

CAUSE NO. 05CV0337

MIGUEL ARENAZA, ELIZABETH) IN THE DISTRICT COURT
RAMON, DAVID G. CROW and)
JUANITA G. CROW, et al.)
))
VS.) 212TH JUDICIAL DISTRICT
))
BP PRODUCTS NORTH AMERICA)
INC., B.P. CORPORATION)
NORTH AMERICA INC., DON)
PARUS, AND JE MERIT)
CONSTRUCTORS, INC.) GALVESTON COUNTY, TEXAS

CAUSE NO. 05CV0337-A

IN RE: BP AMOCO EXPLOSION) IN THE DISTRICT COURT
MARCH 23, 2005)
COORDINATED DISCOVERY) 212TH JUDICIAL DISTRICT
PROCEEDINGS)
) GALVESTON COUNTY, TEXAS

ORAL VIDEOTAPED DEPOSITION OF

PATRICK E. GOWER

MAY 5, 2006

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<p>1 ORAL VIDEOTAPED DEPOSITION OF PATRICK E. GOWER, 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 May 5, 2006, from 5 10:04 a.m. to 6:04 p.m., before Stephanie Barringer, 6 Certified Shorthand Reporter in and for the State of 7 Texas, reported by stenographic means at the offices 8 of Fulbright & Jaworski, 1301 McKinney, Suite 5100, 9 Houston, Texas, pursuant to the Texas Rules of Civil 10 Procedure and the provisions stated on the record or 11 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.</p>	<p>1 APPEARANCES (Continued) 2 3 4 FOR PLAINTIFFS LESLIE KRENSHAW, CHARLES NICHOLS, HUGO NAVARRO, TIMOTHY SMITH, ROBERT DACUS: 5 Mr. Daniel B. Linebaugh 6 The Linebaugh Law Firm 1300 Rollingbrook, Suite 601 7 Baytown, Texas 77521 Fax: 281-422-2641 8 Telephone: 281-422-0506 9 10 FOR PLAINTIFFS MICHAEL AGUILAR, SR., ET AL.: 11 Mr. Jeremy Ducote Attorney at Law 12 17225 El Camino Real, Suite 190 Houston, Texas 77058 13 Fax: 281-286-5070 Telephone: 281-286-4900 14 15 FOR DEFENDANT JE MERIT: 16 Ms. Bridgett Mathes 17 Ebanks, Smith & Carlson 2500 Five Houston Center 18 1401 McKinney Houston, Texas 77010 19 Fax: 713-333-4600 Telephone: 713-333-4500 20 21 22 23 24 25</p>
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1 THE VIDEOGRAPHER: On the record

2 May 5th, 2006, at 10:04 a.m., beginning Tape 1.

3 (Brief interruption.)

4 (Discussion off the record.)

5 (Witness sworn.)

6 MR. COON: And, Mr. Fernelius, for

7 the record, I assume we take this one -- we are

8 taking this deposition pursuant to notice. We

9 presume we operate under the uniform custom that we

10 have provided by reserve objections as to form and

11 responsiveness. If he -- I assume the witness will

12 sign?

13 MR. FERNELIUS: Yes, he will.

14 MR. COON: In the event we do not

15 have a signed copy, we can use --

16 MR. FERNELIUS: The unsigned.

17 MR. COON: -- an unsigned copy --

18 an unsigned copy at trial.

19 MR. FERNELIUS: Yes.

20 PATRICK E. GOWER,

21 having been first duly sworn, testified as follows:

22

23 EXAMINATION

24 Q. (BY MR. COON) Good morning, Mr. Gower.

25 Could I have you introduce yourself to the Ladies

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1 and Gentlemen of the Jury by stating your name,
 2 address and employer, please, sir?
 3 A. My name is Patrick Gower. I live at
 4 [REDACTED]
 5 I work for BP.
 6 Q. Mr. Gower, I had the opportunity to
 7 introduce myself to you very briefly before the
 8 deposition started. We are here at the Fulbright
 9 offices today for the purposes of taking your
 10 deposition.
 11 And I take it that you have had an
 12 opportunity to talk to attorneys for BP regarding
 13 why you are here today and the general scope of the
 14 testimony that will be elicited?
 15 A. Yes, I have had the opportunity.
 16 Q. You understand that I am here as a
 17 council for a number of the Plaintiffs involved in
 18 the BP explosion March 23, 2005?
 19 A. Yes.
 20 Q. You understand that as a consequence, our
 21 interests in this matter may be somewhat adverse to
 22 yours and those of your employer?
 23 A. Yes, I do recognize that.
 24 Q. And irrespective of that, it's very
 25 important for you to give us the truth and the

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1 whole truth to the questions that I ask you today
 2 as part of our investigation into what happened and
 3 other aspects of avoidability, what you guys knew,
 4 what could have been done, all kinds of other
 5 things that you may be able to assist us with in
 6 our discovery today.
 7 A. Yes.
 8 Q. Have you given a deposition before?
 9 A. Yes, I have.
 10 Q. How many times?
 11 A. Just -- just two, I believe.
 12 Q. Can you give us, briefly, the facts and
 13 circumstances?
 14 A. One was a commercial interest where a
 15 tanker was discharging a crude to a facility. We
 16 had connections to that facility, too. Some of the
 17 crude leaked in through our turbine meters, and
 18 there was a loss on the -- of the cargo of a bigger
 19 volume than what we showed, and there were four
 20 parties interested in where the missing crude was.
 21 Q. Did you find the missing crude?
 22 A. No, we did not.
 23 Q. And I take it you were representative of
 24 British Petroleum?
 25 A. I was representative of Amoco. That was

Page 12

1 quite a few years ago.
 2 Q. And the other circumstance?
 3 A. The other circumstance was in the
 4 discharge of an employee.
 5 Q. And when was that and, briefly, the
 6 nature?
 7 A. It was briefly -- let's see approximately
 8 it was either 2000 -- I think about 2002 would be
 9 roughly when it was. It was a discharge for safety
 10 violations.
 11 Q. Was this a wrongful termination type
 12 of --
 13 A. The --
 14 Q. -- breach of contract or something?
 15 A. The -- the employee sued and said he was
 16 terminated because of age discrimination and not
 17 safety.
 18 Q. Was that matter resolved?
 19 A. Yes, it is.
 20 Q. Was the other matter resolved -- both of
 21 those resolved?
 22 A. The other matter -- after I gave my
 23 deposition, I don't know what happened in the other
 24 matter.
 25 Q. Okay. You understand that you are

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1 represented by counsel here in Mr. Fernelius.
 2 A. Yes.
 3 Q. Okay. Do you understand that if we ask
 4 you questions today -- if you need to, you can take
 5 a break, consult with him; and, likewise, if you
 6 just need to take a break during the course of the
 7 deposition today, you're free to let us know that
 8 as well? Okay?
 9 A. All right.
 10 Q. Okay. We will probably break once an
 11 hour so they can change the tapes, just so you know
 12 how our timeline will probably work during the day?
 13 A. Okay.
 14 Q. Mr. Gower, in anticipation of your
 15 deposition today, we sent out a notice to your
 16 attorneys, BP attorneys, and it had a subpoena
 17 duces tecum attached, which was a request for
 18 documents.
 19 Have you had an opportunity to see
 20 that?
 21 A. That's the notice of deposition?
 22 Q. Yes, sir.
 23 A. I -- I did review the notice of
 24 deposition.
 25 Q. And we have a copy of the one that was

<p style="text-align: right;">Page 14</p> <p>1 provided to your counsel. I think it's Exhibit 2 Number 317. 3 Did you have an opportunity to 4 look at the list of the documents that were 5 requested for your -- 6 A. I -- I -- 7 Q. -- presentation today? 8 A. I read the notice of the deposition, and 9 I saw a list of documents there. 10 Q. Have you done anything to assist BP in 11 obtaining, procuring the documents and providing 12 them to us? 13 A. I -- my hard drive on my computer was 14 mapped, and they pulled the documents off of that. 15 They have gone through my files and pulled 16 documents from there. 17 Q. Okay. Is there anything that you have 18 reviewed in preparation for your testimony today? 19 A. The notice of deposition. 20 Q. Have you reviewed anything else in 21 preparation for your deposition today? 22 A. Not for this specific deposition. 23 Q. Have you done anything recently just to 24 help refresh your memory about matters that may be 25 associated with this litigation?</p>	<p style="text-align: right;">Page 16</p> <p>1 deposition, sir. And one of those is what I have 2 marked 318. 3 (Exhibit Numbers 317 and 318 4 marked for identification.) 5 Q. (BY MR. COON) It's called a "BP Group 6 Segment Regions Functions," and there are a number 7 of documents. I want to draw your attention to the 8 first two. It's a pre-March 2005 and a 9 post-March 2005, and it pretty much looks like a 10 chart showing the chain of command. 11 A. So, there is an error. I know CJ 12 developed these, but the Carson refinery manager is 13 incorrect for pre-March 2005. 14 Q. Okay. 15 A. I don't think it's material. 16 MR. FERNELIUS: And that's fine to 17 bring up -- he will ask you specific questions 18 about it or want you to take a look at it. 19 THE WITNESS: But -- 20 MR. FERNELIUS: That's fine. 21 THE WITNESS: I'm sorry. 22 MR. FERNELIUS: He may not want to 23 go there. 24 THE WITNESS: Yeah. 25 Q. (BY MR. COON) You did answer the first</p>
<p style="text-align: right;">Page 15</p> <p>1 A. No, I haven't. I -- I did sit down with 2 counsel this week for about six hours just to have 3 a discussion about what today would be about. 4 Q. Have you talked to any of the other BP 5 representatives or employees in preparation for 6 your testimony today? 7 A. Not in preparation for this. I have met 8 with people who you have deposed but not -- did not 9 discuss this deposition or their depositions. 10 Q. Okay. Well, that was the next question I 11 had. 12 Have you read any depositions or 13 been made aware through the summaries or some other 14 nature of the general scope of the other deponents? 15 A. No, I have not. 16 Q. Have you worked with any of the 17 investigative agencies, being the -- 18 A. CSB, OSHA? 19 Q. CSB -- yes, sir. 20 A. Yes. Immediately after the tragic 21 incident of March 23rd, I was at the refinery for 22 almost seven or eight weeks and I worked directly 23 with the CSB and OSHA in that -- in that time. 24 Q. We have been provided a number of 25 documents in response to the subpoena for your</p>	<p style="text-align: right;">Page 17</p> <p>1 question I was going to ask, which is if you see 2 anything on there that you would disagree with or 3 looks incorrect. And I take it, in looking at 4 these first two documents, the -- the one thing you 5 noted as a probable error is the -- 6 A. The pre-March 2005 Carson refinery 7 manager. 8 Q. And that listed Mr. Nicolaides? 9 A. Nicolaides. 10 Q. Nicolaides. 11 And you knew it to be someone 12 else? 13 A. Yes. 14 Q. Being who? 15 A. Tim Scruggs. 16 Q. Okay. Other than that, does it look to 17 be pretty accurate? 18 A. Yes. 19 Q. And the reason I wanted to look at this 20 with you, sir, is it kind of helps us get a better 21 understanding of the hierarchy standpoint of who 22 reports to you and who you report to? 23 A. Yes. 24 Q. So, if we go back to the pre-March 2005 25 this would show your title, right here,</p>

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 (indicating), RVP -- 2 A. Yes. 3 Q. -- U.S.A.? 4 A. Yes. 5 Q. And that's the refinery vice president? 6 A. Regional vice president. I am the 7 regional vice president for refining in the U.S. 8 Q. And what does that title entail? What's 9 the scope of your responsibilities as the RVP? 10 A. I provide coaching, counseling to 11 refinery business unit leaders. I do quarterly 12 performance reviews of -- of their sites. I try to 13 drive integrated performance in the space between 14 the business units, themselves. 15 Q. And that would be the persons underneath 16 you here. 17 This would be each of the BULs -- 18 A. Yeah. 19 Q. -- at the five sites? 20 A. Yes. 21 Q. So, we -- we look at Texas City. Here is 22 one. 23 Mr. Parus who was the BUL in 24 March, 2005? 25 A. At March, 2005, he was, yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 It was Christoph Sievering. 2 Q. Okay. Anyone else? 3 A. I have what you would call a personal 4 assistant, the equivalent of a secretary. 5 Q. Okay. 6 A. Laura Pilch. 7 Q. Anyone else? 8 A. Pretty much 2005. Not to my 9 recollection. 10 Q. Okay. And then, going back to 11 pre-March 2005 in terms of who you reported up to, 12 your immediate supervisor would have been Mike 13 Hoffman? 14 A. Yes. 15 Q. Did you ever report to anyone other than 16 Mr. Hoffman? 17 A. In my role as a regional vice president, 18 the only person I have ever reported to is Mike 19 Hoffman. 20 Q. And he is in London? 21 A. Yes. 22 Q. And then, as we look at this chart, 23 Mr. Hoffman would report to Mr. Manzoni? 24 A. Yes. 25 Q. Who then, in turn, would report directly</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. And these -- these gentlemen here would 2 all have been the ones that would have reported 3 directly to you as the BUL at these refining 4 facilities here in the U.S.A.? 5 A. Except for George Nicolaidis at that date 6 and he didn't report to me. That was Tim Scruggs 7 pre-March 2005. 8 Q. And that was because we -- you believe 9 that to have been identified as an error -- 10 A. Yes. 11 Q. -- and noted that would be the person 12 here? 13 A. Yes. 14 Q. Okay. Is there anyone else that reported 15 directly to you other than these five individuals? 16 A. Yes. I have a -- what we call an 17 executive assistant and let's see, pre-March. 18 Christoph Sievering. 19 Q. Who is Christoph? 20 A. I don't know what your question is. 21 Q. I am sorry? 22 A. I don't understand your question. So who 23 is -- he is the executive assistant. 24 Q. Another executive assistant? 25 A. Yeah. That is the executive assistant.</p>	<p style="text-align: right;">Page 21</p> <p>1 to Lord John Browne? 2 A. Yes, sir. 3 Q. Then if we go to the chart post-March, 4 2005, still pretty much the same here, it appears? 5 A. Yes. 6 Q. Same reporting system? 7 A. Same reporting system. 8 Q. And here -- 9 A. All -- yes. 10 Q. Yes, sir. 11 A. So, there is one other person. There is 12 a business unit leader for the pipeline company 13 that is not shown -- 14 Q. Okay. 15 A. -- on that chart. 16 Q. Who is that? 17 A. Jim Lamana for both pre and post. 18 Q. Okay. And then from here, you still 19 report to Mr. Hoffman? 20 A. Yes. 21 Q. Who still reports to Mr. Manzoni, who 22 still reports to Mr. Browne? 23 A. Yes. 24 Q. And in comparing them, can you tell us 25 the basic differences in the structure of the</p>

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>1 reporting hierarchy pre and post March, 2005, and 2 why those changes were made? 3 A. So, I still have the same five refineries 4 that I had before in the pipeline business unit. 5 Q. Yeah, it doesn't appear that much has 6 changed with respect to -- 7 A. No. 8 Q. -- the people that report to you and who 9 you report to pre and post explosion? 10 A. Yes. So that, I mean, for me, there is 11 not a whole lot of change in my reporting 12 relationship, and I still report to Mike Hoffman. 13 And Mike still reports to John Manzoni. 14 There were two -- two positions 15 added at the group level. The John Mogford, safety 16 and operations position. 17 Q. And that was a newly created position? 18 A. Yes. 19 And then the safety environmental 20 position at CJ Warner. 21 Q. So, the two basic changes, structurally, 22 after the explosion March, 2005, was the creation 23 of the safety and ops? 24 A. Yes, shown on those charts. Yes. 25 Q. And the safety and technology?</p>	<p style="text-align: right;">Page 24</p> <p>1 A. It's -- it's -- so, we always had 2 technology group and safety group. This brought 3 another, a group vice president to focus on safety 4 and technology for their refining and marketing 5 segment. 6 Q. Mr. Gower, I want to backtrack some, now 7 that we understand, basically, what your title and 8 responsibilities are in the chain of command at BP 9 as it relates to you. 10 Can you go back, now, and provide 11 us background with respect to your education, how 12 you ended up at Amoco and kind of walk us through 13 how you got to where you are today? 14 A. Okay. I have a degree in civil 15 engineering. I graduated in 1975. I went to work 16 for Amoco in January 12th, 1976, in a central 17 engineering organization. I worked as a design 18 engineer and project engineer for, roughly, the 19 first four years of my career. 20 In 1980, I moved to Savannah, 21 Georgia, to be the manager of maintenance in a 22 small -- we called it a refinery, but it was really 23 a small asphalt plant with about 41 employees in 24 Savannah. 25 In 1982, I went to the Texas City</p>
<p style="text-align: right;">Page 23</p> <p>1 A. Yes. 2 Q. And what was the purpose of the creation 3 of those two additional groups? 4 A. From my -- I can only answer from my 5 perspective because I didn't make the decisions to 6 put those positions in. 7 Q. Who did? 8 A. I don't -- you know, I don't know. Since 9 they report very high in the organization, it would 10 have been somebody very high in the organization 11 that would have made those decisions. 12 Q. Most likely Mr. Browne? 13 A. I would think he would have been engaged 14 in those because one of them is shown as a direct 15 report. 16 Q. Okay. What is your understanding as to 17 the purpose of Mr. Mogford's job? 18 A. So, Mr. Mogford organization is still 19 being populated and they are still -- it's -- so, 20 there has been some organization charts circulated, 21 but it's to improve our focus on safety and 22 operations as a company. 23 Q. And is this department located in London? 24 A. Yes, it is. 25 Q. And the safety and technology?</p>	<p style="text-align: right;">Page 25</p> <p>1 refinery and I served in three different operating 2 roles in about -- a little over six years at Texas 3 City. 4 In late 1988 or early '89, I moved 5 to Bismark, North Dakota, to work at the Mandan 6 refinery and I was operations manager there. I 7 worked there for a couple of years. I went back 8 in, roughly, 1990 to a central engineering 9 organization in Chicago. I served a couple of 10 different roles in the engineering organization 11 and, also, served as the manager of engineering for 12 the pipeline company. 13 In 1994, I went to the Whiting 14 refinery as the maintenance manager. I, also, was 15 one of the operations managers at the Whiting 16 refinery. 17 In 1998, it was the general 18 manager of analytical technology and laboratory 19 services. I was there until the merger with BP. 20 In 1999, I went to Texas City as 21 the manager of maintenance, turnaround, 22 construction and engineering. 23 In 2000, I went to -- as a plant 24 manager of the chemical plant in Green Lake, Texas. 25 About two years later I went to</p>

7 (Pages 22 to 25)

<p style="text-align: right;">Page 26</p> <p>1 the Toledo refinery as the business unit leader for 2 the Toledo refinery. I was there about two years 3 or so. 4 In October of 2003, I took on my 5 current role as refinery vice president for the 6 U.S. region. 7 Q. And that moved you to Chicago? 8 A. Yes. It moved me to Chicago. 9 Q. Okay. Let's back up to 1999. 10 That was your first experience at 11 Texas City? 12 A. No, in -- in the 1982 to 1988, I had 13 those three different operating roles at Texas 14 City; and when I was a project engineer, I did a 15 construction job in Texas City in 1977 for about 16 16 months. So, it went into 1978. 17 Q. Okay. Your first stint at Texas City in 18 the 80's what was your roles responsibilities? 19 A. I was the superintendent for marine 20 operations for a couple of years, superintendent of 21 FCCU No. 3, the fluid catalytic cracking unit, for 22 a couple of years and superintendent of pipestills, 23 both Pipestill 3A and Pipestill 3B. 24 Q. Did any of those units have vent stacks? 25 A. Yes. Both -- Fluid Catalytic Cracking</p>	<p style="text-align: right;">Page 28</p> <p>1 back then? 2 A. Yes, and then... 3 Q. Where was Mr. Carter at that time? 4 A. He was at the Texas City refinery. I 5 don't, you know -- so, my recollection would be 6 that he was the optimization manager in 1999. 7 Q. And can you just kind of give us a 8 general outline of the types of things that you 9 were responsible for in Texas City in 1999? 10 A. The routine maintenance of the refinery, 11 the turnaround plan for the refinery, the 12 reliability engineering organization that supported 13 the maintenance work done at the refinery and the 14 project team that managed the capital budgets at 15 the refinery and the same functions for the 16 chemical plant at -- at the site. So, they were 17 two distinct -- run as two distinct businesses in 18 1999. The chemical plant was separate from the 19 refinery. 20 Q. And you were involved in both sides of 21 that? 22 A. Yes. That was the first time that we 23 were really put -- trying to put the organizations 24 together for the first time in 1999. 25 Q. And that was pretty much the title and</p>
<p style="text-align: right;">Page 27</p> <p>1 Unit Number 3, Pipestill 3A, Pipestill 3B had vent 2 stacks. 3 Q. And what were your roles and 4 responsibilities as manager of maintenance in -- 5 what was that -- 1999? 6 A. Yes. We were -- so, I had both the 7 maintenance organization for the refinery, the 8 maintenance organization for the chemical plant, 9 the reliability engineers, some of the project 10 engineers and the turnaround group. 11 Q. Were you moved there as part of the 12 acquisition or the merger between BP and Amoco? 13 A. My role that I had in 1999 disappeared as 14 part of the merger, and I was put in Texas City 15 until they could find another role for me. 16 Q. And who did you report to in '99 in Texas 17 City? 18 A. Tim Scruggs, the refinery -- 19 Q. What was his title then? 20 A. Refinery business unit leader at that 21 time. 22 Q. Would that be pretty much the same as BUL 23 now? 24 A. Yes. 25 Q. What did they call it, a plant manager</p>	<p style="text-align: right;">Page 29</p> <p>1 the responsibilities you had throughout the 2 duration of your employment at Texas City from 1999 3 to early -- 4 A. 2000. 5 Q. -- 2002? 6 A. Early 2000. 7 Q. It was 2000? 8 A. Yes. 9 Q. Then what prompted the move in 2000? 10 A. They gave me an offer to run my own 11 business at the Green Lake Chemical Plant. 12 Q. So, this would have been a promotion? 13 A. This is a lateral move. I did get a 14 salary adjustment but not -- not anything else. 15 So... 16 Q. Okay. And what prompted the move to 17 Toledo? 18 A. It was a chance to run a bigger -- a 19 bigger operation and refinery with 550 people 20 instead of a couple of hundred at the Green Lake 21 site. 22 Q. So, generally a promotion? 23 A. It was another lateral transfer with a 24 salary adjustment. 25 Q. Salary adjustment favorable to you, I</p>

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 take it? 2 A. Yeah, favorable. Yeah. 3 Q. Okay. And then you transferred from 4 Toledo as BUL to Chicago? 5 A. Yes. It was -- 6 Q. Again a promotion? 7 A. Yes, that was a promotion. 8 Q. With a salary adjustment? 9 A. That, too, yes. 10 Q. In your favor? 11 A. Yes. 12 Q. Who did you report to when you were a BUL 13 at both these facilities post departure from Texas 14 City? 15 A. So, the chemical plant jobs aren't 16 called -- they aren't BUL jobs. So, they are 17 called wards general managers. 18 Q. And who did you report to in that 19 position? 20 A. Sue Rataj. R-a-t-a-j. Business unit 21 leader for the nitrous business. 22 Q. Where is he? 23 A. She. 24 Q. She? 25 A. In Naperville.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Mike Hoffman was involved. I mean, we 2 did -- I participated in a group that did some 3 study and made some recommendations. 4 Q. Mr. Gower, what type of training have you 5 received over the years in process safety 6 management? 7 A. Well, so, over 30 years -- so, I give it, 8 to the best of my recollection, the very first 9 thing when I joined the company was review of the 10 refinery process safety standards and the refinery 11 process safety guidelines for Amoco. Then we 12 attended classes by disciplined engineers in the 13 various bits and parts of refinery operations and, 14 also, had the head of process safety for Amoco 15 review process safety standards and guidelines. 16 Texas City, I served on the 17 process safety committee in Texas City when I was 18 there in the '80s. I, also, served on the joint 19 health and safety committee with Bhopal at that 20 point. That was '90s. 21 And when I was in Mandan, I worked 22 with JBF and Associates when we first started doing 23 HAZOPs. So, JBF was a HAZOP company and we -- 24 first HAZOPs we did we were on HF alkylation units 25 and we did the Mandan refinery and I spent several</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. I am sorry? 2 A. Naperville, Illinois. 3 Q. Naperville? 4 A. Chicago area. 5 Q. Okay. And then in Toledo? 6 A. When I initially went into the job, I 7 reported to Al Kozinski, who was -- he was in 8 London. He was the group vice president before 9 Hoffman. 10 Q. Okay. 11 A. And then when Al retired, I worked for 12 Mike. 13 Q. Mike Hoffman? 14 A. Yes. 15 Q. And when you went to Chicago, was that a 16 newly created position? 17 A. Yes, it was a newly created position. 18 Q. And that was a buffer between Mr. Hoffman 19 and the BULs at the various refineries? 20 A. A buffer? 21 It was a span breaker for Mike in 22 order to be able to provide more direction to the 23 refinery business unit leaders. 24 Q. And do you know who was involved in 25 creating this position?</p>	<p style="text-align: right;">Page 33</p> <p>1 weeks -- probably was six weeks with JBF off and on 2 with HAZOP validations and how to do HAZOPs. 3 At the Whiting refinery, I was the 4 chair of the refinery process safety committee, 5 during at least part of my tenure at that refinery. 6 That's probably the majority. 7 Q. Okay. I take it, then, you would be 8 pretty familiar with OSHA guidelines, API 9 standards? 10 A. Not all of the OSHA guidelines and, you 11 know, over time, I was more familiar with API 12 standards than I am now. 13 Q. Okay. And I take it you would be 14 familiar with basic process safety management 15 principles? 16 A. Yes, I would be. 17 Q. You would agree that PSM is critical in 18 the petrochemical industry, wouldn't you? 19 A. Yes, it's important for safety. 20 Q. Right. Very important? 21 A. Yes, it is. 22 Q. And in light of its importance, a failure 23 to recognize that process safety management is 24 important would be pretty reckless, wouldn't it? 25 MR. FERNELIUS: Object to the form</p>

<p style="text-align: right;">Page 34</p> <p>1 of the question. 2 Go ahead. 3 A. So, you know, process safety management 4 is key for running safe operations in our business, 5 you know, and -- and we put emphasis on process 6 safety. 7 Q. (BY MR. COON) Yeah. And a failure to 8 put emphasis on it would put people at risk? 9 A. A failure to put emphasis on it could 10 cause risk to people. 11 Q. What type of experience have you received 12 at Amoco/BP regarding investigations? 13 A. I have been trained to be a fatality 14 investigation leader. 15 Q. And when then -- when and where did you 16 receive that training? 17 A. It was in Houston, either in 2000, in 18 2001. 19 Q. Was that training provided by BP? 20 A. Yes, it was provided by BP. 21 Q. Were there outside consultants involved? 22 A. You know, I don't remember. 23 Q. Was this classroom instruction? 24 A. Yes, it was classroom instruction. 25 Q. Who gave this instruction? Did you have</p>	<p style="text-align: right;">Page 36</p> <p>1 Because I have been -- 2 Q. I am using it pretty, generically, but -- 3 A. Yeah. 4 Q. -- anything that you would be 5 investigating, in your various roles at the various 6 plants over the years, whether it's accidents or 7 other issues? 8 A. Yeah. I participated in joint union 9 health and safety committee investigations of 10 accidents at Whiting, Texas City, because I served 11 in -- on those committees at both. 12 Q. What were you taught about root cause 13 analysis in your training in 2000? 14 A. We have a root cause analysis protocol 15 that we use. What we -- what really was done is 16 the business unit leaders kind of get a good 17 overview only really in about a 4-hour period; but, 18 also, we have root cause specialists across the 19 organization that we are given access to to help 20 us. 21 Q. Do you know the names of anyone that's 22 involved in root cause analysis for BP now? 23 A. Michael -- yes, I do know people. 24 Q. Can you give us a few names? 25 Mr. Broadribb, I take it?</p>
<p style="text-align: right;">Page 35</p> <p>1 a teacher or was it a seminar? How did it work? 2 A. You know, I don't know. I really -- it 3 was -- we actually worked through examples. 4 So, we reviewed the protocol for 5 doing fatality investigations. We reviewed root 6 cause methodology. We did some practice sessions 7 working through a root cause, critical cause, 8 criticalistic causes charts. 9 Q. Was this training you received while you 10 were the BUL at Toledo? 11 A. I -- no, it was when I was the WGM at the 12 Green Lake Chemical Plant. 13 Q. And who all was in attendance at this 14 program? 15 A. I -- I truly don't recall. 16 So, the program -- the course, the 17 program is put on for group leaders. There is an 18 expectation that most BULs and group leaders will 19 attend the program and be prepared to take 20 accountability for fatality investigations, if 21 called. 22 Q. Had you done any type of or been involved 23 in any investigations before receiving that 24 training? 25 A. What kind of investigations, I guess?</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Yeah, Michael Broadribb is -- is one. I 2 would have to get a list. There -- I don't -- I 3 can't recall. Most -- most of the refineries have 4 at least one individual. And there is a master 5 list somewhere, but I can't -- if I think about it, 6 I probably could come up with some. 7 Q. Well, then, I take it that in this 8 training that you received from BP that it was made 9 or understood that operator error does occur at 10 refineries? 11 A. Error can occur. 12 Q. And that equipment failures occur at 13 refineries? 14 A. They can occur. 15 Q. And both of those are foreseeable 16 occurrences? 17 MR. FERNELIUS: Object to the form 18 of the question. 19 A. I don't know what you mean by 20 foreseeable. 21 Q. (BY MR. COON) Do you have a general 22 understanding of what foreseeable means? 23 A. No, I really don't. So, can you tell me 24 what it means to you; and then I will answer your 25 question?</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. Well, it's something that you can 2 anticipate. 3 A. Okay. So, will you rephrase your 4 question, then? 5 Q. Okay. In working at a refinery in 6 management, you can anticipate that from time to 7 time operator error will occur? 8 A. Operator error can occur. 9 Q. And the same thing, you can anticipate 10 that from time to time equipment failure will 11 occur? 12 A. You know, that's -- you know, that's -- 13 we recognize that equipment failures have occurred. 14 We work very hard on reliability to -- to minimize 15 that. 16 Q. Well, and those are the things we will 17 talk about more today, which is what type of 18 prophylactic measures can be taken or preventative 19 measures -- 20 A. What kind of measures? 21 Q. What type of prophylactic or preventative 22 measures can be taken -- 23 A. Okay. 24 Q. -- so as to reduce the amount of operator 25 error and equipment failure?</p>	<p style="text-align: right;">Page 40</p> <p>1 experience did you receive? You told us earlier 2 that you had some role in budgeting at Texas City? 3 A. What type of budgeting experience did 4 I -- have I received? 5 We had -- it's superintendents 6 and -- and plant managers. Well, I have people 7 that develop budgets for me for maintenance and 8 variable expense, fixed expense, capital budget -- 9 budgeting. 10 Q. Do you have any type of accounting 11 background? 12 A. I attended a consecutive MBA program at 13 the University of Michigan, but it was one of those 14 5-week programs. But I took accounting there and I 15 took an accounting class at the University of 16 Chicago in 1976, '77. 17 Q. Okay. We have requested as part of the 18 deposition today a copy of your personnel file, and 19 I did not see where it contained a resume. 20 Do you have a resume or CV? 21 A. No, I don't. So, I don't know if there's 22 a resume available or not. I don't keep a current 23 CV. I have been happy with my job and never had 24 the need -- felt the need to develop one. 25 MR. FERNELIUS: Yeah. We asked</p>
<p style="text-align: right;">Page 39</p> <p>1 A. Okay. 2 Q. And being cognizant of operator error and 3 equipment failure are parts of what is instilled 4 into good process safety management, is it not? 5 A. You know, what -- process safety 6 management does not really get the operator. It 7 talks about how do you train people and how do you 8 ensure that they are qualified to minimize the 9 chance of operator error. 10 Q. Sure. 11 Training is important, isn't it? 12 A. Training. Operating discipline. 13 Q. What else is important? 14 A. With regard to PSM or... 15 Q. Yes, sir. 16 A. You know, engineering design, good 17 management of change, good quality procedures, 18 operator training, competencies in people you 19 employ. 20 Q. Does part of good process safety 21 management with petrochemical facilities involve 22 the concept of keeping the hydrocarbons contained? 23 A. Yes, you would like to keep hydrocarbons 24 contained as a part of process safety management. 25 Q. Mr. Gower, what type of budgeting</p>	<p style="text-align: right;">Page 41</p> <p>1 him if he had a PDP. He didn't. He doesn't have 2 that sort of stuff. 3 THE WITNESS: No. I don't have a 4 PDP. 5 MR. COON: Well, that's another 6 thing I was going to ask. We didn't see the PDPs. 7 Q. (BY MR. COON) And in a matter of fact, 8 the performance schedules we had in here were 9 somewhat dated as well. So, I want to -- I guess 10 we can back up now and ask you a few questions on 11 that. 12 If you are familiar with these 13 interviews that are conducted from time to time 14 with BP personnel, these "My Performance" 15 schedules? 16 A. Yes. 17 Q. When was the last one of those that you 18 had done? 19 A. This year. 20 Q. And who was involved in that with you? 21 A. Michael Hoffman. So, it wouldn't have 22 been on a "My Performance" form. They have a 23 different form for group executives this year. 24 It's a one page document, really. 25 Q. Okay. Well, the last one I saw, unless</p>

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<p style="text-align: right;">Page 42</p> <p>1 we missed something, was around 2002. 2 Do you think you have still had 3 some type of annual review with someone over the 4 last three years? 5 A. It's verbal. 6 Q. They have all been verbal? 7 A. Yes. 8 Q. Do you know if anything was reduced to 9 writing from those meetings? 10 A. I don't -- I don't know. I -- for this 11 year there is a one page document. 12 MR. COON: Steve, we would ask to 13 supplement, if we could, on that. 14 MR. FERNELIUS: Yeah, we are 15 looking to find that. And he did indicate that 16 prior to that between, I guess, '02 is the one you 17 have, Brent. I think, now, there's nothing in 18 writing. 19 MR. COON: All right. 20 MR. FERNELIUS: Now, there is 21 nothing in writing that he knows about. 22 A. There is nothing in writing that I know 23 about. 24 Q. (BY MR. COON) Do you know why they go to 25 a verbal performance evaluation only with respect</p>	<p style="text-align: right;">Page 44</p> <p>1 to provide -- you know, his organization provided 2 the routine maintenance of the facility. So, most 3 of the -- many of the BP maintenance craft reported 4 up through the manager of maintenance. 5 There was a manager of turnaround 6 who did the significant turnaround work that occurs 7 at intervals on the units. 8 I had a manager of engineering who 9 did project kind of engineering. It might have 10 been called a superintendent instead of manager of 11 engineering. So, we did -- we executed the capital 12 projects at the site through that organization. 13 Turnaround, maintenance. 14 Q. And construction? 15 A. Construction. So, the construction -- 16 there really wasn't a separate construction 17 organization, per se. The construction was what 18 construction needed to be done to support capital 19 projects. At times, it was executed by PP crafts. 20 At times, the construction was executed by third 21 party contractors, just like some of our 22 maintenance was by third party contractors. 23 So, the contractors that worked in 24 the plant would have been managed -- that did 25 maintenance-type work would have been managed by</p>
<p style="text-align: right;">Page 43</p> <p>1 to your position? 2 A. It's just what was done. I don't think 3 that -- I don't know that -- there's no guidelines 4 that say that. It's just the what -- how the 5 safety, how the evaluation actually was performed. 6 Q. Okay. Mr. Gower, going back to 1999, can 7 you give me the full title? You were manager of 8 maintenance, and it had a long title there. 9 A. Yeah, it a long title. So, I may not get 10 them in the right order. 11 If I just get the four -- there's 12 four pieces to it. So, it's maintenance, 13 turnaround, construction and engineering and I 14 don't -- you know, I don't know if that's the right 15 order; but it was those four pieces of the 16 business. 17 Q. And this was from both sides of the Texas 18 City facility? 19 A. Yes. 20 Q. Okay. Let's break those down and talk 21 about them a little bit. 22 What did you do with respect to 23 the maintenance issues? What was your managerial 24 responsibility on -- 25 A. I had a manager of maintenance who worked</p>	<p style="text-align: right;">Page 45</p> <p>1 the organization. 2 Q. And who were the four managers that held 3 those roles in '99? We can run through them again. 4 Maintenance was who? 5 A. Yeah. So, maintenance I remember. So 6 that's -- Bill Gibson was the maintenance manager 7 in 1999. 8 Q. And turnarounds? 9 A. I don't -- I don't recall who the 10 turnaround manager was. 11 Q. Construction? 12 A. It wasn't a construction organization, 13 per se, like I explained. So, there wasn't. 14 Q. Okay. And project engineering? 15 A. I don't know. I really don't remember. 16 Q. Okay. 17 A. So, chemical project engineer, I do. 18 That was Ron Jordan was the chemical project 19 engineering lead. 20 Q. Okay. Did you work with the gentlemen in 21 each of those titles with respect to budgets? 22 A. So, capital budgets would have been set 23 by a different part of the organization, the 24 commercial part of the organization. We executed 25 capital projects. So, we did the engineering, the</p>

12 (Pages 42 to 45)

<p style="text-align: right;">Page 46</p> <p>1 design, turnaround, construction; and then 2 operations did the commissioning. 3 Q. Okay. Were you involved at all with the 4 budgets, just the routine budgets, fixed budgets 5 for maintenance -- 6 A. We did -- 7 Q. Things like that? 8 A. We did. 9 Q. Turnarounds? 10 A. We estimated the turnaround budgets. So, 11 how much is it going to cost to do the scope of 12 work that was designed by operations. So, we would 13 estimate what that turnaround work was going to 14 cost. 15 Q. We have seen some documents that 16 indicated -- I am sorry. I didn't mean to cut you 17 off. 18 A. I think that's -- that is mostly what we 19 did. 20 Q. We have seen some documents and press 21 statements that go back to the summer of '99, where 22 Lord Browne -- I think he was CEO back then, wasn't 23 he? '99? 24 A. Yes. 25 Q. And he made statements to the financial</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. -- BP Texas City? 2 A. There was a request that we look at 3 reducing the -- the -- the cost of running the 4 Texas City refinery by 25 percent. 5 Q. Well, we talked to Mr. Pierpoline about 6 that last week. 7 Do you know him? 8 A. Yes, I do. 9 Q. Mr. Pierpoline was telling us other 10 things about the, what I'm going to call the 11 25 percent cut. 12 A. All right. 13 Q. And he knew some things about it and I 14 don't -- maybe, you know, some more things or other 15 things or supplemental things. 16 Can you tell us generally what you 17 understand the "cut 25 percent program" was? 18 A. So, it -- it was a request for us to look 19 without jeopardizing the integrity of the facility 20 and the ability to really make money out of the 21 facility and keep the kit active, running, properly 22 repaired, what can you do, to run more efficiently. 23 Q. Okay. Well, Mr. Pierpoline was a plant 24 manager at Cedar Bayou at the time. 25 Do you recall that?</p>
<p style="text-align: right;">Page 47</p> <p>1 community regarding plans for BP as a result of the 2 acquisition or the merger, I guess, merger is the 3 proper -- 4 A. Proper term, yes. 5 Q. -- vernacular. And there was going to be 6 a number of financial changes with respect to how 7 BP was going to run the company. One was a 8 reduction of costs associated to the refining 9 sector of \$1.4 billion. 10 Do you recall that? 11 A. No, I don't recall that. 12 Q. Do you know how that \$1.4 billion 13 reduction in operations was applied to the various 14 refineries? 15 MR. FERNELIUS: Objection, form. 16 A. So, like, were they given -- each 17 refinery given a target or some -- what are you -- 18 Q. (BY MR. COON) I don't know. 19 A. I don't know. 20 Q. I'm curious to know if you know. 21 A. No, I -- I don't. 22 Q. Do you recall anything in 1999, 2000 23 about any reductions in the budgets for various 24 departments out at -- 25 A. There were --</p>	<p style="text-align: right;">Page 49</p> <p>1 A. No, I couldn't have told you he was 2 there, but... 3 Q. Okay. And what he was telling us, at his 4 facility it meant everything from pencils to 5 salaries? 6 A. So, we -- 7 Q. Is that pretty much the same thing at BP 8 Texas City? 9 A. We looked at things about, you know, do 10 we need all of the -- you know, do we need all of 11 the project engineers that we have at this 12 facility? Do we need all the supervisors we have? 13 How frequently should we cut the grass? Things 14 to -- should people empty their own trash cans and 15 reduce janitorial costs? So, we looked at a range 16 of that. 17 Q. Okay. Well, somewhere around that 18 timeframe, there was a reduction in the board 19 operations at the ISOM unit? 20 A. I didn't -- 21 Q. There were two board operators there at 22 some point in the late '90s, and it went to one. 23 Do you know if that's 24 associated with this additional -- 25 A. I don't know --</p>

