

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

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ORAL VIDEOTAPED DEPOSITION OF

RICKY DAVE HALE

JUNE 1, 2006

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<p>1 ORAL VIDEOTAPED DEPOSITION OF RICKY DAVE HALE</p> <p>2 produced as a witness at the instance of the</p> <p>3 Plaintiffs and duly sworn, was taken in the</p> <p>4 above-styled and numbered cause on June 1, 2006, from</p> <p>5 10:03 a.m. to 6:33 p.m., before Stephanie Barringer,</p> <p>6 Certified Shorthand Reporter in and for the State of</p> <p>7 Texas, reported by stenographic means at the offices</p> <p>8 of Fulbright &amp; Jaworski, 1301 McKinney, Suite 5100,</p> <p>9 Houston, Texas, pursuant to the Texas Rules of Civil</p> <p>10 Procedure and the provisions stated on the record or</p> <p>11 attached hereto.</p> <p>12 Since this deposition has been realtimed and you</p> <p>13 may be in possession of a rough draft form, please be</p> <p>14 aware that there may be a discrepancy regarding page</p> <p>15 and line numbers when comparing the realtime draft</p> <p>16 and the final transcript. Also, please be aware that</p> <p>17 the realtime screen and the unedited, uncertified</p> <p>18 rough draft transcript may contain untranslated</p> <p>19 steno, a misspelled proper name and/or nonsensical</p> <p>20 English word combinations. All such entries are</p> <p>21 corrected in the final certified transcript. There</p> <p>22 also may be persons receiving the realtimed feed</p> <p>23 outside of the deposition room, but the reporter has</p> <p>24 given this access only to known attorneys of record</p> <p>25 and/or their experts.</p>	<p>1 APPEARANCES</p> <p>(Continued)</p> <p>2</p> <p>3</p> <p>4 FOR PLAINTIFF DAWN PRATER:</p> <p>5</p> <p>6 Mr. Ron Vercher</p> <p>7 KHitsas &amp; Vercher, P.C.</p> <p>8 550 Westcott, Suite 570</p> <p>9 Houston, Texas 77007</p> <p>10 Fax: 713-862-1465</p> <p>11 Telephone: 713-862-1365</p> <p>12</p> <p>13 FOR PLAINTIFFS CARLOS GALAN, LESLIE GALAN,</p> <p>14 JOSE VILLARREAL, HECTOR RODRIGUEZ,</p> <p>15 ELEAZAR CANTU, MARCO FIGEUEIROA,</p> <p>16 LUIS LOPEZ, ELOY RODRIGUEZ, ERNESTO</p> <p>17 VALENCIA, LANIEL VALLANEUVA, JOSEPH MOISE,</p> <p>18 JESUS LOPEZ, GABRIEL JAIMEZ, EVA RAMIREZ,</p> <p>19 VERONICA RAMIREZ, JOHN RANGEL, JOSE VILLANEUVA:</p> <p>20 Mr. Randy Sorrels</p> <p>21 Abraham, Watkins, Nichols,</p> <p>22 Sorrels, Matthews &amp; Friend</p> <p>23 800 Commerce</p> <p>24 Houston, Texas 77002</p> <p>25 Fax: 713-225-0827</p> <p>Telephone: 713-222-7211</p> <p>FOR PLAINTIFFS JAIME ANDREADE, ET AL.:</p> <p>Mr. Brent Coon</p> <p>Mr. Larry Sarten</p> <p>Mr. Arturo J. Gonzalez</p> <p>Brent Coon &amp; Associates</p> <p>3550 Fannin</p> <p>Beaumont, Texas 77701</p> <p>Fax: 409-833-4483</p> <p>Telephone: 409-835-2666</p>
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1 APPEARANCES  
(Continued)

2

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10 VIDEOGRAPHER:

11 Mr. Scott Hamilton

12

13

14 ALSO PRESENT:

15 Ms. Mary Raffetto  
Ms. Diane Findley

16

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5 RICKY DAVE HALE

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12 EXHIBITS  
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15 EXHIBIT DESCRIPTION PAGE

16 403 Plaintiffs' Notice of Intention 8  
to take the Deposition of Rick

17 Hale with Subpoena Duces Tecum

18 404 BP Good Practice Sharing 36  
Assessment, FInal Report,  
August, 2002

19 405 Email from Rick Hale dated 285  
6/12/04, Subject Coryton

20 Observations, Bates

21 TELOS 02559 and 02560

22

23

24

25

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1 (Exhibit Number 403 marked for  
2 identification.)

3 THE VIDEOGRAPHER: On the record

4 June 1st, 2006, at 10:03 a.m. beginning Tape 1.

5 RICKY DAVE HALE,

6 having been first duly sworn, testified as follows:

7

8 EXAMINATION

9 Q. (BY MR. DEAN) Tell us your name, please,

10 sir.

11 A. My name is Ricky Dave Hale.

12 Q. Are you a BP employee?

13 A. Yes, sir.

14 Q. Where are you currently working for them?

15 A. I am currently working at the Coryton

16 refinery In the United Kingdom.

17 Q. Where is that in the United Kingdom, this

18 Coryton refinery?

19 A. It's on the Thames river southeast of

20 London.

21 Q. Is it a short drive from London downtown,

22 if there is such a thing, down to the Coryton

23 refinery?

24 A. It's a relatively short commute.

25 Q. Commute?

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1 A. The drive rarely is short.

2 Q. Do you live in London?

3 A. No, sir. I live in a small community

4 called Billericay. It's about a 20 minute commute

5 from the refinery.

6 Q. Had you ever worked in London before, for

7 BP, before this tenure you are on right now?

8 A. I had worked in the UK on a previous

9 assignment in a couple of different locations in

10 the Coryton refinery for about nine months and then

11 worked in two office locations. One is called

12 Milton Keens which was some 20, 30 miles north of

13 London and then in an office called Hemal Hempstead

14 which is very close to the north side of London.

15 Q. Fair enough.

16 Had you ever given one of these

17 depositions before, like we are here today, in

18 front of the judge and jury giving sworn answers to

19 sworn questions and telling us what you know about

20 the issues you are asked about?

21 A. No, sir, I have not.

22 Q. But you are prepared to do so today based

23 upon preparation before today with lawyers; is that

24 true?

25 A. I am prepared for the deposition, yes,

Page 10

1 sir.  
 2 Q. The -- and you strike me as a man who  
 3 knows how to give a direct answer to a direct  
 4 question.  
 5 Am I right about that?  
 6 A. I would hope I give you that impression,  
 7 yes.  
 8 Q. Okay. Today, most importantly, for the  
 9 purposes of this case, do you understand the need  
 10 for that?  
 11 A. Yes, sir, I do.  
 12 Q. Super.  
 13 Before you had left for Coryton,  
 14 your lawyers have given us documents that indicate  
 15 you were a Texas City site performance unit leader  
 16 for some number of years at the BP Texas City  
 17 refinery; is that true?  
 18 A. Yes, for a little over a year and a half,  
 19 I believe.  
 20 Q. What years were they?  
 21 A. It was from the third quarter of 2002  
 22 until about June of 2004.  
 23 Q. And what does the "performance" mean when  
 24 it comes to Texas City site performance unit  
 25 leader?

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1 A. The performance unit leader, as  
 2 performance unit leader I had multiple  
 3 accountabilities. I had the accountability for the  
 4 operation and maintenance of the Texas City site as  
 5 well as the commercial accountability for the Texas  
 6 City refinery.  
 7 Q. What was that last part again?  
 8 A. The commercial accountability --  
 9 Q. Commercial?  
 10 A. -- for the Texas City refinery.  
 11 Q. What does that mean "commercial  
 12 accountability"?  
 13 A. It meant that I had accountability for  
 14 the P&L, basically, of the refinery during my time  
 15 there. So I functioned as the business unit leader  
 16 over the Texas City refinery.  
 17 Q. A BUL?  
 18 A. Yes, sir.  
 19 Q. After you left in June, 2004, Mr. Hale,  
 20 was there a new performance leader appointed to or  
 21 given the job of that particular endeavor?  
 22 A. Not as such. The structure changed and  
 23 actually was what promulgated my move out of Texas  
 24 City. The Texas City was part of what was called  
 25 the South Houston site, star site.

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1 Q. Yes, sir.  
 2 A. And in that construct, Don Parus was the  
 3 site director and had multiple plants under his --  
 4 under his jurisdiction. With the sale or the spin  
 5 off of Innovene from BP as a separate legal entity,  
 6 that changed the entire structure of the South  
 7 Houston site. And so the job I had, as it existed,  
 8 disappeared with that, and we went to a -- the site  
 9 went to a more traditional structure under  
 10 Don Parus as the business unit leader for Texas  
 11 City.  
 12 Q. Were you and Don in competition for that  
 13 job after this restructure? In other words, were  
 14 you qualified to do this based upon your  
 15 experience; so you put in for that job?  
 16 A. We were --  
 17 MR. BROWN: Objection, form.  
 18 A. We were both --  
 19 Q. (BY MR. DEAN) Okay.  
 20 A. -- candidates for that job.  
 21 Q. And he got the job over you?  
 22 A. Yes, sir.  
 23 Q. Is that a fair way to put it?  
 24 A. He got the job. It was his strong desire  
 25 to have that job. I was more open to different

Page 13

1 options.  
 2 Q. Okay. Why were you more open to  
 3 different options in that timeframe --  
 4 A. Well.  
 5 Q. -- Mr. Hale?  
 6 A. My children are grown. I have adult  
 7 children and my wife and I have a lot more degrees  
 8 of freedom than Don Parus and we have traveled and  
 9 lived internationally and we're open to having that  
 10 experience again.  
 11 Q. Does that mean you didn't fight that hard  
 12 to get the job as the business unit leader that Don  
 13 Parus got after June of 2004?  
 14 A. It was -- there was never a fight for  
 15 that position. I had communicated to Mr. Hoffman  
 16 that I was open to any of four options because the  
 17 job I had was going away.  
 18 Q. Okay.  
 19 A. One of those was I would be happy to do  
 20 the business unit leader position for Texas City.  
 21 I would be happy to consider an international move.  
 22 I was open to a move to Innovene, the company that  
 23 was being spun off, and I was also open to taking a  
 24 severance package, which theoretically would have  
 25 been allowed because my job, as it existed, was

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1 disappearing.  
 2 Q. All right. Let me put this in context  
 3 the way I can understand it because I have never  
 4 worked at BP, and I don't understand your corporate  
 5 structure.  
 6 Are you familiar with what's  
 7 called the Telos Report?  
 8 A. I have heard of the Telos Report.  
 9 Q. Hadn't seen it?  
 10 A. I have never read that report, no, sir.  
 11 Q. All right. But you are generally  
 12 familiar that it was commissioned, that it existed,  
 13 that a report was issued in January of 2005?  
 14 A. Yes.  
 15 Q. All right. In your position as a  
 16 performance unit leader of the Texas City refinery  
 17 between 2002 and June, 2004, would you have had the  
 18 authority to commission such a survey and report?  
 19 A. I would have had the authority for the  
 20 Texas City site to do that, yes, sir.  
 21 Q. Would Don Parus in the same timeframe,  
 22 2002 to 2004, have that same authority?  
 23 A. Yes, he would.  
 24 Q. Did you jointly manage this refinery?  
 25 MR. BROWN: Objection, form.

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1 Q. (BY MR. DEAN) In other words, you know,  
 2 the United States has a president. A company has a  
 3 CEO.  
 4 Who was the CEO? Who was the  
 5 chief or boss of the Texas City site between 2002  
 6 and June, 2004?  
 7 MR. BROWN: Objection, form. You  
 8 can answer if you understand.  
 9 A. In the structure that existed at the  
 10 time, as performance unit leader in this South  
 11 Houston structure, the only direct reports I had  
 12 were the operations and maintain -- decentral  
 13 maintenance personnel. Other personnel that were  
 14 required and needed to support the site and for the  
 15 site to function were reporting in a functional way  
 16 to Don Parus. So I did not have direct authority  
 17 over those individuals.  
 18 So as such would -- it required,  
 19 certainly, a joint effort between Don and myself to  
 20 manage the site during my tenure there.  
 21 Q. (BY MR. DEAN) Okay. Well, when it comes  
 22 to operations and maintenance you told us earlier  
 23 that that was one of your direct areas of  
 24 accountability in running the site, true?  
 25 A. Decentralized maintenance, yes, sir.

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1 Q. You were the boss of those areas of  
 2 responsibility, in other words the buck stopped  
 3 with you in that timeframe of your job?  
 4 A. I was certainly the -- the senior ranking  
 5 manager on site for those functions, yes.  
 6 Q. Did you or did you not need to check with  
 7 Don Parus about decisions relating to operations  
 8 and decentralized maintenance during that time?  
 9 MR. BROWN: Objection, form.  
 10 A. I had the delegated authority to make  
 11 decisions. In the context of a star site where we  
 12 were trying to, to the extent possible, do things  
 13 in a coordinated and unified way.  
 14 It was my common practice to have  
 15 open conversations with Don frequently about things  
 16 I was trying to do.  
 17 Q. (BY MR. DEAN) All right. And going on  
 18 to commercial accountability, the second of your, I  
 19 guess, your points of accountability. As a  
 20 performance leader, would you have that same  
 21 authority where you could act on the lines of  
 22 budgets relating to maintenance, budgets relating  
 23 to capital expenditures, et cetera, singularly or  
 24 would you need a committee support from Don or  
 25 others to make decisions?

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1 MR. BROWN: Objection, form.  
 2 A. The commercial accountability that I had  
 3 was delegated to me initially when I took the job  
 4 from Mike Hoffman, similar to other business unit  
 5 leaders that operated, you know, in BP refining.  
 6 The star site structure was  
 7 somewhat awkward in that Don in his role had the  
 8 accountability for the safe operation of the plants  
 9 under his -- under his delegation, but the request  
 10 for funds that were made to London through the  
 11 refining SPU. I would make those through what we  
 12 would call the -- you know, the annual refining  
 13 planning process.  
 14 Q. (BY MR. DEAN) Annual refining process?  
 15 A. Planning process, yes, sir.  
 16 Q. I am going to preach at you for a second,  
 17 and I am not fussing at you.  
 18 None of us in the courtroom during  
 19 this case are likely to have worked for BP other  
 20 than witnesses in this case. So when you use  
 21 phrase of commercial accountability, SRU and these  
 22 type of phrase that may be your particular  
 23 business, but are certainly particular to BP  
 24 business, we don't understand. So if I could ask  
 25 you to help us as if we were more or less your

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1 teenage children, we have a -- we can understand;  
 2 but we need it explained clearly, if you could do  
 3 that for us today, I would appreciate it.  
 4 A. I would try, Chris.  
 5 Q. What is an SRU, Mr. Hale.  
 6 A. It's a -- called a strategic resource  
 7 unit --  
 8 MR. BROWN: Objection, form, just  
 9 to clarify. I think the term he used before was  
 10 SPU.  
 11 MR. DEAN: Did he?  
 12 THE WITNESS: Yes.  
 13 MR. DEAN: I am sorry. Thank you  
 14 for saying that.  
 15 Q. (BY MR. DEAN) What is an SPU?  
 16 A. It's a strategic performance unit. This  
 17 is a term used in BP to describe a collection of  
 18 businesses. It's an organizational construct  
 19 usually presided over by what we call a GVP, a  
 20 group vice president.  
 21 So in the case of BP, the refining  
 22 and pipelines SPU, which was the collection of all  
 23 of BP's refineries including the pipeline business  
 24 in the United States, were under Mike Hoffman's  
 25 delegated authority as our group vice president.

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1 Q. What timeframe did Mr. Hoffman have that  
 2 authority?  
 3 A. It was -- I can't remember exactly, but  
 4 Mike took over that accountability while I was  
 5 working at the Castellon refinery, so that had to  
 6 be between late 2001 to the middle of 2002,  
 7 sometime in that timeframe he was named as the vice  
 8 president.  
 9 Q. All right. Who else was in the strategic  
 10 performance unit in this timeframe of 2002 to 2004?  
 11 MR. BROWN: Objection, form.  
 12 Q. (BY MR. DEAN) What other --  
 13 A. Can I clarify?  
 14 Q. Please.  
 15 A. You mean what other businesses were a  
 16 part of that strategic performance unit?  
 17 Q. Well, there you had Mr. Hoffman as the  
 18 person who was more or less running that unit,  
 19 true?  
 20 A. As he was the group vice president over  
 21 all of the refineries in the pipeline business.  
 22 Q. And does that mean that he, Mr. Hoffman,  
 23 had the authority to make decisions, whether they  
 24 are based on financial or operations, to affect the  
 25 direction of the Texas City refinery in the

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1 timeframe of 2002 to 2004?  
 2 MR. BROWN: Objection, form.  
 3 A. Mr. Hoffman would look to the business  
 4 unit leaders such as myself to submit plans --  
 5 Q. (BY MR. DEAN) Okay.  
 6 A. -- to him. He would, within the  
 7 financial framework that had been given him by the  
 8 group, would make allocations of resources within  
 9 his total budget for his SPU.  
 10 Q. And during that same timeframe, 2002 to  
 11 2004, would he be making those decisions while  
 12 working and living in the Houston area or  
 13 elsewhere?  
 14 A. Mike was a resident in London during  
 15 that -- during that time.  
 16 Q. All right. And can you give us here in  
 17 the courtroom, give us some broad understanding of  
 18 what was at his disposal in the form of information  
 19 to make decisions that affected the operations and  
 20 commercial activities of the Texas City refinery in  
 21 Galveston County?  
 22 MR. BROWN: Objection, form.  
 23 A. Yes. The refineries, there is a process  
 24 of information flow from the refineries to London.  
 25 Q. (BY MR. DEAN) Yes, sir.

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1 A. There is several processes. One primary  
 2 process is what we call the planning process. So  
 3 there is an annual plan and a multi-year plan that  
 4 gets submitted to London, to Mike Hoffman's staff  
 5 support group. And then there is a largely monthly  
 6 process, although it doesn't necessarily happen  
 7 every month. There's occasional exceptions which  
 8 we call a GFO, and it's a general -- I believe it  
 9 stands for general financial outlook. And that is  
 10 the business' forecast on where it expects its  
 11 spending to be for the rest of the year relative to  
 12 the annual plan that is in place.  
 13 Q. Yes, sir.  
 14 And going back to the planning  
 15 process, the annual plan and multi-year plan, is  
 16 that a financial -- financial decision making  
 17 structure; or did it also relate to systems like  
 18 process safety management and how to train and fund  
 19 endeavors like that?  
 20 MR. BROWN: Objection, form.  
 21 A. The -- there -- for the forecast, there  
 22 are forecasts around your -- you know, your  
 23 projections around safety and environmental as  
 24 well. In terms of the performance contracts that  
 25 Mike has with his business unit leaders, there are

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1 within that, milestones that will relate to  
 2 projects, could relate to safety, could relate to  
 3 process safety.  
 4 So, you know, for example, there  
 5 are objectives in my accountabilities for this year  
 6 around the integrity management standard --  
 7 Q. (BY MR. DEAN) Okay.  
 8 A. -- for BP and meeting the process minimum  
 9 expectations that are set by the refining SPU.  
 10 Q. All right. To back off, generally, after  
 11 your excellent description of the strategic  
 12 performance unit and Mr. Hoffman's role, is that  
 13 business unit leaders such as yourself would  
 14 submit, for example, capital expenditure budgets  
 15 and whatnot, for your specific refinery to London  
 16 to Mr. Hoffman for him to digest?  
 17 A. Yes.  
 18 Q. And he had, from the board of directors,  
 19 delegated authority to make decisions with respect  
 20 to the planning process and the general financial  
 21 outlook of the Texas City refinery and that  
 22 authority was acted upon while he was in London; is  
 23 that true, sir?  
 24 MR. BROWN: Objection, form.  
 25 A. One correction --

Page 23

1 Q. (BY MR. DEAN) Please.  
 2 A. -- to my understanding.  
 3 Mike Hoffman's delegation did not  
 4 come, as I understand it, directly from the board.  
 5 It came through Mr. John Manzoni, who was the group  
 6 chief executive over the refining and marketing  
 7 portion of BP.  
 8 Q. I started taking notes too late in your  
 9 answer there.  
 10 John Manzoni's job title was in  
 11 that time frame?  
 12 A. I think it was that. It currently is  
 13 that. The titles seem to change frequently.  
 14 Q. Yes, sir.  
 15 A. But his title is group chief executive,  
 16 GCE --  
 17 Q. Okay.  
 18 A. -- of refining and marketing, which many  
 19 in the industry refer to that as the downstream  
 20 part of the business.  
 21 Q. Now that you have corrected me; and I do  
 22 appreciate that, let me see if I can start over.  
 23 Mr. Hoffman, as the leader of the  
 24 strategic performance unit that included Texas City  
 25 refinery, among other BP refineries, expected to

Page 24

1 receive from his business unit leaders at the  
 2 individual refineries, information related to the  
 3 planning process and general financial outlook.  
 4 And based upon delegated authority he had from John  
 5 Manzoni, he would be able to make decisions,  
 6 strategic decisions, that relate to operations as  
 7 well as the financial construct of the refineries  
 8 operations and make those decisions while in  
 9 London. Is that true, sir?  
 10 MR. BROWN: Objection, form.  
 11 A. Let me make sure I understand your  
 12 question.  
 13 He would make decisions about  
 14 allocation of resources --  
 15 Q. (BY MR. DEAN) Right.  
 16 A. -- with the understanding of the plans  
 17 that had been submitted and his view of, if choices  
 18 had to be made, where he would make choices about  
 19 funding different projects or that -- and that sort  
 20 of thing that was submitted in the plan.  
 21 Q. Yes, sir.  
 22 A. Is that --  
 23 Q. It does.  
 24 So with respect to his delegated  
 25 authority or discretion, the buck stopped with him

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1 relative to the discretion to allocate resources at  
 2 an individual refinery such as the Texas City  
 3 refinery in Galveston County?  
 4 MR. BROWN: Objection, form.  
 5 A. Yes. Mike would make decisions about his  
 6 allocation of available capital, for example.  
 7 Q. (BY MR. DEAN) Right.  
 8 A. He would make decisions among his  
 9 refineries and pipeline business as to how to  
 10 allocate that capital relative to the requests in  
 11 the capital plan.  
 12 Q. All right. Now let's use the Telos  
 13 Report example -- as an example working its way  
 14 through this information flow, that phrase you used  
 15 earlier.  
 16 Would Mr. Hoffman have needed to  
 17 specifically approve, while you were the  
 18 performance leader of the Texas City refinery, the  
 19 actual initiating of, and payment for, the Telos  
 20 Report?  
 21 A. Not specifically. So a business unit  
 22 leader is delegated a budget, both a capital budget  
 23 and an expense budget.  
 24 Q. Uh-huh.  
 25 A. And within those budgets, that business

<p style="text-align: right;">Page 26</p> <p>1 unit leader has the ability and the authority to  2 make choices about that expenditure. So in this  3 particular case, whether to commission an audit or  4 a study, I would not expect Mr. Hoffman to be  5 involved in that. It clearly is the remit as long  6 as it can be done within the delegated budget --  7 Q. All right.  8 A. -- is in the remit of the business unit  9 leader.  10 Q. In the context, the specific context of  11 safety and environmental concerns at the Texas City  12 refinery, what is the -- what are the recipes?  13 What are the components of the flow of information  14 about those two matters between the Texas City  15 refinery -- business unit leader and Mr. Hoffman as  16 head of the strategic performance unit?  17 MR. BROWN: Objection, form.  18 A. There are several sources of information  19 that flow to Mr. Hoffman.  20 Q. (BY MR. DEAN) Yes, sir.  21 A. Within these forecasts, there are -- that  22 I mentioned to you earlier.  23 Q. Yes, sir.  24 A. There are statistics around environmental  25 and safety performance. There are -- there are</p>	<p style="text-align: right;">Page 28</p> <p>1 in 2002, 2003. I don't remember when exactly all  2 of those started but that is the things that he's  3 looking at today.  4 Q. All right. And you actually picked up on  5 where I was going next is: While you were the  6 performance leader at the Texas City refinery, what  7 was it that you were specifically in charge of on  8 this itemized list we just made of getting  9 Mr. Hoffman in London? All of those items that we  10 just discussed? Some of those items, or you don't  11 remember?  12 A. The ones that I remember -- I don't  13 remember the traffic lights. It probably was not  14 started at that point in time, but the others I  15 remember.  16 Q. The others you do remember?  17 A. Yes.  18 Q. And going back to the statistics as one  19 of the components of information that flowed across  20 the Atlantic to London, what specific statistics on  21 environmental and safety would Mr. Hoffman be  22 receiving based on your personal knowledge?  23 A. In that time?  24 Q. Yes, sir.  25 A. Clearly any information on</p>
<p style="text-align: right;">Page 27</p> <p>1 weekly operating reports that Mr. Hoffman gets,  2 which is a very high level summary of the safety  3 issues, the environmental issues and operating  4 problems that occur at each refinery.  5 There -- there is an HSE, health  6 and safety -- health, safety and environment  7 network which is a network of individuals,  8 representatives from each of the refining  9 businesses that meet periodically to share lessons  10 learned, to try to develop management information.  11 These groups have periodic reviews back to  12 Mr. Hoffman and his direct reports, which are  13 primarily the regional vice presidents and the  14 technical vice president and commercial director.  15 So and then there is a -- Mike  16 gets a periodic quarterly review in terms of what  17 they call their traffic lights, which looks at a  18 whole list of performance indicators with a red,  19 green or yellow indication saying, "How are we  20 doing on these things?"  21 So that's the things that he is  22 looking at today.  23 Q. All right.  24 A. I cannot remember exactly if he was  25 looking -- if all of those were in place, you know,</p>	<p style="text-align: right;">Page 29</p> <p>1 non-compliances, information on reportable leaks,  2 which for us is any leak above a barrel of oil,  3 safety statistics, including day away from work  4 injuries, frequencies, reportable injury frequency,  5 certainly any -- any fatalities were reviewed in  6 great detail in terms of even business unit leaders  7 going to London and speaking with John Manzoni and  8 his direct reports about any fatality that occurred  9 in the ensuing investigation.  10 Q. Okay. Using another example, do you  11 recall attending an off-site meeting in March,  12 2004, that was titled something on the lines of a  13 manufacturing council off-site meeting that  14 discussed, in particular, items of contractor  15 compliance as a general and specific issue of the  16 Texas City refinery?  17 MR. BROWN: Objection, form.  18 A. I can't remember a specific -- that  19 specific meeting. Can you help me --  20 Q. (BY MR. DEAN) No.  21 A. -- recollect.  22 Q. We'll go through that here in a little  23 bit as we go through our documents.  24 A. Okay.  25 Q. Let's try another one.</p>

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1 While you were a performance  
 2 leader, do you remember receiving any reports that  
 3 had the name "Veba" in it?  
 4 A. Yes, Veba.  
 5 Q. Veba.  
 6 A. There was a report. Some called it a  
 7 Veba report. Some called it an A.T. Kearney  
 8 report.  
 9 That was an assessment done before  
 10 I got to the site in 2002 by that -- by that team,  
 11 yes.  
 12 Q. What is the Veba team?  
 13 A. The team was assembled, and I think it  
 14 took its name, Veba, because I believe it had some  
 15 members from a recently acquired company called  
 16 Veba that participated in that assessment, as did  
 17 the company A.T. Kearney, looking at systemic, long  
 18 term issues in the Texas City plant.  
 19 I can recall some of the themes  
 20 and details, but not a lot. I have not looked at  
 21 that report in years.  
 22 Q. What generally, without giving you a  
 23 memory test, what do you remember about some themes  
 24 as it relates to safety and the environment from  
 25 the Veba report?

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1 MR. BROWN: Objection, form.  
 2 A. What I remember most clearly from the  
 3 report was some conclusions about investment and  
 4 some implication that I think in the late '90s  
 5 there was low investment in the plant and low  
 6 maintenance spending in the plant. I remember  
 7 that.  
 8 Q. (BY MR. DEAN) Do you remember  
 9 disagreeing or agreeing with those findings of the  
 10 Veba report back in the timeframe of 2002, when you  
 11 got to the refinery?  
 12 A. Well, I am not sure I thought of it in  
 13 those terms.  
 14 What -- the numbers that were  
 15 there for those years certainly looked low to me  
 16 and were well below the spending levels that we  
 17 were at while I was in Texas City. So those early  
 18 '99, 2000 numbers that were in that -- you know,  
 19 that were identified in that report were well below  
 20 where we were currently spending in the plant.  
 21 Q. I don't -- I don't understand. Can  
 22 you -- can you maybe give me another angle at  
 23 rephrasing your answer?  
 24 What does it mean that your  
 25 numbers were not where they are at?

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1 MR. BROWN: Objection, form --  
 2 A. Well, you asked me --  
 3 Q. (BY MR. DEAN) Yeah.  
 4 A. -- if I agreed or disagreed. What I  
 5 said, I mean, the report was what it was.  
 6 Q. Sure.  
 7 A. And what I was saying was that our  
 8 current -- when I was there in 2002, 2003 and into  
 9 2004, our spending levels for expense and capital  
 10 that we -- we were executing in the plant were well  
 11 above those levels that were reported in the  
 12 A.T. Kearney report in the '99, 2000, 2001  
 13 timeframe.  
 14 Q. Okay. Was there a connection between the  
 15 Veba report, which I think the evidence will show  
 16 came out in 2002, and the spending levels that you  
 17 saw in 2003 and 2004 that were disproportioned or  
 18 did not correspond with the spending levels in the  
 19 late '90s, early 2000s?  
 20 MR. BROWN: Objection, form.  
 21 A. I would be speculating. What I know is  
 22 that the request for funds that were approved in  
 23 2002, 2003 and 2004 when I was there were  
 24 significantly above the levels of expenditure that  
 25 had been identified in earlier years in that

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1 report. Whether or not the Veba report provoked  
 2 that step change, I am not sure. But the reality  
 3 was it was at a significantly higher level.  
 4 Q. (BY MR. DEAN) Do you know what provoked  
 5 you getting levels of spending or requests approved  
 6 for spending more so than previous years?  
 7 A. In my view, it was very clearly around  
 8 the stand that Mike Hoffman took. And Mike Hoffman  
 9 was very clear with the business unit leaders that  
 10 the business unit leader accountability was to  
 11 request sufficient funds needed to operate the  
 12 plant, sustain the plant and that if he could not  
 13 secure those funds from the group, we would sell or  
 14 shut down facilities as needed so that the money we  
 15 were allocated was sufficient for the remaining  
 16 businesses.  
 17 Q. Okay.  
 18 A. That was a very clear message from Mike.  
 19 Q. Yes, sir.  
 20 Was it in writing that you  
 21 remember?  
 22 A. I don't recall it in writing.  
 23 Q. Where were you before 2002, or I guess  
 24 the earlier part of 2002 and before?  
 25 A. I was the business unit leader at the

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1 Castellon refinery in Castellon, Spain.  
 2 Q. You have lived in some interesting  
 3 places.  
 4 A. It was a wonderful place.  
 5 Q. I'll bet.  
 6 And the business unit leader in  
 7 Castellon, is that like a performance leader at  
 8 Texas City? In other words, you were the single  
 9 point of accountability on operation decentralized  
 10 maintenance and commercial accountability?  
 11 MR. BROWN: Objection, form.  
 12 A. The significant difference in a business  
 13 unit leader and the performance unit leader  
 14 position is that the business unit leader has total  
 15 direct control of all of the functions on the site  
 16 that are needed to run the site. In the  
 17 performance unit leader position, again, recall I  
 18 said the functions did not report to me. So I had  
 19 to -- to gain their services, basically, in support  
 20 of my business objectives.  
 21 So, for example, HSE reported  
 22 functionally and the HSE manager reported directly  
 23 to Don Parus, not me. In the Castellon refinery,  
 24 the HSE reported to me directly as the business  
 25 unit leader.

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1 Q. (BY MR. DEAN) All right. And you  
 2 arrived at the BP Texas City refinery with the job  
 3 title of performance leader in what specific month,  
 4 if you recall, of 2002?  
 5 A. I am sorry, Chris. I can't remember the  
 6 specific month. It was in the third quarter of  
 7 2002, but I don't remember if it was September.  
 8 Q. That's all right.  
 9 A. I am not sure. I am sure it's in some of  
 10 my details.  
 11 Q. I want to hand you a document that's  
 12 Bates number BPISOME01961406 and see if you  
 13 recognize that document.  
 14 A. This is the Veba or A.T. Kearney summary.  
 15 I don't know if I remember this exact document. I  
 16 remember reading some of these themes.  
 17 Q. I'll ask you specific questions about the  
 18 document so that you don't feel like you have to  
 19 study for a test or anything. I just wanted your  
 20 level of familiarity with that specific document  
 21 produced by BP's lawyers to us.  
 22 A. Yes, so it certainly -- I don't know if I  
 23 saw this exact document; but I have seen many of  
 24 the themes that are represented here and some of  
 25 the graphs I have seen before, yes.

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1 Q. All right.  
 2 MR. DEAN: I am going to go ahead  
 3 and mark that as Exhibit 404.  
 4 (Exhibit Number 404 marked for  
 5 identification.)  
 6 Q. (BY MR. DEAN) The copy is not exactly  
 7 the best copy, is it? Let's -- if you can't read  
 8 it, you let me know because we are going to be  
 9 putting it up on the screen --  
 10 A. Okay.  
 11 Q. -- for others to see.  
 12 This Veba report is known  
 13 according to its cover page as the Good Practice  
 14 Sharing Assessment, according to this exhibit,  
 15 Final Report August, 2002. Can you with BP -- I  
 16 don't know if that's a BP term, but can you give us  
 17 an understanding of what it means of "Good Practice  
 18 Sharing Assessment"?  
 19 A. Yes, it's -- one of the concepts I  
 20 mentioned to you earlier was this idea of networks.  
 21 Q. Uh-huh.  
 22 A. And it's kind of in the way we work this  
 23 idea of people sharing from other BP experiences  
 24 through these networks or through specific things  
 25 that we call peer assists where someone at a site

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1 asks for others to come over and look at what they  
 2 are doing and share their insights from their own  
 3 locations about what is a -- what is a best  
 4 practice in the area of whatever is being looked  
 5 at.  
 6 Q. Okay. And you had referenced earlier in  
 7 this -- I am going to call it Veba report --  
 8 A. Fine.  
 9 Q. -- instead of the mouth full of Good  
 10 Practice Sharing Assessment.  
 11 Is that okay?  
 12 A. Yes, sir.  
 13 Q. Did you actually go back and look at the  
 14 numbers that Texas City was allocating towards  
 15 different expenditures prior to you taking that job  
 16 or during your performance of that job? In other  
 17 words, did you go back and look at the history of  
 18 the plant?  
 19 MR. BROWN: Objection, form.  
 20 A. The Veba report gave a pretty clear  
 21 history, spending history of what was happening.  
 22 Q. (BY MR. DEAN) Right.  
 23 A. And the planning process for 2002 -- in  
 24 2002 for 2003 was very much underway when I -- when  
 25 I came to the Texas City site. And so a lot of

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1 those wheels were in motion in terms of, you know,  
 2 what had -- what was projected to be needed for  
 3 2003 annual plan.  
 4 Q. All right. But going back to my  
 5 question, did you, at any time, become familiar  
 6 with the details of how Texas City was indeed  
 7 allocating it's resources in the name of safety, in  
 8 the name of maintenance, in the name of integrity  
 9 prior to you coming to that plant as a performance  
 10 leader?  
 11 MR. BROWN: Objection, form.  
 12 A. When I came to the plant, the  
 13 A.T. Kearney or the Veba report, you know,  
 14 certainly for Don was important information that he  
 15 had, you know, just become aware of. There were  
 16 some issues that we had become aware of or he had  
 17 become aware of in the plant. And so there were  
 18 things that were going into the budget to address  
 19 some of those things.  
 20 So, for example, there was a  
 21 project called the piping integrity project which  
 22 Don had started before I got there which was a  
 23 multi-year spending program to improve the  
 24 condition -- the condition of the piping  
 25 infrastructure in Texas City.

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1 MR. DEAN: I am going to object as  
 2 nonresponsive.  
 3 Q. (BY MR. DEAN) The -- what I'm -- the  
 4 very basic detail I am trying to get to the bottom  
 5 of, sir, is you assume this job at some point in  
 6 the third quarter of 2002. Isn't that true?  
 7 A. Yes.  
 8 Q. Did you ever undertake before you assume  
 9 the job or after you assume the job to understand  
 10 the last several years of what was going on  
 11 financially and in operations at the BP Texas City  
 12 refinery?  
 13 MR. BROWN: Objection, form.  
 14 A. Through the A.T. Kearney report, I got a  
 15 good view, I think, of recent history and  
 16 expenditures that had happened in Texas City.  
 17 Q. (BY MR. DEAN) So, therefore, you relied  
 18 on the Veba report to educate you as to the past  
 19 few years in what had been going on?  
 20 A. Yes.  
 21 Q. And did you determine it to be correct,  
 22 incorrect or just assume that it was correct?  
 23 A. I assumed it was correct. I had no  
 24 reason to assume otherwise.  
 25 Q. The summary we see -- and tell me if you

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1 cannot read it. We have -- we are just going to go  
 2 over some of the findings in this Veba report. It  
 3 reads at the top where I have a green arrow, "The  
 4 findings from this assessment can be described as  
 5 urgent and far reaching with important implications  
 6 for the site including integrity of the ongoing  
 7 site operations and the continuing ability to  
 8 successfully compete in global markets."  
 9 Did I read that correctly?  
 10 A. Yes, sir.  
 11 Q. What, now that we are looking at this  
 12 report, was urgent and far reaching with important  
 13 implications for Texas City back in this timeframe  
 14 of August 2002?  
 15 MR. BROWN: Objection, form.  
 16 A. There -- there were some implications,  
 17 again, around spending. There were some  
 18 implications, I think, around leadership. Don  
 19 Parus had reacted to some of that.  
 20 I think the project I mentioned  
 21 earlier was in response to a finding but the  
 22 multi-year nature and the commitment, the forward  
 23 commitment, I think, was clearly a direct result of  
 24 this understanding that this wasn't just a single  
 25 problem that he had found that needed a multi-year

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1 approach.  
 2 Don made some significant  
 3 leadership changes. I don't know if that was a  
 4 direct result of the A.T. Kearney report or not,  
 5 but he clearly was intent on making some fairly  
 6 large and sweeping changes in personnel at the  
 7 Texas City plant of which I was one of those that  
 8 was requested by him to come to the site and help  
 9 address some of the issues that he saw as very  
 10 urgent.  
 11 Q. (BY MR. DEAN) Well, let's go back in  
 12 time. What issues did Don Parus see as urgent in  
 13 this timeframe of the third quarter 2002 at the  
 14 Texas City site?  
 15 A. I think he saw the integrity issues as  
 16 urgent. And I think he saw the leadership issues  
 17 as urgent. And I think he saw the engagement of  
 18 the workforce as urgent.  
 19 Q. What does "leadership" mean in the  
 20 context of this discussion? That it's an "urgent  
 21 issue at Texas City leadership," what does that  
 22 mean?  
 23 A. I am speculating to say, but clearly Don  
 24 felt that he needed different leadership to lead  
 25 the site.

