

1 CAUSE NO. 05CV0337
2 MIGUEL ARENAZA, ELIZABETH) IN THE DISTRICT COURT
RAMON, DAVID G. CROW and)
3 JUANITA G. CROW, et al.)
))
4 VS.) 212TH JUDICIAL DISTRICT
))
5 BP PRODUCTS NORTH AMERICA)
INC., B.P. CORPORATION)
6 NORTH AMERICA INC., DON)
PARUS, AND JE MERIT)
7 CONSTRUCTORS, INC.) GALVESTON COUNTY, TEXAS

8
9 CAUSE NO. 05CV0337-A
10 IN RE: BP AMOCO EXPLOSION) IN THE DISTRICT COURT
MARCH 23, 2005)
11 COORDINATED DISCOVERY) 212TH JUDICIAL DISTRICT
PROCEEDINGS)
12) GALVESTON COUNTY, TEXAS

13
14
15 *****

16 ORAL VIDEOTAPED DEPOSITION OF
17 WILLIAM RALPH
18 VOLUME 1
19 MARCH 2, 2006

20 *****
21
22
23
24
25

Page 2

1 ORAL VIDEOTAPED DEPOSITION OF WILLIAM RALPH,
 2 produced as a witness at the instance of the
 3 Plaintiffs and duly sworn, was taken in the
 4 above-styled and numbered cause on March 2, 2006,
 5 from 10:03 a.m. to 6:22 p.m., before Stephanie
 6 Barringer, Certified Shorthand Reporter in and for
 7 the State of Texas, reported by stenographic means at
 8 the offices of Fulbright & Jaworski, 1301 McKinney,
 9 Suite 5100, Houston, Texas, pursuant to the Texas
 10 Rules of Civil Procedure and the provisions stated on
 11 the record or attached hereto.
 12 Since this deposition has been realtimed and you
 13 may be in possession of a rough draft form, please be
 14 aware that there may be a discrepancy regarding page
 15 and line numbers when comparing the realtime draft
 16 and the final transcript. Also, please be aware that
 17 the realtime screen and the unedited, uncertified
 18 rough draft transcript may contain untranslated
 19 steno, a misspelled proper name and/or nonsensical
 20 English word combinations. All such entries are
 21 corrected in the final certified transcript. There
 22 also may be persons receiving the realtimed feed
 23 outside of the deposition room, but the reporter has
 24 given this access only to known attorneys of record
 25 and/or their experts.

Page 3

1 APPEARANCES
 2
 3
 4 FOR PLAINTIFFS ADRIAN MENDOZA, ET AL.:
 5 Mr. John Eddie Williams
 6 Mr. Byron Buchanan
 7 Mr. Chris Dean
 8 Ms. Julia Brophy
 9 Williams & Bailey Law Firm
 10 8441 Gulf Freeway, Suite 600
 11 Houston, Texas 77017
 12 Fax: 713-643-6226
 13 Telephone: 713-230-2200
 14
 15 FOR PLAINTIFFS RHONDA DARLENE HEICKMAN,
 16 INDIVIDUALLY AND AS DEPENDENT
 17 ADMINISTRATOR OF THE ESTATE OF RYAN
 18 RENE RODRIGUEZ:
 19 Mr. Trent Bond
 20 Mr. Doug York
 21 Reaud, Morgan & Quinn
 22 801 Laurel Street
 23 Beaumont, Texas 77720-6005
 24 Fax: 409-833-8236
 25 Telephone: 409-838-1000
 19 FOR PLAINTIFFS NATHANIEL EARL GRIMES,
 20 EVA HENDERSON, LEONARD BOURGEOIS,
 21 ROBBIE BOURGEOIS:
 22 Ms. Sherry Scott Chandler
 23 The Chandler Law Firm, LLP
 24 Park Laureate
 25 10000 Memorial Drive, Suite 320
 Houston, Texas 77024
 Fax: 713-682-9911
 Telephone: 713-222-7285

Page 4

1 APPEARANCES
 2 (Continued)
 3
 4 FOR PLAINTIFF DAWN PRATER:
 5 Mr. Loren Klitsas
 6 Klitsas & Vercher, P.C.
 7 550 Westcott, Suite 570
 8 Houston, Texas 77007
 9 Fax: 713-862-1465
 10 Telephone: 713-862-1365
 11
 12 FOR PLAINTIFFS JAIME ANDREADE, ET AL.:
 13 Mr. Brent Coon
 14 Mr. Larry Sarten
 15 Brent Coon & Associates
 16 3550 Fannin
 17 Beaumont, Texas 77701
 18 Fax: 409-833-4483
 19 Telephone: 409-835-2666
 20
 21 FOR PLAINTIFF ROGER RODRIGUEZ:
 22 Mr. John W. Stevenson, Jr.
 23 John W. Stevenson & Associates
 24 24 Greenway Plaza, Suite 750
 25 Houston, Texas 77046
 Fax: 713-622-3224
 Telephone: 713-622-3223

Page 5

1 APPEARANCES
 2 (Continued)
 3
 4 FOR PLAINTIFFS JASON MIRANDA,
 5 DOMINIC MARTINEZ, MICHAEL PEARSON,
 6 EDDIE NAVARRETTE:
 7 Mr. Gregg S. Harrison
 8 Bonilla & Chapa, P.C.
 9 2727 Morgan Avenue
 10 Corpus Christi, Texas 78405
 11 Fax: 361-881-1028
 12 Telephone: 361-991-000
 13
 14 FOR PLAINTIFFS, ET AL.:
 15 Mr. Jeff Burke
 16 The Buzbee Law Firm
 17 1910 Ice & Cold Storage Building
 18 104 Moody
 19 Galveston, TX 77550
 20 Fax: 409-762-0538
 21 Telephone: 409-762-5393
 22
 23 FOR PLAINTIFFS LESLIE KRENSHAW, CHARLES NICHOLS,
 24 HUGO NAVARRO, TIMOTHY SMITH, ROBERT DACUS:
 25 Mr. Daniel B. Linebaugh
 The Linebaugh Law Firm
 1300 Rollingbrook, Suite 601
 Baytown, Texas 77521
 Fax: 281-422-2641
 Telephone: 281-422-0506

Page 6

1 APPEARANCES
 2 (Continued)
 3
 4 FOR DEFENDANT JE MERIT:
 5 Mr. James Ebanks
 Ebanks, Smith & Carlson
 6 2500 Five Houston Center
 1401 McKinney
 7 Houston, Texas 77010
 Fax: 713-333-4600
 8 Telephone: 713-333-4500
 9
 10 FOR DEFENDANT BP PRODUCTS NORTH AMERICA, INC.:
 11 Mr. Edward J. Patterson, III
 Mr. Graig Alvarez
 12 Ms. Jessica Gilmore
 Fulbright & Jaworski
 13 1301 McKinney, #5100
 Houston, Texas 77010-3095
 14 Fax: 713-651-5246
 Telephone: 713-651-5151
 15
 16 FOR FLUOR ENTERPRISES d/b/a FLUOR
 17 GLOBAL SERVICES:
 18 Mr. Vijay D'Cruz
 Locke, Liddell & Sapp, LLP
 19 3400 JP Morgan Chase Tower
 600 Travis Street
 20 Houston, Texas 77002-3095
 Fax: 713-223-3717
 21 Telephone: 713-226-1200
 22
 23
 24
 25

Page 7

1 APPEARANCES
 2 (Continued)
 3
 4 VIDEOGRAPHER:
 5 Mr. Scott Hamilton
 6
 7 ALSO PRESENT:
 8 Ms. Mary Raffetto
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 8

1 INDEX
 2
 3 PAGE
 4 WILLIAM H. RALPH
 5 Examination by Mr. Williams 10
 Examination by Mr. Bond 260
 6 Signature Page 284
 Court Reporter's Certificate 286
 7
 8
 9
 10 EXHIBITS
 (Continued)
 11
 12
 13 EXHIBIT DESCRIPTION PAGE
 14 178 Incident Investigation Slides, 53
 Bates BPISOME00450687 through
 BPISOME00450742
 15 179 PSM Compliance Audit Training 62
 Slides 1 through 231, Bates
 16 BPISOME00450451 through
 BPISOME00450680
 17
 18 180 Relief Valve Inspection, Repair 139
 and On-Line Testing, Bates
 19 BPISOME00053657 through
 BPISOME00053675
 20 181 PSM within gHSEr PowerPoint, 189
 Bates BPISOME00450810 through
 BPISOME00450878
 21 182 Texas City Refinery Safety 231
 Challenge, Bates BPISOME00613886
 22 through BPISOME00613891
 23
 24
 25

Page 9

1 EXHIBITS
 2 (Continued)
 3
 4 EXHIBIT DESCRIPTION PAGE
 5 183 Email from Joe Barnes dated 235
 3/22/05, Subject: Safety Planning
 6 Pre-read, Bates BPISOME00398243
 through BPISOME00398246
 7
 8 184 Sworn Statement of William Ralph 250
 taken 7/12/05, Bates BPISOM00134639
 through BPISOM00134762
 9
 10 185 JIIC Interviews taken 8/31/05, 258
 Bates BPISOM00078693 through
 BPISOM00078735
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 10

1 THE VIDEOGRAPHER: On the record
 2 March 2nd, 2006, at 10:03 a.m., beginning Tape 1.
 3 WILLIAM H. RALPH,
 4 having been first duly sworn, testified as follows:
 5
 6 EXAMINATION
 7 Q. (BY MR. WILLIAMS) Would you introduce
 8 yourself to the jury, please?
 9 A. My name is William Harold Ralph.
 10 Q. Do you go by Bill Ralph?
 11 A. I do.
 12 Q. Mr. Ralph, I am John Eddie Williams. I
 13 bet by now you know I am on the other side of the
 14 case, right?
 15 A. Yes, sir.
 16 Q. March 23, 2005, what was your position at
 17 BP?
 18 A. I was the process safety manager for the
 19 Texas City site.
 20 Q. Process safety manager. What is "process
 21 safety"?
 22 A. It's the area of safety that's directed
 23 towards the prevention of major accidents, fires,
 24 explosions, major toxic releases.
 25 Q. Process safety is important?

Page 11

1 A. Absolutely.
 2 Q. It is vitally important to -- in the
 3 prevention of major catastrophes, correct?
 4 A. Yes, sir.
 5 Q. And what occurred on March 23 was, in
 6 fact, a major catastrophe?
 7 A. Yes, it was.
 8 Q. In fact, there were 23 deaths and
 9 hundreds of injuries -- excuse me, 15 deaths and
 10 hundreds of injuries?
 11 A. Yes, sir.
 12 Q. And part of the reason for those deaths
 13 and injuries was there were flaws and gaps and a
 14 lack of attention to process safety, true?
 15 A. I don't think I'd agree with your
 16 characterization; but yes, there were things that
 17 went wrong on March 23rd.
 18 Q. But things that -- were there things that
 19 went wrong with regard to process safety that led
 20 up to the events, the fire and explosion of
 21 March 23?
 22 A. I would say there were things that were
 23 related to process safety that went wrong on
 24 March 23rd. Yes, sir.
 25 Q. Well, let's just -- I don't know what

Page 12

1 "related" means to you; but let me be blunt.
 2 On or before March 23, the fire
 3 and explosion, were there gaps in process safety
 4 management at the Texas City refinery plant?
 5 A. There were areas for improvement in the
 6 area of process safety.
 7 Q. I didn't ask you about improvement.
 8 There were, in fact, gaps, big
 9 gaps weren't there, sir?
 10 A. I wouldn't characterize them as big gaps,
 11 no, sir.
 12 Q. What kind of gaps would you characterize
 13 them as?
 14 A. Well, process safety is very broad. As
 15 defined under the OSHA regulation, there are 14
 16 elements associated with it; and there are many,
 17 many components, many, many items to be done.
 18 And were there deficiencies in any
 19 area? Yes. Did they necessarily contribute to the
 20 events on March 23rd? Possibly not.
 21 MR. WILLIAMS: Objection,
 22 nonresponsive.
 23 Q. (BY MR. WILLIAMS) Let's be blunt. Were
 24 there or were there not gaps in process safety
 25 management before and on March 23, 2005?

Page 13

1 MR. PATTERSON: Objection to form.
 2 A. Maybe it would help if you would define
 3 what you mean by "a gap."
 4 Q. (BY MR. WILLIAMS) I mean a deficiency,
 5 an issue, a problem where something wasn't up to
 6 standard.
 7 Do you understand the word "gap"?
 8 A. As you are using it, yes, sir.
 9 Q. Okay. Were there gaps in process safety
 10 management before and on March 23, 2005?
 11 A. Yes.
 12 Q. And what were the gaps that you were
 13 aware of, sir?
 14 MR. PATTERSON: Objection, form.
 15 A. Gaps that I was aware of related to
 16 certain mechanical integrity inspections and tests.
 17 There were gaps in the areas of timely resolution
 18 of action items. There were gaps in completion of
 19 training items. There were gaps in the completion
 20 of management of change, and that's what I recall
 21 at the moment.
 22 Now, these gaps are not
 23 necessarily specific to the ISOM unit. Again,
 24 there are many covered processes at the Texas City
 25 site.

Page 14

1 Q. (BY MR. WILLIAMS) Have you read the
 2 final report?
 3 A. I have read the main body. I have not
 4 spent much time at all with the appendices.
 5 Q. The main body, did it address process
 6 hazard -- excuse me, did it -- new question.
 7 Did the body of the final report
 8 address the gaps in process safety management?
 9 A. There were references to gaps, yes.
 10 Q. Did the final report find additional gaps
 11 in addition to what you found which you just
 12 articulated to the jury?
 13 A. I'd have to look at the report to be able
 14 to do a comparison. I am not recalling --
 15 Q. Okay.
 16 A. -- those distinctions right now.
 17 Q. How much time did you spend reading the
 18 final report or studying it, sir?
 19 A. It probably took me -- I probably spent
 20 two to three hours.
 21 Q. How long ago?
 22 A. I -- I've reread it in the last few days.
 23 Q. Exhibit 21 is the final report.
 24 MR. WILLIAMS: Do you have that
 25 handy, please, ma'am?

Page 15

1 THE REPORTER: (Tenders
 2 documents.)
 3 Q. (BY MR. WILLIAMS) Look on page 154, if
 4 you would. It's Exhibit 21.
 5 MR. PATTERSON: First go to
 6 Tab 21.
 7 A. Page 151?
 8 Q. (BY MR. WILLIAMS) 154.
 9 A. Okay.
 10 Q. I am going to show to the jury here on
 11 page 154 a paragraph; and if you will find it and
 12 follow with me where it says -- I have highlighted
 13 it here for you, sir.
 14 "Generally leadership had a poor
 15 understanding of risk and process safety in general
 16 and accepted what to others appear high levels of
 17 risk." It goes on to say, "The overall approach to
 18 process safety was one of minimum compliance with
 19 regulatory requirements, with leadership not as
 20 clearly focused on process safety as with
 21 occupational safety and environmental performance."
 22 Are you disputing any of those
 23 statements found by the final -- the team that did
 24 the final report?
 25 A. Yes. I don't agree with those in

Page 16

1 totality.
 2 Q. Did they interview you?
 3 A. Yes.
 4 Q. Okay. Well, let's talk about this
 5 statement that leadership had a poor understanding
 6 of risk and process safety.
 7 Who are they speaking of there as
 8 leadership?
 9 MR. PATTERSON: Objection, form.
 10 A. I am not sure. They are --
 11 Q. (BY MR. WILLIAMS) Who --
 12 A. -- not specific in the report.
 13 Q. Well, you are the man in -- were you --
 14 who was the top dog with regard to process safety
 15 management on the day of this fire and explosion?
 16 A. I was.
 17 Q. And how long had you been the top dog
 18 with regard to process safety management at that
 19 plant?
 20 A. On March 23rd, 11 years approximately.
 21 Q. Are you leadership?
 22 A. The way we were structured at Texas City,
 23 I am clearly a member of the management team. I
 24 don't think I would be considered a member of
 25 leadership.

Page 17

1 Q. Okay. So when they say that leadership
 2 had a poor understanding of risk and process, the
 3 way your company uses that term, who would be a
 4 member of leadership that had this poor
 5 understanding?
 6 MR. PATTERSON: Objection, form.
 7 A. Without them being more specific in the
 8 report, I can't answer definitively on that.
 9 Q. (BY MR. WILLIAMS) Well, let's take who
 10 was your boss on the day of March 23?
 11 A. Joe Barnes.
 12 Q. Okay. Did Joe Barnes ever have any
 13 indepth discussions with you on process safety
 14 management?
 15 A. We had discussions on process safety
 16 management, yes.
 17 Q. Oh, really?
 18 So you knew the depth of his
 19 knowledge, you are fully aware of the depth of his
 20 knowledge of process safety management?
 21 A. No, I can't say that.
 22 Q. Okay. How much formal education did your
 23 boss have on process safety management?
 24 MR. PATTERSON: Objection, form.
 25 A. Again, the topic of process safety

Page 18

1 management is -- it's pretty broad. You know,
 2 there are multiple elements.
 3 Joe -- the portion of Joe's
 4 background that I am familiar with, he would have
 5 been subject to training in the various areas of
 6 process safety management.
 7 Q. (BY MR. WILLIAMS) Geez. I guess he lied
 8 under oath when he told me in that same chair you
 9 are sitting in that he never had any formal
 10 training on process safety management.
 11 Can you explain to me why he would
 12 lie about that?
 13 MR. PATTERSON: Objection to form
 14 and object to the sidebar.
 15 A. I doubt that he -- well, I don't believe
 16 that he thought he was lying. He may not have been
 17 giving himself appropriate credit for the training
 18 that he had.
 19 Q. (BY MR. WILLIAMS) Well, good. You tell
 20 us based on your knowledge of what training he had
 21 in process safety management, and let's talk first
 22 about formal training.
 23 Did your boss have any -- let's
 24 start at college. Did he have any college training
 25 on process safety management that you know of?

Page 19

1 A. I have no knowledge of that.
 2 Q. Do you know of any outside courses he
 3 took in process safety management from a vendor
 4 where there -- there's people that will sell you or
 5 invite you to a seminar on process safety
 6 management, correct?
 7 A. I don't have any knowledge of that.
 8 Q. You don't have any knowledge of people
 9 holding --
 10 A. No, I don't have any knowledge of --
 11 Q. -- seminars --
 12 MR. PATTERSON: Wait for him to
 13 finish his question.
 14 THE WITNESS: Okay.
 15 Q. (BY MR. WILLIAMS) Do you have any
 16 knowledge of Joe Barnes, your boss, ever attending
 17 a seminar on process safety management by someone
 18 outside of BP?
 19 A. No, I don't.
 20 Q. Do you have any knowledge of Joe Barnes
 21 ever attending a process safety management class
 22 inside of BP, taught by BP?
 23 A. He would have been present for trainings
 24 on subjects within process safety management.
 25 Q. You know that for a fact or are you

Page 20

1 speculating?
 2 A. I would have to double-check records but
 3 given his background in operations and maintenance
 4 and the training that we do in the various
 5 elements.
 6 Q. Great.
 7 So the training that you did for
 8 Joe Barnes, how many hours of training did he get
 9 on process safety management according to you, sir?
 10 MR. PATTERSON: Objection, form.
 11 A. I don't have those records.
 12 Q. (BY MR. WILLIAMS) Give me your best
 13 estimate.
 14 You seem to be knowledgeable and
 15 say he had training in the area. Give me your best
 16 estimate.
 17 MR. PATTERSON: Objection, form.
 18 A. I don't feel comfortable giving an
 19 estimate.
 20 Q. (BY MR. WILLIAMS) Well, is it a year?
 21 MR. PATTERSON: Objection, form.
 22 A. Again, I don't feel comfortable giving
 23 that estimate.
 24 Q. (BY MR. WILLIAMS) Well, who would he
 25 have gotten it from?

Page 21

1 A. Again, given the various topics, there
 2 could have been different people presenting
 3 training to Joe and others on topics that fit
 4 within the realm of process safety management.
 5 MR. WILLIAMS: You said "could."
 6 I asked you "who." So I object as nonresponsive.
 7 Q. (BY MR. WILLIAMS) Who ever trained Joe
 8 Barnes on process safety management?
 9 MR. PATTERSON: Objection, form.
 10 A. Without looking at specific records or --
 11 I can't tell you.
 12 Q. (BY MR. WILLIAMS) Did everybody in the
 13 plant get training on process safety management?
 14 A. In some form or fashion, yes, sir.
 15 Q. Oh, really.
 16 Kathleen Lucas denied having any
 17 training in process safety management. Was she
 18 lying?
 19 MR. PATTERSON: Objection, form
 20 and object to the sidebar comment.
 21 A. Again, I think in terms of her -- well...
 22 Q. (BY MR. WILLIAMS) If people got the
 23 training, they didn't recognize it as being process
 24 safety management or it never stood out in their
 25 mind, true?

Page 22

1 A. They -- if they are saying that, my
 2 conclusion would be that they were not making the
 3 connection.
 4 Q. What grade do you give yourself in -- for
 5 process safety management on the day of the fire
 6 and explosion?
 7 MR. PATTERSON: Objection, form.
 8 A. I am not sure I understand the question.
 9 Q. (BY MR. WILLIAMS) Okay. Did you go to
 10 school and get grades?
 11 A. Yes, sir.
 12 Q. What's -- do you know the difference
 13 between an A and an F?
 14 A. Yes, sir.
 15 Q. Do you know in between what the grades
 16 are?
 17 A. Yes.
 18 Q. So what grade do you give yourself and
 19 your department, the process safety management
 20 department, on the day of the fire and explosion
 21 and the time leading up to it?
 22 A. That's not the way I view the world of
 23 process safety management in terms of grades.
 24 Q. I didn't ask you if that's the way you
 25 viewed it, sir. I am asking you to give us a

Page 23

1 grade. Think about it and give us a grade.
 2 MR. PATTERSON: Objection, form.
 3 Q. (BY MR. WILLIAMS) Were you doing an A
 4 job or were you doing a C job, a D or an F or a B?
 5 You choose.
 6 MR. PATTERSON: Objection, form.
 7 Q. (BY MR. WILLIAMS) I am letting you grade
 8 your own paper.
 9 A. Again, I don't think I care to answer the
 10 form -- the question in the form that you've put
 11 it. You know, my goal --
 12 Q. Well, wait a minute.
 13 A. -- with process safety management --
 14 Q. Why do you care not to answer it?
 15 A. I don't think that's an appropriate way
 16 to view process safety management.
 17 Q. Well, pass or fail? So let's go -- let's
 18 don't give it a grade. Let's just give it a
 19 pass/fail and make it simpler.
 20 Process safety management, with
 21 regard to the events leading up to March 23's fire
 22 and explosion and on that day, do you give it a
 23 pass or a fail?
 24 MR. PATTERSON: Objection, form.
 25 A. Process safety management efforts are

Page 24

1 to -- geared towards preventing major accidents or
 2 to mitigating the consequence if you should have an
 3 accident.
 4 Q. (BY MR. WILLIAMS) I know all that. Now
 5 answer the question.
 6 MR. PATTERSON: Objection, form.
 7 A. Did we have systems in place?
 8 Q. (BY MR. WILLIAMS) Not my question.
 9 Let's -- sir, with all due respect --
 10 A. Uh-huh.
 11 Q. -- let's focus on the question.
 12 With regard to process safety
 13 management and the events of March 23 and leading
 14 up to it, do you give yourself and your -- and the
 15 company a pass or a fail with regard to process
 16 safety management?
 17 It's a real simple question.
 18 A. I --
 19 MR. PATTERSON: Objection, form.
 20 A. I don't think it is a simple question. I
 21 mean, judging by the results --
 22 Q. (BY MR. WILLIAMS) Well, with all due
 23 respect --
 24 MR. PATTERSON: Can he finish one
 25 answer before you interrupt him?

Page 25

1 MR. WILLIAMS: Yes, he can if he
 2 will answer --
 3 MR. PATTERSON: Well, then let him
 4 finish --
 5 MR. WILLIAMS: He's going to
 6 answer the question.
 7 MR. PATTERSON: He's going to give
 8 an answer.
 9 MR. WILLIAMS: I understand that.
 10 Let's --
 11 Q. (BY MR. WILLIAMS) And I'm going to -- we
 12 are going to keep at this until you give an answer.
 13 Do you understand what a pass is
 14 and what a failure is?
 15 MR. PATTERSON: Objection, form.
 16 Q. (BY MR. WILLIAMS) Pass/fail?
 17 A. I do. They are usually measured against
 18 a standard.
 19 Q. That's right.
 20 A. So what standard are you putting forward?
 21 Q. Well, I am going to let you even develop
 22 your standard. All I am trying to get out of you
 23 right now is with regard to process safety
 24 management, on March 23 and the events leading up
 25 to it, do you give you and your company a pass or a

Page 26

1 fail? Did you pass it, the test, or fail it?
 2 MR. PATTERSON: Objection, form.
 3 Q. (BY MR. WILLIAMS) Use your standard.
 4 A. On the basis that did we have systems in
 5 place for purposes of preventing major accidents or
 6 mitigating major accidents, I would give us a
 7 passing grade. Based on the actual consequences of
 8 March 23rd and the tragedy and the deaths and the
 9 injuries involved, we failed on that day.
 10 Q. You get a failing grade? You give
 11 yourself with regard to the deaths and the injuries
 12 and the fact there is a major catastrophe, you
 13 deserve, your company and your area, process safety
 14 management, they deserve a failing grade, correct?
 15 MR. PATTERSON: Objection, form.
 16 A. The objective of process safety
 17 management is no major accidents, and we do things
 18 to prevent that. There was a breakdown on that day
 19 and there was a tragedy.
 20 Based on the consequences, the
 21 results of that tragedy, that was a failing day for
 22 us, yes.
 23 Q. (BY MR. WILLIAMS) In fact, it wasn't
 24 just a failing that day with regard to process
 25 safety management. The final report shows that

Page 27

1 there have been failures in process safety
 2 management for quite a bit of time leading up to
 3 the tragedy of 2005, right?
 4 MR. PATTERSON: Objection, form.
 5 A. I would disagree with that
 6 characterization.
 7 Q. (BY MR. WILLIAMS) Okay. I am going to
 8 go into that with you. I want to ask it, so that
 9 it's clear on the record under oath -- well, let me
 10 ask you this.
 11 Process safety management, had it
 12 been slipping over the years at Texas City
 13 refinery? Had it been going downhill?
 14 MR. PATTERSON: Objection, form.
 15 Q. (BY MR. WILLIAMS) Slipping backwards?
 16 A. I had concerns in areas that we were
 17 slipping backwards and that we were not making
 18 improvements.
 19 Q. Exactly. And did you voice these
 20 concerns that in areas of process safety management
 21 you were slipping backwards, did you voice that to
 22 the leadership team?
 23 A. I voiced concerns, yes.
 24 Q. And in spite of you alerting them and
 25 giving them actual knowledge that process safety in

Page 28

1 areas was slipping, did it continue to slip at that
 2 plant?
 3 A. No. The concerns were heard.
 4 Improvements were being made, you know. Do I agree
 5 necessarily with the timing and priority of some of
 6 those changes and improvements? No.
 7 Q. Well, in fact, they instituted programs
 8 such as the thousand day program that were directed
 9 at personal safety such as wearing your hard hat
 10 and goggles, correct?
 11 A. Yes.
 12 Q. And it was -- in fact, leadership did not
 13 give appropriate priority to process safety
 14 management during the years leading up to this fire
 15 and explosion, true?
 16 MR. PATTERSON: Objection, form.
 17 A. I had a concern that the leadership team
 18 was not making a distinction between personal
 19 safety and process safety.
 20 Q. (BY MR. WILLIAMS) And explain for the
 21 jury that those are wholly different areas,
 22 personal safety, that's things like wearing your
 23 hard hat, wearing your goggles, wearing your boots,
 24 wearing your fire protective overalls, and doing --
 25 and thinking about how you go up and down ladders,

Page 29

1 things like that. That's personal safety, right?
 2 A. Yes.
 3 Q. And that's something that even the lowest
 4 ranking operator or helper, excuse me, can focus on
 5 because they can make a change and they can make
 6 sure they wear their ear plugs or wear their
 7 goggles, right?
 8 A. Yes. It's focused on individuals.
 9 Q. And personal safety is things like --
 10 just things like don't talk on the cell phone while
 11 you are driving in the plant or something like
 12 that, right?
 13 A. Yes.
 14 Q. But process safety is completely
 15 different. You don't expect some operator helper
 16 or some janitor to have the expertise to understand
 17 and change -- identify risk and change things with
 18 regard to process safety, correct?
 19 MR. PATTERSON: Objection, form.
 20 A. I agree. It's a much more sophisticated
 21 area of safety.
 22 Q. (BY MR. WILLIAMS) And process safety was
 23 something that, where the federal government
 24 through OSHA realized that there were problems that
 25 they were seeing in plants where people were

Page 30

1 failing to pay attention to this much broader topic
 2 "process safety management" that was designed to
 3 prevent catastrophic events like the one on
 4 March 23, correct?
 5 MR. PATTERSON: Objection, form.
 6 A. Yes. OSHA did promulgate a rule on the
 7 specific topic of process safety management, yes.
 8 Q. (BY MR. WILLIAMS) Right. And that rule
 9 came into effect in what year?
 10 A. 1992.
 11 Q. And it's called CFR1910.119, right?
 12 A. Correct.
 13 Q. And that is a totally different rule than
 14 anything that effects hard hats and safety goggles
 15 and wearing your overalls, correct?
 16 A. Yes. There is one element of the process
 17 safety regulation that refers to safe work
 18 practices.
 19 Q. But generally process safety is something
 20 that requires expertise, chemical engineers and is
 21 designed to prevent major catastrophes, right?
 22 A. Yes. That's the focus of the regulation,
 23 prevention of major accidents.
 24 Q. And it requires expertise, correct?
 25 A. There are portions of the regulation that

Page 31

1 do require additional expertise to evaluate hazards
 2 and other things. There are portions of it that
 3 are more basic and are enacted by various members
 4 of the workforce, operators, craft people,
 5 contractors, engineers, supervision, et cetera,
 6 yes.
 7 Q. Okay. But when it comes to making the
 8 decision that we're going to put in redundant
 9 safety layers to prevent an overfill or we're going
 10 to make the decision to tie the flare -- I mean,
 11 the relief valves in to the flare system and let --
 12 rather than venting them into the atmosphere, those
 13 are things that require expertise and decisions
 14 made by the leadership, senior management team,
 15 correct?
 16 A. I disagree that that's decisions
 17 necessarily made by the leadership team. It does
 18 require additional knowledge, specific engineering
 19 calculations and those types of things.
 20 Q. But to spend the money to tie in to the
 21 flare system and eliminate the blowdown stack or to
 22 spend the money to put in multiple safety layers or
 23 to do the analysis of multiple safety layers, that
 24 requires the approval of senior management, true?
 25 MR. PATTERSON: Objection, form.

Page 32

1 A. I think you had a couple of questions in
 2 there. Decisions around expenditure of money is a
 3 management decision or issue and there are multiple
 4 layers of management. There are spending decisions
 5 that exist at the first line supervisor level, at
 6 the superintendent level, at the division manager
 7 level on up through the refinery manager level.
 8 I think that a portion of your
 9 question also related to decisions about studies or
 10 doing analysis. That doesn't necessarily take
 11 senior leadership to direct that those things be
 12 done.
 13 Q. (BY MR. WILLIAMS) Okay. Did you have
 14 the power and authority to direct that they be
 15 done?
 16 MR. PATTERSON: Objection, form.
 17 A. There are certain things within my direct
 18 control that I can cause to be studied. Within the
 19 confines of my budget for running the PSM staff, I
 20 had spending authorities. There are other --
 21 others within the organization that had authority
 22 relative to spending or other types of analysis.
 23 Q. (BY MR. WILLIAMS) What was your PSM
 24 budget?
 25 A. In what timeframe?

Page 33

1 Q. In the year leading up to this fire and
 2 explosion of March 23.
 3 A. For the year 2004, I believe the budget
 4 was about \$1.5 million or so.
 5 Q. And what was it for 2005?
 6 A. 2005, it was a very similar number. Yes.
 7 Q. Higher or lower?
 8 A. 2005 was slightly lower. My budget is
 9 ate up predominantly of salaries for my staff,
 10 which is pretty constant. There are more variable
 11 portions of that associated with works associated
 12 with the PHA schedule for the refinery. And so
 13 that can vary year to year based on which PHAs are
 14 conducted in a given year; but for the most part,
 15 the budget is pretty static.
 16 Q. Let me be specific. Your budget for the
 17 PSM team which you led was lower in 2005 than it
 18 had been in 2004, true?
 19 A. Yes.
 20 Q. Now, what percentage of your budget is
 21 directed toward or goes toward just the people on
 22 your team?
 23 A. Salaries and benefits probably make up a
 24 good 70 percent of the budget.
 25 Q. And your -- and remind me.

Page 34

1 70 percent of your budget in 2004
 2 would have been how much?
 3 A. About \$1.5 million.
 4 Q. Who sets your budget?
 5 A. I am the one who proposes my budget.
 6 Q. No, sir. My question is: Who sets your
 7 budget? Who tells you what your budget is?
 8 MR. PATTERSON: Objection, form.
 9 A. No one tells me what my budget is. You
 10 know, we have a budgeting process each year. I
 11 input into that process what my needs are, what my
 12 budget requests are, and that budget is approved.
 13 Q. (BY MR. WILLIAMS) Okay. A different
 14 question. Who approves your budget?
 15 A. I am not 100 percent sure.
 16 Q. Well, do you ever sit down with somebody
 17 or a face or a committee and say, "This is my
 18 budget and this is what we need to do and this
 19 is -- and I want you to approve this" or do you
 20 just submit a form?
 21 A. Well, I will review with my supervisor
 22 what my budget is, what is contained within the
 23 budget, what I expect to accomplish with that
 24 budget; and then that is rolled up with others and
 25 presented, you know, again, through the budget

Page 35

1 approval process.
 2 Q. Do you always get 100 percent of what you
 3 ask for?
 4 A. For my PSM budget, I don't recall ever
 5 being denied.
 6 Q. That wasn't my question.
 7 Have you ever -- have you -- are
 8 you saying that they have always approved
 9 100 percent of what you have asked for, or has it
 10 been -- do you ask for a number and they tell you a
 11 different number? "This is what you are going to
 12 be allocated"?
 13 A. No. I have never been told that I recall
 14 that, you know, this is what my budget was going to
 15 be.
 16 Q. By the way, how much formal training did
 17 you get in college on PSM?
 18 A. Again, you have asked -- you have
 19 simplified process safety management. You know, I
 20 attended college before the formal promulgation of
 21 the OSHA PSM rule. I am a chemical engineer by
 22 training.
 23 So did I receive training that is
 24 related to now what we call process safety
 25 management? Yes.

Page 36

1 Q. Did you -- how did you get into this job
 2 of being head top dog on process safety management?
 3 Did you apply?
 4 Did they post an application on
 5 the web site or something or on the bulletin board
 6 and say, "We need a PSM top dog" and you said,
 7 "Gosh, this is what I am -- this is the perfect job
 8 for Bill Ralph and I want it"? Did you interview
 9 for it, and was it competitive to get that job?
 10 How did it happen?
 11 A. I was appointed to the position.
 12 Q. Oh. Had you had any -- who appointed
 13 you?
 14 A. George Carter was --
 15 Q. Who was he?
 16 A. George Carter at the time was the manager
 17 of the crude division. He was also the chairman of
 18 our local process safety committee; and the way we
 19 were structured, the chairman of that committee,
 20 the process safety management organization reported
 21 to that chairman.
 22 Q. Did you apply for the job? Was there
 23 competitive bidding for the job?
 24 A. Not that I am aware of.
 25 Q. Had you had -- you had previously been a

Page 37

1 superintendent working out in the plant?
 2 A. Yes, sir.
 3 Q. And you have been top dog PSM for -- did
 4 you say 11 years?
 5 A. Yes, since November of 1994.
 6 Q. And stayed in the same job, and what's
 7 your annual raise that you get that they give you?
 8 A. I mean, it varies year to year based on
 9 performance. The last several years, it's a number
 10 typically around 4 percent or so.
 11 Q. And what was it for the year -- what
 12 raise did you get based on performance in
 13 December of -- did you -- of 2005? Is that when
 14 you get raises?
 15 A. We do it in March of the new year.
 16 Q. Okay. So what's your latest performance
 17 based raise been?
 18 A. I don't recall exactly. I think it's in
 19 that same 4 percent range.
 20 Q. And was that in March of 2005 or '6?
 21 A. 2005. We haven't done merit increases
 22 for the year 2006 yet.
 23 Q. Who makes the decision that gives you
 24 this performance based 4 percent raise?
 25 A. My supervisor.

