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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: OIL SPILL BY THE OIL RIG * Docket 10-MD-2179
DEEPWATER HORIZON IN THE *
GULF OF MEXICO ON APRIL 20, 2010 * Section J
*
Applies to: * New Orleans, Louisiana
*
Docket 10-CV-02771, * February 28, 2013
IN RE: THE COMPLAINT AND *
PETITION OF TRITON ASSET *
LEASING GmbH, et al *
*
Docket 10-CV-4536, *
UNITED STATES OF AMERICA v. *
BP EXPLORATION & PRODUCTION, *
INC., et al *
*
* * * * *

DAY 4, AFTERNOON SESSION
TRANSCRIPT OF NONJURY TRIAL
BEFORE THE HONORABLE CARL J. BARBIER
UNITED STATES DISTRICT JUDGE

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1 AFTERNOON SESSION

2 (February 28, 2013)

01:22 3 THE COURT: Please be seated, everyone.

01:31 4 Alabama.

01:31 5 MR. UNDERHILL: Can I correct just one thing on the
01:31 6 record, Your Honor, very briefly?

01:31 7 THE COURT: Okay.

01:31 8 MR. UNDERHILL: I'm sure it was an innocent mistake
01:31 9 by my BP colleague.

01:31 10 There were four clips, video depositions. One of
01:31 11 them, there may have been an appearance that Mr. Daigle's clip,
01:31 12 D-3571, that he's not a BP employee. He is a BP employee, or
01:32 13 was. So Daigle and Cowie, both BP employees. The only one
01:32 14 that wasn't was the deposition clip of Mr. Pleasant, which is
01:32 15 3574.

01:32 16 Is that correct, Counsel?

01:32 17 MS. KARIS: That's correct. And just to be clear,
01:32 18 Your Honor, I objected to showing Mr. Pleasant's deposition,
01:32 19 who is not a BP employee.

01:32 20 THE COURT: And the basis of your objection is?

01:32 21 MS. KARIS: We stated it already for purposes of
01:32 22 clarifying the record here. This was the video that
01:32 23 Mr. Underhill was showing. We have gone through it. I think
01:32 24 Mr. Underhill is going back and correcting --

01:32 25 THE COURT: I'm trying to understand. You object to

01:32 1 the video, or do you just object to the video being shown to
01:32 2 Mr. Bly and Mr. Bly being questioned about it?

01:32 3 **MS. KARIS:** The latter, Your Honor.

01:32 4 **MR. UNDERHILL:** Should I respond to that, Your Honor?

01:32 5 **THE COURT:** No. He has already responded to it.

01:32 6 **MR. UNDERHILL:** Thank you.

01:32 7 Just the final thing, Your Honor, I'm going to
01:32 8 give the Court new copies of the binders for the
01:32 9 demonstratives. I had to cut it up because Mr. Sterbcow did
01:32 10 almost all the stuff that I was going to do. So I'm going to
01:32 11 take it out rather than give you stuff I didn't use.

01:32 12 By either the end of today or tomorrow, we will
01:33 13 provide the Court and parties with the exhibit list of the
01:33 14 exhibits that have been admitted.

01:33 15 Thank you very much.

01:33 16 **THE COURT:** Very well.

01:33 17 **MR. GODWIN:** Your Honor, I want to offer some
01:33 18 exhibits -- Don Godwin for Halliburton.

01:33 19 **THE COURT:** Wait. Is our sound on? Okay.

01:33 20 **MR. GODWIN:** Don Godwin for Halliburton.

01:33 21 Ben had suggested that before we start the
01:33 22 afternoon session it might be a good time to offer exhibits
01:33 23 that we had yesterday with Lamar McKay's depo.

01:33 24 **THE COURT:** Oh, from yesterday? Okay.

01:33 25 **MR. GODWIN:** Yes, sir. With your permission, I will

01:33 1 give one to Ben and one to your case manager.

01:33 2 **THE COURT:** That's fine.

01:33 3 **MR. GODWIN:** And these exhibits, Your Honor -- these
01:33 4 exhibits are -- there's just three of them for Halliburton.
01:33 5 It's TREX-282, TREX-283, and TREX-4160, sir.

01:33 6 **THE COURT:** That was with what witness?

01:33 7 **MR. GODWIN:** Lamar McKay, Your Honor.

01:33 8 **THE COURT:** McKay. Okay. Thank you.

01:33 9 **MR. GODWIN:** Thank you, Judge.

01:34 10 **THE COURT:** Thank you. Hearing no objection from
01:34 11 anybody. Without objection --

01:34 12 **MR. GODWIN:** I'm not aware of any, Your Honor. Thank
01:34 13 you.

01:34 14 **MR. MILLER:** Your Honor, Kerry Miller for Transocean.

01:34 15 I would like to do something similar to what
01:34 16 Mr. Godwin just did, for Lamar McKay. I would like to move
01:34 17 into evidence D-6593. The other exhibits I showed Mr. McKay
01:34 18 were already moved in pursuant to other parties.

01:34 19 **THE COURT:** So this was another one that you used in
01:34 20 conjunction with examining Mr. McKay?

01:34 21 **MR. MILLER:** It was the only one that wasn't already
01:34 22 admitted based upon examination by the parties.

01:34 23 **THE COURT:** All right. Any objection by anybody to
01:34 24 that?

01:34 25 **MR. BROCK:** Kerry, could you just say the number

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01:34 1 again, please.

01:34 2 **MR. MILLER:** Yes. The one for Mr. McKay that was not
01:34 3 already moved into evidence was D-6593.

01:34 4 **THE COURT:** Without objection, that's admitted.

01:34 5 **MR. MILLER:** In terms of Dr. Huffman's testimony,
01:34 6 Your Honor, I would like to move in three of the exhibits I
01:34 7 used during his cross-examination. And those three would be
01:34 8 TREX-04411, TREX-01241, and TREX-51165.

01:35 9 **THE COURT:** Any objection to any of those? Without
01:35 10 objection, those are admitted.

01:35 11 Alabama?

01:35 12 **MR. SINCLAIR:** Winfield Sinclair for Alabama. I have
01:35 13 no questions.

01:35 14 **THE COURT:** Louisiana.

01:35 15 **MR. KANNER:** Good afternoon. Allan Kanner for
01:35 16 Louisiana. I just have a couple of very brief questions, if I
01:35 17 may, Your Honor.

01:35 18 **THE COURT:** Sure.

01:35 19 **MR. KANNER:** Thank you. This would be as a
01:35 20 cross-examination.

01:36 21 **MARK BLY,**
01:35 22 having been duly sworn, testified as follows:

01:35 23 **CROSS-EXAMINATION**

01:35 24 **BY MR. KANNER:**

01:35 25 **Q.** Good afternoon, Mr. Bly.

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01:36 1 A. Good afternoon.

01:36 2 Q. You would agree, would you not, that the *Deepwater Horizon*
01:36 3 disaster was preventible, correct?

01:36 4 A. I believe it was preventible, yes.

01:36 5 Q. You also would agree that it's a predictable disaster. In
01:36 6 fact, the company had studied -- developed a matrix, and this
01:36 7 was the worst case, correct?

01:36 8 A. I don't believe that it was predictable as form. I think
01:36 9 the outcome -- as an outcome, it was predictable. I don't know
01:36 10 that it was predictable how it happened.

01:36 11 Q. So your testimony is that you certainly realized that a
01:36 12 very bad result could obtain here, disaster for the Gulf, if
01:36 13 you will. But you didn't predict the exact sequence of events,
01:36 14 the pieces of Swiss cheese. Is that what you're saying?

01:36 15 A. Yeah. My comment was about the nature of risk. It's a
01:36 16 bit like the discussion I had with Mr. Sterbcow, as yes, you do
01:36 17 recognize the potential for outcomes to happen.

01:36 18 MR. KANNER: Could I have Exhibit 2701, please.

01:37 19 And could I have the last page. I think it's
01:37 20 39. Do we have a version in color? No? Okay.

01:37 21 This is just for the Court's edification.

01:37 22 BY MR. KANNER:

01:37 23 Q. This is the risk matrix, is it not, sir?

01:37 24 A. It looks like it. I can't quite read it on the chart.

01:37 25 Q. It's not really such a great picture.

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01:37 1 Let me just read the last -- let me just read the top
01:37 2 line there, if I might: Under health and safety, greater than
01:37 3 200 acute or chronic injuries; it talks about environmental
01:37 4 impact, greater than 100,000 barrels of oil; financial loss,
01:37 5 greater than \$10 billion; reputational damage would be global
01:37 6 outrage, global brand damage, and/or affecting international
01:37 7 legislation.

01:38 8 Do you see that?

01:38 9 A. Yes. I see it on the document, yes.

01:38 10 Q. So that's the worst-case scenario, correct? And given the
01:38 11 amount -- the severity of such a disaster over -- I think your
01:38 12 company has spent, what, over \$34 billion responding to this
01:38 13 disaster?

01:38 14 A. It's a large number like that. I don't know it off the
01:38 15 top of my head.

01:38 16 Q. So no amount of money is too much to avoid a recurrence of
01:38 17 that kind of disaster; isn't that right?

01:38 18 A. I don't understand the question.

01:38 19 Q. You would want to spend -- as a corporation, you would
01:38 20 want to take the actions and spend whatever money is necessary
01:38 21 to avoid or further minimize the risk of a recurrence of the
01:38 22 *Deepwater Horizon* disaster?

01:38 23 A. The purpose of any type of a risk assessment, in my way of
01:38 24 thinking about it, is to enable that -- you know, thinking how
01:38 25 bad could this be, what's the appropriation mitigations to have

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01:39 1 in place.

01:39 2 Q. Isn't it true that no specific risk assessment was done
01:39 3 associated with the drilling of this well, MC252, and possible
01:39 4 consequences it would have to the shoreline of Louisiana,
01:39 5 Alabama, or any of the Gulf states?

01:39 6 A. You're asking if that's the case? Could you say the
01:39 7 question again?

01:39 8 Q. Yes. You didn't do a risk assessment before you undertook
01:39 9 operations at MC252; isn't that correct?

01:39 10 A. I don't believe that's correct.

01:39 11 Q. You think there was a risk assessment done?

01:39 12 A. Of some form, yes.

01:39 13 Q. Of some form. So you're not sure it was a very good risk
01:39 14 assessment?

01:39 15 A. I wasn't a member of the Macondo team. It's not something
01:39 16 I had firsthand knowledge of. I can speak to the things we
01:39 17 looked at in our inquiry, in our investigation.

01:39 18 Q. Well, let's talk about that. Tony Hayward called you,
01:39 19 asked you to do this investigation, correct?

01:39 20 MS. KARIS: Your Honor, this is cumulative and
01:39 21 repetitive with what plaintiffs have already covered.

01:39 22 MR. KANNER: I'm just directing --

01:39 23 BY MR. KANNER:

01:39 24 Q. Do you recall your earlier testimony that Mr. --

01:40 25 THE COURT: Let's see where it goes. Go ahead,

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01:40 1 Mr. Kanner.

01:40 2 **BY MR. KANNER:**

01:40 3 **Q.** Was it your understanding, after talking to Mr. Hayward,
01:40 4 that your job was to create a document that would avoid the
01:40 5 recurrence of another *Deepwater Horizon* disaster, or was it to
01:40 6 help the company create a narrative to deal with the fallout
01:40 7 from this worst-case scenario?

01:40 8 **A.** My understanding was that my task was exactly what was
01:40 9 represented in the terms of reference, which we looked at
01:40 10 yesterday.

01:40 11 **Q.** So if your goal was to avoid a recurrence or to mitigate
01:40 12 the risk of a disaster, can you tell me why a conscious
01:40 13 decision was made to keep process safety out of it?

01:40 14 **A.** A conscious -- that decision wasn't made.

01:40 15 **Q.** Can you tell me why process safety has not been
01:40 16 implemented at BP until the criminal plea agreement which we
01:41 17 talked about earlier today?

01:41 18 **A.** That's not the case, in my experience.

01:41 19 **Q.** If your goal had truly been to do a report that would
01:41 20 avoid a recurrence or mitigate the risk of a recurrence of the
01:41 21 *Deepwater Horizon*-type disaster, why would you leave Hafle and
01:41 22 Vidrine and their e-mails and their phone calls out of your
01:41 23 report? And for that matter, why would you leave the
01:41 24 Guide/Sims e-mails out of the report?

01:41 25 **A.** As I explained, in the process for developing the report,

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01:41 1 we considered all the information available: engineering data,
01:41 2 technical data, and those interview notes. And the team put
01:41 3 those all together to come to our views. So no one piece of
01:41 4 information had a particular position in the report.

01:41 5 Q. Your testimony, then, is you didn't make a decision to
01:41 6 keep process safety out of the report, correct?

01:41 7 A. Correct.

01:41 8 MR. KANNER: Could I have Exhibit 1, page 32.

01:42 9 BY MR. KANNER:

01:42 10 Q. This is the Swiss cheese model. We've talked about this
01:42 11 before. This is based -- underneath there it says "adapted
01:42 12 from James Reason." Do you see that?

01:42 13 A. Yes.

01:42 14 Q. Who is James Reason?

01:42 15 A. James Reason is a gentleman who does work in the process
01:42 16 safety space. This was something -- from my awareness,
01:42 17 something that was about the Swiss cheese model, that we
01:42 18 adapted that model for this.

01:42 19 Q. This was an adaptation. There are lots of different ways
01:42 20 to do the Swiss cheese model, even in this particular set of
01:42 21 circumstances; isn't that right?

01:42 22 A. Yeah. As I said, we used this to develop a clear way of
01:42 23 understanding and communicating our understanding of the
01:42 24 accident. We said "adapted" so that we wouldn't, you know, be
01:42 25 placing any particular meaning into the Swiss cheese model

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01:43 1 other than just for that.

01:43 2 **MR. KANNER:** Well, let's take a look, if we could, at
01:43 3 Exhibit 860. Second page.

01:43 4 **BY MR. KANNER:**

01:43 5 **Q.** Before we get to that, who is Sam DeFranco and Jim
01:43 6 Weatherbee?

01:43 7 **A.** Jim Weatherbee was working with me in the investigation
01:43 8 team, in developing the report.

01:43 9 Sam also is a BP guy. He did some work in the hazard
01:43 10 analysis part of the investigation.

01:43 11 **Q.** He's saying, "Jim, if you decide to change the Swiss
01:43 12 cheese model, this is the version used in the E&P segment
01:43 13 engineering management."

01:43 14 Do you see that?

01:43 15 **A.** Yes.

01:43 16 **MR. KANNER:** Can I have the next page.

01:43 17 **BY MR. KANNER:**

01:43 18 **Q.** Now, in this Swiss cheese model, you look at the hazards,
01:43 19 you look at the consequence, but you're also looking at factors
01:44 20 like inherent safety, engineering safety, and procedural
01:44 21 safety. Do you see that?

01:44 22 **A.** Yes, I see that.

01:44 23 **Q.** Under inherent safety, you would try to talk about things
01:44 24 like standardization of processes in order to maximize safety,
01:44 25 lessons learned, engineering safety, competent contractors. Do

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01:44 1 you see all of that?

01:44 2 A. I see all the things on the document, yes.

01:44 3 Q. Then you have just one slice of cheese dealing with
01:44 4 people. Do you see that at the end?

01:44 5 A. Yes, the procedural safety piece, yes.

01:44 6 Q. Do you believe that safety is a team effort?

01:44 7 A. I don't know what you mean by that.

01:44 8 Q. Okay. Good. I didn't know what Mr. McKay meant by that
01:44 9 either.

01:44 10 Does the company have a policy of sharing its
01:44 11 safety -- process safety with contractors and asking the
01:44 12 contractors, in turn, to share their information and have a
01:44 13 process for sitting down and actually working through that to
01:45 14 make sure that they're integrated? Is that something you
01:45 15 uncovered during the course of your investigation?

01:45 16 MS. KARIS: I would like to renew my objection.

01:45 17 THE COURT: I sustain it now. This is getting very
01:45 18 cumulative and repetitive, Mr. Kanner, at this point.

01:45 19 MR. KANNER: Thank you, Your Honor.

01:45 20 BY MR. KANNER:

01:45 21 Q. Last slide, 861. This is the hazard barrier diagram that
01:45 22 was also circulated and considered by your group. Do you
01:45 23 recall why these other versions were not used?

01:45 24 A. Not particularly. We were trying to find a way to make a
01:45 25 clear and comprehensible understanding of what we learned in

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01:45 1 the incident.

01:45 2 Q. Now, on your model you only have one thing after the
01:45 3 disaster, the BOP slice. Do you see that? Do you recall that?

01:45 4 A. Yes.

01:45 5 Q. Why didn't you consider other matters that would have
01:45 6 mitigated the consequence of the disaster in terms of
01:46 7 environmental impacts, human safety issues, etc.? Why didn't
01:46 8 you consider anything other than the BOP, which we all know is
01:46 9 not a failsafe?

01:46 10 A. Well, the terms of reference of the investigation was to
01:46 11 cover the things up to the -- what allowed the event to happen.
01:46 12 It was not to look at things after that.

01:46 13 Q. If you are looking at what happened, to do anything more
01:46 14 than just tell a story or narrative to the media, you want to
01:46 15 identify the specific issue that will help you as a company
01:46 16 change your conduct from the lessons learned; isn't that right?

01:46 17 MS. KARIS: Your Honor, I'm going to make the same
01:46 18 objection. The same territory was covered twice previously.

01:46 19 THE COURT: It really has, but I will let the witness
01:46 20 answer if he can.

01:46 21 THE WITNESS: Could you just repeat it one time,
01:46 22 please.

01:46 23 THE COURT: Let me read it. I have it exactly.

01:47 24 If you are looking at what happened, to do
01:47 25 anything more than just tell a story or narrative to the media,

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01:47 1 you want to identify the specific issue that will help you as a
01:47 2 company change your conduct from the lessons learned; isn't
01:47 3 that right?

01:47 4 **THE WITNESS:** I can't disagree with the statement. I
01:47 5 needed to explain what I was doing with my investigation report
01:47 6 and the purpose of it.

01:47 7 **BY MR. KANNER:**

01:47 8 **Q.** To the best of your knowledge, did BP continue drilling
01:47 9 exploratory wells in other parts of the world while your
01:47 10 investigation was ongoing?

01:47 11 **A.** I believe that's the case.

01:47 12 **MR. KANNER:** No further questions. Thank you very
01:47 13 much.

01:47 14 **THE COURT:** Thank you.

01:47 15 **MR. KANNER:** Thank you for the time, Your Honor.

01:47 16 **THE COURT:** Transocean.

01:47 17 **MS. KARIS:** Your Honor, I think based on the
01:47 18 agreement we have reached --

01:47 19 **THE COURT:** You're going to go next?

01:47 20 **MS. KARIS:** Thank you, Your Honor.

01:47 21 Good afternoon, Your Honor. Hariklia Karis on
01:47 22 behalf of BP. I will be doing the direct of Mr. Bly.

DIRECT EXAMINATION

01:48 24 **BY MS. KARIS:**

01:48 25 **Q.** Mr. Bly, you gave us a pretty extensive overview of your

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01:48 1 employment history, and so I'm not going to walk back through
01:48 2 it; but can you just tell us how many years you have been
01:48 3 involved in the oil and gas industry?

01:49 4 A. Approximately 30 years overall.

01:49 5 Q. In the course of those 30 years, have you been involved
01:49 6 both in operational positions as well as leadership positions
01:49 7 in operations and safety?

01:49 8 A. Yes, I have.

01:49 9 Q. In 2008, March of 2008, you were asked to become the group
01:49 10 head of safety and operations for BP, correct?

01:49 11 A. That's correct.

01:49 12 Q. When we say "group head," what do we mean?

01:49 13 A. That means I headed that -- I led that -- what we call
01:49 14 functional part of the company.

01:49 15 Q. You have referred to a functional part of the company.
01:49 16 Can you explain to the Court what the difference is between the
01:49 17 functional part versus a line.

01:49 18 A. So the distinction I'm using is that the line represents
01:49 19 the chain of command down to the operating activity. The line
01:49 20 is accountable for running operations, running drilling, etc.

01:50 21 The functional side may have discipline expertise
01:50 22 like engineering or safety, etc., like mine did, and provide
01:50 23 support to that line organization and delivery of their
01:50 24 objectives.

01:50 25 Q. At the time you were asked to become the head of safety

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01:50 1 and operations, or S&O, as it's come to be known, were you
01:50 2 moving from a functional position to a different functional
01:50 3 position?

01:50 4 A. I'm sorry. Could you say the question again.

01:50 5 Q. Sure. When you were asked to be the head of S&O, were you
01:50 6 coming from a different --

01:50 7 THE COURT: We are getting a little humming there.

01:50 8 MS. KARIS: Yeah. I think the problem is this is too
01:50 9 close to my head.

01:50 10 THE COURT: See if you have another place to clip it.
01:50 11 Maybe your collar.

01:50 12 MS. KARIS: I had it on my collar. That's why we --
01:50 13 can we try that and see if that works?

01:50 14 THE COURT: Whatever is comfortable for you. I was
01:50 15 just trying to help you out.

01:50 16 BY MS. KARIS:

01:50 17 Q. When you moved to the position of head --

01:51 18 THE COURT: We are still getting it.

01:51 19 MS. KARIS: I didn't wear a tie today, so . . .

01:51 20 THE COURT: I tell you I have a lot of sympathy for
01:51 21 women attorneys because men come in their uniforms all the time
01:51 22 and ladies have to decide what to wear, you know.

01:51 23 MS. KARIS: I share that sentiment. Let's see if
01:51 24 this is better.

01:51 25 THE COURT: Okay.

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01:51 1 BY MS. KARIS:

01:51 2 Q. When you moved to the position of head of S&O, were you
01:52 3 moving from a functional role or were you in the line?

01:52 4 A. I was moving from a line role.

01:52 5 Q. Did you come to have an understanding as to why you were
01:52 6 selected to be the head of S&O given that you were moving from
01:52 7 the line?

01:52 8 A. My understanding was that given the success and
01:52 9 accomplishment I had had in making safety and management
01:52 10 system-type improvements in the operations that I led, that
01:52 11 that -- the company felt that would be valuable, to move into
01:52 12 this functional role, to play in that capacity.

01:52 13 Q. Can you give us an overview again of what your
01:52 14 responsibilities were as the head of S&O?

01:52 15 A. Yeah. I covered two or three areas: The development of
01:52 16 the overarching system we have discussed, OMS, and some of the
01:52 17 key practices that sat beneath it; providing support to the
01:52 18 line and to the executive in the implementation of those, and
01:53 19 that included things like capability development programs; and
01:53 20 then we also, as has been touched upon, ran an audit activity,
01:53 21 in support of that.

01:53 22 Q. I would like to discuss a few of those in a little more
01:53 23 detail. But before we do that, you were asked about a phrase
01:53 24 *whether leadership sets the tone from the top*. Do you agree
01:53 25 with that statement?

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01:53 1 A. I agree that leadership does set the tone from the top.

01:53 2 Q. What does that mean to you as the group head of safety and
01:53 3 operations initially and then subsequently as the executive
01:53 4 vice president of safety and operational risk?

01:53 5 A. It means that down any chain of command where you are
01:53 6 trying to get the importance of something like safety to be
01:53 7 understood and appreciated by the organization, what the
01:53 8 leadership does, what the leadership takes interest in, and
01:54 9 what the leadership monitors and measures matters. It has a
01:54 10 big impact on that. And that has to start from the top.

01:54 11 Q. Can you describe for us some of the things that BP's
01:54 12 leadership had done as of 2010, April of 2010, in order to set
01:54 13 the tone that safety is the number one priority within the
01:54 14 company?

01:54 15 A. We touched on some of these earlier: The group operations
01:54 16 risk committee, in which the CEO and the senior line leaders of
01:54 17 the operating organization reviewed and considered safety
01:54 18 information, performance; and then acted, based on that, down
01:54 19 their relative lines.

01:54 20 It was prevalent in communication. And then within
01:54 21 those things, it was paying attention to progress of safety
01:54 22 performance or progress against initiatives like OMS.

01:55 23 **MS. KARIS:** Can we pull up D-4364, please.

01:55 24 **BY MS. KARIS:**

01:55 25 Q. On Demonstrative 4364, which we are displaying here, is

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01:55 1 SEEAC, GORC, the metrics, measuring performance, as you
01:55 2 described it, OMS, the S&O audit function that your team had.

01:55 3 Are those some of the things that you would say set
01:55 4 the tone from the top that leadership is the number one
01:55 5 priority?

01:55 6 A. I think they do when the leaders are engaged in this; and,
01:55 7 of course, the first two, SEEAC and GORC, represent that with
01:55 8 the executive level engagement.

01:55 9 Q. You discussed at some length with Mr. Sterbcow -- we won't
01:55 10 repeat again -- the functions or how SEEAC performs and how
01:56 11 GORC performs, but I'm going to ask you a general question on
01:56 12 those.

01:56 13 Has it been your experience in participating in SEEAC
01:56 14 and GORC that BP's leadership calls -- or asks, I should say,
01:56 15 the line to come and present how they are performing both in
01:56 16 process as well as personal safety?

01:56 17 A. Yes. That happens frequently.

01:56 18 Q. Is there anything about SEEAC's function or GORC's
01:56 19 function that excludes process safety from the risk management
01:56 20 that BP does?

01:56 21 A. Certainly not. In fact, it's central in the discussions
01:56 22 that are had.

01:56 23 Q. Is there anything that SEEAC or GORC does that excludes
01:56 24 process safety with respect to loss of well control?

01:56 25 A. No. No. It's all in the frame.

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01:57 1 Q. You testified earlier that it's important to have metrics
01:57 2 in order to measure the performance. I think I heard you say
01:57 3 that to Mr. Sterbcow. Can you explain why that's the case?
01:57 4 Why is it important to look at your metrics?

01:57 5 A. I think it's important to be able to monitor the trends.
01:57 6 There's different kind of metrics, but safety metrics, process
01:57 7 safety, personal safety allows you to look at trends and see if
01:57 8 things are going the direction that they should be or if
01:57 9 there's any concerns. They can also allow you to look at
01:57 10 subunits of the company to see if there's anything that stands
01:57 11 out there.

01:57 12 So it's the ability to monitor and have a sense, at
01:57 13 least at a high level, of the progress that is happening in the
01:57 14 safety arena out there.

01:57 15 Q. We've heard testimony previously about leading and lagging
01:58 16 indicators. Are those terms that are familiar to you?

01:58 17 A. They are.

01:58 18 Q. Can you tell us what a leading indicator is?

01:58 19 A. A leading indicator is an -- is something that would -- is
01:58 20 an attempt to look at the health of a system or the input side
01:58 21 of getting safety performance improvement gains. Lagging tends
01:58 22 to look, as it sounds, at the outcome, so looking at safety
01:58 23 output statistics or process safety output statistics.

01:58 24 Q. Does SEAC review both leading and lagging indicators when
01:58 25 they are looking at metrics?

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01:58 1 A. Yes, they do.

01:58 2 Q. Similarly, when GORC is reviewing metrics, do they look at
01:58 3 leading and lagging indicators?

01:58 4 A. Yes, they do.

01:58 5 Q. So is it inaccurate to say that BP, at the time of this
01:58 6 incident, was not looking at leading indicators?

01:58 7 A. Leading indicators are always harder, but I think it is
01:59 8 inaccurate because we were -- as I described earlier, we were
01:59 9 looking at things like implementation of OMS progress against
01:59 10 other standards. We were looking at audit information
01:59 11 proactively, which is -- in my view, gets into the leading
01:59 12 phase. So there were several things we looked at that I
01:59 13 believe were leading indicators.

01:59 14 Q. So from your own involvement in SEEAC and GORC, you would
01:59 15 disagree that BP was not -- with the statement that BP was not
01:59 16 looking at leading and lagging indicators at the time of this
01:59 17 incident?

01:59 18 A. I don't agree with that statement, no.

01:59 19 Q. Are you familiar with something called the *orange book*?

01:59 20 A. Yes, I am.

01:59 21 Q. Can you tell us what the orange book is?

01:59 22 A. The orange book is the document that we use to look at
01:59 23 these leading and lagging metrics. It's the -- the metrics are
01:59 24 pulled together at multiple levels in the company, and the
02:00 25 orange book represents those which are pulled all the way up to

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02:00 1 be reviewed and visible at the executive team level.

02:00 2 Q. Which businesses provide metrics or information into the
02:00 3 orange book about their safety performance?

02:00 4 A. All of BP's operating businesses do that.

02:00 5 Q. At the time of the incident, would that have included the
02:00 6 exploration and production business?

02:00 7 A. Yes, it would.

02:00 8 Q. Would that have also included the GoM strategic
02:00 9 performance unit or SPU, as we've heard it called?

02:00 10 A. Yes, that would be included.

02:00 11 Q. Would GoM D&C, drilling and completion, also have been
02:00 12 included in the metrics that were reported into the orange
02:00 13 book?

02:00 14 A. It would have been included within the Gulf of Mexico,
02:00 15 yes.

