
INTERVIEW OF:
DENIS BILDERBACK
TAKEN NOVEMBER 20, 1997 AT 10:40 A.M.

KIMBERLY HORMANN
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I N D E X

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INTERVIEW OF DENIS BILDERBACK, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 10:40 a.m. on Thursday, November 20, 1997 before Kimberly Hormann, 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:

LARRY D. ESPEL, Attorney at Law

SUSAN K. WIENS, Attorney at Law

1 MR. BERGER: I'm with the hazardous
2 waste division at the Minnesota Pollution Control
3 Agency. First of all, I just want to read
4 an introductory piece that we are reading to all
5 personnel that are participating in these
6 interviews. As you are aware, the Minnesota
7 Pollution Agency is conducting a civil investigation
8 that is focusing on Koch Refinery operations and on
9 a number of pollution-related environmental issues
10 that came to our attention in April of this year
11 during an inspection. We are seeking your
12 cooperation in obtaining some information regarding
13 these environmental issues. And we want you to know
14 at this time that you do not have to answer these
15 questions if you don't want to. This is totally
16 voluntary on your part. The information we obtain
17 in this investigation may be used in an
18 administrative, civil or criminal enforcement action
19 against Koch Refinery company. I want to emphasize
20 that again this is an investigation of Koch Refinery
21 company, it's not looking at any individual employee
22 at Koch Refinery at this time.

23 THE INTERVIEWEE: Okay.

24 MR. BERGER: Any questions with that?

25 THE INTERVIEWEE: No.

1 MR. BERGER: When we start the tape, we
2 would just like you to state your name, Denis. And
3 give us a brief history of your work experience here
4 at Koch, then focus in on your current position.

5 THE INTERVIEWEE: From the
6 start?

7 MR. BERGER: Yes.

8 THE INTERVIEWEE: Denis Bilderback, Koch
9 Refinery. I started work for Koch in 1974 as a
10 laborer for approximately two months, for the months
11 of July and August. September, I moved into the
12 loading group, worked in the loading group from
13 September of '74 until June of '77. June of '77, I
14 transferred from loading to the pumping group. I
15 was in the pumping group from June of '77 until
16 August of '94.

17 At that time, from June of '97 until May of
18 1980, I was already positioned as a pumper. From
19 1980 until '94, I was a supervisor in products
20 handling. Then August '94, I moved up into the
21 safety department working with the contract safety
22 coordinator. That's my present position now, is
23 still in safety, but I'm a safety and health
24 specialist.

25 MR. KRIENS: I think I missed the dates,

1 did you say from August '94?

2 THE INTERVIEWEE: August '94 until
3 present about, I've been in safety.

4 MS. HAYES: And the 1980 to 1994 pumping
5 group, is that what you said?

6 THE INTERVIEWEE: Products handling,
7 which is considered the product enhancement group
8 now, basically the same department from '74 until
9 '94.

10 EXAMINATION BY MR. BERGER:

11 Q. In your work positions then, have you gotten
12 involved with spills, response to spills and cleanup
13 of spills?

14 A. Yes.

15 Q. Have you worked in this position down at the barge
16 docks?

17 A. Yes.

18 Q. Back in -- we have received information that back
19 in, we believe it's late '93, 1994, early 1994,
20 there was a spill, a considerable spill down at the
21 barge docks related to tanks 200, 201 and 202. Are
22 you familiar with those tanks down there?

23 A. Yes.

24 Q. Do you recall a spill back in late '93, '94 at the
25 barge docks, in regards to those tanks? A spill

1 that actually was inside of the containment area for
2 those tanks?

3 A. Yes.

4 Q. Can you tell me what you know about that spill?

5 A. Really I don't know much of how it happened or what
6 happened. Basically at that point in time, starting
7 in '93, supervisors were kind of taken out of the
8 realm of everyday operations for that department,
9 other than off-hours. We were, No. 1 pumpers took
10 over as the everyday operations. We still had an
11 off-hours, we had control over them, but not during
12 the days. That was the unit supervising
13 department, the managers took care of them at that
14 time. So basically, all we got was the right to
15 work orders and clean the product up so --

16 Q. You don't know specifically how this spill occurred
17 or what was spilled or --

18 A. No, no.

19 Q. At that time, what was your position then?

20 A. I was a products handling supervisor. But we had
21 changed roles and stuff of our positions in 1993.
22 Actually, I think it was in '92 is when they changed
23 positions, our roles as controlling everyday
24 operations of the department to more of a back
25 door-type operations.

