

ATTACHMENT 28 – *INTERVIEW OF ENBRIDGE MARSHALL PLM SUPERVISOR*

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

Investigation of:

*

*

ENBRIDGE OIL SPILL
MARSHALL, MICHIGAN

* Docket No.: DCA-10-MP-007

*

*

* * * * *

Interview of: RUSTY L. SMITH

Conference Room
Holiday Inn Express
630 East Chicago Street
Coldwater, Michigan

Friday,
July 30, 2010

The above-captioned matter convened, pursuant to notice,
at 8:40 a.m.

BEFORE: KARL GUNTHER
Accident Investigator

APPEARANCES:

KARL GUNTHER, Accident Investigator
National Transportation Safety Board
490 L'Enfant Plaza East, S.W.
Washington, D.C. 20594
(202) 314-6478

JAMES BUNN, General Engineer
BRIAN PIERZINA, General Engineer
U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration
Central Region
Kansas City, Missouri
(816) 329-3800
(816) 329-3831 (fax)

JAY A. JOHNSON, Senior Compliance Specialist
Enbridge Energy Company, Inc.
119 North 25th Street East
Superior, Wisconsin 54880-5247
(715) 394-1512

TOM TIDWELL
U.S. Fish and Wildlife Service
Midwest Region

SEAN TOBIAS
Enbridge Energy Company, Inc.

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of Rusty L. Smith:	
By Mr. Gunther	4
By Mr. Pierzina	6
By Mr. Gunther	7
By Mr. Johnson	8
By Mr. Pierzina	9
By Mr. Johnson	10
By Mr. Gunther	11
By Mr. Johnson	11
By Mr. Pierzina	12
By Mr. Gunther	13
By Mr. Johnson	14
By Mr. Gunther	14
By Mr. Johnson	15
By Mr. Gunther	15
By Mr. Johnson	16
By Mr. Pierzina	17
By Mr. Johnson	19
By Mr. Pierzina	21
By Mr. Gunther	21
By Mr. Pierzina	21
By Mr. Gunther	23

I N T E R V I E W

(9:30 a.m.)

1
2
3 MR. GUNTHER: I'm Karl Gunther, National Transportation
4 Safety Board. We're investigating an oil spill that occurred on
5 July 26, 2010 in Marshall, Michigan.

INTERVIEW OF RUSTY L. SMITH

BY MR. GUNTHER:

7
8 Q. Could I please have your name, address, and phone for
9 the record?

10 A. Name Rusty L. Smith, Address
11 Michigan. Phone number (517) .

12 Q. Could I have your job title and company affiliation?

13 A. Job title is pipeline maintenance supervisor. And what
14 was the other question?

15 Q. Company affiliation?

16 A. Enbridge Energy.

17 Q. Okay. Can you go ahead and describe from the beginning
18 of your first notification everything you did related to the
19 spill?

20 A. The -- I was on vacation. I got a phone call from one
21 of my employees, Ben Camp, at approximately 11:40, 11:45, between
22 11:30 and 12:00 on Monday, the 26th of July. And I got the call.
23 He said we had a release of some type, and so I said okay, thank
24 you. And I called my supervisor, and I also called Mick Collier,
25 pipeline supervisor out of Bay City. And I talked to Mick, and

1 Mick said that it sounded pretty bad. So, I immediately loaded up
2 my truck and came off vacation and traveled back and went right to
3 the shop.

4 I got back to the shop and Mick had -- I talked to Mick
5 again on the phone a couple of times back and forth on what was
6 going on. Mick was working on getting booms and people deployed
7 to locations downstream from the incident site. I told him that I
8 was going to go to the incident site and see what I could see from
9 there and try to start containing it up there.

10 I went up to the site. I took an employee with me for
11 safety reasons, Justin Anderson, and we went to the site and we
12 did some investigation, looking where it was, seeing where the oil
13 was coming from and where it was going to. There were some
14 contractors showing up around that time, Worth Construction, and I
15 grabbed them, and we went to the Tamarack, or I forget the name of
16 that.

17 MR. JOHNSON: Talmadge?

18 MR. SMITH: Talmadge, the Talmadge Creek, the upstream
19 end by the -- by where the swamp met the creek there, and the fire
20 department showed us. They had been back there, and they took me
21 back there, myself and Mick, and showed us where the oil was
22 coming into the creek. And then so I went and got the Worth guys
23 and we went back there and started building a flume system. And
24 that started holding the oil back and started -- the water was
25 continuing to go through at that point. And then we just

1 continued with that.

2 Q. Do you have any idea what time that went into service?

3 A. No, I don't remember at all what time. After I started,
4 I lost track of time and I just started working and doing things
5 and I don't have a clue of what time we did that.

6 Q. Okay. Do you remember when you came into a meeting? I
7 was there then. It was done before then. What time did they call
8 you in for that meeting? Any idea? We were doing updates with
9 EPA. Just for a timeline, it might be --

10 A. It was still light out. It was before dark.

11 Q. Okay.

12 A. It was before dark.

13 Q. That's closer. So, the system was in place, let's just
14 say, before 9:00 p.m.?

15 A. Correct.

16 Q. Is that fair to say?

17 A. Yes.

18 BY MR. PIERZINA:

19 Q. And that's -- I know there's like multiple flumes out
20 there now, and that was the first flume?

21 A. Correct, that was the very first flume put in.

22 Q. With four pipes?

23 A. With four pipes, correct, four 12-inch by 10-foot long
24 pipes.

25 Q. Okay. For some reason, I thought there were five?

1 MR. JOHNSON: Well, he had a fifth pipe there if he
2 needed it.

3 MR. SMITH: I had a fifth pipe there if I needed it.

4 MR. JOHNSON: So, when you were there, we were talking
5 about that. That's why you remember that, Brian.

6 MR. PIERZINA: All right, because I --

7 MR. SMITH: And the pipe is still there. It's just we
8 used that when the water was coming out of the flumes. It was
9 starting to erode some of the gravel in one specific spot, so we
10 put that other pipe underneath that flume pipe, so when the water
11 came out, it hit that and flowed over away from it, so it didn't
12 eat away at the dyke that we had built with the flumes in it. So,
13 it's still out there. We didn't move that. That fifth one is
14 still there, but we only used the four.

15 BY MR. GUNTHER:

16 Q. And what size pipe you said again?

17 A. I believe they're 12-inch. They were 10 or 12-inch
18 culvert pipes by 10 foot long.

19 Q. Okay. All right. And --

20 MR. JOHNSON: Maybe just keep going along. I
21 interrupted you in your time frame.

22 BY MR. GUNTHER:

23 Q. Yeah, just go ahead and keep going.

24 A. No, no, that's -- and we got those put in. And when we
25 put those in, we immediately started seeing clear water come under

1 through the flumes. The oil had started stand back.

2 At that time we got -- we worked on getting a vac truck
3 out there to start vac'ing up the oil on top of the water back
4 there. And after that, we just continued with that through the
5 night. And the next morning, I believe it was the next morning,
6 they put another -- the next day, it was after that night. The
7 next day, they put another flume site in there, and the next night
8 when I came back in -- I don't even remember nights or days
9 anymore. It was just starting to roll together at that point.

10 The next time I came back into work, we went down to A
11 Drive and put another flume site just upstream on A Drive, because
12 there was still oil coming through the creek there where they had
13 put all the booms and stuff on the river where the creek was going
14 into the river, and they had like four or five booms in there. I
15 don't know for sure, but we went and bought some more flume pipe
16 and put another flume just upstream at A Drive, and that stopped
17 the oil from coming through the creek into where the booms were.
18 And it was easier for them to start cleaning up the oil there.
19 And then we started putting a -- cleaning the oil up on the
20 upstream side.

21 BY MR. JOHNSON:

22 Q. So, after you got the flume in on Monday night and it
23 was still light, and then you came in, and I know that you went
24 back out, I'm just kind of curious, then what did you start
25 working on after the original flume pipe was put in?

1 A. We kept working on that. We were working on building a
2 road, trying to get a road built back to the site. And the main
3 thing then was we were trying to clean up the oil, trying to keep
4 the oil back behind that flume pipe, the first section. That was
5 our main focus at that point because the water was still flowing
6 through and stuff through the pipes, but the oil was starting to
7 back up. So, we wanted to make sure and get vac trucks back
8 there, and we had to drag vac trucks through the fields because it
9 was muddy. So, we had to drag vac trucks back there to get them.
10 And we got vac trucks to start and that was our main focus for the
11 rest of that night was to keep the oil on that side. I knew Mick
12 was working on the downstream side, so I just stayed on the
13 upstream side.

14 Our initial plan, and I forgot to say this, our initial
15 -- my initial plan was to take and make an earth berm between the
16 swamp and the creek to block off the oil from getting to the creek
17 from the swamp. But walking the swamp, it was so wide there --
18 and we got our excavator back there and it was so wide and it was
19 going to be so time consuming to get the earth berm built across
20 the swamp, I just made the call that I thought a flume was going
21 to work better. So, that's when we started building a flume. It
22 took us probably a half an hour to build the flume, 45 minutes.
23 And that's when it worked better.

24 BY MR. PIERZINA:

25 Q. And what did you have back there for equipment?

1 A. I had Justin, the guy that was with me -- when I had the
2 contractors that were with construction guys, go grab the flume
3 pipes out of the Marshall station or the Marshall maintenance
4 shop, I had Justin go get the excavator, which was at Marshall
5 station, and he tracked that to the site. And so, I had that. I
6 had the Worth guys there with their trucks and the excavator, and
7 that's all I had.

8 Q. When you say the Worth -- it was you, Justin, and how
9 many Worth guys?

10 A. There were four Worth guys, I believe, four Worth
11 Construction guys.

12 Q. Okay, earlier on, you had said that you and Mick went
13 back to the --

14 A. Yes, Mick and I were there at the same time. And at
15 that point the fire department was there and they had already went
16 back and investigated on the creek where it was coming into the
17 creek. And we jumped into Mick's truck and Mick drove back
18 through the field where the fire department -- the gentleman from
19 the fire department so he could show us where it was coming into
20 the creek, because that was what I was going to focus on then was
21 trying to stop it from getting into the creek any farther.

