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**INTERVIEW OF:**

**RUTH ESTES**

**TAKEN OCTOBER 31, 1997 AT 10:25 A.M.**

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**ORIGINAL**

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INTERVIEW OF RUTH ESTES, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 10:25 a.m. on Friday, October 31, 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

BYRON A. ADAMS

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

## I N D E X

## EXAMINATIONS:

By Mr. Kriens: page 11, 21, 26, 48

By Ms. Hayes: page 5

By Mr. Berger: page 62

By Mr. Adams: page 19, 22, 45

KOCH JOB HISTORY: page 5

COXER POND DIKE: page 8

SPILL NOTIFICATION: page 13, 17

API OVERFLOWS: page 22

HYDRANT FLUSHING: page 26, 43

AMMONIA LEVELS: page 31

GREEN WATER: page 65

MERCURY SPILLS: page 81

1                   MR. BERGER:     Just a little bit of an  
2                   introduction here, Ruth. As you are aware,  
3                   MPCA is conducting a civil investigation that  
4                   is focusing on Koch Refining's operation and a  
5                   variety of environmental related situations  
6                   that have developed since an inspection by the  
7                   MPCA here in April of this year. We were  
8                   seeking your cooperation in obtaining some  
9                   information regarding these situations. At  
10                  this time you do not have to answer these  
11                  questions if you do not want to, this is  
12                  voluntary by you, you are not obligated to do  
13                  it.

14                 THE WITNESS:     Uh-huh.

15                 MR. BERGER:     The information we  
16                  obtain in this investigation may be used in an  
17                  administrative, civil or criminal enforcement  
18                  action. The MPCA is free to choose one of  
19                  these actions, and if we choose one it does  
20                  not preclude us from choosing another one in  
21                  the future. Any questions about that  
22                  information?

23                 THE WITNESS:     No.

24                 BY MS. HAYES:

25                 Q.           Ruth, my name is Mary Hayes and I work for the

1 Minnesota Pollution Control Agency in the  
2 division of water quality. Would you be  
3 willing to state what your position was with  
4 Koch, how long you were here, especially about  
5 the past five years what your position or  
6 positions were and basically what that means  
7 your responsibilities were.

8 A. Uh-huh. In regards to the past five years,  
9 say 1991 approximately, I was working with the  
10 safety department at Koch as a -- it was  
11 termed assistant safety chief, but actually it  
12 was just regular safety officer with a  
13 glorified name. I worked that position for  
14 approximately two years and went to be an  
15 operations supervisor, operations shift  
16 supervisor.

17 Q. When did you become operations shift  
18 supervisor?

19 A. I would venture to say that was probably '93,  
20 maybe November.

21 Q. And that was your capacity until you left?

22 A. That was my capacity when I left.

23 Q. When did you leave?

24 A. July of this year, '97.

25 Q. And in that capacity your responsibilities?

1       A.     As safety or --

2       Q.     Could you give us both?

3       A.     Okay. For safety you were responsible for

4             emergency response in the plant. You would

5             give safety training, you would maintain

6             equipment, trucks, hydrants, fire systems, et

7             cetera, et cetera, respond to medical

8             emergencies, train employees.

9       Q.     And then in your latest capacity?

10      A.     As operation shift supervisor initially you

11             start out that's called junior shift

12             supervisor, or used to, which essentially you

13             are in training at that point along with your

14             partner. At that time there were two people

15             on shift on off hours who would be for all

16             practical purposes plant manager in off hours.

17             You are in charge of running the plant and

18             balancing systems and taking care of whatever

19             came up, following guidelines as far as your

20             specs go, fulfilling any kind of enforcement

21             issues as far as personnel or safety or

22             environmental. One of those jobs was

23             environmental reporting. If it was an

24             environmental incident we would be notified

25             and our directives were to call the

1 environmental on call engineer, go down, get a  
2 report, fill it out, pass on that information  
3 to management as soon as possible. Worked a  
4 lot with the environmental engineers as far  
5 as, you know, what's reportable, what isn't.  
6 Generally speaking we erred on the safe side,  
7 kind of a cover our butt system. And if in  
8 doubt you talk to the environmental engineer.  
9 We always had a list who was on call.

10 Q. Okay, thank you. I'm going to start off  
11 talking with you about the areas of overflows,  
12 coker pond overflowing and the B5 and north  
13 pond overflowing. I'll start by saying that a  
14 memo you authored, and the number is 1469, the  
15 date is February 23, 1997. A quick note,  
16 storm water inventory lower, spray irrigation  
17 technique, lower lagoon may be easier to get  
18 approved. The logistics are good for pumping  
19 over. Coker ponds are high, second pump over  
20 pressure, sewer by tank 500. Dike coker ponds  
21 road with coke fines if needed. Railroad  
22 comes unglued if it gets to their ditch. Let  
23 me ask you about the last part of this first.

24 A. The technical terminology.

25 Q. Yeah. So basically it sounds like you're

- 1           suggesting that a dike be built?
- 2       A.     Yes.
- 3       Q.     Because ponds were getting high?
- 4       A.     Right. What would happen is on occasion,  
5           especially during storm conditions, we  
6           wouldn't be able to keep up with the coker  
7           pond capacity. I imagine you're somewhat  
8           familiar with our issues down there with  
9           trying to get it cleaned out and not having a  
10          lot of capacity. If you had big storm it all  
11          comes down there and it would just be a  
12          containment issue. You don't have enough pump  
13          to get rid of it at that time because you  
14          don't have the capacity to hold it. You know,  
15          just too much coming at you to get rid of the  
16          same amount coming in. So at that time what  
17          we would do on occasion is talk with the coke  
18          loaders, and -- are you familiar with the coke  
19          piles down there? I would ask them if they  
20          would put up a quick dike across the road so  
21          it didn't actually hit ground and it stayed  
22          contained.
- 23       Q.     So case by case?
- 24       A.     Yeah, it was temporary. It was one of these  
25          deals where, you know, it was pouring at 3:00

1 in the morning and you know they're getting  
2 high, so rather than have it go across and go  
3 in the ditch and hit the ground and  
4 contaminate the ground you would build a  
5 little impromptu dike there for the time being  
6 until you pumped it off.

7 MR. ADAMS: So it would be on the  
8 west side of the ponds across the two  
9 railroads tracks there?

10 THE WITNESS: Right, yeah.

11 BY MR. ADAMS:

12 Q. You could keep it from overflowing the ponds?

13 A. Right, and going into the railroad. That's  
14 plain ground there, that's going to soak.  
15 That would have an environmental impact, where  
16 if you can keep it on the paved area at least  
17 you aren't having that kind of impact.

18 BY MS. HAYES:

19 Q. And the railroad isn't coming unglued either?

20 A. That's true. Needless to say there were some  
21 instances in the past, which I'm sure were  
22 reported anyway, that it did go over a few  
23 times and the railroad would be very  
24 concerned. They would throw people down there  
25 doing switches and they don't know what's in

1           there, all they can do is see there's  
2           something there. We would do everything we  
3           could to minimize that.

4       BY MR. ADAMS:

5       Q.     Did it ever occur in the winter where water  
6           would overflow and freeze and you have like an  
7           ice skating rink out there?

8       A.     No, I've never seen that happen. Usually in  
9           the winter we have a little better handle on  
10          maintaining our balances. You don't have the  
11          tremendous thunder storm type of situation.  
12          So you wouldn't have that right now,  
13          incredible flow that you do during a storm  
14          situation.

15       BY MR. KRIENS:

16       Q.     It's easier to manage the water levels in the  
17           coker ponds?

18       A.     In the coker ponds, right.

19       BY MS. HAYES:

20       Q.     How often did it happen that there were dikes  
21           preventively put there and it ran over like  
22           that, how often do you recall that happening?

23       A.     I can't remember any time in the -- let's say  
24           in the past two years, since we started  
25           implementing that kind of by the seat of your

1 pants when you have to, I don't recall it  
2 going over. I'm not saying it couldn't have,  
3 but at least on my shift I'm not aware of it.

4 BY MR. KRIENS:

5 Q. But other times, you mentioned a few instances  
6 where it did?

7 A. Yeah, and I'm not sure of the exact time frame  
8 of that.

9 Q. Was there one in particular where the railroad  
10 became very concerned?

11 A. Yeah.

12 Q. Apparently there was a fairly sizable one?

13 A. Uh-huh.

14 Q. And they wouldn't go into the area?

15 A. Yeah.

16 Q. Could you describe that particular event?

17 A. I can't describe it in depth. I mean, I  
18 recall, vaguely recall the situation, but I  
19 was not directly involved in it. Rather than  
20 give you any bad information I would have to  
21 say whatever you have reported would probably  
22 be your best documentation on that one.

23 Q. I don't know if we did get a report on it  
24 actually.

25 MR. ADAMS: Not that I know of. The

1 most recent report was when there was a 12  
2 inch rain out here, whatever the quantity was,  
3 and that was probably this summer, and that  
4 was reported.

5 THE WITNESS: This was a couple  
6 years ago at least.

7 MS. HAYES: Here it is (indicating).

8 BY MR. KRIENS:

9 Q. This is from September of '94?

10 A. That could be. It was a while back.

11 MR. ADAMS: What does that say, Don?

12 MR. KRIENS: That says there will be  
13 a pump moving water from ditch west of coker  
14 pond into the coker pond. Railroad will not  
15 make any switches until the ditch is cleaned  
16 up. After water is pumped out the weeds will  
17 be removed from the contaminated area. This  
18 was a waste water treatment plant log.

19 MS. WIENS: What was the date and  
20 number?

21 MS. HAYES: The date is  
22 September 14, '94, no number.

23 BY MR. KRIENS:

24 Q. You mentioned the environmental department  
25 would be notified of these instances, and do

1           you know what action was done to clean this  
2           one up other than removal of the weeds?

3       A.    No, I don't exactly. I wasn't personally  
4           immediately involved in that one.

5       Q.    To your knowledge was it a fairly big one  
6           since the railroad would not go into the area?

7       A.    It was very unsightly, but I don't know  
8           quantity-wise. It was unsightly. I know  
9           there was some remediation taken, but to what  
10          extent I don't know.

