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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: OIL SPILL BY THE  
OIL RIG *DEEPWATER HORIZON*  
IN THE GULF OF MEXICO ON  
APRIL 20, 2010

THIS DOCUMENT RELATES TO:  
#10-4536

UNITED STATES OF AMERICA

v.

BP EXPLORATION &  
PRODUCTION INC.,  
ANADARKO EXPLORATION &  
PRODUCTION LP, ANADARKO  
PETROLEUM CORPORATION,  
MOEX OFFSHORE 2007 LLC,  
TRITON ASSET LEASING GMBH,  
TRANSOCEAN HOLDINGS LLC,  
TRANSOCEAN OFFSHORE  
DEEPWATER DRILLING INC.,  
TRANSOCEAN DEEPWATER INC.,  
AND QBE UNDERWRITING LTD.,  
LLOYD'S SYNDICATE 1036

\*\*\*\*\*

Civil Action No. 10-MD-2179  
Section J  
New Orleans, Louisiana  
January 23, 2015

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

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4       of America:

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8 Proceedings recorded by mechanical stenography using  
9 computer-aided transcription software.

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I N D E X

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Ian Ratner	
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Redirect Examination By Mr. Casey:	1206

1 AFTERNOON SESSION

2 (January 23, 2015)

3 \* \* \* \* \*

4 (OPEN COURT)

5  
6 **THE DEPUTY CLERK:** All rise.

7 **THE COURT:** All right. Please be seated. Good  
8 afternoon.

9 **MS. HIMMELHOCH:** We have a brief preliminary matter,  
10 if we could.

11 **THE COURT:** Okay.

12 **MR. ROBERS:** Your Honor, Brandon Robers for the  
13 United States. I have here a list of exhibits used during the  
14 examination of Dr. Boesch that I now move into evidence.

15 **THE COURT:** Any objection?

16 **MS. KARIS:** No objection, Your Honor.

17 **THE COURT:** All right. Without objection, those are  
18 admitted.

19 **MR. ROBERS:** I also have a list of exhibits for  
20 Dr. Diane Austin used during Tuesday's exam that I would now  
21 like to move into evidence.

22 **THE COURT:** Any objection?

23 **MS. KARIS:** We do have objections to those,  
24 Your Honor. We would like to step forward and address them at  
25 this time.

01:04 1 We have offered to the United States, to try and  
01:04 2 resolve our objection, but the main objection pertains to four  
01:04 3 exhibits. As Your Honor recalls, Dr. Austin -- they displayed  
01:04 4 the cover page of four reports that she had done in the past as  
01:04 5 part of her qualifications.

01:04 6 Those reports are approximately, I've been told,  
01:04 7 800 pages total. She was never asked about those reports.  
01:04 8 I've asked for an opportunity to actually look at the substance  
01:05 9 of the reports before we will agree --

01:05 10 **THE COURT:** All right. Why don't we defer this then?  
01:05 11 I'll let you all continue to try to work that out. We'll pick  
01:05 12 it up sometime next week. Okay?

01:05 13 **MS. KARIS:** Thank you, Your Honor.

01:05 14 **THE COURT:** Okay.

01:05 15 **MR. REGAN:** Matt Regan on behalf of the BP. Also, I  
01:05 16 have been given the BP exhibits that we used in Dr. Clapp's  
01:05 17 examination and ask to admit those.

01:05 18 **THE COURT:** Any objection from the government?

01:05 19 **MR. ROBERS:** No objection.

01:05 20 **THE COURT:** Okay. Without objection, those are  
01:05 21 admitted.

01:05 22 **MR. REGAN:** Thank you, Your Honor.

01:05 23 With that, Your Honor, I think I'm ready to  
01:05 24 proceed with cross-examination.

01:05 25 **THE COURT:** All right. Very well.

## IAN RATNER - CROSS

01:05 1 (WHEREUPON, IAN RATNER, having been duly sworn,  
01:05 2 testified as follows:)

01:05 3 THE DEPUTY CLERK: Please state your full name and  
01:05 4 correct spelling for the record.

## 01:05 5 CROSS-EXAMINATION

01:05 6 BY MR. REGAN:

01:05 7 Q. Again, Matt Regan for BP.

01:05 8 Mr. Ratner, I have you on cross-examination. Good  
01:05 9 afternoon.

01:05 10 A. Good afternoon, sir.

01:05 11 Q. Now, Mr. Ratner, you had some changes to your reports that  
01:06 12 you brought to your deposition in October; correct?

01:06 13 A. Yes.

01:06 14 Q. Okay. And then you had some changes that you submitted in  
01:06 15 your errata sheet -- actually changes to the report after the  
01:06 16 deposition; correct?

01:06 17 A. Yes.

01:06 18 Q. And then you had some changes that you brought today that  
01:06 19 you went through that you described as minor; correct?

01:06 20 A. Yes.

01:06 21 Q. Have you gone through all of the changes that you have to  
01:06 22 the reports that you've submitted in this case?

01:06 23 A. The only -- the third -- the two that we covered in the  
01:06 24 examination -- the two that we covered in the examination this  
01:06 25 morning were -- the third is even more minor. There were some



## IAN RATNER - CROSS

01:06 1 rounding on the percentages, I think on Schedule 10. It was a  
01:06 2 schedule we -- we did not refer to yet today. It was like 1.9  
01:06 3 and it should have been 1.7. There were some roundings of  
01:06 4 individual percentages on a spreadsheet.

01:07 5 Q. Okay. So other than the changes you've identified, you  
01:07 6 stand by the rest of your reports as submitted; correct?

01:07 7 A. Yes.

01:07 8 Q. Okay. Now, Mr. Ratner, you have no calculation in any of  
01:07 9 your four reports with respect to BP and BPXP of the amount  
01:07 10 that BPXP could pay in 2015 to satisfy a Clean Water Act  
01:07 11 penalty if it did not acquire or obtain additional funding or  
01:07 12 other source of liquidity; correct?

01:07 13 A. Yes, that's correct.

01:07 14 Q. And you agree that BPXP does not currently have any  
01:07 15 available cash to pay a penalty; correct?

01:07 16 A. I suppose other than the internal line of credit, they do  
01:07 17 not hold any cash.

01:07 18 Q. And that would be the IFA agreement that you spoke about  
01:07 19 on your direct; correct?

01:07 20 A. Yes, sir.

01:07 21 Q. So on the day a Clean Water Act judgment would be  
01:07 22 rendered, BPXP will have a new cash obligation; correct?

01:07 23 A. Yes.

01:07 24 Q. And as I see in your reports and as you testified, your  
01:08 25 opinion is that you believe that, notwithstanding what you just

## IAN RATNER - CROSS

01:08 1 testified to, BPXP has the financial flexibility to otherwise  
01:08 2 fund or finance a Clean Water Act penalty. Is that fair?

01:08 3 A. Yes.

01:08 4 Q. And your specific opinion is that BPXP could fund or  
01:08 5 finance a Clean Water Act penalty and not have a long-term  
01:08 6 negative economic impact, even if that penalty were to approach  
01:08 7 the maximum amount; correct?

01:08 8 A. That's correct.

01:08 9 Q. And you define, as you said right before lunch,  
01:08 10 "long-term" is beyond ten years; correct?

01:08 11 A. Yes.

01:08 12 Q. So just to put it in -- in brass tacks, if the Court were  
01:08 13 to issue a judgment in 2015, you're saying that you think after  
01:08 14 2025, BPXP would not suffer a negative economic impact from  
01:08 15 that penalty?

01:08 16 A. Yes. Over -- excuse me, sir. Over the long term, yes.

01:08 17 Q. All right. So after 2025, if it's -- if the penalty is  
01:09 18 rendered in 2015?

01:09 19 A. I suppose it depends when they -- when they pay it. But  
01:09 20 the concept is that over the long term -- the same way that  
01:09 21 the -- the spill had a significant impact on the business, over  
01:09 22 the long term, it will be managed and already, you know, so to  
01:09 23 speak, the company's recovered, their balance sheet is strong.

01:09 24 So my analysis is really over the long term. Because  
01:09 25 in the short term, it would have an effect.

## IAN RATNER - CROSS

01:09 1 Q. The spill had a negative impact on BPXP's financial  
01:09 2 performance already; correct?

01:09 3 A. Yes.

01:09 4 Q. And it's still having a negative impact on BPXP's  
01:09 5 financial performance today, five years later; correct?

01:09 6 A. Well, it's -- not operationally. It's reflected on their  
01:09 7 financial statements.

01:09 8 **THE WITNESS:** So the impact of the spill, Your Honor,  
01:09 9 is reflected on the BPXP financial statements and that affected  
01:09 10 the equity and it affected the balance sheet; but  
01:09 11 operationally, vis-à-vis BPXP, it's not affecting the company,  
01:10 12 the legal entity.

01:10 13 **BY MR. REGAN:**

01:10 14 Q. Mr. Ratner, you reviewed Section 311, the Clean Water Act  
01:10 15 statute that we're here in this trial addressing; correct?

01:10 16 A. Yes, sir.

01:10 17 Q. And you agree there is nothing in that statute that  
01:10 18 restricts the assessment of the economic impact on the violator  
01:10 19 factor to just long-term economic impact; correct?

01:10 20 **MR. UNDERHILL:** Objection, Your Honor. It calls for  
01:10 21 a legal conclusion.

01:10 22 **THE COURT:** Yes, it really does.

01:10 23 **MR. REGAN:** I'm just asking if he --

01:10 24 **THE COURT:** Well, it doesn't matter what he thinks  
01:10 25 about the -- with all due respect, what he thinks about what

## IAN RATNER - CROSS

01:10 1 that statute says.

01:10 2 MR. REGAN: Fair enough, Your Honor.

01:10 3 THE COURT: Okay.

01:10 4 BY MR. REGAN:

01:10 5 Q. Mr. Ratner, you agree that there will be a short-term --  
01:10 6 I'll withdraw the question. If I may proceed.

01:10 7 You agree that there will be a short-term negative  
01:10 8 impact for some unknown length of time from a Clean Water Act  
01:10 9 penalty rendered on BXP; correct?

01:10 10 A. Yeah. I think that's consistent with my testimony.

01:10 11 Q. And the length of the time of that negative impact depends  
01:10 12 on the amount of the penalty and whether BXP can obtain new  
01:11 13 funding or financing to pay it in the short term and then  
01:11 14 whatever the terms are of that funding or financing; correct?

01:11 15 A. Yeah. I would say -- sir, I would add one other part of  
01:11 16 your statement. It would depend on the amount, and it would  
01:11 17 depend on the time frame, and it would depend on how they  
01:11 18 structured that, either with an equity injection, the sale of  
01:11 19 stock or debt. So the impact, the length of the impact would  
01:11 20 be affected by how it's arranged.

01:11 21 Q. Right. And you could model these various funding or  
01:11 22 financing sources and model hypothetical penalties to determine  
01:11 23 exactly what the impact would be on the economic -- on BXP's  
01:11 24 situation; correct? It could be done?

01:12 25 A. I think hypothetically you could do that.

## IAN RATNER - CROSS

01:12 1 Q. It's not something you've done; correct?

01:12 2 A. Correct.

01:12 3 Q. You did not model the possibilities that you identify for  
01:12 4 how BPXP specifically could fund or finance a Clean Water Act  
01:12 5 penalty in 2015; correct?

01:12 6 A. Correct, I did not.

01:12 7 Q. You did not model the terms of any debt that you testified  
01:12 8 may be available to BPXP; correct?

01:12 9 A. Correct.

01:12 10 Q. You did not model the terms of any equity; correct?

01:12 11 A. Correct.

01:12 12 Q. You did not model any potential divestitures of assets or  
01:12 13 asset sales that you suggest BPXP might use to fund the  
01:12 14 penalty; correct?

01:12 15 A. Correct.

01:12 16 Q. And because you haven't modeled these possibilities, you  
01:12 17 can't testify as to what the specific impact of any of those  
01:12 18 possibilities would be on BPXP. Fair?

01:12 19 A. Yeah, I think that's a fair statement. There's so many  
01:12 20 different possibilities and relationship between those  
01:13 21 possibilities.

01:13 22 **THE WITNESS:** And in particular vis-à-vis asset  
01:13 23 sales, Your Honor, you really need to have management's input  
01:13 24 because you just can't sit in a -- you can't sit in a vacuum  
01:13 25 and do that. There's just so many -- you know, you could see a

## IAN RATNER - CROSS

01:13 1 scenario where I would come here and have a hundred different  
01:13 2 permutations and combinations, and I think that would be like  
01:13 3 level 1, without the input of management.

01:13 4 **BY MR. REGAN:**

01:13 5 **Q.** To be clear, Mr. Ratner, you didn't do one permutation,  
01:13 6 much less a hundred. You haven't done one; correct?

01:13 7 **A.** Well --

01:13 8 **Q.** Is that correct?

01:13 9 **A.** -- which one would you do? You had asked me a little bit  
01:13 10 in the deposition about the full debt --

01:13 11 **Q.** Mr. Ratner, I --

01:13 12 **A.** I just want to -- I'm just trying to answer.

01:13 13 **Q.** My question was very simple. You have not modeled one of  
01:13 14 those permutations, have you? Yes or no?

01:13 15 **A.** Not vis-à-vis BPXP, I did not.

01:13 16 **Q.** And you agree that if you actually did that work and  
01:13 17 developed those models, using whatever assumptions you want to,  
01:13 18 there would be circumstances under which there would be a  
01:14 19 negative economic impact on BPXP depending on the mix of  
01:14 20 techniques used to finance that penalty; correct?

01:14 21 **A.** Well, again, if you're -- it depends over what term.  
01:14 22 There would be a negative -- almost anything over the short  
01:14 23 term, unless it's a straight equity sale -- even in an equity  
01:14 24 sale, there would be some dividends that would be -- could be  
01:14 25 required. So the modeling -- without the cash flows beyond the

## IAN RATNER - CROSS

01:14 1 five years, I just couldn't do that.

01:14 2 Q. There could be a negative impact in the short term, in the  
01:14 3 medium term, and in the long term, depending on what the  
01:14 4 mixture of this funding or financing is that you propose BPXP  
01:14 5 could obtain; correct?

01:14 6 A. Well, I don't believe over the long term. I think that  
01:14 7 there's enough cash flow and indication of asset value that  
01:14 8 over the long term, it would not cause a negative impact on the  
01:14 9 operations. It might -- the company might be worth less. The  
01:14 10 cash flows would be consumed with other items.

01:15 11 But in terms of the viability of this entity, you  
01:15 12 know, you just have to know which way you're going to do it.  
01:15 13 There are ways that would have lesser impacts and ways that  
01:15 14 would have greater impacts.

01:15 15 Q. Is it your testimony that you do not believe that it would  
01:15 16 show a long-term negative impact? Is that your testimony  
01:15 17 today?

01:15 18 A. I think that's what I said. I think that is part of my  
01:15 19 opinion.

01:15 20 MR. REGAN: If we could pull up Mr. Ratner's  
01:15 21 deposition, page 324, lines 8 to 18.

01:15 22 BY MR. REGAN:

01:15 23 Q. And my question is a very simple one, Mr. Ratner. My  
01:15 24 question is: Did I ask you this question and did you give this  
01:15 25 answer?

## IAN RATNER - CROSS

01:15 1 "QUESTION: And you agree that if you actually did  
01:15 2 that work and developed those models, there would be  
01:15 3 circumstances under which there would be a negative  
01:15 4 economic impact dependent on the mixture of techniques  
01:15 5 used to fund or finance a penalty?"

01:15 6 And did you answer:

01:15 7 "ANSWER: I think there would -- I think -- as I  
01:15 8 said, I think there could be a short-term, medium-term,  
01:16 9 long-term negative impact, depending on what you ultimately  
01:16 10 do."

01:16 11 Were you asked that question and did you give that  
01:16 12 answer?

01:16 13 A. Yes. And that's basically what I said. It's over -- it  
01:16 14 depends over the term.

01:16 15 Q. Now, these various options of selling assets or getting  
01:16 16 debt or raising equity, they are interdependent upon one  
01:16 17 another; correct?

01:16 18 A. I think they're related, yes.

01:16 19 Q. Yeah. So if you issue -- if you take a loan on, it might  
01:16 20 limit your ability to sell assets because you need the cash  
01:16 21 flow from the assets to finance the loan -- or fund -- fund the  
01:16 22 amortization of the loan; correct?

01:16 23 A. Yes.

01:16 24 Q. And, similarly, if you were to sell assets first, you may  
01:16 25 have less cash flows and it may then not allow you to take out



## IAN RATNER - CROSS

01:16 1 as great of a loan; correct?

01:16 2 A. That's one of possibilities.

01:16 3 Q. And you haven't analyzed the interrelationship between  
01:16 4 these various options that you believe BPXP would have to fund  
01:16 5 or finance a penalty; correct?

01:16 6 A. Yes. Again, for the same reason.

01:17 7 Q. Okay. You have no opinion about what cash flow BPXP could  
01:17 8 bring or raise by selling interests in its assets; correct?

01:17 9 A. No. I didn't have that information available to me.

01:17 10 Q. Right. And you have no opinion as to what that value  
01:17 11 would be; correct?

01:17 12 A. Correct.

01:17 13 Q. You agree that all of BPXP's assets today are core to its  
01:17 14 business; correct?

01:17 15 A. I don't know. I mean, there may be some non-core  
01:17 16 business -- there may be some non-core assets.

01:17 17 Q. Can you identify any non-core asset that's held by BPXP?

01:17 18 A. Well, sir, I don't have a list --

01:17 19 **THE COURT:** Wait, wait. Let me -- so I can  
01:17 20 understand what we're talking about. What do you mean by not a  
01:17 21 core to its business?

01:17 22 **MR. REGAN:** I can either answer, Your Honor, or I can  
01:18 23 ask the witness.

01:18 24 **THE COURT:** No, I'm asking you, what do you mean by  
01:18 25 that, so I can understand what the question is.

## IAN RATNER - CROSS

01:18 1           **MR. REGAN:** Certainly, Your Honor. A core asset is  
01:18 2 something that's fundamental to the business, versus a non-core  
01:18 3 asset might be a different business line that's not something  
01:18 4 it normally does, but it might have an ownership interest in  
01:18 5 it. I think Mr. Ratner gave me an example of that in his  
01:18 6 deposition.

01:18 7                         So, for example, if BPXP owned a grocery  
01:18 8 store --

01:18 9           **THE COURT:** Well, you're not suggesting that BP can't  
01:18 10 divest itself of leasehold interests or whatever, because we  
01:18 11 know they've done that since the spill occurred.

