

MINUTES OF THE Senate COMMITTEE ON Assessment and Taxation

The meeting was called to order by Senator Fred A. Kerr at  
Chairperson

519-S a.m./p.m. on Monday, February 25, 1985 in room 519-S of the Capitol.

All members were present except:

Senator Jim Allen (Excused)  
Senator Don Montgomery (Excused)  
Senator Bill Mulich (Excused)

Committee staff present:

Tom Severn, Research Department  
Melinda Hanson, Research Department  
Don Hayward, Revisor's Office  
LaVonne Mumert, Secretary to the Committee

Conferees appearing before the committee:

Senator Phil Martin

Copies of the two classification computer runs requested by Committee members were distributed to the Committee (Attachments 1 and 2).

Senator Thiessen moved that the minutes of the February 21 and 22, 1985 meeting be approved. Senator Hayden seconded the motion, and the motion carried.

S.B. 190 - Real and personal property defined for property taxation purposes

Senator Phil Martin explained that this bill would define real and personal property so that personal property would include everything except the super structure of the building. Senator Martin discussed the decision of the Butler County District Court in Board of County Commissioners of Butler County, Kansas v. Phil Martin, et al (Attachment 3). Under this ruling, such things as sewers, drains, computer systems, pumps, compressors, motors, etc. were found to be realty. Senator Martin stated that probably much of the personal property of manufacturing plants currently taxed as personal property would be defined as real property under the court's decision. He pointed out this would cause the assessment ratios to drop since personal property is valued at 30% and commercial and industrial real property is around 12%.

Senator Martin answered questions from Committee members. He said that there is a potential for a multi-million dollar tax shift if businesses were to take advantage of this ruling. He said that it would impact most heavily on manufacturing areas since the biggest portion of their valuation would be machinery and equipment. The Committee discussed the impact the 4R Act would have in this area. Carol Bonebrake (Department of Revenue) explained that railroads are not segregated but are equalized to the commercial and industrial assessment. The Committee talked about the effect S.B. 190 would have before and after a classification amendment which would either exempt or partially exempt personal property. Senator Martin said the intent of the bill is to preserve the status quo so that what is presently being valued as personal property would be defined in the statute as personal property. Vic Miller (Property Valuation Division) said the bill would reduce the gray area between personal and real property but there would still be some uncertainty as to whether or not additions to a building are defined as improvements. It was brought out that it is very difficult to prove or disprove the intent of the property owner.

Senator Thiessen moved that the Committee introduce a bill which would authorize watershed districts to raise the levy from 2 mills to 6 mills. Senator Hayden seconded the motion, and the motion carried.

Meeting adjourned.

ASSESSMENT AND TAXATION

OBSERVERS  
(PLEASE PRINT)

DATE	NAME	ADDRESS	REPRESENTING
2/25/85	CLARK P. YOUNG	TOPEKA	Intern - Sen Fred Kern
	M. H. Haver	"	CAO - JOURNAL
	JERRY CONRAD	"	KGE
	Allen Cox	Lawrence	Intern - Sen, Kern
	John Koepke	Topeka	KASB
	D. WAYNE ZIMMERMAN	TOPEKA	THE ELECTRIC Co. ASSOC. OF KS.
	BILL ABBOTT	WICHITA	BOEING
	CHARLES BELT	WICHITA	CHAMBER OF COMMERCE
	HOWARD W. TICCO	HUTCHINSON	K.A.W.G.
	Maryne Probasco	TOPEKA	Ks Soft Drink Assn
	JANET STUBBS	"	HBAK
	George PUCKETT	WICHITA	KS RESTAURANT ASSOC.
	Jim Turner	Topeka	KLSI
	Don Turner	"	KCCI
	Ron Caches	TOPEKA	UNITED TELEPHONE
	John D Mc Neal	Topeka	
	Clay Wheelen	Topeka	Legis. Policy Group
	BOB BRADLEY	LAWRENCE	KS. Assoc Counties
	GERRY RAY	Olathe	Jo. Co. Commissioners
	Joe Harbell	Topeka	Kansas Railroad Assn
	TREVA POTTER	TOPEKA	NORTHERN
	Harley Duncan	Topeka	Dept of Revenue
	LINDA FERRILL	TOPEKA	BOARD OF TAX APPEALS
	VIC MILLER	"	PVD
	Carol B. Bonebrake	"	DOIR
	DANA FERRELL	"	Budget

PERCENTAGE OF 1984 STATEWIDE ASSESSED VALUATION  
BY ECONOMIC CLASS

Economic Class	Class of Property	(1) Current Percent	(2) Uniform & Equal	(3) Proposed Ratio	(4) Subject Proposal
<b>Agriculture</b>					
	Ag Land	15.1%	31.7%	6	13.2%
	Livestock	1.3%	0.5%	0	0.0%
	Farm Machinery	0.0%	0.0%	0	0.0%
		16.3%	32.2%		13.2%
<b>Commerce and Industry</b>					
	Rural Ind & Comml	1.4%	2.5%	30	5.2%
	Urban Commercial	7.1%	8.8%	30	18.4%
	Urban Industrial	1.0%	1.0%	30	2.0%
	Rural Merch Inv	0.4%	0.2%	0	0.0%
	Rural Manuf Inv	1.1%	0.4%	0	0.0%
	Rural Mach & Eq	1.5%	0.6%	0	0.0%
	All Other Rur Bus	0.3%	0.1%	0	0.0%
	Urban Merch Inv	2.7%	1.1%	0	0.0%
	Urban Manuf Inv	1.2%	0.5%	0	0.0%
	Urban Mach & Eq	4.0%	1.5%	0	0.0%
	All Other Urb Bus	1.1%	0.4%	0	0.0%
	Business Aircraft	0.0%	0.0%	0	0.0%
		21.8%	17.1%		25.6%
<b>Residential</b>					
	Urb Single-Family	18.7%	26.6%	12	22.1%
	Urb Multi-Family	1.8%	2.3%	12	1.9%
	Rural Residences	2.6%	5.0%	12	4.2%
		23.1%	33.9%		28.2%
<b>State-Assessed Utilities</b>					
	Railroads	1.7%	0.7%	15	0.7%
	Other Utilities	18.3%	7.1%	30	14.8%
		20.0%	7.8%		15.5%
<b>Other Properties</b>					
	Oil and Gas Prod	16.1%	6.3%	30	13.0%
	Vacant Lots	0.4%	1.9%	30	4.0%
	Vehicles	0.6%	0.2%	30	0.5%
	Miscellaneous	1.5%	0.6%	0	0.0%
		18.6%	9.0%		17.5%
	<b>Grand Total</b>	<b>100.0%</b>	<b>100.0%</b>		<b>100.0%</b>

NOTE: Details may not add due to rounding.



