
INTERVIEW OF:

EUGENE PICKERIGN

TAKEN DECEMBER 19, 1997 AT 9:35 A.M.

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INTERVIEW OF EUGENE PICKERIGN, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 9:35 a.m. on Friday, December 19, 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

ALAN MITCHELL, Attorney at Law

RICK COOLEY, Attorney at Law

Present from the law firm Green Espel:

SUSAN K. WIENS, Attorney at Law

I N D E X

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1 BY MR. BERGER:

2 Q. Gene, I'll read an introduction that we're doing
3 for all the staff and personnel that we are
4 talking to.

5 As you're probably aware, the Minnesota
6 Pollution Control Agency is conducting a civil
7 investigation that is focusing on Koch Refinery
8 operations and on a variety of pollution,
9 environmental related issues that came to our
10 attention back in April of this year. We are
11 seeking your cooperation at this time in
12 answering some questions about these
13 environmental issues. We want you to know at
14 this time that answering these questions is
15 totally voluntary, that you do not have to if
16 you do not want to. The information we obtain
17 in this investigation may be used in a criminal,
18 civil or administrative action against Koch
19 Refining company. I want to emphasize again
20 that this investigation is of Koch Refinery, the
21 company, and we were not looking at any
22 individuals at this time.

23 A. Okay. I only have one comment in that regard.
24 Charlie Chattle was fired several days ago, he's
25 one of the people that went to the MPCA. I am

1 the steward down at utilities, so I handled
2 that, Charlie and the man in that division, if
3 you will. So I am somewhat uncomfortable,
4 considering what has happened with Charlie's
5 termination, with speaking freely. I will do
6 the best I can under the circumstances.

7 Q. We don't believe that anything Charlie told us
8 in the interview had anything to do with him
9 being terminated.

10 A. That could very well be possible, but I don't
11 know that.

12 MR. KRIENS: Are you concerned that
13 if you speak freely that Koch might retaliate?

14 THE WITNESS: I'm saying it's a
15 possibility, nothing more.

16 MR. KRIENS: We can understand that
17 concern.

18 MS. HAYES: Do you want to go ahead?

19 THE WITNESS: I'm ready to go ahead,
20 I just wanted to --

21 MS. HAYES: Are you comfortable with
22 doing it at all?

23 THE WITNESS: I'll do it, but I'm
24 hesitant.

25 MR. BERGER: We're not forcing you,

1 we want you to know that, it's totally
2 voluntary.

3 THE WITNESS: I'll proceed.

4 MS. WIENS: From the company's
5 perspective, too, it is voluntary so don't feel
6 like you have to.

7 THE WITNESS: I appreciate that, but
8 I just wanted to voice my concerns before we
9 start. I feel comfortable enough to continue.

10 EXAMINATION

11 BY MR. BERGER:

12 Q. Eugene, would you state your full name and give
13 us a history of your work experience here at
14 Koch?

15 A. Eugene Reuben Pickerign. I've been at Koch
16 approximately seven and a half years. I first
17 started at the 37 unit, which is the naphtha
18 hydro treater, as well as the gas oil hydro
19 treater. I was there approximately five and a
20 half, maybe six years. Then I transferred down
21 to the waste water treatment plant as well as
22 the boiler house, which is now considered the
23 utilities area.

24 MS. HAYES: So how long have you
25 been in waste water and the boiler house do you

1 think.

2 THE WITNESS: Approximately
3 somewhere between one and a half and two years.

4 BY MR. BERGER:

5 Q. Eugene, I want to talk to you about a number of
6 issues, and the first one has to do with the
7 non-oily water sewer system. Could you tell me,
8 based on your knowledge, what the purpose of the
9 non-oily water sewer system is?

10 A. As a refinery operator we use the non-oily water
11 system for when there would be a shutdown or
12 startup. We would drain our -- whether it be
13 oil, gas to the oily water system. Excuse me,
14 was that the non-oily or --

15 Q. I'm talking about the non-oily, the NOWS.

16 A. The NOWS would be clean water only.

17 Q. Okay. Elaborate on that a little bit more. How
18 would that be generated?

19 A. Clean water.

20 Q. What processes or --

21 A. There would be no -- it would be non-process
22 unit water.

23 Q. And it would come from where?

24 A. Rain water, as far as the boiler house would go
25 down to the none, because that's actually

1 been -- well water that's been filtered and
2 cleaned, any excess water there through the
3 system. As far as the -- the re-gen system
4 would go to the Nows as well. Anything else I'm
5 not sure of.

6 Q. Re-gen systems?

7 A. Yeah, that's to the boiler house.

8 Q. Would you describe those to me in a little more
9 detail?

10 A. It's a system where they take well water in and
11 run it through a filtration system to purify it
12 for our de-aerators. Any excess water that
13 would go to the sewer would go to the Nows
14 because it's actually clear, clean water. So
15 it's a cleaning process, not a process itself.

16 Q. Are you aware of any other materials that are
17 released to the non-oily water sewer?

18 A. Not to the non-oily water, no.

19 Q. Eugene, I want to show you a number of waste
20 water treatment plant logs, I'll show you about
21 four or five, I'll read them first and then give
22 them to you to look at.

23 This one is dated 3/15/95, it's number
24 4999, and the part that we're interested in
25 states under comments boiler house will be

1 sending low pH water down to NOWS.

