

Alliance Services

INVESTIGATIVE MEMORANDUM

TO: G. Bryan Morgan

FROM: Edward W. Killam

CASE: Rockwell
(Grand Jury Debriefing) (Chromic Acid Spill)

DATE: February 22, 1991

RE: Interview with Farrel D. Hobbs

On February 22, 1991, between approximately 1415 and 1530 hours, I interviewed Farrel Hobbs in the presence of his attorney, John Richilano. Hobbs is the Manager of the Clean Water Division of the Rocky Flats Plant. His office is located in Trailer T-130B, office phone 966-7006. Hobbs testified before the special federal grand jury on February 22, 1991, from approximately 1120 to 1245 hours, or approximately an hour and a half. He was questioned by Assistant U.S. Attorney Peter Murtha. Under Rockwell, Hobbs was the Manager of Environmental Management.

Richilano said that prior him, the grand jury witness was Mark Van Der Puy of DOE who was questioned by Ken Fimberg. As Hobbs was leaving, he saw that the next witness scheduled to testify was Jim Alexander, who he knew as a pondcrete engineer. Hobbs said he talked briefly with Alexander who was represented by attorney, Mike DiManna. This was Alexander's first time testifying before a grand jury, and he had a Letter of Immunity. Hobbs said that his testimony began with a shortened work history and background. Then he was asked about his chain of command under Rockwell. He testified that his superior was George Setlock who reported to Jack Erfurat, who reported to Dom Sanchini. Hobbs said that during his testimony, he did not get any clues as to who targets to the grand jury might be, except for those three people mentioned in his chain of command. Hobbs said that all of his testimony concerned the chromic acid spill of February 1989 and the subsequent spraying of the chrome-tainted water onto the spray fields.

Hobbs testified that he was in California on vacation at the time of the chrome spill. He believed the spill happened on a Thursday. He believes he did not find out about the spill until the following Monday when he returned to work. He received details on the incident from Cindy Sundblad and Rick Lawton. In response to a question, Hobbs said that Rick Lawton was in charge of Environmental Management during Hobbs's absence. Hobbs was asked if he ever met with George Setlock about the chrome spill. Hobbs testified that he had no specific recall of such a meeting, but on a typical day, he would see Setlock at least twice a day and sometimes hourly. Hobbs was also asked who he discussed the chrome spill with at DOE. Again he

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could not recall any specifics, but he probably discussed it with Candy Jierree on that same Monday that he came back to work.

Hobbs said that the first conversation he can recall with Candy Jierree took place at a monthly state exchange meeting. It was held Tuesday, 1:00 p.m., the day after Hobbs returned to work. The meeting was held at the offices of the Colorado Department of Health. Hobbs said he told Jierree about the green liquid being discovered at the Sewer Treatment Plant. He told her that it was "probably toxic." Hobbs said, however, at that time he did not know it was chrome. He did know that an investigation to trace the source of the liquid was underway. Hobbs said he later heard that Candy Jierree told the DOE that he told her at that Tuesday meeting that chrome had been identified as the contaminant. Hobbs said his first recollection of giving Jierree that information was on Wednesday. Hobbs said he himself probably knew it was chrome on Tuesday afternoon after he returned from the CDH meeting. Hobbs's recollection was that he was called at home on Tuesday night and told by Cindy Sundblad that chrome had been identified as the contaminant. He realized that the chromic acid in the Sewer Treatment Plant would be "big trouble."

Hobbs said he was then asked what action was taken after he learned the contaminant was chromic acid. He said then on Tuesday night, after the call from Sundblad, he called the Rocky Flats shift supervisor. He said he made that notification because the shift supervisor is responsible of keeping a log of all unusual events. Hobbs said he pondered himself what else he should do at that point. Murtha asked Hobbs why he did not immediately terminate spray irrigation. Hobbs replied that by then, he knew it was already too late. The chemicals would already have gone onto the spray field days before then.

Hobbs said that Murtha then asked what the normal procedure was after an unidentified material was found in the Sewer Treatment Plant. Hobbs said if capacity was available, the Sewer Treatment Plant effluent would be directed into ponds B-2 and B-1 and spray irrigation would be stopped. Hobbs was then asked if the spray irrigation from Pond B-3 should have been stopped, and Hobbs testified that "I would have stopped it if I would have been there." Hobbs gave an example of a prior occasion when suds had been discovered in the sewer plant and spray irrigation had been stopped until the problem had been identified. Hobbs was asked repeatedly if the best decision, in hindsight, wouldn't have been to stop spray irrigation as soon as the contaminant was discovered. Hobbs said that stopping the spray irrigation was not required by any Rocky Flats procedure. He said that he was not there to make that decision, and it was not his practice to question or criticize the decisions made by the people who had actually been there when the event occurred.

