

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**In re: Oil Spill by the Oil Rig  
“Deepwater Horizon” in the Gulf  
Of Mexico, on April 20, 2010**

**Applies to: *All Cases.***

\*     **MDL No. 2179**  
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\*     **SECTION: J**  
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\*     **JUDGE BARBIER**  
\*     **MAGISTRATE SHUSHAN**

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**ALL PARTIES OBJECTIONS TO DEPOSITION DESIGNATIONS OF  
CRAIG GARDNER**

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<u>From</u>		<u>To</u>		<u>Objecting</u>	<u>Objection</u>	<u>Ruling</u>
<u>Page</u>	<u>Line</u>	<u>Page</u>	<u>Line</u>	<u>Party</u>		
44	18	44	22	HESI	Misstates evidence; assumes facts not in evidence: The questioner suggests that the fluid loss test is "commonly run on foamed slurries" when the witness previously testified that such tests, if run at all, "would be run on the base," which he then specifically defined as "the unfoamed slurry." (43:11-21). This question mischaracterizes the witness's prior testimony and assumes facts not in evidence, i.e., that the fluid loss test is "one of those tests commonly run on foamed slurries."	

91	3	91	13	HESI	<p>Relevance; vague and ambiguous; misstates evidence; assumes facts not in evidence: Counsel states, "I know I'm drawing conclusions, so I --I apologize for that, but is it... fair for me to say that, when you tested the foam cement design provided for the foam cement job --for the production casing job, that is, you, at Chevron, concluded that the cement would not be stable?" The question seeks irrelevant and immaterial information; Chevron did not test rig samples, and a conclusion that the test samples were not stable is irrelevant to the question of whether the cement actually pumped was stable. Further, the question is vague and ambiguous and, as worded, misleading. Counsel's attempt to equate the cement slurry pumped into the production interval of the Macondo Well and the cement slurry tested by the witness misstates the evidence, including prior testimony that the slurry tested was not identical to the slurry pumped into the Macondo Well's production interval, and assumes facts not in evidence. By improperly conflating the cement used and the slurry tested, the question creates misleading ambiguity and vagueness.</p>	
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91	18	92	3	HESI	<p>Vague and ambiguous; assumes facts not in evidence; misstates testimony: The question seeks irrelevant and immaterial information; Chevron did not test rig samples, and a conclusion that the test samples were not stable is irrelevant. Further, the question is vague and ambiguous and, as worded, misleading. Counsel's attempt to equate the cement slurry pumped into the production interval of the Macondo Well and the cement slurry tested by the witness misstates the evidence, including prior testimony that the slurry tested was not identical to the slurry pumped into the Macondo Well's production interval, and assumes facts not in evidence. Counsel does not distinguish between the foam cement design for the Macondo and the design tested by the witness; this ambiguity suggests the unsupported conclusion that the witness determined that the actual slurry pumped into the Macondo Well, and not merely the slurry tested by the witness, was unstable. In so doing, the questioner misstates the witness's testimony that he did not test the slurry that was pumped in the Macondo well's production interval.</p>
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95	18	95	25	HESI	<p>Relevance; vague and ambiguous; misstates testimony; assumes facts not in evidence: Counsel states, "In your practice, generally speaking, it would be common under those circumstances when there's made a determination that the foam cement is not stable to redesign the cement slurry before the job is pumped, correct?" The question seeks irrelevant and immaterial information; Chevron did not test rig samples, and the conclusion that is sought is irrelevant. Further, the question is vague and ambiguous and, as worded, misleading. Counsel's attempts to equate the cement slurry pumped into the production interval of the Macondo well and the cement slurry tested by the witness misstates the evidence, including prior testimony that the slurry tested was not identical to the slurry pumped into the Macondo well's production interval, and assumes facts not in evidence. By improperly conflating the cement used and the slurry tested, the question creates misleading ambiguity and vagueness. The questioner also assumes, contrary to the witness's testimony, that there has been a determination that the foam slurry pumped in the Macondo well's production interval was unstable.</p>	
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110	7	110	20	HESI	<p>Improper testimony by counsel; vague and ambiguous; misstates evidence; assumes facts not in evidence; relevance: Counsel prefaces the question with statements at 110:7-12 that are merely counsel testifying and making improper sidebar comments. In his conclusory statement preceding the actual question, counsel does not distinguish between the foam cement design for the Macondo and the design tested by the witness; this ambiguity is misleading and suggests the unsupported conclusion that there has been a determination that the slurry pumped in the Macondo well's production interval was unstable. It misstates the evidence, including the witness's testimony, as he stated several times throughout his examination that to come to a conclusion as to the stability of the actual Macondo slurry, he would have to test that exact slurry, which he did not do. It assumes facts not in evidence, i.e., "Already we've identified that the... foam slurry was not stable." Chevron did not test rig samples; therefore, the portion of the question that attempts to equate the cement slurry pumped and the slurry tested by the witness is misleading and lacks relevance.</p>	
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125	10	125	18	HESI	Vague and ambiguous; mischaracterizes evidence; relevance: Counsel does not distinguish between the foam cement design for the Macondo and the design tested by the witness; this ambiguity suggests the unsupported conclusion, which is also contrary to the witness's testimony, that there has been a determination that the slurry pumped in the Macondo well's production interval was unstable. It is, therefore, vague and ambiguous, misleading, and mischaracterizes the evidence, including the witness's testimony. Further, Chevron did not test rig samples; therefore, counsel's attempt to equate the cement slurry pumped and the slurry tested by the witness is misleading and lacks relevance.	
212	23	213	12	HESI	Vague and ambiguous; foundation; speculation: Counsel stated, "I'm just pointing out that Halliburton's own documents --model shows that it... was actually 18.6 percent under downhole conditions will require it." He then asked the witness if that was his reading of a document. The question is vague and ambiguous; it is unclear what counsel actually asked. Further, counsel asked about an OptiCem model without laying a foundation as to the witness's competency in interpreting or understanding such models; the question necessarily calls for speculation.	
217	22	217	25	BP	FRE 701, Non-responsive	

