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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA, )  
 et al., )  
 Plaintiffs, )  
 vs. ) Case No.:  
 HVI CAT CANYON, INC., f/k/a ) CV11-05097 FMO (PLAX)  
 GREKA OIL & GAS, INC., )  
 Defendants. )

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VIDEOTAPED DEPOSITION OF ROBERT WISE  
San Francisco, California  
Tuesday, September 20, 2016  
Volume I

Reported by:  
SUZANNE F. BOSCHETTI, CSR No. 5111  
Job No. 2381191

PAGES 1 - 241

1 UNITED STATES DISTRICT COURT  
 2 CENTRAL DISTRICT OF CALIFORNIA  
 3  
 4 \_\_\_\_\_  
 5 UNITED STATES OF AMERICA, )  
 6 et al., )  
 7 Plaintiffs, )  
 8 vs. ) Case No.:  
 9 HVI CAT CANYON, INC., f/k/a ) CV11-05097 FMO (PLAX)  
 10 GREKA OIL & GAS, INC., )  
 11 Defendants. )  
 12 \_\_\_\_\_ )  
 13  
 14  
 15 Videotaped deposition of ROBERT WISE,  
 16 Volume II, taken on behalf of Defendant HVI Cat  
 17 Canyon, Inc., at 101 Montgomery Street, Suite  
 18 450, San Francisco, California, beginning at  
 19 9:09 a.m. and ending at 5:00 p.m., on Tuesday,  
 20 September 20, 2016, before SUZANNE F.  
 21 BOSCHETTI, Certified Shorthand Reporter No.  
 22 5111.  
 23  
 24  
 25

Page 2

1 APPEARANCES (Continued):  
 2  
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 12  
 13 Also Present:  
 14 SUSAN M. WHALEN: General Counsel, Sr. Vice  
 15 President HVI Cat Canyon, Inc.  
 16 BRANDON MILLER: Veritext Video Operator  
 17  
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 19  
 20  
 21  
 22  
 23  
 24  
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1 APPEARANCES:  
 2  
 3 For Plaintiffs:  
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 17 AND  
 18 DEPARTMENT OF FISH AND GAME, CALIFORNIA  
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1 San Francisco, California  
 2 Wednesday, September 21, 2016  
 3 9:09 a.m.  
 4 ---o0o---  
 5 09:08:34  
 6 VIDEO OPERATOR: Good morning. We're now  
 7 on the record. Please note that the microphones are  
 8 sensitive and may pick up whispering and private  
 9 conversations. Please silence all cell phones and  
 10 place them away from the microphones as they can 09:08:56  
 11 interfere with deposition audio. The recording  
 12 will continue until all parties agree to go off the  
 13 record.  
 14 My name is Brandon Miller representing  
 15 Veritext Legal Solutions. Today's date is 09:09:06  
 16 September 20th, 2016. Time 9:09 a.m.  
 17 This deposition is being held at Veritext  
 18 San Francisco, located at 101 Montgomery Street,  
 19 Suite 450, San Francisco, California 94104, and it  
 20 is being taken by counsel for the defendant. 09:09:30  
 21 Caption of this case is United States of  
 22 America versus HVI Cat Canyon, Incorporated. This  
 23 case is being held in the United States District  
 24 Court, Central District of California, Case No. CV  
 25 11-05097-FMO (PLAX). The name of the witness is 09:09:50  
 Page 6

1 Robert Wise, Volume 1.  
 2 At this time will attorneys present in the  
 3 room please identify themselves and the parties they  
 4 represent.  
 5 Our court reporter is Suzanne Boschetti 09:10:09  
 6 representing Veritext Legal Solutions who will swear  
 7 in the witness and we can proceed.  
 8 MR. BLEDSOE: Steven Bledsoe and Jerry  
 9 Behnke of Larson O'Brien LLP on behalf HVI CAT  
 10 Canyon. 09:10:25  
 11 MR. MULLANEY: Robert Mullaney for the  
 12 United States.  
 13 THE WITNESS: Robert Wise for USEPA Region 9.  
 14 MR. HELMLINGER: Andrew Helmlinger, USEPA.  
 15 MR. ZARRO: I'm Deputy Michael T. Zarro. I 09:10:39  
 16 represent the People of the State of California ex  
 17 rel Department of Fish and Wildlife.  
 18 MS. WHALEN: Susan Whalen, Senior Vice  
 19 President, General Counsel, for the party HVI Cat  
 20 Canyon Inc. 09:10:50  
 21  
 22 ROBERT WISE,  
 23 having been administered an oath, was examined and  
 24 testified as follows:  
 25 09:11:00  
 Page 7

1 EXAMINATION  
 2 BY MR. BLEDSOE:  
 3 Q Mr. Wise, could you please tell us your  
 4 educational background since high school.  
 5 A I have a bachelor's degree in biology from 09:11:10  
 6 the University of San Diego from 1987. I have a  
 7 master's degree in environmental science from Loyola  
 8 Marymount in 1996. I have a certificate in  
 9 hazardous materials and toxic materials management  
 10 from UCLA Extension, approximately 1994, and I also, 09:11:32  
 11 in 1996, certified hazardous materials manager,  
 12 which is a certified exam.  
 13 Q Where did you go to high school?  
 14 A I went to St. John Bosco High School in  
 15 Bellflower, California. 09:11:52  
 16 Q And where are you from?  
 17 A I'm from Orange County, California.  
 18 Q What is a bachelor's degree in biology;  
 19 what is the focus?  
 20 A The focus is general biology degree. 09:12:04  
 21 Q And what is biology?  
 22 A The study of life.  
 23 Q And you said you have a master's degree  
 24 from Loyola Marymount in environmental science,  
 25 correct? 09:12:19  
 Page 8

1 A Correct.  
 2 Q What is environmental science?  
 3 A Basically the study of sciences involved  
 4 with various disciplines within the environment.  
 5 Q Did you take any courses in college about 09:12:31  
 6 oil field production?  
 7 A No.  
 8 Q Are you an expert in oil field production?  
 9 A No.  
 10 Q Are you an expert in oil field or oil spill 09:12:52  
 11 cleanup?  
 12 A No.  
 13 Q Prior to 2005, had you ever responded to an  
 14 oil spill cleanup in your work as -- or for the EPA?  
 15 A Yes. 09:13:11  
 16 Q When was the first time that you responded  
 17 to an oil spill cleanup in your work for the EPA?  
 18 A Approximately 1990.  
 19 Q And where was that?  
 20 A In Huntington Beach, California. 09:13:28  
 21 Q How large was the release?  
 22 A Very large.  
 23 Q Can you estimate in barrels?  
 24 A I don't remember.  
 25 Q Was that offshore or onshore? 09:13:41  
 Page 9

1 A It was offshore.  
2 Q And what was your role in that response?  
3 A I was a contractor for EPA, provided health  
4 and safety support to the Coast Guard, and I  
5 provided information to the EPA for management 09:14:00  
6 purposes.  
7 Q And you say you provided information to the  
8 EPA for management purposes; what do you mean by  
9 that?  
10 A As a START contractor, we were required to 09:14:11  
11 provide briefings to our client, the federal  
12 on-scene coordinator for EPA.  
13 Q Are you an expert in determining how to  
14 clean up an oil spill and what needs to be done to  
15 clean up an oil spill? 09:14:34  
16 A Define "expert."  
17 Q Well, what is your experience in  
18 determining what needs to be done to clean up an  
19 inland oil spill?  
20 A I've responded to approximately 20 inland 09:14:51  
21 oil spills before I went to Greka as either a  
22 contractor or an EPA on-scene coordinator. And each  
23 spill is different depending on where it's at.  
24 Q Let's take a step back, because you shared  
25 with me briefly your educational background. Can 09:15:14  
Page 10

1 you walk me through your work history since you've  
2 received your BA degree in biology in approximately  
3 1992 -- oh, excuse me, excuse me, 1987.  
4 A Yes, I taught high school for a year at St.  
5 Paul's High School in Santa Fe Springs, and then I 09:15:41  
6 went to work for Ecology & Environment, an  
7 environmental consulting firm. Then I worked on  
8 what was called the Field Investigation Team  
9 Contract which did CERCLA pre-remedial work. And  
10 then I transferred to the Technical Assistance Team 09:16:00  
11 which did emergency response and removals for EPA,  
12 and I did that in various contract mechanisms until  
13 I became an OSC in 2002.  
14 Q What did -- what subjects did you teach  
15 when you taught high school? 09:16:23  
16 A I taught general biology and general  
17 science.  
18 Q And how many years did you teach high  
19 school?  
20 A One year. 09:16:41  
21 Q Which high school did you teach at?  
22 A Sorry about that. I thought I turned that  
23 off. Stupid thing.  
24 Q It's a nice ring tone.  
25 A Yeah, sorry, I thought I had turned that 09:16:54  
Page 11

1 off.  
2 Q Which high school did you say you taught  
3 at?  
4 A At St. Paul's in Sante Fe Springs.  
5 Q And then you -- in approximately 1988, you 09:17:06  
6 went to work for Ecology and what?  
7 A And Environment.  
8 Q And what is Ecology & Environment?  
9 A It's an environmental consulting firm.  
10 Q And what was your position at Ecology & 09:17:18  
11 Environment when you first started there?  
12 A I was a junior scientist.  
13 Q What were your duties and responsibilities  
14 as a junior scientist at Ecology & Environment?  
15 A For the first year, I conducted what is 09:17:35  
16 called CERCLA pre-remedial investigation which  
17 entailed investigation of potential sites for  
18 inclusion on the national priorities list.  
19 Q And what type of sites are you referring  
20 to? 09:17:54  
21 A Hazardous substance sites, basically  
22 abandoned hazardous waste sites.  
23 Q Did that include abandoned oil and gas  
24 operations?  
25 A No. 09:18:07  
Page 12

1 Q And how much time did you spend as a junior  
2 scientist working on or in analyzing CERCLA  
3 pre-remediation sites?  
4 A One year.  
5 Q What was your next position or 09:18:28  
6 responsibility --  
7 A I moved up to --  
8 Q -- at Environmental -- excuse me, at --  
9 withdrawn. If you'll please wait till I finish my  
10 question before you answer. I mean, you knew where 09:18:40  
11 I was going, but just so we have a clear record, if  
12 you'd please wait until I finish my question, that  
13 way we're not talking over each other. Okay?  
14 MR. MULLANEY: Makes sense for the record.  
15 BY MR. BLEDSOE:  
16 Q What was your next position or  
17 responsibility at Ecology & Environment?  
18 A I worked on what was called the Technical  
19 Assistance Team Contract, and they were the  
20 scientific and technical contractors for EPA 09:19:08  
21 emergency response.  
22 Q And were you still in the position of a  
23 junior scientist?  
24 A For about the first or second year.  
25 Q So is it fair to say that you -- your first 09:19:23  
Page 13

1 two years at Ecology & Environment -- your first two  
2 to three years at Ecology & Environment, your title  
3 was a junior scientist?  
4 A Correct.  
5 Q And what were your duties and 09:19:37  
6 responsibilities as part of the technical assistance  
7 team at Ecology & Environment?  
8 A We provided technical and scientific  
9 support to the OSCs for emergency responses and  
10 Superfund removal actions and OPA or Clean Water Act 09:19:53  
11 removal actions.  
12 Q And how long were you in that position?  
13 A I was in that position for approximately --  
14 approximately 2002. The contract vehicle changed,  
15 but it was the same job. 09:20:13  
16 Q And in 2002 you joined the EPA?  
17 A Yes.  
18 Q Do you have any position at Ecology &  
19 Environment other than as a junior scientist?  
20 A No, I eventually -- when I left E&E, I was 09:20:28  
21 a chief scientist.  
22 Q Okay. Do you recall what year you were  
23 promoted to chief scientist?  
24 A Probably would have been about '98, '99.  
25 Q What were you -- withdrawn. 09:20:45

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1 How did your job change from when you were  
2 a junior scientist to when you became a chief  
3 scientist in 1988 or 1989?  
4 A The job itself didn't change, the job just  
5 got more complex. 09:20:59  
6 Q And what do you mean by that?  
7 A So, for example, as a junior, you may  
8 manage a few drums on the side of the road that was  
9 abandoned, versus as a chief, you may manage a  
10 multimillion dollar cleanup action for the 09:21:11  
11 government.  
12 Q So as a chief -- chief scientist, you had  
13 responsibilities for larger situations?  
14 A Yeah, more complex.  
15 Q Now, you mentioned earlier that you 09:21:31  
16 estimated that you had responded to approximately 20  
17 inland oil spills prior to the time that you first  
18 responded to a Greka oil spill in December of 2005.  
19 Do you recall that generally?  
20 A Yes. 09:21:48  
21 Q Can you -- walk me through briefly the  
22 types of oil spills that you had responded to prior  
23 to the time you arrived at Greka and what your  
24 responsibility was in connection with those spills.  
25 A So they would have been anything from the 09:22:01

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1 American Trader, which was the first one I  
2 mentioned, to inland oil spills, mostly impacting  
3 flood control channels in the greater Los Angeles  
4 metropolitan area, to at least one wild well case in  
5 that time frame. 09:22:28  
6 Q Prior to the time you responded to the --  
7 the first release at Greka in December 2005, had you  
8 ever responded to an inland oil spill in a -- in a  
9 dry area?  
10 A Yes. 09:22:48  
11 Q Can you -- well, when?  
12 A There was the -- I'm trying to think of the  
13 date here. When was that? I believe this was  
14 before Greka, the Mohave Desert gasoline pipeline  
15 spill would be one example of it. 09:23:11  
16 Q Do you recall ever responding to an -- an  
17 inland oil spill in a dry area prior to the time?  
18 A Yes.  
19 Q You arrived at Greka in December -- you  
20 first responded to the Greka spill in December 2005? 09:23:35  
21 A Yes.  
22 Q What -- what spill or spills are you  
23 referring to?  
24 A There was one spill, the Newland oil spill  
25 in Fillmore, California. Oil was discharged from a 09:23:47

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1 production tank farm into a dry creek bed that  
2 felt -- that fed the outfall creek for the flood  
3 control channel, which went to the Santa Clarita  
4 River.  
5 Q And do you recall what year you responded 09:24:05  
6 to --  
7 A I don't recall what year it was.  
8 Q Did you respond to the -- the Newland oil  
9 spill in Fillmore while you were working at the EPA  
10 or while you were working for Ecology & Environment? 09:24:17  
11 A For EPA.  
12 Q So it was sometime between 2002 and 2005?  
13 A Correct.  
14 Q Your best -- that's your best recollection?  
15 A Yeah, that's correct. 09:24:27  
16 Q Do you recall the volume of that spill?  
17 A I don't recall.  
18 Q Can you give me your best estimate?  
19 A Several hundred gallons.  
20 Q Was that oil? 09:24:44  
21 A It was crude oil, yes.  
22 Q Do you recall responding to any other  
23 inland oil spills into dry areas prior to the time  
24 you responded to the December 2005 Greka spill?  
25 A No. 09:25:06

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1 Q You indicated that the Newland oil spill  
2 was several hundred gallons. Can you estimate how  
3 many barrels of oil that was?  
4 A Let's see. 42 barrels -- maybe about ten  
5 barrels or so. 09:25:28  
6 Q Other than responding to a ten-barrel  
7 release you've referred to as the Newland oil spill,  
8 had you responded to any other inland oil spills in  
9 dry areas before December 2005?  
10 A I don't recall. 09:25:52  
11 Q As we sit here today, you don't recall ever  
12 having responded to an inland oil spill in a dry --  
13 into a dry area other than the approximately  
14 ten-barrel Newland oil spill --  
15 MR. MULLANEY: Objection. Asked and 09:26:08  
16 answered.  
17 BY MR. BLEDSOE:  
18 Q -- prior to the time you arrived at Greka  
19 in December 2005?  
20 MR. MULLANEY: Objection. Asked and 09:26:13  
21 answered.  
22 THE WITNESS: Do I answer it?  
23 MR. MULLANEY: Yes.  
24 THE WITNESS: I -- I don't recall which  
25 spills were which. I responded to a lot of stuff in 09:26:23

Page 18

1 that time frame, both hazardous substance and oil  
2 spills.  
3 BY MR. BLEDSOE:  
4 Q Well, I want to focus you on oil spills  
5 and -- 'cause what I want to know is what oil spills 09:26:36  
6 you had responded to in your work with the EPA prior  
7 to December 2005. So other than the Newland oil  
8 spill in Fillmore that was approximately ten barrels  
9 of oil, do you recall having responded to any other  
10 oil spills into dry areas prior to December 2005? 09:26:57  
11 MR. MULLANEY: Objection. Asked and  
12 answered.  
13 THE WITNESS: I don't recall the specifics  
14 of the individual spills. It was a long time ago.  
15 BY MR. BLEDSOE: 09:27:18  
16 Q So is it fair to say that you don't recall  
17 ever having responded to an oil spill in an inland  
18 area prior to December 2005 other than the Newland  
19 oil spill in Fillmore which involved approximately  
20 ten barrels of oil? 09:27:33  
21 MR. MULLANEY: Objection. Mischaracterizes  
22 the testimony.  
23 Go ahead.  
24 THE WITNESS: It's fair to say I don't  
25 recall the specifics of oil spills I responded to 09:27:41

Page 19

1 over ten years ago.  
2 BY MR. BLEDSOE:  
3 Q And I'm not asking you about the specifics  
4 of oil spills. In fact, I didn't even ask you about  
5 that. What I'm asking you is do you recall ever 09:27:55  
6 having responded to --  
7 Hang on. I'll start again.  
8 Do you recall ever having responded to an  
9 inland oil spill into a dry area other than the  
10 ten-barrel -- approximately ten-barrel Newland oil 09:28:17  
11 spill in Fillmore prior to the time -- I'm going to  
12 start over because -- withdrawn. New question.  
13 Other than the Newland oil spill in  
14 Fillmore that was approximately ten barrels that you  
15 referred to earlier, do you recall responding to any 09:28:32  
16 other inland oil spills in a dry area prior to  
17 December 2005?  
18 A Again, to repeat my answer, I do not recall  
19 the specifics of the oil spills, whether or not they  
20 were in dry areas or non-dry areas. I just know I 09:28:47  
21 responded to oil spills.  
22 Q How many inland oil spills into dry areas  
23 had you responded to in your work with the EPA prior  
24 to December 2005?  
25 MR. MULLANEY: Objection. Asked and 09:29:05

Page 20

1 answered.  
2 THE WITNESS: We can do this all day. I'm  
3 telling you I don't recall the specifics of what  
4 each individual response was. I respond all over  
5 the western United States, so I can't tell you 09:29:20  
6 whether or not they were dry oil spills on each  
7 individual spill.  
8 BY MR. BLEDSOE:  
9 Q Is it fair to say, as we sit here today,  
10 the only dry oil spill you recall responding to 09:29:31  
11 prior to December 2005 is the ten-barrel release  
12 that you referred to as the Newland oil spill in  
13 Fillmore?  
14 MR. ZARRO: Objection. Vague.  
15 THE WITNESS: That is the only one I 09:29:49  
16 remember the specifics on.  
17 BY MR. BLEDSOE:  
18 Q What is API of oil?  
19 A API is the density, basically how thick the  
20 oil is. 09:30:11  
21 Q Do you -- withdrawn.  
22 Can you estimate what -- what the API was  
23 of the oil that you responded to in connection with  
24 the Greka releases?  
25 A We relied on Greka to provide us with that 09:30:31

Page 21

1 information.  
2 Q Is it fair to say that the Greka releases  
3 involved a heavy crude as opposed to a light crude  
4 oil?  
5 A Yes. 09:30:42  
6 Q And is it true that the oil released at  
7 Greka was so heavy that, in fact, it could be  
8 cleaned up with a shovel?  
9 A In some cases.  
10 Q What do you mean when you say "in some 09:30:53  
11 cases"?  
12 A It was dependent on the weather for one.  
13 If it was cold, it was thicker. If it was warmer,  
14 it would flow. And it depended on where it went.  
15 For example, was the terrain steep; was there actual 09:31:06  
16 water flowing in the creek and carrying it  
17 downstream; how much produced water was in there;  
18 was it warm when it came out of the tank. So if it  
19 was mixed with produce water, and it was warm when  
20 it came out of the tank, it would flow farther than 09:31:22  
21 it would if it was cold.  
22 Q And in your career, have you ever responded  
23 to oil spills with a heavier grade of crude than  
24 what you witnessed at Greka?  
25 A Let me think about that. 09:31:43

Page 22

1 Q In a dry spill, is it easier to clean up  
2 heavier crude versus cleaning up lighter crude?  
3 A Yes.  
4 Q And why do you say that?  
5 A Because it tends to stay on the surface. 09:33:14  
6 Q And is it true that in a dry spill you can  
7 clean up heavy crude with a shovel?  
8 A Sometimes.  
9 Q And why do you say that?  
10 A It depends what's mixed with the heavy 09:33:29  
11 crude. If there's diluent with it, and depending on  
12 how much diluent is with it, it can get into the  
13 sediment. It depends on the sediment.  
14 Q Did you ever witness any cleanups in Greka  
15 spills where the cleanup was done with shovels? 09:33:50  
16 A Yes.  
17 Q Which cleanups are you referring to?  
18 A Every one.  
19 Q Is it fair to say that on each of the  
20 cleanups you worked with in Greka, because the oil 09:34:00  
21 was heavy crude, at least some of it was able to be  
22 cleaned up with shovels?  
23 A Yes.  
24 Q You testified earlier you became an  
25 on-scene coordinator for the EPA in 2002. What is 09:34:47

Page 24

1 I would say I've responded to material on  
2 par with Greka.  
3 Q And -- and which releases are you talking  
4 about?  
5 A That would be some of the oil spills we 09:32:06  
6 have responded to up in Ventura.  
7 Q Do you recall who the operators were in  
8 those releases or who the responsible parties were?  
9 A Let's see, who were they? Vintage was one  
10 of them. And then I don't recall who the other ones 09:32:23  
11 were.  
12 Q Generally speaking, is it fair to say that  
13 it's easier to clean up heavier crude than light  
14 crude because the heavier crude doesn't flow as  
15 readily? 09:32:41  
16 A It depends on where it goes to.  
17 Q Is it ever easier to clean up light crude  
18 than heavier crude?  
19 A Again, it depends on where -- where it goes  
20 to. 09:32:51  
21 Q What do you mean by that?  
22 A Heavier crudes can sink, and if you're in a  
23 flowing water body, they can sink. So now you have  
24 to deal with crude sitting on the bottom of the  
25 water that you have to get up. 09:33:02

Page 23

1 an on-scene coordinator?  
2 A An on-scene coordinator is designed --  
3 excuse me, defined under the National Contingency  
4 Plan. They are basically the incident managers for  
5 Federal EPA for all spills in the inland zone, and 09:35:07  
6 they also manage removal actions in the inland zone.  
7 Q What do you mean by "the inland zone"?  
8 A The United States is broken into an inland  
9 zone and a coastal zone, mostly for the purpose of  
10 oil spills. A little bit for hazardous substance 09:35:32  
11 but mostly for oil. It tends to be the first major  
12 highway inland is the inland zone, the first major  
13 highway, but it depends on where you're -- where  
14 you're at, on where the dividing line is.  
15 Q Is it true that all of the oil spills you 09:35:52  
16 responded to in connection with Greka were in what  
17 you've referred to as the inland zone?  
18 A Correct.  
19 Q Okay. You stated that the inland zone  
20 generally goes to the first major highway inland. 09:36:08  
21 What do you mean by that?  
22 A So, for example, in Ventura County, the  
23 inland zone tends to be the 101, although it does  
24 break off and go along Harbor Boulevard for a little  
25 bit by the port. Or in Santa Barbara, the inland 09:36:30

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1 zone is either 101 or 1, depending on which one is  
2 closer to the water.  
3 Q So in Santa Barbara County, the inland zone  
4 is from the -- either the 1 or the 101 to the coast?  
5 A No, from the 101 or the 1 inland. From the 09:36:54  
6 101/1 to the ocean or into the ocean is the Coast  
7 Guard zone.  
8 Q And you stated that the Greka releases were  
9 in the inland zone because they were all on the  
10 inland side of the 101? 09:37:14  
11 A Yeah.  
12 Q Okay.  
13 MR. MULLANEY: Answer -- answer in full --  
14 THE WITNESS: Got it.  
15 MR. MULLANEY: -- "yes" or "no." 09:37:24  
16 BY MR. BLEDSOE:  
17 Q What are the duties and responsibilities of  
18 an on-scene coordinator for the EPA?  
19 A We manage CERCLA and Clean Water Act/Water  
20 Pollution Act removal actions. We work emergency 09:37:45  
21 responses, either as the single incident commander  
22 or as part of a unified command. We -- we have  
23 ancillary jobs, depending on which OSC you are. I  
24 do training for one; provide technical assistance to  
25 our local and state partners, federal partners. 09:38:19

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1 Q Now, the first responsibility you said -- I  
2 didn't catch it all -- manage CERCLA Clean Water Act  
3 responses?  
4 A Removal actions.  
5 Q Removal actions. What do you mean by that? 09:38:39  
6 A A removal action is a -- under federal law,  
7 a removal action for CERCLA is defined as anything  
8 that costs less than \$2 million and takes less than  
9 one year to clean up. Under OPA there's -- the  
10 monetary isn't such a big deal. But basically it's 09:38:59  
11 the removal of either hazardous substances or oil  
12 from the environment.  
13 Q Now, your second responsibility, you said  
14 you worked was it an incident -- I didn't catch all  
15 that. Worked as an incident commander? 09:39:21  
16 A Incident commander or part of a unified  
17 command for hazardous substance and oil emergencies.  
18 Q What does that entail?  
19 A That entails if there's a release of either  
20 a hazardous substance or petroleum into the 09:39:42  
21 environment, and it rises to the level that EPA  
22 would get involved, then we're in charge, or we're  
23 part of the group that's in charge.  
24 Q When you said you managed CERCLA or Clean  
25 Water Act removal actions, does that include 09:40:08

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1 responding to oil spills?  
2 A Correct.  
3 Q And then when you work as an incident  
4 commander, that also is part of your work in  
5 responding to oil spills, correct? 09:40:23  
6 A Correct.  
7 Q So you mention -- you listed those as  
8 different responsibilities. And how are they  
9 different?  
10 A So the -- if we're the sole incident 09:40:32  
11 commander, what that means is EPA is paying for the  
12 cleanup in its entirety. And it doesn't matter  
13 whether it's hazardous substance or oil.  
14 If we're part of a unified command, that  
15 means that there's multiple agencies involved in the 09:40:52  
16 command decisions, depending on their various  
17 statutory authority. And we may or may not be  
18 paying for part or all of the cleanup, depending on  
19 the incident.  
20 Q Now, what I'm trying to figure out is you 09:41:09  
21 mentioned you manage CERCLA or Clean Water Act  
22 removal actions and then you also work as an  
23 incident commander. And I'm trying to figure out  
24 how those are separate responsibilities, 'cause you  
25 -- you separated them. That's what I'm trying to 09:41:23

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1 figure out.  
2 A We can have an emergency, so you'd have the  
3 emergency phase where you have stuff that has to  
4 immediately taken care of because it's an imminent  
5 substantial endangerment to public health, welfare 09:41:40  
6 or the environment. But once we've mitigated the  
7 immediate emergency, then we can step back, and then  
8 we have to do the cleanup of whatever the spill is.  
9 So it may be where we're supervising somebody else  
10 doing the cleanup, or it may be where the agency has 09:41:54  
11 stepped up and is funding the cleanup themselves.  
12 Q So your work as an incident commander may  
13 be in the emergency phase; is that correct?  
14 A Right.  
15 Q And then you transition to managing the 09:42:11  
16 Clean Water Act removal action when the emergency  
17 phase has passed?  
18 A Correct.  
19 Q Are you still the incident commander or can  
20 you still be in the position of an incident 09:42:23  
21 commander where you're managing the cleanup?  
22 A Yes, you can still be in the position of an  
23 incident commander. Usually what that means is  
24 there's still other agencies involved.  
25 Q What is the difference between an on-scene 09:42:34

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1 coordinator and an incident commander in connection  
2 with the oil -- oil spill cleanup?  
3 A The on-scene coordinator is a term under  
4 the National Contingency Plan.  
5 (Reporter clarification.)  
6 ...term under the National Contingency  
7 Plan. It's actually a designated position. The  
8 incident commander can be any agency that has  
9 jurisdiction.  
10 Q So it's true that in response to an oil 09:43:08  
11 spill and in connection with the cleanup, you can be  
12 both an on-scene coordinator and an incident  
13 commander?  
14 A Correct.  
15 Q How do the duties -- well, withdrawn. 09:43:21  
16 Do the duties of an on-scene coordinator --  
17 well, withdrawn.  
18 Are the duties of an on-scene coordinator  
19 different than the duties and responsibilities of an  
20 incident commander? 09:43:34  
21 A No.  
22 Q Can you walk me through your best  
23 description of what the duties and responsibilities  
24 of an on-scene coordinator or incident commander for  
25 the EPA are in connection with an oil spill? 09:43:55  
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1 A So when we first arrive on scene, the first  
2 thing that we need to determine is who's the  
3 responsible party. Who owns the oil, if we even  
4 know that. There are cases where we have had oil  
5 spills and we don't know whose oil it is. 09:44:13  
6 Once we have determined that, we will then  
7 look to see if there's impact to water, or if  
8 there's no impact to water or potential to get into  
9 water, then we're pretty much -- we'll go turn it  
10 back over to the local agency. 09:44:35  
11 Once we've made those two determinations,  
12 then we look at, if we have a responsible party, is  
13 that responsible party physically and financially  
14 capable of conducting a cleanup, either capable of  
15 conducting the cleanup themselves within their own 09:44:55  
16 ranks of their company, or financially capable of  
17 hiring a contractor to pay for the cleanup of the  
18 incident.  
19 If we determine that the company is  
20 incapable of cleaning up the spill, then we look at 09:45:16  
21 who is going to clean up the spill. Is it going to  
22 be the state, is it going to be the EPA, or is it  
23 potentially going to be a landowner.  
24 Q And how do you make that determination?  
25 A We have civil investigators that can look 09:45:43  
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1 into the finances and look into the land ownership.  
2 That's -- we always look to that first. We want the  
3 responsible party or the landowner to pay first.  
4 And then if they can't pay, either they're  
5 technically not capable, refuse to -- just flat out 09:46:03  
6 refuse to, because we get those sometimes, or are  
7 financially incapable of doing the cleanup, then  
8 we'll look to the state agencies to see if they have  
9 any cleanup funding mechanisms. If they don't, then  
10 the OSC will open what's called a federal pollution 09:46:21  
11 number.  
12 Q That's a -- if the responsible party has  
13 no -- no ability to pay, then you open a federal  
14 pollution number?  
15 A Well, if the responsible party still has 09:46:37  
16 ability to pay and we're going to be using  
17 contractors to do oversight, then we'll also open up  
18 a federal pollution number, because it's a -- the  
19 FPN, think of it like a banking account, and you  
20 write checks against it. 09:46:52  
21 So we'll open the federal pollution number  
22 if we're going to either use our contractors for  
23 oversight or pay for the cleanup ourselves. And  
24 then at that point, we will bring our own  
25 contractors out if we're doing the cleanup. Our 09:47:10  
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1 contracts are preset. We just basically have to  
2 call the contractor and they come out.  
3 Q Who is it that determines what needs to be  
4 done to clean up any particular release that the EPA  
5 is overseeing? 09:47:32  
6 A Usually it will be the on-scene  
7 coordinator, in consultation with our technical  
8 contractors, for technical resources, and our  
9 cleanup contractors on -- the best way to get it  
10 cleaned up. If there other agencies involved, for 09:47:43  
11 example, if California Fish and Wildlife is out  
12 there, or if the local agency has a dog in the  
13 fight, then they will be consulted to determine what  
14 their needs or requirements are. If the responsible  
15 party is cooperative, they will be consulted, too, 09:48:04  
16 especially if it's an ongoing release like a  
17 pipeline, because we really want them to deal with  
18 their own infrastructure.  
19 Q Do you personally have the expertise to  
20 determine how an oil release should be cleaned up? 09:48:31  
21 A I would say yes.  
22 Q And why do you say that?  
23 A Thirty years of experience -- actually  
24 about 29 and three-quarters years of experience, if  
25 you want to be technically correct. 09:49:02  
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1 Q What experience -- withdrawn.  
2 What specific -- or let me take a step  
3 back. Withdrawn.  
4 Prior to December 2005, how many days of  
5 your life had you spent, and I want an estimate 09:49:22  
6 'cause -- you don't have to give a precise answer --  
7 had you spent determining how oil spilled inland  
8 should be cleaned up?  
9 A I -- I don't have an answer for that.  
10 Q Well, you testified earlier that -- that 09:49:50  
11 you believe that -- that you have the know-how to  
12 determine how an oil spill should be cleaned up  
13 because you have 29 and three-quarters years of  
14 experience. Do you recall that?  
15 A I -- 09:50:04  
16 Q Do you recall that testimony?  
17 A Yeah.  
18 Q Okay. And what I'm trying to get at is,  
19 I'm trying to figure out how many of those 29 and  
20 three-quarters years you actually spent working, and 09:50:11  
21 I'm talking about your prerequis- -- years -- so  
22 pre-December 2005, how much time you actually spent  
23 working on inland oil spill cleanups?  
24 A The experience -- it's not just oil. It's  
25 any chemical that spills on the dirt. It's 09:50:33