01:18 12           **MR. REGAN:** Correct. I'm not suggesting that,  
01:18 13 Your Honor.

01:18 14           **THE COURT:** So I'm trying to understand the point of  
01:18 15 your question here.

01:18 16           **MR. REGAN:** It really goes to the impact of that  
01:18 17 divestiture. If you divest a core asset, it could have a  
01:18 18 greater impact on your business than the divestiture of a  
01:18 19 non-core asset.

01:18 20           **THE COURT:** That's probably common sense.

01:18 21           **MR. REGAN:** Okay. I'll move on.

01:18 22 **BY MR. REGAN:**

01:18 23 **Q.** You agree, Mr. Ratner, that the deeper you get into the  
01:18 24 asset base of BPXP, if you were proceeding upon divestitures, the  
01:18 25 more negative impact it would have in the long term?

## IAN RATNER - CROSS

01:19 1 A. I think as a hypothetical that's true.

01:19 2 Q. Okay. And in terms of order of magnitude, I believe --  
01:19 3 you believe that BPXP could sell maybe \$1 to \$3 billion of  
01:19 4 assets without creating a long-term negative impact; correct?

01:19 5 A. I think we were using some hypotheticals. You know, those  
01:19 6 are numbers that are not of -- they were not significant --  
01:19 7 well, they are significant, but in terms of the percentage of  
01:19 8 the fixed assets -- and, frankly, as I reflect, without a full  
01:19 9 asset list, it would be hard to even determine which -- which  
10 and where.

01:19 11 But those are not -- but those numbers are not out of  
01:19 12 line with their capital expenditures and their ongoing  
13 operations.

01:19 14 Q. Mr. Ratner, you've not done any analysis of how large of a  
15 loan you believe BPXP could obtain in 2015; correct?

01:19 16 A. That's correct.

01:19 17 Q. And that -- so no loan profile, no length of a loan, no  
18 interest rate, no covenants, no security. Fair?

01:20 19 A. We have not shopped the loan or developed a profile.

01:20 20 Q. Okay. So you believe that BPXP could obtain lending, but  
21 in terms of the specifics, if we were to try to analyze the  
22 loan, your opinion doesn't reach to specifics?

01:20 23 A. Again, you're dealing with the best information that I  
24 have available. They have a lot of assets that are unpledged,  
25 and the capital markets are very liquid, for sure, at that

## IAN RATNER - CROSS

01:20 1 time. And the idea was that the capital markets are liquid and  
01:20 2 there would be some debt opportunity for this company.

01:20 3 Q. Are you familiar with the term "speculative grade"?

01:20 4 A. Yes.

01:20 5 Q. And that's a credit rating; correct?

01:20 6 A. Yes.

01:20 7 Q. And you haven't done a rate study in this case; right?

01:20 8 A. Correct, I've not.

01:20 9 Q. Do you think that it has become easier or more difficult  
01:20 10 today, as we sit here in January of 2015, for a speculative  
01:21 11 grade E&P company to get a loan?

01:21 12 A. I think that as a hypothetical -- with the decline in oil  
01:21 13 prices, I think it's obvious that it's gotten more -- it would  
01:21 14 be more difficult today to get a loan from a third party than  
01:21 15 it would have been at the time that I issued my report in July.  
01:21 16 I mean, the decline in prices will definitely affect the  
01:21 17 ability to the type of loan that you would get. It's just the  
01:21 18 circumstance in the last six months.

01:21 19 Q. Mr. Ratner, if --

01:21 20 A. However -- I'm going to answer -- finish the question.

01:21 21 However, there is substantial assets, at least the  
01:21 22 ones that I'm aware of, that are unpledged, and you'd have to  
01:21 23 take this to the capital markets. I mean, it's a  
01:21 24 multibillion-dollar transaction. You would have to go to the  
01:21 25 capital markets with it.

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01:21 1 Q. When you say "unpledged," you're talking about a lender  
01:21 2 requiring a security interest in BXP's assets as a condition  
01:22 3 to giving the loan. Is that fair?

01:22 4 A. Well, that was one of the examples that we talked about.  
01:22 5 You could have unsecured notes, you could raise bond financing,  
01:22 6 or you could try to raise debt based on the security. Again,  
01:22 7 there's a lot of optionality in this situation.

01:22 8 Q. In that secured lending scenario, the new lender would  
01:22 9 then have, under your understanding, a right to BXP's assets  
10 above that of future contingent liabilities; correct?

01:22 11 A. I think, generally speaking, that's my understanding.

01:22 12 Q. So if BXP were to be required to give a security interest  
13 in order to obtain new liquidity in 2015, that security  
14 interest, under your understanding, would be superior to future  
15 claimants like the NRD claims, OPA claims, state and local  
16 claims?

01:22 17 A. Well, I'm not an attorney --

01:22 18 MR. CASEY: I'm going to object, Your Honor.

01:23 19 MR. REGAN: I'm not asking him for a legal  
20 conclusion, just his understanding.

01:23 21 THE COURT: It does sound like a legal opinion.

01:23 22 MR. CASEY: It sounds like a legal opinion.

01:23 23 MR. REGAN: I would say, Your Honor, that the witness  
24 is qualified. We didn't challenge his qualifications. He  
25 testified as to this exact topic in his deposition.

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01:23 1 THE COURT: Well, but he didn't testify to this in  
01:23 2 court on redirect, so I sustain the objection.

01:23 3 BY MR. REGAN:

01:23 4 Q. Are you familiar with any unsecured loan that's been  
01:23 5 provided to an E&P company for \$10 billion in the last five  
01:23 6 years?

01:23 7 A. Again, I didn't survey the market.

01:23 8 Q. Now, if BPXP were to be required to use debt to finance a  
01:23 9 penalty, the impact on BPXP's business would be not only the  
01:23 10 face amount of the loan or the debt, but also the interest  
01:23 11 costs; correct?

01:23 12 A. That's true.

01:23 13 Q. So from a financial reality or economic reality, the  
01:23 14 impact on the business is not just the dollar amount it has to  
01:23 15 borrow, but also then the carrying costs?

01:24 16 A. That's true.

01:24 17 Q. And if BPXP were to be required to defer CAPEX in order to  
01:24 18 repay debt, that would have a negative impact on BPXP's  
01:24 19 operations; correct?

01:24 20 A. Yeah. I mean, it would change the amount of investment  
01:24 21 that they would be making in their current and future  
01:24 22 exploration activity.

01:24 23 It's different, and I suppose negative because they  
01:24 24 would have less money to put into CAPEX.

01:24 25 Q. And if you're talking about billions of dollars of debt,

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01:24 1 face amount, you're also talking about hundreds of millions, if  
01:24 2 not billions of dollars in interest. Is that fair?

01:24 3 A. That's fair.

01:24 4 Q. And if you wanted to assess, then, the true economic  
01:24 5 impact on BPXP, you would combine both of those numbers; right?

01:24 6 A. Again, under the different assumptions of how much and the  
01:25 7 timing and the bonds, you know, you would have to -- to model  
01:25 8 it all out for each particular scenario.

01:25 9 Q. I'd like to address some of the testimony you gave with  
01:25 10 respect to BP p.l.c. and then move to some questions about the  
01:25 11 violator BPXP. So right now I want to focus on BP p.l.c.

01:25 12 Now, in your first report, you discussed BP p.l.c.'s  
01:25 13 stock price and its enterprise value; correct?

01:25 14 A. Yes, sir.

01:25 15 MR. REGAN: If we could pull up TREX-13123.41.

01:25 16 BY MR. REGAN:

01:25 17 Q. And you put a chart in there where you made a  
01:25 18 calculation -- we'll bring that up here -- as to a number that  
01:25 19 you called "enterprise value." It will come up here in a  
01:25 20 second.

01:25 21 But while we're waiting for it, without the chart,  
01:25 22 can you -- can you define "enterprise value" as you used it?

01:25 23 A. Sure.

01:25 24 Q. Go ahead.

01:26 25 THE WITNESS: Typically, enterprise value is the

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01:26 1 top-line value, Your Honor. We've been talking today -- in the  
01:26 2 earlier testimony, I was referring to equity value.

01:26 3 Enterprise value is the total value of the  
01:26 4 company. Then you deduct debt or net debt, and that gets you  
01:26 5 to the equity value.

01:26 6 So one of the ways you build up to enterprise  
01:26 7 value is you take the equity value and you add on the net debt,  
01:26 8 and that gets you to the enterprise value.

01:26 9 **BY MR. REGAN:**

01:26 10 **Q.** Now, Mr. Ratner, we have the chart up there that you just  
01:26 11 testified to. As of the time of your report, you had  
01:26 12 calculated BP p.l.c.'s public company's enterprise value of  
01:26 13 June 30th, 2014, and I believe you testified about that today  
01:26 14 as well. Correct?

01:26 15 **A.** I don't think I testified about the enterprise value, but  
01:26 16 I know the chart.

01:26 17 **Q.** Okay. Well, we can calculate the enterprise value today  
01:26 18 using BP p.l.c.'s current stock price; correct?

01:26 19 **A.** Yes.

01:26 20 **Q.** Okay. I'm going to use the ELM0, if I could.

01:26 21 Again, in your report, you have a schedule where you  
01:27 22 do these calculations. It's TRES-13123.79, and it's  
01:27 23 Schedule 13. And this is the schedule, again, Mr. Ratner where  
01:27 24 you made these calculations? Do you recognize this?

01:27 25 **A.** Yes.



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01:27 1 Q. Let me zoom out a little bit.

01:27 2 So I think you did these numbers during your direct  
01:27 3 exam, but let's just walk through and update this chart using  
01:27 4 today's stock share price. Today's share price, if I could  
01:27 5 just have you assume a number of \$39. Let's use a round  
01:27 6 number. It's right about there. Okay?

01:27 7 So how do we calculate the enterprise value if we use  
01:27 8 \$39? And I give you one more assumption, that we assume the  
01:27 9 net debt is the same number right now.

01:27 10 A. Yeah, you'd have a -- you can go through the math, but I  
01:27 11 think you'd have a dollar-for-dollar decline. I think I'd  
01:27 12 mentioned today that the equity value of the company was down,  
01:28 13 Your Honor, to about 120 billion.

01:28 14 And if the equity value at the time of my report was  
01:28 15 about 160 billion, so you would have a 40-odd billion-dollar  
01:28 16 decline in the enterprise value. So BP -- BP p.l.c. is worth  
01:28 17 less, the same -- before I testified that it was 119, the  
01:28 18 equity value versus, I think, 160 or 161 -- let's say 161 1/2.

01:28 19 Q. This number right here; right?

01:28 20 A. So that's the same difference. So that would be -- let's  
01:28 21 call it \$40 billion. The value of the company has come down by  
01:28 22 \$40 billion over this time period.

01:28 23 Q. I have done the math using your approach, and the number I  
01:28 24 get is 140 -- sorry, 143.8 as the new enterprise value, so  
01:29 25 143.8 billion. Does that sound about right?

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01:29 1 A. Right. That's about the 40 billion that I'm talking  
01:29 2 about.

01:29 3 Q. Okay. So if we then compare that enterprise value to  
01:29 4 2010, March, we go from \$203 billion to \$143.8 billion, about a  
01:29 5 60 billion-dollar drop. Fair?

01:29 6 A. Right.

01:29 7 Q. And, Mr. Ratner, is a 60 billion-dollar decline in  
01:29 8 enterprise value a significant negative economic impact?

01:29 9 A. Well, not necessarily on the operations. But I think it  
01:29 10 is a significant drop in the enterprise value of the company.  
01:29 11 But, again, the stock has had a -- the stock has been  
01:29 12 significantly affected by the decline.

01:29 13 That's why you have to look at -- Mr. Regan, that's  
01:29 14 exactly why you have to look at things over a period of time  
01:29 15 and you have to look at it in its totality.

01:30 16 Q. So let's look at it over a period of time. \$143 billion  
01:30 17 for BP p.l.c.'s enterprise value is the lowest it has been  
01:30 18 since June of 2010; correct?

01:30 19 A. I think that's fair.

01:30 20 Q. It's a 30 percent drop in the value -- enterprise value of  
01:30 21 BP p.l.c. since March of 2010; correct?

01:30 22 A. I think that's true.

01:30 23 Q. And it's a 60 billion-dollar drop. Fair? More than what  
01:30 24 you ascribe as to the value of Anadarko, which you said was  
01:30 25 around \$40 billion.

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01:30 1 A. The equity of Anadarko is about 40 billion. I mean, it's  
01:30 2 a huge -- it's the fifth largest company in the world in 2013.

01:30 3 Q. And it's not today?

01:30 4 A. No, it's not.

01:30 5 Q. And that's because of the expenses that it's had and also  
01:30 6 other things it has had to do that we'll get into in a second;  
01:30 7 right?

01:30 8 A. Well --

01:30 9 Q. It shrunk?

01:30 10 A. Well, I think it's not the fifth largest because there's  
01:30 11 other companies that are in the mix. Remember, most of that  
01:31 12 money in terms of what they have to do -- if you're referring  
01:31 13 to expenses, they spent that before 2013 or accrued it. Those  
01:31 14 were already accounted for.

01:31 15 Q. I'll mark that as D-35459.

01:31 16 Now, if I could come back to D-35459, this net debt,  
01:31 17 just to make sure we're clear, because we've heard about  
01:31 18 BP p.l.c.'s cash balance.

01:31 19 But I believe you said on direct that the real number  
01:31 20 we want to look at is net debt. That's what's really  
01:31 21 important; correct?

01:31 22 A. Yes, sir.

01:31 23 Q. Because if you just borrow money to then have cash on your  
01:31 24 balance sheet, from a net standpoint, you're really not any  
01:31 25 better off. Fair?

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01:31 1 A. That's exactly why I was evenhanded in my testimony. The  
01:31 2 net debt has been stable over this entire time period,  
01:31 3 including all the expenses that they had to spend for the  
01:31 4 cleanup. That's impressive.

01:31 5 Q. And in terms of being evenhanded, any time someone  
01:31 6 mentions the cash balance of BP p.l.c., you would say you  
01:32 7 should really look at net debt. Is that fair?

01:32 8 A. Well, I mean, that's why it's on this spreadsheet. That's  
01:32 9 why I mentioned it today. I'm trying to be fair about it.

01:32 10 Q. And, again, the net debt from 2007 all the way through  
01:32 11 2014 is largely unchanged?

01:32 12 A. It's impressive, especially considering that they had  
01:32 13 these, you know, substantial expenses.

01:32 14 Q. It's largely unchanged; correct?

01:32 15 A. Yes.

01:32 16 Q. Now let's go to some of your financial statement analysis.

01:32 17 **MR. REGAN:** I'd like to bring up the income statement  
01:32 18 that you -- actually, before I get there, let me -- here we go.  
01:32 19 The cash flow statement for BP p.l.c., D-32327. And I think,  
01:32 20 Mr. Jackson, I might need you to do this for me, if you could.

01:33 21 **BY MR. REGAN:**

01:33 22 Q. Now, you will recognize this, Mr. Ratner, as one of the  
01:33 23 documents you talked about on your direct, D-32327. And you  
01:33 24 totaled up a number of numbers, including ending cash and  
01:33 25 equivalents. Do you remember doing that?

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01:33 1 A. Yes, sir.

01:33 2 Q. And you talked about income before tax and net cash  
01:33 3 provided by operating activities. Do you recall that?

01:33 4 A. Yes, sir.

01:33 5 Q. There's another line on here that actually has some of the  
01:33 6 largest numbers on the page that you didn't talk about, and  
01:33 7 that's disposal of assets and businesses.

01:33 8 You didn't mention that in your direct; correct?

01:33 9 A. I did not.

01:33 10 Q. You see that from 2009 to 2013, we have numbers like  
01:33 11 2.6 billion, 16.9 billion, 2.8 billion, 11.5 billion,  
01:33 12 \$21.9 billion in disposals of assets and businesses.

01:33 13 Did I read those numbers approximately correctly?

01:34 14 A. You did.

01:34 15 Q. So if we total up the amount of disposals of assets and  
01:34 16 businesses over this same time period -- thank you -- it's  
01:34 17 \$57.64 billion; correct?

01:34 18 A. Yes.

01:34 19 Q. That's another significant number that we should look at  
01:34 20 when we look at this cash flow statement; correct?

01:34 21 A. I think it's important. Again, they're investing in their  
01:34 22 businesses, but at the same time they're spending CAPEX,  
01:34 23 they're selling businesses, they -- in fact, they reported that  
01:34 24 they were going to sell certain businesses to help satisfy the  
01:34 25 cost of the cleanup.

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01:34 1 Q. Right, but when we look --

01:34 2 A. All part of the management of it.

01:34 3 Q. When we look at the financial information for BP p.l.c. --  
01:34 4 and, again, I'm going to turn to XP in a second. But for  
01:34 5 p.l.c., when we look at the cash flow statement and the balance  
01:34 6 sheet, we need to also look at what's happened in terms of  
01:34 7 divestitures?

01:34 8 A. I think that's fair.

01:34 9 Q. We didn't hear about that in your direct exam, did we?

01:34 10 A. We tried to get it to -- as thin as possible.

01:35 11 Q. Okay. Let's talk about SMOG, standardized measure of oil  
01:35 12 and gas. Now, you testified that the SMOG analysis is required  
01:35 13 for public companies; correct?

01:35 14 A. Yes.

01:35 15 Q. And it's done to allow apples-to-apples comparisons;  
01:35 16 correct?

01:35 17 A. That might have been a bit of a shorthand comment, but I  
01:35 18 think that's fair.

01:35 19 Q. Okay. A SMOG analysis is something that is required under  
01:35 20 SEC guidance; correct?

01:35 21 A. Yes.

01:35 22 MR. REGAN: Now, we'll pull up the SMOG page that was  
01:35 23 used for the GoM business unit, 244143.

01:35 24 And I believe Your Honor had a question about  
01:35 25 this document.

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01:35 1 BY MR. REGAN:

01:35 2 Q. And I'd like to ask you, Mr. Ratner, a few more follow-up  
01:35 3 questions about it. Okay?

01:35 4 A. Yes, sir.

01:35 5 Q. The SMOG numbers that you were pointing to in your direct  
01:36 6 exam, are those representative of fair market value?

01:36 7 A. No.

01:36 8 Q. SMOG is not fair market value, is it?

01:36 9 A. It's the same reason that Wood Mackenzie is not fair  
01:36 10 market value. As I testified today, this is a net present  
01:36 11 value calculation of only the proved reserves. It's not a fair  
01:36 12 market value of the company. It's a net present value of the  
01:36 13 proved reserves of the company.