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1 Q. Why? Based on your understanding on  
 2 visiting with him and being involved in the Texas  
 3 City operations from 2002 forward?  
 4 A. I would be speculating, but I will say he  
 5 felt like he needed a change in the mentality and  
 6 the approach and someone that would try to do more  
 7 around workforce engagement.  
 8 Q. What was the mentality before, based on  
 9 your understanding of visiting with him, that he  
 10 was trying to change?  
 11 A. I think he was looking for people that  
 12 would be more open, more engaging of the workforce.  
 13 Q. What does that mean, "engaging of the  
 14 workforce"?  
 15 A. It would be maybe a bit less command and  
 16 control, that sort of management style.  
 17 Q. And give us an example. Put that into  
 18 practice, this concept.  
 19 MR. BROWN: Objection, form.  
 20 A. Well, I think you understand the concepts  
 21 of, you know, command and control; or is more of  
 22 that management style involved in the details, you  
 23 know, being controlling, making sure that everyone  
 24 is, you know, passing decisions through a very  
 25 narrow funnel to have things decided versus someone

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1 that, you know, does delegation and holds people  
 2 accountable for decisions that are in their area of  
 3 accountability.  
 4 Q. (BY MR. DEAN) Okay. And --  
 5 A. That's my perception of that difference.  
 6 Q. Did you see that perception and  
 7 execution. In other words, someone was fired and  
 8 another person was hired to fill a position to  
 9 start this new program of a mentality change back  
 10 in the 2002 timeframe?  
 11 MR. BROWN: Objection, form.  
 12 A. I am not sure exactly all of Don's  
 13 thinking and, you know, what his reasons were for  
 14 the changes that he made; but he made many changes  
 15 in personnel and, you know, in a relatively short  
 16 period of time.  
 17 Q. (BY MR. DEAN) For example?  
 18 A. For example, my going there I think was a  
 19 part of his desire to get a different management  
 20 structure, Number 1, because at the time I went  
 21 there Don had the commercial accountability for the  
 22 refinery as well as his existing accountabilities;  
 23 and I think he found that overwhelming. And  
 24 secondly, I think he wanted to see some changes in  
 25 operational leadership.

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1 Q. Were those changes eventually made over  
 2 the two year span you were there?  
 3 A. Yes.  
 4 Q. Almost two year span?  
 5 A. Yes. Many of the changes were made at  
 6 the time that I came to Texas City.  
 7 Q. The report goes on to state in this  
 8 summary findings, "The key findings are summarized  
 9 as followed: The projected run rate of the  
 10 improvement benefits suggested in this BP report is  
 11 at least 100 million per annum."  
 12 What does that mean, "run rate of  
 13 improvement benefits is at least 100 million"?  
 14 A. My recollection of that is -- was largely  
 15 around improved refinery availability, that if we  
 16 improved our maintenance it improves the -- then  
 17 the resultant availability or the availability of  
 18 the units to run with a higher run factor.  
 19 Q. Is that what availability means?  
 20 A. Yes.  
 21 Q. Okay.  
 22 A. Then we would, in fact, make more money  
 23 with the same plant kit.  
 24 Q. Did you see Veba's projection to come  
 25 true in your tenure. In other words, the plant was

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1 indeed benefitting to the tune of at least  
 2 \$100 million relative to availability?  
 3 A. No, we didn't achieve that level. We  
 4 achieved improvements while I was there.  
 5 Q. How would we in the courtroom, what tools  
 6 can you give us in the courtroom, tell us what you  
 7 achieved and what you did not achieve relative to  
 8 this projected run rate improvement benefit?  
 9 MR. BROWN: Objection, form.  
 10 A. I am not sure I would know exactly what  
 11 to show you. There are availability records that I  
 12 don't have, but they should be able to demonstrate,  
 13 you know, where we were operating and showing  
 14 improvement over time.  
 15 Q. (BY MR. DEAN) Okay. While you were  
 16 there?  
 17 A. Yes, my recollection was we -- we showed  
 18 an improvement in 2002 to 2003 if I remember  
 19 correctly. 2004, I can't -- I can't recall.  
 20 Q. It goes on down here by my green arrow,  
 21 "The resulting improvements in reliability  
 22 according to the Veba report, integrity, technical  
 23 competence, willing and able, total head count, BP  
 24 and contractor, to be reduced by 475 by the end of  
 25 2007."

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1 Can you explain what that means in  
 2 the context of this report in your experience as BP  
 3 management personnel?  
 4 MR. BROWN: Objection, form.  
 5 A. I can't recall explicitly. I would be  
 6 happy to look at some of the detail, which I am  
 7 sure sets the context.  
 8 One of the things that we have  
 9 noted at several sites is a correlation, however,  
 10 that as availability goes up, your maintenance  
 11 spending goes down and that makes sense logically  
 12 because as more and more the plant is running and  
 13 on line, the spending that you are doing then is  
 14 less about expensive reaction to breakdown but can  
 15 then be diverted more into preventive kind of  
 16 things. And it becomes a -- you know, kind of a  
 17 virtuous cycle where it builds on itself.  
 18 So that's an experience that we  
 19 have seen in some locations. So I am speculating,  
 20 without looking at the details; but it's probably  
 21 related to that, that as you get away from the  
 22 breakdown, you know, responding to the crisis, you  
 23 should be able to reduce your total maintenance  
 24 spend.  
 25 MR. DEAN: Objection,

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1 nonresponsive.  
 2 Q. (BY MR. DEAN) If we applied our normal  
 3 reading comprehension skills in the courtroom does  
 4 not this second arrow that the jury is looking at  
 5 suggest that one of the goals of Veba is to reduce  
 6 the workforce and the obligations associated with  
 7 paying personnel over time?  
 8 MR. BROWN: Objection, form.  
 9 A. I don't recall that part of Veba. I can  
 10 tell you while I was there we increased personnel,  
 11 not decreased personnel.  
 12 Q. (BY MR. DEAN) Okay.  
 13 MR. DEAN: How much time do I  
 14 have?  
 15 THE VIDEOGRAPHER: Five minutes.  
 16 MR. DEAN: Let's use up a little  
 17 bit of it.  
 18 Q. (BY MR. DEAN) You had said something  
 19 earlier during our initial discussion about Veba  
 20 about themes and indeed the report does approach  
 21 that in the same word of common themes and issues  
 22 and one of those in leadership on page 13 is that  
 23 "There is clearly a candid culture at South  
 24 Houston, however, this is often accompanied by a  
 25 can't finish approach to the management of change."

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1 Can you, in your experience,  
 2 interpret that sentence for us?  
 3 MR. BROWN: Objection, form.  
 4 A. My experience -- my experience is that  
 5 Texas City had a lot of passion and energy to get  
 6 better. And in that desire, people were anxious  
 7 and willing to try to take on many things and do  
 8 many things and often without the full  
 9 understanding of the resources and capacity needed  
 10 to bring that to closure, so that was an issue we  
 11 talked about often at the leadership team is how do  
 12 we make choices about the improvement areas that  
 13 we're going to pursue because you can't do  
 14 everything at once.  
 15 Q. (BY MR. DEAN) All right. Would an  
 16 example be closing out Traction items, items that  
 17 are in Traction? Would that be something of a  
 18 can't finish mentality?  
 19 MR. BROWN: Objection, form.  
 20 A. It's certainly a problem that articulates  
 21 that people, when they make those commitments,  
 22 don't understand the full breadth of  
 23 accountabilities and resource commitments that they  
 24 have. And so often don't -- are not able to close  
 25 out the actions.

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1 Q. (BY MR. DEAN) They don't understand the  
 2 consequences of not closing out the action,  
 3 therefore, they don't close out the action item.  
 4 Is that a general interpretation of what you just  
 5 said?  
 6 MR. BROWN: Objection, form.  
 7 A. No. No, what I said is people, I think,  
 8 are well intended about closing out the action; but  
 9 resource constraints and priorities often result in  
 10 those not being closed out.  
 11 Q. (BY MR. DEAN) All right.  
 12 A. So --  
 13 Q. Let me give you -- did I cut you off?  
 14 A. Well, I was going to say it was an issue  
 15 in terms of open action items was something that we  
 16 had talked about in terms of wanting to improve  
 17 that position on those -- on that front.  
 18 Q. Okay. The -- for example -- withdraw  
 19 that.  
 20 Do you consider the following to  
 21 be an example of a can't finish mentality: In 2003  
 22 the evidence will show, Mr. Hale, that the HAZOP  
 23 was done on the raffinate splitter.  
 24 Are you with me so far?  
 25 A. Yes, sir.

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1 Q. And among the action items of that HAZOP  
 2 was to do a relief valve study on the relief valves  
 3 that served the raffinate splitter.  
 4 Are you with me so far?  
 5 A. Yes.  
 6 Q. And the evidence will show in this case;  
 7 and you will have to assume with me for a moment  
 8 that that action item was never closed, it was  
 9 never performed up to and including the date of the  
 10 explosion.  
 11 Are you still with me?  
 12 MR. BROWN: Objection, form.  
 13 A. Yes, I understand what you are saying.  
 14 Q. (BY MR. DEAN) So over the course of  
 15 approximately two years an action item went  
 16 unaddressed, based upon what I have given you so  
 17 far; is that correct?  
 18 A. That's --  
 19 MR. BROWN: Objection, form.  
 20 A. -- what you are telling me. I don't know  
 21 when the action item -- when it's raised, should  
 22 have on it an anticipated due date.  
 23 Q. (BY MR. DEAN) Okay. The anticipated due  
 24 date, the evidence will show, Mr. Hale, that on  
 25 March 31st, 2005, some seven or eight days after

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1 the explosion was the due date.  
 2 Do you know that to be true or  
 3 untrue?  
 4 A. I don't know.  
 5 Q. Okay.  
 6 A. I know it should have had the due date  
 7 identified.  
 8 Q. And if no effort had been initiated to  
 9 actually begin or conclude the relief valve study  
 10 for the raffinate splitter at the time of the  
 11 explosion seven or eight days in advance of its due  
 12 date, what would that tell you about prioritization  
 13 of closing that action item?  
 14 MR. BROWN: Objection, form.  
 15 A. What it would tell me is that either the  
 16 people when they set that original date, they  
 17 didn't understand the organizational commitments  
 18 and the resources available to deliver or someone  
 19 lost sight of that in closing it within the  
 20 timeframe of the target date that they set.  
 21 Q. (BY MR. DEAN) Who is "they" that you  
 22 reference in your answer?  
 23 A. The --  
 24 MR. BROWN: Objection, form.  
 25 A. The action items should have an

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1 accountable person listed with that action item.  
 2 So I don't know who that was in this case.  
 3 Q. (BY MR. DEAN) And who should be  
 4 responsible to ensure that person does his or her  
 5 job in performing the action item and closing it  
 6 out in the time period allotted?  
 7 A. The HAZOP process -- as part of the HAZOP  
 8 when it generates action items, should make sure  
 9 that individuals that are assigned actions are  
 10 aware of those action items. And then it should  
 11 fall on the line manager of an individual that has  
 12 potentially numerous items, action items, to ensure  
 13 follow-up and see that there is progress being made  
 14 on those actions.  
 15 Q. Well, in 2002 and 2003 -- excuse me.  
 16 2003 and 2004, or part of 2004,  
 17 you were there. Can you give us a name of who  
 18 would have been responsible to ensure that that  
 19 action item was initiated and completed by the due  
 20 date?  
 21 A. I don't --  
 22 MR. BROWN: Objection, form.  
 23 A. I don't recall and I never saw that  
 24 individual list.  
 25 Q. (BY MR. DEAN) Can you give us a job

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1 title? This is the job title of the person or  
 2 persons who would be responsible for ensuring that  
 3 action item was initiated and completed by BP?  
 4 MR. BROWN: Objection, form.  
 5 A. I can only speculate on what I would  
 6 think where the -- I would think that kind of  
 7 action item would reside in accountability. And  
 8 normally, I would think in something like relief  
 9 valve studies that would fall under the  
 10 jurisdiction of the PSM group.  
 11 Q. (BY MR. DEAN) The process safety  
 12 management?  
 13 A. Process safety management group. That  
 14 would be my expectation.  
 15 Q. And you were in the 2003 timeframe head  
 16 of operations at this refinery, true?  
 17 A. I was the head of operations. I was the  
 18 performance unit leader.  
 19 Q. And therefore, you should have known in  
 20 that timeframe who was responsible to complete that  
 21 action item.  
 22 MR. BROWN: Objection --  
 23 Q. (BY MR. DEAN) Isn't that fair to say,  
 24 sir?  
 25 MR. BROWN: Objection, form.

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1 A. No, I don't think it's fair to say.  
 2 Texas City is a very large, complex place; and I  
 3 could not know the details of every action item and  
 4 who was accountable of every action item at Texas  
 5 City.  
 6 MR. DEAN: We are going to take a  
 7 break. Our first morning break.  
 8 THE VIDEOGRAPHER: Off the record  
 9 at 11:05 a.m., ending Tape 1.  
 10 (Recess taken.)  
 11 THE VIDEOGRAPHER: On the record  
 12 at 11:17 a.m., beginning Tape 2.  
 13 Q. (BY MR. DEAN) We had visited before our  
 14 break about your thoughts that before the Veba  
 15 report came out in 2002 there were -- the budget  
 16 levels with respect to certain categories such as  
 17 maintenance were somewhat -- they were low. Is  
 18 that a fair word for it?  
 19 A. Yeah, I think by -- as the report  
 20 indicated, by benchmark standards they were low.  
 21 Q. All right. What are the benchmark  
 22 standards we can use in the courtroom to gauge what  
 23 was low, what is acceptable and what not?  
 24 A. My rec --  
 25 MR. BROWN: Objection, form.

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1 A. My recollection from the report; and I  
 2 would have to look at the report again, they used  
 3 some spending relative to I think they called it  
 4 ERV, which is estimated replacement value, if I  
 5 have got my reports not confused. I think that's  
 6 what was in that report.  
 7 Q. (BY MR. DEAN) Are the benchmarks BP  
 8 benchmarks or industry benchmarks?  
 9 A. I am not sure. Actually, I can't recall.  
 10 Q. All right. In keeping with the history  
 11 before Veba, I would like to visit with you  
 12 momentarily about this document entitled "Texas  
 13 City Business Unit Strategy" produced from BP's  
 14 lawyers to us and it's Bates 01966056.  
 15 If you want to just take a moment  
 16 to scan it?  
 17 A. I can't quite read that.  
 18 Q. I hear you. I am working on that.  
 19 Is that any better?  
 20 A. Yes, it's helpful.  
 21 Q. Based on scanning this document, would  
 22 you agree that this is a document relating to the  
 23 business strategy for the year 2001?  
 24 A. That's --  
 25 Q. In other words, it was probably created

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1 in 2000 looking forward to what needs to go on  
 2 strategy wise for BP in 2001?  
 3 MR. BROWN: Objection, form.  
 4 A. From what I see, that's what it would  
 5 appear. I am not familiar specifically with this  
 6 document.  
 7 Q. (BY MR. DEAN) Okay. Were you familiar  
 8 with sir -- I guess then Sir John Browne's 1999  
 9 communication of strategy and goals that he made  
 10 back in this timeframe, I don't know, '99, 2000?  
 11 MR. BROWN: Objection, form.  
 12 A. I am not sure --  
 13 Q. (BY MR. DEAN) That we see right here  
 14 (indicating).  
 15 A. Yeah, I see.  
 16 The goal -- the objectives or  
 17 goals that I think he set were around certain  
 18 synergy savings with the merger.  
 19 Q. What in the world is a synergy saving  
 20 based on the merger?  
 21 A. When there is a merger of two companies,  
 22 there is the opportunity with increasing scale to  
 23 gain synergies with that transaction and reduce the  
 24 resultant cost base as a single entity beyond where  
 25 it was as two independent entities.

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1 Q. In this context would you be so kind,  
 2 sir, as to give us in the courtroom a definition of  
 3 synergy?  
 4 A. A synergy is, in my view, is something  
 5 that is -- has more value together than it does  
 6 apart.  
 7 Q. Okay. Well, one of the synergies I --  
 8 or, I guess, methods to get -- achieve synergy is  
 9 to reduce at Texas City business unit cash cost for  
 10 the year 2001 by at least 25 percent from 1998  
 11 levels.  
 12 What does that mean to you based  
 13 on your experience, sir?  
 14 MR. BROWN: Objection, form.  
 15 A. It means, you know, kind of what it says,  
 16 that they are having an objective to lower total  
 17 cash cost by 25 percent.  
 18 Q. (BY MR. DEAN) What is a business unit  
 19 cash cost?  
 20 A. It is all of the costs that go into  
 21 running the business, including normal fixed cost,  
 22 personnel, overheads, maintenance, supplies, what  
 23 we will call variable costs, energy costs, the  
 24 total cost needed to operate the business.  
 25 Q. Put less money into the business at Texas

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1 City refinery by 25 percent? Is that fair?  
 2 A. It certainly is a goal to reduce the cash  
 3 cost. It doesn't say how that would happen.  
 4 Q. Given that commercial accountability was  
 5 your job description or a component of your job  
 6 description in part of 2002 through part of 2004,  
 7 how is it that you would achieve Sir John Browne's  
 8 reduction in business unit costs by 25 percent?  
 9 MR. BROWN: Objection, form.  
 10 A. You can reduce costs in many ways. You  
 11 can reduce what they call the footprint of the  
 12 business which is have less of it. You can try to  
 13 tighten the belt around the existing business. You  
 14 can look for things that you consider to be  
 15 optional spending that can be deferred. Those are  
 16 some of the strategies that you would look at.  
 17 Q. (BY MR. DEAN) All right. Going back to  
 18 the Veba report, could you also look at asset  
 19 safety as one of the issues that could be subject  
 20 to less cash flowing into that issue as a result of  
 21 the 25 percent cut?  
 22 MR. BROWN: Objection, form.  
 23 Q. (BY MR. DEAN) As we see here in the Veba  
 24 report?  
 25 A. I would expect asset safety to be high on

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1 the business leaders priority and to be the last  
 2 thing that would be sacrificed in a cost reduction  
 3 activity.  
 4 Q. Well, tell me if I am wrong, sir, but the  
 5 Veba report reports in summary format about asset  
 6 safety that this is one of the biggest issues  
 7 identified by the assessment team. It goes on to  
 8 explain, "While personal safety performance at  
 9 South Houston is excellent, there were serious  
 10 concerns about the potential for a major site  
 11 incident due mainly to a large number of  
 12 hydrocarbon escapes, over 80 in the 2000, 2001  
 13 period."  
 14 Isn't it logical to conclude, sir,  
 15 for us here in the courtroom that asset safety was  
 16 not getting the money that it needed such that  
 17 there were continuous high number of hydrocarbon  
 18 leaks in the 2000, 2001 timeframe?  
 19 MR. BROWN: Objection, form.  
 20 A. I can't comment on what the thought  
 21 process or the decision process that that  
 22 leadership team used at the time. What I know is  
 23 that that was an important issue for Don Parus and  
 24 that he secured commitment for multi-year spending  
 25 to address that very issue.

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1 Q. (BY MR. DEAN) And --  
 2 MR. BOND: Objection,  
 3 nonresponsive.  
 4 Q. (BY MR. DEAN) And over time did you see  
 5 this commitment to spending Don Parus made actually  
 6 had a difference in reduction in the number of  
 7 leaks at the Texas City refinery?  
 8 A. I can't recall the specific data whether  
 9 or not the leaks went down immediately. What I  
 10 know is that that investment was the right  
 11 investment to be making to reduce the potential for  
 12 leaks.  
 13 MR. BOND: Objection,  
 14 nonresponsive.  
 15 Q. (BY MR. DEAN) And while we are talking  
 16 about the business strategy of 2001, isn't it  
 17 possible that the 25 percent cut in business unit  
 18 cash costs could have affected inspections at the  
 19 Texas City refinery as reported here in the Veba  
 20 report?  
 21 MR. BROWN: Objection, form.  
 22 A. I don't know where they made their cost  
 23 reductions.  
 24 Q. (BY MR. DEAN) Okay.  
 25 A. I don't know the decisions that they --

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1 that they made. I don't even know if they achieved  
 2 that 25 percent target. So I would just be  
 3 speculating without that knowledge of where they  
 4 made the cost reductions.  
 5 Q. Well, according to what we have seen so  
 6 far in the Veba report, you would agree, sir, that  
 7 there is an issue of leadership as you identified  
 8 for us earlier. There is an issue of a concern  
 9 over asset safety, specifically leaks that could  
 10 result in a major incident. There is a concern  
 11 over a backlog of overdue inspections.  
 12 Can you comment based upon your  
 13 experience as a BP manager what are the causes of  
 14 these concerns that Veba identified in August,  
 15 2002?  
 16 MR. BROWN: Objection, form.  
 17 A. In my experience, it's either improper  
 18 prioritization or insufficient resources.  
 19 Q. (BY MR. DEAN) Who makes the decisions  
 20 regarding prioritization?  
 21 A. The -- at some level the leadership in  
 22 the refinery.  
 23 Q. Including Mr. Hoffman?  
 24 MR. BROWN: Objection, form.  
 25 A. Typically Mike would not be making

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1 allocation decisions of resources in a site.  
 2 Q. (BY MR. DEAN) All right. So  
 3 Mike Hoffman, with respect to allocations of  
 4 resources to correct a backlog of overdue  
 5 inspections as found in 2002, he wouldn't have  
 6 authority to correct that problem by allocating  
 7 resource to correct the problem? Is that what you  
 8 are telling us?  
 9 MR. BROWN: Objection, form.  
 10 A. Mike Hoffman would have the authority to  
 11 allocate additional resources if requested by the  
 12 business unit leader and the case was made. So,  
 13 for example, in my refinery in Coryton this year, I  
 14 have additional funding for backlog of inspections.  
 15 MR. DEAN: Objection to the extent  
 16 your answer was nonresponsive.  
 17 Q. (BY MR. DEAN) What I am looking for,  
 18 sir, is who would have been responsible to see that  
 19 there weren't as many leaks as found by Veba and  
 20 there weren't such a backlog of inspections as  
 21 found by Veba in 2002. Who was responsible for the  
 22 state of affairs that Veba found?  
 23 MR. BROWN: Objection, form.  
 24 A. Site leadership is ultimately accountable  
 25 for these things and it is the reason that Don and

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1 subsequently my leadership team took these things  
 2 and began to try to address the backlogs that  
 3 existed.  
 4 MR. DEAN: Objection to the extent  
 5 your answer was nonresponsive.  
 6 Q. (BY MR. DEAN) Date -- going back before  
 7 2001, your or BP's lawyers have produced to us a  
 8 document I think this is in a series of documents  
 9 regarding Texas City business unit strategy. It  
 10 appears to be dated October, 1999; and it's Bates  
 11 number is 01966057.  
 12 MR. BROWN: Is this a page out of  
 13 that same document, Chris?  
 14 MR. DEAN: I don't think it is.  
 15 It is a multi-page document.  
 16 MR. BROWN: Because that's 6056,  
 17 right.  
 18 MR. DEAN: 6057.  
 19 MR. BROWN: That's...  
 20 MR. DEAN: Check out the big brain  
 21 on Tony.  
 22 Q. (BY MR. DEAN) Yes, it is part of the  
 23 same document we just looked at.  
 24 It goes on in 1999 to suggest that  
 25 the Texas City business unit -- is that TCBU?

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1 A. Yes.  
 2 Q. Will continue to overcome the negative  
 3 margin environment and net income through  
 4 considerable self help to improve net income to  
 5 about 200 million in the year 2005. The ROACE,  
 6 which is an acronym, would increase from 7 percent  
 7 in 1999 to 20 percent in 2005.  
 8 Can you explain what that means in  
 9 layman's terms.  
 10 A. Well, it's an improvement, clearly, they  
 11 are stating an improvement plan over that time  
 12 period which is going to give increased net income  
 13 is the profit after tax, basically. And ROACE is  
 14 return on average capital employed. So it's  
 15 relative to the capital on the books, what is your  
 16 earnings relative to that.  
 17 Q. All right. And he goes on in this  
 18 particular looking -- or forward looking document  
 19 that "cost reduction is an important component of  
 20 self help, especially over the next two years; but  
 21 cost reduction alone will not deliver the level of  
 22 self help needed to grow the business."  
 23 Can you give us a translation of  
 24 what that means in terms of self help?  
 25 A. Self help in those early days of BP was

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1 referred to as additional value that could be  
 2 created without capital expenditure.  
 3 Q. Okay.  
 4 A. So it's not like you are putting in a  
 5 project to earn more money. It's things that you  
 6 can do with your existing workforce and resources.  
 7 Q. And this same document goes on to read,  
 8 "Reducing fixed cash cost from to 285 million in  
 9 '99 to about 250 million for 2001."  
 10 That is, then, keeping with this  
 11 same philosophy. It appears that they were in a  
 12 cash cost cutting mode. Isn't that true, sir, in  
 13 this timeframe?  
 14 MR. BROWN: Objection, form.  
 15 A. It would appear so, yes, sir.  
 16 Q. (BY MR. DEAN) Do you know -- do you know  
 17 Mr. Gower, Pat Gower?  
 18 A. Yes.  
 19 Q. Did you happen to review any deposition  
 20 testimony that has been had in this case prior to  
 21 you being here today?  
 22 A. Any deposition by Mr. Gower?  
 23 Q. What the pretty lady to your right is  
 24 doing is taking down in written form the things you  
 25 and I say today.

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1 A. Yes.  
 2 Q. And it's printed out in what's called a  
 3 deposition.  
 4 A. Right.  
 5 Q. Did you read any of those type things in  
 6 preparation --  
 7 A. I have not read any such depositions, no,  
 8 sir.  
 9 Q. Mr. Gower has told members of the court  
 10 that there was a 25 percent across the board cost  
 11 cutting endeavor when BP took over the Amoco  
 12 refinery in 1988. Do you know that to be true or  
 13 untrue?  
 14 MR. BROWN: Objection, form.  
 15 A. I know there was a cost reduction target.  
 16 I can't honestly say what it was at the time of the  
 17 merger. I was not in refining. I was in a  
 18 corporate function, and then I moved into refining  
 19 after that.  
 20 I know there were cost reduction  
 21 pressures; but in the Coryton refinery where I  
 22 went, I don't recall us trying to reduce our costs  
 23 in that plant by 25 percent. I was not in a  
 24 commercial accountable role at that time; but for  
 25 that nine month period I was there, even though

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1 there were cost reductions, they were nowhere near  
 2 a 25 percent reduction in the things that we were  
 3 doing.  
 4 Q. (BY MR. DEAN) Okay. And based upon the  
 5 point, the urgent point the Veba report was trying  
 6 to make in 2002, cost cutting was not the way to  
 7 go. It was let's increase the numbers of dollars  
 8 we are investing in our structure, in our  
 9 operations in Texas City.  
 10 Isn't that a fair summary of the  
 11 Veba report in 2002?  
 12 A. That's my interpretation of the point  
 13 they were making.  
 14 Q. And along with that, with respect to  
 15 leadership, the Veba report speaks of improving  
 16 site communications, increasing senior management  
 17 visibility and clearly demonstrating a tougher and  
 18 principle position on specific operational issues,  
 19 for example, hydrocarbon leaks. Isn't that true?  
 20 A. Yes, sir.  
 21 Q. Have you read the fatality report of  
 22 December of 2005?  
 23 A. Yes, I have.  
 24 Q. Does improving site communications and  
 25 senior management visibility sound familiar to you

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1 after reading that report?  
 2 MR. BROWN: Objection, form.  
 3 A. Improving site communication and senior  
 4 management visibility was a big focus while I was  
 5 there as informed partially by this report. So we  
 6 did some very specific things to do both of those.  
 7 Management visibility, for example, we started a  
 8 program where all the managers would adopt an area  
 9 of the refinery and they would -- they would go to  
 10 these locations and have periodic meetings with the  
 11 shift crews and such. And this was exactly around  
 12 increasing the visibility and the contact of the  
 13 senior level people on the site.  
 14 We started some specific  
 15 communication programs with, in particular, the  
 16 first level leaders because it was felt that we  
 17 needed to engage them and make a stronger  
 18 connection with the first level leaders. We  
 19 introduced the shift director position with the  
 20 expressed intent of improving cross refinery  
 21 communication and coordination.  
 22 So I understand what the report  
 23 saw and identified. I also know the activities  
 24 that we undertook to try and make those items  
 25 better.

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1 MR. BOND: Objection,  
 2 nonresponsive.  
 3 MR. DEAN: Objection,  
 4 nonresponsive.  
 5 Q. (BY MR. DEAN) Did the fatality report of  
 6 December of 2005 have any findings that ring  
 7 familiar to you relating to the Veba report of  
 8 improving site communications when you read that  
 9 report?  
 10 MR. BROWN: Objection, form.  
 11 A. My recollection in the report is that  
 12 they referred to communications as an "issue."  
 13 Q. (BY MR. DEAN) A negative issue, not a  
 14 positive issue, true, sir?  
 15 A. Yes.  
 16 Q. Did anything about this Veba finding in  
 17 2002 increasing senior management visibility ring  
 18 familiar to you after you read the fatality report  
 19 in December, 2005?  
 20 MR. BROWN: Objection, form.  
 21 A. I'm not sure in what I read in the  
 22 fatality report that senior management  
 23 visibility -- I don't recall that being stated in  
 24 that report.  
 25 Q. (BY MR. DEAN) During your tenure at BP

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1 Texas City, were there any other Veba reports that  
 2 were done or communications from a Veba entity  
 3 during your tenure?  
 4 MR. BROWN: Objection, form.  
 5 A. Not that I recall from the Veba entity.  
 6 Q. (BY MR. DEAN) I don't know what the -- I  
 7 still don't understand what Veba is.  
 8 But is it only BP personnel who  
 9 comprised the Veba report?  
 10 A. No, there was a team of individuals and  
 11 they were supported by this consultant firm.  
 12 Q. Right.  
 13 A. A.T. Kearney.  
 14 Q. Got it.  
 15 The Veba report continues on to  
 16 state that: A major overhaul of the basics is  
 17 required at South Houston. The first is the  
 18 project will be complex and pose implementation  
 19 challenges including Capex, labor issues and  
 20 cultural change.  
 21 With respect to what you know  
 22 about Veba and dealing with the aftermath of that  
 23 report, what changes or overhaul of the basics were  
 24 done relating to Capex?  
 25 A. Well, Capex --

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1 Q. Capex. Sorry.  
 2 A. -- spending, capital investment, there  
 3 were numerous changes made in the organization that  
 4 executed capital projects. This was under Norine  
 5 Stein at the time.  
 6 There was a concerted effort in  
 7 the commercial team that was led by Walt Wundrow  
 8 for us to understand our forward capital planning  
 9 and ensure that we were putting adequate funds in  
 10 the forward plans for the things that we needed to  
 11 do.  
 12 Q. Is Capex --  
 13 A. Capex.  
 14 Q. Capex.  
 15 A. Yes.  
 16 Q. I will get that right before the end of  
 17 the day.  
 18 Is that short for capital  
 19 expenditures?  
 20 A. Yes.  
 21 Q. What labor issues here was your  
 22 understanding of the major overhaul that was  
 23 required in 2002?  
 24 MR. BROWN: Objection, form.  
 25 A. I am not sure what -- I can't recall what

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1 the -- what exactly the Veba report was  
 2 referencing. What we began to work on was what I  
 3 would call workforce engagement, and also with --  
 4 specifically with some efforts with the union  
 5 leadership committees as well to begin to improve  
 6 our relationship with that -- with that team.  
 7 Q. (BY MR. DEAN) Do you believe in the 2003  
 8 and '04 timeframe that labor relations did improve?  
 9 A. I believe they did, yes.  
 10 Q. How so?  
 11 A. I believe we established a more open  
 12 communication with union leadership, and I believe  
 13 we were beginning to see engagement of the  
 14 supervisory -- first level supervisory leadership  
 15 in the plant and with -- with the workforce as  
 16 well.  
 17 Q. And going last to culture change, what  
 18 needed to be majorly overhauled with respect to the  
 19 culture at Texas City based upon you being there  
 20 and understanding more context of what this Veba  
 21 report references?  
 22 MR. BROWN: Objection, form. Go  
 23 ahead.  
 24 A. The -- the culture in Texas City in terms  
 25 of how people felt to be working in Texas City was

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1 not where we wanted it to be. The people assurance  
 2 survey, which measured how people were feeling for  
 3 Texas City was not good, and it was clear that we  
 4 needed to make that different.  
 5 When -- when Don engaged the  
 6 services of Linda Gioja, it was around helping the  
 7 leadership team think about how we go about  
 8 creating a culture change at the site. So all of  
 9 that leadership teamwork that we were doing was in  
 10 service of trying to do -- make this very thing  
 11 happen.  
 12 Q. (BY MR. DEAN) When did Don Parus engage  
 13 Linda Gioja in the name of that effort, sir?  
 14 A. I can't recall the exact date; but it  
 15 seems -- it feels like it was fairly early in my  
 16 tenure, maybe early 2003, I suspect.  
 17 Q. And what specifically did he engage her  
 18 to do to accomplish that goal?  
 19 A. He would -- engaged her to work with the  
 20 BP South Houston leadership team around creating  
 21 something that could engage the workforce and kind  
 22 of unify the workforce, give them identity and a  
 23 sense of something to achieve. And so out of that  
 24 effort, you know, Don came up with his 1000 day  
 25 goals and the -- all of the things around that that

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1 were an attempt to do just that.  
 2 Q. The 1000 day goals was not a BP London or  
 3 BP Chicago initiated program. It was a BP Texas  
 4 City only program?  
 5 A. Yes, it was. I'm sorry. It was not BP  
 6 South Houston, not BP Texas City.  
 7 Q. Fair enough.  
 8 And that program has since  
 9 terminated, true?  
 10 A. I don't know where that is today to be  
 11 honest. I assume Don carried it on after our  
 12 transition, but I am not even sure of that.  
 13 Q. Did you read the final report to -- of  
 14 December, 2005, to reference several items of  
 15 culture problems that they found as underlying  
 16 causes of the explosion that is the subject of this  
 17 lawsuit?  
 18 MR. BROWN: Objection, form.  
 19 A. I certainly read in the report issues  
 20 related to cultural and cultural norms, yes.  
 21 Q. (BY MR. DEAN) Such as? Without being a  
 22 memory test, what comes to mind?  
 23 MR. BROWN: Objection, form.  
 24 A. They were things like risk recognition  
 25 and awareness. There were things like I call it

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1 the compliance culture was inadequate. That's my  
 2 words. I don't think it's their words. Let's see.  
 3 Which covers a lot of things around procedures, use  
 4 of procedures, rigor and shift change, et cetera.  
 5 So those are the things that I  
 6 recall related to culture.  
 7 Q. (BY MR. DEAN) And did the Veba report  
 8 address some of those specific cultural items that  
 9 the fatality report actually addressed?  
 10 MR. BROWN: Objection, form.  
 11 A. I don't recall. Not in the same sense as  
 12 I have read them in the final report. I don't  
 13 recall that.  
 14 Q. (BY MR. DEAN) Okay. Was there any  
 15 management meetings that you attended that  
 16 discussed at least in part the Veba report and it's  
 17 findings that you attended?  
 18 A. Yes. Don's -- some of Don's leadership  
 19 team meetings right after I got there talked about  
 20 the Veba report.  
 21 Q. Do you recall any of the more upper level  
 22 management such as yourself that attended that  
 23 meeting?  
 24 A. It would have been Don's direct reports  
 25 at those conversations.

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1 Q. Remember we don't quite understand here  
 2 in the courtroom what "direct reports" mean?  
 3 A. Okay. Those people working directly for  
 4 Don, which would include people like Joel Robins,  
 5 the HSSE manager; Norine Stein as services manager;  
 6 Terri Harlan, the Chocolate Bayou -- I am not sure  
 7 what her title was. She was a plant manager in  
 8 Chocolate Bayou; Gabe Cuadra, I can't remember his  
 9 title either. It may have been change manager or  
 10 something.  
 11 So those people working  
 12 directly -- reporting directly to Don that would  
 13 have been involved in conversation about this  
 14 report.  
 15 Q. And the things that we're discussing here  
 16 were in part brought up in that 2002 meeting with  
 17 those individuals. Is that fair to say?  
 18 A. Yes.  
 19 MR. BROWN: Objection, form.  
 20 Q. (BY MR. DEAN) Going on, we are working  
 21 our way through Veba. It will take a little while,  
 22 sir.  
 23 It goes on to proclaim in addition  
 24 to site leadership will need to address a number of  
 25 common themes and issues. Before I ask you those

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1 specifics, the Veba report you have had exposure  
 2 to. You have talked to site management, site  
 3 leadership about it and in the context of that  
 4 background and experience and in the general  
 5 backdrop of your experience as a BP manager, what  
 6 does this mean, common themes and issues?  
 7 MR. BROWN: Objection, form.  
 8 A. I am not sure I understand the question.  
 9 Q. (BY MR. DEAN) Yeah, let me try to help  
 10 you with that. Any time you don't understand,  
 11 please let me know.  
 12 With respect to people, you know,  
 13 obviously there is some common theme of an issue  
 14 relating to people, is it fair for us in the  
 15 courtroom to assume that, for example, training and  
 16 competency development is a common theme at the  
 17 Texas City refinery, that's a common concern as  
 18 found by the Veba report?  
 19 MR. BROWN: Objection, form.  
 20 A. I think it's fair to say that in their  
 21 assessment they found some issues around those  
 22 points on that page.  
 23 Q. (BY MR. DEAN) Right. And what are  
 24 recited here in front of the jury are common  
 25 issues.

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1 In other words, they came across  
 2 it a lot, may be a fair way to say it.  
 3 A. My understanding of the Veba assessment  
 4 is it was broader than Texas City. So --  
 5 Q. Hold on.  
 6 What does that mean?  
 7 A. That it looked at more than just the  
 8 Texas City site. I thought it was a BP South  
 9 Houston --  
 10 Q. Which includes Chocolate Bayou?  
 11 A. And Deer Park, yes.  
 12 Q. Deer Park.  
 13 A. So common themes could mean they found it  
 14 often or they found it in many places in many  
 15 different sites. I don't know what exactly it  
 16 means.  
 17 Q. Okay. When we go to roles and  
 18 responsibilities, can you give us a general  
 19 understanding of what that means in a common theme?  
 20 MR. BROWN: Objection --  
 21 A. In terms of why it would be in the  
 22 report?  
 23 Q. (BY MR. DEAN) Right.  
 24 MR. BROWN: Objection, form.  
 25 Q. (BY MR. DEAN) This particular phrase

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1 "roles and responsibilities" comes up in many  
 2 documents that BP lawyers have given us.  
 3 A. Yes.  
 4 Q. BP lawyers have given us.  
 5 MR. BROWN: Objection, form.  
 6 A. One of the difficulties in the management  
 7 structure that existed at the time when I was there  
 8 was absolute clarity around roles and  
 9 responsibilities because of the complexity of the  
 10 South Houston site organization. So I assume that  
 11 that relates to that.  
 12 Q. (BY MR. DEAN) Does it -- can it also  
 13 relate going down to operators and their roles and  
 14 responsibilities relative to procedures, policies,  
 15 standards and whatnot at BP?  
 16 MR. BROWN: Objection, form.  
 17 A. I don't know that it did. I would find  
 18 it hard to understand why it would.  
 19 Q. (BY MR. DEAN) Okay.  
 20 A. Because I saw that, personally, as very  
 21 clear.  
 22 Q. For example, the evidence in the case  
 23 will show, Mr. Hale, that the startup procedure for  
 24 the raffinate splitter required someone to notify  
 25 personnel in the adjoining areas that the startup

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1 was to occur.  
 2 Did you know that?  
 3 A. I think I recall that in the report,  
 4 yes --  
 5 Q. Okay.  
 6 A. -- the investigation report.  
 7 Q. And do you know Mr. Holt, Tim Holt?  
 8 A. I have met Tim. I don't know him well.  
 9 Q. He was on the investigation team that  
 10 authored the report.  
 11 Did you know that?  
 12 A. Yes.  
 13 Q. Mr. Holt told us in the courtroom here  
 14 last week that that the report says for it to do  
 15 that -- for someone to do notify adjoining  
 16 personnel of the startup which was not done, but it  
 17 doesn't identify who should notify adjoining  
 18 personnel.  
 19 Did you know that?  
 20 MR. BROWN: Objection, form.  
 21 A. No.  
 22 Q. (BY MR. DEAN) Would that be an example  
 23 of a role and responsibility miscommunication or  
 24 something that's not clarified?  
 25 MR. BROWN: Objection, form.