11       BY MS. HAYES:

12       Q.    Did you say when we were talking about when  
13           this happened how often it happened, did you  
14           state that you were sure we were notified, is  
15           that what you said earlier?

16       A.    Well, I personally didn't notify you, so I  
17           guess I can't state that I know for a fact.  
18           Our guidelines would suggest that you should  
19           be notified. Like I say, on my shift you  
20           would have been.

21       Q.    Who on your shift would have notified us, you?

22       A.    Yeah, if I would have been on. The chain  
23           which we would go through is I would call the  
24           environmental engineer on call and they would  
25           make the all notifications. I suspect that is

1 more than likely what's referred to in that.

2 MS. HAYES: Does that go across the  
3 board for any type of overflow or spill?

4 THE WITNESS: Right. When in doubt  
5 call environmental. A lot of that is just a  
6 case of covering ourselves because we aren't  
7 experts, you know, and we're much better off  
8 contacting them and waking them up at 2:00 in  
9 the morning for essentially nothing than not  
10 reporting it and having it come back around on  
11 you.

12 BY MR. KRIENS:

13 Q. Were you involved in any other spills of any  
14 nature where you actually were involved with  
15 the cleanup part of it?

16 A. Yeah. As a matter of fact, I've been involved  
17 in a few with the waste water and was involved  
18 with the cleanup. We had an API overflow. I  
19 wish I had a better memory as far as the time  
20 frame, but it was approximately this spring.  
21 I was actively involved in that. That was off  
22 hours. We had hazmat out that night and had  
23 them start cleaning up the gravel and so on  
24 and so forth. It was standard procedure that  
25 we followed through on that, or at least made

1           sure -- you know, depending if -- let's say if  
2           it was 20 below and nothing was going  
3           anywhere, you know, we might wait until the  
4           day shift and people came in to do it, but  
5           that would be taken care of. If it was any  
6           kind of soaking condition you had to take care  
7           of it right then.

8       BY MS. HAYES:

9       Q.     Explain what that means, take care of it.

10      A.     Well, number one, call environmental, the on  
11           call engineer. We would at that point call  
12           the hazmat crew and have them come in. They  
13           were licensed and knowledgeable in that, and  
14           essentially it was up to them. From the point  
15           they were contacted and shown where it was,  
16           they take care of it from that point on. They  
17           were under the direct supervision of  
18           environmental.

19      Q.     So when you were in the safety department you  
20           also discovered overflows or that kind of  
21           thing back then, too?

22      A.     One of the things you did in the safety  
23           department, too, you were, quote unquote, a  
24           rover, so part of what you did was keep your  
25           eyes open and report any unusual conditions

1 and act on them. So in that case I guess any  
2 coke employee is expected to do that, if they  
3 see something unusual to contact management of  
4 some sort and get the process going.

5 Q. I think yesterday Eric Thraen stated safety  
6 wasn't responsible for spill reporting, I  
7 thought that's what he stated.

8 MR. KRIENS: Observation or response  
9 part of it maybe. The reporting -- internal  
10 reporting perhaps, but it sounds like anybody  
11 might have some responsibility for that.

12 THE WITNESS: Absolutely.

13 BY MR. KRIENS:

14 Q. If you observe it, report it to hazmat or  
15 whoever is responsible for cleanup and also to  
16 the environmental department?

17 A. Uh-huh. As far as that goes if a contractor  
18 driving through here and they see an unusual  
19 or dangerous condition they are expected to  
20 report that immediately. You can pretty much  
21 tell if something is pouring over somewhere  
22 it's not supposed to be doing that.

23 BY MS. HAYES:

24 Q. I guess I'm interested in knowing, you know,  
25 what kind of training, what kind of protocol

1 in general there is for spills.

2 A. Oh, okay.

3 Q. I think you've stated what it was for you when  
4 you were shift supervisor.

5 A. Yeah, and also we had our continuous training.

6 Q. What would that entail?

7 A. Basically for OSHA and process safety training  
8 mandated where you went through X amount. One  
9 of those, in fact, was a hazmat type of  
10 scenario that as an employee here you had to  
11 go through on a regular basis. So you had to  
12 be aware of spills, you had to have a general  
13 idea of the response. You didn't have to be a  
14 certified expert to go in, but you certainly  
15 had to be familiar with guidelines as far as  
16 how Koch deals with them.

17 Q. Can you describe those a little bit? What do  
18 you mean by that?

19 A. The guidelines for a spill?

20 Q. Uh-huh.

21 A. Essentially I already did. You notify the  
22 environmental on call, the chain of command  
23 for notification on that in regards to the  
24 response. A lot depends on what kind of spill  
25 it is. Obviously if you have a gasoline spill

1           there would be safety implications as compared  
2           to some water spilling somewhere. Some of  
3           that would be just an emergency response  
4           knowledge and a background as far as how you  
5           would respond to that in an appropriate  
6           manner. If you have a gasoline spill you  
7           don't drive a car into it as an example. A  
8           lot of it was common sense, but there are  
9           written guidelines.

10                   MR. ADAMS:     If you have an idea of  
11           the quantity of the spill, the magnitude of  
12           the problem related to quantity, if it was a  
13           five gallon spill versus 50 or a hundred  
14           gallons, you would look at that and consider  
15           what kind of responsibility you had? Did you  
16           have a working knowledge what a reportable  
17           quantity range might be?

18                   THE WITNESS:    I had a relatively  
19           good idea of reportable quantity as far as  
20           hydrocarbon goes. Some of it -- well,  
21           actually most of it you would rely on the  
22           environmental on call engineer again. Let's  
23           say our hazardous waste, the waste water, that  
24           was always one of those where, you know,  
25           what's classified as hazardous and what isn't.

1           There was enough legalities there where you  
2           would call.

3       BY MR. ADAMS:

4       Q.     But you understood five gallons that was a  
5           hydrocarbon?

6       A.     Yeah. Once again, it was our directive if you  
7           have a spill you call. And it was the  
8           environmental on call person, they had  
9           ownership and responsibility for the actual  
10          decision on what was a notification and what  
11          wasn't. We don't have the expertise for that.

12      Q.     You were describing it for the environmental  
13           engineer on call and figure out between both  
14           of you what a reportable quantity would be?

15      A.     Uh-huh, uh-huh.

16      Q.     And the environmental engineer on call would  
17           be responsible for reporting this?

18      A.     Correct. And we could maybe give a little  
19           background, you know, where it came from, for  
20           instance in waste water, what part of the  
21           process, et cetera, et cetera. You know,  
22           whether it was cement or ground, you know, you  
23           have all the specifics. As far as the actual  
24           decision about what's a notification and what  
25           isn't, that wasn't our area of responsibility,

1           ours was to contact them.

2           Q.       In general those are people like Heather and  
3                   Eric Askeland and Tony Forman back a few years  
4                   ago?

5           A.       Uh-huh.

6           Q.       Those are some of the names I'm familiar with  
7                   that worked here.

8           A.       Right.

9           Q.       So those people would decide?

10          A.       And then if there was any doubt, say if you  
11                   were discussing hazardous waste down on the  
12                   waste water on their sludge issue, we were by  
13                   all means encouraged to call the expert in  
14                   that area because maybe your air quality guy  
15                   isn't your best resource for sludge in waste  
16                   water. We were familiar with who to call  
17                   about what if there was any kind of gray area  
18                   type of question.

19                   MR. VOYLES:     You mean like if the on  
20                   call person happened to be an air person you  
21                   try to reach Eric or somebody who you know had  
22                   the knowledge instead of the on call person?

23                   THE WITNESS:    Well, he would call  
24                   the on call person, you would notify them  
25                   because it's their responsibility at that

1 particular time to make that decision as to  
2 whether it's a notification or not. You know,  
3 usually you talk to that person, pretty open  
4 discussion, and if they say geez, I'm pretty  
5 sure, but it's really not my area, essentially  
6 let's talk to Heather or Eric or whoever. You  
7 know, you would get that process going, but  
8 you would still always have to report first to  
9 that on call just so you kept it chronologic.  
10 You start bypassing people and, you know, no  
11 one knows who is contacted.

12 BY MR. KRIENS:

13 Q. Was there any policy or understanding or even  
14 a directive from let's say management that  
15 spills should be minimized to less than five  
16 gallons so that wasn't reportable?

17 A. No.

18 Q. The reason I ask is because there was an  
19 allegation made that that was the case.

20 A. Absolutely not. The only reason I'm aware of  
21 that is I have a strong waste water  
22 background, number one, and as a shift  
23 supervisor you talk to environmental people,  
24 you know, to where --

25 Q. You know what's going on?

- 1       A.       You gather a layman's understanding. But no,  
2               there isn't any directive in any way, shape or  
3               form.
- 4       Q.       So would an 1,800 gallon fuel oil spill in  
5               your understanding be a reportable spill to  
6               us?
- 7       A.       God yes.
- 8       Q.       Or a 500 gallon gasoline spill?
- 9       A.       Yeah. That wouldn't even -- I guess that  
10              would be no element of doubt on something like  
11              that.
- 12      BY MR. ADAMS:
- 13      Q.       I guess a good case in point would be the API  
14              overflow you mentioned in late spring. It  
15              overflowed into a manhole I believe?
- 16      A.       Yeah, yeah.
- 17      Q.       And bypass piping goes from the API. And that  
18              was reported to us. I imagine the person on  
19              shift got ahold of the environmental engineer?
- 20      A.       I was on shift for that one. That was also  
21              one of those where -- you need that expertise.  
22              What do you call that? Is it water, is it  
23              oil? You've got a little bit of hydrocarbon,  
24              a little water. You know, is this five  
25              gallons? Well geez, I don't know.

