
INTERVIEW OF:

TODD AALTO

TAKEN NOVEMBER 6, 1997 AT 1:50 P.M.

**MILO BALLINGRUD
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INTERVIEW OF TODD AALTO, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 1:50 p.m. on Thursday, November 6, 1997 before Milo Ballingrud, Notary Public, County of Hennepin, State of Minnesota.

APPEARANCES:

Present from the Minnesota Pollution Control Agency:

DON L. KRIENS, P.E.

MARY L. HAYES

GREGORY BERGER

Present from Koch Industries:

JAMES K. VOYLES, Attorney at Law

Present from the law firm Green Espel:

JODEEN A. KOZLAK, Attorney at Law

SUSAN K. WIENS, Attorney at Law

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1 BY MR. BERGER:

2 Q. Todd, I have a little introduction that I
3 should know by heart now because I've stated
4 it every time.

5 As you are probably aware, Minnesota
6 Pollution Control Agency is conducting a civil
7 investigation that is focusing on Koch
8 Refinery operations and a variety of
9 pollution, environmental related issues or
10 situations regarding those operations. We are
11 seeking your cooperation in obtaining
12 information related to those situations.

13 At this time we want you to know that you
14 are not obligated to answer these questions if
15 you don't want to. This is totally voluntary
16 on your part. Information obtained in this
17 investigation may be used in administrative,
18 civil or criminal actions in the future, and
19 the MPCA is free to choose any of these
20 actions. If we choose one in the future it
21 doesn't preclude us from choosing another in
22 the future. We want you to know this
23 investigation at this time is not focusing on
24 any individual, this is an investigation into
25 Koch, the refinery operations. Any questions

1 about that?

2 A. Not really.

3 BY MS. HAYES:

4 Q. Todd, I'm Mary Hayes and I work in the
5 division of water quality for the Minnesota
6 Pollution Control Agency.

7 Would you state for us what your job is,
8 how long you've been here, if your
9 responsibilities have changed over the time
10 you've been here? Give us a brief sketch of
11 what that entailed over your --

12 A. February of '91 I entered the department as an
13 operator, classified as a number two operator.
14 I became a number one operator I'm guessing
15 sometime in '95, '96. I don't remember the
16 date exactly. It was when another operator
17 went to a different department. Then I became
18 number one. I became what they classify out
19 here as a day number one in April of this
20 year. I was on strict day shift through
21 sometime in September I believe. Then at that
22 point I went back to on shift number one,
23 which I previously was. The only difference
24 is I went from straight days back to shift
25 work. So that's pretty much where I stand

1 right now.

2 Q. Are you certified?

3 A. I've got a Class C.

4 Q. Todd, tell me what you know about events of
5 the oil line, oily sheens on storm water
6 ponds. Most specifically B5 is what we're
7 seeing in the logs.

8 A. The one that comes to mind, we had an
9 exchanger leak, it leaked some oil into the
10 clean water sewer, which eventually made it's
11 way down to B5. There was a quantity floating
12 on top of B5 that we proceeded to try and
13 corral and clean up. That's the only major
14 oil on a storm water pond I can think of.

15 Once in a while there's been a few
16 occasions where we've seen a slight rainbow on
17 the influent bay to the south pond. That's an
18 area for collection so it can be cleaned up.
19 I've never seen it on that pond itself, just
20 the fore bay, so to speak.

21 Q. And that's B5?

22 A. That was on the south pond, a very light
23 rainbow affect. The only quantity of oil I've
24 seen on B5 is that one time we had that
25 exchanger leak.

- 1 Q. Do you recall when that was?
- 2 A. Let's see, early spring of '96. I don't
- 3 remember the date exactly. I know there was
- 4 ice on the pond yet because we had some ducks
- 5 on the ice that we were throwing rocks at to
- 6 try to get to go in the other direction.
- 7 Q. I think it might be related to January, around
- 8 the middle of January of '96 possibly.
- 9 A. That sounds right.
- 10 Q. I think these are your initials on these logs,
- 11 and I think this might be your handwriting.
- 12 A. I was present during this.
- 13 Q. This is dated January 14, '96, number 35;
- 14 January 15, '96, the number is 43; and January
- 15 7, '96, and the number is 49. Those I think
- 16 are yours (indicating). Would you take a look
- 17 those and tell me if that's the case?
- 18 A. Yes, it's mostly my handwriting.
- 19 Q. Okay. You think that those are probably due
- 20 to the exchanger?
- 21 A. Yeah, from my recollection I'm sure it is.
- 22 Q. That event?
- 23 A. Yeah, that would be that time.
- 24 Q. I think this is also your log from January 15,
- 25 '97, and the number is 997, B5 overflowing

- 1 north end (indicating).
- 2 A. Right, I remember this. We found it
- 3 immediately when we came on shift.
- 4 Q. Could you tell how long it had been going by
- 5 taking a look at the ground?
- 6 A. If I remember right, there was a fairly large
- 7 ponding of the water down at the lower area.
- 8 It's impossible to say how long or how much,
- 9 but a number of hours I would say.
- 10 Q. All right. So this would have been when you
- 11 were having a problem with the oil on the pond
- 12 it appears?
- 13 A. No, that's '97, the other one is '96.
- 14 Q. All right. Thank you for setting me straight
- 15 on that. All right. How about overflows in
- 16 '96, do you recall those?
- 17 A. Most of the times that we start having
- 18 problems with that level was related to -- was
- 19 not related to the oil, it was more when we
- 20 were having other problems that didn't
- 21 overflow. It wasn't routine before that time.
- 22 Q. Here's another log from February of '97,
- 23 February 12, '97, number 1272 (indicating).
- 24 It says B5 is overflowing north end, called
- 25 Heather, we should increase flow enough to

- 1 stop overflow now than to API flow. That's
2 yours, right?
- 3 A. Yeah, I remember that.
- 4 Q. So in these cases it sounds like you didn't
5 have adequate freeboard, obviously, in the
6 pond, or they wouldn't be overflowing?
- 7 A. Right.
- 8 Q. So in those cases you needed to call and check
9 with environmental to see if you could pump up
10 the flow to the polishing pond?
- 11 A. Right. I needed to know which was a worst
12 case scenario -- I shouldn't say that, which
13 was a better way to go with the flow and the
14 limited room we had.
- 15 Q. Okay. In any case you would want to stop the
16 overflow?
- 17 A. Right.
- 18 Q. That would be obvious?
- 19 A. Right.
- 20 Q. What was your understanding of why you were
21 reacting to that? In other words, why do you
22 have to stop and ask the question, why
23 wouldn't the normal course of events be you
24 would just be putting that water to its
25 designated outflow, the river?

- 1 A. Well, judging by the log and from my memory,
2 the ammonia levels were high at that time, so
3 that's why we were in that predicament.
- 4 Q. So you were involved in stacking water for the
5 high ammonia problem you were having at the
6 time?
- 7 A. Right.
- 8 Q. How about when you said that for that event
9 you -- you recall that it had to do with an
10 exchanger problem for the oil being on the --
- 11 A. Right.
- 12 Q. For the event in '96 I should say.
- 13 A. Uh-huh.
- 14 Q. What about in the logs that I have that deal
15 with overflow of the oily water to the
16 non-oily water sewer, your initials are on
17 approximately 20 or so of those logs.
- 18 A. Overflow of oily water to non-oily water?
- 19 Q. Uh-huh.
- 20 A. Where?
- 21 Q. Near tank 500.
- 22 A. Oh, okay.
- 23 Q. That problem, you had been aware of that for
24 quite some time?
- 25 A. Right.

- 1 Q. I assume?
- 2 A. Right.
- 3 Q. How long did you know about that?
- 4 A. Well, it's been a potential spot for problems
- 5 basically as long as I've been in the
- 6 department, but having an actual problem with
- 7 that spot overflowing, my recollection is it
- 8 would be after we increased the line sites
- 9 from the coker pond to that manhole, and I
- 10 couldn't give you the exact date on that. It
- 11 was some years ago. I'm guessing -- well, I
- 12 shouldn't guess. I don't know exactly when it
- 13 was.
- 14 Q. And your initials are on a log that -- on May
- 15 3 and 4, this is number 360. It says noted
- 16 oily water to the storm water basin. Do you
- 17 know what basin we're talking about there?
- 18 MS. WIENS: What was the date?
- 19 THE WITNESS: '96, 5/3/96. This is
- 20 Mark's writing. From this I don't remember
- 21 and couldn't tell you for sure what basin
- 22 they're talking about.
- 23 BY MS. HAYES:
- 24 Q. And then on May 8, '96, who authored that memo
- 25 or log, is that you or --

1 A. You want to know what the writing is here on
2 the highlighted part or the whole works?
3 Q. The highlighted part.
4 A. I can't tell if that's Mark's writing or mine.
5 Q. But the basin was overflowing there?
6 A. Yeah, it's the Nows.
7 Q. Do you know what that means in terms of which
8 basin?
9 A. Non-oily water sewer basins are south of this
10 ag filter building. What they are basically
11 is a series of basins, small basins, to help
12 collect any oil if something were to come
13 down, catch it before it hits B5. That's --
14 well, that's not the original purpose, the
15 original purpose was for pH control and
16 treatment many years ago. It just happens --
17 and for mixing also. It just happens that now
18 it's a spot where if we do run into a problem
19 we can catch it before it gets to the B5
20 basin. So what he's talking about here is
21 those basins actually overflowing. I would
22 like to say that's Mark's writing, but I can't
23 be a hundred percent sure if it's not mine. A
24 lot of times him and I write entirely
25 different, but sometimes -- you know.