Page 38

1 Q. Being?
 2 A. Presently it's Pat King.
 3 Q. But in 2005, March of 2005, it was Joe
 4 Barnes, right?
 5 A. Joe Barnes, yes.
 6 Q. Joe Barnes was kind of a pretty
 7 short-term in safety, wasn't he?
 8 MR. PATTERSON: Objection, form.
 9 A. I don't recall his exact tenure; but no,
 10 he was not there very long.
 11 Q. (BY MR. WILLIAMS) Well, in fact, in
 12 2004, between September and December of 2004, his
 13 job -- your boss' job, he was only doing it
 14 part-time during that time period, correct?
 15 A. September to December of 2004?
 16 Q. Yes, sir.
 17 A. I don't recall exactly. I do believe
 18 that was a transition period from his role as the
 19 cracking and alkylolation division manager into the
 20 HSE manager position.
 21 Q. Okay. So we can confirm that as your --
 22 according to your recollection, between September
 23 to December of 2004, the top dog on HSSE, Joe
 24 Barnes, that was a part-time position for him
 25 during that time period, true?

Page 39

1 MR. PATTERSON: Objection, form.
 2 A. You would need to talk to Joe Barnes
 3 specifically about --
 4 Q. (BY MR. WILLIAMS) He says --
 5 A. -- all the duties he was being asked to
 6 do during that time period.
 7 Q. He said it was part-time during that time
 8 period. Is that -- is that your recollection, too,
 9 that he was doing two jobs and so his duties as
 10 head of HSSE was only part-time, true?
 11 A. I don't recall specifically, but I do,
 12 you know, again, believe that was the transition
 13 period from his old job into his new role.
 14 Q. So let's assume that what he said is true
 15 and that he took on the job as head of HSSE
 16 full-time in December of 2004. So he had been on
 17 the job full-time only about four months when this
 18 fire and explosion occurred, right?
 19 A. December to March, yes, four months.
 20 Q. Now, during that -- during any of the
 21 time when he was part-time as your boss or
 22 full-time as your boss, did you ever give him any
 23 formal education where you sat down with a training
 24 guide or a PowerPoint or anything else on this
 25 safety critical item of process safety management?

Page 40

1 A. We did not sit down and say, "This is
 2 process safety management training. Here is a
 3 training guide. Here is a PowerPoint slide."
 4 We had conversations with each
 5 other on topics regarding process safety
 6 management. I had presented information to the
 7 leadership team regarding process safety
 8 management. So, again, yeah, if characterization
 9 is sit down, you know, we both nod our heads. We
 10 understand this is specifically process safety
 11 management training? No.
 12 Were there discussions about
 13 process safety management? Was there information
 14 exchanged around process safety management? Yes.
 15 MR. WILLIAMS: Objection,
 16 nonresponsive.
 17 Q. (BY MR. WILLIAMS) A simple question.
 18 During any of the time when Joe Barnes was
 19 part-time head of HSSE or when he was full-time for
 20 the last four months before the fire, did you
 21 personally sit down or anybody on your staff and
 22 give any formal training to Joe Barnes, your boss,
 23 with regard to process safety management?
 24 A. No.
 25 Q. Did any of -- when is the last time that

Page 41

1 you or any member of your staff gave formal process
 2 safety management training to any of the leadership
 3 team at the Texas City refinery?
 4 A. I can't recall a time that we
 5 specifically sat with the leadership team and said,
 6 "This is purely for the purpose of education on
 7 process safety management."
 8 Q. And --
 9 A. Again, there would have been
 10 opportunities to discuss topics related to process
 11 safety management.
 12 Q. Sure. There's opportunities for
 13 on-the-job training and stuff. I am talking about
 14 a formal training.
 15 Is it true that in your 11 years
 16 as top dog on process safety management at that
 17 plant you never sat down with the leadership team
 18 and gave them any formal training with regard to
 19 process safety management, correct?
 20 MR. PATTERSON: Objection, form.
 21 A. I don't believe that's correct. I mean,
 22 I don't recall a time when we assembled the entire
 23 leadership team and gave specific training; but
 24 there was specific training on topics on process
 25 safety management and discussions on process safety

Page 42

1 management topics that the leadership team members
 2 would have been present.
 3 MR. WILLIAMS: Objection,
 4 nonresponsive.
 5 Q. (BY MR. WILLIAMS) I am talking -- do you
 6 know what formal training is as distinguished from
 7 discussing something? Do you know the distinction?
 8 A. Why don't I go ahead and hear your
 9 definition so that we're clear?
 10 Q. No. I am asking you.
 11 Do you know the difference?
 12 MR. PATTERSON: Objection, form.
 13 A. In the context that you are asking, I
 14 would describe formal training as a specific lesson
 15 plan, objection, review of materials, it could
 16 include some sort of feedback loop in terms of was
 17 the training effective or was there education
 18 taking place, active learning.
 19 Q. (BY MR. WILLIAMS) In a learning
 20 environment with a planned out curriculum where
 21 there's objectives of things to be communicated and
 22 taught, that would be formal training, right?
 23 A. Yes.
 24 Q. Okay. With that definition of formal
 25 training, did you ever sit down during your

Page 43

1 11 years at the plant and get -- or anybody in your
 2 department give a formal training session to the
 3 leadership team at Texas City refinery on process
 4 safety management?
 5 A. To the entire leadership team on a
 6 specific topic related to process safety
 7 management?
 8 Q. Okay.
 9 A. No.
 10 Q. Did the process -- did the leadership
 11 team at any time during your 11 years of being top
 12 dog on process safety management ever request any
 13 formal training from you or your department on
 14 process safety management?
 15 A. In terms of request, "Bill, could you or
 16 one of your staff members please come and educate
 17 us on the entire PSM regulation or some aspect of
 18 it?" No.
 19 Q. Thank you.
 20 A. But again, I would say that there were
 21 requests for discussions on specific topics.
 22 Q. I am talking about formal training.
 23 Either there was a formal training on PSM
 24 regulations and PSM -- aspects of PSM that was
 25 given to leadership or there wasn't.

Page 44

1 Was there or wasn't there?
 2 A. Specifically given to the leadership
 3 team, no.
 4 Q. Why weren't you included as a member of
 5 the leadership team if you were head of preventing
 6 catastrophic events?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. WILLIAMS) Why were you excluded
 9 from the leadership team?
 10 A. I don't know. You would need to ask the
 11 members of the leadership team.
 12 Q. Do you know if anybody -- let me go back.
 13 Joe Barnes, were you aware of the
 14 fact that he had never read the PSM requirements?
 15 A. No.
 16 MR. PATTERSON: Objection, form.
 17 Q. (BY MR. WILLIAMS) And to your knowledge,
 18 do you know of anybody above you at Texas City
 19 refinery that actually took the time to read the
 20 code of federal regulations, 1910.119 as set forth
 21 by OSHA, of PSM regulations?
 22 A. I don't --
 23 MR. PATTERSON: Objection, form.
 24 A. I don't have personal knowledge of that.
 25 Q. (BY MR. WILLIAMS) Okay. Do you have any

Page 45

1 personal knowledge of anybody above you at the
 2 Texas City refinery that ever took any formal
 3 training from anybody on the PSM regulations or
 4 requirements?
 5 A. I mean, I would have to examine training
 6 records.
 7 Q. I am just asking what you know. Are you
 8 aware of anybody ever doing that?
 9 A. Well, there was quite a bit of training
 10 that was given when the rule was first promulgated.
 11 I mean, I myself as an operations superintendent
 12 took formal training in the area of the HAZOP
 13 technique for process hazards analysis.
 14 Q. What year?
 15 A. I believe it was around 1992.
 16 Q. Okay. So let me -- let me rephrase my
 17 question, if I can.
 18 In the ten years before the
 19 March 23 fire and explosion, do you know of any
 20 formal training in process safety management that
 21 was given by anybody to the leadership or anybody
 22 above you at Texas City refinery?
 23 A. I don't have any personal knowledge.
 24 Q. Okay. Did anybody in the leadership ever
 25 come to you and say, "Bill" -- they would call you

Page 46

1 Bill, wouldn't they?
 2 A. Yes, sir.
 3 Q. Did anybody ever come to you and say,
 4 "Bill, I want to learn about process safety
 5 management; and I am going to go take a course in
 6 process safety management. What's the best course
 7 for me to take?"
 8 A. I don't recall anybody asking me for
 9 recommendations on just general process safety
 10 management training. People have asked me where
 11 they might learn more about some specific topics
 12 and I've made those recommendations.
 13 Q. Now, there are courses taught
 14 specifically on process safety management, aren't
 15 there?
 16 A. Yes, sir.
 17 Q. And who teaches those courses?
 18 A. There's various groups. There's a number
 19 of consulting firms that have education,
 20 departments that offer training. There are some of
 21 the industry groups, the Center for Chemical
 22 Process Safety, the American Institute of Chemical
 23 Engineers, the American Petroleum Institute, the
 24 NFPA offers some courses, the NPRA.
 25 So, you know, there's a variety of

Page 47

1 sources for coursework.
 2 Q. And do you -- based on your personal
 3 knowledge, are you aware of anybody in the
 4 leadership or above you at the Texas City refinery
 5 that ever attended any of the courses by any of the
 6 people you just mentioned with regard specifically
 7 to process safety management?
 8 MR. PATTERSON: Objection, form.
 9 A. I don't have any personal knowledge.
 10 Q. (BY MR. WILLIAMS) Now let me ask about
 11 the structure of your organization.
 12 Is there someone above you in BP
 13 North America that has expertise that -- on process
 14 safety management that is in the organizational
 15 structure above you?
 16 A. Not limited to North America. There is a
 17 position of process safety advisor, but that
 18 position deals with process safety management for
 19 the BP Global refining community. So it's not
 20 limited to just North America.
 21 Q. Who is that person?
 22 A. The position is currently vacant. Mark
 23 Preston was the person who was most recently in
 24 that position.
 25 Q. Tell me the title.

Page 48

1 A. Process safety advisor.
 2 Q. And where is this person located?
 3 MR. PATTERSON: Objection, form.
 4 A. This person is physically located in
 5 Grangemouth, Scotland. His reporting relationship
 6 is through Sunbury, which is -- I refer to it as
 7 London.
 8 Q. (BY MR. WILLIAMS) Okay. Do you work
 9 directly for the process safety advisor?
 10 A. No.
 11 Q. What's -- if I look at an organizational
 12 chart, is there one that has any direct
 13 relationship between the process safety advisor and
 14 Bill Ralph?
 15 A. There is no direct reporting
 16 relationship, no.
 17 Q. And this now vacant process safety
 18 advisor, what company does that person work for?
 19 A. For BP.
 20 Q. Is there -- is it the same BP, or is it a
 21 different corporate entity than the one you work
 22 for?
 23 A. I don't know.
 24 Q. So Mark Preston.
 25 Well, why is the position vacant?

Page 49

1 What happened to Mark?
 2 A. Mark has taken a new assignment with
 3 the -- I am trying to think of the exact name of
 4 the organization.
 5 There is a recently formed group
 6 at the corporate level around operations and
 7 safety, and Mark has taken an assignment with that
 8 group.
 9 Q. How long ago -- how long has this
 10 position of process safety advisor been vacant?
 11 A. Just a matter of weeks.
 12 Q. And how long did Mark Preston hold this
 13 position of process safety advisor?
 14 A. I believe Mark was in the role for about
 15 four years.
 16 Q. How often did you meet face-to-face with
 17 Mark Preston during his four years as process
 18 safety advisor?
 19 A. We would probably meet face-to-face maybe
 20 three to five times a year.
 21 Q. Where?
 22 A. It varies. We have a -- well, yeah, it
 23 varies. It might be at one of the refinery
 24 locations. It might be at some meeting that we
 25 were both attending. So...

Page 50

1 Q. Did you apply for this job, the process
 2 safety advisor that's now vacated?
 3 A. The current vacancy?
 4 Q. Yes, sir.
 5 A. No.
 6 Q. Why not?
 7 A. I am pretty busy with things at Texas
 8 City at the moment.
 9 Q. Is there anybody -- was Mark Preston a
 10 member of the -- was he an executive of the
 11 company?
 12 MR. PATTERSON: Objection, form.
 13 A. No, I don't believe so.
 14 Q. (BY MR. WILLIAMS) Was he a member of the
 15 leadership team of BP?
 16 A. No.
 17 Q. So if I am correct, with regard to
 18 process safety, you had no direct reporting duties
 19 or relationship with regard to Mark Preston or
 20 anybody that holds the title of process safety
 21 advisor, correct?
 22 A. That's correct.
 23 Q. And so let's take North America first, or
 24 let's take -- let's do it this way.
 25 Is there anybody in Texas that

Page 51

1 is -- that you had a reporting responsibility to
 2 above you that was an expert in process safety
 3 management or was a resource to you?
 4 A. No direct reporting relationships.
 5 Certainly within the company, BP is a very large
 6 corporation. There are others with expertise in
 7 process safety management, and I have access to
 8 them.
 9 Q. Okay. So there's other people that hold
 10 your job title in other plants within the company,
 11 right?
 12 A. The same job title or similar functions,
 13 doing something in the area of process safety
 14 management.
 15 Q. But you don't have any -- do you have
 16 anybody in Texas, the United States or North
 17 America that is above you as a direct resource that
 18 has more expertise than you or is your boss
 19 directly that is an expert in process safety
 20 management?
 21 A. No.
 22 Q. And the person closest to holding that,
 23 what I have just described, would be a person who
 24 is in Scotland and/or London, correct?
 25 A. Yes.

Page 52

1 Q. And there is no one in the leadership or
 2 executive level of BP that is an expert in process
 3 safety management, correct?
 4 MR. PATTERSON: Objection, form.
 5 A. I am not familiar with their background,
 6 and so I can't answer as to whether they do or do
 7 not have.
 8 Q. (BY MR. WILLIAMS) Certainly you have
 9 never heard of anybody in the leadership or
 10 executive -- or an executive of BP who is an expert
 11 on process safety management, true?
 12 A. I have not.
 13 MR. WILLIAMS: Okay. I think we
 14 need to take the change, so let's take a break.
 15 MR. PATTERSON: Five minutes?
 16 THE VIDEOGRAPHER: Off the record
 17 11:01 a.m., ending Tape 1.
 18 (Recess taken.)
 19 THE VIDEOGRAPHER: On the record
 20 at 11:16 a.m., beginning Tape 2.
 21 Q. (BY MR. WILLIAMS) Sir, how much time
 22 have you spent preparing to give your testimony to
 23 this jury?
 24 A. There has been three days.
 25 Q. You spent three days preparing, and was

Page 53

1 that with BP's attorneys?
 2 A. Yes, sir.
 3 Q. Basically then somewhere around 24 hours?
 4 A. Approximately, yes.
 5 Q. Now, how important is it to tell the
 6 truth?
 7 MR. PATTERSON: Objection, form.
 8 A. It's absolutely important, and that's
 9 what I swore to do at the beginning of this
 10 deposition.
 11 Q. (BY MR. WILLIAMS) I want to ask you,
 12 then, about some of the things that go on at Texas
 13 City.
 14 MR. WILLIAMS: Let's mark this as
 15 our next exhibit, please.
 16 (Exhibit Number 178 marked for
 17 identification.)
 18 Q. (BY MR. WILLIAMS) Are you familiar with
 19 178, Exhibit 178?
 20 MR. PATTERSON: Let me look at it
 21 first.
 22 THE WITNESS: (Tenders documents.)
 23 MR. PATTERSON: Thanks.
 24 Q. (BY MR. WILLIAMS) I didn't hear your
 25 answer.

Page 54

1 A. I haven't had the chance to look at the
 2 document yet.
 3 MR. PATTERSON: I am looking at it
 4 first.
 5 MR. WILLIAMS: Okay. I am just
 6 going to question Mr. Patterson about it, then.
 7 (Discussion off the record.)
 8 MR. PATTERSON: I am going to give
 9 this back to the witness.
 10 Q. (BY MR. WILLIAMS) Okay. Exhibit 178,
 11 sir, seems to be from what I can tell some kind of
 12 PowerPoint for a Texas City business unit incident
 13 investigation. It appears to be something to train
 14 people how to investigate and has numerous slides
 15 up through about 56.
 16 Is that what it is?
 17 A. Yeah, if you would give me a moment to
 18 finish looking through it, please.
 19 Your question again, please?
 20 Q. Is that a formal training program that
 21 you or your unit put together to teach people how
 22 to investigate there at the Texas City refinery?
 23 A. Yeah, this -- I can't recall whether I
 24 put this together. I have put very similar
 25 presentations together. I can't recall if this is

Page 55

1 mine or not but...
 2 Q. Okay. It's either yours or somebody
 3 under your supervision?
 4 A. Yes.
 5 Q. And that is the policy, the official
 6 policy on how to do investigations at the Texas
 7 City refinery, true?
 8 MR. PATTERSON: Objection, form.
 9 A. No, this is -- this is not the policy.
 10 There is a specific HSE policy for incident
 11 investigations. This is a PowerPoint presentation
 12 for the purpose of conducting trainings not only on
 13 that policy but what are good practices related to
 14 incident investigations.
 15 Q. (BY MR. WILLIAMS) Okay. Look at slide
 16 Number 50, sir.
 17 A. (Complies.)
 18 Q. Okay. At the top here it has this slash
 19 mark and it says, "Items that should be excluded
 20 from the incident investigation report."
 21 And it's -- did I read that
 22 correctly?
 23 A. You did.
 24 Q. And things that you don't want to show up
 25 in a report are -- and the third bullet point is

Page 56

1 you don't want it to be officially listed, "Blame
 2 for noncompliance or less than adequate programs or
 3 practices."
 4 Did I read that correctly?
 5 A. Yes, that's what the document says.
 6 Q. So when you train people on incident
 7 investigation, it is -- is it the official policy
 8 of your section to exclude blame for noncompliance
 9 or less than adequate programs?
 10 A. We train people to be objective in the
 11 incident investigation process, to find facts that
 12 contributed to the event. We don't feel that the
 13 purpose of the investigation is to assign blame.
 14 Q. Well, what about --
 15 MR. DEAN: Objection,
 16 responsiveness.
 17 Q. (BY MR. WILLIAMS) What about the fact
 18 that there are adequate programs? Is that
 19 something that's important to you?
 20 A. The investigation team is encouraged as
 21 part of fact-finding to determine whether they
 22 thought the programs were adequate or not as a
 23 contributing factor, draw the distinction between
 24 that and an opinion of an investigation team and
 25 assigning blame for why there might be a

Page 57

1 noncompliance or an inadequacy.
 2 MR. WILLIAMS: Objection,
 3 nonresponsive.
 4 Q. (BY MR. WILLIAMS) My point is that this
 5 is your official policy, the process safety
 6 management department's official training policy is
 7 that in an official report blame for noncompliance
 8 or less than adequate programs or practices should
 9 be, in your words, excluded from the report. Am I
 10 interpreting that correctly?
 11 MR. PATTERSON: Objection, form.
 12 A. In the training that we conduct, we don't
 13 feel it's an appropriate place to assign blame.
 14 Now, that does not limit the investigation team in
 15 terms of their conduct of the investigation and
 16 inquiry into any aspect that they think may have
 17 been a contributing factor.
 18 Q. (BY MR. WILLIAMS) You're -- I don't
 19 understand what you are saying.
 20 It says here with a big old slash
 21 mark that an incident investigation report should
 22 not include blame for noncompliance or less than
 23 adequate programs. Did I -- am I interpreting
 24 that? That's what you teach your investigators?
 25 A. We teach them, yes, not to assign blame.

Page 58

1 Q. Well, and it also says that -- with a big
 2 slash mark here, it says never put -- it should be
 3 excluded from the report anything about less than
 4 adequate programs or practices?
 5 A. No, you are misreading.
 6 Q. I am misreading. Okay.
 7 Where does it say in your
 8 PowerPoint there that, "We should include blame for
 9 noncompliance or alert somebody when there's less
 10 than adequate programs"? Where in the PowerPoint
 11 does it say to include that?
 12 A. Well, I can look for that in a moment;
 13 but what this bullet point is expressing is that
 14 they are -- the team should not assign blame for
 15 noncompliance or assign blame for less than
 16 adequate programs. That's not the same as
 17 instructing the team not to inquire as to whether
 18 or not there were nonconformances or whether there
 19 were in their opinion inadequate programs or
 20 practices.
 21 Q. Well, so you are saying -- but why are
 22 you saying that it should be excluded from the
 23 report? Am I misreading that?
 24 A. I believe you are.
 25 Q. Okay. Let's go. Let's do it.

Page 59

1 "Items that should be excluded
 2 from the incident investigation report," and it has
 3 a list of three items that should be excluded from
 4 the report. What does "excluded from the report"
 5 mean?
 6 A. Left out.
 7 Q. So that -- it is your official policy to
 8 leave out any blame for noncompliance. Let's take
 9 that.
 10 That's the official policy to
 11 leave out any blame for noncompliance, right?
 12 MR. PATTERSON: Objection, form.
 13 A. Yes.
 14 Q. (BY MR. WILLIAMS) And it's your official
 15 policy to leave it out of the report, do not put it
 16 in is up there, for less than adequate programs or
 17 practices?
 18 MR. PATTERSON: Objection, form.
 19 A. No.
 20 Q. (BY MR. WILLIAMS) That's what you are
 21 training people? That's what this document says?
 22 A. No. We -- for the second half of that
 23 sentence, it would be, "We are advising not to
 24 include blame for less than adequate programs." So
 25 it's blame for noncompliance or blame for less than

Page 60

1 adequate programs.
 2 Q. Right. You are telling them, "Keep that
 3 out of any written report"?
 4 A. The key word is "blame."
 5 Q. Okay.
 6 A. And that's completely different from the
 7 investigation team and their inquiry relative to
 8 issues of noncompliance or issues of the adequacy
 9 of programs.
 10 MR. WILLIAMS: Objection,
 11 nonresponsive.
 12 Q. (BY MR. WILLIAMS) I don't know -- show
 13 me where it says -- balances anywhere where this is
 14 a direct instruction, "Do not put in the written
 15 report any blame for noncompliance or less than
 16 adequate programs"? Show me where it -- somewhere
 17 else it says something different.
 18 A. The first place I find something on that
 19 topic would be on slide 4, which the title of that
 20 slide is "Incident Investigation Objectives." The
 21 third bullet point says, "Recognize weaknesses in
 22 the safety systems."
 23 Q. Right. But how does that -- when you
 24 tell the person, "Don't put in writing, should be
 25 excluded, blame," focus on that for a minute, if

Page 61

1 you would.
 2 A. All right.
 3 Q. You just told people, "Do not put blame
 4 in writing." So help me find where you counter
 5 that, where -- because it's pretty darned confusing
 6 to me.
 7 MR. PATTERSON: Objection, form.
 8 A. I guess I don't see it as confusing.
 9 Q. (BY MR. WILLIAMS) Well, I -- okay. So
 10 it's pretty clear that you should never put in
 11 writing the blame for noncompliance. Is that a
 12 true statement?
 13 A. We don't think that is a proper objective
 14 for the investigation team to assign blame and
 15 that's completely independent and distinct in my
 16 mind and in the way we conduct the training from
 17 the investigation team's inquiry into issues around
 18 nonconformance or --
 19 Q. Well, do you train people to avoid
 20 certain words, to use corporate speak?
 21 MR. PATTERSON: Objection to form.
 22 A. There are words that we advise the
 23 investigation team to avoid.
 24 Q. (BY MR. WILLIAMS) You have forbidden
 25 words at your plant when a written report comes

Page 62

1 out, don't you?
 2 MR. PATTERSON: Objection, form.
 3 A. No. We have not forbidden words.
 4 Q. (BY MR. WILLIAMS) Oh, okay.
 5 A. We have instructed and advised that
 6 certain words are not necessarily objective and are
 7 not necessarily a good practice to use.
 8 Q. You have words -- you train your
 9 investigators that there are words that are
 10 forbidden and they are to be avoided, don't you?
 11 MR. PATTERSON: Objection, form.
 12 A. Again, we do not --
 13 Q. (BY MR. WILLIAMS) Yes or no?
 14 A. It's not a yes or no question.
 15 Q. Yes, it is.
 16 Do you and your team train and
 17 have -- train the investigators that there are
 18 certain words they have to avoid in any written
 19 report?
 20 A. No.
 21 (Exhibit Number 179 marked for
 22 identification.)
 23 Q. (BY MR. WILLIAMS) Okay. Let me hand you
 24 Exhibit 179. 179 is a training guide done by your
 25 team on the fundamentals of auditing.

Page 63

1 And "auditing" means auditing for
 2 safety, right?
 3 A. Yeah. This training packet was prepared
 4 for the specific topic of PSM audit training.
 5 Q. You bet. PSM audit training and it was
 6 prepared by you or someone under your direction,
 7 true?
 8 A. Yes.
 9 Q. And in that document you tell people,
 10 "There are words, language to be avoided," don't
 11 you?
 12 A. Do you have a specific slide that you are
 13 referring to?
 14 Q. Wait a minute. I am going to ask you
 15 first.
 16 You testified under oath that you
 17 did not tell people to avoid language?
 18 A. No. You asked did we forbid --
 19 Q. I asked --
 20 A. -- certain language.
 21 Q. Used the word "avoid." I promise you,
 22 sir. I --
 23 A. I believe you used both words.
 24 MR. PATTERSON: Wait for him to
 25 finish his question.

Page 64

1 Q. (BY MR. WILLIAMS) Well, let me ask you
 2 this now. Sir, do you train people in their audits
 3 and investigations that there are certain words
 4 they must avoid putting in writing?
 5 A. I don't believe we use the word "must."
 6 I believe we use the term "should."
 7 Q. Okay. Let's look at slide 119. We have
 8 that same slash mark don't we?
 9 A. Yes, sir.
 10 Q. And it says there is "Examples of report
 11 language to" and what's that last word?
 12 A. "Avoid."
 13 Q. And it says you should avoid using words
 14 as careless, criminal, dangerous, intentional or
 15 serious problem, reckless, willful misconduct.
 16 Even such word as terrible or violation or neglect.
 17 You are instructing your people to
 18 cover up and avoid those words, aren't you?
 19 MR. PATTERSON: Objection, form.
 20 A. We are not instructing our people to
 21 cover up anything. We are --
 22 Q. (BY MR. WILLIAMS) Why are you telling
 23 them to avoid these words?
 24 A. Because these words are not objective.
 25 Q. Oh, they are not?

Page 65

1 A. They are very subjective terms.
 2 Q. Oh.
 3 Is this corporate speak when the
 4 corporation, you acting for the corporation,
 5 instructs people to avoid these words?
 6 MR. PATTERSON: Objection, form.
 7 A. I don't know what you mean by "corporate
 8 speak."
 9 Q. (BY MR. WILLIAMS) Is it censorship? Are
 10 you censoring these people?
 11 MR. PATTERSON: Objection, form.
 12 A. I have never personally turned a report
 13 around and asked them to strike any words.
 14 Q. (BY MR. WILLIAMS) Well, sir, you in your
 15 training, you and your department go out and train
 16 people that there are words that they must avoid,
 17 right?
 18 MR. PATTERSON: Objection, form.
 19 A. There are words that they should avoid,
 20 yes.
 21 Q. (BY MR. WILLIAMS) And how many of those
 22 words have you listed here for them to avoid?
 23 A. There are 22 words listed on this page.
 24 Q. And those are forbidden words, right?
 25 MR. PATTERSON: Objection, form.

Page 66

1 A. No, they are not forbidden words.
 2 Q. (BY MR. WILLIAMS) Well, now tell me what
 3 kind of message do you think it sends to somebody
 4 when in the training you tell them, "You should
 5 avoid these words"?
 6 A. Could you repeat the question, please?
 7 Q. What kind of message do you think it
 8 sends to people when you on behalf of BP tell them
 9 that they should avoid these 22 words?
 10 A. The context of our training in incident
 11 investigation is for the leader in the team to be
 12 objective in their inquiry.
 13 Q. Well, what if they think it's dangerous?
 14 Tell me why -- what is forbidden about telling
 15 somebody, "Hey, this is dangerous"?
 16 What's wrong with the word
 17 "dangerous"?
 18 MR. PATTERSON: Objection, form.
 19 A. "Dangerous" is a subjective term.
 20 Q. (BY MR. WILLIAMS) What if something is
 21 neglect? Do you think that's a subjective term?
 22 A. I do.
 23 Q. What if they actually -- it's dangerous
 24 because it -- what if it's true that it's
 25 dangerous?

Page 67

1 A. Again --
 2 MR. PATTERSON: Objection, form.
 3 A. -- "dangerous" is a subjective term.
 4 Q. (BY MR. WILLIAMS) What's wrong with --
 5 is it -- can "dangerous" be a truthful term? Can
 6 something truly be dangerous?
 7 A. Again, danger is relative and subjective.
 8 Q. I am wondering was -- on March 23, 2005,
 9 was the ISOM unit dangerous?
 10 MR. PATTERSON: Objection, form.
 11 A. Again, a subjective term.
 12 Q. (BY MR. WILLIAMS) I didn't ask you if it
 13 was subjective. Direct question. I would
 14 appreciate a direct answer.
 15 March 23, 2005, was the ISOM unit
 16 dangerous?
 17 MR. PATTERSON: Objection, form.
 18 A. Again, it's --
 19 MR. PATTERSON: Object to the
 20 sidebar.
 21 A. Again, "dangerous" is a subjective term.
 22 Are there potential hazards? Were there potential
 23 hazards at the ISOM on March 23rd, 2005? Yes.
 24 Q. (BY MR. WILLIAMS) I didn't ask you that.
 25 I want to focus on the word "dangerous."

Page 68

1 Was what happened that day on
 2 March 23 dangerous?
 3 MR. PATTERSON: Objection, form.
 4 A. I believe I have given you my answer. I
 5 believe --
 6 Q. (BY MR. WILLIAMS) No, sir. You haven't.
 7 A. -- dangerous to be a relative term.
 8 Q. Do you understand the word "dangerous"?
 9 A. Something involving danger.
 10 Q. Okay. So was it or was it not dangerous,
 11 the ISOM unit, on March 23, 2005?
 12 MR. PATTERSON: Objection, form.
 13 A. Again, I believe the word -- the term
 14 dangerous is subjective and it carries implications
 15 with it that are not necessarily objective; and in
 16 the context of the investigation training we do, we
 17 ask the team to be as objective as possible.
 18 MR. WILLIAMS: Objection,
 19 nonresponsive.
 20 Q. (BY MR. WILLIAMS) Dangerous? March 23,
 21 2005, ISOM unit, dangerous or not?
 22 MR. PATTERSON: Objection, form.
 23 Q. (BY MR. WILLIAMS) Yes or no, in your
 24 opinion?
 25 A. There were potential hazards on the ISOM

Page 69

1 unit on March 23rd.
 2 Q. Sir, I am asking you, if you could just
 3 help me and the jury, because this says language to
 4 avoid; but the jury and I aren't constricted by
 5 avoiding it. We can use these, this language. So
 6 that's why I am asking you: Was it dangerous?
 7 MR. PATTERSON: Objection, form.
 8 Object to sidebar.
 9 A. Again, dangerous is a subjective term.
 10 Q. (BY MR. WILLIAMS) I agree. It's
 11 subjective.
 12 A. So --
 13 Q. For purposes of this question, I agree.
 14 Using, as you claim it's a
 15 subjective term, and using your definition of
 16 dangerous, March 23 was the ISOM unit dangerous?
 17 MR. PATTERSON: Objection, form.
 18 A. On March 23rd there were potential
 19 hazards.
 20 Q. (BY MR. WILLIAMS) Now, that's corporate
 21 speak.
 22 Was it dangerous?
 23 MR. PATTERSON: Objection, form.
 24 Object to sidebar.
 25 A. I am not sure we are going to get

Page 70

1 anywhere with this line of questioning.
 2 Q. (BY MR. WILLIAMS) I bet we do.
 3 Give me a definition -- give me an
 4 example of something that you know of that's
 5 dangerous.
 6 MR. PATTERSON: Objection, form.
 7 A. Again, it's relative.
 8 Q. (BY MR. WILLIAMS) Okay. Give me an
 9 example.
 10 A. A small child crossing a busy
 11 intersection in an inner city is dangerous for that
 12 small child.
 13 Q. Okay.
 14 A. Now, is that same situation dangerous for
 15 an adult? It's not the same extent of danger.
 16 Q. Okay. Now, use that -- use that
 17 understanding of the word dangerous and just tell
 18 me: On March 23, 2005, was the ISOM unit
 19 dangerous?
 20 MR. PATTERSON: Objection, form.
 21 A. I am going to go back to the fact that
 22 there are potential hazards and that there are ways
 23 to mitigate those hazards. So danger is a
 24 subjective --
 25 Q. (BY MR. WILLIAMS) Why can't you answer

Page 71

1 the word -- the question with regard to dangerous?
 2 MR. PATTERSON: Objection, form.
 3 A. Because, again, it's a subjective term.
 4 Q. (BY MR. WILLIAMS) I am letting you be
 5 subjective.
 6 A. I don't choose to be subjective.
 7 Q. Well, okay. Objectively was it
 8 dangerous?
 9 A. Objectively there are potential hazards
 10 and that there were safeguards and mitigation plans
 11 in place to safeguard against those potential
 12 hazards.
 13 MR. WILLIAMS: Objection,
 14 nonresponsive.
 15 Q. (BY MR. WILLIAMS) I am just asking
 16 you -- okay.
 17 Was there a serious problem at the
 18 ISOM unit on March 23, 2005?
 19 MR. PATTERSON: Objection, form.
 20 A. Again, it's subjective. At a point in
 21 time, there was a serious problem.
 22 Q. (BY MR. WILLIAMS) Now, was there neglect
 23 on March 23, 2005, at the ISOM unit?
 24 A. I believe "neglect" carries certain
 25 connotations with it that are not for me to judge.

Page 72

1 Q. Well, now, wait a minute. You are the
 2 top dog on process safety management. Help us.
 3 Give us an honest opinion.
 4 Was there neglect on March 23,
 5 2005?
 6 MR. PATTERSON: Objection, form.
 7 Q. (BY MR. WILLIAMS) Yes or no?
 8 A. I am not in a position to draw a
 9 conclusion.
 10 Q. Well, then who is? You are the head of
 11 process safety management, the top dog; and you say
 12 you are not in a position to conclude it. Who do
 13 you pass it off to?
 14 MR. PATTERSON: Objection, form.
 15 A. The process is there was an event. We
 16 commissioned an investigation team. They
 17 investigated the incident. They have their
 18 findings. They have their recommendations, and our
 19 process is now to respond to those findings and
 20 recommendations.
 21 MR. WILLIAMS: Objection,
 22 nonresponsive.
 23 Q. (BY MR. WILLIAMS) Are you telling me
 24 under oath today as a chemical engineer, a man who
 25 has been head of process safety, top dog for

Page 73

1 11 years that you cannot determine whether or not
 2 neglect occurred on March 23 in the ISOM unit? Are
 3 you trying to tell me that?
 4 MR. PATTERSON: Objection, form.
 5 A. I don't think there's any purpose
 6 served --
 7 Q. (BY MR. WILLIAMS) Don't --
 8 A. -- in trying to --
 9 MR. WILLIAMS: Nonresponsive
 10 objection.
 11 Q. (BY MR. WILLIAMS) Go ahead. I don't
 12 care what you think about if there's a purpose
 13 served. I want an answer to my question.
 14 MR. PATTERSON: Objection to form.
 15 Object to sidebar.
 16 A. The answer to your question is that we
 17 have an incident investigation process. We
 18 commission an independent team. They do their
 19 investigation. They report their findings, and
 20 then my job as process safety manager is to respond
 21 to those findings and to those recommendations.
 22 MR. WILLIAMS: Objection,
 23 nonresponsive.
 24 Q. (BY MR. WILLIAMS) A simple question to
 25 Bill Ralph, process safety top dog for 11 years:

Page 74

1 On March 23 was there neglect in the ISOM unit?
 2 MR. PATTERSON: Objection, form.
 3 A. I have no personal need to conclude
 4 whether there is neglect or not to be able to --
 5 Q. (BY MR. WILLIAMS) I don't care --
 6 A. -- respond to the findings of the
 7 investigation team.
 8 Q. I have a personal need to find out, and
 9 my clients deserve to know.
 10 Are you saying that you have no
 11 opinion as to whether or not there was neglect?
 12 MR. PATTERSON: Objection, form.
 13 Object to sidebar.
 14 A. Again, I have no need to categorize it in
 15 that way --
 16 Q. (BY MR. WILLIAMS) You had --
 17 A. -- to be able to respond to it and to --
 18 Q. I am asking you to categorize it in that
 19 way because you teach people to avoid these words,
 20 but we choose to ask you about these words. And I
 21 am asking you about this word "neglect."
 22 Was there neglect on that day,
 23 March 23?
 24 MR. PATTERSON: Objection, form.
 25 Object to sidebar comment.

