

Deposition Testimony of:

Julia Hein

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Page 7:17 to 7:23

00007:17 Q. Where are you currently
18 employed?
19 A. Coast Guard headquarters in
20 Washington, D.C.
21 Q. And what is your position there?
22 A. Deputy Director, Incident
23 Management and Preparedness Policy.

Page 8:07 to 9:06

00008:07 Q. And what are your
08 responsibilities as the Deputy Director,
09 Incident Management and Preparedness Policy?
10 A. I oversee all the policies --
11 well, I oversee administrative duties and all
12 the kind of stu- -- admin oversight, but I
13 also have three offices: search and rescue,
14 contingency planning, and exercise. And also
15 marine environmental response. So those
16 three, and all the policies that get
17 established for the Coast Guard for those
18 three divisions.
19 Q. Can you briefly describe your
20 educational background?
21 A. Graduated from the Coast Guard
22 Academy in 1989.
23 Q. And when did you join the Coast
24 Guard?
25 A. I joined in '85 to go into the
00009:01 academy and then from there.
02 Q. Okay. So you've been in the
03 Coast Guard for almost 30 years?
04 A. 20 -- 25? Yeah, 25. '89 to --
05 we don't count -- we don't count the four
06 years at the academy --

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00009:08 A. -- as our active duty times.

Page 9:12 to 11:09

00009:12 Q. Can you briefly summarize the
13 positions you've held and your
14 responsibilities at the Coast Guard?
15 A. Oh, my gosh. Since graduating
16 from the academy, I went to the Coast Guard
17 Cutter Jarvis as the weapons officer, weapons
18 department head, doing that. And then from
19 there went to Fleet Anti-Submarine Warfare
20 Training Center, Atlantic, teaching
21 anti-submarine warfare. From there, I went

22 to be the XO of the Training Quota Management
 23 Center, assigning training to all Coast Guard
 24 and command levels.
 25 From there, I went to the Coast
 00010:01 Guard Cutter Rush where I was a supply
 02 officer on that. From there, I got out of
 03 the service and went to the reserve forces
 04 and went to Marine Safety Office, Chicago --
 05 that's where I first started the position and
 06 was the -- not only administrative or XO --
 07 assistant XO, but I was also assistant chief
 08 of port operations.
 09 From there, I went to Group
 10 Milwaukee, later became Sector Milwaukee,
 11 where I was a senior reserve officer there.
 12 I then went to USTRANSCOM, and USTRANSCOM, I
 13 was the Deputy D Dock with exec, which was
 14 basically operations center as the
 15 executive XO there and -- or running the
 16 operations center when I had my duty days,
 17 and that was for all the combat commanders
 18 and logistics for the Department of Defense.
 19 And then from there went to be
 20 the senior reserve officer at Sector Corpus
 21 Christi, and from Sector Corpus Christi, I
 22 worked Deepwater Horizon. And then I was
 23 the, what they call the EPLO, and that --
 24 that position was -- basically it was a
 25 liaison officer to FEMA, so we get assigned
 00011:01 there. But I was the lead for D8, so I had a
 02 couple of EPLOs under me.
 03 And so I went from D8 and I came
 04 back during that time to be the FOC. And
 05 from there, I went to be the Deputy Director
 06 of Incident Management Preparedness Policy
 07 for a year and then the Reserve Chief of
 08 Staff for D13 in Seattle, Washington, and now
 09 back to deputy director, so...

Page 11:25 to 12:04

00011:25 Q. Okay. At what point did you
 00012:01 become a captain?
 02 A. Oh, my gosh. That was during
 03 Deepwater Horizon. I got frocked while I was
 04 out there.

Page 12:06 to 12:07

00012:06 A. Officially three years ago on
 07 July 1st, 2011.

Page 13:01 to 13:20

00013:01 Q. So when you were made captain,
02 it was a reflection of your work history and
03 your contributions to the Coast Guard?
04 A. Correct.
05 Q. During your career, have you
06 worked in the private sector?
07 A. Yes, as a reservist I do work in
08 the private sector.
09 Q. Can you tell me about your work
10 in the private sector?
11 A. Sure. I work for AT&T, and I do
12 a lot of analytics with data -- you know,
13 different data, call center data, reporting
14 data.
15 Q. And how long have you worked at
16 AT&T?
17 A. 16 years.
18 Q. And you're still working there
19 today?
20 A. Correct.

Page 14:05 to 14:21

00014:05 Q. At the time of the Deepwater
06 incident, April 20th, 2010 --
07 A. Right.
08 Q. -- what was your role at the
09 Coast Guard?
10 A. I was actually a senior reserve
11 officer for Cor- -- Corpus Christi, Sector
12 Corpus Christi, I should clarify, and I was
13 overseeing the reserve program at that unit,
14 making sure everybody was ready, trained, the
15 whole nine yards.
16 Q. Okay. Captain Hein, when did
17 you first become involved in the Deepwater
18 Horizon response?
19 A. When I got orders. I think it
20 was April -- May. May I ended up in
21 Deepwater Horizon, after it had hit.

Page 15:05 to 15:20

00015:05 Q. Okay. So you first became
06 involved in the Deepwater Horizon response
07 around May 29th, 2010?
08 A. I was there. I'm pretty sure.
09 Q. Okay. What was your first role
10 in the response?
11 A. Doing requests for information.
12 Q. What were your re- -- what were
13 your responsibilities in the requests for
14 information unit?
15 A. Anytime folks came down either
16 from headquarters or wherever asking for

17 particular information, we would go around
18 and find out who actually had it in the
19 response, collect it, put it together, and
20 send it to whoever the requester was.

Page 16:08 to 17:03

00016:08 Q. Okay. And in the requests for
09 information unit, were you serving as
10 requests for information lead?
11 A. I did.
12 Q. When you first became involved
13 in the response, where were you stationed?
14 A. We were in Robert, Louisiana.
15 Q. Okay. At some point did you
16 move to New Orleans?
17 A. We did.
18 Q. Okay. How long were you
19 stationed in New Orleans?
20 A. When we went to New Orleans, I'm
21 not sure exactly what day we went, but I
22 stayed there with the response for six
23 months, so may- -- I could think it was maybe
24 five months we were in New Orleans from the
25 time I got to Robert. I think -- I think we
00017:01 were only at Robert for maybe a month. I
02 don't know. I don't remember the exact
03 dates.

Page 17:17 to 18:19

00017:17 Q. At some point did you transition
18 to the information reporting unit?
19 A. Yes, the "IRule," which was the
20 same as the -- we had to have a little bit of
21 fun, so we called it the "IRule" and, yes.
22 And that was basically the RFI, but we kind
23 of refined it a little bit more to -- to put
24 a little bit more rigor around it.
25 Q. What was the information
00018:01 reporting unit or "IRule" responsible for?
02 A. Same kind of things. What we
03 did was, you know, whoever was asking for
04 information, we'd go try and find out who it
05 was for, what was -- what was needed, and
06 assign out who should answer the question.
07 We take the question and we make sure it gets
08 answered back. We also would do a little bit
09 of filtering.
10 So if some of the questions
11 didn't make sense or it was more of a policy
12 issue that we couldn't answer down where we
13 were at, we would send it back up to the NIC
14 and say, I think this is in your lane; can
15 you handle this or -- and we'd have that

16 negotiation as far as what made the most
17 sense, because we couldn't answer policy
18 questions down where we were at. We tried to
19 keep it more specific to the response.

Page 19:01 to 20:02

00019:01 Q. Okay. While you were in the
02 information reporting unit, who did you
03 report to?
04 A. To the information reporting --
05 whoever the planning section chief was at the
06 time.
07 Q. Okay. And how long did you work
08 in the information reporting unit?
09 A. Oh, my gosh, I think two months,
10 three months, maybe. The majority of my
11 time, I was in the information reporting
12 unit.
13 Q. Okay. You mentioned the
14 planning section. What is the planning
15 section responsible for?
16 A. The planning P, making sure all
17 the plans and coordinating the meetings,
18 making sure that the planning documents, the
19 IAPs were being done, that kind of stuff. So
20 they were -- they were making sure the
21 appropriate discussions were happening and
22 the appropriate documents for ICS were being
23 done.
24 Q. And at some point, did you
25 become the deputy -- deputy planning section
00020:01 chief?
02 A. Yes.

Page 20:06 to 20:14

00020:06 Q. What were your responsibilities
07 as the deputy section planning chief?
08 A. I would help the planning
09 section chief in making sure meetings were
10 coordinated and documents were being done or
11 forwarded up and signed, so...
12 Q. And at some point, did you
13 become the planning section chief?
14 A. Correct.

Page 20:23 to 21:08

00020:23 Q. As -- when you were serving in
24 the planning section, did you have
25 responsibilities for acquiring personnel or
00021:01 equipment and resources to respond to the
02 spill?

03 A. Well, we would put in requests
04 if we needed it, resources, and they had the
05 logistics with help put that together and
06 personnel. So we would submit our requests
07 like anybody else would, and then they would
08 solicit out to pull in the right people.

Page 22:02 to 23:24

00022:02 Q. Okay. After the well was
03 capped, did you serve in the environmental
04 unit?
05 A. Yes.
06 Q. What role did you have in the
07 environmental unit?
08 A. I was the lead in the
09 environmental unit.
10 Q. What were your responsibilities
11 as the lead in the environmental unit?
12 A. My main responsibility was more
13 oversight project management, trying to get
14 the scientists to have a plan as far as what
15 to move forward. I didn't get into the devil
16 of the details of the actual studies and --
17 and as far as exactly how they would do it.
18 That was left to the scientists and their
19 expertise of all the -- the federal agencies,
20 BP, and the Coast Guard. So they determined
21 what they needed.
22 I just made sure they got what
23 they needed or worked with others to find out
24 what they needed and try and coordinate,
25 de-conflict anything and do the project
00023:01 management oversight to keep us moving
02 forward.
03 Q. When did you serve in the role
04 of lead for the environmental unit?
05 A. I don't remember the dates.
06 Q. Okay. Was this in --
07 A. It was right -- it was probably
08 a month or so before I -- I departed.
09 Q. Okay. So this would have been
10 approximately fall 2010?
11 A. I would say probably about that
12 time.
13 Q. All right. During the Deepwater
14 Horizon response, you also served as the
15 Federal On-Scene Coordinator, correct?
16 A. Correct.
17 Q. Do you recall the period of time
18 that you served as the Federal On-Scene
19 Coordinator?
20 A. It was, what, 2012.
21 Q. Does May 2011 to November 2011
22 sound right?

23 A. Yeah -- that's -- yeah,
24 that's -- I tell you... That's about right.

Page 24:03 to 24:06

00024:03 Do you recall who preceded you
04 as FOSC?
05 A. James Hanslik, he was right
06 before me, because he was walking me through.

Page 24:10 to 26:18

00024:10 Q. Okay. And what were your
11 responsibilities as the Federal On-Scene
12 Coordinator?
13 A. The oversight of the response,
14 so...
15 Q. Okay. What were your
16 responsibilities relating to shoreline
17 cleanup?
18 A. Well, I was overseeing and
19 trying to make sure that we had plans and --
20 and appropriate operations to -- to move
21 forward. Actually overseeing BP and the
22 Coast Guard and all the other agencies to
23 making sure that we were moving forward, you
24 know, progressing, doing what we were
25 supposed to do, clean up oil, so...
00025:01 Q. What was your philosophy as the
02 FOSC when it came to shoreline cleanup?
03 A. Well, first of all, safety
04 first, that was for -- paramount. That was
05 always in the top of my list, because we
06 didn't need anybody else getting hurt. Then
07 the philosophy after that was look at the
08 science of facts and the law and see what it
09 tells us to help us make decisions, because
10 we needed more of a process that can be
11 repeatable, folks can look to and say, yes,
12 you've done the rigor, because, you know,
13 there's so much emotion involved in the
14 response, that we really needed something we
15 could go back to and say, okay, we -- we've
16 tried what we could try, we've done
17 everything we can do, we've exhausted all
18 options, so this is -- this is the
19 information that we can work with, and we
20 have to make the decisions we can based on
21 that -- that information.
22 And, you know, you try and make
23 the best, and sometimes it's making the best
24 choice from not too many great choices, so...
25 Q. So it was your goal to take a
00026:01 science-based approach to the shoreline
02 cleanup?

03 A. For the most part. I mean,
04 you -- you still have to take into account
05 the input of the states and the locals and --
06 and the citizens and what their concerns are.
07 You can't dismiss that as well. But for the
08 most part, you use science, facts, and the
09 law, so...
10 Q. Okay. Captain Hein, I'd like to
11 briefly ask about the structure of the
12 response organization, okay?
13 A. Okay.
14 Q. Okay? Pursuant to the National
15 Contingency Plan, a Unified Command response
16 framework was established in the Deepwater
17 Horizon response, correct?
18 A. Correct.

Page 27:11 to 27:21

00027:11 Would you agree that the Unified
12 Command is a structure that brings together
13 the Incident Commanders of the appropriate
14 parties involved in an incident to coordinate
15 an effective response?
16 A. Correct.
17 Q. Okay. And under the Unified
18 Command, various government and
19 non-government responders work together to
20 create an integrated response effort?
21 A. We try to, yes, correct.

Page 28:01 to 29:11

00028:01 Q. And in the Deepwater Horizon
02 response, the FOSC position was always held
03 by a member of the Coast Guard, correct?
04 A. That is correct.
05 Q. Okay. And the FOSC directs and
06 approves all of the response activities,
07 correct?
08 A. Correct.
09 Q. The FOSC has authority to direct
10 the response operations under the Clean Water
11 Act, correct?
12 A. Correct.
13 Q. Okay. Now, I'll represent to
14 you that BP Exploration & Production was the
15 entity named as the responsible party, but
16 for simplicity today, I'll just refer to BP,
17 okay?
18 A. Okay.
19 Q. It's true that in the Deepwater
20 Horizon response, BP accepted its
21 responsibility as a responsible party,
22 correct?

23 A. I would say they did.
24 Q. And as a responsible party, BP
25 assisted the Coast Guard and other members of
00029:01 the Unified Command in responding to the
02 spill?
03 A. When you say "assisted," I mean,
04 they -- they did. They participated. They
05 were supposed to.
06 Q. Okay. So then as a responsible
07 party, you'd agree BP participated in the
08 response and supported the Coast Guard in
09 their efforts to respond to the Deepwater
10 Horizon spill?
11 A. Well, you assisted everybody.

Page 29:16 to 30:25

00029:16 A. They -- well, they -- they
17 assisted everybody. I mean, states, as they
18 should, and wherever the impact was. So it's
19 not just the Coast Guard. It's all entities
20 that were participating in the response,
21 depending on what we needed.
22 Q. (BY MS. DEMPSEY) Okay. So for
23 the Deepwater Horizon response, BP
24 participated and supported Unified Command --
25 A. Correct.
00030:01 Q. -- in responding to the spill?
02 A. Correct.
03 Q. The Coast Guard had the ultimate
04 authority concerning the cleanup actions
05 during the Deepwater Horizon response,
06 correct?
07 A. Correct.
08 Q. Okay. Now, during the response,
09 there were Incident Command posts at Houma
10 and at Mobile, correct, as well as other
11 locations?
12 A. There -- yeah, correct.
13 Q. Okay. And in the fall of 2010,
14 Unified Area Command consolidated the
15 Incident Command posts at Houma and Mobile
16 into a Gulf Coast Incident Management Team,
17 correct?
18 A. Correct.
19 Q. And that Gulf Coast Incident
20 Management Team is often abbreviated as
21 GCIMT?
22 A. Yes.
23 Q. Okay. And GCIMT was located in
24 New Orleans?
25 A. Correct.

Page 31:14 to 32:01

00031:14 Q. Is this an official report
15 prepared by the Coast Guard?
16 A. No.
17 Q. Okay. Can --
18 A. We chartered it, but it's not an
19 official -- it's not like something, like, a
20 directive from us as far as, you know,
21 something we would assign as a policy
22 document kind of thing. Is that what you're
23 asking? We chartered it.
24 Q. Okay. So the -- the Coast Guard
25 chartered the ISPR report?
00032:01 A. Correct.

Page 32:03 to 32:10

00032:03 A. It's like a third-party review
04 for our information and input. We -- we look
05 at it more as a lessons learned kind of
06 thing, give us some insight from a
07 third-party perspective.
08 Q. Okay. And it --
09 A. But it's not something that
10 holds our feet to the fire kind of thing.

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00032:12 A. (Continuing) It's not
13 something, a document that holds our feet to
14 the fire, like a -- like a senate or some --
15 something that directs us to do something.
16 It's just a third-party review to take a look
17 at lessons learned, what kinds of things
18 could we do better that we can review and
19 take into account, because this is such a
20 large spill. I mean, there is quite a bit
21 that was new for everybody.

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00033:13 Q. Okay. So the Coast Guard does
14 consult the ISPR to -- to build off of
15 lessons learned and to move forward for --
16 A. For future --
17 Q. -- incidents?
18 A. Right.

Page 34:19 to 35:02

00034:19 Q. Do you agree that the ISPR
20 provides an assessment of the Deepwater
21 Horizon response?
22 A. I don't think it provides a full

23 assessment, no, because it was done very
 24 early on. So does it -- is it the full
 25 response? I -- in my opinion, no. Does it
 00035:01 give you a glimmer as to what was happening
 02 at that point in time? Sure.

Page 35:20 to 35:23

00035:20 Q. Okay. If you could turn to
 21 Page 4 --
 22 A. Sure.
 23 Q. -- of Exhibit 9124.

Page 36:09 to 39:11

00036:09 Q. Okay. And in the -- at the very
 10 top, it reads, "There are three major areas
 11 of positive observations that merit mention:"
 12 Do you see that?
 13 A. Yes.
 14 Q. Okay. And under the second full
 15 paragraph on the page beginning with "Media
 16 reports," do you see that paragraph?
 17 A. Uh-huh, yes.
 18 Q. It says on the second sentence,
 19 "To the contrary, the team observed that
 20 personnel provided by the RP and Coast Guard
 21 personnel worked effectively together, and
 22 that there was 'unity of effort' throughout
 23 the response organization."
 24 Did I read that correctly?
 25 A. Yes.
 00037:01 Q. And the RP would be BP?
 02 A. RP would be BP.
 03 Q. Captain Hein, based on your
 04 personal experience working with BP
 05 representatives, do you agree that the Coast
 06 Guard personnel and BP worked effectively
 07 together to respond to the spill?
 08 A. I think we did. There was
 09 points of contention, as you would expect
 10 with a response of this size. We didn't
 11 always agree. But we did work together along
 12 with all the other parts of the Unified
 13 Command, the parties of the Unified Command,
 14 to come to some resolution, so...
 15 Overall we -- we came up with
 16 good -- good conclusions, or good -- good
 17 actions, I feel, the best we could given what
 18 we had.
 19 Q. The ISPR report refers to a
 20 unity of effort throughout the response
 21 organization. In your experience, was there
 22 a unity of effort throughout Unified Command
 23 in responding to the spill?

24 A. That's -- your definition of
 25 "unity of effort," I'm -- I'm not sure what
 00038:01 that is, but in theory, you know, working
 02 together under the construct and -- and
 03 coming together with workable solutions
 04 together, yes, I think we -- we did work
 05 together very well. Again, we had points of
 06 conflict. We didn't always agree, and we
 07 didn't always want to do the same things.
 08 But we tried through the Unified Command to
 09 figure out plausible solutions.
 10 Q. Did BP support Unified Command's
 11 efforts to find plausible solutions --
 12 A. Yes.
 13 Q. -- to the spill?
 14 A. Yes.
 15 Q. Okay. In your experience, were
 16 you able to collaborate with BP within the
 17 construct of Unified Command to find
 18 solutions to the spill response?
 19 A. Yes, we did that.
 20 Q. Recognizing that there may have
 21 been points of contention, would you agree,
 22 based on your experience, that BP worked
 23 collaboratively with members of the Unified
 24 Command and Coast Guard to respond to the
 25 spill?
 00039:01 A. When we were together, correct,
 02 we -- we did work collaboratively.
 03 Q. Okay.
 04 A. You know, it's like the whole
 05 group thing, forming, norming, storming,
 06 performing. You -- we had points of
 07 contention, but I think that's a good thing.
 08 You need points of contention to look at all
 09 sides of a story to make sure you're not
 10 missing anything. So that's not necessarily
 11 a bad thing.

Page 39:14 to 39:17

00039:14 Would you agree that efforts of
 15 the Coast Guard, BP, and other members of the
 16 Unified Command were ultimately effective in
 17 responding to the spill?

Page 39:21 to 40:02

00039:21 A. I can't as -- I can't do a full
 22 assessment. I don't know overall impact. I
 23 mean, it's still somewhat going on, so that's
 24 a hard question to really answer.
 25 Did we work well together?
 00040:01 Sure. Did we make progress? Sure. Overall
 02 impact? I don't know yet, you know.

Page 40:05 to 40:12

00040:05 Just the part that I -- you felt
06 that BP and the Coast Guard and other members
07 of the Unified Command worked well together
08 in responding to the spill?
09 A. Yes, I think we worked well
10 together.
11 Q. Okay. In addition, based on
12 your observations --

Page 40:14 to 40:18

00040:14 Q. -- did you feel that the efforts
15 of Unified Command, BP, and other members of
16 the Unified Command were effective in making
17 progress towards responding to the spill?
18 A. Sure, we were.

Page 40:22 to 41:09

00040:22 Q. And we should mark this as the
23 first exhibit.
24 MS. LAWRENCE: Looks like we're at
25 12183.
00041:01 MS. DEMPSEY: Okay.
02 Q. (BY MS. DEMPSEY) Is this an
03 e-mail sent on behalf of "DH Response
04 StratCom Plans," on August 18, 2010?
05 A. That's what it says.
06 Q. Okay. Do you know what DH
07 response StratCom plans is?
08 A. There was a small group that did
09 strategic planning.

Page 41:11 to 41:12

00041:11 A. But I don't -- I don't know what
12 this -- this one was.

Page 43:17 to 44:19

00043:17 Q. Okay. So Exhibit 12183 was
18 circulated to you and others on August 18,
19 2010, correct?
20 A. Well, correct. Apparently I'm
21 on there.
22 Q. And if you flip to the next
23 page, you see a cover e-mail from Courtney
24 Healey. Are you familiar with Courtney
25 Healey?
00044:01 A. No.

02 Q. Okay. And she writes, "Good
03 evening,
04 "The EA Daily Report and weekly
05 success bullets are attached."
06 Do you see that?
07 A. I see that.
08 Q. Okay. Do you recall receiving
09 weekly success bullets?
10 A. I don't recall receiving weekly
11 success bullets.
12 Q. Okay. Do you know which section
13 her unit was responsible for preparing the
14 weekly success bullets?
15 A. Whoever this is. DH Response
16 StratCom looks like is who did it. So it
17 looks like it was Courtney.
18 Q. Okay.
19 A. Someone she knows. I'm sorry.

Page 45:08 to 45:24

00045:08 Q. Okay. So in Exhibit 12183,
09 Unified Area Command is summarizing
10 "Significant Successes from the Past One
11 Hundred Nineteen Days Spanning 5 States" in
12 the response, correct?
13 A. Correct.
14 Q. Okay. Let me draw your
15 attention to the left column, "In-Situ
16 Burns." Do you see that?
17 A. Yes.
18 Q. Okay. And it indicates that by
19 August 16, 2010, Unified Command had safely
20 conducted 411 burns. Do you see that?
21 A. Yes.
22 Q. Okay. Do you agree that in situ
23 burns were a significant success during the
24 response?

Page 46:01 to 47:06

00046:01 A. I don't know overall. I mean,
02 did it mitigate some oil? Yes. Overall, I
03 don't know. Based on how much was really
04 spilled, I don't know to what impact that
05 was. Did it contribute? Sure.
06 Q. (BY MS. DEMPSEY) Okay. So
07 would you agree, then, that in situ burning
08 contributed to mitigating the effects of the
09 oil during the response?
10 A. Yes.
11 Q. Would you also agree, then, that
12 in situ burning mitigated the amount of oil
13 that reached the shoreline during the
14 response?