02:00 16 Q. Does the orange book include only personal safety or
02:00 17 process safety as well?

02:00 18 A. No, it's got process safety as well.

02:00 19 Q. How does the orange book define or describe process safety
02:01 20 with respect to drilling operations?

02:01 21 A. How does the orange book define it?

02:01 22 Q. Is that loss of primary containment? Is that what --

02:01 23 A. I'm sorry. Yeah. It was the same as -- we define it
02:01 24 other ways: loss of containment-type metrics, process safety
02:01 25 incident index metrics.

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02:01 1 MS. KARIS: Can we pull up exhibit or treatment --
02:01 2 Exhibit 03851. If we can just call out the top, please.

02:01 3 BY MS. KARIS:

02:01 4 Q. Exhibit 3851 is minutes of a meeting from the safety,
02:01 5 ethics, and environmental assurance committee as of February 24
02:02 6 of 2010. Is the safety, ethics, and environmental assurance
02:02 7 committee SEEAC, as we have been calling it?

02:02 8 A. Yes, it is.

02:02 9 Q. Did you regularly attend meetings at SEEAC, the SEEAC
02:02 10 meetings?

02:02 11 A. Yes.

02:02 12 MS. KARIS: If we can go to 1.1, please.

02:02 13 BY MS. KARIS:

02:02 14 Q. At the February 24, 2010 meeting, a couple months before
02:02 15 this incident, it's reported here in the SEEAC minutes under
02:02 16 operations risk report: "Mr. Bly reviewed the Q4 2009 HSE and
02:02 17 operations integrity report and noted significant improvements
02:02 18 in performance metrics between 2008 and 2009. He highlighted
02:02 19 close to 300 fewer injuries, reduced loss of containment,
02:02 20 process safety MIAs" -- what are MIAs?

02:02 21 A. That's major incident announcement.

02:03 22 Q. "And a 30 percent reduction in HiPos."

02:03 23 What are HiPos?

02:03 24 A. High potential incidents.

02:03 25 Q. So when you reported to the SEEAC on the performance of

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02:03 1 BP's businesses in the fourth quarter 2009, did you report both
02:03 2 on personal and process safety performance?

02:03 3 A. Yes, I did.

02:03 4 Q. And the reference there to reduced loss of containment,
02:03 5 would that include loss of primary containment, process safety,
02:03 6 as we have been describing it?

02:03 7 A. Yeah, it is. That's what it is, yes.

02:03 8 Q. It goes on to say: "However, he noted that 4Q had shown a
02:03 9 deterioration over 3Q, and significant integrity management
02:03 10 incidents were still occurring."

02:03 11 Do you see that?

02:03 12 A. Yes.

02:03 13 Q. Was that an indication that the company was continuing to
02:03 14 monitor its performance both in personal and process safety?

02:04 15 A. It's monitored continuously. We looked at it periodically
02:04 16 through the quarterly -- the orange book, absolutely.

02:04 17 Q. The next paragraph -- I believe you testified earlier in
02:04 18 response to Mr. Sterbcow's questions that you had a general
02:04 19 familiarity with what the state of play was for implementation
02:04 20 of OMS throughout the company. Is that correct?

02:04 21 A. Right. We had this tracking mechanism that I described.

02:04 22 Q. Does this next paragraph describe that tracking mechanism?

02:04 23 It says: "Mr. Bly highlighted developments in live
02:04 24 areas. OMS has been implemented in 70 operating sites, group
02:04 25 engineering practices have been solidified, HSE compliance was

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02:04 1 receiving more attention, and management reporting good
02:04 2 progress had been made."

02:04 3 Is that what that's referring to?

02:04 4 A. Yes. For the OMS part in particular, that was the point
02:04 5 when we were looking at this conversion over to OMS unit by
02:05 6 unit.

02:05 7 Q. So as of February 24, 2010, was the GoM strategic
02:05 8 performance unit one of those 70 operating sites that had, in
02:05 9 fact, implemented OMS?

02:05 10 A. Could you say the date for me again?

02:05 11 Q. Sure. The date of these notes, which was February of
02:05 12 2010.

02:05 13 A. Yeah. As I said earlier, I know the Gulf of Mexico
02:05 14 went -- converted over in 2008 in the first instance, and they
02:05 15 completed that in 2009 when D&C went across.

02:05 16 Q. So to the extent anyone has said the GoM SPU had not
02:05 17 implemented OMS, is that inconsistent with your recollection,
02:05 18 you, the person who reported to SEEAC on the progress?

02:05 19 A. It would have certainly been counted in this tracker as
02:05 20 having been converted across.

02:05 21 Q. With respect to the GoM strategic performance units
02:05 22 drilling and completions operations, D&C for GoM, had they,
02:06 23 too, implemented OMS as of February of 2010?

02:06 24 A. My recollection is that they had completed their
02:06 25 transition by the end of 2009, so yes.

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02:06 1 Q. I want to talk about a couple of the other looked-at
02:06 2 metrics and talk about your role in that. I want to talk about
02:06 3 a couple of the other areas that you were involved in as part
02:06 4 of your responsibilities as head of S&O.

02:06 5 You mentioned the S&O audit process. Can you
02:06 6 describe for us what the S&O audit process was as of
02:06 7 April 2010?

02:06 8 A. As of 2010, this is a team that moves around the company
02:06 9 and conducts audits at operating units. They do it on a sort
02:07 10 of a risk-based approach, so they don't hit every unit every
02:07 11 year or anything like that. They hit them periodically. So in
02:07 12 any given year, we will sample, you know, 10 to 20, depending
02:07 13 on the size of the audits; and then that goes on in a rotation.

02:07 14 What this team does is to audit the operation versus
02:07 15 a standard like OMS, getting HSE right or whatever it is at the
02:07 16 time. So in 2010, it would have been moving towards OMS.

02:07 17 Q. Do the audits look for gaps, what have been described as
02:07 18 gaps?

02:07 19 A. Yeah, they audit what they see, and they will describe if
02:07 20 there are no gaps or they are minimal, they will describe that,
02:07 21 all the way up to if they see a significant gain in gaps, those
02:07 22 will be highlighted as well.

02:07 23 Q. Can you define for us what a gap is with respect to an S&O
02:08 24 audit?

02:08 25 A. It will be the difference between the practice that they

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02:08 1 can see on the ground and what's called for in the standard
02:08 2 that they are auditing against.

02:08 3 Q. I believe you testified earlier in response to
02:08 4 Mr. Sterbcow's questions that identifying gaps can be a good
02:08 5 thing. Can you explain to us what you meant.

02:08 6 A. Well, it's built into OMS. It calls for at each level of
02:08 7 the company to continually assess the state of operations, the
02:08 8 state of play, and look for opportunities to improve, or gaps.

02:08 9 So the reason that I think it's good is that having
02:08 10 the process to force those to the surface causes management to
02:08 11 look at them and accountable management to act on them. So I
02:08 12 think it is good to illuminate gaps.

02:08 13 Q. As somebody who has been in this industry for almost three
02:08 14 decades, in your view, is identifying gaps and prioritizing
02:09 15 those gaps part of acting in a safety-minded way?

02:09 16 A. I think it's really important to be safe and be able to
02:09 17 illuminate, to do exactly that: illuminate gaps and improve
02:09 18 against them.

02:09 19 Q. Now, once gaps are identified by S&O, where does the
02:09 20 responsibility lie for prioritizing and closing those gaps?

02:09 21 A. As with all matters about safety, the accountability lies
02:09 22 with the line. They are accountable for the operation, they
02:09 23 are accountable for the safety of the operation; and the
02:09 24 extension of that is if there's a gap, they are accountable to
02:09 25 get that closed.

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02:09 1 Q. Given that the function, S&O performs the audit, why does
02:09 2 responsibility for close -- prioritizing and closing gaps rest
02:09 3 with the line, or the operations?

02:09 4 A. Well, the closing of a gap will result from the operation
02:09 5 making adjustments, you know, changing something, changing a
02:10 6 procedure, changing a practice. So only the operation can
02:10 7 achieve the closure. S&O audit is used to identify it and in
02:10 8 some cases track it to closure, have an independent monitoring
02:10 9 if that happens. But the operating organization has to close
02:10 10 the gap.

02:10 11 Q. So with respect to the GoM strategic performance unit, for
02:10 12 any S&O gaps that have been identified, would it have rested
02:10 13 with their leadership to prioritize and close those gaps?

02:10 14 A. It would.

02:10 15 Q. You also testified that one of your other roles was S&O
02:10 16 functional support, I think is how you describe it.

02:10 17 A. Yes.

02:10 18 Q. Can you describe for us what your responsibility -- first
02:10 19 of all, what do you mean by *functional support*?

02:10 20 A. It's really providing discipline expertise. So within the
02:10 21 function, we've have got specialists, subject matter experts
02:10 22 across a range of activities: health, safety, environment,
02:11 23 engineering, process safety, and so forth.

02:11 24 Having developed standards of practices, as we
02:11 25 described in the first point, this is to support the businesses

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02:11 1 in enabling them to utilize those effectively. So it could be
02:11 2 in the form of advice, it could be in the form of teaching and
02:11 3 training, which we do some of. I consider the coordination of
02:11 4 things like the metrics process part of that support activity.

02:11 5 Q. Were you providing that functional support to the
02:11 6 businesses as of April of 2010?

02:11 7 A. Yes.

02:11 8 Q. Was providing that functional support, in your view,
02:11 9 another indicator of being safety-minded and assisting with
02:11 10 operations to the extent it was necessary?

02:11 11 A. It was certainly assisting with operations in achieving
02:11 12 safety improvements.

02:11 13 Q. You mentioned providing training or performance capability
02:12 14 would have been included in what you were doing?

02:12 15 A. Yes.

02:12 16 Q. First of all, can you tell us what, if any, training
02:12 17 programs you had developed overseeing as the group head of S&O
02:12 18 as of April 2010?

02:12 19 A. There are a number of programs that we operate across the
02:12 20 group. There's a thing called the "Operating Academy," which
02:12 21 is a very senior level program, six-week program; a program
02:12 22 called "Managing Operations"; one called "Operating
02:12 23 Essentials"; and then there's some small ones below that.

02:12 24 Q. We heard a little bit about Operations Academy earlier
02:12 25 this week from Dr. Bea. Have you ever attended the Operations

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02:12 1 Academy at MIT?

02:12 2 A. I have. I attend it frequently and meet with the cadres
02:12 3 and discuss things with them.

02:12 4 Q. Have you ever presented as part of that program?

02:12 5 A. Yes, I have.

02:12 6 Q. What are some of the subjects you presented at MIT as part
02:13 7 of the Operations Academy?

02:13 8 A. I'll typically be using my time with the group to
02:13 9 reinforce the importance of the priorities in the company, so
02:13 10 safety, getting OMS brought to life, leadership and culture,
02:13 11 those kind of things. So I will tend to use it as an
02:13 12 opportunity for me to give my perspectives to this group about
02:13 13 what we are trying to accomplish.

02:13 14 Q. Did I hear you say that's a six-week program?

02:13 15 A. It is a six-week program.

02:13 16 Q. At what level do various members attend; that is, is it
02:13 17 leadership? Or who attends?

02:13 18 A. Yeah, this is leadership. This tends to be site leaders.
02:13 19 I call it site leaders and leaders of site leaders. So this
02:13 20 would be fairly senior people in the company this is targeting.

02:13 21 Q. You said one of the things you present on is
02:13 22 "communicating the message of safety is our number one
02:13 23 priority"?

02:13 24 A. Yes.

02:13 25 Q. Tell us how you do that.

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02:13 1 A. It's a variety of ways. I tend to -- I have sort of S&O
02:14 2 strategy piece that I talk to them about that really reinforces
02:14 3 the point of OMS, why it's integrated, why it's holistic, why
02:14 4 it looks at all aspects, from people in the organization, to
02:14 5 procedure, to risk, you know, as it goes around the wheel. We
02:14 6 talk about our values and how those two things come together to
02:14 7 accomplish safe outcomes.

02:14 8 And then we talk about what is happening in the
02:14 9 training. Because we teach concepts, but we are also teaching
02:14 10 people practical application of tools to go and make this stuff
02:14 11 work in their leadership roles back in the operations.

02:14 12 Q. Are you familiar with the Operations Academy executive
02:14 13 program?

02:14 14 A. I am.

02:14 15 Q. Can you tell us a little bit about what that program is?

02:14 16 A. What we have done with that is, occasionally we will pull
02:14 17 together a synopsis of this six-week program and use that for
02:14 18 even more senior people in the company, to give them a
02:15 19 perspective about the core topics inside the education program.

02:15 20 Q. Have you personally attended that program?

02:15 21 A. I have.

02:15 22 Q. Have you also presented at that program?

02:15 23 A. I have.

02:15 24 Q. What are the types of things you present there?

02:15 25 A. It's the same kind of thing. It's process safety risks,

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02:15 1 it's leadership culture, and systematic management is the big
02:15 2 topics.

02:15 3 Q. Are you familiar with the Projects and Engineering
02:15 4 Academy?

02:15 5 A. I am.

02:15 6 Q. Can you tell us what that program is about?

02:15 7 A. It's a similar thing. It's also a multiweek program
02:15 8 targeted at senior people. Its orientation is more towards the
02:15 9 front end, the project design and development end of the
02:15 10 operations. So it's got similar, but some specialized things
02:15 11 that they teach about project management and so forth.

02:15 12 Q. We won't go into a whole bunch of the other programs. But
02:15 13 are those a snapshot of the various programs BP had in place at
02:16 14 the time of the incident to communicate the message that safety
02:16 15 is the number one priority?

02:16 16 A. Those are a snapshot of our programs, yes.

02:16 17 Q. Was S&O -- and you, as the group head of S&O, had personal
02:16 18 involvement in those programs, correct?

02:16 19 A. I did. And many of the executive colleagues went through
02:16 20 and met with the cadres just like I did.

02:16 21 Q. We've talked about OMS. I want to discuss OMS a little
02:16 22 further.

02:16 23 What was your role in connection with developing the
02:16 24 OMS that was in place at the time of this incident, that is,
02:16 25 Version 2 of the OMS?

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02:16 1 A. So as the head of S&O, there was a part of my team called
02:16 2 the *group head of operations*. And that person who worked for
02:16 3 me was our guy who was accountable for creating OMS. Now, he
02:17 4 had lots of support, and I worked with him.

02:17 5 So my role was -- by the time I took the job, it was
02:17 6 pretty well developed. It was to get it completed during the
02:17 7 course of 2008, get the implementation plans put together with
02:17 8 the businesses. And then, you know, as we said earlier, launch
02:17 9 the thing in November 2008.

02:17 10 Q. And we keep calling it OMS. Does that stand for operating
02:17 11 management system?

02:17 12 A. Yes, it does.

02:17 13 Q. What is the purpose for having an operating management
02:17 14 system, or OMS?

02:17 15 A. At the highest level, it is to continue to reduce risk and
02:17 16 manage risk better. And it's also to continue to improve the
02:17 17 quality of operating activity.

02:17 18 Q. Is it important for your operating management system to
02:17 19 encompass personal as well as process safety?

02:17 20 A. Yes, it is.

02:17 21 Q. The operating management system that you were responsible
02:17 22 for, did that, in fact, include personal and process safety?

02:18 23 A. Yes, it does.

02:18 24 Q. Was there any aspect at any time, to your familiarity,
02:18 25 from OMS where you excluded process safety?

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02:18 1 A. No, quite the opposite. It's an integrated system and it
02:18 2 holds all of that.

02:18 3 Q. Now, you testified earlier yesterday, perhaps, that OMS
02:18 4 was rolled out in 2008, if I recall correctly.

02:18 5 A. The fall, right.

02:18 6 Q. November of 2008. Did BP have a safety management system
02:18 7 in place before OMS went into effect?

02:18 8 A. Yes, it did.

02:18 9 Q. What was that system?

02:18 10 A. Excuse me. It was called *getting HSSE right*, getting
02:18 11 health, safety, security, and environment right.

02:18 12 Q. For the businesses that had not yet implemented OMS, were
02:18 13 they still operating under *getting HSSE right*?

02:18 14 A. Yes, they were.

02:19 15 Q. If you had *getting HSSE right*, why did you develop a new
02:19 16 safety management system?

02:19 17 A. The decision -- that was a bit before my time, but I have
02:19 18 learned about it and supported it. What OMS does is, it fully
02:19 19 integrates safety with operating practice. So instead of
02:19 20 having a safety thing that's separate from the way you run
02:19 21 operations, this system put it all together. So the operating
02:19 22 organization treats it as one holistic agenda. It helps to
02:19 23 treat it as one holistic agenda. That's one part.

02:19 24 Then the second part that I think made it a good
02:19 25 reason to change was that in OMS, we really emphasize the

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02:19 1 performance improvement cycle aspect, the requirements to
02:19 2 annually assess and reassess risk and conformance and set
02:19 3 priorities and things. That existed in the old system, but it
02:19 4 just wasn't as strong. It's a central feature of OMS.

02:20 5 **MS. KARIS:** We will talk about the performance
02:20 6 improvements, but before we do that, if we can pull up
02:20 7 TREN-45008.

02:20 8 **BY MS. KARIS:**

02:20 9 **Q.** Is this the operating management system that was put in
02:20 10 place by BP In November of 2008?

02:20 11 **A.** Yes. This is the overview of it.

02:20 12 **Q.** How many parts does this overview consist of?

02:20 13 **A.** There are four parts to the OMS documentation.

02:20 14 **MS. KARIS:** If we can go to the next page.

02:20 15 **BY MS. KARIS:**

02:20 16 **Q.** Right at the cover it says: "The operating management
02:20 17 system sets out BP's principles for operating and provides a
02:20 18 framework to help deliver the essentials, then excellence in
02:21 19 operating."

02:21 20 Does that, in a nutshell, state what the purpose of
02:21 21 OMS is?

02:21 22 **A.** Yes. It's a good statement, yes.

02:21 23 **MS. KARIS:** If we can go now to .13.1.

02:21 24 **BY MS. KARIS:**

02:21 25 **Q.** This is from a page in the OMS, Mr. Bly, page 22. It

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02:21 1 says: "The group S&O function is accountable for defining the
02:21 2 OMS framework and supporting documentation, clearly specifying
02:21 3 the OMS requirements, driving commonality of approach across BP
02:21 4 and auditing OMS."

02:21 5 Would that have been the function for which you were
02:21 6 responsible -- or the head of, I should say --

02:21 7 A. Yes, that's right.

02:21 8 Q. -- at this time?

02:21 9 Then it refers to transition to OMS: "The decision
02:21 10 as to when each operating entity should start to implement the
02:22 11 OMS will be taken by the relevant EVP" -- is that executive
02:22 12 vice president?

02:22 13 A. Yes, it is.

02:22 14 Q. "GVP," group vice president?

02:22 15 A. That's right.

02:22 16 Q. And "SPU," strategic performance unit?

02:22 17 A. Leader.

02:22 18 Q. Leader. Okay.

02:22 19 "Every operating entity will continue to use gHSEr as
02:22 20 the basis of its management system until a management of change
02:22 21 process is completed which authorizes the switchover to OMS."

02:22 22 Can you tell us why the decision was made to have the
02:22 23 operating entities make the decision as to when they are going
02:22 24 to implement OMS?

02:22 25 A. I might have mentioned earlier today the overarching goal

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02:22 1 that we set for the company was to get the switchover done in
02:22 2 two years.

02:22 3 Beneath that, we felt it was appropriate to allow the
02:23 4 operating entities, in agreement with their chain of command,
02:23 5 to set the pacing and the sequence with which they converted
02:23 6 their underlying units. This would allow them to sequence
02:23 7 things so as to be able to learn from one another and what have
02:23 8 you. So it was sort of saying that you want to get there in
02:23 9 two years, but you have the option about what pace -- what
02:23 10 sequence you do that in.

02:23 11 Q. The Gulf of Mexico strategic performance unit leader, as
02:23 12 of 2008, Mr. Shaw, had he made a decision as to when they were
02:23 13 going to implement OMS, to your knowledge?

02:23 14 A. My recollection is that the Gulf -- I'm sorry. The Gulf
02:23 15 of Mexico is one of the early adopters. And with that site, I
02:23 16 think they decided to do part of the unit. They did it in one
02:23 17 or two steps, maybe three steps. So they did part of it by the
02:23 18 end of 2008 and another part by the end of 2009, you know, both
02:23 19 well before the ultimate goal of 2010.

02:24 20 Q. That was going to be my question. They did it before the
02:24 21 deadline, if you will?

02:24 22 A. Yes. That's my understanding.

02:24 23 MS. KARIS: Let's go to 45008.13.1.

02:24 24 I'm sorry. Go to 45006.7.1.

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02:24 1 BY MS. KARIS:

02:24 2 Q. We spent a lot of time talking about whether or not the
02:24 3 Gulf of Mexico SPU, and specifically drilling and completions,
02:25 4 had implemented OMS.

02:25 5 I know you have testified to that already, but I want
02:25 6 to ask you, does the OMS that you signed and approved and
02:25 7 issued in November of 2008 set out the specific steps that are
02:25 8 necessary in order to implement OMS?

02:25 9 A. Yes. As I said earlier, there are specific steps required
02:25 10 to make that switchover process.

02:25 11 Q. So it's not a subjective test, if you will, as to whether
02:25 12 a unit has or hasn't implemented OMS. There are specific
02:25 13 requirements to do that; is that correct?

02:25 14 A. To make that move, to say I'm now operating under OMS,
02:25 15 that's right.

02:25 16 Q. Is what we are looking at here in -- this document,
02:25 17 45006.7.1, does that set forth the steps that are necessary in
02:25 18 order for a line or business unit to implement OMS?

02:26 19 A. The first three do. The fourth one, 3.4, is actually
02:26 20 above the individual business unit. It's a requirement for the
02:26 21 segment. But it all goes together, yes.

02:26 22 Q. So the first one says, 3.1: "MOC process *from getting*
02:26 23 *HSSE right* to OMS. Before transitioning from
02:26 24 *getting HSSE right* to OMS, all entities shall complete the OMS
02:26 25 [verbatim] process described in Appendix 1."

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02:26 1 A. The MOC process.

02:26 2 Q. MOC. Sorry. MOC.

02:26 3 3.2: "OMS group essentials gap assessment. As part
02:26 4 of the MOC process to transition from *getting HSSE right* to
02:26 5 OMS, entities shall complete a full OMS group essentials gap
02:26 6 assessment using the group gap assessment tool as described in
02:26 7 Appendix 2."

02:26 8 Is this the requirement that before an entity can
02:27 9 implement OMS, they have to do a gap assessment?

02:27 10 A. Yes. It says and using that specific tool.

02:27 11 Q. Then it says: "This assessment shall be facilitated by a
02:27 12 person external to the entity who has been trained by group S&O
02:27 13 and approved by the segment/SPU operating authority detailed in
02:27 14 Appendix 4."

02:27 15 Can you describe for us what that is? What's that
02:27 16 saying?

02:27 17 A. So as part of the organizational structure to support S&O,
02:27 18 we have a thing called the *segment* or *SPU operating authority*.
02:27 19 So that's someone that will sit out -- at this time -- out in
02:27 20 the line organization, and they will be knowledgeable about
02:27 21 safety or OMS or whatever the topic is. This is about
02:27 22 integrating OMS and safety management.

02:27 23 So the way we set this up was my team, the guys that
02:28 24 had created OMS, sort of vetted these people and said, "Yeah,
02:28 25 you understand the system well enough. You can now go and look

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02:28 1 at a business in your area and give an independent view as to
02:28 2 the quality of their gap assessment before they do this MOC."

02:28 3 Q. Is there an expectation that all gaps be closed before you
02:28 4 can transition to OMS?

02:28 5 A. No.

02:28 6 Q. Why not?

02:28 7 A. Well, because, as I mentioned earlier, the process of
02:28 8 continuously seeking gaps and prioritizing them and closing
02:28 9 them will be an evergreen process. The businesses will be
02:28 10 asked to do that at least every year.

02:28 11 So the goal is not to have the gaps closed to the
02:28 12 MOC. It's to say that we can now organize our business into
02:28 13 the structure. We can compare the current way that we do
02:28 14 things against these expectations, and we can identify where
02:28 15 there are gaps to work on or close.

02:29 16 Q. Have you heard of something called *elements of OMS*?

02:29 17 A. Yes, I have.

02:29 18 MS. KARIS: If we can go to 45002.3.1.

02:29 19 I'm sorry. If you can go back one second. I
02:29 20 skipped the last one. Back to the prior exhibit. There you
02:29 21 go.

02:29 22 BY MS. KARIS:

02:29 23 Q. Just very briefly, 3.3, the LOMS handbook, the local
02:29 24 operating management system handbook: "Every entity shall
02:29 25 develop a local operating management handbook that complies

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02:29 1 with the requirements described in Appendix 3."

02:29 2 Is that a necessary step before they can transition
02:29 3 to OMS?

02:29 4 A. Yes, it was. That was one of the requirements.

02:29 5 Q. So when it was represented to you earlier today that there
02:29 6 was no local operating management system handbook for D&C,
02:30 7 given that D&C had in fact implemented OMS, would that lead you
02:30 8 to conclude that that statement is not accurate?

02:30 9 A. I don't recall it being represented that way, but I would
02:30 10 say this requirement would have had to be met to make that
02:30 11 shift over.

02:30 12 Q. Fair enough. Given that they had shifted over, you would
02:30 13 expect there to be a local operating management system
02:30 14 handbook?

02:30 15 A. I would.

02:30 16 Q. I'm sorry. Now, let's go to the elements. 45002.3.1.
02:30 17 Can you describe for us briefly -- let's go to .3.1, please.

02:30 18 Mr. Bly, it says here: "Approved by Mark Bly, group
02:30 19 head S&O function." Did you approve this?

02:30 20 A. Yes, I did.

02:30 21 Q. Can you describe for us what these elements of OMS are,
02:30 22 overview?

02:30 23 A. So this is the highest level of the system that's
02:31 24 describing the topic areas that are going to be covered as you
02:31 25 go down into it. It's the eight things: leadership,

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02:31 1 organization, optimization, going around the wheel.

02:31 2 I think, for me, this is the place to point out that
02:31 3 this is a holistic system. It's not just a set of procedures
02:31 4 for one thing; it's looking at all aspects associated with
02:31 5 safety and operations management.

02:31 6 Q. Do these various elements apply to personal as well as
02:31 7 process safety?

02:31 8 A. Yes. Within all of them, yes.

02:31 9 Q. Let's talk about just a couple of the elements.

02:31 10 MS. KARIS: If we can go to Element 3, Treatment
02:31 11 45002.23.1, please.

02:31 12 BY MS. KARIS:

02:31 13 Q. One of the elements in OMS is risk. It states there
02:31 14 that -- under Principle: "The workforce at all levels of our
02:31 15 organization understands and manages operating risk to prevent
02:32 16 accidents and harm to people, to reduce damage to the
02:32 17 environment, and to achieve competitive performance."

02:32 18 Then it sets forth what each BP entity shall do. It
02:32 19 says, "Each BP entity shall," and then it list there what needs
02:32 20 to be done: "develop and update at least annually an
02:32 21 entity-level risk register which considers hazards and risks
02:32 22 related to operating performance."

02:32 23 First, can you tell us generally what the purpose is
02:32 24 of Element 3?

02:32 25 A. Element 3 overall is what it says here. It's to focus on

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02:32 1 risk through the various parts of the company.

02:32 2 Is that what you were asking me about the overview?

02:32 3 Q. Yes.

02:32 4 A. Yeah. Okay.

02:32 5 Q. Under the requirement that -- first of all, "each entity,"
02:32 6 what is an entity?

02:32 7 A. An entity is sort of defined by OMS. So the way this
02:32 8 works is, at each -- each node that will have this local OMS
02:33 9 will be called an *entity*. And that's because OMS goes with the
02:33 10 management structure. So an entity is what has a LOMS
02:33 11 handbook.

02:33 12 Q. So would the GoM SPU be an entity under this local OMS --
02:33 13 excuse me -- under OMS?

02:33 14 A. Yes, it would.

02:33 15 Q. Would D&C also be an entity?

02:33 16 A. It wouldn't, necessarily. It would typically -- in the
02:33 17 structure at the time that I -- as I understand how E&P was set
02:33 18 up, I think the Gulf of Mexico would have been the entity at
02:33 19 this point.

02:33 20 Q. To your knowledge, with respect to drilling operations, is
02:33 21 the loss of well control one of the risks that were identified
02:33 22 by business as of 2010? And by "business," I mean the GoM
02:33 23 strategic performance unit.

02:33 24 A. Yes, I'm sure it is one of the key ones they identified.

02:33 25 Q. In your role, would you have had access or would you have

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02:34 1 seen the drilling and completions entity risk register?

02:34 2 **A.** So an Entity Level 1 wouldn't necessarily be something
02:34 3 that I would look at. I could go and ask to look at it, but I
02:34 4 would see, you know, in the GORC and so forth, a more
02:34 5 summarized version of those risk registers that looked at
02:34 6 bigger sections of the company.

02:34 7 **MS. KARIS:** If we can pull up TREN-2903, please.

