
INTERVIEW OF:

DONALD TSCHIDA

TAKEN OCTOBER 30, 1997 AT 2:45 P.M.

MILO BALLINGRUD
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INTERVIEW OF DONALD TSCHIDA, taken pursuant to agreement of and between parties at, Koch Industries, Inc., P.O. Box 64596, St. Paul, Minnesota, at approximately 2:45 p.m. on Thursday, October 30, 1997 before Milo Ballingrud, Notary Public, County of Hennepin, State of Minnesota.

APPEARANCES:

Present from the Minnesota Pollution Control Agency:

DON L. KRIENS, P.E.

MARY L. HAYES

GREGORY BERGER

BYRON A. ADAMS

Present from Koch Industries:

JAMES K. VOYLES, Attorney at Law

Present from the law firm Green Espel:

JODEEN A. KOZLAK, Attorney at Law

SUSAN K. WIENS, Attorney at Law

ANDREW LUGER, Attorney at Law

Union Rep James Grotjohn

I N D E X

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1 MR. BERGER: Let me make an
2 introduction here. We are doing a civil
3 investigation that is focusing on Koch
4 Refining operations in a variety of pollution
5 slash environmental related situations. We
6 are seeking your cooperation in obtaining some
7 information, some clarifications of these
8 issues and these operations. You do not have
9 to answer these questions if you do not want
10 to, you are not obligated to do that. The
11 information we obtain in this investigation
12 may be used in administrative, civil or
13 criminal action, and the MPCA is free to
14 choose one of those enforcement actions. And
15 if we do choose one it does not preclude us in
16 choosing another one in the future. Do you
17 have any questions about that information?

18 THE WITNESS: What do you mean by
19 civil? You mean individually or --

20 MR. BERGER: No. The focus of this
21 is Koch Refining, the company.

22 MR. KRIENS: Our questions are a
23 civil investigation only. We just want to
24 make the point that the information we gather
25 and that you give to us will be used in the

1 civil, but could also be used in a criminal or
2 administrative action as well, so that you
3 understand that.

4 THE WITNESS: Okay.

5 MR. VOYLES: Don, do you know what
6 that means when they say civil?

7 THE WITNESS: I guess not exactly.

8 MR. VOYLES: Administrative is
9 basically the PCA would bring us a notice of
10 violation or something, and civil would be
11 court action, a suit against the company.
12 Neither one of those would be against any
13 individual.

14 BY MS. HAYES:

15 Q. Don, my name is Mary Hayes. I work for the
16 Minnesota Pollution Control Agency. I would
17 like it if you would state for our recorder
18 your name, your position, how long you've been
19 in that position and generally what you do, if
20 you could.

21 A. Okay. Don Tschida, I'm not right now in
22 instrument maintenance helper program. I've
23 been in the program for just about two years.
24 It's just basically instrumentation work.

25 Q. So you've been with the company for two years?

1 A. No, I've been with the company for 15 years.
2 Q. Can you tell me what you were doing prior to
3 the instrumentation position?

4 A. I spent three years in the waste water plant
5 and before that I spent nine years in the lab
6 and one year in the old crude unit.

7 Q. Okay, thanks. Don, I have a couple of waste
8 water logs that I believe have your initials
9 on them, and they discuss the overflowing of
10 the oily water sewer into the non-oily water
11 sewer near tank 500 (indicating).

12 A. (Views document.)

13 MS. KOZLAK: The number on the
14 bottom is 6701 and 5021. 6701 is
15 September 19, 1994 and 5021 refers to
16 March 23, 1995.

17 BY MS. HAYES:

18 Q. I have general questions about that issue that
19 I'll be asking several people, many people, so
20 it doesn't just pertain to you, so just answer
21 what you can.

22 A. Okay.

23 Q. I assume that you were -- since these are
24 operator logs, this is during your time when
25 you were working in waste water?

