
INTERVIEW OF:

DAVE GARDNER

TAKEN NOVEMBER 4, 1997 AT 3:10 P.M.

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INTERVIEW OF DAVE GARDNER, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 3:10 p.m. on Tuesday, November 4, 1997 before Kimberly Hormann, Notary Public, County of Hennepin, State of Minnesota.

APPEARANCES:

Present from the Minnesota Pollution Control Agency:

DON L. KRIENS, P.E.

MARY L. HAYES

GREGORY BERGER

Present from Koch Industries:

No one was present at this time..

Present from the law firm Green Espel:

JODEEN A. KOZLAK, Attorney at Law

SUSAN K. WIENS, Attorney at Law

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I N D E X

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1 MR. BERGER: I have an introductory piece
2 that I have to read. The Minnesota Pollution
3 Control Agency is conducting a civil investigation
4 that is focusing on Koch Refinery operations and a
5 number of pollution-related issues regarding those
6 operations. We are seeking your cooperation today
7 in answering some questions regarding those
8 operations. We want you to know at this time that
9 you're not obligated to answer these questions.
10 It's totally voluntary on your part. The
11 information obtained in this investigation may be
12 used in a civil, administrative or criminal action.
13 The MPCA is free to choose any of these actions and
14 it doesn't preclude us from choosing another one in
15 the future. Any questions about that?

16 THE INTERVIEWEE: No.

17 EXAMINATION BY MS. HAYES:

18 Q. Dave, my name is Mary Hayes. I work for the
19 division of water quality at the Minnesota Pollution
20 Control Agency. Would you state for us your current
21 job, but also your past positions and the period of
22 time that you worked in those positions, and for all
23 of those, let us know, give us a brief sketch of
24 what your responsibilities included?
25 A. Currently -- My name is David Gardner and currently

1 I'm a shift superintendent with Koch. And my job at
2 this point in time is pretty much overall
3 coordination of the refinery, both for economics,
4 environmental and just to make sure everything stays
5 in spec processwise. I came up here to the shift
6 supervisors in May of '96.

7 From '91 to '96, I was an operator in the
8 wastewater plant. I originally started as a No. 2
9 operator and then moved up to No. 1 operator before
10 I became a shift supervisor.

11 In the wastewater plant, it was basically we
12 just ran the wastewater treatment plant. There's a
13 No. 1 operator, I coordinated what we did on shift
14 with the other operators that were involved.

15 THE INTERVIEWEE: Am I going too quick
16 for you?

17 THE COURT REPORTER: I've got it.

18 THE INTERVIEWEE: And as a No. 2
19 operator, we basically did the same type of job.
20 It's just that the No. 1 coordinates what the
21 activities are on the shift. And before the
22 wastewater plant I spent, oh, approximately three
23 years as a lab technician in our industrial lab.
24 And pretty much there it was QC work, all the
25 product streams.

1 And before that I spent three years, from '86
2 to '89 as an operator in the Poly Desulfurizer Penex
3 Ultra Former area. And there we pretty much made
4 fuel oils, gasolines, caustic treating, amine
5 treating, most of the stuff that goes along with the
6 process of everywhere from fuel oil to gasolines.

7 MS. HAYES: So you started in '86?

8 THE INTERVIEWEE: Yep, I started April
9 of '86.

10 MR. KRIENS: Did you say, Dave, you
11 began as a shift supervisor in May of '96?

12 THE INTERVIEWEE: May of '96, correct.

13 EXAMINATION BY MS. HAYES:

14 Q. Okay. Thank you. That's helpful to get a context
15 for us before we start. What I've been doing is
16 asking some general questions about some areas. And
17 I'm probably going to pair those down a little bit
18 for this interview, because I feel like we're
19 getting the information that we need. And it's
20 becoming a little redundant and some of this will
21 still be a little bit redundant. I'm just going to
22 go through some of this stuff. When I was going
23 through talking about your tenure as a wastewater
24 treatment operator, back to -- we requested logs
25 that date back to, wastewater treatment logs that go

1 back to '94. And your name appears on some of the
2 very earliest logs. And there's discussions about
3 in January 23 of '94. I don't see a number on this
4 one -- oh, here it is, it's 5985. There's a comment
5 that the shifties notice the manhole by tank 500
6 overflowed. I'll just have you look at that.

