

**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
*
* SECTION: J
*
* JUDGE BARBIER
* MAGISTRATE SHUSHAN

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**ALL PARTIES OBJECTIONS TO DEPOSITION DESIGNATIONS OF
DOYLE MAXIE**

| <u>From</u> | | <u>To</u> | | <u>Objecting</u> <u>Party</u> | <u>Objection</u> | <u>Ruling</u> |
|-------------|-------------|-------------|-------------|----------------------------------|------------------------------------|---------------|
| <u>Page</u> | <u>Line</u> | <u>Page</u> | <u>Line</u> | | | |
| 19 | 14 | 20 | 1 | BP | FRE 602 | |
| 20 | 9 | 20 | 12 | BP | FRE 602 | |
| 20 | 13 | 20 | 18 | BP | FRE 602; Misstates the Record | |
| 20 | 20 | 20 | 21 | BP | FRE 602; Misstates the Record | |
| 20 | 22 | 21 | 1 | BP | FRE 602 | |
| 21 | 2 | 21 | 4 | BP | FRE 602; Misstates the Record | |
| 21 | 6 | 21 | 6 | BP | FRE 602; Misstates the Record | |
| 21 | 9 | 21 | 9 | BP | FRE 602; Misstates the Record | |
| 26 | 5 | 26 | 8 | BP | Vague; Ambiguous | |
| 26 | 10 | 26 | 11 | BP | Vague; Ambiguous; Compound | |
| 26 | 13 | 26 | 13 | BP | Vague; Ambiguous; Compound | |
| 31 | 5 | 31 | 6 | BP | Vague; Ambiguous; Argumentative | |
| 31 | 8 | 31 | 9 | BP | Vague; Ambiguous; Argumentative | |
| 34 | 20 | 35 | 1 | BP | Misstates the Record | |
| 35 | 3 | 35 | 3 | BP | Misstates the Record | |

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| 41 | 4 | 41 | 8 | M-I | Maxie was asked whether an unnamed party – “you all” – pumped lost circulation material into the Macondo well at some point between February and April 20, 2010. (41:4-7). The question could be referring to a number of parties. As a consequence, the question is vague and ambiguous. To the extent the question refers to M-I, it assumes facts not in evidence, because there have been no allegations and no evidence adduced in this case that M-I controlled any of the pumps or equipment onboard the Deepwater Horizon. | |
| 41 | 9 | 41 | 15 | M-I | This question and answer (41:9-15) relies on earlier, objectionable testimony (41:4-8) for context and foundation, and should be stricken if this Court grants M-I’s Objection immediately supra. Standing alone, independent of the previous testimony, this section lacks foundation, and is vague and ambiguous. | |

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| 41 | 16 | 42 | 11 | M-I | <p>Maxie was asked whether there was an occasion “between April 1, or the – whatever date you were contemplating in your head, and April 20th where you pumped lost circulation materials?” (41:16-19) (emphasis added). The question is vague and ambiguous for two reasons. First, it is unclear who was meant by “you,” i.e., whomever “pumped lost circulation materials.” (41:19). The question could be read to mean the Witness individually, or as a reference to the Transocean rig crew, or to any number of other parties. To the extent “you” was a reference to M-I, the question assumes facts not in evidence, because there are no allegations or evidence that M-I controlled the pumps or rig equipment onboard the Deepwater Horizon. Second, the question is also vague as to time, because it refers to “whatever date you were contemplating in your head”. (41:17-18).</p> | |
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| | | | | | These two questions (50:1-8) mischaracterize Maxie's previous testimony. In response to earlier questions, he explained the normal process by which conventional LCM is remediated, where fluid at the shaker is screened, where cuttings have the synthetic-based drilling fluid removed from them and are dried, and where screened material is then discharged through the shunt line, according to applicable regulations. (48:18-49:25). After Maxie specifically testified that any such materials cannot be, and are not, "thrown overboard" (49:12-13, 49:19-20), Counsel asked: "Well, which means it's thrown overboard, right?" (50:1-2). Maxie reiterated that such was not the case, but Counsel sought to improperly and inaccurately summarize the entire process. (50:6-8). Counsel's questions should also therefore be stricken because they are argumentative, and had been asked and answered. | |
| 50 | 1 | 50 | 8 | M-I | | |
| 53 | 14 | 54 | 4 | BP | FRE 602 | |
| 54 | 5 | 54 | 7 | BP | FRE 602; Vague; Ambiguous | |
| 54 | 9 | 54 | 9 | BP | FRE 602; Vague; Ambiguous | |
| 54 | 10 | 54 | 12 | BP | Vague; Ambiguous | |
| 54 | 14 | 54 | 14 | BP | Vague; Ambiguous | |
| 55 | 14 | 56 | 2 | BP | FRE 602; Argumentative; Colloquy | |
| 56 | 4 | 56 | 5 | BP | FRE 602; Argumentative; Colloquy | |
| 56 | 7 | 56 | 8 | BP | FRE 602; Argumentative | |
| 56 | 9 | 56 | 9 | BP | FRE 602; Argumentative | |

