
INTERVIEW OF:

TIM RUSCH

TAKEN NOVEMBER 18, 1997 AT 3:30 P.M.

MILO BALLINGRUD
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INTERVIEW OF TIM RUSCH, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 3:30 p.m. on Tuesday, November 18, 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

Present from Koch Industries:

JAMES K. VOYLES, Attorney at Law

Present from the law firm Green Espel:

SUSAN K. WIENS, Attorney at Law

I N D E X

BY MR. BERGER:

Q. Tim, I have to read a little introduction that we're doing for all personnel we interview in this investigation.

Tim, as you know, the Minnesota Pollution Control Agency is conducting a civil investigation that is focusing on Koch Refining operations and on a number of pollution, environmental related issues that came to our attention in April of '97, of this year. We are seeking your cooperation in answering some questions about these issues, and we want you to know that at this time you are not obligated to answer these questions, it is totally voluntary on your part. The information we obtain in this investigation may be used in a civil, administrative or criminal enforcement action against Koch Refining. I want to again emphasize that this investigation is not looking at any particular individual at Koch Refining at this time, it's looking at the complete company operations. Any questions about that?

A. No.

BY MS. HAYES:

Q. Tim, could you state for us your position and

give us an idea about your responsibilities, who you manage and what your responsibilities have been during your entire tenure here?

A. Okay. My name is Tim Rusch, my current title is refinery manager and vice-president of Minnesota operations. My entire tenure here goes back 16 years, so do you want to hear about all that?

Q. Just maybe an over sketch would be helpful.

A. Okay. I joined Koch in 1981 as a project engineer, and over the next ten years had various projects and project engineer and project manager responsibilities. For approximately two years I was manager of our purchasing department, for approximately two years I was manager of our maintenance department. I spent a little over one year in our corporate headquarters in a variety of assignments. I've been back here as refinery manager since May of 1995.

The responsibilities that go with that role of refinery manager are that I am the site leader for Koch Industries at this location, responsible for all aspects of our operations in the refinery and the surrounding Koch assets. I have a staff of direct reports that has probably

varied from six to nine people over the course of that last two plus years that I've been the refinery manager. And, of course, they have more specific responsibilities, whether it be environmental manager, you've probably met Steve David, engineer manager, project manager, maintenance manager, those kinds of roles, report to me.

MS. HAYES: Thank you.

BY MR. KRIENS:

Q. Maybe on that subject, so we understand that better, if you could explain to us how the different departments interact, you know, and primarily we're interested in the ones we have talked to, the environmental, the safety department and the operations. I think it's called operations. How they interact with each other and who has the responsibility for decision making in terms of environmental activities or whether this thing is done or whatever, how that works.

A. You have an org chart in front of you, and can I ask what the date is on it so I know what you're looking at?

Q. This one is January 10, '97.

A. Okay. Your question was how the various groups, and I think you mentioned safety, environmental and operations, how they interact, is that the first part of the question?

Q. Uh-huh.

A. Those groups interact, obviously, as a team that is responsible for a certain aspects of our business. Now there are in some cases, you know, clear roles and responsibilities, that operations does this and environmental does this and safety does this, but as you can imagine, with most operations those need to work together. You mentioned operations, at the time Jim Jacobson is listed on here, as manager of environmental it's Steve David and safety was Larry Barnett. So those folks are part of the refinery leadership team. Again, they have specific roles and responsibilities and the expectation they will work together with the other groups to handle situations where one individual or one specific group doesn't have all the knowledge or such as required to make that decision.

Q. Okay. Does environmental -- you know, in terms of taking an example, we have talked here at

length with various people about the use of the hydrant system to discharge waste water, we talked about overflows from the oily water to the non-oily water sewer that has occurred quite often in the past few years, spills from the north fire pond in particular and a couple of other cases. Does the environmental department have decision making authority then to let's say order that hydrants discharge waste water or order that the oily water sewer problem be corrected? Who has decision making authority to resolve -- to order that things be done in those areas?

A. The decision making needs to rest with folks with the best knowledge, I guess that's the way I would begin my response. And in many cases our environmental group, because of their knowledge of the regulations, their knowledge of the permits, their knowledge of discussions that they've had with the agencies and such, have important knowledge that comes to that decision. Now, our environmental group for the most part does not go out and open and close valves and turn equipment on and off and that type of thing, so as such they are really an advisor to

the folks who do that work, which is predominantly in the cases you described our operating and safety groups.

Our operations group ultimately are the folks who are out there opening and closing valves, starting and stopping equipment. They're well trained and very knowledgeable, yet when you get into more technical or -- when you get into technical issues they need to go and find folks that have the knowledge. Sometimes it's the environmental group, sometimes it's our engineering department or whatever. We expect that when an issue would come up that is technical in nature and that the operating group doesn't have all the knowledge necessary to maybe make a decision, that they would bring in the knowledge as necessary. So they would consult with the environmental group or whatever. We expect that folks are going to, you know, think through issues and come up with the correct decision. There's not always an answer, but they're going to come up with a decision that is consistent, you know, with our safety and environmental policies and work though that accordingly.