7 A. Okay.

8 Q. And, I think, you were on another one way back here,
9 some of the very first ones again. But, I guess,
10 it's not important, it's sort of the same idea.

11 This just gives us some inside as to how long this
12 issue has been going on. And, I guess, I'd like to
13 ask you to speak to that issue of how long have you
14 been aware of this problem? You were an operator
15 since '91. Was this going on in '91 when you --

16 A. It's really, I can tell you that it was an ongoing
17 problem. I don't remember exactly when I first
18 noticed it. And it's a pretty sporadic thing.
19 Normally, we don't have a problem with that system.
20 If the coker ponds -- there's a lot of variables.
21 If the coker ponds are really full, we're trying to
22 pump as much water as we could, and if it rains
23 really hard or something like that, it's more of a
24 hydraulic problem we had with the sewer. And so if
25 we weren't running a lot from the coker ponds -- we

1 never had an overflow that I can remember, other
2 than if we had contributing factors that would other
3 than just, I mean, that manhole didn't just overflow
4 routinely. It was normally if we had a high
5 hydraulic load on the sewers and then it was real
6 sporadic. I mean, it might do it once and then it
7 may not do it again for months. It was kind of a
8 situational-type thing.

9 Q. Was it increasing though, over the years, would you
10 say, Dave?

11 A. I don't think it really got more often. I mean, it
12 was just one of those things where sometimes you'd
13 see it, sometimes you wouldn't. And it depended on
14 what was going on in other parts of the refinery
15 that tied into that same sewer. And normally what
16 we tried to do is anytime it was ever noticed or if
17 it happened, what we'd do is immediately cut the
18 rate at the coker pond to try to, you know, at least
19 mediate whatever we could from what was overflowing.
20 And then we'd also go right down to B5 where our
21 fire lagoon is and we'd check for any kind of sheen
22 or anything there. And we'd put that section of the
23 non-oily-water sewer into the oily-water sewer so we
24 could make sure that none of it did get out to the
25 system down at the front end.

- 1 Q Okay.
- 2 A. But to try to pinpoint just how many times, it's
- 3 pretty tough because it was real sporadic.
- 4 Q. But it does go back to when you first started in
- 5 the, do you know?
- 6 A. I can't tell you exactly if it was '91 or '93. I
- 7 just know that it was something we dealt with.
- 8 Q. Yeah, these logs, they correlate with what you just
- 9 discussed about the, once you suspected that it
- 10 could be going into the non-oily, then you'd go and
- 11 check the pond?
- 12 A. Right.
- 13 Q. And we had a couple of days here of oily water in
- 14 the storm sewer. And you're an author of one of the
- 15 logs from -- this goes back to May 4 and 5 of '96.
- 16 The number on it is 363. But the day before, you're
- 17 not on shift. But there's also a note that there's
- 18 oily water to the storm water basin. And then on
- 19 the 8th of May, you've got the storm water basin
- 20 overflowing, do you recall that kind of sequence of
- 21 things happening?
- 22 A. When you say storm water which --
- 23 Q. It says, notice that the Nows basins were
- 24 overflowing. I assume that often -- I shouldn't
- 25 assume this, but maybe I can ask you. I think that

1 this is mostly probably talking about B5 because
2 we've only been aware of B5 overflowing, unless you
3 can --
4 A. Yeah, I don't know. Was it one I wrote?
5 Q. No.
6 A. Because I could read mine and I could probably
7 hopefully recollect what it was, but I'm not exactly
8 sure what they were talking about.
9 Q. You don't remember then that kind of a connection
10 happening where you'd have, you know, a sequence of
11 things, where you'd have the problem with the oily,
12 the OWS to NOWS and that going into the basin and
13 then from there we've got an overflow?
14 A. No, I sure don't. Because normally, I mean, we
15 control B5 with a different system than with what's
16 going in from that end. That's part of our fire
17 system, and I don't remember those two being tied
18 together where we'd have a problem.
19 Q. Okay. I have a question about, I think that this
20 would probably relate to your more current
21 responsibilities as a shiftie, from my understanding
22 now of how your positions work here. And, I guess,
23 I'd like to ask you about your experience with the
24 coker pond overflowing. Have you been out and
25 experienced that, discovered that the coker pond was

1 overflowing?