22 Q. Okay, about what time was this going on?

23 A. Again, times are --

24 BY MR. JOHNSON:

25 Q. Was it light?

1 A. It was light, yes.

2 Q. Oh, this was very early on, right?

3 A. Yes, this was early on.

4 Q. Probably like --

5 A. This was probably 2:00, 3:00, 3:00, 4:00, something like
6 that. It was right before I had Justin go get the excavator,
7 bring it over right before we built the berms. I was -- that was
8 my focus at that point when I knew Mick was handling the
9 downstream stuff. I was focused on stopping the oil before it got
10 to the creek.

11 Q. All right, how long? I'm just trying to get a time
12 frame of when you got there. I mean, I know you were on vacation
13 down south or something.

14 A. Yeah, I would say it would have been between 1:00 and
15 3:00. I don't know for sure. I left -- I immediately left. I
16 was in Southaven, so I immediately left there. So, I left there
17 probably at noon, maybe noon-thirty at the latest, and got back to
18 the shop -- it must have -- it's probably an hour and a half, so
19 probably 1:30, 2:00.

20 BY MR. GUNTHER:

21 Q. And we're talking Monday, right?

22 A. Yes, Monday afternoon.

23 BY MR. JOHNSON:

24 Q. So then, you got with Mick probably early on, so --

25 A. Got with Mick early on, 3:00, yep.

1 MR. PIERZINA: And I might have -- I might be just
2 confused or maybe misunderstood what Mick said, because I thought
3 I had Mick downstream, you know, around 1:00 or so.

4 MR. JOHNSON: He was downstream and came back to meet
5 with Rusty. They said you do this; I'll do that.

6 MR. PIERZINA: Okay.

7 MR. SMITH: So, that's when we made the decision that he
8 was working downstream on the booming and the containment down
9 that -- stopping it from going any farther. I was working
10 upstream at the site trying to stop it from getting into the
11 creek.

12 BY MR. PIERZINA:

13 Q. Okay. Okay, so, Mick was there before you for a certain
14 period of time before you got there?

15 A. Correct, yep.

16 Q. And was basically getting a handle on where things were.
17 You guys got together?

18 A. Yep.

19 Q. You made a decision you go this way; I go that way?

20 A. Yep, exactly.

21 MR. JOHNSON: I would, you know, just from listening to
22 Mick's calling it and your estimate, I think Mick was about two,
23 three hours ahead. So, he had guys out putting boom, came back to
24 see Rusty, and then off he went back to his crews ahead of the
25 oil.

1 MR. SMITH: Yep.

2 BY MR. PIERZINA:

3 Q. All right, so not to get -- first of all, when you got
4 contacted you're on vacation. Are you around your house or are
5 you --

6 A. No, I'm in Southaven, Michigan, which is an hour, hour
7 and a half away from the shop.

8 Q. Okay, so you didn't get -- did you get a chance to go
9 home?

10 A. No.

11 Q. No, you just went --

12 A. No, I left my campsite. I was camping with my wife and
13 family in the fifth-wheel, which is still in Southaven.

14 MR. JOHNSON: As was his family.

15 BY MR. PIERZINA:

16 Q. Are they having a good time?

17 A. They're still there. So, I left the campsite and came
18 right to the shop. I came right to Marshall. My truck is still
19 sitting at the shop right now.

20 Q. All right. About an hour and a half?

21 A. An hour and a half, two hours, something like that.

22 Q. Okay.

23 BY MR. GUNTHER:

24 Q. Okay. What kind of formal training do you have?

25 A. Formal training, I've got numerous formal trainings.

1 Specifically, are you talking emergency response? Are you
2 talking --

3 Q. Yeah, on oil cleanup, whatever.

4 A. We've got training in HAZWOPER. We've got boom
5 deployment training. We've got -- there's numerous trainings that
6 we've been through. I'm also a volunteer fire fighter. I've got
7 fire fighter training. I'm an active fire fighter, so I've got a
8 lot of training with that also.

9 BY MR. JOHNSON:

10 Q. Did you have any when you were in the Marines?

11 A. Yes, I've got a lot of emergency response training in
12 the Marine Corps, and I spent 13 years in the Marines.

13 BY MR. GUNTHER:

14 Q. And where are your typical classes held, at Enbridge
15 or --

16 A. Enbridge, different Enbridge classes. We've had
17 different instructors come in. We had some boom deployment
18 training in Canada last year we went to. We had -- what's the
19 company? It's a government agency or company. I can't remember
20 the name of it. It's a company there in Sarnia, based in Sarnia.
21 We met them over in Westover, and Westover had a big training, and
22 we all went over there for boom deployment and boat handling
23 training.

24 Q. Okay. And do you all take exams or --

25 A. Yes. Now we're taking exams and testing on that also.

1 Q. Okay. And are you qualified under your company's OQ
2 program?

3 A. I am not qualified in OQ. I am not a worker. I qualify
4 people, but I don't physically do the work.

5 BY MR. JOHNSON:

6 Q. You're an OQ evaluator?

7 A. OQ evaluator, but I don't physically do the labor or the
8 work myself.

9 BY MR. GUNTHER:

10 Q. Okay. And how many years of experience do you have?

11 A. With Enbridge, I have over 20 years of experience, and
12 I've got my firefighter experience and past experience in the
13 Marine Corps also.

14 Q. And what did you observe when you got on the site?

15 A. I observed when I got there -- again, I talked to Mick a
16 few times on the phone and kept talking with him back and forth on
17 what's going on, where things are at. And when I got there, I met
18 up with Mick. We went to Division Road. I observed oil going
19 through the culvert at Division Road, and then that's when Mick
20 got there. We discussed plans on what we were going to do. He
21 was going to go back that way. We went and seen the oil back
22 where the firefighters showed us it was coming into the creek and
23 observed oil coming into the creek there. And then we started
24 making plans on what I was going to do from there forward.

25 Q. Okay.

1 MR. PIERZINA: If it's all right, give me just a second,
2 Rusty. I think -- all right, and so, and we're --

3 MR. JOHNSON: Do you want me to ask him a couple of
4 questions?

5 MR. PIERZINA: Yeah, all right.

6 BY MR. JOHNSON:

7 Q. Brian and I work with -- I'm just kind of curious how
8 you were in conversation with Bill or Tom when you were en route.
9 I imagine that was going on.

10 A. Yeah, when I got the call from Ben -- Ben Camp called me
11 and said we've got a leak. I said how bad, and he said it's
12 pretty bad; you've better come. I called Mick and said do you
13 need me? He said yep, you'd better come. I said okay, cool. I
14 jumped in the truck and started heading that way. And when I was
15 on the road, I called Bill and said I'm on my way, Bill, you know,
16 and talked to him a couple of times. I didn't talk to Tom.

17 Q. Okay.

18 A. I knew Tom was going to be busy, and I only talked to
19 Bill once or twice. I talked to Mick more than I did anybody,
20 because Mick is -- Mick and I work together a lot, and he could
21 give me more information that I need more than Bill or Tom.

22 Q. But from Bill's standpoint, so he knew you were on your
23 way?

24 A. Bill knew -- I believe Bill knew I was on my way, yep.

25 Q. Did you have -- in talking to Mick, because Mick was

1 calling some contractors in, did you call any, or did you tell
2 Mick of any contractors you thought that might be available?

3 A. Yes, that is correct. I told him Worth was working in
4 the area, and I believe he knew that. And we had talked -- we
5 talked about the sleeving contractors, about pulling them in too,
6 and I don't remember specifics about that, but I --

7 Q. Yeah, and Mick told us about that. That's when he said
8 he contacted Randy Roach because Randy is running the crews that
9 were doing the sleeving downstream.

10 A. Yep, and I knew we had contractors and I knew Worth was
11 at M-66. And I also talked to Dick Worth, I believe, and said
12 hey, if you've got your guys, send them.

13 BY MR. PIERZINA:

14 Q. And what -- like what mile marker?

15 A. M-66 is at Battle Creek. It's straight south of Battle
16 Creek mile post. I'm not even sure of the mile post over there.

17 Q. But upstream, 20 miles or --

18 A. Upstream of the location, yeah, it's probably 20 miles
19 upstream, correct.

20 Q. Okay. All right. So there was sleeving activity going
21 on?

22 A. Correct. Yes, there were. There has been a lot of
23 sleeving going on.

24 Q. What's the upstream pump station from Marshall?

25 A. That is Minden.

1 Q. Minden?

2 A. Correct.

3 Q. So, is it between Minden and Marshall?

4 A. Yes.

5 Q. Okay.

6 A. Yep, exactly. It's about halfway between Minden and
7 Marshall.

8 Q. All right. So, and that pretty well covers your initial
9 activities through the daylight hours on Monday. If you could
10 just kind of describe generally what your responsibilities have
11 been since then?

12 A. After the -- after the initial, I kind of stayed in that
13 section. It's now called the Division B. It's from the first
14 flume to the Kalamazoo River, and that's kind of where I've been
15 ever since the initial -- when the initial incident happened, I
16 was working from Division to the flume site, kind of that area,
17 and Mick was taking charge of the stuff downstream from Division.
18 I started working there. As Mick got stretched out farther and
19 farther, I started taking over more responsibility downstream, so
20 he could work on that other stuff down farther. So, after that,
21 after the initial day, I took over the B Sector. Now, it's called
22 the B Division, and I started working at Division Road, the first
23 flume site, Division Road, 16 Mile, 15 1/2 Mile, and A Drive, and
24 that's kind of where I've been ever since. I've been working
25 nights and working on that.

1 Q. Okay. And I know a lot of booms were deployed
2 initially, you know, in the initial phases of the response, you
3 know, in that area. Have there been additional boom deployments
4 in that area or modifications to the boom deployments that were
5 initially made?

6 A. Yes, both.

7 Q. Both, okay.

8 BY MR. JOHNSON:

9 Q. By you?

10 A. No.

11 Q. Because we get updates at 4:00 a.m.

12 A. No, not by me, not by me, no. We have been at A Drive
13 in the night. Last night, I believe it was, night before last --
14 I can't even remember. It's daytime now. The night before last,
15 we replaced a bunch of absorbent booms and pads. We've been
16 constantly replacing the pads and stuff like that and soaking up
17 the oil. And we actually did replace a boom at A Drive the night
18 before last. I don't know what night that would be, but it was
19 saturated with oil, covered with oil, and I told the guys to put a
20 new boom in first. And then upstream of the current boom, put
21 absorbent between them and then pull the old boom out. So -- and
22 other than that, that's where I've been working the past few
23 nights is on that section.