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1 Q. (BY MR. DEAN) Who should communicate to  
 2 adjoining personnel of people working in and around  
 3 the ISOM unit that the unit was starting up?  
 4 MR. BROWN: Objection, form.  
 5 A. I haven't read that startup procedure,  
 6 but it should be clear in the startup procedure. I  
 7 would agree.  
 8 Q. (BY MR. DEAN) And if it was not, whose  
 9 responsibility was it be to make it clear? Whose  
 10 responsibility was it to notify adjoining personnel  
 11 that the startup was occurring on March 22rd?  
 12 A. Whose responsibility was it?  
 13 Q. Whose responsibility was it?  
 14 A. To make it clear or to...  
 15 Q. To make the procedure clear of who was  
 16 responsible to notify human beings in and around  
 17 the ISOM unit that it was being started up on  
 18 March 22nd and 3rd?  
 19 A. The unit procedures are developed in  
 20 different ways. The best way for a unit procedure  
 21 to be developed is through some kind of  
 22 collaborative effort with the people and the  
 23 knowledged experts on the unit.  
 24 The training coordinator typically  
 25 had the accountability for procedures, procedure

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1 updates; but the process that is best employed is  
 2 for those individuals to have some kind of input  
 3 from the people doing the job.  
 4 Q. And who was the training coordinator in  
 5 2003 and part of 2004 while you were the  
 6 performance supervisor?  
 7 MR. BROWN: Objection, form.  
 8 Q. (BY MR. DEAN) Performance leader?  
 9 MR. BROWN: Objection, form.  
 10 A. There were numerous training  
 11 coordinators. At the ISOM, I can't recall.  
 12 Q. (BY MR. DEAN) But there was a training  
 13 coordinator assigned to that unit?  
 14 A. There was --  
 15 Q. Based on your knowledge of the structure  
 16 of the unit?  
 17 A. Yes.  
 18 Q. All right. Going on with integrity,  
 19 reliability and asset safety, there is  
 20 vulnerability OSBL and ISBL. Do you have any idea  
 21 what those acronyms are for?  
 22 A. Yes, I do.  
 23 Q. What are they?  
 24 A. OSBL means outside battery limit and ISBL  
 25 means inside battery limit.

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1 Q. Okay. What does it mean to you when it  
 2 reads what we are all seeing here in the courtroom,  
 3 vulnerability, outside business -- excuse me,  
 4 outside battery limit, inside battery limit?  
 5 A. My interpretation of that, if you will go  
 6 back to the report, some of the concerns that they  
 7 expressed around integrity and inspection, I would  
 8 expect was what was meant in that bullet.  
 9 Q. Well, what -- if there was a deficiency  
 10 in inspection, how would that translate  
 11 specifically into vulnerability outside or inside  
 12 battery limits at the refinery?  
 13 MR. BROWN: Objection, form.  
 14 A. Inspection covers both of those outside  
 15 and inside battery limits. They had  
 16 accountabilities for total plant inspection. So if  
 17 there is a backlog of things not done, then that  
 18 would be -- could be interpreted as a vulnerability  
 19 because you don't know what the inspection data  
 20 would say if it's a backlog.  
 21 Q. (BY MR. DEAN) Okay. The evidence will  
 22 show in this case that the fire chief through the  
 23 years of 2003, 2004 and up to the explosion in 2005  
 24 was dealing with a very out dated alarm system,  
 25 plant-wide alarm system and that he requested it to

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1 be changed.  
 2 Would you deem that to be an  
 3 example of vulnerability to BP and contractor  
 4 personnel with respect to reliability?  
 5 MR. BROWN: Objection --  
 6 Q. (BY MR. DEAN) As noted in 2002?  
 7 MR. BROWN: Objection, form.  
 8 A. I can't recall the details of that  
 9 particular issue. I don't recall it coming up. If  
 10 it came up, it should have been a project in our  
 11 capital plan of something that we needed to  
 12 address.  
 13 Q. (BY MR. DEAN) And is that a reliability  
 14 issue, an example of a reliability issue?  
 15 MR. BROWN: Objection, form.  
 16 A. Reliability, normally, we would consider  
 17 to be those things that are needed for the plant to  
 18 continue to operate. So normally if there was an  
 19 issue like that, it would be more under a systems  
 20 issue or general integrity I would think.  
 21 Q. (BY MR. DEAN) This general integrity?  
 22 A. Yes.  
 23 Q. All right. And we have covered some  
 24 leadership, but there is something here I would  
 25 like your comment on. The culture from firefighter

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1 to boringly efficient. Did you discuss that  
 2 concept, generally or specifically, with Mr. Parus?  
 3 A. Yes, and with other members of the  
 4 leadership team.  
 5 Q. What does that mean in the context of  
 6 those discussions, sir?  
 7 A. It means breaking the cycle of having to  
 8 respond to breakdowns or incidents to a point where  
 9 life becomes boring because everything is running  
 10 and you're doing small optimization moves over  
 11 time.  
 12 Q. Is, maybe, a fair phrase that corresponds  
 13 with firefighter and boringly efficient, proactive  
 14 versus reactive?  
 15 MR. BROWN: Objection, form.  
 16 A. I am not sure they are the same --  
 17 Q. (BY MR. DEAN) Okay.  
 18 A. -- thing. I think as I described it is  
 19 what was intended there.  
 20 Q. What were the examples Mr. Parus gave  
 21 you, if any, in your discussions with him about  
 22 this concept of how it was that they were being  
 23 firefighters versus boringly efficient before you  
 24 arrived at this refinery in 2002?  
 25 A. The -- the incidents that occurred, for

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1 example, around availability are case in point. So  
 2 as we were having issues with units that would  
 3 bring them off line or cause them to shut down,  
 4 those are the kind of things that are in the  
 5 firefighter category; and we would talk about those  
 6 kind of things.  
 7 Q. For example, a unit really needed to be  
 8 inspected, but it hadn't been inspected  
 9 appropriately before 2002. And so part of Veba was  
 10 let's dedicate resources to make sure it's  
 11 inspected so it won't shut down again and remain  
 12 available?  
 13 MR. BROWN: Objection, form.  
 14 A. Inspection is really targeted more for  
 15 integrity. All right. This is a subtle  
 16 difference, but the inspection -- and integrity  
 17 issues can also cause shut down. But as opposed to  
 18 just reliability, which may be, you know, how well  
 19 your pumps function and your compressors, the  
 20 inspection is intended to make sure that you have  
 21 appropriate plant integrity, not necessarily plant  
 22 reliability. Make sense? They are not completely  
 23 decoupled, but they are not one in the same.  
 24 Q. (BY MR. DEAN) And I am not going to go  
 25 there. You got me on that one.

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1 Let's go to labor relations  
 2 strategy. Redeployment, what does that mean, sir,  
 3 in the context of this report, sir?  
 4 A. I honestly can't recall.  
 5 Q. Okay. What about upskilling?  
 6 A. I am sorry, Chris. I don't remember that  
 7 either.  
 8 Q. Absenteeism and overtime management  
 9 was -- more clear to understand. Was there a  
 10 problem with that absentee issue as a common issue  
 11 when you arrived?  
 12 A. Yes. Absenteeism was above what we  
 13 expected it to be when I arrived, yes.  
 14 Q. Did you ever have an understanding why  
 15 absenteeism was above your expectation in this  
 16 timeframe?  
 17 A. Yes, it was, in my view, a combination of  
 18 a lack of clear policy and enforcement by first  
 19 level leaders.  
 20 Q. What kind of policy?  
 21 A. An absenteeism policy.  
 22 Q. All right. And training, does that  
 23 suggest that the unions who staff this refinery  
 24 were responsible for training to you?  
 25 MR. BROWN: Objection, form.

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1 A. No.  
 2 Q. (BY MR. DEAN) In fact, BP is responsible  
 3 for training their personnel. Isn't that true,  
 4 sir?  
 5 A. That's correct.  
 6 Q. And did you see anything in the fatality  
 7 report that related to inadequate training of BP  
 8 personnel as an underlying cause of the explosion  
 9 of March 23rd, 2005?  
 10 A. There was inference to training  
 11 deficiencies in the report as an issue for the  
 12 plant.  
 13 Q. And the same issue was brought up in 2002  
 14 by the Veba report; is that true?  
 15 A. Yes.  
 16 Q. Going on to the next page, 41,  
 17 implementation often fell short of expectations due  
 18 to gaps in the define stage.  
 19 Generally speaking, sir, what does  
 20 this graph show us or can you interpret it? I  
 21 guess it's a table?  
 22 A. Yes. Let me look at this for a minute.  
 23 Boy, I am not sure.  
 24 Q. I understand.  
 25 Would you agree that these are

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1 areas of concern based upon the clear meaning --  
 2 the clear statements of the document?  
 3 MR. BROWN: Objection, form.  
 4 A. I am not sure what this is referring to.  
 5 I mean, normally, the terms that they are using  
 6 apply to our project process, appraise, select  
 7 define and execute. In this context, I am not sure  
 8 what -- what they're applying those terms to. So  
 9 it's confusing to me.  
 10 Q. (BY MR. DEAN) Okay. Can you --  
 11 irrespective of whether this is a finding or just a  
 12 concern by Veba, can you tell us what it means to  
 13 you with the same criteria based on your knowledge  
 14 of this report, discussions about this report and  
 15 your knowledge as a BP manager, what "eliminating  
 16 heads before eliminating work" references?  
 17 MR. BROWN: Objection, form.  
 18 A. I am not sure what they are talking  
 19 about. Again, it's not clear to me if this is a  
 20 project context. Do you know? Because I don't.  
 21 Q. (BY MR. DEAN) That's why I am asking?  
 22 A. So I am sure, you know, when they are  
 23 explaining it at the time with context it would  
 24 make more sense; but I don't know what that means  
 25 sitting here today with that chart.

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1 Q. Okay. A fair characterization may be  
 2 that "heads" is personnel, BP personnel or contract  
 3 personnel and "work" is specific job duties and  
 4 description?  
 5 MR. BROWN: Objection, form.  
 6 A. But to what -- to what context? I am not  
 7 sure --  
 8 Q. (BY MR. DEAN) Let's see if this context  
 9 helps put some meat on that skeleton.  
 10 Are you aware of the change in the  
 11 number of board operators that staffed the ISOM  
 12 unit in the early part of this decade or latter  
 13 part of last decade?  
 14 MR. BROWN: Objection, form.  
 15 A. Not specifically.  
 16 Q. (BY MR. DEAN) Do you recall the fatality  
 17 report referencing that there used to be two board  
 18 operators dedicated to the panel of screens and  
 19 computers and whatnot and that was changed in the  
 20 late '90s to one operator, one board operator?  
 21 MR. BROWN: Objection, form.  
 22 A. I don't recall that specifically in the  
 23 report. I recall the conversation about one board  
 24 operator at the time of startup and when there was  
 25 two board operators required by procedures. I

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1 remember that. I don't -- I don't remember that  
 2 history.  
 3 Q. (BY MR. DEAN) Okay. Well, the evidence  
 4 will show in the case that one of the members of  
 5 management expressed concerns to other members of  
 6 management of actually of reducing the number of  
 7 board operators in the ISOM from two to one.  
 8 Do you remember that concept,  
 9 generally or specifically?  
 10 A. No.  
 11 MR. BROWN: Objection, form.  
 12 Q. (BY MR. DEAN) Would that story,  
 13 according to the evidence that I am asking you to  
 14 assume be the evidence in the case, correspond with  
 15 eliminating heads before eliminating work?  
 16 MR. BROWN: Objection, form.  
 17 A. No, I don't see that as even related.  
 18 Judgment on staffing of operators and how much the  
 19 span of control of the board operators is easily  
 20 benchmarked in the industry and I don't know  
 21 specifically for the ISOM, but I would be surprised  
 22 if it's -- if that person's accountabilities are  
 23 significantly above as what would be expected as  
 24 normal for a board operator.  
 25 Q. (BY MR. DEAN) Going on to the next page,

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1 and we are doing pretty good on getting through  
 2 this voluminous report. This is page 42 the  
 3 conclusion according to Veba is "Therefore, South  
 4 Houston needs to put into place a number of key  
 5 implementation foundations, line ownership" which  
 6 doesn't read very well here, "understanding and  
 7 buy-ins to initiatives."  
 8 What does that mean?  
 9 MR. BROWN: Objection, form.  
 10 A. My interpretation of that is this concept  
 11 that I talked about very early on about workforce  
 12 engagement.  
 13 Q. (BY MR. DEAN) Okay.  
 14 A. It's aligning the workforce with what  
 15 management wants to get accomplished so that  
 16 everybody is pursuing that goal together.  
 17 Q. From superintendents down to helpers?  
 18 A. Yes.  
 19 Q. And about management of change,  
 20 communicating the case for change is something that  
 21 needs to be put into place.  
 22 What does that mean to you in this  
 23 context?  
 24 A. I can --  
 25 MR. BROWN: Objection, form.

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1 A. To me it would mean in any effective  
 2 change, you can effect change successfully when  
 3 people understand why the change is occurring.  
 4 Otherwise you are going to meet resistance.  
 5 Q. (BY MR. DEAN) Okay. And it goes on in  
 6 management of change "effective risk management  
 7 process in place." That is something that needs to  
 8 be put into place as a key implementation  
 9 foundation. Isn't that right, sir?  
 10 MR. BROWN: Objection, form.  
 11 A. The management of change process is a  
 12 risk management process.  
 13 Q. (BY MR. DEAN) All right. And did you  
 14 read in the fatality report that personnel's  
 15 inability to see risk was a key cultural underlying  
 16 cause as found by the investigation team into this  
 17 explosion?  
 18 MR. BROWN: Objection, form.  
 19 A. I saw in the report that point that in  
 20 the investigation team's view this inability to  
 21 appropriately -- see risks appropriately was an  
 22 issue for the site.  
 23 Q. (BY MR. DEAN) Is it fair to summarize,  
 24 sir, based on what we have reviewed of the Veba  
 25 report that many of the concerns raised in August,

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1 2002, and communicated to management were the same  
 2 concerns that were identified as immediate and  
 3 underlying causes of an explosion on March 23rd?  
 4 MR. BROWN: Objection, form.  
 5 A. I am not sure I could say that with  
 6 confidence. I have seen some things in the Veba  
 7 report that in some form were referenced in the  
 8 final report, but I am not sure I see those as  
 9 clearly as you have stated.  
 10 MR. DEAN: Do you want to break  
 11 for lunch now?  
 12 MR. BROWN: Sure.  
 13 MR. DEAN: Come back at 1:30.  
 14 MR. BROWN: That would be fine.  
 15 MR. DEAN: Great.  
 16 THE VIDEOGRAPHER: Off the record  
 17 at 12:10 p.m., Ending Tape 2.  
 18 (Lunch recess taken.)  
 19 THE VIDEOGRAPHER: On the record  
 20 at 1:38 p.m., beginning Tape 3.  
 21 Q. (BY MR. DEAN) I would like to hand you a  
 22 document that your -- BP's lawyers have given in  
 23 this lawsuit, 1966407, and just thumb through it  
 24 and see if it's a document that you have seen while  
 25 at BP Texas City or otherwise.

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1 A. I don't remember this document  
 2 specifically, but I recognize most of the things  
 3 that I see in there.  
 4 Q. Okay. It's -- the document that you have  
 5 been reviewing for a little while is the Texas City  
 6 Applying Our Strategy is the first page.  
 7 Did you get a sense that this is  
 8 the Texas City strategy in response to at least, or  
 9 in part, of the Veba study in 2002?  
 10 A. The strategy was in response to the  
 11 accumulation of all of the knowledge about Texas  
 12 City, where we were in terms of the insights from  
 13 the Veba study as well as a more recent what we  
 14 call repositioning study.  
 15 Q. All right. When did the repositioning  
 16 study come out? Before or after Veba?  
 17 A. It was after.  
 18 Q. After.  
 19 Was the repositioning study in  
 20 response to findings made by Veba?  
 21 A. Not directly.  
 22 Q. Okay.  
 23 A. It was more in response to the projected  
 24 forward financial outlook for the site based on  
 25 what we saw as future capital needs --

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1 Q. Okay.  
 2 A. -- and expense spending.  
 3 Q. So while we are looking at the Texas City  
 4 Applying Our Strategy document or what appears to  
 5 be a presentation, would that be in response to at  
 6 least the repositioning and Veba?  
 7 A. Yes, those would be included in that.  
 8 Q. Okay. I've got you.  
 9 All right. If we go through the  
 10 chronology, we find that there's -- in the 2000,  
 11 maybe even a little before 2000 up through 2002,  
 12 there is this identified declining profitability,  
 13 increasing Capex burden, no cash flow, poor  
 14 performance.  
 15 Did I read that correctly?  
 16 A. Yes, sir.  
 17 Q. Okay. And then the timeline, if I'm  
 18 correct, goes on to diagnose -- and the ATK review  
 19 is also the Veba study?  
 20 A. Yes, sir.  
 21 Q. It's one in the same, true?  
 22 A. Yes, sir.  
 23 Q. And what were the peer reviews that were  
 24 in this timeframe of 2002 through the beginning of  
 25 2003?

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1 A. I don't know specifically which peer  
 2 reviews they are referring to, but the peer review  
 3 process that I explained to you earlier is where  
 4 the site would invite --  
 5 Q. Right.  
 6 A. -- other representatives from different  
 7 refineries to come in and review whatever topic.  
 8 Some members of the ATK review process or the Veba  
 9 study were from our other refineries in particular,  
 10 the newly acquired Veba refineries; hence, the name  
 11 that kind of stuck with that study.  
 12 Q. Did the newly acquired Veba studies have,  
 13 based on your knowledge, good safety track records?  
 14 A. My understanding of the Veba refineries  
 15 is they were considered to be high performance in  
 16 all categories in terms of financial performance  
 17 and safety and environmental performance.  
 18 Q. So they made money and they were safe  
 19 while making money? Is that a --  
 20 A. That's my understanding.  
 21 Q. All right. And going through in time  
 22 from 2002 forward, the projection is that they --  
 23 to rebuild. We know that in sports, professional  
 24 sports many times, or even college sports, "We are  
 25 in a rebuilding year."

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1 Have you heard that before?  
 2 A. Yes, I have.  
 3 Q. What was it about the state of affairs at  
 4 BP Texas City before 2002 that needed to be rebuilt  
 5 as we see here in this document, sir?  
 6 A. Rebuilding in the context of that was  
 7 refocusing on the basics of operations and, you  
 8 know, basic plant performance. As well as making  
 9 sure that we had targeted investments on those  
 10 things that needed to be improved.  
 11 Q. And one of the components of rebuilding,  
 12 therefore, sir, is rebuilding the notion of safety  
 13 and education and training about safety such that  
 14 your safety metrics or measuring numbers are better  
 15 over the time going forward; is that fair?  
 16 MR. BROWN: Objection, form.  
 17 A. The safety performance indicators that we  
 18 had during the time while I was there was actually  
 19 quite good in terms of recordable injury  
 20 frequencies and day away from work injury rates.  
 21 Those, in and of themselves, would not give you  
 22 cause for alarm. In fact, they would do quite the  
 23 opposite.  
 24 Q. (BY MR. DEAN) And are you relying upon  
 25 only days away from work, and what was the other

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1 one?  
 2 A. Recordable injury frequency.  
 3 Q. Recordable injury frequency as being the  
 4 metrics to support your opinion, or are there other  
 5 metrics that support your opinion that they are  
 6 quite good?  
 7 A. Those are the primary indicators that --  
 8 output indicators that one would look at in what we  
 9 would call a traditional safety triangle to ensure  
 10 that what you are seeing is representative --  
 11 statistically representative of the injuries that  
 12 you are having. So below -- below that there are  
 13 such things as the number of incidents, the number  
 14 of near miss reports, the number of first aid  
 15 injuries. So there are other indicators below  
 16 those that the site would look at to gain some  
 17 comfort around personal safety.  
 18 Q. So when you suggested that some of the  
 19 numbers regarding the safety were quite good, what  
 20 years were you referencing, sir?  
 21 A. The personal safety statistics, and I  
 22 believe even in the A.T. Kearney report they talked  
 23 about personal safety as being, I don't know the  
 24 term they used, good or relatively good.  
 25 Q. Yes, sir.

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1 A. And it improved during the timeframe that  
 2 I was there up to and including when I left, and I  
 3 think Don carried on some of this work that -- that  
 4 statistical frequency was what would be considered  
 5 probably in a world class level for a large  
 6 manufacturing site.  
 7 Q. And you would agree, sir, that personal  
 8 safety is quite different from occupational safety?  
 9 MR. BROWN: Objection, form.  
 10 A. It's -- occupational safety, I am not  
 11 sure what you mean by "occupational safety." If  
 12 you mean process safety, I think, yes, there is a  
 13 significant difference between process safety and  
 14 personal safety.  
 15 Q. (BY MR. DEAN) Okay. Personal safety  
 16 means wearing hard hats, eyeglasses, appropriate  
 17 boots, gloves, fire resistant or retardant  
 18 clothing, et cetera; isn't that true, sir?  
 19 MR. BROWN: Objection, form.  
 20 Q. (BY MR. DEAN) At least in part?  
 21 A. Yes, in part, but even to a much greater  
 22 extent the personal behaviors of your workforce.  
 23 Q. Does -- when you suggest personal  
 24 behavior as being a component of personal safety,  
 25 does compliance fall in that?

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1 A. In -- under behaviors.  
 2 Q. Is compliance related to behaviors?  
 3 A. Yes, it is in my mind.  
 4 Q. Therefore, compliance is a personal  
 5 safety issue?  
 6 A. Compliance certainly is an indicator of  
 7 people's mental attitude around safety.  
 8 Q. And how were the compliance? Is that  
 9 also quite good metrics associated --  
 10 A. It was not.  
 11 Q. -- with compliance?  
 12 A. It was not good. In fact, we had  
 13 highlighted that as an issue for the plant and had  
 14 taken steps to try and improve our compliance and  
 15 what we called the compliance culture at Texas  
 16 City.  
 17 Q. What is the compliance culture at Texas  
 18 City? Define that.  
 19 A. For me, it was just people's willingness  
 20 and rigor around following the established rules  
 21 that we had on the site, things like speed limits,  
 22 seat belts, personal protective equipment,  
 23 following the policies and procedures around  
 24 control of work, that sort of thing.  
 25 Q. All right. And are there any metrics or

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1 measuring tools that relate to process safety? Is  
 2 process safety good or quite good or is it bad?  
 3 MR. BROWN: Objection, form.  
 4 A. There's several measures around process  
 5 safety. There was a process used by BP called  
 6 process safety audit. That was -- that was the way  
 7 to ensure that the process safety management system  
 8 that the site was using was in place and intact and  
 9 functioning. So that was the primary view around  
 10 that.  
 11 There are many other measures at  
 12 the site that relate to process safety, the number  
 13 of leaks, for example, which we have looked at,  
 14 inspections, inspection recommendations. Those are  
 15 all indicators of process safety.  
 16 Q. (BY MR. DEAN) What about maintenance?  
 17 A. Maintenance is -- could be considered a  
 18 part of process safety. I have not seen it used in  
 19 those terms.  
 20 Q. Okay. What about training?  
 21 A. Training is certainly a part of process  
 22 safety.  
 23 Q. There was one more, and it just slipped  
 24 my mind.  
 25 Leaks, when you suggest leaks are

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1 a component of process safety, that is hydrocarbons  
 2 escaping the vessels in some form or fashion?  
 3 A. Yes.  
 4 Q. All right. And going back to our  
 5 document, the rebuilding years commence basically  
 6 in or about the time of Veba and continued on in  
 7 time; is that true?  
 8 A. Yes.  
 9 Q. And that was the renew site leadership  
 10 and refocus on the basics and you covered that --  
 11 A. Yes.  
 12 Q. -- this morning, I believe?  
 13 Okay. As I understand it from  
 14 Veba, the -- going back to that document for the  
 15 members of the court, the copy doesn't show up real  
 16 well, so bear with me. And if you can't read it,  
 17 please let me know. It mandates that establishing  
 18 the appropriate program organization and governance  
 19 structure as early as possible will be critical.  
 20 Is that correct, sir?  
 21 A. Yes.  
 22 Q. All right. What is a governance,  
 23 organization of governance structure?  
 24 A. The governance structure was a team that  
 25 Don Parus put in place to help drive forward the

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1 Veba actions and address the Veba recommendations.  
 2 Q. And was that only at the plant or were  
 3 there governance mechanisms built in above Don  
 4 Parus, for example, in Chicago or London?  
 5 A. The specific response of the team that  
 6 was put together was under Pat King, and Pat King  
 7 reported to Don. So there was an awareness of the  
 8 Veba report and the Veba recommendations certainly  
 9 above Don. I know for sure that Mike Hoffman was  
 10 aware of that report --  
 11 Q. Right.  
 12 A. -- and its recommendations.  
 13 Q. Yes, sir.  
 14 A. I am assuming that there was regular  
 15 communication between -- between Hoffman and Parus  
 16 on that subject. In fact, I know Hoffman would  
 17 have had to have approved the appointment of  
 18 Pat King into that position because of the level  
 19 that Pat was at. Don -- Don didn't have the  
 20 delegated authority to assign that level of person.  
 21 Q. Let me see if I can understand that  
 22 better in terms of what Veba suggested.  
 23 The -- here it says set overall  
 24 program direction and goals, develop overall  
 25 guiding principles and make critical decisions.

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1 That's the responsibility, first, of the BPSH  
 2 board.  
 3 Can you tell us the names of who  
 4 were on the BPSH board in 2002?  
 5 A. The BP South Houston board when I was  
 6 there was comprised of Parus, Hoffman, Rob Peabody,  
 7 I believe. There were three chemical business unit  
 8 leaders that were members of that; and I believe it  
 9 was Rob Peabody, Dennis Seith and I can't remember  
 10 the woman's name.  
 11 Q. Okay. Not Norine Stein?  
 12 A. No. It was one of the chemical business  
 13 unit leaders. Since all of those businesses were a  
 14 part of the BP South Houston site, they all had a  
 15 place on this -- on this board.  
 16 Q. All right. And then the BPSH director  
 17 also had these same responsibilities. Who would  
 18 that have been? Plug a name in there.  
 19 A. The director was Don Parus.  
 20 Q. All right. And then there was a program  
 21 director with a list of responsibilities to  
 22 initiate these Veba directives?  
 23 A. Yes.  
 24 Q. Who was the program director?  
 25 A. That was Pat King.

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1 Q. And who was the site organization  
 2 manager?  
 3 A. Site optimization manager, at the time,  
 4 that was Mike Elgin.  
 5 Q. Okay. Are you a man who can claim  
 6 expertise in process safety management?  
 7 A. I certainly have had experience in  
 8 process safety. I would not claim expertise, no.  
 9 Q. Do you know of any of the people you have  
 10 identified at this level and above that could  
 11 claim, based upon your knowledge of them, expertise  
 12 in process safety management?  
 13 A. I don't know that I would say they would  
 14 claim expertise. I know they would certainly claim  
 15 knowledge and familiarity. Particularly Parus and  
 16 Pat King who has -- who is an HSE professional. So  
 17 I am sure he probably has some, although I don't  
 18 know specifically what and then Hoffman, in terms  
 19 of their refining experience, have had a lot of  
 20 exposure to process safety.  
 21 Q. Okay. And was Bill Ralph a member of the  
 22 process safety committee when you were there as  
 23 performance leader at the Texas City refinery?  
 24 A. Yes. I am not sure of his exact title;  
 25 but he led the PSM, process safety team, when I was

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1 there.  
 2 Q. All right. Do you recall over your time  
 3 as the -- could I call you the plant manager? Is  
 4 that not the same as a performance leader?  
 5 A. I will understand what you mean. It's  
 6 not exactly the same, but yes.  
 7 Q. All right. I better stick with  
 8 performance leader because of that guy  
 9 (indicating).  
 10 The -- while you were performance  
 11 leader, do you recall Bill Ralph, in a sense,  
 12 knocking on your door and asking to eat at the  
 13 table of management at the plant?  
 14 A. Yes. Bill came to me probably somewhere  
 15 in the middle of my tenure there to have this  
 16 conversation about process safety and his concern;  
 17 and let me say, I had known Bill for a long time.  
 18 And as a part of my early orientation in Texas  
 19 City, you know, I attended several of the process  
 20 safety meetings that Bill presided over to make  
 21 sure that that process was in place.  
 22 Bill came to me to express his  
 23 concern that in management meetings he wanted to  
 24 make sure that process safety had a seat at the  
 25 table. And that, in his opinion, that as leader of

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1 the process safety group, he felt like his  
 2 reporting line should be to me.  
 3 Q. Did you disagree?  
 4 A. Yes, I disagreed that it would require  
 5 Bill to report to me for us to have a voice, you  
 6 know, at the table around process safety, that all  
 7 of the managers should have a good understanding of  
 8 process safety, that I would -- you know, I did  
 9 talk to his then current manager, Norine Stein,  
 10 about his position in the organization; and she  
 11 communicated to me at the time. So at the time  
 12 when I got there, there was a manager between her  
 13 and Bill Ralph. She subsequently removed that  
 14 layer of management and had a direct reporting line  
 15 of Bill to her. So...  
 16 Q. And, therefore, direct from Norine to  
 17 you?  
 18 A. No. Norine reported to Don Parus.  
 19 Q. Okay.  
 20 A. But what I did do with Bill to partially  
 21 address his concern is I gave him an open  
 22 invitation to come to our staff meetings. So he  
 23 would get the agenda of my staff meeting and came  
 24 quite frequently to sit in and listen and  
 25 participate in those staff meetings.

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1 Q. The -- did you know Norine Stein had no  
 2 experience or training in process safety?  
 3 A. I --  
 4 MR. BROWN: Objection, form.  
 5 A. I don't know that she didn't have direct  
 6 process safety. I am somewhat familiar with her  
 7 background.  
 8 Q. (BY MR. DEAN) Well, who in the chain of  
 9 command did you expect to have the most knowledge  
 10 of process safety?  
 11 MR. BROWN: Objection, form.  
 12 A. Help me understand your question. You  
 13 mean above Bill Ralph? Is that your question?  
 14 Q. (BY MR. DEAN) No, including Bill Ralph.  
 15 A. Well, Bill Ralph I looked to as the  
 16 expert in the organization --  
 17 Q. Okay.  
 18 A. -- around process safety, and clearly we  
 19 depended on his expertise and his team's expertise  
 20 to help lead process safety at the site.  
 21 Q. He was the PSM man?  
 22 A. Yes, he was the leader of that  
 23 organization.  
 24 Q. All right. Let's continue on to identify  
 25 who these people are according to Veba and plug

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1 names in, if you will. Texas City operations  
 2 manager?  
 3 A. That was the title of the position that  
 4 preceded my assignment to Texas City. So George  
 5 Carter filled that position probably at the time  
 6 this chart was made.  
 7 Q. Okay. And then this position was  
 8 eliminated and performance leader was put in its  
 9 place?  
 10 A. Yes, it was superseded by that --  
 11 Q. Yes, sir.  
 12 A. -- by that job.  
 13 Q. Okay. CBW general manager, what was  
 14 that?  
 15 A. That was the Chocolate Bayou Works  
 16 general manager.  
 17 Q. That's what I thought.  
 18 A. At that point in time, I don't remember  
 19 if Terri Harlan was in that job or not.  
 20 Q. No sweat.  
 21 A. She was in that job most of the time I  
 22 was there.  
 23 Q. And on to the delivery assurance team.  
 24 Do you remember who comprised, at least in the  
 25 beginning years, that position?

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1 A. There were different members of that  
 2 team. I remember a few names, Heather Vail. I  
 3 think -- I believe Willie Willis came to the site  
 4 in that team before he became the West Plant MDL.  
 5 There were some other people I can't recall --  
 6 Q. All right.  
 7 A. -- at the moment.  
 8 Q. In going back to this applying the  
 9 strategy based on Veba and other things, as you  
 10 reviewed earlier, it first declared Texas City in  
 11 poor maintenance outcomes. And on the bottom, it  
 12 says, tell me if I read this correctly, "For the  
 13 last ten years, the refinery has remained in the  
 14 lowest percentile grouping for operational  
 15 availability against Solomon benchmarks."  
 16 Can you give us, in laymen's terms  
 17 so the members of the courtroom can understand,  
 18 what basically this is communicating?  
 19 A. Yes. What this is communicating is that  
 20 on a relative basis the availability of the  
 21 operating units inside the refinery to run and  
 22 process -- process oil was lower than other  
 23 benchmark sites.  
 24 Q. And is that -- how does that relate to  
 25 poor maintenance?

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1 MR. BROWN: Objection, form.  
 2 A. It can relate to maintenance. So for  
 3 example, if your spare pumps aren't repaired or  
 4 repaired quickly and the primary pump fails, then  
 5 that will cause unavailability on the unit.  
 6 Q. (BY MR. DEAN) Okay.  
 7 A. There are other reasons that create  
 8 unavailability as well including your configuration  
 9 and your maintenance philosophies.  
 10 Q. And on the next page of this strategy  
 11 response, can you explain to the members of the  
 12 courtroom why Texas City is out here by its  
 13 lonesome, relative to this graph?  
 14 MR. BROWN: Objection, form.  
 15 A. Yes, I can explain the positioning of  
 16 Texas City on that. This was a forward projection  
 17 of capital improvement needed at the site along  
 18 with the forward projection of the earning  
 19 potential, the profit generation potential at the  
 20 site; and they were plotted on those two axis. So  
 21 the RCOP is basically the profit, before tax  
 22 profit, on the left hand, Y axis on the X axis is  
 23 the -- is the per anum capital improvement, capital  
 24 expenditures required at the site as came out of  
 25 the forward ten year plan and that was the four

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1 year, five year slice, 2004 to 2008.  
 2 Q. (BY MR. DEAN) With respect to the  
 3 capital expenses Texas City requires out here and  
 4 the majority of other refineries referenced in this  
 5 area, is Texas City a rust bucket that needs to be  
 6 maintained more than these refineries that are  
 7 clustered here?  
 8 MR. BROWN: Objection, form.  
 9 A. No. This -- this chart is an  
 10 indication -- what you would expect to find, what  
 11 we would have assumed would be the case is that  
 12 most of the refineries would fit along that line.  
 13 Now, if you're above the line,  
 14 what it means is that your site is making -- is  
 15 projected to make more money than its commensurate  
 16 capital appetite. If you are below the line, it  
 17 says that your site would -- is -- in the forward  
 18 plan, is expected to earn less money than its  
 19 commensurate capital appetite.  
 20 Now, there could be many, many  
 21 reasons for that. It could be that you have huge  
 22 environmental expenditures. It could be that you  
 23 are needing to make investments in infrastructure.  
 24 So there are a lot of reasons for  
 25 that. But the fact that Texas City is on the end

<p style="text-align: right;">Page 114</p> <p>1 basically just says Texas City is a big site. As a                  2 big site, it will have more capital needs; and as a                  3 big site, it has more earning potential than the                  4 smaller sites.                  5 Q. (BY MR. DEAN) And that's true despite it                  6 being the largest refinery that BP owns in the                  7 world?                  8 A. That --                  9 MR. BROWN: Objection, form.                  10 A. I think my statement is consistent with                  11 that, that because it is a large site, it will have                  12 a larger capital appetite and also a larger earning                  13 potential than other sites.                  14 Q. (BY MR. DEAN) The fact of the matter is,                  15 Mr. Hale, that there was under investment in Texas                  16 City in the years preceding 2002, some of those                  17 years while BP owned the refinery, and that                  18 contributed to Texas City being way out here by its                  19 lonesome. Isn't that true?                  20 MR. BROWN: Objection, form.                  21 A. I can't draw that conclusion.                  22 Q. (BY MR. DEAN) Okay.                  23 A. Some of the investment expenditure that                  24 was ongoing in Texas City was not capital                  25 expenditure. It was revenue.</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. There is a conclusion, I presume reached                  2 by John Manzoni in part, a retrospective analysis                  3 by A.T. Kearney, which is the Veba study,                  4 identified recent under investment in maintenance                  5 and sustaining Capex.                  6 Does it not read so, sir?                  7 MR. BROWN: Objection, form.                  8 A. That's what it says. Yes, sir.                  9 Q. (BY MR. DEAN) So at least there is some                  10 form of under investment that had occurred while BP                  11 was at the helm of Texas City in the years                  12 preceding 2002?                  13 MR. BROWN: Objection, form.                  14 A. That certain -- a conclusion on that                  15 slide says exactly that.                  16 Q. (BY MR. DEAN) All right. And one part                  17 of under investment is maintenance, and I think we                  18 have gone over that.                  19 But the other part is sustaining                  20 Capex. What does it mean that there is under                  21 investment historically in sustaining Capex at this                  22 particular refinery according to Mr. Manzoni?                  23 MR. BROWN: Objection, form.                  24 A. Sustaining Capex are those investments                  25 that are required to maintain the current plant</p>
<p style="text-align: right;">Page 115</p> <p>1 Q. All right. There is a document your                  2 lawyers have given us that is called -- a BP                  3 document "Refining and Pipelines at SPU," that's                  4 strategic performance unit?                  5 A. Yes, sir.                  6 Q. "Texas City Refinery Review Bilateral                  7 with John Manzoni."                  8 Have you ever seen this document                  9 just based on its title so far?                  10 A. Yes, I have.                  11 Q. And what does "Bilateral with John                  12 Manzoni" mean?                  13 A. Bilateral was the name given to a                  14 periodic meeting between John Manzoni and his --                  15 and a respective GVP accountable for an SPU. It's                  16 a lot of acronyms, but what it means is for Mike                  17 Hoffman, periodically -- I don't remember the                  18 frequency, it's every few months. John would ask                  19 Mike to sit down with him and review the refining                  20 and pipelines businesses.                  21 Q. All right. Well, according to this                  22 document, John Manzoni was seeing information                  23 related to it, if we turn the page to specifically                  24 page 4 of the document, which is BPISOM01966429.                  25 A. Yes.</p>	<p style="text-align: right;">Page 117</p> <p>1 capability. So in sustaining Capex, it's always a                  2 choice to not make that investment and accept the                  3 consequence of, say, lower plant availability. For                  4 example, that could be one outcome of not investing                  5 in sustaining Capex. Is that clear?                  6 Q. (BY MR. DEAN) It is.                  7 And at the end of the day, sir,                  8 the fact is in its simplest terms, BP had elected,                  9 had made the choice, to under invest in at least                  10 maintenance and sustaining Capex in the few years                  11 preceding 2002; isn't that true, sir?                  12 MR. BROWN: Objection, form.                  13 A. Well, Chris, I don't know the basis for                  14 all of the decisions or even the decisions that                  15 were made in that timeframe. What I know about is                  16 the issues that I saw in the plant and the                  17 investment strategies that we were trying to make                  18 to overcome some of those conditions.                  19 Q. (BY MR. DEAN) And are you going to tell                  20 the jury that those plans worked such that                  21 maintenance was back to where it needed to be                  22 according to the benchmarks and sustaining Capex                  23 was where it was supposed to be according to the                  24 benchmarks?                  25 MR. BROWN: Objection, form.</p>

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1 A. While I was there?  
 2 Q. (BY MR. DEAN) Yes, sir. Thank you for  
 3 that distinction.  
 4 A. While I was there, I had confidence that  
 5 the plans that we were submitting and that got  
 6 approved from London were going to improve our  
 7 position in the things that we needed to improve.  
 8 To make a judgment was it absolute -- the amount  
 9 that I needed or at the pace that we needed, we  
 10 were going at the pace that we could manage with  
 11 the workforce and the resources that we had to  
 12 execute the work.  
 13 Q. Part of this same document, sir -- you  
 14 have familiarity with the basic concept of what an  
 15 operating envelope is, I presume?  
 16 A. Yes.  
 17 Q. And it says, "Operating envelopes are now  
 18 in place on all process units to keep operating  
 19 parameters aligned with safe, reliable operation."  
 20 Given what you've read in the  
 21 fatality report regarding operating envelopes on  
 22 the raffinate splitter and the ISOM unit, would you  
 23 deem that to be a thoroughly incorrect statement  
 24 made back in 2002?  
 25 MR. BROWN: Objection, form.

