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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,	*	March 19, 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 14, AFTERNOON SESSION
TRANSCRIPT OF NONJURY TRIAL
BEFORE THE HONORABLE CARL J. BARBIER
UNITED STATES DISTRICT JUDGE

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1 * * *

2 AFTERNOON SESSION

3 (March 19, 2013)

4 * * * * *

13:22 5 THE DEPUTY CLERK: All rise.

13:34 6 THE COURT: Please be seated, everyone.

13:34 7 All right. Let's see. Halliburton?

13:34 8 MR. GODWIN: Yes, Your Honor. Halliburton has no
13:34 9 questions of this witness, Your Honor.

13:34 10 THE COURT: Thank you.

13:34 11 MR. GODWIN: You're welcome.

13:34 12 THE COURT: BP?

13:34 13 MR. WILLIAMS: Your Honor, do you want to do -- just
13:35 14 to finish up the Webster exhibits?

13:35 15 THE COURT: We can do that.

13:35 16 MR. WILLIAMS: Okay. Thank you.

13:35 17 We would formally offer and introduce the
13:35 18 exhibits used with Mr. Webster's testimony, Your Honor. We've
13:35 19 circulated the requisite list, have had -- or heard no
13:35 20 objections and thus would like to move formally for their
13:35 21 introduction into evidence.

13:35 22 THE COURT: All right. Does anyone have any
13:35 23 objections to the plaintiffs' list of exhibits in conjunction
13:35 24 with Mr. Webster's testimony?

13:35 25 Hearing none, those are admitted.

13:35 1 **MR. HAYCRAFT:** Your Honor, BP does the same. We have
13:35 2 a list of exhibits that we wish to move into evidence used
13:35 3 during Mr. Webster's deposition -- during Webster's
13:35 4 examination.

13:35 5 **THE COURT:** Any objections?

13:35 6 Without any objections, those are admitted.

13:35 7 **MR. KINCHEN:** Your Honor, John Kinchen, Transocean.
13:35 8 Transocean would also like to formally move to introduce the
13:36 9 exhibits that were referenced in cross-examination of Geoff
13:36 10 Webster. We've distributed that list and have received no
13:36 11 objections.

13:36 12 **THE COURT:** Any objections to Transocean?

13:36 13 Hearing none, those are admitted. Okay.

13:36 14 **MR. IRPINO:** Judge, Anthony Irpino for the PSC. We
13:36 15 also have our list of exhibits used in connection with
13:36 16 Mr. Barnhill's testimony. We've sent those around and received
13:36 17 no --

13:36 18 **THE COURT:** We've not finished with his testimony
13:36 19 yet. Why don't you wait and we'll do those all together.
13:36 20 Okay.

13:36 21 **MR. IRPINO:** Sure.

13:36 22 **THE COURT:** Anything else before we resume?

13:36 23 All right. Mr. Regan.

13:36 24 **MR. REGAN:** Thank you, Your Honor.

09:20 25 (WHEREUPON, **STEVEN NEWMAN**, having been previously

STEVEN NEWMAN - CROSS

09:20 1 duly sworn, testified as follows.)

13:36 2 **CROSS-EXAMINATION**

13:36 3 **BY MR. REGAN:**

13:36 4 **Q.** Good afternoon, Mr. Newman. Again, my name is Matt Regan.
13:36 5 I represent BP, and I have you on cross-examination.

13:36 6 Mr. Newman, I'm going to endeavor to try not to cover
13:36 7 anything that we've repeated earlier today. I'll do my best on
13:36 8 that, hopefully.

13:36 9 But with respect to Transocean's business, Transocean
13:36 10 is in the business -- you say you own rigs and you have a crew
13:36 11 to operate them. Is that fair?

13:36 12 **A.** Yes. That's the basis of our business.

13:37 13 **Q.** And you believe Transocean is the best in the world when
13:37 14 it comes to drilling of complex offshore wells; correct?

13:37 15 **A.** I do.

13:37 16 **Q.** And the capabilities of Transocean people, to you, they
13:37 17 are capable of drilling in some of the world's most difficult
13:37 18 and harsh environments; correct?

13:37 19 **A.** I believe that.

13:37 20 **Q.** And you have confidence in them to not only do those
13:37 21 things, but to do them well; correct?

13:37 22 **A.** I do, yes.

13:37 23 **MR. REGAN:** I'd like to pull up TREN-5642.

13:37 24 **BY MR. REGAN:**

13:37 25 **Q.** Which is a letter dated March 24th, 2010, to shareholders.

STEVEN NEWMAN - CROSS

13:37 1 That must have been about a month into your time as CEO. This
13:37 2 is the cover page on the proxy statement, the annual report.

13:37 3 MR. REGAN: If we go to TREN-5642.5.1.

13:37 4 BY MR. REGAN:

13:37 5 Q. I'll just show you your signature on there.

13:37 6 Do you recall writing and signing this letter that
13:37 7 went to -- as the cover to Transocean's annual report in late
13:37 8 March 2010?

13:37 9 A. I do.

13:37 10 Q. Okay. So this is about a month before April 20th;
13:38 11 correct?

13:38 12 A. Yes.

13:38 13 Q. All right.

13:38 14 MR. REGAN: If we could turn to page 2,
13:38 15 TREN-5642.2.1.

13:38 16 BY MR. REGAN:

13:38 17 Q. Just to see if this is fair, there's a description about
13:38 18 Transocean Limited. Do you see it there?

13:38 19 A. Yes.

13:38 20 Q. "Transocean Limited is the world's largest offshore
13:38 21 drilling contractor and leading provider of drilling management
13:38 22 services worldwide."

13:38 23 Correct?

13:38 24 A. That's what the document says.

13:38 25 Q. As of that time, Transocean had a fleet of 140 mobile

STEVEN NEWMAN - CROSS

13:38 1 offshore drilling units, plus three newbuild units; correct?

13:38 2 A. That's what the document says.

13:38 3 Q. And Transocean believes that its fleet was one of the most
13:38 4 modern and versatile in the world due to its emphasis on
13:38 5 technically demanding sectors of the offshore drilling
13:38 6 business; correct?

13:38 7 A. That's what the document says.

13:38 8 Q. And it also highlights the fact that Transocean has
13:38 9 achieved a long history of firsts, in the words of the
13:38 10 document; correct?

13:38 11 A. That's what the document says.

13:38 12 Q. Including the first dynamically positioned drillship, and
13:38 13 some other firsts; right?

13:38 14 A. Yes.

13:38 15 Q. And at the bottom, it says: "Transocean: Positioned to
13:39 16 Lead."

13:39 17 Was that one of the models of the company there in
13:39 18 March of 2010?

13:39 19 A. We used that as the theme for our 2009 annual report and
13:39 20 our 2010 proxy statement.

13:39 21 Q. And in this proxy statement, you specifically highlighted
13:39 22 the *Deepwater Horizon's* expertise amongst all of those
13:39 23 140 rigs; correct?

13:39 24 A. I think that was on the basis of the type of well that the
13:39 25 rig had drilled in 2009 with BP.

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13:39 1 Q. Go to 5642.4.4. So again on March 24th, 2010, your letter
13:39 2 stated that "Transocean continues to be the industry leader in
13:39 3 technology, which gives us a strong competitive advantage. Our
13:39 4 expertise in helping customers drill complex and challenging
13:39 5 wells is well-documented in deepwater and harsh environments,
13:39 6 and the latest example in 2009 was our ultradeepwater
13:39 7 semisubmersible drilling rig, *Deepwater Horizon*, which drilled
13:40 8 the deepest oil and gas wells ever while working for BP in the
13:40 9 U.S. Gulf of Mexico. The well was drilled to a record depth of
13:40 10 35,050 feet, including 4,130 feet of water."

13:40 11 Correct?

13:40 12 A. That's what the document says.

13:40 13 Q. That was a historic achievement, was it not?

13:40 14 A. It was.

13:40 15 Q. It was one that Transocean shared with BP; correct?

13:40 16 A. We did, yes.

13:40 17 Q. That was a well that was designed by BP engineers;
13:40 18 correct?

13:40 19 A. That's correct.

13:40 20 Q. That well was drilled by the Transocean *Deepwater Horizon*
13:40 21 crew; correct?

13:40 22 A. Yes.

13:40 23 Q. And there were BP well site leaders onboard when that well
13:40 24 was drilled; correct?

13:40 25 A. I believe so. That would be the normal circumstances,

STEVEN NEWMAN - CROSS

13:40 1 yes.

13:40 2 Q. That was the team?

13:40 3 A. Yes.

13:40 4 Q. And I recall that in one of your investor speeches, you
13:40 5 said: "With respect to Transocean's people and their
13:40 6 achievements, we've been there and done that."

13:40 7 Do you recall using those words?

13:40 8 A. I have used those words in the past.

13:40 9 Q. And the Transocean *Deepwater Horizon*, it had been there
13:40 10 and it had done that.

13:40 11 A. The *Deepwater Horizon* had an exemplary track record and
13:41 12 had done some pretty amazing things.

13:41 13 Q. Now, you've also said in the past that "Transocean
13:41 14 provides the safest, most effective and efficient drilling at
13:41 15 all water depths."

13:41 16 Do you recall using those words?

13:41 17 A. I have probably used those words in the past, yes.

13:41 18 Q. And you would agree it would be fair for both the public
13:41 19 and for the operators, like BP, to rely on those type of
13:41 20 statements; that is, to rely on "Transocean will be providing
13:41 21 the safest, most effective and efficient drilling"?

13:41 22 A. If you're -- are you asking me whether the public can rely
13:41 23 on me making those statements?

13:41 24 Q. Just the statements themselves.

13:41 25 A. Yes. As CEO, you know, I'm taught not to make public

STEVEN NEWMAN - CROSS

13:41 1 statements that I don't believe are true; and so, yeah, I
13:41 2 believe those statements.

13:41 3 Q. So we have Transocean being top of the market amongst
13:41 4 drilling contractors; is that right?

13:41 5 A. Yes.

13:41 6 Q. And the *Deepwater Horizon* was top of the market at
13:41 7 Transocean?

13:41 8 A. The *Deepwater Horizon* was one of our best-performing rigs.

13:42 9 MR. REGAN: If we could pull up TREN-41215,
13:42 10 41215.1.2.

13:42 11 BY MR. REGAN:

13:42 12 Q. And what I have here, Mr. Newman, is your -- an excerpt
13:42 13 from your testimony in Congress on May 18th, 2010.

13:42 14 MR. REGAN: I think if we go to the -- try .1.2. Or
13:42 15 .1.1 then.

13:42 16 BY MR. REGAN:

13:42 17 Q. Now, this is a written statement that you gave with
13:42 18 respect to that testimony; is that right?

13:42 19 A. I believe so, yes.

13:42 20 MR. REGAN: Now, if we can go to .1.3.

13:42 21 Nope. All right.

13:42 22 BY MR. REGAN:

13:42 23 Q. Well, do you recall, Mr. Newman, as we're pulling it up,
13:42 24 in a statement saying that "The well construction process was a
13:42 25 collaborative effort involving various entities and many

STEVEN NEWMAN - CROSS

13:42 1 personnel, the well operator, government officials, the
13:43 2 drilling contractor, the mud contractor, the casing contractor,
13:43 3 the cement contractor, and others"?

13:43 4 Do you recall using those words?

13:43 5 A. That's what the document says, yes.

13:43 6 Q. All right. I know that's what the document says, but you
13:43 7 believed these words when you said them; right?

13:43 8 A. Yes.

13:43 9 Q. And you believe them to be true today?

13:43 10 A. Yes.

13:43 11 MR. REGAN: Now, if I could pull up D-4341.1.
13:43 12 4341.1.

13:43 13 BY MR. REGAN:

13:43 14 Q. This is a demonstrative that we have put together. I
13:43 15 think Transocean has a similar one, but really about the
13:43 16 history of *the Deepwater Horizon's* drilling from the time it
13:43 17 went into service through 2010.

13:43 18 And with the exception of one well in the life of
13:43 19 that rig, you're aware that the operator for all of the wells
13:43 20 that were drilled by the *Deepwater Horizon* was BP; correct?

13:43 21 A. As you said, with the exception of one well, BP was the
13:43 22 operator, yes.

13:43 23 Q. And what we have here are a few of the successes. We
13:43 24 talked about Tiber already, but we had Walker Ridge, the
13:44 25 deepest water depth that had been drilled back in 200 -- end of

STEVEN NEWMAN - CROSS

1 '04 into '05; right?

2 A. Yes.

3 Q. And these wells -- these wells that we see on D-4341,
4 these wells had losses; right? Did these wells have losses
5 when they were being drilled?

6 A. I don't know. I haven't reviewed the well reports for all
7 those wells.

8 Q. So whether they had losses or kicks, you don't know?

9 A. I do not know.

10 Q. But you do know they were successfully completed?

11 A. I --

12 Q. As far as you know?

13 A. As far as I know, but...

14 Q. The -- you said earlier you considered the *Deepwater*
15 *Horizon's* performance to be exemplary; correct?

16 A. Yes.

17 Q. And that performance is also a testament to the successful
18 collaboration that had taken place amongst all of the various
19 entities involved with the wells that were drilled here on this
20 page?

21 A. I think that's the only way you could deliver a track
22 record like that, is if you had a well-performing team.

23 Q. If you had to pick a rig in 2010 to drill a well, it would
24 be hard to choose a better rig than the *Deepwater Horizon*,
25 wouldn't it?

STEVEN NEWMAN - CROSS

13 : 45 1 A. The *Deepwater Horizon* was one of our best-performing rigs,
13 : 45 2 yes.

13 : 45 3 Q. The equipment on the *Deepwater Horizon*, as of April --
13 : 45 4 well, as of January 2010, that met or exceeded industry
13 : 45 5 standard for a MODU drilling deepwater wells; correct?

13 : 45 6 A. I believe so, yes.

13 : 45 7 Q. And the crew, the people on that rig, they met or exceeded
13 : 45 8 industry standard for drilling deepwater wells; is that
13 : 45 9 correct?

13 : 45 10 A. I believe so, yes.

13 : 45 11 MR. REGAN: I'd like to pull up an organizational
13 : 45 12 chart, D-4594.

13 : 45 13 BY MR. REGAN:

13 : 45 14 Q. Mr. Newman, this is not a complete organization chart of
13 : 45 15 every Transocean employee, but just to try to orient our
13 : 45 16 examination and for the Court, I just wanted to highlight a few
13 : 45 17 of the individuals that are either going to be testifying or
13 : 45 18 that have documents that have been shown already this morning
13 : 46 19 or on prior examinations.

13 : 46 20 Do you see yourself on this chart as CEO and
13 : 46 21 president, Mr. Newman?

13 : 46 22 A. Yes.

13 : 46 23 Q. And that was your position as of April 20th, 2010;
13 : 46 24 correct?

13 : 46 25 A. Yes.

STEVEN NEWMAN - CROSS

13:46 1 Q. Again, this is D-4594, if I didn't say that for the
13:46 2 record.

13:46 3 And underneath you, you have Adrian Rose and Jimmy
13:46 4 Moore; is that right?

13:46 5 A. Yes.

13:46 6 Q. Is that the HSE side of the house for Transocean?

13:46 7 A. It is.

13:46 8 Q. And then you have underneath -- we have Mr. McMahan. Do
13:46 9 you see him, vice president of performance?

13:46 10 A. I do.

13:46 11 Q. And you talked about Mr. McMahan at some length earlier
13:46 12 today; is that right?

13:46 13 A. Yes.

13:46 14 Q. Over on the far left underneath VP of engineering and
13:46 15 technology, we see Bill Ambrose. He's the director of
13:46 16 maintenance and technical support as of that time. Does that
13:46 17 sound about right? Do you know?

13:46 18 A. Yes.

13:46 19 Q. If we follow the line down from Mr. McMahan, we then have
13:46 20 Keelan Adamson, division manager. I think you mentioned his
13:46 21 name today. Is that right?

13:46 22 A. Yes.

13:46 23 Q. Is he now on the board of directors?

13:46 24 A. Keelan?

13:46 25 Q. Yes.

STEVEN NEWMAN - CROSS

13:46 1 A. No. Keelan -- today Keelan is our vice president of human
13:47 2 resources.

13:47 3 Q. Okay.

13:47 4 You have Steve Hand underneath Mr. McMahan; correct?

13:47 5 A. Yes.

13:47 6 Q. We know him.

13:47 7 We have Mr. Braniff?

13:47 8 A. Yes.

13:47 9 Q. Daun Winslow, Buddy Trahan, and Jerry Canducci. Do you
13:47 10 see them?

13:47 11 A. Yes.

13:47 12 Q. All right.

13:47 13 Now we get to the bottom of the left side with
13:47 14 Mr. Kent and Mr. Johnson. What were their roles, if you know?

13:47 15 A. Mr. Johnson was the performance rig manager, and Mr. Kent
13:47 16 was the asset rig manager.

13:47 17 If I could just point out --

13:47 18 Q. Please do.

13:47 19 A. On this chart you have depicted Keelan Adamson as working
13:47 20 for Larry McMahan.

13:47 21 Q. Yes.

13:47 22 A. That's not accurate.

13:47 23 Q. Is there a different person I have on the chart where he
13:47 24 works, or do I have it wrong?

13:47 25 A. The line would have gone straight up from Keelan Adamson

STEVEN NEWMAN - CROSS

13:47 1 up through the business unit performance and directly up that
13:47 2 way.

13:47 3 Q. Okay. So if I just drew that line straight to there?

13:47 4 A. Yes. That's correct. Larry McMahan was a staff
13:47 5 individual, not a line management.

13:47 6 Q. And Mr. Johnson, he was the onshore rig manager for the
13:48 7 *Deepwater Horizon*; right?

13:48 8 A. He was the onshore rig manager/performance.

13:48 9 Q. The job you had -- similar to the job you had when you
13:48 10 were in Brazil and some other places?

13:48 11 A. Sort of. If you look at the way this -- this is drawn, we
13:48 12 really have two individuals filling the role of rig manager.
13:48 13 Back when I did it, the company was organized in a way that you
13:48 14 only had one individual filling the role of rig manager. So
13:48 15 here we have two.

13:48 16 Q. Okay. But it's the same concept. Those two gentlemen
13:48 17 were doing the job where they were the first contact onshore
13:48 18 for the rig; right?

13:48 19 A. Yes, that's correct.

13:48 20 Q. And as we go to the right side of the page, on the rig, we
13:48 21 have Jimmy Harrell. He was the OIM; correct?

13:48 22 A. Yes.

13:48 23 Q. Then we have a maintenance group underneath Mr. Bertone?

13:48 24 A. Yes.

13:48 25 Q. And you talked about them earlier today; correct?

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13:48 1 A. Yes.

13:48 2 Q. Then we have the drilling group underneath Mr. Harrell
13:48 3 with Mr. Ezell, Mr. Wheeler, Mr. Anderson, and some others?

13:48 4 A. Yes.

13:48 5 Q. Again, it's not fully complete, but those are the key
13:48 6 players; correct?

13:48 7 A. Yes.

13:48 8 Q. And then we have a maritime group, where Curt --
13:49 9 Captain Kuchta; David Young, the chief mate; Andrea Fleytas,
13:49 10 the DP operator; and Yancy Keplinger, the DP operator? Okay?

13:49 11 A. Yes.

13:49 12 Q. All right. I may refer back and forth to this little
13:49 13 chart just to make sure that we stay oriented as to who had
13:49 14 which jobs and where they might be situated.

13:49 15 A. Okay.

13:49 16 Q. You talked on your direct about Transocean having -- I
13:49 17 think you used the phrase "narrow slice." I just want to pull
13:49 18 up D-4275, which is a POB list, "persons onboard" of the
13:49 19 *Deepwater Horizon*. I'm going to ask you some questions in some
13:49 20 detail today about some of the roles and responsibilities,
13:49 21 generally, like the questions you've already been asked.

13:49 22 But with respect to the people on the rig, rough
13:49 23 justice, would it surprise you that the vast majority of the
13:49 24 people on the rig would be Transocean employees?

13:49 25 A. I think that's typically the case on our rigs around the

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13:49 1 world.

13:49 2 Q. So in term of the slice, however narrow or broad it might
13:50 3 be, of the actual people on the rig, generally speaking, the
13:50 4 drilling contractor's going to have the majority, if not
13:50 5 75 percent, of the people on the rig?

13:50 6 A. There are typically more drilling contractor personnel on
13:50 7 a drilling rig than there are operator personnel or operator
13:50 8 subcontractor personnel.

13:50 9 Q. And people are on the rig because they have jobs to do;
13:50 10 correct?

13:50 11 A. That's the only reason for them to be out there,
13:50 12 Mr. Regan, yes.

13:50 13 Q. There are no tourists?

13:50 14 A. No, there are no tourists.

13:50 15 Q. I'd now like to change to -- there were some questions
13:50 16 about Transocean and BP's contractual relationship, and I just
13:50 17 want to ask you a few questions about that, if I might.

13:50 18 Now, you understand there is a contract between
13:50 19 Transocean and BP? You understand that?

13:50 20 A. Yes.

13:50 21 Q. And I'd like to pull up just a few provisions of it and
13:50 22 just confirm that they are consistent with your understanding.
13:50 23 If we could pull up TREN-1356A.20.4.

13:51 24 What I've pulled up, Mr. Newman, is Article 15 of
13:51 25 that contract, which is TREN-1356A under "Performance of

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13:51 1 Drilling Operations," and the contract states -- 15.1,
13:51 2 "Operations of Drilling Unit: The contractor" -- which in this
13:51 3 case is Transocean -- "shall be solely responsible for the
13:51 4 operations of the drilling rig."

13:51 5 Do you see that?

13:51 6 A. I do.

13:51 7 Q. And it continues on and it says: "Including operations
13:51 8 onboard the drilling unit as may be necessary or desirable for
13:51 9 the safety of the drilling unit."

13:51 10 Do you see that?

13:51 11 A. I do.

13:51 12 Q. And that's your understanding of one of the terms of the
13:51 13 agreement between BP and TO; correct?

13:51 14 A. I think that's -- I think that's an article from the
13:51 15 drilling contract, yes.

13:51 16 MR. REGAN: We'll pull up 1356A.20.4, also in
13:51 17 Section 15, which is "Performance of Drilling Operations."

13:51 18 BY MR. REGAN:

13:51 19 Q. Are you understanding -- is it consistent with your
13:51 20 understanding, I should say, Mr. Newman, that there is a
13:51 21 provision in the contract with respect to prevention of fire
13:52 22 and blowouts?

13:52 23 A. Yes, that would be consistent with my understanding.

13:52 24 Q. And it states: "Contractor" -- again, Transocean --
13:52 25 "shall maintain well control equipment in accordance with good

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13:52 1 oilfield practices at all times and shall use all reasonable
13:52 2 means to control and prevent fire and blowouts and to protect
13:52 3 the hole and all of the property of the company" -- in this
13:52 4 case BP.

13:52 5 Is that consistent with your understanding of one of
13:52 6 the terms of the contract?

13:52 7 A. Generally consistent, yes.

13:52 8 Q. You're not aware of any amendment of that term, are you?

13:52 9 A. I'm not aware of, no.

13:52 10 MR. REGAN: Let me pull up one more, 1356A.22.2.

13:52 11 BY MR. REGAN:

13:52 12 Q. Again, Mr. Newman, are you aware that, under Article 17,
13:52 13 which is entitled "Safety," that contractually Transocean
13:52 14 agreed in 17.1 that "Contractor" -- Transocean -- "shall have
13:52 15 the primary responsibility for the safety of all its
13:52 16 operations, shall take all measures necessary or proper to
13:52 17 protect the personnel and facilities, and in addition, shall
13:53 18 observe all safety rules and regulations of any governmental
13:53 19 agency having jurisdiction over operations conducted hereunder.
13:53 20 Contractor shall place the highest priority on safety while
13:53 21 performing the work. Contractor shall observe all of the
13:53 22 company's safety rules and guidelines as set forth in safety
13:53 23 and health manual of Vastar Resources and the requirements
13:53 24 contained in Exhibit D" -- and it continues: "Contractor may
13:53 25 also have its own safety manual" -- we can go to the next page,

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13:53 1 at the very top -- "and when contractor's and company's safety
13:53 2 manuals conflict, contractor's safety manual shall control."

13:53 3 Are those terms consistent with your understanding of
13:53 4 the agreement between BP and Transocean?

13:53 5 A. These are provisions right out of that contract.

13:53 6 Q. And so you understand that under the contract, if there's
13:53 7 a conflict between Transocean and BP's safety manual,
13:54 8 Transocean's manual controls?

13:54 9 A. That's what the contract says.

13:54 10 Q. We talked about a bridging document -- I'm done with that.

13:54 11 We talked about a bridging document, and I think you
13:54 12 said you have the same arrangement with every customer you
13:54 13 worked for; that is, Transocean has a safety system, the
13:54 14 operator or customer has a safety system, and you look at the
13:54 15 two of them and determine whether or not you need to bridge.
13:54 16 Is that fair?

13:54 17 A. That's a general approach, yes.

13:54 18 Q. All around the world?

13:54 19 A. Yes.

13:54 20 Q. Including the Gulf of Mexico?

13:54 21 A. Including the Gulf of Mexico, yes.

13:54 22 Q. Now, the concept of a bridging document, just to be clear
13:54 23 for the Court, that, in concept, is, if you identify a
13:54 24 difference between the policies, you need to bridge between
13:54 25 them. Is that fair?

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13:54 1 A. That's the general purpose of the bridging document, yes.

13:54 2 Q. But if you both -- if the operator has a consistent policy
13:54 3 and you have a consistent policy, there's no need for a bridge;
13:54 4 correct?

13:54 5 A. That's correct.

13:54 6 Q. And again, that's how it happens every day of the week in
13:54 7 your business, regardless of who the operators are, all around
13:55 8 the world?

13:55 9 A. That is our general approach to business, yes.

13:55 10 Q. You also understand that there are regulations that apply,
13:55 11 not just to the operators under United States law, not just to
13:55 12 the operator, but also to the contractor with respect to steps
13:55 13 needed to be taken to keep wells under control. You're
13:55 14 familiar with that?

13:55 15 A. Yes.

13:55 16 Q. Okay. All right. With respect to the equipment, you
13:55 17 talked a little bit already about it, but Transocean is
13:55 18 responsible for maintenance of any of the equipment that it
13:55 19 owns on the rig; correct?

13:55 20 A. Yes, that's true.

13:55 21 Q. And Transocean provides the maintenance crew, we've
13:55 22 already talked about; correct?

13:55 23 A. Yes.

13:55 24 Q. Transocean is responsible for the maintenance of the BOP
13:55 25 on the *Deepwater Horizon*; correct?

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13:55 1 A. Yes.

13:55 2 Q. Transocean is responsible for training the drilling crew
13:55 3 on the *Deepwater Horizon*; correct?

13:55 4 A. Yes.

13:55 5 Q. Transocean is responsible for providing well control
13:55 6 training, specifically, to the members of the rig crew to whom
13:56 7 it pertains; correct?

13:56 8 A. For the members -- yeah, for Transocean's employees, yes.

13:56 9 Q. On the maritime side, Transocean is responsible for
13:56 10 providing the maritime crew; correct?

13:56 11 A. Yes.

13:56 12 Q. And Transocean is responsible for training the maritime
13:56 13 crew; correct?

13:56 14 A. Yes.

13:56 15 Q. And with respect to the BOP in specific, we've had some
13:56 16 testimony already about BOP pods and batteries in BOP pods.

13:56 17 Would you agree that the batteries in the BOP and
13:56 18 whether they were charged or not charged, that question and
13:56 19 that maintenance issue is a Transocean responsibility?

13:56 20 A. Yeah. I think earlier I said that, because the BOP is
13:56 21 ours and the pods are ours and the batteries within those pods
13:56 22 are ours, that's our responsibility to maintain and operate
13:56 23 that equipment.

13:56 24 Q. And more broadly, as the supplier and owner of the BOP,
13:56 25 Transocean was responsible for complying with MMS regulations

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13:57 1 with respect to the BOP; correct?

13:57 2 A. We were certainly the owner. Cameron was the original
13:57 3 supplier of the BOP. We were the owner.

13:57 4 Q. But my question was a little more specific. As the
13:57 5 owner --

13:57 6 A. Yes.

13:57 7 Q. -- Transocean was responsible for complying with MMS
13:57 8 regulations as to the BOP; correct?

13:57 9 A. Yes.

13:57 10 Q. Now, there were modifications that were made to the BP --
13:57 11 or *Deepwater Horizon's* BOP over the course of its ten-year
13:57 12 history?

13:57 13 A. Yes.

13:57 14 Q. You have general knowledge?

13:57 15 A. General knowledge, yes.

13:57 16 Q. With respect to drawings or other recordations of those
13:57 17 modifications, that would have been a Transocean responsibility
13:57 18 to keep that information; correct?

13:57 19 A. Yes, yes.

13:57 20 Q. I'd like to now turn to the safety management system. You
13:57 21 had a fair number of questions about that.

13:57 22 Now, you were asked about the idea of trust, whether
13:57 23 you have trust in BP's safety management system and the
13:57 24 relationship between Transocean and BP. Do you recall that
13:57 25 generally?

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13:58 1 A. Yes.

13:58 2 Q. Okay. Now, I think you said you have -- you should have a
13:58 3 safety system for what you control. I think those were your
13:58 4 words. Does that sound fair?

13:58 5 A. Yes.

13:58 6 Q. And that's true for BP and for Transocean; correct?

13:58 7 A. Yes.

13:58 8 Q. And so there's mutual trust on those issues; correct?

13:58 9 A. I think so, yes.

13:58 10 Q. It's a two-way street?

13:58 11 A. Yes.

13:58 12 Q. BP puts its trust in Transocean for its safety policies
13:58 13 for what Transocean controls; and Transocean may put trust in
13:58 14 BP for BP's policies for what BP controls? Fair?

13:58 15 A. Yes.

13:58 16 Q. And again, is that consistent with the way it works all
13:58 17 around the world?

13:58 18 A. Yes. Generally, yes.

13:58 19 Q. Now, you were -- I just want to do this right off the bat.
13:58 20 You were shown some deposition testimony from Mr. John Baxter.
13:58 21 Do you recall that?

13:58 22 A. I do.

13:58 23 MR. REGAN: If we could put up Mr. Baxter's
13:58 24 testimony, deposition, page 175.

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13:58 1 BY MR. REGAN:

13:58 2 Q. I think you were shown two lines from that deposition.
13:58 3 You were shown lines 14 and 15.

13:59 4 Do you recall being shown those two lines by counsel
13:59 5 for the State of Alabama?

13:59 6 A. Yes.

13:59 7 Q. I'd like to show you the question and answers that precede
13:59 8 this. So if we could start with page 174, line 13.

13:59 9 Now, the question starts on line 13:

13:59 10 "QUESTION: Now, so BP is using this MODU that it has
13:59 11 leased continuously since its creation in the Gulf of
13:59 12 Mexico.

13:59 13 "Is it your testimony that the *Deepwater Horizon*
13:59 14 did not have the OMS system apply to it? First of all, is that
13:59 15 true?"

13:59 16 And do you see Mr. Baxter's answer starting at
13:59 17 line 19?

13:59 18 A. Yes.

13:59 19 Q. And he says:

13:59 20 "ANSWER: There was no requirement to apply -- sorry,
13:59 21 I take that back. OMS requires that where BP is
13:59 22 contracting any service which is -- and I can't recall the
13:59 23 words, but they're not on a BP entity -- then the business
14:00 24 which is contracting in that service reviews the safety
14:00 25 management system that the contractor is using. And the

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1 question then is, is that safety" -- go to the next
2 page -- "management system -- will it deliver the same --
3 let me remember the words. It's something like 'it will
4 deliver the same intent as OMS.'

5 "The BP business is then required to carry out some
6 kind of gap assessment. And the point is that the question is
7 then what, if anything, additional should be applied?

8 "And, of course, MAR is an element of OMS, taking an
9 isolation, one, may not be the right thing to do. The other
10 thing is that MAR is a very high-level risk assessment."

11 Do you see that question and do you see that answer?

12 A. Yes.

13 Q. And were you shown that by the counsel for the State of
14 Alabama?

15 A. No.

16 Q. And that conflict that's described by Mr. Baxter, that an
17 operator will look at the contractor's safety management
18 system, determine if there are any gaps, determine if there
19 needs to be a bridge, and then proceed forward with mutual
20 trust of each other, that's what you see every day in your
21 business; correct?

22 A. That is a -- that's not an uncommon occurrence across the
23 globe.

24 Q. That's industry standard, isn't it?

25 A. It is general industry standard for the operator to have a

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14:01 1 safety management system and the contractor to have a safety
14:01 2 management system, and for there to be a pretty thorough
14:01 3 comparison of those two safety management systems. And if
14:01 4 there are gaps or differences, those need to be bridged.

14:01 5 Q. And if there are no gaps, then you proceed at peace?

14:01 6 A. Yes.

14:01 7 Q. Now, I want to talk about your safety management system.

14:01 8 MR. REGAN: If we could pull up 216.71.1 --
14:01 9 2016.7D-1.1.

14:01 10 This is an excerpt from your testimony on May 11th,
14:01 11 2010.

14:01 12 Mr. Newman, do you recall, in response to a question
14:02 13 from Senator Murkowski, who asked you if you have any
14:02 14 additional safety measures or modification procedures as a
14:02 15 result of incident, you said: "Senator, we operate a
14:02 16 consistent standard of policies and procedures, maintenance
14:02 17 practices, and operating practices across the Transocean fleet
14:02 18 throughout the world."

14:02 19 I'm going to stop there.

14:02 20 Do you recall giving that answer?

14:02 21 A. It's helpful to read it. Yes.

14:02 22 Q. Okay. I just -- that's all I wanted, to just refresh you
14:02 23 as to that. The system you are referring to is the Transocean
14:02 24 company management system; is that right?

14:02 25 A. Yes.

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14:02 1 Q. And that CMS system at Transocean serves as a governing
14:02 2 document. And then there's -- below it, or underneath it, are
14:02 3 various functional policies and procedures that are part of the
14:02 4 overall system?