- 1 Q. The sludge in the bottom of the API is  
2 hazardous waste?
- 3 A. Right, uh-huh.
- 4 Q. So like you saw water flowing out of that it's  
5 hazardous waste?
- 6 A. Right. And do you look at that as a total or  
7 do you look at that as well, if it went over  
8 it must have been water and oil and not  
9 sludge. That's well beyond my area of  
10 expertise and that's why we make the  
11 notification.
- 12 Q. You mentioned a couple other environmental  
13 incidents you dealt with. Could you mention  
14 those other than the API?
- 15 A. We had an overflow down at the centrifuge,  
16 there's a sump down there. That was probably  
17 within a month, within a relatively short time  
18 frame from the API one. What happened was the  
19 level indication on the sump was bad and  
20 overflowed. There is a little containment  
21 pit, and that filled up and it went over and  
22 did touch this surrounding ground. Same kind  
23 of thing, we ended up reporting that. There  
24 was a lot of cleaning up done on that. They  
25 dug up the whole area on that. There was a

1 big investigation by the company on that one.  
2 Q. Do you remember any other problems around the  
3 API? Some of the memos I have read in the  
4 past talked about sink holes developing and a  
5 crane fell, one of the crane supports fell in  
6 a hole and it was associated with a leak in  
7 the bypass pipe that goes from the API, which  
8 has subsequently been replaced. Is that  
9 something that you remember?

10 A. I saw some pictures. I heard about it. I  
11 wasn't directly involved in it.

12 MR. ADAMS: Okay.

13 MS. HAYES: I don't have anymore  
14 questions on overflows. Byron, do you?

15 BY MR. ADAMS:

16 Q. Not on the oily water. I was wondering if you  
17 remember any situations where tanks were being  
18 hydro tested and the water from the hydro  
19 testing were pumped over land and down to the  
20 lower lagoon, is that a situation you had any  
21 involvement on your shift?

22 A. I don't recall that.

23 BY MS. HAYES:

24 Q. Back real quickly to the memo that I discussed  
25 with you when I opened this up. There's a

1 discussion about the coker ponds overflowing  
2 onto the railroad, but there was other  
3 discussions prior to that. Let me find the  
4 memo. I'm wondering if you can tell us about  
5 that (views documents).

6 A. You have to read it to me again.

7 Q. Why don't you read it and tell me what that  
8 means before the underlined part of that.

9 A. (Views document) That meant we were having  
10 water inventory problems as far as high  
11 levels. Most likely B5, the lower lagoon, and  
12 the fire water system itself.

13 BY MR. KRIENS:

14 Q. What do you mean by the statement there lagoon  
15 or spray or irrigation technique?

16 A. Are you familiar with the lower lagoon?

17 Q. Yes.

18 A. It would have been for the logistics of how to  
19 get rid of the water, you know, quantity-wise.

20 Q. So what does it mean? You would discharge it  
21 to the lower lagoon?

22 MS. HAYES: Is that suggesting one  
23 possibility?

24 THE WITNESS: Right, right, as far  
25 as containment goes.

- 1 BY MR. KRIENS:
- 2 Q. But this has to do with the storm water
- 3 inventory, lower lagoon or spray irrigation
- 4 technique. Lower lagoon may be easier to get
- 5 approval. What does that mean? Does it mean
- 6 putting coker pond water there or storm water?
- 7 A. Storm water. The storm water and the fire
- 8 water system all tie in.
- 9 Q. Right.
- 10 A. And if we get pump limited or for some reason
- 11 limited in going over to the polishing ponds,
- 12 then we were essentially the fire pump
- 13 options, you know, as another one.
- 14 Q. So is that what you mean by the spray
- 15 irrigation technique?
- 16 A. Yeah.
- 17 Q. What would you do there?
- 18 A. Basically flushing out some hydrants out in
- 19 the tank farm.
- 20 Q. In order to get rid of the water?
- 21 A. Yeah.
- 22 Q. So would be using the hydrant system to
- 23 dispose of water?
- 24 A. Yeah.
- 25 Q. And that would come in this case -- in this

1 instance do you know which pond that would  
2 have came from, February 23?

3 A. Generally speaking we're using the -- we have  
4 two sets of fire pumps now, we have them both  
5 on the north and south side, and usually the  
6 primary is the north side, the old one, and in  
7 all probability it was coming from B5.

8 MS. WIENS: Do you know where it was  
9 coming from?

10 THE WITNESS: Not for a fact. It  
11 was all how the pressure control was set up.

12 BY MR. KRIENS:

13 Q. So you would pump water out of B5 via the  
14 hydrant to where? Where would it have been  
15 disposed off?

16 A. Somewhere in the outlining tankage area so you  
17 don't have problems with ice, et cetera, et  
18 cetera.

19 Q. On one occasion, I think January, it was  
20 flushed to the wetland, low area.

21 A. Oh, okay.

22 Q. I think they called it the runoff pond.

23 A. Yeah, that was done. I was on for that one.

24 MS. WIENS: Could we take a break  
25 for a second?

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

2 BY MR. KRIENS:

3 Q. So when you say spray irrigation technique and  
4 then go on to say lower lagoon may be easier  
5 to get approved, to get approved by who?

6 A. Environmental.

7 Q. The environmental department?

8 A. Yeah.

9 Q. So you're writing this to Rick Legvold and  
10 Brian Ruth?

11 A. I think I have Heather copied, don't I?

12 Q. Right. So would the environmental department  
13 then approve which way you dispose of the  
14 water?

15 A. We would ask for some direction on that.  
16 There was some discussion about that  
17 particular situation, you know, essentially  
18 what's the best way to balance the water  
19 system, and environmental was involved in  
20 that.

21 Q. In this particular time, February 23, why  
22 don't you just discharge it to the river via  
23 the normal -- to the polishing pond?

24 A. This is an example where we could get in some  
25 problems with our water balance. You have X

1 amount of pumps going across. One scenario is  
2 you could basically be wide open and still be  
3 high.

4 Q. Be high? The flow?

5 A. In your water levels.

6 Q. Okay. I'm not following you.

7 MS. HAYES: I'm not either. You say  
8 you could be wide open but you could still be  
9 high, wide open --

10 BY MR. KRIENS:

11 Q. In other words you had a closed flow through  
12 the pump out of S7?

13 A. But still have a rising level is possible.

14 Q. As one possibility anyway?

15 A. Uh-huh. Or another example, let's say you  
16 have some pumps down for maintenance, you  
17 might be limited there as far as how many  
18 pumps you have available for you down there.  
19 Any number of possibilities.

20 Q. In February I notice -- I don't want to take a  
21 lot of time to run through the logs, but --  
22 well, anyway, assuming that the S7 -- that  
23 there was plenty of flow, because my  
24 understanding is I think we looked into that  
25 flow constriction, and I think it was actually

- 1           capable of pumping quite high flows, I think  
2           it was up to well over seven million gallons a  
3           day.
- 4       A.     I think we can get five.
- 5       Q.     Yeah. And usually the plant flow is, you  
6           know, a couple million or thereabouts,  
7           somewhere in there, and I'm talking about the  
8           actual sludge flow, and then you have the  
9           storm water flow coming in there, too.
- 10      A.     Right.
- 11      Q.     Let me back up. What does to 1.0 units mean  
12           when they say dropped to 1.0 flow over the  
13           polishing pond?
- 14      A.     The equation there, it's a GPM per unit  
15           equation. I would have to be guessing right  
16           now.
- 17      Q.     The reason I bring it up is in the operator  
18           logs they bring that up and in memos, too,  
19           that it dropped to 1.7 units, dropped to 2  
20           units, sometimes it dropped to no flow through  
21           the polishing ponds because the ammonia level  
22           was high going out in order to accommodate  
23           that. So it appears to me at least that on  
24           most occasions that I've seen in the reports  
25           and in evaluating the pumping capacity that

1 usually they could accommodate almost any flow  
2 over the polishing ponds. Maybe we could get  
3 into that analysis, but that's why I wanted to  
4 bring it up, because it appears to me a lot of  
5 times they actually restricted the flow from  
6 the waste water plant which would leave a lot  
7 of flow available from the B5. That's why I'm  
8 wondering, instead of flushing it out on land  
9 talking about it here (indicating), why  
10 wouldn't it just go through -- over the  
11 polishing pond?

12 A. We have had some scenarios with high ammonia  
13 that I am aware of where they restricted  
14 there, and the net result was a high water  
15 balance.

16 Q. Right. And that gets into the scenario where  
17 they so-called stacked water, where you would  
18 have high ammonia levels in the polishing  
19 pond, perhaps high ammonia in S7, so you back  
20 it up to the B5 pond because of the high  
21 ammonia levels.

22 A. Right.

23 Q. In February of '97 there were three days,  
24 February 25, 26 and 27, where the water was  
25 flushed out from hydrants three days in a row

1           toward the end of the month. In that month  
2           the ammonia levels were really quite high and  
3           they were having a lot of difficulty meeting  
4           limitations. In fact, they were bumping right  
5           up to the edge. I don't have the numbers to  
6           do the math balance, but it looks a little bit  
7           suspicious. Do you know why it was done these  
8           three days?

9       A.     As a matter of fact I happened to be on shift,  
10           I believe day shift over that weekend, and  
11           that was where it was directed down into that  
12           wetland area.

13       Q.     I'm talking about the February 25, 26, 27, not  
14           the January one. The January one I think was  
15           a weekend.

16       A.     Okay.

17       Q.     I'm talking about February 25, 26, 27.

18                   MS. WIENS:     Do you know what days  
19           those are?

20                   THE WITNESS:    Off the top of my head  
21           without referring back to my schedule then,  
22           no. I would have to get any old schedule.

23       BY MR. KRIENS:

24       Q.     Do you have a schedule for those?

25       A.     Not handy. I could get a shift supervisor

- 1            schedule. At any rate, if you want to go on  
2            about what you are referring to.
- 3            Q.        Sure. Maybe we can try and get that shift  
4            supervisor schedule on those three days. We  
5            do have documents that show that water was  
6            flushed out in hydrants the next to the last  
7            days of the month. Do you know why that would  
8            have been done?
- 9            A.        Like I said, without looking at that, I'm  
10           familiar with the scenario, you know, some of  
11           the reasons and so on and so forth.
- 12           Q.        Was there discussion internally to get rid of  
13           water in order to maintain the ammonia  
14           limitation, to meet the limitation out of the  
15           waste water plant, out of the polishing pond  
16           discharge to the river?
- 17           A.        There was concern over the ammonia levels  
18           obviously.
- 19           Q.        But were there any discussions that you know  
20           of or you were involved with of people using  
21           the hydrants in order it make sure the ammonia  
22           limit was met out of the river?
- 23           A.        Yes.
- 24           Q.        Could you describe that one, those  
25           discussions, please?