1 What we did is we trained the No. 1 pumpers
2 into the operations of the department. And we were
3 just more supervision on off hours at that point in
4 time. They had the decision-making capability at
5 that time.

6 Q. What do you know about how that spill was cleaned up
7 or was it cleaned up? I guess, let me ask that
8 first. Do you know if that spill was properly
9 cleaned up?

10 A. It was cleaned up. That's about all I can tell you.

11 Q. Do you know how it was cleaned up?

12 A. They went in and removed the soil and stuff inside
13 the dike and all the contaminated -- I know, they
14 removed the contaminated grass and weeds that was in
15 there.

16 Q. When you say, they, who would be they again?

17 A. That would have been our hazmat crew and possibly
18 the contractors at that time. I think it was just
19 our hazmat crew after '93.

20 Q. Do you know who was the supervisor of that hazmat
21 crew and the workers that would have done that work?

22 A. I don't know exactly who the supervisor was. They
23 worked with environmental, but they were still
24 attached to products handling.

25 Q. Okay. And you're not specifically aware of the

- 1 details of the cleanup or you weren't involved with
2 the cleanup?
- 3 A. No.
- 4 Q. All you know is you were told it was cleaned up?
- 5 A. Right. So we went down and looked at it every once
6 in awhile to see how they were progressing. But we
7 didn't write any permits that were needed for the
8 excavations or anything like that, that was all
9 taken by the hourly crew.
- 10 Q. Do you know the specifics of the cleanup in regards
11 to -- do you know any specifics of the cleanup in
12 regards to how it was physically done? We have been
13 told that the back of the dike was opened up and
14 front-end loaders or back hoes went in there. Do
15 you know if that happened?
- 16 A. Yes, I believe it did.
- 17 Q. Okay. And that was to do what?
- 18 A. That was to clean out the contaminated ground rather
19 than do it, use the equipment, rather than do it by
20 hand, had to get in and get the barrels out of the
21 contaminated grass and weeds and stuff that they had
22 barreled up.
- 23 Q. When that material was -- 55 gallon drums were
24 brought down and grass and weeds were put into those
25 drums, then this contaminated soil was put into

1 those drums, too?

2 A. That I don't know. I don't believe it was, no.

3 Q. Okay. Do you know how the contaminated soil was
4 handled?

5 A. No, I don't.

6 MR. KRIENS: Where it was disposed of?

7 THE INTERVIEWEE: No, I
8 don't.

9 MS. HAYES: Didn't the allegation imply
10 that the back hoes went in there to sort of bury the
11 soil, wasn't that sort of the --

12 MR. BERGER: Yeah, I guess we can say
13 that, for what it's worth. The allegation is, is
14 that the spill was never cleaned up. It was just
15 left there and that soil was brought in through the
16 back of the dike and it was just dumped on top of
17 the spill.

18 MR. KRIENS: In part, right. And then
19 there was also the allegation that, which was that
20 part of it that was cleaned up, was dumped or
21 disposed of in the woods just above the base of the
22 river bluff, that there were soils, contaminated
23 material from the spill disposed there. And
24 apparently, the allegation also continued that there
25 were some concerns raised by Koch staff about this,

1 about these soil piles in the woods. And that Koch
2 then came in and bulldozed these soils over and
3 covered them up.

4 MR. ESPEL: Those are allegations.

5 MR. KRIENS: That's an allegation we
6 have received.

7 MR. ESPEL: We don't know what the
8 source of that is. That's not information that we
9 have. That's just, somebody said something to them
10 that we don't know who has said that. We don't know
11 if there's any basis for that whatsoever. I guess
12 they're just trying to find out if you know anything
13 that sounds anything like that.

