

cc: Dr.R.A.Kehoe (2)
Mr.J.P.Farnham
Mr.H.W.Kaley
Mr.E.O.Jones

Mr. J. J. Frey

New York

M. A. Taylor

Eastern Region

Wilmington, N.C. Tank Cleaning Incident

September 20, 1948

We have just now read a copy of Mr. E. O. Jones letter of August 26th with reference to the Wilmington, North Carolina tank cleaning incident. The facts presented in this letter are substantially true. However, we would like to make a few comments which may throw some additional light on the entire affair and give a little clearer picture.

In Paragraph 2, on Page 1, Mr. Jones comments on Mr. Mercer's failure to arrive in time to observe the first entry in the tank. Mr. Mercer only received the notice (direct from the Cape Fear Terminal, and not from this office as indicated) late on the day of June 15, and the job was slightly over 200 miles away from his home. He arrived on the job on the afternoon of June 16th. We fail to see where there is any room for criticism here.

There has been a direct contradiction in the stories of Mr. Mercer and Mr. L. E. Williams. Mr. Jones comments on the fact that Mr. Williams' story is corroborated by the story of Mr. Nichols, the foreman. He goes on to say - "Nevertheless, we are accepting Mr. Mercer's story as the correct one." I would like to add that the conversation held between Mr. Baldwin and Mr. George Smith, another foreman for the same company, corroborates Mr. Mercer's story and convinces us that his is the truthful one.

In Paragraph 2, on Page 3, Mr. Jones comments on the fact that Mr. Baldwin took samples from only one tank. There was not time to take the additional samples, so he instructed Mr. Mercer to take samples from the other tanks. This was done the following day.

In Paragraph 4, on Page 3, Mr. Jones comments on the fact that all communications were carried on between the Southern and Eastern Regional Offices, and directly between these offices and Dr. Kehoe. This was naturally done because of the nature of the situation and the need for prompt action. We might add that we went out of our way, at all

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times, to keep Mr. Jones advised on every move and every development.

We certainly take serious exception at the last paragraph on Page 3, which reads - "A careful examination of all the evidence in this case leads us to believe that most of the difficulty resulted from a misinterpretation on the part of the Eastern Region personnel of the so-called modified tank cleaning policy, a copy of which is attached hereto." The accident occurred because of one thing, and one thing only. A man of long experience in tank cleaning, who was thoroughly familiar with our rules and regulations, as well as the hazards involved, failed to wear a mask. This man's experience and knowledge of our regulations is attested to by the written statements of Dr. Kitzmiller, Mr. R. L. Jordan, and others. The accident could only have been averted by our man constantly acting as a "watch dog" to make certain that this man did not take off his mask. We later learned that he had done so on previous occasions, but we had no way of suspecting that this was a fact.

Our local representative, Mr. Mercer, was convinced that this was a capable crew; that they knew the rules and regulations and would abide by them, and acting on his interpretation of the modified tank cleaning program, he returned home for the weekend and to take care of some other commitments. We feel confident that his interpretation of the modified tank cleaning program, as well as the interpretation of Mr. Baldwin and myself, are similar to those held by other Regions. We certainly have gone out of our way to adhere to these regulations and were of the opinion that we were so doing.

The New York Safety Staff has received complete reports of all of our tank cleaning activities and should have been fully aware of the manner in which we operated over a period of years. Having heard nothing to the contrary from them, we naturally assumed that our method of operation, which they were constantly checking, was the proper one.

On Page 4, reference is made again that Mr. Mercer was not present when the work began at the Cape Fear Terminal, nor was he present for the first entry at the Carolina Terminal. As we have explained, late notice was responsible for the first. Mr. Mercer was present when work began at the Cape Fear Terminal, as is indicated in his report, and he was satisfied that the equipment, the ability and the knowledge of the entire crew and all other factors tending towards safe operation, was such that he could safely leave the job. He had no reason to believe from his own observations or from reports received from other sources about this crew that they would violate our rules and regulations, which they understood so thoroughly as indicated in Dr. Kitzmiller's report.