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1 basically how do you pick up chemicals that are on  
2 the dirt, and oil is a chemical on the dirt, or it's  
3 a chemical in the water. Now, if it's in the water,  
4 it's a little different, because depending on the  
5 chemistry, it will behave different -- differently. 09:50:48  
6 But when stuff is spilled in dirt and needs to be  
7 picked up, I have a lot of experience doing that. I  
8 can't tell you how many days.  
9 Q Well, let's go back to my question. How  
10 many days -- withdrawn. 09:51:07  
11 I'll ask -- I'll ask a more general  
12 question. How much time prior to December 2005 --  
13 days, weeks, months, did you spend actually working  
14 on cleaning up oil spilled in dirt?  
15 A I have no idea. 09:51:28  
16 Q Can you estimate for me at all?  
17 A I -- I can't because I don't -- I can't  
18 tell you how long each cleanup was. I just don't  
19 remember. It was a long time ago.  
20 Q And would you agree that depending on the 09:51:41  
21 viscosity or the API of the substance spilled in  
22 dirt, there would be many different ways that you  
23 might need to clean it up?  
24 A Correct.  
25 Q Because if something is -- has a higher 09:52:00

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1 viscosity and is thinner, it's more likely to sink  
2 deeper into the earth, correct?  
3 A Depending on the geology.  
4 Q Well, is it ever true that substance with a  
5 higher viscosity that's thinner and lighter, more 09:52:22  
6 like water versus heavy crude, that will sink  
7 deeper --  
8 A Yes.  
9 Q -- into dirt than heavy crude?  
10 A Yes. 09:52:33  
11 Q And so when you talk about your experience  
12 dealing with all sorts of substances, you understand  
13 that there's a difference between the cleanup of  
14 material that has a higher viscosity that would sink  
15 deeper in the dirt than heavy crude, correct? 09:52:49  
16 A Correct.  
17 Q Okay. How much time prior to December 2005  
18 had you spent working cleaning up oil spills  
19 involving heavy crude?  
20 A I don't recall. 09:53:06  
21 Q Can you estimate for me?  
22 A I can't estimate because I -- I -- it was  
23 ten years prior to that where the experience was  
24 spread out, and now it's been ten years since then.  
25 Q When you first respond to an oil spill, you 09:53:37

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1 mentioned that you determine whether there's an  
2 impact to water. Do you recall that?  
3 A Yes.  
4 Q And what is the standard you apply to  
5 determine whether in connection with an oil spill 09:53:55  
6 there is an impact to water such -- such that you  
7 would stay on the -- the spill and work it rather  
8 than, as you said earlier, if there's no impact to  
9 water, you would turn it back to the local agencies?  
10 A Well, is there flowing water? Where does 09:54:13  
11 it go? If there is no flowing water and there's  
12 flowing oil, where does it go?  
13 Q And when you say, "Where does it go?" what  
14 do you mean by that?  
15 A Does it go to the waters of the U.S., or 09:54:47  
16 does it just peter out in some canyon somewhere and  
17 not go anywhere?  
18 Q You testified that -- or withdrawn.  
19 When you said does it just peter out and  
20 not go anywhere, what do you mean by that? 09:55:25  
21 A For example, say you have an oil spill into  
22 a dry creek bed, and the dry creek bed just goes  
23 into the side of a mountain, it just disappears.  
24 It's not connected to anything.  
25 Q You mentioned the term "waters of the U.S." 09:55:53

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1 or "waters of the United States." What did you mean  
2 by that?  
3 A Waters that fall into the jurisdiction of  
4 the Clean Water Act or the Oil Pollution Act.  
5 Q And generally speaking, what waters do you 09:56:20  
6 understand fall into the jurisdiction of the Clean  
7 Water Act or the Oil Pollution Act?  
8 MR. MULLANEY: Objection. Calls for a  
9 legal conclusion.  
10 THE WITNESS: The navigable water, any of 09:56:33  
11 the oceans, major rivers, anything that leads to the  
12 oceans or major rivers.  
13 BY MR. BLEDSOE:  
14 Q What do you mean by the term "navigable  
15 water"? 09:57:12  
16 MR. MULLANEY: Objection. Calls for a  
17 legal conclusion.  
18 THE WITNESS: Basically, any body of water  
19 that can be navigated.  
20 BY MR. BLEDSOE: 09:57:33  
21 Q What do you mean by "any body of water that  
22 can be navigated"?  
23 A That can be either traveled upon or used to  
24 travel other things upon.  
25 Q You mean in a boat? 09:57:47

1 another?  
2 A Oil was put into -- I wasn't there at the  
3 time, but oil was put into creeks and used to  
4 transport it from one point to another.  
5 Q And what I'm trying to figure out is if 09:59:58  
6 it's your understanding that oil was put into creek  
7 beds that were running with water, so that the oil  
8 was put in the wet creek to transport the oil from  
9 one end of the creek to the other, or whether it was  
10 just oil put into a creek bed to run it from one end 10:00:14  
11 of the creek or to transport it from one end of the  
12 creek to the other?  
13 A I don't know that. I wasn't alive at the  
14 time.  
15 Q Okay. Sure. And I assume you're talking 10:00:26  
16 about oil being transported from one end of a creek  
17 to the other, you're in part specifically referring  
18 to the -- the creek along Palmer Road near the Greka  
19 Bell facility, correct?  
20 A That creek and some of the other areas in 10:00:47  
21 Santa Barbara.  
22 Q Okay. Is it your understanding that in the  
23 creek by the Greka Bell facility along Palmer Road  
24 that oil was put into a running creek bed or a creek  
25 bed running with water to transport from one end of 10:01:08

1 A Could be in a boat or it could be floating  
2 oil down a creek to get it to a central location.  
3 Q So is it your testimony that if oil is  
4 transported down a ravine or a dry creek bed to move  
5 oil from point A to point B, that the dry creek bed 09:58:08  
6 thereafter becomes a navigable water?  
7 A Well, it wouldn't flow if there wasn't  
8 water in the first place.  
9 Q You were talking about flow -- having oil  
10 travel down a creek bed, correct? 09:58:35  
11 A Correct.  
12 Q Were you talking about -- were you  
13 referring to oil being transported on top of water?  
14 A His- -- historically that was a common  
15 practice. It's no longer legal to do that. 09:58:52  
16 Q What is the common practice that you're  
17 referring to with respect to transporting oil down  
18 creek beds on water?  
19 A In some parts of California, that was used  
20 as a practice prior to infrastructure being put into 09:59:18  
21 areas.  
22 Q Is it your testimony that you understand  
23 that in some parts of California, oil was put into  
24 running creek beds with water to transport the oil  
25 from point -- from one end of a creek bed to 09:59:42

1 the creek to the other?  
2 MR. MULLANEY: Objection. Asked and  
3 answered.  
4 THE WITNESS: It's my understanding that  
5 the creek bed was used to transport oil. 10:01:14  
6 BY MR. BLEDSOE:  
7 Q Do you know if there was water --  
8 A I don't know. I wasn't alive at the time.  
9 Q So it's true that you don't know whether  
10 there was water in the creek bed along Palmer Road 10:01:25  
11 at the time it was used to transport oil from one  
12 end of the creek to the other, correct?  
13 A Correct.  
14 Q Is it your testimony that the fact that the  
15 creek along Palmer Road near the Greka Bell 10:01:41  
16 facility, the fact that it was used historically to  
17 transport oil from one end of the creek to the  
18 other, that that makes the creek a navigable water?  
19 MR. MULLANEY: Objection. Calls for a  
20 legal conclusion. 10:02:01  
21 THE WITNESS: I think -- it may.  
22 BY MR. BLEDSOE:  
23 Q In your work on the Greka releases at Bell  
24 into the -- the creek bed that runs along Palmer  
25 Road, did you make a determination that that creek 10:03:28

1 bed was a navigable water of the U.S.?  
 2 MR. MULLANEY: Objection. Calls for a  
 3 legal conclusion.  
 4 THE WITNESS: We made a determination it  
 5 was a tributary to the waters of the U.S. 10:03:39  
 6 BY MR. BLEDSOE:  
 7 Q Okay. And what was the basis of that  
 8 determination?  
 9 A Based on our discussions with the local  
 10 game wardens who are familiar with the area and the 10:03:47  
 11 local ranchers who are familiar where all those  
 12 creeks go.  
 13 Q What local game wardens did you talk to in  
 14 making a determination that the creek near the Greka  
 15 Bell facility along Palmer Road was a tributary to 10:04:14  
 16 waters of the United States?  
 17 A Jamie Dostal.  
 18 Q Anyone else?  
 19 A Jorge Gross.  
 20 Q Anyone else? 10:04:28  
 21 A I don't recall any of the other game  
 22 wardens. I know there were other wardens out there,  
 23 but those are the two main I dealt with.  
 24 Q What did Mr. Dostal tell you with respect  
 25 to the -- the creek near the Greka Bell facility 10:04:42

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1 along Palmer Road and where it goes?  
 2 A What I recall, whether he told me this or  
 3 somebody else told us, it -- it flowed down  
 4 underneath Clark into the pasture owned by a  
 5 Mr. Michaels, then down past the Gato Ponds where it 10:05:06  
 6 intersected with Cat Canyon Creek and flowed down  
 7 another creek, and I believe that is Sisquoc Creek,  
 8 into a flood controlled channel that entered the  
 9 Santa Maria River.  
 10 Q Do you recall anything else that Mr. Dostal 10:05:43  
 11 or Mr. Gross or any other game warden told you about  
 12 where the dry creek bed along Palmer Road near the  
 13 Greka Bell facility -- withdrawn.  
 14 Do you recall anything else about what  
 15 Mr. Dostal or Mr. Gross or any other game warden 10:06:06  
 16 told you about where the -- the dry creek bed along  
 17 Palmer Road near the Greka Bell facility, where that  
 18 flowed in the event of a -- if there's rain or some  
 19 water in it?  
 20 A No. 10:06:26  
 21 Q Did you ever see water in the dry creek bed  
 22 along Palmer Road near the Greka Bell facility other  
 23 than when it rained?  
 24 A I don't recall.  
 25 Q Did you see water traveling down what was 10:06:59

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1 usually a dry creek bed along Palmer Road near the  
 2 Greka Bell facility when it did rain?  
 3 A Yes.  
 4 Q Okay. Did you ever make any attempt to  
 5 determine where that -- where the water, which 10:07:18  
 6 flowed in the dry creek bed during rain events near  
 7 the Greka Bell facility along Palmer Road, where  
 8 that water flowed or how far it flowed?  
 9 A I don't recall, but I did have the Coast  
 10 Guard walk some of the creeks there all the way out 10:08:03  
 11 to the river. I just cannot remember which ones  
 12 they did or not.  
 13 Q I want to talk -- I want to talk about what  
 14 you did, and I want -- I want to take a step back,  
 15 because I want to summarize this area, and then 10:08:13  
 16 we'll take our first break.  
 17 So did you ever hear that the creek bed,  
 18 the dry creek bed near the Greka Bell facility along  
 19 Palmer Road was called by the locals Asphalt Creek?  
 20 A Yes. 10:08:31  
 21 Q Okay. When did you first hear that the dry  
 22 creek bed running along Palmer Road by the Greka  
 23 facility was called Asphalt Creek?  
 24 A During one of the spills.  
 25 Q Do you recall how you heard that? 10:08:42

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1 A Somebody -- one of locals mentioned it.  
 2 Q Do you know why the dry creek bed running  
 3 along Palmer Road near the Greka Bell facility was  
 4 called by the locals Asphalt Creek?  
 5 A Yes, because there's asphalt buildups on 10:08:58  
 6 the side of the creek and in the bottom of the creek  
 7 at various points along the creek.  
 8 Q Is it true that the dry creek bed running  
 9 along Palmer Road near the Greka Bell facility had  
 10 old historic asphalt beneath the surface and along 10:09:15  
 11 the sides?  
 12 A Yes.  
 13 Q And do you know where that old historic  
 14 asphalt came from?  
 15 A I believe it came from either spills, in 10:09:25  
 16 some cases, or them putting oil into the creek.  
 17 Q Did you ever come to learn that --  
 18 withdrawn.  
 19 Did you ever conduct any investigation into  
 20 the source of the old historic asphalt that was 10:09:42  
 21 beneath the creek bed and along the banks of what  
 22 was called Asphalt Creek running along Palmer Road  
 23 near the Greka Bell facility?  
 24 A Other than speak to the locals, we  
 25 conducted no investigation. 10:09:58

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1 Q When you spoke to locals, did you -- did  
2 you learn that that creek bed had been used by  
3 operators well before Greka to transport oil from  
4 what later become the -- what later was the Greka  
5 Bell facility down -- downstream? 10:10:15  
6 A Yes.  
7 Q And did you understand that -- that the  
8 creek bed was purposefully lined with oil which  
9 became asphalt so that it could be used to transport  
10 oil from what later become -- became the Greka Bell 10:10:30  
11 facility downstream?  
12 MR. MULLANEY: Objection. Compound.  
13 THE WITNESS: No.  
14 BY MR. BLEDSOE:  
15 Q And is it true that the -- the -- other 10:10:48  
16 than in connection with produced water or water  
17 being used as part of a cleanup, that the only time  
18 you ever saw water in Asphalt Creek running along  
19 the Palmer Road by the Greka facility was when it  
20 rained? 10:11:09  
21 MR. MULLANEY: Objection. Asked and  
22 answered.  
23 THE WITNESS: I don't recall.  
24 BY MR. BLEDSOE:  
25 Q Is it true that you don't recall ever 10:11:15

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1 seeing any water in Asphalt Creek along Palmer Road  
2 near the Greka Bell facility other than when it was  
3 raining?  
4 MR. MULLANEY: Objection. Asked and  
5 answered. 10:11:27  
6 THE WITNESS: I don't recall.  
7 BY MR. BLEDSOE:  
8 Q So it's fair to say that you -- as we sit  
9 here today, you have no memory of ever seeing water  
10 running in Asphalt Creek along Palmer Road near the 10:11:38  
11 Greka Bell facility other than when it was actually  
12 raining?  
13 MR. MULLANEY: Objection. Asked and  
14 answered.  
15 THE WITNESS: May I restate the question? 10:12:05  
16 Your question is have I ever seen water in  
17 that creek if it's not actually physically raining?  
18 Yes, I've seen water in that creek if it's not  
19 physically raining.  
20 BY MR. BLEDSOE: 10:12:19  
21 Q When did you see that?  
22 A In -- during the spill times, if there  
23 was -- there could have been rain, but we did see  
24 physical water flowing through that creek when it  
25 was not physically raining. 10:12:35

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1 Q Did you ever see water in Asphalt Creek  
2 along Palmer Road near the Greka Bell facility when  
3 it -- when there hadn't been rain either a day  
4 before or it wasn't raining then?  
5 A With -- with no recent rain, I have not 10:13:13  
6 seen water flowing in there.  
7 Q And what's the amount of water -- can you  
8 estimate? -- that you saw running down Asphalt Creek  
9 when it was raining?  
10 A It -- it depended on the rain. It could be 10:13:26  
11 a fairly good amount of water for the size of creek  
12 it was, or it could be a trickle.  
13 Q When you say "a fairly good amount of  
14 water," what do you mean?  
15 A Regularly flowing. 10:13:41  
16 Q What do you mean by that?  
17 A That means there's actually visible flowing  
18 water throughout the creek.  
19 Q When you say "throughout the creek," what  
20 do you mean by that? 10:13:52  
21 A In the creek bed.  
22 Q So is it fair to -- do you mean the entire  
23 width of the creek bed or just the length of the  
24 creek bed?  
25 A It depends on what part of the creek it was 10:14:01

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1 in. In some parts of the creek, it would be the  
2 entire length of the creek bed. If it was a wider,  
3 sandier version of the creek, it may be just down  
4 the middle.  
5 Q Is it true that you never walked from 10:14:15  
6 Asphalt Creek along Palmer Road down through the  
7 pasture, down through Cat Canyon Creek, down through  
8 Sisquoc Creek and then down to the Santa Maria River  
9 to see how far any water that was in Asphalt Creek  
10 traveled? 10:14:43  
11 A Yes.  
12 Q And you mentioned Cat Canyon Creek and  
13 Sisq- -- Sisquoc Creek. Is it your understanding  
14 that Cat Canyon Creek is a water of the U.S., a  
15 navigable water? 10:15:01  
16 MR. MULLANEY: Objection. Objection.  
17 Calls for a legal conclusion.  
18 BY MR. BLEDSOE:  
19 Q Let me ask the question again 'cause I --  
20 I kind of botched that, so withdrawn. 10:15:07  
21 Is it your understanding that Cat Canyon  
22 Creek is a navigable water of the U.S.?  
23 MR. MULLANEY: Objection. Calls for a  
24 legal conclusion.  
25 THE WITNESS: It is my understanding that 10:15:18

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1 it is a tributary to the waters to the U.S.  
2 BY MR. BLEDSOE:  
3 Q Okay. That wasn't my question. Based on  
4 your observations and having been out in Greka for  
5 months, is it -- was it your understanding and 10:15:36  
6 opinion that Cat Canyon Creek was a navigable water  
7 of the U.S.?  
8 MR. MULLANEY: Objection. Calls for a  
9 legal conclusion.  
10 THE WITNESS: It was -- it was my 10:15:57  
11 understanding that Cat Canyon Creek was a tributary  
12 to the waters of the U.S., and that's all I needed  
13 to know.  
14 BY MR. BLEDSOE:  
15 Q Was Cat Canyon Creek a navigable water of 10:16:13  
16 the U.S.?  
17 MR. MULLANEY: Objection. Calls for a  
18 legal conclusion.  
19 BY MR. BLEDSOE:  
20 Q Withdrawn. 10:16:19  
21 Is Cat Canyon Creek a navigable water of  
22 the United States?  
23 MR. MULLANEY: Objection. Calls for a  
24 legal conclusion.  
25 THE WITNESS: Since I haven't seen it in 10:16:28  
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1 about ten years, I'd have to go look.  
2 BY MR. BLEDSOE:  
3 Q Did you ever make a judgment, during the  
4 time you were incident commander or on-scene  
5 coordinator with the Greka Bell spills, that Cat 10:16:39  
6 Canyon Creek was a navigable water of the U.S.?  
7 MR. MULLANEY: Objection. Calls for a  
8 legal conclusion.  
9 THE WITNESS: We made a determination that  
10 it was a tributary to the waters of the U.S. 10:16:50  
11 BY MR. BLEDSOE:  
12 Q I want to go back to my question, because I  
13 didn't ask you if you made a determination if it was  
14 a tributary. So I want you to focus on my question.  
15 Okay? Can you do that? 10:17:01  
16 MR. MULLANEY: Objection. Harassing the  
17 witness.  
18 BY MR. BLEDSOE:  
19 Q Can you do that? Can you answer my  
20 question? 10:17:08  
21 A I've answered your question.  
22 Q Okay. Let me ask -- let me ask it again.  
23 During the time you were on-scene  
24 coordinator or incident commander for any of the  
25 Greka Bell releases, did you make a determination 10:17:20  
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1 that Cat Canyon Creek was a navigable water of the  
2 United States?  
3 MR. MULLANEY: Objection. Calls for a  
4 legal conclusion.  
5 THE WITNESS: We made a determination that 10:17:32  
6 Cat Canyon Creek was a tributary of the U.S. which  
7 met our requirements for continuing response  
8 operations.  
9 BY MR. BLEDSOE:  
10 Q Now, I want you to go back to my question. 10:17:46  
11 I understand that you made a determination that Cat  
12 Canyon Creek was a tributary to waters of the U.S.,  
13 but that wasn't what I asked you. I want you to go  
14 back to my question.  
15 During the time you were an incident 10:18:01  
16 commander or on-scene coordinator in connection with  
17 Greka releases near the Bell facility that entered  
18 Asphalt Creek, did you make a determination that Cat  
19 Canyon Creek was a navigable water of the United  
20 States? 10:18:18  
21 MR. MULLANEY: Objection. Calls for legal  
22 conclusion.  
23 THE WITNESS: I don't recall.  
24 BY MR. BLEDSOE:  
25 Q Did you ever make a de- -- withdrawn. 10:18:35  
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1 During the time that you were an incident  
2 commander or on-scene coordinator in connection with  
3 Greka releases that entered Asphalt Creek, did you  
4 ever make a determination that Sisquoc Creek was a  
5 navigable water of the United States? 10:18:50  
6 MR. MULLANEY: Objection. Calls for a  
7 legal conclusion.  
8 THE WITNESS: I don't recall.  
9 BY MR. BLEDSOE:  
10 Q During the time that you were an incident 10:18:58  
11 commander or on-scene coordinator in connection with  
12 Greka releases at its Bell facility that entered  
13 Asphalt Creek, did you ever make a determination  
14 that the pasture that you referred to earlier was a  
15 navigable water of the U.S.? 10:19:20  
16 MR. MULLANEY: Objection. Calls for a  
17 legal conclusion.  
18 THE WITNESS: I don't recall.  
19 BY MR. BLEDSOE:  
20 Q When you mentioned the pasture earlier, 10:19:29  
21 what were you referring to?  
22 A I'm referring to the creek bed from what  
23 you call Asphalt Creek where it continued to flow  
24 underneath Clark Road through the creek past Gato  
25 Ponds and continuing on from there. 10:19:47  
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1 Q What pasture are you referring to though?  
2 A The pasture along -- I guess that's Palmer  
3 Road. I guess that would be Palmer Road, at the  
4 intersection of Clark and Palmer Road.  
5 Q Is it your testimony that the creek bed 10:20:05  
6 went through a pasture or that the -- there was a  
7 creek bed, then a pasture, then another --  
8 A No, the creek bed went through the pasture.  
9 Q Okay. That's what I was trying to get.  
10 Did -- did the dry creek bed along Palmer 10:20:21  
11 Road go through the other side of Dominion Road?  
12 A May I ask Susan a question on the road  
13 names, because she's more familiar with that.  
14 MR. BLEDSOE: Sure.  
15 THE WITNESS: Is that where -- where -- 10:20:58  
16 where Palmer Road comes down and then does the kind  
17 of Y there, and it either goes back up to your  
18 office or goes into the Cat Canyon; is that Dominion  
19 right there?  
20 MS. WHALEN: As it goes into which 10:21:09  
21 direction?  
22 THE WITNESS: So you know where Palmer Road  
23 kind of ends there, there's that kind of a Y there,  
24 and it either goes up into Cat Canyon Road or it  
25 goes off to the left by where the UCAL Leases used 10:21:19  
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1 to be, is that Dominion?  
2 MS. WHALEN: Dominion.  
3 THE WITNESS: Okay. So it was Dominion  
4 Road, yeah.  
5 BY MR. BLEDSOE:  
6 Q Okay. So did you Dominion Road rather than  
7 Clark Road?  
8 A Yeah, Clark Road dead ends at Dominion.  
9 Q Okay. Well, I'll go back and ask the  
10 question because the camera wasn't focused on Susan, 10:21:36  
11 and she's not deposing, or being deposed today -- so  
12 withdrawn.  
13 Earlier when you testified about Asphalt  
14 Creek running through the other side of Clark Road,  
15 did you mean to say Dominion Road? 10:21:52  
16 A I meant to say Dominion Road.  
17 Q Okay. When the dry creek bed goes on the  
18 other side of Dominion Road, does it turn to the  
19 left or to the right?  
20 A It turns to the right. 10:22:06  
21 Q Okay. And is it true that when the dry  
22 creek bed turns to the right, that's actually away  
23 from the Santa Maria River, correct?  
24 MR. MULLANEY: Objection. Ambiguous.  
25 THE WITNESS: It's parallel to the Santa 10:22:28  
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1 Maria River.  
2 BY MR. BLEDSOE:  
3 Q To the right is?  
4 A Yeah, roughly parallel.  
5 Q Other than having discussions with 10:22:35  
6 Mr. Dostal and Mr. Gross, did you rely on  
7 information from anyone else concerning where any  
8 water from Asphalt Creek would flow during the rain  
9 events when you did see flowing water?  
10 MR. MULLANEY: Objection. Asked and 10:22:56  
11 answered.  
12 THE WITNESS: We did rely on some of the  
13 local landowners.  
14 BY MR. BLEDSOE:  
15 Q Which local landowners are you referring 10:23:01  
16 to?  
17 A It would have been Mr. Michaels, because we  
18 needed his permission to go on his property.  
19 Q And what did Mr. Michaels tell you about  
20 where water from Asphalt Creek flowed? 10:23:13  
21 A He told us that that creek continued on  
22 until it met with Cat Canyon and then continued on  
23 from there.  
24 Q Did Mr. Michaels tell you anything else  
25 other than what you just stated? 10:23:26  
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1 A I don't recall.  
2 Q Is it a fair summary that when you spoke to  
3 Mr. Michaels, he told you that he believed that  
4 after the creek bed ran through his property, it ran  
5 towards Cat Canyon Creek? 10:23:40  
6 A Correct.  
7 Q Do you recall anything else he told you?  
8 A No, sir.  
9 Q Okay. Do you recall speaking with any  
10 other landowners other than -- or locals other than 10:23:48  
11 Mr. Michaels concerning where water from Asphalt  
12 Creek -- where that stream bed went?  
13 A You know, we spoke to a lot of ranchers  
14 back there, his name, and we also spoke to  
15 Mr. Ontiveros. 10:24:03  
16 Q Who is Mr. Ontiveros?  
17 A He owns the ranch just north of that -- the  
18 Michaels property.  
19 Q And what did Mr. Michaels tell you about  
20 where the stream bed went after it left his 10:24:14  
21 property?  
22 A He said it continued on around the corner,  
23 which would have been where Palmer Road turns and  
24 starts going towards Sisquoc.  
25 Q Did he tell you anything else? 10:24:27  
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1 A No.  
2 Q I may have gotten the name wrong. Was it  
3 Mr. Ontiveros who told you that after the --  
4 A No, Mr. -- sorry.  
5 Q Was it Mr. Ontiveros who told you that 10:24:49  
6 after the creek bed, the dry creek bed passed  
7 through his property, it went towards Cat Canyon  
8 Creek?  
9 A No, Mr. Michaels' property is who it went  
10 through. 10:25:00  
11 Q Okay. Then remind me, who was  
12 Mr. Ontiveros?  
13 A You asked if I had talked to any of the  
14 other locals. He was another local I had spoken to.  
15 Q Was he a landowner? 10:25:14  
16 A Yes, he was a landowner.  
17 Q Did he have property adjoining Mr.  
18 Michaels?  
19 A Yes.  
20 Q Okay. And Mr. Ontiveros told you that 10:25:20  
21 after the dry creek bed passed through his property,  
22 it turned towards Cat Canyon Creek?  
23 A No, Mr. Ontiveros told us more about what  
24 was going on on the Bradley lease.  
25 Q Okay. All right. So other than Mr. Dostal 10:25:33  
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1 and Mr. Gross and a discussion with -- you had with  
2 Mr. Michaels, did you talk to anybody else about the  
3 path of the dry creek bed that continued from -- or  
4 withdrawn.  
5 Other than Mr. Dostal and Mr. Gross, who 10:25:57  
6 worked for the Department of Fish and Wildlife, and  
7 then Mr. Michaels, who was a landowner, did you talk  
8 to anybody else about the path of the creek or the  
9 flow of the water from -- withdrawn. That's a  
10 terrible question. I'll start -- I'll start again. 10:26:18  
11 Other than Mr. Dostal and Mr. Gross and Mr.  
12 Michaels, did you talk to anybody else about the  
13 path of the creek from the Greka Bell facility?  
14 A I don't recall.  
15 Q And you never walked the length of the 10:26:33  
16 creek from, you know, beginning at Asphalt Creek  
17 along Palmer Road near the Greka Bell facility all  
18 the way down to the Santa Maria River?  
19 A No.  
20 Q Did you make a determination that Asphalt 10:26:51  
21 Creek was a tributary to -- to the pasture  
22 downstream?  
23 MR. MULLANEY: Objection. Mischaracterizes  
24 the testimony.  
25 THE WITNESS: We made a determination -- or 10:27:07  
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1 excuse me, I made a determination, no "we." I made  
2 a determination that Asphalt Creek was a tributary  
3 to the Santa Maria River and passed through the  
4 Michaels property pasture.  
5 BY MR. BLEDSOE: 10:27:40  
6 Q Now, you said there was no, quote, "we."  
7 Is it your testimony that you were the person who  
8 made the determination that the EPA had jurisdiction  
9 over Greka oil releases into Asphalt Creek?  
10 MR. MULLANEY: Objection. Calls for a 10:27:59  
11 legal conclusion.  
12 THE WITNESS: I made the determination on  
13 consultation with EPA's attorneys based on the  
14 information we were provided by the aforementioned  
15 parties. 10:28:24  
16 BY MR. BLEDSOE:  
17 Q Okay. And I just want to make sure I  
18 understand kind of the portions of the creek. So is  
19 it true that the first portion of the creek that you  
20 looked at in making a determination whether Asphalt 10:28:47  
21 Creek or whether -- withdrawn.  
22 Is it true that the first portion of the  
23 creek that you looked at to make a determination  
24 whether EPA had jurisdiction over the Greka releases  
25 was you looked at Asphalt Creek, correct? 10:29:07  
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1 A Correct.  
2 Q And then the next portion of the creek that  
3 you looked at was the pasture where the creek passed  
4 through on the other side of Dominion Road?  
5 A Yes. 10:29:28  
6 MR. MULLANEY: Objection. Calls --  
7 misstates.  
8 BY MR. BLEDSOE:  
9 Q And that was the pasture owned by  
10 Mr. Michaels? 10:29:32  
11 A Yes.  
12 Q Did the portion of the creek, the dry creek  
13 that passed through the pasture have a name?  
14 A I don't believe so.  
15 Q And then the next portion or next creek 10:29:48  
16 that came into play was Cat Canyon Creek?  
17 A Correct.  
18 Q And then from Cat Canyon, the next portion  
19 of the creek or -- was Sisquoc Creek?  
20 A I believe so. 10:30:12  
21 Q And then the next creek -- or withdrawn.  
22 And then the next creek or river from  
23 Sisquoc Creek was the Santa Maria River?  
24 A Correct.  
25 Q As between Asphalt Creek, the -- the creek 10:30:42  
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1 running through the pasture, Cat Canyon Creek,  
2 Sisquoc Creek and the Santa Maria River, which of  
3 those did you make a determination were navigable  
4 waters?  
5 MR. MULLANEY: Objection. Calls for a 10:31:01  
6 legal conclusion.  
7 THE WITNESS: We made -- excuse me. That's  
8 a bad habit of mine.  
9 I made a determination, under advisement  
10 from EPA counsel, that the jurisdictional waters for 10:31:15  
11 which all these other creeks were tributaries to was  
12 the Santa Maria River, which drained at the Pacific  
13 Ocean.  
14 BY MR. BLEDSOE:  
15 Q So is it true that as between Asphalt 10:31:29  
16 Creek, the pasture with the unnamed dry creek, Cat  
17 Canyon Creek and Sisquoc Creek and the Santa Maria  
18 River, the feature that was actually in your  
19 estimation and decision-making a navigable water was  
20 the Santa Maria River? 10:31:51  
21 MR. MULLANEY: Objection. Asked and  
22 answered.  
23 MR. ZARRO: Objection. Mischaracterizes  
24 his testimony.  
25 THE WITNESS: The jurisdictional waters for 10:32:04  
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1 EPA were the Santa Maria River and the Pacific  
2 Ocean.  
3 BY MR. BLEDSOE:  
4 Q Did you ever walk the portion of the creek  
5 that ran through Mr. Michaels' pasture -- 10:32:25  
6 A Yes.  
7 Q -- to see if it had running water other  
8 than in connection with the rain events?  
9 A I walked -- during the spill events, I  
10 walked the property from the spill origin all the 10:32:38  
11 way down to the groundwater well owned by Greka at  
12 the intersection of Dominion and Palmer.  
13 Q And how far away was that from down -- down  
14 from Asphalt Creek?  
15 A Maybe a half a mile or so. 10:32:59  
16 Q So is it fair to say that in connection  
17 with your determination of whether the EPA had  
18 jurisdiction over Asphalt Creek, you walked about a  
19 half mile down from Asphalt Creek?  
20 A That would probably be a fair estimate. 10:33:15  
21 Q And is it also fair to say that the Santa  
22 Maria River is approximately ten miles away from  
23 Asphalt Creek?  
24 A I don't know that.  
25 Q How far away from Asphalt Creek is the 10:33:24  
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1 Santa Maria River?  
2 A About 10 to 15 minutes by car.  
3 Q Did the -- withdrawn.  
4 Was the portion of the creek that ran  
5 through Mr. Michaels' property, so the portion of 10:33:49  
6 the creek on the other side of Dominion Road, was  
7 that a dry creek bed other than in connection with  
8 rain events?  
9 A When I saw it, it had water in it.  
10 Q That's not my question. 10:34:14  
11 A I can't answer your question whether it's  
12 dry year round.  
13 Q Do you know one way or the other whether  
14 the portion of the creek bed that ran through the  
15 pasture of Mr. Michaels' property has naturally 10:34:26  
16 flowing water or whether it only has water when it's  
17 raining or in connection with rain events?  
18 MR. MULLANEY: Objection. Asked and  
19 answered.  
20 THE WITNESS: Could you please restate the 10:34:57  
21 question?  
22 BY MR. BLEDSOE:  
23 Q Sure. Well, we've talked about Asphalt  
24 Creek being a --  
25 A Right.  
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1 Q -- dry creek bed --  
2 A Right.  
3 Q -- other than when it -- other than in  
4 connection with the rain events; do you recall that?  
5 A Yeah. 10:35:09  
6 Q And what I'm trying to figure out is  
7 whether the portion of the creek that you mentioned  
8 runs through Mr. Michaels' pasture, whether that is  
9 also a dry creek bed other than when it's raining?  
10 A I believe so. 10:35:27  
11 Q And did you ever walk Cat Canyon Creek to  
12 see if it's also a dry creek other than when it's  
13 raining?  
14 A No.  
15 Q And do you know whether Cat Canyon Creek is 10:35:40  
16 a dry creek bed other than when it's raining?  
17 A No.  
18 Q Do you know whether Sisquoc Creek is a dry  
19 creek bed other than when it's raining?  
20 A No. 10:35:53  
21 Q And do you know how many -- well,  
22 withdrawn.  
23 Are there any other portions of the creek,  
24 other than what we've talked about prior to the time  
25 it gets to the Santa Maria River, other than Asphalt 10:36:16  
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1 Creek, the creek running through the pasture of Mr.  
2 Michaels' property, Cat Canyon Creek and Sisquoc  
3 Creek; are there any other portions of the creek we  
4 did not talk about?  
5 A There's a piece of flood control channel 10:36:32  
6 that leads to the river.  
7 Q And is that after Sisquoc Creek?  
8 A I believe so.  
9 Q And is it a fair summary of your testimony  
10 that, as far as you're aware, Asphalt Creek and the 10:36:58  
11 portion of the creek running through the pasture of  
12 Mr. Michaels' property, those are dry creek beds  
13 other than in connection with rain events, correct?  
14 MR. MULLANEY: Objection. Asked and  
15 answered. 10:37:25  
16 THE WITNESS: I'd say yes.  
17 BY MR. BLEDSOE:  
18 Q And Cat Canyon Creek and Sisquoc Creek, you  
19 don't know whether they're dry creek beds because  
20 you didn't walk them and you haven't investigated 10:37:42  
21 them, correct?  
22 MR. MULLANEY: Objection. Asked and  
23 answered.  
24 THE WITNESS: Yes.  
25 BY MR. BLEDSOE: 10:37:42