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<p style="text-align: right;">Page 50</p> <p>1 MR. FERNELIUS: I'm going to 2 object to form. Give me one second to -- 3 THE WITNESS: I'm sorry. Yeah. 4 MR. FERNELIUS: I won't do it 5 often. Go ahead. 6 A. So, no, I wouldn't have been aware in any 7 changes in board operations or... 8 Q. (BY MR. COON) Okay. He, also -- 9 Mr. Pierpoline was telling us it involved pushing 10 back some of the turnarounds. 11 Did that apply at Texas City as 12 well? 13 A. We looked at turnaround intervals. I am 14 not sure if any got pushed back or not. We would 15 have looked at how the turnarounds matched up, and 16 it could have. 17 Q. And I believe there were also 18 implications with respect to training programs at 19 techs. 20 Did Texas City modify its training 21 programs, reduce some of those, as a result of the 22 budgetary cuts? 23 A. It wouldn't have been under my area. I 24 wouldn't have been engaged in that discussion 25 around training, and I am not aware if there was</p>	<p style="text-align: right;">Page 52</p> <p>1 of supervision -- did we need all of the 2 supervision, to the janitorial things that I 3 mentioned, to requesting operators to clean their 4 own control rooms. You know, I don't remember 5 anything that spoke to the infrastructure. There 6 were no conscious decisions to reduce 7 infrastructure spending on unit maintenance. 8 Q. Okay. 9 A. It was more the ancillary cost around the 10 units. 11 Q. Kathleen Lucas. 12 You know her, do you not? 13 A. Yes, I do. 14 Q. Ms. Lucas worked out at BP Texas City 15 back a number of years ago and then returned in 16 2005? 17 A. Yes. 18 Q. And one of the comments that she made is 19 that when she came back a number of years -- I 20 think it was like 10 or 15 years' departure, while 21 she went to Australia and elsewhere; but when she 22 came back, her casual observation of the facility 23 was that it looked run down. 24 Are you familiar with her making 25 those statements publicly?</p>
<p style="text-align: right;">Page 51</p> <p>1 any changes in training programs. 2 Q. Do you know if that, I believe, there 3 were reductions in the inspectors out at BP Texas 4 City after the merger. I think it went from around 5 40 or 50 to about 10 or 15. 6 Do you recall that? 7 A. No, I -- 8 MR. FERNELIUS: Objection, form. 9 Go ahead. 10 THE WITNESS: Sorry. 11 A. Not to my knowledge -- that there was a 12 reduction like that at Texas City. 13 Q. (BY MR. COON) Okay. Do you know if 14 there was a reduction in the number of inspectors 15 at the BP Texas City facility as a result of the 16 budgetary cuts? 17 A. No, I don't. I don't remember any. 18 Q. Can you give us examples of some of the 19 things that you did have to reduce, other cost 20 savings, things that applied to the infrastructure 21 of the facility in terms of routine maintenance? 22 Just give us examples of things that you -- 23 A. Most of our focus was on things, like, 24 how many meals were brought into the plant. How 25 many -- how many meetings we had. Multiple layers</p>	<p style="text-align: right;">Page 53</p> <p>1 A. I don't remember her making those 2 statements publicly. 3 Q. Okay. When is the last time you were out 4 at the BP Texas City facility? 5 A. Yesterday. 6 Q. And when was the last time that you were 7 out there before the explosion in March, 2005? 8 A. February, I believe. I would have to go 9 back and look at my calendar, but I think February. 10 Q. Would you tend to agree with her casual 11 observation about the appearance of the plant in 12 that 10-year timeframe, from the mid '90s to 2005, 13 that it was getting the appearance of looking run 14 down? 15 A. In -- in the two -- in the mid -- in 2002 16 and 2003, we took a hard look at the Texas City 17 facility and said we needed to increase budgets and 18 spending to bring it back into better shape on the 19 infrastructure. That's -- we -- so, we were doing 20 some work with the -- what we called the shift 21 project. 22 Q. Okay. And in fact, after the explosion, 23 I think BP made public announcements that it would 24 reinvest, I think, in the neighborhood of a billion 25 dollars --</p>

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 A. Yes.</p> <p>2 Q. -- in infrastructural improvements?</p> <p>3 A. In -- in improvements to the site, yes.</p> <p>4 Q. How did the plant get to the point to</p> <p>5 where it was a billion-dollar infrastructural</p> <p>6 maintenance?</p> <p>7 MR. FERNELIUS: I will just object</p> <p>8 to the form of that particular question.</p> <p>9 THE WITNESS: Yeah.</p> <p>10 MR. FERNELIUS: But go ahead and</p> <p>11 answer it, if you can.</p> <p>12 A. The billion dollars is not all</p> <p>13 infrastructure improvements. We are looking at</p> <p>14 putting in new control -- state of the art control</p> <p>15 systems on some units. We are looking at building</p> <p>16 new control rooms. Some of the things we learned</p> <p>17 on March 23rd are influencing some with our path</p> <p>18 forward.</p> <p>19 So, we -- like many in the</p> <p>20 industry, we have used a lot of trailers. We now</p> <p>21 recognize the risk of having trailers. So, some of</p> <p>22 the billion dollars is putting new buildings,</p> <p>23 locating people farther away from process units and</p> <p>24 moving the light hydrocarbons heavier than air out</p> <p>25 of blowdown stacks. So, you know, March 23rd</p>	<p style="text-align: right;">Page 56</p> <p>1 A. Yes, it does.</p> <p>2 Q. And when we are talking asbestos</p> <p>3 abatement, we are talking about getting the</p> <p>4 asbestos out of the plant?</p> <p>5 A. It's a range of things. Some is asbestos</p> <p>6 removal. Some is asbestos encapsulation.</p> <p>7 Q. And when we talk about control rooms and</p> <p>8 the changes being made there to update the</p> <p>9 technology, you are aware that this ISOM board did</p> <p>10 not have, for instance, interlocks that could shut</p> <p>11 the system down in the event of an upset?</p> <p>12 A. So, it had -- it had a control system.</p> <p>13 The control system did have some. I -- did it have</p> <p>14 an automatic shutdown system? If that's what you</p> <p>15 are asking, I'm not -- I don't think it had an</p> <p>16 automatic shutdown system.</p> <p>17 Q. Okay. Are you familiar with automatic</p> <p>18 shutdown systems?</p> <p>19 A. I know we -- in some units, we may have</p> <p>20 some automated systems that would either control or</p> <p>21 shut down.</p> <p>22 Q. In fact, BP Texas City had such systems</p> <p>23 in place in March, 2005, on some of the other</p> <p>24 units, didn't it?</p> <p>25 A. I am sure we did on some of the units.</p>
<p style="text-align: right;">Page 55</p> <p>1 really opened our eyes to some risk that we haven't</p> <p>2 seen before. And so, we are investing money to</p> <p>3 correct those risks.</p> <p>4 Q. (BY MR. COON) Okay. Would it be a fair</p> <p>5 statement that a majority of the billion dollars</p> <p>6 you are investing is to make changes associated</p> <p>7 with things that you recognize as risk now that you</p> <p>8 did not recognize as risks as of March, 2005?</p> <p>9 A. The majority -- some of -- you know, we</p> <p>10 have started some -- I mean, we have just taken a</p> <p>11 hard look at the site and ourselves and -- and we</p> <p>12 are investing for a whole -- on a range of things.</p> <p>13 And, you know, one of the things that we are doing</p> <p>14 is that we are investing in the people and in</p> <p>15 cultural change.</p> <p>16 And so, some of the money we are</p> <p>17 spending is with a company called JMW to just -- on</p> <p>18 the leadership training, employee training,</p> <p>19 awareness. So, some of the money is going into</p> <p>20 training. Some of the money is going into</p> <p>21 infrastructure and kit. Some of the money is going</p> <p>22 into asbestos abatement. So, it's a wide range of</p> <p>23 things that the money is being spent on.</p> <p>24 Q. Does that BP plant still have asbestos</p> <p>25 out there?</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Did you know Bobbie Detmar?</p> <p>2 A. No, I don't know Bobbie Detmar.</p> <p>3 Q. Did BP -- we will get into this later</p> <p>4 with some documents; but I understood that BP</p> <p>5 facilities in Europe routinely had automated</p> <p>6 shutdown systems in their control rooms.</p> <p>7 Do you know that to be pretty much</p> <p>8 fair and accurate?</p> <p>9 A. On some process units, we might have</p> <p>10 those. I don't know. I am not -- I wouldn't have</p> <p>11 that awareness.</p> <p>12 Q. All right. Do you know why they wouldn't</p> <p>13 have -- would not have automated shutdown systems</p> <p>14 in place for the DCS for the ISOM unit in March,</p> <p>15 2005?</p> <p>16 A. You know, I think you -- what you do is a</p> <p>17 relative risk analysis on what are the risks on</p> <p>18 different units. This is a very simple</p> <p>19 distillation tower. What we would put automated</p> <p>20 systems on -- there's things that have many, many</p> <p>21 variables -- multi variables that would have made</p> <p>22 it hard or difficult for an operator to be able to</p> <p>23 track everything at once. And so, it's just --</p> <p>24 there would be override systems on some of the more</p> <p>25 complicated units.</p>

15 (Pages 54 to 57)

<p style="text-align: right;">Page 58</p> <p>1 Q. Do you know how much it would cost to put 2 in an automated shutdown on the DCS on that 3 Honeywell that ran the ISOM unit? 4 A. No. 5 Q. You understood that the technology was 6 available to do so? 7 A. It depends on what you mean by automated 8 shutdown system. I mean, you could have a system 9 reduce feed or -- or take heat out. Those you 10 could do easily. 11 Q. Do you know that Ms. Detmar that -- well, 12 you don't know Ms. Detmar? 13 A. No, I don't. 14 Q. Okay. We took her deposition, and she 15 apparently worked in the control room and worked on 16 the actual control systems. 17 A. Okay. 18 Q. Okay? And she understood that there were 19 software packages that could be installed in that 20 system to provide interlocks and other sorts of 21 devices such as automatic shutdown. 22 You wouldn't disagree with any of 23 those statements, would you? 24 A. I think you could find a software system 25 that would shut down various units, that you could</p>	<p style="text-align: right;">Page 60</p> <p>1 City? 2 A. No. There wasn't any discussion around 3 vent stacks when I was working there. 4 Q. Were you aware of PSS No. 6 regarding the 5 removal of vent stacks? 6 A. I was aware that there was a PSS standard 7 that said if you are doing major modifications, you 8 should consider removing blowdown stacks. 9 Q. Okay. And when you were out there, were 10 you aware that the vent stack on the ISOM had been 11 replaced in kind just two years before your 12 arrival? 13 A. No, I was not. 14 Q. In talking to Mr. Pierpoline, it's our 15 understanding that in some timeframe -- maybe 2002, 16 2003 -- it was recognized that Texas City had a 17 number of operational problems and he was put in 18 charge of an assessment going out and looking over 19 the facility and coming back with a team and making 20 some recommendations. 21 Are you familiar with any of that 22 project? 23 A. In 2002 -- 24 Q. 2002, 2003 timeframe? 25 A. Did the project have a name?</p>
<p style="text-align: right;">Page 59</p> <p>1 find something, but it's -- the hard work is 2 figuring out what to trigger the shutdown on and 3 what data do you use, what information and how do 4 you make it reliable. 5 Q. And BP has people that actually do that, 6 don't they? 7 A. That do what? 8 Q. Look at all those issues you just brought 9 up? 10 A. We have control engineers. 11 Q. Were you aware of the project, Clean 12 Streams, that was undertaken in 2002, 2003 at the 13 Texas City facility? 14 A. Prior to March 23rd, 2003, I wasn't aware 15 of that project. 16 MR. FERNELIUS: '05. 17 A. I am sorry. '05. 18 Q. (BY MR. COON) That wasn't something on 19 the drawing board when you were out there in '99, 20 2000? 21 A. I wasn't aware of it. 22 Q. When you were out there during that 23 timeframe, was there any discussion had with 24 respect to PSS No. 6 and removing and replacing the 25 vent stacks that were still in use at BP Texas</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. You know, I think it did and we can find 2 those documents after the break. 3 A. Was that the AT Kearney study, or is that 4 something different? 5 Q. I think it was. 6 A. Because I am not aware of -- you know, I 7 couldn't have told you that Dave was involved in 8 anything. If he was part of that team, I am aware 9 that there was an AT Kearney study of the site. 10 Q. Okay. Can you tell us what you 11 understood to be the -- the general problems that 12 BP Texas City was having? 13 A. The -- it was primarily around ratable 14 for performance, delivery, availability of the 15 site. 16 Q. That it was just underproducing? 17 A. Yes. 18 Q. And when we are saying you are 19 underproducing, what does that compare to? 20 A. So it's -- well, it's keeping the kits 21 running. So, keeping units running at -- at the 22 type of performance level that you would expect out 23 of -- out of a refinery. 24 Q. And in your business, there was some 25 basic projections as to how often units should be</p>

16 (Pages 58 to 61)

<p style="text-align: right;">Page 62</p> <p>1 fully up and operational? 2 A. We benchmarked unit performance across 3 the globe and so does a company called Solomon; and 4 we look at operating availability of units and 5 specific units and then refineries, in general. 6 Q. Where does that number typically run for 7 efficient benchmarking? 8 A. You know, it's 80 to 95, 80 to 96, with 9 the better refineries having the higher numbers. 10 The 90 -- with the mechanic -- so, a lot of 11 people thought about -- there's different 12 availability numbers. So, I would be talking about 13 mechanical availability, which means that 14 mechanically the unit is ready to run. You would 15 like to see the number in the mid to high 90s. 16 Q. Okay. Ideally, you would like to see 17 100 percent? 18 A. Yeah, but -- yes, but the -- 19 Q. The reality is? 20 A. The reality is for many reasons, you 21 can't get there. You have to do routine 22 maintenance and sometimes it requires shutdowns 23 and... 24 Q. Okay. You got -- sometimes you have to 25 shut the whole unit down because certain parts had</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. (BY MR. COON) Mr. Gower, we took a break 2 and I was about to talk to you about the Texas City 3 refinery retrospective analysis the study done by 4 Mr. Pierpoline -- 5 A. Okay. 6 Q. -- in 2002. I want to digress because 7 during the first hour, we talked about your 8 background and some resume issues or personnel file 9 issues. We have gone back and found some of them 10 now. I want to go ahead and get these in for the 11 record. 12 This would have been the last year 13 that you had an actually, I guess, "My Performance" 14 chart done, 2002? 15 A. Yes, I think so. 16 Q. Okay. And that is yours? 17 A. Yes. 18 (Exhibit Numbers 319 and 320 19 marked for identification.) 20 Q. (BY MR. COON) Okay. When I looked at it 21 on the bottom, it had September, 2004, stamped on 22 it. 23 Do you know why that would be such 24 a lagging number for 2002 appraisal? 25 A. No, I don't know why that -- I don't</p>
<p style="text-align: right;">Page 63</p> <p>1 to be replaced in a manner where you just can't 2 keep it running and replace those parts? 3 A. And when you do inspections, we need to 4 inspect on a frequency to get into the equipment 5 and look at it. 6 Q. And so, if the unit is operating 7 efficiently and the infrastructure and integrity is 8 all there, what's typically the percentage of time 9 it's online? 10 A. I don't know if there's a good typical. 11 I would like to see a number from 94 to 97. The 12 higher, the better, obviously. 13 Q. And what impacts that in a negative tends 14 to be the, I guess, unexpected shutdowns or -- 15 A. Equipment unavailability, unexpected 16 shutdowns, loss of power from third party people, 17 hurricanes. 18 MR. COON: This is a good time to 19 break. 20 MR. FERNELIUS: Let's do it. 21 THE VIDEOGRAPHER: Off the record 22 at 11:03 a.m., ending Tape 1. 23 (Recess taken.) 24 THE VIDEOGRAPHER: On the record 25 at 11:17 a.m., beginning Tape 2.</p>	<p style="text-align: right;">Page 65</p> <p>1 know. Some programs print a number on the bottom 2 when they get printed, another copy gets printed 3 out. It could have been another copy. I don't 4 know. 5 Q. And then we have Exhibit 320, again, a 6 performance contract. 7 Can you tell us what this is? And 8 it's dated February, 2004, on the top right corner. 9 A. Yeah. This would have been the 10 performance contract for the year 2004 and 11 February 24th was probably the date that it was 12 agreed to. 13 Q. And how does that document get generated? 14 Did you meet with someone and go over the 15 performance indicators? 16 A. Yeah, we -- we worked this jointly with 17 Mike Hoffman, myself. Some of the goals -- so, I 18 am the refining vice president for the U.S. 19 There's a regional refining vice president for the 20 Rhine region and International region. So, there's 21 three of us. Some of these are kind of common and 22 shared goals across the globe and then milestones 23 are usually -- some of them are specific to my 24 accountabilities in the U.S. 25 Q. And if we could walk through these,</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 briefly. I will put them up on the screen. Now 2 this is what you meet with Mr. Hoffman on annually? 3 A. We would -- we would set up the 4 performance contract usually in the beginning of 5 the year. February. You can see this one would be 6 kind of set. And then, at the end of the year, we 7 would discuss my performance against those. 8 Q. Okay. And this is done with you as the 9 RVP for U.S.A.? 10 A. Yes. 11 Q. And then your peers in other countries 12 that have similar roles get the same thing. 13 You said the Rhine? 14 A. Yes. 15 Q. Is that the Rhine's representative of -- 16 A. German refineries and the one in Nerefco. 17 So there would be a person, my equivalent there, 18 who would look after those assets. 19 Q. Okay. And the things that you would look 20 at, you have ratings of various different 21 categories. This is financial outcomes. And you 22 have key SPU milestones. 23 What are SPUs? 24 A. So, the -- the refinery business in BP is 25 a strategic performance unit. So that's how -- so</p>	<p style="text-align: right;">Page 68</p> <p>1 compliance, even capability and some milestones on 2 it. 3 Q. Okay. I want to go back to 320. This 4 was your performance contract for 2000 -- was that 5 2004? 6 A. Is it -- 7 Q. You have February 2004 up here at the 8 top? 9 A. Yes, so probably the 2004 one. 10 Q. And are these more or less the goals for 11 you for that year? 12 A. Yes. They help focus my efforts in 2004. 13 Q. All right. One of the things I want to 14 draw your attention to was -- I think that's about 15 as large as we can get it; but, right here, under 16 your "Key SPU Milestones for 2004," it was drive 17 the top three regional priorities. Texas City 18 repositioning, Whiting availability and West Coast 19 strategy. 20 A. Okay. Yes, I can read that. 21 Q. Okay. What is meant here on "Texas City 22 repositioning"? 23 A. Yeah. We -- and we -- I put together a 24 team to look at the Texas City refinery to see what 25 we could do to improve the performance of the</p>
<p style="text-align: right;">Page 67</p> <p>1 BP would take a business line, like refining, and 2 call it a specific performance unit. So, they have 3 many businesses and refining is just one of those. 4 (Exhibit Number 321 marked for 5 identification.) 6 Q. (BY MR. COON) And then next we had 7 Exhibit 321. 8 Can you identify that document 9 please, sir? 10 A. So, this was a BP post summary that was 11 initially completed by me to describe the job and 12 the accountabilities of the job. 13 Q. Do those pretty much set out the roles 14 and responsibilities that you have now? 15 A. Yeah it's -- yes, they do. 16 Q. And then Exhibit 322 is the 2005 17 performance contract. 18 (Exhibit Number 322 marked for 19 identification.) 20 Q. (BY MR. COON) Can you tell us what is 21 involved in that document? 22 A. So, this is the financial contract that 23 was set up between Mike Hoffman and myself through 24 the year 2005. It's similar to the one for the 25 previous year. It has input, outputs, HSE</p>	<p style="text-align: right;">Page 69</p> <p>1 refinery and make -- make it and see if we could 2 improve the availability and improve the overall 3 performance of the kit. So, we were looking at do 4 we have the right -- the right kind of units at the 5 refinery. Do we have the refinery plumbed right? 6 Do we have too many units at the refinery? Is 7 there away to simplify the refinery and improve the 8 reliability of it? Does each of the units really 9 reenumerate? Does it add financial value to the 10 site as a whole? Is there a different kind of 11 technology we should be looking at to bring in to 12 make the refinery improve its performance. 13 Q. When you were there in 1999, was the 14 Texas City facility overall, did it have lagging 15 performance then? 16 A. So, I have to think back to '99. 17 Because of the interconnectedness 18 of the units, its availability as an overall 19 refinery wasn't as high as some other refineries. 20 That's one of the things we were studying in the 21 repositioning study to get an understanding. 22 Q. Okay. When you are comparing -- you told 23 us earlier that you look at -- you have to have 24 something to compare it to, the benchmarks, right? 25 A. Yes.</p>

18 (Pages 66 to 69)

<p style="text-align: right;">Page 70</p> <p>1 Q. And are some of these benchmarks internal 2 because you have several other refineries? Can you 3 compare one to the another? 4 A. You can -- it's -- it's hard because some 5 refineries have pretty simple refineries. Some are 6 complex. Texas City is a very complex refinery. 7 Q. Okay. 8 A. So, it's -- it's difficult. 9 Q. When you look at Texas City to determine 10 whether or not it was performing at the appropriate 11 benchmark, what do you compare it to? 12 A. We did a work with a company called PFC 13 to look at complex Gulf Coast refineries and 14 compare Texas City performance to those refineries. 15 Q. And those would typically be, I take it, 16 competitor refineries? 17 A. Yes. 18 Q. And you are looking at ones that are 19 maybe similar of age and similar processes, similar 20 size? 21 A. Similar complexity. 22 Q. All right. And in comparing them, I take 23 it, one of the things that you are looking at is 24 overall operation performance? 25 A. Yes.</p>	<p style="text-align: right;">Page 72</p> <p>1 then you look at what kind of capital that you 2 might think they have invested there to get a rough 3 approximation or rate of return. 4 Q. Okay. And when you were the manager of 5 maintenance, turnarounds, construction and 6 engineering in '99, did you work with those 7 departments in looking at all of the -- or any of 8 the numbers associated with their operations as a 9 part of formulating the -- 10 A. No. 11 Q. -- budgets? 12 A. No. 13 Q. Did any of those persons report to you 14 regarding what their budgetary needs were for the 15 fiscal year that you were there? 16 A. So, there's different -- different 17 budgets for different things. Most of the unit 18 superintendents and operation personnel would 19 decide what budget they need to maintain their kit. 20 There would be a challenge process. 21 Q. What is that? 22 A. It varied over the years. It would be, 23 you know, what's your historic spend, how does this 24 year's budget compare with that, is there something 25 unusual and different that you are doing that makes</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. You are looking at how often a unit is 2 down or how often units at the plant are down? 3 A. We didn't -- you can't get that kind of 4 detail on competitors. What you can get is high 5 level availability numbers. But more, we looked at 6 what kind of units do they have, what kind of crude 7 slate are they capable of bringing in, what kind of 8 product slate do they make; and then you make some 9 rough modelings and assumptions about how well 10 their business runs. 11 Q. And what type of monetary numbers are 12 utilized to determine a rate of return or return on 13 investment? 14 A. You know, look -- looking at the kit, 15 which the kit -- when I mean "kit," you look at 16 what kind of process units they have in the 17 refinery. You have to make some assumptions about 18 what capital was -- had to be employed to build 19 those. Then you look at what kind of crude slate 20 they can run because different crude sells for 21 different prices. 22 You look at what products they can 23 make, which gives them an income stream. So, you 24 look at what is their feedstock cost, what's their 25 revenue stream, which gives you gross margin. And</p>	<p style="text-align: right;">Page 73</p> <p>1 your cost go up or unusual and different that you 2 are doing that is driving your costs down, and is 3 this a reasonable budget for keeping this -- this 4 unit reliable and available and safe. 5 Q. Yeah. And it would be fair to state that 6 after a unit has been up and running some time, you 7 can pretty much factor in what the routine and 8 anticipated costs associated with running it the 9 next year would be. You can looking at last year 10 and say, "Well, I need about the same amount of 11 people, same amount of maintenance"? 12 A. Usually you can say, "I need about the 13 same kind of people." Maintenance might vary. It 14 just depends -- it's just like your car. If you 15 brought your car in and you just had a guy go 16 through and overhaul it in year one, you know -- 17 you know, in like, in December, you could probably 18 run it for a full year with very little 19 maintenance, but you can't come back and look at 20 the following year and say what I spent on it on 21 the following year is a good number. 22 So, you have to look at when is 23 the last time that it had a maintenance on a unit 24 and when was the last time major overhaul? Where 25 is it in its cycle? How long has it been running</p>

<p style="text-align: right;">Page 74</p> <p>1 because maintenance costs may go up or you may have 2 some issues that are cyclic in nature. An 3 inspection can help you usually see them, you know. 4 Q. In '99 at Texas City were you involved at 5 all in looking at any of those numbers, making 6 suggestions? 7 A. I am sure we looked at turnaround cost in 8 1999 and we looked at the turnaround frequencies. 9 We looked at major rotating equipment and when was 10 the last time it was overhauled. Is it due for an 11 overhaul? Would it run for another year? Or does 12 it need to be done now? Those kind of -- we would 13 have had those kind of discussions. 14 Q. Okay. Would they have taken those 15 budgetary considerations to someone else or did 16 they go through you to someone? 17 A. So, my group would have been -- so if -- 18 let's say we are doing a major rotating equipment 19 overhaul, like a turbine generator in a power 20 station, the reliability engineers and the people 21 with expertise on that piece of equipment would 22 have worked in my organization. So, we would have 23 said how much is a rotor going to cost from GE? 24 How many hours is it going to take this work? And 25 we would tell the operating people that you need to</p>	<p style="text-align: right;">Page 76</p> <p>1 Q. Would you take numbers coming out of your 2 four departments to Brian? 3 A. I am sure the turnaround numbers would 4 have come from my department saying, "Here's how 5 much money this is going to cost," and we would 6 roll them up and give them to somebody in Brian's 7 shop. Whether it was Brian, specifically, or 8 somebody he designated, I don't -- I wouldn't 9 remember. 10 Q. Okay. And do you know where Brian would 11 take this information? 12 A. To both the refinery business unit leader 13 and to London. 14 Q. And would the business unit leader or 15 London ever come back to you, either directly or 16 through Brian, with additional questions or -- 17 A. I am sure -- 18 Q. -- approval? 19 A. I am sure they did for additional 20 information. 21 MR. FERNELIUS: I am just noting a 22 little bit, you are jumping in maybe -- 23 THE WITNESS: Oh. 24 MR. FERNELIUS: Maybe before 25 Brent's finished with his question. So just -- you</p>
<p style="text-align: right;">Page 75</p> <p>1 budget this much money to do that work. 2 Q. Okay. Did you take those requests or 3 numbers to someone else at BP Texas City or even 4 outside the facility to people -- 5 A. There is a commercial manager in most of 6 our refineries. A commercial manager would be -- 7 would have a lot to do with the numbers and has a 8 relationship with the people who budget. 9 Q. Would you go to the commercial manager -- 10 A. Typically, we would go to the -- 11 Q. -- back in '99? 12 A. Typically, we would go to the operating 13 people this is what -- how much money you need 14 to -- to overhaul your unit or overhaul your 15 turbine generator and the operating people would 16 take that forward. 17 Q. Okay. Did you have any dealings with the 18 commercial manager -- 19 A. Yes. 20 Q. -- in '99 when you were there? 21 A. Yes. 22 Q. Did you take to him -- or the he or she? 23 A. It was a he. 24 Q. What's his name? 25 A. Brian McClellan.</p>	<p style="text-align: right;">Page 77</p> <p>1 might wait a second. And I don't know that you are 2 doing every time but -- 3 THE WITNESS: Okay. 4 MR. FERNELIUS: -- just so the 5 record is clear. 6 THE WITNESS: Yeah. Sorry. 7 MR. COON: I think it's easy for 8 us to stay on the same page, but it gives the court 9 reporter fits to try to get us both at the same 10 time. 11 THE WITNESS: Yeah. I need to 12 slow down. 13 Q. (BY MR. COON) Okay. Then I think the 14 question was: Did the -- did London or BULs ever 15 come back to you? And I think the answer was 16 generally, "yes"? 17 A. I am sure -- there were times they would. 18 I am sure there are times they didn't. 19 Q. Would they sometimes ever come back and 20 veto a request for an expenditure? 21 A. You know, do I remember any specific 22 vetoes? 23 I can't remember any specific 24 vetoes. 25 Would we have specific</p>

<p style="text-align: right;">Page 78</p> <p>1 discussions, you know, "Pat, can it -- does it 2 really cost this much? Is there some way that we 3 can do it better? Are -- are you sure you have put 4 enough money into the budget to do this work?" 5 Those kind of discussions would be normal kind of 6 discussions that would occur in the course of doing 7 business. 8 Q. Okay. And when you had those kinds of 9 discussions, who would be involved? I am just 10 trying to get a better understanding when you're -- 11 A. Probably a business unit leader in the 12 commercial manager or somebody in the commercial 13 manager's organization who would just come back and 14 question. And at times, would it be just with me? 15 No. It might be with my -- the turnaround 16 superintendent for a particular turnaround. It 17 would be maintenance manager. I certainly wouldn't 18 attend all of those meetings. 19 Q. Mr. Gower, when you were out at Texas 20 City in the '80s and then again in '99, did you 21 have a pretty good understanding of the history of 22 the plant, how old it was, when various units had 23 been put online over the years? 24 A. Primarily, just the units that I ran in 25 the '80s because I was focused -- really focused on</p>	<p style="text-align: right;">Page 80</p> <p>1 that I want to show you. 2 (Discussion off the record.) 3 Q. (BY MR. COON) And we talked to him last 4 week about this. One of the things that the group 5 found was that a steady decrease in total 6 maintenance spend, which was routine maintenance 7 plus turnaround maintenance plus the standing 8 capital. Throughout the '90s contributed to a 9 decline in reliability performance at the Texas 10 City refinery. 11 Had you ever been made aware of 12 the finding from that group? 13 A. I was certainly aware of declining 14 reliability performance, and I knew that there had 15 been declining capital, sustaining capital, at the 16 site in the '90s; but I don't recall seeing this 17 document and don't ever -- have never had a 18 conversation with people that worked this project. 19 Q. Okay. And the -- another summary in this 20 study was a decrease in sustaining capital 21 investment over the same period has contributed to 22 integrity issues which will require significant 23 catch up investment to remediate. 24 Did you ever hear of that type of 25 finding associated with this study or any study</p>
<p style="text-align: right;">Page 79</p> <p>1 what units I had and the oil movements area I had. 2 Q. Do you recall the ISOM unit being built 3 when you were out there in '84? 4 A. No, I don't because I didn't work on that 5 end of the plant. 6 Q. Did you ever work over at the ISOM unit? 7 A. No. No. 8 Q. In 2002, apparently, Mr. Pierpoline was 9 asked to get involved in providing this analysis at 10 the BP South Houston facility because of some 11 problems they were having out there, which appeared 12 to be performance problems. 13 And did you have anything to do 14 with Mr. Pierpoline and that group going out and 15 conducting that -- what is called the Texas City 16 refinery retrospective analysis? 17 A. No, in 2002, I was working in the 18 chemical business and/or going to Toledo. So, I 19 didn't have anything to do with that. 20 Q. Have you seen that document before? 21 A. No, I don't think I have seen this 22 document. 23 Q. Well, when Mr. Pierpoline went out with 24 his group to look at the performance problems they 25 were having out there, he made a couple of comments</p>	<p style="text-align: right;">Page 81</p> <p>1 conducted in early 2002, '03, '04 timeframe? 2 A. I know the site requested more money to 3 spend on integrity issues post the study. So, I 4 would assume that they had that kind of request 5 because there was an investment in what they called 6 the shift, South Houston infrastructure team and 7 improvement. 8 Q. And what are we talking about when we are 9 discussing integrity issues? 10 A. It could be a broad range. I -- I -- you 11 know, you can talk -- so, integrity would be the 12 integrity of the kit at the plant. So, it could be 13 an electrical infrastructure. It could be control 14 systems. It could be tanks. It could be pipe. It 15 could be just concrete. It could be roads. It 16 could be sewer systems, wastewater treatment plant. 17 So, I don't -- you know, it's a very broad 18 statement. 19 Q. Mr. Pierpoline said something to the 20 effect that just it entailed a lot of the issues 21 with the infrastructure at the facility. 22 Would you agree that these were 23 mostly infrastructural issues? 24 A. Yes, that the ones that I just mentioned 25 were infrastructure -- could be infrastructural</p>

21 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 issues. I am not sure they had issues in each one 2 of those areas of infrastructure, but they are 3 infrastructure. 4 Q. Now, there was also some criticism of BP 5 Texas City with respect to the safety culture of 6 the plant. 7 Were you aware of that during this 8 same timeframe? 9 A. I wasn't aware of specific issues with 10 that, with their culture at that time. 11 Q. When were you made aware of any cultural 12 deficiencies or concerns at BP Texas City? 13 A. When -- in 2004, there were some 14 fatalities in Texas City and Don made a 15 presentation, Don Parus, on just culture and the 16 changes that they were going to have to make to -- 17 to the culture at the site. 18 Q. Okay. And you were aware of this 19 being -- taking place by Mr. Parus in 2004? 20 A. Yes. 21 Q. And you were made aware of this because 22 you had now transitioned to a position where he 23 reported to you? 24 A. No. Don didn't report to you until very 25 late 2004, but Don did make a presentation to the</p>	<p style="text-align: right;">Page 84</p> <p>1 late 2004. 2 Q. Okay. His predecessor was Mr. Scruggs? 3 A. The business unit leader for the site 4 prior to Don Parus was Rick Hale. 5 Q. Okay. Well, I still lost you here 6 because we are talking about some time in late 7 2004. 8 A. Yes. 9 Q. Mr. Parus -- for some reason I was 10 thinking Mr. Parus was a BUL during this? 11 A. He became the BUL in 2004. 12 Q. Okay. But you don't think he was the BUL 13 when he did this just cause culture study? 14 A. I don't think so. It's a very close 15 transition period from one role to the other. 16 Q. Okay. And how was it that you were made 17 aware that Mr. Parus was investigating these 18 cultural issues associated to BP Texas City? 19 A. Don made a presentation to the refinery 20 business unit leaders about what steps he was 21 taking based on the fatalities in 2004 at the site. 22 Q. Were you aware of the history of the 23 atypical number of fatalities that had been 24 occurring over the years at BP Texas City? 25 MR. FERNELIUS: Objection, form.</p>
<p style="text-align: right;">Page 83</p> <p>1 refinery business unit leaders from across the 2 globe about just culture. 3 Q. Okay. At the time that he was doing 4 this, were you still the BUL at Toledo? 5 A. In 2002, I was the BUL at Toledo until -- 6 and in 2003 until October. 7 Q. It was October, 2003? 8 A. Yes, that's when I moved to this role. 9 Q. And -- okay. So, in October, 2003, you 10 went to the position that you hold now? 11 A. Yes. 12 Q. Which is as vice president? 13 A. Yes. 14 Q. And Mr. Parus would then report to you 15 through -- 16 A. No. 17 Q. Where did I miss you there? 18 A. I am sorry. Go ahead. Ask your 19 question. 20 Q. You mentioned somewhere around 2003. I 21 thought the BULs reported directly to you? 22 A. So, in 2003, Don Parus wasn't a business 23 unit leader. 24 Q. Okay. When did he take that position? 25 A. He became a business unit leader in very</p>	<p style="text-align: right;">Page 85</p> <p>1 A. So, I was aware of the fatalities. Don 2 had a supervisors' meeting in late '04, and Don 3 reviewed the fatalities that occurred over the site 4 and for a certain timeframe. I don't remember if 5 it was ten years or so, but he did review it. 6 Q. (BY MR. COON) Were you aware of any 7 fatalities occurring at the time you worked at that 8 facility both in the '80s and in '99, 2000. 9 A. Yes. 10 Q. Do you recall the circumstances of any of 11 those? 12 A. So, give me just a minute and let me 13 search back. 14 So, there was a fall from the tank 15 in the '80s period. I couldn't tell you what year. 16 It was a tank repair contractor. I believe there 17 were some burn fatalities, but I don't remember the 18 specifics on those -- in the '80s. I don't recall 19 any fatalities in 1999. It doesn't mean there 20 weren't any. I don't recall any. 21 In 2001 or '02 -- 2002 -- when I 22 was working at the Green Lake Chemical Plant as a 23 plant manager, I did a fatality investigation at 24 Texas City. So, I was aware of a fatality 25 investigation, a fatality then because I led a</p>

22 (Pages 82 to 85)

<p style="text-align: right;">Page 86</p> <p>1 fatality investigation. 2 Q. That was in 2002? 3 A. I think it was 2002, but it might have 4 been late 2001. 5 Q. And why were you assigned to come in and 6 investigate that? 7 A. Because I was a trained fatality 8 investigation leader and I wasn't currently working 9 in refining, and what they do is look for somebody 10 who is not currently in the business structure to 11 lead a fatality investigation. 12 Q. In conducting the investigations, 13 Mr. Gower, had you ever been advised as to certain 14 types of words or language to avoid utilizing in 15 any reports? 16 A. No, any -- I didn't have -- you know, was 17 not advised, didn't have any instruction in that. 18 Q. Are you aware that at BP Texas City that 19 persons had been advised, by lawyers, words to 20 avoid utilizing in investigations? 21 MR. FERNELIUS: Objection to the 22 form of the question. 23 A. So, I wasn't aware of any. 24 Q. (BY MR. COON) This is all news to you? 25 A. Yesterday, I was -- we had a conversation</p>	<p style="text-align: right;">Page 88</p> <p>1 A. Yes. 2 Q. Did you participate in the Telos Report? 3 A. No, I did not participate in the Telos 4 Report. 5 Q. Did you ever talk to anyone associated 6 with the Telos Report? 7 A. Since March 23rd, I have talked to people 8 about the Telos Report. 9 Q. Is that BP personnel or people associated 10 with Telos? 11 A. BP personnel. 12 Q. And who did you talk to about it and why? 13 A. Post -- post accident, I was informed 14 that there was a Telos Report and people wanted to 15 know if I had reviewed it, seen it or had awareness 16 of it prior to March 23rd. 17 Q. And since then, have you actually read 18 that document? 19 A. I have reviewed the document. I read 20 through it, the core -- the core report. 21 Q. What were your just knee jerk responses 22 to it when you would read all the comments from 23 these hourly and salary people out there? 24 A. I was disappointed in -- in some of the 25 comments I read. I think it says we needed to do</p>
<p style="text-align: right;">Page 87</p> <p>1 and I became -- 2 MR. FERNELIUS: I would ask you 3 not to -- 4 THE WITNESS: Okay. 5 MR. FERNELIUS: -- not to discuss 6 our conversations. 7 THE WITNESS: So. 8 MR. FERNELIUS: That's privileged. 9 If you can answer without doing 10 so. 11 A. So, without -- prior to yesterday, I 12 didn't really have any knowledge of words to avoid 13 at Texas City. 14 Q. (BY MR. COON) Okay. But you are aware 15 today that -- 16 A. I am aware -- 17 Q. At least some people at Texas City at 18 some point in time were told by somebody not to use 19 certain words in their investigative reports? 20 A. Yes. 21 Q. All right. Let's go to this Telos 22 Report. 23 Are you familiar with that? 24 A. Telos? 25 Q. Yes, sir.</p>	<p style="text-align: right;">Page 89</p> <p>1 some work at the site to show responsiveness and 2 interest in making the site safer. 3 Q. Did you know Joe Barnes? 4 A. I know Joe Barnes. 5 Q. Did you know that Joe Barnes said that he 6 read the Telos Report? Did you know he had read 7 that report? 8 A. I would have thought Joe Barnes would 9 have read the report because he worked there and 10 served in the HSE. Joe and I have never discussed 11 the Telos report. 12 Q. Did you know that he had said in his 13 deposition that the things that were contained in 14 the Telos Report were the same things that he had 15 been hearing out there for 20 years? 16 A. Joe -- 17 MR. FERNELIUS: Object to the form 18 of the question. 19 Just go ahead and answer if you 20 can. 21 A. Joe and I never discussed his deposition. 22 I have no idea what Joe said during his deposition. 23 Q. (BY MR. COON) Okay. Mr. Gower, we have 24 a lot of back up documents associated with the 25 Telos Report and one of those is --</p>

23 (Pages 86 to 89)

<p style="text-align: right;">Page 90</p> <p>1 MR. COON: BP number, counsel, 2 131930. 3 Q. (BY MR. COON) And this came to us as 4 part of the notes and surveys, things that comprise 5 the Telos Report, itself. And it was -- this is 6 all handwritten. I don't even know yet who did 7 that, but your name was on it. 8 Have you ever seen that note 9 before? 10 A. No, I have never seen this before. 11 Q. Do you have any clue in looking at it why 12 it would reference you? And there are some notes 13 there by your name as well? 14 A. It looks to me like somebody was setting 15 up a meeting and that this is a rough outline, but 16 I can't tell you that that's what it really is 17 because I don't -- it doesn't have a real good form 18 to it or structure. 19 Q. Okay. The other thing that we had was an 20 e-mail. It looked like, originally, it was to you 21 from Joe Barnes, and then a response from you. So, 22 it's actually two e-mails back in January, 2005. 23 And it references the Telos Report, then. 24 Do you recall seeing that e-mail? 25 MR. FERNELIUS: What's the Bates</p>	<p style="text-align: right;">Page 92</p> <p>1 that we talked about, which is Exhibit 323, the one 2 I showed you a minute ago, it indicated, "Interview 3 plus survey plus RW." 4 You don't know what any that -- 5 A. No. 6 Q. -- related to; and to the best of your 7 recollection, you never gave any interview? 8 A. No, I don't -- I don't recall filling out 9 a survey or an interview. 10 Q. Okay. Other than what's contained in the 11 e-mails and this note that we just looked at, do 12 you have any recollection of any communications to 13 you regarding the Telos study prior to the 14 explosion? 15 A. The only thing I recall was some -- so, I 16 hired a behavioral safety specialist to look at all 17 the U.S. refineries and Texas City pushed back on 18 having her come in very soon because they said they 19 were doing some work of their own. 20 Q. Okay. What was this for? 21 A. What was -- I -- I was asked -- I was 22 asking each of the businesses to have one 23 behavioral specialist look at all of the businesses 24 so I could have a relative performance view of the 25 sites.</p>
<p style="text-align: right;">Page 91</p> <p>1 number on that, just to get that for the record? 2 THE WITNESS: (Tenders documents.) 3 MR. FERNELIUS: Yeah. Let me just 4 read that in, if it's all right. BPISOME00012844. 5 A. And I don't recall seeing this. It 6 certainly does have my name on it. 7 Q. (BY MR. COON) If I am reading it right, 8 it indicated that Mr. Barnes was putting you on 9 notice of the Telos Report, the study that was 10 being conducted -- 11 A. Yes. 12 Q. -- some months prior to the explosion in 13 March? 14 A. Yes, it certainly does. 15 Q. Okay. Does that help refresh your memory 16 as to when you might have been recently apprised as 17 to the Telos study being conducted and what it 18 entailed? 19 A. It -- it -- I just read that. All that 20 it says is there is going to be a Telos study. I 21 don't recall a phone call or -- so, it says we are 22 going to do a study. So... 23 (Exhibit Number 323 marked for 24 identification.) 25 Q. (BY MR. COON) Okay. And then the notes</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. And when was this? 2 A. We started it in probably October of '04. 3 Q. And why was -- what precipitated 4 retaining a behavioral specialist to go out and 5 look at the various -- 6 A. I worked with -- 7 Q. -- business units? 8 A. -- her in 2003 and -- and actually 2002. 9 And I, also, used her in Toledo and what I wanted 10 was to get a relative view of the site. So, sites 11 were doing their different things and I needed 12 somebody -- and they weren't benchmarkable. They 13 weren't using a common format from site to site to 14 site, and I wanted a relative assessment of the 15 safety culture at the various U.S. refineries to 16 understand what my issues or concerns were. Were 17 there common issues across the sites or did I have 18 outlier sites? It was to give me some perspective 19 of what the issues were across the U.S. region. 20 Q. So when you tried to send this individual 21 down to Texas City, they advised you somebody was 22 already looking into it? 23 A. They said they were doing some other 24 work, and they didn't want to have both of them 25 there at once because they thought it would create</p>