14 MR. KRIENS: Absolutely, it's only an
15 allegation, something that somebody has told us. We
16 don't have any --

17 THE INTERVIEWEE: This was supposed to
18 have been back in the fall of '93?

19 MR. BERGER: '93, late '93, early '94,
20 is what we've been told.

21 THE INTERVIEWEE: I didn't -- I can't, I
22 can't say.

23 EXAMINATION BY MR. BERGER:

24 Q. You specifically remember the spill, though, but can
25 you put a date on it?

- 1 A. No.
- 2 Q. Does that seem right to you about that time that
3 we've mentioned, '93, late '93, early '94?
- 4 A. I think it was in the fall of the year when they had
5 it. Those two tanks are used as flush tanks for our
6 asphalt line. So they do hold product and stuff, so
7 that would be about right. That may be in the end
8 of our asphalt season or barge-loading season for
9 the use of that line.
- 10 Q. And you can't specifically recall the personnel that
11 were involved in the cleanup or the supervisor of
12 the cleanup? Can you tell me any staff?
- 13 A. The only -- our hazmat crew normally worked with an
14 environmental person. I think at that time, I'm not
15 sure who that environmental person, whether it was
16 Sue Siebenaler, but she worked closely with our
17 hazmat crew. But those people also were under the
18 control of the products handling department
19 managers. They reported to that group. They were
20 more on loan for the everyday work on that so -- but
21 as far as who supervised on a continuous basis, no,
22 I've got no idea.
- 23 You've got to remember that we're not, the
24 supervisors weren't working strictly days. We were
25 working days and nights, and you may end up with a

1 week off to where you're not even here for a week.
2 So what they've done in between that time, you don't
3 know. You may come in, and I remember the spill and
4 stuff, but I may have came back to work on the tail
5 end of it, as far as the tail-end cleanup. So I
6 don't really know a lot of details of how it was
7 cleaned up and stuff.

8 MR. BERGER: That's all I have on that.
9 That's the only thing I needed to talk to Denis
10 about.

11 EXAMINATION BY MS. HAYES:

12 Q. Denis, were you involved in any other kind of event
13 that would be similar to that sort of thing at the
14 barge docks?

15 A. Yeah.

16 Q. Can you describe any, anything else that --

17 A. We would have been, as far back as '85, I think is
18 when it happened. We had another spill down there.
19 There was fuel oil that had leaked out down there
20 that was reported to the Coast Guard. It was
21 discovered one night when the Coast Guard was in,
22 and we had discovered it. And I know we had worked
23 on that one for quite awhile to get that cleaned up
24 and stuff, but that was, the response was right
25 away.

1 That night I was a supervisor on shift, it
2 was -- no, as far as I was concerned, there was no
3 reported approximate gallons, or whatever the spill
4 was, because I couldn't really estimate that. At
5 that time, my concern was getting equipment down
6 there to get it vacced up and stuff. And I know we
7 did receive hearsay and stuff from the Coast Guard
8 that our response was real good. They really
9 appreciated the quick response on it at that time.

10 That was an ongoing cleanup, too. But that
11 was basically, they cleaned up the area, they took
12 the soil out and stuff down to where they had to.
13 Then they laid back clean soil back in where the
14 actual spill was, and then they put in monitors and
15 wells.

16 Initially, we put in sand points down there
17 and ran the manifold and stuff and pumped the
18 product out that way, so -- and then they put in a
19 permit system, drain system that they used for two
20 to three years after that to remove the product, so
21 --

22 Q. So you were like the first responder on that one, it
23 sounds like?

24 A. Right, I was the supervisor on shift. And I had
25 went down with the Coast Guard to inspect. We had

1 an outside tow in, because we used to load a lot of
2 barges back at that time. So we were on a regular
3 basis with the Coast Guard and this was discovered
4 by the Coast Guard. And I went down there, when we
5 were coming back is when it was we had smelled
6 something.

7 Further investigation, we found that it was
8 back beyond some pipe and stuff by a set of pumps we
9 have down there. So it basically hid from the road
10 where you couldn't see. It even during daytime
11 driving by it, you wouldn't have ever saw it.

12 Q. So during your employment here, have you gone
13 through spill training or that kind of --

14 A. Yes.

15 Q. -- emergency response training?

16 A. Yep. I went through spill control school down in
17 Galveston, a week-long school.

18 Q. And that was because you were in the capacity as a
19 supervisor of the area you were in?

20 A. In the area we were in, this was in -- I can't say
21 exactly when I went through it, but it would have
22 been early '90s when I went through it. As far as
23 more getting into the area and stuff, as far as
24 correct booming and areas and stuff and large
25 spills, is what it was for.

1 Q. Did you ever, in any of your training, get into the
2 protocol about notification beyond the Coast Guard;
3 for example, environmental agencies and that type of
4 thing, Denis?

