



My review of the testimony and documentary record leads me to conclude that the BOP-on-BOP procedure was not in a state of readiness for execution in early May. The engineering work, analyses, and equipment modification necessary to safely attempt to execute the procedure necessarily was continuing through May.

3.6 TOP KILL DATA INCREASED CONCERNS ABOUT THE INTEGRITY OF THE WELL

regarding the integrity of the Well. I have reviewed the expert report of Mr. Dan Gibson and believe his analysis used sound and accepted principles. I accept his

to say the obvious, because the obvious formation and secondary was the well floor.⁵⁸ Such an outcome could complicate collection of oil from the reservoir or, worse, could prevent the Well from being killed with any known means and the risk needed to be addressed. As a result of those concerns, the BOP-on-BOP procedure to shut in the Well was not executed and instead efforts focused on collecting as much oil as possible. In light of the risk of breaching and the potential negative impact on collection and kill efforts, I believe that this was a sound decision.

Mr. Perkin is dismissive of these concerns; but he did not engage in any analysis regarding the integrity of the Well. I have reviewed the expert report of Mr. Dan Gibson and believe his analysis used sound and accepted principles. I accept his conclusion that data from Top Kill raised legitimate concerns regarding the integrity of the Well that were also recognized by BP and independently by the Federal Science Team. The review of the data presented a risk of elevated well integrity problems. Even in light of conflicting opinions, I believe that it was appropriate for BP and the Unified Command to consider the elevated risk identified after Top Kill and the potential adverse consequences if the risk was realized in deciding how to move forward with source control options and the lower-risk options to mitigate environmental damage through collection efforts.⁵⁹

⁵⁸ HCG259-005847; LAL096-000104; IES006-088413; LAL097-009708; DSE001-011651 (in a May 30, 2010 e-mail, Secretary Chu, upon his return from Houston where he and his team had monitored the Top Kill Effort, highlighted that "we have been getting the data at the same time as BP engineers, and conducting our own independent analysis of the data so that we can verify the conclusions that BP is making at every step," "more than 150 personnel from our national laboratories have been contributing to this effort"; and the "decision to move [to a containment strategy] is based both on independent analysis from the federal government and review of BP's suggested options.")

⁵⁹ Deposition Exhibit 9148; T. Hunter Tr. at 202-3.

⁶⁰ M. McNutt Tr. at 254 ("it was not a unique interpretation; it was not the only interpretation; it was a plausible interpretation; and as I say, carried such a great risk if it was correct that the -- that was worth taking seriously."); HCG467-000446 (May 29, 2010 e-mail from Carol Browner, "Our scientists have determined that the risks are too great to shut the well in from the top. Eg with the addition of a new BOP."); HGC272-004819 (May 29, 2010 e-mail from