
 10 potentially produced on machine drawings or could
 11 have been produced through here as well.
 12 MR. PAYNE: Read back the question,
 13 please.
 14 COURT REPORTER: (by reading)
 15 Q Is that the type of information
 16 that's listed in the Packers Plus parts
 17 database?
 18 A I believe it is.
 19 Q MR. PAYNE: Are there any exceptions
 20 as far as any of these items that are listed on
 21 the two pages after 2.3 not being in the parts
 22 database?
 23 A Yes.
 24 Q What are those exceptions?
 25 A Anything that wouldn't require those things to be

1 filled in.
 2 Q But are those the fields, so to speak, that are
 3 in the parts database?
 4 A I believe they are, yes.
 5 Q Are there any other fields?
 6 A Possibly.
 7 Q Can you tell me what those fields are, please.
 8 A No.
 9 Q So after looking at this Exhibit 74 and seeing
 10 Mr. Guerrero's letter, do you have an
 11 understanding as to whether or not Packers Plus
 12 has produced its parts database?
 13 A I can't answer that without seeing the specific
 14 document request that you're referring to.
 15 Q No, no. The parts database you've described,
 16 Don't worry about the document request, okay?
 17 A Well, what he says in here is (quoted):
 18 "Please be advised...Packers Plus does
 19 not maintain a specific parts database
 20 such as you have requested."
 21 So I don't know what "such
 22 as you have requested" means.
 23 Q Let's talk about the parts database that you've
 24 described that exists at Packers Plus, okay?
 25 A Okay.

1 Q Do you know whether that parts database per se
 2 has been produced in this litigation?
 3 MR. NASH: Objection. Form.
 4 OBJECTION TO QUESTION
 5 A I don't know whether it has.
 6 Q MR. PAYNE: But you think that the
 7 machine drawings that have been produced by
 8 Packers Plus would have at least some of the same
 9 information in them that the parts database would
 10 contain?
 11 A I believe that they would contain all of the
 12 information that the parts database would
 13 contain.
 14 Q Has the Packers Plus parts database always used
 15 Microsoft Office software?
 16 A Yes.
 17 MR. PAYNE: Rick, do you know whether
 18 Packers Plus has produced the parts database that
 19 he's testified to or not?
 20 MR. FLETCHER: I don't know.
 21 MR. PAYNE: You're not sure?
 22 MR. FLETCHER: I'm not sure.
 23 MR. PAYNE: I'm just trying to find
 24 out what --
 25 MR. FLETCHER: No, I'm just --

1 MR. PAYNE: I don't understand. I'm
 2 not trying to --
 3 MR. FLETCHER: No.
 4 MR. PAYNE: But I will state on the
 5 record that I would like the parts database that
 6 Mr. Themig has described to be produced, if it
 7 has not already been produced, and if in fact it
 8 has already been produced, please give me a
 9 starting Bates number or a Bates range.
 10 Q MR. PAYNE: Since there's been at
 11 least some confusion about whether the parts
 12 database has been produced or not, can you give
 13 me any other information about the parts database
 14 that would help me identify it as such, other
 15 than these fields we've talked about in
 16 Exhibit 74 and the fact that it uses
 17 Microsoft Office software and the fact that it
 18 may be around 40 pages long, et cetera? Is there
 19 any other information that you can give me?
 20 A I don't know that I could. They may have printed
 21 the cover screens on it. They may have printed
 22 the data fields. I'm not sure how it was
 23 requested, Mr. Payne, so . . .
 24 Q I'm representing to you it was -- we asked for
 25 the parts database.

1 A Yes. Yep. I'll try to find the form that it was
 2 produced under.
 3 THE WITNESS: Can we do that?
 4 Q MR. PAYNE: And so the software can be
 5 used to generate various reports based on the
 6 information that's contained in the parts
 7 database, correct?
 8 A Yes.
 9 Q Give me an example of the type of reports that
 10 Packers Plus might generate based on the parts
 11 database.
 12 A They could produce just the cover screen on it.
 13 They could produce reports that list by part
 14 number, reports that list by assembly number,
 15 reports that list by assembly broken down into
 16 individual part numbers. They could produce a
 17 list of revisions. Could produce a manufacturing
 18 cost report potentially. Could produce some
 19 engineering calculations.
 20 Q How would the manufacturing cost report be
 21 generated based on the information under 2.3 of
 22 Exhibit 74?
 23 A It couldn't with the fields that are listed.
 24 Q So would manufacturing costs perhaps be a
 25 separate field?

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1 A I'm not sure if those reports are generated in
 2 our accounting software or if they're generated
 3 in our database. I don't know how that's done.
 4 Q Is there a person at Packers Plus who is
 5 currently responsible, so to speak, for
 6 maintaining the parts database?
 7 A I think that'll be Chris Desranleau.
 8 Q How long has he assumed that role?
 9 A Probably a couple years.
 10 Q Who was responsible for the parts database before
 11 him?
 12 A Would have been either Jim Fehr or Sloane.
 13 Q Do you remember what the Halliburton parts
 14 database looked like?
 15 A No.
 16 Q Do you remember whether it included these same
 17 fields that are listed under Section 2.3 of
 18 Exhibit 74?
 19 A No.
 20 Q I'm sorry I don't have pages, Mr. Themig, but can
 21 you turn to Section 2.4.3. The best I can tell
 22 you is that's about halfway back. Are you there?
 23 A Yes.
 24 Q The last line talks about a technical services
 25 part database. Is that the same parts database

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1 you've been talking about, or is that something
 2 different?
 3 A I'm not sure what that refers to.
 4 Q Do you think you might know?
 5 A No, I don't know if that's another name for the
 6 same database or if it's something else.
 7 Q Let's go to Section 3.4.5.1. Did you get all
 8 that? 3.4.5.1.
 9 A Yes.
 10 Q It talks about tapered thread blocks in a
 11 directory called \DWG\THREADS., correct?
 12 A Yes.
 13 Q Are you familiar with that directory?
 14 A Not directly, but I know what it is.
 15 Q That's a Halliburton directory, isn't it?
 16 A No.
 17 Q That's a directory that's created in Halliburton;
 18 isn't that correct?
 19 A No.
 20 Q Was that created at Packers Plus?
 21 A Yes.
 22 Q Do you know if you produced that directory?
 23 A No, I don't know.
 24 Q Is that a directory that the company currently
 25 uses?

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1 A I don't know.
 2 Q Is it on Packers Plus' computer system?
 3 A I don't know whether this directory still
 4 remains. It's in a different software. We don't
 5 use AutoCAD anymore.
 6 Q What do you use now?
 7 A SolidWorks.
 8 Q When did you make that switch?
 9 A Several years ago.
 10 Q 2004?
 11 A I don't know the exact date.
 12 Q What's in the threads directory?
 13 A There'll be threads from different suppliers, API
 14 and Stub Acmes. There'll be thread profiles for
 15 premium threads, like VAM and CS Hydril, PH6 --
 16 CS Hydril, PH6, VAM, new VAM, all the API
 17 threads, Buttress. Any thread commonly used in
 18 oil field applications would be in that
 19 directory.
 20 Q Would the threads directory have been used by
 21 engineers at Packers Plus during the AutoCAD
 22 days?
 23 A I don't know whether that was where we kept our
 24 thread profiles or not.
 25 Q Do you consider that directory to contain

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1 Packers Plus confidential information?
 2 A No.
 3 Q You don't think it's confidential to
 4 Packers Plus?
 5 A No, I don't. All of the thread companies publish
 6 their threads on the Internet. We're able to
 7 download them, and so I don't think anybody
 8 considers threads confidential.
 9 Q You didn't want Mr. Muscroft to take thread
 10 blocks from Halliburton, did you?
 11 A No.
 12 Q Why is that?
 13 A I had him set up to get them from D&L.
 14 Q Let's go to 3.4.5.2 on the same page, and it
 15 refers at the end of that paragraph to the LISP,
 16 L-I-S-P, routine, THDS, correct?
 17 A Okay.
 18 Q Do you remember working with LISP routines at
 19 Halliburton?
 20 A No.
 21 Q You don't remember the LISP routines at
 22 Halliburton at all?
 23 A No.
 24 Q You don't know what they are?
 25 A I don't know what they are.

1 Q Do you know what this document is referring to in
 2 connection with the Packers Plus business?
 3 A No.
 4 Q Does Packers Plus ever use LISP routines?
 5 A I don't know.
 6 Q Do they have a routine or a directory called
 7 THDS?
 8 A I don't know.
 9 Q Who would know the answer to that, might know?
 10 A Chris would probably know, Chris Desranleau.
 11 Q Do you ever remember seeing a document similar to
 12 this at Halliburton?
 13 A No.
 14 Q No? Okay. Let's go to the next page, please.
 15 Under 3.4.7 it refers to a directory that starts
 16 out with "APPS." Do you see that?
 17 A 3.4.7?
 18 Q Yes.
 19 A No, I don't see it.
 20 Q You see where it says under --
 21 A Oh, APPS, okay.
 22 Q -- "\APPS\ACADSUPPORT\SCRIPTS"? Do you see that?
 23 A Yes.
 24 Q Is that a Halliburton directory?
 25 A No.

1 Q What is that?
 2 A It's an AutoCAD directory of some sort.
 3 Q Was that used at Packers Plus?
 4 A I don't know.
 5 Q Can you please turn to the page that includes
 6 3.6, "Assemblies," which is about two pages over.
 7 THE VIDEOGRAPHER: About ten minutes.
 8 MR. PAYNE: Okay.
 9 Q MR. PAYNE: Are you there?
 10 A Yes.
 11 Q Under 3.6.1 the third paragraph says (quoted):
 12 "Any prints required in an assembly that
 13 do not adhere to the drafting system
 14 listed in this chapter (such as standard
 15 Dallas drawing) should be inserted into
 16 the drawing as a block."
 17 Do you see that language?
 18 A Yes.
 19 Q Packers Plus doesn't have a Dallas facility, does
 20 it?
 21 A No.
 22 Q It's never had a Dallas facility, has it?
 23 A No.
 24 Q Do you know what this reference to Dallas is?
 25 A No.