02:34 8 **BY MS. KARIS:**

02:34 9 **Q.** I will represent to you that this is the D&C risk
02:34 10 mitigation plan for the GoM strategic performance unit.

02:34 11 **MS. KARIS:** And if you can go to the bottom, please,
02:35 12 to see the date.

02:35 13 **BY MS. KARIS:**

02:35 14 **Q.** This was signed by Mr. Lacy in October of 2009.

02:35 15 So you were asked several questions this morning
02:35 16 about whether D&C in the Gulf of Mexico had a risk register and
02:35 17 whether they had identified the risks associated with drilling.

02:35 18 **MS. KARIS:** If you will go to the top and call out
02:35 19 "Description of risk."

02:35 20 **BY MS. KARIS:**

02:35 21 **Q.** Description of risk in effect as of October of 2009,
02:35 22 signed by Mr. Lacy: "Risks that uncontrolled flow during
02:36 23 drilling, completion, or well intervention activities have the
02:36 24 potential for loss of well control, LOWC; release of
02:36 25 hydrocarbons; and potential environmental damage, ENVA4; and

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02:36 1 could, if ignited, lead to fire and explosion. This plan
02:36 2 applies to BP-owned rigs in the Gulf of Mexico, Thunder Horse,
02:36 3 Holstein, and Mad Dog, along with all contracted MODUs, mobile
02:36 4 offshore drilling units, operating in the SPU fleet."

02:36 5 Was the *Deepwater Horizon* one of the contracted MODUs
02:36 6 that existed -- contracted to BP's D&C as operations in 2009.

02:36 7 A. Yes, it was.

02:36 8 Q. Was it also one of the MODUs that were contracted in 2010?

02:37 9 A. Yes, it was.

02:37 10 Q. So does this risk register identify at least the risk of
02:37 11 loss of well control, the process safety risk for a MODU
02:37 12 conducting drilling operations and contracted to BP?

02:37 13 A. Yes, it appears so. I'm not familiar with the document,
02:37 14 but that does appear to be what it is, yes.

02:37 15 Q. Fair enough.

02:37 16 We were talking about elements. Let's move through
02:37 17 some of these.

02:37 18 MS. KARIS: Let's go to process safety, another one
02:37 19 of the elements, 3.3. And this is in treatment -- I think it's
02:37 20 3.4. Let's try the next page. That's 3.2. We need 3.3.

02:38 21 There you go. Thank you.

02:38 22 BY MS. KARIS:

02:38 23 Q. Again, is this one of the elements of the operating
02:38 24 management system that BP put in effect in November of 2008 and
02:38 25 then various businesses implemented?

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02:38 1 A. Yes, it is.

02:38 2 Q. It's got the principle there of process safety. Without
02:38 3 reading it, somebody who issued this document, what is the
02:38 4 principle of process safety? Describe it for us.

02:38 5 A. Did you say without reading it?

02:38 6 Q. Sure, you can read it if you want, but if you want to
02:38 7 paraphrase . . .

02:38 8 A. My own words would be the principles, practices and
02:38 9 processes put in place to manage the risk of major accidents
02:38 10 involving loss of hazardous materials.

02:38 11 Q. There's been a suggestion that BP had not identified
02:38 12 process safety risks associated with drilling completions.
02:38 13 Under Group Essentials: "Each BP entity shall" -- do you see
02:38 14 that?

02:38 15 MS. KARIS: If you can go to 3.3.2.

02:39 16 BY MS. KARIS:

02:39 17 Q. OMS 3.3.2 requires that "each BP entity shall identify
02:39 18 whether there is a potential for a major accident and, if so,
02:39 19 complete an assessment of the major accident risks. Use
02:39 20 identified major accident risks as input to the entity level
02:39 21 risk register." Do you see that?

02:39 22 A. Yes, I do.

02:39 23 Q. You were asked earlier today about a MAR, GP 48-50. Do
02:39 24 you recall that?

02:39 25 A. Yeah, I remember the question.

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02:39 1 Q. We're going to go back to this in a second.

02:39 2 MS. KARIS: Pull it up. That would be TREX-1734.

02:39 3 BY MS. KARIS:

02:39 4 Q. This is the major accident process -- or risk process that
02:40 5 Mr. Sterbcow asked you about this morning.

02:40 6 Is this MAR 48-50 the same thing as the major
02:40 7 accident risk identification requirement that is in OMS?

02:40 8 A. I think the requirement to identify a major accident is
02:40 9 just that. If you have -- potentially, you have got to
10 identify it and quantify it.

02:40 11 This is a process that can be used in that
02:40 12 quantification of the risk. But the requirement to do that is
02:40 13 above this, if you will, in OMS.

02:40 14 MS. KARIS: If we can go back to 3.3.

02:40 15 BY MS. KARIS:

02:40 16 Q. So when OMS, under 3.3.2, says you need to identify your
02:41 17 major accident risks, does it require for mobile offshore
02:41 18 drilling units to conduct a MAR process, M-A-R, pursuant to
02:41 19 GP 48-50?

02:41 20 A. It didn't at the time this was done. It doesn't now. We
02:41 21 looked through the MAR language -- I'm sorry. It did not. It
02:41 22 didn't require that.

02:41 23 Q. You were starting to say you looked through it.

02:41 24 A. Well, the MAR -- it requires that people can assess that
02:41 25 risk and quantify it. And the primary risk here is a blowout,

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02:41 1 so that's really what's needed.

02:41 2 Q. So has BP, including S&O, considered the specific issue as
02:41 3 to whether an MAR 48-50 is required on mobile offshore drilling
02:41 4 units?

02:41 5 A. Yeah. That issue was reconsidered after this incident.
02:42 6 And the head of engineering and the head of process safety have
02:42 7 looked at it and concluded effectively what I just said, that
02:42 8 it's not -- it's not required.

02:42 9 Q. The next part of -- let's skip through some of these
02:42 10 elements, but let's look at Element 8, Results. And that's
02:42 11 TREX-45002.55.1.

02:42 12 It says under Principle: "Measurement is used to
02:42 13 understand and sustain performance. BP entities establish
02:42 14 metrics to monitor and report delivery of operating targets and
02:42 15 to promote continuous improvement. Use leading and lagging
02:42 16 indicators to monitor progress against the objectives and
02:42 17 targets in the annual plan."

02:42 18 Describe for us what this is.

02:43 19 A. I think we touched on this earlier. So this is
02:43 20 measurement of safety performance of inputs and outputs,
02:43 21 observing trends and reacting to trends that are unfavorable.

02:43 22 Q. Was this process in place for any SPU that had implemented
02:43 23 OMS as of April 2010?

02:43 24 A. The expectation would have been there. This would have
02:43 25 been something to gap assess against. But yeah, I would have

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02:43 1 thought most of the SPUs would have had this before OMS was put
02:43 2 in place.

02:43 3 Q. Let's talk about a different aspect of OMS. You
02:43 4 referenced earlier a performance improvement cycle.

02:43 5 MS. KARIS: If we can bring up Treatment 45013.3.1.

02:43 6 BY MS. KARIS:

02:43 7 Q. Mr. Bly, that's you approving this again at the bottom?

02:44 8 A. Yes, that's right.

02:44 9 Q. This is titled "OMS Performance Improvement Cycle," which
02:44 10 is what part 3 is about. In the interest of time, can you just
02:44 11 summarize for us what the performance improvement cycle
02:44 12 requires. What is it?

02:44 13 A. So this is the -- I call it the dynamic part of the
02:44 14 management system that we emphasized in the operating
02:44 15 management system. It requires the operating organizations to
02:44 16 go through this annual cycle of assessment, planning and
02:44 17 prioritization of improvement, acting on those plans, measuring
02:44 18 to make sure things were happening as expected, and then coming
02:44 19 back and reviewing where you are, and going around the cycle
02:44 20 again. So it's the dynamic part that causes this continual
02:44 21 reassessment of the state of risk and the state of conformance
02:44 22 with OMS.

02:44 23 Q. Is the reason for this performance improvement cycle to
02:45 24 improve performance of safety both on personal as well as
02:45 25 process safety?

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02:45 1 A. Absolutely. It covers the entirety of OMS, so it's
02:45 2 everything within that, which includes both of those.

02:45 3 Q. Would those have been, then, the requirements, if you
02:45 4 will, of any entity that had adopted OMS at the time of this
02:45 5 incident?

02:45 6 A. Could you say the question again.

02:45 7 Q. Sure. For any entity that had adopted OMS -- implemented
02:45 8 OMS, to be more accurate --

02:45 9 A. Yes.

02:45 10 Q. -- would these have been the requirements as part of the
02:45 11 performance improvement cycle?

02:45 12 A. Absolutely. Once they have made that implementation step
02:45 13 I described earlier, this is required at least annually, every
02:45 14 year thereafter.

02:46 15 Q. There's been a lot of discussion in this case about
02:46 16 whether OMS applies to contractor operations. I want to talk
02:46 17 about that.

02:46 18 First of all, were you the approver of the OMS
02:46 19 framework that specified whether it applied to contractor
02:46 20 operations?

02:46 21 A. Yes. Yes, it was all part of the same framework, yes.

02:46 22 MS. KARIS: If we can pull up Treatment 45006.16.1.

02:46 23 BY MS. KARIS:

02:46 24 Q. From OMS it states: "Where BP relies on a contractor to
02:46 25 carry out work, BP shall, as needed, include and apply contract

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02:46 1 provisions such that the work is carried out in a way that
02:46 2 supports and is consistent with BP's application of OMS to BP's
02:47 3 operating activities. Where such contract provisions are not
02:47 4 included in existing contract, BP shall endeavor to amend the
02:47 5 contract as needed, immediately or on renewal."

02:47 6 Can you tell the Court how OMS applied to contractor
02:47 7 operations, including Transocean's *Deepwater Horizon*
02:47 8 operations, as of April of 2010.

02:47 9 A. I think this puts in writing the things that I was trying
02:47 10 to explain to Mr. Sterbcow. OMS applies when there's
02:47 11 contractor activity. We'll rely on the contractors' SMS but
02:47 12 seek to test that SMS against our operating management system
02:47 13 and cause changes if we don't think it's up to the full
02:48 14 standard of our OMS.

02:48 15 Q. If we can look at --

02:48 16 MS. KARIS: I think we're finished with that. Let's
02:48 17 go to procedures, 45002.30.1.

02:48 18 BY MS. KARIS:

02:48 19 Q. Under 4.1.2, out of the OMS: "Define which procedures and
02:48 20 practices are applicable to BP employees or contractors, and
02:48 21 make these procedures and practices available to them. Require
02:48 22 contractors to follow these procedures or practices unless they
02:48 23 have their own comparable procedures and practices."

02:48 24 Is that stating the same thing?

02:48 25 A. I think that's better said than what I just tried to say,

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02:48 1 yes.

02:48 2 Q. You wrote it better than you said it?

02:48 3 A. I'm afraid so.

02:48 4 Q. Okay. Now, you have been in the industry for nearly
02:49 5 30 years?

02:49 6 A. I have.

02:49 7 Q. Have you ever heard of any operator anywhere in the world,
02:49 8 in all of the positions that you have held, that applied its
02:49 9 own operating management system to a contractor-owned MODU, or
02:49 10 mobile offshore drilling unit?

02:49 11 A. I'm not aware of that anywhere, no.

02:49 12 Q. In your 30 years of experience, whose operating management
02:49 13 system, subject to this bridging, applies to contractor
02:49 14 operations?

02:49 15 A. The rig owner -- the contractor's always has applied in my
02:49 16 experience.

02:49 17 Q. Do you have an understanding as to why that is?

02:49 18 A. Well, I had the view that it makes sense because the
02:49 19 contractors -- you know, in the case of a rig, it's their
02:49 20 assets and people, and it moves from operator to operator. So
02:49 21 it may work for my company for some period of time and then go
02:50 22 work for another company just after that. So to have that rig
02:50 23 organization need to be changing management systems seems to me
02:50 24 to be very, very difficult. So it's based on theirs, and then
02:50 25 you try to bridge into the operating company's one.

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02:50 1 Q. In your 30 years of experience, is applying BP's -- strike
02:50 2 that.

02:50 3 In your 30 years of experience, is having the
02:50 4 contractor's operating management system, in this instance
02:50 5 Transocean's, apply to the *Deepwater Horizon* consistent with
02:50 6 industry practice?

02:50 7 A. It's consistent with all the experience that I have.

02:50 8 Q. In fact, you have never seen anything but?

02:50 9 A. I've never seen anything but.

02:50 10 Q. Let's switch gears here. You spoke at length this morning
02:51 11 and yesterday about the investigation that you conducted into
02:51 12 the *Deepwater Horizon* incident. Without summarizing how you
02:51 13 got brought into that -- or repeating, I should say, how you
02:51 14 got brought into that -- is it fair to say that you were asked
02:51 15 to get involved very early on?

02:51 16 A. Yes, it is.

02:51 17 Q. Mr. Hayward asked you to be involved, correct?

02:51 18 A. Yes, he did.

02:51 19 Q. You indicated that a member of your team was Mr. Lucas,
02:51 20 the master root cause specialist?

02:51 21 A. That's right. Matt Lucas, that's right.

02:51 22 Q. You testified earlier today you wouldn't have expected him
02:51 23 to lead the investigation?

02:51 24 A. Correct, right.

02:51 25 Q. Can you explain why.

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02:51 1 A. Well, because the root cause specialist is a technical
02:51 2 specialist, as I tried to explain. That person understands the
02:52 3 investigative process, the interview process, how to use these
02:52 4 fault trees that we use and things.

02:52 5 The investigation leader really needs him -- in
02:52 6 something like this really needs to have the ability to manage
02:52 7 across a whole range of things.

02:52 8 So in my case I was leading technical teams, the root
02:52 9 cause team, etc. So it's more of a general management role to
02:52 10 lead an investigation this big.

02:52 11 MS. KARIS: If we can pull up Demonstrative 4307A,
02:52 12 please.

02:52 13 BY MS. KARIS:

02:52 14 Q. 4307A is a demonstrative of BP's internal investigation.
02:53 15 Let's see if we can verify some of the information on here.

02:53 16 It says: "Initiated April 22."

02:53 17 Is that around the time you were contacted?

02:53 18 A. Yes, it is.

02:53 19 Q. You published a report, Trial Exhibit 1, on September 8,
02:53 20 2010; is that correct?

02:53 21 A. Yes.

02:53 22 Q. Does that report contain the findings and conclusions of
02:53 23 your team?

02:53 24 A. Yes, it did.

02:53 25 Q. Let's talk about what your team -- who your team consisted

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02:53 1 of. Approximately how many members were there on your team?

02:53 2 A. About 50 on average.

02:53 3 Q. On the right-hand side there, there's a reference to
02:53 4 experts in specialized knowledge, and it has got a variety of
02:53 5 different areas of expertise.

02:53 6 Are these some of the experts, both in-house at BP as
02:53 7 well as outside consultants, that your team utilized in order
02:53 8 to understand what happened at the Macondo well on the
02:54 9 *Deepwater Horizon* rig on April 20, 2010?

02:54 10 A. Yes. All those topics were included in the work.

02:54 11 Q. At the end of the day, when you published your report on
02:54 12 April -- excuse me, September 8, 2010, did that report reflect
02:54 13 the views of not only yourself but also your team members?

02:54 14 A. Yeah, absolutely it did.

02:54 15 Q. You were asked some questions earlier about various
02:54 16 interview notes, and we'll talk about those briefly, but I
02:54 17 believe Mr. -- you saw Mr. Cowie's deposition, for example.
02:54 18 Was Mr. Cowie one of the members of your team?

02:54 19 A. Yes, he was.

02:54 20 Q. Was he a member of the operations team that Mr. Robinson
02:54 21 headed up?

02:54 22 A. Yes, he was.

02:54 23 Q. Mr. Cowie and Mr. Robinson, with respect to the operations
02:55 24 section of the report, were they involved in the drafting of
02:55 25 that report?

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02:55 1 A. Yes, they were.

02:55 2 Q. Were they involved in ultimately approving the opinions
02:55 3 and work in there?

02:55 4 A. Absolutely.

02:55 5 Q. The engineering team was headed up by Kent Corser?

02:55 6 A. That's correct.

02:55 7 Q. He had multiple other members on his team as well,
02:55 8 correct?

02:55 9 A. Yes, that's right.

02:55 10 Q. At the end of the day, the engineering opinions are signed
02:55 11 off on by a variety of -- all the members of that team?

02:55 12 A. Yes, that's right, it was.

02:55 13 Q. There's a reference here to interviewing approximately
02:55 14 50 witnesses. Do you see that?

02:55 15 A. Yes, I do.

02:55 16 Q. Is that ballpark of the number of people your team spoke
02:55 17 to in reaching your opinions?

02:55 18 A. Yeah, it's pretty close. Some of them may have been
02:55 19 interviewed more than once; but, yeah, I think 50 was about the
02:55 20 right total.

02:55 21 Q. At the bottom there it says limited access to information
02:56 22 under Halliburton, and you discussed that. We won't go back
02:56 23 over it.

02:56 24 It also says limited access to information from
02:56 25 Transocean. Do you see that?

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02:56 1 A. Yes.

02:56 2 Q. Did you have an opportunity to interview any Transocean
02:56 3 personnel?

02:56 4 A. No, we didn't.

02:56 5 Q. So those 50 witnesses, they would not have been any
02:56 6 Transocean personnel; is that correct?

02:56 7 A. Yes, that's correct.

02:56 8 Q. Did you request to interview Transocean's personnel?

02:56 9 A. In the early stages we were making those requests, in the
02:56 10 early stages of the investigation, yes.

02:56 11 Q. Did Transocean ultimately agree to provide any of its
02:56 12 personnel for you to speak to them to understand what happened?

02:56 13 A. No, we didn't get to talk to any of their folks.

02:56 14 Q. You were asked several questions today about conducting a
02:56 15 root cause investigation. Do you recall generally those
02:56 16 questions?

02:56 17 A. Generally, yes.

02:56 18 Q. And the fact that you didn't conduct a systemic cause
02:56 19 investigation?

02:56 20 A. Yes, generally I remember the questions.

02:56 21 Q. Can you tell us, first of all, your understanding of how
02:57 22 one would go about conducting an investigation of an incident
02:57 23 that looked at immediate and system and systemic issues?

02:57 24 A. It would be effectively to do what we did, starting at the
02:57 25 highest levels of things that you could observe and then --

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02:57 1 which was the four critical factors we described in this case,
02:57 2 and then moving down to describe the things that must have been
02:57 3 in place to allow those to happen, and continue to move down
02:57 4 asking the why-why-why question.

02:57 5 At some point you will be at a systemic level. I
02:57 6 don't know if there's any bright line on that, but it's about
02:57 7 driving as far as you can down into the questioning.

02:57 8 **Q.** What, if any, effect did Transocean not providing its
02:57 9 employees for you to interview, Halliburton not providing you
02:57 10 critical information, such as some of their policies, tests,
02:57 11 and slurry, have on your ability to conduct a root cause
02:58 12 investigation?

02:58 13 **MR. BRIAN:** Objection. That question is compound,
02:58 14 Your Honor.

02:58 15 **MS. KARIS:** I'll rephrase, Your Honor.

02:58 16 **THE COURT:** Rephrase it.

02:58 17 **BY MS. KARIS:**

02:58 18 **Q.** The limited access to information that you had, what
02:58 19 effect did that have on your ability to conduct a root cause
02:58 20 investigation into systemic issues?

02:58 21 **A.** As I tried to -- I described earlier, the way you do that
02:58 22 is you go from what you have ascertained so far and go ask the
02:58 23 next why. And if that next why required input or information
02:58 24 from either of those people that we couldn't talk to or the
02:58 25 information we couldn't get, it would impede your ability to

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02:58 1 continue to move down the investigation.

02:58 2 Q. Would it have been sufficient that you had access to
02:58 3 information from BP -- that is, access to BP's employees and
02:59 4 documents and information -- in order for you to do a root
02:59 5 cause investigation?

02:59 6 A. As I said earlier, I don't think it would because
02:59 7 ultimately you are trying to understand what caused things on
02:59 8 the rig or associated with that; and if BP actions had to
02:59 9 transfer through a Transocean person, you need to be able to
02:59 10 understand that; I don't see how you can do that with that
02:59 11 chain of learning or understanding broken.

02:59 12 Q. Were there any limitations in terms of what physical
02:59 13 evidence you had in conducting your investigation?

02:59 14 A. Yeah, there certainly was. We talked about cement
02:59 15 samples. But the big stuff was the rig was not available to
02:59 16 look at; the BOP was not recovered until after we had done our
02:59 17 report. Can't see the condition of the well itself, obviously.
02:59 18 So there was lots of physical things we couldn't look at.

02:59 19 Q. Did that affect your ability to conduct a root cause
02:59 20 investigation as well?

02:59 21 A. Yes, yeah. It's very difficult to draw some investigative
03:00 22 conclusions without being able to look at forensic evidence.

03:00 23 MS. KARIS: If we can pull up TRES-91382. Next page,
03:00 24 please. One more, please.

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03:00 1 **BY MS. KARIS:**

03:00 2 **Q.** Mr. Bly, Exhibit 91382, I'll represent to you, are the
03:00 3 presentation slides that you issued with your report. I guess
03:00 4 I should step back and say, along with issuing your report, did
03:00 5 you put out some slides to explain what your team had found?

03:00 6 **A.** Yes. There's an information pack developed.

03:01 7 **Q.** It's better for you to represent what they are than me.
03:01 8 Is this the packet or at least a page from that
03:01 9 packet?

03:01 10 **A.** Yes, it appears to be.

03:01 11 **Q.** Did you also put out an audio/video that we heard from
03:01 12 this morning?

03:01 13 **A.** Yes, we did.

03:01 14 **Q.** That would be --

03:01 15 **MS. KARIS:** Pull up Exhibit 47647. We are not going
03:01 16 to play it. 47647. If we can just play the very beginning of
03:01 17 the clip.

03:01 18 (Video played.)

03:01 19 **BY MS. KARIS:**

03:01 20 **Q.** Is this an approximately 30-minute video you released
03:01 21 along with your report?

03:02 22 **A.** It appears to be. From an early look, I'm real sure it
03:02 23 is.

03:02 24 **THE COURT:** Ms. Karis, is this part of the same video
03:02 25 clip we saw before?

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03:02 1 MS. KARIS: It is, Your Honor. This is the full
03:02 2 video.

03:02 3 THE COURT: Is this in evidence?

03:02 4 MS. KARIS: That's why I'm trying to move it in now.

03:02 5 THE COURT: Okay. Are you planning on playing the
03:02 6 whole 30 minutes?

03:02 7 MS. KARIS: No, I promise we won't. I promise not.
03:02 8 Mr. Bly may kill me if I do that.

03:02 9 If we can just play the beginning so we can
03:02 10 identify it.

03:03 11 MS. KARIS: You can stop there.

03:03 12 BY MS. KARIS:

03:03 13 Q. Mr. Bly, is what we have marked as Exhibit 47647 the video
03:04 14 that you put out along with your report?

03:04 15 A. Yes, it is.

03:04 16 Q. We can go back to the slides. Does that video summarize
03:04 17 your team's work and findings?

03:04 18 A. Yes, it does.

03:04 19 MS. KARIS: If we can go back to Slide 91382, and we
03:04 20 can stay on this page.

03:04 21 BY MS. KARIS:

03:04 22 Q. Does this document -- we had the whole document here --
03:04 23 summarize the findings of your team after months of work,
03:04 24 50 people, thousands of hours spent trying to understand what
03:04 25 happened here?

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03:04 1 A. Yes. That's the summary document, yeah.

03:04 2 Q. Now, Mr. Sterbcow walked through each of your findings;
03:04 3 and so in the interest of not repeating that, I'm going to try
03:04 4 and avoid doing that.

03:04 5 But can you describe for us the overall finding that
03:04 6 you had with respect to what caused this incident?

03:04 7 MS. KARIS: If we can pull up Exhibit 1, page 11, the
03:05 8 last paragraph.

03:05 9 BY MS. KARIS:

03:05 10 Q. Exhibit 1, the last paragraph of your executive summary,
03:05 11 after laying out the findings, states: "The team did not
03:05 12 identify any single action or inaction that caused this
03:05 13 accident. Rather, a complex and interlinked series of
03:05 14 mechanical failures, human judgments, engineering design,
03:05 15 operational implementation, and team interfaces came together
03:05 16 to allow the initiation and escalation of the accident.
03:05 17 Multiple companies, work teams, and circumstances were involved
03:05 18 over time."

03:05 19 Can you explain for us what you meant by that
03:05 20 paragraph.

03:06 21 A. It was our way of summarizing the Swiss cheese model we
03:06 22 have talked about, the fact that there were eight mechanical or
03:06 23 procedural barriers that were penetrated here, that there were
03:06 24 a variety of people involved at different stages of that, and
03:06 25 that there were a number of things that went wrong both

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03:06 1 mechanically, human judgments, as it says here, to allow the
03:06 2 accident to happen.

03:06 3 Q. Who were the companies that were involved? You say
03:06 4 multiple companies, work teams, circumstances were involved
03:06 5 over time. Who were the companies that were involved?

03:06 6 A. Well, it was BP and it was Transocean and it was
03:06 7 Halliburton were the companies that were involved most. There
03:06 8 were others that were doing subsidiary things.

03:06 9 Q. With respect to the eight critical factors, were those the
03:06 10 three companies that you identified as being involved in this
03:06 11 complex and interlinked series of mechanical failures, human
03:07 12 judgment, engineering design, and implementation?

03:07 13 A. I can't remember another company being involved in any one
03:07 14 of these. I would have to think about that for a second, but I
03:07 15 believe that that's correct.

03:07 16 MS. KARIS: If we can go back to the presentation
03:07 17 now, 91382.

03:07 18 BY MS. KARIS:

03:07 19 Q. This slide identifies those eight barriers that your team
03:07 20 concluded were breached. Can you summarize for us why you put
03:07 21 them in these four categories.

03:07 22 A. This starts from the -- where we started the work was to
03:07 23 say we could observe those four things -- and I believe we
03:08 24 called them *critical factors* -- nearly from the outset. So
03:08 25 that was the framing of how we set up the investigative work.

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03:08 1 And then they're categorized below there as the results of the
03:08 2 investigation to understand the things that came to pass to
03:08 3 allow those critical factors to happen.

03:08 4 **Q.** The first one you identify there is well integrity was not
03:08 5 established. You have spoken at length about some of your
03:08 6 findings, but I wanted to follow up on a couple of the points
03:08 7 that were raised.

03:08 8 **THE COURT:** Would this be a good time to take a
03:08 9 break?

03:08 10 **MS. KARIS:** Perfect time.

03:08 11 **THE COURT:** Let's break for about 15 minutes.

03:08 12 **MS. KARIS:** Thank you, Your Honor.

03:08 13 **THE DEPUTY CLERK:** All rise.

03:08 14 (Recess.)

03:09 15 **THE COURT:** Please be seated, everyone.

03:29 16 Continue.

03:29 17 **MS. KARIS:** Thank you, Your Honor.

03:29 18 **BY MS. KARIS:**

03:29 19 **Q.** Mr. Bly, we were going to talk about a couple of your
03:29 20 findings. But before we do that, I wanted to cover one subject
03:29 21 with you.

03:29 22 You were previously shown BP's group-defined practice
03:29 23 4.4-0002, which relates to incident investigations. Do you
03:29 24 recall that, generally?

03:29 25 **A.** I remember being shown that, yes.

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03:29 1 Q. Was this the incident investigation policy in effect at
03:29 2 the time of the *Deepwater Horizon* incident?

03:29 3 A. Yes, it appears to be.

03:29 4 Q. On your team you had a master root cause specialist,
03:29 5 Mr. Lucas?

03:29 6 A. That's correct.

03:29 7 MS. KARIS: If you could turn, please, to 45005.5.2.

03:30 8 BY MS. KARIS:

03:30 9 Q. Pursuant to BP's internal investigation policy, is it
03:30 10 recognized that under certain circumstances you may need to get
03:30 11 an exception from the requirements of the GDP?

03:30 12 A. Yes, it is.

03:30 13 Q. Here it reads: "The BP entity leader accountable for the
03:30 14 area or operation where the incident occurs shall request the
03:30 15 segment or function head of HSSE for approval of any exceptions
03:30 16 from requirements 3.1-B above." Correct?

03:30 17 A. That's right.

03:30 18 Q. 3.1-B is what sets out doing an immediate cause, system
03:30 19 cause, and possibly a systemic cause investigation, correct?

03:30 20 A. That's right.

03:30 21 Q. It says: "The BP entity leader may request an exception
03:30 22 for an incident that appears to be a special case for the
03:30 23 following reasons." Correct?

03:31 24 A. That's right.

03:31 25 Q. What are the reasons that the group-defined practice in

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03:31 1 place as of April 2010 recognized may require an exception from
03:31 2 performing a systemic cause investigation?

03:31 3 A. So they are listed here. The location, which has to do
03:31 4 with the ability to access the site.