Page 75

1 Q. (BY MR. WILLIAMS) I am waiting for your
 2 answer.
 3 A. I don't have an answer.
 4 MR. LINEBAUGH: Ask him again,
 5 John Eddie.
 6 Q. (BY MR. WILLIAMS) Give me an example of
 7 neglect.
 8 MR. PATTERSON: Objection, form.
 9 A. An example of neglect, I have two dogs.
 10 If I failed to feed them, I would consider that
 11 neglect of their care.
 12 Q. (BY MR. WILLIAMS) Okay. So you know
 13 what the word "neglect" means?
 14 MR. PATTERSON: Objection, form.
 15 A. I believe I do, yes.
 16 Q. (BY MR. WILLIAMS) Was there any neglect
 17 at the ISOM unit on March 23, 2005?
 18 MR. PATTERSON: Objection, form.
 19 A. As I read the investigation report, I
 20 believe the team found evidence of acts of omission
 21 related to the operating procedure.
 22 Q. (BY MR. WILLIAMS) Was there neglect?
 23 A. If the definition of neglect we are
 24 applying is whether or not actions that should have
 25 been taken were taken, then I believe the team

Page 76

1 found evidence that that was the case.
 2 Q. Was there neglect?
 3 MR. PATTERSON: Objection, form.
 4 A. I just -- I object to the term. I
 5 don't...
 6 Q. (BY MR. WILLIAMS) I know you do. You
 7 keep telling people to avoid it. I am just asking
 8 you. You don't get to object to the term, I don't
 9 think, in court. But a new question.
 10 Was there neglect on March 23?
 11 MR. PATTERSON: Objection, form.
 12 A. The objective answer and the reason we
 13 ask people to avoid these words is because they are
 14 subjective. I believe the objective answer comes
 15 from the investigation report in terms of its
 16 analysis and --
 17 Q. (BY MR. WILLIAMS) That's corporate
 18 speak. I am asking for a yes or no.
 19 Was there neglect? I will move on
 20 as soon as you tell me yes or no.
 21 MR. PATTERSON: Objection, form.
 22 Object to sidebar.
 23 A. I don't believe that I have enough
 24 personal knowledge and information to conclude for
 25 myself whether there was neglect or not.

Page 77

1 Q. (BY MR. WILLIAMS) So you have lack of
 2 knowledge, true? Did I quote you correctly? You
 3 said you have a lack of knowledge?
 4 MR. PATTERSON: Objection --
 5 A. Personal knowledge relative to the events
 6 on March 23rd, yes.
 7 Q. (BY MR. WILLIAMS) You have a lack of
 8 knowledge as to whether there was neglect?
 9 MR. PATTERSON: Objection, form.
 10 A. I have -- from my perspective and in my
 11 opinion, I don't have sufficient personal knowledge
 12 of the events on March 23rd for me to conclude,
 13 based on my understanding of the term neglect,
 14 whether there was or was not.
 15 Q. (BY MR. WILLIAMS) Okay. So when
 16 somebody from another plant calls you up and says,
 17 "Hey, Bill, did you guys have any neglect on
 18 March 23, 2005," you are going to tell them, "I
 19 have insufficient knowledge to make a decision"?
 20 MR. PATTERSON: Objection, form.
 21 Q. (BY MR. WILLIAMS) Is that what you are
 22 going to tell the other guys when they call you
 23 from other plants?
 24 A. One, I don't think they would call and
 25 ask a question whether there was neglect; and if

Page 78

1 they did, my response to that question would be to
 2 inform them of the facts that I know based on the
 3 investigation.
 4 Q. Okay. So is the answer, then, with
 5 neglect maybe so, maybe no?
 6 MR. PATTERSON: Objection, form.
 7 A. Yeah, I guess so. I mean --
 8 Q. (BY MR. WILLIAMS) Okay. Maybe so, maybe
 9 no?
 10 A. -- maybe. It may have been or maybe not.
 11 Q. Okay. This is the head of the PSM guy.
 12 Okay. Were there any violations
 13 on March 23, 2005, at the ISOM unit?
 14 MR. PATTERSON: Objection, form.
 15 Object to the sidebar comment.
 16 A. Again, a subjective term. I believe the
 17 investigation team in the report reflects that
 18 there were actions taken that were not consistent
 19 with the operating procedures or practices -- good
 20 practices.
 21 Q. (BY MR. WILLIAMS) Is that a yes or a no?
 22 MR. PATTERSON: Objection, form.
 23 Q. (BY MR. WILLIAMS) That there was a
 24 violation?
 25 A. We are going to go in a circle again.

Page 79

1 Q. That's your -- okay.
 2 A. A violation --
 3 Q. If that's your way of doing things,
 4 that's fine.
 5 A. I guess what I am trying to express is
 6 that in terms of the way that we teach people to do
 7 investigations is to be objective. What are the
 8 facts of the matter? Not to use subjective terms
 9 in describing the facts.
 10 MR. WILLIAMS: Objection,
 11 nonresponsive.
 12 Q. (BY MR. WILLIAMS) Now, my question
 13 simply is: On March 23 were there any -- was there
 14 a violation in the ISOM unit?
 15 MR. PATTERSON: Objection, form.
 16 Q. (BY MR. WILLIAMS) You can say, "Yes, no,
 17 I don't know."
 18 A. I don't know.
 19 Q. "Maybe so, maybe no"?
 20 A. I don't know.
 21 Q. You just -- you don't have enough
 22 information to know, true? Is that your claim?
 23 A. My knowledge of the events on March 23rd
 24 are based on the investigation report.
 25 Q. And based on that investigation report,

Page 80

1 as the chief compliance officer for PSM, was there
 2 or was there not a violation?
 3 MR. PATTERSON: Objection, form.
 4 A. Again, the intent of the investigation is
 5 to be objective.
 6 Q. (BY MR. WILLIAMS) No, no. Focus on the
 7 question --
 8 A. You use subjective --
 9 Q. -- please.
 10 A. You are asking me to use a subjective
 11 term, and I am telling you that the training I've
 12 had and the training that I give is to avoid
 13 subjective terms and to stick as best as possible
 14 to objective statements of fact.
 15 MR. WILLIAMS: Objection,
 16 nonresponsive.
 17 Q. (BY MR. WILLIAMS) Let me ask you this:
 18 Was what happened on March 23 terrible?
 19 A. In my personal opinion, the tragedy, the
 20 deaths of 15 people and the injuries of 170 plus
 21 individuals was terrible.
 22 Q. Was what occurred on March 23 a serious
 23 problem?
 24 A. "Serious problem" is subjective, and I
 25 think we had a question on this earlier. Were

Page 81

1 there conditions at the ISOM unit on March 23rd at
 2 points in time that were --
 3 Q. Who taught you to avoid these words?
 4 A. I am trying to remember the original
 5 genesis of it. I do know that --
 6 Q. "Who" was the question.
 7 A. Yes.
 8 Input regarding these terms came
 9 from BP legal staff.
 10 Q. Who at the BP legal staff taught you to
 11 avoid these terms?
 12 A. I believe I had input on these terms from
 13 Jim Galbraith, who is actually an attorney for
 14 McLeod, Alexander, Powel & Appfel. It's one of the
 15 firms that the Texas City refinery uses. And I
 16 believe I have had comments from Tracy Rogers, who
 17 is internal BP counsel.
 18 Q. When were you first taught to avoid these
 19 terms?
 20 A. Probably around 1997, in that range.
 21 Q. So five years before the appalling,
 22 terrible, deplorable fire and explosion of
 23 March 23, you had been taught by BP's lawyers to
 24 avoid using any of these 22 words, true?
 25 MR. PATTERSON: Don't answer that.

Page 82

1 It's attorney/client privilege.
 2 I am going to instruct the witness
 3 not to answer.
 4 Q. (BY MR. WILLIAMS) You are the client.
 5 If you want to -- okay.
 6 A. I am going to follow the advice of
 7 counsel and not answer the question.
 8 Q. Okay. We will get into that. Well,
 9 let's go back.
 10 Who else, other than the lawyers,
 11 participated in instructing you and the rest of the
 12 people who did auditing at the plant to avoid these
 13 22 words?
 14 MR. PATTERSON: Objection, form.
 15 A. I don't recall anyone else being
 16 involved.
 17 Q. (BY MR. WILLIAMS) Do you know what the
 18 CCPS is?
 19 A. Yes, the Center for Chemical Process
 20 Safety.
 21 Q. Well respected?
 22 A. I respect them, yes.
 23 Q. Authoritative in the field of process
 24 safety?
 25 A. Yes.

Page 83

1 Q. Authoritative in the field of process
 2 safety management?
 3 A. Yes.
 4 Q. Do they set industry guidelines and
 5 standards?
 6 A. I would not describe it that way. It is
 7 more of an education division of the American
 8 Institute of Chemical Engineers. Their primary
 9 purpose, as I understand it, is to develop
 10 educational materials on the subject of process
 11 safety management. There are quite a few textbooks
 12 that they have published on different topics, but I
 13 don't know of anything that I would categorize as
 14 an industry standard.
 15 Q. Have you ever seen in any textbook or
 16 industry standard where it instructs people to
 17 avoid these 22 words?
 18 A. I would have to look back at some
 19 textbooks that I have; but I believe there are
 20 references to subjective language, again, this
 21 topic and this issue of having the investigation
 22 team be objective and not to interject subjective
 23 terms.
 24 MR. WILLIAMS: Objection,
 25 nonresponsive.

Page 84

1 Q. (BY MR. WILLIAMS) These 22 words, have
 2 you ever seen them listed in any textbook or any
 3 authoritative journals as words that are to be
 4 avoided in audits or in investigations?
 5 MR. PATTERSON: Objection, form.
 6 A. I don't recall at the time seeing that,
 7 no.
 8 Q. (BY MR. WILLIAMS) Now, do you know of
 9 any company other than BP that teaches as part of
 10 its process safety management program that these 22
 11 words are to be avoided?
 12 A. I have no knowledge of what the internal
 13 training is of other companies.
 14 Q. Has OSHA ever come in and put their stamp
 15 of approval saying, "Avoid these 22 words"?
 16 A. No.
 17 Q. And the source of these 22 words, did you
 18 come up with these 22 words or did the legal
 19 department come up with these 22 words?
 20 MR. PATTERSON: Objection, form.
 21 I am going to instruct the witness
 22 not to answer that to the extent it requests
 23 attorney/client privileged communication.
 24 Q. (BY MR. WILLIAMS) You can answer.
 25 MR. PATTERSON: I am instructing

Page 85

1 him not to answer that question.
 2 MR. WILLIAMS: At all?
 3 MR. PATTERSON: At all.
 4 Q. (BY MR. WILLIAMS) Well, who came up with
 5 these 22 words?
 6 MR. PATTERSON: I object to the
 7 extent it calls for an attorney/client privileged
 8 communication.
 9 MR. WILLIAMS: How do you know
 10 that? Are you admitting that the lawyers told him
 11 that?
 12 MR. PATTERSON: Excuse me. I am
 13 making an objection for the record, and I am
 14 instructing the witness not to answer to the extent
 15 that it calls for a disclosure of attorney/client
 16 privileged communication.
 17 Q. (BY MR. WILLIAMS) Then if you can't
 18 answer it, that tells us pretty clearly the lawyers
 19 told you that.
 20 MR. PATTERSON: I am going to
 21 object to form. Object to sidebar.
 22 MR. WILLIAMS: Thank you.
 23 Q. (BY MR. WILLIAMS) Now, who came up with
 24 this list of 22 words that are to be avoided?
 25 MR. PATTERSON: Same objection.

Page 86

1 Also object to form.
 2 To the extent that you can answer
 3 it without disclosing attorney/client privilege,
 4 you can answer it. If you cannot, then you should
 5 not answer it. I instruct you not to.
 6 MR. WILLIAMS: Well, wait a
 7 minute. It isn't privileged. It's right here in
 8 front of us. What's privileged about it? It is
 9 out in the public.
 10 MR. PATTERSON: To the extent you
 11 are asking him to disclosed what was discussed
 12 between attorneys and clients, it's privileged; and
 13 I'm going to instruct him not to answer it.
 14 Q. (BY MR. WILLIAMS) I am just asking who
 15 came up with the list because this is something
 16 that -- is this intended to be a private
 17 communication or is this something that y'all teach
 18 to people throughout the plant?
 19 MR. PATTERSON: Objection, form.
 20 Object to sidebar.
 21 A. This is one of the slides that we use for
 22 when we instruct people that will lead incident
 23 investigations.
 24 Q. (BY MR. WILLIAMS) Right. You have used
 25 this slide -- you and your team have used this

Page 87

1 slide within the plant on how many different
 2 occasions?
 3 A. I don't recall an exact number but
 4 several.
 5 Q. Is there anything confidential about this
 6 slide in your opinion?
 7 MR. PATTERSON: Object to form.
 8 A. I don't believe so. I wouldn't really
 9 have any hesitancy sharing this with, you know,
 10 peers within the industry.
 11 Q. (BY MR. WILLIAMS) Okay. So who is it
 12 that came up with these 22 words? What's that
 13 person's name?
 14 MR. PATTERSON: I object to form,
 15 and I also object to the extent it calls for
 16 disclosure of an attorney/client privileged
 17 communication.
 18 And I'll instruct the witness not
 19 to answer it to the extent it violates that
 20 privilege.
 21 Q. (BY MR. WILLIAMS) You can answer the
 22 question now.
 23 MR. PATTERSON: Subject to my
 24 instruction.
 25 THE WITNESS: I am not sure I

Page 88

1 understand your instruction. Can we talk about
 2 that?
 3 MR. PATTERSON: Well, not with his
 4 question pending.
 5 THE WITNESS: Okay.
 6 MR. PATTERSON: The instruction is
 7 simply that to the extent that your answer requires
 8 you to disclose an attorney/client privileged
 9 communication, I am instructing you not to answer.
 10 Otherwise, you can.
 11 Q. (BY MR. WILLIAMS) Well, this isn't a
 12 secret, is it? Is there anything secretive about
 13 these 22 words?
 14 A. I don't believe so, no.
 15 Q. Okay. So just tell me now: Who was it
 16 that came up with this list of 22 words?
 17 MR. PATTERSON: And I object to
 18 the form of the question. I object to the extent
 19 it requests a communication between an attorney and
 20 his client and I instruct the witness not to answer
 21 it to the extent that it violates that privilege.
 22 And if you can't answer it without
 23 violating the privilege, I instruct you not to
 24 answer it.
 25 MR. WILLIAMS: Well, Ed, think

Page 89

1 this through. This is the communication. The
 2 communication is already out there. It's no longer
 3 privileged.
 4 It is not secretive. There is no
 5 privilege that attaches to something -- just
 6 because lawyers and clients talk about it, it
 7 doesn't mean everything is privileged. And he's
 8 already said it's not -- there's nothing secretive
 9 about it. I am just trying to find out who drafted
 10 it. So --
 11 MR. PATTERSON: And I stand by --
 12 MR. WILLIAMS: -- we are going to
 13 go to the Court on this if we have to.
 14 MR. PATTERSON: We can go to the
 15 Court on it. My instruction stands.
 16 Q. (BY MR. WILLIAMS) Did -- who drafted it,
 17 sir? Who drafted this, these 22 -- this list of 22
 18 words to avoid?
 19 MR. PATTERSON: And I object to it
 20 for all the reasons I have stated and instruct him
 21 not to answer to the extent it violates the
 22 attorney/client privilege and object to form.
 23 A. Okay. I don't recall specifically who
 24 drafted these 22 words.
 25 Q. (BY MR. WILLIAMS) When did you first see

Page 90

1 this list of 22 words? Who gave it to you?
 2 MR. PATTERSON: Object to form.
 3 Same objection previously.
 4 You can answer to the extent
 5 that -- there are two questions and if you can
 6 answer a part without disclosing the
 7 attorney/client privilege, go ahead.
 8 A. The subject of avoiding these types of
 9 subjective terms was a topic of conversation in,
 10 you know, the 1997 kind of timeframe.
 11 Q. (BY MR. WILLIAMS) The subject of a
 12 conversation with whom?
 13 MR. PATTERSON: Object to form.
 14 A. With --
 15 MR. PATTERSON: Object to the
 16 extent that it calls for the disclosure of an
 17 attorney/client communication. Instruct the
 18 witness not to answer the question to that extent.
 19 A. I believe my answer is the same one that
 20 I had given you previously. Two individuals,
 21 attorneys that I recall, having conversations about
 22 these types of words were Jim Galbraith and Jim --
 23 and Tracy Rogers.
 24 Q. (BY MR. WILLIAMS) What if you truly
 25 believed that something was dangerous? Would you

Page 91

1 say it?
 2 MR. PATTERSON: Objection, form.
 3 A. It's a subjective opinion. I would
 4 prefer and what we try and convey to the
 5 investigation team leaders is the objective in how
 6 they are describing the condition that someone may
 7 choose to categorize as dangerous.
 8 Q. (BY MR. WILLIAMS) Look at slide 121 of
 9 this exhibit, sir. You train people on how to --
 10 on report distribution, right? That's what it says
 11 at the top of this slide, right?
 12 A. Yes, that's the title of the slide,
 13 "Report Distribution."
 14 Q. And it says, "For PSM covered process
 15 reports must be available to employees as part of
 16 employee participation."
 17 The government demands that if it
 18 involves PSM that employees should be -- have
 19 access to the report, right?
 20 A. The PSM regulation has elements that
 21 reflect the need to make available information to
 22 employees in terms of conducting their duties under
 23 process safety management. If they are a
 24 participant of a PHA team, that sort of thing, yes.
 25 Q. Yeah. But the problem is that tradition

Page 92

1 there at BP is that it's been a sensitive issue to
 2 the site management, right?
 3 MR. PATTERSON: Objection, form.
 4 Q. (BY MR. WILLIAMS) These are your words,
 5 not mine.
 6 MR. PATTERSON: Same objection.
 7 A. Yes. In the --
 8 Q. (BY MR. WILLIAMS) Yes, it has been a
 9 sensitive issue?
 10 MR. PATTERSON: Same objection.
 11 He can finish his answer.
 12 Q. (BY MR. WILLIAMS) You can finish.
 13 A. Yes. It's been sensitive in the sense
 14 that while making available the report and its
 15 contents to employees is something that we -- we do
 16 in support of the employee participation element.
 17 These types of reports are confidential business
 18 information, and the sensitivity is around the
 19 control of those documents and instances where the
 20 employees did not meet their obligations relative
 21 to the confidential business information.
 22 MR. WILLIAMS: Objection,
 23 nonresponsive everything after, "Yes."
 24 Q. (BY MR. WILLIAMS) Now, the report
 25 distribution, it says in your team's words that

Page 93

1 it's often controlled by the legal department.
 2 Would that be Mr. Galbraith and
 3 others?
 4 MR. PATTERSON: Objection, form.
 5 A. I am trying to recall if it's part of the
 6 formal policy or not; but we do have a document
 7 that discusses what is the formal distribution of
 8 the report, in other words, who would receive
 9 individual copies. That's more or less just in
 10 terms of controlling the number of copies out
 11 there. I mean --
 12 MR. WILLIAMS: Objection,
 13 nonresponsive.
 14 Q. (BY MR. WILLIAMS) When it says that the
 15 report distribution about PSM audits is controlled
 16 by the legal department, who is it in the legal
 17 department that has control over who gets this
 18 report?
 19 MR. PATTERSON: Objection, form.
 20 A. In practice, there is no specific
 21 control. It is not the legal department saying,
 22 "For this report, issue it to Tom, Bill and Frank."
 23 This bullet point really reflects
 24 that the input from the legal department relative
 25 to issues of distribution of sensitive, you know,

Page 94

1 confidential business information.
 2 MR. WILLIAMS: Objection,
 3 nonresponsive.
 4 Q. (BY MR. WILLIAMS) Let me ask you. When
 5 it says here in report distribution that it is
 6 "often controlled by legal department," is the term
 7 "often," is that equal to like 60 percent of the
 8 time or 80 percent of the time or give me a percent
 9 that equates to that word "often"?
 10 MR. PATTERSON: Objection, form.
 11 A. I don't equate it to a percentage number.
 12 As I explained before, it's really more on the
 13 topic of what is appropriate distribution and the
 14 guidance that we are given.
 15 MR. WILLIAMS: Objection,
 16 nonresponsive.
 17 Q. (BY MR. WILLIAMS) Now, when you use the
 18 word "often controlled by legal department," is
 19 that a true statement or a false statement that you
 20 are training people on?
 21 MR. PATTERSON: Objection to form.
 22 A. Well, again, you know, the nature of a
 23 PowerPoint is bullet points. There is context.
 24 There is additional words that are used by the
 25 instructor; and as I was trying to explain

Page 95

1 previously, the context of this bullet point is
 2 that for confidential business information, the
 3 extent to which that report is distributed, input
 4 is gathered from the legal department.
 5 MR. WILLIAMS: Objection,
 6 nonresponsive.
 7 Q. (BY MR. WILLIAMS) Let me ask you
 8 further. Let's look at page 120 of your training
 9 PowerPoint.
 10 Do you teach people to avoid
 11 phrases?
 12 A. The title of this slide is "Examples of
 13 Report Phrases to Avoid."
 14 Q. So you tell them to avoid phrases. You
 15 train people to avoid phrases, and you train
 16 people -- your department trains people to avoid
 17 words, correct?
 18 A. Context is --
 19 Q. Correct?
 20 MR. PATTERSON: Objection, form.
 21 A. The context of the training is --
 22 Q. (BY MR. WILLIAMS) Correct --
 23 MR. PATTERSON: You can answer the
 24 question.
 25 Q. (BY MR. WILLIAMS) -- or not?

Page 96

1 MR. PATTERSON: Go ahead and
 2 answer the question.
 3 A. The context of the training is, again,
 4 for the investigation team to be objective in their
 5 findings --
 6 Q. (BY MR. WILLIAMS) Did I ask you about
 7 context?
 8 A. -- and how they present --
 9 Q. Did I ask you about context, or did I ask
 10 you whether it was correct?
 11 A. You asked me about the training.
 12 Q. No, I asked you -- okay. Simple
 13 question. I would like a simple answer.
 14 Is it correct that you and your
 15 department train people when they are doing PSM
 16 audits and PSM investigations that there is a --
 17 they are to avoid certain phrases and they are to
 18 avoid 22 words, true?
 19 A. In the context of training, the audit
 20 team and the incident investigation team should be
 21 objective. We do train them on phrases and words
 22 to avoid because those phrases and words are
 23 subjective, not objective.
 24 MR. WILLIAMS: Objection,
 25 nonresponsive.

Page 97

1 Q. (BY MR. WILLIAMS) Do you and your
 2 department in your training on audit investigations
 3 and PSM investigations that -- there are certain
 4 words, 22 words, in fact, to be avoided?
 5 MR. PATTERSON: Objection, form.
 6 A. We include in the training material a
 7 list of words and a list of phrases that should be
 8 avoided.
 9 Q. (BY MR. WILLIAMS) Thank you.
 10 A. Because in the context of the training,
 11 they are not objective. They are subjective terms.
 12 The intent and purpose of audits and investigations
 13 is to be objective.
 14 MR. WILLIAMS: Objection,
 15 nonresponsive.
 16 Q. (BY MR. WILLIAMS) Why do you want to
 17 answer all this other stuff that I am not asking?
 18 Is there a reason we can't get a straightforward
 19 answer?
 20 MR. PATTERSON: Objection, form.
 21 A. Because at the beginning you asked me or
 22 I was sworn to tell the truth and the whole truth
 23 and the whole truth -- part of the whole truth is
 24 the context around the training.
 25 Q. (BY MR. WILLIAMS) Well, part of the

Page 98

1 whole truth is that these words, we use them in
 2 everyday language, don't we, these words
 3 dangerous -- well, let me ask you this.
 4 Do you teach your kids -- do you
 5 have kids? Do you teach them to avoid the word
 6 "dangerous"?
 7 MR. PATTERSON: Objection, form.
 8 A. I have children, yes. Do I teach them to
 9 avoid the word dangerous? No.
 10 Q. (BY MR. WILLIAMS) Do you teach them to
 11 avoid the word "neglect"? Is that a forbidden word
 12 in your household?
 13 A. No, it's not.
 14 Q. So these forbidden words, do you know
 15 anyplace they are forbidden other than in the BP
 16 written reports?
 17 MR. PATTERSON: Objection, form.
 18 A. Again, we don't forbid them.
 19 Q. (BY MR. WILLIAMS) Oh, you tell -- you
 20 instruct them to avoid them, right?
 21 A. Yes. Again, in the context of auditing
 22 and investigations, the purpose is to be objective.
 23 It's our opinion that these are subjective terms.
 24 MR. WILLIAMS: Objection,
 25 nonresponsive.

Page 99

1 Q. (BY MR. WILLIAMS) Do you know any place
 2 in America that there is a training that you have
 3 to eliminate these 22 words from your vocabulary
 4 other than at the BP plant?
 5 MR. PATTERSON: Objection, form.
 6 A. I don't have any personal knowledge of
 7 other training programs, so I can't answer that
 8 question.
 9 Q. (BY MR. WILLIAMS) Back to my question
 10 now.
 11 Is it true that your training that
 12 you and your department give to people in the
 13 plant, you train them that they are to avoid using
 14 this list of 22 words, true?
 15 A. We train them to be objective in their
 16 analysis and we train them to be objective in terms
 17 of how they formulate their report; and in doing
 18 so, we ask them to avoid certain words and phrases
 19 which are subjective.
 20 MR. WILLIAMS: Objection,
 21 nonresponsive.
 22 Q. (BY MR. WILLIAMS) Are you an advocate
 23 for BP, or are you just trying to call it like it
 24 is?
 25 MR. PATTERSON: Objection, form.

Page 100

1 A. I am trying to give you a full and
 2 complete answer.
 3 Q. (BY MR. WILLIAMS) I am just asking for
 4 an answer only to my question. And I am going to
 5 phrase my question where it's simple.
 6 These 22 words that are up here,
 7 do you train your people and the people in the
 8 plant that they -- those 22 words are to be avoided
 9 in any written investigative report, true?
 10 A. In the context of investigation training,
 11 we train them to avoid certain subjective phrases.
 12 There's 22 words listed on the PowerPoint
 13 presentation.
 14 Q. And these words are to be -- are they
 15 forbidden in the --
 16 A. They are not forbidden. They are words,
 17 again, that because of their subjective nature --
 18 Q. Tell me --
 19 A. -- we teach people --
 20 Q. -- a word that's not subjective. Give me
 21 an example of a non-subjective word.
 22 MR. PATTERSON: Objection, form.
 23 A. There are --
 24 Q. (BY MR. WILLIAMS) Give me an example.
 25 A. Zero.

Page 101

1 Q. Okay. Other than a number, give me a
 2 word that's not subjective.
 3 A. Yes.
 4 Q. So you can answer direct questions.
 5 MR. PATTERSON: Objection, form.
 6 Q. (BY MR. WILLIAMS) On March 23 was there
 7 anybody or any actions that of incompetent -- of an
 8 incompetent nature in the ISOM unit?
 9 MR. PATTERSON: Objection to form.
 10 A. Again, you are asking me to apply a
 11 subjective label. I am not in a position.
 12 Q. (BY MR. WILLIAMS) Who is in a position
 13 to answer that?
 14 A. Again, the investigation team, the
 15 purpose is --
 16 Q. Okay.
 17 A. -- objective findings, not conclusions
 18 and the use of subjective terms to describe those
 19 objective findings.
 20 Q. Was everybody then competent on
 21 March 23 --
 22 MR. PATTERSON: Objection, form.
 23 Q. (BY MR. WILLIAMS) -- in the ISOM unit?
 24 A. Again, it's a subjective term. Had
 25 people on the ISOM unit received training? Yes.

Page 102

1 MR. WILLIAMS: No, sir.
 2 Nonresponsive objection.
 3 Q. (BY MR. WILLIAMS) Were the people in the
 4 ISOM unit on March 23 competent?
 5 A. Competent to perform what task? It's a
 6 subjective term. There either has to be --
 7 Q. Okay. I'll answer.
 8 A. -- an intent and a measure.
 9 Q. I will answer.
 10 Were they competent to start the
 11 unit without blowing it up?
 12 MR. PATTERSON: Objection, form.
 13 A. I believe the finding of the
 14 investigation team reflected in the report was yes,
 15 they were competent to do so.
 16 Q. (BY MR. WILLIAMS) Did they competently
 17 start it up?
 18 MR. PATTERSON: Objection, form.
 19 Q. (BY MR. WILLIAMS) I will retract the
 20 question.
 21 A. All right.
 22 Q. Is it your opinion from reading the
 23 report that the operators on the job on March 23
 24 and their actions demonstrated that they were
 25 competent operators on that date?

Page 103

1 MR. PATTERSON: Objection, form.
 2 A. I believe the investigation report
 3 reflects that they did not follow the procedures
 4 for starting up that unit safely.
 5 MR. WILLIAMS: Objection,
 6 nonresponsive.
 7 Q. (BY MR. WILLIAMS) My question is: On
 8 that day, March 23, were the operators and their
 9 conduct competent?
 10 A. Their --
 11 MR. PATTERSON: Same objection.
 12 A. Again, going back to the investigation
 13 report, the team's findings were that their actions
 14 were not consistent with the operating procedure.
 15 Q. (BY MR. WILLIAMS) Were they competent or
 16 incompetent?
 17 MR. PATTERSON: Objection, form.
 18 A. Did they have the necessary training to
 19 start that unit safely? I believe the findings of
 20 the investigation team were yes, they did.
 21 MR. WILLIAMS: Objection,
 22 nonresponsive.
 23 We will take this up after lunch.
 24 THE VIDEOGRAPHER: Off the record
 25 at 12:20 p.m., ending Tape 2.

Page 104

1 (Lunch recess taken.)
 2 THE VIDEOGRAPHER: On the record,
 3 1:35 p.m., beginning Tape 3.
 4 Q. (BY MR. WILLIAMS) What is the Telos
 5 Report?
 6 MR. PATTERSON: Objection, form.
 7 A. The Telos company was employed to conduct
 8 a survey of the employees relative to safety
 9 concerns, and they produced a report as the result
 10 of that work.
 11 Q. (BY MR. WILLIAMS) Did you get a copy of
 12 that report?
 13 A. I was given a copy of the report to read
 14 at an off-site meeting that we had and after
 15 reading it, was instructed to give it back.
 16 Q. Well, what was so secret that you as head
 17 of process safety management were not allowed to
 18 keep a copy of the Telos Report?
 19 MR. PATTERSON: Objection, form.
 20 A. I am not sure what the motivation was for
 21 asking copies to be returned.
 22 Q. (BY MR. WILLIAMS) Well, who was it that
 23 held this meeting and said, "These copies of the
 24 Telos Report must be returned or turned in"?
 25 A. Geoffrey Gioja, the member or owner,

Page 105

1 partner, person with the Telos Group that conducted
 2 the survey gave the instructions to the audience.
 3 Q. And who was in this audience? Tell me
 4 about this meeting. Where did it occur and who was
 5 there?
 6 A. The meeting occurred at the South Shore
 7 Harbor conference center in League City. In
 8 attendance was the leadership and what we call the
 9 extended leadership team, so really the
 10 superintendent ranked individuals and above from
 11 the -- from the Texas City site.
 12 Q. Well, are you in the extended leadership
 13 team?
 14 A. Yes.
 15 Q. And how long did this meeting last?
 16 A. It was a meeting over two days.
 17 Q. And who -- who led the meeting?
 18 A. Well, I mean, there were different
 19 facilitators for different portions of the meeting.
 20 I mean, Jeffrey Gioja facilitated portions of the
 21 meeting. Kathleen Lucas facilitated portions of
 22 the meeting.
 23 There may have been a couple of
 24 other members of the leadership team during
 25 different exercises that facilitated that portion.

Page 106

1 I don't recall exactly.
 2 Q. When was this meeting?
 3 A. I don't recall exactly; but it was in the
 4 January, February timeframe of 2005.
 5 Q. How would you characterize the
 6 information that was reported to you in that
 7 meeting?
 8 A. I would characterize it as very candid
 9 feedback from the employees that were surveyed and
 10 interviewed.
 11 Q. Was it a positive feedback?
 12 A. There were positive feed -- positive
 13 portions, as I recall. But the primary intent of
 14 commissioning the activity to begin with was really
 15 focused to be self-critical, more on the negative;
 16 and overall I would characterize it that way.
 17 Q. True statement that in a meeting, South
 18 Shore Harbor, a month or two before this fire and
 19 explosion, it was reported by an independent group
 20 that the majority of what they got on feedback with
 21 regard to safety at your plant was negative?
 22 MR. PATTERSON: Objection, form.
 23 A. The feedback in the form of the report
 24 was reflecting the opinions, you know, the
 25 solicited opinions of the workers; and I would

Page 107

1 agree that the majority of that opinion on the
 2 topic of safety was negative.
 3 Q. (BY MR. WILLIAMS) Did that tell you,
 4 sir, that a month or two before this fire and
 5 explosion you had a cultural problem at this plant
 6 with regard to safety?
 7 MR. PATTERSON: Objection to form.
 8 A. It told me that the opinions of the -- of
 9 the individuals involved in the survey believed
 10 that there were issues that needed to be addressed.
 11 Q. (BY MR. WILLIAMS) My question was: Did
 12 it indicate to you that there was a cultural
 13 problem at the plant with regard to safety?
 14 MR. PATTERSON: Objection, form.
 15 A. I would not describe it as a cultural
 16 problem.
 17 Q. (BY MR. WILLIAMS) Did the final report
 18 describe it as a cultural problem at the plant?
 19 A. I don't recall the words of the report.
 20 Q. Are you denying that there was a cultural
 21 problem at the plant?
 22 A. I personally would not describe it in
 23 those terms.
 24 Q. But my question is: Those from the
 25 outside who came in on the final report,

Page 108

1 Exhibit 21, they did term it as a cultural problem,
 2 didn't they, sir?
 3 A. You seem to be reading from a document,
 4 if I could look at it, please.
 5 Q. No, sir. I am looking at my notes.
 6 I am asking you: Are you telling
 7 me that the head of process safety read -- you
 8 claim to have read the final report and you did not
 9 note in there that there was a cultural problem
 10 with regard to safety was one of their findings?
 11 MR. PATTERSON: Objection, form.
 12 Q. (BY MR. WILLIAMS) Did you overlook that?
 13 A. I don't recall those words. I do
 14 recall --
 15 Q. Okay. Fine. That's the answer to my
 16 question.
 17 Now let's look at the report
 18 itself and see -- Exhibit 21, you should have it
 19 there in front of you; and let's see if those words
 20 are in there, sir.
 21 A. I thought we were talking about the Telos
 22 Report.
 23 Q. I am shifting gears.
 24 A. Okay.
 25 Q. I said Exhibit 21. Stay up, please.

Page 109

1 Are you up with me now?
 2 A. I am turning --
 3 MR. PATTERSON: Objection to form.
 4 Q. (BY MR. WILLIAMS) Are you shifted?
 5 MR. PATTERSON: Object to the
 6 sidebar.
 7 Q. (BY MR. WILLIAMS) Have you shifted
 8 gears?
 9 A. I am on Exhibit 21 now.
 10 Q. Okay. Is that Exhibit 21 a copy of the
 11 same report that you read?
 12 A. Yes, it appears to be a copy of the same
 13 report that I read.
 14 Q. Okay. Let's look at page 163. Give me
 15 just a moment, sir. I am going to find it. That's
 16 not the page I am looking for.
 17 Page 167, look at that, please.
 18 A. Okay.
 19 Q. Does it report on page 167, "The fourth
 20 cultural issue is the inability to see risk and
 21 hence, toleration of a high level of risk."
 22 Did I read that correctly?
 23 A. Yes, you did.
 24 Q. Does that indicate to you it was -- a
 25 cultural issue was the official finding, that there

Page 110

1 was a cultural issue with PSM at your plant?
 2 A. That was the finding of the investigation
 3 team.
 4 Q. Yes, sir. And so if we go back to the
 5 Telos study, let's compare that.
 6 In the Telos study were there
 7 findings in the Telos study about cultural problems
 8 with safety and PSM at your plant?
 9 A. I don't recall those words.
 10 Q. Okay. I will just use -- the gist of it.
 11 Do you understand that?
 12 Was the Telos Report alerting you
 13 that there were cultural problems at your plant?
 14 A. The Telos Report --
 15 Q. Say yes or no first, and then you can
 16 explain.
 17 MR. PATTERSON: Objection, form.
 18 A. Could you please repeat your question,
 19 then?
 20 Q. (BY MR. WILLIAMS) Did the Telos Report
 21 put you on notice that there were cultural problems
 22 with regard to safety at your plant?
 23 A. The Telos Report indicated a number of
 24 issues in regard to safety performance.
 25 Q. Did it indicate that there were cultural

Page 111

1 problems?
 2 A. Again, I don't remember that phraseology.
 3 The Telos Report, the way it was constructed, as I
 4 recall, was --
 5 MR. WILLIAMS: Objection,
 6 nonresponsive.
 7 A. -- a presentation of the feedback. You
 8 know, they used a lot of quotations from the
 9 surveys and the interviews they did to tell a
 10 story; and that story predominantly was reflecting
 11 opinions and concerns in the area of safety.
 12 Q. (BY MR. WILLIAMS) Okay. Let's look in
 13 that report. Just tell me -- tell the jury so we
 14 can -- was that an alarming report to you?
 15 MR. PATTERSON: Objection, form.
 16 A. Just to be clear, we are talking about
 17 the Telos Report?
 18 Q. (BY MR. WILLIAMS) Yes, sir.
 19 A. Okay. Relative to the topics of process
 20 safety, the report did not shock me. They shared
 21 similar concerns, had raised similar issues at the
 22 plant.
 23 Q. You knew process safety at that plant
 24 months ahead of this fire and explosion was a
 25 problem, correct?