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| | | | | | <p>Maxie was asked to identify Exhibit 7602, the “Fluid Program” he “wrote for the Macondo well, as per BP’s request.” (57:12-16). When asked whether that Fluid Program was “updated after the February lost circulation event,” he answered “[n]o”, and indicated that Exhibit 7602 was “the last version of the plan”. (57:17-22). M-I objects to this designation on the basis of completeness. When taken by itself and out of context that comes from the Maxie’s other testimony, this section unfairly and improperly implies that he and/or M-I was somehow negligent or at fault for not updating the Fluid Program. By way of this objection, M-I asks that Maxie’s testimony, explaining that he cannot “change this document” (66:14-19), be included in order to fairly and accurately complete the testimony at issue (57:7-22).</p> | |
| 57 | 7 | 57 | 22 | M-I | | |
| 65 | 8 | 65 | 9 | BP | FRE 602; Misstates the Record | |
| 65 | 11 | 65 | 12 | BP | FRE 602; Misstates the Record | |
| 73 | 6 | 73 | 16 | M-I | <p>Maxie was asked who “was the first person” to suggest that the LCM pills be used as a spacer. (73:6-7). His response – which began with the admission that “I’m not exactly sure” (73:8-16) – reflects that the question calls for speculation and opinion. Moreover, Maxie lacks sufficient personal knowledge to offer testimony about whether such a discussion may have taken place on the rig, because he testified that in April of 2010, he was working out of BP’s offices in Houston (11:22-12:4), and that he had never been aboard the Deepwater Horizon. (219:10-12).</p> | |

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| 73 | 17 | 73 | 25 | M-I | Maxie was asked: “We said that we mixed a Form-A-Set AK batch, because we thought we may need a second batch . . . correct?” (73:17-21) (emphasis added). The question is vague and ambiguous, because use of the pronoun “we” makes it unclear to whom Counsel was referring. | |
| 74 | 1 | 74 | 4 | M-I | Counsel’s use of the pronoun “you” renders this inquiry vague and ambiguous, because it is unclear whether the question is referring to Maxie individually, or, e.g., to the Transocean rig crew, or to M-I personnel onboard the Deepwater Horizon. Moreover, this section relies on earlier, objectionable testimony (73:17-25) for context and foundation, and should be stricken if the Court grants M-I’s preceding Objection, supra. Standing alone, independent of earlier testimony, this section (74:1-5) lacks foundation, and is vague and ambiguous. | |

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| 74 | 5 | 74 | 7 | M-I | Maxie was asked whether “you all” were “using a tandem pill at that time.” (74:5-6). The question is vague and ambiguous. First, it is unclear to whom the question refers by “you all”, and whether it means, e.g., the Transocean rig crew, or BP and its contractors on the rig. Second, it is also unclear as what time frame was meant by “that time.” Additionally, Counsel misstates Maxie’s previous testimony. The question is part of a series relating to Exhibit 2810, which consists of emails exchanged on April 16, 2010. (72:20-21). Finally, this question and answer rely on earlier, objectionable testimony (73:17-25) for context and foundation, and should be stricken if M-I’s Objection to that testimony, supra, is granted. Standing alone, independent of the previous testimony, this section (74:5-7) lacks foundation, and is vague and ambiguous. | |
| 74 | 8 | 74 | 10 | M-I | M-I objects to this testimony by Counsel as a narrative, not a question. Counsel’s testimony is also vague and ambiguous, in that it claims that “we” had left over LCM, without explaining to whom his testimony refers. | |
| 77 | 4 | 77 | 6 | BP | Argumentative; Misstates the Record | |
| 79 | 16 | 79 | 19 | BP | Vague; Ambiguous | |
| 79 | 21 | 79 | 25 | BP | Vague; Ambiguous | |