2 A. Yep.

3 Q. And how is it that you've discovered that; do you go

4 out on rounds?

5 A. Normally the operators are, they are the ones that

6 are responsible for making the rounds in that area.

7 I mean, that's their responsibility to check that on

8 their normal shift. They make two to three rounds

9 at least down there. As shift supervisors, we try

10 to hit wherever we can. But a lot of times, it

11 depends on where, what problems we run into during

12 the night and where we designate our time. I don't

13 routinely just go down to the coker ponds every

14 night.

15 Q. You don't?

16 A. No, I pretty much know the operators make rounds

17 down there. So if they call us, we go right down

18 there. But there are nights when we'll be tied up

19 in another area. If there is a problem, I know in

20 the past if we noticed anything overflowing, we've

21 had, we've called people out to build dike walls

22 around it with coke and anything we could to stop it

23 from going out of there. I mean, we understand what

24 the ramification of it is, and we'll do whatever we

25 can to remediate that.

- 1 Q. How many times have you had to deal with this since
2 you've been in this position?
- 3 A. Probably a couple.
- 4 Q. Two?
- 5 A. Yeah.
- 6 Q. Since May of '96?
- 7 A. Yes.
- 8 Q. And any time before that in any of your other jobs?
- 9 A. As an operator, I remember one time where we had the
10 coker pond go over.
- 11 Q. I wanted to reference a log from April 16 and 17.
12 And I think, we think this is '97 probably. Which
13 would make sense because actually -- or the number
14 is 1221. And this is a discussion about the coker
15 pond flooding over. You didn't author this. The
16 initials on this are CC and NP. And it says, coker
17 pond flooding over notified shift supervisors,
18 George Morehouse and Dave Gardner. Coke lower put
19 temporary dike to keep from going over road to west
20 side started -- whatever. Do you just want to take
21 a look at that?
- 22 A. Sure.
- 23 Q. Do you recall that incident specifically then, Dave?
- 24 This was probably just April. That was real close
25 to the time that we were out here. It was about a

1 week subsequent to our inspection out here.

2 A. Just trying to get a time frame in my head, I'm just
3 trying to place -- I don't normally work with George
4 Morehouse. When I first came up to the shifties, I
5 did, but that was quite awhile ago. So if it was
6 this April -- I mean, I remember there was an
7 instance where the coker pond went over, but I
8 couldn't tell you for sure if this was, I mean,
9 obviously if it says George and Dave, it was us.
10 And I know we do dike if there is a problem like
11 that.

12 Q. Did you actually do the diking or do you ask
13 somebody to come and do that?

14 A. We'll have coke loaders that normally, one of the
15 guys that runs our heavy equipment, if they're out
16 here, which normally we can get one freed up, we'll
17 have them go right over and do it. Yeah, that's --

18 Q. I think it says that Schlomka was called, too?

19 A. It says, call Donny Schlomka to start up both of his
20 pumps from the coker pond.

21 Q. Okay. So you were the, or the wastewater treatment
22 calls Schlomka, they come and respond?

23 A. Yeah, they either -- it depends on, sometimes we'll
24 call them, sometimes the water plant calls them. I
25 mean, Donny works intimately enough with them that a

1 lot of times they just take care of that on their
2 own. They may call us to clear it, just to make
3 sure, but I mean, it's either or, it doesn't
4 really --

5 Q. In any case, you'd go out and take a look to see
6 what you've got to deal with?

7 A. Oh, yes, something like that, we'd definitely be
8 down there. If they tell us it's overflowing, we're
9 down there.

10 Q. Were you ever involved in any that went like down to
11 the railroad tracks?

12 A. When I was an operator, there was that one instance
13 where it went down --

14 Q. In '94, September '94?

15 A. Probably somewhere in there. It's hard to remember
16 exactly what month and -- but I remember when it
17 went to the railroad tracks.

18 MS. HAYES: Okay. Thanks, Dave. That's
19 all I have.

20 MR. BERGER: Dave, this is Greg Berger.
21 What would be the reason, the primary reason why the
22 coker ponds would overflow?