03:31 5 Q. Let me stop you there. What effect did the location have
03:31 6 on your ability to conduct a systemic cause investigation?

03:31 7 A. We weren't able to go to the rig. We obviously couldn't
03:31 8 go to where the accident actually happened.

03:31 9 Q. So did that first bullet there affect your ability to do a
10 systemic cause investigation?

03:31 11 A. It had the potential to. It certainly did.

03:31 12 Q. Keep going, please. What's the next reason why you may
13 require an exception?

03:31 14 A. It's the nature of BP's relationship to the incident; for
15 example, the involvement of other parties.

03:32 16 Q. How did that relate to the request to get an exception
17 from doing a systemic cause investigation?

03:32 18 A. Well, there were elements of this consideration in place
19 as well. As we discussed, there were a number of companies
20 involved, and we would have needed -- we would have had to have
21 full cooperation to get the information and things. So this
22 one was applicable as well.

03:32 23 Q. What are the others?

03:32 24 A. The nature of other investigations under way, or the
25 possibility of a joint investigation with a governmental

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03:32 1 authority or other parties, and then the potential for
03:32 2 litigation or regulatory action.

03:32 3 Q. Did those various reasons -- all of those reasons,
03:32 4 actually, did they exist as part of why you got an exception to
03:32 5 the GDP?

03:32 6 A. They certainly created the -- you know, the understanding
03:32 7 that there were times when the exception was appropriate. And
03:32 8 many of these factors were in place in this case.

03:32 9 Q. Did Mr. Lucas, the master root cause specialist, concur
03:33 10 with you that it was appropriate to get an exception from
03:33 11 GDP 4.4-0002, incident investigation, with respect to --

03:33 12 A. Yes. Mr. Lucas, in fact, brought the issue to my
03:33 13 attention and made me aware that -- made me -- you know, made
03:33 14 me think about the fact that we should get an exception, given
03:33 15 where we were in this investigation.

03:33 16 Q. So is it correct, then, to say that the investigation was
03:33 17 in fact conducted pursuant to GDP 4.4, which recognizes that
03:33 18 exceptions may be needed?

03:33 19 A. Absolutely it was, in my view.

03:33 20 Q. We were starting to talk about your key findings. I want
03:33 21 to cover just a couple that you had discussed with
03:33 22 Mr. Sterbcow.

03:34 23 You testified yesterday, and then earlier today, that
03:34 24 Key Findings 1 and 2 related to the annulus cement failing to
03:34 25 isolate the hydrocarbons, and then the shoe track barriers

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03:34 1 failed.

03:34 2 A. That's right.

03:34 3 MS. KARIS: If we can go to 1.65.1.

03:34 4 BY MS. KARIS:

03:34 5 Q. This is from page 65 of the investigation team's report.
03:34 6 Mr. Sterbcow put this paragraph up yesterday.

03:34 7 It says: "The decision to not use 21 centralizers
03:34 8 increased the possibility of channeling above the main
03:34 9 hydrocarbon zones, but it likely did not contribute to the
03:34 10 cement's failure to isolate the main hydrocarbon zones or to
03:34 11 the failure of the shoe track cement."

03:34 12 Was that a finding, if you will, of your team?

03:35 13 A. Yes, it is.

03:35 14 MS. KARIS: If we can now go to D-4342.

03:35 15 BY MS. KARIS:

03:35 16 Q. You were describing -- well, first of all, explain to us
03:35 17 generally why you concluded that the 21 centralizers did not
03:35 18 contribute to the cement's failure here.

03:35 19 A. The way the investigation went, having established the
03:35 20 first part, which is that the annulus barrier hadn't worked, we
03:35 21 spent considerable effort determining the next step, which was
03:35 22 how did it get from outside of the casing inside. This was the
03:35 23 three flow-path scenarios that we touched on earlier in my
03:35 24 testimony, and that was a huge focus of the team.

03:35 25 The conclusion --

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03:35 1 Q. Let me stop you there one second.

03:36 2 MS. KARIS: We found a solution to this. Sorry about
03:36 3 that, Your Honor.

03:36 4 BY MS. KARIS:

03:36 5 Q. So you mentioned that the -- you said the centralizers did
03:36 6 not contribute to this, and part of the reason you concluded
03:36 7 that was because of the flow path, correct?

03:36 8 A. That's correct.

03:36 9 Q. There were three possibilities, as I understood it, for
03:36 10 what the flow path could be. One is casing, one was annular,
03:36 11 and the other was crossover breach. Is that fair?

03:37 12 A. That's fair.

03:37 13 Q. When we talk about casing, what you're describing is these
03:37 14 hydrocarbon-bearing zones in yellow right here, the
03:37 15 hydrocarbons came in in this direction and then went down the
03:37 16 shoe track and up the center of the casing.

03:37 17 A. That's correct.

03:37 18 Q. The other option was that the hydrocarbons came in, again,
03:37 19 from the hydrocarbon-bearing zone; and rather than going down
03:37 20 the shoe track and up, instead, what happened is they came in
03:37 21 here and would have gone up this annular space. Correct?

03:37 22 A. Yes, that's right.

03:37 23 Q. This thing up here, depicted in blue, that would be the
03:37 24 casing hanger; is that correct?

03:37 25 A. That's right. At the mud line.

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03:37 1 Q. At the mud line.

03:37 2 A. Yes.

03:37 3 Q. So this is around the 5,000-foot mark here?

03:37 4 A. Correct.

03:37 5 Q. This down here is about 13,000 feet down from the mud
03:38 6 line?

03:38 7 A. From the mud line, that's right.

03:38 8 Q. Correct? That was the second option that you guys
03:38 9 evaluated?

03:38 10 A. That's correct.

03:38 11 Q. Then the third option as to what could have possibly
03:38 12 happened was what you described as a *crossover breach*, correct?

03:38 13 A. That's right.

03:38 14 Q. Here what happens is, the hydrocarbons come in -- if --
03:38 15 under this scenario, a possibility was that the hydrocarbons
03:38 16 came in, again, through the zone, up the annular space, and now
03:38 17 breached the casing and, therefore, went into the casing and
03:38 18 also flowed up the annular space. Correct?

03:38 19 A. Yeah. It was mostly about getting inside the casing
03:38 20 somewhere at the hole.

03:38 21 Q. Somewhere. However --

03:38 22 A. Yeah. It's that arrow there that's important.

03:38 23 Q. So just to be clear, these were the three possible
03:38 24 scenarios of what could have possibly happened?

03:38 25 A. Yes. Those are the ones that -- yes, that's right. And

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03:38 1 we reviewed all of those.

03:38 2 Q. Which did you conclude, after conducting your
03:39 3 investigation, was the likely result of what happened?

03:39 4 A. The one on the left, the casing -- the casing one, where
03:39 5 it went down through the bottom of the casing and through the
03:39 6 middle of the pipe of the casing of the well.

03:39 7 Q. So after extensive investigation, your conclusion was that
03:39 8 it was Scenario 1, as I would call it here, the casing?

03:39 9 A. That's correct.

03:39 10 MS. KARIS: Now, could you pull up the centralizer.
03:39 11 We will go back to that one in a second.

03:39 12 BY MS. KARIS:

03:39 13 Q. You testified in response to Mr. Sterbcow's questions that
03:39 14 when you looked at where the centralizers were placed -- and
03:39 15 before we go there, do you recognize this as a slide from your
03:39 16 presentation that you issued along with your report?

03:39 17 A. Yes. It looks like it is, yeah.

03:39 18 MS. KARIS: If we can call out the cement slurry
03:39 19 placement.

03:39 20 BY MS. KARIS:

03:39 21 Q. These little red dots here, or arrows, six of them -- one,
03:40 22 two, three, four, five, six -- can you tell us what those are?

03:40 23 A. That's indicating the placement of these things called
03:40 24 centralizers.

03:40 25 Q. So each of these six would be a centralizer in the well?

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03:40 1 A. That's right.

03:40 2 Q. The hydrocarbon-bearing zones are right here, correct?

03:40 3 A. Yes, in the yellow there. That's right.

03:40 4 Q. So we have a centralizer right up here, correct?

03:40 5 A. Correct.

03:40 6 Q. I'm going to hand you the pointer, Mr. Bly. And if you
03:40 7 could, explain to us why those centralizers were not causal,
03:40 8 based on what you determined the flow path to be.

03:40 9 MS. KARIS: Your Honor, may I approach?

03:40 10 THE COURT: Yes.

03:40 11 MS. KARIS: Thank you.

03:40 12 THE WITNESS: So you're asking why the centralizers
03:40 13 weren't causal?

03:40 14 BY MS. KARIS:

03:40 15 Q. Yes.

03:40 16 A. So the centralizers that would have been there would have
03:40 17 been up in this part of the hole, above here.

03:40 18 Our view was that since the hydrocarbons came this
03:40 19 way, it traveled down on the outside of the pipe and then back
03:40 20 up this way, that they actually traveled through the
03:41 21 centralizer part of the hole.

03:41 22 The fact that this was not centralized up here didn't
03:41 23 bear on how we found the oil transferred to the wellbore.

03:41 24 Q. So did the flow path -- was your determination as to the
03:41 25 flow path the basis for you deciding the centralizers weren't

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03:41 1 causal?

03:41 2 A. Yes. As I said, the flow path determination was the big
03:41 3 step.

03:41 4 Q. I believe you testified yesterday --

03:41 5 MS. KARIS: Your Honor, if I may approach and get the
03:41 6 pointer back.

03:41 7 THE COURT: Sure.

03:41 8 MS. KARIS: Thank you.

03:41 9 THE COURT: What's that exhibit?

03:41 10 MS. KARIS: This is Exhibit 91382, page 8. And this
03:41 11 is from the presentation packet, slide packet, that Mr. Bly
03:41 12 issued along with his report and the video, which I have here
03:41 13 for the Court.

03:42 14 THE COURT: Okay.

03:42 15 BY MS. KARIS:

03:42 16 Q. You testified yesterday that you believed that -- you were
03:42 17 highly confident, I think is what you said, when you issued
03:42 18 your report that the flow path was up the casing.

03:42 19 A. That's right.

03:42 20 MS. KARIS: If we can go back to the original slide
03:42 21 on this.

03:42 22 BY MS. KARIS:

03:42 23 Q. But then you referenced some information that became
03:42 24 available after you issued your report, regarding the casing
03:42 25 hanger. Do you recall that?

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03:42 1 A. Yes.

03:42 2 Q. Is this what's the casing hanger, Mr. Bly?

03:42 3 A. That's right. There at the top, that's holding up the
03:42 4 weight of that inner string of pipe. And then it's got a seal
03:42 5 element in it that seals the annular space from the inside of
03:43 6 the well.

03:43 7 Q. What information did you obtain from the casing hanger,
03:43 8 when it was pulled, that affected or further confirmed your
03:43 9 view that this was the correct flow path, "this" being up the
10 casing?

03:43 11 A. So that seal assembly there was ultimately recovered from
03:43 12 the well. And you could see the sealing surface around the
03:43 13 circumference of that device clearly, and it was in pristine
03:43 14 condition. It didn't have any indication that flow had passed
03:43 15 by it at any time during the event.

03:43 16 Q. We have here what has been marked as Exhibit 911. Is this
03:43 17 the casing hanger that you're saying was pulled up and in
03:43 18 pristine condition, that you could show there had been no
03:43 19 erosion on this casing hanger?

03:44 20 A. Yeah, there's still a paper sticker on it in the seal area
03:44 21 there, so you can see nothing passed by there.

03:44 22 Q. What does the fact there's still a paper sticker on here
03:44 23 tell you about the likelihood that any hydrocarbons had flown
03:44 24 up this path?

03:44 25 A. It says that that couldn't have happened. With the

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03:44 1 velocities and things, you wouldn't see that. This would be --

03:44 2 Q. Could or could not? I'm sorry.

03:44 3 A. The flow could not have happened on the outside of this
03:44 4 seal assembly.

03:44 5 MS. KARIS: Could we pull up the next photo.

03:44 6 BY MS. KARIS:

03:44 7 Q. Does this depict a close-up of that casing hanger, "this"
03:44 8 being Exhibit 912?

03:44 9 A. It appears to, yes.

03:44 10 MS. KARIS: So if we can go back to the initial slide
03:44 11 on flow path.

03:44 12 BY MS. KARIS:

03:44 13 Q. So had the flow path been in this direction or up this
03:44 14 piping here that was not centralized and gone up the annular
03:44 15 space, would you have expected the casing hanger that was
03:45 16 pulled to have been in the condition it was in when it was
03:45 17 pulled in mid-September- 2010?

03:45 18 A. No. You would have expected to see it worn on the outside
03:45 19 of that device if there was flow going around it in that
03:45 20 pattern right there.

03:45 21 Q. So did that physical evidence of a condition of the casing
03:45 22 hanger further confirm your view that the flow path was up the
03:45 23 center of the wellbore, or what you call up the casing?

03:45 24 A. Yes, it really strengthened -- we had a strong view
03:45 25 anyway; but this really, really strengthened it for us.

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03:45 1 Q. Thank you.

03:45 2 THE COURT: Just so we are all speaking with the same
03:45 3 terminology here, because I know -- but *annulus* can mean
03:45 4 different things in different contexts. When you say "annulus"
03:45 5 here, you are talking about the space between the outside of
03:45 6 the casing and the wellbore?

03:45 7 THE WITNESS: In the earth, the actual hole in the
03:45 8 ground, the space between the casing --

03:46 9 THE COURT: Wait.

03:46 10 THE WITNESS: So when we are saying "annulus" in this
03:46 11 picture, there's the casing, there's the edge of the hole, and
03:46 12 it's this interstitial space there. So the arrow going up goes
03:46 13 all the way up that annular space right to the very top of the
03:46 14 casing hanger.

03:46 15 THE COURT: Is what I said accurate?

03:46 16 THE WITNESS: Yes, it is.

03:46 17 BY MS. KARIS:

03:46 18 Q. You were also asked by Mr. Sterbcow about engineering
03:46 19 technical practice for ETP 10-60 and your conclusions in the
03:46 20 report with respect to whether that policy or practice was
03:46 21 followed by this team. Do you recall that generally?

03:46 22 A. Generally, yes.

03:46 23 Q. First, can you tell the Court your understanding of what a
03:47 24 cement bond log is.

03:47 25 A. Cement bond log is a device that can be run into a

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03:47 1 wellbore like we are looking at, and it's designed to test
03:47 2 whether the cement on the outside of the pipe is bonded to the
03:47 3 pipe.

03:47 4 MS. KARIS: If you can turn to page 78 of Exhibit 1,
03:47 5 please, or please pull out page 78 of Exhibit 1, the one
03:47 6 Mr. Sterbcow referenced, which would be the first paragraph.

03:47 7 BY MS. KARIS:

03:47 8 Q. You were asked about the team's view that evaluating lift
03:47 9 pressures and loss returns didn't constitute a proven cement
03:47 10 evaluation technique for Section 5 of ETP 10-60. Did the
03:47 11 Macondo well's team have a plan to conduct a CBL at some point
03:48 12 in their operation?

03:48 13 A. Yes. I recall the plan was to do that later, when they
03:48 14 came back to ultimately complete the well so the cement would
03:48 15 have had more time to harden.

03:48 16 Q. It was your team's view that by not conducting a -- or,
03:48 17 excuse me, by not doing a formal risk assessment, that they
03:48 18 didn't satisfy at least the intent of ETP 10-60; is that
03:48 19 correct?

03:48 20 A. That was our view.

03:48 21 Q. Did your team have an opportunity to speak with the author
03:48 22 of ETP 10-60?

03:48 23 A. Yes, they did.

03:48 24 Q. Do you know who that is?

03:48 25 A. It's a gentlemen named Kellingray.

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03:48 1 Q. Do you recall whether Mr. Kellingray, who was the author
03:48 2 of ETP 10-60, agreed as to whether a formal risk assessment was
03:48 3 required?

03:48 4 A. I recall he didn't, that he felt my team was being very
03:48 5 stringent in their view.

03:49 6 Q. So given that Mr. Kellingray didn't agree, how did your
03:49 7 team conclude that ETP 10-60, at least the intent of it, had
03:49 8 not been met?

03:49 9 A. Well, the view was that since this proven evaluation
03:49 10 technique, my guys didn't believe that it was fully achieved
03:49 11 here and that, therefore, a more formal risk assessment should
03:49 12 have been done.

03:49 13 They had many discussions, including those with
03:49 14 Mr. Kellingray, and the point you highlighted earlier, he
03:49 15 didn't agree with us. But the team felt that they -- you know,
03:49 16 in their view, they wanted to make this finding.

03:49 17 Q. In connection with the decision as to whether to run a
03:49 18 cement bond log, did you review the decision tree that the
03:49 19 Macondo well's team had put together prior to executing the
03:49 20 cement job?

03:49 21 A. I know that my engineering team did that, yes.

03:49 22 Q. Did your team evaluate whether the Macondo well's team
03:50 23 complied with the decision tree that had been prepared in
03:50 24 advance of executing this job?

03:50 25 A. My recollection is not perfect on that. I just can't

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03:50 1 remember. I'm sorry.

03:50 2 Q. Fair enough. Would that have been something Mr. Corser
03:50 3 would have looked into?

03:50 4 A. Absolutely, that was Mr. Corser's team.

03:50 5 Q. I want to talk about one of the other findings in your
03:50 6 report relating to well monitoring, Key Finding 4. You
03:50 7 testified earlier that -- I think, in response to
03:50 8 Mr. Underhill's questions, that there were various anomalies
03:50 9 that had been or -- strike that.

03:50 10 You testified there were various anomalies that were
03:50 11 indicated in the data, the real-time data that your team
03:50 12 reviewed; is that fair?

03:51 13 A. That's fair, yes.

03:51 14 Q. If we can look at page 108 of your report. At page 108,
03:51 15 do you set out what those anomalies were there?

03:51 16 A. That's right. Yes.

03:51 17 Q. Could you tell us, first of all, what those anomalies
03:51 18 were?

03:51 19 A. There were different time periods where these pressures
03:51 20 were observed, so --

03:51 21 Q. I'm going to ask you to pause between each one of those.

03:51 22 A. So from 2058 to 2108, so a 10-minute period, the drill
03:51 23 pipe pressure increased from 1250 to 1350 psi with a constant
03:51 24 pump rate.

03:51 25 MS. KARIS: If we can now go to 1.93.1, please.

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03:51 1 BY MS. KARIS:

03:52 2 Q. Mr. Bly, do you recognize this diagram?

03:52 3 A. Yes.

03:52 4 Q. Do I have the pointer or do you?

03:52 5 A. I have it here.

03:52 6 Q. Using the pointer, can you indicate for the Court where
03:52 7 the first anomaly is you just identified.

03:52 8 A. I can. So the first one -- this is the drill pipe
03:52 9 pressure here, this orange line. The first one that we spoke
03:52 10 about was this increasing line here over that 10-minute period.
03:52 11 At this point, given the state of the fluids in the well, that
03:52 12 line should have actually been declining and, instead, it
03:52 13 increased.

03:52 14 Q. I have one, too, now, so we can both point.

03:53 15 From 2101 to 2108, it says here: "Drill pipe
03:53 16 pressure increasing with constant pump rate."

03:53 17 During this period of time, what did you expect to
03:53 18 see, given where they were in the operations?

03:53 19 A. So what was happening here was there was heavier fluid
03:53 20 being moved from the annular site of the well, which what you
03:53 21 would expect in that situation as you're pumping is that the
03:53 22 pressure on the drill pipe would be dropping because the fluid
03:53 23 on the outside is becoming lighter and lighter and lighter as
03:53 24 you do that.

03:53 25 Q. So what you are seeing is, during this time when the drill

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03:53 1 pipe pressure should be dropping, instead it's actually
03:53 2 increasing?

03:53 3 A. That's correct.

03:53 4 Q. Is this what your team identified as the first anomaly
03:53 5 that should have been detected?

03:53 6 A. They said -- I believe we said it was the first one that
03:54 7 should have been visible on the rig.

03:54 8 THE COURT: What time is that?

03:54 9 MS. KARIS: 2101 to 2108.

03:54 10 THE COURT: 9:01 to 9:08?

03:54 11 MS. KARIS: Yes, 9:01 to 9:08.

03:54 12 THE COURT: Thank you.

03:54 13 BY MS. KARIS:

03:54 14 Q. I want to go now to the next anomaly -- Mr. Bly, would it
03:54 15 be easier for you if I handed you your report so you can look
03:54 16 at your report?

03:54 17 A. That's fine. Perhaps if I can look at that.

03:54 18 Q. I'm going to ask you to read the second anomaly.

03:54 19 MR. BRIAN: Your Honor, would you mind reminding the
03:54 20 witness to get close to the microphone? Sometimes he is hard
03:54 21 to hear.

03:54 22 THE WITNESS: I'm sorry.

03:54 23 THE COURT: Yes.

03:54 24 BY MS. KARIS:

03:54 25 Q. Again, what is the second anomaly that your team

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03:54 1 identified?

03:54 2 A. So this is the period -- so the next one was when the
03:55 3 pumps were turned off, so on that line it was the next -- so
03:55 4 the first one we saw was the pumps on. This is now the pumps
03:55 5 turned off and the drill pipe pressure increased from 1017 to
03:55 6 1263 psi, so about 250 pounds. And I believe that was over an
03:55 7 8- or 10-minute period as well, might even have been shorter.
03:55 8 Six minutes, it looks like here.

03:55 9 MS. KARIS: If we can go back to the graph.

03:55 10 BY MS. KARIS:

03:55 11 Q. So from 2108, or 9:08, to 2114, 9:14, over this six-minute
03:55 12 period, what you have identified is pressure continues to rise
03:55 13 248 psi after the pumps are shut down. Correct?

03:55 14 A. That's right.

03:55 15 Q. What is the significance of the pumps being shut down when
03:55 16 the pressure is going up?

03:56 17 A. Well, when the pumps aren't moving fluid around the well,
03:56 18 you should have a steady pressure. There's no reason for
03:56 19 pressure to be rising when you're not moving fluids around the
03:56 20 well.

03:56 21 Q. So you would have expected to see -- given that the pumps
03:56 22 are off and you're not moving fluids, you would have expected
03:56 23 to see steady pressure?

03:56 24 A. A constant pressure, right.

03:56 25 Q. Flat basically?

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03:56 1 A. Right.

03:56 2 Q. But instead what do you see?

03:56 3 A. It rises by about 250 psi, 248 psi over a six-minute
03:56 4 period.

03:56 5 Q. Did the team identify this as the second anomaly?

03:56 6 A. Yes, that's correct.

03:56 7 Q. Remind us, who is monitoring on the rig drill pipe
03:56 8 pressure, if you know.

03:56 9 MR. BRIAN: Objection, no foundation.

03:56 10 MR. GODWIN: We'll join that objection, Your Honor.

03:57 11 THE WITNESS: I can give you the view that my team
03:57 12 had.

03:57 13 MR. BRIAN: I think he can testify about what the
03:57 14 practice is, but I don't think he can testify to what actually
03:57 15 happened. He wasn't there.

03:57 16 THE COURT: Well, unless it was a part of -- that was
03:57 17 determined as part of his investigation.

03:57 18 Is that what you are saying?

03:57 19 THE WITNESS: I think it's probably the practice that
03:57 20 I can speak to.

03:57 21 THE COURT: Okay. Mr. Brian doesn't have any
03:57 22 objection to that, right?

03:57 23 MR. BRIAN: No, Your Honor, I do not.

03:57 24 THE COURT: Go ahead.
25

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03:57 1 **BY MS. KARIS:**

03:57 2 **Q.** Mr. Bly, based on your 30 years of experience, what is the
03:57 3 practice for who should be monitoring the drill pipe pressure?

03:57 4 **A.** So this would be the -- in this case it's visible to the
03:57 5 driller in the driller's shack, so that would be one person who
03:57 6 should, and also to the mud logging people. So there's two
03:57 7 points where you could do this type of monitoring.

03:57 8 **Q.** Based on your interviews with BP's well-site leaders,
03:57 9 yours being the team's interviews with BP well-site leaders, do
03:57 10 you have any reason to believe that in this instance anyone
03:58 11 other than the drillers should have been monitoring for these
03:58 12 pressure increases, drillers and mud loggers?

03:58 13 **MR. BRIAN:** Same objection, Your Honor.

03:58 14 **THE COURT:** Overruled.

03:58 15 **THE WITNESS:** Sorry. Could you ask the question
03:58 16 again?

03:58 17 **BY MS. KARIS:**

03:58 18 **Q.** Sure. Your team interviewed the well-site leaders,
03:58 19 Mr. Vidrine and Mr. Kaluza?

03:58 20 **A.** Yes, they did.

03:58 21 **Q.** They also interviewed Ronnie and Murray Sepulvado; is
03:58 22 that --

03:58 23 **A.** Yeah.

03:58 24 **Q.** Who were they?

03:58 25 **A.** They are also BP well-site leaders.

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03:58 1 Q. On the *Deepwater Horizon* rig who weren't there that day?

03:58 2 A. That's correct.

03:58 3 Q. Based on your interview of BP's well-site leaders, did you
03:58 4 have any reason to believe that anyone other than the driller
03:58 5 and assistant driller and mud loggers should have been
03:58 6 monitoring these pressure increases?

03:58 7 A. No. That's my understanding from the team's work and my
03:58 8 understanding from experience.

03:59 9 Q. We can go back to -- you indicated you saw three
03:59 10 anomalies. What's the third anomaly you have identified?

03:59 11 A. The third one comes a bit later. There's another pump --
03:59 12 period where the pumps are off and there's an even steeper
03:59 13 gain -- I can't remember the time exactly, but there's an even
03:59 14 steeper gain in pressure. You can even see it on the chart
03:59 15 perhaps.

03:59 16 MS. KARIS: Can we go back to Figure 8. 1.9.3.1.
03:59 17 That's far enough.

03:59 18 THE WITNESS: I can't quite see it.

03:59 19 There's a period right after this one where the
03:59 20 pumps are turned off again and you see another one of these
03:59 21 pressure increases.

03:59 22 BY MS. KARIS:

04:00 23 Q. Is this another pressure increase that your team sees?

04:00 24 A. I'm sorry. I can't remember. I think that is it,
04:00 25 actually. I'm trying to find the page it is in the book. I

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04:00 1 will recognize it.

04:00 2 Q. That's page 107. 101.

04:00 3 A. Yeah. I'm sorry. That is it. It's about a 500 psi gain,
04:00 4 as I recall.

04:00 5 Q. That's at around 2130 that you see that gain?

04:00 6 A. That's correct.

04:00 7 Q. So did your investigation conclude that there were at
04:00 8 least three anomalies that should have been detected before any
04:00 9 well control action was taken, one from 2101 to 2108, the
04:01 10 second from 2108 to 2114, and then the third one beginning at
04:01 11 2131?

04:01 12 A. We didn't conclude whether they should have, but we
04:01 13 concluded that it would have been possible for them to be
04:01 14 observed.

04:01 15 Q. Would you expect a drill crew to be monitoring for these
04:01 16 types of anomalies?

04:01 17 A. Yes, you would.

04:01 18 Q. Did your team see any signs of any attempt to shut in the
04:01 19 well during any of those anomalies?

04:01 20 A. No. Our evaluation was that the first attempt came about
04:01 21 where that dip is there, 2141.

04:01 22 Q. So the first attempt to take any well control action comes
04:01 23 at around 2141?

04:02 24 MR. BRIAN: Objection, misstates the testimony.

04:02 25 THE COURT: I thought that's what he said myself.

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04:02 1 Maybe I heard it wrong.

04:02 2 Why don't you say again what you said about the
04:02 3 first attempt to shut in the well.

04:02 4 **THE WITNESS:** So our understanding was that the first
04:02 5 attempt to shut in the well took place at 2141, right where
04:02 6 that pointer was.

04:02 7 **BY MS. KARIS:**

04:02 8 **Q.** Is that a first attempt to shut in a VBR, variable bore
04:02 9 ram?

04:02 10 **A.** As I recall, we believe the first thing that was used was
04:02 11 another part of the BOP called the *annular preventer* --

04:02 12 **Q.** Fair enough.

04:02 13 **A.** -- which is the top part of the BOP. And then our best
04:02 14 view was that after that -- I think it was at about 2147 that
04:02 15 variable bore ram was used, probably related to that big
04:02 16 pressure spike there that's on the right-hand side of the page.

04:02 17 **Q.** So the first well control action, as I heard you testify,
04:03 18 is at 2141, an attempt to shut in an annular. And then at
04:03 19 2147, an attempt -- another attempt to shut in a VBR, or a
04:03 20 variable bore ram?

04:03 21 **A.** Yeah. And the 47 may be when the ram closed -- it's where
04:03 22 that spike is -- but that's correct.

04:03 23 **Q.** Mr. Bly, in the interest of not walking through the entire
04:03 24 time line in your report, does your report have a time line
04:03 25 that lays out the sequence of everything we have been talking

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04:03 1 about?

04:03 2 A. Yes, it does.