Page 112

1 A. I knew that we had issues, and I had
 2 concerns.
 3 Q. And you had voiced those concerns up the
 4 ladder to management without -- is that true?
 5 MR. PATTERSON: Objection to form.
 6 A. Yes.
 7 Q. (BY MR. WILLIAMS) Now let's look at some
 8 of the things that shared concerns that were in the
 9 Telos Report, and I have pulled out a page here in
 10 the report at the bottom. And if I am reading this
 11 correctly, it says, "An overwhelming number of
 12 interviewees say that quantity and quality of
 13 training at Texas City is inadequate" and that
 14 "training is dealt, seen as a pervasive
 15 shortcoming."
 16 Those were the findings, right?
 17 MR. PATTERSON: Objection, form.
 18 Q. (BY MR. WILLIAMS) I have highlighted it
 19 there for you.
 20 A. Right. I mean, you joined the two
 21 sentences together, which threw me off there.
 22 Yes, that page you are showing me,
 23 one sentence.
 24 Q. That was -- that was clearly communicated
 25 to leadership before this explosion, right?

Page 113

1 MR. PATTERSON: Objection, form.
 2 Q. (BY MR. WILLIAMS) To upper management?
 3 A. Yes, leadership was part of the feedback
 4 from the Telos Report.
 5 Q. And, in fact, if you go on, George Carter
 6 on page 122376, it shows where George Carter cut
 7 training and said, "Until you tell me I could go to
 8 jail, I won't change anything as long as the paper
 9 covers us. We haven't recovered from that."
 10 Who was George Carter?
 11 A. George Carter -- I am trying to recall.
 12 I believe at the time of the Telos Report George
 13 Carter was retired, but George Carter had been the
 14 operations manager at the Texas City site.
 15 Q. The job that Kathleen Lucas had?
 16 A. Yes.
 17 Q. So he was the number two honcho at the
 18 site, right?
 19 A. Yes.
 20 Q. So the number two guy that's being
 21 reported here, the number two guy is quoted saying
 22 that he was -- he cut training until -- and said,
 23 quote, until you tell me I could go to jail, I
 24 won't change anything as long as the paper covers
 25 us.

Page 114

1 Now, my question is: Is that an
 2 appropriate safety message to send to the workforce
 3 if you're -- if you want to have safety as priority
 4 one?
 5 MR. PATTERSON: Objection to form
 6 and sidebar.
 7 A. I don't know who said that --
 8 Q. (BY MR. WILLIAMS) I know that.
 9 A. -- to the Telos Group.
 10 Q. Just answer my question, though.
 11 A. Well, I don't know if that's a factual
 12 quote to begin with. George never said anything
 13 like that to me.
 14 MR. WILLIAMS: Objection,
 15 nonresponsive.
 16 Q. (BY MR. WILLIAMS) I am just asking you.
 17 This is the statement that was reported to your --
 18 at your meeting, and it says that the former number
 19 two at the plant had said he would cut training
 20 until it was time -- basically until somebody said
 21 he had to go to jail.
 22 My question is: If that is an
 23 accurate statement, is that a proper message to
 24 send out to the workforce?
 25 A. If that's an accurate message, my opinion

Page 115

1 is no, that is not a proper message.
 2 Q. And if we go forward -- by the way, is
 3 George -- did George Carter have anything to do
 4 with you being appointed to your job?
 5 MR. PATTERSON: Objection, form.
 6 A. Yes.
 7 Q. (BY MR. WILLIAMS) He was the man that
 8 appointed you as the top PSM guy, right?
 9 A. Yes, he was.
 10 Q. Now, again in this report that you didn't
 11 get to keep, it reports that, "People are not
 12 adequately trained in HAZOPs. HAZOP training
 13 should include a much more thorough training in
 14 risk assessment than is done. There's not enough
 15 staff to get enough participation."
 16 So before this fire and explosion,
 17 there was a complaint about insufficient training
 18 in HAZOPs, right?
 19 MR. PATTERSON: Objection, form.
 20 A. That's what that statement is indicating,
 21 yes.
 22 Q. (BY MR. WILLIAMS) Now, so let's go to
 23 the final report after the explosion.
 24 Did the report after the explosion
 25 concur, agree and validify that there was a problem

Page 116

1 in training on HAZOPs?
 2 A. I believe there were statements in the
 3 report to the effect or questioning the level of
 4 training in risk assessments. I don't recall that
 5 it specifically pointed out HAZOP.
 6 Q. So what was found in the final report
 7 after the explosion, a lack of training in HAZOPs,
 8 you in upper leadership were aware of this problem
 9 months before the explosion, true?
 10 MR. PATTERSON: Objection, form.
 11 A. I would disagree with the conclusion that
 12 there was a problem. Somebody is expressing an
 13 opinion there.
 14 Q. (BY MR. WILLIAMS) Okay. Well, let's
 15 look at the final report.
 16 MR. PATTERSON: What page?
 17 Q. (BY MR. WILLIAMS) Go back to 21. And
 18 first of all, I am going to let you just look
 19 through it. Show me where it says there was no
 20 problem with HAZOP training.
 21 MR. PATTERSON: Objection, form.
 22 A. I don't believe I said that. I said I
 23 didn't recall that it specifically singled out
 24 HAZOP training. I do recall that it indicated or
 25 the team felt that there were issues around hazard

Page 117

1 assessments.
 2 Q. (BY MR. WILLIAMS) Okay. Look on
 3 page 139 of your -- of the final report there.
 4 A. Okay.
 5 Q. Do you see and follow with me, sir, where
 6 it says that, "Process safety knowledge and skills
 7 within management and the workforce were generally
 8 poor"?
 9 A. That's --
 10 Q. That's their finding, right?
 11 A. That's what the document says.
 12 Q. And it says down at the bottom there,
 13 "The poor understanding of risk is reflected in
 14 some of the process hazard analyses," the PHAs,
 15 "including HAZOP studies and the MAR assessment,"
 16 right?
 17 A. That's what the document says, yes.
 18 Q. But that should have not been surprising
 19 I guess because -- I am shifting back to the Telos
 20 Report now and I am showing that to the jury where
 21 it says months before this accident, "People are
 22 not adequately trained in HAZOPs. HAZOP training
 23 should include a much more thorough training and
 24 risk assessment."
 25 So you knew and management knew

Page 118

1 before this fire and explosion there was a problem
 2 with regard to training and HAZOP training at this
 3 plant?
 4 MR. PATTERSON: Objection, form.
 5 Q. (BY MR. WILLIAMS) True?
 6 A. They were aware that people had that
 7 opinion. I mean, the Telos Report was not the
 8 first time that I had heard this.
 9 Q. Well, when was the first time you had
 10 heard and communicated to leadership that there
 11 were problems with adequate training on HAZOPs?
 12 A. The opinion that had been expressed to me
 13 was related to the members, the participants of the
 14 HAZOP team. As we use the term at the refinery,
 15 "HAZOP" is referring to the PHAs that are required,
 16 the initial PHAs and the five yearly refresher PHAs
 17 for the PSM regulation. And the people that lead
 18 those HAZOPs have extensive experience and
 19 extensive formal training in the HAZOP technique.
 20 The request of me in this area was
 21 could we do additional training for the
 22 participants so that they would better understand
 23 the process, and we did do that training. In fact,
 24 in the beginning of those HAZOP or PHA sessions,
 25 the leader would do a brief overview of what the

Page 119

1 process was, what the expectations were of the team
 2 members, you know, why were they on that team.
 3 There's no expectations that the team members
 4 themselves be the ones formally trained or
 5 conversant in the HAZOP technique. They are there
 6 because of their other knowledges and experience.
 7 MR. WILLIAMS: Objection,
 8 nonresponsive.
 9 Q. (BY MR. WILLIAMS) We'll come back to
 10 HAZOPs.
 11 My question is: In the Telos
 12 Report that you were provided months ahead of the
 13 explosion, were there numerous complaints about
 14 training and specifically with regard to HAZOP
 15 training?
 16 A. I don't know that there were numerous
 17 complaints. Again, the format of the Telos Report
 18 was to present their findings in terms of
 19 quotations from individuals that filled out
 20 questionnaires or responded to interviews. So I
 21 don't know if this represents one person or many
 22 people.
 23 Q. That's because you didn't get to keep a
 24 copy, did you?
 25 MR. PATTERSON: Objection, form.

Page 120

1 A. I don't recall that the report that I
 2 read included any quantitative information about,
 3 "Seven people said this. Six people said that."
 4 Q. (BY MR. WILLIAMS) Well, that's pretty
 5 ridiculous, isn't it, to not have a quantitative
 6 assessment of how bad the problem is when it's such
 7 a serious subject as HAZOPs?
 8 MR. PATTERSON: Objection to form.
 9 A. Well, the intent of the Telos Report --
 10 Q. (BY MR. WILLIAMS) Answer the question.
 11 Don't tell me about the intent of the report.
 12 MR. PATTERSON: You can answer the
 13 question.
 14 MR. WILLIAMS: Objection,
 15 nonresponsive.
 16 Q. (BY MR. WILLIAMS) If you want to go off
 17 on your own tangents, sir, we are going to be here
 18 forever and I'm going to -- we are going to be here
 19 two or three days, and I will get Court approval or
 20 seek it to do that.
 21 If you want to focus on the
 22 question and answer just the question, we will be
 23 here a lot shorter. It's up to you, sir.
 24 A. Could you repeat your question, please?
 25 Q. Sir, is it true that in the Telos Report,

Page 121

1 that you were advised of the inadequacies in
 2 training on HAZOPs and management was advised,
 3 true?
 4 A. I was advised that somebody held that
 5 opinion.
 6 Q. Did you then or did management, to your
 7 personal knowledge, go and seek to see how bad that
 8 problem was, how pervasive or qualified in any --
 9 quantitate it in any way?
 10 A. I don't know about any other members of
 11 leadership, and I actually don't recall whether --
 12 as a result of this statement in this report,
 13 whether I sought to quantify the extent of that
 14 problem. As I explained earlier, I had heard this
 15 expressed before; and I had inquired of a few
 16 people, mostly hourly people, what was their sense
 17 of it, what was their feeling from a participants
 18 perspective, did they understand the process and
 19 how they fit into that process.
 20 I also talked with my staff that
 21 leads these HAZOPs and were they, in fact, giving
 22 this briefing, doing this, did we need to do more
 23 given people were holding this opinion.
 24 MR. WILLIAMS: Objection,
 25 nonresponsive.

Page 122

1 Q. (BY MR. WILLIAMS) Okay. What percentage
 2 of the people doing PHAs felt that they had
 3 adequate training on risk identification while they
 4 were participating in the PHA?
 5 MR. PATTERSON: Objection, form.
 6 A. The people that lead and facilitate the
 7 PHAs, there are four members of my staff that do
 8 that. I believe that they have extensive
 9 experience and training in the process.
 10 MR. WILLIAMS: Objection,
 11 nonresponsive.
 12 Q. (BY MR. WILLIAMS) I can't seem to get
 13 you to answer a question. My question asked for a
 14 percentage. Did you give me a percentage in that
 15 answer?
 16 A. I don't --
 17 Q. Did you?
 18 A. -- believe a --
 19 Q. Did you give me a percentage?
 20 A. No, I did not.
 21 Q. Now, why do you keep trying to answer
 22 other questions instead of mine? Have you been
 23 coached or told in this 24 hours to ignore what I
 24 ask and be evasive?
 25 MR. PATTERSON: Objection, form.

Page 123

1 Q. (BY MR. WILLIAMS) Have you?
 2 A. I am trying to provide an answer to your
 3 question that makes sense.
 4 Q. Well, you quit trying to do that and
 5 answer the question, if you would. Okay? Because
 6 I am getting ticked off about this. You got it?
 7 MR. PATTERSON: Objection, form.
 8 Object to sidebar.
 9 Q. (BY MR. WILLIAMS) How many people are on
 10 a PHA team?
 11 A. It will vary.
 12 Q. What would be the number of people on an
 13 ISOM PHA team on any of the original or the two
 14 revalidations?
 15 A. A typical PHA team -- and I don't have
 16 the specific numbers. I'd have to look at the
 17 reports for the ISOM PHAs and revalidations; but a
 18 typical PHA team is -- including the facilitator
 19 and the technical scribe, would be in the order of
 20 six to eight people.
 21 Q. Of those six to eight people, how many of
 22 them had expensive training on hazard
 23 identification other than the facilitator?
 24 MR. PATTERSON: Objection, form.
 25 A. The facilitator and the technical scribe

Page 124

1 would have had it, as I explained before.
 2 Q. (BY MR. WILLIAMS) I said other than
 3 them.
 4 A. Yes, sir. I am trying to get to that.
 5 Q. Focus on the question. Focus, focus,
 6 focus.
 7 I said other than them, didn't I?
 8 A. Yes.
 9 Q. So let's repeat it.
 10 Other than the facilitator or the
 11 technical scribe, how many members of the PHA teams
 12 on the ISOM would have had extensive formal
 13 training on risk identification?
 14 MR. PATTERSON: Objection, form.
 15 Object to the sidebar comments by counsel.
 16 A. I don't know. I suspect it would be few,
 17 if any.
 18 Q. (BY MR. WILLIAMS) Thank you.
 19 In the Telos Report that you have
 20 in front of you there --
 21 MR. PATTERSON: He doesn't have it
 22 in front of him.
 23 MR. WILLIAMS: Well, quit taking
 24 it away, Counsel.
 25 MR. PATTERSON: He didn't have it

Page 125

1 in front of him in the first place. He had the
 2 Fatal Accident Investigation Report, Exhibit 21,
 3 from which you were referring.
 4 MR. WILLIAMS: I am sorry. Is it
 5 in that book right there, sir?
 6 MR. PATTERSON: I don't know.
 7 Q. (BY MR. WILLIAMS) Turn to 19.
 8 MR. WILLIAMS: Quit taking it away
 9 from him, Ed.
 10 A. Okay.
 11 Q. (BY MR. WILLIAMS) In the Telos Report
 12 that you have in front of you, am I reading
 13 correctly that it was reported months before this
 14 explosion that, quote, the equipment is in
 15 dangerous condition and this in not taken seriously
 16 (sic). At the refinery, there is a frame of mind
 17 like we are the ones that make the money. They
 18 don't take pride in running on thin air, but they
 19 may do it by killing someone every 18 months. Then
 20 you don't have bragging rights about production.
 21 MR. PATTERSON: Objection, form.
 22 Q. (BY MR. WILLIAMS) That was reported
 23 months before these 15 people died and hundreds
 24 were injured, true?
 25 MR. PATTERSON: Objection, form.

Page 126

1 A. That is an opinion expressed in the Telos
 2 Report, yes.
 3 Q. (BY MR. WILLIAMS) Was that alarming to
 4 you, sir, when you saw that?
 5 A. I disagree with that opinion.
 6 Q. I know you do.
 7 My question was: Was it alarming?
 8 Just say yes or no.
 9 MR. PATTERSON: Objection, form.
 10 A. Was I personally alarmed that somebody
 11 held that opinion? No.
 12 Q. (BY MR. WILLIAMS) Okay. Were you
 13 personally alarmed on page 122346 when it was
 14 reported that, "We are not using our money to
 15 protect ourselves from catastrophe. We use
 16 procedures to pass the red face test, but we
 17 willfully disregard the warning signs. Our butane
 18 spheres are an example where the location is
 19 marginal, but we cannot get the money to move
 20 them."
 21 Was that a warning to you? Was
 22 that alarming to you?
 23 MR. PATTERSON: Objection, form.
 24 A. Again, that expressed opinion was not
 25 alarming to me. I was aware of issues and concerns

Page 127

1 regarding the butane spheres and their location.
 2 Q. (BY MR. WILLIAMS) Well, let me go
 3 forward about seeing if this was alarming on
 4 page 12322, where they did a compilation of the
 5 answers and they ranked -- people were asked to
 6 rank their priorities.
 7 And what was the Number 1 priority
 8 of the people responding to the Telos Report? What
 9 did they say was the Number 1 priority at that
 10 plant?
 11 A. The table indicates the opinion, the
 12 Number 1 ranking was making money.
 13 Q. And where did they put people?
 14 A. The chart indicates Number 9.
 15 Q. And where did they put major incident?
 16 A. Number 5.
 17 Q. Was that alarming to you, sir, when you
 18 saw that?
 19 A. Again, personally was I shocked by it?
 20 Q. I said alarmed.
 21 A. Alarmed. I was not personally alarmed by
 22 the presentation. You know, it's -- I found it to
 23 be useful --
 24 Q. Were you personally alarmed by this
 25 information?

Page 128

1 A. Well, the information is people's
 2 opinions. It's useful to know that. You know,
 3 there's a reason why people think that; and it's
 4 important to me as a PSM manager to then be able to
 5 find out what it is in their experience that causes
 6 them to form that opinion. So I find it useful,
 7 but I guess I just wouldn't characterize it as
 8 alarming.
 9 Q. Well, what did you do when you saw that?
 10 A. I reacted --
 11 Q. Not how did you react, what did you do?
 12 Action? What action did you do?
 13 A. Relative to that table, nothing.
 14 Q. Okay.
 15 A. I mean, relative to the other opinions
 16 that were more specific or related to PSM topics,
 17 that's where, you know, I would begin to
 18 investigate that inquiry more and see, you know, if
 19 there, you know, is truth in the statement or what
 20 actions may be necessary to correct the deficient
 21 situation.
 22 Q. Did you doubt this Telos Report, or was
 23 it communicated to you by leadership that there
 24 was -- that there was not a problem?
 25 MR. PATTERSON: Objection, form.

Page 129

1 A. I mean, there's nothing to doubt. It's
 2 people's opinions.
 3 Q. (BY MR. WILLIAMS) Well, of course --
 4 A. They are what they are.
 5 Q. Of course they are opinions. But that
 6 didn't alarm you that their opinions are that
 7 making money is much more important than people and
 8 that major incident prevention is only Number 5?
 9 That didn't alarm you, sir?
 10 MR. PATTERSON: Objection, form.
 11 A. It caused me concern in that --
 12 Q. (BY MR. WILLIAMS) So what did you do?
 13 What action did you take?
 14 A. Well, there were plans that were
 15 beginning to take shape in -- as a result of or as
 16 a consequence of the opinions presented by the
 17 Telos Report.
 18 Q. Did you make a plan or someone else? I
 19 asked what you did.
 20 A. No. I began to formulate plans, yes.
 21 Q. Show me the plan. What is it? Tell me
 22 what it is.
 23 MR. PATTERSON: Objection, form.
 24 Q. (BY MR. WILLIAMS) I want to find that
 25 document.

Page 130

1 A. I don't think there is a singular
 2 document. It's more in the form of --
 3 Q. You said there was a plan. You said a
 4 plan.
 5 How would I, if I am looking in a
 6 list of documents for a plan, what's the title of
 7 Bill Ralph's, a plan that resulted from finding out
 8 that -- this information?
 9 MR. PATTERSON: Objection, form.
 10 A. Well, one form would be my personal
 11 performance objectives, what issues was I going to
 12 be working on in a given year.
 13 Q. (BY MR. WILLIAMS) Okay. I am talking
 14 about that was something that you turned in in
 15 order to get reviewed for a raise, right?
 16 MR. PATTERSON: Objection, form.
 17 Q. (BY MR. WILLIAMS) Your personal
 18 objectives?
 19 A. Well, no. I mean, it reflects what is --
 20 what are the objectives, what are the goals within
 21 the PSM area.
 22 Q. Okay. Fine. That's turned in.
 23 A. Uh-huh.
 24 Q. I am looking for, quote, a plan.
 25 Did you have any written plan that

Page 131

1 resulted from your learning that making money was
 2 the first priority was the -- in the plant and a
 3 major incident was only fifth?
 4 A. I would -- do not have nor would I have
 5 created a plan for the objective of rearranging the
 6 order of the opinions on that page.
 7 Q. Okay.
 8 A. My plan would have reflected other
 9 opinions expressed, you know, concerns that I had
 10 expressed earlier around mechanical integrity, you
 11 know, what plans do we have to eliminate any
 12 overdue inspections and tests, that sort of thing.
 13 MR. WILLIAMS: Objection after
 14 "page" as nonresponsive.
 15 Q. (BY MR. WILLIAMS) Did anybody at that
 16 meeting, two-day meeting at South Shore Harbor,
 17 seemed shocked or alarmed by the fact that the
 18 people in the plant had concluded that making money
 19 was the Number 1 priority, people were the Number 9
 20 priority and major incident slipped all the way to
 21 5?
 22 MR. PATTERSON: Objection, form.
 23 A. I mean, you are asking me to give the
 24 opinion of others; but I believe there were people
 25 that were shocked --

Page 132

1 Q. (BY MR. WILLIAMS) But not you?
 2 A. -- that this is the way people felt.
 3 Q. But not you?
 4 A. Well, I have been at the plant a very
 5 long time.
 6 Q. Okay.
 7 A. And I --
 8 Q. Now -- excuse me.
 9 Did you have something else you
 10 wanted to say?
 11 A. No.
 12 Q. Okay. Continuing in that two-day meeting
 13 you had, it was reported, I believe, on page 32 of
 14 that document, that the history of investment
 15 neglect -- what is -- that's a subjective word, I
 16 guess.
 17 What's that word? That's one of
 18 those 22 forbidden words, isn't it?
 19 MR. PATTERSON: Objection, form.
 20 A. Not forbidden, words to avoid.
 21 Q. (BY MR. WILLIAMS) It's one of the avoid
 22 words. Okay.
 23 "The history of investment neglect
 24 coupled with the BP cultures," now we are back to
 25 culture, "of lack of leadership accountability from

Page 133

1 frequent management changes is setting BP Texas
 2 City up for a series of catastrophic events similar
 3 to what BP experienced at Grangemouth."
 4 Let's just take that part of the
 5 sentence for a minute.
 6 So if I read that correctly, it is
 7 being pointed out to the leadership months before
 8 this explosion that a catastrophic event is likely
 9 to happen because of the BP culture and lack of
 10 leadership and history of investment neglect. Am I
 11 interpreting that correctly?
 12 MR. PATTERSON: Object to form.
 13 Object to sidebar.
 14 A. I would agree that is the opinion being
 15 expressed there.
 16 Q. (BY MR. WILLIAMS) And it goes on to say
 17 that this place is, "Nearing an investment
 18 requirement on the scale of 450 to \$500 million.
 19 BP is not addressing the leadership culture that
 20 will permanently reverse the lack of operational
 21 integrity and is setting TC," that's Texas City,
 22 correct?
 23 A. Yes.
 24 Q. "Up for a series -- up for a series of
 25 catastrophic failures."

Page 134

1 My question is: It was a
 2 catastrophic failure on March 23, '05, right?
 3 MR. PATTERSON: Objection, form.
 4 A. It was a catastrophic event. I wouldn't
 5 categorize it as a catastrophic failure.
 6 Q. (BY MR. WILLIAMS) It was months before
 7 this fire and explosion addressed in this meeting
 8 that you attended, and now we are looking at
 9 page 10 of this report, "That the pressure from
 10 production is the biggest barrier to working
 11 without injuries; and for the most part, we are
 12 crisis management experts. There is no crisis.
 13 Wait a few minutes, and one will develop.
 14 Responding to crisis on a daily basis impacts the
 15 productivity safety balance."
 16 That was reported months before
 17 this explosion, right?
 18 A. Those are the opinions expressed in that
 19 report, yes.
 20 Q. And if we look at page 6 of that report,
 21 "We find that fixing something without having a
 22 shutdown is what generally -- is what gets
 23 rewarded. We get rewarded to keep the unit
 24 running."
 25 That was the opinion -- one of the

Page 135

1 opinions expressed, right?
 2 A. Yes.
 3 Q. And if we look on page 17, it was
 4 expressed at that meeting that one of the opinions
 5 is, "It seems like it all comes down to money. We
 6 tell them we need it. They tell us they don't have
 7 the money. As soon as it blows up or someone gets
 8 hurt, there's all sorts of money."
 9 That was an opinion expressed,
 10 right?
 11 A. Yes.
 12 Q. Now, is BP short on money?
 13 MR. PATTERSON: Objection to form.
 14 A. I believe BP is a profitable company,
 15 yes.
 16 Q. (BY MR. WILLIAMS) And BP has decided to
 17 shut down this plant and invest significant money
 18 in redoing -- addressing some of the safety issues
 19 now that the plant blew up in March, right?
 20 MR. PATTERSON: Objection to form.
 21 Q. (BY MR. WILLIAMS) As a result of that,
 22 right?
 23 A. The plant is shut down, and BP is
 24 investing considerable dollars in repair
 25 activities.

Page 136

1 Q. If we look at page 43 of this report that
 2 was discussed in the meeting that you attended, it
 3 says, "The potential for major hazards is
 4 unacceptably high," correct?
 5 A. Yes. Those are words in the report.
 6 Q. Okay. So let's go back and look at
 7 the -- this was months before the explosion, right?
 8 A. A couple of months, yes.
 9 Q. And so if we look after the explosion at
 10 Exhibit 21, the final report, do we find similar
 11 words in there that says, "The acceptance of risk
 12 appears to be unacceptably high" or "it appears to
 13 be high"?
 14 A. There were words similar to that, yes, in
 15 the final report.
 16 Q. Pretty -- this report, then, months
 17 before this accident turned out to be true because
 18 there were high risks and there was a setup for a
 19 major catastrophe? It foretold the future on those
 20 two issues, correct?
 21 MR. PATTERSON: Objection, form.
 22 A. I believe there were warning signs, yes.
 23 Q. (BY MR. WILLIAMS) It says, "We need
 24 experienced, courageous people to do inspections.
 25 The relief valve studies, they keep cutting money

Page 137

1 for these studies. We are doing better ones than
 2 we used to, but at half the rate we need. The
 3 units should all have these done."
 4 That was told months before the
 5 explosion, right?
 6 A. Yes.
 7 Q. Now, the relief valve studies in the ISOM
 8 unit had not been done in 20 years, correct?
 9 A. I believe there was a study in 1986.
 10 Q. I am sorry.
 11 A. I believe --
 12 Q. 19 years?
 13 A. Yeah. I am not quibbling about the
 14 number of years; and I believe that was the last --
 15 Q. The last?
 16 A. -- full complete study, yes.
 17 Q. Yes, sir.
 18 And so you were -- is that in --
 19 is that, in your estimation, does that send a
 20 message to the workers that the relief valve study
 21 hadn't been done in 19 years as of the date of the
 22 fire and explosion, does that send a message that
 23 safety is priority one?
 24 MR. PATTERSON: Objection, form.
 25 A. Well, they are -- the fact that the study

Page 138

1 is 20 years old does not necessarily invalidate
 2 that study.
 3 Q. (BY MR. WILLIAMS) Oh, does it validate
 4 the study?
 5 MR. PATTERSON: Objection, form.
 6 Q. (BY MR. WILLIAMS) Are you claiming the
 7 19-year-old study is valid?
 8 A. I don't know that.
 9 Q. Well, you are being an advocate for it.
 10 A. No. I said the fact that it's 20 years
 11 old doesn't mean it is invalid.
 12 Q. 19, sir.
 13 A. 19.
 14 Q. The point of the matter is how many --
 15 how often is the relief valve study supposed to be
 16 updated? How often? What's the standard?
 17 A. There is no set schedule.
 18 Q. There isn't --
 19 A. No.
 20 Q. -- by your company?
 21 A. No, there is no set schedule for updating
 22 relief valve studies.
 23 Q. Okay. Let's look, then, at --
 24 MR. WILLIAMS: Give me a clean
 25 copy.

Page 139

1 (Exhibit Number 180 marked for
 2 identification.)
 3 Q. (BY MR. WILLIAMS) Let's look at
 4 Exhibit 180 and it has -- is that the BP logo up
 5 there?
 6 A. It is.
 7 Q. "Relief valve inspection, repair and
 8 online testing." Originally issued in 1984.
 9 Do you see that?
 10 A. Yes.
 11 Q. It refers to this OSHA 1910.119 that we
 12 are talking about?
 13 A. Yes.
 14 Q. In there it says, if you will turn to the
 15 page at the bottom that ends in 53659, it says, as
 16 far as I can read --
 17 A. I am sorry. I haven't caught up with you
 18 yet.
 19 Q. I have got it up here. You can see it on
 20 the overhead.
 21 A. Okay.
 22 Q. "The maximum interval between inspections
 23 shall not exceed" how many years?
 24 A. Ten years, but that's referring to
 25 testing of individual relief valves. That is not

Page 140

1 referring to an interval for relief valve studies.
 2 Q. Oh, so you have -- so relief valve
 3 studies can be done how many -- what's the
 4 appropriate interval?
 5 MR. PATTERSON: Objection, form
 6 and object to the sidebar comment.
 7 A. There is no set frequency. If -- the
 8 relief valve study is what you do to set the sizing
 9 and design basis for the relief valves.
 10 Q. (BY MR. WILLIAMS) Well, do you know of
 11 any relief valve study that was done in the ISOM
 12 unit in the 19 years before the fire and explosion?
 13 A. I believe there was an abbreviated study
 14 in the early Nineties.
 15 Q. Any other?
 16 A. Not that I am aware of.
 17 Q. Did it cover the relief valves -- relief
 18 valve system on the particular pieces of equipment
 19 involved in this explosion?
 20 A. I don't know.
 21 Q. How come you don't have a standard for
 22 relief valve studies?
 23 MR. PATTERSON: Objection, form.
 24 A. You know, the basis for relief valve
 25 studies is grounded in the industry codes and

Page 141

1 standards.
 2 Q. (BY MR. WILLIAMS) So what's the date?
 3 What's the interval?
 4 A. There's no interval, again, that I am
 5 aware of for refreshing those studies. The
 6 study -- an update to a relief valve study would be
 7 triggered on some event.
 8 If I am modifying the unit, if I
 9 am attempting to increase throughput of the unit,
 10 something that may effect the design basis of those
 11 relief valves. It would be a trigger for a
 12 revalidation of the study and not a set schedule.
 13 Q. Something where you change the unit, like
 14 was this ISOM tower derated --
 15 MR. PATTERSON: Objection, form.
 16 Q. (BY MR. WILLIAMS) -- because of
 17 corrosion, its maximum working pressure?
 18 A. Yes, I believe that's correct.
 19 Q. And did -- was there a study done after
 20 it was derated?
 21 MR. PATTERSON: Objection, form.
 22 A. I believe there was a study of the relief
 23 valves associated with that tower.
 24 Q. (BY MR. WILLIAMS) Do you believe it or
 25 do you know it or are you speculating?

Page 142

1 A. I don't recall definitively.
 2 Q. Okay. Now, the final report, Exhibit 21
 3 in front of you, page 111, at the bottom. You can
 4 look here. I've got it on the overhead for you.
 5 It says, "Due to the lack of
 6 up-to-date relief valve study for the ISOM unit,"
 7 does that tell you, sir, do you interpret that to
 8 mean that the final report indicates there was a
 9 lack of an up-to-date relief valve study for the
 10 ISOM unit?
 11 A. There was not a current relief valve
 12 study.
 13 Q. So when we talk about the relief valve
 14 studies on the ISOM unit, it was not current,
 15 correct?
 16 MR. PATTERSON: Objection, form.
 17 A. The last full and complete relief valve
 18 study that I am aware of was the 1986 study.
 19 MR. WILLIAMS: Objection,
 20 nonresponsive.
 21 Q. (BY MR. WILLIAMS) Was it current?
 22 A. I don't know that it wasn't current.
 23 Q. You just testified a few minutes -- well,
 24 how do you interpret this statement when it says,
 25 "Due to the lack of an up-to-date relief valve

Page 143

1 study"? Does that mean there was -- does that, in
 2 your mind, mean that there was an up-to-date relief
 3 valve study and that these guys that wrote this
 4 report are idiots?
 5 MR. PATTERSON: Objection, form.
 6 A. I believe the fact of the matter is there
 7 was not a study with a reasonably recent date
 8 associated with it.
 9 Q. (BY MR. WILLIAMS) And that it was --
 10 A. I don't think that is the same as saying
 11 that the relief valve study that did exist was out
 12 of date.
 13 Q. Well, it says here that it was the lack
 14 of an up-to-date study. Do they -- does that mean
 15 that -- do they not understand those words, you
 16 think?
 17 MR. PATTERSON: Objection, form.
 18 A. I think that the investigation team
 19 expected that there would be a study with a more
 20 recent date on it.
 21 Q. (BY MR. WILLIAMS) Lack of an up-to-date
 22 or even lack of a study on relief valves, that was
 23 a common thing at the Texas City plant, wasn't it?
 24 MR. PATTERSON: Objection, form.
 25 A. We were not satisfied with the state of

Page 144

1 our relief valve studies.
 2 Q. (BY MR. WILLIAMS) I didn't ask you if
 3 you were satisfied. I said it was common to have
 4 relief valve studies either that couldn't be found
 5 or were not up-to-date --
 6 MR. PATTERSON: Objection, form.
 7 Q. (BY MR. WILLIAMS) -- true?
 8 MR. PATTERSON: Object to sidebar.
 9 A. Yes.
 10 Q. (BY MR. WILLIAMS) Now, we were talking
 11 about -- I am going to go back to 19, the Telos
 12 Report. On page 49 of that report that you
 13 discussed at the South Shore Harbor, under
 14 management -- "Other Management Factors," it's
 15 reported that, "There are senior managers here who
 16 have allowed the site to accept a completely
 17 inappropriate amount and level of risk. We have
 18 allowed criminal levels of noncompliance."
 19 Was that shocking when you read
 20 that at that meeting?
 21 MR. PATTERSON: Objection, form.
 22 A. Again, I didn't attribute any emotion to
 23 it. That's representative of somebody's opinion.
 24 Q. (BY MR. WILLIAMS) It says on page 9 of
 25 Exhibit 19 there, data from interviews and surveys,

Page 145

1 it says, "We need to learn from our mistakes. Our
 2 organizational memory is very short. We seem to
 3 mourn for short periods of time and then move back
 4 to doing what we have always done and no meaningful
 5 changes occur from the incidents we have."
 6 That was communicated to you and
 7 the leadership team months before this explosion,
 8 right?
 9 A. Again, that's an opinion expressed in the
 10 Telos Report.
 11 Q. And the final report says -- it has
 12 negative comments throughout it about process
 13 safety management and the training on process
 14 safety management, true?
 15 A. There are comments about process safety
 16 management training, yes.
 17 Q. Negative comments, sir, about it, right?
 18 A. Yeah. I recall words that would be
 19 construed as negative, yes.
 20 Q. And as a result, sir, have you had any
 21 reprimand for you or anybody in the process safety
 22 management department?
 23 MR. PATTERSON: Objection, form.
 24 A. No.
 25 Q. (BY MR. WILLIAMS) You know, it says here

Page 146

1 that, "We don't learn from our mistakes and that we
 2 go on and do things like normal."
 3 Has anybody from management --
 4 well, first of all, has anybody from the
 5 investigative team that did the final report sat
 6 down with you or anybody in process safety and told
 7 you, discussed with you what your mistakes were and
 8 how to improve it?
 9 A. No one from the -- well, actually a
 10 member of my staff participated as a member of the
 11 investigation team.
 12 Q. All right. You had an insider?
 13 MR. PATTERSON: Objection, form.
 14 A. A member of my staff participated in the
 15 investigation team.
 16 Q. (BY MR. WILLIAMS) Okay. Did they have
 17 influence on what was written?
 18 MR. PATTERSON: Objection, form.
 19 A. I have no knowledge as to what their
 20 participation level was in the writing of the
 21 report.
 22 Q. (BY MR. WILLIAMS) So let's go back.
 23 Did anybody that participated in
 24 the final report come back to you at process safety
 25 management, the experts there at the plant, and sit

Page 147

1 down and go through the critiques they have of
 2 process safety management and give you goals for
 3 improvement?
 4 A. I have not had a sit down session with
 5 anybody from the investigation team to specifically
 6 review the report.
 7 Q. Now --
 8 A. The interim report itself, as well as the
 9 final report, were reviewed by the process safety
 10 committee.
 11 MR. WILLIAMS: Objection,
 12 nonresponsive after the first sentence.
 13 Q. (BY MR. WILLIAMS) Now, has anybody from
 14 management and leadership, the leadership team or
 15 anybody in the corporate offices, come and sat down
 16 with you or other members of the process safety
 17 management department and gone over the
 18 deficiencies in your department and set new goals
 19 for your department?
 20 A. We have not done anything as formal as
 21 you are describing.
 22 Q. Okay. Has your budget increased any
 23 since this fire and explosion?
 24 A. No, it has not. Now, I have proposed
 25 increases in the budget for 2006.