23 THE INTERVIEWEE: Usually it's hydraulic
24 during a really heavy rain. We try to keep them as
25 low as we can, but we'll get into situations

1 sometimes where we'll have day after day after day
2 of rain, and we try to pump as much out of there as
3 we can.

4 MR. KRIENS: You just can't keep up with
5 it.

6 THE INTERVIEWEE: No, and that's why we
7 use Schlomka's pumps, and we'll use auxiliary waste
8 to get it out of there. We will go above and beyond
9 what our normal system is to remove it, but
10 sometimes mother nature just isn't too merciful on
11 us.

12 EXAMINATION BY MR. BERGER:

13 Q. Were you aware during these times, when you were
14 associated with these overflows to the coker pond,
15 that there was a permit condition of the Koch permit
16 that these, that freeboard be maintained in those
17 coker ponds and the dikes be maintained so that
18 there was no massive failures or overflowing?

19 A. Yep, I'm aware of the sheet they filled out on a
20 daily basis for the freeboard.

21 MR. BERGER: Regarding coker ponds,
22 that's about it.

23 MR. KRIENS: Do you have anything on the
24 spills stuff?

25 MR. BERGER: Yeah, I think I'd like to

1 get into my general stuff again. Do you want me to
2 do that now?

3 MR. KRIENS: Why don't I run through
4 this briefly.

5 EXAMINATION BY MR. KRIENS:

6 Q. This is Don Kriens. Were you involved with or do
7 you know about the use of the hydrants to -- this is
8 getting monotonous. I keep saying this over and
9 over. We've asked other people this so -- and it's
10 getting somewhat tiring.

11 Were you involved with or do you know of the
12 practice of using the fire hydrant system to dispose
13 of wastewater on land instead of going through the
14 normal wastewater system?

15 A. The instance that I was involved with, or as an
16 operator, was we actually put the fire water to the
17 west storm pond, and then ran it through our system.
18 We used it as a containment versus -- I mean, we
19 ethically and environmentally, we wanted to keep it
20 out of the river. So we felt the lesser of two
21 evils was to contain it in our basin, and then when
22 it was a more opportune time to run it, we ran it,
23 but I mean, it was through the plant.

24 Q. Through the wastewater plant or through the
25 polishing ponds and then out --

- 1 A. Right. Well, through the whole, from the DAF it
2 comes in --
- 3 Q. Well, maybe I'm misunderstanding. Are you talking
4 about situations where you had overflows and that
5 water got into the storm ponds?
- 6 A. No. This is like, if we had -- if we were watching
7 our permit levels, we'd actually take and put water
8 into the west storm pond from a fire hydrant that's
9 right across from it, and then that water we pumped
10 through our system and actually run it right through
11 the wastewater system.
- 12 Q. Through the treatment plant --
- 13 A. -- not through the front end, it comes in right
14 by --
- 15 Q. Equalization basins?
- 16 A. Yeah.
- 17 Q. So my question then is, do you know of any occasions
18 when it wasn't backed up or transferred to storm
19 ponds where the water, either from the storm ponds
20 and it would have been from the storm ponds, was
21 disposed of or discharged via the hydrants to land
22 as opposed to the scenario you mentioned where it is
23 actually then conveyed back to wastewater?
- 24 A. I wasn't directly involved with when they did go to
25 the, I believe it was the west tank farm area there

1 right by the storm pond. So I mean, I don't want to
2 speculate on what they did. I wasn't directly
3 involved with that. But yeah, I heard about it, but
4 I wasn't involved in it myself personally.
5 Q. So you heard about it just internally that --
6 A. -- just through turnovers and --
7 Q. Do you know when those would have occurred?
8 A. Was it early this year, I think.
9 Q. Okay. Do you know about any incident in 1994, and
10 then in '94 you were an operator?
11 A. Where it went to the ground?
12 Q. Where it went to the ground. This would have been
13 in October of '94, the plant had a lot of green
14 water. I don't know if you recall that incident or
15 situation. It was green throughout the storm ponds,
16 the wastewater polishing ponds, the coker ponds.
17 And we've talked to other people about it and wanted
18 to find out what it, where it came from.
19 A. I don't remember the discharge to the ground.
20 Q. Okay. And then, I guess, in October 12 through 13,
21 safety had orders to spray the hydrants to get rid
22 of this green water as a resolution to the problem.
23 A. Boy, I don't think I was involved in that.
24 MS. KRIENS: Okay. That's the only
25 question that I have on that.