1984 PROPERTY VALUES  
 \*\*\* STATE TOTALS \*\*\*

CLASS OF PROPERTY	1984 ASSESSED VALUATION	% OF TOTAL	ESTIMATED MARKET VALUE	% OF TOTAL	ESTIMATED ASSESSED VALUE (30%)	% OF TOTAL	PROP- POSED RATIOS	PROPOSED ASSESSED VALUATION	% OF TOTAL
1 RURAL REAL ESTATE									
2 AGR(INCL MIN INTS)	\$1,668,535,809	15.1%	30,147,942,722	31.7%	9,044,382,817	31.7%	6	1,808,876,563	13.2%
3 HOMESITES, PL SUBDIVS	283,105,024	2.6	4,760,918,378	5.0	1,430,675,513	5.0	12	572,270,205	4.2
4 SPOT INDUSTR, COMM	151,661,109	1.4	2,385,979,761	2.5	715,793,928	2.5	30	715,793,928	5.2
5 TOTAL RURAL REAL	2,103,301,942	19.0	37,302,840,861	39.2	11,190,852,258	39.2		3,096,940,697	22.6
6 URBAN REAL ESTATE									
7 RESIDENTIAL(INCL MIN INT)	2,074,071,981	18.7	25,284,840,120	26.6	7,585,454,436	26.6	12	3,034,181,774	22.1
8 MULTI-FAMILY	204,542,268	1.8	2,197,858,201	2.3	659,357,484	2.3	12	263,742,994	1.9
9 COMMERCIAL	787,833,447	7.1	8,405,201,611	8.8	2,521,560,483	8.8	30	2,521,560,483	18.4
10 INDUSTRIAL	105,217,563	1.0	935,688,761	1.0	280,706,628	1.0	30	280,706,628	2.0
11 VACANT LOTS	46,494,215	0.4	1,826,552,451	1.9	547,965,735	1.9	30	547,965,735	4.0
12 TOTAL URBAN REAL	3,218,159,474	29.1	38,650,149,224	40.6	11,595,044,767	40.6		6,648,157,615	48.5
13 TOTAL REAL ESTATE	5,321,461,416	48.1	75,952,990,085	79.8	22,785,897,026	79.8		9,745,098,312	71.0
14 STATE ASSESSED									
15 RAILROADS - RURAL	163,543,269	1.5	545,144,233	0.6	163,543,270	0.6	15	81,771,635	0.6
16 RAILROADS - URBAN	29,536,992	0.3	98,456,638	0.1	29,536,991	0.1	15	14,768,496	0.1
17 ALL OTHER - RURAL	1,577,361,700	14.2	5,257,872,333	5.5	1,577,361,700	5.5	30	1,577,361,700	11.5
18 ALL OTHER - URBAN	449,240,923	4.1	1,497,469,745	1.6	449,240,924	1.6	30	449,240,924	3.3
19 TOTAL STATE ASSESSED	2,219,682,884	20.0	7,398,942,949	7.8	2,219,682,885	7.8		2,123,142,754	15.5
20 OIL & GAS PRODUCTION									
21 OIL(RURAL & URBAN)	1,038,827,814	9.4	3,462,759,390	3.6	1,038,827,814	3.6	30	1,038,827,814	7.6
22 GAS(RURAL & URBAN)	747,360,198	6.7	2,491,200,661	2.6	747,360,198	2.6	30	747,360,198	5.4
23 TOTAL OIL & GAS PROD	1,786,188,012	16.1	5,953,960,051	6.3	1,786,188,012	6.3		1,786,188,012	13.0
24 RURAL PERSONAL PROPERTY OTHER THAN OIL & GAS PRODUCTION									
25 VEHICLES	20,955,182	0.2	69,850,610	0.1	20,955,183	0.1	30	20,955,183	0.2
26 MACHINERY & EQUIPMENT	168,797,286	1.5	562,657,619	0.6	168,797,286	0.6	0	0	0.0
27 MERCHANTS INVENTORY	48,522,333	0.4	161,741,107	0.2	48,522,332	0.2	0	0	0.0
28 MANUFACTURERS INVENTORY	126,461,756	1.1	421,539,184	0.4	126,461,755	0.4	0	0	0.0
29 ALL OTHER BUSINESS	37,327,316	0.3	124,424,385	0.1	37,327,316	0.1	0	0	0.0
30 LIVESTOCK	139,104,214	1.3	463,600,719	0.5	139,104,216	0.5	0	0	0.0
31 MISCELLANEOUS	87,600,804	0.8	292,002,643	0.3	87,600,793	0.3	0	0	0.0
32 TOTAL	628,768,891	5.7	2,095,896,267	2.2	628,768,880	2.2		20,955,183	0.2
33 URBAN PERSONAL PROPERTY OTHER THAN OIL & GAS PRODUCTION									
34 VEHICLES	41,565,353	0.4	138,551,177	0.1	41,565,353	0.1	30	41,565,353	0.3
35 MACHINERY & EQUIPMENT	438,091,416	4.0	1,460,304,716	1.5	438,091,415	1.5	0	0	0.0
36 MERCHANTS INVENTORY	300,182,922	2.7	1,000,609,737	1.1	300,182,921	1.1	0	0	0.0
37 MANUFACTURERS INVENTORY	133,247,488	1.2	444,158,293	0.5	133,247,488	0.5	0	0	0.0
38 ALL OTHER BUSINESS	122,138,111	1.1	407,127,041	0.4	122,138,112	0.4	0	0	0.0
39 LIVESTOCK	315,474	.0	1,051,578	.0	315,473	.0	0	0	0.0
40 MISCELLANEOUS	82,232,140	0.7	274,107,135	0.3	82,232,141	0.3	0	0	0.0
41 TOTAL	1,117,772,904	10.1	3,725,909,677	3.9	1,117,772,903	3.9		41,565,353	0.3
42 FARM MACHINERY	0	0.0	0	0.0	0	0.0	0	0	0.0
43 BUSINESS AIRCRAFT	0	0.0	0	0.0	0	0.0	0	0	0.0
44 GRAND TOTAL	11,073,874,107	100.0%	95,127,699,019	100.0%	28,538,309,706	100.0%		13,716,949,514	100.0%