- 1 A. Yes.
- 2 Q. Okay. To your knowledge how long have manhole
3 overflows near tank 500 occurred? When did
4 that start?
- 5 A. I guess I couldn't put an exact date on it. I
6 couldn't say for sure. I don't believe we
7 were having the problem when I first went down
8 to the water plant, which would have been in
9 November of '92. So I don't believe we were
10 having the problem at that time.
- 11 Q. These are '94 and '95 though. At least in
12 '94, you're aware of that?
- 13 A. Yes.
- 14 Q. So you were aware of them since about '94, is
15 that what you're -- what were the years again
16 that you were in waste water?
- 17 A. November of '92 until January of -- well,
18 through December of '95.
- 19 Q. Okay. How are they generally discovered?
- 20 A. Usually they were brought up by one of the
21 operators in the unit near where the overflow
22 had occurred, which was in the coker unit.
23 They would usually call us, if we didn't see
24 it they would call us and tell us.
- 25 Q. How would you have seen it?

- 1 A. By driving by.
- 2 Q. Did you have times, regularly scheduled
- 3 intervals, that you would drive by to check
- 4 that or --
- 5 A. No, we didn't.
- 6 Q. So if you just happened to be driving by?
- 7 A. If we knew that we were having problems, say
- 8 that day or that shift, then we would keep an
- 9 eye on it.
- 10 Q. How about the coker unit people, did they have
- 11 a regular interval that they would be checking
- 12 for that that you are aware of?
- 13 A. Not specifically for that, no.
- 14 Q. Okay. How often did they occur?
- 15 A. Oh, I guess that I really couldn't say. I do
- 16 know most of the time it was on day shift, but
- 17 how often I don't know.
- 18 Q. You don't know if it was daily, weekly or
- 19 monthly?
- 20 A. It wouldn't be daily. There might be
- 21 stretches where it could happen once a week or
- 22 there could be stretches where it didn't
- 23 happen for a couple of months.
- 24 Q. Okay. Were you aware that when the overflows
- 25 would occur that there were times that it

1 might affect the storm water ponds in terms of
2 contaminating them?

3 A. Yes, we were aware that if it overflowed long
4 enough it could go into the clean water sewer.

5 Q. So would you or someone on your crew go over
6 and check those? Would that be your
7 responsibility to go and look for that and try
8 to remediate that?

9 A. If it did, if it overflowed, we would check
10 the clean water sewers to see if there was any
11 oil and take care of it if there was.

12 Q. That would be something automatically that you
13 were responsible to do?

14 A. We would do that.

15 MR. KRIENS: In addition would you
16 do any other testing other than just visual
17 observations for oil?

18 THE WITNESS: No, pretty much just
19 vision.

20 BY MS. HAYES:

21 Q. So your protocol would be to check it, and
22 what would you do then? You said you would
23 take care of it, and what does that mean?

24 A. Well, if it was bad enough we would probably
25 stop the flow out of the clean water sewer so

1 it couldn't get down to the pond and then
2 remove the oil either by vac truck or using
3 pads to skim it off.

4 Q. Okay. You said if it was bad enough. Does
5 that mean it wouldn't be automatic to turn
6 off, shut the sewer, the clean water?

7 A. No, it wouldn't automatic. If we found oil on
8 it we would, you know, try to take care of it
9 or would take care of it.

10 Q. And then along with that, was there a
11 responsibility to notify somebody else,
12 environmental or --

13 A. I believe the number one on shift would notify
14 the -- either the shift supervisor if it was
15 at night or the unit supervisor if it was on
16 days.

17 Q. Okay. That's all I have for this area. Does
18 anybody else have anything?

19 BY MR. ADAMS:

20 Q. I was wondering, do you have any idea how long
21 an overflow might occur? Let's say there's a
22 period where it was happening -- well, you
23 mentioned it would happen more during the day
24 shift, and how long might that go on? Might
25 that go on an hour or two? I know you

- 1 couldn't check it all the time, but --
- 2 A. I would say, you know, less than an hour,
- 3 because on day shift there's more people
- 4 around and it would be spotted sooner.
- 5 Q. If it were to go on longer it would probably
- 6 be during the night shift when there wasn't as
- 7 many people to see it?
- 8 A. Yes, if it was going to go on longer. It
- 9 didn't always -- even when we did have this
- 10 problem with it, it didn't always get into the
- 11 clean water sewer. It wasn't like every time
- 12 it happened it got in there, because there was
- 13 a little bit of area between the two places.
- 14 Q. Uh-huh. Just so we know what we're talking
- 15 about, the same area, I have a map here that
- 16 somebody sketched out (indicating). I believe
- 17 there's a number on the bottom there, and
- 18 maybe you can correct us if we have the north
- 19 wrong (indicating).
- 20 A. (Views document) I'm not exactly sure.
- 21 MS. WIENS: It's document 3073.
- 22 THE WITNESS: I guess this diagram
- 23 doesn't make a whole lot of sense.
- 24 BY MR. ADAMS:
- 25 Q. Okay, that's fine. It's just something