2 This one is dated 3/16/95, it's number
3 5003, and it states boiler house draining acid
4 to NOWS to make repair on V65. Then in
5 parenthesis after that it says pit had to be
6 drained.

7 The next one is dated 7/17/96 and it's
8 number 573. It states boiler house, or BH,
9 called, bleed open sending acid to NOWS for
10 approximately four hours.

11 The last one here is dated 3/30/95 and
12 it's number 5037 and it states boiler house
13 sending 200 gallons high pH to NOWS, there's a
14 line or an arrow to NOWS. So they're all
15 basically the same.

16 MS. WIENS: Can you tell from the
17 records whether you wrote or authored them?

18 THE WITNESS: The last one on
19 3/30/95, that's not my writing. 7/17 and
20 7/19/96, Tom Bailey, Gene Pickerign. I was
21 inside. The top portion would be Tom Bailey's
22 writing and the bottom comment, 27 unit called,
23 sending 10,000-gallons of soda ash to the oily
24 water sewer, that is my writing. Boiler house
25 running acid to NOWS to make repair on B65, that

1 is not my writing. Then it has Gardner, Bailey
2 on there and boiler house will be sending pH
3 water down to the Nows, low pH. That is not my
4 handwriting.

5 BY MR. BERGER:

6 Q. My question then, Eugene, is can you tell me
7 your interpretation of what's going on here?

8 A. Starting with 3/15/95, boiler house will be
9 sending low pH water down to the Nows. It's
10 possible when we do what's called a CIP, clean
11 in place, we have five skids that have filter
12 systems in it and once a week we clean a
13 different skid. In a second step you go from a
14 high pH to a low pH. Typically they ship it to
15 the oily water sewer system from the -- from our
16 old building to the boiler house. That's a
17 possibility, or it's a possibility they were
18 doing a re-gen, I'm not sure which. That would
19 be my best guess.

20 Q. But that is what it appears to be then, a
21 release of acid water to the --

22 A. That's what it appears to be to me on this one.

23 Boiler house draining acid to Nows to
24 make repair on B65. Apparently they had to
25 lower their level and they put it down to the

1 NOWS. That would be my interpretation.

2 Boiler house called, bleed open, sending
3 ash to NOWS for approximately four hours. I
4 don't know if that was to help lower the pH or
5 because they were having problems at the boiler
6 house, but apparently they were draining a
7 certain amount for four hours and that would be
8 pending. I don't know what the amount is.

9 Shut down coker pond to allow 21 unit to
10 dump. P30 pit to oily water sewer was
11 overflowing to NOWS by tank 500.

12 Q. I'm not really interested in that part, I'm
13 interested in the NOWS part.

14 A. Okay. Flowing to NOWS by tank 500.

15 Q. I guess the question is, is it what it appears
16 to be, a release of acid water to the NOWS?

17 A. That would be my interpretation, yes.

18 Q. And then the last one?

19 A. Boiler house sending 200 gallons high pH to
20 NOWS. That appears to be some type of release
21 to the NOWS system of high pH in nature,
22 possibly ten or above.

23 MR. BERGER: Thank you.

24 EXAMINATION

25 BY MR. KRIENS:

1 Q. That's what I was going to ask, would the pH be
2 about that high?

3 A. We considered 10 or above high pH.

4 MS. HAYES: And low?

5 THE WITNESS: It could be four or
6 less.

7 MS. HAYES: But ten is kind of your
8 gauge for calling it high?

9 THE WITNESS: Yes.

10 BY MR. KRIENS:

11 Q. Do you know where that should have been
12 discharged?

13 A. Whenever possible if I'm working the boiler
14 house any release of acid or anything that may
15 change the pH, we direct it to the oily water
16 system, usually not the NOWS unless there's no
17 way of doing it.

18 Q. Because the non-oily water system isn't really
19 set up for any treatment necessarily, is that
20 correct?

21 A. That's true. It does run to B5. However, it is
22 possible that they diverted the NOWS to the API
23 and then it was not going to B5. You can go to
24 the API, the front end of the API, or to B5.
25 What position that valve was in I do not know.

1 Q. If that was diverted would that typically be
2 stated on the log, that they would divert it to
3 the oily water sewer?

4 A. It should be stated on the log. And also if
5 it's bypassed or put in there it should be also
6 somewhere else, we have another entry form, if
7 you will.

8 Q. So if it's stated it went to the NOWS, would
9 that usually mean that it went directly to B5?

10 A. It may or may not. Usually I would have to --
11 probably, yes, because it's common practice if
12 you open or change directions of the non-oily
13 water sewer you log it in the book.

14 FURTHER EXAMINATION

15 BY MR. BERGER:

16 Q. You mean you log it on the log sheet?

17 A. Log sheet.

18 Q. And also on the bypass log?

19 A. Right.

20 Q. Any time there was a diversion like that it was
21 supposed to be logged on that bypass log,
22 correct?

23 A. That is correct. That is our normal way we do
24 things.

25 Q. I also wanted to show you a couple other logs

1 here, Eugene. I'll give you five or six stapled
2 together, but I'm just interested in the first
3 two. The first one is dated 4/21/96, it's
4 number 330. On the second line under comments
5 it states caustic and then a dash, tank 304, and
6 then a line, to B5. Well, an arrow I mean, to
7 B5. Then it states poly dumping 500 gallons per
8 minute to NOWS.