15 A. Yes.
 16 Q. Okay. Would you agree that in
 17 situ burning was an effective response tool
 18 utilized during the response?
 19 MS. LAWRENCE: Objection to form.
 20 A. It -- it's effective for its
 21 purpose. Overall, again, I don't know. But
 22 it is a tool we used to mitigate oil, if we
 23 can, if we can use it.
 24 Q. (BY MS. DEMPSEY) In your
 25 experience, did BP contribute to in situ
 00047:01 burning operations during the response?
 02 A. I wasn't a part of that, so I
 03 don't know how much. I would assume so,
 04 given the Unified Command, but I wasn't part
 05 of that, so I don't know who all played in
 06 that space.

Page 47:11 to 48:14

00047:11 Q. According to Exhibit 12183, over
 12 830 skimmers actively cleaned the Gulf during
 13 the response and recovered 34.7 million
 14 gallons of oily water mixture. Do you see
 15 that?
 16 A. I do.
 17 Q. Okay. Do you agree with
 18 Exhibit 12183 that the use of skimmers was a
 19 significant success during the response?
 20 A. I can't say it's significant.
 21 Skimmers aren't the best tool. They have
 22 limited capability. Did it assist? Did it
 23 help? Sure. How significant it was? I
 24 can't comment to that. I couldn't tell you.
 25 You know, again, it's based on
 00048:01 how much was really spilled, how much -- you
 02 know, that kind of thing. So that's a
 03 tough -- tough one to really answer
 04 accurately. I would say they were used.
 05 They, you know, did what they needed to do in
 06 their capability. Did it recover some oil?
 07 Sure. But how effective it was, it's hard to
 08 tell.
 09 Q. Okay. You would agree that the
 10 skimmers contributed in some fashion to
 11 mitigating the effects of the oil during the
 12 spill?
 13 A. It would contribute to recovery
 14 of some of the oil, yes.

Page 48:21 to 48:25

00048:21 Would you agree that the
 22 skimmers were effective in keeping some
 23 amount of oil from reaching the shorelines

24 during the response?
25 A. Correct.

Page 49:03 to 49:19

00049:03 Q. Okay. Do you know whether BP
04 provided support to skimming operations
05 during the response?
06 A. My understanding from what I --
07 when I was there in the response, yes, they
08 did. They -- they helped provide skimmers.
09 Q. Okay. BP contributed to
10 skimming operations during the response by
11 acquiring and providing skimmers?
12 A. Correct.
13 Q. Okay. Let me draw your
14 attention on Exhibit 12183 to the right-hand
15 column --
16 A. Okay.
17 Q. -- and the "Unity of Effort"
18 heading.
19 A. Okay.

Page 49:22 to 50:23

00049:22 Q. Okay. And under the "Unity of
23 Effort" heading, it indicates that Unified
24 Command participated in open houses in
25 Louisiana, Mississippi, Florida, and Alabama,
00050:01 correct?
02 A. Correct.
03 Q. It also indicates that Unified
04 Command planned to conduct an open house in
05 every affected parish or county. Do you see
06 that?
07 A. I see that.
08 Q. Okay. Unified Command planned
09 to conduct these outreach efforts with
10 support from BP outreach, the Coast Guard,
11 DHS, EPA, NOAA, and other entities, correct?
12 A. Correct.
13 Q. Okay. Would you agree that the
14 Coast Guard and BP worked together to conduct
15 community outreach to affected parishes and
16 counties in the Gulf?
17 A. Based on this, yes. I wasn't a
18 part of it, so I couldn't tell you all that
19 happened, but based on this, it says they did
20 it, so...
21 Q. Let me draw your attention to
22 "Safety" on the bottom right-hand corner of
23 Exhibit 12183.

Page 52:03 to 52:17

00052:03 You'd agree that safety was
04 paramount during the response, correct?
05 A. Throughout the response, yes.
06 Q. Okay. And that there was
07 actually a safety unit whose sole
08 responsibility was to ensure worker safety
09 during the response?
10 A. Correct.
11 Q. Now, according to Exhibit 12183,
12 under "Safety," it says, Illness/injury
13 recordable incident rate for the response is
14 below the General Industry average as of
15 July -- I'm sorry, as of July 14th, the rate
16 was 2.28 versus 4.2 for the general industry.
17 Do you see that?

Page 52:19 to 52:23

00052:19 A. I see it.
20 Q. (BY MS. DEMPSEY) Okay. And
21 you -- in your experience, based on your
22 observations, were Unified Command's efforts
23 to protect the response workers effective?

Page 53:01 to 53:25

00053:01 A. I -- I mean, they did things. I
02 don't know everything they did, so that's
03 hard for me to answer. I wasn't part of the
04 safety. I mean, is a rate 2.28 good? I
05 don't know. I'm not a safety officer, so
06 I -- it's better a question asked for a
07 safety officer that has some context behind
08 it. But did we do a lot of things? Sure.
09 Q. (BY MS. DEMPSEY) Okay.
10 A. I don't remember back then
11 exactly everything that was done, so...
12 Whether it was effective or not, I would
13 assume based on that, the industry rate. And
14 I don't know what that industry rate is based
15 on, either. So that's -- this is a real hard
16 question to ask about efficiency and
17 effectiveness because I have no basis to
18 relate it to.
19 Q. Okay. In your experience,
20 safety was a top priority of the Coast Guard,
21 BP, and others in the Unified Command --
22 A. Correct.
23 Q. -- throughout the response,
24 correct?
25 A. I would agree with.

Page 54:03 to 55:01

00054:03 A. (Continuing) Yeah, it was -- I
 04 agree with that. I mean, it was paramount
 05 for everybody that nobody get hurt.
 06 Q. (BY MS. DEMPSEY) Okay. Just
 07 based on your observations and experience
 08 during the response, including your time as
 09 FOSC --
 10 A. Uh-huh.
 11 Q. -- did you see ways in which BP
 12 supported the Unified Command's efforts
 13 relating to worker safety?
 14 A. When I was FOSC, yes, we did
 15 put -- we made sure we had plenty of water.
 16 We had plenty of breaks. We put shelters up.
 17 We covered equipment, you know, made sure
 18 that they had shade and that kind of stuff.
 19 We put a lot of restrictions as far as, you
 20 know, heat, so -- and they were monitored.
 21 We even did everything from
 22 driving safety to make sure nobody was
 23 driving with cell phones and talking on cell
 24 phones, that kind of thing. So it ran the
 25 gamut from driver safety to workers on the
 00055:01 beach to you name it.

Page 55:08 to 56:03

00055:08 Q. While you were -- while you were
 09 FOSC, you oversaw the SCAT program that was
 10 utilized for shoreline cleanup, correct?
 11 A. Correct.
 12 Q. All right. And SCAT is short --
 13 short for Shoreline Cleanup Assessment
 14 Technique, correct?
 15 A. Correct.
 16 Q. Would you agree that the SCAT
 17 process involves teams of trained observers
 18 who survey the affected coastal area to
 19 document shoreline oiling conditions?
 20 A. Correct.
 21 Q. Okay. The data that those
 22 trained observers pick up is then used to
 23 plan treatment programs for the shoreline?
 24 A. Correct.
 25 Q. Based on your experience with
 00056:01 SCAT, would you agree that it is the accepted
 02 standard for evaluating shoreline oiling to
 03 guide response activities?

Page 56:05 to 56:12

00056:05 A. That was what we used for -- for
 06 that, for this one.
 07 Q. (BY MS. DEMPSEY) Okay. Based

08 on your experience with SCAT, would you agree
 09 that the SCAT program that was used during
 10 the Deepwater Horizon response was
 11 comprehensive?
 12 A. I would say it was.

Page 56:14 to 58:10

00056:14 A. I mean, we had our burps, but
 15 we -- we would mitigate them fairly quickly,
 16 so...
 17 Q. Each SCAT survey team included
 18 at least one representative of the state
 19 where the survey was being conducted,
 20 correct?
 21 A. Correct.
 22 Q. Okay. And each survey team also
 23 included at least one representative from the
 24 Federal Government and a BP representative,
 25 correct?
 00057:01 A. Correct.
 02 Q. And those SCAT teams
 03 systematically segmented the Gulf coastline
 04 into discrete segments, correct?
 05 A. They did.
 06 Q. Okay. Then the SCAT teams
 07 evaluated the presence and the extent of
 08 oiling in each segment over time?
 09 A. Correct.
 10 Q. SCAT teams repeatedly surveyed
 11 segments on foot and by boat and air,
 12 searching for and documenting oiling
 13 conditions?
 14 A. Correct.
 15 Q. Okay. And at times SCAT teams
 16 also dug pits or trenches to search for
 17 buried oil?
 18 A. Yes, if it warranted it.
 19 Q. Snorkel -- are you familiar with
 20 Snorkel SCAT?
 21 A. Snorkel SCAT, yes, Snorkel SCAT.
 22 Q. What is Snorkel SCAT?
 23 A. Oh, they -- they -- they sent
 24 folks out to little -- the waters -- into the
 25 water and actually looked for presence of oil
 00058:01 in those areas where they could reach. So
 02 they actually physically went into the water
 03 instead of just on the beach line.
 04 Q. Had you ever seen Snorkel SCAT
 05 used in a prior response?
 06 A. I had not, so this was a first
 07 for me.
 08 Q. Okay. So the Snorkel SCAT teams
 09 searched for oil in nearshore waters?
 10 A. Correct.

Page 58:15 to 60:21

00058:15 Q. SCAT surveyed the coastline in
16 areas where MC252 oil had been observed,
17 correct?
18 A. Correct.
19 Q. Okay. And SCAT surveys actually
20 extended beyond areas where MC252 oil had
21 been observed, correct?
22 A. Yes, we did do that to make sure
23 that there wasn't anything passed, you know.
24 We -- we would find where we think the edge
25 was and we checked to make sure and then we
00059:01 continued to go down a little bit more.
02 Q. So SCAT assessments extended
03 beyond the observed oil for purposes of
04 thoroughness and completeness?
05 A. We tried to, yes.
06 Q. Okay. Did the SCAT teams report
07 their results to Unified Command for use in
08 planning shoreline treatment?
09 A. Yes.
10 Q. Okay. And SCAT teams would
11 recommend appropriate treatment procedures
12 based on the type of shoreline and the level
13 of oiling, correct?
14 A. Correct.
15 Q. And these were called shoreline
16 treatment recommendations?
17 A. Right, shoreline treatment plans
18 or recommendation, STRs.
19 Q. Okay. And as the FOSC, you
20 would have reviewed and approved shoreline
21 treatment recommendations --
22 A. Correct.
23 Q. -- or STRs?
24 A. Correct.
25 Q. Okay. Shoreline treatment
00060:01 recommendations describe in detail how to
02 treat specific shoreline segments, correct?
03 A. Correct.
04 Q. Okay. And you'd agree that a
05 variety of environmental factors are
06 considered when developing STRs?
07 A. Absolutely.
08 Q. Okay. And these en- --
09 environmental factors include minimizing sand
10 and sediment loss, correct?
11 A. That's one of many.
12 Q. Uh-huh. And can you tell me
13 about the environmental factors that are
14 considered when developing an STR?
15 A. You're -- you're looking at, you
16 know, the -- the sand. You're -- you know,

17 you don't want erosion. You don't want to do
18 any damage. You're looking at all the
19 endangered species that are around and what
20 you're doing and how that -- how that's
21 done --

Page 60:23 to 61:13

00060:23 A. -- because you don't want to
24 cause any undue harm past that. So those
25 are -- those are the biggees.
00061:01 And then we took into account
02 private landowners and what their concerns
03 were as well, we took that into account, in
04 addition to the states, and what they --
05 because they -- they know the land better.
06 Were there any archaeological kind of things
07 that we had to be concerned with? Were there
08 tribal?
09 So there is quite a few things
10 that we took into account that were there
11 that we had to -- to make sure we were aware
12 of and that we either treated or didn't treat
13 based on those factors.

Page 61:16 to 63:02

00061:16 Q. (BY MS. DEMPSEY) So when
17 developing the STRs, factors including
18 erosion, protection of wildlife habitat,
19 archaeological resources, and the interests
20 of private landowners were taken into
21 account?
22 A. Correct.
23 Q. Okay. Are you familiar with
24 best management practices?
25 A. Yes, BMPs.
00062:01 Q. Uh-huh. BMP. What is a best
02 management practice or BMP?
03 A. We would find standards that
04 work and that was both safe and we knew
05 worked well. There -- there was quite a few.
06 So there's hard to say one. I try and
07 remember from memory. But, you know, just
08 like for certain kinds of endangered species,
09 we might have a best management practice stay
10 so many feet away or that kind of thing.
11 Rope it off to avoid people tromping on, say,
12 turtle nest eggs or something like that. So
13 we had BMPs for different things.
14 Q. Okay. And were the BMPs
15 designed to minimize the impacts to federally
16 listed species during the Deepwater Horizon
17 response?
18 A. Correct.

19 Q. Okay. And were the best
 20 management practices implemented to minimize
 21 the impacts to federally listed species
 22 during the response?
 23 A. Yes.
 24 Q. Okay. Were they also
 25 implemented to minimize the impacts to
 00063:01 critical habitat during the response?
 02 A. Yes, we did do that.

Page 63:06 to 64:08

00063:06 Q. Okay. The STRs included cleanup
 07 recommendations that were tailored to
 08 specific types of shoreline, correct?
 09 A. That is correct.
 10 Q. Okay. And did BP
 11 representatives collaborate with other SCAT
 12 team members to tailor the STRs to particular
 13 shoreline types?
 14 A. Yes, they were all part of the
 15 STR process. We all signed off on them. we
 16 reviewed and signed off.
 17 Q. Okay. Okay. You mentioned
 18 earlier that the STRs took into account
 19 ecological concerns, correct?
 20 A. Yes.
 21 Q. Okay. Did BP representatives
 22 help to identify ecological concerns during
 23 shoreline treatment?
 24 A. I would say yes.
 25 Q. Okay. I think you testified
 00064:01 earlier that the STRs also took into account
 02 cultural and archaeological concerns?
 03 A. Yes.
 04 Q. Okay. And did BP support
 05 efforts to identify and account for cultural
 06 and historical concerns during shoreline
 07 treatment?
 08 A. I would say yes.

Page 64:10 to 65:05

00064:10 A. We had a full section from DOI
 11 that made sure that we did not miss them.
 12 Q. Okay. And BP supported those
 13 efforts not to miss them?
 14 A. Correct.
 15 Q. Okay. The STRs also took into
 16 account safety concern, such as worker
 17 safety, correct?
 18 A. Yes.
 19 Q. Okay. And did BP support
 20 efforts to account for worker safety during
 21 the development of the STRs?

22 A. Yes.
 23 Q. In your experience, was the
 24 implementation of best management practices
 25 during the shoreline response unprecedented?
 00065:01 A. I don't know that it's
 02 unprecedented. I mean, you're always going
 03 to want to do that. So I don't think it's
 04 unprecedented. But I think they were -- they
 05 were used well.

Page 65:08 to 65:16

00065:08 You'd agree that the best
 09 management practices that were implemented
 10 during the Deepwater Horizon's response were
 11 used well?
 12 A. They were used well, yes.
 13 Q. And did BP support Unified's --
 14 Unified Command's efforts to implement best
 15 management practices during the response?
 16 A. Yeah, they supported them.

Page 66:05 to 67:09

00066:05 Q. Okay. Once STRs were approved,
 06 the operations team then conducted cleanup
 07 activities in accordance with the STRs,
 08 correct?
 09 A. That's correct.
 10 Q. And during the Deepwater Horizon
 11 response, the operations -- operations teams
 12 used a variety of cleanup techniques when
 13 conducting cleanup activities, correct?
 14 A. Yes.
 15 Q. Okay. You would agree that the
 16 operations teams used existing equipment as
 17 well as new technologies and equipment,
 18 correct?
 19 A. They did.
 20 Q. Okay. In terms of new
 21 equipment, the operations teams use --
 22 deployed new sonar and laser technologies and
 23 Snorkel SCAT to look for submerged oil mats,
 24 correct?
 25 A. That is correct.
 00067:01 Q. Okay. The operations teams also
 02 drilled auger holes in search of residual oil
 03 materials that may have been buried, correct?
 04 A. Yes, they did.
 05 Q. Okay. And after cleanup
 06 activities, SCAT teams conducted follow-up
 07 inspections to assess and verify the
 08 post-treatment conditions, correct?
 09 A. Yes.

Page 67:11 to 68:19

00067:11 In your experience as the FOSC,
12 did the Coast Guard, NOAA, BP, and others in
13 the Unified Command work cooperatively
14 together through the SCAT process to assess
15 the extent of the oiling?
16 A. Yes, they did.
17 Q. During your time as FOSC, did
18 the Coast Guard, NOAA, BP, and others in the
19 Unified Command work cooperatively together
20 to propose treatment recommendations?
21 A. We didn't always agree. That
22 was that conflict that we would have every
23 once in a while in trying to figure out what
24 was the best methods. But, overall, we
25 worked to find a solution. We didn't always
00068:01 agree on the best solution, but we would work
02 to come up with solution sets and try and --
03 try and pick from the best of the best.
04 Q. So then would you agree, then,
05 that the Coast Guard, NOAA, BP, and others in
06 the Unified Command collaborated to discuss
07 and identify shoreline treatment
08 recommendations for shoreline oiling?
09 A. Absolutely.
10 Q. Okay. Did the Coast Guard, BP,
11 and others in Unified Command work
12 cooperatively together to clean up the oiling
13 that occurred?
14 A. We worked cooperatively.
15 Q. Okay. And in your experience,
16 did BP work within the Unified Command to
17 provide the resources and personnel needed to
18 clean up the Gulf Coast in response to the
19 spill?

Page 68:21 to 72:06

00068:21 A. They provided resources to -- to
22 help clean up, as -- as needed.
23 Q. (BY MS. DEMPSEY) Okay. Can you
24 pro- -- based on your experience as the FOSC,
25 did you find that BP supported efforts to
00069:01 clean up the Gulf Coast in response to the
02 spill?
03 A. They did. I mean, we had burps
04 here and there, but for the most part -- for
05 overall, yes.
06 Q. Can you tell me about how BP
07 supported your efforts to clean up the coast?
08 A. Whenever -- you know, shoreline
09 cleanup, we -- we followed the process. We
10 created a process, the Shoreline Clean-Up

11 Completion Plan; and that provided a more
12 rigorous process as far as something
13 repeatable that folks can point to and
14 understand very clearly, we could articulate
15 very clearly to the public or to whomever
16 that this was the process that we were using.
17 And it wasn't necessarily an easy process,
18 but it was meant to make sure we did the due
19 diligence, and that was one of the things
20 that we did and -- and that required STRs,
21 and STRs made the recommendation that
22 followed the STR process and -- and some
23 follow-on to make sure that it did what it
24 did by coming back and reinspecting in 30-day
25 increments kind of thing.

00070:01 So we didn't just clean and run
02 off. We cleaned and then came back and
03 inspected to make sure it had a little bit of
04 dur- -- at least some durability there, that
05 it was indeed clean; and if it wasn't, we
06 would repeat the process, so -- but it's --
07 its own Shoreline Clean-Up Completion Plans
08 for the -- the flow, and that was worked out
09 with the states and BP all together
10 collaboratively to -- to try and figure out
11 the best methods, so...

12 Q. I think you testified that under
13 the SCCP, the standards that were set to move
14 a segment of shoreline out of the response
15 were rigorous; is that correct?

16 A. They were rigorous. I know it
17 was based on what we agreed to with the
18 states.

19 Q. So you gave the states an
20 opportunity to participate in the development
21 of the SCCP?

22 A. Oh, absolutely.

23 Q. Okay.

24 A. They -- they were a very big
25 part of it. BP was, NOAA was, DOI was. All
00071:01 the Unified Command participants were given
02 an opportunity to participate and have their
03 say and input, and we actually sat in a room
04 together collaboratively and worked it out in
05 the room together and I -- I was in that room
06 with them, so...

07 Q. Okay. And BP provided support
08 in the development of the SCCP?

09 A. They did. They were in there in
10 the room. And if there was an issue that
11 they didn't agree with, they would -- they
12 would speak up, just like anybody else would.
13 And then we would work it through, so...

14 Q. Did BP support Unified Command
15 by providing resources, such as equipment or
16 personnel, to clean up the shoreline in

17 response to the spill?
 18 A. Yes.
 19 Q. Can you tell me a little bit
 20 about that?
 21 A. About the resources?
 22 Q. Sure, about the resources or
 23 personnel that BP provided in support of the
 24 cleanup effort.
 25 A. They would provide equipment,
 00072:01 they would provide -- they had contracts with
 02 OSROs. They provided contractors that went
 03 out on the beaches to clean. So they did --
 04 did that. And they worked with the Unified
 05 Command as far as inspections, SCAT, that
 06 kind of stuff.

Page 72:15 to 73:06

00072:15 Q. Can you describe the NRA
 16 program?
 17 A. They were there to make sure
 18 that we did not do any damage to endangered
 19 species or the environment, be it marshes or
 20 what have you. So they would observe and
 21 make sure we were doing the BMPs, or they
 22 would help create some of the BMPs and
 23 then -- and they would let us know if anybody
 24 did a violation or -- or didn't practice it
 25 and/or were creating some damage to something
 00073:01 that we shouldn't, and they would -- they
 02 would report it back.
 03 But they made sure people in the
 04 field actually followed the -- the BMPs
 05 and -- and whatever the STR treatment
 06 recommendations were as well.

Page 73:10 to 82:04

00073:10 Q. Okay. So one of the purposes of
 11 the NRA program was to oversee compliance
 12 with the BMPs or best management practices?
 13 A. Correct.
 14 Q. Did the Natural Resource Adviser
 15 program assist the operations crew in
 16 minimizing potential injury to natural
 17 resources?
 18 A. Correct.
 19 Q. Okay. Did the NRA program also
 20 assist the operations crew in minimizing
 21 potential injury to cultural resources like
 22 archaeological sites?
 23 A. Yes.
 24 Q. Now, the Natural Resource
 25 Advisers themselves were comprised of
 00074:01 professional biologists, correct?

02 A. That, I don't know for sure
03 exactly the mix of their -- I know they were
04 selected very carefully by the environmental
05 unit and -- and folks, but I don't know
06 exactly what their -- their training was. My
07 understanding was they were well qual- --
08 qualified in that specific area --

09 Q. Okay.

10 A. -- you know, because you -- you
11 had the whole Gulf. So you had different
12 areas and specialties, so...

13 Q. So the Natural Resource Advisers
14 were distribute -- distributed throughout the
15 response area?

16 A. Correct.

17 Q. Okay. And the Natural Resource
18 Advisers were selected by the environmental
19 unit based on their qualifications and
20 experience with natural resources?

21 A. Correct.

22 Q. The Natural Resource Advisers
23 were embedded within the field operations
24 crews, correct?

25 A. That is correct.

00075:01 Q. Okay. And I think you mentioned
02 that the NRAs identified sensitive, natural
03 and cultural resources and then directed
04 cleanup crews and equipment away from those
05 areas?

06 A. Correct. And if it was
07 something new, they would report it; and if
08 there was more expertise that needed to come
09 in, we would bring in the expertise.

10 Q. So the NRA program, then, was
11 flexible and could be scaled depending on
12 what they were seeing in the field?

13 A. Right. So, say, it was a
14 cultural resource, we would bring in, you
15 know, DOI, the experts, depending on what it
16 was; and they would go in and assess and
17 determine what needed to happen, so...

18 Q. Okay. Would you agree that the
19 work of the Natural Resource Advisers
20 minimized some of the impacts to the Gulf
21 shoreline during the response?

