
INTERVIEW OF:
LARRY KLEMETSON
TAKEN NOVEMBER 4, 1997 AT 1:30 P.M.

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INTERVIEW OF LARRY KLEMETSON, 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 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 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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EXAMINATIONS:

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1 MR. BERGER: Larry, this is kind of a
2 little introductory part here that I have to go
3 through. We are conducting a civil investigation --
4 that is the MPCA -- that is focusing on Koch
5 refinery operations and a variety of pollution and
6 environmental-related issues. We are seeking your
7 cooperation in obtaining information related to
8 those issues and situations. And at this time you
9 do not have to answer our questions if you don't
10 want to, this is totally voluntary on your part.

11 The information obtained in this
12 investigation may be used in a civil, administrative
13 or criminal enforcement action. The MPCA is free to
14 choose any of these options or enforcement actions,
15 and if we choose one, it doesn't preclude us from
16 choosing another in the future. And I just want you
17 to be aware that this investigation is of Koch
18 refinery company, it is not directed specifically at
19 any individual.

20 THE INTERVIEWEE: I
21 understand.

22 MR. BERGER: Thank you.

23 THE INTERVIEWEE: You bet.

24 EXAMINATION BY MS. HAYES:

25 Q. Larry, my name is Mary Hayes. I work in the

- 1 division of water quality for the Minnesota
2 Pollution Control Agency. Would you state for us
3 your position, the amount of time you've been here,
4 and give us kind of a sketch of what your
5 responsibilities have been? And if they have been
6 different at different times, could you give us a
7 little bit, a little piece on each part of that?
- 8 A. Sure. Larry Klemetson. I started working for Koch
9 in 1979. I've done numerous things, operating back
10 at that time for two years in the boiler house,
11 which wasn't part of the utilities at that time
12 then in '79 to '81. '81, I went to the
13 platformer, which was a new unit at that time and
14 operated as an outside operator, boardman and a No.
15 1 operator. And in 1987, I went into maintenance as
16 a pipe fitter foreman.
- 17 Q. Can I back you up for just a second?
- 18 A. Sure.
- 19 Q. Operator after '81, what kind of an operator are we
20 talking about here?
- 21 A. I did a number of jobs; an outside No. 2 operator, a
22 boardman and a No. 1 operator who was responsible
23 for the unit. So it's really three different
24 functions, three different jobs.
- 25 Q. Okay. I'm sorry, go ahead.

1 A. No problem. You kind of work your way up. The more
2 time you have, the more experience you have, the
3 more responsibility you get. And let's see, in '87,
4 I went into maintenance as a pipe fitter foreman, I
5 did that for two years. And came back into
6 operations as an assistant shift superintendent,
7 performed that function as an assistant, and then a
8 relief, and then a shift foreman, until, I believe
9 it was 1993, and then I was -- in February of '93, I
10 went to the boiler house, wastewater treatment plant
11 as the utilities unit supervisor. I performed that
12 role until May of 1995. Came back into operations
13 as a shift foreman again, and that brings us up to
14 today.

15 Q. So you're currently a shift foreman?

16 A. Yes, I am.

17 MR. KRIENS: Is that also called a
18 shiftie?

19 THE INTERVIEWEE: Yeah, that's slang,
20 shift superintendent, yep.

21 EXAMINATION BY MS. HAYES:

22 Q. So based on that question, have you been a shiftie
23 before?

24 A. Yes, I have.

25 Q. When was that again; what was the other time that

1 you were a shiftie?

2 MR. KRIENS: Not only have you been a
3 shiftie, but a shiftie, meaning a shift supervisor,
4 or whatever.

5 THE INTERVIEWEE: From '89 to '91 --
6 excuse me, '89 to '93 and then '95 to present.

7 EXAMINATION BY MR. KRIENS:

8 Q. Larry, when you said the boiler house, wastewater
9 treatment plant --

10 A. At the time I worked in the boiler house -- okay, go
11 ahead, excuse me.

12 Q. Was that utilities unit supervisor, did that include
13 the wastewater treatment plant supervision, too?

14 A. Yes, it did.

15 MR. KRIENS: Okay. That's what I wanted
16 to make sure of.

17 MS. HAYES: And you were in that
18 capacity from '93 to '95, right?

19 THE INTERVIEWEE: Correct.

20 MS. HAYES: Okay. Good. I think
21 that -- thank you for all that background. It's
22 real helpful to have some context here.

23 I'd like to discuss a couple of issues with
24 you, Larry. And I think that generally I'll cover
25 this, and then I think you might have one issue that

1 you want to talk about briefly, right?

2 MR. KRIENS: Yeah, I think so.

3 MS. HAYES: And I don't even know if
4 Greg has any issues to talk with Larry about, just
5 to give you kind of an idea.

6 MR. BERGER: Maybe a little bit on the
7 coker ponds.

8 EXAMINATION BY MS. HAYES:

9 Q. Okay. And I've been asking some sort of general
10 questions about overflows, both coker pond overflows
11 and B5 overflows, and then also sort of the
12 relationship between that and the oily-water sewer
13 overflowing into the non-oily-water sewer.

14 A. Okay.

15 Q. Your name doesn't come up on these logs, but since
16 you were in a supervisory capacity over the
17 wastewater treatment area, it seems like it's
18 logical that I can go through some generic questions
19 with you and if it becomes not relevant for you,
20 just let me know.

21 A. Sure will.

22 Q. I think I'll start with the oily water to the
23 non-oily water. Let me see, you were in wastewater
24 starting in '93, right?

25 A. That's when I was the unit supervisor responsible

- 1 for that.
- 2 Q. Were you in wastewater before that, Larry?
- 3 A. Not as a unit specific supervisor, no. I was a
- 4 shift foreman on shift, yes. I did have
- 5 responsibilities there.
- 6 Q. And that was in '89, wasn't it?
- 7 A. That's when I started that, yes.
- 8 Q. Well, then I guess I'll ask you, were you aware of
- 9 the tank 500 overflow, that area where the oily
- 10 water flows into the non-oily water and the bubbling
- 11 up or the puking up is the term that was used?
- 12 A. Yes, we were made aware of that on a few occasions.
- 13 Q. And what is your, what is your memory, how far back
- 14 does that go for you?
- 15 A. That was still happening when I was the unit
- 16 supervisor there, so that would have been before
- 17 '95, after '93.
- 18 Q. It was after '93 and before '95?
- 19 A. Yes. Let me think here, whenever we would hear of
- 20 an overflow issue, that's when we would do what was
- 21 necessary to stop it from overflowing. And we would
- 22 make the operational moves required to ensure that
- 23 the non-oily or the oily water did not go to the
- 24 clean water sewer or the non-oily-water sewer, so we
- 25 would stop the flow or reduce the flow.

- 1 Q. From the coker pond?
- 2 A. Yes.
- 3 Q. Is that the only remediation that you would, or the
4 only action you would take?
- 5 A. Well, we would stop the overflow, and we would clean
6 up if necessary, yes.
- 7 Q. Clean up where?
- 8 A. The gravel.
- 9 Q. At the manhole there?
- 10 A. At the site itself.
- 11 Q. Okay. You said that it was after '93 and before
12 '95. That answer is based on your awareness of it;
13 is that correct?
- 14 A. That's correct.
- 15 Q. Okay. When you were in touch with this, how often
16 was the occurrence of the overflow?
- 17 A. I think that would pretty much depend on how much
18 rain we had had recently, so it would fluctuate
19 according to the weather.
- 20 Q. And in a wet season, how often?
- 21 A. How often would it overflow?
- 22 Q. Uh-huh.
- 23 A. Oh, boy, it would be sheer speculation on my part.
- 24 Q. Was it daily, monthly, weekly?
- 25 A. It may have been weekly, I don't believe it was