PERCENTAGE OF 1984 STATEWIDE ASSESSED VALUATION  
BY ECONOMIC CLASS

Economic Class	Class of Property	(1) Current Percent	(2) Uniform & Equal	(3) Proposed Ratio	(4) Subject Proposal
<hr/>					
Agriculture					
	Ag Land	15.1%	31.7%	9	17.4%
	Livestock	1.3%	0.5%	0	0.0%
	Farm Machinery	0.0%	0.0%	0	0.0%
		16.3%	32.2%		17.4%
Commerce and Industry					
	Rural Ind & Comml	1.4%	2.5%	30	4.6%
	Urban Commercial	7.1%	8.8%	30	16.2%
	Urban Industrial	1.0%	1.0%	30	1.8%
	Rural Merch Inv	0.4%	0.2%	0	0.0%
	Rural Manuf Inv	1.1%	0.4%	0	0.0%
	Rural Mach & Eq	1.5%	0.6%	30	1.1%
	All Other Rur Bus	0.3%	0.1%	30	0.2%
	Urban Merch Inv	2.7%	1.1%	0	0.0%
	Urban Manuf Inv	1.2%	0.5%	0	0.0%
	Urban Mach & Eq	4.0%	1.5%	30	2.8%
	All Other Urb Bus	1.1%	0.4%	30	0.8%
	Business Aircraft	0.0%	0.0%	0	0.0%
		21.8%	17.1%		27.5%
Residential					
	Urb Single-Family	18.7%	26.6%	12	19.5%
	Urb Multi-Family	1.8%	2.3%	12	1.7%
	Rural Residences	2.6%	5.0%	12	3.7%
		23.1%	33.9%		24.9%
State-Assessed Utilities					
	Railroads	1.7%	0.7%	15	0.6%
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		20.0%	7.8%		13.6%
Other Properties					
	Oil and Gas Prod	16.1%	6.3%	30	11.5%
	Vacant Lots	0.4%	1.9%	30	3.5%
	Vehicles	0.6%	0.2%	30	0.4%
	Miscellaneous	1.5%	0.6%	30	1.1%
		18.6%	9.0%		16.5%
	Grand Total	100.0%	100.0%		100.0%

NOTE: Details may not add due to rounding.



1984 PROPERTY VALUES  
 \*\*\* STATE TOTALS \*\*\*

CLASS OF PROPERTY	1984 ASSESSED VALUATION	% OF TOTAL	ESTIMATED MARKET VALUE	% OF TOTAL	ESTIMATED ASSESSED VALUE (32%)	% OF TOTAL	PROP-POSED RATIOS	PROPOSED ASSESSED VALUATION	% OF TOTAL
1 RURAL REAL ESTATE									
2 ABR(INCL MIN INTS)	\$1,668,535,809	15.1%	30,147,942,722	31.7%	9,044,382,817	31.7%	9	2,713,314,845	17.4%
3 HOMESITES, PL SUBDIVS	283,105,024	2.6	4,768,918,378	5.0	1,430,675,513	5.0	12	572,270,205	3.7
4 SPOT INDUSTR, COMM	151,661,109	1.4	2,385,979,751	2.5	715,793,928	2.5	30	715,793,928	4.6
5 TOTAL RURAL REAL	2,103,301,942	19.0	37,302,840,851	39.2	11,190,852,258	39.2		4,001,378,979	25.7
6 URBAN REAL ESTATE									
7 RESIDENTIAL(INCL MIN INT)	2,074,071,981	18.7	25,284,848,120	26.6	7,585,454,436	26.6	12	3,034,181,774	19.5
8 MULTI-FAMILY	204,542,268	1.8	2,197,858,281	2.3	659,357,484	2.3	12	263,742,994	1.7
9 COMMERCIAL	787,833,447	7.1	8,405,201,611	8.8	2,521,560,483	8.8	30	2,521,560,483	16.2
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11 VACANT LOTS	46,494,215	0.4	1,826,552,451	1.9	547,965,735	1.9	30	547,965,735	3.5
12 TOTAL URBAN REAL	3,218,159,474	29.1	38,650,149,224	40.6	11,595,044,767	40.6		6,648,157,615	42.7
13 TOTAL REAL ESTATE	5,321,461,416	48.1	75,952,990,075	79.8	22,785,897,025	79.8		10,649,535,594	58.5
14 STATE ASSESSED									
15 RAILROADS - RURAL	163,543,269	1.5	545,144,233	0.6	163,543,270	0.6	15	81,771,635	0.5
16 RAILROADS - URBAN	29,536,992	0.3	98,456,638	0.1	29,536,991	0.1	15	14,768,496	0.1
17 ALL OTHER - RURAL	1,577,351,700	14.2	5,257,872,333	5.5	1,577,361,702	5.5	30	1,577,351,700	10.1
18 ALL OTHER - URBAN	449,240,923	4.1	1,497,469,745	1.6	449,240,924	1.6	30	449,240,924	2.9
19 TOTAL STATE ASSESSED	2,219,682,884	20.0	7,398,942,949	7.8	2,219,682,885	7.8		2,123,142,754	13.6
20 OIL & GAS PRODUCTION									
21 OIL(RURAL & URBAN)	1,038,827,814	9.4	3,462,759,330	3.6	1,038,827,814	3.6	30	1,038,827,814	5.7
22 GAS(RURAL & URBAN)	747,360,198	6.7	2,491,200,661	2.6	747,360,198	2.6	30	747,360,198	4.8
23 TOTAL OIL & GAS PRGD	1,786,188,012	16.1	5,953,960,041	6.3	1,786,188,012	6.3		1,786,188,012	11.5
24 RURAL PERSONAL PROPERTY OTHER THAN OIL & GAS PRODUCTION									
25 VEHICLES	20,955,182	0.2	69,850,610	0.1	20,955,183	0.1	30	20,955,183	0.1
26 MACHINERY & EQUIPMENT	168,797,286	1.5	562,657,619	0.6	168,797,286	0.6	30	168,797,286	1.1
27 MERCHANTS INVENTORY	48,522,333	0.4	161,741,107	0.2	48,522,332	0.2	0	0	0.0
28 MANUFACTURERS INVENTORY	126,461,756	1.1	421,535,184	0.4	126,461,755	0.4	0	0	0.0
29 ALL OTHER BUSINESS	37,327,316	0.3	124,424,385	0.1	37,327,316	0.1	30	37,327,316	0.2
30 LIVESTOCK	139,104,214	1.3	463,680,719	0.5	139,104,216	0.5	0	0	0.0
31 MISCELLANEOUS	87,600,804	0.8	292,002,643	0.3	87,600,793	0.3	30	87,600,793	0.6
32 TOTAL	628,768,891	5.7	2,095,896,267	2.2	628,768,860	2.2		314,680,577	2.0
33 URBAN PERSONAL PROPERTY OTHER THAN OIL & GAS PRODUCTION									
34 VEHICLES	41,565,353	0.4	138,551,177	0.1	41,565,353	0.1	30	41,565,353	0.3
35 MACHINERY & EQUIPMENT	438,091,416	4.0	1,460,304,716	1.5	438,091,415	1.5	30	438,091,415	2.8
36 MERCHANTS INVENTORY	300,182,922	2.7	1,000,609,737	1.1	300,182,921	1.1	0	0	0.0
37 MANUFACTURERS INVENTORY	133,247,488	1.2	444,158,293	0.5	133,247,488	0.5	0	0	0.0
38 ALL OTHER BUSINESS	122,138,111	1.1	407,127,041	0.4	122,138,112	0.4	30	122,138,112	0.8
39 LIVESTOCK	315,474	.0	1,051,578	.0	315,473	.0	0	0	0.0
40 MISCELLANEOUS	82,232,140	0.7	274,107,135	0.3	82,232,141	0.3	30	82,232,141	0.5
41 TOTAL	1,117,772,924	10.1	3,725,909,677	3.9	1,117,772,903	3.9		684,027,021	4.4
42 FARM MACHINERY	0	0.0	0	0.0	0	0.0	0	0	0.0
43 BUSINESS AIRCRAFT	0	0.0	0	0.0	0	0.0	0	0	0.0
44 GRAND TOTAL	11,073,874,107	100.0%	95,127,699,019	100.0%	29,538,309,705	100.0%		15,557,574,958	100.0%