1 somebody drew up in the memos we were given.
2 A. The two then did, you know, like come together
3 next to each other like in a box, but the
4 overflow spot was, I don't know, like away
5 from where the two had -- it didn't overflow
6 right where the two of them came together, it
7 would overflow away from there.

8 Q. It would go overland, over pavement or
9 something for a little ways before it made it
10 to the non-oily water sewer?

11 A. Yeah, it would have to travel a little bit to
12 get to the point where it would enter the
13 non-oily water sewer.

14 BY MR. KRIENS:

15 Q. Where it would enter the manhole to the clean
16 water?

17 A. To the clean water, right.

18 Q. We had looked at that, and I don't recall if
19 it was asphalt or what. I think it was paved,
20 but it was about 15 feet away, a fairly short
21 distance from manhole to manhole.

22 MR. BERGER: Right, 15 or 20 feet.

23 BY MR. KRIENS:

24 Q. Where that overflowed from the oily to none?

25 A. Right.

1 Q. When you mentioned nighttime, is the
2 protection levels the same at night in terms
3 of the coker unit and generally the whole
4 refinery? Is it the same, does it run the
5 same level at night as during the day?

6 A. Well, I think the reason we have more trouble
7 during the day is there would be more -- there
8 would be more demand on the sewer system
9 during the day. You would have maintenance
10 going on, you know, and maybe washing or
11 flushing or whatever, so there would be more
12 volume in the sewer system which would cause
13 it to back up or whatever, fill up.

14 Q. Okay. I just wanted to understand that.

15 BY MR. ADAMS:

16 Q. We want to discuss the phenomena, it seems,
17 that when we were out there in April we were
18 talking to one of the guys at the coker unit
19 next to it, and we were wondering if at 700
20 GPM from the coker pond that this thing
21 overflowed during the day, and we were reading
22 in some of our memos here that the flow from
23 the coker pond was one way you could cut back
24 flow into this area and prevent the overflow
25 from that manhole. And in some of the memos

1 it mentions that they cut back the flow to 150
2 GPM from the coker pond and the thing would
3 still be, quote-unquote, puking over. And we
4 were just wondering if cutting back the flow
5 from the coker pond is the solution or not or
6 if there's another way to take care of it.

7 A. That I don't know. The only control we had
8 was the coker pond, the volume coming out of
9 there. As far as any others control of it, I
10 don't personally know.

11 Q. We've had suggestions that cutting the flow
12 from the cooling towers that can flow down
13 into that piping would be another way to
14 reduce the flow in there and prevent that
15 overflowing.

16 A. I have no knowledge of that.

17 BY MS. HAYES:

18 Q. So in terms of one fix being cutting the coker
19 pond flow, do you have control of that or do
20 you call the coker units?

21 A. The waste water operators actually took care
22 of the coker pond, that was part of our unit
23 to take care of.

24 Q. Okay. Thank you.

25 MR. KRIENS: Anymore specifically on

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that?

MS. HAYES: I don't have anything on

that.

BY MR. KRIENS:

Q. At times B5, which is the north storm water pond, overflowed on the north end, spilled over. We were out here in April and saw very obvious evidence it had done that. Apparently it's a large volume because it had eroded the road out and you could see an area there where it ponded up, grass was all matted down. We took samples of that area and found that it was contaminated. Were you aware of those situation where the B5 overflowed at times when you worked at the waste water plant?

A. Right off hand when I was down there I cannot remember us having any kind of a large overflow out of B5 during the period of time I was there.