24 (Pages 90 to 93)

<p style="text-align: right;">Page 94</p> <p>1 confusion in the organization. 2 Q. Who was it who told you this? 3 A. It might have been Joe Barnes. It might 4 have been Rick Hale. It might have been Don Parus. 5 I don't remember. 6 Q. Now, Mr. Barnes, what was his title in 7 2004? 8 MR. FERNELIUS: Brent, are you 9 talking late 2004? 10 A. Yeah, I'm trying -- he might have had two 11 titles. So... 12 Q. (BY MR. COON) Well, he was an MDL at one 13 time -- 14 A. Yeah, I think -- 15 Q. -- in 2004. 16 A. -- he was an MDL for part of 2004. And 17 in the MDL, he probably had the crack -- the 18 cracking area, which would have been the fluid 19 catalytic cracking units and some alkylation units. 20 Maybe in late 2004, he might have transitioned to 21 the HSSE position. 22 Q. Yeah, he was manager of HSSE at the time 23 of the explosion, wasn't he? 24 A. Yes, he was. 25 Q. Do you know how he obtained that</p>	<p style="text-align: right;">Page 96</p> <p>1 criticism attached to Mr. Barnes having this HSSE 2 position without much training in PSM? 3 MR. FERNELIUS: I will just object 4 to the form of that particular question. 5 A. You know, there were a lot of people who 6 had responses in the Telos Report and I didn't. 7 There -- I am sure -- if you -- I would have to 8 look at the report to see that specific reference 9 but... 10 Q. (BY MR. COON) Okay. Well, did you know 11 that Mr. Barnes in his deposition thought that 12 process safety management meant wearing safety 13 glasses? 14 MR. FERNELIUS: Object to the 15 form. 16 A. You know, since Joe and I haven't covered 17 his deposition, I would be quite surprised that -- 18 that Joe would think that that's the case of 19 process safety. Joe served in many roles in the 20 refinery and superintendent roles and others where 21 process safety was critical to his business, and I 22 don't think he would have said that. 23 Q. (BY MR. COON) Well, even somebody with a 24 fundamental understanding of process safety 25 management would know that safety glasses were not</p>
<p style="text-align: right;">Page 95</p> <p>1 promotion? 2 A. Probably -- it wasn't a promotion. It 3 was a lateral move. And Joe has a lot of passion 4 for safety and a lot of passion for people and I 5 think there was an intent to put him in there to 6 see if by putting somebody with a strong operating 7 background and somebody who would engage the 8 organization, if we could get a better 9 understanding of what we could do. 10 Q. Okay. And that role with HSSE is a very 11 important role, isn't it? 12 A. Yes, it is an important role. 13 Q. And a good understanding of process 14 safety management would attach to that role, 15 wouldn't it, sir? 16 A. If you have a very solid process safety 17 leader you don't have to have an expert yourself. 18 I mean, it's a management position with 19 environmental people and safety people, security 20 people and health people. And, you know, you can't 21 expect Joe to be an expert in -- across all of 22 them. That's why we have a doctor for health and 23 an environmental team lead and a PSM lead. 24 Q. Okay. Well, when you looked at the Telos 25 Report and the surveys behind it there was</p>	<p style="text-align: right;">Page 97</p> <p>1 part of PSM? 2 A. Yeah, it's -- 3 Q. It's not PSM 101, is it? 4 A. It's -- it's -- safety glasses would be 5 personal safety. It would not be process safety. 6 Q. Okay. Did you know that Mr. Barnes also 7 admitted he had no training in PSM? 8 MR. FERNELIUS: Object to the 9 form. 10 A. You know, I don't know what Joe said in 11 his deposition. 12 Q. (BY MR. COON) Okay. You were the person 13 who spoke up for Mr. Barnes in promoting him to the 14 HSSE position, weren't you, sir? 15 A. No. I mean, I would have -- I might have 16 been a proponent of giving Joe an opportunity to 17 round out his background, but it was not my 18 decision to put Joe Barnes in that role. I might 19 have been supportive of Joe moving into that role. 20 Q. Okay. Why did you take an interest in a 21 person at a particular facility like BP Texas City 22 and giving advice to a business unit leader as to 23 who they should be promoting? 24 A. So, all levels -- so, we have multiple 25 levels in all organizations. All Level E</p>

25 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>1 positions, which are most of the business unit 2 leader direct report decisions, both Mike Hoffman 3 and I reserve the opportunity to take a look at 4 that. That is the bench strength to become the 5 next business unit leaders. It's people who are 6 core to our business. We, certainly, want to look 7 at the diversity of thought in the -- and the 8 different skills that people can bring to teams. 9 And so, I have an influence and get the opportunity 10 to recommend that level of position. 11 Q. Who makes the final decision to promote 12 someone, such as Mr. Barnes, to that position? Is 13 that something that -- 14 A. So, Joe was promoted. Joe -- it was a 15 move. It was a lateral move. It was not a 16 promotion. So, they were E -- both of them were E 17 Level positions. If we were promoting somebody to 18 E Level position, then Mike Hoffman -- we would put 19 together a proposal and Mike Hoffman would make the 20 final decision on a Level E. 21 Q. Okay. Do you know after the explosion, 22 Mr. Barnes was transferred back out of that role? 23 A. Yes. 24 Q. And you understood that he perceived that 25 to be a demotion?</p>	<p style="text-align: right;">Page 100</p> <p>1 presentation that was made available to management 2 at that time? 3 A. So, he did multiple presentations over 4 multiple days. I attended one of the days, and I 5 saw slides. 6 Q. Do you recall which one it was you 7 attended? 8 A. Not without looking at my calendar. 9 Q. Do you recall what month it was? 10 A. February, in February. 11 Q. Do you recall that the slide show 12 included the history of the fatalities associated 13 with BP Texas City and the number? 14 A. Yes, I do recall that it included, I 15 think, a slide showing the people and a little bit 16 about the people. 17 Q. In fact, one of the slides was Mr. Parus' 18 comments that BP Texas City accepted a fatality 19 every year. 20 Do you recall that? 21 A. No, I don't recall that slide. I... 22 Q. And the reality is one fatality is one 23 too many, isn't it? 24 A. Yes. 25 Q. And certainly, the 20-something that</p>
<p style="text-align: right;">Page 99</p> <p>1 A. Yeah. I understand he wasn't happy with 2 that move. Whether he perceived it as a demotion 3 or not, I don't know because his pay wasn't 4 adjusted nor was his rank reduced. 5 Q. Okay. Were you aware that Mr. Barnes' 6 words were that he was embarrassed by the transfer 7 out of that position after the explosion? 8 A. I am sure Joe -- I have not shared -- I 9 have not had Joe tell me that. Joe has concerns 10 about how he was moved out of that position. I am 11 aware he has concerns. 12 Q. Did he ever express those frustrations 13 and embarrassment to you? 14 A. Yes. 15 Q. Did he feel like he was being punished as 16 a result of the explosion? 17 A. I don't know what Joe thinks. 18 Q. Okay. Going back to this role that 19 Mr. Parus had in trying to get a better feel for 20 the cultural issues that existed at BP Texas City, 21 were you aware of a program he put on in early 2005 22 in a meeting with management that addressed safety 23 culture issues? 24 A. Yes. 25 Q. Do you recall seeing the slides or</p>	<p style="text-align: right;">Page 101</p> <p>1 happened before this explosion, was 20-something 2 too many? 3 A. Any -- any -- you know, we don't want to 4 have a fatality at any of our facilities. 5 Q. Let's go to the March 23rd day. 6 Where were you on that day? 7 A. Naperville, Illinois. 8 Q. And when was it that you were first 9 informed there had been an explosion at the Texas 10 City facility? 11 A. Within minutes of the explosion taking 12 place. 13 Q. And how was it that you were informed? 14 A. Somebody on the floor I worked on caught 15 a news clip or something and came over and said, 16 "Pat, there has been a horrible explosion at Texas 17 City." 18 Q. Would this have been somebody that saw it 19 on TV? 20 A. Either -- I think it could have been a 21 news clip. It could have been on the web. I don't 22 know. They saw it within -- within minutes, they 23 saw it and they came over and said, "Pat, there has 24 been something horrible." 25 Q. And what did you do as a result of</p>

26 (Pages 98 to 101)

<p style="text-align: right;">Page 102</p> <p>1 receiving that information? 2 A. Arranged -- I put a call in to the site, 3 asked them about the severity of the event; and 4 they told me they had a horrible explosion. They 5 weren't aware of what the issues were. And I 6 arranged for a plane ticket to Texas City. 7 Q. Who did you talk to in that conversation 8 with Texas City? 9 A. It might have been -- I don't remember. 10 I just -- I don't remember. 11 Q. And when did you arrive at the facility? 12 A. A little before 5:00 a.m. on March 24th. 13 Q. And they have a plane that would get you 14 into Houston at that hour? 15 A. I got the last flight on Southwest out of 16 Chicago that night, and I got into a hotel a little 17 after 2:00 o'clock. I got three hours of sleep and 18 came into the refinery. 19 Q. And who did you meet with at the 20 refinery? 21 A. I went into the incident command center, 22 which had quite a few people in it and... 23 Q. Where was this at? 24 A. It was at the Texas City refinery 25 complex.</p>	<p style="text-align: right;">Page 104</p> <p>1 talked to Andy Fiedler, the maintenance manager. I 2 am not sure I talked to Don Parus that morning or 3 not. 4 Q. Okay. Well, during the stage of triage, 5 what were you trying to do? 6 A. One of the things that I was doing was 7 setting up the fatality investigation team and to 8 ensure that we had preservation of documents and 9 evidence. 10 Q. Was there a role that you were supposed 11 to have as vice president in Chicago anytime there 12 was a major catastrophic explosion? 13 A. No. 14 Q. You just undertook the initiative of 15 setting up an investigation yourself? 16 A. Well, initially, I was called and asked 17 to be the fatality investigation lead. And I told 18 London that wasn't appropriate because I was in the 19 line of the organization but -- and so, they were 20 busy sourcing somebody else but I set up the 21 initial fatality investigation team with third 22 party contractors and union personnel and got the 23 right kind of talent and skill on the team and set 24 up the protocol for first couple of days until BP 25 could source somebody from London.</p>
<p style="text-align: right;">Page 103</p> <p>1 Q. And what did you do when you arrived at 2 the incident command center? 3 A. Asked them what help they needed from me 4 and what was the current status. So, our incident 5 command centers have flip charts with information 6 and data on them. I walked around and read the 7 current facts and data, the status of the ISOM site 8 and talked to the incident commander. 9 Q. And who was that? 10 A. I am trying to remember what his real 11 name is. Jay -- what does he go by? GG is what -- 12 it's a he. He goes by GG, which are his two 13 initials. And he was the on scene -- he was the 14 incident commander at the incident command center. 15 Q. And how long did you stay there? 16 A. I don't know. At least an hour. I don't 17 know how much longer than that. 18 Q. And when did you first have an 19 opportunity to talk to any of the senior management 20 officials at BP Texas City? 21 A. Sometime that morning, sometime a little 22 later that morning. 23 Q. And which persons were those that you 24 were able to talk with? 25 A. I am sure I talked to Kathleen Lucas. I</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Okay. And who did you talk to in London, 2 initially? 3 A. Gloria Bianco. 4 Q. And why would she be a contact in the 5 event of a -- 6 A. So, Gloria has a database of all the 7 fatality -- trained fatality investigation leads; 8 and she worked for Pat King, who was the vice 9 president of safety at that time. 10 Q. Okay. It's my understanding that 11 Lord Browne flew in on the 24th as well? 12 A. Yes, he did. 13 Q. Did you have an opportunity to talk to 14 him? 15 A. No, I did not. 16 Q. When did you first talk to Mr. Pillari? 17 A. Probably -- he was there that day, too. 18 So, I talked to Mr. Pillari on March 23rd. 19 Q. Before leaving Chicago? 20 A. Yeah, leaving Chicago. When he told me I 21 got the last seat on Southwest and he couldn't get 22 a plane. So, he was going to have to charter one; 23 but he couldn't get there as fast as I could. 24 Q. Okay. So, you talked to Mr. Pillari 25 before leaving and then talked to him the next day</p>

<p style="text-align: right;">Page 106</p> <p>1 and --</p> <p>2 A. Yes, sometime in that day.</p> <p>3 Q. Okay. And you talked to Mr. Parus</p> <p>4 sometime that day?</p> <p>5 A. Yes.</p> <p>6 Q. Did you talk to any of the London team?</p> <p>7 A. So, Mike Hoffman was on site. I talked</p> <p>8 to Mike, briefly, but my primary role was getting</p> <p>9 the fatality investigation team going. I was</p> <p>10 working with Jacobs Management personnel, JE, our</p> <p>11 union and to organize the fatality team and</p> <p>12 structure their -- their role and I was really</p> <p>13 working on document preservation and setting up the</p> <p>14 site. So, I didn't really spend much time with</p> <p>15 other personnel.</p> <p>16 Q. Okay. Who was charged with the</p> <p>17 responsibility of addressing the public relations</p> <p>18 issues associated with an explosion of that nature?</p> <p>19 A. At a high level, Ross Pillari would have</p> <p>20 regional accountability for public relations. He's</p> <p>21 got a team and staff. Pat Wright is based in</p> <p>22 Houston. She plays a key role in public relations.</p> <p>23 Q. And at that time, British Petroleum was</p> <p>24 concerned about negative public reaction to this</p> <p>25 explosion, were they not?</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Almost -- I am sure it was on the 24th.</p> <p>2 Well, I can't say I am sure of anything in those</p> <p>3 days. Probably the 24th or the 25th. As soon as</p> <p>4 the CSB arrived, I talked to CSB. OSHA had</p> <p>5 probably had been on site before I had talked to</p> <p>6 them.</p> <p>7 Q. Do you recall who you talked to from the</p> <p>8 CSB?</p> <p>9 A. They had three different -- I talked to</p> <p>10 the whole team at different times. They had three</p> <p>11 different leads.</p> <p>12 Q. Had you dealt with any of those</p> <p>13 individuals before?</p> <p>14 A. No, I had never met any of the CSB people</p> <p>15 before.</p> <p>16 Q. With the OSHA team, do you recall anyone</p> <p>17 you dealt with?</p> <p>18 A. Initially? Most of the names, right now,</p> <p>19 I can't come up with, no. I -- I mean, I have</p> <p>20 records I could probably get, but no.</p> <p>21 Q. Did you talk to Mr. Mogford?</p> <p>22 A. I talked to Mr. Mogford first when he</p> <p>23 arrived, which was a couple of days later.</p> <p>24 Q. Do you recall how it was that he was</p> <p>25 assigned to lead the investigation?</p>
<p style="text-align: right;">Page 107</p> <p>1 A. Yeah, I think BP wanted to just get the</p> <p>2 facts out, because of the severity getting the</p> <p>3 facts and data. I don't think it was about public</p> <p>4 relations. It was about getting the right</p> <p>5 information out to the community to get the right</p> <p>6 response and support set up.</p> <p>7 Q. Did you know who Ms. Lucas called first</p> <p>8 when she heard about the explosion?</p> <p>9 A. I have no idea who she called first.</p> <p>10 Q. Would it surprise you that it was a</p> <p>11 public relations individual?</p> <p>12 A. It depends. If they were part of the</p> <p>13 incident management team, we called them for</p> <p>14 support because we used them for contacts with the</p> <p>15 mayor, for fire department support, on delivery</p> <p>16 support. So, I don't know who she would have</p> <p>17 called or why, but she would have been putting</p> <p>18 together an incident command management team, I</p> <p>19 think, which includes public and government affairs</p> <p>20 and a lot of other people.</p> <p>21 Q. Did you have an opportunity to talk to</p> <p>22 anyone with OSHA or CSB?</p> <p>23 A. Yes, I did.</p> <p>24 Q. When was your first discussion with any</p> <p>25 of those individuals?</p>	<p style="text-align: right;">Page 109</p> <p>1 A. I am not aware of who contacted him to</p> <p>2 ask him to lead the investigation. I am sure it</p> <p>3 was pretty high up the chain given the severity of</p> <p>4 the incident.</p> <p>5 Q. Is that when the transition took place</p> <p>6 from you heading up the fatality investigation to</p> <p>7 Mr. Mogford heading it up?</p> <p>8 A. As soon as Mr. Mogford arrived, the</p> <p>9 transition took place to him leading the fatality</p> <p>10 investigation team.</p> <p>11 Q. Did you request to have an active role in</p> <p>12 the investigation?</p> <p>13 A. No, it wasn't right for me to be involved</p> <p>14 in any investigation.</p> <p>15 Q. So, you had no role in the subsequent</p> <p>16 investigation?</p> <p>17 A. No. My role -- I became the relationship</p> <p>18 manager for OSHA and CSB and EPA.</p> <p>19 Q. And what did that responsibility entail?</p> <p>20 A. Doing my best to get a safe, secure site</p> <p>21 for them to get access to and to make sure they got</p> <p>22 any permits, data requests, document requests that</p> <p>23 they needed from BP.</p> <p>24 Q. Did you ever talk to any of the</p> <p>25 contractors that were out there?</p>

28 (Pages 106 to 109)

<p style="text-align: right;">Page 110</p> <p>1 A. We had contractors on the site 2 investigation team. So, Jacobs -- there were six 3 Jacobs people on the fatality investigation team. 4 And I talked to them and asked them to join the 5 team. I -- 6 Q. Do you recall who those individuals were? 7 A. No. 8 Q. Was Mr. Northfleet one? Do you recall 9 Mr. -- 10 A. Mr. Northfleet came in later, a couple of 11 days later. He wasn't part of the initial team, 12 but he came in and took on the lead role for the 13 Jacobs' side of that investigation. 14 Q. And you understood a number of the 15 Jacobs, Merit and Fluor contractors were those 16 killed in the trailers adjacent to the ISOM unit? 17 A. Yes, I was made aware of that. 18 Q. Did these contractors that came out to 19 help an investigation express any anger or 20 frustration with BP associated to this explosion? 21 A. I am sure in the course of the first 22 couple of days there was expressions of 23 disappointment and anger and frustration. 24 Q. Do you recall any of the contractors 25 being accusatory of BP?</p>	<p style="text-align: right;">Page 112</p> <p>1 A. At least seven weeks, off and on. Mostly 2 on or mostly there at the plant. Maybe home a 3 couple of weekends. 4 Q. Okay. Were you still in Texas City when 5 the interim report came out? 6 A. I came back to Texas City when the 7 interim report came out. 8 Q. Did you have any advanced notice as to 9 what the interim report findings would be? 10 A. I might have read a draft of the 11 interim -- a final draft of the interim report. 12 Q. Did you have any say in the content of 13 the interim report? 14 A. No, I didn't have any say in the content 15 of the report. 16 Q. How was it you were provided of a copy of 17 the May 12th report? 18 A. I don't know I received it directly from 19 John, but I received a copy and said, you know, 20 we're -- this is going out tomorrow. You need to 21 read this and be aware of what's in the report. 22 Q. And then the seven weeks that you had 23 been out there, what were you doing? 24 A. Working with OSHA and CSB on a daily 25 basis on site access, document requests, drawings.</p>
<p style="text-align: right;">Page 111</p> <p>1 A. No, not at that time. 2 Q. At later times? 3 A. No. 4 Q. To this day, you are not aware of any of 5 the management teams or the contractors involved 6 who lost their employees being condemnational or 7 accusatory of BP? 8 A. No, our focus was just getting the facts 9 and there wasn't much accusatory going on. It was 10 all about just getting the facts and the data and 11 the information together at that point because 12 nobody really knew what the cause or what had 13 happened. 14 Q. Okay. And we know that about six weeks 15 later an interim report came out from Mr. Mogford? 16 A. There was an interim report. I don't 17 know if it was -- 18 Q. It was May 12. 19 A. Okay. 20 Q. Do you recall seeing that report? 21 A. Yes, I did see that report. 22 Q. Did you have any communication with 23 Mr. Mogford from -- let me back up. 24 How long did you stay in Texas 25 City?</p>	<p style="text-align: right;">Page 113</p> <p>1 Q. And was a decision made to have any type 2 of public announcement regarding the interim 3 findings? 4 A. Yes. 5 Q. Did you call a press release or press 6 statement? 7 A. There was a press release and press 8 conference. 9 Q. And were you involved in anything 10 associated with setting up the time, the place, the 11 parties, the comments? 12 A. I participated in the -- in the press 13 conference. 14 Q. And when and where was the press 15 conference held? 16 A. It was held in Texas City at the Doyle 17 Center and, you know, I don't remember the exact 18 date but -- 19 Q. About May 17th. 20 A. Okay. 21 Q. Sound about right? 22 A. I would have -- I would have to look. 23 Q. Were you given any type of advice or 24 suggestions as to the things that you should say at 25 this press statement?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. Be fact -- be factual, be honest and be 2 direct.</p> <p>3 Q. Did anybody prescreen any of the 4 information that you were to discuss with the press 5 or --</p> <p>6 A. I --</p> <p>7 Q. -- written statements, anything to read?</p> <p>8 A. They didn't give me anything to read. 9 They asked -- they asked me to, based on the facts, 10 to -- to run through what I was going to say.</p> <p>11 Q. And who was it that inquired of you as to 12 what it would be that you would say at this press 13 conference?</p> <p>14 A. I am sure there were -- Ross Pillari was 15 probably there. Pat Wright was probably there. 16 There are probably other public and governmental 17 affairs people there. There might have been legal 18 representation in the room.</p> <p>19 Q. Okay. Did you talk to Ms. Lucas or 20 Mr. Willis regarding their plant investigation on 21 the disciplinary side?</p> <p>22 A. Yes, I talked to Kathleen.</p> <p>23 Q. Were you involved in staying in the loop 24 with respect to her role and responsibilities on 25 the disciplinary side of the investigation?</p>	<p style="text-align: right;">Page 116</p> <p>1 potential criminal culpability associated with 2 anybody or any of the actions leading to the 3 explosion?</p> <p>4 A. In March or when we were busy doing 5 the -- doing the investigation or April, no. And 6 there wasn't any discussion about criminal at that 7 point. It was really all about, "Let's get the 8 facts and the data and the information pulled and 9 secured."</p> <p>10 Q. Do you know why those persons that were 11 terminated in May as a result of the interim 12 findings were advised to do get criminal counsel?</p> <p>13 MR. FERNELIUS: I will just object 14 to the form of the question.</p> <p>15 Go ahead and answer it, if you 16 understand it.</p> <p>17 A. Yeah. I -- I don't know when or who 18 talked to them about criminal counsel. You know, I 19 don't remember when they were terminated relative 20 to the other events -- if it was months later. I 21 am sure at some point, you know, May-ish or 22 whatever, there was probably discussion about the 23 DOJ would have interest and there would be a 24 possibility of criminal. That certainly wasn't 25 foremost.</p>
<p style="text-align: right;">Page 115</p> <p>1 A. I asked Kathleen -- I did ask Kathleen 2 to -- to do her own detailed review and not rely on 3 the -- any of the materials from the investigation 4 team, that she should be doing her own interviews 5 and it should be a separate process and that she 6 should review her decisions with the normal labor 7 attorneys that we would review things with.</p> <p>8 Q. Were you provided any of the statements 9 that were being obtained by OSHA, CSB or Ms. Lucas?</p> <p>10 A. So, I have no access to anything OSHA has 11 or obtained. I haven't seen anything that CSB did 12 or retained. I did read the -- some of the 13 statements that our employees made as part of the 14 fatality investigation.</p> <p>15 Q. Do you recall which persons' statements 16 you looked at?</p> <p>17 A. Most of the -- let me -- most of the -- 18 the operators and the supervisory personnel at the 19 site, some of the turnaround personnel.</p> <p>20 Q. Was BP or anybody in the management team 21 expressing any concern of potential criminal 22 charges arising from this explosion?</p> <p>23 A. This part of the focus was just to get 24 the facts out on the table, what happened.</p> <p>25 Q. You don't recall any discussions about</p>	<p style="text-align: right;">Page 117</p> <p>1 And when I was dealing with the 2 agencies or others, it was about getting the right 3 information, being transparent, being open and 4 making sure they -- we served their request.</p> <p>5 MR. COON: We will break for 6 lunch.</p> <p>7 MR. FERNELIUS: Are we about 8 there?</p> <p>9 THE VIDEOGRAPHER: Off the record 10 at 12:19 p.m., ending Tape 2. 11 (Lunch recess taken.) 12 (Whereupon, Mr. Stephen Fernelius 13 leaves the proceedings and 14 Mr. Edward Patterson joins.) 15 THE VIDEOGRAPHER: On the record 16 at 1:25 p.m., beginning Tape 3.</p> <p>17 Q. (BY MR. COON) Mr. Gower, before the 18 lunch break, we were talking about the 19 investigation and some persons that were discharged 20 as a result of the preliminary findings. And we 21 talked a little bit about criminal culpability and 22 you were talking about, I believe, your focus in 23 the days and weeks after the initial explosion. I 24 want to go back and follow-up on those. 25 First, with respect to the</p>

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1 individuals that were fired, did you have anything
2 to do with the terminations?
3 A. The terminations were reviewed with me.
4 Q. And who reviewed those with you?
5 A. Kathleen Lucas.
6 Q. Anyone else?
7 A. I don't think so.
8 Q. And did you go through each one of those
9 individuals?
10 A. She reviewed each of the individuals.
11 Q. Did she come to you with recommendations
12 with respect to --
13 A. She --
14 Q. -- a disposition?
15 A. She had made decisions. She just
16 reviewed those decisions with me.
17 Q. And who was involved in making a decision
18 to terminate those six individuals?
19 A. Kathleen Lucas was primary. I don't know
20 who else was part of her investigation team.
21 Q. Do you know if Mr. Willis had anything to
22 do with it?
23 A. I think he participated in the process.
24 Q. Who made the final decision regarding
25 termination?

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1 A. Kathleen Lucas.
2 Q. Did she need to get consent or permission
3 of anyone else at BP?
4 A. We review those decisions with legal
5 counsel just to let them know what we are thinking
6 and get advice and counsel, but Kathleen was the
7 acting business unit leader. It was within her
8 decision authority to make those decisions.
9 Q. Do you know what type of background she
10 had with respect to investigations of this nature
11 in making those types of disciplinary
12 determinations?
13 MR. PATTERSON: Objection, form.
14 A. Kathleen has been in our business for a
15 long time. She has had numerous operating roles
16 and commercial roles in multiple refineries. She
17 has been a business unit leader, herself, in
18 Australia where she -- I am sure she made similar
19 type decisions.
20 Q. (BY MR. COON) Was the decision to
21 terminate each of those six individuals -- let me
22 rephrase that.
23 Was the public relations a
24 consideration in the termination of any of those
25 individuals?

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1 A. Not to my knowledge.
2 Q. Steve Adams, do you know what he did?
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2 Q. Do you know whether there were other
 3 individuals in management at BP that questioned or
 4 opposed termination of any of these six
 5 individuals?
 6 MR. PATTERSON: Objection, form.
 7 A. I am sure other than me that might have
 8 asked questions about them, I am not sure if other
 9 individuals in management asked any questions
 10 because Kathleen conducted her own thorough
 11 investigation. So, it's her accountability. She
 12 would have been the decision authority. I mean,
 13 people may have asked questions about why six
 14 and -- and what her decision was on those.
 15 Q. (BY MR. COON) Do you know whether or not
 16 anyone in management dissented or opposed the
 17 termination of any of those individuals?
 18 MR. PATTERSON: Objection, form.
 19 A. Anyone dissented? I mean, I -- I
 20 challenged her around some of her decisions and was
 21 she -- and was she sure and what were the facts on
 22 any termination because it's a -- it's a serious
 23 incident. So, I -- I mean, I asked her why she was
 24 making a decision around each of the individuals
 25 and what her logic was. I mean, we did do that

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1 type of diligent review which we would, you know,
 2 normally do, but I, you know, I wouldn't say I
 3 dissented.
 4 Q. (BY MR. COON) Well, it's fair to state
 5 that BP placed a lot of the blame at the feet of
 6 those six people?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. COON) Didn't they?
 9 A. I mean, those six individuals were
 10 terminated. So, you can --
 11 Q. And BP, in the press, made press
 12 statements or public statements that six
 13 individuals were fired and a general basis of their
 14 termination?
 15 MR. PATTERSON: Objection, form.
 16 Q. (BY MR. COON) That was back in mid May,
 17 wasn't it?
 18 MR. PATTERSON: Objection, form.
 19 A. So, we reviewed the startup of the
 20 facility, the lack and failure to follow procedures
 21 and the lack of pre-startup safety review and the
 22 fact that the individuals who didn't do that
 23 would -- would have some form of discipline.
 24 Q. (BY MR. COON) But in the press
 25 statements that took place May 17 and in the

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1 interim report, a lot of the actual fault that
 2 caused the explosion was placed at the feet of
 3 these six individuals?
 4 MR. PATTERSON: Objection, form.
 5 A. So, we didn't name those individuals at
 6 all. What we did is we said the -- we just defined
 7 the people by their job, in their job roles. We
 8 didn't name individuals. We said the person who
 9 was the board operator, the person who was outside,
 10 the person who was in this role, the supervisor of
 11 the unit. We didn't name any of the individuals
 12 that I am aware of at all.
 13 Q. (BY MR. COON) Are you aware of any suits
 14 that are presently pending by any of those
 15 individuals, claims against BP as a result of the
 16 termination or are other actions of BP associated
 17 with those terminations?
 18 A. I understand that there are some suits.
 19 I haven't seen them or haven't been briefed on
 20 them.
 21 Q. You understand all six of those
 22 individuals filed some sort of slander, defamation
 23 or liable suits against British Petroleum as the
 24 result of the termination and what BP told the
 25 press and others regarding their termination?

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1 MR. PATTERSON: Objection, form.
 2 A. So, I was not aware that all six did. I
 3 knew that there was lawsuits. But it is probably
 4 against BP, not British Petroleum. BP Products
 5 North America, I would assume.
 6 Q. (BY MR. COON) Are you aware of any of
 7 the activities associated with any of those other
 8 lawsuits?
 9 A. No, I am not engaged in any of that.
 10 Q. Do you know what type of hours Mr. Briggs
 11 had worked in the days and weeks proceeding this
 12 incident?
 13 A. Specifically, no, I am not aware of what
 14 kind of hours he worked.
 15 Q. Do you recall that he worked over 30 days
 16 straight 12-hour shifts are longer?
 17 MR. PATTERSON: Objection, form.
 18 A. I knew that many of the supervise -- or
 19 the hourly employees and some of the supervision,
 20 since the unit was in turnaround, had worked quite
 21 a few days, 12-hour shifts. I am not sure if they
 22 were continuous or not.
 23 Q. (BY MR. COON) In your position and
 24 experience you have gained in many years at Amoco
 25 and BP, do you believe that it's a good safety

<p style="text-align: right;">Page 130</p> <p>1 practice to have employees in responsible positions 2 working that many days straight that many hours? 3 MR. PATTERSON: Objection, form. 4 A. You know, there are -- we have worked 5 those type of schedules before and have done it 6 safely. People -- we have also had other schedules 7 where people work different schedules with -- with 8 break days in those. It's probably not unusual to 9 work those kind of schedules for turnaround work. 10 In fact, our contracts don't let us really work a 11 different schedule. 12 Q. (BY MR. COON) BP has policies with 13 respect to some of its other employees that 14 specifically prohibit working that number of hours? 15 MR. PATTERSON: Objection, form. 16 A. Could you -- 17 Q. (BY MR. COON) Such as drivers? 18 A. Drivers. So, there's legal requirements 19 on how long drivers can work. 20 Q. And there's also BP policies restricting 21 hours at work? 22 A. There could be. I don't have any 23 professional drivers who work for me. I am sure 24 our -- if we do have policies, they probably mirror 25 the law.</p>	<p style="text-align: right;">Page 132</p> <p>1 that came on to the rescue scene, a Greg Tonnie, 2 that was fired at the request of BP personnel -- 3 MR. PATTERSON: Objection, form. 4 Q. (BY MR. COON) -- for his activities 5 associated with the rescue effort? 6 A. I don't believe he was one of our 7 employees. 8 Q. No. Are you aware that one of our 9 employees at BP Texas City facilitated the 10 termination of a fire marshal from an adjacent 11 facility that came over to help -- 12 MR. PATTERSON: Objection, form. 13 Q. (BY MR. COON) -- the rescue effort 14 immediately after the fire? 15 A. So, I am not aware of what role the 16 employee might have had. 17 Q. You are not aware any role of any 18 employee of BP in terminating any of those involved 19 in the rescue effort? 20 MR. PATTERSON: Objection, form. 21 A. I guess I don't understand your question. 22 And I don't -- so, I want to be helpful. 23 Q. (BY MR. COON) Sure. Well, there was a 24 fire marshal who came in from Marathon to assist 25 the day of the explosion --</p>
<p style="text-align: right;">Page 131</p> <p>1 Q. Are you aware of BP having policies 2 regarding restrictions that did not have a 3 corollary or applicable state or Federal law that 4 they do it just as safety -- 5 A. Yes. 6 Q. -- initiative? 7 A. Yes, we do. 8 Q. In fact, with drivers, BP has safety 9 initiative that restricts the hours that drivers 10 can work anywhere in the world, even if there is no 11 state or federal law? 12 A. Yes. 13 Q. And that's because they took the fatigue 14 issue as a significant consideration in restricting 15 the number of hours? 16 MR. PATTERSON: Objection, form. 17 A. What we did with the driving standard, I 18 think that we took a hard look at that so we 19 developed a driving standard in last couple of 20 years. 21 Q. (BY MR. COON) But that's never been 22 extended to consideration of fatigue factor for the 23 other personnel? 24 A. No, it has not, to my knowledge. 25 Q. Do you know that there was also a fireman</p>	<p style="text-align: right;">Page 133</p> <p>1 A. Okay. 2 Q. -- and he took some pictures. And as a 3 result of doing so, BP management facilitated his 4 termination from Marathon. 5 MR. PATTERSON: Objection, form. 6 A. Okay. 7 Q. (BY MR. COON) Are you aware of that 8 instance? 9 A. I had heard that a fire marshal from an 10 auxiliary plant had taken pictures of the incident. 11 Q. Did you have anything to do with 12 facilitating his termination for doing so? 13 A. No, I never talked to anybody from those 14 companies. 15 Q. Okay. Did you know Paul Trapp, the ISOM 16 supervisor? 17 A. No, I don't know Paul Trapp. 18 Q. Do you know anything about his deposition 19 testimony in this case? 20 A. No, I don't know anything about his 21 deposition. 22 Q. Do you know whether or not he was 23 consulted with respect to the decision to terminate 24 anybody under him at that unit? 25 A. I don't know what Paul Trapp's role was,</p>

1 DOJ investigation?
 2 MR. PATTERSON: Objection, form.
 3 A. No, I don't.
 4 Q. (BY MR. COON) Have you talked to
 5 Mr. Bonse?
 6 A. Yes, I have.
 7 Q. Have you given any statements?
 8 A. Yes, I have.
 9 Q. Do you know if these other individuals
 10 have given statements to Mr. Bonse or part of that
 11 investigative group?
 12 A. No, I don't.
 13 Q. Who requested that this investigation be
 14 undertaken?
 15 A. Since it's an investigation of me, I
 16 don't know.
 17 Q. Would this typically entail the consent
 18 of Mr. Browne?
 19 MR. PATTERSON: Objection, form.
 20 A. I don't -- I don't know.
 21 Q. (BY MR. COON) And not to demean his
 22 title, but is he Lord Browne or Mr. Browne or is
 23 either one okay?
 24 MR. PATTERSON: Objection, form.
 25 A. I'd -- I am sorry -- I don't -- he has

3 Q. Okay. Does this team have a name?
 4 A. Not that I am aware of.
 5 Q. Does the investigation have a name?
 6 A. Not that I am aware of.
 7 Q. Who is leading this investigation?
 8 A. Bill Bonse.
 9 Q. Where is Mr. Bonse at?
 10 A. I don't know where he is today. It --
 11 Q. Where does he office?
 12 A. In Germany somewhere.
 13 Q. What is his title?
 14 A. European regional manager, I believe or
 15 something similar to that. European regional
 16 manager, European regional vice president,
 17 something like that.
 18 Q. When did you find out that BP was
 19 investigating you for any roles and
 20 responsibilities in this explosion?
 21 A. I don't know an exact date. Sometime
 22 this year.
 23 Q. In the last month or two?
 24 A. Yes.
 25 Q. Do you know if this is a follow-up to the

1 been called Lord Browne by many people. So, I
 2 don't know.
 3 Q. (BY MR. COON) Have you thought to ask
 4 anybody why you are being investigated and whether
 5 or not you agree or disagree with an investigation
 6 of your role?
 7 MR. PATTERSON: Objection, form.
 8 A. I didn't think it was my place. It's
 9 just my job to provide facts and data and...
 10 Q. (BY MR. COON) Have you told anybody that
 11 it aggravates you or upsets you in any manner that
 12 your own employer for so many years is looking at
 13 your role in this explosion?
 14 A. I think any responsible employer needs to
 15 do that. Am I pleased to be investigated? No, but
 16 a responsible employer has to do this.
 17 Q. I understand.
 18 The question is: Have you
 19 expressed frustration or disappointment to your
 20 employer that would do this?
 21 A. To my employer or to my wife or to --
 22 Q. To anyone?
 23 A. Yes.
 24 Q. To whom?
 25 A. My wife. How is that?