5 A. Back when I was a supervisor and stuff, we made one
6 call, and that was to the National Response Center.
7 That's all we made when we were on shift. And then
8 however it was notified after that, however the MPCA
9 got involved after that, I don't know. But as a
10 supervisor, that was our one call that we made. We
11 used to go through and we used to contact the Coast
12 Guard and the National Response Center. We used to
13 contact the MPCA and everything else, then they
14 finally said, no, one number and that's it.

15 MR. KRIENS: Do you mean the National
16 Response or the Minnesota duty officer or is that --

17 THE INTERVIEWEE: It was a National
18 Response in Washington on off-hours is where it went
19 to.

20 MR. KRIENS: And then at the same time,
21 I would presume, notify the environmental department
22 here or is that part of it?

23 THE INTERVIEWEE: No, not back then, no.
24 They basically, I think back in the, you know, late
25 '80s and stuff, we basically turned it into there

1 and then they picked up on it the next day, right
2 away.

3 MS. HAYES: Are you talking about
4 spills limited to the river here, Denis, or --

5 THE INTERVIEWEE: No, I'm talking any
6 spill in the plant.

7 MS. HAYES: Okay.

8 THE INTERVIEWEE: Well, that pertained
9 to the area where I had responsibility over. As far
10 as the tank farms, like that, everything was turned
11 in and there was times that the Coast Guard kind of
12 wondered why we were reporting something up here in
13 the refinery when it didn't really concern them, but
14 that was the protocol we had at that time. We
15 notified the respective departments that we needed
16 to. That's when we found out that at two o'clock in
17 the morning, you don't call the local fire marshal
18 up. They don't appreciate that.

19 MS. HAYES: Okay. Thanks.

20 MR. BERGER: Just one more question on
21 clarification.

22 EXAMINATION BY MR. BERGER:

23 Q. Can you tell me, in general, Denis, if there was a
24 spill and soils were contaminated, how those soils
25 were handled? Who made sure that they were drummed

- 1 up, or were samples taken? Who moved them to
2 wherever they were going to be shipped offsite for
3 disposal? Do you know any of those details?
- 4 A. I would assume that would be all under, through the
5 environmental group that worked with them because,
6 you know, basically they're the ones qualified to do
7 that. I don't think, I myself, I'm not qualified to
8 say where it goes, where it needs to get disposed
9 of. And that position goes to our environmental
10 group.
- 11 Q. I understand that, but do you know the personnel
12 involved in that or --
- 13 A. There was over time -- there was, I mean, I think it
14 started out with six people. Now, we're down to two
15 people. I mean, people have moved through. Some
16 are still with us, some aren't.
- 17 Q. Can you tell me the names of some of those six
18 people?
- 19 A. Ray Cradle, Perry Lego, John Jeske, Terry Fous, Don
20 Perron and, I think, Howard Thompson were the
21 originals in the hazmat group.
- 22 Q. Would they have been working during this time of
23 this '93, '94 spill?
- 24 A. I don't know exactly who was working at that time.
25 I mean, some of them are still here. At what time

1 they reduced the group, I don't know.

2 MR. BERGER: That's it for me.

3 EXAMINATION BY MR. KRIENS:

4 Q. You mentioned Ray Cradle as one of these?

5 A. Yeah.

6 Q. Just one general question on the spills. We
7 received an allegation -- again, which we don't have
8 any foundation for -- just an allegation that Koch
9 employees involved with spill response and cleanup
10 were advised to minimize the volume to less than
11 five gallons so that it wouldn't need to be
12 reported. And again this is an allegation only. If
13 you -- did you know of any policy, unwritten policy,
14 that was generally understood that you needed to
15 follow?

16 A. I can only speak for when I was there and before we
17 were basically moved out of the reporting area and
18 stuff. But up until that time, no, we had a policy
19 to report everything. What transpired after that,
20 after the No. 1 went on shift and took over the
21 control of the shift, I've got no idea.

22 Q. But in your experience you had to follow the
23 five-gallon requirement for petroleum and so on?

24 A. Right.

25 Q. Okay. Have you been involved in the safety

1 department with activities concerning flushing of
2 the hydrants, discharge of water through the hydrant
3 system?

4 A. Yes.

5 Q. We're interested primarily in a series of discharges
6 that occurred in 1996 and 1997, where the hydrants
7 were used to discharge wastewater. And are you
8 aware of those activities?