- 1       A.       Actually myself, with my waste water  
2               background, we were in danger of violation at  
3               one point.
- 4       Q.       At what point?
- 5       A.       I would have to look back at my dates and  
6               stuff.
- 7       Q.       All right. Go ahead.
- 8       A.       At any rate, the term spray irrigation, I have  
9               a waste water background, a B license, and at  
10              any rate, if the options are going to the  
11              river and violating, which has a definite  
12              environmental impact, or basically doing the  
13              spray irrigation, if it's an ammonia issue I  
14              personally feel like it's more environmentally  
15              friendly.
- 16      Q.       When did that occur?
- 17      A.       It was last winter.
- 18      Q.       And you had discussions internally about that?
- 19      A.       Yeah.
- 20      Q.       Whether to go to the river?
- 21      A.       Yeah.
- 22      Q.       Would it have been the February time, do you  
23              know?
- 24      A.       God, I'm not sure.
- 25      Q.       When you talked about violation, was it a

- 1           monthly average ammonia? You mentioned you  
2           were in danger of violating the limit.
- 3       A.     I'm not sure if it was monthly or daily. I  
4           knew we were on the edge. I wasn't working  
5           directly out of that area, so on a daily basis  
6           I wasn't aware of the exact effect. I knew it  
7           was an issue, we had problems.
- 8       Q.     Who was involved in those discussions?
- 9       A.     Myself, Steve David, Heather, Brian Ruth.
- 10      Q.     What was the nature of it?
- 11      A.     The nature of the discussions was essentially  
12           I was in favor of it as far as being an  
13           environmentally friendly way to deal with it.  
14           The legalities I was not sure about needless  
15           to say. I talked to the environmental and  
16           Brian about it, and essentially they also  
17           viewed it as a gray area, you know, and  
18           planned on -- Heather was against it,  
19           unequivocally against it, she didn't have  
20           definitive stuff right there.
- 21      BY MS. HAYES:
- 22      Q.     Were there discussions about the merits of  
23           discharge over the weekend, how would that  
24           would be a better option?
- 25      A.     I was not involved in that whatsoever.

1 Q. Did you hear about that, though?

2 A. Yes, but I was not involved in those  
3 discussions.

4 BY MR. KRIENS:

5 Q. When you talked to Heather, Steve David and  
6 Brian Ruth and you were in danger, apparently,  
7 of exceeding the MPDS, the permitted discharge  
8 limitation for ammonia, then the decision was  
9 made to discharge on land in order to meet  
10 that so you wouldn't continue to put water out  
11 and exceed it.

12 A. No. Essentially that was tabled into -- we  
13 aren't quite sure where it stands, we don't  
14 think it's illegal per se, you know, by the  
15 letter of the law it was probably not illegal,  
16 and we aren't --

17 Q. I'm not talking about that part. You were  
18 facing a situation where apparently, as you  
19 said, it was going to exceed the limitation,  
20 so you met and then a decision was made in  
21 order to not do that, it was decided to spray  
22 it on land?

23 A. Uh-huh.

24 MS. WIENS: I think you are talking  
25 about January spray and she is talking about

1 prior conversations. Can you clarify for her  
2 the time frames?

3 BY MR. KRIENS:

4 Q. I'm not talking about in January, I just asked  
5 if there was any occasion when you met because  
6 of a concern of exceeding the limitation and  
7 decided to discuss this other option. And you  
8 mentioned sometime during the winter, but you  
9 weren't sure when.

10 A. Or it might have been early fall, too. It was  
11 a weekend, I was on midnights, and I remember  
12 I met with Brian, Steve David and Heather.

13 MS. HAYES: You think early fall of  
14 '96, is that what you're saying?

15 THE WITNESS: It could be.

16 BY MR. KRIENS:

17 Q. Is it possible it was about the first part of  
18 November?

19 A. Uh-huh, yeah.

20 Q. You're not sure if it was the first part of  
21 November, but it wouldn't have been a monthly  
22 average because that obviously would have been  
23 in jeopardy, it would have been a daily  
24 maximum?

25 A. Yeah. As far as the specifics on that, it

1 wouldn't be my job to track that.

2 Q. Okay.

3 MR. VOYLES: He's also asking if  
4 there was a decision made in that meeting.  
5 Was there a decision made in that meeting?

6 THE WITNESS: There was not a true  
7 decision made per se. As I recall it came out  
8 as long as we were not in direct violation, if  
9 we were not violating when we initiated it  
10 that it would not be, quote unquote, illegal.  
11 But, and this is a huge qualifier, it was also  
12 tabled that morning in the sense of everyone  
13 knew that no one had a thorough understanding  
14 of that specific situation and essentially  
15 Heather was directed to look into it further  
16 and come up with a guideline on it.

17 BY MR. KRIENS:

18 Q. When you say that as long as you were not  
19 violating, you mean violating at -- are you  
20 talking about violating the affluent limit at  
21 the time?

22 A. Right.

23 Q. Or violating some state or federal rule?

24 A. No, the affluent.

25 Q. So if you were not in danger of violating the

1 ammonia affluent at the time it was decided it  
2 would be acceptable then to --

3 A. Tentatively.

4 Q. To go ahead.

5 A. A big qualifier. This was not a definite yes,  
6 by all means, this is on the order of well,  
7 you know, right here and now from our  
8 understanding we don't think it is illegal,  
9 but we need to look into this a lot further.

10 Q. I understand that. We kind of have back and  
11 forth on that.

12 A. This was one of the seat of your pants, you  
13 know, 7:00 in the morning meetings and I'm  
14 saying I need guidelines on this and really  
15 starting to look into it.

16 Q. I understand. I'm trying to understand the  
17 circumstances of that situation. Apparently  
18 then the water was discharged on land after  
19 that?

20 A. Uh-huh, uh-huh.

21 Q. Whenever that was during the winter at some  
22 point because the standard was in jeopardy of  
23 being exceeded?

24 A. Because of that, and it was basically --

25 Q. But it wasn't being exceeded at the time?

1       A.       Right, right.

2                   MS. WIENS:     Did you understand what  
3       his question was about, why the fire water  
4       generally was discharged?

5                   THE WITNESS:    It has gotten a little  
6       confused here.

7       BY MR. KRIENS:

8       Q.       I was talking about the February one. I don't  
9       think we got to the January. I think Mary  
10      mentioned the January one, I don't think I got  
11      to that. To make it easier I'll go through it  
12      step-wise and start with one of the first ones  
13      we know about that we're interested in.

14                We had some logs we reviewed, the waste  
15      water treatment plant logs, the safety shift  
16      logs and memorandums that talk about the  
17      flushings here and there, so that's where we  
18      got the information, and in discussion with  
19      Koch staff. I want to talk about this in  
20      particular. In November of '96 the influent  
21      ammonia load to the plant was really very  
22      high. November 3 it was real high, high  
23      loads. I believe it was the second highest  
24      after December 22 ammonia load to the facility  
25      during the year and a half period, year and

1 five months or so we evaluated this. Barr  
2 Engineering actually evaluated it. I'll just  
3 run through some memorandums on this or  
4 operating logs. On October 24 Heather sent a  
5 memo to various people.

6 A. Do you know what day that was, what day of the  
7 week?

8 Q. Thursday. I don't see your name on them.

9 MS. HAYES: What was the date we  
10 were checking the day of the week?

11 BY MR. KRIENS:

12 Q. Thursday, October 24. So this is a memo from  
13 Heather that talked about the annual toxicity  
14 testing coming up, that testing will be done  
15 by an outside lab and so on, be sending river  
16 and final affluent samples to -- the sample  
17 collection will start the 4th of November and  
18 last through the 7th. It talks about that.  
19 On November 3 there's an operating log that  
20 talks about special ammonia testing on S7 for  
21 TSS and ammonia coming up with relatively high  
22 ammonia, the TSS 72, and the ammonia is 110.  
23 There is also a comment here that in the log  
24 drop off a copy of Heather's letter, referring  
25 to the October 24 letter, to the shifties for

1 toxicity sampling and testing starting Monday,  
2 November 4. Then there's a note they cut flow  
3 to the river from the waste water -- or from  
4 the affluent polishing pond to 1.7 units.

5 A. Okay.

6 Q. Then there's a November 3 memo from Dave  
7 Gardner that talks about the special testing  
8 results. Again, it mentions limit flow to  
9 river to two units, a comment that I hope  
10 these moves prove sufficient in light of  
11 tomorrow's annual toxicity testing. Then  
12 November 3 there's an operating log that  
13 states safety to open three hydrants on west  
14 tank farm on ground to help get rid of water.  
15 This occurred from about 7:00 p.m. that  
16 evening until 7:00 a.m. the next day, which  
17 would have been Monday morning.

18 A. That was probably when I had that meeting,  
19 that's my best guess. Strictly a guess.

20 Q. There isn't a notation in the safety logs  
21 about this discharge. Our understanding then  
22 is that the hydrant was flushed during that  
23 nighttime period to get rid of water. Were  
24 you involved with that incident?

25 A. I would have to look at my schedule, but that

1 is most likely what prompted that morning  
2 meeting.

3 MS. HAYES: What morning was that?

4 THE WITNESS: That would have been  
5 Monday morning.

6 BY MR. KRIENS:

7 Q. November 4. So that might have been the  
8 meeting at that time to try -- well, in the  
9 morning it would have been after the fact of  
10 the flushing?

11 A. Right, where I would have started it, you  
12 know, and probably passed that on and asked  
13 for guidelines as far as, you know, is this  
14 kosher or is it not.

15 Q. The flushing terminated 7:00 a.m. to my  
16 understanding, so at that time, or sometime in  
17 the morning you met Heather, Steve David?

18 A. Uh-huh. It would have been right after 7:00  
19 in morning. I don't know if I would say that  
20 in stone, 7:00 is exactly when it was turned  
21 off.

22 MR. VOYLES: Are you sure it  
23 happened that night before you asked the  
24 question, or could the meeting have occurred  
25 before that November time, do you know?