Page 148

1 Q. What percentage increase?
 2 A. I believe I requested nearly tripling the
 3 size of the budget. Something in the order of
 4 \$5 million versus the \$1 and a half million.
 5 Q. Well, what was it that took -- what was
 6 it, other than this fire and explosion, the deaths
 7 and injuries, that shook you up to request a
 8 tripling of the budget?
 9 MR. PATTERSON: Objection, form.
 10 A. While not specifically requesting
 11 increases in the budget, I had made presentations
 12 and recommendations regarding changes in the
 13 process safety management area that would impact
 14 budget.
 15 Q. (BY MR. WILLIAMS) You had made these
 16 requests before the explosion?
 17 A. Yes.
 18 Q. We are going to go into that.
 19 Who on your staff was on the
 20 investigation team?
 21 A. Bill Cleary.
 22 MR. WILLIAMS: We are out of tape,
 23 so we will take a short break.
 24 THE VIDEOGRAPHER: Off the record
 25 at 2:34 p.m., ending Tape 3.

Page 149

1 (Recess taken.)
 2 THE VIDEOGRAPHER: On the record
 3 2:50 p.m., beginning Tape 4.
 4 Q. (BY MR. WILLIAMS) This tripling of your
 5 budget request, what precipitated the tripling of
 6 the budget request?
 7 A. I had been asked -- I had been asked
 8 effectively, given no constraints, what did I need,
 9 what did I want to make improvements in the process
 10 safety management system at Texas City.
 11 Q. Who asked you to give a -- that realistic
 12 request?
 13 A. Pat King had put it in effectively those
 14 same words. Now, independent of being asked that,
 15 I had actually submitted something prior to that
 16 during this year's budgeting process.
 17 Q. And what is Pat King's position?
 18 A. Pat is the current HSE manager for the
 19 Texas City site.
 20 Q. So is that current request of -- I guess
 21 it would be about 4.5 million?
 22 A. Yeah, 4 and a half, \$5 million, somewhere
 23 in that range, yes.
 24 Q. Is that -- does that have a lot of fat in
 25 it, or is it bloated?

Page 150

1 MR. PATTERSON: Objection to form.
 2 A. It reflects the -- again, it's
 3 predominantly around staffing in the process safety
 4 area. So, no, it reflects the needs of an
 5 increased staff size.
 6 Q. (BY MR. WILLIAMS) Well, has the plant
 7 increased in size, tripled in size?
 8 A. No.
 9 Q. The plant is still the same size, isn't
 10 it?
 11 A. It is.
 12 Q. Is that budget a realistic budget for
 13 what is needed to make PSM, process safety
 14 management, i.e., an effective tool in that plant?
 15 A. I believe it's what's needed to achieve
 16 the level of performance that I think is necessary
 17 to put it in amongst the very best within the
 18 industry.
 19 Q. Had you ever made a request in the past
 20 for a level of funding that would have allowed you
 21 to move process safety management up to the upper
 22 echelons in the industry?
 23 A. Not specifically in terms of a dollar
 24 request. I had made recommendations around
 25 organization and generally, you know, the staffing

Page 151

1 for, you know, for that organization but not in
 2 terms of actual dollars. I think this would be the
 3 salaries. This would be the benefits. This would
 4 be the training requirements, travel budget, that
 5 sort of thing, no.
 6 Q. These requests that you had made in the
 7 past, what were the specifics of the request and
 8 when were they made?
 9 A. There were -- I guess the initial -- the
 10 beginnings of the process, you know, the initial
 11 concept, probably in the 2002, 2003 timeframe. We
 12 were, you know, at that time forming BP South
 13 Houston. What we call BP South Houston, which was
 14 the Texas City chemical and refinery plants, the
 15 Chocolate Bayou chemical plant and the Deer Park
 16 chemical plants.
 17 So in terms of the increased
 18 coverage, there was a need for increased staffing
 19 to do what we were doing today. I had made
 20 inquiries or suggestions for increased staff for
 21 the Texas City site in kind of the same time.
 22 Q. How much of an increase in the Texas City
 23 staff, the PSM staff, did you request back in the
 24 2002, 2003 timeframe?
 25 A. It probably would have equated it to

Page 152

1 maybe two or three people.
 2 Q. And your department consists of how many
 3 people now?
 4 A. Today, six -- seven. Seven people.
 5 Q. So effectively it would have been a
 6 40 percent increase in staff you requested back in
 7 the 2002, 2003 timeframe, right?
 8 A. Approximately, yes.
 9 Q. And who did you make this request to?
 10 A. It -- well, it would have been in --
 11 during the budgeting process. I think I had
 12 alluded to that before, that we prepare our budgets
 13 and we submit it through that process. And so the
 14 requests for actual increases are submitted the
 15 same way.
 16 In that process I had also
 17 indicated the desire for future staffing increases
 18 in funding. So that -- it would have initially
 19 gone to my supervisor. I can't recall at the time
 20 who that was.
 21 Q. Was Norine Stein your supervisor for a
 22 while?
 23 A. She was, yes.
 24 Q. Did she have any training in -- formal
 25 training in process safety management to your

Page 153

1 knowledge?
 2 A. I don't have any knowledge. So, no, I
 3 don't know.
 4 Q. Did she -- has your -- how many different
 5 bosses have you had above you as head of HSSE in
 6 the 11 years you have been head of PSM?
 7 A. Well, the organizational structure around
 8 PSM has changed in my 11 years. Having PSM report
 9 through the HSSE department is a fairly recent
 10 change. But in terms of numbers of supervisors
 11 that I have had while I've been in the role, eight
 12 up to today.
 13 Q. As head of PSM, do you have direct
 14 communication to the leadership team; or does it
 15 have to go flow through your boss, head of HSSE?
 16 A. It occurs both ways. I have the ability
 17 to walk into anybody's office, including the
 18 refinery managers, and make direct communication.
 19 There is no, you know, strict command and control
 20 formal structure that says I have to tell my boss.
 21 He tells his boss, tells his boss a certain
 22 situation.
 23 Q. But are you included in any of the
 24 leadership team meetings or the normal leadership
 25 team meetings?

Page 154

1 A. No.
 2 Q. Are you included in the MDLs, the
 3 manufacturing and delivery leaders' meetings?
 4 A. Not on a routine basis, no.
 5 Q. Who then -- when you requested a
 6 40 percent increase in your budget back in the
 7 timeframe 2002, 2003, I take it that was rejected?
 8 MR. PATTERSON: Objection, form.
 9 A. No. We did actually increase the size of
 10 the budget. Now, some of it was purely because we
 11 did increase the size of the complex or my span and
 12 control for, excuse me, process safety management
 13 from the Texas City site to include the two other
 14 petrochemical complexes.
 15 We actually never got to the point
 16 for the additional increases before we undid that
 17 organizational change and dropped back to just the
 18 BP Texas City site.
 19 Q. (BY MR. WILLIAMS) Okay. I am trying to
 20 understand that.
 21 There was a period of time when
 22 you were process safety manager for three different
 23 sites?
 24 A. Yes. When I -- when I first took the
 25 position in 1994, I was the process safety manager

Page 155

1 for the Texas City refinery. We then combined the
 2 Texas City refinery and the Texas City chemical
 3 plant into one site operation, and I became the
 4 process safety manager over that.
 5 There was another organizational
 6 change that brought in the Chocolate Bayou chemical
 7 plant and the Deer Park chemical plant. We called
 8 that BP South Houston. I was the process safety
 9 manager over that. Then BP made the decision to
 10 sell off part of its chemicals -- chemical assets.
 11 Part of the sell off was the Chocolate Bayou and
 12 Deer Park plants. So I then retracted to being
 13 process safety manager of just the Texas City site.
 14 Q. Okay. I guess my question is -- I am
 15 trying to figure it out. You said you requested a
 16 40 percent increase in your budget in the 2002,
 17 2003 timeframe. And was that -- you said that was
 18 done or not done?
 19 A. Well, there was a natural increase. I
 20 mean, there -- the Chocolate Bayou plant had a
 21 person that was doing process safety management who
 22 became part of my budget.
 23 Q. Okay.
 24 A. That's fairly natural, fairly automatic.
 25 That was part of the increase.

Page 156

1 The Deer Park plant, because of
 2 the way it was structured, did not have a similar
 3 personal role because there was also some joint
 4 venture operations at that particular location.
 5 And so -- and this was somewhat midyear.
 6 So I had indicated that -- because
 7 the joint venture assets were supposed to become
 8 wholly owned by BP at some point; and so I was
 9 indicating that when that occurred, I would need
 10 full-time PSM staff to be able to oversee that.
 11 Q. Okay. Let's go back to the tripling of
 12 your budget request that -- when did you turn in a
 13 budget request that tripled what the budget was
 14 when this fire and explosion occurred?
 15 A. Probably it was about, I think, in the
 16 August, September timeframe of 2005.
 17 Q. Some five or six months after the fire
 18 and explosion, you requested a new PSM budget that
 19 was three times what had been in existence as of
 20 the date of the fire and explosion, true?
 21 A. Yes.
 22 Q. What were the new bells and whistles that
 23 you were requesting back in August and September of
 24 2005 that you did not have in your previous
 25 budgets?

Page 157

1 MR. PATTERSON: Objection, form.
 2 A. There was a role of what I call unit PSM
 3 coordinator. These would be people that would be
 4 associated with individual process units or maybe a
 5 couple of, you know, a pair of smaller process
 6 units.
 7 Q. (BY MR. WILLIAMS) Such as the ISOM unit?
 8 A. Such as the ISOM unit. You would
 9 probably have one unit PSM coordinator that would
 10 cover the ISOM, NDU, AU2 complex.
 11 And so in total, across the site,
 12 given the number of processes, that accounts for
 13 something in the order of about 20 people. I had
 14 also made a request for, I believe, about five or
 15 six what I call MOC, PHA leaders.
 16 Our current practice is that we
 17 have given formal training to a fairly large number
 18 of people, the order of a hundred or so. So small
 19 scale type changes that fall under MOC, you know,
 20 these are the training leaders that do those hazard
 21 reviews in conjunction with a team. These are
 22 part-time functions for people.
 23 My observation, my concern was
 24 that -- well, in terms of improving that process,
 25 improving what the investigation report and my

Page 158

1 thoughts even prior to that, that we could improve
 2 that process if we had people dedicated, if that
 3 was their full-time job instead of a partial
 4 function of their job. So I put in a request that
 5 we would have people that could do that on a
 6 full-time basis and that they would be the hazard
 7 review leaders for all of the management of change
 8 at the site.
 9 Q. Now, your request, then, would have taken
 10 the size of your department from approximately
 11 seven people to -- at the time of the fire and
 12 explosion and ramped it up to 20 plus people
 13 according to your request, true?
 14 A. Yes.
 15 Q. And has that been approved?
 16 A. Just because of the circumstances
 17 surrounding the site today, the budgets have not
 18 been approved. Nobody has voiced any objection.
 19 There has been some differing opinion as to where
 20 the functions might report.
 21 I talked about the unit PSM
 22 coordinators. A very strong opinion amongst the
 23 line organizations themselves feeling that PSM is
 24 one of their obligations. Their preference would
 25 be for those people to report through the line

Page 159

1 organization rather than the PSM organization.
 2 I am okay with that as long as we
 3 can manage a level of independence that would
 4 assure that that they would, in fact, be able to
 5 concentrate on those duties and not be assigned
 6 other tasks.
 7 MR. WILLIAMS: Objection,
 8 nonresponsive.
 9 Q. (BY MR. WILLIAMS) But let me -- as we
 10 sit here today, March 2nd, 2006, has your request
 11 from last August to add people to your budget,
 12 bring in PSM coordinators for the individual units,
 13 has it been approved as we sit here today?
 14 MR. PATTERSON: Objection, form.
 15 A. There has not been formal approval of the
 16 budget but there have been positions created and
 17 positions populated at four unit PSM coordinators.
 18 Q. (BY MR. WILLIAMS) That's corporate speak
 19 to me, sir.
 20 Has anybody been hired?
 21 MR. PATTERSON: Objection, form.
 22 A. Yes.
 23 Q. (BY MR. WILLIAMS) How many people?
 24 A. I believe the number is around ten.
 25 Q. Are these the PSM coordinators that you

Page 160

1 requested?
 2 A. That is the position that I am talking
 3 about, yes.
 4 Q. And what is -- and they are on the
 5 jobsite now, ten brand-new PSM coordinators, since
 6 the fire and explosion?
 7 A. I am trying to get my timing straight.
 8 Some of those positions were
 9 actually filled prior to the explosion, filled
 10 towards the end of -- I am sorry. I believe, yes,
 11 it has been since the fire and explosion.
 12 Q. Were these new PSM -- never mind. Let's
 13 go back to the Telos Report, Exhibit 19, for a
 14 minute.
 15 Who participated in answering or
 16 providing information for the Telos Report?
 17 MR. PATTERSON: Objection, form.
 18 A. My understanding is that a survey was
 19 provided to all of the employees at the Texas City
 20 site. My understanding is about 1100 or so chose
 21 to complete the survey, turn it in. And then in my
 22 understanding, there were about 100 to 120 personal
 23 interviews.
 24 Q. (BY MR. WILLIAMS) Did you complete a
 25 survey?

Page 161

1 A. I did.
 2 Q. Did you sign your name to it or put
 3 anything on it that would allow us to know which
 4 survey answer belongs to you?
 5 A. The -- I don't recall putting my name on
 6 it. The Telos survey and interviews were intended
 7 to be anonymous for the purpose of soliciting open
 8 and candid feedback from people. So, no, I don't
 9 believe my name is on a survey.
 10 Q. Were you personally interviewed?
 11 A. I was.
 12 Q. How long did that interview last?
 13 A. As I recall, it was one to two hours.
 14 Q. And who was present?
 15 A. I believe Linda Gioja conducted my
 16 interview.
 17 Q. She and her husband were the ones that
 18 did the report for the Telos company?
 19 A. Yes.
 20 Q. And did she record the interview or take
 21 notes during the interview?
 22 A. I believe she took notes, yes.
 23 Q. And were these notes or their -- or her
 24 notes about her interview with you, were they part
 25 of the report that you discussed with management at

Page 162

1 South Shore Harbor?
 2 A. I believe her notes of my interview were
 3 reflected in the report, yes.
 4 Q. Okay. And did you find her notes to be
 5 accurate?
 6 A. I don't recall having the opportunity to
 7 review the notes.
 8 Q. Okay. Let's look at those notes of that
 9 interview.
 10 Were you candid with her?
 11 A. Yes.
 12 Q. Reading your facial expressions, it seems
 13 like that was -- you kind of -- are you embarrassed
 14 that you were candid with her?
 15 MR. PATTERSON: Objection, form.
 16 A. No, I was not embarrassed to be candid
 17 with her. I was very candid in my remarks.
 18 Q. (BY MR. WILLIAMS) Okay. Well, let's
 19 look at some of those remarks. From those
 20 interviews it says here Bill Ralph.
 21 That's you, right?
 22 A. Yes.
 23 Q. "They are not paying sufficient" -- and I
 24 guess there's a word missing -- "to PSM."
 25 What would the missing word be,

Page 163

1 "attention" or something?
 2 MR. PATTERSON: Objection, form.
 3 A. I believe so.
 4 Q. (BY MR. WILLIAMS) "Process safety
 5 management events in the last five years have been
 6 frequent and severe by industry standards."
 7 Now, is that -- are those
 8 subjective terms, "frequent" and "severe"?
 9 MR. PATTERSON: Objection, form.
 10 A. They are subjective terms. Those are my
 11 opinions. That reflects my comments to her.
 12 Q. (BY MR. WILLIAMS) And so it was your
 13 opinion that -- and this interview took place how
 14 many months before the fire and explosion of
 15 March 23?
 16 A. About six months. I believe it was
 17 November or so of 2004.
 18 Q. Okay. How many months? Is it about five
 19 months before?
 20 A. Yeah. Five, six months, yes.
 21 Q. Okay. So five months before the
 22 explosion, you told these people that there -- that
 23 just by pure luck you avoided what you said would
 24 have been \$500 million worth of damage and many
 25 fatalities was avoided by just pure luck, correct?

Page 164

1 A. Yes, that's what those notes indicate.
 2 Q. And was that a problem that -- was that a
 3 PSM problem, process safety management problem?
 4 A. Yes. That was a process safety incident.
 5 Q. And what was the luck that avoided
 6 \$500 million worth of damage and many fatalities?
 7 MR. PATTERSON: Objection --
 8 A. The fact that there was not an ignition.
 9 You know, there was a significant release of
 10 hydrocarbons materials. There was no ignition,
 11 although there were ignition sources present.
 12 Q. (BY MR. WILLIAMS) Okay. Now, when did
 13 that event occur?
 14 A. I recall -- I recall that was March of
 15 2001.
 16 Q. Was there a study done?
 17 A. There -- yes, there was an investigation.
 18 Q. And did the study reveal that there had
 19 been lapses or gaps in process safety management?
 20 A. The study indicated that there were
 21 deficiencies in the mechanical integrity inspection
 22 of the line that ruptured.
 23 Q. The next question is what three things
 24 would this PSM manager change. And one of the
 25 things you said there was that competencies in

Page 165

1 every area is something that you would like to
 2 change, right?
 3 A. Yes.
 4 Q. And in response to question 8A, your
 5 words, "The leadership is committed to the
 6 elimination of individual injury but not committed
 7 to the elimination of process safety injury or
 8 integrity management."
 9 So my question to you is: Again,
 10 there's a huge difference between individual injury
 11 and the more catastrophic aspect of process safety
 12 injury, true?
 13 A. Yes.
 14 Q. Now, when you say the leadership is
 15 committed to one and not committed to process
 16 safety injury, who in leadership were you speaking
 17 of, sir?
 18 A. The senior management team.
 19 Q. And if you could help me with names,
 20 please.
 21 A. At the time of this survey, that would
 22 have been people like Don Parus. Well -- okay.
 23 Are you asking who was a member?
 24 Who were members of the leadership team?
 25 Q. In this statement that we are looking at

Page 166

1 here, "Leadership is committed to individual injury
 2 and not committed to elimination of process safety
 3 injury," who are you -- are you speaking about in
 4 leadership? Give me names, please.
 5 A. That comment was probably mostly directed
 6 towards Don Parus and my concern with my perception
 7 and opinion that there was an imbalance, that there
 8 was lots of focus on the personal injury side of
 9 things and insufficient focus on the process safety
 10 side of the equation.
 11 Q. Don Parus was the very top guy at the
 12 plant, right?
 13 A. Yes, he was the site director.
 14 Q. And he reported directly to the president
 15 of BP North America up in Chicago, Ross Pillari,
 16 right?
 17 A. I am not sure of the reporting
 18 relationship.
 19 Q. But he was -- he had, as far as you could
 20 tell, of the thousands of people and the hundreds
 21 of acres of assets and the hundreds and millions of
 22 dollars in assets, he was the top guy in charge at
 23 that plant, right?
 24 A. Yes. He was the senior BP official.
 25 Q. And why is it that you believe and stated

Page 167

1 candidly that he was not committed to the
 2 elimination of process safety injury or integrity
 3 management?
 4 A. My concern and what I was trying to voice
 5 in this opinion was not that he was not committed
 6 to process safety. Don and I have had
 7 conversations on process safety.
 8 My opinion, belief is that process
 9 safety management must command consistent and
 10 persistent vigilance and attention and that it's
 11 easy to become distracted with the personal safety
 12 side of the equation which could result in slipping
 13 of process safety performance.
 14 Q. If I understand you correctly, are we
 15 saying -- are you saying that with regard to Don
 16 Parus that he had not given process safety
 17 management the priority that it deserved?
 18 A. I was concerned that he was more focused
 19 on personal safety than process safety, yes.
 20 Q. Is that another way of saying that
 21 process safety, the catastrophic type of stuff, was
 22 not given the appropriate priority?
 23 MR. PATTERSON: Objection, form.
 24 A. Yeah. I am not sure that I would state
 25 it that way. I mean, there were certainly

Page 168

1 procedures, policies, practices, activities in the
 2 process safety area. But again, if -- in my
 3 opinion, if you spend your time and attention on
 4 personal safety, then that's time and attention
 5 that is not available for process safety.
 6 Q. (BY MR. WILLIAMS) Good point.
 7 And, for instance, if you spend
 8 your time and attention on people wearing hard hats
 9 or wearing goggles or wearing their coveralls,
 10 their flare flame retardant, that's a good thing;
 11 but it should not stop the attention or take up --
 12 take away from the attention that's given to the
 13 more catastrophic subject of process safety,
 14 correct?
 15 MR. PATTERSON: Objection, form.
 16 A. I agree with that.
 17 Q. (BY MR. WILLIAMS) Okay. And there are
 18 plenty of books written on process safety and the
 19 role that management plays in process safety,
 20 right?
 21 A. Yes.
 22 Q. And, in fact, for process safety to be
 23 effective, it must be embraced and endorsed by
 24 management at the highest levels, right?
 25 A. Yes.

Page 169

1 Q. In fact, I am going to just read to you a
 2 couple of quotes; and we can go to the books if we
 3 need to. I am shifting gears here now.
 4 But here is a -- here is a book
 5 quote. I will just see if you agree with it. It
 6 says, "Not surprisingly, management commitment
 7 emerges as the dominant factor influencing safety
 8 performance."
 9 Do you believe that's a true
 10 statement?
 11 A. I would agree with that.
 12 Q. "Safety and loss prevention in an
 13 organization stand or fall by the attitude of
 14 senior management."
 15 Would you agree with that
 16 statement?
 17 A. I agree.
 18 Q. Further, "It is the duty of senior
 19 management to ensure that this attitude of safety
 20 and loss prevention is realized throughout the
 21 company by the creation of a safety culture in
 22 which the company's way of doing things is also the
 23 safe way of doing things."
 24 Would you agree with that?
 25 A. I agree.

Page 170

1 Q. In fact, if we talk just about the plant
 2 manager, it says, "Leadership must start with the
 3 plant manager and must include every level of
 4 management."
 5 True statement?
 6 A. I agree with that statement.
 7 Q. "Success of a process safety management
 8 system is dependent on leadership."
 9 True statement?
 10 A. I agree with that.
 11 Q. "The creation and maintenance of a safety
 12 culture requires strong leadership by senior
 13 management."
 14 True statement?
 15 A. I agree with that.
 16 Q. Now, all of those statements lead to one
 17 conclusion that if you want to have strong process
 18 safety management, it starts at the very top; and
 19 that would be Don Parus in this -- in this
 20 situation, right?
 21 A. Yes, there has to be strong support.
 22 Q. And you, sir, if I am correct, had
 23 concerns that Don Parus was not providing that
 24 strong leadership to support process safety
 25 management; is that fair?

Page 171

1 A. My concern was the balance between
 2 process safety and personal safety, not a void of
 3 concern about process safety.
 4 Q. Well, I don't understand that -- was he
 5 paying more attention to personal safety than
 6 process safety?
 7 A. In my opinion, yes.
 8 Q. And, therefore, left a shortage of
 9 attention to process safety?
 10 A. I had concerns. I voiced concerns that
 11 the attention that was being paid to personal
 12 safety was detracting from resources that could
 13 have been going to process safety.
 14 Q. So going back now to your Telos
 15 statement, if we go down, this is Exhibit 19, you
 16 talk about the Whiting refinery situation where a
 17 little boy was killed while sleeping in his
 18 bedroom.
 19 The Whiting refinery, that's not a
 20 BP refinery, is it?
 21 A. It is.
 22 Q. Oh, it is a BP refinery?
 23 A. Yes.
 24 Q. Okay. And it says here that this
 25 incident where this little boy in the late Nineties

Page 172

1 was killed in his bedroom triggered organizational
 2 changes and that the chair of the PSM committee
 3 reported to a senior line management person and
 4 that PSM at that point was in the inner circle but
 5 then in 2000 it was reorganized and the position of
 6 PSM started to slip.
 7 True statement, right?
 8 A. There's a couple of inaccuracies in those
 9 notes. The incident that I was referring to
 10 actually occurred in the mid 1950s. It was an
 11 Amoco plant, Amoco refinery at the time and that
 12 was really a life changing event on behalf of, you
 13 know, Amoco Oil and there were a number of changes,
 14 a number of things that were put in place.
 15 Specifically -- we didn't necessarily call them
 16 process safety management at that time but
 17 certainly well within that area.
 18 My comments around -- well, so it
 19 talks about the formation of process safety
 20 committees, the process safety committee chairman
 21 being a senior line management person. And so
 22 there was direct contact basically on a continuous
 23 basis and that with -- with my concern and the
 24 opinion that I expressed was with the
 25 reorganizations that were taking place that it

Page 173

1 was -- it didn't have that same direct connection.
 2 There was not that -- there was not that person on
 3 the senior leadership team who had a specific --
 4 one of the hats that they were wearing was specific
 5 to process safety management.
 6 Q. Okay. If I understand this correctly,
 7 then, to make this accurate, that in the year 2000
 8 there was a reorganization. And do you agree that
 9 PSM slipped during that reorganization in 2000?
 10 A. My concern was that if the -- if the --
 11 how do I say this?
 12 If the -- prior to that
 13 reorganization in 2000, the chairman of the process
 14 safety committee was a member of the senior
 15 leadership team. PSM organizationally reported to
 16 that person. Any time there was a meeting with the
 17 senior leadership team, that person would be
 18 present. He was part of that group.
 19 With the reorganization in 2000,
 20 the person that was the chair of the process safety
 21 committee was no longer a member of that senior
 22 leadership team. So when that group met, my
 23 concern was there was not somebody specifically in
 24 that room listening for and speaking to what may be
 25 subtleties around PSM.

Page 174

1 Q. And did you voice that complaint to
 2 senior leadership at the plant?
 3 A. Yes.
 4 Q. And did you get any relief?
 5 A. There were no organizational changes as a
 6 result.
 7 Q. Now, going down it says, "Bill talked
 8 about having to," quote -- about, quote, "having to
 9 insert himself into MDLs' meetings, trying to be a
 10 conscience but now he is even excluded from the new
 11 management meetings. Don expects" -- is Don, would
 12 that be Don Parus?
 13 A. Yes.
 14 Q. The plant manager, right?
 15 A. Yes.
 16 Q. "Don Parus, the plant manager, now
 17 expects PSM to get to him through Joe Barnes.
 18 Norine in two years didn't ask him about PSM once."
 19 Those were your statements?
 20 A. Those are her notes. But yeah, I think
 21 they accurately reflect my comments.
 22 Q. And Joe Barnes, you were frustrated, I
 23 think, then that not only were you not -- a PSM
 24 person wasn't in the senior management now but no
 25 longer even included in the MDL meetings, right?

Page 175

1 MR. PATTERSON: Objection, form.
 2 A. My concern and the opinion that I was
 3 voicing was that I felt to achieve the level of PSM
 4 performance we needed, we needed somebody in that
 5 room at those meetings that had that focus. That
 6 was, you know, the sole concern. That was my
 7 desire was that --
 8 Q. (BY MR. WILLIAMS) The way it was set up
 9 by Don Parus, the plant manager, was that he
 10 expected process safety management to flow through
 11 your boss, Joe Barnes, right?
 12 A. Yes.
 13 Q. "Norine in two years didn't even ask him
 14 about PSM once."
 15 "Norine," is that Norine Stein?
 16 A. It is.
 17 Q. And "didn't ask him," who is "him"?
 18 A. That would be me.
 19 Q. You?
 20 A. Yes.
 21 Q. And what was Norine Stein's title?
 22 A. I believe it was site services manager.
 23 Q. Okay. And so she went two years without
 24 asking you about PSM even once, right?
 25 A. I don't recall a time when she

Page 176

1 proactively came to me and asked about PSM.
 2 Q. So if we go back to this concept that we
 3 agreed upon earlier that it is -- that the
 4 effectiveness of PSM is directly related to the
 5 senior managements, whether or not they embrace
 6 PSM, taking that concept, was there a lack of PSM
 7 leadership by senior management before this
 8 explosion?
 9 A. I think they embrace PSM. I think they
 10 recognized its importance. My concern was I didn't
 11 feel that they were sensitive enough to process
 12 safety management.
 13 Q. They didn't give it sufficient priority?
 14 A. There's a number of examples where PSM
 15 concerns that were raised were being addressed. So
 16 when -- I mean, as issues are raised, they do get
 17 addressed.
 18 Now, my perspective as PSM
 19 manager, did I have a difference of opinion as to
 20 the pace or maybe the extent of those changes or
 21 those improvements, yes.
 22 Q. Did you find at many times senior
 23 management was reactive to PSM issues where it is
 24 more appropriate to be proactive?
 25 A. My concern was that the proactive efforts

Page 177

1 were slipping, which then resulted in having to
 2 react, yes.
 3 Q. And that was your perception before the
 4 explosion?
 5 A. Yes.
 6 Q. It says here that, "Andy gets the
 7 importance of PSM but only when I am talking to him
 8 about it." Who is "Andy"?
 9 A. Andy Fiedler, he was the maintenance
 10 manager at the time.
 11 Q. For the entire plant?
 12 A. Yes. And those comments really reflected
 13 conversations that I had with him about
 14 organizational structure around PSM, you know, when
 15 I would meet one-on-one with Andy, it seemed he
 16 would be in agreement with me; but I couldn't
 17 detect that same level of agreement, you know,
 18 outside of our personal conversations.
 19 Q. Sometimes -- are you familiar with the
 20 concept sometimes people talk the talk but they
 21 don't walk the walk?
 22 A. I have heard that expression, yes.
 23 Q. Any application of that to this
 24 situation?
 25 A. On the specific topic of organization,

Page 178

1 where should PSM be placed within the organization,
 2 that was the sentiment I was expressing.
 3 Q. On page down here 129123, it says, "Joe
 4 is receptive and responsive but not a champion on
 5 this aspect of safety. He does not get it and will
 6 not work to have Don get the PSM picture through
 7 HSSE."
 8 Is "Joe" Joe Barnes?
 9 A. Yes.
 10 Q. And that's who you are talking about
 11 "does not get it and will not work to have Don get
 12 the PSM picture"?
 13 A. Yeah. The opinion that I was expressing
 14 there was that -- the same concern, that Joe's
 15 focus was on personal safety and that he did not,
 16 in my opinion, appreciate the time and attention
 17 that was required within the PSM area.
 18 Q. Now, the next question, it says, "Susan's
 19 always saying I can't go back to London with that."
 20 Who is "Susan"?
 21 A. Susan Dio.
 22 Q. And what was her title?
 23 A. She's the commercial manager.
 24 Q. And it says -- you were quoting her
 25 saying, "I can't go back to London with that. She

Page 179

1 does not care about the condition of equipment.
 2 The previous person in her role was critical to the
 3 stripping of the asset but she does not seem at all
 4 aware of what is really needed, just of cost."
 5 That was your observation?
 6 A. Yeah. My comments around the quote --
 7 and I don't know if that's an exact quote or not.
 8 We had had a fire in March of 2004 at the
 9 Ultraformer Number 4 unit and I was in a meeting --
 10 a fairly large meeting which Susan was in
 11 attendance. The superintendent, the inspection
 12 manager, the individual inspectors, people like
 13 that were in attendance. They were talking about
 14 beyond the fire damage and the repairs that are
 15 going on there, additional inspection,
 16 investigative work that they were doing and that
 17 they were finding additional conditions that needed
 18 to be repaired.
 19 The cycle of discovery work,
 20 requests for funds for repairs, more discovery work
 21 which we needed to request some more funds, had
 22 repeated itself a couple of times. Susan -- my
 23 concern was -- and I don't disagree with what she
 24 was conveying. I disagreed kind of with the way
 25 she said it and with the audience with whom she

Page 180

1 said it, because it could be, in my opinion,
 2 misconstrued; and that was a sense that, "We can't
 3 keep going back and asking for another million
 4 dollars, another million dollars, another million
 5 dollars." Her position was that we needed to
 6 complete our discovery work, ask for the money one
 7 time.
 8 I was concerned that that would
 9 send the wrong impression to people that were in
 10 attendance there that the message -- was concerned
 11 that the message that they may have been receiving
 12 was one of "Don't do discovery work, don't go find
 13 problems."
 14 Q. What was it in 1997 that prompted the
 15 drafting of the 22 words that were to be avoided in
 16 reports, investigative reports and audits?
 17 MR. PATTERSON: Objection, form.
 18 A. We were revising our incident
 19 investigation policy and the result of that revised
 20 policy, we were conducting training with -- for
 21 investigation team leaders.
 22 Q. (BY MR. WILLIAMS) Have there been some
 23 previous incident fire, explosion, near miss,
 24 et cetera, that had prompted that situation?
 25 MR. PATTERSON: Objection, form.

Page 181

1 A. Prompted which situation?
 2 Q. (BY MR. WILLIAMS) The review of how you
 3 wrote these reports and the drafting of these 22
 4 words to be avoided?
 5 MR. PATTERSON: Objection, form.
 6 A. Not that I am aware of, no.
 7 Q. (BY MR. WILLIAMS) Do you have lawyers
 8 involved in drafting your incident reports?
 9 MR. PATTERSON: Objection, form.
 10 A. I have not been involved with any
 11 investigations where a lawyer was a member of the
 12 team or involved with the drafting of the report.
 13 Q. (BY MR. WILLIAMS) Well, why would you
 14 have a lawyer drafting a list of 22 words to avoid?
 15 MR. PATTERSON: Objection, form.
 16 I also raise the attorney/client privilege. To the
 17 extent that you are asking him to disclose anything
 18 that a lawyer might have said, it's privileged or
 19 confidential.
 20 So if you can answer it without
 21 disclosing anything a lawyer told you that is
 22 privileged and confidential, you can answer the
 23 question.
 24 A. Okay. I don't think I can answer the
 25 question.

Page 182

1 Q. (BY MR. WILLIAMS) Why is that? Because
 2 it -- why can't you answer the question?
 3 A. Upon advice --
 4 MR. PATTERSON: Same objection.
 5 A. Upon advice of counsel.
 6 Q. (BY MR. WILLIAMS) Who requested that a
 7 lawyer draft these 22 forbidden words?
 8 MR. PATTERSON: Objection, form.
 9 Q. (BY MR. WILLIAMS) If you know.
 10 A. I was involved in those discussions.
 11 Q. Who else?
 12 A. I don't -- I don't recall anybody else
 13 being involved.
 14 Q. I am sorry. I don't understand that.
 15 You said nobody. Is it -- were
 16 you just talking to yourself?
 17 A. No. I thought I was answering your
 18 question.
 19 Q. I asked you who was involved in those
 20 discussions. You said just you. So...
 21 A. No.
 22 MR. PATTERSON: Objection, form.
 23 A. Myself and the attorneys.
 24 Q. (BY MR. WILLIAMS) Okay. Which
 25 attorneys?

Page 183

1 A. As I recall, it was Tracy Rogers and Jim
 2 Galbraith.
 3 Q. And it's your testimony that there had
 4 been no fire, explosion, lawsuit, event, anything
 5 that prompted that conversation?
 6 MR. PATTERSON: Objection, form.
 7 A. Yes, I don't -- no, there was no -- to my
 8 knowledge, there was no specific event that
 9 prompted that discussion.
 10 Q. (BY MR. WILLIAMS) What is a Voluntary
 11 Protection Program, VPP?
 12 MR. PATTERSON: Objection, form.
 13 A. That is -- I believe you are referring to
 14 OSHA's program for voluntary protection. That's
 15 the title of it, to my understanding.
 16 Q. (BY MR. WILLIAMS) It's for the elite
 17 members of the industry that strive for -- to go
 18 above and beyond minimum compliance, true?
 19 A. I believe it -- I would characterize it
 20 more accurately as a recognition by OSHA of
 21 companies that have chosen to participate with them
 22 in that program, and it's OSHA's recognition that
 23 they have received a certain standard for which
 24 they are willing to claim them to be a certain VPP
 25 status.