<p style="text-align: right;">Page 142</p> <p>1 Q. Have you told anybody at BP that you are 2 disappointed, mad, angry or frustrated that they 3 would investigate you? 4 A. Probably the only thing I have told them 5 is that I am disappointed in the timing. 6 Q. Why is that? 7 A. Because it's over a year since the 8 incident occurred. 9 Q. Did you ask anybody why they waited so 10 long? 11 A. I asked Bill Bonse that. 12 Q. What did he say? 13 A. That they were waiting for the final 14 report, and they were waiting for some other 15 information before they conducted their 16 investigation. 17 Q. Did you buy that? 18 MR. PATTERSON: Objection, form. 19 A. It was his answer. 20 Q. (BY MR. COON) Did you buy that? 21 A. What do you mean by "buy that"? 22 Q. I mean, did you believe that to be true? 23 A. I believe they waited for more 24 information and -- and now that they have it and 25 they have a view, they are conducting an</p>	<p style="text-align: right;">Page 144</p> <p>1 attorney. 2 Q. (BY MR. COON) Do you know when he did? 3 MR. PATTERSON: Objection, form. 4 A. No, I don't. 5 Q. (BY MR. COON) How did you find out he 6 had a lawyer? 7 A. Probably when I met with his lawyer. 8 Q. I am sorry. When you met with his 9 lawyer? 10 A. Yes. 11 Q. So, when were you consulted by Mr. Parus' 12 lawyer? 13 A. When we were talking about Don's leave of 14 absence. 15 Q. And when would that have been? 16 A. So, that would have been March 13th -- I 17 mean, I am sorry. So, May 13th, 2005. 18 Q. Wasn't that the day that you fired him 19 from his -- 20 A. Well, he -- 21 Q. -- BUL position? 22 A. He wasn't -- he wasn't fired. He was 23 placed on a leave of absence. 24 Q. Okay. 25 A. While we --</p>
<p style="text-align: right;">Page 143</p> <p>1 investigation. They might have been able to close 2 the date by a few months. 3 Q. Have you talked to Mr. Parus, Ms. Lucas, 4 or Mr. Willis about this? 5 A. No, I have not. 6 Q. Do you have plans to? 7 A. No. 8 Q. Have you obtained an attorney regarding 9 this investigation? 10 A. No, I have not. 11 Q. Do you know if any of the others have? 12 A. Regarding the discipline investigation? 13 Q. Regarding this investigation that's 14 ongoing now as to the four individuals? 15 A. Not -- not with regard to this 16 investigation. 17 Q. Do you know whether anyone else has 18 retained an attorney, period? 19 MR. PATTERSON: Objection, form. 20 A. Yes. 21 Q. (BY MR. COON) Who has? 22 A. So, Don Parus has retained an attorney. 23 Q. Why? 24 MR. PATTERSON: Objection, form. 25 A. I don't know why Don chose to retain an</p>	<p style="text-align: right;">Page 145</p> <p>1 Q. I will rephrase. 2 A. Yeah. 3 Q. Isn't that the same day that you placed 4 him on a leave of absence? 5 A. Yes. 6 Q. And so, the same day that you advised 7 Mr. Parus that you were removing him from his 8 responsibilities, you received a call from his 9 attorney? 10 A. It was a phone call, yes. 11 Q. And what was the nature of this phone 12 call? 13 A. So, I'm trying to -- I am pretty sure 14 it's that day. But it's -- it's -- it was some 15 questions regarding the leave of absence. 16 Q. Any other communications with Mr. Parus' 17 attorney? 18 A. One face-to-face meeting in Washington, 19 DC. 20 Q. What was that about? 21 A. The investigation of the company by 22 regulatory agencies and our investigation. 23 Q. Was he asking you unique and particular 24 questions, or was he just trying to find out more 25 about what was going on with the investigations?</p>

<p style="text-align: right;">Page 146</p> <p>1 A. I think he was just -- it was more of 2 what are the -- what are the ongoing investigations 3 and just for his general knowledge. 4 Q. Okay. You had said earlier that when you 5 removed Mr. Parus from his responsibilities 6 managing the plant that he was still left to assist 7 at some level with investigations? 8 A. Yes. 9 Q. I don't want to put words in your mouth. 10 Is that about right, assisting in 11 investigations? 12 A. The -- not the fatality investigations. 13 It was about, you know, he had to be available for 14 questions, data, information, document retention. 15 He didn't participate at all on any of the fatality 16 investigations, if that's what you are asking. 17 Q. Did he actually participate, have an 18 active role in any of the investigations, to your 19 knowledge? 20 A. I think he answered specific questions 21 and provided information. 22 Q. So, it was, basically, that he was made 23 available to answer questions that investigative 24 agencies may have? 25 A. And/or the company's investigation.</p>	<p style="text-align: right;">Page 148</p> <p>1 stability or emotions. 2 Q. (BY MR. COON) Okay. So, this was just a 3 subjective observation that you had that -- 4 A. Immediate. 5 Q. -- was the primary basis of his removal? 6 A. So, there's two distinct things in my 7 mind. Okay? 8 From May -- in early March, after 9 the explosion -- or late March after the explosion, 10 my view at that time was Don was not in a position 11 to be able to run the business. So, Kathleen and I 12 took over accountability for the business at that 13 point. 14 On May 13th, Don was placed on -- 15 on a leave of absence until investigations and 16 other things were done. So, that had nothing to do 17 with emotional stability at that point. It was my 18 view in the period between those two dates that Don 19 wasn't in a position to run the business. 20 Q. Why was a decision made to remove him 21 from his responsibilities there concurrent with the 22 date of the fatal report coming out? 23 MR. PATTERSON: Objection, form. 24 A. It was the preliminary report? I 25 don't -- I think it may be.</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. But he was not actually assigned any 2 roles, to your knowledge, to participate in the 3 investigations? 4 A. No. 5 Q. And has anyone at BP made a decision as 6 to whether or not Mr. Parus is now emotionally 7 stabilized enough to return to active employment at 8 BP? 9 A. I don't think there has been a decision 10 to return Don to active employment at BP. Don's 11 future employment, I don't know what the status is. 12 Q. Did Mr. Parus object to the determination 13 that he was emotionally unstable? 14 A. He objected to being placed on leave of 15 absence. 16 Q. Did he object to the grounds of emotional 17 instability? 18 A. We didn't -- 19 MR. PATTERSON: Objection, form. 20 A. So, we didn't -- that is just my view of 21 why he was gone, why I had him leave the plant from 22 March to May 13th -- or -- yeah -- May 13th -- when 23 he was placed on leave of absence, he was just 24 placed on leave of absence to support the 25 investigation. There was no discussion about</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. (BY MR. COON) This happened within 24 2 hours of each other. The fatal report comes out. 3 Mr. Parus is put on ice. 4 A. I don't know that they were tied -- 5 MR. PATTERSON: Objection, form. 6 A. I am not sure that they were tied for 7 that specific purpose. 8 Q. (BY MR. COON) Well, you got a copy of 9 the fatal report on the 12th and you removed 10 Mr. Parus on the 13th? 11 A. 15th, wasn't it? Or the 13th? One of 12 the two. 13 Q. Did you talk to anyone about removing 14 Mr. Parus? 15 A. Yes. 16 Q. Who did you talk to? 17 A. Simon Drysdale. 18 Q. Who was that? 19 A. At the time, he was vice president of HR 20 for BP North America. 21 Q. Did you have to get his consent to remove 22 Mr. Parus from his responsibilities? 23 A. Yes. 24 Q. Did he have to get consent from anyone? 25 A. I don't know.</p>

<p style="text-align: right;">Page 150</p> <p>1 Q. Do you not know if Mr. Hoffman or 2 Mr. Browne or any -- 3 A. Mr. Hoffman -- I am sorry. Go ahead. 4 Q. Who else do you know was informed of this 5 decision before Mr. Parus was advised? 6 A. I know Mr. Hoffman was informed. I don't 7 know who he talked to. 8 Q. How did Mr. Parus receive notice that he 9 was going to be removed from his position? 10 A. Myself and Simon Drysdale gave him 11 notice. 12 Q. And how did you give him notice? Did you 13 call him up, visit him -- 14 A. No, I had him come to Naperville. 15 Q. When? 16 A. The date of the letter. So, was that 17 May 13th or 15th? Somewhere around there. 18 Q. Okay. So, you sent him a letter. We 19 have got this letter. 20 A. We handed him a letter. 21 (Exhibit Numbers 324 through 326 22 marked for identification.) 23 Q. (BY MR. COON) Okay. That would be this 24 letter of May 13th, 2005, Exhibit Number 326? 25 A. Yes.</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Did you generate that -- 2 A. Yes. 3 Q. -- communiqué? 4 A. Yes, I did, right after talking to Don. 5 Q. So, you talked to him first. I am just 6 trying to get the batting order here. 7 You get the final report on 8 May 12th. You talk to a number of individuals 9 about it, as you have told us. And then on the 10 13th, you put Mr. Parus on leave of absence. I am 11 just trying to walk through how it was communicated 12 to him, what manner and the sequence of events. 13 So, did you call him first? 14 A. We called him and asked him to come to 15 Chicago at some point. 16 Q. Okay. 17 A. I don't remember when it was set up. 18 Q. Would that have occurred before you sent 19 the letter? 20 A. Yes. His letter was handed to him. So, 21 he had to be in Chicago. 22 Q. Okay. So, you handed him a letter saying 23 come up here or did you -- 24 A. No. 25 Q. -- call him and say we are sending you a</p>
<p style="text-align: right;">Page 151</p> <p>1 Q. Did anybody preapprove the content of 2 that letter? 3 MR. PATTERSON: Objection, form. 4 A. Yes. 5 Q. (BY MR. COON) Who? 6 A. A legal representative of the company. 7 Q. And when did Mr. Parus receive this 8 letter? 9 A. It was handed to him on the date of the 10 letter. 11 Q. Do you know if he received notice of his 12 termination prior to this letter in any format? 13 A. He wasn't terminated. He was being 14 placed on leave of absence. 15 Q. His leave of absence? 16 A. Not to my knowledge. 17 (Exhibit Number 327 marked for 18 identification.) 19 Q. (BY MR. COON) And the reason I ask, 20 Mr. Gower, is because we also have what is also 21 marked as Exhibit 327 and this was, apparently, an 22 e-mail from you to Mr. Parus with the same date. 23 Do you recall seeing that document 24 before? 25 A. Yes.</p>	<p style="text-align: right;">Page 153</p> <p>1 letter? 2 A. So, I called Don and said, "I need you to 3 come to Chicago for a meeting with Simon Drysdale 4 and myself regarding your employment." 5 Don came up to Chicago. We 6 discussed with Don that he was being put on a leave 7 of absence. We handed Don a letter at that point 8 when Don was there with us. 9 Q. So, did you call him on the 13th and ask 10 him to come up that day? 11 A. You know, I don't know -- I don't know 12 when I called Don. No, it wasn't that day. Don 13 came up and spent the night or spent a couple of 14 days prior to our meeting. 15 Q. Okay. And this document, 326, is that 16 something that you gave him when he arrived in 17 Chicago? 18 A. So, I gave this to Don when 19 Simon Drysdale and I were meeting with him. 20 Q. And that was to make it official and -- 21 A. Yes. 22 Q. -- memorialize the basis? 23 A. Yes. 24 Q. Now, 325, what is that? 25 A. This is 3/13, 2005.</p>

39 (Pages 150 to 153)

<p style="text-align: right;">Page 154</p> <p>1 Q. Okay. Now, this one, which is Exhibit 2 327, was this preceding the letter? 3 A. Immediately after giving Don that 4 letter -- that -- you can see that's a note sent 5 from a Blackberry. 6 Q. Yes, sir. 7 A. I sent that note after the completion of 8 Don's discussion, putting Kathleen in charge, 9 because I needed somebody who had accountability -- 10 clear accountability for the site. 11 Q. Okay. So, as I understand the order, you 12 called him to come to Chicago. He comes up there. 13 You meet with him. You give him this, this letter. 14 And then you follow up that letter with this e-mail 15 and the purpose of this was to -- 16 A. Transfer accountability to the site to 17 Kathleen Lucas. 18 Q. When was Ms. Lucas made aware that this 19 decision was going to take place? 20 A. I called her and told her she would 21 receive it, I think. So, to the best of my 22 recollection, I think I called her and told her 23 after our meeting with Don that I was going to send 24 this note. 25 Q. Did BP consider a unilateral and complete</p>	<p style="text-align: right;">Page 156</p> <p>1 A. I am not in a position to dispute what he 2 told people. I wasn't witness to any of that. 3 Q. (BY MR. COON) Have you ever given 4 Mr. Parus an indication that he may be returning to 5 BP in gainful activity? 6 MR. PATTERSON: Objection, form. 7 A. No, I do not believe I have given 8 Mr. Parus that indication. 9 Q. (BY MR. COON) You followed up the May 13 10 letter with a May 16 letter. Actually, this one 11 came up, I believe, from Mr. Drysdale and CC'd to 12 you. 13 Do you recall seeing this one 14 before? 15 A. Yes, I have seen this letter. 16 Q. Okay. Did you approve the content of 17 that letter? 18 A. I am not sure I approved the whole 19 contents of this letter. It was reviewed with me. 20 (Exhibit Number 328 marked for 21 identification.) 22 Q. (BY MR. COON) And this explained that he 23 would still get his pay, correct? 24 A. Correct. 25 Q. And is -- this was basically to answer</p>
<p style="text-align: right;">Page 155</p> <p>1 termination or severance with Mr. Parus as opposed 2 to an indefinite leave of absence? 3 MR. PATTERSON: Objection, form. 4 A. So, there was still ongoing 5 investigations. I -- it wasn't -- nothing was 6 decided at that point. 7 Q. (BY MR. COON) At that time, was 8 termination considered in lieu of leave of absence? 9 A. Not to my knowledge, at that time. 10 Q. Do you know why Mr. Parus left that 11 meeting in Chicago with the impression that he had 12 been terminated? 13 MR. PATTERSON: Objection, form. 14 A. So, it's not my understanding that Don 15 left that meeting with the feeling that he had been 16 terminated. 17 Q. (BY MR. COON) Do you know whether or not 18 at the Chicago Airport after leaving your offices, 19 he told other parties that he had been terminated? 20 A. I am not aware of that. 21 Q. Are you in a position to dispute -- 22 A. No -- 23 MR. PATTERSON: Objection, form. 24 I am sorry. I thought there was more to the 25 question.</p>	<p style="text-align: right;">Page 157</p> <p>1 questions he had from May -- the May 13 meeting? 2 MR. PATTERSON: Objection, form. 3 A. So, Don raised some questions and he 4 asked us to get him answers. 5 Q. (BY MR. COON) Yeah. 6 A. This letter was trying to address the 7 questions Don had asked. 8 Q. Why was he recommended to maintain an 9 unrestricted professional diary? 10 MR. PATTERSON: Objection, form. 11 A. Can I read that? 12 Q. (BY MR. COON) Yes, sir. 13 (Tenders document.) 14 Third paragraph. 15 A. Okay. 16 (Examines document.) 17 I'm -- I am missing it. So, I 18 mean -- 19 Q. Third paragraph, sir. 20 A. -- a meeting on May 13. 21 Q. Did you agree with the comments here that 22 Mr. Parus could spend his time going to school or 23 engaging in volunteer work? 24 A. With the caveat that he be available to 25 the company at our request, it was, yes.</p>

<p style="text-align: right;">Page 158</p> <p>1 Q. When was Mr. Parus' position last 2 reconsidered? 3 MR. PATTERSON: Objection, form. 4 A. There was a meeting with Don sometime in 5 February of this year and a discussion between Don 6 and the company. 7 Q. (BY MR. COON) And who did he talk to? 8 A. I don't know for sure. I wasn't there. 9 But I believe he talked to Ross Pillari. 10 Q. And is Mr. Parus asking to be returned to 11 employment? 12 MR. PATTERSON: Objection, form. 13 A. I don't know if Mr. Parus made that 14 request or not. 15 Q. (BY MR. COON) To your knowledge, has he 16 ever requested to return to employment? 17 A. Don would like to return to employment. 18 Q. Any reason why BP has not returned him to 19 employment? 20 MR. PATTERSON: Objection, form. 21 A. We haven't completed our investigations. 22 Q. (BY MR. COON) Who chose Mr. MacLean to 23 replace Mr. Parus? 24 A. I don't know who chose Mr. MacLean to 25 replace Mr. Parus.</p>	<p style="text-align: right;">Page 160</p> <p>1 the site, and I, certainly, am supportive of Colin 2 business unit leader for the site. 3 Q. Who asked that of you? 4 A. Michael Hoffman. 5 Q. Were any other candidates listed as 6 potentials? 7 A. Pat Gower. 8 Q. Anyone else? 9 A. Not that I am aware of. 10 Q. Did you ask for that position? 11 A. No, I didn't. 12 Q. Who suggested it? 13 A. Mike Hoffman suggested that we needed 14 experienced leaders. And I -- so, both Colin and I 15 have experience. 16 Q. So, he felt you were too close to -- 17 y'all felt y'all were too close to this case to be 18 involved in the investigation but you weren't too 19 close to run the unit after the explosion? 20 A. We needed somebody who could bring -- 21 help the site recover. So, I was a possible 22 candidate, but we didn't think that was the best. 23 That's why we picked Colin. 24 Q. Was anyone else involved in the decision 25 to replace you as the interim leader in the fatal</p>
<p style="text-align: right;">Page 159</p> <p>1 Q. Any idea? 2 A. I can generally describe the business 3 unit replacement process to you. 4 Q. Okay. What is the normal protocol? 5 A. So, our normal protocol is I would 6 recommend potential candidates. My boss, 7 Mike Hoffman, would review those candidates with 8 John Manzoni and the other members of 9 John Manzoni's HRC team. A recommended candidate 10 would go to the BP group, HRC committee, who will 11 either put different candidates into consideration 12 or approve that individual. 13 Q. And was that protocol adhered to with 14 respect to Mr. MacLean? 15 A. I don't know if all of it was followed 16 through or not but -- because I am not privy to 17 those meetings. 18 Q. Well, I take it to the part where you 19 make recommendations was not -- 20 A. He is one of the candidates that I 21 certainly felt was very capable of doing the job. 22 Q. Did you make any recommendations to 23 anyone as to candidates? 24 A. I was asked if I was okay with 25 Colin MacLean as the primary candidate to come to</p>	<p style="text-align: right;">Page 161</p> <p>1 investigation? 2 A. I am sorry. Could you... 3 Q. Yes, sir. 4 You told us earlier that you felt 5 you had -- that you were too close to the issues 6 with this explosion. I am just asking you while 7 that may be your opinion, did other people tell you 8 the same thing? 9 A. So, there was -- I think once it became 10 apparent what the magnitude of this issue was there 11 was a decision that we needed a group -- somebody 12 from group leadership to come do this job. 13 Q. And who else was involved in making that 14 decision? 15 A. I would be speculating on who was 16 involved with that decision. 17 Q. Would Mr. Hoffman have a role in that? 18 MR. PATTERSON: Objection, form. 19 A. He may have a role. 20 Q. (BY MR. COON) Do you know whether or not 21 Lord Browne would have a say in that particular 22 decision? 23 A. Yeah. 24 MR. PATTERSON: Objection, form. 25 A. So, given the magnitude and scale of this</p>

41 (Pages 158 to 161)

<p style="text-align: right;">Page 162</p> <p>1 kind of incident, Lord Browne, certainly, I am 2 sure, would have considered the candidates to lead 3 that. 4 Q. (BY MR. COON) Okay. Do you know if 5 Mr. MacLean was at Grangemouth when the explosion 6 occurred there around 2000, 2001? 7 MR. PATTERSON: Objection, form. 8 A. No, Mr. -- to my knowledge, Mr. MacLean 9 was not there. Mr. MacLean was at the Whiting 10 refinery. 11 Q. (BY MR. COON) Is this a copy of the 12 communiqué that you would have received advising 13 that Mr. Parus had been removed and replaced by 14 Mr. MacLean? 15 A. Yes, this is a group announcement. I 16 would have received a copy of that. 17 Q. And then we have a letter dated 18 February 9, 2006, from Mr. Pillari to Mr. Parus. 19 Have you seen this letter before? 20 MR. PATTERSON: What's the exhibit 21 number? 22 MR. COON: 330. 23 (Exhibit Numbers 329 and 330 24 marked for identification.) 25 A. No, I have not received this letter.</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. Were you not explained as to why you were 2 removed from that responsibility and it's been 3 transferred to Mr. Pillari? 4 A. I received a phone call from Mr. Pillari 5 informing that the decision had been made to move 6 Don to a different reporting relationship. 7 Q. Is that contemporaneous with the 8 investigation now being conducted by BP into your 9 role with respect to this explosion? 10 MR. PATTERSON: Objection, form. 11 A. At the time of that call, I was not aware 12 that there was a discipline investigation in my 13 role. 14 Q. (BY MR. COON) Do you now believe based 15 on that investigation and the timing of this letter 16 that that was part of the decision or made the sole 17 basis of the decision to transfer you out of 18 responsibility for Mr. Parus? 19 MR. PATTERSON: Objection, form. 20 A. No. 21 Q. (BY MR. COON) You do not believe that to 22 be the case? 23 MR. PATTERSON: Objection, form. 24 A. I don't know what the case was. I don't. 25 Q. (BY MR. COON) Has anyone suggested to</p>
<p style="text-align: right;">Page 163</p> <p>1 Is it okay if I read it? 2 Q. (BY MR. COON) Yes, sir. 3 A. Are you -- 4 Q. Feel free to read it. 5 A. Okay. 6 Q. Did you get a copy of that? Have you 7 seen it before? 8 A. No, I have not seen that letter before 9 and did not receive a copy. 10 Q. Do you know if this is the last 11 communication Mr. Parus has received regarding his 12 status? 13 MR. PATTERSON: Objection, form. 14 A. No, I am not aware if that's the last 15 communication. 16 Q. (BY MR. COON) Do you know why the 17 supervision of Mr. Parus' leave of absence was 18 transferred to Mr. Pillari? 19 MR. PATTERSON: Objection, form. 20 A. No, I am not aware of the reason for that 21 decision. 22 Q. (BY MR. COON) Who held it until that 23 time? Was it you? 24 A. I was a supervisor for Don until that 25 time.</p>	<p style="text-align: right;">Page 165</p> <p>1 you to take a leave of absence? 2 A. No. Nobody has suggested to me that I 3 take a leave of absence. 4 Q. Do you anticipate BP asking you to do so 5 in the near future? 6 MR. PATTERSON: Objection, form. 7 A. No, I don't anticipate BP asking me to do 8 so in the near future. 9 Q. (BY MR. COON) Do you -- have you 10 considered the possibility of BP asking you to step 11 down by retirement, resignation? 12 A. No. 13 MR. PATTERSON: Objection, form. 14 A. No, I have not considered. 15 Q. (BY MR. COON) When you were out there in 16 those first few weeks regarding the investigation, 17 did you talk to any of the experts that had been 18 retained by the Plaintiffs? 19 A. Yes, I did. 20 Q. Do you recall the names of any of those 21 individuals? 22 A. A retired Amoco guy. 23 Q. Mr. Mackiniche? 24 A. Mr. Mackiniche, about site access. 25 Q. And what do you recall talking to him</p>

<p style="text-align: right;">Page 166</p> <p>1 about site access? What was that about? 2 A. He was very disruptive in a couple of 3 meetings because he was very frustrated about 4 getting access to the site, which wasn't controlled 5 by BP; but it was very disruptive and I told him if 6 he -- you know, if he was going to be continue to 7 be disruptive, he couldn't attend these meetings. 8 Q. You told him this at a meeting? 9 A. In a conversation, at the end of the 10 meeting. 11 Q. And who was at this meeting? 12 A. It was a hallway conversation between 13 Harry and myself. 14 Q. Did you talk to any of the other 15 Plaintiff experts in this case, to your knowledge? 16 A. Not to my knowledge. I don't remember 17 any other Plaintiffs' experts. 18 Q. Would you describe the conversation you 19 had with Mr. Mackiniche as a heated one? 20 A. No, I wouldn't describe it as heated one. 21 I would discuss it as just a clarification of 22 expectations. 23 Q. Did you tell Mr. Mackiniche to, quote, 24 Get your ass out of here, end quote? 25 A. I don't think so, but, you know --</p>	<p style="text-align: right;">Page 168</p> <p>1 role and responsibilities were with respect to this 2 investigation? 3 A. I thought I understood what their role 4 was. I am not sure now. 5 Q. Did you participate in the town hall 6 meeting of October, 2005, when the CSB made their 7 preliminary findings? 8 A. At the Doyle Center? 9 Q. Yes, sir. 10 A. No, I did not. 11 Q. To your knowledge, was any decision made 12 by BP to make sure that BP representatives were 13 limited or nonexistent in their attendance at that 14 meeting? 15 MR. PATTERSON: Objection, form. 16 A. I am not aware any of decisions on 17 attendance at that town hall meeting that the CSB 18 conducted. 19 Q. (BY MR. COON) Were you provided with a 20 copy of their interim findings? 21 A. I think I got a copy off their website of 22 the interim findings. 23 Q. What did you do with respect to attempts 24 to disseminate those findings throughout the 25 company?</p>
<p style="text-align: right;">Page 167</p> <p>1 Q. If Mr. Mackiniche and/or others said that 2 you did, would you refute it? 3 A. Excuse me. If others said I did, would 4 I -- I would -- I would say he was being very 5 abusive and very disruptive, and I did tell him to 6 leave the room. 7 Now, what words I used in that, I 8 don't know; but he and I had a hallway conversation 9 where we clarified his performance and he was back 10 in those meetings. 11 Q. Would the word, quote, ass, end quote, 12 have been used in that conversation? 13 A. I don't think so. 14 Q. Is that an emphatic "no"? 15 MR. PATTERSON: Objection, form. 16 A. It's an "I don't think so." 17 Q. (BY MR. COON) Did you have any other 18 heated conversations with anyone else while you 19 were out there in an investigative role? 20 MR. PATTERSON: Objection, form. 21 A. I don't recall any other conversations 22 that somebody might describe as heated. 23 Q. (BY MR. COON) Mr. Gower, let's go to 24 some of these investigations. 25 CSB, do you understand what their</p>	<p style="text-align: right;">Page 169</p> <p>1 A. Specifically, what did I do? 2 Q. (Nods head.) 3 A. I think we used create -- you know, 4 specifically I don't remember doing anything 5 myself. I mean, there was notification sent out 6 about the findings and the web like -- web link. 7 Q. Okay. Well, you know who the CSB is? 8 A. Yeah. 9 Q. It's a government agency? 10 A. It's a -- it's the Chemical Safety Board. 11 Q. And you would agree that they are 12 competent and qualified to conduct investigations 13 of this nature, wouldn't you? 14 MR. PATTERSON: Objection, form. 15 A. They have some very confident people, and 16 they have a track record of doing good 17 investigations. 18 Q. (BY MR. COON) Are you questioning the 19 competency of this particular investigative team? 20 MR. PATTERSON: Objection, form. 21 A. I have no reason to -- to question the 22 competency of this team. 23 Q. (BY MR. COON) And you were made privy to 24 the interim findings of the CSB? 25 A. I have seen some of the interim findings</p>

<p style="text-align: right;">Page 170</p> <p>1 of the CSB.</p> <p>2 Q. And did you make an effort to communicate</p> <p>3 these important findings to others within your</p> <p>4 organization?</p> <p>5 MR. PATTERSON: Objection, form.</p> <p>6 A. We shared those findings. We had</p> <p>7 meetings with business unit leaders along with our</p> <p>8 own interim report.</p> <p>9 Q. (BY MR. COON) Who was this shared with?</p> <p>10 A. It would be -- there has been multiple</p> <p>11 meetings over the last year. So, all the refinery</p> <p>12 business unit leaders across the globe. The HSE</p> <p>13 professionals in refining.</p> <p>14 Q. Anyone else?</p> <p>15 A. I am sure a lot of people have seen them,</p> <p>16 that they probably cascaded them through their</p> <p>17 organizations.</p> <p>18 Q. Did you take issue with any of the</p> <p>19 findings of the CSB?</p> <p>20 A. It was just a preliminary report. I was</p> <p>21 really waiting for the final.</p> <p>22 Q. Do you take issue with any of the interim</p> <p>23 findings?</p> <p>24 A. No, I don't think so.</p> <p>25 Q. The OSHA investigation, were you involved</p>	<p style="text-align: right;">Page 172</p> <p>1 MR. PATTERSON: Objection, form.</p> <p>2 A. So, BP -- they -- they came out with a</p> <p>3 very large fine.</p> <p>4 Q. (BY MR. COON) In fact, it was an</p> <p>5 unprecedented fine, was it not?</p> <p>6 MR. PATTERSON: Objection, form.</p> <p>7 Q. (BY MR. COON) Largest that --</p> <p>8 A. Largest.</p> <p>9 Q. Largest fine, ever, in the history of</p> <p>10 OSHA?</p> <p>11 A. Yes.</p> <p>12 Q. And there were approximately 300 separate</p> <p>13 citations, were there not?</p> <p>14 MR. PATTERSON: Objection, form.</p> <p>15 A. Without going back and looking at it.</p> <p>16 There were a lot of citations.</p> <p>17 Q. (BY MR. COON) And the vast majority of</p> <p>18 those citations were for willful violations, were</p> <p>19 they not?</p> <p>20 MR. PATTERSON: Objection, form.</p> <p>21 A. OSHA alleged willful violations.</p> <p>22 Q. (BY MR. COON) In fact, most of the</p> <p>23 citations were for willful violations?</p> <p>24 MR. PATTERSON: Objection, form.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 171</p> <p>1 in that?</p> <p>2 A. OSHA conducted the investigation. I</p> <p>3 worked with them to get them access to the</p> <p>4 documents, the people they wanted to interview and</p> <p>5 worked on a policy between them and CSB and the</p> <p>6 Plaintiffs to control the access to the site and to</p> <p>7 maintain the evidence.</p> <p>8 Q. And had you been involved in working with</p> <p>9 OSHA in prior citations or plant inspections?</p> <p>10 A. No, I hadn't been involved with OSHA.</p> <p>11 Q. Was this the first time you had worked</p> <p>12 with them?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. You understand that they can</p> <p>15 inspect plants for unsafe work practices and</p> <p>16 conditions?</p> <p>17 A. Yes.</p> <p>18 Q. And they can fine companies for unsafe</p> <p>19 work practices --</p> <p>20 A. Yes.</p> <p>21 Q. -- and conditions?</p> <p>22 And that as a result of their</p> <p>23 investigation in this case, they fined BP an</p> <p>24 unprecedented amount of money for an unprecedented</p> <p>25 amount of willful violations, did they not, sir?</p>	<p style="text-align: right;">Page 173</p> <p>1 Q. (BY MR. COON) And you understand the</p> <p>2 difference between willful citations and other</p> <p>3 types that OSHA can issue?</p> <p>4 MR. PATTERSON: Objection, form.</p> <p>5 A. I believe I do.</p> <p>6 Q. (BY MR. COON) Did OSHA place BP on a</p> <p>7 special program for unsafe employers as a result of</p> <p>8 this explosion?</p> <p>9 MR. PATTERSON: Objection, form.</p> <p>10 A. They told us that we were placed on, I</p> <p>11 believe, an enhanced enforcement program.</p> <p>12 Q. (BY MR. COON) And isn't that a special</p> <p>13 program reserved only for those companies with the</p> <p>14 worst safety records?</p> <p>15 MR. PATTERSON: Objection, form.</p> <p>16 A. I don't know what OSHA's decision -- I</p> <p>17 don't recall.</p> <p>18 Q. (BY MR. COON) Do you know that BP is the</p> <p>19 only major petrochemical company in America that is</p> <p>20 under that enhanced enforcement program now?</p> <p>21 MR. PATTERSON: Objection, form.</p> <p>22 A. No, I wasn't aware of that.</p> <p>23 Q. (BY MR. COON) Does it surprise you?</p> <p>24 MR. PATTERSON: Objection, form.</p> <p>25 A. That we are the only one or that we are?</p>

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1 Q. (BY MR. COON) That you are the only one?
 2 MR. PATTERSON: Objection, form.
 3 A. I have never really gave it much thought.
 4 Q. (BY MR. COON) Did you work with OSHA
 5 with respect to the payment of the fine and --
 6 A. Yes, I did.
 7 Q. Under whose direction?
 8 A. I guess I need more.
 9 Q. At BP?
 10 A. At BP?
 11 Probably -- I would think it would
 12 have been Ross Pillari's direction as the U.S. of
 13 BP.
 14 MR. COON: All right. We will
 15 break here.
 16 THE VIDEOGRAPHER: Off the record
 17 2:26 p.m., ending Tape 3.
 18 (Recess taken.)
 19 THE VIDEOGRAPHER: On the record
 20 at 2:40 p.m., beginning Tape 4.
 21 * * *
 22 EXAMINATION
 23 Q. (BY MR. WILLIAMS) Mr. Gower, you are
 24 vice president of BP; is that correct?
 25 A. Yes, I am.

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1 Q. Just so there is no doubt about it.
 2 The fire and explosion on March
 3 23, that was 100 percent the -- the fault of BP,
 4 its management and employees, correct?
 5 A. We took accountability for the March 23rd
 6 explosion.
 7 Q. Well, take accountability now. Listen to
 8 what I said.
 9 100 percent of the fault and
 10 responsibility is with the management and employees
 11 of BP; is that true?
 12 MR. PATTERSON: Objection, form.
 13 A. The fault. It's our accountability. The
 14 fatalities. We took responsibility for that.
 15 Q. (BY MR. WILLIAMS) I am not mixing words.
 16 Now, have you been trained in media relations and
 17 stuff?
 18 MR. PATTERSON: Objection, form.
 19 A. Yes.
 20 Q. (BY MR. WILLIAMS) So, you know how to
 21 mix words and not answer the question when somebody
 22 asks you a direct question?
 23 A. No.
 24 Q. You have been trained in that, haven't
 25 you?

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1 MR. PATTERSON: Objection, form.
 2 A. 14 years ago.
 3 Q. (BY MR. WILLIAMS) Okay. So, 14 years
 4 ago, they trained you how to avoid answering tough
 5 direct questions?
 6 MR. PATTERSON: Objection.
 7 Q. (BY MR. WILLIAMS) And you have used that
 8 to rise up and be vice president of BP, right?
 9 MR. PATTERSON: Objection, form.
 10 A. No, sir. I didn't use that.
 11 Q. (BY MR. WILLIAMS) So, let me ask you one
 12 direct question. I want a direct answer.
 13 A. Okay.
 14 MR. PATTERSON: Objection, form.
 15 Q. (BY MR. WILLIAMS) The March 23
 16 explosion, was it 100 percent the fault of the BP
 17 management and the BP employees?
 18 MR. PATTERSON: Objection, form.
 19 A. Yes.
 20 Q. (BY MR. WILLIAMS) There was no one else,
 21 no other entity or person that contributed to those
 22 deaths and injuries other than the BP management
 23 and its employees.
 24 MR. PATTERSON: Objection, form.
 25 Q. (BY MR. WILLIAMS) True statement?

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1 MR. PATTERSON: Objection, form.
 2 A. Yes.
 3 Q. (BY MR. WILLIAMS) Now, what plant in
 4 America has the worst safety record -- let's take
 5 the decade of ten years before this fire and
 6 explosion in March '04?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. WILLIAMS) Excuse me. March,
 9 '05 --
 10 MR. PATTERSON: Objection, form.
 11 Q. (BY MR. WILLIAMS) What plant?
 12 A. I am not aware of what plant it would be
 13 in many -- in all the industries across America.
 14 Q. Well, let's put it in your industry --
 15 A. Okay.
 16 Q. -- chemicals and refining.
 17 What plant in chemicals and
 18 refining in America had the worse safety record in
 19 the ten years before this fire and explosion in
 20 Texas City?
 21 MR. PATTERSON: Objection, form.
 22 A. So, when you talk about the safety
 23 record, are you talking about fatalities or are you
 24 talking about other things?
 25 Q. (BY MR. WILLIAMS) You define it the way

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1 you want, and then we will go from there.
 2 A. Okay.
 3 Q. I want to find out the name of the plant,
 4 first.
 5 A. So, I have seen analysis since March 23rd
 6 that would say the Texas City refinery has had the
 7 most fatalities for refinery installation. I don't
 8 know about plants.
 9 Q. Okay. So, do you have -- do you dispute
 10 that, sir -- that your plant at Texas City had the
 11 most fatalities in the ten years before the
 12 March 23, '05 fire and explosion?
 13 A. I don't have --
 14 MR. PATTERSON: Objection, form.
 15 A. I don't have any data to dispute that.
 16 Q. (BY MR. WILLIAMS) Is safety part of your
 17 responsibility?
 18 A. Yes, it is.
 19 Q. Process safety, part of your
 20 responsibility?
 21 A. Yes, it is.
 22 Q. So, why -- how long had you been in
 23 charge, been over -- been in charge of running that
 24 plant --
 25 MR. PATTERSON: Objection, form.

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1 Q. (BY MR. WILLIAMS) -- or running the
 2 people who ran that plant?
 3 A. Running the people that ran that plant?
 4 Q. (Nods head.)
 5 A. Late 2004.
 6 Q. Okay. You were aware, I hope, when you
 7 took it over that this plant had safety problems,
 8 weren't you?
 9 MR. PATTERSON: Objection, form.
 10 A. There had been -- I was aware of the
 11 fatalities that had occurred at that plant in
 12 recent years.
 13 Q. (BY MR. WILLIAMS) In addition to the
 14 fatalities when you took over responsibility for
 15 that plant, were you aware that it had safety
 16 problems?
 17 A. Yes, I am aware there were concerns about
 18 safety in that plant.
 19 Q. And I'm -- and so we are specific, that
 20 was before the fire and explosion of March 23rd?
 21 A. There were concerns about safety at the
 22 plant and -- and moves to try to improve safety at
 23 the plant before the explosion.
 24 Q. You bet. And whatever was done to try to
 25 improve was, obviously, too little, too late.

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1 You would agree with that?
 2 A. In retrospect looking at March 23rd,
 3 then, yes, it was too little, too late.
 4 Q. Okay. Why, sir, did you -- if you knew
 5 that the plant had problems, why didn't you simply
 6 shut it down and correct the problems?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. WILLIAMS) Other than money, why
 9 would you not do that?
 10 MR. PATTERSON: Objection, form.
 11 A. So, how would you -- the challenge is how
 12 would you correct the problems because the
 13 problems, you know, the concern is around the
 14 culture and how do you correct cultural issues when
 15 a plant is not run. That's the challenge.
 16 Q. (BY MR. WILLIAMS) So, you were aware
 17 that there were cultural, safety issues at this
 18 plant before the fire and explosion, weren't you?
 19 A. As of March 23rd, I am aware of the
 20 operating cultural issues. Prior to that, we are
 21 aware of -- from doing some audits -- that we had
 22 people not following procedures around fall
 23 protection, control of work, things like that.
 24 Q. Are you saying that you weren't aware
 25 that there were process safety issues before the

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1 March 23 fire and explosion?
 2 A. I wasn't aware of the failure to follow
 3 procedures and things like that in the operating
 4 side of the business.
 5 Q. Why were -- why would you not be aware of
 6 it?
 7 MR. PATTERSON: Objection, form.
 8 A. You know, multiple plants spread across
 9 the U.S. -- you can't get into the details of each
 10 of the locations.
 11 Q. (BY MR. WILLIAMS) You just didn't have
 12 time to -- safety was not that -- big a priority?
 13 A. I wouldn't --
 14 MR. PATTERSON: Objection, form.
 15 A. I have spent time on safety in all the
 16 plants. I spent Don -- time with Don on his just
 17 culture. I went to Don's leadership meetings when
 18 he was -- he asked me to come down and be part of
 19 his meeting when he was trying to change the
 20 performance expectation for people around safety
 21 as -- as, you know, late as February before the
 22 explosion.
 23 Q. (BY MR. WILLIAMS) When did you first
 24 learn as vice president that there were safety
 25 culture problems at the Texas City plant?

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1 A. When Don -- as a vice president or when I
 2 first learned that?
 3 Q. Or in a previous position -- when did it
 4 first come to your attention there were cultural
 5 safety issues at this plant?
 6 A. You know, when Don came and talked about
 7 the just culture process that he was going to have
 8 to put in to -- to start to change the culture of
 9 the safety at the plant.
 10 Q. When?
 11 A. 2004.
 12 Q. 2000 and?
 13 A. Four. 2004.
 14 Q. When in 2004?
 15 A. After we had the November -- or the
 16 September 2004 fatalities, Don came and gave a
 17 presentation to refining about the cultural issues
 18 he was seeing at the plant.
 19 Q. And what did they -- how significant were
 20 the cultural safety issues that you as vice
 21 president were made aware of in November of 2004?
 22 A. Well, they were around -- so, I don't
 23 know how to gauge significant. It was clear around
 24 the golden rules of refining that we had people not
 25 wearing fall protection when they should have been

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1 wearing fall protection, that we had to improve the
 2 control of work process. And so, Don made that
 3 presentation and he also told me about corrective
 4 measures such as putting in a group of four to do
 5 audits through the site to start to drive different
 6 performance.
 7 Q. Now, you -- what you have just been
 8 telling us about is personal safety. I want to
 9 talk about process safety for a minute.
 10 When did you and the vice
 11 presidential level of the company realize that
 12 process safety was a safety issue at this plant?
 13 A. Following the March 23rd incident in
 14 2005.
 15 Q. So that it's real clear to the jury,
 16 there is no question in your mind, is there, that
 17 with regard to process safety management, there was
 18 a big issue, safety problem, at Texas City that
 19 existed on the day of the fire and explosion,
 20 right?
 21 MR. PATTERSON: Objection, form.
 22 A. I didn't become aware of the significance
 23 of the process safety issue until we started the
 24 investigation post.
 25 MR. WILLIAMS: Objection,

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1 nonresponsive.
 2 Q. (BY MR. WILLIAMS) My question is: You
 3 as vice president of BP can confirm for us that
 4 there was, now that you have seen the report, there
 5 was no question that there was a process safety
 6 management problem at Texas City that existed
 7 before the fire and explosion, true?
 8 MR. PATTERSON: Objection, form.
 9 A. Based on what I have seen in the report
 10 and the failure to follow procedures and other
 11 things that are process related, there is a process
 12 safety failure.
 13 Q. (BY MR. WILLIAMS) Yes, sir. And it --
 14 that failure existed before the explosion and fire,
 15 right?
 16 MR. PATTERSON: Objection, form.
 17 A. So -- I am not trying to be
 18 nonresponsive. I am trying to understand your
 19 question.
 20 So -- I mean, there were -- was it
 21 clear to me that there was a lack of to follow
 22 policies and procedures prior to the fire and
 23 explosion?
 24 No, there was not.
 25 Q. (BY MR. WILLIAMS) So, you were ignorant

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1 of the process safety management problems.
 2 That's your testimony today, that
 3 you were ignorant of them before the fire and
 4 explosion, right?
 5 A. Yes.
 6 Q. But now you can confirm for us, having
 7 read the report and seen what the investigation has
 8 showed, those problems actually existed -- the
 9 process safety management problems existed before
 10 the fire and explosion, true?
 11 A. Yes.
 12 Q. No doubt about it, is there?
 13 A. There are process safety issues that are
 14 prior to the March 23rd.
 15 Q. But you are claiming ignorance of those?
 16 A. I wasn't aware of them prior to doing
 17 audit and assessment of the site.
 18 Q. You know, process safety management --
 19 tell me what is more important than process safety
 20 management.
 21 MR. PATTERSON: Objection, form.
 22 A. It's -- in our industry, it's the most
 23 important.
 24 Q. (BY MR. WILLIAMS) It should be the most
 25 important, isn't it?