1 EXAMINATION BY MR. BERGER:

2 Q. I want to talk about an area that I'm interested
3 from the hazardous waste side, that's my job at the
4 Pollution Control Agency. I have a number of logs
5 here that mention direct disposal to the oily-water
6 sewer system of materials and potentially hazardous
7 waste. And I'm just looking for some clarification
8 on these. We talked to Larry Klemetson before you.
9 He provided some interesting information that helped
10 a lot. And I just want to see if we can collaborate
11 that with your knowledge of the processes at Koch.
12 This log here is dated 2-26-97, it's a wastewater
13 treatment plant log. And it states, Poly called
14 said that they would be dumping 200 to 300 gallons
15 each time of medium to heavy naptha down the sewer
16 at a few different times today. Can you tell me
17 what that's all about? Is that a process waste? Is
18 it a separate waste that is generated from that Poly
19 unit? Do you have knowledge of that?

20 A. I'd just be guessing if -- without knowing what was
21 going on in their unit. I mean, I don't know if
22 they had a vessel that they had to flush or if they
23 had a leak or a mechanical failure. Without knowing
24 the specifics, it would be really hard for me to
25 guess. I mean, the units don't routinely call me

1 and say we're just going to dump product to the
2 sewer. And there's times where if it's unavoidable,
3 we've stressed over and over, I'd much rather have
4 them call me than hope we find it. So I mean,
5 our -- I don't know what this exact situation is,
6 whether they were in turnaround or -- without a
7 little bit more information, I'd be guessing. But I
8 mean, on something like this, the good thing about
9 it, I mean, the lesser of evils, if they do call us
10 and they did put naptha to the sewer, at least that
11 gives us a chance to get the wastewater guys at the
12 API and tell them it's coming and they can try to
13 skim it off of there. I mean, it's, the plant may
14 or may not handle it, but if we can get rid of it
15 before it ever sees the plant, it's a heck of a lot
16 better for us to just put it to a slop tank and run
17 it as product.

18 Q. But how that material is generated, you don't really
19 have --

20 A. It's not routine. I mean, I don't know if they had
21 a maintenance problem or if they were taken in
22 exchange or out of service due to a leak. Without
23 knowing what they were doing, I'd just be guessing.

24 MR. KRIENS: When they say heavy to
25 medium, is that different types of naptha?

1 THE INTERVIEWEE: All their, it's more
2 technical than anything else. When you do a
3 distillation, I mean, you've got a distillation
4 tower, just picture it like a -- I'm not trying to
5 be insulting, but I don't know your knowledge of
6 refineries. If you picture a tower as like a coffee
7 pot, you know, and you have got the heavy grounds on
8 the bottom, and as you heat it up, the lighter stuff
9 is going to go up. All they're talking about there
10 is that's a gasoline type cut, heavy naptha, medium
11 naptha, it's just a little bit different end point
12 or distillation curve on it.

13 MR. KRIENS: Would they mean the naptha
14 itself or off that distillation column, meaning
15 different fractions of different --

16 THE INTERVIEWEE: Well, this is from the
17 Poly unit so --

18 MS. KOZLAK: Are you sure it's from the
19 Poly unit?

20 THE INTERVIEWEE: It says the Poly
21 called, it said they'd be dumping 200 to 300
22 gallons. But without knowing the specifics -- the
23 Poly unit, there's like 15 different processes. The
24 Poly unit is a generic name for like a 4-block
25 area. And so I don't know if they're talking about

1 their No. 5 desulfurizer or it it's the Penex, or if
2 it's part of the power former. There's a lot of
3 overlap in products. They go through different
4 processes in what we call the Poly unit. But it's a
5 whole slew of units that are involved there. So
6 once again, I'd be really taking a stab in the dark.

7 MR. BERGER: The initials there, do you
8 know who those are?

9 THE INTERVIEWEE: TB is probably Tom
10 Bailey, and KN, this is during the time where we did
11 have some of the other guys down there, so Kevin
12 Nerud, probably. But there again, it's, I could
13 tell you if I looked at all of the -- they are
14 operators in utilities units.