- 1 Q. Okay. What about the frequency of something
2 like this happening?
- 3 A. That's infrequent. The times that I remember
4 that happening we had one of -- since the -- I
5 believe it was after the B5 oil episode we put
6 floating --
- 7 Q. Booms?
- 8 A. Yeah, those hotdog things, you know, near the
9 outlet. So if we did run into a problem that
10 would give us a little bit more lead time to
11 try to catch it. I believe one of those kind
12 of got sucked in there, into the valve spout,
13 you know, so it was restricting the water from
14 leaving. And that flow into that swings quite
15 a bit up and down, so I remember that being a
16 problem, we had to pull one of those out of
17 there.
- 18 Q. Okay. Did you ever make a connection or have
19 an understanding that the contribution from
20 the -- you know, the coker pond was usually
21 the problem or culprit on tank 500 overflow to
22 the non-oily water?
- 23 A. Well, the constant flow is not necessarily
24 what triggers the overflow because that flow
25 is constant in regards to where we set it per

1 day or whatever period of time. There's other
2 flows from the refinery that are intermittent
3 that go in there at the same time, and if we
4 happen to be doing a thousand GPM or 1,500 GPM
5 and it's handling it, then all of a sudden
6 some other part of the refinery or the coker
7 will shove something in there and then it will
8 go out.

9 Q. Okay. Can you tell me what other areas that
10 would be?

11 A. Mainly the coker area. I believe that one of
12 the culprits which has since been fixed was
13 the tank 500 overflow. Whenever the tank got
14 too high the overflow would go down into that
15 manhole and that surge would -- it's not my
16 area though, that's the one thing I know about
17 that area.

18 Q. Okay. I have a sequence of logs that just
19 show -- and you're only on the first one, and
20 it's March 20, '97. The number is 1153. On
21 March 20 you've got the manhole overflowing,
22 that's what you're reporting. That's your
23 writing, isn't it?

24 A. Right.

25 Q. And on March 24 you got an overflow again by

1 tank 500, so it's just a couple of days. And
2 then on March 25 we've got B5 overflowing the
3 north end. And, you know, we know that we've
4 seen oil on the north pond a couple of times,
5 and then when we were out here in April we
6 sampled that sediment and it did have organics
7 and BLTs and --

8 A. The sediment in the north end?

9 Q. On the north side where the overflow is.

10 A. Oh, the dirt there. Okay.

11 Q. So I've asked others this and I'll just ask
12 you. Do you make a connection then that
13 possibly the tank 500 overflow going into the
14 non-oily water could be causing that water on
15 B5 that overflows, that we get the soil sample
16 from, could there be a connection there with
17 contaminating that?

18 A. Would the contamination on the north side of
19 B5 be connected to the coker --

20 Q. The tank 500 overflow, yeah.

21 A. It could be, yeah.

22 Q. Okay. Thanks. So just let me clarify this,
23 because when we were out here we talked to
24 some coker operators, I think it might have
25 been?

- 1 A. Wayne Murphy.
- 2 Q. Wayne Murphy, thank you. And he said that
- 3 typically you had to cut to below 900 or -- I
- 4 don't know if he said 900 or 700 GPM.
- 5 A. 700.
- 6 Q. Okay. Then like August 10, '96 a log that you
- 7 are on said cut coker pond to 400, manhole is
- 8 overflowing.
- 9 A. Uh-huh. That's usually what we would do, cut
- 10 it a lot more than what we needed and
- 11 gradually increase.
- 12 Q. Just to be sure you took care of the issue?
- 13 A. Uh-huh.
- 14 Q. I guess from what you just told me I have some
- 15 clarification. The thing is it would be
- 16 variable how much -- where the stuff was
- 17 coming from. You said you could go along and
- 18 could be handling it at maybe even a thousand
- 19 or 1,200 or something, but then another
- 20 contribution would come along and that would
- 21 be the straw that breaks the dike.
- 22 A. Uh-huh.
- 23 Q. Okay. For right now I have one more question
- 24 about a log that I think you authored. I'm
- 25 not sure though, maybe that's one of those by

1 Mark Stevens or you possibly?

2 MS. WIENS: What's the date.

3 MS. HAYES: 3/13/96.

4 MS. WIENS: Does it have a number?

5 THE WITNESS: 222. While I was
6 outside -- the bottom highlighted area is my
7 writing. The other ones look like Mark's.
8 The only difference is he was in on the board
9 and I probably called him on the radio and he
10 wrote it down for me, because I was outside in
11 the tank 500 area. That would have been my
12 area of responsibility that day.

13 BY MS. HAYES:

14 Q. Okay. Do you remember what the problem on the
15 river and barge slip was?

16 A. No, I didn't read that part of it.

17 Q. Oh, okay.

18 A. I guess I saw some foam, but that's all.

19 Q. Do you remember what the problem was there?

20 A. (Views document) If this is the same
21 occurrence that I'm remembering, there was
22 some foam built up with the ice or inside the
23 ice that we were worried about that just kind
24 of looked ugly. That's the extent of what I
25 remember.

1 MS. HAYES: Thank you. I think
2 that's all I have right now.

3 MR. BERGER: Nothing on that.

4 BY MR. KRIENS:

5 Q. I'm Don Kriens, by the way. Were you working
6 at the operations and the waste water plant
7 through last year then up through this spring?

8 A. I'm currently an operator.

9 Q. You currently are, okay.

10 A. Yeah, I haven't left yet.

11 Q. Okay. Were you aware of the practice of the
12 use of the fire hydrants for discharge of
13 waste water on land from the storm ponds?

14 A. Well, as far as -- I guess I need a
15 clarification. As far as the --

16 Q. Not for fire hydrant flushing or winterization
17 or those things.

18 A. Okay.

19 Q. Just because the water in the ponds, it was
20 decided to get rid of the water.

21 A. Okay, now I know where you're coming from.
22 Yeah, there was times when we ran out of room
23 in some of the easier to get to areas, so I
24 was involved in one incident where we ended up
25 putting water towards the west tank farm area.

- 1 Q. Do you want to explain that one?
- 2 A. Well, my recollection is that we were stacking
3 water. We had room in the west storm pond,
4 which is out in the west tank farm. I was in
5 contact with the shift supervisor's office at
6 that time, and I believe -- well, from what I
7 remember they contacted me and said they were
8 going to move some water to the west tank
9 farm. I said we've got room, that's fine, I
10 don't see a problem with that. You know, it's
11 a lined basin, we had done it before. That
12 was kind of the end of it on my part. They
13 said they would get a hold of safety who is in
14 charge of fire hydrants and we'll use the
15 hydrants and go through the system and back it
16 up.
- 17 Q. Back it up into the lagoon or the pond?
- 18 A. That was my understanding. I found out at a
19 later date we went to an area we had never
20 gone to before, which surprised me because it
21 was something we didn't do.
- 22 Q. Mean an area --
- 23 A. An unlined basin.
- 24 Q. Land area?
- 25 A. Well, west tank farm, west storm pond, that is

1 the lined basin I was referring to go.

2 Q. When you say the unlined area, it was the far
3 tank farm but not a basin?

4 A. Correct.

5 Q. Go ahead.

6 A. Anyway, like I said, I found out later, I'm
7 not exactly sure how much later, if it was
8 hours or the next day or what it was, that
9 they had gone to an area on the northwest --
10 more on the north side of the plant, a low --
11 just kind of a low spot in the contour of the
12 land over there.

13 I remember going over there and seeing
14 the trees were covered in ice and broken off
15 because the hydrants had sprayed up and the
16 ice had collected on the trees. Then after
17 that there was an investigation, from what I
18 remember, as to why we went there, what the
19 levels in the water were at the time and land
20 application of whatever was in the water,
21 levels that were permitted and things like
22 that. That was above me at that time, I just
23 remember getting correspondence about it.

24 Q. Do you remember when that was? You're saying
25 they went to the west tank farm, but that's in

1 a different area than the north side of the
2 plant.