1 Q Do you know if it's a reference to the
 2 Halliburton or Guiberson facility at Dallas?
 3 A Well, the Halliburton facility is in Carrollton,
 4 so it wouldn't be a Halliburton facility. I
 5 don't know what it's referring to.
 6 Q Halliburton has offices in Dallas, right?
 7 A No.
 8 Q They don't? They've never had any offices in
 9 Dallas?
 10 A I think they have a sales office in Dallas.
 11 Q Do you know what "Dallas drawing" means?
 12 A I don't.
 13 Q You don't have an understanding that that
 14 language came directly out of Halliburton's
 15 documents?
 16 A A Dallas drawing? I don't have specific
 17 knowledge on where that phrase came from and why
 18 it's there.
 19 Q Let's move to Exhibit 73.
 20 MR. PAYNE: I'm sorry, Lee, what did
 21 you say?
 22 THE VIDEOGRAPHER: You have about
 23 eight minutes left.
 24 MR. PAYNE: Okay.
 25 Q MR. PAYNE: Let's go to Exhibit 73,

1 since we haven't talked about that document. Do
 2 you have it? It's a two-page document.
 3 A Yes.
 4 Q Is it true that the first time you saw Exhibit 73
 5 was yesterday?
 6 A Yes.
 7 Q Was this document also found by Mr. Desranleau in
 8 Edmonton yesterday?
 9 A No.
 10 Q I'm sorry, who found it yesterday?
 11 A I found it in our office in Calgary.
 12 Q What is this document?
 13 A It's part of our ISO quality manual.
 14 Q What does "ISO" mean?
 15 A It's a quality standards that originated in
 16 Europe, and it's a qualification process that we
 17 go through. It's called ISO 9001, I believe, and
 18 it's a series of quality procedures, I guess, for
 19 lack of a better word, that mean that you've met
 20 certain standards, so you have to get audited on
 21 an annual basis to keep your qualification.
 22 Q Who prepared your ISO quality manual?
 23 A We had a consultant that prepared it.
 24 Q Did your consultant prepare these two pages
 25 marked as Exhibit 73?

1 A Yes.
 2 Q Why is it that they were produced yesterday?
 3 A It was believed they might be compliant with the
 4 request that you guys had made.
 5 Q Who was the consultant?
 6 A Abdul. I don't know his last name.
 7 Q That's his first name?
 8 A Yes.
 9 Q And there's an effective date here of March 2004,
 10 right?
 11 A Yes.
 12 Q Is that around the time the document was
 13 prepared?
 14 A I believe it is.
 15 Q There's a reference under 4.1 to "SolidWorks
 16 2004," correct?
 17 A 4.1?
 18 Q Yes.
 19 A Yes, I do see it.
 20 Q Does that refresh your recollection about when
 21 Packers Plus started using SolidWorks software?
 22 A No. All it says is that SolidWorks 2004 is being
 23 used. I believe they have an update every year,
 24 so I don't know what year they would have changed
 25 to SolidWorks. Could have been 2002 or 2003.

1 Q Why was the switch made from AutoCAD to
 2 SolidWorks?
 3 A Just a preference with solid modelling versus
 4 line drawings.
 5 Q With respect to the drawings that were prepared
 6 using the AutoCAD software that were in existence
 7 before Packers Plus started using SolidWorks,
 8 were those drawings converted, so to speak, into
 9 SolidWorks, or were they left in AutoCAD?
 10 A They're not all converted. Most of them I
 11 believe are converted.
 12 Q So if a drawing, a machine drawing, for example,
 13 was in existence when Packers Plus started using
 14 SolidWorks, there's a decent chance that it was
 15 converted from AutoCAD to SolidWorks?
 16 A Yes.
 17 Q When would that conversion process have taken
 18 place?
 19 A I don't know specifically, but probably shortly
 20 after we switched to SolidWorks.
 21 Q Was the switch made before the Halliburton
 22 lawsuit was filed?
 23 A I believe it was.
 24 Q Have you converted any drawings, AutoCAD
 25 drawings, to SolidWorks drawings during the

1 pendency of the Halliburton lawsuit?
 2 A We're continually converting drawings to
 3 SolidWorks.
 4 Q Do you maintain the original AutoCAD drawings
 5 after the conversion process, or are they
 6 deleted?
 7 A I believe they're maintained.
 8 Q In AutoCAD?
 9 A Yep.
 10 Q So with respect to the drawings that existed at
 11 the time of the switch, you've kind of got
 12 two sets of those drawings: You've got the
 13 AutoCAD set, and you've got the SolidWorks set;
 14 is that right?
 15 A I believe that's true.
 16 Q Is there some sort of written policy on that
 17 subject?
 18 A No.
 19 Q So do you know whether in this case you've
 20 produced -- for example, Muscroft -- let's back
 21 up. Was the decision to move to SolidWorks after
 22 Mr. Muscroft left?
 23 A Yes.
 24 Q So any drawings that he would have prepared would
 25 have been prepared using AutoCAD software?

1 A I believe that's true, yes.
 2 Q So is it your testimony that at least some of the
 3 Muscroft AutoCAD drawings would have been
 4 converted to SolidWorks?
 5 A I don't know exactly which drawings were -- have
 6 been changed.
 7 Q How would you find out? For example, we saw a
 8 bunch of drawings that were part of Exhibit 69,
 9 right? Want to look at Exhibit 69.
 10 THE VIDEOGRAPHER: Got about two minutes.
 11 MR. PAYNE: Why don't you go ahead and
 12 switch it.
 13 THE VIDEOGRAPHER: So here marks the end of
 14 Tape Number 5 in the deposition of Daniel Themig.
 15 Going off the record. Time is 1527.
 16 (BRIEF ADJOURNMENT)
 17 THE VIDEOGRAPHER: Here begins Videotape
 18 Number 6 in the deposition of Daniel Themig.
 19 Going on the record. Time is 1537.
 20 Q MR. PAYNE: Mr. Themig, we were
 21 talking about Exhibit 69, which are the
 22 seven-inch RockSeal II drawings that we talked
 23 about earlier, correct?
 24 A Yes.
 25 Q Are these AutoCAD drawings or SolidWorks

1 drawings?
 2 A I don't know.
 3 Q You don't? Who would know the answer to that?
 4 A By looking at them, I'm not sure. Maybe we would
 5 have to open them on whatever machine it is.
 6 Q So it's my understanding that Packers Plus has
 7 produced documents in PDF form as opposed to
 8 natively. Is there any way I can tell on the PDF
 9 drawings, such as Exhibit 69, whether those
 10 drawings were prepared using AutoCAD or
 11 SolidWorks?
 12 A Not as far as I know.
 13 Q Is there any sort of hallmark that I should look
 14 for on an AutoCAD drawing or a SolidWorks
 15 drawing?
 16 A Not as far as I know. I'm not sure that you can
 17 tell the difference between . . .
 18 Q So it's your testimony that I would need to look
 19 at the native files basically, right?
 20 A No. I guess it would be my testimony that we
 21 would have on record somewhere probably whether
 22 these were done on SolidWorks or done on AutoCAD.
 23 And it's also possible that Chris Desranleau
 24 might be able to tell you by looking at the
 25 drawing whether it's an AutoCAD drawing or a

1 Q So I'm wondering whether Packers Plus has
 2 produced the Muscroft drawings that he actually
 3 generated using AutoCAD versus Muscroft drawings
 4 that might have been converted into SolidWorks.
 5 Do you understand what I'm asking?
 6 A I understand what you're asking.
 7 Q Do you know?
 8 A Do I know what format they were in when they were
 9 produced to you, no.
 10 Q You don't know whether they were -- the Muscroft
 11 drawings that were produced were AutoCAD drawings
 12 or SolidWorks drawings or both?
 13 A I believe they were all PDF'd --
 14 Q Right. I understand that.
 15 A -- in Adobe Acrobat.
 16 Q I understand that.
 17 A Okay.
 18 Q So with respect to the drawings that were PDF'd,
 19 were those originals SolidWorks drawings or
 20 AutoCAD drawings?
 21 A Again, it'll depend on the tools.
 22 Q What do you mean "it'll depend on the tools"?
 23 A Well, since a portion of our drawings are in
 24 AutoCAD, and a portion of our drawings are in
 25 SolidWorks, and if we PDF them or convert them to

1 SolidWorks-created drawing.
 2 Q But you think, as far as at least some machine
 3 drawings that were in existence before you
 4 switched to SolidWorks, there are AutoCAD
 5 drawings and SolidWorks drawings?
 6 A I believe that is true.
 7 Q How does one convert a drawing from AutoCAD to
 8 SolidWorks?
 9 A I couldn't tell you that. I've never done that
 10 operation.
 11 Q Who would know about that?
 12 A Chris Desranleau would know.
 13 Q Do you know whether Packers Plus produced any
 14 SolidWorks drawings in this litigation?
 15 A I believe there would be SolidWorks- and
 16 AutoCAD-created drawings produced, but the format
 17 they were produced in, I don't know.
 18 Q Do you know the answer to my question with
 19 respect to the Muscroft drawings that were
 20 produced?
 21 A You'll have to ask the question again.
 22 Q Well, we've established that Mr. Muscroft would
 23 have generated drawings at Packers Plus using
 24 AutoCAD, right?
 25 A Yes.