22 A. They helped minimize. They --

23 Q. Okay. And in your experience
24 responding to spills, had you ever seen
25 Natural Resource Advisers used as extensively

00076:01 as they were during the Deepwater Horizon
02 spill response?

03 A. No, I think this is an
04 unprecedented spill, as -- as we know. So
05 there is nothing that's going to be like
06 this, so...

07 Q. Okay. Had you ever seen a

08 Natural Resource Adviser program used on a
09 spill prior to the Deepwater Horizon spill
10 response?
11 A. Not -- not me personally.
12 Q. Okay. In your experience, did
13 BP support the Natural Resource Adviser
14 program during the response?
15 A. They did.
16 Q. How did BP support the NRA
17 program during the response?
18 A. They allowed them in the field.
19 I mean, they -- they made sure that we had
20 worked with the Unified Command to make sure
21 that we had the right number in the right
22 places.
23 So -- and the environmental unit
24 would identify what's needed along with the
25 operations, and based on that, we would find
00077:01 them -- the resource unit would find them, or
02 logistics, and make sure that they were
03 there.
04 Q. Based on your observations as --
05 as FOSC, did BP help to provide the
06 personnel, equipment, and resources needed
07 for the Natural Resource Adviser program?
08 A. Yes, they did.
09 Q. Okay. During the response, the
10 ops teams or operations teams employed a
11 variety of methods to clean the shoreline,
12 correct?
13 A. They did.
14 Q. Okay. And in certain instances,
15 the operations teams used traditional methods
16 of cleanup, correct?
17 A. They did.
18 Q. Okay. And in other instances,
19 the operations teams used innovative
20 approaches to shoreline treatment, correct?
21 A. Yes.
22 Q. Can you tell me about some of
23 the innovative approaches that you observed
24 as FOSC?
25 A. Well, we did turtle-sniffing
00078:01 dogs. We tried that to minimize damage.
02 That was one. That was an interesting one.
03 Just to see if we can identify and continue
04 to move forward. It was an untested. It was
05 one of those things where you had to figure
06 it out, would it work, would it not work.
07 And we had no basis to know whether it would,
08 but we attempted to try.
09 And this wasn't shoreline
10 cleanup, but to -- to help with
11 decontamination, we used boom car washes.
12 You know, it's like a car wash for boom. So
13 we did some innovative things that I think

14 were different. But I can't think of too
15 many other things. But there -- there were
16 some things that we all tried to see if it
17 would work. Some things did, some things
18 didn't, but we tried them.

19 Q. In your experience, did BP
20 support efforts to identify, test, and
21 implement innovative approaches to shoreline
22 treatment?

23 A. We did more of the -- I'm trying
24 to think of an example of any of them. I
25 mean, we used the various equipments that
00079:01 were available for deep cleaning and
02 mechanical cleaning, that kind of stuff. So
03 I'm not -- I can't think of one off the top
04 of my head.

05 Q. What about Snorkel SCAT, was --

06 A. Snorkel SCAT, that's more SCAT,
07 so...

08 Q. In your experience, did BP help
09 provide the personnel, equipment, and
10 resources needed -- strike that.

11 Did Unified Command have a
12 process for considering alternative
13 techniques for cleaning oil?

14 A. What do you mean?

15 Q. So, for example, if an inventor
16 had a -- an idea for a marsh treatment
17 technology --

18 A. Oh.

19 Q. -- did Unified Command have a
20 process in place for considering and
21 evaluating those types of --

22 A. They did.

23 Q. -- recommendations?

24 A. They did. The -- I know the
25 Coast Guard had theirs and then BP had some
00080:01 other processes that they were using. So
02 there was two paths in which folks were able
03 to go down. So, say, they had a dispersant
04 or some product, and that was early on in the
05 response, that they wanted to get evaluated
06 for use, it would -- it would follow that
07 process.

08 Q. Okay.

09 A. My understanding most of that
10 for BP was done in Houston. So I don't -- I
11 don't know what the exact process was.

12 Q. Okay. And did SCAT perform a
13 review of various shoreline treatment
14 techniques and technologies?

15 A. SCAT itself or the environmental
16 unit?

17 Q. Well, in your experience, was
18 there -- within Unified Command, was there an
19 organization or entity that would review

20 various shoreline treatment options and
21 determine whether they might be efficacious
22 for shoreline treatment?
23 A. Well, there was the
24 environmental unit in conjunction with SCAT
25 that would look at, say, a tough area and
00081:01 take a look at what the makeup and the
02 composition of the shoreline was, how -- how
03 entrained the oil was, and say -- and kind of
04 determine what might work. We also did that
05 in collaboration with the state, depending on
06 what it was. Usually the state was within
07 the environmental unit. So you had different
08 experts in the environmental unit that would
09 help come up with these types of treatment
10 recommendations.
11 And then SCAT would go back more
12 to eval- -- look, evaluate to see whether
13 they were working or not. But they had
14 experts, too, that would contribute and say,
15 hey, these are the things that we think we've
16 seen in the past, we know possibly works or
17 doesn't work; and they provide their input as
18 well.
19 Q. And did BP provide support to
20 that process as well of considering --
21 A. Yeah, they were -- they were
22 part of it as the Unified Command. So they
23 were in the environmental unit as well to --
24 to participate in that.
25 Q. Okay. So BP participated and
00082:01 supported efforts to evaluate, review
02 different shoreline cleanup technologies and
03 techniques?
04 A. Correct.

Page 82:06 to 82:07

00082:06 A. It was a very collaborative
07 process, so...

Page 82:15 to 82:21

00082:15 Q. (BY MS. DEMPSEY) And based on
16 your experiences in those difference roles --
17 A. Uh-huh.
18 Q. -- would you agree that at the
19 height of shoreline oiling, Unified Command
20 had thousands of workers working to remove
21 oil?

Page 82:23 to 83:22

00082:23 A. They had thousands of workers,

24 yes. So I couldn't tell you how many at any
25 point in time. We'd have to look at the
00083:01 records. But they had thousands of workers.
02 Q. (BY MS. DEMPSEY) And those
03 workers were working to clean up the
04 shoreline, correct?
05 A. Some were shoreline cleanup.
06 Others were part of ICPs, doing planning
07 or -- or what have you or air boss kind of
08 stuff or -- so they serve -- these thousands
09 of workers served in a whole variety of
10 different roles and in the different areas.
11 Q. Okay. Would you agree that
12 Unified Command had a wide variety of tools
13 at its disposal to remove oil during that
14 shoreline response?
15 A. I would say yes, we -- I mean,
16 we had the traditional skimmers and
17 everything else and we had the mechanical
18 removal from shore. And so we used a variety
19 of different things.
20 Q. And for the shoreline
21 response --
22 A. Uh-huh.

Page 84:03 to 84:19

00084:03 Q. Are you familiar with any
04 treatment technologies that were deployed for
05 the first time during the Deepwater Horizon
06 shoreline response?
07 A. I'm trying to think of one.
08 That's why I asked.
09 Q. Do any come to mind with regard
10 to, say, marsh treatment or...
11 A. Okay. So marsh treatment, we
12 did try a new technique, which was we cut
13 back all the marsh and let it regrow, so that
14 was a method that we tried and it worked, so
15 that was good. So that's an example.
16 Q. Sure.
17 A. So we did use some. I can't --
18 I can't remember a lot of them. There was a
19 lot. I just remember that one.

Page 85:09 to 85:14

00085:09 Q. You mentioned that with the --
10 the marsh treatment technique involving
11 cutting back the marsh and letting it regrow,
12 that was a method that worked and was
13 effective for marsh recovery; is that
14 correct?

Page 85:16 to 88:23

00085:16 A. Well, I don't know about
17 recovery, but I just know it worked for what
18 we needed to do in removing the oil. So I
19 don't know recovery, how that -- how that
20 worked. I know marsh regrew, but was it the
21 same as what it was before? I don't know.
22 But I know we were able to get the oil out.

23 Q. (BY MS. DEMPSEY) Based on your
24 time as the FOSC, would you agree that the
25 shoreline response program was designed to
00086:01 address oiling in a rigorous and systematic
02 manner?

03 A. Yes.

04 Q. Okay. The shoreline response
05 program consisted of various stages as well
06 as the procedures set out in the SCCP,
07 correct?

08 A. Correct.

09 Q. Okay. There were four stages of
10 the shoreline response program, correct?

11 A. Uh-huh.

12 Q. Okay. Did Stage 1 primarily
13 involve recovery of floating oil in nearshore
14 areas?

15 A. That was the big thing. Big
16 thing was capping first, to stop the flow;
17 and then from there, trying to mitigate as
18 much oil offshore as possible; and then
19 mitigating the shore, the stuff that came
20 onshore. But Phase 1 stayed in Phase 1 until
21 we could actually cap it. Then Phase 2 was
22 actually -- once we knew that was capped, we
23 knew no more oil was coming, there was more
24 recovery of that oil by whatever means, you
25 know, ashore or at sea, the preference be at
00087:01 sea; but we knew that was limited.

02 Q. Okay. Did Stage 3 focus on
03 repeated inspection and treatment of
04 shoreline oil -- of shoreline oiling?

05 A. Absolutely.

06 Q. Okay. Stage 3 ended in
07 approximately March 2011; does that sound
08 right?

09 A. No.

10 Q. Did you --

11 A. I don't remember that being
12 March 2011.

13 Q. Okay. Can you tell me a little
14 bit more about your role, if any, with regard
15 to Stage 3 cleanup?

16 A. The -- the big thing with
17 Stage 3 was getting a Shoreline Clean-Up
18 Completion Plan and making sure the rigorous
19 process, because at that point, it was all

20 oil coming ashore, be it tar balls or tar
 21 mats or what have you. So ours was making
 22 sure that the right crews were out there,
 23 that they weren't being reduced
 24 unnecessarily, because we did have an issue
 25 with that, and then making sure that the
 00088:01 process was followed and that it was just
 02 SCAT that was removing -- or evaluating the
 03 amount of oil that was there, following that
 04 rigorous, repeatable process that we could
 05 document very well for -- for everyone that
 06 we were doing the right things.
 07 So that was -- that was our --
 08 that was the big thing there and getting it
 09 to a point where we can get to the end -- the
 10 end points and to start writing those
 11 segments out of the response, the active
 12 response, and getting it towards handing it
 13 over to, not recovery, but restoration.
 14 Now, we -- even though we're out
 15 of the active response, we always had the
 16 plan, too, as to how we maintain it going on,
 17 because we knew there were -- there is
 18 repeatable oiling that could happen as far as
 19 tar balls, tar mats, that kind of thing. So
 20 those -- since we could not find them
 21 offshore, but we knew they existed offshore,
 22 that we knew we had to have some kind of plan
 23 there to act on that as it came up, so...

Page 89:16 to 89:20

00089:16 Q. (BY MS. DEMPSEY) Is this -- is
 17 Exhibit 12184 a copy of the Shoreline
 18 Clean-Up Completion Plan that you approved in
 19 November 2011?
 20 A. It is.

Page 89:24 to 90:22

00089:24 Q. Is your approval as the Federal
 25 On-Scene Coordinator page ending in Bates
 00090:01 418?
 02 A. It is.
 03 Q. Okay. The Shoreline Clean-Up
 04 Completion Plan was a plan to transition from
 05 the cleanup stage of the Macondo spill
 06 response to a long-term recovery, correct?
 07 A. No.
 08 Q. Okay.
 09 A. The Shoreline Clean-Up
 10 Completion Plan was to address operations in
 11 order to clean up the shoreline at that
 12 stage.
 13 Q. Okay. So the Shoreline Clean-Up

14 Completion Plan defined the process for
15 determining if a segment met the cleanup
16 criteria, correct?
17 A. Right.
18 Q. And if a segment met the cleanup
19 criteria, it could be moved out of the
20 response, correct?
21 A. Out of the active response,
22 correct.

Page 91:04 to 91:14

00091:04 Q. (BY MS. DEMPSEY) Exhibit 12185
05 is a press release dated November 8th, 2011,
06 correct?
07 A. Correct.
08 Q. And this is from the Restore the
09 Gulf website.
10 A. Okay.
11 Q. In the upper left-hand corner of
12 Exhibit 12185, it says, "An Official Website
13 of the United States Government," correct?
14 A. Where are you at?

Page 91:16 to 91:16

00091:16 A. (Continuing) Oh, yes.

Page 91:20 to 93:06

00091:20 Q. According to Exhibit 12185, the
21 Shoreline Clean-Up Completion Plan was
22 finalized following a meeting held
23 October 28th, 2011, with State On-Scene
24 Coordinators from Florida, Alabama,
25 Mississippi, and Louisiana, correct?
00092:01 A. And the other agencies, federal
02 agencies.
03 Q. Okay. As the FOSC, did you work
04 to include the affected Gulf Coast states in
05 the development of the SCCP?
06 A. Absolutely.
07 Q. Okay. Did the states of
08 Florida, Alabama, Mississippi, and Louisiana
09 participate in the development of the SCCP?
10 A. They did.
11 Q. Okay. Did the states of
12 Florida, Alabama, Mississippi, and Louisiana
13 resist signing and approving the SCCP?
14 A. Only Louisiana.
15 Q. Okay. Did you give Louisiana an
16 opportunity to participate in the development
17 of the SCCP?
18 A. Absolutely.

19 Q. Okay. Did the Coast Guard also
 20 work with BP to develop the SCCP?
 21 A. Yes.
 22 Q. Okay. Did BP contribute to its
 23 development?
 24 A. Yes.
 25 Q. How did BP contribute to the
 00093:01 development of the SCCP?
 02 A. They participated in the
 03 discussions, and they also helped with
 04 recording everything and putting the plan
 05 together along with the -- the other units,
 06 so the planning section.

Page 93:14 to 94:05

00093:14 Q. Okay. According to
 15 Exhibit 12185, "The plan will help ensure
 16 that defined standards will be used to
 17 determine when cleanup actions in each
 18 affected area are complete."
 19 A. Correct.
 20 Q. Okay. Would you agree that
 21 those standards were rigorous?
 22 A. Yes.
 23 Q. In Exhibit 12185, you are quoted
 24 as saying, "Our commitment to completing the
 25 final elements of the cleanup operations as
 00094:01 addressed in this plan. In all, more than
 02 90 percent of shoreline impacted by this
 03 spill is now ready to transition from removal
 04 to restoration and has met the agreed upon
 05 standards."

Page 94:08 to 94:19

00094:08 Q. Okay. What did you mean by 90
 09 percent of the shoreline impacted by the
 10 spill was ready to transition from removal to
 11 restoration?
 12 A. It met the end state criteria,
 13 so it can now transition to the next phase.
 14 Q. And was the next phase
 15 restoration?
 16 A. Next phase is restoration. But
 17 you have to be clear on here, too, that it
 18 had -- if there was re-oiling, it could
 19 reen- -- it would reenter the process.

Page 94:21 to 99:19

00094:21 A. So at that point in time, we had
 22 quite a bit that was ready to go, based on
 23 those criteria, but we were very cautious to

24 know that, you know, it will be based on that
25 plan. So it could reenter if it needed to;
00095:01 if not, you know, it could -- we could allow
02 for whatever restoration was going to happen,
03 whatever their plans were because we don't
04 play in the restoration space, that we are
05 not holding them up to proceed.

06 Q. Uh-huh. And did this reflect
07 Unified Command's ongoing commitment to
08 ensuring that the Gulf was cleaned up?

09 A. Yes, I -- absolutely. I mean,
10 that was our whole commitment from the --
11 from the get-go, to clean up the oil.

12 Q. Okay. For the remaining 10
13 percent of areas identified in the plan,
14 cleanup would continue until the areas were
15 designated as cleaned by the standards in the
16 SCCP, correct?

17 A. Correct. Those are the most
18 difficult 10 percent because it was very
19 entrained oil, for example, Barataria Bay and
20 Middle Ground was the -- Middle Ground was
21 the toughest.

22 Q. So let's turn back to Tab 11,
23 which is the Shoreline Clean-Up Completion
24 Plan marked as Exhibit 12184.

25 A. Uh-huh.

00096:01 Q. So the plan set forth a process
02 to determine when a segment has achieved the
03 relevant cleanup standards and can be moved
04 out of the response, correct?

05 A. Correct.

06 Q. So if we could turn to the page
07 ending in Bates 418 with the signatures.

08 A. Okay.

09 Q. Tom Zimmer signed on behalf of
10 BP, correct?

11 A. Yes.

12 Q. And did you work with Mr. Zimmer
13 as FOSC?

14 A. I did.

15 Q. Okay. The environmental section
16 chief, Gary Hayward, also signed, correct?

17 A. Correct.

18 Q. Okay. And State On-Scene
19 Coordinators from Florida, Alabama, and
20 Mississippi signed as well, correct?

21 A. Yes.

22 Q. Okay. But Louisiana did not
23 sign?

24 A. Yes.

25 Q. Did Louisiana ever sign?

00097:01 A. No.

02 Q. Okay. Now, under the SCCP, were
03 SCAT teams required to survey a segment at
04 least three times before Unified Command

05 would consider whether removal actions were
06 complete?

07 A. I'd have to look at the process,
08 but I believe so.

09 Q. Under the SCCP, only the Federal
10 On-Scene Coordinator has authority to
11 formally end treatment activities on a given
12 segment and move it out of the response,
13 correct?

14 A. Correct. We gave everybody the
15 opportunity to sign a final -- a final STR
16 would be put through and they had the
17 opportunity to sign and agree to or not agree
18 to, but the FOC had the final authority and
19 say.

20 Q. Okay. As the Federal On-Scene
21 Coordinator, did you give Louisiana an
22 opportunity to sign the SCCP after review?

23 A. Absolutely.

24 Q. Okay. What's your understanding
25 as to why Louisiana would not sign the
00098:01 Shoreline Clean-Up Completion Plan?

02 A. Well, their first argument was
03 they felt that the parish representatives
04 didn't have an opportunity to participate on
05 SCAT, and we clarified to them they did have
06 the opportunity, because we used the word
07 "may participate." So it didn't restrict
08 them. But it didn't hold the other states'
09 feet to the fire, forcing them to put their
10 folks on there when they had no -- they did
11 not want it.

12 So that was the -- the middle
13 compromise, put the word "may," which allows
14 you to do it, doesn't restrict you, but also
15 allows those that do not want to participate
16 or don't have the resources to participate
17 not to be forced in -- or backed into a
18 corner.

19 The second element was they
20 rejected or had some objection to background
21 oiling. And we said we know there's
22 background oiling. That's very clear. In
23 the Gulf, you have spills all the time.
24 Everybody has some form of -- of tar balling
25 here and there. So we would be remiss if we
00099:01 did not address that in this document. We
02 can't -- we can't state that there was no
03 oiling prior to and everything was pristine
04 when, indeed, we know that that was not the
05 case. So that was their main objection to
06 it.

07 Their process itself was their
08 process that they had agreed to. We gave
09 them a hundred percent of what they asked for
10 as far as what the process was of what we

11 would follow for shoreline complete --
 12 completion. So they were allowed to put that
 13 in there. We didn't change that.
 14 Q. Okay. I want to break those
 15 down. I think you indicated that one of the
 16 reasons Louisiana did not want to sign was
 17 because it did not make the participation of
 18 parish presidents mandatory in the SCCP?
 19 A. Right.

Page 99:21 to 100:15

00099:21 Q. (BY MS. DEMPSEY) Okay. And you
 22 had remedied that by allowing parish
 23 presidents to participate in the SCCP,
 24 correct?
 25 A. We did, by using the language of
 00100:01 "may."
 02 Q. Okay. So under the SCCP, parish
 03 presidents may participate --
 04 A. Right.
 05 Q. -- in the cleanup completion
 06 plan?
 07 A. Yeah, it's not just parish --
 08 parish -- it's parish -- parish officials.
 09 Whoever they wanted to or needed to
 10 participate in that.
 11 Q. Okay. You also mentioned that
 12 one of the reasons Louisiana did not sign the
 13 SCCP was because they did not want reference
 14 and accounting for background oiling in the
 15 plan; is that correct?

Page 100:17 to 100:20

00100:17 A. Correct.
 18 Q. (BY MS. DEMPSEY) Okay. The
 19 SCCP does address background oiling, correct?
 20 A. In the appendix.

Page 100:24 to 102:02

00100:24 Why did you feel you would be
 25 remiss not to address background oiling in
 00101:01 the SCCP?
 02 A. It was at a request of the --
 03 the eastern states, because they know that,
 04 you know, it -- they have had in the past.
 05 So they know it wasn't a hundred percent
 06 clear. So they didn't want to be held on the
 07 hook for that. So they were looking at from
 08 their protection.
 09 Q. I see. So some of the eastern
 10 states, including Alabama, recognized the

11 presence of background oiling in the Gulf of
12 Mexico shoreline?
13 A. Correct.
14 Q. Okay. And was part of the idea
15 that BP would not be responsible for cleaning
16 up background oiling as part of the response?
17 A. Correct.
18 Q. When Louisiana raised
19 these concern about -- raised these concerns
20 about the Shoreline Clean-Up Completion Plan,
21 did you try to address or work with them to
22 address those concerns?
23 A. Absolutely, including the
24 states, the other states tried to talk to
25 them about it and clarify their concerns. So
00102:01 there was a -- there was a pretty good
02 discussion about it at the time.

Page 102:12 to 105:23

00102:12 As FOSC, you worked with some of
13 the eastern states to alleviate the concerns
14 that Louisiana had raised relating to the
15 SCCP?
16 A. Oh, we work -- we tried to work
17 with Louisiana to understand their concerns
18 and try and come up with a compromise of how
19 it would work and how to word it that would
20 make them comfortable, the -- and the eastern
21 states as well during this whole working
22 group tried to understand what their concerns
23 were in trying to work on a compromise. And
24 DOI was in there as well, as was NOAA, and we
25 all tried to collaboratively figure out how
00103:01 to come up with a good, happy medium for them
02 that they could accept.
03 Q. Did BP participate in these
04 efforts to collaboratively come up with a
05 compromise or happy medium that Louisiana
06 could accept for the SCCP?
07 A. They were in the room. They --
08 they didn't speak as much because it was more
09 the states having the discussion. So they
10 wanted to make sure -- because it was more
11 between the states that -- that was really
12 concerned with -- with this particular
13 background document in the -- in the land.
14 Q. The background oiling document?
15 A. Right, the appendix.
16 Q. Okay. But ultimately Louisiana,
17 despite your efforts to work with them, did
18 not sign the SCCP, correct?
19 A. Correct.
20 Q. Okay. I'd like to draw your
21 attention to the page ending in 426 of

22 Exhibit 12184. This page sets forth the
23 shoreline cleanup end points under the SCCP,
24 correct?
25 A. Yes.
00104:01 Q. Okay. And these are for the
02 eastern states, correct? I think -- I think
03 it says it at the top. "The following tables
04 identify the Eastern States Drilling Clean-up
05 Endpoints."
06 A. Yes.
07 Q. Okay. Now, under the shoreline
08 cleanup end points, there are end points for
09 a variety of shoreline types, correct?
10 A. Yes.
11 Q. And that includes "Amenity Sand
12 Beaches," correct?
13 A. Yes.
14 Q. Okay. And the standards for
15 cleanup end points are different for each
16 type of shoreline, correct?
17 A. Yes.
18 Q. But for all shoreline types, one
19 acceptable cleanup end point is, "as low as
20 reasonably practicable, considering the
21 allowed treatment methods and net
22 environmental benefit," correct?
23 A. Yes.
24 Q. Is as low as reasonably
25 practicable sometimes called ALARP?
00105:01 A. I didn't call it that during my
02 time, but that might have been something that
03 got created later.
04 Q. Why was as low as reasonably
05 practicable chosen as a cleanup end point
06 standard for all shoreline types?
07 A. We know for that -- there was a
08 couple reasons, one being that we knew there
09 was oil that was going to come for a certain
10 point, and there are some points in which you
11 let natural attenuation take place. You
12 can't physically -- it becomes
13 non-recoverable at a certain point. The
14 other half of the deal is what was expressed
15 to me by at least the eastern states was it
16 would be politically hard for them to call
17 something closed in some cases, and they
18 wanted it to be the FOSC that it falls on to
19 make that final decision so that they didn't
20 have to politically face that.
21 So for the most part, you know,
22 we knew that there was an end point where you
23 can -- you can clean up.