14:02 5 A. Yes.

14:02 6 Q. And it's Transocean's general practice to have its CMS
14:02 7 govern on its rigs rather than an operator -- operating
14:03 8 management system; correct?

14:03 9 A. Yeah. That's our preference because, you know, we train
14:03 10 our people to our safety management system, and we expect them
14:03 11 to operate our safety management system. And consequently, on
14:03 12 rigs that are changing contracts frequently, they're not having
14:03 13 it change every time we change a contract. They're operating a
14:03 14 consistent set of policies and procedures.

14:03 15 Q. You find it less confusing for your employees, to make
14:03 16 sure that they know "We're working under Transocean's system"?

14:03 17 A. Yes. What I tell our people is that our approach to
14:03 18 safety management is independent of the customer we work for;
14:03 19 it's independent of the operator -- of the area we operate in;
14:03 20 it's independent of the type of rig we operate on.

14:03 21 We have a standard -- standard set of policies and
14:03 22 procedures that comprise our safety management system.

14:03 23 Q. Let's turn to that, and just be brief. But
14:03 24 Exhibit 5474.102.1. This is TREN-5474.

14:04 25 This is a work chart that comes out of the

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14:04 1 *Deepwater Horizon* operations integrity case. I think you might
14:04 2 be able to see those words at the top.

14:04 3 A. Yes.

14:04 4 Q. And you know what an operations integrity case is; right?

14:04 5 A. Yes.

14:04 6 Q. And that's one of the documents that's put together as
14:04 7 part of Transocean's assessments of conducting safe operations?

14:04 8 A. It is part of our safety management system.

14:04 9 Q. I just want to briefly describe. You see "Levels," this
14:04 10 "hierarchy of risk management documents."

14:04 11 Do you see that on the right side?

14:04 12 A. Yes.

14:04 13 Q. And, in fact, I think I have a demonstrative that's easier
14:04 14 to read than this.

14:04 15 **MR. REGAN:** So, Diane, could we pull up D-4595. I
14:04 16 hope it's easier to read.

14:04 17 There, I can read that better.

14:04 18 **BY MR. REGAN:**

14:04 19 Q. This is the hierarchy within Transocean, correct, of the
14:04 20 company management system. Right?

14:04 21 A. Yeah. I think this is a graphical depiction of our
14:05 22 comprehensive company management system.

14:05 23 Q. And Level 1 and 1B, these ones here, kind of half the page
14:05 24 to the top, those are worldwide, companywide policies; right?

14:05 25 A. Between Level 1, Level 1A, and Level 1B, those are the

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14:05 1 worldwide documents.

14:05 2 Q. Level 2A and 2B, those are regional-type policies; right?

14:05 3 A. Yes.

14:05 4 Q. And then Level 3, down here at the bottom, those would be
14:05 5 location-specific or rig-specific policies; correct?

14:05 6 A. Yes.

14:05 7 Q. So this is the Transocean *Deepwater Horizon* operations
14:05 8 integrity case. So we see at Level 3 they all say
14:05 9 "*Deepwater Horizon*," and then the various manuals or policies
14:05 10 and procedures, they're in Level 3; right?

14:05 11 A. Yes.

14:05 12 Q. Okay. Now, this system is prepared or maintained by
14:05 13 Transocean to ensure that management expectations are
14:05 14 communicated, understood, and implemented effectively; right?

14:05 15 A. Yes.

14:05 16 Q. Okay. I want to just focus just briefly on the top left
14:06 17 corner. I think you talked about it.

14:06 18 But this health and safety policies and procedures,
14:06 19 Level 1A, do you see that box?

14:06 20 A. Yes.

14:06 21 Q. All right. That's TREX-1449.

14:06 22 And forgive me, before I get do that, let me do one
14:06 23 other thing.

14:06 24 With respect to the Macondo well, did you see the
14:06 25 drilling program where it expressly said which safety policy

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14:06 1 was going to apply for drilling this well? Did you see that?

14:06 2 A. No.

14:06 3 Q. Have you seen that?

14:06 4 A. No.

14:06 5 Q. Let me pull it up, 41222.31.1.

14:06 6 All right. This is the drilling program.

14:06 7 And then I'll bring up 7685.1.4, which is the
14:07 8 transmission of that drilling program to the OIM in February of
14:07 9 2010 to the *Horizon*.

14:07 10 Do you see that there on the screen?

14:07 11 Let me now go to the first page of that program,
14:07 12 which I think is --

14:07 13 **MR. REGAN:** Diane, if we could just come back into
14:07 14 the exhibit and go to -- sorry -- 7685.4.1. Pardon me. I have
14:07 15 it right here. 7685.4.1.

14:07 16 **BY MR. REGAN:**

14:07 17 Q. All right. This is the first page of the drilling program
14:07 18 for the Macondo well. And do you see there on the first page,
14:07 19 under "Well information and well objectives, our H, S and E
14:07 20 objective is zero incidents, no harm to people, environment, or
14:07 21 equipment. We will accomplish this by:"

14:07 22 And the first bullet is: "Fully implementing
14:07 23 Transocean's health and safety management system on the
14:07 24 *Horizon*." Do you see that?

14:07 25 A. Yes.

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14:07 1 Q. And that's consistent with what we've been talking about
14:07 2 in the last ten minutes. Fair?

14:08 3 A. Broadly speaking, I think so, yes.

14:08 4 Q. Let's go back now to that policy document I had up a
14:08 5 minute ago, which is 1449.5.3 -- 1449.

14:08 6 Now, you were asked a few questions about
14:08 7 stop-the-job authority, and the Court has heard about
14:08 8 stop-the-job authority. But just -- I think it would be
14:08 9 helpful to hear it from you.

14:08 10 Stop-the-job authority is a key component in
14:08 11 Transocean's safety management system; correct?

14:08 12 A. Yes.

14:08 13 Q. It's something that you talk about with your employees
14:08 14 every time you're out there around them; right?

14:08 15 A. Yes.

14:08 16 Q. It's both they have the right to stop the job, but they
14:08 17 have the obligation to exercise that authority if they see
14:08 18 something that they don't understand or they think is unsafe or
14:08 19 they think shouldn't proceed; correct?

14:08 20 A. Yes.

14:08 21 Q. And that's a fundamental part of the safety management
14:08 22 system; right?

14:08 23 A. It is.

14:08 24 Q. So if a well site leader tried to direct a Transocean rig
14:08 25 hand to do something that the rig hand thought was unsafe or

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14:09 1 didn't understand, it doesn't matter who asked the rig hand to
14:09 2 do it, he's entitled and obligated to stop that job; is that
14:09 3 right?

14:09 4 A. Absolutely.

14:09 5 Q. And that's not just a Transocean policy; that's the way
14:09 6 the oil and gas business works. Right?

14:09 7 A. Yes.

14:09 8 Q. You've heard about that policy on your competitors' rigs;
14:09 9 right? Maybe not.

14:09 10 A. I would agree with your prior statement, which is that's
14:09 11 the general approach taken across the industry.

14:09 12 Q. All right. And in 1449.5.4 there's health and safety
14:09 13 policy statement that you signed. And it expressly says in
14:09 14 there what we just said. "Each employee has the obligation to
14:09 15 interrupt an operation to prevent an incident from occurring";
14:09 16 correct?

14:09 17 A. That's what the document says.

14:09 18 Q. And there's been no change in that policy; right?

14:09 19 A. No.

14:09 20 Q. Similarly, if a Transocean employee feels like he doesn't
14:09 21 have enough information about the job he's about to do,
14:09 22 stop-the-job authority would kick in; correct?

14:10 23 A. Yes.

14:10 24 Q. All right. With respect to safety, you were asked, I
14:10 25 think by Mr. Brian, about what your role is for safety. And

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14:10 1 you described three things: Make sure that a system exists;
14:10 2 make sure that the people that you hire understand the system
14:10 3 and execute against it; and set expectations to make sure
14:10 4 people are meeting them. And I think sometimes you threw in a
14:10 5 Number 4, which is "intervene where necessary."

14:10 6 A. Yes.

14:10 7 Q. Do I have it right?

14:10 8 A. Yes.

14:10 9 Q. Good. But within the health and safety policy, it
14:10 10 actually has some specific obligations for the chief executive
14:10 11 officer; correct?

14:10 12 A. I believe it probably does, yes.

14:10 13 Q. First, let me show you 1449.20.1. And I didn't get to see
14:10 14 Mr. Cunningham's drawing, but I did note in the document that
14:10 15 there was a drawing in there that actually had a description
14:10 16 of -- from the OIM to the CEO, how the line management for HSE,
14:10 17 or for safety, works at Transocean.

14:10 18 Do you see that depicted on the screen?

14:11 19 A. Yes.

14:11 20 Q. And is that a fair depiction of how you would get from the
14:11 21 OIM through the various levels of management up to the CEO with
14:11 22 respect to safety?

14:11 23 A. Yes.

14:11 24 Q. Let me now go to 1449.15.1.

14:11 25 Again, we're in that Level 1 document. Do you see

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14:11 1 it? There's a provision about the chief executive officer?

14:11 2 A. Yes.

14:11 3 Q. And it says: "The chief executive officer is ultimately
14:11 4 responsible for the health, safety, and welfare of all
14:11 5 personnel working at company installations, facilities, and
14:11 6 offices."

14:11 7 And then it details some specific responsibilities;
14:11 8 correct?

14:11 9 A. That's what the document says.

14:11 10 Q. And you understand that to be the case. That you, in that
14:11 11 role, are ultimately responsible for the health, safety, and
14:11 12 welfare of all personnel working at Transocean installations,
14:11 13 facilities, and offices; correct?

14:11 14 A. As CEO, I'm ultimately responsible for a lot of things --

14:11 15 Q. And the way you --

14:11 16 A. -- including health, safety, and welfare.

14:12 17 Q. And the way you discharge that ultimate responsibility
14:12 18 that you own, as per the policy, is you clarify expectations,
14:12 19 you hire competent people to carry them out, you track their
14:12 20 performance, and you intervene where necessary. Is that fair?

14:12 21 A. Yeah, I think that's a good description of an approach to
14:12 22 management.

14:12 23 Q. You have ultimate responsibility, but you're not doing all
14:12 24 the work of the people below you, the 19,000 people at
14:12 25 Transocean; correct?

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14:12 1 A. No.

14:12 2 Q. You can't do everything --

14:12 3 A. Yes, that is correct.

14:12 4 Q. Right. So you try to discharge that ultimate
14:12 5 responsibility through expectations, through hiring competent
14:12 6 people, tracking their performance, and intervening where
14:12 7 necessary; right?

14:12 8 A. Yes.

14:12 9 Q. Let me show you 1449.123.1. This is another chart that I
14:12 10 saw in this document. You were asked about THINK procedures,
14:13 11 START programs, Task Risk Assessment, MAHRAs. I just asked you
14:13 12 about operations integrity case.

14:13 13 I was hoping that this chart might organize our
14:13 14 conversation here and for the Court. This is from the document
14:13 15 TRES-1449, page 123.

14:13 16 Do you see this as a representation, graphically, of
14:13 17 the levels of risk management within Transocean?

14:13 18 A. Yes.

14:13 19 Q. We see here the pencil on the side, "increasing complexity
14:13 20 and severity of risk," up the side; right?

14:13 21 A. Yes.

14:13 22 Q. The THINK procedures that are written here, both verbal,
14:13 23 individual, written, that's what we talked about earlier today;
14:13 24 correct?

14:13 25 A. You used the word "procedures." I think what that says is

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14:13 1 "process"; "THINK planning process, individual, verbal, and
14:13 2 written."

14:13 3 Q. All right.

14:13 4 A. And then you get to task-specific THINK procedures.

14:13 5 Q. Okay. Yes. I skipped that one. You're right.

14:13 6 Then we have a line here, "shore-based resources,"
14:13 7 and then some things above the line; correct?

14:13 8 A. Yes.

14:13 9 Q. And the things above the line include the operations
14:13 10 integrity case -- that's at the very top; right?

14:14 11 A. Yes.

14:14 12 Q. There was an operations integrity case done for the
14:14 13 *Deepwater Horizon*; correct?

14:14 14 A. Yes.

14:14 15 Q. There's an issue of a safety case. Do you know what that
14:14 16 refers to?

14:14 17 A. Yes. In some highly regulated regimes around the world
14:14 18 there is a requirement for an analysis of safety on the rig,
14:14 19 and that document is referred to as a safety case.

14:14 20 Q. Okay. There's the MAHRA, or major accident hazard risk
14:14 21 assessment; correct?

14:14 22 A. Yes.

14:14 23 Q. And then there's HAZOP or HAZID. Those are other types of
14:14 24 studies you've done; correct?

14:14 25 A. Yeah, hazard identification and hazard operability

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14:14 1 analysis.

14:14 2 Q. So for the *Deepwater Horizon*, though, we know it had not
14:14 3 only just an OIC, but it also had a MAHRA done; correct?

14:14 4 A. Yes.

14:14 5 Q. Just a couple questions about the THINK procedures, then I
14:14 6 want to turn to that MAHRA.

14:14 7 You gave an example, I think to Mr. Brian, about how
14:14 8 a THINK procedure might work. And I think you were talking
14:14 9 about sling lockers. I think that was what you were
14:15 10 discussing?

14:15 11 A. Yeah. I mean, that was a simplified task to describe how
14:15 12 you might apply the THINK planning process at the individual
14:15 13 level.

14:15 14 Q. Understood. There also would be a THINK procedure for
14:15 15 conducting a negative test; correct?

14:15 16 A. There would be a THINK plan.

14:15 17 Q. There would be a THINK plan. Maybe it would be verbal,
14:15 18 maybe it would be written, but there would be a THINK plan for
14:15 19 conducting a negative test; correct?

14:15 20 A. I would expect there to be, yes.

14:15 21 Q. You would expect there to be a THINK plan for displacing
14:15 22 the riser; correct?

14:15 23 A. I would expect there to be a THINK plan for every task
14:15 24 that's undertaken on our drilling rigs.

14:15 25 Q. So you would expect for the positive test, the negative

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14:15 1 test, displacing the riser, and on down the line?

14:15 2 A. I would expect a THINK plan to be undertaken for every
14:15 3 task.

14:15 4 Q. And have you seen written THINK plans that were prepared
14:15 5 for the *Deepwater Horizon* with respect to negative tests? Have
14:15 6 you seen those?

14:15 7 A. As a result of the litigation, I believe I have, yes.

14:16 8 Q. And have you seen THINK plans that were prepared for
14:16 9 displacement of the riser?

14:16 10 A. I don't recall.

14:16 11 Q. But fundamentally, that procedure, the THINK procedure, is
14:16 12 designed to have people stop before they take action, think
14:16 13 about what they're going to do, talk to the people they're
14:16 14 going to do it with, make sure they're clear on what's going to
14:16 15 happen, consider the risks, and only then proceed?

14:16 16 A. That is the -- that's the fundamental expectation of the
14:16 17 THINK planning process, is that before the crew or any
14:16 18 individual in the crew undertake a task, they conduct a THINK
14:16 19 plan to make sure that they can carry out that task safely and
14:16 20 efficiently.

14:16 21 Q. Okay. I'd like to now turn to the Transocean major
14:16 22 accident hazard risk assessment.

14:16 23 Now, still on this same document, 1449, let me pull
14:16 24 1449.132.1.

14:17 25 Now, a few preliminary questions, Mr. Newman. You

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14:17 1 were shown some testimony from Dr. Bea. Do you remember seeing
14:17 2 that on your direct examination?

14:17 3 A. I do.

14:17 4 Q. And I think you were asked about whether Transocean could
14:17 5 do a risk assessment about all risks inherent in the well. Do
14:17 6 you remember that?

14:17 7 A. I do.

14:17 8 Q. And I think you said you couldn't. You could only do a
14:17 9 risk assessment for the things that Transocean controls and the
14:17 10 things Transocean does; correct?

14:17 11 A. Yes.

14:17 12 Q. All right. So it applies -- you can do a risk assessment
14:17 13 that's applicable to your own activities; right?

14:17 14 A. Yes.

14:17 15 Q. Okay. And this is what a risk assessment -- the purpose
14:17 16 of a -- under the policy is -- let me just read it.

14:17 17 It says: "Transocean has three processes to provide
14:17 18 assurance that major hazards are effectively managed.

14:17 19 One, "the Major Hazard Risk Assessment, MHRA."

14:18 20 Two, "the HSE (or safety) Case."

14:18 21 And three, "the Operations Integrity Case (OIC).

14:18 22 "Every vessel on the Transocean fleet must have a
14:18 23 current version of a MHRA, Safety Case, or OIC."

14:18 24 Do you see that?

14:18 25 A. Yes.

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14:18 1 Q. And the *Deepwater Horizon* had two of them. It had a MHRA
14:18 2 and an OIC; correct?

14:18 3 A. I believe that's true, yes.

14:18 4 Q. And then for definitions, to make sure we're all on the
14:18 5 same page, it's defined. "A Major Hazard Risk Assessment
14:18 6 (MHRA) shows that major hazards have been identified, the risk
14:18 7 associated with those hazards has been qualitatively assessed,
14:18 8 and the preventive and mitigating controls necessary to reduce
14:18 9 the risk to ALARP have been identified."

14:18 10 ALARP stands for?

14:18 11 A. As low as reasonably practical.

14:18 12 Q. And that's a term that comes out of both the safety case
14:18 13 concept and also some of the process safety discussions; right?

14:18 14 A. Yes.

14:18 15 MR. REGAN: Let me pull up 2187.1.2. This is the
14:19 16 major accident hazard risk assessment for the *Horizon*. I'd
14:19 17 like to go to .2.1 in the same exhibit, TRES-2187.

14:19 18 BY MR. REGAN:

14:19 19 Q. Do you see there's a statement of approval of the document
14:19 20 for 2004 signed by John Keeton?

14:19 21 A. I do.

14:19 22 Q. And he is confirming that this major accident hazard risk
14:19 23 assessment has been performed and that it identified the
14:19 24 reasonably foreseeable hazards that might lead to a major
14:19 25 accident; correct?

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14:19 1 A. That's what the document says, yes.

14:19 2 Q. And Mr. Keeton is confirming, by virtue of his signature,
14:19 3 that it has been demonstrated that adequate controls are in
14:19 4 place so that HSE risks on the *Horizon* can be considered both
14:19 5 tolerable and ALARP, as low as reasonably practicable; correct?

14:19 6 A. That's what the document says.

14:19 7 Q. And then he goes on to approve it; correct?

14:19 8 A. He has signed the document, yes.

14:19 9 MR. REGAN: Now let's go to 2187.5.

14:20 10 BY MR. REGAN:

14:20 11 Q. There's a list of scenarios, and it says: "The study
14:20 12 concentrated on identifying major accident hazards. The
14:20 13 following is a list of the possible hazards for
14:20 14 semisubmersibles engaged in exploration or development
14:20 15 drilling."

14:20 16 Do you see that?

14:20 17 A. Yes.

14:20 18 Q. And that list of hazards applies to any MODU operated by
14:20 19 Transocean in the oceans of the world. Is that fair?

14:20 20 A. Yes.

14:20 21 Q. I want to focus on just a couple of them because a couple
14:20 22 have already been covered. I want to focus on "reservoir
14:20 23 blowout at drill floor."

14:20 24 Do you see that?

14:20 25 A. Yes.

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14:20 1 Q. Let's turn to 2817.178.1. This is the chart similar to
14:20 2 what you went through, I think, with Mr. Cunningham,
14:20 3 identifying the hazards. "Reservoir blowout (at drill floor),"
14:20 4 do you see that?

14:20 5 A. Yes.

14:20 6 Q. It also identifies the consequences of that event: "Major
14:20 7 environmental impact. Multiple personnel injuries and/or
14:20 8 fatalities. Major structural damage and possible loss of
14:20 9 vessel."

14:20 10 Do you see that?

14:21 11 A. I do.

14:21 12 Q. And then it lists the preventions; correct?

14:21 13 A. Yes.

14:21 14 Q. And the first prevention listed to avoid the hazard of a
14:21 15 reservoir blowout at the drill floor is "well control
14:21 16 procedures and training of drill crew in well control";
14:21 17 correct?

14:21 18 A. That's what the document says.

14:21 19 Q. The well control procedures and the training of the drill
14:21 20 crew in well control is a Transocean responsibility; correct?

14:21 21 A. Yes.

14:21 22 Q. The second prevention of a reservoir blowout is
14:21 23 "maintenance and testing of BOPs and other subsea and well
14:21 24 control equipment"; correct?

14:21 25 A. That's what the document say also.

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14:21 1 Q. Maintenance and testing of BOPs and other subsea and well
14:21 2 control equipment, that's a Transocean responsibility; correct?

14:21 3 A. Yes.

14:21 4 Q. The third prevention of a reservoir blowout at the drill
14:21 5 floor is "instrumentation and indication of well status";
14:21 6 correct?

14:21 7 A. That's what the document says.

14:21 8 Q. And that's referring to the HITEC system, or it could be,
14:21 9 in the olden days, just more rotary-type gauges --

14:22 10 A. The geolograph.

14:22 11 Q. Literally the gauges, the computer screens, the data, the
14:22 12 things that are used by people to understand what's going on in
14:22 13 the well; correct?

14:22 14 A. I think that's what that would refer to, yes.

14:22 15 Q. And instrumentation and indication of well status, that's
14:22 16 a Transocean responsibility; correct?

14:22 17 A. We do have instrumentation and indication of the well
14:22 18 status, in addition to other companies out there doing that as
14:22 19 well.

14:22 20 Q. But the person with the primary responsibility to watch
14:22 21 the well are the drillers; correct?

14:22 22 A. Correct.

14:22 23 Q. And the driller works in the driller's cabin or driller's
14:22 24 shack or doghouse; correct?

14:22 25 A. Yeah, that what we call it.

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14:22 1 Q. The epicenter of instrumentation and the indication of
14:22 2 well status is that doghouse or driller's shack or driller's
14:22 3 cabin; correct? That's where the bulk of that information
14:22 4 is --

14:22 5 A. Yes. The driller has access to the instrumentation and
14:22 6 indication of well status.

14:22 7 Q. The fourth prevention for a reservoir blowout at the drill
14:22 8 floor is "hydrocarbon combustible gas detection system";
14:23 9 correct?

14:23 10 A. That's what the document says.

14:23 11 Q. And that detection system on the *Horizon*, that's a
14:23 12 Transocean responsibility; correct?

14:23 13 A. The system that was installed permanently on the *Horizon*
14:23 14 is Transocean's system, yes.

14:23 15 Q. And the fifth prevention of a reservoir blowout at the
14:23 16 drill floor is "redundant BOP controls"; correct?

14:23 17 A. That's what the document says.

14:23 18 Q. And we've already agreed that the BOP controls are a
14:23 19 Transocean responsibility?

14:23 20 A. Yes.

14:23 21 Q. Those preventions that we've just listed, the five
14:23 22 preventions of a reservoir blowout at the drill floor, those
14:23 23 are the same types of preventions you would expect to see,
14:23 24 frankly, on any of your rigs with respect to this risk;
14:23 25 correct?

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14:23 1 A. Yes.

14:23 2 Q. Those are industry standard preventions for reservoir
14:23 3 blowouts; correct?

14:23 4 A. Yes.

14:23 5 Q. Then with respect to mitigations, do you see, as listed
14:23 6 there in the column Emergency Response Procedures, "ability to
14:23 7 move off station; firefighting capabilities; ability to
14:23 8 evacuate the rig; availability of medical treatment, including
14:23 9 medivac; redundant BOP controls; passive fire protection in
14:24 10 highly populated areas of vessel; and EX-rated equipment to
14:24 11 prevent ignition of blowout"?

14:24 12 All of those mitigations are Transocean -- are
14:24 13 primarily Transocean responsibilities; correct?

14:24 14 A. No.

14:24 15 Q. Which are not?

14:24 16 A. Availability of medical treatment, including medivac.
14:24 17 Typically, the medivac element of it would be provided by the
14:24 18 customer.

14:24 19 Q. Excluding the medivac, are the rest of the mitigations
14:24 20 Transocean responsibilities?

14:24 21 A. Yes.

14:24 22 Q. Again, are those standard mitigations in the industry for
14:24 23 this risk?

14:24 24 A. Yes. Generally standard, yes.

14:24 25 Q. Okay. Mr. Cunningham showed you a similar page for gas in

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14:24 1 the riser.

14:24 2 MR. REGAN: I'd like to turn to 2187.212.1.

14:24 3 BY MR. REGAN:

14:24 4 Q. There's also identified -- hazards of BOP component
14:24 5 failure. Do you see that?

14:24 6 A. I do.

14:24 7 Q. And the prevention -- it indicates consequences. And the
14:24 8 prevention is testing, inspection, and maintenance; correct?

14:24 9 A. That's what the document says.

14:24 10 Q. Also, failure of hydraulic supply. Do you see that?

14:25 11 A. I do.

14:25 12 Q. The same preventions; correct?

14:25 13 A. That's what the document says.

14:25 14 Q. And those testing, inspections, and maintenance, again,
14:25 15 would be led by Transocean; correct?

14:25 16 A. Yes.

14:25 17 Q. All right. With respect to -- I'll ask you about the
14:25 18 chain of command on the *Deepwater Horizon*. I'm going to change
14:25 19 topics. Okay?

14:25 20 We heard some testimony about the transition of
14:25 21 control or authority between the OIM and the master. Do you --
14:25 22 are you able to tell us, Mr. Newman, with respect to that chain
14:25 23 of command, when authority was transitioned from the OIM to the
14:25 24 master?

14:25 25 A. Well, under the statutory framework, the master always,

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14:25 1 always has overriding authority, particularly in the event of
14:25 2 an emergency, such as what occurred.

14:25 3 Q. Okay. And what constitutes an emergency for purposes of
14:25 4 that -- of the handover?

14:25 5 A. When the emergency response team musters on the bridge.

14:26 6 Q. So visually seeing the muster would then be the evidence
14:26 7 that there had been a transition from a drilling issue of the
14:26 8 OIM to the master -- from a maritime issue to the master?

14:26 9 A. Well, as individuals gathered in the emergency response
14:26 10 center, the captain would understand that he has overriding
14:26 11 authority.

14:26 12 Q. Let me put up TREX-5643. This is a November 20th, 2007 --
14:26 13 sorry -- 5643. This is a November 20th, 2007 memorandum. Do
14:26 14 you recognize this?

14:26 15 A. Yes.

14:26 16 Q. And it was something that you authorized; correct?

14:26 17 A. Yes.

14:26 18 Q. It was in connection with a merger that had taken place
14:26 19 in -- earlier in 2007; correct?

14:27 20 A. The merger took place at the end of November 2007.

14:27 21 Q. Okay. So it was preparations for how the new combined
14:27 22 entity would operate on day one going forward; correct?

14:27 23 A. Yes.

14:27 24 Q. Okay. Again, you were one of the approvers of this
14:27 25 document; is that right?

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14:27 1 A. I recall seeing it, yes.

14:27 2 MR. REGAN: If you just go down to the bottom of the
14:27 3 page, Diane, I think we might have Mr. Newman's name.

14:27 4 BY MR. REGAN:

14:27 5 Q. Do you see your name there as an approver?

14:27 6 A. Yes.

14:27 7 MR. REGAN: If we can go to 5643.4.1.

14:27 8 BY MR. REGAN:

14:27 9 Q. Now, in this memorandum, did you write, for rig chain of
14:27 10 command, "There will be no changes to the current chain of
14:27 11 command and rig organization on Transocean or GlobalSantaFe
14:27 12 rigs on Day 1"?

14:27 13 And as we've highlighted: "The offshore installation
14:27 14 manager will remain overall responsible for the health, safety,
14:27 15 and welfare of all persons and all activities conducted
14:27 16 on board their respective rig. The OIM is authorized and
14:27 17 obligated to take whatever actions he considers necessary to
14:27 18 prevent injury, loss of life, damage to equipment/structure,
14:28 19 and/or loss of rig and well operation integrity."

14:28 20 Do I read that correctly?

14:28 21 A. Yes, you did.

14:28 22 Q. And was that statement true when you approved the
14:28 23 document?

14:28 24 A. Yes.

14:28 25 Q. Well control. To you, well control, in terms of

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14:28 1 maintaining well control, requires awareness and vigilance,
14:28 2 identification and recognition of an indication of a loss of
14:28 3 well control, and the requirement to then take prompt and
14:28 4 appropriate action; is that right?

14:28 5 A. Yes.

14:28 6 Q. Now, kicks -- I think you might have been asked this, but
14:28 7 kicks themselves in an exploration well are not a surprising
14:28 8 event, are they?

14:28 9 A. They're not uncommon.

14:28 10 Q. Right. They're unanticipated, meaning you don't know when
14:28 11 they're going to happen, but you prepare for them because you
14:28 12 know it's a possibility; correct?

14:28 13 A. Under this framework of awareness, recognition, and
14:28 14 prompt, appropriate action, the awareness part is to remain
14:29 15 vigilant.

14:29 16 Q. Right. And in this business in drilling deepwater oil and
14:29 17 gas wells, regardless of what the plan is, regardless of what
14:29 18 the prognosis is, regardless of what the engineering is,
14:29 19 there's always one -- or in this case two people whose job it
14:29 20 is to, in essence, assume everything's going to go wrong, we're
14:29 21 going to have a situation that we're going to need to respond
14:29 22 to quickly. Is that right?

14:29 23 A. I don't think that's unique to deepwater. I think there's
14:29 24 a need for that high level of awareness, understanding, and
14:29 25 recognition and the prompt, appropriate action.

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14:29 1 Q. That's because drilling wells is a dynamic process. It's
14:29 2 you have to be ready for something that's unanticipated.

14:29 3 That's why drillers constantly monitor the well; right?

14:29 4 A. Yes.

14:29 5 Q. Loss returns, loss return events, in your experience,
14:29 6 Mr. Newman, are those rare things in drilling deepwater wells?

14:29 7 A. No, they're not uncommon.

14:30 8 Q. Use of loss circulation material, is that a rare thing to
14:30 9 happen?

14:30 10 A. That's the general approach to curing loss returns.

14:30 11 Q. With respect to the well control manual itself --

14:30 12 MR. REGAN: If we could pull up D-4595.1. D-4595.1.

14:30 13 BY MR. REGAN:

14:30 14 Q. In this hierarchy of documents that we talked about
14:30 15 10 minutes ago, we see the well control handbook is Level 1B;
14:30 16 correct?

14:30 17 A. Yes.

14:30 18 Q. It applies worldwide; correct?

14:30 19 A. Yes, it does.

14:30 20 Q. The *Horizon* didn't have its own well control manual, and
14:30 21 *the Nautilus* has its own, and the *DD3* has its own. The well
14:30 22 control handbook for Transocean is a global policy; correct?

14:30 23 A. It is.

14:30 24 Q. Irrespective of the operator, irrespective of the
14:30 25 location; correct?

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14:30 1 A. That's correct.

14:30 2 Q. Now, with respect to -- the judge has heard a fair amount
14:30 3 about this. But with respect to monitoring the well, the
14:31 4 person with responsibility on Transocean rigs to constantly
14:31 5 monitor the well and shut it in if they believe it's flowing is
14:31 6 the driller; correct?

14:31 7 A. Our driller has that responsibility, yes.

14:31 8 Q. And the driller has the responsibility to shut it in if he
14:31 9 has any indication that something's happening that may not be
14:31 10 right?

14:31 11 A. I think that's part of the prompt, appropriate action.

14:31 12 Q. And it's the policy of Transocean that the driller or the
14:31 13 person doing the driller's function has to shut the well in as
14:31 14 quickly as possible if a kick is detected or suspected;
14:31 15 correct?

14:31 16 A. Yes. I think that's part of the prompt, appropriate
14:31 17 action.

14:31 18 Q. And when you visit the five or six Transocean rigs in your
14:31 19 tours, that's true on all of your rigs; correct?

14:31 20 A. Yes.

14:31 21 Q. And when you were in Brazil on the Petrobras work, and the
14:31 22 rig manager drilling wells for Texaco on the T097, the driller
14:31 23 was the person with the responsibility to watch the well;
14:32 24 correct?

14:32 25 A. Trinidad.

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14:32 1 Q. Oh, Trinidad?

14:32 2 A. Yes, yes.

14:32 3 Q. And we saw your chart of the -- I think it was D-6730,
14:32 4 D-6730.

14:32 5 6,795 wells around the world, 2005 to 2009; correct?

14:32 6 A. That's what the chart says, yes.

14:32 7 Q. On every single one of those wells, who had responsibility
14:32 8 to watch the well?

14:32 9 A. From Transocean's perspective, the driller does.

14:32 10 Q. And that idea, well monitoring, that's something that's
14:32 11 totally under the control of Transocean; correct?

14:32 12 A. We have an individual, the driller, who is tasked with
14:32 13 that responsibility. The customer has a number of other folks
14:32 14 that do that same thing.

14:33 15 Q. Okay. You used a phrase on your direct about things a
14:33 16 driller has to understand. With respect to this well
14:33 17 monitoring function, is it contingent in any way on the type of
14:33 18 cement that's being used in a well, this well-monitoring
14:33 19 responsibility?

14:33 20 A. No.

14:33 21 Q. Is it contingent in any way on the type of casing that's
14:33 22 being run in the hole?

14:33 23 A. No.

14:33 24 Q. Is the well-monitoring responsibility of the driller
14:33 25 contingent on the jewelry that's being used on the casing or

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14:33 1 centralizers or liner or long string or any of those things?

14:33 2 A. No.

14:33 3 Q. Is it contingent in any way on the pore pressure frac
14:33 4 gradient analysis or assessments?

14:33 5 A. No.

14:33 6 Q. Is it contingent on any stage in the operation in between
14:33 7 the time a BOP goes on the well and the time a BOP comes off?

14:33 8 A. No.

14:33 9 MR. REGAN: Let me pull up 7651.1.3.

14:34 10 BY MR. REGAN:

14:34 11 Q. This is a document -- in fairness to you, Mr. Newman, this
14:34 12 is not a document that you would have received, but I'd just
14:34 13 like to use it for my question. This is a document from 2004,
14:34 14 Exhibit 7651.