1 Adobe Acrobat format to produce to you, which I
 2 believe is what we did, then some of those
 3 drawings would have been created in SolidWorks,
 4 and some would have been created in AutoCAD, and
 5 either one would have been converted to
 6 Adobe Acrobat using the same basic procedure.
 7 Q Would any dimensions change when you convert from
 8 AutoCAD to SolidWorks?
 9 A I don't think so.
 10 Q Who has access to machine drawings at
 11 Packers Plus?
 12 A Everybody in our engineering group.
 13 Q Anybody else?
 14 A Our manufacturing manager does.
 15 Q Who is that?
 16 A Jim Fehr.
 17 Q Anybody else?
 18 A I believe that that is -- that's all the people.
 19 Q Do you have some sort of checkout procedure as
 20 far as an individual going in and looking in a
 21 document or a machine drawing?
 22 A We have limited access to our AutoCAD -- or our
 23 machine -- AutoCAD drawings, our design drawings,
 24 and limited to a specific group of people.
 25 Q How do you limit it? Do you have some sort of

1 password-type system or . . . ?
 2 A Yes.
 3 Q And you only give passwords to certain
 4 individuals in the engineering department and the
 5 manufacturing manager, right?
 6 A Yes.
 7 Q Is that how you've always done it at
 8 Packers Plus?
 9 A No. Originally, we didn't. Had one engineer, so
 10 he had access to it; nobody else did.
 11 Q Do all the founders have access to the machine
 12 drawings?
 13 A No.
 14 Q Do you?
 15 A No.
 16 Q Today you don't have access to the machine
 17 drawings --
 18 A No.
 19 Q --at Packers Plus? When did that access cease
 20 for you?
 21 A I don't think I've ever had access to our
 22 engineering drawings.
 23 Q When Mr. Muscroft was at the company, did he ever
 24 have access to machine drawings that he produced?
 25 A No.

1 Q Did Mr. Paltzat or Mr. Krabben?
 2 A I don't believe so.
 3 Q None of the three founders had access to the
 4 machine drawings that Mr. Muscroft produced?
 5 A No.
 6 Q Was that intentional?
 7 A Yeah, I guess it was intentional.
 8 Q Is that because Mr. Muscroft just kept the
 9 machine drawings on his own personal computer?
 10 A No. He had them on -- he had the Packers Plus
 11 drawings set up on a server in Edmonton.
 12 Q But they were password protected?
 13 A Yes.
 14 Q Does Packers Plus have technical manuals?
 15 A Yes.
 16 Q For packers?
 17 A Be more specific.
 18 Q For packer products, does it have any technical
 19 manuals?
 20 A Yes.
 21 Q How many?
 22 A I think we've got five, six.
 23 Q Can you list those for me, to the best of your
 24 ability, please.
 25 A It would be seal bore packers, open-hole packers,

1 service tools, retrievable packers, and maybe
 2 production accessories.
 3 Q Does your open-hole technical manual include
 4 information about the RockSeal packers?
 5 A Yes.
 6 Q Have you guys produced that technical manual, or
 7 do you know?
 8 A I believe we have.
 9 MR. FLETCHER: The technical manual has
 10 been produced.
 11 MR. PAYNE: You think so?
 12 Q MR. PAYNE: Any other technical
 13 manuals you can think of?
 14 A That's all I can think of.
 15 Q Who prepared the open-hole technical manual?
 16 A Bryce Fletcher.
 17 Q Is he a Packers Plus employee?
 18 A Yes.
 19 Q When did he do that?
 20 A Over the last two years.
 21 Q Did he ever work for Halliburton?
 22 A No.
 23 Q Anyone else participate in the preparation of the
 24 open-hole technical manual?
 25 A Yeah. The engineering group would have sent some

1 dimensional prints and some things like that, and
 2 it's possible some of our operations people were
 3 involved in running and setting procedures to
 4 review those.
 5 Q Are the technical manuals at Packers Plus treated
 6 as confidential?
 7 A In some cases they are, and in some cases they're
 8 not.
 9 Q Who has access to the technical manuals at
 10 Packers Plus?
 11 A Each of our districts have the technical manuals,
 12 and then our sales offices would all have them,
 13 and then our Edmonton manufacturing office would
 14 have the technical manuals.
 15 Q Are they assigned to individual employees, so to
 16 speak?
 17 A I think they're assigned to locations basically.
 18 Q So one copy would be in each location that you
 19 mentioned?
 20 A I believe that's the case, yes, and there may be
 21 two copies, say, in Calgary.
 22 Q Are they kept at specific locations within those
 23 various facilities that you listed so that any
 24 Packers Plus employee can go to that location and
 25 review the technical manuals?

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1 A They would be kept somewhere at each location,
2 but specifically where, I wouldn't know.
3 Q For example, how is it done in Calgary?
4 A Bryce is kind of our tech support engineer, so
5 he's got a copy there. I'm not sure if anybody
6 else has copies in Calgary, so he keeps them on a
7 bookshelf.
8 Q In his office?
9 A Yes.
10 Q So copies aren't made and distributed to
11 employees individually, correct?
12 A No, I don't believe so.
13 Q Copies are made for locations or facilities,
14 right?
15 A Right.
16 Q So would someone have to go to Bryce and ask him
17 to see the technical manuals in Calgary?
18 A No. I think you can just walk into his office,
19 if you need a manual, and get it, look up what
20 you need to look up and then bring it back to him
21 and put it back on his shelf.
22 Q So there's no formal checkout procedure, so to
23 speak?
24 A No.
25 MR. PAYNE: Let's mark that, please.

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1 THE VIDEOGRAPHER: Seventy-six.
2 EXHIBIT NUMBER 76:
3 DEFENDANT PACKERS PLUS ENERGY SERVICES
4 INC.'S FOURTH SUPPLEMENTAL RESPONSES TO
5 PLAINTIFFS' FOURTH REQUEST FOR
6 PRODUCTION.
7 Q MR. PAYNE: Mr. Themig, you have
8 Exhibit 76 in front of you, right?
9 A Yes.
10 Q I'll represent to you this is a response that
11 Packers Plus tendered in connection with some of
12 the Halliburton production requests. Can you
13 turn to the third page and specifically Item 60,
14 please. Are you there?
15 A Yes.
16 Q We've requested the Packers Plus parts database.
17 Do you see that?
18 A Yes.
19 Q Is that the database that you identified earlier
20 in your testimony?
21 MR. FLETCHER: I don't have --
22 MR. PAYNE: You have a bad copy?
23 (DISCUSSION OFF THE RECORD)
24 Q MR. PAYNE: Looks like yours is
25 correct, so let's talk about Exhibit 76. Turn to

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1 page 28. Request 60 is the Packers Plus parts
2 database, right?
3 A Yes.
4 Q Let's go back to Exhibit 75, please. Exhibit 75
5 is Mr. Guerrero's letter, right?
6 A Yes.
7 Q And it says (quoted):
8 "...Packers Plus does not maintain a
9 specific parts database such as you have
10 requested."
11 Correct?
12 A Yes.
13 Q But, in fact, Packers Plus does maintain a parts
14 database as requested in Request Number 60,
15 right?
16 A No, not necessarily.
17 Q Why is that, sir?
18 A We've got an engineering database, which may be
19 different than a parts database.
20 Q So you've got a parts database at Packers Plus
21 and an engineering database, right?
22 A We have an engineering database.
23 Q I understand you have an engineering database.
24 You told me before you had a parts database too,
25 right?

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1 A I don't recall stating -- calling it a parts
2 database.
3 Q Okay. So you don't recall giving testimony that
4 Packers Plus has a parts database?
5 A I thought we were calling it an engineering
6 database.
7 Q I think the record will speak very clearly on
8 that point, but let's talk about whether
9 Packers Plus has a parts database, then. Are you
10 saying now that Packers Plus doesn't have a parts
11 database?
12 A We've got an engineering database that lists part
13 numbers in . . .
14 Q Well, you remember that 40-page document that you
15 described?
16 A Yes.
17 Q What is that? What is that called?
18 A That would be a printout from our engineering
19 database.
20 Q Is that called a parts database?
21 A No. If you're looking for the engineering
22 database, we can produce that.
23 Q Yes, I'd like to definitely get my hands on the
24 engineering database. I'd love to have that.
25 A Okay.

57 (Pages 662 to 665)

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1 Q What does the engineering database have in it?
 2 A It's got engineering data. It's got names of
 3 assemblies. It's got sub-assemblies. It's got
 4 names of engineering drawings. It's got part
 5 numbers. It has --
 6 Q Does it have engineering standards in it?
 7 A No.
 8 Q So do you know why Mr. Fletcher is telling me
 9 that (quoted):
 10 "...Packers Plus does not maintain a
 11 specific parts database such as you have
 12 requested"?
 13 A I don't know the background behind these
 14 discussions. We do have an engineering database
 15 that we will produce for you.
 16 Q Is it your testimony now that you don't have
 17 something called a parts database?
 18 A I believe that it's an engineering database. I
 19 don't think we have another thing called a parts
 20 database.
 21 THE VIDEOGRAPHER: Seventy-seven.
 22 EXHIBIT NUMBER 77:
 23 DOCUMENT ENTITLED "O-RINGS BY PART
 24 NUMBER."
 25 Q MR. PAYNE: Mr. Themig, to be clear,

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1 do you know whether the engineering database has
 2 been produced?
 3 A I don't know whether it has.
 4 Q But the engineering database includes things
 5 other than this 40-page parts document that
 6 you've described, right?
 7 A It includes all information contained in the
 8 database, so it would be producible, I guess, in
 9 a number of different formats, including
 10 individual pages and summary reports.
 11 Q If one were to print out every single page of the
 12 engineering database, how many pages would that
 13 be approximately?
 14 A 5,000 pages.
 15 Q 5,000 pages?
 16 A Possibly, depending on -- if you printed out
 17 every report for every item in the whole
 18 database, it would probably be somewhere in that
 19 range.
 20 Q I'm not talking about generating reports per se.
 21 A Well, that would be the information in the
 22 database that would come out in reports if -- or
 23 previous to that fashion.
 24 Q If you generated every type of report that could
 25 be generated, it would be several thousand pages?