Q. So if they have a question then and they don't know whether it -- if they should -- what they should do about some certain issue environmentally, speaking hypothetically, then would they consult the environmental department or others that would have knowledge, is that what you're saying? Or they should do that?
A. You said they, and I'm not sure who you mean.
Q. Well, maybe like the operations people, the people that turn the valves or the safety people. If they don't know whether they should pump water out of this pond, get rid of it on land, or if they don't -- to use that as an example, then is it their -- is it the procedure at the refinery then that they should consult with the people that do know or should know generally?
A. Your example, you mentioned pumping water and getting rid of water, and I don't understand your example.
Q. Maybe I'm getting ahead of it, and I'll get to that. Maybe we'll just go there directly. I have questions on that, but I just thought about a general question, how things work, the relationships between the different departments.

I think I understand what you're saying, so that sounds fine.

I want to ask you about -- we talked to Brian Roos the other day, yesterday, about some problems at the plant, ammonia issues and that sort of thing. I wanted to ask you in general how things work in a refinery just for our education to some extent. You know, if you have process units, let's say like a crude distillation or catalytic cracker or something like that, a unit, and I assume, and correct me if I'm wrong, that you want to operate those at a certain efficiency to get the production levels that you want. Is that the way it works?

A. Sure.

Q. So if you get one of those units, like a catalytic cracker or a crude oil fractionation or something of that sort, de-salter, whatever, and you have an efficiency of normal operation and you notice that that drops 50, 60, 70 percent, a significant amount. What's the company procedure generally in those cases? What do you do?

A. You're asking a very general question.

Q. Very general. Well, let me put it more

specifically. Let's say a heat exchanger in the crude oil distillation part of it is not functioning and you're not getting -- it's not working right so you are not -- you can't get the distillation to occur at the efficiency that you want. And how do you respond to something like that?

A. A case where a piece of equipment isn't working up to specification is what you're asking about?

Q. Right.

A. Well, we know our equipment fairly well, so we -- it normally operates within a relatively tight band of operation. And so if we see operation outside of that obviously we want to restore it to its normal operating condition. That can be -- that deviation in performance can be observed in many ways, sometimes it might be picked up by our computers, sometimes it might be picked up by observation of personnel in the field, sometimes we might notice it when we do a lab analysis on a particular piece of equipment. In general we'll find out about a deviation from expected performance in any number of ways. There is no fixed procedure as to how we do that. The expectation that we have of all of

our folks is we are going to efficiently run the refinery. So in general what we would do is we would do a root cause analysis, try to understand what's causing that deviation from where we would expect and get on a path to fix it. Sometimes our fixes are relatively simple and there's a cleaning procedure or some type of maintenance procedure we could do. Sometimes if a piece of equipment isn't performing up to snuff we have to take it off line and open and inspection and check it out.

It's hard to give a fixed procedure as to how we do it, but we want all of our equipment to be running as specified all the time. So when we observe performance outside of that we get it back in line.

Q. Do you try to -- is it something you try to do right away? I mean, is it typical that you would try to tend to that quickly within a few days or weeks or a month? What's the time frame which you would find acceptable for a malfunction?

A. The time frame that I would find acceptable would be as dictated by the criticality of that equipment, whether it was, you know, critical to

safety, critical to environmental, critical to efficient production. Obviously some observed nonperformance is more critical than others, and so we prioritize our work according. You threw out examples from immediately up to several months, and any one of those may be the right answer depending on the criticality of the equipment and what affect it has on our safe, environmental efficient performance.

Q. If it was a cracking unit or de-salter would that something you would want to tend to fairly quickly or is that something that can go for months and months?

A. Again, that's a pretty generic question. Obviously within every part of our operation, whether it's a cracking unit or a de-salter or whatever, there are critical pieces of equipment and there are some not so critical. It's a real broad question and hard to give a real detailed answer to it.

Q. Right, yeah.

A. We need to analyze each individual case against what our -- you know, what our performance is that we're missing. We, again, need to look at safety, environmental and efficiency and work

from there.

Q. Do they have equivalent priorities, safety, environmental and production, or are there differences in the tier of priorities according to the issue?

A. Yeah, we have a tiered priority. Our first priority is safety of people and safety of the environment. The next priority is production.

Q. When we were talking about the sour water strippers, I assume the sour water strippers are something -- I mean, I know the sour water strippers are used prevalently in refining operations, it's a common unit, and I presume that Koch has a fair amount of experience in their operation. Would that be the case?

A. Yes.

Q. And the strippers, from the day we received it -- and as you know Barr Engineering did a study for you which was submitted to us, showed that during '96, especially beginning in about June of '96, through this past spring to about May, it was corrected in May. The strippers were sending, you know, very high loads to the waste water plant and they weren't operating efficiently. The efficiency drop was rather

significant. And so when I look at that time frame, that's about nine or ten months, it seems to me, and I just wanted you to respond to that, why -- the question is why did it take so long for that to get resolved?