9 And in the second one, it's dated
10 7/12/96, it's number 560, and it states 27 unit
11 sending to storm sewer soda ash mixed from
12 vessel for approximately two hours (indicating).

13 A. I'll address the second one first since it's
14 opened up already. It looks like Tom Bailey's
15 handwriting. It tells me that they're sending
16 soda ash to the NOWS system. If they do
17 usually -- if they go to the NOWS they have no
18 way of getting to the oily water sewer that I
19 know of because you have both NOWS and oily
20 water sewer. I'll not sure where they did this
21 at. Sometimes it's difficult to get to the oily
22 water sewer, so --

23 Q. Okay. So you interpret storm sewer as meaning
24 the NOWS, correct?

25 A. Storm sewer I consider fresh water or NOWS.

1 Q. That mix, it says soda ash mix, and do you know
2 what that is? Is it that cleaning step?

3 A. It's a cleaning process, and I'm not sure what
4 the pH is on that.

5 Q. Okay. And then the first one?

6 A. Caustic to tank 304, B5, poly dumping 500
7 gallons to NOWS. It's some type of high pH
8 going to the NOWS, 500-gallons of it.

9 Q. Tank 304, are you familiar with that?

10 A. Not really.

11 MS. WIENS: Is that your writing,
12 Eugene?

13 THE WITNESS: No, it's not.

14 BY MR. BERGER:

15 Q. Again, you would interpret that as a caustic
16 dump to the --

17 A. I would interpret it high pH going from tank 304
18 to B5 via the NOWS. That's my interpretation.

19 Q. This will be the last one, Eugene, and this is
20 dated 8/23/95 and it's number 5457. It states
21 sampled NOWS because of low pH, 2.0 at inlet.
22 Called boiler house, they checked, found nothing
23 but -- the found nothing has been crossed out
24 and it states found something then. Sampled B5
25 inlet, 2.0 pH, and then have that east stock 7.3

1 (indicating). It appears to me what's going on
2 there -- well, can you address that? What do
3 you think is happening there? What steps were
4 taken, what action was taken and what are the
5 results from that information?

6 A. We have a pH indicator on our NOWS, so it's
7 showed .20 and they were concerned and called
8 the --

9 Q. 2.0, right?

10 A. Excuse me, 2.0. And the boiler house said they
11 checked it and couldn't find anything leaking or
12 that they were sending to us. And apparently
13 they checked again and did find something. I
14 don't know what it was. They sampled the inlet
15 to B5 and it was 2.0 in the east stock. I don't
16 know if they're talking the polishing ponds
17 there or the east side of -- I assume it's the
18 east side of B5, it was 7.3.

19 Q. Sampled inlet to B5, and is that right at the
20 mouth of B5?

21 A. That would be the influent end to the mouth
22 of -- the beginning of B5.

23 MS. WIENS: Eugene, is that one that
24 you wrote?

25 THE WITNESS: No.

1 MR. KRIENS: On this particular one,
2 2.0 out, would that --

3 THE WITNESS: That would be the
4 outlet. We had the inlet and the outlet, so
5 that's coming in. As it's coming down the NWS
6 we have a section where it's a wide spot, if you
7 will, that would be the inlet. It goes through
8 one end, filters down and goes through another
9 end and comes out the other end. That was
10 considered the outlet.

11 MR. KRIENS: Would that be the
12 outlet of the pond where it goes to S7?

13 THE WITNESS: No, that would be the
14 outlet of -- it's not really a basin, it would
15 be kind of a wide spot in the line as it comes
16 down, then the flow direction is changed and
17 goes into like this mini, small style type basin
18 not very deep, and it filters and goes through
19 another one and then out. So the pH reading as
20 it's coming in and as it's going out, if you
21 would consider that wide spot in the time line,
22 it would be both, too.

23 MR. KRIENS: Thank you.

24 BY MR. BERGER:

25 Q. Let me shift to the OWS for a minute or two.

1 Eugene, an issue we've talked a lot about in
2 these interviews regards a situation of
3 overflowing of the oily water sewer to the
4 non-oily water sewer up by tank 500. Are you
5 aware of that situation?

6 A. Yes, I am.

7 Q. We've got a lot of information on that and I'm
8 not sure we need to go into the specifics of
9 that, but are you aware in your work history
10 here at Koch of other situations, other manholes
11 or other parts of the oily water sewer where
12 something similar to that has occurred?

13 A. As far as?

14 Q. Overflows of the oily water sewer for whatever
15 reason onto the ground or to the non-oily water
16 sewer, backing up.

17 A. Well, typically the only problem that I've seen
18 was around the tank 500 area the hydraulics of
19 the refinery would be too much. At that point
20 in time it would spill over in the tank 500
21 area. I'm not sure what you're looking for as
22 far as --

23 Q. I'm just talking about anything similar. Were
24 there any other areas, any other parts of the
25 oily water sewer that did the same thing, that

- 1 there was another manhole or another area or
2 part of the sewer would back up and there would
3 be a spill on the ground besides the specific
4 one we've talked about at tank 500, any others
5 that you are aware of?
- 6 A. Well, sometimes the coker pond would overflow,
7 high levels, yeah.
- 8 Q. I'm talking about the oily water sewer system
9 now.
- 10 A. We have -- down at tank 205 and 206 we have a
11 couple areas there I think that backed up a few
12 times because of the hydraulics of the system.
13 When you're draining or decanting water out of
14 205 or 206 sometimes that would back up. It
15 hasn't for quite some time now.
- 16 Q. In those instances what would happen, can you be
17 specific about that?
- 18 A. I believe it's a case of hydraulics, too much
19 water or flow to handle for the piping system,
20 the sewer system.
- 21 Q. So it would bubble up out of the oily water
22 sewer?
- 23 A. Yes.
- 24 Q. Then where would it go?
- 25 A. Well, it would back up. If there was a spill it

1 would be recorded.