- 1 daily. Weekly to monthly, it wasn't really an
2 everyday occurrence.
- 3 Q. Okay. Then you mentioned that you would take action
4 to avoid having it go into the clean water
5 sewer?
- 6 A. That's correct.
- 7 Q. But were you ever involved with looking, I mean
8 there are logs that discuss overflows into the
9 non-oily and then subsequent logs that discuss oil
10 on B5 and then from there there's logs that talk
11 about the overflow of B5.
- 12 A. Okay.
- 13 Q. Is that --
- 14 A. Well, the SOP at the time, after the overflows
15 occurred the first few times, one of the --
- 16 Q. SOP is?
- 17 A. Standard operating practice. We would -- I'll put
18 it this way, I would, when I was on shift, I would
19 divert the Nows to the OWS, which would eliminate
20 the chance of any oil going to B5. So we put it in
21 the front end of the treatment plant and treated
22 accordingly. And that was standard practice amongst
23 the shift foreman at the time, so I'm sure it
24 happened.
- 25 Q. Okay. That was once you were made aware of it,

- 1 correct?
- 2 A. Once we were aware that there was an overflow, we
3 would divert the flow to the front end of the
4 plant, yes.
- 5 Q. How -- what was the procedure for making you aware?
- 6 A. Usually a visual observation by an operator making
7 a round. A coker operator would let us know that
8 tank 500 sewer was overflowing or the boiler house
9 operator, or us making rounds in our vehicle, we may
10 notice that. There were a number of people who made
11 us aware that there was an issue that we had to
12 deal with.
- 13 Q. How often were those rounds made?
- 14 A. Rounds are made on a one-to two-hour frequency in
15 the operating units. No less than, no -- they would
16 be at least every two hours if not more frequent.
- 17 Q. Okay. And you mentioned that you'd cut back the
18 flows at the coker pond. Any other ideas about
19 problems, the source of the problem for the
20 overflows?
- 21 A. Sure. We would look upstream. Every unit capable
22 of going to that lateral, we would make sure we were
23 under normal operating conditions in the upstream
24 units of where the overflow was occurring, cokers,
25 crude units, everybody in the old part of the plant.

1 basically, that used that.

2 Q. So sometimes it would be like the crude units that
3 would be a possible contributing source, too?

4 A. Absolutely. It wasn't always the coker pond.

5 Q. We've asked for remedial action, corrective action
6 on that tank 500 overflow, and the response we got
7 was generally that the cooling tower blowdown
8 discharge would be diverted from that area so that
9 it wouldn't be overloaded.

10 Based on your knowledge of that, is that,
11 does that seem sufficient to you to take care of the
12 problem? I mean, I assume that when we've gotten
13 information from -- I understand Heather spearheaded
14 this. I assume that that is her, that's the extent
15 of her knowledge. But since you were working right,
16 you know, hands-on -- I mean, we just want to be
17 sure that the problem is really taken care of. Can
18 you give me any further grasp than this?

19 A. I can try. If there's, it depends on what cooling
20 tower you're talking about. There are different
21 cooling tower blowdown systems that go to different
22 parts of the refinery. And if it's No. 1 cooling
23 tower, in particular, that tower happens to operate
24 slightly differently than the other towers. The
25 amount of blowdown off that tower would not in any

1 way, shape or form cause any sewer overflow. It's
2 minimal, we can't get the cooling towers cycled up
3 the way it is, so we don't blow down.

4 Q. You're saying if it was for No. 1 it wouldn't --

5 A. If it was No. 1, right. But it's possible if it was
6 in the heat of summer and the water chemistry on No.
7 3 or 4 or 5 cooling tower was such that we were
8 blowing down great amounts of water, which would be
9 in excess of 3 or 4 or 500 gallons a minute, then of
10 course we would stop that, if it was, in fact,
11 causing a sewer overflow, sure. It's just one of
12 the many things that we would look at.

13 MR. KRIENS: Which tower would have had
14 the capability then to affect that sewer in the area
15 of tank 5 --

16 THE INTERVIEWEE: Probably the one in
17 closest proximity and the one with the volume amount
18 would be No. 3 cooling tower. It's the next
19 closest. And it is upstream of that box. I believe
20 No. 1 blows down downstream of that box.

21 EXAMINATION BY MS. HAYES:

22 Q. What were the other options, Larry?

23 A. Just looking to see if there's any unusual
24 maintenance activities occurring in the units.
25 Hydrodraining of some piping or a vessel, any more

1 than normal activity of water to an oily or
2 non-oily-water sewer.

3 Q. So that sounds like the variable kinds of things
4 that can happen, but in terms of long term or
5 permanent fix stuff, can you think of anything else
6 that --

7 A. The permanent fix I believe was exactly what we did.
8 We sealed the sewer to prevent it from overflowing.
9 But it took enough engineering to determine the
10 specific cause of the overflow in the first place
11 before we could actually put a plan in place that
12 fixed it, because there were a number of
13 contributing factors, coker pond, cooling towers,
14 process water flows. You know, back flushing of the
15 cooling water exchanger, for example, would be
16 enough flow to possibly make that sewer backup. It
17 boiled down to line hydraulics, and once we
18 addressed that issue --

19 MR. KRIENS: Okay.

20 THE INTERVIEWEE: I'm sorry to
21 interrupt.

22 MR. KRIENS: No, that's fine. That's
23 what I was getting to actually. Was there a problem
24 with the pipeline also being apparently occluded
25 with scale and so on?

1 THE INTERVIEWEE: After the fact, we did
2 find out that it was relatively dirty, yes. And we
3 did some high-pressure cleaning of the header to
4 free it up.

5 EXAMINATION BY MS. HAYES:

6 Q. And that would be why, when we were out here in
7 April, we asked about this when we were standing
8 near that overflow spot by tank 500. And I think
9 that at the time they said when this happened, they
10 had to cut the flow to about 700 GPM?

11 A. From the coker pond.

12 Q. Right, from the coker pond. But we have logs that
13 discuss cutting flow to 150 GPM and that would be
14 the reason that you had the scaling?

15 A. Well, that's going to contribute. Again it's going
16 to also -- the amount of fouling in the line is not
17 anything that occurred in a week or a month or a
18 year, it took years for that to build up.

19 And the way we used to operate the system
20 then versus how we operate it now, would have led to
21 more of a fouling problem in the past;
22 demineralizer operation, for example, in the boiler
23 house. But as it was right now, not only did we
24 have increased flow rates, due to increased barrel
25 throughput of the refinery upstream of where the

1 sewer overflowed, we had line restriction downstream
2 at the box. So the two working hand in hand were
3 working against that sewer containing the water.

4 So we put a cover on the sewer, managed the
5 streams going to that sewer box upstream and cleaned
6 the discharge line of that sewer box. So those
7 three things have, from what I've heard, I haven't
8 heard of it even -- it hasn't leaked since we fixed
9 it, I'll put it that way.

10 EXAMINATION BY MR. KRIENS:

11 Q. Was the problem more frequent because of the
12 increased throughput of refinery production output?

13 A. No, I think it was probably more frequent because of
14 the deterioration of the outlaying line, to be
15 honest; but as it got smaller and smaller, it became
16 more of a problem up front. But there were other
17 things that had been done upstream of that box.

18 Q. That had changed, are you saying?

19 A. Yes. For example, the coker pond transfer line had
20 been increased in size.

21 Q. I'm sorry, did the coker pond volume that they had
22 to deal with increase, too; that contributed, too?

23 A. Only during rainfall, snowmelt, that sort of thing,
24 but as far as routine coker pond traffic, I don't
25 believe that it increased.