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1 A Yes, I believe it would.
 2 Q What about just the raw data that's in there?
 3 How many pages would that be? Just to be clear,
 4 for the parts the raw data would be about
 5 40 pages?
 6 A It depends on how small you print it, but my
 7 guess would be somewhere between 40 and a
 8 thousand pages, depending on how small you print
 9 it.
 10 Q Between 40 and a thousand?
 11 A Depending on how it's formatted and printed out,
 12 it might be in that range.
 13 Q Okay. In any event, if I want all of the raw
 14 data that's in the engineering database, you can
 15 provide that for me?
 16 A Yeah. Is that what you're requesting?
 17 Q Yes, that's certainly one thing.
 18 A The raw data? Okay.
 19 MR. FLETCHER: Just for the record, what
 20 they're doing, I.e.s, is they're e-mailing that or
 21 we're getting it sent down here. We're going to
 22 look at it, see if it's responsive. Either we
 23 had produced it or we haven't seen some of it,
 24 but we're trying to figure out what we got here.
 25 So if it's something that can be produced, it

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1 will be produced to you.
 2 MR. PAYNE: Well, what's responsive,
 3 I'll ask Mr. Themig.
 4 Q MR. PAYNE: What's responsive to
 5 Item 60, Request 60, that you just looked at?
 6 A We don't have a responsive document to that
 7 request.
 8 Q You don't have a parts database?
 9 A No.
 10 MR. PAYNE: Are you going to -- Rick,
 11 I just want to be clear about this. Are you
 12 going to take the position that the document he's
 13 described that contains all the part numbers and
 14 those fields that we discussed in connection with
 15 74 does not fall within the scope of Request 60?
 16 MR. FLETCHER: I'm not taking any
 17 position at this point because I'm not sure
 18 what --
 19 MR. PAYNE: You're just going to look
 20 at it, and you'll get back to me, right?
 21 MR. FLETCHER: Yes. I mean, you have a
 22 response there that says (quoted):
 23 "...the Design Documents, which are
 24 attached in electronic format."
 25 I mean, there is a

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1 response to that particular production.
 2 Q MR. PAYNE: Do you have Exhibit 77 in
 3 front of you?
 4 A Yes.
 5 Q Do you recognize this document?
 6 A No. I haven't seen this before.
 7 Q Is this a report that would be generated based on
 8 the database of parts at Packers Plus?
 9 A I don't think so.
 10 Q Do you know where this document comes from?
 11 A It looks like an Excel spreadsheet with O-ring
 12 numbers on it.
 13 Q Do you know how it was generated?
 14 A No.
 15 MR. NASH: Just for the record, I
 16 don't know if this was produced to you this way,
 17 but it's only showing 5 pages out of 69, and I'm
 18 not sure if --
 19 MR. PAYNE: The exhibit?
 20 MR. NASH: Bottom right-hand corner.
 21 Q MR. PAYNE: Do you know whether this
 22 Exhibit 77 would be a type of report that would
 23 be generated using a so-called engineering
 24 database?
 25 A No. It looks like just a report on O-ring

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1 numbers.
 2 Q Is this a report that was run at Packers Plus, or
 3 do you know?
 4 A I don't know.
 5 EXHIBIT NUMBER 78:
 6 DOCUMENT ENTITLED "CANADIAN PART
 7 NUMBERS - ALPHABETICAL LISTING."
 8 Q MR. PAYNE: You've got Exhibit 78 in
 9 front of you, correct?
 10 A Yes.
 11 Q Do you recognize this document?
 12 A No.
 13 Q Is this a report that was generated at
 14 Packers Plus, or a part of a report?
 15 A It looks like it is a document produced that is
 16 part of the engineering database, the data on the
 17 engineering database.
 18 Q So Exhibit 78 would be part of the Packers Plus
 19 engineering database?
 20 A A report generated from the engineering database.
 21 Q Exhibit 78 is a report generated from the
 22 Packers Plus engineering database?
 23 A I believe that's true. But I didn't generate it,
 24 so I don't know that for sure.
 25 MR. FLETCHER: Les, just for the

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1 record -- I'm sorry, I didn't hear you -- are you
 2 representing this is just part of a report that
 3 you are producing at this point as this exhibit?
 4 This indicates it's page 1 of 119. You're just
 5 producing --
 6 MR. PAYNE: Yes, I'm not -- I think
 7 you guys produced pages 6 through 119 as well; is
 8 that what you're asking?
 9 MR. FLETCHER: Yes, that's what I'm
 10 asking.
 11 MR. PAYNE: Yes, and --
 12 MR. FLETCHER: And I think I heard you
 13 say this is just part of it; I just want to be
 14 sure.
 15 MR. PAYNE: Right. I think that's
 16 correct, I'm not positive about it. But I'm just
 17 trying to figure out how this --
 18 MR. FLETCHER: I understand.
 19 MR. PAYNE: -- engineering database
 20 works, because apparently, you know --
 21 A Well, this would be probably the responsive
 22 production of the engineering database, though.
 23 Q MR. PAYNE: Is this the parts numbers
 24 from the engineering database, or part of it at
 25 least?

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1 A It looks like it's a report, and if it were all
 2 119 pages, that would be in the range of that
 3 40-page document, I said, depending on how it was
 4 printed. But this report may be the one that
 5 you're talking about that's responsive to that
 6 question for the database, request for the
 7 engineering database.
 8 Q Is this the raw material that's -- that's the raw
 9 information that's in the engineering database?
 10 A I believe it is.
 11 Q Well, what does "EDM #" mean?
 12 A That's a part number.
 13 Q I would think your raw information in your
 14 engineering database as far as part number starts
 15 with the first part number and goes sequentially;
 16 is that not right?
 17 A No.
 18 Q So if you were to print out the raw information
 19 on the parts -- your engineering database, it
 20 would start with Part Number 100672?
 21 A It depends on what reports you're printing, but
 22 if you want to get the data printed, this is
 23 probably all the raw data that exists. All
 24 119 pages would probably be all the raw data that
 25 exists in the parts database.

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- 1 Q Somebody has written up here "Alphabetical
2 Canadian Numbers." Do you know who wrote that?
3 A I don't know who wrote it.
4 Q What does it mean?
5 A It means that these are listed in alphabetical
6 order, and that's why the part number order is
7 not the same.
8 Q What do you mean by "alphabetical order"?
9 A Well, "ADAPTER" comes before "ASSEMBLY," for
10 example on -- so the first page, the second line
11 says "ADAPTER." If you go on to the last page,
12 we're into what we call an "ASSEMBLY," A-S-S, so
13 it would -- this report would sort every piece of
14 information in the engineering database by
15 alphabetical order.
16 Q Why does it start with "JET"?
17 A I don't know. Sometimes Office does strange
18 things when it sorts.
19 Q So you think this is an alphabetical listing by
20 part name --
21 A Yes.
22 Q -- of the information that's contained in the
23 Packers Plus engineering database, right?
24 A I believe it is.
25 Q Do you know who generated this report?

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- 1 A No.
2 Q I notice this particular report that's been
3 marked as Exhibit 78, it doesn't contain all of
4 the fields in Exhibit 74 that we talked about.
5 Do you know why that is?
6 A No, I don't know why that is.
7 Q When you generate a report using the engineering
8 database, do you identify the fields that you
9 want to appear in that report?
10 A The report by its definition would pick out the
11 fields that it's going to print.
12 Q Can you give me an example. Just walk me through
13 the steps of how this type of report would be
14 generated.
15 A You would set up a report form and drag in the
16 fields that you want it to print, you would
17 format it so that it prints in the appropriate
18 font, and then once you get it set up, you hit
19 "Print" basically, and it'll generate a report
20 containing whatever fields would be contained in
21 it.
22 Q Is it true that one report that could be
23 generated is every single drawing that was ever
24 prepared by Mr. Muscroft?
25 A I'm not sure.

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- 1 Q Well, "WSM" are Mr. Muscroft's initials, right?
2 A They are.
3 Q I see a lot of WSMs on page 1, for example, of
4 Exhibit 78, correct?
5 A Correct.
6 Q And then there's also some "JRFs," which I assume
7 is a reference to Jim Fehr; is that right?
8 A Yes.
9 Q So my question is, Can you generate a report that
10 would spit out all of the parts drawings that
11 Mr. Muscroft generated?
12 A I can -- or I'm pretty sure we could generate a
13 report that would have all of them listed as WSM.
14 Whether that's inclusive of everything he worked
15 on or whether people have gone and modified
16 drawings during the course of business, I
17 couldn't tell you that. But I could print a
18 report that lists or that sorts by the engineer
19 that drew the drawing.
20 MR. PAYNE: Did this come from
21 Mr. Solomon's files, Rick, or do you know?
22 MR. FLETCHER: I don't.
23 Q MR. PAYNE: So if I get you pages 6
24 through 119, would you be able to tell me if
25 pages 1 through 119 is a complete listing of

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- 1 Packers Plus parts?
2 A I should be able to tell you as of the date that
3 it was printed.
4 Q This says Friday, March 18, 2005, correct?
5 A Yes, it does.
6 Q I assume that's the date it was printed; is that
7 right?
8 A Yep, that is right.
9 THE VIDEOGRAPHER: Seventy-nine.
10 EXHIBIT NUMBER 79:
11 DOCUMENT ENTITLED "ASSEMBLY COST SHEET."
12 Q MR. PAYNE: You have Exhibit 79,
13 correct?
14 A Yes.
15 Q Is this the type of report that would be created
16 by the engineering database at Packers Plus?
17 A I believe it is.
18 Q So this is just another form of a report that can
19 be generated using the engineering database,
20 correct?
21 A Yes.
22 Q Do you know why this particular document was
23 produced or generated in around March 18, 2005?
24 A I don't know. I don't know what this report is
25 responsive to. It looks like it's got 240 pages