14:34 15 Do you know the gentleman that wrote this document,
14:34 16 Steve Woelfel?

14:34 17 A. I do.

14:34 18 Q. Do you know John Keeton and Dan Reudelhuber, who received
14:34 19 it?

14:34 20 A. I do.

14:34 21 Q. And Mr. Woelfel wrote: "Core Drilling Competence. Well
14:34 22 control - one of more important aspects of our business and one
14:34 23 that we are 100 percent responsible/accountable for when the
14:34 24 sh*t hits the fan. Do the drillers/ADs know in their hearts
14:34 25 that the toolpusher, OIM, you, me, Jurgen [*sic*], and on up to

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14:34 1 Bob Long expects/100 percent supports them to SI if there are
14:34 2 any questions/doubts? Not an area where we wait to see what
14:35 3 the company man wants to do."

14:35 4 Do you see what I just read?

14:35 5 A. Yes.

14:35 6 Q. And Bob Long is the CEO of Transocean in 2004; correct?

14:35 7 A. Yes.

14:35 8 Q. You are the CEO of Transocean today and you were in April
14:35 9 of 2010; correct?

14:35 10 A. Yes.

14:35 11 Q. Do you expect 100 percent support for drillers and ADs to
14:35 12 shut in if there are any questions or doubts?

14:35 13 A. Absolutely.

14:35 14 Q. I'd like to turn now to TREX-4255. You were asked some
14:35 15 questions about a summary document that Transocean had put
14:35 16 together.

14:35 17 MR. REGAN: Go to the second page there. Maybe it's
14:35 18 the third. I apologize.

14:35 19 BY MR. REGAN:

14:35 20 Q. It's the summary of well control events from 2005 to 2009.

14:35 21 Do you see that?

14:35 22 A. Yes.

14:35 23 Q. And I'm going to try not to repeat some of the questions
14:35 24 that were asked before.

14:35 25 MR. REGAN: But if I could pull up D-4418.1, which I

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14:36 1 guess is a demonstrative taken out of this exhibit.

14:36 2 **BY MR. REGAN:**

14:36 3 Q. Again, statistically, from 2005 to 2009, almost
14:36 4 5,000 wells. There were 556 well control events. Do you see
14:36 5 that?

14:36 6 A. Yes.

14:36 7 Q. 329 kicks; correct?

14:36 8 A. That's what the document says, yes.

14:36 9 Q. 142 that were ballooning, and you explained to the Court
14:36 10 what "ballooning" is; right?

14:36 11 A. Yes.

14:36 12 Q. Okay. And 306 of those kicks were on exploration wells;
14:36 13 correct?

14:36 14 A. That's what the document says.

14:36 15 **MR. REGAN:** If we could turn to 4255.20.3.

14:36 16 **BY MR. REGAN:**

14:36 17 Q. Just briefly, this is -- talks about -- you were shown
14:36 18 this earlier. Percentage 84 percent and 14 percent, I think
14:36 19 you had a demonstrative up. It talked about the difference of
14:36 20 kicks below and above 20 barrels. Do you recall that?

14:36 21 A. Yes.

14:36 22 Q. And Transocean refers to above 20 barrels as a red zone
14:36 23 kick; correct?

14:36 24 A. Yeah.

14:36 25 Q. And then there's a reference by Mr. Cunningham to six rigs

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14:37 1 in 2009 having unloaded their drilling risers. Do you recall
14:37 2 those questions?

14:37 3 A. I do.

14:37 4 Q. Those six rigs, the *711*, the *M. G. Hulme, Jr.*, the *DAS*,
14:37 5 the *DD1*, the *702*, and the *ATN*, those were not rigs drilling
14:37 6 wells for BP, were they?

14:37 7 A. *711* works for Shell, the *Americas* works for Statoil, the
14:37 8 *DD1* works for BHP, the *Hulme* works for E&I. *702* works for
14:37 9 Shell. The *Actinia* was not working for BP, but I can't
14:37 10 remember who it was working for.

14:37 11 MR. REGAN: I'd like to now turn to 4255.44.3.

14:37 12 BY MR. REGAN:

14:37 13 Q. This is from the same document, and this is a graphical
14:38 14 representation from 2005 to 2009 of kick events in the red
14:38 15 zone; correct?

14:38 16 A. That's what the document says.

14:38 17 Q. Correct. So if there was a kick greater than 20 barrels
14:38 18 on a Transocean rig in that four-year period, it would be on
14:38 19 this chart. That's what it represents; correct?

14:38 20 A. That's what the document says, yes.

14:38 21 Q. And it represents the year, the rig, the client, and then
14:38 22 the size of the kick; right?

14:38 23 A. Yes.

14:38 24 Q. And in that four-year period, Mr. Newman, there was not a
14:38 25 single red zone kick on a Transocean rig drilling a well for

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14:38 1 BP; correct?

14:38 2 A. That's what the document says.

14:38 3 Q. We have got Shell, Petrobras, Total, TTT, RIL, which is
14:38 4 Reliance, Anadarko, the oil -- the Chinese company, CNOOC.

14:39 5 Those are major operators; correct?

14:39 6 A. Some of them are, yes.

14:39 7 Q. But during that time period, BP was one of Transocean's
14:39 8 largest clients, was it not?

14:39 9 A. Yes.

14:39 10 Q. And as one of its largest clients, using a large
14:39 11 proportion of Transocean rigs relative to its competitors, not
14:39 12 a single red zone kick; right?

14:39 13 A. Not according to this chart.

14:39 14 Q. Now, you also tracked things called "precautionary
14:39 15 shut-ins." I think you mentioned that briefly to the Court
14:39 16 earlier today. Do you recall that?

14:39 17 A. Yes.

14:39 18 **MR. REGAN:** Let's go to 4255.62.4.

14:39 19 **BY MR. REGAN:**

14:39 20 Q. This is a summary of well control events by client. So
14:39 21 this would be all events, red zone or otherwise; is that
14:39 22 correct?

14:39 23 A. I think so, yes.

14:40 24 Q. And we do see BP on this chart, again, the same four-year
14:40 25 period. They're listed right here in the fifth line?

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14:40 1 A. Yes.

14:40 2 Q. So over that four-year period, 17 kicks, 10 loss/gain
14:40 3 events. And over here we have precautionary shut-ins; right?

14:40 4 A. Yes.

14:40 5 Q. Which client of Transocean led the way in having the
14:40 6 highest number of precautionary shut-ins in that four-year
14:40 7 period?

14:40 8 A. According to this document, there were more precautionary
14:40 9 shut-ins conducted on BP operations than any other customer.

14:40 10 Q. And a precautionary shut-in is where someone sees
14:40 11 something, I think you said, they shut it in, but it turns out
14:40 12 it was a false alarm, they were being extra cautious?

14:40 13 A. Yes. Generally, that's an accurate description of a
14:40 14 precautionary shut-in.

14:40 15 Q. And so if we put this chart together with the last one,
14:40 16 over the four-year period of 2005 to 2009, as one of the
14:40 17 largest clients of Transocean, BP wells, BP rigs working with
14:41 18 TO, not a single kick over 20 barrels, with the highest number
14:41 19 of precautionary shut-ins; correct?

14:41 20 A. I think that's what the data says.

14:41 21 Q. And that data is consistent with safe operation, isn't it?

14:41 22 A. It's an element of safe operations, yes.

14:41 23 Q. In this same document there was a phrase, a section shown
14:41 24 to you with respect to the riser unloading events about --

14:41 25 MR. REGAN: Let's go to 4255.21.3.

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14:41 1 BY MR. REGAN:

14:41 2 Q. Mr. Cunningham asked you about this. I just want to ask
14:41 3 it again. This is about the riser unloading event.

14:41 4 It says: "These can be avoided through the
14:41 5 application of fundamental well control practices."

14:41 6 Do you see that?

14:41 7 A. That's what the document says.

14:41 8 Q. Okay. There was not a need for a new policy or procedure
14:41 9 to avoid a riser unloading event, was there?

14:42 10 A. I don't think so, no.

14:42 11 Q. The same would be true with respect to April 20th. The
14:42 12 riser unloading event that happened on April 20th could have
14:42 13 been avoided "through the application of fundamental well
14:42 14 control practices, such as treating every positive indicator as
14:42 15 a kick, shutting in quickly, and taking returns through the
14:42 16 choke whenever in any doubt whatsoever"; correct?

14:42 17 A. I think that falls into the category of vigilance,
14:42 18 recognition, and prompt action.

14:42 19 Q. But you agree with me that the events of April 20th -- the
14:42 20 riser unloading event that took place on April 20th could have
14:42 21 been avoided through the application of fundamental well
14:42 22 control practices?

14:42 23 A. I characterize fundamental well control practices when
14:42 24 there's recognition and prompt appropriate action. That, for
14:42 25 me, is fundamental well control.

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14:42 1 Q. TREX-48093.1.1. You were asked about *M.G. Hulme, Jr.* I
14:42 2 just wanted to ask you about one document that came out of that
14:43 3 investigation from Mr. Hand. Who is Mr. Hand?

14:43 4 A. Mr. Hand worked in your well construction group.

14:43 5 Q. And here do you see, with respect to the *M.G. Hulme* --
14:43 6 have you seen this document before, Mr. Newman? Do you know?

14:43 7 A. I think so, in the context of all the litigation.

14:43 8 Q. Just briefly, he says: "Unless I'm missing something, the
14:43 9 problems on the *MGH* were:

14:43 10 "They expected to drill into a gas zone and did not
14:43 11 pick up any indicators, and so did not flow-check.

14:43 12 "Number two, took a kick when the pumps were off and
14:43 13 didn't notice it.

14:43 14 "If they had recognized the kick, then following the
14:43 15 procedures to shut in would have resulted in a standard well
14:43 16 control operation."

14:43 17 Do you see that?

14:43 18 A. Yes.

14:43 19 Q. And is that the same thing we just talked about, that
14:43 20 again, the idea of recognizing a kick when the pump's off,
14:43 21 there are standard well control procedures that are already in
14:43 22 place that are designed to avoid that from happening?

14:44 23 A. Yes.

14:44 24 Q. Do you know if -- the investigations done on the
14:44 25 *M.G. Hulme, Jr.* or the *Sedco 711* incident, do you know if those

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14:44 1 were ever provided to BP?

14:44 2 A. I don't.

14:44 3 Q. With respect to *Sedco 711*, just a few questions. Do you
14:44 4 agree that in that incident in December of 2009, the BOP was
14:44 5 activated and worked effectively to provide a barrier and stop
14:44 6 the flow of oil?

14:44 7 A. Yes.

14:44 8 Q. Do you agree that if the BOP there had not shut in the
14:44 9 well, that for the *Sedco 711* there was a possibility for a
14:44 10 blowout that would result in potential for escalation of that
14:44 11 incident?

14:44 12 A. Yeah. I agree with that hypothetical statement, yes.

14:44 13 Q. You, Mr. Newman, have not done any assessments about the
14:45 14 level of collaboration or communication that occurred between
14:45 15 BP and Transocean on the *Deepwater Horizon*, have you?

14:45 16 A. I have not, no.

14:45 17 Q. So you're readily familiar with the generic process that
14:45 18 happens on a rig, the idea of twice daily meetings, pre-job
14:45 19 meeting, etc.; correct?

14:45 20 A. Yeah. That's a standard approach around the world.

14:45 21 Q. But as to the content of any such meeting, what was
14:45 22 discussed by whom, you're not the witness for that; correct?

14:45 23 A. No.

14:45 24 Q. With respect to any pre-spud analysis that was done by
14:45 25 Transocean on the Macondo well, you would not be the witness

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14:45 1 for that; correct?

14:45 2 A. No.

14:45 3 Q. You are aware that Transocean does have policies that
14:45 4 require pre-spud meetings?

14:45 5 A. Yes.

14:45 6 Q. With respect to any pre-spud checklist, again, that would
14:45 7 not be you; correct?

14:45 8 A. Correct.

14:45 9 Q. The well advisor program, are you familiar with that?

14:45 10 A. Yes. Sort of generically. Yes, I know we have a well
14:46 11 advisor program.

14:46 12 Q. I took that from the look you just gave me.

14:46 13 But again, with respect to whether or not the
14:46 14 Transocean well advisor program was used by the *Deepwater*
14:46 15 *Horizon* to review the well as it was being drilled, do you have
14:46 16 any firsthand knowledge as to the use of that well advisor
14:46 17 program?

14:46 18 A. No.

14:46 19 Q. Do you know what the purpose of the well advisor program
14:46 20 is?

14:46 21 A. Generally speaking, yeah. The purpose of the well advisor
14:46 22 program is to provide our people, who don't have a lot of
14:46 23 drilling/engineering experience, with a simplified approach to
14:46 24 identifying wells along sort of the continuum of complexity.
14:46 25 So well advisor will tell you whether this is a simple,

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1 straightforward well or a more challenging and complex well.

2 That's the purpose, is just to alert our people.

3 Q. It's a way that the Transocean crew can make sure that
4 they understand the activities that are going to be taking
5 place on that well?

6 A. I'm not sure that's the purpose of well advisor. As I
7 said, well advisor is designed to alert our people when the
8 well they're preparing to drill for the customer is a little
9 bit more complex.

10 I think there are other mechanisms for accomplishing
11 what you indicated as an objective.

12 Q. You're familiar with five-day planners, daily planners
13 that are used on rigs?

14 A. Yes.

15 Q. Forward plans?

16 A. Generally, yes.

17 Q. You have not looked at five-day planners, the forward
18 plans that were exchanged between Transocean and BP during the
19 drilling of the MC252 No. 1 well, have you?

20 A. No.

21 Q. You were asked some questions about the negative test, or
22 you discussed it, both generically and the concept in
23 connection with Transocean's criminal plea. I just have a few
24 questions on that.

25 Again, just to confirm, Mr. Newman, you obviously

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14:48 1 were not on the *Horizon* on April 20th; correct?

14:48 2 A. I was not.

14:48 3 Q. You were not a witness to the activity that took place
14:48 4 during the negative test; correct?

14:48 5 A. That is correct.

14:48 6 Q. Do you understand that there are gentlemen who will be
14:48 7 testifying in this trial who were present and who did witness
14:48 8 those activities?

14:48 9 MR. BRIAN: Objection, argumentative. Cumulative.

14:48 10 THE COURT: Sustained.

14:48 11 BY MR. REGAN:

14:48 12 Q. Would you defer, Mr. Newman, to the testimony of people
14:48 13 who were percipient witnesses of the negative tests as to what
14:48 14 took place? Do you defer to that?

14:48 15 A. What was the term you used?

14:48 16 Q. "Percipient," people that saw it, heard it, touched it,
14:48 17 tasted it --

14:48 18 A. No, I was not there.

14:48 19 Q. You did receive an e-mail on April 21st with respect to
14:48 20 the -- from Keelan Adamson; correct? Do you recall that?

14:49 21 Let me pull it up, 1472.1.3. This is an e-mail that
14:49 22 you received, Mr. Newman, on April 21st, around 1:00 in the
14:49 23 afternoon, 2010; correct?

14:49 24 A. That's what the document says.

14:49 25 Q. Okay. And in this e-mail that was sent to you, you were

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14:49 1 advised by Mr. Adamson: "We have spoken to Jimmy Harrell, OIM.
14:49 2 He advises that he was very aware of the rig operations. He
14:49 3 had only spoken with TP, Randy Ezell, ten minutes before the
14:49 4 incident. They had conducted successful inflow test/pressure
14:49 5 test. No flow on the flow check. They had turned the well and
14:49 6 riser over to water in preparation to set P & A plug."

14:49 7 Do you see that?

14:49 8 A. Yes.

14:49 9 Q. You received that at about 1:00 in the afternoon the day
14:50 10 after the *Horizon* blew up; correct?

14:50 11 A. Yes. To be clear, I don't know whether that's 1:00 in the
14:50 12 afternoon Houston time or 1:00 in the afternoon Geneva time.

14:50 13 Q. All right. Well, we're familiar with that issue.

14:50 14 Lastly, with respect to -- you were asked some
14:50 15 questions about Transocean's allocution. I think the exhibit
14:50 16 No. is 63213. Again, just to confirm, this is a document that
14:50 17 you approved and recommended to be approved by Transocean;
14:50 18 correct?

14:50 19 A. Yes.

14:50 20 Q. And I just wanted to ask you a few questions.

14:50 21 **MR. REGAN:** With respect to the paragraphs on the
14:50 22 negative test, I'd like to pull up 63213.13.1.

14:50 23 **BY MR. REGAN:**

14:50 24 Q. In the allocution, Transocean agreed that as part of its
14:50 25 duties, "Transocean and BP were required to monitor the well

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14:50 1 and take appropriate action during the negative test in
14:51 2 accordance with the standard of care applicable in the
14:51 3 deepwater oil exploration industry"; correct?

14:51 4 A. That's what the document says.

14:51 5 MR. REGAN: Go to .13.2.

14:51 6 BY MR. REGAN:

14:51 7 Q. You can read the whole paragraph. But again, in the last
14:51 8 line Transocean agreed that "Transocean and BP observed
14:51 9 pressure buildup on the drill pipe multiple times. The crew
14:51 10 commenced, but did not complete, investigation of the pressure
14:51 11 anomalies." Correct?

14:51 12 A. That's what the document says.

14:51 13 MR. REGAN: Go to .13.3.

14:51 14 BY MR. REGAN:

14:51 15 Q. I think you might have been shown this one, but the top
14:51 16 line says, "BP's well site leaders eventually instructed
14:51 17 defendant Transocean, and defendant Transocean agreed, to begin
14:51 18 monitoring the negative testing on the kill line instead of the
14:51 19 drill pipe"; correct?

14:51 20 A. That's what the document says.

14:51 21 Q. Next sentence says that "Both BP and defendant Transocean
14:51 22 continued to observe abnormal pressure on the drill pipe while
14:51 23 monitoring the kill line for flow"; correct?

14:51 24 A. That's that the document says.

14:51 25 Q. Transocean agreed that "Based on the lack of flow in the

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14:51 1 kill line, the negative testing ultimately was deemed
14:52 2 successful, notwithstanding the continuing abnormal pressure on
14:52 3 the drill pipe"; correct?

14:52 4 A. That's what the document says.

14:52 5 Q. Transocean agreed that "BP and defendant Transocean did
14:52 6 not take further steps to investigate the source of the
14:52 7 abnormal drill pipe pressure, which was neither correctly
14:52 8 explained nor remediated"; correct?

14:52 9 A. That's what the document says.

14:52 10 MR. BRIAN: Your Honor, I'm actually going to object.
14:52 11 He misread the third sentence. I ask that that be read again.
14:52 12 He said that Transocean agreed that it was deemed successful.
14:52 13 That's not what it states.

14:52 14 MR. REGAN: I didn't mean to misread it.

14:52 15 MR. BRIAN: It says: "Based on the lack of flow in
14:52 16 the kill line, the negative testing ultimately was deemed
14:52 17 successful, notwithstanding the continued abnormal pressure on
14:52 18 the drill pipe." It does not say that --

14:52 19 BY MR. REGAN:

14:52 20 Q. Let me clarify it. With respect to the sentence that
14:52 21 Mr. Brian just read, is it true that Transocean agreed in its
14:52 22 allocution to the sentence that Mr. Brian just read, which
14:52 23 says, "Based on the lack of flow in the kill line, the negative
14:52 24 testing ultimately was deemed successful, notwithstanding the
14:52 25 continued abnormal pressure on the drill pipe"?

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14:52 1 A. We agreed with the document.

14:53 2 Q. Thank you.

14:53 3 And with respect to 63213.14.1, paragraphs 14 and 15,
14:53 4 Transocean agreed with these provisions as well, that is, that
14:53 5 "Transocean's conduct violated its duty to exercise well
14:53 6 control in accordance with the standard of care applicable in
14:53 7 the deepwater oil exploration industry"; correct?

14:53 8 A. That's what the document says.

14:53 9 Q. And Transocean agreed to that; correct?

14:53 10 A. We did agree to the document, yes.

14:53 11 Q. And you also agreed to paragraph 15, which reads,
14:53 12 "Transocean's negligent conduct, together with the negligent
14:53 13 conduct of others, was a proximate cause of the blowout and the
14:53 14 discharge of certain quantities of oil and natural gas from the
14:53 15 Macondo well into the Gulf of Mexico"; correct?

14:53 16 A. That's what the document says.

14:53 17 Q. Now, the blowout that took place, after the blowout there
14:53 18 was then gas in the rig, fire, and explosion; correct?

14:53 19 A. Yeah.

14:53 20 Q. And after the fire and explosion, the rig burned for two
14:54 21 days; correct?

14:54 22 A. For about two days, yeah.

14:54 23 Q. And then it sank on April 22nd; correct?

14:54 24 A. Yes.

14:54 25 MR. REGAN: Thank you, Mr. Newman. Those are the

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14:54 1 questions I have.

14:54 2 THE COURT: Cameron?

14:54 3 MR. JONES: Cameron has no questions of Mr. Newman.

14:54 4 THE COURT: M-I.

14:54 5 MR. TANNER: No questions, Your Honor.

14:54 6 THE COURT: Back to Transocean.

14:54 7 REDIRECT EXAMINATION

14:54 8 BY MR. BRIAN:

14:54 9 Q. Good afternoon, Mr. Newman.

14:54 10 MR. BRIAN: Good afternoon, Your Honor. I'm going to
14:54 11 be very brief.

14:54 12 BY MR. BRIAN:

14:54 13 Q. You were asked this morning by myself and then by
14:54 14 Mr. Cunningham about the 2009 well control event report. Do
14:55 15 you have that document in mind?

14:55 16 A. Yes.

14:55 17 Q. And specifically about something called a "riser unloading
14:55 18 event." Do you have that in mind?

14:55 19 A. Yes.

14:55 20 Q. What is a riser unloading event?

14:55 21 A. Simply speaking, a riser unloading event is when the
14:55 22 influx -- it only happens on -- first of all, it only happens
14:55 23 on a floating drilling operation when you have a riser above
14:55 24 the BOP, between the BOP and the rig. And a riser unloading
14:55 25 event happens when the influx is allowed to migrate above the

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14:55 1 BOP. So the driller shuts the BOP in but doesn't catch all of
14:55 2 the influx that can be above the BOP.

14:55 3 And then as that influx continues to migrate up the
14:55 4 riser, it expands as it migrates; and so you can have a
14:55 5 situation with a riser unloading event where you have some
14:55 6 amount of hydrocarbons on the rig floor or exiting through the
14:56 7 diverter lines.

14:56 8 Q. Is a riser unloading event the same as a blowout?

14:56 9 A. No.

14:56 10 Q. How are they different?

14:56 11 A. A blowout is uncontrolled flow from the reservoir. That
14:56 12 means the well is not closed in.

14:56 13 A riser unloading event means the well is closed in
14:56 14 but you didn't catch it quick enough, and so you have influx in
14:56 15 the riser that unloads the riser. It relates solely to the
14:56 16 riser.

14:56 17 Q. You were asked this morning, both by myself and
14:56 18 Mr. Cunningham, about the *M.G. Hulme, Jr.* incident. Do you
14:56 19 have that in mind?

14:56 20 A. Yes.

14:56 21 Q. And you were asked about changes in the well control
14:56 22 manual that occurred as a result of that. Do you have that in
14:56 23 mind?

14:56 24 A. Yes.

14:56 25 MR. BRIAN: Let's pull up TRES-5650, 5650.

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14:56 1 BY MR. BRIAN:

14:56 2 Q. Is that the first page of the *M.G. Hulme* incident report?

14:56 3 A. Yes.

14:56 4 Q. And do you recall that that incident took place on --
14:56 5 occurred on February 20th, 2009?

14:57 6 A. If you -- if you turn to the page where that date is, I
14:57 7 can certainly say that that's what the document says. I don't
14:57 8 remember that the incident took place on February --

14:57 9 Q. The document will be in evidence.

14:57 10 MR. BRIAN: Let's pull up TREN-52545.

14:57 11 BY MR. BRIAN:

14:57 12 Q. Now, that's a portion of the Transocean well control
14:57 13 manual, is it not?

14:57 14 A. Yes.

14:57 15 Q. And can you see down in the corner, right there, the date
14:57 16 of that?

14:57 17 A. Yes.

14:57 18 Q. That's March -- is that March 31st, 2008?

14:57 19 A. Yes, that's what the document says.

14:57 20 MR. BRIAN: Now, let's pull up TREN-52546.

14:57 21 BY MR. BRIAN:

14:57 22 Q. This appears to be a later revision of the well control
14:57 23 manual; correct?

14:57 24 A. Yes.

14:57 25 Q. And that date is what?

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14:57 1 A. March 31st, 2009.

14:57 2 Q. Prior to the April 20th, 2010 incident; correct?

14:58 3 A. Yes.

14:58 4 MR. BRIAN: So let's pull up D-6726.1.

14:58 5 BY MR. BRIAN:

14:58 6 Q. This is a demonstrative that we prepared. This simply
14:58 7 compares the first two pages of two versions of the well
14:58 8 control manual we just looked at, does it not?

14:58 9 A. Yes.

14:58 10 MR. BRIAN: Let's pull up D-6726.2.

14:58 11 BY MR. BRIAN:

14:58 12 Q. Do you see that?

14:58 13 A. Yes.

14:58 14 Q. And the language "Once the BOP is closed, monitor the
14:58 15 riser for flow and be prepared to divert if necessary," was
14:58 16 that added to the well control manual on or about March 31st,
14:58 17 2009?

14:58 18 A. Yes. According to the revisions, yes.

14:58 19 Q. And that's as a result of incident of the *MG Hulme*, is it
14:59 20 not?

14:59 21 A. Yes.

14:59 22 Q. About a month or so after the incident took place?

14:59 23 A. Yes.

14:59 24 MR. BRIAN: Let's go to D-6726.3.

25

STEVE NEWMAN - REDIRECT

14:59 1 BY MR. BRIAN:

14:59 2 Q. That language -- "monitor the riser for flowing, refer to
14:59 3 Section 8, Subsection 4, Items 9 and 9.3," that language was
14:59 4 also added to the manual on or about March 31st, 2009, was it
14:59 5 not?

14:59 6 A. Yes. I think you said "flowing." The document says
14:59 7 "flow."

14:59 8 Q. I'm sorry.

14:59 9 MR. BRIAN: Now, let's pull up D-6726.4.

14:59 10 BY MR. BRIAN:

14:59 11 Q. This language: "Subsea BOPs. Monitor riser for flow and
14:59 12 be prepared to divert if necessary."

14:59 13 Was that language added to the well control manual as
14:59 14 of approximately March 31st, 2009?

14:59 15 A. That's what the document says.

14:59 16 Q. Now, I want to pull up --

14:59 17 MR. BRIAN: Which is in evidence, Your Honor --
14:59 18 TREN-52658.1.

15:00 19 BY MR. BRIAN:

15:00 20 Q. This is a summary chart, "Training of Well Control and
15:00 21 Bridge Crew Members Aboard the *Deepwater Horizon* on April 20th,
15:00 22 2010."

15:00 23 MR. BRIAN: Can we -- Mr. Nickels, can you pull up,
15:00 24 first, page 4 of the TREN-52658.4, Miles Ezell.

25

STEVE NEWMAN - REDIRECT

15:00 1 BY MR. BRIAN:

15:00 2 Q. Do you see where he received IADC WellCAP supervisor
15:00 3 training on December 4th, 2009? Do you see that?

15:00 4 A. That's what the document says.

15:00 5 Q. And is it the practice of Transocean to train pursuant to
15:00 6 the manual, as revised, that's in effect as of the date of the
15:00 7 training?

15:00 8 A. Yes.

15:00 9 Q. So if the manual was revised in March of 2009, would that
15:01 10 revised version have been the basis for the training that
15:01 11 Mr. Ezell received on December 4th, 2009?

15:01 12 A. Yes.

15:01 13 Q. Let's now turn to TREN-52658.12. This summarizes the
15:01 14 training for Dewey Revette. He was the driller, unfortunately,
15:01 15 on April 20th, 2010, wasn't he, sir?

15:01 16 A. Yes.

15:01 17 Q. And he received IADC WellCAP supervisor training on
15:01 18 February 12th, 2010. Do you see that?

15:01 19 A. Yes.

15:01 20 Q. And again, that would have been pursuant to the manual as
15:01 21 revised in March of 2009; correct?

15:01 22 A. Yes.

15:01 23 Q. Now, let's turn to TREN-52658.16, Stephen Curtis. He was
15:02 24 the assistant driller that evening on the *Deepwater Horizon*,
15:02 25 was he not?

STEVE NEWMAN - REDIRECT

15:02 1 A. Yes.

15:02 2 Q. And according to this document, he received IADC WellCAP
15:02 3 fundamental training on October 2nd, 2009, did he not?

15:02 4 A. That's what the document says.

15:02 5 Q. Again, with the same well control manual, as amended and
15:02 6 revised to add that language that came in as a result of the
15:02 7 *MG Hulme* incident; correct?

15:02 8 A. Yes.

15:02 9 Q. Let me turn to another subject quickly.

15:02 10 MR. BRIAN: I'd like to pull up TREX-5482.10.1.T0.

15:02 11 BY MR. BRIAN:

15:02 12 Q. Do you see that language at the top? I think you were
15:02 13 shown this by Mr. Cunningham, perceived weaknesses.

15:02 14 "Supervisors felt that younger crews weren't good at hazard
15:02 15 awareness. Younger crews thought they were competent."

15:02 16 Do you see that?

15:02 17 A. Yes.

15:02 18 Q. Let's go now back to TREX-5482.1.1.T0, the cover page of
15:03 19 this document.

15:03 20 This was the Lloyd's Register slide report pertaining
15:03 21 not specifically to *Deepwater Horizon*, but to the North America
15:03 22 division; correct?

15:03 23 A. Yes. According to the document, yes.

15:03 24 Q. And the crew aboard the *Deepwater Horizon* in the driller's
15:03 25 shack that night -- Jason Anderson, Dewey Revette, Stephen

STEVE NEWMAN - REDIRECT

15:03 1 Curtis -- was this what you would characterize as a younger
15:03 2 crew?

15:03 3 A. No.

15:03 4 Q. How much experience, if you know, did they have on the
15:03 5 *Deepwater Horizon*?

15:03 6 A. I think those three guys had been on the rig for eight or
15:03 7 nine or ten years. I think Jason had been on the rig for ten
15:03 8 years.

15:03 9 MR. BRIAN: I now want to pull up TREN-1429.20.1.

15:04 10 I think it's actually -- is this a different
15:04 11 TREN number?

15:04 12 BY MR. BRIAN:

15:04 13 Q. So it's a copy of the same document you were shown. We
15:04 14 have TREN-4942.20.

15:04 15 Is that the chart that Mr. Regan showed you during
15:04 16 his questioning of you, sir?

15:04 17 A. Yes.

15:04 18 Q. And you see there's from the OIMs all the way up to the
15:04 19 chief executive officer, where you sit. Do you see that?

15:04 20 A. Yes.

15:04 21 Q. Now, there's been a lot of testimony in this trial
15:04 22 about -- a lot of questioning of you about GMS and OIMs and
15:04 23 THINK and starts. I want to ask you a question that goes to
15:04 24 your core.

15:04 25 And that is, how often do you think about the 11 men

STEVE NEWMAN - REDIRECT

15:05 1 who died that night on the *Deepwater Horizon*?

15:05 2 A. Every day.

15:05 3 Q. Why?

15:05 4 A. Because I ask myself if there isn't something -- I ask
15:05 5 myself if there isn't something more I could have done.

15:05 6 MR. BRIAN: Thank you. No further questions,
15:05 7 Your Honor.

15:05 8 THE COURT: All right. Thank you, Mr. Newman.

15:05 9 All right. Who's going to be Transocean's next
15:05 10 witness? Are we going back to Mr. Barnhill?

15:05 11 MR. BRIAN: We are, Your Honor. I thought we would
15:05 12 finish up Mr. Barnhill. And then as we discussed yesterday, if
15:05 13 Mr. Quirk is available, we're happy to interrupt our case and
15:05 14 go with Mr. Quirk. And then if we have additional time, we
15:06 15 would like to play two deposition video clips.

15:06 16 MR. GODWIN: Mr. Quirk is here, Your Honor, and
15:06 17 available. He can go now or he can go after Mr. Barnhill,
15:06 18 whatever is your pleasure.

15:06 19 THE COURT: What do the plaintiffs want to do? Do
15:06 20 you want to take him now or finish Barnhill?

15:06 21 MR. GODWIN: Mr. Quirk would like to be able to be
15:06 22 finished today, Your Honor, and go back, as we discussed was
15:06 23 the plan. But if it looks like --

15:06 24 THE COURT: Well, I don't know. The way we've been
15:06 25 going, I don't know if that's going to be possible, regardless.

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1 It's already 3:00.

2 **MR. GODWIN:** I understand, judge.

3 **MR. WILLIAMS:** Your Honor, I think we called --
4 Mr. Breit is not in the courtroom -- there he is.

5 But we're prepared to take Mr. Quirk, and we had
6 hoped to be able to do that today because he's got --

7 **THE COURT:** How long do we expect this examination to
8 be?

9 **MR. WILLIAMS:** How long is your exam going to take?

10 **MR. BREIT:** 45 to 55 minutes, Judge.

11 **MR. BRIAN:** I don't think, Your Honor, we have that
12 much more of Mr. Barnhill. I think Mr. Brock said he had 20 or
13 30 minutes. And then there will be, I think, a relatively
14 short redirect. But we'll defer to Your Honor. Mr. Barnhill
15 is available, so whatever is convenient for yourself and the
16 other parties.

17 **THE COURT:** It doesn't make any difference to me.
18 I'm going to be here regardless. It doesn't matter who I'm
19 listening to.

20 **MR. GODWIN:** He will be here in three or four
21 minutes. He's here in the building. If you want him to go
22 now, he's ready.

23 **THE COURT:** Do you want a quick break?

24 **MR. WILLIAMS:** Sure.