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September 20, 1948

I believe this report, possibly unintentionally, puts both Mr. Mercer and the Eastern Regional Management in an unfavorable light, which is entirely unjustified. Furthermore, it makes no recommendations to correct a repetition of such an incident except to increase our attendance at future tank cleanings.

We believe this matter is of sufficient magnitude and represents such a large item of expense to the Corporation that we should have a meeting of the minds to determine exactly how this operation can best be handled and how far we want to go in giving precedence to tank cleanings over all other work. For this reason, I would appreciate an opportunity for Jim Baldwin and I to discuss this with you and Harry Kaley in the very near future. I certainly think the matter is even serious enough to warrant a discussion with all of the Operations Managers so that the Sales Department can determine the safest way of handling our tank cleaning program compatible with our budget limitations and the necessity for doing other important work.

Very truly yours,

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M. A. TAYLOR

cc: Dr. R. A. Kehoe (2)
Mr. J. P. Farnham
Mr. H. W. Kaley

Mr. J. J. Frey

New York

E. O. Jones

New York

Wilmington, N. C., tank cleaning accident

August 26, 1948

This memorandum is for the purpose of placing on the record a complete summary of the unfortunate tank cleaning tragedy which occurred recently at Wilmington, North Carolina. For your information and file, I am attaching several pertinent documents although the complete file in the Safety Department contains many more letters, reports, and so on, and will be available for reference at any time.

During the week commencing June 13, 1948, the Eastern Region received notification of a series of tank cleanings to be carried out in Wilmington, North Carolina. Our Mr. F. Y. Mercer, whose headquarters are in Charlotte, North Carolina, was assigned to take care of the job. Despite the fact that notice was received on June 15th, Mr. Mercer did not arrive in time to see the first entry on the job. He did, however, see the first tank through to completion and he reports that all Ethyl precautions were followed. Work on the first tank was completed June 18th. The contract undertaken by Tank Cleaners, Inc., Jacksonville, Florida, called for the cleaning of three tanks at the Cape Fear Terminal and eight additional tanks at the Carolina Terminal, both in Wilmington and separated by something less than a mile. It is probable that the fatal lead exposure occurred at this latter terminal during the cleaning of the first three tanks, designated as numbers 1, 2, and A.

Since the incident occurred, we have carefully investigated all possible angles, and it should be stated at the beginning that there is a complete contradiction between Mr. Mercer and Mr. L. E. Williams, General Manager of the contracting firm. The story of Mr. Lynch Nichol, who was Mr. Williams' foreman on the job, corroborates in most major details the statement signed by Williams. Nevertheless, we are accepting Mr. Mercer's story as the correct one. Mr. Nichol was not present at the conversation between L. E. Williams and Mercer during which Mercer stated that all precautions should be used during the cleaning of the tanks at the Carolina Terminal.

According to Mercer the contractor's crew, consisting of Mr. Lynch Nichol (the foreman) and two negro workers ([REDACTED] and [REDACTED]), moved the scene of their operations from the Cape Fear Terminal to the Carolina Terminal on Friday, June 18th. Mr. Mercer says that he was with the crew and that the last part of Friday afternoon, June 18th, was spent pumping the accumulated water from the bottom of tank number 1. No history

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of any of the tanks at the Carolina Terminal was known to our representative, to the terminal management, or to the contractor, except for the fact that the tanks had been empty and unused for approximately five years. (It has since been established that the tanks are owned by a Mr. Sam Brockwell of Wilmington, North Carolina, and are leased to the Cape Fear Terminal, which apparently is controlled by the Pure Oil Company. It was the Pure Oil Company which executed the contract for the tank cleaning at both the Cape Fear and Carolina terminals. It has also been established that tanks 1, 2, 3, 4, 5, and A were used at some time or other in gasoline service.) Mercer says that Williams, the general manager of the contracting firm, asked his advice about the use of protective equipment in the cleaning of the Carolina Terminal's tanks. Mercer said that inasmuch as no history of the tanks was available it must be presumed that they had at one time been in leaded gasoline service and that all precautions should be taken. Mercer states that Williams agreed to the suggestion and said that he (Williams) would see that proper precautions were taken.