3 A. From what I remember it ended up being not
4 exactly -- it wasn't even on the west side of
5 the tracks. The west tank farm is anything
6 west of the railroad tracks over there.
7 That's in, you know, operator lingo. But it
8 was actually east side of the tracks, north
9 side of the plant. If you had a map I could
10 probably point it out.

11 Q. So is it north and then west of the waste
12 water plant?

13 A. It would be almost directly west of the B5,
14 almost directly west of B5 along the fence
15 kind of.

16 Q. It's a real low depression area, there's a
17 little pond down there?

18 A. Correct.

19 Q. And it drops off pretty steeply, relatively
20 steeply?

21 A. Yes. Like I said, I had never been over in
22 that part of the plant, never had any reason
23 to go over there until I found out what had
24 happened and I went and looked. I really
25 haven't been there since.

1 Q. I'm not sure, but I think that's the January 4
2 period when we actually first learned of this,
3 and that's when they had about 2.88 million
4 gallons that was flushing down there.

5 A. That sounds about right.

6 Q. Do you know of any other ones before that?

7 A. Nothing that didn't go into the basin itself,
8 into the lined west storm pond basin. That
9 was our goal, to keep it in the lined basins.

10 Q. After that there was a policy developed on
11 reportable quantities because apparently
12 January 4 exceeded that reportable quantity.
13 Were you advised of that or how did you learn
14 about that?

15 A. Well, it was the first time I was involved in
16 ground application quantity. It's just not
17 anything you deal with, or I haven't dealt
18 with it before, everything was, you know,
19 affluent to the pond quantity. The amount
20 that you can put to the ground is different
21 than what you can discharge in the water. It
22 was all new to me. So, yeah, we had a policy
23 or a statement came out that explained what
24 and why and all that and that was not the
25 proper thing to do, you know, and because of

- 1 it and so on.
- 2 Q. Okay. Do you know anything about one that
3 occurred on November 3 and 4? This was
4 another hydrant release to ground area in '96.
- 5 A. Not right off the top of my head. If I saw a
6 log or something I might be able to. We write
7 everything in the logs that happens, if we
8 can, as time allows for the day, so that's
9 kind of what we rely on.
- 10 Q. I do have some logs, and I don't think --
11 except for the ones -- I don't have all of
12 those, but I have one on November 2, which I
13 think your initials, T.A., are on there I
14 think (indicating).
- 15 A. Right.
- 16 Q. And that one talks about sending specials to
17 lab for TSS and ammonia. That talks about
18 cutting flow at 87 to less than three units.
19 Why would that have been done at this time?
- 20 A. Well, with the TSS being at 104, it doesn't
21 state on -- well, this was a weekend.
- 22 Q. Ammonia was I think 110.
- 23 A. That's a precautionary level I usually take
24 until -- I may have very well wrote this in as
25 soon as I sent the samples up and before I

1 actually knew what the numbers were just by
2 visual. I thought this is not good, so I
3 backed the flow down until I could find out
4 exactly what's going on.

5 Q. Okay. Then on -- would this be, 0700 to 1900
6 on Sunday, is that the morning?

7 A. Day shift.

8 Q. Day shift starting at 7:00 a.m.?

9 A. Right.

10 Q. This log states that the ammonia results at S7
11 were TSS 72 and ammonia 110. Would the 110 be
12 relatively high then?

13 A. Oh yeah.

14 Q. Also there is a copy of Heather's letter,
15 actually it's a memorandum, of October 24 to
16 the shifties concerning the toxicity and
17 testing and sampling starting Monday,
18 November 4. Did you know about the toxicity
19 test that was scheduled?

20 A. I'm sure that's our formal minnow test from
21 what I'm gathering from this.

22 Q. Here's Heather's memorandum that talks about
23 it. It's an annual toxicity test.

24 A. Right. I know about that.

25 Q. Required in the permit.

1 A. Right.

2 Q. And that was scheduled to begin November 4.
3 When this operator log states cut flow to
4 river from S7 to 1.7 units, what does that
5 actually mean?

6 A. Basically the same as this previous one, we
7 cut back the pump discharge rate to the
8 polishing ponds. A lot of it, when it says
9 flow to the river it actually means flow to
10 the polishing ponds because, you know, that's
11 where we go first, obviously. Cut it back to
12 1.7, and I'm fairly certain that is, and I
13 would have to have a calculator, based on the
14 ammonia going out and our permit parameters.
15 You know, 1.7 even with a 110, 1.7 may have
16 been -- was probably still within limits. I'm
17 sure that's why we would have made a cut back
18 to that specific amount. Normally we don't
19 get, you know that picky on how many units.

20 MS. HAYES: What does 1.7 units mean
21 then, Todd.

22 THE WITNESS: It's 400 gallons per
23 minute per unit I believe. So you're probably
24 looking at 700 maybe, 600, 700 gallons a
25 minute.

1 BY MR. KRIENS:

2 Q. I have calculated it around .57 million
3 gallons a day per unit, somewhere in there. I
4 want to show you another -- so what that means
5 is that typically you have so many units going
6 out to the polishing ponds from S7 off the
7 waste water plant, I think the average flow
8 was three and a half million gallons a day,
9 and the 1.7 is equivalent to maybe 1.1 or so,
10 somewhere in that range, million gallons a day
11 or 1.2.

12 MS. WIENS: Do you know that's the
13 case, Todd?

14 MR. KRIENS: Does that sound right?

15 THE WITNESS: Our normal flow
16 average is probably in the three and a half
17 range. You know, it's up and down, like
18 anything. Which equates to three and a half I
19 believe is about six units on the board. So
20 this would be roughly, you know, a little less
21 than a third of normal, or average flow.

22 BY MR. KRIENS:

23 Q. So to my calculation that means roughly around
24 2.3 to 2.4 million gallons a day would have
25 been --

- 1 A. At that rate, 1.77
- 2 Q. No, no. I'm saying 2.3 to 2.4 million gallons
- 3 would have been backed up then into B5 since
- 4 it wasn't taken to the polishing pond.
- 5 A. Oh, I see. Yeah, I guess, if you did the
- 6 calculation.
- 7 Q. Reading a memo here from Dave Gardner on
- 8 November 3, Sunday at 7:00 p.m., that's the
- 9 number, you have it stamped, 2100. This memo,
- 10 maybe you could help me with this one. They
- 11 pulled the S7 special sample at 1600 and the
- 12 result was 110 parts per million ammonia,
- 13 that's reflected in that log (indicating). It
- 14 states here the plan based on 110 part per
- 15 million is to limit flow to the river to two
- 16 units, storage permitting, 800 GPM two units,
- 17 which is what that referred to. Three units
- 18 would put us at the limit for monthly average
- 19 and 6.5 would put us over the daily max. So
- 20 what are they talking about there?
- 21 A. Basically they're telling us what we can run
- 22 based on our permit. I mean, it's so the
- 23 operators know exactly where we sit with that
- 24 110 GPM.
- 25 Q. Okay.

1 A. I mean, they know that 6.5 units is not
2 something we can do, seeing as that would put
3 us at daily max. Which we wouldn't even
4 attempt to get close to that, you know, making
5 sure that there's -- you want to make sure you
6 always have a fudge factor in there.

7 Q. So the purpose then was to back the flow or
8 cut the flow down so you wouldn't exceed the
9 daily maximum of ammonia basically?

10 A. Right.

11 Q. Now, there's an operating logging, this would
12 be Sunday, which would coincide to the timing
13 of this memorandum to some extent, it was a
14 night shift that was at 7:30 p.m. that night.

15 MS. WIENS: What is the date of that
16 one?

17 MR. KRIENS: This one is November 3,
18 Sunday, and the number is 825.

19 THE WITNESS: He basically wrote
20 this at the start of the night shift or a half
21 hour into night shift.

22 BY MR. KRIENS:

23 Q. This log states safety to open three hydrants
24 in west tank farm on ground to help get rid of
25 water. Does that mean to you that they opened

1 it, sprayed it through the hydrant on the
2 ground area? Do you know anything about that?

3 A. Safety to open --

4 MS. WIENS: Who is the writer of
5 that one?

6 THE WITNESS: It's either Steve
7 Nystrom or Carl Hamre, I can't differentiate
8 their -- well, it's probably Steve's. Carl
9 scribbles where you can hardly read it. I'm
10 not aware of that particular incident. I
11 mean, it appears to me the same as to you, it
12 was on the ground. Where on the ground or
13 what I obviously don't know.

14 BY MR. KRIENS:

15 Q. Okay. Do you know of any other ones in
16 February? There was three discharges at the
17 end of the month of February.