- 1 Q. I guess I meant the coker operation itself, not
2 necessarily the pond. Did the coker plant
3 increase capacity the past few years as well?
- 4 A. We have shortened our drum cycles so as a result of
5 that, yes, we put more barrels in it.
- 6 Q. So the water generated from that process through
7 cutting grounds, would probably have increased as a
8 result?
- 9 A. Just through frequency?
- 10 Q. Yes.
- 11 A. Rather than 16-hour cycles, we go to 14-hour cycles.
12 There won't be anymore water at any given time but
13 the time frame being shorter, that's the only way it
14 would increase.
- 15 EXAMINATION BY MS. HAYES:
- 16 Q. When you were doing -- when you've been out doing
17 rounds, so what is, what are you looking for? Are
18 you looking for problems all throughout the plant or
19 is it limited to your areas?
- 20 A. As shift foreman, we're responsible for everything
21 inside the gates. So we're looking at everything in
22 general and nothing in particular until we have a
23 reason to.
- 24 Q. Okay. Now, the way I understand that is, you're
25 especially, you've got a more general responsibility

- 1 on weekends and off-hours, is that the way that
2 works or --
- 3 A. Again our responsibilities are basically the same
4 24-7.
- 5 Q. Okay.
- 6 A. Economics, operations, reliability, it covers a
7 great deal. It's just that Monday through Friday,
8 8:00 to 5:00, we have more reinforcements there to
9 help us, but we still are the coordinators for the
10 plant.
- 11 Q. Okay. Back to the issue of the B5 then. Did you
12 ever find the B5 overflowing?
- 13 A. Personally I never have, no. I heard about it.
- 14 Q. When did you start hearing about that?
- 15 A. I'm not sure of the specific time, but it was the
16 one and only overflow that I'm aware of, of B5. I
17 believe it was early this year or late last year
18 somewhere.
- 19 Q. You haven't heard of others before that?
- 20 A. No. It didn't overflow, B5, to my knowledge.
- 21 Q. Do you know of any, like what the response to that
22 was, or what did you hear about that or what do you
23 know about that?
- 24 A. It would be secondhand information. I wasn't on
25 shift at the time that it occurred. I can only look

- 1 back in the log books to see what remediation was
2 done, what tools were used to stop the overflow.
- 3 Q. Making a shift then to the coker pond overflows, did
4 you ever get involved with that or --
- 5 A. Yes, I did as a unit supervisor.
- 6 Q. Okay. And when were you first aware of those
7 happening, Larry?
- 8 A. Probably the one that made the biggest impact on me
9 was the one that occurred, and again on timingwise
10 I'm not real sure, but if you're familiar with when
11 we repaved the roads around the coker ponds --
- 12 Q. I'm not familiar with when that was.
- 13 A. The spill occurred about two months prior to that
14 because we had about a 40-inch discrepancy in the
15 freeboard around the three basins. And as a unit
16 supervisor, I wrote the request to give us an even
17 playing field in all three basins, so that we
18 wouldn't be going by one outage in one pond and
19 overflowing in another, so that we had consistent
20 outages in all three ponds. So we ended up raising
21 the road, actually, in one area about 40 inches just
22 to make it meet the low spot --
- 23 MR. KRIENS: -- of the other ones?
- 24 THE INTERVIEWEE: Right.
- 25 EXAMINATION BY MS. HAYES:

1 Q. About when was that; do you know?

2 A. That would probably be sometime in '94, spring or
3 summer of '94, somewhere in there.

4 Q. Okay. What was the response to an overflow at the
5 coker pond; what would you do?

6 A. Again we would make sure nothing was going there
7 that couldn't be stopped. I mean, if we could stop
8 it, we would. Remedial action would be to, if we
9 ever, in fact, overflow, we would build a temporary
10 coke dike wall to stop the overflow from going down
11 by the railroad spreader. And we would get
12 auxiliary pumping equipment in place if we had to.

13 Q. How often were you dealing with that issue?

14 A. The pumping or the coker ponds?

15 Q. Yeah, the coker ponds, the overflows.

16 A. Once we put the new road in, I don't recall
17 overflowing after that, during my time that I was
18 there. And that would have been, like I say, I
19 think the road went in in '94. I left May of '95
20 and during that year, there was not one overflow of
21 the coker ponds while I was there.

22 MR. KRIENS: Do you want to give him
23 that one incident that --

24 MS. HAYES: This was September of '94.

25 MR. KRIENS: September of '94, that's

1 maybe the one you're thinking about.

2 THE INTERVIEWEE: Maybe. I'm not sure
3 on the dates, like I said.

4 MR. KRIENS: There was the incident
5 where it overflowed near the railroad track and
6 apparently the railroad would not enter the
7 area?

8 THE INTERVIEWEE: That's the one I'm
9 talking about. Because the railroad refused to
10 come in and grab the coke cars, you bet.

11 EXAMINATION BY MS. HAYES:

12 Q. What happened there?

13 A. We just had a big rainfall, the ponds were higher
14 than they should have been, and we got caught. It
15 was just bad timing.

16 Q. What was the response to that incident?

17 A. The long-term response ended up being building up
18 and installing the pavement to make all the ponds
19 even and uniform.

20 Q. What about the remedial action, the cleaning up?

21 A. We got hazmat down there. Boy, it turned into a big
22 deal. We cleared the ground, a lot of man hours.
23 It was overgrown with brush so you could actually
24 see where the dirty water had risen to a certain
25 level, so we went in and cleaned it up.

1 Q. What do you think the volume was of that
2 particular --

3 A. Jeepers, I'm not sure. It was probably, I couldn't
4 even guess, it was a substantial amount.

5 MR. KRIENS: Would there have been oil
6 in that one, too, because the railroad wouldn't go
7 in, would that have been their concern with that?

8 THE INTERVIEWEE: I think -- no, I think
9 the concern was it was out of the ordinary, there's
10 not water in that ditch, typically. And there may
11 have been an odor associated with it because the
12 coker pond, on occasion, has an odor to it. So
13 that's exactly what we did. We pumped the water out
14 and then hazmat went in and cleaned up the weeds.
15 And it took a number of days. It wasn't just
16 something we did in that one day, it was a two-or
17 three-day project.

18 EXAMINATION BY MS. HAYES:

19 Q. And just cleaned up weeds, no soils or --

20 A. There may have been remediation of the soil, also.
21 I'm sure after the testing that was done, if there
22 was a need to clean the soil, we would have done
23 that. I didn't get involved with the specific
24 cleanup of that. My biggest action item out of this
25 was to raise the road and make it even for all three

1 ponds.

2 Q. So it would be regular protocol to test the soils to
3 see if any --

4 A. Typically if there's ever a concern about any
5 contamination of anything, we go through the
6 recommendations from our environmental department to
7 remediate it in the proper way.

8 MS. HAYES: I guess that's all I would
9 have a question on about the boiler house, unless
10 you happen to have a question?

11 MR. BERGER: I guess I don't have
12 anything about the coker pond. Just back up just a
13 bit to the oily-water sewer to the non-oily-water
14 sewer.

15 EXAMINATION BY MR. BERGER:

16 Q. Maybe you mentioned this earlier, but I just wanted
17 to cover it, make sure we covered it. Our
18 documents, information documents that we got from
19 Koch indicates that this problem with the oily-water
20 sewer bubbling over and getting into the
21 non-oily-water sewer is in '94; that is '94 and
22 forward is the documents we got. We don't know, it
23 could have even been before that. You described the
24 fix that was put together to correct this problem.
25 Can you explain to me why it took so long for this

1 action to be taken to correct the problem when it's
2 happening in '94, '95 and '96 and it's not corrected
3 until '97?

4 A. I don't know if it was a matter of it taking so
5 long. I think from the time we originally found out
6 we did have a problem, we got the engineering
7 support required to develop a plan to repair the
8 problem. Our engineering department works well.
9 They do a good job, but things take time.

10 I don't know if that's an inordinate amount
11 of time or not because during the two-year period
12 you're talking about, there were times when we did
13 not have an issue with the pond overflowing.
14 Whether -- or excuse me -- the sewer box
15 overflowing. Whether it be the way we were managing
16 the system in the interim until we got a fix in
17 place, or if the system wasn't causing those same
18 problems because of some other change that had been
19 made. But I can't answer why it took two years to
20 put a cover on that sewer box. All I can say is
21 that from the time we discovered we had a problem
22 and put the steps in place to fix the problem, it
23 was, I guess, done in a manner that was adequate for
24 the parties that were responsible at the time. I
25 don't know why it took two years.

1 Q. Well, even longer than that.

2 MS. HAYES: It actually sounds like it
3 took longer than that.

4 THE INTERVIEWEE: Okay. Well, some of
5 our projects take a great deal longer than that, but
6 again, we do stress the importance of environmental
7 impact. We tend to put them at the top of our
8 list. Same thing with our safety issues. You know,
9 the environmental awareness we have in this refinery
10 now is the highest it has ever been since I've been
11 here. And I expect that it's still going to
12 improve. Because the more we talk about it, the
13 better job we do communicating it and the more the
14 folks have to live with it.

15 I've got four kids. My kids like to go
16 swimming in the river and hunting in the woods and
17 fishing and things like that. A lot of other people
18 share that same thing. We are going to do the best
19 we can. We are going to do the right thing whenever
20 we have a chance.