IN THE THIRTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, BUTLER COUNTY, KANSAS  
CIVIL DEPARTMENT

BOARD OF COUNTY COMMISSIONERS OF )  
BUTLER COUNTY, KANSAS, )

Plaintiff, )

vs. )

Case No. 83 C 449 )

PHIL MARTIN, Director of Property )  
Valuation of the State of Kansas, )  
KAY GROCHOWSKY, Butler County )  
Appraiser, )

Defendants. )

JOURNAL ENTRY OF JUDGMENT

On this 28th day of November, 1983, this matter comes on for trial before the Honorable Nicholas W. Klein, Judge, specially appointed upon the voluntary recusal of the regular judges of this Court. Plaintiff appears by its attorney, Norman Manley of Davis, Hamm & Manley, El Dorado, Kansas; Defendant Phil Martin, Director of Property Valuation of the State of Kansas, appears by his attorneys, Carol Bonebrake and Gregory Whittmore of the Division of Property Valuation, Department of Revenue, State of Kansas, Topeka, Kansas; Intervenor Getty Refining and Marketing Company ("Getty") appears by its attorney, Robert J. O'Connor of Hershberger, Patterson, Jones & Roth, Wichita, Kansas; Intervenor Pester Refining Company appears by its attorney, James Hargrove of McKay, McKay & Hargrove, El Dorado, Kansas; Intervenor Total Petroleum, Inc. appears by its attorney, Stephen J. Bednar Wichita, Kansas; and there are no other appearances.

And the Court, being duly advised in the premises, finds that the parties are ready for trial; that trial should proceed to the Court, none of the parties having sought trial by jury and their respective rights thereto having been waived; and that the Court has jurisdiction over the parties to and of the subject matter of this action.

THEREUPON, counsel for plaintiff makes an opening statement. During the course of such statement, counsel orally moves that Counts

I and III of the Petition together with the temporary restraining order in effect be dismissed. Without objection, plaintiff's motion is granted, and the case proceeds to trial only on Count II of the Petition as an action substantially in the nature of a declaratory judgment proceeding for a declaration of the Kansas law of fixtures as applicable to refineries and for a determination of the extent to which, if any, that the "refinery process plant", as that term is hereinafter more fully defined, at the Getty refinery in El Dorado, Kansas is real property under the applicable law of fixtures.

THEREUPON, counsel for Director Martin and for Getty make their respective opening statements.

THEREUPON, Getty introduces its evidence. During the course of Getty's evidence and, on November 29, 1983, the Court, accompanied by counsel and representatives of certain of the parties and other persons, conducts a view of the Getty refinery. Getty then rests.

THEREUPON, Director Martin introduces his evidences and rests.

THEREUPON, the Court, having examined the files herein, having heard the statements and arguments of counsel, having heard the testimony of the witnesses and examined the evidence, having viewed the Getty refinery, and being otherwise advised, makes the following findings of fact, to-wit:

1. As of January 1, 1983, Getty did and for many years it or its predecessors have owned and operated an oil refinery at El Dorado, Kansas. At that refinery, Getty processes crude oil and produces both refined oil products as well as chemical products, including: motor fuels (such as gasoline and diesel oils), home heating oils, solvents, acetone, phenol, petroleum coke, sulphur, propane and ethane.

2. To conduct its refinery operations, Getty or its predecessors have constructed and installed and Getty operates and utilizes certain



structures, buildings, equipment and machinery together with associated piping, connections, computers, tools and other property items. These property items collectively are referred to as "refinery process plant" in certain oil refinery property valuation guidelines which Director Martin initially promulgated on May 16, 1983 and which, as of the time of trial, he had revised on June 28, 1983 and July 5, 1983. Said property items are likewise collectively referred to hereinafter as "refinery process plant". The term "refinery process plant" does not include land, administrative buildings, auxiliary buildings, tank farms or similar properties which are not directly associated with refinery operations, all of which already are deemed to be real property, nor does the term include miscellaneous property which is deemed to be personal property, nor does the term include manufacturing inventory, whether raw materials, work-in-process or finished products.

3. Getty's refinery process plant consists, in part, of certain property items or categories of property items which are hereinafter called "Operating Units", to-wit:

A. Crude And Vacuum Units. The purpose of the Crude and Vacuum Unit is the physical separation of incoming crude oil into intermediate fractions or streams for further processing. The Unit consists of an assemblage of fired heaters, fractionating towers, heat exchangers, surge drums, pumps, piping and control instrumentation. The Unit is operated by electronic controls and its operations are monitored by computer. The major equipment items are attached to concrete foundations some seven feet deep and some are supported by concrete piles to bedrock. The Unit occupies a plot area some 400 feet wide by 450 feet long. The maximum height of the equipment in the Unit is 166 feet. The Unit was originally placed in operation in 1950.

B. Gas Liquids Unit. The purpose of the Gas Liquids Unit is the processing of all light gas streams produced by other processing

units and the fuel gas from outside purchase to remove sulfur compounds and the extraction, by means of low temperature liquifaction, of light hydrocarbons, such as propane and butane, which are saleable products. The Unit consists of an assemblage of fired heaters, fractionating towers, heat exchangers, surge drums, pumps, gas compressors, gas expanders, piping, and control instrumentation. The Unit is operated by electronic controls. The major equipment items are attached to concrete foundations some five feet deep and are supported by concrete piles to bedrock. The Unit occupies a plot space of some 150 feet wide by 200 feet long. The maximum height of the equipment in the Unit is 88 feet. The Unit was originally placed in operation in 1968.