1                   THE WITNESS:     I don't know.  
2                   Without -- I don't have any notes on this  
3                   stuff, but, you know, just from memory, and a  
4                   lot of this is speculation as far as that's  
5                   probably when I met with those guys because I  
6                   don't have this written down. So it's a good  
7                   point, this is speculation as far as, you  
8                   know, we saying it was probably that Monday  
9                   morning that we met.

10           BY MR. KRIENS:

11           Q.     Did you make the decision to open and flush?

12           A.     Yeah.

13           Q.     Why did you do that?

14           A.     I did that because I was notified we had a  
15                   high level in the basins themselves.

16           Q.     What basins?

17           A.     B5 and south lagoon.

18                   MS. HAYES:     High levels of what?

19                   THE WITNESS:    Water.

20           BY MR. KRIENS:

21           Q.     Were you aware, though, that there was a  
22                   toxicity test beginning that morning?

23           A.     I don't know if I was aware there was a  
24                   toxicity test. I was aware we had been having  
25                   some ammonia issues, but I don't know that I

1 recall the specific toxicity test. I knew we  
2 had been fighting ammonia and had been over a  
3 period of time.

4 Q. Actually the log of November 3 says drop off a  
5 copy of Heather's letter to the shifties.  
6 Would that have been you at the time? Were  
7 you a shift supervisor then?

8 A. Yeah. What day was that?

9 Q. That would have been Sunday.

10 A. Yeah, that was my position. I don't know that  
11 I saw that or tied it together.

12 BY MR. ADAMS:

13 Q. Who would have notified you to spray? Would  
14 that have been environmental?

15 A. No, no. That would have been either the  
16 safety department or the waste water  
17 operators. They both keep an eye on those  
18 levels.

19 Q. So would they have ordered you --

20 A. They wouldn't have ordered me, it would have  
21 been my decision. It would have been  
22 basically our levels are high, we're about to  
23 go over, what the hell are you going to do  
24 about it.

25 Q. And you don't remember that morning meeting,

1 if it occurred in this incident or some other  
2 time?

3 A. I can't say absolutely unequivocally without  
4 having my own documentation here.

5 Q. Were you aware then that the Bioassay testing  
6 was deferred? Was that discussed in this  
7 meeting?

8 A. No, that wasn't discussed at all. It was  
9 strictly a legal issue.

10 Q. On the sprays?

11 A. Yeah. It may not have been.

12 Q. I'm wondering if that was a different time  
13 frame.

14 A. That wasn't discussed at all, it was strictly  
15 the legal and ethical implications of it and  
16 that essentially it needed to be studied a lot  
17 further.

18 Q. Were you ever involved or do you know of other  
19 meetings before November where yourself or  
20 company staff or environmental staff or  
21 whomever met to discuss this issue of the --  
22 not necessarily the legality, but the  
23 appropriateness of using the hydrants to  
24 dispose of water?

25 A. Just that one meeting I referred to, that's

1 the only one I personally was involved in.

2 Q. And you think that was winter?

3 A. No, I think that was probably late fall,  
4 somewhere in there.

5 Q. Okay. As a general question, was that done  
6 often, to lower the storm water pond levels?

7 A. No, it wasn't done often. It was basically a  
8 last ditch type of measure. It certainly  
9 wasn't a first response by any means.

10 Q. The other measures before that would be what?

11 A. Well, if you had room in the coker pond you  
12 could cut back that flow because that is  
13 contributing. You could always call around  
14 the plant and try to limit the water to the  
15 sewer, that would be another option. We had  
16 any number type of routine things that you  
17 went down. Doing something like that with a  
18 hydrant was strictly oh my God, it's going to  
19 go over the road type of deal.

20 Q. But in your experience with the waste water  
21 treatment plant you're aware of the ammonia  
22 problem, meaning the limitation and the  
23 difficulty they were having doing that at  
24 various times?

25 A. Yeah.

1 Q. And that's why, at least on this one occasion,  
2 you -- you're stating it was discharged on  
3 land because it was in jeopardy of exceeding  
4 the limit?

5 MS. WIENS: She hasn't said that.

6 THE WITNESS: Yeah, I was going to  
7 say. There would also be an inventory issue  
8 along with that.

9 MR. KRIENS: I'll go back to that  
10 other one.

11 MS. WIENS: Let's go off the record.

12 (Brief discussion off the record.)

13 BY MR. KRIENS:

14 Q. We talked about the February one and your  
15 understanding is the -- you're not aware of  
16 25, 26, 27 when it was flushed on land?

17 A. Like I said, I would have to get a calendar  
18 and look at my schedule and look back over the  
19 logs in the shifties office because frankly a  
20 lot of stuff goes on.

21 Q. Ruth, were you aware also of the problem with  
22 overflows of the oily water or the process  
23 waste water sewer into the clean water sewer  
24 or also called the non-oily water sewer?

25 A. Yeah, yeah.

1 Q. A lot of times this occurred near tank 500,  
2 where it apparently was somewhat of a  
3 continuous problem?

4 A. Uh-huh, yeah.

5 Q. How did the company respond to those problems  
6 in terms of -- what I'm talking about is what  
7 was done when it became apparent that it was  
8 going to the B5 pond?

9 A. Once again, it was a standard notification.  
10 There are a lot things you can do down at the  
11 waste water to minimize that effect. You can  
12 tie in the non-oily water with the oily water  
13 was a prime example, you know, cut back on  
14 your flow from the coker pond itself.  
15 Generally speaking that would block the issue  
16 there at that junction, so you had to keep an  
17 eye on that. The company I know did some  
18 studies on that with regard to which pumps and  
19 how much, you know, how much can we pump  
20 without it going over and how does it tie in  
21 with our coker cycles, why does it do this  
22 sometimes and other times it doesn't. And  
23 just as I was leaving they had a whole new  
24 manhole cover project going on down there.

25 Q. I think it's probably resolved now. When that

1           occurred did the flow from the oily water  
2           sewer -- it went into B5 when these overflows  
3           occurred primarily? That's where the pipeline  
4           goes.

5       A.     Right.

6       Q.     Was that water ever tested in that north pond  
7           to find out if that was contaminated as a  
8           result of that?

9       A.     I think they were testing B5 on a fairly  
10          regular basis. As least back when I was  
11          operating there they did. I'm not sure  
12          exactly of their standards now. That would  
13          also show up on -- you know, with the way it  
14          ties in that would show up in your S7 samples  
15          anyway as far as your total affluent.

16      Q.     It would show up for the parameters tested?

17      A.     Right.

18      Q.     It wouldn't necessarily show up for all  
19          possible parameters there because that wasn't  
20          treated through the waste water plant then  
21          because it would actually go around it. Did  
22          you ever -- when these were flushed on land  
23          did they ever test water from the ponds prior  
24          to disposing of it?

25      A.     No, although that was a good idea in

1                   hindsight, which tends to be 20-20.

2           Q.       The January 4 is the one where this kind of  
3                   came to the front and the reportable quantity  
4                   issue as I understand came came up?

5           A.       I know that one.

6           Q.       What happened on that particular one?

7           A.       As a matter of fact that was one I was most  
8                   directly involved in. That was a night  
9                   shift -- no, a day shift weekend. Safety  
10                  officers stopped by and tell other shift  
11                  supervisors whether they're high in both the  
12                  north and south lagoon. You know, extremely  
13                  high, it's going to go over the road, et  
14                  cetera, et cetera. It was terrible weather,  
15                  like 20 below kind of crap. Not a good  
16                  weekend. So at any rate as senior shift  
17                  supervisor that's throwing the ball in my  
18                  court and saying do something. So I called  
19                  down and Todd Aalto was on, I remember that.  
20                  I talked to Todd, said geez, I've got high  
21                  level, you know, can you get anymore over to  
22                  the polishing pond. He told me no. In  
23                  hindsight I should have pushed him further,  
24                  but I didn't. He's a good operator and I had  
25                  no reason to question his response. When Todd

1           says he's going over everything he can, he's  
2           going over everything he can. In hindsight I  
3           don't know whether he was talking about a  
4           volume or quality issue. I didn't pursue that  
5           any further.

6                     At that point I decided since the last I  
7           heard was that meeting I was telling you about  
8           and things were kind in limbo, probably our  
9           best option was to go ahead and spray out in  
10          the tank farm. So I called up, I think it was  
11          Cody, a new kid in environmental, and  
12          explained to him what I had in mind. He  
13          essentially told me he wasn't real comfortable  
14          with it and so on and so forth. I told him  
15          what my understanding was from the last  
16          meeting I had been to that it was essentially  
17          in limbo. I said as far as I knew we weren't  
18          violating at that time, you know, but there  
19          was no strong directive on it that I was aware  
20          of. I tried to call Heather she was gone out  
21          of town for the weekend. In the meantime poor  
22          Karen Hall walked in, and I'm not happy about  
23          being put in this situation to begin with,  
24          putting out fires of other people's problems  
25          basically on off hours. I told Heather what

1 the issue is and what I intended to do. Karen  
2 is not comfortable with it, you know, and  
3 essentially we have a discussion as to well,  
4 if you're not comfortable do you have anything  
5 definite, do you know this is illegal? Well,  
6 it wasn't her area of expertise. You know,  
7 I'm not real comfortable, you know, I think  
8 it's being looked at and this and that. I  
9 said well, do you have a better option? If  
10 somebody has a better option I will by all  
11 means be happy to do it, our options now it  
12 runs to the road, erodes the road and ends up  
13 on the ground anyway or I direct it somewhere  
14 where there's minimal impact. As far as I was  
15 concerned that was the two options.

16 Q. Was the discharge occurring when you were  
17 talking about it?

18 A. No, we hadn't started it.

19 Q. And this is when you were speaking with Karen?

20 A. Yes.

21 Q. Who else was involved?

22 A. My partner, and it was either Lee Foster or  
23 Larry House that day, I'm not sure which one.

24 Q. I mean with talking with Karen.

25 A. We had an observer, but it was primarily a

1 discussion between me and Karen.