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1 A. Clearly for the ISOM incident to occur,  
 2 that process facility was well outside of its  
 3 operating envelope.  
 4 Q. (BY MR. DEAN) And you, of course,  
 5 remember that the investigation team was critical,  
 6 as evidenced by the report in December, 2005, that  
 7 they really didn't know the operators on this unit,  
 8 the operating envelope for the raffinate splitter?  
 9 MR. BROWN: Objection, form.  
 10 Q. (BY MR. DEAN) Do you remember that?  
 11 A. That the operators didn't know the  
 12 operating envelope?  
 13 Q. They were not fully aware of the  
 14 operating envelope?  
 15 MR. BROWN: Objection, form.  
 16 Q. (BY MR. DEAN) Such that they could  
 17 operate it in a safe and reliable way?  
 18 MR. BROWN: Objection, form.  
 19 A. I didn't see that in the report. What I  
 20 saw in the report was the level was well beyond the  
 21 operating envelope. The temperature was well  
 22 beyond the operating envelope and the pressures  
 23 were well beyond the operating envelope.  
 24 Q. (BY MR. DEAN) And where was the  
 25 supervisor on the scene, according to your

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1 knowledge that you displayed in your last answer,  
 2 to ensure that they were within operating  
 3 envelopes?  
 4 A. The supervisor, as I understand from the  
 5 report at the time of the incident, was not at the  
 6 site.  
 7 Q. And who was responsible, based on your  
 8 knowledge of operations out there at the refinery,  
 9 Mr. Hale, who was responsible to make sure that  
 10 supervisor was there doing his job during the start  
 11 up?  
 12 MR. BROWN: Objection, form.  
 13 A. The -- in my view the supervisor is  
 14 accountable for being where he should be. The  
 15 operator is accountable for being where he should  
 16 be.  
 17 Q. (BY MR. DEAN) And no one is supposed to  
 18 ensure that the supervisor is supposed to be there  
 19 in the chain of command?  
 20 A. There is --  
 21 MR. BROWN: Objection, form.  
 22 A. There is oversight accountability up the  
 23 chain. So clearly there is accountability for the  
 24 superintendent to provide the support and the  
 25 incentive for the supervisors to deliver their

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1 accountabilities.  
 2 Q. (BY MR. DEAN) Okay. Going forward in  
 3 time from the response to the Veba and the  
 4 restructuring and whatnot and according to the  
 5 timeline we just visited about, you had told us  
 6 earlier that this -- it doesn't come up, but this  
 7 is the Gioja --  
 8 A. Gioja.  
 9 Q. -- Gioja person getting involved. And we  
 10 know that he is present by virtue of a 2004 e-mail  
 11 that you are also listed on. And it goes into a  
 12 safety retreat, something about a safety retreat.  
 13 MR. BROWN: Is there a Bates  
 14 number on there?  
 15 MR. DEAN: It is. It is 1960143.  
 16 Thank you, sir.  
 17 MR. BROWN: Sure.  
 18 Q. (BY MR. DEAN) This was what I was asking  
 19 you about earlier.  
 20 Do you recall a safety retreat  
 21 that was planned to occur in March, 2004, where, I  
 22 believe, S&B contractors were going to be involved  
 23 and I believe the Giojas were going to be involved  
 24 to a certain extent and the manufacturing council  
 25 is -- was also involved?

<p style="text-align: right;">Page 122</p> <p>1 MR. BROWN: Objection, form.                  2 A. I remember a safety retreat that we had                  3 at an S&amp;B facility in East Texas. I don't remember                  4 Geoffrey Gioja being a part of that, to be honest.                  5 Q. (BY MR. DEAN) All right.                  6 A. But I remember that most of the                  7 management team was there. I think -- I can't                  8 remember exactly but a large number of the cc list                  9 was there. I know Stacy was there. I don't recall                  10 Joel or Geoffrey being there.                  11 Q. All right. What about S&amp;B?                  12 A. S&amp;B invited us to participate with them                  13 at one of their -- I think it was an annual safety                  14 retreat, as they called it.                  15 Q. Did you know whether or not S&amp;B invited                  16 you at least one reason being they were concerned                  17 about safety practices at the refinery?                  18 A. They invited --                  19 MR. BROWN: Objection, form.                  20 A. They invited us, basically, based on my                  21 inquiry with them about their excellent safety                  22 performance in the industry and at projects in                  23 Texas City.                  24 Q. (BY MR. DEAN) So the answer is, no, it                  25 didn't have anything to do, as far as you knew,</p>	<p style="text-align: right;">Page 124</p> <p>1 view, it was an opportunity for us to learn from                  2 this team about how they managed safety, and in my                  3 conversations with them, I didn't even know they                  4 had a safety retreat.                  5 But their -- one of their, I don't                  6 know if he's co-owners or directors, Jimmy                  7 Slaughter, was kind enough to invite us to                  8 participate with their leadership team in this --                  9 in this retreat.                  10 Q. Okay. And, indeed, according to this                  11 e-mail, it's called the S&amp;B safety retreat out                  12 there; is that true?                  13 A. Yes, it was their safety retreat. We                  14 were guests at their retreat.                  15 Q. All right. Are you a member of the BPSH                  16 functions council?                  17 A. Yes.                  18 Q. Such that you would have received this                  19 e-mail?                  20 A. Yes.                  21 Q. All right. I presume based on what you                  22 are saying about S&amp;B's excellent safety record that                  23 you deemed their recommendations to be at least                  24 authoritative?                  25 MR. BROWN: Objection, form.</p>
<p style="text-align: right;">Page 123</p> <p>1 that they had concerns about safety issues at the                  2 Texas City refinery?                  3 A. They were anxious to help us improve.                  4 Q. What was the basis as far as you                  5 understood of their anxiety to encourage in that                  6 regard?                  7 MR. BROWN: Objection, form.                  8 A. I am not aware -- I don't recall that                  9 they had any specific anxiety.                  10 Q. (BY MR. DEAN) Well, if the personal                  11 safety metrics were quite good, to use your exact                  12 words, in the timeframe of 2002, 2003 and I presume                  13 2004, what needed to be improved?                  14 A. In safety?                  15 Q. Such that a meeting with S&amp;B at a safety                  16 retreat was necessary?                  17 MR. BROWN: Objection, form.                  18 A. Safety is always something to work on                  19 improving --                  20 Q. (BY MR. DEAN) Okay.                  21 A. -- and here was a company that worked in                  22 what is traditionally a high injury industry in                  23 terms of construction, new construction and they                  24 bucked the trend and had an incredible safety                  25 record, much better than the refinery. So in my</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. (BY MR. DEAN) They knew what they were                  2 talking about?                  3 A. I think S&amp;B was a credible company that                  4 did a good job for us and had credible leadership,                  5 yes.                  6 Q. And did you go to the meeting?                  7 A. To the meeting?                  8 Q. The safety retreat.                  9 A. The safety retreat, yes, sir, I did.                  10 Q. All right. The notes that were attached                  11 to this e-mail that we just looked at which is                  12 BPISOM1960133, it goes "Recommendations to improve                  13 safety performance."                  14 And it goes through -- through                  15 several items like leadership, your name is                  16 mentioned about "challenging leadership to commit                  17 four hours per week to visible activities                  18 demonstrating safety leadership." That means be                  19 out and be visible as a manager, right?                  20 A. Yes.                  21 Q. And in fact, the Veba report urgently                  22 recommended that be true?                  23 A. Similar things, yes.                  24 Q. And you would agree -- withdraw that.                  25 Have you seen what's called the</p>

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1 Stanley report?  
 2 A. I don't recall which report that's --  
 3 Q. In the days after the -- in the months  
 4 after the explosion occurred. I believe it came  
 5 out in June, 2005. Mr. Stanley was hired by BP to  
 6 do his own kind of audit, safety audit.  
 7 Does that sound familiar to you?  
 8 A. After the explosion?  
 9 Q. Yes, sir.  
 10 A. Mr. Stanley?  
 11 Q. You weren't there. I understand.  
 12 A. But I read most things associated with  
 13 Texas City, and I don't -- perhaps if you could  
 14 refresh my memory or show me a copy.  
 15 Q. He just went around the refinery saying  
 16 here are some things you need to improve on, here  
 17 are some things I am critical of?  
 18 A. Who is he with?  
 19 MR. BROWN: Objection, form.  
 20 MR. DEAN: Anybody?  
 21 Q. (BY MR. DEAN) He has a name outfit. I  
 22 can't remember.  
 23 A. I am sorry.  
 24 Q. No sweat.  
 25 A. I don't recall that.

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1 Q. If you don't know, that's perfectly  
 2 acceptable.  
 3 Accountability and compliance  
 4 appears to come up and it goes on to say, "This  
 5 issue -- this issue of accountability and  
 6 compliance comes up in every safety discussion and  
 7 is fundamental to a safe workplace."  
 8 Do you agree with that?  
 9 A. Yes.  
 10 Q. And we discussed about compliance. What  
 11 does accountability mean in this context, sir?  
 12 A. It means that people who have  
 13 responsibility for certain things are held  
 14 accountable for delivering of their  
 15 responsibilities.  
 16 Q. Okay. And it appears that, at least  
 17 according to this document, strong leadership is  
 18 responsible to create that culture of  
 19 accountability.  
 20 A. Yes.  
 21 Q. Do you agree with that?  
 22 A. Yes, I do.  
 23 Q. That same document goes on about possible  
 24 actions to improve BPSH safety is -- it goes again,  
 25 "possibilities generated from safety retreat with

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1 S&B on February" -- I am sorry. I have been saying  
 2 March. It says February.  
 3 "Senior management according" --  
 4 by the green arrow -- "default position and  
 5 incident investigation is that management was at  
 6 fault and created the situation."  
 7 Do you agree with that statement?  
 8 MR. BROWN: Objection, form.  
 9 A. I think as I recall that list,  
 10 possibility for us to consider, is we took the  
 11 learnings, what we observed in that companies  
 12 behavior.  
 13 Q. (BY MR. DEAN) Right.  
 14 A. But that was something for us to  
 15 consider, is our role in any incidents that  
 16 happened.  
 17 Q. Do you agree with them, was my question?  
 18 A. Do I agree that management has a role in  
 19 any incident?  
 20 Q. No.  
 21 Do you agree with what it says,  
 22 "Senior management's default position in an  
 23 incident investigation is that management was at  
 24 fault in creating the situation"?  
 25 A. No, I don't think that is always the

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1 case.  
 2 Q. Did you author --  
 3 A. It was --  
 4 Q. I am sorry. Go ahead.  
 5 A. It was -- It was an intriguing thing that  
 6 we heard while we were observing this retreat is  
 7 that at S&B, this was what they stated to us as  
 8 their philosophy, all of those things so, you know,  
 9 for example, outlawed the use of knives. That's  
 10 something that they had done that we wanted to take  
 11 away and think about as does that make sense for  
 12 us.  
 13 MR. DEAN: All right. Objection  
 14 to the extent your answer was nonresponsive.  
 15 Q. (BY MR. DEAN) Do you remember receiving  
 16 this document we've been looking at, the one the  
 17 jury is looking at right now?  
 18 A. Yes, I remember the document. I don't  
 19 remember all of the details.  
 20 Q. Do you remember who authored it?  
 21 A. No, not for sure.  
 22 Q. The e-mail sender, according to the  
 23 document that we looked at earlier, was Joel  
 24 Robins.  
 25 A. Okay.

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1 Q. Who is he?  
 2 A. Joel was the manager of HSE working for  
 3 Don Parus.  
 4 Q. Okay. It would appear by the attachment  
 5 that, although -- yeah, in the e-mail, Joel, the  
 6 head of HSE is -- "below is a set of  
 7 recommendations for actions that's meant to improve  
 8 safety performance at BP South Houston." And he  
 9 goes on to describe some of the methodology.  
 10 Would it seem reasonable to you  
 11 that this person, Mr. Robins, authored the document  
 12 based on what you're reading in this e-mail?  
 13 MR. BROWN: Objection, form.  
 14 A. Well, it would be reasonable he authored  
 15 the document based on the title. I'm not sure...  
 16 Q. (BY MR. DEAN) Fair enough.  
 17 He goes on to make his own comment  
 18 that you don't agree with on one of the last pages  
 19 and that is -- what's his last bullet point on this  
 20 page which is Bates Number 38?  
 21 A. He says, "I like the concept of looking  
 22 at how we as management could have failed as a  
 23 default position."  
 24 Q. That makes sense, does it not, in the  
 25 context of appropriate root cause analysis, does it

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1 not, sir?  
 2 A. Well, what makes sense --  
 3 MR. BROWN: Objection, form.  
 4 A. What makes sense to me -- and I am a  
 5 trained fatality investigator.  
 6 I have been through the process of  
 7 certification for BP to do that, what makes sense  
 8 is that in any incident that you look at immediate  
 9 causes and then at system causes.  
 10 Q. (BY MR. DEAN) Right.  
 11 A. And those system causes, the problem that  
 12 I have with that statement is that there is this  
 13 default position that -- that management is somehow  
 14 at fault. There is in the comprehensive list of  
 15 causes a leadership component that comes up very  
 16 often in system causes. And I think when you go  
 17 through the methodology and that's what comes up,  
 18 then I think that's an appropriate conclusion; but  
 19 to say that that's always a conclusion I don't  
 20 think is a fair characterization of system causes.  
 21 Q. It was the conclusion of the  
 22 investigation team of the fatality report, however,  
 23 was it not, Mr. Hale, that management was  
 24 responsible for the underlying causes of the  
 25 explosion of March 23rd?

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1 A. The --  
 2 MR. BROWN: Objection, form.  
 3 A. The investigation report, as I saw,  
 4 pointed to numerous system failures and cultural  
 5 issues that existed at the ISOM at the time of the  
 6 incident.  
 7 Q. (BY MR. DEAN) And those failures were  
 8 management's responsibilities, the failure, in  
 9 other words, falls on management's shoulders?  
 10 MR. BROWN: Objection, form.  
 11 A. I think management has an accountability  
 12 along with the workforce to address deficiencies  
 13 that are identified in any working condition.  
 14 Q. (BY MR. DEAN) All right. Well,  
 15 training, you would agree, was an issue raised in  
 16 Veba. Is that true, sir?  
 17 A. It was highlighted in that report.  
 18 Q. And it's true, sir, that in employee  
 19 satisfaction surveys or indices along with Getting  
 20 HSE Right audits in the timeframe of 2002, 2003 and  
 21 2004, training was identified to be inadequate  
 22 consistently in that refinery. Is that not true,  
 23 Mr. Hale?  
 24 A. Training is --  
 25 MR. BROWN: Objection, form.

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1 A. Training was certainly identified as an  
 2 issue in needing improvement -- I think to say it's  
 3 inadequate, I am not sure I would say that.  
 4 Q. (BY MR. DEAN) All right. Well, with  
 5 respect to training, is it the workforce's  
 6 responsibility to train themselves or is it  
 7 management's responsibility to see that the  
 8 workforce is trained --  
 9 A. It's clearly --  
 10 Q. -- in plain terms?  
 11 A. It's clearly management's responsibility  
 12 to provide an incentivized training at the site.  
 13 Q. All right. Is it the workforce's  
 14 responsibility, Mr. Hale, at the Texas City  
 15 refinery to ensure that personnel in the adjoining  
 16 units of the ISOM were aware of the startup of that  
 17 unit; or is that management's responsibility?  
 18 A. I would expect it to be someone  
 19 designated on the unit that's starting up the unit.  
 20 For example, the board operator. It could be the  
 21 supervisor. But again that's back to our earlier  
 22 conversation, I haven't seen that startup  
 23 procedure.  
 24 Q. All right.  
 25 A. But it should have been clear as a part

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1 of that startup procedure whose accountability it  
 2 was.  
 3 Q. And if it wasn't, whose responsibility  
 4 was it to ensure that it was clear?  
 5 A. As I had told you already, accountability  
 6 for procedures fell to the training coordinator.  
 7 Q. Okay. Who was management?  
 8 A. Who -- yes, is a management position in  
 9 such that it was typically supervisors that filled  
 10 those rules.  
 11 Q. All right. And when it came to the  
 12 choice made to conduct relief valve studies, is  
 13 that the workforce's responsibility, Mr. Hale, to  
 14 see that the relief valve study is initiated and  
 15 concluded; or is it management's responsibility to  
 16 see that it's initiated and concluded?  
 17 A. Well, it should be the responsibility of  
 18 who is -- whoever has given the action item. It  
 19 wouldn't necessarily be a management person that  
 20 would get that action.  
 21 Q. It's not necessarily?  
 22 A. It would not necessarily be a management  
 23 person that would get that action to initiate a  
 24 relief valve study.  
 25 Q. Relief valve study is, you were well

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1 aware based on your knowledge of process safety in  
 2 running a plant, costs money, true?  
 3 A. Yes, all studies cost some money.  
 4 Q. And so someone who is not in management  
 5 can authorize expenditure of money at BP Texas City  
 6 for a relief valve study? Is that what you are  
 7 telling us?  
 8 A. It would depend on their position and the  
 9 budget that's set aside. So within authorized  
 10 budgets, people, not necessarily in a management  
 11 position, have authority to spend funds.  
 12 Q. All right.  
 13 MR. DEAN: How much time do we  
 14 have?  
 15 THE VIDEOGRAPHER: Seven.  
 16 MR. DEAN: I would rather change  
 17 gears --  
 18 MR. BROWN: Okay.  
 19 MR. DEAN: -- if you don't mind.  
 20 It can either be a quick break and another quick  
 21 break, or let's take a short one now.  
 22 MR. BROWN: Take a short one and  
 23 move on.  
 24 MR. DEAN: I want to fill up --  
 25 hopefully not fill up the next hour, if you don't

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1 mind.  
 2 MR. BROWN: Okay.  
 3 THE VIDEOGRAPHER: Off the record  
 4 at 2:32 p.m.  
 5 (Recess taken.)  
 6 THE VIDEOGRAPHER: On the record  
 7 at 2:43 p.m., beginning Tape 4.  
 8 Q. (BY MR. DEAN) You wanted to clarify  
 9 something?  
 10 A. Yes.  
 11 MR. BROWN: I believe Mr. Hale  
 12 wanted to clarify something concerning the -- there  
 13 was a document previously referenced of a bilateral  
 14 meeting presentation of Mr. Manzoni. Did you have  
 15 something you wanted to clarify?  
 16 THE WITNESS: Yes.  
 17 A. The clarification in that, that document  
 18 was the presentation made to Mr. Manzoni. You may  
 19 have made a comment, "This was Mr. Manzoni's  
 20 statement" or I can't remember exactly.  
 21 Q. Sure.  
 22 A. I just wanted to clarify.  
 23 Q. Let's do that.  
 24 A. That was the presentation --  
 25 Q. To Mr. Manzoni?

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1 A. That document was the presentation made  
 2 to Mr. Manzoni at that meeting. It was not  
 3 something --  
 4 Q. You bet.  
 5 A. -- that he would have created.  
 6 Q. You will pick them if I find it.  
 7 The one that references bilateral.  
 8 A. Bilateral.  
 9 Q. November 29 was, I think, the date.  
 10 A. I can't remember the date; but, yes,  
 11 bilateral with John Manzoni.  
 12 Q. So the information that was contained in  
 13 that report was presented to John Manzoni?  
 14 A. Yes.  
 15 Q. No sweat. Thanks for the clarification.  
 16 You said that Joel Robins was the  
 17 head of HSE at -- during at least part of your  
 18 tenure as a plant manager out there?  
 19 A. The entire time as I recall.  
 20 Q. Okay. Was he competent at his job?  
 21 A. Well, that's a subjective opinion.  
 22 Q. In your perception?  
 23 A. In my opinion, Joel was very competent.  
 24 He was an HSE professional with many, many years of  
 25 experience.

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1 Q. According to the head of HSE at the time  
 2 of the explosion, Mr. Barnes, process safety was  
 3 part of HSE's -- maybe a better way to say it was  
 4 under HSE's umbrella. Process safety management  
 5 was subsumed or part of the HSE team. Was that the  
 6 way it was when you were there?  
 7 A. It was not, no. When I was there,  
 8 process safety management fell under Norine Stein  
 9 or the services manager.  
 10 Q. So Norine Stein was the head of process  
 11 safety management when you were there?  
 12 MR. BROWN: Objection, form.  
 13 A. She was the manager of services, one of  
 14 which was process safety management.  
 15 Q. (BY MR. DEAN) She was the umbrella of  
 16 manager services?  
 17 A. I believe that was her title, manager of  
 18 services. Many services or functions fell under  
 19 her accountability.  
 20 Q. Why did that change occur such that  
 21 process safety management then went under an HSE  
 22 umbrella?  
 23 A. I was not at the site at the time, Chris;  
 24 so I really have no idea why Don did that. But the  
 25 entire structure had to change because the job that

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1 Norine had under BP South Houston would not exist  
 2 in the new organization.  
 3 Q. Do you recall Mr. Robins voicing concerns  
 4 to you about the progress that -- or lack there of  
 5 regarding safety at the refinery in the 2003, 2004  
 6 timeframe?  
 7 A. I don't remember --  
 8 MR. BROWN: Objection, form.  
 9 A. -- specifically him expressing concerns  
 10 about progress. He -- Joel expressed concerns all  
 11 the time and this was part of his role was to  
 12 express things that he saw that he felt like needed  
 13 some improvement.  
 14 Q. (BY MR. DEAN) Okay. In your opinion in  
 15 2004, was the Texas City refinery a safer place to  
 16 work by the time you left than when you started in  
 17 2002?  
 18 A. I believe it was, yes.  
 19 Q. In an e-mail from Mr. Robins to the  
 20 functions council that you were on, as well as  
 21 other folks. That's Bates Number 1959852. It's  
 22 actually a string of e-mails. Where down here, as  
 23 you can see, it relates to the fatalities that  
 24 occurred in, I believe, May, 2004.  
 25 Do you recall those two

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1 fatalities? Israel Garcia and, I think, it's Jose  
 2 Trevino?  
 3 MR. BROWN: No.  
 4 MR. DEAN: That's not true?  
 5 MR. BROWN: No, I forget the names  
 6 but Trevino was --  
 7 MR. DEAN: That was in September.  
 8 MR. BROWN: Yes.  
 9 Q. (BY MR. DEAN) I withdraw that question.  
 10 Do you remember the fatality, the  
 11 single fatality in May?  
 12 A. The single fatality.  
 13 Q. At the Texas City refinery May, 2004?  
 14 A. The fall inside the tower.  
 15 Q. Yes.  
 16 A. Yes, I remember that.  
 17 Q. All right. Apparently this references  
 18 that according to the date, I presume there weren't  
 19 any other recent fatalities as of Friday,  
 20 June 11th, 2004. I am putting that in the context  
 21 of the statement here in this e-mail.  
 22 A. Okay. I'm not -- I don't recall this  
 23 e-mail or ever having seen this e-mail.  
 24 Q. We are not going to go over every word.  
 25 Were you there June 12th? Do you recall, at Texas

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1 City?  
 2 A. No, I do not. I do not recall. That  
 3 would have been around the time of my transition,  
 4 so I may not have.  
 5 Q. Okay. I may be able to refresh your  
 6 recollection later; but, in any event, this person,  
 7 Richard Eisenhower, authored this e-mail that  
 8 continues on "The injuries -- injuries are  
 9 preventable" -- I am sorry. "We continue to repeat  
 10 the same behaviors that cause injuries and  
 11 fatalities in the past."  
 12 Do you recall that being a message  
 13 communicated to you at any point during your time  
 14 as a performance leader at Texas City?  
 15 A. In respect to fatalities or --  
 16 Q. General safety issues?  
 17 A. I can recall --  
 18 Q. Injury and fatality issues?  
 19 A. I can recall conversations about  
 20 knowledge, transfer knowledge, management and how  
 21 to effectively learn the lessons from the past.  
 22 It's an easy thing to say and much more difficult  
 23 thing to do in practice.  
 24 Q. And one of the reasons that that concept  
 25 is important -- withdraw that.

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1 In order for that concept to take  
 2 on true meaning of lessons learned there have to be  
 3 competent and thorough investigations of incidents  
 4 that occur in the refinery as time goes on. Would  
 5 you agree?  
 6 A. I would agree, yes.  
 7 Q. Well, apparently this Mr. -- I presume  
 8 Mr. Eisenhower. Who is he, do you know?  
 9 Elsenheimer.  
 10 A. Elsenheimer.  
 11 Q. Sorry.  
 12 A. In the BP Texas City structure, I believe  
 13 he had the title of quality leader or quality  
 14 manager; but he had the oversight of our ISO  
 15 systems. I am not sure if you are familiar with  
 16 those.  
 17 Q. ISO 14001?  
 18 A. 14001, 9001, those ISO systems. He held  
 19 the oversight in BP South Houston over those and  
 20 our compliance with those.  
 21 Q. And those are safety and environmental  
 22 benchmarks, watermarks, if you would?  
 23 A. Well --  
 24 Q. To obtain an ISO 14001 certification, for  
 25 example, you had to meet certain criteria of safety

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1 and environmental?  
 2 A. They are largely -- the 14001 is largely  
 3 an environmental --  
 4 Q. Yes, sir.  
 5 A. -- program, and 9001 is largely a quality  
 6 process. So in that you could say they are related  
 7 to safety, but specifically they are environmental  
 8 in quality.  
 9 Q. All right. Mr. Eisenhower (sic) took it  
 10 upon himself to, as he states here, to go through  
 11 past HSE presentations and pull together some  
 12 slides going into the past and that attachment  
 13 starting at 1959854 is a presentation. It says,  
 14 "Why don't we learn from the past?"  
 15 Is that true?  
 16 MR. BROWN: Objection, form.  
 17 A. Yes, sir. That's what it says.  
 18 Q. (BY MR. DEAN) Okay. And in 2004 --  
 19 June, 2004, is reiterating to the members that  
 20 received this e-mail which includes the BP South  
 21 Houston manufacturing council safety repeats,  
 22 involving falls, cuts, burns, fractures, electric  
 23 shock, spills, fires and explosions, true?  
 24 A. Yes.  
 25 Q. In your opinion, did he have a basis to

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1 call this safety repeats, meaning that there are  
 2 repetitive falls, cuts, burns, fractures, electric  
 3 shock, spills, fires and explosions?  
 4 MR. BROWN: Objection, form.  
 5 Q. (BY MR. DEAN) While you were there?  
 6 MR. BROWN: Objection, form.  
 7 A. I can look at those titles and recall  
 8 incidents, multiple incidents of those over the  
 9 many years in the Texas City operation group.  
 10 Q. (BY MR. DEAN) Therefore, they are  
 11 repeats?  
 12 A. Yes.  
 13 Q. The next slide that he presented to the  
 14 manufacturing counsel is "the injuries are the  
 15 same. The solutions are known. The key is  
 16 relentless commitment to living the solutions."  
 17 Do you agree with those concepts?  
 18 A. In essence I believe that injuries are  
 19 preventable so there is a way and it is our  
 20 aspiration to eliminate all injuries and incidents.  
 21 Q. The solution known to the fatality in May  
 22 is that if BP would have ensured that it's -- the  
 23 contracting personnel was wearing a rubber band or  
 24 some safety harness that would prevent the fall it  
 25 would at least have prevented him from falling to

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1 his death?  
 2 A. In --  
 3 MR. BROWN: Objection, form.  
 4 Q. (BY MR. DEAN) True?  
 5 A. In that particular fatality. It is true  
 6 to say that if the individual had hooked on to the  
 7 yo-yo which was the --  
 8 Q. Yo-yo, yes, sir.  
 9 A. -- support line attached to the harness  
 10 that he was wearing at the time to protect himself,  
 11 that his fall would have been -- would have been  
 12 arrested by that safety device.  
 13 Q. And in the name of compliance, therefore,  
 14 you don't see BP having any responsibility ensuring  
 15 contractors obey BP rules?  
 16 A. I think there is an accountability for BP  
 17 ensuring contractors follow safety rules.  
 18 Q. All right.  
 19 A. And it's done through audits and through  
 20 contractor assessments and through the way we  
 21 choose our contractors.  
 22 Q. And "priority inputs of delivering future  
 23 safety commitment was suggested in June, 2004 being  
 24 first," maybe in no particular order, "hazard  
 25 awareness," true?

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1 A. Is this from the same presentation?  
 2 Q. It is, yes, sir.  
 3 Bates Number 1959858.  
 4 A. Okay.  
 5 Q. Hazard awareness --  
 6 A. Yes.  
 7 Q. -- is the first on the list, true?  
 8 A. Yes.  
 9 Q. Does the -- do the words there of hazard  
 10 awareness and recognizing hazards and safety  
 11 assessment beforehand ring familiar relative to  
 12 your read of the final report of December, 2005?  
 13 MR. BROWN: Objection, form.  
 14 A. In that report what I see is clearly a  
 15 reference to people's hazard awareness being too  
 16 low. In particular the two things that I recall  
 17 them citing in that report were trailer siting and  
 18 vehicular traffic. That's what I recall.  
 19 Q. (BY MR. DEAN) All right. And "use of  
 20 Traction to report all incidents is sharing  
 21 learning with others," do you agree with the  
 22 concept that that is a priority on how to deliver  
 23 safety commitments?  
 24 A. Yes, reporting incidents whether it's  
 25 Traction or whatever system. You need a system to

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1 report incidents and share learnings.  
 2 Q. And the fatality report found this was  
 3 not, indeed, done to satisfaction. Traction  
 4 reports were utilized to report all incidents such  
 5 that there could be learnings with others?  
 6 MR. BROWN: Objection, form.  
 7 A. The -- as I recall the investigation  
 8 report, I mean, it cited Traction was in use --  
 9 Q. (BY MR. DEAN) Yes.  
 10 A. -- at the plant, but it could have been  
 11 better utilized and more fully utilized.  
 12 Q. That's not what the report -- that's not  
 13 the spin the report put on it, is it, sir, about  
 14 the use of Traction and reporting incidents and  
 15 near misses?  
 16 A. The spin that the report -- I don't  
 17 remember the exact words, but it did talk about  
 18 Traction. It talked about Traction being there and  
 19 that the sharing of learnings through the Traction  
 20 incidents and it was inadequate in what it saw.  
 21 Q. Okay. And you agree that root cause  
 22 incidents investigations are something that should  
 23 be prioritized relative to delivering future safety  
 24 commitments?  
 25 A. Yes.

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1 Q. If there was a root cause investigation  
 2 two months after you left and that concluded in  
 3 about September an incident in August of 2004, root  
 4 cause incident investigation concluded in about  
 5 September of 2004 that had a vessel overpressure  
 6 relief lines lift, liquid hydrocarbons travelled  
 7 through the relief valves because of a failure to  
 8 establish run down into a blowdown drum stack open  
 9 to the atmosphere and the liquid hydrocarbons  
 10 spewed into the atmosphere, would you sound --  
 11 would that sound like to you to be a generally  
 12 similar situation to the explosion pattern effects  
 13 that you as you know them to be?  
 14 MR. BROWN: Objection, form.  
 15 A. From what you described to me it sounds  
 16 similar. I don't know specifically what you are  
 17 talking about though.  
 18 Q. (BY MR. DEAN) All right. And given that  
 19 you were the plant manager for a little over two  
 20 years, what would be the lessons or should be the  
 21 lessons learned from that incident as I described  
 22 to you?  
 23 MR. BROWN: Objection, form.  
 24 A. So correction, I was the plant manager  
 25 for under two years; but in any incident the

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1 investigation should, as I described to you  
 2 earlier, should talk about, you know, what were the  
 3 immediate causes and then what were the system  
 4 causes so that a root cause solution can be  
 5 implemented. That's the intent of an  
 6 investigation.  
 7 Q. (BY MR. DEAN) Well, if you as the  
 8 performance leader, were aware of an incident like  
 9 I just described in August, 2004, overflow of a  
 10 vessel through relief valves because of failure to  
 11 establish rundown in those liquid hydrocarbons  
 12 traveling through a relief lines to a blowdown  
 13 stack open to the atmosphere and spewing into the  
 14 atmosphere, you as a plant manager wouldn't be able  
 15 to disclaim, "I didn't know this could happen,  
 16 liquid hydrocarbons spewing out of the top of a  
 17 blowdown drum stack open to the atmosphere," would  
 18 you?  
 19 MR. BROWN: Objection, form.  
 20 A. If an incident happens, it's very hard to  
 21 say, you know, it can't happen.  
 22 Q. (BY MR. DEAN) That's common sense, isn't  
 23 it?  
 24 A. It is to me.  
 25 Q. And it should be to anyone who's running

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1 that refinery, true?  
 2 A. You are speculating on a situation that I  
 3 don't have any detailed knowledge of. So you are  
 4 asking me to draw a conclusion that I am happy to  
 5 look at if you will put that situation in front of  
 6 me.  
 7 MR. DEAN: Objection to the extent  
 8 it's nonresponsive.  
 9 Q. (BY MR. DEAN) Back to refreshing your  
 10 memory from what I said I might do so earlier. We  
 11 see an e-mail, Bates Number 1960869, that is from  
 12 you to a John Taylor on June 10th, 2004.  
 13 Does that help refresh your memory  
 14 as to whether or not you were actually at the  
 15 refinery in this timeframe?  
 16 A. So the e-mail is to -- the top e-mail is  
 17 to the controller at the Coryton refinery and the  
 18 bottom e-mail is to the leadership team at the  
 19 Coryton refinery.  
 20 Q. Right. So does that help refresh your  
 21 memory as of June 10th you were actually performing  
 22 duties as a performance leader at the Texas City  
 23 refinery?  
 24 A. Well, it looks like from this e-mail that  
 25 I was -- I was at least in Coryton or corresponding

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1 with Coryton at the time. I don't know physically  
 2 if I was there for this e-mail or not. I can't  
 3 recall and can't tell.  
 4 Q. You mean you were at Texas City?  
 5 A. I don't know. I can't remember.  
 6 Q. Okay. Do you recall the content of your  
 7 e-mail of June 10, starting here regarding a  
 8 regional teleconference that resulted in a safety  
 9 shutdown -- stand down?  
 10 A. Stand down.  
 11 Okay. Yes.  
 12 Q. What is a safety stand down?  
 13 A. A safety stand down is a period of time  
 14 designated in the site where all people stop work  
 15 to address a particular safety topic or issue to  
 16 the extent possible. Of course, if someone is  
 17 doing a critical activity, they cannot stop; but  
 18 it's an expectation that everyone stands down and  
 19 focuses on a particular safety issue.  
 20 Q. Can you give us in the courtroom a better  
 21 understanding of what are the ingredients to the  
 22 recipe to call a safety stand down in the first  
 23 instance at BP with respect to refining operations?  
 24 A. It's within the authority of any site  
 25 leader to call a stand down at their discretion

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1 and, it is also within, you know, Mike Hoffman's  
 2 capability and delegation if he feels there is a  
 3 broad issue that needs attention across the entire  
 4 SPU, he will request that the business unit leaders  
 5 conduct a stand down to communicate a specific -- a  
 6 specific point or safety issue.  
 7 So in this case, you know,  
 8 that's -- looks like what has happened.  
 9 Q. Okay. Can the workforce as you said  
 10 earlier call a safety stand down, shutdown of the  
 11 refinery?  
 12 MR. BROWN: Objection, form.  
 13 A. A clarification point. Safety stand down  
 14 is not a shutdown of the refinery.  
 15 Q. (BY MR. DEAN) Pardon me. Let me  
 16 withdraw that question and start over.  
 17 Can the workforce, the hourly  
 18 workforce, initiate a safety stand down at BP Texas  
 19 City refinery, at any BP refinery?  
 20 MR. BROWN: Objection, form.  
 21 A. The hourly worker or an individual could  
 22 not on their own authority do that. They could  
 23 request that if they thought it was appropriate.  
 24 And what is absolutely clear, and we communicate  
 25 this time and time again, is they have the ability

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1 to stop the work they are involved in if they feel  
 2 it's unsafe.  
 3 Q. (BY MR. DEAN) Can the unions call a  
 4 safety stand down at the refinery?  
 5 A. No, not in and of themselves. Again,  
 6 they can recommend if it's something they feel  
 7 needs to happen.  
 8 Q. Was there ever a safety stand down at the  
 9 Texas City refinery before this safety stand down  
 10 referenced in this e-mail?  
 11 A. I want to say yes, but I cannot recall  
 12 the specific of when.  
 13 Q. Has there ever been a safety stand down  
 14 at Coryton?  
 15 A. Yes. In fact, you can see it referenced  
 16 in that note what I call the target stand down; so  
 17 in Coryton there is an established process and  
 18 periodically we do stand downs even when things are  
 19 going very well just to have people reflect on  
 20 something about safety.  
 21 Q. All right. Would you agree that the  
 22 fatality report was critical of management ensuring  
 23 that appropriate training was had for its  
 24 operators?  
 25 A. The report was critical of the training

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1 effort at Texas City and certainly highlighted it  
 2 as something that needed to be significantly  
 3 improved.  
 4 Q. And you, during your tenure as  
 5 performance leader, were advised over the years  
 6 that that continued to be a concern while you were  
 7 there?  
 8 A. When I was there I became aware that  
 9 safety and the satisfaction of safety was below  
 10 where I would have wanted it to be. I met on  
 11 several occasions with Dennis Link and his team. I  
 12 met with the group of training coordinators and  
 13 Dennis Link to talk about some of their concerns  
 14 and issues.  
 15 One of the biggest concerns that  
 16 they highlighted to me was the training  
 17 coordinator's capability to spend the majority of  
 18 their time on training versus having other  
 19 assignments as requested by the unit  
 20 superintendent. I raised that issue to my  
 21 leadership team. We discussed the possibility of  
 22 actually transferring the training coordinators to  
 23 the training department as a way of ensuring that.  
 24 The managers were opposed to that.  
 25 So my conversation with them is

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1 that's fine, but the assurance that I needed from  
 2 them was that the training coordinators would then  
 3 spend a large majority of their time from that  
 4 point forward on training and not on miscellaneous  
 5 issues.  
 6 MR. DEAN: Objection to the extent  
 7 the answer is nonresponsive, sir.  
 8 Q. (BY MR. DEAN) While you were the plant's  
 9 performance leader in the 2002, 2004 timeframe --  
 10 timeframe, were you aware of a project called the  
 11 Clean Streams project?  
 12 A. Yes, sir.  
 13 Q. And was it your understanding that the  
 14 Clean Streams project was in its first phases to  
 15 determine whether or not to eliminate the use of  
 16 blowdown stacks open in the atmosphere entirely?  
 17 MR. BROWN: Objection, form.  
 18 A. No, the Clean Streams project is a  
 19 project I initiated shortly after my arrival at  
 20 Texas City. I became alerted through the HSE  
 21 function that via an audit, a self audit that we  
 22 were doing in Texas City, we were in non-compliance  
 23 with the benzene NESHAP rule which is a rule  
 24 relative to benzene emissions out at the plant, and  
 25 that we were significantly out of compliance. And

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1 so I initiated this project to specifically address  
 2 that non-compliance issue.  
 3 Q. (BY MR. DEAN) And with respect to the  
 4 Clean Streams project as it relates to the ISOM,  
 5 that project was terminated in 2003; is that true?  
 6 MR. BROWN: Objection, form.  
 7 A. The benzene -- the Clean Streams project  
 8 was again -- was a project to look at total  
 9 compliance in the plant around a 2 mega gram a year  
 10 emissions limit on benzene. As a part of that  
 11 project, the project team looked at all units that  
 12 were potential sources of benzene.  
 13 And on a prioritized basis, those  
 14 that contributed most to the benzene emissions,  
 15 those projects were executed to get us to a point  
 16 where we were in compliance with benzene NESHAPs.  
 17 And the development of that project, what became  
 18 clear later on is that as you looked at the  
 19 totality of the projects, some were needed to be  
 20 executed for compliance and other, it turned out,  
 21 were not going to be needed. And so in those  
 22 cases, those projects were put on hold.  
 23 MR. BOND: Objection,  
 24 nonresponsive.  
 25 MR. DEAN: Objection,

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1 nonresponsive.  
 2 Q. (BY MR. DEAN) The documents that BP's  
 3 lawyers have forwarded to us referenced that the  
 4 project was killed -- the Clean Streams project.  
 5 Do you admit or deny that that, indeed, occurred  
 6 sometime at some point in 2003?  
 7 MR. BROWN: Objection, form.  
 8 A. Clean Streams was a program with many  
 9 projects. The ISOM project was put on hold.  
 10 Q. (BY MR. DEAN) Okay. So if a document  
 11 referenced killed, you would disagree with that  
 12 related to the ISOM specifically?  
 13 A. I would disagree with that  
 14 characterization. My recollection of the ISOM it  
 15 that tie-ins for maintenance drums were made. The  
 16 engineering had been largely done. That project  
 17 could be shelved, and it was my instruction that it  
 18 be shelved.  
 19 So the totality of all the  
 20 projects that we did to get in benzene NESHAP's  
 21 compliance, if in the future it was demonstrated  
 22 that the projects we had done were not sufficient  
 23 to give us a high percentage or an assurance that  
 24 we were going to stay in compliance, then  
 25 additional projects such as the ISOM, which were

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1 clearly well defined, could be pulled off the shelf  
 2 and executed at that point in time.  
 3 MR. DEAN: Objection,  
 4 nonresponsive.  
 5 Q. (BY MR. DEAN) Sir, did you shelf the  
 6 project?  
 7 A. I did as a part --  
 8 Q. It was your decision to do so?  
 9 A. It was my decision to do so.  
 10 Q. Okay. And the project was never taken  
 11 off the shelf during your remaining time at BP  
 12 Texas City; is that true, sir?  
 13 A. Yes, that's true.  
 14 Q. And who did you appoint to be project  
 15 engineer on that program?  
 16 A. In the way the project was executed, we  
 17 had an overall project manager, which was David  
 18 Harlan. I was what was called the chief  
 19 gatekeeper, and the individual MDLs or managers  
 20 were the gatekeepers on their specific units'  
 21 projects.  
 22 So what that means, the way that  
 23 worked, the MDLs would work with a project team on  
 24 a specific unit, so the decisions about how to  
 25 address the benzene emissions issue on that unit

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1 were a conversation with the gatekeeper, the  
 2 manager and the project team. And so they  
 3 holistically defined all of the projects.  
 4 I had an overview of all of the  
 5 projects and then made decisions and gave direction  
 6 to that project team based on what of that scope  
 7 needed to be done to be in compliance with the  
 8 benzene NESHAP rule.  
 9 MR. DEAN: Objection,  
 10 nonresponsive.  
 11 Q. (BY MR. DEAN) Do you recall Kevin Zinke  
 12 being a member of the project engineers on the  
 13 Clean Streams project?  
 14 A. Not specifically. My dealing was  
 15 primarily with Dave Harlan.  
 16 Q. Okay. And was S&B contractors hired to  
 17 be a part of the process of accomplishing the Clean  
 18 Streams project?  
 19 A. I believe it was S&B, although I can't  
 20 remember exactly which contract company was working  
 21 with them, but I think it was S&B.  
 22 Q. And if S&B was making recommendations  
 23 about elimination of blowdown drums, they would  
 24 have communicated to who, based on how you had  
 25 structured this project?

