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**INTERVIEW VIA TELEPHONE OF:**

**JAMES JACOBSON**

**TAKEN OCTOBER 31, 1997 AT 1:30 P.M.**

**ORIGINAL**

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INTERVIEW OF JAMES JACOBSON, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 1:30 p.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 4

By Ms. Hayes: page

By Mr. Berger: page

By Mr. Adams: page

**KOCH JOB HISTORY:**

**CURRENT POSITION:**

MR. BERGER: Jim, I have a little introduction piece we've been doing with all the staff we've been talking to. This is Greg Berger. As you know the Minnesota Pollution Control Agency is conducting a civil investigation that is focusing on Koch Refinery operations and a number of environmental related situations or issues regarding those operations that came to light back in April of this year. We are seeking your cooperation in obtaining information related to those issues and situations, and we want you to know that you are not obligated or you do not have to answer these questions at this time if you do not want to.

The information obtained in this investigation may be used in an administrative, civil or criminal action in the future. The MPCA is free to choose one of these enforcement actions, and taking one of these actions does not preclude the PCA from pursuing another in the future. That's it. Any questions about that?

THE WITNESS: As long as the legal counsel is comfortable with that I guess I am

too.

MR. VOYLES: Our intention is to cooperate.

BY MR. KRIENS:

Q. Jim, my name is Don Kriens and I'm in the water quality division. We've got some different categories of questions that we want to talk about with you, and we don't know if some of these pertain to you, so if they don't just let us now.

I'll begin with one area that we have been quite interested in, and that is the use of the hydrants to discharge water from. I wanted to talk to you about that. There are a few different incidents that I'll refer to with respect to that. The first one has to do about an event in October of 1994 where the plant had a lot of green water in it throughout the waste water system, the fire water ponds, the coker pond, the waste water ponds and so on. We have reviewed the operating logs and found discussion about this. I'll briefly review that to put this in perspective.

September 21, '94 there's a log that

discusses discharge of a hundred thousand gallons to be dumped to the coker ponds from the number three cooling tower. Then October 8 there's a log that states that the whole plant is green, they notified the shift foreman. On October 9 there's a log that states plant flow is green, the shifties set game plan for green water and they talked to Steve David about the color and there was discussion about how to treat the problem in terms of the color.

Then October 11 there's a log that states there's high hexavalent chromium at the S7, which is the waste water treatment plant sump that pumps over to the polishing ponds before it's discharged in the river. We don't have the chromium results, just the statement there was a high chromium concentration. Then October 12 there's a log that states green dye may be contributing to the high hexachrome readings. Then October 12 to 13 there's an operating log that states 1920 hours safety has orders to spray fire hydrants to get rid of green water.

The question I have is were you aware of

that problem and involved with the solution?

A. In 1994?

Q. This would be October of 1994.

A. To the best of my memory I'm not even aware of it and I was not involved with the solution.

Q. Does it mean anything to you, the statement that safety has orders 20 to spray fire hydrants? Who would have begin those orders to do that at that time?

A. That would be a speculation on my part. I wouldn't know who would given that order.

Q. Do you know what the green water may have came from or what the source of the green water was?

A. You broke up there.

Q. Do you know what the source of the green water would have been?

A. No.

MR. VOYLES: Jim, maybe it would be helpful if you told them briefly your responsibilities in 1994.

THE WITNESS: In 1994 I was over the oil lums department, which would have nothing to do with the cooling water at that time.

BY MR. KRIENS:

Q. Would it have nothing to do with the waste water system, too?

A. We would have had nothing to do with the waste water system either.

Q. Let me jump ahead to '96 and up through this spring. You were the operations manager?

A. Yes, sir.

Q. Does that have responsibility over the safety department or waste water operations?

A. Waste water operations.

Q. So the waste water unit supervisor eventually then, was he or she responsible to you?

A. The supervisor down there is responsible to a process owner, and then that process owner reports to me directly.

Q. Okay. Maybe I'll talk about the hydrant discharges in 1996. We went through a lot of documents, operating logs and safety logs, and determined in part from these logs and from information Koch did provide to us that there was several hydrant discharges that were used to dispose of waste water or dispose of water from the pond, the storm water pond. Were you aware of that type of practice occurring?

A. The hydrants were routinely flushed yearly



because of our stagnant system. You can't let the water sit in that hydrant, if that's what you're asking.