00106:02 Does the as low as reasonably
03 practical -- practicable end point also take
04 into account the presence of background
05 oiling?
06 A. We talked about it, but we were
07 more concerned with MC252. I mean, if it's
08 other oil, somebody else is responsible. So
09 we were only addressing MC252.

Page 106:15 to 106:22

00106:15 Q. Okay. You mentioned that one of
16 the reasons for having the as low as
17 reasonably practicable shoreline cleanup end
18 point was discussions with the eastern
19 states. I think you also mentioned that for
20 political reasons, they wanted the FOSC to
21 remove segments from the response as opposed
22 to the states, correct?

Page 106:25 to 107:05

00106:25 A. It -- it's more -- you know,
00107:01 they knew it was tough for them to make that
02 call for their state in something of this big
03 of an impact. So it made more sense for it
04 to come from the federal official to make
05 that call.

Page 107:07 to 107:08

00107:07 A. Because they have to face their
08 constituents, so...

Page 108:03 to 110:14

00108:03 For "Residential and Amenity
04 Sand Beaches" --
05 A. Uh-huh.
06 Q. -- the shoreline cleanup end
07 point was no visible MC252 oil or as low as
08 reasonably practicable, correct?
09 A. Correct.
10 Q. Okay. And so in light of the as
11 low as reasonably practicable standard,
12 shoreline -- shoreline segments did not
13 necessarily have to meet the no visible oil
14 standard in order to be moved out of the
15 active response?
16 A. Correct.
17 Q. Okay. When you signed the SCCP,
18 it was your understanding that as low as
19 reasonably practicable would be an acceptable

20 cleanup end point?
 21 A. It -- right, it's a decision
 22 point.
 23 Q. Okay. Segments can be moved out
 24 of the active response once they meet defined
 25 cleanup end points set forth in the SCCP,
 00109:01 correct?
 02 A. Correct.
 03 Q. Okay. And then if oil appears
 04 in areas that have been deemed clean and
 05 moved out of the response, was there a
 06 process in place for responding to that oil?
 07 A. Yes.
 08 Q. Okay. Can you describe that?
 09 A. There was a couple. One was,
 10 depending on where it was in the stages, they
 11 could -- they could pull it back into the
 12 response. The other one was following the
 13 NRC process in which we would go out, we
 14 would -- and inspect that, just like we
 15 normally do, take a look. If it's MC252,
 16 we'd call up BP and BP is to respond. If BP
 17 doesn't respond, we would then as the Coast
 18 Guard respond and back and hold BP
 19 accountable.
 20 Q. During your time as Federal
 21 On-Scene Coordinator, did you receive reports
 22 of oil sheens in the Gulf of Mexico?
 23 A. Yes, I did.
 24 Q. How often did you receive
 25 reports of oil sheens in the Gulf?
 00110:01 A. I don't remember how often, but
 02 we did.
 03 Q. You'd agree that there are
 04 various sources for sheens in the Gulf of
 05 Mexico, correct?
 06 A. Yes.
 07 Q. Okay. And sheens could be from
 08 sources other than MC252, such as pipelines,
 09 transiting vessels, or platforms, correct?
 10 A. That is correct.
 11 Q. Okay. And the same is true for
 12 tar balls, they could be from sources other
 13 than MC252, correct?
 14 A. That is correct.

Page 110:19 to 110:21

00110:19 Q. (BY MS. DEMPSEY) I'd like to
 20 draw your attention to the second e-mail from
 21 the top of Exhibit 12186.

Page 111:02 to 111:18

00111:02 Q. Okay. What was Captain

03 Cubanski's role, if you recall?
 04 A. I think he was filling in for
 05 chief for -- assistant chief for response.
 06 Q. And the captain writes: Good
 07 morning,
 08 Since the Deepwater Horizon
 09 spill, the States (Louisiana and eastern
 10 states) have created an
 11 expectation/assumption that 1) all oil being
 12 spilled is from the MC252; 2) BP should be
 13 quickly responding and clean it up --
 14 cleaning it up. We need to begin a more
 15 aggressive pollution response posture, with
 16 their respective State DEQ/DEM/LOCSCO
 17 counterparts, as we see less and less MC252
 18 oil and more, quote, other oiling.

Page 111:21 to 114:23

00111:21 Q. Okay. And that was an e-mail
 22 the -- the captain wrote on April 27th, 2011,
 23 correct?
 24 A. That is correct.
 25 Q. Okay. Do you agree with the
 00112:01 captain that by the spring of 2011, there was
 02 less and less MC252 oil and more oil from
 03 other sources?
 04 A. I'd have to remember, but I
 05 would -- I would say yes. I wouldn't -- I
 06 couldn't say how much more oil, but there was
 07 other sources of oiling that were occurring.
 08 And when you say "oiling," you're meaning --
 09 because we had a lot of tar balls and a lot
 10 of tar mats and things like that. So if
 11 you're talking liquid oil, obviously it would
 12 be other sources. If you're talking, you
 13 know, tar balls, it could be a mix. It could
 14 be either/or.
 15 Q. So for liquid sources, such as
 16 sheens or liquid oil, by 2011, it was your
 17 understanding that would be from sources
 18 other than Macondo oil?
 19 A. Correct.
 20 Q. Okay. But for tar balls, there
 21 were both MC252 tar balls and tar balls from
 22 other sources?
 23 A. Right.
 24 Q. Okay. The captain continues in
 25 Exhibit 12186, "As you probably know, we are
 00113:01 getting several reports of oil in Louisiana,
 02 Mississippi, Alabama, and Florida which is
 03 not associated with MC252. In most cases,
 04 this oil appears to be fresh and is not
 05 weathered like the typical MC252 oil. In
 06 many instances, it is obvious that the MC252

07 was not the source."

08 In the spring of 2011, was it
09 your experience that the Coast Guard was
10 receiving several reports of oil in the Gulf
11 states that were not associated with MC252?

12 A. We did have reports.

13 Q. Okay. How was the Coast Guard
14 able to determine that the oil reported in
15 the Gulf states did not come from the Macondo
16 well?

17 A. There is a variety of things. I
18 mean, you could -- if it was a certain color
19 or texture, we could tell it was not,
20 because, you know, some of it was weathered.
21 So if it was fresh, we knew more than likely
22 it wasn't, unless it was in some area that
23 was covered or that would allow it to be a
24 little bit more fresh; but by that point, we
25 knew most of it was weathered. So if it was
00114:01 fresh, we knew it -- more than likely, it was
02 not.

03 The other half of the deal, if
04 we weren't sure, is we would take a sample
05 and send it off to get tested, at which point
06 we could determine, you know, was it MC252 or
07 not. If it's not, then we would turn around
08 and attempt to find out what the source was
09 and follow the normal NRC process.

10 Q. So the Coast Guard was able to
11 use visual observation in some instances to
12 determine whether oil was MC252 or not?

13 A. Right. And in other instances,
14 we'd actually have to send a sample out to
15 get tested.

16 Q. Okay. Did the Coast Guard have
17 personnel that were trained to distinguish
18 visually between MC252 oil and not MC252 oil?

19 A. We did. And they were part of
20 SCAT as well, so we could send them out and
21 take a look. We even did a test to see could
22 they visually identify it and how accurate
23 they were, and they were pretty accurate.

Page 115:08 to 115:11

00115:08 Q. And based on that assessment,
09 the trained responders were accurate and
10 effective in visually identifying MC252 oil
11 versus non-MC252 oil?

Page 115:13 to 115:16

00115:13 A. For the most part, yes. I mean,
14 there -- there could be instances where they
15 weren't as accurate, but I would say for the

16 most part, they were.

Page 115:20 to 115:24

00115:20 Q. (BY MS. DEMPSEY) In
21 Exhibit 12186, I draw your attention to the
22 paragraph starting, "In some areas..." Do
23 you see that?
24 A. Yes.

Page 116:10 to 117:03

00116:10 Q. In some instances, did GCIMT
11 provide assistance to clean up non-MC252 oil
12 or tar balls?
13 A. Yes.
14 Q. And as part of GCIMT, did BP
15 clean up non-MC252 oil or tar balls during
16 the response?
17 A. They did some.
18 Q. Okay. Did BP then provide
19 resources or personnel that cleaned up
20 non-MC252 oil or tar balls during the
21 response?
22 A. They did.
23 Q. Let's turn back to the first
24 page of Exhibit 12186. On April 27, 2011,
25 you respond, "Completely agree with the
00117:01 approach. We have to start setting things
02 back to 'normal' and wean folks off of DWH
03 resources as applicable."

Page 117:06 to 119:10

00117:06 Q. What did you mean by that?
07 A. We have to start getting them to
08 follow the NRC process, because not
09 everything is BP oil. We knew there were
10 some -- some spills that happened and they
11 were clearly not MC252. So we were trying --
12 we were trying to get them to understand you
13 do have to call NRC for that. We're not here
14 for all things. And we didn't respond to
15 everything. We did use the NRC process when
16 it wasn't MC252, for the most part we did.
17 There was instances in which the
18 GCIMT resources were there, and it made sense
19 to quickly mitigate and then figure out
20 that -- what that was to cross-charge back to
21 the -- the accurate responsible party.
22 Q. Okay. In your experience as
23 FOSC, did certain Gulf states or Gulf
24 officials expect that GCIMT would respond to
25 reports of oil regardless of whether it was

00118:01 MC252 or not?

02 A. It wasn't the expectation that
03 they would. I mean, we wanted to follow the
04 normal process. Did it make sense if they
05 were in the area to mitigate it as quickly as
06 possible and not, you know, exacerbate our
07 efforts in those areas? Sure. We did not
08 want to add onto, you know, what we were
09 already doing, because it would complicate
10 our efforts to clean up stuff.

11 Q. Were there certain officials in
12 the Gulf states, such as mayors or local
13 politicians that, in your observation,
14 expected that GCIMT would respond to oiling
15 reports whether or not it was Macondo oil?

16 A. I don't know that they publicly
17 said it, but they did expect us to respond,
18 because their concern, in their defense, was
19 they don't know what it is, whether it is or
20 isn't. So their main concern was get to the
21 oil as fast as they can, you know, and the
22 majority of the oil, they felt, at the time
23 was MC252. So the likelihood it was somebody
24 else's versus Macondo's was higher, a higher
25 expectation that it would be that.

00119:01 Q. In your experience, were

02 there -- the Gulf states willing to rely on
03 the Unified Command's trained observers and
04 their visual observations of whether oil was
05 or was not from the Macondo well?

06 A. They did, but they sent out some
07 of their own to go examine beaches and look
08 and see for themselves whether there was tar
09 balling or what have you and -- and whether
10 we were responding.

Page 120:01 to 121:14

00120:01 Q. Okay. What are submerged oil
02 mats or SOMs?

03 A. Submerged oil mat is oil in sand
04 that got entrained oil and creates a large
05 mass. So there was -- and you're talking
06 submerged oil mats. Those are the ones that
07 are more so offshore possibly in the
08 nearshore range. Very tough to find.

09 Q. Okay. Beginning in July 2010,
10 SCAT teams in Unified Command worked to
11 locate and mitigate submerged oil mats,
12 correct?

13 A. I believe so, yes.

14 Q. Okay. SCAT developed a Snorkel
15 SCAT program, which we talked about earlier,
16 correct?

17 A. Correct.

18 Q. Okay. Would you agree that
19 Snorkel SCAT was the technique that was used
20 to detect submerged oil mats and treat them,
21 where appropriate?

22 A. That was the technique used
23 early on to try and find them. The whole --
24 there was an environmental unit team that
25 tried to figure out how to locate them to
00121:01 kind of direct them in, and it was based on
02 repeated tar balling and oiling areas. So we
03 knew there's something that had to be there
04 that would kept that condition from
05 happening. So that was first, No. 1, looking
06 at the repeated patterns.

07 And then -- then they would send
08 out Snorkel SCAT to -- to try and do an
09 investigation to see what they could from
10 their limits, I mean, because they -- they
11 had their limits, too, they can only go out
12 so far. And based on safety criteria,
13 because not all areas are safe enough to do
14 Snorkel SCAT.

Page 121:18 to 122:25

00121:18 Q. The Snorkel SCAT typically
19 worked in water depths -- water depths up to
20 approximately 4 or 5 feet, correct?

21 A. Right.

22 Q. Okay. And Snorkel SCAT targeted
23 what's called the intertidal zone; does that
24 sound correct?

25 A. If I remember correctly, yes.

00122:01 Q. Okay. And in layman's terms,
02 that's the area from the water's edge to
03 about the first sandbar?

04 A. Right.

05 Q. Okay. Snorkel SCAT teams would
06 revisit some tidal areas over time to detect
07 submerged oil mats, correct?

08 A. They did.

09 Q. Okay. And they would provide
10 reports of sub-tidal oiling to Unified
11 Command, correct?

12 A. Yeah, anything they found, they
13 would report back.

14 Q. And the SCAT teams would make
15 recommendations for treatment of sub-tidal
16 oiling to Unified Command, correct?

17 A. Correct.

18 Q. Okay. Would you agree that the
19 Snorkel SCAT technique made progress towards
20 detecting and treating submerged oil mats?

21 A. They did within their
22 capabilities. They can't -- they couldn't go

23 everywhere, and some areas it wasn't
24 applicable. So they were limited based on --
25 on their own constraints.

Page 123:05 to 123:24

00123:05 But for purposes of what Snorkel
06 SCAT was doing in that intertidal area, did
07 you think that they were effective at
08 detecting and treating submerged oil mats?
09 A. Well, they weren't -- Snorkel
10 SCAT was there to try and detect. They
11 weren't treating. So it was a hit or miss
12 whether they could find it or not. So
13 that's -- that's a tough question to answer,
14 because I don't know how many tar mats were
15 all out there. So they were effective in the
16 sense they -- when they went out there,
17 they -- they either found something or not
18 found something. They -- they did their best
19 for that.
20 Q. Okay.
21 A. I can't say if they were a
22 hundred percent effective because I don't
23 know which ones they found and which ones
24 they didn't find.

Page 124:01 to 124:03

00124:01 Would you agree that the Snorkel
02 SCAT program did its best to locate submerged
03 oil mats --

Page 124:05 to 124:06

00124:05 Q. (BY MS. DEMPSEY) -- in the
06 intertidal zone?

Page 124:08 to 125:17

00124:08 A. Snorkel SCAT, you know,
09 they're -- they're professionals. They do
10 their best at everything they do, so...
11 Q. (BY MS. DEMPSEY) Okay. Are you
12 aware of Snorkel SCAT ever having been used
13 in previous spills to identify submerged oil
14 mats?
15 A. No, and not that I know of.
16 Q. Okay. Do you know whether BP
17 contributed to the development or
18 implementation of Snorkel SCAT?
19 A. That I don't know. I know
20 Jackie Michel from NOAA and some of the

21 contractors that were working with SCAT that
 22 they had hired had made the -- made the
 23 recommendations of something to try, but I --
 24 I don't know how much was part of BP versus,
 25 you know, their expertise in doing this.
 00125:01 Jackie Michel has a lot of history and -- and
 02 experience with this.
 03 Q. Were you also familiar with
 04 contractors from Polaris that were --
 05 A. Polaris, right.
 06 Q. -- there on behalf of BP?
 07 A. Correct.
 08 Q. Okay. And did you interact with
 09 the contractors from Polaris --
 10 A. Yes.
 11 Q. -- who were working on behalf of
 12 BP?
 13 A. Correct.
 14 Q. Okay. And was it your
 15 impression that, like Jackie Michel, they had
 16 extensive experience in responding to spills?
 17 A. Yes.

Page 125:25 to 130:13

00125:25 Q. (BY MS. DEMPSEY) Is this a
 00126:01 July 19, 2011 letter from you to the
 02 Attorneys General for the states of Alabama,
 03 Louisiana, Florida, Mississippi, and Texas?
 04 A. Yes.
 05 Q. Okay. Did you write this in
 06 your capacity as the Federal On-Scene
 07 Coordinator?
 08 A. Yes, in conjunction with our
 09 lawyers.
 10 Q. Why were you writing to the
 11 attorneys general in July 2011?
 12 A. In response to their letter with
 13 concern on submerged oil mats.
 14 Q. Okay. In the second paragraph
 15 of your letter, you write, "Please be assured
 16 that the Gulf Coast Incident Management Team
 17 ('GCIMT') continues to work diligently with
 18 your State representatives. I share your
 19 concerns related to Submerged Oil Mats
 20 ('SOMs') that may be located off the
 21 coastlines of your States, and we are working
 22 to address this issue in an expeditious
 23 manner."
 24 Did I read that correctly?
 25 A. You did.
 00127:01 Q. Okay. Was it important to the
 02 Gulf states that the Gulf Coast Incident
 03 Management Team engaged in efforts to
 04 identify and, where appropriate, remove

05 submerged oil mats?
06 A. Absolutely.
07 Q. Okay. And you responded to this
08 concern by notifying them that you -- that
09 Unified Command was working to address the
10 issue expeditiously, correct?
11 A. Correct.
12 Q. Okay. I draw your attention to
13 the third paragraph of Exhibit 12187. In the
14 third line, starting with "Current
15 operations..." Do you see that?
16 A. I do.
17 Q. And you write, "Current
18 operations to locate and delineate nearshore
19 SOMs are well underway and involve waterborne
20 assets, such as boats equipped with
21 specialized detection equipment, to conduct
22 tactical search plans off the coastlines of
23 affected coastal States. SOMs that have been
24 identified and located immediately adjacent
25 to shore have been and will continue to be
00128:01 removed using shore-based mechanical means
02 from the beach where it is safe and feasible
03 to do so."
04 Did I read that correctly?
05 A. You did.
06 Q. Can you speak generally about
07 operations that were underway while you were
08 FOSC to locate, delineate, and remove
09 submerged oil mats?
10 A. One of the technique --
11 technique we -- techniques we were using
12 was -- it was more of a -- I can't exactly
13 remember the -- the technology, but it was
14 more like a sonar type technology in which we
15 were looking for differences in the bottom
16 and -- and the textures, and the -- the
17 consistency to see if there were some
18 different kinds of masses.
19 Q. Uh-huh.
20 A. And if there was a different
21 mass that we felt might be submerged oil mat,
22 then we would go in and we would actually dig
23 some holes and actually try and test to see
24 if we could find some oil in those areas.
25 So, once again, we would look at
00129:01 areas that had the potential that fit the
02 profile that -- of repeated oiling; and then
03 we would use this new technology. It's
04 almost like a tow array kind of thing, but I
05 forget what the technology exactly was. And
06 then we would search and then test it out.
07 So we tried it in the eastern states to
08 really try and find those areas.
09 Q. Okay. Did you feel that those
10 efforts and those technologies were used

11 successfully in some instances to identify
12 and remove submerged oil mats?

13 A. Well, we used them, but we
14 really didn't find submerged oil mats. We
15 found a lot of mass that was more biologics
16 kind of thing. So that -- that's hard to say
17 because we really didn't find the submerged
18 oil mats that we were hoping to find.

19 Q. I see. So you used the
20 technology to identify anomalies where you
21 thought there might be submerged oil mats,
22 correct?

23 A. That's correct.

24 Q. And then you went out and took
25 samples to determine whether they really were
00130:01 submerged oil mats, correct?

02 A. Correct.

03 Q. And in those instances, based on
04 your sampling, you were able to determine
05 that they were not MC252 submerged oil mats?

06 A. Correct.

07 Q. What kind of support did BP
08 provide to the Gulf Coast Incident Management
09 Team relating to the identification of
10 submerged oil mats?

11 A. They provided the platforms and
12 the technology. They -- they contracted out
13 for that particular technology.

Page 130:15 to 133:14

00130:15 A. And then we put
16 representatives -- we made sure there was
17 always a Coast Guard person on board to
18 observe and to make sure things were -- at
19 least some federal oversight, because that
20 tend -- that tended to be the concern, that
21 BP was doing everything and then kind of
22 controlling everything, as far as the data or
23 they can manipulate. So they wanted to make
24 sure there was some federal oversight to make
25 sure -- there is a big mistrust for BP. So
00131:01 you wanted to make sure that the federal
02 was -- federal folks were actually overseeing
03 and making sure things were done correctly or
04 done -- nothing was being changed.

05 Q. So BP provided support in the
06 form of resources and personnel working to
07 identify submerged oil mats, correct?

08 A. Correct.

09 Q. And the Federal Government
10 provided oversight in the form of Coast Guard
11 representatives --

12 A. Or other federal agencies.

13 Q. -- or other federal agencies?

14 Okay.
15 Did BP also provide support for
16 removing submerged oil mats where they were
17 found, whether it was nearshore or in other
18 areas?
19 A. Any oil we would find that was
20 determined BP oil or MC252, they provided the
21 appropriate resources, as they should, to
22 remove the oil.
23 Q. So you would agree that BP
24 helped provide personnel, equipment, and
25 resources to facilitate the identification
00132:01 and, where appropriate, removal of submerged
02 oil mats?
03 A. Correct.
04 Q. In your experience with spill
05 response, had you ever seen any response that
06 went to the lengths seen during the Deepwater
07 Horizon spill response to identify and remove
08 submerged oil mats?
09 A. That's a hard question because
10 there is no spill of this size, you know. I
11 would expect that this would be a lot larger
12 and as -- as such, expect more resources to
13 be applied to it.
14 Q. Okay. Earlier you mentioned
15 mistrust of BP. Do you recall that?
16 A. Yes.
17 Q. Just so I have your testimony
18 clear, you weren't testifying that the Coast
19 Guard mistrusted BP, were you?
20 A. No. This -- it's more the
21 public and the -- the states had a lot of
22 mistrust for BP, and so they wanted to make
23 sure there was always some representative
24 overseeing. And, yeah, the public, there was
25 always that mistrust and that overtone. So
00133:01 we -- we made sure that there was always
02 federal oversight so that whatever BP was
03 doing, that there was somebody else as the
04 overseer to make sure that nothing was done,
05 that we could vouch for the things that were
06 happening on -- during the time we were
07 working on stuff.
08 Q. And based on your experience as
09 FOSC --
10 A. Uh-huh.
11 Q. -- you're not aware of any
12 indication that BP wasn't accurately
13 recording or providing info up to you and
14 your team?

Page 133:16 to 135:04

00133:16 A. I can't say that. I mean, I

17 wouldn't know what was going on behind the
18 scenes, right. There were -- they were
19 separated from us in some respects. They had
20 a different office. So whatever was going on
21 there, I don't know. There was things I do
22 know. There was negotiations between BP and
23 the states directly. For what? We would
24 find out maybe through the grapevine or what
25 have you. How accurate that was, I don't
00134:01 know.

02 We had an incidence where -- in
03 Mississippi where BP was -- was withdrawing
04 some of their teams, and that upset the
05 states. It upset Mississippi and -- and they
06 made objection to that and they made us
07 aware, and we did address it, and part of
08 that addressed was in the Shoreline Clean-Up
09 Completion Plan to make sure we felt the
10 process and the right amount of teams were
11 there.

12 So we did have some instances in
13 which BP did some things, but we addressed
14 it. And then there was an instance where
15 in -- in Mississippi again where the teams
16 were going out there and cleaning up -- the
17 operations were trying to make the decision
18 on whether to pick up oil based on the
19 shoreline cleanup completion criteria. And
20 we had to make it very clear that's not your
21 job as operations to do that. That is up to
22 the shoreline cleanup completion -- the SCAT
23 team to go out there and make that
24 assessment. So -- but we -- and we turned
25 around and addressed those issues.

00135:01 So there were times when they
02 kind of did a set-back with the states, which
03 forced some mistrust in some areas, and we
04 had to kind of rebuild.