A. The sour water strippers, again, there are several of them as you are aware, it's not that we didn't address them, it was that we struggled to get to a root cause of the problem.

As with anything else, sometimes you can find symptoms for a long time before you really understand root causes. So when we observed what I guess I'll call a statistically significant deviation in performance, I believe you've seen our control charts and such that shows how we keep track of performance of various equipment, when we observe that we undertook, you know, a root cause analysis to try to understand where the problems were and then to detail a fix to get them back in line.

Q. Do you know when that began, the root cause analysis?

A. I couldn't specifically say, you know, when we were working that.

Q. We became involved because of our inspection in

April of this year, and then we did receive a report, I believe in May, which -- and I recall the root cause analysis summary and discussion. And I'm just wondering if that was done at that time or when that was developed, if it was in May of '97 or if it was before?

A. I wouldn't be the best one to answer that.

Q. Okay. Does that seem like a long time to you to get to a root cause problem, a nine, ten month period?

A. Does it seem like a long time? I guess, yes. But in hindsight almost all problems are pretty easy to fix when you're struggling with them.

Q. I understand. We deal with --

A. It's not that you want things to drag out, it's just sometimes it's hard to get to the root cause.

Q. Yeah, okay. I think the root cause in this case was primarily, as I understand it, a hardness issue causing scaling and build up of scale on the surfaces of the trays in the stripper, which reduced their efficiency. That's what I understand was the issue, we've been told anyway. And it sounds reasonable. This is a concern with us, that it did take so long to

resolve an issue that in our view seems to be relatively simple in terms of efficiency of that type of unit. Then again, we don't run a refinery either, so I'm not saying we know everything at all. I just wanted to bring it up.

The reason I ask about this is that when we've looked at all the information, when we were here in April which asked for the documents, did our inspection and had about ten issues or so that we wanted to look at. We were looking at -- and some of these were the result of complainant allegations that we were basically following up, but that's why we were here in the first place at the time. And we didn't have any reason other than that at the time to come, but citizens or people make allegations and we try to follow up and see if it has merit or not. At the time we did learn prior to that, in January of '97, that through a call from your staff and environmental, Heather Faragher, that a hydrant was discharged, waste water from the north fire pond to this low area, runoff pond that it's so-called here. We were called then because it was determined from

testing that it exceeded a reportable quantity. In that case it was ammonia exceeding I believe a hundred pounds. In our inspection we wanted to follow up on that and look at that site, and we wanted to know what went on with those discharges. During the inspection we asked about the discharges of the hydrants. In fact, specifically I asked why was it done and I was told it was to get rid of water in a general way. Then we asked if there were other releases of that nature and we were told at that time they didn't know, this is the environmental department, they didn't know if there were others, that the safety department took care of that. So we went -- just putting it in perspective, we went to the site where the January 4 release occurred and we asked that the safety people, Gary Ista and I believe Chris Rapp at the time, to join us there. And we asked them if there were other releases and they said yes, there were. Pardon me, we didn't ask them at that time if there other releases, we wanted to know how the system was normally flushed for safety purposes, winterization, we were told it was done in the fall and, you know,

generally how that operates. Later that day we did ask Gary Ista in an interview, we asked him were there other releases of this nature and he said yes, there were. He believes five, I think is what he said.

Then subsequent to that we obtained the documents from Koch, which were all provided to us, and went through them all and determined in part from the operating logs from the waste water treatment plant, and in part from the safety department logs, that there were other releases, a number of them, the five or so and a few other ones. Then we plotted these out, and so that's why I wanted to talk to you in general about this hydrant release of waste water issue, and specifically a few cases.

Maybe you know of those or not, but we're interested in why those occurred generally. The connection with the sour water stripper is, as you know, it put a lot of high ammonia to the waste water plant for the period of time in '96 through May or April of 1997. Particularly it began to impact the plant, it appears, in June of '97. And the Barr report --

MS. HAYES: Let me stop you for a

second. June of '96?

BY MR. KRIENS:

Q. It began in June of '96, I'm sorry, extending through this spring when we were there. The Barr report discusses in their analysis of the ammonia removal ability of the waste water plant, they state that during this period, specifically beginning mid 1996, that the ammonia load to the plant exceeded the design capability of the plant to remove ammonia. Their estimate was that -- their analysis concluded that around 5 percent of the time or less that the facility was unable -- would have been unable to meet the affluent standard for ammonia. That doesn't mean necessarily that it was exceeded, you know, because it's a theoretical analysis and it doesn't always account for all the factors necessarily in ammonia removal, but it does suggest to us there was a very significant problem with the ability of the plant.

So what we're wondering, you know, when I mention the stripper and we're looking at this and we're wondering what went on basically. Let me get more specific. We took that loading of

the influent pound per day of ammonia to the waste water facility, the influent load of ammonia, and starting somewhere in about June, July it starts to peak up a little bit. According to the data we have, or the document, it shows that June 18 and 19 of '96 there was a release of waste water to the land areas via the hydrants. In our view we don't see that that as a permitted discharge in accordance with the NPDS permit, the National Prudent Discharge Elimination System permit. I'll jump up ahead.