25 **THE COURT:** Do you think there's a chance we can get

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15:07 1 him out of here by 6:00 altogether?

15:07 2 **MR. BREIT:** I'll be finished, Judge. I can tell you
15:07 3 that.

15:07 4 **THE COURT:** By 6:00?

15:07 5 **MR. BREIT:** By 4:00.

15:07 6 **THE COURT:** Let's take about a 15-minute recess.

15:07 7 **THE DEPUTY CLERK:** All rise.

15:09 8 (WHEREUPON, the Court took a recess.)

15:23 9 **THE DEPUTY CLERK:** All rise.

15:23 10 **THE COURT:** Please be seated, everyone.

15:23 11 Mr. Breit, call your next witness.

15:23 12 **MR. BREIT:** Next witness is Timothy Quirk.

15:23 13 (WHEREUPON, **TIMOTHY QUIRK**, having been duly sworn,
15:23 14 testified as follows.)

15:23 15 **THE DEPUTY CLERK:** Please state your full name and
15:23 16 correct spelling for the record.

15:23 17 **THE WITNESS:** My name is Timothy Leo Quirk,
15:23 18 T-I-M-O-T-H-Y, L-E-O, Q-U-I-R-K.

19 **DIRECT EXAMINATION**

15:23 20 **MR. BREIT:** If Your Honor remembers, this is the
15:23 21 plaintiffs' case in chief, slightly out of order. Jeffrey
15:23 22 Breit for the Plaintiffs' Steering Committee, and this would be
15:23 23 cross-examination of Mr. Quirk.

15:23 24 **THE COURT:** All right.
25

TIMOTHY QUIRK - DIRECT

15:23 1 BY MR. BREIT:

15:23 2 Q. Mr. Quirk, you were the lab manager at Halliburton,
15:24 3 Broussard lab, in 2008; is that correct?

15:24 4 A. Yes, sir.

15:24 5 Q. And before that time --

15:24 6 THE COURT: Wait a minute, wait a minute, wait a
15:24 7 minute. Pull the microphone a little closer to you.

15:24 8 There you go. Try that. Okay.

15:24 9 BY MR. BREIT:

15:24 10 Q. And prior to becoming the lab manager, you had been the
15:24 11 primary chemist at Halliburton Broussard lab; is that correct?

15:24 12 A. Yes, cement lab manager.

15:24 13 Q. And in April of 2010, you were responsible for the four
15:24 14 labs that were at Broussard, were you not?

15:24 15 A. Yes, sir.

15:24 16 Q. Now, just above you in the chain of hierarchy at
15:24 17 Halliburton was Ron Faul; is that right?

15:24 18 A. Ronnie Faul.

15:24 19 Q. And Ronnie Faul was based in the Houston office of
15:24 20 Halliburton?

15:24 21 A. Yes, sir.

15:24 22 Q. And you were in charge of the lab itself, and there was no
15:24 23 one at the lab above you; is that correct?

15:24 24 A. That's correct.

15:24 25 Q. If you had a problem at your lab, you would contact Ronnie

TIMOTHY QUIRK - DIRECT

15:24 1 Faul?

15:24 2 A. That's correct.

15:25 3 Q. Now, immediately -- after this explosion on April 20th,
15:25 4 2010, you received a phone call from Ronnie Faul within weeks
15:25 5 of that explosion?

15:25 6 A. Yes.

15:25 7 Q. And by the time he had called you, you had already taken a
15:25 8 look at the cement slurry that Jesse Gagliano had used in the
15:25 9 *Deepwater Horizon* well, had you not?

15:25 10 A. Yes.

15:25 11 Q. You found that slurry by looking it up on Viking -- the
15:25 12 Viking system -- to see what had been used?

15:25 13 A. I don't recall if it was the Viking system or looking at
15:25 14 the folder of data.

15:25 15 Q. One of the two. There was either a written documentation
15:25 16 or folder at Broussard, or it was on the Viking system, or it
15:25 17 was both?

15:25 18 A. That's correct.

15:25 19 Q. And that's how you, as a lab manager, would look to find
15:25 20 out what chemicals were used, what additives were used, what
15:25 21 cement slurry had been used by Mr. Gagliano in the last time
15:26 22 before the well had cement dumped down it; right?

15:26 23 A. Yes, right.

15:26 24 Q. Now, when you were contacted by Mr. Faul, you knew by that
15:26 25 time that there had been a preservation order put in place by

TIMOTHY QUIRK - DIRECT

15:26 1 at least one court asking that the products that had been used
15:26 2 on the *Deepwater Horizon* be secured and put aside so that no
15:26 3 one would touch them; is that right?

15:26 4 A. I was not aware of a preservation order. I was instructed
15:26 5 to gather the material and put it in a secure --

15:26 6 Q. Was that Ron Faul?

15:26 7 A. That was Tony Angelle.

15:26 8 Q. So Tony Angelle, who, again, was another Halliburton
15:26 9 employee --

15:26 10 A. He's in Lafayette.

15:26 11 Q. He's in Lafayette.

15:26 12 -- he told you, "Gather up everything that you can
15:26 13 find related to the Macondo well, and secure it"?

15:26 14 A. He said -- originally, he said the *Horizon* rig. I
15:26 15 recall -- "the *Horizon* rig" is what I remember.

15:26 16 Q. And, basically, you understood that directive from
15:27 17 Mr. Angelle that anything from the *Horizon* rig was to be
15:27 18 gathered up and put into a locked, air-conditioned locker?

15:27 19 A. No. He asked me initially just to gather up the material
15:27 20 from the *Horizon* rig.

15:27 21 Q. And then -- I'm sorry.

15:27 22 A. And -- that's correct.

15:27 23 Q. So you went around looking for things from the *Horizon* rig
15:27 24 that had been marked "*Horizon* rig" so that you could put them
15:27 25 in a location?

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15:27 1 A. In my office, right.

15:27 2 Q. So initially when you gathered up everything from the
15:27 3 *Horizon* rig, you put all of that stuff in your office?

15:27 4 A. That's correct.

15:27 5 Q. In fact, you are the one who helped collect it?

15:27 6 A. I was a part of -- yes.

15:27 7 Q. Now, when Mr. Faul called you initially, he told you at
15:27 8 that time that there had been tests in the Duncan, Oklahoma,
15:27 9 lab on the cement slurry design from the Macondo well, did he
15:28 10 not?

15:28 11 A. Yes.

15:28 12 Q. So when you got the first phone call about gathering up
15:28 13 products for your office, you already knew someone in Oklahoma
15:28 14 had done some testing on the cement slurry from the Macondo
15:28 15 well. Whether it's the design or some other part of it,
15:28 16 someone had done testing in Oklahoma?

15:28 17 A. Around that same time period.

15:28 18 Q. In fact, when Mr. Faul called you and told you about the
15:28 19 slurry testing in Duncan, Oklahoma, he wanted to compare what
15:28 20 had happened in Duncan, Oklahoma, with what you were going to
15:28 21 do in the Broussard lab? He wanted to compare what you-all
15:28 22 were seeing in Duncan?

15:28 23 A. He wanted to repeat the tests. He was --

15:28 24 Q. And --

15:28 25 A. Go ahead.

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15:28 1 Q. I'm sorry. Go ahead. I don't mean to interrupt you.
15:28 2 I've been guilty of that before.

15:28 3 A. He wanted to repeat the test using the off-the-shelf lab
15:29 4 ingredients.

15:29 5 Q. But he wanted you to compare what they were seeing in
15:29 6 Duncan with whatever you were going to see in Broussard; is
15:29 7 that right?

15:29 8 A. I don't recall exactly the conversation. I just remember
15:29 9 him asking me to repeat the test. That's what I recall right
15:29 10 now.

15:29 11 MR. BREIT: Let me see TRES-63141, which would be the
15:29 12 deposition of Mr. Quirk, page 89, lines 11 through 18, please.
15:29 13 11 through 18.

15:29 14 BY MR. BREIT:

15:29 15 Q. And did he give you --

15:29 16 MR. BREIT: Thank you very much.

15:29 17 BY MR. BREIT:

15:29 18 Q. (Reading):

15:29 19 "QUESTION: And did he give you a reason why he
15:29 20 wanted you to foam the slurry using lab stock additives?

15:29 21 "ANSWER: He said that they had performed a test in
15:29 22 Duncan, Oklahoma, and they wanted -- and that he wanted me
15:29 23 to mix the slurry up and see if, you know, to see how it
15:29 24 compared to what they were seeing up there."

15:30 25 Does that refresh your recollection?

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15:30 1 A. Can you go further down, please?

15:30 2 Q. You mean below line 18?

15:30 3 A. Yes.

15:30 4 MR. BREIT: Just to the page 94 -- I'm sorry, just on
15:30 5 that page. Can you just give us the full page?

15:30 6 BY MR. BREIT:

15:30 7 Q. Right there, is that what you're talking about?

15:30 8 THE COURT: You can read it on your screen.

15:30 9 THE WITNESS: Okay. "Mix it up -- mix it up and
15:30 10 perform the stability test."

15:30 11 BY MR. BREIT:

15:30 12 Q. Right. But he wanted you to compare to what they were
15:30 13 seeing in Oklahoma; correct?

15:30 14 A. I'm sorry. I just don't recall exactly that part of the
15:30 15 conversation.

15:30 16 Q. You don't deny saying that under oath about a year ago --
15:30 17 or two years ago, do you?

15:30 18 A. No, I don't deny saying that.

15:30 19 Q. All right. Now, when Mr. Faul called you, that was a
15:31 20 couple weeks after April 20th, and he asked you and wanted you
15:31 21 to use Macondo lab stock additives, didn't he?

15:31 22 A. I'm sorry, could you repeat the question?

15:31 23 Q. When Mr. Faul called you, he asked you to use Macondo lab
15:31 24 stock additives, didn't he?

15:31 25 A. I'm not aware of any Macondo lab stock additives.

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15:31 1 Q. But he wanted you to use them. Didn't he tell you that?

15:31 2 A. Macondo lab stock additives?

15:31 3 Q. Lab stock additives that were used on the Macondo well.

15:31 4 A. I'm not aware of any lab stock additives used on the
15:31 5 Macondo well.

15:31 6 MR. BREIT: TREX-63141, page 39, lines 9 through 21,
15:31 7 Carl. Thank you.

15:31 8 BY MR. BREIT:

15:31 9 Q. (Reading):

15:31 10 "QUESTION: So both Mr. Faul and these two gentlemen
15:31 11 asked you to look at the slurry design and use what you
15:31 12 have at your lab to recreate the slurry that was being
15:31 13 used offshore?"

15:31 14 Initially, this is your answer: "Well, Mr. Faul
15:31 15 asked that I, you know, use the lab stock additives."

15:32 16 Now, did he ask you to use the lab stock additives?
15:32 17 Do you understand that that now?

15:32 18 A. Yes, not the Macondo lab stock additives.

15:32 19 Q. But he was trying to get you, at that time, to re-create
15:32 20 the slurry that was being used offshore that would be on the
15:32 21 Macondo well, and he asked you to use the lab stock additives.
15:32 22 Did he not ask you that?

15:32 23 A. Lab stock additives, that's correct.

15:32 24 Q. Thank you.

15:32 25 Now, Mr. Faul told you that the tests at Duncan, when

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15:32 1 they had done those tests, it looked thin, didn't it?

15:32 2 A. Yes.

15:32 3 Q. In fact, after they completed the first test at Duncan
15:32 4 that showed that the slurry was thin, either someone at
15:32 5 Oklahoma or you called each other to discuss what had been done
15:32 6 in the test?

15:32 7 A. That's correct.

15:32 8 Q. You remember that, don't you?

15:32 9 A. Yes.

15:32 10 THE COURT: What time frame are we talking about
15:32 11 here?

15:32 12 BY MR. BREIT:

15:32 13 Q. We're talking a couple weeks after April 20th, are we not?

15:32 14 A. Yes, somewhere in that time period.

15:32 15 THE COURT: Okay.

15:32 16 BY MR. BREIT:

15:32 17 Q. And a couple weeks after April 20th, there had been one
15:33 18 test in Duncan that had been thin, and the person in Duncan who
15:33 19 you don't remember -- do you remember it now being Mr. Morgan?

15:33 20 A. Yes.

15:33 21 Q. And Mr. Morgan said to you, "It looks thin. What did you
15:33 22 do when you tested it?" Is that right?

15:33 23 A. That's correct.

15:33 24 Q. So when Mr. Morgan called you before he did this second
15:33 25 test --

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15:33 1 A. When you asked me when I tested it, are you talking about
15:33 2 the lab test, that it's pre-incident?

15:33 3 Q. My impression was that Mr. Morgan asked you what had been
15:33 4 done on the testing with regard to conditioning. Is that
15:33 5 right?

15:33 6 A. Pre-incident.

15:33 7 Q. Okay. So you had not done your test yet?

15:33 8 A. No.

15:33 9 Q. Mr. Morgan was about to do his second test?

15:33 10 A. Well, I don't know -- I don't know if there was a second
15:33 11 test. I don't know.

15:33 12 Q. At least one had been thin already, and he was about to do
15:33 13 another one?

15:33 14 A. I can -- I can understand that one was done. I don't know
15:33 15 that he was about ready to do another one. I don't recall that
15:33 16 part of it.

15:33 17 Q. Well, he asked you what had happened with the conditioning
15:33 18 time, did he not?

15:33 19 A. Yes.

15:33 20 Q. Okay. So you don't know whether or not he did another
15:33 21 test?

15:33 22 A. Right.

15:33 23 Q. Now, Mr. Faul told you, when he asked you to re-create the
15:34 24 slurry testing, that there had been settling in Duncan when
15:34 25 Rickey Morgan had done his test; isn't that right?

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15:34 1 A. Right. Upon miscibility.

15:34 2 Q. But, again, on a testing trying to re-create the slurry
15:34 3 that had been used at the last time in the well, on
15:34 4 April 19th and April 20th, that Mr. Morgan's testing of that
15:34 5 slurry, however it was done, it showed settling; is that right?

15:34 6 A. What I remember is the point of miscibility, is what I
15:34 7 remember.

15:34 8 Q. Well, do you know now -- or did you know that Rickey
15:34 9 Morgan and no one in Oklahoma wrote down any of the testing
15:34 10 that happened in Oklahoma?

15:34 11 A. I've heard that over the last couple of years, you know.
15:34 12 At the time, I wasn't aware of that.

15:34 13 Q. Well, how long did you remain the manager of the Broussard
15:34 14 lab after April 20th, 2010?

15:34 15 A. Up until August 24th of last year.

15:35 16 Q. So up until August of 2012, did you ever go and ask if
15:35 17 someone in Oklahoma could show you any written tests, any
15:35 18 Viking tests, any notes of anything Rickey Morgan did a couple
15:35 19 of weeks after this incident so that you could see what kind of
15:35 20 slurry he used and what kind of testing he was doing after this
15:35 21 incident?

15:35 22 A. I don't recall requesting that at all.

15:35 23 Q. So is it safe to say that at no time after April 20th of
15:35 24 2010, until August of 2012, when you left the Broussard lab,
15:35 25 you never even asked anyone to show you any of those tests?

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15:35 1 A. I never asked anyone to show me that.

15:35 2 Q. Did you look on the Viking system?

15:35 3 A. I did not, not specifically looking for that.

15:35 4 Q. Well, did you look on the Viking system at any time to see
15:35 5 whether or not there was any testing in Oklahoma that someone
15:35 6 had put on the record?

15:35 7 A. I did not.

15:35 8 Q. And you understand there were at least two tests done in
15:36 9 Duncan now, both of which showed that the slurry was thin? You
15:36 10 understand that now, don't you?

15:36 11 A. As we're -- today, yes.

15:36 12 Q. Now, you were asked by Mr. Faul to do these tests; is that
15:36 13 correct?

15:36 14 A. That's correct.

15:36 15 Q. Anyone one up, higher up? Any lawyers, anyone else ask
15:36 16 you to do any testing in April or May of 2010?

15:36 17 A. No, sir.

15:36 18 Q. Now, you were to perform a foam stability, foam slurry
15:36 19 test? Wasn't that your intention initially?

15:36 20 A. Foam stability, right.

15:36 21 Q. And, in fact, that's not part of your habit, to perform
15:36 22 that test at Broussard lab back in May of 2010, was it?

15:36 23 A. Me, personally? No.

15:36 24 Q. Yes, you personally.

15:36 25 A. Not on a regular basis, no.

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15:36 1 Q. In fact, it had been years since you had run a test like
15:36 2 that prior to May of 2010?

15:36 3 A. It could have been. I don't --

15:36 4 Q. You don't remember, do you?

15:36 5 A. Right.

15:36 6 Q. In fact, before this phone call from Mr. Faul, he had
15:36 7 never asked you orally to do any kind of testing at Broussard,
15:37 8 you, yourself?

15:37 9 A. I don't recall.

15:37 10 Q. Well, didn't you testify before today that, in fact, he
15:37 11 had never called you orally prior to that day to ask you to
15:37 12 perform tests?

15:37 13 A. I just don't recall that part of it. I can't remember my
15:37 14 answer. I'm sorry.

15:37 15 Q. Well, let's look. TREX-63141, page 318, lines 8 through
15:37 16 18, please.

15:37 17 "QUESTION: Has he -- does he frequently ask you to
15:37 18 do tests or similar projects orally without in writing?

15:37 19 "ANSWER: No.

15:37 20 "QUESTION: Has he ever asked you to do one before
15:37 21 other than this one?

15:37 22 "ANSWER: I don't recall at this time -- I don't --
15:37 23 not related to lab testing."

15:37 24 So does that help refresh your memory as to him never
15:37 25 calling you prior to this date?

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15:37 1 A. Yes.

15:37 2 Q. Thank you.

15:37 3 Now, when Mr. Faul called you a couple of weeks after
15:37 4 this incident and asked you to perform these tests, he
15:38 5 specifically told you not to report your results, didn't he?

15:38 6 A. He asked me to phone the results to him.

15:38 7 Q. But he asked you not to report the results? Listen to my
15:38 8 question, please.

15:38 9 A. He asked me not to report the results in the Viking
15:38 10 system.

15:38 11 Q. He also told you not to put anything in Viking and not to
15:38 12 record any of your results anywhere, didn't he?

15:38 13 A. He just asked me to phone the results to him.

15:38 14 Q. And he did not want you to report them, not on Viking and
15:38 15 not anywhere else?

15:38 16 A. He didn't want a report.

15:38 17 Q. That meant not on Viking and not to write up a written
15:38 18 report --

15:38 19 A. Right.

15:38 20 Q. -- just like the ones that Mr. Gagliano's reports would
15:38 21 have shown from the April 17th; is that correct?

15:38 22 A. Right.

15:38 23 Q. So you didn't prepare a lab work sheet?

15:38 24 A. I didn't prepare a lab work sheet.

15:38 25 Q. You didn't prepare any notes, did you?

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15:38 1 A. Prepare any notes? No, I just -- no.

15:38 2 Q. In fact, you had written notes, didn't you, after this
15:38 3 incident, but you got rid of them, didn't you?

15:39 4 A. I discarded my notes.

15:39 5 Q. You threw them in the trash, didn't you?

15:39 6 A. I -- yes.

15:39 7 Q. Now, was that on directions of Mr. Faul that you threw
15:39 8 your notes from this test, a couple of weeks after April 20th,
15:39 9 in the trash; or is that something that you decided on your
10 own?

15:39 11 A. I -- based on the way he requested that I run the tests, I
15:39 12 reported the results to him over the phone and I didn't see any
15:39 13 need to hang on to my notes.

15:39 14 Q. You're telling this Court that after April 20th, when you
15:39 15 knew at that time that the *Deepwater Horizon* was in the bottom
15:39 16 of the Gulf, 11 men had perished, that you didn't think it was
17 important --

15:39 18 MR. UNDERHILL: Objection, argumentative.

15:39 19 MR. BREIT: I don't think it's argumentative at all,
20 Your Honor.

15:39 21 THE COURT: Overrule the objection.

15:39 22 BY MR. BREIT:

15:39 23 Q. Let me restart my question.

15:39 24 April 20th, by the time you get this phone call, the
15:39 25 *Deepwater Horizon* is at the bottom of the Gulf, 11 men have

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15:39 1 perished, and you know that there's being testing done by
15:39 2 Halliburton personnel and they ask you to do testing of the
15:40 3 cement stability and you don't think it's important to hold on
15:40 4 to any of your notes showing what your results would have
15:40 5 shown?

15:40 6 A. At the time that this happened, I didn't -- my view was he
15:40 7 asked me to use off-the-shelf lab stock ingredients, and I
15:40 8 didn't -- in the past I performed experiments in using lab
15:40 9 stock ingredients and was not using the samples that were from
15:40 10 the location.

15:40 11 I know that -- I mean, hindsight, looking way back at
15:40 12 it now, I can understand the importance of it, but back then I
15:40 13 just didn't see it that way. I mean, it's a test that I could
15:40 14 run -- go in the lab and run today or I could have run it the
15:40 15 very next day. It's all additives off the shelf.

15:40 16 Q. Well, let me ask you this question because you didn't
15:40 17 think it was so important then, one of the important things is
15:41 18 what are the densities that you found when you did your
15:41 19 testing; isn't that right?

15:41 20 A. Right.

15:41 21 Q. You didn't write that down, did you, the densities?

15:41 22 A. No.

15:41 23 Q. You don't remember what the densities are, do you?

15:41 24 A. I don't.

15:41 25 Q. You didn't remember them two years ago when your

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15:41 1 deposition was taken, do you?

15:41 2 A. That's correct.

15:41 3 Q. So you don't think it's important, with 11 men perished,
15:41 4 that you save the results of the density as to whether or not
15:41 5 this cement was stable?

15:41 6 A. Just run it again. That's all we had to do was run the
15:41 7 test again.

15:41 8 Q. In fact, after you did this test, you took the pieces of
15:41 9 the cement that you had tested and you threw them away too,
15:41 10 didn't you?

15:41 11 A. As we do with all the other testing.

15:41 12 Q. Do you have that much testing done after 11 men perished
15:41 13 and a rig sinks to the bottom of the Gulf? Do you?

15:41 14 A. No, sir.

15:41 15 Q. Now, Mr. Faul asked you specifically to do these tests off
15:41 16 the side, didn't he?

15:41 17 A. I don't remember exactly his exact words, something like
15:41 18 that.

15:41 19 **MR. BREIT:** Let's look at TREN-63141, page 316,
15:42 20 lines 19 to the top of page 317, line 4, please.

15:42 21 316, 19, see if you can get 316 and 317 side by
15:42 22 side. Thank you.

15:42 23 **BY MR. BREIT:**

15:42 24 Q. (Reading:)

15:42 25 "QUESTION: So did he just ask you to do it in this

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1 case because there were problems with the well, the
2 litigation? I mean, is that why he asked you to do this
3 separate test?

4 "ANSWER: Well, I can't speak for him. He just asked
5 me to do it off the side and give him the results."

6 A. Okay.

7 Q. When you say "off the side," that means not record it. So
8 he asked you to do this off the side, didn't he?

9 A. I guess so. That's my --

10 Q. Didn't you think it was strange with so many people
11 wondering what happened on the *Deepwater Horizon* -- the United
12 States Government, BP, Transocean -- that he would ask you to
13 do testing on the side and not write down or record a single
14 word? Didn't you think that was strange?

15 A. It's -- it was a little unusual.

16 Q. Now, in addition to that test, Mr. Faul asked you to
17 perform four or five contamination tests, checking the foam
18 stability, didn't he?

19 A. That's correct.

20 Q. You didn't save any notes yourself from those
21 contamination tests, did you?

22 A. No, sir.

23 Q. Now, you also received a call from Simon Turton and
24 Anthony Badalamenti. Both of those gentlemen are in Houston,
25 or where are they?

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15:43 1 A. Now I'm not sure where they're at. They were in Houston
15:43 2 at the time.

15:43 3 Q. In April of 2010 when they called you, or May 2010 when
15:43 4 they called you after Mr. Faul's test, they, too, had tests for
15:43 5 you to do?

15:43 6 A. Yes.

15:43 7 Q. They wanted you to perform static gel strength and
15:43 8 transitioning time tests, didn't they?

15:43 9 A. That's correct.

15:43 10 Q. And you used the weigh-up --

15:43 11 A. It's the same test.

15:43 12 Q. I'm sorry, sir?

15:43 13 A. It's the same test.

15:43 14 Q. The same test done almost at the same time, or is it the
15:43 15 exact same test?

15:43 16 A. It's the exact same test.

15:43 17 Q. Thank you.

15:43 18 Now, you used the weigh-up sheets so that you would
15:43 19 know what was the proper amount of additives to weigh out for
15:44 20 the testing, didn't you?

15:44 21 A. The weigh-up sheets were used. It was a generated sheet.

15:44 22 Q. You were trying to reconfigure the slurry that Jesse
15:44 23 Gagliano had asked for testing on April 17th, weren't you?

15:44 24 A. It was -- it was the slurry that was pumped, I think.
15:44 25 Right.

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15:44 1 Q. And the weigh-up sheet that you went to was the cement
15:44 2 weigh-up sheet that Gagliano had used and made up on
15:44 3 April 17th, 2010, the last weigh-up sheet of the cement that
15:44 4 was used?

15:44 5 A. On the transition time?

15:44 6 Q. No, no, no. You were looking at the April 17th, 2010
15:44 7 weigh-up sheet so that you could reconfigure the slurry like
15:44 8 the slurry that Jesse Gagliano had tested or asked to be tested
15:44 9 on April 17th; isn't that right?

15:44 10 A. That --

15:44 11 Q. You had to look somewhere to find out what to do --

15:44 12 A. That makes sense, yes. That makes sense.

15:44 13 Q. Now, let's look at the TRES-4566, which is the April 17th,
15:45 14 2010. First, let me look at the top of that sheet.

15:45 15 This is the cement lab weigh-up sheet, April 7th
15:45 16 [verbatim], 2010, Jesse Gagliano, engineer, and this is the
15:45 17 last weigh-up sheet of the cement slurry that was tested before
15:45 18 they did the pumping of the cement on the Macondo well.

15:45 19 Do you see that?

15:45 20 A. I don't think it was -- I don't think that was the last
15:45 21 one.

15:45 22 Q. Well, I'll represent to you there's been plenty of
15:45 23 testimony in the last three weeks, the April 17th, 2010 cement
15:45 24 weigh-up sheet is -- the cement weigh-up sheet, as the lawyer
15:45 25 for Halliburton has indicated, is the only cement weigh-up

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15:45 1 sheet that is important because this is the last one that they
15:45 2 were relying on for the testing for purposes of pumping down
15:45 3 the well. I'll represent that to you.

15:45 4 A. I understood that there was a part two to that.

15:46 5 Q. Let's look at the April 17th, 2010 weigh-up sheet. Let's
15:46 6 look at some of the material. And specifically I want to look
15:46 7 to the SCR-100L.

15:46 8 A. Yes.

15:46 9 Q. And the lot number, which is 6264, that's an indication
15:46 10 that the lot of SCR-100L came from the *Deepwater Horizon*, does
15:46 11 it not?

15:46 12 A. It could be.

15:46 13 Q. I'm going to represent to you from other testimony that
15:46 14 the 6264 is, in fact, from Tank No. 8 of the *Deepwater Horizon*
15:46 15 and that other witnesses, whose testimony is in the record,
15:46 16 indicated 6264 was the *Deepwater Horizon*.

15:46 17 Now, if you see to the right of that, there is a
15:46 18 sample ID. And the sample ID, as I understand your lab in
15:46 19 Broussard, not only is there a lot number showing from where a
15:46 20 particular chemical, in this case SCR-100L, comes from, it also
15:46 21 has a specific ID showing what was used specifically from that
15:47 22 lot.

15:47 23 Is that right?

15:47 24 A. Yes.

15:47 25 Q. And so in this case, if the cement lab weigh-up sheet of

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15:47 1 April 17th is, in fact, the correct one, the SCR-100L, which
15:47 2 was dated October 22nd, 2009 -- that's another marking you-all
15:47 3 use to date your lab samples; correct?

15:47 4 A. Yes.

15:47 5 Q. -- was specifically 54573, which shows that that is a
15:47 6 specific ID of a specific SCR-100L used for that test; correct?

15:47 7 A. Okay.

15:47 8 Q. Am I correct on that?

15:47 9 A. Based on what I see here.

15:47 10 Q. Thank you.

15:47 11 Now, again, you were trying to --

15:47 12 A. Now, I want to just point out something. This shows what
15:47 13 the lab tech is supposed to weigh up.

15:47 14 Q. Correct.

15:47 15 A. Okay.

15:47 16 Q. And what's supposed to be used for purposes of Jesse
15:47 17 Gagliano testing --

15:47 18 A. Right.

15:47 19 Q. -- is this specific 54573 ID, SCR-100L?

15:48 20 A. Right.

15:48 21 Q. And you understand, of course, by this time, when you're
15:48 22 looking at this sheet, you've already received a phone call
15:48 23 asking for the materials that were used on the *Deepwater*
15:48 24 *Horizon* to be secured in your office. You understand that;
15:48 25 right?

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15:48 1 A. Yes.

15:48 2 Q. Now, when you were going to do this second group of
15:48 3 testing for Mr. Badalamenti and Mr. Turton, you needed to
15:48 4 figure out what to look at for purposes of making up your
15:48 5 slurry.

15:48 6 And so on May 20th, 2010, you pulled up the
15:48 7 April 17th lab weigh-up sheet, which would be TRES-05593,
15:48 8 please. If we could look at the top, please.

15:48 9 So this shows that on May 20th, 2010, this particular
15:49 10 cement lab weigh-up sheet was printed out and it's the same one
15:49 11 that Jesse Gagliano had used, except the only difference is
15:49 12 it's got a .09 SCR-100L; right?

15:49 13 A. Uh-huh.

15:49 14 Q. And you understand, of course, now, having stayed at the
15:49 15 lab until August of 2012, that Jesse Gagliano had tested the
15:49 16 .08 SCR-100L, but he had never tested the .9 [verbatim]. Do
15:49 17 you understand that, or does that come to your knowledge?

15:49 18 A. Well, the records that I've looked at, he tested the .09.

15:49 19 Q. Are you sure you didn't look at those records and find out
15:49 20 that he had canceled that test?

15:49 21 A. Well, I see results on the test when I look at it.

15:49 22 Q. All right. We'll get to those in a second.

15:49 23 Now, let's look at your lab weigh-up and notice again
15:49 24 the SCR-100L. Notice the date. First of all, let's look at
15:49 25 the lot number, 6264, *Deepwater Horizon*, the date, 10/22/09,

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15:49 1 and again the sample ID, 54573.

15:50 2 Does that look the same as the one on April 17th,
15:50 3 that part?

15:50 4 A. Yeah. I don't remember the exact number, but if you say
15:50 5 so --

15:50 6 Q. I'm going to represent to you that it's the exact same.

15:50 7 A. Okay.

15:50 8 Q. Now, let's look at your tests, which I believe you then
15:50 9 tried to do on May 28th.

15:50 10 A. Are you saying that I used that to perform a test?

15:50 11 Q. No. You used this before you performed your test on
15:50 12 May 28th, 2010.

15:50 13 A. That right there?

15:50 14 Q. This is what you printed out.

15:50 15 A. I don't recall printing that.

15:50 16 Q. Okay. Let's look at your tests, then, to see what you
15:50 17 used to guide yourself.

15:50 18 A. Okay.

15:50 19 Q. You do remember performing these tests that these
15:50 20 gentlemen from Houston had asked you to do?

15:50 21 A. Yes, the -- yes.

15:50 22 Q. And you did those tests on May 28th, 2010, and on
15:50 23 May 29th, 2010?

15:50 24 A. Yes.

15:50 25 Q. You do remember that?

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15:50 1 A. Yes.

15:50 2 Q. All right. Let's look at TRES-5593.3. This is the
15:50 3 May 28th test and this is the engineer, you, Tim Quirk;
15:50 4 correct?

15:50 5 A. Right. Would you mind going back to the screen before? I
15:51 6 want to make sure I didn't miss something.

15:51 7 Q. Go back, then, to page --

15:51 8 A. To the weigh-up sheet that you had just before.

15:51 9 Q. I'm going to show you right now. 5593.

15:51 10 A. Okay. Okay. That sheet, that 73909, Part 2 right
15:51 11 there --

15:51 12 Q. I'm not sure where you're reading, sir.

15:51 13 A. At the very top. At the very top.

15:51 14 Q. Yeah.

15:51 15 A. Okay. That sheet right there is the part that I was
15:51 16 asking you about a while ago for the thickening time and UCA
15:51 17 strengths that were tested by Jesse before the incident.

15:51 18 Q. Right. I know that. These are the ones that he used
15:51 19 before the incident. You printed them out on May 20th, 2010 --

15:51 20 A. I --

15:51 21 Q. -- so that you could look at -- I'm sorry. Mr. Quirk, let
15:51 22 me finish my question.

15:51 23 You didn't know what to do when you got a phone call
15:51 24 from Houston to perform these tests without looking to see what
15:52 25 Gagliano had used prior to the explosion; is that right?

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15:52 1 A. I would have to see what was used, that's correct.

15:52 2 Q. And you -- do you deny printing out on May 20th, the
15:52 3 weigh-up sheet, which is exactly the same weigh-up sheet from
15:52 4 April 17th, 2010?

15:52 5 A. I don't recall printing that.

15:52 6 Q. Okay. Let's move to your tests of May 28, 2010.

15:52 7 THE COURT: Wait a minute.

15:52 8 MR. BREIT: I'm sorry, Judge.

15:52 9 THE COURT: Under your system, these weigh-up sheets,
15:52 10 that date at the top would always be the date it was printed?
15:52 11 That May 20th date --

15:52 12 THE WITNESS: Well, if you go to the very bottom, it
15:52 13 will show when it was printed. If they match up, then I'll say
15:52 14 the answer is yes.

15:52 15 THE COURT: Let's see what the bottom says.

15:52 16 THE WITNESS: Yes, May 20th, there you go.

15:52 17 THE COURT: Where do you see that?

15:52 18 THE WITNESS: At the very bottom where it says --

15:52 19 MR. BREIT: Right there, Judge.