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1 A. In --  
 2 MR. BROWN: Objection, form.  
 3 A. In the way that the project was set up,  
 4 the process for how we manage the benzene emissions  
 5 on a unit should have been a conversation between  
 6 the project team and the gatekeeper for that  
 7 project, which would have been the manager, so --  
 8 Q. (BY MR. DEAN) Give me names, if you  
 9 would.  
 10 A. Willie Willis for the West Plant. Ken  
 11 Panozzo for the East Plant, Joe Barnes for cracking  
 12 division. In utilities it was Bill -- in utilities  
 13 and product movement, Bill Frink. So those were  
 14 the people that were the specific gatekeeper on the  
 15 project. So the project team would decide how then  
 16 those emissions were going to be controlled and  
 17 they were different answers.  
 18 Maintenance drums in some case, I  
 19 think if I remember correctly, in the case of  
 20 pipestill 3A they actually did eliminate the  
 21 blowdown drum and route that to the flare, if I  
 22 remember that correctly.  
 23 So it's different answers on  
 24 different units.  
 25 Q. Do you know who George Matar is?

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1 A. The name rings a bell, but I can't  
 2 remember.  
 3 Q. S&B contractor?  
 4 A. Okay. S&B. I am sure I have met George.  
 5 Q. If he -- assume with me for the moment  
 6 that he will testify under oath to the members of  
 7 the court that he explicitly suggested to BP  
 8 eliminating the F-20 blowdown drum which was  
 9 involved in the explosion and tying all streams  
 10 including relief streams to a flare, he would be  
 11 wrong as far as you knew?  
 12 MR. BROWN: Objection, form.  
 13 A. I don't know that. I don't recall any  
 14 such recommendation.  
 15 Q. (BY MR. DEAN) And while you were at the  
 16 helm as performance leader of BP Texas City had you  
 17 ever heard reported to you, or in your presence,  
 18 hydrocarbon releases whether it be vapor or liquid  
 19 out of the F-20 blowdown?  
 20 MR. BROWN: Objection, form.  
 21 A. Not that I recall. I recall I believe  
 22 one lightning strike that caused a fire with the  
 23 vapors at the top of that vessel, but I don't  
 24 recall any other.  
 25 Q. (BY MR. DEAN) Should you have known, if

<p style="text-align: right;">Page 162</p> <p>1 the evidence shows, if there were such releases                  2 while you were the performance leader? Would you                  3 have expected to know such information in your                  4 timeframe?                  5 MR. BROWN: Objection, form.                  6 A. What kind of releases are you talking                  7 about?                  8 Q. (BY MR. DEAN) Vapor or liquid releases                  9 from the top of the blowdown stack into the Texas                  10 City air?                  11 MR. BROWN: Objection, form.                  12 A. By design of an atmospheric blowdown                  13 drum, if there is a release of an RV, relief valve,                  14 or if there is a maintenance activity that put                  15 liquid of any kind or vapor of any kind into that                  16 drum, by definition there will be some emission out                  17 of the top of that stack. That's inherent in the                  18 design of the way that the stack is made.                  19 So I am not sure I understand your                  20 questions other than we know there is some air                  21 emissions from those, which is -- which is why that                  22 was being looked at specifically for the benzene                  23 NESHAP project, to get those streams out and                  24 eliminate the omission. I know of no case where                  25 liquid hydrocarbon came out of the top of a</p>	<p style="text-align: right;">Page 164</p> <p>1 everything is a hundred percent safe by way of                  2 contrast?                  3 MR. BROWN: Objection, form.                  4 MR. DEAN: He said it.                  5 A. The --                  6 MR. BROWN: Objection, form.                  7 A. The way for -- to ensure safety is                  8 through the totality of systems and behaviors of                  9 the workforce on site.                  10 Q. (BY MR. DEAN) And that's management's                  11 responsibility?                  12 A. And workers' responsibility as well.                  13 MR. DEAN: Let's take a break                  14 unless Ken is in here, but I don't think he is.                  15 Or, Trent, do you want to start?                  16 MR. BOND: I will ask a few                  17 questions.                  18 MR. DEAN: I will pass the                  19 witness. Thank you, sir.                  20 MR. BROWN: How much time on this                  21 tape?                  22 THE VIDEOGRAPHER: 20 minutes.                  23 MR. DEAN: While he is getting                  24 ready, let me just ask the basics, if you don't                  25 mind, just quickly so that they don't have to,</p>
<p style="text-align: right;">Page 163</p> <p>1 blowdown stack in my time in Texas City during that                  2 less than two years where I was the performance                  3 unit leader.                  4 MR. DEAN: Object to everything as                  5 nonresponsive before your last sentence.                  6 Q. (BY MR. DEAN) Do you agree or disagree                  7 with the investigation team's finding in the                  8 fatality report that it is inherently safer to have                  9 this type of system eliminated and re-routed all                  10 streams, maintenance, operation and relief to a                  11 flare?                  12 MR. BROWN: Objection, form.                  13 A. I think certainly the learning of Texas                  14 City has indicated that flare systems can be                  15 inherently safer and the process safety standard                  16 that encouraged over time moving to flare systems                  17 would also indicate that inherently it is a -- it                  18 is a better system to have.                  19 Q. (BY MR. DEAN) It's a safer system to                  20 have?                  21 A. It is a -- it is a safer system in some                  22 respects. It is not an absolute insurance that                  23 everything is safe.                  24 Q. And what is in Texas City refinery --                  25 what is a mechanism in place to assure that</p>	<p style="text-align: right;">Page 165</p> <p>1 these other guys, if you don't mind.                  2 MR. BROWN: No.                  3 Q. (BY MR. DEAN) How long did you spend                  4 with lawyers preparing for this deposition, sir?                  5 A. I spent a couple of days, about six hours                  6 each day.                  7 Q. 12 hours?                  8 A. About --                  9 Q. More or less?                  10 A. -- 12 hours.                  11 Q. Did you review any documents in                  12 preparation for today's testimony to the Court?                  13 A. I reviewed the investigation report, the                  14 final report, Mogford report and the -- and it's                  15 called the notice of deposition.                  16 Q. Okay. No other documents relating to                  17 Clean Streams or anything else you reviewed in                  18 preparation for your statement today?                  19 A. No, I did not.                  20 Q. And with respect to any particular                  21 specific training, formal training in process                  22 safety management, can you inform us of any such                  23 training that you have had?                  24 A. Fatality investigation training, which I                  25 consider process safety training. Earlier in my</p>

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1 career there were sessions that Amoco engineering  
 2 would hold. This is in the '80s around specific  
 3 process safety training, process safety standards  
 4 and what they meant.  
 5 Most of my process safety  
 6 knowledge and understanding is through having  
 7 worked with it in my 27 plus years in the refining  
 8 organization.  
 9 Q. And when you took the helm as performance  
 10 leader of this refinery in June 2000 -- sometime in  
 11 the third quarter of 2002, did you know that BP  
 12 Texas City had the worst record of fatalities than  
 13 any refinery in the United States?  
 14 MR. BROWN: Objection, form.  
 15 A. I don't know, you know, how you're  
 16 calling that; but I knew there had been fatalities  
 17 in the history of Texas City.  
 18 Q. (BY MR. DEAN) You weren't aware, is the  
 19 answer to that, that it had the worst number of  
 20 fatalities?  
 21 A. I was not aware.  
 22 Q. The highest?  
 23 A. Yeah, it had the highest number. I am  
 24 not sure even what you are referencing over a  
 25 period of time, on an annual basis; but I know

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1 there were fatalities in Texas City in its -- over  
 2 the years in its operation.  
 3 Q. Assume with me for a moment, and then I  
 4 will be done, that on some 14 hours before the  
 5 explosion occurred on March 23rd, Mr. Barnes sent  
 6 an e-mail to other leadership teams -- he was the  
 7 head of HSE, if you didn't know.  
 8 A. Joe Barnes.  
 9 Q. And it related findings in a Veba study,  
 10 recent Veba study 14001, ISO 14001 study and the  
 11 Telos Report, several items of inadequate training,  
 12 other problems identified by these reports with  
 13 respect to the operations of the plant, including  
 14 lack of leadership.  
 15 Do you think that in your opinion  
 16 as a former performance leader that if true  
 17 everything he points out in that e-mail that there  
 18 should have been a safety stand down at that  
 19 refinery?  
 20 MR. BROWN: Objection, form.  
 21 A. I don't know that for those points that  
 22 you raised what a safety stand down in the sense  
 23 that I define a safety stand down would do. Those  
 24 sound more like systemic issues which would require  
 25 a broader more exhaustive look and think by the

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1 leadership team.  
 2 Q. (BY MR. DEAN) Not only by BP Texas City  
 3 but also on up to Mr. Hoffman and potentially  
 4 Mr. Manzoni?  
 5 MR. BROWN: Objection, form.  
 6 A. For the specific site concerns?  
 7 Q. (BY MR. DEAN) Yes, sir.  
 8 A. I would think the leadership team has an  
 9 obligation to address issues that they think are  
 10 there and where they feel they have insufficient  
 11 resources or capacity to deal with those, then they  
 12 also have an obligation to elevate that to a more  
 13 senior level of management.  
 14 MR. DEAN: Thank you, sir. I pass  
 15 the witness.  
 16 (Discussion off the record.)  
 17 \* \* \*  
 18 EXAMINATION  
 19 Q. (BY MR. BOND) How are you doing, sir?  
 20 A. I am fine, sir.  
 21 Q. My name is Trent Bond. I represent the  
 22 estate of Ryan Rodriguez and the mother of Ryan  
 23 Rodriguez. He was one of the individual killed by  
 24 BP, he was in the Merit trailer -- Merit trailer.  
 25 Have you had an opportunity to

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1 discuss simulators with certain individuals --  
 2 training simulators out there at the BP plant for  
 3 the operators?  
 4 A. Yes, we had some conversations about  
 5 training simulators and, in fact, while I was  
 6 there, we installed training simulator system on  
 7 the Texas City chemicals side as a part of a  
 8 project there. So it was a significant project and  
 9 system that we installed to support board operator  
 10 training at that facility.  
 11 Q. Why didn't you do that at the refinery  
 12 site?  
 13 A. The refinery had a mixed history of  
 14 experience with training simulators. There had  
 15 been several attempts over time spanning many years  
 16 with training simulators and those projects always  
 17 seemed to fall into disuse or disrepair or that the  
 18 simulator as designed ended up not matching the  
 19 reality of the plant so the operators didn't find  
 20 value in it. Multiple reasons even including  
 21 technology. So there were -- we had  
 22 conversations -- I had conversations with Dennis  
 23 Link and Woody Anderson about the future of  
 24 simulators and, you know, whether or not they would  
 25 have a place in our operator training.

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1 Q. And that's remarkable that you actually  
 2 remember the names of these people. They indicate  
 3 in the e-mail that you rejected those  
 4 recommendations that they have simulators, correct?  
 5 MR. BROWN: Objection, form.  
 6 A. We installed a simulator while I was  
 7 there.  
 8 Q. (BY MR. BOND) You didn't install it at  
 9 the refinery, did you?  
 10 A. No, we installed it at the chemical plant  
 11 which was under my accountability as was the  
 12 refinery. So the chemical plant system gave us the  
 13 opportunity to see if we could install the system,  
 14 adequately use the system and keep the system  
 15 online. And so the conversation I had with Woody  
 16 and with Dennis is, "here's an opportunity for us  
 17 now, proof of concept, that this is a tool that  
 18 will help us and that we can make it work for the  
 19 long term."  
 20 MR. BOND: Let met object as  
 21 nonresponsive.  
 22 Q. (BY MR. BOND) The e-mail from, I mean  
 23 it's Mr. Link to -- have you seen this e-mail  
 24 recently?  
 25 A. I am not sure what e-mail you are

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1 referring to. I'm sorry, sir.  
 2 Q. I am going to show you. It's  
 3 Exhibit 260.  
 4 A. It's the first time I have seen that  
 5 e-mail.  
 6 Q. All right. Now, the e-mail kind of  
 7 recounts a different version of the facts than what  
 8 you just presented to the jury, doesn't it?  
 9 A. I don't think so.  
 10 Q. It doesn't? Let's just show it to the  
 11 jury and see what they think.  
 12 I have already had conversations  
 13 with Kathleen regarding simulators and had similar  
 14 conversations with Rick Hale, George Carter, Tim  
 15 Scruggs and every MDL since 2000. Big push back is  
 16 always been the initial cost and people resources  
 17 cost to keep current. We could have equipped every  
 18 process unit across TCR with several simulators for  
 19 what the ISOM incident will cost us.  
 20 Are you telling the jury that you  
 21 never pushed back and said, "It would cost too  
 22 much"?  
 23 A. What I am telling you is that I had  
 24 conversations with Woody and with Dennis about  
 25 that. We had conversations that, "Look, simulators

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1 may be a great idea. We are installing one. Let's  
 2 make it work; and if this proof of concept, if we  
 3 have success with this and it looks like it does do  
 4 what we would hope that it will do, then we will  
 5 expand the program."  
 6 Q. Well, when did you put the program into  
 7 the chemical plant?  
 8 A. My recollection is in 2003, but I don't  
 9 remember exact date.  
 10 Q. And, I mean, this is not like we are  
 11 talking about something brand new here. Those  
 12 simulators had been pretty standard in the industry  
 13 for several years, correct, sir?  
 14 MR. BROWN: Objection --  
 15 Q. (BY MR. BOND) Prior to 2003?  
 16 MR. BROWN: Objection, form.  
 17 A. Simulators have been tried in many forms  
 18 for many years. I -- the first -- one of the first  
 19 ones that I recall using and installing was in  
 20 conjunction with one of our alkylation units in  
 21 probably the '80s.  
 22 Q. (BY MR. BOND) So we are talking about a  
 23 couple of decades that simulators have been in use  
 24 and BP has them in use over in Europe, too,  
 25 correct, sir?

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1 A. There's simulators in use in different  
 2 places. Including Texas City as far as I know.  
 3 Q. And there was nothing preventing you from  
 4 putting these simulators in the refining units to  
 5 train your operators even though it was going to  
 6 cost you a little bit extra?  
 7 MR. BROWN: Objection, form.  
 8 A. Installation of simulators requires a  
 9 huge amount of people -- knowledgeable people's  
 10 time to put those in so it's not a question of  
 11 let's just pay this money and tomorrow there is a  
 12 simulator. It is --  
 13 Q. (BY MR. BOND) How much does it cost?  
 14 A. -- a significant effort.  
 15 Q. How much does it cost?  
 16 A. I don't recall.  
 17 Q. Well, I mean, it's significant. More  
 18 than a hundred thousand? More than 200,000? More  
 19 than a million? What are we looking at?  
 20 A. I think it --  
 21 MR. BROWN: Objection, form.  
 22 A. In my experience, it depends on the kind  
 23 of simulators. So there are standard desk top  
 24 simulators.  
 25 I thought -- I can't recall

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1 specifically. I thought as part of basic operator  
 2 training that they had some of those in the  
 3 training department where operators could do basic  
 4 simulations on fractionation and that sort of  
 5 thing.  
 6 Q. (BY MR. BOND) How much did the one cost  
 7 that you put in the chemical side?  
 8 A. I can't recall.  
 9 Q. Roughly.  
 10 A. It was part of a larger project, and I  
 11 can't -- I cannot remember.  
 12 Q. More than 50,000? More than a hundred  
 13 thousand? Less than 50,000?  
 14 MR. BROWN: Objection, form.  
 15 A. I would be speculating.  
 16 Q. (BY MR. BOND) Speculate away.  
 17 MR. BROWN: Objection, form.  
 18 A. But it would be more than a hundred  
 19 thousand of that total project I am confident.  
 20 Q. (BY MR. BOND) Okay. So you are looking  
 21 at about a hundred thousand to equip and train and  
 22 actually use the simulator so it would be  
 23 functional as opposed to just sticking one in and  
 24 saying "Hi, nice coffee stand" or anything like  
 25 that?

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1 A. No. What I told you is I think it was  
 2 more than a hundred thousand.  
 3 Q. Roughly.  
 4 A. I don't know how much it really cost.  
 5 Q. More than a hundred and fifty thousand?  
 6 A. Whatever it was, we committed on that  
 7 particular project to put that in and then began to  
 8 use that to test our ability and to have that vital  
 9 part of the training process.  
 10 Q. I don't understand why you needed to test  
 11 your ability to have that as a vital part of the  
 12 training process when simulators of this type have  
 13 been used for decades at BP, just not at Texas  
 14 City. Why did you have to test it out?  
 15 A. The experience at Texas City is that the  
 16 attempts that had been made at simulators in the  
 17 past were unsuccessful. So here was an opportunity  
 18 for us to prove that experience different.  
 19 Q. What -- what test are we looking at?  
 20 When were you at Texas City where the simulator  
 21 quote, unquote, failed?  
 22 A. The one I told you about earlier was one  
 23 that in my previous experience in Texas City where  
 24 I was associated with the process control group we  
 25 had installed a simulator as a part of -- as a part

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1 of the alky modernization project and that  
 2 simulator fell into disuse and was ultimately  
 3 dismantled.  
 4 Q. Well, that's not -- that's not failing.  
 5 That's just not using them, right?  
 6 MR. BROWN: Objection, form.  
 7 A. It was not seen by the operators as a  
 8 tool useful for them to help keep them current on  
 9 their skills on the unit.  
 10 Q. (BY MR. BOND) Well, I mean, that's up to  
 11 management to ensure that tools are used, right,  
 12 training tools are used, right?  
 13 MR. BROWN: Objection, form.  
 14 A. I think management has an accountability  
 15 around training for its personnel. Whatever that  
 16 might be to enable that.  
 17 Q. (BY MR. BOND) It all -- it starts at the  
 18 top, right. Safety, training, everything starts at  
 19 the top and goes down, doesn't it?  
 20 MR. BROWN: Objection, form.  
 21 A. I think management clearly has the  
 22 accountability to set the priorities for the site  
 23 and to ensure that the resources are there for the  
 24 priorities that are set.  
 25 Q. (BY MR. BOND) And to enforce the

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1 requirements, right? I mean, you know, just  
 2 because you put a simulator there you expect it to  
 3 be used. Management has the ability to ensure that  
 4 it is used, correct?  
 5 A. Management has the ability to enforce the  
 6 rules or the training or the standards.  
 7 Q. Not only has the ability to enforce the  
 8 rules, the training, the standards it has the  
 9 responsibility to enforce the rules, the training  
 10 and the standards, correct, sir?  
 11 A. That's correct.  
 12 Q. Now, as part of your position out there  
 13 at Texas City, one of those positions was as a  
 14 gatekeeper for the Clean Streams project, correct,  
 15 sir?  
 16 A. Yes, sir.  
 17 Q. And that Clean Streams project was  
 18 designated as environmental use, correct?  
 19 A. The intent of that project was to get an  
 20 environmental compliance.  
 21 Q. And also for health and safety?  
 22 MR. BROWN: Objection, form.  
 23 A. No, the original intent of that project  
 24 was to get in compliance with the benzene NESHAP's.  
 25 Q. (BY MR. BOND) What is a CVP decision

<p style="text-align: right;">Page 178</p> <p>1 support package?                  2 A. CVP is a capital value process used by BP                  3 to enable stage gate decisions as projects progress                  4 and make sure that those accountable for the                  5 funding agree with the project basic -- the project                  6 basis as it proceeds through development.                  7 Q. Okay. And that's an important document                  8 at BP, correct?                  9 A. Yes, it is.                  10 Q. And it's important that it's accurate,                  11 correct, sir?                  12 A. Yes.                  13 Q. I mean, y'all wouldn't just check off                  14 things just because you felt like it, right?                  15 A. Well, I --                  16 MR. BROWN: Objection, form.                  17 A. -- I think that's speculative. The                  18 document is intended to provide the information to                  19 the gatekeeper to make the decision.                  20 Q. (BY MR. BOND) Now, what is that project                  21 name up there? Could you tell the jury, please?                  22 A. Clean Streams program project, pipestill                  23 3A blowdown drum project, pipestill 3A replace                  24 blowdown piping with above grade system project.                  25 Q. And that's part of the Clean Streams</p>	<p style="text-align: right;">Page 180</p> <p>1 say the Clean Streams project is strictly related                  2 to environmental, your paperwork specifically                  3 decision support package, at least for the 3A                  4 pipestill, indicates that it was, "For additionally                  5 for health and safety as well as sustaining,                  6 correct, sir?                  7 A. What I will tell you is that the                  8 objective of the project was to get an                  9 environmental compliance. The fact that had -- it                  10 could have sustaining benefits, health and safety                  11 benefits and even additional environmental                  12 benefits, that's fantastic and that's a good thing.                  13 But the objective of the Clean                  14 Streams program was to get us in compliance with                  15 benzene NESHAP's where we were out of compliance                  16 and had notified the EPA with a very strong                  17 commitment that as soon as possible we would get                  18 that plant back in compliance.                  19 Q. Because what was happening was                  20 hydrocarbons were being released into the                  21 atmosphere, correct, sir?                  22 A. Benzene emissions, yes, hydrocarbon.                  23 Q. Is benzene a hydrocarbon?                  24 A. Yes, it is.                  25 Q. Okay. And one of the goals, I guess, the</p>
<p style="text-align: right;">Page 179</p> <p>1 project itself, correct?                  2 A. Yes.                  3 Q. All right. And it says, "project type,"                  4 and they've got checked off several things,                  5 correct? And one of them, of course, is                  6 environmental, correct, sir?                  7 A. Yes.                  8 Q. And one of them is sustaining, correct?                  9 A. In this particular case, yes.                  10 Q. What is sustaining?                  11 A. Sustaining means that you're sustaining                  12 the functionality of the plant through investment.                  13 So something is at or approaching its end of life                  14 to continue to operate that equipment or that part                  15 of the plant, you need a sustaining investment so                  16 that it can continue to safely operate.                  17 Q. And the last one is what, sir? That I                  18 haven't pointed it out yet, it's checked off.                  19 A. Health/safety.                  20 Q. And what is health/safety in your                  21 opinion?                  22 A. Well, it can be related to either of the                  23 other two environmental or sustaining. It can be                  24 related to just improving the general safety.                  25 Q. All right. And so in this case when you</p>	<p style="text-align: right;">Page 181</p> <p>1 maximum goal or the principal goal of process                  2 safety management is to keep those hydrocarbons                  3 contained, correct, sir?                  4 A. A goal of process safety is to keep                  5 things -- keep containment in the system as                  6 designed.                  7 Q. Okay. And this Clean Streams project was                  8 going to keep the hydrocarbons contained, correct,                  9 sir?                  10 A. The Clean Streams project was going to                  11 reduce our benzene emissions by taking some                  12 hydrocarbon streams that were vented in atmospheric                  13 systems into systems that were called controlled                  14 systems where the benzene emissions were controlled                  15 either through carbon canister beds or some other                  16 method.                  17 Q. And as part of that project you are going                  18 to have some additional -- I guess instead of                  19 benzene you are going to have some additional                  20 benefits of health and safety as well as                  21 sustaining, correct, sir?                  22 A. Yes.                  23 Q. So it wasn't just an environmental                  24 project. Maybe that was the objective, but as the                  25 consequences of the environmental improvements, I</p>

<p style="text-align: right;">Page 182</p> <p>1 suppose, you are going to have the additional                  2 benefits of some health and safety aspects?                  3 A. Very often and that was fantastic.                  4 Q. And in this case, that was going to                  5 happen, right?                  6 A. Yes.                  7 Q. But somewhere along the line y'all                  8 decided to -- I don't want to use the word kill,                  9 although it's been used before -- but I guess                  10 eliminate several portions of the Clean Stream                  11 projects or put on hold several portions of the                  12 Clean Streams project?                  13 A. Yes, sir.                  14 Q. Now, there were several options --                  15 MR. BOND: Ready to go for a                  16 break?                  17 THE VIDEOGRAPHER: Off the record                  18 at 3:43 p.m., ending Tape 4.                  19 (Recess taken.)                  20 THE VIDEOGRAPHER: On the record                  21 at 3:55 p.m., beginning Tape 5.                  22 Q. (BY MR. BOND) And again, going back to                  23 the safety health issues with regard to the Clean                  24 Streams and sustaining aspects that were checked                  25 off, the F20, are you familiar with the F-20</p>	<p style="text-align: right;">Page 184</p> <p>1 capacity like a knockout drum or something like                  2 that.                  3 Q. (BY MR. BOND) And I think in this case                  4 you had possibly an emergency system only, is what                  5 I believe you had kind of earmarked it for. I will                  6 show you page 20 of one of the exhibits. I think I                  7 have one of the exhibits.                  8 MR. BROWN: Which exhibit is that?                  9 MR. BOND: I am going to go back                  10 to it. 113.                  11 Q. (BY MR. BOND) And it looks like you were                  12 going to, with this Clean Streams project, kind of,                  13 convert that to an emergency use only. Was that                  14 the goal?                  15 A. Yes, and as part of Clean Streams, the                  16 idea was taking out those streams that were there                  17 either for maintenance or had been routed there on                  18 some continuous basis and put them into a                  19 controlled system and then that result and the                  20 blowdown system would be just for relief valve                  21 protection, and I am sure that's what that is                  22 referencing there.                  23 Q. Now, you indicated that y'all -- when did                  24 you get there at BP Texas City in your position                  25 that you currently hold?</p>
<p style="text-align: right;">Page 183</p> <p>1 blowdown stack?                  2 A. Yes, I am.                  3 Q. Are you familiar that the -- how badly it                  4 was corroded?                  5 MR. BROWN: Objection, form.                  6 A. No.                  7 Q. (BY MR. BOND) Are you familiar with the                  8 fact that the quench system didn't work?                  9 A. I read that in the report.                  10 Q. Okay.                  11 A. I was unaware of that until I read that                  12 in the report.                  13 Q. And part of this, I guess, rerouting it                  14 from the blow stream -- or blowdown stack to a                  15 flare system would kind of alleviate the need for                  16 any kind of replacement of the blowdown stack                  17 because it, kind of, performed a sustaining aspect                  18 of the Clean Streams project?                  19 MR. BROWN: Objection.                  20 Q. (BY MR. BOND) Am I right on that aspect                  21 of it?                  22 MR. BROWN: Objection, form.                  23 A. Clearly re-routing that relief system to                  24 a flare eliminates the need at all for the F-20                  25 unless you were going to use it in some other</p>	<p style="text-align: right;">Page 185</p> <p>1 A. It was in third quarter of 2002.                  2 Q. And about that time y'all were going                  3 through a crisis mode financially wise with BP.                  4 Do you recall that?                  5 MR. BROWN: Objection, form.                  6 A. I don't know what you mean by "crisis                  7 mode."                  8 Q. (BY MR. BOND) Okay. What I --                  9 A. The profitability that you saw in the                  10 A.T. Kearney says that recent history of financial                  11 performance was under expectation for the BP                  12 refinery.                  13 Q. So what does that mean? Y'all made only                  14 a certain amount of billions of dollars as opposed                  15 to X amount of billions?                  16 A. Well, we made --                  17 MR. BROWN: Objection, form.                  18 A. We made no billions. It meant that the                  19 earnings that we had from that plant were low                  20 relative to the amount of capital employed that was                  21 invested in that plant.                  22 Q. (BY MR. BOND) So, basically, not                  23 necessarily BP was hurting; but that plant wasn't                  24 living up to their expectations, so to speak?                  25 A. The business unit concept inside of BP is</p>

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1 set up to have each of the business units basically  
 2 perform as a business on its own.  
 3 Q. I am going to show you a little  
 4 Exhibit this is going to be 188. It looks like  
 5 this was October 25th of 2002, and I am going to  
 6 show you right here where it talks -- in the second  
 7 paragraph, it talks about the issues, I guess, you  
 8 were having at Texas City.  
 9 Do you see that?  
 10 A. We have modified the note...  
 11 Q. Read that for a second.  
 12 Do you recall that going on at  
 13 that time?  
 14 A. When I arrived, clearly the plant had not  
 15 had good performance operationally or financially,  
 16 so I don't remember a request to enter crisis mode.  
 17 I think that's probably Bob's interpretation of  
 18 that.  
 19 Q. You know Bob, right?  
 20 A. Yes, I do.  
 21 Q. You worked with Bob, right?  
 22 A. Bob worked for me for a period of time.  
 23 He was in the West Plant MDL role when I got there,  
 24 and ultimately I replaced him with Willie Willis.  
 25 Q. Why did you replace him?

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1 A. Bob was a part of a high potential  
 2 program for BP and that normally meant after  
 3 nominally 18 months in an assignment he was then  
 4 reassigned. And so his time ended relatively  
 5 shortly after I got there. I can't remember  
 6 exactly and he was then moved back to London  
 7 leaving that position open.  
 8 Q. All right. Now, you got there in the  
 9 third quarter of 2002. You indicated before and  
 10 you've read and you know that prior to the  
 11 acquisition of BP of Amoco the plant had been --  
 12 the infrastructure had been allowed to deteriorate  
 13 quite a bit. You understand that, correct?  
 14 A. The infrastructure as I viewed it when I  
 15 got back to the site was below my expectation of  
 16 where it should be.  
 17 Q. That was in 2002?  
 18 A. Yes.  
 19 Q. Okay. In addition, around the 1999, 2000  
 20 timeframe, there was a 25 percent cut on the budget  
 21 that was mandated around Texas City. You  
 22 understand that, correct?  
 23 A. I saw that as a part of the A.T. Kearney  
 24 material.  
 25 Q. All right. And then on top of that you

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1 also had what was called challenges, correct, sir?  
 2 MR. BROWN: Objection, form.  
 3 A. By challenge you mean plant, plant  
 4 challenges?  
 5 Q. (BY MR. BOND) Budget challenges. Say,  
 6 you know, you've got a budget. You issue it and  
 7 then I guess y'all had a group meeting or something  
 8 and then y'all challenged? Say the budget was  
 9 30 million, you tried to cut it by 10 percent?  
 10 MR. BROWN: Objection form.  
 11 A. As part of the normal planning process  
 12 there is a challenge component as a part of that  
 13 process which is a normal part of the planning  
 14 process, and I think a healthy part of the planning  
 15 process.  
 16 Q. (BY MR. BOND) I understand, but that's  
 17 on top of the 25 percent cut on a plant that had  
 18 been allowed to deteriorate?  
 19 MR. BROWN: Objection, form.  
 20 A. If you look at the A.T. Kearney data --  
 21 Q. (BY MR. BOND) What is the A.T. Kearney  
 22 data?  
 23 A. It's the Veba report.  
 24 Q. Y'all keep using these different  
 25 languages. Let's stick with just one so I

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1 understand what you are talking about.  
 2 A. Okay. I will try.  
 3 Q. Thank you.  
 4 A. In the Veba report if you look at the  
 5 spending level in the '99, 2000 level, they were  
 6 well below where it was in the 2002, 2003  
 7 timeframe. And so we weren't trying to challenge  
 8 beyond those very low levels of spending. That's  
 9 not a true statement. We were -- as a part of the  
 10 planning process, we were always went through a  
 11 challenge process in terms of what we had submitted  
 12 for the coming year.  
 13 Q. Well, you say that; but you know you can  
 14 have different aspects of a budget. So just  
 15 because you are spending so much, maybe a little  
 16 bit more than you were in 2002 than you were in  
 17 '99, you are comparing apples to oranges. When you  
 18 have a 25 percent budget cut like BP did, that  
 19 budget cut remained in place. Nobody took that  
 20 budget cut off, correct?  
 21 MR. BROWN: Objection, form.  
 22 A. If you looked at total spending, no. The  
 23 budget and the spending went back up from those  
 24 lows in '99, 2000.  
 25 Q. (BY MR. BOND) But y'all could have been

<p style="text-align: right;">Page 190</p> <p>1 spending it on something different or a different                  2 aspect of the budget. Just because spending has                  3 gone up doesn't mean the budget hasn't, in                  4 relation, stayed the same, the 25 percent reduction                  5 of what it was in, let's say, 1998?                  6 A. I am sorry. I don't understand how you                  7 reached that conclusion.                  8 Q. Well, what you have is you have the --                  9 you have the infrastructure that was allowed to                  10 deteriorate prior to the acquisition, correct, sir?                  11 A. Prior to the acquisition, I don't know                  12 of -- I was not in Texas City for about a decade.                  13 All I can tell you is that when I got there in 2002                  14 the state of the infrastructure was below what I                  15 thought was an acceptable standard.                  16 Q. Did y'all fix things right away?                  17 A. We started on things right away. So we                  18 had started --                  19 Q. Like Clean Streams?                  20 A. Clean Streams started right away as well                  21 in response to an environmental issue.                  22 Q. And what did y'all --                  23 A. The piping integrity project which                  24 started before I got there was a spending -- was                  25 set up as a five year spending program to improve</p>	<p style="text-align: right;">Page 192</p> <p>1 These other projects that had identified that may                  2 have other benefits are great projects. We're                  3 going to put them on the shelf; and they will be                  4 looked at separately and funded separately as --                  5 you know, as time and resources allow us to get to                  6 those -- to those other issues.                  7 But what was immediate and had to                  8 be addressed quickly was this compliance.                  9 MR. BOND: Objection,                  10 nonresponsive.                  11 Q. (BY MR. BOND) You had the Clean Streams                  12 project that you set out to do certain things and                  13 that project was scaled back, correct, sir?                  14 MR. BROWN: Objection, form.                  15 A. No, the project --                  16 Q. (BY MR. BOND) It wasn't?                  17 A. -- that was set out that was defined                  18 initially is -- was the project that I reigned the                  19 scope back to when I made my intervention.                  20 Q. Oh, good. So that means that the ISOM                  21 unit had the -- was routed to the flare system?                  22 A. No.                  23 Q. That means the ISOM blowdown F-20 was                  24 only used as an emergency blowdown, right?                  25 A. No.</p>
<p style="text-align: right;">Page 191</p> <p>1 the piping infrastructure and then in my work with                  2 Bill Frink and his team we defined the South                  3 Houston infrastructure for Tomorrow project which                  4 was again a multi-year capital improvement project                  5 to begin to address some of the issues around                  6 infrastructure that I saw and that Bill Frink saw                  7 that we were unhappy with.                  8 Q. Okay. And all those projects you                  9 started, we know Clean Streams was cut back, right?                  10 A. Clean Streams, and that project started                  11 at a number, I don't remember, in the 30 or                  12 40 millions. As that project team worked and as                  13 they brought more things into scope, it grew to                  14 somewhere in the range of a hundred million                  15 dollars. This was from -- going from appraised to                  16 defined.                  17 As chief gatekeeper, I intervened                  18 in that process; and this creates the comments                  19 about killing the project. They were not killed.                  20 What I did in my intervention was say -- tell that                  21 team that the immediate objective that we had as a                  22 part of that project was to get in compliance.                  23 That was required by law.                  24 We had made a commitment to the                  25 EPA to get into compliance as quickly as possible.</p>	<p style="text-align: right;">Page 193</p> <p>1 Q. Okay, then.                  2 So you can kind of look at this --                  3 I mean, I am not that bright; but it looks to me                  4 like you had a certain project that had certain                  5 things that you were going to do and that project                  6 got cut back. Because the ISOM unit wasn't routed                  7 to a flare, was it, sir?                  8 A. No, the ISOM was not routed to a flare.                  9 Q. And the F-20 blowdown stack was not used                  10 in emergency situations only, was it, sir?                  11 A. No.                  12 Q. Okay. And that was part of the blowdown                  13 stack status that we have in one of your                  14 presentations, correct, sir?                  15 MR. BROWN: Objection, form.                  16 A. So the understanding that I don't seem to                  17 have communicated well is --                  18 Q. (BY MR. BOND) That's because --                  19 A. -- the objective of the project was to                  20 get in compliance. And we were going to do a                  21 sufficient number of projects to achieve that                  22 compliance in the initial scoping of what could be                  23 done the project team was holistic around the list                  24 of options. And that was fine. That was good of                  25 them to do that.</p>

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1 But at the end of the day, we  
 2 needed to do the projects that were required to get  
 3 in compliance, not to do all of the projects.  
 4 Q. Are you finished?  
 5 A. Yes.  
 6 MR. BOND: Objection,  
 7 nonresponsive.  
 8 Q. (BY MR. BOND) You say that was the  
 9 objective. But you have got here checked off on  
 10 the project type, you've got health and safety,  
 11 which is a fundamental project objective from this  
 12 Clean Streams, and you have sustaining, correct,  
 13 sir?  
 14 A. You are referring to the --  
 15 Q. To the decisions support package, yes.  
 16 A. -- pipestill, the pipestill project?  
 17 In that case, that is exactly what  
 18 that project accomplished.  
 19 Q. Did you finish? Did you do all of it?  
 20 A. The pipestill project?  
 21 Q. Uh-huh.  
 22 A. To my recollection.  
 23 Q. Are you sure?  
 24 A. I can't recall exactly, but I thought  
 25 that project was complete.

