

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

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

13
14
15 *****

16 ORAL VIDEOTAPED DEPOSITION OF
17 RICHARD PELTIER, JR.
18 FEBRUARY 27, 2006

19 *****
20
21
22
23
24
25

<p style="text-align: right;">Page 2</p> <p>1 ORAL VIDEOTAPED DEPOSITION OF RICHARD PELTIER, 2 JR., produced as a witness at the instance of the 3 Plaintiffs and duly sworn, was taken in the 4 above-styled and numbered cause on February 27, 2006, 5 from 10:07 a.m. to 5:48 p.m., before Stephanie 6 Barringer, Certified Shorthand Reporter in and for 7 the State of Texas, reported by stenographic means at 8 the offices of Fulbright & Jaworski, 1301 McKinney, 9 Suite 5100, Houston, Texas, pursuant to the Texas 10 Rules of Civil Procedure and the provisions stated on 11 the record or attached hereto. 12 Since this deposition has been realtimed and you 13 may be in possession of a rough draft form, please be 14 aware that there may be a discrepancy regarding page 15 and line numbers when comparing the realtime draft 16 and the final transcript. Also, please be aware that 17 the realtime screen and the unedited, uncertified 18 rough draft transcript may contain untranslated 19 steno, a misspelled proper name and/or nonsensical 20 English word combinations. All such entries are 21 corrected in the final certified transcript. There 22 also may be persons receiving the realtimed feed 23 outside of the deposition room, but the reporter has 24 given this access only to known attorneys of record 25 and/or their experts.</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (Continued) 2 3 4 FOR PLAINTIFFS NATHANIEL EARL GRIMES, EVA HENDERSON, LEONARD BOURGEOIS, 5 ROBBIE BOURGEOIS: 6 Ms. Sherry Scott Chandler The Chandler Law Firm, LLP 7 Park Laureate 10000 Memorial Drive, Suite 320 8 Houston, Texas 77024 Fax: 713-682-9911 9 Telephone: 713-222-7285 10 11 FOR PLAINTIFF DAWN PRATER: 12 Mr. Loren Klitsas Klitsas & Vercher, P.C. 13 550 Westcott, Suite 570 Houston, Texas 77007 14 Fax: 713-862-1465 Telephone: 713-862-1365 15 16 FOR PLAINTIFFS CARLOS GALAN, LESLIE GALAN, 17 JOSE VILLARREAL, HECTOR RODRIGUEZ, ELEAZAR CANTU, MARCO FIGEUEROA, 18 LUIS LOPEZ, ELOY RODRIGUEZ, ERNESTO VALENCIA, LANIEL VALLANEUVA, JOSEPH MOISE, 19 JESUS LOPEZ, GABRIEL JAIMEZ, EVA RAMIREZ, VERONICA RAMIREZ, JOHN RANGEL, JOSE VILLANEUVA: 20 Mr. Randy Sorrels 21 Abraham, Watkins, Nichols, Sorrels, Matthews & Friend 22 800 Commerce Houston, Texas 77002 23 Fax: 713-225-0827 Telephone: 713-222-7211 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES 2 3 4 FOR PLAINTIFFS MIGUEL ARENAZA AND ELIZABETH RAMON, ET AL.: 5 Mr. Arturo J. Gonzalez 6 The Ammons Law Firm 3700 Montrose Boulevard 7 Houston, Texas 77006 Fax: 713-523-4159 8 Telephone: 713-523-1606 9 10 FOR PLAINTIFFS ADRIAN MENDOZA, ET AL.: 11 Mr. John Eddie Williams Mr. Byron Buchanan 12 Mr. Chris Dean Williams & Bailey Law Firm 13 8441 Gulf Freeway, Suite 600 Houston, Texas 77017 14 Fax: 713-643-6226 Telephone: 713-230-2200 15 16 FOR PLAINTIFFS RHONDA DARLENE HEICKMAN, 17 INDIVIDUALLY AND AS DEPENDENT ADMINISTRATOR OF THE ESTATE OF RYAN 18 RENE RODRIGUEZ: 19 Mr. Trent Bond Mr. Doug York 20 Reaud, Morgan & Quinn 801 Laurel Street 21 Beaumont, Texas 77720-6005 Fax: 409-833-8236 22 Telephone: 409-838-1000 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES (Continued) 2 3 4 FOR PLAINTIFFS JAIME ANDREADE, ET AL.: 5 Mr. Brent Coon 6 Brent Coon & Associates 3550 Fannin 7 Beaumont, Texas 77701 Fax: 409-833-4483 8 Telephone: 409-835-2666 9 10 FOR PLAINTIFF ROGER RODRIGUEZ: 11 Mr. John W. Stevenson, Jr. John W. Stevenson & Associates 24 Greenway Plaza, Suite 750 12 Houston, Texas 77046 Fax: 713-622-3224 13 Telephone: 713-622-3223 14 15 FOR PLAINTIFFS JASON MIRANDA, DOMINIC MARTINEZ, MICHAEL PEARSON, 16 EDDIE NAVARRETTE: 17 Mr. Gregg S. Harrison Bonilla & Chapa, P.C. 18 2727 Morgan Avenue Corpus Christi, Texas 78405 19 Fax: 361-881-1028 Telephone: 361-991-000 20 21 22 23 24 25</p>

Page 6

1 APPEARANCES
(Continued)

2

3

4 FOR PLAINTIFFS, ET AL.:

5 Mr. Jeff Burke
The Buzbee Law Firm
6 1910 Ice & Cold Storage Building
104 Moody
7 Galveston, TX 77550
Fax: 409-762-0538
8 Telephone: 409-762-5393

9

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

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

15

16 FOR DEFENDANT JE MERIT:

17 Mr. Tory Taylor
Mr. Joshua Anderson
18 Ebanks, Smith & Carlson
2500 Five Houston Center
19 1401 McKinney
Houston, Texas 77010
20 Fax: 713-333-4600
Telephone: 713-333-4500

21

22

23

24

25

Page 7

1 APPEARANCES
(Continued)

2

3

4 FOR FLUOR ENTERPRISES d/b/a FLUOR
GLOBAL SERVICES:

5 Mr. Gregory F. Burch
6 Locke, Liddell & Sapp, LLP
3400 JP Morgan Chase Tower
7 600 Travis Street
Houston, Texas 777002-3095
8 Fax: 713-223-3717
Telephone: 713-226-1200

9

10 FOR DEFENDANT BP PRODUCTS NORTH AMERICA, INC.:

11 Mr. Edward J. Patterson, III
12 Mr. Graig Alvarez
Ms. Jessica Gilmore
13 Fulbright & Jaworski
1301 McKinney, #5100
14 Houston, Texas 77010-3095
Fax: 713-651-5246
15 Telephone: 713-651-5151

16

17 VIDEOGRAPHER:

18 Mr. Scott Hamilton

19

20

21

22

23

24

25

Page 8

1 INDEX

2

3 PAGE

4 RICHARD PELTIER, JR.

5 Examination by Mr. Dean 9

6 Examination by Mr. Bond 196

7 Further Examination by Mr. Dean 298

8 Further Examination by Mr. Bond 320

9 Signature Page 330

10 Court Reporter's Certificate 332

11

12

13 EXHIBITS

14 (Continued)

15

16 EXHIBIT DESCRIPTION PAGE

17 155 Plaintiffs' First Amended 60

18 Notice of Intention To Take

19 the Oral Deposition of

20 Rich Peltier with Subpoena

21 Duces Tecum

22 156 Texas City RV Study/HAZOP 132

23 Action Items 2003 Work

24 Status Update and 2004

25 Study Plan, Bates

BPISOME00383586 through

BPISOME00383593

Page 9

1 THE VIDEOGRAPHER: On the record,

2 February 27th, 2006 at 10:07 a.m., beginning

3 Tape 1.

4 RICHARD PELTIER, JR.,

5 having been first duly sworn, testified as follows:

6

7 EXAMINATION

8 Q. (BY MR. DEAN) Tell us your whole name,

9 please, sir.

10 A. Richard Thaddeus Peltier, Jr.

11 Q. And you are presently a BP employee; is

12 that true?

13 A. Correct.

14 Q. You were a BP employee on March 23rd,

15 2005?

16 A. That's correct, too.

17 Q. How many years before March 23rd, 2005

18 had you been working at the Texas City refinery?

19 A. I have worked there two different times.

20 Once in the mid '97 through, say, May of 2000 and

21 then again in July of 2002 through June -- let's

22 see, July of 2005.

23 Q. You are not there anymore?

24 A. No.

25 Q. Where are you now?

<p style="text-align: right;">Page 10</p> <p>1 A. I am working on a commercial opportunity 2 out of a Houston office still with BP, but for just 3 a refinery away from Texas City. 4 Q. Is it one of the spin off subsidiary 5 companies that you are working with now, BP 6 subsidiary companies? 7 A. No. It's a -- it is a Canadian extra 8 heavy oil program project that we are looking at 9 for our Northern Tier refineries. 10 Q. And what -- what -- has your employer 11 changed after July, 2005? 12 A. It's still BP. I don't know if it's 13 still the same parent company. I would have to 14 look. 15 Q. That's fair. 16 A. Okay. 17 Q. Before we continue, in order to secure 18 your attendance at trial before a judge and jury in 19 Galveston County on September 18th, we would like 20 to serve you with a subpoena to make sure you are 21 going to be around and plan ahead for it -- 22 A. Sure. 23 Q. -- of those folks. We are going to take 24 a quick moment to do that right now. 25 (Discussion off the record.)</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes, I was the incident commander on the 2 day shift. 3 Q. On the day shift. 4 And BP assigned you several roles, 5 as I understand it, beyond incident commander. You 6 were also a liaison type fellow with the media and 7 the community; is that true? 8 A. That's true, too. 9 Q. And before this time you had been serving 10 as a manufacturing delivery leader, which those of 11 us out here including the jury are going to learn 12 to be an MDL in the aromatics unit. 13 Is that true? 14 A. I was until August of 2005. 15 Q. Right. 16 And how long had you been serving 17 as an MDL in the aromatics unit before the 18 March 23rd's explosion and fire? 19 A. Let's see. I was -- from July of 2002 20 through -- I guess I got the date wrong on that, 21 but from July of 2002 through August of 2004. 22 So, two years. So, when I said 23 earlier -- 24 Q. Yeah. 25 A. -- July, 2005, I was off one year.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. (BY MR. DEAN) Thank you, sir. 2 So, from July, 2002 to -- through 3 July, 2005, that's when you were there at the Texas 4 City refinery working day in and day out for BP; is 5 that correct? That's the last time? 6 A. Yes. 7 Q. All right. 8 A. And I was working on a different type of 9 role from about August of 2005 until I left. 10 Q. I understood you to leave July, 2005. I 11 want to make sure we are real clear. 12 When did you leave -- 13 A. Yeah. 14 Q. -- Texas City refinery? 15 A. My office was no longer at the Texas City 16 site after July of 2005. 17 Q. And did you ever go back? 18 A. I have been back a couple of times. 19 Q. All right. 20 A. Just for the day kind of thing. 21 Q. It's my understanding that you were 22 incident commander, and BP assigned you that role 23 after the explosion and fire of March 23rd that 24 killed 15 people. 25 Am I correct?</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Yeah, that's what I need to clarify. You 2 were there. I wasn't. 3 So, I -- 4 A. Yeah, that's fine. 5 Q. -- need to make sure we are on the same 6 page. 7 A. Right. 8 Q. July, 2002 through August, 2004? 9 A. That's correct. 10 Q. You were MDL aromatics unit? 11 A. That's correct. 12 Q. And after 2004, what was your job 13 description? 14 A. After that, I was working on -- I was the 15 single point of accountability for selling the 16 chemicals business, which was Innovene at that 17 time. 18 So, it was -- it was a hundred 19 percent owned by a BP subsidiary that we were 20 looking to either sell outright to another company 21 or to sell through an initial public offering. And 22 it was -- so, it was for the Texas City site, 23 Chocolate Bayou and some of the other Gulf Coast 24 locations. 25 Q. And that would have been from September,</p>

Page 14

1 2004 through July, 2005?
 2 A. It was from September, 2004 until I left
 3 the location. Yes, in 2005 -- July, 2005.
 4 Q. All right. During your service as
 5 incident commander and relative to your service as
 6 an MDL in other job functions at BP, I presume you
 7 were not surprised when you learned that certain
 8 family members of the dead declined to have BP
 9 personnel attend their funerals?
 10 A. I did not attend those funerals
 11 personally, and I was not aware of, you know,
 12 families that were -- or did or didn't want us to
 13 attend those funerals.
 14 Q. And as your -- in your position as
 15 liaison with the press, you had no idea about that
 16 concept?
 17 A. Well, when it got to the point of being
 18 liaison for that, the funerals were already behind
 19 us. And so, you know, as incident commander, we
 20 oversaw humanitarian support, but I had people on
 21 the team who were more directly involved in doing
 22 that.
 23 Q. I am handing you what's Bates Number --
 24 BPISOME398576.
 25 I want you to read for the jury --

Page 15

1 A. Okay.
 2 Q. -- that e-mail that you received back in
 3 April of 2005.
 4 A. Okay. Read the whole e-mail?
 5 Q. No. What's in highlight, sir.
 6 A. Okay. Site leadership respects the
 7 wishes that of the family -- families that did not
 8 want BP to attend of the personnel.
 9 Q. Do you remember receiving that e-mail
 10 back in April, 2005, Mr. Peltier?
 11 A. I don't remember explicitly, no.
 12 Q. And you don't remember anything about the
 13 families declining to have BP attend -- BP
 14 personnel attend their families' funeral?
 15 MR. PATTERSON: Objection, form.
 16 A. I don't remember specific families and
 17 which ones. Now, it may have been that I've seen
 18 the e-mail, some may have wanted us to come. Some
 19 not. And I'm okay with we tried to respect that to
 20 the extent we could.
 21 Q. (BY MR. DEAN) Well, certainly with --
 22 with respect to your service as a liaison between
 23 BP and the press, you came to understand, at least
 24 through that capacity or in that capacity, that
 25 certain of these families had expressed that their

Page 16

1 dead person relative, the person who died in the BP
 2 explosion, had previously expressed grave concerns
 3 about working at the BP refinery?
 4 MR. PATTERSON: Objection, form.
 5 Q. (BY MR. DEAN) You have learned that,
 6 true?
 7 A. You know, in hindsight, I know I had
 8 heard that some people were concerned of working
 9 there; but in advance, I don't recall people
 10 saying, "I was concerned at working at Texas City."
 11 Q. So, you only heard about people being
 12 concerned about working, relative to safety, at the
 13 Texas City refinery after the March 23rd incident.
 14 Is that your testimony?
 15 A. That's it.
 16 Q. All right. And you had never heard any
 17 contractors who had complained about the safety
 18 issues that were going on at Texas City before
 19 March 23rd, 2005.
 20 Is that also true?
 21 A. You know, we have a joint BP contractor
 22 safety council and that's their -- their forum to
 23 express if they have safety things that they would
 24 like to work out with the company and things. And
 25 I am not on that committee; but I know they have

Page 17

1 discussions and try to work through issues, if
 2 there are any.
 3 MR. DEAN: Objection,
 4 nonresponsive.
 5 Q. (BY MR. DEAN) Let me ask you this. I am
 6 handing you BPISOME398423, and that's an e-mail
 7 from you to Karen Cowart; is that true, sir?
 8 A. That's what it says.
 9 Q. Do you have any reason to believe that's
 10 not correct, that that is not indeed an e-mail from
 11 you to Ms. Cowart back in the days after the
 12 explosion on March 23rd?
 13 A. Yes. It's dated March the 26th, and it
 14 says it is from Karen S. Cowart to Richard Peltier.
 15 Q. And as it turns out, you forwarded
 16 Ms. Cowart in that timeframe an article.
 17 Is that true? With some
 18 attachment to that e-mail?
 19 A. Oh. Okay. I don't know. Let me see.
 20 I guess I don't know if it was
 21 attached to this or not but...
 22 Q. Okay.
 23 A. I mean, I don't know.
 24 Q. You don't -- you don't independently
 25 remember?

Page 18

1 A. Do you want me to read this? I haven't.
 2 Q. Sure. Go ahead.
 3 A. All right.
 4 Okay. I didn't thoroughly read
 5 it, but it looks like something out of the press.
 6 Q. All right. And that would have been your
 7 job to keep disseminating information among BP
 8 management about what's going on in the press.
 9 What kind of coverage you are getting, et cetera;
 10 is that correct?
 11 A. Well, what I had was a team that worked
 12 on that. They were external affairs folks. One of
 13 those would have been -- was our public government
 14 of affairs person at the site.
 15 And then, there were other people
 16 that had come in to help because of the -- the, you
 17 know, the challenges of just keeping up with the
 18 media response around that.
 19 Q. All right.
 20 MR. DEAN: Objection,
 21 nonresponsive.
 22 Q. (BY MR. DEAN) Your job in these days
 23 after the explosion was to serve as a liaison with
 24 the press; is that true?
 25 A. My response -- my responsibilities were

Page 19

1 as incident commander on the day shift to oversee
 2 all the incident management team response to that;
 3 and a piece of that was media related coverage,
 4 which I did through other individuals that were
 5 working on my team.
 6 Q. And community relations as I understand
 7 it; is that also true?
 8 A. And community relations as well.
 9 Q. All right. What the jury learns from
 10 this article of Friday, March 25th, that you
 11 forwarded to Ms. Cowart is that one of the
 12 employees of the contractor, named Mr. King, said
 13 that he had told us at one time that he worked at
 14 that plant before and swore he would never go back
 15 and here we are.
 16 Do you remember --
 17 MR. PATTERSON: Objection, form.
 18 Q. (BY MR. DEAN) Do you remember reading
 19 that?
 20 A. I don't recall reading that article.
 21 There was lots of e-mail that was coming through --
 22 Q. Do you remember --
 23 A. -- during that incident time.
 24 Q. Do you remember the concept where
 25 contractors families were saying this? Do you

Page 20

1 remember it, specifically, that they had -- that
 2 contractors who died expressed concern about the
 3 safety at that plant to their family members?
 4 A. I did not talk to the contractors
 5 directly in that instance or the ones that were
 6 associated with the families where they had, you
 7 know, some of the dead that were part of that
 8 group. And so, I don't -- I didn't have that
 9 direct interaction. So, what I had was this
 10 information similar to what you are showing that
 11 would have maybe informed me on some of that.
 12 MR. DEAN: Objection,
 13 nonresponsive.
 14 Q. (BY MR. DEAN) You did, in fact,
 15 understand that there was a concept at least
 16 communicated through the press, in newspapers the
 17 Internet and whatnot, that family members of
 18 contractors were expressing that their dead family
 19 member, their dead loved one, had previous to the
 20 explosion expressed concern for their safety in
 21 working at the BP refinery?
 22 A. Through reading the articles, you could
 23 see that they were, as you would expect, very
 24 distressed with that; and they had expressed to the
 25 media, as in that article, that they were not --

Page 21

1 that they had concerns working there.
 2 Q. Was that a surprise to you, sir, after
 3 the explosion, hearing those folks, grieving folks,
 4 tell that kind of story?
 5 A. It didn't overly surprise me in that
 6 case. When I look at that, it's a very distressful
 7 time, you know. There is a funeral, arrangements
 8 to be made, a lot of soul searching, you know, that
 9 they may have done with their individuals; so I --
 10 it's possible.
 11 Q. Might another reason be for you not being
 12 so surprised is that indeed BP was experiencing a
 13 grave safety culture problem prior to this
 14 explosion?
 15 MR. PATTERSON: Objection, form.
 16 A. I did not see a big safety culture
 17 problem at the site, per se, as you are saying.
 18 What I saw was that we had opportunities, as all
 19 companies do, to improve on our safety performance
 20 over time.
 21 MR. DEAN: Objection to the extent
 22 the answer was nonresponsive.
 23 Q. (BY MR. DEAN) Not only have such issues
 24 of concern for personal well-being communicated --
 25 been communicated through the press after the

<p style="text-align: right;">Page 22</p> <p>1 explosion, indeed, there were examples where 2 contractors have communicated with BP individuals, 3 personnel and management, including yourself, 4 expressing their concerns about the safety culture 5 or lack thereof at BP. 6 Isn't that true, sir? 7 A. There was a lot in that question. Can 8 you say it one time? 9 Q. Sure. Any time you don't understand -- 10 A. All right. 11 Q. -- please, tell me so. Okay? 12 A. Sure. 13 Q. There are times that you have personal 14 knowledge, are there not, sir, where individuals 15 who work for -- contractors who perform contracting 16 services at BP before the explosion expressed 17 concern about the lack of safety culture at BP, 18 again, before the explosion? You know that, true? 19 A. I don't recall or remember any 20 conversation around contractors talking about 21 having major safety issues while working at the 22 Texas City refinery for BP -- 23 Q. I didn't ask -- 24 A. -- in advance -- in advance of the 25 incident.</p>	<p style="text-align: right;">Page 24</p> <p>1 well. 2 Q. Certainly, the date reflects a timeframe 3 that you were working at Texas City; is that true? 4 A. Yes. 5 Q. All right. And does that e-mail not 6 confirm that a major contractor, somebody who does 7 business at Texas City all the time is 8 communicating with BP management their concerns of 9 a safety culture problem back two years -- more 10 than two years before the incident? 11 A. Well, what it tells me is that we had a 12 conversation with S&B and they had done a large 13 cogent at our site and they have an outstanding 14 safety record and we had talked to them about 15 safety improvement options. 16 And what I don't know is -- the 17 attachment here, who created that? Or is that -- 18 was that S&B or was that BP employees that created 19 it? 20 Q. You can't tell us? 21 A. I don't recall. 22 Q. All right. Let's put that up on the 23 screen and read it together, sir. 24 A. Okay. 25 Q. The attachment of the October 26th e-mail</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. All right. I want to hand you an e-mail 2 and see if it refreshes your memory. And tell me 3 whether or not you would have received this e-mail 4 back in October of 2003, sir. 5 And I am handing you, for the 6 record, what's BPISOME413917. 7 A. Okay. 8 (Examines document.) 9 Okay. 10 Q. Would you have been on that e-mail list 11 that you just reviewed? 12 A. I would imagine I was. I don't remember 13 the distribution list exactly, but probably so. 14 Q. Can you tell us why you would have been 15 on that list when your name doesn't appear on it? 16 A. I'm -- 17 MR. PATTERSON: Objection, form. 18 A. Well, I am looking; and it Texas City 19 Monday Operations Team. And I don't remember if I 20 was on this list or not; but at that time, I was in 21 an operations type role. So, I could have been on 22 it. 23 Q. (BY MR. DEAN) All right. 24 A. But it could have been a subset of 25 operations that could have been on this list as</p>	<p style="text-align: right;">Page 25</p> <p>1 that's entitled "Rick Hale notes from meeting on 2 October 20th -- 3 A. Oh, Rick Hale's -- 4 Q. -- 2003, does that make more sense now? 5 A. Yeah. So, if it's Rick Hale's notes -- 6 okay. 7 Q. Who is Rick Hale? 8 A. He was the Texas City refinery, slash, 9 site leader at that timeframe. 10 Q. All right. And that's management; is 11 that correct? 12 A. That's correct. 13 Q. All right. S&B made observations 14 according to Rick Hale's note; is that correct? 15 MR. PATTERSON: Objection, form. 16 A. Say that again, your question. 17 Q. (BY MR. DEAN) Rick Hale made notes of 18 S&B observations relative to some meeting that 19 occurred on 10/20/03? 20 MR. PATTERSON: Same objection. 21 A. Yeah. So, I'm -- I am surmising from 22 this, that is true. 23 Q. (BY MR. DEAN) All right. And S&B, 24 apparently, their representatives had observed that 25 there was a double standard. "BP people don't</p>

Page 26

1 follow the rules and are not held accountable."
 2 Did I read that correctly, sir?
 3 A. Yeah, you read it correctly.
 4 Q. And you don't remember this issue
 5 being -- or this concept being an issue out in the
 6 refinery in 2003, BP double standard, BP people not
 7 following rules and not being held accountable?
 8 That's news to you, in other words?
 9 A. We have had discussions of do we -- do we
 10 have our employees on the same standard as
 11 contractors and there -- it was a discussion we
 12 had.
 13 Q. I didn't ask if it was a discussion, sir.
 14 What I am asking is: Is this a concept that you
 15 knew was going on that contractors felt that there
 16 was a double standard about rule following back two
 17 years previous to the explosion and fire
 18 March 23rd?
 19 A. What I don't remember is the contractors
 20 having that discussion. I remember we had talked
 21 about, you know, do we have equable standards of
 22 what we hold our people accountable to as well as
 23 contractors.
 24 Q. All right. So, if you want to keep
 25 talking that it's in terms of a discussion, did the

Page 27

1 discussion conclude that, sure enough, BP personnel
 2 are not required to follow the rules whereas
 3 contractors are? That was --
 4 A. No.
 5 Q. -- a cultural issue going on in the years
 6 preceding the incident?
 7 A. No. We fully intend for our employees to
 8 follow the rules as well. The question would be
 9 is -- were we able to enforce it as well as the
 10 contractors had with their employees?
 11 Q. So, if -- if I were to sit here and say
 12 out loud that there was a safety culture issue with
 13 respect to BP personnel following the rules prior
 14 to the explosion, you would say that's news to you?
 15 A. I didn't say that would be news to me. I
 16 think we have found through incident investigation
 17 findings and things that sometimes employees had
 18 violated safety rules and those were lessons
 19 learned in that and we had recommendations that
 20 would have addressed those.
 21 Q. When employees don't follow rules, that
 22 jeopardizes safety of personnel, not only BP, but
 23 contract personnel working at the refinery; is that
 24 true?
 25 A. It depends on what rules we are talking

Page 28

1 about. If we are talking about --
 2 Q. Is that right? What rules distinguish
 3 it's okay to follow some rules --
 4 A. No --
 5 Q. -- but you don't have to follow others?
 6 A. So, my point is it's a -- if we are
 7 talking about safety policies and rules, then
 8 those -- yes, those are important. We have to
 9 follow, sir.
 10 If these are rules of who was able
 11 to drive in the plant or who has to park outside,
 12 you know, there is a lot of general rules that
 13 wouldn't have necessarily safety implications.
 14 Q. All right. Just so that I can be clear
 15 about what you are telling us, you believe there
 16 was no major problem with safety culture prior to
 17 the explosion at BP Texas City refinery?
 18 MR. PATTERSON: Objection, form.
 19 A. We had seen some breaches in -- in the
 20 safety culture in advance of the March 23rd
 21 explosion and those would have been investigated as
 22 part of incident investigations by BP.
 23 Q. (BY MR. DEAN) All right. But you
 24 understand -- that doesn't answer my question.
 25 MR. DEAN: I am going to object as

Page 29

1 nonresponsive.
 2 Q. (BY MR. DEAN) What I am asking you,
 3 irrespective of what you want to add to your
 4 answer, do you or do you not believe there was a
 5 major safety culture problem going on at the BP's
 6 Texas City refinery prior to the explosion of
 7 March 23rd, 2005?
 8 MR. PATTERSON: Objection, form.
 9 Object to the sidebar comment and ask it be
 10 stricken.
 11 You can answer.
 12 A. I -- I guess at all sites, we had safety
 13 improvement opportunities; but I didn't see that we
 14 had a major safety culture issue that would it not
 15 have been, you know, something that you would see
 16 in a refinery and we knew we had opportunities and
 17 we worked on those.
 18 MR. DEAN: Objection to the extent
 19 your answer was nonresponsive.
 20 Q. (BY MR. DEAN) I want to see if you have
 21 seen an e-mail from Joe Barnes. I am about to hand
 22 it to you. Actually, we can put it on the screen
 23 and read it together.
 24 A. Sure.
 25 Q. Who is Joe Barnes?

Page 30

1 A. Joe Barnes is an employee at BP Texas
 2 City.
 3 Q. And not only is he an employee at Texas
 4 City at the time of the explosion, he was the head
 5 of the health, security, safety and environmental
 6 section of BP; is that true, sir?
 7 A. I don't know his exact title; but I would
 8 call him the HSE manager for the -- for the Texas
 9 City site.
 10 Q. Fair enough. And with respect to that
 11 role, it was his job to enforce rules of safety at
 12 the refinery; is that true? At least one of his
 13 jobs?
 14 A. Yeah. So, his was -- is to help enforce,
 15 you know, safety policies at the site.
 16 Q. All right.
 17 A. I think that was your question, right?
 18 Q. Sure.
 19 A. All right.
 20 Q. About 15 hours before the explosion
 21 occurred that killed 15 people and injured hundreds
 22 more, Mr. Barnes writes an e-mail relating to the
 23 safety culture at BP Texas City refinery.
 24 Do you recall receiving this
 25 e-mail, given that your name is on the received

Page 31

1 list?
 2 A. Well, I haven't read the whole note, but
 3 I -- obviously, I received it.
 4 Do I recall it explicitly without
 5 reading it and kind of trying to recall? No, I
 6 don't.
 7 Q. All right. What --
 8 A. I had -- I was in another role at that
 9 time -- in that commercial role. So, I wasn't as
 10 engaged in the Texas City site activities alone.
 11 Q. All right. Let's see if we can refresh
 12 your memory about the culture at the Texas City
 13 refinery before the explosion by going to the
 14 attachment?
 15 A. Which is that --
 16 Q. -- which is a safety planning pre-read
 17 from Mr. Barnes, some 15 hours before the
 18 explosion.
 19 A. Okay.
 20 Q. Are you okay reading that?
 21 A. (Shakes head.)
 22 Q. I am going to read out loud. I want you
 23 to make sure.
 24 A. Okay.
 25 Q. "Safety plan for Texas City site

Page 32

1 protection. Philosophy: The Texas City site
 2 protection plan should be based on a culmination of
 3 facts found from several past audits Veba ISO 14001
 4 and getting HSSE right. The recent Telos Group
 5 site safety assessment, which was designed to tell
 6 us how safety really was on the site, and the
 7 incident results of 2004 following the safety" --
 8 excuse me, "site fatalities at AU2, UU3 and major
 9 fire incident at UU4."
 10 Did I read that correctly, sir?
 11 A. Yes, you did.
 12 MR. PATTERSON: Could you focus
 13 it?
 14 MR. DEAN: Sure. I say "sure,"
 15 but I will try.
 16 MR. PATTERSON: I wouldn't have a
 17 clue.
 18 MR. DEAN: Better?
 19 THE WITNESS: That's better.
 20 MR. DEAN: It's like the eye
 21 doctor.
 22 THE WITNESS: Yeah.
 23 MR. DEAN: Better, worse.
 24 Q. (BY MR. DEAN) Did I read that correctly,
 25 sir?

Page 33

1 A. Yes, you did.
 2 Q. And sure enough, according to the
 3 director of health, safety, security and
 4 environmental at BP, 15 hours before the explosion,
 5 concludes that the site has demonstrated to be a
 6 culture of casual compliance; is that correct?
 7 A. Well, that's his characterization of it,
 8 yes.
 9 Q. And you would disagree as the director of
 10 HSSE in the 15 hours preceding the explosion
 11 because you believe there was no major problem with
 12 the safety culture at the BP Texas refinery before
 13 the explosion?
 14 A. No. I would restate that to say that we
 15 had a culture of where we didn't have 100 percent
 16 compliance.
 17 "Casual compliance," I am not sure
 18 what that really means exactly.
 19 Q. Okay. Well, then --
 20 MR. DEAN: And I am going to
 21 object to the extent your answer is nonresponsive.
 22 Q. (BY MR. DEAN) Training, whether HSSE or
 23 job related, is not thought as being effective. In
 24 the 15 hours before the explosion, this was
 25 articulated.

Page 34

1 Was that a surprise to you that
 2 training was found to be lacking at the BP Texas
 3 City refinery before the explosion, sir?
 4 A. Some of the feedback we got from some of
 5 the sources said there was certainly some room for
 6 improvement in that.
 7 "Ineffective"? I don't know that
 8 I would use that word. It was not thought of as
 9 being effective.
 10 Q. All right.
 11 A. It's not highly effective. It --
 12 certainly, there was a lot of room for improvement.
 13 These are just not my words. I am
 14 sorry. I can't agree with exactly somebody else's
 15 words.
 16 Q. Okay. Integrity management of the site
 17 assets is considered to be lacking.
 18 What's integrity management, sir?
 19 That's a phrase that comes up in y'all's -- the
 20 running of your business, and I don't understand
 21 it.
 22 A. Yeah, and it's a very general term.
 23 So, I will give you my
 24 description. I don't know if there is a formal
 25 definition.

Page 35

1 Q. Sure.
 2 A. But when I think of integrity management,
 3 I am thinking mostly of the condition of the
 4 assets, the inspection programs and the -- you
 5 know, the repairs and other type of work that you
 6 would do to -- to make sure that the equipment is
 7 in good working order.
 8 Q. Okay. Your lawyers produced documents in
 9 response to subpoenas we have relative to your
 10 deposition, and they produced some things to us
 11 relating to integrity management.
 12 I want to see if you can identify
 13 this document that starts BPISOME404772.
 14 A. (Examines document.)
 15 Q. Is that a document that you have seen,
 16 sir -- before, sir, now that you have reviewed it?
 17 A. I have seen drafts of, you know, the
 18 standards that they were working, you know, on for
 19 BP and this would have been one of those.
 20 This one specifically, Version 10,
 21 you know, of July the 29th, 2004 -- I don't know if
 22 I have seen it explicitly; but I have seen versions
 23 of as they were developing it.
 24 Q. Before the explosion, was there a final
 25 standard? Not a final draft, but actually a final

Page 36

1 standard in place relating to the integrity
 2 management at BP Texas City?
 3 A. I don't recall. I really don't.
 4 Q. Fair enough.
 5 The standard that's proposed in
 6 this final draft requires controlled application of
 7 major risk, process safety and engineering
 8 management combined with internationally recognized
 9 industry standards and BP developed practices. It
 10 is designed to reduce the possibility of the
 11 release of hydrocarbons and chemicals, including
 12 catastrophic and chronic releases to the
 13 atmosphere, water, or ground, prevent equipment
 14 infrastructure failure and, hence, avoid the
 15 consequential serious harm to people, environment
 16 and BP assets.
 17 Does that sound like that probably
 18 made the final cut as far as the standard of
 19 integrity management?
 20 MR. PATTERSON: Objection, form.
 21 A. I don't know if it made the final cut;
 22 but it sounds like a very well-refined version and
 23 much more robust than the general description I
 24 gave you.
 25 Q. (BY MR. DEAN) Okay. That's fair. And

Page 37

1 this isn't a memory test.
 2 A. Okay.
 3 Q. I just want to make sure you and I speak
 4 the same language.
 5 With respect to integrity
 6 management, now that we have defined it for us, if
 7 that is lacking as is reported here in this item
 8 Bates Number 398244, that means that there are the
 9 possibilities of major catastrophes and release of
 10 hydrocarbon from their vessels possible, if
 11 integrity management is lacking.
 12 Isn't that a fair deduction, sir?
 13 MR. PATTERSON: Objection, form.
 14 A. There are various degrees of integrity
 15 management. That is a possibility. There's lots
 16 of other possibilities that would have a lot lower
 17 outcomes as well --
 18 Q. (BY MR. DEAN) Well --
 19 A. -- less severe outcomes.
 20 Q. With respect to integrity management, it
 21 very specifically includes catastrophic and chronic
 22 releases to the atmosphere, true?
 23 A. I am sorry. Say it again.
 24 Q. That it's --
 25 A. You are just reading off of this?

Page 38

1 Q. That's correct.
 2 A. Okay. That's fine. Yeah.
 3 Q. Would you agree that the integrity
 4 management, whether it's lacking or not, relates to
 5 preventing catastrophic releases?
 6 A. Oh, sure. Yeah.
 7 Q. And if it's lacking, as Mr. Barnes
 8 pointed out 15 hours before the explosion, then we
 9 can naturally deduce that there is a possibility of
 10 a catastrophe going on at that refinery or to
 11 happen at that refinery.
 12 Isn't that true, sir?
 13 A. There is a possibility of a variety of
 14 outcomes, including catastrophic --
 15 Q. All right.
 16 A. -- outcomes.
 17 Q. And going on, Mr. Barnes articulates from
 18 those studies that was performed in 2004 and maybe
 19 other years that there is the last item,
 20 "Perception concern that site production outweighs
 21 people safety consideration in everyday
 22 operations."
 23 Did I read that correctly?
 24 A. I am sorry. Where are you in that note?
 25 Q. The last highlighted item, sir.

Page 39

1 A. Okay. Perception concern that site
 2 production outweighs people and safety
 3 considerations in everyday operations. Perception
 4 concerns --
 5 Q. First question is: Did I read it
 6 correctly?
 7 A. Yes.
 8 Q. All right. Now, I want you -- I want to
 9 engage you in a hypothetical situation. Let's just
 10 say that you, indeed, got this e-mail --
 11 A. Okay.
 12 Q. -- March 22nd at about 10:00 o'clock,
 13 10:45 when he sent -- Joe Barnes sent it out the
 14 day before the explosion. In this hypothetical,
 15 you wouldn't have been surprised at that finding of
 16 this perception that production outweighs people
 17 and safety at the refinery, would you, sir?
 18 MR. PATTERSON: Objection, form.
 19 A. I have -- I am aware that people would
 20 have -- some people have had that perception.
 21 Q. (BY MR. DEAN) Did you as member of
 22 management before the explosion?
 23 A. Did me what -- have that perception or be
 24 aware there was that perception?
 25 Q. Either.

Page 40

1 A. I was aware --
 2 MR. PATTERSON: Objection, form.
 3 A. I was aware of the perception. To me, I
 4 put safety first and I -- I believe that safety is
 5 important and that's what I would drive.
 6 Now, could I convince everyone
 7 that that perception was a hundred percent ringing
 8 true for them across the site, I can't say I did
 9 because there was feedback saying that we wasn't --
 10 we weren't a hundred percent, that all perceived
 11 that safety was first.
 12 Q. (BY MR. DEAN) All right.
 13 A. Did that make sense for your question, I
 14 think?
 15 Q. When it doesn't, it just adds to my --
 16 A. Oh --
 17 Q. -- my list of questions.
 18 A. All right.
 19 Q. In your role as a manager out there at
 20 Texas City refinery for a certain amount of time --
 21 A. Right.
 22 Q. -- do you recall seeing e-mail
 23 transmissions or being part of discussions among BP
 24 personnel about a Swiss cheese risk matrix?
 25 A. Well, I have heard of a Swiss cheese

Page 41

1 model.
 2 Q. Model?
 3 A. Something like that, yes.
 4 Q. What do you know a Swiss cheese model to
 5 be, sir, in the terms of managing a refinery,
 6 obviously?
 7 A. Yeah, and it's -- for me it was a very
 8 general discussion on Swiss cheese; but to me Swiss
 9 cheese has lots of holes in it. And so, the idea
 10 is that, you know, a Swiss cheese you would want to
 11 make sure you have as many layers of protection as
 12 you can for employees and things in doing that.
 13 And the Swiss cheese model is -- you want to make
 14 sure you have as many layers in case it comes
 15 through one layer, you would have other layers as
 16 backups.
 17 Q. And what --
 18 A. That's my general.
 19 Q. And what are those layers of protection
 20 as you understand them, generally, in the refining
 21 process, sir?
 22 A. So, those would be like safety systems
 23 and safety equipment, as well as, you know, the
 24 individual actions and behaviors of employees and
 25 contractors. Those are examples.

Page 42

1 Q. All right. Are there anymore that you
 2 can give us, of layers of protection in, I guess,
 3 preventing holes in the cheese or risks getting
 4 through holes in the cheese and coming to fruition
 5 of an accident or catastrophe?
 6 A. Well, I mean, there are a lot of other
 7 parts that go with it. I mean, you know, off the
 8 top of my head, I am answering your question here,
 9 obviously; but there are safety policies,
 10 practices, you know, training, development,
 11 experience and skills of employees and the like.
 12 So, those are a few more just a long list of things
 13 it could be.
 14 Q. With respect to these levels of
 15 protection, can you assign for us what levels of
 16 protection are exclusively management's
 17 responsibility and layers of protection that are
 18 exclusively refining personnel or contractors
 19 responsibility?
 20 A. Well, I think it's the responsibility of
 21 employees and contractors that work at the site,
 22 overall. I don't know that it's exclusively, you
 23 know, management versus personnel.
 24 Q. All right. According to documents that
 25 you have been e-mailed as late as 2 --

Page 43

1 February 25th, 2005 -- I would like you to look at
 2 this and tell us, first, would you have indeed
 3 received this e-mail relative to being a member of
 4 one of those groups in the "To" section of Bates
 5 30 -- BPISOME379091?
 6 A. Up at the top of the page -- you are
 7 talking about?
 8 Q. Yes, sir.
 9 A. At the top? Yes, I would have been at
 10 the BP SH Management Council distribution.
 11 Q. That one (indicating)?
 12 A. Correct.
 13 Q. Okay. And this was from an Alicia -- I
 14 am not going to tempt fate on the last name.
 15 A. That's correct.
 16 Q. I fully understand that you receive a lot
 17 and send a lot of e-mails, but do you have an
 18 independent memory of this one?
 19 A. You are going to have to give me more
 20 information if --
 21 Q. All right.
 22 A. -- if I need to recognize something on
 23 it.
 24 Q. The attachment known as BP Safety
 25 Performance -- it goes on to some kind of

Page 44

1 presentation in the form of "continuing the journey
 2 safety at BP."
 3 We see here is that, sure enough,
 4 Lord Browne over here in the right-hand corner?
 5 A. It sure is.
 6 Q. Is he a man that you have laid eyes on?
 7 A. I have seen him before, met him, yes.
 8 Q. You met him?
 9 All right. In the course of this
 10 presentation, he talks about commitment to safety,
 11 et cetera, and goes on throughout the presentation
 12 towards the end to communicate from the top, from
 13 across the pond from BP London, BP safety
 14 performance 2003, three levels of safety
 15 leadership.
 16 Does this look vaguely familiar to
 17 you? Do you specifically remember it? Anything
 18 like that?
 19 A. Not very specifically, no; but I could
 20 read through it and see if I could -- if you need
 21 me to do something with that information.
 22 Q. Well, let's study it for a second.
 23 A. All right.
 24 Q. Would you agree that there is a line
 25 maybe known as a trajectory from risk to actual

Page 45

1 incident shown there, as we scan like so?
 2 A. Yeah. I mean, there is -- what do you
 3 mean by line?
 4 Q. You don't see a line?
 5 A. Yeah, I agree with everything that you
 6 have got on the piece, you know, the sheet of paper
 7 saying that there is different levels of leadership
 8 and there is, in general, three levels of safety
 9 leadership is fine as well. I agree with that.
 10 Q. Well, a moment ago, sir, you didn't agree
 11 that there was anything exclusively under the
 12 control of management with respect to safety
 13 philosophy; and I am -- I am attempting to show you
 14 something from, basically, your boss that might say
 15 something different, but you tell me.
 16 A. Well, let me --
 17 Q. I will ask questions.
 18 A. All right.
 19 Q. There is a risk that passes through, it
 20 would be fair to say, layers of protection in this
 21 model on this document, does it not, sir?
 22 These could be the slices of Swiss
 23 cheese maybe in the Swiss cheese model, true?
 24 MR. PATTERSON: Objection, form.
 25 A. Perhaps, yes.