2 MR. ADAMS: Cody was involved?

3 THE WITNESS: He was on the phone,  
4 that was a phone call to him. My discussion  
5 with Karen was after that.

6 BY MR. KRIENS:

7 Q. Karen gave us a memo on that, too, which  
8 reflects what you said, and her concern and  
9 issues, you know, that it was a problem. I  
10 think she mentioned she also had a concern  
11 because of the overflow, there's an overflow  
12 from the B5 pond the week earlier?

13 A. Over the back end?

14 Q. Yeah, the north end.

15 A. Yeah, there was a little erosion back there.  
16 We didn't want to get into that.

17 Q. Since there was waste water in it to B5 it  
18 should be discharged to the river rather than  
19 on land somewhere. I think that was what she  
20 was stating there. Were you aware of that  
21 fact, that there could have been waste water  
22 let's say other than just the normal typical  
23 storm water in there?

24 A. That's always a possibility the way the system  
25 is set up. In light of some of our problems

1 earlier with ammonia, you know, yeah, that was  
2 a strong possibility. I didn't have it  
3 tested, but I had to assume there was probably  
4 some mingle in there.

5 Q. Mingling of what?

6 A. Storm water and affluents.

7 Q. Affluent from S7?

8 A. Uh-huh.

9 Q. Was there also awareness there could have been  
10 waste water via the overflows in there, the  
11 tank 500?

12 A. No, no. That was a very unusual frequency and  
13 duration. That isn't something where it would  
14 have been a large quantity gallon-wise type of  
15 issue.

16 MS. HAYES: You mean when it  
17 ultimately gets to the storm pond, is that  
18 what you're saying?

19 THE WITNESS: Yeah. I'm going brain  
20 dead.

21 MS. WIENS: Let's break briefly.

22 (Short break was taken.)

23 BY MR. KRIENS:

24 Q. Ruth, I was just talking about the overflows  
25 from the oily to non-oily and how it affected

1 the B5 pond and whether it was monitored  
2 before that was sprayed on land and so on. Do  
3 you know that it was monitored or wasn't or  
4 was that part of the procedure, to monitor  
5 before it was flushed out?

6 A. Initially, no. There were suggestions made  
7 after the fact as one of the qualifiers until  
8 we got firm guidelines on legality, it should  
9 be initiated then. Initially, no, but  
10 eventually, yeah. I think environmental said  
11 one good way to know where we stand on this is  
12 if you do get in that situation make sure you  
13 pull samples.

14 Q. It should be monitored then?

15 A. Yeah. I don't know if there was any flushing  
16 after that point.

17 Q. But if there was it was set up to be  
18 monitored?

19 A. Yeah, there were guidelines about that.

20 Q. The January one I think was about 2.88 million  
21 gallons, which was a sizable amount.

22 A. Yeah.

23 Q. And that was put down into this runoff pond or  
24 lower sort of wetland area?

25 A. Uh-huh.

1 Q. Was that put there primarily because of the  
2 location and ease of getting it into that  
3 spot?

4 A. Yeah. The reason when I was discussing it  
5 with the safety gentleman that set up all the  
6 equipment that we decided on that, like I said  
7 it was 20 below and really cold, and I didn't  
8 want it anywhere crossing a road or impacting  
9 a walking area or anyplace because it was  
10 going to be a glacier essentially. We figured  
11 since there was already a pond down there and  
12 there wasn't any, you know, wires or anything  
13 building up ice on and falling, that  
14 essentially that would have the least impact  
15 of any area. It was already a wetlands area.

16 MS. WIENS: Do you know if it's a  
17 wetland.

18 MR. ADAMS: Steve David indicated  
19 it's not a wetland.

20 THE WITNESS: There's a pond there.  
21 That's my definition of a wetland.

22 BY MR. KRIENS:

23 Q. It's just a matter of how you define what that  
24 is. They have called it the runoff pond, and  
25 that's probably best.

1 MS. WIENS: I don't care what you  
2 call it, I just wondering if she had some  
3 knowledge of what it was.

4 MR. ADAMS: I'm referring to what  
5 Steve told us, and I believe he checked into  
6 whether it's a DNR designated wetland or not,  
7 and it's not according to him.

8 THE WITNESS: I think you might call  
9 it a pothole.

10 BY MR. KRIENS:

11 Q. When you were working as a shift supervisor  
12 were you involved with disposal of sludges or  
13 solids from the neutralization tank or any  
14 other part in the plant where it would be  
15 disposed of on land somewhere? I'm not  
16 talking about hydrants now.

17 A. No. Generally speaking hazmat took care of  
18 all that. We would identify if something  
19 needed to go, say something was being clean or  
20 whatever, but as far as where that was  
21 designated to go, that was hazmat's  
22 responsibility.

23 Q. I don't think I have anything further on the  
24 hydrant issue. You know, we are interested in  
25 how many times it occurred, why it was done,

1           if there was an environmental impact why we  
2           weren't notified and a lot of those types of  
3           issues to put it in perspective of why we're  
4           doing this.

5       A.     Uh-huh.

6       Q.     Is there anything else you know about or would  
7           like to volunteer with respect to those, the  
8           hydrant flushing, hydrant discharges?

9       A.     No. I think we've pretty much covered it. It  
10          was definitely being studied. At the time  
11          what I can say as far as my options go, in  
12          hindsight I still don't know what a better  
13          option would have been. Ideally you wouldn't  
14          get in that situation to begin with.

15      Q.     The situation as I understand it, and correct  
16          me if I'm wrong, was -- I mean, the basis for  
17          you using the hydrants to discharge was  
18          because the levels in the storm water ponds  
19          were high?

20      A.     Right.

21      Q.     And did those have to be managed to maintain  
22          safety for fire production and that's why they  
23          were brought down?

24      A.     Actually it was more of an equipment issue.  
25          Safety, of course, wants high levels as

1 compared to low. Also on your dike walls you  
2 have a certain limit how high you can go until  
3 you run into integrity problems with the dike  
4 wall. Or B5, with it just plain running over  
5 and having erosion problems and so on and so  
6 forth. That would be more of an equipment  
7 issue.

8 Q. Protecting dikes, equipment, flooding pumps?

9 A. Yeah. If I was turning everything off to  
10 conserve water on those then I would consider  
11 it a safety issue, you know, for plant  
12 protection, the fire water.

13 BY MS. HAYES:

14 Q. Ruth, did you ever work anywhere else where  
15 you were a waste water treatment operator?

16 A. No. I worked here.

17 Q. And you got your B license?

18 A. Yeah.

19 Q. You understand that there is a spray  
20 irrigation possibility?

21 A. Uh-huh.

22 Q. In your training do you remember the  
23 requirement that spray irrigation facilities  
24 would be permanent?

25 A. I knew that it was, in fact, you know, a

1           municipal permitting issue. I was not  
2           positive as far as on private property and  
3           private industry how that would apply.

4       Q.     Did you discuss that?

5       A.     Yeah. That's one of the reasons I talked to  
6           environmental about it. Environmentally, you  
7           know, as far as the ecological issue I was  
8           very comfortable with what we were doing. As  
9           far as the environmental impact, the legality,  
10          I wasn't as sure.

11       BY MR. KRIENS:

12       Q.     So in your mind you didn't think there was an  
13           issue with environmental impact because of the  
14           quality of the water?

15       A.     If there would have been say an oil and grease  
16           issue, a phenol issue, a heavy metal issue, pH  
17           issues, yeah, then I would have been very  
18           concerned about the environmental impact of  
19           it. Considering it was ammonia, essentially a  
20           fertilizer, and that's what you have out  
21           there, grass, it's probably a heck of a lot  
22           less ammonia than by actually spreading  
23           fertilizer out there.

24                   MR. KRIENS:     That's all I have.

25       BY MR. BERGER:

- 1       Q.       I have a couple questions. Just to go back to  
2               what you were talking about when you first  
3               started the interview about coker pond  
4               overflows. I have a memo here dated  
5               October 21, 1994, it's from L.B Klemetson to  
6               Eric Askeland and it's talking about the coker  
7               pond hazardous waste inspection. It states  
8               that our new hazardous waste permit designates  
9               the coker ponds as inter-status hazardous  
10              waste. Were you aware of that designation?  
11       A.       I knew that we needed to keep them contained.  
12       Q.       Okay. You're right on top of it, that was the  
13               next part of the question. In this memo it  
14               states the water level check will be used to  
15               determine if we are maintaining the required  
16               two feet of freeboard in the pond.  
17       A.       Right.  
18       Q.       You were aware of that and that it was a  
19               permit condition of the hazardous waste  
20               permit, that the two feet had to be  
21               maintained?  
22       A.       I was aware. You know, after I left I had  
23               seen this form where they had to fill it out  
24               every day, an operator documenting they had X  
25               amount of freeboard. As far as it being

1 specific permitting, I wasn't aware of that,  
2 but I knew that it was, in fact, being  
3 documented, which would lead you to believe it  
4 probably was.

5 Q. The permit does not state that two feet has to  
6 be maintained, but it does state that the  
7 dikes have to be maintained so there is no  
8 releases over those dikes.

9 A. Yes, yes.

10 Q. That's a permit condition from the 1994  
11 permit.

12 A. Okay.

13 MS. WIENS: You're saying that as a  
14 fact, not a question?

15 MR. BERGER: Well, as a follow-up to  
16 what she was saying, right.

17 THE WITNESS: You know, as a  
18 supervisor and ex-waste water employee, we  
19 always try to contain it, and essentially did  
20 whatever we could to keep it contained,  
21 whether that be call in coke loaders and have  
22 them build an impromptu dike or -- yeah, we  
23 were aware it was not normal to run water,  
24 that it should not just be running off.

25 BY MR. BERGER:

1 Q. There's mention of a word called back washing,  
2 back washing through the coker ponds. Do you  
3 know what that means?

4 A. You would have to give me a reference to  
5 something.

6 Q. It's in a memo of March 13, 1997 from Heather  
7 to a number of people. It talks about other  
8 current issues that are being reviewed.  
9 Number one, hydraulic loads are high right now  
10 due to pond water removal and back washing  
11 through the coker ponds. Back washing should  
12 be over by March 24 and pond removal should be  
13 done by the end of March. Do you know what  
14 they mean by that term back washing?

