

MONTARA COMMISSION OF INQUIRY

Held at Level 1, 51 Allara Street,
Canberra, ACT

Before The Commissioner, Mr David Borthwick AO

On Thursday, 8 April 2010 at 9.30am

(Day 15)

1 <ANDREW CHARLES JACOB, on former oath: [9.30am]

2
3 MR ABBOTT: Mr Commissioner, I am instructed that
4 documents in compliance with the summons to produce have
5 been sent to our friends over the course of last evening
6 and this morning, with one small exception, and they are
7 emails that come from Mr Wilson, which are in the process
8 of being collated and will be sent to my friends as quickly
9 as possible.

10
11 I stand now to advise the Commission of that and to
12 inquire of my friends whether they are yet in a position to
13 deal with Mr Duncan.

14
15 THE COMMISSIONER: Thank you very much for your
16 assistance, Mr Abbott. Mr Howe?

17
18 MR HOWE: I have had virtually no opportunity to consider
19 the content of the material produced, and, indeed, upon
20 cursory examination, it seems rather impenetrable to me at
21 this stage. We may therefore need to give it some further
22 and close consideration. I expect that will take some
23 time.

24
25 In the meantime, for reasons previously given, I am
26 reluctant to have Mr Duncan excused from further
27 attendance, but it may be that in the morning adjournment
28 Mr Abbott and I can confer, and he might be able to satisfy
29 me of the substance or essential burden of the material
30 produced. I may thereby be in a better position to assess
31 whether or not I need to ask any further questions of
32 Mr Duncan.

33
34 MR ABBOTT: I'm sure that there can be conferring, but it
35 won't be with me, because I am not on top of all of the
36 material, but my instructors will be able to confer with my
37 learned friend.

38
39 Obviously, even if Mr Duncan is not able to be
40 released, we would ask that some consideration be given to
41 allow him to travel back to Perth, if that is at all
42 possible.

43
44 MR HOWE: Yes. We will form a view on that after the
45 morning adjournment. It may be that the course suggested
46 is a convenient one, and, upon his undertaking to return if
47 required, then the suggestion by Mr Abbott that he be able

1 to go back to Perth may indeed be a worthwhile one. At
2 this stage, if we could have our conference mid-morning and
3 then further consider the position.

4
5 MR ABBOTT: Thank you. I'm indebted to my friend.

6
7 **<EXAMINATION BY MR HOWE CONTINUING:**

8
9 MR HOWE: Q. Mr Jacob, you will recall yesterday
10 afternoon my asking you some questions in relation to the
11 joint PTT and parent company inquiry and report. Do you
12 recall that?

13 A. Yes.

14
15 Q. I had asked you to give consideration to the
16 possibility that if, indeed, the report was privileged,
17 nonetheless PTT waive privilege to enable the Commissioner
18 to give consideration to the content of that report. Do
19 you recall that?

20 A. I recall the line of questioning. Checking the
21 transcript, it didn't appear that you actually asked me to
22 consider that further. The line of questioning seemed to
23 go on to other matters.

24
25 Q. I see. So, have you made any attempts whatsoever in
26 relation to the possibility of waiver of privilege?

27 A. No. What I followed up on was the request to - and,
28 as I said yesterday, I would need to check with the office
29 to check on the relationship with Mallesons and the dates
30 when that was all put together, and that was what I did
31 last night.

32
33 Q. I had understood that you said that, in relation to
34 the question of waiver, you would need to consult with
35 people on the board. Do you recall saying that?

36 A. Yes, I did, and you then asked, "As the COO, aren't
37 you authorised to do that?", and I said words to the effect
38 that I have been consulting with them, and then you went on
39 to do the line of questioning.

40
41 Q. Well, can I ask you now in very explicit terms,
42 Mr Jacob, so that there can be no misunderstanding
43 whatsoever, that if PTT asserts privilege over that
44 document, you undertake such inquiries as you need with a
45 view to considering the question of waiver of privilege so
46 that the content of that report can be provided to the
47 Commissioner for his consideration?

1 A. I can do that, yes.

2

3 MR ABBOTT: I rise at this point, Mr Commissioner, to
4 remind my friend that it has been established on the
5 evidence that the privilege is a joint privilege between
6 PTTEP Australasia and the parent company. I simply rise at
7 this stage to note that the waiver of privilege would be
8 required, if at all, to be undertaken by both of the
9 parties who hold the benefit of that privilege.

10

11 THE COMMISSIONER: I think I understood that from the
12 nature of the commissioning of the document yesterday,
13 Mr Abbott.

14

15 MR HOWE: May I just indicate that it hasn't been
16 established, to my satisfaction at least, by the evidence
17 that privilege does apply and, if so, that it is jointly
18 held. There is an issue about that. But I am simply
19 asking Mr Jacob, on the assumption that privilege does
20 apply, to make such inquiries, whether within PTT or with
21 its parent company, as he considers appropriate in order to
22 consider the possibility of waiver of any such privilege.

23

24 MR ABBOTT: I'm sorry to interject again. That may
25 require Mr Jacob obtaining some advice, or the company
26 obtaining some advice in conjunction with Mr Jacob. Are
27 the Commissioner and my friend content to allow Mr Jacob to
28 obtain appropriate advice in that regard, notwithstanding
29 that he is the subject of examination presently?

30

31 MR HOWE: Yes, I don't mind if he takes advice in relation
32 to the issue.

33

34 Q. You see, Mr Jacob, PTT has made various public
35 statements from time to time in relation to its role in
36 these proceedings, hasn't it?

37

38

39 Q. Did you clear such public statements?

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*As we also stated yesterday, the company
will fully cooperate with the Federal*

1 *Government Inquiry, which has been*
2 *foreshadowed by Resources and Energy*
3 *Minister Martin Fergusson.*

4
5 Do you remember public statements along those lines?