In November, the loading in November of '96, the ammonia loading, started to really increase considerably. You'll see November the load was 1,210 pounds per day average, and in November 3 and 4 there was a release of -- a discharge via the hydrant system, and I'll talk more specifically about it later. Then again November 16 to 17 of '96 there was one, January 4 of '97 there was one, and then February 25, 26 and 27 of '97 we had three in a row toward the end of that month and then one in March, the 26th of '97.

The one that causes us probably the most alarm initially when we looked at this data was

the November 3 and 4 one (indicating). At that time you'll note it also received a very high load of ammonia. It was the second highest detail load of ammonia during this whole period that was evaluated. And that same time during the evening the hydrants were discharged during the night, discharging waste water. This goes through a chronology of events that we have pursuant to these logs we've looked at.

On October 24 of '96 Heather Faragher wrote a memorandum to various staff, including waste water operations and operation staff and others that notified the staff that a Bioassay, which is the whole affluent toxicity testing done at the affluent to the polishing ponds which discharges to the river, will be conducted beginning November 4 when samples were scheduled to be collected.

On November 2, jumping up ahead, an operating log states that specials were sent to a lab for TSS and that the flow from the waste water plant to the polishing pond and hence to the river was cut or reduced to less than three units. When this is done water backs up into the north fire water pond. That's the only

place it can go at the time. On November 3 there's a log that states -- and this log is from 1700 to 1900 hours, there were special analytical testing done on the S7, which is the discharge sump of the waste water plant, for TSS and ammonia. The results demonstrate that the ammonia was high at 110 parts per million and TSS was 72 parts per million. Also this log states that they drop off a copy of Heather's letter to the shifties for toxicity sampling and testing starting Monday, November 4, and it also states they cut flow to the river to 1.7 units. That's equivalent to about, I believe, one million gallons. And typically the discharge is 3.5 million gallons.

So by those numbers I'm assuming, and it was fairly accurate then, about two and a half million gallons a day is backed up into the B5 pond or the polishing -- the fire water ponds. Then there are other memos, but one on November 3 states, from Dave Gardner, they're limiting flow to the river to two units, I hope these moves prove sufficient in light of tomorrow's annual toxicity testing.

And then on November 3 a log states

safety to open three hydrants in west tank farm on ground to help get rid of water. Our understanding from talking to people involved with this, Ruth Estes and another person, was that this occurred, and the log states beginning at 7:00 p.m. that evening, Sunday evening, and the Bioassay was scheduled to begin the next day. So given this situation where you have a very high load of ammonia the day of the testing, and the night before the testing the hydrants were discharging waste water on land because the ammonia was high, the question we had is why was that done. It leads us to the question or suspicion that perhaps it was done to circumvent the Bioassay testing. And that's what we're trying to determine. I guess the question is do you know anything about that?

A. No.

Q. Okay. It took me 15 minutes to get there, but that was a quick answer. That's my conclusion only. What I'm trying to just relay to you is that when you put these together we see this high load and we see the discharge during the night and a Bioassay is beginning the next day, in fact, it's actually deferred, delayed then

for a week, and we're not sure why. We have to talk to Heather Faragher about it. But it looks like, you know, a bit odd I guess from our perspective. So we were just wondering what went on.

A. I don't have any specific knowledge of the details of those decisions.

Q. Okay. When it says safety to open three hydrants, is that what we talked about earlier, this might -- would that be a consensual -- Ruth Estes we believe was involved with the actual decision making of deciding to discharge that water. Is that something that normally she should or would talk to environmental or the operations managers or whoever to get authorization to get that?

MS. WIENS: She was a shiftie at the time, maybe --

MR. KRIENS: She was, right. She was a shift supervisor at the time and this was a weekend, so she was on duty at the time there.

THE WITNESS: In general, again, I would expect that Ruth would for the most part have the knowledge to make decisions that come up during the course of her shift coverage. And

I would likewise expect that if she ran into a situation that she didn't have enough knowledge that she would call and get the proper help. As far as the -- you know, you kind of specifically asked is this the kind of decision where she would ask for permission or ask for other help, you know, I don't know. That depends if she felt she had the right knowledge to make the decision at the time.

BY MR. KRIENS:

Q. Uh-huh, yeah. Let me talk about one other one as well. In February it mentions on the 25th, 26th and 27th there were three days in a row when the hydrants discharged water. During this month there was also real high ammonia loading at 1,343 pounds per day influent. The discharge monitoring report that we received shows that the ammonia was right -- the monthly average was very close to the permitted limit. So the question we had to other staff previous is was this water then discharged via the hydrants in order to allow the permit limit not to be exceeded. And I guess the question in this case is do you know anything about that situation?

A. No.

Q. In these types of issues, if they came up does Steve David or his department or people within it, do they normally go up and consult with management to find out how this should be done?