15 MS. WIENS: It's number 1746.

16 THE WITNESS: I don't see myself on  
17 here. This one doesn't ring a bell. As far  
18 as common refinery terminology, there's a lot  
19 of different type of back washing procedures.  
20 I'm not familiar with any that directly deal  
21 with the coker ponds.

22 BY MR. BERGER:

23 Q. What does it generally mean then?

24 A. Generally speaking it's a filter back flush of  
25 some type.

1 Q. So would that be maybe the coker pond pumps  
2 were clogged and you would back wash water  
3 pressure through to maybe unclog them?

4 A. Yeah, you could do that. Assuming you didn't  
5 have your check valve in, because you could  
6 crack that. We did have some problems with  
7 fines down there. It's a possibility, but I  
8 don't know for a fact.

9 BY MR. KRIENS:

10 Q. I had one more to ask about the hydrant stuff.

11 A. I thought we were over that.

12 Q. I know. This pertains to what we call the  
13 green water hydrant discharge in October of  
14 '94. According to what you've told us you  
15 would have been a shift supervisor then I  
16 guess, is that right?

17 A. '94, yeah, uh-huh.

18 Q. I went through this previously and I won't go  
19 through it all, but what occurred is there was  
20 a lot of green water in the whole plant water  
21 system, the pond, coker ponds, storm water  
22 pond.

23 A. Green water as an algae build up?

24 Q. It sounds like a green water color. It was  
25 green. And in September, September 21, there

1           was a hundred thousand gallons dumped to the  
2           coker pond from the number three cooling  
3           tower. Then in an October 8 operating log it  
4           states the whole plant was green. Then  
5           October 9, '94 the log states the plant flow  
6           is green, the shifties set game plan for green  
7           water, shifties talked to Steve David about  
8           the color and there was discussion about how  
9           to deal with the color in terms of treatment.

10           In a log of October 11 it states there  
11           was high chromium in the S7 sump and still  
12           green water in the system. October 12 it  
13           talks about a green dye may be contributing to  
14           higher hexachrome readings per Craig, meaning  
15           Craig Daniels in the lab. Then October 12  
16           through 13 an operating log states that 1920  
17           hours safety has orders to spray fire hydrants  
18           to get rid of green water.

19           The question is do you know about this  
20           problem or this incident?

21        A.    I don't recall it. I very vaguely recall some  
22           color issues with the water at one time. It's  
23           been a long time since we had a chromate  
24           problem being on phosphates now.

25        Q.    You mean in the cooling tower?

- 1       A.       Yes. I don't remember being directly involved  
2               in that. I vaguely remember a color issue,  
3               that was it.
- 4       Q.       Could the color -- has there been an occasion  
5               when color might have been related to a dye  
6               used in hydro testing the pipeline or tanks?
- 7       A.       That's actually what I was thinking as you  
8               were reading, wondering where the hell that  
9               came from. You know, that would be my  
10              suspicion, that it would be some type of a  
11              dye. Without testing -- it sounds like they  
12              tested it, and if there were the chromates, I  
13              can't imagine how those two would be tied in  
14              together.
- 15      Q.       We're trying to understand that, too, and  
16               we've talked to previous staff and mentioned  
17               that they believed there was a hydro testing  
18               occurring, that it was due to a fluorescein  
19               dye.
- 20      A.       If could have been. I would suggest that that  
21               would be coincidence, that the dye was the  
22               color issue and the chromate was the cooling  
23               water issue.
- 24      Q.       Chromate would have been used in the cooling  
25               tower treatment?

1 A. Yeah.

2 MR. KRIENS: That's all I have.

3 BY MR. BERGER:

4 Q. One more. Ruth, there are a number of  
5 instances that I've seen in the documents we  
6 have received regarding the potential and  
7 proper disposal of hazardous waste. That's my  
8 area, I come from the hazardous waste  
9 division. One memo I want to bring your  
10 attention to starting out is --

11 MS. HAYES: Do you have a number on  
12 that one?

13 MR. BERGER: No.

14 MS. HAYES: It's August 22, 1994.

15 BY MR. BERGER:

16 Q. Right. It's a waste water treatment report.  
17 It states hazmat people will be dump, it  
18 should be dumping, about 20 to 30 gallons, and  
19 in parentheses slowly, of xylene, and then in  
20 parentheses again paint thinner down at the  
21 Eighth Street sump. With all the dilution we  
22 should not even see it.

23 A. Do you want a little background on the Eighth  
24 Street sump et cetera, et cetera?

25 Q. Yes, in regards to that situation.

1       A.     As far as interpreting this, not being  
2             involved but interpreting, the Eighth Street  
3             sump, what that is is down at our lower wash  
4             pad. Are you familiar with that?

5       Q.     Yes.

6       A.     The Eighth Street sump there pumps directly to  
7             the Seventh Street sump. That's the only  
8             place you can pump from Eighth Street, into  
9             Seventh Street, at which point it ties into  
10            the oily water sewer. So that would all go  
11            through API and oxidizes. I imagine that's  
12            what they're referring to as far as, you know,  
13            a dilution per se, essentially a recovery of  
14            it.

15      Q.     Recovery?

16      A.     Skimming at API. The API separator should  
17             separate that along with your oil and grease.

18      Q.     Okay.

19      A.     I suspect that's what they're referring to.  
20             Looking at that and saying that the oily water  
21             sewer, goes through the API separator where  
22             they separate the oil and the water, you know,  
23             and that should separate off and end up end  
24             product going back through the coker the way  
25             the system works. Well, not the coker pond,

1           the coker process.

2       BY MR. KRIENS:

3       Q.     If they were going to recycle it back into the  
4           plant via the API why couldn't they just do it  
5           directly, take it to the coker wherever it  
6           might be used?

7       A.     It has to get within the system in a safe  
8           manner. It sounds to me like those were  
9           barrels. Twenty, thirty gallons, I'm guessing  
10          they probably had a half a drum. You know, 55  
11          gallon drum recovered from God knows what if  
12          it's the hasmat. So how are you going to get  
13          that back into the system? If you take it  
14          basically to like the Eighth Street sump where  
15          you can contain it quite well and dump it in,  
16          it goes from there and gets pumped all the way  
17          through this process and you have very minimal  
18          contact with it.

19                If you were going to try and put it into  
20          the slop tank directly you need it in a vacuum  
21          truck, which is the way our hookups are, or a  
22          semi-tanker, and --

23       Q.     But I'm trying to understand, and if you  
24           physically took it to the Eight Street sump  
25           why couldn't you physically take it to the

1 vacuum truck and put it in there? It seems  
2 like it's the same degree of exposure with  
3 respect to a safety issue, and then take the  
4 vacuum truck to wherever?

5 A. It's only 20 or 30 gallons and it will tie up  
6 the whole vacuum truck. You could do that,  
7 but I would think it would be easier, since it  
8 was loaded in that drum, you know, to go and  
9 put it in the Eighth Street as compared to  
10 pump that drum into the vacuum truck and then  
11 turn around and do another hookup and another  
12 transfer. To me personally I think it's  
13 easier to do it this way. You could do it the  
14 other way.

15 BY MR. ADAMS:

16 Q. When you say it gets separated out at the API  
17 by the skimmer, then where does that material  
18 go?

19 A. What happens there is the oily water sewer  
20 essentially hits a period where it has a  
21 little detention time, a little residency  
22 time, you know, so you get the separation and  
23 you lose your velocity, you get most of your  
24 oil and grease to the top. What they have is  
25 a skimmer system there and that skims it into

1           an oil sump which is tied in there. That oil  
2           sump pumps it into our slop system. You  
3           separate the water out from that, you separate  
4           the water out, test it, make sure it's dry and  
5           then pump it back up to our coker process  
6           where it goes into their fractionator, which  
7           is like 900 degrees and it gets recovered as  
8           naphtha or whatever the components are. It  
9           goes essentially right back into product. It  
10          gets retreated, re-separated and eventually  
11          out.

12        Q.     So the reliance was the API would do that  
13               separation?

14        A.     Right.

15        Q.     At least to some degree, is that right?

16        A.     Right. Let's just say a quantity of 20 to  
17               30 gallons of essentially a hydrocarbon  
18               obviously is not a good thing, but that's  
19               exactly what the API is built for, that kind  
20               of separation process. And if perchance the  
21               API didn't pick it up, then we have dasks,  
22               that's what they're for, a secondary chemical  
23               treatment, where you should have the  
24               coagulation and recover it there. In which  
25               case then it goes through your centerpiece

1           system and it's recovered.

2       BY MR. BERGER:

3       Q.     In general this type of waste disposal you  
4           felt, and don't let me put words in your  
5           mouth, was an acceptable way of doing it?

6       A.     Would I personally feel this one was?

7       Q.     Yes.

8       A.     Yes.

9       Q.     You would?

10      A.     I personal think that was an acceptable way to  
11           deal with that.

12      Q.     Was this a general policy?

13      A.     It was done occasionally. One of the good  
14           things is we've been trying to get away from  
15           the barrels, you know, when you have a half  
16           barrel of this and a half barrel of that.  
17           Ideally you don't have to manage things in  
18           that manner to begin with, you know. You're  
19           either going to be pumping them off  
20           mechanically or you're going to be using the  
21           vacuum truck. You don't want to end up in  
22           this situation with half a 55 gallon drum of  
23           crap and you've got to worry about how to get  
24           rid of it, you know. That's just not a good  
25           situation to begin with.

1 BY MR. KRIENS:

2 Q. Ruth, is there any way to go into that slop  
3 oil tank? I mean, did you take other waste  
4 into there directly? How is it put in there?

5 A. You can get in from the API skimmers, that's  
6 one avenue you can get into it. There's also  
7 a truck pump off station, which is where we  
8 get -- let's say if we get some outside tanks  
9 or they're cleaning out a tank in the tank  
10 farm and I have to get rid of X amount of  
11 product or whatever, yeah, there is a place  
12 for vacuum trucks and trucks of that nature to  
13 pump off.