Page 46

1 Q. (BY MR. DEAN) All right. That wouldn't
 2 be an unfair characterization of what we are
 3 looking at here, would it?
 4 A. Well, when I was using Swiss cheese, I
 5 was thinking more of types of protection, training
 6 systems, the other components more than vertically
 7 up in the organization.
 8 Q. Okay.
 9 A. That's what I was responding to earlier.
 10 Q. All right. Let's see if we can clarify
 11 it.
 12 A. Okay.
 13 Q. After looking at this document that --
 14 where Lord Browne's statements are part of a
 15 presentation --
 16 A. Uh-huh.
 17 Q. -- would you agree that in assessing
 18 risk, defining risk and protecting against risk the
 19 first slice of cheese such risk analysis goes
 20 through is senior management leadership?
 21 MR. PATTERSON: Objection, form.
 22 Q. (BY MR. DEAN) According to this model,
 23 is it not, sir?
 24 A. From what I see in the model is -- is
 25 that there is three levels of leadership and that

Page 47

1 all three levels of leadership are important for
 2 safety.
 3 Q. I didn't ask that, sir.
 4 MR. DEAN: And I am going to
 5 object as being nonresponsive to my question.
 6 Q. (BY MR. DEAN) My question is: With
 7 respect to the first layer of protection, the first
 8 slice of cheese a risk passes through is senior
 9 manage management leadership according to this
 10 model.
 11 A. One --
 12 Is that not true, sir?
 13 MR. PATTERSON: Objection, form.
 14 A. One thing that would help me -- I can't
 15 read what's at the bottom. Is that --
 16 Q. (BY MR. DEAN) It says "actual incident."
 17 A. Oh, all right.
 18 Q. Anytime that happens, please, let me
 19 know.
 20 A. Okay.
 21 Q. If you would like to see it, I can show
 22 you.
 23 A. No, I can read the rest. I couldn't read
 24 that piece.
 25 Say your question, again.

Page 48

1 Q. With respect to risk that we see
 2 highlighted on the left-hand side --
 3 A. Right.
 4 Q. -- the first layer of protection or slice
 5 of cheese in the Swiss cheese model that a risk
 6 passes through is senior management leadership.
 7 Isn't that true, sir?
 8 MR. PATTERSON: Objection, form.
 9 A. That's what this graph shows.
 10 Q. (BY MR. DEAN) Do you agree with that?
 11 A. I think that is a layer -- a -- one of
 12 the three primary layers.
 13 Q. Right.
 14 A. That --
 15 Q. But it's the first layer; isn't it true,
 16 sir?
 17 A. It's the first layer.
 18 Q. All right. Wouldn't you agree, sir, that
 19 it's the most important layer, specifically, that
 20 senior management leadership developing and
 21 communicating visions of safety leadership,
 22 developing and living the values beliefs and rules,
 23 et cetera, are the most important of the layers of
 24 protection to constraining and minimizing risk in
 25 refining operations?

Page 49

1 MR. PATTERSON: Objection, form.
 2 A. I -- I truly believe that leadership is
 3 very important, but it's not the only thing by
 4 itself. And I believe that we have to set the
 5 right example of what safe operations and safe, you
 6 know, the vision, things like that as well it
 7 mentions here.
 8 Q. (BY MR. DEAN) Did it --
 9 A. But it takes -- it takes all levels of
 10 doing that; and I think it is of the utmost
 11 importance, yes.
 12 Q. Did something in my question suggest to
 13 you that I said it's the only layer of protection
 14 such that you would answer that way, sir?
 15 A. I answered it because I think it's --
 16 it's difficult to say what is the most important
 17 because I think you have to have all three. So,
 18 maybe I focused on most.
 19 Q. All right. And I -- my question indeed
 20 focuses on those.
 21 A. Okay.
 22 Q. With respect to the model we see there,
 23 senior management leadership and walking the talk
 24 is the most important layer of protection in
 25 refining operations, is it not, sir?

Page 50

1 MR. PATTERSON: Objection, form.
 2 A. I feel walking the talk is very
 3 important, and it is the most important.
 4 Q. (BY MR. DEAN) All right. And as we take
 5 the risk through layers of protection or Swiss
 6 cheese, it indeed goes down to what you have said
 7 many times so far is that personnel, the employees,
 8 the wage folks, indeed have a role in this, true?
 9 MR. PATTERSON: Objection, form.
 10 A. Absolutely.
 11 Q. (BY MR. DEAN) And if -- as we track this
 12 risk down to an actual incident, we see that all
 13 three indeed can play a part in causing an actual
 14 incident; isn't that correct?
 15 A. I guess the way I look at it is -- is all
 16 three play a part in having a safe work
 17 environment.
 18 Q. And as it turns out with respect to this
 19 concept of senior management leadership, you have
 20 received e-mail communications and probably had
 21 discussions at BP Texas City about lessons learned
 22 from the Grangemouth incident oversees and at BP
 23 Texas City refinery in the earlier part of this
 24 decade, is that true?
 25 A. And which incidents would you be

Page 51

1 referring to?
 2 Q. They have had multiple incidents.
 3 A. I am just trying to understand your
 4 question. More specifically, what incidents?
 5 Q. Have you been -- and fair enough.
 6 Have you received communications
 7 relating to lessons learned from Grangemouth
 8 incidents in 2000, 2001?
 9 A. I would have been made aware of their
 10 incidences and some of their lessons learned. I
 11 was not at Texas City in the 2000 and 2001
 12 timeframe --
 13 Q. Okay.
 14 A. -- when that occurred.
 15 Q. All right. Have you ever heard it
 16 discussed among BP management at Texas City
 17 refinery that one of the lessons learned from the
 18 Grangemouth incident or incidents in the earlier
 19 part of this decade were that if management is
 20 committed to safety leadership -- in other words,
 21 if management walks the talk of safety leadership,
 22 then incidents involving injury or hydrocarbon
 23 releases drop dramatically?
 24 A. Around those incidences and follow-up of
 25 it, I don't remember that phrase explicitly being

Page 52

1 stated, you know, about management commitment; but
 2 it is important to have management commitment to
 3 get those types of results, positive results.
 4 Q. Without management's commitment to senior
 5 management leadership when it comes to safety, the
 6 rest of the layers breakdown as a consequence.
 7 Isn't that fair to say,
 8 Mr. Peltier?
 9 A. Well, I think it's important to have
 10 senior management leadership but senior management
 11 is a general concept. So, when I look at it in the
 12 concept of refinery, senior management leadership
 13 commitment at the site would be important.
 14 Q. Let me try again.
 15 If the boss at Texas City refinery
 16 doesn't walk the talk with respect to safety,
 17 enforcing safety, assessing safety risk, then the
 18 other areas of leadership or layers of protection
 19 necessarily fail.
 20 Do they not?
 21 MR. PATTERSON: Objection, form.
 22 A. I think you could have positive outcomes
 23 without the boss, you know, being the primary
 24 driver of that, by just being supportive. I think
 25 it is reinforced certainly with the stronger

Page 53

1 enforcement and commitment from the boss, as you
 2 say.
 3 Q. (BY MR. DEAN) Is a translation of your
 4 testimony on this point, sir, a fair translation
 5 that if left to the employees of the refinery, the
 6 hourly wage types, there might be a safely run
 7 refinery? Is that what you are telling us?
 8 MR. PATTERSON: Objection, form.
 9 A. What I am saying is -- that isn't what I
 10 said. What I am saying is -- is that leadership is
 11 important. So is it at all levels as I have stated
 12 before and it is reinforced, and you usually get
 13 better results with more commitment you have in the
 14 leadership inside of the site.
 15 Q. (BY MR. DEAN) Okay. And going back to
 16 this issue of whether or not your -- you had
 17 knowledge of a safety culture issue at BP Texas
 18 City refinery before the explosion --
 19 A. Right.
 20 Q. -- would you agree with other management
 21 personnel at BP Texas City in late 2004 who
 22 concluded BP is not a safe place to work?
 23 MR. PATTERSON: Objection, form.
 24 A. I thought BP was a fairly safe place to
 25 work --

Page 54

1 Q. (BY MR. DEAN) Was that --
 2 A. -- prior to that explosion, and I would
 3 have never thought we would have had an incident of
 4 that magnitude there until that day it actually
 5 occurred.
 6 Q. So, you disagree with a statement, "yes"
 7 or "no," that in 2004 -- I presume the late part of
 8 2004, according to BPISOM91 -- BPISOME9134, Texas
 9 City is not a safe place to work, you disagree?
 10 A. There was a lot in that. Can you say
 11 that one more time?
 12 Q. Do you or do you not disagree with this
 13 statement made in 2004 that Texas City is not a
 14 safe place to work?
 15 A. I guess I would -- I would not use those
 16 words. I would say Texas City had some unsafe
 17 events. We had investigations related to those,
 18 and we were working to make it a safer place to
 19 work. Was it a hundred percent -- we didn't have
 20 any incidents? No. Were we making improvements?
 21 Yes.
 22 Q. In preparing for today, sir, for giving a
 23 sworn statement to us and the court --
 24 A. Yes.
 25 Q. -- I presume you spent a number of hours

Page 55

1 in time with lawyers preparing for your statement
 2 today under oath; is that true?
 3 A. I have met with -- with our BP council.
 4 Q. So, it's true that you spent a number of
 5 hours with BP council in preparation for today; is
 6 that true?
 7 A. Well, not necessarily just preparation
 8 for today. Just what -- what a deposition is
 9 about.
 10 Q. Well, that would be for preparation for
 11 today, true?
 12 A. Okay. That's fine.
 13 Q. All right. I am not being unfair in that
 14 question, am I? I mean, you indeed were preparing
 15 to give your testimony in front of the jury; is
 16 that true?
 17 A. Well, I was not -- I was meeting with
 18 them just to understand how -- how a deposition and
 19 just to get familiar with, you know, how legal
 20 proceedings occur.
 21 Q. How many hours did you spend with lawyers
 22 preparing in the name of giving a sworn statement
 23 today?
 24 A. Over two to three days, part-time.
 25 Q. All right. Now, how many hours does that

Page 56

1 equal, sir?
 2 A. Somewhere, I guess, around -- plus or
 3 minus, 15 hours.
 4 Q. Over two to three days?
 5 A. Over -- yeah.
 6 Q. And who were the names of the lawyers
 7 that you met with?
 8 A. Steve Fernelius, Ed Patterson, Craig
 9 Alvarez, and George Wilkinson and not necessarily
 10 all at the same time, but at different times.
 11 Q. And did you travel down here for such,
 12 meaning up here to downtown Houston in Fulbright
 13 Tower?
 14 A. Yes, I did.
 15 Q. And without saying anything that was
 16 said, were you putting -- put through an
 17 examination, a sample examination of what such a
 18 deposition or what we are doing today would look
 19 like?
 20 MR. PATTERSON: Objection, form.
 21 I think that calls for attorney/client information,
 22 the specifics of what we did in a meeting, so I
 23 will instruct him not to answer.
 24 Q. (BY MR. DEAN) All right. Did the
 25 lawyers show you documents in these preparation

Page 57

1 sessions?
 2 A. The only document I had was just the BP
 3 investigation report.
 4 Q. But did they show you any documents?
 5 A. No. We discussed documents, but they
 6 didn't show me.
 7 Q. All right. Did you review testimony from
 8 other depositions given in this case against BP?
 9 A. I am sorry?
 10 Q. Did you review any other sworn testimony
 11 given in this case in preparation?
 12 A. I did not see or look at any testimony.
 13 We talked in general about things that may come --
 14 MR. PATTERSON: Let's not -- let's
 15 not talk about what you talked about with the
 16 lawyers.
 17 THE WITNESS: Okay.
 18 Q. (BY MR. DEAN) That's a ground rule. No,
 19 don't tell us what you said or what they said.
 20 Are you with me?
 21 A. (Nods head.)
 22 Q. He's with me.
 23 A. Yes.
 24 Q. All right. With respect to your training
 25 to be an incident commander, sir, you had none; is

Page 58

1 that correct?
 2 A. That is not correct.
 3 Q. You had training outside of HAZWOPER
 4 training, you had training to be an incident
 5 commander.
 6 Is that what you are saying?
 7 A. We had mock drills that we had -- had of
 8 incidences that, you know, could happen and I
 9 served in various roles on incident command as
 10 preparation for that.
 11 Q. As it turns out, you were a liaison in
 12 some capacity as or a go between with OSHA and BP
 13 relative to the explosion and fire on March 23rd;
 14 is that correct?
 15 A. No. There was someone else that really
 16 was the liaison with OSHA. That really was not my
 17 role.
 18 Q. It was not?
 19 A. No.
 20 Q. Did you know that OSHA in their
 21 categorizing and assessing and citing fines against
 22 BP fined BP \$7,000 for not having a fully trained
 23 incident commander involved in the March 23rd
 24 explosion?
 25 A. No, I am not aware of that.

Page 59

1 What was the -- did you say how
 2 much or not?
 3 Q. \$7,000.
 4 A. 7,000. No, I was not aware of that.
 5 Q. Okay. Had you had that training to be an
 6 incident commander; "yes" or "no"?
 7 A. The training I had, going back again, was
 8 some training about what the incident management
 9 team needs to do, what we need to train and what
 10 we -- and then some mock interviews and things.
 11 So, I had training around incident management team
 12 training and roles within that.
 13 Q. Okay.
 14 A. Now, if OSHA -- I don't know what OSHA
 15 was expecting beyond that.
 16 Q. You never heard about OSHA fining BP
 17 \$7,000 for having an improperly trained incident
 18 commander before I visited with you today?
 19 A. I knew OSHA had said we had several
 20 violations and I didn't know, specifically, what
 21 all those violations were.
 22 Q. Okay. So, therefore --
 23 A. And that one -- and that one, as well,
 24 you know, didn't explicitly, no.
 25 Q. Okay.

Page 60

1 MR. DEAN: We need to change
 2 tapes. Ten minute break.
 3 MR. PATTERSON: If that.
 4 MR. DEAN: If -- that's great.
 5 THE VIDEOGRAPHER: Off the record
 6 at 11:07 a.m., ending Tape 1.
 7 (Recess taken.)
 8 (Exhibit Number 155 marked for
 9 identification.)
 10 THE VIDEOGRAPHER: On the record,
 11 11:19 a.m., beginning Tape 2.
 12 Q. (BY MR. DEAN) In your experience in the
 13 petrochemical refining business or industry, have
 14 you ever run across a concept out there either by
 15 training, discussions among other managers and
 16 whatnot, that in the end, managers must recognize
 17 that most human errors are a consequence of the
 18 work situation and not worker carelessness?
 19 A. I think, yeah. So, what you are saying
 20 is it's part of the work environment. In general,
 21 that's right.
 22 Q. You agree with that --
 23 A. I --
 24 Q. -- in general?
 25 A. Yeah, so -- yes.

Page 61

1 Q. All right. And in going on with that
 2 concept, the vast majority, 80 to 85 percent of
 3 human errors primarily result from the design of
 4 the work situation, which managers directly
 5 control.
 6 Is that a concept that you have
 7 heard or been trained on or discussed?
 8 A. I haven't gotten into that -- heard that,
 9 you know, 85 percent, no. I mean, my --
 10 Q. Fair enough.
 11 But have you -- has that concept
 12 been communicated to you in some form or fashion in
 13 your years in the petrochemical refinery business?
 14 A. State the question, again, so, I --
 15 Q. Sure.
 16 That the vast majority of human
 17 errors primarily result from design of work
 18 situation which managers directly control?
 19 A. I don't -- I haven't heard it explicitly
 20 that way, and the reason I say that -- the way I
 21 look at it is -- is that people don't intentionally
 22 want to hurt themselves and things. And so, it has
 23 to be the work environment that would be a
 24 contributing factor of things.
 25 Q. Right. I mean, that -- that concept goes

<p style="text-align: right;">Page 62</p> <p>1 back to this concept in Lord Browne's -- or not his 2 presentation, but the one that we were visiting 3 about earlier where his comments are made at the 4 beginning that -- that risk assessment, risk 5 revision starts with senior management leadership, 6 true? The two concepts are married, true? 7 A. Yes, that's -- they go together. 8 Q. All right. And with respect to this 9 concept, have you ever heard it -- by providing the 10 resources necessary to identify and eliminate error 11 likely situations, managers can improve the 12 performance shaping factors and dramatically reduce 13 the frequency of human errors? 14 A. That seems like a generally true 15 statement. 16 Q. And indeed, at BP Grangemouth refinery 17 you knew -- oversees, wherever it is at 18 Grangemouth -- you knew that there was a high 19 incidence of injuries going on at that refinery, 20 true? 21 MR. PATTERSON: Objection, form. 22 A. I didn't -- 23 Q. (BY MR. DEAN) You weren't involved but 24 you saw e-mail transmissions about this, did you 25 not?</p>	<p style="text-align: right;">Page 64</p> <p>1 A. What I am aware is -- is that Grangemouth 2 improved their performance at the site after the 3 incident. 4 Q. And there -- 5 A. And I think that's the question you are 6 asking me -- 7 Q. Sure. 8 A. Right? 9 Q. And there was one most important reason 10 why that was true. 11 Isn't that true, sir? 12 MR. PATTERSON: Objection, form. 13 A. I think it was important that, you know, 14 that what they learned from the incident and then, 15 also, what they did to engage the entire workforce 16 in making those improvements, including resources 17 in things that they needed to, you know, improve in 18 those areas. 19 Q. (BY MR. DEAN) Management made a 20 conscious decision to engage those resources at 21 Grangemouth, isn't that true, sir? 22 MR. PATTERSON: Objection, form. 23 A. Management provided resources, yes. 24 Q. (BY MR. DEAN) All right. And it was no 25 surprise to you when you learned from several</p>
<p style="text-align: right;">Page 63</p> <p>1 A. You know, in advance of their incident, I 2 didn't know that much about their records or 3 anything. 4 Q. I do understand that, sir. 5 A. And I didn't -- didn't work at the site, 6 you know, obviously. 7 Q. Yes, sir. 8 A. But after the incident, I -- I knew that, 9 you know, they had opportunities for improvement. 10 Can I tell what you their safe -- 11 safety statistics and things were and how they went 12 before and after? I don't -- I can't. 13 Q. I am certainly not asking that. 14 A. Okay. 15 Q. On a -- in a broader sense, you were 16 aware that after these incidents occurred and after 17 BP focused on safety -- in other words, management 18 walked the talk of safety, incidents at the 19 refinery, whether it be hydrocarbon release 20 injuries or death, dramatically decreased? 21 MR. PATTERSON: Objection, form. 22 Q. (BY MR. DEAN) You -- that concept -- 23 A. What -- 24 Q. -- was communicated to you, didn't it -- 25 wasn't it?</p>	<p style="text-align: right;">Page 65</p> <p>1 reports in 2004 and early 2005 that BP Texas City, 2 the management of BP Texas City, was not providing 3 the capital resources to keep that place in an 4 appropriate up and running fashion. 5 Isn't that true, sir? 6 MR. PATTERSON: Objection, form. 7 A. What BP had been doing was putting more 8 and more capital resources into it to improve in 9 those areas. 10 Q. (BY MR. DEAN) They had been doing that? 11 A. We had been doing it. 12 Q. So, if there is a concept communicated in 13 the vast amount of documents your lawyers have 14 produced to us with respect to BP management 15 underinvesting money in this refinery, you, based 16 on your personal experience, would disagree with 17 that? 18 A. What I am saying is -- is for the 19 timeframe I was there, we were putting increasing 20 resources into that site. 21 Q. Were you there on October 27th, 2003? 22 A. Well, I was in the role in that 23 timeframe. 24 Was I there that day? I am not 25 sure; but, yeah.</p>

Page 66

1 Q. But you were at Texas City?
 2 A. Right. That's right.
 3 Q. And while you were there, according to
 4 your records, you received an e-mail --
 5 A. Okay.
 6 Q. -- did you not, sir?
 7 I am going to zoom in a little bit
 8 so you can read it along with me.
 9 A. All right. That's better.
 10 Q. Is that it?
 11 A. I think so.
 12 Q. Good.
 13 All right. Would you have been on
 14 the GTCR refinery BU leadership team such that you
 15 would have received this e-mail in that timeframe?
 16 A. I would think so.
 17 Q. And again, it's another e-mail from
 18 Rick Hale, is that also true?
 19 A. That's what it says, yes.
 20 Q. We are reading from BPISOME4 -- 408830.
 21 Mr. Hale shares that he wanted to
 22 share some strategic reconfiguration study data.
 23 We see that at the top.
 24 Isn't that right? Right there
 25 (indicating)?

Page 67

1 A. I want to do share some strategic -- yes.
 2 Q. Regarding a Solomon CapEx data; is that
 3 correct?
 4 A. Where are you getting that? I am sorry.
 5 Q. On the attachments. It says attachment
 6 review Texas City Solomon CapEx data message.
 7 A. Where are you reading that? I am sorry.
 8 Q. That's here?
 9 A. Oh, up in the title.
 10 Q. Yes, sir.
 11 A. Okay. Yes. Okay.
 12 Q. All right.
 13 A. I was looking down in the text. I'm
 14 sorry.
 15 Q. You are familiar, of course, with the
 16 Texas City Solomon CapEx is, I presume?
 17 A. Well --
 18 Q. Or was in that timeframe?
 19 A. Solomon is a company that does
 20 benchmarking --
 21 Q. Right?
 22 A. -- and capital would have been one of
 23 many things that they would have benchmarked.
 24 Q. All right. In the highlighted portion,
 25 Mr. Hale observes in this e-mail, correct me if I

Page 68

1 am wrong, "Texas City has been underinvested in
 2 terms of capital," money, "for a site its size and
 3 complexity and for the forecast going forward."
 4 Did I read that correctly?
 5 A. That's what it says.
 6 Q. Does that refresh your memory with
 7 respect to this refinery being underinvested by its
 8 parent company?
 9 MR. PATTERSON: Objection, form.
 10 A. Okay. So, what it tells me is, is it's a
 11 broad metrics on total capital, which could include
 12 discretionary capital, growth investments, that
 13 type of thing, in addition to just sustaining
 14 investment capital.
 15 Q. (BY MR. DEAN) I understand that. If
 16 we --
 17 A. So -- and so, what I -- what I don't know
 18 from that note is how broad is that context of
 19 capital considered in Solomon metric because I am
 20 not that familiar with that metric, specifically.
 21 Q. Okay. Well, let's try this, for example.
 22 A. Okay.
 23 Q. You are familiar with the Telos Report,
 24 true?
 25 A. Yes.

Page 69

1 Q. You are familiar with periodic employee
 2 surveys that are conducted not only in the West
 3 Plant but, also, the East Plant at your refinery;
 4 is that true?
 5 A. I am familiar with them, yes.
 6 Q. Should you --
 7 A. The East Plant, I don't know.
 8 Q. Fair enough.
 9 Should you have been familiar
 10 while you were a manager at the West Plant at the
 11 aromatics unit, with the surveys, what the wage
 12 hour folks were saying about you in management
 13 during the timeframe you were an MDL?
 14 A. So --
 15 Q. Shouldn't you have been aware of that?
 16 A. So, I am aware of what employees in my
 17 area, which I had four operating units out of the
 18 total West Plant of approximately 15 units -- 12 to
 19 15 probably would have been saying -- but that
 20 survey, if there would have been, would have been
 21 about the whole West Plant and that -- mine is a
 22 subset of that and I had assets also on the
 23 chemicals side.
 24 Q. Is that to say that you should or should
 25 not have been aware of employee surveys in the time

Page 70

1 you were an MDL in the aromatics unit, sir?
 2 A. Yes.
 3 MR. PATTERSON: Objection, form.
 4 A. I would have been aware of them for
 5 the -- you know, the aromatics unit of the West
 6 Plant.
 7 Q. (BY MR. DEAN) Okay. And if a 2004
 8 employee survey quotes an employee as saying,
 9 "working on a unit that is falling apart before my
 10 very eyes," in your mind as a manager for BP, do
 11 you think that has any relationship whatsoever to
 12 being underinvested as Mr. Hale observed back in
 13 2003?
 14 MR. PATTERSON: Objection, form.
 15 A. Read it again. I am sorry.
 16 Q. (BY MR. DEAN) Sure. The quote is from
 17 Bates Number 56845, "working on a unit that is
 18 falling apart before my very eyes."
 19 My question opposed to you, sir:
 20 Do you or do you not see a relationship between
 21 that employee stating in 2004 and this concept in
 22 2003 that the refinery is underinvested?
 23 MR. PATTERSON: Objection, form.
 24 A. So, what I see is an employee that feels
 25 their operating unit might be underinvested in.

Page 71

1 Do I say it's over the whole
 2 refinery? I can -- I am not saying that from that,
 3 no.
 4 Q. (BY MR. DEAN) In your aromatics unit,
 5 did you have any specific examples where you were
 6 underinvested, in your mind, relative to the
 7 choices BP management and BP London made about your
 8 unit?
 9 A. I made increasing investments at my --
 10 during my tenure there.
 11 Q. But I didn't ask that, did I?
 12 I asked did you feel while you
 13 were an MDL that you -- your unit that you were in
 14 control of was underinvested based on the decisions
 15 BP management and/or BP London was making?
 16 A. I feel that I had enough investments to
 17 cover the sustaining things that I needed to in the
 18 business to maintain the business, and I had some
 19 capital also available to expand some of my
 20 businesses.
 21 Q. But I didn't ask that.
 22 I asked if whether or not you were
 23 underinvested, in your opinion, in that timeframe?
 24 MR. PATTERSON: Objection, form.
 25 A. I felt that I had lots of opportunities

Page 72

1 to work on things and I got the funding that I
 2 needed to invest in those opportunities.
 3 Q. (BY MR. DEAN) So --
 4 A. So, what I saw was is that, in some
 5 cases, if things weren't fully up to my standards
 6 of what I would like to see is I would ask for more
 7 money and I would get that money.
 8 Q. So, in your management conferences, other
 9 MDL leaders -- I presume you met regularly with
 10 those people while you were an MDL of the aromatics
 11 unit?
 12 A. The other MDLs?
 13 Q. Yes.
 14 A. Yes.
 15 Q. Did you ever hear this concept
 16 communicated from them?
 17 A. Of?
 18 Q. Underinvestment.
 19 A. I never heard the word underinvestment,
 20 necessarily. What I heard from them was that they
 21 would like to have had more money in some cases to
 22 spend on certain things.
 23 Q. And so --
 24 A. So, I guess you could say that would be
 25 they didn't have as much to invest as they thought

Page 73

1 they wanted -- then they would like to have had.
 2 Q. And money they wanted, based on your
 3 hearing them making those statements in the course
 4 and scope of their employment, included money for
 5 maintenance of equipment that is aging.
 6 Isn't that true, sir?
 7 A. They spent money on aging equipment and
 8 refurbishing that? Is that your question?
 9 Q. No. That other MDLs wanted more money to
 10 refurbish equipment and maintain aging equipment.
 11 You heard that, didn't you, sir?
 12 A. They would have wanted that amount of
 13 money they had and maybe, in some cases, maybe some
 14 more money.
 15 I think that's your question,
 16 correct?
 17 Q. When Telos reports to you that the
 18 history of investment and neglect, coupled with BP
 19 culture and lack of leadership accountability from
 20 frequent management changes, is setting BP Texas
 21 City up for a series of catastrophic events similar
 22 to what BP experienced at Grangemouth.
 23 Don't you think that comment from
 24 whoever that was relates to this concept that BP
 25 was underinvesting in its resource known as the BP

Page 74

1 Texas City refinery?
 2 MR. PATTERSON: Objection, form.
 3 A. So, read the question, again. I want to
 4 make sure I got all of that.
 5 Q. (BY MR. DEAN) Sure. The statement
 6 direct out of Telos is, "The history of investment
 7 in neglect, coupled with BP culture of lack of
 8 leadership accountability from frequent management
 9 changes, is setting BP Texas City up for a series
 10 of catastrophic events similar to what BP
 11 experienced at Grangemouth."
 12 MR. PATTERSON: Objection, form.
 13 A. Okay. So, if we talk about there was
 14 quite a bit of turnover, that there was, you know,
 15 transition time and discussions about, "How do we
 16 transfer that knowledge of one person to the next
 17 as best we can?" So, that would have created maybe
 18 a weaker link that could have, you know, not
 19 necessarily led to what I would imagine would have
 20 been a catastrophic failure; but it could have led
 21 to some inefficiencies and some -- some learning
 22 time, you know, for a new person enrolled. And the
 23 second one was underinvesting?
 24 Q. (BY MR. DEAN) Underinvestment.
 25 A. Underinvestment?

Page 75

1 Q. Investment neglect?
 2 A. Investment neglect.
 3 And I didn't see investment
 4 neglect. What I saw was that the condition of
 5 equipment wasn't always the condition I would have
 6 liked to have had it. When we found things that
 7 were not the condition, as I immediately got
 8 funding for that, then also looked as best I could
 9 with my staff and my team, "Are there other
 10 opportunities that we needed to be, you know,
 11 looking at it and improving on." And so, I would
 12 say in the past, you know, prior to that, we had
 13 probably not invested what we should have st -- or
 14 didn't -- or wasn't aware of it and didn't know the
 15 implications of, you know, what surprises might
 16 occur.
 17 Q. In your mind, as a former MDL --
 18 A. Yes.
 19 Q. -- manufacturing delivery leader, which
 20 is management at BP, do you connect the statement
 21 in the Telos Report of the history of investment
 22 neglect I have read to you twice and the statement
 23 by Mr. Hale, there is underinvestment in this
 24 refinery? "Yes" or "no"?
 25 A. And so, I would like to explain.

Page 76

1 Q. You will have your chance to explain,
 2 sir. Today, I am sure your lawyer has told you
 3 without telling me what he has said that you are
 4 here to answer my questions. Your explanations on
 5 behalf of management at BP had come at the trial of
 6 this before the court and jury.
 7 MR. PATTERSON: Objection, form.
 8 Object to sidebar.
 9 Q. (BY MR. DEAN) Please, answer my
 10 question.
 11 MR. PATTERSON: Could you read it
 12 back?
 13 MR. DEAN: Yeah. I will ask it,
 14 again.
 15 THE WITNESS: Go ahead.
 16 Q. (BY MR. DEAN) In your mind, as a member
 17 of management --
 18 A. Yes.
 19 Q. -- a former MDL for BP, do you connect
 20 the statement in 2004 from the Telos Report that I
 21 have read to you twice relating to the history of
 22 investment neglect to this concept related by
 23 Mr. Hale in his e-mail that we see in front of you
 24 on the screen of underinvestment capital at the
 25 Texas City refinery?

Page 77

1 MR. PATTERSON: Objection, form.
 2 A. And the way I feel is -- is that the
 3 condition I -- we found things that needed to be
 4 repaired and the condition wasn't always what I
 5 would have liked to have seen it and we were making
 6 improvements in all of those areas and trying to
 7 find if there were other areas that needed
 8 improvement.
 9 And so, did we invest enough, you
 10 know, prior to when I was there? I don't know.
 11 I don't know all of the scope of
 12 what was done, but I know we -- as we found things
 13 when I was there and after that, we were making
 14 some drastic improvements, some major improvements
 15 in those areas.
 16 MR. DEAN: Objection,
 17 nonresponsive.
 18 THE WITNESS: Okay.
 19 Q. (BY MR. DEAN) Do you as an MDL -- well
 20 first off, you are a college-educated man; is that
 21 true?
 22 A. That's correct.
 23 Q. And, in fact, you have taken graduate
 24 courses in the name of a Master's in Business
 25 Administration; is that true?

Page 78

1 A. That's correct.
 2 Q. And not just any person can be accepted
 3 into a Master's of Business Administration program
 4 at the University of Houston; isn't that true?
 5 MR. PATTERSON: Objection, form.
 6 Q. (BY MR. DEAN) You have to -- true?
 7 A. Yes, you have to meet minimum standards.
 8 Q. And you have to pass certain tests that
 9 involve reading comprehension?
 10 A. Sure.
 11 Q. Is that also true?
 12 A. That's correct.
 13 Q. All right. How would you grade your
 14 ability to decipher the English language? Do you
 15 speak other languages that you don't understand my
 16 questions?
 17 MR. PATTERSON: Objection, form.
 18 A. No, I understand your question.
 19 Q. (BY MR. DEAN) Am I not being clear and
 20 direct with you in any way, sir, in asking my
 21 questions?
 22 A. No, you're -- you're direct.
 23 Q. All right. So, I would like to ask: Can
 24 you or do you connect the statement made in the
 25 Telos Report, which came out in January, 2005 that

Page 79

1 I have read to you about the history of investment
 2 neglect to this concept Mr. Hale in his e-mail of
 3 2003 recited about, "Texas City has been
 4 underinvested in terms of capital for a site its
 5 size and complexity"?
 6 MR. PATTERSON: Objection, form.
 7 Q. (BY MR. DEAN) Do you connect those two
 8 concepts?
 9 A. I would have liked to have invested more.
 10 I don't know if I would say it was underinvested,
 11 though.
 12 Q. Does that mean you disagree, sir?
 13 A. No, it doesn't mean I disagree.
 14 Q. Does it mean you don't connect those two
 15 concepts from Telos and Mr. Hale's e-mail?
 16 A. I --
 17 MR. PATTERSON: Objection, form.
 18 A. There is -- yes, they are similar.
 19 Q. (BY MR. DEAN) They are similar?
 20 A. Yeah, they are similar statements.
 21 Q. All right. And the fact of the matter
 22 is, when it comes to the investigation of the
 23 March 23rd explosion, that there were several
 24 alarms that were not working; is that true?
 25 MR. PATTERSON: Objection, form.

Page 80

1 Q. (BY MR. DEAN) You knew that?
 2 A. Alarms on --
 3 Q. Right.
 4 A. On the unit?
 5 Q. Right.
 6 A. ISOM?
 7 Q. Yes.
 8 A. No, I don't know that.
 9 Q. You did not?
 10 A. No.
 11 Q. Do you know the history of the use of
 12 blowdown stacks dating back to the '30s, '40s and
 13 '50s in refineries that BP was still using as of
 14 March 23rd, 2005?
 15 A. I know of that and a lot of that was post
 16 incident -- incident in reading through the
 17 investigation report that BP did.
 18 Q. And indeed, you were in the aromatics
 19 unit, had a blowdown stack open to the Texas City
 20 atmosphere in your unit, did you not, sir?
 21 MR. PATTERSON: Objection, form.
 22 A. I am aware it had -- the ISOM unit has a
 23 blowdown stack.
 24 Q. (BY MR. DEAN) All right. And I was
 25 asking about aromatics, though.

Page 81

1 Does aromatics, the ARU unit, have
 2 a blowdown --
 3 A. No.
 4 Q. -- stack all it's own?
 5 A. I don't recall. I really don't.
 6 I have been out of that role for a
 7 year or so, and I was in a commercial role selling
 8 the chemicals business. So, I haven't been
 9 involved in the day-to-day operations in that --
 10 Q. All right.
 11 A. -- since I left in August of 2005.
 12 Q. When it comes to senior management
 13 leadership in the name of the three levels of
 14 safety leadership, at BP Texas City at the time
 15 that you served as an MDL, where did the buck stop
 16 with respect to senior management in the aromatics
 17 unit living out walking the talk of safety
 18 principles?
 19 A. So, it would be through all layers, the
 20 personal layer, which would be the operators, front
 21 line supervisors, team leaders. It would be
 22 supervisors, superintendents. Senior leaders would
 23 be the myself and the site, you know, site
 24 director.
 25 Q. Okay. You are familiar with the concept

Page 82

1 from President Eisenhower's desk about the buck
 2 stopping somewhere, or is that something you have
 3 never heard?
 4 A. Yes, I have heard that.
 5 Q. Where does the buck stop for you, sir?
 6 A. The buck stopped -- well, in the context
 7 that I have heard it used, I didn't realize it was
 8 Eisenhower -- Eisenhower.
 9 Q. Sorry, Truman.
 10 A. Okay.
 11 Q. I get these Cold World guys mixed up.
 12 A. I thought it was Truman. All right. I
 13 am not a history buff, but...
 14 Q. Nor am I.
 15 A. All right. But it was just saying
 16 when -- when decisions are made and when things
 17 were done, you know, who is the one that makes kind
 18 of the final call.
 19 Q. Right. And that is not necessarily
 20 something we have to gather up from history lessons
 21 from school about where the buck stops.
 22 BP itself has a concept known as
 23 the single point of accountability within their
 24 organizational structure in Texas City; is that
 25 true?

Page 83

1 A. What we have is a single point of
 2 accountability for capital projects, and that's the
 3 context we use in the SBA.
 4 Q. Really?
 5 A. Yeah.
 6 Q. There is no single point of
 7 accountability when it comes to safety or training
 8 at BP?
 9 A. We don't have -- use -- I don't
 10 personally use the single point of accountability
 11 as a formal title, except around capital projects.
 12 Q. All right.
 13 A. Where we have a role that's defined as
 14 single point of accountability. And in -- and in
 15 some cases, if someone has it in their title, you
 16 know, as a part of their role; but other than that,
 17 it's the manager of such and such or the
 18 manufacturing delivery leader, the whatever.
 19 Q. Back to my question with respect to
 20 senior management leadership, developing and
 21 communicating the vision and living the values as
 22 stated in the document in front of you, where did
 23 the buck stop with respect to safety in the
 24 aromatics unit in the years you served as an MDL at
 25 the plant?

Page 84

1 A. So, what I -- I was responsible for
 2 safety in the area, along with my team of 40 or so
 3 people, which included operators, front line
 4 supervisors and superintendents in that area. That
 5 was one part of my responsibility in addition to my
 6 chemicals assets responsibilities similar to that
 7 in the other area.
 8 Q. And --
 9 A. And dependant on the level -- who was in
 10 the best position from an expertise standpoint and
 11 things would be the primary person that would make
 12 decisions and recommendations.
 13 Q. Is -- does your answer mean that the buck
 14 stops at a committee at the aromatics unit?
 15 A. It --
 16 Q. I just want to know where the buck stops
 17 for safety or do you know?
 18 A. So -- so, the primary person that would
 19 be -- around the safety of units -- it would be --
 20 primarily, the superintendent in those areas would
 21 be the primary person. And then for -- I would be
 22 the primary one on capital projects and things that
 23 had to get approved and moved to the next stage.
 24 Q. So, you didn't deal with safety. You
 25 dealt with money and optimization issues?