Q. If it would -- you know, when the coker pond overloaded the oily water sewer at the tank 500 location by the coker unit and went to the clean water sewer, were there times then when it would contaminate B5 with oil that it had to be cleaned up or skimmed off? You

1 mentioned you would go out and observe it and
2 so on, and were there any occasions when it
3 did have to be, somebody went out and vacuumed
4 it off?

5 A. Yes, there were times when it got down to B5.

6 Q. But I mean where you had to go in and actively
7 remove oil material out of there?

8 A. Yes.

9 Q. Was there --

10 A. That was usually on the north end where -- I'm
11 sure you noticed that's separated.

12 Q. Right. There's an inlet and I think they
13 constructed a weir it looks like.

14 A. Right.

15 Q. And that's where the initial influent to that
16 pond goes?

17 A. Right.

18 Q. So that would be the influent from -- if it
19 overflowed it would go into that area, and I'm
20 wondering is there a connection between these
21 overflows and the overflow onto land there
22 north of B5, if there was any times when that
23 sewer got overloaded from the coker unit and
24 actually overloaded the B5 pond, flowed over
25 the north end?

1 A. No. I would say no because there wasn't
2 enough volume that would come out of there.

3 Q. This would be during the period when you were
4 there?

5 A. Right.

6 Q. I guess November of '92 to -- we had looked at
7 some connections there between that and found
8 a couple, a few periods of time when it looked
9 like that happened.

10 MS. HAYES: For example, in March of
11 '97, on March 24 we had the overflowing by
12 tank 500, and then on March 25 of '97 we have
13 B5 running over, the north end, so we have
14 those kinds of issues, where if there would
15 have been a contamination the oil would have
16 gotten into the storm pond then, the oily
17 water would have ended up on the ground.

18 THE WITNESS: That's beyond when I
19 was in the water plant. I know when I was
20 down there we didn't have any large enough
21 overflows out of the coker pond deal that
22 would raise the level of B5 enough to overflow
23 it.

24 BY MR. KRIENS:

25 Q. You left there December of '95?

1 A. Right.

2 Q. Was there a period during the time you were
3 there -- I notice after '95 that the
4 protection level of the refinery went up
5 considerably through '96, '97, and I think '95
6 was up a lot higher than the previous years.
7 Would that have impacted the coker unit?
8 Would it have been producing more water then
9 as a result of cutting more drums or a larger
10 operation that would cause part of it, the
11 overflow problem at the sewer not at the B5?

12 A. I guess I couldn't really answer that, I
13 really don't know.

14 BY MS. HAYES:

15 Q. We just have a couple questions about the
16 coker pond overflows. Again, this is an area
17 where your name is on a couple of the logs,
18 and we have some questions that we'll probably
19 be asking quite a few people. So there is
20 probably differing levels of pertinence for
21 each individual.

22 I have a waste water log with your name
23 on it from September 13 and 14 of '94 that
24 states that the coker pond flooded and the
25 dike -- there's a dike built on the northeast

1 corner to keep from flooding, but it flooded,
2 is what I assume that's stating. This
3 document is -- well, I don't see a number on
4 this one, but it's September 13 and 14, '94
5 (indicating).

6 A. Yeah. I don't specifically remember the
7 occasion off hand, but --

8 Q. We've got another one in June of '94, June 7
9 of '94. No number on this one either.

10 A. They wrote up here three and a quarter inches
11 of rain, so evidently we had a nice storm.

12 Q. It looks like '94 might have been a year when
13 you were having problems with that. In a
14 memorandum -- this isn't your memorandum, but
15 I just want to mention it and give you a
16 little background.

17 This is from Ruth Estes to Rick Legvold
18 and Brian Ruth. The date on it is
19 February 23, '97 and the number on it is
20 01469, and it discusses the tank 500 overflow,
21 the coker pond -- dike the coker pond road
22 with coker fines if needed, the railroad comes
23 unglued if it gets into the ditch. And so
24 just to give you a little background on that,
25 I wanted to ask you questions generally about

1 the coker pond problem. You just mentioned
2 that it was a heavy rainfall during that time,
3 and any other reasons that you know of why
4 you've had the coker pond overflowing?