18 A. Fire water discharges?

19 Q. Yeah, hydrant releases to ground.

20 A. February of '97, this year?

21 Q. Right, the 25th, 26th and 27th.

22 A. If I saw the log I -- you know, right off the
23 top of my head I don't know.

24 Q. I didn't see any on the waste water logs, this
25 came from the safety logs, department logs,

- 1 where they flushed --
- 2 A. Then we might not even have known anything
- 3 about it. The fire system is safety's
- 4 responsibility. We do correlate water
- 5 management with us to a large extent, but they
- 6 could have been flushing hydrants and we not
- 7 know anything about it. It's not unlikely.
- 8 Q. Is it normal for them to flush hydrants that
- 9 time of year?
- 10 A. You would have to ask them. I really couldn't
- 11 tell you. I never pay attention to their
- 12 schedule, you know.
- 13 Q. In February of '97 there was a really high
- 14 ammonia load to the waste water plant, the
- 15 highest that you've had, I think, of that
- 16 whole period.
- 17 A. That's probably when the strippers were having
- 18 problems.
- 19 Q. Yeah. Does that sound familiar?
- 20 A. We had some high loads coming in.
- 21 Q. Actually it wasn't the highest, March was the
- 22 highest and February was the next highest.
- 23 During that month did you have to cut flow
- 24 back?
- 25 A. I'm sure we did, I'm sure we did. If the

1 numbers were high that's routine. Well, we
2 send our daily samples up every day like
3 normal, if the number come back high we'll
4 immediately send up a special to verify that
5 it wasn't a goofy number. Most of the time,
6 depending on the number, how high it is, I'll
7 cut flow immediately and wait to see what the
8 secondary results were. If they're still high
9 then we'll have to take them as -- yes, it is,
10 that's actual and go from there.

11 Q. Was there any other occasion when you had some
12 sample results come back that looked
13 abnormally high on the specials and they were
14 retested and then they tested out low the next
15 time?

16 A. There was one occasion. I remember they
17 changed sample methods. Now, here this was in
18 the lab and I'm not exactly sure how they did
19 their ammonia sampling up there, or testing,
20 but there was one occasion I remember I was on
21 and I got ridiculously high numbers, in the
22 high 100s, low 200s, something like that. I
23 come to find out the testers were using a
24 method that was not exactly accurate and they
25 weren't calibrating the machine before each

1 test. I believe that's the way it panned out.
2 When they went to the more scientific way of
3 doing it they found out the numbers were
4 horribly erroneous. But we did make
5 adjustments even though, you know, until we
6 found that out.

7 Q. Sure. How did the practice of backing it up,
8 when the ammonia was real high, into B5, how
9 that was initiated? Or in other words, who
10 decided to begin doing that?

11 A. Well, the operator on shift -- well, I can
12 speak for myself only, obviously. If I saw a
13 number that I thought, based on the flow and
14 everything, that was going to be a problem, I
15 would automatically cut back on the pumps
16 until I found out for sure what we were -- you
17 know, retest and the normal procedure.

18 At that point first of all I would see
19 the results, I would normally cut the flow
20 back right away, call environmental on call or
21 Heather or whoever, depending on the shift and
22 the day and all that, discuss what the
23 findings were, what the flow is at, what our
24 monthly average is at, all that kind of stuff.
25 In the meantime, depending on the situation

1 and the quantity, decide if we need to stay at
2 a low flow based on B5's level and everything
3 until we get the recheck back on the second
4 sample, you know, that type of thing.

5 Q. Aside from the mechanics of actually doing it,
6 how did the practice get initiated in terms of
7 that was a mode of operation, the way things
8 were dealt with when you had high ammonia? Is
9 that something that's always been done or was
10 that something recent with the ammonia
11 problem?

12 A. From as far back as I remember if you got high
13 numbers on any parameter you would immediately
14 calculate it out based on what you're flowing.
15 If it's not a problem you resample, and
16 depending on inventory you either keep it
17 going if you're within your parameters or you
18 back it down a little, whatever. But it's
19 usually -- I would say most of the time, you
20 know, the operator is who sees everything
21 first hand, so he is going to make the move
22 first and then contact the people that need to
23 know and then decide how long we need to do
24 this. You know, if water inventory is a
25 problem then it would be above us as to what

1 to do with the water, you know, if you have
2 nowhere to go so to speak.

3 Q. From what you're saying, is that what the
4 normal mode of operation would be when you
5 started there, that was generally how it was
6 done and that's how you learned how to do it,
7 is that what you're saying?

8 A. More or less, yeah. It was not an issue until
9 mainly the ammonia problem. I mean, it was
10 never anything that was a problem, you know,
11 so it's not anything I remember that much, it
12 wasn't that big of deal. We went many years
13 there where we didn't even get near our
14 monthly average number much less our daily max
15 on things, so we didn't have to worry about
16 it.

17 Q. Yeah, it sounds like it's specific to ammonia.
18 I looked at all the data as well.

19 There was another constraint, too, that
20 required you on a daily basis to back it up
21 from S7 because of the carbon feed system as
22 well. As I understand it, you used the S7
23 pumps to feed carbon, and during that time it
24 had to, obviously, go back to B5.

25 A. Well, I won't say it had to go to B5.

1 Q. How did that work then?

2 A. Like you said, you use the discharge pressure
3 off the S7 pumps to feed our carbon system, we
4 need a minimum of -- well, it varied, but say
5 40 pounds pressure up the hill to get it to
6 run. Sometimes you have to close the control
7 valve at S7 quite a bit to get that pressure
8 up there, depending on how much water you're
9 shoving through the control valve. There were
10 times with the inexperience that we've had
11 down there where it wasn't managed quite the
12 way it could have been with getting enough
13 pressure and shoving as much water out as you
14 can, it was just kind of we'll shut the valve
15 off so we have pressure so we can run type of
16 thing. But that was on the inexperience end.
17 I would say there was a lot of that.

18 There were times when, you know, it's
19 inevitable you would back water into B5. It's
20 just the way you had to do it to get the
21 system to run.

22 Q. Was the use of the S7 to feed the carbons then
23 a minor component of the volume of water that
24 was backed up into there since that was done
25 just for brief periods?

- 1 A. That varied based on how much carbon we wanted
2 to run, and it also varied on if the
3 individual forgot to switch the system back
4 right away. It could be -- there are times
5 when I remember the significant contributing
6 factor is the water level in B5.
- 7 Q. How long do you normally run the carbon every
8 day? Or do you run it every day?
- 9 A. Well, there were a few days off now when we
10 don't run it, but for the most part, yes, we
11 do run it every day. The average, I would say
12 a good average is 150 minutes, sometimes as
13 high as 300, 400, sometimes as low as 60
14 minutes. It would probably average out to a
15 couple hours, about two and a half hours.
- 16 Q. So two to two and a half hours out of a 24
17 hour period?
- 18 A. Well, that also depends on other aspects of
19 the plant, too. If we're foaming we may run
20 carbons every four hours, you know, because it
21 knocks the foam down.
- 22 Q. Yeah, if you have that problem, okay. In
23 these memos I showed you, when they talk about
24 cutting flow to 1.7 and 2 units, or if they
25 refer to one unit and so on, that's generally

1 not because of the carbon unit, is that
2 correct, it's because they need the back flow
3 up for the purposes of controlling the
4 concentrations there?

5 A. You wouldn't write in the log cut flow to 1.7
6 because of carbon, I don't think you would
7 ever see that in a log. There's no reason to
8 write it down based on that.

9 MR. KRIENS: That's all, thank you.

10 MS. WIENS: Off the record.

11 (At this time a short break was taken.)

12 BY MR. BERGER:

13 Q. Todd, I want to talk first off briefly, if
14 possible, about an issue that has come up a
15 number of times regarding overflows to the
16 coker ponds. Can you tell me what your
17 general knowledge is of that problem and what
18 caused it and the time span you are aware this
19 problem was happening?

20 A. Let's see, we've had a problem with that
21 since -- oh, for quite some time. The
22 farthest back I can remember was during the
23 time that Larry Klemetson was our supervisor,
24 and prior to that, I don't know the dates
25 exactly, but probably in the '95 area,

1 possibly earlier. Anyway, the reasons for it,
2 limited capacity in the ponds, full of coke
3 basically. Limited amount of flow that we
4 could discharge out of them because of the
5 manhole 500 and pump problems and different
6 problems. Large rainfalls contributed to the
7 amounts in there.

8 Q. Do you know how many times this happened in
9 the last couple years?

10 A. All I could say is many. I never started
11 keeping track.

12 Q. And when the overflows occurred did they
13 always go over towards the tracks there on the
14 west side? How many times did that happen?
15 When it overflowed where did it go?

16 A. Most of the time it would go on the west side
17 into the ditch by the railroad tracks.

18 Q. Over the road?

19 A. Correct, right. But then they started the
20 practice of berming that road so that it ended
21 up going south to the Eighth Street area.
22 That's basically the only place they can go,
23 that's the direction of flow so to speak.

24 Q. Can you tell me what your knowledge is of
25 other flows into the coker ponds other than

1 the ones you mentioned, like the Eighth
2 Street -- Seventh Street sump, things like
3 that?