Page 85

1 A. No, that's not true.
 2 Q. Okay. Did you deal with safety? Did
 3 you -- withdraw the question.
 4 Were you responsible for the
 5 safety of your personnel in the aromatics unit when
 6 you served as an MDL for the aromatics unit?
 7 A. Yes.
 8 Q. So, the buck stopped with you?
 9 A. I don't -- the characterization of the
 10 buck stopping, I think it depends on what aspect of
 11 safety you are talking about. If it's around
 12 process safety, it would be other people --
 13 Q. Okay.
 14 A. -- more engaged in some of those and
 15 personal safety on individual unit, on an
 16 individual shift.
 17 Q. All right.
 18 A. The single point of accountability might
 19 be someone else on that shift. And it's back to
 20 the levels of leadership and what the situation is
 21 and what the -- what the item is that's being
 22 discussed.
 23 Q. But as we sit here today, being the MDL
 24 for that unit, you can't tell us what -- whether or
 25 not that unit had its own blowdown drum and stack

Page 86

1 that was open to the Texas City atmosphere back at
 2 that time?
 3 A. The ISOM?
 4 Q. No. Your unit, the aromatics?
 5 A. Which unit are you referring to? I have
 6 a lot of aromatics units. So...
 7 Q. Whichever you were the MDL of.
 8 Let me put it to you a different
 9 way, if you don't understand.
 10 A. I have six aromatics -- six of the units
 11 had aromatics going through it, you know. And ISOM
 12 and NDU were two of the units that didn't have
 13 primarily aromatics in them.
 14 Q. Okay.
 15 A. So, I mean, that's a real general
 16 question.
 17 Q. Fair enough.
 18 With respect to any unit that you
 19 were responsible for as MDL, did any of them have
 20 blowdown drums with stacks open to the atmosphere?
 21 A. Of the eight units I had in the ISOM or
 22 in the aromatics manufacturing area, the ISOM had a
 23 blowdown stack.
 24 Q. And that was the only one?
 25 A. I don't know. I would have to -- I don't

Page 87

1 know.
 2 Q. Okay. To do your job, do you have to
 3 have training in process safety analysis and
 4 management, sir?
 5 MR. PATTERSON: Objection, form.
 6 A. I don't know if it's --
 7 Q. (BY MR. DEAN) I am back in this
 8 timeframe.
 9 A. Yeah.
 10 Q. I was vague. We will start over.
 11 To do your job as an MDL for the
 12 aromatics unit -- recovery unit --
 13 A. Right.
 14 Q. -- were you required by BP at the time
 15 that you served in that capacity to have process
 16 safety knowledge?
 17 A. Nobody asked specifically -- or, you
 18 know, to train in that requirement nor asked
 19 detailed questions around did I have that.
 20 Now, have I been exposed to
 21 process safety? Yes.
 22 MR. DEAN: Objection to the --
 23 A. That was part of my experience in the
 24 past.
 25 Q. (BY MR. DEAN) When it comes to formal

Page 88

1 training, what BP -- what has BP done in the name
 2 of formal training in process safety to gear you to
 3 gird your loins in the name of being an MDL in the
 4 aromatics recovery unit?
 5 MR. PATTERSON: Objection, form.
 6 A. So, a lot of my exposure to process
 7 safety has been through experience in the
 8 operations type roles at the site and also just the
 9 topics of discussion in various meetings in that
 10 role as well as previous roles.
 11 Q. (BY MR. DEAN) Is it a fair translation
 12 of your answer that you have received no formal
 13 training in process safety sponsored by BP while
 14 you have been an employee of theirs and that all of
 15 your knowledge is gained through on-the-job
 16 training?
 17 A. What I will say is I don't recall having
 18 a formal class on process safety.
 19 Q. Okay.
 20 A. I may or may not have, but I -- I don't
 21 recall one.
 22 Q. Would you agree or disagree with this
 23 concept of and I quote, "If workers only receive
 24 on-the-job training, they will not be prepared to
 25 deal with problems they have not yet seen."

Page 89

1 Do you agree or disagree with that
 2 statement based upon your experience at the
 3 refinery, sir?
 4 A. I don't -- I don't totally subscribe to
 5 that comment, no. I think people can learn, you
 6 know, from on-the-job experience; and then, see
 7 patterns or things and can pick up things without
 8 having to have formal training.
 9 Q. Was that your position when you were an
 10 MDL at the ARU at the Texas City refinery from
 11 July, 2002 through August, 2004, sir?
 12 A. Yes, I think people can pick it up in
 13 on-the-job training. I do believe supplementing it
 14 with formal training does reinforce a lot of things
 15 though, as well.
 16 Q. And back to your personal experience, you
 17 have had no formal training in process safety; is
 18 that true --
 19 A. So --
 20 Q. -- sponsored by BP?
 21 A. To restate my answer on that is to -- is
 22 that I don't recall having formal training on
 23 process safety. I may or may not have had some in
 24 there, but "it" being called a separate program, a
 25 separate discussion and a separate meeting, no.

Page 90

1 MR. PATTERSON: Could you raise
 2 your microphone up a little bit.
 3 THE WITNESS: Oh, sure.
 4 MR. PATTERSON: Thank you.
 5 THE WITNESS: Thanks.
 6 Q. (BY MR. DEAN) Well, with respect to your
 7 personal areas of responsibility at the Texas City
 8 refinery, did you have any knowledge being
 9 circulated -- concepts being circulated around the
 10 refinery at any point in time that workers were
 11 generally thought of not to be well-trained in that
 12 refinery by management?
 13 A. I would say that we had training
 14 opportunities and that training probably was not as
 15 good as it should have been, and there was a lot of
 16 room for improvement.
 17 Q. And the room for improvement of which you
 18 speak, sir, is management's responsibility and only
 19 management's responsibility? Wouldn't you agree?
 20 A. I would not agree with that. I would say
 21 management can reinforce it, but the employee has
 22 to be, you know, interested in the training, there
 23 has to be a discussion about what's important out
 24 of the training to get and then getting that --
 25 getting the benefit of the training is then

Page 91

1 reinforced. So, it isn't -- no, it is not solely
 2 management responsibility. I think it's a piece of
 3 it. I think it's the employees and supervisors and
 4 everyone throughout the chain, including the
 5 training department reinforcing training.
 6 Q. So, in your capacity as an MDL before the
 7 explosion, it's your position, if I understand your
 8 answer, that the employees can complain in surveys,
 9 explain to their supervisors that they are not well
 10 trained, but at the end of the day, they need to do
 11 more in the name of -- of their own safety through
 12 training because complaining didn't?
 13 MR. PATTERSON: Objection, form.
 14 Q. (BY MR. DEAN) Is that what you are
 15 telling us?
 16 A. No, that's not what I am saying.
 17 Q. In other words, if we look at this top
 18 down, training starts with management and
 19 management only. It starts there, true, sir?
 20 A. I think it starts with management being
 21 supportive of it, and it continues and gets
 22 reinforced by the organization overall.
 23 Q. To be fair, it's not only supportive.
 24 They have to initiate it, create the programs and
 25 see that the programs are attended and that the

Page 92

1 trainees, the refining personnel, are indeed
 2 trained.
 3 Isn't that a fair summary, sir?
 4 A. So, what we would do is allocate people
 5 and resources, me, in my role as an MDL, to get the
 6 training done. So, we had a training department
 7 and we also had training coordinators. And so,
 8 what we would do is reinforce to them the
 9 importance of training, getting the programs put
 10 together, and conducting the training.
 11 Q. How many examples do you as a former MDL
 12 need of employees who, in writing, say that the
 13 training at BP Texas City is not up to speed?
 14 How much of this do you need
 15 before management takes responsibility and reacts
 16 to those complaints?
 17 MR. PATTERSON: Objection, form.
 18 A. So, I mean, if you -- I think I answered
 19 that question a little bit earlier; but it was more
 20 that training was not where it needed to be. We
 21 are -- we needed to make some improvements.
 22 Management a part of the role to make those
 23 improvements.
 24 Q. (BY MR. DEAN) All right.
 25 MR. LINEBAUGH: Objection,

Page 93

1 nonresponsive.
 2 Q. (BY MR. DEAN) So, indeed management
 3 failed in training its operators to be competent
 4 operators?
 5 MR. PATTERSON: Objection, form.
 6 Q. (BY MR. DEAN) During your tender --
 7 excuse me -- tenure as an MDL at Texas City
 8 refinery before this explosion.
 9 Isn't that true, sir?
 10 A. I didn't say that either. What I am
 11 saying is that I believe operators were trained.
 12 They knew what their role was in the site and they
 13 were, you know, capable of doing their positions.
 14 Q. Okay. So, going back to 2002, we see an
 15 e-mail from Jack Berry notes from 12/10 Operators
 16 a.m. meeting. I would presume you would be a
 17 member of the GTP -- excuse me -- GTCC aromatics
 18 leadership team such that you would have received
 19 this e-mail in that timeframe, sir?
 20 A. Let's see. Yes, I would have been on
 21 that list.
 22 Q. And according to this e-mail dating back
 23 to 2002, the operators were complaining to
 24 management -- it certainly appears -- in the
 25 morning about not getting enough training to be

Page 94

1 qualified.
 2 Is that true, sir?
 3 MR. PATTERSON: Objection, form.
 4 A. Well, that's what the note says. Yes.
 5 Q. (BY MR. DEAN) And that wasn't the one
 6 and only time that you as a manager heard this
 7 complaint from operators at the plant.
 8 Isn't that true, sir?
 9 A. I have heard people say they would like
 10 to have more training, yes; but they have had a lot
 11 of training, particularly, Jack Berry and his team
 12 out in the chemical side of the business, which he
 13 is probably responding on the behalf of, extensive
 14 training, actually.
 15 Q. Extensive training?
 16 A. Yes.
 17 Q. So, if we fast forward then to 2004 in
 18 the Telos Report where numerous -- in fact, the
 19 majority of the employees who were interviewed for
 20 that report, exclusively BP employees, state, and I
 21 quote, "An overwhelming number of interviewees say
 22 that the quantity and quality of training at Texas
 23 City is inadequate. Training is dealt or seen as
 24 pervasive shortcoming."
 25 You would disagree with that

Page 95

1 statement or agree with that statement?
 2 A. I think there was opportunities, yes.
 3 Q. Well, there were opportunities, sir, in
 4 2002 to correct the problem. And as the surveys
 5 that BP sponsored in 2004 and I presume 2005 before
 6 the explosion, continuously received complaints
 7 from BP personnel, management did, about training.
 8 What was done in the name of
 9 training over that timeframe, sir --
 10 A. So would you mind --
 11 Q. -- to improve?
 12 A. -- if I look at that just to get --
 13 because you are picking a few things out of context
 14 and I --
 15 Q. Yes, sir.
 16 A. -- want to make sure I --
 17 Q. There is a number in the bottom
 18 right-hand corner BPISOME, would you please read
 19 that to us? I think it's in the corner.
 20 A. Here.
 21 Q. Yes, sir.
 22 A. BPISOME00379292.
 23 Q. Thank you, sir.
 24 A. You are welcome.
 25 Q. Take your time to study it.

Page 96

1 A. (Examines document.)
 2 Okay. As I thought, these were
 3 mostly chemicals plant type of comments. And I had
 4 four operating units in the chemical plant and four
 5 operating units in the refinery. ISOM was one of
 6 the refinery units and in the chemical side, you
 7 asked me the question what kind of training they
 8 have got, right? Is that your question?
 9 Q. No.
 10 A. What was your question?
 11 Q. The question is, sir: At least dating
 12 back to 2002, continuing on through 2003 and
 13 2004 --
 14 A. Right.
 15 Q. -- you would agree that operators at this
 16 Texas City refinery continued to complain about
 17 their lack of training sponsored by management; is
 18 that true or untrue, sir?
 19 A. I am aware of some of them would have
 20 liked to have had a lot -- quite a bit more
 21 training and that's true on the refinery side.
 22 This is a note primarily about my chemicals units.
 23 People got extensive training. Process simulator
 24 training, if they were board operators, you know,
 25 training blocks, lots of information, lots of

Page 97

1 training. And so, even though you are giving me a
 2 note here that says, you know, not enough training,
 3 that probably tells me that they really liked the
 4 training that they actually got and wanted more of
 5 it.
 6 MR. LINEBAUGH: Objection,
 7 nonresponsive.
 8 A. Okay. So --
 9 Q. (BY MR. DEAN) In reviewing --
 10 A. So...
 11 MR. PATTERSON: Wait for a
 12 question.
 13 Q. (BY MR. DEAN) Did you review documents
 14 in preparation for your deposition other than the
 15 fatality report of December, 2005?
 16 A. What was the first one, again -- first
 17 half of the question?
 18 Q. Did you review any documents in
 19 preparation for your deposition other than the
 20 fatality report issued by BP in December, 2005?
 21 A. The only report that I have reviewed
 22 has --
 23 Q. I didn't ask you that, sir. I said did
 24 you review any other documents besides that report
 25 in preparing for your testimony today?

Page 98

1 A. In preparing for -- no. The report I
 2 read was the BP investigation report. It was like
 3 170 pages, and it had a lot of information in it.
 4 Q. All right. What I would like for you --
 5 A. That was my primary --
 6 Q. What I --
 7 A. That's my primary source of what I have
 8 read --
 9 Q. Sure.
 10 A. -- you know, over the last, you know, two
 11 or three weeks or month or so since I knew I was
 12 going to be having a deposition.
 13 Q. You would agree that the operations side
 14 in the name of safety at Texas City refinery owned
 15 by BP involves the written word a whole bunch and
 16 let me give you examples. E-mails, attachments to
 17 e-mails, presentations, procedures, policies,
 18 standards.
 19 Would you agree with all of that?
 20 A. Those are...
 21 Q. Just a snapshot of many of the documents
 22 that BP maintains in its regular course of
 23 business.
 24 Is that true?
 25 A. Sure.

Page 99

1 Q. All right. And also, there are documents
 2 that you knew and saw and looked at and studied
 3 while serving as an MDL that there are surveys
 4 conducted?
 5 A. Right.
 6 Q. Sponsored by BP to see how their
 7 employees are feeling about certain items; is that
 8 true, sir?
 9 A. Yes, I, like everybody else, saw plenty
 10 of e-mails, including surveys.
 11 Q. All right. And having reviewed that over
 12 time, those concepts, can you point the jury to any
 13 solid examples of where BP operators said, "I
 14 really like this training," as you have said
 15 earlier, "and I want more"? Is there a document
 16 you can point the jury to that communicates that
 17 concept as a safety culture concept at BP Texas
 18 City before the explosion?
 19 A. Okay. So, in my role at Texas City, I
 20 had eight operating units. And we did a lot of
 21 board operator training on my PXM operating units,
 22 which are aromatics units as well and there were
 23 rave reviews that actually did come back from
 24 operators to the training coordinator. Those are
 25 my chemicals units.

Page 100

1 Q. Yeah.
 2 A. And can I produce the document? No, I
 3 can't. I don't have it in front of me, but I know
 4 they were well liked and people wanted that
 5 training and they liked it and they wanted it
 6 reinforced.
 7 Q. And that's for a reason based on your
 8 observation, isn't it, sir? They liked it for a
 9 reason, didn't they?
 10 MR. PATTERSON: Objection, form.
 11 Q. (BY MR. DEAN) Based on your observation?
 12 A. I believe -- yeah, I mean -- I think they
 13 liked the training, yeah. I don't know what --
 14 Q. Operators aren't resistant to being
 15 trained, are they?
 16 A. No.
 17 MR. PATTERSON: Objection, form.
 18 A. No, they are not, not that I am aware of.
 19 Q. (BY MR. DEAN) And therefore, if
 20 management -- no, withdraw that.
 21 If employees from various units in
 22 the plant continue to complain about their lack of
 23 training, it's management's responsibility to react
 24 to that. And what you have learned is that they
 25 are, indeed, receptive to training.

Page 101

1 Isn't that true, sir?
 2 A. Yes. People like training; and yes,
 3 management needs to assess training and make sure
 4 that the training systems we have are adequate.
 5 Q. And indeed, those that investigated the
 6 cause of the March 23rd explosion found that
 7 operator training was deficient.
 8 Do you recall that, sir?
 9 A. Not at the time. Reading through the
 10 investigation report, the whole 170 pages of it or
 11 so, is that it did say that there were
 12 opportunities to improve the training that -- that
 13 people actually got and that that would have, you
 14 know, been seen as positive.
 15 Q. You keep seeing -- you keep using phrases
 16 that there are missed opportunities. And I would
 17 like for you to take our exhibit of the fatality
 18 report over lunch, and with respect to training,
 19 just point me to where it says that there were
 20 missed opportunities for training versus lack of
 21 training.
 22 Can you do that for us, sir?
 23 MR. PATTERSON: Objection, form.
 24 Q. (BY MR. DEAN) It is a long report, and I
 25 don't want to spend the time in front --

Page 102

1 A. Yeah.
 2 Q. -- of the jury --
 3 A. That's fine.
 4 Q. -- to do it?
 5 A. All right.
 6 Q. All right.
 7 A. Sure.
 8 Q. All right.
 9 A. I assume I will have plenty of time to do
 10 that -- or as long as you leave me enough time.
 11 Q. Over lunch, review it.
 12 A. Okay.
 13 Q. Maybe I have missed it, so I want to
 14 visit about what your concept here is.
 15 A. So, so I have got it straight, you want
 16 me to look and just see what it said about training
 17 in the report.
 18 Q. No. I want to see where you can -- where
 19 you get your conclusion that there were missed
 20 opportunities for training versus a very clear and
 21 direct finding about a lack of training involved.
 22 MR. PATTERSON: Objection, form.
 23 A. Okay.
 24 Q. (BY MR. DEAN) All right.
 25 A. Does somebody have that question down so

Page 103

1 that -- yeah, thanks. I don't have a pen. So
 2 sorry.
 3 Q. Would you --
 4 MR. DEAN: What time do you want
 5 to break for lunch?
 6 MR. PATTERSON: Whenever the two
 7 hours is up, I guess. It's another 15 minutes.
 8 MR. DEAN: How many minutes?
 9 THE VIDEOGRAPHER: 15.
 10 MR. DEAN: Do you want to go the
 11 whole time?
 12 MR. PATTERSON: Sure.
 13 MR. DEAN: I agree. Good. Thank
 14 you, sir.
 15 Q. (BY MR. DEAN) Would you agree, sir,
 16 that -- that managers out there at BP often use
 17 what's called a matrix or a grid in assessing
 18 certain things like business concepts, safety
 19 concepts and whatnot?
 20 A. Like a prioritization grid? Is that what
 21 you are asking?
 22 Q. Or a risk matrix?
 23 A. Risk matrix?
 24 Sure, yeah.
 25 Q. Okay. You are familiar with that

Page 104

1 concept?
 2 A. Yes, I am.
 3 Q. All right. What exactly, in layman's
 4 language, so that all of us can understand --
 5 because actually, I don't know much about it --
 6 what is a risk matrix?
 7 A. Okay.
 8 Q. What is it? What purpose does it serve
 9 in your refining operations?
 10 A. Okay. So, what you would -- you would do
 11 is risk matrix would essentially show a
 12 prioritization of -- of risk of whatever your --
 13 risk you are evaluating. And it would show high,
 14 medium and low as far as the risk level and then
 15 high, medium and low as far as the probability of
 16 occurrence. And then, you would look at that and
 17 then be able to kind of quickly assess what are
 18 some of your highest risk and things that -- that
 19 should be considered.
 20 Q. Do you find such risk matrix to be used
 21 by managers at BP?
 22 A. We use it as a general tool, yes.
 23 Q. I want to show you a document from --
 24 otherwise, I will show you the entire document,
 25 should you desire -- but from BP Amoco, your

Page 105

1 lawyers have produced to us a document that starts
 2 at Bates range BPISOME5866 and the cover page is
 3 this (indicating).
 4 Have you ever seen it before?
 5 A. The date that's on that, is that the true
 6 date or is that -- I am guessing if that's the true
 7 date, I probably wouldn't have seen it.
 8 Q. Yeah. I don't know the answer to that
 9 but I believe it's a print date, but the evidence
 10 will show eventually.
 11 A. Oh, okay.
 12 Q. I believe this to be -- I think this is
 13 an earlier in the decade document --
 14 A. Oh is it?
 15 Q. -- based on some things we see later?
 16 Yes, sir.
 17 A. Okay. I don't recall it exactly, but I
 18 may have seen it -- yeah.
 19 Q. All right. On Bates --
 20 A. I wasn't at the site then.
 21 Q. Yes, sir.
 22 A. That's why I was asking.
 23 Q. I understand.
 24 But with respect to their use of a
 25 risk matrix on Bates BPISOME5897, we see on this

Page 106

1 grid a risk ranked from high, medium, low and then
 2 a manageability comparison down here of low,
 3 medium, high; is that true?
 4 A. Yeah, that's true.
 5 Q. With respect to that document produced to
 6 us from your lawyers, can you identify for the jury
 7 the issue that is the highest risk but also the
 8 highest in manageability?
 9 A. It says safety.
 10 Q. Would you agree with that? That safety
 11 is the highest risk in terms of refining operations
 12 but also the most management risk?
 13 A. I guess one question because I am looking
 14 at all of what's on here.
 15 Is this a Texas City risk matrix
 16 or is this a general one broader than Texas City?
 17 Q. Fair question. I believe it is more
 18 broad --
 19 A. Okay.
 20 Q. -- than Texas City based on the document.
 21 A. Is it? Okay.
 22 I would say safety is very
 23 manageable. You know, it's -- it's one that you
 24 get the results, you know, that you put time and
 25 effort and things into. As far as the highest risk

Page 107

1 away from all the other things, I don't know if I
 2 would say it is the highest risk. Obviously,
 3 safety can have high consequences and very
 4 unfortunate, you know, consequences as we had in
 5 the Texas City incident; but I don't know that I
 6 would say that was the highest risk that we had.
 7 Q. What is the highest risk out at Texas
 8 City, if not safety?
 9 MR. PATTERSON: Objection, form.
 10 Q. (BY MR. DEAN) In other words, if you
 11 were rewriting this document to conform it to
 12 operations at Texas City while you were a manager
 13 at Texas City at the refinery itself, what would
 14 you put in its place?
 15 A. I think one of the things that I would
 16 probably look at is -- it's just underlying systems
 17 and things like for inspection programs and
 18 sustaining investments and things like that.
 19 Q. Going back to three levels of safety, all
 20 things senior management leadership were
 21 responsible for; isn't that true, sir?
 22 A. Yes, we are responsible for safety as
 23 well, yes.
 24 MR. DEAN: Let's go ahead and
 25 break for lunch.

Page 108

1 MR. PATTERSON: All right.
 2 THE VIDEOGRAPHER: Off the record
 3 at 12:11 p.m., ending Tape 2.
 4 (Recess taken.)
 5 THE VIDEOGRAPHER: On the record,
 6 1:22 p.m., beginning Tape 3.
 7 Q. (BY MR. DEAN) We -- we left off for
 8 lunch and I had asked a little bit before lunch
 9 to -- for you to look at the fatality report and
 10 point me to where their observations, the
 11 investigation team observations were relayed in the
 12 report in terms of "missed opportunities" versus
 13 "training was inadequate."
 14 Did you find where they indeed
 15 said in the report there were missed opportunities
 16 relative to training versus more direct statements
 17 of lack of training?
 18 A. Yeah. So, it didn't say anything about
 19 missed opportunities. What I -- what I think I
 20 said was room for improvement, but what I saw in
 21 the report is it said "gaps in some areas."
 22 Q. Right.
 23 A. And --
 24 Q. And with respect to the gaps that you
 25 have just identified, would you, going back to

Page 109

1 this -- this theories of three levels of safety
 2 management that the gaps were the responsibility
 3 first and most importantly in senior management
 4 leadership; isn't that true, sir?
 5 A. I was just reflecting looking at the
 6 sheet I can see -- now, I can read the actual
 7 incident piece at the bottom. So, I...
 8 Q. All right.
 9 A. Yes, leadership is very important,
 10 commitment to leadership around safety is
 11 important. I think that's your question.
 12 Q. Well, with the gaps that you identified
 13 in your review of the fatality report, at least
 14 with respect to training and other areas, the gaps
 15 identified were first and foremost the
 16 responsibility of management at BP Texas City to
 17 manage?
 18 MR. PATTERSON: Objection, form.
 19 Q. (BY MR. DEAN) Isn't that true?
 20 MR. PATTERSON: Objection, form.
 21 A. So, yes, it was -- management was
 22 responsible. In addition to that, I had people on
 23 my team, though, that looked out and looked at
 24 those more specifically on my behalf as my
 25 responsibility in addition to them to make sure

Page 110

1 that, you know, we provided the training that we
 2 should have.
 3 Q. (BY MR. DEAN) And those others were in
 4 management that you looked to to enforce this
 5 training concept; is that true, sir?
 6 A. Management in general, they're
 7 supervision, slash, management.
 8 Q. Okay.
 9 All right. Now, the -- I visited
 10 with you earlier about an OSHA citation that
 11 relates to training, and I will try to zoom in a
 12 little bit more. We are looking at Citation 1,
 13 Item 3 of the OSHA citation. Let's see.
 14 Can you read that at the top, that
 15 top paragraph? You can read it silently.
 16 A. I am struggling. So, that's why I am
 17 reading it slow to make sure.
 18 Q. I understand that. Now that everyone has
 19 had a chance, why don't you eyeball it?
 20 A. May I see it, please?
 21 Q. Yes, sir. (Tenders document.)
 22 Is that you to whom OSHA is
 23 referring to in that citation?
 24 A. Well, I was -- I was one of the on-site
 25 incident commanders on the day shift and there was

Page 111

1 a night shift as well.
 2 Q. Yes, sir.
 3 A. Okay. And the --
 4 Q. We see the training of that incident
 5 commander outlined.
 6 Does that fit your training
 7 history?
 8 A. It seems to, yes.
 9 Q. All right. And with respect to the
 10 24-hour or one day incident commander training that
 11 they are citing for -- that they are giving a
 12 ticket for, for lack of a better phrase, you never
 13 had that training; is that true, sponsored by BP?
 14 A. I did not take that training.
 15 Q. All right.
 16 A. I don't feel I needed that training
 17 because I am not an emergency responder at the
 18 scene of the incident. I am -- management
 19 responded away from the incident, not part of the
 20 initial emergency response on the ground on the
 21 site where the injuries occurred.
 22 Q. All right.
 23 MR. DEAN: Objection to the extent
 24 that your answer was nonresponsive.
 25 Q. (BY MR. DEAN) Do you know of another

Page 112

1 person to whom this citation may relate relative to
 2 the training and experience you know other site
 3 commanders had?
 4 A. I don't know what training others had.
 5 There were other on-site commanders. So, I
 6 don't -- I don't know what their training records
 7 showed.
 8 Q. All right. If -- if the evidence in the
 9 case shows that Joe Barnes, who is head or director
 10 or manager of the HSE, Health, Safety and
 11 Environment department, had very few hours of
 12 course more than ten years ago relating to process
 13 safety, would that surprise you in this context of
 14 the discussion we are having about lack of training
 15 out there at BP?
 16 A. I -- you know, I have known -- I met Joe
 17 when I came to the site. I knew him very briefly
 18 before that and other -- when he had other roles
 19 and I had other commercial roles. So, not a
 20 hundred percent -- it wouldn't surprise me -- yeah.
 21 Q. It's not appropriate to have a director
 22 of Health, Safety and Environment with only a few
 23 hours in the distance past of process safety
 24 education.
 25 Wouldn't you agree, sir?

Page 113

1 MR. PATTERSON: Objection, form.
 2 A. There was a person that was the process
 3 safety manager report to him that was extensively
 4 trained in that. And so, him as the manager of HSE
 5 I think it would be a -- he would not require near
 6 the level of process safety management training
 7 that that individual that was his expert in the
 8 team for the site.
 9 Q. (BY MR. DEAN) So, you deem it
 10 appropriate to have the director to have that lack
 11 of process safety related training at BP Texas City
 12 before the explosion?
 13 A. You know, if I look in hindsight, I
 14 probably would have liked to have had him have some
 15 more. But did I recognize that or would I have
 16 seen that as an issue in advance? I don't know.
 17 Q. And the reason you would think, at least
 18 in hindsight, is that the person directing health,
 19 safety and environmental issues should have more
 20 than just a couple of hours of formal training in
 21 process safety so that rules are followed, training
 22 programs are implemented and enforced and the like.
 23 Isn't that true, sir?
 24 MR. PATTERSON: Objection, form.
 25 A. The reason for what I would see is

Page 114

1 that -- the type of training that he would need I
 2 think is he needed awareness training around that
 3 so that as a leader he could reinforce, you know,
 4 what the process safety manager was deeming and
 5 setting direction of the site of.
 6 Q. (BY MR. DEAN) What about the person who
 7 was directed by BP to head up the investigation
 8 into the release of hydrocarbons into the Texas
 9 City atmosphere from the blowdown drum located in
 10 the ultracracker? Do you have any knowledge about
 11 that incident in August of 2004?
 12 MR. PATTERSON: Objection, form.
 13 A. Say that one more time.
 14 Q. (BY MR. DEAN) Sure.
 15 A. I want to make sure I understand.
 16 Q. I will back up.
 17 Did you know that there was a
 18 hydrocarbon release through the stack -- a blowdown
 19 drum stack into the Texas City atmosphere of liquid
 20 hydrocarbons in the ultracracker unit in August,
 21 2004?
 22 A. August, 2004. I am trying to think of
 23 it.
 24 No, I am not really aware of that,
 25 no.

Page 115

1 Q. Shouldn't you have been relative to the
 2 process safety committee's job to disseminate, to
 3 spread information about incidents plant-wide about
 4 incidents so that other operators and managers can
 5 learn from those incidents?
 6 A. I am trying to -- in the timeframe of
 7 August the -- of 2004, I was transitioning out of
 8 that role as MDL into another role.
 9 Q. So, you would have been out of the loop?
 10 A. Well, I wouldn't say out of the loop.
 11 What I would say is I wasn't in that role depending
 12 on when it happened in August.
 13 Q. All right.
 14 A. So, I wasn't engaged necessarily in all
 15 those discussions around where that might get
 16 discussed.
 17 Q. Assume with me for the moment,
 18 Mr. Peltier, that the evidence will show in the
 19 case that the person BP appointed to investigate
 20 that incident where hydrocarbons released from --
 21 because a pressure relief valve lifted?
 22 A. Yes.
 23 Q. Hydrocarbons leaked out into the
 24 atmosphere in a spewing fashion, the person that
 25 BP -- excuse me -- appointed to head that

Page 116

1 investigation had never headed another
 2 investigation at BP.
 3 Would -- do you approve of BP's
 4 decision in that regard?
 5 MR. PATTERSON: Objection, form.
 6 A. We have a procedure or policy that we
 7 have set aside on how to do incident investigations
 8 and things. And from what I recall, is that we had
 9 people that would be on the list as qualified, you
 10 know, to do those and I don't know who that person
 11 was that got identified or what their background or
 12 qualifications were.
 13 Q. (BY MR. DEAN) Okay.
 14 A. Why they are on that list.
 15 Q. Let me add to it. If the evidence shows
 16 that this person who never investigated an incident
 17 before, in other words, he was fresh out of
 18 training of incident investigation and root cause
 19 analysis --
 20 A. Okay.
 21 Q. -- also had little to no knowledge of
 22 process safety issues in the ultracracker unit,
 23 would you approve of BP's decision to appoint such
 24 a person to head that investigation into that
 25 incident?

Page 117

1 MR. PATTERSON: Objection, form.
 2 A. So, what I would look at in a situation
 3 like that is who was the rounding out of the rest
 4 of the team and what kind of experience they
 5 brought because it's a team investigation.
 6 Q. (BY MR. DEAN) And that matters, right?
 7 A. Yeah.
 8 Q. In other words, you would want to see
 9 some process safety expert on that team to get to
 10 the root cause of the incident.
 11 Isn't that true, sir?
 12 MR. PATTERSON: Objection, form.
 13 A. You would want someone that would be able
 14 to provide from a position of knowledge of what
 15 would be learned from that incident and how we
 16 could take corrective action.
 17 Sometimes you get a person that's
 18 not in the immediate area, fully familiar with the
 19 operating unit because you want them to be
 20 objective and away from, you know, the immediate
 21 incident and the situation. So, it's a fresh set
 22 of cold eyes --
 23 Q. (BY MR. DEAN) Okay.
 24 A. -- looking at the incident itself.
 25 MR. DEAN: Object to the extent

Page 118

1 your response was nonresponsive.
 2 Q. (BY MR. DEAN) If that investigator,
 3 indeed, found lack of training as a system cause of
 4 liquid hydrocarbons -- in particular, diesel --
 5 going through a blowdown stack and a spew out into
 6 the Texas City air, that wouldn't sound too
 7 unfamiliar to you, relative to our discussion on
 8 lack of training, would it?
 9 MR. PATTERSON: Objection, form.
 10 A. I didn't understand the question inside
 11 of that long phrased --
 12 Q. (BY MR. DEAN) If system cause was found
 13 to be lack of training --
 14 A. Okay.
 15 Q. -- that sounds to be familiar relative to
 16 the state of training in 2004 for operations
 17 personnel in BP Texas, doesn't it?
 18 MR. PATTERSON: Objection, form.
 19 A. Okay. And so, in that case, I -- it's
 20 hard for me to say without being a part of the
 21 incident and knowing about the details of it and
 22 the findings and the root causes around it; but if
 23 training was noted as an area for the individual,
 24 that may have, you know, played a part in the
 25 incident occurring, then that would -- sounds like

Page 119

1 a gap, you know, for that individual and maybe
 2 there -- for that individual, there should have
 3 been some more training.
 4 Q. (BY MR. DEAN) Well, sir --
 5 A. So -- so, I guess all I am saying is --
 6 is that if that's what the investigation found,
 7 then who am I to agree or disagree other than take
 8 it as being objective and what needs to be done.
 9 Q. And whether or not you agree or disagree,
 10 sir, do you not see a pattern where lack of
 11 training has been an issue raised both from
 12 managers and operators in 2002 up until the time of
 13 the explosion and including the time of the
 14 explosion, do you not see a pattern there?
 15 MR. PATTERSON: Objection, form.
 16 A. So, what I see is -- is that there were
 17 gaps in training. It was reinforced in the
 18 incident investigation that was done, post the
 19 incident; and those are things that need to get
 20 addressed and the site is working on those, now.
 21 MR. DEAN: Objection,
 22 nonresponsive.
 23 Q. (BY MR. DEAN) Sir, do you not see a
 24 pattern through at least what we have looked at in
 25 the course of your testimony of employees and

Page 120

1 managers complaining about operators not being
 2 properly trained at the BP Texas City refinery?
 3 A. You have pointed out several instances --
 4 a handful of instances that show that training was
 5 an issue and was a cause and a gap in -- in certain
 6 situations.
 7 Q. And the fact of the matter is, you as a
 8 manager at BP were supposed to be in the loop of
 9 information when such information was transmitted,
 10 however it was at BP Texas City, regarding lack of
 11 training, true?
 12 A. I am overall responsible for training and
 13 closing gaps and people in my organization that
 14 help us address those gaps. And so, therefore, I
 15 am partly responsible, you know, for understanding,
 16 recognizing and addressing gaps and training of
 17 those is included as well.
 18 Q. Is -- I want to show you -- do you know
 19 what a "Getting HSE Right Audit" is at BP Texas
 20 City refinery, true?
 21 A. Yes.
 22 Q. And the one for 2003 or the closeout
 23 meeting related to it is BPISOME408815.
 24 I am sorry. Do you happen to
 25 remember seeing this document's presentation?

Page 121

1 A. I don't remember it explicitly, but I
 2 would probably have seen it.
 3 Q. All right. Go through some of the -- do
 4 you agree with the most important strengths
 5 identified on page 17, "good behavioral safety is
 6 reinforced by strong leadership and underpinned
 7 with good safety processes"?
 8 Do you agree with that as a member
 9 of management of BP in that timeframe?
 10 A. It's good.
 11 Q. Would you also agree with the finding of
 12 BP's sponsored audit relating to its safety and
 13 environmental state of the union if it -- as you
 14 would, that the checkbook mentality blame and
 15 status culture exists throughout most of the Texas
 16 City site and this limits HSE and general
 17 performance.
 18 Do you agree with that finding
 19 while you were an MDL out there?
 20 A. The team that did the audit would have
 21 felt that way. And so, they are an objective group
 22 so I would have to say that, in general, that was
 23 their view and opinion and I am not in a position
 24 to dispute it and I think it's probably something
 25 reasonable.

Page 122

1 Q. Can you explain, given that you were an
 2 MDL in 2003 for the aromatics unit recovery, that
 3 you just have to go off what they say versus having
 4 personal experience in this matter? Can you
 5 explain that?
 6 A. So, I am one of several people that they
 7 would interview. They get the opinions from a lot
 8 of people and then they draw up their findings and
 9 we accept those and we address those gaps that come
 10 out.
 11 Q. Okay. And with respect to the findings
 12 of the Telos Report, you would agree that the
 13 status culture and checkbook mentality and blame
 14 between 2003, this audit, and 2000 -- late 2004,
 15 the Telos audit had not been addressed because the
 16 complaints were still there and they were not
 17 addressed; is that true?
 18 A. I would say that the maybe the issue was
 19 still there, but the extent of the issue may have
 20 varied, may have improved --
 21 Q. Well, these --
 22 A. -- between the timeframe of this and the,
 23 I think it was October, 2003 timeframe versus the
 24 Telos Report, which I assume would have been --
 25 when was that? Early 2005. So, probably the

Page 123

1 survey and questioning would have happened about a
 2 year after this report.
 3 Q. Right. So --
 4 A. So --
 5 Q. As of that year later when Telos
 6 conducted their interview, the problem still
 7 existed, which is to say the gaps relating to that
 8 culture still existed, true?
 9 A. The gaps still existed, but it may have
 10 been to a lesser extent.
 11 Q. What evidence can you provide this jury
 12 that the gap identified was to some lesser extent
 13 between 2003 and 2004?
 14 A. In a lot of cases, I think we spent a lot
 15 of time, effort and money to improve the facilities
 16 in that one year timeframe.
 17 Q. But what gaps were closed, sir, with
 18 respect to anything?
 19 A. I would say the gap was narrowed around a
 20 lot of the things. Around condition of the assets,
 21 improving those and getting them, you know, in a
 22 much better position than they were in 2003.
 23 Q. And what evidence do you have to support
 24 your conclusion in that regard, Mr. Peltier?
 25 A. There was a lot of major turnarounds that

Page 124

1 had occurred in 2003 and 2004; and there was a lot
 2 of detailed inspection that went on and a lot of
 3 major repairs made on equipment, vessels, piping
 4 and assorted matters related to that.
 5 Q. Given that you don't have much process
 6 safety training -- formal training, do you know the
 7 importance of having a relief valve study relative
 8 to the operation of your unit and the laws of the
 9 State of Texas and the United States?
 10 A. There is -- it's important to have good
 11 relief systems in place for operating units and
 12 what that entails is -- is, you know, occasional
 13 checks to make sure that the systems are adequate.
 14 Q. And indeed, relief studies are required
 15 by the law, are they not?
 16 A. Relief studies are a part of what is --
 17 is part of regulations to be addressed; and those
 18 are done on a periodic basis, as needed.
 19 Q. And you knew that when you were an MDL of
 20 the aromatics unit; is that true? That the law
 21 requires these studies to have been completed?
 22 A. From a regulation standpoint, yes, you do
 23 relief valve studies around safe operation of the
 24 units --
 25 Q. And --

Page 125

1 A. -- including for the units and aromatics
 2 is very broad but yes, for the eight operating
 3 units that I had.
 4 Q. All right. And please identify -- I am
 5 going to hand you a document that starts with BP
 6 ISOM 383586, and I am going to refer you
 7 specifically to 383591.
 8 And what I would like you to do
 9 when you look at that document is highlight in
 10 yellow the units for which you were an MDL.
 11 A. Okay.
 12 Q. Those were a bunch of like ISOM, ULC, ARU
 13 type deals. I would like for to you highlight
 14 which ones you were MDL for, sir.
 15 A. (Complies.)
 16 You want me to do something on the
 17 second page?
 18 Q. No. I think that page for now.
 19 A. Okay.
 20 Q. The -- this document is, tell me if I am
 21 wrong, a Texas City refinery RV study HAZOP action
 22 items 2003 work status update and 2004 study plan,
 23 true?
 24 A. Correct.
 25 Q. And although this may not be the -- this

Page 126

1 October, 2003 may or may not be when this came out,
 2 this obviously relates to some observations BP
 3 management was making with respect to relief valves
 4 in 2003.
 5 Is that a fair conclusion?
 6 A. Yeah. I've -- it looks that way from the
 7 title of it, yes.
 8 Q. Okay. And if we go to where -- on this
 9 page 91 -- can you read that pretty well?
 10 A. Yeah, reasonably.
 11 Q. You highlighted "AU2." You were an MDL
 12 there of that unit --
 13 A. Right.
 14 Q. -- in this 2003 timeframe?
 15 A. Correct --
 16 Q. Tell us what you learned from this
 17 information relative to the multi-year study plan
 18 and relief valve in particular.
 19 A. Okay. So, what we had is AU2 had a
 20 turnaround that was scheduled for May/June of 2004.
 21 And so, it said first quarter of 2004. So that
 22 might be dated, but anyway it was in the second
 23 quarter.
 24 Q. Fair enough.
 25 A. And part of that was an expansion of the

Page 127

1 operating unit and then also what we call a cycle
 2 ending turnaround. And a cycle ending turnaround
 3 is just a major turnaround where you go through
 4 detailed inspections and -- and repairs on
 5 equipment. I can't read all the detail real well.
 6 So, it says something about AU2 engineering project
 7 turnaround. So, that's what that was. It was a
 8 combined turnaround and expansion, about a 20 to 25
 9 million-dollar expansion --
 10 Q. Uh-huh.
 11 A. -- which included also a PX3 unit on the
 12 other side of the plant, you know, or not other
 13 side of the plant but a ways away from it.
 14 And as a part of that is -- is we
 15 went through and did what we need to for the
 16 capacity expansion site of it and also our detailed
 17 work list for the turnaround.
 18 Q. Can we -- can us, as the court, the jury
 19 and myself, conclude that with respect to the
 20 relief valves in that particular unit, the AU2,
 21 they looked for a relief valve study required by
 22 law and found none?
 23 MR. PATTERSON: Objection, form.
 24 A. From what I recall is, we could not find
 25 the detailed calculations for it and the unit was

Page 128

1 started up originally, I think, in the mid '90s, in
 2 the -- in the new service here.
 3 Q. (BY MR. DEAN) Well, why isn't that, what
 4 you just said, put in this comment section versus
 5 "no study found"?
 6 MR. PATTERSON: Objection --
 7 Q. (BY MR. DEAN) Do you have an
 8 explanation?
 9 MR. PATTERSON: Objection, form.
 10 A. I didn't put this form together, and I
 11 don't know all the, you know, who filled it out.
 12 Or maybe that's just a tab and that's one of the
 13 few options that came up; but we did go back and do
 14 relief valve calculations after we found that, as I
 15 recall, to -- for the expansion of that unit.
 16 Q. (BY MR. DEAN) And doing relief valve
 17 calculations when you expand or modify a unit
 18 certainly relates to safety of personnel and
 19 environment.
 20 Aren't those two connected, sir?
 21 A. You want to make sure in expanding the
 22 capacity that the relief systems are adequate.
 23 And in that case, there would have
 24 been a team of engineers and operating staff that
 25 would have gone through and part of doing those

Page 129

1 checks.
 2 Q. And if in 2003 no relief valve study was
 3 found by BP management for this unit known as AU2,
 4 it was clearly in violation of the OSHA laws
 5 relating to relief valves.
 6 Isn't that true, sir?
 7 MR. PATTERSON: Objection, form.
 8 A. I don't know the answer to that question.
 9 I really don't.
 10 Q. (BY MR. DEAN) So, can we conclude that
 11 relative to all of the information, formal and
 12 informal and on-the-job training, that you gathered
 13 from BP through the years, you don't know when
 14 relief valve studies should have been completed by
 15 refining operations in the United States?
 16 A. So the -- my counsel that I get on what
 17 needs to be done when is -- a lot of it is driven
 18 from the process safety areas as well as the
 19 engineers. They check the calculations, check and
 20 make sure that the records and what information
 21 needs to be there and then informs me along with
 22 others inside the management team, you know, what
 23 needs to be done.
 24 Q. Okay. Well, can we conclude with respect
 25 to the AU2 unit, in particular, that if indeed the

Page 130

1 law required relief valve studies to be done about
 2 the same time, that BP took this refinery merged
 3 with Amoco -- if that's the appropriate
 4 statement -- and that in every year of 1999, 2000,
 5 2001, 2002 and 2003 that unit was operating out of
 6 compliance relative to this relief valve study?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. DEAN) Do you know at least that
 9 much?
 10 A. Say your question, again. Let me make
 11 sure I understand.
 12 Q. With respect to every year that BP ran
 13 that Texas City refinery --
 14 A. Right.
 15 Q. -- 1999 through 2003 --
 16 A. Uh-huh.
 17 Q. -- do you know whether or not y'all were
 18 in violation of the law, of OSHA laws and
 19 regulations related to relief valve studies?
 20 A. And I don't -- I don't know the answer to
 21 that.
 22 Q. With respect to the PAs -- PX3, we
 23 have -- I don't -- I don't know if we could
 24 conclude anything because there is nothing in the
 25 comments.