15 MR. BERGER: Who would know in the
16 operations side of things, what that's all about?

17 THE INTERVIEWEE: Probably the guys from
18 the Poly unit.

19 MR. BERGER: Do you have the name of
20 somebody you could give us that would have that
21 knowledge?

22 THE INTERVIEWEE: I have no idea who
23 would be on shift that day.

24 MR. BERGER: Not specifically somebody
25 on shift that day, just somebody that knows those

1 processes inside and out that could shed information
2 on that?

3 THE INTERVIEWEE: The unit supervisor of
4 the Poly unit is Joe Butzer. And from there he
5 could probably dig and see what direction it took
6 him.

7 MS. HAYES: Did we ask Joe Butzer about
8 this? I don't recall that we did.

9 MR. BERGER: We would have to go back
10 and listen to our tapes, I don't recall.

11 MS. KOZLAK: I think you did, and I
12 don't think he knew, but that doesn't mean he
13 couldn't find out.

14 MS. WIENS: What was the document number?

15 MS. KOZLAK: 1269.

16 THE INTERVIEWEE: I sure don't know
17 which operator was on.

18 MS. HAYES: That's fine.

19 EXAMINATION BY MR. BERGER:

20 Q Here's another one, Dave. I'll let you read it. I'm
21 getting tired of reading these things. It's
22 regarding some disposal of xylene, paint thinner to
23 the oily-water sewer.

24 A. And what's your question?

25 Q. I guess, do you have any knowledge of that type of

1 situation going on, any comments? Is that something
2 that happened on a regular basis or infrequently
3 or --
4 A. If it happened, it would be infrequently. I'm not
5 even sure where they got xylene from. So if that
6 was, I really don't, I don't know any specifics on
7 it.
8 Q. I have two logs here from February and March of
9 '97. And they talk about disposal of caustic to the
10 oily-water sewer from the Alky unit. One is 1500
11 gallons caustic to the OWS from Alky unit. And the
12 other is, Alky sending high PH from pits, slowly.
13 Can you shed any light on those, what's going on?
14 Why they dispose of that material? Is it a process
15 waste? How was it generated? Do you have any
16 knowledge of those?
17 A. They've got neutralization pits in the Alky. And
18 when they neutralize acid, I mean, they try to send
19 it to us at a neutral PH. And what we've asked them
20 to do, is if for some reason they either get a high
21 PH or a low PH, to let us know down at the
22 wastewater plant because it's going to adversely, or
23 it can adversely affect our process. High PH like
24 that, I mean, a lot of times it was actually a
25 blessing for us because we add caustic right at the

1 water plant. So if they had caustic that they were
2 disposing off and it comes to us, we just didn't
3 have to add it on our end, but we put it in anyway.
4 It's part of our process. And what we were mainly
5 concerned about -- and I'm glad, I mean, they got in
6 the habit of calling us whenever it was anything
7 other than neutral, but low PH is what scared us
8 more than anything, because then we'd really have to
9 up our addition. Here, we were just using some of
10 their money to treat our plan. Here again, it's
11 from the Alky. I don't know if they over adjusted
12 the PH or whether they had, you know, caustic in
13 that pit. I guess, I don't see this as adverse for
14 us being as we add it anyway. The worst case
15 scenario there is we'd have to offset it with acid
16 to keep our PH stable.

17 Q. Can you give me a little bit more specific on how
18 this waste, or whatever you want to call it, was
19 generated? You say it's in a pit, did it come from
20 the unit? Was it a unit shutdown and they drained
21 this off the bottom or --

22 A. You got me on my weakest -- I could tell you about
23 the desulfurizes, but the Alky is about my weakest
24 area. I know they've got a neutralization pit, and
25 I know that they use acid in their process to make

1 alkalic gasoline, you use sulfuric acid. They
2 neutralize it. But I'm far from an expert on their
3 process. I wish I could help you more, but that is
4 probably my worst area.

5 Q. Do you know of somebody in this unit, this Alky
6 unit, that would be knowledgeable about that, a
7 shift supervisor; do you know a name?