C. Gofiner and Amine Treater. The purpose of the Gofiner and Amine Treater Unit is to remove organic sulfur compounds from the intermediate gas oil streams which are the charge stock for the Fluid Catalytic Cracking Unit. The process is a hydrotreating process utilizing fixed-bed catalyst and excess hydrogen from the Reforming Units. The Amine Treater removes the liberated sulfur, in the form of hydrogen sulfide, from the circulating hydrogen stream. The Unit consists of an assemblage of fired heaters, fractionating towers, heat exchangers, surge drums, catalytic reactor pumps, gas compressors, piping and control instrumentation. The Unit is operated by electronic controls and its operations are monitored by computer. The major equipment items are attached to concrete foundations some two to three feet deep and are supported by concrete piles to bedrock. The major segment of the Unit occupies a plot area some 230 feet wide by 500 feet long. The maximum height of the equipment in the Unit is 180 feet. The Unit was originally placed in operation in 1977.

D. Fluid Catalytic Cracking Unit. The purpose of the Fluid Catalytic Cracking Unit is the conversion of intermediate gas oils to gasoline and light hydrocarbons. This process utilizes a circulating

fluidized stream of finely divided catalyst which continuously circulates through the reaction section where the cracking reaction takes place, then through a regeneration section where deposited coke is burned off the catalyst, restoring the catalyst activity and furnishing heat for the cracking reaction. The Unit consists of a large central structure supporting the main reaction and regeneration equipment. Additional equipment consists of an assemblage of fired heaters, fractionating towers, heat exchangers, surge drums, pumps, gas compressors, piping, and controlled instrumentation. The Unit is operated by electronic controls and its operations are monitored by computer. The major equipment items are attached to concrete foundations up to seven feet deep. The Unit occupies a plot area whose major dimensions are 350 feet wide by 400 feet long. The maximum height of the equipment in the Unit is some 156 feet. The Unit was originally placed in operation in 1949.

E. Alkylation Units. The purpose of the Alkylation Units is the production of a high-octane gasoline component by means of the chemical reaction of three- and four-carbon compounds called propenes and butenes with the four-carbon compound called isobutane. Liquid hydrogen fluoride acts as the catalyst in this reaction. These Units consist of an assemblage of fired heaters, fractionating towers, heat exchangers, reactors, surge drums, pumps, piping, and control instrumentation. These Units are operated by electronic controls and their operations are monitored by computer. The major equipment items are attached to foundations up to five and one-half feet deep. These Units occupy a plot space whose major dimensions are 330 feet wide by 430 feet long. The maximum height of the equipment in these Units is 162 feet. The first Unit was originally placed in operation in 1958 and a second Unit was placed in operation in 1976.

F. Reforming and Hydrodesulfurizing (HDS) Units. The purpose of the Reforming and HDS Unit is the conversion of



hydrocarbons in intermediate gasoline streams, by means of fixed bed catalysts, to aromatic hydrocarbons or hydrocarbons of higher octane values. Hydrodesulfurizing sections remove the organic sulfur and nitrogen compounds from the charge streams to prevent deactivation by these compounds of the reforming catalyst. The Unit consists of an assemblage of fired heaters, fractionating towers, catalytic reactors, heat exchangers, surge drums, pumps, gas compressors, piping and control instrumentation. The Unit is operated by computer controls. The major equipment items are attached to concrete foundations up to five feet deep. The Unit occupies a plot area whose major dimensions are 170 feet wide by 500 feet long. The maximum height of the equipment in the Unit is 184 feet. The No. 1 Reformer was originally placed in operation in 1955; the No. 2 Reformer and the No. 2 HDS Unit were originally placed in operation in 1960; and the No. 1 HDS Unit was originally placed in operation in 1964.

G. Coking Unit. The purpose of the Coking Unit is to convert the heavy residual oil from the vacuum tower of the Crude and Vacuum Unit to petroleum coke, gas oils, gasoline and light ends. The process utilizes thermal decomposition or "cracking" to accomplish this end. The Unit consists of an assemblage of fired heaters, fractionating towers, heat exchangers, surge drums, coking drums, hydraulic decoking apparatus, pumps, piping and control instrumentation. The Unit is operated by electronic controls. The major equipment items are attached to concrete foundations up to six and one-half feet deep. The Unit occupies a plot some 250 feet wide by 450 feet long. The maximum height of the equipment in this Unit is 239 feet. The Unit was originally placed in operation in 1959.

H. Udex-Cumene Unit. The purpose of the Udex-Cumene Unit is the extraction of the chemical compound benzene from the product streams which are produced in the Reforming Units and the conversion, by catalytically reacting the benzene with the compound propene, to a compound called cumene. The Unit consists of an

assemblage of fired heaters, fractionating towers, reactors, heat exchangers, surge drums, pumps, piping, and control instrumentation. The Unit is operated by electronic controls. The major equipment items are attached to foundations up to nine feet deep. The Unit occupies a plot area whose major dimensions are 160 feet wide by 640 feet long. The maximum height of the equipment in the Unit is 149 feet. The Unit was originally placed in operation in 1963.

I. Phenol Unit. The purpose of the Phenol Unit is the production of co-products phenol and acetone by means of the oxidation of cumene to cumene hydroperoxide and the splitting of this compound into the two products. The Unit consists of an assemblage of fractionating towers, tanks, heat exchangers, surge drums, pumps, piping and control instrumentation. The Unit is operated by electronic controls. The major equipment items are attached to concrete foundations up to 6 feet deep. The Unit occupies a plot area whose major dimensions are 600 feet wide by 710 feet long. The maximum height of the equipment in the Unit is 124 feet. The Unit was originally placed in operation in 1963.

J. Sulphur Unit. The purpose of the Sulphur Unit is the conversion of hydrogen sulfide gas, produced from the various hydrodesulphurization processes, into molten elemental sulfur, which is a saleable product. The Unit consists of an assemblage of special burners, waste heat boilers, air compressors, catalyst chambers, heat exchangers, and control instrumentation. The Unit is operated by electronic controls. The major equipment items are attached to foundations some of which are supported by concrete piles to bedrock. The Unit occupies a plot area whose major dimensions are 170 feet wide by 200 feet long. The maximum height of the equipment in the Unit is 198 feet. The Unit was originally placed in operation in 1973 and a major addition was placed in operation in 1977.

K. Technical Solvents Unit. The purpose of the Technical Solvents Unit is the production of some ten different hydrocarbon

mixtures used as industrial solvents. The Unit consists of an assemblage of fired heaters, fractionating towers, catalyst chambers, heat exchangers, surge drums, pumps, piping and control instrumentation. The Unit is operated by electronic controls. The major equipment items are attached to concrete foundations some of which are six and one-half feet deep. The Unit occupies a plot area whose major dimensions are 190 feet wide by 310 feet long. The maximum height of the equipment in the Unit is 137 feet. The Unit was originally placed in operation in 1945 and a major addition was placed in operation in 1963.