Page 184

1 Q. And to achieve that standard, you have to
 2 have outstanding effort of the employers and
 3 employees to achieve exemplary Occupational Safety
 4 and Health. Agree?
 5 A. That's my general understanding, yes.
 6 Q. Now, that takes a commitment from senior
 7 management to enroll in the VPP program or to
 8 qualify for the VPP program; and it takes a
 9 commitment from them both in money, time, and
 10 prioritizing it. Would you agree?
 11 A. My understanding of the program is that
 12 it requires both management commitment as well as
 13 laborers' commitment.
 14 Q. Okay. Has management at the Texas City
 15 site ever come to you and said, "Hey, we want to
 16 enroll in the VPP program"?
 17 A. We investigated that possibility at one
 18 point in time, and we were just in the initial
 19 stages of it when the labor management decided they
 20 didn't want -- did not want to support the effort.
 21 And so the program stopped.
 22 MR. WILLIAMS: Objection,
 23 nonresponsive.
 24 Q. (BY MR. WILLIAMS) Do you know -- do you
 25 have to have an outstanding history with regard to

Page 185

1 safety in order to be involved in the VPP program?
 2 A. No, that's not my understanding.
 3 Q. Does the Texas City refinery have an
 4 outstanding history with regard to safety?
 5 MR. PATTERSON: Objection, form.
 6 A. We have made improvements in the area of
 7 safety. The OSHA recordable injury rate has
 8 dropped significantly over my career at Texas City.
 9 Q. (BY MR. WILLIAMS) So is the answer to my
 10 question you have an outstanding safety record at
 11 Texas City or not?
 12 A. The -- and again, personal safety is not
 13 my area of focus. I believe our recordable injury
 14 rate is well within the norm for our industry.
 15 Q. Well, how about your death rate?
 16 MR. PATTERSON: Objection, form.
 17 A. I don't believe that's one of the
 18 measures in the OSHA program, but we certainly are
 19 not pleased with the fatalities that have occurred
 20 at the site.
 21 Q. (BY MR. WILLIAMS) Well, when you are
 22 talking about death rate -- and I am talking about
 23 before the 15 people died on March 23, you take the
 24 death rate at the Texas City refinery; and it was
 25 outstanding in this regard. It was the highest

Page 186

1 death rate in the nation of any plant in America
 2 before this fire and explosion on March 23, true?
 3 MR. PATTERSON: Objection to form.
 4 A. I don't know if that's factually correct
 5 or not.
 6 Q. (BY MR. WILLIAMS) I am astonished.
 7 Why would you not know that you
 8 had the highest level of deaths in your plant?
 9 MR. PATTERSON: Objection, form
 10 and object to the sidebar comment.
 11 A. One, I am not aware that that is a rate
 12 that is computed. There is --
 13 Q. (BY MR. WILLIAMS) Computed? You just
 14 add up the deaths. That's not computing. That's
 15 addition. Let me go at it this way.
 16 How many deaths had you had -- had
 17 there been at the Texas City refinery before
 18 March -- the 15 of March 23rd?
 19 A. I don't know the number for the entire
 20 history of the plant.
 21 Q. The newspapers say it's 22.
 22 A. It's -- yeah, that's the number I recall
 23 when we were going through the Telos Report, that
 24 approximately 22 or so over the last 30 years.
 25 Q. Yeah. And --

Page 187

1 A. Approximately.
 2 Q. And then add 15 to it; and that's 37,
 3 right?
 4 A. Yes.
 5 Q. Do you know of any plant in America,
 6 let's just take the 22, that's had more death in
 7 the decade before this fire and explosion than the
 8 Texas City refinery?
 9 MR. PATTERSON: Objection to form.
 10 A. The last major accident that I recall
 11 with multiple tens of fatalities were the ARCO Ship
 12 Channel explosion and the Phillips explosion, '89
 13 and '96, I believe.
 14 Prior to that, my knowledge is
 15 that the fatalities from incidents, process safety
 16 related incidents, were at the most three or four
 17 people in a single event. I don't have any
 18 information relative to individual fatalities
 19 related to personal safety.
 20 MR. WILLIAMS: Objection,
 21 nonresponsive.
 22 Q. (BY MR. WILLIAMS) It's been reported
 23 that your plant in the decade, ten years before
 24 March 23, '05, had the highest fatality rate of any
 25 plant in America.

Page 188

1 Did you as process safety manager
 2 ever investigate that to see where you stacked up
 3 with other members of the industry?
 4 MR. PATTERSON: Objection, form.
 5 Object to sidebar.
 6 A. I did not.
 7 Q. (BY MR. WILLIAMS) It has been reported
 8 that -- you know, at one extreme there's the VPP
 9 for people who really want to excel in process
 10 safety management and safety. The other end of the
 11 extreme is those people who are on the watch list,
 12 the indifferent list by OSHA.
 13 Was your company on the watch
 14 list, the indifferent list by OSHA before this fire
 15 and explosion?
 16 MR. PATTERSON: Objection, form.
 17 A. I don't know.
 18 Q. (BY MR. WILLIAMS) Do you know of any
 19 plant in America that's received a fine for its
 20 indifference that was as high as the fine that your
 21 plant received on March -- from the March 23 fire
 22 and explosion?
 23 MR. PATTERSON: Objection, form.
 24 A. I don't know.
 25 MR. WILLIAMS: We have to change

Page 189

1 the tape. We will take a break.
 2 THE VIDEOGRAPHER: Off the record,
 3 3:51 p.m., ending Tape 4.
 4 (Recess taken.)
 5 THE VIDEOGRAPHER: On the record,
 6 4:05 p.m., beginning Tape 5.
 7 (Exhibit Number 181 marked for
 8 identification.)
 9 Q. (BY MR. WILLIAMS) Exhibit 181 there, is
 10 that a PowerPoint that was put together by you or
 11 someone in your department?
 12 A. Yes.
 13 Q. Okay. So is it true, if we look on the
 14 second page there, is this a pretty good definition
 15 of the purpose of process safety management?
 16 It's intended to help prevent the
 17 occurrence of or minimize the consequences of
 18 catastrophic releases of toxic or explosive
 19 materials?
 20 A. Yes, I believe that's a good description.
 21 Q. And we can also say, and I think you have
 22 said many times in your teachings, the greatest --
 23 why focus on PSM? Because it has the greatest
 24 potential for multiple injuries and deaths, the
 25 great potential for acute environmental damage, the

Page 190

1 greatest potential for impact on the surrounding
 2 community, the greatest potential for significant
 3 property damage, the greatest potential for
 4 significant business interruption, and the greatest
 5 potential for damage to reputation, true?
 6 A. Yes.
 7 Q. And one of the basic things about process
 8 safety is that you learn from the past mistakes,
 9 true?
 10 A. Yes.
 11 Q. In fact, often repeated in BP material
 12 and in your material you use this quote from Trevor
 13 Kletz about process safety culture. It says, "It
 14 might seem to an outsider that industrial accidents
 15 occur because they did not know how to prevent
 16 them -- we did not know how to prevent them. In
 17 fact, they occur because we did not use the
 18 knowledge that is available. Organizations that do
 19 not learn from the past or rather individuals learn
 20 but they leave the organization taking the
 21 knowledge with them and the organization as a whole
 22 forgets."
 23 You use that quote repeatedly,
 24 don't you?
 25 A. I have used that a number of times, yes.

Page 191

1 Q. And the basic thing you are trying to
 2 convey is that it's important to learn from past --
 3 prior or past incidents, mistakes and near misses,
 4 correct?
 5 A. Yes.
 6 Q. So if we look at the precise F-20 drum
 7 that was involved in the March 23 fire and
 8 explosion, it had a history of previous events,
 9 right?
 10 A. My understanding, based upon my reading
 11 of the investigation report, there were a number of
 12 vapor releases from the F-20 drum, none that even
 13 came close to the release that occurred on
 14 March 23rd.
 15 Q. Right. But if -- by tracking the fact
 16 that there had been numerous releases from that
 17 drum, does that as a PSM expert give you a clue as
 18 to a trend?
 19 MR. PATTERSON: Objection, form.
 20 A. I would certainly want to know what the
 21 releases were. I mean, blowdown stacks by their
 22 very nature are intended for atmospheric release.
 23 Q. (BY MR. WILLIAMS) Does it -- my
 24 question --
 25 MR. WILLIAMS: Nonresponsive

Page 192

1 objection.
 2 Q. (BY MR. WILLIAMS) My question is: Does
 3 it indicate -- by looking at prior incidents, does
 4 it indicate a trend?
 5 A. I would have to look at the details of
 6 each and every one of the individual incidents to
 7 see if there was, in fact, a trend related to
 8 process safety management.
 9 Q. Well, let me ask you: Is that one of the
 10 reasons that you track prior incidents, near misses
 11 and investigate things, is in order to detect a
 12 trend?
 13 A. To detect trends but also for the purpose
 14 of hazard evaluations.
 15 Q. Exactly. Now, in part of a process
 16 hazard analysis, PHA, and the five-year follow-ups
 17 should be to review prior incidents and look at
 18 trends, correct?
 19 A. Yes, review of previous incidents are
 20 part of our five-year PHA process.
 21 Q. Let's look at page -- Exhibit 21, the
 22 final report, and look at page 131 to 132.
 23 A. Okay. The page on the screen is not the
 24 same as page 131 of the report.
 25 Q. I understand. We have retyped it. So

Page 193

1 it's --
 2 A. Okay.
 3 Q. But it has the same words.
 4 A. Okay.
 5 Q. I have not changed that. If I have,
 6 point it out but not intentionally.
 7 A. Okay.
 8 Q. So if we look at page 131 of Exhibit 21,
 9 the final report, we find that there were some 19
 10 recorded releases in -- at this specific F-20
 11 blowdown drum before this fire and explosion, true?
 12 MR. PATTERSON: Objection to form.
 13 A. Yes, 19.
 14 Q. (BY MR. WILLIAMS) Now, if we were to --
 15 how many F -- how many similar F-20 blowdown drums
 16 are there -- were there on March 23 in use at the
 17 Texas City refinery?
 18 MR. PATTERSON: Objection, form.
 19 A. I believe the number is 11.
 20 Q. (BY MR. WILLIAMS) Do you think that --
 21 would it be fair to say that this is probably an
 22 average number of incidents per blowdown drum?
 23 MR. PATTERSON: Objection, form.
 24 Q. (BY MR. WILLIAMS) 19?
 25 A. I have no information to be able to

Page 194

1 respond on that.
 2 Q. See, that's my point is, because if
 3 there's 11 blowdown drums and each of them have 19,
 4 I could do the math and come up with 208 instances
 5 in that plant alone where blowdown drums had had
 6 incidents in that plant. That's just doing it
 7 mathematically.
 8 Could you tell me how many is
 9 accurate?
 10 MR. PATTERSON: Objection, form.
 11 Object to the sidebar comments.
 12 A. Now, I cannot tell you how many is
 13 accurate but a release from a blowdown drum is not
 14 necessarily an incident.
 15 Q. (BY MR. WILLIAMS) Well, did this unit
 16 have a history on start up, the ISOM unit, of
 17 having excursions from the normal, either normal
 18 temperature range or the normal level range?
 19 MR. PATTERSON: Objection to form.
 20 A. Based on my reading of the investigation
 21 report, I believe they identified that there had
 22 been occasions on previous startups where pressures
 23 and levels may have been higher than normal.
 24 Q. (BY MR. WILLIAMS) In fact, if you look
 25 at the report, the temperature in previous startups

Page 195

1 had been out of range a significant amount of time
 2 and the levels had been -- exceeded the high range
 3 50 percent of the time in the previous startups,
 4 true?
 5 MR. PATTERSON: Objection, form.
 6 A. I don't recall those facts from the
 7 report.
 8 Q. (BY MR. WILLIAMS) Well, let's look
 9 because we see that this blowdown drum, this
 10 specific one had had 19 previous incidents. And so
 11 let's look at deviations during startup.
 12 While I am looking for that, let
 13 me ask you: Were the startup procedures for the
 14 ISOM unit up-to-date on the day that it was
 15 started?
 16 A. Again, based on my read and understanding
 17 of the investigation report, they did identify
 18 one -- at least one technical deficiency with the
 19 startup procedures related to what the relief valve
 20 set pressure was.
 21 Q. Well --
 22 A. I believe they also concluded that that
 23 was not a contributing factor to the incident on
 24 March 23rd.
 25 MR. WILLIAMS: Objection,

Page 196

1 nonresponsive.
 2 Q. (BY MR. WILLIAMS) Did they -- did
 3 there -- was there a pre-startup safety review
 4 done?
 5 A. I believe, again, the findings of the
 6 investigation team was there was not a pre-startup
 7 review by the operating team.
 8 Q. And wasn't it also the finding of the --
 9 in the final report that a pre-startup safety
 10 review should have been on the startup list for the
 11 unit?
 12 A. I believe the report indicates that the
 13 startup procedures themselves, one of the steps,
 14 one of the preliminary or preparatory steps calls
 15 for a safety review with the operating team that
 16 would be executing those procedures.
 17 Q. Was that in the written startup
 18 procedures, or had it been omitted?
 19 A. I believe it is written into the
 20 procedures. I believe the finding of the team was
 21 they did not do that step.
 22 Q. They ignored that step, true?
 23 MR. PATTERSON: Objection, form.
 24 A. Based on the report, I simply know they
 25 did not do that step.

Page 197

1 Q. (BY MR. WILLIAMS) But my point is we are
 2 talking about lessons learned; and if you look on
 3 page 134 of the final report, does it state, sir,
 4 that, "Some of the previous incidents involving the
 5 blowdown drum and process safety upsets were not
 6 fully investigated or documented with corrective
 7 actions identified to prevent occurrences," true?
 8 A. That is what the report states.
 9 Q. Whose obligation was it to investigate
 10 previous incidents in addition to the 19 that were
 11 discovered?
 12 MR. PATTERSON: Objection, form.
 13 A. That is an obligation of the operations
 14 department to report that an incident occurred and
 15 to initiate the investigation process.
 16 Q. (BY MR. WILLIAMS) But that had been one
 17 of the problems, that the culture of the plant was
 18 that people didn't always do this, correct?
 19 MR. PATTERSON: Objection, form.
 20 A. Again, my reading of the investigation
 21 report, that was an opinion that that team formed,
 22 yes.
 23 Q. (BY MR. WILLIAMS) In fact, with regard
 24 to prior incidents, we're going to come back to
 25 page 134 but if we look on page 132 for a moment,

Page 198

1 it says that prior incidents were hard to locate in
 2 the past. Before 1999 those records were difficult
 3 to locate, right?
 4 A. That's what the report states, yes.
 5 Q. Yeah. We can see it right here. Under
 6 the list of 19 incidents, it says, "Records before
 7 1999 were difficult to locate. The severity of
 8 many of the incidents was difficult to assessment.
 9 Investigation records appeared less than complete.
 10 Recommendations of corrective actions focused on
 11 training and procedures with little examination of
 12 adequacy of operating philosophy."
 13 Who was in charge of this? Who
 14 was accountable for the fact that these incidents
 15 were difficult to assess? Assess or --
 16 MR. PATTERSON: Objection, form.
 17 Q. (BY MR. WILLIAMS) -- assess?
 18 A. Okay. I am sorry. Could you please
 19 repeat?
 20 Q. Yeah. Where it says that the incident
 21 records before '99 were difficult to locate, who is
 22 responsible for the fact -- who is accountable for
 23 the fact that records were difficult to locate?
 24 MR. PATTERSON: Objection, form.
 25 A. The practice before about 1999, it seems

Page 199

1 like the right timeframe, the operating department
 2 was accountable for maintaining the records for
 3 their incidents on their process units. I, in my
 4 department, recognized that that was not taking
 5 place to our satisfaction; and we actually
 6 centralized those records and began to keep them
 7 within the PSM department and then, ultimately,
 8 within the HSE department.
 9 Q. (BY MR. WILLIAMS) See. My point --
 10 exactly. My point is that before 1999 sometimes
 11 people were self policing these units, and they had
 12 no incentive or they ignored the fact that they
 13 were supposed to do an investigation and keep
 14 records.
 15 MR. PATTERSON: Objection --
 16 Q. (BY MR. WILLIAMS) That's what you found,
 17 isn't it?
 18 MR. PATTERSON: Objection, form.
 19 A. Well, I found that we had difficulty,
 20 like the investigation team did, in locating the
 21 investigation reports themselves. I don't
 22 necessarily equate that to that investigations were
 23 not conducted.
 24 Q. (BY MR. WILLIAMS) Well, it says the
 25 investigations records that they found were less

Page 200

1 than complete.
 2 A. Yeah, I would --
 3 Q. That means that they were inadequate
 4 and -- right?
 5 MR. PATTERSON: Objection, form.
 6 A. That's the opinion of the investigation
 7 team, yes.
 8 Q. (BY MR. WILLIAMS) So 19 prior incidents
 9 and that's -- if we look, that's in light of having
 10 inadequate records before '99, true?
 11 MR. PATTERSON: Objection, form.
 12 A. Some of the incidents that are reported
 13 in the investigation report actually date back --
 14 it looks like the earliest one is March, 1991.
 15 Q. (BY MR. WILLIAMS) Sure. There are some
 16 records, but the fact is the investigation team --
 17 I don't know how you get around this, sir -- they
 18 said that before '99 they were difficult to locate.
 19 MR. PATTERSON: Objection, form.
 20 Object to sidebar.
 21 Q. (BY MR. WILLIAMS) Did I read that right?
 22 "Incident records before '99 were difficult to
 23 locate"?
 24 A. That is the statement in the report, but
 25 in 12 of the --

Page 201

1 Q. And you agree with that, right?
 2 A. 12 of the incidents that are reported in
 3 the report, 12 of the 19 are prior to 1999.
 4 Q. Yeah, and --
 5 A. So obviously they were able to come up
 6 with those records.
 7 Q. Right. But we don't know how many were
 8 in addition to the 12 they found, true, because
 9 they said records were difficult to locate?
 10 A. We know these are the records they found.
 11 Q. Sure.
 12 A. We don't know if there are any others or
 13 whether there was even supposed to be any others.
 14 Q. That's exactly right, because
 15 recordkeeping before '99 was below standard, right?
 16 A. It was -- I had concerns about
 17 recordkeeping before '99, yes.
 18 Q. And you had to take it over because the
 19 units themselves were doing a poor job of it, a
 20 below standard job of it?
 21 A. It was below my standard, yes.
 22 Q. Okay. Now, so even with those below
 23 standard records prior to '99, there had been 19
 24 previous incidents and my point is, then, we point
 25 out here on page 134, the committee found that,

Page 202

1 "There appear to be no effective feedback loop to
 2 capture the lessons learned from previous incidents
 3 and process upsets into operating procedures and
 4 training programs."
 5 Lessons learned, sir, are an
 6 important linchpin of process safety, right?
 7 MR. PATTERSON: Objection to form
 8 and object to the sidebar comments of counsel.
 9 A. Yes, lessons learned are an important
 10 part.
 11 Q. (BY MR. WILLIAMS) And, in fact, if I go
 12 back to that quote that you have repeatedly made on
 13 the PowerPoint that -- to the effect that
 14 generations that don't learn from their past
 15 mistakes are going to repeat it again and again,
 16 right?
 17 A. You paraphrased the intent or the gist of
 18 that quote, yes.
 19 Q. Now, the fact that there is no effective
 20 feedback loop to capture these lessons learned, who
 21 is accountable for that lack of having an effective
 22 feedback loop to capture these lessons learned?
 23 MR. PATTERSON: Objection, form.
 24 A. That is the opinion of the investigation
 25 team. That is not an opinion that I share.

Page 203

1 MR. WILLIAMS: Objection,
 2 nonresponsive.
 3 Q. (BY MR. WILLIAMS) The statement here
 4 that, "There appeared to be no effective feedback
 5 loop to capture the lessons learned," who is
 6 responsible or accountable for that, Mr. Ralph?
 7 MR. PATTERSON: Objection, form.
 8 A. It would depend on what the specific
 9 lessons learned is. My opinion and belief is that
 10 lessons learned need to be institutionalized in
 11 some way, in a procedure, in a policy, in an
 12 engineering standard, that sort of thing, rather
 13 than simply sharing the information from a previous
 14 incident and letting individuals gather what they
 15 may. There is a place for that.
 16 So depending, again, what these
 17 specific lessons learned is, the accountability for
 18 institutionalizing that would vary. If the lesson
 19 learned was such that an engineering specification
 20 needed to be created or modified, that would be the
 21 accountability of the engineering department.
 22 If it was a lesson learned that
 23 needed the creation or modification of a PSM
 24 policy, that would be my accountability. If there
 25 was something in the area of training, that would

Page 204

1 fall to possibly the operations department or the
 2 learning and development department.
 3 MR. WILLIAMS: Objection,
 4 nonresponsive.
 5 Q. (BY MR. WILLIAMS) This specific finding
 6 is that there is a failure to have an effective
 7 feedback loop. Who in the heck is accountable for
 8 having an effective feedback loop so that you can
 9 capture lessons learned? Who?
 10 MR. PATTERSON: Objection, form.
 11 Q. (BY MR. WILLIAMS) I want a name, please.
 12 MR. PATTERSON: Same objection.
 13 A. The difficulty I am having is that the
 14 investigation team did not record in sufficient
 15 detail what their concern was there. So I am not
 16 sure that I can answer your question as to who
 17 would be accountable for that.
 18 MR. LINEBAUGH: Objection,
 19 nonresponsive.
 20 Q. (BY MR. WILLIAMS) See, that's my
 21 problem, sir. Sometimes in the corporate world I
 22 can't tell at your plant who is responsible for
 23 what. So I am trying to find -- inquire as to who,
 24 start with a name and then we will get a title, is
 25 responsible for the fact that there was no

Page 205

1 effective feedback loop to capture the lessons
 2 learned.
 3 MR. PATTERSON: Object to the
 4 sidebar comments of counsel and the form of the
 5 question.
 6 A. In terms of the concept of lesson learned
 7 and institutionalizing those lessons learned, I
 8 would take that as my accountability within the PSM
 9 department to make sure people knew and understood
 10 that that was one of the obligations in our
 11 incident investigation process. As I tried to
 12 explain before, the specific lesson learned and how
 13 that gets institutionalized will be dependent upon
 14 what that lesson was.
 15 MR. WILLIAMS: Objection,
 16 nonresponsive after the word "process," that end of
 17 the sentence.
 18 Q. (BY MR. WILLIAMS) How many prior
 19 problems would you need with the F-20 blowdown drum
 20 before you got rid of this stupid thing?
 21 MR. PATTERSON: Objection, form.
 22 A. The F-20 blowdown drum is a piece of
 23 engineering equipment that has a specific purpose
 24 and intent. It was not my opinion that what is
 25 listed and is categorized as an incident is a

Page 206

1 failing of any sort of the F-20 blowdown drum.
 2 MR. WILLIAMS: Objection,
 3 nonresponsive.
 4 Q. (BY MR. WILLIAMS) What question were you
 5 answering?
 6 MR. PATTERSON: Objection, form.
 7 Q. (BY MR. WILLIAMS) I thought I asked you
 8 how many and that seems to me that it would be a
 9 number and I didn't hear any number in there.
 10 A. There is --
 11 MR. PATTERSON: Objection, form.
 12 A. There is no number. If the F-20 drum is
 13 functioning as it's design and intent and by its
 14 very nature it is an atmospheric relief system, the
 15 fact that there is an atmospheric relief through it
 16 doesn't mean it needs to be removed. It means it
 17 is performing its function.
 18 Q. (BY MR. WILLIAMS) What question were you
 19 answering then?
 20 A. I was answering your question.
 21 Q. I keep asking you how many and asking for
 22 a mathematical number, and you give me
 23 nonresponsive answers. I am confused.
 24 A. But there is --
 25 MR. PATTERSON: Wait, wait, wait.

Page 207

1 Wait for him to ask a question.
 2 Objection, form.
 3 Q. (BY MR. WILLIAMS) No. You can go ahead.
 4 MR. PATTERSON: To the extent that
 5 is a question.
 6 Q. (BY MR. WILLIAMS) You can go ahead.
 7 Just get it off your chest.
 8 MR. PATTERSON: Objection, form.
 9 A. Would you please repeat your question?
 10 Q. (BY MR. WILLIAMS) Go ahead. You were
 11 going to say something. Just get it off your
 12 chest.
 13 MR. PATTERSON: Objection, form.
 14 A. I will wait for your question.
 15 Q. (BY MR. WILLIAMS) Did anybody before the
 16 fire and explosion take the time and effort to
 17 examine the 19 incidents involving the F-20
 18 blowdown drum that occurred before the March 23
 19 fire and explosion?
 20 MR. PATTERSON: Objection, form.
 21 A. I am not aware of anyone who examined the
 22 19 incidents as a collection of events.
 23 Q. (BY MR. WILLIAMS) Now, the F-20 blowdown
 24 drum was completely rebuilt, replaced in 1997,
 25 true?

Page 208

1 MR. PATTERSON: Objection, form.
 2 A. That's my understanding from the
 3 investigation report, yes.
 4 Q. (BY MR. WILLIAMS) Why would you replace
 5 something that had a history of previous incidents
 6 and was not the safest option out there?
 7 MR. PATTERSON: Objection, form.
 8 A. I am going to go back to the fact that a
 9 blowdown stack is a specific engineered piece of
 10 equipment with a specific purpose and intent; and I
 11 don't know that any of these 19 releases, prior
 12 released from the blowdown stack, constituted a
 13 deviation outside of that engineered design and
 14 intent.
 15 MR. WILLIAMS: Objection,
 16 nonresponsive.
 17 Q. (BY MR. WILLIAMS) In 1997, when the
 18 blowdown drum was replaced, did there exist an
 19 inherently safer option for BP to take?
 20 MR. PATTERSON: Objection, form.
 21 A. Was there an inherently safer option, no,
 22 I don't think so.
 23 Q. (BY MR. WILLIAMS) Look at page -- the
 24 page right after the cover sheet of the
 25 executive -- it's called the executive summary of

Page 209

1 the final report, Exhibit 21.
 2 A. Numbered ii at the bottom?
 3 Q. No, sir, the page before that.
 4 A. Okay.
 5 Q. The last line on the page, it says -- it
 6 refers to tying in to the flare that there was an
 7 "inherently safer option," true?
 8 MR. PATTERSON: Objection to form.
 9 A. There were options.
 10 Q. (BY MR. WILLIAMS) No. It says
 11 "inherently safer," doesn't it?
 12 Come on.
 13 A. There --
 14 Q. Tell the whole truth.
 15 MR. PATTERSON: Object to form.
 16 Object to the sidebar comment.
 17 Q. (BY MR. WILLIAMS) It doesn't just say
 18 "safer," it says "inherently safer," sir, doesn't
 19 it?
 20 You are reading it. Exhibit 21,
 21 last sentence.
 22 A. The report does say "inherently safer
 23 options." I disagree with the opinions stated in
 24 this report.
 25 Q. What's your opinion?

Page 210

1 A. I am unaware of any engineering
 2 calculations that have been done to support that
 3 any other option, given the same release conditions
 4 on March 23rd, would have resulted in any different
 5 outcome.
 6 Q. Are you an expert in that area?
 7 A. No, I am not.
 8 Q. Have you done any calculations?
 9 A. No, I have not.
 10 Q. Is it pure speculation on your part?
 11 A. I am raising the question. There's a --
 12 Q. Do you have any knowledge or are you,
 13 under oath, going to testify to this jury that this
 14 statement is false stating that there was an
 15 inherently safer option available?
 16 A. What I am testifying to is I am unaware
 17 of --
 18 Q. Answer my question.
 19 A. -- any --
 20 MR. PATTERSON: He can answer it.
 21 A. -- calculations that support that
 22 contention.
 23 Q. (BY MR. WILLIAMS) You are going around
 24 in circles and you are not answering my question
 25 and you are trying to use corporate speak or

Page 211

1 something. I want you to focus on my question.
 2 Okay? Can you do that?
 3 MR. PATTERSON: Objection to form.
 4 Object to sidebar.
 5 Q. (BY MR. WILLIAMS) Can you do that?
 6 A. I will focus on your question.
 7 Q. Are you aware -- first of all, this
 8 sentence in the investigative report says, "The
 9 likelihood of this incident could have been reduced
 10 by discontinuing the use of the blowdown stack."
 11 That's the F-20 that we are
 12 talking about, right?
 13 A. Yes, the blowdown stack in that sentence
 14 refers to the F-20.
 15 Q. "For light end hydrocarbon service and
 16 installing inherently safer options when they were
 17 available."
 18 My question to you, sir, is: Is
 19 it true that there were inherently safer options
 20 over the blowdown stack?
 21 MR. PATTERSON: Objection, form.
 22 A. I don't know that that's a true
 23 statement.
 24 Q. (BY MR. WILLIAMS) So as far as you know,
 25 you would -- is it your opinion, then, that you

Page 212

1 would in rebuilding that unit put in the same F-20
 2 blowdown stack?
 3 MR. PATTERSON: Objection, form.
 4 A. No, I would not.
 5 Q. (BY MR. WILLIAMS) Because you know it's
 6 not safe, don't you?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. WILLIAMS) You know there is an
 9 inherently safer option, don't you?
 10 MR. PATTERSON: Objection, form.
 11 A. I know that an atmospheric blowdown stack
 12 by its design allows hydrocarbons to release to the
 13 atmosphere.
 14 Q. (BY MR. WILLIAMS) No. Is there an
 15 inherently safer option to the blowdown stack or
 16 not?
 17 MR. PATTERSON: Objection, form.
 18 A. There are options to the disposal of
 19 hydrocarbon vapors.
 20 Q. (BY MR. WILLIAMS) Not my question.
 21 MR. WILLIAMS: Objection.
 22 Q. (BY MR. WILLIAMS) Is there an inherently
 23 safer option?
 24 MR. PATTERSON: Objection, form.
 25 A. My understanding of the concept of

Page 213

1 "inherently safer" means that the hazard itself
 2 does not exist or the consequence of that hazard is
 3 reduced in some way.
 4 MR. WILLIAMS: Objection,
 5 nonresponsive.
 6 Q. (BY MR. WILLIAMS) Look at page 111 of
 7 Exhibit 21. Page 111, it says, "Two opportunities
 8 for converting the F-20 to an inherently safer
 9 alternative relief system (a flare) were not chosen
 10 when modifications were made to adjacent process
 11 units."
 12 A. This is --
 13 Q. Sir, as we sit here today, are you trying
 14 to tell this jury that the F-20 is a safer
 15 alternative than tying in to the flare?
 16 MR. PATTERSON: Objection, form.
 17 A. No. What I was trying --
 18 Q. (BY MR. WILLIAMS) Which is safer? Which
 19 is safer, tying in to the flare or using an F-20
 20 blowdown drum?
 21 MR. PATTERSON: Objection, form.
 22 A. They both have hazards associated with
 23 them.
 24 MR. WILLIAMS: Objection,
 25 nonresponsive.

Page 214

1 Q. (BY MR. WILLIAMS) Which is safer, the
 2 F-20 blowdown drum or tying in to the flare?
 3 MR. PATTERSON: Objection, form.
 4 A. The intent of a flare is the destruction
 5 of the hydrocarbon vapors rather than a simple
 6 release to the atmosphere.
 7 MR. WILLIAMS: Objection,
 8 nonresponsive.
 9 Q. (BY MR. WILLIAMS) Two options, a flare
 10 or an F-20 blowdown drum, which one is safer? I am
 11 going to circle the one that's safer in your
 12 opinion.
 13 MR. PATTERSON: Objection, form.
 14 A. In new installations, I would install a
 15 flare over an atmospheric blowdown drum.
 16 MR. WILLIAMS: Objection,
 17 nonresponsive.
 18 Q. (BY MR. WILLIAMS) Which one is safer?
 19 MR. PATTERSON: Same objection.
 20 A. Both options can be operated safely.
 21 MR. WILLIAMS: Objection,
 22 nonresponsive.
 23 Q. (BY MR. WILLIAMS) I am trying to get
 24 your opinion so the jury knows. The head of
 25 process safety management, you are the top dog on

Page 215

1 process safety management. Give us your opinion as
 2 to which is safer, the flare or the F-20 blowdown
 3 stack.
 4 MR. PATTERSON: Objection to form.
 5 A. My preference would be for flares over
 6 atmospheric blowdown stacks but I am aware --
 7 Q. (BY MR. WILLIAMS) Which is safer?
 8 A. I am aware of incidents involving flares.
 9 MR. WILLIAMS: Objection,
 10 nonresponsive.
 11 Q. (BY MR. WILLIAMS) I don't care about
 12 your preference. I want your opinion on safety.
 13 Focus on safety. Can you do that?
 14 MR. PATTERSON: Objection to form.
 15 Object to sidebar comments of counsel.
 16 Q. (BY MR. WILLIAMS) Can you?
 17 A. Yes.
 18 Q. Do you understand the word "safety"?
 19 A. I do.
 20 Q. Do you understand the word "safer"?
 21 A. Yes.
 22 Q. So which is safer? You are the top dog
 23 on PSM. A flare or an F-20 blowdown drum?
 24 MR. PATTERSON: Objection, form.
 25 A. There have been safety incidents involved

Page 216

1 with both types of equipment.
 2 MR. LINEBAUGH: Objection,
 3 nonresponsive.
 4 MR. WILLIAMS: Objection,
 5 nonresponsive.
 6 Q. (BY MR. WILLIAMS) Did I ask you about
 7 that? Which -- what was my question?
 8 A. You asked which I thought was safer.
 9 Q. Okay. And what's the answer?
 10 A. I need a lot more information. In the
 11 general sense, I would install a flare as a
 12 preferential device from a safety perspective.
 13 Q. I think I am getting an answer now.
 14 In 1997, when BP decided to
 15 rebuild the F-20 drum rather than tie in to the
 16 flare, was that the safest decision?
 17 MR. PATTERSON: Objection, form.
 18 A. I guess I am not sure whether in 1997
 19 there was an opportunity to tie in to a flare. I
 20 believe you --
 21 Q. (BY MR. WILLIAMS) Well, what prevented
 22 it?
 23 MR. PATTERSON: Objection, form.
 24 A. I don't know.
 25 Q. (BY MR. WILLIAMS) Other than money, what

Page 217

1 would prevent it?
 2 MR. PATTERSON: Objection, form.
 3 A. I don't know.
 4 Q. (BY MR. WILLIAMS) Other than money and
 5 motivation and leadership, what would have
 6 prevented tying in to the flare in 1997?
 7 MR. PATTERSON: Objection, form.
 8 A. I don't know.
 9 Q. (BY MR. WILLIAMS) Do you find that
 10 people at your plant are hardheaded and resistant
 11 to change?
 12 A. There are probably topics where people
 13 are more resistant than other topics.
 14 Q. In fact, did the Telos Report find that
 15 people at your plant were resistant to change?
 16 A. I don't recall that as a statement within
 17 the Telos Report.
 18 Q. Are you a person resistant to change?
 19 A. There are probably topics in which I have
 20 a resistance to change, yes.
 21 Q. A simple question. In 1997, what was the
 22 safest route, to rebuild the F-20 or to tie in to
 23 the flare?
 24 MR. PATTERSON: Objection, form.
 25 A. I don't have the details to answer that.

Page 218

1 Q. (BY MR. WILLIAMS) Which is the
 2 inherently safer design, tying in to the flare
 3 system or using the F-20 blowdown drum?
 4 MR. PATTERSON: Objection, form.
 5 A. I don't ascribe to the word in this
 6 context of "inherently safer." I will agree with
 7 you that a flare is a safer device than an
 8 atmospheric blowdown stack, but it is --
 9 Q. (BY MR. WILLIAMS) You object to the word
 10 "inherently"?
 11 A. It brings in a level of --
 12 Q. Subjectivity?
 13 A. Complication.
 14 Q. Is it true, sir, this quote from Trevor
 15 Kletz, I think we have gone over it, "It might seem
 16 to an outsider that industrial accidents occur
 17 because we do not know how to prevent them. In
 18 fact, they occur because we do not use the
 19 knowledge that is available."
 20 You teach that quote?
 21 A. I agree with the sentiment in that quote,
 22 yes.
 23 Q. And there was knowledge available in
 24 1997, if someone had wanted to know, about what was
 25 inherently safer, tying in to the flare system or

Page 219

1 spending the money to rebuild the F-20 blowdown
 2 drum or to buy a new one?
 3 MR. PATTERSON: Objection, form.
 4 A. I am not sure there was a question.
 5 Could you please repeat?
 6 Q. (BY MR. WILLIAMS) How often do overfills
 7 occur, liquid overfills?
 8 A. Overfills of what?
 9 Q. Well, let's first talk about overfills of
 10 cups of beer.
 11 What the hell do you think I'm
 12 talking about?
 13 A. I don't know. That's why I asked the
 14 question.
 15 Q. In the BP plant or in chemical plants in
 16 general, how often do -- how would you rank the
 17 occurrence of liquid overfills when it comes to
 18 incidents?
 19 MR. PATTERSON: Objection to form
 20 and object to sidebar comments.
 21 A. The incidents I am familiar with that
 22 involved an overfill situation relate to
 23 atmospheric tankage.
 24 Q. (BY MR. WILLIAMS) In the overall -- have
 25 you ever looked at the statistics as to how often

Page 220

1 when an incident occurs it's the result of a liquid
 2 overfill?
 3 A. I have never tried to discern that
 4 statistic, no.
 5 Q. It's out there, isn't it? It's available
 6 if you look for it.
 7 10 percent of the time is the
 8 answer --
 9 MR. PATTERSON: Objection, form.
 10 Q. (BY MR. WILLIAMS) -- right?
 11 A. I don't know the basis of your assertion
 12 that it's 10 percent.
 13 Q. Okay. Well, which --
 14 A. I believe data is probably out there to
 15 compute a number.
 16 Q. I am going to tell you that there is
 17 statistical data from a reliable source that says
 18 it's 10 percent.
 19 But you are the expert. So tell
 20 me what number you estimate is the -- in incidents,
 21 what percentage of the time it's the result of a
 22 liquid overfill?
 23 A. I don't --
 24 MR. PATTERSON: Objection --
 25 A. -- know.