On Saturday morning, June 19th, Mercer called at the Carolina Terminal and met Lynch Nichol, the foreman, after which he (Mercer) went to the Cape Fear Terminal to discuss the condition of tank number 211 which had been completed the preceding day. Mercer then left for his home in Charlotte stating that he would return the following Tuesday evening to check the job. Subsequent questioning of Mercer brings out a significant fact. During the conversation with Nichol on Saturday morning at the Carolina Terminal, Mercer made no effort whatever to check the tank cleaning operation although at that time it had been in progress for approximately two hours. He knew that L. E. Williams had left for Jacksonville earlier that morning but he did not make any effort to determine whether or not the suggestions given to Williams on Friday afternoon had been passed along to the foreman, Nichol. According to the subsequent stories of the tank cleaning crew, they were working in tank number 1 without protective equipment at the time that Mercer and Nichol conversed "in front of the terminal" on Saturday morning. If our man had walked only a few yards to examine the progress of the work, there is reason to believe that the entire tragic incident might have been avoided.

It has been found that tanks 1, 2, and A were cleaned on Saturday, June 19th, and on Monday, June 21st. No work was done on Tuesday, June 22nd. It is quite certain that no respirator equipment was worn during the cleaning of these three tanks. On Tuesday, [REDACTED] one of the negro workmen, complained of illness and a local negro doctor recommended an appendectomy. [REDACTED] refused to submit to the operation and received permission to return to Jacksonville on the bus. On June 23rd, [REDACTED] who had seen Dr. John H. Mitchell of Jacksonville in the meantime, was admitted to Brewster Hospital in Jacksonville where his condition became progressively worse and eventually resulted in his death at 3:35 a.m. Saturday, June 26th. It has since been established that [REDACTED] died of acute lead intoxication. On Wednesday, June 23rd, George Smith, who had replaced Nichol as foreman, and [REDACTED] (the second negro member of the original crew) worked in tank number 3 with protective equipment. [REDACTED] became ill and was sent to Jacksonville by bus Wednesday night and arrived Thursday evening. He also consulted Dr. Mitchell. (Our records do not show whether Smith, at this point, knew of [REDACTED] lead intoxication.) [REDACTED] illness became acute on Sunday morning

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and he was admitted at 11 a.m. to Brewster Hospital. The subsequent clinical record indicates that [REDACTED] also suffered from acute lead intoxication but that he will recover.

Mercer returned to Wilmington late Tuesday afternoon, where he met the foreman, Nichol, and the two men spent considerable time together Tuesday evening. Nichol was dissatisfied with the job and he and Mercer met George Smith, who had been sent up to take Nichol's place. The three men dined together. It is significant that at no time during the course of Tuesday evening did Mercer inquire of Nichol as to the progress of the job or as to whether or not his recommendations had been fully carried out, even though he knew that Nichol was preparing to leave. As a matter of fact, by the time Mercer got to the job the following morning, Nichol had already left.

As soon as news of the serious illness of [REDACTED] was received at the New York regional office, Mr. Taylor sent Mr. Baldwin to Wilmington to assist in the investigation. Little or nothing of significance developed as a result of this trip. Baldwin arranged to secure a Lead-in-Air Analyzer and although it could have been presumed that exposure occurred in one of three tanks -- numbers 1, 2, and A -- Baldwin only sampled the atmosphere in tank number 1. Samples were also taken through the airline hose and within the fire wall of tank number 3. None of the readings are significant.

Mr. Shank, of our Southern Region, has held separate interviews with Mr. Lynch Nichol (who is now located in Dallas, Texas) and with Mr. L. E. Williams (of Tank Cleaners, Inc., Jacksonville, Florida). Their stories are essentially corroborative. While in Jacksonville Dr. Kitzmiller interviewed Mr. Nichol in the presence of Mr. L. E. Williams, and their stories are the same in all essential details as the ones told to Mr. Shank later. Dr. Kitzmiller interviewed [REDACTED] but it is believed that the accuracy of his statements cannot be given any weight because of the fact that he was apprehensive and ill at the time. He was also quite frightened by the illness and death of his associate, [REDACTED] stated that during the course of Saturday and Monday he entered the tanks for ten to fifteen minute periods at intervals of about an hour without an airline mask.