15:52 20 THE WITNESS: -- see page 1 of 2.

15:52 21 MR. BREIT: Printed on Thursday, May 20th, 2010, at
15:52 22 1:30 p.m.

15:52 23 THE COURT: Okay.

15:52 24 BY MR. BREIT:

15:52 25 Q. So do you now agree that this particular weigh-up sheet

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15:53 1 was printed on that day in order for someone, maybe it was
15:53 2 someone else and not you, to perform some slurry tests?

15:53 3 A. I don't know why it was printed. I don't -- I don't know
15:53 4 who printed it or why it was printed.

15:53 5 Q. Are you suggesting to the Court that there was someone
15:53 6 else on May 20th doing yet another test on this cement slurry
15:53 7 that we don't know about?

15:53 8 A. I'm just saying I don't know anything about this printed
15:53 9 sheet right here. That's all I'm saying.

15:53 10 Q. Let's look at your test then, the one that you do remember
15:53 11 doing on May 28th. Okay? And that would be TREX-5593.3.

15:53 12 A. Okay.

15:53 13 Q. Now, this is the cement lab weigh-up sheet printed on
15:53 14 May 28th, 2010. You remember doing the test on May 28th, don't
15:53 15 you?

15:53 16 A. Or having a technician performing the test, right.

15:53 17 Q. And this is Timothy Quirk, that's you?

15:53 18 A. Right.

15:53 19 Q. And on the zone sealant, SCR-100L, it's Lot No. 6264;
15:53 20 correct?

15:53 21 A. Yes.

15:54 22 Q. But the sample ID is missing from this sheet?

15:54 23 A. Right.

15:54 24 Q. Let's turn to TREX-5593.5, which would be the other part
15:54 25 of this test, and you see the SCR-100L. Let's go to the top

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1 first. This is the same weigh-up sheet for May 28th, 2010.

2 And if you see here the SCR-100L, October 22nd, 2009, and the
3 same exact sample ID, 54573.

4 And I will represent to you that the 54573 is the
5 exact same number that was on Jesse Gagliano's April 17th, 2010
6 sheet. Does that make sense to you?

7 A. Okay. Yes.

8 Q. And so if I understand this correctly, this particular
9 SCR-100L, with this lot number from the *Deepwater Horizon* that
10 was dated into the lab on October 22nd, 2009, with the
11 Sample ID 54573, you used on May 28th, 2010, in order to
12 perform your testing for the two gentlemen in Houston. Isn't
13 that right?

14 A. The sample for Jesse's test is the same -- you can date
15 that back to being the same sample?

16 Q. Yes. I just showed it to you. If you'd like to see it
17 again, I'll show it to you.

18 A. What I'm getting at is a lot number can be the same lot
19 number from different places, and you can use the same lot
20 number for something that's already on the rig.

21 Q. That's exactly why I spent the time with you looking at
22 Jesse Gagliano's April 17th sheet, to show you the
23 Lot No. 6264, the lab date, October 22nd, 2009, and then your
24 representation that the sample ID of 54573 further narrows this
25 particular chemical to being the one used on the *Deepwater*

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15:55 1 *Horizon* just before the explosion.

15:55 2 You said that, didn't you, sir?

15:55 3 A. Yes. I -- I'm a little bit confused right now. I'm
15:56 4 trying to wrap my brain around everything you're saying. I
15:56 5 know where you're going, that I would have taken something out
15:56 6 of the locker. But I didn't -- either we hadn't got to the
15:56 7 point of ever putting it in the locker finally -- I can assure
15:56 8 you, I didn't take anything out of the locker.

15:56 9 Q. What I'm asking you, sir, is that this ID here, 54573,
15:56 10 specifically IDs this chemical as the chemical used by Jesse
15:56 11 Gagliano for his April 17th, 2010 test. That's all I'm asking
15:56 12 you right now.

15:56 13 A. Okay. Okay.

15:56 14 Q. Is that right?

15:56 15 A. It's the same lot number.

15:56 16 Q. It's the same lot number, it's the same lab date number,
15:56 17 and it's the exact same sample ID. Would you agree with me
15:56 18 there?

15:56 19 A. Yes.

15:56 20 Q. And you would agree with me that on May 28th, 2010,
15:56 21 however you got your hands on it, or whoever got their hands on
15:56 22 it, this ID sample product was the product that was being used
15:56 23 by Jesse Gagliano on April 17th, 2010 for that test?

15:57 24 A. It's a -- it's a portion of a sample of it. Now, the --

15:57 25 Q. It's a portion of the sample that had been told to you to

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15:57 1 be secured in your office so that no one else would touch it.

15:57 2 Isn't that true?

15:57 3 A. There's a missing piece to this puzzle. Because I can
15:57 4 assure you that I did not take a sample. Either we -- either
15:57 5 we used a sample of that as last stock and it had the same lab
15:57 6 ID number as a part of that or something.

15:57 7 Q. I asked you, first of all, whether or not this particular
15:57 8 54573 ID'ed this particular chemical as being used, not just
15:57 9 from the lot, not just from the lab date, but the actual
15:57 10 chemical that was used by Jesse Gagliano for his
15:57 11 April 17th test. All I'm asking you: Isn't this the exact
15:57 12 same --

15:57 13 A. I want to --

15:57 14 Q. Let me finish, please.

15:57 15 Isn't that the exact same sample ID that was used by
15:57 16 whoever did this test on May 28th, 2010?

15:57 17 A. Well, I'd like to clarify something.

15:57 18 Q. Go ahead.

15:57 19 A. You can have six or ten samples that have that same ID
15:58 20 number.

15:58 21 Q. You could have six samples that have the same lot number.
15:58 22 This specific sample ID is the one that was being used by
15:58 23 Gagliano on April 17th, 2010, wasn't it? You don't have a
15:58 24 further designation? There is no -- let me finish.

15:58 25 There's no other column, is there? There's a lot

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15:58 1 number that says *Deepwater Horizon*, there's a lab date that
15:58 2 says the lab date, the date the lab got it, and there's a
15:58 3 sample ID that shows the date that this particular rig used
15:58 4 this particular chemical, or the lab did, for purposes of
15:58 5 testing. Isn't that right? They don't use a different sample
15:58 6 ID number and put down the wrong number, do they?

15:58 7 A. I would like to explain. What I'm saying is that in this
15:58 8 time period of October 2009 --

15:58 9 Q. October of 2009, meaning when the lab is securing these
15:58 10 labs, or are we talking about --

15:58 11 A. When the lab received --

15:59 12 **THE COURT:** Let him answer, Mr. Breit.

15:59 13 **THE WITNESS:** I'm saying that in October of 2009,
15:59 14 when the lab received this sample of SCR-100L, there's a
15:59 15 possibility that this sample was split up into different
15:59 16 samples.

15:59 17 What I'm saying is that that sample ID, that
15:59 18 same lot number and sample ID, can be on more than one
15:59 19 container.

15:59 20 **BY MR. BREIT:**

15:59 21 Q. And you would agree with me, would you not, that if it's
15:59 22 even on more than one container, it is a part of the product
15:59 23 that you were told, "take everything from the Macondo well,
15:59 24 anything used on the Macondo well, and put it in your office,
15:59 25 including 54573"?

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15:59 1 You don't leave out stuff that was used on Macondo
15:59 2 because you make a decision, "Well, no one needs it because
15:59 3 I've got a couple of extra bottles."

15:59 4 You were told to put all of it in your closet,
15:59 5 weren't you?

15:59 6 A. If it's part of the lab stock, then -- does it show a rig
16:00 7 there? Because if you scan it, it should show the rig.

16:00 8 Q. I'm telling you, based on testimony that the judge has
16:00 9 that was submitted into the record, Lot No. 6264 is the
16:00 10 *Deepwater Horizon*.

16:00 11 And if Mr. Godwin or anybody from Halliburton wants
16:00 12 to tell me that that's not, then I'm sure we'll hear about it.

16:00 13 So if this is, in fact, the *Deepwater Horizon*, and
16:00 14 this is, in fact, the sample ID that's the same one used on
16:00 15 April 17th, 2010, for whatever reason and however it happened,
16:00 16 you used the same sample ID chemical that had supposedly been
16:00 17 secured in your office before this date?

16:00 18 A. Now, as I'm sitting here now, do we know for sure that the
16:00 19 SCR-100L that was used when Jesse submitted the test was a
16:00 20 sample from the *Deepwater Horizon* and not just Lab Stock 6264?

16:00 21 Q. Let's go back to 4566, and we'll see what he said.

16:01 22 Again, if I could go to the SCR-100 line.

16:01 23 If you see here, SCR-100L, you see Lot No. 6264. You
16:01 24 see source, Transocean, Tank No. 8. You see the exact same
16:01 25 lab, 10-22-09 date, and you see the exact same sample ID,

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1 54573.

2 A. But you don't see Transocean in the blank there next to
3 the SCR-100L.

4 Q. Again, I'll represent to you that there are at least two
5 depositions for the judge that have been taken, Mr. Broussard
6 and Mr. Morgan. 6264 is, in fact, the *Deepwater Horizon*. If
7 it's not, I'm sure we'll hear about it.

8 So if Mr. Gagliano used the sample ID 54573 on his
9 test on April 17th, which is the rig sample that was used to
10 decide whether or not to use this cement down the well on
11 April 20th and April 21st, it is, in fact, the same sample ID
12 that you used on May 28th?

13 A. It --

14 Q. Appears to be, doesn't it?

15 A. All I'm trying to say is that I don't -- I can't tell by
16 looking at this that that's necessarily a *Horizon* sample, is
17 what I'm saying.

18 Q. Okay. Let's go to 5593.4.

19 This would be your lab sheet, Tim Quirk -- top third,
20 please -- May 29th, 2010, the second test that you were doing
21 for the two gentlemen in Houston.

22 And once again, SCR-100L, Lot No. 6264, which I'm
23 going to represent to you is the *Deepwater Horizon*, lab date of
24 October 22nd, 2009, sample ID 54573.

25 Again, that is the same exact lab sample ID number

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16:02 1 for the April 17th test by Mr. Gagliano, is it not?

16:03 2 A. Yes.

16:03 3 Q. Now, let's switch subjects for a second. You knew that
16:03 4 Jesse Gagliano had recommended the BP Kodiak cement that
16:03 5 contained the D-Air 3000. Did you find that out?

16:03 6 A. This weekend.

16:03 7 Q. So any time between April of 2010 to August of 2012 you
16:03 8 never knew, as the head of the lab in Broussard, that Jesse
16:03 9 Gagliano had recommended a lab -- recommend that BP use the
16:03 10 Kodiak cement that had D-Air 3000. You never heard that?

16:03 11 A. The Kodiak blend?

16:03 12 Q. The Kodiak blend was used -- half a dozen witnesses or
16:03 13 more -- that was recommended by Jesse Gagliano to BP that
16:03 14 included the D-Air 3000. You just heard that this weekend for
16:03 15 the first time?

16:04 16 A. Please rephrase the question. I want to make certain I
16:04 17 understand what you're asking me.

16:04 18 Q. I want to know when is the first time you knew that the
16:04 19 cement blend that Jesse Gagliano represented to BP to be the
16:04 20 right blend for this well had D-Air 3000.

16:04 21 A. Okay. You were saying Kodiak. And that's -- D-Air 3000.
16:04 22 Yes, I've been knowing that the blend had D-Air 3000.

16:04 23 Q. Well, let me ask you this question. When did you find out
16:04 24 for the first time that Jesse Gagliano represented to BP that
16:04 25 it would be a good choice to take the Kodiak cement blend that

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1 had been left over on the Kodiak well on the *Deepwater Horizon*
2 when it moved over to Macondo? Did you ever hear that?

3 A. I didn't know anything about specific cement. I knew that
4 they were Kodiak samples, but I didn't -- specific to the
5 cement, I didn't know that the samples of cement that were from
6 Kodiak were used for Macondo. I didn't know that.

7 Q. So from no time between April of 2010 until when you left
8 in August of 2012 did you ever find out that Jesse Gagliano had
9 recommended to BP that this specific Kodiak cement slurry that
10 contained D-Air 3000 should be used on the Macondo well?

11 A. I knew of the design. I didn't know about specific cement
12 samples.

13 Q. When you say you knew of the design, you knew that he had
14 recommended a design that had come from Kodiak that included
15 D-Air 3000?

16 A. Just in the list that I put together, you know, that there
17 were samples of -- were the same recipe, same blend; right.

18 Q. Okay. And you would prefer, if you had been the person
19 asked to design a foam for BP, that it not be blended with
20 D-Air 3000; correct?

21 A. Ideally, you wouldn't want to design it with the
22 D-Air 3000.

23 Q. You would agree that certain additives can destabilize
24 foam cement, like the foam cement that was used on the
25 *Deepwater Horizon*?

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16:06 1 A. Certain additives, yes.

16:06 2 Q. Now, are you familiar with the Halliburton Global
16:06 3 Laboratory Best Practices, TREN-4347-1848-1?

16:06 4 First of all, are you familiar -- or were you
16:06 5 familiar with Halliburton's Global Laboratory Best Practices?

16:06 6 A. Yes.

16:06 7 Q. And you would agree that the best practices of
16:06 8 Halliburton, this particular document, July of 2009, the
16:06 9 defoamer is for base slurry testing purposes only and should
16:06 10 not be included in the foam slurry tests outlined in this
16:06 11 section or in actual job designs.

16:06 12 You would agree that Halliburton's best practices
16:06 13 said, to everyone in the lab, don't use defoamers for an actual
16:06 14 job design?

16:06 15 A. That's what I read there.

16:06 16 Q. And that's correct; right? You knew that?

16:06 17 A. Right.

16:06 18 Q. And you expected all of your lab people to know that?

16:07 19 A. I mean, it's -- it's global best practices.

16:07 20 Q. Now, are you familiar with Halliburton's technology
16:07 21 bulletin on Zone Sealant 2000, TREN-5570?

16:07 22 This is a technology bulletin on Zone Sealant 2000.

16:07 23 MR. BREIT: And then 5570.3, please, compatibility
16:07 24 section. Just that section right there, please, Carl. Thank
16:07 25 you very much.

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15:59 1 BY MR. BREIT:

15:59 2 Q. "Compatibility. Defoamers. Do not use defoamers or
16:07 3 dispersants." They will -- "These materials will destabilize
16:07 4 the foam."

16:07 5 Now, you were aware of that Halliburton
16:07 6 technology bulletin, weren't you, prior to April 20th?

16:07 7 A. Yes. I mean, I can't say that I -- I can't tell you the
16:07 8 last time I read it or memorized it, but I'm sure I read it in
16:07 9 the past.

16:07 10 Q. You would expect your lab people, such as Jesse Gagliano,
16:07 11 who is in the lab but designing cement slurry, to know that
16:08 12 D-Air, defoamers, and dispersants will destabilize a foam.
16:08 13 Wouldn't you expect that?

16:08 14 A. I would rather not speak for Jesse, because I don't
16:08 15 know -- I don't know -- I'm not aware of his knowledge.

16:08 16 Q. You would agree that the Halliburton technology bulletin
16:08 17 goes around to everyone, and people should read it and should
16:08 18 be aware of the fact that these materials would destabilize the
16:08 19 foam?

16:08 20 A. Well, it's a global best practice. So, yes. I mean, it's
16:08 21 something that you want to --

16:08 22 Q. No dispersants; correct? Destabilizes the foam. You were
16:08 23 aware of that; right?

16:08 24 A. That it can destabilize the foam; right.

16:08 25 Q. And that SCR-100 is a dispersant?

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16:08 1 A. It's a --

16:08 2 Q. It's a dispersant?

16:08 3 A. It's a retarder with secondary dispersing properties.

16:08 4 Q. Now, you're familiar with the Halliburton Foam Cementing
16:08 5 Operations Manual, 745.16.1?

16:09 6 A. I'd like to add something. SCR -- to my knowledge, and
16:09 7 working with SCR-100, it's a disperse -- it's a retarder with
16:09 8 secondary dispersant properties. But as it's exposed to
16:09 9 temperature, that -- that changes.

16:09 10 Q. But again, Halliburton, in its own technological bulletin,
16:09 11 suggests and recommends that dispersants, in any purpose, might
16:09 12 destabilize foam and shouldn't be used. You would agree with
16:09 13 that; right?

16:09 14 A. Based on what you just read.

16:09 15 Q. Now, let me show you the Halliburton Foam Cementing
16:09 16 Operations Manual. Are you familiar with that, or were you
16:09 17 before you left?

16:09 18 A. The foam cementing manual?

16:09 19 Q. Halliburton's Foam Cementing Operations Manual. This is
16:09 20 Table 2.1 from that manual.

16:09 21 A. I can't say that I'm that familiar with that.

16:09 22 Q. Would you agree that this particular document, which I
16:09 23 represent to you is Table 2.1 from page 16 of that particular
16:09 24 manual, says that defoamers, such as D-Air, and dispersants,
16:10 25 are incompatible with foam cement?

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1 Again, reaffirming something that was already in
2 another manual.

3 A. Okay.

4 Q. You would agree with that, right, those two things?

5 A. Yes. I agree that a true dispersant is not ideal for
6 foam.

7 Q. Now --

8 MR. BREIT: Thank you, Carl.

9 BY MR. BREIT:

10 Q. Now, you would agree with me, as a lab manager, that you
11 would want to see tests run on the final slurry before it's
12 sent down the well; isn't that right?

13 A. Yes, I would agree with that.

14 Q. And you are aware of the fact that Mr. Gagliano did not
15 test the final slurry that went down that well?

16 A. Did not test --

17 MR. UNDERHILL: Objection, Your Honor. Can we get
18 some clarity as to what he's talking about, "testing"? I mean,
19 there were multiple tests that were run.

20 MR. BREIT: I'll focus it, Your Honor.

21 BY MR. BREIT:

22 Q. The SCR-100 slurry -- that was put in the slurry -- was a
23 .09. That was the one that finally went down into the well.

24 A. Okay.

25 Q. Are you aware of the fact that Jesse Gagliano never asked

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16:11 1 for or ever had a lab final test with that particular .09?

16:11 2 MR. HILL: Objection, misstates the record.

16:11 3 BY MR. BREIT:

16:11 4 Q. Did he ask for it and then cancel the tests? Are you
16:11 5 aware of that?

16:11 6 MR. HILL: Your Honor, maybe I can be helpful. What
16:11 7 tests are you talking about?

16:11 8 MR. BREIT: The final slurry that had .09, that was
16:11 9 eventually used down the well, never got the final testing with
16:11 10 the .09 in it.

16:11 11 MR. HILL: Same objection.

16:11 12 THE COURT: Hold on. Why don't you restate the
16:11 13 question, asking him if he's aware -- if he knows this to be
16:11 14 true or not.

16:11 15 BY MR. BREIT:

16:11 16 Q. Do you know to be true that the April 17th, 2010 lab
16:11 17 weigh-up sheet, which included .09 SCR-100 retardant, was never
16:11 18 given a full, final testing before it was used in the well?

16:11 19 A. The -- what I've looked at shows testing on -- on that.
16:12 20 That's why I'm wanting to know what specific testing, because I
16:12 21 remember seeing thickening time tests. I remember seeing UCA
16:12 22 tests, a couple -- I think maybe two thickening time tests.

16:12 23 Now, the timingwise, I would have to -- you would
16:12 24 have to show me that.

16:12 25 Q. Did you ever become aware of the fact that the .09

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1 retardant SCR-100 that was used in this well, that Jesse
2 Gagliano had ordered up the tests and then canceled that test
3 before it was completed? Did you ever become aware of that?

4 **MR. HILL:** Objection, again. Misstates the record.
5 We haven't even identified the test he's talking about.

6 **THE COURT:** Overruled.

7 **THE WITNESS:** I've looked at --

8 **BY MR. BREIT:**

9 **Q.** If you're not aware of it, then just tell us you're not
10 aware of it.

11 **THE COURT:** Well, wait a minute, Mr. Breit. Let him
12 answer. You asked the question, let him answer.

13 **MR. BREIT:** I apologize, Your Honor.

14 **THE WITNESS:** What I'm trying to say is I looked at
15 testing that was performed on that 73909 Part 2, where I think
16 they ran two thickening times and the UCA tests.

17 Whether or not that was performed before or
18 after the job, I don't know right now. Right now I can't
19 recall. I don't remember.

20 **BY MR. BREIT:**

21 **Q.** At any time during the time period of April through August
22 of 2012, did you ever become aware of the fact that Jesse
23 Gagliano had ordered up testing that he canceled before it was
24 completed?

25 **A.** Well, parts of the test.

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16:13 1 Q. Were never completed?

16:13 2 A. Part -- right. That's correct.

16:13 3 Q. And parts of those tests would have been tests that would
16:13 4 have been in the full battery of tests that would normally be
16:13 5 done on a slurry before it goes down the well; isn't that
16:13 6 right?

16:13 7 A. In some cases, yes.

16:13 8 Q. But it wasn't in this case, was it?

16:13 9 A. No. What I'm getting at is it's -- I'm not -- very seldom
16:13 10 in my position would I know when a job is actually pumped.

16:13 11 I know that, based on communication over the years,
16:13 12 that jobs are pumped before every test is completed on a
16:14 13 specific test. That part I know just based on some of the
16:14 14 communication I've had over the years.

16:14 15 An example would be like a UCA test. You know,
16:14 16 they'll just get results later. Rheology test. Possibly a
16:14 17 fluid loss and a free water test.

16:14 18 Q. My simple question is: Did Gagliano order up some tests
16:14 19 and cancel them, and part of those tests no one ever found out
16:14 20 the answers to before the well was pumped?

16:14 21 A. I remember seeing that he canceled some tests.

16:14 22 Q. That's all I wanted to know.

16:14 23 Now, let me switch subjects on you.

16:14 24 Do you know what a multiple analysis cement slurry
16:14 25 analyzer is?

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16:14 1 A. Yes. Yes, I do.

16:14 2 Q. And you know that a MAC analyzer's purpose is to measure
16:14 3 static gel strength of cement?

16:14 4 A. That's correct.

16:14 5 Q. No MAC analyzer was used prior to April 20th, 2010, was
16:14 6 it? Not that you're aware of?

16:14 7 A. Not that I'm aware of.

16:14 8 Q. And a MAC analyzer tells you how long it takes a slurry to
16:14 9 go from a liquid state to a gel state up to 500 pounds per
16:15 10 100 square feet; isn't that correct?

16:15 11 A. That's correct.

16:15 12 Q. That information is not available unless you run that
16:15 13 test?

16:15 14 A. Unless a specific test had been run similar to that would
16:15 15 be -- but, no, that's correct. You have to run the test to get
16:15 16 the results.

16:15 17 Q. And the person who would have ordered that test, if they
16:15 18 wanted it so they could get the answer to that question prior
16:15 19 to April 20th, 2010, would have been Jesse Gagliano. But he
16:15 20 never asked for it?

16:15 21 A. I mean, I don't -- if there's more than one person
16:15 22 handling the account, possibly somebody else could do it, could
16:15 23 order it.

16:15 24 Q. So the answer to the question is the account manager -- in
16:15 25 this case, Jesse Gagliano -- is the one who's supposed to order

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16:15 1 that test if he wants it?

16:15 2 A. Well, it makes sense. But someone else could also
16:15 3 order --

16:15 4 Q. Well, since April 2010 until August of 2012, I'm sure
16:15 5 you've looked. Nobody had ordered or asked for a MAC analyzer
16:15 6 prior to April 20th, did they? Not Mr. Gagliano and no one
16:16 7 else?

16:16 8 A. Not that I'm aware of.

16:16 9 Q. Okay. Now, let me back up briefly to another subject.

16:16 10 You knew that there had been products from the lab,
16:16 11 products that you had been asked to secure in your office;
16:16 12 correct?

16:16 13 A. Yes.

16:16 14 Q. And I believe you described those products that you were
16:16 15 asked to put in your office as coming from the Macondo well.
16:16 16 Correct?

16:16 17 A. From the *Horizon* rig.

16:16 18 Q. From the *Deepwater Horizon* rig that had been at Macondo;
16:16 19 correct?

16:16 20 A. Initially, I thought it was all just *Horizon* rig samples.

16:16 21 Q. So the *Deepwater Horizon* samples, that's what you were
16:16 22 asked to put in your closet; correct?

16:16 23 A. That's what I recall initially, right.

16:16 24 Q. Now, let's look to see what was put in and was cataloged
16:16 25 on April 30th, 2010, after Tony Angelle had asked you to do it.

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16:16 1 And let's look at TREG-48002. 48002 first.

16:17 2 I'm doing to represent to you that this came from
16:17 3 Tony Angelle's computer custodial file on April 30th, 2010,
16:17 4 showing which products were inside the closet, not yet secured
16:17 5 in an air-conditioned locker, on April 30th, 2010.

16:17 6 Have you ever seen a sheet like this?

16:17 7 A. Yes.

16:17 8 Q. All right.

16:17 9 MR. BREIT: Let's go to 48002.2 and look at what was
16:17 10 in that closet here in the second paragraph.

16:17 11 BY MR. BREIT:

16:17 12 Q. And you see here in your closet, on April 30th, is Well
16:17 13 No. 2, Kodiak, bar code sample date February 23rd, 2010 -- I'm
16:17 14 sorry -- there you go. Thank you -- with lab sample ID 63981,
16:17 15 5-gallon bucket.

16:18 16 And this represents, does it not, that there was a --
16:18 17 half of a 5-gallon bucket in your closet that had come from the
16:18 18 *Deepwater Horizon* and marked coming from Well No. 2 at the
16:18 19 Kodiak; is that right?

16:18 20 A. I don't know that that was in the closet.

16:18 21 MR. BREIT: All right. Well, let's go back to the
16:18 22 first page of 48002, if I can, please.

16:18 23 BY MR. BREIT:

16:18 24 Q. Materials -- materials currently in lab for BP/Transocean
16:18 25 *Horizon* rig.

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1 Now, these are the things that were in the rig from
2 the Transocean *Horizon* rig that were placed somehow, or
3 cataloged, on April 30th, 2010. You would agree with me there,
4 would you not? That's the first page of that document.

5 A. Right. I'm just trying to clarify that I don't know that
6 that was in the locker. That was just from what we gathered up
7 in inventory.

8 Q. Okay. So on April 30th, 2010, you'll agree with me that
9 you gathered up, from the Transocean *Horizon* rig, these
10 materials.

11 MR. BREIT: And now let's go to 48002.2.

12 BY MR. BREIT:

13 Q. And in those particular materials that you gathered up,
14 there was this particular 5-gallon bucket with half of it still
15 remaining with particular cement blend from the Kodiak well
16 with this lab sample 63981.

17 You'd agree with me there, you had gathered it up?

18 A. Yes.

19 Q. And this particular lab sample ID of 63981 specifically
20 identifies a particular cement slurry so that you'll know, if
21 ever there's a request later, exactly what the blend looked
22 like that was used; correct?

23 A. Yes.

24 Q. Now, let's look at TREX-559 for a second -- 5595, I
25 apologize. 5595. This is a lab sheet dated March 7th, 2010,

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16:20 1 Jesse Gagliano, from the Mississippi Canyon 252, which would be
16:20 2 Macondo well; correct?

16:20 3 A. Yes.

16:20 4 Q. And this particular cement weigh-up sheet for March 7th,
16:20 5 2010 lists --

16:20 6 MR. BREIT: And now go to the materials section,
16:20 7 Carl.

16:20 8 BY MR. BREIT:

16:20 9 Q. And this shows that the materials that were used for this
16:20 10 particular March 7th test by Jesse Gagliano came from the
16:20 11 Transocean, that they have the exact same date of
16:20 12 February 23rd, 2010, and they have the exact same sample ID
16:20 13 number, 63981, which is the exact same sample ID of those
16:20 14 materials that were put in your office on April 30th, 2010.

16:20 15 Would you agree with me that's the same sample ID?

16:20 16 A. Yes, based on what I see here.

16:20 17 MR. BREIT: Now, let's go back, if we could, to
16:20 18 48002.2.

16:21 19 THE WITNESS: But that sample right there is not --
16:21 20 it's not -- well, go ahead.

16:21 21 BY MR. BREIT:

16:21 22 Q. I'm sorry. Let me -- finish your answer.

16:21 23 A. I'm sorry?

16:21 24 Q. It was the same sample ID, was it not, 63981? Same date,
16:21 25 February 23rd, 2010, wasn't it?

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16:21 1 A. Yeah.

16:21 2 Q. Yes?

16:21 3 A. Yeah, I think so.

16:21 4 Q. Now, let's look at what was in the Kodiak cement here that
16:21 5 was in your office on April 30th, 2010, and compare it to the
16:21 6 April 17th, 2010 test, TRES-3110.

16:21 7 MR. BREIT: So TRES-3110-48002.2, please, Carl.

16:21 8 BY MR. BREIT:

16:21 9 Q. And if you see here, the Macondo blend that's in your
16:22 10 closet has the exact same ingredients as the Kodiak II cement.
16:22 11 Do you not see that?

16:22 12 A. Yes, I see that.

16:22 13 Q. And do you see here that your Kodiak cement has the exact
16:22 14 same -- every ingredient in the exact same amount; is that
16:22 15 right?

16:22 16 A. Yes, I see that.

16:22 17 Q. Now, if you look at the Kodiak cement with lab sample
16:22 18 63981 --

16:22 19 MR. BREIT: Let's go look at TRES-3110 by itself, the
16:22 20 April 17th -- I'm sorry -- back to the March 7th, I'm sorry,
16:22 21 which would be 5595. Again, the materials section, sample ID,
16:23 22 63981.

16:23 23 BY MR. BREIT:

16:23 24 Q. And so on April 30th, you had the exact chemicals in your
16:23 25 closet from the Kodiak cement blend as you did from the Macondo

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16:23 1 blend. They were exactly identical; correct?

16:23 2 A. They were in the -- they weren't in the closet.

16:23 3 Q. They were in your office? They were secured in your
16:23 4 office, as coming from the Transocean rig; correct?

16:23 5 A. At what point were they in my office?

16:23 6 Q. April 30th.

16:23 7 A. Yes. At the time that I gathered up everything, right.

16:23 8 Q. On April 30th, you had gathered up those things and you
16:23 9 were told to secure those things so that no one would take
16:23 10 them, no one would touch them, and nothing would happen to
16:23 11 them; correct?

16:23 12 A. Well, there was a misunderstanding about that.

16:23 13 Q. Well, before we get to the misunderstanding, you were told
16:23 14 by higher-ups to put in your closet everything from the
16:24 15 Transocean rig; and it included a bucket that said
16:24 16 "Transocean," and it had the Kodiak cement which was the exact
16:24 17 identical chemical blend makeup as the cement that was used on
16:24 18 the *Deepwater Horizon* on April 17th, wasn't it?

16:24 19 A. The ingredients were the same.

16:24 20 Q. Now, you would agree with me that despite being told that
16:24 21 those materials should remain in your office and secured and
16:24 22 not touched, that somehow, between April 30th, 2010 and
16:24 23 July 20, 2010, the cement bucket that had the word "Kodiak" and
16:24 24 "Transocean rig" somehow got moved and disappeared?

16:24 25 A. All of the samples that were Kodiak got moved.

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16:24 1 Q. The question is: Was the sample that you had put in your
16:24 2 closet, the April 30th sample that had 63981, that was used by
16:24 3 Jesse Gagliano on March 7th, that you were supposed to secure
16:25 4 in your office so that no one would touch it, that had the
16:25 5 exact chemical makeup of the Macondo well cement, that was used
16:25 6 on April 17th, somehow, between April 30th and July 20th, it
16:25 7 went missing, didn't it?

16:25 8 A. No, sir. What I'm trying to say is that I misunderstood
16:25 9 Tony Angelle's instructions. And those instructions were to
16:25 10 secure the Macondo well cement samples. I took everything that
16:25 11 was not Macondo and put it in our warehouse.

16:25 12 Q. So after you were told to secure everything from the
16:25 13 Transocean rig and you had, in fact, secured the Transocean rig
16:25 14 cement that had been used by Jesse Gagliano on March 7th on the
16:25 15 Macondo well -- let me finish my question, please, sir -- it's
16:25 16 the exact same chemical ID -- are you telling me that
16:25 17 everything -- somehow, between April 30th, you decided to move
16:26 18 it out, not put it in the locked locker, and somehow up until
16:26 19 last week, Wednesday, is the first time in three years someone
16:26 20 from Halliburton realized that the Kodiak cement that had been
16:26 21 used on the Macondo well was sitting on a shelf in a closet?

16:26 22 A. Yes. I did not know that the sample of cement that was
16:26 23 labeled "Kodiak," whatever that other location was, was used
16:26 24 for Macondo. I have no way of knowing that by looking at that
16:26 25 sample. All I see is Kodiak from some other location.

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16:26 1 Q. So you moved it?

16:26 2 A. I was asked to secure the Macondo well Mississippi Canyon
16:26 3 sample. That's what I did. I misunderstood him initially. He
16:26 4 corrected me, so I took those samples, put them back in -- I
16:26 5 didn't discard them. I put them back in the warehouse and
16:26 6 secured the Macondo well cement samples.

16:26 7 I had no way of knowing.

16:26 8 Q. So is it your testimony that after July 20th, when somehow
16:26 9 they didn't make it into the air-conditioned locker, after the
16:27 10 United States Government issued you a subpoena, after three
16:27 11 different commissions looking for the cement to test on the
16:27 12 Macondo well, you didn't think for a second, Hey, maybe I
16:27 13 should look at the cement that I had secured from the
16:27 14 Transocean rig that had the exact same chemical ID because
16:27 15 someone may be looking for it?

16:27 16 A. Sir, with all due respect, if I was going to take the
16:27 17 Macondo well cement, put it -- why wouldn't I grab the other
16:27 18 cement sample and put it in? I had no reason not to do that.

16:27 19 I did not know that -- I did not -- I had no --
16:27 20 any -- all of my history, if I look at a cement sample labeled
16:27 21 a different well and a different location, how am I to assume
16:27 22 that that's -- it's a different location, a different rig? I
16:27 23 see it as a complete -- not being the same cement. That's --
16:27 24 that's my -- that's the truth.