Page 221

1 MR. PATTERSON: -- form.
 2 Q. (BY MR. WILLIAMS) Is that something that
 3 you just never bothered to look up?
 4 MR. PATTERSON: Objection to form.
 5 A. No, I have not looked for that number.
 6 Q. (BY MR. WILLIAMS) Is that something that
 7 you ever teach to your people, that they should be
 8 aware of liquid overfills?
 9 A. Liquid overfills is one of the concerns
 10 that we review during the HAZOP process.
 11 Q. In fact, it's -- why is reviewing a
 12 liquid overfill important?
 13 A. It can be a deviation that could have a
 14 consequence --
 15 Q. It can cause --
 16 A. -- associated with it.
 17 Q. It can cause a fire or explosion of
 18 catastrophic proportion, couldn't it?
 19 A. Possibly or it could be a very benign
 20 consequence.
 21 Q. True. But history has shown where liquid
 22 overfills -- do you know -- there was a liquid
 23 overfill on March 23, right?
 24 A. Yes.
 25 Q. Do you know of other liquid overfills

Page 222

1 that had occurred?
 2 A. As I referred to before, the ones that I
 3 am recalling today relate to overfill of
 4 atmospheric storage tanks.
 5 Q. That can be -- lead to a catastrophic
 6 event, right?
 7 A. Those situations would lend themselves to
 8 fires and also to vapor cloud explosions, in my
 9 understanding.
 10 Q. Have there been catastrophic events at
 11 other plants in the industry as a result of liquid
 12 overfills that you are aware of?
 13 A. I am having difficulty thinking of a
 14 specific example; but yes, I believe I am aware
 15 that there have been other instances.
 16 Q. 1999, just a few miles away at the
 17 Phillips plant, they put too much butadiene in a
 18 reactor and it blew up because of a high -- an
 19 excess level of butadiene, right?
 20 MR. PATTERSON: Objection, form.
 21 A. I don't recall the specifics of the
 22 incident. I do recall that it involved butadiene,
 23 yes.
 24 Q. (BY MR. WILLIAMS) People died, didn't
 25 they? There were two people burned to death. I

Page 223

1 guess you didn't take the time to study the -- that
 2 incident, huh?
 3 MR. PATTERSON: Objection to form.
 4 A. I was aware of the incident at the time,
 5 yes.
 6 Q. (BY MR. WILLIAMS) Well, there was a
 7 trial about that incident. There was a -- it was
 8 in the newspapers for weeks and weeks, right?
 9 MR. PATTERSON: Objection, form.
 10 A. I recall there was a fair amount of news
 11 coverage of that event, yes.
 12 Q. (BY MR. WILLIAMS) And so, you know, as
 13 of -- because a result of that 1999 fire and
 14 explosion that killed two people at Phillips,
 15 there's no question that liquid overfills can lead
 16 to catastrophic events?
 17 MR. PATTERSON: Objection, form.
 18 A. They can, yes.
 19 Q. (BY MR. WILLIAMS) And that's something
 20 that you as head of PSM have known for how long?
 21 A. The deviation concerning liquid overfill
 22 or high level is one that we have applied in our
 23 HAZOP process since the very beginning.
 24 Q. Okay. So did you ever read the HAZOPs
 25 for the ISOM unit?

Page 224

1 A. I recall reading the executive summaries.
 2 I don't recall ever looking through the detailed
 3 worksheets of the HAZOP team.
 4 Q. So from -- the executive summary is just
 5 a Reader's Digest version of the report?
 6 A. It summarizes the study and overall what
 7 the results were.
 8 Q. So in any of the -- in the original PHA
 9 or the two revalidations, did your team ever
 10 consider a liquid overfill?
 11 A. They did.
 12 Q. And what did they find?
 13 A. As I recall, the team identified that
 14 there was a potential catastrophic consequence
 15 associated with liquid overfill of the raffinate
 16 splitter tower. The team then went on to identify
 17 safeguards that would prevent that occurrence, and
 18 the team's conclusion was that the safeguards were
 19 adequate.
 20 Q. Okay. Which PHA are you speaking of?
 21 A. I believe the 1998 PHA.
 22 Q. So what were the safeguards to prevent a
 23 liquid overfill that were addressed in 1998?
 24 A. As I recall, they were operator
 25 attention, operating procedures, that there was a

Page 225

1 level alarm on the tower to indicate high level.
 2 Those are the safeguards I recall.
 3 Q. Are you trying to testify to us that --
 4 that the operator is a safeguard? I mean, in the
 5 process safety management way of thinking, is that
 6 y'all's concept at BP?
 7 MR. PATTERSON: Objection to form.
 8 A. The operator can be an effective
 9 safeguard. Now, there are certain qualifiers on
 10 that. Certainly the operator has to be trained.
 11 The operator has to be competent in the operating
 12 procedures or in the actions that he needs to take;
 13 otherwise, it becomes an inadequate safeguard.
 14 MR. WILLIAMS: Objection,
 15 nonresponsive.
 16 Q. (BY MR. WILLIAMS) At BP, as the head of
 17 PSM, have you ever heard of the concept that you
 18 should never rely on an operator, that there should
 19 be mechanical safeguards that are independent of
 20 operator input if you want to have a safe plant?
 21 A. There are situations where you would
 22 apply multiple layers of protection.
 23 Q. Right. And so those multiple layers of
 24 protection should be mechanical layers of
 25 protection that do not rely on operator input,

Page 226

1 correct?
 2 A. My experience is that, yes, those
 3 additional layers of protection are engineered
 4 devices that don't involve the operator.
 5 Q. Okay. So when we're talking about layers
 6 of protection were -- that should be in place,
 7 that's a fundamental cornerstone of process safety
 8 management is you should have layers of protection
 9 that are independent of operator input, true?
 10 A. I think you've mischaracterized what
 11 "layers of protection" is about. The fundamental
 12 premise of PSM is that there needs to be adequate
 13 safeguards.
 14 Now, layers of protection is --
 15 I'll call it a science, but it is a way to analyze
 16 the severity of the consequence and determine how
 17 many independent layers of protection are necessary
 18 given the likelihood of the initiating cause for
 19 that deviation that could result in that
 20 consequence. Depending on how many independent
 21 layers of protection you need, then it gets into
 22 then what is appropriate -- what are the
 23 appropriate layers, what those safeguards might be.
 24 MR. WILLIAMS: Objection,
 25 nonresponsive.

Page 227

1 Q. (BY MR. WILLIAMS) Let's take an event.
 2 Let's take a unit that if there is the right upset
 3 it could kill 15 people and injure hundreds. Sound
 4 familiar?
 5 A. Yes.
 6 Q. Is that a catastrophic incident?
 7 A. Definitely.
 8 Q. Is it -- something that is so dangerous
 9 that it could kill 15 and injure hundreds, would
 10 that merit the use of layers of protection to
 11 prevent?
 12 A. Given the severity of that consequence,
 13 the likelihood of the initiating event that caused
 14 that consequence or that could cause that
 15 consequence would result in a determination of how
 16 many independent layers of protection were
 17 necessary.
 18 Q. And by "layers of protection" are you
 19 talking about devices that are independent of
 20 operator input?
 21 A. Well, operator intervention could be one
 22 layer. Now, operator intervention can only be one
 23 layer. It can -- the operator cannot be part of
 24 any of the other layers and have the independence.
 25 Q. March 23, what layers other than relying

Page 228

1 on operators were there of protection to prevent
 2 this catastrophic explosion?
 3 A. My understanding, that was the only one.
 4 Q. Is that an appropriate PSM standard to
 5 have the only layer of protection being something
 6 relying on operators?
 7 A. Again, applying the principles of layers
 8 of protection, that method of studying would tell
 9 you how many layers of protection you need.
 10 Q. Well, I can tell you right now you didn't
 11 have enough because it killed 15 people, right?
 12 MR. PATTERSON: Objection, form.
 13 A. If you were to apply layers of protection
 14 analysis to that incident, there were insufficient
 15 layers -- independent layers of protection.
 16 Q. (BY MR. WILLIAMS) Okay. March 23, you
 17 and I agree, you the head of process safety, you
 18 and I agree there were insufficient layers of
 19 protection on the ISOM unit to prevent that fire
 20 and explosion, true?
 21 A. Yes.
 22 Q. Okay. Now let me go back to blowdown
 23 drums just for a moment.
 24 Have blowdown drums, have there
 25 been liquid overfills to the extent that they had

Page 229

1 released liquid out of the top of the blowdown drum
 2 stacks, had that occurred before March 23 at your
 3 plant?
 4 MR. PATTERSON: Objection, form.
 5 A. I don't know that there had been.
 6 Q. (BY MR. WILLIAMS) You know, it's
 7 interesting that the -- John McLemore, he is your
 8 fire chief, right?
 9 A. Yes, he is.
 10 Q. It's interesting that he has testified in
 11 this case that there have been two fires where
 12 there had been overfills at that -- of F-20s.
 13 There had been fires resulting from that.
 14 Are you aware of that?
 15 A. I don't recall that, no.
 16 Q. Were you aware that the ultracracker, in
 17 that unit Lisa Coley testified that there had been
 18 an overflow where diesel had spewed out the top of
 19 the blowdown drum in the ultracracker unit?
 20 MR. PATTERSON: Objection to form.
 21 A. I don't know that. I don't recall that,
 22 no.
 23 Q. (BY MR. WILLIAMS) You know, it's --
 24 well, how come -- how come the top guy in charge of
 25 process safety is -- I don't want to use the word

Page 230

1 "ignorant" -- is -- has a lack of knowledge about
 2 these important events?
 3 MR. PATTERSON: Objection, form.
 4 A. If they are not reported --
 5 Q. (BY MR. WILLIAMS) Oh, they were
 6 reported.
 7 A. I don't know why I am not recalling those
 8 incidents.
 9 Q. Well, I mean, do they just go in a
 10 database and sit there? Isn't there supposed to be
 11 somebody that says, "Let's connect the dots"?
 12 Who is accountable for connecting
 13 those dots when those incidents occur?
 14 MR. PATTERSON: Objection, form.
 15 A. You know, each incident in and of itself
 16 through our policy on incident investigations
 17 should receive an investigation for the purpose of
 18 identifying factors that contributed to the event
 19 and making proposals for corrective action. The
 20 incidents themselves are presently reported in a
 21 database.
 22 MR. LINEBAUGH: Nonresponsive.
 23 A. There are now utilities available to us
 24 to search that database to try and find previous
 25 incidents, put together the trends that you are

Page 231

1 suggesting.
 2 MR. WILLIAMS: Objection,
 3 nonresponsive.
 4 (Exhibit Number 182 marked for
 5 identification.)
 6 Q. (BY MR. WILLIAMS) What is Exhibit 182?
 7 A. It is a PowerPoint. It appears to be a
 8 PowerPoint presentation entitled, "Texas City
 9 Refinery Safety Challenge."
 10 Q. Did you have anything to do with it?
 11 A. No, I did not prepare this document.
 12 Q. Have you seen it before?
 13 A. I know I have seen portions of it before.
 14 I am not sure that I have seen it in this format or
 15 this particular PowerPoint presentation.
 16 MR. WILLIAMS: We need to get the
 17 screen back down.
 18 Q. (BY MR. WILLIAMS) Exhibit 182, this
 19 PowerPoint says, "If we do not achieve a
 20 significant improvement safety performance at the
 21 Texas City refinery, one of our co-workers or a
 22 contract employee will be killed at this here
 23 within the next three to four years."
 24 When was that statement made?
 25 MR. PATTERSON: Objection, form.

Page 232

1 A. I don't know.
 2 Q. (BY MR. WILLIAMS) Does it sound to you
 3 like someone was asking, that there needed to be an
 4 improvement in safety performance?
 5 MR. PATTERSON: Objection, form.
 6 A. Yes.
 7 Q. (BY MR. WILLIAMS) Were you in the loop
 8 on this?
 9 A. I recall discussions around this topic
 10 that is being discussed here, but incidents -- and
 11 this is reflecting personal safety incidents and
 12 the fatalities that had occurred in the personal
 13 safety area.
 14 Q. Well, there is a chart here that says,
 15 "We still have much to do." And this chart seems
 16 to show -- lists the names of the people who died,
 17 doesn't it?
 18 A. Yes, it does.
 19 Q. And the chart shows that there was a
 20 trend back in 2003. Do you see that? That there
 21 was a trend that looks like it's an upper trend on
 22 deaths and injuries at your plant, right?
 23 MR. PATTERSON: Objection, form.
 24 A. The trend is reflecting lost workday
 25 injuries.

Page 233

1 Q. (BY MR. WILLIAMS) I am not sure I know
 2 what that stands for, what that means.
 3 All I can see is that this trend
 4 seems to show me, if you look at the cumulative
 5 injury, LWD injuries, between fatalities, 1983 to
 6 present, it looks like a pretty steep trend upward,
 7 doesn't it?
 8 MR. PATTERSON: Objection, form.
 9 A. Yeah, the data is representing that -- or
 10 presenting a correlation between increases in loss
 11 workday injuries and fatalities.
 12 Q. (BY MR. WILLIAMS) Were you involved in
 13 that?
 14 A. I was not involved in putting this data
 15 together, no.
 16 Q. Did senior management know about this?
 17 MR. PATTERSON: Objection, form.
 18 A. As I recall, this information was
 19 presented at a number of different meetings.
 20 Q. (BY MR. WILLIAMS) Including senior
 21 management?
 22 A. To the best of my recollection, there
 23 were meetings where this information was presented
 24 and senior management was present, yes.
 25 Q. And based on the fact that this chart

Page 234

1 goes up or through the year 2003, one would expect
 2 that this chart was made sometime late 2003 or
 3 2004. Is that a reasonable assumption?
 4 MR. PATTERSON: Objection, form.
 5 A. I believe so, yes.
 6 Q. (BY MR. WILLIAMS) And so if we take that
 7 assumption, that 2003 or 2004, does this sound like
 8 some kind of a warning when we say if we don't
 9 get -- if we don't have a significant improvement,
 10 somebody's going to die?
 11 MR. PATTERSON: Objection, form.
 12 A. As I recall, the context of this
 13 presentation and the data that was being collected,
 14 it was discussing the trends on the personal safety
 15 side of things and that if things did not change,
 16 based on the pattern of previous events and
 17 fatalities, that we were on track, we were headed
 18 in the direction of having another one.
 19 Q. (BY MR. WILLIAMS) Does that sound --
 20 does this statement that's contained here sound
 21 like a warning that in the next three to four years
 22 you were going to have deaths?
 23 MR. PATTERSON: Objection, form.
 24 A. I believe it's a warning that if we stay
 25 on this same path and if history repeat itself,

Page 235

1 that yes.
 2 Q. (BY MR. WILLIAMS) In fact, then that
 3 path did lead to additional deaths in 2005, true?
 4 MR. PATTERSON: Objection, form.
 5 A. There were additional deaths in 2005,
 6 yes.
 7 Q. (BY MR. WILLIAMS) In fact, did your
 8 boss, Joe Barnes, hours -- literally hours before
 9 this fire and explosion warn people that a
 10 catastrophe was in the offing?
 11 MR. PATTERSON: Objection to form.
 12 A. I don't know.
 13 MR. WILLIAMS: Are we about out of
 14 tape?
 15 THE VIDEOGRAPHER: Yes.
 16 MR. WILLIAMS: Let's take a break.
 17 THE VIDEOGRAPHER: Off the record,
 18 5:10 p.m., ending Tape 5.
 19 (Recess taken.)
 20 (Exhibit Number 183 marked for
 21 identification.)
 22 THE VIDEOGRAPHER: On the record,
 23 5:23 p.m., beginning Tape 6.
 24 Q. (BY MR. WILLIAMS) Okay. Sir,
 25 Exhibit 183, it's an e-mail from Joe Barnes

Page 236

1 literally hours before the March 23 fire and
 2 explosion, true?
 3 MR. PATTERSON: I am instructing
 4 the witness not to answer any questions regarding
 5 document Bates numbered BPISOME 398243 as it's been
 6 recalled pursuant to the agreed order in place in
 7 this case, and any mention of it or discussion of
 8 it now would be in violation of a Court order.
 9 MR. WILLIAMS: Somebody educate me
 10 what the heck he is talking about.
 11 MR. PATTERSON: Do you want to go
 12 off the record for a second?
 13 MR. WILLIAMS: Yeah.
 14 THE VIDEOGRAPHER: Off the record
 15 at 5:24 p.m.
 16 (Discussion off the record.)
 17 THE VIDEOGRAPHER: Back on the
 18 record at 5:24 p.m.
 19 MR. PATTERSON: I will withdraw
 20 that objection.
 21 Q. (BY MR. WILLIAMS) Mr. Ralph, Exhibit 183
 22 is an e-mail from Joe Barnes that was sent
 23 literally hours before the March 23 fire and
 24 explosion, true?
 25 A. The time and date on this is -- are

Page 237

1 March 22nd, 2005 at 10:47 p.m. So, yes, it would
 2 be.
 3 Q. And he sent this to, if I am reading the
 4 top of the list correct, the very top guy at the
 5 plant, Don Parus, and Kathleen Lucas, Norine Stein.
 6 He sent it to the entire leadership team, didn't
 7 he?
 8 A. Yes, that's the distribution list.
 9 Q. And if you look at this exhibit, it says,
 10 "In this safety plant, I have attempted to capture
 11 the thoughts that were in the room at the last HSSE
 12 meeting of March 14th."
 13 So on March 14th, nine days before
 14 this fire and explosion, the thoughts -- he is
 15 trying to capture the thoughts that were in that
 16 meeting, correct?
 17 MR. PATTERSON: Objection, form.
 18 A. That's what the -- excuse me, that's what
 19 the e-mail states, yes.
 20 Q. (BY MR. WILLIAMS) And were you at that
 21 HSSE meeting?
 22 A. I don't recall being at that meeting, no.
 23 Q. Are you invited to HSSE meetings?
 24 A. I believe this is the leadership team
 25 HSSE meeting; and no, I am not invited to that.

Page 238

1 Q. Is anyone from process safety management
 2 invited to the leadership team HSSE meeting?
 3 A. If you are referring to me or one of my
 4 direct reports in the PSM department, no.
 5 Q. So the PSM is effectively excluded from
 6 the leadership HSSE meeting, true?
 7 MR. PATTERSON: Objection, form.
 8 A. We are not invited. Yes.
 9 Q. (BY MR. WILLIAMS) And so this
 10 attachment, if we go to the next page, this is what
 11 was existing in Joe Barnes' mind nine days before
 12 the event where he says, he relates here to the
 13 recent Telos Group site safety assessment.
 14 Is that the deal where you went
 15 for two days to South Shore Harbor, and they
 16 wouldn't let you keep a copy of the report?
 17 MR. PATTERSON: Objection, form.
 18 A. I believe that's the reference, yes.
 19 Q. (BY MR. WILLIAMS) And the question was
 20 designed to answer and to tell us how safety really
 21 was at the site, right?
 22 MR. PATTERSON: Objection, form.
 23 A. Yes, that's what the document says.
 24 Q. (BY MR. WILLIAMS) And then he also
 25 mentioned in here the incident investigation

Page 239

1 results of 2004 following site fatalities.
 2 How many fatalities were there in
 3 the year before this March 23 explosion?
 4 A. There were three.
 5 Q. Do you see a trend there?
 6 MR. PATTERSON: Objection, form.
 7 A. There were three fatalities in 2004.
 8 Q. (BY MR. WILLIAMS) And it says the AU#2
 9 and the UU#3, were those fatal incidents in 2004,
 10 the year before the explosion?
 11 A. There was one fatality in the AU2
 12 incident, and there were two fatalities in the UU3
 13 incident.
 14 Q. And then there was -- in addition to two
 15 major incidents resulting in three deaths, there
 16 was a major fire at UU#4, right?
 17 A. Yes.
 18 Q. And this is what was discussed nine days
 19 by senior management, Joe Barnes -- as reflected by
 20 Joe Barnes. And he says, "The following general
 21 learnings have been developed from this
 22 information."
 23 He says, "This site has
 24 demonstrated to be a, quote, culture of casual
 25 compliance, close quote."

Page 240

1 What does that mean?
 2 MR. PATTERSON: Objection, form.
 3 Q. (BY MR. WILLIAMS) "Culture of casual
 4 compliance"?
 5 MR. PATTERSON: Same objection.
 6 A. As I understand that phrase, that
 7 individuals within the plant felt comfortable with
 8 discarding rules, in other words, they felt
 9 comfortable in not complying.
 10 Q. (BY MR. WILLIAMS) And this was the
 11 information that was related directly to the very
 12 top of management at the plant back in this meeting
 13 of March 14th, right?
 14 MR. PATTERSON: Objection, form.
 15 A. Yes.
 16 Q. (BY MR. WILLIAMS) And, in fact, he --
 17 well, in fact, it says, "HSSE procedures are not
 18 clear and leave room for misinterpretation."
 19 Do you agree with that assessment?
 20 A. I have heard that opinion expressed. I
 21 am not in full agreement with that opinion.
 22 Q. Let's go down to this one. "Training for
 23 HSSE or job related is not thought of as being
 24 effective."
 25 That was communicated to the very

Page 241

1 top of the plant before this explosion, wasn't it?
 2 MR. PATTERSON: Objection, form.
 3 A. Yes.
 4 Q. (BY MR. WILLIAMS) "Integrity management
 5 of the site assets is considered to be lacking."
 6 You agree with that, don't you?
 7 A. There are deficiencies in that area.
 8 Q. "Fear exists that other unknown unsafe
 9 conditions exist in piping and equipment from
 10 issues such as internal/external corrosion and
 11 general wear and we may not have the proper funding
 12 to manage the repair of these issues."
 13 Now, when he sent that up to the
 14 top and he talks about not having proper funding,
 15 does that mean not enough money?
 16 MR. PATTERSON: Objection, form.
 17 A. I believe that's the reference.
 18 Q. (BY MR. WILLIAMS) Well, was BP in
 19 financial straits at this time?
 20 MR. PATTERSON: Objection, form.
 21 A. Not to my knowledge.
 22 Q. (BY MR. WILLIAMS) "Perception concerns
 23 that site production outweighs people and safety
 24 considerations in everyday operations."
 25 That's exactly what was found in

Page 242

1 the Telos Report, true? Isn't it?
 2 MR. PATTERSON: Objection, form.
 3 A. I believe that's what he is reflecting
 4 are the findings in the Telos Report.
 5 Q. (BY MR. WILLIAMS) Before the March 23
 6 fire and explosion, then, it had been communicated
 7 clearly to upper management, the highest level of
 8 management at the site, that there was a cultural
 9 problem at that plant with regard to safety and
 10 that there was a perception that safe -- that
 11 people and safety took a back seat to production,
 12 right?
 13 MR. PATTERSON: Objection, form.
 14 A. That's the perception and opinion that
 15 was being presented, yes.
 16 Q. (BY MR. WILLIAMS) So I want to go back
 17 to this Exhibit 182 where there was a trend clearly
 18 back in 2003, this trend for escalations pointing
 19 toward more deaths.
 20 Now, did that trend in 2003, was
 21 it borne out by the fact that there were three
 22 deaths in 2004 at that plant?
 23 MR. PATTERSON: Objection, form.
 24 A. I would say yes.
 25 Q. (BY MR. WILLIAMS) And does that show a

Page 243

1 lack of attention to process safety management by
 2 upper management?
 3 A. The trend is representing the personal
 4 safety injuries and fatalities which don't
 5 necessarily directly correlate to the process
 6 safety management incidents or fatalities that have
 7 occurred as a result of those incidents. I think
 8 this is a recognition that the leadership team was
 9 looking for and listening for a message around the
 10 safety performance and was beginning to take action
 11 to reverse this trend so that there would not be
 12 fatalities.
 13 Q. Well, let's follow up on that.
 14 So they were on notice that the
 15 trend was upward -- rising upward, the trend -- the
 16 death trend was going upward back in 2003, right?
 17 MR. PATTERSON: Objection, form.
 18 A. Well, the trend is -- you know,
 19 technically it is a trend of the cumulative loss
 20 workday injuries; and the correlation that is being
 21 represented is that as you accumulate lost workday
 22 injuries over time that eventually and the pattern
 23 in the past had been that that would result in a
 24 fatality at the site.
 25 Q. (BY MR. WILLIAMS) And that proved true,

Page 244

1 that theory proved true that the more -- the
 2 trend -- upward trend in personal injuries was
 3 going to result in a trend upward in deaths?
 4 MR. PATTERSON: Objection, form.
 5 A. Yes, that proved to be true.
 6 Q. (BY MR. WILLIAMS) And we know it because
 7 there were three deaths in 2004, true?
 8 A. Yes.
 9 Q. And how many of those three deaths in
 10 2004 were the result of process safety management
 11 gaps?
 12 A. None.
 13 Q. How did those people die?
 14 A. The one at AU2 was a fall incident. The
 15 contract worker was not wearing his fall protection
 16 device and slipped from a ladder and fell to his
 17 death. The two at Ultraformer 3 related to a lock
 18 out/tag out incident where a valve that was
 19 believed to have been closed and verified closed,
 20 as it turned out, was not and when the workers
 21 separated the flange, scalding water was released.
 22 And they were burned and died as a result of their
 23 injuries.
 24 Q. What's the number -- is it a fair
 25 statement that when you are dealing with hazardous

Page 245

1 chemicals, such as the ones involved in the ISOM
 2 unit, that the Number 1 rule is that you keep these
 3 dangerous chemicals inside the pipes and vessels of
 4 the unit?
 5 A. Absolutely. That's the prevention side
 6 of the equation.
 7 Q. And if you let them escape from the pipes
 8 and vessels of the unit, there is the potential for
 9 fire?
 10 A. Fire, explosion, toxic release, yes.
 11 Q. Catastrophic injury and death?
 12 A. Yes.
 13 MR. WILLIAMS: Will y'all tell me
 14 when I've got 30 minutes left? I'm not -- I am not
 15 going to be through with him within our timeframe,
 16 but I will -- we will just take it up later, but
 17 what I would like to do is give Trent his
 18 30 minutes pursuant to the Court order. So if
 19 someone would let me know when we've got 30 minutes
 20 left?
 21 THE VIDEOGRAPHER: Yes.
 22 MR. WILLIAMS: Okay. How much
 23 time do I have left now?
 24 THE VIDEOGRAPHER: 16 minutes
 25 until 30 minutes left.

Page 246

1 MR. WILLIAMS: Okay. Ed will spot
 2 me two.
 3 MR. PATTERSON: Give him 18.
 4 Q. (BY MR. WILLIAMS) Why were you not given
 5 a copy of the Telos Report?
 6 MR. PATTERSON: Objection, form.
 7 A. I don't know.
 8 Q. (BY MR. WILLIAMS) Would it have been
 9 helpful to have a copy of the Telos Report in
 10 assessing -- to you in assessing what the process
 11 safety management situation was in the plant at the
 12 time of the report?
 13 A. I would have like to have been able to
 14 spend more time with the report, yes.
 15 Q. How many people attended that meeting at
 16 the South Shore Harbor?
 17 A. I don't know exactly; but it's in the
 18 order of 60 or 70, I believe. Maybe even more.
 19 Q. What did Mr. Parus, Don Parus, the head
 20 of the plant say? What were his comments about the
 21 Telos Report?
 22 MR. PATTERSON: Objection, form.
 23 A. I don't remember Don's exact comments,
 24 but effectively he was drawing us together. You
 25 know, Don was the one that commissioned the Telos

Page 247

1 Report and asked for this very open and candid
 2 feedback for the purpose of addressing the concerns
 3 that were raised.
 4 So his comments to us were of the
 5 nature that, you know, these are people's opinions.
 6 They are people's perception. I believe the phrase
 7 "perception is reality" was used a number of times.
 8 So he was encouraging us to be open to this
 9 feedback as represented by individuals' opinions
 10 and to begin the process of formulating plans
 11 within our individual areas of responsibilities to
 12 address the issues that were being raised.
 13 Q. (BY MR. WILLIAMS) Why was -- did you --
 14 what were you told as the reason that the Telos
 15 Report was even started? Had there been a safety
 16 issue at the plant?
 17 A. I don't recall being told a specific
 18 issue. It was one of the things that -- one of the
 19 safety initiatives that Don initiated following --
 20 definitely following the September, 2004 UU3
 21 fatalities. It may have been actually in the works
 22 as a result of the June AU2 fatality. I don't
 23 know.
 24 Q. Do you have any authority over PSM
 25 violations?

Page 248

1 A. I am not sure what you mean by
 2 "authority."
 3 Q. Is it true that you have no direct
 4 authority over PSM violations?
 5 MR. PATTERSON: Objection, form.
 6 A. I don't know that that is completely
 7 true. Me and my department are accountable for
 8 completing the five-year HAZOPs. If...
 9 Q. (BY MR. WILLIAMS) Have you ever
 10 testified in front of a court reporter with lawyers
 11 present that, "I do not have any direct authority
 12 over PSM violations"?
 13 A. I don't recall saying that, no.
 14 Q. How many times have you given statements
 15 after the March 23 tragedy?
 16 A. Are you talking about recorded statements
 17 with a court reporter?
 18 Q. Just statements.
 19 MR. PATTERSON: Objection, form.
 20 A. I have been interviewed multiple times by
 21 the BP investigation team.
 22 Q. (BY MR. WILLIAMS) How many?
 23 A. I was interviewed twice formally by the
 24 BP investigation team. I don't recall the number
 25 of times I have been formally interviewed by the

Page 249

1 Chemical Safety Board. I have been asked questions
 2 on a number of occasions by OSHA relevant to their
 3 investigation in this matter as well as the EPA in
 4 their investigation.
 5 Q. How many statements, is my question, have
 6 you given total?
 7 MR. PATTERSON: Objection, form.
 8 A. I don't know that number.
 9 Q. (BY MR. WILLIAMS) Give me your best
 10 estimate.
 11 MR. PATTERSON: Objection, form.
 12 A. If we are talking about statements in the
 13 context of interviews in connection with this
 14 incident, dozens.
 15 Q. (BY MR. WILLIAMS) How many written -- or
 16 how many of those dozens of statements you have
 17 given regarding the March 23 fire and explosion
 18 were either recorded or written?
 19 MR. PATTERSON: Objection to form.
 20 A. I believe three that I am aware of.
 21 Q. (BY MR. WILLIAMS) On July 12th, 2005,
 22 were you given -- under oath did you give a
 23 statement to OSHA?
 24 A. I don't recall the exact date. That
 25 sounds like the right timing.

Page 250

1 MR. WILLIAMS: Mark that as the
 2 next exhibit.
 3 (Exhibit Number 184 marked for
 4 identification.)
 5 Q. (BY MR. WILLIAMS) Is Exhibit 184 a copy
 6 of the sworn statement you made under oath to the
 7 government?
 8 A. Yes, it appears to be.
 9 Q. Page 66, back to this, whether you have
 10 direct authority. The government asked you, "Do
 11 you have any authority over and above having a
 12 conversations with the individuals who violate a
 13 PSM regulation?"
 14 Your answer was, "I do not have
 15 any direct authority."
 16 Now, my question to you, sir, is:
 17 Did you mislead or lie to the federal government?
 18 MR. PATTERSON: Objection, form.
 19 Shouldn't you read the whole
 20 answer?
 21 THE WITNESS: Do I answer?
 22 MR. PATTERSON: Sure.
 23 THE WITNESS: Okay.
 24 A. The context of this question is: Did I
 25 have direct reporting relationship or authority

Page 251

1 over individuals that may -- individuals that
 2 violate the PSM regulation?
 3 Q. (BY MR. WILLIAMS) What was my question?
 4 MR. PATTERSON: Objection, form.
 5 A. Why don't you repeat it?
 6 Q. (BY MR. WILLIAMS) You don't remember it,
 7 do you?
 8 MR. WILLIAMS: Objection as
 9 nonresponsive.
 10 Q. (BY MR. WILLIAMS) Let's focus.
 11 On that -- in this statement, did
 12 you lie to the government in Exhibit 184 on
 13 page 66?
 14 MR. PATTERSON: Objection, form.
 15 A. I did not lie in my statement.
 16 Q. (BY MR. WILLIAMS) Did they ask you about
 17 whether or not you had authority over and above
 18 having a conversation with the individuals who
 19 violate a PSM regulation?
 20 A. That is the question.
 21 Q. Now, that word "violate," that's one of
 22 the 22 words that you and Mr. Galbraith want us to
 23 avoid, right?
 24 MR. PATTERSON: Objection, form.
 25 A. Yes, I believe that is one of the words

Page 252

1 to avoid.
 2 Q. (BY MR. WILLIAMS) It's a subjective
 3 word. Why did you answer it if they used that
 4 subjective word "violate"?
 5 MR. PATTERSON: Objection, form.
 6 A. I am not sure I understand your question.
 7 Q. (BY MR. WILLIAMS) I am just trying to
 8 figure out here. You said that you -- do you have
 9 direct authority over someone who violates a PSM
 10 regulation, yes or no?
 11 A. No, I do not have direct reporting
 12 authority.
 13 Q. I didn't ask about reporting authority.
 14 I am going to -- I am going to try and make this
 15 simple. I am going to write out my question.
 16 Do you have direct authority over
 17 someone who violates a PSM regulation? And so
 18 that's the question, and I think there's two
 19 possible answers. It's yes or no.
 20 Which is the correct answer to the
 21 question?
 22 MR. PATTERSON: Objection, form.
 23 A. I think we have to define what
 24 "authority" means. No, I do not have direct
 25 authority in the sense of disciplining an

Page 253

1 individual who violates a PSM regulation.
 2 Q. (BY MR. WILLIAMS) Okay. So the answer
 3 is no?
 4 MR. PATTERSON: Objection, form.
 5 A. Correct.
 6 Q. (BY MR. WILLIAMS) Okay. Who does?
 7 A. It would depend on who the -- what the
 8 violation was.
 9 Q. Well, is there a reporting system set up
 10 for you to -- when there is a PSM violation for you
 11 to decide whether it's a violation or not, or how
 12 does that work?
 13 MR. PATTERSON: Objection, form.
 14 A. I am not sure that I understand your
 15 question.
 16 Q. (BY MR. WILLIAMS) There is a PSM
 17 violation at the plant. Let's assume that. Okay?
 18 A. Okay. A deviation from the regulation,
 19 yes.
 20 Q. Who then at Texas City refinery is
 21 accountable for the consequences of that, for
 22 disciplining someone or holding the violator
 23 accountable?
 24 MR. PATTERSON: Objection, form.
 25 A. The way we are structured, it would be

Page 254

1 the individual based on their reporting
 2 relationship. So it would vary depending on who
 3 was involved in the violation.
 4 Q. (BY MR. WILLIAMS) Okay. Let's say that
 5 it's an engineer. Who would it be?
 6 A. It would be that engineer's supervisor.
 7 Q. Would that get reported to you?
 8 A. Would an instance -- would -- okay. I am
 9 not sure what you are asking.
 10 Would the violation be reported to
 11 me, or would the discipline be reported to me?
 12 Q. Either.
 13 A. The violation may or may not be reported
 14 to me. I may or may not be aware of that.
 15 Certainly I would not be informed of discipline
 16 given to individuals that are not my direct
 17 reports.
 18 Q. So the PSM -- does anybody in the PSM
 19 department have direct authority where they can in
 20 any way reprimand an individual who violates a PSM
 21 regulation at your plant?
 22 A. No.
 23 Q. Is it true, sir, that with regard to the
 24 ISOM PHAs that you at best gave them a cursory
 25 review?