24 Q. And as far as -- so, am I right in assuming a lot of
25 collection activities?

1 A. Yes, our -- the B Zone has had a lot of collection
2 activities, a lot.

3 Q. Okay. And are you recovering into vac trucks or into
4 tankers or --

5 A. Yes, we have both going. There's tanker vac trucks at A
6 Drive. There's tanker vac trucks at A Drive. They have four vac
7 trucks and tanker vac trucks going all at the same time. They're
8 backed up back-to-back on both sides of the road. And they're
9 pulling from both sides of the road. And they've got skimmers
10 going at both sides and a lot of recovery in that area, especially
11 upstream of the flume. And same thing with the upstream flume
12 right by the swamp where it's getting into the creek. There's a
13 lot of recovery there also.

14 Q. Okay. When's the last time you've been on site in your
15 division there?

16 A. Not last night. I didn't work on the B Division last
17 night. It was the night before last.

18 Q. Okay, I'm just curious, what do you see in there now?
19 Are you getting -- how much oil is sitting upstream of your booms
20 right now?

21 A. Very minimal. It's getting to the point where you can
22 see the bottom of the river -- the creek, excuse me, see the
23 bottom of the creek. You see the stones in the creek. There's a
24 lot less oil coming to us at this point on all of them. It's
25 looking a lot better.

1 BY MR. PIERZINA:

2 Q. So, as the oil is slowing down, are you starting to, you
3 know, try to recover off the grass and stuff off the banks?

4 A. We have not tried. I have not been instructed to clean
5 up any grass or recover anything yet until a cleanup plan has been
6 in place.

7 Q. Okay.

8 BY MR. GUNTHER:

9 Q. Do you have any idea how much volume has been collected?

10 A. No.

11 Q. Okay.

12 A. No, I know there's a bunch of frac tanks out there, and
13 there's a bunch of oil and water in the frac tanks. We've been
14 taking numbers at night on how much each -- like each road site is
15 a B1, B2, B3, B4. Each collection point is a number, and we've
16 been taking volumes and turning those in. I have not kept track
17 of every gallon that my sector -- once I hand those numbers in, I
18 move on.

19 BY MR. PIERZINA:

20 Q. Who is keeping track of that?

21 A. It's got to be kept in the control center.

22 MR. JOHNSON: Superior is the contractor -- Superior is
23 the contractor for Bob Steeb's group.

24 MR. PIERZINA: Okay.

25 MR. JOHNSON: So, our environment has hired the Superior

1 Environment, or whatever it's called, third party. That's their
2 job. They track all of it.

3 BY MR. PIERZINA:

4 Q. Maybe, Rusty, if you could, just so -- from the initial
5 response to, you know, like current time, initial recovery is
6 picking up pretty much 100 percent oil, right?

7 A. Correct, yep.

8 Q. For at least -- help me out on that, the first couple of
9 days. I know we're losing track of days, but --

10 A. The first -- yeah, that's the hard part is, especially
11 with the lack of sleep. The first 24 hours I think we were
12 recovering heavy product. After that point, after we got the
13 flumes in and got the oil on the upstream sides of the flumes,
14 that was where the heavy product was when I got the flumes in, is
15 because we stopped the oil from progressing down the stream. And
16 that's where the oil started to recover because the water would
17 push it to those flume sites, and that was heavy oil there. For
18 the first 24 hours, it was heavy oil. After that, it started --
19 it slowly -- it steadily decreased in volume since then.

20 Q. Okay. And so, the flow of oil has been stopped or
21 significantly slowed feeding into your sites, but downstream, your
22 division, you've got a lot of oil on the river and stuff. And so,
23 they're collecting -- you know, C Division, I imagine, is
24 collecting all of that?

25 A. Yep.

1 Q. Who is running C Division?

2 A. I'm trying to think of who was in C Division. I know
3 Ron Hautamaki was in it last night. I don't know who was in it.
4 Mick was in it right after I got out of it, and Mick moved down,
5 and I'm not -- I don't know. I don't even want to speculate
6 because --

7 Q. Okay. That's -- I understand. Good, thanks very much.

8 BY MR. GUNTHER:

9 Q. And I just want facts. I don't need speculation.

10 A. Yeah, and that's -- I don't --

11 Q. So, I agree with you on that.

12 A. Yep, I don't want to -- a lot of this stuff I can't
13 recall. It's just -- you know, the initial -- I'm going a million
14 miles an hour in my head. I'm thinking about all of the stuff we
15 should do and we need to do and just to get it stopped.

16 MR. GUNTHER: Any more questions?

17 MR. PIERZINA: No.

18 MR. GUNTHER: All right.

19 (Whereupon, at 9:52 a.m., the interview was concluded.)

20

21

22

23

24

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: ENBRIDGE OIL SPILL
 MARSHALL MICHIGAN

Interview of Rusty Smith

DOCKET NUMBER: DCA-10-MP-007

PLACE: Coldwater, Michigan

DATE: July 30, 2010

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.

Amy Shankleton-Novess
Official Reporter

Debbie Mizell
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

Investigation of:

*

*

ENBRIDGE OIL SPILL
MARSHALL, MICHIGAN

* Docket No.: DCA-10-MP-007

*

*

* * * * *

Interview of: RUSTY SMITH

Conference Room
Hampton Inn
Sam Hill Drive
Marshall, Michigan

Tuesday,
October 26, 2010

The above-captioned matter convened, pursuant to notice,
at 9:15 a.m.

BEFORE: PAUL L. STANCIL
Accident Investigator

APPEARANCES:

PAUL L. STANCIL, Accident Investigator
National Transportation Safety Board
490 L'Enfant Plaza, Southwest
Washington, DC 20594
(202) 314-6605

CHARLES R. KOVAL, Accident Investigator
National Transportation Safety Board
490 L'Enfant Plaza East, Southwest
Washington, DC 20594
(202) 314-6464

JAMES BUNN, General Engineer
U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration
Central Region
901 Locust Street, Suite 462
Kansas City, Missouri 64106-2641
(816) 329-3806

JAY A. JOHNSON, Senior Compliance Specialist
Enbridge Energy Company, Inc.
119 North 25th Street East
Superior, Wisconsin 54880-5247
(715) 394-1512

DUANE KLABUNDE, Supervisor
Measurement, Audit and Compliance
Enbridge Pipelines
2505 16th Street, Southwest
Minot, North Dakota 58701-6947
(701) 857-0856

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of Rusty Smith:	
By Mr. Stancil	4
By Mr. Koval	29
By Mr. Bunn	35
By Mr. Klabunde	35
By Mr. Johnson	37
By Mr. Stancil	45

I N T E R V I E W

(9:15 a.m.)

1
2
3 MR. STANCIL: I'll start. My name is Paul Stancil,
4 S-t-a-n-c-i-l. I'm a hazardous materials accident investigator
5 with the National Transportation Safety Board.

6 MR. KOVAL: Chuck Koval. I'm a pipeline accident
7 investigator with the National Transportation Safety Board.

8 MR. BUNN: I'm Jim Bunn. I'm with PHMSA, Central
9 Region.

10 MR. KLABUNDE: Duane Klabunde, Enbridge North Dakota.

11 MR. JOHNSON: Jay Johnson, Senior Compliance Specialist
12 for Enbridge out of Superior, Wisconsin.

13 MR. SMITH: Rusty Smith, Pipeline Maintenance Supervisor
14 for Enbridge Energy out of Marshall, Michigan.

INTERVIEW OF RUSTY SMITH

15
16 BY MR. STANCIL:

17 Q. I'll go ahead and start. Rusty, you previously told us,
18 when you were interviewed on July 30th, that you were on vacation
19 at the time and --

20 A. Yes, sir, that's correct.

21 Q. -- and you received a phone call from Ben Camp, and that
22 was on Monday, the 26th of July. You called Mick Collier, and it
23 sounded pretty bad, and so you came off of vacation and headed
24 back to the shop. Is that all what had happened?

25 A. Yes, sir, that is correct.

1 Q. And you coordinated with Mick Collier, who was getting
2 people deployed to downstream locations, and you indicated that
3 you handled the upstream side, correct?

4 A. Yes, sir, that is correct.

5 Q. So what I'd like to do is have you go through step by
6 step, in as much detail as you can remember, everything that
7 happened from the time you arrived and began to construct this
8 flume and do your upstream containment activities.

9 A. Arrived at the Marshall PLM shop somewhere between 1
10 and 1:15, 1:30 on the afternoon of July 26th. Got to the shop and
11 got some supplies around that I knew I'd need, just general
12 supplies, my gas mask, my gas detector, stuff like that, and went
13 out to Division Drive.

14 At some point, I met Mick Collier out there at Division
15 Drive, and we met some firefighters out there and were talking to
16 them. I'm going to try to remember as best as I can. It's been a
17 while ago, so it's kind of hazy now, but at some point, Mick and I
18 drove with one of the firefighters out through the field to the
19 west of the Talmadge Creek and drove out to where the oil was
20 getting into the Talmadge Creek.

21 The firefighter had walked out there and seen it. Well,
22 Mick and I drove out there with him, and he showed us where he
23 thought it was entering the creek. Now that I know the site and
24 know where the area is, that actually where we walked up to it was
25 on the southernmost point of where the oil was coming out of the

1 swamp and entering the creek.

2 So then we went -- Mick and I and the firefighter went
3 back to Division. We talked there and, at that point, Mick and I
4 had made the decision that I was going to work on the -- find the
5 leak site itself and work on stopping the oil from getting into
6 the Talmadge Creek.

7 He was going to work with more of the maintenance guys
8 and more of the technicians, more of the contractors coming in,
9 and start putting more boom out as we went down. He had already
10 laid some boom to that point, and he had already had a handle on
11 that and where those guys were and what they were doing, so we had
12 kind of discussed it and made a plan. I was going to go upstream
13 and work that area, he was going to go downstream. We kind of
14 divided and conquered.

15 At that point, I got with two pipeliners, Jim Schock and
16 Justin Anderson, and I had four contractors at that time from
17 Worth Construction. They came with me, we went to the -- my first
18 plan was to put an earthen berm dam across the swamp.