Hobbs said that the "cowboy" member of the grand jury asked him to clarify the relationship between Ponds B-3 and B-5. Hobbs testified that Pond B-3 is the source pond for the spray irrigation. Pond B-5 is downstream from that, and that is where the bulk of the chromic acid contaminated water was held. It was held there until all concerned parties agreed to a special diversion of the B-5 Pond water to the Jefferson County Airport lake. Hobbs also testified that in retrospect, Ponds B-1 and B-2 would not have held all of the Sewer Treatment Plant effluent. They did not have the capacity. There was simply too much water from the STP to contain this event. Again Hobbs was asked if it wouldn't have been better to send the water to Ponds B-1 and B-2, and he said he couldn't make that determination. He was asked if such diversion to B-1 and B-2 had been done before. He said that it had, but it was never formalized as a Rocky Flats procedure.

Hobbs said that the questioning jumped back and forth between spray irrigation and the chromic acid spill itself. At one point he was asked about Bob Shankland, who Hobbs had worked with at the EPA. Hobbs was asked whether Shankland had ever defined a "good engineering practice." This was also a question from the "cowboy" on the grand jury. Hobbs replied that Shankland had never defined it and "I wish someone would." To that the juror responded, "we wish someone would too."

Hobbs said that during the time questions focused on spray irrigation, he was asked whether spraying was required whenever there was good weather. He answered no, but testified instead that his reading of the permit required that under "good engineering practices," spraying should be done whenever weather permitted. Murtna asked him what the difference between the two definitions was. Hobbs replied that to him, good engineering practices and when weather permitting means any time the pipes will work – that is the pumps and pipes are not frozen shut.

Hobbs said that he was shown a draft Rockwell chromic acid spill report. He said it was a big document, approximately an inch thick, published near the end of March 1989. He believes it was entitled something like "Rockwell International's Investigation of the Chromic Acid Incident." Hobbs and Setlock contributed a lot of information to its preparations. He does not believe the report was ever finalized because DOE took over the investigation and did their own report. He saw that the copy he was shown carried a grand jury evidence sticker. There was no cover letter with the report, and each page was stamped "draft" in one-inch high letters. His attention was directed to a sentence in the report which said something like "spray irrigation will be done except when the weather is bad." Murtha asked him if that was a contradiction to his testimony. He said it was not and, in fact, it reinforced his opinion that spraying should go on unless it was prevented by bad weather.

Hobbs was then asked if he thought it was "stupid" to spray when there was ice and snow on the ground. Hobbs first confirmed that spraying was done when the ground was frozen and covered with ice, but he testified that it was not a stupid thing to do. He said that, in fact, the ice build-up helps keep the spray water on the site. He said that ice is a good way to store water and that it will evaporate directly into the air as the ice melts. Hobbs said that Murtha spent time trying to weaken his argument about the ice, but he remained steadfast in defending ice as a good way to store and retain water on the spray fields. Murtha asked him if the water ran off during winter spraying, and he said that it did. He added, however, that there had always been runoff from the spray fields, and that the spraying was simply a continuation of past practices.

Hobbs was asked if prior to the chromic spill, he had had any talks with Bob Shankland of the EPA about spray irrigation. Hobbs testified that within the previous year or two, he did talk to Shankland. He and Shankland talked about the wording of the spraying permit. It was Shankland's opinion that under the wording of the permit, Rocky Flats could spray any time they wanted to, or never had to spray. Either practice would have met the definition of the permit. Depending on the contractors operational policies, either situation could meet the definition of "good engineering practices."

Hobbs said that there were questions about the reportable quantity of a toxic spill. Murtha was getting at whether what actually happened was in accordance with proper procedures. Hobbs testified that the regulatory issues seemed to be overlooked in this incident. He said that when he learned that the identity of the spill was chromic acid, he looked up the reportable quantities. He found the reportable quantity of chrome is one pound, but the reportable quantity of chromic acid is 1,000 pounds. At the time he notified the shift supervisor, he didn't know what form the chrome was in. He also felt that since the chromic acid identity was not yet known, that DOE be notified and that DOE be told to call the National Spill Response Center. Hobbs testified that if he had known it was chromic acid, theoretically, no reports would have been made. He said, however, Rockwell's policy was conservative, and notifications of a spill of this magnitude would have been made even if it was not required that Rockwell do so.