4 A. Yeah, Seventh Street overflows there, Sixth
5 Street sump can overflow there. You know,
6 your normal rain water and your coker flow
7 down through the ditch, other flows into the
8 coker ponds. Well, there have been times
9 that -- not necessarily flows, but transported
10 material.

11 Q. You mentioned transported materials that were
12 released to the coker ponds, and could you
13 elaborate on that a little bit more?

14 A. One that comes to mind was water that had been
15 at the Eighth Street area, which originally
16 came from, I believe it was tank one. That
17 was transmitted to the coker pond area or a
18 holding basin, we isolated one of the basins.
19 I believe the northeast one, used that for a
20 holding area so that we could get another --
21 have another way of bringing it into the plant
22 and treating it on a regulated flow rate.

23 Q. Do you recall any other times?

24 A. Nothing that comes to mind right now.

25 Q. This specific instance with the de-watering of

1 tank one, we're aware of that, you're correct.
2 Do you know if there was a lot of oil mixed in
3 with that water, or some oil?
4 A. I can't remember. I remember we tested that
5 stuff, and did not -- it wasn't very good
6 stuff. I remember the concentration on the --
7 we most likely tested it for ammonia, phenols,
8 sulfites, you know, the normal routine stuff.
9 I remember it being on the rich side in most
10 of those parameters so that we fed it through
11 the system quite slow. When we did start
12 feeding the system we just cracked the valve
13 open slowly.
14 Q. Would those test results be available, the
15 records in your department?
16 A. I would think so. They should be in the limb
17 system somewhere under special or they should
18 have been written in the log somewhere along
19 the line I'm sure. Like I said, we write
20 everything down. There are occasions when
21 you're too busy and you forget a few things,
22 but for the most part.
23 Q. Do you know what the term means back washing
24 to the coker ponds? Have you ever heard that
25 term used, back washing?

- 1 A. Well, back flushing the coker pond pumps, but
2 back washing?
- 3 Q. Could you describe back flushing?
- 4 A. When the screens, the suction screens get
5 plugged up you just shut the flow off, let the
6 water that's in the discharge pipe come back
7 down the hill and flush out the screens so you
8 can get better suction.
- 9 Q. I'm going to show you a couple pictures here
10 that they've taken of -- I don't know what
11 pond it is, but I think it might be the
12 northeast. It shows a hole, erosion of the
13 dike, part of the dike.
- 14 A. (Views photo) It's northeast, right.
- 15 Q. Were you aware of that situation developing?
- 16 A. Yes, there were times when -- I remember when
17 we had the hole problem there.
- 18 Q. I think that picture is from February. Well,
19 I'm not exactly sure. It's sometime in early
20 1997, this year I believe.
- 21 A. I remember writing on the coker pond daily --
22 whatever it's called.
- 23 Q. Log?
- 24 A. A log, whatever, condition of it, whatever,
25 for some time writing on there that we had a

1 problem with that.

2 Q. Are you aware of other times when you had
3 problems like this?

4 A. The ones I remember were related to this
5 northwest corner of the northeast pond. And I
6 believe that I was one of the people, and not
7 the only one, that put work orders in the
8 system to address it, if my memory serves me
9 right.

10 Q. Okay. I want to go to another issue regarding
11 the API separator. I have a drawing I believe
12 made by you, the initials are T.A., and it's
13 dated 9/2/95. It's document 5496. I believe
14 it was attached to a memo, but I don't have
15 that (indicating). Could you tell me what
16 that's all about?

17 A. Yeah, it's mine. It was a weekend, I was
18 getting a lot of flow into S2, which is the
19 oil water separation pump for the API. It's
20 flow that shouldn't have been going in there
21 so I was just troubleshooting the system
22 trying to figure out where the flow was coming
23 from, get some isolation of one basin or the
24 other, and found that the cone skimmers
25 which -- the cone skimmers are the first ones

- 1 in the front here (indicating), had leaks
2 around seals. It's just a pipe inside a pipe
3 with a seal around it. I determined that
4 that's where the flow was coming from. Also
5 there was a very minimal leak on this one, and
6 that was contributing to the constant flow
7 that was coming into the sump and basically
8 wearing our pumps out prematurely.
- 9 Q. Okay. This situation as you describe here,
10 would this lead to any releases outside of the
11 API separator onto the ground?
- 12 A. No, that's completely confined in the system.
- 13 Q. Internal?
- 14 A. Right.
- 15 Q. A related issue, I want to talk about some
16 information we have about cracks of the API
17 separator walls. Are you aware of a problem
18 with that that surfaced in early '96, maybe
19 early summer of '96?
- 20 A. Right, yeah.
- 21 Q. Can you tell me what you know about that?
- 22 A. I remember when we were digging up the area
23 for a collapsed discharge pipe that we had.
- 24 Q. Bypass pipe?
- 25 A. Well, a combination affluent bypass pipe.

1 When we were digging up the area for that I
2 remember seeing the cracks on the east side of
3 the fore bays. It would be the first box
4 where trash racks are and such.

5 Q. Was that the first time you became aware of
6 that problem?

7 A. Uh-huh, the first time I noticed it. It was
8 below grade, and we had never dug that area up
9 in my time there.

10 MS. WIENS: What was that time
11 frame?

12 THE WITNESS: It would have been
13 spring, and if you say '95, I guess --

14 MR. BERGER: No, '96.

15 THE WITNESS: Okay, '95 seemed old.
16 Yeah, '96 sounds right.

17 BY MR. BERGER:

18 Q. The memos that I have on that are June of '96
19 where the problem was being discussed.

20 A. That sounds right. I just remember it being
21 warm because the crane that we had there, a
22 sinkhole appeared under the crane and it being
23 warm, so that correlates, that makes sense.

24 Q. Do you know how that problem was handled?

25 A. Which problem?

- 1 Q. The cracks, the leaks.
- 2 A. From my recollection the walls were cleaned,
- 3 I'm not exactly sure what they cleaned them
- 4 with, but I remember them talking about using
- 5 Belzona on it to seal it. It's impossible to
- 6 seal it from the inside for obvious reasons,
- 7 so they put the Belzona coating on the
- 8 outside. I remember the hole was left open
- 9 for quite a long period of time to make sure
- 10 that was holding before they backfilled it.
- 11 In fact I believe we were getting into winter,
- 12 fall and winter, because we were complaining
- 13 that they better fill this thing in before the
- 14 snow flies. So it was open for most of the
- 15 summer to make sure the repairs they did was
- 16 holding.
- 17 Q. And this was along one wall, and which wall
- 18 was it?
- 19 A. Well, the only part that was dug up would have
- 20 been the south end, the south and east side of
- 21 the fore bays in the trash rack area.
- 22 Q. Let's talk about the situation where the
- 23 bypass pipe was leaking. The information we
- 24 have is that when this was discovered, how it
- 25 was discovered is there was a crane in the

1 area?

2 A. Right.

3 Q. And it fell in partially?

4 A. No, it didn't fall in. The crane was sitting

5 there and for some reason, I'm sure the

6 vibration of the crane, a hole appeared under

7 the crane. At that time we basically

8 evacuated everybody from the area because we

9 didn't know how big it was and what the crane

10 would end up doing, if it would disappear or

11 what. We evacuated everybody and proceeded to

12 try and figure out what the problem was.

13 Q. I have a log of 4/10/96, it's number 303, and

14 it states crane fell into sinkhole southeast

15 of API. Your name is on the log. Is that

16 your writing there?

17 A. It's not my writing because I don't print most

18 of the time. I'm not sure if that's Mark or

19 Geno's writing. I was there, I remember it

20 very vividly, the crane didn't actually fall

21 into the hole, it was right over the top of

22 it. I believe there are pictures in the unit

23 that shows the hole and the crane, whatever.

24 Q. We have heard in other interviews and received

25 information initially that associated with

1 this problem was the development of sinkholes.
2 We have received information that this problem
3 was -- the discovery of the leak had to do
4 with the forming of the sinkhole, but we have
5 been told that the formation of the sinkholes
6 happened months before this problem was
7 actually addressed or you discovered the leak
8 in the bypass.

9 A. Correct.

10 Q. Can you elaborate on that a little bit for me?

11 A. I don't remember the exact time frame. Months
12 would probably be as good of example as any.
13 We were dumping -- occasionally we would bring
14 in a dump truck load of gravel because we kept
15 losing it on the east bank over there. Nobody
16 was actually -- it wasn't obvious as to where
17 it was going, we didn't know if it was just
18 kind of washing down the hill or what because
19 there wasn't actually a hole you could look
20 into so to speak, it just kind of kept
21 disappearing for some reason. Nobody really
22 put their finger on what was happening there
23 for some time, but we did bring in a certain
24 amount of fill because it did -- it was a
25 reoccurring problem.