4. In addition, Getty's refinery process plant also consists, in part, of certain property items or categories of property items which are collectively grouped together for convenience and hereinafter called "Support Unit", to-wit:

Tankage-Oil Movement-Blending. This equipment serves the purpose of interconnecting the various Operating Units in the refinery, providing surge storage capacity between processing units; it also includes tanks and piping for the blending of components into finished products. The equipment consists of storage tanks, piping, pumps and the required controlled instrumentation. The controls for the blending and for the tank gauging operations are computerized. The major equipment, such as tanks, are set upon concrete foundations some three feet deep. Because of the nature of this collection of equipment, the plot space is extensive. The maximum height of the equipment is about 50 feet. This equipment has been modified and revamped a large number of times since its original installation in the early days of the refinery.

5. Lastly, the Getty refinery process plant includes, in part, certain property items or categories of property items which are collectively grouped together for convenience and hereinafter called "Miscellaneous Property". This category contains those items of equipment which are used to support the Operating Units, and includes such things as: the steam generation and distribution system, the



compressed air system, the water treating and distribution system, the electrical distribution system, sewers, the oil reclamation and waste water treating system, the fire protection system, a central refinery control system, the fuel gas distribution system, the refinery stores warehouse, maintenance and construction facilities, the refinery flare system, three refinery laboratories, and an idle lube canning and compounding facility and several knock engines. Each of the three laboratories have computerized control systems. For administration purposes, a computer connects the administration building at the Getty refinery to the Company's corporate offices in Tulsa, Oklahoma.

6. The property items in the various categories of Getty's refining process plant, described in Findings Pars. Nos. 3 through 5, above, are interconnected by various sub-surface pipes, wires, and other connections, including the following items: sewers and drains, circulating cooling water systems, a service water system, pump-out lines and electrical conduits. These property items comprise extensive systems and sub-assemblies under each of the Operating Units, under the Support Unit and under some of the Miscellaneous Properties.

As to the construction and installation of the aforesaid sub-surface items: the piping is welded or, if cast-iron, the joints are leaded; the electrical conduits are incased in red-dyed cement; and the piping and the electrical conduits are located in ditches at the same time the foundations for the various refinery process plant units are installed.

7. The above-ground units or components of the Getty refinery process plant consists of structures, vessels, towers, pipes, compressors and similar property items, as described in Findings Pars. Nos. 3 through 5, hereinabove. The size of these property items is so great that, at the time when they were installed at the Getty refinery, they arrived in pieces or sub-assemblies and were field assembled on-site, although certain smaller components may have arrived fully assembled. So massive is the size of these units that they may properly be described as "huge".

The various pieces of the units or components were assembled by welding or, where maintenance access was desired, portions were bolted. Interconnecting piping was welded. So much field assembly of these units was required that the field or on-site labor cost of assembly was approximately one-half of the unit's total assembled cost.

Once assembled, the units were bolted to their foundations. Such foundation attachment together with gravity and the unit's own massive weight, is sufficient to hold the units in place, and the units do not require supporting superstructures or additional stabilization.

8. Attached to the fluid and to the steam lines which interconnect the various Getty Operating Units are a large number, estimated to be in excess of 1,300, pumps, compressors, turbines, and motors. These are anchored to bases which are affixed to the land or are firmly attached to large structures which themselves are attached to the land. These property items are essential to the operation of the refinery because they move materials being processed from one Operating Unit or refining phase to another, or they provide the energy used in certain of the Operating Units. Although certain parts of these items wear out and must be replaced or maintained from time to time, the property items are so designed as to allow such repair or maintenance to be done without removing the property item itself from its mooring or otherwise disturbing that item's critical alignment with associated properties. These property items are designed specifically to perform their required function at their installed location, the applicable design criteria including the size of the item, whether it should be steam or electric powered, and whether it should be made of special alloys designed to protect against sulfuric corrosion.

9. The Operating Units and the Support Unit at the Getty refinery are operated or their operations are monitored by means of controls which in some cases are electronic and in other cases are computerized.

The electronic and the computerized controls are connected to the units by wires and cables located below as well as above ground, and are specifically designed to meet Getty's requirements for the units to which they are attached.

10. The Getty refinery process plant units, once installed, could be dismantled and moved only with great difficulty. They are not designed to be portable. To prepare the units for moving, the various pipes, structures, vessels, towers, etc. would have to be flame-cut into transportable pieces. Certain items associated with the units would not be salvageable, such, as: the foundations, all sub-surface items, insulation on or in the vessels and pipes, internal refractory materials within the vessels, and the field-labor cost of initial construction. So great would be the damage to the units from such dismantling that, if they were not destroyed, their usefulness in another location would be seriously questioned.

11. The eleven categories of property items in the Operating Units of the Getty refinery process plant do not all operate at the same rate. Each unit has its own rate of operation, one which does or can be made to fit with the units both upstream and downstream of it. A five-man operating group plans the physical operations of those various units. That operating group also tries to optimize economically the operations of the refinery, and it gives attention to such considerations as the availability of crude oil, product specifications, equipment down times due to periodic maintenance or to occasional emergency shutdown.

The refinery operates 24 hours per day every day of the year. Never is the entire refinery intentionally shutdown. The individual Operating Units are scheduled for shutdown and maintenance (i.e. "turnaround") on regular cycles of one to three years. Tankage and surge capacity are used to allow downstream units to continue to operate during turnarounds on upstream units.

12. The Getty refinery process plant was designed with regard to certain criteria and conditions, including the following:

(A) The kind of crude oil available. The kind of crude oil



available to the Getty refinery contains sulfur, nitrogen and heavy ends or asphaltic material. Sulphur is corrosive, nitrogen compounds are harmful to the catalysts which are used in reforming, and the refinery must be able to sell the resulting quantities of heavy ends or else process that material into saleable products. The Getty refinery's Operating Units are designed to handle crude oil containing not more than 2 percent sulfur by weight, and producing not more than 12,000 barrels per day of heavy ends. The Gofiner Hydrodesulfurization Unit allows the Getty refinery to process those volumes of heavy ends into coke. Special alloys which are sulfur-corrosion resistant are used extensively in certain portions of the Operating Units and associated property items, such as pumps and valves.

(B) The amount of crude available. The amount of crude available determines the sizes and the capacities of the Operating Units and their various components and of the associated equipment and machinery.

(C) The products to be sold. The products which Getty wants to sell determines the kinds of processing steps and units which the refinery will have. Because of the nature of the crude oil available to it, the Getty refinery has constructed Operating Units which allow it to produce a variety of both refined oil products as well as of chemical products.

(D) The processes to be used. For nearly all of the Operating Units, different types of alternative processes are available.

(E) Local transportation. Refineries handle bulky materials in large volume. Consideration must be given as to how to get the crude oil to the refinery and how to get the products from the refinery and to the markets. Most United States refineries are located with access to water routes; inland refineries, such as Getty's, must have access to pipelines and to railroads.