Page 135:08 to 137:21

00135:08 Okay. I'd like to return to
09 Exhibit 12187.

10 A. Okay.

11 Q. On the second page ending in
12 098, there is a paragraph in the middle of
13 the page that starts with, "You also
14 requested..." Do you see that?

15 A. Yes.

16 Q. You state, "You also requested
17 an estimation of the level of threat each SOM
18 potentially poses to the coastline."

19 Have the Gulf states asked about
20 the level of threat that submerged oil mats
21 posed to the coastline?

22 A. Yes.

23 Q. Okay. You respond, "A team of
 24 environmental scientists has determined that
 25 the oil residue, which includes SOMs, poses a
 00136:01 minimal toxicity threat, if any, to human
 02 health; and that the SOMs pose a minimal
 03 toxicity threat, if any, to aquatic
 04 invertebrates and fish."
 05 Do you see that?

06 A. I do.

07 Q. Okay. Based on your review of
 08 the science as FOSC, you would agree that
 09 submerged oil mats pose a minimal toxicity
 10 threat, if any, to human health, correct?

11 A. Based on the science reports,
 12 correct.

13 Q. Okay. Which science reports are
 14 you referencing?

15 A. The OSAT reports.

16 Q. The OSAT reports are the reports
 17 prepared by the Operational Science Advisory
 18 Team?

19 A. Correct.

20 Q. Okay. And the OSAT teams were
 21 comprised of scientists and practitioners
 22 from various federal agencies, including
 23 NOAA, EPA, BOEMRE, and the Coast Guard?

24 A. Correct. And BP was included in
 25 that as well.

00137:01 Q. Okay. The FOSC commissioned the
 02 OSAT reports for use in directing response
 03 operations, correct?

04 A. He did.

05 Q. Okay. The Operational Science
 06 Advisory Team had assessed the threat posed
 07 by oil residue, including submerged oil mats,
 08 correct?

09 A. Yes.

10 Q. And they published their
 11 findings in the OSAT-2 report, correct?

12 A. They did.

13 Q. Okay. And as the FOSC, you
 14 credited the conclusions reached in OSAT-2
 15 about the threat posed by residual oil from
 16 the Deepwater Horizon spill, correct?

17 A. Correct.

18 Q. Okay. Based on the OSAT-2
 19 report, you would agree that submerged oil
 20 mats pose a minimal toxicity threat, if any,
 21 to aquatic invertebrates and fish, correct?

Page 137:23 to 139:12

00137:23 A. The -- the report comes to that
 24 conclusion, so I took it from that report.

25 Q. (BY MS. DEMPSEY) And you
00138:01 conveyed that conclusion to the Attorneys
02 General for the states in --
03 A. Correct.
04 Q. -- Exhibit 12187?
05 A. Correct.
06 Q. Okay. Now, during the response,
07 concerns were raised that there might be
08 submerged oil mats seaward of the first
09 sandbar, correct?
10 A. I believe so, yes.
11 Q. Okay. So stated differently,
12 there were concerns that there could be
13 submerged oil mats between the first and
14 second sandbars?
15 A. Yes.
16 Q. Okay. Have you heard this
17 referred to as the wave base area?
18 A. I don't remember that.
19 Q. This area was outside of or
20 beyond the scope of Snorkel SCAT, correct?
21 A. Correct.
22 Q. Okay. So did GCIMT take steps
23 to address concerns that there could be
24 submerged oil mats seaward of the first
25 sandbar?
00139:01 A. Yes, I mean, we -- we held quite
02 a few meetings on trying to figure out what
03 the best option and the safety of that,
04 including, you know, putting some equipment
05 on a barge and taking it out there, and how
06 we would actually do that and did it make
07 sense, was it safe enough to do so or not.
08 Q. Okay. And one way that the
09 GCIMT addressed concerns about these
10 submerged oil mats was through the Submerged
11 Oil Mats Tactical Plan, correct?
12 A. Correct.

Page 139:23 to 140:02

00139:23 Q. (BY MS. DEMPSEY) Is
24 Exhibit 12188 the "Summary Technical Report
25 for Submerged Oil Mat Tactical Plan - Phase I
00140:01 Execution"?
02 A. Yes.

Page 140:05 to 140:08

00140:05 This report was provided to you
06 as the Federal On-Scene Coordinator in August
07 2011, correct?
08 A. Correct.

Page 140:14 to 141:10

00140:14 Q. Uh-huh. It states that, "The
15 purpose of this report is to provide the
16 Federal On-Scene Coordinator (FOSC) for the
17 Deepwater Horizon MC252 Spill of National
18 Significance with sufficient information to
19 determine the presence or absence of
20 Submerged Oil Mats based on the operational
21 results of the Deepwater Horizon Submerged
22 Oil Mats Tactical Plan - Phase I."
23 Okay. Was that your
24 understanding of the purpose of the Submerged
25 Oil Mats Tactical Plan?
00141:01 A. Yes.
02 Q. Okay. It continues, "The
03 Tactical Plan was developed to provide
04 general and tactical guidance for attempting
05 to locate, delineate and, where practical,
06 attempt the removal of SOMs in coastal zones
07 of the GCIMT area of responsibility."
08 Is that your understanding of
09 why the tactical plan was developed?
10 A. Yes.

Page 141:21 to 143:25

00141:21 Q. Sorry. Just for purposes of the
22 record, so the tactical plan was implemented
23 in the Gulf states of Florida and Alabama,
24 correct?
25 A. Correct. Sorry about that.
00142:01 Q. Okay. And, in particular, the
02 focus of this plan was on locating submerged
03 oil mats in the area seaward of areas that
04 were surveyed by Snorkel SCAT, correct?
05 A. Yes.
06 Q. Okay. Under this plan, did
07 GCIMT survey the zone seaward of the first
08 sandbar of Gulf facing beaches?
09 A. Yes.
10 Q. Okay. Let me direct your
11 attention to the bottom of Page Bates stamp
12 680. I'll direct your attention to this last
13 paragraph on 680, okay. Did GCIMT utilize
14 various technologies to locate and delineate
15 submerged oil mats?
16 A. Yes.
17 Q. Did those technologies include
18 sonar, ROV-deployed video, sediment sampling,
19 and coring?
20 A. Yes.
21 Q. Let's turn to the "Outcomes" on
22 the page ending in 682. The first outcome
23 indicates that the operations teams detected

24 33 anomalies where sediment characteristics
25 differed from clean sandy references,
00143:01 correct?
02 A. Correct.
03 Q. And is this the process we were
04 describe -- you were describing before --
05 A. Exactly.
06 Q. So this is where teams went out
07 and they used technologies to identify areas
08 that were anomalies, where they thought there
09 might be submerged oil mats?
10 A. Correct.
11 Q. Okay. And 16 of those anomaly
12 sites were surveyed, and there were no visual
13 indications of submerged oil mats, correct?
14 A. Correct.
15 Q. Okay. And in addition to those
16 visual investigations, samples were taken?
17 A. Yes.
18 Q. And according to Exhibit 12188,
19 21 surface sediment samples and eight core
20 samples were taken of anom- -- of anomalies
21 with no indications of oily residue, correct?
22 A. That is correct.
23 Q. And did that indicate that those
24 anomalies were, in fact, not submerged oil
25 mats?

Page 144:02 to 144:24

00144:02 A. That gave us an indication that,
03 you know, there was other -- something else,
04 but it was -- there was no oil found.
05 Q. (BY MS. DEMPSEY) Okay. Let's
06 turn to the "Conclusions" on the next page
07 ending in Bates 683. The GCIMT concluded,
08 based on their investigation, that submerged
09 oil mats were not present in the area between
10 the first and second sandbars in the surveyed
11 areas, correct?
12 A. Yes.
13 Q. And the GCIMT found no evidence
14 that submerged oil mats were present in the
15 area between the first and second sandbars?
16 A. Based on this, yes.
17 Q. Okay. After this report was
18 issued, did you feel it was necessary to
19 engage in further efforts to identify
20 submerged oil seaward of the first sandbar?
21 A. No, we did not. It -- we knew
22 it was complicated because things can move,
23 but we felt that there's possibly a different
24 answer for -- for some of this.

Page 145:05 to 145:08

00145:05 During the response, certain
06 Gulf states requested that GCIMT conduct
07 borrow pit sampling, correct?
08 A. They did.

Page 145:18 to 147:04

00145:18 Q. Okay. So is it fair to say
19 borrow areas are offshore locations that are
20 used for beach re-nourishment?
21 A. Correct.
22 Q. Okay. The states, the Gulf
23 states, questioned whether there was MC252
24 oil present in the borrow areas, correct?
25 A. Correct.
00146:01 Q. To your recollection, did a
02 number of public officials express concern
03 about this issue?
04 A. They did.
05 Q. Okay. And the states requested
06 that GCIMT conduct sampling of offshore sand
07 borrow areas to test for the presence of
08 MC252 oil, correct?
09 A. Yes.
10 Q. And as FOOSC, you determined that
11 borrow pit sampling was not a response
12 effort?
13 A. Correct, based on legal advice,
14 it was the responsibility of the Army Corps
15 of Engineers.
16 Q. And based on your analysis and
17 assessment, you denied the states' request
18 for borrow pit sampling, correct?
19 A. Correct.
20 Q. Borrow pit sampling and analysis
21 was ultimately conducted, correct?
22 A. Correct.
23 Q. And BP conducted sampling of the
24 offshore borrow areas to evaluate sand in
25 those areas for the presence of Macondo oil,
00147:01 correct?
02 A. I don't remember. I believe
03 they did. They had some agreement with the
04 states, that was my understanding.

Page 147:07 to 147:14

00147:07 You'd agree that the Coast Guard
08 did not direct BP to conduct or fund the
09 borrow pit sampling?
10 A. Correct.
11 Q. Okay. You'd agree that Unified
12 Command did not require BP to conduct or fund

13 the borrow pit sampling?

14 A. Correct.

Page 148:10 to 148:16

00148:10 Q. During your tenure as Federal
11 On-Scene Coordinator, did the Coast Guard
12 have a plan in place to address residual oil
13 that was remobilized by storms?

14 A. We did. We did. We had our
15 hurricane planning and tropical storm
16 planning, so...

Page 149:11 to 149:14

00149:11 Q. And did you communicate this
12 plan and share it with the State On-Scene
13 Coordinators and other state officials?

14 A. Absolutely.

Page 149:20 to 158:02

00149:20 Q. (BY MS. DEMPSEY) Captain Hein,
21 in Exhibit 12189, you are forwarded an
22 article from David Ferrara and the
23 Press-Register published on July 24th, 2011,
24 correct?

25 A. I was -- no, I was forwarded
00150:01 from Mike Utsler.

02 Q. Right, Mike Utsler is forwarding
03 you an article --

04 A. Right.

05 Q. -- that was published.

06 A. Okay.

07 Q. All right. Okay. And in that
08 article, the first sentence of the article
09 reads, "More than a month into hurricane
10 season, there's still no plan for what to do
11 if storm surge washes oil onto Alabama's
12 beaches."

13 Do you see that?

14 A. I do.

15 Q. And the article also quotes
16 Alabama mayors who expressed criticism of the
17 cleanup, including the mayors of Orange Beach
18 and Gulf Shores, correct?

19 A. Correct.

20 Q. Okay. Do you recall receiving
21 this article?

22 A. Oh, I do.

23 Q. Okay. What was your reaction to
24 receiving it?

25 A. It was quite disturbing, because
00151:01 we shared all information, including plans,

02 everything with the states. So there was
03 nothing that we had that we wouldn't share or
04 be willing to share with any of the states.
05 So I was a little surprised by the -- the
06 comments that were made, since we had always
07 had a plan from, you know, basically, from
08 the beginning of the response, we've worked
09 the hurricane plans and we've continued those
10 plans every year.

11 So this was nothing -- no- --
12 there was no -- nothing new with these plans
13 after, you know, another year of the cycling.
14 It was a little shocking that they would make
15 that statement.

16 Q. Okay. On July 24th, you write
17 to William Benson. Who was William Benson?

18 A. He was our public affairs person
19 at the time of the district.

20 Q. You write to William Benson in
21 public affairs, "I don't quite know who this
22 person is but he is far from telling the
23 truth. Plans are in place but this is yet
24 another year of rehashing and rehearsing
25 those plans."

00152:01 When you said, "he is far from
02 telling the truth," were you referring to the
03 author?

04 A. The author.

05 Q. And why did you feel he was far
06 from telling the truth?

07 A. Because we do have plans in
08 place, and those plans had been shared with
09 the Alabama State On-Scene Coordinator. He
10 was part of that whole process. And when we
11 develop hurricane plans, we rehearse it and
12 talk to and make sure everybody's reviewed
13 those plans with each of the states. So any
14 plans that we had were no surprise to
15 anybody.

16 Q. So you had shared the plans for
17 responding to residual oil after storms with
18 Alabama State On-Scene Coordinator?

19 A. Absolutely. All states. All --
20 all agencies involved were a part of this.

21 Q. And in Exhibit 12189, you
22 continue, "I will get with our AL SOSOC,"
23 Alabama State On-Scene Coordinator, "and set
24 him straight on failure to communicate
25 properly and misleading the public."

00153:01 A. Yes.

02 Q. What did you mean by that?

03 A. Reaching out to him directly
04 and, basically, finding out what he said, why
05 he said it, and why he has not -- if he has
06 not shared. You know, our assumption was all
07 plans -- because our conduit is through the

08 states to the officials, that he was
09 communicating correctly and communicating all
10 plans. So that was our conduit through
11 there.

12 So we wanted to first get that
13 under -- you know, clear -- clarified and --
14 and go from there, take each additional step.
15 And then if he didn't, he needed to do so as
16 soon as possible.

17 Q. Based on your reading of the
18 article, did you question whether there was a
19 breakdown in communication at some level?

20 A. Oh, absolutely. So that was the
21 concern. And we started to address it with
22 the Alabama SOSC and then in our -- in the
23 Alabama branch.

24 Q. Okay. So you took steps to
25 address the misperceptions raised in this
00154:01 article?

02 A. Correct.

03 Q. Okay. Who was the Alabama State
04 On-Scene Coordinator at this time?

05 A. Steve Jenkins.

06 Q. Did you have concerns that
07 Alabama State On-Scene Coordinator was not
08 properly communicating with Alabama's mayors
09 and local politicians about the Unified
10 Command's plan to respond to residual oiling?

11 A. Yes.

12 Q. Did this lead to unwarranted
13 negative publicity about the response, like
14 we see in this article?

15 A. Yes.

16 Q. Okay. In the article in
17 Exhibit 12189, the mayors expressed some
18 criticism of the preparedness and
19 responsiveness of responders, correct?

20 A. He did.

21 Q. Okay. And at some point, did
22 you question whether the mayors were raising
23 some of these criticisms for political
24 reasons?

25 A. I did.

00155:01 Q. Can you tell me about that?

02 A. Well, it was more -- because we
03 had communicated everything. It's not like
04 this was something new. And when it comes to
05 a hurricane, you know, FEMA would take the
06 lead and we would work with FEMA. And we're
07 also as part of Coast Guard part of ESF9,
08 which is Support Function 9, where we take
09 care of, you know, mitigating pollution and
10 things like that. So -- and they're very
11 aware of that in working with us.

12 So it was a little interesting
13 for them to have this kind of discussion and

14 concern, because it wasn't the first season
15 that we've had hurricane season with them, so
16 we've gone through this before. So to now
17 come up with it, I didn't understand what was
18 going on.

19 So if there was something
20 political that was going on behind the scenes
21 and they were just trying to get some
22 platform or -- and not that they were being
23 political, but I just wanted to make sure
24 that we were communicating with them; and
25 then if there was some other agenda that they
00156:01 had that they just wanted to get that voice
02 out there to communicate to the people,
03 that's fine, just let me know.

04 But my main concern was if there
05 is a legitimate concern, if you really aren't
06 getting this information, then we really do
07 need to get it to you and figure out the path
08 of why you're not getting it and to get it to
09 you.

10 So we -- I couldn't tell from my
11 end why something that would be so, you know,
12 off the mark would be put in a front-page
13 newspaper when we really went to great
14 lengths to make sure that everything was
15 provided. So it really was kind of an odd
16 duck there.

17 And so I asked Steve Jenkins,
18 you know, at the time, you know, make sure
19 you get it to him, give him the stuff. But
20 at the same time, if it is something
21 political and I just need to back off, that's
22 fine; just let me know that, you know, that
23 you're -- you're doing whatever you're doing.
24 But I don't want to mislead the public,
25 basically. So...

00157:01 Q. And you felt that the contents
02 and the criticisms raised in this article in
03 the Press-Register were misleading the
04 public?

05 A. I do believe it was misleading
06 the public, because we do have -- we were
07 prepared. I don't need to -- I don't want to
08 scare the public in thinking that we're not
09 prepared to do something when we really are,
10 and that we would work with FEMA, and we were
11 proactive in trying to get FEMA to the table
12 to have meetings with the EOCs so that they
13 can kind of flush out and get comfortable
14 with that.

15 So that's the meeting we were --
16 I don't know if it was discussed in here --
17 the meeting in -- in setting them up and
18 working at the working level with the EOCs to
19 get them comfortable so that they could brief

20 their mayors and then have -- if we needed to
 21 have further-on discussions with FEMA, we
 22 could do that.
 23 So we were trying to be
 24 proactive in getting FEMA to the table and
 25 discussing what that -- what their process
 00158:01 would be, because they would be the lead
 02 agency.

Page 158:10 to 159:08

00158:10 Q. Did you reach out to the mayors
 11 and give them -- strike that.
 12 Did you reach out to the mayors
 13 to clear up any misperceptions they might
 14 have about responding to residual oiling?
 15 A. We did. We absolutely did. You
 16 know, there was the flare-up and then we --
 17 we calmed down. We had meetings even at the
 18 district. Not at the district. At
 19 govern- -- not governors -- Congressman
 20 Bonner's office, and we met with them. We
 21 also met with them at Sector Mobile to walk
 22 through what the process would be and even
 23 helped them understand how the OSRO process
 24 works as well, and if they have OSROs that
 25 they're on contract with, how we can work
 00159:01 with them.
 02 Q. And OSRO is an oil spill
 03 response --
 04 A. Oil Spill Response Organization
 05 or agency. Oil Spill Response Organization.
 06 Q. Okay. Did you reach out to
 07 Mr. Jenkins after seeing this article?
 08 A. I did.

Page 159:12 to 160:10

00159:12 Q. (BY MS. DEMPSEY) Is this the
 13 e-mail that you sent to Mr. Jenkins after
 14 seeing the Alabama news story?
 15 A. Absolutely.
 16 Q. Okay. Did you see other
 17 instances during the response where the media
 18 disseminated information that you viewed as
 19 misleading or inaccurate?
 20 A. They had bits and pieces
 21 around -- throughout the response that
 22 they -- they would do that. It's either
 23 misinformation or lack of full information.
 24 Q. Did you see other instances
 25 during the response where you believe the
 00160:01 actions of state or local officials may have
 02 been politically motivated?
 03 A. It's hard to say. You know, you

04 can make assumptions and that's why I asked
05 the question in here, because I don't know
06 for sure, and if there is, you know, it's a
07 matter of let us know. But I'm sure there
08 were. It's -- it's -- it's tough to say
09 because you don't have the facts to -- to say
10 yes or no.

Page 160:18 to 161:03

00160:18 You served as the Federal
19 On-Scene Coordinator from May through
20 November 2011, correct?
21 A. Correct.
22 Q. And by then the bulk of the
23 cleanup work involved picking up tar balls on
24 the beaches, correct?
25 A. That was the main cleanup.
00161:01 Q. Okay. And you would agree that
02 the MC252 tar balls found on the beaches are
03 non-toxic?

Page 161:05 to 161:11

00161:05 A. Based on the OSAT reports and
06 our testing, yes.
07 Q. (BY MS. DEMPSEY) And you have
08 shared that view that the MC252 tar balls are
09 nontoxic with state officials and the public,
10 correct?
11 A. Yes.

Page 161:23 to 162:01

00161:23 At the bottom of Exhibit 12191
24 is an e-mail from Timothy Pratt to you and
25 others on June 25th, 2011, correct?
00162:01 A. Correct.

Page 163:01 to 163:10

00163:01 Q. And Mr. Pratt continues, "It
02 sounds like this got started by AL," Alabama,
03 "feeling that since the NEBA says 'no further
04 treatment' and we are currently following the
05 NEBA, then we are 'cutting and running.'"
06 Do you see that?
07 A. I do.
08 Q. And then NEBA is an abbreviation
09 for Net Environmental Benefit Analysis?
10 A. Correct.

Page 163:14 to 167:02

00163:14 Q. And you state, "Thanks... we may
15 want to also remind him that the oil at this
16 stage is tar balls which are predominantly
17 sand and what oil is remaining in the tar
18 balls is weathered and not toxic to humans or
19 animals. So their critical habitat is safe
20 regardless if it gets blown over the island."

21 Correct?

22 A. Correct.

23 Q. Okay. What was your thinking
24 here?

25 A. Well, he was concerned that it
00164:01 was toxic to humans and animals. And his
02 main concern that it will go over West
03 Dauphin Island and onto the main shores,
04 where we deep clean and done amenity beaches.
05 So that was his concern. He wanted to make
06 sure that we were going to taking action on
07 West Dauphin Island and clean out. And we
08 were -- we planned on doing it.

09 Do we -- did we plan on deep
10 cleaning? No, we needed to really take a
11 look at the net environmental benefit and see
12 what the most sense, taking all factors into
13 consideration, including their -- their input
14 as to what their concerns were.

15 Q. Okay. As FOSC, it was your
16 understanding that MC252 oil remaining in the
17 tar balls was weathered and nontoxic to
18 humans or animals, correct?

19 A. Based on the studies, yes.

20 Q. Okay. Was it your impression
21 that there were some state or local officials
22 who were either not aware of this or did not
23 appreciate that MC252 tar balls were not
24 toxic to humans or animals?

25 A. Based on the way they were
00165:01 saying things, it's -- appeared that they
02 weren't aware and that was part of the
03 discussion, to ensure that they were aware of
04 this and that they had a copy of the OSAT and
05 they could see it and understand it.

06 So we -- we went to great
07 lengths to make sure Alabama had that
08 information as well.

09 Q. And it -- in Exhibit 12191, you
10 continue in the second paragraph, "I think he
11 or other officials need an education that in
12 critical habitats we are even more careful
13 and that doing an amenity standard is the
14 worst thing we could do."

15 Why did you warn against
16 cleaning to an amenity standard in a critical
17 habitat?

18 A. Because you could destroy the

19 critical habitat. So we were really
20 concerned that we don't do that, because
21 we -- we have an obligation under the law to
22 protect them.
23 Q. In Exhibit 12191, you note that
24 you are highly disappointed in your ADEM
25 partners.

00166:01 Do you see that?
02 A. I do.
03 Q. And is ADEM -- I'm sorry, strike
04 that. What is ADEM short for?
05 A. Alabama Department of
06 Environmental Management.
07 Q. Okay. And why were you
08 disappointed in your partners at the Alabama
09 Department of Environmental Management?
10 A. Because we were relying on them
11 as part of our partnership to ensure they
12 educated the mayors, because they were local
13 there, they were supposed to -- this
14 information was being passed. And they're
15 the conduit within -- and they're supposed to
16 ensure that their state was informed.
17 Q. Okay. And were you disappointed
18 because you didn't feel that they were
19 sharing information with local --
20 A. It --
21 Q. -- politicians?
22 A. It appeared that way.
23 Q. Okay. Who were you working with
24 at the Alabama Department of Environmental
25 Management at this time?

00167:01 A. Well, we were working with Steve
02 Jenkins at this time.