2 Q. Would it run from the site or --

3 A. Well, depending on location. I believe the
4 area -- that you would go into the Nows.

5 MS. HAYES: Would it end up on the
6 ground?

7 THE WITNESS: It's possible, yes.

8 BY MR. BERGER:

9 Q. So besides those two instances at tank 205 and
10 206, any others that you can recall?

11 A. No.

12 MR. BERGER: Okay. That's all.

13 EXAMINATION

14 BY MS. HAYES:

15 Q. One quick question for right now on a log, waste
16 water log, from September 24, 1996. You are on
17 the inside it looks like. The number is 722.
18 There's a discussion in here about the manhole
19 overflowing, but further down it says EPA audit
20 in water plant and polishing pond barge dock,
21 and then the next line, safety will be flushing
22 fire mains tonight. Would you take a look at
23 that, Eugene, and tell me if you remember that
24 (indicating)?

25 A. This looks like Todd Aalto's handwriting.

- 1 Manhole overflow.
- 2 Q. That's probably tank 500, would you say?
- 3 A. Yeah, I would assume it's tank 500.
- 4 Q. It says EPA audit above the highlighted line
- 5 there, do you see that?
- 6 A. Okay, yeah.
- 7 Q. My question about that is if there is anything
- 8 in particular that you would be instructed to do
- 9 as an operator around that kind of an event,
- 10 that kind of EPA audit? Do you recall that one
- 11 and do you recall if there's any special
- 12 preparation you would do for that type of an
- 13 audit or inspection, whether it would be EPA or
- 14 the state, do you recall anything?
- 15 A. Anything like the EPA or anybody that would be
- 16 coming in we would probably try to reduce the
- 17 hydraulics of the refinery as much as possible
- 18 to make sure there's no problems with tank 500
- 19 or anywhere else.
- 20 Q. Is there a relationship between flushing those
- 21 fire mains and that audit would you say?
- 22 A. I'm just saying possibly. I really don't know
- 23 if that was done on a quarterly or yearly event
- 24 or if that was in line with the EPA.
- 25 Q. You can't tell whether there's a relationship

1 there then?

2 A. No.

3 Q. How would you reduce the hydraulics, what would
4 you do?

5 A. You could shut off or turn -- the coker pond has
6 capability of approximately 1200-gallon per
7 minute for the same line that would feed past
8 tank 500, so you could eliminate that by
9 shutting the coker pump off so you could reduce
10 the flow. If it was overflowing we would do
11 that anyway. You know, overflowing because it
12 was backing up. You reduce the flow, you make
13 phone calls and tell everybody else in the
14 refinery, you know, you reduce the capacity to
15 the sewers if at all possible.

16 Q. So the intent basically is -- let me see if I
17 understand this. You're going to reduce the
18 hydraulics, and when you reduce the hydraulics
19 you don't have the overflow of tank 500?

20 A. Correct.

21 Q. You don't have it, then, flowing into the clean
22 water sewer. The idea being you wouldn't want
23 that happening when the EPA came in I would
24 assume?

25 A. You're not really supposed to want it to happen

1 anytime.

2 Q. Yeah. Do you recall any preparation around that
3 for our inspection in April?

4 A. At some point in time I believe they did cover
5 it with some type of plastic. Now, I don't know
6 if that was because you were coming in or not.

7 Q. Do you remember if that was around April?

8 A. It was fairly close to that to that proximity.

9 MS. MEYER: Thank you.

10 EXAMINATION

11 BY MR. KRIENS:

12 Q. Eugene, we want to ask you about operation of
13 the waste water plant and how waste water was
14 handled when they had problems.

15 During the period -- from our evaluation
16 of all the information, during the period of
17 about mid '96 through April or so of '97 there
18 were a lot of ammonia problems, in the ability
19 of the treatment plant to handle ammonia and
20 effectively remove it. Do you know how Koch
21 handled those problems, what their response to
22 that was.

23 A. We had what's called a monthly and daily
24 exceedance, and if we had high ammonia problems
25 we would start stacking water and reduce the

1 flow to our polishing ponds. But you can only
2 do that so long before you run into the problem
3 of what you do with it.

4 Q. With the volume of water?

5 A. With the volume of water. They decided we do
6 Monday through Friday a -- we have a five gallon
7 composite sample. I believe it's done for the
8 state. And during the week on Saturday and
9 Sunday they do not. We had high levels of flow
10 at that time going from S7, B5 to our polishing
11 ponds. That would not be considered a --

12 Q. In the computation?

13 A. In a computation, right, because they only
14 worked Monday through Friday. That was a
15 concern of mine as well as the other operators
16 there. At that point in time I did contact
17 Heather and Brian Roos. Brian Roos, who is the
18 manager in that area, said legally -- he
19 consulted with the attorneys, and it was not
20 breaking the law to do that, it was within the
21 company's right. I didn't feel comfortable with
22 it and I asked him if he would send the men an
23 e-mail stipulating why it was okay so they would
24 feel comfortable doing it. He refused to send
25 the e-mail. He said he would talk to the men

1 individually in person.