21 MS. HAYES: For your information -- just
22 for your information, we have logs that indicate
23 that there were overflows into the, from the oily to
24 the non-oily and that there would be an oil sheen on
25 B5 on the subsequent day and then --

1 THE INTERVIEWEE: -- I heard that
2 story --

3 MS. HAYES: -- and then there were
4 overflows, too. So, I mean, in terms of
5 environmental impacts, I think there's some evidence
6 there that that's an environmental problem.

7 THE INTERVIEWEE: Yes, I agree,
8 definitely.

9 MS. HAYES: I just really wanted to say
10 that to you. I don't even expect you to
11 comment about it.

12 THE INTERVIEWEE: Oh, I won't. I'm not
13 saying we're going to catch every time that
14 sewer overflows.

15 MS. HAYES: No.

16 THE INTERVIEWEE: And I'm not saying
17 we're going to divert oily to non-oily every time,
18 if we don't know it's happening, how can you? But
19 we do the best we can.

20 MS. HAYES: I think therein lies the
21 problem, that there wasn't an alarm system or
22 whatever. I have an additional question about the
23 time that you spent in the boiler area, boiler
24 house area. Do we have logs on the mercury?

25 MR. BERGER: Yeah.

1 EXAMINATION BY MS. HAYES:

2 Q. Did you ever encounter any spills from old switches
3 and gauges and that sort of thing, Larry, of
4 mercury in the boiler house?

5 A. No. No, I never encountered any.

6 Q. Did you hear anything about them?

7 A. Not of any spills, no. We had a number of mercury
8 switches, that's what makes up the basis of a boiler
9 house instrumentation and control system. But as
10 far as spills, as far as the mercury not being where
11 it's supposed to be, no, I never heard anything
12 about it being spilled.

13 Q. We have a day-shift report here from April of 1997
14 that states, 1400 hours mercury spilled boiler
15 house. And then this is from April 11, '96, cleaned
16 up mercury spill at boiler house. But you were
17 never made aware of this?

18 A. No, I was not involved with either one of those.

19 Q. In that situation like that, what would you have
20 done if you had been made aware of something like
21 this? Now, wait a minute now. What was your
22 capacity again?

23 A. I was a shiftie at this time.

24 Q. Okay. What would your response to something like
25 that be?

- 1 A. Well, we -- all of the people in the boiler house or
2 wastewater treatment plants are probably hazmat
3 qualified and trained. And what we're going to do
4 is initiate the cleanup phase. If there is, in
5 fact, a spill of a hazardous material, we're going
6 to cord off the area and get the necessary
7 technicians there to remediate it in the proper
8 manner. So if I was involved with the spill, I
9 would clear the people away who shouldn't be there,
10 get the people there who need to be there, there and
11 inform the necessary people as to what's happening.
- 12 Q. And who would the necessary people be? How would
13 that notification process go?
- 14 A. Through the shift foreman's office, it would go to
15 our safety department and environmental group,
16 whoever the contact people were there.
- 17 Q. And then it's up to the environmental department to
18 make the notifications to the appropriate agencies
19 from what we've --
- 20 A. -- correct, yes.
- 21 Q. Is there ever an exception to that, Larry, in terms
22 of protocol?
- 23 A. No, I've never -- and I think I can speak for my
24 peers -- I don't believe any of us have ever had to
25 contact an outside agency without dealing with

1 environmental or refinery management.

2 MS. HAYES: Okay. That's all I have.

3 EXAMINATION BY MR. BERGER:

4 Q. If this area isn't something you're familiar with,
5 just let me know. Are you aware of direct
6 discharges of potentially hazardous waste to the
7 oily-water sewer system?

8 A. No.

9 Q. We have a number of logs that talk about paint
10 thinner being 20 to 30 gallons being exposed to the
11 oily-water sewer system. We also have logs that
12 indicate naptha, medium to heavy naptha being 200 to
13 300 gallons at a time being exposed to
14 the oily-water sewer system.

15 A. That's what the oily-water sewer system is for.

16 Q. Is it?

17 A. To contain hydrocarbon, absolutely. Every raised
18 cup sewer you see in our refinery is part of the
19 oily or NESHAP sewer system.

20 Q. Okay.

21 A. That's to contain hydrocarbon to keep it off of a
22 clean area or a ground to prevent contamination. If
23 it's not going to a pad, which goes to, in most
24 cases, a clean water sewer, it's going to go to a
25 raised cup oily sewer.

1 And on occasion, hydrocarbon ends up in
2 those, yes. Whether it be by design, I don't think
3 so. If we don't have any other way to depressure,
4 depending on the scenario, if we have got an
5 emergency shutdown, and we've got to get hydrocarbon
6 out of this unit, we put a hydrocarbon hose to the
7 oily sewer and do what you have to do. That's what
8 its intent is.

9 Before we go to that mode of operation, we'll
10 try to hook it up into a flare system. Whether we
11 go through our flare system, which has got a full
12 recovery system of its own, or sewer system, which
13 has its own recovery system or the slop system, all
14 three do basically the same thing. They get as much
15 of the hydrocarbon back to be reprocessed as we can,
16 and then we treat the remainder of it as we need to.
17 Q. When you say that the sewer system has its own
18 recovery system, are you talking about the API
19 separator?

20 A. That's part of it, yes.

21 Q. Part of it. What's the other part?

22 A. The rest of the whole wastewater treatment facility.
23 But, yes, there's -- let me think, other than lift
24 stations, yes. When I talk sewer system, that's
25 what I would be talking is the API.

1 EXAMINATION BY MR. KRIENS:

2 Q. So when you say recovery through the slop oil or the
3 wastewater plants --

4 A. -- or flares.

5 Q. Or flares, the expectation is that it would be
6 brought back into the refinery system for
7 processing?

8 A. Correct.

9 Q. Into product or whatever?

10 A. Hopefully product, yes.

11 Q. Hopefully product. Instead of discharging to the
12 sewer system, wouldn't it be more efficient to
13 transfer this material directly to the slop oil
14 system?

15 A. Yes, but again, if you heard how I started this
16 conversation, depending on the situation. If we're
17 in an emergency situation and we have a fire or we
18 have a massive leak where we've got to depressure
19 part of a unit quickly to a safe area, the sewers
20 are used for that. Just like the flare system, if
21 time allows, or the slop system, if time allows. It
22 depends on what the situation is because there's so
23 many variables.

24 Q. Yeah, I understand. It does seem to me in an
25 emergency situation --

- 1 A. It isn't routine that put we hydrocarbon into the
2 sewer.
- 3 Q. These -- we can look into this. The implication we
4 have is that these were planned, since wastewater
5 was informed that it wasn't necessarily an
6 emergency, they were informed, the wastewater, this
7 was coming down, going to be dumped at some point in
8 time.
- 9 A. Okay. I see your point. Well, let me, let me
10 answer that by saying this --
- 11 EXAMINATION BY MR. BERGER:
- 12 Q. Here, let me give you some specific information
13 here. Here is a log of 2-26/27 of '97. It's one
14 we've discussed before. And it states, Poly called,
15 said they would be dumping 200 to 300 gallons each
16 time of medium to heavy naptha down the sewer at a
17 few different times today.
- 18 A. Okay. We would have to know if they're dumping a
19 prewash caustic system because the caustic has
20 hydrocarbon entrained in it. And what you're
21 getting here is interpretations of operators
22 interacting. And that is something we can't express
23 enough, the communication is the key. And what
24 you're seeing here is the wastewater treatment
25 operator acknowledging that the operating units are

1 communicating with them. And I don't know what the
2 particulars about that are, but it isn't as obvious
3 as it seems, depending on the operator who took the
4 phone call may not have ever worked a process unit.
5 And if he's dumping a caustic prewash that has light
6 or medium naptha in it, it isn't the caustic --
7 excuse me, it isn't the naptha that's going to the
8 sewer, but it's a naptha unit. And the guy says
9 he's dumping his caustic wash to the sewer, he's
10 letting the water plant know so that when he sees
11 his PH go to 13, he at least knows who's doing it,
12 and he can react to that effect. It's something
13 that never used to happen. Things would happen in
14 the operating units and the water plant would see it
15 after the fact and take two days to try to fix
16 something, that if they had an hour's worth of
17 notice before it got put to the sewer, before it was
18 headed their way, they could have dealt with it and
19 not had any of the big dips and doodles that they
20 used to go through.