Page 131

1 So, we don't know if there was a
 2 study done there or can you tell -- relief valve
 3 study?
 4 A. No. There's nothing written there.
 5 Q. Is pipestill and PX3 the same thing?
 6 A. No, no.
 7 Q. All right. With respect to the ISOM in
 8 this particular document, you were -- that was one
 9 of your areas of responsibility that unit when the
 10 explosion occurred?
 11 A. Not when the explosion occurred.
 12 Q. But in 2003?
 13 A. In 2003.
 14 Q. And we found, according to this document,
 15 there was no study found for relief valves in that
 16 timeframe, true?
 17 A. That's what it says.
 18 Q. And with respect to the ARU, what does
 19 that mean to you, "few inlet, no outlet, DP
 20 calculations. No flare"?
 21 A. Read it one more time. I can't read it
 22 from here.
 23 Q. "Few inlet," comma, "no outlet, DP
 24 calculations," period. "No flare."
 25 A. It's pretty cryptic; but it just says

Page 132

1 they found some information. Maybe not all the
 2 information, but I don't know for sure. I wasn't
 3 the one who wrote the comments. So, I -- I don't
 4 know.
 5 MR. DEAN: Let's mark this one as
 6 our next.
 7 (Exhibit Number 156 marked for
 8 identification.)
 9 Q. (BY MR. DEAN) The document of which we
 10 just spoke is something that I marked as deposition
 11 Exhibit 156; is that true, sir?
 12 A. That's what it says.
 13 Q. Okay. Since you were involved as an MDL
 14 over the ISOM unit in 2003, were you familiar with
 15 the wet/dry drum maintenance project that was going
 16 on in that timeframe?
 17 A. Yes, I was.
 18 Q. And did you know as a member of
 19 management that the proposal to connect the
 20 raffinate splitter relief valves and lines
 21 disconnected from the blowdown and connected to the
 22 flare was decided against for the stated reason
 23 that there was no relief valve study in place to do
 24 so?
 25 Did you know that back then?

Page 133

1 A. I don't think so, but say the question
 2 again.
 3 Q. Did you know that they couldn't make the
 4 modification in 2003 to eliminate the blowdown
 5 drums use as a relief drum for the raffinate
 6 splitter because there was no relief valve study on
 7 which the contractors --
 8 A. Oh.
 9 Q. -- and BP personnel to rely?
 10 MR. PATTERSON: Objection, form.
 11 A. No, I didn't -- I don't remember that.
 12 Q. (BY MR. DEAN) As a member of management,
 13 MDL over the ISOM unit --
 14 A. Yes.
 15 Q. -- you would have desired a relief study
 16 to have been in effect and proper and up-to-date as
 17 of 2003 in that wet/dry maintenance program,
 18 wouldn't you?
 19 MR. PATTERSON: Objection, form.
 20 A. I would like to have had, to make sure
 21 that we had relief systems that would allow safe
 22 operation of the unit.
 23 Q. (BY MR. DEAN) And not having relief
 24 valve studies is having an incomplete set of safety
 25 data.

Page 134

1 Is that not true, sir?
 2 A. You would like to have that information,
 3 relief valve studies, to confirm that you are, you
 4 know, in safe operating areas of relief systems
 5 that you would need for the ISOM.
 6 Q. And if you didn't have the relief data
 7 that we are speaking of, these relief valve
 8 calculations, you don't know if you are operating
 9 safely or not in the isomerization unit in 2003 and
 10 2004.
 11 Isn't that true, sir?
 12 MR. PATTERSON: Objection, form.
 13 A. You will have confirmation that you are,
 14 correct.
 15 Q. (BY MR. DEAN) And, in fact, March 23rd
 16 put a punctuation mark on that confirmation, did it
 17 not?
 18 MR. PATTERSON: Objection, form.
 19 A. If you are talking about the ISOM
 20 incident on March 23rd --
 21 Q. (BY MR. DEAN) I am.
 22 A. -- 2005, those are very extreme
 23 circumstances that wouldn't typically necessarily
 24 be your scenarios. You would look in your relief
 25 valve study systems. They were very extreme.

Page 135

1 Filling a vessel up -- reading the report, it says
 2 130 something feet versus normal operation at eight
 3 to ten is probably not something an engineer would
 4 be designing for in a relief valve study system.
 5 MR. LINEBAUGH: Objection,
 6 nonresponsive.
 7 Q. (BY MR. DEAN) And you know that --
 8 MR. DEAN: Objection
 9 responsiveness.
 10 Q. (BY MR. DEAN) And you come to that
 11 conclusion based upon your extensive knowledge in
 12 process safety issues and -- excuse me -- in
 13 process safety knowledge?
 14 MR. PATTERSON: Objection, form.
 15 A. That is my opinion --
 16 Q. (BY MR. DEAN) Based on what --
 17 A. -- as management.
 18 Q. As management.
 19 A. Right.
 20 Q. All right.
 21 A. And just my background and experience.
 22 Q. According to documents received by me
 23 from your lawyers, the ISOM recovery stable --
 24 recovery and stabilization organization incident
 25 investigation liaison is Mr. Curlee -- Surlee?

Page 136

1 A. Johnny Curlee.
 2 Q. Johnny Curlee?
 3 A. Okay.
 4 Q. And R. Peltier.
 5 Do you remember that -- the
 6 management designating you as such?
 7 A. Okay. My -- yeah.
 8 So, I think what they have done is
 9 combined roles here. My role was legal liaison
 10 working with BP legal and contract people, and my
 11 other role was at some point probably four to six
 12 weeks after the incident as backup support or
 13 support for the BP investigation team.
 14 As far as liaison with these other
 15 functions, CSB, OSHA, EPA insurance, that would
 16 have been someone else. It wasn't me, and I assume
 17 it would have been Johnny.
 18 Q. All right. So, we learned from this
 19 document that BP is incorrect relative to job
 20 descriptions for you --
 21 A. Well --
 22 Q. -- to the extent it is described in this
 23 document, BPISOME398689?
 24 A. Am I --
 25 Q. Fair enough?

Page 137

1 A. -- allowed to compliment -- comment?
 2 Yeah -- no.
 3 What we found was they combined
 4 roles of two people under the same place in the
 5 work chart. And I only had some of those roles,
 6 but we didn't have those dual roles together. And
 7 so, what I clarified for you was what my roles were
 8 within that work chart.
 9 Q. Okay. And with respect to your opinion
 10 on extreme circumstances on March 23rd, did you
 11 give that to me in the context of BPISOME415361
 12 that reads that, "A manufacturing leadership team
 13 would provide a form and discussion in decision
 14 making concerning site-wide operating policies and
 15 site-wide HSE policies."
 16 Was your statement made at least
 17 in that context as an MDL leader?
 18 A. What timeframe was this?
 19 Q. This is a document that says at the
 20 bottom, "Revised 10/02"?
 21 A. 10/02.
 22 Q. As a term of reference.
 23 A. All right.
 24 And your question again? I am
 25 sorry.

Page 138

1 Q. When you state that March 23rd were
 2 extreme circumstances, did you make your statement
 3 as a member -- a former member of the manufacturing
 4 leadership team that had these job descriptions
 5 identified in this document?
 6 A. I made my comments based on me today and
 7 the experience that I have gathered over time with
 8 Amoco and then BP.
 9 Q. Including as a member of the
 10 leadership -- excuse me, manufacturing leadership
 11 team?
 12 A. Yeah, and two of those years was part of
 13 the manufacturing leadership team.
 14 Q. All right. What is proper root cause
 15 analysis -- withdraw that.
 16 Do you know what root cause
 17 analysis is?
 18 A. Yes.
 19 Q. Would you agree that an appropriate
 20 standard relating to root cause analysis is to look
 21 beyond operator error, if it's present, and
 22 determine the system cause for such error or
 23 abnormality to occur?
 24 A. Yes, that's a big piece of it.
 25 Q. And that's a big piece for what reason,

Page 139

1 sir?
 2 A. You look -- you look at immediate errors;
 3 but then, you also say, "What are the underlying
 4 causes of that?" And you keep asking, Why, why,
 5 why until you get to what you think is the
 6 underlying cause or root cause in that case.
 7 Q. And the underlying causes, the system
 8 causes identified by the investigation team had
 9 nothing to do, you would agree, with extreme
 10 circumstances?
 11 MR. PATTERSON: Objection, form.
 12 Q. (BY MR. DEAN) Relative to your reading
 13 the fatality report in December, isn't that true,
 14 sir?
 15 MR. PATTERSON: Same objection.
 16 A. I read it and what I got out of that
 17 is -- is they very systematically went through and
 18 said what were the immediate causes, the root
 19 causes and the underlying causes within that. And
 20 that's what that report documented out and it was
 21 very thorough and objectively done by a good
 22 cross-section of people.
 23 Q. (BY MR. DEAN) And this thorough report
 24 by a good cross-section of people never concluded
 25 that this was an extreme set of circumstances that

Page 140

1 caused the explosion and fire of March 23rd.
 2 Isn't that a fair read of that
 3 document, sir?
 4 MR. PATTERSON: Objection, form.
 5 A. I think from what I recall in the report
 6 is there had been some other situations where, you
 7 know, there was materials in the vessel but
 8 substantially order of magnitude numbers, much
 9 lower than what was in this case that got us --
 10 that got them in that situation to the extent it
 11 did.
 12 Q. (BY MR. DEAN) Those are the immediate
 13 causes, true? Those are the operator error or unit
 14 causes in the report; isn't that true?
 15 A. I -- I don't know if "causes" is the
 16 right word. What I saw it is the -- the
 17 unfortunate consequences of overfilling the vessel
 18 or not -- not pumping hydrocarbons off the bottom
 19 of the vessel and allowing it to get to that level.
 20 So, it's an unfortunate consequence of some
 21 actions.
 22 Q. So, it's your testimony, if I understand
 23 what you are telling us today in late February,
 24 2006, that the immediate causes of the explosion
 25 were the only causes of the explosion?

Page 141

1 MR. PATTERSON: Objection, form.
 2 A. No, that's --
 3 Q. (BY MR. DEAN) The overfilling of the
 4 vessel caused it to do what happened, and that's
 5 the beginning and the end of the cause of the
 6 March 23rd explosion relative to the report in
 7 December.
 8 Is that your testimony?
 9 MR. PATTERSON: Objection, form.
 10 A. No, it's not.
 11 Q. (BY MR. DEAN) It's not your testimony
 12 because indeed of the 160 or so pages?
 13 A. 170.
 14 Q. 170 or so pages, thank you, devoted by
 15 the team in crafting this report is dedicated to
 16 issues related to senior management leadership and
 17 not immediate causes relating to operator error.
 18 Isn't that true, sir?
 19 MR. PATTERSON: Objection, form.
 20 A. No, it's not. What it looks at is
 21 immediate causes, underlying causes, several things
 22 that -- they did a scenario evaluations to confirm
 23 what they -- what their beliefs were of what
 24 actually occurred.
 25 Q. (BY MR. DEAN) Uh-huh.

Page 142

1 A. So, there was a lot of information and a
 2 lot of areas and part of that was immediate causes,
 3 you know, root causes and the corrective actions
 4 that they recommend.
 5 Q. All right.
 6 A. So --
 7 Q. Well, basic --
 8 A. So -- so, the bottom line for me is -- is
 9 that it was a fairly extensive report that looked
 10 in a lot of areas.
 11 MR. LINEBAUGH: Objection,
 12 nonresponsive.
 13 Q. (BY MR. DEAN) And as you agree that
 14 proper and appropriate root cause analysis looks
 15 beyond operator error and goes into underlying
 16 areas, gaps, whatever you want to call them, can
 17 you tell us today what underlying areas or system
 18 causes were identified in the fatality report in
 19 December?
 20 A. Okay. So, some of the things that I saw
 21 in there were -- and this is not going to be a
 22 comprehensive list.
 23 Q. I understand that.
 24 A. Okay. Some were not signing off on
 25 procedures.

Page 143

1 Q. That's known as "pencil whipping" by
 2 some, you would agree?
 3 MR. PATTERSON: Objection, form.
 4 A. I don't know. I never used that word.
 5 Q. (BY MR. DEAN) Never heard it before?
 6 A. I didn't say I never heard it. I don't
 7 use it and I don't consider that, you know, a
 8 description of what I saw. It doesn't mean "pencil
 9 whipping." It means it wasn't signed off.
 10 I would think "pencil whipping"
 11 means you are signing it off but not doing the
 12 steps.
 13 Q. Of course, that's indeed in part what
 14 happened on March 22nd and 23rd, signing off and
 15 not confirming the steps were done?
 16 A. From what I recall from the report is
 17 that the person that did the steps didn't -- wasn't
 18 always the one that signed them off.
 19 Q. Okay.
 20 A. Okay. And then, I also recall in that
 21 report that some steps were not signed off, if I
 22 remember.
 23 Q. What else?
 24 A. What else -- on the same question before?
 25 Q. Right.

Page 144

1 A. Or which question are we on?
 2 Q. If we have an understanding between each
 3 other that proper and appropriate root cause
 4 analysis looks beyond operator error?
 5 A. Right.
 6 Q. What did the report itself identify
 7 beyond a -- excuse me -- beyond operator error --
 8 MR. PATTERSON: Objection, form.
 9 A. Okay.
 10 Q. (BY MR. DEAN) -- that were system or
 11 latent causes of the incident?
 12 A. Okay. So, I talked about the one about
 13 not signing off on procedures. The others is -- we
 14 talked about gaps in training and asking people or,
 15 you know, saying that more training should be done.
 16 It talks about -- let's see.
 17 It talks about engineering
 18 solutions, such as moving to safer systems as a --
 19 you know, a corrective action for -- for blowdown
 20 stacks to flare systems. Those are a few off the
 21 top of my head.
 22 Q. Anything you -- anything you recall with
 23 respect to tolerance of risk?
 24 A. What they -- some of what they said in
 25 the report is that people were accepting of risk,

Page 145

1 maybe at higher levels from what the investigation
 2 said than what they should have.
 3 MR. PATTERSON: Chris, would you
 4 mind moving it off the projector if you are not
 5 going to ask him about it?
 6 MR. DEAN: (Complies.)
 7 MR. PATTERSON: Thanks.
 8 Q. (BY MR. DEAN) Anything about management
 9 demonstrating poor levels of understanding of
 10 process safety knowledge, process safety analysis?
 11 A. I --
 12 MR. PATTERSON: Objection, form.
 13 A. I don't recall it saying management.
 14 What I recall is -- is that there wasn't high
 15 enough awareness around process safety and it
 16 needed to be, you know, knowledge in that area
 17 needed to raise and emphasis in that area needed to
 18 be increased.
 19 MR. DEAN: Would you hand the
 20 witness the fatality report --
 21 MR. PATTERSON: Me?
 22 MR. DEAN: -- Madame Court
 23 Reporter?
 24 MR. PATTERSON: Let me -- I will
 25 get it.

Page 146

1 MR. DEAN: Or any copy for him to
 2 use.
 3 MR. PATTERSON: Yeah, that would
 4 be good.
 5 MR. DEAN: Go ahead and give me a
 6 clean copy, please.
 7 THE WITNESS: Thank you.
 8 Q. (BY MR. DEAN) Do you have a true and
 9 correct copy in front of you, sir --
 10 A. Sure do.
 11 Q. -- of the fatality report of December,
 12 2005?
 13 A. Yes.
 14 Q. All right. I will ask you to turn to
 15 page 139 of that report.
 16 A. 139.
 17 Q. Read under Paragraph 1, point -- excuse
 18 me, 5.19.
 19 A. 5.19. Okay.
 20 Q. And I ask to you to read the first two
 21 sentences of that out loud and tell me whether or
 22 not that refreshes your recollection of your review
 23 of the report about -- the report's criticism of
 24 management and their poor level of process safety
 25 knowledge.

Page 147

1 A. Okay. The first paragraph, the first two
 2 sentences or second paragraph?
 3 Q. Right here (indicating).
 4 A. Right there. Okay.
 5 "As discussed in Section 5.11.9,
 6 process safety knowledge and skills within
 7 management and the workforce were generally poor.
 8 This was most evidence in the area of risk
 9 awareness, where hazard/risk identification skills
 10 appeared to be generally poor throughout the
 11 supervision and crew of the ISOM unit."
 12 Q. Uh-huh. Now, with respect to your role
 13 as being an MDL that oversaw operations in the ISOM
 14 unit back in 2003 and part of 2004, do you, I
 15 presume -- do you have any knowledge of who they
 16 would be talking about this report? They didn't
 17 name names?
 18 A. I think what they are saying is that
 19 overall the -- from top to bottom -- it is saying
 20 workforce and management had a poor understanding
 21 and that would have been me as one of those people
 22 as well as, I guess.
 23 Q. So, this report, in your mind, criticizes
 24 you in your level of process safety knowledge and
 25 skills?

Page 148

1 MR. PATTERSON: Objection, form.
 2 A. I didn't see anything that says "MDL."
 3 What I see is management. It includes a much
 4 broader set of folks and that sentence is general
 5 to management and the workforce and me as a person
 6 in management would be one of many people they are
 7 talking about -- could potentially be talking about
 8 in management because it went from that to the
 9 second sentence talking about ISOM supervision and
 10 crews.
 11 Q. (BY MR. DEAN) So, now, with respect to
 12 process safety knowledge, can we add that to -- or
 13 lack thereof, to -- withdraw the question.
 14 Can we add management's lack of
 15 process safety knowledge and skills as the latent
 16 causes or -- excuse me, system-wide causes of the
 17 explosion according to the report?
 18 MR. PATTERSON: Objection, form.
 19 A. I saw a couple of sentences in 170
 20 something page report. I would prefer for us in
 21 this report who did the extensive evaluation to
 22 state what they were inside of the report and if it
 23 has a root cause section, then those would be the
 24 ones that I would say we ought to stay with; but I
 25 am not in a position, I am not part of the study.

Page 149

1 I wasn't part of the investigation, to be able to
 2 state with clarity exactly what they meant beyond
 3 what the written word was in the report.
 4 Q. (BY MR. DEAN) All right. Let's read
 5 from other areas of the report.
 6 A. Great.
 7 Q. "A poor level of hazard awareness and
 8 understanding of process safety on the site
 9 resulted in people accepting levels of risk that
 10 are considerably higher and comparable in
 11 installations."
 12 That's page 2, little I, in the
 13 report.
 14 A. I don't have to look at that. That was
 15 in line with my testimony a couple of questions
 16 before we got on this.
 17 Q. Are you --
 18 A. So, I am okay with that.
 19 Q. In general -- "generally, management had
 20 a poor understanding of risk and process safety, in
 21 general, and accepted what to others appears to be
 22 high levels of risk," page 154.
 23 Does that stay in line with your
 24 testimony --
 25 MR. PATTERSON: Objection, form.

Page 150

1 Q. (BY MR. DEAN) -- that management had a
 2 poor level of risk?
 3 A. I can sense we are going to be reading a
 4 lot of stuff here. And I want to -- I am more
 5 after visual person. So...
 6 Q. I am going to tell you why -- and he is
 7 going to object appropriately to sidebar.
 8 You said there were two lines
 9 dedicated to this concept of management and process
 10 safety knowledge. And I am going to submit to you
 11 that, indeed, much more of the report --
 12 A. Oh.
 13 Q. -- is dedicated to that very important
 14 concept.
 15 A. Yes. Yeah. It's -- throughout the
 16 report, there will be more information about
 17 limited awareness around process safety --
 18 Q. Right.
 19 A. -- and the potential risk and hazards.
 20 Q. So, now, my sidebar aside.
 21 A. Okay.
 22 MR. PATTERSON: Object to the
 23 sidebar.
 24 MR. DEAN: Right. That one you
 25 got.

Page 151

1 A. All right.
 2 Q. (BY MR. DEAN) With respect to the report
 3 itself, it is critical of management's lack of
 4 knowledge of process safety.
 5 Is it not, sir?
 6 MR. PATTERSON: Objection, form.
 7 A. When I read through -- read through the
 8 report, it said that there were a number of
 9 potential causes. And that would be in just the
 10 poor awareness of process safety and risk
 11 management and recognizing the risk is one of
 12 those, you know, many contributing factors. And
 13 was it the overriding one? I don't know. I would
 14 have to look at the report, again. I wouldn't say
 15 it's the most important or, you know, put it up on
 16 the status that high by itself.
 17 Q. (BY MR. DEAN) All right. Would you also
 18 identify that as you did earlier as a category of a
 19 missed opportunity at training and education with
 20 respect to knowledge of process safety and risk
 21 assessment?
 22 MR. PATTERSON: Objection, form.
 23 A. So, I don't think my characterization
 24 before was missed opportunity. Mine was room for
 25 improvement. And yes, it was a room for

Page 152

1 improvement.
 2 Q. (BY MR. DEAN) Well, you did, in fact,
 3 say, if you recall, sir, that there were missed
 4 opportunities with respect to investment and
 5 training this morning? Do you not remember that
 6 now?
 7 MR. PATTERSON: Objection, form.
 8 A. I recall talking more about it's -- there
 9 is not missed opportunities but room for
 10 improvement is what I recall. I recall right
 11 before lunch. You used the words "missed
 12 opportunity" in describing what I had provided
 13 testimony before.
 14 So, I am -- I don't want to put
 15 too much effort on this; but I don't know that
 16 those were my words that you are talking. I think
 17 it's a room for improvement.
 18 Q. (BY MR. DEAN) So, in the -- to
 19 summarize --
 20 A. Right.
 21 Q. -- in the context of training, was it a
 22 "gap," was it "room for improvement" or was it
 23 "missed opportunities"?
 24 MR. PATTERSON: Objection, form.
 25 A. So, if I read the report, it says it was

Page 153

1 a gap.
 2 Q. (BY MR. DEAN) A gap?
 3 A. (Nods head.)
 4 Q. All right.
 5 A. Which also makes it certainly a room for
 6 opportunity.
 7 Q. So, it's a missed opportunity, too?
 8 A. And it could be a missed opportunity, as
 9 well.
 10 Q. All right. And with respect to the --
 11 what we went over earlier underinvestment in the
 12 refinery, is that a gap, a missed opportunity or
 13 something else?
 14 MR. PATTERSON: Objection, form.
 15 A. I don't recall in this report using the
 16 words of underinvestment in the refinery.
 17 Q. (BY MR. DEAN) I am sorry. I didn't mean
 18 to confuse you, sir.
 19 Irrespective of the report --
 20 A. All right.
 21 Q. -- what we visited about earlier -- I
 22 think Mr. Hale's comment --
 23 A. Right.
 24 Q. -- of the underinvestment -- of capital
 25 in the refinery itself due to its complexity.

Page 154

1 Is -- if indeed that was the case,
 2 would you characterize that as a gap, a missed
 3 opportunity or something else?
 4 MR. PATTERSON: Objection, form.
 5 A. I saw it as a -- as an opportunity or an
 6 improvement, an opportunity to make some
 7 improvement in how we invested in the site versus
 8 sustaining and maintenance and we have started
 9 working that fairly hard, even in the timeframe I
 10 was there.
 11 Q. (BY MR. DEAN) But the characterization
 12 of underinvestment --
 13 A. Oh, right.
 14 Q. -- is what? Is that a gap?
 15 MR. PATTERSON: Objection, form.
 16 A. I would say it's an area of -- an area
 17 for continued, you know, improvement.
 18 Q. (BY MR. DEAN) And with respect to
 19 maintenance, you understand that -- back to the
 20 report, it found areas of maintenance that were
 21 lacking, true?
 22 A. That's what I saw.
 23 Q. All right. Is that a gap, a missed
 24 opportunity or what --
 25 MR. PATTERSON: Objection, form.

Page 155

1 Q. (BY MR. DEAN) -- in your vocabulary as a
 2 former MDL?
 3 A. It's a gap with opportunity to improve.
 4 Q. And with respect to process safety
 5 knowledge being poor, is that a gap with
 6 opportunity to improve, missed opportunity or
 7 something else?
 8 MR. PATTERSON: Objection, form.
 9 A. That's very good. Yep, that's fine.
 10 Gap with an opportunity to
 11 improve.
 12 Q. (BY MR. DEAN) Okay. And moving to safer
 13 systems, flare versus blowdown drum as you said to
 14 us earlier, is that a gap or -- a gap with an
 15 opportunity to improve, a missed opportunity or
 16 what?
 17 A. It's an opportunity to improve.
 18 MR. DEAN: I only have about four
 19 minutes left on the tape. I will tell you what.
 20 Let's take a quick break.
 21 THE WITNESS: Okay.
 22 MR. DEAN: I can't wait anymore.
 23 THE WITNESS: Okay.
 24 MR. DEAN: Come back in just a
 25 couple or a few whatever you want to do.

Page 156

1 THE VIDEOGRAPHER: Off the record
 2 at 2:20 p.m., ending Tape 3.
 3 (Recess taken.)
 4 THE VIDEOGRAPHER: On the record,
 5 2:29 p.m., beginning Tape 4.
 6 Q. (BY MR. DEAN) Just so that you know, I
 7 have never even been in the refinery, but I have
 8 learned in the hundreds of thousands of documents
 9 your lawyers have produced in this case that the
 10 word "gap" has a meaning in refinery operations.
 11 Is that true, sir?
 12 MR. PATTERSON: Objection, form.
 13 A. I think it's just part of the English
 14 vocabulary. It doesn't -- it isn't any great, you
 15 know, meaning of the term inside of refining.
 16 Q. (BY MR. DEAN) So, a gap in training is
 17 not only used in refining business but other
 18 businesses as far as you know, manufacturing,
 19 retail, et cetera?
 20 A. I think it's a generic term that's used
 21 in the English vocabulary.
 22 Q. Give me your definition of that generic
 23 term, please, sir.
 24 A. Gap means that something is not a hundred
 25 percent of what you would say you would like it to

Page 157

1 be and something you see as an improvement over and
 2 above where you are at or what the current state is
 3 and what you would like the future state to be.
 4 Q. Okay. The fact of the matter is with
 5 respect to training at the refining -- refining
 6 side of the business out at Texas City, there was a
 7 gap that existed from 2002, 2003, and 2004 into
 8 2005 at least.
 9 Isn't that true, sir?
 10 A. Yeah, I look at the investigation report
 11 and they point out there's -- that there is a gap
 12 in training.
 13 Q. All right. And that lack of training or
 14 gap in training you would agree, sir, based on your
 15 experience at refineries, that that can pose a
 16 significant risk to not only personnel that work
 17 inside the plant but folks who live near the plant.
 18 Isn't that true, sir?
 19 MR. PATTERSON: Objection, form.
 20 A. I think when I look at gap in training, I
 21 see it, you know, as mostly something within the
 22 plant, not necessarily a broader community type of
 23 hazard.
 24 Q. (BY MR. DEAN) All right.
 25 A. The plants large. You know, it's a big

Page 158

1 site and -- and our neighbors are further away.
 2 They are not right at the refinery, you know, the
 3 fence in most cases. We have a greenbelt around
 4 the outside of it, and our near neighbors are
 5 further away than they used to be in years earlier.
 6 Q. Would you agree, sir, that lack of
 7 training can pose a significant risk to personnel
 8 working in the refinery itself?
 9 A. I would say training is a -- could be a
 10 contributing factor, you know, to -- to safety
 11 improvement.
 12 Q. Having improperly trained personnel or
 13 inadequately trained personnel can pose a
 14 significant risk to people working in the refinery,
 15 sir.
 16 Can't you agree with that?
 17 A. It depends what area of training. If
 18 it's, you know, training around knowledge of the
 19 assets and things like that, it would have a higher
 20 risk and, you know, if it was generic training
 21 about how to use computer software on a Word
 22 document just to give you the extremes.
 23 So, I can't categorically say
 24 training is, you know, is going to solve
 25 everything.

Page 159

1 Q. All right. Would lack of training in
 2 risk awareness pose a significant risk to personnel
 3 working in the refinery in Texas City, sir?
 4 MR. PATTERSON: Objection, form.
 5 A. So, if I look in retrospect and
 6 hindsight, you know, those two were two major
 7 contributing factors -- two contributing factors,
 8 you know, towards unsafe things that happened and
 9 the incident itself.
 10 Q. (BY MR. DEAN) Are you telling us, sir,
 11 that the incident itself educated you on this
 12 concept of that lack of training in process safety
 13 awareness and knowledge is the first time you
 14 learned it after the explosion?
 15 MR. PATTERSON: Objection, form.
 16 Q. (BY MR. DEAN) Withdraw the question.
 17 Are you telling this jury, sir,
 18 that it was after the explosion and what you
 19 learned from the investigation teams efforts to
 20 find what caused it that educated you for the first
 21 time that lack of training about process safety
 22 awareness and knowledge could pose a significant
 23 risk to personnel in the refinery?
 24 A. No. I'm -- what I am saying is -- is
 25 that those are contributing factors and I would

Page 160

1 have never have imagined, you know, the size or
 2 size of incident and the explosion that we had as
 3 an outcome from those among other things that were
 4 contributing factors.
 5 Q. So, it was -- it was news to you that a
 6 catastrophe in the magnitude of March 23rd could
 7 occur as a result in part of improper training on
 8 process knowledge?
 9 Is that what you are telling us?
 10 A. No, that is not what I am saying.
 11 What I'm saying is -- is, one, I
 12 would have never imagined anything of that
 13 magnitude happening, you know, given the site and
 14 my history of my experience of the site. So, it
 15 was just beyond my imagination, you know, an
 16 explosion that size that had that impact had
 17 occurred.
 18 And then, secondly is -- is that
 19 those are two of the contributing factors among,
 20 you know, others as documented in the report as
 21 things that contributed towards that outcome.
 22 Q. Did you or did you not know when you were
 23 a manufacturing delivery leader for the ARU in 2003
 24 and '4 know that lack of training in process safety
 25 knowledge and awareness can lead to significant

Page 161

1 risk, including catastrophic events at a refinery,
 2 sir? Did you or did you not know?
 3 A. I -- ARU was one of my operating areas.
 4 We have done a lot of training around that in the
 5 knowledge of that and the process safety was -- was
 6 a part of that.
 7 And did I realize it at the time
 8 it was not adequate? No, I didn't.
 9 If I look back at retrospect and
 10 this was talking about ISOM in the report, not ARU,
 11 but it says that we should have probably done
 12 more -- more than what we did. We should have done
 13 more than we should -- we did.
 14 MR. LINEBAUGH: Objection,
 15 nonresponsive. Ask him again, please.
 16 Q. (BY MR. DEAN) Do you -- did you or did
 17 you not know when you were an MDL, a manufacturing
 18 delivery leader --
 19 A. Right.
 20 Q. -- part of management team in the Texas
 21 City refinery, owned by BP in 2003 and '4, did you
 22 know then that lack of training and process safety
 23 knowledge and awareness throughout personnel at the
 24 refinery could pose a significant risk to
 25 personnel, including catastrophic risk?

Page 162

1 MR. PATTERSON: Objection, form.
 2 A. I didn't realize then that we had the
 3 level of -- of what I read now in the report of the
 4 level of knowledge in process safety.
 5 Q. (BY MR. DEAN) Can --
 6 A. Did I realize now and do I understand
 7 implications of not having that awareness as a
 8 contributing factor?
 9 And the answer is yes.
 10 Q. (BY MR. DEAN) In 2003 and '4, you
 11 existed on the plant Earth, right? You were a
 12 human who acted in our reality; is that true, sir?
 13 MR. PATTERSON: Objection, form.
 14 A. Sure.
 15 Q. (BY MR. DEAN) You may or may not
 16 remember that President Bush was president in that
 17 timeframe, correct?
 18 A. I will answer that, but I would rather
 19 not have condescending questions.
 20 Q. All right.
 21 MR. BOND: Objection, form.
 22 Q. (BY MR. DEAN) All right. Then a direct
 23 answer would be very much appreciated?
 24 A. Yes, I realize that President Bush was
 25 the president at the time.

Page 163

1 Q. In 2003 and '4 did you, during that
 2 timeframe, in that timeframe, as you lived in that
 3 timeframe, know that, as an MDL, lack of training
 4 in process safety knowledge and awareness could
 5 result in a significant risk to personnel in the
 6 refinery, including catastrophic risk?
 7 A. I did not realize in my time as -- those
 8 two years as the MDL that training and process
 9 safety knowledge was the level it was and that
 10 would have led to an event like in 2005.
 11 MR. LINEBAUGH: Objection,
 12 nonresponsive.
 13 Q. (BY MR. DEAN) You didn't know when you
 14 were an MDL that lack of training in process safety
 15 knowledge and awareness could lead to a
 16 catastrophic --
 17 A. No. I know --
 18 Q. -- event?
 19 A. I knew -- I know that lack of those can.
 20 Did I know that we had the level that we must have
 21 in retrospect?
 22 Then the answer is yes, that I
 23 didn't know to that extent --
 24 Q. Hmm.
 25 A. -- that we had that gap.

Page 164

1 Q. And it was your responsibility to know as
 2 an MDL, was it not, sir?
 3 A. It's my responsibility as a member of the
 4 management team over the aromatics area among one
 5 of several people I have an organization that was
 6 closer to that and were my eyes and ears more
 7 closely to see what our level at training and
 8 development was.
 9 Q. It was management's responsibility to
 10 ensure that this gap was closed with respect to
 11 lack of training in process safety knowledge was it
 12 not, sir, in this timeframe?
 13 A. It would have been my responsibility
 14 to --
 15 Q. I am asking about management, sir.
 16 A. Oh -- sorry.
 17 Q. BP management?
 18 A. BP management would have been addressing
 19 any gaps that we observed, including training.
 20 Q. I didn't ask if they would be addressing
 21 it?
 22 A. -- in process safety.
 23 Q. It was their responsibility to address,
 24 sir?
 25 A. Yes.

Page 165

1 Q. No one else's responsibility. It was
 2 management's responsibility?
 3 A. Manage --
 4 Q. "Yes" or "no"?
 5 MR. PATTERSON: Objection, form.
 6 A. No. It's management along with
 7 supervision, other people in the site, along with
 8 technical experts and others that deliver the
 9 training.
 10 A lot of people have
 11 responsibility. There is -- and just as we had
 12 talked before, there is, you know, several layers
 13 of that responsibility and how you carry that out
 14 and be successful.
 15 MR. DEAN: Objection to the extent
 16 your answer is not responsive.
 17 Q. (BY MR. DEAN) Is it your testimony in
 18 February, 2006, sir, that management, as far as you
 19 knew, had no concept, no idea, about the gap that
 20 existed with respect to lack of training in process
 21 safety knowledge --
 22 MR. PATTERSON: Objection --
 23 Q. (BY MR. DEAN) -- among operations
 24 personnel in 2003 and 2004?
 25 A. So, as we covered earlier, there were

Page 166

1 some reports that were done, Telos being one of
 2 those, saying that one of the opportunities was
 3 around training and -- and, you know, increasing
 4 safety and process safety awareness around the
 5 side.
 6 So, yes, we had an awareness that
 7 we had some areas that we needed to continue to
 8 build on.
 9 Q. And it was Telos that informed you of
 10 that?
 11 MR. PATTERSON: Objection, form.
 12 A. Well, I mean, that's one source of
 13 information that was fairly comprehensive through a
 14 series of interviews and surveys.
 15 Q. (BY MR. DEAN) All right. When you
 16 learned in the Telos Report that according to
 17 personnel at the refinery, they ranked people last
 18 on the list and I believe making money first, was
 19 that a surprise to you when you read that?
 20 MR. PATTERSON: Objection, form.
 21 A. I think -- to me, I would not have
 22 dreamed that that would have been the exact outcome
 23 of that, no. I would have seen it as -- as
 24 something, you know, somewhere in between those two
 25 on both of those.

Page 167

1 Q. (BY MR. DEAN) The fact is, sir, that you
 2 wouldn't have dreamed of knowing that that was the
 3 mentality, the state of emotions among your
 4 employees at Texas City because y'all weren't
 5 paying attention to it as management, as a
 6 philosophy, as a safety culture?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. DEAN) Isn't that true, sir?
 9 A. No, that's not.
 10 Q. So, how is it that --
 11 A. Let me finish.
 12 MR. PATTERSON: Well, wait for the
 13 next question. You answered that one. Wait for
 14 the next one.
 15 A. Oh, all right.
 16 Q. (BY MR. DEAN) So, how is it, that if
 17 y'all were closing gaps in 2003 as you were stating
 18 earlier, that in 2004 -- at the end of 2004, no
 19 gaps to be improved.
 20 Do you have an explanation for
 21 that?
 22 MR. PATTERSON: Objection, form.
 23 A. I am sorry. Say that again -- the
 24 question, again. Sorry. I was expecting something
 25 to continue building on the previous question, but

Page 168

1 it didn't sound like it was.
 2 MR. PATTERSON: Just wait for his
 3 next question.
 4 THE WITNESS: Go ahead.
 5 Q. (BY MR. DEAN) Do you believe that there
 6 were direct answers to direct questions in life or
 7 does everything marrow an explanation, sir?
 8 MR. PATTERSON: You don't have to
 9 answer that.
 10 Q. (BY MR. DEAN) All right.
 11 MR. PATTERSON: Wait for the next
 12 real question and listen to it and try to answer
 13 it.
 14 THE WITNESS: Okay. Sure.
 15 Q. (BY MR. DEAN) Do you believe today that
 16 you have been giving the jury direct answers to my
 17 questions, sir?
 18 A. Yes, I have.
 19 Q. And do you believe that lack of training
 20 contributed to the cause of the March 23rd
 21 explosion?
 22 MR. PATTERSON: Objection, form.
 23 A. Yes, and it sounds like that's what the
 24 report, after extensive evaluation, said as well.
 25 Q. (BY MR. DEAN) And would you agree, sir,

Page 169

1 that the Telos Report, indeed, was one mechanism to
 2 notify BP management about operators complaining of
 3 the need for training.
 4 Is that true, sir?
 5 A. That was -- yes.
 6 Q. And there were several instances,
 7 employee surveys, that predated the late 2004,
 8 early 2005 Telos Report that notified management
 9 that operators were in need of more, better,
 10 appropriate training on process safety?
 11 MR. PATTERSON: Objection, form.
 12 A. There were some surveys done and some
 13 feedback mechanisms as you have shown today
 14 saying -- showing that training needed further
 15 improvement in that there were some gaps that
 16 needed to be addressed and should be addressed.
 17 Q. (BY MR. DEAN) And were not addressed,
 18 true?
 19 A. And were not --
 20 MR. PATTERSON: Objection, form.
 21 A. -- probably addressed to the full extent
 22 of those people, where you pulled those few
 23 comments out of those specific surveys.
 24 Q. (BY MR. DEAN) Did Don Parus take the
 25 fall for this explosion?