2 Q. He would talk to the MPCA, is that what you're
3 saying?

4 A. No, he would talk to the people in operations
5 that would be running these max flows, if you
6 will, to the river.

7 Q. Okay.

8 A. I was uncomfortable. If it's legal you should
9 be able to send an e-mail to the men, you know.
10 He said he would choose to handle it in this
11 manner, by talking to them in person.

12 Q. You mean so there was nothing documented, no
13 documentation?

14 A. So there was no documentation.

15 MS. HAYES: Who are you referring to
16 here?

17 THE WITNESS: Brian Roos.

18 BY MR. KRIENS:

19 Q. So everybody understands that clearly, is what
20 you're saying that they would increase the flow
21 on the weekends of the discharge because it
22 didn't need to be monitored and computed in the
23 calculation?

24 A. That's correct.

25 Q. To see whether it met our limitations or not?

- 1 A. That is correct.
- 2 Q. Do you know of anyone else besides Brian Roos,
3 anybody in the environmental department that was
4 aware of that practice?
- 5 A. I talked to Heather and she did talk with Brian.
6 I'm not sure what happened in the transaction as
7 far as -- he was the decision maker, he made the
8 decision based on information from someone in
9 Koch that this was acceptable. We were
10 concerned that it might not be ethical and
11 that's why we brought it up.
- 12 Q. I would agree. Do you know if Mr. Roos talked
13 with any upper management regarding that
14 activity?
- 15 A. I honestly cannot say one way or the other.
- 16 Q. How about any other methods they used to handle
17 this ammonia? You mentioned they stacked it
18 initially into B5, and when they do that does
19 that mean you cut the flow from S7 and divert it
20 to B5?
- 21 A. That's correct.
- 22 Q. Do you know any other practice they would follow
23 to handle a high ammonia problem when the levels
24 would get high besides increasing on weekends?
- 25 A. Well, I wasn't on, but I know they went to the

1 west tank farm at one time. I believe they just
2 had a monitor to the ground, but I'm not sure.

3 Q. A monitor means a hydrant?

4 A. A fire hydrant, yeah. They open it and disperse
5 it to the ground.

6 MS. HAYES: Do you remember when
7 that one was, Eugene?

8 THE WITNESS: I would have to look
9 back in the logs. I believe it happened on a
10 weekend and I followed the crews. It might have
11 been during the time Steve Nystrom worked, and
12 at that point he expressed some concerns.

13 BY MR. KRIENS:

14 Q. We're aware of that. Did Koch management, Brian
15 Roos or any other management, direct you to
16 minimize notation of these types of things on
17 the operator logs or not enter the information?

18 A. Well, we were told that these are official
19 reports so be careful on how you log, what you
20 log into them.

21 Q. Are they trying to tell you to not log it in or
22 minimize it, is that what you mean?

23 A. That was my interpretation. I can't speak for
24 nobody else.

25 Q. Sure. I wanted to talk to you about a couple

1 different incidents when they used the hydrants
2 to get rid of water. One of the series of days
3 we know of was February 25, 26 and 27. We have
4 documents that state they used the hydrants or
5 monitors to discharge it on land in the west
6 tank farm and the south flare area.

7 Do you know anything about those or did
8 you hear about those or observe it at all?

9 A. I don't believe I was on shift when that
10 happened, but I did hear about it. There was
11 concern again if it was ethical.

12 Q. That same month we have noted that was the
13 highest loading of ammonia and they had the most
14 problems dealing with ammonia, also we noticed
15 that the weekend flows during February were much
16 higher, about 18 percent higher than the
17 weekday. Which suggests that it was certainly
18 increased on the weekends, too. Do you know or
19 did you hear of any other days when they got rid
20 of water via the hydrants in February of '97?

21 A. Not that I'm aware of.

22 Q. Okay.

23 EXAMINATION

24 BY MS. HAYES:

25 Q. Let me ask a question about February of '97 or

1 the -- were there actual calculations that would
2 be run? You know, like would you do a
3 calculation of what that might mean in terms of
4 what the level would be out at the river even
5 though you didn't have to report that on the
6 weekend and monitor that? Would there be
7 calculations based on the S7, that sort of
8 thing, what kind of concentrations you would
9 have?

10 A. We have actually a -- at S7 and at the polishing
11 pond we can tell what our flow rates are. A
12 million gallons, you know, per day. And there
13 is -- we compute the numbers supplied by Heather
14 Faragher as far as our TSS, COD, ammonia and so
15 on. With those numbers we calculate where we're
16 going to be for the daily and monthly max.

17 Now, in a weekend when they wanted the
18 people to increase the rates, I know Nystrom,
19 myself and I believe most operators, use those
20 numbers not to exceed the daily max.

21 Q. Not to exceed them?

22 A. Not to exceed them. I'm not saying everybody
23 did, I'm just saying -- what was your question?

24 Q. That was -- that was pretty much the area that I
25 was asking with. So you're saying that some

1 operators might stop and make a calculation, and
2 you did that because you didn't want to exceed
3 the daily maximum?