<p style="text-align: right;">Page 186</p> <p>1 A. Yes.</p> <p>2 Q. Did you read the Telos Report?</p> <p>3 A. After the March 23rd incident, I -- since</p> <p>4 that time, I have read the Telos Report.</p> <p>5 Q. Well, if process safety -- you know, in</p> <p>6 the Telos Report, they put -- the people at the</p> <p>7 plant put profits first and people Number 9,</p> <p>8 correct?</p> <p>9 MR. PATTERSON: Objection, form.</p> <p>10 A. I would have to look at it to see if that</p> <p>11 was --</p> <p>12 Q. (BY MR. WILLIAMS) Well, the jury has</p> <p>13 looked at it.</p> <p>14 They are probably more familiar</p> <p>15 with it than you are, if you don't remember that,</p> <p>16 right?</p> <p>17 MR. PATTERSON: Objection, form.</p> <p>18 A. There is an order, one through nine. I</p> <p>19 would have to look at the order. I don't know what</p> <p>20 was nine and what was --</p> <p>21 Q. (BY MR. WILLIAMS) Well, I promise you</p> <p>22 Number 1 is making money and Number 9 is people.</p> <p>23 A. Okay.</p> <p>24 Q. Okay? Do you want to look at it?</p> <p>25 A. Yes, sir.</p>	<p style="text-align: right;">Page 188</p> <p>1 Telos Report before the fire and explosion.</p> <p>2 Is that your testimony?</p> <p>3 A. First, it's -- it's not an audit. It's</p> <p>4 just a survey.</p> <p>5 Q. Survey? Okay. Are -- is your --</p> <p>6 A. And --</p> <p>7 Q. But focus on -- are you claiming under</p> <p>8 oath today that you weren't aware of it?</p> <p>9 MR. PATTERSON: Objection, form.</p> <p>10 A. So, I had not seen the finished report --</p> <p>11 Q. (BY MR. WILLIAMS) Whoa. Whoa.</p> <p>12 A. They --</p> <p>13 Q. Whoa. Don't split hairs.</p> <p>14 Are you claiming you were unaware</p> <p>15 of it is my question?</p> <p>16 MR. PATTERSON: Object to form.</p> <p>17 Object to sidebar.</p> <p>18 A. Okay. So, I knew the plant was doing</p> <p>19 some type of survey.</p> <p>20 Q. (BY MR. WILLIAMS) Ah. Okay.</p> <p>21 A. Some type of survey because I had asked</p> <p>22 to put a behavioral specialist in to do my own</p> <p>23 work. They said, "Don't put her in now with ours</p> <p>24 because we are doing a survey." I was --</p> <p>25 Q. So, you knew the survey was being done;</p>
<p style="text-align: right;">Page 187</p> <p>1 Q. There we go.</p> <p>2 Can you read it, or do I need to</p> <p>3 zoom it?</p> <p>4 A. Yeah, that's good.</p> <p>5 Q. Okay. So, the jury now knows about the</p> <p>6 Telos Report.</p> <p>7 How come you didn't take the time</p> <p>8 to read the Telos Report? Because it was in</p> <p>9 existence before the fire, right?</p> <p>10 MR. PATTERSON: Objection, form.</p> <p>11 A. It -- it wasn't shared with me prior to</p> <p>12 the fire.</p> <p>13 Q. (BY MR. WILLIAMS) You know, why is that,</p> <p>14 if PSM, as you claim, is the most important thing</p> <p>15 in your --</p> <p>16 A. So, Telos has nothing to do with PSM,</p> <p>17 from my view. It was a survey of people and</p> <p>18 attitudes. It does point to issues and concerns</p> <p>19 that need to be followed up.</p> <p>20 Q. So, why didn't you read it?</p> <p>21 A. I wasn't aware of its existence prior to</p> <p>22 the fire.</p> <p>23 Q. Your testimony under oath is you were</p> <p>24 unaware that there was -- an audit was being done</p> <p>25 of the people at the plant that resulted in this</p>	<p style="text-align: right;">Page 189</p> <p>1 but you had not taken the time or followed up to</p> <p>2 see the results of the survey at the time of the</p> <p>3 fire and explosion, right?</p> <p>4 MR. PATTERSON: Objection, form.</p> <p>5 Q. (BY MR. WILLIAMS) Is that true?</p> <p>6 A. I had not seen the results of the survey.</p> <p>7 Q. Now --</p> <p>8 A. I --</p> <p>9 Q. Let me ask you what was so important that</p> <p>10 when this survey -- by the way, have you read the</p> <p>11 survey in detail, the Telos Report?</p> <p>12 A. I read the Telos Report.</p> <p>13 Q. Pretty shocking, isn't it?</p> <p>14 A. Yes. There's things in the Telos Report</p> <p>15 that I found quite surprising.</p> <p>16 Q. Shocking even, right?</p> <p>17 A. Yes.</p> <p>18 Q. I mean, it ought to just rattle some -- a</p> <p>19 manager's very core when you see the shocking</p> <p>20 statements that are in the Telos Report, true?</p> <p>21 MR. PATTERSON: Objection, form.</p> <p>22 A. They are both shocking statements, and</p> <p>23 there are some statements there that also say that</p> <p>24 quite a bit of progress is being made. So, there</p> <p>25 was some balance; but, yes, there are some reports</p>

<p style="text-align: right;">Page 190</p> <p>1 that say we have a lot of work to do there at Texas 2 City. 3 Q. (BY MR. WILLIAMS) Okay. So, if -- can 4 we assume -- can we agree that some of the things 5 that were in this report were shocking? 6 A. Yes. 7 Q. And why is it, then, sir, if you were 8 aware that this report was being done, what was it 9 that was more important than you getting a copy of 10 it and looking at it as soon as it was done? 11 MR. PATTERSON: Objection, form. 12 A. So, you know, I can't keep track of when 13 every report's being done. I had safety 14 assessments being done at multiple sites at the 15 same time. Some come to me. Most of the time, a 16 business unit leader will say, "Pat, we have now 17 completed this work. We would like to show it to 18 you." 19 I get to the plants on a quarterly 20 basis for face-to-face discussions. This was one 21 that I would expect they would have raised. 22 Q. (BY MR. WILLIAMS) It hadn't made it to 23 the top of your inbox, had it? 24 MR. PATTERSON: Objection, form. 25 A. It wasn't in my inbox.</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. And those safety issues were cultural 2 issues, too, weren't they? 3 MR. PATTERSON: Objection, form. 4 A. They were -- yes. They were -- there 5 were some cultural issues. 6 Q. (BY MR. WILLIAMS) So, tell us what was 7 so important back then that you did not tell -- 8 weight in there, express some leadership and say, 9 "Don Parus, I want that on my desk as soon as it's 10 here." 11 MR. PATTERSON: Objection, form. 12 Q. (BY MR. WILLIAMS) Why didn't you do 13 that? 14 A. So, I would say because I really wanted 15 Dee Tinley-Strong, who I consider to be an expert 16 in safety, who could give me relative ranking of 17 the sites into that site, and I wanted to know when 18 they were done with that. But I wanted Dee in 19 there because I had faith that I would get a 20 relevant view of cultural issues from site to site 21 to site. 22 Q. Oh, you were waiting on someone else? 23 A. I wanted her in there, but I also, you 24 know, I expected Don would share that when he 25 received it.</p>
<p style="text-align: right;">Page 191</p> <p>1 Q. (BY MR. WILLIAMS) That's right. 2 And you weren't asking for it, 3 were you? Although, you were aware it was being 4 done? 5 A. I was aware that there was work being 6 done. I wasn't aware it was completed. 7 Q. If you had said to Mr. Parus, "I want 8 this on my desk as son as it's done. I mean, fax 9 it to me. E-mail it to me. Get it to me ASAP," 10 would he have done that? 11 A. I would think he would have done that. 12 Q. You bet. But you never asked for it, did 13 you? 14 A. No, I didn't ask for the Telos Report. 15 Q. Now, did you know you had five plants or 16 refineries under your -- 17 A. Yes. 18 Q. -- guidance back then, right? 19 A. Yes. 20 Q. And which of those five had the most 21 safety culture issues? 22 MR. PATTERSON: Objection, form. 23 Q. (BY MR. WILLIAMS) Was it Texas City? 24 A. I think Texas City had the most safety 25 issues at that point and they were --</p>	<p style="text-align: right;">Page 193</p> <p>1 Q. So, Don -- is it your testimony then that 2 Don Parus should have sent that to you immediately 3 upon receipt? 4 A. I expect once it was final and he had a 5 path forward, he would send that to me and the talk 6 to me about what he was going to do. 7 Q. So, he screwed up, didn't he? 8 MR. PATTERSON: Objection, form. 9 A. He could have handled it better than what 10 he did. 11 Q. (BY MR. WILLIAMS) You know, when did you 12 first see it? 13 A. Late last year. 14 Q. I am sorry. When would that be? 15 A. Sometime last year. 16 Q. Like, when? 17 A. Sometime in the second half of last year 18 after July. 19 Q. Several months -- it look several months 20 after the fire and explosion for you to get around 21 to reading the Telos Report? 22 A. No, I was made aware of its existence and 23 I -- and at that point, they didn't -- since I 24 didn't have knowledge, they didn't want me to be 25 contaminated with that knowledge right now. They</p>

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<p style="text-align: right;">Page 194</p> <p>1 wanted me to be focused on the other things to -- 2 on the safety culture at the plant. 3 Q. Wait a minute. You said contaminated 4 with knowledge. 5 A. Right. 6 Q. So, I want to explore that. 7 Are you saying that the knowledge 8 that would show you this plant had cultural safety 9 issues and had shocking safety problems, that that 10 is a contamination of knowledge? 11 A. No. 12 MR. PATTERSON: Objection, form. 13 Q. (BY MR. WILLIAMS) Is that your position? 14 A. No, I had other work going on that was 15 independent, and they didn't want me to steer it 16 differently. They wanted to make sure it was 17 robust. So, I -- 18 Q. Wait a minute. 19 MR. PATTERSON: Could you let him 20 finish one answer without interrupting him, 21 Counsel. 22 MR. WILLIAMS: No. 23 MR. PATTERSON: Just one answer. 24 MR. WILLIAMS: I can't. 25 MR. PATTERSON: Well, then we are</p>	<p style="text-align: right;">Page 196</p> <p>1 A. Yes, I did. 2 Q. So, Mr. Stanley reports back to you after 3 the fire and explosion that there is a complacency 4 towards serious process safety risk, right? 5 A. Yes. 6 Q. But Telos reported virtually the same 7 shocking news before the fire and explosion, but 8 you didn't take the time to read Telos Report, 9 right? 10 A. It wasn't. 11 MR. PATTERSON: Objection, form. 12 A. -- sent to me. 13 Q. (BY MR. WILLIAMS) That is your only 14 excuse? It wasn't sent to you? 15 MR. PATTERSON: Objection, form. 16 Q. (BY MR. WILLIAMS) Is that your only 17 excuse not for reading it? 18 MR. PATTERSON: Objection, form. 19 A. I didn't even know it was available to 20 read. 21 Q. (BY MR. WILLIAMS) Well, you know, 22 sometimes it takes leadership from senior 23 management to say, "I want it on my desk as soon as 24 it's available." 25 Why didn't you make it a priority</p>
<p style="text-align: right;">Page 195</p> <p>1 going to talk to the Judge about it. I am going to 2 object every single time to it. 3 MR. WILLIAMS: Go ahead. 4 Q. (BY MR. WILLIAMS) So, what was more 5 important? 6 A. So, I had a -- a third party behavioral 7 safety team in the refinery working for a guy named 8 Jim Stanley. So, I had Jim Stanley, a process 9 safety expert from DuPont, a behavioral safety 10 expert, people from my German refinery, the Spanish 11 refineries, in the U.S. and doing a detailed 12 assessment of the Texas City site looking at 13 process safety practices, control of work practices 14 across the site. And I was working with that team 15 to complete an assessment to see how systemic the 16 issues were at the ISOM and did they show up at 17 other sites -- other units across Texas City and 18 how broad was the problems and issues across Texas 19 City. 20 Q. So, you trust Stanley? 21 A. Jim Stanley is an independent person. 22 Yes, I have trusted him. 23 Q. I am quoting from Mr. Stanley. "There is 24 a complacency toward serious process safety risk." 25 Did you read that in his report?</p>	<p style="text-align: right;">Page 197</p> <p>1 and let Mr. Parus know that it was a priority in 2 your mind? Why did you just wait until he got 3 around to it? 4 MR. PATTERSON: Objection, form. 5 Object to sidebar. 6 You can answer. 7 A. Can you repeat your question? 8 Q. (BY MR. WILLIAMS) Sure. 9 A. Thank you. 10 Q. Sometimes it takes leadership and -- for 11 people to know this is management's priority and 12 you let them know by saying I want it on my desk 13 ASAP, right? That's leadership and prioritizing, 14 right? 15 MR. PATTERSON: Objection, form. 16 Q. (BY MR. WILLIAMS) But you didn't do that 17 did you? 18 A. No, I did not. 19 Q. And I am asking you why? 20 A. So, I -- I am not -- I haven't been 21 shared -- what's the protocol? What is the 22 information they are gathering? What tools are 23 they using? So, I am not even aware of how 24 shocking it is, how detailed it is and I would 25 expect a business unit leader to share something</p>

<p style="text-align: right;">Page 198</p> <p>1 like that when it comes across their desk. 2 Business unit leaders have a lot 3 of autonomy. I have them doing lots of different 4 reports their own analysis and data. They are 5 running the business and it's their job to look at 6 the things that are significant and ought to get to 7 my attention. 8 Q. You keep claiming safety is the most 9 important thing. 10 Is that what you are claiming? 11 MR. PATTERSON: Objection, form. 12 A. Process safety is important. 13 Q. (BY MR. WILLIAMS) Well, what is most 14 important at BP? Is it profits or safety? 15 A. Safety, process safety is the most 16 important. 17 Q. Well, then, what was so -- why were you 18 having them do other reports and not having -- if 19 you really truly claim safety is Number 1, Telos 20 dealt directly with safety, why wasn't it -- why 21 weren't you waiting for and ordering it to be 22 delivered to you ASAP? 23 A. That's not a -- 24 MR. PATTERSON: Objection, form. 25 A. That is not a process safety report.</p>	<p style="text-align: right;">Page 200</p> <p>1 plant. 2 Q. Systemic problems and they were -- and 3 they were -- and who was responsible for it? 4 Management? 5 MR. PATTERSON: Objection, form. 6 A. Yes, management sets the expectations. 7 Q. (BY MR. WILLIAMS) Okay. Now people died 8 because these reports -- let's -- let's sum it up. 9 You didn't order the Stanley 10 report until after the fire and explosion, right? 11 A. Yes. 12 MR. PATTERSON: Objection, form. 13 Object to sidebar. 14 Q. (BY MR. WILLIAMS) Correct? 15 A. So, I ordered the Stanley report because 16 some of the investigative work that the team was 17 doing on the ISOM said that people weren't 18 following procedures -- we had some opportunity for 19 improvement. So, I ordered the Stanley report to 20 look across the plant to see was it just one part 21 of the refinery or was it a very broad thing across 22 the refinery. 23 Q. Found it was very broad across the 24 refinery, too, didn't you? 25 A. Yes, I did.</p>
<p style="text-align: right;">Page 199</p> <p>1 That's a survey. 2 Q. (BY MR. WILLIAMS) It dealt with safety? 3 A. It deals with a broad range of safety. 4 Q. So, but -- so, it wasn't important enough 5 because it was only a safety survey? 6 A. No. 7 Q. Was it a safety survey? 8 A. It's a -- it's a -- it's a survey of 9 individuals with their thoughts on -- with regard 10 safety. 11 Q. Safety survey, is it or not? 12 A. I am not sure what the quality of that 13 is. It's a survey, and it asked how people feel 14 about the business and where is the business headed 15 and safety was a topic in that report -- 16 Q. Okay. 17 A. -- a major topic. 18 Q. Now, you had Mr. Stanley go and do a 19 report, an investigation. And it was, admittedly, 20 after the fire and explosion had occurred, right? 21 A. Yes. 22 Q. And he came back and told you there were 23 serious problems at that plant, right? 24 A. His team came back with a very detailed 25 report to say I had systemic problems across the</p>	<p style="text-align: right;">Page 201</p> <p>1 Q. Now, you only ordered the Stanley report 2 because people had died and there had been a fire 3 and explosion, true? 4 A. Yes. 5 Q. It was not in the works? You had not 6 shown leadership and initiated it before the fire 7 and explosion. 8 You did it as a result of the fire 9 and explosion -- 10 A. The Stanley report -- 11 Q. -- true? 12 A. Sorry. 13 The Stanley report was done as a 14 result of the fire and explosion. What I had 15 initiated before was a behavioral audit of all of 16 the U.S. refineries using the same protocol. And 17 that protocol did look at process safety, 18 management of change, safety leadership. It was a 19 better defined protocol, and it would give me the 20 specific information that I need. 21 Q. Well, where is that protocol? Where is 22 that report that you are talking of? 23 A. So, you should see Dee Tinley-Strong 24 reports for most of the sites. For Texas City, she 25 participated in the Stanley report because they --</p>

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<p style="text-align: right;">Page 202</p> <p>1 Q. So, you didn't get around to getting it 2 done at Texas City before the fire and explosion, 3 true? 4 A. Well, it -- 5 Q. True? 6 A. -- that's true she was working at other 7 facilities and making her way there. 8 Q. Ah, I thought you said that the facility 9 with the most safety problems was Texas City, 10 right? 11 A. Texas City does have -- 12 Q. So, explain to the jury, if Texas City 13 has the most problems, why they would be last in 14 having this behavioral analysis done? 15 A. So, they -- 16 MR. PATTERSON: Objection, form. 17 A. So, they weren't last on her schedule. 18 It's a small firm. They -- 19 Q. (BY MR. WILLIAMS) Well, why weren't they 20 first is a better question? 21 A. So, they weren't first because they said 22 they were doing some other work with a company 23 called Telos. They felt it was going to cloud the 24 individuals having two people in doing the site and 25 could I wait for Telos to be done. They never came</p>	<p style="text-align: right;">Page 204</p> <p>1 Q. So, how many deaths had there been at 2 this plant in the -- let's say the 30 years leading 3 up to this March 23 fire and explosion? 4 MR. PATTERSON: Objection, form. 5 A. I would have to review the records and 6 look, but I could give you an approximate number. 7 Q. (BY MR. WILLIAMS) Please? 8 A. About 20. 9 Q. Okay. I think the records may show 22. 10 So, we will say 20 or 22. 11 When were -- did you become aware 12 that this very plant that killed an additional 15 13 people in March, '05, had had 20 or 22 deaths in 14 the prior decades? 15 A. I probably knew about many of the 16 fatalities as they occurred. Having been worked -- 17 having worked in Amoco. So, as they occurred, I 18 was aware of those fatalities. I did lead a 19 fatality investigation at the site in the 2002 era. 20 Q. You had intimate knowledge because you 21 had worked for Amoco and led some investigations 22 that there had been at least 20 deaths in this 23 plant before the 15 deaths of March 23, right? 24 A. Yes. 25 MR. PATTERSON: Objection, form.</p>
<p style="text-align: right;">Page 203</p> <p>1 back and told me when Telos was done, but Dee was 2 scheduled to go to Texas City when they were 3 finished. 4 Q. So, you knew Telos was being done -- 5 A. I knew they were doing a survey. I 6 didn't -- couldn't say I knew it was a company 7 called Telos. 8 Q. So, whatever the survey that was being 9 done at the plant stopped the survey that you were 10 going to do, right? 11 A. It delayed it. It didn't stop it. 12 Q. But when the plant -- when the survey 13 that did get done -- the Telos Report, when it was 14 done, that's the one that you didn't read until 15 several months after the fire and explosion, right? 16 A. Correct. 17 Q. This explosion and fire was totally 18 preventable, wasn't it? 19 A. Yes, it was. 20 Q. And management had significant failures 21 that were responsible for this fire an explosion, 22 right? 23 A. Management takes accountability, yes. We 24 had -- there were opportunities for us to avoid 25 this fire and explosion.</p>	<p style="text-align: right;">Page 205</p> <p>1 Q. (BY MR. WILLIAMS) -- right? 2 Now, the purpose of Telos, it says 3 in there, was to get the truth to management. 4 Are you aware of that? 5 MR. PATTERSON: Objection, form. 6 A. Yes. 7 Q. (BY MR. WILLIAMS) Okay. Well, what 8 had -- what happens if management doesn't read it? 9 A. So, the purpose of the report was to help 10 get the plant get the information they needed to 11 set a different course. I am sure they would have 12 shared it to me when the right time came. 13 Q. Bill Ralph, who is he? 14 MR. PATTERSON: Objection, form. 15 Object to sidebar. 16 A. Bill -- Bill -- Bill Ralph is an engineer 17 who works in the plant who works in process safety. 18 Q. (BY MR. WILLIAMS) He is head of process 19 safety at that plant, isn't he? 20 A. Not currently. 21 Q. Well, he was head when it blew up, wasn't 22 he? 23 A. He was head of process safety when the 24 explosion occurred on March 23rd. 25 Q. So, why is it, then, that the head of</p>

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1 process safety was not given a copy of the Telos
 2 Report --
 3 A. I --
 4 Q. -- before the fire and explosion?
 5 A. I can't answer that question. I don't
 6 know why he wasn't given a copy.
 7 Q. Well, if the purpose is to get the truth
 8 to management, why in the heck wouldn't you give a
 9 copy to management?
 10 MR. PATTERSON: Objection, form.
 11 A. There are many people in the plant who
 12 are management. I don't know what Don's plans for
 13 communication and distribution. I don't -- Don was
 14 thinking that there was a second phase to the
 15 report and communication about actions and what
 16 they were going to do. I don't think Don got to
 17 that prior to.
 18 Q. (BY MR. WILLIAMS) Well, wait a minute.
 19 I am asking you about whatever information was
 20 available at first, the head of process safety
 21 management says that he did not receive a copy of
 22 the Telos Report that he could keep.
 23 Now, why in the world would y'all
 24 play that kind of game with him?
 25 MR. PATTERSON: Objection, form.

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1 A. I can't answer your question on that, why
 2 he wouldn't have a copy or a copy to keep.
 3 Q. (BY MR. WILLIAMS) Why would you put
 4 Joe Barnes -- why would you allow Joe Barnes to be
 5 head of HSSE when he had no experience in process
 6 safety?
 7 MR. PATTERSON: Objection, form.
 8 A. So, Joe had been a process
 9 superintendent. He had run the pipestills. He had
 10 been an engineer in the plant. He had been working
 11 in and around process safety for much of his
 12 career.
 13 Q. (BY MR. WILLIAMS) Wait a minute. He
 14 testified under oath to this exact jury that he had
 15 never had any formal training in process safety.
 16 So, why -- so, let me follow up on that.
 17 Why is it that you would have
 18 somebody running units who had never had formal
 19 training in process safety at your plant? Is
 20 that --
 21 MR. PATTERSON: Objection --
 22 Q. (BY MR. WILLIAMS) -- is that
 23 permissible?
 24 MR. PATTERSON: Objection, form.
 25 Object to sidebar.

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1 A. So, what's formal training? I don't know
 2 what your definition is or Joe's context for his
 3 answer.
 4 But every plant, we review our
 5 process safety standards -- our guidelines with our
 6 superintendent. They have -- they go to process
 7 safety meetings. They have their startup
 8 procedures, shutdown procedures reviewed.
 9 Q. (BY MR. WILLIAMS) Wait a minute.
 10 Are you calling him a liar?
 11 A. I am just telling you as a
 12 superintendent, Joe went to process safety, our PSC
 13 reviews for startup procedures, shutdown
 14 procedures --
 15 Q. Sure.
 16 A. -- RVs, training packages. He knew the
 17 training responsibilities he had to do to meet
 18 process safety requirements as a superintendent.
 19 Q. Sure. How many of those did you attend
 20 with him?
 21 A. None.
 22 Q. Well, then, how in the world are you
 23 testifying under oath that he did that if you never
 24 witnessed it, sir?
 25 A. So, every superintendent we have has to

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1 go through a --
 2 Q. Wait --
 3 A. -- refinery process safety review.
 4 Q. Did you ever see him do it?
 5 A. No.
 6 Q. So, it's speculation on your part, isn't
 7 it?
 8 A. It's the expectation of superintendents.
 9 I would expect that that happened.
 10 Q. But it's speculation on your part as to
 11 whether he actually did it, right?
 12 MR. PATTERSON: Objection, form.
 13 A. Yes, it is.
 14 Q. (BY MR. WILLIAMS) Okay. Now, Telos --
 15 one of the things, the purposes was to find the
 16 brutal facts, what was really going on around here,
 17 correct?
 18 MR. PATTERSON: Objection, form.
 19 A. I would have to read that in the report.
 20 Q. (BY MR. WILLIAMS) Yes, sir.
 21 A. So...
 22 Q. So, once you find the brutal facts,
 23 explain to this jury why it wasn't given to the
 24 managers at the plant.
 25 MR. PATTERSON: Objection, form.

<p style="text-align: right;">Page 210</p> <p>1 A. I can't explain why the recipient of the 2 report didn't distribute it. 3 Q. (BY MR. WILLIAMS) Is that one reason -- 4 MR. COON: I don't mean to 5 interrupt. Let's take about a two-minute break. 6 THE VIDEOGRAPHER: Off the record 7 at 3:13 p.m. 8 (Recess taken.) 9 THE VIDEOGRAPHER: On the record 10 at 3:15 p.m. 11 Q. (BY MR. WILLIAMS) I want to follow up 12 with the testimony that you gave under oath that 13 you didn't know when the Telos Report was coming 14 out, right? 15 MR. PATTERSON: Objection, form. 16 A. Yes. 17 Q. (BY MR. WILLIAMS) No question that 18 that's your testimony? 19 A. I didn't know when it was going to be 20 finished. 21 Q. Didn't know when it was available either, 22 did you? 23 A. I don't recall when it was going to be 24 available. 25 Q. Okay. Let's look at this e-mail,</p>	<p style="text-align: right;">Page 212</p> <p>1 conversation. That e-mail has my name on it. I 2 received that e-mail. 3 Q. (BY MR. WILLIAMS) So, when you testified 4 to this jury that you didn't know when it was 5 being -- being -- going to be available, this 6 e-mail guts your testimony, doesn't it? 7 MR. PATTERSON: Objection, form. 8 A. No. 9 Q. (BY MR. WILLIAMS) Oh, it doesn't. Well, 10 it says it will be delivered to the leadership team 11 in TC on January 24th. 12 Is that ambiguous, sir? 13 A. No, but I don't know that it was. 14 Q. I am just saying you claimed that you had 15 no knowledge of when it was going to be completed, 16 and here's an e-mail directly to you that says it's 17 going to be available -- delivered on January 24th, 18 right? 19 A. Correct. 20 MR. PATTERSON: Objection, form. 21 Q. (BY MR. WILLIAMS) Now, you -- so, you 22 had -- do you want to change your testimony and 23 tell the jury now and acknowledge you had written 24 e-mail notice that it was available on 25 January 24th, didn't you?</p>
<p style="text-align: right;">Page 211</p> <p>1 Exhibit 324, and it appears to be from Joe Barnes 2 to Patrick E. Gower. 3 Who is Patrick E. Gower? 4 A. That's me. 5 Q. And it says, "Request for participation 6 in Texas City BU safety audit." 7 This is January of '05, right? 8 A. Correct. 9 Q. This is an e-mail you received, didn't 10 you? 11 A. Yes, I did. 12 Q. And it goes on to talk about the Telos 13 Report in there and it says, "Geoffrey," and that's 14 Geoffrey Telos. "Geoffrey plans to incorporate 15 your feedback into the final report that will be 16 delivered to the leadership team in TC on 17 January 24th." 18 MR. PATTERSON: Objection, form. 19 A. Yeah, I saw that e-mail today. 20 Q. (BY MR. WILLIAMS) It kind of -- 21 A. It refreshes my memory. 22 Q. It kind of makes out your testimony to be 23 unreliable, doesn't it? 24 MR. PATTERSON: Objection, form. 25 A. I don't recall the follow-up phone</p>	<p style="text-align: right;">Page 213</p> <p>1 A. I have an e-mail here that says it should 2 be available on the 24th. 3 Q. You bet you did. Now, that's contrary to 4 the testimony you gave under oath a few minutes 5 ago, isn't it? 6 A. Yes, it's contrary to what I 7 recollected -- that I recall seeing. 8 Q. So, which is the truth? 9 A. This e-mail would say that I received 10 this e-mail. 11 Q. Now -- 12 A. I replied. 13 Q. -- of course, when you got it I am sure 14 you said we are going to find an e-mail that says, 15 "Hey, hey, hey. It's available then. Make sure it 16 gets to me," right? 17 MR. PATTERSON: Objection, form. 18 A. I don't know whether you would find that 19 e-mail or not. 20 Q. (BY MR. WILLIAMS) Because it doesn't 21 exist, does it? 22 A. I don't know whether it does or not. 23 Q. Did you -- do you have a calendar where 24 you can diary January 24th so that you know that 25 you get it when it comes out?</p>

54 (Pages 210 to 213)

<p style="text-align: right;">Page 214</p> <p>1 A. I have access to Outlook. 2 Q. Okay. Was there anything on there where 3 you diared it to make sure you got it? 4 A. I don't think so. 5 Q. You know, if safety is Priority 1 and 6 it's available the 24th of January before the fire 7 and explosion, some people might criticize you for 8 not diarying it and taking it and getting it and 9 reading it. 10 And what's your explanation to 11 them? 12 A. So, I received somewhere around 120 13 e-mails a day. I don't diary every commitment. I 14 expect a business unit leader will come back to me 15 and say, "I have got this information. I would 16 like to share it with you." 17 Q. How many of those 120 e-mails relate to 18 safety? 19 A. I -- I wouldn't know, but there always 20 are some safety -- I would say in the neighborhood 21 of 20 or so type safety events from around the 22 world. 23 Q. No question this e-mail relates exactly 24 to safety, doesn't it -- because it's -- about this 25 exact report? See. First sentence, we are</p>	<p style="text-align: right;">Page 216</p> <p>1 MR. PATTERSON: Objection, form. 2 A. So, this note goes on to say that the 3 individual is going to contact my assistant and set 4 up something on my calendar to talk to me. 5 Q. (BY MR. WILLIAMS) So, that's your 6 excuse? 7 MR. PATTERSON: Objection, form. 8 A. It's -- it's a fact. It says that, right 9 there in that letter. 10 Q. (BY MR. WILLIAMS) Yeah. And are you 11 going to now testify under oath that that person 12 never -- never contacted your assistant and you 13 have knowledge of that? 14 A. I don't recall any appointment or any 15 interview with them. 16 Q. That's not my question, sir. 17 MR. WILLIAMS: Nonresponsive 18 objection. 19 Q. (BY MR. WILLIAMS) Are you claiming that 20 these people never contacted your assistant and 21 that is -- that's your excuse for not giving them 22 the interview? 23 MR. PATTERSON: Objection, form. 24 A. So, I can't say whether they contacted my 25 assistant or not.</p>
<p style="text-align: right;">Page 215</p> <p>1 currently participating in a review of the safety 2 culture behavior of our site? 3 A. Yes. 4 Q. Now, it goes on to say down there, 5 "Geoffrey will be contacting your administrative 6 assistant early next week to schedule an 7 appointment" because they wanted to interview you, 8 didn't they? 9 MR. PATTERSON: Objection, form. 10 A. That's what it shows right there. 11 Q. (BY MR. WILLIAMS) You didn't take the 12 time to give them the interview, did you? 13 A. I don't know that that -- 14 MR. PATTERSON: Objection, form. 15 A. I don't remember an interview. 16 Q. (BY MR. WILLIAMS) That's right. But you 17 responded, "No problem, Joe," right? 18 A. Correct. 19 Q. Now, some people may say, Well, wait a 20 minute. You are claiming that safety is Priority 21 1, and they asked you for a 30-minute interview. 22 You gave them lip service and said, "No problem" 23 but you never followed through and did it. 24 So, tell me how you -- what you 25 say to those critics.</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. (BY MR. WILLIAMS) Okay. Now, the fact 2 that this plant in Texas City had the -- had the 3 lowest or had the most safety culture problems of 4 any of the BP North America plants, did that 5 knowledge stop with you or did you report it up the 6 chain to London? 7 MR. PATTERSON: Objection, form. 8 A. So, I mean, people were aware of the -- 9 since the merger, anytime there is a fatality or 10 major incident at the plant, it's reviewed -- 11 fatalities are reviewed up through London. 12 Q. (BY MR. WILLIAMS) Okay. So, they 13 knew -- there is no question in your mind that 14 people above you in London were aware that there 15 had been significant fatalities -- in fact, 20 or 16 22 in the 30 years prior to this fire and 17 explosion -- and that this refinery had the worst 18 safety culture of the ones in North America that 19 you controlled, right? 20 MR. PATTERSON: Objection, form. 21 A. No, I don't think -- I don't know that 22 they were aware of the history of 20. They would 23 have been certainly aware of the fatalities that 24 occurred since 1999, since the BP merger. There 25 would have been some awareness by some people about</p>

<p style="text-align: right;">Page 218</p> <p>1 findings of safety assessments. But London is a 2 broad group of people. A lot of people wouldn't 3 have known. 4 Q. (BY MR. WILLIAMS) Well, you knew. And 5 you knew that this was of the five plants in North 6 America that BP operated, this one had the most 7 safety problems. 8 We have established that, right? 9 A. This one had quite a few safety problems. 10 It was one site that had an opportunity, a big 11 opportunity for improvement. 12 Q. This wasn't even -- wait a minute. 13 A. Yeah. 14 Q. Let's -- let's get this right. 15 If we had to rank the plants in 16 North America before the fire and explosion that 17 had safety problems at BP, this wasn't even the 18 worst of the five? 19 A. No, that's -- 20 MR. PATTERSON: Object to form. 21 Object to sidebar. 22 A. So, Texas City's history showed that they 23 had some -- they had fatalities, recent fatalities 24 that showed that they were in needed an 25 intervention of some type.</p>	<p style="text-align: right;">Page 220</p> <p>1 not. But we were taking steps to change safety 2 culture at quite a few of the sites. 3 Q. Okay. Because they were -- because the 4 safety culture was a problem for BP, right? 5 A. We don't want to get anybody hurt, so we 6 are trying to improve the safety culture at sites. 7 Q. Did you have the option -- did you have 8 the power to just shut down the plant and retrain 9 people or get in the right people and to get it 10 right before you put all these people at risk? Did 11 you have that power? 12 MR. PATTERSON: Objection, form. 13 A. I think I certainly would have had to 14 discuss it with people. Shutting down any one 15 unit, it could easily be shutting down an entire 16 refinery. There's significant risk in shutting 17 down a refinery because shutdowns and startups are 18 the most -- highest risk time in refineries. 19 Steady operations is actually quite -- is a lot 20 safer than shut -- startups and shutdowns. 21 Q. (BY MR. WILLIAMS) Okay. So, you knew 22 and everybody who had taken the time to study at BP 23 knew that the most dangerous time for a unit is 24 probably the startup period, right? Or the 25 shutdown?</p>
<p style="text-align: right;">Page 219</p> <p>1 We, also, though, had -- we had 2 the highest recordable incident rate at Toledo. 3 So, we were making strides in different areas. So, 4 we had J&J into Toledo because we had a much higher 5 OSHA incident rate at Toledo. 6 Q. (BY MR. WILLIAMS) So, is it fair to say 7 that not only were the problems -- they were 8 significant safety problems at Texas City, but 9 there were additionally serious and significant 10 safety problems at Toledo? 11 A. There were different concerns around 12 safety at different plants, and we were trying to 13 correct them through different avenues. 14 Q. I was trying to compare these five 15 plants. 16 And isn't it fair to say that 17 Texas City didn't stand out by itself as having -- 18 it may have had the most deaths, but you had 19 another plant, Toledo, that had the most injuries, 20 right? 21 A. We had more OSHA recordable injuries at 22 Toledo per -- as you calculate OSHA risk compare to 23 Texas City. You have a much larger population of 24 people at Texas City. So, I don't know if absolute 25 number of OSHA recordables was greater there or</p>	<p style="text-align: right;">Page 221</p> <p>1 A. It could be startup or shutdowns. They 2 are usually the most dangerous. 3 Q. That's right. Did y'all have extra 4 people in for the startup of this unit? 5 MR. PATTERSON: Objection, form. 6 A. For the startup of the raffinate 7 splitter? 8 Q. (BY MR. WILLIAMS) Yes. 9 A. Yes. 10 Q. Oh, you did? 11 A. Yes. 12 Q. By the way, why were the inherently safer 13 designs that were mentioned in the final report not 14 implemented at this plant? 15 MR. PATTERSON: Objection, form. 16 A. So, there are some -- you know, we have 17 an opportunity to learn more about inherently safer 18 designs. We were in the process of learning that, 19 about that. 20 Q. (BY MR. WILLIAMS) No, sir, I asked you 21 why? 22 A. There are some. 23 Q. I asked you why. Don't avoid the 24 question. 25 A. Okay.</p>

56 (Pages 218 to 221)

<p style="text-align: right;">Page 222</p> <p>1 Q. Let's ask why. Answer why. 2 MR. PATTERSON: Object to form. 3 Object to sidebar. 4 A. I don't know why. So, I -- 5 Q. (BY MR. WILLIAMS) Well, who does? 6 MR. PATTERSON: Objection, form. 7 A. I don't -- I wouldn't know who could ask 8 that question. 9 Q. (BY MR. WILLIAMS) By the way, since 10 safety, you claim, is so important to you, I am 11 sure you know the answer to this question. 12 How often did you have a fire at 13 the Texas City plant in the years leading up to 14 this fire and explosion? 15 MR. PATTERSON: Objection to form. 16 Object to sidebar. 17 A. It would have been varied year by year. 18 Q. (BY MR. WILLIAMS) Yeah, we know that; 19 but my answer is how many? 20 MR. PATTERSON: Objection, form. 21 Q. (BY MR. WILLIAMS) My question. 22 MR. PATTERSON: Object to sidebar. 23 A. For each year, I wouldn't give you -- be 24 able to give you the specifics for each year. 25 Q. (BY MR. WILLIAMS) Yeah, give us your</p>	<p style="text-align: right;">Page 224</p> <p>1 MR. PATTERSON: Wait for -- hold 2 on a minute. 3 Objection form. 4 Wait for me to make an objection. 5 Every question is going to be objectionable. 6 Q. (BY MR. WILLIAMS) Are you saying that 7 he's lying about it? 8 MR. PATTERSON: Objection, form. 9 A. No, sir. I don't think he said that -- 10 he made that statement. 11 Q. (BY MR. WILLIAMS) Well, then, either I'm 12 lying or he's lying. 13 A. I don't know whether -- 14 MR. PATTERSON: Objection, form. 15 A. I haven't read his deposition. I haven't 16 talked to him about his deposition. I don't know 17 that he said that. 18 Q. (BY MR. WILLIAMS) Well, sir, I am going 19 to tell you, as an officer of the court, I took his 20 deposition. He sat in that exact same chair in 21 front of that exact same camera and took the oath 22 and said there is an average of a fire a week at 23 that plant before the fire and explosion. 24 Now, I am going to ask you if he 25 told the truth, why is it that you are telling this</p>
<p style="text-align: right;">Page 223</p> <p>1 average or your best knowledge? 2 MR. PATTERSON: Objection, form. 3 A. I would say somewhere -- it varied year 4 by year, somewhere between 15 and 28. 5 Q. (BY MR. WILLIAMS) Wow. 6 Did you read your fire chief's 7 deposition? 8 A. No -- 9 MR. PATTERSON: Objection, form. 10 A. -- I did not. 11 MR. PATTERSON: Object to sidebar. 12 Q. (BY MR. WILLIAMS) If the fire chief who 13 was there testified they averaged a fire a week, do 14 you have any information to dispute that? 15 MR. PATTERSON: Objection, form. 16 A. No, but I would be surprised if he said 17 there was a fire a week. If he said they were -- 18 Q. (BY MR. WILLIAMS) Are you saying I am 19 lying about it? 20 A. I am not telling you -- 21 MR. PATTERSON: Objection, form. 22 Q. (BY MR. WILLIAMS) Are you saying -- 23 MR. PATTERSON: Wait -- 24 Q. (BY MR. WILLIAMS) -- he's lying about 25 it?</p>	<p style="text-align: right;">Page 225</p> <p>1 jury it was so much less? 2 MR. PATTERSON: Objection, form. 3 Object to sidebar. 4 A. So, I am giving you my view on what I 5 think there was. When -- when we have a 6 significant incident at a plant, the plant usually 7 puts out an MIA or a HIPO, a high potential 8 accident and those do come across my desk with some 9 frequency and I didn't see 52 of those in the year 10 before the explosion. 11 Q. (BY MR. WILLIAMS) Do you know who the 12 fire chief is? 13 A. McLemore? 14 Q. Right. 15 Okay. So, why would Mr. McLemore, 16 Fire Chief McLemore, testify, assuming he did, that 17 there were 48 to 80 fires within a year and that an 18 average of approximately one fire a week, but 19 people then give you misleading information that 20 shows it's much less. 21 Why would that happen, sir? 22 MR. PATTERSON: Objection, form. 23 A. So, the information I would normally see 24 would be the HIPO reports, the serious incident 25 reports and reviewing the number of time the fire</p>

<p style="text-align: right;">Page 226</p> <p>1 department rolled out of the fire station, it 2 doesn't support the kind of numbers of once a week. 3 Q. (BY MR. WILLIAMS) I am just trying to 4 figure out why the fire chief knows one thing, and 5 you are claiming a different thing. 6 MR. PATTERSON: Objection, form. 7 Q. (BY MR. WILLIAMS) Can you answer that? 8 A. No, I can't. 9 Q. Who has got the best information, him or 10 you? 11 A. The fire chief should have -- a fire 12 chief of the plant should have the best information 13 on how many fires there are in his facility. 14 Q. Sure. So, why are you disputing what he 15 is testifying to? 16 A. I am not disputing what he testified to. 17 You asked me my view was. 18 Q. Joe Barnes found that there was a culture 19 of casual compliance at the Texas City refinery 20 before the fire and explosion, correct? 21 A. I don't know the source of that comment. 22 Q. It was an e-mail that he wrote. I am 23 going to -- the jury has seen it. 24 A. Okay. 25 Q. So, did you know that there was a culture</p>	<p style="text-align: right;">Page 228</p> <p>1 A. I can't answer why Bill Ralph was never 2 put on the leadership team. His supervisors 3 certainly were. 4 Q. (BY MR. WILLIAMS) Now, the final report 5 found that there was, quote, "A poor level of 6 hazard awareness and understanding of process 7 safety on the site resulted in people accepting 8 levels of risk that are consistently higher than 9 comparable installations." 10 Do you remember that phrase in the 11 final report? 12 A. Yes, I do. 13 Q. Why in the world would -- would y'all let 14 that happen? 15 MR. PATTERSON: Objection, form. 16 A. So, I don't think there was a general 17 awareness of how -- what -- how bad the -- or how 18 low the knowledge was of the relative risk and what 19 risk people were taking. 20 Q. (BY MR. WILLIAMS) That's your best 21 excuse? 22 MR. PATTERSON: Objection, form. 23 A. I am sorry. That's my answer. 24 Q. (BY MR. WILLIAMS) Now -- and, in fact, 25 that was not only found by the internal -- the BP</p>
<p style="text-align: right;">Page 227</p> <p>1 of casual compliance? 2 A. From my review we did on the -- and 3 that's -- I know that there was some concern about 4 the cultural compliance around the golden rules in 5 the work areas and that's why they were putting in 6 the just culture and that's why they also put in an 7 audit team of four people. 8 MR. WILLIAMS: Objection, 9 nonresponsive. 10 Q. (BY MR. WILLIAMS) Did you, sir, know 11 before this fire an explosion what Joe Barnes knew 12 that there was, quote, culture of casual 13 compliance, close quote? 14 A. So, in late 2004, Don Parus talked to us 15 about the culture of compliance they had and the 16 reason they had to change it. 17 Q. You knew it was a culture of casual 18 compliance in 2004, didn't you? 19 A. I don't know if it was casual compliance. 20 It was a lack of adherence to all the rules and 21 procedures. 22 Q. Explain to this jury why the head of 23 process safety management, PSM, Bill Ralph, was 24 never put on the leadership team at that plant. 25 MR. PATTERSON: Objection, form.</p>	<p style="text-align: right;">Page 229</p> <p>1 investigation but the investigation you asked 2 Mr. Stanley to conduct, he found, quote, "There is 3 a complacency towards serious process safety risk." 4 Do you remember that, don't you? 5 A. Yes, I do. 6 Q. Why did y'all let it -- why did y'all let 7 that happen? 8 MR. PATTERSON: Objection, form. 9 A. So, it was -- there was not an awareness 10 that -- historically, Amoco had tight adherence to 11 process safety. It did not recognize the gap in 12 performance around process safety and that's why we 13 did this work, to get a view for it and how bad was 14 it. 15 Q. (BY MR. WILLIAMS) That's nice to -- 16 to -- to do some surveys and audits but my question 17 is: Why did you let it slip because it did slip, 18 right? 19 MR. PATTERSON: Objection, form. 20 Object to sidebar. 21 A. With the knowledge I have today, I know 22 that their performance did slip. 23 Q. (BY MR. WILLIAMS) Why did you let it 24 slip? I mean, isn't that the responsibility of 25 you, sir, and other people in management?</p>