19 My excavator was sitting at Marshall Station because we
20 were going to do some excavation training on Wednesday of that
21 week, so I had Justin Anderson drive the excavator to the leak
22 site, and I told him what we were going to do is start building an
23 earthen dam berm across the swamp.

24 Once we got the excavator there and started looking at
25 that, it was too swampy. It was too long, too wide, to build an

1 earthen berm across the swamp. At that point, I made the decision
2 to abandon that and go right to a flume system, an inverted flume
3 system, on the Talmadge Creek itself. We inserted that inverted
4 flume somewhere between 1:30 and 4:00. I'm not exactly sure of
5 the time. At that point, time just didn't really click in your
6 head. I'm not looking at my watch, not looking at the clock, the
7 only thing -- I know it was light out and it was early in the day,
8 so we started constructing that inverted flume.

9 At that same time, we had contractors bringing in gravel
10 so we could build roads back to where the oil was entering the
11 Talmadge Creek, where we had built that flume system, so we'd get
12 vac trucks in there to -- and skimmers to start skimming and
13 vaccing the oil out. That was the initial response that I did
14 there.

15 After that, we just continued building roads back into
16 the swampy area and getting more vacuum trucks back in there,
17 inserting more boom at that location, just absorbent boom,
18 replacing the hard boom that was there that was getting all oiled
19 up and we couldn't -- once the oil -- once the boom got all oily,
20 if you kept it in, the oil just kept going downstream, so we
21 replaced that, put a new piece in first, then pulled the old stuff
22 out, just continued putting more boom in, bringing more vacuum
23 trucks in, building more roads back to that site.

24 That was the first 24 hours we did that. I got there,
25 like I said, around 1, 1:30, some time between then, worked until

1 some time the next morning, the next day. I'm not sure what time
2 I even left that morning. Left sometime that day, come back early
3 in the afternoon, 1, 2:00. I'm not sure what time I came back.
4 It was still light out. 1, 2, 3, 4:00. Came back in, worked that
5 second night.

6 At some point that evening, we built a second flume
7 system just upstream from A Drive, down by where the Talmadge
8 Creek enters the Kalamazoo River, and both those flumes were
9 extremely successful in holding back oil. If you look at the
10 areas now where we built those flume systems, the oil was held
11 back, the oil made a pond there, basically, and those areas are
12 very large in area because the oil was held back. And you drive
13 back there right now and you look and you can see where they've
14 removed all the soil and new grass, and stuff's growing because we
15 held back so much oil at those two boom locations.

16 That second night, I became the night division B
17 chief -- or second or third night, one of those nights, fourth
18 night -- I can't remember which night. So I started working the
19 night shift, working in the B section from the leak site. The
20 leak site was actually A, but we started at the leak site and
21 worked all the way to the Kalamazoo River, where the oil was
22 entering the Kalamazoo River. That was my section. I worked
23 nights.

24 Mick Collier transitioned into working the day shift,
25 and we just continued building flume sites, installing boom,

1 getting vacuum trucks into the sites, all the sites that we were
2 at, just continued rotating the vacuum trucks in and out. When
3 they'd get filled, they'd leave, we'd bring another one in there,
4 they would go to Frac Tank City and start emptying their contents
5 into the frac tanks.

6 The first day, when Mick and I first got together, he
7 had already called Terra Construction, and they had started
8 bringing frac tanks into the Marshall Station, which was later
9 called Frac Tank City, which is Marshall Station, and Steve from
10 Terra, Steve Taplan, I believe his name is, from Terra
11 Construction, he pretty much set up the Tank Farm City the first
12 night. He started getting the tankers in there and setting them,
13 while Mick and I were already working on getting frac trucks to
14 him, and then we got people in there and they assisted him, and so
15 that was set up and running and we had a place to put all the oil
16 that was coming out of all these tankers.

17 We just kept rolling with that, kept moving tanker trucks or
18 frac -- vacuum trucks in and out of the different sites and
19 continued vaccing oil, skimming oil, building more flume sites. I
20 don't know the total number of flumes that were built. I know the
21 two initial flumes that I built were at the initial one at the
22 Talmadge Creek, where the oil was entering, and the one just
23 upstream at A Drive were the initial two that I was directly
24 involved in building.

25 And then, after that, other people started building them

1 in the daytimes, and there turned out to be numerous flumes on the
2 creek, and those seemed to be the most effective thing to stop the
3 oil from migrating down the creek and into the rivers. And that's
4 from my perspective. Those things work really good when they're
5 put in right. And that's where we were the first few days.

6 Q. Okay. Let's go back to the point you said where you
7 contacted Worth Construction and had their personnel assist you in
8 installing the flume. What equipment did they provide to you, and
9 how did they help you?

10 A. They had an excavator that was not too far away. They
11 did not bring that, initially. I used ours, Enbridge's
12 hydroexcavator, which was at the Marshall Station. What we had
13 them do was take their hydroexcavator and go to the A Drive site.
14 That's how we got the second flume put in down at A Drive is
15 they -- Worth Construction took their hydroexcavator to A Drive,
16 and that's where we built the second one the second day. Our
17 excavator stayed right back at the first site that we built the
18 first flume at.

19 They had four contract hands, laborers, you'd say, same
20 thing as a pipeliner, basically, and -- or probably three and then
21 the equipment operator, because the equipment operator was
22 operating our equipment, and then their trucks and stuff like that
23 is basically all they had. They didn't bring any vacuum trucks or
24 anything like that.

25 Q. Now, on the very first day, when you were first

1 constructing that initial flume site, you had four of their
2 employees and that equipment that you just mentioned?

3 A. Yes, sir, that is correct. I had four of their
4 employees, two Enbridge pipeliners, and myself. The actual
5 culverts that we used came from my Marshall, Michigan maintenance
6 facility. There was actually six culverts I believe I had there,
7 and I used four or five of them, and I used what we needed
8 because, depending on the flow of the creek, which was very high
9 at this time and there was a lot of flow, I didn't know exactly
10 how many culverts I would need to get the flow through those
11 culverts. When you build a flume, you've got to build it so the
12 water will continue to flow through and the oil won't, and that's
13 why I had an extra culvert there is I just wanted to make sure
14 that we had enough, and that six is all I had at my shop. I mean,
15 if I needed more, I could have sent one of those guys down to the
16 lumberyard or something. They've got them there, so -- but six is
17 what I had.

18 Q. Was there any other equipment that you used that you've
19 had stored there at the shop?

20 A. Yes, everything I had in my shop was used, the boom
21 trailers, shovels, rakes, pickaxes, vacuum truck. All of our
22 maintenance equipment that we had was being utilized as in they
23 were out there. We had generators. I mean, everything that we
24 needed was there.

25 Q. Now, were you using the boom trailers in the area where

1 you constructed the flume, or was that further down?

2 A. No, sir, that was further down.

3 Q. Okay.

4 A. Mick Collier had the boom trailers. Ben Camp and Jeff
5 Rahn, Phil Heath had the boom trailers already gone when I arrived
6 there. When I was there, they had already pulled them out. They
7 were -- from what I understand, they already had boom in the
8 water, they were already working on that before I even got to the
9 site.

10 Q. Are you familiar with the contents of all of this
11 equipment? Can you give me an outline of what would be stored on
12 a boom trailer?

13 A. I can give you -- I have in my possession, back at my
14 shop, a list of all the stuff that's in the boom trailers, and I
15 can supply that if you would like that.

16 Q. Okay.

17 A. There's waders, there's life vests, I mean, just
18 numerous -- anything that could be used on a boom deployment is in
19 those. There's stuff for winter, there's ice picks for rescue-
20 yourself picks, there's waders, life jackets, rakes, shovels,
21 fittings for the hoses, there's skimmers, there's a manta ray,
22 which is another type of skimmer, there's just numerous things,
23 booms, rakes, shovels, pickaxes, fence posts, fence. There's
24 hundreds and hundreds of things in our boom trailers in that list.

25 Q. What type of oil boom would be in the trailer?

1 A. Hard containment boom, absorbent boom, both of those
2 types. Absorbent pads, lots of just -- hundreds of things in
3 there.

4 Q. Do you have any idea how many feet of oil boom?

5 A. I do not know off the top of my head, but on that list,
6 it specifies, and in our Book 7, it has a list of all of the boom
7 trailers throughout the company, and it shows what we have in
8 those trailers. I also had hard boom stored in my maintenance
9 shop, in my cold storage. A lot of that was used, also. We
10 grabbed that and they took that out there, too.

11 I've actually got two boom trailers. One is just for
12 storing our skimmer, extra boom and our boom vane, which a boom
13 vane is for a fast-moving current. What the boom vane -- you hook
14 that boom vane to the boom and it'll actually pull the boom out by
15 itself without water -- or without a boat. I'm sure you're
16 probably familiar with them, but they work very good in fast-
17 current water.

18 Q. Okay. You mentioned there was absorbent booms and hard
19 boom. How long were the skirts on the booms, the hard boom?

20 A. I believe they're five to eight inch -- I'm not positive
21 on that. I don't know the number for sure. I'm not exactly
22 positive of how long they are. It's standard boom that we have
23 for Enbridge. It's yellow. I'm not positive. It's five or eight
24 inch something, twelve inch, something like that, though.

25 Q. Now, you mentioned the Book 7 in your response plan?

1 A. Emergency response directory, yes, sir.

2 Q. Are those lists kept up to date with the inventory
3 that's stored on the trailer? They're accurate?

4 A. Yes, sir. We go through those every year, and if
5 anything's missing, we have a check list that we check them every
6 year. Once a year, the guys go through the trailers, they pull
7 everything out, they make sure that the stuff is usable, make sure
8 the boots -- the waders aren't rotted and et cetera. We go
9 through those every year.

10 Q. Okay. Did you find that there was enough equipment
11 available for you to respond on that first day?

12 A. Yes, sir, I did. Yes, sir, we utilized everything we
13 had. There was other PLMs coming from other areas at the same
14 time. When they got there, we deployed their boom, used all their
15 stuff. But, yes, there was sufficient supplies, I believe.

16 Q. Was there ever a situation that you found yourself in
17 where you were waiting for equipment to get there because it
18 wasn't yet available?