Page 167:04 to 168:20

00167:04 A. So -- and this -- this is part
05 of why we offered up NOAA or any of our
06 scientists to go down there and talk to them
07 and we eventually did, so...
08 Q. So Unified Command made efforts
09 to share information and educate Alabama
10 mayors and politicians about the shoreline
11 cleanup program?
12 A. Absolutely. And we even met in
13 Congressman Bonner's with all the mayors in
14 his conference room and walked through
15 different efforts, and they -- what was
16 shocking is they seemed surprised by some of
17 the documents and -- and the level of what we
18 were doing and made statements that they had
19 not seen this stuff, and we had corrected and
20 said we -- and informed them that we had been
21 e-mailing all these documents and sending

22 these documents down to their
23 representatives, so they should have been
24 sharing it with them.

25 Q. So you felt that there was some
00168:01 kind of disconnect or bottleneck and that you
02 were sharing information but it wasn't being
03 disseminated to the Alabama mayors?

04 A. Well, and the mayors'
05 representatives were supposedly getting it
06 via e-mail, but somehow the mayors themselves
07 were stating they weren't getting the
08 information or that they had not seen this
09 information. So we confirmed that we were
10 sending it and Alabama was getting it, but
11 apparently the mayors were not exactly seeing
12 it or they didn't understand what they were
13 seeing.

14 Q. So was there a period of time
15 when Alabama's mayors were making public
16 statements criticizing the response, like we
17 saw in previous exhibits, that may have been
18 based in part on a lack of information about
19 the response?

20 A. Could have been.

Page 168:23 to 170:06

00168:23 In Exhibit 12191, you reference
24 the mayor, and you continue, "He has to have
25 some faith that we are the experts here and
00169:01 if we call something, there is an obviously
02 good explanation. We don't just make this
03 stuff up as we go."

04 Do you see that?

05 A. I do.

06 Q. Okay. As FOOSC, did you feel
07 that individuals without the requisite
08 expertise sometimes tried to insert
09 themselves into the shoreline treatment
10 process?

11 A. I don't know if they were
12 inserting themselves. They would make their
13 opinions known and their discontent or their
14 content. It went both ways. So they would
15 express themselves. Whether they were fact
16 based or what have you, it wasn't always the
17 case. So that's where that would give us an
18 indication that maybe they weren't aware,
19 they weren't educated. So we would set up a
20 means to get back to them.

21 In fact, in this case, we
22 eventually put a Coast Guard liaison officer
23 down there to ensure, because it was such --
24 it just appeared to us to be too much of a
25 lack of communication, that we needed to put

00170:01 somebody down there that could make sure that
02 they got the information and talked to them
03 on a regular basis, because, you know, as the
04 FOSC, you're around everywhere; and we needed
05 them to have a quick point of contact where
06 they can get ahold of if I'm not available.

Page 171:03 to 171:10

00171:03 The individuals who were making
04 their opinions and recommendations known to
05 you, did those include state and local
06 officials in the Gulf?
07 A. Correct.
08 Q. Okay. And that --
09 A. And they would. You would
10 expect they would in the response.

Page 171:15 to 172:05

00171:15 Q. (BY MS. DEMPSEY) Earlier you
16 mentioned some of the -- the bottlenecks in
17 sharing information from Unified Command
18 through to the mayors of Alabama, correct?
19 A. Correct.
20 Q. Okay. But you were able to
21 verify that you were sending the information
22 to their representatives, but for whatever
23 reason, the mayors represented that they had
24 not seen it?
25 A. Correct.
00172:01 Q. Okay. Was it your understanding
02 that the Alabama State On-Scene Coordinator,
03 Mr. Jenkins, was not sharing all of the
04 relevant response information with Alabama's
05 mayors?

Page 172:08 to 172:10

00172:08 A. (Continuing) It appeared that
09 way, but I -- you know, obviously I don't
10 have proof.

Page 173:07 to 173:12

00173:07 Q. Okay. Do you recall that after
08 OSAT-2 was issued, Louisiana proposed a plan
09 to perform additional data collection to
10 assess the risk to human health from public
11 beaches?
12 A. I remember something to that.

Page 173:18 to 174:09

00173:18 Q. (BY MS. DEMPSEY) Is
19 Exhibit 12192 a memorandum addressed to you
20 from the environmental section chief on
21 June 22nd, 2011?
22 A. Yes.
23 Q. Okay. Do you recall that
24 Louisiana submitted a proposal to conduct an
25 assessment of human health risk on Louisiana
00174:01 beaches?
02 A. I remember that.
03 Q. Okay. And Louisiana submitted
04 this proposal to GCIMT for review?
05 A. I believe so, yes.
06 Q. This plan was developed by the
07 State of Louisiana outside of the GCIMT
08 Unified Command, correct?
09 A. Correct.

Page 174:16 to 177:17

00174:16 Q. So I'll draw your attention to
17 the bottom of Page 1 on Exhibit 12192.
18 A. Okay.
19 Q. And under a., it reads, "Members
20 of the group which completed the Operational
21 Science Advisory Team Summary Report for Fate
22 and Effects of Remnant Oil Remaining in the
23 Beach Environment (OSAT-2) were convened to
24 review the Plan."
25 Does that refresh your
00175:01 recollection?
02 A. Yeah.
03 Q. Okay. Did OSAT-2 include
04 members and representatives from the EPA,
05 USGS, NOAA, Coast Guard, and BP scientific
06 consultants?
07 A. They did.
08 Q. Okay. Did -- okay.
09 And I'll draw your attention to
10 the second page of Exhibit 12192 ending in
11 Bates range 299. Did OSAT-2 examine the
12 degradation of both weathered oil and fresh
13 oil residues remaining on, under, or near the
14 shoreline?
15 A. I believe they did.
16 Q. All right. Did OSAT-2 also
17 examine the toxicity of both weathered oil
18 and fresh oil residues remaining on, under,
19 or near the shoreline?
20 A. I don't remember if that was
21 OSAT-2 or the -- or the addendum, so one of
22 them did.
23 Q. Either -- so did OSAT-2 or its
24 addenda examine the toxicity of weathered oil

25 and fresh oil residues remaining on, under,
00176:01 or near the shoreline?
02 A. I believe one of the -- one of
03 them did.
04 Q. Did OSAT-2 focus on a worst-case
05 evaluation of human health risks from oil
06 residue remaining in beach environments?
07 A. I believe it did.
08 Q. Did OSAT-2 analyze residual oil
09 samples on the shorelines of Louisiana,
10 Mississippi, Alabama, and Florida?
11 A. Yes, I believe it did.
12 Q. And then in Exhibit 12192 on the
13 second page under b., it summarizes some of
14 the OSAT-2 conclusions, correct?
15 A. Yes, it did.
16 Q. And one of the conclusions set
17 forth here under subparagraph a. is that the
18 total risks from chemicals in the samples was
19 lower than the EPA acceptable lifetime cancer
20 risk range.
21 Is that correct?
22 A. That's correct.
23 Q. Did OSAT-2 report that human
24 health risks from both short and long-term
25 exposures to residual oil would not result in
00177:01 unacceptable health risks?
02 A. I believe so.
03 Q. Okay. Now, as it related to
04 Louisiana's proposal, was it the consensus of
05 the OSAT-2 core group that Loui- --
06 Louisiana's proposed assessment would not
07 provide additional benefit or value beyond
08 the scope of OSAT-2?
09 A. Correct.
10 Q. Okay. Did you determine as FOSC
11 that Louisiana's proposed plan was
12 duplicative of the efforts of OSAT-2?
13 A. I would agree with that.
14 Q. And that was a determination you
15 reached in conjunction with the OSAT-2 team
16 members?
17 A. Correct.

Page 177:21 to 178:25

00177:21 Did you ultimately disapprove of
22 Louisiana's proposal to conduct an assessment
23 of human health risk on Louisiana beaches?
24 A. I did.
25 Q. Okay. And can you explain
00178:01 your -- your reasoning?
02 A. Based on the science and the
03 study and the duplicative type of process
04 that they wanted to do, it didn't make sense

05 to expend any additional resources for no
06 added benefit and value and -- and insight
07 to -- to the response.
08 Q. And how much time did you and
09 the OSAT-2 core group spend reviewing and
10 analyzing Louisiana's proposal?
11 A. The OSAT-2 spent quite a bit of
12 time. I don't remember exactly how much
13 time, but they went through a -- everything
14 we got we went through very thoroughly to
15 look at and take -- and see what was
16 proposed, did it make sense, and they were
17 looking to see if there was something we
18 might have missed that could add value, but I
19 don't -- we didn't see any of that.
20 Q. Okay. So you didn't see
21 anything in Louisiana's proposal --
22 A. No.
23 Q. -- that added value above and
24 beyond what OSAT-2 had already accomplished?
25 A. Right.

Page 179:02 to 179:18

00179:02 A. And I remember we talked to the
03 State On-Scene Coordinator for Louisiana
04 about that, prior to issuing the actual
05 letter, so we communicated everything that
06 where we were doing. When we found out or
07 when I got results, I would make sure -- in
08 fact, his signature is on here, making sure
09 that we did, indeed, communicate that.
10 Q. Okay. Does Exhibit 12192 set
11 forth the bases for your disapproval of
12 Louisiana's proposed assessment?
13 A. Yes.
14 Q. Okay. Once you made the
15 decision and communicated it to Louisiana,
16 did Louisiana push back or appeal that
17 decision?
18 A. I believe they did.

Page 179:21 to 179:23

00179:21 Louisiana was operating outside
22 of the GCIMT when developing this human
23 health risk assessment, correct?

Page 179:25 to 182:04

00179:25 A. They did not do it with us, in
00180:01 collaboration with us, no.
02 Q. (BY MS. DEMPSEY) Did you make
03 efforts to bring Louisiana to the table to

04 collaborate with you and work within the
05 GCIMT framework?
06 A. All the time.
07 Q. Notwithstanding those efforts,
08 were there times when Louisiana operated
09 outside of the response framework?
10 A. Yes.
11 Q. Were there times other than this
12 assessment that we see in 12192?
13 A. I would say yes.
14 Q. Can you tell me about those?
15 A. They would want to do certain
16 things, one of which -- and, hopefully, we
17 stopped them. I don't know if they actually
18 carried it out.
19 For example, when the
20 wellhead -- well, when they thought there was
21 a sheen by the wellhead offshore, they wanted
22 to do flights, their own flights with their
23 own state plane to examine the sheen on a
24 regular basis. And -- and they did come to
25 me and ask.
00181:01 And I said, no, that is -- you
02 know, that area is not within state
03 jurisdiction; it's federal jurisdiction. And
04 the Coast Guard through the sector whose
05 appropriate jurisdiction it was was already
06 taking a look at it. Plus, we through that
07 GCIMT had already done plans where we
08 actually sent the ROVs down. We had the
09 states invited; and, in fact, Louisiana was
10 in those meetings and actually observed the
11 ROV video as we went down to the wellhead to
12 make sure that things weren't leaking.
13 They insisted that they were
14 going to use their planes, anyway. And I
15 advised them that that would be outside of
16 the response. That is their -- if they want
17 to do that, they can do that, but it's not
18 going to be covered as part of the response.
19 So whether they did or not is a
20 whole other thing, but I understood that that
21 was some -- an example of how they wanted to
22 do an operation outside of the response.
23 Q. And with regard to this
24 situation where there was reports of sheen,
25 did you feel that the Coast Guard and Unified
00182:01 Command had it well in hand in terms of going
02 out to take a look at it with ROVs and
03 overhead flights?
04 A. Absolutely.

Page 182:06 to 182:10

00182:06 A. And we worked closely in

07 coordination with the sectors, too, in whose
08 jurisdiction it was to make sure -- and they
09 issued the -- the directive as well, so the
10 no fee, so...

Page 182:22 to 183:25

00182:22 Q. Okay. When states tried to
23 operate outside of the response, did that
24 complicate Unified Command's response
25 efforts?
00183:01 A. If we found out about it, we
02 pulled in. We just continued on with what we
03 were doing with the Unified Command,
04 regardless of what the state wanted to do.
05 They would express their -- what they did
06 want to do -- to do, but we would -- we would
07 communicate that this is our intent and this
08 is where we're going with this.
09 Oh, I do have one example.
10 Louisiana wanted to do some restoration work
11 on a beach that we were still cleaning. And
12 then we -- we communicated that. And so we
13 told them, no, don't do it, because you're
14 just going to cause us an issue. If you put
15 sands on top of sands we're cleaning, then
16 you've, basically, mitigated because you've
17 now buried the oil, you know, so -- and so
18 they stopped. But we would make sure we
19 communicated really quickly.
20 Q. Okay.
21 A. So anytime we had an issue, we
22 would discuss it, but we would still move
23 forward. We did not let some of what they
24 were talking or saying they would do stop us
25 from moving forward, so...

Page 184:13 to 186:12

00184:13 Q. And what is a Net Environmental
14 Benefit Analysis?
15 A. It's where we look at different
16 treatment options and we try and put a score
17 to it to see which one might make the most
18 sense to -- to go with. It doesn't mean
19 you're going to go with the -- the one, but
20 you get an evaluation of what the impacts
21 are, you look at what the impacts are and you
22 try and look at which one you think meets the
23 best criteria. So you put a score to it.
24 That's the closest thing to, you
25 know, just -- just a weighted score for
00185:01 different things. Again, it's -- it just
02 gives you some options to choose from. Do
03 you have to go with the one with the lowest?

04 No. You just have to look at them and
 05 evaluate each different one and take into
 06 account all the other factors that come along
 07 with it.

08 Q. And in a NEBA, it will weigh the
 09 pros and cons of a certain treatment option,
 10 correct?

11 A. It does. It does. It gives you
 12 food for thought on each of them.

13 Q. And does it help -- strike that.

14 Does a NEBA identify some of the
 15 trade-offs associated with different
 16 treatment options?

17 A. Usually -- sometimes it does.

18 Q. Who participates in developing a
 19 NEBA?

20 A. Usually it's the environmental
 21 unit. You have a lead, and in our case when
 22 we did the NEBAs, we usually had the Coast
 23 Guard as the lead. And then BP would be a
 24 part of it, the state, Department of Interior
 25 always played in that space as well, and any
 00186:01 other impacted federal agency. So any party
 02 that we felt had a vested interest in it, we
 03 would put on the NEBA.

04 Q. Okay. Did individuals with
 05 environmental and spill response experience
 06 participate in the NEBA development?

07 A. Yes, yes.

08 Q. Okay. Do NEBAs assist the FOSC
 09 in assessing the risks and benefits of a
 10 given cleanup option?

11 A. It does. It's one of many tools
 12 that you can use in your tool bag.

Page 188:16 to 188:20

00188:16 Q. So is Exhibit -- just for
 17 purposes of the record, is Exhibit 12193 a
 18 memorandum that you signed on July 1st, 2011,
 19 relating to Louisiana orphan anchors?

20 A. That is correct.

Page 189:03 to 189:22

00189:03 Q. Sure. Does Exhibit 12193 set
 04 forth background information about the Coast
 05 Guard's investigation of orphan anchors?

06 A. Yes.

07 Q. Okay. Did the Coast Guard
 08 conduct an investigation of the potential
 09 risks or hazards that orphan anchors may
 10 present?

11 A. We did.

12 Q. Okay. What was BP's role in

13 that investigation?
 14 A. They were part of the team that
 15 actually went out and looked and did the
 16 research on it.
 17 Q. Okay. Did BP provide some of
 18 the resources, personnel, and funding to
 19 conduct the investigation of the potential
 20 risks or hazards that the orphan anchors may
 21 present?
 22 A. They did.

Page 190:02 to 190:10

00190:02 Q. Did the Coast Guard utilize an
 03 industry leader to successfully and safely
 04 detect orphan anchors in certain locations
 05 using the best available technology?
 06 A. We did.
 07 Q. Okay. Did this investigation
 08 show that there were fewer than expected
 09 anchors left behind?
 10 A. It did.

Page 190:20 to 191:09

00190:20 Q. (BY MS. DEMPSEY) Okay. On
 21 Page 2 of Exhibit 12193 under bullet c.
 22 A. Okay.
 23 Q. I draw your attention to the
 24 last sentence. "In summary, the Phase II
 25 investigation showed that there were fewer
 00191:01 than expected anchors left behind, that those
 02 found were buried in sediment and not a
 03 hazard to boats or fishing, and that" the
 04 "polypropylene rope was not a floating
 05 hazard."
 06 A. Correct.
 07 Q. Okay. Did the Coast Guard
 08 investigation find that orphan anchors were
 09 not a hazard to boats or fishing?

Page 191:11 to 196:12

00191:11 A. We -- based on the study, it
 12 revealed that it would not be.
 13 Q. (BY MS. DEMPSEY) A Net
 14 Environmental Benefit Analysis, or NEBA, was
 15 also prepared for Louisiana orphan anchors,
 16 correct?
 17 A. Correct.
 18 Q. Did you commission this NEBA?
 19 A. Yes.
 20 Q. Okay. What was the purpose of
 21 commissioning the NEBA for the Louisiana

22 orphan anchors?
23 A. We wanted to make sure that if
24 we were going to pull something up, that we
25 weren't causing more damage than good to even
00192:01 wildlife in the area, you know, what kind of
02 impact would it have based on where we think
03 these anchors are, what would it do
04 culturally -- were there any cultural
05 impacts, that kind of stuff. So we wanted to
06 take a look at that and make sure we didn't
07 miss anything.
08 Q. So the NEBA was commissioned in
09 part to where the trade-offs of removing the
10 orphan anchors versus leaving them in place?
11 A. Correct, and what -- what that
12 impact would be on any kind of endangered
13 species or culture or what have you. So it
14 wasn't just, you know, to pick it up for
15 safety and health and human; it was also
16 environment we wanted to take a look at.
17 Q. Okay. So the NEBA considered
18 ecological concerns, wildlife concerns --
19 A. Cultural.
20 Q. -- as well as cultural and
21 archaeological concerns associated with
22 potentially locating and removing orphan
23 anchors?
24 A. Correct. We wanted to look at
25 all bases before we made a decision.
00193:01 Q. Okay. What did the NEBA
02 recommend?
03 A. I believe the NEBA recommended
04 that we leave them in place.
05 Q. Okay. And I will draw your
06 attention to Page 2 of Exhibit 12193 under d.
07 Does that set forth some of the conclusions
08 reached in the NEBA for LA orphan anchors?
09 A. Yes.
10 Q. Did the NEBA recommend allowing
11 the anchors to remain in place to degrade via
12 natural processes?
13 A. Correct.
14 Q. Okay. Did the NEBA recommend
15 leaving anchors in place as the best option
16 for short and long-term environmental
17 considerations?
18 A. I believe so.
19 Q. Okay. Did the NEBA conclude
20 that the orphan anchors prevent -- present
21 very minimal physical risk to commercial or
22 recreational fishing activities or
23 navigation?
24 A. Let me look.
25 Yes.
00194:01 Q. In your view, did Unified
02 Command conduct a thorough and rigorous

03 assessment of orphan anchors in Louisiana?
04 A. Yes.
05 Q. Okay. You'd agree that Unified
06 Command conducted a thorough and rigorous
07 assessment of the trade-offs associated with
08 removing the anchors versus leaving them in
09 place?
10 A. Yes.
11 Q. As FOSC, did you reach a
12 decision about whether or not to remove the
13 orphan anchors?
14 A. I did.
15 Q. Okay. And what was your
16 decision?
17 A. To leave them in place.
18 Q. And was that based on the
19 investigation and the NEBA that had been
20 performed?
21 A. Correct.
22 Q. Okay. Now, On Page 3 of
23 Exhibit 12193, I'll draw your attention to
24 point e. It states that "GCIMT is aware of
25 no documented cases of damage caused to a
00195:01 vessel by the presence of orphan anchors.
02 The FOSC requested such documentation on
03 occasions when anecdotal hearsay of anchor
04 related damage was relayed to the FOSC.
05 However, in spite of requests for
06 documentation of such damage, none has been
07 received."
08 Did you ask Louisiana for
09 documentation of anecdotal hearsay of
10 anchor-related damage?
11 A. Yes, I did.
12 Q. Okay. And did they provide that
13 to you?
14 A. No.
15 Q. Okay. Were you ever presented
16 with any documented evidence of public safety
17 problems associated with orphan anchors?
18 A. Eventually they gave some names
19 near the end of my term and -- but no real
20 contact information for us to get ahold of
21 them. But when we did get them, our folks
22 reached out to try and find these folks and
23 find out what exactly was found or not found;
24 and we didn't find anything, any evidence
25 that it was truly an orphan anchor or from --
00196:01 from the spill related.
02 Q. Okay. I see. So when you asked
03 for documentation, you did receive certain
04 names of people who allegedly had injuries
05 from orphan anchors?
06 A. That was way later than this.
07 We really had to push to try and get those
08 names and -- and contact information for

09 anybody from -- from the state.
10 Q. And then your team followed up
11 with each of those individuals?
12 A. Correct.

Page 196:15 to 198:21

00196:15 Can you tell me what your team
16 found when they followed up with the
17 individuals?
18 A. We couldn't find any validation
19 that any strikes actually happened as a
20 result of any of these orphan anchors.
21 Q. Were you ever presented with any
22 evidence or did you ever speak with anyone
23 who could ver- -- who could confirm public
24 safety problems associated with orphan
25 anchors?
00197:01 A. No.
02 Q. Okay. Was the NEBA for
03 Louisiana orphan anchors shared with
04 officials from Louisiana?
05 A. Yes.
06 Q. Okay. Was the state of
07 Louisiana satisfied with the conclusions and
08 recommendations in the NEBA?
09 A. No.
10 Q. Did they express their concerns
11 to you?
12 A. Yes.
13 Q. Okay. And did you hear them out
14 and communicate with them about their
15 concerns?
16 A. Yes.
17 Q. Okay. Did the State of
18 Louisiana request that the Coast Guard
19 further analyze the orphan anchor issue and
20 remove the orphan anchors in Louisiana?
21 A. Yes.
22 Q. Okay. As FOSC, you rejected the
23 state of Louisiana's request, correct?
24 A. Yes.
25 Q. Okay. And why did you do that?
00198:01 A. We had already done the study
02 repeatedly, so it did -- they didn't provide
03 any more evidence or proof of need that this
04 would cause any damage, so...
05 Q. When -- after you rejected the
06 State of Louisiana's request, did the state
07 appeal your decision or continue to request
08 additional work done on the orphan anchor
09 issue?
10 A. They continued to request.
11 Q. Okay. You stand by the Unified
12 Command's decision not to remove the orphan

13 anchors, correct?
 14 A. Correct.
 15 Q. Did BP support Unified Command's
 16 decision not to remove the orphan anchors?
 17 A. They did.
 18 Q. Okay. Did BP collaborate with
 19 the Coast Guard on the assessment and
 20 investigation of orphan anchors in Louisiana?
 21 A. They did.

Page 199:08 to 202:08

00199:08 Did BP act collaboratively to
 09 evaluate the risks, if any, posed by orphan
 10 anchors?
 11 A. Yes.
 12 Q. As FOSC, did you ever commission
 13 a NEBA relating to shoreline treatment?
 14 A. Yes.
 15 Q. Did you consult the NEBAs for
 16 guidance when making decisions about
 17 shoreline treatment programs?
 18 A. I did.
 19 Q. Did state and local officials
 20 involved in the shoreline response have
 21 access to NEBAs that would be relevant to
 22 their shorelines?
 23 A. Absolutely.
 24 Q. Okay. In your experience as
 25 FOSC, were there instances when state or
 00200:01 local officials requested more aggressive
 02 cleanup than those recommended by a NEBA?
 03 A. Yes.
 04 Q. Can you give me examples of
 05 instances when state or local officials
 06 requested more aggressive cleanup measures
 07 than those recommended by a NEBA?
 08 A. Alabama and West Dauphin Island
 09 and some of their shorelines.
 10 Q. Okay. What about the State of
 11 Louisiana?
 12 A. They might have. They -- they
 13 ran the gamut of don't do it, do it, that
 14 kind of thing. So it's hard to say which
 15 beach and which -- this is from -- from
 16 memory. But they -- they were touch and go
 17 on -- on different ones. So I don't remember
 18 exactly. I couldn't give you a specific
 19 example, but, yeah, there were times when
 20 they wanted more, less, depending on what was
 21 there. I'm trying to think of one for that
 22 one.
 23 Q. Would Middle Ground be an
 24 example of a place where Louisiana
 25 recommended more aggressive cleanup than

00201:01 those recommended by scientists or
 02 environmentalists?
 03 A. I'm trying to think. I think
 04 that was the area in which they wanted us to
 05 dig up the marsh and then try and replant the
 06 marsh and -- and we said, whoa, that's not
 07 right. We can't guarantee anything. And
 08 that's restoration work and -- and that won't
 09 necessarily guarantee that that would remove
 10 the oil. So we held meetings and things,
 11 trying to figure out. So that might be an
 12 example of one of them.