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1 MR. MULLANEY: Objection. Calls for a  
2 legal conclusion and it's also ambiguous.  
3 THE WITNESS: After consulting with EPA  
4 legal counsel, I made the determination we could  
5 move forward. 10:56:12  
6 BY MR. BLEDSOE:  
7 Q And my question is a little bit different  
8 because I'm going to ask you about your  
9 consultations with EPA legal counsel, but someone at  
10 EPA has to make a decision whether the EPA has 10:56:22  
11 jurisdiction over release when the EPA arrives on  
12 site, correct?  
13 A Correct.  
14 Q And my question to you is as the on-site  
15 coordinator and incident commander, were you the 10:56:37  
16 person who ultimately made the decision that the EPA  
17 had jurisdiction over Greka releases into Asphalt  
18 Creek along Palmer Road?  
19 A Yes.  
20 MR. MULLANEY: Objection. 10:56:51  
21 THE WITNESS: Sorry.  
22 BY MR. BLEDSOE:  
23 Q Now, you mentioned that you consulted with  
24 EPA legal counsel in connection with your  
25 decisions -- or your decision that the EPA had 10:57:03

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1 Q And then after Sisquoc Creek, there's a  
2 flood control channel. Do you know whether the  
3 flood control channel has -- usually has water  
4 running through it versus only having water in  
5 connection with the rain events? 10:37:52  
6 A I have seen water in that when there's no  
7 rain events.  
8 Q Okay.  
9 MR. BLEDSOE: All right. Why don't we take  
10 our first break. 10:38:02  
11 VIDEO OPERATOR: This marks the end of  
12 media No. 1 in the deposition of Robert Wise. Going  
13 off the record at 10:38 a.m.  
14 (Recess.)  
15 VIDEO OPERATOR: We're back on the record 10:55:17  
16 at 10:55 a.m., and this marks the beginning of media  
17 No. 2 in the deposition of Robert Wise.  
18 BY MR. BLEDSOE:  
19 Q Mr. Wise, as the on-scene coordinator and  
20 incident commander for the EPA on the Greka releases 10:55:29  
21 into -- withdrawn.  
22 Mr. Wise, as the on-scene coordinator and  
23 incident commander, were you the person who made the  
24 decision that the EPA had jurisdiction over Greka  
25 releases into Asphalt Creek along Palmer Road? 10:55:52

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1 jurisdiction over Greka releases into Asphalt Creek  
2 along Palmer Road; do you recall that?  
3 A Yes.  
4 Q Okay. Did you consult with legal counsel  
5 about whether the EPA had jurisdiction over Greka 10:57:21  
6 releases into Asphalt Creek along Palmer Road prior  
7 to assuming jurisdiction as an on-scene coordinator  
8 or incident commander or afterwards?  
9 MR. MULLANEY: Objection. Calls for  
10 communications with counsel. 10:57:44  
11 THE WITNESS: Do I answer it?  
12 MR. MULLANEY: To the extent that you're  
13 not recounting what your attorneys said to you.  
14 THE WITNESS: Before the decision was made.  
15 BY MR. BLEDSOE: 10:58:02  
16 Q Do you recall when the first time was that  
17 you arrived at the Greka Bell facility to work for  
18 the EPA in connection with the release into Asphalt  
19 Creek?  
20 A Yes. 10:58:18  
21 Q Okay. When was that?  
22 A I believe it was July of 2007.  
23 Q And do you recall that you arrived on site  
24 on July 20th, 2007?  
25 A I don't recall the date. I just know it 10:58:33

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1 I was July, summerish.  
2 Q Is it true that the first day you arrived  
3 on site at the Greka Bell facility in connection  
4 with the release into Asphalt Creek along Palmer  
5 Road, you assumed jurisdiction on behalf of the EPA 10:58:47  
6 and were the federal on-site coordinator, correct?  
7 A Yes.  
8 Q Okay. Prior to assuming jurisdiction over  
9 Greka's July 2007 release into Asphalt Creek along  
10 Palmer Road near the Greka Bell facility, did you 10:59:06  
11 consult with EPA attorneys to determine whether the  
12 EPA had jurisdiction over releases into Asphalt  
13 Creek?  
14 MR. MULLANEY: Objection. Asked and  
15 answered. 10:59:27  
16 THE WITNESS: I believe so.  
17 BY MR. BLEDSOE:  
18 Q Okay. Who did you talk to at the EPA?  
19 A Most likely would have been, I believe,  
20 Michael Massey, but it's been a long time. 10:59:34  
21 Q And do you recall when you talked to  
22 Mr. Massey?  
23 A No.  
24 Q What did Mr. Massey tell you with respect  
25 to whether the EPA had jurisdiction into a -- 10:59:42

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1 release by Greka into Asphalt Creek in July 2007?  
2 MR. MULLANEY: Objection. Calls for  
3 attorney-client communications.  
4 To the extent that you can respond to that  
5 question without -- I actually think there is no 10:59:58  
6 response to that other than what the attorney told  
7 him, so I'm going to instruct him not to answer  
8 that.  
9 BY MR. BLEDSOE:  
10 Q Did you talk to Jamie Dostal or Jorge Gross 11:00:09  
11 or Mr. Michaels about the pathway of the dry creek  
12 bed from Asphalt Creek prior to the time you arrived  
13 on scene in July 2007?  
14 A I don't believe so.  
15 Q But it's your testimony that you consulted 11:00:42  
16 with Mr. Massey prior to the time you arrived on  
17 scene to the release that -- into Asphalt Creek in  
18 July 2007, correct?  
19 A No. I consulted with Mr. Massey prior to  
20 making a jurisdictional decision. 11:01:00  
21 Q So is it your testimony that you consulted  
22 with Mr. Massey on the day you arrived and prior but  
23 -- while you were on scene, but prior to the time  
24 that you became the federal on-scene coordinator in  
25 connection with the July 2007 release into Asphalt 11:01:19

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1 Creek along Palmer Road?  
2 MR. MULLANEY: Objection. Misstates the  
3 testimony.  
4 THE WITNESS: I don't recall the exact  
5 timing of when I spoke to EPA counsel. 11:01:35  
6 BY MR. BLEDSOE:  
7 Q Okay. Did you -- I'm going to show you  
8 some emails so that we can kind of establish some  
9 time frames because I want to -- I want to  
10 understand the sequence of events. So... 11:01:48  
11 (Discussion off the record.)  
12 (Deposition Exhibit 2801 marked by the  
13 court reporter.)  
14 BY MR. BLEDSOE:  
15 Q Mr. Wise, you've been handed a document 11:04:02  
16 that has been marked as 2801 for identification  
17 purposes. If you'll please review 2801 and let me  
18 know when you're finished. I'm going to ask you  
19 some questions about it and see if this refreshes  
20 your recollection as far as when you arrived on site 11:04:11  
21 to the Bell facility in connection with the July  
22 2007 release.  
23 MR. MULLANEY: Is there a question or is  
24 that just --  
25 MR. BLEDSOE: I'm just -- 11:04:26

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1 MR. MULLANEY: A question first.  
2 MR. BLEDSOE: I just told him to take a  
3 look at the document and tell me when he's finished.  
4 MR. MULLANEY: Okay, great.  
5 MR. BLEDSOE: I didn't -- I was just 11:04:33  
6 telling him why I was asking him to take a look at  
7 the document.  
8 THE WITNESS: Okay.  
9 BY MR. BLEDSOE:  
10 Q What is Exhibit 2801? 11:05:22  
11 A It is a document called the "Pollution  
12 Report," and it's a document required -- it's a  
13 document the agency requires on-scene coordinators  
14 to provide updates to interested parties, EPA  
15 management, other agencies. 11:05:48  
16 Q Is Exhibit 2801 a copy of a Pollution  
17 Report that you prepared, dated July 21, 2007, in  
18 connection with a Greka release into Asphalt Creek  
19 on July 16th, 2007?  
20 A I don't know if the release was on 11:06:21  
21 July 16th. I know, according to the document, on  
22 July 18th my EPA assistance was requested, so we  
23 responded on the 21st.  
24 Q Let me refer you to the first sentence of  
25 the -- of the last paragraph on page 1 of 11:06:38

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1 Exhibit 2801. It says:  
2 "On July 20, 2007, FOSC Robert Wise and  
3 START responded to the spill."  
4 Do you see that?  
5 A Yes. 11:06:48  
6 Q Okay. Does that refresh your recollection  
7 that you responded to --  
8 A Oh, yes. No, I'm saying I responded, yes.  
9 Q No, okay. Let me finish my question just  
10 so we have a clear record. 11:06:58  
11 Does Exhibit 2801 refresh your recollection  
12 that you responded to the -- the Greka release into  
13 Asphalt Creek on July 20th, 2007?  
14 A Yes.  
15 Q And how do you become an on- -- well, 11:07:13  
16 withdrawn.  
17 Do you see it says on "July 20th, 2007,  
18 FOSC Robert Wise and START responded to the spill";  
19 do you see that?  
20 A Yeah. 11:07:30  
21 Q Does FOSC respond or refer to -- withdrawn.  
22 Does FOSC refer to federal on-scene  
23 coordinator?  
24 A Correct.  
25 Q Are you a federal on-scene coordinator in 11:07:40  
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1 connection with the -- an oil spill cleanup before  
2 the EPA has determined that it has jurisdiction or  
3 only afterwards?  
4 A My job title is federal on-scene  
5 coordinator. I'm a federal on-scene coordinator 11:08:00  
6 full time. Whether or not we are the designated  
7 FOSC for that spill does not make the determination.  
8 That determination is not made until after we arrive  
9 and gather information as to whether it meets the  
10 jurisdictional requirements -- 11:08:18  
11 Q Okay.  
12 A -- for EPA.  
13 Q As of July 21st, 2001, the date of your  
14 Pollution Report, which is marked Exhibit 2801, had  
15 you determined that the EPA did have jurisdiction 11:08:32  
16 over Greka's July 16th, 2007, release into Asphalt  
17 Creek?  
18 A Yes.  
19 Q And did you make that determination on  
20 July 20th, 2007, or July 21st, 2007? 11:08:48  
21 A It probably would have been made on  
22 July 20th.  
23 Q Okay. On July 20th, who did you talk to  
24 about Asphalt Creek and its eventual connection to a  
25 U.S. navigable water and whether it had such a 11:09:18  
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1 connection?  
2 A I don't recall who I actually spoke to.  
3 Q Okay. Did you talk to someone on July 20th  
4 to determine whether Asphalt Creek along Palmer Road  
5 near the Bell facility had some sort of downstream 11:09:41  
6 connection to a navigable water or a jurisdictional  
7 water of the U.S.?  
8 A Yes.  
9 Q Do you have any recollection of who you  
10 talked to on July 20th, 2007, prior to making the 11:09:56  
11 determination that the EPA had jurisdiction over the  
12 Greka July 16th, 2007, release into Asphalt Creek?  
13 A No.  
14 Q Did you talk to Mr. Michaels on July 20th,  
15 2007, about the creek running through his pasture? 11:10:17  
16 A I don't recall.  
17 Q Is it your best recollection that you  
18 actually talked to Mr. Michaels sometime after July  
19 20 -- 20th, 2007, concerning the creek that went  
20 through -- the dry creek bed that went through his 11:10:34  
21 pasture?  
22 A Most likely.  
23 Q So is it fair to say that it's your best  
24 recollection that as of July 20th, 2007, the only  
25 people that you would have talked to in making a 11:10:48  
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1 determination whether Asphalt Creek had a sufficient  
2 connection to U.S. jurisdictional waters such that  
3 the EPA could exercise jurisdiction would have been  
4 Mr. Dostal or Mr. Gross of the Department of Fish  
5 and Wildlife? 11:11:07  
6 MR. MULLANEY: Objection. Mischaracterizes  
7 the testimony.  
8 THE WITNESS: It could have been any agency  
9 out there. I don't recall all the agencies that  
10 were out there. 11:11:14  
11 BY MR. BLEDSOE:  
12 Q Do you recall talking to anybody on  
13 July 20th, 2007, about whether Asphalt Creek --  
14 A I don't recall.  
15 Q -- had a connection to -- 11:11:25  
16 A Sorry.  
17 Q -- any U.S. jurisdictional water or U.S.  
18 navigable water such that the EPA did have  
19 jurisdiction over Greka's release into Asphalt Creek  
20 in 2007? 11:11:38  
21 A I don't recall.  
22 Q Prior to making a determination that the  
23 EPA had jurisdiction over Greka's release into the  
24 dry creek known as Asphalt Creek along Palmer Road  
25 near the Bell facility, did you talk to Mike Massey 11:11:50  
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1 of the EPA concerning the jurisdiction issue?  
2 A I don't recall.  
3 Q What was the basis on July 20th, 2007, of  
4 your determination that the EPA did have  
5 jurisdiction over Greka's release into the dry creek 11:12:32  
6 bed known as Asphalt Creek?  
7 A It would have been that -- excuse me, it  
8 would have been that that creek connected to the  
9 waters of the U.S., and if you'll notice later, in  
10 the back of the Pol Rep, it does say that there was 11:12:53  
11 rain projected for the following week. So part of  
12 our mandate is to prevent oil spills into the waters  
13 of the U.S.  
14 Q Now, you said somewhere later there's a  
15 mention of potential rain coming the following week. 11:13:11  
16 Where are you referring to?  
17 A I'm referring to the second page "Key  
18 Issues." No. 1, "Rain is expected early next week."  
19 Q Did it, in fact, rain the next week?  
20 A I don't recall. 11:13:26  
21 Q In fact, it didn't rain the next week, did  
22 it?  
23 A I honestly do not recall.  
24 Q So is it true that one of the reasons that  
25 you determined the EPA had jurisdiction over Greka's 11:13:34  
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1 release into the dry creek bed, commonly known as  
2 Asphalt Creek, was that it might rain the following  
3 week?  
4 MR. MULLANEY: Objection. Misstates the  
5 testimony. 11:13:49  
6 THE WITNESS: Yes.  
7 BY MR. BLEDSOE:  
8 Q How far down from Asphalt Creek did you  
9 walk on July 20th, 2007, prior to making a  
10 determination that the EPA had jurisdiction over 11:14:07  
11 Greka's release into that dry creek bed?  
12 A I don't recall.  
13 Q Do you recall -- well, you mentioned  
14 earlier that the furthest you walked down from Asph-  
15 -- Asphalt Creek was approximately a half a mile. 11:14:19  
16 Do you recall that?  
17 A A half -- a half a mile in the pasture.  
18 Q Okay. Do you recall -- well, you testified  
19 earlier that you needed Mr. Michaels' permission to  
20 go on his land. Do you recall that? 11:14:36  
21 A Yes.  
22 Q Why did you need Mr. Michaels' permission  
23 to go on his pasture land?  
24 A Because it's private property.  
25 Q Do you recall whether you sought and -- 11:14:54  
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1 withdrawn.  
2 Did you find out who Mr. Michaels was and  
3 ask him for permission to walk through his property  
4 on July 20th, 2007?  
5 A I don't recall. 11:15:11  
6 Q Is it your best recollection that you  
7 didn't, in fact, talk to Mr. Michaels on July 20th,  
8 2007, and didn't ask for his permission to walk on  
9 his property on July 20th, correct?  
10 A I don't recall. 11:15:22  
11 Q But it's true that the furthest you ever  
12 walked from Asphalt Creek was a mile into -- excuse  
13 me, a half mile -- withdrawn.  
14 Is it true that the furthest you ever  
15 walked from Asphalt Creek was approximately one half 11:15:44  
16 mile through Mr. Michaels' pasture land?  
17 A Through the course of the many spills, yes.  
18 Q How many times did you enter Mr. Michaels'  
19 property and walk through the pasture land?  
20 A I don't recall. 11:16:04  
21 Q Did you do it more than once?  
22 A Yes.  
23 Q Okay. And you don't recall when the first  
24 time you did that?  
25 A No. 11:16:12  
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1 Q Have you heard of -- and I am a not sure  
2 I'm saying this right, but the -- the Rapanos case  
3 from the U.S. Supreme Court?  
4 A Yes.  
5 Q Have you ever heard that term? 11:16:29  
6 A Yes.  
7 Q What do you understand the significance of  
8 the Rapanos case to be?  
9 MR. MULLANEY: Calls for a legal  
10 conclusion. 11:16:37  
11 THE WITNESS: The Rapanos case adjusted the  
12 definition of the waters of the U.S.  
13 BY MR. BLEDSOE:  
14 Q Have you ever -- well, and when you say the  
15 Rapanos case, you mean suggested the definition or 11:16:45  
16 gave the definition of the waters of the U.S.?  
17 What's -- just what's your understanding?  
18 A My understanding is it adjusted the  
19 definition.  
20 Q And how did you understand that the Rapanos 11:16:57  
21 case adjusted the definition of the waters of the  
22 U.S. in connection with the EPA's jurisdiction?  
23 MR. MULLANEY: Objection. Calls for a  
24 legal conclusion.  
25 THE WITNESS: It is -- it was my 11:17:09  
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1 understanding the Rapanos decision was based on a  
2 West Coast -- excuse me, an East Coast wetlands  
3 jurisdictional issue, and it -- it concerned when  
4 water was flowing, how it was flowing, the chemical  
5 and hydrologic characteristics of the waterway, 11:17:29  
6 whether or not they're adjoining stream and  
7 shorelines to the waterway, and that all connected  
8 to make the determination of whether or not there  
9 was a significant nexus to the waters of the U.S.  
10 BY MR. BLEDSOE:  
11 Q Have you ever read the Rapanos case?  
12 A I've read a summary of it, not the entire  
13 case.  
14 Q Okay. And did you understand that the --  
15 the test given by the Supreme Court to determine 11:17:57  
16 whether an oil release -- whether the EPA  
17 essentially had jurisdiction over the oil release  
18 was whether there was a significant nexus to the  
19 waters of the U.S.?  
20 MR. MULLANEY: Objection. Calls for a 11:18:13  
21 legal conclusion.  
22 THE WITNESS: So that -- that's why I  
23 consult with EPA attorneys to have them advise us on  
24 that issue.  
25 BY MR. BLEDSOE:

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1 Q Okay. Did you consult with Mr. Massey  
2 prior to the time that you determined that the EPA  
3 had jurisdiction over Greka's release into the dry  
4 creek bed known as Asphalt Creek to determine  
5 whether there was a significant nexus to the waters 11:19:08  
6 of the U.S.?  
7 MR. MULLANEY: Objection. Calls for  
8 communication with an attorney.  
9 I'm going to instruct you not to answer.  
10 BY MR. BLEDSOE:  
11 Q Did you know how far away the Santa Maria  
12 River was from the Greka Bell facility on July 20th,  
13 2007?  
14 A Yes.  
15 Q How far away was it? 11:19:50  
16 A Mileage wise, I don't know mileage. I know  
17 how to drive there.  
18 Q Can you estimate in miles how far away the  
19 Santa Maria River is from the Greka Bell facility,  
20 and specifically from Asphalt Creek near the Greka 11:20:06  
21 Bell facility?  
22 A As the crow flies, probably 10 to 12 miles.  
23 Q And did you make a determination on  
24 July 20th, 2007, that Greka's release into the dry  
25 creek bed known as Asphalt Creek had a significant 11:20:24

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1 nexus with navigable, in fact, waters of the United  
2 States?  
3 MR. MULLANEY: Objection. Calls for a  
4 legal conclusion.  
5 THE WITNESS: Yes.  
6 BY MR. BLEDSOE:  
7 Q And what was the basis of that  
8 determination?  
9 A Based on the information provided that all  
10 of those creeks eventually ended up in the waters of 11:20:44  
11 the U.S.  
12 Q So is it your -- was it your determination  
13 that if one dry creek bed led to another dry creek  
14 bed, which led to another dry creek bed, which led  
15 to a creek that you weren't sure was dry or not, 11:21:06  
16 which led to a creek which you weren't sure was dry  
17 or not, which led to the Santa Maria River, which  
18 had water, which led to the U.S., that that first  
19 creek, dry creek, did, in fact, have a significant  
20 nexus with navigable, in fact, waters of the U.S.? 11:21:22  
21 MR. MULLANEY: Objection. Calls for a  
22 legal conclusion and it's compound and  
23 incomprehensible.  
24 MR. ZARRO: Join.  
25 THE WITNESS: We made the decision -- 11:21:37

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1 excuse me, sorry. I made the decision that there  
2 was a potential for a discharge of oil to the waters  
3 of the U.S. based on the current information we had  
4 that there was rain expected, that water could flow  
5 from Asphalt Creek all the way to -- to Santa Maria 11:21:55  
6 River.  
7 BY MR. BLEDSOE:  
8 Q If rain had not been expected the week  
9 after you arrived in July 2007, would Greka's  
10 release into Asphalt Creek in July 2007 have had a 11:22:14  
11 significant nexus, in your opinion, with navigable,  
12 in fact, waters of the U.S.?  
13 MR. MULLANEY: Objection. Calls for a  
14 legal conclusion.  
15 THE WITNESS: I believe so. 11:22:33  
16 BY MR. BLEDSOE:  
17 Q And why do you say that?  
18 A Because it would eventually rain, and if  
19 the spill wasn't cleaned up, it would still move  
20 into the waters of the U.S. 11:22:42  
21 Q How much would it have to have had to  
22 rain -- withdrawn.  
23 How much would it have had to have rained  
24 for oil that Greka released into Asphalt Creek in  
25 July of 2007 to have reached the Santa Maria River? 11:22:59

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1 MR. MULLANEY: Objection. Calls for an  
 2 expert opinion.  
 3 THE WITNESS: I don't know. I'm not a  
 4 hydrologist.  
 5 BY MR. BLEDSOE: 11:23:09  
 6 Q On July 20th, 2007, did you do any analysis  
 7 of whether and how much rain it would take for oil  
 8 released by Greka in -- in -- into Asphalt Creek to  
 9 have reached the Santa Maria River?  
 10 A No. 11:23:30  
 11 MR. MULLANEY: Object --  
 12 BY MR. BLEDSOE:  
 13 Q Now July is a summer month, correct?  
 14 A Correct.  
 15 Q Do you know how often it rains in Santa 11:23:39  
 16 Barbara County in the summer?  
 17 A No.  
 18 Q Did you do any analysis whatsoever of the  
 19 actual likelihood of the oil that Greka released  
 20 into Asphalt Creek in July 2007 reaching the Santa 11:23:54  
 21 Maria River?  
 22 MR. MULLANEY: Objection. Calls for an  
 23 expert opinion.  
 24 THE WITNESS: No.  
 25 BY MR. BLEDSOE: 11:24:27

1 Q Now, did you understand when you arrived on  
 2 site on July 20th, 2007, that there had been  
 3 questions raised internally at the EPA concerning  
 4 whether the EPA would have jurisdiction over Greka's  
 5 release into Asphalt Creek in July 2007? Did you 11:25:54  
 6 understand that?  
 7 MR. MULLANEY: Objection. Calls for  
 8 consultation with attorneys.  
 9 THE WITNESS: No.  
 10 BY MR. BLEDSOE: 11:26:09  
 11 Q Did anyone at the EPA ever tell you prior  
 12 to July 20th, 2007, that the EPA wasn't sure, based  
 13 on the Rapanos case, whether it had jurisdiction  
 14 over -- or whether it would have jurisdiction over  
 15 Greka's release into Asphalt Creek in July 2007? 11:26:26  
 16 MR. MULLANEY: Objection. Calls for  
 17 attorney-client communication.  
 18 THE WITNESS: Do I answer it?  
 19 MR. MULLANEY: To the extent that you can  
 20 without revealing -- 11:26:37  
 21 THE WITNESS: I don't recall.  
 22 BY MR. BLEDSOE:  
 23 Q Do you have any recollection at all of  
 24 anyone from the EPA telling you that the EPA might  
 25 not have jurisdiction over Greka's July 2007 release 11:26:56

1 Q Did you do any analysis on July 20th, 2007,  
 2 of whether the oil released by Greka into Asphalt  
 3 Creek near its Bell facility could significantly  
 4 affect the chemical, physical and biological  
 5 integrity of the Santa Maria River? 11:24:43  
 6 A No.  
 7 Q Now, do you understand that there's a  
 8 difference between whether the state has  
 9 jurisdiction over an oil spill versus whether the  
 10 federal government has jurisdiction? 11:25:03  
 11 A Yes.  
 12 MR. MULLANEY: Objection. Calls for a  
 13 legal conclusion.  
 14 BY MR. BLEDSOE:  
 15 Q And what do you understand that difference 11:25:08  
 16 to be?  
 17 A The definition of the waters of the state  
 18 are different than the waters of the U.S.  
 19 Q And what do you understand the diff- -- the  
 20 definition of waters of the state to be? 11:25:20  
 21 MR. MULLANEY: Objection. Calls for a  
 22 legal conclusion.  
 23 THE WITNESS: I don't know what their legal  
 24 definition is.  
 25 BY MR. BLEDSOE: 11:25:36

1 into Asphalt Creek based on the Rapanos case?  
 2 MR. MULLANEY: Objection to the extent it  
 3 calls for attorney-client communication.  
 4 THE WITNESS: No.  
 5 MR. BLEDSOE: Let's mark this as 11:27:39  
 6 Exhibit 2802.  
 7 (Deposition Exhibit 2802 marked by the  
 8 court reporter.)  
 9 BY MR. BLEDSOE:  
 10 Q Mr. Wise, you've been handed a document 11:27:55  
 11 which is marked Exhibit 2802 for identification  
 12 purposes. If you'll review 2802 and let me know  
 13 when you're done, and I'll ask you some questions  
 14 about it.  
 15 Have you had a chance to look at 11:30:13  
 16 Exhibit 2802?  
 17 A Yeah.  
 18 Q Who is Dan Shane?  
 19 A Dan Shane is another federal on-scene  
 20 coordinator, and he was the spill phone duty 11:30:28  
 21 officer.  
 22 Q But was he -- basically the same -- he  
 23 wasn't your supervisor, he was the same rank as  
 24 you --  
 25 A Yeah. 11:30:36

1 Q -- at the EPA?  
2 A Yeah.  
3 Q And is Exhibit 2802 an email chain  
4 reflecting how you first learned of Greka's July 16,  
5 2007, release at its Bell facility into Asphalt Creek? 11:30:49  
6 Creek?  
7 A It appears so.  
8 Q So is it true that on July 19th, you  
9 received an email from Dan Shane concerning whether  
10 there were any on-site coordinators available to respond to the Greka oil spill in Santa Maria,  
11 correct?  
12 correct?  
13 A Correct.  
14 Q And this is referring to the -- the release  
15 from the Bell facility into Asphalt Creek? 11:31:14  
16 A I believe so.  
17 Q Okay. And Mr. Shane wrote on the second  
18 page of Exhibit 2802:  
19 "Please respond to this if you can  
20 mobilize to Santa Maria today. According to Rob, Greka Oil is not playing as a team and  
21 following the IAP."  
22 Do you see that?  
23 A Yes.  
24 Q Do you know who the Rob referred to there 11:31:40  
25 Page 90