<p style="text-align: right;">Page 230</p> <p>1 MR. PATTERSON: Objection, form. 2 A. So, it's the business unit leaders' 3 responsibility to manage his site along with many 4 of the aspects of the site, including process 5 safety and to keep awareness high. 6 Q. (BY MR. WILLIAMS) And it's your 7 responsibility to make sure that he is doing it and 8 that it gets done, right? 9 A. It's my responsibility for all of the 10 U.S. sites. 11 Q. And people depend on that that walk into 12 that plant that you and the people above you and 13 below you were doing it and they put their life in 14 your hands in their regard, don't they? 15 MR. PATTERSON: Objection, form. 16 A. Yes, people that come into our plants are 17 counting on us to have a good process safety 18 management system and other safety management 19 systems. 20 Q. (BY MR. WILLIAMS) And you let them down 21 and y'all, quite frankly, blew it -- 22 A. Yes, sir. 23 Q. -- literally, in March, '05, right? 24 A. We let people down, yes, and seriously 25 hurt people and killed people.</p>	<p style="text-align: right;">Page 232</p> <p>1 operations and maintenance. 2 Q. (BY MR. WILLIAMS) Is it not only logical 3 but, also, factual to say, if there is compliance 4 with regard to personal safety, it is most likely, 5 also, you have a compliance problem with regard to 6 process safety, true? 7 MR. PATTERSON: Objection, form. 8 A. No, I don't agree with that and partly -- 9 Q. (BY MR. WILLIAMS) Well, you did -- go 10 ahead. 11 A. -- because it is different groups of 12 employees driving the different things. So, when 13 you are looking at control of work, you are looking 14 at heights, ground disturbance, cranes safety, 15 lifting safety, you are looking at -- at people in 16 maintenance activities. When you are looking at 17 process safety, the majority of that is in the 18 operating. 19 Q. So, you want us to believe that when 20 there is a casual compliance with regard to safety 21 rules about personal safety that that doesn't raise 22 any red flags with management about, "Hey, maybe we 23 ought to also check into process safety at the same 24 time." 25 Is that your testimony?</p>
<p style="text-align: right;">Page 231</p> <p>1 Q. Now, do you agree that the success of 2 process safety management system is dependent on 3 leadership, right? 4 A. Yes, I do. Leadership plays a key role 5 in all safety in a plant. 6 Q. And leadership goes all the way to the 7 top, right? 8 A. Yes, it does. 9 Q. Now, when this plant exploded and there 10 were these gaps in process safety management and 11 gaps in safety culture, that really shouldn't have 12 come to anybody as a surprise based on the prior 13 deaths at that plant and based on the Telos Report, 14 true? 15 MR. PATTERSON: Objection, form. 16 A. We were not aware of the process safety 17 issues in the plant. We were aware of the safety 18 compliance issues that was driving the -- many of 19 the fatalities. If you look at the fatalities, 20 most of them were around control of work, working 21 at heights, confined space, inert atmosphere, they 22 weren't process safety related incidents. So, a 23 lot of the focus of Don's team and others was to 24 get safety compliance around contractor work, BP 25 maintenance work and the hand-off between</p>	<p style="text-align: right;">Page 233</p> <p>1 MR. PATTERSON: Objection, form. 2 A. So, we did audits and at Texas City, many 3 times around what are the quality of the 4 procedures. Does it have a process safety 5 committee? Is it functioning? The indicators we 6 were getting there is it was more robust than what 7 we now know it is. When it to process -- 8 Q. (BY MR. WILLIAMS) Wait a minute. Go 9 ahead. 10 A. When it comes to the -- the work that's 11 done on -- by maintenance forces and contractors, 12 you can have quite different performance. 13 Q. Wait a minute. These audits that you 14 claim were being done on process safety, are those 15 the audits that in the final report were found to 16 be lacking? 17 A. Yes, those are the audits that we did. 18 Q. So, the audits -- the audits you did were 19 even -- weren't set up right, correct? 20 A. In hindsight, the audits were -- were not 21 robust enough. 22 Q. Well, what is it that took y'all to 23 finally realize your audits were bad and your 24 process safety culture was bad -- what made you 25 realize it other than the fact that you blew up the</p>

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1 plant, killed people and injured people?
 2 A. So, when we -- when we started the very
 3 broad assessment through the Stanley and we started
 4 looking at the behaviors around the procedures and
 5 the quality of the work being done and how things
 6 were being handed off. So, it was after.
 7 Q. So, then we can agree that process safety
 8 had slipped, the audits had slipped, and whatever
 9 management systems you and others had in place
 10 hadn't even caught that serious problem, true?
 11 A. So, the audits hadn't slipped. The
 12 audits -- we didn't -- we had -- we could have had
 13 a much better audit protocol or audited different
 14 things. We were auditing and looking at
 15 procedures, relief valves and we were looking at
 16 hardware. We weren't looking at culture or how
 17 people were working. So, we had to enhance the
 18 audit process.
 19 MR. WILLIAMS: Objection,
 20 nonresponsive.
 21 Q. (BY MR. WILLIAMS) The culture with
 22 regard to process safety had slipped before the
 23 fire and explosion, true?
 24 A. Yes, from what --
 25 Q. And whatever --

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1 A. I know today.
 2 Q. -- management systems you had in place
 3 hadn't even caught on to that fact, true?
 4 A. That's very true.
 5 Q. And the final report showed that in the
 6 startup of this very ISOM unit, there had been
 7 deviations time and time and time again on the
 8 startup of this unit that had not been reported and
 9 the trend had not been recognized by you and the
 10 other management people, right?
 11 A. Correct. They -- from looking at process
 12 data from the history module, we surmised that --
 13 that steps were being taken that weren't consistent
 14 with the startup procedures.
 15 Q. And the trends had been a -- the trends
 16 toward unsafe startups had been ignored and
 17 overlooked by management, right?
 18 A. I don't know that they have been ignored,
 19 but they have been overlooked by management.
 20 MR. WILLIAMS: Thank you, sir. I
 21 have got to do a little gambling. I am sorry.
 22 THE WITNESS: Okay. Good luck.
 23 MR. WILLIAMS: Thank you.
 24 (Discussion off the record.)
 25 THE VIDEOGRAPHER: Off the record

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1 at 3:41 p.m., ending Tape 4.
 2 (Recess taken.)
 3 THE VIDEOGRAPHER: On the record
 4 3:53 p.m., beginning Tape 5.
 5 * * *
 6 FURTHER EXAMINATION
 7 Q. (BY MR. COON) Mr. Gower, earlier we were
 8 talking about the OSHA investigation and it's our
 9 understanding it did result in a settlement
 10 agreement that was signed off on by BP and OSHA
 11 last fall.
 12 Do you recall the terms of that
 13 agreement?
 14 A. Yes, I do.
 15 MR. PATTERSON: Objection, form.
 16 (Exhibit Number 331 marked for
 17 identification.)
 18 Q. (BY MR. COON) We have Exhibit 331, which
 19 I believe to be a copy of that agreement. I would
 20 like to look at it, briefly. There are a few
 21 things I would like to ask you about on it.
 22 And if we just go straight to the
 23 back and turn to the parties that signed off on
 24 this agreement, it was signed off on by John Miles
 25 as the OSHA regional administrator and by you on

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1 behalf of BP products?
 2 A. Yes.
 3 Q. Did you have dealings with Mr. Miles
 4 before reaching the settlement? Did you work with
 5 him during the development of the citations and --
 6 A. Mr. Miles came to the site a couple of
 7 times, and we had one or two prior meetings.
 8 Q. There were additional terms to this
 9 settlement agreement.
 10 Was one where BP not only
 11 obligated itself to pay \$21 million in fines, but,
 12 also, to do certain other things; is that correct?
 13 A. Yes, we did agree to do some other
 14 things.
 15 Q. Okay. I would like to talk to you
 16 briefly about those other things that were reached
 17 as part of the agreement. One was on page 1 that
 18 BP agreed, as a condition of this settlement, to
 19 retain a process safety management expert and to
 20 conduct audits of various BP facilities?
 21 A. One -- one facility but --
 22 Q. Was that the --
 23 A. That would be the BP Texas City refinery.
 24 Q. Who was a person or company that was
 25 retained to do that?

<p style="text-align: right;">Page 238</p> <p>1 A. I just heard her name. I don't -- I 2 don't recall. 3 Q. Is that audit on going now? 4 A. Yes, it is. 5 Q. Is it an individual or a company? 6 A. It's a company. We had to submit company 7 names. I remember our first one because we 8 couldn't use that first one. So, I don't remember 9 who was doing the work. 10 Q. Okay. When do you anticipate this report 11 to be completed? 12 A. It's -- as I recall we have to keep -- we 13 are going to be doing this about a year and a half 14 with -- with regular reports, I believe. So, I 15 don't know that there would be a final -- there is 16 an interim report. So, the first audit report -- 17 so, page 3 -- 18 Q. Six months of retention it said you 19 had -- if you backtrack, this was reached in 20 September. 21 A. So... 22 Q. You were given two months to retain 23 someone, which would put you to November and then 24 you are given six months to receive the first 25 report, which I would assume would be soon?</p>	<p style="text-align: right;">Page 240</p> <p>1 Q. That is a firm? 2 A. Yes. 3 Q. Consulting firm? 4 A. It's a consulting firm. 5 Q. And when were they retained, if you 6 recall? 7 A. They were on the site already, and we had 8 to get approval from OSHA. I think the approval 9 took almost two months, even though they were on 10 the site already. 11 Q. And again, the same terms it looks like 12 at page 6, you have a six month report? 13 A. Yes. 14 Q. And one year? 15 A. I am going to have to read. Yes. 16 Q. Okay. Well, if we go from the timeline 17 if these folks were already retained according to 18 six -- page 6, Paragraph B, the first report was 19 due six months from the settlement agreement, which 20 means that it's already -- already due? 21 A. No. So, the work that they were doing 22 for us already had to be reshaped and had to get 23 agreement from OSHA on the scale and scope of work 24 and that took a couple of months. So, they really 25 started about -- to do what is obligated in this</p>
<p style="text-align: right;">Page 239</p> <p>1 A. Yeah, it should be coming up fairly soon 2 and then you can see the final report is two years 3 from when we retained the expert. 4 Q. Okay. Have you assisted this PSM expert 5 in assimilating information or conducting the 6 interviews or -- 7 A. Not -- not me personally. They are at 8 the site every day. 9 Q. Have you assigned someone to work with 10 this PSM team? 11 A. I haven't assigned somebody. The site 12 has. 13 Q. Do you know who the contact person is at 14 the site? 15 A. No, I don't. 16 Q. The next thing is an organizational 17 expert. I think that's at page -- 18 A. Five. 19 Q. Five? 20 A. Yes. 21 Q. Do you recall retaining an organizational 22 expert? 23 A. Yes, the site retained one. 24 Q. Do you recall who that? 25 A. J&W.</p>	<p style="text-align: right;">Page 241</p> <p>1 really about the same time the PSM expert did. So, 2 the first report should be coming due shortly. 3 Q. Okay. And I guess we use that maximum 4 timeline, September 20th to two months later would 5 be November 22nd, and then six months after that 6 for these first reports would still get them due no 7 later than May -- 8 A. Sometime, you know, shortly. 9 Q. May 20, 22? 10 A. If the original time lines all held up, 11 they should be due shortly. 12 Q. Have you been asked to be provided with 13 copies of any of these reports? 14 A. We will have to provide copies of them to 15 OSHA and to the USW. 16 Q. Okay. Are you the person charged with 17 continuing to respond to and monitor the OSHA 18 settlement agreement? 19 A. The site has accountability for 20 fulfilling the obligations of the OSHA settlement 21 agreement. 22 Q. Okay. 23 A. I have asked a team to get ahold of them 24 and see where they stand. 25 Q. Have you asked them to provide you with</p>

<p style="text-align: right;">Page 242</p> <p>1 copies of the interim reports? 2 A. I will receive copies. I haven't asked 3 for them. I know I will receive them as a 4 signature on here. 5 Q. Okay. Next you have -- go to 6 Paragraph -- I guess page 7, Number 3, "Safety and 7 Health Training." Looks like this is more generic 8 just training for your staff. 9 Do you know what specific programs 10 if any were being put into place to accommodate the 11 requirements under Number 3, at page 7, dealing 12 with safety and health training? 13 A. Yeah, I know they are doing specific 14 training around the units and they are doing 15 pre-startup safety review training and operator 16 training that, really, the PSM type training is 17 being done. 18 Q. Was this a mandate from OSHA from their 19 concern that training was substandard at that 20 facility? 21 A. I think it was a mandate that they felt 22 we needed to improve the training of our employees. 23 I don't know if they used the term "substandard." 24 Q. Next, page 8, at Number 4, "Occupational 25 Injuries and Illness Logs"?</p>	<p style="text-align: right;">Page 244</p> <p>1 distract the workforce over whether they were valid 2 or not. We wanted to focus on what was the proper 3 steps to abate OSHA's concerns and focus on the 4 process safety and the cultural changes that both 5 OSHA and us thought was important. So, we didn't 6 go into a protracted legal discussion, argument. 7 We didn't think it was beneficial to either of us. 8 Q. You are aware that one of the other 9 conditions of the settlement is that OSHA still 10 reserved the right to refer this entire matter to 11 the Department of Justice? 12 A. I don't remember if it's in here, but I 13 am sure they retained that right. 14 Q. Was there consideration to -- attempting 15 to negotiate with OSHA an agreement that they would 16 not refer it to the DOJ? 17 A. Not to -- 18 MR. PATTERSON: Objection, form. 19 A. Not to my knowledge, if there was any 20 discussion about that. 21 Q. (BY MR. COON) Have you talked to any 22 representatives of the DOJ? 23 A. Yes, I have. 24 Q. Do you know anyone else has? 25 A. Legal counsel.</p>
<p style="text-align: right;">Page 243</p> <p>1 A. Yes. 2 Q. It looks like the first one of those 3 would have already been due. 4 Have you received any of those? 5 A. I have not received those. I am sure 6 they sent them to OSHA. 7 Q. Going to page 14, Paragraph Number 9, 8 "Settlement Payment." 9 Do you know if BP has, in fact, 10 transferred the money for the fines -- 11 A. Yes. 12 Q. -- to OSHA? 13 A. Yes, we paid it by check. 14 Q. Page 15, on Number 14, it talks about 15 "Non-admissions." 16 Was this something that BP asked 17 OSHA to entertain as part of the settlement 18 agreement? 19 A. Yes, it was. 20 Q. And why was it that BP requested as part 21 of the settlement that this be a non-admission on 22 the part of BP? 23 A. So, there were many things in the OSHA 24 citation that we didn't believe were valid, but we 25 didn't want to get into an argument over and</p>	<p style="text-align: right;">Page 245</p> <p>1 Q. Do any other management employees or, for 2 that matter, hourly employees that have talked to 3 the DOJ? 4 A. Not to my knowledge. 5 Q. Do you know if a grand jury has been 6 sequestered yet? 7 A. Not to my knowledge. 8 Q. The Baker panel, were you involved in any 9 form or fashion with putting together the Baker 10 panel? 11 A. No, I wasn't involved with -- well, I was 12 asked who would be some good process safety experts 13 from outside of BP that I could recommend that 14 might -- the Baker panel should consider but that's 15 all. 16 Q. Did any of those persons you recommended 17 end up on the panel? 18 A. No. 19 Q. Do you know how it was that Secretary 20 Baker was chosen? 21 A. No, I don't. 22 Q. Did you have anything to do with steering 23 some of the investigation over to attorneys who 24 specialized in work with the DOJ? 25 MR. PATTERSON: Objection, form.</p>

<p style="text-align: right;">Page 246</p> <p>1 A. No, I didn't have any influence on -- on 2 that.</p> <p>3 Q. (BY MR. COON) Have you been involved in 4 any of the communications to the Baker panel? 5 A. I have been interviewed by the Baker 6 panel.</p> <p>7 Q. The panel as a whole or individual? 8 A. It wasn't the whole span. It was five or 9 six people of the panel and Baker Botts, 10 individuals who were working with the panel.</p> <p>11 Q. Have you been asked by anyone in BP 12 management as to whether or not you believe anyone 13 else in management should hold part of the 14 responsibility for this tragedy of March 23? 15 MR. PATTERSON: Objection, form. 16 A. No, I have not been asked by BP 17 management if anybody else should be held 18 accountable.</p> <p>19 Q. (BY MR. COON) Mr. Gower, in your 20 position of management there, do you believe some 21 other persons should be held at least partly 22 accountable for their role in leadership and lack 23 thereof resulting in the March 23 explosion? 24 A. Could I just ask you to ask that 25 question, again?</p>	<p style="text-align: right;">Page 248</p> <p>1 Mr. Parus? 2 A. I'm -- really I am waiting for everything 3 to be done.</p> <p>4 Q. What about Mr. Parus' predecessors? Has 5 anyone looked at the activities associated with 6 that facility and how they may have impacted this 7 explosion? 8 A. Not to my knowledge, has anyone looked at 9 Don's predecessors.</p> <p>10 Q. Have you been made aware, generally, of 11 the numerous deficiencies in the ISOM unit at the 12 time of the March 23rd startup? 13 MR. PATTERSON: Objection, form. 14 A. So, I have -- I have read the preliminary 15 report and the final report, and I am aware of what 16 items were identified.</p> <p>17 Q. (BY MR. COON) Do you believe it was 18 appropriate for that facility to have down rated 19 the tower from 70 pounds to 40 pounds as a result 20 of corrosion instead of replacing it? 21 A. The tower could have been operated safely 22 at 40 pounds.</p> <p>23 Q. Do you believe -- I am sorry. 24 A. It operates at a much lower pressure than 25 that.</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. Yes, sir. 2 From your years of training, your 3 experience in your present position, do you 4 believe -- do you personally believe that some 5 persons in management should be held at least 6 partly accountable for the tragedy of March 23rd? 7 MR. PATTERSON: Objection, form. 8 A. So, there are individuals in management, 9 at lower levels of management that have been held 10 accountable.</p> <p>11 Q. (BY MR. COON) Those being the ones we 12 talked about earlier? 13 A. Yes, they are.</p> <p>14 Q. Any that -- any other than those? 15 A. For discharge or things, I don't think 16 there should be anybody else. That's my view. But 17 somebody else is running that investigation.</p> <p>18 Q. Do you believe Mr. Parus should have 19 received some reprimand other than a leave of 20 absence? 21 A. Until we complete all the investigation, 22 I don't -- I'm waiting it out. I don't have a 23 view, yet.</p> <p>24 Q. Okay. You have formed no preliminary 25 opinions, one way or the other, with respect to</p>	<p style="text-align: right;">Page 249</p> <p>1 Q. Do you believe it's appropriate to just 2 derate it to 40 pounds, about half of its design 3 capacity? 4 A. Given the service that it's in, it's -- 5 it's appropriate.</p> <p>6 Q. Did you approve of the failure to 7 recognize this derating with the standard operating 8 procedures for that unit? 9 MR. PATTERSON: Objection, form. 10 A. So, you are asking me did I recognize 11 that the operating procedures didn't change the 12 relief setting -- 13 Q. (BY MR. COON) That did not reflect the 14 derating? 15 A. Yes, they did not reflect that.</p> <p>16 Q. And do you approve of that protocol, the 17 failure to recognize -- 18 A. No, they should do that -- they should 19 accurately reflect the proper relief setting for 20 the RVs.</p> <p>21 Q. And who is responsible for making sure 22 the SOPs are upgraded and accurate? 23 A. Well, different units -- ultimately 24 operating superintendent is -- is accountable. 25 They, at times, assign those to different</p>

<p style="text-align: right;">Page 250</p> <p>1 individuals in the organization to do it. 2 Q. And who at the ISOM unit should be 3 ultimately responsible for making sure that the 4 SOPs are accurate and timely updated? 5 A. Usually, it's a training coordinator, I 6 think, at the ISOM. I will have to go back and 7 look but... 8 Q. Did you approve the use of an 8-inch 9 chain valve for pressure relief? 10 MR. PATTERSON: Objection, form. 11 A. So, as it was used at the ISOM, it is not 12 an appropriate way to relieve the pressure nor was 13 it in the startup procedures to use that device. 14 Q. (BY MR. COON) Do you approve of a 15 management acquiescence to the utilization of that 16 chain valve for pressure relief? 17 A. I'm not sure that management acquiesced 18 or knew it was being used. 19 Q. Assuming they did, would you -- 20 A. I would -- 21 Q. -- disapprove? 22 A. I would disapprove of that. 23 Q. Did you take issue with the fact that no 24 relief valve studies had been completed on the unit 25 in 20 years?</p>	<p style="text-align: right;">Page 252</p> <p>1 been in good condition? 2 A. The unit superintendent, inspection 3 personnel, maintenance personnel. 4 Q. Did you know the history of abnormal 5 startups associated with the ISOM unit? 6 A. No, I did not. 7 Q. Have you ever been made aware of the 8 atypical history associated with the startups 9 there? 10 A. So, not on the ISOM unit, itself, but on 11 the raffinate splitter, I have been made aware of 12 abnormal startups from the raffinate splitter. 13 It's documented in the interim report and final 14 report. 15 Q. Were you made aware of the number of 16 contractor trailers that were in the vicinity of 17 the ISOM unit? 18 A. From the interim report and final report, 19 yes, I am fully aware of how many trailers were 20 there. 21 Q. In the times that you were out at that 22 facility before the explosion -- I think you had 23 told us you had been to Texas City in the months 24 and even maybe weeks before this explosion, had you 25 ever noticed trailers in general proximity to</p>
<p style="text-align: right;">Page 251</p> <p>1 A. I am not aware that relief valve studies 2 haven't been completed in that timeframe. 3 Q. Okay. 4 A. I would have expected a relief valve 5 study to be done when relief valve set pressures 6 were changed. 7 Q. Would you take issue if, in fact, a 8 relief valve study had not been completed in 20 9 years on that unit? 10 MR. PATTERSON: Objection, form. 11 A. So, if there is no changes to a process 12 unit in 20 years, then the relief valve study is 13 still valid. If changes had been made, like 14 pressure derating, I would expect a relief valve 15 study to be done. 16 Q. (BY MR. COON) Did you feel it was 17 inappropriate to utilize a blowdown drum at a point 18 when all the baffles had rusted out? 19 MR. PATTERSON: Objection, form. 20 A. The blowdown drum would not function 21 fully with all -- without those baffles in there. 22 So, it's not appropriate to use that. 23 Q. (BY MR. COON) Who would have been -- who 24 should have been responsible for making sure that 25 that unit had been -- that that blowdown drum had</p>	<p style="text-align: right;">Page 253</p> <p>1 units? 2 A. So, the February meeting I attended was 3 actually at South Shore Harbor. I don't recall 4 trailers in that area. I am not sure if I toured 5 that part of the plant or not. 6 Q. Didn't Mr. Parus comment on the findings 7 of the Telos Report in the February conference with 8 management? 9 MR. PATTERSON: Objection, form. 10 A. So, I don't recall -- 11 Q. (BY MR. COON) The report came out 12 January 21. 13 A. Okay. I don't recall. I -- what I 14 really recall was just the visualization of the 20 15 plus people and their bios and pictures. 16 Q. Do you agree with the findings in the 17 fatal report and CSB report that overfills of the 18 splitter were foreseeable? 19 MR. PATTERSON: Objection, form. 20 A. So, I don't -- I don't agree overfill of 21 the splitters are foreseeable. 22 Q. (BY MR. COON) Did you agree with the 23 findings of the fatal report and the CSB that there 24 was a lack of proper low alarms and there was poor 25 design?</p>

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<p style="text-align: right;">Page 254</p> <p>1 A. Low alarms? 2 Q. Yes, sir. 3 A. I don't recall mentioning the low alarms. 4 Q. Do you agree with the fatal report and 5 CSB findings that the high alarms were 6 malfunctioning? 7 A. One of the -- there are multiple high 8 alarms and one of the high alarms did not function. 9 Q. Do you agree that having high alarms on a 10 system like this are important -- 11 A. Yes. 12 Q. -- and are properly operating? 13 A. High alarms are important to have 14 properly operating on a tower like this. 15 Q. You understood that the sight glass on 16 the tower was obscured? 17 A. From the work done by the report, I 18 understand that it was obscure. 19 Q. And assuming that to be the case, that 20 would, again, be a marker for poor maintenance on 21 that unit? 22 A. No, it could be a mark. I could expect 23 that can be an operator accountability, not 24 necessarily maintenance accountability. A routine 25 duty to clean sight glasses. So, I am not sure</p>	<p style="text-align: right;">Page 256</p> <p>1 not working? 2 A. I wasn't aware of that until the report 3 or at least the investigative work was done for the 4 report. 5 Q. Is it important for the pumps to work on 6 the units? 7 A. It wouldn't have made any difference in 8 the events of March 23rd if those pumps worked or 9 not. 10 MR. COON: Nonresponsive. 11 Q. (BY MR. COON) Is it important for the 12 pumps on your units to work? 13 MR. PATTERSON: Objection, form. 14 A. So, it depends on the pumps and the 15 application. Some pumps are very critical and 16 important and some pumps may or may not be. It 17 depends on the service. 18 Q. (BY MR. COON) Would a J14 pump be an 19 important pump to work? 20 A. The pump would be -- my understanding of 21 the service of this pump, it would be important to 22 minimize oil to the sewer and it's -- that's why it 23 was installed. 24 Q. Was it important to keep unnecessary 25 ignition sources away from the vent stack, like</p>
<p style="text-align: right;">Page 255</p> <p>1 it's maintenance or operators. 2 Q. Would you agree that vent stacks are old 3 technology? 4 MR. PATTERSON: Objection, form. 5 A. So, vent -- vent stacks are -- are older 6 technology. 7 Q. (BY MR. COON) When was the last time BP 8 installed a vent stack for a new system? 9 MR. PATTERSON: Objection, form. 10 A. I don't know. We wouldn't install a vent 11 stack today. 12 Q. (BY MR. COON) Has it been decades -- 13 MR. PATTERSON: Objection, form. 14 Q. (BY MR. COON) -- since they have 15 installed a vent stack into a new unit? 16 A. Yes, I would think it would have been 17 decades. 18 Q. In fact, 1961 when that facility, the BP 19 Texas City facility was rebuilt, all the new design 20 included flares, didn't it? 21 MR. PATTERSON: Objection, form. 22 A. I don't -- I don't know if it was 1960 23 and on. 24 Q. (BY MR. COON) Did you know the history 25 of poor maintenance on the J14 pump and that it was</p>	<p style="text-align: right;">Page 257</p> <p>1 vehicle trucks? 2 A. Certainly, in light of what we know 3 today, we should have had ignition sources much 4 farther from the vent stack. 5 Q. And the reality is you should have just 6 kept most of the contractor trucks out of the 7 confines of the facility? 8 A. The confines of the facility? So -- 9 Q. Or the gate, the perimeter? 10 A. Recognizing the risk of the blowdown 11 stack, we should have had trucks much farther away 12 than we did. 13 Q. Who was responsible for allowing those 14 trailers to be occupied adjacent to the ISOM unit? 15 MR. PATTERSON: Objection, form. 16 A. There has been a lot of work done trying 17 to identify. It's -- 18 Q. (BY MR. COON) I mean, we have talked to 19 ten people whose name were on the MOC and none of 20 them will admit it was their responsibility. 21 MR. PATTERSON: Objection, form. 22 A. So, it's not clear to me where the 23 accountability lies for -- and how those trailers 24 got placed there. 25 Q. (BY MR. COON) So, even to this day, BP</p>

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<p style="text-align: right;">Page 258</p> <p>1 has not been able to ascertain where that buck 2 stopped? 3 A. To this date, I am not aware of where 4 that stops. 5 Q. Do you know what, if anything, is being 6 done by BP now to continue to try to identify what 7 person was responsible, ultimately, for allowing 8 those trailers to be occupied there? 9 MR. PATTERSON: Objection, form. 10 A. I am not aware of any additional work 11 around that. 12 Q. (BY MR. COON) Would that be a person in 13 management? 14 A. I don't know. I mean, I don't -- I don't 15 know where -- who all would have been a decision 16 authority to do that. It could be a person in 17 management. 18 Q. Okay. Well, BP takes -- MOCs are very 19 important, aren't they? 20 A. Yes. 21 Q. And to locate these temporary trailers 22 adjacent to the ISOM where they were located 23 required an MOC? 24 A. Yes. 25 Q. And as it turns out in this case, many of</p>	<p style="text-align: right;">Page 260</p> <p>1 MR. PATTERSON: Objection, form. 2 A. I mean, today you might find people who 3 would say that. I don't know if the issues were 4 raised prior to March 23rd. 5 Q. (BY MR. COON) Do you know that BP 6 obtained statements from their own employees in 7 which those employees have testified that they 8 advised other people in management at BP that they 9 needed to move those trailers or at least advise 10 the people in those trailers to be out of them when 11 the ISOM was started back up? 12 MR. PATTERSON: Objection, form. 13 A. So, I haven't read those statements. I 14 heard that there are statements that people say 15 they had advised people that they were too close. 16 Q. (BY MR. COON) And to the extent those 17 people said that and are being truthful about it, 18 then BP had employees that had foresight of those 19 risks as well as hindsight? 20 MR. PATTERSON: Objection, form. 21 A. There are -- if -- if indeed people made 22 those statements and did inform people, then we did 23 have some people and BP had foresight. 24 Q. (BY MR. COON) Why did BP not undertake 25 as a matter of practice the evacuation of the areas</p>
<p style="text-align: right;">Page 259</p> <p>1 those trailers did not have an MOC out on them, did 2 they? 3 A. That's correct. 4 Q. And, in fact, none of them had a 5 commission to be occupied? 6 A. A completed MOC for occupation -- 7 occupying them, yes. 8 Q. So, we have -- the trailers that were 9 over there, the majority of them had no MOC request 10 and those that did, none of them had reached the 11 commission? 12 A. Correct. They were still some missing 13 items on the MOC. 14 Q. And you understood that from the location 15 some of these trailers, particularly the ones where 16 the fatalities occurred, that they were within the 17 350-foot standard limits for the location of 18 temporary trailers to units? 19 A. So, my recollection would be the 350-foot 20 in relationship to a flare, not a unit. So, they 21 were certainly, you know, in hindsight, way too 22 close to a blowdown stack. 23 Q. Do you believe that some persons felt 24 that in foresight, they were located too close to 25 the ISOM unit?</p>	<p style="text-align: right;">Page 261</p> <p>1 immediately surrounding the unit during startup and 2 shutdown, particularly in light of your recognition 3 that that's the most dangerous time at a unit? 4 MR. PATTERSON: Objection, form. 5 A. I don't know why these trailers weren't 6 evacuated in -- during startup. 7 Q. (BY MR. COON) Why did BP not have a 8 policy for advising contractors of unit startups so 9 that they could move to a safe distance? 10 MR. PATTERSON: Objection, form. 11 A. I can't answer that. I don't know why 12 there wasn't a policy. 13 Q. (BY MR. COON) Was there a policy in 14 place to advise BP personnel on the sites of 15 startups and shutdowns? 16 MR. PATTERSON: Objection, form. 17 A. I don't know that there is a policy. 18 It's normal communication usually at daily 19 operations meetings about what is going to be 20 starting up, what is going to be shutting down. I 21 am not sure if it's in a policy or not or was a 22 policy prior to March 23rd. 23 Q. (BY MR. COON) Do you have any idea as to 24 why BP would not utilize that same courtesy with 25 respect to the non-employees on the same jobsite?</p>

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<p style="text-align: right;">Page 262</p> <p>1 MR. PATTERSON: Objection, form. 2 A. I would say it was an oversight. 3 Q. (BY MR. COON) Would you agree with the 4 criticisms that the operator training at BP Texas 5 City as of 2004 was very important? 6 MR. PATTERSON: Objection, form. 7 A. I think you would find it very -- very 8 variable across Texas City and that's what I think 9 they saw when they looked at it. 10 Q. (BY MR. COON) Okay. With respect to the 11 ISOM unit, going back to Paul Trapp, are you aware 12 that it was nonexistent? 13 A. I wasn't aware that -- 14 MR. PATTERSON: Objection, form. 15 A. I wasn't aware that he stated that. 16 Q. (BY MR. COON) Okay. To the extent he 17 has stated and testified to that, you are not in a 18 position of disagreeing, are you, sir? 19 MR. PATTERSON: Objection, form. 20 A. No, I am not in a position to disagree. 21 Q. (BY MR. COON) Do you know anything about 22 the history of the number of board operators 23 associated with running that ISOM? 24 A. No, I don't have any knowledge about the 25 number of board operators to operate the ISOM.</p>	<p style="text-align: right;">Page 264</p> <p>1 Q. (BY MR. COON) Is that something that 2 today is news to you? 3 MR. PATTERSON: Objection, form. 4 A. That George Carter denied a grievance? 5 Yes, it's -- in light of today, it's news to me. 6 Q. (BY MR. COON) Okay. Are you aware 2003 7 when the NDU system came in, that even Paul Trapp 8 admonished management to put two board operators 9 back in there in light of the additional 10 responsibilities? 11 A. No, I am not aware Paul Trapp did that. 12 Q. Do you know how many fires had occurred 13 at the ISOM unit in the years prior to this 14 explosion? 15 MR. PATTERSON: Objection, form. 16 A. No, I am not aware of how many fires that 17 occurred at the ISOM unit in the years prior to 18 this explosion. 19 Q. (BY MR. COON) Do you know there was a 20 fire there in 1986? 21 MR. PATTERSON: Objection, form. 22 Q. (BY MR. COON) You were out there then 23 weren't you? 24 A. I know, but I don't recall a fire at the 25 ISOM in 1986.</p>
<p style="text-align: right;">Page 263</p> <p>1 Q. Were you aware that until the late '90s, 2 there were two board operators working in the 3 control room? 4 MR. PATTERSON: Objection, form. 5 A. No, I wasn't aware that there were two 6 board operators. 7 Q. (BY MR. COON) Are you aware that BP 8 management reduced that to one board operator 9 around 1997 or '98 over the objections of organized 10 labor at that facility? 11 A. No -- 12 MR. PATTERSON: Objection, form. 13 A. -- I'm not. 14 Q. (BY MR. COON) Do you know that 2000 -- 15 around 2001 in an ISOM startup that the union, 16 again, grieved BP management for not having two 17 board operators at least during the startup 18 procedures in light of the additional hazards 19 associated with startup? 20 MR. PATTERSON: Objection, form. 21 A. No, I am not aware of that. 22 Q. (BY MR. COON) Are you aware that 23 Mr. Carter denied that grievance? 24 MR. PATTERSON: Objection, form. 25 A. No, I am not aware of that.</p>	<p style="text-align: right;">Page 265</p> <p>1 Q. Did you know there was a fire out there 2 in 1997 -- 1987? 3 MR. PATTERSON: Objection, form. 4 A. No, I am not aware there was a fire there 5 in 1987. 6 Q. (BY MR. COON) Did you know there was a 7 fire in in 1988? 8 MR. PATTERSON: Objection, form. 9 A. No, I wasn't aware there was a fire in 10 1988. 11 Q. (BY MR. COON) Did you know there was a 12 fire there in 1999? 13 A. No, I wasn't aware there was a fire there 14 in 1999. 15 Q. There has been some position by BP at one 16 time that they were not appreciative of the fact 17 that vapors could condense to form a vapor cloud at 18 ground level and create an explosion hazard. 19 Are you aware of that position 20 that BP has taken, to some degree? 21 MR. PATTERSON: Objection, form. 22 A. That they could? 23 Q. (BY MR. COON) That they may have. 24 A. That they may -- no, that they may have. 25 MR. PATTERSON: Objection, form.</p>

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<p style="text-align: right;">Page 266</p> <p>1 A. That they may have, I'm not -- I don't 2 think we were able to document that they might have 3 done that.</p> <p>4 Q. (BY MR. COON) Are you aware of numerous 5 prior reports of the release of vapors forming 6 vapor clouds at the ISOM unit?</p> <p>7 A. No, I am not.</p> <p>8 Q. Were you aware in 1991 citation by OSHA 9 for the BP Texas City facility regarding the 10 release to atmosphere from a vent stack forming at 11 a vapor cloud?</p> <p>12 A. No, I was not aware of a citation in 13 1991.</p> <p>14 Q. Have you ever been made aware of that 15 citation?</p> <p>16 A. Yes.</p> <p>17 Q. When?</p> <p>18 A. Since the explosion in -- March 23rd.</p> <p>19 Q. Do you recall that that citation 20 admonished BP that the vapor clouds could create a 21 fire hazard and explosion hazard as contained in 22 the citation?</p> <p>23 MR. PATTERSON: Objection, form.</p> <p>24 A. So, I am aware of what the citation has 25 in it since March 23rd.</p>	<p style="text-align: right;">Page 268</p> <p>1 big chunks of concrete had fallen off the pipe 2 supports?</p> <p>3 A. No, I haven't reviewed Mr. Hawkins' 4 deposition nor have I talked to him about his 5 deposition.</p> <p>6 Q. Were you ever made aware that big chunks 7 of concrete are routinely falling from the pipe's 8 parts of that unit before this explosion occurred?</p> <p>9 MR. PATTERSON: Objection, form.</p> <p>10 A. No, I was not aware that any chunks of 11 concrete were falling.</p> <p>12 Q. (BY MR. COON) Was that something that 13 you would have like to have known --</p> <p>14 MR. PATTERSON: Objection, form.</p> <p>15 Q. (BY MR. COON) -- that units get into 16 that state of disrepair?</p> <p>17 A. So, it's fireproofing, I guess. I don't 18 know what it is when they say hunks of concrete. 19 So, I would like to know what the general condition 20 of units are.</p> <p>21 Q. Okay. Well, let's talk about the 22 concrete pipe supports.</p> <p>23 You ever familiar with concrete 24 pipe supports, are you not?</p> <p>25 A. So, the concrete is probably fire</p>
<p style="text-align: right;">Page 267</p> <p>1 Q. (BY MR. COON) Do you recall that 2 citation admonishing BP to reduce that risk by 3 going from a vent stack to a flare system?</p> <p>4 A. No, I don't recall that.</p> <p>5 Q. Were you aware in the 16 prior startups 6 in the five years before at the ISOM unit that half 7 of them had pressure ratings twice the normal 8 20-pound pressure?</p> <p>9 MR. PATTERSON: Objection, form.</p> <p>10 A. Some -- I am aware that there were 11 startups that had higher pressure ratings. I don't 12 know that it's half, but there were several.</p> <p>13 Q. (BY MR. COON) Do you know the number of 14 employees that described the ISOM unit as a piece 15 of junk?</p> <p>16 MR. PATTERSON: Objection, form.</p> <p>17 A. No, I am not aware of that they have 18 described the ISOM unit as a piece of junk.</p> <p>19 Q. (BY MR. COON) You don't recall 20 statements from your employees where they described 21 the ISOM unit as a piece of junk?</p> <p>22 MR. PATTERSON: Objection, form.</p> <p>23 A. No, I don't recall those statements.</p> <p>24 Q. (BY MR. COON) Did you see any of the 25 exhibits attached to Mr. Hawkins' deposition where</p>	<p style="text-align: right;">Page 269</p> <p>1 proof -- concrete fireproofing on steel supports.</p> <p>2 Q. Well, I will give you examples of some 3 photos.</p> <p>4 A. Yeah.</p> <p>5 Q. (Tenders documents.) 6 Have you seen photos like that 7 before?</p> <p>8 A. No. It looks like concrete fireproofing.</p> <p>9 Q. Have you seen photos such as these 10 before? I believe these were ones that Mr. Hawkins 11 had taken before this explosion to show the poor 12 condition of the ISOM unit?</p> <p>13 MR. PATTERSON: Objection, form.</p> <p>14 A. No, I hadn't seen that photo before.</p> <p>15 Q. (BY MR. COON) Okay. Can you tell me 16 what that is?</p> <p>17 A. No, I can't tell what this is.</p> <p>18 Q. Can you tell that was originally a bolt 19 designed to hold something down?</p> <p>20 MR. PATTERSON: Objection, form.</p> <p>21 A. No, I can't tell that that's what that 22 is.</p> <p>23 Q. (BY MR. COON) This is attached, and it's 24 223033. It was identified in Mr. Hawkins' 25 deposition.</p>