01:36 14 Q. Mr. Ratner, my question is simple. Is SMOG fair market  
01:36 15 value? Yes or no?

01:36 16 A. It is not. I never said it was.

01:36 17 Q. You didn't mean to suggest when you were going through on  
01:36 18 direct that these numbers were actually representative of fair  
01:36 19 market value, did you?

01:36 20 A. No, but they do give you a value indication. In fact, you  
01:36 21 would say this is a floor when you're thinking about fair  
01:36 22 market value --

01:36 23 Q. Right.

01:36 24 A. -- because it doesn't include everything.

01:36 25 Q. The oil price that's used in SMOG is static; correct?

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01:36 1 A. Yes.

01:36 2 Q. They use the average of the first month's price over the  
01:37 3 course of a year; correct?

01:37 4 A. That's true.

01:37 5 Q. If the price of oil goes down dramatically, what happens  
01:37 6 to SMOG?

01:37 7 A. SMOG gets updated.

01:37 8 Q. It gets updated. And which direction does it go?

01:37 9 A. Again, the oil price discussion is not going to change.

01:37 10 The oil prices that would be used in the updated analysis would  
01:37 11 be the current price.

01:37 12 Q. If the oil price go down, based on how you know this  
01:37 13 calculation is made under SEC rules, the SMOG number goes down?

01:37 14 A. Yes, sir.

01:37 15 Q. There's guidance in the *Federal Register* about how to read  
01:37 16 and not read SMOG; correct?

01:37 17 A. Yes, sir.

01:37 18 MR. REGAN: If we could pull up TREX-240928. And go  
01:37 19 to page 5 and .1.

01:37 20 BY MR. REGAN:

01:37 21 Q. My question is: Have I read this correctly, Mr. Ratner?

01:37 22 "The objective of reserves estimation is to provide  
01:38 23 the public with comparable information about volumes, not fair  
01:38 24 value, of a company's reserves available to enable investors to  
01:38 25 compare the business prospects of different companies.



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01:38 1 "...these measures do not attempt to portray a  
01:38 2 reflection of their fair value. If the objective of reserve  
01:38 3 disclosures were to provide fair value information, we believe  
01:38 4 a pricing system that incorporates assumptions about estimated  
01:38 5 future market prices and costs related to extraction could be a  
01:38 6 more appropriate basis for estimation."

01:38 7 Did I read that correctly out of the *Federal*  
01:38 8 *Register*?

01:38 9 A. You did.

01:38 10 Q. And you're familiar with that part of the *Federal Register*  
01:38 11 about SMOG; correct?

01:38 12 A. Yes, I am.

01:38 13 Q. And you were familiar about it before you testified today;  
01:38 14 correct?

01:38 15 A. And I don't think I contradicted that at all.

01:38 16 Q. Okay. Let me pull up --

01:38 17 A. I'm not -- I'd like to answer.

01:38 18 **THE COURT:** Go ahead.

01:38 19 **THE WITNESS:** I mean, I absolutely, Your Honor, did  
01:38 20 not say that that was fair market value and absolutely said  
01:38 21 that it's a tool used to compare so that if you have similar  
01:39 22 companies, you're looking at the companies, you can see what  
01:39 23 the -- what the -- what the net present values are.

01:39 24 In fact, this is exactly the problem with Wood  
01:39 25 Mackenzie. I mean, it's a reserve analysis. It's not a

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01:39 1 valuation of the company. It gives you a lot of information  
01:39 2 about the forecasted cash flows, and that's why we looked at  
01:39 3 it, because it helps understand the company. And that's the  
01:39 4 mission of the analysis, is to do -- remember, this is all  
01:39 5 they've given us.

01:39 6 So the mission is to do the best you can with  
01:39 7 the information you have. But I absolutely did not say it was  
01:39 8 fair value or fair market value.

01:39 9 **BY MR. REGAN:**

01:39 10 **Q.** Okay. We can --

01:39 11 **A.** You know that.

01:39 12 **Q.** I do, and I just want to make sure everyone does.

01:39 13 **A.** Yeah.

01:39 14 **Q.** We can all agree SMOG is not fair value or fair market  
01:39 15 value; correct?

01:39 16 **A.** Correct.

01:39 17 **MR. REGAN:** TREX-12303-A.1.1.

01:39 18 **BY MR. REGAN:**

01:39 19 **Q.** You also saw language in BP's annual report about the  
01:39 20 risks of reviewing the SMOG information that is presented  
01:40 21 there; correct?

01:40 22 **A.** Yes.

01:40 23 **Q.** And you presented a slide that was from a BP investor  
01:40 24 presentation that showed the number of proved reserves and the  
01:40 25 number of unproved reserves. Do you recall that?

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01:40 1 A. Yes, sir.

01:40 2 Q. And you also presented a number from BP p.l.c.'s annual  
01:40 3 report of \$130 billion, which you said was the SMOG DCF number  
01:40 4 for the company. That's a consolidated basis; correct?

01:40 5 A. I think that was the discounted. 126 was the discounted  
01:40 6 value or something.

01:40 7 Q. What BP tells the world about the numbers that you used  
01:40 8 about SMOG, standardized measure of discounted future net cash  
01:40 9 flows.

01:40 10 They say, do they not, quote: "BP cautions against  
01:40 11 relying on the information presented because of the highly  
01:40 12 arbitrary nature of the assumptions on which it is based and  
01:40 13 its lack of comparability with the historical cost information  
01:40 14 presented in the financial statements."

01:40 15 Is that what BP tells investors before they see the  
01:41 16 information that you were presenting about SMOG?

01:41 17 A. Yes, it is.

01:41 18 Q. And you don't disagree with any of this?

01:41 19 A. Absolutely not.

01:41 20 Q. Okay. Now, you said that BP p.l.c. and BXP are  
01:41 21 integrated; right?

01:41 22 A. Yes, sir.

01:41 23 Q. Now, they are all under common ownership; correct?

01:41 24 A. Yes, sir.

01:41 25 Q. It is not surprising that there is integration between a

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01:41 1 parent company and a wholly-owned subsidiary, is it?

01:41 2 A. No, not at all.

01:41 3 Q. You would agree that in taking actions at the parent  
01:41 4 company level, BP p.l.c. needs to act in the best interest of  
01:41 5 its shareholders; correct?

01:41 6 A. Yes.

01:41 7 Q. And specifically with respect to investment decisions,  
01:41 8 BP p.l.c. p.l.c. would have to make a decision, a cost benefit  
01:41 9 analysis, I think, as you've described to me once, about what  
01:41 10 was the best use of its resources; right?

01:41 11 A. Yes.

01:41 12 Q. You are not expressing any opinion based on the materials  
01:41 13 you reviewed that BPXP failed to follow any corporate  
01:42 14 formalities; right?

01:42 15 A. Correct.

01:42 16 Q. And based on all the financial information you -- you  
01:42 17 reviewed, you do not believe that BPXP is undercapitalized;  
01:42 18 correct?

01:42 19 A. I don't think so.

01:42 20 Q. I think -- my question wasn't great, but do you believe  
01:42 21 that BPXP is undercapitalized?

01:42 22 A. No.

01:42 23 Q. So let's now turn to the violator, BPXP.

01:42 24 You're familiar with the amount of expenditures that  
01:42 25 have been incurred by BPXP since 2010 arising out of the

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01:42 1 Macondo accident?

01:42 2 A. Can you repeat the question, please.

01:42 3 Q. Sure. You're generally familiar with the \$33 billion in  
01:42 4 costs that have been incurred by BXP as reflected on its  
01:42 5 financial statements arising out of the Macondo accident?

01:42 6 A. Yes, sir.

01:42 7 Q. And you're familiar that there are provisions for  
01:42 8 additional future costs that get that number a little bit above  
01:43 9 40 billion?

01:43 10 A. Yes, sir.

01:43 11 Q. So, again, using your estimate this morning of Anadarko's  
01:43 12 equity value, the amount that BXP has incurred or will incur  
01:43 13 as currently estimated is the same or, in fact, potentially  
01:43 14 more than the equity value of Anadarko?

01:43 15 A. Yes, that's true.

01:43 16 Q. A significant number?

01:43 17 A. The amount spent is a significant number, under any  
01:43 18 measure.

01:43 19 Q. You also put up BXP's balance sheets and its cash flow  
01:43 20 statements and you were directing the Court to look at some of  
01:43 21 the book value of the assets. Do you recall that?

01:43 22 A. Yes.

01:43 23 Q. Is book value relevant to a valuation of BXP?

01:43 24 A. Only in terms of perhaps setting the floor of the value of  
01:43 25 the assets. Again, when you're doing a valuation, you're going

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01:43 1 to look at the cash flows that you know about and you're going  
01:43 2 to look at the assets that you know about.

01:43 3 So one of the things that you do is you look at the  
01:44 4 book value. But I do not believe that the book value of the  
01:44 5 assets is what they're worth; I think they're worth more than  
01:44 6 that.

01:44 7 Q. Well, you agree that book value is not relevant for the  
01:44 8 determination of fair market value; correct?

01:44 9 A. Right. I think it's only relevant, and I know I answered  
01:44 10 this exactly this way in our deposition because I was trying to  
01:44 11 explain that it helps you set a floor in terms of calculating  
01:44 12 your intangible. And when you have more intangible, it creates  
01:44 13 a little bit of a higher risk in the valuation.

01:44 14 So it -- it's not relevant to -- Your Honor, it  
01:44 15 doesn't tell you what fair market value is, but the bigger the  
01:44 16 gap between fair market value and book value, the bigger the  
01:44 17 intangible is. So it's part of the analysis.

01:44 18 Q. So what if the gap is actually negative? What if the gap  
01:44 19 between book value and market value is negative, what does that  
01:44 20 tell you about the value of the intangible?

01:44 21 A. Well, then -- then you would have negative goodwill. But  
01:44 22 in this situation if that was the case, then you would be  
01:44 23 writing down these assets.

01:44 24 Q. Right. You would have to do an impairment analysis;  
01:45 25 correct?

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01:45 1 A. Yes, sir.

01:45 2 Q. And an impairment analysis -- you make just a quick  
01:45 3 statement about this in your fourth report challenging that why  
01:45 4 hasn't BPX&P done an impairment analysis, and just a couple of  
01:45 5 accounting questions for you, Mr. Ratner.

01:45 6 When you do an impairment analysis, do you look at  
01:45 7 discounted or undiscounted cash flows?

01:45 8 A. I think it's the aggregate value -- I'm thinking -- I  
01:45 9 mean, for real estate, I think it's the aggregate value of the  
01:45 10 undiscounted cash flows.

01:45 11 Q. When you -- so when you do an impairment analysis, you  
01:45 12 look at undiscounted cash flows; correct?

01:45 13 A. Yes.

01:45 14 Q. Your criticism of Mr. Den Uyl is that he used a comparison  
01:45 15 of discounted cash flows against book value, didn't you?

01:45 16 A. Well --

01:45 17 Q. Is that what you did?

01:45 18 A. Yeah, I think that's one of our criticisms.

01:45 19 Q. Right. And that's not corrected as a matter of  
01:45 20 accounting, which you -- which you're very qualified in;  
01:45 21 correct?

01:45 22 A. I appreciate that.

01:45 23 Q. Right. You know that that's not actually a proper  
01:45 24 comparison?

01:45 25 A. But you know what, these assets -- you keep investing

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01:45 1 these assets. I think they would write them down if they  
01:46 2 didn't believe the assets had that value.

01:46 3 Q. I'd like to turn now to BPX&P, its expenses. You talked  
01:46 4 about NAFCO, which serves as an internal bank for BPXP;  
01:46 5 correct?

01:46 6 A. Yes.

01:46 7 Q. BPX&P has an obligation to repay what it borrows from  
01:46 8 NAFCO; correct?

01:46 9 A. Yes, there is --

01:46 10 MR. MAZE: I'm going to object, Your Honor. It calls  
01:46 11 for a legal conclusion. What they're obligated to do or not,  
01:46 12 who knows.

01:46 13 THE COURT: I guess it depends on what BP does.

01:46 14 MR. REGAN: Yeah. I'm asking him from a standpoint  
01:46 15 of the same way he testified about NAFCO's relationship with  
01:46 16 BPXP on his direct. The financial relationship between the  
01:46 17 two.

01:46 18 THE COURT: I'll let him answer.

01:46 19 Can you answer that?

01:46 20 THE WITNESS: Yeah, I think so. I mean, there is --  
01:46 21 there's one loan that has a loan document, that's the  
01:47 22 3.1 billion-dollar loan that was arranged in 2014. And then  
01:47 23 there is an IFA loan document that's back from 2010. I don't  
01:47 24 recall what they say about repayment, but I suppose it's a --  
01:47 25 you know, it's an internal document. It must have some -- I



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01:47 1 would think it has some guidance on repayment.

01:47 2 **THE COURT:** Were those -- were those loans secured in  
01:47 3 any way; do you know?

01:47 4 **THE WITNESS:** Nothing is secured.

01:47 5 **THE COURT:** Okay.

01:47 6 **THE WITNESS:** Absolutely nothing.

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

01:47 8 **Q.** When BPXP pays an obligation through NAFCO -- that is,  
01:47 9 NAFCO sends a wire transfer -- that liability is on BPXP's  
01:47 10 books; correct?

01:47 11 **A.** Yes, sir.

01:47 12 **Q.** NAFCO is acting just like a normal bank would in terms of  
01:47 13 if you wrote a check and then the check clears, it's -- it's  
01:47 14 your account, correct, not the bank's account?

01:47 15 **A.** Well, they're doing what a lot of large companies do;  
01:47 16 they're acting as the treasury.

01:48 17 **Q.** Right.

01:48 18 **A.** It's like an internal treasury for the U.S. for  
01:48 19 North American activities. So all the banking and all the  
01:48 20 treasury function is consolidated. And then it hits the  
01:48 21 general ledger for whichever legal entity is associated with  
01:48 22 it.

01:48 23 **Q.** It would not be accurate to suggest that because NAFCO was  
01:48 24 a chain in the transaction, that the transaction was not  
01:48 25 actually executed by BPXP, would it?

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01:48 1 A. I don't think I ever said that.

01:48 2 Q. I don't think you did either, but others have. So I'm  
01:48 3 just asking for your -- from your perspective.

01:48 4 There's nothing wrong with BPXP using an internal  
01:48 5 bank just like people use external banks to help execute a  
01:48 6 transaction?

01:48 7 A. It's one of the factors that shows that the companies are  
01:48 8 integrated. But I don't think it's unusual for a company of  
01:48 9 this size to have centralized cash management.

01:48 10 Q. That was my question.

01:48 11 You talked about the -- what we've referred to as  
01:48 12 company 200 or the BP Company North America balances and you  
01:48 13 showed the Court some of those balances on the screen. That  
01:48 14 company 200 balances, you would say that's akin to a revolving  
01:48 15 credit facility; correct?

01:49 16 A. I don't think I said that. I think it's more of a due  
01:49 17 to/due from.

01:49 18 Q. Okay.

01:49 19 A. I think it's more what we would call intercompany as  
01:49 20 opposed to a line of credit.

01:49 21 Q. Mr. Ratner, if I just bring up your deposition. 283,  
01:49 22 lines 3 through 6.

01:49 23 Question -- my question to you now is: Did I ask you  
01:49 24 this question and did you give this answer?

01:49 25 "QUESTION: So you would include the company 200

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01:49 1 balances as akin to a revolving credit facility; correct?

01:49 2 "ANSWER: I think so."

01:49 3 Is that your answer?

01:49 4 A. That's what it says. But I think it's an intercompany --  
01:49 5 these are more intercompany transactions, due to/due from,  
01:49 6 between two related parties. They're concerned about leaving  
01:49 7 those on the books for a variety of tax reasons.

01:49 8 I don't know if that answer -- I mean, it -- they  
01:49 9 have credit -- it's like they're getting credit from their  
01:49 10 cousin, but it's not really a line of credit like the IFA. The  
01:49 11 IFA is actually a credit document. This is I'm getting credit,  
01:50 12 I'm getting loan, internal -- you know, they're letting me --  
01:50 13 they're paying a bill on my behalf and it's showing up as a  
01:50 14 payable in my books. So it's more of like an intercompany  
01:50 15 payable receivable.

01:50 16 Q. Mr. Ratner.

01:50 17 A. That's how it's reflected.

01:50 18 Q. Mr. Ratner, you looked at BXP's financial reports;  
01:50 19 correct?

01:50 20 A. Yes, sir.

01:50 21 Q. We saw that the borrowing both under the IFA agreement  
01:50 22 with NAFCO and BP Company North America was -- is listed on  
01:50 23 BXP's books; correct?

01:50 24 A. Yes. As a payable, yes.

01:50 25 Q. Show you an example. In TREV-246898.4.2, this is from the

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01:50 1 third quarter 2014 financial reports. You've seen this  
01:50 2 document before; correct?

01:50 3 A. Yes, I have.

01:50 4 Q. So you see net group funding there of 1,289,000,000 as of  
01:50 5 30 September 2014 and a star indicating that that is the group  
01:50 6 funding, including NAFCO funding and BP Company North America;  
01:50 7 correct?

01:50 8 A. Right. If you read the highlighted -- you've got it right  
01:50 9 here, Mr. Regan. Group funding includes NAFCO financing and  
01:51 10 BP Company NA working capital. So when I say due to/due from,  
01:51 11 that's a receivable. That's a working capital transaction.

01:51 12 Basically, it's somebody is providing you financing  
01:51 13 by paying a bill on your behalf and then I'm setting it up as a  
01:51 14 payable to you. It's an accounts payable for somebody else  
01:51 15 that's -- that's paying your bills. It's part of the working  
01:51 16 capital management.

01:51 17 Q. Let's talk about the IFA -- we can take that one down --  
01:51 18 the internal funding agreement.

01:51 19 Now, I believe you testified that that agreement that  
01:51 20 BPXP has has a borrowing limit of \$5 billion; correct?

01:51 21 A. Yes, sir.

01:51 22 Q. And you pointed out --

01:51 23 **MR. REGAN:** If we could have -- I think I need the  
01:51 24 government's help with this, D-32321, the chart that you used  
01:51 25 on your direct exam.

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01:51 1 BY MR. REGAN:

01:51 2 Q. You pointed out that that 5 billion-dollar threshold was  
01:51 3 previously exceeded in 2010 -- there we go -- I'll wait for it  
01:52 4 to stop moving --

01:52 5 A. It's growing.

