

(From ATLA's CLE Workshop/Seminar on PowerPoint
- Making the Most of PowerPoint Presentations)

M.C. Dixon v. Betz Dearborn

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We currently live in a visually oriented world. People receive most of their information about the world around them through television. Using PowerPoint in your opening statement can help to bring that vision into the courtroom. Jurors are a cross section of the local environment in the area of the trial. They are the very viewers that television intrigues and educates on a daily basis. Now, with vehicles such as PowerPoint, we as lawyers can educate and intrigue them in the courtroom. We were previously limited to the story we told the jury. Now, using the senses of sound and sight together in a viewer friendly format we can convey more of our message than before.

Our firm has found courtroom technology to be so important that we have a full time Graphics Department. Our in house graphics department serves many functions, ranging from layouts for company brochures to providing technical support for case presentation during mediations and trials. But the most important function of that department is putting together the case graphics for mediation and trial. They use several programs including PowerPoint to create and present courtroom presentations for our Firm. For each case, the Graphics Department creates the presentation and is usually responsible for its trial or mediation presentation.

With technology we are able to present everything from pages of a deposition to audio/video depositions in court. The impact of a television like form of media is much greater on a juror than just a bland paper presentation. We have found that the average juror remembers far more of your case when you use litigation technology such as PowerPoint. The opening statement is the first chance you have to impress upon the jury the issues in your case, the face of your client, or the wrongs that have been committed.

Using something like PowerPoint to visually interact with the jury during opening statements can make a far greater impact than simply stating your case.

The rest of this handout is a short summary explaining the case presented to you today. Through animation, photographs and text, Dixon v. Betz Dearborn will be conveyed to you in much the same manner it would be shown to a jury panel in opening statements.



Dixon Lumber Company is a family owned business, which has been doing business in Eufaula for over 50 years.

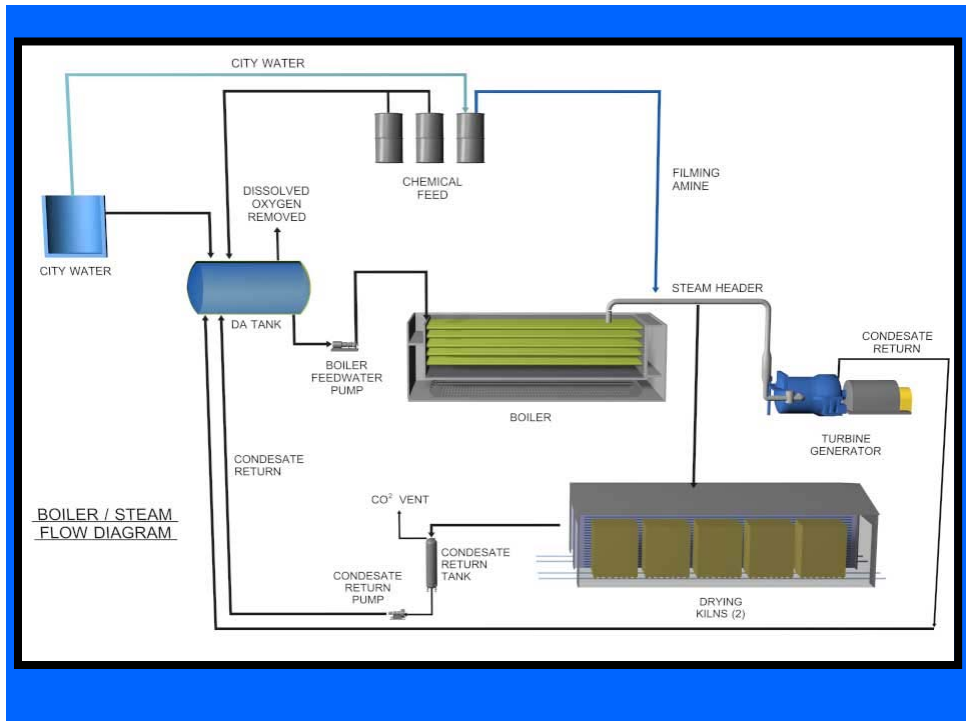


The Dixon Lumber Company produces yellow pine lumber products sold both here in the US and abroad.

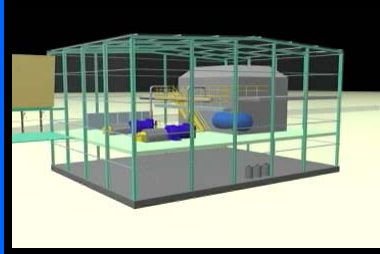




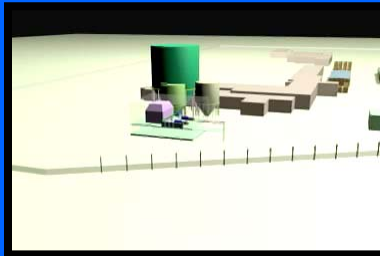
This case revolves around the boiler system that Dixon uses to generate electricity in two turbine generators and to dry lumber in their dry kilns.



A brief explanation of the way the system works.



Steam Traveling



From the Boiler to the Kiln

Animation depicting steam traveling from the boiler to the kiln.