19 A. Other than the gravel for building the road and stuff
20 like that, no, we had everything -- we utilized everything we had.
21 I don't think the contractor understood the first night when we
22 said, hey, we need a road built. I don't think he understood how
23 big of scale this was going to be, and he kind of, you know,
24 halfheartedly -- I said, no, we need gravel now, so then he
25 started hauling gravel.

1 Q. Okay. Have you ever constructed a flume before?

2 A. I have seen them constructed before and I had seen how
3 they had worked, and that was probably 15 years ago, but I had
4 never put one in myself as in putting it in physically, showing
5 the guys how to do it. I had heard of them before and I just -- I
6 knew of them, but I don't think I'd ever put one in myself before.

7 Q. Was that a strategy that was ever discussed in a prep
8 exercise?

9 A. Yes, we've discussed them in detail before, and people
10 have understood -- at least my crew had understood how they
11 worked. They understand the principle of them, but we'd never
12 installed one before.

13 Q. Okay. Did you have any difficulty installing the flume,
14 other than getting the road to it?

15 A. Getting the road to it -- once we got the road to it --
16 and, of course, you're working in oil, so you've got to have the
17 waders and the life jackets and all that stuff. The difficulty
18 was because the water was going so fast, and when you put dirt in
19 water, gravel in water, to build an inverted flume, the water
20 wants to push the dirt away, so the difficulty was building it.
21 It wasn't difficult as in the guys didn't know how to do it. I
22 was standing right there. They understood the premise and how it
23 was supposed to work and stuff, so they understood that, and the
24 difficulty was just building it. It wasn't difficulty in not
25 knowing what to do; it's just with the water and the flow and the

1 oil, and that's what the difficult part was.

2 Q. Did you have enough people to help you do this, or
3 enough equipment there?

4 A. Yes, sir. With the four contract hands and the two
5 Enbridge employees, we did have -- I had sufficient people.

6 Q. What factors did you consider in sitting the flume at
7 that particular location?

8 A. The reason I built it right there was because it was the
9 closest spot to where the oil was entering the creek. That, and
10 there was a culvert just downstream from where I built that.
11 There was a -- where the culvert was, there was a road that
12 crossed the Talmadge Creek right there, so there was multiple
13 factors in my reasoning for putting it there. One, it's the
14 closest place to a road.

15 Two, it's the closest place where the oil is entering
16 the creek, and with that culvert there, we had good access with
17 the trucks, we could get them in and out of there. That's the
18 reasoning behind my putting it right there. And like I said, we
19 tried to keep as much of the oil back in the swamp as we could,
20 because I know we could recover it from there versus letting it
21 get down the creek any farther.

22 Q. Whose decision was it to construct the flume? Yours?

23 A. Mine, yes, sir.

24 Q. Okay. Did you report your actions to any supervisor or
25 someone --

1 A. Yes, sir.

2 Q. How did that work?

3 A. We had daily meetings at the incident command post,
4 which was actually my shop, the Marshall PLM there, and when I
5 realized that we couldn't put the earthen berm dam across the
6 swamp, I made the decision that we're going to abandon this as it
7 isn't going to work, it's going to take too long, more oil is
8 going to get in the creek, and that's when I made the decision to
9 build the flumes, and I did report that to the IC that -- at the
10 next meeting, I reported that we built the flume instead of the
11 earthen berm dam.

12 Q. Okay. And who was the incident commander?

13 A. I believe it was Tom Fridel or Bill Burdeau at that
14 time, one of the -- I'm not positive. I don't even -- I'm not
15 even going to venture to say. I think it was Tom Fridel, but I
16 don't know who was on shift that time, who was on days, who was on
17 nights. It's just I can't remember at this point.

18 Q. Okay.

19 A. It was one of the management people from Chicago Region,
20 I believe.

21 Q. Okay. Now, I'm going to ask you, using that marker pen,
22 if you could mark the location of the first flume that you
23 constructed with a letter "A" on your map.

24 MR. JOHNSON: Can we -- where we're fresh with some of
25 these things -- I've got all these questions. As you asked them,

1 I brought them up. Can we ask those, or go with Jim and Chuck
2 first, or how to --

3 MR. STANCIL: Yeah, let's just go around the table. Are
4 you afraid you're going to lose the question?

5 MR. JOHNSON: No, that's why I've been writing them
6 down.

7 MR. STANCIL: Okay, okay. No, we're going to keep
8 going.

9 BY MR. STANCIL:

10 Q. I just want to -- before I lose -- if you could just
11 mark on there where your two flumes were constructed on the first
12 day.

13 A. The first day was just the one flume.

14 Q. Okay.

15 A. Between 1 and 4:00, sometime the first afternoon. The
16 second flume was that second afternoon that I came back in.

17 Q. Okay. Let's mark the first flume with an "A" on the
18 map.

19 A. Okay. First flume is an "A."

20 Q. And the second one with a "B," please.

21 A. So marked on the map, "A" and "B."

22 Q. Thank you very much. And, now, you mentioned that you
23 met with Mick downstream at Division Drive. Did you get to look
24 at what type of containment activity had taken place prior to your
25 arrival?

1 A. No, sir, I did not.

2 Q. Did you make any observations of the amount of oil that
3 was there?

4 A. Obviously, I was at Division Drive, and I seen that
5 there was heavy black oil at Division Drive. At that point, Mick
6 had already been downstream, and him and I talked, and my first
7 thought was to let's stop it from getting into the Talmadge Creek,
8 and that's when Mick said he was going downstream, I was going
9 upstream to find the source and try to stop it from getting -- any
10 more getting into the Talmadge Creek.

11 Q. And so you can't say whether or not the containment that
12 existed downstream at that time was effective?

13 A. No, sir, I cannot see it. I did not see it at all.

14 Q. Okay. The boom trailer that you mentioned, was that
15 downstream with the people that were working down there?

16 A. Yes, sir. Now, after the fact, I've talked to my guys
17 at this point, and -- my guys being Ben Camp, Jeff Rahn, Phil
18 Heath -- and they had already taken both our boom trailers out. I
19 do not know the location of where they had taken those, but they
20 had already pulled them downstream and were pulling boom and
21 putting absorbent boom in and hard boom.

22 Q. Now, you mentioned you were going downstream, replacing
23 absorbent boom -- or hard boom with absorbent boom. Was that also
24 on the first day?

25 A. No, sir, the first day, there was --

1 Q. Strictly the boom --

2 A. The first day was strictly trying to stop what was there
3 from going any farther down. There was already boom in at
4 Division Road, and not too long after I arrived, there was some
5 people from Bay City arrived. Jim Kriddler, one of the pipeliners
6 from Bay City, arrived with his vacuum truck, and he was right at
7 Division. He had his skimmer in there and he was vaccing oil,
8 2:00 or so, 2:30, 3:00, somewheres between there. I'm not sure of
9 the time but, early that afternoon, he was skimming oil, sucking
10 it up off at Division Drive.

11 Q. Okay. Could you relate your conversation with Mick, how
12 you all decided, specifically, how you were going to attack the
13 spill?

14 A. The discussion between Mick and I -- Mick had already
15 been working with the booms and pulling more boom and looking for
16 areas to pull boom downstream. The discussion was just he had
17 already been doing that, so -- and he had discussed that with me,
18 told me what he was doing, where he had guys at down there. My
19 thought was, he's already working with that, I do not want to stop
20 that train from rolling. He knows where he's got guys, he knows
21 what he's looking for. My thought then, my process then, was
22 just, let's stop it from getting into the creek. Him and I
23 discussed it. I said, I'm going to go upstream and work on
24 stopping it from getting into the creek and work on right here on
25 getting this collected as much as we can, and that was just the

1 discussion, and he went downstream and I stayed there and went
2 upstream and found the source and worked on stopping it.

3 Q. And what time did -- you mentioned vac trucks came in to
4 start removing oil after you constructed the flume?

5 A. Correct.

6 Q. When did that occur?

7 A. That was not too long after the flume was -- maybe an
8 hour after the flume was erected. I can't remember exactly. It
9 wasn't long after we had it erected we started getting vacuum
10 trucks back in there to start pulling oil off of the swampy
11 Talmadge Creek area.

12 Q. Whose trucks were these?

13 A. They were both Enbridge's and contractor vacuum trucks.

14 Q. Okay. Can you tell me how many trucks, and from whom?

15 A. No, sir, I can't. I have no clue. They were just
16 coming in, coming in, and they were just rolling in, and we'd fill
17 one up, when one would get filled up, we had two or three spots
18 where they were vaccing oil off, and when one would get full, he'd
19 leave and we'd bring another one in, and I do not know -- I
20 couldn't even guess to how many vacuum trucks were in there.

21 Q. Was this a situation where you could only get one truck
22 in at a time because of the access or --

23 A. No, sir. We had areas that we had built that we could
24 get two and three trucks in there.

25 Q. Okay. Where did they take the oil once they filled the

1 trucks?

2 A. I believe they were taking it to the Marshall Station,
3 which is Frac Tank City, in the frac tanks that Steve Taplan did
4 set up there and was setting up.

5 Q. So were there adequate numbers of frac tanks available
6 for them?

7 A. Yes, sir, there was.

8 Q. There was?

9 A. As far as I know. Again, I wasn't at Frac Tank City, I
10 didn't go down there, and I don't think they ever filled up to
11 where they didn't have any space for any frac tanks. That's as
12 far as I know.

13 Q. Okay. Now, during the first couple of days of the
14 response, you mentioned the overall incident commander was either
15 Tom Fridel or Bill Burdeau?

16 A. Yes, sir, I believe so.

17 Q. Did you attend any of their briefings?

18 A. Yes, sir, I did.

19 Q. Which was the first one you went to?

20 A. I don't recall. It was probably that first evening.

21 Q. On the first evening?

22 A. Yes, sir.

23 Q. What happened at that meeting?

24 A. We discussed what was happening, where people were,
25 where we were pulling boom, where our assets were, who was doing

1 what. They discussed -- they talked -- the EPA was there, there
2 was numerous people there. I don't recall -- there was notes
3 taken. I do know that. And I don't recall specifics on what was
4 discussed, what wasn't discussed. That's to the best of my
5 knowledge right there.