21 The SPC and the water plant now, in other
22 words, using equalization for what it's for, taking
23 the highs and lows, the toxic out of the system and
24 letting it equalize and feed the bugs. Good
25 consistent nutrients is the way the water plant

1 likes to operate.

2 What that is, is an example of the increased
3 communication between the operating units and the
4 wastewater plant. And believe it or not, the
5 operators are kind of bragging when they write that
6 in that log book because they did get informed.
7 They like that, then they can deal with that in a
8 proactive manner rather than reactive.

9 Q. Specifically you said this is a caustic prewash?

10 A. It could be.

11 Q. It could be. What would that be all about? Is that
12 a cleaning step for the unit to shut down?

13 A. No, it's part of a routine operation, if it is
14 recharging a caustic treater. Poly called -- okay.
15 We have to get the terminology. There's 14
16 operating units that they call the Poly, the Poly is
17 just one unit. But there's five desulfurizers,
18 there's a few gas liquid recoveries, there's six
19 other processes that are part of that. But when the
20 boardman calls and says, this is the Poly, and we're
21 going to do this. And the wastewater operator hears
22 it's the Poly and they're dumping, you know, naptha
23 sweetner, caustic, I think it's just a matter of
24 interpreting exactly what's happening here.

25 EXAMINATION BY MR. KRIENS:

- 1 Q. Does that one refer to naptha on there? Well, is
2 what you're saying that that was the naptha unit?
- 3 A. Yes.
- 4 Q. One of the units processing --
- 5 A. -- naptha treater. Yes, it's taking the sulfur out
6 of it.
- 7 Q. And not necessarily naptha but the caustic prewash?
- 8 A. Exactly, it could be.
- 9 Q. It could be?
- 10 A. Yes, depending on the time. I don't know if we
11 could go back and probably find out, not that it
12 really matters. But I can see where you may think
13 that, okay, this guy called and said, I'm going to
14 give you 300 gallons of heavy naptha to your oily
15 sewer. That isn't what this says.
- 16 Q. In fact, would you want to get, I'm not trying to
17 argue for your point necessarily, but would you want
18 to get rid of naptha that way?
- 19 A. Absolutely not.
- 20 Q. You would want to keep naptha --
- 21 A. That's one of the hardest ways to recover product is
22 through the sewer system. So whenever we have a
23 chance to put it in a slop or a flare system, we're
24 going to do that. The flare, we're spending a lot
25 of time now to minimize that, also. So slop is

1 where we want it.

2 Q. I think our point was that putting it to the sewer
3 system; unless, of course, it's an obvious
4 wastewater, which this may have been. It's not the
5 most efficient way we would think to recover
6 materials because you'd want to have it in a
7 concentrated form to go back in. And our position
8 would be that we would want the company to minimize
9 that as much as possible and go through the slop oil
10 or other means, you know, to recycle it back.

11 A. I understand. But when they're dumping naptha
12 prewash with 14 PH caustic and that's the intent of
13 this phone call is to let them know their PH is
14 going to swing --

15 Q. Right. And this, in fact, may have been just the
16 normal wastewater system typically discharged, but
17 they were warning him that it was going to be a
18 higher PH?

19 A. Exactly. And what probably threw the water plant
20 operator was that he called it the naptha prewash or
21 the naptha sweetner, or whatever. And he was going
22 to get 2 to 300 gallons of caustic off the bottom of
23 this thing; whereas, he interpreted it 2 to 300
24 gallons of medium to heavy naptha. Well, we're not
25 going to do that, that's throwing away money.

1 MR. KRIENS: That helps, so that we
2 understand that.

3 MR. BERGER: Yes, it does.

4 EXAMINATION BY MR. BERGER:

5 Q. Related to that, I have some logs that state, Alky
6 sending high PH from pit. And then in parentheses,
7 slowly. And then another one states, 1500 gallons
8 caustic to OWS from Alky unit and then, very slow.

9 A. That's the same thing.

10 Q. It's the same thing?

11 A. It's a neutralization pit, they have two of them.
12 And they ultimately end up in the oily sewer
13 system. So it's part of the process in the Alky.

14 Q. It's part of the process. That's the key here, if
15 it's part of the process.

16 A. Yes, it's high PH alkaline water. It's not
17 hydrocarbon, it's strictly water. And it's into a
18 neutralization pit because we bring it from 14, try
19 to get it to 7 to neutralization. And that's what
20 the pit is for, once we get it into a PH that isn't
21 going to throw the water plant for a loop, that's
22 when we let it go to the sewer system slowly, try to
23 even it out at 7, but they're not always successful.
24 If they're 5 to 10, they're doing good.

25 EXAMINATION BY MR. KRIENS:

1 Q. Are the sewer systems -- you know, there's
2 different, quite a lot of sewers that connect, and I
3 think there's some mains, too?

4 A. Yes, there are.

5 Q. I would presume you'd want to neutralize it so it
6 wouldn't degrade those sewer systems?

7 A. That's the whole intent behind the neutral pits and
8 the Alky unit, correct. It not only saves on the
9 calcium lay down or the mineral deposits being put
10 in the pipe, but if it is good, clean sewer pipe, it
11 saves on the degradation or erosion, corrosion of
12 the piping. So we want to make it as friendly to
13 the sewer system as we can before it gets there.

14 MS. HAYES: What do you know about the
15 quality of the sewer system right now, Larry?

16 THE INTERVIEWEE: Not very much. I
17 haven't had a lot to do with it since I left the
18 unit supervisor's job in '95.

19 MS. HAYES: What did you know of
20 problems?

21 THE INTERVIEWEE: That we had a routine
22 yearly PM program that we went through every sewer
23 main and lateral in the refinery to ensure that they
24 were, in fact, working properly. And there was a
25 PM, Preventive Maintenance program set up just to go

1 through the refinery sewer systems.

2 MR. KRIENS: Do you know what that
3 involved?

4 THE INTERVIEWEE: Yeah, getting in there
5 with high-pressure water and lancing laterals to a
6 box, cleaning the debris out of the box and then
7 doing the same thing to the main headers. That also
8 gave us a good opportunity -- once in a while, I
9 believe there were cameras used to check the
10 integrity of the piping. So it gave us a good
11 opportunity during slow sewer usage times to do the
12 repairs that were needed, if there were, in fact,
13 that were needed. So the PM helped us catch some
14 things that we may not have caught without a PM
15 program, until it's obvious.

16 MS. HAYES: So the spraying through the
17 sewers is to --

18 THE INTERVIEWEE: Clean them and to
19 inspect.

20 MS. HAYES: Clean them so you know what
21 you've got. But you did do some televising the
22 lines?

23 THE INTERVIEWEE: I can't -- we've used
24 numerous cameras out here and I believe some were
25 used in sewer systems, I can't swear to that. We've

1 used them in wells. We've used them in other
2 piping. Again I wouldn't swear on it but I believe
3 we have used cameras in sewers.

4 MR. BERGER: This is the log that
5 mentions the xylene being disposed to the oily-water
6 sewer, any comment on that one?

7 THE INTERVIEWEE: Hazmat people.

8 MS. WIENS: 82294.

9 MS. KOZLAK: Are you asking him to try
10 to interpret it for you, is that what you mean by
11 any comment on that one?

12 MR. BERGER: Yeah, just read it.

13 THE INTERVIEWEE: Hazmat people will
14 be dump about 20 to 30 gallons slowly xylene paint
15 thinner.

16 MR. BERGER: Yeah, it's some interesting
17 spelling there.

18 THE INTERVIEWEE: It is, but it's also
19 Bob Gary and Don Tschida with Mark Stevens on the
20 centrifuge. Anyway, down at 8th Street sump with
21 all the dilution, we shouldn't even see it.

22 I wasn't aware of this. That wasn't handled
23 in that fashion, not that I'm aware of. We don't
24 do things like that.

25 MR. BERGER: Don -- who did you say was

1 on that?