Hobbs said that his attention was directed to a paragraph in the chromic acid spill report which contained eight options on how to handle the spill. He was asked about contamination of Ponds B-5 and C-2. Hobbs testified that he could recall only one elevated chrome reading in Pond C-2. Therefore, he felt that only Pond B-5 was really involved in contamination. He also testified that only the first three options were really viable alternatives. He was asked about option No. 4, which was transferring the water to Pond A-4. Hobbs testified that such a transfer would "only

buy time." It would have been useful in delaying the chrome, but by the time that option could have been exercised, the level of chrome in the water was already below drinking water standards. He testified that "dilution had done its work." He testified that all the ponds were intended for spill control under the NPDES Permit. That spill control was not just Pond A-4, but B-5 also. He testified that the ponds did do their work because the storage of the contaminated water in Pond B-5 gave them the time and opportunity to consider other options, such as the transfer to the Jefferson County Airport lake; therefore "B-5 did its job."

Hobbs said his attention was also directed to a portion of the report containing a long list of sampling locations and results. Murtha wanted to know why chrome was only tested for in a few places. Hobbs said he did not know the answer to that question. His attention was directed to a laboratory analytical report from the 881 labs. That sample had been collected on March 1, 1989, had gone to the lab on March 2, and the results were returned on March 6, 1989. Hobbs was asked why the results were delayed so long. He testified that laboratory analysis takes time. He said, however, they did not wait for the written laboratory reports. Normally they would contact the lab twice a day for verbal reports as soon as testing was done.

Hobbs was asked when he first saw written laboratory reports, and he estimated that it was approximately March 4. He recalled that in Pond B-3, samples had been taken from the west and east ends of the pond and one level was .19 milligrams per liter of chrome, and the other was .13 milligrams per liter of chrome. He was asked to verify that if B-3 had been discharged, the chrome level would have been four times over the NPDES permit level. He testified that that was correct if the discharge tested out the same as the samples. He explained that grab samples are taken off the surface and may not necessarily show the same results as samples taken during a discharge. In response to a question, he testified that discharge sampling could be higher, lower, or the same. He said that's why the permit is written so that sampling is done during the discharge. That way the discharge itself is properly characterized instead of relying on possibly uncharacteristic grab samples.

Hobbs said that during his testimony, he was asked several times, in different ways, why the spray irrigation was not stopped after the STP contamination was discovered. Repeatedly he testified that he was not there at the time, and it was not his practice to second guess those people who had been present at the event. He was specifically asked whether Candy Jierree had ever ordered him to "cease and desist spraying." He testified that he did not recall that. The implication from Murtha was that Candy Jierree had already testified that she did order Hobbs to stop the spraying. Hobbs said in retrospect, he wished he had said to the grand jury he would have stopped the spraying if he would have been ordered to because there was no reason for him to continue the spraying after being ordered to stop. Hobbs was asked if Jierree ever

ordered the spraying stopped when Hobbs was gone, and he said that he didn't know the answer to that question, but since the spraying continued, he had no indication that such an order was ever given. Hobbs said that clearly the implication was that DOE had ordered Rockwell personnel to stop the spraying, but they continued to do so to avoid an NPDES violation from a discharge which would have been over chrome limits.

Hobbs said his attention was then directed to a new document. He was shown a page from a spray irrigation log. It appeared to be the handwritten log that the Utilities Department keeps of spray irrigation activities. The page was labeled something like "Pond B-3 Operations," and it covered March 1989. Hobbs was asked if he was familiar with the document, and he testified that he had never seen it before. He was directed to examine the entries for the time period of March 1 through March 4. He recalled that the log indicated that spraying started on March 2 and stopped on March 4. It looked to him as though the spraying had been continuous during that time period. He said, however, that he could only speculate on that since he had not written the log and was not physically involved in the spraying itself. Hobbs remembers thinking to himself that the discharge permit contains language such as, "The operator shall not discharge Pond B-3 except in daylight hours." Hobbs wondered if perhaps continuous spraying during the night might have been some violation of that NPDES Permit. Hobbs does not know whether limitations on pond discharges also applies to spraying operations, which are not technically a discharge. Hobbs said that this spray irrigation log and the chromic acid spill report were the only two documents he was shown during his testimony.