8 A. Yeah, either a shift supervisor or the unit
9 supervisor. We've got Lee Foster, who is a shift
10 supervisor that's from the Alky, I'm sure he could
11 explain it. Dan McDonald, who is the unit
12 supervisor for that area, he'd know how to explain
13 it. They could give you a heck of a lot better
14 explanation than I could. It's just we're a
15 jack-of-all-trades but that's one that I'm not much
16 of a master of.

17 Q. Okay. No, that's fine. Thank you.

18 Just a little bit about spills. This is a
19 log from September of 1995, September 13 and 14.
20 And you're on this log, that's why I bring this one
21 up. It has to do with a spill of gasoline. And it
22 states, Schlomka vac truck 6000 gallons of gas
23 spilled at west tank farm, plus 7000 gallons off of
24 west storm pond. Koch vac truck hauled 4500
25 gallons. Do you remember that spill?

- 1 A. I should remember this.
- 2 Q. It's a pretty big one.
- 3 A. I'm just trying to remember what the source of it
4 was. Do you know what the source was?
- 5 Q. No.
- 6 A. I'm trying to see if anything else in here gives me
7 a clue. I'm not sure what the source of that one
8 was. I was the inside guy that night so I wouldn't
9 have been the one directly out there. But I should
10 remember what it was, but I honestly don't. If I
11 knew the -- it might have been like -- we're on
12 night shift, if it happened on day shift, that's
13 probably, Lee just wrote that it was cleaned up.
14 Without looking at the day before, I can't remember
15 what the source was.
- 16 Q. Why did they let you know? Is it a situation where
17 there is a chance that some of this was going to get
18 up to the wastewater treatment plant?
- 19 A. Well, basically we've got the, tank 63 is like our
20 wet slop tank. And anything like this, if it was
21 gasoline or fuel oil, whatever, we would vac truck
22 it, and then pump it into those tanks and then we
23 actually use it as feed to the coker unit and then
24 turn it into product. So we'd recover as much as we
25 could that way and then hazmat would clean up

1 whatever we couldn't vac up.

2 Q. So they're just letting you know that this material
3 was generated?

4 A. Right. Where the west tank farm is actually more
5 the pumpers-type area. I mean, they monitor that a
6 lot closer than we do. We look at the stuff as we
7 go by it, but it's their area. But yeah, they'd let
8 us know because Schlomka would be taking it to our
9 tank. Once they vac trucked it up, they'd put it in
10 tank 63 or tank 64, depends on whether it's dry or
11 not. And dry, just meaning we can't have more than
12 like one and a half percent moisture or it rocks our
13 tower. But they put it in the tank, and we actually
14 use it as product. So it could have been a
15 completely different unit that was actually handling
16 the spill. If it happened in the west tank farm,
17 it's very possible it was something from the actual
18 pumper area and they probably would have handled the
19 spill. We just take care of once it arrives in our
20 unit.

21 I know it sounds confusing, but the water
22 plant and our slop system are kind of separate
23 entities. But it's just been lumped in with our
24 responsibilities. So there's a lot of stuff that we
25 deal with at the slop tanks that really don't

1 pertain to our wastewater end of our business. But
2 because it's our jurisdiction, I would have noted
3 that we received that amount of gasoline to the
4 tank. But it's, like I said, the only thing I can
5 think of why I wouldn't know what the spill was,
6 it's probably not a wastewater-related spill. It's
7 probably either pumpers or whoever were in charge of
8 cleaning that up. We're just the recipients of the
9 vac trucks. Because I can't imagine I forgot one
10 that size if it was ours.

11 MR. BERGER: Well, that's why I brought
12 that one up. I think that's going to be it, Dave.

13 MS. HAYES: We're done. Thank you very
14 much, Dave.

15 (WHEREUPON, the interview concluded at
16 approximately 3:45 p.m.)

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1 STATE OF MINNESOTA

2

CERTIFICATE

3 COUNTY OF HENNEPIN

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5

I, KIMBERLY J. HORMANN, hereby certify that I reported the interview of DAVE GARDNER on the 4th day of November, 1997, St. Paul, Minnesota.

6

7

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

8

9 That the foregoing transcript of 29 pages is
10 a true and correct transcript of my stenographic
notes in said matter, transcribed under my direction
and control;

11

12

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

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

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19

WITNESS MY HAND AND SEAL this 16th day of November, 1997.

20

Kimberly J. Hormann
Notary Public

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