4 A. I believe the daily max was set for a reason.

5 Q. Okay.

6 A. And when I first was down there we were always
7 told not to exceed the daily max, so I made sure
8 I didn't. A lot of other people did as well,
9 but there it becomes an uncomfortable situation
10 because it's working out of the norm. I like to
11 be to within the norm on environmental issues at
12 all times if possible.

13 Q. And the operators that did that, they did that
14 on their own initiative, is that what you're
15 saying?

16 A. They were told -- the operators that did that
17 were told directly to do that my management.

18 Q. To do what?

19 A. Run high flows during the weekend.

20 Q. Okay. But what I'm saying is the operators that
21 would stop and do the calculations and try not
22 to --

23 A. I don't know if all operators even did the
24 calculations.

25 Q. But like in your case, you did that on your own

1 initiative?

2 A. Yes.

3 Q. Nobody said it would be good idea or anything
4 like that necessarily, you were more told the
5 other, run high flows on the weekend, is that
6 what you're saying?

7 A. I'm just saying the numbers are there as far as
8 calculations to use every day.

9 Q. Okay.

10 A. I'm just saying with them days in question I can
11 only speak for myself, and I made sure those
12 numbers did not exceed the daily max because
13 that's why they're there.

14 Q. And the way you did that, would you --

15 A. Calculations.

16 Q. Okay, you would make the calculations. Would
17 you also turn down the amount of water into the
18 river?

19 A. Calculations are based on my test results. So
20 you have a set of numbers with a set of values,
21 and you multiply whatever your flow rate is to
22 give you what your TSS, COD, ammonia and so on
23 and so forth.

24 Q. Okay. So the way you could control that would
25 be to cut down the amount of flow?

1 A. That's exactly how you would control it.

2 Q. And you would do that on your own initiative?

3 A. Yes. That's actually standard procedure.

4 MS. WIENS: Are you talking about on
5 the weekends, that you did that as well as
6 during the week, or is that something you only
7 did on the weekends?

8 THE WITNESS: That's done all the
9 time.

10 MS. WIENS: Every day that you work,
11 whether it's a weekday or a weekend?

12 THE WITNESS: Every day I'm on
13 there's a daily and monthly calculation that you
14 work out based on the test results.

15 BY MS. HAYES:

16 Q. But it's my understanding from what you just
17 said, that it's a responsibility that you are
18 ultimately held to during the week, but the
19 weekend it's --

20 MR. KRIENS: The weekends it's not
21 monitored?

22 THE WITNESS: The weekend it's --

23 MS. HAYES: You took your own
24 initiative on that?

25 THE WITNESS: Right. The weekend is

1 not monitored.

2 FURTHER EXAMINATION

3 BY MR. KRIENS:

4 Q. So you wouldn't know -- I mean, you practice I
5 think a good practice in that you tried to
6 manage that, but since they didn't know the
7 ammonia concentration they wouldn't have known
8 the loading to the river on the weekends?

9 MS. HAYES: Unless you actually took
10 the initiative to make sure yourself?

11 THE WITNESS: That's true.

12 BY MR. KRIENS:

13 Q. And did they then, irrespective of that, because
14 there was not monitoring yet, they still said
15 increase it on the weekend, is that right?

16 A. Max flow on the weekend.

17 Q. Okay. On these hydrant discharges that you know
18 of, do you know who would have ordered those?

19 A. I don't like to speculate. I know Ruth Estes
20 was involved in one incident, and other ones I
21 cannot say.

22 Q. Yeah, we're aware of those, we know that she
23 was. Do you know who ordered her to do that,
24 who she reported to?

25 A. In the utilities waste water boiler house region

1 Brian Roos is in charge. I'm not saying it came
2 from him, I'm just saying he's the man you go to
3 if there are any questions.

4 Q. On the weekend when Ruth on a couple of
5 occasions, there was one in November and one in
6 January, that she was involved with and that was
7 a weekend, if this came up where they needed to
8 discharge water via the hydrant, or they choose
9 to do that rather, would she have -- is it
10 typical to your knowledge that she would contact
11 Brian Roos to get that approval?

12 A. We have Brian Roos' home number ourselves, and
13 so she would have it, too. Whether she called
14 him or not I cannot say, but we have the
15 potential to.

16 Q. Okay. I have another question dealing with this
17 high ammonia. It occurred because they had so
18 many problems with the sour water strippers, and
19 it had began at least in mid '96 or perhaps a
20 little earlier in '96. Do you know why it took
21 them so long to resolve that problem?

22 A. The refinery runs on the risk management venture
23 analysis. It might be on a low profile as far
24 as priorities for taking care of business as far
25 as a moneymaker is concerned. That would be my

1 best guess.

2 Q. All right. I want to ask you about another
3 particular time frame of this hydrant discharge,
4 and that was in November of 1996. And let me
5 just kind of briefly tell you about what the
6 documents tell us about that period.

7 On November 4 of '96 the Bioassay, which
8 is the whole affluent toxicity test, was
9 scheduled to begin. That would have been a
10 Monday. And Heather had sent a memorandum out
11 to several people discussing that and notifying
12 that the collection would begin on November 4,
13 Monday. On November 3 there was a very high --
14 and November 4, a very high discharge load of
15 ammonia to the waste water plant. And also just
16 prior to that, days prior, we noticed in the
17 logs that the flow was cut from S7 from -- you
18 know, it would state less than 3 units or even
19 down to 1.7 units.