A. Normally, I think that's the word you used, normally the types of decisions that come up to myself or the other top managers here are seldom the day-to-day decisions regarding operating the plant, they're usually more broader or more strategic type decisions. Not knowing -- you know, generically it's hard to answer that question because obviously I get all sorts of questions on a given day. Very seldom are they about specific operating moves within the plant.

Q. How about in terms of a general overall strategy then dealing with this issue, where the ammonia was a difficult problem at the waste water plant, and as a strategy of resolving that or dealing with it by the hydrant system, was that discussed?

A. By who would have to be my question.

Q. You know, in the management level here with your managers, with you or internally.

A. Okay. As far as my awareness of issues around the hydrant systems and the concerns that the

PCA had expressed, I became aware of those after the fact. Of course then I was informed of the dialogue, the letters and such that had gone back and forth, but that was after the fact.

Q. Okay. That's what I was wondering, and we'll, I'm sure, continue to debate that in the future probably. But that's fine. I appreciate your answers.

BY MS. HAYES:

Q. Tim, are you aware of the decrees that Koch and the state of Minnesota and the environmental protection agency and environmental groups signed in '89? Are you aware of this (indicating)?

A. Yes.

Q. Are you aware that there's penalties, future penalties provisions in here, for like violating the affluent limits for ammonia going to the river?

A. Yes.

Q. Like for a monthly average for example?

A. I don't know --

Q. Or is it daily?

A. I don't know the real specifics of what -- you know, of the penalties and permit. I have a

general awareness of that decree and what its provisions are.

Q. Okay. Well, specifically, the provision for violating a monthly average of for example ammonia would be -- it comes to a $30,000 penalty. I guess, you know, given what Don just laid out for you and these flushings at the end of the month, the flushing at the end of the month in February, there's three of them, we know that the loading on those days were high. I think that that's repeated in February here, for the last -- well, with the exception of the very last day, the last days of the month, we have that happening again in March. You've got significant loadings there, too, 14, 15 a day.

I mean, do you see our issues? Do you see what this brings up to us as issues, the possibility that there's a spraying of the hydrants to the ground rather than putting the water through the designated outflow and as specified in the permit, and that one possible motivation for that could be that you are under the situated penalties in the consent decree? Do you see our concern?

A. Yes. It was kind of a long question, but, you

know, I'll acknowledge that you are communicating to me that you are speculating there's a connection between our -- some of the actions we took using the hydrants and requirements of the consent decree.

Q. We just feel compelled to bring it up because we're under this consent decree and it's still open.

A. I understand that, you are expressing that concern.

Q. Okay.

BY MR. KRIENS:

Q. Just a general statement or question. Was the -- you know, was it ever discussed internally that this would be a good alternative way of dealing with problems, to use the hydrant system, you know, to dispose of water or waste water? I mean, to discharge it out via that on land as opposed to the normal discharge?

A. No, not that I'm aware of. Again, I became aware of that after the fact and after the dialogue was underway with you all.

MR. KRIENS: Okay, thanks a lot.

BY MS. HAYES:

Q. I just have a question, it's really a general

question, but I think it's probably a good one directed to you in your capacity.

Last Friday the Minnesota Pollution Control Agency sponsored its first annual industrial waste water treatment seminar or school sort of thing that is analogous to the longstanding program we have for municipal waste water treatment operators. And Paul Leadman, do you know Paul?

A. Yes.

Q. He spoke at that seminar. I had a chance to listen to him talk, and it just raised for me some general philosophical questions that came up, because I thought -- actually I thought his talk was very good. And I was sitting with some other people from industry that I knew, and I think that he did a really good job, a really good overhead. He used like one or two huge words in there, if you could read it sitting way back there. The first overhead said something like get a plan and the next one was get with the program. And where he was going with that was the idea of a corporate environmental compliance plan or whatever you want to call it, environmental management compliance plan or

whatever. And he said, you know, you need to be in touch with what the regs are and you need to have a plan, and included in that plan would be internal auditing. And then he went on to talk about regular periodic systematic auditing, is he was talking about. I worked on the audit program for the agency for developing the policy and then also for getting into the law.

And then he went on to reference the DOJ policy on enforcement, and then that also that goes into the policy on auditing again. And it really led me to the question, which is kind of a touchy one, I'll acknowledge that, because, you know, we struggled a little bit with the idea that we want people to feel like they can be comfortable in doing audits but that we're not going to come and ask you for them. So I'm not here to ask you about -- I don't want to get an audit from you, but it did really raise the question for me about having conducted all these interviews and to kind of bring this all to some culmination and seeing some problems here, and I think you -- I think at this point you would get some agreement that there are some issues here that are -- they're problems. And one of the

problems that I see is that there's been -- well, I'm not going to say that your organization isn't put together right, but there's some problems it seems like with some accountability across lines. And I think that's always true, so I don't think that's specific to Koch, but I think that's what we've seen. And I had to ask myself if you were -- you know, if that's a practice you are involved in, an internal environmental auditing program compliance, management program. I mean, having an attorney that represents Koch speak really begged that question. It's something that I just kind of want to ask you. Do you have a plan in place like that, the one he was talking about?