01:52 6 Q. It is. It has been.

01:52 7 If we go to 2010, that balance was \$11 billion in  
01:52 8 2010, greater than the 5 billion-dollar threshold; correct?

01:52 9 A. Yes, sir.

01:52 10 Q. \$11 billion -- 11.1 billion as of the end of 2011;  
01:52 11 correct?

01:52 12 A. Yes, sir.

01:52 13 Q. You know why those balances grew that fast over those time  
01:52 14 periods, don't you?

01:52 15 A. Yes, sir.

01:52 16 Q. And why did BPXP borrow so much money under its NAFCO  
01:52 17 agreement in 2010/2011?

01:52 18 A. It was set up to cover spill-related costs.

01:52 19 Q. So the lender in this case, NAFCO, allowed BPXP to -- to  
01:52 20 borrow more than its limit to help fund the -- the spill  
01:52 21 response; correct?

01:52 22 A. That's true.

01:52 23 Q. Nothing wrong with that, is there?

01:52 24 A. I don't think I ever said there was, no.

01:52 25 Q. Now, are you ask -- in your report, you certainly say that

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01:53 1 it is your assumption that BXP would be able to exceed  
01:53 2 \$5 billion in the future; correct?

01:53 3 A. Either exceed it or they would change the amount. The  
01:53 4 5 million -- the 5 billion-dollar amount is somewhat arbitrary.  
01:53 5 There wasn't an analysis when it was set up.

01:53 6 So my view is that, for example, if the IFA happened  
01:53 7 to be \$7 billion, then Mr. Den Uyl's opinion would be that  
01:53 8 there could be \$2 billion more paid. It's a somewhat arbitrary  
01:53 9 starting point.

01:53 10 Q. Mr. Ratner, just to be clear, you are asking the Court to  
01:53 11 assume that the 5 billion-dollar credit facility would be --  
01:53 12 would be allowed to be exceeded in 2015; correct?

01:53 13 A. I don't know if -- is that an assumption?

01:53 14 Q. I think you used the word "assume." Do you recall that?

01:54 15 A. I don't know.

01:54 16 Q. Okay. You think the 5 billion-dollar credit threshold is  
01:54 17 arbitrary?

01:54 18 A. It is.

01:54 19 Q. Is that based on a financial judgment of reading the  
01:54 20 credit agreement?

01:54 21 A. It was -- at the time they set it up saying, oh, this  
01:54 22 should be enough -- this was money to fund the cleanup.

01:54 23 Q. And mindful of the objections before, you're not going to  
01:54 24 express a legal opinion as to what the terms of that IFA  
01:54 25 agreement are, are you?

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01:54 1 A. No. But there was no financial analysis when it was  
01:54 2 established. It was just set up and it was used.

01:54 3 Q. Are you going to testify about the ability to exceed the  
01:54 4 terms of that IFA agreement, Mr. Ratner, as a legal matter?  
01:54 5 You are not; correct?

01:54 6 A. Not as a legal matter, no.

01:54 7 Q. Your -- if I could put it in simple terms, one of your  
01:54 8 views is that because BPXP received financing in the past --  
01:54 9 that is, before today -- because it was allowed to exceed its  
01:54 10 IFA agreement in the past, it's fair to assume it will get  
01:54 11 financing in the future; correct?

01:55 12 That's your opinion; right?

01:55 13 A. Yeah. I think it's just a tad broader. I would say my  
01:55 14 opinion is that they received the funding they needed. Whether  
01:55 15 through debt or equity, the company would -- again, the money  
01:55 16 that came in as equity ultimately started off as debt. NAFCO  
01:55 17 sent it to the then-parent and then it was invested.

01:55 18 So my opinion is that when they needed money, they  
01:55 19 were able to get it through their internal channels.

01:55 20 Q. You are asking -- it's your opinion that because it  
01:55 21 happened in the past, we should assume it will happen again in  
01:55 22 the future?

01:55 23 A. I mean, I think my assumption is that it -- the best  
01:55 24 indication is the past. It happened, it's a fully integrated  
01:55 25 company, and that is important to me.

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01:55 1 Q. Now, the imposition of a Clean Water Act penalty up to the  
01:55 2 maximum amount, that would clearly represent a significant  
01:56 3 financial change for BPXP given its current capital structure?

01:56 4 A. Yes.

01:56 5 Q. Okay. You wrote a book, did you not, Mr. Ratner?

01:56 6 A. I did.

01:56 7 Q. And I have it right here. And it's also been marked as an  
01:56 8 exhibit, TRES-13130.1.

01:56 9 THE WITNESS: Although I can't take credit for the  
01:56 10 entire book, Your Honor. I had two coauthors, attorneys from  
01:56 11 Alston & Bird.

01:56 12 MR. REGAN: Okay. If we could go to our first  
01:56 13 call-out.

01:56 14 BY MR. REGAN

01:56 15 Q. You have a section called, "Financial Statement Analysis,"  
01:56 16 in this book; correct?

01:56 17 A. Yes.

01:56 18 Q. And you say first, as is highlighted, "Historical  
01:56 19 financial statements provide insight into what has occurred in  
01:56 20 the past and what may be expected in the future."

01:56 21 That's -- that's in your book; right? Correct?

01:56 22 A. I think so, yes.

01:56 23 Q. And you just told us that the best indicator of the future  
01:56 24 is the past. But that's not what you tell people in this book,  
01:57 25 is it?



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01:57 1 A. It's not always -- I didn't say it's the best. This says,  
01:57 2 "The best indicator of the future is not always the past." I  
01:57 3 didn't say that the best of anything. I said one indication of  
01:57 4 what's going to happen in the future is the past.

01:57 5 Q. You write, "The best indicator of the future is not always  
01:57 6 the past, particularly when dealing with companies that have  
01:57 7 been restructured in or out of bankruptcy. In situations in  
01:57 8 which a company has gone through significant operational or  
01:57 9 financial change, the historical financial analysis that is so  
01:57 10 important in a typical valuation assignment may play a less  
01:57 11 important role."

01:57 12 That's what you write?

01:57 13 A. And you know what, you have to read -- and I -- I'd love  
01:57 14 to send to anybody that wants a copy of the book.

01:57 15 **THE WITNESS:** But what this is getting at,  
01:57 16 Your Honor --

01:57 17 **THE COURT:** So you're selling your book?

01:57 18 **MR. REGAN:** Well, he sold one.

01:57 19 **THE WITNESS:** But you see, this is a -- this is  
01:57 20 what -- what this is talking about is when you do a valuation  
01:57 21 for a planned confirmation and you do historical financial  
01:57 22 analysis, let's say the company had nine plants and you did --  
01:57 23 and there was a valuation. But in the go forward, they've sold  
01:58 24 three plants.

01:58 25 So, yeah, it's important to do the historical

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01:58 1 financial analysis, but your future cash flows are going to be  
01:58 2 different because there's not nine plants, there's only six  
01:58 3 plants. Like, you know, Galey & Lord, I was involved in that.  
01:58 4 Like this is just saying that you can't -- in a company that's  
01:58 5 been restructured or has gone bankrupt, you have to look at the  
01:58 6 past, but you have to also look at what the new landscape is.

01:58 7 I mean, it -- it makes sense when I wrote it and  
01:58 8 it still makes sense.

01:58 9 **BY MR. REGAN:**

01:58 10 **Q.** Mr. Ratner, can BPXP require the group to fund or finance  
01:58 11 a penalty --

01:58 12 **A.** No.

01:58 13 **Q.** -- that has been assessed on BPXP?

01:58 14 **A.** No. Well, I don't think so.

01:58 15 **Q.** Can BPXP compel equity from its parent companies?

01:58 16 **A.** I don't think so. I mean -- again, I didn't -- I didn't  
01:58 17 make that opinion that they could or couldn't.

01:58 18 **Q.** And with respect to your analysis in your four reports as  
01:59 19 to BP and BPX&P, how much will you tell Judge Barbier that you  
01:59 20 believe is more likely than not that the BP Group would provide  
01:59 21 BPXP to fund or finance a Clean Water Act penalty in a dollar  
01:59 22 amount?

01:59 23 **A.** Can you repeat that question, please.

01:59 24 **Q.** Sure, I can.

01:59 25 Under your opinion, how much will you tell the Court

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01:59 1 you believe it is more likely than not the BP Group will  
01:59 2 provide BPXP to fund or finance a Clean Water Act penalty in a  
01:59 3 dollar amount?

01:59 4 **THE COURT:** Will provide or could provide?

01:59 5 **MR. REGAN:** I asked him "will provide," but I think  
01:59 6 it's -- I think it could be clearer.

01:59 7 **THE COURT:** I don't know how he could answer that,  
01:59 8 Mr. Regan. I think he's already explained that's a decision a  
01:59 9 company would have to make, not him. How could he know what  
01:59 10 they will provide?

01:59 11 **MR. REGAN:** Let me ask it this way, Your Honor, and  
01:59 12 see if I can cure it.

01:59 13 **BY MR. REGAN:**

01:59 14 **Q.** Your assessment of BPXP's ability to pay in 2015 includes  
02:00 15 an assumption of money coming from the parent in the first  
02:00 16 instance?

02:00 17 **A.** Yes.

02:00 18 **Q.** But you haven't done any analysis to put any particular  
02:00 19 number as to what the -- what that would be; it's just  
02:00 20 conceptual?

02:00 21 **A.** Yes.

02:00 22 **Q.** Okay. Let's turn to oil price. A fair amount of  
02:00 23 questions already about oil price on your direct and from  
02:00 24 Anadarko, and I have a few more.

02:00 25 You've talked at length about prices going up and

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02:00 1 then prices go down and that they may go back up again. And  
02:00 2 I'm summarizing quite a few answers there.

02:00 3 But in broad measure, your opinion is we can't really  
02:00 4 put too much into price declines because prices could always go  
02:00 5 back up; fair?

02:00 6 A. I don't think that's really what I'm saying.

02:00 7 Q. Well, let me ask it this way: Are you familiar with the  
02:00 8 difference --

02:00 9 A. I'd like to answer the question. I mean, you answered and  
02:00 10 then you -- the -- I don't think that's really what I was  
02:00 11 saying. What I was saying is we've had a sharp decline in oil  
02:00 12 prices, no doubt. Right? No one predicted a -- such a sharp  
02:01 13 decline in oil prices between the time of my report and today.

02:01 14 So I'm not saying that you can't know anything about  
02:01 15 it. I'm saying that if you look at what the company has said,  
02:01 16 the company is in a position to know, and they've said that  
02:01 17 typically after a sharp decline in prices, prices recover  
02:01 18 within two years. That's one thing I'm saying.

02:01 19 The second thing I'm saying is if you look at over  
02:01 20 the long term, oil prices have gone up over the term. That's  
02:01 21 what I'm saying. I'm not making it so nonchalant that I don't  
02:01 22 know. I mean, I think it's a depleting resource and there is  
02:01 23 a -- there is an analysis that I looked at recently that shows  
02:01 24 that our global consumption will exceed global production in  
02:01 25 the -- I think it was five years. I mean, there was a -- there

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02:01 1 was a time where -- where we're going to be upside down.

02:01 2 Q. Are you familiar with the difference between a nominal  
02:01 3 price and a real price?

02:02 4 A. Yes, sir.

02:02 5 Q. A nominal price would be the stated price on a given day.  
02:02 6 Is that a fair definition?

02:02 7 A. Yes.

02:02 8 Q. And a real price would be -- if you were looking at prices  
02:02 9 over time would be if you adjusted them for inflation?

02:02 10 A. Yes, sir.

02:02 11 Q. Have you examined the actual real price of oil over the  
02:02 12 last 10, 20, or 30 years?

02:02 13 A. I'm sure I've seen that chart in our office somewhere.

02:02 14 Q. And if you are trying to assess whether today's oil price  
02:02 15 or even the future's prices that we see today are in or out of  
02:02 16 range, one of the things you could look at is the real price;  
02:02 17 right?

02:02 18 A. I think that's useful.

02:02 19 Q. And that could take away some of the gyrations that may --  
02:02 20 that you may see if you just use nominal prices. Is that fair?

02:02 21 A. Again, there's different -- you have to look at different  
02:02 22 inflation factors when you're looking at commodities. So this  
02:02 23 is a little bit more -- more complicated, I think, than you --  
02:02 24 than you may make it.

02:02 25 Q. You're familiar that there is a United States Government

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02:02 1 agency that does these calculations so that however complicated  
02:03 2 it is, the government puts out this number -- these numbers?

02:03 3 A. That's true.

02:03 4 Q. That's the EIA; correct?

02:03 5 A. Yes.

02:03 6 Q. And you've seen the EIA do nominal and real oil price  
02:03 7 analyses?

02:03 8 A. Yes.

02:03 9 Q. Okay. All of your opinions are sensitive to the price of  
02:03 10 oil; correct?

02:03 11 A. I think that's true, yes.

02:03 12 Q. And BPXP's business is sensitive to the price of oil,  
02:03 13 obviously; correct?

02:03 14 A. Yes.

02:03 15 Q. All things constant as oil prices decline, cash flows at  
02:03 16 BPXP will decline?

02:03 17 A. Yes, I think subject to the same conversation about  
02:03 18 deferred CAPEX and, you know, at some point they may mothball a  
02:03 19 project. So, yes, I think all things being equal, it will  
02:03 20 cause a decline in the business.

02:03 21 Q. And I think we talked about this a minute ago, it also  
02:03 22 declines the value of reserves; correct?

02:03 23 A. Yes.

02:03 24 Q. Now, in your fourth report, and this was the supplemental  
02:03 25 report addressed specifically to the impact of the change in

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02:04 1 oil prices that we've seen over the last few months, you  
02:04 2 indicated that the change in oil prices made no change in your  
02:04 3 opinions; correct?

02:04 4 A. Correct.

02:04 5 MR. REGAN: So if we could pull that up, 233888.1.1.

02:04 6 BY MR. REGAN:

02:04 7 Q. You say -- and I'll just read the highlighted part, but I  
02:04 8 think the whole sentence is there. "The recent decline in oil  
02:04 9 prices do not change my previously expressed opinion that BP  
02:04 10 and BPXP have the ability to pay the maximum CWA penalty  
02:04 11 without causing a long-term negative impact on their  
02:04 12 operations."

02:04 13 That's what you wrote on January 6th, 2015; correct?

02:04 14 A. Yes, sir.

02:04 15 Q. At what price would your opinion change?

02:04 16 A. I think it's not only price, I think it would be the  
02:04 17 extension of time. The -- the extension of time. So the price  
02:05 18 decline in oil, it's just the schedule. I mean, we wrote our  
02:05 19 report in -- we wrote our first reports and published those in  
02:05 20 August and then we wrote this supplemental report on  
02:05 21 January 6th.

02:05 22 So it's not only the price decline which has been  
02:05 23 significant, it's also the time factor is if prices remain low  
02:05 24 for, you know, ten years, then that's going to affect the  
02:05 25 opinion. But based on a short decline like this, a magnitude

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02:05 1 of this decline, and based on what the company said and based  
02:05 2 on some of the other speculation on oil prices, I do not think  
02:05 3 it -- well, I know it does not change my opinion.

02:05 4 Q. So if prices were to decline for ten years, then your  
02:05 5 opinion would change?

02:05 6 A. I mean, it's -- I just don't have the benefit of -- I  
02:05 7 mean, it's just the timing of where we are.

02:05 8 Q. Now, there is market information about prices of oil into  
02:06 9 the future; correct?

02:06 10 A. I'm sure you're going to show me your futures table, but  
02:06 11 it's not that meaningful.

02:06 12 Q. Well, I'm just asking you a question, Mr. Ratner.

02:06 13 A. Yeah, I mean, there's no reason -- I mean --

02:06 14 THE COURT: What did the futures tables say it would  
02:06 15 be today, a year ago?

02:06 16 THE WITNESS: Exactly.

02:06 17 MR. REGAN: A year ago if we knew what the price  
02:06 18 would be today, I don't think any of us would be here.

02:06 19 THE COURT: Exactly.

02:06 20 MR. REGAN: But the same may be true for a month from  
02:06 21 now. But there are people --

02:06 22 THE COURT: Anybody know what the price of oil was in  
02:06 23 the 1960s?

02:06 24 MR. REGAN: I can show you a chart on that in about  
02:06 25 one-week's time, Your Honor.



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02:06 1 THE COURT: No, I know what it is. I was -- I  
02:06 2 actually --

02:06 3 MR. REGAN: About 20 bucks.

02:06 4 THE COURT: No. \$3 a gallon -- \$3 a barrel. And it  
02:06 5 stayed there for about 15 years, right around \$3 a barrel.  
02:06 6 When I -- in my former life, I unfortunately remember that.

02:06 7 MR. REGAN: All right.

02:06 8 THE COURT: Of course, gas was 29 cents a gallon,  
02:06 9 too.

02:06 10 MR. REGAN: Yes.

02:06 11 BY MR. REGAN:

02:06 12 Q. Mr. Ratner, with respect to Mr. Den Uyl's supplemental  
02:07 13 report, you criticize what you call his use of an oil price  
02:07 14 projection. Do you recall using those words?

02:07 15 A. Well, he turned it into a projection. He took a  
02:07 16 sensitivity analysis and either knowingly or unknowingly turned  
02:07 17 it into a projection.

02:07 18 Q. You know that what he did was use actually the low case  
02:07 19 scenario in the Wood Mackenzie report?

02:07 20 A. Yes, I do.

02:07 21 Q. Right. And the Wood Mackenzie analysis is one that takes  
02:07 22 oil prices after 2018 and increases them by an inflation  
02:07 23 factor; correct?

02:07 24 A. Yes.

02:07 25 Q. That's not Mr. Den Uyl's approach, that's what

## IAN RATNER - CROSS

02:07 1 Wood Mackenzie does; correct?

02:07 2 A. Yes.

02:07 3 Q. Let's pull up Schedule 3 to your supplemental report.

02:07 4 MR. REGAN: TREN-233888. It looks like a D on this.

02:07 5 Yes, D-35450.

02:07 6 BY MR. REGAN:

02:07 7 Q. This is the schedule that you put of oil price projections  
02:07 8 in your January 6th, 2015 report; correct?

02:08 9 A. That's correct.

02:08 10 Q. Do you still stand by this chart, Mr. Ratner?

02:08 11 A. I think there's one clarification. We were -- we used  
02:08 12 Brent as a benchmark. Mr. Den Uyl, his analysis is based on  
02:08 13 WTI, which we knew but we didn't find any WTI -- all the media  
02:08 14 we found at that time was on Brent. So we took the analogous  
02:08 15 Brent price.