Page 170

1 MR. PATTERSON: Objection, form.
 2 A. Don Parus was the site leader; and I
 3 wasn't involved in those discussions to know, you
 4 know, what --
 5 Q. (BY MR. DEAN) I am asking your opinion,
 6 sir.
 7 MR. PATTERSON: Object --
 8 Q. (BY MR. DEAN) So, I will rephrase.
 9 In your opinion, was Don Parus the
 10 scapegoat for this explosion?
 11 A. No.
 12 Q. Did he deserve to be fired, in your
 13 opinion?
 14 A. I don't know that he was fired. I don't
 15 know his status.
 16 Q. He was relieved of his duties that he had
 17 on March 23rd, true?
 18 A. He is no longer the site leader at Texas
 19 City.
 20 Q. And do you think that that was an
 21 appropriate decision of management to relieve him
 22 of his duties as site manager?
 23 MR. PATTERSON: Objection, form.
 24 A. And I don't know what all went into that
 25 evaluation or how they came to that conclusion, but

Page 171

1 I accept it.
 2 Q. (BY MR. DEAN) Do you think it's
 3 appropriate, in your opinion, sir? Do you think it
 4 was appropriate?
 5 A. I didn't --
 6 MR. PATTERSON: Objection --
 7 A. I didn't see any reason to contest it.
 8 Q. (BY MR. DEAN) Why?
 9 A. Just because I was not -- it is not a
 10 decision that I -- would have been for me to make.
 11 I was in a role, in a commercial role, for the last
 12 year and not working with Don Parus on a day-to-day
 13 basis in his operating role, in his site leader
 14 role; and I was working on, you know, selling the
 15 chemical business.
 16 Q. So, you basically don't have an opinion
 17 about Don Parus and his being relieved of duty?
 18 A. I don't have all the information to give
 19 you an informed opinion of any decisions made
 20 around Don Parus.
 21 Q. When we talk about the appropriate root
 22 cause analysis, again, to restate what we said
 23 earlier, we have covered a lot of ground, you
 24 agreed that appropriate root cause analysis looked
 25 beyond operator error and into more the system

Page 172

1 underlying causes, true?
 2 A. Yes.
 3 Q. All right. And you being involved in
 4 the -- as incident commander knew -- for lack of a
 5 better phrase -- comings and goings as it developed
 6 between March 23rd and the date of the interim
 7 report.
 8 Is that fair to say, sir?
 9 MR. PATTERSON: Objection, form.
 10 A. I was aware of some of the information
 11 of -- that was, you know, some of the probably a
 12 small part of the information that they were
 13 considering inside of the incident investigation
 14 team that BP had.
 15 Q. (BY MR. DEAN) Well, with respect to the
 16 issue of the media in your job description to be a
 17 liaison or go between in certain aspects of the
 18 media and BP related to the explosion --
 19 A. Yeah.
 20 Q. -- did you keep track of what media was
 21 talking about, what they were inquiring about and
 22 whatnot in the days and weeks following the
 23 incident?
 24 A. Well, I didn't keep track, but I was
 25 aware of what their hot topics were over time.

Page 173

1 Q. And the hot topics included BP's
 2 reputation as -- its safety record.
 3 Do you recall that, I'm sure, sir?
 4 A. There were a couple of articles in the
 5 local papers about, you know, safety record of BP.
 6 Q. And the fact of the matter is the -- you
 7 were copied on many e-mails that had attachments
 8 that were not only related to local press but
 9 national and world-wide press about this incident;
 10 is that true, sir?
 11 A. That's -- now, that you mention it,
 12 that's right.
 13 Q. And many of, if not most of those
 14 articles -- that related to the incident itself and
 15 its causes pointed out criticisms by Federal
 16 agencies of BP's safety records; is that correct,
 17 sir?
 18 A. Say the question, again.
 19 Q. It was not only the local press, was it
 20 not, sir --
 21 A. Right.
 22 Q. -- that pointed out criticisms or
 23 deficiencies in BP's global safety track record?
 24 A. In generally, I think it was beyond the
 25 local press. I think the local press, though, was

Page 174

1 the -- was probably the biggest critic.
 2 Q. All right. And, in fact, an e-mail
 3 circulated among your team of -- as incident
 4 commander, I don't know the name of your team.
 5 A. Right.
 6 Q. Reference that the Houston Chronicle had
 7 a penchant for being critical of BP in these days
 8 after the incident.
 9 Do you recall that?
 10 MR. PATTERSON: Objection, form.
 11 A. I don't know if it was -- I know they
 12 were critical. I don't know that they had to have
 13 anybody say that; but they think they were pretty
 14 critical on business in general and --
 15 Q. (BY MR. DEAN) Did you disagree with any
 16 of their statements made in their articles written
 17 in the Houston Chronicle?
 18 MR. PATTERSON: Objection, form.
 19 A. There are so many articles I couldn't say
 20 that I agreed or disagreed on it. We would have to
 21 get into specifics of --
 22 Q. (BY MR. DEAN) All right.
 23 A. -- of which article, which paper. There
 24 are a lot of papers, a lot of articles.
 25 Q. We will get into some specifics in a

Page 175

1 moment. Before we do that, back to the root cause
 2 analysis.
 3 A. Sure.
 4 Q. Were you incident commander up until the
 5 interim report was published by BP in May, 2005?
 6 A. No.
 7 Q. Did you read the interim report when it
 8 came out in May?
 9 A. Yes.
 10 Q. Did you read the press statements made by
 11 BP personnel associated with the release of the
 12 interim report in May?
 13 A. So, quotes of BP employees in the local
 14 papers, is that what you are saying?
 15 Q. No. Did you read the articles in the
 16 local press, national press or any other press?
 17 A. Yeah, I read quite a few articles.
 18 Q. Did you -- did you gather from reading
 19 those articles associated with the interim report
 20 that BP was blaming operators --
 21 MR. PATTERSON: Objection, form.
 22 Q. (BY MR. DEAN) -- in the interim report?
 23 A. What I got out of the interim report is
 24 that it got to the media -- causes started getting
 25 at the root causes, but it wasn't a full analysis.

Page 176

1 They felt they needed to get some information out
 2 there fairly quickly and they shared that broadly.
 3 And then, that allowed them some more time to
 4 really do the analysis that they needed to do in
 5 the following months.
 6 Q. And you don't recall BP management
 7 backing off statements at the time of the release
 8 of the interim report that are suggested operator
 9 error was the sole cause or a major cause?
 10 You don't remember any of that?
 11 MR. PATTERSON: Objection, form.
 12 A. What I remember is the report was fairly
 13 extensive, but it was not near as extensive as this
 14 one because I remember it didn't take as long to
 15 read. But I haven't read that interim report in
 16 quite some time.
 17 Q. (BY MR. DEAN) I am asking about press
 18 statements authored by BP personnel made to the
 19 press, sir.
 20 Do you recall them being critical
 21 of operators at the time that you --
 22 A. Oh, press articles, yeah, they were
 23 critical of operators and BP, in general, both of
 24 us.
 25 Sorry. Ask your -- go ahead.

Page 177

1 Q. Sure.
 2 Agree or disagree --
 3 A. Okay --
 4 Q. -- that BP --
 5 A. Yes.
 6 Q. -- made statements related to the May
 7 interim report that were critical of operators?
 8 Agree or disagree?
 9 A. They were -- I think they were critical
 10 statements of the actions of some operators on the
 11 ISOM incident about not signing off on procedures
 12 and things like that.
 13 So, them, as individuals, I don't
 14 know; but them as in actions that they took or
 15 didn't take, yes.
 16 Q. So, if appropriate root cause analysis
 17 that had been going on between March 23rd and mid
 18 May when the interim report was released, if indeed
 19 that analysis was appropriate, it would not have
 20 focused on operator error. Root cause analysis
 21 would focus beyond operator error, wouldn't it?
 22 MR. PATTERSON: Objection, form.
 23 A. It would look as far reaching as they
 24 could, as I said before, what caused this, why is
 25 that, why is that and keep digging, you know, going

Page 178

1 deeper and deeper into that.
 2 Q. (BY MR. DEAN) All right.
 3 A. And so -- and so, in line with that, you
 4 know, I would say from the end of March through mid
 5 May that was six weeks. They did what they
 6 could --
 7 Q. Yeah.
 8 A. -- and they said, "We will issue what we
 9 have got." People wanted information. A lot of
 10 people wanted information. They did that.
 11 And then, they said, "We are going
 12 to do the more detailed root cause analysis," which
 13 came out in this final report in December.
 14 Q. Let's see if we can narrow that down a
 15 little bit.
 16 Do you agree that the statements
 17 made by BP with respect to causing the explosion to
 18 the press in May were related more to operator
 19 error than anything else?
 20 MR. PATTERSON: Objection, form.
 21 Q. (BY MR. DEAN) Would you agree or
 22 disagree with that statement?
 23 A. I think --
 24 Q. Or you don't remember?
 25 A. I don't remember. I don't know what

Page 179

1 exactly what all it said; but it did say a lot of
 2 the actions were not what you would expect to get
 3 to have, you know, not signing off on procedures
 4 but it did allude to training gaps and some other
 5 things as well, which are not, you know, operator
 6 specific.
 7 Q. Would you agree or disagree between the
 8 time of the explosion, the interim report and the
 9 final report, BP conducted a public relations
 10 campaign with the local press in Galveston?
 11 A. Public relations campaign -- what
 12 timeframe was that?
 13 Q. Between the explosion and the final
 14 report.
 15 A. They may have. I don't recall it, you
 16 know, when I was at the site.
 17 Q. You weren't involved in it, at all?
 18 A. I left the site in August.
 19 Q. Of --
 20 A. And I don't remember out in Galveston
 21 going out there for any.
 22 Q. This would be a better way to ask this.
 23 When did your job as a media
 24 liaison end?
 25 A. In July.

Page 180

1 Q. In July?
 2 A. Of 2000 and --
 3 Q. Five?
 4 A. Five.
 5 Q. Between March 23rd and July, 2005 --
 6 A. Right.
 7 Q. -- did you observe BP engaging in a
 8 public relations campaign in the Galveston press?
 9 A. I don't know public relations, but we --
 10 we always talked to the reporters and there were a
 11 couple of common reporters that wanted the story
 12 and the updates on what things were going on. And
 13 so, as part of that, I had a public and government
 14 affairs, two people that were primary and some
 15 others that helped out on temporary basis to, you
 16 know, meet with them and give them updates.
 17 Q. What is this document I am handing you,
 18 BPISOME398764?
 19 A. I don't know. Let's see.
 20 "Managing Media and Building
 21 Reputation," one pager.
 22 Q. What is that document?
 23 A. Okay. So, this is a summary of how to --
 24 how to work with the media and to improve our
 25 reputation over time.

Page 181

1 Q. Okay. In other words, with respect to
 2 your job assignment, it's a summary of your job
 3 assignment between March 20 something maybe third,
 4 fourth, fifth something like that to July, 2005.
 5 Is that fair to say?
 6 A. Well, what it is, it's not a job
 7 description.
 8 Is that what you said? Job --
 9 Q. Right.
 10 You were the person in charge of
 11 managing media and community relations, true?
 12 A. What I had was a staff of public and
 13 government affairs people that were the primary
 14 interface with the media, and I worked with them.
 15 Q. Okay.
 16 A. And so, the job I would not say that's a
 17 job description for me.
 18 Q. With respect to that document --
 19 A. Okay.
 20 Q. On the scope, public opinions survey work
 21 conducted in Texas City and Galveston after the
 22 March 23rd incident shows the public in those two
 23 communities have a low opinion of BP.
 24 Did you see any of that data in
 25 your tenure as a -- heading up media and community

Page 182

1 relations?
 2 A. Yes, I did.
 3 Q. And who offered the polls and whatnot?
 4 Who did you commission -- BP commission to perform
 5 those polls?
 6 A. It would have been somebody in public and
 7 government affairs.
 8 Q. But who? What was the company in charge,
 9 if there was one?
 10 A. I don't -- we had somebody independent,
 11 but I don't know -- I can't remember who it was.
 12 Q. Local or national or do you remember?
 13 A. No, I don't remember.
 14 Q. Do you remember what those polls showed
 15 that are referenced here, these public opinion
 16 surveys --
 17 A. I remember --
 18 Q. -- specifically?
 19 A. What I remember was is that in the
 20 immediate area around Texas City -- Galveston and
 21 Texas City is the results were lower than they were
 22 in the greater Houston area and lower than what
 23 they were on the national level; but as far as
 24 specific metrics and details and remembering
 25 questions that were asked and all that, no.

Page 183

1 Q. And it goes on to read, tell me if I am
 2 correct, if you would, sir, "For a facility like
 3 ours, public confidence in our ability to operate
 4 safely can have a significant impact on our ability
 5 to receive and maintain the permits necessary to
 6 conduct our business and the quality of
 7 relationships we have with the regulatory agencies
 8 that inspect our plant and equipment and issue
 9 penalties for any violations that might exist."
 10 Did I read that correctly?
 11 A. It sounds like it. I hadn't read it, but
 12 yeah, it sounds right.
 13 Q. A fair summary of the plan of action that
 14 the jury sees below relative to that statement
 15 about the facility and the importance of having a
 16 reputation is that the endeavors BP made since the
 17 explosion are to build its image --
 18 MR. PATTERSON: Objection, form.
 19 Q. (BY MR. DEAN) -- so that regulatory
 20 agencies will stay off its back?
 21 MR. PATTERSON: Objection, form.
 22 Q. (BY MR. DEAN) Isn't that a fair
 23 conclusion, sir?
 24 A. No. BP just realizes that the best way
 25 to build your reputation is to build and improve on

Page 184

1 your safety program.
 2 When you have a major incident
 3 like that, they realize that's the biggest piece of
 4 it is, you know, show a good track record ongoing
 5 from that. And so, what this was allowing them to
 6 do was just to see what the immediate public --
 7 greater public in the Greater Houston area in a
 8 broader area felt at that time and to see how that
 9 changed over time, to see if we have, indeed, done
 10 some things as improvements to build our reputation
 11 back.
 12 MR. DEAN: Objection to the
 13 nonresponsive --
 14 A. So, where it was before.
 15 MR. DEAN: Objection to the extent
 16 it's nonresponsive.
 17 Q. (BY MR. DEAN) By the end of 2005, the
 18 plan of action is, as according to this document,
 19 was to undertake a community outreach effort that
 20 is based on honest sharing of the results of our
 21 investigation and our plans to address deficiencies
 22 in equipment and operating practices that are
 23 identified --
 24 A. Okay.
 25 Q. -- any deficiencies. Missed that word.

Page 185

1 Sorry.
 2 Did BP engage in that endeavor,
 3 that job, that plan of action?
 4 A. In a broad sense, yes. I mean, we shared
 5 the interim investigation report and BP, it looks
 6 like, after I have left the site has shared the
 7 full investigation report.
 8 There is a whole lot of
 9 information out there about BP that went to the
 10 public that probably hadn't been shared with the
 11 public in probably incidences of other companies
 12 and industries and everything else in the past.
 13 And I think, if you say from that standpoint, I
 14 would say to a very high standard.
 15 Q. Did you know that BP as your employer has
 16 adopted the fatality report, meaning they believe
 17 it to be true and accurate in the context of this
 18 lawsuit? Did you know that?
 19 MR. PATTERSON: Objection, form.
 20 A. In the context of the lawsuit, I don't
 21 know.
 22 Q. (BY MR. DEAN) Okay. What about not in
 23 the context?
 24 A. What I do know is -- is that BP put good
 25 people on that team to -- and to look objectively

Page 186

1 at what we can learn from that and what corrective
 2 action we take. And so, if you ask me if site
 3 management is probably embracing that, I would
 4 think so; but I don't know what BP as a BP face or
 5 a company would say.
 6 Q. All right. Well, the -- the final report
 7 was dated, what, in December? I am sorry.
 8 A. I don't know. December was all I
 9 remember, too.
 10 Q. I may have it. December 9th, 2005.
 11 A. Okay.
 12 Q. Sorry about that. Now, let me start
 13 over.
 14 A. All right.
 15 Q. As of December 9th, BP made this report
 16 public.
 17 Is that true, according to your
 18 understanding?
 19 A. Not the site, but I believe it went
 20 public.
 21 Q. Right?
 22 A. On that date or some date soon after if
 23 it didn't go that dare.
 24 Q. Do you know whether or not BP authored
 25 press statements, a press release, a statement to

Page 187

1 the press, whatever it is related to this release
 2 of the report?
 3 A. I don't know for sure; but I believe they
 4 did. That would be common practice, I think.
 5 Q. All right. And on December 23rd,
 6 according to the Galveston paper, BP -- excuse me.
 7 Let me start over. I am getting tired, too.
 8 On December 23rd, 2005, some --
 9 A. Two weeks later.
 10 Q. Yeah, a little over two weeks after the
 11 report was released, the Galveston paper notes that
 12 BP introduces one million-dollar grant program for
 13 teachers.
 14 A. Okay.
 15 Q. Did you know they did that?
 16 A. I had heard about it, but I don't
 17 remember where. If it was here or it was in the
 18 Chronicle or what. I don't see this paper anymore.
 19 I saw it occasionally when I was out at the site
 20 but I haven't -- I wouldn't have seen this article,
 21 I don't think.
 22 Q. And it's fair to say, given that there
 23 was two weeks separating the final report and that
 24 grant of a million dollars to local teachers that
 25 it's a safe assumption to say that that was an

Page 188

1 effort to create public confidence in BP relative
 2 to its PR damage done in the explosion?
 3 MR. PATTERSON: Objection, form.
 4 A. You know, I don't know all their intent
 5 or how they made their decision to donate to this.
 6 I wasn't made part of those discussions. BP
 7 sponsors lots of things.
 8 MF150 is one that we've been doing
 9 for years that's this time of the year. We stay
 10 with programs for a long time.
 11 How this was decided, I don't
 12 know. I saw it as a very positive thing, though,
 13 when I heard about it; and I think I saw it in the
 14 Chronicle. I may be wrong. Wherever I saw it, I
 15 thought that's a good thing because I have teachers
 16 that are in my extended family and I think they
 17 need to get recognized.
 18 Q. (BY MR. DEAN) Who would know whether or
 19 not this million-dollar grant two weeks after the
 20 final report was related to something that we see
 21 in this one pager objective and plan of action or
 22 something completely different? Any ideas?
 23 A. Your best bet is to check with whoever
 24 the public and governmental affairs person would be
 25 that's working related to the Texas City site.

Page 189

1 Q. All right. Did you have any role in
 2 drafting the fatality report?
 3 A. No.
 4 Q. Did you give a statement to the
 5 interviewers of Telos?
 6 A. When you say "statement," did they
 7 interview me?
 8 Yes.
 9 Q. Yeah.
 10 A. Okay.
 11 Q. Was it a blind -- you did?
 12 A. They interviewed me, yeah.
 13 Q. All right. Was it a blind interview?
 14 A. What does that mean?
 15 Q. Your name wasn't given to them?
 16 A. I interviewed with them face-to-face.
 17 Q. What did you tell them?
 18 MR. PATTERSON: Objection, form.
 19 Q. (BY MR. DEAN) Do you remember anything?
 20 MR. PATTERSON: Same objection.
 21 A. They asked me questions about the site,
 22 and I just answered them to the best of my ability.
 23 And they were broad reaching, a set of questions,
 24 just about the history of the site.
 25 Q. (BY MR. DEAN) Did they relate to your

Page 190

1 perception of management's commitment to safety at
 2 the site?
 3 A. Some would have -- probably, in general,
 4 headed toward some of those questions around that
 5 area, yes.
 6 Q. Did you answer Telos honestly?
 7 A. Yeah. I answer all questions I can
 8 honestly --
 9 Q. All right.
 10 A. -- if I can. So...
 11 Q. With respect to the -- BP's commitment to
 12 safety culture, what did you tell them?
 13 A. I am sorry. I can't remember, you know,
 14 a year and something ago. That survey came out in
 15 May -- January, 2005 and I would have probably
 16 gotten interviewed somewhere in the fourth quarter
 17 of the previous year.
 18 Q. I believe that's the timeline the jury
 19 will see as the --
 20 A. And I -- after that point, I was in a
 21 whole other role. So -- as well.
 22 Q. Read the bottom -- do you see Question
 23 Number 1, right here? I am going hand it to you,
 24 sir.
 25 Read it from here.

Page 191

1 A. Yeah.
 2 Q. BPISOM129123. Read it to yourself if you
 3 would, sir.
 4 A. Sure.
 5 (Examines document.)
 6 Okay.
 7 Q. Was that based upon your memory, your
 8 statements to the interviewers?
 9 A. Actually, it doesn't recall -- I don't
 10 recall this statement, no.
 11 (Examines document.)
 12 Not really. I don't recall it,
 13 but it could have been me.
 14 MR. PATTERSON: Is it the bottom
 15 part that you are --
 16 MR. DEAN: Sure.
 17 MR. PATTERSON: Just this blind
 18 interview part.
 19 MR. DEAN: That's true. Question
 20 Number 1.
 21 MR. PATTERSON: Read that
 22 question, Question Number 1. His question is: Is
 23 that your statement?
 24 Object to the form, too.
 25 MR. BOND: Chris, what's the Bates

Page 192

1 number on that one?
 2 MR. DEAN: 129123.
 3 MR. BOND: Thanks.
 4 A. It could be, but I surely don't remember
 5 this one.
 6 Q. (BY MR. DEAN) Okay. Why could it be,
 7 sir?
 8 A. Well, because you are kind of insinuating
 9 it is and that's why I'm wondering why my memory is
 10 not remembering an interview a year and a half ago
 11 because I usually have a pretty good memory.
 12 Q. Would your -- based on your pretty good
 13 memory, are some of the concepts communicated in
 14 answer to Question Number 1 concepts you agreed
 15 with during that timeframe, sir?
 16 A. Well, the one -- the only thing in here
 17 that, you know, I would say that I saw there was
 18 quite a bit of frequent management changes is the
 19 primary one. You know, I don't know that I would
 20 have made any statement about the level of
 21 investment that explicitly of some dollar amount;
 22 but, for me, I think there were quite a few changes
 23 in management and I think it's difficult to keep
 24 the continuity on that and focus, you know, with
 25 changes of management. So, that's the one that

Page 193

1 would resonate that I would comment on out of that.
 2 Q. All right. I am going to hand you the
 3 next Bates number, which is 129124. It's a
 4 continuation of answers. See if that potentially
 5 refreshes your recollection whether or not those
 6 are your answers or not.
 7 A. Which ones do you want me to review?
 8 Q. I believe that entire page, sir.
 9 A. Oh, the entire page? Okay.
 10 MR. DEAN: And I will tell you
 11 what, let's go off the record to save me a little
 12 bit of time.
 13 THE VIDEOGRAPHER: Off the record
 14 at 3:12 p.m.
 15 (Recess taken.)
 16 THE VIDEOGRAPHER: On the
 17 record at 3:15 p.m.
 18 THE WITNESS: I have read through
 19 it.
 20 MR. DEAN: Okay.
 21 MR. PATTERSON: Wait for a
 22 question.
 23 THE WITNESS: Go ahead.
 24 Q. (BY MR. DEAN) Yeah. I have handed you
 25 this series, previously identified Bates numbers

Page 194

1 that we have subpoenaed from Telos and I asked to
 2 you review them during a break.
 3 My first question about what you
 4 reviewed during the break is: Can you confirm
 5 whether or not those are your responses to the
 6 Telos interviewers?
 7 A. I cannot confirm that these are mine.
 8 Q. Why can you not confirm?
 9 A. It just doesn't sound like my style or
 10 words that I would necessarily use in this
 11 information.
 12 Q. Do you disagree with any of the concepts
 13 that are communicated in answers to questions as
 14 you see there in those estimated limited pages,
 15 sir?
 16 MR. PATTERSON: Objection, form.
 17 A. Well, I think what I would say is that,
 18 you know, not being my comments, I wouldn't
 19 necessarily know what the question is either that I
 20 am responding to to provide these answers.
 21 Q. (BY MR. DEAN) Okay. So, if you had the
 22 questions, would it be -- would it help you in
 23 determining whether or not, A, you agree, B,
 24 whether or not you were the author to those
 25 answers?

Page 195

1 A. It -- it may shed some light on it, but
 2 looking at the answers, they don't look like the
 3 answers that I would give or that I certainly
 4 recall giving.
 5 Q. Okay. And as we sit here today, can you
 6 remember any general or specific concept related to
 7 your opinions of the safety culture at BP that you
 8 gave to Telos back in the end of 2004?
 9 MR. PATTERSON: Objection, form.
 10 A. From the discussion with them, I said
 11 that, you know, there is room for improvement in
 12 the safety culture that we have and that we
 13 continue -- we needed to continue to work in those
 14 areas to address, you know, opportunities that we
 15 had to improve. And, you know, and it's safety and
 16 you still have people getting injured on the site,
 17 OSHA recordables is, you know, doesn't seem like
 18 any pace is fast enough as long as you still have
 19 people getting injured. You know, we still had
 20 people getting injured in that timeframe.
 21 And, you know, I think, also, as I
 22 stated earlier is that, you know, as far as
 23 investing in equipment that would -- corrosion
 24 under insulation and some of those that we found
 25 some surprises in information, we made some great

Page 196

1 headway in that area. We knew that would still be
 2 an opportunity at the site. And I am talking about
 3 corrosion under insulation on vessels and
 4 equipment.
 5 Q. (BY MR. DEAN) All right.
 6 MR. DEAN: I will tell you what if
 7 I reserve -- how much time do I have.
 8 THE VIDEOGRAPHER: 15.
 9 MR. DEAN: If I reserve ten
 10 minutes at the end. I will pass the witness.
 11 (Discussion off the record.)
 12 * * *
 13 EXAMINATION
 14 Q. (BY MR. BOND) How are you doing today,
 15 sir?
 16 A. I am good.
 17 Q. Good. My name is Trent Bond. I
 18 represent the estate of Ryan Rodriguez and the
 19 mother of Ryan Rodriguez.
 20 A. Okay.
 21 Q. Did you know Ryan?
 22 A. No.
 23 Q. Okay. Did you see him the day of the
 24 incident or his body?
 25 A. No.

Page 197

1 Q. Did you talk to anybody who did?
 2 A. I talked to a lot of people but none that
 3 acknowledged that they had talked to that person.
 4 Q. Okay. Ryan?
 5 A. Ryan.
 6 Q. Okay.
 7 A. Yeah.
 8 Q. Okay. He was one of the persons that
 9 died in the tragedy.
 10 Do you understand that, right?
 11 A. Yes, I do.
 12 Q. Okay.
 13 A. Well, I -- yes.
 14 Q. The first thing I want to talk to you
 15 about is you were talking about lost opportunities.
 16 Do you recall that?
 17 A. Yeah, opportunities to continue
 18 improvement, right.
 19 Q. And you talked about opportunities, I
 20 guess, you -- they were talking about how BP was
 21 underfunding the site with the capital investments.
 22 Do you remember y'all talking
 23 about that a little bit earlier?
 24 A. We talked about opportunities to continue
 25 improving the investments in the site particularly

Page 198

1 around the sustaining area.
 2 Q. All right. Now, opportunity kinds of --
 3 you know, kind of implies a choice, doesn't it?
 4 A. I suppose, yes.
 5 Q. Okay. Well, it's really not a choice to
 6 replace bad equipment, is it? That's a necessity,
 7 isn't it?
 8 A. It depends what the bad equipment is. I
 9 mean, if it's a phone in an office.
 10 Q. We are talking about process safety here.
 11 Do you understand that, right,
 12 sir?
 13 A. Right.
 14 Q. It's not a relief valve for a second,
 15 it's not a choice to replace a relief valve, is it?
 16 A. If you have a problem with a relief
 17 valve, you should be replacing it, right.
 18 Q. Okay. Thinning pipe? That's not a
 19 choice, is it?
 20 A. You find thin pipe and it's below the
 21 acceptable limits, you need to replace it right
 22 away.
 23 Q. So, replacing bad or faulty equipment is
 24 not a choice, it's a necessity, isn't it?
 25 A. It's something you take seriously and you

Page 199

1 would want to replace, yes.
 2 Q. It's a necessity, isn't it?
 3 MR. PATTERSON: Objection, form.
 4 A. It is -- if it's -- if it's not up to,
 5 you know, the acceptable operating standards, which
 6 some are defined depending on temperature pressure
 7 all that, it's defined. If there is some surface
 8 corrosion or something -- I am just trying to
 9 clarify here -- then, you know, that's something
 10 that maybe you can sandblast and paint; but if it's
 11 something that's down below an operating limit than
 12 it should, then you should replace it.
 13 Q. (BY MR. BOND) We're talking about
 14 alarms.
 15 That's not a choice, is it?
 16 MR. PATTERSON: Objection, form.
 17 A. Replacing alarms?
 18 Q. (BY MR. BOND) Uh-huh or fixing them.
 19 It's not a choice, is it?
 20 MR. PATTERSON: Object --
 21 A. I guess it would be what the alarms are
 22 on. You know, if it's safety equipment then you
 23 would want to replace those.
 24 Q. (BY MR. BOND) Are you aware that some of
 25 the alarms in the ISOM unit were not working

Page 200

1 properly?
 2 A. Are you talking about at the time of the
 3 incident?
 4 Q. Yes, sir.
 5 A. No, I wasn't.
 6 Q. Okay.
 7 A. I was not in that area. I was not
 8 operating responsibility at that timeframe.
 9 Q. Are you aware of it now?
 10 A. I am aware of it from the report, yes.
 11 Q. So, you are aware of it, now?
 12 A. Right.
 13 Q. Okay. That is not an opportunity, is it,
 14 to replace that alarm. That's a necessity to
 15 replace an alarm, isn't it, sir?
 16 A. Depending on which alarms they are, if
 17 they are ones that are on critical equipment that
 18 is expected to be operated there, there is not a
 19 redundancy type system, then, you know, a lot of
 20 things way into that -- and then you would decide
 21 whether it needed to be replaced immediately or
 22 what.
 23 Q. From the final report, what alarms did
 24 not function properly at the ISOM unit?
 25 A. And I am going to go from memory here.

Page 201

1 Q. That's fine.
 2 A. But if I remember, there was one
 3 around -- there was one around the bottom of the
 4 vessel on the level alarm.
 5 Q. Okay. And what does that alarm do?
 6 A. That alarm allows you to recognize the
 7 level in the tower between those ranges that are --
 8 that alarm is set for.
 9 Q. That is a pretty important alarm, isn't
 10 it?
 11 A. I would think so.
 12 Q. Okay. That's not a choice, is it?
 13 That's not an opportunity, is it?
 14 MR. PATTERSON: Objection, form.
 15 A. That would be an alarm that, you know,
 16 you would think they would replace.
 17 Q. (BY MR. BOND) That's a necessity, isn't
 18 it, sir?
 19 MR. PATTERSON: Objection, form.
 20 A. Or not replace but at least have
 21 operable.
 22 Q. (BY MR. BOND) That's a necessity, isn't
 23 it?
 24 MR. PATTERSON: Objection, form.
 25 A. You know.

Page 202

1 Q. (BY MR. BOND) You are not going to admit
 2 a high level alarm that didn't work is not a
 3 necessity?
 4 MR. PATTERSON: Objection, form.
 5 Q. (BY MR. BOND) I am just asking. You are
 6 not going to admit that?
 7 MR. PATTERSON: Objection, form.
 8 A. I think it's an important one to have
 9 operating.
 10 Q. (BY MR. BOND) Is it a necessity?
 11 MR. PATTERSON: Objection, form.
 12 A. I don't know the rest of the, you know,
 13 control system on that tower, you know, down to the
 14 nuts and bolts and what other auxiliary systems and
 15 things; but, in general, I would think you would
 16 want that one operating.
 17 Q. (BY MR. BOND) And you talked about
 18 training, missed opportunities with training.
 19 Do you remember that, sir?
 20 A. Well, the opportunities to do more
 21 training, yes.
 22 Q. Okay. And again, that implies a choice,
 23 doesn't it?
 24 A. In most cases, it's a choice. In some
 25 cases, it's probably not.

Page 203

1 Q. You don't think -- you think process
 2 safety management is a choice?
 3 A. What do you mean about process safety is
 4 a choice?
 5 Q. Training people about process -- well,
 6 tell the jury what process safety management is.
 7 A. Process safety management is
 8 understanding the systems processes and standards
 9 and all related auxiliaries and things of what --
 10 what it takes, you know, to operate a system safety
 11 from process standpoint of what the process has in
 12 it. And so, the management side of it is
 13 understanding that and addressing that.
 14 Q. And do you think training somebody with
 15 regard to process safety management is a choice or
 16 is it a necessity, sir?
 17 MR. PATTERSON: Objection, form.
 18 A. I would think you would want people to
 19 have, depending on what their role is, various
 20 levels of process safety management knowledge.
 21 Q. (BY MR. BOND) It's a necessity, isn't
 22 it, sir?
 23 MR. PATTERSON: Objection, form.
 24 A. I would think a certain level of it would
 25 be something that you would like people to have;

Page 204

1 and so, if you were -- depending on your role is
 2 what kind and what level of process safety
 3 knowledge you would want them to have.
 4 Q. (BY MR. BOND) I asked but the alarm and
 5 you haven't told me yet that it was necessary to
 6 make sure that was working right. And I asked you
 7 about training and process safety management and
 8 you said, "Well, yeah, it's kind of important," but
 9 you haven't said it was necessary.
 10 So, your -- is it your opinion
 11 that those things weren't necessary?
 12 MR. PATTERSON: Objection, form.
 13 Q. (BY MR. BOND) As the --
 14 MR. PATTERSON: Object to the -- I
 15 am sorry.
 16 MR. BOND: That's okay. Go ahead.
 17 MR. PATTERSON: Well, I will wait
 18 for you to finish your question.
 19 MR. BOND: Thank you.
 20 Q. (BY MR. BOND) As the MDL, is it your
 21 opinion that it's not necessary -- those two items
 22 aren't necessary?
 23 A.
 24 MR. PATTERSON: Object to form.
 25 Object to the sidebar.

Page 205

1 A. Again, I am not the MDL. I wasn't at
 2 that time that the incident occurred.
 3 Q. (BY MR. BOND) You were for a while,
 4 though, weren't you?
 5 A. I was for before that.
 6 Q. Tell me the dates you were MDL.
 7 A. From July of 2002 through August of 2004.
 8 Q. Now, from July, 2002 to August of 2004,
 9 was it necessary to fix the alarm that
 10 malfunctioned in the ISOM?
 11 MR. PATTERSON: Objection, form.
 12 A. I would have like to have had -- yes, I
 13 would like to have had that done.
 14 Q. (BY MR. BOND) That was necessary, wasn't
 15 it?
 16 MR. PATTERSON: Objection, form.
 17 Q. (BY MR. BOND) You are not going to say
 18 it, are you?
 19 A. I would like to have -- I would like to
 20 have had it. I really would.
 21 Q. Okay. How about the training, process
 22 safety management training, is that necessary?
 23 A. A certain amount of it you would like to
 24 have, yes. And it would be something you would
 25 want people to have.

Page 206

1 Q. Sir, I am going to ask you -- I kind of
 2 going backwards here, but I am going to ask you a
 3 little bit about your salary. I don't want to know
 4 numbers. Okay?
 5 A. That's good.
 6 Q. I am not going to ask that, but I am
 7 going to ask you how are you paid? Is it salary
 8 plus a bonus?
 9 A. Yes.
 10 Q. Okay. How is that bonus determined?
 11 MR. PATTERSON: Objection, form.
 12 A. That bonus is tied to the results of the
 13 site.
 14 Q. (BY MR. BOND) Is that also --
 15 A. Plus an individual -- plus an individual
 16 discretionary piece as well. So, it's part of, you
 17 know, team site results and then my individual
 18 contributions.
 19 Q. Okay. So, it's a result --
 20 A. And it varied -- it varied year to year
 21 as the program has evolved.
 22 Q. Okay. So, it's the results of the site
 23 and your own individual contributions, correct,
 24 sir?
 25 A. That's correct.

Page 207

1 Q. Okay. What's the determination factor
 2 about how -- I mean, you say it's team leader, how
 3 would you suggest it? How is it -- is it because
 4 of money you saved the project? Is it safety?
 5 What is it? What are the determining factors?
 6 MR. PATTERSON: Objection, form.
 7 A. It's all -- it's a broad set of metrics.
 8 They are defined for the Texas City site. They cut
 9 across safety, environmental, operational
 10 performance and financial, as well as -- those are
 11 the primary areas.
 12 Q. (BY MR. BOND) Well, let's look at the
 13 first one. Safety.
 14 How do you measure safety?
 15 MR. PATTERSON: Objection, form.
 16 Q. (BY MR. BOND) I mean, how --
 17 A. How do I measure or how was it in the
 18 variable pay plan?
 19 Q. In the variable pay plan, how was it
 20 measured?
 21 MR. PATTERSON: Objection, form.
 22 A. Three years ago, I don't know exactly
 23 what the metric was, but typically they are around
 24 either safety inputs or safety outputs. And so, it
 25 would either be injury rates, you know, that tied

Page 208

1 to the number of personnel hours worked across the
 2 site. And inputs would be things like completion
 3 of different safety related items or the number of
 4 investigations done and actions followed up and
 5 those type of things. So, what it was, you know,
 6 at the time of the incident, I don't recall.
 7 Q. (BY MR. BOND) That's --
 8 A. What it was two or three years ago, it
 9 was probably a little different but it is something
 10 different around those areas.
 11 Q. What about financial?
 12 A. That's varied over time, too. I don't
 13 know what it would have been exactly, either. My
 14 guess is it would have been -- it would have
 15 been -- it would probably have been something like
 16 operating profit.
 17 Q. How was operating profit determined?
 18 MR. PATTERSON: Objection, form.
 19 A. It's a financially reported piece of
 20 information. Each business and everything, you
 21 know, roles up into what we externally report in
 22 our, you know, quarterly announcements and things.
 23 So, it's a small component of it.
 24 Q. (BY MR. BOND) So, if you were going to
 25 make a capital investment, that would take away

Page 209

1 from your operational profit, right?
 2 MR. PATTERSON: Objection, form.
 3 A. If you are going to take capital -- well,
 4 no, it wouldn't. Capital is more of a cash flow
 5 type thing. And so, it would be a cash flow
 6 difference; but capital is not something that would
 7 show up as a piece of operating profit.
 8 Q. (BY MR. BOND) What would it show up as?
 9 A. It would show up as a part of the cash
 10 into or out of the business. And so, if you put
 11 more capital in, you would have, you know, less
 12 cash flow from that business to reinvest in
 13 different things.
 14 Q. How is that determined from your bonus?
 15 I'm looking at -- what I am trying to figure out is
 16 how does capital investment factor into your bonus?
 17 MR. PATTERSON: Objection, form.
 18 A. Capital investment goes back into your
 19 bonus because you look at -- over time what you are
 20 looking at is operational and safety performance
 21 and all of that. One of the things with the
 22 resources that I have that I put my time and effort
 23 and money into. And so, it would be like in the
 24 corrosion under insulation and improving the
 25 integrity of the assets so that, therefore, you

Page 210

1 have less environmental releases or whatever --
 2 Q. (BY MR. BOND) So, the more --
 3 A. -- around that --
 4 Q. The more capital that you invest, the
 5 less your bonus is going to be, right?
 6 MR. PATTERSON: Objection, form.
 7 A. No, what I am saying is -- is that if you
 8 invest the capital in those different areas --
 9 safety, environmental or whatever -- operational
 10 performance is that you are reinvesting in to
 11 getting better outcomes in each of those areas.
 12 Q. (BY MR. BOND) Of course, I guess if you
 13 were shut down longer doing that, you are going to
 14 have less operational profit then, right?
 15 A. If you are shut down? I am sorry.
 16 Q. I am doing this safety capital
 17 investments. You have to shut down for certain
 18 capital investments, correct?
 19 A. Some you do. Some you don't.
 20 Q. Let's say a flare system. You have to
 21 shut down for that, aren't you?
 22 MR. PATTERSON: Objection, form.
 23 A. I am not as -- as, you know, the engineer
 24 to know the exact detail of that, but sometimes you
 25 can put temporary flare type systems and things in

Page 211

1 as you are doing it -- other things as well.
 2 So, did it require shutting down
 3 or can you switch it to another flare? I don't
 4 know. It depends all in the situation and what you
 5 are doing.
 6 Q. (BY MR. BOND) Let's just talk about the
 7 ISOM unit. Let's say putting a flare in the ISOM
 8 unit is going to require the ISOM to shut down,
 9 correct, sir?
 10 MR. PATTERSON: Objection, form.
 11 A. Typically, you would try to do that on
 12 one of your maintenance turnarounds.
 13 Q. (BY MR. BOND) Okay. But the longer it
 14 takes to do a capital investment it's going to be
 15 longer that the unit is going to be shut down,
 16 right? And any delay is going to eat into your
 17 operation profit, correct, sir?
 18 A. It will -- yeah, longer downtime would
 19 say less operating profit but we have had
 20 turnarounds that have extended beyond that and we
 21 have done whatever we needed to do to get the job
 22 done.
 23 Q. That wasn't my question. My question
 24 was: The longer it takes to do something capital
 25 investment wise -- the longer you are going to be

Page 212

1 shut down, the more it's going eat into your
 2 operational profit, correct, sir?
 3 MR. PATTERSON: Objection, form.
 4 A. Yes.
 5 Q. (BY MR. BOND) And of course, then, it
 6 goes back to your bonus, correct, sir?
 7 MR. PATTERSON: Objection, form.
 8 A. If that's what the measure was that given
 9 year. I don't know if it was or not.
 10 Q. (BY MR. BOND) Now, do you get
 11 incentives, too?
 12 You get base salary. You get a
 13 bonus. You have got incentives, too, right, sir?
 14 A. What do you mean incentives?
 15 Q. You are going to get paid a little extra
 16 if you do certain things, correct?
 17 A. What I get is -- is I have a salary and
 18 you get consideration every year for a merit raise
 19 or not --
 20 Q. Okay.
 21 A. -- on your salary and in addition to that
 22 you get, you know, your bonus pay as well.
 23 Q. Do you get anything called an incentive
 24 package?
 25 A. I don't get anything called an incentive

Page 213

1 package. The only other thing I get is stock
 2 options.
 3 Q. Okay.
 4 MR. BOND: Let's take a break. We
 5 are right at a minute.
 6 THE WITNESS: Okay.
 7 THE VIDEOGRAPHER: Off the record
 8 at 3:35 p.m., ending Tape 4.
 9 (Recess taken.)
 10 THE VIDEOGRAPHER: On the record,
 11 3:47 p.m., beginning Tape 5.
 12 Q. (BY MR. BOND) All right. Ready to go
 13 again?
 14 A. Sure.
 15 Q. I want to talk to you about process
 16 safety analysis, now.
 17 A. Okay.
 18 Q. Okay. Have you ever conducted one of
 19 those? Ever been involved in process safety
 20 analysis?
 21 A. You know, I have been -- not specifically
 22 on that.
 23 Q. Okay.
 24 A. Go ahead and describe what you are
 25 calling process safety analysis.