5 A. Well, I know we had a history of trouble with
6 pumps down there. The coke finds eat them up
7 pretty bad. That would cause the level in the
8 pond to go up, and then if we got hit with a
9 rain --

10 Q. And how long has this been occurring to your
11 knowledge, the coker pond problem?

12 A. I know it was when I was down there, I know
13 that. As far as how long, I guess I couldn't
14 give you an exact time limit. I know we had
15 trouble with it when I was still working down
16 there.

17 Q. Okay. How often were they overflowing? How
18 often did you have an overflow there?

19 A. How often did the coker pond overflow?

20 Q. Uh-huh.

21 A. I remember a couple of -- well, I don't really
22 remember, but I know of a couple times. But I
23 know it didn't happen a lot.

24 Q. What was the protocol then for finding the
25 overflow, discovering the problem and then

1 what was the reaction from your department,
2 from your group?

3 A. If the operator found it then -- like, then it
4 was night shift and it happened we would
5 notify the shift supervisors and they would go
6 from there. And if it happened on day shift
7 it would be a matter of notifying our unit
8 supervisor and he would take it from there.

9 Q. And how would you discover them?

10 A. That was the normal part of our round, the
11 coker pond was a normal part of our round,
12 logging the flow and just the levels of the
13 pond.

14 Q. And then to your knowledge what was the action
15 in terms of the remedial action when there
16 would be a spill, an overflow of the pond?
17 What would the reaction be in terms of
18 cleaning it up?

19 A. I guess I don't know. They would get it
20 cleaned up.

21 BY MR. KRIENS:

22 Q. Who would be responsible for the cleanup when
23 it occurred?

24 A. I don't remember if they contracted it out or
25 if they had people in the plant do it. I

- 1 guess I can't remember.
- 2 Q. When you say contracted, do you mean Schlomka
- 3 or Industrial Services or --
- 4 A. Sometimes an outside contractor.
- 5 BY MS. HAYES:
- 6 Q. A general question in terms of training and
- 7 notification on issues like spills. What kind
- 8 of training have you had in terms of that and
- 9 can you describe that for us?
- 10 A. I guess I don't really understand.
- 11 Q. Do you have a policy -- are you aware of a
- 12 policy in the company where if you would
- 13 discover a spill and -- is there training in
- 14 addition to that around what the protocol
- 15 should be when a spill is discovered? I would
- 16 assume probably by -- I would think that that
- 17 would pertain to a lot of people in the
- 18 refinery. Can you tell us about that?
- 19 A. As far as in the water plant, you know, if you
- 20 had a spill or -- if it was as a big enough
- 21 spill you would notify supervision again and
- 22 they would get somebody to take care of it, or
- 23 if it wasn't a major spill you take care of it
- 24 yourself.
- 25 Q. What's the line that's drawn between big

1 enough or major?

2 A. I guess I don't know. I guess it would -- I
3 can't answer that, I don't know.

4 Q. So it's kind of an eyeball it sort of thing,
5 is that what you're saying?

6 A. Yeah.

7 MS. HAYES: I think that's all I
8 have on that issue.

9 BY MR. KRIENS:

10 Q. We talked about spills and was there a policy
11 and so on, is there training for people
12 working in the waste water plant and other
13 areas for responding to spills and cleanup and
14 a procedure to notify somebody in the
15 refinery? Like you mentioned the unit
16 supervisor and then I assume they would notify
17 Brian or whatever. Is there some training
18 like that or procedure set forth?

19 A. I never had any specific training as far as
20 cleaning them up. As far as what do to, you
21 know, we were basically told the notification
22 part, make sure you let either whoever was --
23 be it night shit or day shift, whoever was in
24 charge.