Q. I know they were flushed yearly, and as I understand it in the fall?

A. Fall and spring usually.

Q. In order to maintain their integrity so they were useful for firefighting and emergency purposes I assume?

A. Right.

Q. I'm talking about other occasions when they were used specifically for the purpose of -- in most cases it's quoted in the logs as to get rid of water inventory.

A. We had a problem back last winter during the warm up, yes, we had high inventory.

Q. Do you remember when that was?

A. Specific dates, no, I couldn't tell you.

Q. During this period of '96 through May of '97 it's our understanding from the data and the Barr evaluation that the waste water treatment plant was having a lot of difficulty treating ammonia because of the high loading from the refinery, principally from the difficulties the storm water strippers were having. Are

you aware of that type of problem that was occurring?

A. Our storm water strippers started fouling up, I didn't know -- I thought it was late '96, more along November, December they started fouling up. That's true, they did start fouling up.

Q. From our review of the report provided by Barr Engineering that Koch hired to evaluate the system, it appears that through that period that the waste water plant on a design basis was not capable really of treating ammonia to discharge levels to meet limitations at certain times, it exceeded the design test. I'm not saying that it couldn't necessarily treat to discharge levels, it was just overloaded.

MS. WIENS: Are you asking him a question or just making a statement?

BY MR. KRIENS:

Q. I'm prefacing a question. So our interest when we talk about these hydrant discharges there was a series of them that are suspicious to us. There was one in November of '96 where a hydrant was discharged in the evening,

Sunday evening at 7:00 p.m. through Monday morning 7:00 a.m., a hydrant was flushed according to the operator logs. And I'll state the one of November 3. The operator log states safety was to open three hydrants on west tank farm on ground to help get rid of water. As I said, that occurred from 7:00 p.m. that night through 7:00 a.m. Monday morning. At that time also Monday morning a Bioassay test on the discharge to the river was scheduled to occur. It is our understanding from looking at the report that it didn't occur, that it was actually delayed for a week. Are you aware of that hydrant discharge, specifically the November 3 and 4 one?

A. The hydrant discharge in November I'm not specifically aware of, no.

Q. Okay. At the same time the waste water plant received that day a very high load of ammonia. I believe it was the second highest daily load through this January of '96 through May of 1997 period that Barr evaluated. We looked at that information and charted it out, and it was the second highest date, quite high load.

So when we saw that data in connection with the hydrant discharge in connection with the Bioassay beginning Monday morning, we kind of put those together, and as you can maybe understand it looked suspicious. That's the best way I can characterize it. We were concerned that the company was somehow circumventing the Bioassay and discharging water in order to pass the Bioassay because of the high ammonia load. That's what we're getting at here. We just to know if that is indeed the case or if it's coincidence or if something else is going on. If you have any information that would help us to clarify that it would be real helpful.

A. I can make this statement: I guarantee you we were not trying to circumvent that Bioassay test. Who was supposed to do that by the way?

Q. Actually the way it's done is the environmental department, and I believe it was Heather and then Russ Edmonds, would collect the samples and also the river control samples along with that and send them to a lab out in Colorado, ENSR was the laboratory that did it.

A. It was not definitely not our intent to

circumvent any required testing, I guarantee you that.

Q. That's what we're getting at here and what we want to try and understand, if that's the situation.

A. I can see how it looks to you from the way you explained it, yes.

Q. When we looked at the date that's what popped up, Bloassay that Monday, during the night, you know, water is discharged and then of course along with that is a high ammonia loads going to the system. So that's why that comes to mind. We are not necessarily suggesting that that was done, but we need to understand because it does raise that question mark.

Was the safety department then or the shifties, would they be the people responsible then to -- they told us that it was done to lower the pond levels. Are they the people responsible to do that or is it kind of mixed?

A. Well, if you're talking about -- this a weekend off hours or daylight or what?

Q. This would have been a Sunday.

A. Off hours you have shift supervisors on shift and you have a number one down in the water

plant. Now, if we get a thaw or a big, heavy rain the two of them together have to make a decision how to control it if our flow to the river is maxed out. I'm just estimating here, I did not know facts, but people that would make the decision would be the number one water plant, and if it was more of a decision than he could handle then the shift supervisor has to help.

Q. Would you say the flow was maxed out to the river, what do you mean by that?

A. Hydraulically. I'm assuming here, I'm not saying it's fact, but hydraulically they maybe couldn't keep up with the rain or the thaw, whatever is going on in that event.