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1 of data, so it would have probably been an
 2 attempt to be responsive to the document request.
 3 Q Why do you say 240 pages?
 4 A This is listing page 190 of 240 and 194 of 240.
 5 Q Do you remember whether this was generated as
 6 part of the Muscroft litigation?
 7 A I don't know.
 8 Q Do you believe that the information contained in
 9 the -- what do you want to call the part of the
 10 engineering database at Packers Plus that lists
 11 all the parts? What do you want to call that?
 12 A Just the engineering database.
 13 Q Well, does the engineering database, though, have
 14 other information in it, or is it just the parts?
 15 A No, it's got the parts, the description, who drew
 16 it, the drawing on it, the date that it was
 17 started.
 18 Q It's got the fields that were discussed earlier,
 19 right?
 20 A Yes.
 21 Q But is there another kind of component of the
 22 engineering database?
 23 A Be more specific.
 24 Q Well, for example, let's assume that pages 1
 25 through 119 of Exhibit 78, which right now only

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1 contains 1 of 6, lists all of the part numbers,
 2 okay?
 3 A Yes.
 4 Q Would there be additional information in the
 5 Packers Plus parts database in the form of raw
 6 information?
 7 A It contains probably some other fields as were
 8 listed, and I can't remember what those are, but
 9 we went through them earlier.
 10 Q Yes, but other than those fields, is there other
 11 information in them? Really what I'm talking
 12 about is, you have information there for each
 13 part, right?
 14 A Mm-hmm.
 15 Q And there are numerous fields for each part,
 16 right?
 17 A I don't know how many fields there are for each
 18 part.
 19 Q Well, it's more than one, right?
 20 A Yes, more than one.
 21 Q So putting aside those parts and all the fields
 22 associated with those parts, is there other
 23 information in the engineering database at
 24 Packers Plus?
 25 A It has the location of the files I believe as

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1 well, and there may be certain calculations that
 2 are done that would be in there as well.
 3 Q Like Excel spreadsheet calculations?
 4 A Strength, burst strength and collapse, I believe
 5 they're all done in SolidWorks, so those wouldn't
 6 be Excel spreadsheet calculations.
 7 Q But there would be other information there in the
 8 form of -- in the engineering database in the
 9 form of calculations?
 10 A Yeah. The database is continually changing and
 11 updating, so I don't have an exhaustive list of
 12 the fields, in my head anyway.
 13 Q With respect to the type of information as set
 14 forth in Exhibit 78, which pertains to part
 15 numbers, do you consider that information
 16 confidential to Packers Plus?
 17 A Our parts listed in our material under heat
 18 treat . . .
 19 Q No, all of the information: the part number, the
 20 material, or whatever else is in the engineering
 21 database fields.
 22 A I don't believe I would consider any of this
 23 information proprietary.
 24 Q You don't think any of the information in
 25 Exhibit 78 is proprietary to Packers Plus?

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1 A Generally, all of this information, maybe with
 2 the exception of "DRAWN BY" and the date, would
 3 end up in our price list, in part of the
 4 description for the parts and for assemblies,
 5 including possibly the material specs, if it's
 6 required that we specify it. So I don't believe
 7 that anything in here would be particularly
 8 confidential.
 9 Q Okay. You told me before that Packers Plus
 10 doesn't have any engineering standards; is that
 11 correct?
 12 A We have standards; we don't have a written
 13 engineering standards book of any type.
 14 Q You don't have a manual of any type that would
 15 contain those standards that you just testified
 16 to?
 17 A I don't believe so.
 18 Q Don't have a three-ring binder or any specific
 19 document that contains those standards?
 20 A I don't believe so.
 21 Q So you do have engineering standards, though?
 22 A Yes.
 23 Q Where would I find those engineering standards?
 24 A I'm not sure that the engineering standards are
 25 written down anywhere.

61 (Pages 678 to 681)

1 Q You're not sure that they're written down
 2 anywhere?
 3 A Yes.
 4 Q You mean they're just in people's heads?
 5 A I believe that that's true. I'm not sure.
 6 Q Have you ever seen any written engineering
 7 standards at Packers Plus?
 8 A I don't believe I have.
 9 Q For example, would material spec sheets be
 10 considered engineering standards or not?
 11 A No.
 12 Q So why don't you go ahead and describe for me, to
 13 the best of your ability, what the Packers Plus
 14 engineering standards are that are in people's
 15 heads at Packers Plus.
 16 A I'm not sure that I could do that.
 17 Q Why not?
 18 A Because I don't participate in mechanical design.
 19 Q Is there anybody at the company who can describe
 20 the engineering standards at Packers Plus?
 21 A Yes.
 22 Q Who is that?
 23 A Chris Desranleau.
 24 Q Are there any drafting procedures at
 25 Packers Plus?

1 A For materials, I don't know that there are.
 2 Q So if Mr. Muscroft testified that he developed
 3 engineering standards for Packers Plus, would
 4 that not be accurate, or would it be accurate?
 5 A I would say that he did develop some engineering
 6 standards for us.
 7 Q Like Exhibit 74?
 8 A Yes.
 9 Q Before you started using SolidWorks, do you
 10 remember seeing electronic thread blocks on
 11 Packers Plus' computer system?
 12 A I didn't see them.
 13 Q If those existed, would they have been kept on a
 14 server or on a personal computer?
 15 A They may have been on a personal computer; it may
 16 have been on a server.
 17 Q So do you have a server or more than one server
 18 that contains engineering directories, for
 19 example?
 20 A We do have a server that contains engineering
 21 directories.
 22 Q Would that contain engineering directories since
 23 the inception of the company?
 24 A I am not sure.
 25 Q Do you know that any engineering directories have

1 A Not that I'm aware of, not existing ones.
 2 Q Did there used to be some drawing drafting
 3 procedures?
 4 A Well, there was -- the document Sloane prepared
 5 had some drafting procedures in, it looked like,
 6 sections out of an AutoCAD manual.
 7 Q Talking about Exhibit 74?
 8 A Yes.
 9 Q Are there standards for making various
 10 calculations?
 11 A I believe the calculations are contained in our
 12 design software.
 13 Q SolidWorks?
 14 A Yes.
 15 Q Were those calculations also in AutoCAD?
 16 A It had some calculation capability.
 17 Q Do you have material specifications?
 18 A I'm sorry, can you be more specific.
 19 Q Well, specification sheets for materials that you
 20 use.
 21 A Specification sheets for -- or the specifications
 22 for materials are decided by the design
 23 engineers.
 24 Q But are there specification sheets at your
 25 company?

1 been deleted?
 2 A I don't know one way or another.
 3 Q How many servers would contain that information?
 4 Is it just one?
 5 A I believe it's just one.
 6 Q Where is the server located?
 7 A It's in Edmonton.
 8 THE VIDEOGRAPHER: Got about ten minutes.
 9 MR. PAYNE: Okay.
 10 Q MR. PAYNE: I'm looking at what was
 11 previously marked as Exhibit 11, which is the
 12 e-mail you sent in December of '99. Do you
 13 remember talking about that in your last
 14 deposition?
 15 A If I can look at it, I'll . . .
 16 Q Well, you've got -- under "Sloane Muscroft"
 17 you've got the task "Develop engineering
 18 standards," I'll represent that to you. Do you
 19 know whether that was a reference to developing
 20 Exhibit 74?
 21 MR. FLETCHER: Can't he look at the
 22 document, Les?
 23 A I want to look at the document.
 24 Q MR. PAYNE: I've got this one marked.
 25 So do you know without looking at the document?

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1 A Not without looking at the document.
 2 Q You have Exhibit 11 in front of you, correct?
 3 A I do.
 4 Q And under "Sloane Muscroft" it says "Develop
 5 engineering standards," correct?
 6 A This document appears to have been modified, and
 7 I'm not sure I can answer any questions on a
 8 document that's been modified.
 9 Q Do you know what that refers to, "Develop
 10 engineering standards"?
 11 A You're asking me to comment on a document that is
 12 evidence it's been modified.
 13 Q I'm asking you to comment on Exhibit 11, where it
 14 says "Develop engineering standards" for
 15 Sloane Muscroft.
 16 But for the record, I've
 17 tried to get this original document for a while
 18 now, and I still don't think I have it. It was
 19 marked as an exhibit, I believe, to your
 20 deposition in the Peak litigation.
 21 But just go ahead and try
 22 to answer my question.
 23 A You're asking me to answer a question with
 24 reference to this document?
 25 Q Exhibit 11, Mr. Themig.

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1 A Okay.
 2 MR. FLETCHER: Do you recall this
 3 document?
 4 THE WITNESS: Not in this form.
 5 Can you read the question
 6 again, please.
 7 COURT REPORTER: (by reading)
 8 Q Do you know what that refers to,
 9 "Develop engineering standards"?
 10 A Yes. Developing engineering standards would be
 11 to develop standards for doing machine drawings
 12 and equipment design.
 13 Q MR. PAYNE: Did Mr. Muscroft generate
 14 Exhibit 74 pursuant to that task that's assigned
 15 in Exhibit 11?
 16 A This looks primarily like a directory on naming
 17 products and directories of parts descriptions.
 18 It doesn't look like engineering standards to me.
 19 Q So do you know if Mr. Muscroft did anything with
 20 respect to that task that you assigned him called
 21 "engineering standards" in Exhibit 11?
 22 A I don't.
 23 Q You don't know?
 24 A I don't know.
 25 THE VIDEOGRAPHER: Eighty.