02:08 16 Q. There's no futures prices on this chart; correct?

02:08 17 A. No.

02:08 18 Q. But you saw futures prices as part of Mr. Den Uyl's  
02:08 19 analysis when you were preparing this; correct?

02:08 20 A. Yes, that's true.

02:08 21 Q. All right. You have two prices over in 2020 of \$100 a  
02:08 22 barrel. Do you see that?

02:08 23 A. Yes.

02:08 24 Q. Are those two different analysts?

02:08 25 A. I don't know.

## IAN RATNER - CROSS

02:08 1 Q. Well, let's take a look. The first one you have there, if  
02:08 2 we can see it on the screen, is Trefis. You would have looked  
02:09 3 at these sources before you put them in the chart; right?

02:09 4 A. Oh, yeah.

02:09 5 Q. Trefis, \$100 a barrel, 2020. And then you cite Forbes  
02:09 6 later on. I might need to grab another pointer here in a  
02:09 7 second.

02:09 8 You see *Forbes* there? Can you see that? Same \$100,  
02:09 9 2020?

02:09 10 Got it. Thank you, sir.

02:09 11 *Forbes*, \$100 --

02:09 12 A. Yes.

02:09 13 Q. -- 2020?

02:09 14 A. Right.

02:09 15 Q. Do you know who wrote the article in *Forbes*?

02:09 16 A. Well, I don't have it in front of me.

02:09 17 Q. Okay. Let's pull it up.

02:09 18 MR. REGAN: 233873.1.1.

02:09 19 BY MR. REGAN:

02:09 20 Q. Do you see that Trefis actually wrote the article that you  
02:09 21 cite for *Forbes*?

02:09 22 A. Yes.

02:09 23 Q. So you cite the same thing twice?

02:09 24 A. Yeah. Obviously there was more information in the *Forbes*  
02:09 25 article because we had another data point there. So, I mean, I

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02:09 1 don't have the full articles in front of me, but --

02:10 2 Q. All right.

02:10 3 A. Look, there's -- there was a -- there was a media  
02:10 4 yesterday that -- that called for oil prices at \$200 a barrel,  
02:10 5 so --

02:10 6 Q. And were there ones --

02:10 7 A. This was --

02:10 8 Q. -- that called for it at 30?

02:10 9 A. Probably.

02:10 10 This was -- you know, this was -- this was in  
02:10 11 response to the work that Mr. Den Uyl did. And we -- it just  
02:10 12 shows you that there's no consensus.

02:10 13 Q. Let's pull up --

02:10 14 A. That's the point.

02:10 15 Q. Let's pull up another one of your sources.

02:10 16 MR. REGAN: So D -- again, back to D-35450.

02:10 17 BY MR. REGAN:

02:10 18 Q. All right. Do you see Goldman Sachs on there?

02:10 19 A. Yes.

02:10 20 Q. You cite Goldman Sachs, \$85; 2015. Do you see that?

02:10 21 A. Yes.

02:10 22 Q. Does Goldman Sachs stand behind that number today?

02:10 23 A. No, because --

02:10 24 Q. They revised their numbers, didn't they?

02:10 25 A. They did, because we -- Your Honor, we -- this was

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02:10 1 December 30th, they issued their report. We had to issue our  
02:11 2 report on January 6th. So we had, you know, five, six days, it  
02:11 3 was the New Year. We put together a phenomenal analysis.  
02:11 4 Goldman Sachs issued a new press release after January 6th.

02:11 5 **MR. REGAN:** Let's go to that press release, if we  
02:11 6 could, TREX-247631.

02:11 7 **THE WITNESS:** There's always new information.

02:11 8 **BY MR. REGAN:**

02:11 9 **Q.** Goldman Sachs issued this and called it "The New Oil  
02:11 10 Order"; correct?

02:11 11 **A.** Yes.

02:11 12 **Q.** And you obviously think Goldman is a reliable source. You  
02:11 13 wouldn't have cited them otherwise; right?

02:11 14 **A.** They are. They're a client. They're -- it's a good  
02:11 15 source.

02:11 16 **Q.** So as of January 11th -- if we could turn to, let's see,  
02:11 17 .1.1. What price -- you had Goldman at \$85 in 2015,  
02:11 18 thereabouts; is that correct?

02:11 19 **A.** Sir, again, it's not what I had them at. I had them at  
02:11 20 what they had themselves at.

02:11 21 **Q.** \$85?

02:11 22 **A.** Whatever it was in the article, I had it.

02:11 23 **Q.** So as of January 11th, they've now -- their -- their  
02:11 24 guidance is \$47.15 for 2015 and \$65 for 2016; correct?

02:12 25 **A.** Yes.

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02:12 1 Q. Okay.

02:12 2 MR. REGAN: If we could pull up D-35450.1 and finish  
02:12 3 this topic.

02:12 4 BY MR. REGAN:

02:12 5 Q. So what I have done here, Mr. Ratner, is I've just taken  
02:12 6 your chart, and I have a demonstrative where the first thing  
02:12 7 that -- I just averaged your prices. And, again, those are  
02:12 8 Brent prices. Right? Do you see that? The first line,  
02:12 9 "average of analyst reports cited by Ratner"?

02:12 10 A. Yes.

02:12 11 Q. And underneath it, I put the Wood Mackenzie low case, that  
02:12 12 was from the Wood Mackenzie report for WTI prices for those  
02:12 13 same time periods. Do you see that?

02:12 14 A. Yes.

02:12 15 Q. The Wood Mackenzie low case prices, that's what  
02:12 16 Mr. Den Uyl used; right?

02:12 17 A. Yes.

02:12 18 Q. And then I've put -- we talked a minute ago -- I'll just  
02:12 19 do this quickly. I put the futures prices as of  
02:12 20 December 29th and the futures prices as of January 15th for  
02:13 21 those same time periods?

02:13 22 A. Yes.

02:13 23 Q. So if you were buying a barrel of oil in 2020 today on the  
02:13 24 futures markets, the price would be \$66.27; correct?

02:13 25 A. That's what your chart says.

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02:13 1 Q. That's what the futures prices say; correct?

02:13 2 MR. CASEY: Your Honor, I'm going to object as to  
02:13 3 what the futures prices are here. If he could show a document  
02:13 4 that would show that --

02:13 5 THE COURT: Well, he said -- can you answer that?

02:13 6 THE WITNESS: I mean, I can answer -- I'm not trying  
02:13 7 to be argumentative. The -- I did look at the futures prices.  
02:13 8 Your Honor, the documents that they're using are printouts from  
02:13 9 a day's activity. So it only shows trades on the day that  
02:13 10 they've submitted it to us. So they did it two or three times.

02:13 11 So guess what? You don't know, so there is a  
02:13 12 trade at 66.27 in 2020. I went to another source that has the  
02:14 13 cumulative transactions, and there's like nothing out there --

02:14 14 THE COURT: So this is a commodities market. It's  
02:14 15 like the stock market and it goes up and down every day; right?

02:14 16 THE WITNESS: But there's no depth. There's no depth  
02:14 17 after two years. So if you look at -- when I say depth, it's  
02:14 18 the volume of trades. They keep sending us these CME futures  
02:14 19 printouts from a day, like they sent us one yesterday from  
02:14 20 January 15 or something. So --

02:14 21 THE COURT: Okay. I understand, I understand, I  
02:14 22 understand. I understand the answer.

02:14 23 Go ahead.

02:14 24 THE WITNESS: There's no volume. There's nothing  
02:14 25 there. There's no trade.

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02:14 1 **BY MR. REGAN:**

02:14 2 **Q.** New topic. You referred to the 2014, 2018 Gulf of Mexico  
02:14 3 plan in your testimony and in your reports; correct? The group  
02:14 4 plan template?

02:14 5 **A.** Yes, the group plan template, yes.

02:14 6 **Q.** And you understand that those projections assumed \$100 per  
02:14 7 barrel of oil; correct?

02:15 8 **A.** I didn't assume that, because it's not indicated there.  
02:15 9 The 100-dollar barrel of oil that I referred to was from the  
02:15 10 investor presentation, which was the cash flows that were  
02:15 11 reflected there were for the whole company.

02:15 12 **Q.** And you understand, Mr. Ratner, that the group plan number  
02:15 13 in 2018 is the actual number that was then used in that  
02:15 14 investor presentation? You saw that in the depositions;  
02:15 15 correct?

02:15 16 **A.** I don't know that.

02:15 17 **Q.** You didn't see that in Mr. Bucknall's deposition, the same  
02:15 18 one you cited earlier today?

02:15 19 **A.** I don't remember.

02:15 20 **Q.** You then did your own assumption of cash flows for the  
02:15 21 next five years; correct? Approximately \$3 billion of free  
02:15 22 cash?

02:15 23 **A.** Yes.

02:15 24 **Q.** What price assumption for oil did you use in your  
02:15 25 assumptions?



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02:15 1 A. I didn't have one. I used -- I was just using those  
02:15 2 summary cash flows. We didn't have the detail.

02:15 3 Q. Okay.

02:15 4 A. I just took the group template, and that's where we said,  
02:15 5 oh, look, it was 4-point something and 3.9 in those last years,  
02:15 6 and I just said, oh, I'll assume it's 3 billion, which is much  
02:16 7 lower as a conservative estimate. I didn't have the price  
02:16 8 model that they used.

02:16 9 Q. So your assumptions of the -- of years 6 through 10 is --  
02:16 10 is -- is not based on any particular oil price. Is that fair?

02:16 11 A. It would be whatever they used in that, I suppose.

02:16 12 Q. Okay.

02:16 13 MR. REGAN: TREX-13123.39, Table 17.

02:16 14 BY MR. REGAN:

02:16 15 Q. This is, then, the table that you talked at length about,  
02:16 16 and I want to ask you a few more questions about this one.  
02:16 17 This is from your report; correct?

02:16 18 A. Yes.

02:16 19 Q. And this is your calculation to get to net cash flow for  
02:16 20 the GoM; correct?

02:16 21 A. Again, this is not my -- this is a --

02:16 22 Q. Your presentation?

02:16 23 A. It's my presentation of the group plan template.

02:16 24 Q. That's all I'm asking. Why do -- why do you believe it's  
02:16 25 important to look at net cash flow after CAPEX?

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02:16 1 A. I think it's important to look at the operating cash flow  
02:16 2 before CAPEX as well as after CAPEX. This is -- I didn't make  
02:17 3 a judgment call about where to put the lines. This was their  
02:17 4 assessment of cash flows. They show that they're going to have  
02:17 5 operating cash flow after tax.

02:17 6 And then they -- and then there's going to be CAPEX,  
02:17 7 and then that's going to be the net cash flow. It's just a  
02:17 8 factual -- I'm just recapping their group plan template.

02:17 9 Q. Just trying to be factual about the net cash flow;  
10 correct?

02:17 11 A. Yes.

02:17 12 Q. There are some other impacts to net cash flow that you did  
02:17 13 not discuss when you went through this chart with  
02:17 14 Judge Barbier; correct?

02:17 15 A. Um.

02:17 16 Q. Let me show you.

02:17 17 A. Sure.

02:17 18 **MR. REGAN:** If we can go to the ELMO.

02:17 19 **BY MR. REGAN:**

02:17 20 Q. You see I have your same chart. Let me make sure  
02:17 21 everybody can read it. That's the same chart, and all I've  
02:17 22 done is add some white space right here. Do you see that?

02:18 23 A. Okay.

02:18 24 Q. Okay. So first of all, these are GoM cash flows, and I  
02:18 25 think you testified if we wanted to get to BPXP, we should take

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02:18 1 out 11 percent; correct?

02:18 2 A. Correct.

02:18 3 Q. Okay. And we could have a slightly different percentage  
02:18 4 if we used actual values, but for purposes of my question,  
02:18 5 let's just use 11 percent.

02:18 6 And I know you don't have a calculator up there,  
02:18 7 Mr. Ratner, but I've done these numbers, and I'm just going to  
02:18 8 ask you to trust me on this one.

02:18 9 A. That's dangerous.

02:18 10 Q. It can be.

02:18 11 So all I've done is taken 11 percent off of the net  
02:18 12 cash flow for the GoM. There are known future liabilities that  
02:18 13 BPXP has to pay to the federal government in 2014, '15, '16,  
02:18 14 and '17; correct?

02:18 15 **MR. CASEY:** Objection, Your Honor. It's a very broad  
02:18 16 question. I don't know what legal liabilities that BPXP may  
02:18 17 have to the federal government.

02:18 18 **BY MR. REGAN:**

02:18 19 Q. Let me be more specific. You understand there is a  
02:19 20 criminal resolution that requires BPXP to make payments in  
02:19 21 those years over time? You saw that, yes?

02:19 22 A. Yes.

02:19 23 Q. Okay. And you saw in the record that that was  
02:19 24 \$595 million in 2014, \$530 million in 2015, \$740 million in  
02:19 25 2016, and \$1,209,000,000 in 2017. You saw that in the records;

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02:19 1 correct? You saw those numbers?

02:19 2 A. I recall the numbers. I don't remember where I saw them.

02:19 3 You say I saw them in the record. I'm not recalling them.

02:19 4 Q. There's also a loan that BPXP has for \$3.1 billion;  
02:19 5 correct?

02:19 6 A. That's true.

02:19 7 Q. When is that loan due? 2016?

02:19 8 A. Either '15, '16. I think '16, \$3.1 billion.

02:20 9 Q. And you also testified about the fact that there was a  
02:20 10 segment overview that modified the anticipated operating  
02:20 11 cash -- or I think it was revenue in terms of -- in 2018, about  
02:20 12 a 1.2 billion-dollar reduction from 6.7 of operating cash to  
02:20 13 5.5? You testified about that on your direct; correct?

02:20 14 A. Yes, sir. That would be up in the corner here.

02:20 15 Q. So I'm going to subtract 1287 here. So if we wanted to  
02:20 16 see what the actual net cash flow to BPXP would be, just using  
02:20 17 these known liabilities in this one change and adjusting for  
02:20 18 BPXP's ownership, we would have negative cash flow of  
02:21 19 \$577 million, trusting that my math is right, in 2014; correct?  
02:21 20 Is that correct?

02:21 21 A. Oh, sorry. Trusting your math after CAPEX, after tax,  
02:21 22 yeah.

02:21 23 Q. Negative \$184 million in 2015; correct?

02:21 24 A. Correct.

02:21 25 Q. Negative \$1,817,000,000 in 2016; correct?

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02:21 1 A. Correct.

02:21 2 Q. A positive \$2,208,000,000 in 2017 and a positive 2496 in  
02:21 3 2018?

02:21 4 A. Right.

02:21 5 Q. You have no reason to believe that BPXP doesn't have to  
02:21 6 pay these amounts under the plea? That's not -- you have no  
02:21 7 reason to doubt that that's a call on its cash in those years,  
02:21 8 do you?

02:21 9 A. Well, I don't -- I don't have projections for BPXP. And  
02:22 10 not to -- I mean, these are your numbers, but that plea is, I  
02:22 11 think, guaranteed by BP p.l.c., or BPA -- maybe it's  
02:22 12 BP America. But, you know, this is exactly the point, there is  
02:22 13 no cash flow for BPXP --

02:22 14 Q. Mr. Ratner, if we wanted to look --

02:22 15 A. -- they're dealing with the region --

02:22 16 Q. -- if we wanted to look at the actual net cash flow for  
02:22 17 BPXP, we should look at its proportional share of GoM and we  
02:22 18 should take out its known liabilities in the future as a matter  
02:22 19 of forensic accounting or valuation?

02:22 20 A. Yeah. I mean, that's not a bad analysis. But, again,  
02:22 21 these projections, at least in our review, which was in our  
02:22 22 report for 2014 and '15, were light. Remember for 2014 we  
02:22 23 analyzed and we said they're not going to have a \$20,000 -- a  
02:22 24 20 -- a \$20 million positive cash flow. They were going to  
02:22 25 have more than that.

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02:22 1 And also the one thing that you're missing is that  
02:23 2 this is after tax and this is after CAPEX. Some of that CAPEX  
02:23 3 is discretionary. This assumes no action by anybody. I just  
02:23 4 don't think that's realistic.

02:23 5 Q. Mr. Ratner, using the chart in the same way -- Mr. Ratner,  
02:23 6 using the chart in the same way you presented it, do you think  
02:23 7 it is fair to put on your chart known liabilities that are  
02:23 8 coming due for BPXP if we are trying to answer the question of  
02:23 9 using the projections what is BPXP's cash flow?

02:23 10 A. Again, these are their cash flows, and you've taken the --  
02:23 11 you've taken the plea and the loan and you've assumed that the  
02:23 12 loan is going to be repaid and not refinanced. I don't know  
02:23 13 where that -- I don't know where that -- I would make a  
02:23 14 different assumption.

02:23 15 I would make an assumption that they would refinance  
02:23 16 that loan. They have a 300 million-dollar loan that's been on  
02:23 17 the books for like 15 million -- 15 years. So --

02:24 18 Q. So that would be another assumption in your analysis?

02:24 19 A. The same way that you have an assumption that it would not  
02:24 20 be renewed.

02:24 21 Q. You understand that there is a contract for that loan --  
02:24 22 and I'm not asking about its legal impact, but you saw that  
02:24 23 there was a term on that loan, and the loan is due in 2016. Is  
02:24 24 that fair?

02:24 25 A. Yeah, I'm not making a legal analysis of the unsecured

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02:24 1 loan, Your Honor.

02:24 2 Q. Okay. Are there any contingent liabilities on this chart?

02:24 3 A. I don't believe so.

02:24 4 Q. Did you mention contingent liabilities in your direct? I  
02:24 5 didn't hear you. But do you recall mentioning contingent  
02:24 6 liabilities?

02:24 7 A. I don't believe so.

02:24 8 Q. You agree that BPXP has substantial potential contingent  
02:24 9 liabilities -- substantial contingent liabilities?

02:24 10 A. Yeah, I think there's BP and BPXP, and there's a lot of  
02:24 11 disclosure in the financial statements about the contingent  
02:24 12 liabilities.

02:24 13 Q. And I understand that you haven't confirmed it. If these  
02:24 14 projections are at 100-dollar barrel per oil, and the price of  
02:25 15 oil in these future years then gets reduced again, again, you  
02:25 16 would see a reduction in the net cash flow number before we  
02:25 17 take out these other subtractions; right?

02:25 18 A. I think that's fair, even though I think the operating  
02:25 19 costs would go down and the CAPEX would be deferred. But I  
02:25 20 think that's a fair statement.