2 THE INTERVIEWEE: It looks like Don
3 Tschida was the outside guy. Yeah, I'm not aware of
4 that happening.

5 MR. KRIENS: Would you consider that
6 improper disposal of the waste --

7 THE INTERVIEWEE: -- yes, I would. I
8 would, you bet. Was that on a day shift, must have
9 been.

10 MR. BERGER: It looks like it's 7:00 in
11 the morning.

12 THE INTERVIEWEE: No, I wasn't aware of
13 that going on. If I would have been, it wouldn't
14 have happened.

15 MS. WIENS: Do you know where the xylene
16 came from; does the document say?

17 THE INTERVIEWEE: No, it doesn't.

18 MS. WIENS: Does that make a difference?

19 THE INTERVIEWEE: It depends if it's
20 internally generated. For example, we take transmix
21 from outside of the refinery and it comes into our
22 slop system. We used to test to make sure that it
23 was, in fact, what they said it was. It's water and
24 slop oil. We would take that from outside and
25 inside we would deal with it properly so. Again I

1 don't recall hearing anything about that.

2 MR. KRIENS: That seems to indicate that
3 it was not process related, but a pain thinner?

4 MS. WIENS: That's your interpretation
5 of what the documents says.

6 MR. BERGER: Well, it looks pretty
7 obvious when it says paint thinner.

8 MR. KRIENS: It says paint thinner, I
9 guess, but --

10 THE INTERVIEWEE: Well, it could be. I
11 don't know. You know, we use chloroethylene in the
12 process, too. You know, that will thin paint. But
13 again it's not a way that we would dispose of a
14 number of different chloriding agents that we may
15 use in the process. Again, we have got a hazmat
16 individual talking to a wastewater operator, and if
17 their interpretation of what they read on this label
18 ends up being paint thinner, then I guess that's
19 what we have to interpret from that. But I can't
20 give that any -- I wasn't aware of what happened
21 there.

22 MR. BERGER: Okay. Thanks.

23 THE INTERVIEWEE: Sure.

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

25 EXAMINATION BY MR. KRIENS:

- 1 Q. I've got a few questions. You were the utilities
2 unit supervisor from 1993 to May of 1995?
- 3 A. Correct.
- 4 Q. Were you aware of the use of the hydrant flush for
5 discharge of wastewater?
- 6 A. We use the hydrant system for flushing fire
7 hydrants. We use it for flushing fire mains and
8 laterals of the fire main system. As far as -- and
9 we also use it to fight fire.
- 10 Q. Did you -- were you involved or just aware of the
11 use of that hydrant system to dispose of wastewater
12 from the storm water ponds?
- 13 A. I know we've flowed fire water through the fire
14 system to different places in the refinery, yes.
- 15 Q. But I'm talking in this case where a fire hydrant or
16 they call them monitors, also, was opened up and
17 water was discharged onto land areas, like the west
18 tank farm or --
- 19 A. This happened on the west tank farm, yes. It
20 typically ended up in the west storm pond if it was
21 done on the west tank farm.
- 22 Q. There were -- our documents show there were actual
23 cases and other people have stated that they've seen
24 it onto the tank farm itself, meaning the land, not
25 the basin.

- 1 A. Oh, okay. Well, if you're familiar with the area of
2 the west tank farm, everything drains to the west
3 storm pond. So if it was put on a tank, that water
4 would, in fact, drain to the west storm pond. It's
5 designed to have the clean water flow, drain to the
6 storm pond.
- 7 Q. Okay. This would be, though, where water was pumped
8 via, could even have been via the west storm pond or
9 the south pond or B5 through this system, not
10 necessarily only at the west tank farm, that was one
11 location. Another one was in this low area west of
12 the north storm pond. I don't know of the other
13 specific areas right now, but I'm talking about
14 those discharges. Did you know that those -- or are
15 you aware of those?
- 16 A. Yes, I have heard that the fire system was used to
17 flow water for flushing. In other words, PM of our
18 system. There has been an occasion, I believe,
19 where we --
- 20 MS. HAYES: Can you just hold on for a
21 second?
- 22 THE INTERVIEWEE: Sure.
- 23 MS. KOZLAK: What does PM mean?
- 24 THE INTERVIEWEE: Preventive maintenance.
25 There was an occasion where, I believe, we had our

1 maximum allowable inventory in our north and our
2 south fire water system. And we were going to the
3 river with everything that our S7 pumps could pump.
4 And due to the fact that we were draining a hydro,
5 rather than exceed our minimum freeboard on our fire
6 lagoons, north and south, that fire water may have
7 been flowed through the system to an area other than
8 a fire lagoon.

9 EXAMINATION BY MR. KRIENS:

10 Q. Okay. Let me ask you about -- in October of '94,
11 there was a discharge via the fire hydrants to get
12 rid of what was called green water at the time. Do
13 you know about that particular problem?
14 A. Is that -- what date?
15 Q. October of '94. Prior to the time, it was, there
16 was a period there in October 12 through the 13th
17 where safety, the statement is in an operating log,
18 safety has orders to spray fire hydrants to get rid
19 of green water. Before that, the whole plant water
20 system was green. We've talked to others about what
21 the cause of that was and a couple of different
22 people believe it was a dye situation. We have
23 operating logs stating that there was high chromium
24 in the effluent at that time, also. And that there
25 was a hundred thousand gallons dumped from the No. 3

1 cooling tower on September 21. Whether that's
2 relevant to this or not, I don't know. But in any
3 case, there was green water. One of the log states,
4 October 9, that the plant flows green. Shiftie
5 said, game plan for green water. And then there was
6 discussion of how to breakdown the green water
7 color. But the particular interest to us is this
8 comment that safety has orders to spray fire
9 hydrants to get rid of green water. Do you know
10 what that means, and who would have given safety
11 those orders?

12 A. No and no.

13 Q. At the time, was the wastewater treatment plant
14 responsible for managing the pond levels?

15 A. Yes, we were.

16 Q. So if safety was ordered, would it have come from
17 the wastewater --

18 A. I don't recall requesting that safety do that.
19 There's a few issues here that you bring up. The
20 green water, is that water plant water, is that fire
21 water, is that well water, is that utility water;
22 what water is it?

23 Q. Apparently it was throughout the plant. It was in
24 the coker ponds, the coker pond channels, in the
25 storm ponds, in the wastewater ponds or polishing

1 ponds and apparently throughout the plant, not in
2 the well water, that I know of.

3 A. Okay. That surely should ring a bell because I was
4 intimately involved with the operation of the water
5 plant at that time. And I know there was an issue
6 with biogrowth in fire water headers that was
7 discovered upon repair of a header. And we were
8 actually getting biological growth in the system,
9 which would lead us to believe this particular piece
10 of pipe hasn't been flushed in x amount of time. So
11 it's stagnate water breeding bacteria, which we
12 don't want to happen because it erodes the piping
13 from the inside.

14 But no, I don't recall everything in the
15 plant being green in October of '94.

16 Q. Okay. When they say orders to spray the fire
17 hydrants, is there any reason why that would have
18 been done at that time or any other time, I guess,
19 versus just letting it flow out to the river?

20 A. Again, if we're going to the river with everything
21 that S7 pumps can put to the river, which is the
22 pumps that get it to the polishing ponds and we
23 still have a build of inventory in the plant,
24 there's no other recourse. There's no other way to
25 get it to the river, unless we shut down Highway 52

1 and put portable pumps up, and we've yet to do that.

2 Q. Do you know what the limitation of the S7 pumps are?

3 A. I believe it's less than our NPDES limit, but I
4 can't give you specifics. I would have to look at
5 some pump curves. We've got the operating data.

6 Q. Right, we have that, too. And I'm not doing that to
7 test you, but I just couldn't remember. I think it
8 was fairly sizable.

9 A. Four and a half, 4.8, five million, something like
10 that.

11 Q. I seem to remember even like seven million.

12 MS. HAYES: But the average has been
13 about 3.2?

14 THE INTERVIEWEE: Correct, flow through
15 the plant. Right, but if we're at a, say it is five
16 million MACT at the pump and we're pumping five
17 million, and we're draining two hundred thousand
18 barrel hydro out of a tank, and we have already got
19 our 42-million gallon capacity and our combined fire
20 lagoon is full, we have to put the water somewhere.
21 And that may be a reason why the fire system was
22 utilized for two purposes. It would be an excellent
23 opportunity to flush and it would be a way to find a
24 home for that water that was being generated. And
25 then if we got a six-inch rainfall, that just

1 compounds things.