04:03 3 Q. For the benefit of the Court, if you have your report in
04:03 4 front of you, can you identify for us where the time line is
04:03 5 where you walked through the sequence of events that we have
04:03 6 just identified.

04:03 7 A. So there's a time line at the beginning of the report,
04:03 8 which is -- begins on page -- it's under Section 3, chronology
04:03 9 of the accident; and it runs from page 21 to 27 -- I'm sorry,
04:03 10 29 of the report.

04:04 11 Q. At the end of your investigation of those key findings
04:04 12 that we discussed, as well as the ones you discussed with
04:04 13 Mr. Sterbcow and Mr. Underhill this morning, what was your
04:04 14 team's conclusion as to what led to this blowout?

04:04 15 A. It was that those eight barriers had all failed -- had all
04:04 16 been penetrated or failed.

04:04 17 Q. I'm sorry?

04:04 18 A. It was that those eight barriers had all been penetrated
04:04 19 or failed.

04:04 20 Q. Who were the companies involved in those various barriers?

04:04 21 A. As I said earlier, BP, Transocean, and Halliburton
04:04 22 featured in those barriers.

04:04 23 Q. You were asked some questions about an interview that
04:04 24 Mr. Cowie and others conducted with Mr. Hafle regarding an
04:04 25 8:50 -- call it approximately 9:00. Do you recall those

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04:05 1 questions earlier?

04:05 2 A. Yes. Just before the break, yes.

04:05 3 MS. KARIS: If we can pull up Exhibit 296.6.1.

04:05 4 BY MS. KARIS:

04:05 5 Q. I believe Mr. Underhill highlighted this portion of the
04:05 6 testimony but did not show you this portion -- strike that --
04:05 7 highlighted this portion of the interview. You did not see
04:05 8 this part, so I want to discuss this part with you.

04:05 9 MR. UNDERHILL: Your Honor, just note -- I don't know
04:05 10 if this is an objection. I tried to go into this, and counsel
04:05 11 objected and shut me down, so I moved on. So I didn't try to
04:05 12 avoid this. I was going to go into it.

04:05 13 MS. KARIS: Your Honor, I --

04:05 14 THE COURT: I'll take you at your word. I just don't
04:05 15 recall. Fair enough.

04:05 16 Go ahead.

04:05 17 MS. KARIS: The transcript will reflect whether
04:05 18 Mr. Underhill went into this.

04:05 19 THE COURT: Okay.

04:05 20 BY MS. KARIS:

04:05 21 Q. First of all, were you aware of a conversation that took
04:05 22 place at approximately 9:00 between Mr. Vidrine and Mr. Hafle?

04:06 23 A. Yeah. That was part of the work that the team did. They
04:06 24 did interviews with these guys, and the team was aware of this.

04:06 25 Q. Let's stop for a minute and talk about those interviews.

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04:06 1 Was there a process set up for how interviews would be
04:06 2 conducted?

04:06 3 A. Yes, there was.

04:06 4 Q. Can you describe briefly that process.

04:06 5 A. It was guided by the root cause specialist. It had three
04:06 6 or four components. It was that we wanted to have at least two
04:06 7 people at each interview on the interviewing side. The root
04:06 8 cause guys would try to be there for all of them to guide the
04:06 9 process.

04:06 10 I know they had a way of asking open-ended questions
04:06 11 to try to get good feedback from the interviewee, and then the
04:06 12 guys captured notes for themselves to try to remember what was
04:06 13 said.

04:06 14 Q. Did your team record any of those interviews?

04:07 15 A. Did we record them?

04:07 16 Q. Yes.

04:07 17 A. With a recording device?

04:07 18 Q. Right.

04:07 19 A. No.

04:07 20 Q. So whatever record or notes exist, would those have been
04:07 21 your team's impressions of what was said?

04:07 22 A. Yeah, that's what the interviewers wrote down as they had
04:07 23 these conversations.

04:07 24 MS. KARIS: If we can go to the first page of the
04:07 25 investigations --

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04:07 1 THE COURT: Do you know whether the notes were taken
04:07 2 contemporaneously during the interview?

04:07 3 THE WITNESS: So two interviewers --

04:07 4 THE COURT: Somebody was taking notes
04:07 5 contemporaneously, as the interview was occurring? Is that how
04:07 6 it happened?

04:07 7 THE WITNESS: Well, the way -- I wasn't in the
04:07 8 interviews, Your Honor; but the way I understand it was the
04:07 9 interviewers would ask questions and then they would write
04:07 10 their own notes in a notepad.

04:07 11 THE COURT: What I mean is, it was being done
04:07 12 contemporaneously as the interview was occurring?

04:07 13 THE WITNESS: At the same time, yes.

04:07 14 THE COURT: It wasn't a situation interviewing
04:07 15 somebody and going back to the office and then writing notes?

04:07 16 THE WITNESS: No. They scribbled the notes there.
04:07 17 There was a process where sometimes they would bring them back
04:07 18 and summarize them into typewritten.

04:07 19 THE COURT: Okay.

04:07 20 BY MS. KARIS:

04:08 21 Q. If we can go to the first page of your investigation.

04:08 22 In the executive summary it states: "The BP
04:08 23 investigation team began its work immediately in the aftermath
04:08 24 of the accident, working independently from other BP spill
04:08 25 response activities and organizations."

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04:08 1 MS. KARIS: The next paragraph, please. It's the
04:08 2 very first page. Thank you.

04:08 3 BY MS. KARIS:

04:08 4 Q. Let's try this again. Right up front, first page of your
04:08 5 report, halfway down, it says: "In the course of the
04:09 6 investigation, members of the team conducted interviews, and
04:09 7 this report draws upon the team members' understanding of those
04:09 8 interviews. The investigation team did not record or produce
04:09 9 verbatim transcripts of any interviews, nor did the team ask
04:09 10 the interviewees to review or endorse the notes taken by the
04:09 11 interview team members. There were at least two team members
04:09 12 present during each interview; and in utilizing information
04:09 13 gathered from interviews, the team has taken into account the
04:09 14 presence or absence of corroborating or conflicting evidence
04:09 15 from other sources."

04:09 16 Is that a fair description of the process your team
04:09 17 used for conducting the interviews?

04:09 18 A. Yes, it is. Yes.

04:09 19 MS. KARIS: Now, if we can go back to the notes,
04:09 20 296.6.1.

04:09 21 BY MS. KARIS:

04:09 22 Q. These are some interview notes from an interview conducted
04:10 23 of Mr. Hafle. You were asked about this 8:52 call. So we went
04:10 24 backwards a little. I apologize.

04:10 25 First describe to us what your understanding is of

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04:10 1 that call that took place at approximately 9:00 between
04:10 2 Mr. Vidrine and Mr. Hafle.

04:10 3 **MR. UNDERHILL:** Objection, Your Honor. If I
04:10 4 understood the witness's testimony -- perhaps I'm wrong -- he
04:10 5 was not even advised of this call. If I'm wrong about that, I
04:10 6 stand corrected, but that's the way I understood his direct
04:10 7 testimony.

04:10 8 **THE COURT:** When you examined him --

04:10 9 **MR. UNDERHILL:** Correct, or cross-examination.

04:10 10 **THE COURT:** I think that's what I recall, too.

04:10 11 **MS. KARIS:** Your Honor, I think I can clarify; but
04:10 12 it's perhaps better to have the witness clarify.

04:10 13 **THE COURT:** Go ahead.

04:10 14 **BY MS. KARIS:**

04:10 15 **Q.** First, do you recall when Mr. Underhill asked you
04:10 16 questions about this call?

04:10 17 **A.** Yes. Generally, yes.

04:10 18 **Q.** He asked you whether there was a call that you were aware
04:10 19 of at 9:00 to discuss the negative pressure test. Do you
04:11 20 recall that?

04:11 21 **A.** Yeah. It was connected to that consultation language in
04:11 22 the report.

04:11 23 **Q.** Were you aware of a call that took place at approximately
04:11 24 9:00? Let's start with that.

04:11 25 **A.** Yes.

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04:11 1 Q. Tell us what your knowledge is in connection with this
04:11 2 call that took place at approximately 9:00 between Mr. Hafle
04:11 3 and Mr. Vidrine.

04:11 4 A. So my awareness of this comes from what I heard from the
04:11 5 team, the people that actually did the interviews. And my
04:11 6 recollection of their thinking about this was that the call had
04:11 7 happened. It had been -- the purpose of it had been to discuss
04:11 8 another operational step.

04:11 9 Q. What was that operational step?

04:11 10 A. It was putting this -- the final cement plug in the well,
04:11 11 the next thing that was going to happen. There was a
04:11 12 discussion about this 1400 pounds and zero situation, but their
04:12 13 impression at the end of the day was that it was sort of
04:12 14 discussed in passing and it was after the fact; it was well
04:12 15 after the negative test had been concluded. That's my
04:12 16 recollection.

04:12 17 Now, the guys that did it will be in a much better
04:12 18 position to say exactly what they thought from their
04:12 19 interviews, but that's what I recall from the discussions with
04:12 20 them.

04:12 21 Q. Those guys would have been Mr. Corser -- I'm sorry. You
04:12 22 tell us who that team would have been.

04:12 23 A. Well, it was in the part of the investigation that
04:12 24 Mr. Robinson led, so I don't know who was in the interview. We
04:12 25 can look at it.

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04:12 1 Yes. So Kent Corser and Steve Robinson would be well
04:12 2 positioned to give at least their impressions that they had
04:12 3 from the discussion they had in the interview.

04:12 4 Q. Let's go back to that same sentence where we were reading
04:13 5 from these notes.

04:13 6 Do these notes reflect that -- it says: "Later on,
04:13 7 April 20, Don Vidrine called Mark at 8:20 to talk about how to
04:13 8 test the surface plug and whether they should apply a pressure
04:13 9 test or a weight test."

04:13 10 Is that the cement plug that you were referring to?

04:13 11 A. Yeah, that's correct. Yes, it is.

04:13 12 Q. "Mark noted that Don also talked to him about the negative
04:13 13 tests. Vidrine told Mark that the crew had zero pressure on
04:13 14 the kill line, but that they still had pressure on the drill
04:13 15 pipe. Mark said he told Don, You can't have pressure on the
04:13 16 drill pipe and zero pressure on the kill line in a test that's
04:13 17 properly lined up.

04:13 18 "Mark said he told Don he might consider whether he
04:13 19 had trapped pressure in the line or perhaps he didn't have a
04:14 20 valve properly lined up."

04:14 21 Can you read us now what the next sentences say that
04:14 22 were not previously read.

04:14 23 A. It says: "Don told Mark that he was fully satisfied that
04:14 24 the rig crew had performed a successful negative test. Mark
04:14 25 said he didn't have the full context for what had transpired

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04:14 1 during the tests, and it wasn't clear to him whether Don was
04:14 2 talking about the first or second negative tests.

04:14 3 "Don told him he watched the kill line for 30 minutes
04:14 4 and didn't see a drip coming out of it. And so Mark assumed
04:14 5 that Don had concluded that it was not a problem."

04:14 6 Q. Is there anything about that conversation that we just
04:14 7 talked about that would lead you to a different conclusion than
04:14 8 the one stated in your report, that no one from the rig crew or
04:14 9 BP's team consulted with anyone onshore during the negative
10 tests?

04:14 11 A. As I said, no. What would influence me is not so much
04:14 12 what's written here but what my guys who did the work, who did
04:15 13 this interview, how they brought their thinking together to
04:15 14 come to their conclusions.

04:15 15 Q. Tell us your understanding of how that team brought their
04:15 16 thinking together to come to that conclusion.

04:15 17 A. Well, this was one interview they -- I know they -- I
04:15 18 believe they did multiple interviews with some of these guys,
04:15 19 with Mr. Hafle and Mr. Vidrine.

04:15 20 I don't know if all of the notes from those -- in
04:15 21 this matter were consistent or not. But I know they went back
04:15 22 and they checked. And taking all of that, they came to the
04:15 23 view that was represented in the report.

04:15 24 Q. So the line in the report that the investigation team --
04:15 25 reading right out of your report -- "has found no evidence that

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04:15 1 the rig crew or well-site leaders consulted anyone outside
04:15 2 their team about the pressure abnormality," is that a
04:15 3 conclusion your team reached after considering all of the
04:15 4 interviews, all of the data, and all of the information that
04:15 5 was available to it?

04:15 6 A. Yes, that's right. That's how we did the report.

04:16 7 Q. We finished talking about the findings in the report and
04:16 8 the information in the report. I want to turn to a final
04:16 9 subject.

04:16 10 As part of the investigation that your team did, did
04:16 11 you also make some recommendations?

04:16 12 A. Yes, we did.

04:16 13 Q. How many recommendations did you make as a result of your
04:16 14 investigation?

04:16 15 A. There were 26 recommendations that are in the report.

04:16 16 Q. Are those the recommendations that are listed from
04:16 17 pages 182 to 186 in your report?

04:16 18 A. Yes, they are.

04:16 19 Q. Were those recommendations, all 26 of them, adopted by
04:16 20 BP's management when you concluded the work on your report?

04:16 21 A. Yes, they were.

04:16 22 Q. How many different deliverables, if you will, resulted
04:16 23 from those recommendations?

04:17 24 A. The project team that began to put this together, I think
04:17 25 it's about 180 to 200 actions, separate, distinct actions they

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04:17 1 have identified to deliver those 26 recommendations.

04:17 2 Q. What is that team called?

04:17 3 A. It's called the *Bly Remand Team*.

04:17 4 Q. So there's a team now that is put together that is working
04:17 5 on implementing all 26 recommendations and all
04:17 6 180 deliverables; is that correct.

04:17 7 A. That is right.

04:17 8 Q. Can you give us a broad overview of some of the areas that
04:17 9 BP is implementing your recommendations in?

04:17 10 A. So the broad overview is that we address standards and
04:17 11 practices under, you know, OMS and DWOP. We address contractor
04:17 12 oversights. We address BOPs, cementing, and so on, is the
04:18 13 broad level description.

04:18 14 MS. KARIS: Exhibit 7210 please. 7210.1.1. If you
04:18 15 can go to .5.1, please.

04:18 16 BY MS. KARIS:

04:18 17 Q. Mr. Bly, do you recognize this *BP Magazine* in which you
04:18 18 were -- were you interviewed as part of this publication that
04:18 19 was put out by BP in the *BP Magazine*?

04:18 20 A. Yes, it looks like I was. I can see my name at the top,
04:18 21 right here.

04:18 22 Q. It says there: "It's been six months since BP's internal
04:18 23 investigation was released. What progress has been made in the
04:18 24 upstream specifically to respond to the incident and implement
04:18 25 the recommendations?"

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04:18 1 "The first thing that BP did was to accept all
04:18 2 26 recommendations."

04:18 3 Those would be the recommendations from your
04:18 4 investigation; is that correct?

04:18 5 A. That's right.

04:18 6 Q. "Implementing them requires detailed work. Members of the
04:19 7 investigation team have provided input to the project team,
04:19 8 which is working on the recommendations. And as I see, solid
04:19 9 progress in many other areas; for example, a centralized well
04:19 10 organization has been created to manage drilling activities to
04:19 11 consistent standards across the globe. Independent third-party
04:19 12 certification of our drilling contractors' subsea blowout
04:19 13 preventers has been completed to check the testing and
04:19 14 maintenance of their emergency systems.

04:19 15 "The auditing of the rigs that drill our wells has
04:19 16 moved across into my S&OR audit team. Work is also under way
04:19 17 to enhance the standards for cementing and well integrity
04:19 18 testing, including new approvals process and stringent contract
04:19 19 laboratory quality audits."

04:19 20 Are those some of the actions that BP has taken as a
04:20 21 result of the work that you and your team did looking into this
04:20 22 incident?

04:20 23 A. Yes, those are some.

04:20 24 Q. Are those actions -- are they limited to the Gulf of
04:20 25 Mexico, or are they broader than the Gulf of Mexico?

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04:20 1 A. All of the 26 recommendations, all of the actions that are
04:20 2 being followed up are global. They are being done for all of
04:20 3 our global drilling operations.

04:20 4 Q. Given what your position is -- or was, at least until a
04:20 5 few days ago -- do you have general familiarity with what the
04:20 6 current state of the implementation of these procedures is?

04:20 7 A. Yes, I do. There's updates provided periodically about
04:20 8 how that project is coming along.

04:20 9 Q. Has action been taken with respect to each of the
10 26 recommendations?

04:20 11 A. Yes, it has.

04:21 12 MS. KARIS: Your Honor, if I can have just one
13 minute, I might be done here.

04:21 14 THE COURT: Okay.

04:22 15 MS. KARIS: Your Honor, I do have a few more minutes,
16 just going a little further into this area, if that's okay.

04:22 17 THE COURT: Go ahead.

04:22 18 MS. KARIS: Thank you.

04:22 19 BY MS. KARIS:

04:22 20 Q. Mr. Bly, I would like to talk to you about some of those
21 recommendations; specifically, what actions have been taken.

04:22 22 MS. KARIS: And if you could go to TRES-2360, please.

04:23 23 2360, but that doesn't seem to line up. Let's
24 try it a different way.

04:23 25 Could we pull up D-4367.2, please.

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04:23 1 BY MS. KARIS:

04:23 2 Q. Mr. Bly, we were talking about the recommendations, and I
04:23 3 just want to walk through a couple of them with you.

04:24 4 Is it fair to say that the 26 recommendations turned
04:24 5 into 180 deliverables?

04:24 6 A. Yes, that's right.

04:24 7 Q. What is the purpose you have stated for those
04:24 8 deliverables?

04:24 9 A. To enable prevention of similar accidents was the primary
04:24 10 objective for making those recommendations.

04:24 11 Q. You were asked earlier today about whether those
04:24 12 recommendations made changes or improvements to DWOP and to
04:24 13 OMS. Do you recall that?

04:24 14 A. I don't remember that question, but fair enough.

04:24 15 Q. Fair enough.

04:24 16 MS. KARIS: Next, if we could have 4367.3.

04:24 17 BY MS. KARIS:

04:24 18 Q. Is it accurate -- let me ask you, has action been taken
04:24 19 with respect to each of the key findings that have been
04:24 20 addressed in your report?

04:25 21 A. Yeah. I believe the recommendations were written so as to
04:25 22 do that. And so, therefore, yes.

04:25 23 Q. There's a reference here to "interim guidance, temporary
04:25 24 measures for safety of ongoing operations."

04:25 25 Can you tell us what that interim guidance was about?

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04:25 1 A. Yes. Very, very shortly after the investigation was
04:25 2 completed, maybe even before it was completed, the wells
04:25 3 organization, our global wells organization, took actions to
04:25 4 address in a short-term fashion things associated with the key
04:25 5 findings: cement, BOPs, negative testing, etc.

04:25 6 So they put some immediate steps in place in
04:25 7 recognition that development of the detailed plans to fully
04:25 8 implement the 26 recommendations would take some time.

04:25 9 Q. Were those plans put in place as soon as your report came
04:26 10 out or as soon as possible after your report came out?

04:26 11 A. I don't remember the exact day, but it was right about
04:26 12 that time, at the end of that fall of that year.

04:26 13 MS. KARIS: If we could have D-4367.4.

04:26 14 BY MS. KARIS:

04:26 15 Q. How many of those action items -- or strike that.

04:26 16 How many of your 26 recommendations, as stated in
04:26 17 your report, have been completed to date?

04:26 18 A. 14, as it says here.

04:26 19 Q. Is this a list of the actions that have been completed?

04:26 20 A. I'm sorry. I didn't hear the question.

04:26 21 Q. Sure. Does D-4367.4 list the actions that have been
04:26 22 completed with respect to those 14 recommendations?

04:26 23 A. Yes, it does.

04:26 24 Q. Can you give us just a sense for what some of these are?

04:26 25 A. So the first one is the update and clarify cementing

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04:26 1 practices and guidelines.

04:26 2 The next one was about technical well practices to do
04:27 3 with negative test -- well design considerations with negative
04:27 4 testing, lockdown requirements for casing hangers.

04:27 5 Moving down, there was a proposal -- or recommended
04:27 6 practice for foam cementing, for testing to the API, strengthen
04:27 7 rig audit process, and so on.

04:27 8 So there's a -- this whole list were things that have
04:27 9 been completed so far by the project team.

04:27 10 Q. So based on what you just told us, there's been action
04:27 11 that has been taken in the area of cementing, in the area of
04:27 12 negative pressure testing, as well as with respect to BOPs. Is
04:27 13 that accurate?

04:27 14 A. That's right.

04:27 15 MS. KARIS: If we can go to D-4367.5, please.

04:27 16 BY MS. KARIS:

04:27 17 Q. This was the first recommendation coming out of your
04:27 18 report dealing with cementing guidelines. You indicated this
04:27 19 recommendation has been completed.

04:27 20 Can you tell us what some of the steps that have been
04:27 21 taken to date are with respect to this?

04:28 22 A. So for this one, this requires the development of written
04:28 23 guidelines or practices. The testing of those would -- you
04:28 24 know, operating lines, subject matter experts, the finalization
04:28 25 of that. And then codification, rollout, training of the

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04:28 1 affected people that would need to know those things, and then
04:28 2 confirmation that they understood and had been trained.

04:28 3 Q. So those action items have been completed?

04:28 4 A. That's correct. Well, that's correct based on the reports
04:28 5 I see at a high level.

04:28 6 Q. Fair enough.

04:28 7 MS. KARIS: D-4367.6, please.

04:28 8 BY MS. KARIS:

04:28 9 Q. You also indicated that Recommendation 1.4 has been
04:28 10 completed with respect to negative pressure testing?

04:28 11 A. Correct.

04:28 12 Q. Can you just generally describe for the Court what actions
04:28 13 have been taken with respect to implementing your investigation
04:28 14 team's recommendation regarding negative pressure testing.

04:29 15 A. So this was to develop a detailed procedure for negative
04:29 16 pressure testing. It had certain attributes to it, like
04:29 17 pass/fail criteria and lineup requirements. And then within
04:29 18 this was also to recognize that it had to be specific to the
04:29 19 valving and piping and plumbing on the rig; that we would get
04:29 20 sign-off from the contractor side as well as our side. And
04:29 21 then I'm sure in here there's independent checks to confirm
04:29 22 that the test was acceptable.

04:29 23 Q. Let me stop you there. Have any of your contractors
04:29 24 indicated that their toolpusher would not know how to interpret
04:29 25 a negative test and, therefore, not be able to sign off on such

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04:29 1 a test?

04:29 2 A. I'm not aware of that. The global wells organization
04:29 3 would have a firsthand view of that, but I'm not aware of that
04:29 4 myself.

04:29 5 Q. But that is a requirement, that the toolpusher now sign
04:30 6 off on these tests; is that correct?

04:30 7 A. That's correct.

04:30 8 MS. KARIS: And then the last one, 4367.7.

04:30 9 BY MS. KARIS:

04:30 10 Q. This references "advanced deepwater well control training
04:30 11 program."

04:30 12 Can you tell us what this program that is completed
04:30 13 is about, Recommendation 2.3.

04:30 14 A. So this is -- there were two training programs we
04:30 15 identified. This is around well control. So this was -- our
04:30 16 objective here was to extend and strengthen the kind of
04:30 17 training that was available for well control in the industry.

04:30 18 And within this one, there's -- it's to embed the
04:30 19 lessons from the *Deepwater Horizon* incident, but there's also
04:30 20 training required -- training about pressures and things,
04:30 21 including negative testing, built into this training program.

04:30 22 Q. Have you shared your learnings from the *Deepwater Horizon*
04:30 23 incident not only with BP, but with the industry as well?

04:31 24 A. Yes. The company has done a lot of sharing of our
04:31 25 learnings.

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04:31 1 Q. Can you tell us -- for example, who are some of the
04:31 2 entities that you shared your learnings with?

04:31 3 A. We've shared it with other operating companies, with
04:31 4 contractors. We've shared it with governments around the
04:31 5 world, you know, regulatory bodies around the world. We had a
04:31 6 team that actually went around and did that, based on the
04:31 7 learning from our work and learning from the containment work
04:31 8 and other aspects of the overall incident.

04:31 9 Q. At the end of the day, are you and your team, to your
04:31 10 knowledge, proud of the work that you did in connection with
04:31 11 the *Deepwater Horizon* incident?

04:31 12 A. I'm proud. I believe the team is proud as well.

04:31 13 MS. KARIS: Thank you. Nothing further, Your Honor.

04:31 14 THE COURT: Well, unfortunately, Mr. Bly, we are
04:31 15 going to have to invite you back Monday. Some other people
04:31 16 have questions for you. We will recess today -- it's 4:30.

04:32 17 Judge Shushan's trial team members and all
04:32 18 should stick around for a few minutes. Judge Shushan will be
04:32 19 here to go through the marshaling of the exhibits for the week.
04:32 20 We'll resume at 8:00 a.m. on Monday morning.

04:32 21 I will announce again that the press and public
04:32 22 overflow room for Monday for next week will be Judge Duval's
04:32 23 courtroom, which is right above me on the third floor, room
04:32 24 C-352.

04:32 25 Anybody have anything else before we recess?

04:32 1 **MS. KARIS:** Your Honor, I have one last thing. I
04:32 2 have put on a thumb drive here the video of Mr. Bly's
04:32 3 presentation. We will be submitting it into evidence. It's
04:32 4 TREX-47647. I'm happy to give it to Ben right now on this
04:32 5 thumb drive.

04:32 6 **THE COURT:** You can do that, or you can wait until
04:33 7 the end of his testimony when you offer the rest of his -- why
04:33 8 don't you do that and hang on to it until Monday. Okay?

04:33 9 **MS. KARIS:** Very well. Thank you.

04:33 10 **THE COURT:** All right. Everyone have a great
04:33 11 weekend, and we'll see you back Monday morning.

04:33 12 **THE DEPUTY CLERK:** All rise.

04:33 13 (Recess.)

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04:33 1 (The following proceedings were held before
04:33 2 The Honorable Sally Shushan.)

04:40 3 **THE COURT:** Mr. Nomellini, come on up. We have some
04:40 4 work to do.

04:40 5 **MR. NOMELLINI:** Good afternoon, Your Honor.

04:40 6 **THE COURT:** Good afternoon, Mr. Nomellini.

04:40 7 Okay, guys. Just so you all know, Mike and I
04:40 8 have not been monitoring the trial, but we are hearing awfully
04:40 9 good things about how smoothly it's going, and we thank you all
04:40 10 very much for the first week of trial. That's terrific.

04:41 11 I think we've got a couple of bumps in the road
04:41 12 with regard to exhibits that we are going to try to work
04:41 13 through today so that next week when we do it, it will be
04:41 14 pretty quick and pretty automatic.

04:41 15 Now, let me tell you what I have. I have -- who
04:41 16 is that using their mic?

04:41 17 **MR. HERMAN:** I'm the culprit, but I think I fixed it.

04:41 18 **THE COURT:** Thank you, Mr. Herman.

04:41 19 I have the inData runs for both Tuesday and
04:41 20 Wednesday. And if you all didn't read the memo, this week we
04:41 21 are going to marshal exhibits for Tuesday and Wednesday. Next
04:41 22 Thursday we will marshal exhibits for today, Monday, Tuesday,
04:41 23 and Wednesday. Okay?

04:42 24 So today we're just going to try to get Tuesday
04:42 25 and Wednesday straight, which doesn't look like it's going to

04:42 1 be easy.

04:42 2 I have inData's list. Let's start with 226,
04:42 3 which I believe is sorted by order of use of the exhibit and
04:42 4 the demonstrative.

04:42 5 I have just, for my own purposes -- because I
04:42 6 don't want to sit here with 50 lists to try to resolve -- I
04:42 7 also have BP's list from 2-26. I believe it's called the
04:42 8 *call-out list*.

04:42 9 So Mr. Nomellini, is that list in order of use?

04:42 10 **MR. NOMELLINI:** Your Honor, I have -- Mike O'Keefe
04:42 11 asked me to prepare a list that was the same order of use as
04:42 12 the inData list, and so I have that list here.

04:43 13 **THE COURT:** That would be helpful, because I freaked
04:43 14 out over that. That's on the record.

04:43 15 This looks a lot better.

04:43 16 Then I have Carter's e-mail to Mark Nomellini
04:43 17 saying that he had looked at BP's list from Tuesday, and he
04:43 18 made some notes of things that were omitted or that were on
04:43 19 inData's list but not on the PSC's list. So, Carter, you are
04:44 20 going to have to come help us as well.

04:44 21 Those seem to me to be the three main people we
04:44 22 are going to want to talk to as we go through this. Okay? So
04:44 23 what I would like for you guys to do is stop me, Carter, when
04:44 24 we get to one of the exhibits you think we have a problem with.
04:44 25 I'm going to go through the list from 2-26 and read those that

04:44 1 are on inData's list as well as on BP's master list. Okay?

04:44 2 And by the way, inData, we don't have a rerun
04:44 3 list showing whether exhibits were admitted, admitted subject
04:45 4 to objection, or proffered. We would like that every Thursday.
04:45 5 The list that you give us should reflect that for each exhibit.
04:45 6 Okay? Because that's not reflected. Thank you.