9 A. Right.

10 Q. Which ones do you know of or were you involved with
11 or at least that you're aware of?

12 A. Well, there's two of them that, I guess, I'm aware
13 of. And one is down at the north lagoon where we
14 had pumped out of the north pond and went back into
15 the pond. We had also, there was another one that
16 was set up, that was set up over the weekend. I
17 wasn't here so I don't know exactly who did it or
18 anything else, it was more of a hearsay deal of what
19 they did.

20 We did flush hydrants in the fall of '96, and
21 our main purpose there was to try to get a good
22 flush on the systems. We did flow it at the south
23 flares. I also flowed it down 10th Street. I also
24 flowed it on C Street and also down at our fire
25 training ground. We did both ways, and I think we

1 flowed for about 20 minutes at that time.

2 Q. Was that flowing for the purpose of flushing and
3 winterization that you've talked about there?

4 A. Right.

5 Q. I'm talking about specifically about discharge
6 through the hydrants to land areas, not for the
7 purpose of winterization or flushing, we are aware
8 of those requirements. But specifically, these
9 other episodes where it was done to get rid of
10 water, like the one over the week you referred to.

11 A. That one was, they had used one of our pieces of
12 fire equipment on that one. They had flowed water,
13 we had levels in both ponds. We were at the point
14 we had to move water.

15 MS. WIENS: Which one are we talking
16 about? Which one are you talking about? What is
17 the date on that?

18 THE INTERVIEWEE: I don't know what date
19 it was. I think it was one in early January. I
20 think, it was one that --

21 MR. KRIENS: January of '97?

22 THE INTERVIEWEE: Yeah, I think that's
23 when it was.

24 EXAMINATION BY MR. KRIENS:

25 Q. That was one that was on the weekend. During that

- 1 time, we did receive notification of that one. That
2 was the first one we received notification for,
3 there was about 2.88 million gallons released over a
4 long period. I'm not sure right now, if I looked
5 back at, it I think it was 12 hours or more or 24.
6 Would that be a common, would the purpose of that
7 have been to winterize hydrants at that time for
8 that period of time?
- 9 A. No, no.
- 10 Q. Are you aware of that one that occurred November 3,
11 November 4 of 1996, this would have been a hydrant
12 discharge during the night?
- 13 A. The only one I can think of is when we discharged
14 hydrants in the west tank farm into our storm water
15 pond over there.
- 16 Q. This would be onto land areas in the west --
- 17 A. No.
- 18 Q. Okay. And that occasion, the November 3 and 4 of
19 '96, was for the purpose of getting rid of water in
20 the log, and it did go to the west tank farm land
21 area, according to our logs and other information;
22 do you know anything about that one?
- 23 A. The November 3rd?
- 24 Q. Right.
- 25 A. No. Because we had the one time -- and I can't say

1 what that date -- by the time that I was involved
2 with it and stuff, we had run the hydrants. There
3 might have been some to hit the ground because we
4 flowed off the monitors into the ditch that ran into
5 the storm pond over there, and basically it was to
6 try to contain the water, maintain water levels and
7 be able to contain what we have.

8 Q. This would have been for the purpose only to get rid
9 of water. And we talked to others here, including
10 the person that was responsible for that incident,
11 that it was done on land to get rid of water. But
12 my understanding is you don't know about that one.

13 A. Not that one, no.

14 MR. KRIENS: I think that's enough. I
15 think we're finished. We appreciate your answers.

16 MS. HAYES: Thank you, Denis.

17 MR. BERGER: Thank you.

18 (WHEREUPON, the interview concluded at
19 approximately 11:10 a.m.)

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25

1 STATE OF MINNESOTA

CERTIFICATE

2 COUNTY OF HENNEPIN

3

4

I, KIMBERLY J. HORMANN, hereby certify that I reported the interview of DENIS BILDERBACK on the 20th day of November 1997, in St. Paul, Minnesota.

5

6

That I was then and there a Notary Public in and for the County of Hennepin, State of Minnesota;

7

8

That the foregoing transcript of 23 pages is a true and correct transcript of my stenographic notes in said matter, transcribed under my direction and control;

9

10

That the cost of the original has been charged to the party who noticed the deposition, and that all parties who ordered copies have been charged at the same rate for such copies;

11

12

13

That I am not related to nor an employee of any of the attorneys or parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in the outcome of the action and have no contract with the parties, attorneys or persons with an interest in the action that affect or has a substantial tendency to affect my impartiality;

14

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17

WITNESS MY HAND AND SEAL this 5th day of December, 1997.

18

19

Kimberly J. Hormann
Notary Public

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