2 EXAMINATION BY MR. KRIENS:

3 Q. Do you as a shiftie, the supervisor, are you aware
4 of the hydro discharges that took place? I'll begin
5 with -- there were several in 1996. But let me just
6 be specific on which ones. There was one November 3
7 and 4 of 1996, which occurred starting at 7:00 p.m.
8 in the evening through 7:00 a.m. the next morning,
9 that would be Sunday evening through Monday morning.

10 A. I specifically don't recall that. I would have to
11 check my schedule to see if I was even here.

12 Q. Okay. And then another one would have been January
13 4, 1997.

14 A. I don't believe I was here for that one either.

15 Q. And then another one we're interested in is February
16 25, February 26 and February 27, three days in a row
17 where that was done.

18 A. I don't recall it being done.

19 Q. Do you have any idea why they would have been done?

20 A. Again to manage inventory.

21 Q. Was there, I noticed in the logs that, and people
22 have told us to manage inventory, but at the same
23 time the flow discharge to the river was minimized
24 greatly at times to 1 unit, 1.7 units and so on, and
25 I'm not going to ask you what those units mean, but,

1 because of the ammonia problem with the ability of
2 the plant to meet ammonia?

3 A. Right.

4 Q. So we've been told that, therefore, the flow was
5 backed up into the storm water ponds, so -- quite
6 often, in fact. And they call it stacking, are you
7 aware of that practice?

8 A. Well, I've heard people refer to us maintaining
9 minimum fire water inventory as stacking water, and
10 I don't agree with that terminology. What we're
11 doing is managing our fire water system.

12 Q. In that case, are you saying you're managing the
13 fire water system to maintain the levels high
14 enough in the event there's an emergency such as a
15 fire?

16 A. Exactly, yes.

17 Q. So is there any need then to do it, other than that,
18 to maintain those levels? I mean, is that the
19 primary purpose you would --

20 A. That's the reason we move water, yes.

21 MS. HAYES: Can I ask for a
22 clarification, really quick? You said you don't
23 agree with -- what did you say; you don't agree with
24 the terminology, or the practice?

25 THE INTERVIEWEE: Well, the terminology,

1 stacking water, it's semantics, I guess. It's part
2 of the water management system. Some people may
3 call it stacking. To me, that just isn't what we
4 do. We manage our system, and we maintain x amount
5 of a million gallons in each pond for a reason. And
6 when I was there it was our responsibility to first
7 off, put the south lagoon system in place and once
8 it was there, to develop a plan to make it a useful
9 tool. And that's when we developed our minimum and
10 maximum outages on the ponds. And we put together
11 an entire fire water management package. And we
12 never referred to it as stacking water, it's
13 maintaining inventory.

14 MS. HAYES: Can you speculate about why
15 you would have so much water to deal with like in
16 the winter months?

17 THE INTERVIEWEE: Okay. I've done that,
18 tank hydro, for example. When tank 517 is done,
19 that's 26 million gallons of water. That's the full
20 south lagoon, you have to manage that. There's
21 other tanks that we hydro, and we have to manage
22 that water. So it's a matter of putting it in,
23 letting it do its job, putting it back to where it
24 needs to go so we have it as reserve. That's not
25 speculation, that's how we do it.

1 MR. KRIENS: My point was when -- I
2 think you had mentioned there was a restriction with
3 respect to the ability of the S7 pumps to get
4 there --

5 THE INTERVIEWEE: There may have been.

6 MR. KRIENS: Or there may have been. Or
7 there's some limitation because they have some limit
8 capacity.

9 THE INTERVIEWEE: Right.

10 MR. KRIENS: But I notice at times,
11 particularly in February and other periods, when the
12 ammonia was a particular problem, in terms of
13 removal, that they reduced the flow and then to the
14 polishing ponds from S7; so that at times, in fact,
15 there was one period where I noticed it stopped all
16 together because the ammonia was too high. And then
17 correlated with this reduction flow, in February
18 there is a series of hydro flushings of the storm
19 water ponds, which leads me to think that it's
20 inconsistent with management of inventories because
21 the flow was being restricted. If it was an
22 inventory problem, why wouldn't you just open up the
23 discharge more to the flushing --

24 MS. HAYES: -- to the full capacity of
25 the S7?

1 THE INTERVIEWEE: From what you told me,
2 we would have violated it. That's what you just
3 said.

4 EXAMINATION BY MR. KRIENS:

5 Q. Yeah, well, I'm not -- I'm saying that's a
6 possibility there. And we don't have the mass
7 balance information to show that. But it appears to
8 us that -- at least we're suspicious of that, to be
9 honest with you.

10 A. Let me say that this -- I'm speaking for myself but
11 I know a lot of other people share this same
12 attitude. Typically we operate within 10 percent of
13 the hundred percent of our NPDES limits. And we are
14 very happy to do that. And it costs money to do
15 that and that's not an issue. It's not a money
16 thing.

17 It's getting back to doing the right thing.
18 And I think the people who think that are also
19 strong enough, that if we were in a position where,
20 for whatever reason caused us to be working in our
21 90 percentile instead of our 10 percentile of our
22 permit limit, that we're going to do that because we
23 have to. Whatever caused it to happen, we're going
24 to do it. If it happens to go 110 percent, we've
25 written checks before, we'll do it again if we have

1 to. We don't like to do that, but it isn't the
2 money issue. It's the fact that we weren't able to
3 manage our process to keep it under our limits.

4 Q. Are you saying -- I didn't mean to suggest it is a
5 money --

6 A. I'm not going to hide anything to prevent us from
7 paying a fine, is what I'm saying.

8 Q. Are you saying that it could be an issue that there
9 may be an interest in hiding something, and just to
10 put that in quotes, in order to, because it was an
11 integrity issue, they wanted to maintain the good
12 record that you have had and so on; is that what
13 you're saying?

14 A. No, I'm saying the contrary to that. Of course
15 integrity is No. 1, we have to maintain our
16 reputation. Of course we want it to be known that
17 we are good environmental citizens to our neighbors,
18 to our employees, to you folks. We want to be able
19 to do our business in the best fashion possible.

20 If something creates a problem that we're not
21 able to manage, for whatever reason, I'm saying
22 we're not going to shuffle water around and hide it
23 in certain places to prevent us from exceeding our
24 permit. If we exceed our permit and we're doing
25 everything we can not to, that's how it's going to

- 1 work around here. What I'm saying is that if we
2 intentionally went out of our way to hide something
3 to prevent a violation, I don't think that's true,
4 but that's my opinion. And I've got intimate
5 knowledge of what we do in this business every day,
6 and we just don't operate that way.
- 7 Q. But then how would you explain the discharges, let's
8 say February 25, 26 and 27?
- 9 A. Again I don't know the details behind that.
- 10 Q. Well, let me just briefly run through it. First
11 during that month, they had very high ammonia
12 loadings, I think it was the second highest month in
13 this period that we studied, and that Barr
14 Engineering studied for Koch. And we've charted
15 those out in a graph. And in February, I believe it
16 was the second highest ammonia pound per day
17 influent load to the wastewater plant through that
18 month. You'll notice these are the arrows pointing
19 down where we've got documents that show there was a
20 discharge to land areas. February --
- 21 A. -- through the fire system?
- 22 Q. Through the fire system, yeah. In February it was
23 discharged the 25th, 26th, 27th about accumulative
24 total of a little over a million gallons. During
25 that month, the NPDES permit limit, the monthly

1 average for ammonia was right at the top, meaning it
2 was very close to being exceeded. So when we see
3 this, it makes us wonder what occurred. And then
4 along with that we have, you know, have memos and
5 occasional operator documents, which state that the
6 S7 flow is reduced 1.7, 2 units, or whatever. So
7 that in that case, that means that it was backed up
8 then or stacked, as some people would call it.