Q. Okay.

A. I can't tell you what the weather was or anything else.

Q. We can look back and find that information I assume. So are you saying hydraulically to get the water from the refinery side at S7, the sump, over to the polishing pond?

A. That could have been a factor. I'm not sure.

Q. All right. So that was one area. I want to go to another one, a series of discharges

through the hydrants on February 25, 26 and 27. The hydrants were used to discharge water again, accumulative was a little over a million gallons for those three days total. At the same time it -- that was the end of that month, and that month had real high loadings for ammonia. The permit limit was up to a level that was very close to the monthly average limitation. I don't have it in front of me, but it was very close to that limitation. Then the water was discharged during those three days. We don't have the numbers to balance that out because we didn't have ammonia numbers for the water that was flushed, released to the hydrant.

Do you know what -- was there any decision made at that time to discharge the water via this way in order to assure the waste water discharge would meet the ammonia limitation to the river?

A. Made by myself you mean?

Q. Well, by yourself or anybody else.

A. Not that I'm aware of. That's wasn't the purpose of it as I understood.

Q. When you say the purpose of it, the discharge

via the hydrants?

A. Pardon me?

Q. When you saw that wasn't the purpose, are you talking about that wasn't the purpose of the hydrant discharge?

A. I thought it was a water level issue again.

Q. Okay. Do you know of any other times when the hydrants would have been discharged besides those three in the February of '97 months?

A. No, sir.

Q. So when you mention that wasn't the purpose, the purpose would be for three consecutive days because of the levels in the pond perhaps, to lower those levels?

A. I believe that's what it was for. You're going back on a memory that's getting a bit taxed out the last few months with the transfer, but I believe that was the issue.

Q. Okay. The safety department at times, as we understand, was involved with hydrant releases or discharges, and it appears at other times the shift supervisor took responsibility to make that decision. Does the safety department then report to you or who did they report to?



A. It was reported to a safety director. But they manage the fire hydrant system, so they always has to be notified when you draw water off the hydrant.

Q. So the safety department doesn't report directly to you, but notifies your area?

A. Anyone who uses water off the hydrant system has to notify safety as a precaution.

Q. If safety did that themselves they don't require that notification as I understand it, but they would report to what person directly? Let's say the safety department themselves?

A. They report to a safety director.

Q. And that would be Larry Barnett?

MS. HAYES: I believe so, according to the chart.

BY MR. KRIENS:

Q. Do you know of any discussions internally about the practice of using the hydrant to dispose of water from the ponds in order to manage the water inventory as opposed to releasing it through the waste water polishing ponds?

A. Our environmental department addressed the issue. Their concern was -- and I can't

remember what it even was, I'm speculating, but there were memos out over it and set a limit on what we could do. I can't give you details, I don't have those facts with me.

MR. KRIENS: I don't have anything further on this part of it, Jim.

BY MR. BERGER:

Q. Jim, this is Greg Berger. Just in a general sense are you aware of the disposal of chemicals like xylene or naphtha through the oily water sewer at the facility?

A. No, sir. Where would we get it?

Q. Well, we have a number of documents, documented instances from logs on memos that talk about 20 to 30 gallons of xylene being disposed slowly at the Eighth Street sump. We also have documentation of 200 to 300 gallons a number of time being disposed at the pely unit through the oily water sewer. There are a number of other instances of possibly improper hazardous waste management disposal through the oily water sewer.

Are you aware of any policy at Koch about handling waste of this nature through the oily water sewer?

A. There's no policy to handle improper waste through the oil water sewer. There is a policy stating we will not do it. Is that what you're asking?

Q. Yeah. I would like to see that policy if it's available.

A. If you take a look at our principles in which we train our people under, lawful and abiding, I believe our environmental keeps us abreast on all the lawful very well. They're a big enforcer. Every one of our employees is dealt with on the principles and they are reviewed on them to make sure they understand what our philosophy is.

Q. Can you explain why these instances occurred then?

A. I'm not aware of when they occurred I guess. It's the first I've heard about them. Any time you are leading 900 to 1,000 employees you put a certain amount of responsibility and accountability on them, and I felt quite confident that we were training and making it quite clear that our environmental and our policies have no exception to it. We will comply and meet all needs of our permits.

When did this happen?