227	25	228	20	HESI	<p>Foundation; vague and ambiguous; relevance: Counsel asked a series of questions regarding whether the materials tested by the witness were representative of "what was on the DEEPWATER HORIZON." Counsel failed to lay a foundation as to the witness having personal knowledge of such information, where the witness has already testified numerous times that he did not have access to actual rig samples of the cement slurry. In the letter cited immediately prior to this testimony, the witness stated that the materials "are neither bulk plant samples nor rig samples from the actual job." (227:20-24). Further, the questioning is vague and ambiguous as to what "representative" means; to the extent that it attempts to equate the cement slurry pumped and the slurry tested by the witness, it is misleading and lacks relevance.</p>	
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249	11	249	22	HESI	<p>Relevance; vague and ambiguous; foundation; speculation: Counsel asks a series of questions related to a hypothetical in the preceding question. The questions concern whether the witness would expect the rig cement to perform "reasonably the same" as the material tested by Chevron if it had been performed under "Chevron's conditions." The question seeks irrelevant and immaterial information; Chevron did not test rig samples, and the conclusion that is sought is irrelevant. The question is vague and ambiguous and also constitutes an improper hypothetical. Further, when asked the question before, the witness responded to the preceding question that he "would have to test the rig cement." Therefore, the subsequent questioning lacks foundation and necessarily calls for speculation.</p>	
263	9	263	18	HESI	<p>Foundation; speculation: The questioner asks which additive the witness would have selected as the fluid loss control, when the witness had, in answer to the previous question, stated that he could not speak to whether he would have suggested a fluid loss control for the slurry at Macondo. (262:25-263:7). Given his previous answer, the question lacks foundation and necessarily calls for speculation.</p>	



					Vague and ambiguous; relevance: Counsel asked, "Would you recommend in this --with regard to this application a... free fluid test have been taken." The question is vague and ambiguous, as it is unclear whether he is referring to the cement actually pumped or the cement slurry tested by the witness. To the extent that the question attempts to equate the cement slurry pumped and the slurry tested by the witness, it is misleading and lacks relevance.	
266	15	266	19	HESI		
287	17	287	21	BP	Vague, FRE 701	
291	2	291	9	BP	FRE 701	
291	10	291	17	BP	Relevance, FRE 602	
291	25	292	5	BP	FRE 602	
292	6	292	10	BP	Relevance, Vague, FRE 701	
294	2	294	4	BP	FRE 602, FRE 701	
303	8	303	11	BP	FRE 701	
314	2	314	19	BP	Colloquy, Assumes Facts Not in Evidence	
318	19	318	23	BP	Relevance, FRE 701, Vague, Prejudice	
343	15	343	18	BP	FRE 602, FRE 701	
343	20	343	21	BP	FRE 602, FRE 701	
343	24	344	8	BP	FRE 602, FRE 701	
344	15	344	22	BP	FRE 602	
345	1	345	6	BP	FRE 602	
345	7	345	11	BP	FRE 602, FRE 701, Vague	
345	13	345	13	BP	FRE 602, FRE 701, Vague	