16:27 25 Q. Well, you understood April 30th, when you were securing

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1 materials from the Transocean rig, that they included the
2 Kodiak cement in that 5-gallon bucket and it included at least
3 two or three other Kodiak cement plugs.

4 Do you remember that?

5 A. They had other samples that weren't Macondo well.

6 That's --

7 Q. And can you explain to this Court why, a week ago, only
8 one of those buckets of Kodiak, one bucket sitting on an upper
9 shelf, was found three years after the fact, but no other
10 Kodiak cement was found, just the one that had been removed
11 from your office on April 30th, until last week? Can you
12 explain that, why only one of three managed to be there? If
13 you were going to move all of the Kodiak cement out, why just
14 one?

15 A. I didn't say -- I'm saying every other -- anything that
16 was not -- I wasn't -- I was not paying attention to whether it
17 was Kodiak. That meant nothing to me.

18 I was just looking at what was Macondo. Anything
19 that wasn't Macondo was removed from -- was not put in the
20 locker. I didn't --

21 Q. But you knew there was a subpoena. Didn't anyone from
22 Houston call you and say, "Hey, we're trying to gather up these
23 chemicals"?

24 We already know that on May 28th and May 29th, you
25 used the SCR-100L that had been used on this particular well

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16:28 1 from whatever bottle you got it from. Did anyone ask you,
16:29 2 "Where is the rest of the cement?"

16:29 3 A. I don't recall anybody talking to me about the Kodiak
16:29 4 samples.

16:29 5 MR. BREIT: I have no other questions, Your Honor.

16:29 6 THE COURT: Mr. Quirk, I want to clarify something.
16:29 7 The materials, the samples, whatever they were called, that you
16:29 8 originally secured in your office --

16:29 9 THE WITNESS: Yes, sir.

16:29 10 THE COURT: -- where did those come from?

16:29 11 THE WITNESS: Just from my material storage area
16:29 12 where we retain all of our samples that come in from rigs.

16:29 13 THE COURT: So I'm just trying to understand. So you
16:29 14 had originally moved into your office all these samples, and
16:29 15 then at some point you -- you've explained why you moved some
16:29 16 out. Is that what --

16:29 17 THE WITNESS: Yeah. I gathered up -- when Tony
16:29 18 Angelle asked me to gather the samples, I gathered the -- all
16:29 19 the Transocean rig samples. And then when I gave him a list of
16:29 20 everything that I had inventoried, he said that we just need to
16:30 21 secure the Macondo well samples.

16:30 22 So I made a new list with just the Macondo well
16:30 23 samples and put those samples into the locker and secured it.
16:30 24 Everything else I put back into the storage area in our storage
16:30 25 warehouse.

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16:30 1 THE COURT: What exactly is it that the -- the cement
16:30 2 that was located last week, where do that come from?

16:30 3 THE WITNESS: In our storage warehouse.

16:30 4 THE COURT: Okay. Are you finished?

16:30 5 MR. BREIT: Two follow-ups, Your Honor, if I could.

16:30 6 BY MR. BREIT:

16:30 7 Q. You would agree with me that those cements degrade, as do
16:30 8 the chemical additives, over time?

16:30 9 A. There's a shelf life on cement and additives.

16:30 10 Q. And after that shelf life, you can't test the same things,
16:30 11 can you? You don't get the same results with the same tests?

16:30 12 A. I don't know that for a fact, but you could run some type
16:30 13 of quality control test, I assume, to determine whether or not
16:30 14 it would act like, you know -- or it would behave --

16:30 15 Q. And you would agree they have a shelf life, though, that
16:30 16 degrades over time?

16:31 17 A. It depended on what it's exposed to. I could see where
16:31 18 that could happen.

16:31 19 Q. You would agree that the closet, the storage closet, isn't
16:31 20 an air-controlled unit like your locker, is it?

16:31 21 A. It's climate-controlled.

16:31 22 MR. BREIT: Okay. Thank you, Your Honor.

16:31 23 THE COURT: United States have any questions?

16:31 24 MS. McCLELLAN: Yes. Good afternoon, Your Honor.

16:31 25 Mr. Quirk, Jessica McClellan for the United

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1 States.

2 And I have the witness on cross-examination.

3 If we could please have Demonstrative 3602.

4 The Court has heard testimony about the printed
5 lab weigh-up sheets that Halliburton used pertaining to the
6 Macondo well's production casing and cement job. Your Honor,
7 you've heard about a few of these lab weigh-up sheets. You've
8 also heard over the past few weeks about a few of the lab
9 reports that were generated by Halliburton's account
10 representative, Mr. Gagliano, and provided to BP.

11 In order to avoid duplication today, I'd like to
12 focus on the internal link that was the method of communication
13 between the account representative and the cement laboratory,
14 which was the Viking system.

15 Your Honor, the foundation laid for the Viking
16 screen shot hasn't been laid with any witness, because those
17 exhibits were produced after --

18 **THE COURT:** I'm trying to understand -- first of all,
19 the United States hasn't sued Halliburton, have you?

20 **MS. McCLELLAN:** Your Honor, we'd like to walk
21 through -- for Your Honor's convenience -- you had expressed
22 frustration last week with the way that the plaintiffs had
23 presented the lab testing information because there were a lot
24 of tests. And so we --

25 **THE COURT:** Are you talking about the chain of

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16:32 1 custody here?

16:32 2 **MS. McCLELLAN:** No, Your Honor. We are not going to
16:32 3 be addressing any of the territories that Mr. Breit has just
16:32 4 covered with the witness. Instead, we would just like to show
16:32 5 the flow of information within Halliburton's lab.

16:33 6 **THE COURT:** Go ahead.

16:33 7 **MS. McCLELLAN:** So with respect to the Viking screen
16:33 8 shots, we do believe that Mr. Quirk would be a proper
16:33 9 custodian. He was Halliburton's 30(b)(6) witness for some of
16:33 10 the February and April lab testing.

16:33 11 **THE COURT:** If you have any questions for him, go
16:33 12 ahead and ask.

16:33 13 **CROSS-EXAMINATION**

16:33 14 **BY MS. McCLELLAN:**

16:33 15 **Q.** Mr. Quirk, you're not currently employed by Halliburton,
16:33 16 are you?

16:33 17 **A.** No, ma'am.

16:33 18 **Q.** But in February and April of 2010, you were employed by
16:33 19 Halliburton?

16:33 20 **A.** Yes.

16:33 21 **Q.** And you were the area lab manager for Halliburton's Gulf
16:33 22 of Mexico region?

16:33 23 **A.** That's correct, the fluids lab.

16:33 24 **Q.** In February and April of 2010, how did the Broussard
16:33 25 cement lab receive test requests?

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16:33 1 A. Through the Viking lab database management system.

16:33 2 Q. And you're familiar with that system as the former area
16:33 3 lab manager for Halliburton?

16:33 4 A. Yes, ma'am.

16:33 5 Q. Did the lab use the same system for reporting test
16:33 6 results?

16:34 7 A. The system was designed for the labs and the engineers and
16:34 8 service coordinators, and everybody used -- everyone involved
16:34 9 used that system to generate a lab report.

16:34 10 Q. And Viking would allow a user to see the test stats after
16:34 11 a request had been submitted?

16:34 12 A. The individual that submitted the request could see
16:34 13 results as it was given from the lab technicians.

16:34 14 Q. Thank you.

16:34 15 MS. McCLELLAN: If we could have TRES-37042.4.1 with
16:34 16 TRES-802-W.1.1.

16:34 17 Your Honor, to illustrate the flow of
16:34 18 information pertaining to the Halliburton lab cement testing,
16:34 19 what I would like to do is with one test, use a side-by-side
16:34 20 comparison of the Viking screen shots with the lab weigh-up
16:34 21 sheets for the first test that was performed on the Macondo
16:34 22 slurry, which was the February thickening-time test, in order
16:34 23 to give the Court a clear and concise example as to how the
16:34 24 flow of information was at the Halliburton lab.

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16:35 1 BY MS. McCLELLAN:

16:35 2 Q. So, Mr. Quirk, on the left, for orientation purposes, is a
16:35 3 screen shot for Viking from the February testing; and on the
16:35 4 right is the first weigh-up sheet, dated February the 10th.

16:35 5 MS. McCLELLAN: If we could have TREN-37042.4.2 with
16:35 6 the 802-W.1.2. This is just a fly-out.

16:35 7 BY MS. McCLELLAN:

16:35 8 Q. Mr. Quirk, do you recognize on top that the Viking screen
16:35 9 shot, as well as the weigh-up sheet on the bottom, both pertain
16:35 10 to Request ID 65112?

16:35 11 A. Yes, I guess it looks like it. It's kind of blurry at the
16:35 12 top, but I will . . .

16:35 13 Q. As shown on the top, it was Halliburton's account
16:35 14 representative, Mr. Gagliano, who initiated this request in
16:35 15 Viking?

16:35 16 A. Yes. I see that.

16:35 17 MS. McCLELLAN: If we could have TREN-48193.3.2 with
16:36 18 802-W.1.4.

16:36 19 BY MS. McCLELLAN:

16:36 20 Q. Do you see on top that -- do you see on top that -- the
16:36 21 additives that were used are shown in Viking on the screen shot
16:36 22 on the top?

16:36 23 A. Yes, I see that.

16:36 24 Q. And it would have been Mr. Gagliano who specified the
16:36 25 additives to be used in the testing; correct?

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16:36 1 A. That's correct.

16:36 2 Q. And the additives are then reproduced dependent on the
16:36 3 bottom in the materials section of the weigh-up sheet?

16:36 4 A. That's correct.

16:36 5 MS. McCLELLAN: If we could have TREX-48193.4.3 with
16:36 6 TREX-802-W.2.5.

16:36 7 BY MS. McCLELLAN:

16:36 8 Q. Mr. Gagliano also specified the required test in the
16:36 9 Viking system as shown on the top; correct?

16:36 10 A. That's correct.

16:36 11 Q. And the tests were also printed on the weigh-up sheet on
16:36 12 the bottom that the lab used?

16:36 13 A. Yes.

16:36 14 Q. Both the screen shot and the weigh-up sheet show that each
16:36 15 test has a unique test ID?

16:37 16 A. Yes.

16:37 17 Q. And on the top in Viking, there's also a section for
16:37 18 conditions; correct?

16:37 19 A. Yes, ma'am.

16:37 20 Q. For example, Mr. Gagliano specified for the thickening
16:37 21 time test, he needed a five- to six-hour pump time window; is
16:37 22 that correct?

16:37 23 A. That's correct.

16:37 24 Q. And that condition, as well as the others, are all
16:37 25 reproduced on the bottom on the weigh-up sheet?

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16:37 1 A. Yes, ma'am.

16:37 2 Q. How was the lab notified that Mr. Gagliano had submitted
16:37 3 these requests in Viking for testing?

16:37 4 A. The system is designed with a request queue. And as soon
16:37 5 as Jesse, or anyone, for that matter, would submit a request,
16:37 6 it would go into that queue, and the lab would recognize that
16:37 7 there's a test in the queue.

16:37 8 Q. So after receiving the test in the lab with a pump time
16:37 9 requirement of five to six hours, what would have been the
16:37 10 first thing that the lab did?

16:37 11 A. Unless specific instructions were given, they would, you
16:38 12 know, search the database and he'd try to determine a volume of
16:38 13 additives -- of retarder in this case, if you're looking for
16:38 14 five to six hours. So SCR-100L, they would search the database
16:38 15 to try to look at slurries that we tested or they would have
16:38 16 tested at that temperature, unless specific instructions -- for
16:38 17 example, you know, if he had tested maybe, you know, something
16:38 18 very similar, he may give specific instructions to the lab to
16:38 19 say "Just run this volume," in which case the lab would --

16:38 20 Q. So in this instance, the lab first selected the retarder
16:38 21 concentration to start testing with.

16:38 22 MS. McCLELLAN: If we could pull up TREX-48193.3.4
16:38 23 with TREX-802-W.1.6.

16:38 24 BY MS. McCLELLAN:

16:38 25 Q. We see that the lab selected .10 gallons per sack of

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16:38 1 SCR-100L retarder?

16:38 2 A. Well, I don't know that for sure. I mean, it's possible
16:38 3 that when Jesse submitted the request, that he started it with
16:39 4 .17 and the lab person agreed with that and just put it off the
16:39 5 weigh sheet. Whether or not it was changed from Jesse's
16:39 6 originally request, I don't know.

16:39 7 Q. Well, after the lab picker starting the retarder
16:39 8 concentration, they would then print the weigh-up sheet; would
16:39 9 that be the next step?

16:39 10 A. That's correct.

16:39 11 Q. If we could have TRES-802W.1.7, we see here that the lab
16:39 12 started the thickening time test on February the 11th, at 11:06
16:39 13 in the evening; is that correct?

16:39 14 A. It looks like 11:06 p.m. on February 11th.

16:39 15 Q. And if we could have Demonstrative 3601A, is what you just
16:39 16 saw on the weigh-up sheet showing that the first thickening
16:39 17 time test on the .10 gallons per sack retarder was started on
16:39 18 February 11th at 11:06 p.m.? Is that accurately reflected on
16:40 19 the weigh-up sheet?

16:40 20 A. Is that what we just read?

16:40 21 Q. That's correct.

16:40 22 A. Okay. Okay. I'm not familiar with what I'm looking at
16:40 23 right here. This was generated by you, I guess, or somebody --

16:40 24 Q. Yes, it is.

16:40 25 What we've tried to do for the Court is simplify all

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16:40 1 of the weigh-up sheets and put in the dates and times of each
16:40 2 test starting, as well as some of the comments that are made.

16:40 3 A. I'm sorry --

16:40 4 Q. So my question is simply whether the entry that we just
16:40 5 looked at -- and we can look at it again -- TREX-802-W --

16:40 6 A. I'm sorry, but I thought it was .17 that we had that the
16:40 7 slurry showed just now that we looked at. I may be -- you
16:40 8 know, in the recipe for the SCR-100L.

16:40 9 Q. The first retarded -- starting retarder concentration was
16:40 10 .10.

16:40 11 A. Is that what we just looked at?

16:40 12 Q. Yes.

16:40 13 A. Is that what you showed me?

16:40 14 Q. Yes.

16:40 15 A. Okay. This is just not clear. I looked at that and I
16:40 16 thought that was a 7. Okay.

16:40 17 Q. Thank you.

16:40 18 A. Okay.

16:41 19 **MS. McCLELLAN:** All right. If we could go back to
16:41 20 TREX-802W.1.7.

16:41 21 **BY MS. McCLELLAN:**

16:41 22 Q. Mr. Quirk, the weigh-up sheet also has spaces where the
16:41 23 lab technician can fill in the results of the tests?

16:41 24 A. Yes, ma'am.

16:41 25 Q. And as we see for the first thickening time test, the time

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16:41 1 that it took to reach 70 BC -- which is when it would be
16:41 2 unpumpable; correct?

16:41 3 A. Yes, ma'am.

16:41 4 Q. That was three hours and four minutes?

16:41 5 A. Yes, ma'am.

16:41 6 Q. And so that thickening time result of three hours and four
16:41 7 minutes didn't meet the requirement that Mr. Gagliano had
16:41 8 specified of five to six hours, did it?

16:41 9 A. That's correct.

16:41 10 MS. McCLELLAN: If we could have TREN-48195.1.2.

16:41 11 BY MS. McCLELLAN:

16:41 12 Q. Even though the test result did not meet the five- or
16:41 13 six-hour requirement, the result was still entered into the
16:41 14 Viking as shown on the screen; correct?

16:41 15 A. Yes, ma'am.

16:41 16 Q. In February and April of 2010, did Halliburton's lab
16:41 17 routinely enter test results into Viking even if the result did
16:41 18 not meet the requirement?

16:41 19 A. Yes, ma'am.

16:41 20 Q. And why was that so?

16:42 21 A. Just to have, you know, a record of progression to
16:42 22 establish the criteria -- test criteria.

16:42 23 MS. McCLELLAN: If we could have TREN-48193.7.6 with
16:42 24 802X.1.2.

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16:42 1 BY MS. McCLELLAN:

16:42 2 Q. Since the pump time requirement of five to six hours
16:42 3 wasn't met, the lab increased the retarder concentration to .14
16:42 4 gallons per sack and ran the thickening time test again;
16:42 5 correct?

16:42 6 A. That's what -- that's what appears to have happened there.
16:42 7 Correct.

16:42 8 MS. McCLELLAN: And if we could have TREX-802X.1.4
16:42 9 with 48195.5.4.

16:42 10 BY MS. McCLELLAN:

16:42 11 Q. Here, we see that the lab started the second February
16:42 12 thickening time test on February the 12th at 3:08 a.m.

16:42 13 A. Okay.

16:42 14 MS. McCLELLAN: And if we could have the
16:43 15 Demonstrative 3601A.

16:43 16 BY MS. McCLELLAN:

16:43 17 Q. That date and time are accurately reflected here on the
16:43 18 demonstrative calendar; correct?

16:43 19 A. Yes, ma'am.

16:43 20 THE COURT: So what's the point of this exercise?

16:43 21 MS. McCLELLAN: Your Honor --

16:43 22 THE COURT: Are you just trying to show that the
16:43 23 weigh-in sheet information and the Viking information are the
16:43 24 same? It's the same or consistent?

16:43 25 MS. McCLELLAN: Yes, Your Honor, and we are also --

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1 we've chosen one test that we don't believe there's any dispute
2 with the parties on in order to walk through the process as to
3 how the lab communicated with the account representative.

4 **THE COURT:** Well, I'm just trying to see if we can
5 cut through all of this. I mean, is there any dispute about
6 this? What's the ultimate point here? That's what I'm trying
7 to get to.

8 **MS. McCLELLAN:** Absolutely, Your Honor. We have a
9 list of all of the weigh-up sheets as well as the Viking screen
10 shots that we would move for admission into the record.

11 **THE COURT:** These are not otherwise in the record or
12 not going to be in the record otherwise?

13 **MS. McCLELLAN:** They have not been admitted as of
14 yet, and I was using Mr. Quirk in order to lay the foundation
15 for one of the tests that could then have been extrapolated to
16 all of the Viking screen shots as well as the weigh-up sheets,
17 in order to make sure that the record is complete.

18 But I can move along, Your Honor.

19 **THE COURT:** I'm just trying to find out what the
20 point is here, what's the relevance, what we're trying to prove
21 here. I've got to tell you, I'm not following you.

22 **MS. McCLELLAN:** Thank you, Your Honor.

23 **THE COURT:** I don't know if there's any problem with
24 admitting those documents or not, but I don't know where we're
25 going with this.

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16:44 1 **MR. HILL:** Your Honor, from Halliburton's position,
16:44 2 we'd be happy to look at what they want in. If there's a
16:44 3 legitimate set of documents pertaining to --

16:44 4 **THE COURT:** Are these -- are you trying to introduce
16:44 5 the Viking documents and the weigh-in sheets pertaining to --

16:45 6 **MS. McCLELLAN:** All pertaining to --

16:45 7 **THE COURT:** -- all the various tests that were done
16:45 8 on the cement slurry before and after the incident, pertaining
16:45 9 to Macondo well?

16:45 10 **MS. McCLELLAN:** Only those pertaining to before the
16:45 11 incident, Your Honor, which would have been the February and
16:45 12 April testing of the Macondo.

16:45 13 **THE COURT:** I would have assumed somebody would have
16:45 14 already offered those. I'm surprised. They're not in evidence
16:45 15 already?

16:45 16 **MS. McCLELLAN:** Not yet, Your Honor, not totally.

16:45 17 **MR. HILL:** Sir, I think pieces are in.

16:45 18 **MS. McCLELLAN:** I have a complete production, Your
16:45 19 Honor.

16:45 20 **THE COURT:** Does anybody have any objection to this?

16:45 21 All right. Those are admitted.

16:45 22 **MR. HILL:** Your Honor, do you mind if we review them
16:45 23 to make sure they are actually Macondo-related?

16:45 24 **THE COURT:** Okay. All right.

16:45 25 **MR. REGAN:** We can take a look.

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16:45 1 MS. McCLELLAN: I'll be happy to circulate them.

16:45 2 THE COURT: Well, assuming they are what she just
16:45 3 said they were, purport to be, which I assume they are, those
16:45 4 are admitted. Okay.

16:45 5 MR. REGAN: I think Mr. -- I mean, I don't want to
16:45 6 speak for Halliburton, but I think Mr. Gagliano will be a
16:45 7 witness later in the trial, and he actually would be a
16:45 8 percipient witness to those documents.

16:45 9 THE COURT: Okay. Okay.

16:45 10 You like that word, don't you, "percipient"?

16:46 11 MR. REGAN: He saw it.

16:46 12 MS. McCLELLAN: If we could please have
16:46 13 TREX-802X.16.9 with TREX-48195.9.6.

16:46 14 BY MS. McCLELLAN:

16:46 15 Q. I'd like to talk about a few of the comments that are
16:46 16 shown on the weigh-up sheet that the Court has already heard
16:46 17 some testimony about.

16:46 18 The Court has heard testimony concerning stability
16:46 19 testing on the Macondo slurry. And as shown on the weigh-up
16:46 20 sheet for the foam crush compressive strength test on the
16:46 21 .20 slurry in February, there's a notation that the slurry is
16:46 22 settling on top. Do you see that?

16:46 23 A. Yes, ma'am.

16:46 24 Q. And do you also see that comment, "Reproduced on the
16:46 25 bottom", in the Viking screen shot?

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16:46 1 A. Is that "Severe settling"?

16:46 2 Q. Correct.

16:46 3 A. Okay.

16:46 4 Q. Based on your knowledge and experience in the Broussard
16:46 5 lab practices, how would the lab have known that there was
16:47 6 settling during a crush compressive strength test?

16:47 7 A. Well, as I read this, it was not a crush compressive
16:47 8 strength. The slurry was not set. It just has that -- you see
16:47 9 the compressive strength is 0. He has "the slurry is settling,
16:47 10 will repeat the test."

16:47 11 From what I read there, he didn't -- he didn't
16:47 12 condition the slurry prior to pouring it, and so he was going
16:47 13 to repeat it by conditioning the slurry.

16:47 14 Q. And because the lab noted that the slurry was settling,
16:47 15 this test would have been stopped; correct?

16:47 16 A. That's correct.

16:47 17 Q. And we see on the bottom of the Viking screen shot that
16:47 18 the test data was "test/tests failed"?

16:47 19 A. Yes.

16:47 20 Q. The Court has heard testimony about various tests in this
16:47 21 litigation that were performed at Halliburton's lab that
16:47 22 failed. Could you explain what that means?

16:47 23 A. That there was a little bit of confusion regarding whether
16:48 24 or not -- that some of the techs, I don't think, were all in
16:48 25 sync. But "tests/test failed" would typically indicate --

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1 well, it should indicate that there was a problem with the
2 test, meaning that we had equipment malfunction or maybe, you
3 know, something else related to -- not specific to the slurry
4 design, but equipment or some -- some type of error.

5 Q. So is it fair to say, then, that a "test fail" does not
6 mean that the slurry design has failed?

7 A. That's not what it -- that's not what it was intended --
8 as it was intended to be used at the Gulf of Mexico Fluids Lab.

9 Q. And is it the role of a lab technician to determine
10 whether a particular result is acceptable?

11 A. Well, in a case where it's -- where it's clear or a
12 specific parameter -- for example, a five- to six-hour
13 thickening time, that's quite clear -- it would be -- in a case
14 where a technician has noticed something out of the ordinary in
15 a case, like settling, then the technician would be -- it would
16 be expected that the technician would make note of that and
17 then, at that point, make a decision whether to communicate
18 with someone, whether it be the shift leader or engineer or lab
19 manager or something like that.

20 Q. But does the lab make a decision as to whether a slurry
21 design is appropriate for use on a job?

22 A. The lab just -- the job of the field test of the
23 laboratory is to test the slurry and then report the results.
24 The individual that submits the request has to make that
25 decision.

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16:49 1 MS. McCLELLAN: If we could have TREX-48194.8.2.

16:49 2 BY MS. McCLELLAN:

16:49 3 Q. Mr. Quirk, the Court has also heard testimony about the
16:49 4 tests that were not performed on the .09 slurry, which was the
16:49 5 slurry that was actually pumped on the Macondo well's
16:50 6 production casing.

16:50 7 You're familiar with that?

16:50 8 A. Yes.

16:50 9 Q. This Viking screen shot, TREX-48194, shows the tests that
16:50 10 were actually performed on the .09 slurry; is that correct?

16:50 11 A. It's showing a thickening time, a repeat, and a UCA
16:50 12 compressive strength.

16:50 13 Q. Does that refresh your recollection earlier --

16:50 14 A. The miscibility and a mud -- and a pressurized mud
16:50 15 analysis. I'm just looking at where it says "finished," right
16:50 16 there on the right.

16:50 17 Q. Does this refresh your recollection earlier that you
16:50 18 recalled that there were two thickening time tests that were
16:50 19 run as well as the UCA test?

16:50 20 A. Yes, ma'am.

16:50 21 MS. McCLELLAN: One final area. If we could please
16:50 22 have TREX-3773.1.2.

16:50 23 BY MS. McCLELLAN:

16:50 24 Q. Mr. Quirk, do you recognize this e-mail? This is a
16:51 25 July 14th e-mail from Richard Vargo of Halliburton to you and

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16:51 1 Mr. Richard Dubois?

16:51 2 A. I don't recall what that's about without -- maybe if I
16:51 3 could see the attachment.

16:51 4 MS. McCLELLAN: Yes. If we could have 3773.4.3.

16:51 5 BY MS. McCLELLAN:

16:51 6 Q. Attached to this July 14th e-mail is a copy of BP's E & P
16:51 7 Segment Recommended Practice Drilling and Completions Cementing
16:51 8 Manual, Cement Lab Section on Testing, which we have called in
16:51 9 this litigation SRP 4.1-0003; is that correct?

16:51 10 A. Yes, that's what I see there.

16:51 11 Q. Had you seen BP's cement laboratory testing section before
16:52 12 April 20th, 2010?

16:52 13 A. I remember looking at -- at a BP document like that. I
16:52 14 can't recall the dates.

16:52 15 Q. Well, does the e-mail that -- this document that's
16:52 16 attached, does that refresh your recollection of July the 14th,
16:52 17 2010?

16:52 18 A. I mean, it's -- some. Very, very cloudy. I do remember
16:52 19 something about it, now that I'm looking at it, but I don't
16:52 20 recall -- I just don't have much recollection about this right
16:52 21 now.

16:52 22 Q. Okay.

16:52 23 MS. McCLELLAN: No other questions, Your Honor.

16:52 24 Thank you.

16:52 25 THE COURT: All right. Does Alabama have any

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16:52 1 questions?

16:52 2 **MR. MAZE:** Yes, Your Honor. Very brief.

16:52 3 Corey Maze for the State of Alabama on cross-examination.

16:52 4 I'd actually like to pick up where Your Honor was
16:53 5 asking questions at the end of Mr. Breit's, an explanation of
16:53 6 where this bucket was found.

7 Carl, if you could bring up Demonstrative 325 --
8 excuse me, 3264 -- that's TREX-23063.

9

10 **CROSS-EXAMINATION**

16:52 11 **BY MR. MAZE:**

16:53 12 **Q.** Now, Mr. Quirk, you testified that at some point you were
16:53 13 told to separate the buckets from the Macondo well and those
16:53 14 that were separated as Kodiak; correct?

16:53 15 **A.** I -- not really worded that way. I just -- I was asked to
16:53 16 secure the Macondo well samples.

16:53 17 **Q.** Okay. So you had to do something different with the
16:53 18 Kodiak samples; correct?

16:53 19 **A.** Remove them from the -- well, just not have them as part
16:53 20 of the isolated samples.

16:53 21 **Q.** Do you recognize this shelf that is in TREX-23063?

16:53 22 **A.** Yes. That's the storage in the Gulf of Mexico Fluids Lab.

16:53 23 **Q.** Is this where you would have put the four buckets that
16:54 24 were labeled "Kodiak"?

16:54 25 **A.** As well as everything else.

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16:54 1 Q. As well as everything else that wasn't labeled "Macondo"?

16:54 2 A. I don't recall whether or not it was there the whole time.
16:54 3 My memory is that it -- on the top shelf, I think, at the time
16:54 4 that I left Halliburton, but I can't say that I walked out
16:54 5 there every day and looked at the samples. I just -- that's my
16:54 6 memory.

16:54 7 Q. And so in August 2012, those four buckets of Kodiak blend
16:54 8 would have been sitting on the top of that shelf, to the best
16:54 9 of your knowledge?

16:54 10 MR. HILL: Objection, misstates the record. There's
16:54 11 been no evidence of four buckets of Kodiak blend.

16:54 12 MR. MAZE: I can prove that, Your Honor.

16:54 13 THE COURT: Okay.

16:54 14 MR. MAZE: Carl, can you please bring up TREN-48002.

16:54 15 BY MR. MAZE:

16:54 16 Q. This is the document that Mr. Breit was showing you
16:54 17 earlier; correct?

16:54 18 A. "This material is currently in lab for BP/Transocean
16:54 19 *Horizon* rig."

16:54 20 Q. Do you remember this document from earlier?

16:55 21 A. Yes, yes.

16:55 22 MR. MAZE: Carl, if you can go to the second page,
16:55 23 48002.2.

16:55 24 BY MR. MAZE:

16:55 25 Q. Can you see that very well, Mr. Quirk? See it well enough

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16:55 1 to read it at that size?

16:55 2 A. Yes.

16:55 3 MR. MAZE: Carl, if you could pull out the thing that
16:55 4 you just highlighted, make it just a little bit bigger.

16:55 5 BY MR. MAZE:

16:55 6 Q. Okay. You see that it says, "Location: MC727, Well
16:55 7 No. 2 - Kodiak"; correct?

16:55 8 A. Yes.

16:55 9 Q. MC727 is the Kodiak well; correct?

16:55 10 A. That's what I read here.

16:55 11 Q. As opposed to MC252, which is Macondo; correct?

16:55 12 A. Mississippi Canyon 252 is what I remember as being
16:55 13 Macondo.

16:55 14 Q. All right. So there's one example of a 5-gallon bucket
16:55 15 with approximately half remaining; correct?

16:55 16 A. That's correct.

16:55 17 MR. MAZE: All right. Carl, if you can go down to
16:55 18 the next one, that says "Location 727." It's the second from
16:55 19 the bottom.

16:55 20 BY MR. MAZE:

16:56 21 Q. Does it also say "Location: MC727, Well No. 2 - Kodiak"?

16:56 22 A. Yes.

16:56 23 Q. So now we have a second bucket. This one is 1 gallon;
16:56 24 correct?

16:56 25 A. Yes.

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16:56 1 MR. MAZE: Okay. Carl, if you can go down to the
16:56 2 next one, please.

16:56 3 BY MR. MAZE:

16:56 4 Q. "Location: MC727, Well No. 2."

16:56 5 Again, this is from MC727; correct?

16:56 6 A. That's correct.

16:56 7 Q. And that is Kodiak; correct?

16:56 8 From what we've seen earlier, the other two that were
16:56 9 labeled "727" said "Kodiak"?

16:56 10 A. I guess it didn't say "Kodiak" on the bucket, so it's not
16:56 11 typed on there but . . .

16:56 12 Q. Understood.

16:56 13 MR. MAZE: Carl, if you could go to the next page,
16:56 14 48002-3. The very top one, please.

16:56 15 BY MR. MAZE:

16:56 16 Q. This says: "Location: MC727" -- skipping over -- "Well
16:56 17 No. 2."

16:56 18 That's the same as we've seen on the other three
16:57 19 buckets; correct?

16:57 20 A. That's correct.

16:57 21 Q. And it says that it is also a 1-gallon bucket; correct?

16:57 22 A. That's correct.

16:57 23 Q. So according to this document, there were four buckets
16:57 24 from MC727, the Kodiak Well No. 2; correct?

16:57 25 A. Yes.

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16:57 1 Q. One was 5 gallons and one was 3 gallons; correct?

16:57 2 A. One was 5 gallons and three were 3 gallons. Correct.

16:57 3 Q. Yes, three -- my understanding is that the last three we
16:57 4 looked at said "1-gallon bucket."

16:57 5 MR. MAZE: Carl, can we switch to the ELMO, please?
16:57 6 Is that possible?

16:57 7 BY MR. MAZE:

16:57 8 Q. I'm not trying to trick you here. I'm just trying to help
16:57 9 the Court understand where everything is.

16:57 10 MR. MAZE: Your Honor, this is the letter that was
16:57 11 submitted by Halliburton to Your Honor and the parties on March
16:57 12 the 18th.

16:57 13 BY MR. MAZE:

16:57 14 Q. Specifically -- I'm just going to show you by pen -- this
16:57 15 is what -- the description of what Halliburton says they now
16:57 16 have locked in a secure lab. The first is a -- one 5-gallon
16:58 17 bucket with 63981. This is the bucket Mr. Breit was talking
16:58 18 about.

16:58 19 And then below that, it says "three 1-gallon buckets
16:58 20 containing SCR-100L." And if we were to go back -- and I don't
16:58 21 want to do it again, for time's sake, but those are the three
16:58 22 1-gallon buckets that we just looked at that also said they
16:58 23 were from the MC727 well.

16:58 24 MR. MAZE: So unless Halliburton wants to object, I
16:58 25 think that shows that these were the four buckets that

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16:58 1 Mr. Quirk took and moved somewhere in the facility.

16:58 2 **BY MR. MAZE:**

16:58 3 Q. Does that sound right, Mr. Quirk?

16:58 4 A. Yeah. I think the confusion a while ago is maybe that
16:58 5 they were full buckets of cement. But I don't recall four.
16:58 6 Whatever was on that list is everything that we separated.

16:58 7 Q. And you personally did that; correct?

16:58 8 A. I had -- I was -- I'm sure I was involved with helping --
16:58 9 working with somebody to separate them.

16:58 10 **MR. MAZE:** Carl, if you can put back up
16:59 11 Demonstrative 3264. That's the shelf we were looking at.