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1 Q. All right. Now, when you -- you keep  
 2 referring to this, "Well, I just wanted to scale  
 3 back the benzene," but you have got it here marked  
 4 as health and safety on each of the pipe skills  
 5 project -- pipestill project.  
 6 And you met with a lot of  
 7 resistance when you tried to scale back the Clean  
 8 Streams project, too, correct, sir? The people  
 9 weren't really happy on team about it?  
 10 MR. BROWN: Objection --  
 11 Q. (BY MR. BOND) Are you aware of that or  
 12 not aware of it?  
 13 MR. BROWN: Objection, form.  
 14 A. I am aware that some people were unhappy  
 15 and some people were extremely happy feeling that  
 16 the project -- some people felt that the project  
 17 team had gone beyond their remit and were creating  
 18 their own project scope. The project -- many of  
 19 the project team members were disappointed in my  
 20 decision, yes.  
 21 Q. (BY MR. BOND) Okay. Now, Dell Harmond,  
 22 he was on your project team, correct, sir?  
 23 A. Dell Harmon?  
 24 Q. I may be having it wrong. It's D-a-h --  
 25 I know it's Don. Maybe it's Don.

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1 A. Harlan?  
 2 Q. Harlan. I am sorry. You are right.  
 3 A. Yes.  
 4 Q. David.  
 5 A. David Harlan.  
 6 Q. All right. I apologize for that. There  
 7 a couple of Dells in here, too, and there is a  
 8 Harmon; so I get them confused.  
 9 Well, he's kind of saying we're  
 10 not drifting from the project scope? Doesn't he  
 11 say that in his little e-mail to you, sir?  
 12 He said it couldn't be further  
 13 from the truth that they were drifting from the  
 14 scope of the project, true?  
 15 A. That's what he says, yes.  
 16 Q. Okay.  
 17 A. Others did not share his opinion.  
 18 Q. Well, he was the project -- you appointed  
 19 him as the project, what?  
 20 A. Project manager.  
 21 Q. Okay. He was the guy over the project?  
 22 A. Yes.  
 23 Q. He was the guy leading the project,  
 24 correct?  
 25 A. Yes.

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1 Q. He was the guy that was going to oversee  
 2 routing the ISOM to a flare system, correct, sir?  
 3 A. I don't recall seeing that scope ever in  
 4 any of the projects that I looked at.  
 5 Q. You don't recall seeing the --  
 6 A. That the Clean Streams was going to route  
 7 it to a flare.  
 8 The project that I put on hold was  
 9 a maintenance drum project.  
 10 Q. There were several options you had to --  
 11 are you aware of the different options you had to  
 12 do with the Clean Streams project?  
 13 A. I am aware that the project teams would  
 14 look at multiple options in a way to solve the  
 15 benzene problem on a given unit. So those options  
 16 could vary in different cases.  
 17 So in the example in the one you  
 18 showed me, in the pipestill 3A, it was elimination  
 19 of that blowdown because that's what the project  
 20 team came to the conclusion that that was the most  
 21 expeditious way for us to get to the -- to that  
 22 solution. The project that I put on hold at the  
 23 ISOM was a maintenance drum, which is another  
 24 technique that we used at several units to  
 25 eliminate those benzene streams from an atmospheric

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1 system to a controlled system where the benzene  
 2 emissions could be controlled.  
 3 Q. And where does the maintenance drum go  
 4 from there, sir? Where do you -- I mean, you don't  
 5 just keep it in a contained system? It has a place  
 6 to vent off, right, from the maintenance drum?  
 7 A. Yes. The maintenance drum to -- I can't  
 8 remember the details of the maintenance drum, if  
 9 it -- if it went to a flare or went to a carbon  
 10 canister system. I don't know.  
 11 Either would have been acceptable.  
 12 Q. The maintenance drum goes to a flare,  
 13 correct, sir?  
 14 A. I can't recall the details of that  
 15 design. That is one way to control the emissions.  
 16 Q. And you --  
 17 A. Another way to control the emissions is  
 18 to go to a carbon canister system. I just can't  
 19 remember --  
 20 Q. Well, what was the plan for the Clean  
 21 Streams project with the ISOM unit? Were you going  
 22 to go to a maintenance drum and go to a flare or  
 23 not?  
 24 A. I can't remember.  
 25 Q. Now, this is from George Matar. You are

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1 aware of who he is, correct, sir?  
 2 A. I didn't until earlier. I was told he  
 3 was an S&B engineer.  
 4 Q. All right. And where are they going to  
 5 divert the ISOM to, sir, in Option 1?  
 6 A. That's to look at to diverting it to AU2  
 7 flare.  
 8 Q. Now, again, we talked about the scope;  
 9 and Mr. Harlan, your project manager, disagrees  
 10 with you when he says that they were exceeding the  
 11 scope, correct, sir?  
 12 A. That's what he says in that letter, yes.  
 13 Q. And where is he now?  
 14 A. I don't know. I assume he's still in  
 15 Texas City, but I am not sure.  
 16 Q. Did you discuss with him his feelings in  
 17 that letter?  
 18 A. Yes, I did on several occasions. And my  
 19 point to David is that the projects they had  
 20 defined were good projects. They had defined many  
 21 projects that would help us achieve long term  
 22 aspirations like putting no oil to the sewer, but I  
 23 had exercised my remit as gatekeeper to make sure  
 24 that the scope of the program, all of the projects  
 25 collectively, delivered for ourselves as quickly as

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1 possible compliance with the benzene NESHAP's  
 2 regulation.  
 3 Q. At the lowest possible cost?  
 4 A. That's always an objective in projects is  
 5 to accomplish the objective at the lowest cost.  
 6 Q. How much money did BP save by cutting  
 7 back this Clean Streams project?  
 8 MR. BROWN: Objection, form.  
 9 A. Well, the -- you say "save."  
 10 Q. (BY MR. BOND) Yes, save.  
 11 A. The direction I gave to the project team  
 12 was these were projects that would be -- go forward  
 13 in our capital plan on a different priority basis.  
 14 So, in essence, if you looked at the capital plan,  
 15 nothing was saved. The profile of spending would  
 16 have been different.  
 17 Q. So why don't you just do it, then? I  
 18 mean, if you are not going to save any money, or  
 19 are you just deferring the money or what are you  
 20 doing? I mean, you can talk about it in all kinds  
 21 of ways and say, "I'm not saving a nickle," but we  
 22 all know you did -- I mean or BP did. I mean,  
 23 that's why you cut back the project.  
 24 So my question to you is: In  
 25 layman's terms, how much money did BP save by

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1 cutting back the Clean Streams project?  
 2 MR. BROWN: Objection, form.  
 3 A. Well, I will repeat. Savings implies  
 4 that it's money that was never going to be spent,  
 5 and that wasn't the intent. The intent was these  
 6 were -- the project scope that had been deferred  
 7 was that. It was to be deferred until further in  
 8 the plan.  
 9 There is a value of deferring  
 10 non-return capital, just the time value of money.  
 11 But outside of that, the dollars in the capital  
 12 plan were to be moved forward.  
 13 Q. (BY MR. BOND) But the money didn't have  
 14 to be spent on your watch, and that was important  
 15 to you?  
 16 MR. BROWN: Objection, form.  
 17 A. What was important to me is that we got  
 18 into compliance and that we had the scope of  
 19 projects something that we could manage as the  
 20 site.  
 21 Q. (BY MR. BOND) My question is: The money  
 22 didn't have to be spent on your watch, right?  
 23 MR. BROWN: Objection, form.  
 24 Q. (BY MR. BOND) I mean, if you are  
 25 deferring to somebody else you are giving the

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1 problem to someone else, right?  
 2 A. It's --  
 3 Q. You are just handing this problem off to  
 4 the next guy, the guy taking your job, right?  
 5 A. No, I don't agree with that assertion.  
 6 Q. Well, what are you doing when you say you  
 7 are deferring it?  
 8 A. Yes.  
 9 Q. Are you deferring it to the next guy?  
 10 A. I am deferring it to a point where the  
 11 spin profile says that we can manage it with the  
 12 resources and the capability that we have on site.  
 13 If you looked at some of the earlier A.T. Kearney  
 14 projections and the capital spend, a big dilemma  
 15 for the site is when you have these huge spikes in  
 16 capital spending and this was a huge amount of  
 17 money to do to execute in a -- what amounted to an  
 18 emergency basis. That was inappropriate. We  
 19 shouldn't have been doing that; and I intervened,  
 20 as I should have, to stop that from happening.  
 21 Q. Basically what happened was you deferred,  
 22 at least according to your notes here, \$83 million  
 23 to complete the project, correct, to somebody else?  
 24 MR. BROWN: Objection, form.  
 25 A. No. So that note doesn't say that. What

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1 it said is, if you look at the original scope of  
 2 the project with the initial estimate of 6 million,  
 3 it had grown to this massive thing of 89 million.  
 4 And I don't recall what the number was that I cut  
 5 it back to. It was well above 6 million, that then  
 6 just met the original intent of getting us in  
 7 compliance.  
 8 So there was a deferral of spend,  
 9 but it was not the difference of those two numbers.  
 10 It was far less than that.  
 11 Q. (BY MR. BOND) Well, what was it, then?  
 12 Was it 50 million? Was it 60 million?  
 13 A. Well, I can't remember exactly; but it  
 14 was probably less than half of that 89.  
 15 Q. And you know, or I assume you know, that  
 16 it only cost \$150,000 to run the line from the ISOM  
 17 to the flare system?  
 18 A. I have no idea. What I know is the  
 19 project team did not bring that recommendation  
 20 forward in their final Clean Streams project.  
 21 Q. Well, their recommendation was to  
 22 complete the project?  
 23 A. The maintenance drum project.  
 24 Q. And the maintenance drum -- from the  
 25 maintenance drum, where is it going to run again?

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1 A. You say it goes to the flare, but the  
 2 relief valves don't go to the maintenance drums.  
 3 So whether it goes to the flare or whether it goes  
 4 to a carbon canister system which is equally viable  
 5 to control benzene emissions, the relief valve  
 6 systems in that project continued to go to the  
 7 blowdown stack.  
 8 Q. Now, the relief valve systems that we are  
 9 talking about, you know and are aware that a relief  
 10 valve study hadn't been done in 20 years? Are you  
 11 aware of that?  
 12 A. I read the information in the report that  
 13 there was a recommendation to revisit the relief  
 14 valve study. I can't remember exactly when the  
 15 previous study had been done.  
 16 Q. '86. Is that acceptable in your book,  
 17 having 20 years go by before you do a relief valve  
 18 study?  
 19 A. If there's no reason to do a -- redo a  
 20 relief valve study and the original study, there is  
 21 no reason to assume it is incorrect and you have  
 22 not made changes which should be managed through  
 23 your management of change, I wouldn't say that you  
 24 necessarily need to redo the relief valve study.  
 25 Q. Are you aware that OSHA required that

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1 they be done by '97?  
 2 A. They be done by '97?  
 3 Q. Right.  
 4 A. By 1997?  
 5 MR. BROWN: Objection, form.  
 6 Q. (BY MR. BOND) Yeah, that's, right.  
 7 A. Was this a part of --  
 8 Q. Process safety standard?  
 9 A. Process safety standard, OSHA 1910?  
 10 Q. Yeah.  
 11 A. I didn't recall it specifically; but if  
 12 it was required, I am sure it was in our plans.  
 13 Q. But it never got accomplished. Do you  
 14 know why?  
 15 A. No, I don't know why.  
 16 Q. Is that acceptable?  
 17 MR. BROWN: Objection, form.  
 18 A. It's not acceptable that things that are  
 19 required by standards are not delivered.  
 20 Q. (BY MR. BOND) Did y'all ever do any kind  
 21 of process hazard analysis when y'all decided to  
 22 put on hold major portions of the Clean Streams  
 23 project?  
 24 MR. BROWN: Objection, form.  
 25 A. Process hazard analysis, part of the

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1 project process we would do those analysis with the  
 2 execution of the projects. So to a decision to not  
 3 do that project and leave the unit in existing  
 4 condition wouldn't mean that you would -- that you  
 5 would not initiate a process hazard analysis.  
 6 Q. (BY MR. BOND) So did y'all, or did y'all  
 7 not do one in this case?  
 8 MR. BROWN: Objection, form.  
 9 A. For the ISOM?  
 10 Q. (BY MR. BOND) Uh-huh.  
 11 A. There was...  
 12 Q. Before y'all narrowed the Clean Streams  
 13 project excluding the maintenance drum as well as  
 14 the tying in to the flare system?  
 15 A. My understanding is they did a process  
 16 hazard analysis as a part of the project, the  
 17 benzene maintenance drum project at the ISOM.  
 18 Q. Did they do one when they decided to take  
 19 it away, what might happen?  
 20 A. Not to my knowledge, nor do I know why  
 21 they would do that.  
 22 Q. Now, I see here that you had to risk  
 23 manage this spending. When y'all -- when you use  
 24 the phrase "risk manage this spending," what risk  
 25 are you managing?

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1 A. The risk that you are managing is  
 2 compliance with benzene NESHP. So in the rule,  
 3 we're allowed 2 mega gram, I believe, is the number  
 4 of benzene, uncontrolled benzene emissions in a  
 5 calendar year. Those -- those come from many  
 6 sources, including maintenance activities, that  
 7 sort of thing.  
 8 The objective of the project was  
 9 to allow us to be in compliance with a reasonable  
 10 level of assurance so the risk that we are talking  
 11 about here is the risk that you are not going to be  
 12 in compliance or that things happen outside of the  
 13 project as defined so that you then become  
 14 non-compliant.  
 15 Q. So you are protecting your permit rather  
 16 than protecting your employees?  
 17 MR. BROWN: Objection, form.  
 18 Q. (BY MR. BOND) That's what you are doing  
 19 here. You are risk managing your permit rather  
 20 than risk managing your employees?  
 21 A. I don't agree with that.  
 22 Q. Well, tell me where I am wrong.  
 23 A. Well, the project was about compliance;  
 24 and that's what we were trying to do with the  
 25 project.

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1 Q. Well, the project, also, as you noted in  
 2 Exhibit 111, also had health and safety issues as  
 3 well as sustaining issues. And when you see the  
 4 F-20 blowdown stack, the quench system doesn't  
 5 work, it is corroded beyond belief, you understand  
 6 why. It has sustaining issues. And given the fact  
 7 that 15 people died as a result of liquid  
 8 hydrocarbons coming out of the F-20 blowdown, you  
 9 can see where some safety issues might jump in,  
 10 too.  
 11 So you keep saying this is an  
 12 environmental project, but Exhibit 111 demonstrates  
 13 that y'all had other considerations in addition to  
 14 environmental, which were health and safety and  
 15 which were sustainable.  
 16 A. What --  
 17 Q. I mean, that's what y'all wrote?  
 18 A. Yes, and what --  
 19 Q. It's your paperwork, not mine.  
 20 MR. BROWN: Objection, form.  
 21 A. What that demonstrates to me is that some  
 22 of those projects would have sustaining benefits.  
 23 Some of those projects would have additional health  
 24 and safety benefits.  
 25 Q. (BY MR. BOND) And in this case --

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1 A. And that's fantastic.  
 2 Q. In this case --  
 3 A. It's a wonderful outcome when you  
 4 accomplish your objective while additionally  
 5 delivering incremental value.  
 6 Q. In this case with the ISOM unit, given  
 7 what we know what happened and given the condition  
 8 of the F-20 blowdown, we would have health and  
 9 safety benefits as well as sustaining benefits from  
 10 this project, correct, sir?  
 11 A. From the --  
 12 MR. BROWN: Objection, form.  
 13 A. From the maintenance drum project.  
 14 Q. (BY MR. BOND) Which diverts into a  
 15 flare, but go ahead.  
 16 MR. BROWN: Objection to form.  
 17 A. Regardless, it would have resolved the  
 18 benzene emission issue. That would not have  
 19 addressed any of the sustaining issues that you are  
 20 talking about or alluding to.  
 21 Q. (BY MR. BOND) Well, the sustaining  
 22 issues are --  
 23 A. It wouldn't --  
 24 Q. The F-20 blowdown stack would have been,  
 25 I guess, diverted from the F-20 blowdown stack

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1 except in emergency situations. That would help  
 2 sustain that unit, correct, sir?  
 3 MR. BROWN: Objection, form.  
 4 A. The emergency situation referred to in  
 5 that project note is a relief valve situation. So  
 6 the -- the situation as existed at the tragedy,  
 7 I -- my opinion would have been no different had  
 8 the maintenance drum been there because the relief  
 9 valves would have gone to the same place.  
 10 Q. (BY MR. BOND) But do you remember that  
 11 Option Number 1 we talked about earlier?  
 12 A. Yes.  
 13 Q. Okay. If you used Option Number 1, that  
 14 wouldn't have occurred, correct, sir?  
 15 And I will refresh -- I will show  
 16 it to you again.  
 17 A. Yes, I remember the Option 1 which is  
 18 where they considered tying into a flare.  
 19 Q. Okay. If Option Number 1 had been used,  
 20 the scenario that you just talked about would not  
 21 have occurred, correct?  
 22 A. Certainly that -- the scenario of the  
 23 blowdown overfilling would not have occurred.  
 24 Q. It would have gone to a flare, correct,  
 25 sir?

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1 A. Yes, a significant event still would have  
 2 occurred.  
 3 Q. Well, you don't put trailers around  
 4 flares, do you?  
 5 MR. BROWN: Objection, form.  
 6 A. You should not.  
 7 Q. (BY MR. BOND) I mean, that's just  
 8 standard practice not to put trailers in flare  
 9 yards, correct?  
 10 A. You should not.  
 11 Q. So you wouldn't have 15 people right next  
 12 to where hydrocarbon might have been emitted,  
 13 correct?  
 14 A. You would not have had trailers around  
 15 the flare.  
 16 Q. If Option 1 had been used?  
 17 A. Yes, if Option 1 had been used.  
 18 MR. BOND: Pass the witness.  
 19 MR. BROWN: How much time left on  
 20 this tape?  
 21 THE VIDEOGRAPHER: We've got a  
 22 while. 28 minutes.  
 23 MR. COON: Do you want to jump in  
 24 now, take five? Let's take five.  
 25 THE VIDEOGRAPHER: Off the record

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1 at 4:29 p.m.  
 2 (Recess taken.)  
 3 THE VIDEOGRAPHER: On the record  
 4 at 4:32 p.m.  
 5 \* \* \*  
 6 EXAMINATION  
 7 Q. (BY MR. COON) Mr. Hale, we've taken a  
 8 brief recess and I had the opportunity to introduce  
 9 myself to you, but my name is Brent Coon. And I am  
 10 one of the court assigned leaders of our  
 11 plaintiff's BP steering committee which assist us  
 12 in preparing for trial by setting up depositions  
 13 and doing other discovery.  
 14 I also have the privilege of  
 15 representing a number of the individuals who were  
 16 hurt or who lost family members in this case  
 17 including the Rowes, the husband and wife, you may  
 18 recall, who were both killed out there. We do have  
 19 a trial setting in September, and I take it you are  
 20 aware of why you are here from what's already  
 21 happened today?  
 22 A. Yes, sir.  
 23 Q. I am going to go back over some of the  
 24 areas that we've talked about and pick up on some  
 25 details and also do some, what I call just fill in

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1 the gaps on things that may not have been picked up  
 2 as we had this shotgun approach to your deposition  
 3 with several interrogators today. Okay?  
 4 A. Okay.  
 5 Q. Going back over your background. You  
 6 told us some things about your history of work at  
 7 BP, but I didn't get a good flow for it.  
 8 Could you tell me first, where did  
 9 you go to school?  
 10 A. I went to school at Texas Tech in  
 11 Lubbock.  
 12 Q. You graduated about when?  
 13 A. 1974.  
 14 Q. What type of degree?  
 15 A. I had a math major with chemistry minor.  
 16 Q. And could you run through the history of  
 17 your jobs real briefly, both in and out of BP or  
 18 for other employees?  
 19 A. Yes. So I started at BP in 1975 as a --  
 20 what was called a computer specialist in the  
 21 process control group. So I was accountable for  
 22 hardware maintenance and basic software  
 23 development.  
 24 I progressed through the  
 25 engineering designation in that same field,

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<p>1 ultimately became a supervisor of process control                  2 in Texas City. From there I went to various                  3 operating positions and project management                  4 positions inside of BP Texas City.                  5 In the early '90s, I then                  6 transferred to the corporate office, the Amoco                  7 corporate office in Chicago, where I filled the                  8 position as a capital planner.                  9 Q. What does a capital planner do?                  10 A. A capital planner, in those days, had                  11 accountability for some refineries and was the                  12 capital development process was more centralized at                  13 Amoco than it is in BP. And so that person was for                  14 accountable in defining and beginning development                  15 of projects that would be installed in refineries                  16 that the plant was accountable for and then would                  17 carry those projects forward to the management                  18 committee for approval.                  19 Q. And with respect to capital budgeting                  20 would this be independent review of each particular                  21 business unit or were these decisions that were                  22 made, "Hey, we ought to get into this type of                  23 chemical process, or something, we have to build a                  24 unit. Where do we build the unit at?"                  25 A. Yes. It was a more centralized process</p>	<p>1 but I have some understanding of these issues from                  2 other persons we have deployed -- we have deposed.                  3 And as I understand, you have                  4 various different parts of your budget. You have                  5 capital expenditures, and then you have operational                  6 expenditure. They have been defined several                  7 different ways, but the things that it takes to                  8 keep everything going as is verses the thing it                  9 takes to bring in new construction or change                  10 existing facilities to, for instance, perform in                  11 some other manner, make some other product.                  12 Are there any other basic, I                  13 guess, breakdowns within the overall budget that                  14 you look at from a financial standpoint?                  15 MR. BROWN: Objection, form.                  16 A. There are certainly those two categories.                  17 There's a third category that we would call                  18 variable expense. And that's things like catalyst                  19 usage, like energy usage, those things that tend to                  20 vary with the operation of the plant. So the                  21 harder the plant runs the higher those costs are                  22 and so forth. So that's just the general                  23 categories of costs.                  24 Q. (BY MR. COON) From your experience                  25 working in capital budgeting in the early '90s and</p>
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<p>1 in Amoco. So that this -- most of the significant                  2 capital investment decisions were made in that                  3 central planning team. And there was decisions, so                  4 if the system needed additional hydrotreating                  5 capacity, for example, that group would decide does                  6 it go in refinery A, B or C and then push that                  7 project forward.                  8 Small capital decisions, there was                  9 a smaller pot of money given to each refinery and                  10 they were accountable for managing their own small                  11 capital projects under that system.                  12 Q. Did Amoco decide how much they would                  13 allocate each year for capital improvement                  14 projects, either additions to units, conversions of                  15 units or even construction of new units?                  16 A. Amoco had some general idea around                  17 investments. And those -- those tended to be a                  18 strategy at the time I was in planning, and I can                  19 only speak to that, a strategy of roughly keeping                  20 the capital employed that they had in their                  21 refineries flat, which meant that you were                  22 investing, basically, at a rate of depreciation so                  23 that the capital employed roughly stayed the same                  24 over a period of time.                  25 Q. Okay. Well, I'm not a financial wizard;</p>	<p>1 then later as a -- I am trying to remember. You                  2 don't call yourself it wasn't a business unit                  3 leader. You had another --                  4 A. It was performance unit leader, yes.                  5 Q. Performance unit leader. And was that                  6 some predecessor of what we have been calling the                  7 BUL as a result of the unique situation that Texas                  8 City South Houston?                  9 A. It was a position unique in the refining                  10 system to -- to Texas City because of these -- this                  11 South Houston structure.                  12 Q. Okay. We will talk a little bit about                  13 that more as well.                  14 But with respect to your role as a                  15 performance unit leader, in your experience, would                  16 you have an ability within your budgeting at a                  17 particular unit or group of units in the year that                  18 you are charged for it to move some of your dollars                  19 around? Say you have some capital expenditure                  20 allowances, then you have some fixed costs or                  21 variable expense cost, can you play with those                  22 numbers and move them around some to keep within                  23 the total spend of the unit?                  24 MR. BROWN: Objection, form.                  25 A. To a degree. There are some rules around</p>

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1 capital expenditures. So, for example, my -- my  
 2 delegated authority and capital expenditures was  
 3 \$10 million. Any single project that exceeded that  
 4 would have to go to London for approval. And, in  
 5 general, all projects had to be in the forward  
 6 annual plan.  
 7 Q. (BY MR. COON) "Forward annual" means  
 8 next years budget?  
 9 A. Yes.  
 10 Q. And who would you go to while you were  
 11 the PUL at Texas City with respect to those  
 12 budgetary considerations? Was that Hoffman or  
 13 Manzoni?  
 14 A. For the refinery, I would go to Hoffman  
 15 for -- for that annual plan approval.  
 16 Q. Now, what happened when you had  
 17 unexpected interruptions that modified your budget  
 18 for the year? Say you had an environmental  
 19 situation that you did not fully appreciate before  
 20 and the EPA comes out and says, "You've got to fix  
 21 this now" --  
 22 A. Yes.  
 23 Q. -- "or we're going to throw you in jail."  
 24 Who deals with it?  
 25 A. So it --

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1 Q. That's actually kind of happened before,  
 2 hasn't it?  
 3 MR. BROWN: Objection, form.  
 4 A. Certain things would come up; and I will  
 5 use as an example, Clean Streams. So when we made  
 6 the discovery of Clean Streams, it was not a part  
 7 of the next year's budget because it was a new  
 8 discovery. So in --  
 9 Q. (BY MR. COON) I hate to interrupt, but  
 10 sometimes I am going to need to get to you define  
 11 something.  
 12 Can you tell us what that just  
 13 meant, what you just said?  
 14 A. What I mean was here was an example of a  
 15 discovery we made. We in -- we're not in  
 16 compliance. It is going to require some capital  
 17 expenditures to bring us into compliance. That was  
 18 a new discovery, was not in the annual budget. So  
 19 in that case, what I did was make a special appeal  
 20 to Hoffman's team, his staff saying, "We have an  
 21 exception outside of the budget," something we  
 22 couldn't anticipate and requested additional funds  
 23 for that project which we received.  
 24 Q. Okay. So you turned in the budget for  
 25 the year and it includes the fixed, the variable

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1 and the capital budget for the fiscal year, what,  
 2 2002?  
 3 A. Yes.  
 4 Q. Was this when that came into place?  
 5 A. That process had been in place for years.  
 6 When I came in in 2002, the 2002 was already set.  
 7 The 2003 budget had -- had already been submitted  
 8 at the time I came to Texas City, but it was  
 9 established shortly after I got there for 2003.  
 10 Q. Okay. And how was it that you found out  
 11 while you were out there that you had a major  
 12 environmental issue that was going to require  
 13 immediate and major capital expenditure?  
 14 A. The HSE team was conducting a routine  
 15 self audit which they did periodically on different  
 16 things; and as a part of that self audit they made  
 17 this discovery, the details of which I don't  
 18 recall.  
 19 Q. And can you summarize for us in layman's  
 20 terms what this discovery was that was a violation  
 21 of the EPA's regulations mandating an immediate  
 22 fix?  
 23 A. Yes, I think I can. The discovery was  
 24 that we had sources of hydrocarbon containing  
 25 benzene going to what was called an uncontrolled

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1 system, and by uncontrolled, that meant the benzene  
 2 vapors were enabled to be emitted to the atmosphere  
 3 and these streams were not understood at the time  
 4 of the original project to control benzene  
 5 emissions or someone unwittingly had created these  
 6 between the time of the original project and 2002,  
 7 so that the total calculated volume of our  
 8 emissions over a year were going to exceed the  
 9 limit allowed by law.  
 10 Q. Do you have any idea how long this  
 11 undiscovered and uncontrolled system of benzene  
 12 releases had been going on?  
 13 A. I can't remember exactly it was sometime,  
 14 but --  
 15 Q. Years?  
 16 A. Some years, but had gotten worse as  
 17 identified by some projects that had been installed  
 18 in recent time. So I don't remember the details of  
 19 that, but it was clearly in the EPA documentation  
 20 that was sent to them upon our self discovery.  
 21 Q. And were you personally involved in the  
 22 negotiations with the EPA with respect to a cure  
 23 for this problem and the penalties that had been  
 24 attached?  
 25 A. I was not in those negotiations, no.

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1 Q. Who represented BP Texas City with  
 2 respect to the negotiations with the EPA regarding  
 3 the penalties, if any?  
 4 A. To my recollection it was Joel Robins,  
 5 the HSE manager.  
 6 Q. Was he the HSE manager on site at Texas  
 7 City at the time?  
 8 A. He was for BP South Houston which  
 9 included Texas City.  
 10 Q. And as a result of the capital  
 11 expenditure -- I'm sorry.  
 12 How much was that, again, the  
 13 capital expenditure for the Clean Streams project,  
 14 to get back into compliance with the EPA regs?  
 15 MR. BROWN: Objection, form.  
 16 A. I can't remember what that final number  
 17 was after the scope reduction. As you saw from the  
 18 one e-mail, it had climbed from initial estimates  
 19 of 6 million up to 89 million and then we reduced  
 20 the scope. It cut some tens of millions off of  
 21 that number, but I don't remember.  
 22 The resultant number was still a  
 23 sizeable number, very big number.  
 24 Q. (BY MR. COON) Within a ballpark  
 25 50 million, give or take, 10 million?

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1 MR. BROWN: Objection, form.  
 2 A. If I had to guess a number, I would guess  
 3 it was in the 50 million range.  
 4 Q. (BY MR. COON) Okay.  
 5 A. But I am sure it's in the document  
 6 somewhere.  
 7 Q. That's a pretty significant amount of  
 8 money even for BP, isn't it?  
 9 A. It's a big chunk of money, yes.  
 10 Q. And this was an amount of money that had  
 11 to be earmarked immediately to fix an unknown and a  
 12 recently identified problem area that had,  
 13 apparently, existed for some years?  
 14 A. Yes.  
 15 Q. And part of the sense of urgency  
 16 associated with making this capital expenditure on  
 17 such short notice was that, otherwise, the EPA  
 18 could invoke some rather serious sanctions on BP  
 19 and some of its officers, could they not?  
 20 MR. BROWN: Objection, form.  
 21 A. I don't know exactly what EPA's response  
 22 would have been. What I know clearly is that they  
 23 had an expectation that we address this urgently  
 24 and, as quickly as possible, bring ourselves back  
 25 in compliance.

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1 Q. (BY MR. COON) Okay. Did the EPA have  
 2 the ability to shut the facility down if they  
 3 believed that you were not doing what you needed to  
 4 do to get back into compliance?  
 5 A. I would suspect they would have some  
 6 recourse to do that. Actually, I don't know for  
 7 sure that they would have that authority.  
 8 Q. Okay. You do know that they had the  
 9 authority to put people in jail if they felt that  
 10 they were not in compliance and not doing enough?  
 11 MR. BROWN: Objection, form.  
 12 A. Well, I have read some cases where there  
 13 was certainly a -- or a possibility of, you know,  
 14 jail sentences in terms of, you know, certain  
 15 negligence around compliance, EPA compliance.  
 16 Q. (BY MR. COON) Okay. Well, that will --  
 17 I know it creates a sense of urgency if I know I  
 18 can go to jail if I didn't fix something. So did  
 19 you have a sense of urgency to fix it?  
 20 A. As I said, "Yes, it was a very urgent  
 21 thing for me and for the site. Not that I felt  
 22 personally threatened about going to jail, I would  
 23 not be honest to say that was true, but I felt very  
 24 much that being in compliance was one of our  
 25 operating dictates that we wanted to live by and we

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1 were not in compliance.  
 2 Q. Okay. Now, as I understand, when you  
 3 looked at what you needed to do to get into  
 4 compliance, you also looked at some expenditures  
 5 that could be made at that time prophylactically.  
 6 That is, that here are some things we can do now to  
 7 get us in compliance but we can also spend some  
 8 extra money to address things that we're probably  
 9 going to have to deal with later anyway.  
 10 Is that a fair statement?  
 11 A. As the --  
 12 MR. BROWN: Objection, form.  
 13 A. As the scope of the project team doing  
 14 their work, that's what we ended up with is a suite  
 15 of projects, some of which were absolutely required  
 16 for compliance. Some of which had other benefits,  
 17 other environmental benefits, that would help us  
 18 long term achieve our long term objectives.  
 19 Q. (BY MR. COON) And some of them had a  
 20 dual benefit of both an environmental benefit and  
 21 either getting into compliance with the EPA and  
 22 also taking care of the potential for additional  
 23 restrictions down the road; that is, the EPA could  
 24 get tighter on the restrictions and you can go  
 25 ahead and comply now so you don't have to do

<p style="text-align: right;">Page 226</p> <p>1 something later.                  2 That's one consideration, right?                  3 A. I would agree with that characterization,                  4 yes.                  5 Q. You don't want to be so short sighted                  6 that you ignore the likelihood of having to make                  7 additional accommodations to the regulatory                  8 agencies in the future, those that you can predict                  9 in the future?                  10 A. I would agree with that and it was a part                  11 of the risk based conversation that came up                  12 earlier.                  13 Q. And then there is also, with some of                  14 these projects the indirect benefit of safety where                  15 whatever changes you make are for the better with                  16 respect to reducing risk terms and increasing the                  17 safety of the plant? That's another -- sometimes                  18 an indirect benefit of those projects, correct?                  19 A. Yes.                  20 Q. And I suspect that even occasionally                  21 there are ways that, when you make modifications                  22 for environmental compliance, you actually capture                  23 product that's otherwise lost or create a system                  24 where the efficiency or productivity of the unit is                  25 actually better and you get a better return on</p>	<p style="text-align: right;">Page 228</p> <p>1 I had seen in one of the BP documents indicated                  2 that you actually ran an analysis on the likelihood                  3 of additional environmental restrictions coming                  4 into play that were going to mandate a shift of the                  5 ISOM vent system over to a flare in the future. Do                  6 you recall discussions of that nature as part of                  7 the Clean Streams?                  8 A. No, I don't recall that.                  9 Q. Okay.                  10 A. I would --                  11 Q. Okay. Well, we will see if we can find                  12 that document during one of the breaks. I don't                  13 want to bog down now.                  14 There is one in particular that                  15 said it was 80 percent likelihood that                  16 environmental restrictions would require                  17 modifications to a flare within the next five                  18 years, this five years being back in the 2002 Clean                  19 Stream timeframe.                  20 Do you recall hearing anything of                  21 that nature?                  22 A. No.                  23 Q. Do you know anything about Mr. Carter,                  24 irrespective of that information, making a decision                  25 to avoid that cost at the time because of the</p>
<p style="text-align: right;">Page 227</p> <p>1 investment?                  2 A. That can be a benefit, yes, sir.                  3 Q. And those would be categorized as other                  4 indirect benefits of the project?                  5 A. Yes.                  6 Q. And with respect to this Clean Streams                  7 project, one of the things that I understood from                  8 reading other documents is that there was                  9 consideration lent to going ahead and taking the                  10 ISOM vent stack and blowdown drum and running those                  11 over to a flare?                  12 MR. BROWN: Objection, form.                  13 A. So the document that I was shown earlier                  14 indicated that that team looked at that. And in                  15 the way that those projects were executed, I was                  16 the chief gatekeeper. What I would -- the                  17 gatekeeper's, which were the managers over the                  18 respective areas, were to be working with the                  19 project teams to define what was the way to achieve                  20 the benzene emissions compliance on that particular                  21 unit. So that project team through that process                  22 came back on the ISOM with the conclusion that the                  23 most expeditious way for us to do that was this                  24 maintenance drum option.                  25 Q. (BY MR. COON) Well, the information that</p>	<p style="text-align: right;">Page 229</p> <p>1 financial constraints associated with the Clean                  2 Streams project?                  3 MR. BROWN: Objection, form.                  4 A. I don't understand Mr. -- Mr. Carter                  5 was -- I don't recall him being directly involved                  6 in Clean Streams.                  7 Q. (BY MR. COON) Okay. To your knowledge,                  8 Mr. Carter didn't have any say in any of the                  9 capital expenditures associated with Clean Streams?                  10 A. Well, I am confused because the Clean                  11 Streams project may have started right at the end                  12 of George's time at the plant. But fundamentally                  13 from the time I came into the plant, you know, I                  14 replaced Mr. Carter's job in the job I was doing.                  15 So I am surprised that George would have been a                  16 significant part of some of the Clean Streams                  17 conversation.                  18 Q. Do you know if decisions could have been                  19 made by Mr. Carter before your arrival that                  20 impacted some of the scope of the Clean Streams                  21 project?                  22 A. I don't know. If that happened, I don't                  23 know that.                  24 Q. Were you aware of PSS Number 6? That was                  25 done in place of BP -- I think it was a 1986 PSS</p>

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1 regarding substituting vent stacks to flares when  
 2 feasible?  
 3 A. That was highlighted in the investigation  
 4 report. I would not have remembered the number,  
 5 but I remember there was a process safety standard  
 6 on atmospheric vents.  
 7 Q. Okay. And in your position as PUL, you  
 8 are aware of Amoco's and then later BP's preference  
 9 for replacing vent stack with reliefs to atmosphere  
 10 to a flare when they could?  
 11 MR. BROWN: Objection, form.  
 12 A. The process safety standard as I recall  
 13 it after having read that was about for new builds  
 14 to put in flares no longer can put in blowdowns and  
 15 for existing units you should consider that if  
 16 there is going to be a significant or substantial  
 17 modification that would impact that blowdown  
 18 system, you should consider a flare system. That's  
 19 what I recall about the process safety standard.  
 20 Q. (BY MR. COON) Were you aware of that  
 21 process safety standard being in place while you  
 22 were the PUL at BP Texas City?  
 23 A. The process safety standard existed and  
 24 the intent with the merger was that we would make  
 25 those process safety standards apply universally --

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1 Q. Sure.  
 2 A. -- to all of the refineries.  
 3 Q. But you knew when you were out there in  
 4 this 2002 to 2004 timeframe that you had a number  
 5 of units that ran the flare and you still had some  
 6 older units that ran to a vent stack of some sort?  
 7 A. Yes, I was aware.  
 8 Q. Were you aware during the timeframe that  
 9 you were out there, again this is 2002 to 2004  
 10 timeframe that there did exist during your tenure a  
 11 process safety statement dealing with vent stacks  
 12 and substituting them to a flare when you could?  
 13 A. Yes, my recollection would have been,  
 14 although I couldn't have articulated in exact  
 15 words, but I knew we had that. I knew it was  
 16 prohibited with new builds and I knew that in  
 17 significant modifications that we should look at  
 18 flare systems.  
 19 Q. And you understood that there were two  
 20 purposes of that. One was the recognition that  
 21 vent stacks allowed hydrocarbons to relief to  
 22 atmosphere, which posed an environmental issue at  
 23 some level. You understood that?  
 24 A. Yes.  
 25 Q. And you also understood that shifting

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1 from a vent stack to a flare resolves some safety  
 2 considerations with respect to vapor clouds?  
 3 MR. BROWN: Objection, form.  
 4 A. That is not explicit in the process  
 5 safety standard; and in my experience, I didn't see  
 6 that particular incident as a particular -- as  
 7 particular risk in my experience.  
 8 Q. (BY MR. COON) You did read the fatal  
 9 report though before your testimony today, did you  
 10 not?  
 11 A. Yes, sir, I did.  
 12 Q. You knew that Mr. Mogford as a BP  
 13 representative none the less attributed a  
 14 significant, I guess, cause of the ISOM explosion  
 15 due to the failure to recognize inherently safer  
 16 systems for these releases and that is to go to a  
 17 flare as an inherently safer mechanism for  
 18 overflows or vapor releases as opposed to a vent  
 19 stack?  
 20 A. Yes, I read that written in the report.  
 21 Q. And I take it you don't dispute that  
 22 finding and those statements of fact?  
 23 A. I do not dispute that a flare system, a  
 24 remote flare system is an inherently safer relief  
 25 system device.