6 Q. So you were reporting assets that were deployed. Did
7 you also indicate assets that were needed?

8 A. Yes, sir. If we needed something, we told them we need
9 this, we need that.

10 Q. Was there any problems getting what you needed?

11 A. Most of the time, I didn't go to the command center and
12 ask for something. I took charge and got what I needed. If I
13 needed a vac truck, I would find it. I would go over to Frac Tank
14 City and find it and get it there and get it moved over there. I
15 didn't wait for command to make a decision of, okay, yeah, you
16 need a vac truck, go ahead and we'll get this one over there. I
17 just -- I did it.

18 Q. Okay. Did you have to telephone or contact contractors
19 to search for resources during the time you were on scene?

20 A. That was being done in the IC. I didn't make that many
21 phone calls. I got a lot of phone calls from people, hey, we got
22 this, we need this, where can I get this, how's that, et cetera,
23 et cetera. But I did not sit on the phone and make a bunch of
24 calls to contractors. Most of my calls were with Mick Collier and
25 I were talking back and forth about where we had resources, where

1 we had people, where we had assets, who's doing what, et cetera.
2 And then, as soon as the other supervisors got there, we were all
3 discussing back and forth between us.

4 Q. Okay. So going back to that first day, you constructed
5 the flume, but there was still a slug of oil below that, is that
6 true?

7 A. That is correct, sir.

8 Q. What was the strategy to deal with that slug of oil that
9 had gotten through?

10 A. The skimmers and the vac trucks were all down at the
11 Talmadge Creek at that point. That is the reason that we went the
12 next day -- the second afternoon, we made the decision, and I
13 don't know -- I don't remember who made this decision, if it was
14 myself or the incident command or who it was to do the second
15 flume downstream at the mouth of the Talmadge Creek on the
16 Kalamazoo River.

17 Q. What interaction did you have with the fire departments
18 on the first day? Did they contact you -- or, you mentioned you
19 had the firefighters show you the site --

20 A. They were on scene, yep, yes, sir.

21 Q. After that, did they help you or offer any assistance?

22 A. Yes, sir. They were there the whole time, providing
23 fire coverage if we needed it at that point, right at the Talmadge
24 Creek -- or, at the Division Drive and Talmadge Creek. They sit
25 there and -- that's pretty much the interactions that we had with

1 them at that point.

2 Q. How about local and state government officials?

3 A. Yes, there was local and state government officials
4 there. Dirk Dunham was there, the emergency management director
5 for Calhoun County. He was there when I arrived. Brian Fish was
6 there from the -- I believe he's from the DNR. He was there. And
7 when Mick and I showed up at Division, there was three or four
8 people there, and we were all discussing -- the fire chief was
9 there, the fire department was there, and that's when Mick and I
10 kind of -- we got with the fire department. The firefighters
11 showed us where it was entering the creek on the west side, and
12 that's when Mick and I discussed what we were doing and where we
13 were going, and he went that way and I went that way, and we
14 divided and conquered.

15 Q. Did the state or local officials offer any of their
16 resources to assist in containing the oil?

17 A. I did not get any assistance or -- I did not talk to
18 them about that at all. They did not offer to come help build the
19 flumes and stuff like that. I was up there -- I was off the road,
20 way away from the road. After that point there, I did not see
21 them. After the initial discussion with them at Division, I
22 didn't see them that often because I was out at the flume site
23 with that, and I was quite a ways off the road.

24 Mick had conversations with emergency management people,
25 and he did get some of their assistance, as far as I understand,

1 down there with boats and pulling booms and stuff.

2 Q. Okay. Did anyone express any concerns to you about
3 things that they thought were important to protect or --

4 A. No.

5 Q. No?

6 A. No one came to me and said, we need to stop this here,
7 away from this, no.

8 Q. And what about federal officials? Did you have any
9 contact with the EPA?

10 A. Very little. At our meetings is the only time that I
11 had any interaction with the EPA, and they never addressed me,
12 specifically.

13 Q. No? Okay.

14 MR. KOVAL: But you said they were at the first meeting
15 that you attended?

16 MR. SMITH: I'm not positive that they were at the first
17 one. I shouldn't have stated that. I'm not sure when they were
18 there. I don't know when they showed up. The first few meetings
19 we had at the PLM were mass chaos. There was hundreds of people.
20 And I may be rolling this into the next couple days, but the
21 meetings had just started growing, and there was so many people in
22 there that I don't remember who or how many or when or where. My
23 goal the initial day, two days, was to get the oil stopped where
24 it's at. Don't let it go any farther, and that's -- the flume
25 seemed to be the best fit for me that stopped the oil.

1 Q. Okay, Rusty, before I pass you off to some other
2 questions, I'd just like to know what, from your perspective,
3 worked really well during this response?

4 A. The flume. I'll live by that thing, and every one of my
5 guys will, and they'll never forget them. Anyone who was involved
6 with them will probably never forget them, and those worked very
7 good, very, very good. And the vac trucks were a valuable asset
8 to pull the oil off of the creek. Skimmers have their place, but
9 when the oil's four inches thick, a vac truck pulling the oil off
10 works just as fast or faster than a skimmer.

11 Q. Do you have any suggestions for improvements for, say,
12 an incident in the future of this nature? What could be done
13 better?

14 A. Jeez, that's difficult. I don't think we could respond
15 any quicker. The response was immediate, and, obviously, the more
16 resources you have, the better off you are, the more you can get
17 done. Resources, meaning personnel and equipment. But, within
18 the first day, we had lots of people and lots of equipment, and
19 you can only put so many people and so many vac trucks and so much
20 equipment in one spot, and even though the oil was stretching way
21 out down the Talmadge Creek and down the river, you still only
22 have so many places that you can put so much equipment.

23 Q. Okay. One last question I have. We mentioned the prep
24 drills. Have you ever had a drill that was similar to the
25 circumstances that existed in this accident?

1 A. I've had numerous drills, numerous drills. We do
2 drills every year. We do three, four, five drills every year. We
3 have boom-handling training. Similar to this? I would say
4 probably not. This is a very different type of leak. We've had
5 boom deployment trainings on creeks but never to this extent.
6 We've had boom deployment trainings on rivers but never to this
7 extent.

8 This was such a big incident that it just dwarfed
9 anything we've did before in the past, because with the number of
10 people you have, you can't go protect 30 miles of river. On a
11 training exercise, you're not going to go pull a hundred booms out
12 in a river. So we've trained for a lot of different types of
13 incidents on creeks, on rivers, but a smaller scale. So we have
14 the training, just not to this scale, because to train to protect
15 seven miles of the Talmadge Creek -- to do that, it's a
16 two-week -- with just the number of people you have, you're not
17 going to go do that, but we do train on these all the time.

18 Q. Have you ever trained on Talmadge Creek or the Kalamazoo
19 before?

20 A. Kalamazoo River, yes, sir. Talmadge Creek, no, we have
21 not.

22 Q. In this area?

23 A. Yes, sir, Marshall, Michigan.

24 Q. And how long ago was that?

25 A. I believe it was 2004 or 2005. I'm not exactly on the

1 date. I can get that date to you if you'd like that. I can get
2 to you the exact date.

3 MR. STANCIL: Okay. Okay. Chuck?

4 BY MR. KOVAL:

5 Q. Speaking of the exercises, how were the tabletop
6 exercises relative to this accident?

7 A. The tabletop exercise we have had in the past?

8 Q. Uh-huh.

9 A. Very similar in some instances. We've had a lot of
10 tabletops. We do them every year with our HAZWOPER, and some are
11 similar, some are not. When you cover the thousands of miles of
12 right-of-way that we do, we try to pick a different area every
13 year and do our tabletops to those exercises, to those -- some
14 are -- just like I said, some are similar, some are totally
15 different.

16 Q. How do you think they could be improved? In what way?

17 A. Hindsight is very easy if --

18 Q. Yes.

19 A. And if we would have picked this area last year to do a
20 tabletop exercise, things would probably be different, but when
21 you figure water getting -- excuse me, oil getting on a waterway,
22 you do not figure it out in the middle of a swamp, leaking to the
23 Talmadge Creek, running down the Talmadge Creek, to the Kalamazoo
24 River. Very unique. I would have never thought that that would
25 have happened. So I think we just need to pick some different

1 areas on our right-of-way area, just pick a spot, right here, what
2 would happen, what's the potential for 20,000 barrels of --
3 16,000 -- 19,000, whatever it was, if it was to leak right here?
4 Would it hit a low area? Would it hit a -- and just start
5 training on those every year.

6 Q. Roll with the topography and the access roads and such?

7 A. Yes, sir.

8 Q. So that's how you can improve the exercise, then?

9 A. Yes, sir, I think so.

10 Q. Who was hauling the gravel? You said you were making
11 gravel roads?

12 A. Yes, sir. Carr Brothers --

13 Q. Who?

14 A. Carr Brothers. C-a-r-r Brothers. They're out of Parma,
15 Michigan. They're a very big construction company that that's all
16 they do is gravel, they haul gravel, gravel, sand, dirt. They
17 grind up concrete. They're a very big contractor in this area.

18 Q. Okay. So, when you got the gravel in, did you have
19 to -- have any problems with your roads? Did you have to drag in
20 any trucks or anything like that?

21 A. The initial night, we had to pull a couple through, but
22 we did not have to drag them through the mud. Some of them needed
23 assistance, but we didn't -- we weren't dragging them through the
24 mud the whole time. They got the roads built and got gravel in
25 the worst spots, so once they got the gravel in the worst spots,

1 the trucks could start rolling through pretty good, and then we
2 just continued with building the roads and continued with moving
3 the vacuum trucks through there.

4 Q. So you used the excavator the first night to get them
5 in?

6 A. Yes, sir, and Carr Brothers had brought out their dozer,
7 and they were using their dozer to straighten, level the roads,
8 and we did use -- I don't remember exactly what we used to pull
9 the trucks through the first couple times. It was probably the
10 excavator. Matter of fact, yes, it was the excavator at one time.
11 I know that for a fact.

12 Q. And Carr Brothers was prearranged? Who made the call to
13 them?

14 A. I know I talked to them a couple times. I don't know if
15 I made the initial call. I can't recall at that time -- or at
16 this time, of what we did at that time.

17 Q. Let me see here. You said you had two people -- or
18 three people, right? What about Justin?

19 A. I had two people. I had Justin Anderson --

20 Q. Uh-huh.

21 A. Jim Schock. Those are Enbridge employee pipeliners.

22 Q. Uh-huh.

23 A. Myself and four contract hands, four Worth Construction
24 contractors.

25 Q. When, initially, the firemen showed you the place, you

1 said you sent Justin back to get the excavator?