16:59 12 **BY MR. MAZE:**

16:59 13 Q. So you put those four buckets of Kodiak No. 2 cement on
16:59 14 the top of this shelf in the warehouse; correct?

16:59 15 A. I recall it being there towards the end. Whether or not
16:59 16 it was there for the last few years, I don't know. It could
16:59 17 have been somewhere else in the warehouse, and then maybe got
16:59 18 moved to that just to conserve space. I don't know that for
16:59 19 sure.

16:59 20 Q. Understood. How often did you go through that warehouse
16:59 21 when you worked there?

16:59 22 A. Actually, I went through it a few times. I don't know how
16:59 23 often, but I was -- when it got really -- you know, where we
16:59 24 didn't have any more samples, I would sometimes go back there
16:59 25 with the guys to kind of help out and get it cleaned up.

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16:59 1 Q. All right. Mr. Quirk, you admit, do you not, that you
16:59 2 knew that the Kodiak 2 cement blend was taken by the *Horizon*
16:59 3 onto the Macondo well? You do know that; right?

17:00 4 A. Was taken by the --

17:00 5 Q. Let me rephrase it.

17:00 6 You know that Kodiak 2 blend cement was on the -- was
17:00 7 on Transocean's *Deepwater Horizon*; correct?

17:00 8 A. I -- only from looking at the bucket that says, you know,
17:00 9 that it was Transocean, *Horizon*.

17:00 10 Q. Right.

17:00 11 A. Right.

17:00 12 Q. And you also know that that Kodiak No. 2 went with the
17:00 13 *Horizon* to the Macondo 252 well in February of 2010; correct?

17:00 14 A. I did not know that.

17:00 15 MR. MAZE: Carl, if you could bring up Mr. Quirk's
17:00 16 deposition, page 549, line 23.

17:00 17 BY MR. MAZE:

17:01 18 Q. While they're doing that, let me ask you this: You just
17:01 19 mentioned that you knew that the Kodiak blend was on the
17:01 20 *Horizon* because it was labeled on the bucket; correct?

17:01 21 A. Right. Right.

17:01 22 Q. It was very clearly labeled on the bucket that this had
17:01 23 been on the *Horizon*, no question?

17:01 24 A. Well, let me define what "clarity" is for me before I
17:01 25 answer your question.

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17:01 1 Q. Go ahead.

17:01 2 A. When I -- the *Deepwater Horizon* rig that had Kodiak
17:01 3 samples, as I sit here -- as of this weekend, finally hearing
17:01 4 this information, I would have just assumed that that sample
17:01 5 was sent to the lab while *Horizon* rig was on another location.
17:01 6 I have no reason to believe anything other than that because I
17:01 7 haven't been told anything other than that.

17:01 8 So all I see is that that sample was from that well.
17:02 9 I'm not keeping track -- I don't -- I'm not involved in that
17:02 10 part of the operation, so I can't sit here and tell you that I
17:02 11 knew that that -- it doesn't really mean anything to me.

17:02 12 Q. So there's no markings on that bucket or anything that
17:02 13 would tell you that it went to the Macondo MC252 well?

17:02 14 A. It says Mississippi Canyon 7-something on it.

17:02 15 MR. MAZE: Carl, if you could bring up D-3258, which
17:02 16 is TREX-23057.

17:02 17 BY MR. MAZE:

17:02 18 Q. This is a picture we were sent earlier this week by
17:02 19 Halliburton. Do you recognize this bucket, Mr. Quirk?

17:02 20 A. I -- you know, I haven't seen the bucket in a few years.
17:02 21 But --

17:02 22 Q. It's a 5-gallon bucket; right?

17:02 23 A. Yes.

17:02 24 Q. Those are pretty big buckets?

17:02 25 A. Yes.

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17:02 1 Q. In fact, Mr. Breit, I borrowed his fancy bucket that he
17:02 2 brought for me. That's about the size of a 5-gallon bucket;
17:02 3 right?

17:03 4 A. Yes.

17:03 5 Q. Okay. This bucket says very clearly, does it not, this is
17:03 6 from the *Deepwater Horizon*? Correct?

17:03 7 A. That's one thing it says on it.

17:03 8 Q. Right. And I'm assuming that you're trying to say also
17:03 9 that it says MC727; right?

17:03 10 A. That's correct.

17:03 11 Q. And it also says "No. 2 Kodiak" at the bottom?

17:03 12 A. That's correct.

17:03 13 Q. Which is, under your testimony, why it got moved away from
17:03 14 the Macondo cement?

17:03 15 A. That's correct.

17:03 16 MR. MAZE: Carl, if you can switch to
17:03 17 Demonstrative 3257, which is TREX-23056, which is the top of
17:03 18 the bucket.

17:03 19 BY MR. MAZE:

17:03 20 Q. I'm going to say that this is also the same bucket.

17:03 21 MR. MAZE: Carl, can you blow up --

17:03 22 BY MR. MAZE:

17:03 23 Q. First of all, again, this bucket clearly states this is
17:03 24 from the *Deepwater Horizon*; correct?

17:03 25 A. Correct.

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17:03 1 Q. No question?

17:03 2 MR. MAZE: All right. Carl, if you can actually blow
17:03 3 up this sticker on the bucket.

17:03 4 BY MR. MAZE:

17:03 5 Q. Mr. Quirk, can you read -- you're looking on your screen.
17:03 6 It will be easier. Can you read the date on this? Do you see
17:04 7 where I'm pointing? Can you read that date?

17:04 8 A. It looks like February 2010.

17:04 9 Q. Yes. Do you see what the date is in front of it?

17:04 10 A. It's like a 2. I can't tell if the second one is a 1 or a
17:04 11 9. It's not -- probably it's -- it's probably a 1 then.

17:04 12 Q. Regardless -- it's actually a 3, but...

17:04 13 A. Oh.

17:04 14 Q. I base that based on the letter that was given to us by
17:04 15 Halliburton, who took the picture, 23/02/2010.

17:04 16 You have knowledge that the *Deepwater Horizon* moved
17:04 17 to the Macondo well before that, actually three days before it?

17:04 18 A. I would have to assume that, based on the -- I mean, I
17:04 19 don't know the time period that it moved. I mean...

17:04 20 Q. But, regardless, that means that that sticker shows that
17:04 21 this bucket was on the Macondo well, because it was placed on
17:04 22 here February 23rd, 2010, which is after it moved; right?

17:04 23 A. Well, I can speak for when -- that's when it was logged
17:05 24 into the lab.

17:05 25 MR. MAZE: Carl, do we have Mr. Quirk's deposition?

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17:05 1 Do we have the ability to get on page 549?

17:05 2 MR. BREIT: I do. Excuse me, Your Honor.

17:05 3 MR. MAZE: All right. We can switch to ELMO, please.

17:05 4 BY MR. MAZE:

17:05 5 Q. Mr. Quirk, you testified, right, in deposition?

17:05 6 A. Yes, I did.

17:05 7 Q. I'm going to turn to page 549 and read to you a portion.

17:05 8 "QUESTION: Are you aware that when the *Deepwater*
17:05 9 *Horizon* arrived at the Macondo to replace the *Marianas* rig
17:05 10 that it had on board cement dry blend" --

17:05 11 THE COURT: Wait, wait. We can't see it. The
17:05 12 witness can't read along with it.

17:05 13 MR. MAZE: I will do it more slowly.

17:05 14 BY MR. MAZE:

17:05 15 Q. (Reading):

17:05 16 "QUESTION: Are you aware that when the *Deepwater*
17:05 17 *Horizon* arrived at the Macondo" --

17:06 18 THE COURT: Wait. That's not the part that's on the
17:06 19 screen. What line does this start --

17:06 20 MR. MAZE: We're going to start on line 23. This is
17:06 21 page 549.

17:06 22 BY MR. MAZE:

17:06 23 Q. (Reading):

17:06 24 "QUESTION: Are you aware that when the *Deepwater*
17:06 25 *Horizon* arrived at the Macondo to replace the *Marianas* rig

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17:06 1 that it had on board" --

17:06 2 THE COURT: Wait. You need to move up to the top
17:06 3 again.

17:06 4 MR. MAZE: This is why I like letting Carl do it.
17:06 5 He's better than I am.

17:06 6 THE COURT: You're not quite there.

17:06 7 BY MR. MAZE:

17:06 8 Q. (Reading):

17:06 9 "QUESTION: -- on board cement dry blend that
17:06 10 Halliburton had originally brought over from the Kodiak
17:06 11 No. 2 well?

17:06 12 "ANSWER: Yes.

17:06 13 "QUESTION: So --

17:06 14 "ANSWER: Only because they were -- I saw the lab
17:06 15 samples."

17:06 16 Did I read that correctly?

17:06 17 A. Yes.

17:06 18 Q. So your testimony at deposition was that you did know that
17:06 19 there was on board cement dry blend brought over from Kodiak on
17:06 20 the Macondo; right?

17:06 21 A. Yes. I'd like to read it all to see what my --

17:07 22 (Reading): "So from looking at the lab samples,
17:07 23 then, you know that the dry cement that was on board the
17:07 24 *Deepwater Horizon* and used for Macondo was originally developed
17:07 25 for the Kodiak Well No. 2?"

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17:07 1 And I say that I'm not certain about all of that.

17:07 2 Q. Right. But is it clear from --

17:07 3 MR. MAZE: Carl, if you could switch back to the
17:07 4 picture of the bucket, D-3257.

17:07 5 BY MR. MAZE:

17:07 6 Q. It is clear from the bucket, correct, that this was logged
17:07 7 on February 23rd of 2010?

17:07 8 A. Yes.

17:07 9 Q. And you -- you do realize that -- well, strike that.
17:07 10 Let's move to the next question.

17:07 11 So you personally separated the Kodiak buckets from
17:07 12 the Macondo buckets; right?

17:07 13 A. I separated every -- all buckets from the Macondo.

17:07 14 Q. At the direction of someone else?

17:07 15 A. Right.

17:07 16 Q. Were you present at the Halliburton lab when -- let me go
17:07 17 back.

17:07 18 Do you remember the lab being subpoenaed to turn over
17:07 19 all relevant cement in this case?

17:08 20 A. I don't recall -- I don't recall the subpoena. I
17:08 21 didn't -- can you rephrase the question?

17:08 22 Q. Do you remember when the lab turned over cement to the
17:08 23 federal government?

17:08 24 A. Yes.

17:08 25 Q. Were you there the day that that happened?

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17:08 1 A. Yes.

17:08 2 Q. Who else was there that day?

17:08 3 A. Members from the government. I mean, individuals who were
17:08 4 there at the facility. I don't recall everybody that was
17:08 5 there.

17:08 6 Q. Were there -- can you remember the names of any
17:08 7 Halliburton employees who were there?

17:08 8 A. Right offhand, I'm -- I'm -- I would only be guessing
17:08 9 because I don't remember exactly who was there at that time.

17:08 10 Q. Were any Halliburton attorneys there?

17:08 11 A. Yes.

17:08 12 Q. Did any -- and I can't ask you what they told you. Do you
17:09 13 understand that?

17:09 14 Did any of the Halliburton attorneys show you the
17:09 15 actual document, the actual subpoena, requesting something for
17:09 16 the federal government?

17:09 17 A. I don't recall.

17:09 18 Q. Do you recall if anyone told you what it was you were
17:09 19 looking for?

17:09 20 A. That I was looking for?

17:09 21 Q. Well, that Halliburton was looking for.

17:09 22 A. Halliburton was looking for in what regard?

17:09 23 Q. Well, you had to be looking for --

17:09 24 A. I'm not understanding your question.

17:09 25 Q. Okay. You had to be given some direction as to what it

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17:09 1 was the federal employees were there to take; correct?

17:09 2 A. As I understood it, they were there to get the Macondo
17:09 3 well cement samples.

17:09 4 Q. Who told you that it had to be from Macondo as opposed to
17:09 5 just from the *Deepwater Horizon* rig?

17:09 6 A. When Tony Angelle asked me to secure the samples in the
17:09 7 locker, he told me that I had to put the Macondo well samples
17:09 8 into the locker.

17:09 9 Q. That's a different day, though, isn't it? I'm asking you
17:10 10 about the day that the federal government showed up at the lab.

17:10 11 Who told you what you had to turn over to the federal
17:10 12 government?

17:10 13 A. The federal government came there and took the samples out
17:10 14 of the locker. That's what I remember. I don't remember
17:10 15 specific instructions about anything other than that.

17:10 16 MR. MAZE: Carl, can you go back to
17:10 17 Demonstrative 3258.

17:10 18 BY MR. MAZE:

17:10 19 Q. So your testimony is is that no one specifically told you
17:10 20 what it was you were looking for, that you were just giving
17:10 21 them what was in a closet?

17:10 22 A. What I recall is that -- you know, that the federal
17:10 23 government was going to be there to pick up the samples that we
17:10 24 had secured in the locker. That's what I recall. If there was
17:10 25 something more than that, I don't remember.

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17:10 1 Q. And knowing full well that in the other part of the lab
17:10 2 there were buckets that came from the *Deepwater Horizon*, you
17:11 3 never told anybody that they were there, did you?

17:11 4 A. Sir, I'm sorry. But as I sit here today, I'm just finding
17:11 5 out the significance of those samples. I think I did a good
17:11 6 thing by keeping them. Knowing -- I could have discarded them.

17:11 7 Knowing -- I don't recall anything about -- I secured
17:11 8 the Macondo well samples, and that's what I was instructed to
17:11 9 do. That's what I did.

17:11 10 Q. And I understand your frustration.

17:11 11 My question is: Who is it that instructed you that
17:11 12 these didn't count, the ones that were from the
17:11 13 *Deepwater Horizon*?

17:11 14 I'm trying to understand why it is these didn't get
17:11 15 turned over too.

17:11 16 A. No one said that didn't count. No one specifically said
17:11 17 that didn't count. They just told me to secure the -- Tony
17:11 18 Angelle asked me to secure the Macondo well samples, and that's
17:11 19 what I did.

17:11 20 Q. And you never offered to Tony Angelle or anyone else that
17:11 21 day that there were other samples from the *Deepwater Horizon* at
17:11 22 the facility?

17:11 23 A. Yes. I gave them a list of everything.

17:11 24 Q. Gave them a list of everything that you had --

17:12 25 A. Inventoried.

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17:12 1 Q. -- inventoried.

17:12 2 Who did you give it to?

17:12 3 A. Tony Angelle.

17:12 4 Q. So you gave Tony Angelle, on the day the federal
17:12 5 government showed up --

17:12 6 A. No, not the day the federal government showed up.

17:12 7 Q. Okay.

17:12 8 A. The day that I inventoried everything in the lab.

17:12 9 Q. So Tony Angelle --

17:12 10 A. The list that you had up a while ago, I gave -- I sent
17:12 11 that to Tony Angelle.

17:12 12 Q. Okay. So Tony Angelle and you both understood that in
17:12 13 another part of the lab there were these buckets from the
17:12 14 *Deepwater Horizon*?

17:12 15 A. I don't -- I don't know that Tony knew that we even kept
17:12 16 the samples. Tony asked me to secure Macondo well samples, and
17:12 17 that's what I did. I just -- I just kept those samples. I
17:12 18 just put them on a shelf.

17:12 19 Q. So he might have even thought you threw them away?

17:12 20 A. It's possible. I don't recall conversations with him
17:12 21 about that after. Maybe we did. I just don't recall.

17:12 22 Q. So Tony Angelle didn't care whether they were thrown away
17:12 23 or not. He just didn't tell you?

17:12 24 A. No, I didn't say that. I just say that I don't know -- I
17:13 25 don't remember the communication after that. That's what I'm

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17:13 1 saying. I don't remember the specific communication regarding
17:13 2 what to do with that, other than the fact that I just put them
17:13 3 out there on the shelf.

17:13 4 Q. Okay. And I don't want to belabor the point, so I'm going
17:13 5 to get right to the end.

17:13 6 Did you go into the warehouse the day the federal
17:13 7 government was there, or did you simply give them what you had
17:13 8 in the closet and that was it?

17:13 9 A. That's it.

17:13 10 Q. And you personally never told anyone from the federal
17:13 11 government or Halliburton attorneys or anyone else that there
17:13 12 were other buckets from the *Deepwater Horizon*?

17:13 13 A. I don't recall.

17:13 14 Q. And you never heard Tony Angelle offer to anyone that he
17:13 15 also knew there were other buckets that he had asked to be
17:13 16 separated?

17:13 17 A. I'm not -- I don't know. I'm not aware of Tony's
17:13 18 communication.

17:14 19 Sir, I just want to make it clear. My thoughts
17:14 20 during that process were that I looked at the Mississippi
17:14 21 Canyon 727, a different well, being something completely
17:14 22 different. That's --

17:14 23 Q. And you looked at it as something different because you
17:14 24 were instructed that by Tony?

17:14 25 A. Well, I -- there was never a reason that I felt like --

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17:14 1 obviously, now I'm hearing this conversation. But I looked at
17:14 2 it as a different location, a different well. That's what I
17:14 3 see when I look at the bucket.

17:14 4 I don't -- I didn't realize that that cement -- that
17:14 5 cement in that bucket was part of the cement that was used on
17:14 6 Macondo. I just didn't know that.

17:14 7 Q. Just two other questions and I'll be done.

17:14 8 You logged in that this bucket was half full and
17:14 9 the -- what we've been shown by Halliburton -- and I can't put
17:14 10 it up because the ELMO is not up -- says it's approximately
17:15 11 three-quarters full.

17:15 12 Would you have any explanation as to why it would
17:15 13 be -- strike that.

17:15 14 Is it possible that anybody added anything to the
17:15 15 bucket while you were there?

17:15 16 A. Highly unlikely. I mean, anything is possible, but it's
17:15 17 highly unlikely.

17:15 18 Q. Actually, that answer, "highly unlikely," leads me to my
17:15 19 last question.

17:15 20 You told Mr. Breit earlier that -- when he asked you
17:15 21 whether or not Mr. Faul had asked you to do tests on the side
17:15 22 before, if that had ever happened, you said it was, quote, a
17:15 23 little unusual; right?

17:15 24 So the fact that it was a little unusual means that
17:15 25 it happened before; right? This was not completely the first

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17:15 1 time ever; it's just unusual, but it does happen?

17:15 2 A. What happens?

17:15 3 Q. That you've been asked to do a test on the side.

17:15 4 A. No, I don't recall being asked to do -- I mean, it may
17:15 5 have, but I just don't recall.

17:16 6 MR. MAZE: That's all, Your Honor.

17:16 7 THE COURT: Okay. Transocean?

17:16 8 MR. KANNER: Your Honor?

17:16 9 THE COURT: Oh, I'm sorry.

17:16 10 MR. KANNER: As a present observer of the examination
17:16 11 by my fellow plaintiffs, Louisiana passes the witness.

17:16 12 THE COURT: Thank you, Mr. Kanner. I inadvertently
17:16 13 overlooked you there.

17:16 14 Transocean?

17:16 15 MR. HILL: Your Honor, I believe Halliburton will go
17:16 16 next.

17:16 17 THE COURT: Halliburton next? Okay.

17:17 18 MR. HILL: Good afternoon, Your Honor. Gavin Hill
17:17 19 for Halliburton. I'll be taking Mr. Quirk on direct
17:17 20 examination.

17:17 21 May I proceed?

17:17 22 THE COURT: Sure.

17:17 23 DIRECT EXAMINATION

17:17 24 BY MR. HILL:

17:17 25 Q. Tim, we've got a few things that -- I'd like to properly

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17:17 1 introduce you to the Court and give him a little bit about your
17:17 2 background and your interaction post-incident.

17:17 3 But before we do that, I want to turn immediately to
17:17 4 a couple of things that counsel that came before me talked
17:17 5 about.

17:17 6 You were asked -- well, let me ask you this: In the
17:17 7 lab, at the time that you were the fluid labs manager and,
17:17 8 prior to that, the actual cement lab manager, how was SCR
17:17 9 bought by lot? Can you explain to the Court, what is a lot in
17:17 10 terms of volume?

17:17 11 A. The manufacturers that make it, it could be anywhere
17:17 12 from -- you know, depending on the additives -- from 500 to
17:17 13 several thousand gallons.

17:18 14 Q. Okay. And would that volume of SCR be used for different
17:18 15 purposes?

17:18 16 A. Yes.

17:18 17 Q. For example, if you were to take it and send it to a rig,
17:18 18 you could also take that same lot number and make a lab sample;
17:18 19 correct?

17:18 20 A. That's correct.

17:18 21 Q. Is the lot number rig-specific for SCR?

17:18 22 A. No, it's not.

17:18 23 Q. If you were to go into the Viking database, would you find
17:18 24 6264, which I believe is the lot number that was used in the
17:18 25 operational testing, associated with other -- testing done on

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17:18 1 other rigs?

17:18 2 A. That's correct.

17:18 3 Q. And done for other customers; correct?

17:18 4 A. That's correct.

17:18 5 Q. Now, I think you were confused by some of the questions --
17:18 6 you seemed confused to me -- as to whether or not the specific
17:18 7 ID number that Mr. Breit showed you, 54573, associated with the
17:18 8 Lot Number 6264 of SCR-100L was actually a sample ID specific
17:18 9 to a rig or something else? Okay? I want to talk about that.

17:18 10 A. Okay.

17:19 11 MR. HILL: Can you bring up TREN-48001, please.

17:19 12 BY MR. HILL:

17:19 13 Q. This is a fancy IT way of saying that this is a native
17:19 14 document, not necessarily something that's tracked with Bates
17:19 15 numbers.

17:19 16 MR. HILL: But go ahead and go to the next page,
17:19 17 please.

17:19 18 Can you please switch to the ELMO?

17:19 19 BY MR. HILL:

17:19 20 Q. Mr. Quirk, do you recognize this document?

17:19 21 A. Yes, I do.

17:19 22 Q. Did you author it?

17:19 23 A. Yes. I was -- I may have been working with a secretary to
17:19 24 do that, but either I typed it or she typed it. I don't
17:19 25 recall.

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17:19 1 Q. What was the purpose of preparing this document?

17:20 2 A. This was a material transfer ticket for the United States
17:20 3 Government.

17:20 4 Q. Okay. So that -- that event that Mr. Maze just asked you
17:20 5 about where the Department of Justice or federal agents came
17:20 6 and took possession of things that had been set aside that was
17:20 7 Macondo related, this was the ticket that went with that
17:20 8 transfer when you handed that material over; correct?

17:20 9 A. Yes, that's correct.

17:20 10 Q. When you prepared this document, did you use the
17:20 11 information available to you to identify, with respect to what
17:20 12 you were turning over, what actually came from location and
17:20 13 what actually came from the lab?

17:20 14 A. That's from the -- that's the location samples.

17:20 15 Q. What does that mean, "location"?

17:20 16 A. That means it comes from the rig.

17:20 17 Q. And so if one were to peruse TREV-48001, they would see
17:20 18 specifically location blends and things that were turned over
17:21 19 to the U.S. Government; correct?

17:21 20 A. Yes.

17:21 21 Q. And, in fact, this one right here, the second one that's
17:21 22 added, says it came from Macondo. That was an actual cement
17:21 23 blend; correct?

17:21 24 MR. BREIT: Your Honor, this is their witness. I'm
17:21 25 going to object to the leading.

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17:21 1 THE COURT: Try not to lead.

17:21 2 BY MR. HILL:

17:21 3 Q. Can you tell us what that note says --

17:21 4 MR. HILL: Did you find it?

17:21 5 BY MR. HILL:

17:21 6 Q. Can you tell us what that note says that's associated with
17:21 7 sample ID 67314?

17:21 8 A. "Sample came from Tank 8."

17:21 9 Q. What does that "Tank 8" represent to you?

17:21 10 A. I'm assuming it's just a tank that's out there on the rig.

17:21 11 Q. Further confirmation that it's rig blend?

17:21 12 A. Yes.

17:21 13 MR. BREIT: Again, Your Honor, it's their witness.

17:21 14 Let him answer the questions. He didn't know a lot on cross.

17:21 15 I don't want him to know too much on direct by leading.

17:21 16 MR. HILL: Of course, Your Honor.

17:21 17 THE COURT: All right.

17:21 18 BY MR. HILL:

17:21 19 Q. Now, I'm going to turn to the second page. Down at the
17:21 20 bottom, there are -- I'm sorry, the margins here aren't helping
17:22 21 me.

17:22 22 In addition to other items that are marked as
17:22 23 location samples, there are some that are marked differently;
17:22 24 correct? Can you tell the Court what that says on line 9?

17:22 25 A. "Lab sample."

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17:22 1 Q. And this particular sample is what material?

17:22 2 A. Zone Sealant 2000.

17:22 3 Q. If I turn over to the third page of this exhibit, 54573 is
17:22 4 the SCR-100L with Lot 6264 that Mr. Breit identified to you;
17:22 5 correct?

17:22 6 A. Yes.

17:22 7 Q. Can you please tell the Court how it was identified.

17:22 8 A. It's a lab sample.

17:22 9 Q. Did it come from the rig?

17:22 10 A. No.

17:22 11 Q. I just wanted to make sure that we're clear on this point.
17:22 12 Does your lab provide unique sample ID numbers to additives in
17:23 13 the lab that never go offshore?

17:23 14 A. Yes.

17:23 15 Q. Why do you do that?

17:23 16 A. When samples come in, they're just -- they have to be
17:23 17 logged in and bar-coded. And so when a sample comes in,
17:23 18 they'll print stickers, and the Viking system automatically
17:23 19 generates a sample ID.

17:23 20 Q. All right. Now, having seen what you've seen and having
17:23 21 explained what you explained to the Court, I'm going to ask you
17:23 22 the question that Mr. Breit asked you. Okay?

17:23 23 And that is: Did you use this particular SCR-100L in
17:23 24 any post-incident testing that had come from the rig?

17:23 25 **MR. BREIT:** I'm going to object to the question,

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17:23 1 Your Honor. He's confusing two points into one question.

17:23 2 Coming from the rig or lab sample, two different --

17:23 3 THE COURT: I'll overrule the objection. You'll have
17:23 4 redirect.

17:23 5 MR. BREIT: Thank you, Your Honor.

17:23 6 THE COURT: Okay.

17:23 7 BY MR. HILL:

17:23 8 Q. To your knowledge, based on what you've seen today, can
17:24 9 you tell the judge whether or not you have ever used any
17:24 10 specific SCR identified by Lot No. 6264 that was specific to
17:24 11 the Macondo rig?

17:24 12 A. No. What -- my memory now is that we had to take samples
17:24 13 of lot numbers and store those and -- which meant that we would
17:24 14 still have other lab stock in the lab.

17:24 15 Q. And just because something has a sample ID for purposes of
17:24 16 tracking it in the lab, does that mean that it automatically
17:24 17 was checked in from a rig into your lab?

17:24 18 A. No.

17:24 19 Q. I also want to get back to this issue of you sitting in
17:24 20 the lab and receiving samples from rigs. Okay?

17:24 21 A. Okay.

17:24 22 Q. I'm leading up to this, but I want you to explain to the
17:24 23 Court, do you know how many cement blends were even on the
17:24 24 *Deepwater Horizon*?

17:24 25 A. I do not.

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17:24 1 Q. If you want to educate yourself as to what blends are on
17:24 2 the *Deepwater*, how do you know what is being sent in is from
17:25 3 the Macondo versus the Kodiak versus the Kaskida well?

17:25 4 A. Just from the documentation that's on the bucket.

17:25 5 Q. By "documentation," are you talking about the label that's
17:25 6 affixed to the top that you saw in the picture?

17:25 7 A. Well, from the label or something written on the bucket,
17:25 8 you know.

17:25 9 Q. Or the writings on the bucket?

17:25 10 A. Right.

17:25 11 MR. HILL: Could you please bring up TREX-60415.

17:25 12 Blow this up right here, please.

17:25 13 BY MR. HILL:

17:25 14 Q. Now, I believe this is the weigh-up sheet that Mr. Breit
17:25 15 showed you, correct, from April 17th?

17:26 16 A. Yes, I see April 17th at the top.

17:26 17 Q. Where he was identifying this sample ID associated with
17:26 18 Lot 6264 of SCR-100L; correct?

17:26 19 A. Correct.

17:26 20 Q. Again, is there anything on this document that would tell
17:26 21 you whether or not this particular sample that was used in the
17:26 22 lab was rig-specific?

17:26 23 A. No. I don't see anything that tells me it's rig-specific.

17:26 24 Q. This column right here says "Source"; correct?

17:26 25 A. That's correct.

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17:26 1 Q. The fact that all of those lines right there for additives
17:26 2 say "Transocean" and have the same sample date and are part of
17:26 3 the same sample ID, what does that tell you?

17:26 4 A. That that sample is from the rig.

17:26 5 Q. With respect to "Zone Sealant," did that come from the
17:26 6 rig?

17:26 7 A. That looks like lab stock.

17:26 8 Q. Why do you -- what leads you to believe that, or how do
17:26 9 you know that?

17:26 10 A. Because it looks like the source was a Morgan City bulk
17:27 11 plant, which is--

17:27 12 Q. Is the Transocean source, the rig, identified as the
17:27 13 source for the sample ID 54573 of SCR-100L on this lab sheet?

17:27 14 A. No, I don't see it as that.

17:27 15 MR. HILL: Take that down, please.

17:27 16 BY MR. HILL:

17:27 17 Q. Mr. Quirk, you have explained to the Court, kind of in a
17:27 18 summary fashion -- we'll talk more specifically about the
17:27 19 tests -- about certain testing you did post-incident in the
17:27 20 lab; correct?

17:27 21 A. Correct.

17:27 22 Q. I just want to ask you a couple of questions right off the
17:28 23 bat, and then we're going to move somewhere else. We'll tie
17:28 24 this up another time. But I want to make sure I ask you these
17:28 25 questions now.

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17:28 1 Did you do any post-incident testing using actual
17:28 2 cement -- cement blend from the rig?

17:28 3 A. I did not.

17:28 4 Q. Once you reported post-incident tests results to Mr. Faul,
17:28 5 did you discard your handwritten notes because you were trying
17:28 6 to conceal the results?

17:28 7 A. I was not. No, I did not.

17:28 8 Q. In fact, since lab stock materials were used, could you
17:28 9 perform those same tests again right here, assuming you had the
17:28 10 additives?

17:28 11 A. Yes.

17:28 12 Q. Now, I think you had -- I want to introduce you a little
17:28 13 bit better to the Court. Could you tell the Court where you
17:28 14 live.

17:28 15 A. I live in Fulshear, Texas.

17:28 16 Q. Where is that? What big city --

17:28 17 A. It's about 20 miles west of Houston.

17:28 18 Q. And by whom are you currently employed?

17:28 19 A. I'm employed by Chevron.

17:28 20 Q. What do you do for them?

17:29 21 A. I'm a technical team leader over the cement and drilling
17:29 22 fluids labs.

17:29 23 Q. Now, when did you take that job?

17:29 24 A. August 27th, 2012.

17:29 25 Q. So prior to that, who would have been your employer?

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17:29 1 A. Halliburton.

17:29 2 Q. Okay. And that was up until August, I think you
17:29 3 identified before, the 24th of 2012?

17:29 4 A. Yes. I actually started with Chevron August 27th, and my
17:29 5 last day with Halliburton was August 24th of 2012.

17:29 6 Q. Do you mind telling the Court why you took a different
17:29 7 job?

17:29 8 A. Just a better opportunity is what I felt. I was offered a
17:29 9 position and accepted it.

17:29 10 Q. Do you have a college degree, Mr. Quirk?

17:29 11 A. Yes.

17:29 12 Q. What's that in?

17:29 13 A. I have an Associate of Science in petroleum services
17:29 14 technology.

17:29 15 Q. When did you obtain that degree, sir?

17:29 16 A. In 1987.

17:29 17 Q. Now, when were you actually hired by Halliburton?

17:29 18 A. March 18th, 2000 -- 1990.

17:29 19 Q. And I'm just going to ask this. If you could, just
17:30 20 briefly identify some of the major positions you've had at
17:30 21 Halliburton since -- or some of the positions that you've held
17:30 22 since 1990 up until the time you left in August of 2012.

17:30 23 A. In 1990, I was hired as a lab technician and progressed
17:30 24 through different levels of lab techs, meaning lab tech, senior
17:30 25 lab tech, principal lab technician, which it was a promotion to

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17:30 1 one of the shift leader positions in the lab.

17:30 2 And then from there was put on -- put in the chemist
17:30 3 position. And the first three positions I discussed probably
17:30 4 went through 1995 or so. Don't hold me to those dates. But
17:30 5 then the chemist position, you know, somewhere around that time
17:30 6 frame, and then senior chemist and then principal chemist,
17:30 7 which put me as the cement lab manager.

17:30 8 Q. Okay. So you were the cement lab manager for Halliburton
17:31 9 in what lab?

17:31 10 A. In the Gulf of Mexico lab.

17:31 11 Q. And what -- where is that lab located?

17:31 12 A. It's in Broussard, Louisiana.

17:31 13 Q. And you were in a position of cement lab manager from what
17:31 14 date to what date?

17:31 15 A. From roughly 2004 to 2008.

17:31 16 Q. Okay. And after the cement lab manager, did you obtain
17:31 17 any other positions at Halliburton?

17:31 18 A. I was the fluids lab manager in Broussard, Louisiana.

17:31 19 Q. And that would have been from 2008 until the time that you
17:31 20 left?

17:31 21 A. That's correct.

17:31 22 Q. So in April of 2010, you would have been fluid lab
17:31 23 manager; correct?

17:31 24 A. That's correct.

17:31 25 Q. And that's not -- I understand that to be different than

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17:31 1 actually the cement lab?

17:31 2 A. That's correct.

17:31 3 Q. Can you explain to the Court a little bit about the
17:31 4 structure of the labs and who reported to you.

17:31 5 A. The cement lab had rotating shifts with about 16 to 20 lab
17:32 6 technicians, something like that, and each shift had a shift
17:32 7 leader.

17:32 8 Q. Let me go ahead and stop you just because I want to move
17:32 9 along towards the end of the day.

