



Business

Dec. 12, 2007, 10:10AM

Testimony: Documents misstated safety at BP plant

By KRISTEN HAYS

Houston Chronicle Copyright 2007

GALVESTON — An engineer who handled BP air quality permit applications as a state employee testified Tuesday he learned after he joined BP's payroll that the documents contained inaccurate or incomplete safety and emissions information about the company's Texas City refinery.

Ruben Herrera, a former permit engineer for the Texas Commission on Environmental Quality who jumped ship in early 2003 and worked for BP handling the same applications, acknowledged what plaintiffs suing the company have alleged since a deadly explosion at the refinery in 2005: BP's application for an emissions permit contained information that made the unit that exploded appear safer than it was.

Specifically, the application BP submitted during Herrera's last few days with the state agency in February 2003 said emissions would be routed to a flare, which would burn them off. It also said relief valves that measured pressure in another piece of equipment in the unit were being monitored.

Herrera learned after he joined BP in mid-March that year that there was no flare in the unit, but rather a so-called blowdown stack that emitted vapors into the air.

So he changed the application to reflect higher anticipated emissions, but it still stated that relief valves were monitored.

"I later came to find out that was not correct," Herrera said under questioning by Ernest Cannon, who represents eight men suing BP in the second civil trial to emerge from the blast.

"We did not have a flare, and after the accident, that's when we realized we didn't have a monitoring program on those relief valves," Herrera said.

The explosion happened when a tower overflowed with hydrocarbons, routing them to the blowdown stack, which vented a vapor cloud that ignited. Fifteen people died and many more were hurt.

'An honor code'

Cannon asked Herrera how he felt about BP operating relief valves without monitoring. Herrera said his expertise was in air quality, not safety, and he couldn't offer an opinion without viewing all the design equipment.

"You don't have blinders on. How do you feel about it from a safety viewpoint?" Cannon asked.

"I'm not a safety engineer," Herrera replied.

The permit application also contained diagrams of various processing units. But even though the

unit that later exploded was in a list of such diagrams in the table of contents, the actual diagram wasn't included, though drawings of other units were, according to testimony.

"This is an honor code, isn't it, with these refineries? They've got to tell the truth because we can't afford to police them. Is that correct?" Cannon asked.

"Yes, sir," Herrera replied.

Herrera started talking to BP about a job in December 2002. He was hired in February, and increased his annual salary to \$84,000 from \$64,000 with the state. He also received a \$1,700 signing bonus.

He acknowledged the salary hike and bonus in court without specifying the figures, which are noted in depositions and court records.

'I was not bribed'

Before he sought employment with BP, he had reviewed two previous applications for a "flexible" air quality permit that would set an emissions cap for the entire refinery, rather than caps for individual units.

BP withdrew those applications, and Herrera advised the company on how to submit a third.

The third application arrived at the state agency before Herrera left, and was addressed to him.

Even though he received it, he put it "on a shelf" because he had accepted a job with BP.

"You had it in your hands, didn't you?" Cannon asked.

"I didn't look at it," Herrera replied.

BP and the state agency contend that the state's revolving-door law doesn't apply because Herrera wasn't officially assigned to handle the application that led to the final permit — which wasn't approved until July 2005.

Although Cannon didn't ask whether Herrera's pay hike and signing bonus could be interpreted as a bribe — which the company has denied — BP lawyer Stephen Fernelius asked the question.

"I was not bribed to come over to work for BP," Herrera said.

"Has anyone suggested to you that you did anything wrong, other than these plaintiff lawyers who are seeking money from BP?" Fernelius asked.

"No," Herrera replied.

Both sides finished their questioning of Herrera on Tuesday.

Minimizes involvement

Earlier, BP environmental manager Watson Dupont testified via videotape that Herrera was put in charge of obtaining the flexible permit once he joined BP.

Herrera minimized his involvement, however, saying he pulled together emissions sources for a draft permit. "There's not much work involved in that," Herrera said.

Dupont testified in videotaped deposition taken about a month ago that the company had hand-delivered its third permit application to Herrera and that Herrera handled the application for BP once he was on the oil company's payroll.

Cannon asked Dupont if he would agree to hiring Herrera again under the same circumstances.

Dupont first said he didn't know, and then said, "I would want to have a discussion before we do something like this again. Maybe our attorney, maybe other people within BP."

kristen.hays@chron.com