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1 Q. Were you aware that industry had  
 2 generally recognized from a technology standpoint  
 3 the benefits of a flare system and the utilization  
 4 of a flare system for a number of decades before  
 5 this explosion?  
 6 MR. BROWN: Objection, form.  
 7 A. I am sorry. I mean, we had flare systems  
 8 operating in the refinery for a number of  
 9 decades --  
 10 Q. (BY MR. COON) And, in fact --  
 11 A. -- prior to that explosion.  
 12 Q. In fact, since the 1960's, Amoco and BP  
 13 had routinely in new construction gone to a flare  
 14 as opposed to the --  
 15 A. Yes.  
 16 Q. -- somewhat antiquated technology of a  
 17 vent stack blowdown system?  
 18 MR. BROWN: Objection, form.  
 19 A. I was aware of that. Yes, that was our  
 20 construction standard.  
 21 Q. (BY MR. COON) And nonetheless when the  
 22 ISOM unit was built in 1984, they tied it in to a  
 23 pre-existing vent stack even though they could  
 24 build a flare in with it then? Are you aware of  
 25 that?

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1 MR. BROWN: Objection, form.  
 2 A. Well, I don't know the details around  
 3 that project. I know the ISOM was a unit  
 4 modification rather than a grassroots rebuild or  
 5 built.  
 6 Q. (BY MR. COON) Do you know how much of  
 7 the original equipment from the pre-existing unit  
 8 was utilized in the design of the ISOM unit?  
 9 A. No, sir, I did not.  
 10 Q. Do you know that one of the intents was  
 11 the redesign to convert this to the ISOM unit and  
 12 to continue to use a vent stack in 1984 was because  
 13 it would provide a grandfathering in to the  
 14 existing environmental regulations dealing with  
 15 releases of hydrocarbons to atmosphere?  
 16 MR. BROWN: Objection, form.  
 17 A. I have no knowledge of that.  
 18 Q. (BY MR. COON) Were you aware that in  
 19 1991, OSHA cited BP Texas City with respect to a  
 20 vapor cloud release of hydrocarbons to ground at  
 21 another unit from a vent stack?  
 22 A. No, sir, I do not recall that.  
 23 Q. Have you heard anything about that before  
 24 today?  
 25 A. I don't recall that, no.

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1 Q. Did you know an OSHA inspector named  
 2 Raymond Skinner? Did you ever have any dealings  
 3 with him?  
 4 A. No, sir, not that I recall.  
 5 Q. Have you ever heard that Mr. Skinner or  
 6 other OSHA representatives had come out and not  
 7 only cited -- not only cited BP Texas City as a  
 8 result of that release, but put specifically in  
 9 their citation that those vapor clouds formed an  
 10 explosion risk for those persons in the area. And  
 11 that a way of alleviating that risk would be to  
 12 transfer the vent stacks over to a flare system?  
 13 MR. BROWN: Objection, form.  
 14 A. No, sir, I am unaware of that.  
 15 MR. COON: I think it's time for  
 16 us to take a break.  
 17 THE VIDEOGRAPHER: Off the record  
 18 at 4:59 p.m., ending Tape 5.  
 19 (Recess taken.)  
 20 THE VIDEOGRAPHER: On the record  
 21 at 5:06 p.m., beginning Tape 6.  
 22 Q. (BY MR. COON) Okay. Mr. Hale, it might  
 23 would help me a little bit before I go into these  
 24 other documents to backtrack one more time is to  
 25 get a better understanding what you actually did to

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1 prepare for your deposition today in terms of  
 2 anything you looked at, anything that you were  
 3 summarized, any documents that you looked at or  
 4 read over to prepare your testimony. You told us  
 5 about the fatal report. You read it?  
 6 A. Yes.  
 7 Q. Anything else?  
 8 A. I read the notice of deposition.  
 9 Q. With the attached subpoena? Do you  
 10 recall the subpoena that was attached to it for  
 11 production?  
 12 A. Yes, but I think -- was that the one that  
 13 had the list of the items.  
 14 Q. Sure. Was it --  
 15 A. Yes. That was it.  
 16 Q. I'm sorry.  
 17 A. Those were the only documents that I  
 18 read; and outside of that, we just -- I had  
 19 conversations --  
 20 MR. BROWN: Objection. Don't talk  
 21 about what you talked about with lawyers, please.  
 22 I instruct the witness not to.  
 23 Q. (BY MR. COON) Okay. We would love to  
 24 know what you and your lawyers talked about, but we  
 25 are not allowed to do so unless BP waives that

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1 privilege and they have decided not to. So in  
 2 light of that, if you will just tell us the things  
 3 you looked at?  
 4 A. So the things I looked at were those two  
 5 documents that I told you about.  
 6 Q. Have you had any discussions with BP  
 7 management, other people that work out there today  
 8 or at some point in time in the past or even over  
 9 in London --  
 10 MR. BROWN: Objection, form.  
 11 Q. (BY MR. COON) -- about your deposition?  
 12 A. About my deposition?  
 13 Q. Yes, sir.  
 14 A. No, sir, I have not.  
 15 Q. Have you made an effort to go back and  
 16 talk to other people that were out at BP at the  
 17 time you were to refresh your memory about some of  
 18 the events that may have occurred or things of that  
 19 nature?  
 20 A. No, I have not.  
 21 Q. Have you been provided with any summaries  
 22 of testimony of other persons, or have you been  
 23 told what other persons have testified to in these  
 24 proceedings?  
 25 MR. BROWN: Objection, form, as

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1 far as discussions with attorneys, communications.  
 2 Q. (BY MR. COON) Only to the extent that --  
 3 I am not going to ask you to tell us what you were  
 4 told. But if an attorney has told you what other  
 5 people have said and you are utilizing that as a  
 6 basis of your memory, I think we are entitled to  
 7 know?  
 8 MR. BROWN: I am going to object  
 9 and instruct him not to answer anything that he has  
 10 been told by lawyers.  
 11 Q. (BY MR. COON) Have you been told what  
 12 other people have said?  
 13 A. Based on advice of counsel, I choose not  
 14 to answer that.  
 15 Q. Okay. Let me rephrase it more  
 16 specifically. Have you been told what anybody else  
 17 has said in these proceedings other than by an  
 18 attorney for BP?  
 19 A. No, I have not.  
 20 Q. So to the extent -- all right. Strike  
 21 that. I think we have gathered -- figured out.  
 22 Is there anything that you have  
 23 been told about any of these proceedings that are  
 24 impacting your testimony today?  
 25 A. No, sir. This is my testimony.

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1 Q. Have you read anything in the newspaper  
 2 about these events, particularly with the ISOM unit  
 3 and the explosion?  
 4 A. Yes, we -- BP has a summary of newspaper  
 5 articles and clippings that refer to BP. They  
 6 published those to their leadership, basically,  
 7 daily through the week; and naturally with my  
 8 association with BP Texas City, I looked for --  
 9 look for often anything relating to Texas City and  
 10 have read many, many articles.  
 11 Q. Has it been part of your required reading  
 12 at BP or something you have undertaken on your own?  
 13 A. No, it was my choice. That is optional  
 14 information for BP leadership.  
 15 Q. And have you looked at anything else like  
 16 the OSHA website for their investigation and  
 17 findings or the CSB with respect to their  
 18 investigation and findings?  
 19 A. There have been some communications  
 20 summaries from some of that that I have read, but I  
 21 have not gone to their web sites, specifically.  
 22 Q. Were you made aware of what the CSB  
 23 interim findings were?  
 24 A. Yes. I am not sure I can recall them. I  
 25 remember reading the interim -- interim report.

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1 Q. Was there anything that you recall from  
 2 reading that that struck you as really odd or  
 3 fundamentally flawed?  
 4 A. I can't recall the details of that. If  
 5 you will help me remember, I am happy to try to  
 6 recall.  
 7 Q. We have spent all day on all these  
 8 issues. I am just trying to pick your brain as to  
 9 what you might know off the top of your head.  
 10 A. I am sorry I can't recall the details of  
 11 that.  
 12 Q. I am sorry.  
 13 Nothing jumps out at you today as  
 14 something you read about the interim CSB findings  
 15 that you say, "Oh, Man, that is just way off base  
 16 there and that is just wrong"?  
 17 A. I can't recall specifically what they  
 18 said. I've focused my attention more on the BP  
 19 report.  
 20 Q. Okay. Anything that you have seen or  
 21 read with respect to the OSHA findings in this  
 22 matter that struck you as fundamentally flawed or  
 23 wrong?  
 24 A. Again, I don't recall the details of  
 25 that -- those findings, so I can't comment.

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1 Nothing comes to mind.  
 2 Q. You're aware that OSHA fined BP about  
 3 \$21 million for offenses that they attributed to  
 4 this explosion?  
 5 A. I don't know if that's --  
 6 MR. BROWN: Objection, form.  
 7 A. I don't know if that's the exact numbers.  
 8 I remember reading articles in the, you know,  
 9 newspaper summaries about OSHA, you know, having  
 10 fines to Texas City.  
 11 Q. (BY MR. COON) Were you involved in OSHA  
 12 fines in the years that you worked out at BP Texas  
 13 City?  
 14 A. I am trying to recall if any of those  
 15 happened while I was there.  
 16 I don't remember specifically any  
 17 fines while I was there, but there may have been.  
 18 Q. Mr. Hale, you were friends with Don  
 19 Parus, were you not?  
 20 A. I knew Don personally. We -- we had been  
 21 work colleagues before. I had known Don for many  
 22 years. We did not socialize, as such, together.  
 23 Q. Outside of the plant?  
 24 A. Right. We were at many functions  
 25 together because of our jobs, but I didn't

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1 socialize with Don Parus, specifically.  
 2 Q. Have you talked to Mr. Parus since the  
 3 explosion?  
 4 A. I did one time very early after the  
 5 explosion just to see how he was doing, but that's  
 6 the only direct conversation I had and then just a  
 7 couple of e-mail exchanges with him.  
 8 Q. Do you know where he is now?  
 9 A. No, sir, not specifically. I do not.  
 10 Q. Do you have any understanding as to what  
 11 happened to him after that explosion with respect  
 12 to his tenure and employment with BP?  
 13 A. Well, I know that Don was reassigned to  
 14 focus on the details of the investigation and  
 15 whatever he needed to do for himself personally in  
 16 terms of preparing himself for eventual legal  
 17 proceedings.  
 18 Q. Okay. Do you know what role he has  
 19 retained in the investigation?  
 20 A. I do not.  
 21 Q. Have you seen or heard of anything that  
 22 came by or through him with respect to the  
 23 investigation?  
 24 A. I do not. I really -- with the  
 25 investigation process I was not close to.

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1 Q. And how was it that you had an  
 2 understanding that Mr. Parus was reassigned to work  
 3 on the investigation?  
 4 A. My recollection was that was some of the  
 5 way it was communicated to us. I can't recall that  
 6 I have seen that in writing or anything but that  
 7 was my recollection of what was happening to Don.  
 8 Q. Did you know his replacement,  
 9 Mr. Maclean?  
 10 A. Yes, I know Colin.  
 11 Q. What type of dealings have you had with  
 12 Colin?  
 13 A. There have been more, I will call it  
 14 casual. I have known of Colin in different roles.  
 15 I know he -- when he was in purchasing in London we  
 16 had numerous conversations, and I have interacted  
 17 with him on numerous business functions.  
 18 Q. Okay. And we skipped a gap when we were  
 19 going over your work history. First, do you have  
 20 any kind of resume on you that just kind of  
 21 outlines educational and work experiences?  
 22 A. I don't have that with me. It's my  
 23 understanding that that was provided to counsel  
 24 from my records.  
 25 Q. It may have. I have not personally seen

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1 it, but we can dig through the records and maybe  
 2 find it.  
 3 Do you have what are called these  
 4 performance assessments? Do you have any of those  
 5 where you are appraised or reviewed about your work  
 6 quality year to year?  
 7 A. Again, those were part of the personnel  
 8 records which I understand have been provided to  
 9 counsel from my personnel records.  
 10 Q. Did you go through performance appraisals  
 11 while you were a PUL at Texas City from 2002  
 12 through '04?  
 13 A. Yes, I did.  
 14 Q. Who gave those to you?  
 15 A. Don conducted those with concurrence  
 16 of -- and input from either Mike Hoffman and/or Pat  
 17 Gower.  
 18 Q. Now, earlier you were talking to us about  
 19 how these budgets that came out of the business  
 20 units went to Mr. Hoffman for review?  
 21 A. Yes.  
 22 Q. And can you give us just kind of a big  
 23 picture issue of what it was that he would look at?  
 24 Did he just get a pile of numbers that dealt with  
 25 here is your capital expenditure projections?

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1 Here's -- did you have a wish list? Did everything  
 2 need to stay pretty much in conformance with your  
 3 numbers from the year prior?  
 4 Can you kind of give us an idea?  
 5 MR. BROWN: Objection, form.  
 6 A. Mike has a staff of people in London.  
 7 And they coordinate with the business units on a  
 8 multi-year planning process and then individually  
 9 on a single up coming year planning process, which  
 10 sets -- clearly sets the budget and the targets for  
 11 that coming year.  
 12 They look at trends over time from  
 13 the -- all of the refineries. They look at  
 14 collective spend and how that compares with  
 15 history. They look at absolute projected financial  
 16 performance and how that fits with their financial  
 17 framework and the forward strategy for refining.  
 18 And it's on that basis that they will make  
 19 recommendations to Mr. Hoffman and back to the  
 20 businesses about what we should have in our plans,  
 21 if they are appropriate, if they are too  
 22 aggressive, if they are not aggressive enough, that  
 23 kind of feedback.  
 24 Q. (BY MR. COON) And what would it be that  
 25 he would -- he and his team would actually look at

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1 each year? Would it be a wish list from the  
 2 business unit leader at a particular plant  
 3 segregated from the things that were fixed cost  
 4 from the year prior with a cost of living  
 5 adjustment, so to speak, to it?  
 6 A. The -- typically, the plant will have --  
 7 and it's varied through the years, but they'll have  
 8 sort of a base case, which is the things that you  
 9 must do as a site to sustain the operation and to  
 10 run safely and be in compliance. And then you're  
 11 allowed to offer a gross case, which highlights  
 12 opportunity projects that you see as a business and  
 13 those things that could enhance your business  
 14 competitiveness over time.  
 15 Q. And who formulates these growth  
 16 opportunities which, I guess -- first of all, those  
 17 would be capital improvements, would they not,  
 18 growth opportunities?  
 19 A. Yes, they would be. They --  
 20 Q. They would be captured under the Capex  
 21 budget?  
 22 A. Yes.  
 23 Q. And who made these recommendations to  
 24 Hoffman and his group with respect to Capex  
 25 expenditures?

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1 A. The ideas come into the center from the  
 2 business unit plans. Sometimes there's input from  
 3 some of the central teams. We have a refining  
 4 technology team, for example, that will work with  
 5 the businesses to help them generate these ideas  
 6 around future growth or competitive repositioning  
 7 options.  
 8 Q. And where are these refinery technology  
 9 teams located?  
 10 A. We have a group of people in Naperville  
 11 outside of Chicago and a group of people in London.  
 12 Q. Okay. So you have these specialists that  
 13 come in and meet with you and make recommendations?  
 14 A. Yes.  
 15 Q. That's your refining technology teams?  
 16 A. Yes, sir.  
 17 Q. And then you also have, I presume, some  
 18 degree of internal capabilities within a unit to  
 19 make some recommendations as well.  
 20 A. Yes, within a unit and within a site.  
 21 Typically, most of the businesses have some kind of  
 22 strategy team that help coordinate that -- those  
 23 ideas and forward looking plans.  
 24 Q. And BP Texas City or what was South  
 25 Houston at some point in time in there as well,

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1 where would that information come from? Who was on  
 2 the team or what department was involved?  
 3 A. There was a commercial manager that  
 4 worked for me as the performance unit leader and  
 5 within that team they would define the forward  
 6 plans working both through their strategy team as  
 7 well as the managers in the respective areas.  
 8 Q. And who was the commercial manager  
 9 performance unit leader for BP Texas City or South  
 10 Houston during your tenure?  
 11 A. The commercial manager initially was a  
 12 woman called Alicia Izarraraz.  
 13 Q. Where is she working now?  
 14 A. She is currently unemployed at the  
 15 moment. She, from Texas City, left to become the  
 16 Chocolate Bayou manager of works -- I forget what  
 17 they call them exactly.  
 18 But she -- so she was in Chocolate  
 19 Bayou at the time of the Innovene spin off. And as  
 20 a part of that, she was -- became part of Innovene,  
 21 ultimately Eneos. And I know her personally and  
 22 she called me the other day and said that she has  
 23 left Eneos.  
 24 Q. Did she say why?  
 25 A. She was not happy to be a part of the

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1 spin off, and she worked with them to help support  
 2 getting the plant where she thought it needed to be  
 3 and then resigned from that company with the intent  
 4 of looking for other opportunities in the industry.  
 5 Q. Does she still reside in the Texas City  
 6 area?  
 7 A. I believe so. To my knowledge, yes.  
 8 Q. Okay.  
 9 MR. COON: Before we are done,  
 10 could you get the spelling right on that?  
 11 Q. (BY MR. COON) Okay. And then after her  
 12 there was someone else?  
 13 A. After her there was a woman by the name  
 14 of Susan Dio who came into the commercial manager  
 15 role.  
 16 Q. She is still there?  
 17 A. She is currently at Texas City.  
 18 Q. Okay. Now that we have gone through the  
 19 capital expenditures, let's talk about the -- what  
 20 I am calling the fixed operation or sustaining  
 21 operation.  
 22 Did you have a particular word for  
 23 it?  
 24 A. Are you talking about the operating  
 25 expenses or the Revex as we often -- revenue

<p style="text-align: right;">Page 250</p> <p>1 expenses is what we would call them, yes.                  2 Q. It was called Revex?                  3 A. Revex.                  4 Q. Your acronym is R-e-v-e-x?                  5 A. Yes, as opposed to Capex.                  6 Q. Okay. And this is the money that is                  7 normally needed and budgeted for just the routine                  8 operational --                  9 A. Yes.                  10 Q. -- part of the plant? However much it                  11 costs to get the product and convert it into                  12 whatever product you are selling? And how much it                  13 cost for payroll? Things like --                  14 A. Yeah, payroll. It did not include the                  15 cost of crude because that is a huge number, but it                  16 was the other expenses that you would normally                  17 associate with running the business. So all of the                  18 supplies, all of the catalysts, all of the                  19 personnel costs, all of the maintenance costs.                  20 Q. Did crude fall into the variable?                  21 A. Crude was actually in the financial --                  22 it's part of what was considered gross margin,                  23 right. So it was the difference between what you                  24 paid for your -- your crude and you get for your                  25 product. That's sort of the start of the starting</p>	<p style="text-align: right;">Page 252</p> <p>1 year to year to operate a plant once you have been                  2 operating a while you have some consistency of                  3 operational costs?                  4 A. No, that really isn't true. There are                  5 some factors that can be significant differences                  6 primarily in a category we call turnarounds. And                  7 turnarounds were shutdowns that -- of large -- of                  8 cluster of units typically where you would consider                  9 it like an engine overhaul. You would shut                  10 everything down, go in, clean everything out,                  11 inspect it, repair things and bring it back up. In                  12 certain years that activity was very heavy and                  13 those costs would be significantly more than in                  14 other years.                  15 Q. So y'all didn't spread out the turnaround                  16 cost where you would get some stability or                  17 consistency with the annualized budget for them?                  18 MR. BROWN: Objection, form.                  19 Q. (BY MR. COON) A lot of peaks and valleys                  20 with respect to turnaround costs?                  21 A. This gets a little complicated, but with                  22 new accounting rules -- in the old days, those were                  23 allowed to be capitalized and so could be -- could                  24 be accounted for over time, as you suggest. With                  25 more recent accounting rules, they have to be</p>
<p style="text-align: right;">Page 251</p> <p>1 margin from which you then subtract all of your                  2 costs and then at the bottom you'll end up with a                  3 profit.                  4 So crude was in that sense not                  5 considered an expense. It was -- it was the                  6 difference between the crude and the products that                  7 generate the margin within which the business could                  8 then operate.                  9 Q. Okay. With respect to the Revex who was                  10 in charge at BP Texas City for putting those                  11 numbers together year to year?                  12 A. That process was done in an annual                  13 budgeting process. Normally, it would be led by                  14 the commercial manager; but depended very heavily                  15 on your managers in the respective areas along with                  16 your maintenance -- maintenance manager.                  17 Q. And who was the maintenance manager                  18 during your tenure?                  19 A. Andy Fiedler.                  20 Q. Would there be typically a consistency                  21 with respect to the numbers that would be turned in                  22 yearly for budget approval of the Revex?                  23 MR. BROWN: Objection, form.                  24 Q. (BY MR. COON) It would take about -- I                  25 am just guessing it doesn't take much different</p>	<p style="text-align: right;">Page 253</p> <p>1 expensed in the year that they occur. So in our                  2 current financial forecast, there are some                  3 significant peaks and valleys as required by that                  4 turnaround activity.                  5 Q. And is this something that is required by                  6 some governmental agency like the IRS, or is this                  7 something that BP has done as an adjustment to                  8 their accounting principles?                  9 A. No, it's international. We call it IFRS                  10 accounting standards. All of this is grown out of                  11 and been clarified resulting from things like                  12 Enron.                  13 Q. And about when did this transition occur                  14 in which turnaround costs were taken out of Capex                  15 and put into Revex?                  16 A. I can't remember exactly.                  17 Q. Was this before, during or after your                  18 tenure at BP Texas City?                  19 A. I think it was during when we made that                  20 change.                  21 Q. Are the turnaround costs separately                  22 identified in the Revex?                  23 A. Yes.                  24 Q. Okay. Other than turnaround costs would                  25 there typically be some significant level of</p>

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1 consistency with the analyzed budget projections on  
 2 the Revex?  
 3 A. There -- there should be some correlation  
 4 to what has happened in the previous year and in  
 5 the past. Exceptions can be and a good example of  
 6 that are the kind of things that we did with the  
 7 piping improvement, piping integrity project where  
 8 that was a significant sum of money incremental to  
 9 what we had done on a historical basis.  
 10 Q. Okay. Well, from our standpoint,  
 11 Mr. Hale, if we wanted to go back and look over say  
 12 the last ten years to see where the Revex was at BP  
 13 Texas City to determine whether or not there was  
 14 the amount of money that had been spent say in 1995  
 15 each year on Revex other than turnarounds; and see  
 16 whether that number was going up or down over the  
 17 years, would there be like a summary spreadsheet or  
 18 something that somebody has that you would just go  
 19 back and simply look to say, "Each year here is a  
 20 simple number;" and you compare them one to the  
 21 other? Do they track any of that?  
 22 MR. BROWN: Objection, form.  
 23 A. It's -- it's something that probably  
 24 could be generated, but not without some effort.  
 25 Accounting changes throughout the years and those

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1 kind of things will make that a challenge, but  
 2 not -- it should be -- it should be possible.  
 3 Now, how far back that data exists  
 4 and is accessible I don't know.  
 5 Q. (BY MR. COON) I take it one of the  
 6 problems in doing that is until recently your  
 7 capital expenditures which included turnarounds  
 8 were rolled into the other number?  
 9 A. Yes.  
 10 MR. BROWN: Objection, form.  
 11 A. And there's other changes that occur as  
 12 well as accounting rules have changed so things  
 13 like tank maintenance has at times been in capital;  
 14 and at other times, been in expense and currently  
 15 today is in expense. So there is other anomalies  
 16 along the way but...  
 17 Q. (BY MR. COON) Well, that's one of the  
 18 things we wanted to look at. For instance, over  
 19 the course of this discovery with these  
 20 depositions, a lot of us have been led to the  
 21 inference or conclusion that Amoco went through a  
 22 number of years of deferred maintenance before the  
 23 merger in '99 and after the merger in '99 there was  
 24 still a period of under investment in the  
 25 infrastructure of BP Texas City. You understand

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1 that's something that's been discussed?  
 2 A. Yes.  
 3 MR. BROWN: Objection, form.  
 4 Q. (BY MR. COON) And what we are trying to  
 5 do is to be able to actually compare apples to  
 6 apples to see if the money that was being spent --  
 7 you know, first of all, how much was being spent  
 8 just on routine maintenance at BP Texas City.  
 9 Before the merger and after the merger, all the way  
 10 up until the time of the ISOM unit explosion; and  
 11 is there a simple way with you previously being  
 12 involved in the accounting principles at Amoco.  
 13 And from your years of involvement with --  
 14 subsequent to the BP merger and in a pretty high  
 15 position, is there a simple way of going back and  
 16 looking at that and if so, how do we do that?  
 17 A. I thought some of that that you are  
 18 requesting was highlighted in the A.T. Kearney or  
 19 Veba report, if I understand what you are asking  
 20 for. There are other benchmarks that are available  
 21 in terms of Solomon spending with which, you know,  
 22 BP -- most of the BP refineries participate in  
 23 that, and I think Texas City participated in that.  
 24 And that has some benchmarks around maintenance  
 25 spend and probably even turnaround spend.

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1 So based on your question, that's  
 2 how I think you could look at that data.  
 3 Q. Well, and the reason I asked that is that  
 4 a lot of things have occurred in the last few years  
 5 with BP Texas City with respect to expenditures  
 6 that may or may not have been an increase or  
 7 decrease over the Revex expenditure going back to  
 8 the merger time.  
 9 For instance, you have the  
 10 environmental issues, you have the 60  
 11 million-dollar or 50 million-dollar expenditure in  
 12 one year that wasn't even in the budget but still  
 13 was charged to BP Texas City, correct?  
 14 MR. BROWN: Objection, form.  
 15 A. You talking about the Clean Streams  
 16 project?  
 17 Q. (BY MR. COON) Sure.  
 18 A. Yeah, it was -- it was certainly an  
 19 expenditure that we made.  
 20 Q. So you can look at the budget or the  
 21 expenditures for say 2003 and there may be  
 22 \$50 million more in spending at BP Texas City than  
 23 the year before, but it would be attributable to a  
 24 specific incidence of just getting into  
 25 environmental compliance and maybe having nothing

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1 to do with an increase in spend for, say, deferred  
 2 maintenance and what we are trying to do --  
 3 A. Yes.  
 4 Q. -- as a result of that is get a better  
 5 understanding of how we can truly go back and look  
 6 at all the numbers with respect to the expenditures  
 7 that have taken place at BP Texas City in the last  
 8 decade and truly put the numbers where they belong.  
 9 A. Yes, I understand your request and, you  
 10 know, my input to that would be the way -- some of  
 11 the tools that you have, the A.T. Kearney report, I  
 12 thought, attempted to do a lot of that  
 13 retrospective look and was -- was in that report  
 14 which you have. And the other resource I could  
 15 recommend would be the Solomon maintenance data.  
 16 Q. Now, with respect to the Kearney or Veba  
 17 report, did you take issue with any of their  
 18 findings?  
 19 A. Not to my recollection.  
 20 Q. Do you know if any type of report has  
 21 been done since then at BP Texas City?  
 22 MR. BROWN: Objection, form.  
 23 A. There has been a lot of assessments done  
 24 in Texas City --  
 25 Q. (BY MR. COON) I mean one just --

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1 A. -- since that time.  
 2 Q. -- like the Veba report where they went  
 3 back and particularly looked at other assessments?  
 4 A. Not to my knowledge.  
 5 Q. Do you know if BP at some level above  
 6 Texas City has tried to undertake another  
 7 retrospective evaluation of the spend there like  
 8 what was done with the Veba report in 2002 and  
 9 2003?  
 10 A. Not to my knowledge.  
 11 Q. Okay. We are jumping around some, but I  
 12 want to show you -- this is an area we left off  
 13 with before the last break and this was on the  
 14 Clean Streams project. And Mr. Carter, was he --  
 15 what was he called out there? Was he the business  
 16 unit leader?  
 17 A. No. He was the operations manager.  
 18 Q. Who did he, I'm sorry.  
 19 A. I believe was his title.  
 20 Q. Who did he report to?  
 21 A. Don Parus.  
 22 Q. Do you know when Mr. Parus came out to  
 23 the job site in Texas City?  
 24 A. I can't recall exactly. No, I am not  
 25 sure. Certainly some months before I got there,

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1 but I am not sure exactly when.  
 2 Q. Well, we haven't had an opportunity to  
 3 talk to Mr. Parus or Mr. Carter yet, but my  
 4 impression was that Mr. Carter was there before  
 5 Mr. Parus?  
 6 A. Yes, George had been in Texas City for  
 7 many years.  
 8 Q. Okay. So he reported to somebody else  
 9 before he reported to Mr. Parus, I take it?  
 10 A. He reported to Tim Scruggs prior to  
 11 Mr. Parus.  
 12 Q. Okay. And Mr. Scrugg's title was what?  
 13 A. I think at the time Parus was there, it  
 14 was the same. It was BP South Houston director.  
 15 Tim was there before the formation of BP South  
 16 Houston as the -- as the refinery manager for Texas  
 17 City.  
 18 Q. Okay. I am going to digress one more  
 19 time, too, and that gets into this South Houston  
 20 complex versus BP Texas City.  
 21 It's my understanding that when  
 22 Amoco -- I think it was prior to the merger with  
 23 BP, Amoco operated each of these South Houston  
 24 units autonomously?  
 25 A. Yes, separately.

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1 Q. Separately. Okay. We'll use that word  
 2 separately.  
 3 And then after the merger, BP felt  
 4 that there may be some synergies that would be  
 5 derived from consolidating those units since they  
 6 were in the same geographic area and operate them  
 7 as one somewhat cohesive unit and that is the South  
 8 Houston complex?  
 9 A. Yes, although my only clarification --  
 10 that's a true statement. I don't know if it  
 11 happened before or after the merger with BP. I  
 12 can't remember, but clearly there was this  
 13 interpretation or perception that that could add  
 14 more value if it was run as a collective BP South  
 15 Houston.  
 16 Q. And part of what I understood Mr. Parus'  
 17 role at some point in time in working out at BP  
 18 Texas City was to try to help make this, I guess,  
 19 consolidation work?  
 20 A. Yes, he had an accountability to try to  
 21 deliver synergy benefits among having these  
 22 entities operate together.  
 23 Q. And I take it there were a lot of  
 24 problems effectuating that synergy because of  
 25 things unique to each plant in terms of how they

<p style="text-align: right;">Page 262</p> <p>1 operated and who operated them, how to allocate                  2 common expenditures and all those types of issues?                  3 MR. BROWN: Objection, form.                  4 A. BP South Houston was a complex management                  5 structure and it theoretically could operate, you                  6 know, perfectly. But I think it presented -- from                  7 my viewpoint, presented some challenges in terms of                  8 us making sure we were focusing on the right                  9 priorities.                  10 Q. (BY MR. COON) Did you ever understand                  11 whose idea it was to try and make all of these                  12 units operate as one complex?                  13 A. No, I don't know whose idea the star site                  14 concept or the South Houston concept was, and I                  15 really don't think I ever asked.                  16 Q. Do you know if BP tried to emulate this                  17 project with any of their other units?                  18 A. Their other locations?                  19 Q. Yes, sir.                  20 A. This was -- this similar concept was to                  21 be applied at the Lavera complex in France and the                  22 BP Grangemouth complex in Scotland.                  23 Q. And again on the same principals?                  24 A. As I understand it, yes, sir.                  25 Q. And was this principally based on some</p>	<p style="text-align: right;">Page 264</p> <p>1 anything to do with the ultimate decision to have                  2 them all remain independent or separate?                  3 A. Not to my knowledge, although I was vocal                  4 in my opinion all the way to Hoffman. Don knew of                  5 my opinion as did Mike and did Pat Gower. But the                  6 result of breaking them back apart, as I understand                  7 it, came about with BP's decision to spin off their                  8 chemicals, the large part of their chemicals                  9 operation in a company called Innovene.                  10 Q. So to help effectuate the sell of the                  11 chemicals units, they felt it was more prudent to                  12 keep the units separated?                  13 MR. BROWN: Objection, form.                  14 A. My understanding, to effect that spin off                  15 which set up that entity as an entirely separate                  16 entity and included Chocolate Bayou, Deer Park and                  17 one of the process units in Texas City, that spin                  18 off and set up of that structure as a separate                  19 legal entity required that the BP South Houston's                  20 structure be changed significantly.                  21 Q. (BY MR. COON) Mr. Parus was spending a                  22 lot of his personal time and energy trying to make                  23 the South Houston complex work as an integrated                  24 site, was he not?                  25 A. Yes, he was. That was his</p>
<p style="text-align: right;">Page 263</p> <p>1 degree of geographic convenience; that is, the                  2 units were located closely enough to one another to                  3 try to keep them together as a complex?                  4 A. Yes. I think that had the geography as                  5 well as the integration between the complexes was a                  6 part of that decision.                  7 Q. And I take it from other people we have                  8 deposed and the documents that we have seen that                  9 the efforts to consolidate these various units and                  10 have them operate under one complex as the South                  11 Houston operation failed?                  12 MR. BROWN: Objection, form.                  13 A. I think -- I mean, that's a kind of                  14 subjective assessment.                  15 The BP South Houston model was not                  16 my favorite model, and I preferred something                  17 different. There were synergy values that that --                  18 that that organization delivered, and I think those                  19 are undeniable.                  20 For me I would have preferred a                  21 different -- a different management structure than                  22 that model.                  23 Q. (BY MR. COON) Did your opinion, with                  24 respect to trying to keep all of these units                  25 together as the South Houston complex, have</p>	<p style="text-align: right;">Page 265</p> <p>1 accountability.                  2 Q. Did he know about your vocal opposition                  3 of this model?                  4 A. Yes, he did.                  5 Q. Did you guys, I take it, just didn't see                  6 eye to eye from a professional's viewpoint as to                  7 what the better model was?                  8 A. I think Don had sympathy with my                  9 position. I think Don felt like he had                  10 accountabilities that were clearly articulated to                  11 him, and I had accountabilities articulated to me.                  12 And at times those were at odds.                  13 Q. Did that result in any personal                  14 disagreements or arguments?                  15 A. It resulted in many discussions between                  16 Don Parus and I.                  17 Q. Would any of those discussions involve or                  18 evolve into something that you would more                  19 appropriately categorize as an argument?                  20 A. I am -- I don't consider myself hot                  21 natured. And so the conversations we had I would                  22 call as discussions. And again, I think Don                  23 appreciated my viewpoint; but clearly on that                  24 point, we did not reach agreement.                  25 Q. Well, would you guys ever have meetings</p>

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1 which one or the other of you ever appeared to get  
 2 a temper and start hollering?  
 3 A. No, not to --  
 4 Q. Get mad?  
 5 A. -- my recollection.  
 6 Q. Was there any other personality issues  
 7 with other members of the leadership team where  
 8 there were vocalized disagreements which you would  
 9 describe as "heated"?  
 10 MR. BROWN: Objection, form.  
 11 A. In terms of BP South Houston --  
 12 Q. (BY MR. COON) Yes, sir.  
 13 A. -- structure or...  
 14 Q. Well, first, did you have heated  
 15 arguments with any other persons in the leadership  
 16 team.  
 17 (Brief interruption.)  
 18 (Discussion off the record.)  
 19 A. Can you repeat the question because I  
 20 missed it?  
 21 Q. (BY MR. COON) It was somewhat  
 22 distracting, wasn't it?  
 23 Did you ever have heated  
 24 discussions with other members of the leadership  
 25 team irrespective as to what precipitated it?

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1 A. We had, and I encouraged vigorous  
 2 discussions. And I think that's a healthy part of  
 3 a leadership process.  
 4 Heated, I -- again, I feel I have  
 5 a good control of my temper and expect that same  
 6 from my leadership team. I think we had some very  
 7 good, vigorous discussions about many things. But  
 8 I wouldn't describe them as heated or angry or -- I  
 9 wouldn't characterize it as that.  
 10 Q. Were there any person or persons that you  
 11 recall as more often than not or more likely than  
 12 not than others to have what you would call vocal  
 13 disagreements about the strategy of the policies  
 14 that were in place?  
 15 MR. BROWN: Objection to form.  
 16 A. Are you asking about BP South Houston or  
 17 about Texas City --  
 18 Q. (BY MR. COON) Either one.  
 19 A. -- leadership team?  
 20 Q. Either one.  
 21 MR. BROWN: Objection, form.  
 22 A. Probably -- probably I would guess Don  
 23 and I had most probably as many vigorous  
 24 conversations as anyone else. When Pat King was  
 25 there, Pat King was often in -- you know, a part of

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1 vigorous debates as well.  
 2 Q. (BY MR. COON) Mr. Hale, we have a  
 3 document that was previously entered into the  
 4 record as 283 when we had the opportunity to depose  
 5 Mr. Scoggin. And it is an e-mail preceding your  
 6 arrival I believe at BP Texas City. This is dated  
 7 January 2002. That was before you arrived?  
 8 A. Yes.  
 9 Q. Was it not?  
 10 It's talking about the line size  
 11 for the NDU flare. And I will let you look at it.  
 12 I don't know if you have seen it before.  
 13 A. I have not.  
 14 Q. You were aware that the NDU project was  
 15 underway while you were out there as the PUL at  
 16 Texas City?  
 17 A. Yes. It was largely constructed when I  
 18 got there and commissioned after I arrived.  
 19 Q. And you understand that the NDU had a  
 20 flare?  
 21 A. Yes.  
 22 Q. Did you not?  
 23 A. Yes.  
 24 Q. Did you know that there was a discussion  
 25 about tying the ISOM unit into the NDU flare?

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1 A. No, I was unaware of that, unaware of  
 2 that conversation.  
 3 Q. I will give you a chance to look at that.  
 4 I want to point out a couple of things to you.  
 5 A. Okay.  
 6 Q. Okay. What I wanted to show you -- I  
 7 guess we need to read some of that in reverse  
 8 order, but it's a string of e-mails. You were able  
 9 to ascertain that?  
 10 A. Yes.  
 11 Q. One of these was -- I am trying to get  
 12 the order. This is Mr. Scoggin. It talks about --  
 13 Did you know a Danny White?  
 14 A. Yes. I remember Danny, not real well;  
 15 but I remember he was in the environmental group.  
 16 Q. Okay.  
 17 A. I believe.  
 18 Q. Did you know that any of the work done  
 19 with respect to the construction of the NDU had  
 20 anything to do with the Clean Streams project?  
 21 A. Construction at the NDU --  
 22 Q. Yes.  
 23 A. -- having to do with the Clean Streams  
 24 project?  
 25 MR. BROWN: Objection, form.