9 A. Sure. Is that corresponding to a daily limit? Are
10 you just talking monthly averages?

11 Q. Just talking monthly average here for this month.
12 So when -- again I just wanted to reiterate that
13 when people are saying that it was sprayed out for
14 inventory, it isn't consistent to us because if that
15 was the case, it would have discharged it through
16 the S7 and not restricted the flow so many
17 occasions. That was actually done throughout this
18 period quite often, not just in February, but
19 January and November and --

20 A. Okay. Without me knowing the details of exactly
21 what was behind this, I guess, like I said, I gave
22 you my opinion earlier as to what our typical
23 business approach would be. Not knowing the
24 details, I don't know. It looks like you've got the
25 facts right there. I can't answer your question as

1 to why we would flow water, other than to manage our
2 inventories or for PM function of the integrity of
3 the fire water system.

4 Q. Right. Again I understand that. And we had asked
5 people in safety and usually they don't like to open
6 those up anyway because they freeze up. Normally
7 it's done in the fall for flushing, for
8 winterization for hydrant flushing and that type of
9 PM activity so --

10 A. Yeah, we aren't afraid to open a fire hydrant at any
11 time in the wintertime because they're all
12 winterized. The fire main is below the frost line
13 and the fire hydrants that are used, as soon as
14 they're done, are winterized and freeze protected.

15 MS. WIENS: But we did go through that
16 those three days with people from safety. And you
17 have had other explanations as to why we had to
18 discharge at that time, too, which he hasn't had the
19 opportunity here like you have, so --

20 MR. KRIENS: No, I know.

21 MS. WIENS: You sort of mischaracterized
22 for him what you've learned so far. You did talk to
23 Gary at great length about what happened during
24 those days. And you still have on your list people
25 to talk to who were there.

1 MR. KRIENS: I'm not sure that I
2 mischaracterized, I don't understand that. But I
3 didn't make any statements about what they said.
4 I'm just making characterizations of what the
5 information gives us, and what we have done on the
6 graph.

7 MS. WIENS: I just think you haven't
8 given him the full scope of your knowledge about
9 what happened in those days. You gave him some
10 limited information, but you didn't give him the
11 whole picture of what other people here have said.

12 MR. KRIENS: We can. And I would be
13 glad to do that. And Gary Ista has told us that it
14 was done for inventory purposes solely. And that's
15 kind of what he has said, but he didn't know any
16 specific information about any of these individual
17 discharges, in fact.

18 MS. HAYES: Can I make a comment, too,
19 about the reason that it would make sense to talk to
20 Larry about this. It's obvious Larry is very
21 knowledgeable about a lot of the workings of the
22 facility. And he has the experience in wastewater.
23 And I think that that makes this a really reasonable
24 question to ask him because of the, because of
25 levels of the ammonia and, I'm sure, your knowledge

1 of having problems with ammonia over the past year.

2 MS. WIENS: I completely understand.

3 I'm not saying you can't, I'm not even saying you
4 can't ask questions or, Larry, don't answer. I'm
5 just trying to let Larry know that there has been
6 other information explaining those particular days
7 that he didn't know of, that we've all talked about
8 before, so that he's not thinking he's the only one
9 who has commented and has no particular firsthand
10 knowledge about those days, that's all.

11 MR. KRIENS: Oh, sure. Yeah, I'm
12 just -- right. That's understood.

13 MS. KOZLAK: Can we get a copy of this,
14 so we're all working off the same information?

15 MR. KRIENS: Yeah, it's on my computer.
16 We'll talk to Rick Houle. But it's on my computer.
17 It's something we generated, and, I guess, I don't
18 see any particular problem doing that.

19 MS. HAYES: I don't either. I think you
20 should run it by him because --

21 MS. KOZLAK: You generated all the
22 information that you got from Koch though, right?

23 MS. HAYES: From Barr.

24 MR. KRIENS: From the Barr Engineering
25 report.

1 MS. WIENS: Barr report as a consultant
2 to Koch?

3 MS. HAYES: Yes.

4 MR. KRIENS: And then we just put it
5 together with the other documents. And what we
6 wanted to do was to look at where the ammonia
7 loadings were and where the discharges were, the
8 hydrant discharges. And some of them seemed to make
9 pretty good sense. I mean, there's some correlation
10 there, but that's what we're trying to understand
11 here, if that fits.

12 EXAMINATION BY MR. KRIENS:

13 Q. There was another one in November 3 and 4 that I
14 mentioned. Did you know of anything about -- I
15 think maybe I already asked you?

16 A. You did ask me. And I'm not sure if I was on shift
17 at that time or not.

18 Q. I'm sorry. Okay. If these are the weekends, does
19 the shift supervisor have responsibility?

20 A. We have knowledge.

21 Q. Or knowledge that they occur?

22 A. Yes. Yes, we would.

23 MR. KRIENS: I was just trying to give
24 you the information and just our characterization of
25 it and not other peoples, but other people have

1 responded to questions on it, and they've had
2 certain knowledge or lack of knowledge, too. And I
3 guess I didn't see a need to bring all those up at
4 this point, but I can surely do that and I'm open
5 to, if you have any questions on what other people
6 have said about it, I think that's fine. I don't
7 have any problems with answering that, too. Because
8 it's kind of an information gathering thing and not
9 an individual gathering --

10 THE INTERVIEWEE: -- I hope so --

11 MR. KRIENS: -- Nothing that we're
12 involved with here. It's strictly focused on the
13 practice and the involvement with companies civilly.
14 Our intent is not to focus on any individual actions
15 here. So if you have any questions on that, I'd be
16 very happy to answer that.

17 MS. WIENS: No, I think what happens is
18 as you characterize certain events without showing
19 him documents so that he can make his own sort of
20 characterization and understanding of events, that
21 your characterization isn't necessarily how we or he
22 may characterize those events. And so when things
23 are left out or information that we have learned
24 over time, I understand that's your characterization
25 from the beginning, but we have learned other things

1 as time has gone on. And when we don't have the
2 full characterization of an event, I think it's
3 unfair for him to be answering a very specific
4 question about any event that he doesn't know
5 anything about, except for the information that you
6 have fed him. So you get an answer from him based
7 upon what I think isn't even sort of the right
8 factual predicate for his answer.

9 I mean, you can live with that answer, you
10 know, forever and come back to it and look at your
11 questions and say, oh, I wish I would have done it a
12 different way. Based on what you gave him, he gave
13 you the right answer. I'm just trying to make sure
14 that --

15 MR. KRTEENS: -- yeah, I understand that.
16 I was just trying to get rationale. Primarily the
17 point I was trying to make or understand was others
18 have said that was an inventory issue. I wanted to
19 show the chart to show that there was another thing
20 occurring, and that was real high loading to the
21 wastewater plant with ammonia. They had a lot of
22 difficulties with that. And then there's a lot of
23 documents that say that they did restrict flow,
24 which contradicts this inventory basis of flushing
25 the hydrants. And I just wondered if given that

1 presentation to Larry, if that made sense to him,
2 too. But I do understand your point.

3 MS. HAYES: And maybe you should
4 probably also know there was a meeting that took
5 place, where there was discussions about flushing
6 hydrants and that was among the environmental
7 department. And we're not absolutely certain what
8 took place in that meeting. And I think we're
9 trying to put those pieces together right now. So
10 we're, right now, I think, we're dealing with one
11 person's interpretation of what might have happened
12 out there or a couple people. And Gary is certainly
13 one piece of that.

14 MS. WIENS: Right. And I think Ruth was
15 a piece of that, too.

16 MS. HAYES: Yes, Ruth is definitely a
17 piece of it, yes.

18 MR. KRIENS: Well, I don't think we
19 have anything further.

20 MS. HAYES: I don't have any other
21 questions.

22 MR. KRIENS: I appreciate your help
23 because it did help to elucidate a lot of areas here
24 and make us understand some of these things that
25 work better. That was very helpful. I appreciate

1 your time.

2 MS. HAYES: Thanks very much, Larry.

3 (WHEREUPON, the interview concluded at
4 approximately 3:50 p.m.)

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1 STATE OF MINNESOTA

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CERTIFICATE

3 COUNTY OF HENNEPIN

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5

I, KIMBERLY J. HORMANN, hereby certify that I reported the interview of LARRY KLEMETSON 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

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10

That the foregoing transcript of 65 pages is a true and correct transcript of my stenographic notes in said matter, transcribed under my direction and control;

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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;

18

19

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

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Kimberly Hormann
Notary Public