All of the communications during the course of this incident were carried on directly between the Southern and Eastern Regional Offices, and directly between these two offices and Dr. Kehoe in Cincinnati. As will be brought out later, we believe that future incidents of this kind should be handled by the New York Safety staff directly with the regions and with Dr. Kehoe, since this procedure will permit crossing of the regional lines during any necessary investigation and will make available the somewhat broader experience of our administrative group. Both regions cooperated excellently throughout.

A careful examination of all the evidence in this case leads us to believe that most of the difficulty resulted from a misinterpretation, on the part of the Eastern Region personnel, of the so-called modified tank cleaning policy, a copy of which is attached hereto. This policy has been in effect since July 6, 1942, and we had no reason to believe until now that it was being

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misinterpreted. An examination of Section I of this policy entitled "Observe the Cleaning of all Large Tanks" states, among other things, that "All tanks of over 1,000 barrels should be observed if at all possible." While the policy permits the observer to leave the job from time to time during its progress to do other nearby duties, he is required to be there when work begins and during any critical stages. Our representative was not present when work began at the Cape Fear Terminal part of the job, nor was he present when the first entry was made at the Carolina Terminal. On Saturday, June 19th, he failed to check the progress of the job or to assure himself that his instructions to L. E. Williams had been passed along to the foreman, Nichol. There is nothing in the record to indicate that it would not have been possible for all tanks in the Carolina Terminal group to be observed. Mercer left the job to return home for the week-end and spent Monday and Tuesday making calls at certain district offices. None of these calls has been established as being so important as to require Mercer's presence at that particular time.

It is now learned that the Eastern Regional Office has consistently misinterpreted our modified tank cleaning policy and has tended to treat any group of tanks, such as the ones involved in this particular contract, as one tank. This region claims that it did not believe that the intention of the policy was to consider each tank as a separate entity, and it seems that the use of the phrase, "critical stages," has not been made clear. We have no doubt whatever that the region and the representative fully believe in the importance of safety but we cannot help but draw the conclusion that the spirit of the modified tank cleaning policy as well as its letter has been badly misread. It is also established that the Eastern Regional management does not agree with our interpretation of the policy and feels that it cannot be followed as written without uneconomical operation.

In order to clarify these misunderstandings and to make sure that Management wishes this policy to be pursued in the future, we are arranging a meeting between the Sales Management, Dr. Kehoe, and representatives of this office to discuss the entire safety policy. This meeting is proposed for the very near future. If, in fact, the modified tank cleaning policy is badly written, at least part of the responsibility falls on the New York safety office. Steps are being taken to correct the wording and a new bulletin will be issued as soon after the above mentioned meeting as is possible. In the meantime, we have circulated the field requesting cooperation so far as attendance at large tank cleanings is concerned. Even admitting the possibility that the wording of the policy covering this situation is capable of some misinterpretation, it is our considered opinion that the Ethyl representative on this job showed poor judgment in several ways, or a lack of interest in seeing to it that the instructions left with the responsible head of the tank cleaning contracting firm were put into execution.

As the result of a hearing before the Florida Industrial Commission on August 10, 1948, certain awards were granted to the survivors of [REDACTED] Ethyl Corporation, at this writing, has not been made a party to any legal action.

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In addition to the "Memorandum on Modified Tank Cleaning Program" and F. Y. Mercer's interview report dated June 18, 1948, copies of which are attached hereto, the following correspondence is attached to Mr. Jones' memorandum of August 26th addressed to Mr. J. J. Frey:

F. Y. Mercer to M. A. Taylor; August 20, 1948.

L. W. Shank to M. A. Taylor, E. O. Jones, Dr. R. A. Kehoe, E. K. Locher, and H. K. Ball; July 30, 1948.

Dr. K. V. Kitzmiller "Memorandum, Tank Cleaning Incident, Cape Fear Terminals, Wilmington, North Carolina."

F. Y. Mercer to M. A. Taylor; July 8, 1948.

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