17:32 10 Can you tell us what the four labs were that were
17:32 11 part of the fluids lab?

17:32 12 A. I'm sorry. We had the cement lab, the drilling fluids
17:32 13 lab, the completion fluids lab, and the production enhancement
17:32 14 lab.

17:32 15 Q. Did each of those four labs have its own manager?

17:32 16 A. That's correct.

17:32 17 Q. And who did they report to?

17:32 18 A. They reported to me.

17:32 19 Q. Okay. Who was the manager of the cement lab in April
17:32 20 of -- in April of 2010 that reported to you?

17:32 21 A. That was Richard Dubois.

17:32 22 Q. Now, prior to April 20th, 2010, did you have any direct
17:32 23 involvement with any testing done in the cement lab for the
17:32 24 Macondo well?

17:32 25 A. No, I didn't -- I don't recall being a part of anything.

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17:32 1 Q. Now, after April 20th, 2010 -- I'm going to call that
17:32 2 "point-incident." Okay?

17:32 3 A. Okay.

17:32 4 Q. Did you have any involvement with the aftermath of the
17:33 5 Macondo incident?

17:33 6 A. Lab testing?

17:33 7 Q. Any involvement.

17:33 8 A. Yes.

17:33 9 Q. Can you maybe briefly tell the Court what you understand
17:33 10 your involvement to have been in this case.

17:33 11 A. Post-incident testing --

17:33 12 Q. Okay.

17:33 13 A. -- and communication with the legal team, just to --
17:33 14 communication with the legal team later on, you know, in the
17:33 15 year.

17:33 16 Q. Okay. Anything else?

17:33 17 A. Communication, I'm sure. I just can't pinpoint the
17:33 18 specifics right now.

17:33 19 Q. And I think we've seen -- you've taken a deposition as
17:33 20 well; right?

17:33 21 A. Yes.

17:33 22 Q. Before we talk about what you know, I'd like to talk a
17:33 23 little bit about your personal level of familiarity with a
17:33 24 couple of things.

17:33 25 What is your personal level of familiarity with

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17:33 1 drilling deepwater wells?

17:34 2 A. I'm not -- I don't have experience at all in the operation
17:34 3 of deepwater drilling.

17:34 4 Q. How about evaluating the downhole performance of a cement
17:34 5 slurry?

17:34 6 A. In regards to well conditions, I don't have any
17:34 7 experience.

17:34 8 Q. Are there downhole conditions that you actually need for
17:34 9 purposes of doing testing?

17:34 10 A. Yes.

17:34 11 Q. And what are those?

17:34 12 A. Bottom hole well pressures and temperatures.

17:34 13 Q. Where do you obtain that information?

17:34 14 A. From the engineer submitting a request.

17:34 15 Q. What is your level of familiarity with cementing
17:34 16 operations generally?

17:34 17 A. My experience has been in the lab. I've been on location
17:34 18 a couple of times in the early '90s to do some simple lab
17:34 19 testing, but I don't have much knowledge about downhole
17:34 20 operations or cementing operations.

17:34 21 Q. Fair enough. How about running cement modeling programs
17:34 22 like OptiCem?

17:35 23 A. No, I don't have any experience in that.

17:35 24 Q. Have you ever run one?

17:35 25 A. No, I have not.

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17:35 1 Q. I'd like to talk to you a little bit, some questions about
17:35 2 the cement lab and how it was organized during the time that
17:35 3 you were the fluids lab manager in April of 2010.

17:35 4 Can you give us a brief overview of how the lab
17:35 5 workforce is structured?

17:35 6 A. Are you talking about just the personnel?

17:35 7 Q. Sure.

17:35 8 A. Four rotating shifts. Two shifts working, two shifts off,
17:35 9 with shift leaders on each team, each shift team, and they were
17:35 10 aligned with, you know, chemists and then the cement lab
17:35 11 manager.

17:35 12 Q. Okay. What are the responsibilities of the technicians in
17:35 13 your lab?

17:35 14 A. Responsible for performing all the testing that is
17:35 15 requested by the engineers and service coordinators.

17:35 16 Q. Do you recall at the time in April 2010 about how many lab
17:35 17 technicians actually worked in the cement lab?

17:36 18 A. Probably somewhere between 16 and 20, I would say.

17:36 19 Q. Could you explain to the Court how these lab technicians
17:36 20 are actually trained to run tests in the lab?

17:36 21 A. When the technicians are hired, they're assigned mentors
17:36 22 to just kind of watch their progression and teach them how to
17:36 23 perform tests.

17:36 24 Q. And at some point, how do you know whether or not a lab
17:36 25 technician that has a mentor is ready to fly on his own and run

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17:36 1 tests?

17:36 2 A. There's a competency system, a global competency system
17:36 3 that was established within Halliburton, and the technicians
17:36 4 are -- were assessed by qualified assessors to determine
17:36 5 whether or not they could be deemed competent in that
17:36 6 particular procedure.

17:36 7 Q. All right. And I know this is asking you to reach back in
17:36 8 memory a little bit. But in April of 2010, or that time frame,
17:36 9 can you recall the average number of years of work experience
17:37 10 for the lab technicians in your workforce?

17:37 11 A. It was -- it was probably eight -- seven, eight,
17:37 12 nine years, somewhere in that -- somewhere around that time
17:37 13 frame.

17:37 14 Q. Now, when you were the head manager over all the labs in
17:37 15 Broussard, were you confident that those techs knew how to
17:37 16 perform the tests that they were requested to perform?

17:37 17 A. Yes.

17:37 18 Q. Now, during your tenure in the cement lab and even as the
17:37 19 fluid lab manager, was the cement lab ever audited?

17:37 20 A. Yes, it was audited.

17:37 21 Q. About how many times a year did that cement lab get
17:37 22 audited?

17:37 23 A. There were some years we didn't get audited at all, and
17:37 24 there were some years we may get audited four or five times in
17:37 25 one year.

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17:37 1 Q. And who -- sorry.

17:37 2 A. And we were audited internally and by our customers.

17:37 3 Q. And who -- I want to make sure -- let's break that down a
17:38 4 little bit.

17:38 5 You had internal audits and then you had customer
17:38 6 audits?

17:38 7 A. That's correct.

17:38 8 Q. Okay. When you say "internal audits," who performs those
17:38 9 audits?

17:38 10 A. It was a team that -- you know, within Halliburton that
17:38 11 was dedicated to, you know, going around the world and
17:38 12 evaluating -- auditing labs.

17:38 13 Q. When you say "customer audits," who are you referring to
17:38 14 that conducts those audits?

17:38 15 A. All the companies that we work for, any company that we --
17:38 16 any customer or company that we work for. It could be Shell,
17:38 17 Chevron, BP, ExxonMobil. Any customer.

17:38 18 Q. So major operators actually --

17:38 19 A. Major operators.

17:38 20 Q. -- may request to audit the lab?

17:38 21 A. Right.

17:38 22 Q. All right. I would like to -- by the way, in these
17:38 23 audits, did the auditors pay attention to technician
17:38 24 competency?

17:38 25 A. Yes.

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17:38 1 Q. Did they pay attention to specific testing procedures?
17:38 2 specific testing procedures.

17:38 3 A. Yes, they do.

17:38 4 Q. Do they pay attention to the documentation associated with
17:39 5 testing?

17:39 6 A. Yes, they do.

17:39 7 MR. HILL: Can you bring up TRES-3769. And I'm as
17:39 8 audited-out as everybody, so I'm going to go quickly through
17:39 9 this, but I just want to identify for the Court one of these
17:39 10 audits.

17:39 11 Next page, please. Turn it sideways. Turn that
17:39 12 first page sideways, please.

17:39 13 BY MR. HILL:

17:39 14 Q. Do you recognize this document that's been identified as
17:39 15 TRES-3769?

17:39 16 A. Yes, I do.

17:39 17 Q. Okay. Who --

17:39 18 MR. HILL: You might just blow it up right here,
17:39 19 please.

17:39 20 BY MR. HILL:

17:39 21 Q. All right. Does this reflect one of those internal audits
17:39 22 that you were talking about?

17:39 23 A. Yes, it does.

17:39 24 Q. Can you tell us who these auditors were?

17:39 25 A. That's Perry Boudreaux and Richard McDonald.

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17:40 1 Q. Are they Halliburton employees?

17:40 2 A. Yes, they're Halliburton employees.

17:40 3 Q. And did you and Richard Dubois actually participate in
17:40 4 this audit?

17:40 5 A. Yes.

17:40 6 MR. HILL: Can you go to Section 1.02. Pull that
17:40 7 out.

17:40 8 BY MR. HILL:

17:40 9 Q. With respect to the audit --

17:40 10 With respect to Audit Issue 1.02, "Based on
17:40 11 appearance, would you trust test results from this lab," would
17:40 12 you please tell the Court what you scored in terms of maximum
17:40 13 value?

17:40 14 A. We scored a 36.

17:40 15 Q. Could you score any higher?

17:40 16 A. I think that's max.

17:40 17 Q. What was -- what was the comment associated with it?

17:40 18 A. "Without question."

17:40 19 MR. HILL: Could you go to 1.03, please. Right
17:40 20 there.

17:41 21 BY MR. HILL:

17:41 22 Q. With respect to the audit question "Would you feel
17:41 23 comfortable bringing a customer here," what was the audit
17:41 24 score?

17:41 25 A. 36.

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17:41 1 Q. Is there a higher score?

17:41 2 A. I think 36 is the highest.

17:41 3 Q. What's the comment associated with that by the auditors?

17:41 4 A. "Without question, world-class facility."

17:41 5 MR. HILL: Now, we could go through here and identify
17:41 6 Section 7 on "Employee Competency," Your Honor, as well as
17:41 7 several others. I think the easiest thing is to just go to the
17:41 8 summary page.

17:41 9 Keep going. There we go.

17:41 10 Pull this up right here, including the totals.

17:41 11 BY MR. HILL:

17:41 12 Q. With respect to employee competency, what did your lab
17:41 13 score?

17:41 14 A. It was 93 percent.

17:41 15 Q. With respect to slurry preparation, what did your lab
17:41 16 score?

17:41 17 A. 100 percent.

17:41 18 Q. With respect to free fluid loss -- I'm sorry.

17:42 19 With respect to fluid loss and free fluid testing,
17:42 20 what did your lab score?

17:42 21 A. 100 percent.

17:42 22 Q. Crush compressive strengths?

17:42 23 A. 100 percent.

17:42 24 Q. Thickening time testing?

17:42 25 A. 95 percent.

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17:42 1 Q. Rheology testing?

17:42 2 A. 100 percent.

17:42 3 Q. Do you recall the total overall score of your lab in this
17:42 4 internal audit?

17:42 5 A. 92 percent.

17:42 6 Q. Thank you.

17:42 7 Now, it's important, I think, for -- we have talked
17:42 8 about weigh-up sheets, customer reports, and a variety of
17:42 9 different lab documents. I would like you to explain to
17:42 10 Judge Barbier a little bit about the process for initiating lab
17:42 11 testing.

17:42 12 Who requests the specific lab tests to be performed
17:42 13 for a cement job?

17:42 14 A. It's requested by the engineer, usually, or service
17:42 15 coordinator.

17:42 16 Q. In this -- I'm sorry.

17:42 17 A. Go ahead.

17:42 18 Q. In the case of Macondo, who would that have been, to your
17:42 19 understanding?

17:42 20 A. That would have been Jesse, Jesse Gagliano.

17:42 21 Q. All right. And can you please explain how that process
17:42 22 works. Does Jesse come to the lab and ask -- and request the
17:43 23 tests be done?

17:43 24 A. No. He uses the web-based Viking lab database management
17:43 25 system.

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17:43 1 Q. Once the requesting engineer fills out Viking and makes a
17:43 2 request, what, if anything, does the lab do?

17:43 3 A. The lab would -- would receive the request and then, you
17:43 4 know, initiate testing.

17:43 5 Q. Is there any documents or anything that the lab has to
17:43 6 print in order to go do their job?

17:43 7 A. They would print the lab weigh sheet.

17:43 8 Q. All right. The judge has heard about the weigh-up sheets.
17:43 9 Who in the lab prints it?

17:43 10 A. It could be the lab manager, chemist, or even the
17:43 11 technician.

17:43 12 Q. And once that lab weigh-up sheet is printed, how are they
17:43 13 used in the lab?

17:43 14 A. They're used to -- as the testing is performed throughout
17:43 15 the day and night, they are -- they write down the results
17:43 16 obtained during testing -- the testing process.

17:44 17 MR. HILL: Bring up TRES-60405, please. 60405.

17:44 18 BY MR. HILL:

17:44 19 Q. Can you explain to the Court, Judge Barbier, what he's
17:44 20 seeing on the screen here.

17:44 21 A. That's a lab -- that's a lab weigh-up sheet.

17:44 22 Q. When you said that the lab actually goes and prints it out
17:44 23 of Viking, are these handwritten notes on it when it's printed?

17:44 24 A. Yes.

17:44 25 Q. Are these handwritten notes on it when it's printed from

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17:44 1 the Viking system --

17:44 2 A. No, no, no. I'm sorry, it's not. It's added after they
17:44 3 print the sheet and begin testing.

17:44 4 Q. Who adds the handwriting?

17:44 5 A. Like I said, it could be a lab chemist, a lab -- cement
17:44 6 lab manager, or even one of the lab techs.

17:44 7 Q. Okay. Now, let's -- how are lab technicians assigned to
17:45 8 actually conduct these tests?

17:45 9 A. Well, there's a -- there's kind of a flow that goes about,
17:45 10 just with experience, you know. Depending on what's going to
17:45 11 have to be tested first would determine where the paperwork --
17:45 12 the lab worksheet's going to be put. So it would first have to
17:45 13 be weighed up.

17:45 14 And then, if they're going to run a thickening time
17:45 15 first or fluid loss free water first or rheologies or
17:45 16 compressive strength -- depending on what they were wanting to
17:45 17 do would be where that paperwork would be directed.

17:45 18 Q. The same lab technician who starts a test, is that the
17:45 19 same lab technician who finishes it?

17:45 20 A. In some cases, but in most cases not.

17:45 21 Q. And why is that?

17:45 22 A. Just because the lab runs 24 hours a day, and sometimes
17:45 23 the testing -- for example, a 12- or 24-hour test, the
17:45 24 technician may not even be there when it's over.

17:46 25 Q. Now, once lab test results are obtained through testing,

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17:46 1 what does the technician do with them at that point?

17:46 2 A. They put it into the Viking system.

17:46 3 Q. To whom do the lab technicians communicate those test
17:46 4 results?

17:46 5 A. Well, the lab technicians are inputted into Viking. If
17:46 6 there's any questions or if an engineer wants to call and speak
17:46 7 to someone, then they would just make a phone call. Or there's
17:46 8 also a message system within Viking also.

17:46 9 Q. I'm glad you said that because that's where I wanted to go
17:46 10 next.

17:46 11 How would a requesting engineer know that testing
17:46 12 results are done and input into Viking?

17:46 13 A. There's several ways. One's a phone call. One is a
17:46 14 message system. And there's a user profile in Viking that
17:46 15 could be set up for various reasons. One could be as soon as a
17:46 16 test result for that particular test is obtained, they could
17:46 17 get an e-mail and a text message. The way could be they could
17:46 18 subscribe to a daily report where, once a day, they get a
17:46 19 report of everything that they have going on.

17:46 20 There's just several -- there's different ways that
17:47 21 you can adjust your user profile.

17:47 22 Q. Does your lab and its technicians report test results to
17:47 23 an outside customer like BP or any other owner -- well owner or
17:47 24 operator?

17:47 25 A. That's not generally part of the process, no.

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17:47 1 Q. Who actually reports tests to the operator?

17:47 2 A. The engineer submitting the request.

17:47 3 Q. What is that document called that is used to report test
17:47 4 results?

17:47 5 A. It's a customer report.

17:47 6 MR. HILL: Can you bring up TREX-7722, please.

17:47 7 BY MR. HILL:

17:47 8 Q. Is this -- this actually relates to Macondo. This is
17:47 9 generally the format of the -- of those customer reports you're
17:47 10 identifying?

17:47 11 A. Yes.

17:47 12 Q. And how is this report generated?

17:47 13 A. The engineer would go into Viking and enter in -- go into
17:47 14 the Customer Report part of the system and then select that
17:47 15 request number or enter that request number and then select the
17:47 16 tests that they're interested in reporting.

17:48 17 MR. HILL: You can take that down.

17:48 18 BY MR. HILL:

17:48 19 Q. All right. So let's talk about -- a little bit more
17:48 20 specifically about the weigh-up sheets and specifically what
17:48 21 the lab techs do.

17:48 22 Who at Halliburton uses the weigh-up sheets?

17:48 23 A. The lab technicians.

17:48 24 Q. And what's done with notations for a particular test?
17:48 25 What becomes of the handwritten covered weigh-up sheets?

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17:48 1 A. They get filed on the Viking. Lab weigh-up sheets just
17:48 2 get filed.

17:48 3 Q. Where are they filed?

17:48 4 A. In the lab, in the cement lab.

17:48 5 Q. Are the handwritten weigh-up sheets accessible through
17:48 6 Viking to people outside of the lab?

17:48 7 A. Not unless they, you know, would call in and request
17:48 8 something like that. I mean, but typically, no, it's not.

17:48 9 Q. And my question is: Are they accessible through Viking?

17:48 10 A. No, they're not. No.

17:48 11 Q. Are they typically provided to the requesting engineer?

17:48 12 A. No.

17:48 13 Q. Are they provided to external customers like BP or well
17:48 14 operator -- or well owners or operators?

17:49 15 A. No.

17:49 16 Q. Now, if someone wanted to see weigh-up sheets from a job,
17:49 17 to whom would they direct that request?

17:49 18 A. They'd probably talk to the cement lab manager or chemist.

17:49 19 Q. And in that case, it would have been Richard Dubois?

17:49 20 A. Yes, or Kenny Miller.

17:49 21 Q. Could they have called you?

17:49 22 A. Could have called me, too.

17:49 23 Q. Now, do you recall if any weigh-up sheets associated with
17:49 24 Macondo were requested of you?

17:49 25 A. Not until, you know, much later when I was working with

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17:49 1 the legal team.

17:49 2 Q. All right. Let's answer this: Do you remember getting a

17:49 3 request for weigh-up sheets associated with Macondo?

17:49 4 A. Yes.

17:49 5 Q. Do you recall when that was?

17:49 6 A. Late September/October, that time frame.

17:49 7 Q. Let's talk -- there's been discussion in this case about

17:49 8 foam testing --

17:49 9 I'm sorry, October of what year?

17:50 10 A. 2010.

17:50 11 Q. So that's late September/October of 2010?

17:50 12 A. Right.

17:50 13 Q. Okay. There's been a lot of discussion about foam

17:50 14 testing. Can you explain to the judge the difference between

17:50 15 standard slurry testing and foam testing? Just generally,

17:50 16 what's the difference between those slurries?

17:50 17 A. The foam slurry is basically a base slurry with foaming

17:50 18 additive added to it, applying shear and entraining air into

17:50 19 the slurry.

17:50 20 Q. So the gas that's entrained to make bubbles in the cement

17:50 21 slurry in the lab, what is that?

17:50 22 A. It's just atmospheric air.

17:50 23 Q. Out on the rig, what is it?

17:50 24 A. It's nitrogen.

17:50 25 Q. Why don't you do nitrogen testing in the lab?

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17:50 1 A. It's just not very safe.

17:50 2 Q. Are there certain tests that can be conducted on a base
17:50 3 slurry or a non-foam slurry that can't be conducted on a foam
17:50 4 slurry, just based on the equipment available?

17:50 5 A. Yes, that's correct.

17:51 6 Q. Can you identify a couple?

17:51 7 A. Thickening time.

17:51 8 Q. UCA compressive strength testing, can that be done on a
17:51 9 foam slurry with field lab equipment?

17:51 10 A. Not with our field lab equipment or the equipment that we
17:51 11 had at Halliburton when I was there.

17:51 12 MR. HILL: Can you bring up TREN-6235, please?

17:51 13 BY MR. HILL:

17:51 14 Q. Do you recognize this document, Mr. Quirk?

17:51 15 A. Yes. That's the API document.

17:51 16 Q. 10B-4, API 10B-4?

17:51 17 A. Yeah, 10-B 4. I thought you said "Timothy."

17:51 18 Q. Can you go to page -- the Court has actually seen this
17:51 19 document before.

17:51 20 MR. HILL: Could you please go to page 10. We're
17:51 21 going to get the section that crosses the bottom of page 10 up
17:51 22 to page 11.

17:51 23 Right here. Can you blow that up at the bottom,
17:51 24 please. And then the top of the first page -- or the next
17:52 25 page.

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17:52 1 BY MR. HILL:

17:52 2 Q. Now, the Court has heard us discuss the signs of
17:52 3 instability when we talked with Mr. Bengé when he was here
17:52 4 testifying for the U.S. Government.

17:52 5 We identified this section of API that speaks of
17:52 6 signs of foam instability. Are you familiar with the
17:52 7 API-specified signs of foam instability?

17:52 8 A. Yes.

17:52 9 Q. In fact, if we were to go to Halliburton's global lab best
17:52 10 practices -- are you familiar with that document?

17:52 11 A. Yes.

17:52 12 Q. Basically, there's a recitation of these same signs in the
17:52 13 Halliburton --

17:52 14 A. Yes.

17:52 15 Q. -- global lab best practices; correct?

17:52 16 A. Yes.

17:52 17 Q. All right. So my question to you is this: Are any of
17:52 18 these lab technicians trained to identify, with respect to foam
17:52 19 testing, these indications of instability during foam testing?

17:52 20 A. Yes.

17:52 21 Q. What, if anything, are lab technicians trained to do if
17:52 22 they observe any such indications of instability?

17:52 23 A. They're trained to document that.

17:52 24 Q. What would you -- by "document," write it on that weigh-up
17:53 25 sheet we just talked about?

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17:53 1 A. Right, right. That's correct.

17:53 2 Q. What would you expect to see on a weigh-up sheet if a
17:53 3 technician performing a foam stability test did not observe any
17:53 4 of these signs of instability?

17:53 5 A. I would assume there were no problems with the slurry, no
17:53 6 instability issues to address.

17:53 7 Q. Okay. Switching direction just a little bit.

17:53 8 There are instances in the weigh-up sheets on some of
17:53 9 these demonstratives that the Court has seen where tests were
17:53 10 retested. Okay? So I want to talk to you a little bit about
17:53 11 the QC process in the lab.

17:53 12 What are lab technicians expected to do when they
17:53 13 recognize perhaps an odd or an out-of-the-ordinary test result?

17:53 14 A. Repeat the test.

17:53 15 Q. How do you know that, by the way?

17:53 16 A. It's just what we communicate with. We had regular
17:53 17 meetings with our team, and part of those meetings involved,
17:53 18 you know, making sure that if results don't look in line, that
17:54 19 we repeat the test.

17:54 20 Q. In your experience, Mr. Quirk, does the lab always tell
17:54 21 the requesting engineer when a test is repeated?

17:54 22 A. I can't say that it happens every time.

17:54 23 Q. Let's talk about focus -- focus just on foam stability
17:54 24 testing for a minute.

17:54 25 When a set foam stability test is conducted in the

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17:54 1 lab and the test shows a higher density on the top than on the
17:54 2 bottom, is that what you would expect to see if air was
17:54 3 breaking out of that test sample?

17:54 4 A. I wouldn't expect for it to be heavier on the top, no.

17:54 5 Q. Would that be an out-of-ordinary test result?

17:54 6 A. Yes.

17:54 7 Q. What would a lab tech expect to see in that -- well, let's
17:54 8 assume that air is breaking out of the sample. What would a
17:54 9 lab tech expect do see in terms of the density of that sample?

17:54 10 A. Heavier density on the bottom and then lighter on the top.

17:54 11 Q. Why is that, by the way?

17:54 12 A. Just because air is breaking out. It's moving its way to
17:54 13 the top and it would be lighter on top.

17:54 14 Q. What would you expect a lab tech to do if he observed one
17:55 15 of these out-of-the-ordinary test results where density of a
17:55 16 foam stability test was higher on top than on bottom?

17:55 17 A. I would expect him to repeat it.

17:55 18 Q. All right. Shifting to D-Air. You had some questions
17:55 19 about D-Air, and I think you recognize that Halliburton's
17:55 20 internal guidance actually -- cautioned against the use of
17:55 21 D-Air in a foam slurry. Correct?

17:55 22 A. That's correct.

17:55 23 Q. So if you were designing a foam slurry from scratch, would
17:55 24 you recommend putting D-Air in the foam blend?

17:55 25 A. No.

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17:55 1 Q. But if you were presented with a situation where D-Air was
17:55 2 already blended in the dry cement blend, is there anything that
17:55 3 you can do to make sure that it performs successfully?

17:55 4 A. I would -- if I was presented with a situation where we
17:55 5 had a sample and had to test it, then I would increase the zone
17:55 6 sealant to overcome the effects of the D-Air.

17:55 7 Q. Okay. So I just want to follow-up with what you just
17:55 8 said. The zone sealant is a different additive; correct?

17:55 9 A. It's a foaming additive. Correct.

17:56 10 Q. And how does it compensate to overcome the effects of
17:56 11 D-Air?

17:56 12 A. Just adding more foaming additive. It would be equivalent
17:56 13 to adding -- you know, if you took a little bit of Dawn
17:56 14 dishwashing liquid and put it in the water versus adding more,
17:56 15 you'll get more foaming if you sheared it. It's equivalent
17:56 16 to that. It's a foaming additive.

17:56 17 Q. Now, Mr. Quirk, the mere presence of D-Air in a dry blend
17:56 18 that's intended to be foamed, does it automatically disqualify
17:56 19 it from being able to be foamed, in your experience?

17:56 20 A. Not in my experience, it doesn't disqualify it.

17:56 21 Q. And if you wanted to know whether the relevant
17:56 22 concentrations of D-Air and surfactant that you put in that
17:56 23 blend -- if you wanted to know if the concentration of
17:56 24 surfactant is sufficient to overcome the effects of D-Air, how
17:56 25 do you know that?

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- 17:56 1 A. You order a test.
- 17:56 2 Q. What test do you run?
- 17:56 3 A. A foam stability test.
- 17:56 4 Q. Now, BP's counsel brought out something with Dr. Benge, I
17:57 5 believe -- don't hold me to that. But they asked if Jesse
17:57 6 Gagliano's weigh-up sheets -- or the weigh-up sheets associated
17:57 7 with the foam stability test that Jesse Gagliano requested
17:57 8 actually changed the surfactant concentration from the
17:57 9 beginning to the end. Okay?
- 17:57 10 A. Okay.
- 17:57 11 Q. Have you reviewed the weigh-up sheets associated with the
17:57 12 foam stability testing at Macondo?
- 17:57 13 A. Yes.
- 17:57 14 Q. Do you recall what the surfactant concentration is?
- 17:57 15 A. I think it was .11, I believe.
- 17:57 16 MR. HILL: Bring up 7722, please.
- 17:57 17 BY MR. HILL:
- 17:57 18 Q. Can you identify what the surfactant concentration is?
- 17:57 19 A. It's .11 gallons per sack.
- 17:57 20 Q. Okay. In your experience, is there a standard
17:58 21 concentration of surfactant that you typically see in a foam
17:58 22 cement job?
- 17:58 23 A. Yes.
- 17:58 24 Q. What is it?
- 17:58 25 A. Typically, it's .07.

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17:58 1 Q. So .07 is less than .11 gallons per sack; correct?

17:58 2 A. That's correct.

17:58 3 Q. There's also been discussion about the propriety of the
17:58 4 labs actually conditioning the base slurry prior to conducting
17:58 5 foam stability tests. So I want to turn your attention to
17:58 6 that.

17:58 7 What do you understand the purpose of conditioning a
17:58 8 base slurry is prior to actually conducting a foam stability
17:58 9 test?

17:58 10 A. Simulating the job placement time, meaning pumping it down
17:58 11 the hole and exposing it to temperature.

17:58 12 Q. All right. So in a well the size of Macondo, we're
17:58 13 talking about 3 miles from rig to bottom hole, right,
17:58 14 approximately?

17:58 15 A. Correct.

17:58 16 Q. Approximately?

17:58 17 A. Based on the depth, yeah.

17:59 18 Q. That takes time to pump down that deep, doesn't it?

17:59 19 A. Yes.

17:59 20 Q. Can you explain to the Court what happens to the slurry as
17:59 21 it's pumped downhole for 3 miles over time.

17:59 22 MR. REGAN: Your Honor -- and maybe he can do it.
17:59 23 But I think we established a few minutes ago that he's never
17:59 24 done any downhole work.

17:59 25 THE COURT: I sustain the objection.

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17:59 1 BY MR. HILL:

17:59 2 Q. All right. Can you explain what the purpose in the lab
17:59 3 is -- what are you actually simulating when you do
17:59 4 conditioning?

17:59 5 A. I'm simulating the downhole well conditions that were
17:59 6 submitted on the request.

17:59 7 Q. Specifically, what are those conditions?

17:59 8 A. Temperature and pressure.

17:59 9 Q. How is it determined the time for conditioning when you
17:59 10 actually do condition a base slurry prior to foaming?

17:59 11 A. The engineer submitting the request would generally submit
17:59 12 it as a job placement time, you know, or -- a given time.

17:59 13 Q. So just -- can you explain to the Court, how is the job
17:59 14 placement time connected with the condition time?

17:59 15 A. It's -- typically, that would be the same, meaning that
18:00 16 we'd represent how we would -- roughly how long it would take
18:00 17 to pump the cement in place. So you try to mimic that in the
18:00 18 lab.

18:00 19 Q. Do you know how long the final foam stability test on
18:00 20 April 2010 was conditioned, prior to foaming?

18:00 21 A. Three hours.

18:00 22 Q. Are you aware, Mr. Quirk, of any test that would tell the
18:00 23 Court whether conditioning that slurry in the lab before
18:00 24 foaming it artificially thickened the slurry in the lab?

18:00 25 A. I'm not aware of a -- of a test that indicates that?

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18:00 1 Q. Yeah.

18:00 2 A. That it thickened it?

18:00 3 Q. Or one that would show whether or not that's true.

18:00 4 A. A thicken time, sure.

18:00 5 MR. HILL: Can you bring up 7722. Go to the first

18:00 6 page for a second.

18:00 7 Again, bring up this thickening time test right

18:01 8 here, please.

18:01 9 BY MR. HILL:

18:01 10 Q. What was the temperature at which that thickening time

18:01 11 test was conducted?

18:01 12 A. 135 degrees Fahrenheit.

18:01 13 Q. Do you know the retarder concentration of this particular

18:01 14 test?

18:01 15 A. I think it's -- .08, I believe.

18:01 16 Q. That's a Part 2 test, so it was --

18:01 17 A. Oh. That's .09, right? Yes, I think it would be .09.

18:01 18 Q. Okay. .09 --

18:01 19 A. Gallons.

18:01 20 Q. -- gallons of retarder?

18:01 21 A. Yes.

18:01 22 MR. HILL: Can you go to the chart on the page ending

18:01 23 in Bates No. 8711. Pull that up.

18:01 24 BY MR. HILL:

18:01 25 Q. Mr. Quirk, can you explain what this chart is?

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18:01 1 A. That's a thickening time chart.

18:01 2 Q. What is this line right here?

18:01 3 A. That's the cement viscosity.

18:01 4 Q. So what does that point right there indicate?

18:01 5 A. That's the initial viscosity upon starting the test.

18:01 6 Q. As this slurry for conducting the thickening time test is

18:01 7 heated to 135 degrees, what happens to that viscosity trend

18:02 8 line?

18:02 9 A. It goes down, meaning it thins somewhat.

18:02 10 Q. Do you know why that happens?

18:02 11 A. It's because of the heat being applied to the slurry.

18:02 12 It's thermal thinning, basically.

18:02 13 Q. After three hours, does that viscosity ever get up, in

18:02 14 your -- based on what you can see here, does the viscosity at

18:02 15 three hours ever get up to the initial viscosity point?

18:02 16 A. It's just below it, right -- yeah, just below it.

18:02 17 Q. Now, just to make sure we're clear, this particular test

18:02 18 is run with SA-541 additive in the slurry; correct?

18:02 19 A. That's correct.

18:02 20 Q. What is SA-541?

18:02 21 A. It's a suspension aid, suspending aid in cement.

18:02 22 Q. How is it activated?

18:02 23 A. By temperature. It's heat-activated.

18:02 24 Q. So if you were wondering whether or not that SA-541 was

18:02 25 actually artificially activated by conditioning time heat,

TIMOTHY QUIRK - DIRECT

18:02 1 would this test tell you whether or not that's true?

18:02 2 A. It appeared, by looking at this chart, that it didn't --
18:03 3 it didn't activate. It actually thinned rather than rising in
18:03 4 viscosity at the time that you would expect it to, as it's
18:03 5 gaining temperature.

18:03 6 Q. At least with respect to those three hours; correct?

18:03 7 A. Correct.

18:03 8 MR. HILL: Your Honor, I've still got about 40 -- 35
18:03 9 to 40 minutes. I don't know if you want me to keep going or --
18:03 10 I'm at a stopping point.

18:03 11 THE COURT: I only took this witness because he was
18:03 12 going to be short, and we took him instead of Mr. Barnhill.
18:03 13 That's the last time I'll believe any of you guys.

18:03 14 MR. HILL: I can press on.

18:03 15 THE COURT: I can't believe this witness is taking
18:03 16 this long. We're going to recess until 8:00 tomorrow morning.

18:04 17 THE DEPUTY CLERK: All rise.

18:04 18 (WHEREUPON, the proceedings were concluded.)

19 *****

20 CERTIFICATE

21 I, Jodi Simcox, RMR, FCRR, Official Court Reporter
22 for the United States District Court, Eastern District of
23 Louisiana, do hereby certify that the foregoing is a true and
24 correct transcript, to the best of my ability and
25 understanding, from the record of the proceedings in the
above-entitled and numbered matter.

s/Jodi Simcox, RMR, FCRR
Jodi Simcox, RMR, FCRR
Official Court Reporter

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