13 In most of Louisiana, they
 14 wanted us to aggressively pursue and take out
 15 oil, period. There was no instance in which
 16 they ever wanted to hear natural attenuation.
 17 So we did examine wherever we could all
 18 techniques and methods to remove oil, so...

19 But, again, I can't -- I don't
 20 remember all the specifics. I just remember,
 21 and I think it was Middle Ground in which
 22 they wanted us to dig up the marsh. We all
 23 kind of went, whoa, wait, digging up a marsh,
 24 the damage, the environmental kind of impact
 25 and the impact to endangered species was very
 00202:01 high, so we were very concerned with that.

02 Q. You mentioned that in most of
 03 Louisiana, they did not want to hear natural
 04 attenuation as a treatment option. My
 05 question is, did Louisiana push back on
 06 natural attenuation as a treatment option for
 07 some of the oiled marsh in Louisiana?

08 A. Correct.

Page 203:03 to 206:14

00203:03 Q. Okay. What does it mean to
 04 clean a beach to an amenity standard?

05 A. That's the deep cleaning of the
 06 beach.

07 Q. Okay.

08 A. That's where they wanted no
 09 visible oil.

10 Q. Were there -- as the FOSC, were
 11 there times when the state or local officials
 12 pressed the Coast Guard to clean critical
 13 wildlife habitats to amenity beach standards?

14 A. Alabama would do that,
 15 especially with West Dauphin Island.

16 Q. With West Dauphin Island, which
 17 state or local officials were pressing the
 18 Coast Guard to clean West Dauphin Island to
 19 an amenity beach standard?

20 A. Well, the -- the landowner was,
 21 but the -- the state officials were Steve

22 Jenkins, the Alabama SOSC, and the mayors who
 23 collaborated with the landowner and -- and
 24 the State.

00204:01 25 Q. Uh-huh. Okay. Alabama SOSC and
 the local Alabama mayors --

02 A. Uh-huh.

03 Q. -- wanted to clean West Dauphin
 04 Island to an amenity standard despite the
 05 environmental risks associated with that
 06 approach?

07 A. Right. We actually, DOI knew --
 08 well, they expressed concern because it
 09 was -- it's -- it's a barrier island and it
 10 has endangered species. In fact, the
 11 landowner, Riley Boykin Smith, also sent us a
 12 letter of the same accord, saying that this
 13 is critical habitat and the whole nine yards.
 14 So we -- we took that into account.

15 Unfortunately, he also wanted it
 16 deep cleaned, but that -- it went counter to
 17 his own letter, which admitted that it was
 18 in -- in, you know, critical habitat. So
 19 they sent a pretty big letter.

20 Q. In the instances where state or
 21 local officials requested more aggressive
 22 cleanup measures, did Unified Command go back
 23 and forth with them about an appropriate or
 24 acceptable response treatment level?

00205:01 25 A. Absolutely. And, in fact,
 that's one of the areas we did a NEBA to see
 02 different options and what would fit, that it
 03 was a balancing act with them, so -- but we
 04 did -- we did quite a bit of discussions and,
 05 in fact, meetings with the mayors and
 06 everyone else to -- to go through this, so...

07 And Congressman -- even
 08 Congressman Bonner.

09 Q. In your opinion, did this back
 10 and forth over West Dauphin Island prolong or
 11 extend the duration of the response there?

12 A. No. What was really tough for
 13 that response area was because the endangered
 14 species, its location, weather in that --
 15 that really was the contributing factor for
 16 them. It was very hard to get in there, and
 17 it was very hard to clean that island
 18 quickly, as all the barrier islands. We had
 19 quite a difficult time with any of the
 20 barrier islands, because you put equipment
 21 out there and then if a storm came, we had to
 22 get the equipment off. So it was really
 23 tough.

24 And then you have all the
 25 endangered species seasons, and those seasons
 00206:01 are what really slowed us down at times,
 02 which it happens. You know, that's protected

03 islands and protected spaces and you have to
04 be respectful of that and -- and do the right
05 due diligence by the law, and that's really
06 what took us the time.

07 So we tried different things.
08 We tried turtle-sniffing dogs to try and find
09 turtle nest eggs so that we can continue
10 working during turtle season. So we tried to
11 a few other things to get us on those islands
12 sooner and/or for a prolonged period of time
13 to be able to work the -- work the cleanup
14 efforts, so...

Page 206:18 to 206:24

00206:18 Q. West Dauphin Island is also
19 sometimes referred to as West Point Island,
20 correct?

21 A. Correct.

22 Q. Okay. And West Point Island is
23 located in Alabama?

24 A. It is.

Page 207:08 to 207:25

00207:08 Q. Okay. And did the NEBA
09 recommend natural attenuation as the
10 appropriate treatment method?

11 A. I don't remember. I remember
12 there were two of them that were very close
13 in the numbers, and natural attenuation was
14 not what we selected for a variety of
15 reasons. We knew that natural attenuation
16 was not going to be appropriate for there
17 because their concern with tar balls and
18 coming over and going onto their amenity
19 beaches. So we knew that was not going to be
20 the right option.

21 What we decided was to put the
22 same due diligence and care, as we did all
23 the other barrier islands, versus treating
24 them differently. So it was the same
25 standards for all the barrier islands.

Page 208:05 to 208:15

00208:05 Q. (BY MS. DEMPSEY) Okay. I'll
06 direct your attention to that third page of
07 Exhibit 12194.

08 A. Uh-huh.

09 Q. And this is an e-mail from you
10 to Mr. Jenkins on June 15, 2011, correct?

11 A. Uh-huh.

12 Q. Mr. Jenkins was serving as

13 Alabama State On-Scene Coordinator at the
14 time?
15 A. Correct.

Page 208:22 to 214:13

00208:22 Q. And in this e-mail to
23 Mr. Jenkins, you state that you will follow
24 the advice that has been provided in the NEBA
25 to allow for natural attenuation except for
00209:01 the eastern tip, which was apparently
02 amenity.
03 A. Correct.
04 Q. Okay. And you were referencing
05 advice in one of the NEBAs for West Point
06 Island, correct?
07 A. Right.
08 Q. Okay. Now, Mr. Jenkins responds
09 to you on June 17, 2011, correct?
10 A. Yes.
11 Q. And he says in the third
12 sentence, "It appears that the USCG desires
13 to 'cut and run' and abandon the prior
14 commitment to respond until all recoverable
15 oil is removed and ignoring the Unified
16 Command's Shoreline Plans."
17 Do you see that?
18 A. I do.
19 Q. From your perspective, was your
20 decision to file the advice of the NEBA akin
21 to abandoning commitments to clean Alabama's
22 shoreline?
23 A. No.
24 Q. Okay. Can you --
25 A. We -- we don't do that. We
00210:01 don't abandon. We look at what's the best
02 method and recommendations based on the
03 science of everything. And based on what we
04 got input with, that was the recommendation.
05 Now, like I said, we did
06 multiple NEBAs, and the state was invited to
07 participate and put their input in, which
08 makes a difference because you want that
09 input. Getting them to the table is tough.
10 But once they did, we -- we
11 could do other NEBAs and take their -- more
12 input in from them and what their -- their
13 scores were, because we do want their input
14 because they may know things that we don't.
15 So are we willing to reconsider? Sure.
16 Q. For some period of time, was it
17 difficult to bring Alabama to the table to
18 discuss treatment for West Dauphin Island?
19 A. Absolutely.
20 Q. Okay. From the Unified

21 Command's perspective, did that make it more
22 difficult to craft appropriate treatment
23 options for West Dauphin Island?
24 A. It didn't stop us. As you can
25 see, we were going to move forward one way or
00211:01 another. The -- the invitation is for them
02 to represent their best interest at the table
03 and we invite them and we encourage them and
04 we want them. When they don't play at the
05 table, then we may take a course of action
06 that they don't agree with, as we can see
07 here.

08 Once they realized we were still
09 going to move forward, then they decide they
10 want to now participate a little bit more,
11 and which we invite. Did it slow anything
12 down? I don't think it really slowed it
13 down. I think it was doing the due diligence
14 to make sure that everybody was taking into
15 account everything and making sure that there
16 was truly no damage being done, because when
17 you see something that's happening, you want
18 to make sure, and it's -- you -- you own that
19 responsibility to check that out.

20 Q. When Alabama would not come to
21 the table, as in West Dauphin Island, does it
22 complicate the response to some degree?

23 A. It complicates it in that you're
24 not getting their input. And eventually we
25 did push back on Steve Jenkins and say we had
00212:01 a lost confidence in him, and he was
02 replaced. So we did take actions to remove
03 him and put someone in there that could
04 physically be there and participate. We felt
05 that that was important, so.

06 Q. Can you tell -- tell me about
07 that circumstance where you expressed a vote
08 of no confidence in Mr. Jenkins?

09 A. That was back when we were -- he
10 submitted an e-mail accusing me of accusing
11 folks of being political, at which point it
12 raised all kinds of -- of different things,
13 and that was the whole communications piece,
14 where they were stating that they weren't
15 receiving things or they didn't understand
16 it, that we didn't have plans, which was
17 enlightening for us, that we realized there
18 may not be communications, that his inability
19 to be locally with them and be with us was
20 possibly causing some issues and that he
21 wouldn't represent things accurately, we were
22 not happy with. We want true transparency.

23 We wanted to make sure
24 everything was communicated, that everybody
25 was on the same page and helping to make the
00213:01 right input for decisions. And if he's not

02 physically there, you can't do that as well.
03 But we were going to move forward one way or
04 another. The response has to move forward.
05 So we were not going to let him slow us down.

06 So we took the best input we can
07 from the facts that we had, and we started
08 moving forward and -- but we communicated
09 back, made sure he was aware, and he had an
10 opportunity to come back and -- and that was
11 kind of poking the bear to get him to -- to
12 play a little bit more.

13 Q. So based on your experiences, it
14 seemed that Alabama's State On-Scene
15 Coordinator, Mr. Jenkins, was not being
16 transparent during the response?

17 A. No.

18 Q. No, he was not being
19 transparent?

20 A. He -- I mean, he was being
21 transparent to a point, but I don't think he
22 was communicating. I should clarify. He
23 wasn't communicating with us as quickly, nor
24 was he communicating, it appeared, based on
25 what we saw, with the locals as much as he
00214:01 probably should have.

02 And, like I said, that's why we
03 asked for him to be removed. We wanted
04 somebody who could participate, and we put
05 our own person down there to -- to change the
06 dynamics and make sure that we were getting
07 that information down there.

08 Q. Would you agree that
09 Mr. Jenkins, the State On-Scene Coordinator,
10 was not meeting the expectations that you had
11 for a State On-Scene Coordinator during a
12 spill response?

13 A. Yes.

Page 214:17 to 215:07

00214:17 After Mr. Jenkins was removed as
18 State On-Scene Coordinator, do you recall who
19 took his place?

20 A. Oh, shoot. I can't remember his
21 name. But he -- he participated quite --
22 quite a lot. He made regular rounds between
23 us and the local. So he would bounce between
24 the two, and it seemed to help a lot. And --
25 and with us having our Coast Guard person

00215:01 down there more regularly and bouncing and
02 having regular meetings with the mayors, that
03 seemed to bridge whatever gap was there
04 before that.

05 Trying to think of who it was.

06 Q. Let's turn back to

07 Exhibit 12194, looking at the second page.

Page 215:09 to 215:25

00215:09 Q. You respond to Mr. Jenkins on
 10 June 17th, 2011, correct?
 11 A. I did.
 12 Q. And you state, "So for now, I'm
 13 following the NEBA to do the least invasive
 14 method for now, since I have to now go in and
 15 do an assessment on the damage (including
 16 biological) we may have done from the
 17 cleaning thus far, based on the permits
 18 showing that this was not an amenity beach."
 19 Do you see that?
 20 A. Uh-huh.
 21 Q. Okay. Do you know who had
 22 represented to the Unified Command that West
 23 Point Island was an amenity beach?
 24 A. Steve Jenkins. He was the one
 25 that told us it was.

Page 216:03 to 218:13

00216:03 Based on your team's
 04 investigation and review of the permits, you
 05 discovered that West Dauphin Island was not,
 06 in fact, an amenity beach?
 07 A. Correct.
 08 Q. In your e-mail to Mr. Jenkins,
 09 in the third paragraph, you continue, "So the
 10 CG," Coast Guard, "is not cutting and
 11 running. We don't do that. We do stop and
 12 re-evaluate when we are told to pursue a
 13 course of action that is inappropriate and
 14 could have caused more damage than good. I'm
 15 surprised that folks like ADEM," Alabama
 16 Department of Environmental Management,
 17 "would have proposed such an action when
 18 utilizing a sand shark could have the
 19 potential to undermine the structure of the
 20 island not to mention destroying an ecosystem
 21 that supports critical habitat."
 22 Do you see that?
 23 A. Correct.
 24 Q. In your opinion, had Alabama
 25 officials proposed a course of action at West
 00217:01 Dauphin Island that could have caused more
 02 damage than good?
 03 A. I believe they did.
 04 Q. Okay. In your opinion, had the
 05 Alabama Department of Environmental
 06 Management proposed a course of action that
 07 had the potential to undermine the structure
 08 of West Point Island and destroy an ecosystem

09 that supports critical habitat?
 10 A. We weren't sure, and we were
 11 concerned that it might, so that was the
 12 question.
 13 Q. Uh-huh. Alabama's proposal at
 14 least had the potential --
 15 A. Correct.
 16 Q. -- to undermine the structure of
 17 the island and destroy the ecosystem?
 18 A. Correct.
 19 Q. Okay. In this e-mail you raised
 20 your concerns about cleaning West Dauphin
 21 Island to an amenity beach standard with
 22 Alabama's On-Scene Coordinator, correct?
 23 A. Correct.
 24 Q. Notwithstanding the concerns
 25 that you expressed, did Alabama's On-Scene
 00218:01 Coordinator continue to press the Coast Guard
 02 to clean West Point Island or West Dauphin
 03 Island to amenity beach standards?
 04 A. Yes.
 05 Q. Okay. Did the State of Alabama
 06 urge you, as the FOSC, to clean West Point
 07 Island to an amenity beach standard?
 08 A. Yes.
 09 Q. Okay. While Mr. Jenkins was the
 10 State On-Scene Coordinator for Alabama, how
 11 frequently did you interact with him?
 12 A. More via e-mail, because he
 13 wouldn't show up at the GCIMT.

Page 218:18 to 221:04

00218:18 Q. Okay. When you say "he wouldn't
 19 show up," was he invited to show up at GCIMT?
 20 A. Oh, absolutely. He had a seat
 21 at the table in Unified Command, and he would
 22 frequently not be there. He would join us
 23 via teleconference or something like that.
 24 Q. Did other State On-Scene
 25 Coordinators appear in person at GCIMT?
 00219:01 A. They did.
 02 Q. Okay. Was Alabama's State
 03 On-Scene Coordinator the only one to
 04 regularly not show up in person?
 05 A. Pretty much. Florida -- Florida
 06 wasn't there for a little bit, but we were --
 07 we worked that out and got them to the table.
 08 And they were -- theirs was more concerned
 09 with funding, because they didn't touch the
 10 grant that they received. So we worked with
 11 them to either do a pro forma or work with
 12 the grant. So once they did that, they came
 13 to the table, and they were there every day.
 14 So they were active participants.

15 Q. So Alabama State On-Scene
 16 Coordinator was, more or less, the only State
 17 On-Scene Coordinator that was not an active,
 18 in-person participant at GCIMT meetings?
 19 A. Correct. I mean, he wasn't
 20 present. He would call in to meetings, but
 21 he was not in the room for the day-to-day
 22 dynamics and questions and -- and kinds of
 23 things. We would have to reach out to him
 24 remotely and get his participation.
 25 Q. Okay. Did you feel that his
 00220:01 participation was less effective than some of
 02 the other State On-Scene Coordinators that
 03 were at GCIMT?
 04 A. Yes.
 05 Q. Okay. Do you feel that
 06 Mr. Jenkins -- strike that.
 07 Do you feel that the quality
 08 level of Mr. Jenkins' participation was a
 09 disservice to the State of Alabama during
 10 cleanup?
 11 A. I think it was less than
 12 stellar. Dismervice? It caused, you know,
 13 flare-ups I think that were unnecessary. In
 14 the end, as far as cleanup-wise, we still
 15 worked forward in the operations piece. And
 16 if we had to work with the locals, we did
 17 that regardless of Mr. Jenkins. It's just
 18 his inability to communicate well. I think
 19 just made more noise than was necessary and
 20 didn't work -- make it more of a
 21 collaborative -- collaborative sense, so to
 22 speak. And he really needed to work with his
 23 peers, the other SOSCs within the Unified
 24 Command.
 25 The new SOSC that came in did do
 00221:01 that, which was great, because they could
 02 then work together and say, you know, your
 03 state, my state, we're all on the same page
 04 and here's how we want to work together.

Page 221:12 to 221:14

00221:12 Q. Did you feel that the Unified
 13 Command's cleanup operations in the state of
 14 Alabama were a success while you were FOSC?

Page 221:16 to 222:05

00221:16 A. Yeah. Well, define "success."
 17 Did we clean up? Yes. Were there still
 18 areas that were difficult to clean up? Sure.
 19 But did we pick the techniques that we felt
 20 were most appropriate to do the job for
 21 the -- the cleanup efforts that were there?

22 Absolutely. Were there challenging areas?
 23 Yes. Are there still challenging areas?
 24 Yes.
 25 So -- but I don't think his
 00222:01 performance would have stopped what we were
 02 doing. It wouldn't have changed anything,
 03 let's put it to you that way, as far as what
 04 we did. We still had STR recommendations,
 05 and we went off those.

Page 222:22 to 223:01

00222:22 Q. (BY MS. DEMPSEY) In
 23 Exhibit 12195, at the top of the first page,
 24 there is an e-mail from you to Mr. Hodges on
 25 August 9, 2011, correct?
 00223:01 A. Correct.

Page 223:16 to 224:11

00223:16 Q. Okay. In the third paragraph in
 17 your e-mail to Mr. Hodges, you write, "I'm
 18 assuming Roy is feeding Steve Jenkins. I
 19 haven't heard from Steve at all...he fell off
 20 the face of the earth for whatever reason."
 21 Did I read that correctly?
 22 A. You did.
 23 Q. In your experience, was
 24 Mr. Jenkins' Alabama's State On-Scene
 25 Coordinator unavailable or unresponsive for
 00224:01 periods of time during the response?
 02 A. Yes.
 03 Q. Okay. Was that frustrating for
 04 you as the FOSC?
 05 A. It was frustrating, but, again,
 06 it didn't really stop us. As you can see, we
 07 kept the information flow going and still
 08 working with the mayors and still trying to
 09 move forward with the response. We just
 10 didn't let him get in the way of slowing us
 11 down. We needed to get actions done.

Page 224:17 to 228:19

00224:17 Q. Okay. And while you served as
 18 FOSC, did you feel that Unified Command made
 19 progress in shoreline treatment across the
 20 affected Gulf Coast?
 21 A. Yeah, made quite a bit of
 22 progress.
 23 Q. Okay. During your tenure as
 24 FOSC, did you feel that you and the GCIMT
 25 made substantial contributions to the
 00225:01 shoreline cleanup and treatment in the Gulf

02 Coast?
03 A. Yes.
04 Q. In Exhibit 12195, you continue,
05 "Steve's marching orders from the Governor is
06 to do whatever keeps the Mayors happy."
07 What was the basis for your
08 understanding that Alabama's governor had
09 given marching orders to the State On-Scene
10 Coordinator to do whatever kept the mayors
11 happy?
12 A. That's what we were told from
13 the other Alabama representatives.
14 Q. Okay. Do you remember which
15 Alabama representatives?
16 A. No, I don't. It can -- it came
17 up from us from -- from other Alabama folks.
18 Q. Okay. In your e-mail in
19 Exhibit 12195, you continue, "So when they
20 yell, he just goes with their flow. So
21 hopefully the liaison can get ahead of that
22 game play and put an end to some of the mass
23 craziness."
24 Did I read that correctly?
25 A. Correct.
00226:01 Q. And when you say "the liaison,"
02 are you referencing the Coast Guard liaison?
03 A. Coast Guard liaison.
04 Q. Okay. What kind of game play
05 were you referencing in your e-mail on
06 Exhibit 12195?
07 A. I'd have to remember what was
08 going on at the time. I think that was about
09 the same time as the -- the whole incident
10 with the hurricanes and other stuff that was
11 going on, in general.
12 Q. Okay.
13 A. So there was -- there was
14 yelling and screaming here and there. We had
15 some things where Alabama, the mayors, wanted
16 us to clean the beach quickly, but then when
17 he would have tourists, we had to stop for
18 certain reasons. So there was different
19 things that were going on throughout the time
20 period we were there. So it was hurry up,
21 clean, but, wait, stop, we've got this
22 incident going on, so we need you to stop.
23 So we would -- we would work with them.
24 So what we were hoping was by
25 putting a liaison in there and talking
00227:01 regular -- and meeting regularly with the
02 mayors, that we could get their concerns well
03 in advance and then work with them to -- so
04 that it doesn't become a big issue or a
05 blowup that seemed to be happening quite
06 frequently. And we just wanted to make sure
07 the coms were there, so...

08 Q. Okay. Were there times during
09 the response when the Gulf states would ask
10 Unified Command to stop or halt cleanup of
11 certain shoreline?

12 A. Absolutely.

13 Q. All right. Did this necessarily
14 extend the length of time that oil or tar
15 balls were on the shoreline?

16 A. Well, they're going to be there.
17 Did it stop the response? I mean, they would
18 ask, for example, for a day or something like
19 that. Hey, we need to -- we've got this
20 event or this incident, or they would ask you
21 to clean up during certain periods of time,
22 because part of their issue was they didn't
23 want the appearance of the BP oil spill
24 response at the same time they're trying to
25 recover in their economy.

00228:01 So it was a balancing act
02 between cleaning up as well as helping them
03 to rebuild and -- and get to where they
04 wanted to be. They didn't want people to be
05 afraid. So we worked with them on what made
06 the most sense of how we could continue to
07 move forward and clean in an efficient manner
08 without interrupting too much with their --
09 their continued growth and the economy,
10 trying to get them back to a normal state.

11 Q. I see. So when your -- in your
12 experience, Alabama wanted to send a message
13 to the public that the beaches were clean and
14 people could come back to them?

15 A. Yes, that's what they wanted,
16 uh-huh, and they were getting tourism back.
17 So they wanted to be very careful that people
18 don't get afraid, seeing beach cleaners and
19 things like that.

Page 228:24 to 229:18

00228:24 Q. I think you testified before
25 that state or local officials may have
00229:01 requested more aggressive cleanup efforts at
02 Middle Ground than those recommended by
03 shoreline experts; is that correct?

04 A. Yeah, they wanted us to -- at
05 one point they wanted us to dig up the
06 marshes and as a possible treatment
07 recommendation.

08 Q. Okay. And, to your knowledge,
09 did environmentalists and shoreline experts
10 have concerns about risks associated with
11 digging up the marshes?