25 Q. By that you mean the unit supervisor?

- 1 A. Unit supervisor at days or the shift
2 supervisors at nights.
- 3 Q. And the shift supervisor, they're what's
4 called the shifties?
- 5 A. Right, uh-huh.
- 6 BY MR. BERGER:
- 7 Q. I have a few questions. Just to go back a
8 little bit, you say that you became aware of
9 this problem with the coker pond overflowing
10 its dikes or banks back when you were down
11 there again. When was the time that you were
12 down there, the years?
- 13 A. I was there from November of '92 through
14 December of '95.
- 15 Q. So do you remember it in '92? Was that a
16 problem back then? Can you specifically
17 recall?
- 18 A. I can't give a specific year, but I know while
19 I was down there I can really -- the time I
20 was down there I can really only remember one
21 time when it went over.
- 22 Q. But it might have happened other times?
- 23 A. That was the one that would stand out.
- 24 Q. Okay. When you had these occurrences you're
25 teaming it up or saying it generally happened

- 1 when there was heavy rainfalls, that's a most
2 likely scenario?
- 3 A. I would say yes.
- 4 Q. Could there have been other scenarios that
5 you're aware of?
- 6 A. Not that I was aware of when I was down there.
- 7 Q. Okay. You say that a fix for this was -- or
8 one of the problems in a fix was that the
9 pumps plugged up with coke fines and somebody
10 would have to go down there and clean those
11 fines out so you could pump out of the ponds,
12 right?
- 13 A. Right. Every now and then we would have to
14 have the sump cleaned out.
- 15 Q. And the pumps cleaned out? The pump sumps?
- 16 A. Right.
- 17 Q. Okay. And another fix was, and correct me if
18 I'm wrong, I don't want to put words in your
19 mouth, but then you would build a temporary
20 dike of coke fines along one side, the
21 railroad side, of the coker pond?
- 22 A. We would not do that, but I know that
23 supervision would have it done.
- 24 Q. And supervision would be who in this case?
- 25 A. It would be either -- the same thing, if it's

1 on nights it's the shift supervisors ordering
2 it, or if it was days it would be the unit
3 supervisor.

4 Q. Can you recall then a specific instance, a
5 month and year when this was done, when coker
6 fines were used to build up the dike?

7 A. I can recall an instance when it was done, but
8 I don't know what the date was or what year it
9 was, that I couldn't say.

10 Q. And this was at least once in your mind?

11 A. At least ones.

12 Q. Could it have been more?

13 A. Could have.

14 Q. And then cleanup was just going in and pumping
15 the water back to the coker pond that was in
16 the ditch alongside the railroad? Or how was
17 the cleanups done?

18 A. The one situation that I can recall they
19 actually removed the soil.

20 Q. They did?

21 A. After they got the water out of the ditch they
22 removed the soil.

23 Q. They came in there with a backhoe or a little
24 tractor?

25 A. Right.

1 Q. Do you know how this soil was managed?

2 A. No, I don't.

3 Q. That's all for that. We want to shift to
4 another area that we've gotten -- we have some
5 concerns with, Don, and that's the API
6 separator.

7 There are two areas here that we're
8 concerned about with the API, leaks in the
9 walls of the API separator and also overflows
10 from the API separator, those two areas. I'll
11 address leaks first.

12 I want to show you about five memos here
13 just for background that talk about leaks,
14 cracks in the walls of the API separator. The
15 first one here is dated 9/2/95, it's a
16 document numbered .05496. It has a diagram on
17 it and it shows -- it's lettered small leak
18 here, possible leaks here, seems to leak the
19 most (indicating).

20 The second one here, the top sentence
21 highlighted in green. It's regarding an
22 employee filling holes at the API and digging
23 new one near four bays. I'm not too sure what
24 that means by four bays.

25 MR. LUGER: What's the date?

1 MR. BERGER: 1/17/96.

2 MS. KOZLAK: And it's number 572.

3 THE WITNESS: I've never seen --

4 I've never seen this one.

5 MR. LUGER: Which one is that?

6 THE WITNESS: This one is after I

7 left the water plant area, that was '96. This

8 one here, and I never seen this paper so I

9 can't say anything about it.

10 BY MR. BERGER:

11 Q. So in '96 you weren't working in that area?

12 A. No.

13 Q. Okay. '95 was your last year?

14 A. Right.

15 Q. Just to continue on with this just to set the
16 stage again, here is another memo on 4/10/96,
17 and this is document number 00328
18 (indicating). It states crane fell into sink
19 hole southeast of API. Sixteen yards to fill
20 hole (indicating). The next document is a
21 memo from Eric Askeland to Karen Hall dated
22 June 19 of '96, it's document number .01958,
23 and it discusses the API walls and the leaking
24 problems. Basically it states -- not
25 basically, it states from environmental

1 protection standpoint we need to stop the
2 problem. Basically Koch needs to repair the
3 walls in such a manner that we don't expect
4 the problem to continue. Then further down it
5 states -- it is talking about these leaks, is
6 it a significant quantity that we should
7 notify the MPCA. We will only want to notify
8 them, however, our reason digging into area
9 leads me to believe that any contamination
10 from the API walls would be very extensive
11 (indicating).