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1 EXHIBIT NUMBER 80:
 2 DOCUMENT ENTITLED "MATERIAL
 3 SPECIFICATION."
 4 THE VIDEOGRAPHER: About five minutes.
 5 MR. PAYNE: Okay.
 6 Q MR. PAYNE: Let's just try to get
 7 through this exhibit. You have Exhibit 80,
 8 correct?
 9 A Yes.
 10 Q Are these Packers Plus material specifications?
 11 A I believe that these are material specifications
 12 but not -- they're more of an industry ANSI, ANSI
 13 specification, and not specific to Packers Plus.
 14 Q Did you tell me who the best person was to
 15 testify about the engineering standards at
 16 Packers Plus?
 17 A About whether we have another document covering
 18 that would be Chris Desranleau.
 19 Q So does Packers Plus maintain internally material
 20 specifications?
 21 A Not to my knowledge.
 22 Q These documents that I've given you that are part
 23 of Exhibit 80 are not Packers Plus internal
 24 documents?
 25 A They're on a Packers Plus letterhead, so they are

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1 some sort of Packers Plus document.
 2 Q On the first page it lists Jim Fehr at the bottom
 3 right-hand corner, right?
 4 A Yes.
 5 Q Did he prepare that document?
 6 A I don't know.
 7 Q The second page lists Cory Saulou, correct?
 8 A Yes.
 9 Q Who is Cory Saulou?
 10 A He's one of our other engineering techs. He's an
 11 engineering tech.
 12 Q How long has he been with the company?
 13 A Two and a half years.
 14 Q The last two pages list Jim Fehr, right?
 15 A No. One lists Cory.
 16 Q Last two pages.
 17 A Sorry. The next one was Cory, the next one was
 18 Jim, and the next one was Jim.
 19 Q The numbers that are listed here are 10, 112,
 20 113, 13, and 16, correct, for the material spec?
 21 A What number are you looking at?
 22 Q Looking at the first page, up at the top of the
 23 spec, it says "MAT-10." Do you see that?
 24 A Yes.
 25 Q So that's I guess some sort of Packers Plus

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1 internal specification number, correct?
 2 A I don't know if it's Packers Plus or if it's just
 3 a mechanical engineering specification.
 4 Q You don't know if MAT-10 is specific to
 5 Packers Plus?
 6 A No.
 7 Q Is your testimony the same with respect to
 8 MAT-112?
 9 A Yeah.
 10 Q My question is whether Packers Plus has material
 11 specification sheets for any materials other than
 12 ones listed in Exhibit 80.
 13 A I'm not sure whether we do or not.
 14 Q Who would know?
 15 A Chris probably would know, Chris Desranleau.
 16 THE VIDEOGRAPHER: Getting close to the end
 17 here.
 18 MR. PAYNE: Okay.
 19 THE VIDEOGRAPHER: So this marks the end of
 20 Tape Number 6 in the deposition of Daniel Themig.
 21 Going off the record. The time is 1636.
 22 (DISCUSSION OFF THE RECORD)
 23 THE VIDEOGRAPHER: This is Tape Number 7 in
 24 the deposition of Daniel Themig. Going on the
 25 record. The time is 1638.

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1 This would be 81.
 2 EXHIBIT NUMBER 81:
 3 DOCUMENT ENTITLED "SUPPLEMENTARY
 4 AFFIDAVIT OF RECORDS OF PACKERS PLUS
 5 ENERGY SERVICES INC."
 6 Q MR. PAYNE: Mr. Themig, you have
 7 Exhibit 81 in front of you, correct?
 8 A Yes.
 9 Q This is a document titled "SUPPLEMENTARY
 10 AFFIDAVIT OF RECORDS OF PACKERS PLUS ENERGY
 11 SERVICES INC.," correct?
 12 A Yes.
 13 Q This is an affidavit that you signed at the last
 14 page, correct?
 15 A Yes.
 16 Q Turn to the second-to-last page, please. I'm
 17 looking at Document Number 146 in the chart. Do
 18 you see that, sir?
 19 A I've only got four of the five pages.
 20 Q Look at the document Bates Number 141. Do you
 21 have that, last three numbers, 141?
 22 A Yes.
 23 Q Look at the chart at the top, okay? Do you see
 24 that?
 25 A Yes.

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1 Q 146 says (quoted):
 2 "Page 5 of the Engineering Design and
 3 Applications Manual...."
 4 Do you see that?
 5 A Yes.
 6 Q What is the -- is that referring to the
 7 Packers Plus engineering design and applications
 8 manual?
 9 A I'm not sure what that's referring to.
 10 Q Do you know what the engineering design and
 11 applications manual is?
 12 A I don't know what he's referring to there.
 13 Q Does Packers Plus have an engineering design and
 14 applications manual?
 15 A Not to my knowledge.
 16 Q Does Packers Plus have an applications manual?
 17 A I don't think we've got a manual called that.
 18 Q Does Packers Plus have a manual called
 19 engineering design?
 20 A Not that I'm aware of.
 21 Q Does Packers Plus --
 22 MR. PAYNE: Do you know if you've
 23 produced this page 5, Rick?
 24 MR. FLETCHER: I don't know.
 25 MR. PAYNE: You don't know?

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1 MR. FLETCHER: No. I don't even know
 2 that it exists, but apparently there's something
 3 that they submitted in this Canadian lawsuit
 4 against Muscroft. I'm not sure what it --
 5 Q MR. PAYNE: Paragraph 3 of this
 6 exhibit says (quoted):
 7 "Since I swore my Affidavit of Records,
 8 the Plaintiff has come into possession
 9 of the following documents that relate
 10 to matters in issue in this action and
 11 that it does not object to producing for
 12 inspection."
 13 Correct, Mr. Themig?
 14 A Are you on page 39, Bates Number 39?
 15 Q Yes, yes, yes.
 16 A Yes.
 17 Q So do you have an understanding that this
 18 document that's identified as Number 146 and
 19 called "Engineering Design and Applications
 20 Manual" is in Packers Plus' possession?
 21 A It's listed as (quoted):
 22 "Page 5 of the Engineering Design and
 23 Applications Manual...."
 24 And it should be in our
 25 possession or in the possession of our counsel.

1 Q Does Packers Plus have a field manual?
 2 A We do.
 3 Q What is the field manual at Packers Plus
 4 comprised of?
 5 A It's operating procedure for all the types of
 6 jobs that we perform.
 7 Q For all the types of jobs you do?
 8 A For most of the types of jobs that we perform in
 9 the field.
 10 Q Do you know whether the field manual at
 11 Packers Plus has been produced in this lawsuit?
 12 A No, I don't know whether it's been produced or
 13 not. It was recently created, so it may have
 14 been after a document request.
 15 Q When was it created?
 16 A It would have been created, let's see, probably
 17 as of maybe this fall, last fall, 2006, maybe
 18 October, November, something like that.
 19 Q Did Packers Plus have a field manual before then?
 20 A No.
 21 Q Who created the Packers Plus field manual?
 22 A We hired a consultant to come in and a technical
 23 writer to come in and do the writing, and then he
 24 worked with our field operations people, our
 25 salespeople, and our engineering group.

1 Q Is there information about the RockSeal product
 2 line in the field manual?
 3 A I'm not sure if there's information specifically
 4 about the RockSeal packers or not. There
 5 probably is.
 6 Q How many pages is the field manual?
 7 A Fifty, a hundred.
 8 Q Fifty to a hundred?
 9 A Yeah, I think it's probably around 50.
 10 Q What's it called exactly?
 11 A Field operations manual.
 12 Q Has Packers Plus ever attempted to reverse
 13 engineer any Halliburton products?
 14 A Not to my knowledge.
 15 Q Have you ever obtained a Wizard packer while at
 16 Packers Plus?
 17 A No.
 18 Q Have you ever obtained any Halliburton packers?
 19 A Yes.
 20 Q While at Packers Plus?
 21 A Yes.
 22 Q Which packers?
 23 A The Uni-packer 6, Uni-packer 7, XL on-off tool, a
 24 G-77.
 25 Q What about a G-6?

1 A I don't recall ever having acquired a G-6.
 2 Q What about any of the ZoneMaster Halliburton
 3 products?
 4 A I don't think so.
 5 Q So you've listed the Uni-packer 6 and 7, the XL
 6 on-off tool, and the G-77, correct?
 7 A Yes.
 8 Q Why did you obtain those packers?
 9 A Most of them we bought used for some exchange
 10 stock and some service tools early on, and then
 11 G-77 we obtained assented e-mail.
 12 Q Who obtained the G-77? Was it more than one
 13 G-77, or was it just one?
 14 A Well, we've -- I'm not sure how many G-77s we've
 15 gotten, but we bought -- I know -- I think Peter
 16 was getting quotes on G-77s from Doug Beck in
 17 Calgary, and I don't know if we acquired those
 18 tools or not, but -- so there might have been
 19 multiple G-77s.
 20 Q So you were aware that Mr. Krabben was getting
 21 quotes from Mr. Beck on G-77s?
 22 A Yes.
 23 Q Those G-77s that were obtained were ultimately
 24 sent to D&L?
 25 A I'm not sure if they were sent to D&L, or some of

1 them might have been sent to Indonesia.
 2 Q Why would they be sent to Indonesia?
 3 A To send them to Petrolog. They would purchase
 4 packers off of us.
 5 Q Was at least one G-77 sent to D&L?
 6 A Yes.
 7 Q Do you know how many were sent to D&L?
 8 A No.
 9 Q What about the other packers, the Uni-packer 6
 10 and 7 and the XL on-off tool?
 11 A Those tools, we may still have those, or they may
 12 have been run and installed early on. I don't
 13 know.
 14 Q So those tools were bought used?
 15 A Yes.
 16 Q But the G-77s were not bought used, right?
 17 A I'm not sure on the G-77s. There may have been
 18 one that was bought used or traded for, and the
 19 Uni-6s were all used to us.
 20 Q Were there new G-77s purchased from Halliburton
 21 by Packers Plus?
 22 A I believe there were.
 23 Q Do you have an understanding that Halliburton has
 24 a policy not to sell packers to Packers Plus?
 25 A I don't know what Halliburton's policies are.