Page 214

1 Q. You tell me. You are the -- you are
 2 the -- you are the man for BP.
 3 What's process safety analysis to
 4 you?
 5 A. Okay. So, for me I would think it would
 6 be process safety looking at things in that area
 7 and with a particular focus around that. So, you
 8 would -- "analysis" -- I don't -- that's the piece
 9 I am kind of puzzled with.
 10 Is that an audit or is that, you
 11 know, some kind of review? Or is this a table
 12 exercise or what is it?
 13 Q. Well, I would say you are, you know,
 14 deciding whether to do a relief valve study and do
 15 a process safety analysis.
 16 You know what that is, right?
 17 Right?
 18 A. I know what relief valve should entail in
 19 general.
 20 Q. Okay. And you decide -- or say you are
 21 trying to deciding whether to put a flare system in
 22 or a blowdown stack in.
 23 Do you understand that?
 24 A. Yes.
 25 Q. Okay.

Page 215

1 A. So...
 2 Q. And I guess you do a process safety
 3 analysis, some sort of analysis to determine
 4 whether it's better to put one in or not put one
 5 in, correct?
 6 A. Well, what you will -- at some point,
 7 what you would do is do some type of analysis to
 8 decide what you needed for a safe relief systems at
 9 the site.
 10 Q. Okay. What's the first thing you look at
 11 when you are doing an analysis like that?
 12 A. Okay. So, I am not a process safety
 13 engineer.
 14 Q. I understand.
 15 A. Okay. So, typically, what you -- I would
 16 think you would do is look at do you have -- what
 17 kind of releases you would have from the operating
 18 facility or the facility you are evaluating. It
 19 could even be stagnant lines that could expand
 20 because it heats up or whatever the case is during
 21 the day. And then, you would look at what's the
 22 release amounts that you would have. And then, you
 23 would see if your existing relief systems are
 24 adequate to do that.
 25 Now, that's how I would describe

Page 216

1 you do it in general terms. And then, an engineer,
 2 you know, would get much more in-depth in what all
 3 that entails.
 4 Q. I am not an engineer, either. So, we
 5 are -- we are talking on even ground here. Okay?
 6 A. Okay.
 7 Q. In a situation like that, you are going
 8 to imagine the worse case scenario, aren't you?
 9 Isn't that the right thing to do?
 10 MR. PATTERSON: Objection, form.
 11 A. What you would look at is what are the
 12 potential scenarios that would release to a relief
 13 system. And then, based on that, of those
 14 potential ones, you would make some assessment to
 15 see which one had the -- was the part that said
 16 what relief system you had to have in the system.
 17 So, you would look at, you know,
 18 for -- maybe a few different scenarios and then you
 19 would see what that -- what it showed is the one
 20 that is the overriding one that declared the relief
 21 system that you needed to size it for.
 22 Q. (BY MR. BOND) Are you talk about a
 23 relief valve study now, or are you talking about a
 24 process hazard analysis?
 25 A. Process hazard -- well, okay. So, I was

Page 217

1 talking about a relief system type study.
 2 Q. Okay. Now, process hazard analysis --
 3 and what I am trying to get out here is -- and I
 4 may just be wrong, and if that's the case, let me
 5 know.
 6 A. Okay.
 7 Q. You look at the process and determine
 8 what kind of hazards that may present.
 9 Is that kind of simple terms; is
 10 that fair?
 11 A. Yeah. So, what you do in your --
 12 typically, in your first study you would do, which
 13 would be at a new facility or a major refurbish
 14 type facility -- is you would do a process safety
 15 analysis -- process hazard analysis.
 16 So, you would say what are those
 17 types of things that you need to have for the
 18 system and things and then -- then you would do
 19 that as your base one that's kind of set, you know,
 20 where you go from there. And from that, you would
 21 just do updates --
 22 Q. Right?
 23 A. -- to that on a periodic basis on major
 24 changes being your major focus.
 25 Q. Now, you would imagine, I would think,

Page 218

1 your worse case scenario when you are doing a
 2 process hazard analysis so you guard against it?
 3 A. Say it again.
 4 Q. Would you imagine -- I mean, would
 5 you try to -- when you are doing your what-ifs --
 6 because you do a lot of what-ifs, right, when you
 7 are doing a process hazard analysis?
 8 A. Yes.
 9 Q. And the -- and the what-ifs you look at,
 10 you want to do a worse case scenario, don't you?
 11 MR. PATTERSON: Objection, form.
 12 A. Well, what you do -- it's not worse case
 13 scenario is not the words that I would use.
 14 Q. (BY MR. BOND) What words would you use?
 15 A. What I would use is you would say, "What
 16 if this -- the flow went this the other direction
 17 through this valve? What if this released to the
 18 flare? What if this line froze? What if this line
 19 overheated?"
 20 You know, and then, you would
 21 say -- then you would look at what -- "What's the
 22 application of that and how would that get
 23 handled?"
 24 Q. Okay.
 25 A. So, there is a series of questions and

Page 219

1 things that you would go through and asking that
 2 more systemically like that to ensure through those
 3 discussions that you, you know, the people that are
 4 knowledgeable on that process would say that
 5 that's -- that's the system, you know, that we
 6 need.
 7 Q. Do you remember when you told the other
 8 lawyer earlier that you couldn't imagine something
 9 like that happening? Do you remember something
 10 like that?
 11 A. Oh, yeah. That -- I just would have
 12 never imagined that -- that --
 13 Q. Okay.
 14 A. -- catastrophic outcome.
 15 Q. Okay.
 16 MR. PATTERSON: Just a second.
 17 Y'all might want to move that off if that's your
 18 notes, off of it.
 19 MR. BOND: It's the key to the
 20 whole case right here.
 21 MR. PATTERSON: I couldn't read
 22 it.
 23 MR. BOND: I was close.
 24 Q. (BY MR. BOND) Do you remember you said,
 25 you know, "I couldn't imagine something like that

Page 220

1 happening," words to that effect? I may not be
 2 quoting you exactly.
 3 A. Yeah.
 4 I don't know the exact words but
 5 it's just like without hindsight, I would have
 6 never have thought we would have had that level --
 7 Q. How long have you been in the oil --
 8 A. -- of incident.
 9 Q. How long have you been in the oil and gas
 10 industry?
 11 A. I have been in the oil and gas for 24
 12 years.
 13 Q. How long have you been in the Houston
 14 area?
 15 A. Three and a half years or so, right now,
 16 at this time.
 17 Q. And were you around here in 1989?
 18 A. Yes.
 19 Q. Okay. Do you remember the Phillips
 20 explosion?
 21 A. I remember a Phillips explosion, yeah.
 22 Q. Okay.
 23 A. In Pasadena or something, yeah.
 24 Q. That's right.
 25 Do you recall -- and those sort of

Page 221

1 things can happen if people aren't careful and
 2 safety requirements aren't met at oil and gas
 3 facilities, can't they?
 4 MR. PATTERSON: Objection, form.
 5 A. Well, I mean, obviously, it can happen.
 6 It happened at Texas City. I just didn't realize
 7 it in advance.
 8 Q. (BY MR. BOND) It happened in Scotland at
 9 BP's organization, right?
 10 A. Not a vapor cloud explosion that I am
 11 aware of.
 12 Q. Are you aware of any other vapor cloud
 13 explosions, say, in the past ten years?
 14 A. You have mentioned one in Pasadena. I
 15 don't remember the specifics of it. I remember it
 16 was a catastrophic event --
 17 Q. Okay.
 18 A. -- in a -- in a plant that was in
 19 Pasadena.
 20 Q. Okay.
 21 A. And I -- I have heard people say about,
 22 you know, the repercussions and the -- just the
 23 impacts and stuff of it; but I don't remember all
 24 the details of it.
 25 Q. Well, in a process safety analysis or

Page 222

1 process hazard analysis that you would normally do,
 2 you would actually like do the what-ifs, "What if a
 3 vapor cloud released," correct?
 4 MR. PATTERSON: Objection, form.
 5 A. Well, you would ask the what-ifs types of
 6 things and if a vapor cloud or something got out of
 7 a line, that wouldn't be your direct question. You
 8 wouldn't be saying, "What if we had a vapor cloud?"
 9 You would ask, "What if this went the wrong way,"
 10 well, if there was -- or what if the pipe failed --
 11 Q. (BY MR. BOND) Well, nothing failed here,
 12 did it, in the ISOM? You know what I am talking
 13 about -- the March 23rd explosion, nothing failed,
 14 right?
 15 A. What do you mean by "nothing failed"?
 16 Q. The system worked just like it was
 17 supposed to. The relief valves opened up. The
 18 blowdown stack got filled up and overflowed,
 19 correct?
 20 MR. PATTERSON: Objection, form.
 21 A. The release -- yeah, that's what
 22 occurred.
 23 Q. (BY MR. BOND) Okay. And none of the --
 24 other than the alarms and the high level systems;
 25 but it, basically, did like it was supposed to.

Page 223

1 There was no equipment failure.
 2 It just shot it right out, didn't
 3 it?
 4 A. The system relieved like you would have
 5 expected it to.
 6 Q. All right. So, this shouldn't have been
 7 a big shock.
 8 It did like it was supposed to,
 9 right?
 10 MR. PATTERSON: Objection, form.
 11 A. Okay. The shock -- the surprise for me
 12 was is the volume that went to it because of the
 13 circumstances that led up to it.
 14 Q. (BY MR. BOND) This wasn't the first time
 15 a vapor cloud had been released from that blowdown
 16 stack, was it?
 17 MR. PATTERSON: Objection, form.
 18 A. From reading the report, it says that
 19 vapors have come out of the top of the stack in the
 20 past.
 21 Q. (BY MR. BOND) Okay. On more than one
 22 occasion, right?
 23 A. Yes.
 24 Q. How many occasions?
 25 MR. PATTERSON: Objection, form.

Page 224

1 A. I don't recall exactly the number.
 2 Q. (BY MR. BOND) More than two, more than
 3 three, more than four?
 4 MR. PATTERSON: Objection, form.
 5 A. More than four.
 6 Q. (BY MR. BOND) Several occasions, right?
 7 A. Yeah, over an extended period of time.
 8 Q. But more than enough time to give BP a
 9 heads up that this sort of thing occurs, correct?
 10 MR. PATTERSON: Objection, form.
 11 A. You know, I don't -- I don't know from
 12 what I read in the report. None of them were
 13 obviously of this magnitude and not -- I don't
 14 recall reading of any of them that came as liquid
 15 out of the top and I think -- or the volume that
 16 relieved to it.
 17 Q. (BY MR. BOND) Well, you can -- you can
 18 run a stop sign a whole lot of times but eventually
 19 you are going to get hit, aren't you?
 20 MR. PATTERSON: Objection, form.
 21 Q. (BY MR. BOND) Right?
 22 MR. PATTERSON: Same objection.
 23 A. Well, your probability goes up.
 24 Q. (BY MR. BOND) Okay. And you can keep
 25 releasing vapor clouds from the ISOM unit --

Page 225

1 eventually it's going to explode, isn't it?
 2 MR. PATTERSON: Objection, form.
 3 A. You know, vapor clouds, they are designed
 4 to handle some volume of vapor coming out of the
 5 top and what it does is it's a long narrow, you
 6 know, essentially, pipe at the top and the volume
 7 of it pushes it way up and it gets released at a
 8 fairly high level.
 9 And so, it, typically, I would --
 10 I imagine they are designed and it was not part of
 11 the design team is that they would not be hovering
 12 back down towards ground level to catch a spark.
 13 MR. BOND: Objection,
 14 nonresponsive.
 15 Q. (BY MR. BOND) You keep releasing vapors
 16 out of the blowdown stack, eventually it's going to
 17 explode, isn't it?
 18 MR. PATTERSON: Objection, form.
 19 A. I would say the answer is not
 20 necessarily.
 21 Q. (BY MR. BOND) Probabilities go up just
 22 like --
 23 A. Probabilities go up.
 24 MR. PATTERSON: Objection, form.
 25 Q. (BY MR. BOND) Okay. And this should be

<p style="text-align: right;">Page 226</p> <p>1 part of the process hazard analysis when you are 2 deciding whether to put another blowdown stack in 3 or a flare system in, correct, sir? 4 MR. PATTERSON: Objection, form. 5 A. I don't know the answer to that. You 6 would have to -- you go through a series of 7 questions and you ask yourself what are the 8 scenarios of what happened, what if this, what if 9 that. And prior to that incident, I don't think 10 anybody -- or certainly not me have been aware of 11 that what-if scenario of filling that tower up to 12 130 plus feet of liquid as -- as documented in that 13 report. 14 MR. BOND: Objection, 15 nonresponsive. 16 Q. (BY MR. BOND) There was no mechanical 17 interlock to prevent that, was there? 18 MR. PATTERSON: Objection, form. 19 A. Interlock to prevent what? 20 Q. (BY MR. BOND) The filling up of that 21 tower of 130 feet? 22 MR. PATTERSON: Objection, form -- 23 A. Not that I am aware of. 24 Q. (BY MR. BOND) Okay. Now, you are aware 25 of the wet/dry drum project? Am I saying that,</p>	<p style="text-align: right;">Page 228</p> <p>1 go -- I don't know the answer to that where the 2 liquid would go. What it allowed you to do was 3 recover it, and then it would be back into the 4 system and everything. 5 Q. Would this also eventually vent -- vent 6 to a flare system, too? 7 A. I have heard references to that, but it 8 was not a project that was intended for, you know, 9 flare systems. What it was intended to be was a 10 benzene NESHAP project. 11 Q. It was going -- 12 A. BWON. And so, what it was intended to do 13 was to get benzene out of the -- out of the 14 wastewater streams and things like that. And when 15 you look at the ISOM unit, it takes a hard cut of a 16 stream that is away from the ARU. And so, it is a 17 non-benzene rich stream already. So, it didn't 18 really meet the original full intent of what we 19 were trying to do with Clean Streams and the wet 20 maintenance and dry maintenance drum -- 21 Q. Now, is the Clean Streams -- 22 A. -- project. 23 Q. The Clean Streams and the wet drum were 24 kind of all one in the same, or were they kind of 25 working together?</p>
<p style="text-align: right;">Page 227</p> <p>1 right? 2 A. It was called the -- something like the 3 wet and dry maintenance drum project, something 4 like that. 5 Q. Tell me what that project was going to 6 do. 7 MR. PATTERSON: Objection, form. 8 A. Okay. So, what that project was about is 9 to get hydrocarbons out of a lot of the low point 10 drains in systems or normal maintenance on the 11 equipment into a drum that would allow to you 12 collect it in that one drum. 13 Now, the -- the way it has been 14 done even before and after that is -- is to put it 15 in a temporary hoses, either when you were 16 preparing the unit to shut down or shutting down or 17 you are doing maintenance on a pump or whatever, is 18 you put temporary hoses in. You keep it contained 19 and back in the system. And what this one was 20 going to do was allow you to hard pipe it. 21 Q. (BY MR. BOND) Where? 22 A. Into a maintenance drum. 23 Q. Where would it go from the maintenance 24 drum? 25 A. In the maintenance drum the liquid would</p>	<p style="text-align: right;">Page 229</p> <p>1 A. So, Clean Streams was the overall project 2 for the site -- 3 Q. Uh-huh. 4 A. -- and our wet maintenance -- wet and dry 5 maintenance drum was our form of Clean Streams 6 project there on the unit. 7 Q. And eventually, that was going to vent to 8 a flare, correct, sir? 9 A. As I understand it in retrospect, that's 10 right. 11 Q. Okay. 12 A. That's what I am hearing. 13 Q. You are the one that killed the project, 14 correct, sir? 15 A. No, that's not right. 16 Q. Okay. Well, do you recall -- have you 17 read Willie Willis' deposition? 18 A. No, I haven't. 19 Q. Okay. Well, he says you are the man that 20 killed the project? 21 A. That's what he said exactly? 22 Q. Uh-huh. 23 A. I am the man? 24 Q. You are the man. 25 A. Okay. So...</p>

<p style="text-align: right;">Page 230</p> <p>1 Q. So, if you are not the man, who is? 2 A. So, if that's what he said, he was 3 mistaken. 4 Q. Okay. Well, let's go -- I am going to go 5 ahead and read you his words so you don't think I 6 am just making something up. 7 A. No. That's fine. I figure that's close 8 enough, but I would not heard -- would not imagine 9 him say, "You are the man," so that's why I was 10 curious. 11 Q. I don't know if he said, "You are the 12 man." He may have said that, but I will give you 13 the exact terminology. 14 A. Okay. 15 Q. Do you know who "the man" was? Yeah, the 16 man -- no, I am just kidding. 17 "Do you know who made the decision 18 not to proceed with the wet and dry drum project?" 19 This is page 242, lines 9 through 14. 20 "To the best of my knowledge, in 21 the timeframe that it was, the decision were 22 made -- it would have been made by Rich Peltier." 23 That's you, right? 24 A. That's me. 25 Q. Okay. And Willie Willis is who?</p>	<p style="text-align: right;">Page 232</p> <p>1 and the Clean Streams project were being done on 2 your watch, correct, sir? 3 MR. PATTERSON: Objection, form. 4 Q. (BY MR. BOND) Or supposed to be done on 5 your watch, correct? 6 MR. PATTERSON: Objection, form. 7 A. Well, we were evaluating that project. I 8 don't know what "done on my watch" means, but we 9 were working on it. 10 Q. (BY MR. BOND) Okay. You were doing more 11 than evaluating. You were actually doing some work 12 toward it, right? 13 A. We had made some tie-ins on a turnaround 14 on the ISOM unit in the first quarter, 2004. 15 Q. Okay. Tell me a little about that. 16 A. Three. I'm sorry, three. I am one year 17 off. I have my years mixed up -- 18 Q. Tell me about that. What kind of tie-ins 19 were you making now? 20 A. So, what we did is -- the turnaround was 21 in January/February timeframe of 2003. And so, 22 what we did in a lot of this hard pipe is we had 23 engineering put some drawings together, information 24 together, so that they could make some hard pipe 25 tie-ins to the different low point drains and</p>
<p style="text-align: right;">Page 231</p> <p>1 A. He is another employee at the plant that 2 backfilled me in that position. The job got 3 restructured some, but he had that ISOM unit after 4 I did as the MDL. 5 Q. You say "backfilled," what do you mean by 6 that? 7 A. So, when I moved to the new assignment, I 8 had four operating units in the chem plant and four 9 in the refinery. My four in the refinery went to 10 Willie Willis, along with some assets that he had 11 already had in the West Plant -- 12 Q. Uh-huh. 13 A. -- assets area. And then, my chemicals 14 asset went to another person that's an MDL in the 15 chem plant side. 16 Q. Okay. So, he took your place kind of 17 what -- in the ISOM unit area, correct? 18 A. So, he backfilled me into that role. 19 Yes, he took that place -- 20 Q. Okay. 21 A. -- in that place. If you want to use 22 those words, that's fine. 23 Q. It's easier for me -- 24 A. Okay. 25 Q. And the -- and the wet/dry drum project</p>	<p style="text-align: right;">Page 233</p> <p>1 things into the system. So that as the project was 2 being evaluated further down the road, you know, it 3 wouldn't require downtime or turnaround or anything 4 at some point to probably get a lot of it tied-in 5 to the -- into, you know, normal operation as far 6 as the maintenance wet and dry drum. 7 Q. Okay. So, you were -- you were actually 8 doing the tie-ins prior to the ISOM unit being shut 9 down? 10 A. We did not, no. We did the tie-ins at 11 the time of the turnaround. 12 Q. Okay. The 2003 turnaround? 13 A. Yes. 14 Q. That was January/February, 2003? 15 A. First quarter, yes. January, February, 16 March, something in that range. 17 Q. Now, what were the tie-ins for? 18 A. The tie-ins were for allowing you to 19 drain those different pipes and pieces of equipment 20 into a wet and dry drum system at some later date, 21 if it was evaluated that that's what we wanted 22 installed. 23 Q. Well, it was already evaluated that 24 that's what y'all want to install, wasn't it? 25 A. Sure.</p>

Page 234

1 Q. Otherwise, you wouldn't have done the
 2 tie-ins?
 3 MR. PATTERSON: Objection, form.
 4 Q. (BY MR. BOND) Right?
 5 A. We made the tie-ins because it was short
 6 timing for the turnaround. I didn't want to lose
 7 the opportunity if that was a project that we
 8 wanted installed. So, I authorized them to make
 9 those tie-ins so that we didn't forego the
 10 opportunity.
 11 Q. Well, y'all had to do a process hazard
 12 analysis for those tie-ins, right?
 13 A. I don't think it required a PHA. I don't
 14 recall, exactly; but I don't think it required a
 15 PHA.
 16 Q. Okay. So, you did the tie-ins. So, you
 17 had -- you, obviously, had given this some thought?
 18 A. Some thought, yes.
 19 Q. Okay. More than just a little bit,
 20 right?
 21 A. Sure.
 22 Q. Okay. Because this was capital
 23 expenditure, right?
 24 A. Well, it wasn't just for that. It's a
 25 project. And so, as my role in projects, it was

Page 235

1 to, you know, look at those projects and decide,
 2 you know, how to develop those.
 3 Q. Who recommended that this should be done?
 4 Who recommended to you?
 5 MR. PATTERSON: Objection, form.
 6 A. Recommended that what should be done?
 7 Q. (BY MR. BOND) The wet/dry drum project,
 8 slash, Clean Streams project?
 9 A. You know, I don't --
 10 MR. PATTERSON: Objection, form.
 11 A. I don't remember who did.
 12 It started out as a very small
 13 project, like probably 10 percent of what the size
 14 was that it ballooned to, and this was one of the
 15 ones that was added to the ones to look at.
 16 Q. (BY MR. BOND) Uh-huh.
 17 A. But it started out as a benzene NESHAP
 18 type system, where you contain benzene rich
 19 streams. And at this point, this one got added to
 20 the list to continue evaluating and we were in our
 21 course of evaluating that when our turnaround was
 22 occurring shortly after that and we chose to make
 23 those tie-ins for that reason.
 24 Q. All right.
 25 A. So that we could still keep ourselves the

Page 236

1 opportunity open to install that if that was the
 2 right thing to do, you know, down the road.
 3 Q. Well, who was going to determine if it
 4 was the right thing to do or not?
 5 A. The person that would make the investment
 6 decision would be the MDL over the area.
 7 Q. Who is that?
 8 A. Well, for me -- in making the tie-ins,
 9 that was me.
 10 Q. Okay. Who would be the person to make
 11 the decision whether the blowdown -- I mean, the
 12 wet/dry drum project should continue or not? Would
 13 that be the MDL, also?
 14 A. Well, it would be the MDL along with the
 15 person assigned to the program or the projects
 16 overall and that would be across the refining site.
 17 They would make a joint
 18 recommendation depending on the investment level is
 19 that, you know, it might require, you know,
 20 supplemental approvals, as well, from others.
 21 Q. All right.
 22 A. Or endorsement.
 23 Q. All right. So, you would have made the
 24 decision -- you made the decision about the tie-ins
 25 right, sir?

Page 237

1 A. Yes, I did.
 2 Q. Okay. And you made the decision about
 3 the wet/dry -- wet/dry drum project right, sir?
 4 A. I made --
 5 MR. PATTERSON: Objection, form.
 6 A. What do you mean? What kind of decision?
 7 Q. (BY MR. BOND) Whether to continue it or
 8 to kill it?
 9 A. Okay. And I made the decision to make
 10 the tie-ins.
 11 Q. Right.
 12 A. And I -- as a part of the program of that
 13 of one of many maintenance drums that would have
 14 been across the site was working through the system
 15 on should we continue it or not.
 16 Q. And your answer was "no"?
 17 A. And my --
 18 MR. PATTERSON: Objection. Let
 19 him finish his answer.
 20 Q. (BY MR. BOND) I'm sorry. And I do that
 21 sometimes. You put your hand up, and I will stop.
 22 I kind of get excited.
 23 A. Okay.
 24 Q. Just say calm down.
 25 A. All right.

Page 238

1 Q. Just calm down a bit.
 2 A. Go ahead.
 3 Q. All right. You made the decision to
 4 determine whether to continue with the wet/dry drum
 5 project, correct, sir?
 6 MR. PATTERSON: Objection, form.
 7 A. I made the decision to continue the
 8 development of it; but, also, at the pace that we
 9 should, you know, in line with what the project was
 10 intended for, which was benzene NESHAP, along with
 11 what we should be doing as a program. And so, no,
 12 I didn't kill that project.
 13 Q. (BY MR. BOND) Okay. So, my question is
 14 to you: Was it your call -- it was your call to do
 15 the tie-ins. You made the call.
 16 You did the tie-ins, correct, sir?
 17 A. That's correct.
 18 Q. Was it your call to continue the project?
 19 MR. PATTERSON: Objection, form.
 20 A. It was my -- my call. Yeah, what it came
 21 down to is myself, along with the person that was
 22 the manager over the program overall --
 23 Q. (BY MR. BOND) Who was that?
 24 A. I believe it was David Harlan.
 25 Q. So, David Harlan and you.

Page 239

1 Now, you say he is the -- is he
 2 over at the Texas City site?
 3 A. He is at Texas City.
 4 Q. Okay. In relation, I guess, is he in
 5 management, of course?
 6 A. Yeah, he is management.
 7 Q. Okay. How high up is he?
 8 A. I don't know what his current role is.
 9 Q. Would he be higher than you or lower than
 10 you or kind of collateral -- not collateral,
 11 lateral?
 12 A. Lateral or slightly lower.
 13 Q. Okay. So, it would be you, David Harlan,
 14 who else?
 15 A. We would be probably the primary ones
 16 that would, you know, recommend what we continue to
 17 do.
 18 Q. Okay. And your recommendation -- and who
 19 did you make that recommendation to?
 20 A. Which recommendation, now?
 21 Q. To either continue the project or to stop
 22 the project.
 23 A. So, what I did is I -- I had it on hold
 24 on standby based on when it fit in with the
 25 program.

Page 240

1 Q. So, basically, you couldn't fit it in in
 2 that turnaround, right?
 3 A. I couldn't -- no, there was no way.
 4 Q. Okay. So -- because if you can't fit it
 5 in during the turnaround because of -- like we have
 6 already established when -- because the raffinate
 7 is a feedstock for what?
 8 A. It's a gasoline blending stock --
 9 Q. Okay.
 10 A. -- and things.
 11 Q. And so, if you stop the raffinate from
 12 getting the feedstock, you are going to have to --
 13 you are going to stop a whole lot of processes
 14 across the plant, correct, sir?
 15 A. No, you can substitute with other
 16 intermediate feedstocks and run the plant.
 17 Q. Okay.
 18 A. Not a big deal there.
 19 Q. But you are still going to be losing
 20 profit when you -- when you -- when you shut down
 21 that ISOM unit, correct, sir?
 22 A. Yeah, you will lose some profit.
 23 Q. About how much a day?
 24 A. At that time, I don't know.
 25 Q. A million, 2 million, 5 million?

Page 241

1 A. No. No.
 2 Q. How much a day? A hundred thousand,
 3 500,000?
 4 A. I -- probably in that time of year just
 5 because of the seasonality effects, probably
 6 less -- probably substantially less than a hundred
 7 thousand a day.
 8 Q. Okay.
 9 A. But I -- you know, a lot of it is where
 10 you are at in the market. I don't recall --
 11 Q. I know -- I'm just asking --
 12 A. -- three years ago.
 13 Q. -- roughly.
 14 A. Okay.
 15 Q. I don't think you were making -- I am not
 16 going to ask you to sit there --
 17 A. Good.
 18 Q. -- and put pen to paper.
 19 A. Thanks.
 20 Q. But roughly about a hundred grand a day,
 21 give or take a few thousand?
 22 MR. PATTERSON: Objection, form.
 23 A. No, I said -- I said less than that.
 24 Q. (BY MR. BOND) How much less --
 25 A. It could be substantially less.

Page 242

1 Q. We're talking --
 2 A. It could be 50,000 or less -- even 20 or
 3 30,000 or less.
 4 Q. We are talking thousands here?
 5 A. Yeah, probably.
 6 Q. Tens of thousands?
 7 A. Likely.
 8 Q. Okay. Now you got this raffinate -- you
 9 got the ISOM unit shutdown, right?
 10 A. Uh-huh.
 11 Q. How long is it going to take to it put
 12 that wet/dry drum in?
 13 A. I don't know.
 14 Q. Okay.
 15 A. We didn't get that -- we hadn't had it
 16 developed that much -- that far along or even all
 17 the equipment that it would take to put it in, you
 18 know, at that point. So --
 19 Q. Okay.
 20 A. -- you know, it required a whole bunch of
 21 hard piping and other stuff, and we were actual
 22 scrambled fairly quickly just to get tie-ins in for
 23 turnaround.
 24 Q. And just so we're clear, the liquid may
 25 be going to wet/dry drum, but the vapors were going

Page 243

1 to go off to a flare, correct, sir?
 2 A. In retrospect, that's what I understand
 3 it was, in general, supposed to do.
 4 Our focus was on the liquid side
 5 of it and the benzene concentrated stream side of
 6 it and recovering that and minimizing exposure on
 7 personnel.
 8 Q. Okay. Now, how much was this wet/dry
 9 drum going to cost?
 10 MR. PATTERSON: Objection, form.
 11 Q. (BY MR. BOND) Y'all had already done the
 12 study, right?
 13 MR. PATTERSON: Objection, form.
 14 A. I don't recall the exact numbers.
 15 Q. (BY MR. BOND) Hadn't you already done
 16 the study?
 17 A. We had done -- when you develop projects
 18 you will going through various stages of
 19 development. So, we were in some of the earlier
 20 stages of development still.
 21 Q. What stage were you in?
 22 A. I think we were in select, which is the
 23 second stage of development. And it's kind of
 24 like, "What should we do -- what is this project
 25 about, what should we do?"

Page 244

1 Q. Okay. Well, you had already done the
 2 tie-ins. So, you had already started doing capital
 3 improvements for the project, right?
 4 A. We did the tie-ins to allow us -- they
 5 did enough engineering to figure out where tie-ins
 6 would need to be made and made those --
 7 Q. Okay.
 8 A. -- without even fully understanding and
 9 designing, you know, fully developing and analyzing
 10 the rest of the project.
 11 Q. Okay.
 12 A. Just -- we had that opportunity and we
 13 decided to take it.
 14 Q. Willie Willis indicated there would be
 15 \$2.9 million to do the wet/dry drum project.
 16 Does that sound about right to
 17 you?
 18 A. It could be. I don't remember the exact
 19 number. He may be closer to it as it was
 20 developing.
 21 Q. Again, I think he indicated that you were
 22 the one that actually stopped the project.
 23 So, do you think that number is
 24 right or not?
 25 MR. PATTERSON: Objection, form.

Page 245

1 Object to sidebar.
 2 A. I don't know if 3 million is a right
 3 number. It seemed to be. It was somewhere between
 4 one and two or one and three.
 5 Q. (BY MR. BOND) Okay. So, you had done
 6 the study long enough to at least know how much,
 7 roughly, it was going to cost?
 8 A. We did it -- what you do in earlier
 9 stages is -- is very rough scoping study. So, you
 10 kind of say, "What kind of general equipment would
 11 I need?" And then, "What would that cost and kind
 12 of the timeframe to get the equipment and
 13 installation and everything else?"
 14 And so, we did some very
 15 rudimentary earlier scoping studies as we would
 16 call it.
 17 Q. Okay. Did you do any studies to
 18 determine what safety benefits it might have?
 19 A. When I was there, our focus, again, was
 20 on benzene NESHAP and our intent was benzene
 21 NESHAP, which is what we call BWON. And what that
 22 was -- regulatory requirements about minimizing
 23 benzene in the wastewater.
 24 And so, we had a policy of -- or
 25 not necessarily a policy but our practice was just

Page 246

1 to try to get more and more hydrocarbon out of the
 2 sewer system. We call it oil out of the sewer
 3 system. And so, our focus was to minimize that.
 4 And our first primary focus was benzene
 5 concentrated streams, which was not the feedstock
 6 into this unit that would get recovered into that
 7 system.
 8 Q. Well, basically -- you keep saying
 9 benzene and releasing to the -- but it is going to
 10 be released into the atmosphere, right?
 11 MR. PATTERSON: Objection, form.
 12 Q. (BY MR. BOND) The benzene that you are
 13 talking about?
 14 A. The benzene -- the benzene would get into
 15 the wastewater systems and stuff. There may be a
 16 small portion -- there would probably be a small
 17 portion that would evaporate but the bulk of it was
 18 going to be recovered back into the systems and
 19 things.
 20 Q. Okay. So, y'all were seeing this -- the
 21 hydrocarbons --
 22 A. Yeah.
 23 Q. Y'all at least saw far enough in advance
 24 that some hydrocarbons were escaping into the
 25 atmosphere, correct, sir?

Page 247

1 A. Some hydrocarbons in -- in general, will
 2 vaporize and benzene was one of those that we
 3 wanted to minimize due to regulatory needs to keep
 4 it below certain limits.
 5 Q. Yeah -- I know you keep saying that; but
 6 the fact that these were hydrocarbons that vented
 7 into the atmosphere, correct, sir?
 8 MR. PATTERSON: Objection, form.
 9 A. These were hydrocarbons that we were
 10 doing most -- moving mostly through temporary
 11 piping and hose into our -- to our enclosed systems
 12 and things. Some may inadvertently get into
 13 open -- more open systems that could have, you
 14 know, some -- some emissions from it.
 15 Q. (BY MR. BOND) Like a blowdown stack?
 16 MR. PATTERSON: Objection, form.
 17 Q. (BY MR. BOND) Like a blowdown stack,
 18 sir?
 19 A. What's your question around like a
 20 blowdown stack?
 21 Q. The vapors, you know, you said the more
 22 open systems.
 23 Open systems of a blowdown stack,
 24 correct, sir?
 25 MR. PATTERSON: Objection, form.

Page 248

1 A. I mean, there is a lot of open systems.
 2 Even a flare has a system that's open to the
 3 atmosphere.
 4 Q. (BY MR. BOND) I don't think I asked you
 5 anything about a flares, did I, sir?
 6 A. No, but I'm just saying --
 7 Q. I asked about -- I asked you about
 8 blowdown stacks, didn't I, sir?
 9 A. Sure you did.
 10 Q. Okay. And a blowdown system is an
 11 open -- open to air system, correct, sir?
 12 MR. PATTERSON: Objection, form.
 13 A. A blowdown -- say your question, again.
 14 Q. (BY MR. BOND) Is a blowdown stack open
 15 to air?
 16 A. It has a vent that opens to the air at
 17 the top.
 18 Q. And hydrocarbons in that system are going
 19 to vent to the atmosphere, aren't they, sir?
 20 A. A -- most of them will be recovered as
 21 liquid. There will be on a typical situation
 22 probably a small piece that would -- a small
 23 portion that would come out as a -- as an emission
 24 out of the top of the stack.
 25 Q. And the wet/dry drum project and the

Page 249

1 Clean Streams project was to prevent these vapors
 2 from escaping to the atmosphere, correct, sir?
 3 MR. PATTERSON: Objection, form.
 4 A. Our intent with that was to replace
 5 temporary piping systems with a permanent piping
 6 system. They took it in the maintenance drum
 7 system that allowed you to recover the bulk of it.
 8 So, I don't know the details of it; but it probably
 9 would have a little bit less emissions than what
 10 the blowdown stack arrangement had.
 11 Q. (BY MR. BOND) Let's finish the equation.
 12 From the blow -- from the wet/dry drum, it would
 13 vent to the flare, correct, sir?
 14 A. That's what I am understanding, now.
 15 Q. Okay.
 16 A. Yeah.
 17 Q. All right. So, you have -- you have
 18 done -- you have gone far enough that you had the
 19 dollar figure, a rough dollar figure, about how
 20 much this wet/dry drum going to cost?
 21 A. Well, you gave me a number that Willie
 22 said and I can't dispute it so that -- I guess that
 23 must be roughly what it is.
 24 Q. Well, do you disagree? Do you disagree
 25 that y'all had gone far enough to come up with a

Page 250

1 number when you were the MDL?
 2 A. We came up with a scoping study number
 3 that would have been a much broader range.
 4 Q. All right --
 5 A. I don't remember it being that high, but
 6 it -- but it would have been some kind of number
 7 and I was -- remembered a number actually around
 8 the one to two million range.
 9 Q. Okay. Did you do any safety -- I guess a
 10 process hazard analysis with regard to putting the
 11 wet/dry drum flare system in?
 12 MR. PATTERSON: Objection, form.
 13 A. I don't remember if we did or not.
 14 Typically, you do a review -- and I don't know if
 15 we formally call it the name -- but you typically
 16 do a review around capital projects once you get
 17 further into developing them.
 18 Q. (BY MR. BOND) Did I ask you -- how much
 19 did it cost for those tie-ins? Do you know?
 20 A. No, you didn't ask me.
 21 Q. How much?
 22 A. I don't remember exactly, but it was
 23 somewhere in the -- a fraction of that -- probably
 24 one, two, maybe \$300,000 or something.
 25 I don't know, exactly.

Page 251

1 Q. Well, two to 300,000 bucks is maybe not
 2 significant to you, but it is kind of significant
 3 to me -- to spend on a system because you want
 4 to -- I mean, you don't want to do it for funzies,
 5 right?
 6 MR. PATTERSON: Objection, form.
 7 Q. (BY MR. BOND) Right?
 8 A. Well -- yeah, I mean --
 9 Q. Okay.
 10 A. You want to spend money wisely.
 11 Q. Okay. Now, you done the turn -- I mean,
 12 the tie-ins.
 13 What -- why did you and David
 14 decide not to continue with the wet/dry drum
 15 system?
 16 A. Well --
 17 MR. PATTERSON: Objection, form.
 18 You can answer.
 19 THE WITNESS: Should I wait until
 20 you --
 21 MR. PATTERSON: No, you can
 22 answer.
 23 Q. (BY MR. BOND) Oh yeah -- I have got to
 24 listen to you both at the same time.
 25 A. No, I was waiting.

Page 252

1 Q. I appreciate that.
 2 A. State your question. I think you said
 3 why is --
 4 Q. Why did y'all --
 5 A. Did you --
 6 Q. -- you not continue it?
 7 A. Why did we not continue it?
 8 Q. Uh-huh.
 9 A. Is -- to me, I think it was still
 10 continued, but it was on hold in line with all the
 11 broad number of projects were considered with Clean
 12 Streams. And it would get started more actively at
 13 the time that it fit in with the -- all the other
 14 Clean Streams projects that were part of the
 15 portfolio that were being looked at.
 16 And so, that's -- I am looking at
 17 one of several projects. And to me, I am not
 18 making the call just on one project. I am letting
 19 them look at it as a program and tell me when it is
 20 in the queue.
 21 Q. Okay. So, basically, you are saying, "I
 22 didn't kill it," right?
 23 A. I didn't kill it.
 24 Q. I was waiting on the Clean Streams
 25 project, the bigger one?

Page 253

1 A. I was waiting on the right timing in the
 2 Clean Streams project to continue development of it
 3 or kill it at that point, but I didn't kill it.
 4 Q. Who was over the Clean Stream project?
 5 A. I think I gave you the name.
 6 Q. David?
 7 A. David Harlan was the one that was kind of
 8 managing the overall Clean Streams. And he had a,
 9 you know, project team that was developing the
 10 different projects and options.
 11 Q. So, would David Harlan be the one that I
 12 would need to go to to find out why the Clean
 13 Stream wasn't done or would you be the man?
 14 A. Clean Stream project for ISOM?
 15 Q. Uh-huh.
 16 A. You would have to check with somebody
 17 after I moved from that area.
 18 Q. All right. So, basically, when you left
 19 the area, you were under the impression that the
 20 Clean Stream project was still going on and the
 21 wet/dry drum -- wet/dry drum project was still
 22 going on?
 23 MR. PATTERSON: Objection, form.
 24 A. I left it as -- we made the tie-ins. It
 25 was on hold to get into the queue to decide what

Page 254

1 was the disposition of it longer term.
 2 Q. (BY MR. BOND) You never killed it, or
 3 never intended to kill it?
 4 A. I didn't --
 5 MR. PATTERSON: Objection, form.
 6 A. I didn't kill the project.
 7 Q. (BY MR. BOND) That's what I am saying.
 8 A. And --
 9 Q. You never --
 10 A. No.
 11 Q. You never killed it and you did not
 12 intend to kill it?
 13 A. I didn't have a longer term intent of
 14 kill, do or hold. Other than hold, I said,
 15 let's -- I'm -- I am willing to let the process
 16 work until -- inform me, as well as everyone else
 17 what's the right thing to do around that project or
 18 any other project.
 19 MR. BOND: Nonresponsive.
 20 Q. (BY MR. BOND) My question is and this is
 21 pretty simple.
 22 You didn't kill the project, did
 23 you?
 24 A. No, I didn't.
 25 Q. You put it on hold?