Q. The situation with the dumping of the 200 to 300 hundred gallons of medium to heavy naphtha occurred in February of '97. The situation I mentioned about the xylene disposal is documented in August of '94.

A. I'm not aware of either one of them.

MR. BERGER: That's all for me.

BY MR. ADAMS:

Q. To follow up on the policy, is that a written policy that people are trained in?

A. Yes, sir, we've gone through our -- I know during my -- when I was in charge of any group the principle training was required to kick it off with and we held class to identify what we meant by them. The environmental group has been very proactive in getting training on proper disposal, proper handling of hazardous material. Last year, 1996, we went through I don't know how many classes of different training on that. We've had ongoing training along those lines.

MR. VOYLES: Jim, can you explain basically when you're talking about the policy, tell him what you mean by that. I

think you're talking about the principles, right?

THE WITNESS: Yes.

MR. VOYLES: Go ahead and explain what that is.

- A. Koch Industries set forth a few years back, I don't know the implementation of our principles, but they set a policy out, and I'm sure Jim can show you a copy of them. Just about every employee should have a copy with them. If you look if the first principle, lawful and abiding, then you go on down through the ten principles, and I can't quote you principles for a fact, but in there it talks about the environmental, what we mean by it and how we treat the environment.

That is our goal, that we will have the best compliance with environmental. It also has in there how we will be a good neighbor and take care of the air and water. That is a big issue for Koch employees. People have lot their jobs over not taking care of the water and air. So we go through that training and make sure all our employees from whatever level they work at, whether they're a janitor

or a number one operator or supervisor, their goal is that we will be in compliance and that we will do everything possible to stay in compliance and handle our business.

BY MR. ADAMS:

Q. Would you happen to know if the training includes anything as specific as identifying what a reportable quantity would be for a spill?

A. Environmental has done that, you bet. I think the last class I went to, and I might be wrong here, but last year, '96, I believe we had a reportable quantities. Well, our policy actually in our group and in operations, when I was head of that, we reported anything.

MR. VOYLES: To whom?

THE WITNESS: To the environment department.

BY MR. ADAMS:

Q. That's consistent with what we're hearing from people we have spoken with here.

A. Yeah. The legal definition is something else, but we just arbitrarily said hey, we're not smart enough to interpret it, let's just report anything that is not contained within

the normal containment.

Q. Is that something that's in writing in the training manuals or whatever way you distribute that information to staff? I guess that's something we would be interested in seeing, how Koch conveys the idea of what a reportable quantity is to the people that work at the refinery. Who would do that kind of training? Would that be safety or people in hazmat that would identify when a reportable quantity is?

A. Check with the environmental group and see how they report it. Principle training is done by the management, and I had people training our employees on principle. I took part in most of the training, so I'm confident there. And there again, you're dealing with a mass amount of people, but they understood our policy real well.

MR. ADAMS: Okay. Thank you.

BY MR. KRIENS:

Q. Jim, this is Don Kriens. In this area of spills, do you ever get involved or did you ever get involved here with spill cleanup and the extent of cleanup and what should be done

and so on over spills from tanks onto soils or gasoline spills on soils, that sort of thing?

A. The last four to five years the hazmat group reported to me, yes.

Q. So they would report to you in what way?

A. Their supervisor reported to a process owner that reported to me.

Q. Were there situations where you would be involved in a decision as to what they would do about spills in terms of cleanup?

A. Normally how it was attacked, if there is a mishap or spill the hazmat group would be dispatched to it, the supervisor would use environmental group to consult and tell us how to get it cleaned up.

Q. Was there a certain level -- they would give you recommendations as far as clean up, and did somebody at times, including yourself, make a decision how far that cleanup with go?

A. There were no questions asked. It would go all the way necessary to redeem it the right way. There was not an economic decision there, that was strictly if we spilled we clean it up and recovered and put it back in the original condition. There was actually no



discussion, if there was a mishap or there was a spill environmental set out our expectations in the group and they cleaned it up, disposed of it properly.

MS. HAYES: I think we're done.

(Whereupon, the interview concluded at 2:00 p.m.)

\* \* \*

**STATE OF MINNESOTA)**

**Se:**

**COUNTY OF HENNEPIN)**

BE IT KNOWN, that I, MILO BALLINGRUD, Court Reporter, a Notary Public in and for the County of Hennepin, State of Minnesota, certify that the foregoing is a true record of the interview of JAMES JACOBSON, 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.

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