A. When you said you did you mean me personally or Koch?

Q. I mean Koch. You speaking for the company.

A. Okay. Now I forgot the question.

Q. It's a long winded one. Boy, it's getting late.

A. If your question was philosophically do I believe that we should be doing internal auditing to improve accountability and to provide the appropriate level of supervision or

hierarchy or whatever you want to call it, I would say yes. I believe that -- I mean, we want to hire people who are very capable and then we train them and let them understand -- make sure they understand what their constraints and their requirements and the laws and rules and everything that governs them. But yet I don't think that's enough. You know, you need to spot check or audit. That includes environmental and safety and other aspects of our business. I think another part of the question was do we need a plan.

Q. Do you that have?

A. First of all, we have a plan to comply with all of the rules and regulations that are with us. It's not even a plan, it's our policy. That's our principle number one, that's how we're going to do business. Secondly, do we use audits and such to reinforce that and to bring in that accountability? I would say yes.

Q. Did you ever consider getting into our environmental improvement planning program and submitting those permits so that -- I mean, have you looked into that at all? Again, I know I'm walking a line here a little bit, and I don't

want to be too pushy about it, I just -- for example, Ashland has, Ashland was one of the first people that got involved with that.

A. You said you again, and this time I have to say for Tim, Tim Rusch is not specifically aware of that opportunity within the MPCA. Whether Koch has looked into that I really can't say.

As far as our being out front and trying to, you know, not only comply, but to go beyond compliance, you know, we have -- I'll say it unofficially, you know, we have volunteered to be the pilot case for Goal 21 for example with the MPCA. We appreciate the value in, you know, first an out front cooperative relationship to try to, you know, not have -- minimum compliance is not our goal, and that is some folk's goal, they want to minimally comply. We want to go beyond that, so we have volunteered to be part of Goal 21 and some of those types of things. The program that you were specifically mentioned, I was not aware of that one, Mary.

Q. Okay. Yeah, one of the primary qualifiers for getting into the program is that the audit needs to be submitted to the agency, which is different from other states because that's the

only way that the permitee or the entity can realize the benefits from that, which is, you know, with a few qualifiers, amnesty from penalties for violations.

Anyway, I just thought I would mention that because it just came sort of screaming at me when I was listening to him talking. I guess the other issue I would like to real quickly talk about is he mentioned -- and I think he did a real good job on this talk, but he mentioned the idea that -- something like this I'm definitely paraphrasing, that there not only needs to be, you know, a lifting of disincentives or a negative reinforcement for employees and staff to come forward and talk about issues, but there needs to even be some incentives put in place for that kind of open forum for employees. Something that I've observed here, and again, I don't know if it's a communication issue or what it is, but we would see in our paperwork and our documents that there would be suggestions made about fixing a problem that was chronic. The one that I'm talking about right now specifically is the oily water sewer going into the non-oily water sewer

because you've got too heavy of flows coming from the coker ponds for several reasons. And that went on as far as we have documentation for, probably back to the beginning of 1994. There are -- there's stuff in here through the years and during the course of this time that sort of indicates there's a tone in the logs and there's a tone in memos that sort of says the problem still isn't solved, you know, here's a couple of suggestions. It doesn't look to us like those suggestions were ever acted upon. It seems odd to us that a problem like that would have been allowed to go on for a period of time.

I guess what I'm wondering is when Paul is talking about making a suggestion that there's an open forum, there's kind of this philosophy that people can come forward and they're going to be really heard, and not only is the suggestion going to be heard, but they're going to be -- they might even get rewards for that kind of thing. I would like to hear your comments about that and how we can reconcile that with what we have seen here. Do you have a comment about that? And I know this is stuff you don't deal with day-to-day, but you must

some sense for that generally.

A. Again, in general I agree 100 percent with what Paul is saying. We want to make sure that all of our employees, whatever their role, that their goals or their incentives, whatever you want to call them, are in line with what our overall goals want to be. When I see examples where that doesn't seem to fit, that doesn't match our program, I mean, we want to have our people, whether it's me or the newest guy we hire today, understand what our goals are, what our policies are and then be able to perform in accordance with those. If they see or believe that there's a potential to have a problem, to bring it out up front. We, I think -- philosophically I think you said you believe that it's better to get problems addressed before it happens than after. I agree with you a hundred percent.

The vision that we have going forward is that everybody behaves that way. Does it always happen or has it always happened in the past? I can't say that it always has because it's hard to always get that -- I was going to say 100 percent alignment, and it's probably difficult

to have 100 percent alignment, but it's difficult to have everybody understand where you want to go and always perform that way. But, you know, that's the goal, that's where we want to be.

Q. Any idea about why these chronic problems continued, you know, the one that's acknowledged? I think we have acknowledgment we had a problem with the oily water sewer going into non-oily water sewer which ends up in the storm ponds, which ends up sometimes on land or over that -- over the north side. Why was that -- what's the breakdown there?