04:45 7 So let's start our morning 2-26. I have got
04:45 8 Exhibit 2001, used by the PSC, admitted subject to objection.

04:45 9 **MR. O'KEEFE:** Your Honor, that's 20,001.

04:45 10 **THE COURT:** I'm sorry, 20,001.

04:45 11 Next up, Demonstrative 2731, admitted.

04:45 12 Demonstrative 2732, admitted.

04:45 13 Demonstrative 2745, admitted.

04:46 14 Demonstrative 2746, admitted.

04:46 15 Demonstrative 2760, admitted.

04:46 16 Demonstrative 2734, admitted.

04:46 17 Demonstrative 2875, admitted.

04:46 18 Demonstrative 2771, admitted.

04:46 19 Demonstrative 2772, admitted.

04:46 20 Exhibit 1742, admitted.

04:46 21 Exhibit 1, admitted.

04:46 22 D-2729, admitted.

04:46 23 D-2826, admitted.

04:46 24 D-2735, admitted.

04:47 25 D-2670, admitted.

04:47 1 D-2686, admitted.

04:47 2 **MR. O'KEEFE:** Beg your pardon, Your Honor. I believe
04:47 3 that is D-2868.

04:47 4 **THE COURT:** I'm sorry. Thank you, Mike.

04:47 5 D-2868, admitted.

04:47 6 D-2887, admitted.

04:47 7 D-2871, nothing noted. What do we have for
04:47 8 that? D-2871, both inData and BP show that that was used, but
04:47 9 there's no notation. Anybody have that?

04:47 10 **MR. IRPINO:** Yes, Your Honor.

04:47 11 **THE COURT:** What do you got, Anthony?

04:47 12 **MR. IRPINO:** I'm Anthony Irpino for the PSC. We have
04:47 13 it showing as with Dr. Bea's direct examination.

04:47 14 **THE COURT:** That's right.

04:47 15 **MR. IRPINO:** And on our list we have it showing as
04:47 16 admitted. It might be based on the rules. That was before the
04:48 17 memo. Technically, Dr. Bea's was before the memo. So for our
04:48 18 list, we have a yes. And so maybe it should go as a proffer,
04:48 19 but we have a yes on our list as it was being discussed in
04:48 20 court.

04:48 21 **THE COURT:** Would all the other parties please look
04:48 22 at your notes and tell me whether you disagree that was
04:48 23 admitted. We'll come back to it. I have it highlighted.

04:48 24 2675, I show that as being proffered.

04:48 25 D-28 -- I'm sorry. Mark.

04:48 1 **MR. NOMELLINI:** That's right, Your Honor. And just
04:48 2 to be clear, by "proffered," what that means is somebody used
04:48 3 it, but it hasn't been offered into evidence yet.

04:48 4 **THE COURT:** Okay. Fair enough.

04:48 5 **MR. IRPINO:** It's the same issue with this for us,
04:48 6 Your Honor. We have it as the Bea direct being discussed; but
04:48 7 again, based on the definition of *discussed* and what's
04:49 8 proffered, I think that's the issue because the memo came out
04:49 9 after the Bea direct, so --

04:49 10 **THE COURT:** Tomorrow morning someone is going to
04:49 11 stand up and ask for formal admission of those things that we
04:49 12 believe were proffered today, and they will be admitted next
04:49 13 Thursday.

04:49 14 **MR. IRPINO:** So do it at the working group conference
04:49 15 tomorrow?

04:49 16 **THE COURT:** Oh, tomorrow is not a trial date.
04:49 17 Monday.

04:49 18 **MR. CUNNINGHAM:** Can I weigh in and ask a question,
04:49 19 because I'm getting confused.

04:49 20 **THE COURT:** Sure.

04:49 21 **MR. CUNNINGHAM:** At the first of Dr. Bea's exam, I
04:49 22 attempted to proffer or offer the exhibits as I went. And the
04:49 23 judge said, "You don't need to do that. At the end of the
04:49 24 exam, you can give us a list of everything you used, and that
04:49 25 will be considered offered," which to me is the same as

04:49 1 considered proffered.

04:49 2 **THE COURT:** All right. So far we have D-2871 and
04:50 3 D-2675 on that list. And, Bobbo, these were only the exhibits
04:50 4 that you used with Dr. Bea?

04:50 5 **MR. CUNNINGHAM:** Yes, ma'am. If we have cut it down
04:50 6 to where it should be, that's what I used with him.

04:50 7 **THE COURT:** That was what Judge Barbier ruled.

04:50 8 Do you have a copy of that, or do we have a copy
04:50 9 of that?

04:50 10 **MR. HERMAN:** That's the list we circulated yesterday.

04:50 11 **MR. CUNNINGHAM:** We have that list. And so I never
04:50 12 said I offer or proffer anything. He didn't want to hear it
04:50 13 basically, and it made it much more efficient just to offer the
04:50 14 list at the end.

04:50 15 **THE COURT:** Okay. Mike, look and see if you've got
04:50 16 D-2871.

04:50 17 **MR. O'KEEFE:** D-2871 is on there, OMS cornerstone
04:50 18 safety.

04:50 19 **THE COURT:** D-2675.

04:51 20 **MR. O'KEEFE:** D-2675 is on their organization chart.

04:51 21 **THE COURT:** What I would like you-all to do is --
04:51 22 Judge Barbier did rule yesterday that if it was on the list and
04:51 23 the list was tendered, it would be admitted.

04:51 24 Does everybody agree that those two will be
04:51 25 admitted?

04:51 1 MR. NOMELLINI: Yes, Your Honor.

04:51 2 THE COURT: So D-2871 and D-2675 will be admitted.

04:51 3 D-2874 is admitted.

04:51 4 MR. NOMELLINI: Your Honor, with respect to D-2874, I
04:51 5 don't know if you want to address that now or later, but we
04:51 6 have a recurring issue with respect to the call-outs.

04:51 7 2874, I believe, is an example of a document
04:51 8 that we don't have. It's a call-out. It's called a
04:52 9 demonstrative, but it's not really a demonstrative because it's
04:52 10 not a characterization of documents. So it was not disclosed.

04:52 11 There's an issue for this document, as for
04:52 12 others, where they're call-outs that are being admitted as
04:52 13 call-outs.

04:52 14 What we think should happen is that the -- if
04:52 15 it's going to be offered, the entire document should be offered
04:52 16 and then it can be objected to or admitted. But the problem
04:52 17 with the call-outs is (a) it's being characterized as a
04:52 18 demonstrative. It's not really a demonstrative. So it's not
04:52 19 being disclosed as being admitted. We agree that was the
04:52 20 ruling at the time, but for that and going forward, we think
04:52 21 that there's going to be a problem with having exhibits in the
04:52 22 record that were admitted and that the parties don't have a
04:53 23 copy of.

04:53 24 THE COURT: Well, okay. So let's talk about that.
04:53 25 What is D-2874?

04:53 1 **MR. IRPINO:** These, I think, would fall under the
04:53 2 category -- we have gone back and forth with the definition of
04:53 3 *demonstratives* and *demonstrative aids*, and I think all of these
04:53 4 would fall under the category of demonstrative aids.

04:53 5 **THE COURT:** We have abolished the distinction between
04:53 6 demonstratives and demonstrative aids.

04:53 7 **MR. IRPINO:** Yes, we blurred the lines of definitions
04:53 8 here.

04:53 9 So these were technically things that I guess
04:53 10 you would call call-outs or blowups, or they're just pieces of
04:53 11 another exhibit blown up or taken out, and so they fall into
04:53 12 the aids. So they weren't ones that were put on the disclosed
04:53 13 list because they weren't, quote, demonstratives like a
04:53 14 collage. So we're dealing with aids.

04:53 15 What we appreciated the judge to say, though,
04:53 16 was that he still wanted to look at everything in context. He
04:54 17 didn't want the entire document, he didn't want to look at
04:54 18 everything. He wanted to look at what was up there, and he
04:54 19 wanted those admitted into evidence, if they were used, such
04:54 20 that he can refer to them later on. That's how we appreciated
04:54 21 it.

04:54 22 As such, we have listed them and then we are
04:54 23 offering them as part of the testimony. That's where that part
04:54 24 of it all comes from.

04:54 25 **THE COURT:** Thank you, Anthony.

04:54 1 David.

04:54 2 MR. JONES: I'm just standing up to let you know that
04:54 3 I've heard from back here. If it would be helpful to you, they
04:54 4 can pull them up and show them to you.

04:54 5 THE COURT: Pull them up, please.

04:54 6 So this is a call-out of one page of a TREX
04:54 7 exhibit?

04:54 8 MR. CUNNINGHAM: Actually, it's two depositions.
04:54 9 It's a call-out from one deposition at the top, another at the
04:54 10 bottom. Two different witnesses.

04:55 11 MR. IRPINO: What we appreciated, Your Honor, was
04:55 12 that Judge Barbier wanted these for reference when going back
04:55 13 and looking at them, and he had requested that they be offered
04:55 14 if they were being used in connection with the testimony.
04:55 15 That's where that all comes from.

04:55 16 THE COURT: Tell me again why this is not a
04:55 17 demonstrative.

04:55 18 MR. CUNNINGHAM: Because it's a pullout from a
04:55 19 deposition or a pullout from an exhibit or -- I forget what
04:55 20 else we defined that way, but it was not required to be
04:55 21 disclosed. But they now have it. I mean, it's been --

04:55 22 MR. NOMELLINI: No, we don't.

04:55 23 MR. CUNNINGHAM: Well, there it is right there.

04:55 24 MR. LANGAN: Bobbo, I'm not allowed to bring my
04:55 25 camera phone in.

04:55 1 **MR. CUNNINGHAM:** We will give it to them after we use
04:55 2 them, but the whole point of not having -- or part of the point
04:56 3 of not having to disclose them is because of preparing them for
04:56 4 our cross-examination of a witness, for example.

04:56 5 **THE COURT:** What Jim Roy had raised with me during
04:56 6 one of the work group conferences is that if, indeed, you are
04:56 7 cross-examining a witness based on the witness's prior
04:56 8 deposition testimony, that certainly does not need to be
04:56 9 disclosed. That is not a demonstrative. You can use it and
10 put it up on the screen.

04:56 11 I have to think about this, Bobbo, because this
04:56 12 is a slide that you-all have prepared from two different
04:56 13 depositions and although it's deposition testimony, it's not
04:56 14 the witness's testimony, presumably. Is it? Who are these
04:56 15 clips from, and who was testifying?

04:56 16 **MR. CUNNINGHAM:** Dr. Bea was testifying. These were
04:57 17 from Mr. Baxter and Mr. O'Bryan.

04:57 18 **MR. HERMAN:** But after we get through putting
04:57 19 126 bundles in this afternoon, all of this --

04:57 20 **THE COURT:** It may not be afternoon by then.

04:57 21 **MR. HERMAN:** Presumably all of this will be in
04:57 22 evidence. It will be in the underlying body of evidence. So
04:57 23 it wouldn't necessarily -- I don't think it would be proper to
04:57 24 put in the entire deposition transcript, if that's what they
04:57 25 are suggesting. It's a little bit different than an exhibit.

04:57 1 **THE COURT:** Yeah. I think they think it's a
04:57 2 demonstrative.

04:57 3 **MR. CUNNINGHAM:** I haven't heard them argue that this
04:57 4 is a demonstrative, because they are going to have and have
04:57 5 had, as I understand it, similar exhibits.

04:57 6 But if we have to, to avoid -- I hope we don't
04:57 7 have to do this. We can go back and undo these and simply put
04:57 8 the deposition excerpts on separate pages and accomplish
04:57 9 exactly the same thing in a much duller way.

04:57 10 **THE COURT:** That will please Judge Barbier.

04:58 11 **MR. CUNNINGHAM:** That's what we're trying to do.

04:58 12 **MR. HERMAN:** I think we are kind of mixing up three
04:58 13 different issues. One issue is what you have to disclose
04:58 14 before you question a witness, and hopefully everybody is in
04:58 15 agreement on what you do and don't have to disclose.

04:58 16 The second issue is what is actually in the
04:58 17 record, the evidentiary record that presumably may one day go
04:58 18 up on appeal.

04:58 19 And then the third issue is what does
04:58 20 Judge Barbier want for his own convenience so that when he is
04:58 21 reviewing his notes in the trial, etc., and he is making his
04:58 22 findings, he can easily see this instead of having to flip
04:58 23 through the entire depositions and try to figure out where
04:58 24 stuff came from.

04:58 25 So I think there's three different issues, one

04:58 1 is a disclosure issue, one is a record issue, one is a
04:58 2 Judge Barbier convenience issue. We understood that --
04:58 3 probably for Judge Barbier's convenience, he said, "Well, if it
04:58 4 was shown, just go ahead and put these into evidence." I don't
04:58 5 see how that prejudices the defendants in any way. I thought
04:59 6 we were circulating all these after the witness testifies
04:59 7 anyway. If we haven't, we will.

04:59 8 **THE COURT:** Mark.

04:59 9 **MR. NOMELLINI:** Your Honor, maybe if we could pull up
04:59 10 2915 -- if the government will put this up, just blow up
04:59 11 D-2915.

04:59 12 So this is a call-out that we do not have, was
04:59 13 not disclosed to us, and we still do not have. This is a
04:59 14 call-out from T-22881. So the issue is whether this call-out,
05:00 15 D-2915, is going to be admitted as a call-out as opposed to a
05:00 16 TREX being offered into evidence.

05:00 17 **MR. HERMAN:** We don't have any objection to
05:00 18 TREX-22881 being offered into evidence, although I think
05:00 19 Judge Barbier might not want it in evidence.

05:00 20 **MR. CUNNINGHAM:** He has said that he does not want --
05:00 21 and they have objected partially to the contents of what's in
05:00 22 that congressional testimony that they are now saying they want
05:00 23 to put the whole thing in.

05:00 24 **MR. HERMAN:** I apologize. I misstated that. What I
05:00 25 really want is TREX-7346.

05:00 1 **MR. NOMELLINI:** Your Honor, it's not easy for us to
05:00 2 figure out whether something from the document is out of
05:00 3 context when it's not disclosed to us in advance and then we
05:00 4 don't get it after the fact. That's part of the issue here.

05:00 5 **THE COURT:** Well, as I understood -- hold on,
05:01 6 Mr. Herman.

05:01 7 **MR. HERMAN:** Okay.

05:01 8 **THE COURT:** I heard Mr. Herman say that you are
05:01 9 getting it after the fact. So is that what you wanted to say?

05:01 10 **MR. HERMAN:** I thought we were. If we weren't, we
05:01 11 certainly will.

05:01 12 **MR. IRPINO:** What's happened, Your Honor, is -- to
05:01 13 make it clear. I'll get an e-mail, like Carter sent me an
05:01 14 e-mail today saying, "We don't have these."

05:01 15 Fine. Send an e-mail back. Our tech guy puts
05:01 16 them together in a zip file, sends them back. Carter got those
05:01 17 today at some point.

05:01 18 Mr. Nomellini sent me one, although the timing,
05:01 19 just got it maybe a half hour ago. Because of the way things
05:01 20 go -- Mark sent me an e-mail maybe last night, maybe this
05:01 21 morning -- I don't even know what time it is today. But we try
05:01 22 to get it to them as soon as we can. So those actually, in
05:01 23 fact, have been sent; but because of the timing of things,
05:01 24 that's where we are at.

05:01 25 **MR. YORK:** I was just going to say, could we ask, to

05:01 1 perhaps simplify the process, that we just formalize it so that
05:02 2 we don't all have to send separate e-mails and have these
05:02 3 things tracking?

05:02 4 **MR. HERMAN:** Yes. Along those lines -- I don't know
05:02 5 if this was rectified, but at least one of the parties, I think
05:02 6 maybe from MOEX, who is monitoring the case, they wanted to be
05:02 7 added to the list or something. It would really simplify
05:02 8 things a lot for us. There is a liaison at Liskow e-mail
05:02 9 address. Whoever on the defense side needs to be added to
05:02 10 that, the chances of everybody getting what they need are a lot
05:02 11 greater if I can just send to that one e-mail address than if I
05:02 12 have to try to remember who all the distribution people are.

05:02 13 **THE COURT:** I think that's right. If any of the
05:02 14 defendants want copies of what the PSC is circulating on a
05:02 15 daily basis, please subscribe to the liaison counsel e-mail
05:03 16 distribution list and that will certainly make it --

05:03 17 **MR. YORK:** The only thing I would note, Your Honor,
05:03 18 there are actually -- I know it gets confusing, but there are
05:03 19 two lists. One is Liaison 2179, and that is a more limited
05:03 20 list. The broader list that covers everyone is DSC-2179. That
05:03 21 will cover more people.

05:03 22 **THE COURT:** Now, that has not solved our problem.

05:03 23 **MR. NOMELLINI:** A way to sort of cut through this,
05:03 24 Your Honor, is the ones that have this issue are all listed as
05:03 25 call-out in the call-out column. You have read through three

05:03 1 so far, 2868, 2887, 2874.

05:03 2 **THE COURT:** D-2871, D-2675, and D-2874. Is that
05:03 3 correct?

05:03 4 **MR. NOMELLINI:** I think the first two were 2868 and
05:03 5 2887.

05:03 6 **THE COURT:** You are correct.

05:03 7 Now, the two that I have looked at, guys, seems
05:04 8 to me, two different things. The first one is not what we
05:04 9 originally talked about when we talked to Jim Roy about
05:04 10 cross-examining a witness with his or her own sworn testimony,
05:04 11 and that certainly does not need to be disclosed.

05:04 12 Could we go back, please, inData to the one
05:04 13 prior? That was, I believe, 2874.

05:04 14 Now, this is not -- I'm sorry. Dr. Bea's
05:04 15 testimony, you-all are showing him two excerpts from other
05:04 16 depositions, correct?

05:05 17 **MR. HERMAN:** Correct.

05:05 18 **MR. IRPINO:** Yes, that is what that reflects.

05:05 19 **THE COURT:** I think that is more of a demonstrative
05:05 20 for use with Dr. Bea. Why am I wrong on that?

05:05 21 **MR. IRPINO:** Well, I would just --

05:05 22 **THE COURT:** Look at Jim Roy.

05:05 23 **MR. ROY:** Your Honor, if you check the record, I
05:05 24 don't think that I said in our conferences just a person's own
05:05 25 testimony.

05:05 1 **THE COURT:** No, I understand that.

05:05 2 **MR. ROY:** This is testimony, and if there's a
05:05 3 transcript, certainly they have read it. If it's an exhibit,
05:05 4 certainly they have read it. To go and to pull up a portion of
05:05 5 it for emphasis to save the Court's time and the witness's time
05:05 6 and make things less tedious -- because to do otherwise,
05:05 7 Your Honor, is to hand over our cross-examination outline or
05:05 8 our direct examination to the other side. And maybe the
05:06 9 defense wants to do that with us too, but we don't think that's
05:06 10 proper.

05:06 11 **THE COURT:** Andy.

05:06 12 **MR. LANGAN:** Your Honor, this was a direct of
05:06 13 Dr. Bea.

05:06 14 **MR. ROY:** It doesn't matter.

05:06 15 **MR. LANGAN:** Excuse me. I think I have the floor,
05:06 16 Your Honor.

05:06 17 This is a demonstrative that ought to be
05:06 18 disclosed, pure and simple. It's not impeachment. It's
05:06 19 associated with the direct of their own expert, and it ought to
05:06 20 be disclosed. Just calling it a call-out doesn't mean it
05:06 21 shouldn't be disclosed.

05:06 22 **THE COURT:** Steve.

05:06 23 **MR. O'ROURKE:** This is just an efficiency question.
05:06 24 On Dr. Bea's direct, Bobbo could have but up O'Bryan's
05:06 25 deposition on the screen, showed the first page, showed the

05:06 1 second page, asked to be look back at page 87, called it out at
05:06 2 page 87, shown the quote, put it down; called up the next
05:06 3 deposition, same rigmarole, show the quote. This would take
05:06 4 several minutes. This takes several seconds. This is the
05:06 5 difference here between what we are talking about, these
05:07 6 call-outs.

05:07 7 I think Judge Barbier would probably prefer the
05:07 8 call-out. An associated issue here is, if you do a call-out,
05:07 9 you have a prepared thing where it's TREX-12, quote from
05:07 10 page 19, takes two seconds to do.

05:07 11 TREX-12 should be admitted. It's just a
05:07 12 demonstrative.

05:07 13 **THE COURT:** You called it a demonstrative.

05:07 14 **MR. O'ROURKE:** Not just -- a hypothetical
05:07 15 demonstrative associated with TREX-12.

05:07 16 **MR. IRPINO:** Judge, could I make one comment that I
05:07 17 think would be helpful?

05:07 18 **THE COURT:** Sure.

05:07 19 **MR. IRPINO:** Look, I will get into the demonstrative
05:07 20 aid versus demonstrative. I think the way to go about it when
05:07 21 we think it's a demonstrative aid is to exchange them right at
05:07 22 the time --

05:07 23 **THE COURT:** Anthony, there is no distinction between
05:07 24 demonstrative and demonstrative aid, so don't make the
05:07 25 distinction.

05:07 1 **MR. IRPINO:** Okay. Well, then --

05:07 2 **THE COURT:** At the time -- it seems to me that if you
05:07 3 are on the direct examination of your expert witness, at the
05:07 4 time you show your expert something, you also show it to all
05:07 5 counsel.

05:08 6 Steve, you're right, it would take a lot longer
05:08 7 to pull up each separate page; but there should be a middle
05:08 8 ground where if you are putting it up on the screen, you can
05:08 9 also somehow provide it to counsel. I don't know how we are
05:08 10 going to take care of that. We will talk about it at the
05:08 11 working group meeting tomorrow. But I do understand their
05:08 12 complaint that they don't have copies of what you are using.

05:08 13 **MR. UNDERHILL:** Could I -- maybe middle ground?

05:08 14 **THE COURT:** Yes.

05:08 15 **MR. UNDERHILL:** If that's going to be the Court's
05:08 16 ruling, if we have to -- I don't agree for the reasons, Jim and
05:08 17 Bobbo. But, Your Honor, we occasionally, you know, don't
05:08 18 agree. But prospectively can we apply that rule --

05:08 19 **THE COURT:** Yes. None of this is going to be --

05:08 20 **MR. UNDERHILL:** -- but can we not have to undo the
05:08 21 last week?

05:08 22 **THE COURT:** I'm not asking you to undo anything. I
05:08 23 want to make it clear that I'm not asking you to undo anything.

05:09 24 This is very useful. Judge Barbier would rather
05:09 25 see this than he would two separate pages from the deposition.

05:09 1 I'm agreeing with you. You didn't understand that, did you?

05:09 2 **MR. IRPINO:** I understand.

05:09 3 **THE COURT:** However, the defendants can't turn to the
05:09 4 deposition and look at that page. They have to see what you
05:09 5 have got. So we are going to work through it tomorrow. For
05:09 6 purposes of today, they're going to come in.

05:09 7 **MR. IRPINO:** Thank you, Your Honor.

05:09 8 **THE COURT:** I think in the future they probably can
05:09 9 be used and they are going to come in. We are going to try to
05:09 10 work out tomorrow at the work group meeting a better procedure
05:09 11 for it.

05:09 12 **MR. YORK:** All those will be sent to the defendants'
05:09 13 group?

05:09 14 **THE COURT:** Yes. All of the call-outs will be sent
05:09 15 to the defense group. We'll just try to figure out whether
05:09 16 they will be sent as the witness takes the stand, after the
05:10 17 witness takes the stand. Everybody think about that for
05:10 18 tomorrow.

05:10 19 **MR. YORK:** I was referring to the ones used this past
05:10 20 week.

05:10 21 **THE COURT:** That is correct, those are all going to
05:10 22 be sent to the defense, every call-out. So we are not redoing
05:10 23 anything. Nothing needs to be redone.

05:10 24 Let's continue. Exhibit 2352, admitted.

05:10 25 Exhibit-- now we have a difference between

05:10 1 inData and BP's list. InData next has 1734 as an exhibit
05:10 2 coming in. BP has Exhibit 5689 coming in next. Could someone
05:11 3 reconcile that for me, please.

05:11 4 **MR. NOMELLINI:** Your Honor, that's just a difference
05:11 5 in how the parties sorted the documents. So 5689, the judge
05:11 6 will come to it later in inData's list. Yes, it is in inData's
05:11 7 list but later on.

05:11 8 **THE COURT:** So was it used next or not?

05:11 9 **MR. NOMELLINI:** No, it was not, Your Honor.

05:11 10 **THE COURT:** So next up is Exhibit 1734, admitted.

05:11 11 D-2921, admitted.

05:11 12 D-2888, admitted.

05:11 13 D-2872, admitted.

05:11 14 D-2737, admitted.

05:11 15 Exhibit 2919, admitted.

05:12 16 D-2739, admitted.

05:12 17 D-2895, admitted. That's a call-out.

05:12 18 D-2896, admitted.

05:12 19 D-2898, admitted.

05:12 20 D-2897, admitted.

05:12 21 D-2738, I don't have anything as far as
05:12 22 admission.

05:12 23 **MR. NOMELLINI:** Admitted, Your Honor.

05:12 24 **THE COURT:** Admitted. Thank you.

05:12 25 D-2445, admitted subject to objections.

05:12 1 D-2730, admitted.
05:12 2 D-2827, admitted.
05:13 3 D-2828, admitted.
05:13 4 D-2759, admitted.
05:13 5 D-2873, admitted.
05:13 6 D-2750, admitted.
05:13 7 Exhibit 5950, admitted.
05:13 8 D-2883, admitted.
05:13 9 D-2835, admitted.
05:13 10 **MR. IRPINO:** Your Honor, did you say 28 --
05:13 11 **THE COURT:** 2835, Anthony.
05:13 12 **MR. IRPINO:** Right before that.
05:13 13 **THE COURT:** 2833.
05:13 14 D-2835, admitted.
05:13 15 D-2839, admitted.
05:13 16 Exhibit 20308, admitted.
05:13 17 D-2841, admitted.
05:13 18 D-2843, admitted.
05:13 19 D-2845, admitted.
05:14 20 D-2849, admitted.
05:14 21 D-2851, admitted.
05:14 22 Exhibit 20309, admitted.
05:14 23 InData next shows -- oh, I'm sorry. That's
05:14 24 right.
05:14 25 D-20403, admitted.

05:14 1 D-2853, admitted.

05:14 2 D-2855, admitted.

05:14 3 Exhibit 5946, admitted.

05:14 4 Exhibit 6015, admitted.

05:14 5 Exhibit 6017, admitted.

05:14 6 **MR. NOMELLINI:** Your Honor?

05:14 7 **THE COURT:** Yes.

05:14 8 **MR. NOMELLINI:** Can you go back to 5946?

05:14 9 **THE COURT:** Oh, you're correct. Thank you, Mark.

05:14 10 I don't show anything relative to admission
05:14 11 there.

05:14 12 **MR. NOMELLINI:** That's our copy of the Bea report,
05:14 13 Your Honor. We didn't offer it. However, it was offered by
05:14 14 the PSC, and it was admitted subject to objection. Your Honor
05:15 15 will come to that later. So for 5946, it was not admitted.

05:15 16 **THE COURT:** Okay. Thank you.

05:15 17 InData -- could you make note -- did you all
05:15 18 think that was admitted?

05:15 19 We are on 5946, which I have on your list.
05:15 20 Exhibit 5946.

05:15 21 **MR. RAY:** We don't have any position on that. We
05:15 22 just knew that it was shown, so we have it on the list.

05:15 23 **MR. CARTER WILLIAMS:** Carter Williams for Transocean.

05:15 24 **THE COURT:** Yes, Carter.

05:15 25 **MR. CARTER WILLIAMS:** If that's just another copy of

05:15 1 the Bea report, we're fine with that.

05:15 2 **THE COURT:** We are going to go ahead and admit that
05:15 3 so there will be no confusion. It's on inData's list, it's on
05:15 4 BP's list. Is there a problem with that?

05:16 5 **MR. NOMELLINI:** No, Your Honor. 5946 should not be
05:16 6 shown as admitted.

05:16 7 **THE COURT:** We have to talk about how we are going to
05:16 8 keep inData advised, if an exhibit is used but not admitted,
05:16 9 how we are going to do that.

05:16 10 **MR. NOMELLINI:** You've got it.

05:16 11 **THE COURT:** Let's go back.

05:16 12 This is Exhibit 6015, admitted.

05:16 13 6017, admitted.

05:16 14 Exhibit 48157, admitted.

05:16 15 5692, admitted.

05:16 16 45062, admitted.

05:16 17 5958, admitted.

05:16 18 5959, admitted.

05:16 19 8018 admitted.

05:16 20 866, admitted.

05:16 21 6065, admitted.

05:16 22 6257, admitted.

05:16 23 5963, admitted.

05:16 24 5984, admitted.

05:17 25 I've got Exhibit 6025-C, admitted. That was a

05:17 1 cured exhibit. Is that right, Mark?

05:17 2 **MR. NOMELLINI:** That's correct, Your Honor.

05:17 3 **THE COURT:** Thank you.