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- 1 Q You never heard of that policy?
 2 A I had heard rumours of that policy, but they've
 3 continued to quote packers to us.
 4 Q Halliburton quotes packers to you?
 5 A They have, yes.
 6 Q Which packers?
 7 A G-77s.
 8 Q Anything else?
 9 A All the flow control, landing nipples, sliding
 10 sleeves, well-servicing equipment.
 11 Q Talking about packers now. Any other packers?
 12 A Cup packers.
 13 Q Where would all those quotes be located? Is
 14 there some central file at Packers Plus that
 15 would have all those quotes in them?
 16 A No. I'm not sure that there's records of those.
 17 Q When's the last time Halliburton quoted a packer
 18 to Packers Plus?
 19 A I'm guessing maybe '94.
 20 Q You said '94?
 21 A Sorry, 2004.
 22 Q Was that a G-77?
 23 A I believe it was several G-77s.
 24 Q Has Halliburton ever quoted a Wizard to
 25 Packers Plus?

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- 1 A Not to my knowledge.
 2 THE VIDEOGRAPHER: Eighty-two.
 3 EXHIBIT NUMBER 82:
 4 EXCERPT OF SEPTEMBER 14, 2004,
 5 DEPOSITION TRANSCRIPT OF KENNETH A.
 6 PALTZAT, JR.
 7 Q MR. PAYNE: You have Exhibit 82 in
 8 front of you, correct?
 9 A Yes.
 10 Q Go ahead and take a minute and read the testimony
 11 on the second page of Exhibit 82, please.
 12 Can you hold up Exhibit 82
 13 so I can look at it, please. Okay. Yes, I want
 14 you to read the testimony on the second page,
 15 please. Let me know when you're done, please.
 16 A Okay.
 17 Okay.
 18 Q Exhibit 82 is testimony that Ken Paltzat, Jr.,
 19 gave in connection with the Peak litigation,
 20 correct?
 21 A Yes.
 22 Q It's talking about events that occurred while he
 23 was still working at Halliburton here, correct?
 24 A Yes.
 25 Q Specifically, he's talking about taking

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- 1 Halliburton's sliding sleeves to Packers Plus,
 2 correct?
 3 A There's a number of items discussed in here.
 4 Q And one of them is taking sliding sleeves from
 5 Halliburton to Packers Plus, correct?
 6 A Correct.
 7 Q Were you aware that was happening?
 8 A Yes.
 9 Q Can you explain to me the circumstances in which
 10 Mr. Paltzat, Jr., was delivering Halliburton
 11 sliding sleeves to Packers Plus.
 12 A Yep. We purchased and had a purchasing agreement
 13 with Halliburton for a number of different types
 14 of tools and equipment, including well-servicing,
 15 swab equipment, flow control, sliding sleeves,
 16 landing nipples, that kind of stuff. So the
 17 circumstances would have been that we would have
 18 ordered equipment from Halliburton; Kenny would
 19 have probably delivered it to our shop.
 20 Q Pursuant to an agreement?
 21 A Either on an individual basis or an individual
 22 quote or pursuant to an agreement. We continue
 23 to buy equipment from Halliburton right up until
 24 now, and we get it from a number of sources
 25 within Halliburton. All of our districts buy

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- 1 locally, and then we get it from Edmonton as
 2 well.
 3 Q So if I wanted to figure out exactly what
 4 equipment Packers Plus has purchased from
 5 Halliburton, could I do that?
 6 A You could go into your records. We're one of
 7 your customers, and you could look at every
 8 invoice that you have sent to us, and you could
 9 find all the products that we've purchased from
 10 you.
 11 Q Would you have that information in your database?
 12 A We would probably have invoices that we paid to
 13 Halliburton as well.
 14 Q Do you know whether you have it or not?
 15 A I believe that for tax records, we have to keep
 16 our records seven years, so this is seven years
 17 since I've left, since I've left Halliburton. So
 18 for seven years we will have it. Probably later
 19 this year we'll be disposing of our first year of
 20 data.
 21 Q Who is it at Halliburton that you contact to buy
 22 equipment currently?
 23 A A number of different people.
 24 Q Can you list those people.
 25 A No, I probably can't list them.

66 (Pages 698 to 701)

1 Q Well, can you list some of them.
 2 A Yep.
 3 Q Who are they?
 4 A Barry Zadery, probably Dave Byrtus,
 5 Gerald Scatterty, was Wayne Miller, but he's left
 6 Halliburton now, and I'm not sure who in Calgary
 7 we talk to now. Those would be some of the
 8 people.
 9 THE VIDEOGRAPHER: Eighty-three.
 10 EXHIBIT NUMBER 83:
 11 MASTER SERVICE AGREEMENT.
 12 Q MR. PAYNE: You have Exhibit 83 in
 13 front of you, correct?
 14 A Yes.
 15 Q Is this a master service agreement between
 16 Packers Plus and Halliburton?
 17 A It is.
 18 Q Have you seen this document before today?
 19 A Yes.
 20 Q You signed the document, correct?
 21 A Yes.
 22 Q Can you generally describe the scope of this
 23 agreement?
 24 A I believe this agreement was set up for some work
 25 in the US. I can't recall what company it was

1 A I believe there was a job planned for a client
 2 that Halliburton was a general contractor for.
 3 Q Do you remember why Packers Plus never
 4 participated in that job?
 5 A No.
 6 Q Has Packers Plus equipment ever been used on any
 7 jobs that Halliburton was running?
 8 A You'll have to be more specific.
 9 Q Well, let's talk about Packers Plus packers, like
 10 the RockSeal product line or any of these other
 11 packers that you guys sell, okay?
 12 A Okay.
 13 Q Have any Packers Plus packers ever been used in
 14 connection with any type of job Halliburton was
 15 running?
 16 A That's a broad question. Can you be more
 17 specific, please.
 18 Q It's intended to be broad.
 19 A Okay.
 20 Q So you got a well, okay?
 21 A Yes.
 22 Q All right? An oil or a gas well. Things are run
 23 downhole. Somebody drills a well. Somebody
 24 completes the well. Somebody services the well.
 25 Somebody produces the well. So have you guys,

1 for, but Halliburton was a primary contractor,
 2 and they were -- I believe we were going to do
 3 some work for this client, and they said we had
 4 to invoice through Halliburton, so to do that, we
 5 had to execute a master services agreement with
 6 Halliburton.
 7 Q You can't remember who the customer was, the
 8 Halliburton customer?
 9 A No.
 10 Q Was that job actually performed by Packers Plus
 11 pursuant to this agreement?
 12 A I don't believe it was.
 13 Q Let me ask you a more global question. Has
 14 Packers Plus ever performed any job under this
 15 master service agreement?
 16 A Not to my knowledge.
 17 Q Do you know whether this agreement that's marked
 18 as Exhibit 83 was ever terminated?
 19 A Not to my knowledge.
 20 Q Did you ever receive any Halliburton confidential
 21 information under this agreement?
 22 A Not to my knowledge.
 23 Q I think you testified that there was a
 24 Halliburton US job that was sort of the impetus
 25 behind this agreement, correct?

1 Packers Plus, ever run packers in a well that
 2 Halliburton has participated in?
 3 A That Halliburton had associated work going on in
 4 those wells, absolutely.
 5 Q So let's say Packers Plus packers were being run
 6 at the same time Halliburton equipment was being
 7 used. Are there wells like that?
 8 A So specifically Packers Plus equipment may be run
 9 while there's a Halliburton mud system in the
 10 ground?
 11 Q Yes.
 12 A Or Packers Plus equipment may be run while you
 13 guys are cementing -- while Halliburton is
 14 cementing a well, yeah, Halliburton has got this
 15 huge corporation with tons of -- lots of
 16 services, and we're on wells that Halliburton is
 17 performing some of the services on.
 18 Q But those types of Packers Plus jobs, if you
 19 will, are not done pursuant to this master
 20 service agreement that we just talked about,
 21 right?
 22 A Right.
 23 Q So Halliburton is not hiring Packers Plus for
 24 those jobs as kind of a subcontractor, right?
 25 A Not in most cases. This case is that if this job

1 had gone forward, that would have been the case,
 2 but on most wells, the oil company hires
 3 Halliburton to do one service and Packers Plus to
 4 do another service.
 5 Q So Halliburton has never hired Packers Plus to do
 6 any sort of service, correct?
 7 A Actually, Halliburton -- we served as an agent
 8 for Halliburton for almost two years, so
 9 Halliburton had us represent them as an agent for
 10 one of their product lines.
 11 Q We're going to talk about that, but I'm talking
 12 about jobs that are run and particularly jobs
 13 that are run with Packers Plus packers. Has
 14 Halliburton ever hired Packers Plus in order to
 15 run Packers Plus packers on that type of job that
 16 Halliburton's performing?
 17 A You'll have to be more specific and give me an
 18 example.
 19 Q Well, it's a global question, but let's say
 20 Halliburton's running a fracing job, for example.
 21 A Okay.
 22 Q Have they ever hired Packers Plus to supply
 23 Packers Plus packers for that fracing job?
 24 A Not to my knowledge.
 25 Q Have they ever hired Packers Plus to supply any

1 Q How often does that happen?
 2 A I don't know that I could give you the numbers or
 3 the percents of the jobs or anything like that.
 4 Q Do you know how many times that's happened?
 5 A No.
 6 Q Has it been ten times? A hundred times? A
 7 thousand times? What's your best estimate?
 8 A My best estimate would be a couple hundred times
 9 possibly.
 10 Q What's the typical scenario?
 11 A It would be doing a cementing job or a water
 12 shut-off or a stimulation job.
 13 THE VIDEOGRAPHER: Eighty-four,
 14 EXHIBIT NUMBER 84:
 15 LETTER FROM WAYNE MILLER TO
 16 PETER KRABBen, JANUARY 5, 2001.
 17 Q MR. PAYNE: Mr. Themig, you have
 18 Exhibit 84, correct?
 19 A Yes.
 20 Q The first page is a letter from Wayne Miller of
 21 Halliburton to Peter Krabben, correct?
 22 A Yes.
 23 Q The second page is a Packers Plus discount
 24 schedule, correct?
 25 A Yes.