Water Treatment Testing



In 1980 Dixon contracted with Betz Dearborn to provide water treatment to the boiler and related systems. The treatment was to control biological growth in the condensate system and to combat corrosion to the metal piping throughout the system. Betz sent a representative twice a month to test water and treat it accordingly. Betz trained Dixon employees to follow their method of treatment when Betz was not there. A filming amine was used to coat the steam and condensate pipes and to protect from corrosion. Betz service representatives are supposed to be trained in how to apply the filming amine properly; they are also supposed to monitor the inventory and feed rates to insure proper feeding of the filming amine.

Coil Section- No 1 Dry Kiln
West Side – Middle Section
Horizontal Pipe – Approx. 3 Foot Elevation



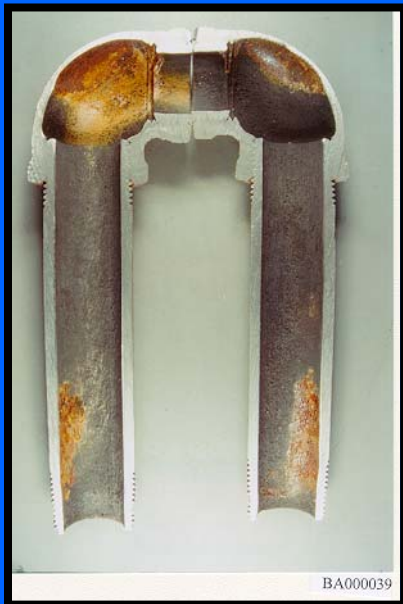
Toward the end of 1997, Dixon started noticing extended drying times in the kilns as well as inconsistent drying of the lumber. They had no idea what could be the cause and certainly did not expect the problem to be the treatment they had been receiving from Betz for the past 20 years. In May of 1997, Ken Lunsford, who was servicing the Dixon's account at the time noted, "For the first time since he had been servicing the account he felt the treatment was not being applied consistently." He also noted that the water looked more red than normal.



Examples of Corrosion



Red in water systems usually means corrosion.

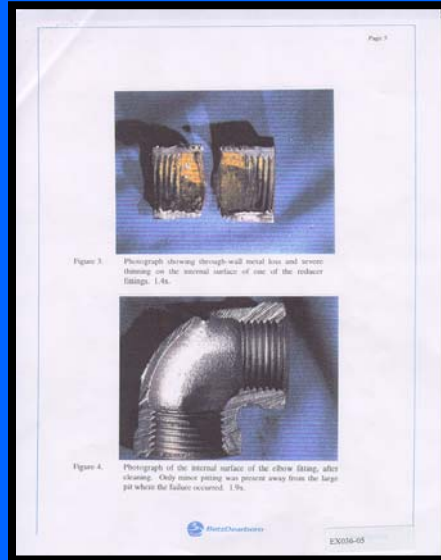
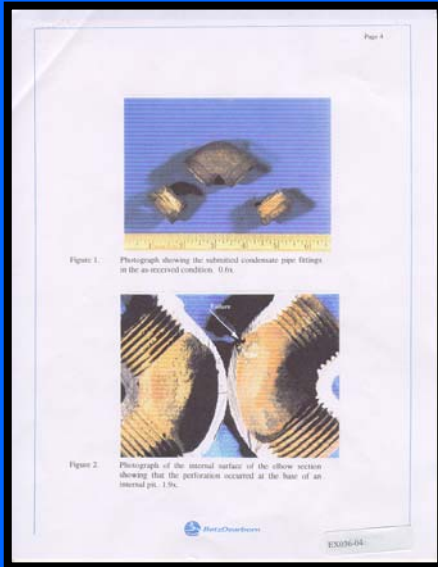




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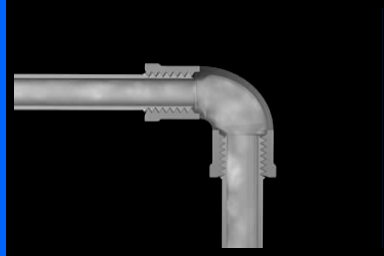


Called in an Outside Company to Test



The Dixon Company asked James Teaford to come in and see what was causing their problems. Teaford discovered “goo balls” in the System. Teaford sent a sample of the goo balls to be analyzed. It was determined that there was excess filming amine in the system. Two separate companies came to Dixon and all separately determined there was too much filming amine being applied to the Dixon’s system. In February of 1998 Pat Simms’ service report stated there was a problem with overfeeding of the filming amine. Our expert, Harvey Thompson and Teaford both agree that this overfeed caused a plugging or clogging of the kiln pipes which lead to all the Dixon’s drying problems and has irreparably damaged the kilns. To combat this problem Simms introduced Steamate NA-700, which took care of the excess filming amine.

Elbow Joint Failing



Corrosion caused the pipes to fail, releasing valuable steam.



Betz service technicians should have known they were not applying the treatment properly to the Dixon account. Service representatives admitted to “Only doing the tests he felt like”. Another Betz employees admits to writing up service reports stating everything looks excellent and the Dixon employees are doing a great job only to keep a good relationship with Dixon. The Dixon family depended on Betz to provide treatment to protect their boiler system and other related components. They did not receive the treatment they were promised.