(F) Local physical and geological conditions. These considerations include the load-bearing ability of the soil, wind velocity, temperature ranges, and access to water for operations. Because of soil bearing problems, the foundations under certain of the Getty refinery process

plant units are massive concrete structures, some of which have pilings down to bedrock. Likewise, because of its experience with drought and water shortages in the El Dorado, Kansas area, Getty uses air cooling rather than water cooling to dispose of waste heat. Because of local wind conditions, all Getty refinery process plant units are designed to withstand winds of up to 100 miles per hour. The winter-summer temperature variations have required insulation and other types of weather proofing.

13. "Insurance spare parts" are replacements for specific and identifiable pieces of equipment which are unique items, which generally are not stocked by a manufacturer, which are built to customer specification, and which are not built until ordered by a customer. Such items, whether large or small in size, are designed to operate at a specific location either as part of or in connection with another piece of equipment and so as to do a specific job. Such items cannot generally be used at other locations or for different jobs. This type of property item is essential to the operation of the equipment of which it is a part or to which it is attached, and that associated equipment will not operate if that critical item becomes inoperative. Such critical parts may be as large as the large turbine-driven expander on the Fluid Catalytic Cracking Unit, or as small as pumps or valves which have nickel or other special alloy trims for use with highly corrosive materials.

14. In general, the various pieces and components of the Getty refinery process plant typically are not standardized items which can be routinely ordered by model number or the equivalent; they are not "off the shelf items". The large structures, towers, vessels and similar items of that sort are not even fabricated by the manufacturer until the order is placed by a customer. Even smaller items, such as pumps or valves, must have the kinds of special alloys, the kinds of seals and the necessary sizes and capacities to do their specifically intended jobs. The foundations under the Operating Units, under the Support Unit

and under certain of the Miscellaneous Properties are custom built for the particular structures which they support.

15. The Getty refinery process plant is so designed and constructed that the operation of one of its parts affects the operation of its other parts, thus constituting a system which operates as an intergrated unit, even when one part is down for turnaround or for emergency shutdown.

16. Because of the design criteria and other conditions which have been reviewed in prior Findings, hereinabove, each refinery tends to be unique. Refinery design as well as the make and type of the property items in the various Operating Units, Support Unit and Miscellaneous Properties typically varies from refinery to refinery. Even among refineries with similar Operating Units, the types of processes used in those units typically varies from one refinery to another. Even the design of small components, such as valves, motors and pumps, and items of that type, typically vary from refinery to refinery. The variations among refineries and the uniqueness of each was further shown by The Pace Company's "Complexity Index" (Getty Exhibit No. 18).

17. In an effort to state in dollar terms the percentage or portion of its refinery process plant which is real property under the applicable law of fixtures, Getty prepared a study which allocated to the Operating Units, to the Support Unit and to the Miscellaneous Properties categories, previously discussed hereinabove, the original, undepreciated acquisition cost of the specific property, plant and equipment items which comprise its refinery process plant. The source of the data for that study was Getty's accounting records and ledgers, which are kept in the ordinary course of the Company's business.

Some 46 specific line items reflecting investment in land, buildings, refinery process machinery and equipment, chemical process machinery and equipment, lube plant buildings, and lube plant machinery and equipment were included in this study; the cost of certificates of



refinery process machinery and equipment, chemical process machinery and equipment, lube plant buildings, and lube plant machinery and equipment were included in this study; the cost of certificates of convenience and necessity, and the cost of patents, water rights and royalties were excluded. No separate cost figures were included in the study for any of Getty's several computer systems. Getty then mathematically calculated the percentage which the amount of each category's cost allocation was of the total original cost of \$221,843,000.00.

18. The second part of the Getty study consisted of an engineering analysis to determine that portion of each category's aforesaid original cost allocation which satisfied all or substantially all of the following criteria, to-wit:

- (A) Whether the property item was attached to the land,
- (B) Whether such attachment was permanent,
- (C) Whether the property item was uniquely devoted to refinery use,
- (D) Whether the property item had been specifically fabricated or designed for installation in a particular location in the refinery,
- (E) Whether the property item, having been previously attached to realty or to something which was attached to realty, had been separated for some temporary purpose, or
- (F) Whether the property item, although not itself attached to the realty, comprised a necessary, integral or working part of some other object which was attached to the realty.

That portion of each of the categorial original cost allocations which, by application of engineering judgment, Getty thus determined to satisfy those criteria was termed "fixtures" in this portion of Getty's study. Getty then mathematically calculated the percentage which each category's fixtures percentage was of Getty's total original cost.

19. In this fashion, Getty sought to state in dollar terms the

percentage or portion of its refinery process plant which constituted real property under the applicable law of fixtures. The amount of original cost which Getty allocated to each of its various refinery process plant categories, the percentage which the amount allocated to each such category was of Getty's total original cost of \$221,843,000.00, the percentage of each category's allocation which Getty determined to be fixtures, and each category's fixtures percentage as a percentage of Getty's total original cost is as follows:

	Original Cost Allocated To Category	Category As % Of Total Original Cost	% Of Category As Fixture	Category Fixture % As % Of Total Original Cost
<u>Operating Units</u>				
Crude & Vac.	\$14,114	6.4%	100%	6.4%
Gas Liq. Unit	3,694	1.7	100	1.7
Gofiner	31,326	14.2	100	14.2
FCCU	29,286	13.2	100	13.2
Alky. Unit	12,995	5.9	100	5.9
Reformers	29,757	13.4	100	13.4
Coking	5,376	2.4	100	2.4
Udex-Cumene	11,094	5.0	100	5.0
Phenol	9,561	4.3	100	4.3
Sulfur	1,624	0.7	100	0.7
Tech Solvents	6,909	3.1	100	3.1
<u>Support Unit</u>				
Tank, Oil Move., Blend	\$25,866	11.5%	100%	11.5%
<u>Miscellaneous</u>				
	\$40,241	18.2%	64.8%	11.8%
(Broken down as follows)				
Gen. Ref.	6,673	16.6	67	11.1
Gen. Chem.	67	0.2	0	0
Lube Plant	--	--	--	--
Supt. Tech. S.	94	0.2	0	0
Fire & Safety	2,116	5.3	88	4.7
Adm. Serv.	568	1.4	61	0.8
Anal. Contr. Lab.	453	1.1	53	0.6
Phys. Contr. Lab.	475	1.2	53	0.6
Service Lab.	217	0.5	53	0.3
Ref. Cont. Cntr.	1,122	2.8	100	2.8
Steam Plant	4,840	12.0	100	12.0
Water Supply	1,464	3.6	100	3.6
Sewer, etc.	6,414	15.9	100	15.9
Gen. Util.	2,208	5.5	100	5.5
Ref. Flare	726	1.8	100	1.8
Lube Plant	372	0.9	0	0
Drum Shop	39	0.1	0	0
Maint./Const.	1,798	4.5	0	0
Ref. Stores	1,787	4.4	94	4.1
Spare Parts	1,371	3.4	31	1.0
Wrhs. Mat'ls.	1,437	18.6	0	0

THEREUPON, the Court makes the following ultimate findings of fact, to-wit:

1. Each of the property items or categories of property items which are included in the Operating Units and in the Support Units categories, together with the refinery control center, the steam plant, the water supply system, the sewers and drains, the general utility property items, and the refinery flare, all of which are included in the Miscellaneous Properties category, as well as the various computer systems, whether used for operating or for monitoring purposes, the pumps, compressors, motors and turbines, valves, and the knock engines are permanently attached to the land or to massive structures which are permanently attached to the land, were intended to be permanently attached in such fashion at the refinery site, are uniquely devoted to refinery use, have been specifically ordered or designed for installation and operation in their particular locations at the refinery, and overall constitute an integrated operating refinery system.