Page 255

1 A. Me personally, I -- yes. I did not give
 2 them an indepth review, no.
 3 Q. That wasn't my question.
 4 My question is: Did you at best
 5 give them a cursory review?
 6 MR. PATTERSON: Objection, form.
 7 A. I read the executive summaries. If you
 8 want to define that as "cursory," then, yes, I gave
 9 them a cursory review.
 10 Q. (BY MR. WILLIAMS) Did you testify to the
 11 government that -- and you used the words "at best
 12 I gave them a cursory review"?
 13 A. I may have.
 14 Q. Those are your own words, aren't they,
 15 sir?
 16 A. I don't --
 17 MR. PATTERSON: Objection, form.
 18 A. I don't recall.
 19 Q. (BY MR. WILLIAMS) Look on page 99 of
 20 Exhibit 184. Let's go back up to the previous page
 21 and make sure we are talking about the PHAs.
 22 The question by the government,
 23 "Did you do any PHAs or did you actually review
 24 other PHAs within the facility?"
 25 Answer, "Fire-year PHAs, you are

Page 256

1 referring to?"
 2 "Uh-huh."
 3 And your answer is, "I do not do
 4 any of those."
 5 Did you review them -- and what
 6 was your answer that you gave the government under
 7 oath?
 8 A. "I give the reports generally a cursory
 9 review."
 10 Q. Does anybody above you do more than a,
 11 quote, cursory review of the PHAs?
 12 MR. PATTERSON: Objection to form.
 13 A. I don't know. There are other people
 14 that would be on the distribution report for the
 15 PHAs.
 16 Q. (BY MR. WILLIAMS) Well, do you know or
 17 do you have any personal knowledge that anybody
 18 above you did more than a cursory review of these
 19 PHAs?
 20 A. I don't --
 21 MR. PATTERSON: Objection, form.
 22 A. I don't have any personal knowledge of
 23 that.
 24 Q. (BY MR. WILLIAMS) Is it true, sir, that
 25 you get into the plant at best, say, once a month?

Page 257

1 A. It will vary; but yes, I seem to be
 2 confined to my office far more than I like these
 3 days.
 4 Q. Direct question. Is it true, sir, that
 5 you seem to get into the plant only at best once a
 6 month?
 7 MR. PATTERSON: Objection, form.
 8 A. That is probably a reasonable average,
 9 yes.
 10 Q. (BY MR. WILLIAMS) You knew I had it
 11 under -- I had your testimony, didn't you?
 12 MR. PATTERSON: Objection, form.
 13 Q. (BY MR. WILLIAMS) Was a pre-startup
 14 safety review ever found with regard to starting up
 15 the ISOM unit on March 23?
 16 A. I believe the investigation report
 17 reflects that there was not a pre-startup safety
 18 review done for the startup of the raffinate
 19 splitter.
 20 Q. Is it true, sir, that operators with
 21 regard to PSM information that it's highly unlikely
 22 they would ever receive that information?
 23 MR. PATTERSON: Objection, form.
 24 A. No, I wouldn't agree with that. I
 25 mean...

Page 258

1 Q. (BY MR. WILLIAMS) Have you testified to
 2 that effect in the past?
 3 A. I don't know.
 4 Q. Well, did you give a statement on
 5 8/31/05?
 6 A. I may have.
 7 Q. Well, let's nail it down.
 8 (Exhibit Number 185 marked for
 9 identification.)
 10 Q. (BY MR. WILLIAMS) 185, is that a
 11 statement you gave?
 12 A. This looks to be my recorded statement
 13 from an interview with the BP internal
 14 investigation team.
 15 Q. Okay. Turn to page 11. We'll see what
 16 you said back then.
 17 Mr. Crum, he was the guy
 18 interviewing you, right?
 19 A. Yes.
 20 Q. And he asked, "Is there any information
 21 that the group is sending out that would end up in
 22 the hands either in that form or a filtered form
 23 into the operators' hands? What I am looking for
 24 is how we cascade information all the way through
 25 the organization, how it arrives at the operators'

Page 259

1 hands where it gets interjected and how it gets
 2 there."
 3 And your answer was, "I'd say it's
 4 highly unlikely that they would receive that
 5 information directly."
 6 Is that what you told them back on
 7 August 31st?
 8 MR. PATTERSON: Objection, form.
 9 Q. (BY MR. WILLIAMS) Go back to the
 10 first -- the previous page. I will do it for you.
 11 Because you are talking about PSM.
 12 Do you see right there? Mr. Crum
 13 says, "What I want to talk to you about is how the
 14 operator out there in the field receives PSM
 15 information."
 16 That was the subject, wasn't it?
 17 A. And he goes on to qualify what types of
 18 information he is referring to.
 19 Q. Uh-huh. And you say, "It's highly
 20 unlikely they would receive that information, if
 21 they receive it at all."
 22 MR. PATTERSON: Object to the
 23 form.
 24 A. Relative to group -- and it should have
 25 been group, comma, stream, comma, and performance

Page 260

1 unit PSM information.
 2 So in BP language, "group" means
 3 corporation. "Stream" would be refining and
 4 marketing. Performance unit, it could be refining.
 5 It could be referring to -- well, actually, I think
 6 it does refer to what's called the strategic
 7 performance unit or refining.
 8 This is pretty high level
 9 information. And my answer was, no, I don't think
 10 they would receive that information directly in
 11 that form.
 12 Q. You did -- you guys did a poor job,
 13 didn't you, of getting PSM information into the
 14 hands of operators, didn't you?
 15 MR. PATTERSON: Objection, form.
 16 A. No. I disagree.
 17 MR. WILLIAMS: I am out of time
 18 and we will take up that subject in the next
 19 deposition and I will yield to Trent.
 20 (Discussion off the record.)
 21 * * *
 22 EXAMINATION
 23 Q. (BY MR. BOND) How are you doing today,
 24 sir?
 25 A. I am doing fine. Thank you.

Page 261

1 Q. My name is Trent Bond. I represent the
 2 estate of Ryan Rodriguez and the mother of Ryan
 3 Rodriguez. Okay?
 4 A. Okay.
 5 Q. Did you know Ryan?
 6 A. No, I did not.
 7 Q. Of course, you know of him, correct?
 8 A. Yes.
 9 Q. First, have you ever given your
 10 deposition before, before today? I know you have
 11 given a lot of statements.
 12 Have you ever given your
 13 deposition before?
 14 A. A deposition in any case?
 15 Q. Uh-huh.
 16 A. Yes.
 17 Q. Okay. What kind of cases have you given
 18 your deposition before?
 19 A. I have given a deposition in three other
 20 personal injury cases that were brought against the
 21 company and my deposition to OSHA in this case.
 22 Q. When were the three other personal injury
 23 cases that you gave your deposition?
 24 A. The first one, I believe, was around
 25 1990, the second one around 1993 or 1994, the third

Page 262

1 one in 2000, and then the one with OSHA in 2005.
 2 Q. And the one with OSHA involves this case,
 3 correct, sir?
 4 A. Yes.
 5 Q. All right. The one in 1990, what was --
 6 what was that about? I know it was a personal
 7 injury, but what was that about?
 8 A. It was a -- it was a claim of -- it was a
 9 cancer related death and a claim of workplace
 10 exposure.
 11 Q. To benzene?
 12 A. As I recall, yes, benzene.
 13 Q. 1993 to 1994, what was that about?
 14 A. That was an individual whose leg was
 15 severely injured in an accident while moving a
 16 crane.
 17 Q. Were you the process safety manager then?
 18 A. No. I was the superintendent of the oil
 19 movements area. Physically that's where the
 20 incident occurred.
 21 Q. And the one in 2000?
 22 A. 2000 related to a claim of exposure to a
 23 hydrofluoric acid release in 1997.
 24 Q. Okay. Well, tell me a little about that.
 25 What happened with that individual

Page 263

1 who got exposed? Did he get burned with it? What
 2 happened?
 3 A. No. The claim was by -- I believe it was
 4 a spouse of an employee who was in the parking lot,
 5 the employee parking lot, waiting for her husband;
 6 and I believe the claim was around some inhalation
 7 exposure.
 8 Q. I know you mentioned before that -- the
 9 dirty words that you don't like using. That was
 10 Mr. Galbraith, I guess -- did somebody come up to
 11 you and talk to you about that or did you just on
 12 your own decide to do that?
 13 MR. PATTERSON: Objection, form;
 14 and I object to the extent it calls for an attorney
 15 client privileged communication.
 16 Q. (BY MR. BOND) If an attorney came up to
 17 you beforehand and said, "Hey," I don't want to
 18 know that. But if somebody else came up to you
 19 beforehand, I do want to know about that.
 20 A. Okay. I am not sure I followed your
 21 question.
 22 Q. Sure. Do you remember those dirty words
 23 we talked about earlier?
 24 A. Yes.
 25 MR. PATTERSON: Objection, form.

Page 264

1 Q. (BY MR. BOND) You said that basically
 2 there was no litigation. You just decided to do
 3 it. Do you recall that?
 4 MR. PATTERSON: Objection, form.
 5 A. Yes.
 6 Q. (BY MR. BOND) What I want to know: Did
 7 somebody come up to you and tell you, "Hey, we need
 8 to get this covered"?
 9 A. No, I don't recall that.
 10 Q. Okay. So you just thought it up on your
 11 own?
 12 A. Not exactly.
 13 Q. Well, what do you mean by "not exactly"?
 14 MR. PATTERSON: Objection, form
 15 and object to the extent it calls for
 16 attorney/client communication.
 17 A. I don't believe I can answer on the
 18 advice of counsel.
 19 Q. (BY MR. BOND) Now, you also -- do you
 20 recall talking about that you had never had a
 21 lawyer involved in an incident investigation? Do
 22 you recall that earlier in your deposition that --
 23 A. Right. I don't recall -- I don't recall
 24 being a participant on an investigation team where
 25 a lawyer was a member of the team.

Page 265

1 Q. Has legal ever reviewed your incident
 2 reports?
 3 MR. PATTERSON: Objection to form.
 4 A. We have had legal review, yes.
 5 Q. (BY MR. BOND) Okay. Is that pretty
 6 standard?
 7 MR. PATTERSON: Objection, form.
 8 A. It is in cases where there is an
 9 anticipation of litigation.
 10 Q. (BY MR. BOND) So if somebody gets hurt,
 11 legal reviews the report before it's sent out -- it
 12 is sent out?
 13 MR. PATTERSON: Objection, form.
 14 A. Not in all cases. Again, it's in
 15 anticipation of litigation.
 16 Q. (BY MR. BOND) Is that -- how often does
 17 that happen, legal reviews your incident reports?
 18 A. Not that often.
 19 Q. Once, twice, ten times a year? What?
 20 A. Yeah, maybe once or twice.
 21 Q. Okay. A year?
 22 A. Yes.
 23 Q. Okay. Getting ready for your deposition
 24 today, did you review anything, any documents?
 25 A. Yes, I did.

Page 266

1 Q. What did you review?
 2 A. I reviewed my three statements. I
 3 reviewed the final investigation report.
 4 Q. Is that it?
 5 A. Yes.
 6 Q. And, of course, these three statements we
 7 have already talked about today, correct? Have you
 8 talked about all the statements that you reviewed?
 9 Is there anything else out there?
 10 A. I believe we have talked about two of the
 11 three.
 12 Q. Which one was not talked about?
 13 A. There were two interviews with the BP
 14 investigation team, and I believe we have only
 15 touched on one of them.
 16 Q. You didn't talk about the April
 17 interview, correct?
 18 A. Right.
 19 Q. Okay. We might get to that one, then.
 20 As you have already discovered, I
 21 talk too fast. So if you don't understand a
 22 question that I might ask, just make me repeat it.
 23 Okay?
 24 A. Okay.
 25 Q. The first thing I want to ask you, as you

Page 267

1 saw me with a book, it's a National Safety Council
 2 book. That's pretty -- an authority -- an
 3 authority in the field, correct?
 4 A. I am generally familiar with that
 5 association.
 6 Q. Okay. And I am going to ask you
 7 something relatively simple here. I am just going
 8 to ask you. They are quoting OSHA here, and I just
 9 want to make sure we are on the same page with
 10 regard to process safety management.
 11 "The proactive identification,
 12 evaluation and mitigation or prevention of chemical
 13 releases, that could occur as a result of failures
 14 in processes, procedures or equipment."
 15 Is that accurate to you, sir?
 16 A. I believe that's an accurate expression
 17 of what process safety management is, yes.
 18 Q. Okay. I believe in this case, in the
 19 March 23rd explosion, there was a failure of all
 20 three?
 21 MR. PATTERSON: Objection, form.
 22 A. I believe the investigation team
 23 concluded there was at least a clear failure in the
 24 area of operators following procedures.
 25 Q. (BY MR. BOND) No, no.

Page 268

1 I believe there was -- there was a
 2 failure in equipment, right?
 3 MR. PATTERSON: Objection, form.
 4 A. As I recall, the investigation team did
 5 identify, as I recall, at least one piece of
 6 instrumentation that did not work.
 7 Q. (BY MR. BOND) And what was that?
 8 A. There was an independent high level
 9 alarm, I believe, is what it was.
 10 Q. That's kind of important, isn't it?
 11 MR. PATTERSON: Objection, form.
 12 A. It can be, yes.
 13 Q. (BY MR. BOND) It was in this case,
 14 wasn't it?
 15 MR. PATTERSON: Objection, form.
 16 A. I don't know that that changes the
 17 result. That independent alarm still requires the
 18 operator to respond to it.
 19 Q. (BY MR. BOND) Processes, did you have
 20 any failures of processes in this incident?
 21 A. "Process" is a pretty broad term.
 22 Q. I understand that.
 23 A. If we want to define "process" is really
 24 the -- as it relates to this case, the whole
 25 process of startup, there were deficiencies in

Page 269

1 that, yes.
 2 Q. All right. And procedures, there was
 3 failures in procedures, right?
 4 A. There was a clear failure to follow
 5 procedure, yes.
 6 Q. In fact, some of the startup procedures
 7 weren't even in there for the operators, were they?
 8 A. It's my understanding that the procedures
 9 were available to the operators.
 10 Q. But some of the procedures that were in
 11 there were not correct, were they? They were not
 12 updated?
 13 MR. PATTERSON: Objection, form.
 14 A. Again, my understanding from the
 15 investigation report, that there were technical
 16 deficiencies in the report but that they also
 17 concluded that those technical deficiencies did not
 18 contribute to the incident.
 19 MR. BOND: Objection,
 20 nonresponsive.
 21 Q. (BY MR. BOND) All right. I want to kind
 22 of shift gears a little bit here, too, because I
 23 want to talk to you a little bit about process
 24 safety management; and first of all, are you
 25 familiar with the wet/dry drum project?

Page 270

1 A. No, I am not familiar with that.
 2 Q. Okay. You are not familiar at all with
 3 the Clean Stream or the --
 4 A. I have heard of those. Those are
 5 environmental projects. They are not in my area of
 6 focus. So I really have no particular knowledge of
 7 those projects.
 8 Q. How would I know it's an environmental
 9 project versus, say, a health and safety project?
 10 A. How would you know?
 11 Q. Uh-huh. Or how would anybody know?
 12 A. In terms of the -- well, how do I know?
 13 I don't recall whether it was a document I saw or
 14 whether somebody in conversation told me, "Hey,
 15 this is an environmental project. It has to do" --
 16 Q. When a project like that is being done,
 17 are there little checkmarks kind of indicating like
 18 on a sheet what this relates to, environmental
 19 versus health and safety versus, you know, things
 20 like that? Do you have checkmarks on them?
 21 A. Are you referring to a project management
 22 type of document?
 23 Q. That is fine. Yes.
 24 A. Okay. I'm trying to -- we do use a
 25 project management form to document projects and

Page 271

1 their progression through various stages of design,
 2 construction, initial startup and there are
 3 checkboxes on there. I don't recall specifically
 4 if there's ones that say environmental, health and
 5 safety but I believe there are checkmarks that
 6 relate to, you know, what are -- are there -- let
 7 me get my words straight, whether that project is
 8 related to those topics, yes.
 9 MR. BOND: Can I get Exhibit
 10 Number 35, please? I think it's right there behind
 11 you.
 12 Q. (BY MR. BOND) I am going to show you
 13 Exhibit 35. It's already been produced earlier in
 14 Willie Willis' deposition. Okay?
 15 A. Okay.
 16 Q. Are you familiar with this form, sir?
 17 A. I have seen this form before, yes.
 18 Q. Would you tell the jury what it is?
 19 A. It is titled a CVP Decision Support
 20 Package.
 21 Q. Okay. What exactly is that, sir?
 22 A. "CVP" stands for capital -- I don't
 23 recall what that acronym is for.
 24 Decision support package, as a
 25 project moves through the various CVP stages as are

Page 272

1 listed there, appraise, select, define, execute and
 2 operate, it is the documentation around that
 3 project for that given stage. It is used in terms
 4 of -- it's a decision tool basically. It's
 5 presenting information to management as to whether
 6 or not the particular project would move forward to
 7 the next stage.
 8 Q. All right. Now I am going to kind of
 9 go -- this is the project named the ISOM wet and
 10 dry maintenance drum project, correct, sir?
 11 A. Yes, that's the title on the document.
 12 Q. All right. And it's Texas City refinery,
 13 and what does it say it's for?
 14 A. Under the category of project type, the
 15 boxes checked are health and safety, sustaining and
 16 environmental.
 17 Q. What does "health and safety" mean, sir?
 18 A. It means, as that box is used, that it
 19 has some aspect of a health and safety benefit or
 20 concern.
 21 Q. All right. So when -- we always here
 22 this. We have been hearing this quite a bit.
 23 "Well, this was an environmental project."
 24 This wasn't just an environmental
 25 project, was it, sir?

Page 273

1 MR. PATTERSON: Objection, form.
 2 A. I don't know the full extent of the --
 3 Q. (BY MR. BOND) What does it say up there,
 4 project type?
 5 A. The box is checked, but I don't have
 6 personal knowledge of the details of this project
 7 to agree or disagree with whether or not the box is
 8 checked correctly.
 9 Q. I am not -- I'm not -- you know, I don't
 10 work at BP. You do.
 11 And if you see a project type
 12 that's marked "health and safety," as a person --
 13 as the guy who has been out there in process safety
 14 management for 11 years, what does that box mean to
 15 you, sir?
 16 MR. PATTERSON: Objection, form.
 17 A. If I see that box checked, that --
 18 whoever checked the box believes that project is --
 19 has some component of it associated with health and
 20 safety.
 21 Q. (BY MR. BOND) Okay. And you know the
 22 wet and dry maintenance drum project was eventually
 23 going to tie this in to a flare. You understand
 24 that, right, sir?
 25 MR. PATTERSON: Objection, form.

Page 274

1 A. I don't know that.
 2 Q. (BY MR. BOND) All right. You don't know
 3 anything -- you don't know anything about that?
 4 A. I don't know the details of this project,
 5 no.
 6 Q. Tell me what generally you do know as the
 7 process safety manager out there at BP.
 8 MR. PATTERSON: Objection, form.
 9 A. I know relatively little about this
 10 project.
 11 Q. (BY MR. BOND) All right. Well, tell me
 12 what little you know.
 13 MR. PATTERSON: Objection, form.
 14 A. It's probably more accurate to say I
 15 don't know anything about this project.
 16 Q. (BY MR. BOND) Okay. So the process
 17 safety manager doesn't know anything about a flare
 18 tie in to the ISOM unit?
 19 MR. PATTERSON: Objection, form.
 20 A. I don't know about this particular
 21 project, no.
 22 Q. (BY MR. BOND) Well, do you remember
 23 talking earlier about the flare system, right, sir?
 24 A. Yes.
 25 Q. Okay. Do you remember -- do you remember

Page 275

1 talking about it being a safer design? Do you
 2 remember that, sir?
 3 A. I remember that conversation.
 4 Q. Okay. Now, here is a project that's
 5 going to put a flare in. In fact, I believe
 6 tie-ins were already done. And you are not made
 7 aware of that?
 8 MR. PATTERSON: Objection, form.
 9 A. No.
 10 Q. (BY MR. BOND) Okay. Why not?
 11 MR. PATTERSON: Object to form.
 12 A. It wouldn't be necessary that I be made
 13 aware.
 14 Q. (BY MR. BOND) Well, this involves --
 15 it's a pretty substantial -- that's pretty
 16 important.
 17 Do you know -- first of all, do
 18 you know who killed this project?
 19 MR. PATTERSON: Objection, form.
 20 Object to the sidebar.
 21 A. No, I don't.
 22 MR. BOND: What part was sidebar?
 23 MR. PATTERSON: Everything up to
 24 the question, which was, "Do you know who killed
 25 the project?"

Page 276

1 MR. BOND: You mean my mumbling?
 2 Okay.
 3 Q. (BY MR. BOND) You don't know who killed
 4 the project?
 5 A. No.
 6 Q. Okay. All right. Now tell me how the
 7 process safety manager at BP does not know about a
 8 project that's going to install a flare system at
 9 the ISOM or tie in to a flare system?
 10 MR. PATTERSON: Objection, form.
 11 Q. (BY MR. BOND) Why wouldn't you know
 12 that?
 13 A. There are many projects that are
 14 progressed at the Texas City site. As the process
 15 safety manager, my responsibilities are around the
 16 processes.
 17 So any project, whether it's this
 18 one or the other one, that it would conform with
 19 the process safety management regulation and things
 20 that might be called for by the particular project.
 21 A project like this, my expectations is as the
 22 project progressed, when it got to an appropriate
 23 stage, it would need to have a hazard review, a
 24 HAZOP.
 25 It's possible that I and my

Page 277

1 department might be the ones to facilitate that
 2 HAZOP. It might be that we use contract resources
 3 to do that. So there are aspects of PSM that role
 4 into projects but this -- you know.
 5 Q. So you really wouldn't get involved until
 6 a HAZOP needed to be done and then you would be
 7 given the heads up on it. Is that kind of what I
 8 am hearing?
 9 MR. PATTERSON: Objection, form.
 10 A. I might be involved at other stages. You
 11 know, again, each one of these CVP stages it
 12 becomes -- the project becomes better defined with
 13 each one of them. You know, in the appraised stage
 14 it's basically just kind of a general concept, a
 15 scoping.
 16 There may be questions that might
 17 be directed to me or my department, and we may not
 18 know specifically that it relates back to a
 19 project. They may just be inquiries of a process
 20 safety nature that might feed into this type of a
 21 document, and that could be repeated as the project
 22 or as any project progresses.
 23 Again, in terms of setting up the
 24 PSM systems and processes at Texas City, it would
 25 be within my area of accountability for project

<p style="text-align: right;">Page 278</p> <p>1 management, the project engineering department to 2 be aware that there are certain obligations under 3 the PSM regulation, an example being the need to do 4 a hazard assessment at some point. 5 Q. (BY MR. BOND) When would a hazard 6 assessment be done? Would it be done before the 7 tie-ins? 8 MR. PATTERSON: Objection, form. 9 A. Not necessarily. Quite often in terms of 10 project execution and the availability to make 11 tie-ins, you might do that simple portion of the 12 project. There would be a management of change 13 specifically for the tie-ins itself. There would 14 be a hazard review just with the tie-ins. 15 Typically that comes about when 16 you would like at some later date be -- to be able 17 to connect the main project while the unit was on 18 stream. So the tie-ins themselves conceivably 19 would be installed under a management of change. 20 The HAZOP of the larger project 21 typically would be conducted in the defined stage. 22 That would be the point where there would be 23 sufficient detail of the project to do an effective 24 HAZOP. 25 Q. (BY MR. BOND) Okay. Was a HAZOP ever</p>	<p style="text-align: right;">Page 280</p> <p>1 trailers in an active flare yard. 2 Q. (BY MR. BOND) Okay. So you wouldn't 3 have a trailer in the flare yard, right? 4 A. No. 5 Q. Okay. And this would have been vented to 6 a flare, right? 7 MR. PATTERSON: Objection -- 8 Q. (BY MR. BOND) If that had been designed 9 like that, correct, sir? 10 MR. PATTERSON: Objection to form. 11 A. If there were -- yeah, I mean, if you had 12 tied the relief valves in to a flare system. 13 Q. (BY MR. BOND) And you wouldn't have had 14 trailers where my -- Mr. Rodriguez was? You 15 wouldn't have trailers there with -- occupied 16 trailers, would you? 17 MR. PATTERSON: Objection, form. 18 A. No. At the time of this incident, our 19 practice had changed and we would not have 20 flares -- 21 Q. (BY MR. BOND) Okay. So -- 22 A. -- or trailers next to flares. 23 Q. No matter what did happened, with this 24 venting off to a flare system, you are not going to 25 have trailers next to the flare. So these 15 lives</p>
<p style="text-align: right;">Page 279</p> <p>1 done that you are aware of? 2 MR. PATTERSON: Objection, form. 3 A. Not that I know of. 4 Q. (BY MR. BOND) Now I want to talk to you 5 a little bit about the trailer siting. Well, first 6 of all, on the flare system, do you remember how 7 you talked about -- you first kind of disagreed 8 with the report? Do you remember that? 9 MR. PATTERSON: Objection to form. 10 A. Yeah. 11 Q. (BY MR. BOND) Do you remember about that 12 inherently safer design? 13 A. Yeah, I disagreed with the opinion that a 14 flare would have somehow prevented this incident -- 15 Q. Well -- 16 A. -- on the basis -- 17 Q. -- do you put trailers next to a flare? 18 MR. PATTERSON: Objection to form. 19 A. We have had that practice in the past. 20 We have stopped that. 21 Q. (BY MR. BOND) When did y'all stop it? 22 A. Around 2000 -- 2000, 2001. 23 Q. Why did you stop it? 24 MR. PATTERSON: Objection to form. 25 A. Because it's a dangerous place to have</p>	<p style="text-align: right;">Page 281</p> <p>1 would have been saved? 2 MR. PATTERSON: Objection, form. 3 Q. (BY MR. BOND) Correct? 4 A. Right. They wouldn't have been next to 5 the release; and the likelihood is they would not 6 have been harmed, right. 7 Q. Okay. But in this case, there wasn't a 8 flare; and y'all did site these trailers next to 9 the release. You are aware of that, correct, sir? 10 MR. PATTERSON: Objection, form. 11 A. Yeah. My understanding of the distance, 12 based on the investigation report, is the flares 13 were within a couple hundred feet of the blowdown 14 stack. 15 MR. PATTERSON: Objection, 16 nonresponsive. 17 Q. (BY MR. BOND) Trailers? 18 A. Trailers, yes. I'm sorry. 19 Q. How many trailers were within a couple of 20 hundred feet of the blowdown stack? 21 MR. PATTERSON: Objection, form. 22 A. I believe the investigation report 23 indicated a dozen or so. 24 Q. (BY MR. BOND) And that includes the 25 Merit trailer, correct, sir?</p>

Page 282

1 A. Yes, that would have been one of the
 2 occupied trailers.
 3 Q. Now, on this -- did you ever look at
 4 these management of changes about siting the
 5 trailers where they were sited?
 6 A. Prior to the incident, no.
 7 Q. How come? Did you ever -- did something
 8 like that ever come across your desk?
 9 MR. PATTERSON: Objection, form.
 10 A. Some do. The process that we have in
 11 place for management of change does not require
 12 that they come across my desk.
 13 Q. (BY MR. BOND) What did the -- the some
 14 that do, what makes them so special?
 15 MR. PATTERSON: Objection, form.
 16 A. It's really more -- the management of
 17 change documentation is centrally filed and
 18 maintained with my group. At this point in time,
 19 the ones that end up on my desk are not necessarily
 20 because they are that special. It's ones that
 21 people have put in my -- put on my desk rather than
 22 taking them to our MOC administrator.
 23 MR. BOND: I think we only have
 24 one minute left on the tape. It's six hours, I
 25 suppose, right?

Page 283

1 THE VIDEOGRAPHER: (Nods head.)
 2 MR. BOND: I still have quite a
 3 few questions left. I guess we --
 4 MR. PATTERSON: Well, what I think
 5 is if I could get an idea from John Eddie how much
 6 time, more time he wants and how much more time you
 7 want, we can discuss it. But I have a feeling he
 8 is talking about hours more.
 9 MR. BOND: I think we are.
 10 MR. PATTERSON: We can have this
 11 conversation off the record.
 12 MR. BOND: Yeah, let's go ahead
 13 and do that.
 14 THE VIDEOGRAPHER: Off the record
 15 at 6:22 p.m., ending Tape 6.
 16 (Deposition adjourned.)
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 284

1 EXAMINATION
 2 CHANGES AND SIGNATURE
 3 PAGE LINE CHANGE REASON
 4 _____
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____

 WILLIAM RALPH

Page 285

1 I, WILLIAM RALPH, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted above.
 4
 5 _____
 6 WILLIAM RALPH
 7
 8 THE STATE OF _____
 9
 10 COUNTY OF _____
 11
 12 Before me, _____, on this day
 13 personally appeared WILLIAM RALPH, known to me or
 14 proved to me on the oath of _____ or through
 15 _____ (description of identity card or other
 16 document) to be the person whose name is subscribed
 17 to the foregoing instrument and acknowledged to me
 18 that he/she executed the same for the purpose and
 19 consideration therein expressed.
 20 Given under my hand and seal of office on this
 21 _____ day of _____, _____.
 22
 23 _____
 24 NOTARY PUBLIC IN AND FOR
 25 THE STATE OF _____

My Commission Expires: _____

Page 286

1 CAUSE NO. 05CV0337
2 MIGUEL ARENAZA, ELIZABETH) IN THE DISTRICT COURT
3 RAMON, DAVID G. CROW and)
4 JUANITA G. CROW, et al.)
5)
6 VS.) 212TH JUDICIAL DISTRICT
7)
8 BP PRODUCTS NORTH AMERICA)
9 INC., B.P. CORPORATION)
10 NORTH AMERICA INC., DON)
11 PARUS, AND JE MERIT)
12 CONSTRUCTORS, INC.) GALVESTON COUNTY, TEXAS
13 CAUSE NO. 05CV0337-A
14 IN RE: BP AMOCO EXPLOSION) IN THE DISTRICT COURT
15 MARCH 23, 2005)
16 COORDINATED DISCOVERY) 212TH JUDICIAL DISTRICT
17 PROCEEDINGS)
18) GALVESTON COUNTY, TEXAS
19 REPORTER'S CERTIFICATE
20 ORAL VIDEOTAPED DEPOSITION OF
21 WILLIAM RALPH
22 VOLUME 1
23 MARCH 2, 2006
24 I, Stephanie Barringer, Certified Shorthand
25 Reporter in and for the State of Texas, hereby
certify to the following:
That the witness, WILLIAM RALPH, was duly sworn
and that the transcript of the deposition is a true
record of the testimony given by the witness;
That the deposition transcript was duly
submitted on _____ to the witness or to the
attorney for the witness for examination, signature,
and return to me by _____.

That the following is the
computer-calculated amount of time used by each party
at the time of the deposition:

Mr. Williams (5 hours, 40 minutes)
Mr. Bond (22 minutes)
Attorneys for Plaintiffs

Page 287

1 That pursuant to information given to the
2 deposition officer at the time said testimony was
3 taken, the following includes the parties of record:
4 FOR PLAINTIFFS ADRIAN MENDOZA, ET AL.:

Mr. John Eddie Williams
Mr. Byron Buchanan
Mr. Chris Dean
Williams & Bailey Law Firm
8441 Gulf Freeway, Suite 600
Houston, Texas 77017
Fax: 713-643-6226
Telephone: 713-230-2200

FOR PLAINTIFFS RHONDA DARLENE HEICKMAN,
INDIVIDUALLY AND AS DEPENDENT
ADMINISTRATOR OF THE ESTATE OF RYAN
RENE RODRIGUEZ:

Mr. Trent Bond
Reaud, Morgan & Quinn
801 Laurel Street
Beaumont, Texas 77720-6005
Fax: 409-833-8236
Telephone: 409-838-1000

FOR PLAINTIFFS NATHANIEL EARL GRIMES,
EVA HENDERSON, LEONARD BOURGEOIS,
ROBBIE BOURGEOIS:

Ms. Sherry Scott Chandler
The Chandler Law Firm, LLP
Park Laureate
10000 Memorial Drive, Suite 320
Houston, Texas 77024
Fax: 713-682-9911
Telephone: 713-222-7285

Page 288

1 APPEARANCES
2 (Continued)
3
4 FOR PLAINTIFF DAWN PRATER:
5 Mr. Loren Klitsas
6 Klitsas & Vercher, P.C.
7 550 Westcott, Suite 570
8 Houston, Texas 77007
9 Fax: 713-862-1465
10 Telephone: 713-862-1365
11
12 FOR PLAINTIFFS JAIME ANDREADE, ET AL.:

Mr. Brent Coon
Brent Coon & Associates
3550 Fannin
Beaumont, Texas 77701
Fax: 409-833-4483
Telephone: 409-835-2666

FOR PLAINTIFF ROGER RODRIGUEZ:

Mr. John W. Stevenson, Jr.
John W. Stevenson & Associates
24 Greenway Plaza, Suite 750
Houston, Texas 77046
Fax: 713-622-3224
Telephone: 713-622-3223

Page 289

1 APPEARANCES
2 (Continued)
3
4 FOR PLAINTIFFS JASON MIRANDA,
5 DOMINIC MARTINEZ, MICHAEL PEARSON,
6 EDDIE NAVARRETTE:
7 Mr. Gregg S. Harrison
8 Bonilla & Chapa, P.C.
9 2727 Morgan Avenue
10 Corpus Christi, Texas 78405
11 Fax: 361-881-1028
12 Telephone: 361-991-000
13
14 FOR PLAINTIFFS, ET AL.:

Mr. Jeff Burke
The Buzbee Law Firm
1910 Ice & Cold Storage Building
104 Moody
Galveston, TX 77550
Fax: 409-762-0538
Telephone: 409-762-5393

FOR PLAINTIFFS LESLIE KRENSHAW, CHARLES NICHOLS,
HUGO NAVARRO, TIMOTHY SMITH, ROBERT DACUS:

Mr. Daniel B. Linebaugh
The Linebaugh Law Firm
1300 Rollingbrook, Suite 601
Baytown, Texas 77521
Fax: 281-422-2641
Telephone: 281-422-0506

Page 290

1
2 APPEARANCES
3 (Continued)
4 FOR DEFENDANT JE MERIT:
5 Mr. Tory Taylor
6 Ebanks, Smith & Carlson
7 2500 Five Houston Center
8 1401 McKinney
9 Houston, Texas 77010
10 Fax: 713-333-4600
11 Telephone: 713-333-4500
12
13 FOR DEFENDANT BP PRODUCTS NORTH AMERICA, INC.:
14 Mr. Edward J. Patterson, III
15 Mr. Graig Alvarez
16 Fulbright & Jaworski
17 1301 McKinney, #5100
18 Houston, Texas 77010-3095
19 Fax: 713-651-5246
20 Telephone: 713-651-5151
21
22 FOR FLUOR ENTERPRISES d/b/a FLUOR
23 GLOBAL SERVICES:
24 Mr. Gregory Burch
25 Locke, Liddell & Sapp, LLP
3400 JP Morgan Chase Tower
600 Travis Street
Houston, Texas 777002-3095
Fax: 713-223-3717
Telephone: 713-226-1200

That a copy of this certificate was served on
all parties shown herein on _____ and
filed with the Clerk.

Page 291

1
2 I further certify that I am neither counsel for,
3 related to, nor employed by any of the parties in the
4 action in which this proceeding was taken, and
5 further that I am not financially or otherwise
6 interested in the outcome of this action.
7
8 Further certification requirements pursuant to
9 Rule 203 of the Texas Code of Civil Procedure will be
10 complied with after they have occurred.
11
12 Certified to by me on this _____ day of
13 _____, _____.
14
15 _____
16 Stephanie Barringer, CSR
17 Texas CSR 6198
18 Expiration: 12/31/06
19 U.S. Legal Support
20 Firm Registration: 122
21 519 N. Sam Houston Pkwy., Ste. 200
22 Houston, Texas 77060
23 Main number: 713/653-7100
24 Fax number: 713/653-7143
25

Page 292

1 FURTHER CERTIFICATION UNDER TRCP RULE 203
2
3 The original deposition was/was not returned to
4 the deposition officer on _____.
5 If returned, the attached Changes and Signature
6 page(s) contain(s) any changes and the reasons
7 therefor.
8 If returned, the original deposition was
9 delivered to Mr. Jim Hart at the Williams & Bailey
10 law firm as the custodial attorney.
11 \$_____ is the deposition officer's
12 charges to the Plaintiffs for preparing the original
13 deposition and any copies of exhibits;
14 The deposition was delivered in accordance with
15 Rule 203.3, and a copy of this certificate, served on
16 all parties shown herein, was filed with the Clerk.
17 Certified to by me on this _____ day of
18 _____, _____.
19
20 _____
21 Stephanie Barringer, CSR
22 Texas CSR 6198
23 Expiration: 12/31/06
24 U.S. Legal Support
25 Firm Registration: 122
519 N. Sam Houston Pkwy., Ste. 200
Houston, Texas 77060
Main number: 713/653-7100
Fax number: 713/653-7143