Hobbs said he was asked by grand juror Peck if chrome testing had ever been done downstream, and if so, where. Hobbs testified that there was downstream testing which is done where Woman Creek and Walnut Creek crosses Indiana street. He said that during the chrome spill investigation, the principal testing was done at the ponds and the spray fields because they were confident that the chrome spill had not left the Rocky Flats Plant. Peck asked why they had not sampled ditches, and Hobbs replied again that they knew the chrome had been contained within Pond B-5 and that there had been no discharges downstream to those ditches. Peck asked if sampling was done at the Jefferson County Airport lake, and Hobbs testified that such testing had been done. Part of the specifications put upon the transfer of the water to the lake was that the chrome levels must not exceed drinking water standards. The testing showed that the water in Pond B-5 was under drinking water standards, so everyone agreed to the transfer. The water was piped up to the Church Ditch, and from there, carried to the airport lake. Peck asked for the identities of everyone who agreed to that airport lake transfer. Hobbs said that it was all of the cities in the region, CDH, DOE and EPA. He believed the transfer was discussed and approved by "everyone who was interested."

Hobbs said that he was shown an attachment to the chromic acid spill report which contained water contamination calculations done by George Setlock. He described the sheet as a series of calculations showing amounts of chrome which were in the STP, sludge etc. The calculations estimated that 30 lbs. of chrome had reached the STP in the first day after the spill based upon the flow rate of the STP. Compared with the concentrations of 13 milligrams per liter of chrome, further testing and calculations showed that 24 lbs of that chrome had ended up in the STP sludge, so that only 6 lbs. were released to the ponds. Murtha asked if these calculations were based on approximately 100 lbs. of chrome being in the plating tank to start with, and Hobbs said that he didn't know what the starting point for the calculations were. Murtha asked Hobbs to accept the 100 lb. figure as a starting point and then tried to get Hobbs to admit that, therefore, 70 lbs. of chrome must be missing and, therefore, was released to the environment. Hobbs said again he could not recall the starting numbers involved, but Murtha had apparently neglected to mention that a lot of the chrome was cleaned up right at 444 Building. Hobbs then again testified that he didn't know what actual amounts were involved in the spill, and he could not testify on how much had escaped to the environment.

Hobbs said that grand juror Peck asked the question about the differences in types of chrome in relation to reportable quantities. Hobbs testified that it was a regulatory difference between different types of chrome. The one pound chrome reporting quantity would pertain to things such as chrome powder, whereas hexavalent chrome would be like chromic acid, which had a reportable quantity of 1,000 lbs.

Hobbs said he was asked additional questions from the "cowboy" grand juror about the eight options in the chromic acid report. The cowboy asked why Rocky Flats would ever have considered fog evaporation. During the question, grand juror Peck attempted to interrupt the cowboy, but the cowboy insisted on finishing his question and getting an answer. Hobbs agreed with the cowboy that fog irrigation would not have been effective, because only the water would have evaporated away and the chrome would have simply stayed behind in the pond sludge. The eighth option listed was commercial treatment of the chrome-contaminated water. Hobbs testified that there are environmental restoration companies which will treat water "in situ." Hobbs was asked why that option was not used. Hobbs testified that the level of chrome was so low that there was no realistic treatment option available. Hobbs was asked if Rocky Flats has since developed any sort of contingency treatment plans. He said that since this spill, millions of dollars have been spent at the ponds for spill retention and control, but that even the new improvements would not have helped in the chrome situation. He also said that Rocky Flats has now under contract companies which will come in to handle other spills if such outside help is needed in cleanup operations.

Hobbs said that Murtha kept "hammering at" why it took so long to get sample results from the laboratory. He was asked whether he was pleased with the performance of the 881 labs. Hobbs testified that he was neither pleased nor displeased, but he understood such delays were inevitable, especially because it was first thought that the STP contaminant was organic in nature. He said it was first suspected of being antifreeze, therefore, the lab first tested for antifreeze and then went on to test for other organics. Once those things were eliminated, the lab began testing for other compounds. He did recognize that Cindy Sundblad was unhappy with the lab's performance. Again Hobbs said, however, that it is not his practice to criticize people after an event occurred. He was simply not there under the circumstances of the event and does not think it is fair to now go back and criticize how things were handled.

Hobbs said at the conclusion of his testimony, he was not given any indication that he will be asked to return to testify again. On returning to Rocky Flats, he was contacted by his DOE counterpart, John Rampe. Rampe is a DOE staff member in surface water issues who reports to Mark Van Der Puy. Many people suspect that Rampe is really an agent planted by the Department of Justice. Rampe told Hobbs that an announcement had been made that day over the PA system in the DOE offices that no DOE person was going to be indicted by the grand jury. Rampe reported that there was cheering among the DOE people after that announcement was made. Rampe told Hobbs that he personally felt embarrassed that DOE people were not going to be held responsible for what had happened at Rocky Flats in the past.

EWK:jkl