1 is?  
2 A That would have been me.  
3 Q Who told you that Greka was not playing as  
4 a team and following the IAP?  
5 A I don't recall. 11:31:59  
6 Q And IAP stands for Incident Action Plan?  
7 A Correct.  
8 Q Okay. Do you recall having any discussions  
9 with anybody from the state about whether Greka was  
10 properly responding to the spill and following the Incident Action Plan in connection with its  
11 July 16th, 2007, release into Asphalt Creek?  
12 July 16th, 2007, release into Asphalt Creek?  
13 A I don't recall.  
14 Q Mr. Shane goes on to write:  
15 "OSPR wants our assistance. If OSPR is asking for our help on a relatively small  
16 spill in a dry creek, the RP must need a  
17 lesson on what it means to work in a unified  
18 effort."  
19 Do you see that?  
20 A Yes. 11:32:44  
21 Q Does RP refer to responsible party?  
22 A Yes.  
23 Q It goes on:  
24 "Anyone want to be the 'teacher'?"  
25 11:32:51  
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1 Do you see that?  
2 A Yes.  
3 Q Do you know whether Mr. Shane, your -- your  
4 colleague, on-scene coordinator, received the  
5 information which he communicated in his July 19th, 2007, email at 7:27 -- 7:27 a.m. from you or if he  
6 received this information about Greka not playing as  
7 a team in following the IAP from somebody else?  
8 MR. MULLANEY: Objection. Calls for  
9 speculation. 11:33:26  
10 THE WITNESS: I don't recall.  
11 BY MR. BLEDSOE:  
12 Q Okay. Did you discuss with Mr. Shane that  
13 Greka must need a lesson on what it means to work in  
14 a unified effort?  
15 A I don't recall. 11:33:39  
16 Q Okay. Do you recall having a discussion  
17 with Mr. Shane on July 17th, July 18th or July 19th  
18 concerning the Greka response to the release into  
19 Asphalt Creek on July 16th, 2007?  
20 A Only as if, too, I was available to respond  
21 to the incident. 11:33:55  
22 Q So you don't recall any discussions with  
23 Mr. Shane prior to receiving his email on --  
24 7:27 a.m. on July 19th, 2007, concerning the Greka  
25 11:34:09  
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1 Bell release?  
2 A Correct.  
3 MR. MULLANEY: Objection. Misstates the  
4 document. 11:34:24  
5 BY MR. BLEDSOE:  
6 Q And here where it says: "According to Rob,  
7 Greka Oil is not playing as a team in following the  
8 Incident Action Plan," you don't have any  
9 recollection of discussing that with Mr. Shane prior  
10 to 7:27 a.m. on July 19, 2007?  
11 A Yes, I have no recollection. 11:34:33  
12 Q Now, you -- you responded to Mr. Shane's  
13 email at 12:18 p.m. on July 19th, 2007, correct? If  
14 you look at the bottom of the first page of  
15 Exhibit 2802.  
16 A Yes. 11:35:01  
17 Q And you responded:  
18 "I can go up on Friday [morning], if no  
19 one else can go."  
20 Do you see that?  
21 A Yes. 11:35:09  
22 Q Do you know whether there was anyone else  
23 available to go to the Greka Bell release on  
24 July 20th, 2000 -- or July 19th or 20th, 2007?  
25 A No. 11:35:19  
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1 Q Okay. And was it your understanding from  
2 Mr. Shane's email that when you responded to the  
3 Greka Bell release into Asphalt Creek in July 2007  
4 that Greka needed to be taught a lesson?  
5 A I don't recall. 11:35:39  
6 Q And was it your understanding that by  
7 responding you were going to be the person who was  
8 going to teach Greka a lesson?  
9 A I don't recall.  
10 Q And were you, in fact, the person who 11:36:02  
11 responded to Mr. Shane's July 19th, 2007, email who  
12 was going to go up to Greka to teach them what it  
13 meant to work in a unified effort and to teach them  
14 a lesson?  
15 MR. MULLANEY: Objection. Mischaracterizes 11:36:25  
16 the testimony.  
17 THE WITNESS: I responded to the spill as  
18 directed by the regional duty officer.  
19 BY MR. BLEDSOE:  
20 Q And who was the regional duty officer? 11:36:39  
21 A Dan Shane.  
22 Q Okay. And is it true that Mr. Shane's  
23 direction to whoever was going to respond to the  
24 Greka July 16th, 2007, release at its Bell facility,  
25 a release into Asphalt Creek, that Mr. Shane 11:36:58  
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1 instructed them that the responsible party must need  
2 a lesson on what it means to work in a unified  
3 effort --  
4 MR. MULLANEY: Objection.  
5 BY MR. BLEDSOE: 11:37:18  
6 Q -- right?  
7 MR. MULLANEY: Calls for speculation.  
8 THE WITNESS: I don't recall.  
9 BY MR. BLEDSOE:  
10 Q And Mr. Shane's email suggested that Greka 11:37:20  
11 needed to be taught a lesson; is that fair to say?  
12 A Yes.  
13 Q And so is it fair to say that when you  
14 arrived on site to Greka on July 20th, 2007, you had  
15 been told that Greka needed to be taught a lesson? 11:37:38  
16 A It was stated in the email, yes.  
17 Q And that was your mindset when you  
18 arrived -- withdrawn.  
19 And is it true that you were the person  
20 who, as the teacher from the EPA, responded to Greka 11:37:59  
21 on July 20th, 2007?  
22 A I responded as the regional response OSC as  
23 directed by the spill phone duty officer.  
24 Q And the spill phone duty officer, Mr. Dan  
25 Shane, had told you that Greka needed to be taught a 11:38:18  
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1 lesson, correct?  
2 A He stated that in an email.  
3 Q And the person responded -- responding was  
4 going to be the teacher, correct?  
5 A The person responding was there to provide 11:38:30  
6 technical assistance to our colleagues at OSPR and  
7 then make a determination what else needed to be  
8 done once that technical assistance had been  
9 provided.  
10 Q Did you ask Mr. Shane what he meant when he 11:38:42  
11 said "anyone want to be the teacher"?  
12 A I don't recall.  
13 Q Did you ever email Mr. Shane and say, you  
14 know, it's really not appropriate for us to be  
15 sending emails about teaching responsible parties a 11:39:00  
16 lesson. We're just here to do our job. Did you  
17 ever tell Mr. Shane that in words or substance?  
18 A I don't recall.  
19 Q Now, let me refer you to the first email on  
20 the chain. Excuse me, it's the last email in time, 11:39:20  
21 but it's the first email at the top of page 2802.  
22 Do you see that?  
23 A Yes.  
24 Q Do you see that on July 19th, 2007, at  
25 4:51 -- excuse me, 4:41 p.m., Jim Hanson of EPA 11:39:36  
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1 wrote Dan Shane an email and said:  
2 "I don't think so. Your call as far as  
3 sending Rob."  
4 Do you see that?  
5 A Yes. 11:39:49  
6 Q Was that Mr. Shane's call as far as sending  
7 you?  
8 A Yes.  
9 Q So the Rob referred to there is Rob Wise?  
10 A Yeah. 11:39:55  
11 Q And then Mr. Hanson went on to say:  
12 "The question I still have is regarding  
13 water of the U.S."  
14 Do you see that?  
15 A Yes. 11:40:03  
16 Q Who is Mr. Hanson, Jim Hanson?  
17 A He was the section chief of our emergency  
18 support section.  
19 Q Prior to arriving on scene at the Greka  
20 release on July 20th, 2007, that's -- well, 11:40:22  
21 withdrawn.  
22 Prior to July 20th, when you arrived on  
23 scene to the Greka release into Asphalt Creek, did  
24 you have any discussions with Mr. Jim Hanson, the  
25 EPA's section chief on emergency responses, 11:40:37  
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1 concerning the questions he had regarding the waters  
2 of the U.S. issue?  
3 A No.  
4 Q Did Mr. Shane ever communicate to you,  
5 prior to the time that you assumed jurisdiction over 11:40:51  
6 the Greka release into Asphalt Creek, and I'm  
7 talking about when you assumed jurisdiction on  
8 July 20th, 2007, that Mr. Jim Hanson of the EPA, the  
9 section chief on emergency response, had a question  
10 regarding the waters of the U.S. issue, whether the 11:41:09  
11 EPA had jurisdiction over the Greka release?  
12 A No.  
13 Q At any time after July 20th, 2007, did you  
14 have any discussions with Mr. Hanson concerning the  
15 questions he had about whether the EPA had 11:41:27  
16 jurisdiction over the Greka release in Asphalt Creek  
17 based on the waters of the U.S. issue?  
18 A I don't recall.  
19 MR. BLEDSOE: Mark this as 2803.  
20 (Deposition Exhibit 2803 marked by the  
21 court reporter.)  
22 BY MR. BLEDSOE:  
23 Q Mr. Wise, you've been handed a document  
24 which has been marked Exhibit 2803. Do you see that  
25 Exhibit 2803 includes the email chain from Mr. Dan 11:42:48  
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1 Shane to you and others at the EPA on July 19th,  
2 2007, at 7:27 a.m., that we just talked about, but  
3 then the email at the top, or the latest email in  
4 time, is a separate chain that's forwarding that  
5 email, but is different than the one we talked 11:43:13  
6 about, Exhibit 2802?  
7 A Correct.  
8 VIDEO OPERATOR: Sir, I think your  
9 microphone fell.  
10 BY MR. BLEDSOE: 11:43:30  
11 Q I want to refer you to the -- the email at  
12 the top of Exhibit 2803, which is just above  
13 Mr. Shane's email, directing the on-scene  
14 coordinator or whoever has responded to teach Greka  
15 a lesson. Do you see that? 11:43:48  
16 A Yes.  
17 Q Mr. Hanson sent an email to Mark Calhoon,  
18 Elizabeth Cox and Peter Reich of the EPA on July 19  
19 of 2007, 12:34 p.m. Do you see that?  
20 A Yes. 11:44:05  
21 Q And the substance of the email from Mr.  
22 Hanson was:  
23 "Could you take a look at this one vis  
24 à vis the Rapanos guidance."  
25 Do you see that? 11:44:15  
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1 A Yes.  
2 Q Who is Mark Calhoon?  
3 A Mark Calhoon was a civil investigator in  
4 the oil program for EPA.  
5 Q And who was Elizabeth Cox? She is Office 11:44:25  
6 of Regional Counsel.  
7 MR. HELMLINGER: Just to clarify that.  
8 This is Elizabeth M. Cox. There are two Elizabeth  
9 Coxes at EPA.  
10 THE WITNESS: Oh, that's the lady that used 11:44:38  
11 to be the --  
12 MR. HELMLINGER: Yes.  
13 BY MR. BLEDSOE:  
14 Q Is there a different Elizabeth Cox than the  
15 one you referred to? 11:44:48  
16 A Yeah, she used to be the SPCC coordinator.  
17 (Reporter clarification.)  
18 SP- -- spill prevention control and counter  
19 measure inspection coordinator.  
20 Q And so the Elizabeth Cox in this email, the 11:44:59  
21 Elizabeth M. Cox, is the SPCC coordinator?  
22 A That's correct.  
23 Andrew?  
24 MR. HELMLINGER: (Nods head.)  
25 BY MR. BLEDSOE: 11:45:08  
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1 Q And who is Peter Reich?  
2 A He's a SPCC inspector.  
3 Q Did you ever see a copy of this email  
4 prior -- prior to the time that you made a  
5 determination that the EPA did have jurisdiction 11:45:26  
6 over Greka's release into the dry creek known as  
7 Asphalt Creek?  
8 A I don't --  
9 Q I'm talking about the July 16th, 2007,  
10 release. 11:45:38  
11 A Yeah, I don't recall.  
12 Q Did you ever learn from Mr. Calhoun, Ms.  
13 Cox or Mr. Reich that Jim Hanson had concerns about  
14 whether Greka -- whether the EPA -- withdrawn.  
15 Did you ever learn from Mr. Calhoun, Ms. 11:45:54  
16 Cox or Peter Reich that Jim Hanson, the EPA's  
17 section chief, had concerns about whether the EPA  
18 had jurisdiction over Greka's July 2007 release into  
19 Asphalt Creek based on the Rapanos case?  
20 A I don't recall. 11:46:12  
21 Q Prior to making a determination on  
22 July 20th -- withdrawn.  
23 Prior to the time you made a determination  
24 on July 20th, 2007, that the EPA did have  
25 jurisdiction over the Greka release into Asphalt 11:46:25  
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1 Creek on July 16th, 2007, did you talk to Mr.  
2 Calhoun, Ms. Cox or Peter Reich concerning the  
3 Rapanos case and its application to Greka's release  
4 into Asphalt Creek?  
5 MR. MULLANEY: Objection. Compound. 11:46:46  
6 THE WITNESS: I don't recall.  
7 BY MR. BLEDSOE:  
8 Q Do you recall talking to anyone else at the  
9 EPA -- well, withdrawn.  
10 Do you recall talking to anyone at the EPA 11:46:58  
11 about the Rapanos case and -- and whether legally  
12 the EPA had jurisdiction over Greka's July 16th,  
13 2007, release into Asphalt Creek prior to the time  
14 that you made the determination that the EPA did  
15 have jurisdiction? 11:47:18  
16 MR. MULLANEY: Objection to the extent it  
17 calls for attorney-client communication.  
18 THE WITNESS: I don't recall.  
19 BY MR. BLEDSOE:  
20 Q Do you know why the section chief, Jim 11:47:29  
21 Hanson, had questions about whether the Greka  
22 release into the dry creek, known as Asphalt Creek,  
23 at its Bell facility was subject to EPA  
24 jurisdiction?  
25 MR. MULLANEY: Objection. Calls for 11:47:48  
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1 speculation.  
2 MR. ZARRO: Mischaracterizes the document.  
3 Vague and ambiguous.  
4 THE WITNESS: I -- I believe that he was  
5 concerned with his jurisdictional matters, which are 11:48:00  
6 SPCC inspections.  
7 BY MR. BLEDSOE:  
8 Q Okay. And why do you say that?  
9 A Facilities that can potentially impact the  
10 waters of the U.S. that have a certain -- a certain 11:48:14  
11 quantity of oil are required to do an SPCC plan.  
12 Q So it's your understanding that Mr. Hanson  
13 had questions about whether the EPA had jurisdiction  
14 over the, you know, incidents at the Greka Bell  
15 facility because, absent a connection with a water 11:48:33  
16 of the U.S., the EPA wouldn't have such  
17 jurisdiction?  
18 MR. MULLANEY: Objection. Calls for  
19 speculation.  
20 THE WITNESS: If there's no connection to 11:48:49  
21 the waters of the U.S., then we don't have  
22 jurisdiction.  
23 BY MR. BLEDSOE:  
24 Q Did you ever talk to Mr. Hanson about  
25 whether he made a determination whether the EPA had 11:48:58  
Page 103

1 jurisdiction -- or withdrawn.  
2 Did you ever talk to Mr. Hanson at any time  
3 concerning how the issues he raised about whether  
4 the EPA had jurisdiction over the Greka Bell  
5 facility and releases into Asphalt Creek, how those 11:49:17  
6 were resolved by him?  
7 A I -- I don't recall, but since I wasn't a  
8 party to the email, I wouldn't have known about  
9 them.  
10 Q At any time during your work with Greka in 11:49:33  
11 connection with oil spills from the Bell facility,  
12 did you ever tell anyone from Greka that people at  
13 the EPA questioned whether the EPA had jurisdiction  
14 over Greka's releases into Asphalt Creek?  
15 A I don't recall. 11:49:56  
16 Q At any time, did you ever tell anyone in  
17 the press or any politician that internally at the  
18 EPA there were questions whether the EPA actually  
19 had jurisdiction over Greka's releases from its Bell  
20 facility into Asphalt Creek? 11:50:13  
21 A I don't recall.  
22 Q In any press conference or any statement to  
23 the board of supervisors or any public statements  
24 you made to the press, did you ever tell anyone that  
25 there were internal questions at the EPA concerning 11:50:35  
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1 whether the EPA had jurisdiction over Greka's  
2 releases from its Bell facility?  
3 MR. MULLANEY: Objection. Compound.  
4 THE WITNESS: I don't recall.  
5 BY MR. BLEDSOE: 11:50:50  
6 Q Did anyone at the EPA ever tell you that  
7 there was a question internally whether the EPA had  
8 jurisdiction over Greka's releases from the Bell  
9 facility?  
10 MR. MULLANEY: Objection to the extent it 11:51:05  
11 calls for attorney-client communication.  
12 THE WITNESS: That would be direct client  
13 communication because someone did tell me something.  
14 MR. MULLANEY: Okay. So I instruct you not  
15 to answer about the stuff you were talking about 11:51:18  
16 with an attorney.  
17 (Discussion off the record.)  
18 THE WITNESS: If you put it up higher, it  
19 will stay in place.  
20 BY MR. BLEDSOE: 11:51:59  
21 Q Mr. Wise, I'd like to hand you a piece of  
22 paper and have, to the best of your ability -- what  
23 I'd like you to do is draw for me -- and we'll mark  
24 this once you're done, as Exhibit 2804, but draw for  
25 me the creek beds, you know, as far as you 11:52:13  
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1 understand how they run, from Asphalt Creek through  
2 the pasture, to Cat Canyon Creek, to Sisquoc Creek,  
3 to the flood channel, to Santa Maria River.  
4 A Without a map, I couldn't draw past the --  
5 I couldn't draw past the groundwater well. 11:52:34  
6 Q And when you say "the groundwater well,"  
7 what are you talking about?  
8 A At the intersection of Dominion and Palmer  
9 Road, there's a structure past the Gato Ponds where  
10 there's a groundwater well that's owned by Greka. 11:52:48  
11 Q Well, let's do this. Why don't you draw  
12 for me what you can 'cause I -- you have earlier  
13 talked about Asphalt Creek going past Dominion Road  
14 into the -- Mr. Michaels' pasture, into eventually  
15 Cat Canyon Creek, into Sisquoc Creek, into the flood 11:53:09  
16 control channel, and into the Santa Maria River. Do  
17 you recall that generally?  
18 A Yes.  
19 Q As far as those areas, I'd like you to, to  
20 the best of your ability, draw how -- how the water, 11:53:20  
21 you know, Asphalt Creek and how you understand that  
22 water would go from one area to the other or how the  
23 dry creek beds go from one area to the other.  
24 A (Witness drawing.)  
25 The roads, I'm just going to draw them 11:54:05  
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1 straight because I can't remember all the twists and  
2 turns and stuff like that.  
3 MR. BLEDSOE: Let's mark this Exhibit 2804.  
4 We actually have a meet-and-confer call in three  
5 minutes, so I'll ask you questions for three 11:58:01  
6 minutes, and then we'll take a break for lunch.  
7 (Deposition Exhibit 2804 marked by the  
8 court reporter.)  
9 BY MR. BLEDSOE:  
10 Q Mr. Wise, earlier I asked you to -- to the 11:58:05  
11 best of your ability, draw the pathway from Asphalt  
12 Creek through Mr. Michaels' pasture, to Cat Canyon  
13 Creek, to Sisquoc Creek, to the flood channel, to  
14 the Santa Maria River; do you recall that?  
15 A Yeah.  
16 Q And you told me that you couldn't draw past  
17 the --  
18 A GW is ground water. Sorry for that.  
19 Q -- the ground water well, correct?  
20 A Right. 11:58:37  
21 Q And in which segment is the groundwater  
22 well? Is that on Mr. Michaels' property?  
23 A It's on the -- I'm not sure if that's  
24 Greka's property or his property. It's right there  
25 at the intersection of Palmer Road and Cat Canyon. 11:58:48  
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1 Q And is it true that you can't draw past the  
2 groundwater well on Mr. Michael's property or --  
3 whether it's on Greka's property or Mr. Michaels'  
4 property because you haven't walked Cat Canyon Creek  
5 or the Sisquoc River or the flood channel leading to 11:59:04  
6 the Santa Maria River, correct?  
7 A I haven't walked it, nor have I looked at a  
8 map of that area in a long time.  
9 Q So Exhibit 2804 is the drawing you made  
10 showing Asphalt Creek and then kind of the path of 11:59:21  
11 the dry creek down to the groundwater well?  
12 A Yes.  
13 MR. BLEDSOE: Okay. Why don't we take our  
14 lunch break now, since we need to do this  
15 meet-and-confer call, and then we'll come back at 11:59:34  
16 1 o'clock.  
17 MR. MULLANEY: Okay.  
18 VIDEO OPERATOR: This marks the end -- this  
19 marks the end of media No. 2 in the deposition of  
20 Robert Wise. We're going off record the 11:59 a.m. 11:59:42  
21 (Lunch recess.)  
22 VIDEO OPERATOR: We're back on the record  
23 at 1:12 p.m. This marks the beginning of media  
24 No. 3 in the deposition of Robert Wise.  
25 BY MR. BLEDSOE: 01:12:31  
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1 Q Mr. Wise, did you ever respond to an oil  
2 spill at Greka where you declined to exercise  
3 jurisdiction over the -- the release and cleanup?  
4 A Yes.  
5 Q Which one was that? 01:12:48  
6 A At Bradley 3 Island.  
7 Q And where is Bradley 3 Island located?  
8 A It's located off of Clark and Telephone  
9 Road in Santa Maria.  
10 Q And do you recall when that release was? 01:13:03  
11 A Sometime, I believe, in 2008.  
12 Q And why did you decline to exercise  
13 jurisdiction over the 2000 -- a 2008 release by  
14 Greka at Bradley 3 Island?  
15 A Because we determined that the creek next 01:13:20  
16 to the facility, even though at one time may have  
17 made it to the ocean, no longer could make it to the  
18 ocean.  
19 Q And is that the standard you applied when  
20 you determined to decline to exercise jurisdiction, 01:13:45  
21 that the creek could not make it to the ocean?  
22 A Yes.  
23 Q How did you determine that the creek not  
24 being able to make it to the ocean was the proper  
25 standard to apply for whether to -- or in making 01:14:16  
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1 your determination whether the EPA had jurisdiction  
2 over a release?  
3 MR. MULLANEY: Objection. Calls for  
4 attorney-client communication to the extent that you  
5 relied on attorneys. 01:14:27  
6 THE WITNESS: After speaking to U.S. Fish  
7 and Wildlife Service, who we brought out because of  
8 endangered species issues, they informed us that  
9 that creek, or whatever you wanted to call it, went  
10 and ended in a soccer field and then ended in the 01:14:48  
11 freeway. So it didn't go any farther past the  
12 soccer field.  
13 BY MR. BLEDSOE:  
14 Q Is it your understanding in making a  
15 determination whether the EPA has jurisdiction over 01:15:04  
16 an oil spill and cleanup, that the proper standard  
17 to apply is whether the creek can make it to the  
18 ocean?  
19 A Whether it can impact the waters of the  
20 U.S. 01:15:19  
21 Q And what do you mean by "whether it can  
22 impact the waters of the U.S."?  
23 A Whether there's potential for oil from the  
24 spill to flow into the waters of -- of the U.S.  
25 Q And is it true that in every case where you 01:15:39  
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1 did exercise jurisdiction over a Greka release, you  
2 made a determination that the oil spill could make  
3 it into the waters of the United States?  
4 A Yes.  
5 Q Did you make any subjective judgments on a 01:15:59  
6 percentage basis, for example, of the likelihood of  
7 the oil releases making it into the waters in the  
8 United States when you were making your  
9 determination whether the EPA had jurisdiction or  
10 not? 01:16:17  
11 A No.  
12 Q So if there was a, for example, a one  
13 percent chance that an oil spill could make it into  
14 the waters of the U.S., it was your direction that  
15 the EPA did have jurisdiction over the spill? 01:16:30  
16 MR. MULLANEY: Objection. Misstates the  
17 testimony.  
18 THE WITNESS: If -- if we thought that site  
19 had potential to enter the waters of the U.S., we  
20 looked at it. At Bradley 3 Island there was no 01:16:43  
21 potential for it to -- to reach the waters of the  
22 U.S.  
23 BY MR. BLEDSOE:  
24 Q And that's what I'm trying to get at is  
25 when you say it had potential or it could make it 01:16:52  
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1 into the waters of the U.S., I'm trying to figure  
2 out if you made any subjective judgment, whether a  
3 10 percent chance, 20 percent chance, 30 percent  
4 chance, a one percent chance. Did you do any --  
5 A No. 01:17:07  
6 Q -- analysis like that?  
7 A No.  
8 Q So is it true that if you determined that  
9 there was a one percent chance or any potential at  
10 all for an oil release to make it into the waters of 01:17:14  
11 the U.S., it was your determination that the U.S.  
12 EPA had jurisdiction over that spill?  
13 MR. MULLANEY: Objection. Misstates the  
14 testimony.  
15 THE WITNESS: If we believe that the 01:17:28  
16 potential existed for it to get into the waters of  
17 the U.S., regardless of percentage, I believe that  
18 we could exert it was jurisdictional waters.  
19 BY MR. BLEDSOE:  
20 Q So going back to my question, is it true 01:17:41  
21 that if you believed there was a one percent chance  
22 that an oil spill could make it into the waters of  
23 the U.S., it was your determination that the EPA had  
24 jurisdiction over that spill and cleanup?  
25 A Again, a one percent chance is potential 01:17:55  
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1 for it to reach the waters of the U.S., so if it had  
2 potentials for it to reach the waters of the U.S.,  
3 we determined that it -- it -- we had jurisdiction.  
4 Q So that's a "yes" to my question?  
5 A Yes. 01:18:14  
6 Q What training did you receive prior to  
7 December 2005 concerning how to determine whether an  
8 oil spill could reach waters of the U.S. and  
9 therefore you should exercise jurisdiction in your  
10 capacity as a federal on-scene coordinator? 01:18:36  
11 MR. MULLANEY: Objection. Compound.  
12 THE WITNESS: I attended a regional oil  
13 spill training that was put on at the Truckee River.  
14 I attended the National OSC Academy, which oil  
15 spills was part of that academy on our 01:18:59  
16 jurisdictional responsibilities for oil spills. And  
17 I've taken some limited classes in environmental  
18 regulations and environmental law related to a wide  
19 range of environmental regulations and law.  
20 BY MR. BLEDSOE: 01:19:23  
21 Q Well, I want -- I want to focus on just the  
22 jurisdictional issue and the training you received  
23 during your time at the EPA on how to make a  
24 decision concerning whether you should exercise  
25 jurisdiction over an oil spill. Do you understand 01:19:40  
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1 that?

2 A Yeah.

3 Q So what training did you receive during  
4 your time at the EPA, and I want to talk about prior  
5 to December 2005 when you first responded to a Greka 01:19:51  
6 release, concerning when you should exercise  
7 jurisdiction?

8 A Like I said, during the OSC Academy, they  
9 provided training on our jurisdictional authorities  
10 for oil spills under OPA and Clean Water Act. 01:20:09

11 Q And is it your best recollection that the  
12 training you received on concerning when you should  
13 exercise jurisdiction as the on-scene coordinator or  
14 when the EPA has jurisdiction for an oil spill is if  
15 there is any potential at all for the oil spill to 01:20:34  
16 reach waters of the U.S.?

17 A Yes.

18 Q When you arrive at the scene of an oil  
19 spill, how do you determine whether there is any  
20 potential at all for the oil spill to reach waters 01:20:48  
21 of the U.S.?

22 A So depending on where it's at, we try to  
23 speak to -- if it's a rural area, then we try to  
24 speak to the game wardens because they tend to be  
25 the most knowledgeable. We also talk to the local 01:21:09  
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1 agency people. For example, if it's in the Los  
2 Angeles/Orange County metropolitan area, we'll talk  
3 to the flood control folks and find out where all  
4 the drainage goes to. We'll ask for maps as to  
5 where all the drainage goes to. 01:21:29

6 We may -- nowadays we'd probably look on  
7 Google Earth. That wasn't available then, but we'd  
8 look on Google Earth now and see where the -- where  
9 the maps go and even go old school and get some topo  
10 maps and take a look at what the topo maps say. 01:21:46

11 Q Is it your best recollection that, in  
12 connection with your work on Greka spills, that  
13 other than the Bradley 3 Island spill that you  
14 referred to earlier in 2008, you determined that the  
15 EPA did have jurisdiction over each of the Greka 01:22:04  
16 releases?

17 A Yes.

18 Q And is it true that you determined that the  
19 EPA did have jurisdiction over each of the Greka  
20 releases on the day you arrived on site as the 01:22:15  
21 federal on-scene coordinator?

22 MR. MULLANEY: Objection. Misstates the  
23 testimony.

24 THE WITNESS: Not on the day.  
25 BY MR. BLEDSOE: 01:22:30  
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1 Q Okay. Do you recall any instances where  
2 you arrived on site as the federal on-scene  
3 coordinator and did not make a determination that  
4 day concerning whether a Greka release was subject  
5 to EPA jurisdiction? 01:22:47

6 A Yes, on spill locations that we had been  
7 out to before where they had had previous spills and  
8 we already made that determination.

9 Q Okay. So it's your testimony that the only  
10 time in connection with a Greka release that you did 01:23:03  
11 not make a determination the very day you arrived on  
12 site of a spill that the EPA had jurisdiction was in  
13 connection with sites where you had already  
14 previously decided that the EPA had jurisdiction,  
15 correct? 01:23:21

16 A Correct.

17 MR. MULLANEY: Objection. That misstates  
18 the testimony.  
19 BY MR. BLEDSOE:

20 Q Did you ever see an oil spill at a Greka 01:23:36  
21 facility into a dry area where you said, you know, I  
22 don't think the EPA has jurisdiction over this one,  
23 I'm going to let this one be handled by the state?

24 A I don't recall.

25 Q In your work as an on-scene coordinator, do 01:24:06  
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1 you generally take notes of the work you do?

2 A Sometimes.

3 Q For example, when you arrived on scene on  
4 July 20th, 2007, at the Bell release into Asphalt  
5 Creek, did you take any notes concerning whether 01:24:23  
6 that release impacted waters or had any potential to  
7 impact waters of the United States?

8 A I don't recall.

9 Q How did you -- if -- well, withdrawn.  
10 When would you take notes? What was 01:24:42  
11 your -- withdrawn.

12 What was your general practice for whether  
13 you would take notes of the work you did on any  
14 given day as an on-scene coordinator at a Greka  
15 release? 01:24:56

16 A If I had a contractor out there taking  
17 notes for me, then I probably wouldn't take my own  
18 notes.

19 Q Do you recall whether you took any notes at  
20 all about the observations you made on July 20th, 01:25:05  
21 2007, concerning whether the Greka release into  
22 Asphalt Creek was subject to federal jurisdiction or  
23 EPA jurisdiction?