Page 255

1 A. That's right.
 2 Q. And you didn't intend to kill the
 3 project?
 4 A. No.
 5 Q. Okay. Somebody after you must have
 6 killed it?
 7 A. Must have signed off --
 8 MR. PATTERSON: Objection, form.
 9 Q. (BY MR. BOND) Go ahead.
 10 A. Somebody after me must have signed off
 11 and killed it, if it got killed.
 12 Q. It wasn't you?
 13 A. Not when I was in the role.
 14 Q. Because you thought it was a good
 15 project, right?
 16 MR. PATTERSON: Objection, form.
 17 A. I thought it merited further development
 18 and consideration.
 19 Q. (BY MR. BOND) Well, you thought it was a
 20 good enough project to put \$300,000 into it, right?
 21 A. Obviously. I put \$300,000 in it.
 22 Q. And you thought it was a good enough
 23 project where -- well, even looking back on it now,
 24 you know, after the report, it would have been an
 25 inherently safer system, correct, sir?

Page 256

1 MR. PATTERSON: Objection, form.
 2 A. I don't think that would have provided
 3 the whole system a flare system for the whole ISOM
 4 and things. And what it would have covered and not
 5 covered, I don't know that I had the project
 6 developed well enough to understand that
 7 implication at that time.
 8 Q. (BY MR. BOND) Well, do you think a flare
 9 system -- I think the report alludes to the fact
 10 that a flare system was inherently safer -- was
 11 inherently safer?
 12 A. In general, industry has been moving more
 13 and more to flare systems versus blowdown stacks.
 14 Q. Okay. In fact, it's -- it's been BP's
 15 policy not to put blowdown stacks in, correct, sir,
 16 when there was going to be a change made?
 17 A. (No verbal response.)
 18 Q. Are you aware of that?
 19 A. Yeah. So, if you go forward in most
 20 cases, people are putting flare systems in. And
 21 that is part of what I am saying, the industry
 22 common practice -- practices is -- is to go usually
 23 with more flare systems --
 24 Q. How long --
 25 A. -- is the newer technology.

Page 257

1 Q. How long are you aware that it's been
 2 BP's practice not to put in blowdown drums?
 3 MR. PATTERSON: Objection, form.
 4 A. I don't --
 5 Q. (BY MR. BOND) For years, right?
 6 A. It's been long time, but I don't know.
 7 Q. '92, '93?
 8 MR. PATTERSON: Objection, form.
 9 A. I haven't -- until this operating role, I
 10 haven't been in a role where we have had blowdown
 11 stacks and drums and stuff. So, I don't know.
 12 If you tie it to that, it's only
 13 been a few years; but I know that industry has been
 14 typically moving towards more flares versus
 15 blowdown drums for some time.
 16 Q. (BY MR. BOND) All right. And just so we
 17 are clear, BP has been moving to flare system, not
 18 just blowdown drums, correct, sir?
 19 MR. PATTERSON: Objection, form.
 20 A. Well, my understanding is -- is that, you
 21 know, BP as a part of industry has been moving
 22 more, yes, to flare systems than blowdown drums.
 23 Q. (BY MR. BOND) And that's what they were
 24 actually doing in the wet/dry drum project and the
 25 Clean Streams project, correct, sir?

Page 258

1 MR. PATTERSON: Objection, form.
 2 A. That project, when it was created, was
 3 intended for another specific purpose, and it was
 4 around benzene NESHAP. And so, it was benzene in
 5 the wastewater system.
 6 Q. (BY MR. BOND) Yeah, but you were also --
 7 A. And one of the other systems would have
 8 been, you know, tying in to the flare systems; but
 9 that was not the primary emphasis of Clean Streams
 10 in the program and that project specifically.
 11 Q. I guess just had the added benefit of not
 12 being, you know, having vapor actually burned off
 13 as opposed to having a vapor cloud that explodes,
 14 that was just a little side benefit, I guess, huh?
 15 MR. PATTERSON: Objection, form.
 16 A. You know, in retrospect, looking at the
 17 report, you know, it would have been good to have
 18 something beyond a blowdown stack in those extreme
 19 circumstances that you wouldn't be able to even
 20 anticipate hardly in the -- in the scenarios you
 21 would look on relief systems.
 22 Q. (BY MR. BOND) Are you aware there hasn't
 23 been a relief valve study done on the ISOM unit for
 24 almost 20 years, right?
 25 MR. PATTERSON: Objection, form.

Page 259

1 A. I don't know the timeframe the unit was
 2 repurposed from a previous service to an ISOM unit.
 3 I don't know if it's 20 years or 10 years or what;
 4 but it's been an extended period.
 5 And then, you look at changes you
 6 make to the system and decide if -- warrant if it
 7 needs a full, you know, relief valve study or some
 8 subset of that.
 9 Q. (BY MR. BOND) When it is your opinion
 10 that OSHA requires a relief study to be done?
 11 MR. PATTERSON: Objection, form.
 12 A. My opinion is when you make a major
 13 repurpose of service or if you make a major change
 14 in the kind of operation that you have at that
 15 facility or an extent from what you were running it
 16 for, you know, prior to that.
 17 Q. (BY MR. BOND) How about if you change
 18 out the blow -- blowdown drum? Do you think a
 19 relief valve study should be done then?
 20 MR. PATTERSON: Objection, form.
 21 A. If you take a blowdown drum out, you
 22 probably would have had a flare system as the
 23 back -- as the replacement system.
 24 Q. (BY MR. BOND) And because BP -- that's
 25 one of BP's things.

Page 260

1 They expect you to do that, right?
 2 MR. PATTERSON: Objection, form.
 3 A. Expect me to do what?
 4 Q. (BY MR. BOND) Well, not you
 5 specifically --
 6 A. Okay.
 7 Q. -- but the person in charge --
 8 A. Okay.
 9 Q. When -- when you take out a blowdown
 10 drum, they expect you to put a flare system in,
 11 right?
 12 MR. PATTERSON: Objection, form.
 13 A. Well, you would look at what's the proper
 14 relief system and my guess is, in that case, it
 15 would be a flare system as the replacement for a
 16 blowdown drum.
 17 Q. (BY MR. BOND) Okay.
 18 A. But I am not the one doing the study. I
 19 don't know the details of it and how that would be
 20 tied into different systems, but you would need to
 21 have a capable relief system in place. If it
 22 wasn't a blowdown drum, it would have to be
 23 something else.
 24 Q. Okay. And well, yeah, as you know, BP
 25 policy is not to have blowdown drums, right?

Page 261

1 MR. PATTERSON: Objection, form.
 2 Q. (BY MR. BOND) Right, sir? We have
 3 talked about that a little bit earlier?
 4 MR. PATTERSON: Same objection.
 5 A. As I understand it, BP does have blowdown
 6 drums in place; and that over time, you know, those
 7 would be replaced with flare systems and things.
 8 Q. (BY MR. BOND) All right. And --
 9 A. And clearly, out of the investigation the
 10 report and in retrospect in reading through that,
 11 is there was a clear intent to replace the blowdown
 12 drums with vent stacks.
 13 Q. If they put a blowdown drum in place of a
 14 flare system against their own policy, that is
 15 pretty much a knowing violation of their own
 16 procedures, correct, sir?
 17 MR. PATTERSON: Objection, form.
 18 A. State your question, again.
 19 Q. (BY MR. BOND) Sure. And again, some of
 20 my questions just are horrible.
 21 A. That's all right.
 22 Q. I read them back and I am going, "Oh, I
 23 can't believe I asked that question."
 24 A. Yeah.
 25 Q. Now, as we discussed, BP had procedures

<p style="text-align: right;">Page 262</p> <p>1 and regulations, requirements, that blowdown drums 2 not be put back in if they were going to be 3 replaced, correct, sir? 4 MR. PATTERSON: Objection, form. 5 A. As I recall is -- is that anytime you 6 have a major change in a system, including a 7 blowdown system is -- for blowdown systems and 8 things, you need to re-evaluate your relief system 9 and see if that's still adequate or if it needs to 10 be replaced. 11 Q. (BY MR. BOND) Okay. And, in fact, if 12 you are going to switch out the blowdown drums, you 13 shouldn't do that. 14 You should just go ahead and put a 15 flare in, correct, sir? 16 MR. PATTERSON: Objection, form. 17 Q. (BY MR. BOND) By BP's own policy? 18 MR. PATTERSON: Objection, form. 19 A. I don't know the answer to that. 20 I don't know what our policy is. 21 I would have to look at it. 22 Q. (BY MR. BOND) You are not sure -- 23 A. And what it was then. 24 Q. You are not sure -- 25 A. I have in the past.</p>	<p style="text-align: right;">Page 264</p> <p>1 restate the question. 2 Q. Let's -- let's say, for instance -- 3 A. Fault? I mean, who makes the 4 interpretation of the policy? 5 Q. Well, if -- if an open to the air 6 blowdown drum or blowdown stack is put in -- 7 A. Yeah. 8 Q. And my question is: As opposed to a 9 flare system, who was -- whose fault is that? Who 10 makes that call, I guess, is a better way to put 11 it? 12 A. Okay. So, the person that would 13 interpret the policy would be our process safety 14 people at the site, along with the engineers that 15 would do the evaluation. 16 Q. All right. 17 A. And they would make recommendations on 18 how we go from there. 19 Q. And you also indicated that a relief 20 valve study should be done, according to OSHA, when 21 there is major modifications? 22 A. No, I gave you my opinion -- 23 Q. Okay. 24 A. -- of -- of what I probably thought and 25 then what is the actual, I can't say that I have</p>
<p style="text-align: right;">Page 263</p> <p>1 Q. I am sorry. We are interrupting each 2 other. 3 A. So, the policy I would -- you know, you 4 are stating policy, you know, and me -- I would 5 have to go back and look at that policy and then 6 say what it actually states. I don't want to 7 misrepresent what our policy actually is. 8 Q. Okay. Well -- and open to the air 9 blowdown drums, if they are to be replaced should 10 be replaced by flare systems, correct, sir? 11 MR. PATTERSON: Objection, form. 12 A. Typically, I would think they are 13 replaced by flare systems. 14 Q. (BY MR. BOND) Okay. 15 A. I don't know what our policy says around 16 that. 17 Q. Okay. And if that's not done, that is 18 not the operator's fault, right? 19 A. If the -- they wouldn't be the one that 20 would making the system on what the replacement is. 21 Q. Whose fault would that be? Would that be 22 the MDL? 23 MR. PATTERSON: Objection, form. 24 Q. (BY MR. BOND) Or higher up? 25 A. Well, I -- I don't look -- I guess it's</p>	<p style="text-align: right;">Page 265</p> <p>1 read it here in the last year or so. 2 Q. Okay. 3 A. Being away from the site to quote you 4 what it says. 5 Q. Would you think adding a relief -- and I 6 am just going to go with your opinion then, since 7 we are not talking about -- because you are -- 8 A. Okay. 9 Q. As an MDL man for BP, I am just asking -- 10 A. Away from the role for two years... 11 Q. Well, you know, a lot -- 12 MR. PATTERSON: Wait for his 13 question, please. 14 THE WITNESS: Okay. 15 Q. (BY MR. BOND) That was your job, right? 16 A. At that time. 17 Q. Okay. I am going to ask your opinion as 18 an MDL, a person who worked there, I think, in last 19 August, 2004. Okay? 20 A. Correct. 21 Q. Would it be a major modification to add a 22 relief valve to the system -- 23 MR. PATTERSON: Objection, form. 24 Q. (BY MR. BOND) -- that would vent more 25 liquid or vapor into the blowdown stack?</p>

Page 266

1 A. Would it be a major modification?
 2 Q. Yes, sir.
 3 A. It would take some planning. It would
 4 take some time, and you would have to do some
 5 engineering and development work to set --
 6 Q. So --
 7 A. -- set it up to be able to do that.
 8 Q. So, is that a "yes," it would be a major
 9 modification?
 10 MR. PATTERSON: Objection, form.
 11 A. It would be a reasonably, yeah, entailed
 12 modification.
 13 Q. (BY MR. BOND) How about if you are going
 14 to add two relief valves to the system?
 15 A. Are you saying --
 16 MR. PATTERSON: Objection, form.
 17 A. -- relief valves or systems? I am sorry.
 18 I'm not.
 19 Q. (BY MR. BOND) I meant two relief valves
 20 that's going -- going to allow liquid and vapor
 21 into the blowdown.
 22 A. Okay. Relief valves are not really that
 23 entailed --
 24 Q. Okay.
 25 A. -- on replacing that. I misunderstood

Page 267

1 your question.
 2 Q. That's okay.
 3 A. I thought you said relief systems. So...
 4 Q. Okay.
 5 A. Okay. Relief valves, if you replace them
 6 in kind is -- is not that -- and you just need to
 7 get another one to replace them with and put it in
 8 the system.
 9 Q. Do you think you need a -- is that a
 10 major modification?
 11 A. Not a major modification. Usually, you
 12 have to shut the facility down, make the tie -- you
 13 know, go ahead and put the new relief valve system
 14 in and then start it back up.
 15 Q. Okay. I'm not -- now, I'm not -- I want
 16 you to be -- I am not talking about changing out
 17 the current relief valve. I am talking about
 18 adding to.
 19 A. Okay. Well, that's a little different
 20 then.
 21 Q. Okay.
 22 A. I am trying to understand your questions.
 23 Q. Go ahead. I am talking about adding to.
 24 Adding another relief valve, is that -- adding two
 25 relief valves, is that a more modification to the

Page 268

1 system?
 2 MR. PATTERSON: Objection, form.
 3 A. It depends where they are, the size they
 4 are, what they are around, how congested it is, but
 5 it does -- it does take some, you know, engineering
 6 calculations, sizing and some -- and some planned
 7 downtime in most cases, you know, to make, you
 8 know, RV tie-ins like that.
 9 Q. (BY MR. BOND) And you would expect a
 10 relief valve study, sir, wouldn't you?
 11 MR. PATTERSON: Objection, form.
 12 A. What do you mean?
 13 Q. (BY MR. BOND) Would you expect, you know
 14 -- you hadn't done one -- a relief valve analysis
 15 or whatever -- that you hadn't done for 20 years,
 16 you would expect one to be done when there is a
 17 major modification, wouldn't you?
 18 MR. PATTERSON: Objection, form.
 19 A. So, I wasn't there for 20 years.
 20 Q. (BY MR. BOND) I understand.
 21 A. I don't know what all was done, okay, on
 22 RV studies; but what you do is, anytime you made a
 23 major change in the system -- and major would have
 24 to be evaluated by somebody engineering wise -- you
 25 would want to look at your relief systems.

Page 269

1 Q. And if that's not done, do you believe
 2 that's a knowing violation of OSHA regulations?
 3 MR. PATTERSON: Objection, form.
 4 A. I don't know the answer to that.
 5 Q. (BY MR. BOND) Give me your best guess.
 6 MR. PATTERSON: Objection, form.
 7 A. It -- I think it's all in -- the
 8 regulation probably calls for anytime you make a
 9 major change. And so, my opinion would be -- is
 10 that if you made a major change, then you should
 11 do, you know, an RV study. If it wasn't a major
 12 change, it was deemed not to be, then maybe it
 13 doesn't -- it isn't required.
 14 Q. (BY MR. BOND) And if it's a major change
 15 and an RV study was not done, then it's a knowing
 16 violation of OSHA, in your opinion?
 17 MR. PATTERSON: Objection, form.
 18 A. In my opinion, I would -- I don't know
 19 how to answer if it is a violation or not. In
 20 my --
 21 Q. (BY MR. BOND) In your opinion?
 22 A. Would I like to have it?
 23 Yes, I would like to have it.
 24 Q. I'm just talking --
 25 A. Is it a requirement?

Page 270

1 I don't know.
 2 Q. In your opinion, is it a knowing
 3 violation of OSHA?
 4 MR. PATTERSON: Objection, form.
 5 Q. (BY MR. BOND) Just your opinion?
 6 A. In my opinion, maybe.
 7 Q. All right.
 8 A. How is that?
 9 Q. That's --
 10 A. I am saying, I don't know.
 11 Q. I understand, but you're -- you have been
 12 an MDL?
 13 MR. PATTERSON: If the answer is
 14 "you don't know," the answer is "you don't know."
 15 Next question.
 16 MR. BOND: If you know, you know.
 17 THE WITNESS: Sorry.
 18 MR. BOND: I don't know, let's
 19 work a little bit harder and get the answer. No,
 20 I'm joking.
 21 MR. PATTERSON: Let's just not ask
 22 it three more times.
 23 Q. (BY MR. BOND) All right. In the past
 24 ten years -- well, first of all, were there any
 25 major modifications to the ISOM unit while you were

Page 271

1 the MDL?
 2 A. Major modifications. No. We just pretty
 3 much ran the same capacity at the facility as we
 4 typically would; and no, there weren't any major
 5 modifications.
 6 Q. Were there any process lines added to the
 7 blowdown drum?
 8 A. Not that I remember --
 9 Q. Okay.
 10 A. But that might have been.
 11 Q. Okay. Do you know how many -- how
 12 much -- how many process lines the blowdown drum
 13 was designed for?
 14 A. No.
 15 Q. Okay. If it was designed for one, but
 16 then -- now, it had three, don't you think it might
 17 be time for a relief valve study?
 18 MR. PATTERSON: Objection, form.
 19 A. I think it would be all in what the
 20 relief system scenario said would be the volume
 21 would be going -- how many lines going in. I don't
 22 know if it weighs into it or not --
 23 Q. (BY MR. BOND) Okay.
 24 A. -- and that would be something, you know,
 25 an engineer or someone would figure out.

Page 272

1 Q. How much authority, money-wise, do you
 2 have? What I am asking is: When do you have to
 3 pick up the phone to call somebody about a capital
 4 investment?
 5 A. I used to know that number, but I don't
 6 know it anymore. I -- my guess is it's -- it's a
 7 few million.
 8 Q. All right. Now, how does --
 9 A. Maybe 1 million. A million or higher. I
 10 don't know the number.
 11 Q. 5 million, 10 million?
 12 A. No, it's not anything like that. No.
 13 Q. Okay. You have to pick up the phone over
 14 a million, you think?
 15 A. Probably.
 16 Q. Okay. I'm -- that's a rough. If it's
 17 2 million, I am going to say okay.
 18 A. Yeah, and it's more informing people of
 19 what we are doing.
 20 Q. All right.
 21 A. Not necessarily, you know --
 22 Q. Now, you --
 23 A. -- formal.
 24 Q. As the MDL, and correct me if I'm wrong,
 25 you are going to get a certain allotment of how

Page 273

1 much money you can spend?
 2 MR. PATTERSON: Objection, form.
 3 Q. (BY MR. BOND) Or not?
 4 A. And so, what we do -- I don't know how to
 5 answer that one but what we do is -- is we create
 6 budgets and then, you know, those are multi-year
 7 budgets, as well as annual budgets. And then, we
 8 use those as guidelines of what we anticipate
 9 spending the following year.
 10 Q. And that's for capital investments?
 11 A. For capital investments, it's more done
 12 on the Texas City refinery as a whole and that --
 13 which is a group of projects. And then, those
 14 group of projects add up to a capital budget
 15 number.
 16 Q. So, you have the capital investment
 17 budget.
 18 And do you have the maintenance
 19 budget that are kind of separate and apart?
 20 A. Yes.
 21 So, we have a maintenance budget
 22 that is separate.
 23 Q. Okay. Tell me the different budgets you
 24 have. Maintenance budget?
 25 A. You have a maintenance budget, a capital

Page 274

1 budget, an operating budget and those are kind of
 2 the three major areas.
 3 And then, those are components
 4 that roll up into an overall Texas City refinery
 5 budget. So, it's managed as a whole refinery
 6 business.
 7 Q. Okay. And how do you determine the
 8 capital budget for something like the ISOM unit?
 9 A. So, the capital budget is what are all
 10 the opportunities that you would see as capital
 11 projects.
 12 Q. And you keep using the word
 13 "opportunities," but it's really necessities,
 14 right?
 15 MR. PATTERSON: Objection, form.
 16 A. No, it's not.
 17 Q. (BY MR. BOND) Well, tell me where
 18 opportunity versus necessity -- because I mean, you
 19 don't want to spend money where it's not necessary,
 20 right?
 21 A. Right.
 22 Q. Okay. You want to spend money only when
 23 it's necessary, right?
 24 A. No, that's not true.
 25 Q. Okay. Tell me where I am wrong.

Page 275

1 A. So, what you would have is you would have
 2 a group of projects that you would want to do for
 3 sustaining investment. You would also have maybe
 4 some expansion projects or growth type projects
 5 that you would want considered on the ISOM unit or
 6 any unit inside the refinery.
 7 Q. So --
 8 A. And --
 9 Q. -- what we are differentiating between is
 10 opportunity where you are expanding versus
 11 necessary where you have got to fix stuff that you
 12 already have?
 13 MR. PATTERSON: Objection, form.
 14 A. Yeah. So, what you would like to have
 15 is -- is -- what you do is you put your money where
 16 you have to and want to, you know, sustain the
 17 operation and things.
 18 And then, money that's over and
 19 above that, you know, you would be considering that
 20 for growth opportunity type projects and things,
 21 commercial projects, whatever else; but your base
 22 projects are those that are to sustain and maintain
 23 the assets.
 24 Q. (BY MR. BOND) All right. So you had --
 25 and that's the capital budget, right? Or is that

Page 276

1 all the budgets?
 2 A. That's the capital budget I was referring
 3 to, yeah.
 4 Q. Maintenance budget? Same thing?
 5 A. The maintenance budget you would -- yeah,
 6 you would -- it wasn't really like you looked at
 7 maintenance as an opportunity for commercial
 8 development projects or anything. It was more to
 9 sustain and maintain the assets in a -- in a -- in
 10 a good operating order.
 11 Q. Would that be necessary or would there be
 12 opportunities there? And you see where I am
 13 differentiating between necessary versus
 14 opportunity?
 15 A. Yeah. So, what you would -- I would look
 16 at -- I didn't really make that kind of
 17 distinction. I would look at what I need to do to
 18 run this site reliably and safely and then that's
 19 what I would invest in the maintenance budget, you
 20 know, myself, along with my superintendents as we
 21 put our budgets together.
 22 Q. Okay. Let's go back to capital. Capital
 23 budget? You tell me the things that you looked at.
 24 You said that -- opportunities for expansion,
 25 right?

Page 277

1 A. So, you would look at -- over a site, so
 2 what you would look at is you would look at
 3 sustaining type projects and growth type projects.
 4 And sustaining would cover several
 5 things. It would be environmental projects, safety
 6 projects, just sustaining investments at, you know,
 7 replacement of equipment, that type of thing, over
 8 time. What's -- what's the point where you would
 9 replace it versus maintain it and that type of
 10 thing.
 11 And then the growth opportunities
 12 could be just about anything across the site. It
 13 would be expanding an operating unit or in the case
 14 of one of our -- one of the units I had, AU2, we
 15 did an expansion. We increased the size of the
 16 operating unit, the capacity that it ran.
 17 Q. Do these two subdivisions have a
 18 different budget amount for each one?
 19 A. You would find -- overall for the
 20 refinery, you would find the sustaining ones. And
 21 then, the growth ones would be the ones over and
 22 above that, if you had funding available.
 23 Q. Okay. The sustaining ones -- so, you had
 24 a set amount that you had.
 25 Would they just allot you a

Page 278

1 certain amount?
 2 A. Well, you would put in what you thought
 3 it would be for the following year.
 4 Q. Okay.
 5 A. And then, whatever it actually worked out
 6 is what it actually worked out. If it was higher,
 7 then you had to allocate more to it. If it was
 8 lower, then you had to add more to other
 9 opportunities.
 10 Q. What would the wet/dry drum, slash,
 11 blowdown stack -- I mean, wet/dry drum, slash,
 12 flare system -- would that be in the sustaining
 13 budget or would that be in the growth budget?
 14 MR. PATTERSON: Objection, form.
 15 Q. (BY MR. BOND) Or that's a capital
 16 improvement?
 17 Tell me what it is first.
 18 A. Okay. So, for me, it was part of -- I
 19 wouldn't call it sustaining. I would call it an
 20 environmental project. And so, what I was looking
 21 at that was Clean Streams. "How do we minimize
 22 hydrocarbon in the wastewater stream?" So, it was
 23 environmental.
 24 And even within sustaining and
 25 those types projects, we would break them into, you

Page 279

1 know, different categories and things.
 2 Q. So, this project wasn't looked at from
 3 safety at all or was it?
 4 MR. PATTERSON: Objection, form.
 5 A. It was -- the intent that I was looking
 6 at it was an environmental project.
 7 Q. (BY MR. BOND) That's not my question.
 8 My question was: Did you ever do a safety analysis
 9 with this project?
 10 MR. PATTERSON: Objection, form.
 11 A. No, we didn't. I didn't.
 12 Q. (BY MR. BOND) Okay. So, you never
 13 looked at safety at all on this project?
 14 MR. PATTERSON: Objection, form.
 15 A. What I looked at on that -- the safety
 16 that I looked at on this project was minimizing
 17 personnel exposure to the hydrocarbons itself in
 18 the maintenance drums and that type of thing. So,
 19 it's personnel safety exposure.
 20 Q. (BY MR. BOND) And that's kind of -- you
 21 hit the nail on the head.
 22 You were looking at it to minimize
 23 exposure to people with hydrocarbons, right?
 24 Right?
 25 A. Yes.

Page 280

1 Q. Okay. But in this case, when you have a
 2 bigger release, you are going to have more
 3 hydrocarbons exposed to people, correct, sir?
 4 A. Well, it depends where the release is and
 5 that -- yes, you could.
 6 Q. Okay. So, this project, ultimately, was
 7 to decrease or to minimize peoples, workers,
 8 contact with hydrocarbons, correct, sir?
 9 A. No, the primary intent of this project
 10 was an environmental project of getting benzene out
 11 of the wastewater stream, which this was not a
 12 benzene stream -- rich stream. A secondary benefit
 13 with this would be -- is minimize the amount of
 14 time you took up temporary hoses other things into
 15 the systems to allow you to, you know, minimize
 16 personnel exposure to hydrocarbons at the time that
 17 they are preparing equipment for maintenance or
 18 turnaround.
 19 MR. BOND: Okay. We've got to
 20 stop, Guys.
 21 THE WITNESS: Okay.
 22 MR. BOND: Take a quick
 23 five-minute break.
 24 THE VIDEOGRAPHER: Off the record
 25 at 4:49 p.m., ending Tape 5.

Page 281

1 (Recess taken.)
 2 THE VIDEOGRAPHER: On the record,
 3 4:56 p.m., beginning Tape 6.
 4 Q. (BY MR. BOND) I want to go back to the
 5 sustaining versus -- I lost my spot -- sustaining
 6 versus -- what did you say?
 7 A. Environmental projects --
 8 Q. There you go.
 9 A. -- and things like that, yeah.
 10 Q. Sustaining, now, would this -- I know you
 11 said this would be an environmental project but and
 12 you keep saying, well, there was still benzene that
 13 would be going into the sewer and atmosphere,
 14 correct, sir?
 15 A. In this ISOM, what you are doing is you
 16 are separating the hydrocarbon from the ARU.
 17 Q. Uh-huh.
 18 A. So, you are getting most of the benzene
 19 and -- and other aromatics out of it and you are
 20 bringing this other hydrocarbon stream over to the
 21 ISOM process so it's very lean in the amount of
 22 benzene it has. So, it's not -- its not -- it's
 23 real --
 24 Q. Well, most --
 25 A. It's not much in there.

Page 282

1 Q. Most ain't all.
 2 So, there is still benzene being
 3 vented to the atmosphere, correct, sir?
 4 A. Well, there is -- there is a piece --
 5 there is some, even in small amounts, and I
 6 couldn't even venture to tell you how much is in
 7 there; but it's very small amount of benzene. It's
 8 a fraction in the stream.
 9 Q. And there is still benzene going into the
 10 sewers, correct, sir?
 11 A. There is benzene going into the
 12 hydrocarbon recovery system.
 13 Q. Okay. Now, this -- I know you said it
 14 was an environmental project, but this is what is
 15 calling a sustaining project, right?
 16 A. Well, how it was actually classified, you
 17 know, on our -- on our, you know, documents that we
 18 would create about funding and moving it to
 19 different, you know, levels, I don't know what it
 20 exactly said on there. But I think one of the
 21 categories if I remember was environmental. It was
 22 an environmental project.
 23 Q. Okay.
 24 A. And I don't know if sustaining was
 25 another one that would have been listed with it or

Page 283

1 not; but I call it a sustaining project around
 2 environmental.
 3 Q. Okay. But it's not a moneymaker?
 4 MR. PATTERSON: Objection, form.
 5 A. Moneymaker.
 6 What do you mean by "not a
 7 moneymaker"?
 8 (Brief interruption.)
 9 (Discussion off the record.)
 10 MR. PATTERSON: Now, we are back
 11 on the record. Why don't you restart that answer.
 12 A. Yeah.
 13 So, I didn't see it as a
 14 profit-making type project, profit improvement
 15 project.
 16 Q. (BY MR. BOND) That's a better way to say
 17 it.
 18 A. Okay.
 19 Q. Do you know who John Browne is?
 20 A. Yes, I know John -- who John Browne is.
 21 Q. Who is he?
 22 A. He is the CEO --
 23 Q. Okay.
 24 A. -- of BP Corporation.
 25 Q. All right. Sir, how about Ross -- well,

Page 284

1 you're Richard Peltier.
 2 How about Mike Hoffman?
 3 A. Yes.
 4 Q. Who is he?
 5 A. He is the group vice president for
 6 refining.
 7 Q. He is what?
 8 A. Group vice president for refining.
 9 Q. Okay. Where is his office?
 10 A. It is in -- in London.
 11 Q. Have you ever met him?
 12 A. Which one?
 13 Q. Either one.
 14 A. Yeah, I have met both of them.
 15 Q. Okay. Didn't go out and have drinks?
 16 Just met him, though, right?
 17 A. I know who Mike Hoffman is, and I have
 18 met Browne just a couple of times.
 19 Q. I'm just saying you don't really have a
 20 personal relationship? You know him --
 21 A. Oh --
 22 Q. -- and you met him a couple of times?
 23 A. Not a real close personal relationship.
 24 Q. I was trying to be a little funny.
 25 A. I am sorry. I am pretty serious today.

Page 285

1 Q. I understand that.
 2 Do you know Ross Pillari?
 3 A. Ross Pillari?
 4 Q. Pillari?
 5 A. Yes.
 6 Q. Who is that?
 7 A. He is vice president of North America or
 8 the Americas, one or the other, for BP.
 9 Q. All right. Now, you have got to set
 10 budget for sustaining growth and I guess
 11 environmental, too, right?
 12 A. Well, what you have is a group of
 13 projects that make up a budget and just some of the
 14 components of that budget are in those areas; but
 15 you don't -- I didn't really manage it between, you
 16 know, it had to be this dollar amount for each one
 17 of those. It was just -- here is how the project
 18 is rolled up and what kind of categories they fell
 19 in.
 20 Q. Well, what I mean is you have a certain
 21 amount of dollars but you have got expenditures
 22 that you have got to make, too, right?
 23 A. On capital budget?
 24 Q. Uh-huh.
 25 A. What you had was a budget for the

Page 286

1 refinery --
 2 Q. Uh-huh.
 3 A. -- and then, within that budget, you had
 4 budgets within the -- in broader area, but most of
 5 the capital was managed at the refinery level.
 6 Q. Okay. So, basically, what you have got
 7 to do is kind of do a cost benefit analysis on your
 8 capital improvements, right? And maintenance, for
 9 that matter?
 10 A. So, what you -- well, I don't know if
 11 it's cost -- yeah, cost benefit is probably
 12 reasonable. You would look at it and say, "What is
 13 the benefit I am getting out of it?"
 14 Q. Okay. And because you only have a
 15 certain amount. A lot of times, I guess, in the
 16 plant, they may give you a hundred dollars but you
 17 have to fix \$150 worth of stuff. And so, well,
 18 what's really necessary versus what's an
 19 opportunity, right?
 20 MR. PATTERSON: Objection, form.
 21 Q. (BY MR. BOND) Is that a fair statement?
 22 A. So, what we would do is we would
 23 prioritize the ones we wanted to spend the money
 24 on. And then, we would spend the money on those as
 25 our primary ones.

Page 287

1 Q. Okay.
 2 A. If things came up unexpected over and
 3 above that, then those would, if there were
 4 critical and had the same priority, they would fund
 5 those as well.
 6 Q. What if they were not critical or you
 7 didn't perceive them as being critical? Then they
 8 just wouldn't be funded?
 9 A. I mean, when I say "critical," I --
 10 probably a better word is what are the higher
 11 priority ones that we think whatever those criteria
 12 are that we are looking at.
 13 Q. Okay. So, when you -- when y'all did the
 14 cost benefit analysis on the wet/dry drum project
 15 and the Clear Stream project, at that point in
 16 time, the benefits didn't outweigh the cost?
 17 MR. PATTERSON: Objection, form.
 18 A. So, at that time I funded tie-ins and I
 19 said the benefit was still undefined, but I am
 20 willing to spend \$300,000 on it as we develop it
 21 further to have the opportunity to make the tie-ins
 22 during this turnaround.
 23 Q. (BY MR. BOND) How long would it be to
 24 find -- it benefits to do the study, though, right,
 25 to do a process hazard analysis?

Page 288

1 MR. PATTERSON: Objection, form.
 2 A. No. What you would do is you would look
 3 at what the intent of the project is and then say,
 4 "Based on that intent, what is the benefit and how
 5 does that fit in with the priorities of others that
 6 had good benefits as well?"
 7 Q. (BY MR. BOND) Okay. And when you looked
 8 at it, you felt at this point in time, in January
 9 or February, 2003, the benefits did not outweigh
 10 the cost?
 11 MR. PATTERSON: Objection, form.
 12 Q. (BY MR. BOND) You and David and whoever
 13 else made the call?
 14 A. So, what I'd -- I would have done, and I
 15 don't remember the exact timing, is sometime in the
 16 fourth quarter, I would have made the decision to
 17 make the tie-ins so that that actually the
 18 engineering could get done and the tie-ins could
 19 get made in January/February of that following
 20 year.
 21 And I, at that time, don't
 22 remember all the rationale of what went into that
 23 decision other than I thought it had enough benefit
 24 we should continue to look at it. And to continue
 25 that opportunity, we needed to make tie-ins -- if

Page 289

1 we wanted to do it, you know, at some later point.
 2 Q. You thought it was good enough to spend
 3 \$300,000 on a plant -- on a unit that only makes
 4 20, \$30,000 a day, right?
 5 A. I saw it was -- \$300,000 was a good
 6 investment at that time.
 7 Q. How much of that is -- how much of that
 8 would be your budget?
 9 A. There --
 10 MR. PATTERSON: Objection, form.
 11 Q. (BY MR. BOND) The capital budget?
 12 A. So, the capital budget would have been
 13 site wide. I don't know what it was in -- what
 14 year would that be -- 2003.
 15 Turnarounds, a lot of those are
 16 capitalized as well. That turnaround I had
 17 somewhere in the seven or eight million-dollar
 18 range, but it was a budget overall for the site.
 19 My guess is maybe a couple hundred million dollars
 20 or so, one to 200 million, guessing. You would
 21 have to go back. I am sure you could find that if
 22 you needed it.
 23 Q. Sure. I will.
 24 And you left in August, 2004 --
 25 when did you leave the --

Page 290

1 A. My role as MDL was completed in August,
 2 2004.
 3 Q. Okay. When did you place the wet/dry
 4 drum project on hold?
 5 A. It would have been sometime after the
 6 turnaround. And I don't know that I formally said,
 7 "It's on hold." I just said it's in a holding
 8 pattern until we decide, you know, if we are going
 9 to fund it or -- or what with the project.
 10 Q. When would that have been, roughly?
 11 A. Sometime after the first quarter of 2003
 12 and before August of 2004. I don't know that I
 13 made any firm decision this is -- I am going put it
 14 on hold. It's just we didn't do further
 15 development after some point. I said let's get the
 16 tie-ins and then you guys tell me the
 17 prioritization of how it fits. That's all I
 18 remember.
 19 Q. Okay. And one of the reasons -- well,
 20 even if it cost a nickle, y'all still couldn't have
 21 gone forward, correct, because y'all didn't do a
 22 relief valve study? Do you know that?
 23 MR. PATTERSON: Objection, form.
 24 A. Say --
 25 Q. (BY MR. BOND) Sure.

Page 291

1 A. It's out of context. I didn't
 2 understand.
 3 Q. Oh, that's all right. Sometimes I do
 4 that.
 5 The blowdown -- the blowdown --
 6 the wet/dry drum and the Clean Streams project,
 7 y'all couldn't have done it because there was no
 8 relief valve study done, correct?
 9 MR. PATTERSON: Objection, form.
 10 A. I don't know. I didn't -- I wasn't
 11 involved with the analysis of it to say what all it
 12 needed to do to actually put it in -- once, you
 13 know, engineering would have been completed.
 14 That's what I -- the engineers would come back and
 15 say, "Here's what we need to do."
 16 Q. (BY MR. BOND) If BP put a blowdown
 17 drum -- replaced the ISOM blowdown drum with
 18 another blowdown drum in 1997, do you believe that
 19 would have been against British Petroleum policy?
 20 MR. PATTERSON: Objection, form.
 21 A. I don't really know. I don't have a real
 22 specific opinion on it either because I --
 23 Q. (BY MR. BOND) Give me your opinion --
 24 A. -- haven't thought of it.
 25 Q. -- as the MDL.

Page 292

1 A. My guess is they would have -- so, tell
 2 me a little bit more about what was done in '97, so
 3 I understand.
 4 Q. I am asking you, hypothetically.
 5 A. Okay.
 6 Q. If BP had changed out the ISOM blowdown
 7 drum for another blowdown drum, would that have
 8 been against British Petroleum policy?
 9 MR. PATTERSON: Objection, form.
 10 Q. (BY MR. BOND) In your opinion?
 11 A. Okay. I don't know.
 12 Q. As the MDL, you don't know?
 13 A. No, and I wasn't here in '97.
 14 Q. Okay.
 15 A. And I don't know what the policy was in
 16 '97.
 17 Q. And you don't know why it took 20 years
 18 over 20 years -- almost 20 years to do a relief
 19 valve study? You don't have an opinion about that
 20 either?
 21 MR. PATTERSON: Objection, form.
 22 A. And I -- my guess is -- is that, you
 23 know, were there any major changes that were made
 24 over that period that required or suggested that we
 25 needed a -- a, you know another relief valve study.

Page 293

1 I don't know.
 2 Q. (BY MR. BOND) Assuming there was major
 3 changes done, don't you think it's conscious
 4 indifference not to do a relief valve study?
 5 A. I don't know what conscious indifference
 6 means but --
 7 Q. Just normal -- what do you think it
 8 means?
 9 MR. PATTERSON: Objection, form.
 10 A. I don't know. I don't.
 11 Q. (BY MR. BOND) I mean, I don't care --
 12 A. I haven't heard that before.
 13 Q. Okay. Well, what do you think?
 14 A. State your question, again --
 15 Q. Sure.
 16 A. -- to make sure I understand.
 17 Q. Do you think if there were major changes
 18 done to the ISOM unit, do you believe it would be
 19 conscious indifference not to do a relief valve
 20 study?
 21 A. I think if -- if -- if we believed that a
 22 relief valve study would have been needed, we would
 23 have done one.
 24 Q. Okay.
 25 A. And I -- I am on the basis that we didn't

Page 294

1 think one needed to be done, I guess.
 2 Q. At some point there has to be some
 3 accountability, doesn't there?
 4 MR. PATTERSON: Objection, form.
 5 A. That's a very general statement.
 6 Q. (BY MR. BOND) I know.
 7 A. Accountability around?
 8 Q. Well, I mean, you hear, "Well, I don't
 9 know about a relief valve study. I don't know
 10 about this blowdown drum. I don't know about the
 11 wet/dry, you know, wet/dry drum or the clear stream
 12 project" --
 13 A. Well, I don't know that I said that or
 14 if --
 15 MR. PATTERSON: Wait, wait. Wait
 16 for him to finish --
 17 THE WITNESS: Okay.
 18 MR. PATTERSON: -- his question so
 19 I can make my objection and you can answer it to
 20 the extent there is a question.
 21 THE WITNESS: Okay.
 22 MR. BOND: You can feel free to
 23 talk any time.
 24 Q. (BY MR. BOND) Who is ultimately
 25 accountable? When you were the MDL, who is your

Page 295

1 boss?
 2 MR. PATTERSON: Object to the
 3 question form. Objection to the sidebar comment.
 4 You can answer that last part.
 5 A. My immediate supervisor in that timeframe
 6 was Rick Hale.
 7 Q. (BY MR. BOND) And who was his immediate
 8 supervisor?
 9 A. Don Parus.
 10 Q. So, you were the third -- you were pretty
 11 high up at the -- as an MDL, you are fairly -- you
 12 are high up at the Texas City site, correct?
 13 MR. PATTERSON: Objection, form.
 14 A. I felt I had an important position.
 15 Q. (BY MR. BOND) Okay. Now, who reported to
 16 you?
 17 A. In the line -- you want to know all my
 18 direct reports or in --
 19 Q. Who reported --
 20 A. Or in the one area towards the ISOM and
 21 that area?
 22 Q. The ISOM and that area.
 23 A. Okay. So, when I moved into that role,
 24 my direct report in that area was Mark Risinger and
 25 he was the superintendent over three units there.