14 Q. Is that a sump station, like a sump?

15 A. It's a station with its own little sump there.

16 Q. So would you take material there and put it  
17 into that sump and --

18 A. No.

19 Q. How would that work?

20 A. You would hook up by hose directly to the --  
21 they have air diaphragm pumps down there.

22 Q. To the sump?

23 A. Not to the sump, but right off of your truck.  
24 It would go from the truck directly into the  
25 line up to a tank. The sump was there, you

- 1 know, in the off chance they disconnect their  
2 hose and there is some leakage. You have rain  
3 water runoff, you know, et cetera, et cetera  
4 and it is a paved area, so there's a little  
5 sump there.
- 6 Q. So would it pump out of that sump into the  
7 truck and then --
- 8 A. It wouldn't be pumping out of the sump.
- 9 Q. What was the sump for then?
- 10 A. Basically for -- let's say these guys have a  
11 flexible hose that they're hooking up to do  
12 the sumping with, and anytime you disconnect a  
13 flexible hose even though you've pumped  
14 everything dry you're going to get some  
15 dribble kind of crap, so it's that type of  
16 recovery.
- 17 Q. Would that go into the sump then?
- 18 A. Yeah.
- 19 Q. And was that sump pumped out then?
- 20 A. Periodically, right.
- 21 Q. Via a vacuum truck or whatever?
- 22 A. No, it had it's own pump. It was the same  
23 pump you used to get it out of the truck, you  
24 just lined it up a little bit different.
- 25 Q. And that would be pumped up to where?

- 1       A.       To the slop tank.
- 2       Q.       So would it have been possible to take the
- 3                xylene to that sump and pump it via that sump
- 4                pump to the slop tank?
- 5       A.       It would have been possible, yeah. It would
- 6                have been another option.
- 7       Q.       Rather than dumping it through the waste water
- 8                system?
- 9       A.       Yeah. One of the nice things about Eighth
- 10               Street is that nitrogen purge on it. You
- 11               know, there's going to give you a little
- 12               safety factor for dumping that.
- 13       Q.       Meaning if it's safer --
- 14       A.       As far as exposure to the atmosphere goes.
- 15       Q.       And the other sump doesn't have that?
- 16       A.       It doesn't have a nitrogen blanket per se, no.
- 17                It doesn't have a nitrogen blanket, and
- 18                something like xylene, which is really pretty
- 19                light -- most of the stuff we deal with on the
- 20                slop system that comes in via truck et cetera,
- 21                et cetera is more in the fuel oil range. We
- 22                very seldom would get stuff real light like a
- 23                gasoline or lighter. The xylene, that's
- 24                pretty light. I would probably be more
- 25                comfortable with dumping it into something

1 with a nitrogen purge on it.

2 BY MR. BERGER:

3 Q. Can you tell me how that xylene -- can you  
4 speculate on how that xylene was generated?

5 A. Actually, no, I can't. It isn't a product we  
6 make in the plant, so it would have been some  
7 type of outside source, whether it was a paint  
8 contractor or -- no, I don't know. I could  
9 speculate, but I don't know.

10 Q. That's where the problem comes in, because if  
11 that xylene was generated let's say from a  
12 cleanup operation of painting, seeing that it  
13 was dumped into the oily water sewer and how  
14 you're explaining it was handled, that is  
15 actually treating a hazardous waste, and Koch  
16 does not have a hazardous waste treatment  
17 permit. Did that thought ever enter anybody's  
18 mind, do you know?

19 A. It didn't mine, and there's a good chance that  
20 any other lay person out there it wouldn't.  
21 You know, I look at the xylene and I look at  
22 that essentially as recoverable, you know, in  
23 the sense of, like I explained, in my mind it  
24 would separate out and end up going back  
25 through the coke and coming out as product.

1           Legally I can see your point.

2           Q.     There is another memo from February 26 and 27  
3                   of 1997, and this is the one that you've seen  
4                   before that we talked about, and it states  
5                   poly -- and that's the poly unit or one of a  
6                   number of poly units.

7           A.     Uh-huh.

8           Q.     Poly called, said they would be dumping 200 to  
9                   300 gallons of medium to heavy naphtha down  
10                  sewer at a few times today. Is that a similar  
11                  situation?

12          A.     It would be similar. I would have more  
13                  concerns about that one actually. Number one,  
14                  the quantity. The fact with the way that  
15                  particular sewer runs and our sewer system, it  
16                  should all be trapped out, you shouldn't have  
17                  any vapor releases, it should all be contained  
18                  in a venting sewer. Anytime a lot of light  
19                  ends go to the sewer I would be concerned  
20                  about it. Safety primarily on that one would  
21                  be my main concern. Oxidizer, you know,  
22                  should recover most of that as far as the  
23                  vapors at the API, but there's an LAL trip on  
24                  that oxidizer also so you have to be aware of  
25                  that. No, it's not a good situation.

- 1 Q. Can you speculate on how that naphtha was  
2 generated?
- 3 A. I could speculate.
- 4 Q. Please.
- 5 A. My speculation would be they were back washing  
6 a sand filter or preparing something for  
7 maintenance in some way. It would be  
8 something on the order of a maintenance that  
9 would be involved with it.
- 10 Q. And this material, this naphtha, was in that  
11 filter and that filter was cleaned out?
- 12 A. Uh-huh, and needed to be evacuated in some  
13 fashion. Like I said, that's speculation, but  
14 I would venture to say it was a type of  
15 maintenance that was probably involved. It  
16 wouldn't be a routine operation situation.
- 17 MS. WIENS: That was member 1269.
- 18 MR. BERGER: That's all I have.
- 19 MS. HAYES: Nothing else.
- 20 BY MR. KRIENS:
- 21 Q. Just one question. Was that kind of a common  
22 method of operation, to dispose or discharge  
23 excess materials like the naphtha or xylene or  
24 whatever down the sewer with the idea that it  
25 would be recovered at least to some degree at

1 the waste water plant?

2 A. That's something that -- let's say those kind  
3 of quantities, the reason it would be in there  
4 long is because it's unusual and they received  
5 a call on it. You know, and that's an unusual  
6 quantity.

7 MS. HAYES: What's unusual, which  
8 one?

9 THE WITNESS: This one with the  
10 naphtha. I mean, that's unusual. If you see  
11 it in there long it's because somebody thought  
12 it was unusual enough to notify them. That  
13 can almost tell you in and of itself that it's  
14 unusual by the fact it's in the log. It was  
15 relatively routine to do a certain amount of  
16 cleaning to the sewer.

17 BY MR. KRIENS:

18 Q. We understand some of that, but I'm talking  
19 about --

20 A. Those quantities are unusual.

21 Q. Yeah, that, and then more in the area of like  
22 the paint thinner or whatever where it's not  
23 related necessarily to cleaning, but let's say  
24 you had something left over.

25 MS. HAYES: Miscellaneous barrels.

1 BY MR. KRIENS:

2 Q. Not related to the process operations or  
3 maintenance operations where you would have  
4 waste water generated as a result of those,  
5 which is part of the system. I'm talking  
6 about, you know, those types of things.

7 A. Yeah. Once again, that was generally speaking  
8 a hazmat call. If I had a barrel and didn't  
9 know what the hell was in it, which is -- I'm  
10 sure you're aware about five or so years ago  
11 there was a major cleanup as far as  
12 identifying the barrels and what's in it and  
13 get them out of here, you know, I'm sure that  
14 had a lot to do with the inception of the  
15 hazmat. As our directive as supervisors, if  
16 in doubt about what to do with this crap call  
17 hazmat and basically it's their headache.

18 Q. Okay. One other thing briefly. Were you  
19 involved with any mercury spills at the boiler  
20 house?

21 A. I was involved with notifying safety to come  
22 down and clean some up a couple times. As a  
23 supervisor the operators could call me and we  
24 would notify safety. They had, you know,  
25 special training in mercury recovery.

- 1 Q. What was the nature of those spills?
- 2 A. Very, very small. What they are is the  
3 instrumentation, some of the old ones has  
4 mercury switches. That would be the amount of  
5 it. It would be small, but any amount of  
6 mercury needs to be dealt with.
- 7 Q. Where would it go to?
- 8 A. Usually it would spill back behind the control  
9 board, you know, so it wouldn't be contacting  
10 ground or water, it would essentially be  
11 laying around behind control equipment.
- 12 Q. So would it have an opportunity to go to a  
13 floor drain or sump?
- 14 A. Generally speaking not that I'm aware of.
- 15 Q. So it's a control area?
- 16 A. Yeah. It would be kind of like if you had a  
17 switch in the back of your radio and it broke,  
18 it would kind of be like that.
- 19 Q. Part of the reason for our concern in that is  
20 we have been involved in some other industry  
21 incidents, not with refineries, where mercury  
22 was in switches, pressure gauges. That sort  
23 of instrumentation actually contains a fair  
24 amount of mercury. Mercury is so dense that  
25 it's a fair amount and it's gotten into sumps

1           and it's went out and gotten presumably in the  
2           river, Mississippi or other rivers, so that's  
3           why we're interested in what happened here.  
4           We noticed a couple logs in this safety area  
5           about the spill and the cleanup of the spill  
6           and we wanted to understand what it was.

7           A.     I least I know for sure the boiler house is  
8           very much up to speed on the fact if they're  
9           back in those areas they keep an eye out for  
10          it.

11          Q.     They have procedures specifically to deal with  
12          mercury?

13          A.     Right. Boiler house is to call safety,  
14          they're the experts in the recovery and so on  
15          and so forth. They don't touch it, they call  
16          the experts in to deal with that.

17                  MS. HAYES:     What about authority to  
18          make the call to notification?

19                  THE WITNESS:    To environmental?

20                  MS. HAYES:     To us.

21                  THE WITNESS:    Actually, myself, if  
22          it wasn't impacting, didn't hit ground or  
23          anything, was a small quantity and was  
24          recovered, you know, in an expert manner, I  
25          personally wouldn't think that would be a

1 notification. If it did, in fact, get out in  
2 any way, yeah, then definitely.

3 MS. HAYES: That's all. Thank you  
4 very much.

5 (Whereupon, the interview concluded at  
6 12:25 p.m.)

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STATE OF MINNESOTA)  
COUNTY OF HENNEPIN)

Ss:

BE IT KNOWN, that I, NILO 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 RUTH ESTES, 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 4th day of November, 1997.

**MILO BALLINGRUD,**  
Notary Public, Hennepin County, Minnesota  
My Commission Expires January 31, 2006.