2 A. Yes, sir. Justin went back to Marshall Station to drive
3 the excavator back there. That's when I made the decision that we
4 were going to build an earthen dirt berm across the swamp. The
5 vegetation was so thick back there, it was eight, ten feet tall,
6 and it was very thick, and I couldn't see through the other side
7 of the swamp.

8 Once we got back there with the excavator and started taking
9 out some of the vegetation, then I could see how swampy it was.
10 The excavator was starting to sink down in before it even got to
11 the swamp. That's when I made the call that this isn't going to
12 work, we need to reassess.

13 Q. So you pretty much relied on the fire department to see
14 where the oil got into the creek at the first --

15 A. When I got there, the fire department had already been
16 there.

17 Q. Uh-huh.

18 A. They had walked back by themselves and seen where it
19 entered. When I had showed up, they came back and said, we can
20 show you where it's entering the creek. So I did rely on them to
21 show me where it was; they had already seen it and they had said,
22 we can show you. That's when I said, okay, show us, and Mick and
23 I jumped in his truck, went back on the west side of the Talmadge
24 Creek, and that's when they showed it to us.

25 And after that, when I sent Justin to get the

1 excavator -- at one point, Justin Anderson and I walked around the
2 leak. We walked around it to see the extent of it, where it was
3 going, so I could get a handle on which way it was flowing, where
4 the leak was, where the swamp was, so I could get a whole picture
5 of what I was dealing with. When I went around both sides of the
6 swamp, I could see that it was a huge, wide swath, and I was
7 apprehensive to try to build the earthen dirt berm, but I wanted
8 to stop it inside the swamp. I did not want it to get into the
9 Talmadge Creek. That was my initial goal. I want to stop
10 anything that's in the swamp from getting into the Talmadge Creek.
11 After that didn't work, I went to the flume system.

12 Q. You mentioned they were taking notes at the official
13 incident command meeting that were being held at the PLM?

14 A. Yes, sir.

15 MR. KOVAL: Could we get those notes, Jay?

16 MR. JOHNSON: You have them. When I get to my
17 questions, I'll tell you who did those notes. How's that?

18 MR. KOVAL: Okay, okay.

19 MR. JOHNSON: But you do have them.

20 MR. SMITH: Yeah, you were there.

21 MR. JOHNSON: Yeah, that was me.

22 MR. SMITH: Sorry, Jay.

23 MR. JOHNSON: That's okay.

24 MR. SMITH: My mind's going.

25 BY MR. KOVAL:

1 Q. Okay. You said the local emergency management agencies
2 helped. What could have been done better or how they could have
3 helped better, in a better way? Is there anything you --

4 A. They were there. Dirk Dunham was there --

5 Q. Uh-huh.

6 A. -- and I'm sure he offered all of his assistance. My
7 goal at that point was to get the oil stopped from entering the
8 Talmadge Creek, so if somebody was saying, hey, you know, I'm
9 going to go do this, I'm going to go do that, my focus was on
10 stopping the oil from getting into the Talmadge. So that's where
11 I went and that's what I did.

12 If they offered Mick other assistance, I didn't hear
13 what they offered him or other people, and I knew the fire
14 department was staying there. We asked them to stay there at the
15 initial thing and told them we'd call them if we needed any
16 additional assistance other than that.

17 Q. I think you said that the earthen berm was too wide to
18 keep it in that swamp, right?

19 A. Correct. The swamp was too wide there and it was too
20 soft, and if I continued down that road, down that path, we may
21 have got the excavator stuck, and at that point, it would have
22 done no one any good; it would have just created more problems,
23 more of a headache than we needed, so I wanted to continue -- I
24 wanted to get the oil stopped. That was my goal, stopped from
25 going any farther.

1 MR. KOVAL: Okay. Jim?

2 BY MR. BUNN:

3 Q. Okay. How thick did you say the oil was in the creek?

4 A. I didn't go down there and check. I have talked to Mick
5 since then, and he'd stuck a stick in it and he said it was three
6 to four inches, is what he told me. And Mick can answer that
7 himself, but --

8 Q. Okay.

9 A. -- I looked down in there and I seen the oil going
10 through the culvert at Division Road, and it looked thick.

11 Q. Okay. And do you know what time the oil got to the
12 river, actually?

13 A. No, sir, I do not. I wasn't down there. I didn't get
14 down to the confluence of the Talmadge and the Kalamazoo River
15 until the next day.

16 MR. BUNN: Okay. All right. That's all.

17 BY MR. KLABUNDE:

18 Q. I guess further to the question that Mr. Koval had asked
19 regarding external agencies, I know you'd mentioned, the first
20 couple days, there was the DNR, the EPA. At any time, did you get
21 specific directions from any of those agencies in those first two
22 or three days, whether it was direct or indirect?

23 A. Not that I'm aware of, no. I did not get any direct
24 direction from any external agency, and I do not believe that --
25 well, I don't know. I don't know about indirect, if -- I don't

1 think so.

2 Q. Okay. You'd mentioned, as far as prep training and
3 exercises, that those are things that you've done, but this type
4 of a magnitude, you know, nothing kind of prepares you for that
5 type of a response. But do you feel the training that you have
6 had up to this point has prepared you for responding initially to
7 a circumstance as similar to this?

8 A. Yes, most definitely. I am a volunteer firefighter.
9 I've had years of experience in the Marine Corps. I feel
10 extremely confident in what I do in responding to an incident, and
11 my crew is the same way. I feel very confident that they can do
12 what's right in an incident, and, yes, I feel 100 percent
13 confident in that.

14 Q. And you said that you had arrived after boom was already
15 deployed, is that correct?

16 A. Initially, I did not know that. I talked to Mick, and
17 he said some of my guys were down, pulling boom and that they had
18 already looked at different areas and were doing that, so I took
19 his word that, yes, it had already been done.

20 Q. Okay. And based on that, I guess, do you have the
21 general idea based on, I guess, what was told to you -- you
22 weren't there, but, you know, at what point boom was able to be
23 deployed, based on discovery of this incident?

24 A. I arrived, like I said, between 1 and 1:30, probably
25 1:15, so boom had already been -- at that point, Mick had already

1 talked to me, and my guys had already pulled boom out. So by
2 1:30, we had already had boom, I know, in the water, to the best
3 of my knowledge. And at that point, I wasn't aware of where it
4 was, but I knew they had pulled it downstream from where we were
5 at.

6 MR. KLABUNDE: Okay. I don't have any further
7 questions. Thanks.

8 BY MR. JOHNSON:

9 Q. So kind of going with that, you said you got there about
10 1:30?

11 A. I got -- somewhere between 1:00 and 1:30. It was
12 probably 1:15 or so is what I'm believing.

13 Q. About how far of a drive was it for you after Mick gave
14 you a call?

15 A. Where was I at?

16 Q. Camping.

17 A. I know, but where? I don't even remember where I was
18 camping. I was out on the west side of the state, way over on the
19 west side of the state. It was probably an hour, hour-and-15-
20 minute drive.

21 Q. Okay. So then, when you got there, you said you had
22 some workers and contractors. Did you call them, or, I mean, were
23 they ready -- I don't want to put words in your mouth. I know
24 Mick had stuff going when you got there. He kind of sent you with
25 a crew. Was that set up, or did you call some folks in?

1 A. I did not call people in. By the time I got there, Jim
2 Schock and Justin Anderson showed up there. Jim was working on
3 integrity digs with -- I believe with -- I don't know, with Worth
4 Construction, I believe. They had canceled the digs and canceled
5 that work, and someone had called them, and they showed up.

6 Q. Okay.

7 A. And when those four guys showed up, I said, come with
8 me. We're going to put in flumes, and I grabbed them and had them
9 bring -- grab the flumes, and we went --

10 Q. Okay. So, basically, it sounds like, about two hours
11 after Mick called you, you already had pipeliners from outside
12 your area and contractors ready to work with you?

13 A. Yes.

14 Q. In talking about what's in your boom trailers and stuff,
15 I know -- don't you have -- isn't there a -- is it a maximal
16 procedure where you have to check your lists for your boom trailer
17 lists?

18 A. Not a maximal procedure, no, sir.

19 Q. Just a regular procedure?

20 A. Just a regular check list that we do every year.

21 Q. Okay. And then do you also do that during your drills
22 or exercises?

23 A. Yes, we pull all of our -- pull our boom out, we
24 exercise the boom, we exercise the trailers, we're all looking at
25 stuff, looking at all the equipment and stuff that's in there, and

1 we exercise it.

2 Q. Okay.

3 A. We exercise the skimmers, we exercise moving parts,
4 things like that, yes, sir.

5 Q. So then part of your drills or exercises, you have a
6 post-drill meeting where you talk about additional things that,
7 geez, we did this, we need these things?

8 A. Yes, sir.

9 Q. That's pretty common?

10 A. Yep, that's part of the -- pretty common. That's part
11 of our thing. The guys will all talk about, you know, what went
12 good, what went bad, what do we need to move on, what do we need
13 to do different? We'll even talk about the area that the boom
14 training was at. We'll talk about the boat-handling, you know.

15 That's one of the reasons we went to a boat-handling
16 class last year is some of the guys didn't feel comfortable
17 operating the jet boats with the two motors. They're quite a bit
18 different than operating a regular outboard motor, so what we did
19 is we went and had a bunch of extra training. For the past two or
20 three years, we've had training on the boat and boom-handling.

21 Went to a special course over in Westover, Canada
22 that -- I can't remember the agency's name. One of the Canadian
23 PLMs over there uses this external agency for their emergency
24 response, and they came in and gave us boat and boom-handling
25 training. We sent employees over there and they learned how to

1 operate the boom, pull the booms out, how to straighten them, how
2 to put them on the river, how to anchor them, and then, also, with
3 the boat-handling and stuff.