- 1 Q. Are you aware of oily water collecting down by
2 the WENCOS about this same time?
- 3 A. I don't know if it was exactly the same time,
4 but I remember areas west of the WENCOS, more
5 specifically south of the shop pond, that are
6 constantly moist or actually muddy even in the
7 driest points of the year. I do remember some
8 rainbow looking areas, you know, with the
9 water. Physically black oil, no, but hydro
10 carbon looking type stuff.
- 11 Q. Do you remember the discussions around that
12 time about what this problem is and why this
13 material is showing up there?
- 14 A. I remember bringing it up, and I don't
15 remember who to, but I did bring it up as to
16 there seems to be areas back there moist, why
17 is it moist when everything is bone dry, why
18 is it muddy back there. It's not an area we
19 walk through routinely by any means, you may
20 walk through there once a year, to be
21 truthful, there's just no reason to go back
22 there. There's nothing back there
23 operationally. I found it odd that there was
24 something oozing out of the ground so to
25 speak. I don't remember where it went from

1 that point, but I do -- I think the last time
2 I was back there when it was fairly dry
3 everywhere else it was dry there, too.

4 Q. Do you know if there was any remediation or --

5 A. In that area, no.

6 Q. If there was anything ever done about that?

7 A. In that specific area south of the slop pond
8 not to my knowledge. There may have been that
9 I don't know about, but I don't recall any
10 digging in that area specifically.

11 Q. Is there any connection in your mind between
12 the bypass break or problem and the collection
13 of oily water down by the WENCOS? Would there
14 be a connection there?

15 A. I couldn't rule it out. I couldn't say for
16 sure, but it's a possibility I suppose. It's
17 in the same line, that's where everything goes
18 and it would make sense judging by where the
19 lines go and all that. I couldn't say for
20 certain.

21 MR. BERGER: That's all on the API.

22 X BY MS. HAYES:

23 Q. I have a question kind of related to -- well,
24 it's not related. Have you ever heard
25 anything about deterioration of the sewers?

1 A. Yeah.

2 Q. Can you tell me what you understand to be the
3 problem with that?

4 A. Well, two points. One, in our area which some
5 individuals from -- I'm not -- PCA, but
6 exactly where I don't know and I didn't catch
7 the gentleman's name, but he came out to
8 inspect some sewers we have near our slop
9 tanks. I think it was this past summer. The
10 bottoms were completely gone out of them,
11 there was no concrete left whatsoever. There
12 was a little bit of wire reinforcement mesh
13 left and that was it.

14 Q. Of the sewer? The bottom of the slop tank
15 connects with the sewer you said?

16 A. The draining off the slop tank flow to those
17 sewer section boxes and then in a roundabout
18 way go to 7A and B. That's one that I was
19 involved in. I was also involved in a meeting
20 that was about spills, it was the DET team or
21 something like that. Anyway, we were in a
22 discussion about spills. It's a team that
23 currently is in force, they investigate and
24 try to find out can we solve this problem and
25 is there something we can do about whatever.

1 Anyway the discussion, I don't remember
2 exactly how it drifted off into sewers, but we
3 got on a discussion of refinery wide sewer
4 system. It was brought up by one of the shift
5 supervisors there appeared to be -- there are
6 some people that believe there to be a problem
7 with the sewer system in certain units,
8 certain collection boxes, stuff like that.
9 One of the shift supervisors asked do we have
10 a team in place to look into this and try and
11 find out for sure and solve it and such. His
12 question didn't really get answered, so he
13 brought it up again, and at that point one of
14 the environmental engineers, Mary Lee I think,
15 who is no longer here, went to the door,
16 closed the door on the conference room and
17 said that she had brought this up to other
18 individuals in the company and they were aware
19 of the problem but it was something that they
20 didn't -- it was a can of worms they didn't
21 want to open right now. In her eyes or her
22 view was they weren't addressing it because it
23 was a can of worms they didn't want to open
24 was her statement. That's the thing that
25 sticks in my mind. There was a little bit of

1 conversation after that, but for the most part
2 the meeting adjourned sometime soon after
3 that, you know, that was kind of the end of
4 the meeting or the last topic or whatever. I
5 got the -- obviously I've been wondering ever
6 since that time.

7 Q. Can you recall when that meeting was? I don't
8 expect you to remember the exact date, but --

9 A. I would have to look in my planner. It was
10 this summer.

11 Q. Oh, it was. Okay.

12 A. Right. Mary Lee was -- she left the company
13 hours after that meeting.

14 Q. Hours after?

15 A. (Nods head) The meeting was in the morning I
16 believe, 9:00, 10:00. Like I said, it's in my
17 planner, and sometime after lunch she left the
18 company.

19 BY MR. KRIEBS:

20 Q. Was she fired because of that?

21 A. The way it was explained to me was that --
22 well, how was it put? The word fired wasn't
23 used, she was --

24 Q. Discharged?

25 A. It was a mutual agreement that she leave the

1 company type of thing, kind of a politically
2 correct way to put it.

3 BY MS. HAYES:

4 Q. Who was in the meeting besides you and Mary
5 Lee and --

6 A. Dean Cranston was the shift supervisor that
7 bought up, you know, that he couldn't
8 understand why this wasn't being addressed.
9 He was pretty adamant about getting an answer.

10 Q. Is he still around?

11 A. Right. It was Mary Lee, myself, Dean, there
12 was at least two other people which I believe
13 are in my notes, my planner, but I don't
14 recall the names.

15 Q. So who would -- was there management in that
16 meeting?

17 A. Right.

18 Q. Do you know who?

19 A. Well, management as far as just Dean Cranston
20 is a shift supervisor.

21 Q. Anybody else you remember?

22 A. Somebody related to -- one of the individuals,
23 and I can't think of his name right now, I
24 believe is a maintenance supervisor. There
25 were a number of people that were on the list

- 1 to show up for these meetings, Eric Thraen was
2 one of them, and he's a -- well, I think you
3 know who Eric Thraen is.
- 4 Q. He wasn't there?
- 5 A. I don't recall if he was, but I don't think
6 so. I'm pretty sure he was not at that
7 particular meeting.
- 8 Q. If you went back to your planner would you
9 have a synopsis of the meeting and possibly
10 who was there?
- 11 A. Yeah, I should have. It bothered me when I
12 found out that she had left the company soon
13 after that and so I wrote down who was at the
14 meeting and a few thoughts.
- 15 Q. Did you have the sense that was sort of an off
16 limits kind of thing for her to bring up, is
17 that what you're saying?
- 18 A. I got the distinct impression that we
19 shouldn't have been discussing that issue.
20 Well, not shouldn't have been discussing it,
21 it wasn't --
- 22 Q. It was disapproved of?
- 23 A. Well, when she got up and shut the door after
24 the second time that Dean asked her I got the
25 impression it was just a closed door -- you

- 1 know.
- 2 Q. What was Mary Lee's position?
- 3 A. Environmental department, environmental
- 4 engineer. Exactly what she did I'm not sure.
- 5 Q. Was there ever a discussion in the meeting
- 6 about how long anybody believed that the
- 7 problem had been going on, do you recall that?
- 8 A. Well, the statements in the meeting led them
- 9 to, you know, the sewer system is old in some
- 10 areas of the plant and has been deteriorating
- 11 for some time was the wording. They believed
- 12 it had been deteriorated for sometime, and
- 13 that's why Dean was bringing up shouldn't we
- 14 be looking so that we know.
- 15 BY MR. KRIENS:
- 16 Q. Somebody said we don't want to open up that
- 17 can of worms?
- 18 A. That was the exact wording.
- 19 MS. HAYES: Whose words were those?
- 20 THE WITNESS: Mary Lee's.
- 21 MR. KRIENS: Meaning that was told
- 22 to her, they didn't want to open it up?
- 23 THE WITNESS: Her statement was
- 24 that's a can of worms they don't want to open
- 25 right now.

- 1 BY MS. HAYES:
- 2 Q. Have you inquired about it since that time?
- 3 A. I've seen some company correspondence and some
- 4 work being done in different areas of the
- 5 plant, but as far as me personally asking
- 6 somebody what are they doing about it, I
- 7 haven't gone to -- well, for obvious reasons
- 8 when she left a few hours after --
- 9 Q. I was going to say, did you feel comfortable
- 10 bringing it up I guess is where I'm going with
- 11 that. Would you feel like you could, you
- 12 would have a place to go and be able to
- 13 discuss that?
- 14 A. I wouldn't actually know who to go ask at this
- 15 point.
- 16 Q. Is that partly due to the reorganization and
- 17 stuff?
- 18 A. Right. I don't know who to go ask for
- 19 anything right now.
- 20 Q. I know. I'm in the same sort of position with
- 21 the reorganization.
- 22 A. As far as being comfortable, nobody is going
- 23 to be comfortable in that position I don't
- 24 think. But as far as I would still do it, you
- 25 know, I still -- I feel that I'm drinking out

1 of the same aquifer that possibly some of this
2 is going into and I don't care what they think
3 of me asking the question I'm still going to
4 ask it.