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<p style="text-align: right;">Page 270</p> <p>1 But you can't even tell what that 2 is from the deteriorated condition? 3 MR. PATTERSON: Objection, form. 4 A. I can't. I can't tell you what that is. 5 I can't. I just can't. 6 Q. (BY MR. COON) I am going to show you a 7 copy of the OSHA citation for 1991 release. The 8 citation was actually issued in March of the 9 following year. And there were several different 10 citations. I want to refer you to the second page, 11 sir, and third page. And again, this is 12 referencing the 1991 OSHA citation we were 13 discussing a moment ago. 14 And as you are reviewing it, had 15 you actually seen the citation before, Mr. Gower? 16 A. No, not the citation itself. 17 (Examines document.) 18 Okay. 19 Q. Okay. These are certain pages of what is 20 Exhibit 146 to the record, attached to Mr. Hawkins' 21 deposition, and if we can display these. It 22 discusses the atmospheric release we were talking 23 about earlier -- 24 MR. PATTERSON: Objection, form. 25 Q. (BY MR. COON) -- correct?</p>	<p style="text-align: right;">Page 272</p> <p>1 toluene, xylene all the aromatic hydrocarbons are 2 known to cause cancer, aren't they? 3 A. I don't know if all of them are. 4 MR. PATTERSON: Objection, form. 5 A. Are they? Some of them are. I don't 6 know if all of them are. 7 Q. (BY MR. COON) Do you know that benzene, 8 toluene and xylene are all recognized as Class A 9 carcinogens? 10 A. Benzene is for sure. I don't know if the 11 others are Class A or not. 12 Q. It's certainly not something that you 13 would want to get all over you, is it? 14 MR. PATTERSON: Objection, form. 15 A. Not with what we know today. 16 Q. (BY MR. COON) And Mr. Skinner, who was 17 an area director at the time charged with this 18 citation, the issuance of the citation, made 19 comments on the next page. 20 It says, "Among other methods 21 feasible and acceptable abatement methods to 22 correct this hazard are Number 1, reconfigure 23 blowdown to a closed system with flare and add the 24 necessary piping to allow the vessels referenced 25 here in A above to discharge to that system."</p>
<p style="text-align: right;">Page 271</p> <p>1 A. I can't tell because it -- you know, 2 there's multiple pieces of equipment with the same 3 number out there, multiple units. So, it doesn't 4 reference ISOM anywhere. 5 Q. Yeah. I don't think this was on the ISOM 6 unit. I think it was on another one. It was a 7 vent stack. 8 A. Yeah, and I don't know that all vent 9 stacks are blowdown stacks. So, I don't know what 10 it references. 11 Q. And if you look at it, it says, "On 12 October 29, 1991, the following pieces of process 13 equipment containing flammable or toxic gases were 14 constructed in a manner that allowed gases to vent 15 to the atmosphere when the relief valves opened, 16 thus exposing employees to flammable or toxic 17 gases." And it goes on to list hydrogen sulfide 18 benzene, toluene, xylene, sulfur dioxide and 19 hydrocarbons? 20 A. Yes. 21 Q. Okay. And a number of those, in fact, 22 are not only toxic, they are carcinogenic, aren't 23 they? 24 MR. PATTERSON: Objection, form. 25 Q. (BY MR. COON) For instance, benzene,</p>	<p style="text-align: right;">Page 273</p> <p>1 Did I read that correctly? 2 A. Yes. 3 Q. So, there was at least a recognition by 4 an OSHA representative at that time that a way of 5 avoiding these uncontrolled vents to atmosphere was 6 to run them to a flare? 7 A. Yes. 8 Q. And this news would certainly have been 9 imparted to Amoco as a result of receipt of the 10 citation? 11 A. Yes. 12 MR. PATTERSON: Objection, form. 13 Q. (BY MR. COON) Did you agree with the 14 fatal report, with Mr. Mogford, that flares are 15 inherently safer than vent stacks? 16 MR. PATTERSON: Objection, form. 17 A. For most services, they are inherently 18 safer. 19 Q. (BY MR. COON) Did you see Mr. Hawkins' 20 statement where he said everyone should have a 21 flare? 22 MR. PATTERSON: Objection, form. 23 A. No, I did not see that statement. 24 Q. (BY MR. COON) Do you know who 25 Mr. Hawkins is?</p>

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<p style="text-align: right;">Page 274</p> <p>1 A. Yes, I know who Mr. Hawkins is. 2 Q. Do you think he is in a position from an 3 educational and training standpoint to formulate an 4 opinion of that nature? 5 MR. PATTERSON: Objection, form. 6 A. So, if we discussed some streams, I think 7 he would reconsider that statement. It's certainly 8 good for most streams. 9 Q. (BY MR. COON) Did you know that there 10 had been prior vapor and liquid overfills at other 11 units at that plant -- 12 A. No, I -- 13 Q. -- prior to this occasion of March 23, 14 2005? 15 A. I wasn't aware of other overfills. There 16 has been vapor releases off of relief valves in the 17 history of the plant. 18 Q. Are you aware that in addition to vapor 19 overfills that there had been liquid overfills, 20 where liquid had been released to atmosphere? 21 MR. PATTERSON: Objection, form. 22 A. Not on over -- overfills. 23 Q. (BY MR. COON) That's news to you? 24 A. Yes. 25 Q. You were aware of a number of</p>	<p style="text-align: right;">Page 276</p> <p>1 A. No, I am not aware that have. 2 Q. Did you know that that had been in place 3 since, like the 50s -- it was 1950s technology? 4 MR. PATTERSON: Objection, form. 5 A. That the blowdown stack had been there 6 since 1950? 7 Q. (BY MR. COON) Yes, sir. 8 That unit was built in the '50s 9 with that blowdown drum and vent stack? 10 MR. PATTERSON: Objection, form. 11 A. It -- again, it wouldn't surprise me that 12 it was built in 1950. 13 Q. (BY MR. COON) Or in the '50s, anyway. I 14 think '56. 15 A. Okay. 16 Q. And that was the technology that was 17 common at the time, best of your knowledge? 18 A. '56, I was four years old. I don't know 19 what the technology was. 20 Q. Well, you know who our first president 21 was, don't you? 22 A. That I could read because you can read 23 that from history books, but I couldn't read what 24 the technology -- and I have never read what the 25 technology was in the '50s, really.</p>
<p style="text-align: right;">Page 275</p> <p>1 opportunities that BP had to convert that ISOM unit 2 to a flare system over the years? 3 MR. PATTERSON: Objection, form. 4 A. No, I am not aware -- I was not aware of 5 those prior to March 23rd. 6 Q. (BY MR. COON) You have certainly been 7 made aware of them since then? 8 A. I am aware that there was flare work done 9 and tie-ins made so that, ultimately, they could be 10 tied in to a flare. 11 Q. Okay. And did you have an understanding 12 as to why a flare was not utilized when that ISOM 13 unit was built in 1984 since that was -- flares 14 were standard technology then? 15 MR. PATTERSON: Objection, form. 16 A. No, I don't know why that didn't take 17 place in 1984. 18 Q. (BY MR. COON) Did you know that the only 19 piece of equipment left off the original unit out 20 there was the emission system and blowdown drum and 21 vent stack? 22 MR. PATTERSON: Objection, form. 23 A. No. 24 Q. (BY MR. COON) That was the only thing 25 they salvaged from the existing unit?</p>	<p style="text-align: right;">Page 277</p> <p>1 Q. You don't know much about the history of 2 petrochemical plants from a technology standpoint? 3 A. Well, from '70s on, I have read articles 4 about thermal cracking and things that were 5 invented at the turn of the century, but I, you 6 know -- and CAT cracking and the aviation gas era 7 to provide aviation fuels in World War II. But 8 you -- usually you read about how you can 9 manipulate and do things to hydrocarbons, not about 10 vent systems and things like that. That's -- there 11 is not much documented on those -- 12 Q. So, you just really never recall the 13 personal history from an educational standpoint at 14 any time that you got from reading or osmosis as to 15 when vent stacks were phased out in petrochemical 16 plants -- 17 A. I know -- 18 Q. -- and replaced with flares. 19 MR. PATTERSON: Objection, form. 20 A. Okay. I know from just the process 21 safety standards from -- from Amoco days that we 22 were moving towards flares for meeting process -- 23 safety standards as we built new units. 24 Q. (BY MR. COON) Did you know back in the 25 '60s and '70s they were doing that?</p>

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<p style="text-align: right;">Page 278</p> <p>1 MR. PATTERSON: Objection, form. 2 A. My knowledge would have started in the 3 '70s. We were doing that. 4 Q. (BY MR. COON) And in fact, we know at BP 5 Texas City, there was PSS Number 6, which is a 1986 6 statement regarding replacing vent stacks when 7 economically feasible, such as when they were doing 8 major overhauls, et cetera? 9 A. I think it said when -- when we were 10 doing major modifications, we would replace them. 11 Q. Did you know that the vent stacks was 12 left there from the existing unit built in the '50s 13 as the result of changes to environmental 14 regulations? 15 A. No. 16 Q. Did you know that it was left there so 17 they could grandfather into more lenient 18 environmental regulations -- 19 MR. PATTERSON: Objection, form. 20 Q. (BY MR. COON) -- than what applied in 21 1984 for new construction? 22 MR. PATTERSON: Objection, form. 23 A. No, I'm not aware that's why that vent -- 24 the vent stack was left there. 25 Q. (BY MR. COON) Did you have an -- were</p>	<p style="text-align: right;">Page 280</p> <p>1 unit as well? 2 MR. PATTERSON: Objection, form. 3 A. No, I am not aware of that. 4 Q. (BY MR. COON) That is news to you today? 5 MR. PATTERSON: Objection, form. 6 A. Yes, it is. 7 Q. (BY MR. COON) Would you question the 8 management decision to save \$150,000 in using 9 smaller pipe in new construction so as to avoid 10 converting the ISOM unit to a flare? 11 MR. PATTERSON: Objection, form. 12 Q. (BY MR. COON) Is that a good business 13 practice? 14 MR. PATTERSON: Objection, form. 15 A. So, we -- when you are running a new 16 header, you should run it large enough these days, 17 with the forethought about the future and not just 18 right-size it for the unit that you are doing 19 today. 20 Q. (BY MR. COON) Okay. And do you know 21 that when they made that decision that they looked 22 at those things and understood that the likelihood 23 of environmental regulations, through the EPA or 24 otherwise, were going to be at 80 percent or 25 greater, requiring them to convert to a flare</p>
<p style="text-align: right;">Page 279</p> <p>1 you made aware to understand that even though this 2 was a completely new unit, they left the vent stack 3 and blowdown drum there just so they could release 4 more pollutants into the atmosphere than what 5 regulations would otherwise allow them to do in 6 1984? 7 MR. PATTERSON: Objection, form. 8 A. No, I was not aware of that discussion -- 9 decision. 10 Q. (BY MR. COON) Were you aware that BP 11 considered tying in the ISOM to a flare several 12 different times over the next 20 years? 13 MR. PATTERSON: Objection, form. 14 A. I know that there was a tie-in put in 15 when they were running the NDU by there for 16 ultimately tying in the ISOM to the flare, but I 17 was not aware of a lot of other discussions or 18 decisions around that. 19 Q. (BY MR. COON) And that was in 2003? 20 A. It was whenever the NDU was built. 21 Q. And do you know why they scrapped that? 22 A. No, I don't. 23 Q. Do you know it was because they could 24 save \$150,000 utilizing a smaller pipe from NDU to 25 the flare if it didn't have to accommodate the ISOM</p>	<p style="text-align: right;">Page 281</p> <p>1 within the next five years, and they still decided 2 to use the smaller line and not convert? 3 MR. PATTERSON: Objection, form. 4 Q. (BY MR. COON) Were you aware of that? 5 MR. PATTERSON: Objection, form. 6 A. No, I was not aware of that. 7 Q. (BY MR. COON) Assuming those are the 8 facts, and that's the truth of those facts, would 9 you disagree with management's decision to save a 10 relatively paltry amount of money, a short-sided 11 measure and avoid converting to a flare when they 12 had the opportunity? 13 MR. PATTERSON: Objection, form. 14 A. So, it's not foresight to run a header 15 that is too small for something that you are going 16 to need in the future. It -- it's an independent 17 decision of whether you tie the ISOM into the 18 flare. It's running a header capable of future 19 expansion and tying in to other units when you 20 recognize the environmental regulations that are 21 coming. 22 Q. (BY MR. COON) All right. Do you know 23 that Mr. Carter made that decision -- 24 MR. PATTERSON: Objection, form. 25 A. No.</p>

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<p style="text-align: right;">Page 282</p> <p>1 Q. (BY MR. COON) -- to kill that pipe 2 system, a large pipe system -- 3 MR. PATTERSON: Objection, form. 4 Q. (BY MR. COON) -- and do what he called, 5 quote, "bank the money," which meant "don't spend 6 it"? 7 MR. PATTERSON: Objection, form. 8 A. So, multiple questions. 9 Q. (BY MR. COON) Yeah. Were you aware that 10 Mr. Carter made that decision -- 11 MR. PATTERSON: Objection, form. 12 Q. (BY MR. COON) -- to kill the additional 13 expenditures? 14 A. No, I am not aware that Mr. Carter made 15 the decision or there was even a decision made. 16 Q. Did you know Mr. Carter, personally -- 17 have any dealings with him? 18 A. Yes, I have known Mr. Carter, personally. 19 Q. Was he a particularly thrifty individual? 20 MR. PATTERSON: Objection, form. 21 A. I don't know how to make that judgment. 22 He was a good businessman. 23 Q. (BY MR. COON) Well, during this 24 timeframe, was there a lot of pressure on the plant 25 managers and others in management to avoid spending</p>	<p style="text-align: right;">Page 284</p> <p>1 Report I've got showing here and it's what we are 2 looking at. 3 A. Okay. 4 Q. Page 17. There were several different 5 things were discussed. One of the questions that 6 was asked in the survey were conditions of the kit. 7 And what are we talking about with 8 "kit"? 9 MR. PATTERSON: Objection, form. 10 Q. (BY MR. COON) Are we talking about the 11 units? 12 A. I think it would be -- it could be units, 13 but it could also be infrastructure tanks, piping 14 and oil movements. 15 Q. Okay. Well, there's -- if you look over 16 all of this, there is generally a lot of criticism 17 of BP geared towards discretionary expenditures and 18 the general flavor is that management was not 19 allocating enough money under some circumstances to 20 properly fix things, whether it was training -- for 21 enough training, whether it was deferring 22 maintenance, things of that nature. 23 Do you recall that general flavor 24 contained within a number of the comments in the 25 Telos Report?</p>
<p style="text-align: right;">Page 283</p> <p>1 anything out of discretionary -- out of 2 discretionary manners? 3 MR. PATTERSON: Objection, form. 4 A. In 2003? 5 Q. (BY MR. COON) Yes, sir. 6 A. I don't recall any discretionary pressure 7 on spending. 8 Q. In the Telos Report, do you recall any 9 particular condemnation of Mr. Carter's business 10 practices from other people in management? 11 A. In the report? I don't -- I don't 12 recall. 13 Q. Do you recall comments in the Telos 14 report or quotes of other persons where that 15 Mr. Carter said, quote, cut, cut, cut, end quote? 16 Do you recall anything like that? 17 A. No, I don't. 18 Q. Do you recall anything to the effect that 19 Mr. Carter was quoted as saying cut anything so 20 long as he can cover the paper and not be 21 criminally culpable? 22 MR. PATTERSON: Objection, form. 23 A. That doesn't sound like something I would 24 expect George Carter to say. 25 Q. (BY MR. COON) Mr. Gower, in the Telos</p>	<p style="text-align: right;">Page 285</p> <p>1 MR. PATTERSON: Objection, form. 2 A. So, there were -- can you repeat that? I 3 am sorry. 4 Q. (BY MR. COON) Yes. 5 A. I was reading the -- 6 Q. Well, and in looking -- in looking over 7 this, there's a lot of pages and a lot of comments; 8 but general flavor was criticism of BP management 9 and not spending enough money for certain things, 10 whether it was for enough training, for enough 11 staff, for deferring maintenance and putting off to 12 later what could be fixed now. 13 Do you recall a number of those 14 kind of complaints in the Telos Report from 15 individuals that completed the surveys? 16 MR. PATTERSON: Objection, form. 17 A. So, those -- there are those complaints 18 in the report and some of them -- some of the same 19 quotes are repeated over and over in the report. 20 Q. (BY MR. COON) And I wanted to call your 21 attention to this one in particular in that it 22 seemed to be somewhat prophetic. It's this one 23 right here (indicating). This particular -- and 24 again, these were all BP employees that made all 25 these comments that were contained in the Telos</p>

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<p style="text-align: right;">Page 286</p> <p>1 Report; is that correct?</p> <p>2 MR. PATTERSON: Objection, form.</p> <p>3 Q. (BY MR. COON) Do you understand that all</p> <p>4 the comments in here are from BP Texas City</p> <p>5 employees?</p> <p>6 MR. PATTERSON: Objection, form.</p> <p>7 A. I didn't know. They didn't survey -- I</p> <p>8 don't know. Did they survey any contractors? I</p> <p>9 don't -- I thought they surveyed contractors, too.</p> <p>10 Q. (BY MR. COON) Okay. It says right here</p> <p>11 on this one. "It seems like it all comes down to</p> <p>12 money. We tell them we need it. They tell us they</p> <p>13 don't have the money. As soon as it blows up or</p> <p>14 someone gets hurt, there's all sorts of money."</p> <p>15 Do you see that one?</p> <p>16 A. Yes, I do see that one.</p> <p>17 Q. Had you seen that one before?</p> <p>18 A. Yes, I saw it in the Telos Report when I</p> <p>19 read it.</p> <p>20 Q. Yeah. Are you aware of any of the</p> <p>21 assessments or reviews at BP Texas City at times</p> <p>22 before this explosion where it was determined that</p> <p>23 it would need to take over a billion dollars in</p> <p>24 capitalization to get the plant back where it</p> <p>25 needed to be?</p>	<p style="text-align: right;">Page 288</p> <p>1 Q. And where is he at?</p> <p>2 A. He works at Texas City.</p> <p>3 Q. Would he have been there through the</p> <p>4 duration of this time dealing with budgets?</p> <p>5 A. I think he had multiple roles during this</p> <p>6 time, but he has the capability to pull that budget</p> <p>7 data and information.</p> <p>8 Q. Did you have anything to do with the</p> <p>9 review of any of the budgets at Texas City or the</p> <p>10 plants with your role in Chicago as vice president?</p> <p>11 A. Total fixed cash budgets, variable</p> <p>12 budgets, capital.</p> <p>13 Q. Okay. So, I understand some things, we</p> <p>14 just kind of go through this, we will talk more</p> <p>15 about the budgetary issues in a minute after we</p> <p>16 change tapes. But as I understand, when BP merged</p> <p>17 with Amoco in '99, we had Lord Browne advising his</p> <p>18 financial people that there is going to be</p> <p>19 \$1.4 billion reduction in refining and marketing</p> <p>20 expenditures.</p> <p>21 Do you recall any statements like</p> <p>22 that in 1999?</p> <p>23 A. I --</p> <p>24 MR. PATTERSON: Objection, form.</p> <p>25 A. I don't recall that statement or that</p>
<p style="text-align: right;">Page 287</p> <p>1 MR. PATTERSON: Objection, form.</p> <p>2 A. I am not aware of a review where it said</p> <p>3 that. I am aware of a review in that they</p> <p>4 requested infrastructure money in 2003 or 2004.</p> <p>5 Q. (BY MR. COON) Okay. Why was it -- when</p> <p>6 there was a general recognition of the significant</p> <p>7 amount of differed maintenance with clamps and</p> <p>8 corrosion under insulation and things like that,</p> <p>9 why was it that BP did not allocate the Texas City</p> <p>10 more money to fix all those problems before this</p> <p>11 explosion?</p> <p>12 MR. PATTERSON: Objection, form.</p> <p>13 A. They were allocated more money to fix</p> <p>14 many of the corrosion, under insulation, inspection</p> <p>15 problems and the infrastructure. And my</p> <p>16 recollection is that they received about somewhere</p> <p>17 between a 17 and a 24 percent budget increase.</p> <p>18 Q. (BY MR. COON) In what year?</p> <p>19 A. 2003 or -- I think. I would have to go</p> <p>20 back and look.</p> <p>21 Q. Who could we talk to that would best know</p> <p>22 where the budgets were for each year at BP Texas</p> <p>23 City from the time of the merger forward?</p> <p>24 A. I think the best person might be</p> <p>25 Jack Kistenmacher from data and budgets.</p>	<p style="text-align: right;">Page 289</p> <p>1 figure.</p> <p>2 Q. (BY MR. COON) Okay. But assuming that</p> <p>3 to be the case, we could find the documents at the</p> <p>4 break but --</p> <p>5 A. Yeah.</p> <p>6 Q. When we get those statements, we know</p> <p>7 that after that, there was this policy coming out</p> <p>8 of London that Mr. Pierpoline talked about last</p> <p>9 week that you knew a little about today which was</p> <p>10 "cut 25 percent"?</p> <p>11 A. Yes.</p> <p>12 Q. And when we are talking about cutting</p> <p>13 25 percent, Mr. Pierpoline told us that was</p> <p>14 everything. That it was pencils. It was</p> <p>15 utilities. It was maintenance. It was salaries.</p> <p>16 It was everything you could cut and to try to cut</p> <p>17 them all 25 percent and that's what he said.</p> <p>18 Would you disagree with that</p> <p>19 approach?</p> <p>20 MR. PATTERSON: Objection, form.</p> <p>21 A. So, I don't recall cutting of salaries.</p> <p>22 I recall looking and saying how many people do you</p> <p>23 need, and we probably reduced headcount in certain</p> <p>24 areas.</p> <p>25 Q. (BY MR. COON) I think that's what he</p>

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<p style="text-align: right;">Page 290</p> <p>1 meant, not that you could, literally, take each 2 person and reduce their -- 3 A. Yeah. 4 Q. -- salary 25 percent, but reduce the 5 total amount of -- 6 A. Yeah. 7 Q. -- money that applies to payroll 8 25 percent -- 9 A. So, we -- 10 Q. -- which typically means reducing staff, 11 right? 12 A. Yes. 13 Q. And were you involved in any of that in 14 '99 when you were working out at Texas City? 15 A. I was involved in discussions about what 16 we could do to meet some of the target. 17 Q. Yeah. Well, it's kind of tough when 18 somebody comes to you and say, hey, you are used to 19 spending X dollars at your annual budget now you 20 have got to find 25 percent of the fat somewhere 21 and cut it all out? 22 A. Yes, it is. 23 Q. And that's kind of what they asked all of 24 you guys to do. At various levels of management 25 cut anywhere and everywhere you can to get the</p>	<p style="text-align: right;">Page 292</p> <p>1 MR. PATTERSON: Objection, form. 2 Q. (BY MR. COON) -- and living by them? 3 A. It would be a small piece of the 4 performance contract. 5 Q. Okay. And after that policy went into 6 place in 1999, were there any other years where BP 7 from London came back and said, "We want across the 8 board cuts of any percentage"? Because I thought 9 at some point -- in just another two or three 10 years, they came back with another 10 percent 11 across the board cut. 12 Do you recall anything like that? 13 MR. PATTERSON: Objection, form. 14 A. So, I don't recall anything with the same 15 flavor as the 20, 25 percent. You know, we might 16 have ruled out budgets and budgets came up very, 17 very high. We might have asked ourselves can we 18 afford to spend this much money on the business or 19 are there other things that we should be doing. 20 Q. (BY MR. COON) Okay. And Mr. Pierpoline 21 said that, for example, it meant deferring 22 turnarounds and deferring some maintenance. 23 Would that apply where you were 24 working? 25 MR. PATTERSON: Objection, form.</p>
<p style="text-align: right;">Page 291</p> <p>1 25 percent total? 2 MR. PATTERSON: Objection, form. 3 A. So, it wasn't cut anywhere you can. It 4 was we want to maintain the kit. We are in the 5 this business for the long-term, but we want to -- 6 we want you to identify any efficiencies and make 7 your business more competitive. 8 Q. (BY MR. COON) And this 25 percent was an 9 arbitrary number, though, wasn't it? 10 MR. PATTERSON: Objection, form. 11 A. I don't know what the 25 percent was 12 based on, whether it was arbitrary or it was a view 13 of our competitive position or our spend versus 14 other people; but it was -- it was a target that 15 was uniform across many of the businesses. 16 Q. (BY MR. COON) Yeah. Well, that was a 17 target. You didn't have to do it, I take it; but 18 that was the target that they wanted everyone to 19 reach? 20 MR. PATTERSON: Objection, form. 21 A. It was a target for us to aspire to. 22 Q. (BY MR. COON) And that would be a 23 performance indicator for all these person in 24 management charged with the responsibility of 25 setting their budgets --</p>	<p style="text-align: right;">Page 293</p> <p>1 A. In 1999, we looked at what we could do 2 around setting optimum turnaround frequencies and 3 did we need to do all the equipment overhauls that 4 were scheduled that year. 5 Q. (BY MR. COON) And were you aware that 6 Amoco had already undertaken a process of reducing 7 those types of expenditures because of their own 8 budgetary constraints in the years prior to the 9 merger? 10 MR. PATTERSON: Objection, form. 11 A. Well, Amoco did some benchmarking with 12 Solomon and looked at our relevant spend -- 13 THE WITNESS: Are we out of tape? 14 MR. COON: Are we out of tape? 15 THE VIDEOGRAPHER: One minute. 16 A. We looked at our relative spend versus 17 the competition and felt we had opportunities to 18 get more efficient and -- and get our spending 19 levels competitive. 20 MR. COON: Okay. We will take a 21 break. 22 THE VIDEOGRAPHER: Off the record 23 at 4:55 p.m., ending Tape 5. 24 (Recess taken.) 25 THE VIDEOGRAPHER: On the record</p>

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<p style="text-align: right;">Page 294</p> <p>1 at 5:05 p.m., beginning Tape 6. 2 Q. (BY MR. COON) Mr. Gower, at the break, 3 we went back to try to attach the name of an 4 individual to some quotes. We talked a little bit 5 about Mr. Carter and his cuts, and we had a 6 gentleman from the Telos Report -- do you 7 understand how that was done? That there were 8 surveys done and interviews given to a number of 9 individuals and a lot of surveys were filled out -- 10 I think like a thousand of them? 11 MR. PATTERSON: Objection, form. 12 Q. (BY MR. COON) Do you understand the 13 background -- what formulated the report, itself? 14 A. I knew that there were some surveys done 15 and some interviews done. 16 Q. Okay. And do you understand that we have 17 copies of the interviews that were given by a 18 hundred or so individuals -- 19 A. Yeah . 20 Q. -- so we could actually go back and look 21 at what they said? 22 A. Yeah. My understanding is that there's 23 copies of some people's interviews. 24 Q. Mr. Link. Did you know Dennis Link? 25 A. I know Dennis Link. Yes, I do know</p>	<p style="text-align: right;">Page 296</p> <p>1 MR. PATTERSON: Objection, form. 2 A. So, we would certainly have a discussion 3 with George and I would have to understand more of 4 the context of why he would say something like 5 that. It's out of character. 6 Q. (BY MR. COON) Telos also asked the 7 various interviewees and surveyors, "Are there 8 conditions that should be treated as warning signs 9 of potential serious incidents that are being 10 overlooked?" And one gentlemen responded, Peter 11 Nowobilski? 12 A. Nowobilski. 13 Q. Nowobilski? Do you know Mr. Nowobilski? 14 A. Yes, I do. 15 Q. Who is he? 16 A. He is currently the RHU superintendent. 17 Q. Okay. He said the following: "How 18 somebody can change a system that's so far out of 19 compliance that it would destroy the performance of 20 the unit if they were honest." 21 Is that the first time that you 22 are aware that he had that opinion? 23 A. I don't know what that statement means. 24 So -- "how somebody can change a system." So, what 25 was the question that he's answering?</p>
<p style="text-align: right;">Page 295</p> <p>1 Dennis. 2 Q. Dennis Link said that George Carter had 3 told him, quote, Until you tell me I can go to 4 jail, I won't change anything as long as the paper 5 covers us, end quote. 6 Is this the first time that you 7 are aware of Mr. Link saying that in his Telos 8 statement? 9 MR. PATTERSON: Objection, form. 10 A. It wouldn't -- I haven't read any of the 11 Telos statements, including Dennis Link's. 12 Q. (BY MR. COON) Okay. Is that the first 13 time that you heard this quote being attributed to 14 Mr. Carter by Mr. Link or anyone else? 15 A. Yes. 16 MR. PATTERSON: Objection, form. 17 Q. (BY MR. COON) If, in fact, Mr. Carter 18 said that, would that be an inappropriate position 19 for someone in senior management to take at BP? 20 A. Yes, it would be. 21 Q. If, in fact -- 22 A. It doesn't sound like George Carter would 23 say to me, knowing George Carter. 24 Q. Okay. If, in fact, he did say such 25 things, would he be subject to some reprimand?</p>	<p style="text-align: right;">Page 297</p> <p>1 Q. The question is -- 2 A. I am sorry. 3 Q. "Are there conditions that should be 4 treated as warning signs of potentially serious 5 incidents that are being overlooked in your view?" 6 A. And he is answering 10A. "For example, 7 equipment, machinery and a dangerous, certain kinds 8 of leaks, specific alarms, critical pressure, 9 temperature and other readings?" 10 Q. Yeah? 11 A. And then go back to his answer. 12 Q. Okay. Did you have any personal 13 knowledge as to what kind of compliance BP Texas 14 City was in in 2004, 2005? 15 A. Compliance with regard to... 16 Q. Well, he was talking about compliance. 17 A. So, there is legal -- so, we had kicked 18 off a project in 2004 called the U.S. Compliance 19 Program to map all of the rules and regulations 20 against each of the refineries and identify who is 21 accountable to start assuring compliance with the 22 law. I don't know if that's what you are talking 23 about. 24 Q. Well, if that's the case, then he would 25 say, in his opinion, that you were way out of</p>

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<p style="text-align: right;">Page 298</p> <p>1 compliance with the law? 2 MR. PATTERSON: Objection, form. 3 A. So, I don't know what his compliance term 4 means. If he is talking about compliance with 5 their own procedures, policies or compliance with 6 the law. You would have to ask Pete what he meant 7 by that. 8 Q. (BY MR. COON) Yeah. Whether it was in 9 compliance with the law or compliance with BP 10 policies, to be so far out of compliance that it 11 would destroy the performance to try to correct it 12 is not a good statement to make about the condition 13 of the facility, is it? 14 MR. PATTERSON: Objection, form. 15 A. So, he is making a statement. He is not 16 saying that it -- we are out of compliance. He is 17 saying that is not a good place to be, from the way 18 I read that statement. So, he is not saying that's 19 the position we are in, but he is saying that as a 20 statement, it would not be good to be in that 21 place. That's the way I read that, unless you read 22 it differently. That's the way I read it. 23 Q. (BY MR. COON) I guess it will be up to 24 how he explains it or how the jury reads it. We 25 will go to the next one. On that same question</p>	<p style="text-align: right;">Page 300</p> <p>1 Mr. Woods' comments about that? 2 A. So -- no, I was not aware of Mr. Woods' 3 comments. 4 Q. Are those types of comments from people 5 in your management system there disturbing for you? 6 A. So, put 10 back up for me. 7 Q. (Complies.) 8 A. So, what he is saying -- if there are 9 financial -- it says, If yes, are conditions that 10 should be treated as warning signs potentials that 11 are being overlooked in your view? If yes, which 12 worry you the most and why. And then go back to 13 his answer. Yes, it would worry me because he is 14 saying, hey, there is the potential there. 15 Q. Did you know Larry Davidson? 16 A. No, I really don't know Larry Davidson. 17 I know his name now, but, no. 18 Q. Okay. Do you know he is a person in 19 management at BP Texas City? 20 A. Yes. 21 Q. Okay. His comments -- one of his 22 comments was, "Training here is not effective and 23 really nonexistent. We no longer" -- so the type 24 of training is not effective. 25 If you read that, this is just --</p>
<p style="text-align: right;">Page 299</p> <p>1 again, being: Are there conditions that should be 2 treated as warning signs of potential serious 3 incidents that are being overlooked? Norman Woods 4 said the following: "The potential for major 5 hazards is unacceptably high." 6 Did you know Norman Woods? 7 MR. PATTERSON: Objection, form. 8 A. Yes, I know Norman Woods. Could you, 9 please, go to 10B. 10 Q. (BY MR. COON) 10B. Have you read the 11 question? 12 A. Yeah. If -- yes. 13 Q. 10B? 14 A. Are there conditions -- if yes, which -- 15 Q. Worry you the most? 16 A. -- worry you the most and why? 17 Q. And what worries him the most apparently 18 the potential for major hazards worries him most? 19 A. Yeah. So, if the answer -- if the 20 question they proposed was yes, what would worry 21 him most would be the potential for major hazards. 22 Q. I think we have a typo there, but it is 23 "unacceptably high." Unacceptably high? 24 MR. PATTERSON: Objection, form. 25 Q. (BY MR. COON) Were you aware of</p>	<p style="text-align: right;">Page 301</p> <p>1 I am just kind of hitting some of these. I mean, 2 obviously, there are thousands of them in the 3 report, but these are -- these aren't the only 4 individuals making these kind of complaints in the 5 Telos Report, is it? 6 MR. PATTERSON: Objection, form. 7 A. So, I didn't -- I haven't seen those 8 quotes or that piece of paper that was in the Telos 9 Report, itself. There are questions about training 10 and about safety concerns. 11 Q. (BY MR. COON) Yeah. And a lot of it is 12 complaints about the quality of training and the 13 condition of the facility as a whole? 14 A. I haven't seen those. So, I don't know 15 what a lot of those are. 16 Q. Okay. Well, let's talk about -- since 17 there were so many complaints about not spending 18 enough money out there, I want to talk to you about 19 how much money you had to spend. 20 You were not -- you couldn't sit 21 here today and say what was budgeted for each of 22 the several years prior to this explosion, I take 23 it? 24 MR. PATTERSON: Objection, form. 25 A. No, I couldn't tell you what was budgeted</p>

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<p style="text-align: right;">Page 302</p> <p>1 for Texas City in the years prior. 2 Q. (BY MR. COON) Okay. If we look for just 3 the revenue, though, could you sit here and tell us 4 how much BP Texas City made in revenue, what the 5 profits were in 2004 in the year prior to the 6 explosion? 7 MR. PATTERSON: Objection, form. 8 A. No, I couldn't tell you what -- how much 9 they made in the year prior. 10 Q. (BY MR. COON) Were you made -- were you 11 privy to the revenue and the profits from the 12 various units here in the U.S.A.? 13 A. Yes. Yeah, our -- yes, and the cost. 14 Q. Where is that information archived if we 15 wanted to go back and see, say, for example, since 16 '99 until now, how much each unit made and what its 17 profit margins were? 18 A. So, you won't find it by -- when you say 19 "unit" -- you can find it by refinery, not by unit. 20 So, by refine -- 21 Q. And you -- 22 A. -- by business unit, which would be each 23 refinery, it should be available. 24 Q. Is each unit in the plant separately 25 broken down to track revenue?</p>	<p style="text-align: right;">Page 304</p> <p>1 A. Yeah. 2 Q. -- five plants and the pipeline? 3 A. Five -- five plants and the pipelines. I 4 get the -- the -- the income and performance data 5 for all the refineries around the world. 6 (Exhibit Number 332 marked for 7 identification.) 8 Q. (BY MR. COON) Okay. We have document 9 332. This is a letter from -- an e-mail from 10 Kathleen Lucas to William Kilgore. 11 Do you know Mr. Kilgore? 12 A. I know of Mr. Kilgore. I have met him 13 before. 14 Q. And who is that? 15 A. I would -- I don't know. So, I would be 16 speculating. I can't tie it specifically. 17 Q. Andy or Andrew Fiedler. Do you know that 18 gentlemen? 19 A. Yes. 20 Q. Who is that? 21 A. Andy Fiedler was at the time -- what was 22 that -- when was that written? 23 Q. This was March 17, 2005, less than a week 24 before the explosion. 25 A. He would have been the maintenance</p>
<p style="text-align: right;">Page 303</p> <p>1 A. No, it's not. No. 2 Q. So, if you have, for instance, in Texas 3 City, 30 units, you don't go back to see whether 4 each one is making money or losing money; and if 5 they are making money, how much? 6 A. No, we don't do -- it's very difficult to 7 do P & L on a unit-by-unit basis. And so, the 8 repositions work that I had done in 2004 tried to 9 determine whether each unit was overall 10 contributory to the income of the refinery. 11 Q. Do you know what the total profit was for 12 Texas City in 2005? 13 MR. PATTERSON: Objection, form. 14 Q. (BY MR. COON) Ballpark? 15 A. 2005? 16 Q. Last year, the year of the explosion? 17 A. No, I don't know. 18 Q. Have they calculated those numbers yet 19 sitting here -- 20 A. I am -- 21 Q. -- mid May, 2006? 22 A. I am sure they were calculated at -- at 23 year end. 24 Q. Do you get the information from -- what 25 do you track, five --</p>	<p style="text-align: right;">Page 305</p> <p>1 manager at the plant at that time. 2 Q. Okay. We have Maslin marked 332, Bates 3 Number is 118534 and I want to -- it looks like 4 there's two or three e-mails here. I want to call 5 your attention -- going back here (indicating), 6 this is to Don Parus from William Kilgore and 7 there's comments, and then it goes back up here. 8 But if we go back to the context -- or the contents 9 of this draft -- and again, I think this is to Don 10 Parus, right? 11 A. Yes. 12 Q. It talks about a number of things but one 13 is at the third page the Texas City site. It says, 14 "Texas City site, undoubtedly, experienced the best 15 profitable ever in its history last year." 16 So, they were talking about 2004? 17 A. Yes. 18 MR. PATTERSON: Objection, form. 19 Q. (BY MR. COON) It says, "The combined 20 assets of the chemical plant and refinery made over 21 1 billion replacement cost operating profit or 22 RCOP. The refinery made 930 million RCOP, 23 145 million more than any other refinery in the BP 24 system." 25 Did I read that correctly?</p>

<p style="text-align: right;">Page 306</p> <p>1 A. Yes.</p> <p>2 Q. Is that consistent with your recollection</p> <p>3 as to the profitability of that facility that year?</p> <p>4 A. For 2000 --</p> <p>5 MR. PATTERSON: Objection, form.</p> <p>6 Q. (BY MR. COON) '04?</p> <p>7 A. 2004 was the best year ever that Texas</p> <p>8 City had.</p> <p>9 Q. Okay. They almost, basically, made a</p> <p>10 billion dollars at that plant that year?</p> <p>11 MR. PATTERSON: Objection, form.</p> <p>12 A. Between the two pieces of the plant,</p> <p>13 there's a billion dollars.</p> <p>14 Q. (BY MR. COON) That's pretty phenomenal</p> <p>15 earnings, isn't it?</p> <p>16 MR. PATTERSON: Objection, form.</p> <p>17 Q. (BY MR. COON) For one plant?</p> <p>18 A. It was a very good performance out of one</p> <p>19 refinery.</p> <p>20 Q. And any recollection as to what the</p> <p>21 facility did last year using this number and then</p> <p>22 taking into account your lost the ISOM unit last</p> <p>23 year and you lost fourth quarter production from</p> <p>24 the hurricane?</p> <p>25 MR. PATTERSON: Objection, form.</p>	<p style="text-align: right;">Page 308</p> <p>1 actually getting?</p> <p>2 A. I would think Jack Kistenmacher, who I</p> <p>3 mentioned, should provide that information or</p> <p>4 somebody out of the commercial team at the</p> <p>5 refinery, if not Jack.</p> <p>6 Q. And where were we with the budget for the</p> <p>7 first four years? We were talking about the last</p> <p>8 two or three years, maybe the budgets have</p> <p>9 increased. What happened from '99 to 2003?</p> <p>10 MR. PATTERSON: Objection, form.</p> <p>11 Q. (BY MR. COON) Did the budgets continue</p> <p>12 to increase during that timeframe?</p> <p>13 A. So, 1999, we talked about the cost</p> <p>14 challenges.</p> <p>15 Q. And that was a 25 percent reduction in</p> <p>16 budget across the board in '99?</p> <p>17 A. Yes. So, I think if you look at 2000,</p> <p>18 2001 and '02 -- I wasn't there, but I think that</p> <p>19 you would see budget increases at that point in</p> <p>20 time.</p> <p>21 Q. Okay. And is there a place where you</p> <p>22 just keep the numbers for all the units here in the</p> <p>23 U.S.A.?</p> <p>24 A. No.</p> <p>25 Q. Because you only have six to keep track</p>
<p style="text-align: right;">Page 307</p> <p>1 A. I don't recall that they made money last</p> <p>2 year. I don't know. I really -- I really don't</p> <p>3 recall. It wasn't a focus. Given all the safety</p> <p>4 issues around concerns, money wasn't a focus.</p> <p>5 MR. COON: Object to the</p> <p>6 responsiveness.</p> <p>7 Q. (BY MR. COON) In looking at a billion</p> <p>8 dollars of profits for one year -- and we are</p> <p>9 talking about how much money can be spent in any</p> <p>10 given year, I am trying to get a better</p> <p>11 understanding of why BP would stick to a certain</p> <p>12 type of budget, even if it means deferring some</p> <p>13 things that really could be fixed when they have</p> <p>14 made a remarkable amount of money in profits for</p> <p>15 you -- they have the money to do it, but they make</p> <p>16 a decision not to do it.</p> <p>17 And I guess the question would be:</p> <p>18 Why is that?</p> <p>19 MR. PATTERSON: Objection, form.</p> <p>20 Object to sidebar.</p> <p>21 A. So, if you would look, the refinery was</p> <p>22 getting bigger and bigger budgeting to spend in</p> <p>23 2003, 2004, 2005.</p> <p>24 Q. (BY MR. COON) And how can we go back</p> <p>25 today and determine what type of budgets they were</p>	<p style="text-align: right;">Page 309</p> <p>1 of. It shouldn't be hard to look at the revenue</p> <p>2 for six and the budgets for six for the last six</p> <p>3 years.</p> <p>4 A. So --</p> <p>5 MR. PATTERSON: Objection, form.</p> <p>6 A. So, we purposely don't run up regional</p> <p>7 numbers and regional performance on part of a</p> <p>8 global business. We run them up globally. Each of</p> <p>9 the businesses report their financial data. I get</p> <p>10 a regional report now and have for a year and a</p> <p>11 half or so that shows regional performance.</p> <p>12 Q. (BY MR. COON) But isn't yours still</p> <p>13 broken down plant by plant?</p> <p>14 A. Yes. I get -- there's a GFO that gets</p> <p>15 reported plant by plant about six or seven times a</p> <p>16 year.</p> <p>17 Q. And was there ever a comparison given to</p> <p>18 Texas City with respect to whether or not its rate</p> <p>19 of return was in the proper benchmark as compared</p> <p>20 to the other facilities that BP owned and operated?</p> <p>21 MR. PATTERSON: Objection, form.</p> <p>22 A. So, I don't know if there is a relative</p> <p>23 comparison of Texas City to other units. I mean,</p> <p>24 we do look at returns across all of the -- all of</p> <p>25 the refineries. Given the differences in kit from</p>