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1 Q. (BY MR. COON) (Nods head.)  
 2 A. If there was that connection I don't  
 3 understand how it was made or how that was  
 4 connected.  
 5 Q. Okay. Well, I didn't know if it was. I  
 6 did know from reading this that we saw from several  
 7 of the documents there was discussion about the  
 8 ISOM unit and the vent stack and removing the  
 9 problems associated with releases to atmosphere and  
 10 this paragraph here was talking about Danny White  
 11 and his comments. And he was asked what the  
 12 likelihood of having to divert the material that  
 13 goes to the ISOM blowdown drum to a flare. And  
 14 apparently his response to that was the probability  
 15 of the ISOM blowdown stack having to be routed to a  
 16 flare within five years to be greater than the 80  
 17 percent chance. Again, we are talking about EPA  
 18 intervention, right?  
 19 A. Yes.  
 20 Q. And so with that recognition. And that  
 21 is a great likelihood that over the next 5 years  
 22 from this memo of 2002. The feeling was that by  
 23 2007 there is an 80 percent likelihood that the EPA  
 24 would heighten the level of the present  
 25 restrictions to the point where the ISOM would no

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1 longer be able to vent to atmosphere?  
 2 MR. BROWN: Objection, form.  
 3 Q. (BY MR. COON) That is the conclusion to  
 4 be derived from that, is it not?  
 5 MR. BROWN: Objection, form.  
 6 A. As I interpret that paragraph, I think  
 7 that's what he is saying.  
 8 Q. (BY MR. COON) Okay. If you go on there,  
 9 they talk about the costs associated with dealing  
 10 with that in 2002 as opposed to dealing with it  
 11 later if and when the EPA mandated that additional  
 12 environmental regulation. It says, "Therefore, we  
 13 need to decide if we want to invest 150 m."  
 14 And that's thousand, right?  
 15 150,000?  
 16 A. Yes.  
 17 Q. "Now to save more money later on."  
 18 Now, do you know what they are  
 19 talking about there? You can actually go above  
 20 that and get a better flavor, but I think you  
 21 skimmed over that.  
 22 MR. BROWN: Objection, form.  
 23 A. I think I understand what they are  
 24 talking about.  
 25 Q. (BY MR. COON) Okay. Can you tell us

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1 what you understood this subject matter to deal  
 2 with?  
 3 A. They are talking about their own  
 4 speculation of what's the probability that the EPA  
 5 would require the ISOM to tie in to a flare system  
 6 versus a blowdown system and the debate around  
 7 whether or not to spend incremental dollars at the  
 8 time of construction of that flare line to account  
 9 for that possibility or not.  
 10 Q. Okay. And if we go from that standpoint,  
 11 and basically it is saying it's going to cost  
 12 \$150,000 more now to tie the ISOM unit vent stack  
 13 into the NDU flare because we need a bigger pipe;  
 14 and we have to run it longer?  
 15 A. No, that's not how I read that. The  
 16 150,000, as I read it, is for the incremental line  
 17 size that would enable, ultimately, the ISOM to be  
 18 tied in to the flare system.  
 19 Q. All right.  
 20 A. And that would be an incremental spending  
 21 at some point in the future. The 150,000, as I  
 22 read that, does not tie it in. It gives you the  
 23 option in the future to tie it in without  
 24 increasing that flare line size at some point in  
 25 the future.

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1 Q. So when they built the NDU it was  
 2 designed in a manner to have a certain size of pipe  
 3 to go to the flare?  
 4 A. Yes, sir.  
 5 Q. And then if they wanted to tie the ISOM  
 6 unit vent stack into that same flare at a later  
 7 date, it was going to require a bigger line size?  
 8 A. As I understand that note, that's what  
 9 that is saying.  
 10 Q. And so to tie in that bigger line size it  
 11 was going to cost them about \$150,000 more than  
 12 otherwise?  
 13 MR. BROWN: Objection, form.  
 14 A. As I understand that, no. That's -- what  
 15 that's saying at the time of construction that  
 16 incremental expenditure on the NDU of the 150,000  
 17 would then enable the line size capability in the  
 18 future to tie in the ISOM if that decision was made  
 19 in the future.  
 20 Q. (BY MR. COON) Right, and they were  
 21 basically wanting to consider doing it at that time  
 22 because Mr. White had already opined that it was  
 23 very likely to be required by the EPA within the  
 24 next five years anyway?  
 25 MR. BROWN: Objection, form.

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1 A. As I understand that that's his  
 2 assessment, his opinion.  
 3 Q. (BY MR. COON) Okay. And in response to  
 4 that question, which was "Do we have a bigger pipe  
 5 now so we can tie the ISOM unit in sometime within  
 6 the next five years as the EPA mandates it," the  
 7 response from Mr. Wundrow on the next page is  
 8 "Capex is very tight."  
 9 Again, we are talking about  
 10 capital expenditures?  
 11 A. Yes, sir.  
 12 Q. It says "Bank to 150K."  
 13 And "150K" is the same as "150M."  
 14 That is 150,000, right?  
 15 A. Yes.  
 16 Q. So his opinion was bank the 150,000  
 17 savings now.  
 18 In corporate lingo what does that  
 19 mean?  
 20 MR. BROWN: Objection, form.  
 21 A. My interpretation of that -- that  
 22 statement is Walt is providing his advice that the  
 23 smaller line size should be installed now, avoiding  
 24 the 150,000 cost; and then in the future, if the  
 25 ISOM tie-in is required, the additional expenditure

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1 would be made at that time to increase the line  
 2 size.  
 3 Q. (BY MR. COON) Okay. But in the future  
 4 when you had to tie it in to, say, the NDU, it  
 5 would cost you a lot more than the \$150,000,  
 6 wouldn't it?  
 7 A. It would cost more, yes.  
 8 Q. Because you have to now replace the line  
 9 that you had just built for the NDU because it's  
 10 too small?  
 11 A. Yes, it would.  
 12 Q. And --  
 13 A. It would certainly cost you more.  
 14 Q. And to replace that line's not going to  
 15 cost you \$150,000. That's just how much it cost to  
 16 go with a bigger line that would accommodate the  
 17 ISOM?  
 18 A. Correct.  
 19 Q. So you would have to pay for the cost of  
 20 removing the line that you utilized in the NDU and  
 21 replacing it with the line that would tie in to  
 22 ISOM and the NDU, the bigger line?  
 23 A. That would be my understanding.  
 24 Q. As well as whatever additional downtime  
 25 is associated with tying that line in.

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1 A. Depending on how it was scheduled. I  
 2 don't know if there would be additional downtime or  
 3 not.  
 4 Q. Okay. But downtime is that time that  
 5 unit can't run?  
 6 A. Correct.  
 7 Q. And there is a loss of profits associated  
 8 with the unit being down, is there not?  
 9 A. Yes. But you are assuming that a future  
 10 project would require downtime, and what I am  
 11 saying is I don't know if that's true or not.  
 12 Q. Did any of those budgetary considerations  
 13 with respect to this line and tying in the ISOM  
 14 ever come to your attention while you were the PUL  
 15 at Texas City?  
 16 A. No.  
 17 Q. I want to back up one more time. We are  
 18 doing a lot of that. We also skipped a period of  
 19 time between when you were in Chicago in the mid  
 20 '90s and when you ended up at BP Texas City in  
 21 2002?  
 22 A. Yes.  
 23 Q. About six or seven years. What happened  
 24 there?  
 25 A. While -- let's see, I was in Chicago. I

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1 left there. Went to Whiting as an operating  
 2 manager. I did several jobs as an operating  
 3 manager. Went back to Chicago --  
 4 Q. What timeframe was that, sir?  
 5 A. It was mid '90s until about '98.  
 6 Q. Okay.  
 7 A. Again, that's clearly detailed in my --  
 8 on my CV.  
 9 Q. Yes, sir.  
 10 A. Then I took a job as the year 2000  
 11 program director for Amoco corporation where I was  
 12 accountable for addressing the Y2K bug in advance  
 13 of the year 2000. I was in that role at the time  
 14 of the merger, the BP merger. We did -- I got  
 15 together with the team working on that program for  
 16 BP, and we quickly concluded that BP -- that Amoco  
 17 was at a much further progress point than was BP.  
 18 And so the Amoco program was  
 19 merged into the BP program rather than the other  
 20 way around. At that point in time, I was  
 21 reassigned to the Coryton refinery as their  
 22 operations manager.  
 23 Q. What year would this be? 2000?  
 24 A. 1999.  
 25 Q. '99. Where is that facility? Is that

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1 London?  
 2 A. That is where I am currently, southeast  
 3 of London. I was there as the operations manager  
 4 for about nine months. I then went to a business  
 5 unit called LPG selling propane and butane in 14  
 6 different countries in Europe. I worked there for  
 7 approximately two years and then was moved as a  
 8 business unit leader to our Castellon Spain  
 9 refinery.  
 10 Q. And your title there?  
 11 A. Business unit leader.  
 12 Q. BUL.  
 13 How long were you there?  
 14 A. Nine months.  
 15 Q. Nine months.  
 16 A. And then from that job, that's where I  
 17 got a call from Don Parus and -- asking me if I  
 18 would come to Texas City to help him address some  
 19 of the issues that he thought were sizeable there  
 20 and that my experience in Texas City, he thought,  
 21 would be very helpful.  
 22 Q. Okay. Did you understand from talking to  
 23 Mr. Parus that there had been a decision made that  
 24 there needed to be a significant changing of the  
 25 guard with respect to the leadership of BP Texas

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1 City?  
 2 A. Don didn't talk to me specifically at  
 3 that time about leadership changes. What he talked  
 4 to me about was the fact that he was making  
 5 changes, that there was some significant issues  
 6 that had been identified in Texas City and that he  
 7 really wanted me and needed me to help him turn  
 8 those around in Texas City.  
 9 Q. We have been told by several people about  
 10 their knowledge with respect to this Revex budget  
 11 reduction, this 25 percent across the board  
 12 reduction that reportedly came from London around  
 13 1999. Mr. Gower testified he was aware of it.  
 14 Mr. Pierpoline as a plant manager, Cedar Bayou was  
 15 aware of it. We've had several people that were  
 16 aware.  
 17 When you were at Coryton or  
 18 Castellon, were you ever made aware in your roles  
 19 as operation manager or BUL that some sort of  
 20 mandate had come from London to make efforts to,  
 21 you know, wack your budgets 25 percent on Revex?  
 22 A. I --  
 23 MR. BROWN: Objection, form.  
 24 A. I alluded to this fact earlier that when  
 25 I went to Coryton what I was -- what I was aware of

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1 and what was clear is that we were under some cost  
 2 pressures at that time. And we were doing things  
 3 to control our budgets, but I did not see or could  
 4 not see evidence of that magnitude of a reduction  
 5 at Coryton. Again, I was not in the commercial  
 6 arena. I was in what they call the production  
 7 manager which is basically the operations manager.  
 8 And so I didn't deal with that directly. So I  
 9 could tell you only what I -- what I saw.  
 10 Q. (BY MR. COON) Okay.  
 11 A. I saw the cost reduction measures. I  
 12 didn't see any reductions that looked like they  
 13 were anywhere near 25 percent.  
 14 When I got to Castellon refinery,  
 15 my recollection of looking at those budgets over  
 16 time, they looked to be relatively stable over  
 17 time. So I did not see a trend like the  
 18 A.T. Kearney trend that you saw for Texas City.  
 19 Q. Do you know why BP -- strike that.  
 20 I guess most of these budget  
 21 mandates would have come from London and trickled  
 22 down?  
 23 A. I would assume if there were mandates  
 24 they came somewhere from the corporate structure,  
 25 but I don't -- again, I was not involved directly

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1 and can't comment exactly how that happened.  
 2 Q. Do you know why, during this timeframe  
 3 shortly after the merger, there were cost reduction  
 4 pressures applied to the various business units?  
 5 Was there -- was BP in financial  
 6 trouble or anything?  
 7 MR. BROWN: Objection, form.  
 8 A. No, I don't know the details of why or  
 9 what the targets were or why they set the specific  
 10 targets that they set. I know there was a desire  
 11 to achieve some synergy savings with the merger.  
 12 Q. (BY MR. COON) Mr. Hale, we talked  
 13 earlier about -- it was brought up I think by  
 14 Mr. Bond about the labor relations that existed  
 15 between management and Texas City. And labor circa  
 16 2002, 2004; and I thought you had described those  
 17 as good or --  
 18 A. No, I wasn't satisfied with them. What I  
 19 described them as is my opinion is they were  
 20 improving over the time that I was there.  
 21 Q. Wasn't there a big problem during the  
 22 middle of your effort to effectuate better labor  
 23 and management relations that had something to do  
 24 with the unilateral decision by BP to significantly  
 25 alter the medical package for the retirees?

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1 A. Yes, there was a change to the retiree  
 2 medical during my time there, and it added  
 3 significant challenge to managing that union  
 4 relationship in my view.  
 5 Q. Did you know that labor was extremely  
 6 upset over this unilateral decision by BP to  
 7 alter -- significantly alter the retirement package  
 8 as it related to medical benefits?  
 9 MR. BROWN: Objection, form.  
 10 A. I was aware that the union was quite  
 11 unhappy about the changes in medical benefits.  
 12 Q. (BY MR. COON) In fact as I understand  
 13 the decision by BP included not only a reduction in  
 14 the existing medical benefits available for the  
 15 retirees but also precluded new hires from being  
 16 eligible for medical benefits upon retirement, do  
 17 you recall that?  
 18 MR. BROWN: Objection, form.  
 19 A. I think I recall that being the original  
 20 basis -- I think I recall that being moderated  
 21 somewhat at a later point.  
 22 Q. (BY MR. COON) Did you know that the  
 23 people on the labor side of those issues felt that  
 24 they had been betrayed and blindsided by BP  
 25 management to try to effectuate cozier

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1 relationships and then to have this happen to them?  
 2 MR. BROWN: Objection, form.  
 3 A. I can't comment on their perception, but  
 4 I can tell you that that was a surprise to me as  
 5 well as a surprise to the union.  
 6 Q. (BY MR. COON) That this unilateral  
 7 decision had been made by BP at a corporate level  
 8 somewhere?  
 9 A. About the reductions in benefits.  
 10 Q. Did you ever address this with BP  
 11 superiors and lodge any kind of protest formally or  
 12 informal?  
 13 A. I made my feelings known that this  
 14 decision would make our ability to improve the  
 15 union relationship significantly more difficult at  
 16 Texas City.  
 17 Q. And, in fact, when you looked at the  
 18 assessments that were taking place during your  
 19 tenure, including those by Case consulting. Do you  
 20 recall the Case consulting --  
 21 A. Yes.  
 22 Q. -- assessments?  
 23 A. Yes. Not in detail, but I remember Marie  
 24 Case --  
 25 Q. And to effectuate --

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1 A. -- doing some work.  
 2 Q. -- a lot of the changes you needed in the  
 3 corporate structure at BP Texas City it was advised  
 4 that it would almost mandate cooperation from  
 5 labor?  
 6 MR. BROWN: Objection, form.  
 7 A. I can't remember that recommendation  
 8 explicit, but it was certainly my desire to improve  
 9 labor relations at Texas City.  
 10 Q. (BY MR. COON) And in light of that and  
 11 all the problems that you had down there already  
 12 and how you needed to fix them with the cooperation  
 13 of labor, do you have any understanding as to why  
 14 BP at a corporate level would have made a  
 15 unilateral decision that would get the labor folks  
 16 so upset?  
 17 MR. BROWN: Objection, form.  
 18 A. I -- again that's speculating about why  
 19 they made a decision and makes it sound like they  
 20 were trying to get labor upset. I think BP was  
 21 trying to make decisions that are consistent with a  
 22 trend that was happening in U.S. industry and there  
 23 were a lot of cases around that time of people  
 24 making changes in medical benefits to try to offset  
 25 dramatic and concerning increases in medical costs,

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1 which I understand.  
 2 MR. COON: Let's go off the record  
 3 here. How much time do we have left total?  
 4 THE VIDEOGRAPHER: Ten minutes.  
 5 MR. COON: I will be finished in  
 6 ten minutes. Don't change the tape.  
 7 THE VIDEOGRAPHER: Off the record  
 8 at 6:07.  
 9 (Recess taken.)  
 10 (Exhibit Number 405 marked for  
 11 identification.)  
 12 THE VIDEOGRAPHER: On the record  
 13 at 6:12 p.m., beginning Tape 7.  
 14 Q. (BY MR. COON) Mr. Hale, at the break I  
 15 showed you what's Exhibit 20 -- actually 405 to  
 16 your deposition.  
 17 A. Yes, sir.  
 18 Q. Can you tell us what this is?  
 19 A. Yes, sir. It was a summary of my  
 20 observations. This was early, post the  
 21 announcement that I would be going to Coryton. I  
 22 had clearly spent a few days in Coryton in an  
 23 orientation and site safety in getting my induction  
 24 pass for the site and then --  
 25 Q. This was in, I am sorry, 2004?

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1 A. This was June 12th that -- my note's  
 2 dated June 12th, 2004. So I had clearly been at  
 3 Coryton prior to that.  
 4 And this was a note back to the  
 5 Texas City management team, the manufacturing  
 6 council and functions council, about some of my  
 7 observations about differences between the two  
 8 sites just as a way to share learning and to spark  
 9 some thinking and conversation at BP South Houston.  
 10 Q. And you have been at Coryton before,  
 11 weren't you, in '99?  
 12 A. In 1999, yes, sir.  
 13 Q. As the operations manager?  
 14 A. Yes, sir.  
 15 Q. And when you went back there in 2004,  
 16 what was your title?  
 17 A. I was the business unit leader.  
 18 Q. And you retain that title today?  
 19 A. Yes.  
 20 Q. And I take it the flavor of that is that  
 21 there just seemed to be a lot more required of the  
 22 people over at that facility in terms of adherence  
 23 to rules?  
 24 MR. BROWN: Objection, form.  
 25 Q. (BY MR. COON) If we could go back and

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1 just identify a few of them.  
 2 A. I think, yeah, there is clearly some  
 3 things that they had and were doing here that I  
 4 thought were ideas that could be thought about in  
 5 Texas City for application.  
 6 Q. A lot of these seem to indicate issues  
 7 with respect to safety considerations that you  
 8 noted at Coryton, and I am taking it that the  
 9 reason for this is you were comparing safety issues  
 10 at Coryton with things that you believed to be  
 11 different in some respect at BP Texas City?  
 12 A. Yes. In many cases, that's true.  
 13 Q. So if you look, for instance, at the  
 14 first one, you said, "At Coryton you have two year  
 15 induction for visitors to the plant." And that  
 16 compared to what at Texas City?  
 17 A. In Texas City the induction process was,  
 18 for, you know, visitors was much simpler.  
 19 Actually, my initial impression of that is not  
 20 correct. There is a shortened induction process at  
 21 Coryton for casual visitors which is more closely  
 22 aligned with the -- with what they do in Texas City  
 23 or were doing in Texas City at the time, but they  
 24 had a two hour induction for anyone who was going  
 25 to be doing what re-required -- what they called

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1 work.  
 2 Now, that's different than Texas  
 3 City. So Texas City, for contractors, for example,  
 4 there is a local contractor safety counsel that  
 5 people have to go to. They have to get their  
 6 certification card and it's very extensive. So  
 7 this is -- this is a contrast in the difference.  
 8 This is what they did in Coryton. They don't have  
 9 a contractor safety counsel because it's a refinery  
 10 that operates on a peninsula by itself and there is  
 11 no other local industry around which they could get  
 12 that.  
 13 So I think you are interpreting  
 14 that all of these are, you know, great things we  
 15 should go do this. Some of this is compare and  
 16 contrast; and I didn't contrast because the people  
 17 in Texas City, of course, know the requirements in  
 18 Texas City.  
 19 Q. Okay. Well, let me go through some  
 20 specific examples then. You talk about "Only  
 21 diesel power vehicles with spark arrestors are  
 22 allowed onto any process unit."  
 23 A. Yes.  
 24 Q. Did that infer that at Texas City that  
 25 was not the case?

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1 A. Yes, correct. Texas City had a process  
 2 where it required gas tests for vehicles on process  
 3 units and special permits. And so here again, it's  
 4 a difference.  
 5 Q. Were you aware that BP Texas City in 2005  
 6 around the time the ISOM unit were allowing  
 7 contractors a lot of discretion with respect to  
 8 driving personal gasoline fuel vehicles without any  
 9 spark arrestors in and out of the facility and  
 10 parking them adjacent to process units?  
 11 A. Well, access on units was to be strictly  
 12 controlled and should have required a special  
 13 permit for any vehicle to come into a facility,  
 14 ISBL and special gas test. So if that was not  
 15 being done, I don't understand that.  
 16 Q. Do you understand what the punitive  
 17 source of ignition of the vapor cloud and liquids  
 18 emitting from the vent stack on March 23 to have  
 19 been?  
 20 A. The speculation in the report was that it  
 21 was a vehicle engine in the Mogford report.  
 22 Q. One of the contractors vehicles that was  
 23 running adjacent to one of the units.  
 24 MR. BROWN: Objection, form.  
 25 Q. (BY MR. COON) Is that your recollection?

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1 A. Well, my recollection is what they said,  
 2 yes, they thought it was in the -- what they call  
 3 the ballpark region. A vehicle was the source of  
 4 ignition.  
 5 Q. Okay. At these other plants that you  
 6 traveled abroad and worked at abroad, did they  
 7 allow the contractors to drive their vehicles in  
 8 and out of the plants when they are working inside  
 9 the confines of the fence?  
 10 A. Repeat -- allow them to drive it where?  
 11 Q. To drive their personal vehicles in and  
 12 out of the plant and park them by the units?  
 13 A. All refineries allow some level of  
 14 vehicular traffic as needed to do the job. There  
 15 are contractors that drive contractor vehicles in  
 16 Coryton today. So I am not sure exactly where are  
 17 you going with the question but...  
 18 Q. Well, you are saying that these European  
 19 facilities they allow the contractors to drive  
 20 their personal vehicles in and out of the plant?  
 21 A. It's -- authorized vehicles can come into  
 22 the facilities subject to the rules and regulations  
 23 of the facility. So in Coryton, the logistics of  
 24 that plant are such that the office building is  
 25 physically accessible outside of the refinery. And

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1 so personal vehicles are seldom allowed in the  
 2 plant. There is no need.  
 3 Q. And, in fact, at Texas City that's the  
 4 case now, is it not?  
 5 A. When I left, there was a project around  
 6 the perimeter hardening as part of the security  
 7 project that would relocate the fence and create  
 8 that condition where most people going to their  
 9 office location would no longer have to drive into  
 10 the plant. I assume that project was complete.  
 11 Q. Okay. Do you know anything about the  
 12 trailer siting at BP Texas City?  
 13 MR. BROWN: Objection, form.  
 14 Q. (BY MR. COON) The policies associated  
 15 with trailer siting?  
 16 A. I'm aware that there was an MOC process  
 17 required for trailer siting.  
 18 Q. Do you know what the standard procedure  
 19 was at BP Texas City with respect to minimum  
 20 distances of trailers and temporary buildings from  
 21 things such as flares and vent stacks?  
 22 A. I could not have, before reading the  
 23 investigation report, have talked about exactly  
 24 what that was other than I know there was an MOC  
 25 process.

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1 As I understand from the report,  
 2 it was 350 feet.  
 3 Q. Okay. And you understood that the  
 4 trailer -- I guess trailers that were destroyed in  
 5 the ISOM explosion of March 23 were well inside the  
 6 350-foot minimum distance?  
 7 A. Yes, as I understand it from the report.  
 8 Q. And you understood that those trailers  
 9 were sited there without ever being commissioned by  
 10 BP for occupancy?  
 11 A. Without being commissioned?  
 12 Q. Yes, sir.  
 13 A. What I read in the report was that the  
 14 MOC for the ISOM -- for the trailer where most of  
 15 the fatalities occurred were -- had not been signed  
 16 off for occupancy by the superintendent, I believe.  
 17 Q. You understand that's called the  
 18 commissioning?  
 19 A. I would not have articulated that as  
 20 that, but yes. That's fine if that's what you call  
 21 it.  
 22 Q. Did you ever have any understanding as to  
 23 who was responsible at BP for allowing those  
 24 trailers to be sited and occupied there without  
 25 being commissioned?

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1 A. No, it should not have happened according  
 2 to the procedure. The MOC procedure should have  
 3 prevented that from occurring. Clearly it did not  
 4 which was one of the system gaps that was  
 5 identified in the investigation report.  
 6 Q. Did you ever get an understanding as to  
 7 who was responsible for allowing that to have  
 8 happened?  
 9 A. It was not clear from the investigation  
 10 report other than I think that was probably part of  
 11 its issue around accountables and clarity and  
 12 communication that was cited in that report.  
 13 Q. When you were the PUL at BP Texas City,  
 14 did you ever allow trailers to be occupied without  
 15 being properly commissioned?  
 16 A. To my knowledge, no; but I can't tell you  
 17 that I checked all MOCs to see that that was the  
 18 case.  
 19 Q. Did you ever allow trailers to be parked  
 20 immediately adjacent to flares?  
 21 A. To my recollection, no.  
 22 Q. And I understood from your earlier  
 23 testimony you could casually observe that would not  
 24 be a good policy?  
 25 A. Yes.

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1 Q. Common sense --  
 2 A. That is not a good policy.  
 3 Q. Common sense would say the flares are  
 4 there for many reasons one of which is that you do  
 5 have potential releases of vapors and sometimes  
 6 liquids out of those flares and you want them  
 7 removed from the area around the units where it can  
 8 damage the unit and personnel working in the units,  
 9 right?  
 10 MR. BROWN: Objection, form.  
 11 A. It is certainly not good practice to have  
 12 things at the base of flare stacks. And many of  
 13 the flare yards were protected with perimeter  
 14 fences to try to ensure that that didn't happen.  
 15 Q. (BY MR. COON) Sure, because there was a  
 16 recognition from management that if you have a  
 17 flare that is used to burn off vapors that are  
 18 released out of a unit, you want that to be in an  
 19 area where there is less risk that those  
 20 combustibles cause adverse impact to the integrity  
 21 of the unit or to personnel working on the units.  
 22 A. That's a statement.  
 23 Q. That's something that is common sense,  
 24 isn't it?  
 25 A. I don't know that I would say it's common

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1 sense. I think experience would certainly show  
 2 it's prudent not to have things at the base of  
 3 flare stacks.  
 4 Q. And anyone at BP Texas City or any other  
 5 petrochemical facility with any significant amount  
 6 of experience and training in safety and process  
 7 safety management would understand the risk  
 8 associated with putting people immediately adjacent  
 9 to flares, wouldn't they?  
 10 MR. BROWN: Objection, form.  
 11 A. Well, you're -- you're assuming that  
 12 people would recognize that immediately. I don't  
 13 know that that's true and part of that would depend  
 14 on, you know, what has been the practice.  
 15 I can tell you as part of the ISOM  
 16 follow up and the work that has been done, we have  
 17 found things in many plants, some of them very high  
 18 performing, that after the fact looking at it you  
 19 would say that doesn't make sense. So your -- your  
 20 implication that this would be intuitively obvious  
 21 to anyone, I am not sure is exactly, correct.  
 22 Q. (BY MR. COON) Well, maybe it wasn't  
 23 intuitively observable and recognized by everyone,  
 24 but someone at BP who has a number of years of  
 25 training in health and safety issues and process

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1 safety management should have enough knowledge and  
 2 intuition to know that you should not put people  
 3 and equipment immediately adjacent to a flare  
 4 because the flares can result in flames going all  
 5 the way down to the ground and burning whatever is  
 6 below them, right?  
 7 MR. BROWN: Objection, form.  
 8 A. Yeah, it's -- having things at a base of  
 9 a flare stack is not -- would not generally be good  
 10 practice.  
 11 Q. (BY MR. COON) And again, that's because  
 12 the flames don't always stay at the top of the  
 13 tower, that you can actually have so much vapor and  
 14 liquid coming out of them that they can cause fires  
 15 at ground level as well?  
 16 A. You could --  
 17 MR. BROWN: Objection, form.  
 18 A. -- conceive that that could happen.  
 19 Q. (BY MR. COON) And people that are  
 20 charged with the responsibility at a level of  
 21 management to be in charge of health and safety and  
 22 process safety management should have enough  
 23 education and training and experience to appreciate  
 24 that risk, shouldn't they?  
 25 A. You would hope that they would.

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1 Q. In fact, you're such a person that did  
 2 appreciate such a risk, correct?  
 3 A. Well, I would think I do.  
 4 Q. Okay. And if you were out -- if you went  
 5 out to the plant -- Mr. Hale, when you were out at  
 6 BP Texas City, if you were driving around in a  
 7 vehicle just inspecting the plant and you saw  
 8 occupied trailers located at the base of a flare,  
 9 what would you do?  
 10 A. It's speculating. I don't know.  
 11 What I hope I would do is ask  
 12 questions about that.  
 13 Q. Would you allow occupied buildings at the  
 14 base of a flare, irrespective of what answers you  
 15 were given, knowing the risks associated with doing  
 16 so?  
 17 A. My --  
 18 MR. BROWN: Objection, form.  
 19 A. My personal experience and the only  
 20 recollection that I can recall while I was at Texas  
 21 City was at one flare yard where I did see a  
 22 trailer inside of a fenced area. And I saw to it  
 23 that it was removed, but that's the only particular  
 24 instance that I can recall.  
 25 Q. (BY MR. COON) Okay. So the one time you

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1 saw it, you took the personal responsibility and  
 2 accountability to inserting yourself into that  
 3 issue and making sure that trailer was removed?  
 4 A. The one time I can recall. What I can't  
 5 tell you for sure is that I didn't drive by other  
 6 situations and not recognize that. I don't know  
 7 that.  
 8 What I know from our work post the  
 9 ISOM incident is that we had situations in many of  
 10 our locations that from what we know and what we  
 11 understand today were unacceptable and we have  
 12 corrected those.  
 13 Q. And some of those were reportedly things  
 14 that BP was just not fully aware of in terms of a  
 15 perception of the risks associated? I take it  
 16 that's one of the things. They just didn't realize  
 17 some of the things that could happen?  
 18 A. I think industry practice was such that  
 19 not just BP but many people especially in the use  
 20 of temporary buildings didn't fully appreciate the  
 21 risks that those represented.  
 22 Q. BP already knew some of those risks  
 23 because they had a rule that you couldn't put them  
 24 within 350 feet of a flare. That rule was already  
 25 in place at BP well before this explosion, wasn't

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1 it?  
 2 MR. BROWN: Objection, form.  
 3 A. I don't recall the number exactly, but  
 4 there was probably some reference to that, yes,  
 5 having things...  
 6 Q. (BY MR. COON) We can reasonably opine  
 7 that the reason for that was a safety  
 8 consideration?  
 9 A. Well, you would think that would be why  
 10 you would have such a rule.  
 11 Q. Okay. And that's something that you in  
 12 your experience were aware of that there was a risk  
 13 associated with parking trailers immediately  
 14 adjacent to flares or other atmospheric vent type  
 15 of processes?  
 16 MR. BROWN: Objection, form.  
 17 A. The specific risks around flares was --  
 18 was pretty clear around this ability to have carry  
 19 over from that in some instances. The -- the issue  
 20 around atmospheric vents, I would say, is less  
 21 obvious. It certainly was to me.  
 22 Q. (BY MR. COON) Do you know Mr. Runfola  
 23 who is an I&E technician at BP?  
 24 A. I don't recall him specifically, no.  
 25 Q. Do you know that he has testified that he

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1 personally took it upon himself as an I&E  
 2 technician to go to safety personnel at BP Texas  
 3 City to admonish them to do something about the  
 4 trailers located under some flares at one of the  
 5 other units and also with respect to the location  
 6 of the trailers that were destroyed in the ISOM  
 7 explosion?  
 8 MR. BROWN: Objection, form.  
 9 A. No, sir, I don't know that. I don't know  
 10 this individual nor who he talked to.  
 11 Q. (BY MR. COON) Is this all new news to  
 12 you?  
 13 A. That Mr. Runfola, yes, I am unaware of  
 14 that.  
 15 Q. Okay. Well, assume with me that  
 16 Mr. Runfola is an I&E technician, and it is not his  
 17 job to effectuate safety in other areas of the  
 18 plant. It is not his job title, but he,  
 19 nonetheless, was a casual observer of high risk  
 20 situations such as trailers by flares and took the  
 21 initiative to tell people above him about his  
 22 concerns. His observations that trailers by flares  
 23 was a bad idea and a high risk would not be  
 24 something that would surprise you, would it?  
 25 A. No, it would not surprise me.

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1 Q. In fact, that's something that you, too,  
 2 had also observed and, in fact, as I understand  
 3 your testimony, when you were aware of it on at  
 4 least one prior occasion, you under took the  
 5 initiative to fix the problem by having the trailer  
 6 removed?  
 7 A. As I recall, yes.  
 8 MR. BROWN: What time do we have.  
 9 MR. COON: I will wrap up here in  
 10 the next few minutes.  
 11 THE VIDEOGRAPHER: We are ten  
 12 minutes over.  
 13 MR. BROWN: Huh.  
 14 THE VIDEOGRAPHER: We are ten  
 15 minutes over.  
 16 Q. (BY MR. COON) Are you aware of release  
 17 vapor clouds to ground on the ISOM unit on numerous  
 18 occasions prior to the explosion on March, 2005?  
 19 A. No, I do not. I don't recall that.  
 20 Q. Do you recall ever hearing about any  
 21 vapor clouds forming at ground level prior to your  
 22 arrival even during your tenure at any of the units  
 23 form vent stacks at that facility?  
 24 A. Not that I recall, no, sir.  
 25 Q. Mr. Hale, we have been here a long time.

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1 We have asked a lot of questions. Is there  
 2 anything in retrospect that now that we are at the  
 3 end of the day, you know, I just said that backward  
 4 I need to revise that or recant that?  
 5 A. Nothing that I can recall. I hope I have  
 6 an opportunity to read the --  
 7 Q. We had not reached that agreement, but  
 8 you are entitled to.  
 9 MR. COON: I assume you want to  
 10 read and sign?  
 11 MR. BROWN: Yeah, he will read and  
 12 sign.  
 13 MR. COON: Okay. Thank you, sir.  
 14 We appreciate your time.  
 15 THE WITNESS: Yes, sir. I am  
 16 exhausted.  
 17 MR. BROWN: We'll reserve  
 18 questions until the time of trial, and I'm  
 19 exhausted, too.  
 20 THE VIDEOGRAPHER: Off the record  
 21 at 6:33 p.m., ending with Tape 7.  
 22 (Deposition concluded.)  
 23  
 24  
 25

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1 EXAMINATION  
 2 CHANGES AND SIGNATURE

3 PAGE LINE	4 CHANGE	5 REASON
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RICKY DAVE HALE

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

My Commission Expires: \_\_\_\_\_

Page 305

1 CAUSE NO. 05CV0337  
 2 MIGUEL ARENAZA, ELIZABETH ) IN THE DISTRICT COURT  
 3 RAMON, DAVID G. CROW and )  
 4 JUANITA G. CROW, et al. )  
 5 )  
 6 VS. ) 212TH JUDICIAL DISTRICT  
 7 )  
 8 BP PRODUCTS NORTH AMERICA )  
 9 INC., B.P. CORPORATION )  
 10 NORTH AMERICA INC., DON )  
 11 PARUS, AND JE MERIT )  
 12 CONSTRUCTORS, INC. ) GALVESTON COUNTY, TEXAS  
 13 CAUSE NO. 05CV0337-A  
 14 IN RE: BP AMOCO EXPLOSION ) IN THE DISTRICT COURT  
 15 MARCH 23, 2005 )  
 16 COORDINATED DISCOVERY ) 212TH JUDICIAL DISTRICT  
 17 PROCEEDINGS )  
 18 ) GALVESTON COUNTY, TEXAS  
 19 REPORTER'S CERTIFICATE  
 20 ORAL VIDEOTAPED DEPOSITION OF  
 21 RICKY DAVE HALE  
 22 JUNE 1, 2006  
 23  
 24 I, Stephanie Barringer, Certified Shorthand  
 25 Reporter in and for the State of Texas, hereby  
 certify to the following:  
 That the witness, RICKY DAVE HALE, was duly  
 sworn and that the transcript of the deposition is a  
 true record of the testimony given by the witness;  
 That the deposition transcript was duly  
 submitted on \_\_\_\_\_ to the witness or to the  
 attorney for the witness for examination, signature,  
 and return to me by \_\_\_\_\_.  
 That the following is the computer-calculated  
 amount of time used by each party at the time of the  
 deposition:  
 Mr. Dean (3 hours, 39 minutes)  
 Mr. Coon (1 hour, 48 minutes)  
 Mr. Bond (50 minutes)  
 Attorneys for Plaintiffs

Page 306

1  
2 That pursuant to information given to the  
3 deposition officer at the time said testimony was  
4 taken, the following includes the parties at the  
5 deposition:  
6 FOR PLAINTIFFS ADRIAN MENDOZA, ET AL.:  
7 Mr. Chris Dean  
8 Williams & Bailey Law Firm  
9 8441 Gulf Freeway, Suite 600  
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11 Fax: 713-643-6226  
12 Telephone: 713-230-2200  
13  
14 FOR PLAINTIFFS RHONDA DARLENE HEICKMAN,  
15 INDIVIDUALLY AND AS DEPENDENT  
16 ADMINISTRATOR OF THE ESTATE OF RYAN  
17 RENE RODRIGUEZ:  
18 Mr. Trent Bond  
19 Mr. Doug York  
20 Reaud, Morgan & Quinn  
21 801 Laurel Street  
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26 FOR PLAINTIFFS NATHANIEL EARL GRIMES,  
27 EVA HENDERSON, LEONARD BOURGEOIS,  
28 ROBBIE BOURGEOIS:  
29 Ms. Sherry Scott Chandler  
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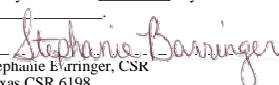
Page 307

1 APPEARANCES  
2 (Continued)  
3  
4 FOR PLAINTIFF DAWN PRATER:  
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6 Mr. Ron Vercher  
7 Klitsas & Vercher, P.C.  
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14 JOSE VILLARREAL, HECTOR RODRIGUEZ,  
15 ELEAZAR CANTU, MARCO FIGUEROA,  
16 LUIS LOPEZ, ELOY RODRIGUEZ, ERNESTO  
17 VALENCIA, LANIEL VALLANEUVA, JOSEPH MOISE,  
18 JESUS LOPEZ, GABRIEL JAIMEZ, EVA RAMIREZ,  
19 VERONICA RAMIREZ, JOHN RANGEL, JOSE VILLANEUVA:  
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28 FOR PLAINTIFFS JAIME ANDREADE, ET AL.:  
29  
30 Mr. Brent Coon  
31 Mr. Larry Sarten  
32 Mr. Arturo J. Gonzalez  
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Page 308

1 APPEARANCES  
2 (Continued)  
3  
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13 FOR DEFENDANT BP PRODUCTS NORTH AMERICA, INC.:  
14 Mr. Anthony Brown  
15 McLeod, Alexander, Powel & Apffel  
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22 - and -  
23  
24 Ms. Cynthia DeLaughter  
25 Fulbright & Jaworski  
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Page 309

1 APPEARANCES  
2 (Continued)  
3  
4 FOR FLUOR ENTERPRISES d/b/a FLUOR  
5 GLOBAL SERVICES:  
6 Mr. Daniel Pettit  
7 Locke, Liddell & Sapp, LLP  
8 3400 JP Morgan Chase Tower  
9 600 Travis Street  
10 Houston, Texas 77002-3095  
11 Fax: 713-223-3717  
12 Telephone: 713-226-1200  
13  
14 That a copy of this certificate was served on  
15 all parties shown herein on \_\_\_\_\_ and  
16 filed with the Clerk.  
17  
18 I further certify that I am neither counsel for,  
19 related to, nor employed by any of the parties in the  
20 action in which this proceeding was taken, and  
21 further that I am not financially or otherwise  
22 interested in the outcome of this action.  
23  
24 Further certification requirements pursuant to  
25 Rule 203 of the Texas Code of Civil Procedure will be  
26 complied with after they have occurred.  
27  
28 Certified to by me on this \_\_\_\_\_ day of  
29 \_\_\_\_\_  
30   
31 Stephanie Barringer, CSR  
32 Texas CSR 6198  
33 Expiration: 12/31/06  
34 U.S. Legal Support  
35 Firm Registration: 122  
36 519 N. Sam Houston Pkwy., Ste. 200  
37 Houston, Texas 77060  
38 Main number: 713/653-7100  
39 Fax number: 713/653-7143

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

\_\_\_\_\_  
Stephanie Barringer, CSR

21

Texas CSR 6198

22

Expiration: 12/31/06

23

U.S. Legal Support

24

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