02:25 21 MR. REGAN: I'm going to mark this as D-35460.

02:25 22 BY MR. REGAN:

02:25 23 Q. I'd like to change topics just to valuation now. We  
02:25 24 talked about -- used the acronym, I think, DCF, or discounted  
02:25 25 cash flow. You're obviously familiar with that; correct?

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02:25 1 A. Yes, sir.

02:25 2 Q. And familiar with what's called the income approach in  
02:25 3 doing a valuation; correct?

02:25 4 A. Yes.

02:25 5 Q. And just to orient us, although we may all be on the same  
02:25 6 page, under an income approach valuation, the value of a  
02:25 7 company is determined by aggregating the present value of its  
02:25 8 future expected cash flows; correct?

02:26 9 A. Yes.

02:26 10 Q. Now, do you agree that the income approach is generally  
02:26 11 considered the best approach for determining the intrinsic  
02:26 12 value of a company because it is based on cash flows inherent  
02:26 13 to a company and the riskiness of those cash flows?

02:26 14 A. I think in a general -- in a general way, that is a good  
02:26 15 general statement.

02:26 16 Q. And that's the statement that you make in your book,  
02:26 17 TREX-13130; correct?

02:26 18 A. Right. Although -- yes. But, again, every industry is a  
02:26 19 little different. And, in fact, in this industry, the E&P  
02:26 20 industry, it's -- the market method is -- is very important to  
02:26 21 value the companies based on a multiple of reserves, a multiple  
02:26 22 of production, and there's a lot written on that.

02:26 23 This is -- as a general basis amongst operating  
02:26 24 companies, the income approach is one of the more preferred  
02:26 25 methods.



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02:26 1 Q. And, Mr. Ratner, you would call yourself a professional  
02:27 2 valuator; correct?

02:27 3 A. I think that's fair.

02:27 4 Q. I think you have that in your résumé, that you are a  
02:27 5 professional business valuator.

02:27 6 A. Yes.

02:27 7 Q. You did not prepare a valuation of BXP or of its equity  
02:27 8 in this matter; correct?

02:27 9 A. Correct.

02:27 10 Q. And there's nothing in your work that you are going to say  
02:27 11 represents a value of BXP; correct?

02:27 12 A. Correct.

02:27 13 Q. Mr. Ratner, you knew at the time that you prepared your  
02:27 14 expert reports that the valuation of BXP would be relevant to  
02:27 15 the question of future funding or financing; correct?

02:27 16 A. I think it would be -- it's one of the important factors.  
02:27 17 I think the historical financing was important. I mean, I just  
02:27 18 don't have the information to value BXP. It wasn't provided.

02:27 19 Q. You knew that it would be relevant to the question of  
02:27 20 future funding or financing prior to preparing any of your  
02:27 21 expert reports; correct?

02:27 22 A. I would say it might be relevant.

02:28 23 Q. Okay. You knew that it would be relevant; correct?

02:28 24 A. I don't know exactly when -- you know, I don't know  
02:28 25 exactly when it would -- when I knew it would be important, but

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02:28 1 I didn't have the information anyways. I couldn't get it.

02:28 2 Q. Mr. Ratner, do you recall being asked this question in  
02:28 3 your deposition -- should I bring it up?

02:28 4 A. Yes, I recall the discussion of the valuation.

02:28 5 Q. Okay. Just for clarity, then, let's bring it up. 240,  
02:28 6 line 23 to 241, line 6 from your deposition on October 21st,  
02:28 7 2014.

02:28 8 Did I ask you this question and you gave this answer?

02:28 9 Question, starting at line 23:

02:28 10 "QUESTION: You knew that the valuation of BPXP would  
02:28 11 be relevant to the question of future funding or financing  
02:28 12 at the time you issued your expert reports; correct?

02:28 13 "ANSWER: Correct."

02:28 14 A. Yes.

02:28 15 Q. Okay. And you did not perform a valuation. We've already  
02:29 16 established that. But you've just said that the reason is  
02:29 17 because you didn't have the information; right?

02:29 18 A. Not only not having the information, but you're dealing  
02:29 19 with -- I mean, this is not a company that's worth \$80 million  
02:29 20 or \$50 million; this is a company that's potentially worth 30,  
02:29 21 \$40 billion. I mean, you really need access to management to  
02:29 22 do that type of valuation. There's a lot of things that you  
02:29 23 would need to get.

02:29 24 Q. Now, you've testified many times in court, have you not,  
02:29 25 Mr. Ratner? More than 30?

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02:29 1 A. 26 times.

02:29 2 Q. Okay. You've presented valuations in court; correct?

02:29 3 A. Yes, I have.

02:29 4 Q. And are you saying that every valuation you've presented  
02:29 5 in court, you had access to management prior to presenting that  
02:29 6 valuation?

02:29 7 A. No, but if you're valuing a potentially 40 billion-dollar  
02:29 8 company for a matter of this significance, that would be way  
02:29 9 out on a limb to value a 40 billion-dollar company without  
02:30 10 access to management and access to the types of information  
02:30 11 required.

02:30 12 That is different than valuing a 100 million-dollar  
02:30 13 company or a 50 million-dollar company.

02:30 14 Q. You're performed --

02:30 15 A. In my -- in my opinion, this is -- this is a large  
02:30 16 valuation, and you'd need a lot of information from management.

02:30 17 Q. You have prepared valuations that had five or less years  
02:30 18 of projections and presented those in court; correct?

02:30 19 A. Probably three years, yeah. Or -- or if you're -- if it's  
02:30 20 a stable income and you're doing a capitalized earnings  
02:30 21 calculation, you would use one year.

02:30 22 Q. You've relied on third-party benchmark information in  
02:30 23 presenting valuations you've presented in court; correct?

02:30 24 A. Probably. Probably not as the sole source.

02:30 25 Q. You would expect an equity investor asked to put further

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02:30 1 equity into BPXP after a Clean Water Act penalty to require a  
02:30 2 valuation; correct?

02:31 3 A. I think that's fair.

02:31 4 Q. And you would expect that equity investor to rely on  
02:31 5 things like the Wood Mackenzie analysis; correct?

02:31 6 A. I think that would be one of the items that they would get  
02:31 7 in a due diligence, yes.

02:31 8 Q. So the material that Mr. Den Uyl relied upon in preparing  
02:31 9 his valuation, the Wood Mackenzie material, is material that  
02:31 10 you would expect an investor or a lender to rely on in  
02:31 11 examining BPXP; correct?

02:31 12 A. I think it's one of the due diligence items that you would  
02:31 13 have.

02:31 14 Q. You agree that members of the industry rely on Wood Mac in  
02:31 15 evaluating the value of assets in the oil and gas industry?

02:31 16 A. Yes. Again, it's a reserve analysis and it's something  
02:31 17 that people rely on.

02:31 18 Q. And with respect to the individual Gulf of Mexico assets  
02:31 19 that were presented in the Wood Mackenzie analysis as cited by  
02:31 20 Mr. Den Uyl, you have not developed any opinion that any of  
02:31 21 those valuations are incorrect; correct?

02:32 22 A. Correct.

02:32 23 Q. Now, you examined in detail, you talked to the Court about  
02:32 24 how there was a -- summary spreadsheets and then detail  
02:32 25 spreadsheets; do you recall that?

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02:32 1 A. Yes.

02:32 2 Q. And you examined in detail every asset spreadsheet that's  
02:32 3 in the Wood Mackenzie analysis; correct?

02:32 4 A. I tried.

02:32 5 Q. You verified the 38.1 billion-dollar number; correct?

02:32 6 A. I would say -- I wouldn't use the word "verify." I would  
02:32 7 say I reconciled.

02:32 8 Q. You reconciled it.

02:32 9 MR. REGAN: Pull up TREX-13125.1.2.

02:32 10 BY MR. REGAN:

02:32 11 Q. And this is Table 3 out of your first report. This is  
02:32 12 your reconciliation; correct?

02:32 13 A. Yes.

02:32 14 Q. And just to show the Court what type of detail then lies  
02:32 15 behind these numbers that you reconciled, let me pull up the  
02:32 16 one for Kaskida. D-34453.

02:33 17 This is a multiple-page document, but this is the  
02:33 18 type of detail that sits behind the numbers in the Wood  
02:33 19 Mackenzie valuations; correct?

02:33 20 A. Yes, sir.

02:33 21 Q. Okay. And if we could go to D-354 -- let me just look at  
02:33 22 this one first. You can see that there's a present value  
02:33 23 that's arrived at in this case for Kaskida of \$884 million;  
02:33 24 right?

02:33 25 A. Yes.

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02:33 1 Q. And there's operating cost estimates; correct?

02:33 2 A. Yes.

02:33 3 Q. And there's capital cost estimates; correct?

02:33 4 A. Yes.

02:33 5 Q. Now, Kaskida, is it producing any oil right now? Today?

02:33 6 A. I don't think so.

02:33 7 Q. Wood Mackenzie has value of assets that aren't producing  
02:33 8 oil today but would be producing it in the future, and that's  
02:33 9 part of that \$38 billion; right?

02:33 10 A. I said so in the near term, yes, sir.

02:34 11 MR. REGAN: If we could just show that quickly to the  
02:34 12 Court, D-35454.

02:34 13 BY MR. REGAN:

02:34 14 Q. So you -- you -- this is part of your reconciliation. You  
02:34 15 looked at these documents; right?

02:34 16 A. Yes, sir.

02:34 17 Q. So you can see in '16, '17, there's costs but there's no  
02:34 18 revenue; right?

02:34 19 A. Yes, sir.

02:34 20 Q. So Wood Mackenzie includes, in its value of these assets,  
02:34 21 assets that aren't producing revenue today?

02:34 22 A. Yes.

02:34 23 Q. Kaskida is an example of that; correct?

02:34 24 A. Yes.

02:34 25 Q. As we can see?

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02:34 1 And then it has operating costs and capital costs and  
02:34 2 elsewhere on these -- on these -- on these charts.

02:34 3 Now, these revenue estimates, cost estimates, capital  
02:34 4 cost estimates all then arrive at the present value number that  
02:34 5 is used by Wood Mackenzie; correct?

02:34 6 A. Yes.

02:34 7 Q. So Wood Mackenzie includes both proved and unproved  
02:34 8 reserves in its analysis; correct?

02:34 9 A. Well, their definitions -- in their methodology, their  
02:35 10 definition is a little different than proved and unproved. I  
02:35 11 think they're calling it -- I forget. In their methodology,  
02:35 12 they're using -- they're not using the exact proved/unproved in  
02:35 13 the CFR. And as I said before, they have a little bit of a  
02:35 14 broader definition.

02:35 15 Q. Okay. You suggested on direct that Wood Mackenzie failed  
02:35 16 to include certain BPXP assets in this analysis; right?

02:35 17 A. Yes.

02:35 18 Q. And one of them was Gila, G-I-L-A; correct?

02:35 19 A. Yes.

02:35 20 Q. Gila is in the Wood Mackenzie analysis, isn't it?

02:35 21 A. I don't know.

02:35 22 Q. You reviewed all of the analysis; right?

02:35 23 A. Well, there's no -- they haven't attributed a value to it,  
02:35 24 but yet the company touts it as a significant find. So my --  
02:35 25 my point, Mr. Regan, was that when you're analyzing this,

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02:35 1 there's certain items that have value that are not captured in  
02:36 2 this analysis.

02:36 3 Q. D-35457. This is from TREN-240835, which is the Wood  
02:36 4 Mackenzie analysis.

02:36 5 Do you see that it indicates that Gila, or Gila,  
02:36 6 discovery, it indicates it here? Do you see it?

02:36 7 A. That's on a different -- that's actually from the global  
02:36 8 workbook, which ends in, I think, 619. That's actually not in  
02:36 9 the workbook of the 14 spreadsheets that you're looking at.

02:36 10 Q. I know that. And let's just ask you a few questions about  
02:36 11 it.

02:36 12 A. I know, but you didn't -- you didn't say that.

02:36 13 Q. Okay.

02:36 14 A. So --

02:36 15 Q. Subcommercial reserves discovered. Wood Mackenzie calls  
02:36 16 some things commercial and some things subcommercial; correct?

02:36 17 A. Yes.

02:36 18 Q. And Wood Mackenzie does not ascribe value to things that  
02:36 19 it has assessed are subcommercial; correct?

02:36 20 A. Correct.

02:36 21 Q. And Wood Mackenzie notes the Gila discovery, but includes  
02:36 22 it in the subcommercial department, correct -- or category;  
02:36 23 correct?

02:36 24 A. Correct.

02:36 25 Q. And that's why Wood Mackenzie doesn't have a value



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02:36 1 attributed to it; correct?

02:36 2 A. I mean, if Wood Mackenzie could testify about that -- I'm  
02:37 3 not Wood Mackenzie, but the point is that's a significant  
02:37 4 asset. It's not an asset that's producing right now, but it's  
02:37 5 an asset that would be having some value. The company touts  
02:37 6 that as a significant find, and it's a value enhancer to the  
02:37 7 company. The fact that it's not in their math ...

02:37 8 Q. You didn't mean to suggest that it wasn't in the analysis  
02:37 9 at all, did you?

02:37 10 A. It's not included in the \$38 billion. There's certain  
02:37 11 assets, either tangible, intangible. The -- the  
02:37 12 38 billion-dollar value is not a business valuation of BPXP,  
02:37 13 and I think you've even said that today.

02:37 14 Q. Mr. Den Uyl does not say that the Wood Mackenzie 38.1 is a  
02:37 15 business valuation of the BPXP either, does he?

02:37 16 A. Well, he sure does. Because he attributes the value of  
02:37 17 their equity starting off with this number. How could you call  
02:37 18 something the equity value of BPXP if you're not valuing the  
02:37 19 company?

02:37 20 Q. You reviewed the Wood Mackenzie analysis also as to the  
02:38 21 sensitivities that were in there with respect to oil price;  
02:38 22 correct?

02:38 23 A. Yes, I did.

02:38 24 Q. You saw that Wood Mackenzie has sensitivities of the  
02:38 25 valuations based on oil price; correct?

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02:38 1 A. Yes.

02:38 2 Q. And you have no reason to disagree with Wood Mackenzie's  
02:38 3 sensitivity analysis; correct?

02:38 4 A. Correct. It's a mathematical analysis. It is not a  
02:38 5 projection of what oil prices will be in the future.

02:38 6 Q. Okay. You've challenged the use of Wood Mackenzie's  
02:38 7 sensitivity as to the full BP upstream group. You say it  
02:38 8 really shouldn't just be applied to just BPXP or just to GoM.  
02:38 9 That's one of your criticisms; right?

02:38 10 A. I challenged the ratio that he applied.

02:38 11 Q. You -- you were responding to Anadarko's questions, you  
02:38 12 were talking about how Anadarko has an oil and gas mix in  
02:38 13 its -- in its revenues; correct?

02:38 14 A. Yes.

02:38 15 Q. So with respect to BPXP versus Anadarko, who has a higher  
02:39 16 oil and gas mix?

02:39 17 A. I think that Anadarko does.

02:39 18 Q. Okay. So how about with respect to BPXP and the rest of  
02:39 19 BP's upstream group, does BPXP have a higher proportion of oil  
02:39 20 or a higher proportion of gas relative to the group?

02:39 21 A. I don't know.

02:39 22 Q. If it's true that BPXP has a higher proportion of oil,  
02:39 23 then it would be actually more exposed to drops in the price of  
02:39 24 oil; correct?

02:39 25 A. That's possible.

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02:39 1 Q. All right. So if we actually wanted to criticize that  
02:39 2 ratio, you could look and see what those -- how it compared to  
02:39 3 the rest of group; right?

02:39 4 A. I suppose so.

02:39 5 Q. And that may be one way to determine whether that's a fair  
02:39 6 ratio to use; correct?

02:39 7 A. That's another way -- that's another way to analyze the  
02:39 8 ratio, yes.

02:39 9 Q. And not an analysis that you've performed; right?

02:39 10 A. No.

02:39 11 Q. Is that correct?

02:39 12 A. No, I did not.

02:39 13 Q. All right. I want to come to the -- almost done here --  
02:39 14 come to the question of operating expenses in a second. But  
02:39 15 before we get there --

02:40 16 MR. REGAN: Actually, if I could just probably have  
02:40 17 you pull this up, if you could, D-34017-A.

02:40 18 BY MR. REGAN:

02:40 19 Q. All right. As I said, Mr. Ratner, I want to spend a  
02:40 20 little time with you on OPEX. Before I do that, let's talk  
02:40 21 about some of these other deductions. I didn't hear any  
02:40 22 criticism of you -- from you on your direct about the deduction  
02:40 23 of intercompany debt.

02:40 24 Well, actually, let me start at the top. Just --  
02:40 25 I'll work my way down.

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02:40 1           You agree that to get to BPXP's ownership, you can  
02:40 2 either use an 11 percent deduction or a deduction based on  
02:40 3 value to get from GoM to BPXP; correct?

02:40 4   A.   I understand what Mr. Den Uyl did to get the 85.9, but I'm  
02:41 5 just more comfortable adopting the actual historical ratio  
02:41 6 because the future ratio depends on all these different  
02:41 7 factors.

02:41 8   Q.   Maybe we won't agree on whether it's 11 percent or  
02:41 9 13.1 percent, but you agree there has to be a percentage taken  
02:41 10 off to get to BPXP ownership?

02:41 11   A.   Well, if you're going to use the methodology that because  
02:41 12 you don't have a BPXP -- this is his methodology. So why don't  
02:41 13 we just say this is what he -- this is what they did?

02:41 14   Q.   Well, you were comfortable talking about his methodology  
02:41 15 on direct; right?

02:41 16   A.   Well, I was criticizing his methodology.

02:41 17   Q.   Right.

02:41 18   A.   I'm comfortable with that --

02:41 19   Q.   So I want to see the areas of -- of agreement. You agree  
02:41 20 that some percentage has to be taken off from GoM to get to  
02:41 21 BPXP?

02:41 22   A.   If you're going to follow this approach, yes.

02:41 23   Q.   All right. I'm going to skip over operating expenses. I  
02:41 24 want to ask you a few detailed questions about that. But the  
02:41 25 deduction of BPXP intercompany debt, you don't have any

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02:41 1 disagreement with that; correct?