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<p style="text-align: right;">Page 310</p> <p>1 refinery to refinery and what locations the 2 refineries are located in, you have different 3 expectations for how they might perform. So, a 4 very simple refinery may not have quite the returns 5 of Texas City in some price environments. In other 6 price environments, it may be just the opposite. 7 Q. (BY MR. COON) Mr. Gower, we talked this 8 morning about this May 17 meeting with the press 9 and management down at Texas City. 10 It's something I think you 11 attended; is that correct? 12 A. Yes, I attended that. 13 Q. We have copies in response to the 14 subpoena of what looked like the notes to make 15 available to the people that would actually be 16 given press statements and talking to management. 17 Have you seen this document 18 before? It's marked Exhibit 333. 19 (Exhibit Numbers 333 and 334 20 marked for identification.) 21 MR. PATTERSON: Objection, form. 22 Q. (BY MR. COON) Did you get a copy of 23 that? 24 A. Yeah, I couldn't tell you whether I had a 25 copy of this or not. I don't recall seeing it at</p>	<p style="text-align: right;">Page 312</p> <p>1 read anything up on the stage with the lights. So 2 I just -- it might have been prepared from the 3 previous discussion and somebody typed it up. 4 Q. Okay. Do you know if they had somebody 5 there with a -- some type of recorder that would 6 have transcribed everything? 7 A. I don't -- I don't know. I don't know 8 when or where that was generated. 9 Q. Okay. In looking at this particular 10 document, can you tell us whether or not it appears 11 to be an accurate transcription of what you gave at 12 the press statement that day? 13 A. I am going to look for a mistake I made 14 and see. 15 It looks like more of what I 16 intended to say instead of what I actually did say 17 that day. So, I used temperature -- or used the 18 word "pressure" instead of "temperature" or 19 something toward the back of it and I realized when 20 I got off the stage and that's correct. So, it 21 might have been prepared from a dry run earlier 22 when I was up talking. 23 Q. Okay. And this was a reflection of 24 what's called the Houston Press Conference? 25 A. Yes.</p>
<p style="text-align: right;">Page 311</p> <p>1 this point. It looks like a copy of a calendar for 2 Mike Hoffman. 3 Q. And do you know who would have generated 4 that? 5 MR. PATTERSON: Objection, form. 6 A. No, I don't know who would have generated 7 this. 8 Q. (BY MR. COON) All right. And we, also, 9 have document 334; and I think you can recognize 10 this one. It has your name on it. 11 A. Yes, I recognize this. 12 Q. And can you identify and tell us what 13 that is and what its purpose was? 14 A. It's -- this is some information, I 15 guess, that was given to people from the press. 16 And so, it looks like somebody typed up a -- either 17 notes from my talk or notes on a previous talk to 18 hand out to the press. 19 Q. Okay. Do you know if that was something 20 that was prepared by you? Do you recall that one 21 way or the other? Is that something that you read 22 to the press or... 23 A. So, I got up and talked without notes. I 24 don't know if somebody typed up notes from one of 25 my dry runs, but I talked off the cuff. I couldn't</p>	<p style="text-align: right;">Page 313</p> <p>1 Q. And that day, you came down, Mr. Pillari 2 and other people, and talked to the press? 3 A. Yes, at the Doyle Center. 4 Q. And there were also separate meetings 5 with some people in management, weren't there? 6 MR. PATTERSON: Objection, form. 7 A. Ross Pillari and myself, public and 8 government affairs and legal counsel. So, I was 9 busy preparing for this. There might have been 10 other meetings, but I don't recall being at those 11 other meetings. I was pretty focused on the town 12 hall. 13 Q. (BY MR. COON) Okay. Well, when we 14 looked at the other document a while ago -- 15 A. Yeah. 16 Q. This is 333 -- 17 A. Yes. 18 Q. -- to Kathleen Lucas and others. 19 Colin Reid, who is Colin Reid? 20 A. Colin Reid currently is our manager of 21 HRO, our vice president of HRO. 22 Q. And who is Linda Ritchie? 23 A. Linda Ritchie is Mike's executive 24 assistant. 25 Q. Mike Hoffman?</p>

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<p style="text-align: right;">Page 314</p> <p>1 A. Mike Hoffman's executive assistant. 2 Q. So, then if we look at the pages that 3 were attached, what is the 17th, 18th of May -- 4 this is the same timeframe you're down for press 5 statements, right? 6 A. Yes, it is. 7 Q. What is the MPH Texas City business 8 outline? What does MPH stand for? 9 A. So, MPH would be Mike's initials. 10 Q. So, this is pretty much a chart of his 11 itinerary? 12 A. Yeah, it looks like actually a copy of 13 his Outlook calendar that somebody generated 14 showing his appointments for March -- for 15 May 17th through 18th. 16 Q. Okay. And then when we look at the 17 locations and times, on the second page they are 18 talking about some times and activities. We have a 19 leadership meeting. 20 Do you recall what that was? 21 MR. PATTERSON: Objection, form. 22 A. So, I just have to look out at what's 23 written under the other things. So, I don't know 24 what leadership that is addressing. 25 Q. (BY MR. COON) And then, down here, the</p>	<p style="text-align: right;">Page 316</p> <p>1 from -- that's what on that document. 2 Q. Okay. And when it's talking about 3 preparing for this extended leadership meeting, 4 which would have the superintendents -- and what 5 are FLLs? 6 A. Front line, front line leaders. 7 Q. Okay. So, they anticipated this would be 8 the persons that would attend this extended 9 leadership meeting that would follow the earlier 10 leadership meeting? 11 A. Yes. 12 Q. And one thing I want to draw your 13 attention to here. It said issues that Colin and 14 Kathleen anticipate. 15 And so you can glean from this 16 that they have been given a heads up about what 17 people had been asking in the days and weeks prior 18 to this meeting? 19 MR. PATTERSON: Objection, form. 20 A. So, the -- 21 MR. BOND: Brent, it's my time 22 now. 23 MR. COON: Okay. 24 A. So, they are anticipating what kind of 25 questions could come up from people who would be in</p>
<p style="text-align: right;">Page 315</p> <p>1 follow-up meeting, here are the times. 2 I guess we are going military 3 time? 4 A. It's off the page, so I can't see. Off 5 your scope up there, sir. 6 Q. How about right there? 7 A. Okay. So, you have UK time. Okay. So, 8 since it's Hoffman's calendar, it would have UK 9 time, and then it would have local time, too. So, 10 there's six hours differential between. 11 Q. Right. 12 And then here we have extended 13 leadership meeting. Do you know who would have 14 been involved in that one? 15 A. So, I am just going to look at what's out 16 there. So, it says, "Includes supervisors, 17 superintendents." 18 So, the leadership meeting could 19 have been Kathleen Lucas and the direct reports to 20 the refinery BUL. The extended leadership meeting 21 would have include the supervisors and the 22 superintendents at the Texas City refinery. 23 So, Mike is addressing the Texas 24 City refinery, and he is telling them that 25 Colin MacLean is coming, is what it looks like</p>	<p style="text-align: right;">Page 317</p> <p>1 the room, it looks like to me. 2 Q. (BY MR. COON) Okay. And one of the 3 things that they talked about said that 4 Ms. Lucas -- they anticipated was "We need more 5 money and we'll be fine"? 6 MR. PATTERSON: Objection, form. 7 Q. (BY MR. COON) Is that correct? 8 A. I see that comment there, yes. 9 Q. And on the next page, there were 10 particular comments. It says, "Especially about 11 the notion that it was a lack of cash that meant 12 the blowdown drum was there at all." 13 Do you recall any discussion once 14 you were down there for the press statement and for 15 any of these meetings about the criticism of 16 management generally at the BP Texas City facility 17 that -- 18 MR. PATTERSON: Objection, form. 19 Q. (BY MR. COON) -- not spending the money 20 or lack of cash was why they had not replaced the 21 vent stack in the first place? 22 A. No. 23 MR. COON: All right. 24 (Discussion off the record.) 25 MR. COON: We have some questions</p>

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<p>1 by another attorney and since we are under a time 2 crunch, I am going to go ahead and yield the floor 3 to him and whatever we have left, if when you're 4 finished, we will finish up. 5 * * * 6 EXAMINATION 7 Q. (BY MR. BOND) How are you doing today, 8 sir? 9 A. Good. 10 Q. My name is Trent Bond. We met earlier 11 today? 12 A. Yes. 13 Q. I represent the mother of Ryan Rodriguez, 14 one of the people who was killed in the explosion, 15 as well as the estate of Ryan Rodriguez. Okay? 16 A. Yes. 17 Q. Brent talks fast, but he is pretty 18 articulate. I talk fast, and I am not articulate. 19 So, if you don't understand a question that I might 20 ask you, make me repeat it as many times as you 21 want to, and I am more than happy to. Okay? 22 A. Okay. 23 Q. I know it's been a long day. I will try 24 to make this as quick as I can. 25 A. Okay.</p>	<p>1 Q. But she is based out of Houston? 2 A. Yes. 3 Q. Are all these folks based out of Houston? 4 A. No. 5 Q. Where is -- 6 A. Bill Bonse is in Germany. 7 Q. That's right. You said that earlier. 8 I'm sorry. 9 A. Rudy Blyweert, I think, is London based, 10 probably Sunbury, but I don't know for sure. 11 Q. And how about Mr. Heller? 12 A. Mr. Heller has offices in both Houston 13 and Chicago. 14 Q. Now, why does legal counsel have to -- I 15 mean, I can imagine -- 16 A. He is -- 17 MR. PATTERSON: Objection, form. 18 A. Okay. 19 Q. (BY MR. BOND) And he is not your lawyer 20 since he is investigating you, I am assuming; is 21 that right? 22 A. Yes. 23 Q. Okay. 24 MR. BOND: I didn't want to breach 25 any privilege or anything.</p>
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<p>1 Q. Well, not too quick, though, for the 2 court reporter's sake. 3 First thing I want to talk about 4 is you are being investigated, along with 5 Mr. Parus, Kathleen Lucas and Willie Willis, 6 correct? 7 A. Yes. 8 Q. All right. Who is on the team 9 investigating you? 10 A. Mr. Bonse. 11 Q. Now, he heads up the team, right? 12 A. Yes. 13 Q. Okay. Who else? 14 A. Legal counsel. 15 Q. Who is legal counsel? 16 A. Jeff Heller, Rudy Blyweert. 17 Q. Rudy Blyweert? 18 A. Blyweert. 19 Q. Now what does he do? 20 A. He is part of John Mogford's S&O team, 21 safety and operations team. 22 Q. Okay. 23 A. There is an individual from HR. She is 24 based out of Houston in the upstream business, and 25 I am not going to be able to recall her name.</p>	<p>1 Q. (BY MR. BOND) What in the world would a 2 legal counsel have to -- 3 A. He is an employment lawyer. He 4 represents the company on employment issues. 5 Q. Okay. I don't -- I fail to see how that 6 has got to do with anything in process safety. 7 MR. PATTERSON: Objection, form. 8 A. I didn't get to say who is part of this 9 team or not part of this team. 10 Q. (BY MR. BOND) Well, and I'm not -- I 11 don't mean -- I know you didn't. I didn't mean to 12 be like you are cherry picking anybody because I 13 know you didn't; but what is your supposition of 14 why this man might be on the team? 15 MR. PATTERSON: Objection, form. 16 A. Whatever action the company decides to 17 take, Jeff Heller will be engaged in. 18 Q. (BY MR. BOND) Okay. I am assuming that 19 is a recourse against y'all that he is going to be 20 consulted. 21 Is that what you -- is that what 22 you believe? 23 MR. PATTERSON: Objection, form. 24 A. All I know, when we had the meeting, he 25 made it clear that he was representing the company</p>

<p style="text-align: right;">Page 322</p> <p>1 and not me. And for whatever that means, he is 2 part of the team to investigate. 3 Q. (BY MR. BOND) Now, who was at the 4 meeting that you had? 5 A. Those four individuals plus somebody to 6 take notes. 7 Q. All right. Were you -- the notes that 8 were taken, who took those notes? Was it like a 9 court reporter like we have here? 10 A. It was a legal secretary. 11 Q. Okay. So, there's notes of them about 12 the meeting they had with you? 13 A. Yes. 14 Q. Okay. And at that meeting, what was 15 said? 16 A. It was six hours long. 17 Q. Okay. Do the best you can. 18 MR. PATTERSON: Objection, form. 19 A. What's your role? How long have you been 20 in the job? When did Don Parus start reporting to 21 you? What's your accountabilities? What kind of 22 conversations have you and Don had about budgets? 23 What's your role in picking members of Don's 24 leadership team? How much latitude did Don have on 25 reprioritizing site issues and site concerns? How</p>	<p style="text-align: right;">Page 324</p> <p>1 place? 2 A. Last week. 3 Q. So, this was brand new? 4 A. Yes. 5 Q. Okay. Did they tell you who instigated 6 this investigation? 7 A. No, they didn't tell me who instigated 8 the investigation. 9 Q. Okay. They just said, "We are doing it"? 10 A. Yes. 11 Q. Mr. Bonse, would you consider him above 12 you, equivalent to you? 13 A. His role is similar to a Ross Pillari 14 role but for Europe. 15 Q. Okay. Is anybody above you being 16 investigated? 17 MR. PATTERSON: Objection, form. 18 A. So, I -- I don't know. 19 Q. (BY MR. BOND) Give me the chain of 20 command real quick a little bit. 21 A. Sure. 22 Q. You have -- 23 A. John Browne, we will start. 24 Q. John Browne? 25 A. John Browne. John Manzoni.</p>
<p style="text-align: right;">Page 323</p> <p>1 often do you -- did you meet with Don Parus in his 2 role as a business unit leader? What kind of 3 things did you and Don discuss in those meetings? 4 Did you do Don's performance evaluation in 2000 -- 5 for the year 2004? Things like that. 6 Q. (BY MR. BOND) All right. Did any 7 question just kind of jump out at you like, you 8 know, that you remember more than any other? 9 A. No. 10 MR. PATTERSON: Objection, form. 11 Q. (BY MR. BOND) Okay. Now, did -- was 12 there anybody else that was being investigated 13 there besides you? 14 I mean, was Willie Willis there? 15 Was Kathleen Lucas there? 16 A. I was the only one in the room, and my 17 understanding is I am the first one in the process. 18 Q. Okay. So, they are investigating one at 19 a time, you, then Don; or did they try to do it as 20 a whole? 21 A. One at a time. 22 Q. Okay. Have you had any feedback so far? 23 A. No. Since I was the first one, it was 24 just the initial. 25 Q. When did that -- when did that take</p>	<p style="text-align: right;">Page 325</p> <p>1 Q. Okay. 2 A. Michael Hoffman. 3 Q. Uh-huh. 4 A. Pat Gower, Don Parus, and then the people 5 at the site. And Don had an extended leadership 6 team, so different people in different roles. 7 Q. Where is Pillari in that? 8 A. Pillari is not in the normal chain of 9 command. Ross Pillari is a company president. He 10 is responsible for the reputation and the regional 11 compliance and the HR policies for North America. 12 Q. Okay. So, he is not in your chain of 13 command, then? 14 A. No, he is not. 15 Q. So, is he kind of like -- like, say, if 16 you wanted to take -- if you moved into 17 Ross Pillari's job, would you -- would you be able 18 to consider it a lateral move, move up, move down? 19 A. No. I would be glad to change 20 compensation with Ross. 21 Q. Okay. That's what I want to know. 22 So, he may not be your boss, but 23 he is a little bit higher up in the company? 24 A. Yes. His level would be, I think, at 25 least equivalent to Mike Hoffman's.</p>

<p style="text-align: right;">Page 326</p> <p>1 Q. Did they advise you to get an attorney 2 when they entered the investigation because I know 3 the guy stressed "I am not your attorney, I am not 4 your attorney"?</p> <p>5 A. No, they didn't advise me that I should 6 have an attorney present.</p> <p>7 Q. Okay. I mean, you kind of appreciate 8 that, but if you need an attorney that you would 9 like to know that, also. But they didn't advise 10 you of that?</p> <p>11 MR. PATTERSON: Objection, form.</p> <p>12 A. No, it's not a criminal investigation. 13 It's a disciplinary investigation. So, I wouldn't 14 have been advised I needed an attorney.</p> <p>15 Q. (BY MR. BOND) Okay. I want to talk to 16 you a second about how you are compensated. I 17 don't want to know the number of figures of your 18 actual compensation. But you get a salary, a base 19 salary, right?</p> <p>20 A. Yes, I have a base salary.</p> <p>21 Q. Okay. Now, you also have some bonuses, 22 right?</p> <p>23 A. Yes.</p> <p>24 Q. How many separate bonuses do you get?</p> <p>25 A. So, there's two bonuses. So, there is a</p>	<p style="text-align: right;">Page 328</p> <p>1 Q. Okay. Is that once a year? Once every 2 quarter?</p> <p>3 A. It comes out every year towards the end 4 of March, based on the previous year's performance.</p> <p>5 Q. All right. And was that target bonus, is 6 that something that you -- that is figured based on 7 your performance?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Of course, your performance is geared on 10 how much profit the company makes, correct?</p> <p>11 MR. PATTERSON: Objection, form.</p> <p>12 A. It has a wide variety of things they take 13 into consideration.</p> <p>14 Q. (BY MR. BOND) And that's one of those 15 considerations, isn't it?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And that's a major consideration, 18 isn't it?</p> <p>19 MR. PATTERSON: Objection, form.</p> <p>20 A. It's -- I don't think it carries much 21 more weight than other areas on the performance 22 contract.</p> <p>23 Q. (BY MR. BOND) And let's look at your 24 performance contract. You have profit. 25 What else do you have?</p>
<p style="text-align: right;">Page 327</p> <p>1 target bonus that is short-term that would be paid 2 out in cash on an annual basis based on relative 3 performance. There's a -- so, the bonus scheme has 4 changed almost every year that I have worked at BP.</p> <p>5 Q. Oh, really?</p> <p>6 A. So, I am telling you the current one.</p> <p>7 Q. Okay.</p> <p>8 A. There is a differed bonus. The differed 9 bonus is 50 percent of cash bonus. It's put into 10 BP stock and can't be touched for, I think, three 11 years, which is to drive long-term considerations 12 and decisions.</p> <p>13 And then there is something called 14 the Midterm Performance Plan, which is an award of 15 ADSs, which is American depository receipts. So, 16 for a foreign company, it would be equivalent of 17 shares in the U.S. That can't -- can't be touched 18 for three years.</p> <p>19 They give you a target amount, but 20 that amount gets ratioed up and down based on the 21 company's long-term performance relative 22 competitors.</p> <p>23 Q. Okay. Now, the target bonus, that is 24 relatively short-term?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 329</p> <p>1 A. HOC, milestones around things like U.S. 2 compliance program, people replacement process, 3 improved relationships with the USW.</p> <p>4 Q. All of those you told me, three out of 5 the four, really aren't very measurable. Improve 6 relationship with USW, I mean, you can't sit there 7 and --</p> <p>8 A. Actually, it was pretty measurable in the 9 year because the USW had told us if we didn't 10 improve the relationship, they were going to strike 11 us. That was pretty measurable. So, we didn't 12 have a strike because we improved the 13 relationships.</p> <p>14 Q. Okay. Well, I am happy for you.</p> <p>15 A. Yeah.</p> <p>16 Q. But you didn't have a little profit and 17 loss statement that says this relationship improved 18 this much.</p> <p>19 Obviously, you worked out a 20 contract with the USW and things worked out, right?</p> <p>21 A. Yes.</p> <p>22 Q. But when you are talking profit and loss, 23 that is something that you can look at and touch, 24 feel and see?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 330</p> <p>1 Q. And that is an easy way to kind of 2 determine how your -- if the company losses money 3 on your watch, that's going to hurt your target 4 bonus, won't it? 5 A. So, my profit isn't based on U.S. profit. 6 It's based on global refining; and it's because we 7 have global accountability, not U.S. -- 8 Q. Do you have any kind of profit that is 9 based on like, say, that your -- the refineries in 10 your control? 11 A. So, they are part of the 14 refineries we 12 had around the globe. So, it's the overall 13 performance of all 14 refineries; and that's to 14 drive us to make global decisions instead of 15 regional decisions and not suboptimize around the 16 globe. 17 Q. My question is -- I appreciate that 18 answer, but my -- I want to kind of focus on my 19 question. 20 Do you have any kind of bonus 21 whether it's deferred, whether it's target or if 22 it's structured on the 14 -- I know you have the 14 23 in the global -- but what about just the 14? Do 24 you have any missed -- 25 A. Just the ones in the U.S.?</p>	<p style="text-align: right;">Page 332</p> <p>1 bonus. 2 Q. What about -- did you get a bonus? 3 A. I got a bonus. 4 Q. But not up to the target level? 5 A. No. It was less than the previous year. 6 Q. All right. 7 A. And not at target, either. 8 Q. 2004, you got a target -- or you didn't 9 make the target, but you got a bonus? 10 A. 2004, I had a much bigger than target 11 bonus. 12 Q. Okay. So you had your target and you 13 exceeded it? 14 A. I exceeded it. 15 Q. Okay. 2005, I guess, was kind of a bad 16 year for BP in terms of -- 17 A. The safety issues and concerns at Texas 18 City reflected in my compensation. 19 Q. All right. And does it reflect in other 20 people's compensation or just -- that's a poor 21 question. 22 The other people that are 23 equivalent to you in the global scheme of things, 24 will it also reflect in their compensation? Would 25 their target bonus be more, less or is it the same?</p>
<p style="text-align: right;">Page 331</p> <p>1 Q. Uh-huh. 2 A. Not -- not specific anything in the U.S. 3 It's on all 14. 4 Q. When you had that verbal evaluation, did 5 they talk about the global performance or did they 6 talk about the performance of your plants, under 7 your control? 8 A. So, there are some things -- we talk 9 about both. So, I am accountable for manufacturing 10 procurement across the globe and so, what I am 11 doing to leverage suppliers and create value for 12 procurement across the globe. 13 Until we had an HR manager that 14 reported to Mike, I was accountable for all the HR 15 processes around the globe. And so, what I was I 16 doing around replacement planning processes, 17 getting talented people, developing people, 18 providing direction to the HR managers. So, 19 there are -- there are global things like that. 20 Also, then there is the individual 21 performance and what coaching I'm doing with the 22 other businesses specifically in the U.S. 23 Q. Did you get a target bonus for 2006 -- or 24 2005? I am sorry. 25 A. I did not receive the target level of</p>	<p style="text-align: right;">Page 333</p> <p>1 MR. PATTERSON: Objection, form. 2 A. So, I am not aware of what my peers 3 received as bonuses. 4 Q. (BY MR. BOND) Uh-huh. 5 A. I know that my refinery managers who do 6 not work at Texas City received target bonuses or 7 higher based on the performance of the businesses 8 they ran. 9 Q. Now, Don Parus' target bonus -- because 10 he got paid like you, too, didn't he? 11 A. Yes. His old level was equivalent to 12 mine, and his compensation was very equivalent to 13 mine. 14 Q. All right. Now, was his target bonus 15 based on the global profit or is it -- 16 A. No. 17 Q. -- based on the plant? 18 A. It's based on performance at Texas City. 19 Q. All right. And again, profit and loss is 20 a component of that? 21 A. It is a component of it. 22 Q. And you had the deferred and midterm 23 bonuses. 24 Are -- those also have the same 25 components that you are looking at?</p>

<p style="text-align: right;">Page 334</p> <p>1 A. No, they are -- so the deferred is 2 just -- that is exactly like my annual cash bonus. 3 That has the same criteria. So it's just -- it's 4 50 percent of whatever my bonus was. So, since I 5 got a lower bonus this year, it's half of it. 6 The MTPP, the Midterm Performance 7 Plan, it is based on group performance, BP versus 8 Exxon, BP versus Shell, BP versus Total. It 9 doesn't -- it would be very difficult to pick out a 10 refining component. It's based on total 11 performance. 12 Q. Now, from other depositions, we 13 understand that the BP refinery -- BP took over in 14 '99, correct? 15 A. Yeah, there was a merger in 1999. 16 Q. All right. Prior to that the merger, 17 from other depositions, it appears that the Texas 18 City plant's infrastructure was not being 19 maintained at the level it should have been. 20 Is that your understanding or not 21 your understanding? 22 MR. PATTERSON: Objection, form. 23 A. From having read things -- so, in 1998, 24 '99, I was in a shared services group. I wasn't 25 working in refining.</p>	<p style="text-align: right;">Page 336</p> <p>1 A. There is a possibility of bad things 2 happening. 3 Q. You could lose property, you could lose 4 people, right? 5 A. It's a possibility. 6 Q. Okay. Because not maintaining a plant is 7 going to affect the infrastructure. It's going to 8 affect the safety of the people out there, correct, 9 sir? 10 A. It could affect those. 11 Q. Okay. So, rather than doing an influx of 12 cash, BP decided to do 25 percent -- what did you 13 call it for me, sir? 14 A. Cost reduction of fixed cash cost. 15 Q. Who made the call to do the 25 percent 16 cost reduction? 17 A. I don't -- 18 MR. PATTERSON: Objection, form. 19 A. I don't know. 20 Q. (BY MR. BOND) Was that company-wide or 21 was that Texas City-wide? 22 A. At least refinery-wide. I don't know if 23 it was broader than refineries. 24 Q. Okay. So, did you do it on 14 of yours 25 or was it just Texas City?</p>
<p style="text-align: right;">Page 335</p> <p>1 Q. (BY MR. BOND) Okay. 2 A. But from the work I have seen now and 3 seen people's views, I agree that people had a view 4 that it wasn't properly maintained. 5 Q. All right. BP takes over in '99; and 6 they immediately do an influx of cash, right, to 7 fix everything that wasn't being fixed prior to 8 '99. Is that true or untrue? 9 MR. PATTERSON: Objection, form. 10 A. So, BP did not bring immediate influxion 11 of cash to fix things. 12 Q. (BY MR. BOND) They didn't do any 13 influxion of cash. In fact, what they did was they 14 did a 25 percent decrease in the budget, correct, 15 sir? 16 A. They requested that we look at reducing 17 fixed cash cost for 25 percent. 18 Q. And y'all did do that, correct? 19 A. I am not sure we hit the whole target, 20 but we came very close. 21 Q. So rather than try to fix what is being 22 neglected, they put money ahead of -- because you 23 will agree with me, if you don't maintain a plant, 24 then what's going to happen is bad things are going 25 to happen at a plant, correct? There could be --</p>	<p style="text-align: right;">Page 337</p> <p>1 A. So, I was -- at that time, I just worked 2 at Texas City. I only know what Texas City -- and 3 I don't have 14. I have five. The globe has 14. 4 Q. I am sorry. 5 A. Yeah. 6 Q. What position did you hold at that time? 7 A. Manager of maintenance, turnaround and 8 construction at the Texas City refinery in 1999. 9 Q. So, basically, if your budget was a 10 million dollars, what would happen is -- they would 11 say, "We appreciate your thoughts but we want you 12 to spend 750,000"? 13 A. They would say, "Give us a plan to 14 develop a run rate for that in the future. So, you 15 may not be able to achieve it this year, but we 16 want a run rate of that for the future." 17 Q. So, they are reducing your budget by 18 250,000 or a quarter -- 19 A. In your model, a quarter, roughly 20 25 percent, yes. 21 Q. Okay. Now -- and how long did this go 22 on? The whole time you were at BP? 23 MR. PATTERSON: Objection, form. 24 A. So, budgets started to creep back up 25 after 1999.</p>

<p style="text-align: right;">Page 338</p> <p>1 Q. (BY MR. BOND) Okay. And then they 2 instituted challenges, right? 3 A. We had peer challenges at that time. 4 Q. Okay. And the challenges were on top of 5 this 25 percent cost reduction, correct? 6 A. I think most of the challenges were 7 around the -- the budgets were -- we couldn't 8 deliver the 25 percent and budgets were growing up. 9 So, a lot of the challenges are do you really need 10 to spend the money, the new money you are asking 11 for. 12 Q. Okay. I understand that. 13 My question was, though: Under 14 BP's guidelines, you had the 25 percent cost 15 reduction, then in addition to that, you had 16 challenges, right? 17 MR. PATTERSON: Objection, form. 18 A. No, not that I am aware of. 19 Q. (BY MR. BOND) Well, there are 20 challenges -- BP does issue challenges, correct? 21 MR. PATTERSON: Objection, form. 22 A. So, one of the -- prior to my job being 23 created, they used peer groups to issue all kinds 24 of challenges. So, a peer group would be refinery 25 managers of a similar kind of refineries would meet</p>	<p style="text-align: right;">Page 340</p> <p>1 had, you know, turned around and invested some of 2 that because I bet those men, those 50 people that 3 died would like to still be here? 4 MR. PATTERSON: Objection, form. 5 You don't have to answer that. 6 Q. (BY MR. BOND) Don't you think? 7 MR. PATTERSON: I instruct him not 8 to answer. Ask another question. That is pitiful. 9 MR. BOND: I am sorry? 10 MR. PATTERSON: That question is 11 awful. It's 6:00 o'clock on Friday night. 12 MR. BOND: Well, you know, I have 13 been nice to you; and I don't sit there and get 14 ugly and make comments about your objections. I 15 appreciate you not making comments about my 16 questions. Okay? I know it's a long day; but I 17 have been here, too. 18 Q. (BY MR. BOND) Now, the 70 -- are you 19 aware of them actually putting any kind of influx 20 or saying, hey, we ever got to go -- we have to go 21 fix this. This plant actually hadn't been fixed in 22 quite awhile. 23 Has it -- did you know of 24 anything -- before this explosion, did they do any 25 big influx?</p>
<p style="text-align: right;">Page 339</p> <p>1 and challenge each other about were they running 2 robust businesses in many ways. 3 Q. (BY MR. BOND) And then the challenge was 4 to reduce your budget by about 10 percent? 5 A. Not that I am aware of. 6 Q. Have you read the deposition of 7 Bill Smith or know of it? 8 A. No, I don't -- I don't even know who 9 Bill Smith is. I don't know. 10 Q. I could be wrong on that. I will look 11 back at my notes. 12 A. I haven't read any depositions. 13 Q. All right. So, I know you said the 14 budgets kept creeping up. 15 But here is the plant you had 16 making a billion dollars a year in 2004, right? 17 A. In 2004, it made \$930 million. 18 Q. Well -- 19 A. Yeah. 20 Q. Okay. Well, I am sorry. I didn't mean 21 to -- 22 A. No, that's okay. It's very close. 23 Q. I didn't have that 70 million in there. 24 A. They would have liked it, I am sure. 25 Q. You know, it would have been nice if they</p>	<p style="text-align: right;">Page 341</p> <p>1 A. Yes. 2 Q. When? 3 A. I think it would have been about 2003, 4 the refinery requested a significant budget 5 increase, 17, kind of, plus percent. And they 6 instituted an infrastructure improvement team. 7 Q. Was that the Clean Streams project? 8 A. No. South Houston Infrastructure Team. 9 It was called SHIFT. You will find it in your 10 documentation. S-H-I-F-T, all caps. 11 Q. Okay. So would this have been the 12 17 percent -- when did they do this, 2003? 13 A. I think it was 2003. 14 Q. Was this for South Houston or does that 15 include Texas City? 16 A. It was for primarily -- so, it was 17 primarily for the Texas City refinery. I don't 18 know if they spent some of the money elsewhere, but 19 that was primarily the Texas City refinery and 20 infrastructure. 21 Q. What was the infrastructure they were 22 going to repair and fix and update? 23 A. I think they had a wide range of things 24 that they were working on, piping, tanks, corrosion 25 under insulation. So, I think there were a wide</p>

<p style="text-align: right;">Page 342</p> <p>1 range of things they were going after. 2 Q. Was there actually -- now, who -- does 3 Mr. Parus come to you for the budget when it comes 4 time for a budget -- budget approval? 5 A. In 2003 -- in early 2004, Don didn't work 6 for me. So he wouldn't have come to me. 7 Q. How about 2005? 8 A. 2005, he would have come to me to ask for 9 budgets. 10 Q. Okay. Who did he work for in 2004? 11 A. Mike Hoffman. 12 Q. Okay. 13 A. For most of 2004. Late 2004, he moved to 14 me. 15 Q. Okay. Why was he moved to you? 16 A. So, he was the South Houston site 17 director when he moved to Texas City. So, he had 18 the Texas City refinery, the Texas City chemical 19 plant, the Chocolate Bayou plant, Cedar Bayou and 20 maybe one other; and he was the director for that 21 area. And in 2004, when we sold the Innovene 22 business, we moved back to a traditional business 23 unit model for Texas City and Don moved to the 24 business unit leader for Texas City and he started 25 reporting to me in late 2004.</p>	<p style="text-align: right;">Page 344</p> <p>1 things we observed is some people recognized new 2 environmental regulations and other sites didn't 3 recognize them. And so, we looked at Capexes. 4 Now, you know, I think one thing I 5 can remember in particular that Don will remember 6 is Don wanted money to build a new change house. 7 And as we prioritized capital, he didn't get money 8 to do a new change house. 9 Q. Okay. How much would that have been? 10 A. A couple of million dollars, I think. 11 But that's about it. That's what -- that's the 12 only thing I can really remember, specifically. 13 Q. What is the typical budget for Texas 14 City? 15 MR. PATTERSON: Objection, form. 16 Q. (BY MR. BOND) 2005 budget, roughly? I 17 know you are not going to be able to sit there and 18 hit it to the penny. 19 A. I don't know. I would have said it was a 20 half a billion dollars would be my rough guess for 21 fixed cash cost. There's variable expenses in 22 others. 23 Q. Okay. So, I come up to you and I have 24 got a budget -- I am Don. I have got a budget. I 25 come to you with about half a billion dollars'</p>
<p style="text-align: right;">Page 343</p> <p>1 Q. All right. When was the next time he 2 submitted a budget to you? 3 A. So, budgets are usually done in about 4 August for the following year. I am not sure if 5 Don would have submitted through me or if it went 6 directly to Mike. The Texas City budget would have 7 come through -- just the Texas City refinery piece 8 would have come through me in '04 for '05. So, the 9 '03 budget would have been submitted for '04. So, 10 the '04 budget wouldn't come through me but the '05 11 did, probably. 12 Q. All right. When you got that budget, did 13 you accept it or did you cut it back? 14 A. I -- honestly, I wouldn't recall 15 whether -- I am sure we had challenges around Capex 16 and costs. So, it's typical we would have gotten 17 all the commercial managers together from the 18 refineries and some of their teams. And we would 19 have met in a common location, and we would have 20 had each team kind of go over the budgets and 21 challenge them on prioritization. 22 Q. Okay. When you say "challenge," is that 23 another way of saying cut back? 24 A. It might be cuts. It might be are you 25 spending enough on some things. So, one of the</p>	<p style="text-align: right;">Page 345</p> <p>1 worth of budget. Now, you meet with me. 2 Do you meet with other refinery 3 heads or with other people at Texas City? 4 A. So, we bring most of the people together 5 to one -- in the past what we did was bring people 6 together in a general meeting because I don't have 7 the expertise to put all the questions in the room 8 and they actually work in subteams. 9 Q. Okay. So, when you say -- is it -- what 10 I am trying to figure out is who you are bringing 11 to these meetings. Is it other -- 12 A. So -- 13 Q. -- plant managers? 14 A. -- plant managers, the commercial 15 managers for the sites, typically, would be there. 16 Sometimes we might have had the technical managers 17 for the sites. 18 Q. Okay. So, I come up to you with a 19 500 million-dollar budget. What happens? 20 Everybody kind of meets and there are challenges? 21 A. Yeah. So, what turnarounds do you have 22 going on? And are you doing the right turnarounds 23 this year? How do the turnarounds compare to last 24 year? Do you have more turnarounds? Do you have 25 less turnarounds?</p>

<p style="text-align: right;">Page 346</p> <p>1 Because the budgets are not that 2 flat. They are -- they're cyclically based. If I 3 have major overhauls on units that they come down 4 every five, six years. You might see a 5 500 million-dollar budget balloon up to 780, you 6 know. So, what turnarounds do you have? How well 7 are you prepared to do those turnarounds? 8 Q. What is the typical challenge cost-wise 9 that you normally hit a plant the Texas City size's 10 budget? 11 A. We don't have targets like that. It's 12 more kind of rigor -- what kind of work are you 13 doing? Why is it different? 14 If you have the budget really 15 going up, why is it? These days steel price is a 16 big thing. So, the kind of challenges we will have 17 is some sites might say steel prices are going to 18 be up 15 percent; and another site will say they 19 are only going up 3. And we will get -- and we 20 will agree on what's the right value for a steel 21 price increase because every plant ought to reflect 22 the same kind of increase. 23 Q. So what's the -- 24 A. So, that's the kind of challenge that 25 goes in is: Why do you have a different assumption</p>	<p style="text-align: right;">Page 348</p> <p>1 what their initial request was. So, people a lot 2 of times, too, will request more money than we are 3 going to spend. And we will end up in a debate or 4 discussion and end up at some level of increase. 5 But I don't think the budgets -- any of the budgets 6 were any less than the money that they spent the 7 year before. 8 Q. Because the way BP works is y'all don't 9 sit there and say, "What do you need? Let's go fix 10 it." You don't sit there and say, "Let's look at 11 the corrosion and what needs to be fixed." 12 What y'all do is say, "We have 13 this set amount of money we are fixing to spend" -- 14 and tell me if I am wrong because I am -- 15 A. Yeah. 16 Q. -- saying it like a statement but I mean 17 it like a question. 18 You have got a set budget and then 19 they have got to fit into y'all's budget? 20 A. So, I will give you an example where this 21 is not quite how it works. So, Whiting did some 22 work in '04 and said, "We have taken a look at 23 infrastructure, rotating equipment and some piping 24 systems, Pat, that we haven't been on top of and we 25 need an implemental \$35 million over what has</p>
<p style="text-align: right;">Page 347</p> <p>1 on steel prices? Or why do you have a different 2 assumption on what labor prices are going to do 3 over the next 12 months when we pull from the same 4 labor markets? 5 Q. So, when you say "challenge," what 6 basically this man has got to do is defend his 7 budget? 8 A. Yeah, you have to -- you have to 9 defend -- 10 Q. And then if you don't defend it 11 adequately enough, it gets cut, at least in terms 12 of his peers and you? 13 A. And say they -- it might get cut. It may 14 not get all the -- typically, they are looking for 15 more money and it's can you really justify the 16 incremental spend and what are you going to do with 17 it? And if you don't defend it properly, it could 18 get cut. 19 Q. Do you remember the Texas City budget got 20 cut that -- in 2005? 21 A. I don't recall. 22 Q. And you wouldn't know whether it got cut 23 in 2004, or would you? 24 A. So, I don't know that -- I don't know 25 that it did. I don't know where it ended up versus</p>	<p style="text-align: right;">Page 349</p> <p>1 already been cast to our budget." 2 So, there it was, like, "Okay. 3 You have got to write a financial memorandum. Tell 4 me what you are actually going to deliver, how 5 ratably you are going to spend the money, how are 6 you going to do it efficiently and how is this 7 going to improve either plant safety, plant 8 environmental performance or the overall 9 performance of the plant." They put together a 10 financial memorandum, and we gave them \$35 million 11 more money. 12 So, there's a mechanism to do 13 things like that, though Texas City never did 14 develop one of those kind of requests but Whiting 15 did since I have been on this job. 16 Q. Okay. Did Texas City ever do it? 17 A. Not to my knowledge since I have been on 18 the job. They had an overall budget cycle planning 19 request in 2003. Whiting did do that. They are 20 the only one of my five that prepared something 21 like that. 22 Q. They what? 23 A. They are the only one of the five that 24 prepared a request like that. 25 Q. Do you know if Texas -- other than the</p>

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<p style="text-align: right;">Page 350</p> <p>1 five, has there ever been any other plant that you 2 know of? 3 A. Across the globe, yes, I am aware of a 4 couple of other plants that have done that. 5 Q. How about in the United States? 6 A. No. 7 Q. All right. Again, but generally 8 speaking, y'all have a budget and y'all try to fit 9 everybody in that budget unless, I guess, they 10 write this special request; is that correct? 11 A. But they can also identify new changes to 12 environmental laws or new things where they need to 13 add staff and many of them have. So, we have a 14 strong effort on a U.S. compliance program to make 15 sure we are capturing all the regulations and laws 16 that apply to sites. 17 We have been working for many 18 years. And sites have come back and said, "I need 19 three or four people to put this program in." And 20 that's a budget increase. So, they get budget 21 increases for those kind of things when we -- 22 Q. Well, you also have inflation? 23 A. Yes. 24 Q. You also have prices going up? 25 A. And we do. We do price -- we do a price</p>	<p style="text-align: right;">Page 352</p> <p>1 not when it was over. Because it is going to go -- 2 it should go on in perpetuity because that was the 3 goal? 4 A. Unless you do special things like Texas 5 City requested, yeah. 6 Q. All right. So, basically, what you are 7 looking at is a 25 percent reduction and what's the 8 cost? What's the incremental goal, with inflation 9 goal? Do you know what it is annually? What y'all 10 give it? 11 A. You know, it varies. We put it on 12 every -- we look at different commodities because 13 you -- they all move differently, like the catalyst 14 we use. Right now it is going up quite high 15 because of the energy cost to make it, labor and -- 16 and materials. So, steel and labor -- steel is 17 10 percent plus. Labor has gone up quite a bit. 18 So... 19 MR. BOND: I think we have about 20 30 seconds left, and I think we will have to change 21 tapes or is that six hours? 22 THE VIDEOGRAPHER: It's six hours. 23 Off the record at 6:05 p.m., 24 ending Tape 6. 25 (Recess taken.)</p>
<p style="text-align: right;">Page 351</p> <p>1 inflational adjustment in the budgets. 2 Q. And you are also trying to do this at the 3 same time doing a 25 percent cost reduction? 4 A. That was 1999. 5 Q. When did that stop? 6 A. There wasn't -- there was a focus to get 7 the budgets to what the right level was, I think in 8 BP's view, and that was 25 percent low. That -- 9 there wasn't another request that says come back 10 and give me more money. 11 Q. So, basically, they said, "We are 12 reducing you by 25 percent" and then it should have 13 stayed there? 14 A. With giving us inflation. They are -- 15 you know, if they would have had the request, they 16 would have liked to see the budget stay that low. 17 Q. You say it was in '99 but basically this 18 is what happened in '99, but it was supposed to 19 stay. It wasn't supposed to just be a '99 fix, 20 right? 21 A. Right. It should be moved with 22 escalation and special things, but they would like 23 to see it set the base line. 24 Q. Okay. So, when you say it happened in 25 '99, that's when they implemented it; but that's</p>	<p style="text-align: right;">Page 353</p> <p>1 MR. BOND: We will pass. 2 MR. PATTERSON: We will save ours 3 until trial. 4 (Deposition concluded.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1 APPEARANCES
(Continued)

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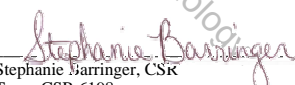
9 That a copy of this certificate was served on
all parties shown herein on _____ and
10 filed with the Clerk.

11 I further certify that I am neither counsel for,
related to, nor employed by any of the parties in the
12 action in which this proceeding was taken, and
further that I am not financially or otherwise
13 interested in the outcome of this action.

14 Further certification requirements pursuant to
Rule 203 of the Texas Code of Civil Procedure will be
15 complied with after they have occurred.

16 Certified to by me on this _____ day of
_____, _____.

17

18 

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25

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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. Christopher Dean at the Williams &
10 Bailey 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
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