1 packers for any job that Halliburton has run?
 2 A They've contacted us before to buy packers from
 3 us, but I don't believe that we had sold them
 4 anything.
 5 Q What packers did they ask you to sell?
 6 A The RockSeal.
 7 Q How many times has that happened?
 8 A Once that I know of for sure.
 9 Q Who contacted you?
 10 A I believe it was Dave Byrtus.
 11 Q Where is he employed by Halliburton?
 12 A In northwestern Alberta, at Grande Prairie.
 13 Q Is he still with Halliburton?
 14 A I believe he is.
 15 Q What were the circumstances with respect to that
 16 contact, do you remember?
 17 A I don't remember.
 18 Q So just to be clear, Halliburton has never hired
 19 Packers Plus to use Packers Plus packers on a job
 20 that Halliburton was running, correct?
 21 A I believe that would be correct.
 22 Q But it's your testimony that there have been
 23 occasions where Halliburton and Packers Plus have
 24 shared the same client on a particular well job?
 25 A Yes.

1 Q The first sentence says (quoted):
 2 "Following our discussion, Halliburton
 3 completion products will supply
 4 Packers Plus, flow control equipment at
 5 a discounted rate as listed in the
 6 attached discount schedule, effective
 7 January 1, 2001."
 8 Do you see that language?
 9 A Yes.
 10 Q Is this what you're calling the flow control
 11 equipment agreement between Packers Plus and
 12 Halliburton?
 13 A This would be one flow control agreement.
 14 Q Is there another flow control agreement between
 15 those two parties?
 16 A There's continual flow control agreements when we
 17 buy flow control equipment from Halliburton.
 18 Q You're talking about a purchase order that you
 19 submit to Halliburton as being a flow control
 20 agreement?
 21 A I'm talking about calling Halliburton and asking
 22 for X landing nipple and them quoting a price,
 23 possibly over the phone, and us agreeing to buy
 24 it from them.
 25 Q Is there some sort of formal agreement that

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1 facilitates that type of transaction?
 2 A I don't know if it's still covered under this
 3 agreement or not. Probably not.
 4 Q You're calling this an agreement, a flow control
 5 equipment agreement, right?
 6 A It is a discount schedule, and I guess it would
 7 be an agreement to sell at these prices.
 8 Primarily it's a discount schedule for specified
 9 equipment.
 10 Q Halliburton is giving Packers Plus a 10 percent
 11 discount on certain specified equipment, correct?
 12 A Yes.
 13 Q And are all of the products that are subject to
 14 this flow control understanding listed on page 2
 15 of Exhibit 84, or are there other products too?
 16 A There's other products too.
 17 Q Are there any packers that would be subject to
 18 any sort of discount-type agreement?
 19 A Any packers or anything would be done by
 20 quotation, as is stated at the bottom of the
 21 page.
 22 Q So what other flow control Halliburton equipment
 23 might be subject to this Exhibit 84?
 24 A CRA landing nipple, certain premium threads,
 25 certain special IDs, specific coded tools for

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1 corrosion resistance. There may be others.
 2 Those are a few.
 3 Q Did you actually purchase any Halliburton flow
 4 control equipment at a discounted rate under
 5 Exhibit 84?
 6 A I believe we did.
 7 Q Do you know how often that happened?
 8 A I think it happens on a fairly regular basis,
 9 even up until today.
 10 Q Is Halliburton still giving you some sort of
 11 discount for flow control equipment that
 12 Halliburton manufactures?
 13 A I'm not sure.
 14 Q Who was it that asked for Exhibit 84 to be
 15 entered into? Was it Mr. Krabben?
 16 A I believe it would have been Mr. Krabben.
 17 Q He would have called up Halliburton and asked
 18 Halliburton to get Packers Plus some sort of
 19 discount rate?
 20 A I believe that would be the case.
 21 Q Did you ever -- did Packers Plus ever receive any
 22 sort of Halliburton confidential information
 23 under Exhibit 84?
 24 A Not to my knowledge.
 25 Q We've talked about Exhibits 83 and 84. Are there

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1 any other formal agreements that you know of
 2 between Packers Plus and any Halliburton entity?
 3 A There's nothing that comes to mind right now.
 4 Q Is there any agreement between Halliburton and
 5 Packers Plus that grants Packers Plus the right
 6 to be in possession of Halliburton confidential
 7 information?
 8 A I'm not aware of any agreement between
 9 Halliburton that discusses confidential
 10 information in any way.
 11 Q Since Packers Plus was formed, has anyone at
 12 Halliburton ever provided Packers Plus any
 13 Halliburton confidential information?
 14 A You'll have to be more specific and give me an
 15 example.
 16 Q I'm talking about anything. It's a global, broad
 17 question.
 18 A Okay. Not to my knowledge.
 19 Q No one from Halliburton has ever given
 20 Packers Plus any Halliburton machine drawings,
 21 for example?
 22 A I'm not sure whether they have or not.
 23 Q You don't have any knowledge of it?
 24 A I don't have any knowledge of it.
 25 Q Have you heard that's happened?

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1 A It may have happened with our well-servicing when
 2 we repped Halliburton as a well-servicing agent.
 3 Q Is it your testimony that Packers Plus served as
 4 an agent for Halliburton?
 5 A It is.
 6 Q Was that pursuant to any sort of formal agency
 7 written agreement?
 8 A There was never a written agreement.
 9 Q Well, so was it a verbal agreement?
 10 A Yes.
 11 Q Between what individuals?
 12 A Between Halliburton and Packers Plus.
 13 Q What individuals entered into that nonwritten
 14 agency agreement?
 15 A I believe that would have been Dennis MacDonald,
 16 who was manager over production equipment.
 17 Q On behalf of Halliburton?
 18 A On behalf of Halliburton.
 19 Q And who on behalf of Packers Plus?
 20 A I can't remember who at Packers Plus.
 21 Q Was there any other sort of agency agreement
 22 between the two parties that you can think of?
 23 A Not that I can think of.
 24 Q Tell me about the scope of the agency agreement
 25 you just testified to.

69 (Pages 710 to 713)

1 A We represented Halliburton as their agent in I
 2 think four areas: Edmonton; Grande Prairie;
 3 Red Deer; Estevan, Saskatchewan. We stocked and
 4 sold well-servicing equipment for them to clients
 5 at whatever set discount rates that they had set
 6 up, and then we would invoice the clients, and
 7 Halliburton would invoice us once the sales took
 8 place.
 9 Q Were there any packers involved?
 10 A Yes.
 11 Q Which packers?
 12 A I think GW packers were involved.
 13 Q Any other packers?
 14 A Maybe GV packers.
 15 Q Sorry?
 16 A There's some other packers that potentially were
 17 involved.
 18 Q Did you say "GV"?
 19 A You know, I can't remember the names of them now.
 20 It's been several years since we were in that
 21 agreement and we handled that product line, but
 22 there were GW, and then there's a number of other
 23 G-related packers that would have been included
 24 in that product offering.
 25 Q When was that agency agreement alive?

1 A It would have been alive from shortly after we
 2 started, probably February of 2000, and then it
 3 was alive until Halliburton sold that product
 4 line to whoever they sold it to.
 5 Q When was that?
 6 A I don't know.
 7 Q Give me a year.
 8 A 2001, maybe 2002. I don't know for sure.
 9 Q But you don't remember receiving any Halliburton
 10 confidential information at Packers Plus under
 11 that so-called agency agreement?
 12 A I don't know for sure what your definition of
 13 "confidential" material is. You'll have to be
 14 very specific, and I'll answer the question.
 15 Q Anything that you think was confidential to
 16 Halliburton.
 17 A No, I wouldn't have received anything that I
 18 would have considered confidential from
 19 Halliburton.
 20 Q Were you involved in the negotiations between
 21 Packers Plus and Schlumberger that resulted in
 22 Schlumberger acquiring a 30 percent interest in
 23 Packers Plus?
 24 A Yes.
 25 Q Were you the point person at Packers Plus?

1 A No.
 2 Q Who was?
 3 A Jim Simpson.
 4 Q Did you negotiate the agreement between
 5 Packers Plus and Schlumberger?
 6 A Specifically, I did not.
 7 Q You had several meetings with Schlumberger
 8 representatives in that connection, correct?
 9 A Yes.
 10 Q But you're not being tendered today as a
 11 representative of Packers Plus to testify about
 12 that topic, correct?
 13 A No.
 14 Q That's Jim Simpson, right?
 15 A Yes.
 16 MR. PAYNE: How much more time do we
 17 have on the tape?
 18 THE VIDEOGRAPHER: Sixteen minutes.
 19 Eighty-five.
 20 EXHIBIT NUMBER 85:
 21 JUNE 14, 2006, LETTER FROM MR. FLETCHER
 22 TO MR. PAYNE.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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January 8, 2007
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