Page 296

1 And then, after a period of time,
 2 he moved into another role and Ray Hawkins replaced
 3 him as the superintendent for four units in that
 4 area. One had started up in -- in the 2003
 5 timeframe. Okay?
 6 Q. Okay. And just so we are clear, safety's
 7 top -- starts from the top, right?
 8 A. Safety is always important to start from
 9 the top.
 10 Q. It always starts from the top, right? It
 11 has to.
 12 A. It's important to start from the top.
 13 Q. And it can't start -- it's impossible to
 14 start from the bottom, right?
 15 A. No, that is not true.
 16 Q. To start from the bottom? Am I going to
 17 tell you -- if I am working for you, I am going to
 18 tell you what you need to do --
 19 MR. PATTERSON: Objection, form.
 20 Q. (BY MR. BOND) -- and you are going to
 21 listen?
 22 A. I think each individual has a role in
 23 their own safety and things. And so, what I am
 24 saying is it can be from the top and I think it is
 25 important to be reinforced from the top; but I

Page 297

1 think also each individual is responsible for
 2 safety as well. But realize that top also needs to
 3 be reinforcing that.
 4 Q. Has to reinforce it?
 5 A. Does reinforce it.
 6 Q. Has to, right?
 7 A. Does.
 8 Q. Is it an opportunity to enforce safety,
 9 or is it necessary?
 10 MR. PATTERSON: Objection, form.
 11 A. I think it's an important thing to do.
 12 Q. (BY MR. BOND) Is it necessary?
 13 MR. PATTERSON: Objection, form.
 14 A. It -- it's important to do.
 15 Q. (BY MR. BOND) It's necessary to do,
 16 isn't it?
 17 MR. PATTERSON: Objection, form.
 18 A. It's really important to do.
 19 Q. (BY MR. BOND) It's just not necessary?
 20 A. I didn't say that.
 21 Q. That's what I am asking. My question:
 22 Is it necessary to do?
 23 MR. PATTERSON: Objection, form.
 24 Q. (BY MR. BOND) A simple "yes" or "no"?
 25 A. I think it is needed. Yes, it is needed.

Page 298

1 Q. I hadn't ended it, so I need to.
 2 A. Okay.
 3 Q. Have you understood all my questions
 4 except when you said you didn't?
 5 A. I think that's right, yes.
 6 MR. BOND: Pass the witness.
 7 MR. PATTERSON: Chris, did you
 8 have some more?
 9 MR. DEAN: Just a few depending on
 10 him, of course.
 11 (Discussion off the record.)
 12 * * *
 13 FURTHER EXAMINATION
 14 Q. (BY MR. DEAN) Christopher Dean here,
 15 again, Mr. Peltier.
 16 Back in 2003 and '4 when you were
 17 manufacturing delivery leader out there at the BP
 18 plant --
 19 A. Yes.
 20 Q. -- you knew that when management chooses
 21 in that timeframe to ignore known safety problems,
 22 significant risk to refinery personnel exists.
 23 You knew that then; is that true,
 24 sir?
 25 MR. PATTERSON: Objection, form.

Page 299

1 A. I don't know that I know we have ignored
 2 things. We would take information and try to do
 3 the best thing we can with it.
 4 Q. (BY MR. DEAN) All right. Are you
 5 telling me right now you don't have any specific
 6 memory of BP management ignoring known safety
 7 problems while you were in your tenure as an MDL at
 8 the Texas City refinery?
 9 A. I don't know of any safety problems that
 10 we ignored that were critical. I know we had
 11 people that had violated some of our -- what we had
 12 set up as safety practices and things. And so, we
 13 saw we had reinforcement to do from time to time on
 14 different things, but that's not ignoring that.
 15 Q. Well, as a general principle, sir,
 16 without going into specific examples, you knew as
 17 you served as an MDL that ignoring known safety
 18 problems could create extreme degrees of risk in
 19 the refining operations at the plant.
 20 Isn't that true, sir?
 21 MR. PATTERSON: Objection, form.
 22 A. So -- you know, having problems and not
 23 addressing those extremely well could have
 24 potential to have future incidences, yes.
 25 Q. (BY MR. DEAN) All right. And, in fact,

Page 300

1 management ignoring known safety problems and
 2 allowing major incidents occurring to spur
 3 management into action about those known safety
 4 incidents is indeed -- or could indeed pose extreme
 5 degrees of risk to refining personnel out there at
 6 BP Texas City?
 7 MR. PATTERSON: Objection, form.
 8 Q. (BY MR. DEAN) Isn't that true?
 9 A. So, ignoring -- we -- I don't know about
 10 ignoring risk. Okay?
 11 Risk where, you know, when we are,
 12 made aware of it, we try to address those as best
 13 we can. Now, do we always get the full outcome
 14 that we would like, I don't know that that's true
 15 either. So, I don't know that we ignored safety
 16 risk.
 17 Q. But if indeed that was the situation
 18 where a known entity, a known quantity, a known
 19 safety problem existed and it was ignored, you
 20 would agree that that poses extreme degrees of risk
 21 to refining personnel?
 22 A. It depends on what it would be that was
 23 ignored and what level of impact or potential that
 24 would have. And so, I think there is a wide
 25 variation depending on what it was.

Page 301

1 Q. All right. Would you agree that it is a
 2 very dangerous philosophy to allow incidents at
 3 refineries, such as releases, fires, to spur
 4 management into action about safe -- known safety
 5 problems?
 6 MR. PATTERSON: Objection, form.
 7 A. Depending on what the release was, the
 8 magnitude of it, the location of it, would have
 9 varying degrees of risk.
 10 Q. (BY MR. DEAN) So, there are some
 11 releases and fires where it might not be dangerous
 12 and it's okay to have at a refinery versus other
 13 fires that occurred at the refinery.
 14 Is that what you are telling us?
 15 MR. PATTERSON: Objection, form.
 16 A. No, that's what you are saying. What I
 17 would say is -- is that you don't want to have any
 18 fires, potential of fires or potential -- the
 19 magnitude of the fires would kind of depend on the
 20 situation and the circumstances; but you would want
 21 to minimize those.
 22 Q. (BY MR. DEAN) Sir, I mean, have you ever
 23 heard the phrase "corporate speak"?
 24 MR. PATTERSON: Objection, form.
 25 A. I am hearing it right now.

Page 302

1 Q. (BY MR. DEAN) You have never heard it
 2 before?
 3 A. I have heard it before.
 4 Q. What is it in the context of you living
 5 in our world and being an educated man, what does
 6 it mean to you?
 7 MR. PATTERSON: Objection, form.
 8 A. "Corporate speak" would mean just
 9 answering -- answering the questions as you feel
 10 would be the best way to answer those.
 11 Q. (BY MR. DEAN) For the company that you
 12 work for? That's a fair addition to the definition
 13 isn't it?
 14 A. I would be okay with that.
 15 Q. All right. With respect to having major
 16 incidents drive safety policy instead of addressing
 17 known risk, you have personal experience with that,
 18 do you not, sir?
 19 MR. PATTERSON: Objection, form.
 20 A. Addressing -- say it again. I am sorry.
 21 Say it one more time for me.
 22 Q. (BY MR. DEAN) Sure.
 23 A. It's late in the day here.
 24 Q. With respect to management ignoring known
 25 risks and allowing incidents to occur relating to

Page 303

1 those known risks, is a situation which you had
 2 personal experience while you were at BP, is it
 3 not, sir?
 4 MR. PATTERSON: Objection, form.
 5 A. So, my experience is that there are broad
 6 range of risks you can have, and you have to look
 7 at those risks and say which of those risks can I
 8 manage and how can I impact those. And that would
 9 be part of my job along with several other people
 10 in the site is to evaluate what risk are and how to
 11 manage those.
 12 Q. (BY MR. DEAN) Do you or do you not have
 13 specific, personal experience about a specific
 14 incident that occurred out in your area of
 15 responsibility as an MDL, where management knew of
 16 safety problems associated with the incident,
 17 ignored them and rather allowed the incident itself
 18 to drive change to minimize risk to employees. You
 19 know something like that happened while under your
 20 watch.
 21 Isn't that true, sir?
 22 MR. PATTERSON: Objection, form.
 23 A. What I have seen is -- is from incident
 24 investigations, you will see violations of
 25 practices and policies. And you see that those had

Page 304

1 consequences that you don't want to have to see
 2 occur, again.
 3 Q. (BY MR. DEAN) And that defines your
 4 realm of experience in this particular regard, sir?
 5 A. And so, what you would want to do is --
 6 is from those investigation findings, you would
 7 want to follow up on the actions in those incidents
 8 and try to -- and do your -- what you can to
 9 prevent recurrence.
 10 Q. Be reactive to incident investigations is
 11 what you are saying?
 12 A. No, that's not what I am saying.
 13 Q. All right.
 14 A. What I am saying is I would use that as
 15 another learning piece of information to help
 16 reinforce, you know, safety.
 17 Q. All right. Well, let me see if I can go
 18 at it this way with you.
 19 Do you have knowledge of
 20 specific -- a specific incident that occurred in
 21 one of the units in which you were responsible for
 22 where BP management knew of risk associated with
 23 the incident, did nothing about it, the incident
 24 occurred and then changes were made by management?
 25 MR. PATTERSON: Objection, form.

Page 305

1 A. You are driving for something specific,
 2 and it doesn't ring a bell right offhand.
 3 Q. (BY MR. DEAN) Okay.
 4 A. But if you have something you want me to
 5 consider, then okay.
 6 Q. Was there a fatality in May of 2004 that
 7 concerned you greatly, sir?
 8 A. Yes.
 9 Q. Was that in an area that you were
 10 responsible for?
 11 A. Yes.
 12 Q. And, in fact, your concern was -- is that
 13 management knew that there were known risks
 14 associated before that fatality ever occurred, did
 15 little to nothing about them and it took the
 16 fatality to change management's attitude about
 17 those risks?
 18 MR. PATTERSON: Objection.
 19 Q. (BY MR. DEAN) Do you know that true --
 20 isn't that true, sir?
 21 MR. PATTERSON: Sorry. Objection,
 22 form.
 23 A. So, that fatality was -- was a situation
 24 where --
 25 Q. (BY MR. DEAN) I didn't ask where the

Page 306

1 situation was. I asked you a very specific
 2 question, sir.
 3 A. Go ahead. Ask it again because I am
 4 trying to answer your question, and you are not
 5 allowing me the latitude.
 6 So, maybe I just didn't understand
 7 your question.
 8 Q. Sure.
 9 There was a situation where a
 10 fatality was involved in May. You knew about that.
 11 Isn't that true, sir?
 12 A. Absolutely.
 13 Q. In an area of responsibility -- in an
 14 area or unit that was under your control or under
 15 your leadership, in part?
 16 A. Right.
 17 Q. Isn't that true, sir?
 18 A. Yes.
 19 Q. And it was your opinion when that May
 20 incident occurred, May, 2004, in one of your units,
 21 that BP management knew there were risks associated
 22 with the cause of that fatality, did nothing to --
 23 about those risks until being spurred into action
 24 by the fatality itself?
 25 MR. PATTERSON: Objection, form.

Page 307

1 Q. (BY MR. DEAN) That is a fair summary of
 2 your emotions and intellect about that, isn't it,
 3 sir?
 4 MR. PATTERSON: Objection, form.
 5 A. My emotions around that was -- is that it
 6 heightened our awareness of non-compliance on
 7 policies and practices that we had and that we --
 8 in learning from that incident, we needed to take
 9 more progressive efforts to validate that people
 10 were actually following policy and procedure.
 11 Q. (BY MR. DEAN) So, it was -- your
 12 concerns are what you learned from the incident
 13 investigation versus what BP knew about risks and
 14 applied before the fatality occurred.
 15 Is that what your testimony is?
 16 MR. PATTERSON: Objection, form.
 17 A. My testimony is -- is that I learned that
 18 there was some non-compliance related things that
 19 occurred for that employee to die in that incident.
 20 And I was not aware of it. And I felt that I would
 21 like to have some more verification work that
 22 people were actually following those policies.
 23 And prior to that, I -- I was
 24 unaware of -- of that, you know, violation of that
 25 policy to the extent that that person did, that

Page 308

1 actually -- or had occurred, that actually, you
 2 know, where the person died.
 3 Q. (BY MR. DEAN) So, in advance of the
 4 fatality, you were unaware of compliance issues?
 5 A. I --
 6 MR. PATTERSON: Objection, form.
 7 Q. (BY MR. DEAN) Compliance problems?
 8 A. I was unaware of were people following
 9 the policies to the "nth" degree and things. And
 10 so, what I really wanted to do was get more
 11 verification that people were actually following
 12 those practices. I guess I was really upset, you
 13 know, after that occurrence that we -- I didn't
 14 recognize that we should have been doing more and
 15 that we hadn't been doing more.
 16 Q. All right.
 17 A. Okay.
 18 Q. In answer to your Telos -- a Telos
 19 question --
 20 A. All right.
 21 Q. BPISOM129376, Question 33C, the question
 22 is not provided; however, you write about the
 23 incident that we have been speaking of for the last
 24 five minutes.
 25 A. Okay.

Page 309

1 Q. And I would like to read along. I don't
 2 have my cool guy gadget.
 3 A. That's right.
 4 Q. I will have to read along with you.
 5 Actually, before we do that, let's be -- let me
 6 show you where I am. There were a series of
 7 answers that you gave to Telos questioners --
 8 A. Yeah.
 9 Q. -- and is your name identified here on
 10 Bates 129371?
 11 A. That's my name.
 12 Q. All right. And there is a series of
 13 answers on a series of pages.
 14 A. Okay.
 15 Q. And we are reading off of 76. I would
 16 like to make sure I am reading this correctly what
 17 you are writing about back in late 2004.
 18 A. I am saying that somebody might have been
 19 capturing, I guess.
 20 Q. That is true.
 21 A. Okay.
 22 Q. What frustrates me here is this, quotes
 23 begin, What does it take for us to get into action,
 24 question mark. Does it take a serious incident
 25 like the fire or a fatality?"

Page 310

1 Did I read that correct?
 2 A. Yes.
 3 Q. "We've had lots of serious near misses,"
 4 and you go on to describe some of those --
 5 A. Uh-huh.
 6 Q. -- about falling objects.
 7 Is that true?
 8 A. Yes.
 9 Q. All right. And after you describe that,
 10 you declared your observations, "So, it was right
 11 back to business as usual," meaning, I guess, after
 12 an incident; is that true?
 13 MR. PATTERSON: Objection, form.
 14 A. Well, I am just saying the staying power
 15 of what had actually occurred --
 16 Q. (BY MR. DEAN) Okay.
 17 A. -- at some point diminishes some.
 18 Q. All right. "It still bothers me," you go
 19 on to say, "that we went through all that talk in
 20 the manufacturing council. Remember talking about
 21 compliance back then. And then, it took a fatality
 22 three months later to get us to do something about
 23 it."
 24 Did I read that correctly?
 25 A. That's what it says.

Page 311

1 Q. Does that sound a little bit different
 2 than the testimony you gave me about this incident
 3 about five minutes ago?
 4 MR. PATTERSON: Objection, form.
 5 A. No, this just provides more context to
 6 respond to this question.
 7 Q. (BY MR. DEAN) All right. Well, now that
 8 you have more context to respond to the question,
 9 sir, isn't it true that management knew that
 10 compliance issues existed three months before this
 11 fatality occurred and did nothing about it?
 12 MR. PATTERSON: Objection, form.
 13 Q. (BY MR. DEAN) In your opinion?
 14 A. Do you mind if I read all of this
 15 statement just so I don't get stuff out of context?
 16 Q. Please, sir.
 17 A. Give me a moment.
 18 (Examines document.)
 19 Okay. So, you want me to give you
 20 what I was thinking at this time?
 21 MR. DEAN: Madame Court Reporter,
 22 what was the question?
 23 MR. PATTERSON: Let her read back
 24 the question.
 25 THE WITNESS: Yes.

Page 312

1 MR. DEAN: She will read back the
 2 question.
 3 (The requested testimony was read
 4 by the reporter.)
 5 A. In my opinion. And what it -- what this
 6 tells me is -- is that we had some serious near
 7 misses. And those near misses included some chunks
 8 as I mentioned here of concrete falling, bolts from
 9 it. There were not people under those. No one got
 10 hurt. No one got hit, but what it says to me is,
 11 which I knew from just construction safety related
 12 information is that falling objects and falling
 13 from a height or some of the major things that can
 14 have serious injuries including death and that
 15 those are the things that you would want to put the
 16 effort on to improve or focus your time to minimize
 17 the risk that we may have around those areas.
 18 A couple of months in advance of
 19 this, we had a fire on one of the ultraformer units
 20 and one of those was a -- if I recall, it was a
 21 breach of a pipe that had integrity related issues
 22 and stuff. And so, as a part of that was there was
 23 enough of these signals that made me feel like we
 24 need to heighten our awareness and -- and look hard
 25 for what we can do and improve in those areas. In

Page 313

1 this case, the fatality was an individual that did
 2 not wear his safety harness. I was under the
 3 impression that that was -- that was policy.
 4 That's what the person should have been wearing.
 5 And this was a contract firm that does this day in
 6 and day out for a living, much more than we would
 7 ever do as BP. And have never had a fatality in
 8 the history of that company in 20 or 30 years.
 9 So, I was on the basis that they
 10 had their systems and things right, things did work
 11 and in this case it failed and they didn't tie off
 12 on a safety harness and fell, you know, several
 13 feet to the -- to his death.
 14 MR. BOND: Objection,
 15 nonresponsive.
 16 A. And I felt very -- I felt very emotional
 17 about that whole experience of someone dying when
 18 in an area that I am responsible for.
 19 MR. BOND: Objection,
 20 nonresponsive.
 21 Q. (BY MR. DEAN) Agree or disagree that
 22 your emotional intellectual state led you to
 23 believe in 2004 that it was a huge mistake that
 24 you -- that management didn't take any action after
 25 a March meeting that informed you about safety

Page 314

1 problems with respect to compliance?
 2 MR. PATTERSON: Objection, form.
 3 A. What I didn't think is -- is we took --
 4 we made a decision on what else we wanted to do
 5 based on the outcome from that meeting, which was
 6 an off-site safety retreat meeting that we had with
 7 one of our major contractors that is -- that had
 8 done a job very safely at our site over a two or
 9 three year span.
 10 Q. (BY MR. DEAN) Right. What you -- what
 11 management at BP didn't do is focus on compliance
 12 issues.
 13 Isn't that true, sir?
 14 A. No, that's not, true. We didn't focus on
 15 it -- enough on self verification. We should have
 16 verified more that our policies would have been --
 17 and in hindsight after this fatality, I realized
 18 that there were breaches in that instance and
 19 specific in that we need to do step up and confirm
 20 that people are actually following and complying
 21 with that. And I think there is enough near misses
 22 that we had of just equipment falling or, you know,
 23 concrete falling from different areas and it wasn't
 24 enough for me to say, "That happens." We have got
 25 to go out and do something better and different.

Page 315

1 Q. Did you write what it took or did you
 2 answer a question in this context with the answer,
 3 "What it took was the event, which is this
 4 fatality, in May to make those changes"? Did you
 5 not have that thought back in --
 6 A. You know --
 7 Q. -- late 2004 after this incident?
 8 A. Was that my exact words? I don't know.
 9 Q. Hmm.
 10 A. Okay. I don't know if this is a
 11 transcript or is this a paraphrasing of what the
 12 discussion was; but I would have thought that, you
 13 know, it heightened our awareness of what could
 14 happen clearly when we had major incidences.
 15 Q. What heightened your awareness was the
 16 manufacturing council meeting that alerted you to
 17 compliance issues and verifications issues --
 18 A. No --
 19 Q. Isn't that true, sir?
 20 MR. PATTERSON: Objection, form.
 21 A. The manufacturing council was a forum for
 22 us to talk about safety as well as operational
 23 improvement overall across the location and the
 24 part that informed us and what I would have been
 25 referencing in this discussion would have been a

Page 316

1 safety retreat that we had off site. I don't
 2 remember the exact time, but apparently a couple of
 3 months before the fatality -- a few months.
 4 Q. (BY MR. DEAN) When you wrote at the
 5 beginning, "what does it take for us to get into
 6 action? Does it take serious incident like a fire
 7 or fatality?"
 8 Are you telling me that you no
 9 longer mean those words? You are taking them back?
 10 MR. PATTERSON: Objection, form.
 11 A. No, I am not taking them back. What I am
 12 saying is -- is that the context around those words
 13 are is I would have -- in hindsight, I wish we
 14 could have made more improvement faster; but I
 15 think we were headed in the right direction.
 16 But we didn't -- we weren't fast
 17 enough. We still had a fatality at the AU2 unit
 18 and, obviously, we have had some other instances
 19 after that.
 20 Q. (BY MR. DEAN) All right. Hopefully, my
 21 last question about your response to the Telos
 22 questioner.
 23 A. All right.
 24 Q. Where in it does it say in your answer in
 25 late 2004 that there was anything -- not just a

Page 317

1 lot, not a little -- anything done in the name of
 2 the manufacturing council safety information that
 3 you and management learned in March, three
 4 months -- or two months before this fatality in May
 5 of 2004?
 6 A. So, you are asking the question very
 7 narrowly on what it says in this response only?
 8 Q. What you said in 2004, that's correct,
 9 sir.
 10 A. In this response?
 11 Q. Correct, sir.
 12 A. This question here, no, I didn't expand
 13 beyond the May incident.
 14 Q. Okay. You knew that Lord Browne in his
 15 public statements accepted responsibility for the
 16 explosion. He, as head of BP, quote, "accepts
 17 responsibility for this explosion"?
 18 A. Yes, he said BP was responsible.
 19 Q. What does that mean to you?
 20 MR. PATTERSON: Objection, form.
 21 A. That means that BP was going to take
 22 responsibility on understanding what had occurred,
 23 how we make improvements back at the site and that
 24 we, you know, would try to make the right
 25 improvement -- will make the right improvements to

Page 318

1 get in a much better place than we have been in the
 2 past.
 3 Q. (BY MR. DEAN) And in your translation,
 4 in your opinion of Lord Browne's statement in this
 5 regard, it has nothing to do that he is accepting
 6 responsibility for causing the deaths of 15 people
 7 as a company and injuring hundreds more?
 8 MR. PATTERSON: Objection, form.
 9 A. He realized as an outcome from this is
 10 that we had the deaths and, you know, the large
 11 number of injuries in addition to that. And he's
 12 stated -- in very loose words here -- but he stated
 13 that he knew as a company we had to be in a much
 14 better position and we were responsible to follow
 15 up and make sure we improve on that.
 16 Q. (BY MR. DEAN) Hmm. So, that's what he
 17 meant as far as you understand it?
 18 MR. PATTERSON: Objection, form.
 19 A. You know --
 20 Q. (BY MR. DEAN) That he -- we are going to
 21 follow up on this and check it out, but we don't
 22 accept responsibility in causing these people death
 23 and injury?
 24 MR. PATTERSON: Objection, form.
 25 A. No, I didn't say that.

Page 319

1 I think, yes, clearly our actions
 2 and outcomes from that came, you know, resulted in
 3 the deaths of all these people. And I don't recall
 4 exactly what Browne said a year ago or nine months
 5 ago. All I remember him saying is we are
 6 responsible and we will follow up and get us in a
 7 much better place, you know, from a safe reliable
 8 operation. And we will learn from this incident
 9 and we will have a full investigation and we will,
 10 you know, put those learnings into practice.
 11 Q. (BY MR. DEAN) The fact of the matter is,
 12 sir, that before this explosion, BP knew it had a
 13 severe safety culture problem and did nothing about
 14 it --
 15 MR. PATTERSON: Objection, form.
 16 Q. (BY MR. DEAN) -- and that led to the --
 17 MR. PATTERSON: Sorry.
 18 Q. (BY MR. DEAN) -- events of March 23rd,
 19 2005.
 20 Isn't that true, sir?
 21 MR. PATTERSON: Objection, form.
 22 A. What I believe is -- is that we had
 23 incidences around safety, never imagined we would
 24 have something of this magnitude, and I thought we
 25 were, in general, on the road to improvement

Page 320

1 overall as a site and as a refinery.
 2 Q. (BY MR. DEAN) And you were wrong?
 3 A. I would say, obviously, with the large
 4 incident we had is a lot worse things could happen
 5 than what I imagined, yes. That's correct.
 6 Q. Okay.
 7 MR. PATTERSON: All right. Do
 8 y'all have any more?
 9 MR. BOND: I don't think so.
 10 Do you have anything you want to
 11 ask him?
 12 MR. PATTERSON: I think you are
 13 done.
 14 MR. BOND: Yeah, I have got a
 15 couple of questions. I am sorry.
 16 MR. DEAN: I am done. Thank you,
 17 sir.
 18 THE WITNESS: Yeah. Thank you.
 19 (Discussion off the record.)
 20 * * *
 21 FURTHER EXAMINATION
 22 Q. (BY MR. BOND) As the MDL in 2004 to
 23 January -- July of 2002 the MDL, you were -- you
 24 were management, right?
 25 A. From 2000 -- July, 2002 to August of 2004

Page 321

1 I was part of management, yes.
 2 Q. And you were part of management when the
 3 wet/dry drum project was put on hold, correct?
 4 A. I was part of management then.
 5 Q. Okay. Now --
 6 A. Or just not actively authorizing further
 7 work on it.
 8 Q. All right. You know, it's important to
 9 follow policy, right?
 10 MR. PATTERSON: Objection, form.
 11 A. Particularly -- yeah, it's -- it's
 12 important to follow whatever BP policy would be.
 13 Q. (BY MR. BOND) Okay. And George Matar,
 14 do you know him?
 15 A. I know who he is, yes.
 16 Q. Who is he?
 17 A. He is an engineer.
 18 Q. Okay. And what is his responsibility?
 19 MR. PATTERSON: Objection, form.
 20 A. Today, I don't know. When I worked
 21 for -- with him, not for him, he was an engineer
 22 that was working on a lot of capital projects
 23 across the Texas City site.
 24 Q. (BY MR. BOND) Okay. Now, I want to show
 25 you Exhibit Number 122, 1-2-2.

Page 322

1 A. Okay.
 2 Q. The highlighted portion.
 3 A. All right.
 4 Q. I am going to ask you to read that to
 5 yourself.
 6 A. Okay. All right.
 7 Q. Do you see the highlighted portion?
 8 A. Yep.
 9 Q. Okay. You have already read it?
 10 A. Okay.
 11 Q. All right. If he interprets that, George
 12 Matar, as violating -- as putting a blowdown
 13 drum -- replacing the blowdown drum at the ISOM
 14 unit is violating BP's policy, do you have any
 15 reason to disagree with him?
 16 MR. PATTERSON: Objection, form.
 17 A. I guess I would ask him probably more
 18 context to understand that.
 19 Q. (BY MR. BOND) Okay. Well, I mean, when
 20 you are replacing something when you actually, you
 21 know, reconstructing something, BP's own policy
 22 says that you are not supposed to put in new
 23 blowdown drums, correct, sir?
 24 MR. PATTERSON: Objection, form.
 25 A. Well, right here (indicating), it says,

Page 323

1 you know, construction, new blowdown systems which
 2 discharge directly to atmosphere are not permitted.
 3 Q. (BY MR. BOND) Okay. Could you show --
 4 A. So, that's one sentence out of a whole
 5 thing. I don't know what all else is in here.
 6 Q. What's the date?
 7 A. Of this?
 8 Q. Yeah, go ahead and look at the very
 9 front.
 10 A. (Complies.)
 11 It says 9/16/92.
 12 Q. All right. And it's important for BP to
 13 follow their own policies, right?
 14 A. Yeah, I guess in general, yeah.
 15 Q. Okay.
 16 A. You want to follow your policies.
 17 Q. If you don't follow policies, people get
 18 hurt, right?
 19 A. It depends what the policies are.
 20 Q. Well, like your -- like the fellow that
 21 fell when he wasn't tied down, right? He didn't
 22 follow policies; and he got hurt, didn't he?
 23 A. He did.
 24 Q. And if BP didn't follow their own
 25 policies, they can -- people can also get hurt,

Page 324

1 correct, sir?
 2 A. Yeah, they could.
 3 Q. Okay. And if BP had put in a flare
 4 system rather than putting in another blowdown drum
 5 or blowdown stack, we wouldn't be here today, would
 6 we, sir?
 7 MR. PATTERSON: Objection, form.
 8 A. I don't know. I would have to --
 9 Q. (BY MR. BOND) What does your common
 10 sense tell you?
 11 MR. PATTERSON: Objection, form.
 12 A. State the question, again.
 13 Q. (BY MR. BOND) Sure.
 14 BP -- if BP had put in a flare so
 15 that the -- it would vent to a flare instead of a
 16 blowdown drum into the atmosphere, we wouldn't be
 17 here today, would we?
 18 MR. PATTERSON: Objection, form.
 19 A. I don't know if we would have been here
 20 or not. It -- what I -- my personal view of this
 21 is -- is that even in a flare system, we probably
 22 wouldn't have had thought of that scenario being as
 23 extensive as it was 130 feet of liquid in a vessel
 24 as the relief system that we would have for the
 25 flare system. Because even that size a system may

Page 325

1 overwhelm, you know, even a flare system. Now, the
 2 magnitude of it, I would have -- in my opinion --
 3 MR. PATTERSON: You can finish
 4 your answer.
 5 Q. (BY MR. BOND) Go ahead.
 6 A. So, my opinion would be is it would
 7 probably be less severe; but we would probably have
 8 an incident.
 9 Q. Well, I'm -- I am kind of curious --
 10 A. I am not an engineer --
 11 Q. Aren't flares kind of put away --
 12 A. -- to answer in detail.
 13 Q. -- from the unit?
 14 A. A flare is usually further away.
 15 Q. A lot further away, right?
 16 MR. PATTERSON: Objection, form.
 17 A. I don't know the exact distance, but they
 18 are not at the -- inside of the battery limit or
 19 right at the boundary.
 20 Q. (BY MR. BOND) You are not going to have
 21 a trailer right next to it, right?
 22 MR. PATTERSON: Objection, form.
 23 A. Typically, we wouldn't.
 24 Q. (BY MR. BOND) Okay. You are not going
 25 to have a trailer with Ryan Rodriguez in it, right?

Page 326

1 MR. PATTERSON: Objection, form.
 2 Q. (BY MR. BOND) Next to the flare, right?
 3 MR. PATTERSON: Objection, form.
 4 A. Typically, you wouldn't have a trailer
 5 there. And so, you -- if you didn't have a trailer
 6 there, you wouldn't have a person in it.
 7 Q. (BY MR. BOND) Okay. Yeah, that's a good
 8 point. It's not typically, is it? You'd never
 9 have a trailer next to a flare, would you? Never
 10 ever, never ever?
 11 MR. PATTERSON: Objection, form.
 12 Q. (BY MR. BOND) Ever?
 13 A. If it was out of service and that kind of
 14 thing, I think you would have -- you know you could
 15 have a person there.
 16 Q. Okay. Let's assume that it is in
 17 service.
 18 Would you ever, ever have a
 19 trailer next to a flare?
 20 MR. PATTERSON: Objection --
 21 objection.
 22 Q. (BY MR. BOND) Ever?
 23 MR. PATTERSON: Objection.
 24 A. Well, right next to a flare probably not.
 25 Q. (BY MR. BOND) Okay. And the fact is, if

Page 327

1 a flare -- if BP had followed their own policy and
 2 put a flare in, we wouldn't be here today, would
 3 we, sir?
 4 MR. PATTERSON: Objection, form.
 5 A. I don't know that this policy -- taking
 6 one sentence out of the whole thing, describes the
 7 whole policy. All right.
 8 So, for me to make that call, I
 9 would have to be an engineer and fully understand
 10 this whole policy. Reading this one sentence out
 11 of context would suggest that we wouldn't, but I
 12 don't know what all is in here.
 13 Q. (BY MR. BOND) We wouldn't what? We
 14 wouldn't be here today, correct?
 15 MR. PATTERSON: Objection, form.
 16 A. No, that we -- we wouldn't have the
 17 magnitude of the incident that we did with the
 18 blowdown drum versus a flare stack system.
 19 Q. (BY MR. BOND) In short, if BP had
 20 followed their own system, Ryan Rodriguez would
 21 still be alive today?
 22 MR. PATTERSON: Objection, form.
 23 A. I don't know if I could answer that
 24 question to say "yes" or "no."
 25 Q. (BY MR. BOND) Well, why would you say

Page 328

1 "no"?
 2 MR. PATTERSON: Objection, form.
 3 A. Because I don't know where he would have
 4 been around that site versus a flare or anything
 5 else and what the impact of that might have been or
 6 not been.
 7 Q. (BY MR. BOND) How far, typically --
 8 A. It's circumstantial.
 9 Q. -- is a flare from the nearest trailer?
 10 MR. PATTERSON: Objection, form.
 11 A. I don't know the answer to that,
 12 specifically. It would be a distance, though.
 13 Q. (BY MR. BOND) Roughly?
 14 MR. PATTERSON: Objection, form.
 15 A. I don't know. I would have to look it
 16 up.
 17 Q. (BY MR. BOND) Just give me your best
 18 guess.
 19 MR. PATTERSON: Objection, form.
 20 A. I am guessing a couple hundred feet.
 21 Q. (BY MR. BOND) Okay. A couple hundred
 22 feet from the trailer?
 23 MR. PATTERSON: Objection, form.
 24 Q. (BY MR. BOND) Or you just don't know?
 25 A. I don't know.

Page 329

1 Q. Okay.
 2 A. I really don't know. Sorry.
 3 Q. That's okay.
 4 MR. BOND: All right. Pass the
 5 witness.
 6 MR. PATTERSON: We will save our
 7 questions until the time of trial.
 8 MR. BOND: Oh, come on.
 9 THE VIDEOGRAPHER: Off the record
 10 at 5:48 p.m. with Tape 6.
 11 (Deposition concluded.)
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 330

1 EXAMINATION
2 CHANGES AND SIGNATURE

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

RICHARD PELTIER, JR.

Page 331

1 I, RICHARD PELTIER, JR., 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 RICHARD PELTIER, JR.

7 THE STATE OF _____)
8
9 COUNTY OF _____)

10 Before me, _____, on this day
11 personally appeared RICHARD PELTIER, JR., known to me
12 or proved to me on the oath of _____ or
13 through _____ (description of identity card
14 or other document) to be the person whose name is
15 subscribed to the foregoing instrument and
16 acknowledged to me that he/she executed the same for
17 the purpose and consideration therein expressed.
18 Given under my hand and seal of office on this
19 _____ day of _____, _____.

20 _____
21 NOTARY PUBLIC IN AND FOR
22 THE STATE OF _____

23 My Commission Expires: _____
24
25

Page 332

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 RICHARD PELTIER, JR.
22 FEBRUARY 27, 2006

23 I, Stephanie Barringer, Certified Shorthand
24 Reporter in and for the State of Texas, hereby
25 certify to the following:

That the witness, RICHARD PELTIER, JR., 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 (4 hours, 5 minutes)
Mr. Bond (1 hour, 42 minutes)
Attorneys for Plaintiffs

Page 333

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 of record:

FOR PLAINTIFFS MIGUEL ARENAZA AND ELIZABETH
RAMON, ET AL.:

Mr. Arturo J. Gonzalez
The Ammons Law Firm
3700 Montrose Boulevard
Houston, Texas 77006
Fax: 713-523-4159
Telephone: 713-523-1606

FOR PLAINTIFFS ADRIAN MENDOZA, ET AL.:

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

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

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

Page 334

1 APPEARANCES
(Continued)

2

3

4 FOR PLAINTIFFS NATHANIEL EARL GRIMES,
EVA HENDERSON, LEONARD BOURGEOIS,
5 ROBBIE BOURGEOIS:
6 Ms. Sherry Scott Chandler
The Chandler Law Firm, LLP
7 Park Laureate
10000 Memorial Drive, Suite 320
8 Houston, Texas 77024
Fax: 713-682-9911
9 Telephone: 713-222-7285

10

11 FOR PLAINTIFF DAWN PRATER:
12 Mr. Loren Klitsas
Klitsas & Vercher, P.C.
13 550 Westcott, Suite 570
Houston, Texas 77007
14 Fax: 713-862-1465
Telephone: 713-862-1365

15

16

17 FOR PLAINTIFFS CARLOS GALAN, LESLIE GALAN,
JOSE VILLARREAL, HECTOR RODRIGUEZ,
ELEAZAR CANTU, MARCO FIGUEROA,
18 LUIS LOPEZ, ELOY RODRIGUEZ, ERNESTO
VALENCIA, LANIEL VALLANEUVA, JOSEPH MOISE,
19 JESUS LOPEZ, GABRIEL JAIMEZ, EVA RAMIREZ,
VERONICA RAMIREZ, JOHN RANGEL, JOSE VILLANEUVA:
20

21 Mr. Randy Sorrels
Abraham, Watkins, Nichols,
Sorrels, Matthews & Friend
22 800 Commerce
Houston, Texas 77002
23 Fax: 713-225-0827
Telephone: 713-222-7211

24

25

Page 335

1 APPEARANCES
(Continued)

2

3

4 FOR PLAINTIFFS JAIME ANDREADE, ET AL.:

5 Mr. Brent Coon
Brent Coon & Associates
6 3550 Fannin
Beaumont, Texas 77701
7 Fax: 409-833-4483
Telephone: 409-835-2666

8

9

10 FOR PLAINTIFF ROGER RODRIGUEZ:

11 Mr. John W. Stevenson, Jr.
John W. Stevenson & Associates
12 24 Greenway Plaza, Suite 750
Houston, Texas 77046
Fax: 713-622-3224
13 Telephone: 713-622-3223

14

15 FOR PLAINTIFFS JASON MIRANDA,
DOMINIC MARTINEZ, MICHAEL PEARSON,
16 EDDIE NAVARRETTE:
17 Mr. Gregg S. Harrison
Bonilla & Chapa, P.C.
18 2727 Morgan Avenue
Corpus Christi, Texas 78405
19 Fax: 361-881-1028
Telephone: 361-991-000

20

21

22

23

24

25

Page 336

1 APPEARANCES
(Continued)

2

3

4 FOR PLAINTIFFS, ET AL.:

5 Mr. Jeff Burke
The Buzbee Law Firm
6 1910 Ice & Cold Storage Building
104 Moody
7 Galveston, TX 77550
Fax: 409-762-0538
8 Telephone: 409-762-5393

9

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

11

12 Mr. Daniel B. Linebaugh
The Linebaugh Law Firm
13 1300 Rollingbrook, Suite 601
Baytown, Texas 77521
Fax: 281-422-2641
14 Telephone: 281-422-0506

15

16 FOR DEFENDANT JE MERIT:

17 Mr. Tory Taylor
Ebanks, Smith & Carlson
18 2500 Five Houston Center
1401 McKinney
19 Houston, Texas 77010
Fax: 713-333-4600
20 Telephone: 713-333-4500

21

22

23

24

25

Page 337

1 APPEARANCES
(Continued)

2

3

4 FOR FLUOR ENTERPRISES d/b/a FLUOR
GLOBAL SERVICES:

5

6 Mr. Gregory F. Burch
Locke, Liddell & Sapp, LLP
3400 JP Morgan Chase Tower
7 600 Travis Street
Houston, Texas 77002-3095
8 Fax: 713-223-3717
Telephone: 713-226-1200

9

10

11 FOR DEFENDANT BP PRODUCTS NORTH AMERICA, INC.:

12 Mr. Edward J. Patterson, III
Mr. Graig Alvarez
Ms. Jessica Gilmore
13 Fulbright & Jaworski
1301 McKinney, #5100
14 Houston, Texas 77010-3095
Fax: 713-651-5246
15 Telephone: 713-651-5151

16

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

18

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

22

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

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

Stephanie Barringer, CSR
Texas CSR 6198
Expiration: 12/31/06
U.S. Legal Support
Firm Registration: 122
519 N. Sam Houston Pkwy., Ste. 200
Houston, Texas 77060
Main number: 713/653-7100
Fax number: 713/653-7143

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FURTHER CERTIFICATION UNDER TRCP RULE 203

The original deposition was/was not returned to the deposition officer on _____.

If returned, the attached Changes and Signature page(s) contain(s) any changes and the reasons therefor.

If returned, the original deposition was delivered to Mr. Jim Hart at the Williams & Bailey law firm as the custodial attorney.

§ _____ is the deposition officer's charges to the Plaintiffs for preparing the original deposition and any copies of exhibits;

The deposition was delivered in accordance with Rule 203.3, and a copy of this certificate, served on all parties shown herein, was filed with the Clerk.

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

Stephanie Barringer, CSR
Texas CSR 6198
Expiration: 12/31/06
U.S. Legal Support
Firm Registration: 122
519 N. Sam Houston Pkwy., Ste. 200
Houston, Texas 77060
Main number: 713/653-7100
Fax number: 713/653-7143