4 Q. Okay. So did -- I know you didn't where you were, but
5 did someone else have your boats? I mean, you're talking about
6 what you used from your shop. Did someone else have your boats --

7 A. Yes.

8 Q. -- did you have one boat or two or --

9 A. Two boats, and both of them were gone when I got there.
10 They were out.

11 Q. Okay. What kind of boats are they?

12 A. One is a Marathon jet boat, and the other is a Lund
13 outboard motorboat.

14 Q. Okay. So one of the questions was that, you know, who
15 you reported your progress to and who documented that. That was
16 actually to me, and I have turned in those notes, Chuck, so I'll
17 help you out there a little bit. And that was the first night and
18 the second day you'd done that to me, until additional resources
19 came up. I had come in about 8:00 that first night, so, yeah, I
20 did -- so you did report your progress and what you'd put in. In
21 fact, I remember you sitting down and describing the flume you
22 built and that you had an extra culvert there in case you needed
23 something else.

24 So one of the questions was where the oil was going, and
25 you said to the Frac Tank City. And are you aware that tanker

1 trucks were also going to Griffith, to our terminal at Griffith?

2 A. No, I was not.

3 Q. Okay.

4 A. Nope, I was not aware of that.

5 MR. JOHNSON: Yeah, and then that first incident command
6 meeting you talked about was in the PLM shop, and the EPA was
7 there, sheriff's department, local health officials, Dirk Dunham.
8 That was at 9 p.m. that first night, and Rusty was there. Rusty
9 had come in early. We had that meeting with EPA and with Tom
10 Fridel, the incident commander at that time.

11 MR. BUNN: Okay. And what date was that?

12 MR. JOHNSON: That would have been, then, Monday night.

13 MR. SMITH: Twenty-sixth.

14 MR. JOHNSON: Okay. It was Monday night.

15 MR. SMITH: I'll never forget July 26th.

16 BY MR. JOHNSON:

17 Q. And I think everyone's already asked you that, so no one
18 conveyed any -- none of the outside agencies told you directly of
19 areas to protect?

20 A. That is correct.

21 MR. JOHNSON: I do know, in those meetings, they talked
22 about areas -- the EPA and some of the officials talked about
23 areas of concern to us as a group, if you will, the incident
24 command structure, but not to Rusty.

25 BY MR. JOHNSON:

1 Q. I know one of the things that you talked to me about --
2 and I know there's a guy here -- and I think it ties in with a
3 question that Paul asked -- is, you know, you know, what are some
4 of the things you would do differently? One of those things is
5 you talked about, with all this flume pipe we have now, how
6 important that was, and retaining all the flume pipe from this and
7 getting areas up and down the pipeline system where you would just
8 have this flume pipe stockpiled, things like that. So do you know
9 if anything's been done on that?

10 A. No, sir. The last I heard, they were deconning the
11 flume pipe that was there, and I think they stopped that and just
12 started crushing it and hauled it all away. So, myself, I've made
13 the decision that I'm going to purchase extra flume pipe and --
14 besides the six that I had there that are gone, I'm going to
15 replace those and I'm going to strategically place some in
16 different areas because that's -- I just -- I'm a believer that it
17 worked.

18 Q. Now, you talked about -- and I know this is your area,
19 but how did you know how to contact contractors? How did you know
20 people were available? How did you know who to call?

21 A. Emergency response directory and just from using the
22 contractors in my area.

23 Q. The directory has lists of them or --

24 A. Yes, yes. The emergency response directory has a
25 contractor listing by region, and they're all in there and you can

1 flip it open and you can pull different contractors from different
2 areas, and their numbers are all in there.

3 Q. Are you aware --

4 MR. JOHNSON: And this is -- let's just -- I mean, the
5 first three days, is that kind of your focus here, Paul and Chuck,
6 is the first --

7 MR. STANCIL: Yes.

8 MR. KOVAL: Yes.

9 BY MR. JOHNSON:

10 Q. In the first three days, if any outside agencies, say
11 and EPA or the -- gosh, I'm thinking of the local responders. Are
12 you aware of any other outside agencies other than Enbridge that
13 put any boom in the water?

14 A. I believe the EPA -- and this is just from what I
15 remember. I believe the EPA had a contractor on the second or
16 third day -- I think it was the third day -- had a boom across the
17 river at 15 Mile, downstream of the confluence where the Talmadge
18 and the Kalamazoo meet. And I believe it was in there on the
19 third day, I believe it was. I'm not positive, but I --

20 Q. They didn't work with you?

21 A. No, nope, nope, they did not. They're a separate
22 entity. And Mick can fill you in more on that because they went
23 over there and, just from talking with Mick, he had a problem,
24 they went over -- Mick went by there and they didn't have FR
25 clothing on, they didn't have hard hats, they didn't have safety

1 glasses, they didn't have anything, and Mick kind of had it out
2 with them. He told them, you will do this, and the supervisor
3 over there got in an argument with Mick and told him, we don't
4 work for you, we don't work with you, and we're not going to do
5 that, and Mick said, yes, you will. And come back the next day
6 and they did, they had it all on, but the first day, Mick was
7 pretty upset. I remember talking to him about it.

8 Q. And this is maybe a leading question, but did you find
9 the sheriff's department helpful? You, yourself?

10 A. Me, myself, I didn't deal with the sheriff department
11 that much.

12 Q. Okay.

13 A. I didn't see them --

14 Q. Okay. I mean, that's fine --

15 A. Yeah, and I didn't have many deals --

16 Q. And I'm asking you, the sheriff's department was there
17 for us, and they closed any roads they -- I mean, they were just
18 outstanding. That was one of your questions, which I guess I'll
19 answer. His interview with the sheriff's department was
20 outstanding, to say the least, anywhere. I mean, it was even out
21 of their county. The sheriff's department basically sat in
22 incident command and any time we needed anything with a road or a
23 bridge or access, they went to the city, the county, the town --
24 they just arranged that. They just got it done immediately.

25 A. Me, personally, being this is my area, this is where I

1 live, my maintenance shop is right around the corner, I've dealt
2 with the sheriff's department here numerous times before, and they
3 are always more than willing to go out of their way. We had two
4 deer that came into our facility, and they came out and attempted
5 to help us get them out. Finally, they had to shoot one of them,
6 but they're -- yeah, the sheriff's department in this area is very
7 helpful in anything we do.

8 Q. Okay. That's all I have.

9 A. I just was back in the sticks, so I didn't have any
10 dealings with them back there.

11 Q. All right.

12 MR. STANCIL: Okay. I have just one or two follow-ups
13 on that. Has Enbridge done a post-accident critique?

14 MR. JOHNSON: No. We're doing an internal investigation
15 in two areas. One metallurgical -- I should say three.
16 Metallurgical, control center, and then response. But the actual
17 post-response review has not been started yet.

18 MR. STANCIL: Okay.

19 BY MR. STANCIL:

20 Q. Rusty, how many oil spills have you responded to prior
21 to this one?

22 A. Number-wise, I'm not positive. Numerous. Small to
23 large.

24 Q. And is that in your capacity as a firefighter, or
25 Enbridge, or both?

1 A. Both.

2 Q. Okay. Any other large spills on the Talmadge Creek
3 before that you responded to?

4 A. No, sir. I wasn't even sure of the Talmadge Creek's
5 name until this happened.

6 Q. Okay. All right. And going along with what you said
7 about the contractor that didn't have proper PPE, during that
8 first day when you were working in the source area, did you have
9 any concerns about the air quality? Was someone testing for that?

10 A. I was constantly testing. I had my benzene monitor.
11 Enbridge has all got our personal monitors which have H2S, oxygen,
12 LEL, and carbon monoxide detectors. And then I had my benzene
13 monitor that I keep with me everywhere I go, whenever I'm doing a
14 job project. So, no, I didn't have any -- I had no concerns about
15 the air quality. We had already contacted outside entities. They
16 were coming in, doing air-sampling, also.

17 Q. Right. So the air quality didn't inhibit or play a
18 factor in your response activities?

19 A. No, sir.

20 MR. STANCIL: Okay. That's all I have.

21 MR. KOVAL: Jay, you said you were quite happy with the
22 sheriff's department. Who arranged the waivers for the trucks to
23 get -- the waivers for the roads and things, right? Who arranged
24 that?

25 MR. JOHNSON: I don't know. I would have to say the

1 sheriff's department. I know that, once a state of emergency was
2 called, then certain DOT -- transportation DOT waivers -- or a
3 waiver was put in where they -- you know, we could actually, you
4 know, drive past the number of hours and the -- you know, we could
5 do wide loads at night and things like that, so that state of
6 emergency helped us with that.

7 MR. SMITH: Sergeant Todd Turner is the officer that I
8 deal with a lot in the area. He's the one that actually came out
9 and helped us with the deer, and he's an outstanding officer. I
10 mean, he helps us out not only at this incident, but Sergeant Todd
11 Turner's a -- he's a good help to us a lot.

12 MR. KOVAL: A lot of that would have to go through the
13 state emergency management?

14 MR. JOHNSON: They -- and I want to say Dirk Dunham or
15 someone came in and said that they were -- the governor had, you
16 know, declared a state of emergency here, and that's what allowed
17 a lot of that to free up. I want to say on day two. Don't know
18 for a fact on that, but I think it was day two.

19 MR. KOVAL: Okay.

20 MR. STANCIL: Anyone else?

21 BY MR. STANCIL:

22 Q. Okay, Rusty, this is your chance to vent. Is there
23 anything that you would like to say for the record?

24 A. No, no, nothing for the record. I've stated it numerous
25 times on record here. Our initial response was to get the oil

1 stopped from entering the Talmadge Creek, and then to get it
2 stopped at the head of the Talmadge Creek.

3 And I've been very upset at the news media and at the
4 play that's been put on it. I take it personally when people say
5 that the initial response was bad, because that's me. That's me
6 and that's my guys, and my crew and the Enbridge people that were
7 here, busting their hump to do this -- and I hope the truth comes
8 out that we did everything that was physically possible to stop
9 this from progressing any longer. So -- and thank you guys for
10 your time.

11 MR. STANCIL: Thank you.

12 Okay. That'll end this interview, then.

13 (Whereupon, at 10:18 a.m., the interview was concluded.)

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: ENBRIDGE OIL SPILL
 MARSHALL, MICHIGAN
 Interview of Rusty Smith

DOCKET NUMBER: DCA-10-MP-007

PLACE: Marshall, Michigan

DATE: October 26, 2010

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing. as recorded by

Amy Shankleton-Novess
Official Reporter

Cheri Grissom
Transcriber