A. I don't have the specific details, Mary, of that problem.

Q. That's just an example.

A. Yeah. Like I said, I understand when you bring together all of these and look back you were -- you're acknowledging it looks like we could have and should have done something in order to prevent that. I might come up with the same conclusion were I to review a specific problem.

Once again, that's not how we want to have things go. We want to have things -- we don't want to have problems because we want to

have everybody with the knowledge and decision right up front and prevent details from getting out of hand or small problems becoming bigger problems. That's good business and it's consistent with a good safety policy, it's consistent with a good environmental policy, and it's just flat out good business, to not have problems, issues.

MS. HAYES: I appreciate your comments.

BY MR. BERGER:

Q. Tim, I have two issues that I briefly want to talk to you about. I represent the hazardous waste division at the PCA. These two issues are ones that we've talked about extensively in these interviews.

The first one has to do with the oily water sewer system here at Koch Refining. It's my basic knowledge that a lot of water is used in this refinery, in any refinery, to produce the products you do. Like in the initial step where the crude comes in and water is used to mix with oil to remove salt, and there is a lot of waste water that's generated here, and the oily water sewer system is used for disposal of

that waste material. And that's fine, that's what it's there for, but through this process of reviewing memos and waste water treat plant logs that we obtained and we requested and Koch sent us, it strongly appears to me that the oily water sewer system is used for disposal of hydrocarbon waste that very easily could go back into your processes here somewhere else, or may be shipped off as hazardous waste.

Now, what I'm talking about specifically is naphtha. There's a lot of documentation in these logs that indicate when a vessel, a unit is going down for maintenance, that at times they contain various amounts of solvents like naphtha or hydrocarbons like naphtha, and that these are not water processing waste, it's not contaminated water, it's the pure material, pure naphtha. It's been documented three or four times in these logs. Methanol has been mentioned, fuel oil has been mentioned. These materials are being released into the oily water sewer system, and it's going to be the MPCA's contention that this is an improper disposal of these materials. Can you comment on that at all? Do you have any knowledge of this going

on? Is this something you weren't aware of or any general comments on that?

A. In general we use our sewer system -- our sewer system is not a disposal facility, our sewer system is a conveyance facility that delivers oily water to our waste water treatment plant where it's then treated. We capture that oil and we do return it to our process. Or, as you mentioned, we can send it off as a waste from the waste water treatment facility. So I don't view using our oily water sewer system as disposal, I view that as conveying oily water to our treatment facility.

Q. I agree, oily water.

A. Koch's stand likely would be different from your assertion that we cannot use the sewer system to convey oil and water to our treatment plant.

Q. I'm not asserting that.

A. I'm sorry, I misunderstood what you had said.

Q. I'm asserting that beyond that -- I agree, that's what the oily water sewer system is for, disposing of processed water from your units wherever it's generated in this facility, oily waste water. That's what the system is for. But that system is also -- it appears to me that

system is also being used for the disposal of waste product solvents like naphtha, like methanol, like ethanol, like gasoline, that it is being -- that is in a vessel, it is contained in this vessel that is coming down for maintenance and they have to get rid of this material. What they're doing is pulling the plug on it and piping it or letting it run directly into the oily water sewer system instead of some other, I would think, more appropriate management. That's my concern.

It's not the release of oily water that comes from whatever step. Maybe it's a step where water is used to clean out the inside of a vessel, that's fine, and water is used in your production processes, I understand that, that's what it's for. That's why you have the treatment plant on-site. I'm talking about those specific instances I just mentioned, that's what I'm concerned about. And this appears to me is going on at this facility. Any comment on that?

A. Yeah. My comment would be I think Koch disagrees with you regarding the use of that -- of those facilities. Again, specifically we

welcome discussing that with you and referring to regulations, which is what we always want to do.

Q. Okay. A second issue that we talked a little bit about, actually a lot, I've got some documents here, and I'll just mention them quickly. One is a memo of March 11, 1996 and it's from Heather Faragher to Eric Askeland and the subject is hazardous waste stuff. And number four in the memo states, reads what is the operator's liability responsibilities concerning the signing of hazardous waste manifests? The ones from Otto Avenue were from state of Minnesota or from state of MN. That's a question. This brought up specific questions from operators with regard to signing these forms and their liability (indicating).

A. (Views document.)

Q. The second document is attached to a memo from Heather again, and this is dated March 26, '96. It's from Heather to a number of operators, mostly it looks like waste water treatment plant operators. The subject is hazardous waste issues. The memo reads there are some questions concerning hazardous waste issues at the waste

water treatment plant during class number three. Eric has put together a summary of items that concern us at the waste water treatment plant. Then attached is a three-page document with eight different items on it. Item number six is entitled manifest, and under that is A, B and C. I won't read it all, but A states -- it reads the operator should not experience a significant amount of liability from signing hazardous waste manifests if, one, Koch is able to take the waste, and two, Koch manages the waste properly upon acceptance. In B the last sentence of the paragraph states operators should not accept any off-site waste without prior approval from the environmental department.