12 And then the last memo I have here is
13 dated June 19 of '96, and it's from Heather
14 Faragher --

15 MR. LUGER: What's the number?

16 BY MR. BERGER:

17 Q. .01962. It's to Heather -- to Brian, and I
18 don't know how to say his last name,
19 Guarneros, something like that. It's
20 G-u-a-r-n-e-r-o-s. Do you know Brian?

21 A. (Nods head.)

22 Q. This memo is -- again the subject is API walls
23 and it's exploring the permit language or
24 language in the permit about how they should
25 address -- what rules direct this situation.

1 Heather states I'm still digging through the
2 regs, but here's a language in the permit, and
3 then she states the language that pertains to
4 how they should address the situation
5 (indicating). That is later than -- you know,
6 most of those memos are later than what you
7 were down there, and I realize that, but can
8 you tell me what your knowledge is of leaks
9 and cracks in the API separator walls during
10 your time there?

11 A. I don't remember it being mentioned at all
12 during my time down there.

13 Q. Was there any remediation work done around the
14 API separator, digging up soils, filling in
15 sink holes during your time that you're aware
16 of down there?

17 A. No, none that I'm aware of.

18 Q. Okay. The second issue is overflowing of the
19 API skimmers. We have a number of memos,
20 operator logs that address or have information
21 about this happening. The one I have here is
22 dated 5/29/30 of '95, it's a waste water
23 treatment plant operator log. It's document
24 number 05202. It just states high flow of
25 black oil to API overflowing skimmers

1 (indicating). That's the only one I have, but
2 there are a number of them.

3 Can you address that issue? Are you
4 aware of problems like this where the API
5 separator overflowed, overflowed its walls
6 onto the ground?

7 A. By this here, by overflowing the skimmers,
8 this does not mean that it got out onto the
9 ground. This could be skimmers that are
10 contained in the basin. At the head of the
11 API we had cone skimmers that you would --
12 well, even at the back, either one, you had
13 skimmers, but there were times when the flow
14 would get high enough to where the water or
15 water and oil would flow into these skimmers
16 on their own. We usually did it manually by
17 cranking the skimmers down or turning them.

18 Q. Oh, okay.

19 A. And there were times when the flow would get
20 high enough the water or oil would go over the
21 skimmers without us cranking them down or
22 turning them. This doesn't mean -- this is
23 not saying that it went on the ground, this is
24 saying it was contained in the basin but going
25 over those skimmers.

1 Q. Thank you. I appreciate that clarification.

2 Are you aware of that scenario that I was
3 talking about, where the API actually
4 overflowed?

5 A. I know of no time when the API actually went
6 over onto the ground, no, not that I'm aware
7 of.

8 BY MR. KRIENS:

9 Q. Were there times ahead of the API in the sump,
10 ahead of that where it would overflow prior to
11 the API? I'm trying to think of how to
12 designate that. Before it got to the API is
13 there a point at which it could overflow there
14 onto the ground?

15 A. No.

16 Q. There isn't a sump prior to that?

17 A. There is a sump prior to that, but it's -- I
18 don't know how deep it is, but it's quite
19 large and it's a covered sump, so it never
20 overflowed out of that.

21 MR. KRIENS: Thank you.

22 MS. HAYES: That's all we have.

23 Thank you.

24 (Whereupon, the deposition concluded
25 at 3:30 p.m.)


STATE OF MINNESOTA)
)
 COUNTY OF HENNEPIN) Ss:

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 DONALD TSCHIDA, and reduced to writing in accordance with my stenographic notes made at said time and place.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties or a relative or employee of such attorney or counsel;

That I am not financially interested in the action and have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect my impartiality;

IN WITNESS WHEREOF, I have hereunto set my hand on this 4th day of November, 1997.



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