02:41 2 A. Well, actually, in my deposition I did disagree with that.  
02:41 3 I still do. But we have so much to cover and the -- what I  
02:42 4 said in the deposition was that's a working capital item and if  
02:42 5 you're trying to value a company, he -- he doesn't add back any  
02:42 6 of the working capital, like if there's receivables or  
02:42 7 anything. So you -- you wouldn't necessarily deduct the  
02:42 8 intercompany payables.

02:42 9 The working capital would be if you're going to do  
02:42 10 this, you have to add back any working capital. So  
02:42 11 intercompanies are usual trade payables. You don't usually  
02:42 12 deduct trade payables if you're doing a true valuation.

02:42 13 Q. So if there's a portion of this number -- do you have a  
02:42 14 number in mind of what portion of this debt is working capital  
02:42 15 that you wouldn't include?

02:42 16 A. No.

02:42 17 Q. Okay. The portion that's not working capital is  
02:42 18 appropriate to deduct; correct?

02:42 19 A. If it's true debt.

02:42 20 Q. It's appropriate to deduct; correct?

02:42 21 A. If it's true debt, you could deduct it, yes.

02:42 22 Q. The same thing with the 1.6 on the intercompany payables;  
02:42 23 true debt, appropriate to deduct; correct?

02:42 24 Any challenge to that number?

02:42 25 A. Yeah, I think that's the one that I'm referring to --

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02:42 1 Q. Okay.

02:42 2 A. -- excuse me. The 3.4 is true debt. It's the -- the 1.6  
02:42 3 is a -- what I call a working capital item; and, again, I -- I  
02:43 4 don't have the benefit of -- of all the information. It's  
02:43 5 probably not appropriate, if it's a working capital item, to  
02:43 6 deduct it.

02:43 7 Q. 3.4 is fine if it's true debt. 1.6 you have a question  
02:43 8 about if it might be working capital?

02:43 9 A. Yes.

02:43 10 Q. Okay. The 4.0, the 4 billion-dollar deduction for future  
02:43 11 incident provisions and payables, you have no -- no problem  
02:43 12 with that deduction; correct? Probably fine; correct?

02:43 13 A. I'm sorry. I didn't know there was a question.

02:43 14 Q. The 4.0 billion-dollar deduction, you have no challenge or  
02:43 15 problem with that deduction; correct?

02:43 16 A. Well, again, if you -- if you had done a proper business  
02:43 17 valuation where you looked at the market and the ratios, you  
02:43 18 would know what would be the typical debts to include in  
02:43 19 getting to the value. I understand what he did and I'm not  
02:44 20 adopting it, but I understand what he did. He made a deduction  
02:44 21 for payables.

02:44 22 Q. Mr. Ratner, Mr. Den Uyl correctly deducts the incident  
02:44 23 provisional payables as long term; correct?

02:44 24 A. In this analysis, I think it's fine.

02:44 25 Q. Okay. Let's turn then to, before I get to OPEX, a few

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02:44 1 other stray -- stray issues. You have spoken about intrinsic  
02:44 2 factors. You have not done any value of any intangible -- any  
02:44 3 intangible assets here; correct?

02:44 4 A. No.

02:44 5 Q. Is that correct?

02:44 6 A. That is correct, I have not.

02:44 7 Q. Have you -- have you done any valuation of brand value?

02:44 8 A. No.

02:44 9 Q. Have you done any analysis of the actual financial value  
02:44 10 of leveraging BPXP's efforts?

02:44 11 A. No, I have not.

02:44 12 Q. So let's turn to OPEX. Now, Mr. Den Uyl prepare --  
02:45 13 provided a table that summarized the actual operating expenses  
02:45 14 that were incurred by BPXP; correct?

02:45 15 A. Yes.

02:45 16 Q. You do not dispute that Mr. Den Uyl pulled the actual  
02:45 17 number from BPXP's financial information; correct?

02:45 18 A. That's correct.

02:45 19 Q. So there's no dispute between the two of you that BPXP has  
02:45 20 operating expenses and that the amount of those expenses are  
02:45 21 the numbers that Mr. Den Uyl presents when he's making his  
02:45 22 adjustment?

02:45 23 A. That's true.

02:45 24 Q. You were able to verify those numbers using the trial  
02:45 25 balance of BPXP; correct?

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02:45 1 A. Yes.

02:45 2 Q. So if you wanted to know the detail of those numbers for  
02:45 3 BPXP, you can just look in the trial balance; correct?

02:45 4 A. Yes.

02:45 5 Q. So you said something about no due diligence, but you can  
02:45 6 actually perform due diligence by looking at the trial docs?

02:45 7 A. Yeah, but he didn't. He didn't.

02:45 8 Q. And your basis for saying that he didn't?

02:45 9 A. Because he -- because I was -- I was either at his depo --  
02:45 10 I was at his deposition, I read his multiples reports; he  
02:45 11 doesn't know what the elements are. I mean, a lot of those  
02:45 12 expenses are insurance expenses. I mean, there's a lot of  
02:45 13 stuff in there that he would have to analyze and normalize.

02:45 14 Q. So you then -- I want to go to your second report. In  
02:45 15 your second report, TREN-13125.1.2, this is where you did your  
02:46 16 reconciliation to arrive at the 38 billion; correct?

02:46 17 A. Correct.

02:46 18 Q. And you looked at the individual asset sheets; right?

02:46 19 A. Yes.

02:46 20 Q. And you looked at the CAPEX that was being used by Wood  
02:46 21 Mackenzie in those asset sheets; correct?

02:46 22 I'm going to show you a table that might help,  
02:46 23 TREN-13125.1.3, which is your Table 6.

02:46 24 So you went through and in your second report that  
02:46 25 you filed on February -- September 12th, you presented Wood



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02:46 1 Mackenzie's projected operating expenses; correct?

02:46 2 A. Yeah. We're -- those -- we're relying on those from his  
02:46 3 report. This is a comparison of the group plan template to  
02:46 4 the -- and he adjusts the -- Mr. Den Uyl makes an adjustment  
02:47 5 and we're comparing -- we're summarizing his comparison of  
02:47 6 expenses, Mr. Regan.

02:47 7 Q. Well, that's not what you say in the footnote; right? In  
02:47 8 the Footnote 3, you say, "See BP-HZ-2179," and you cite the  
02:47 9 Bates number, OPEX, "The amounts here differ from the  
02:47 10 summation," and you actually give us a number, 3 percent.

02:47 11 So you did some detailed work here to look at those  
02:47 12 numbers; right?

02:47 13 A. Right. And -- and then we later find where the 508 is  
02:47 14 actually coming from. It's on the -- it's on the summary --  
02:47 15 it's the Bates number that has -- ends with 619.

02:47 16 Q. Mr. Ratner --

02:47 17 A. 6019, sorry.

02:47 18 Q. -- can you -- can you read out for me the numbers that you  
02:47 19 used and presented in your September 12th report for Wood  
02:47 20 Mackenzie projected operating expense, which are footnote 3  
02:47 21 from that document? What numbers did you present starting in  
02:47 22 2014?

02:48 23 A. Again, these are numbers we took from Mr. Den Uyl's  
02:48 24 report: 508, 561, 603, 599 million, 590 million. That's the  
02:48 25 line that we took. We took those numbers from Mr. Den Uyl's

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02:48 1 report. And we then later found them in the Wood Mackenzie  
02:48 2 file.

02:48 3 Q. You -- you verified them; correct?

02:48 4 A. Again, you keep using the word "verify." I can't verify  
02:48 5 them. I know where they came from in the Wood Mackenzie  
02:48 6 report.

02:48 7 Q. You tell us that you actually were able to determine  
02:48 8 the -- within 3 percent what those numbers were; right?

02:48 9 A. No. We added up -- we added up the detailed expenses that  
02:48 10 were in the -- in the individual 14 tabs in an attempt to  
02:48 11 reconcile this.

02:48 12 Q. If I could go to the ELMO and just show you what I've  
02:48 13 written down. If we can follow along. Just let it focus.  
02:48 14 There we go.

02:48 15 I just wrote down the numbers that are in your chart  
02:49 16 on 9/12/2014 that you said Wood Mac OPEX. I'd like to turn now  
02:49 17 to what you presented in your January 6th report.

02:49 18 MR. REGAN: D-35455.

02:49 19 BY MR. REGAN:

02:49 20 Q. Now, in your January report, you also presented what you  
02:49 21 call a Wood Mac OPEX number; correct?

02:49 22 A. Yes, sir.

02:49 23 Q. And we can see that here on the top; correct?

02:49 24 A. Yes.

02:49 25 Q. And before I get to these numbers, in September, when you

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02:49 1 looked at the Wood Mac individual asset values, you looked at  
02:49 2 each asset and reconciled to the 38 billion; right?

02:49 3 A. Yes.

02:49 4 Q. And the only way to do that was to look at the OPEX that  
02:49 5 was in Wood Mac for each of those assets; right?

02:49 6 A. We just took the total -- to get to the 38 billion, I took  
02:49 7 the total net present value that was on each of the 14 assets.

02:49 8 Q. Okay. If we can zoom on the top of your chart there. So  
02:50 9 in January, what do you say is the Wood Mac operating costs  
10 starting in 2014?

02:50 11 A. \$2,280,000,000.

02:50 12 Q. Okay. And if you could read across the years.

02:50 13 A. 2,335 -- I'm sorry. 2,335,000,000; 2,471,000,000;  
02:50 14 3,644,000,000. And then in 2018, \$4,070,000,000.

02:50 15 Q. If I could go back to the ELMO then.

02:50 16 Mr. Ratner, you have two reports there that are both  
02:50 17 discussing Wood Mac operating expenses, and you have different  
02:50 18 numbers for those years; correct?

02:50 19 A. Yes, sir.

02:50 20 Q. Did you do anything to reconcile those two numbers?

02:50 21 A. I went to the global Wood Mac spreadsheet. If you want to  
02:51 22 call it up, it ends with 6019.

02:51 23 **THE WITNESS:** And in that -- in that spreadsheet,  
02:51 24 Your Honor, we were able to find the 508, 561, 603, 599, and  
02:51 25 590. Remember those numbers were used by Mr. Den Uyl to do his

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02:51 1 adjustment. That's what we were analyzing in the second  
02:51 2 report. We were analyzing his adjustment.

02:51 3 **BY MR. REGAN:**

02:51 4 **Q.** Mr. Ratner, can you get --

02:51 5 **A.** I'm in the middle of an answer.

02:51 6 **THE COURT:** Let him finish.

02:51 7 **THE WITNESS:** I'm going to tell you exactly where  
02:51 8 those numbers come from.

02:51 9 **THE COURT:** Go ahead. Go ahead.

02:51 10 **THE WITNESS:** So the 5 -- those 508 numbers are  
02:51 11 coming from -- we're comparing those to the group template, and  
02:51 12 those 508 were originally in Mr. Den Uyl's report.

02:51 13 We now go to the global spreadsheet in Wood  
02:51 14 Mackenzie, and you could find a table that has those  
02:51 15 numbers: 508, 561, 603, 599, 590. The table is not titled.  
02:51 16 It's just a table in the corner of a spreadsheet.

02:52 17 In the same file, there's another operating  
02:52 18 expense total that is the 2280, the 2335, the 2471, the 3644.  
02:52 19 I just didn't see it at the time. These spreadsheets are huge.

02:52 20 **BY MR. REGAN:**

02:52 21 **Q.** Is it -- I'm sorry.

02:52 22 **A.** It's in that same spreadsheet, and it actually says  
02:52 23 "operating expenses." I don't know how to reconcile those to  
02:52 24 the 14. It's not done.

02:52 25 **Q.** Well, let's do a little forensics here because I -- you're

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02:52 1 familiar with the fact that Wood Mac also has capital  
02:52 2 expenditure forecasts?

02:52 3 A. Yes.

02:52 4 Q. Is it possible that the numbers you present in your  
02:52 5 January report that you attribute to the OPEX are, in fact,  
02:52 6 CAPEX numbers?

02:52 7 A. They're not. Because the first year is remarkably the  
02:52 8 same number, and I've run it all the way through the  
02:52 9 calculation of the OP -- the operating expense at \$26 a barrel  
02:52 10 times the number of barrels of production, and it's clearly  
02:53 11 marked as operating expense.

02:53 12 Q. Okay.

02:53 13 A. There is -- in the first year, the capital expense number  
02:53 14 is the same number.

02:53 15 Q. I'm going to pull up --

02:53 16 A. I saw that as well.

02:53 17 Q. TREX-240835 I have in my hand. It's the capital  
02:53 18 expenditure tab from Wood Mac. If we could go to the ELMO.

02:53 19 Do you see Wood Mac capital expenditure forecast, and  
02:53 20 then it has the pages? This is one of the things you looked  
02:53 21 at; right?

02:53 22 A. I don't see ...

02:53 23 Q. Wood Mackenzie --

02:53 24 A. Yes.

02:53 25 Q. -- capital expenditure forecast?

## IAN RATNER - CROSS

02:53 1           **THE WITNESS:** That's one the tabs in this  
02:53 2 spreadsheet, Your Honor.

02:53 3 **BY MR. REGAN:**

02:53 4 **Q.** So I'm going to turn to what Wood Mackenzie has for  
02:53 5 capital expenditures in this document for the U.S. deep GoM.  
02:53 6 Do you see where I am? I can make it a little bigger in a  
02:53 7 second.

02:53 8 **A.** Yeah, there's your two -- 2085.

02:54 9 **Q.** And if I go to the years of 2014 to 2018, which I'm  
02:54 10 holding right there, and I'll mark those with a pen, what  
02:54 11 numbers does Wood Mac have for capital expenditures for the GoM  
02:54 12 for 2014 through 2018? Could you read those off?

02:54 13 **A.** 2280, 2335, 2471, 3644, 4070.

02:54 14 **Q.** Okay. Now, if you'll go back to my chart.

02:54 15           Do those appear to be the exact numbers that you are  
02:54 16 calling Wood Mac OPEX, 2280, 2335, 2471, 3644, 4070? Do those  
02:54 17 numbers appear to be the same?

02:55 18 **A.** They do. But, Mr. Regan, those are coming off the OPEX  
02:55 19 tab. I've got to see the whole sheet. But the OPEX tab has --  
02:55 20 the OPEX tab has those numbers, 2280, 2335, 2471, and actually  
02:55 21 you can trace through the production times the operating  
02:55 22 expense per barrel and get the exact same numbers.

02:55 23 **Q.** You don't think it's possible that you actually used CAPEX  
02:55 24 numbers? Not possible?

02:55 25 **A.** No, because I redid the math. I took the barrels of

## IAN RATNER - CROSS

02:55 1 production times the operating expense tab -- why don't we go  
02:55 2 to the operating expense tab in Wood Mackenzie?

02:55 3 Q. I'm going to mark this as D-35461.

02:55 4 Mr. Ratner, you would agree that if you wanted to  
02:55 5 answer the question of how much OPEX Wood Mackenzie has to get  
02:56 6 to the 38 billion-dollar number, you can look at the individual  
02:56 7 spreadsheets, and that number is on each one; correct?

02:56 8 A. Yes.

02:56 9 Q. And is it your testimony that if you look at the  
02:56 10 individual spreadsheets and added those up for those years, you  
02:56 11 would get the 508 number or the 2280 number, or have you not  
02:56 12 done that?

02:56 13 A. You don't get -- it's not exactly the 508 or the 561. I  
02:56 14 don't recall.

02:56 15 Q. It's only a 3 percent difference than what you put in your  
02:56 16 first report; correct?

02:56 17 A. I think that's probably true.

02:56 18 Q. Last topic, Mr. Ratner, contingent liabilities.

02:56 19 This analysis by Mr. Den Uyl which you've expressed  
02:56 20 your disagreement with does not include contingent liabilities;  
02:56 21 correct?

02:56 22 A. Correct.

02:56 23 Q. You understand that BXP faces NRD, OPA, state and local  
02:57 24 claims and other contingent liabilities; correct?

02:57 25 A. Yes.

## IAN RATNER - CROSS

02:57 1 Q. Now, are you familiar with doing solvency analyses,  
02:57 2 Mr. Ratner?

02:57 3 A. Yes.

02:57 4 Q. And to be clear, in your opinion that BPXP could fund or  
02:57 5 finance and pay a Clean Water Act penalty up to the maximum  
02:57 6 amount, did you do anything to determine whether doing so would  
02:57 7 allow BPXP to still remain solvent?

02:57 8 A. I did not. The -- part of the reason is because the  
02:57 9 solvency would also depend on the sources of capital. So you'd  
02:57 10 have to know -- the first question is, how are they going to  
02:57 11 get funded. If they're going to get equity to pay these  
02:57 12 contingent liabilities, then they would be solvent. So I  
02:57 13 didn't -- I mean, I didn't have the information to prepare it,  
02:57 14 and I didn't.

02:57 15 Q. In -- you've done solvency analyses in other litigation;  
02:57 16 correct?

02:57 17 A. Yes, I have.

02:57 18 Q. And when you do a solvency analysis, typically do you have  
02:57 19 to ascribe a value to the prospective contingent liabilities?

02:58 20 A. If you can, you -- you have to.

02:58 21 Q. Okay. You're not -- you would agree with respect to a  
02:58 22 request for funding or financing that the BP Group would act as  
02:58 23 a rational economic actor; correct?

02:58 24 A. That's a fair statement.

02:58 25 Q. And if you were advising BP p.l.c. as a lender or equity



## IAN RATNER - CROSS

02:58 1 investor on whether or not it should provide additional funding  
02:58 2 or financing to BXP, would you advise the BP Group to take  
02:58 3 into account the risks that are present of potential future  
02:58 4 contingent liabilities as to any equity or loan investment?

02:58 5 A. I think that would be one of the factors that you would  
02:58 6 take into account.

02:58 7 MR. REGAN: Nothing further, Mr. Ratner.

02:58 8 THE COURT: Redirect?

02:59 9 MR. CASEY: Your Honor, Patrick Casey for the United  
02:59 10 States. I just have a couple of questions, Your Honor.

02:59 11 THE COURT: You said a couple, that means two.  
02:59 12 Usually when a lawyer says I have one more question, that's  
02:59 13 about 30 minutes, you know. So when you say two, I hope you're  
02:59 14 not talking about an hour.

02:59 15 MS. HIMMELHOCH: How about one line of questions?

02:59 16 MR. CASEY: I think I have one line of questions,  
02:59 17 Your Honor.

02:59 18 THE COURT: Go ahead. I'm just kidding you. Go  
02:59 19 ahead.

02:59 20 MR. CASEY: I'm sorry, I'm Irish. Sometimes I say a  
02:59 21 couple --

02:59 22 THE COURT: We're okay. Go ahead.