5 Q. So it bothered you a little bit after the
6 meeting?

7 A. It still bothers me, I still think about it.
8 I didn't realize what the potential was until
9 I saw what had happened to our sewer boxes,
10 which don't get a lot of flow. I mean,
11 they're just side drains. You know, they get
12 intermittent. Every once in a while we'll
13 check to see where our water level is and
14 there's absolutely nothing left in the bottom
15 of those. So in my mind it makes me wonder
16 what is the potential problem.

17 BY MR. KRIENS:

18 Q. And normally there's concrete rebar, and all
19 that's left was rebar?

20 A. All that's left was the reinforcement mesh.

21 MS. HAYES: What unit was that
22 again?

23 THE WITNESS: That's in our unit,
24 waste water. Directly west of our 334, 335,
25 336, 205 and 206 tanks, that whole system

- 1 right there.
- 2 BY MR. KRIENS:
- 3 Q. Say those again.
- 4 A. 205 and 206, 334, 5 and 6. That all connects
5 together.
- 6 Q. Have they fixed those boxes?
- 7 A. Well, yes, they did do a fix on them.
- 8 Q. I understand they dumped concrete on the
9 bottom basically as the fix?
- 10 A. Well, yes. I would call it as good a fix
11 as --
- 12 Q. The boxes are basically at the point in the
13 line where pipes converge or where there's a
14 clean out or something like that, is that why
15 they're there?
- 16 A. Right.
- 17 Q. So the boxes were observed to have eroded
18 because they're visible I presume, because you
19 can look there?
- 20 A. No. The only reason we found them was we
21 couldn't get out with flow anymore, so there's
22 some stuff that had collected in them. We
23 brought a vac truck down there and started
24 pulling on it and we didn't hit bottom so to
25 speak, we didn't hit anything solid. So then

- 1 we brought the jetter in thinking well,
2 there's so much in there we need to slurry it
3 up a little more. We didn't know the depth of
4 the box, we thought maybe we were only half
5 way down, there's so much dirt because there
6 was a lot of gravel that had washed in. We
7 brought the jetter and proceeded to clean down
8 until he found the mesh, and then we said oh,
9 I guess we are at what used to be the bottom.
- 10 Q. Is the pipe above and below the boxes the same
11 material, do you know?
- 12 A. I'm not following.
- 13 Q. The boxes are concrete and are the pipes
14 concrete also?
- 15 A. Some of these pipes I believe are metal, yeah,
16 coming into the concrete box. It's hard to
17 tell. I would say most of them probably are
18 metal. Well, they're metal where they go in
19 from the side of tank, and I would assume they
20 continue to the metal into the sump. You
21 can't tell from looking in the sump actually.
- 22 Q. Do you know if the company has ever
23 investigated these boxes to see if any others
24 in the plant are in bad shape?
- 25 A. In our plant or the refinery?

- 1 Q. The refinery itself. I'm talking about with
2 the whole sewer water system, oily water.
- 3 A. I don't know what the status of their
4 investigation is.
- 5 Q. Is that what was brought up in that meeting
6 and what she understood to be a can of worms
7 that she didn't want to be opened then
8 generally?
- 9 A. Yeah. We were talking about -- I'm not
10 exactly certain how we got on the subject
11 again, but we did get on the subject of
12 refinery wide sewers, and it may very have
13 been because of the problem we had in our area
14 and that's how we got on the subject line.
15 Then Dean, being a refinery wide shift
16 supervisor, brought up that aspect.
- 17 BY MS. HAYES:
- 18 Q. What would be the nature of the waste water,
19 can you explain for us, that would cause the
20 corrosion and the deterioration?
- 21 A. In our department, our area?
- 22 Q. Uh-huh.
- 23 A. Those slop tanks over the number of years I've
24 been here have had just a multitude of
25 different things in there. Your high and low

1 pH swings type of water, high amounts of sour
2 water, glycols, ethanols, methanols.

3 BY MR. KRIENS:

4 Q. Subject to caustics and acid, my understanding
5 is also there are other parts of the refinery
6 that have sewers that would be subject to high
7 caustic, especially high caustic, I don't know
8 about acid.

9 A. We get large pH swings in both directions
10 coming down the sewer. I mean, we'll see it
11 as low as two or as high as 14 for a period of
12 time. Where it's coming from obviously I
13 don't know at any one time, I just know it's
14 coming into the front end of our plant.

15 Q. Maybe you're not the person to ask on the
16 environmental department, but Mary Lee did
17 report to J.C. Johnson I guess, assistant
18 manager, environmental services. Is that the
19 way you -- we can find that out.

20 A. I don't know who she reports to. The only
21 time that I knew her or the first time I met
22 her was for these DET meetings, and I believe
23 that was the second or third meeting we had
24 had that I was able to attend. I haven't seen
25 her since.

1 Q. Does she live in the area?

2 A. No idea. Well, I believe -- I was told she
3 was given a job offer in her hometown which I
4 think was like Michigan or Illinois, something
5 in that direction.

6 BY MR. BERGER:

7 Q. You were talking about the oily water sewer
8 system and the high caustic and pH and things
9 like that going down there. You mentioned
10 methanol?

11 A. There was times when we stored many different
12 things in 334 and 335, our shotgun tanks,
13 which the drains go to those sewers that we
14 talked about in our area there. Glycol was
15 put in there routinely. I do believe, yes, we
16 did have methanol and/or ethanol in those
17 tanks at some time. It hasn't been a policy
18 lately, this was some time ago, so I would
19 have to look back in the log. I believe, if I
20 remember right, we did write down what was in
21 the tank at the time so when you drained it
22 you knew what was there as to how fast you
23 should drain it, you know, what affects you
24 would have on the plant to get rid of it.

25 Q. Was this material pure ethanol or methanol or

- 1 was it mixed with water?
- 2 A. I don't know. All I know is what we were
- 3 told, we had to get rid of something, but the
- 4 plant couldn't handle it as a batch dose, you
- 5 know, so we put it in those tanks and drain it
- 6 through the sewer system slowly to lighten the
- 7 load on the plant.
- 8 Q. And these are from what tanks?
- 9 A. 335 and 335.
- 10 Q. And what are they used primarily for?
- 11 A. Well, originally their service was for sludge
- 12 treatment, but now they -- well, right now
- 13 they're empty, but in the past three to four
- 14 years roughly they've been used just for
- 15 intermittent storage of those types of
- 16 products, glycols and such, so we could drain
- 17 it slowly in the system.
- 18 Q. Why do you want to drain it? Is it to put
- 19 something else in there and you've got to
- 20 clean it out?
- 21 A. Just to dispose of it. The plant can't handle
- 22 a slug feed of it, you know, so we have to put
- 23 it somewhere and trickle it in slowly.
- 24 Q. How about naphtha from the poly units, have
- 25 you ever heard of that?

- 1 A. Yeah, that will come down the sewer. I mean,
2 you get all kinds of different hydrocarbons
3 down the sewer.
- 4 Q. Do you know why those hydrocarbons are put
5 down the sewer?
- 6 A. I'm sure it's because of an upset. It's not
7 my area. Most of the time something is out of
8 whack or whatever.
- 9 Q. Maintenance?
- 10 A. It could be something that needs maintenance,
11 right. It can be an operational upset, a
12 power blip during a storm, whatever that
13 causes them to go in the sewer with something.
14 There have been light ends in the API on
15 several occasions. One of the easiest ways to
16 tell is when the API is boiling so it speak,
17 your light ends are going to bubble out. I've
18 seen it boiling like witch's brew, so you know
19 something light, much lighter is coming down
20 the sewer. You can spell it, too.
- 21 Q. I have a log of February 26, 27, 1997, it
22 states poly called, said they would be dumping
23 200 to 300 gallons each time of medium to
24 heavy naphtha down the sewer a few different
25 times a day. You're not on this log, but

- 1 that's not unusual?
- 2 A. No.
- 3 Q. And that's pure naphtha?
- 4 A. I would assume, yeah. Medium naphtha, yeah.
- 5 You know, that's not out of the ordinary.
- 6 Anything from that to gas oils, you know,
- 7 that's oily water sewer.
- 8 Q. That's what you think it's for?
- 9 A. That's what I think the oily water sewer is
- 10 for?
- 11 Q. Right.
- 12 A. I guess that's my assumption. No one has ever
- 13 told me otherwise. Oily water sewer is to
- 14 collect oily products that otherwise would be
- 15 spilled onto the ground. They would go into
- 16 the sewers so we could treat them once they
- 17 got to our end.
- 18 Q. Would there be other ways or are there other
- 19 ways to handle these materials other than
- 20 dispose them through the oily water sewer?
- 21 A. I have no idea. It's not my -- you know, I
- 22 don't know the units at all.
- 23 Q. Have you ever heard them going to flares?
- 24 A. Well, yeah, there's a flare system.
- 25 Q. Is that the material you had to get rid of?