2. In addition, the computer systems, whether used for operating or for monitoring purposes, the pumps, compressors, motors and turbines, and the valves comprise a necessary, integral and working part of the Operating Units and of the Support Unit, and are essential to the functioning of the Getty refinery as a unique, integrated refinery system.

3. The insurance spare parts are identifiable items which have been specifically ordered or fabricated for installation and operation in a particular structure at the Getty refinery, would not be useful at another location in the Getty or in any other refinery, and are essential to the operation of the Getty refinery.

THEREUPON, the Court makes the following conclusions of law, to-wit:

1. The law of fixtures does apply to refinery process plant.

2. In Kansas, the general tests for determining whether a particular object has become real property under the law of fixtures are

the following: <sup>1</sup> annexation to the realty, <sup>2</sup> adaptation to the use to which the realty is devoted, and the <sup>3</sup> intention that the object becomes a permanent accession to the freehold. Kansas also recognizes the doctrine of constructive annexation, whereunder articles which have been specially fabricated for installation in a particular structure may be held constructively annexed from the moment they are introduced upon the land, even though no physical attachment between the one and the other exists. Constructive annexation may also be found where an object, although previously annexed to realty, has been separated for some temporary purpose, or where an object, although itself not attached to the realty, comprises a necessary, integral or working part of some other object which is attached to the realty. The Court accepts the statements found in 35 Am.Jur.2d Fixtures § 4 et seq. pp. 702 et seq. as correctly stating the applicable Kansas law of fixtures.

3. The following property items of Getty's refinery process plant are, as of January 1, 1983, real property under the Kansas law of fixtures, to-wit: each of the property items or categories of property items which are included in the Operating Units and in the Support Unit categories as defined in Findings Par. No. 3 through 5, hereinabove, together with the refinery control center, the steam plant, the water supply, the sewers, and drains, the general utility property items, and the refinery flare, as well as the several computer systems, whether used for operating or for monitoring purposes, the pumps, compressors, motors, turbines, the valves, and the insurance spare parts, and the knock engines.

4. The Court does not determine whether the so-called "integrated plant doctrine" of fixtures is the law in Kansas, and bases none of the Findings or Conclusions herein on that doctrine. The Court believes, however, that the Findings and Conclusions stated herein would be the same if the integrated plant doctrine were applicable.

5. The Court has held to be fixtures those property items which

were included in the Miscellaneous Property category<sup>1</sup> and which Getty's engineering and cost allocation studies determined to be 100 percent fixtures. (See Findings Par. No. 17 and Getty Exhibit No. 22).

The Court is not entirely comfortable with the use of accounting records alone for the purposes of allocating costs to property items to determine the extent to which such items or categories of items may be fixtures, although such records can be explanatory and helpful. The Court does not give a "judicial imprimatur" to this allocation procedure, but does accept it for application in this case to the limited extent above noted. Accordingly, based on Getty's cost allocation procedures, the Court does not extend its fixtures holding to those property items which were included in the Miscellaneous Properties category<sup>2</sup> but which Getty's engineering and cost allocation studies determined to be less than 100 percent fixtures.

6. Based on the foregoing, the Court holds that, as of January 1, 1983, that percentage or portion of Getty's refinery process plant which is real property under the Kansas law of fixtures may be stated in dollar terms as that percentage which the amount of Getty's original cost as allocated to the property items identified in Conclusion of Law Par. No. 3, hereinabove, bears to Getty's total original cost of \$221,843,000.00.

IT IS THEREFORE CONSIDERED ORDERED ADJUDGED, AND DECREED that the following property items of Getty's refinery process plant, located at El Dorado, Kansas, are, as of January 1, 1983, real under the Kansas law of fixtures, to-wit: each of the property items or categories of property items which are identified in Conclusion of

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1. The refinery control center, the steam plant, the water supply, the sewers and drains, the general utility property items, the refinery flare, and the knock engines.

2. General refinery properties, general chemical properties, lube plant, superintendent of technical services, fire and safety, administrative surfaces, analytical control laboratory, physical control laboratory, service laboratory, lube plant, drum shop, maintenance and construction, refinery stores, spare parts, and warehouse materials.



Law Par. No. 3, hereinabove; and

IT IS FURTHER CONSIDERED ORDERED, ADJUDGED AND DECREED that, as of January 1, 1983, that percentage or portion of Getty's refinery process plant which is real property under the Kansas law of fixtures may be stated in dollar terms as that percentage which the amount of Getty's original cost as allocated to the property items identified in Conclusion of Law Par. No. 3, hereinabove, bears to Getty's total original cost of \$221,843,000.00; and

IT IS FURTHER CONSIDERED ORDERED, ADJUDGED AND DECREED that the temporary injunction as in effect on November 28, 1983 be, and the same hereby is, DISSOLVED.

IT IS SO ORDERED at Wichita, Kansas, this 7th day of June, 1984.

NICHOLAS W. KLEIN

HON. NICHOLAS W. KLEIN

APPROVALS:

DAVIS, HAMM & MANLEY



Norman Manley  
By: Norman Manley  
Attorney for Plaintiff

Certificate of Clerk of the District Court. The above is a true and correct copy of the original instrument filed on the 8 day of June, 1984 and recorded in this Court of the Eighteenth Judicial District, Sedgewick County, Kansas.  
On this 8 day of June, 1984  
Clerk of the District Court  
By: Bessie Bell

DIVISION OF PROPERTY VALUATION,  
DEPARTMENT OF REVENUE, STATE  
OF KANSAS

Carol B. Boush  
By: One of the Attorneys for  
the Defendant

HERSHBERGER, PATTERSON, JONES & ROTH

Robert J. O'Connor  
By: Robert J. O'Connor  
Attorney for Intervenor,  
Getty Refining and Marketing  
Company

MCKAY, MCKAY & HARGROVE

*James Hargrove*

By: James Hargrove  
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Pester Refining Company

By: Stephen J. Bednar  
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Total Petroleum, Inc.