02:59 23 MR. CASEY: -- and it's more than one.

02:59 24 Could I pull up D-32353, please.  
25

## IAN RATNER - REDIRECT

**REDIRECT EXAMINATION**

**BY MR. CASEY:**

**Q.** There was a lot of discussion, Mr. Ratner, about these numbers. And that last chart showed there was a lot of comparison.

**MR. CASEY:** In fact, maybe we'll use their exhibit, if we could, Your Honor. I believe it was D-34017. Can we show that?

**BY MR. CASEY:**

**Q.** We talked about this comparison. What's the starting point for this analysis? What number?

**A.** 38 billion.

**Q.** Do you agree with that number?

**A.** I know where it came from. I don't disagree with the -- the calculation of it necessarily. But I do not believe that that's the value of BXPX.

**Q.** That was my --

**MR. REGAN:** Your Honor --

**BY MR. CASEY:**

**Q.** That was my next question.

**MR. REGAN:** The witness has testified that he did not do a valuation of BXPX. So I think we're actually -- he's asking him for his own opinion on valuation now.

**THE COURT:** He hasn't yet.

**MR. REGAN:** It might be a question early.

## IAN RATNER - REDIRECT

03:01 1 MR. CASEY: But I might think about it now.

03:01 2 BY MR. CASEY:

03:01 3 Q. Has BPXP, through its expert, in any of the testimony so  
03:01 4 far in this case or in any of the expert reports, provided with  
03:01 5 you the valuation of BPXP?

03:01 6 A. No.

03:01 7 Q. So is the starting point for this analysis reasonable?

03:01 8 A. It's an -- it's a good -- it's an interesting data point.  
03:01 9 I think it's a useful data point, but it's not the value of  
03:01 10 BPXP.

03:01 11 Q. Mr. Ratner, can you show the Court exactly where you got  
03:02 12 the numbers for the projected operating costs from the Wood  
03:02 13 Mackenzie report?

03:02 14 A. Yes, I can.

03:02 15 Q. And can you show where you got the numbers from the group  
03:02 16 template?

03:02 17 A. Yes, I can.

03:02 18 MR. CASEY: Charles, would you please call  
03:02 19 TREN-012431.1.2.US.

03:02 20 BY MR. CASEY:

03:02 21 Q. Mr. Ratner, do you know what this is, this call-out?

03:02 22 A. Yes, that's the call-out from the group plan template, and  
03:02 23 the operating costs are right there. That's the first thing in  
03:02 24 my exhibit that Mr. Regan showed me, the 2.2 billion of  
03:02 25 expenses, et cetera. That line -- a little hard to see -- but

## IAN RATNER - REDIRECT

03:02 1 that line in the red is the operating expenses from the group  
03:02 2 plan template. That was the first number on my chart that  
03:02 3 Mr. Regan showed me.

03:02 4 Q. And are those the numbers in that line of operating costs  
03:03 5 which has been referred to as BP's actual operating costs?

03:03 6 A. Well, these were their forecasted operating costs for the  
03:03 7 Gulf of Mexico region, yes.

03:03 8 MR. CASEY: Charles, would you please show D-32349.

03:03 9 BY MR. CASEY:

03:03 10 Q. Can you tell the Court what this is?

03:03 11 A. Yes, Mr. Casey.

03:03 12 THE WITNESS: Your Honor, as I said before, there was  
03:03 13 a group of 14 specific net present values in this Wood  
03:03 14 Mackenzie spreadsheets and then there was one global  
03:03 15 spreadsheet. This is the global spreadsheet, and then the tab  
03:03 16 that this is on, you'll see in the bottom, it says "OPEX WM,"  
03:03 17 that's operating expense, Wood Mackenzie. That's this tab that  
03:04 18 we're looking at in this multi-tab spreadsheet.

03:04 19 MR. CASEY: Now, Charles, would you please go to  
03:04 20 D-32349.1.1.US.

03:04 21 BY MR. CASEY:

03:04 22 Q. Would you explain what this is, Mr. Ratner?

03:04 23 A. Yes. In the top left-hand corner of that same tab -- this  
03:04 24 is from the same tab, a little blowup -- from the top left-hand  
03:04 25 corner of this same tab, it says, "Region OPEX, BOE," barrels

## IAN RATNER - REDIRECT

03:04 1 of oil equivalent. So this is operating expenses on barrels of  
03:04 2 oil equivalent.

03:04 3 **THE WITNESS:** If you look down, Your Honor, for 2014,  
03:04 4 the number for the USD GoM is \$26 a barrel. That's their  
03:04 5 operating expense on a per-barrel basis.

03:04 6 **MR. CASEY:** Now, Charles, would you please show  
03:04 7 D-32350.

03:04 8 **BY MR. CASEY:**

03:04 9 **Q.** Mr. Ratner, would you please tell the Court what this  
03:05 10 represents.

03:05 11 **A.** Okay.

03:05 12 **THE WITNESS:** Your Honor, in the same spreadsheet,  
03:05 13 there's another tab -- let's highlight the tab in yellow --  
03:05 14 called "Production Wood Mackenzie Report." So this tab is  
03:05 15 the -- is the production tab. So we saw the BOE was \$26 a  
03:05 16 barrel of oil for operating costs, and then this is the  
03:05 17 production tab.

03:05 18 And if you look in the middle, you'll see "US  
03:05 19 deep GoM," it's the third line after -- you see there's --  
03:05 20 okay. So that's the production of thousands of barrels of oil  
03:05 21 equivalent a day. So --

03:05 22 **MR. CASEY:** Charles, would you go -- to just to make  
03:05 23 it clear for the Court, would you please show D-32350.1.1.US.

03:06 24 **THE WITNESS:** Oh, there you go. Under Trinidad.  
03:06 25 Yes. So that's -- so that's the -- this is on Wood Mackenzie's

## IAN RATNER - REDIRECT

03:06 1 production tab. So we saw the BOE expenses of \$26 a barrel for  
03:06 2 2014. Here you have the actual production, 241,000 barrels of  
03:06 3 oil equivalent a day. It says Wood Mackenzie report basis  
03:06 4 total production summary. Okay. So that's the 241.

03:06 5 **BY MR. CASEY:**

03:06 6 **Q.** Now, Mr. Ratner, if we take the \$26 barrel of oil  
03:06 7 equivalent per day times the production of 241,000 barrels per  
03:06 8 day and multiply that by the number of days in the year, can  
03:06 9 you calculate in your head the total costs for 2014?

03:06 10 **A.** The operating costs are \$2,280,000,000. It's exactly the  
03:07 11 number that I had on the chart, and that's reflected in these  
03:07 12 spreadsheets.

03:07 13 **MR. CASEY:** And, Charles, could you please go to  
03:07 14 D-32351.

03:07 15 **BY MR. CASEY:**

03:07 16 **Q.** Again, what does this reflect, Mr. Ratner?

03:07 17 **A.** Okay. So this is again OPEX. This is the same OPEX tab,  
03:07 18 and it actually has my total. If you go to 2014 in the top  
03:07 19 left-hand corner --

03:07 20 **Q.** Let me blow that up so the Court can see that clearly.

03:07 21 **MR. CASEY:** Charles, could you please go to  
03:07 22 D-32351.1.1.US. If you could highlight that.

03:07 23 **BY MR. CASEY:**

03:07 24 **Q.** Please tell the Court what that represents.

03:07 25 **A.** That's the operating expenses that I used, 2280, 2335,

## IAN RATNER - REDIRECT

03:07 1 2471, 3644, 4070. So that's just where I got those numbers,  
03:08 2 and they reconcile to the -- each year, there's a little bit of  
03:08 3 a different operating cost per barrel forecast, and this  
03:08 4 spreadsheet has the -- has those numbers in there.

03:08 5 Q. And do you know where Mr. Den Uyl got the cost projections  
03:08 6 that he used?

03:08 7 A. Yes.

03:08 8 Q. Okay.

03:08 9 MR. CASEY: And, Charles, if you could show D-32352.

03:08 10 BY MR. CASEY:

03:08 11 Q. Could you explain to the Court what that is before we zoom  
03:08 12 in?

03:08 13 THE WITNESS: So, Your Honor, this is the same tab.  
03:08 14 If you see in yellow, it says, "Operating Costs Wood  
03:08 15 Mackenzie." This is the same tab where we had the \$26 over  
03:08 16 here. On the left, I just made a mess in the red. But that's  
03:08 17 the same --

03:08 18 THE COURT: I can clear it for you. Do you want to  
03:08 19 try again?

03:08 20 THE WITNESS: Yeah. No, you know where it is.

03:08 21 THE COURT: Okay.

03:08 22 THE WITNESS: So then -- and this is where  
03:08 23 Mr. Den Uyl gets his 508. If you look at the line on --

03:08 24 BY MR. CASEY:

03:08 25 Q. Let me go ahead and zoom that in --

## IAN RATNER - REDIRECT

03:08 1 A. Okay.

03:08 2 Q. -- for you, Mr. Ratner.

03:08 3 MR. CASEY: Charles, could you please show  
03:08 4 D-32352.1.1.US. If you could highlight that, please.

03:09 5 BY MR. CASEY:

03:09 6 Q. And if you could just explain to the Court.

03:09 7 A. Sure. That's -- on the top left-hand side of this tab,  
03:09 8 there's an untitled table, and it has the numbers that  
03:09 9 Mr. Den Uyl used in his chart.

03:09 10 So, again, whether it's conflicting information or  
03:09 11 not, this thing has two different working -- two different  
03:09 12 operating cost models. Our operating cost model, I just took  
03:09 13 you through it. I took the operating cost per barrel of oil  
03:09 14 equivalent times their production estimate of 241,000, and I  
03:09 15 came to a number. And that number is actually reflected in the  
03:09 16 operating costs tab of Wood Mackenzie.

03:09 17 There's this other table that is untitled. Is that  
03:09 18 what --

03:09 19 THE COURT: This -- this -- what, these numbers?

03:09 20 THE WITNESS: Yes.

03:09 21 THE COURT: So you don't know where these came from?

03:10 22 THE WITNESS: I don't know the math. It's on the  
03:10 23 same table. But I don't know the math of these numbers.

03:10 24 BY MR. CASEY:

03:10 25 Q. Mr. Ratner, did you see any of the backup detail besides



## IAN RATNER - REDIRECT

03:10 1 the sheets that were produced to the United States that would  
03:10 2 reflect what this table represents?

03:10 3 A. No.

03:10 4 Q. Did you see any of the backup detail that represents the  
03:10 5 numbers in BP's projections in the group plan template?

03:10 6 A. No.

03:10 7 MR. CASEY: Thank you, Your Honor. I have no further  
03:10 8 questions.

03:10 9 THE COURT: All right. I think you're done. It's  
03:10 10 3:15 -- 3:10, huh? All right. Any other matters before we  
03:10 11 recess for the day?

03:10 12 MS. HIMMELHOCH: Your Honor, at this time, the United  
03:10 13 States rests its case in chief, subject to the marshaling of  
03:10 14 the evidence and exhibit bundles and orphan documents, and also  
03:10 15 subject to our right of rebuttal and cross-examination.

03:10 16 THE COURT: All right. Very well. Anything from  
03:10 17 your side right now?

03:11 18 MR. BROCK: No, Your Honor.

03:11 19 THE COURT: Okay. We'll resume -- you'll be ready  
03:11 20 with your witnesses beginning at 8:00 a.m. on Monday?

03:11 21 MR. BROCK: Yes, sir. In the order that we submitted  
03:11 22 them to you.

03:11 23 THE COURT: Yeah, I don't have it right in front of  
03:11 24 me, but remind -- give us the names of the first few -- first  
03:11 25 two or three witnesses.

03:11 1           **MR. BROCK:** The first witness is Captain Frank  
03:11 2 Paskewich, expert. Second is Laura Folse, fact -- fact  
03:11 3 witness. Third is Mike Utsler, fact witness. I think that  
03:11 4 will take the day, but if we get to a fourth witness, it will  
03:11 5 be Dr. Cox, an expert.

03:11 6           **THE COURT:** Okay. Anything else from anyone?

03:11 7                   All right. Have a good evening and good weekend  
03:11 8 and we'll see everyone on Monday morning.

03:11 9           **THE DEPUTY CLERK:** All rise.

10                   \*\*\*\*\*

11                   **CERTIFICATE**

12                   I, Jodi Simcox, RMR, FCRR, Official Court Reporter  
13 for the United States District Court, Eastern District of  
14 Louisiana, do hereby certify that the foregoing is a true and  
15 correct transcript, to the best of my ability and  
16 understanding, from the record of the proceedings in the  
17 above-entitled and numbered matter.

18  
19  
20                   *Jodi Simcox, RMR, FCRR*  
21                   Jodi Simcox, RMR, FCRR  
22                   Official Court Reporter  
23  
24  
25

\$	'	20044 [1] 1110/13
\$1 [1] 1127/3	'15 [3] 1175/13 1176/8 1177/22	2007 [2] 1109/13 1136/10
\$1,209,000,000 [1] 1175/25	'16 [4] 1175/13 1176/8 1176/8 1186/17	2009 [1] 1137/10
\$1,817,000,000 [1] 1176/25	'17 [2] 1175/14 1186/17	2010 [9] 1109/5 1134/4 1134/18
\$10 [1] 1130/5	.	1134/21 1144/25 1148/23 1153/3
\$10 billion [1] 1130/5	...	1153/7 1153/8
\$100 [5] 1166/21 1167/5 1167/8	...these [1] 1141/1	2010/2011 [1] 1153/17
1167/11 1172/6	.1 [1] 1140/19	2011 [2] 1153/10 1153/17
\$11 [2] 1153/7 1153/10	.1.1 [1] 1169/17	2013 [3] 1135/2 1135/13 1137/10
\$11 billion [1] 1153/7	0	2014 [20] 1132/13 1136/11 1148/22
\$130 [1] 1143/3	012431.1.2.US [1] 1207/19	1152/1 1152/5 1172/2 1175/13 1175/24
\$130 billion [1] 1143/3	1	1176/19 1177/22 1177/22 1182/7
\$143 [1] 1134/16	1,289,000,000 [1] 1152/4	1197/22 1199/10 1202/9 1202/12
\$143 billion [1] 1134/16	1.2 billion-dollar [1] 1176/12	1209/3 1210/2 1210/9 1210/18
\$143.8 [1] 1134/4	1.6 [3] 1193/22 1194/2 1194/7	2015 [18] 1109/7 1114/2 1117/10
\$143.8 billion [1] 1134/4	1.7 [1] 1117/3	1118/13 1118/18 1121/5 1127/15
\$184 [1] 1176/23	1.9 [1] 1117/2	1128/10 1129/13 1154/12 1159/14
\$184 million [1] 1176/23	10 [3] 1117/1 1161/12 1173/9	1163/13 1166/8 1168/20 1169/17
\$2 [1] 1154/8	10-4536 [1] 1109/7	1169/24 1175/24 1176/23
\$2 billion [1] 1154/8	10-MD-2179 [1] 1109/4	2016 [5] 1169/24 1175/25 1176/7
\$2,208,000,000 [1] 1177/2	100 [1] 1183/12	1176/25 1178/23
\$2,280,000,000 [2] 1199/11 1210/10	100-dollar [2] 1172/9 1179/14	2017 [2] 1175/25 1177/2
\$20 [1] 1177/24	1036 [1] 1109/16	2018 [8] 1165/22 1172/2 1172/13
\$20 million [1] 1177/24	11 percent [5] 1175/1 1175/5 1175/11	1176/11 1177/3 1199/14 1202/9
\$20,000 [1] 1177/23	1192/2 1192/8	1202/12
\$200 [1] 1168/4	11.1 billion [1] 1153/10	2020 [7] 1111/20 1166/21 1167/5
\$203 [1] 1134/4	11.5 billion [1] 1137/11	1167/9 1167/13 1170/23 1171/12
\$203 billion [1] 1134/4	119 [1] 1133/17	2025 [2] 1118/14 1118/17
\$21.9 [1] 1137/12	11th [2] 1169/16 1169/23	2085 [1] 1202/8
\$21.9 billion [1] 1137/12	120 billion [1] 1133/13	2179 [2] 1109/4 1197/8
\$26 [6] 1201/9 1209/4 1209/15 1210/1	126 [1] 1143/5	21st [1] 1182/6
1210/6 1211/15	1287 [1] 1176/15	2280 [6] 1200/18 1202/13 1202/16
\$3 [5] 1127/3 1165/4 1165/4 1165/5	12th [1] 1196/25	1202/20 1203/11 1210/25
1172/21	13 [1] 1132/23	23 [4] 1109/7 1114/2 1182/6 1182/9
\$3 billion [2] 1127/3 1172/21	13.1 percent [1] 1192/9	2335 [5] 1200/18 1202/13 1202/16
\$3.1 [2] 1176/4 1176/8	13123.39 [1] 1173/13	1202/20 1210/25
\$3.1 billion [2] 1176/4 1176/8	13123.41 [1] 1131/15	233873.1.1 [1] 1167/18
\$33 [1] 1145/3	13123.79 [1] 1132/22	233888 [1] 1166/4
\$33 billion [1] 1145/3	13125.1.2 [2] 1185/9 1196/15	233888.1.1 [1] 1163/5
\$38 [2] 1186/9 1189/10	13125.1.3 [1] 1196/23	240 [1] 1182/5
\$38 billion [2] 1186/9 1189/10	13130 [1] 1180/17	240835 [2] 1188/3 1201/17
\$39 [2] 1133/5 1133/8	13130.1 [1] 1156/8	240928 [1] 1140/18
\$4,070,000,000 [1] 1199/14	14 [5] 1188/9 1198/10 1199/7 1200/24	241 [2] 1182/6 1210/4
\$40 [4] 1133/21 1133/22 1134/25	1208/13	241,000 [1] 1212/14
1182/21	140 [1] 1133/24	241,000 barrels [2] 1210/2 1210/7
\$40 billion [4] 1133/21 1133/22 1134/25	14271 [1] 1110/17	244143 [1] 1138/23
1182/21	143.8 [1] 1133/24	246898.4.2 [1] 1151/25
\$47.15 [1] 1169/24	143.8 billion [1] 1133/25	2471 [5] 1200/18 1202/13 1202/16
\$5 [2] 1152/20 1154/2	15 [4] 1165/5 1171/20 1178/17 1178/17	1202/20 1211/1
\$5 billion [2] 1152/20 1154/2	15th [1] 1170/20	247631 [1] 1169/6
\$50 [1] 1182/20	16.9 billion [1] 1137/11	2496 [1] 1177/2
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