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| | | | | | The question posed was: “You did not, during any time when you were even thinking about this, contemplate using this as a spacer in connection with a negative test; isn’t that true?” (79:16-19) (emphasis added). The question is vague and ambiguous, due to the confusing use of the pronoun “this.” It is unclear about what Maxie was allegedly “thinking.” (Id.) That is, it is unclear whether Maxie was being asked about his frame of mind at an indeterminate time, the specific materials at issue, or the processes in question. | |
| 79 | 16 | 79 | 25 | M-I | | |
| 88 | 13 | 88 | 24 | BP | FRE 701; FRE 602 | |
| 89 | 9 | 89 | 11 | BP | Colloquy | |
| 89 | 12 | 89 | 18 | BP | FRE 701; FRE 602 | |
| 89 | 19 | 90 | 5 | BP | FRE 701; FRE 602 | |
| 92 | 20 | 92 | 21 | BP | Vague; Ambiguous | |
| 92 | 23 | 92 | 24 | BP | Vague; Ambiguous | |
| 98 | 7 | 98 | 18 | BP | Relevance | |
| 99 | 16 | 99 | 20 | BP | FRE 602 | |
| 99 | 22 | 99 | 23 | BP | FRE 602; Vague; Ambiguous | |
| 99 | 25 | 100 | 2 | BP | FRE 602; Vague; Ambiguous | |
| 100 | 4 | 100 | 4 | BP | FRE 602; Vague; Ambiguous | |
| 102 | 17 | 102 | 19 | BP | Vague; Ambiguous | |
| 104 | 14 | 104 | 23 | BP | Relevance | |
| 104 | 24 | 105 | 9 | BP | Relevance | |
| 117 | 1 | 117 | 3 | BP | Vague; Ambiguous | |
| 117 | 5 | 117 | 5 | BP | Vague; Ambiguous | |
| 119 | 12 | 119 | 22 | BP | Relevance | |
| 129 | 13 | 129 | 20 | M-I | The question is multi-part, compound, and vague and ambiguous. (129:13-17). Counsel also improperly characterizes the Maxie’s testimony. | |
| 131 | 11 | 131 | 13 | BP | Vague; Ambiguous | |
| 131 | 25 | 132 | 3 | BP | Vague; Ambiguous | |
| 132 | 5 | 132 | 6 | BP | Vague; Ambiguous | |
| 132 | 8 | 132 | 15 | BP | Vague; Ambiguous | |

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| 139 | 7 | 139 | 9 | BP | Vague; Ambiguous | |
| | | | | | <p>Maxie was asked: “How long can that pill sit in a pit and still be functional?” (145:17-18). The question calls for speculation and opinion, and is vague and ambiguous. The term “functional” is susceptible to multiple interpretations. The question also fails to restrict the “pit” at issue to, e.g., a deepwater drilling rig, or even a drilling rig in the Gulf of Mexico. The question could therefore be interpreted as meaning a “pit” on a shallow water drilling rig in, e.g., South America, or a MODU in the North Sea. There has also been no showing that Maxie has the personal knowledge necessary to testify about the use of Form-A-Set AK under such varied conditions as those contemplated by the question. Maxie responds in part by repeating “I don’t know” three times, which reflects the question’s vagueness and ambiguity. (145:19-24).</p> | |
| 145 | 17 | 145 | 24 | M-I | | |

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| 145 | 25 | 146 | 5 | M-I | <p>The question calls for speculation and opinion, and is vague and ambiguous. (145:25-146:2). Counsel is asking Maxie to guess about what may happen – “over time” – to a hypothetical pill in an undefined pit on an unnamed rig in unknown conditions. (Id.)</p> <p>Similarly, the question does not reveal how much “time” is at issue. The question also lacks foundation, because there has been no showing that Maxie has personal knowledge of the properties of Form-A-Set AK in varying geographic regions, under various operational conditions, where any number of variables, including, e.g., heat, duration, presence or absence of other additives, the type of rig water, might impact the pill.</p> | |
| 149 | 16 | 149 | 21 | M-I | <p>This question (149:16-19) was asked and answered. (145:25-146:5). Moreover, this question is vague and ambiguous because it asks whether a hypothetical Form-A-Set AK pill sitting in a “pit or tank over time,” would degrade “in some respects,” without providing any context such as environmental or operational conditions, or the length of time at issue. For the same reasons, the question calls for speculation and opinion, and there has been no showing that Maxie has the requisite personal knowledge to testify about the behavior of that material in every conceivable condition that is contemplated under the general and indefinite question.</p> | |
| 156 | 25 | 157 | 6 | M-I | <p>This question seeks to improperly characterize Maxie’s previous testimony, which is reflected in his response: “[T]hat’s not totally correct.”</p> | |