The first part of that is actually the most important of B, operators should make sure that the environmental department is aware of any waste coming to the waste water treatment plant that is on a manifest other than a KRC-PB internal waste manifest (indicating).

A. (Views document.)

Q. The last document here is a waste water treat plant daily audit log and it's from 9/8/95. Under the comments section it states

environmental contacted us to sign manifest for pipeline trucks to unload high benzene materials to tank 63 (indicating).

A. (Views document.)

Q. Taking all three of those documents together it appears to me that there is a possibility here that hazardous waste shipments are coming into Koch Refining from off site that are coming on a hazardous waste manifest. Now, I'm not aware in your permit, your hazardous waste storage permit, that Koch is allowed to take hazardous waste from off site. Any comments on that? Are you aware of this or am I seeing things wrong here? Anything you can help me with I would appreciate.

A. I don't think I can help you much on this. You know, I'm not aware of the details of this September '95 log sheet.

Q. Yeah, I realize that. A general sense I guess.

A. In a general sense it appears Heather and Eric, as part of a regularly scheduled environmental awareness class for operators, and most likely waste water treatment plant operators, was answering, you know, their questions regarding several different -- several different aspects

of their business, and one in particular on the haz waste manifest. One of the questions seems to be, you know, from an operator what kind of liability do they take on when they sign their name to a manifest.

Q. Right.

A. I'll say in general that sometimes is -- well, I won't say sometimes, many times that's a question that comes up from one of our operators, and it's not specifically to a haz waste manifest, it's to anything. They're wondering when I sign my name to something what that means.

Q. Sure.

A. And whether it's, you know, a safety permit or even a safety audit of observing other employees, there's always a concern. Many times there's a concern among our operators, you know, what does it mean by having my signature on there. That's probably about the best I can comment on that. Again, I don't know the specifics of these issues and certainly don't -- I'm not involved in day-to-day activities around our manifesting and such.

Q. Well, I guess in general it concerns me that

it's being discussed at all. Do you understand what I mean by that statement? I don't understand if Koch is not permitted to receive hazardous waste from off site, why is it being discussed?

A. I don't know.

Q. That's the question in my mind.

A. I can understand why that would lead to that question on your part, but again, specifically I don't know.

Q. Thank you.

BY MR. KRIENS:

Q. One general question. We talked about a lot of the issues that we discovered that were -- we think were problems or we believe have been problems that impact the environment. Does the company have plans to change or at least maintain the environmental department here, enhance it? Anything you would like to comment on that I appreciate that.

A. Yes. Certainly we plan to maintain our environmental department. We do plan to make some changes, and we believe these will be very positive, regarding our ability to protect the environment. One of the key aspects of our

planned changes and responsibilities is to further, you know, drive ownership for all safety and environmental decisions and such right into the hands of every one of our employees. What we don't want to have is a case where, you know, our employees don't have all the knowledge they need to do their job.

I think they do for the most part, but there's always this kind of propensity to kind of book it to the environmental department. Certainly there are some circumstances that belong with the environmental department, knowing permits and understanding the technical requirements of our business and such, but on a day-to-day basis folks in the plant by their actions can not only, you know, comply, but again, get out in front. That's where we want to go.

So we do plan some changes. We don't plan on losing our knowledge base or our technical base, but we do want to further broaden ownership for our entire environmental program to every employee. It's almost like we have tried to do that all along, but the focus is going to be even more so now. Again, we hire

smart people and we train them well. They can make better decisions when they've got all the knowledge in their hands that they need to be able to comply. To the extent that sometimes they count on the environmental group for their knowledge they could have, should have themselves, that's something we want to avoid.

Q. Will that involve then training of these people or, you know, through the environmental department and will environmental staffing be increased as a result or what's anticipated there?

A. I would put it this way, Don. I would say that our environmental department will likely over time stay the same or get smaller, but the number of people with the awareness of the environmental requirements and the decisions and their ability to positively impact our environmental program will grow because in addition to the folks in the environmental group then, you know, all of our employees will have better knowledge and better understanding where we're going. Then our environmental group, you know, can focus on what they can do best with their knowledge, understand the regulations,

training and educate all of our people, put the systems in place that make it easier for people to do their job, you know, whether it's a reporting system or a data collecting system or those type of things. And then obviously negotiating the permits and working through details with an agency like the MPCA. We want to -- we don't want to have problems. I mean, our policy is that we're going to be out in front on these things, and we believe that by first maintaining an environmental group and then broadening the knowledge and decision rights of others with better get that.

MR. KRIENS: Thank you very much.

(Whereupon, the interview concluded at 4:50 p.m.)

* * *

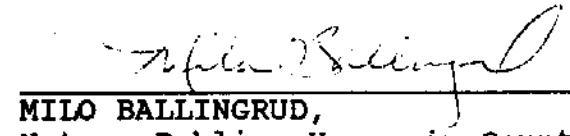
STATE OF MINNESOTA)
) ss:
COUNTY OF HENNEPIN)

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 TIM RUSCH, 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 21st day of November, 1997.



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