05:17 4 Next is Exhibit 5965, admitted.

05:17 5 5966, admitted.

05:17 6 5967, admitted.

05:17 7 5976, admitted.

05:17 8 7099, admitted.

05:17 9 866, admitted.

05:17 10 5969, admitted.

05:17 11 48154, admitted.

05:17 12 572, admitted.

05:17 13 47414, admitted.

05:17 14 8093, admitted.

05:17 15 571, admitted.

05:17 16 1148, admitted.

05:17 17 5973, admitted.

05:17 18 5974, admitted.

05:18 19 5946, admitted.

05:18 20 **MR. NOMELLINI:** Your Honor, 5946 --

05:18 21 **THE COURT:** I'm sorry. 5946 is --

05:18 22 **MR. NOMELLINI:** Not admitted.

05:18 23 **THE COURT:** -- not admitted. Was it objected to?

05:18 24 **MR. NOMELLINI:** No. That was Transocean and BP using
05:18 25 the Bea report and not offering it.

05:18 1 THE COURT: Oh, fine. Thank you. So 5946 is not
05:18 2 admitted at that point.

05:18 3 Exhibit 1694, admitted.

05:18 4 Exhibit 4261 is admitted.

05:18 5 MR. O'KEEFE: Your Honor, did you skip 5777?

05:18 6 MR. CARTER WILLIAMS: Your Honor, that was one that
05:18 7 Judge Barbier ruled on, on a Transocean objection that he
05:18 8 sustained and denied . . .

05:18 9 THE COURT: I'm not there yet, Mike. I'm not there
05:18 10 yet.

05:18 11 On the list it was -- next up was, I believe,
05:19 12 1694, admitted.

05:19 13 And then 5777 was not admitted.

05:19 14 Exhibit 4261 is admitted.

05:19 15 4170 is admitted.

05:19 16 MR. NOMELLINI: Your Honor --

05:19 17 THE COURT: 4171 has no notation.

05:19 18 MR. NOMELLINI: Admitted, Your Honor.

05:19 19 THE COURT: Exhibit 4171 is admitted.

05:19 20 2187 is admitted.

05:19 21 4362 is admitted.

05:19 22 1374, admitted.

05:19 23 MR. IRPINO: Wait. Wait.

05:19 24 THE COURT: 1374?

05:19 25 MR. IRPINO: 1374?

05:19 1 **THE COURT:** Unless I say "demonstrative," I mean
05:19 2 exhibit.

05:19 3 Exhibit 1374, admitted.

05:19 4 **MR. IRPINO:** Right before that what did you have,
05:19 5 Your Honor?

05:19 6 **THE COURT:** 4362.

05:19 7 47182, admitted.

05:19 8 44024, admitted.

05:20 9 44027, admitted.

05:20 10 1831, admitted.

05:20 11 20198, admitted.

05:20 12 47221, admitted.

05:20 13 5689, admitted.

05:20 14 48250, admitted.

05:20 15 D-2874 was a call-out. For purposes of today,
05:20 16 it will be admitted.

05:20 17 Exhibit 5966, admitted.

05:20 18 D-2830, admitted.

05:20 19 D-2908 is a call-out. BP is showing that as
05:20 20 proffered but not admitted.

05:20 21 **MR. NOMELLINI:** That's right, Your Honor. That's a
05:21 22 McKay exhibit. I don't think the PSC has gotten around to
05:21 23 offering their McKay exhibits yet.

05:21 24 **THE COURT:** Okay. So PSC, please make a note that
05:21 25 D-2908 is not in evidence.

05:21 1 **MR. BREIT:** Excuse me, Your Honor.

05:21 2 **THE COURT:** Yes.

05:21 3 **MR. BREIT:** There is a list in McKay -- Jeffrey Breit
05:21 4 from PSC.

05:21 5 There was a list that was tendered for McKay for
05:21 6 those exhibits. I will offer it again to Mike.

05:21 7 **THE COURT:** Let me assure you all that I am not going
05:21 8 to look at individual lists. We have got to find a better way.
05:21 9 I am not going through -- how many parties are there to this
05:21 10 proceeding? I'm just not doing it. I have got other work to
05:21 11 do.

05:21 12 So thank you, Jeff, but we have got to do it
05:21 13 better.

05:21 14 **MR. LANGAN:** We agree with that. I was going to
05:21 15 note, I don't think we have a problem with this. I'm not sure
05:21 16 that Mr. Cunningham actually offered on the record. Now, we
05:22 17 are not saying it's a big problem. I'm sure it can be cured.
05:22 18 But I think that's a statement of record now.

05:22 19 **MR. CUNNINGHAM:** We were told by Judge Barbier that
05:22 20 he did not want to hear offers of exhibits and that we were to
05:22 21 submit our list to the court reporter and to Ben.

05:22 22 **THE DEPUTY CLERK:** He did say, after that, that he
05:22 23 wanted a list, and he did want it to be offered. And that's
05:22 24 what the other parties were doing. I don't have your -- that
05:22 25 you have offered that for Mr. McKay.

05:22 1 MR. LANGAN: I rest my case.

05:22 2 MR. CUNNINGHAM: Well, I missed that.

05:22 3 THE COURT: Andy rests his case, so that's good.

05:22 4 MR. CUNNINGHAM: I thought when we gave it at the end
05:22 5 of the testimony, it was offered. Because he's not going to
05:22 6 rule on it anyway, he said.

05:22 7 THE COURT: But we would like the record to be more
05:22 8 clear. As I understand --

05:22 9 THE DEPUTY CLERK: He has been admitting exhibit
05:22 10 lists used with testimony by the parties in this case,
05:22 11 including the PSC, but I don't have the one for McKay.

05:22 12 MR. CUNNINGHAM: We offer it, Judge.

05:22 13 THE COURT: Is there any objection?

05:23 14 MR. LANGAN: No objection, Your Honor.

05:23 15 MR. JONES: To the entire list or to this one?

05:23 16 THE COURT: D-2908, any objection?

05:23 17 We are going to go ahead and admit 2908.

05:23 18 But look, guys, I'm not monitoring the trial.

05:23 19 It is my understanding that Judge Barbier announced that he
05:23 20 wants the actual calling of the exhibit.

05:23 21 Am I incorrect, Ben?

05:23 22 MR. ALLUMS: I'm sorry. It's your understanding that
05:23 23 he wants the actual calling of the exhibit? I don't understand
05:23 24 your meaning.

05:23 25 THE COURT: The meaning is, "Your Honor, I offer

05:23 1 Exhibit D-29408."

05:23 2 **THE DEPUTY CLERK:** No. He said they can offer them
05:23 3 in globo with a list after the testimony.

05:23 4 **THE COURT:** All right.

05:23 5 **MR. NOMELLINI:** Your Honor, can I make a suggestion?

05:23 6 **THE COURT:** Yes.

05:23 7 **MR. NOMELLINI:** It would be better to just do that.
05:23 8 It's easily cured during the trial. The way that was just
05:23 9 indicated here, somebody can stand up and say, "I'm offering,
05:23 10 for the McKay testimony, these exhibits."

05:24 11 And I think it's better than going through it
05:24 12 now, and just offer an in globo list during trial.

05:24 13 **THE COURT:** That's fine. I want to make sure
05:24 14 everybody is on the same page.

05:24 15 **THE DEPUTY CLERK:** That has been what Judge Barbier
05:24 16 has requested. I'm not saying that that's the best way. But
05:24 17 so far, that's what's been happening.

05:24 18 **THE COURT:** So you all need to make sure that you
05:24 19 offer an in globo exhibit following every witness's testimony
05:24 20 and move for admission of the exhibits that are on that
05:24 21 in globo list. Make sure that the list is accurate, because
05:24 22 I'm not going to check you.

05:24 23 **THE DEPUTY CLERK:** And that they are not including
05:24 24 other exhibits. We had one that was presented to me today that
05:24 25 had what other people had already admitted. I just want

05:24 1 whatever you want admitted on the list.

05:24 2 **THE COURT:** Could you all hear that?

05:24 3 **MR. CARTER WILLIAMS:** Just to clarify, Your Honor.
05:24 4 We understand that to be Judge Barbier's desire, as well, to
05:24 5 have a list of just what you use. It's hard to prepare that in
05:25 6 advance.

05:25 7 **THE COURT:** Absolutely. So if you all want to
05:25 8 present it after a break or after lunch, that's fine. But make
05:25 9 sure it's accurate, because I'm not doing it and he's not doing
10 it.

05:25 11 **MR. CARTER WILLIAMS:** Could we also ask that parties,
05:25 12 then, at the end of that trial day, e-mail those lists to all,
13 counsel?

05:25 14 **THE COURT:** Positively. And to inData. And to
05:25 15 inData, because I want inData to check it. There's a reason
16 they're in the courtroom.

05:25 17 **MR. UNDERHILL:** Judge, just to clarify the timing of
18 the submission of the list, will there be a little bit of
19 slack? And I'll give you an example. Today Paul took Mr. Bly
20 first. I had a long list of exhibits. As Paul took care of
21 stuff I was going to ask, my list got wiped out. So it might
22 take my staff overnight, possibly, to prepare a clean list that
23 isn't duplicative of Paul's.

05:26 24 **THE COURT:** That's fine. Show the witness it was
25 used with, the day it was used, and submit a complete list of

05:26 1 what you actually used and offered and introduced into
05:26 2 evidence.

05:26 3 And how are we going to take care -- well, we
05:26 4 are going to take care of objections on the spot, so that's
05:26 5 easy.

05:26 6 **MR. IRPINO:** We'll get those lists to all the
05:26 7 parties, inData, and most importantly, to Stephanie and Ben.

05:26 8 **THE COURT:** Correct. Okay.

05:26 9 D-2875, admitted.

05:26 10 D-2887, admitted.

05:26 11 D-2279 we are showing as proffered. Is that
05:26 12 incorrect?

05:26 13 **MR. IRPINO:** We show it as -- we show it as in.

05:27 14 **THE COURT:** That was in your in globo list?

05:27 15 **MR. IRPINO:** In the list.

05:27 16 **THE COURT:** That will be admitted.

05:27 17 Next I show 5994. Isn't that the same report,
05:27 18 Mr. Nomellini, that we talked about a minute ago? It's not on
05:27 19 your list.

05:27 20 **MR. IRPINO:** We show it as different than what was
05:27 21 being discussed.

05:27 22 **MR. NOMELLINI:** It is different, Your Honor.

05:27 23 **THE COURT:** It's not on your list, Mark. 5994 is on
05:27 24 inData's list as being used.

05:27 25 **MR. IRPINO:** Are you sure it's not 5944?

05:27 1 THE COURT: I'm sorry. 5944. It's not on BP's list.

05:27 2 MR. IRPINO: We have it as -- on our list,

05:27 3 Your Honor, under PSC McKay cross.

05:27 4 MS. ANDRE: Your Honor, we have it on our list too.

05:27 5 MR. NOMELLINI: Your Honor, we also have it on our
05:27 6 list as a PSC McKay exhibit that was proffered.

05:27 7 UNIDENTIFIED SPEAKER: What do you mean by
05:27 8 "proffered"?

05:28 9 MR. NOMELLINI: I mean Mike O'Keefe's definition from
05:28 10 the order, which is that it was used but hasn't been offered
05:28 11 yet.

05:28 12 THE COURT: Well, it was on their master list. I
05:28 13 guess it was offered. Is there any objection?

05:28 14 MR. NOMELLINI: No, Your Honor.

05:28 15 THE COURT: Exhibit 5944 comes in and is admitted.

05:28 16 D-2912, we have a series that are shown as
05:28 17 proffered. I would like you all to tell me, PSC, whether these
05:28 18 are on your master list. Are you ready?

05:28 19 MR. IRPINO: Yes.

05:28 20 THE COURT: D-2912, D-2913, 2914.

05:28 21 MR. NOMELLINI: Your Honor, could I make a
05:28 22 suggestion? Rather than go through all these individually,
05:28 23 could we -- at trial, the way it's handled is a list is just
05:28 24 handed up, and it's in globo. Judge Barbier says, "Is there
05:28 25 any objection?" If we handle it at trial, it will take

05:28 1 10 seconds rather than --

05:28 2 **THE DEPUTY CLERK:** This is the one that was just
05:28 3 brought --

05:28 4 **THE COURT:** Well, what I need from you, then, if
05:28 5 that's the case, when you give me your list, I want it to show
05:29 6 admitted rather than proffered. Because your list shows me the
05:29 7 series of demonstratives was proffered but not admitted.

05:29 8 **MR. NOMELLINI:** Right. Because the only step that
05:29 9 hasn't been taken yet is --

05:29 10 **THE DEPUTY CLERK:** This one we just got today, just
05:29 11 now. This is the one you admitted, this list.

05:29 12 **MR. NOMELLINI:** Because it just came in now. That's
05:29 13 why.

05:29 14 **THE COURT:** Okay. That entire list is admitted. Let
05:29 15 me put it in the record.

05:29 16 **MR. JONES:** The point is the list was never
05:29 17 submitted, and Judge Barbier never said, "Does anybody have an
05:29 18 objection to any exhibit on this list?" There are two on that
05:29 19 list that we have an objection to.

05:29 20 **THE COURT:** Which do you object to, David?

05:29 21 **MR. JONES:** 7346 and 7364.

05:29 22 **THE COURT:** Good. David, that's good. We're going
05:29 23 to show that those are objected to.

05:30 24 So Exhibit 7346 and 7364 are objected to by
05:30 25 Cameron.

05:30 1 Anybody else have an objection?

05:30 2 **MR. O'ROURKE:** Not an objection, Your Honor, just a
05:30 3 question.

05:30 4 **THE COURT:** Yes, sir.

05:30 5 **MR. O'ROURKE:** Shouldn't the parties have to object
05:30 6 while the exhibit is up on the screen, rather than just some
05:30 7 objection three days later?

05:30 8 **THE COURT:** Here's the problem, guys. I wasn't in
05:30 9 court, so I don't know whether an objection was lodged or not.
05:30 10 I'm assuming it was.

05:30 11 **MR. JONES:** No objection was lodged at the time,
05:30 12 because no exhibit was offered into evidence.

05:30 13 **MR. O'ROURKE:** It was my exhibit. I know it was our
05:30 14 exhibit. It was put up on the screen and discussed with the
05:30 15 witness. The order that, as he's showing me, says you are
05:30 16 supposed to object while it's in use. Otherwise, when we hand
05:30 17 you a list, we will just be bombarded with objections.

05:30 18 Judge, are you shushing me?

05:31 19 **THE COURT:** No, I'm shushing Mike because you are
05:31 20 doing capable work.

05:31 21 **MR. UNDERHILL:** I delegate Steve to speak in my
05:31 22 behalf.

05:31 23 **THE COURT:** Thank you, Mike.

05:31 24 **MR. JONES:** Judge, perhaps I could clarify a little
05:31 25 bit.

05:31 1 These are big transcripts of congressional
05:31 2 testimony. They had certain call-outs that they used from that
05:31 3 testimony. We didn't have any objection to those specific
05:31 4 call-outs, to that specific language. Our issue is putting the
05:31 5 entire congressional testimony in as an exhibit without ever
05:31 6 offering it and having the judge given an opportunity to say,
05:31 7 "Does anybody object?"

05:31 8 **THE COURT:** Let me ask Mark Nomellini.

05:31 9 Mark, I'm not showing those two exhibits as
05:31 10 call-outs. Do you agree that 7346 and 7364 were just
05:31 11 call-outs?

05:31 12 **MR. NOMELLINI:** Your Honor, we have them down as
05:31 13 exhibits, not as call-outs.

05:31 14 **THE COURT:** Okay. We are not going to admit, for the
05:32 15 purposes of this evening, Exhibit 7346 and Exhibit 7364. Would
05:32 16 you get with David and discuss whether you used a call-out for
05:32 17 those two or not? The call-outs can come in if it was a
05:32 18 call-out. If it wasn't, we're going to have to resolve that
05:32 19 with Judge Barbier.

05:32 20 **MR. O'ROURKE:** It wasn't even my exhibit. I was just
05:32 21 talking about the general principle of that.

05:32 22 If we are going to use this approach of we don't
05:32 23 offer the exhibits as we go, but instead we use them in the
05:32 24 testimony and at the end we say, "We are offering this written
05:32 25 list," if the parties don't object while they are up there -- I

05:32 1 know that side of the room is going to start giving us
05:32 2 counterlists.

05:32 3 **THE COURT:** Steve, I think the difference that David
05:32 4 is trying to make is he didn't object to a call-out page; he is
05:32 5 objecting to the entire exhibit.

05:33 6 **MR. O'ROURKE:** I guess which begs the question: If
05:33 7 you have a demonstrative that is a portion of a TREX, is the
05:33 8 TREX coming in? Or are we required to say on the spot, "This
05:33 9 is a demonstrative. It's a portion of a TREX in my list. I'm
10 offering them both."

05:33 11 I'm just looking for guidance here, Your Honor.

05:33 12 **THE COURT:** Well, that's a very good question. We
05:33 13 have repeatedly said that just because you use one page of an
05:33 14 exhibit doesn't mean that the entire exhibit comes in, as you
05:33 15 well know. We have talked about that repeatedly.

05:33 16 So I think you have to move not only for the
05:33 17 one-page call-out, but you are going to have to move for the
05:33 18 entire exhibit. Because we have said -- we have got so many
05:33 19 documents in this case, that if you just are going to use one
05:33 20 page, then just offer one page. If you are really offering the
05:33 21 entire 300-page exhibit, then let everybody know that's what
05:33 22 you are doing. Okay?

05:33 23 **MR. O'ROURKE:** Just to be clear -- I'm not
05:34 24 complaining about Cameron's objection to this particular
05:34 25 exhibit.

05:34 1 THE COURT: Well, I misunderstood. So I'm sorry,
05:34 2 Steve.

05:34 3 MR. CUNNINGHAM: Your Honor, we have looked back.
05:34 4 And the question refers to a certain page within the testimony.
05:34 5 2915, I think, is the page.

05:34 6 We understand, and I think it would only be
05:34 7 appropriate, to introduce what we referred to.

05:34 8 THE COURT: Correct.

05:34 9 MR. CUNNINGHAM: Which would include the cover page
05:34 10 identifying what it is and then whatever pages we referred to.

05:34 11 THE COURT: So you have solved David's objection.
05:34 12 Thank you.

05:34 13 MR. JONES: You have.

05:34 14 THE COURT: We are going to now --

05:34 15 MR. YORK: Judge, just to be clear, I don't think
05:34 16 it's page 2915; I think it's D-2915 that had a call-out from
05:34 17 that testimony on it. 2915, -16, and -17.

05:34 18 THE COURT: Stop.

05:34 19 MR. CUNNINGHAM: If that's true, then we didn't even
05:34 20 offer the testimony.

05:34 21 THE DEPUTY CLERK: Well, it's on the list.

05:34 22 MR. YORK: I'm just trying to --

05:34 23 THE COURT: Guys. Guys. Stop.

05:34 24 David, you objected, as I understand my notes,
05:34 25 to Exhibit 7346 and Exhibit 7364.

05:35 1 MR. JONES: Yes, Your Honor.

05:35 2 THE COURT: Were those call-outs? Because Mark
05:35 3 Nomellini does not show them as call-outs. And they do not --
05:35 4 they are not demonstratives, are they? We need to get straight
05:35 5 on what these were.

05:35 6 MR. CUNNINGHAM: I understand. I thought I was being
05:35 7 pointed to a portion of the transcript on 2915. But if
05:35 8 somebody says that's a call-out, we will just offer the
05:35 9 call-out.

05:35 10 THE COURT: No. Bobbo, the two exhibits at issue are
05:35 11 7346, not a demonstrative, and 7364, not a demonstrative. Were
05:35 12 those excerpts? What were they?

05:35 13 MR. CUNNINGHAM: Pages out of congressional
05:35 14 testimony.

05:35 15 THE COURT: Are you using just this one page, Bobbo,
05:35 16 or are you using the entire document?

05:36 17 MR. CUNNINGHAM: As far as I recall, we did not use
05:36 18 the entire document; we just used the one page.

05:36 19 THE COURT: Okay. So let me make sure. Could I see,
05:36 20 please 7364. I did 7364. Let me see 7346.

05:36 21 MR. CUNNINGHAM: That's the cover page.

05:36 22 THE COURT: Bobbo, did you want to introduce the
05:36 23 entire report?

05:36 24 MR. CUNNINGHAM: No, ma'am. The cover page and
05:36 25 whatever page I used out of the report.

05:36 1 **THE COURT:** You have resolved David's objection.

05:36 2 As to Exhibits 7346 and 7364, only the pages
05:36 3 that Mr. Cunningham used with the witness, plus the cover page,
05:36 4 will be admitted into evidence.

05:36 5 Does that take care of it, David?

05:36 6 **MR. JONES:** I believe it does. I just want to check
05:36 7 to make sure that -- the testimony they referred to is not on
05:36 8 the page that we are talking about, and they didn't mention the
05:36 9 testimony. Does that make sense?

05:36 10 I just want to verify the specific language they
05:37 11 asked about to make sure that wasn't on the same page as the
05:37 12 stuff we objected to.

05:37 13 The substance wasn't. But I just want to make
05:37 14 sure that we are not inadvertently putting in the page that has
05:37 15 it on there. We can find that out in a minute.

05:37 16 **THE COURT:** Okay. I'll come back to you.

05:37 17 So now I'm going to go into a series of exhibits
05:37 18 that I want to make sure are on the PSC's master list that was
05:37 19 just given to us. And if they have no objections, they ill
05:37 20 will be entered into evidence.

05:37 21 D-2279, D-2912, D-2913, D-2914, D-3145,
05:38 22 Exhibit 45393.

05:38 23 We have already covered Exhibit 7346.

05:38 24 D-2915, D-2916.

05:38 25 We have already covered Exhibit 7364.

05:38 1 D-2917, D-2918, D-2672, D-2673, D-2674, D-2675,
05:38 2 D-2747, Exhibit 52673.

05:39 3 **MR. CARTER WILLIAMS:** Your Honor, before we go to the
05:39 4 27th, one of the issues on the e-mail was Transocean reflects
05:39 5 D-2920 being offered by the PSC during the Bea direct
05:39 6 examination. PSC's list has that on 2-27, but it's referred to
05:39 7 as being in the Bea direct. And neither inData nor BP has
05:39 8 that.

05:39 9 **MR. NOMELLINI:** Your Honor, 2920 should be on there
05:39 10 and admitted.

05:39 11 **THE COURT:** 2920.

05:39 12 Anthony, do you have it as being admitted?

05:39 13 **MR. IRPINO:** Yes, on the 26th. Carter is right about
05:39 14 the date.

05:39 15 **THE COURT:** Carter, thank you for catching that. Do
05:40 16 you agree that it was admitted on the 26th in connection with
05:40 17 Dr. Bea?

05:40 18 **MR. CARTER WILLIAMS:** We do.

05:40 19 **THE COURT:** All right. InData?

05:40 20 Who's ready to do the 27th?

05:40 21 **MR. RAY:** Your Honor, can we go back to the 26th?
05:40 22 There are two clarifications. This is Jordan Ray from inData.

05:40 23 **THE COURT:** Yes.

05:40 24 **MR. RAY:** You mentioned on the second page of
05:40 25 inData's report there are two exhibits introduced by the PSC,

05:40 1 20308 and 20309. What was shown on the screen is not what we
05:40 2 have.

05:40 3 We spoke with PSC. They were going to give us a
05:40 4 new exhibit with a new exhibit number for those two. We have
05:40 5 not yet received that. Those are not what should be admitted.
05:40 6 We should be getting a new number from the PSC.

05:40 7 **THE COURT:** Anthony, can you clarify that for the
05:41 8 record, please?

05:41 9 **MR. IRPINO:** Yes. What we have and what was shown on
05:41 10 the screen were -- they had two BP, I guess, logos in the upper
05:41 11 left-hand corner. One was identical in substance to the other
05:41 12 one. The one that it was the same as was 20443.

05:41 13 We will give inData the version that was used,
05:41 14 the version that was up on the screen, and we want to keep that
05:41 15 same number for that version.

05:41 16 **THE COURT:** What's that number?

05:41 17 **MR. IRPINO:** 20308. We will simply just give inData
05:41 18 the version we have.

05:41 19 To be clear, the title of that document is --
05:41 20 and that's what was on our exhibit list -- is "Managing Rapidly
05:41 21 Developing Crises: Realtime Prevention of System Accidents."

05:41 22 **THE COURT:** Okay.

05:41 23 **MR. IRPINO:** Then for 20309, a very similar title,
05:42 24 but this is the title that matched the document on our exhibit
05:42 25 list: "Human & Organizational Factors in Design and Operation

05:42 1 of Deepwater Structures," Dr. Bea's report -- "Report to BP,
05:42 2 Houston, Texas 2003."

05:42 3 That is what should be listed as 20309. We will
05:42 4 make sure that inData has those. Those were the documents
05:42 5 listed verbatim on our exhibit list, and those were the
05:42 6 documents that were gone over during the testimony. I can't
05:42 7 explain how inData has a slightly different copy.

05:42 8 **THE COURT:** The Court listing that you submitted in
05:42 9 connection with Dr. Bea is correct, and we all agree that, as
05:42 10 submitted, they are admitted. You just have to take care of
05:42 11 the housekeeping with inData.

05:42 12 **MR. IRPINO:** Yes. Thank you, Your Honor.

05:42 13 **THE COURT:** Thank you.

05:42 14 Last but not least, I see on BP's list for the
05:43 15 26th, D-2737. Have we had that already?

05:43 16 Mark, do you see how you went to the 27th and
05:43 17 came back to the 26th?

05:43 18 **MR. NOMELLINI:** Yes. That's admitted, Your Honor.

05:43 19 **THE COURT:** That also will be admitted. So that
05:43 20 should take care of the 26th.

05:43 21 Everybody should be happy to note we are moving
05:43 22 on to the 27th.

05:43 23 And Paul, if you make one more face, Paul . . .

05:43 24 **MR. STERBCOW:** I'm sorry.

05:43 25 **MR. RAY:** There's one more. Just for clarification,

05:43 1 you referred to Exhibit 6025-C. That's not a cured exhibit.
05:43 2 If you look at that exhibit, there's a 6025-A, a B, a C, etc.
05:43 3 So it actually is Exhibit 6025-C.

05:43 4 **THE COURT:** Thank you for the clarification.

05:43 5 Let's see if we can do this faster.

05:44 6 The 27th, D-6593 I show as being proffered. Is
05:44 7 this on Transocean's -- who proffered this?

05:44 8 **MR. CARTER WILLIAMS:** Yes, Your Honor. Kerry Miller
05:44 9 submitted that list today in court, so we believe it's admitted
05:44 10 today for yesterday.

05:44 11 **THE COURT:** Thank you. We have to think about that
05:44 12 as well, don't we?

05:44 13 D-2737 admitted.

05:44 14 Exhibit 89052, I'm assuming, was on the list
05:44 15 today, Carter?

05:44 16 **MR. CARTER WILLIAMS:** I believe so. I will pull it
05:44 17 up, and if that's wrong, I'll --

05:44 18 **THE COURT:** I am going to go through a series of
05:45 19 numbers that are proffered, and I would like you to tell me,
05:45 20 Carter, if they are on your list. We are going to admit them.

05:45 21 Exhibit 89052, Exhibit 282, Exhibit 283,
05:45 22 Exhibit 4160 --

05:45 23 **MR. YORK:** Your Honor, those last three were on
05:45 24 HESI's list, and they were admitted today.

05:45 25 **THE COURT:** Thank you. All of those will be

05:45 1 admitted.

05:45 2 Exhibit 6001, Exhibit 6000, Exhibit 6014 --

05:45 3 **MR. NOMELLINI:** Your Honor, could I stop you there.

05:45 4 **THE COURT:** You certainly may.

05:45 5 **MR. NOMELLINI:** 6000, 6001, 6014, and 6016 are all --
05:45 6 and the PSC can correct me if I'm wrong -- exhibits used in
05:45 7 connection with videos that were shown.

05:46 8 **THE COURT:** Correct. I see that it's the Hayward
05:46 9 video.

05:46 10 **MR. NOMELLINI:** I don't think they have been offered
05:46 11 yet. They've been used, but they haven't been offered.

05:46 12 **THE COURT:** Likewise with 6017; is that correct?

05:46 13 **MR. NOMELLINI:** Yes.

05:46 14 **THE COURT:** Who offered those? Was that offered by
05:46 15 the PSC?

05:46 16 **MR. NOMELLINI:** Your Honor, they have not been
05:46 17 offered yet, as far as our records show.

05:46 18 **THE COURT:** Okay. Okay. Those will not be admitted.
05:46 19 How about that?

05:46 20 **MR. IRPINO:** Our thought was, Your Honor, they are
05:46 21 part of the bundles.

05:46 22 **THE DEPUTY CLERK:** Is this the video deposition
05:46 23 excerpts of Anthony Hayward and Kevin Lacy?

05:46 24 **MR. IRPINO:** Yes.

05:46 25 **THE DEPUTY CLERK:** Those are actually part of the

05:46 1 record because they were in lieu of live testimony.