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| 171 | 8 | 171 | 14 | M-I | <p>Maxie was asked to explain what “the purpose of Duo-Vis is in the L – LCM pill”. (171:8-9) (emphasis added). The question is vague and ambiguous, because it is unclear which of the several LCM pills that were used onboard the Deepwater Horizon is at issue. When LCM pills were the subject of earlier questioning, Maxie asked Counsel to “be a little more specific on which pill” because “several pills” were used on the rig. (23:6-8). Accordingly, the question at issue could be referring to a Form-A-Squeeze pill, a Form-A-Set AK pill, or one of the other LCM pills that Maxie testified BP used on the rig. (31:14-16). Alternatively, Counsel could be asking about what he himself said – at the beginning of his cross-examination – he would call “an LCM spacer,” which was supposed to be understood as a reference to the combined Form-A-Squeeze and Form-A-Set AK pills. (144:18-145:8).</p> | |
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| 172 | 1 | 172 | 4 | M-I | <p>Maxie was asked: “If there’s not sufficient Duo-Vis added to the fluid, what is the effect?” (172:1-2). This question is vague and ambiguous. First, it is not clear from the question itself, or from its context, what “the fluid” at issue might be. As explained in the Objection immediately supra, Counsel could be asking Maxie about any of the LCM pills used onboard the Deepwater Horizon, the LCM spacer, or about some other fluid altogether. Second, the term “sufficient” is susceptible to interpretation in two or more ways, depending on, for example, the type of fluid being used, and the desired effect of that fluid on the hypothetical wellbore in the question. Finally, this question and answer rely on earlier, objectionable testimony (171:8-14) for context and foundation, and should be stricken if M-I’s Objection immediately supra is granted. Standing alone, independent of the previous testimony, this section (172:1-4) lacks foundation, and is vague and ambiguous.</p> | |
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| 172 | 6 | 172 | 16 | M-I | The question calls for speculation and opinion, because it asks whether an M-I employee, or “anybody else” on the Deepwater Horizon conducted testing on the LCM spacer. (172:6-11). Maxie testified that in April of 2010, he was working out of BP’s offices in Houston (11:22-12:4), and that he had never been aboard the rig. (219:10-12). Accordingly, Maxie was being asked to guess about what may have taken place onboard the rig. For the same reason, the question lacks foundation, because there has been no showing that Maxie has the requisite personal knowledge to speak to everything that non-M-I personnel may have done onboard the rig. | |
| 179 | 6 | 179 | 10 | BP | Non-responsive | |
| 179 | 11 | 179 | 12 | BP | Colloquy | |
| 190 | 3 | 190 | 7 | BP | Non-responsive | |
| 194 | 10 | 194 | 13 | BP | Vague; Ambiguous; Argumentative; Compound | |
| 194 | 16 | 194 | 16 | BP | Vague; Ambiguous; Argumentative; Compound | |
| 194 | 18 | 194 | 18 | BP | Vague; Ambiguous; Argumentative; Compound | |
| 194 | 19 | 194 | 19 | BP | Vague; Ambiguous; Argumentative; Compound | |
| 194 | 20 | 194 | 20 | BP | Vague; Ambiguous; Argumentative; Compound | |
| 194 | 21 | 194 | 23 | BP | Vague; Ambiguous; Compound | |
| 194 | 25 | 194 | 25 | BP | Vague; Ambiguous; Compound | |
| 220 | 1 | 220 | 6 | BP | FRE 602; Misstates the Record; Colloquy | |
| 220 | 8 | 220 | 8 | BP | FRE 602; Misstates the Record; Colloquy | |
| 224 | 12 | 224 | 18 | BP | Relevance | |
| 270 | 22 | 270 | 23 | BP | Argumentative; Colloquy | |