20 Do you know anything about what was going
21 on in that time period?

22 A. It would seem to me that they were sending some
23 high ammonia, possibly with high ammonia and
24 then there would be high temperature if it's
25 coming from the sour water strippers. And with

1 high temperature going through our biological
2 basins you'll have a denitrification problem,
3 which means it will not do its job taking the
4 ammonia out. Therefore, you are forced to cut
5 back on your flow at S7, which is why the rate
6 was down to 1.7 units, because of your high
7 levels of ammonia.

8 Q. Okay.

9 A. So I'm assuming they had a problem in the
10 refinery and they were doing the best they could
11 to work with it.

12 Q. Right. When they say 1.7 or 2 units, let's say
13 2 units at S7. What is that equivalent to like
14 in a flow, in millions of gallons a day just
15 approximately?

16 A. I can't tell you.

17 Q. Is it around .5, .6 per unit? I think that's
18 what we had used earlier, somewhere in there.

19 A. Well, that must be ballpark, about one and a
20 half million then, which is low. We typically
21 run about 4 million.

22 Q. So if you cut it down to 2 units, which I
23 understand is about 1.2 million or so, does that
24 mean that they are diverting about 2.8 or 2.5
25 million?

- 1 A. Whatever is not going out through S7 to the
2 polishing ponds was backed up into B5.
- 3 Q. Okay. So they were diverting it to B5?
- 4 A. Correct.
- 5 Q. At this time, too, the ammonia in S7 was 110
6 milligrams per liter, and would that be
7 relatively high out of S7?
- 8 A. Yes.
- 9 Q. And I notice, too, that the polishing pond
10 ammonia was much lower, I think it was around 18
11 or 20.
- 12 A. Uh-huh.
- 13 Q. So if S7, and it looks like it was reduced for a
14 couple days, had been -- had not been diverted,
15 would it also then -- it would have went to the
16 polishing ponds?
- 17 A. It goes from S7 to the north polishing pond and
18 then to the south polishing pond. See, they
19 have -- those are big ponds so you have
20 resonance down there.
- 21 Q. Sure. Would they have diverted that then so it
22 wouldn't increase the ammonia in the polishing
23 pond?
- 24 A. If possible. If the levels are low enough and
25 they can, they will.

- 1 Q. In this case the levels were around 110 part per
2 million of ammonia and it was diverted to B5, so
3 had it not been diverted would it have increased
4 the concentration there in the polishing ponds?
- 5 A. Depending on how much they have and for what
6 duration, it would have an effect.
- 7 Q. It looks like S7 was cut substantially for a
8 couple days, so I'm just presuming that it would
9 have been on the order of five, six million
10 gallons that was diverted. The polishing ponds,
11 I think there's nine million gallons
12 approximately, but I'm not sure of the volume.
13 Diverting that much, would that have affected
14 those had they not diverted it?
- 15 A. Well, that's the reason you're doing it, to keep
16 your numbers in -- not to exceed your daily max
17 or your monthly total.
- 18 Q. Okay. In this case the Bioassay was beginning
19 that next morning, November 4, which is very
20 significantly impacted from ammonia
21 concentrations. Are you aware of the night
22 before, and this would have been Sunday night,
23 of a -- or did you hear of a release of -- a
24 discharge of waste water via the hydrant system?
- 25 A. I don't recall.

- 1 Q. We've confirmed that that did occur, they did
2 release and dispose of water the night before.
- 3 A. Okay.
- 4 Q. Let me ask you about a specific memo. Your name
5 is not on here, but can you explain what that
6 highlighted area means (indicating)? Does that
7 have a document number on it on the bottom?
- 8 A. I don't see one.
- 9 Q. There it is, it's 825 and the date is
10 November 3, 1996.
- 11 A. It says safety to open three hydrants in west
12 tank farm on ground to help get rid of water.
- 13 So to me this means the man from safety
14 is going to open up three fire hydrants at the
15 west tank farm and put the water to the ground.
- 16 Q. Okay, thank you. I do have -- I think I have a
17 couple of these with your name on it, but
18 they're just information things. This is a
19 November 3, '96 operating log, no number on it
20 (indicating).
- 21 A. It's Tom Bailey's handwriting. At 4:00 p.m. S7
22 specials to lab for TSS and ammonia. TSS was 72
23 and ammonia was 110. Both are high.
- 24 Q. The sentence below that, too, it says that they
25 dropped off a copy of Heather's letter regarding

1 the toxicity test to the shifties. Does that
2 mean then that the shifties would be aware of
3 the toxicity testing that was going to occur?

4 A. Anything considered environment issues, if
5 there's a problem or concern, we contact first
6 at that point would be our day supervisors or
7 our shifties, who could be day or night
8 supervision.

9 Q. So in this case that was a weekend and it would
10 have been the shifties?

11 A. That's correct.

12 Q. Okay. When that information is relayed to them,
13 such as Heather's letter, do you know if the
14 operations department that the shifties report
15 to, in this case Brian Roos, would he also be
16 aware of that?

17 A. I believe he's kept abreast of all things in his
18 area.

19 Q. Do you know if that -- we had some other
20 information regarding this, but do you know if
21 the use of the hydrants was -- had become a
22 routine activity in terms of discharging waste
23 water?