1 A. I can give you the limited understanding I
2 have of the system. There are vessels and
3 powers and such that can go to the flare and
4 there are some that, you know, if they have to
5 drain them they can drain them through an oily
6 water sewer. That's from conversations on the
7 phone with the operators of the units.
8 There's constantly -- well, then there's the
9 slop system also besides the flare, and the
10 slop system goes to tank 63 which is through
11 the pipes. I don't have a clear understanding
12 of the unit and exactly how and why they dump
13 to the oily water sewer, they just call us and
14 say here it comes so we can be aware.

15 MS. HAYES: And we understood from
16 talking to other operators or other people, I
17 can't remember who all we've talked to,
18 that -- at least the last operator we talked
19 to, that sometimes you would guess that you
20 haven't gotten a call also, because --

21 THE WITNESS: Oh, yeah.

22 MS. HAYES: Because perhaps you have
23 an upset or --

24 MR. BERGER: A flow into something.

25 THE WITNESS: It's more a recent

1 event that they call us. The first two to
2 three years I worked there stuff would appear
3 in the API and there's horrible communication
4 amongst the units and us. I mean, they
5 just -- the saying was, you know, they will
6 clean up what we send them kind of thing I
7 think. We just never got a call.

8 But then we got some supervision in
9 there that helped us out in many ways. One of
10 them was telling the units they have to let us
11 know what they're dumping, how much they're
12 dumping, and a lot of times ask if they can
13 dump it, you know, if we can handle it. Up
14 until then the supervision wasn't really in
15 place to help us out, you know, with that kind
16 of stuff. Basically the person I'm talking
17 about is Rick Legvold came down and helped us
18 out with a lot of our problems, addressed a
19 lot of the maintenance issues and helped to
20 get the communication within the refinery much
21 better so we could handle some of these things
22 better.

23 BY MR. BERGER:

24 Q. One quick log here on the same issue. This
25 one goes back to August of '94. You're not on

1 this one, Todd, but it states hazmat will be
2 dumping about 20 to 30 gallons slowly of
3 xylene, and then in parentheses it says paint
4 thinner, dumping down at Eighth Street sump.
5 With all the dilution we shouldn't even see
6 it. Are you aware of situations like that
7 where materials like paint thinner was dumped
8 to the -- specifically aware of materials like
9 that being dumped?

10 A. No. This one is so far back. I don't see
11 where it would be out of the ordinary, but I
12 don't know the specific incident. I mean, it
13 makes sense that they would state that it
14 would be diluted being far into the plant, it
15 would get mixed with a lot of flows so that it
16 wouldn't upset our biological.

17 Q. Sure. Did you have any concerns about the
18 upper and lower wash pads and what was dumped
19 on those pads and what might eventually get
20 into the sumps and into the waste water
21 treatment plant? Was that ever a problem, a
22 concern for you? Did that ever lead to any
23 upsets at the waste water treatment plant that
24 you're aware of?

25 A. It's hard to put a finger on an upset and link

1 it to something that you weren't notified on,
2 obviously. Not so much what came to the plant
3 from the wash pads and Eighth Street as what
4 went to Eighth Street from the pads. It was
5 more bothersome the fact that Eighth Street
6 suction or -- how can I explain it? Where the
7 manhole that flows to the sump is located,
8 that area not being a lined area, I brought up
9 many times, and so did a lot of the other
10 operators, that there's no containment here,
11 it's dirt basically and we have a large amount
12 of water and/or God knows what backed up there
13 with all the bundle washing and such that goes
14 on at the wash pads that flows to Eighth
15 Street. You've seen the hydraulics of the
16 system down there because I know you've been
17 in the plant when we've had large amounts of
18 water at Eighth street, and if you're bundle
19 washing on the pads and Eighth Street is not
20 handling the flow, obviously there it sits.

21 Q. Lake Askeland?

22 A. Correct. That was just a name Mark gave that
23 whole area because I believe Eric was kind of
24 involved in hooking up a sump system there for
25 us. Prior to that we didn't have much of a

1 system at all many years ago.

2 Q. Last question. Are you aware of sludge being
3 disposed -- I don't know if we asked this
4 question or not, but being disposed from the
5 neutralisation basin between the oily water --
6 non-oily water sewer and B5, sludge from that
7 basin, do you know what I mean?

8 A. From the nows, yeah, that calcium based stuff.

9 Q. Yeah. Taking that sludge out and disposing it
10 on the ground north of the B5 basin?

11 A. That was the policy I was told. That was what
12 the policy is. I was told that's what the
13 policy was for dealing with that stuff. I've
14 not been involved with cleaning that basin in
15 the period of time I've been an operator so I
16 have not physically seen it done. We have
17 talked about getting it cleaned because they
18 were so full again, and that was what I was
19 told, the motive of the disposing of it in the
20 past. Now we cannot do that anymore.

21 Q. Can you put a time period on when that mode
22 was in operation?

23 A. When I was told we couldn't do that anymore?

24 Q. No, when it was going to the ground north of
25 B5.

1 A. That would be prior to '91. To my knowledge I
2 do not recall those being cleaned in the time
3 I've been there since '91. You know, I
4 haven't seen them clean them. We've talked
5 about it a lot since then but we haven't
6 cleaned them yet.

7 MR. BERGER: That's it.

8 BY MR. KRIENS:

9 Q. One other thing. Are you involved with
10 spills, general spills and what's reportable
11 and what's not reportable?

12 A. Involved in what aspect?

13 Q. In terms of what is a reportable quantity to
14 the MPCA or to the environmental department.

15 A. I don't make the designation. I -- they ask
16 me -- if I'm involved in a spill or it happens
17 on my shift or whatever, they will ask me what
18 my estimation is of quantity, which a lot of
19 times, depending on the quantity, is
20 impossible, virtually impossible to figure
21 out. I mean, I can give them the square
22 footage of ground and maybe the depth and how
23 long it's happened and they've got their
24 calculation for figuring absorption and such,
25 how much has sank in the ground already and

1 such, but I don't make a designation there, I
2 just try to answer the questions.

3 MR. KRIENS: That's all.

4 BY MR. BERGER:

5 Q. One more question. I have a log here from
6 1995, September 8 of '95, and you are not on
7 this one either, so if you don't know about
8 this let me know.

9 It states environmental contacted us to
10 sign manifest for pipeline truck to unload
11 high benzene material to tank 63. Do you know
12 what that's all about?

13 A. I remember the talk about this. Dave Gardner
14 was on and I remember him talking about this.
15 We get on occasion trucks from many locations
16 that come in from cleaning tanks, reclaiming
17 spills, a variety of different things. If
18 it's hydrocarbon based it has to go into tank
19 63, there's no other place legally we can put
20 it, company policy dictates that we have to go
21 to the slop tank with it. Judging by what
22 Dave wrote here the driver had not been in
23 here before, did not know what to do, where to
24 unload, all that. I remember Dave stating
25 that they smelled the H2S, the rotten egg

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2 do not recall those being cleaned in the time
3 I've been there since '91. You know, I
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21 to the slop tank with it. Judging by what
22 Dave wrote here the driver had not been in
23 here before, did not know what to do, where to
24 unload, all that. I remember Dave stating
25 that they smelled the H₂S, the rotten egg

1 odor, and at that point proceeded to see how
2 bad it was with a sniffer, found out that it
3 was very bad, and like it says here, told him
4 to stop any additional trucks from coming at
5 that point.

6 Q. These trucks were coming from outside the Koch
7 Refinery to your knowledge?

8 A. That's most likely right, yeah. Otherwise if
9 they had not they would know where to go and
10 what to do. Most likely they were from a
11 location -- well, not necessarily a location
12 that we hadn't dealt with before, but with a
13 driver or a company that hadn't come in here
14 before. But it's not uncommon these days to
15 get drivers that have -- you know, from
16 companies that we see routinely that have
17 never been in here before with the turnover or
18 whatever.

19 MR. KRIENS: From off site?

20 THE WITNESS: Right.

21 MS. HAYES: Thank you.

22 (Whereupon, the interview concluded at
23 3:35 p.m.)

24 * * *

25

STATE OF MINNESOTA)
COUNTY OF HENNEPIN)

BE IT KNOWN, that I, MILO BALLINGRUD, Court Reporter, a Notary Public in and for the County of Hennepin, State of Minnesota, certify that the foregoing is a true record of the interview of TODD AAKTO, and reduced to writing in accordance with my stenographic notes made at said time and place.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties or a relative or employee of such attorney or counsel;

That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality;

IN WITNESS WHEREOF, I have hereunto set my hand
on this 11th day of November, 1997.

MILO BALLINGRUD,
Notary Public, Hennepin County, Minnesota
My Commission Expires January 31, 2000.