24 A I don't recall.

25 Q Does the EPA have a protocol for making a 01:25:30  
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<p>1 determination concerning whether it has jurisdiction  2 over an oil spill, and I'm talking about protocols  3 for its on-scene coordinator?  4 A There is some limited guidance in the OSC  5 tool box on -- on that. 01:25:51  6 Q And what is that limited guidance?  7 A Basically it has to impact the waters of  8 the U.S.  9 Q Well, was the guidance that it -- is the  10 guidance that you receive that it has to impact the 01:26:06  11 waters of the U.S., or that it has to have any  12 potential at all, even down to one percent, to  13 impact the waters of the U.S.?  14 A I believe it's any potential to impact the  15 waters of the U.S. 01:26:23  16 Q Okay. So is it fair to say that you're  17 trained as an on-scene coordinator, that if an oil  18 spill has any conceivable potential, even  19 one percent or less, of impacting waters of the  20 United States, that you are to exercise jurisdiction 01:26:38  21 over that release and cleanup?  22 MR. MULLANEY: Objection. Misstates the  23 testimony.  24 THE WITNESS: We may or may not exert  25 jurisdiction, depending on the scenario, who is 01:26:51  Page 118</p>	<p>1 spills?  2 A Not necessarily. It may just say the  3 receiving waters of the Pacific Ocean, you know,  4 depending on where you are.  5 Can I give an example? 01:28:41  6 MR. MULLANEY: Sure.  7 THE WITNESS: We have a spill into the LA  8 River. It's in the LA River; it's going to the  9 Pacific Ocean. Everybody pretty much knows if it's  10 in the LA River or it's in the Dominguez Channel, 01:28:52  11 it's going to the Pacific Ocean. So we're not going  12 to say it's going to travel down XYZ parts of the LA  13 River until it gets to the ocean because it's common  14 knowledge that that drains into the Pacific Ocean.  15 If it's something more complicated than that, then 01:29:07  16 we might do a more detailed description of it goes  17 to the waters of the U.S.  18 BY MR. BLEDSOE:  19 Q Is it your protocol and the way you've been  20 trained that in a case where there's a question 01:29:23  21 whether the EPA has jurisdiction, that you are to  22 record in your Pollution Reports the basis of your  23 exercise of federal jurisdiction?  24 A We're supposed to put the pathway to the  25 waters of the U.S. 01:29:37  Page 120</p>
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<p>1 doing the cleanup, whether we need to even be out  2 there or not. If we have a major party that's doing  3 the cleanup, and everything is going smoothly, and  4 our state and local partners are -- have it well  5 under concern, then there's no reason for us to 01:27:08  6 stay.  7 BY MR. BLEDSOE:  8 Q Okay. Is it the guidance you've received  9 in your job as an on-scene coordinator for the EPA,  10 that if an oil spill has any potential at all, even 01:27:19  11 one percent or less, to impact the waters of the  12 United States, that you have the authority to  13 exercise jurisdiction over that oil spill and  14 cleanup?  15 A I believe so. 01:27:37  16 Q Okay. Does the EPA have a protocol for its  17 on-scene coordinators to record the basis of their  18 determinations that they have jurisdiction over oil  19 spills and cleanups?  20 A That's normally done on a Pollution Report. 01:28:06  21 Q So is it true that the Pollution Reports  22 that you created in connection with your work as an  23 on-scene -- on-scene coordinator for the Greka  24 spills, would contain the -- your analysis of the  25 basis for your exercise of jurisdiction over those 01:28:26  Page 119</p>	<p>1 Q And you did that in connection with your  2 Pollution Reports on the Greka spills?  3 A I -- I believe so.  4 Q And so is it fair to say that your  5 Pollution Reports, in connection with your work on 01:29:51  6 the Greka spills, contain the basis for your  7 determination that the EPA had jurisdiction over  8 those spills and cleanups?  9 A Unless we had already made that  10 determination on a previous site. 01:30:06  11 Q Well, let's -- I want to now talk about a  12 previous site because it's true that the first time  13 you responded to a Greka spill was December 2005,  14 correct?  15 A Correct. 01:30:17  16 Q Do you remember that release?  17 A Yes.  18 Q Where was it?  19 A It was at the Davis Tank Battery on the  20 Zaca Lease over -- outside of Los Olivos. 01:30:25  21 Q And do you recall what day you arrived at  22 that release?  23 A I don't recall.  24 Q I'm going to show you a document. Maybe we  25 can refresh your recollection, and then I can ask 01:30:40  Page 121</p>
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1 you some questions about that.  
 2 MR. BLEDSOE: I'll get the first number.  
 3 57.  
 4 (Deposition Exhibit 2805 marked by the  
 5 court reporter.) 01:31:52  
 6 BY MR. BLEDSOE:  
 7 Q Mr. Wise, you've been handed a document  
 8 that's been marked 2805. If you'll please take a  
 9 moment to review 2805, and I'll ask you some  
 10 questions about the release and the work you did in 01:32:01  
 11 connection with it.  
 12 Have you had a chance to review  
 13 Exhibit 2805?  
 14 A Yes.  
 15 Q What is Exhibit 2805? 01:35:11  
 16 A It's a Pollution Report dated December 9th,  
 17 2005, for the Zaca spill.  
 18 Q And do you recall where -- where the Zaca  
 19 spill originated?  
 20 A It originated in the tank farm. 01:35:27  
 21 Q And where did the spill go to?  
 22 A It went over the secondary containment,  
 23 down the road into a drainage culvert. It went into  
 24 an unnamed creek. From there it ran down the  
 25 unnamed creek maybe a thousand meters or so before 01:35:49  
 Page 122

1 it was stopped.  
 2 Q Okay. Was that a -- withdrawn.  
 3 Was the unnamed creek that you referred to  
 4 in connection with the December 2005 Zaca spill, was  
 5 it dry or was it raining at the time of the release? 01:36:06  
 6 A It was raining.  
 7 Q It was raining. Okay. And can you tell --  
 8 did you determine if the EPA had jurisdiction over  
 9 the December 2005 release from Zaca?  
 10 A Yes. 01:36:26  
 11 Q And how did you make that determination?  
 12 A I believe I spoke to the landowner, but to  
 13 be honest with you, whoever -- who I exactly spoke  
 14 to, I don't recall.  
 15 Q And do you recall who the landowner was? 01:36:43  
 16 A At that time it was the Firestone family.  
 17 Q And do you recall what they told you  
 18 about -- well, withdrawn.  
 19 What did they tell you in connection with  
 20 your determination of whether the EPA had 01:37:00  
 21 jurisdiction over the December 2005 Zaca release?  
 22 A That this creek went to Zaca Creek which  
 23 then went to the Santa Ynez River.  
 24 Q Do you recall when you had that  
 25 conversation with the -- 01:37:23  
 Page 123

1 A No.  
 2 Q -- someone from the Firestone family?  
 3 A I don't recall.  
 4 Q How far was the unnamed creek involved in  
 5 the December 2005 Greka release from Zaca Creek? 01:37:51  
 6 A Let's see here. I've actually walked that  
 7 creek. So it's probably 10,000 meters, roughly.  
 8 Q And how far is Zaca Creek from the Santa  
 9 Ynez River?  
 10 A That's a few miles. 01:38:26  
 11 Q And was it your determination that the  
 12 Santa Ynez River was a water, navigable water of the  
 13 U.S.?  
 14 A Well, the Santa Ynez -- the Santa Ynez  
 15 River drains to the Pacific Ocean. 01:38:48  
 16 Q So for purposes of your determination that  
 17 the EPA had jurisdiction over the December 2005 Zaca  
 18 release, you determined, talking to the Firestone  
 19 family, that -- or based on talking to the Firestone  
 20 family that the unnamed creek went into Zaca Creek 01:39:14  
 21 which then went into the Santa Ynez River, correct?  
 22 A Right.  
 23 Q How far down the unnamed creek did you  
 24 walk?  
 25 A For that spill, I only walked to the -- a 01:39:30  
 Page 124

1 little bit to the edge of where the spill stopped.  
 2 A later spill I walked all the way down to where it  
 3 went into Zaca Creek, and then I walked parts of  
 4 Zaca Creek.  
 5 Q Did you ever -- in connection with oil 01:39:48  
 6 releases you worked on from the Greka/Zaca facility,  
 7 did you ever see oil that made its way into the  
 8 Santa Ynez River?  
 9 A No.  
 10 Q Did you ever see oil in connection with 01:40:05  
 11 releases you worked on from the Greka/Zaca facility  
 12 that made its way into Zaca Creek?  
 13 A No.  
 14 Q How far down is the furthest you saw oil go  
 15 in the unnamed creek by the Greka/Zaca facility? 01:40:23  
 16 A For which spill?  
 17 Q Any of them.  
 18 A The farthest down we saw it go was -- I'm  
 19 trying to think of how that ranch is laid out -- was  
 20 probably about halfway to the Zaca Creek. 01:40:46  
 21 Q So that's about 500 meters?  
 22 A 5,000 meters.  
 23 Q Oh. Okay. I want to make sure I have  
 24 these distances correct because I may -- I may  
 25 have -- is it -- is it -- so withdrawn. 01:41:12  
 Page 125

<p>1 Is it true that the unnamed creek runs  2 about 10,000 meters from the Greka/Zaca facility to  3 the point where it reaches Zaca Creek?  4 A Yes, roughly. I mean, we'd have to measure  5 on a map, but roughly. 01:41:34  6 Q So that's about three miles?  7 A About that, yeah.  8 Q Actually, I may have my math wrong because  9 that's 1500 meters. Let me -- is it true that the  10 unnamed creek runs about six miles? 01:41:47  11 A I'd have to do the math. I can never  12 remember what the meter and mile conversion --  13 Q I have that wrong, too. You watched the  14 Olympics. You know there's a 1500 meter run, right?  15 A Yeah. 01:42:02  16 Q And that's about a mile. You understand  17 that?  18 A Yeah.  19 Q So you understand that 10,000 meters is a  20 little bit more than six miles? 01:42:08  21 A Okay.  22 Q You understand that?  23 A Yeah, I understand that.  24 Q So is it fair to say that the Greka Zaca or  25 Zaca/Davis facility that the creek impacted by the 01:42:18</p> <p style="text-align: right;">Page 126</p>	<p>1 connection with your work as an on-scene coordinator  2 on Greka spills?  3 A Oh, yeah, I took a lot of notes.  4 Q What happened to your notes?  5 A They were turned over to the records center 01:44:41  6 with all the rest of my documents.  7 Q You say you took a lot of notes. Can you  8 estimate how many pages of notes you've taken in  9 connection with your work on Greka spills?  10 A I don't know. Probably hundreds of pages. 01:44:55  11 Q And do you know where those notes are now?  12 A As far as I know, they're in the  13 Superfund's record center.  14 Q And would the Pollution Reports that you  15 created in connection with your work on Greka 01:45:20  16 spills, would that contain some of the observations  17 that you've made in your notes?  18 A Yes.  19 Q So the Pollution Reports are, in theory,  20 supposed to be based on notes you took while in the 01:45:32  21 field?  22 MR. MULLANEY: Objection. Misstates the  23 testimony.  24 BY MR. BLEDSOE:  25 Q That was a bad question. It's the first 01:45:41</p> <p style="text-align: right;">Page 128</p>
<p>1 spills is about six miles from Zaca Creek?  2 A That would probably be a fair estimate.  3 Q And how far does Zaca Creek run before it  4 runs into the Santa Ynez River?  5 A See, what's that exit? Maybe seven -- 01:42:40  6 seven to ten miles, and it's pretty linear.  7 Q So is it fair to say that your best  8 estimate that releases from the Greka Zaca/Davis  9 facility would have to travel from 13 to 16 miles  10 before the release entered the Santa Ynez River? 01:43:08  11 A I guess so.  12 Q That's your best estimate, right?  13 A Yeah.  14 Q Did you have any conversations with anyone  15 else at the EPA concerning whether the EPA had 01:43:42  16 jurisdiction over the December 2005 release from the  17 Zaca/Davis facility prior to the time that you  18 exercised jurisdiction over the spill?  19 A I don't recall.  20 Q Did you take any notes in December 2005 01:44:02  21 concerning the analysis you did about whether the  22 EPA had jurisdiction over the 2000 -- the  23 December 2005 release from the Zaca/Davis facility?  24 A I don't recall.  25 Q Do you recall ever taking notes in 01:44:29</p> <p style="text-align: right;">Page 127</p>	<p>1 time counsel has been right all day, but I'll give  2 him that. So your objection is sustained and I'll  3 move on to a new question.  4 Was it your practice to create Pollution  5 Reports based on notes you took in the field? 01:45:54  6 A Yes.  7 Q Did you put everything that you wrote down  8 in your notes in your Pollution Reports?  9 A No.  10 Q Did you ever make any audio recordings 01:46:05  11 during your work as an on-scene coordinator in  12 connection with Greka spills?  13 A I don't recall.  14 Q Did you have any involvement in quantifying  15 the volume of material released in connection with 01:46:28  16 your work on Greka spills?  17 A We primarily relied on OSPR to do that with  18 the exception of the cases where we were disposing  19 of the material. Then it was -- it was quantified  20 just for disposal purposes so we knew how much to 01:46:46  21 pay for disposal.  22 Q Did you have a role in actually coming up  23 with quantities of material released or recovered in  24 connection with Greka spills, or was that something  25 done by contractors or other people working at the 01:47:06</p> <p style="text-align: right;">Page 129</p>

1 EPA?  
2 A Done by contractors or done by -- unless we  
3 were sampling for disposal, it was all done by Fish  
4 and Wildlife or Fish and Game at the time.  
5 Q But I -- I want to go to what you 01:47:22  
6 specifically did and whether you had any specific  
7 role so that you -- 'cause what I want to figure out  
8 is if you're a witness I should be asking about the  
9 quantities recovered in a given spill.  
10 A So you want to know if I actually 01:47:35  
11 physically took any samples?  
12 Q Well, here's my question: Did you  
13 personally play any role in quantifying the amount  
14 of material released in any Greka spills that you  
15 worked on? 01:47:48  
16 A I don't believe so. We tend to rely on  
17 Fish and Wildlife for that.  
18 Q So it's your testimony that -- that the  
19 EPA, and particularly the situations where you were  
20 the on-scene coordinator, you relied on the people 01:48:08  
21 from OSPR or the people from the Department of Fish  
22 and Wildlife for the quantification of the amount of  
23 material released in the various Greka spills,  
24 correct?  
25 A Correct. And that policy pretty much 01:48:19  
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1 forwards through all oil spills we go on in  
2 California.  
3 (Reporter clarification.)  
4 ...we go on in California.  
5 Q Do you know if the people at OSPR or the 01:48:45  
6 Department of Fish and Wildlife made any mistakes in  
7 their quantification of the amount of material  
8 released in various Greka spills?  
9 A I don't know.  
10 Q Do you recall that you first responded to 01:49:16  
11 the release at Zaca/Davis on December 9th, 2005?  
12 A I don't recall the exact date. I knew it  
13 was in December of 2005.  
14 Q Well, does the Pollution Report that you  
15 drafted dated Friday, December 9th, 2005, refresh 01:49:30  
16 your recollection that you actually responded to  
17 that spill on December 9th, 2005?  
18 A Actually, now that I see it was  
19 December 7th, I -- I do, because that's a famous day  
20 in the century. 01:49:49  
21 Q Well, do you recall responding to the spill  
22 on December 7th, Pearl Harbor Day, 2005, or  
23 December 9th, 2005?  
24 A I believe -- let's see. What -- I believe  
25 on December 7th I was at a hearing in Santa Barbara 01:50:10  
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1 County that day, and then the spill happened that  
2 evening, and then I came in the next day.  
3 Q So it's your best recollection you arrived  
4 on site on December 8th, 2005?  
5 A I -- I believe so. 01:50:26  
6 Q And do you recall which day you spoke to  
7 Mr. Firestone?  
8 A I don't recall.  
9 Q And I'm talking about your conversation  
10 with him -- 01:50:38  
11 A Right.  
12 Q -- about the creek and where it led. You  
13 understood that?  
14 A Yes.  
15 Q Do you know when you made a determination 01:50:42  
16 that the USEPA had jurisdiction over Greka's  
17 December 7, 2005, release into the unnamed creek by  
18 its Zaca/Davis facility?  
19 A Well, it would have been by December 9th  
20 because that's what it says in the Pol Rep. 01:50:59  
21 Q And do you know whether you had spoken to  
22 Mr. Firestone, the property owner, by December 9th,  
23 2005?  
24 MR. MULLANEY: Objection. Asked and  
25 answered. 01:51:14  
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1 THE WITNESS: I -- I don't recall. I  
2 didn't get information only from Mr. Firestone. We  
3 got -- like I've said previously, we talked to the  
4 game wardens and all the other agencies out there.  
5 BY MR. BLEDSOE: 01:51:27  
6 Q And what I'm trying to get is your best  
7 recollection for who you talked to in the  
8 December 8th, 9th, 2005, time frame prior to making  
9 your determination that the EPA had jurisdiction  
10 over the December 7, 2005, release at the 01:51:39  
11 Greka/Davis facility.  
12 A I -- I understand that, and based on my  
13 best recollection, I can't tell you the exact date.  
14 Q Would you have made notes about who you  
15 talked to? 01:51:51  
16 A I would have made notes, yes.  
17 Q Okay. And those notes are the notes you  
18 referred to earlier that are stored somewhere?  
19 A Yes, in the Superfund record center.  
20 Q Okay. 01:52:02  
21 A And then I also believe there may be a copy  
22 at the National Pollution Fund Center. I'm not sure  
23 if they got a copy or not.  
24 Q Well, you notice that your -- well,  
25 withdrawn. 01:52:14  
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1 Let me refer you back to Exhibit 2805, and  
2 do you recall, this is the first Pollution Report  
3 you did in connection with the December 7, 2005,  
4 release at Zaca/Davis, correct?  
5 MR. MULLANEY: Objection. That misstates 01:52:24  
6 the record. This is Pol Rep No. 2.  
7 (Reporter clarification.)  
8 No. 2.  
9 THE WITNESS: Pol Rep is Pollution Report.  
10 BY MR. BLEDSOE:  
11 Q We're going to look at the index.  
12 Apparently that was your second report, not your  
13 first report.  
14 A I just noticed that, too.  
15 MR. MULLANEY: Do I get a second "you're 01:53:18  
16 right"? Gosh, twice in one day.  
17 MR. BLEDSOE: Twice in one day. We'll give  
18 him credit where credit is due.  
19 MR. MULLANEY: I know it's tough.  
20 MR. BLEDSOE: No, not hard at all. Not 01:53:29  
21 hard at all.  
22 Can we mark this as 2806.  
23 (Deposition Exhibit 2806 marked by the  
24 court reporter.)  
25 BY MR. BLEDSOE: 01:54:46

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1 Q Sure.  
2 A The -- the Greka spill that I was at the  
3 hearing and then I came back out the next day, that  
4 was in 2008, I believe.  
5 Do you want me to read through all of these 01:57:52  
6 or just the first full Rep?  
7 Q Well, I just want you to at least review  
8 the document to see what it is. You don't --  
9 A Okay.  
10 Q -- need to read all -- I'm not going to ask 01:58:01  
11 you about each one. I'm just going to ask you a few  
12 questions about what these are and see if it  
13 refreshes your recollection about when you responded  
14 and the basis for your determination that the EPA  
15 had jurisdiction and so forth. 01:58:12  
16 A Okay.  
17 Q Have you had a chance to review --  
18 A Yes.  
19 Q -- Exhibit 2806? Is Exhibit 2806 a copy of  
20 the Pollution Reports, Nos. 1 through 7, that you 02:00:02  
21 prepared in connection with your work on the  
22 December 7, 2005, Greka release at the Zaca/Davis  
23 facility?  
24 A Yes.  
25 Q Okay. And does your first Pollution Report 02:00:15

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1 Q Let me take that back real quick because  
2 I'm just going to -- I want to use the first few  
3 pages because there's a couple of reports here.  
4 MR. MULLANEY: So you want this back as  
5 well? 01:54:56  
6 MR. BLEDSOE: Well, no, you can keep those.  
7 THE WITNESS: He just doesn't want me to  
8 take all the time to read all that stuff.  
9 MR. BLEDSOE: So this is all of them?  
10 MR. BEHNKE: I think this is all of them. 01:55:12  
11 MR. BLEDSOE: I just want to make sure  
12 we --  
13 BY MR. BLEDSOE:  
14 Q All right. We're going to stick with this  
15 the way it is. I think it's -- 01:55:29  
16 So Mr. Wise, you've been handed a document  
17 that's been marked as Exhibit 2806 for  
18 identification purposes. 2806 appears to be a  
19 Pollution Report generated by you in connection with  
20 your work on the Greka December 7, 2005, release. 01:55:50  
21 If you could take a moment to review that,  
22 and I'm going to ask you some questions about these  
23 Pollution Reports.  
24 A Real quick. After I looked at this, I  
25 realized that I had made an error. 01:56:12

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1 on page 1 of Exhibit 2806 refresh your recollection  
2 that you responded to the spill at the Zaca/Davis  
3 facility on December 8th, 2005?  
4 A Yes.  
5 Q And the next day, on December 9th, you 02:00:30  
6 determined that the EPA had jurisdiction over that  
7 release, correct?  
8 A Correct.  
9 Q What was the basis or -- withdrawn.  
10 Does your December 9th, 2007 -- or excuse 02:00:48  
11 me, withdrawn.  
12 Does your December 9th, 2005, Pollution  
13 Report indicate the basis of your determination that  
14 the EPA had jurisdiction over that spill and  
15 cleanup? 02:01:06  
16 A Yes, and the site description on the last  
17 line, it said that the oil could get into a  
18 tributary to Zaca Creek.  
19 Q Okay. So you're looking at the page --  
20 page No. EPA9\_0269612? 02:01:19  
21 A Actually, I was looking at this one, but  
22 yes, I -- yes, I can look at that one instead.  
23 Q And that's part of Exhibit 2806, right?  
24 A Yes.  
25 Q You're looking at the third page -- 02:01:35

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1 A The third page.  
2 Q Actually, no, withdrawn.  
3 You're looking at the fourth page of  
4 Exhibit --  
5 A Yes, the fourth page, because I got the 02:01:43  
6 other one sitting right here, too, so...  
7 Q Sure. And that's your second Pollution  
8 Report in connection with the December 7, 2005,  
9 Greka release at Zaca/Davis, right?  
10 A Correct. 02:01:54  
11 Q And when I asked you the basis of your  
12 determination that the EPA had jurisdiction, you  
13 referred to the last sentence of the first paragraph  
14 on "Site Description"; is that correct?  
15 A Correct. 02:02:08  
16 Q Which reads:  
17 (Reading) The release overwhelmed the  
18 secondary containment on the tank farm and  
19 the oil traveled down an access road into a  
20 drainage culvert into an unnamed 02:02:18  
21 intermittent unnamed tributary to Zaca  
22 Creek.  
23 Is that correct?  
24 A Correct.  
25 Q So the basis of your exercise of federal 02:02:29  
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1 jurisdiction was that the release entered an unnamed  
2 intermittent tributary to Zaca Creek?  
3 A Right.  
4 Q Any other basis for your determination --  
5 your decision to exercise federal jurisdiction other 02:02:48  
6 than the fact that release on December 7th traveled  
7 into an unnamed intermittent tributary to Zaca  
8 Creek?  
9 A Well, we knew where -- Zaca Creek went to  
10 the Santa Ynez River, which went to the ocean. 02:03:03  
11 Q Prior to consult- -- withdrawn.  
12 Prior to making a determination that the  
13 EPA had jurisdiction over the December 7, 2005,  
14 release, did you contact anyone at headquarters or  
15 talk to any other EPA personnel concerning it was 02:03:22  
16 proper for you to exercise jurisdiction, federal  
17 jurisdiction over that spill and cleanup?  
18 A I don't recall.  
19 Q Prior to exercising the jurisdiction over  
20 the December 7, 2005, Zaca/Davis release, did you 02:03:38  
21 contact anybody at EPA and say something like, you  
22 know, the Pacific Ocean -- or no, the Santa Ynez  
23 River is, you know, 13 to 16 miles downstream. I'm  
24 not sure whether we have jurisdiction here. Do you  
25 recall having any conversations like that? 02:03:58  
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1 A I don't recall.  
2 Q As far as you're aware, what's the furthest  
3 downstream from the Zaca/Davis facility that the oil  
4 from the December 7th, 2005, release went?  
5 A Well, according to my Pol Rep, it said it 02:04:22  
6 went three quarters of a mile.  
7 Q So is it -- is it true that, based on your  
8 best estimate, the oil from the Zaca/Davis release  
9 on December 7th, 2005, was contained approximately  
10 12 and a quarter to, you know, 15 and a quarter 02:04:42  
11 miles from the Santa Ynez River?  
12 A I'd have to look at a map to confirm that,  
13 but that sounds about right.  
14 Q Did the unnamed creek by the Zaca/Davis  
15 facility have asphalt lining in it in any way or 02:05:05  
16 underneath the subsurface?  
17 A I don't recall that.  
18 Q Okay,  
19 Do you want to take a break? I see you  
20 looking at your watch. 02:06:09  
21 A Actually, I have back problems, and all  
22 this sitting is hurting it little bit.  
23 MR. BLEDSOE: Let's take a break. No  
24 worries.  
25 VIDEO OPERATOR: This marks the end of 02:06:18  
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1 media No. 3 in the deposition of Robert Wise. We're  
2 going off the record at 2:06 p.m.  
3 (Recess.)  
4 VIDEO OPERATOR: We're back on the record  
5 at 2:27 p.m., and this marks the beginning of media 02:27:02  
6 No. 4 in the deposition of Robert Wise.  
7 BY MR. BLEDSOE:  
8 Q Mr. Wise, do you recall when you determined  
9 that the EPA did not have jurisdiction over releases  
10 from Greka's Bell 3 -- or excuse me, Bradley 3 02:27:20  
11 Island's facility?  
12 A It was probably a couple of days into it  
13 that we made the determination that, after speaking  
14 to the local landowners and U.S. Fish and Wildlife  
15 Service, that we determined that this creek, which 02:27:38  
16 was a raging torrent, I mean it had a lot of water  
17 in it, didn't go anywhere. It dead ended in like a  
18 soccer field or a flood control basin or something  
19 like that.  
20 Q And it's your best recollection that you 02:27:54  
21 made that determination in 2008?  
22 A I believe so, if that's when the spill was.  
23 Q Did you ever issue any orders to Greka in  
24 connection with the releases at Bradley 3 Island?  
25 A I believe I issued a Notice of Federal 02:28:08  
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1 Interest, but I'd have to look in the record, and  
2 there was -- I believe there may have been a CERCLA  
3 106 unilateral administrative order issued for a PCB  
4 spill that was discovered after the oil spill.  
5 Q What is a CERCLA 106 order? 02:28:29  
6 A It's a unilateral administrative order  
7 where it tells the responsible party thou shall do  
8 X, Y and Z. If you don't do it, then we're going to  
9 come in and do it for you; versus, say, an  
10 administrative order on consent where EPA and the 02:28:49  
11 responsible party enter into a mutual contract where  
12 the responsible party agrees to stipulated penalties  
13 if they don't do the work.  
14 Q What was the basis of the EPA's  
15 jurisdiction over the PCB issue at Greka's Bradley 3 02:29:04  
16 Island facility?  
17 A CERCLA hazardous substance.  
18 Q And what do you mean by that?  
19 A It means that it was a release of a CERCLA  
20 hazardous substance into the environment. It's not 02:29:19  
21 like oil where you have to be in the waters of the  
22 U.S. Just as long as it's in the environment we  
23 have jurisdiction, and it's a CERCLA hazardous  
24 substance. But I was not the OSC of record for  
25 that. 02:29:34

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1 else. It was relatively small.  
2 Q Do you know -- do you recall the volume of  
3 oil discharge?  
4 A I don't recall anything. I'd have to look  
5 at the Pol Rep. 02:31:16  
6 Q Is it your best recollection that, at least  
7 as far as releases that are issued in this case,  
8 your first response was to the December 7, 2005,  
9 release at Zaca/Davis?  
10 A Correct. 02:31:28  
11 Q And is it your best recollection that the  
12 second time you responded to a release at Greka as  
13 part of this case was the July 16th, 2007, release  
14 at Bell?  
15 A I believe so. 02:31:48  
16 Q Do you recall what the next release was  
17 that you responded to at Greka?  
18 A I believe there was another spill at Bell,  
19 and I -- I think we came out, but we didn't do  
20 anything with it. We let Fish and Wildlife handle 02:32:12  
21 it. And then after that was the spill at Davis Tank  
22 Battery. And --  
23 Q Okay. Let me -- let me ask you a question  
24 about the Bell release that you came out to and  
25 didn't do anything. Do you recall what year that 02:32:39

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1 Q I want to see if we can create a timeline,  
2 and I will show you some more documents 'cause it's  
3 not supposed to be a memory test, but is it fair to  
4 say that the first Greka release that you responded  
5 to was the December 7, 2005, release at Zaca/Davis? 02:29:48  
6 A Actually, I do not believe so. I believe I  
7 responded to another spill before that on the  
8 Bradley Lease, maybe 2004.  
9 Q Were you the on-scene coordinator in  
10 connection with the 2004 release at Greka's Bradley 02:30:11  
11 Lease?  
12 A I believe -- yes, I was.  
13 Q And is that a different lease than Bradley  
14 3 Island?  
15 A Yes. They no longer have that lease. 02:30:21  
16 Q Do you know whether the 2004 Bradley Lease  
17 is part of this case?  
18 A I don't know.  
19 Q Okay. All right. I don't think it is, so  
20 I'm going to ask you something else. 02:30:37  
21 Okay. As far as -- well, withdrawn.  
22 What do you recall about your work on  
23 Greka's 2004 release at its Bradley Lease?  
24 A As I recall, it was in what was called  
25 Bradley Creek at the time, and I don't recall much 02:31:00

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1 was?  
2 A I believe it was 2008.  
3 You were out there. Do you remember?  
4 MR. ZARRO: She's not being deposed.  
5 BY MR. BLEDSOE: 02:32:53  
6 Q We're just asking your memory, so --  
7 A Yeah, I believe -- I believe it was between  
8 the July and -- so what I remember is they had three  
9 spills right in a row and all in the same spot. So  
10 I'm pretty sure that would have all been 2008. 02:33:06  
11 Q Right.  
12 A Because the -- the Bell Lease bill was in  
13 January of 2009, correct?  
14 Q 2008. Well, there was -- I think there was  
15 one in 2008. There's -- well, you know, I'm going 02:33:21  
16 to get out my list.  
17 A Okay.  
18 Q I'm going to get out my list and ask you if  
19 you worked on different spills, because I think  
20 that's the best way of doing this rather than you 02:33:31  
21 deposing me on this issue.  
22 A But that's so much more fun.  
23 MR. BLEDSOE: I have it.  
24 MR. BEHNKE: You have it?  
25 BY MR. BLEDSOE:

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1 Q All right. So did you respond to the  
2 December 7th, 2007, release at Bell?  
3 A That's the one that we went to that we  
4 didn't do a lot on.  
5 Q Okay. Well, when you say "we didn't do a 02:34:23  
6 lot on," let me ask you about that. When you went  
7 out to the December 7, 2007, release at Bell, did  
8 you determine -- make a determination whether the  
9 EPA had jurisdiction over that spill?  
10 A Well, I'd already made that jurisdictional 02:34:43  
11 determination in the July spill, so I wouldn't have  
12 to make it again.  
13 Q Okay. Did the EPA exercise federal  
14 jurisdiction over the spill and cleanup, and I'm  
15 talking about the December 7, 2007, release at Bell? 02:34:57  
16 A You know what, I -- I just don't remember.  
17 I don't -- I remember not being that involved in  
18 that spill.  
19 Q Okay. What do you remember about the  
20 December 7, 2007, release at Bell? 02:35:11  
21 A I remember, if I -- if I remember it  
22 correctly, it was an overflow from either a pipeline  
23 or one of their containment vessels there on the  
24 opposite side of the -- the ponds, and it went into  
25 that creek right there and went some distance down 02:35:32  
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1 the creek.  
2 I -- I also remember that the day the spill  
3 happened or the day after the spill happened was the  
4 day that Fish and Wildlife was supposed to give  
5 their final blessing on the July spill, and it just 02:35:52  
6 reslimed up that whole area again.  
7 Q Do you recall doing any work at all on the  
8 December 7th, 2007 --  
9 A I don't recall.  
10 Q -- Bell release? 02:36:10  
11 A I don't recall. If there's a Pol Rep, that  
12 could refresh my memory, but otherwise I don't  
13 recall.  
14 Q Okay. Is it true that the next spill you  
15 responded to in connection with Greka was the 02:36:21  
16 January 5th, 2008, Zaca/Davis spill?  
17 A Correct.  
18 Q Do you recall when you responded to that  
19 spill?  
20 A I -- the spill happened in the evening. I 02:36:33  
21 came out the next morning.  
22 Q Was the January 5th, 2008, spill during a  
23 dry period, or was there water flowing in the river?  
24 A I believe that was -- it was during a rain  
25 event. 02:36:51  
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1 Q And did you make a determination one way or  
2 another whether the EPA had jurisdiction over the  
3 January 5th, 2008, Zaca/Davis spill or had you  
4 already made that determination in December 2005?  
5 A I had already made that determination. 02:37:09  
6 Q So if I was to ask you the basis of your  
7 determination that the EPA had jurisdiction over the  
8 January 5th, 2008, spill, your answer would be the  
9 same as what you told me about the December 7th,  
10 2005, release at Zaca/Davis? 02:37:28  
11 A Yes.  
12 Q Okay. Now, there was a release at Bradley  
13 3 Island on January 24, 2008; do you recall that?  
14 A I believe so.  
15 Q And is that the release that you testified 02:37:44  
16 about earlier that EPA declined to exercise  
17 jurisdiction?  
18 A Yes, once we realized that it didn't meet  
19 our jurisdictional authority. It still met other  
20 agencies' jurisdictional authority, federal 02:38:00  
21 agencies, but just not ours.  
22 Q And did you respond to any of the spills at  
23 Greka's UCAL facility -- withdrawn.  
24 Did you respond to the release at Greka's  
25 UCAL facility on December 24, 2008? 02:38:15  
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1 A I responded to a bunch of spills at UCAL.  
2 I don't remember the exact dates. I'd have to look  
3 at Pol Reps.  
4 Q Did you ever make a determination whether  
5 the EPA had jurisdiction over releases at Greka's 02:38:30  
6 UCAL facility?  
7 A Yes, I made that determination.  
8 Q And what was your determination?  
9 A That the creeks there eventually made it  
10 into the Santa Maria River. 02:38:42  
11 Q Now I can tell you that releases at Greka's  
12 UCAL facility do not appear to be part of the  
13 federal claims.  
14 A They were --  
15 Q Do you know why that is? 02:39:06  
16 A They were pretty small. They were -- they  
17 were pretty small. They were not -- there was  
18 some -- they were smaller releases that we made a  
19 joint effort on that may not have made it into that  
20 because they were fairly small. 02:39:24  
21 Q Okay. I'm going to spare you questions  
22 about your jurisdiction decision because they're not  
23 part of this case.  
24 Now, there was a release at one of the  
25 Greka facilities where you came as the on-scene 02:39:50  
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1 coordinator and stayed for four to six months. Do  
2 you recall that generally?  
3 A Yes.  
4 Q Do you recall which release that was?  
5 A So that would have jointly been the 02:40:00  
6 Zaca/Davis release, the second one, and the Bell  
7 release, because even though they happened roughly a  
8 month and a half apart, the Zaca release was still  
9 going on when the Bell release happened. So we -- I  
10 did them both at the same time. 02:40:21  
11 Q Well, I just want to make sure I have  
12 this -- this straight. There was a -- a Bell  
13 release on July 16th, 2007, that you worked on,  
14 correct?  
15 A Right. 02:40:44  
16 Q And then there was another Bell release on  
17 December 7, 2007, so five -- approximately five  
18 months later. Do you recall that?  
19 A Right.  
20 Q And then there was a Zaca/Davis release on 02:40:53  
21 January 5th, 2008. Do you recall that?  
22 A Yes.  
23 Q Those are three releases, July 16th, 2007,  
24 December 7th, 2007, at Bell, and then January 5th,  
25 2008, at Davis. Do you have those in your mind? 02:41:10  
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1 A Yes.  
2 Q When you say you came out and stayed for  
3 four to six months working on two releases at Greka,  
4 which two of those three releases are you referring  
5 to? 02:41:25  
6 A It was the last Bell spill, the last  
7 major -- the major Bell spill -- the last major Bell  
8 spill and the Zaca release.  
9 Q Okay. And do you recall when you first  
10 came, in response to those spills, came on site to 02:41:44  
11 Greka?  
12 A So the -- the Zaca spill would have been  
13 whatever you said the date was. And it's right  
14 here, isn't it? December 7th, or December 8th was  
15 the Zaca spill. 02:42:04  
16 Q That's actually Bell.  
17 A Bell. No, this is not. This is the Zaca  
18 -- the Zaca Field Lease spill and the Davis Tank  
19 Battery.  
20 MR. MULLANEY: Could I interrupt for a 02:42:14  
21 second just --  
22 MR. BLEDSOE: Sure.  
23 MR. MULLANEY: -- so we're not talking past  
24 each other.  
25 He's referring to the Zaca spill from 2005 02:42:21  
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1 now.  
2 THE WITNESS: Oh, I'm sorry. I confused  
3 myself.  
4 MR. MULLANEY: That's okay. I don't want  
5 to --  
6 MR. BLEDSOE: Why don't we put -- we'll put  
7 those documents away. No, that's fair.  
8 THE WITNESS: That was my fault.  
9 MR. BLEDSOE: It's very easy to get  
10 confused. 02:42:33  
11 MR. MULLANEY: I don't want to have this be  
12 a complete jumble where we're not -- we're talking  
13 past each other.  
14 THE WITNESS: Can I just see that? Might  
15 make it easier. 02:42:39  
16 BY MR. BLEDSOE:  
17 Q No, this is a document that's privileged  
18 and confidential. It has our own personal notes on  
19 it.  
20 A Okay.  
21 Q But I just want -- so you worked on the  
22 July 16th, 2007, spill at Bell, correct?  
23 A Right.  
24 Q And then there was another release at Bell  
25 on December 7th, 2007, that you didn't really do 02:42:52  
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1 much work on, correct?  
2 A We went to, but we didn't -- we let the  
3 Fish and Wildlife handle it, or Fish and Game at the  
4 time.  
5 Q And then there was a spill on January 5th, 02:43:03  
6 2008, at Zaca/Davis, correct?  
7 A At Zaca/Davis.  
8 Q And is it true that because of the  
9 January 5th, 2008, spill at Zaca/Davis, you then  
10 started working on the December 7th, 2007, spill at 02:43:15  
11 Bell?  
12 A No, there was another spill at Bell after  
13 that.  
14 Q And you're referring to the January 29th,  
15 2008, spill at Bell? 02:43:26  
16 A That -- that one, yeah.  
17 Q Okay. That's -- all right.  
18 A That's the one.  
19 Q So when you came out to Greka and stayed --  
20 basically stayed during at least the working days 02:43:33  
21 for four to six months, that was in response to the  
22 January 5th, 2008, Zaca/Davis spill and the  
23 January 29th, 2008, Bell spill?  
24 A Correct.  
25 Q And the basis of your position that the EPA 02:43:49  
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1 had jurisdiction over the January 29th, 2008, Bell  
2 release is the same basis that you talked about  
3 earlier in connection with the July 16th, 2007, Bell  
4 release?  
5 A Right. 02:44:10  
6 Q And the basis for your exercise of  
7 jurisdiction over the January 5th, 2008, Zaca/Davis  
8 spill was the same basis as your exercise of  
9 jurisdiction over the December 7th, 2005, Zaca/Davis  
10 spill? 02:44:27  
11 A Correct.  
12 Q Okay. Do you recall when you arrived on  
13 site at Greka in connection with the January 5th,  
14 2008, Zaca/Davis spill?  
15 A I -- I believe I got on site like the 02:44:41  
16 day -- if I remember right, the spill happened in  
17 the evening, and then we came out the next morning.  
18 Q It's your best recollection that you  
19 arrived at Greka on January 6th, 2008?  
20 A Correct. 02:45:05  
21 Q And is that when you stayed for four to six  
22 months from that point forward, or did you kind of  
23 leave, and then --  
24 A Yeah, we kind of left --  
25 Q -- when the latest spill at Bell, that's 02:45:17  
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1 four to six months?  
2 A Roughly. I'd have to look at the Pol Reps  
3 to find the dates exactly, but...  
4 Q Well, did you do a Pollution Report for  
5 every day you were on site? 02:47:05  
6 A I did -- I didn't do one every day, but if  
7 you -- let me see if this one does it that way.  
8 So the format has changed since we've done  
9 these. But if there was significant stuff every  
10 day, there would have been an entry for every day. 02:47:36  
11 If you look at one of these we do now, every single  
12 day, and if we're not on site, it says we're not on  
13 site, but the format has changed since then.  
14 Q So during the 2008 time frame when you were  
15 on site working on Greka releases, you didn't record 02:47:45  
16 in your Pollution Reports necessarily which days you  
17 were there versus which days you had taken off?  
18 A No, it probably would have said OSC Wise on  
19 site or OSC Musante or whoever the OSC was out  
20 there. 02:48:02  
21 Q Okay. What was it about the January 29th,  
22 2008, release at Bell that caused you to go out to  
23 Greka and Bell virtually every working day for the  
24 next four to six months?  
25 A It was -- it was a big spill. It -- due to 02:48:20  
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1 when you came and stayed?  
2 A Yeah. Really, I was there intermittently  
3 through January, and then when the Bell spill  
4 started -- I was there intermittently until such  
5 time we took over the cleanup, then I was there full 02:45:30  
6 time, or -- and OSC was there full time. I may have  
7 taken a break and someone may have came and replaced  
8 me for a week or so.  
9 Q What is your best recollection for when you  
10 came out to Greka and then essentially stayed for -- 02:45:44  
11 for a period of time in connection with the  
12 January 2008 Zaca/Davis and Bell releases?  
13 A You mean the date?  
14 Q Your best recollection of the time frame.  
15 A Well, the time frame would have been from 02:46:03  
16 on or around the Bell spill. That's when the real  
17 long stay started. So for the Zaca/Davis spill, we  
18 were set up in the county yard with our command  
19 post. For the Bell spill, we then moved up and  
20 moved our command post and ran both incidents out of 02:46:22  
21 the command post in the -- next to the -- at that  
22 time Greka office at the UCAL Lease.  
23 Q So is it fair to say that shortly after the  
24 January 29th, 2008, spill at Greka's Bell facility,  
25 that you were there most working days for the next 02:46:48  
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1 the weather, it was raining almost every day. The  
2 spill got pretty -- it got a lot farther down then.  
3 There's when it got all the way down to the  
4 groundwater well shack. It got real far down, and  
5 it -- it was taking a long time to clean it up, 02:48:45  
6 and -- 'cause we would have days where we couldn't  
7 work because once it started raining -- imagine a  
8 creek canyon where the walls are like this. We  
9 can't put people down in there when it's like that.  
10 It's a safety hazard. 02:49:07  
11 So we may have had days where nothing --  
12 everybody went home. Everybody sat at home. We had  
13 teams out there to make sure it didn't get any  
14 farther, but they couldn't actually work.  
15 Q How far did the oil actually make it down 02:49:20  
16 Asphalt Creek?  
17 A It made it all the way -- it made it all  
18 the way down to -- almost to Gato Ponds.  
19 Q And you understand I'm talking about --  
20 A Yeah.  
21 Q -- the January 29th, 2008, release?  
22 A Yeah.  
23 Q How far is Gato Ponds from the Greka Bell  
24 facility?  
25 A It's -- oh, it's probably two or three 02:49:41  
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1 miles down that road, and then probably another half  
2 a mile, three quarters of a mile down through the  
3 pasture.  
4 Q Did the January 2008 release from or into  
5 Asphalt Creek from the Greka Bell facility make it 02:50:04  
6 into Cat Canyon Creek?  
7 A Not that I know of.  
8 Q What is a unified command?  
9 A So I need to back up 'cause there's a whole  
10 thing that goes along with this. So in California 02:50:35  
11 in the 1970s-ish they -- there's a group associated  
12 with Cal Fire called Fire Scope. And they had had a  
13 series of wildland fires where nobody talked to one  
14 another and they got out of control because there  
15 was competing resources and such. So Fire Scope 02:50:59  
16 came up with what they called the Incident Command  
17 System.  
18 And it's a modular structure organization  
19 for managing an incident. And it doesn't matter  
20 what type of incident. It's all hazards. Whether 02:51:11  
21 it's a fire, HAZMAT, oil spill, earthquake, it  
22 doesn't matter.  
23 So in the command structure of it, you can  
24 have either a single incident commander, so usually  
25 what you would see a single incident commander would 02:51:27  
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1 be, say, for example, an auto accident. CHP is  
2 going to be the incident commander. But if you have  
3 something that's multiple jurisdiction, and there's  
4 multiple agencies at the top that have a piece, then  
5 you have what's called the unified command. 02:51:41  
6 So usually what you'll see in a unified  
7 command piece is the federal on-scene coordinator,  
8 the state on-scene coordinator, if they call it  
9 that, or incident commander, the local  
10 jurisdiction's incident commander, and a 02:51:59  
11 representative of the responsible party.  
12 And they try to -- the unified -- the goal  
13 of the unified command is to make decisions as a  
14 group. And the amount of -- the amount of say the  
15 responsible party has, is really dependent on the 02:52:17  
16 incident. It's dependent on who the responsible  
17 party is, and -- and such like that.  
18 Probably the most obvious example that you  
19 guys would be familiar would be BP oil spill. So  
20 you had the Coast Guard as the federal on-scene 02:52:42  
21 coordinator. You had the state as the state.  
22 There's really no local incident commander there.  
23 And then you had BP in there, and they actually had  
24 a fair amount of say because of the technical nature  
25 of the response. But the final buck does stop with 02:52:56  
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1 the government agency.  
2 So the California Fish and Wildlife is the  
3 designated incident commander for off-highway spills  
4 in the State of California, and they're the  
5 designated incident commander for all oil spills. 02:53:12  
6 EPA is on the federal side in the coastal zone.  
7 Coast Guard's on the federal side in the inland  
8 zone. And then there's a few other ancillary  
9 parties in there if it's on other federal lands,  
10 which was not an issue here. 02:53:30  
11 Q Were there any Greka releases on the  
12 coastal side that were within the Coast Guard's  
13 jurisdiction?  
14 A Not that I -- as far as I know, there is  
15 only one Greka facility in the coastal zone, and 02:53:41  
16 that is the Rincon Island facility. As far as I  
17 know, everything else is in -- is in the inland  
18 zone.  
19 Q What do you call the Coast Guard zone?  
20 A The coastal zone. 02:53:55  
21 Q The coastal zone. Okay. So is it fair to  
22 say that all of the Greka releases that you worked  
23 on were in the inland zone where the EPA had  
24 jurisdiction rather than the coastal zone where the  
25 Coast Guard had jurisdiction? 02:54:10  
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1 A Correct.  
2 Q Was there a unified command set up in  
3 connection with the January 5th, 2008, release at  
4 the Greka Bell facility -- excuse me, at the -- hang  
5 on, let me just -- I better ask that again. 02:54:34  
6 Withdrawn.  
7 Was there a unified command set up in  
8 connection with Greka's release on January 5th,  
9 2008, at its Zaca/Davis facility?  
10 A Yes. 02:54:48  
11 Q And do you recall who was part of that  
12 unified command?  
13 A So EPA would have been the federal on-scene  
14 coordinator, California Fish and Game at the time,  
15 now Fish and Wildlife, would have been the state 02:55:01  
16 incident commander. Santa Barbara County Fire  
17 Department was the local incident commander. And  
18 then Greka had a representative which was various  
19 people but usually -- and if I say these names  
20 wrong, she can correct me, Brian Scally or Al 02:55:20  
21 Wedderburn, I think it was. There may have been a  
22 few other Greka people, but those were the two main  
23 Greka players that were there.  
24 Q And was there a unified command set up in  
25 connection with the January 29, 2008, release from 02:55:40  
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1 the Greka Bell facility?  
 2 A Yes, and it would have been very similar,  
 3 but in -- if I do recall, in both cases -- we ended  
 4 up taking over the cleanup in both cases. Once EPA  
 5 takes over the cleanup, and we're making -- we're 02:56:00  
 6 spending federal money, then the structure of the  
 7 unified command changes.  
 8 We still have a local and a state incident  
 9 commander, and we take their jurisdictional issues  
 10 and their laws under advisement, but since it is 02:56:19  
 11 federal money being spent, the federal on-scene  
 12 coordinator makes the final decision, and that's  
 13 across the board. It doesn't matter whether it's an  
 14 oil spill or hazardous substance or whatever it is.  
 15 And then the responsible party does not 02:56:34  
 16 have a seat at the table for that, because now we're  
 17 spending uncle's money. If -- you know, if they're  
 18 spending their money, then they obviously get a seat  
 19 at the table to decide how their assets get spent.  
 20 Q So do you recall who participated as a 02:56:50  
 21 member of the unified command in connection with  
 22 Greka's January 29, 2008, release prior to the time  
 23 that the federal government took over the cleanup?  
 24 A Was that the Greka Bell you said?  
 25 Q Yes. 02:57:10

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1 specifically the federal on-scene coordinator, or  
 2 you, in this case, has the final say on decisions  
 3 regarding the cleanup?  
 4 MR. ZARRO: Objection. Compound.  
 5 THE WITNESS: I would say that's true, but 02:58:46  
 6 the responsible party is still involved because, you  
 7 know, it is their facility. We may have questions  
 8 about how the facility works or such type of issues  
 9 where, you know, say, for example, we're digging and  
 10 we come across a pipe. We don't know what that pipe 02:59:05  
 11 is. The only people that can tell us -- and it  
 12 doesn't matter whether it's Greka or somebody else,  
 13 they're the only ones that can tell us what that  
 14 pipe is. So...  
 15 BY MR. BLEDSOE:  
 16 Q Sure. But is there such a thing as a  
 17 unified command once the federal government takes  
 18 over cleanup and starts spending federal dollars?  
 19 A There's still a unified command.  
 20 Q Okay. Is it true that after the federal 02:59:29  
 21 government takes over the cleanup, the responsible  
 22 party is no longer part of the unified command and  
 23 the federal on-scene coordinator has the final say  
 24 regarding the cleanup?  
 25 A I would say that's a fair statement. 02:59:44

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1 A The Greka Bell, the January 29, I believe  
 2 the incident commander for that was Brian Scally, I  
 3 believe. I think Al had already gone on medical  
 4 leave at that point. I don't remember. It was a  
 5 long time ago. But I think it was Brian Scally, 02:57:28  
 6 because I remember Mr. Scally -- I do remember  
 7 Mr. Scally signed the access agreements for us. But  
 8 he -- he was the incident commander. And then I  
 9 don't remember if he remained the incident commander  
 10 or he was replaced by somebody else. 02:57:44  
 11 Q Is it true that in connection with the --  
 12 the Greka Bell release on January 29, 2008, that the  
 13 unified command comprised of yourself, as the  
 14 federal on-scene coordinator, a state incident  
 15 commander, the Santa Barbara County Fire Department, 02:58:00  
 16 and then as far as you recall, Brian Scally from  
 17 Greka?  
 18 A I believe so.  
 19 Q And is it true that once the federal  
 20 government takes over a cleanup and starts spending 02:58:10  
 21 federal money, the -- let me start that over.  
 22 Is it true that once the federal government  
 23 takes over a cleanup and starts spending federal  
 24 money, the responsible party no longer participates  
 25 as part of a unified command, and the EPA, 02:58:32

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1 Q Okay. Now, is it true that after the  
 2 federal government took over the cleanup of the  
 3 January 29, 2008, release at Greka's Bell facility,  
 4 at some point you ordered that all of the asphalt in  
 5 Asphalt Creek be removed as part of the cleanup? 03:00:12  
 6 A That's not true.  
 7 Q Okay. What is not true about that  
 8 statement?  
 9 A We started removing oil from there, and I'm  
 10 not sure if it was someone from Greka or Fish and 03:00:31  
 11 Game or myself that realized that there was a lot  
 12 more there, and some of this was not of Greka's  
 13 origin. It was historical. And at that point, we  
 14 did eventually -- said, you know what, we're going  
 15 to stop here because we can dig to China. 03:00:54  
 16 I did talk to some of the local landowners  
 17 in that canyon there and in that area to find out  
 18 the historic thing about that creek. And they said  
 19 that there was places where that asphalt was 30 feet  
 20 deep from what we had previously spoke about. 03:01:15  
 21 So at that point, we went in, and we had  
 22 dug one hole about seven feet, kind of an  
 23 exploratory hole to see what's going on, and we  
 24 realized this -- this is just never ending. We're  
 25 going to dig to China. So we ended up filling it 03:01:36

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1 full of concrete and then bringing in fresh sediment  
 2 and fresh rock and covering it all up, because it  
 3 wasn't -- it -- it wasn't -- the oil being released  
 4 from that asphalt thick material -- so the best way  
 5 to describe it is think about a tootsy roll pop 03:01:21  
 6 where it's hard on the outside and it's soft on the  
 7 inside, and when it would get fresh oil on it, it  
 8 would weep. And depending on how much fresh oil was  
 9 on it, how much diluent -- because if there was more  
 10 diluent in that little piece of the oil than it was 03:01:40  
 11 in another part, it would dissolve more of that  
 12 outer crust and it would weep more, but the spill  
 13 would have -- would have never ended. It would have  
 14 been -- gone on -- we'd still be digging up that  
 15 creek if it hadn't -- if we -- we just said at this 03:01:52  
 16 point, we've mitigated the spill that was caused  
 17 from the Greka facility, and this is an historic  
 18 facility that we're not going to mitigate. If --  
 19 you know, if this happens in the future again, then  
 20 we can look at do we have to dig the whole creek up 03:02:07  
 21 at that -- at that time.  
 22 Q Is it true that at some time in 2008 you  
 23 learned that because of historic oil releases  
 24 predating Greka, that the asphalt beneath Asphalt  
 25 Creek could be as much as up to 30 feet deep? 03:02:31

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1 would have ensued to remove all of that asphalt, we  
 2 would have had to bring in a lot bigger pieces of  
 3 equipment and dug that whole creek up.  
 4 Q Did you ever have any discussions with any  
 5 of the environmental scientists from the California 03:04:23  
 6 Department of Fish and Wildlife concerning whether  
 7 it would do more harm than good to remove the  
 8 historic asphalt from Asphalt Creek?  
 9 A Yeah, we had that discussion with  
 10 California Fish and Game, Fish and Wildlife and U.S. 03:04:39  
 11 Fish and Wildlife.  
 12 Q And when did you first have that  
 13 discussion?  
 14 A Probably somewhere into the response after  
 15 we had taken -- taken it over and really started 03:04:48  
 16 digging that -- digging into that stuff and  
 17 realizing that we have -- this is a problem  
 18 different than the rest of the -- than the spill  
 19 itself.  
 20 It took a little bit of time to realize 03:05:00  
 21 that why do we keep seeing oil, why do we keep  
 22 seeing oil, and then it -- to be honest with you, I  
 23 don't know if it was one of their people or one of  
 24 our people or who it was said, you know what, we're  
 25 just liberating this old stuff with the new stuff. 03:05:18

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1 A Correct.  
 2 Q Is it true that in connection with your  
 3 work on the July 16th, 2007, Bell release, the EPA  
 4 did not require removal of historic asphalt in  
 5 Asphalt Creek? 03:02:53  
 6 A Correct.  
 7 Q And is it true that in connection with your  
 8 work after the EPA had taken over jurisdiction of  
 9 the cleanup -- or withdrawn.  
 10 Is it true that after EPA had taken over 03:03:04  
 11 the cleanup of Asphalt Creek in -- in connection  
 12 with its work on the January 29, 2008, Greka release  
 13 into Asphalt Creek, that there was money spent at  
 14 your direction on removing historic asphalt from  
 15 Asphalt Creek? 03:03:31  
 16 A We did remove some because we wanted to  
 17 know how deep it was. And once we realized how deep  
 18 it was, and -- you know, once you got the fresh oil  
 19 off of it, it stopped weeping, it no longer was  
 20 releasing, and that material, in general, when water 03:03:47  
 21 passes over it, just as long as it's hard, there's  
 22 no sheen.  
 23 So at that point, we decided, okay,  
 24 let's -- this is -- this is a futile activity to --  
 25 and coupled with the habitat destruction that it 03:04:05

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1 And it just -- but we had -- we had biologists out  
 2 there from Fish and Wildlife Service and from the  
 3 California Fish and Game to advise us on those  
 4 issues.  
 5 Q Prior to the time that you first started 03:05:35  
 6 removing -- or withdrawn.  
 7 Prior to the time that you first starting  
 8 having old historic asphalt removed from Asphalt  
 9 Creek, did you have any discussions with  
 10 environmental scientists or the California 03:05:51  
 11 Department of Fish and Wildlife concerning whether  
 12 it would do more harm than good to attempt to remove  
 13 the histor- -- the historic asphalt from Asphalt  
 14 Creek?  
 15 A I don't recall. 03:06:04  
 16 Q How much money did the EPA spend removing  
 17 historic asphalt from Asphalt Creek?  
 18 A I don't know.  
 19 Q How did you determine how far down you  
 20 should go in attempting to remove the historic 03:06:34  
 21 asphalt from Asphalt Creek?  
 22 A Like I previously said, we did an  
 23 exploratory hole to see how deep it went, and once  
 24 we realized how deep it actually went, then we -- we  
 25 made a decision to cap it and start looking at 03:06:51

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1 restoration of the creek.  
2 Q Now, in connection with your work on the  
3 January -- excuse me, on the December 7, 2005,  
4 Zaca/Davis spill, did you order Greka to stop using  
5 hot produced water on the cleanup? 03:07:25  
6 A Yes.  
7 Q Why?  
8 A The produced water has oil in it, and they  
9 were basically taking oily water and putting it back  
10 in the creek. 03:07:39  
11 Q And so was it your belief that by using hot  
12 water on an oil cleanup, Greka was creating more  
13 pollution in the creek?  
14 A Not hot water.  
15 MR. MULLANEY: Objection. Yeah, misstates 03:08:00  
16 the testimony.  
17 THE WITNESS: Not hot water. Hot oily  
18 water. They used hot water but clean hot water.  
19 Not -- produced water still has some oil in it, and  
20 depending on how good they are at knocking the oil 03:08:14  
21 out, it can have quite a bit of oil in it.  
22 And they were flushing it down the creek,  
23 so if there's oil in the hot flushed water, it's  
24 just going to exacerbate the contamination that's  
25 already there, 'cause -- and they're increasing the 03:08:30  
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1 quantity they're releasing to the environment that  
2 they have to report, because now they're purposely  
3 taking oily water and putting it into the creek.  
4 BY MR. BLEDSOE:  
5 Q You -- you testified that Greka was 03:08:41  
6 permitted to use hot water in connection with its  
7 cleanup of the December 7, 2005, Zaca/Davis release;  
8 do you recall that?  
9 A Yes.  
10 Q And what was the benefit of using hot water 03:08:55  
11 in connection with oil cleanup?  
12 A In -- in this particular case, the weather  
13 conditions at that time, it was cold and rainy, and  
14 as you previously stated, this is a heavy crude, and  
15 by making -- getting it hot, it makes it easier to 03:09:11  
16 pump it if you're going to attempt to pump it.  
17 Q Is it fair to say that using hot water on  
18 an oil cleanup makes the oil more viscous or the --  
19 if you're cleaning up asphalt, it makes the asphalt  
20 malleable to being cleaned up? 03:09:34  
21 A Correct.  
22 Q And did you use hot water in connection  
23 with your attempt to clean up old historic asphalt  
24 from the -- from Asphalt Creek?  
25 A We used -- 03:09:54  
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1 MR. MULLANEY: Objection. Ambiguous as to  
2 time.  
3 BY MR. BLEDSOE:  
4 Q I'm referring -- let me ask a different  
5 question. 03:10:03  
6 Is it true that in the spring of 2008, at  
7 your direction, hot water was used as part of the  
8 effort to clean up the old historic asphalt in  
9 Asphalt Creek?  
10 A Hot water was used to sparge various areas 03:10:20  
11 of that creek, not concentrating on old historic  
12 asphalt. There were portions of the creek that had  
13 sandy bottoms, and the first attempt to clean that  
14 was to use what's called a hot water sparge, where  
15 you basically take a pipe and you push it into the 03:10:41  
16 ground, and then you put hot water in. And because  
17 oil floats, it lifts it up to the surface where it  
18 can be collected. But that didn't work so well, so  
19 they had to do some soil removal instead.  
20 Q What do you mean by hot water sparge? 03:10:59  
21 A So imagine a pipe, this is a pipe. And  
22 it's attached to a hot water generator. They call  
23 them a Hotsy, but it's basically a pressure washer  
24 for hot water. And then they pump hot water under  
25 pressure. They take the pipe and they shove it into 03:11:18  
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1 the ground so it's underneath the sediment so it's  
2 below where the oil would be. And then they pump  
3 hot water into it, and the water tends to rise up,  
4 and if there's any oil there, it will push the oil  
5 to the surface where it can be picked up versus 03:11:32  
6 having to dig everything else out.  
7 Q How many days was hot water used to sparge  
8 Asphalt Creek during the time that the EPA had taken  
9 over the cleanup?  
10 A I can't give you an exact number. I'd have 03:11:50  
11 to look in the Pol Rep.  
12 Q Was it more than a week?  
13 A I -- I can't tell you.  
14 Q Two weeks?  
15 A Could have been a week, could have been two 03:11:59  
16 weeks. I just don't recall.  
17 Q Okay. Prior to the time that you  
18 authorized the use of hot water to clean up Asphalt  
19 Creek, did it occur to you that you might be  
20 creating more enviro- -- environmental damage by 03:12:13  
21 putting hot water under high pressure in an area  
22 that was lined with old historic asphaltic oil?  
23 A In the areas that we primarily used that in  
24 was in areas of high sediment, so in some of those  
25 areas we didn't even know the asphalt was there 03:12:34  
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1 until the sediment was removed.  
2 Q So is it fair to say that prior to using --  
3 withdrawn.  
4 You testified earlier that you first  
5 learned that the creek by the Bell facility was 03:12:50  
6 called Asphalt Creek in 2007; do you recall that?  
7 A Yes.  
8 Q Prior to using hot water as part of the  
9 EPA's cleanup of Bell Creek in the spring of 2000 --  
10 of Asphalt Creek in the spring -- withdrawn. 03:13:12  
11 Prior to using hot water -- water in the  
12 spring of 2008 to clean up Asphalt Creek, did you do  
13 any analysis to determine whether using the hot  
14 water would do more harm than good to the  
15 environment given the presence of asphalt in Asphalt 03:13:33  
16 Creek?  
17 A We did no analysis, but we needed  
18 clarification. The actual sparging was done by  
19 Greka's contractors, not by EPA's contractors.  
20 Q Was the sparging of Bell Creek in the 03:13:54  
21 spring of 2008 done at your -- with hot water done  
22 at your direction?  
23 A It was done at the direction of the unified  
24 command.  
25 Q Okay. Was the sparging of Bell Creek with 03:14:05  
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1 hot water in the spring of 2008 done at a time when  
2 the EPA had taken over the cleanup?  
3 A I don't recall. I'd have had to look at  
4 the Pol Rep.  
5 Q And is it fair to say that prior to the 03:14:27  
6 time that you approved the use of hot water sparging  
7 to clean up Asphalt Creek, you didn't do any  
8 analysis to determine whether that hot water  
9 sparging in Asphalt Creek would cause more harm than  
10 good to the environment? 03:14:48  
11 A The unified command -- at that point, the  
12 unified command was jointly in charge, so the  
13 unified command did not make -- did not do any  
14 analysis.  
15 Q And you were the -- the federal participant 03:14:59  
16 in the unified command during the time that hot  
17 water sparging was used on Asphalt Creek in the  
18 spring of 2008, correct?  
19 A Correct.  
20 Q And if, in fact, the hot water sparging had 03:15:12  
21 been performed at a time after the EPA had taken  
22 over the cleanup, you would have been the final say  
23 on whether to use hot water sparging to clean up  
24 Asphalt Creek, correct?  
25 A Yes. 03:15:28  
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1 Q I'd like to now change topics for a while,  
2 and I want to talk about your communications with  
3 public officials concerning Greka, politicians and  
4 so forth.  
5 Do you recall when the first time was that 03:15:55  
6 you spoke to any politicians concerning your work on  
7 Greka spills or Greka in general?  
8 A I don't recall the first time.  
9 Q Okay. Do you recall if it was in 2007 or  
10 2008? 03:16:13  
11 A I -- I don't recall.  
12 Q Okay.  
13 A It would have been before that.  
14 Q And why do you say that?  
15 A Because the first Zaca spill was on the 03:16:26  
16 Firestone property, and Brooks Firestone was on the  
17 board of supervisors.  
18 Q Okay. Can you tell me all of the --  
19 withdrawn.  
20 Can you give me a list of the politicians 03:16:38  
21 that you spoke to between 2005 and through the end  
22 of 2009 concerning Greka?  
23 A God, can't even remember that. So it would  
24 have been -- and this is -- this is not going to be  
25 complete because I can't remember. It would have 03:17:00  
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1 been Supervisor Firestone, Supervisor Chamberlin,  
2 Supervisor Santano, Supervisor Wolf, Supervisor  
3 Gray. There was a state assemblyman. I'm sorry,  
4 but I can't remember his name. I don't think he's  
5 there any more. Congresswoman Lois Capps, and then 03:17:34  
6 field representatives of Senators Feinstein and  
7 Boxer.  
8 Q Is the state assemblyman named --  
9 withdrawn.  
10 Was the state assemblyman you're referring 03:18:06  
11 to Pedro Nava?  
12 A That was it.  
13 Q Anybody else you can recall speaking to,  
14 any other politicians?  
15 A There may have been other supervisors, or 03:18:20  
16 there may have been local mayors or something like,  
17 but I don't recall.  
18 Q Do you recall having any conversations with  
19 Salud Carbajal?  
20 A Oh, yeah. He was a supervisor. The 03:18:28  
21 supervising supervisor, whatever they called the  
22 head of the board of supervisors.  
23 Q Do you recall anybody else?  
24 A No.  
25 Q When did you speak to Supervisor Firestone 03:18:40  
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1 about Greka?  
2 A Within the first couple of days. He was  
3 the landowner.  
4 Q This is in connection with the December 7,  
5 2005, release at Zaca/Davis? 03:19:02  
6 A Yes.  
7 Q And what's your best recollection of the  
8 substance of your conversation with Mr. -- with  
9 Supervisor Firestone in December 2005?  
10 A A little bit on where the creeks went 03:19:15  
11 'cause he has intimate knowledge of his property.  
12 Mostly listening to him get mad at me about the  
13 spill on his property.  
14 Q Do you recall anything else?  
15 A Hmm-hmm. 03:19:29  
16 Q When did you talk to Supervisor Chamberlin  
17 about Greka?  
18 A I spoke to Supervisor Chamberlin on -- in  
19 passing at one of the supervisors' meetings that I  
20 went to. 03:19:46  
21 Q And do you recall the substance of that  
22 conversation?  
23 A I don't recall the substance. Both  
24 Supervisors Firestone and Supervisors Chamberlin had  
25 pretty much recused themselves because their 03:19:58  
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1 extremely high profile where we are now getting lots  
2 and lots of calls from different politicians. So we  
3 will arrange to get them all in a room and do it at  
4 once. That way we don't have to answer the same  
5 question five times. 03:21:37  
6 Q And did the Greka release in December 2005  
7 at the Zaca/Davis facility fall into that category?  
8 A We did have a press day, I believe, in the  
9 2000 -- well, a press politicians' day, I believe,  
10 in the 2008 spill, but I don't believe we did one in 03:21:56  
11 the 2005 spill.  
12 Q When did you talk -- well, do you remember  
13 anything about your conversation with Supervisor  
14 Santano in 2005?  
15 A Other than just a general briefing, no. 03:22:15  
16 Q When you say "general briefing," what do  
17 you mean?  
18 A That -- what are we doing, who is doing  
19 what, who are the agencies out here.  
20 Q Do you recall anything about your 03:22:27  
21 conversations with Supervisor Wolf?  
22 A My conversations with Supervisor Wolf  
23 were -- were pretty much limited to the supervisors'  
24 meetings, although Supervisor Wolf did call me a  
25 couple of times; more of the same thing; wanted to 03:22:46  
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1 properties were impacted.  
2 Q And do you recall that your discussion with  
3 Supervisor Chamberlin was sometime in the 2007, 2008  
4 time frame?  
5 A Probably. 03:20:11  
6 Q When do you recall speaking with Supervisor  
7 Santano about Greka?  
8 A That would have been both -- that would  
9 have been in 2005. I don't recall if he was still  
10 in office in 2007 or 2008. 03:20:31  
11 Q What was the occasion for you to talk to  
12 Supervisor Santano about Greka in 2005?  
13 A Mostly just a political politicians'  
14 briefing. They're fairly common. They come out;  
15 they want to know what's going on. 03:20:50  
16 Q Did you talk with Supervisor Santano at the  
17 Greka site?  
18 A I believe so.  
19 Q And did you arrange for the politicians'  
20 briefing or did the politicians contact the EPA? 03:21:02  
21 A I don't recall. It could be either/or.  
22 Q And why would you arrange for a  
23 politicians' briefing?  
24 A An example of where we might arrange for a  
25 politicians' briefing is if we have something 03:21:17  
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1 know what -- wanted to be kept in the loop of what  
2 was going on.  
3 Q And do you recall that your conversations  
4 with Supervisor Wolf were in the 2008 time frame?  
5 A Yes. 03:22:59  
6 Q How many times did you talk to Supervisor  
7 Wolf?  
8 A A couple of supervisor meetings and a few  
9 phone calls after that. I don't know how many.  
10 Q Can you tell me your best recollection of 03:23:10  
11 the substance of your one-on-one phone calls with  
12 Supervisor Wolf in 2008?  
13 A Mostly on where the spills were going, my  
14 opinion of how the spills were being conducted.  
15 Resources we needed from county and local agencies. 03:23:26  
16 All the supervisors were very interested in as to  
17 whether or not their agencies were providing  
18 adequate assistance.  
19 Q And what was your opinion that you  
20 expressed to Supervisor Wolf on the cleanup in 2008? 03:23:41  
21 A I don't recall my exact opinion.  
22 Q Do you recall it generally, what you  
23 communicated to Supervisor Wolf about the progress  
24 of the cleanup when you had one-on-one telephone  
25 conversations with him in 2008? 03:23:54  
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1 A I just remember we gave her general  
2 briefings.  
3 Q You don't remember anything specific about  
4 the substance?  
5 A I don't. If you have notes or something 03:24:02  
6 that can refresh my memory, maybe, but otherwise I  
7 don't.  
8 Q When did you have conversations with  
9 Supervisor Gray about Greka?  
10 A It would have been basically the same as 03:24:13  
11 Supervisor Wolf. Once we came before the board of  
12 supervisors, and I think I made two appearances  
13 before the board of supervisors, and they -- it  
14 wasn't by choice, it was thou shall report to the  
15 board of supervisors' hearing and give a briefing. 03:24:28  
16 It was the same type of situation. A couple of  
17 times in the supervisors' meeting and a couple of  
18 follow-up phone calls.  
19 Q And is it your best recollection that you  
20 had conversations -- withdrawn. 03:24:42  
21 Is it your best recollection that the  
22 couple of phone calls you had with Supervisor Gray  
23 were in 2008?  
24 A I believe so.  
25 Q Do you recall anything about the substance 03:24:50  
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1 A It -- I believe it was probably February of  
2 2008, because I do know that the Zaca spill was  
3 still going on because I remember coming out to the  
4 Zaca spill. But I believe we kind of took her on a  
5 tour of that, and we took her to Bell and a few 03:26:19  
6 other places so she could get an idea of what was  
7 going on.  
8 Q Did you ever have any one-on-one  
9 conversations with Congresswoman Capps about Greka?  
10 A I don't recall. 03:26:34  
11 Q You mentioned that you spoke to field reps  
12 for Senators Feinstein and Boxer. Do you recall  
13 that?  
14 A Yes.  
15 Q Do you recall when you spoke to field reps 03:26:46  
16 for Senators Feinstein and Boxer?  
17 A I spoke to them on the phone. So let me  
18 back up. EPA has a congressional liaison office,  
19 and if we are contacted by a member of Congress or a  
20 member of the Senate, we are to contact them, and 03:27:01  
21 they set up all of the meetings and all that stuff.  
22 We're not to directly contact a member of the U.S.  
23 Congress or U.S. Senate ourselves. If they contact  
24 us, then we're required to notify the Congressional  
25 liaisons, and if they're going -- if they're going 03:27:21  
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1 of your one-on-one telephone conversations with  
2 Supervisor Gray in 2008?  
3 A I don't recall anything other than general  
4 briefing information.  
5 Q And what general briefing information do 03:25:03  
6 you recall?  
7 A What -- what -- what's going on onsite?  
8 Where are we? How long is it going to take? How  
9 much is this costing? Is there any cost to the  
10 county? That's always a big one to them, was there 03:25:15  
11 any cost for the county. Was the -- how long until  
12 these oil fields can be up and running? That was  
13 always a big question.  
14 Q And why was that a question?  
15 A I'm assuming tax revenue. 03:25:30  
16 Q Do you recall anything else about your  
17 conversations with Supervisor Gray in 2008?  
18 A No.  
19 Q What do you recall about your -- or  
20 withdrawn. 03:25:48  
21 When did you have conversations with  
22 Congresswoman Lois Capps?  
23 A Congresswoman Capps actually made a visit  
24 to the site.  
25 Q Do you recall when that was? 03:25:59  
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1 to come on site, then we're going to have a  
2 Congressional liaison on site with the -- with the  
3 Congressman.  
4 Q And how many times did you speak with the  
5 field reps for Senators Feinstein and -- 03:27:38  
6 A A few times.  
7 Q -- Boxer in 2008?  
8 A Sorry. A few times. I don't recall how  
9 many.  
10 Q Do you recall what the substance of those 03:27:44  
11 conversations was?  
12 A Same type of thing: What's going on on  
13 site? How long is this going to take? How much  
14 money are we spending? How much money is this  
15 costing? 03:27:56  
16 Q Do you recall what you told them?  
17 A I don't recall what I told them  
18 specifically.  
19 Q Do you recall generally what you told them?  
20 A General site information, how much we were 03:28:06  
21 spending; where the -- how long the release was  
22 going to go on -- or excuse me, how long the spill  
23 was going to go on; what was Greka's role in all  
24 this; what was the state's role. General  
25 information that they could bring back to their 03:28:27  
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1 bosses.