12 A. Yes.

13 Q. Were those concerns shared with

14 the State of Louisiana?
15 A. Yes.
16 Q. And Middle Ground is located in
17 Louisiana, correct?
18 A. It is.

Page 230:23 to 231:16

00230:23 Q. Okay. All right. Setting aside
24 Dr. Mendelson for a moment. Would you agree
25 that the Middle Ground cleanup is one
00231:01 instance of Louisiana pressing for more
02 aggressive cleanup methods than those
03 recommended by scientists and
04 environmentalists?
05 A. That would be an example. We
06 thought it was pretty -- pretty aggressive.
07 And we were still researching, while I was
08 there, different methods and -- and, you
09 know, even we would explore after a tropical
10 storm to see did any kind of surf action help
11 to mitigate some of the oil, but it was
12 pretty well entrained, and even then we
13 didn't find any resolution for that. So that
14 was still ongoing as I departed, trying to
15 figure out a means to -- to mitigate this
16 oil.

Page 231:25 to 233:12

00231:25 To your recollection, while you
00232:01 were FOC, did Louisiana officials request
02 more aggressive cleanup efforts for a certain
03 marsh or beach than those recommended by a
04 NEBA or by shoreline experts?
05 A. Middle Ground.
06 Q. Uh-huh.
07 A. But I would -- I would say yes,
08 that Middle Ground is one of them. I can't
09 think of all the others. It's been awhile.
10 Q. But there were others?
11 A. I believe there were others
12 and -- you know, and their main concern was,
13 like I said, fin, feather, and fur. If there
14 was any kind of liquid oil or sheening, their
15 concern was what impact that would have on
16 especially the bird -- bird population,
17 because, you know, they can get in, they have
18 all different kinds of species; and they were
19 concerned because they can hide in the
20 marshes and places that we may not be able to
21 get to, but this oil was still there and
22 still kind of bleeding, so to speak.
23 Whenever the temperatures would
24 go high, the sheen would happen, and we

25 just -- it cause -- posed a harm to them, in
00233:01 their opinion.

02 Q. Now, the -- the NEBAs that were
03 performed for Louisiana marshes, those would
04 have taken into account ecological concerns
05 and wildlife concerns, correct?

06 A. Correct.

07 Q. Okay. So if a NEBA for
08 Louisiana marshes or wetlands recommended
09 natural attenuation, it had reached that
10 conclusion having taken into account the
11 ecological and wildlife concerns?

12 A. Right.

Page 234:03 to 234:05

00234:03 Q. Okay. Looking at Exhibit 12196,
04 I'd like to draw your attention to the page
05 ending in Bates range 947.

Page 234:15 to 236:09

00234:15 Q. Okay. Do you know who Trudy
16 Fisher is?

17 A. She was their director, I
18 believe.

19 Q. She was the director of
20 Mississippi's Department --

21 A. I think it was Department of
22 Environmental Quality.

23 Q. Okay. And Ms. Fisher indicates
24 "Mississippi does not want visual
25 determination of what is or is not MC252

00235:01 oil," correct?

02 A. According to her e-mail, yes.

03 Q. She continues, "Second, we
04 expect BP contractor to pick the material up
05 off our beaches quickly and to be so directed
06 by Coast Guard, it appears to me Coast Guard
07 is to readily willing to determine material
08 is not MC252 by just looking at it. Pick the
09 material up -- especially as we enter tourist
10 season."

11 Did I read that correctly?

12 A. Yes.

13 Q. Okay. In your experience as
14 Federal On-Scene Coordinator, did Mississippi
15 expect BP to clean up all tar balls on
16 Mississippi beaches regardless of whether the
17 tar balls were known or suspected to be
18 MC252?

19 A. I think their director did in
20 this, but I don't believe the State On-Scene
21 Coordinator did, Michael Slack. They rotated
22 Michael Slack and Wayne Stover. He was fully

23 aware of the -- the format and the issues.
 24 They knew that we can't hold other pe- --
 25 the -- BP responsible for other people's oil.
 00236:01 So there is a lot of emotions
 02 that were going on and some folks not
 03 understanding how it all works. So part of
 04 the process was to help educate them on the
 05 process.
 06 So I remember Michael Slack --
 07 you know, a few of them asked us for
 08 assistance in trying to help explain how the
 09 laws work, how the process works for them.

Page 236:11 to 236:16

00236:11 So there were some individuals,
 12 including Mississippi's director of
 13 environmental quality, who wanted BP to pick
 14 up all tar balls on Mississippi beaches,
 15 regardless of whether or not they were MC252?
 16 A. Right.

Page 236:18 to 236:18

00236:18 A. I just think she --

Page 236:20 to 238:10

00236:20 A. (Continuing) Yeah, I just think
 21 she -- she didn't understand the process. A
 22 lot of folks didn't understand the process.
 23 This is new to them. It's not -- they're
 24 used to FEMA type process. They didn't
 25 understand how -- what the laws were and how
 00237:01 it works, because they're not normally a part
 02 of that.

03 So we had -- we had instances of
 04 this throughout the response, where --
 05 especially earlier on, you know, folks did
 06 not understand the rules of engagement and
 07 how you do it and who's responsible for what.
 08 So, of course, that was all the concept that
 09 all oil was BP oil.

10 Q. (BY MS. DEMPSEY) So for some
 11 folks in the Gulf Coast who didn't understand
 12 the Unified Command cleanup process, there
 13 was a perception that all oil was BP oil and
 14 BP was responsible for cleaning up all oil?

15 A. Correct.

16 Q. Okay. And you'd agree that
 17 neither the NCP nor any other federal law
 18 authorized the Coast Guard to direct BP to
 19 pick up oil or tar balls from another spill?

20 A. Correct.

21 Q. Okay. Nonetheless, would you
22 agree that BP voluntarily picked up tar balls
23 that were known or suspected not to be MC252
24 during the response?

25 A. In some cases they did, and if
00238:01 we weren't sure, BP -- BP did collect some
02 saying we didn't want to spend the time or
03 money to fingerprint it and we assume it is
04 and they -- they took -- they took it on,
05 so...

06 Q. So BP voluntarily took on the
07 job of picking up and cleaning up some tar
08 balls that were known or suspected not to be
09 MC252?

10 A. In some cases.

Page 238:13 to 238:17

00238:13 Q. (BY MS. DEMPSEY) Okay. In your
14 experience, were you aware of instances when
15 BP crews were actively working on a segment
16 and would pick up non-MC252 oil if they came
17 across it?

Page 238:19 to 238:25

00238:19 A. I think there were some on some
20 of the beaches that they -- they weren't sure
21 on, and it's based on the consistency of what
22 they looked at.

23 Q. (BY MS. DEMPSEY) And in those
24 instances, you're aware that they cleaned up
25 the non-MC252 oil?

Page 239:02 to 239:02

00239:02 A. Right.

Page 239:06 to 239:09

00239:06 Q. Okay. Let me direct your
07 attention to Deputy -- Deputy Incident
08 Commander Avanni's response at the page
09 ending in 946.

Page 239:16 to 240:08

00239:16 Q. And who is Deputy Incident
17 Commander Avanni?

18 A. He is actually -- he was
19 actually at the time the CEO of the Gulf
20 Coast strike force team in Mobile, Alabama.

21 Q. Okay. Would you characterize

22 Deputy Incident Commander Avanni as an
23 experienced responder?
24 A. Absolutely.
25 Q. Okay. In your dealings with
00240:01 Deputy Incident Commander Avanni, was he
02 competent and knowledgeable about spill
03 response?
04 A. Oh, absolutely.
05 Q. Okay. Now, Deputy Incident
06 Commander Avanni responds to Mike and Wayne
07 on May 5th, 2011, correct?
08 A. Correct.

Page 240:11 to 240:18

00240:11 Who was Mike Slack?
12 A. He is the State On-Scene
13 Coordinator for Mississippi.
14 Q. Okay. And if you know, who was
15 Wayne Stover?
16 A. He was also the State On-Scene
17 Coordinator for Mississippi. So those two
18 would rotate in and out.

Page 241:10 to 242:20

00241:10 Q. Deputy Incident Commander Avanni
11 writes, "Since November, there have been
12 approximately 26 incidents where upon visual
13 determination the experienced and trained
14 responders have found tarballs that are not
15 consistent with the weathering patterns of
16 MC-252. Of the 26 samples taken, 26 of them
17 have been confirmed through oil
18 fingerprinting analysis to be non-MC-252 oil.
19 Our experienced and trained professionals
20 have a full understanding of how oil weathers
21 over time and we have been thus far 100%
22 accurate with our initial visual
23 determinations of whether or not it is
24 MC-252," period.
25 Did I read that correctly?
00242:01 A. Yes.
02 Q. Okay. Based on your experience
03 in the response, do you agree with Deputy
04 Incident Commander Avanni that the trained
05 responders had a high level of accuracy in
06 the visual determination of whether oil was
07 or was not MC252?
08 A. Yes.
09 Q. In your experience, were trained
10 responders able to visually distinguish
11 between MC252 tar balls and tar balls from
12 other spills with a high level of accuracy?
13 A. Yes.

14 Q. Excuse me. On the bottom of
 15 page ending in 946, I'll draw your attention
 16 to another clarification. Do you see that?
 17 A. Okay. Clarify/comment? Or
 18 clarification?
 19 Q. Below it, yeah.
 20 A. Okay.

Page 242:22 to 243:18

00242:22 Deputy Incident Commander Avanni
 23 states, "The number one goal of this response
 24 has been and always will be - we are working
 25 to complete a proper and complete response as
 00243:01 quickly and efficiently as possible..."
 02 Do you see that?
 03 A. I do.
 04 Q. Do you agree with Deputy
 05 Incident Commander Avanni that a primary goal
 06 of the response was to complete a proper and
 07 complete response as quickly and efficiently
 08 as possible?
 09 A. Yes. And safely.
 10 Q. And safely. And that was your
 11 goal during your time as the FOSC?
 12 A. Right, that was one of my No. 1
 13 priorities.
 14 Q. Okay. As FOSC, do you feel that
 15 you achieved your goal of progressing a
 16 proper and complete response as quickly and
 17 efficiently as possible?
 18 A. Yes.

Page 243:25 to 244:15

00243:25 Q. Okay. Deputy Incident Commander
 00244:01 Avanni writes, "The proposed solution of
 02 continuing to have BP continue to respond to
 03 everything will guarantee that this response
 04 is extended," period.
 05 Did you agree that Mississippi's
 06 proposal of having BP continue to respond to
 07 everything would extend the spill response?
 08 A. I don't know that they were
 09 responding to everything, because they
 10 weren't responding to everything. But if
 11 they were held accountable to respond to
 12 everything, it could, because if we were
 13 doing other things than what we needed to do,
 14 then it would create some kind of impact to
 15 the timeline, so...

Page 244:22 to 247:20

00244:22 Q. I guess my thinking, though, is
23 if BP is indefinitely called upon to respond
24 to everything, because there are some level
25 of background oiling, the response would

00245:01 never end?

02 A. Well, it depends on -- remember,
03 you're also negotiating end points. So it
04 would end at some point, and the -- the FOSC
05 always has that determination of as
06 reasonably practicable. So if it's not
07 something that's BP's, obviously, we would
08 make that determination and go hold the other
09 responsible party accountable. We really
10 wanted to follow the rules, so that's why
11 she's mad.

12 Q. We've looked at a number of
13 examples today in which various Gulf states
14 challenged the Unified Command's decisions to
15 some degree. Can you recall any other state
16 or local actions during the response that
17 made the response more complicated?

18 A. Well, it was a complicated
19 response, period. I mean, it's
20 unprecedented; and you're going to expect a
21 level of arguments, controversy, and
22 fighting. So it's -- it's hard to say for
23 this one.

24 Q. Okay.

25 A. Is it above normal or not above
00246:01 normal? That's hard to say, because you
02 really didn't have this level ever before.
03 It's -- I think sensitivities were high, so I
04 think there were some challenges. Louisiana
05 challenges when -- obviously, with orphan
06 anchors and things like that. If there were
07 some things that they wanted further on, they
08 challenged it, and -- and rightly so. They
09 have the right to challenge and make -- make
10 us pull up and look at and make sure we're
11 addressing all avenues, all aspects so that
12 we don't -- don't do our due diligence in --
13 in looking at all avenues and -- and making
14 sure that we're looking at every different
15 angle we could possibly look at, because
16 ultimately we answer to the public and -- and
17 their health and human safety.

18 So do I think it was above and
19 beyond? Can I think of other things? Not
20 really that we haven't already talked about.
21 But was it difficult times? Sure. So -- but
22 they have the right to -- to argue when they
23 need to or they were concerned, and rightly
24 so. Is it hard? Is it frustrating? Yes.

25 Is it disproportionate based on the level of
00247:01 this response? It's hard to say, because we
02 haven't had this kind of response. But

03 sensitivities were high. So I expected it
04 was going to happen, so -- but we moved
05 forward.
06 And that's the thing. Everybody
07 worked, I think, in the end to try and find
08 solutions to move the response forward in a
09 quick and timely fashion, and that's really
10 the ultimate goal.
11 Q. So ultimately Unified Command
12 moved forward in a quick and timely fashion
13 during the response?
14 A. Yes.
15 Q. Okay. And did BP contribute and
16 support Unified's efforts to move the
17 response forward in a quick and timely
18 fashion?
19 A. Yes, they were a player at the
20 table, so...

Page 247:24 to 248:03

00247:24 Q. During the response, you'd agree
25 that Coast Guard and BP sought to ensure the
00248:01 safety and protection of response workers,
02 correct?
03 A. Yes.

Page 249:16 to 253:04

00249:16 Q. Okay. In your experience, did
17 BP support Unified Command's efforts to
18 ensure the safety and protection of response
19 workers?
20 A. They did.
21 Q. In what ways did BP support the
22 Coast Guard and Unified Command's efforts to
23 protect response workers?
24 A. Well, they -- they worked with
25 us collaboratively in the -- in the safety
00250:01 arena and the safety units, and they helped
02 provide the equipment. We asked for certain
03 things, they -- they helped provide it. And
04 they were just as adamant that they didn't
05 want anybody getting hurt. So I think
06 everybody was in full agreement there.
07 Q. Would you agree that safety was
08 a focus across the entire response
09 organization?
10 A. Absolutely, 100 percent.
11 Q. Okay. Would you agree that BP
12 made worker health a top priority during the
13 response?
14 A. Worker health as far as safety,
15 as far as being treated and that kind of
16 stuff, yes.

17 Q. Now, you testified that in your
18 experience during the response, BP worked
19 with others in the Unified Command to respond
20 to the spill, correct?
21 A. Yes.
22 Q. Okay. BP assisted the Unified
23 Command's efforts to respond to the spill?
24 A. Yes.
25 Q. And the U.S. Coast Guard worked
00251:01 collaboratively with BP and others within
02 Unified Command throughout the response,
03 true?
04 A. Yes. Not that -- not that
05 everybody didn't have their flare-ups. You
06 always had that constructive conflict that is
07 necessary and needed because you don't want
08 all "yes" men. You want to know what the
09 true issues are, and you want to work through
10 all the various avenues so you leave no stone
11 unturned. But you still try collectively to
12 work together to find an appropriate
13 resolution.
14 Q. And that's part of
15 collaboration, right?
16 A. Correct.
17 Q. So BP did collaborate with the
18 Coast Guard and others within Unified Command
19 throughout the response?
20 A. Yes.
21 Q. Can you describe the ways in
22 which BP assisted the Unified Command's
23 efforts to respond to the spill?
24 A. They were -- they were there in
25 the meetings. They participated in the
00252:01 meetings. They participated in the plans.
02 They brought resources to the table. They
03 made sure that, you know, they tried
04 different approaches. When we thought we
05 were stuck on somewhere, we tried different
06 things. So they were willing to do that.
07 They were willing to bring in the equipment
08 or find the equipment that we needed. So
09 that was good. And they were willing to
10 support the people that were working on it.
11 They were flexible enough to bring in the
12 locals. That wasn't a requirement anybody --
13 we put on them.
14 Q. Okay. So even though it wasn't
15 a requirement, BP brought in local response
16 workers; is that correct?
17 A. Well, they -- they worked with
18 the states. They wanted to create the VoO
19 program. And so we tried to put some rigor
20 around that. So they brought the VoOs in.
21 Q. Uh-huh. Okay. So you observed
22 flexibility in BP's response to the oil

23 spill?
 24 A. Yes, pretty flexible, yeah.
 25 There is points where you weren't and you
 00253:01 weren't happy with some of the things, but
 02 you still moved forward. I think that's what
 03 the key with everybody. Even when the states
 04 were not happy, they moved forward.

Page 253:06 to 254:07

00253:06 In instances during the response
 07 where BP and the Coast Guard may have
 08 disagreed about the path forward, BP was
 09 nonetheless willing to move forward as a
 10 partner in the response?
 11 A. Yes.
 12 Q. Okay. In your experience, do
 13 you agree that BP helped to mobilize
 14 resources needed to respond to the spill?
 15 A. Yes.
 16 Q. Okay. BP helped to provide
 17 personnel, equipment, and other resources
 18 that could be utilized in spill response?
 19 A. Yes.
 20 Q. Okay. When you served as FOSC,
 21 was one of your goals to make substantial
 22 progress towards shoreline cleanup?
 23 A. Absolutely.
 24 Q. And do you feel that as FOSC,
 25 there were substantial strides made towards
 00254:01 shoreline cleanup while you were FOSC?
 02 A. Absolutely.
 03 Q. And do you feel that BP
 04 supported and contributed to the progress
 05 made on shoreline clean -- cleanup while you
 06 were FOSC?
 07 A. Yes.

Page 254:22 to 255:11

00254:22 Would you agree that there was a productive
 23 working relationship between the U.S. Coast
 24 Guard and BP during the response?
 25 A. Yes.
 00255:01 Q. Okay. Based on your experience,
 02 did you feel that the BP representatives with
 03 whom you worked during the response were
 04 professional?
 05 A. Yes.
 06 Q. Okay. Based on your
 07 experiences, did you feel the BP
 08 representatives that you worked with were
 09 working hard to do what they could to assist
 10 the Coast Guard with the spill response?
 11 A. Yes.

Page 255:13 to 256:25

00255:13 Q. (BY MS. DEMPSEY) Did you feel
14 that the BP representatives you worked with
15 were working hard to try to minimize the
16 effects of the spill?
17 A. Yes.
18 Q. Okay. And who were the BP
19 representatives that you interacted with the
20 most frequently?
21 A. Mike Utsler, Tom Zimmer, and
22 then I actually worked a little bit with
23 Carla Fontenot. She was the one we kind of
24 had the issue with with Mississippi, so Carla
25 Fontenot, but we were able to work that out.
00256:01 Q. So when you ran into an issue
02 with Mississippi --
03 A. With reducing crews and -- and
04 the ops trying to determine how clean is
05 clean based on the criteria and stuff versus
06 SCAT.
07 Q. And in that instance with
08 Mississippi, Unified Command and BP were able
09 to successfully resolve that situation?
10 A. We did. And the Shoreline
11 Clean-Up Completion Plan was part of that and
12 I sent out a memorandum, too, to make sure
13 that everyone understood it's not up to
14 operations to make that determination; we'll
15 follow the process that we established with
16 SCAT and then we also put that in the
17 Shoreline Clean-Up Completion Plan, so that
18 everybody was all on the same page. We
19 clarified and made sure that it would no
20 longer occur.
21 Q. Okay. So the issue you alluded
22 to with Mississippi was successfully
23 resolved?
24 A. Yeah, it -- it cost some bone of
25 contention, but we were able to resolve it.

Page 257:21 to 259:03

00257:21 Q. Okay. Were there any BP
22 representatives with whom you worked during
23 the response whose efforts stand out to you
24 as particularly commendable or noteworthy?
25 A. You had the operations guy.
00258:01 Shoot. I mean, he really worked hard and
02 worked well with Avanni. I'm trying to think
03 of his name. I wish I had it.
04 Q. This was a BP representative on
05 the operations team?
06 A. On their operations team. He

07 worked pretty hard. He didn't always agree
08 with stuff, but when you gave him the
09 marching orders to go, he would try and
10 figure it out.

11 Q. Okay. All right.

12 A. Trying to think of who else.
13 Bea Stong from the environmental unit, she
14 worked really well. And then you had -- who
15 was the other one? Laura Folse wanted the --
16 we worked on the OSAT. She -- she really
17 came to the table to help work on that.

18 Q. You were impressed by the -- the
19 hard work of Bea Stong and Laura Folse?

20 A. Yeah, they're really -- they're
21 two ladies that knew their stuff, science and
22 that kind of stuff, and they kept their
23 emotions low and just tried to stick to what
24 do we need to get -- what do we need to get
25 done, and they were -- they were pretty
00259:01 flexible in -- in what they needed to do, and
02 they communicated well. So I thought that
03 was noteworthy.

Page 259:17 to 259:20

00259:17 Q. Okay. And I think you testified
18 that BP set up the VoO program even though it
19 was not required to do so by Unified Command?
20 A. That's my understanding.

Page 261:01 to 261:25

00261:01 Q. All right. And would you agree
02 that your Coast Guard colleagues who served
03 as Federal On-Scene Coordinators were of a
04 high caliber?

05 A. I would say yes.

06 Q. Okay. Based on your
07 interactions with the other FOSCs, would you
08 agree that they were objective?

09 A. I would say so. I mean, I
10 wasn't here for their decision-making, but
11 for the most part, every time -- you know, in
12 other instance, yes. Most Coasties try to be
13 very fair and objective in their
14 decision-making with regard to staying within
15 the bounds of the law.

16 Q. And to your knowledge, the
17 Federal On-Scene Coordinators who served
18 during the response did their best to be
19 objective?

20 A. Oh, absolutely.

21 Q. Okay. Other Federal On-Scene
22 Coordinator included Captain Walker?

23 A. Yes.

24 Q. And Captain Hanslik?
25 A. Captain Hanslik.

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00262:11 The first is I believe that
12 during the last break you said you -- you
13 were able to recall or locate the name of the
14 individual you described as the operations
15 guy that -- whose efforts -- or who you
16 thought worked hard. And who was that
17 individual?
18 A. Robert Harrison.

Page 263:02 to 265:02

00263:02 Q. I believe you testified when you
03 came in as Federal On-Scene Coordinator, that
04 cleanup operations were underway on West
05 Dauphin Island; is that correct?
06 A. That is correct.
07 Q. Okay. Was BP participating in
08 those cleanup operations?
09 A. Yes.
10 Q. And then you testified that the
11 cleanup that was then underway was revisited
12 during your tenure as Federal On-Scene
13 Coordinator?
14 A. Yes.
15 Q. Okay. And that a NEBA was
16 undertaken?
17 A. Yes.
18 Q. Was it BP that initiated
19 revisiting the cleanup or you as the Federal
20 On-Scene Coordinator?
21 A. It was me as the Federal
22 On-Scene Coordinator.
23 Q. And what was the recommendation
24 of the NEBA, if you recall?
25 A. There was -- there was a few
00264:01 recommendations on the NEBA. One was, I
02 know, natural attenuation. The -- the main
03 one was treating it the same as the other
04 barrier islands.
05 Q. So taking a consistent treatment
06 approach?
07 A. A consistent approach across the
08 board. Since they were all barrier islands,
09 very similar in nature, that it made sense to
10 treat them the same, because their critical
11 habitat would be very similar across the
12 board.
13 Q. And that approach to treating
14 that was being used consistently across the
15 other barrier islands was not the treatment

16 to the amenity beach standards that was
17 advocated by the State of Alabama?

18 A. No, absolutely not.

19 Q. Okay. And you testified, I
20 believe, though, that -- that, nonetheless,
21 the State of Alabama continued to urge
22 treating to amenity beach standards?

23 A. Correct.

24 Q. And did Unified Command adopt
25 Alabama's recommendation to treat to amenity
00265:01 beach standards?

02 A. No.