24 A. I don't know if I would consider it routine. I
25 know it happened when it was maybe an act of

1 desperation or last resort.

2 Q. Okay. Let me go to one other area. Concerning
3 spills and reporting of spills to the regulatory
4 agencies, including the Pollution Control
5 Agency, did you ever hear of or were you advised
6 to under report any spills that you encountered
7 to the MPCA in terms of volumes, under report
8 the volume, so that we wouldn't have to be
9 notified?

10 A. There seemed to be a difference of
11 interpretation on the amount. The company
12 seemed to see less than what maybe an operator
13 would.

14 Q. Okay. Which might --

15 A. Be subject to whether it's reportable or not.

16 Q. Okay. Did management ever direct you to under
17 report spills, volume of spills?

18 A. Not to me personal personally, no.

19 Q. Do you know if they did that to anyone else?

20 A. I cannot say.

21 Q. Okay. There was a waste water treatment plant
22 operator that used to work there, and I believe
23 he was -- he left, but his name is Randy
24 Carlson. Do you know of him?

25 A. Yes, I do.

1 Q. Do you know why he left or what his situation
2 was?

3 A. He was concerned about the -- in his words we
4 were doing cross training or merger with the
5 waste water treatment plant and boiler house,
6 and the lack of proper training and the amount
7 of responsibilities that were given to you
8 without training. He was afraid he would hurt
9 himself or somebody else taking charge of things
10 he had not been properly trained on.

11 Q. Okay.

12 A. There was a grievance wrote on that for all
13 operators concerning that matter.

14 Q. Okay. Do you know, on this November -- back to
15 the November Bioassay, November of '96 when they
16 used the hydrants to get rid of water. Do you
17 know if they -- are you aware if the reason they
18 did that was to circumvent the Bioassay test, in
19 order to make the test more favorable?

20 A. Are you asking my opinion?

21 Q. Well, I'm asking if you know, and your opinion
22 would be fine, too.

23 MS. WIENS: Just tell us which one
24 it is.

25 THE WITNESS: Okay. I honestly

1 can't say. I'm assuming it would be beneficial
2 if it would help the report to do it.

3 BY MR. KRIENS:

4 Q. But in the sense that -- I'm talking about this
5 diversion. Do you think they did that in order
6 to get a favorable outcome of the test?

7 A. In my opinion, yes.

8 MR. KRIENS: That's all.

9 FURTHER EXAMINATION

10 BY MS. HAYES:

11 Q. I have a follow up on the policy about the way
12 you document on the logs. Sort of the -- I
13 think you said that it was sort of implied that
14 these were official logs, so kind of be careful
15 about what you put on the logs. Is that -- does
16 that characterize that, Eugene? Is that what
17 you said.

18 A. Yes. They're official documentation, so be
19 careful what you put in there.

20 Q. Do you think that impedes the ability to -- I
21 mean, do you think that the logs are
22 representative then generally?

23 A. It would be -- it would depend on the individual
24 who writes on there. You have to remember that
25 people, if you write something that possibly may

1 be damning to the company, could be held against
2 that person. I'm not saying it would be, I'm
3 just saying it's a possibility.

4 Q. So like when you would document on the logs, is
5 that something that you would actually be
6 thinking about yourself?

7 A. You better believe it. Absolutely.

8 MS. HAYES: Okay. Thank you.

9 FURTHER EXAMINATION

10 BY MR. BERGER:

11 Q. I have a couple of questions on the west storm
12 pond, Eugene.

13 As part of your work as an operator at
14 the waste water treatment plant do you get down
15 to the west storm pond and do work down there or
16 inspect it in your job, does that happen at all
17 in your job?

18 A. We gauge our levels in the west storm pond to
19 see what the levels are, if at all the pumps are
20 leaking and if there's any possible severe
21 cracks or something that may need maintenance on
22 the holding basin itself.

23 Q. Are you aware of the west storm pond going down
24 by itself?

25 A. No.

- 1 Q. You're not?
- 2 A. No.
- 3 Q. As far as you know it is a solid containment
4 system?
- 5 A. That's correct.
- 6 Q. There is a process that was used, and it might
7 still be used right now, to pump from the coker
8 pond with a hose to the sump in the west storm
9 pond and then that sump was used to pump the
10 coker pond water up to the waste water treatment
11 plant.
- 12 A. That was done for months.
- 13 Q. We have documentation at least a couple times
14 that the sump would overflow, that something
15 would malfunction in that sump pump or whatever
16 and then it would -- the coker pond water would
17 actually come up over the cement sump into the
18 pond itself.
- 19 A. That's correct.
- 20 Q. Are you aware of that happening?
- 21 A. Yes, I am.
- 22 Q. How many times are you aware of that happening
23 in your experience?
- 24 A. I've heard of it happening about two or three
25 times personally.

1 Q. Heard of it happening?

2 A. Yes.

3 Q. How many days are you personally aware of it?

4 A. Seen it happen you mean?

5 Q. Right.

6 A. I haven't seen it happen.

7 Q. But two or three times you heard of that?

8 A. Yes.

9 MR. BERGER: Thank you.

10 (Whereupon, the interview concluded at

11 10:30 a.m.)

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STATE OF MINNESOTA)
) **Ss:**
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 EUGENE PICKERIGN, 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 24th day of December, 1997.

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