2 Q Other than what you've just testified, do

3 you remember anything specific that you said to the

4 field reps for Senators Feinstein and Boxer?

5 A No. 03:28:43

6 Q Did you ever have any conversations with

7 State Assemblyman Pedro Nava about Greka?

8 A I had extensive conversations with sena- --

9 with state assembly -- I believe he was the Speaker

10 of the House, Pedro Nava, Speaker of the Assembly. 03:28:59

11 Q During what period of time did you have

12 extensive conversations with Peter Nava?

13 A Starting in 2005, and moving through into

14 2008. There was a hearing hosted by Assemblyman

15 Nava in downtown Santa Barbara the day before the 03:29:22

16 Zaca release, and then throughout the response, he

17 would either call us periodically or he would

18 sometimes stop by the site if he was in town to see

19 what was going on.

20 Q Do you recall the substance of any of your 03:29:38

21 communications with Pedro Nava, Assemblyman Pedro

22 Nava, concerning Greka?

23 A Part of Assemblyman Nava's concern was the

24 reoccurring issues: What could be done to stop

25 these reoccurring issues? Is this a unique Greka 03:29:59

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1 problem? Is this a problem throughout the State of

2 California and the oil patch?

3 Q Anything else?

4 A Probably -- probably would be about it.

5 Yeah. 03:30:32

6 Q Do you recall what you told Pedro Nava

7 concerning whether this was a unique Greka problem

8 versus whether it was a problem throughout the

9 state?

10 A I don't recall what I told him. 03:30:46

11 Q Do you recall anything at all you told

12 Pedro Nava about Greka?

13 A I don't recall anything.

14 Q Did you come to view Pedro Nava,

15 Assemblyman Pedro Nava, as an important ally in the 03:31:04

16 fight against Greka?

17 A Assemblyman Nava really had -- as a federal

18 agency, what the state assemblymen do really has no

19 bearing on our operations. I mean yes, if he had --

20 he may have requests that may have to be addressed, 03:31:31

21 or issues that may have to be addressed, but we're

22 not -- we generally -- we don't work for state

23 assemblymen.

24 So, I mean, a U.S. Congressman or a U.S.

25 Senator is another story, but if he would have 03:31:51

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1 requested stuff from us, and we were able to provide

2 it for him, we would have provided it for him.

3 Q Did you ever come to view Pedro Nava as an

4 important ally in the fight against Greka?

5 MR. ZARRO: Objection. Argumentative. 03:32:07

6 Vague. Mischaracterizes testimony.

7 THE WITNESS: Pedro Nava passed legislation

8 or pushed through legislation as a result of the

9 Greka spills which helped in the future. Whether he

10 was an ally or not, I can't really say that. 03:32:32

11 BY MR. BLEDSOE:

12 Q Did you consider the -- in the 2008 time

13 frame that you were in a fight against Greka?

14 A I wouldn't say a fight against Greka. We

15 had a certain amount of consternation that we 03:32:49

16 couldn't get things accomplished.

17 Q And what consternation are you referring

18 to?

19 A I'll give you an example. We would have

20 a -- there was a small spill. It may not be -- 03:33:05

21 'cause I haven't seen your list of spills -- that

22 there was a small spill on the UCAL Lease where a

23 landslide took out a manifold, and all fairness to

24 Greka, they didn't even know the manifold was there.

25 I don't think anybody knew it was there. It 03:33:25

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1 probably had been buried for years. And during that

2 time of the year, we got a lot of rain, and we

3 wanted to work until we'd get that oil so it didn't

4 move anywhere. And being told by the employees,

5 well, I can't -- I can't work overtime unless I call 03:33:38

6 Randeep to get authority to work overtime, that type

7 of stuff caused frustration. It was like, you know

8 what, then you need to, you know, be -- usually if I

9 would get something like that, then I would either

10 call whoever the incident commander was. If there 03:33:56

11 was no Greka incident commander, then I would just

12 call Andy DeVegvar directly and say, hey, we need to

13 make this -- move -- move forward.

14 Q Did any Greka employee ever tell you they

15 couldn't work overtime unless they called Mr. Grewal 03:34:11

16 personally?

17 A I actually had a Greka employee telling me

18 that. Now whether that was true or not, it probably

19 wasn't true, because when I talked to Mr. DeVegvar,

20 he set them straight. But we did have -- we did 03:34:24

21 have the frustration of Greka contractors telling us

22 they weren't getting paid regularly and, you know,

23 basically me telling them, you know, that's between

24 you and Greka; you need to resolve that. That's not

25 my concern if you're not getting paid. 03:34:49

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1 Q Which Greka employee told you they could  
2 not work overtime unless they called Mr. --  
3 A I don't know. It was one of the laborers.  
4 I mean, they have a ton of laborers out there,  
5 roustabouts. I have no idea which one it was. 03:35:09  
6 Q In the 2008 time frame, did you believe you  
7 were in a fight against Greka?  
8 MR. MULLANEY: Objection. Asked and  
9 answered.  
10 THE WITNESS: I don't believe we were in a 03:35:17  
11 fight against Greka. I don't know if Greka believed  
12 they were in a fight against us, but our job was to  
13 clean up oil spills. And if we got Greka's  
14 cooperation, great. If we didn't get Greka's  
15 cooperation, then I just move forward without them. 03:35:37  
16 BY MR. BLEDSOE:  
17 Q So is it fair to say in 2008 there was --  
18 there was no reason for you to be in a fight against  
19 Greka, because if you didn't have Greka's  
20 cooperation, you could take over the cleanup on 03:35:47  
21 behalf of the EPA, correct?  
22 A Correct.  
23 MR. ZARRO: Objection. Argumentative.  
24 Vague. Mischaracterizes testimony.  
25 BY MR. BLEDSOE: 03:36:03

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1 Q Do you ever recall discussing actions that  
2 you wanted to take in connection with Greka with  
3 Pedro Nava?  
4 A I may have. I don't recall.  
5 Q Do you have any recollection of ever 03:36:17  
6 discussing with Assemblyman Pedro Nava actions that  
7 you wanted to take in connection with Greka?  
8 A Like I said, I may -- I may have. I had  
9 frustrations just like everybody else gets  
10 frustrations. I may have expressed those to 03:36:34  
11 Assemblyman Nava, but I don't recall any exact  
12 conversations. It was a long time ago.  
13 Q Did Assemblyman Pedro Nava ever tell you  
14 anything he wanted you to do in connection with  
15 Greka? 03:36:48  
16 A Not that I recall.  
17 Q Did you ever have any conversations -- or  
18 withdrawn.  
19 Earlier you testified that you did have  
20 conversations with Salud Carbajal, Supervisor 03:37:00  
21 Carbajal, in connection with Greka. Do you recall  
22 that?  
23 A Yes.  
24 Q During what period of time did you have  
25 conversations with Salud Carbajal in connection with 03:37:12

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1 Greka?  
2 A It would have been the 2008 spills.  
3 Q And how many times did you have  
4 conversations with Supervisor Salud Carbajal  
5 concerning Greka? 03:37:27  
6 A I had -- well, there were two supervisor  
7 meetings and several phone calls.  
8 Q And the two supervisor meetings, those are  
9 the ones that you appeared and testified in  
10 public -- 03:37:43  
11 A Right.  
12 Q -- concerning Greka, correct?  
13 A Right.  
14 Q Now, how many one-on-one conversations did  
15 you have with Salud Carbajal concerning Greka? 03:37:49  
16 A I don't know how many one on ones. I had  
17 several one-on-one conversations with him.  
18 Q Do you recall the substance of any of your  
19 one-on-one conversations with Salud Carbajal  
20 concerning Greka? 03:38:03  
21 A At least one of the conversations had to do  
22 with commitments made to us by county agencies that  
23 weren't being lived up to.  
24 Q And what are you referring to?  
25 A Commitments related to the operation of 03:38:15

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1 some of the leases or the allowing of the operation  
2 of some of the leases.  
3 Q When you talk about commitments made by  
4 county agencies, can you give me more specifics  
5 about what you're referring to in relation to Greka? 03:38:43  
6 A In -- in some cases, the counties had told  
7 us that the facilities would not be allowed to be-  
8 -- become reoperational, and they -- we would go  
9 away for a weekend and come back, and then they'd be  
10 pumping oil again. And we had commitments from 03:39:04  
11 county fire that that wasn't going to happen. And I  
12 never did get to the bottom as to why that actually  
13 happened.  
14 Q So is it true that at some point in 2008,  
15 you received commitments from fire department 03:39:19  
16 officials of the County of Santa Barbara that  
17 certain Greka facilities would not be able to begin  
18 operating again, and then you would find out that  
19 the county had allowed the Greka facilities to begin  
20 operating again? 03:39:40  
21 A Correct.  
22 Q Do you recall which facilities you're  
23 referring to?  
24 A The Zaca facility was the primary one.  
25 Q And why was it a problem that the county 03:39:48

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<p>1 fire department had allowed the Zaca facility to  2 begin operations again in 2008?  3 A We were working right there. I just  4 considered it a health and safety issue.  5 Q And why do you say that? 03:40:04  6 A It's an operational oil facility. Their  7 people are doing their thing on their facility to  8 run their facility. My people are doing our thing  9 to do our cleanup. People -- accidents happen.  10 People don't necessarily talk to one another. Just 03:40:17  11 in -- in general, when we do cleanups, if it's an  12 operational facility, we tend to -- and we don't do  13 too many in operational facilities other than oil --  14 we tend to like to have the facility, you know, shut  15 down. 03:40:37  16 Q Was it your desire that the Greka/Zaca  17 facility be shut down in 2008 until the cleanup was  18 completed -- the cleanup was completed?  19 A I would have preferred that, yes.  20 Q And was it your preference that the Greka 03:40:53  21 Bell facility be shut down until the cleanup was  22 completed?  23 A I don't -- I don't believe that they could  24 technically operate it at Bell. I think there was  25 some issues associated with the piping at the 03:41:10  Page 194</p>	<p>1 A Yeah, but it didn't do any good.  2 Q How long did the cleanup of the Zaca/Davis  3 release in January 2008 last?  4 A I don't recall. At least a month.  5 Q Okay. How long did the cleanup of the 03:42:35  6 Zaca -- excuse me, of the -- withdrawn.  7 How long did the cleanup of the January  8 29th, 2008, Bell release last?  9 A Two to three months.  10 Q If the cleanup of the Bell facility only 03:42:49  11 lasted two or three months, why was it that you were  12 out at the Greka facility for four to six months  13 beginning at the end of January 2008?  14 A Well, one, we were working on other spills  15 out there for one. They had other spills. We 03:43:08  16 had -- you know what, I don't have an answer for  17 that. I'd have to review my Pol Reps to get the  18 timeline better. I would rather review the Pol Rep  19 and answer that question --  20 Q Sure. 03:43:30  21 A -- than guess.  22 Q Okay. That's fair.  23 Other than having discussions with Salud  24 Carbajal about your unhappiness with the County of  25 Santa Barbara allowing Greka to restart its 03:43:42  Page 196</p>
<p>1 cleanup and stuff like that where they couldn't  2 actually technically operate. I really actually  3 don't recall.  4 The shut-in of the facilities is not an EPA  5 decision. That is under the jurisdiction of county 03:41:22  6 fire and DOGGR. We have nothing to do -- that was  7 their decisions to -- to make, and for whatever  8 reason they chose to allow the Zaca facility --  9 was -- you know, I was not happy about it, but there  10 wasn't a lot we could do about it. 03:41:39  11 Q Is it true that in 2008 you instructed  12 DOGGR and the County of Santa Barbara Fire  13 Department that you wanted the Zaca/Davis facility  14 shut down until the cleanup was completed?  15 MR. MULLANEY: Objection. Misstates the 03:41:55  16 testimony.  17 THE WITNESS: I preferred that the Zaca  18 facility not be pumping oil while we were working,  19 yes.  20 BY MR. BLEDSOE: 03:42:04  21 Q And when you found out that the County of  22 Santa Barbara had allowed Greka to begin operating  23 the Zaca/Davis facility during the cleanup period,  24 you told the County of Santa Barbara Fire Department  25 folks that you were unhappy about that, correct? 03:42:18  Page 195</p>	<p>1 operations at the Zaca facility during the cleanup,  2 do you recall any other conversations or the  3 substance of any other conversations you had with  4 Salud Carbajal in 2008?  5 A No. 03:43:54  6 Q Did you ever hear from any source that  7 Salud Carbajal was unhappy with Greka's presentation  8 at one of the supervisor meetings and that he wanted  9 Greka put out of business?  10 MR. MULLANEY: Objection. Calls for 03:44:11  11 speculation.  12 THE WITNESS: I had heard rumors that the  13 supervisors were not happy -- the supervisors in  14 general were not happy with Greka.  15 BY MR. BLEDSOE: 03:44:36  16 Q And what specifically did you hear about  17 the supervisors not being happy?  18 A That the supervisors were unhappy with the  19 situation at Greka. I don't recall the absolute  20 specifics. 03:44:46  21 Q Do you ever recall hearing from anybody  22 that Salud Carbajal, Supervisor Carbajal, wanted  23 Greka put out of business?  24 A I don't recall that.  25 Q Okay. 03:45:01  Page 197</p>

1 MR. BLEDSOE: Why don't we take our last  
2 break, and then we'll come back and go till 5:00.  
3 MR. MULLANEY: Great.  
4 VIDEO OPERATOR: This marks the end of  
5 media No. 4 in the deposition of Robert Wise. We're 03:45:10  
6 going off record at 3:45 p.m.  
7 (Recess.)  
8 VIDEO OPERATOR: We're back on the record  
9 at 4:01 p.m. This marks the beginning of media  
10 No. 5 in the deposition of Robert Wise. 04:01:04  
11 BY MR. BLEDSOE:  
12 Q Can you give me your best estimate of how  
13 many one-on-one personal or telephone conversations  
14 you had with Salud Carbajal concerning Greka?  
15 A I don't recall the exact number. 04:01:27  
16 Q Was there a time in 2008 where you talked  
17 to Andy DeVegvar, the then president of Greka,  
18 almost every business day?  
19 A Yes.  
20 Q During what period of time was that? 04:01:45  
21 A Probably once the Bell spill -- the last  
22 Bell spill happened.  
23 Q So is it -- withdrawn.  
24 You're referring to the January 29, 2008,  
25 Bell spill? 04:01:59

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1 A Yes.  
2 Q Is it fair to say that beginning in  
3 approximately February 2008 through May or  
4 June 2008, you talked to the president of Greka  
5 almost every business day? 04:02:11  
6 A Yes.  
7 Q At any point in time in your discussions  
8 with Mr. DeVegvar in 2008, did you ask him about  
9 whether Greka would be filing for bankruptcy?  
10 A Yes. 04:02:40  
11 Q How often during your conversations with  
12 Mr. DeVegvar in 2008, did you ask him whether Greka  
13 would be filing for bankruptcy?  
14 A I don't recall.  
15 Q Is it true that during your conversations 04:02:59  
16 with Mr. DeVegvar in 2008, you asked him  
17 approximately two to three times a week when Greka  
18 was going to file bankruptcy?  
19 A I don't recall.  
20 Q Do you have any recollection whatsoever of 04:03:14  
21 how often in 2008 you asked Mr. DeVegvar when Greka  
22 was going to be filing bankruptcy?  
23 A No.  
24 Q Is it true that in 2008 you asked  
25 Mr. DeVegvar to give you notice when Greka -- Greka 04:03:34

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1 was going to be filing bankruptcy?  
2 A He said he would give us notice if that was  
3 going that route.  
4 Q When Mr. DeVegvar told you that he would  
5 give you notice if Greka was going to file 04:03:52  
6 bankruptcy, did he do so in response to you asking  
7 him to let you know in advance when Greka was going  
8 to be filing bankruptcy?  
9 A Yes, but not in 2008.  
10 Q When was that? 04:04:10  
11 A It was later than 2008. We had  
12 demobilized. We had been home for some time.  
13 Q Is it your best recollection that you asked  
14 Mr. DeVegvar to let you know when Greka was going to  
15 be filing bankruptcy in 2009? 04:04:26  
16 A I don't recall.  
17 Q Do you have any recollection when the first  
18 time you asked Mr. DeVegvar to let you know in  
19 advance if and when Greka was going to be filing  
20 bankruptcy? 04:04:41  
21 A I don't recall.  
22 Q Why did you ask Mr. DeVegvar to let you  
23 know in advance when Greka would be filing  
24 bankruptcy?  
25 A We clean up abandoned sites, and we were 04:04:53

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1 just trying to do long-term planning if we have a  
2 scenario in which we could have a large number of  
3 oil leases that no longer had an operator on them,  
4 that may have a potential for a spill. Just  
5 long-range planning is -- is all it is. 04:05:10  
6 Q Was it your hope in 2008 or 2009 that Greka  
7 would be filing bankruptcy?  
8 MR. MULLANEY: Objection. Misstates his  
9 testimony.  
10 THE WITNESS: It would cause additional 04:05:32  
11 headaches if Greka was to file bankruptcy. So was I  
12 unhappy with Greka at that time? Yes, I was very  
13 unhappy with Greka. Did I want them to file  
14 bankruptcy? It wasn't in the agency's best  
15 interest. 04:05:46  
16 BY MR. BLEDSOE:  
17 Q When you say you were very unhappy with  
18 Greka in the 2008, 2009 time frame, why was that?  
19 A Because we felt that it was a battle to get  
20 anything accomplished. 04:05:57  
21 Q And what specifically are you referring to?  
22 A Well, you know, we had how many spills that  
23 we had to take over where we took over the cleanup.  
24 I was sick of getting calls from contractors saying  
25 that Greka owed them money. I was -- it had become 04:06:16

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1 a very high stress situation for everyone involved,  
2 and when I mean everyone, I mean the EPA folks, the  
3 Fish and Wildlife folks, the Greka folks. It -- it  
4 just wasn't pleasant.  
5 Q Did you ever tell Mr. DeVegvar in 2008 in 04:06:47  
6 words or substance: Randeep Grewal and his lawyer  
7 pissed Salud Carbajal off and he called in the state  
8 and federal regulators to teach Greka a lesson?  
9 A I don't recall saying that.  
10 Q Do you deny saying that? 04:07:08  
11 A I don't deny saying it. I don't recall  
12 saying it.  
13 Q Did you ever tell Mr. DeVegvar, the  
14 president of Greka, in words or substance: You and  
15 Randeep better worry about meeting Leroy in jail? 04:07:26  
16 A I don't recall say- -- saying that.  
17 Q Do you deny telling Mr. DeVegvar in 2008  
18 that he and Randeep better worry about meeting Leroy  
19 in jail?  
20 A I don't recall saying that. 04:07:44  
21 Q That's not my question. Do you deny  
22 telling Mr. DeVegvar, the president of Greka, in  
23 2008 that he and Randeep Grewal better worry about  
24 meeting Leroy in jail?  
25 A I don't recall whether I said that. 04:08:04

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1 Q My question isn't whether you recall it;  
2 I'm asking you whether you deny that you said it.  
3 A I'm saying I don't recall because I don't  
4 recall whether I said that. I can't say that I  
5 denied something if I don't recall. 04:08:23  
6 Q So as we sit here today, you don't deny  
7 having told Mr. DeVegvar in 2008 that he and Randeep  
8 Grewal better worry about meeting Leroy in jail?  
9 A I don't recall saying that.  
10 Q Have you ever used the term "meeting Leroy 04:08:49  
11 in jail" with anyone?  
12 A I don't recall.  
13 Q By using the term "Leroy," are you  
14 referring to a black man?  
15 MR. MULLANEY: Objection. Misstates the 04:09:35  
16 testimony.  
17 THE WITNESS: Since I said I don't recall  
18 whether I made it, the statement, I have no idea  
19 what that...  
20 BY MR. BLEDSOE: 04:09:47  
21 Q Did you ever, in words or substance,  
22 threaten Mr. DeVegvar and co-Greka executives with  
23 being sexually assaulted in jail and telling them  
24 that it would not be too pleasant?  
25 A I don't recall saying that. 04:10:06

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1 Q Did you ever, in words or substance, tell  
2 Mr. DeVegvar that you guys better be worried about  
3 being sexually assaulted in jail and it wouldn't be  
4 too pleasant?  
5 MR. MULLANEY: Objection. Asked and 04:10:22  
6 answered.  
7 THE WITNESS: Again, I don't recall saying  
8 that.  
9 BY MR. BLEDSOE:  
10 Q Do you deny telling Mr. DeVegvar that he 04:10:27  
11 and the Greka -- other Greka corporate officials  
12 better be worried about being sexually assaulted in  
13 jail and that it wouldn't be too pleasant?  
14 A I don't recall saying that.  
15 Q Did you ever threaten any Greka officials 04:10:41  
16 with being prosecuted and put in jail?  
17 A I may have told them that I made a criminal  
18 referral to the EPA criminal division and the DA's  
19 office concerning the spills at Greka.  
20 Q And do you recall when that conversation 04:11:24  
21 happened?  
22 A No.  
23 Q And who -- who at Greka did you tell that  
24 you had made a criminal referral?  
25 A I don't recall. 04:11:34

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1 Q Was it Mr. DeVegvar?  
2 A I don't recall.  
3 Q Do you recall what you said?  
4 A Don't recall what I said.  
5 Q And in connection with your conversation 04:11:51  
6 with someone at Greka about having -- you having  
7 made a criminal referral, did you tell them, in  
8 words or substance, that being in jail would not be  
9 too pleasant because they're likely to be sexually  
10 assaulted there? 04:12:14  
11 A I don't recall saying that.  
12 Q Do you deny having said that?  
13 A I said I don't recall saying that.  
14 Q In connection with your work on the cleanup  
15 of the Bell release in 2008, did you ever tell 04:12:28  
16 Mr. DeVegvar, in words or substance: If you guys  
17 don't do what I say, I'm going to make you dig up  
18 this creek for another five miles, and it is going  
19 to cost you millions?  
20 A I told Mr. DeVegvar that if they spilled in 04:12:45  
21 that creek again, the next time around, the whole  
22 creek would be cleaned up, and we wouldn't mess  
23 around with where does the good oil start and where  
24 does the bad oil start.  
25 Q And what was -- why did you tell him that? 04:13:01

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<p>1 Withdrawn.  2 Why did you tell him that?  3 A Because I was sick and tired of cleaning up  4 the same creek over and over again. This is now  5 what, the third time that we've had this same creek 04:13:11  6 cleanup in less than an eight-month period.  7 Q So is it your belief that you had authority  8 to order Greka to clean up the old historic asphalt  9 from prior operations that went as far down as  10 30 feet? 04:13:28  11 A Greka was the landowner, were they not in  12 those areas, liable as the landowner to clean up  13 releases of oil into the environment.  14 Q So is that a "yes" to my question?  15 A Yes. 04:13:44  16 Q And did you ever make a determination  17 whether it would cause more harm than good to the  18 environment to clean up the old historic oil in  19 Asphalt Creek?  20 A Well, we never got to that point because 04:14:01  21 they never had another major spill there.  22 Q What other threats did you make to Greka  23 concerning what you would do to them if they didn't  24 do what you said as the federal on-scene  25 coordinator? 04:14:18</p> <p style="text-align: right;">Page 206</p>	<p>1 Greka's the landowner. They are -- can be held  2 liable for the cleanup. In areas where they are not  3 the landowner, then maybe they can't be held liable.  4 If the oil is causing the old oil to release  5 additionally, then maybe they can be held liable. 04:15:57  6 It's a situation dependent scenario.  7 Q On the first day when you saw that the  8 water sparging was not having the effect that you  9 desired, did you order the stop of the water  10 sparging in the Bell Creek? 04:16:21  11 A I don't recall when we directed the  12 sparging to stop.  13 Q When did you first realize that the  14 sparging of Asphalt Creek with hot water was a bad  15 idea? 04:16:40  16 A When it didn't work.  17 Q And how long did it take you to determine  18 that the sparging of Asphalt Creek with hot water  19 wasn't working?  20 A I don't recall. We would have relied on 04:16:53  21 their contractors. At that point, their contractors  22 were there for them to tell us: Hey, this isn't  23 working, we need to try something else. And as  24 their contractors, you know, it's their obligation  25 to do what's in the best interest of their client. 04:17:10</p> <p style="text-align: right;">Page 208</p>
<p>1 A I don't recall.  2 Q Did you make other threats to Greka?  3 A I may have threatened to have them -- to  4 take enforcement action that involved fining.  5 Q Do you recall what you said concerning the 04:14:30  6 fines that you would seek to have imposed on Greka  7 if they didn't do what you say?  8 A For failure to violate the order -- it  9 states right in the 311(c) order that they could be  10 fined. I don't remember at that time if it was 32.5 04:14:46  11 or 37.5 per barrel. And it says it right in the  12 order.  13 Q Did you believe that it was within your  14 discretion as the federal on-scene coordinator of a  15 cleanup taken over by the EPA to order the removal 04:15:00  16 of all of the old historic asphalt in Asphalt Creek  17 even though some of it goes down as far as 30 feet?  18 A Well, we never got to that point, so we'll  19 never know, will we?  20 Q I'm asking you if you believe that was 04:15:19  21 within your authority as the federal on-scene  22 coordinator of a cleanup taken over by the EPA to  23 order the cleanup of the old historic oil from prior  24 operations that went down as far as 30 feet?  25 A If we have another spill on that property, 04:15:36</p> <p style="text-align: right;">Page 207</p>	<p>1 Q Did you ever tell Andy DeVegvar in 2008  2 that you as the federal on-scene coordinator had  3 authority to do whatever you wanted, and that you  4 had broad discretion in connection with what you can  5 order on a cleanup? 04:17:36  6 A I don't recall that.  7 Q Did you take any notes concerning the  8 threats that you made to Andy DeVegvar, the then  9 president of Greka, in 2008?  10 A Well, I've already said I don't recall 04:17:57  11 making threats, so would I have taken notes? I  12 don't recall.  13 Q Did you ever say in words or substance to  14 Mr. DeVegvar: Hey, we're going to Jocko's in Nipomo  15 again. Another great steak dinner on Randeep 04:18:17  16 Grewal?  17 A I do not recall saying that.  18 Q Do you deny having said to Mr. DeVegvar in  19 words or substance: Hey, we're going to Jocko's  20 again tonight. Another great steak dinner on Andy 04:18:31  21 Grewal?  22 A I don't deny saying it because I don't  23 recall saying it.  24 Q Did you ever hear from anyone that Randeep  25 and his lawyer had pissed off Salud Carbajal with 04:18:54</p> <p style="text-align: right;">Page 209</p>

1 their presentation in January 2008 and that Salud  
2 Carbajal wanted Greka put out of business?  
3 A I already answered this question. You  
4 asked the same exact question like 20 minutes ago.  
5 It's the same answer that I had back then, which was 04:19:12  
6 I heard rumors that the supervisors were unhappy.  
7 As to the specific language, I don't recall.  
8 Q And was one of the things you wanted to do  
9 as the EPA federal on-scene coordinator make the  
10 board of supervisors happy? 04:19:36  
11 A I didn't really care one way or the other  
12 what the supervisors -- they had not a lot of impact  
13 on our operations.  
14 Q Is it true that in 2008 you were attempting  
15 to teach Randeep Grewal a lesson, and you wanted to 04:19:55  
16 put Greka out of business?  
17 MR. MULLANEY: Objection. Misstates the  
18 testimony.  
19 THE WITNESS: As I previously said, Greka  
20 going out of business caused a whole host of 04:20:05  
21 headaches that we didn't need at the time. I wanted  
22 Greka to comply with the orders. I wanted Greka to  
23 do cleanup. I didn't want to have to take over a  
24 bunch of cleanups.  
25 BY MR. BLEDSOE:

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1 Q Did you ever tell Mr. DeVegvar in 2008 or  
2 any other time that Randeep Grewal has no contacts  
3 in the United States, nobody politically connected  
4 to help him, and that the EPA was going to nail him  
5 to a wall? 04:20:41  
6 A I don't recall saying that.  
7 Q Do you deny telling Mr. DeVegvar in 2008  
8 that Randeep Grewal had no contacts in the United  
9 States, nobody politically connected to help him,  
10 and that the EPA was going to nail him to a wall? 04:20:58  
11 A Like I previously said, I don't recall  
12 saying that.  
13 Q In 2008 or 2009, did you ever tell  
14 Mr. DeVegvar: We are going to cost Mr. Grewal as  
15 much money as we can? 04:21:18  
16 A I don't recall saying that.  
17 Q Do you deny having told Mr. DeVegvar that  
18 the EPA and you were going to cost Randeep Grewal as  
19 much money as you could?  
20 A I don't recall saying that. 04:21:31  
21 Q Did you ever tell Mr. DeVegvar in words or  
22 substance in 2008 or 2009 that if Greka didn't do  
23 what you said, you would force them to spend even  
24 more money?  
25 A I don't recall saying that. 04:21:44

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1 Q Did you ever tell Mr. DeVegvar in words or  
2 substance: I have broad authority to do whatever I  
3 want, and now I'm going to order you to do these  
4 things, and if you don't do them, if you piss me  
5 off, I'm going to order you to do even more things? 04:22:17  
6 A I don't recall saying that.  
7 Q Do you deny having said that?  
8 A I don't recall saying that.  
9 Q How often did you go to Jocko's during the  
10 four to six months you were out in the Greka 04:22:41  
11 facilities between February and May or June 2008?  
12 A Approximately once every couple of weeks.  
13 Q Is Jocko's the best steak house in the  
14 area?  
15 A Depending on who you talk to. 04:22:58  
16 Q Well, what about you?  
17 A I prefer it.  
18 Q What limits do you -- do you understand  
19 there to be on a federal on-scene coordinator's  
20 authority in connection with the cleanup of an oil 04:23:30  
21 spill?  
22 A It has to impact the waters of the U.S.;  
23 there has to be oil or some constituent of oil in  
24 the water; has to be -- has to show sheen. That's  
25 pretty much what we're looking for. 04:23:51

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1 Q Once you've decided that the EPA has  
2 jurisdiction over a spill cleanup, what do you  
3 understand the limits of your authority as the  
4 federal on-scene coordinator to be in connection  
5 with the cleanup? 04:24:11  
6 A The limits are to comply with what I just  
7 told you. Once those criteria have been met, then  
8 we're done.  
9 Q Well, one of the things you told me was it  
10 has to impact water. Do you recall that? 04:24:31  
11 A I just said that.  
12 Q Is there any Greka spill you ever worked on  
13 that reached the Santa Maria River or the Santa Ynez  
14 River?  
15 A No, but you'll recall I also said 04:24:46  
16 "potential" and "tributaries." You forgot those two  
17 little pieces of what I told you.  
18 Q That's not my question. I understand what  
19 you told me earlier. Here's my question: Is there  
20 any oil from any of the Greka releases that you 04:25:01  
21 worked on that reached the Santa Maria River or the  
22 Santa Ynez River?  
23 MR. MULLANEY: And that's been asked and  
24 answered.  
25 THE WITNESS: Not that I witnessed. 04:25:13

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<p>1 BY MR. BLEDSOE:  2 Q And not that you're aware of, correct?  3 A Not that I'm aware of, but spills happened  4 before we got out there, so who knows how far it got  5 down creek before we discovered it. 04:25:25  6 Q I want to talk about what you know  7 personally, not about what who knows. I want to  8 talk about what you know. Do you understand that?  9 A Yes.  10 Q Are you aware of any oil from any of the 04:25:35  11 Greka releases that you worked on having reached the  12 Santa Maria River or the Santa Ynez River?  13 A No.  14 MR. MULLANEY: That's been asked and  15 answered. 04:25:48  16 BY MR. BLEDSOE:  17 Q Did you ever have any discussions -- or  18 withdrawn.  19 Who was the -- the regulating agency that  20 placed stop work orders on Greka production 04:26:1  21 facilities?  22 A Depending on the reason, it could be either  23 county fire, county petroleum, which is part of the  24 planning department, or DOGGR, Department of Oil,  25 Gas and Geothermal Resources. 04:26:31  Page 214</p>	<p>1 A You know, right after the spill was  2 discovered.  3 Q And what was the substance of your  4 discussions with the County of Santa Barbara Fire  5 Department concerning stop work orders on the 04:28:03  6 Bradley 3 Island facility?  7 A As to whether the facility should be shut  8 in because of the spills.  9 Q And what did you tell them about that?  10 A My recommendation is -- was, yes, the 04:28:15  11 facility should be shut in until the spills have  12 been resolved.  13 Q Now, it's true that -- and you're  14 referring -- withdrawn.  15 You're referring to the January 24th, 2008, 04:28:25  16 release of Bradley 3 Island, correct?  17 A Yes.  18 Q And it's true that you made a determination  19 that the EPA did not have jurisdiction over the  20 January 24, 2008, release of Bradley Island, 04:28:38  21 correct?  22 A Yes, but the request was made before we  23 made that determination.  24 Q Okay. And it's true that in connection  25 with the January 24th, 2008, Bradley 3 Island spill, 04:28:49  Page 216</p>
<p>1 Q Did you ever have any discussions with the  2 Santa Barbara County Fire Department concerning  3 whether they should place stop work orders on Greka  4 facilities?  5 A Yes. 04:26:49  6 Q And earlier we talked about stop work  7 orders that were placed on the Zaca/Davis facility  8 during the 2008 cleanup. Do you recall that?  9 A Yes.  10 Q Okay. Other than what you testified to 04:26:59  11 earlier about you wanting the Zaca/Davis facility to  12 be shut down during the -- the cleanup in 2008, did  13 you have any other discussions with the County of  14 Santa Barbara Fire Department officials concerning  15 stop work orders on Greka production facilities? 04:27:18  16 A Yes, Bradley 3 Island.  17 Q Any other facilities?  18 A I believe the Bell facility also.  19 Q When did you have discussions with  20 officials from the County of Santa Barbara Fire 04:27:37  21 Department concerning stop work orders on Bradley 3  22 Island?  23 A I don't know the exact date. It would have  24 been sometime in the beginning.  25 Q Sometime in 2008? 04:27:49  Page 215</p>	<p>1 you told the County of Santa Barbara Fire Department  2 officials that you believe the Bradley 3 Island  3 facility should be shut down until the spill was  4 cleaned up?  5 A Correct. 04:29:05  6 Q After you made the determination that the  7 EPA did not have jurisdiction over the Bradley 3  8 Island release on January 24, 2008, did you go back  9 and tell the officials from the County of Santa  10 Barbara: Hey, do what you want, I don't care 04:29:20  11 whether it's shut down or not, you don't need to  12 shut it down as far as we're concerned, we don't  13 have jurisdiction; anything like that?  14 A I don't recall, but I do recall that it was  15 shut down for -- they found a number of violations 04:29:32  16 out there, so those had to be resolved first.  17 Q Let's go back to my question. After you  18 had recommended to the County of Santa Barbara Fire  19 Department that the Bradley 3 Island spill -- or  20 withdrawn. 04:29:51  21 After you'd recommended to the County of  22 Santa Barbara Fire Department officials that the  23 Bradley 3 Island facility should be shut down as a  24 result of the January 24th, 2008, spill and then  25 later made a determination, oop, the EPA has no 04:30:06  Page 217</p>

1 jurisdiction here, did you ever go back to the  
2 County of Santa Barbara officials and tell them that  
3 as far as the EPA was concerned, there was no  
4 jurisdiction, and they didn't need to shut down the  
5 Bradley 3 Island facility? 04:30:22  
6 A Probably not.  
7 Q You testified a moment ago that you also  
8 had conversations with the County of Santa Barbara  
9 Fire Department officials concerning whether they  
10 should shut down the Bell facility after the 04:30:44  
11 January 29th, 2008, release.  
12 Do you recall that generally?  
13 A Yes.  
14 Q What did you tell the County of Santa  
15 Barbara Fire Department officials about whether they 04:30:57  
16 should shut down the Greka Bell facility after the  
17 January 29th, 2008, release?  
18 A That the facility should be shut until the  
19 spill is cleaned up.  
20 Q And did the County of Santa Barbara Fire 04:31:10  
21 Department officials shut down the Bell facility  
22 during the pendency of the cleanup of the  
23 January 29th, 2008, spill?  
24 A I believe they shut down parts of it. I  
25 don't know if they shut the whole thing down. 04:31:22  
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1 Q Other than Bradley 3 Island and Bell, did  
2 you ever have any conversations with -- withdrawn.  
3 Other than Zaca/Davis, Bradley 3 Island and  
4 Bell, did you ever have any other conversations with  
5 the County of Santa Barbara Fire Department 04:31:48  
6 concerning whether they should shut down or issue  
7 stop work orders in connection with Greka production  
8 facilities?  
9 A Yes.  
10 Q When? 04:32:02  
11 A We found several wells on the UCAL Lease  
12 and on the Security Fee that were leaking oil.  
13 (Reporter clarification.)  
14 ...Security Fee. We requested those wells  
15 be shut down until those leaks could be solved. We 04:32:17  
16 discovered a leaking pipeline or tank, I don't  
17 recall which, in the Security Fee Lease in one of  
18 their tank farms. We asked that that be shut down  
19 until that release could be resolved.  
20 Q And did the County of Santa Barbara Fire 04:32:39  
21 Department follow -- or withdrawn.  
22 A I -- I --  
23 Q Did the County of Santa Barbara Fire  
24 Department shut down the wells on the UCAL Lease and  
25 the pipeline on the Security Fee lease and the -- 04:32:56  
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1 and the tank farm after you asked them to?  
2 A I don't remember about the tank farm, but  
3 they did shut the wells down. And I can't remember  
4 whether the county shut those wells in or Greka just  
5 shut them off because they were leaking. 04:33:17  
6 Q Is it true that you understood that if the  
7 Zaca/Davis, Bell and Bradley 3 Island facilities  
8 were shut down, the production was shut down, that  
9 that would significantly impact Greka's revenue?  
10 A Yes. 04:33:37  
11 Q Did you take that into account prior to  
12 recommending that the county of fire -- the County  
13 of Santa Barbara Fire Department shut down  
14 operations at Zaca/Davis, Bell and Bradley 3 Island?  
15 A I knew about it, but I didn't take it into 04:33:59  
16 account.  
17 Q And one of the reasons you didn't take it  
18 into account is because you understood that Salud  
19 Carbajal and the other supervisors were unhappy with  
20 Greka -- 04:34:13  
21 MR. MULLANEY: Objection.  
22 BY MR. BLEDSOE:  
23 Q -- correct?  
24 MR. MULLANEY: Objection. Misstates the  
25 testimony. 04:34:18  
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1 THE WITNESS: That is not correct. The  
2 wells were shut down for safety reasons for my  
3 staff, which is my primary concern, for my staff to  
4 operate safely in a potentially hazardous  
5 environment. 04:34:36  
6 BY MR. BLEDSOE:  
7 Q Were you -- were you concerned that there  
8 might be an explosion from one of those facilities?  
9 A If it had reached the point that there was  
10 going to be an explosion, Greka would have let us 04:34:45  
11 know. At that point we would have said, okay, then  
12 we need to release the pressure on these wells.  
13 Q What was the specific safety concern that  
14 you had that you believe justified shutting down the  
15 Zaca/Davis, Bell and Bradley 3 Island facilities? 04:35:01  
16 A Greka operations going on at the same time  
17 my operations were going on wasn't worth the risk of  
18 an accident.  
19 Q And what accident were you concerned about?  
20 The release of heavy crude oil? 04:35:17  
21 A Vehicle accident. We had found all sorts  
22 of leaking pipelines and leaking wells all over  
23 their leases. That solved the issue of not having  
24 another release while we were working. It kept the  
25 Greka employees out of our hair while we did our 04:35:34  
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1 job. If they were working in wells right next to  
2 ours -- wells, that poses a potential health and  
3 safety issue.  
4 Q Now, did you have EPA personnel working at  
5 the Bradley 3 Island lease at the time you 04:35:53  
6 recommended to the County of Santa Barbara Fire  
7 Department that they should shut down that lease?  
8 A I had contractors there doing oversight.  
9 Q Okay. And why did you have contractors  
10 doing oversight at the Bradley 3 Island lease if the 04:36:07  
11 EPA had no jurisdiction over the January 24, 2008,  
12 release at Bradley 3 Island?  
13 A Initially we didn't know that, as I  
14 previously stated, and then once we made the  
15 determination, then they had the PCB spill, and then 04:36:24  
16 we had contractors doing oversight of the PCB spill  
17 cleanup.  
18 Q Is it fair to say that in 2008 you didn't  
19 care one way or another whether Greka filed for  
20 bankruptcy? 04:36:38  
21 MR. MULLANEY: Objection. Misstates the  
22 testimony.  
23 THE WITNESS: I've already stated that that  
24 caused -- would cause an undue amount of problems  
25 for -- for us. But no, I didn't care if Greka filed 04:36:47

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1 for bankruptcy. It really was immaterial to my  
2 response other than the long-term issues it would  
3 cause for us and the other agencies and the  
4 community as a whole.  
5 BY MR. BLEDSOE: 04:37:05  
6 Q Have you ever met Randeep Grewal?  
7 A Yes.  
8 Q How many times have you met Mr. Grewal?  
9 A A half a dozen or so.  
10 Q And when was the first time you met Mr. 04:37:13  
11 Grewal?  
12 A I believe it was during the 2005 Zaca  
13 spill.  
14 Q Can you tell me about your interaction with  
15 Mr. Grewal in connection with the 2005 Zaca spill? 04:37:24  
16 A I don't recall. Most likely an  
17 informational meeting as to what we were doing out  
18 there.  
19 Q When was the next time you met Mr. Grewal?  
20 A Probably would have been during the 2008 04:37:40  
21 spills.  
22 Q Do you recall where you met him?  
23 A In the office at the UCAL Lease where  
24 the -- usually if I met him, it was at the -- in --  
25 in the office of the UCAL Lease. I don't recall if 04:37:53

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1 he came to the -- what was that -- the December 5th  
2 or January 5th, the report, whatever that hearing  
3 was at the -- that Pedro Nava had. I can't remember  
4 if he was there for that or not.  
5 Q When was the next time you met Mr. Grewal 04:38:18  
6 after meeting him at the UCAL Lease in 2008?  
7 A I met him several times for briefings at  
8 the UCAL Lease throughout that time frame.  
9 Q Do you dislike Mr. Grewal?  
10 A I don't care for Mr. Grewal, no. 04:38:35  
11 Q Why?  
12 A I felt that the spill cleanups, if we had  
13 gotten some more cooperation from Greka, would have  
14 gone a lot smoother.  
15 Q Anything else? 04:38:52  
16 A No.  
17 Q Did your dislike -- withdrawn.  
18 How did your dislike for Mr. Grewal impact  
19 the decisions you made as the federal on-scene  
20 coordinator in connection with the cleanup of the 04:39:13  
21 Zaca/Davis and Bell spills in January 2008?  
22 A It didn't.  
23 Q Did you hold Mr. Grewal personally  
24 responsible for what you believe were Greka's  
25 inadequate efforts or responses to cleaning up the 04:39:45

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1 spills?  
2 A He's the owner of the company, isn't he?  
3 Q That's a "yes"?  
4 A Yes.  
5 Q And what was it in your mind that Greka did 04:40:00  
6 that showed that they were not doing an adequate job  
7 of cleaning up oil spills?  
8 A Well, how many spills did we have to take  
9 over and finish the cleanup on, three?  
10 Q And why did the EPA take over and finish 04:40:20  
11 the cleanup on three spills?  
12 A The first spill was a Zaca spill. We asked  
13 for compliance with HAZWOPER, and they couldn't or  
14 refused to provide it.  
15 Q You're talking about the December 2007 -- 04:40:34  
16 excuse me, the December 2005 --  
17 A Yes.  
18 Q -- Zaca/Davis spill?  
19 A Yes. So they didn't provide proof of  
20 compliance with HAZWOPER. So at that point, we took 04:40:43  
21 over the creek part of the cleanup and directed  
22 Greka to hire a contractor to work in their tank  
23 farm.  
24 And the Zaca cleanup in 2008, we took that  
25 cleanup over because my contractors caught Greka 04:41:14

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<p>1 employees covering up soil -- oil with dirt.  2 And in the Bell cleanup, their inability to  3 retain a qualified contractor led to us taking over  4 the cleanup.  5 Q Did you ever personally witness any Greka  6 employee covering up oil with dirt as part of the  7 cleanup?  8 A No.  9 Q What do you know about Mr. Grewal?  10 A I don't know much about him. 04:42:02  11 Q Do you know where he's from?  12 A I believe he's from India or Sri Lanka or  13 somewhere in that part of the world.  14 Q What do you know about his finances?  15 A I know he's the principal owner or 04:42:17  16 principal partner in Green Dragon Gas.  17 Q And how do you know that?  18 A I was told by our attorneys, and I did some  19 of my own research on Greka when I started getting  20 involved with it. 04:42:37  21 Q When did you first learn that Mr. Grewal  22 was a principal of Green Dragon Gas?  23 A I don't recall.  24 Q Is that in 2008, 2009 time frame?  25 A Probably in 2008, 2009. 04:42:49  Page 226</p>	<p>1 A It would have been probably what, March.  2 I'd have to look in the Pol Rep to see the exact  3 date. March or April of 2008.  4 Q What was your basis for ordering the  5 removal of the substances in the Bell Pond in the 04:45:19  6 first instance?  7 A The Bell Pond -- the substances in the Bell  8 Pond contributed to the release for the Bell spill  9 and we believed to have been the source of that  10 spill. 04:45:36  11 Q So is it your testimony that material from  12 the lower Bell Pond caused the January 29, 2008,  13 release at Bell --  14 A Yes.  15 Q -- into Asphalt Creek? 04:45:51  16 A Yes.  17 Q What was the Bell Pond made out of?  18 A It was made out of gunite concrete.  19 Q Prior to ordering the removal of the lower  20 Bell Pond, did you see any oil coming through the 04:46:13  21 side, the gunite concrete side of the lower Bell  22 Pond?  23 A Through the concrete itself?  24 Q Yes.  25 A Yes, we saw oil coming through the concrete 04:46:29  Page 228</p>
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<p>1 Q Do you recall ever thinking that you wanted  2 to teach Mr. Grewal a lesson?  3 MR. MULLANEY: Objection. Asked and  4 answered at least a dozen times.  5 THE WITNESS: I didn't see any reason to. 04:43:03  6 I just wanted them to comply with what we were  7 asking so we could get done and go home.  8 BY MR. BLEDSOE:  9 Q At some point you ordered the removal of  10 one of the ponds at the Bell facility; do you recall 04:44:02  11 that?  12 A Yes.  13 Q Okay. What did you -- withdrawn.  14 Do you have a name for that pond?  15 A The lower Bell Pond. 04:44:11  16 Q Okay. When did you order the removal of  17 the lower Bell Pond?  18 A After we had cleaned the pond out and had  19 it empty, there were numerous cracks throughout the  20 pond that had oil seeping out of them. After 04:44:33  21 exploring underneath the pond to determine how bad  22 the contamination was, we determined that the pond  23 needed to come out to remove the large amount of  24 contamination underneath the pond.  25 Q When was that? 04:44:52  Page 227</p>	<p>1 itself.  2 Q The side?  3 A Yes.  4 Q Did you take any pictures of oil coming  5 through the side of the lower Bell Pond prior to the 04:46:35  6 time you ordered its removal?  7 A From the concrete -- now you're talking  8 about the concrete side, not the earthen side?  9 Q Yes.  10 A Yes, we have pictures of that. 04:46:47  11 Q And did you take any notes about your  12 observations concerning the lower Bell Pond prior to  13 the time you ordered its removal?  14 A I don't recall what I wrote in my logbook.  15 You'd have to look. 04:47:03  16 Q After the lower Bell Pond was emptied and  17 removed, did the EPA do testing of the soil beneath  18 the now removed lower Bell Pond?  19 A I don't recall if we did analytical before  20 we dug up the contaminated dirt or after. I believe 04:47:23  21 we did it afterwards to make sure we got it all.  22 Q And what do you recall were the results of  23 the testing of the soil beneath the lower Bell Pond?  24 A I don't -- I don't recall.  25 Q Did the testing of the soil beneath the 04:47:41  Page 229</p>
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1 lower Bell Pond show that it was contaminated?  
 2 A I don't recall what the testing said, but  
 3 prior to removal of the contamination, there was  
 4 visible oil contamination, liquid underneath the  
 5 concrete. 04:48:04  
 6 Q I'm asking you about the testing results.  
 7 A I understand that.  
 8 Q Okay.  
 9 A And I'm --  
 10 Q Okay. I want you to focus on my question. 04:48:12  
 11 'Cause you stated that the EPA did testing of the  
 12 soil beneath the lower Bell Pond, correct?  
 13 MR. MULLANEY: No, that -- that misstates  
 14 the testimony.  
 15 THE WITNESS: I stated that I don't recall 04:48:28  
 16 whether we did testing beforehand or after for  
 17 confirmation purposes of removal. I don't recall  
 18 which one we did. It's been a long time. And I  
 19 don't recall what any analytical data said.  
 20 BY MR. BLEDSOE: 04:48:49  
 21 Q So it's your testimony that after the lower  
 22 Bell Pond was removed, there was testing of the  
 23 soil, but you don't recall what the results of the  
 24 testing was?  
 25 A Yes. 04:49:04

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1 Q And we're talking about the soil beneath  
 2 the lower Bell Pond, correct?  
 3 A Right. So what I said was I don't recall  
 4 if we tested before excavation or after excavation.  
 5 Q And you don't recall -- okay. Let me just 04:49:16  
 6 get this straight. Is it true that you don't recall  
 7 whether the EPA did testing before it excavated the  
 8 lower Bell Pond, the material beneath the lower Bell  
 9 Pond, or whether they did testing afterwards,  
 10 correct? 04:49:34  
 11 A Yes, correct.  
 12 Q You also don't recall what the test results  
 13 were of that testing, correct?  
 14 A Correct.  
 15 Q Did any oil from the lower Bell Pond reach 04:49:40  
 16 Zaca Creek?  
 17 A No, because Zaca Creek was not the waters  
 18 of concern for the lower Bell Pond.  
 19 Q Did any -- did any oil from the lower Bell  
 20 Pond reach Cat Canyon Creek? 04:50:37  
 21 A Oil -- I don't believe it made it as far as  
 22 Cat Canyon Creek.  
 23 Q Okay. So it's true that as far as you're  
 24 aware, no oil from the lower Bell pan -- Pond  
 25 reached Cat Canyon Creek, correct? 04:50:30

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1 A As far as I know.  
 2 Q Prior to ordering the removal of the lower  
 3 Bell Pond, did you have any discussions with  
 4 Mr. DeVegvar concerning whether the lower Bell Pond  
 5 should be removed or not? 04:50:55  
 6 A Yes.  
 7 Q Do you recall the substance of those  
 8 discussions?  
 9 A Whether it was necessary or not.  
 10 Q And what did Mr. DeVegvar tell you as far 04:51:04  
 11 as what he believed concerning whether it was  
 12 necessary to remove the lower Bell Pond?  
 13 A He didn't believe it to be necessary.  
 14 Q And did he tell you why?  
 15 A 'Cause they wanted to put the pond back 04:51:20  
 16 into use.  
 17 Q Anything else you remember Mr. DeVegvar  
 18 telling you about why he did not believe it was  
 19 necessary for the EPA to order the removal of the  
 20 lower Bell Pond? 04:51:35  
 21 A No, I don't recall.  
 22 Q Did Mr. DeVegvar ever tell you, in words or  
 23 substance, that he did not believe there were any  
 24 problems with the structural integrity of the lower  
 25 Bell Pond? 04:51:46

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1 A I don't recall that.  
 2 Q Did Mr. DeVegvar ever tell you that he  
 3 didn't see oil coming through the concrete or gunite  
 4 side of the lower Bell Pond?  
 5 A I don't recall that. 04:51:59  
 6 Q Prior to ordering the removal of the lower  
 7 Bell Pond, did you con- -- contact the landowner  
 8 of -- of the Greka Bell facility?  
 9 A It's my understanding Greka was the  
 10 landowner. 04:52:19  
 11 Q Are you aware that Greka does not own the  
 12 land where the Greka Bell facility is?  
 13 A I was told that Greka did own the land and  
 14 the facility next to it where the tank farms --  
 15 there had been a tank farm there at one time that  
 16 was owned by Conoco, but where the tanks were was  
 17 owned by Greka.  
 18 Q Who told you that Greka owned the land  
 19 where the lower Bell Pond that you ordered removed  
 20 was located? 04:52:51  
 21 A I believe Greka told us.  
 22 Q Who at Greka told you?  
 23 A I don't recall.  
 24 Q So is it fair to say that you don't know  
 25 one way or the other whether Greka owned the land 04:53:03

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1 where the lower Bell Pond that you ordered removed  
2 was located?  
3 A At the time I was told Greka owned the  
4 land. We would have contacted the landowner if we  
5 had been told it was owned by somebody else. 04:53:18  
6 Q Do you know whether Greka Oil & Gas owned  
7 the land on which the lower Bell Pond was located?  
8 MR. ZARRO: Objection. Asked and answered.  
9 THE WITNESS: Like I previously said --  
10 like I previously said, it was our belief that Greka 04:53:53  
11 owned the land.  
12 BY MR. BLEDSOE:  
13 Q And during our conversations today when  
14 I've asked you questions about Greka, you understand  
15 that I'm talking about Greka Oil & Gas, correct? 04:54:06  
16 A Correct.  
17 Q And you understand that Greka Oil & Gas  
18 later became HVI Cat Canyon?  
19 A I heard that, yes.  
20 Q So if I talk about HVI Cat Canyon or Greka 04:54:18  
21 Oil & Gas, you understand that I'm talking about the  
22 same company although different names?  
23 A Correct.  
24 MR. MULLANEY: It's about five to 5:00. I  
25 don't know if you have a good breaking point. 04:54:40  
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1 MR. BLEDSOE: Let me just look at these  
2 notes real quick, and then we'll -- we'll stop by  
3 5:00 pursuant to our earlier discussion.  
4 BY MR. BLEDSOE:  
5 Q At some point in time, did you contact 04:55:06  
6 Vintage about taking over the Greka properties that  
7 you were working on?  
8 A We had a meeting with Occidental Vintage  
9 after it became clear that the mineral rights owner  
10 at the UCAL Lease were going to remove Greka from 04:55:27  
11 the lease.  
12 Q Did you ever have any meetings with Vintage  
13 in connection with Vintage taking over properties  
14 that Greka was operating other than the UCAL Lease?  
15 A I don't recall. 04:55:49  
16 Q Now, you testified earlier today that one  
17 of the things you did was to look into the finances  
18 of a company prior to ordering cleanups. Do you  
19 recall that generally?  
20 A Yes. 04:56:12  
21 Q Okay. In December 2005, did you look into  
22 Greka's finances prior to ordering cleanup of the  
23 Zaca/Davis spill?  
24 A I don't recall.  
25 Q Did you keep any notes about your 04:56:27  
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1 investigation of Greka's finance in connection with  
2 the December 2005 Zaca/Davis spill?  
3 A I don't recall. You'd have to look in the  
4 logbooks.  
5 Q Okay. In 2000 -- in July 2007, did you 04:56:42  
6 conduct an investigation into Greka's finances prior  
7 to ordering cleanup work on the July 2007 Bell  
8 release?  
9 A No.  
10 Q Why not? 04:57:00  
11 A We -- it really didn't matter one way or  
12 the other. If they said they weren't going to do  
13 the cleanup, then we'd just step up and do it.  
14 That's a standard practice. If we think a company  
15 can't do it, then we'll check them out. But if we 04:57:15  
16 don't -- if we think the company is good to go, then  
17 we may not check them out.  
18 Q Was it your impression in July of 2007 that  
19 Greka was good to go with respect to the cleanups,  
20 that you didn't need to investigate their finances? 04:57:30  
21 A Correct.  
22 Q At any time after July 2007, did you ever  
23 investigate Greka's finances in connection with  
24 ordering cleanups on spills that you worked on at  
25 Greka? 04:57:42  
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1 A I did research as to the parent company  
2 more out of just personal curiosity, and I  
3 personally didn't do the civil investigations. We  
4 have other people that do that.  
5 Q Okay. So is it true that sometime in 2008 04:57:58  
6 you did research into Greka's -- the finances of  
7 Greka's parent company just out of personal  
8 curiosity?  
9 A Correct.  
10 Q At any time, did you ask that the people at 04:58:09  
11 the EPA who do the civil investigation of companies'  
12 finances conduct a civil investigation of Greka's  
13 finances?  
14 A I -- I don't recall, but I wouldn't be  
15 surprised if I did. 04:58:24  
16 Q Who was the parent company of Greka that  
17 you personally investigated out of curiosity?  
18 A Green Dragon.  
19 Q Do you know whether Green Dragon Gas has a  
20 corporate relationship to Greka? 04:58:42  
21 A At the time, we believed they did. I don't  
22 know what the current relationship is.  
23 Q Okay. When you say "we believed they did,"  
24 who are you talking about?  
25 A I'm sorry. That's a -- that's a speaking 04:58:52  
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1 fault of mine. I believe they did.  
 2 Q Is it true that sometime in 2008 you  
 3 decided to investigate the finances of Green Dragon  
 4 Gas out of curiosity because you believe they had a  
 5 corporate relationship to Greka Oil & Gas? 04:59:09  
 6 A I was just curious about the corporate  
 7 structure of what was going on with the company I  
 8 was dealing with.  
 9 Q And what did your investigation determine?  
 10 A My investigation determined that Green 04:59:21  
 11 Dragon Gas existed and that I don't recall what  
 12 Randeep -- Mr. Grewal's exact position in the  
 13 company was, that he had some type of association  
 14 with it, but I don't recall the specifics.  
 15 Q And do you recall what the net worth of 04:59:39  
 16 Mr. Grewal's interest in Green Dragon Gas was that  
 17 you found out in 2008?  
 18 A I had heard through the grapevine that it  
 19 was somewhere in the neighborhood of a billion  
 20 dollars. 04:59:52  
 21 Q And do you recall how you heard that?  
 22 A Just through the grapevine.  
 23 MR. BLEDSOE: Okay. Pursuant to our  
 24 earlier discussion, the witness's desire, we'll end  
 25 today since it's 5 o'clock. 05:00:02


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1 MR. MULLANEY: Okay.  
 2 VIDEO OPERATOR: This concludes today's  
 3 deposition of Robert Wise, Volume 1. Total number  
 4 of media used is five. We're going off the record  
 5 at 5:01 p.m. 05:00:21  
 6 (TIME NOTED: 5:00 p.m.)  
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1 I, ROBERT WISE, do hereby declare under  
 2 penalty of perjury that I have read the foregoing  
 3 transcript of my deposition; that I have made such  
 4 corrections as noted herein, in ink, initialed by  
 5 me, or attached hereto; that my testimony as  
 6 contained herein, as corrected, is true and correct.  
 7 EXECUTED this \_\_\_\_ day of \_\_\_\_\_  
 8 2016, at \_\_\_\_\_,  
 9 (City) (State)  
 10  
 11  
 12  
 13 \_\_\_\_\_  
 14 ROBERT WISE  
 15 Volume I  
 16  
 17  
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 22  
 23  
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 25

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1 I, the undersigned, a Certified Shorthand  
 2 Reporter of the State of California, do hereby  
 3 certify:  
 4 That the foregoing proceedings were taken  
 5 before me at the time and place herein set forth;  
 6 that any witnesses in the foregoing proceedings,  
 7 prior to testifying, were duly sworn; that a record  
 8 of the proceedings was made by me using machine  
 9 shorthand which was thereafter transcribed under my  
 10 direction; that the foregoing transcript is a true  
 11 record of the testimony given.  
 12 Further, that if the foregoing pertains to  
 13 the original transcript of a deposition in a Federal  
 14 Case, before completion of the proceedings, review  
 15 of the transcript [X] was [ ] was not requested.  
 16 I further, certify I am neither financially  
 17 interested in the action nor a relative or employee  
 18 of any attorney or party to this action.  
 19 IN WITNESS WHEREOF, I have this date  
 20 subscribed my name.  
 21 Dated: 103/2016  
 22  
 23  
 24   
 25 SUZANNE F. BOSCHETTI  
 CSR No. 5111

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[lower - michaels]

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[necessarily - oil]

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[osc - periodically]

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[prepared - quantifying]

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[quantities - recall]

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[recall - release]

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[release - respond]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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