05:46 2 **MR. IRPINO:** The actual clips, the video clips.

05:46 3 **THE DEPUTY CLERK:** They still need to be admitted.
05:46 4 Since they are not being transcribed, we need those separately
05:47 5 for the Fifth Circuit, or possibly for the Fifth Circuit.

05:47 6 **THE COURT:** You have to admit that's the best line
05:47 7 today.

05:47 8 **MR. IRPINO:** Then we have provided them.

05:47 9 **THE DEPUTY CLERK:** Yes. And I think that's --

05:47 10 **MR. NOMELLINI:** I think Anthony covered it when he
05:47 11 said they're part of the bundles.

05:47 12 **THE DEPUTY CLERK:** But I do need those separately,
05:47 13 the excerpts.

05:47 14 **MR. IRPINO:** Those are what's on a thumb drive we
05:47 15 have provided, and we offer them.

05:47 16 **THE COURT:** Moving right along at a clipping speed,
05:47 17 Exhibit 7510, admitted.

05:47 18 Exhibit 7511, admitted.

05:47 19 D-3553, admitted.

05:47 20 D-3554, admitted.

05:47 21 D-3564, admitted.

05:47 22 Back to exhibits. 6217, admitted.

05:47 23 4022, admitted.

05:47 24 4021, admitted.

05:48 25 3732, admitted.

05:48 1 4047, admitted.
05:48 2 3727, admitted.
05:48 3 1335, admitted.
05:48 4 We now have a discrepancy. I show on inData
05:48 5 1337 being used next.
05:48 6 **MS. ANDRE:** That's what we have too, Your Honor.
05:48 7 **THE COURT:** Thank you, Abby.
05:48 8 **MR. IRPINO:** That is what the PSC has as well,
05:48 9 Your Honor.
05:48 10 **MR. NOMELLINI:** 1337 is correct, Your Honor.
05:48 11 **THE COURT:** Thank you. 1337 will be admitted.
05:48 12 4533 is admitted.
05:48 13 3733, admitted.
05:48 14 1311, admitted.
05:48 15 2654, admitted.
05:48 16 4535, admitted.
05:48 17 1343, admitted.
05:48 18 3734, admitted.
05:48 19 4776, admitted.
05:49 20 32019, admitted.
05:49 21 5837, admitted.
05:49 22 8186, admitted.
05:49 23 1967, admitted.
05:49 24 1220, admitted.
05:49 25 4538, admitted.

05:49 1 7441, admitted.

05:49 2 MR. O'KEEFE: I beg your pardon, Your Honor. I think

05:49 3 that's 7411.

05:49 4 THE COURT: 7411, admitted. Thank you, Mike.

05:49 5 MS. ANDRE: Your Honor, this is Abby Andre again.

05:49 6 THE COURT: Yes, Abby.

05:49 7 MS. ANDRE: A couple more for the direct exam of

05:49 8 Dr. Huffman. I had 3732. Did you say that, Your Honor? I may

05:49 9 have missed it.

05:49 10 THE COURT: Let me back up.

05:49 11 MR. NOMELLINI: Yes.

05:49 12 MS. ANDRE: 3733.

05:49 13 THE COURT: Yes, we covered that.

05:49 14 MS. ANDRE: All right. 1343?

05:49 15 MR. NOMELLINI: Yes.

05:49 16 THE COURT: Yes.

05:49 17 MS. ANDRE: 7411?

05:49 18 THE COURT: Yes.

05:49 19 MS. ANDRE: Thank you.

05:49 20 THE COURT: Perk up, Abby.

05:50 21 Okay. Afternoon session. Exhibit 7511 is

05:50 22 admitted.

05:50 23 Next is Exhibit 4411. Was that on someone's

05:50 24 list today?

05:50 25 Mark, you're showing it as proffered.

05:50 1 **MR. NOMELLINI:** I don't know, Your Honor, whether
05:50 2 somebody offered that into evidence today.

05:50 3 **MR. CARTER WILLIAMS:** Your Honor, I think that's one
05:50 4 of ours that's on Kerry's list. I'm just trying to get that to
05:50 5 confirm.

05:50 6 **MR. IRPINO:** We show it was on TO's list.

05:50 7 **THE COURT:** Exhibit 4411, Carter, we are going to
05:50 8 come back to you.

05:50 9 Exhibit 1241, same thing, Carter.

05:51 10 **MR. CARTER WILLIAMS:** I can tell you this much, it
05:51 11 was on the list I gave Kerry to submit. I just don't have a
05:51 12 copy of Kerry's actual list.

05:51 13 **THE COURT:** Stephanie, do you have Transocean's list?

05:51 14 **THE DEPUTY CLERK:** From today?

05:51 15 **THE COURT:** From yesterday afternoon.

05:51 16 **MR. CARTER WILLIAMS:** They would have been both
05:51 17 submitted today.

05:51 18 **THE DEPUTY CLERK:** Yes.

05:51 19 **THE COURT:** Go through it with me.

05:51 20 **THE DEPUTY CLERK:** This is what I have. For McKay
05:51 21 and Huffman?

05:51 22 **MALE SPEAKER:** For Huffman.

05:51 23 **MR. O'KEEFE:** Yes, this list has 4411.

05:51 24 **THE COURT:** I'm going to go through. You ready?

05:51 25 Exhibit 4411, admitted.

05:51 1 MR. O'KEEFE: Yes.

05:51 2 THE COURT: Exhibit 1241.

05:51 3 MR. O'KEEFE: Yes.

05:51 4 THE COURT: Admitted.

05:51 5 Exhibit 51165.

05:51 6 MR. O'KEEFE: Yes.

05:51 7 THE COURT: Admitted.

05:51 8 Exhibit 4135 --

05:51 9 MR. O'KEEFE: It's not on the list.

05:51 10 THE COURT: -- is admitted.

05:52 11 Exhibit 751 --

05:52 12 MR. O'KEEFE: No. Wait, wait, Your Honor. 41 --

05:52 13 THE COURT: I'm on. I'm on. I'm finished with

05:52 14 Transocean.

05:52 15 MR. O'KEEFE: Okay.

05:52 16 THE COURT: Exhibit 4135 is admitted.

05:52 17 Exhibit 7510 is admitted.

05:52 18 D-4363 is admitted.

05:52 19 Exhibit 4019 is admitted.

05:52 20 Exhibit 4533 is admitted.

05:52 21 Exhibit 22784 is admitted.

05:52 22 D-2670, who proffered that? Whose list am I on

05:52 23 here? D-2670.

05:52 24 MR. NOMELLINI: That's a PSC exhibit, Your Honor.

05:52 25 THE COURT: Stephanie, can you look at the PSC's

05:52 1 list, please, and go through with me.

05:52 2 **MR. IRPINO:** Your Honor, I don't know if it's helpful
05:52 3 now -- maybe we're doomed -- but Bly we are not done with. We
05:52 4 just finished, I guess, BP's direct. We thought that with
05:53 5 respect to Bly, we would just wait till the end so we can --
05:53 6 from at least the PSC's perspective, we can submit one list as
05:53 7 to all the exhibits that we used with Bly.

05:53 8 **THE COURT:** The problem with that, Anthony, is we are
05:53 9 marshaling by days. Today we are marshaling Tuesday and
05:53 10 Wednesday. I'm going to need to marshal any exhibit that was
05:53 11 used during the days that we are marshaling.

05:53 12 Now, we are going to skip it for today, but make
05:53 13 sure it's on your list and marshal for next week. And then
05:53 14 next week when I come in on Thursday, I want to marshal all
05:53 15 exhibits for today, Monday, Tuesday, and Wednesday, regardless
05:53 16 of whether you have finished with a witness or not.

05:53 17 **MR. IRPINO:** Okay. Would you like us to finish
05:53 18 Tuesday for Bly. Because we --

05:53 19 **THE COURT:** No.

05:53 20 **MR. IRPINO:** Okay.

05:53 21 **THE COURT:** I'm not directing the trial. I'm just
05:53 22 directing the marshaling.

05:53 23 **MR. HERMAN:** We can wait until next week. I think we
05:54 24 circulated today, when Paul was finished, a list of everything
05:54 25 that Paul used yesterday afternoon and this morning. We can

05:54 1 either put that list in now or we can wait and put that list in
05:54 2 next Thursday. I don't know if it matters.

05:54 3 **THE COURT:** Well, it matters in that I want to get my
05:54 4 job done and go home.

05:54 5 **MR. HERMAN:** Do you want us to put the list in now?

05:54 6 **THE COURT:** Not particularly. Does everybody -- were
05:54 7 there any objections to the exhibits that were proffered with
05:54 8 Bly, Huffman, and McKay yesterday?

05:54 9 **MR. YORK:** Not from HESI.

05:55 10 **THE COURT:** Well, it's up to you guys. I have a lot
05:55 11 more exhibits on BP's list than I do on inData's list left to
05:55 12 read. Can anybody tell me why that is? I've got one, two,
05:55 13 three, four -- 13 more exhibits.

05:55 14 **MR. NOMELLINI:** Your Honor, so there are a couple of
05:55 15 different issues here. I think we just need to go through
05:55 16 these. I think it's just a matter of the sorting differences
05:55 17 between the inData list and the BP list.

05:55 18 **THE COURT:** Okay. I don't know what that means.

05:55 19 **MR. NOMELLINI:** We tried to get them to sort so they
05:55 20 would match one to one in the last couple of hours, but it
05:56 21 didn't match perfectly.

05:56 22 **THE COURT:** So here's what we are going to do. This
05:56 23 is what I'm going to do from what has been used through
05:56 24 yesterday, taken from BP's master exhibit list. We are going
05:56 25 to read them into the record, and I am going to admit them

05:56 1 subject to next week anyone telling me there is a problem with
05:56 2 what I am admitting. Okay?

05:56 3 We are going to go through D-2670, D-2747,
05:56 4 D-2675. Exhibit 1, and that was admitted.

05:56 5 D-2671, D-2017, D-2024, Exhibit 47541,
05:57 6 Exhibit 47549, D-2029, D-2023, D-2022, Exhibit 4171, Exhibit 2.

05:57 7 **MR. NOMELLINI:** Your Honor, on Exhibit 2 our
05:57 8 records --

05:57 9 **THE COURT:** I'm sorry.

05:57 10 **MR. NOMELLINI:** On Exhibit 2 our records show that
05:57 11 one wasn't used.

05:57 12 **THE COURT:** Was not used?

05:57 13 **MR. CARTER WILLIAMS:** Your Honor, our notes reflect
05:57 14 on that that it was used, but it was referred to as Exhibit 1.

05:57 15 **MR. STERBCOW:** Right, that's exactly what happened,
05:57 16 because I did it.

05:57 17 **MR. CARTER WILLIAMS:** So 2 should be in.

05:57 18 **THE COURT:** Let's reach agreement. Is 2 -- was it
05:57 19 used and is it in?

05:57 20 **MR. NOMELLINI:** Your Honor, with that explanation --
05:57 21 so do you want it to be changed to 2?

05:57 22 **MR. IRPINO:** It has been changed to 2 by inData.
05:57 23 InData took the Bly report --

05:58 24 **MR. YORK:** It's a cure issue, Your Honor.

05:58 25 **MR. CARTER WILLIAMS:** It's part of the Bly report.

05:58 1 It's the appendices, is my understanding.

05:58 2 **THE COURT:** So Exhibit 2 is admitted?

05:58 3 **MR. NOMELLINI:** Yes.

05:58 4 **THE COURT:** Exhibit 3995 is admitted.

05:58 5 Exhibit 5994, D-2830, D-2837, Exhibit 120 --

05:58 6 **MR. NOMELLINI:** No, no. Your Honor, the next about
05:58 7 10, these are not exhibits that were offered. These are
05:58 8 citations from PSC demonstratives. So everything from 120 down
05:58 9 to 22881 was not offered.

05:58 10 **THE COURT:** Okay.

05:58 11 **MR. NOMELLINI:** Do you agree, Anthony?

05:58 12 **MR. IRPINO:** That's part of what would go in on the
05:58 13 list when we finish with Bly.

05:58 14 **THE COURT:** So it is part of what will go in,
05:58 15 Anthony, and will be on your list to move it into evidence?

05:58 16 **MR. IRPINO:** Yes.

05:58 17 **MR. NOMELLINI:** Well, these are just citations used
05:59 18 in demonstratives. These exhibits were not actually used.

05:59 19 **MR. HERMAN:** So the demonstratives should go in
05:59 20 according to --

05:59 21 **MR. NOMELLINI:** I think the demonstrative may be
05:59 22 somewhere else on the list. The point is these are just
05:59 23 citations in demonstratives.

05:59 24 **MR. HERMAN:** With the Court's permission, we would
05:59 25 like to submit the Bly list next Thursday so we can straighten

05:59 1 all of this out in the meantime, because I really don't have
05:59 2 any idea what he is saying.

05:59 3 **THE COURT:** I don't either. These are all being
05:59 4 shown as proffered with McKay.

05:59 5 **MR. NOMELLINI:** I don't think they have anything to
05:59 6 do with Bly. I think they are McKay.

05:59 7 **THE COURT:** They are all shown as being proffered
05:59 8 with McKay, so let me just be clear that what I would like to
05:59 9 do next Thursday is we will marshal the exhibits that are being
06:00 10 tendered -- well, we are not going to marshal all of the
06:00 11 exhibits with McKay because I see we have other McKay exhibits
06:00 12 here. Don't we?

06:00 13 **MR. IRPINO:** Judge, I thought we went over McKay.

06:00 14 **MR. NOMELLINI:** Your Honor, these were already
06:00 15 covered. They are cited in demonstratives. They were already
06:00 16 admitted.

06:00 17 **THE COURT:** Show Anthony what you're listing.

06:00 18 **MR. NOMELLINI:** 2908. If we could pull up D-2908.

06:01 19 You see the citation to TREX-120 there,
06:01 20 Your Honor?

06:01 21 **THE COURT:** Yes, I do.

06:01 22 **MR. NOMELLINI:** So 2908, they already admitted that.
06:01 23 Now we are going back and admitting 120. We are duplicating
06:01 24 here.

06:01 25 **THE COURT:** Well, we don't want to admit duplicates.

06:01 1 We have done a long process of de-duplicating. So what I want
06:01 2 you to do is, Anthony, get from Mark this list starting with
06:01 3 120 on 2-26 and going through -- Mark, does it go through 22881
06:02 4 or does it go to the third page as well?

06:02 5 **MR. NOMELLINI:** It goes through 22881.

06:02 6 **THE COURT:** 22881. Figure out if those are
06:02 7 duplicates. We'll straighten that out, if they are not
06:02 8 duplicates, next week.

06:02 9 Last two exhibits are -- I'm sorry. The last
06:02 10 exhibit is 20443, which is admitted.

06:02 11 Does that take care of your master list, Mark?

06:02 12 **MR. NOMELLINI:** Your Honor, I have a total of five
06:02 13 more, including that one. I have 20443, which you just read,
06:02 14 which was actually not used. It was what was displayed for
06:03 15 another exhibit. So if we can all agree that it was not
06:03 16 used -- yes, we have agreement. That's not admitted. 20443,
06:03 17 not admitted.

06:03 18 Then I have four more, Your Honor.

06:03 19 **THE COURT:** That were not on your list?

06:03 20 **MR. NOMELLINI:** Yes.

06:03 21 **THE COURT:** Okay.

06:03 22 **MR. NOMELLINI:** 1337 I have as admitted.

06:03 23 7520 I have as admitted.

06:03 24 3715 I have as admitted.

06:03 25 And 41063 I have as admitted.

06:03 1 THE COURT: Okay. Does anybody disagree with that?

06:03 2 MS. ANDRE: We don't have them, but --

06:03 3 MR. NOMELLINI: They are exhibits used by the U.S.
06:03 4 and BP with Huffman. They are exhibits.

06:04 5 MS. ANDRE: Underlying demonstratives?

06:04 6 MR. NOMELLINI: No, they're just actual exhibits.

06:04 7 MS. ANDRE: They weren't on our list.

06:04 8 THE COURT: They are not on inData's list.

06:04 9 MR. NOMELLINI: We'll straighten that out.

06:04 10 Do we have agreement on that?

06:04 11 MS. ANDRE: I think so.

06:04 12 THE COURT: We have agreement on those exhibits, but
06:04 13 I have questions because we didn't have agreement on them and
06:04 14 they are not on inData's list. So could you-all -- not
06:04 15 tonight, but could you-all figure out what the problem was and
06:04 16 speak to inData about curing whatever the problem was with the
06:05 17 use of exhibits that didn't make it onto inData's list. Okay?
06:05 18 Thanks.

06:05 19 All right. We now want to move to the offering
06:05 20 of the deposition bundles. Bobbo, help me out here.

06:05 21 MR. CUNNINGHAM: Before we do that, David and I have
06:05 22 reached an agreement on his objections to two exhibits.

06:05 23 THE COURT: Please go ahead.

06:05 24 MR. CUNNINGHAM: Exhibit 07346, the congressional
06:05 25 hearing, I have agreed that we will only admit the cover page.

06:05 1 Exhibit 07364, we will only admit the cover page.

06:05 2 **THE COURT:** Thank you, Bobbo. That's helpful.

06:05 3 Let's come back to Carter. Carter, can you
06:05 4 confirm to me that the exhibits that we read for Transocean
06:05 5 were indeed offered and are on the list?

06:06 6 **MR. CARTER WILLIAMS:** I can. They are.

06:06 7 **THE COURT:** Thank you. Those will be admitted as
06:06 8 well.

06:06 9 Let's get to the deposition bundles.

06:06 10 Mr. Breit, are you offering the deposition
06:06 11 bundles?

06:06 12 **MR. BREIT:** Yes, Your Honor. The plaintiffs at this
06:06 13 time would move into evidence the list previously provided to
06:06 14 inData of 126 depositions and the PSC, USA, and the States
06:06 15 exhibits attached thereto.

06:06 16 **THE COURT:** Any objection?

06:06 17 **MR. LANGAN:** Your Honor, Andy Langan for BP. As
06:06 18 Your Honor knows, going back really a number of months, really
06:06 19 over a year, we have made objections, both general and
06:06 20 specific, to the depositions, preserved them in writing. And
06:06 21 we hereby renew those objection and don't waive them.

06:06 22 **THE COURT:** Absolutely.

06:06 23 **MR. LANGAN:** Both to testimony designations as well
06:07 24 as exhibits as well as the process and the fact it's being done
06:07 25 in this manner and in this sort of mass process. We just want

06:07 1 to make sure the record is clear on that. We are renewing
06:07 2 those objections.

06:07 3 **THE COURT:** Absolutely, Andy. And the record is
06:07 4 clear and your objections are preserved.

06:07 5 In addition, the written objections to testimony
06:07 6 and the written objections to exhibits are coming in with the
06:07 7 bundle, which will further preserve the record. And the
06:07 8 posting on the FTP cite will also have a disclaimer that the
06:07 9 testimony and exhibits are being objected to and that
06:07 10 Judge Barbier may strike some of the testimony, may strike some
06:07 11 of the exhibits and just not rely on some of the testimony and
06:07 12 exhibits.

06:07 13 **MR. LANGAN:** I appreciate that, Your Honor. Not to
06:08 14 belabor the point. One of the concerns we have is a Rule 43
06:08 15 concern about the need to sort of know what's actually been
06:08 16 ruled upon and admitted before we make our proposed findings
06:08 17 and sort of not knowing what the state of the record is before
06:08 18 we close our case. Those are concerns we have too.

06:08 19 In light of the procedure the Court has adopted,
06:08 20 I'm not sure there's anything we can do about it other than to
06:08 21 make sure our record is clear.

06:08 22 **THE COURT:** And object.

06:08 23 **MR. LANGAN:** We object.

06:08 24 **THE COURT:** Thank you.

06:08 25 **MR. LANGAN:** Thank you.

06:08 1 **THE COURT:** Alan.

06:08 2 **MR. YORK:** Your Honor, Alan York for HESI,
06:08 3 Halliburton. Two quick things. We adopt Andy's statements for
06:08 4 the large part. We have submitted written objections to both
06:08 5 the deposition testimony and to the exhibits. Our
06:08 6 understanding is those will go in and the Court will rule on
06:08 7 them.

06:08 8 One other issue just with regard to
06:08 9 confidentiality, the Court ruled back in February of 2012 and
06:08 10 has been consistent, has reiterated today, full documents, when
06:09 11 the full documents are not used, are not coming in.
06:09 12 Halliburton has always raised the issue of full manuals coming
06:09 13 in as exhibits when only portions of those manuals have been
06:09 14 used.

06:09 15 Throughout the deposition process, the parties
06:09 16 have the ability to highlight exhibits, submit those
06:09 17 highlighted exhibits to inData. And so as a part of -- we have
06:09 18 provided *Coca-Cola* redactions to inData, but we have also
06:09 19 requested in the deposition bundles those full manuals where
06:09 20 they were submitted -- and it was only, I think, four
06:09 21 depositions -- that the full manuals not be included; that a
06:09 22 slip sheet be put in that says the documents are confidential
06:09 23 but that any of the excerpts that have been highlighted be
06:09 24 subject to the redactions that we have provided.

06:09 25 **THE COURT:** Any objection to that?

06:09 1 **MR. LANGAN:** No objection to that, Your Honor.

06:09 2 If I may, to the extent we are going down this
06:09 3 road and completing this process, we did have our own
06:09 4 designations and our own exhibits. We would want to offer
06:09 5 those, assuming that this process is going to continue over our
06:10 6 objection. We certainly would make that offer as well. We've
06:10 7 designated testimony and offered exhibits. If this is the way
06:10 8 the Court is going to do it, we would offer those.

06:10 9 But the two-page summaries aren't going to be
06:10 10 part of this? I think we talked about that.

06:10 11 **THE COURT:** No, no.

06:10 12 **MR. LANGAN:** I want to make sure inData knows that
06:10 13 because I think there's been some miscommunication about that.

06:10 14 **THE COURT:** I think I was pretty clear about that.

06:10 15 Jordan, do you agree with that?

06:10 16 **MR. RAY:** More than clear, Judge.

06:10 17 **THE COURT:** Thank you.

06:10 18 **MR. LANGAN:** Thank you, Your Honor.

06:10 19 **MR. CARTER WILLIAMS:** Carter Williams for Transocean.
06:10 20 I just want to generally agree with Andy and Alan on the
06:10 21 objections. We have lodged objections not only to the
06:10 22 testimony in the bundles but also to the exhibits in the bundle
06:10 23 both generally with our testimony objections as well as in
06:10 24 filed objections with this Court. So we want to preserve that.

06:10 25 I also want to note that as this case is moving

06:11 1 forward, it looks like Transocean will be presenting its case
06:11 2 in the next few weeks. So probably at next week's marshaling
06:11 3 conference, if it's appropriate, we will offer our list of
06:11 4 bundles that we want to introduce in our case.

06:11 5 **THE COURT:** I'm going to think about that. We can
06:11 6 chew on it a little further tomorrow. Your objections are
06:11 7 noted. Thank you.

06:11 8 **MR. YORK:** Your Honor, again Alan York for
06:11 9 Halliburton. At the risk of agreeing with Andy twice in the
06:11 10 same afternoon, Halliburton will also offer its deposition
06:11 11 cuts, its exhibits associated with the bundles that are
06:11 12 associated with 126 that the PSC has offered at this time.

06:11 13 **THE COURT:** Those are all coming in. When we admit a
06:11 14 bundle, everybody's designations, everybody's what we have
06:11 15 called cuts are coming in. That's why they are called bundles.

06:11 16 Right, David?

06:12 17 **MR. JONES:** That's right, Your Honor.

06:12 18 **THE COURT:** Go ahead.

06:12 19 **MR. JONES:** I have now spoken more at the podium than
06:12 20 I have spoken all week. Just in the interest of preserving the
06:12 21 record, I will make the same objection, that we want to
06:12 22 preserve our objection to the testimony and to the exhibits.

06:12 23 **THE COURT:** Thank you, David.

06:12 24 **MR. TANNER:** Your Honor, I have to preserve the
06:12 25 record as well. I thought you answered it a second ago. When

06:12 1 one comes in, they all come in. But in preserving my
06:12 2 preserving, I will preserve.

06:12 3 **THE COURT:** If you will recall, I don't think you
06:12 4 should be sitting in the courtroom. I think you should be in
06:12 5 another courtroom.

06:12 6 **MR. TANNER:** Your Honor, I will write it up right now
06:12 7 if you'd like.

06:12 8 **THE COURT:** Let's do a few -- is there anything
06:12 9 else --

06:12 10 **MR. O'KEEFE:** We have to get inData to give Stephanie
06:12 11 the hard drive with the bundles.

06:12 12 **THE COURT:** Okay. InData, do you want to give
06:12 13 Stephanie the hard drives?

06:13 14 **THE DEPUTY CLERK:** With a hard copy of something
06:13 15 that's on the disc?

06:13 16 **THE COURT:** Yes.

06:13 17 Let me do a few cleanup items, guys. Sterbcow.

06:13 18 **MR. STERBCOW:** I'm sorry.

06:13 19 **THE COURT:** Okay. Guys, when you-all do video clips
06:13 20 during the course of trial, we are not taking those down. We
06:13 21 are not transcribing those.

06:13 22 **THE DEPUTY CLERK:** When they are in lieu of
06:13 23 testimony.

06:13 24 **THE COURT:** When they are in lieu of testimony,
06:13 25 right? We are not transcribing those. You will present to

06:14 1 Stephanie a thumb drive or a CD or a hard drive with your video
06:14 2 clips on it.

06:14 3 **MR. O'KEEFE:** Your Honor, you misspoke yourself.

06:14 4 **THE COURT:** What did I say?

06:14 5 **MR. O'KEEFE:** You said "video clip." The video
06:14 6 excerpts are not being recorded by the court reporter. She is
06:14 7 just making a notation of Lacy or Hayward video excerpt. But
06:14 8 if Jim Roy reads an excerpt, a clip, "On such-and-such a day,
06:14 9 you said so-and-so" --

06:14 10 **THE COURT:** If you all showed a video in lieu of live
06:14 11 testimony, Stephanie needs to take that into evidence. Would
06:14 12 you please present her with either a thumb drive or a video or
06:14 13 a hard drive appropriately labeled so that she can put it into
06:14 14 evidence. What we need is who is the deponent, what day was it
06:14 15 presented.

06:15 16 What else do you want on the identification,
06:15 17 Stephanie?

06:15 18 **THE DEPUTY CLERK:** That sounds good.

06:15 19 **THE COURT:** If there's more than one deposition on
06:15 20 it -- or do you want one --

06:15 21 **THE DEPUTY CLERK:** The one I have has two on it, and
06:15 22 that's fine.

06:15 23 **THE COURT:** That would be appropriate as well. If
06:15 24 you want to give her a hard drive with the videos that were
06:15 25 played in court in lieu of live testimony, just make sure it's

06:15 1 appropriately labeled so it can come into evidence.

06:15 2 Steve?

06:15 3 **MR. HERMAN:** Steve Herman for the PSC. I know that
06:15 4 everybody's tired and wants to go home, but just in planning
06:15 5 for next week, I think it would be helpful. We had discussed
06:15 6 and, I think, approved that before we rest and then before
06:15 7 Transocean rests, which seems a lot sooner rather than later at
06:15 8 this point, at least for the record we would be submitting the
06:15 9 transcripts of witnesses that are expected to appear live and
06:15 10 witnesses who have taken the Fifth Amendment, so that if any
06:15 11 defendants file a motion for a directed verdict, that it would
06:16 12 be in the record, so to speak. However, assuming that the
06:16 13 witness actually -- with respect to live witnesses, assuming
06:16 14 they actually showed up -- their deposition transcripts would
06:16 15 be replaced with their trial testimony.

06:16 16 **THE COURT:** With their live testimony.

06:16 17 **MR. HERMAN:** Can we do that just on the record, or do
06:16 18 you actually want us to provide the Court with the transcripts?

06:16 19 **THE COURT:** No. I want you to do it for the record.
06:16 20 Remember that when we do the actual marshaling, if the witness
06:16 21 came live, you need to make the record that you are withdrawing
06:16 22 that transcript.

06:16 23 **MR. HERMAN:** Yes, Your Honor.

06:16 24 **THE COURT:** If the witness came live.

06:16 25 Is there anything else we need to cover? Lots

06:16 1 to do to make it right next week, huh?

06:16 2 All right. Thanks everybody. Have a good
06:16 3 evening.

06:16 4 **THE DEPUTY CLERK:** All rise.

06:16 5 (Proceedings adjourned.)

06:16 6 * * *

7 **CERTIFICATE**

8 I, Toni Doyle Tusa, CCR, FCRR, Official Court
9 Reporter for the United States District Court, Eastern District
10 of Louisiana, do hereby certify that the foregoing is a true
11 and correct transcript, to the best of my ability and
12 understanding, from the record of the proceedings in the
13 above-entitled matter.

14
15
16 *s/ Toni Doyle Tusa*
17 Toni Doyle Tusa, CCR, FCRR
18 Official Court Reporter
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