6 A. Yes.

7
8 Q. And you approved them?

9 A. They were approved by the chief financial officer and
10 the parent company in Bangkok. I saw them, but I wasn't
11 looking after the media response side of things.

12
13 Q. So the chief financial officer of PTT had carriage
14 of media liaison?

15 A. He was looking after media response during the
16 incident, yes, and he made several statements.

17
18 Q. There is another public statement issued on 5 November
19 to this effect:

20
21 *PTTEP Australasia will fully cooperate with*
22 *the Inquiry. The company welcomes the*
23 *opportunity for all the facts to be placed*
24 *on the public record and fully assessed.*

25
26 A. Mmm-hmm.

27
28 Q. Do you remember a public statement to that effect?

29 A. To that effect, yes.

30
31 Q. You will agree that those public statements rather
32 suggest to the innocent listener that PTT wouldn't be
33 withholding any information from the Inquiry?

34
35 MR ABBOTT: With respect, if my friend is leading to the
36 proposition that an absence of a waiver of privilege, which
37 is a fundamental and substantive right on the part of this
38 company and another company, is to be viewed somehow as
39 being uncooperative, then we strenuously oppose that
40 proposition, Commissioner.

41
42 THE COMMISSIONER: I think, Mr Abbott, you are jumping in
43 and assuming where Mr Howe is going in his questions, but
44 I hear your point vis-a-vis the privilege point.

45
46 MR HOWE: Q. My question, sir, was whether, in light of
47 the second statement I quoted, the innocent listener would

1 be induced to believe that PTT would not be withholding
2 information from this Inquiry?
3 A. They would be induced to believe that, but the company
4 has rights, as anybody in Australia has rights.

5
6 Q. So PTT, at this stage at least, does assert a
7 privilege so as to withhold disclosure of the report --
8

9 MR ABBOTT: With respect, the position is that there is a
10 substantive right on the part of PTTEP Australasia to
11 assert privilege over documents that are properly claimable
12 to be the subject of privilege.
13

14 Now, the position at the moment, Mr Commissioner, is
15 that the documentation in relation to that was disclosed to
16 this Commission in January of this year with the claim of
17 privilege. That claim was assessed.
18

19 It was allowed, I accept, on the basis that if more
20 material were to come to light, that position would be
21 readdressed at that point. Correspondence from the
22 Commission dated 27 January accepts PTTEP's claim for
23 privilege and returns various documents that were provided
24 to the Commission but notes that the Commission reserves
25 the right to reject some or all of PTTEP's claim for
26 privilege at a later stage if information emerges that
27 suggests that documents over which privilege has been
28 claimed were not created for the dominant purpose of
29 providing legal advice or use in reasonably anticipated
30 legal proceedings. The position is, at that point, the
31 documents were determined to be properly the subject of
32 privilege.
33

34 The substantive right of a person who can claim
35 privilege is to ensure that the information remains immune
36 from disclosure. That is an assertible legal right, and it
37 is, in my respectful submission, inappropriate to suggest
38 that a party who has a legal right can somehow be
39 criticised for asserting its genuine legal rights and then
40 be criticised with a colourable notion that to assert such
41 a right is to withhold information from the Commission.
42

43 MR HOWE: With respect, it is a novel proposition that an
44 assertion or a claim of privilege is not tantamount to
45 withholding information. It is, as simple as that. The
46 next effect of a claim of privilege, if it is upheld, is to
47 enable withholding of information.

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PTT has made public statements on the record to the effect that I just quoted, namely, that it would fully cooperate and would welcome the opportunity for all of the facts to be placed on the public record and fully assessed. I am simply establishing with this witness that, in fact, to this point at least, PTT asserts a claim of privilege which it says is a basis for lawfully withholding information from the Inquiry.

Q. With respect, sir, that is necessarily the position that you are adopting to this point, is it not?

MR ABBOTT: I rise again. This line of inquiry goes nowhere, with respect, because to make a submission - which is the only place that it can go - that there is something improper about asserting a privilege, a substantive legal right, that it is improper to assert it in any circumstances, in my respectful submission, carries no weight.

THE COMMISSIONER: No, I am not listening to Mr Howe go that far. He has accepted privilege up to this point and has asked Mr Jacob to make the necessary consultations to see if he will waive privilege. However, as to the circumstances around PTTEP's position and the subsequent information that it has provided this Commission, I would like to understand a little bit about those circumstances. So, Mr Howe, continue your questioning, please.

MR HOWE: Q. If I could reiterate, whilst PTT has proclaimed to the public that it would welcome the opportunity for all the facts to be placed on the public record and fully assessed, its actual position to this point is to claim privilege with a view to withholding the content of the report from the Commissioner; is that correct?

A. That's my understanding. The company has claimed privilege over that internal report, yes.

Q. You were going to make some inquiries as to when it was in point of time that PTT first decided that it would commission the inquiry and report that is the subject of the claim of privilege. Now, did you make that inquiry?

A. Yes, I did.

Q. Can you tell the Commissioner what the position is?

1 A. Yes. I spoke with our legal counsel who was involved
2 in that. She confirmed that, on 26 August, she had spoken
3 with three legal firms in Perth on behalf of the company
4 and the parent. She consulted with myself. We selected
5 Mallesons.
6

7 She then called and advised Mallesons on the 26th that
8 they were the party that were given the work and organised
9 for a meeting with Mallesons on 27 August. That meeting
10 took place in the afternoon of the 27th. It was attended
11 by myself, our legal counsel, one of our legal advisers,
12 Ms Harrison, and two of her colleagues from Mallesons.
13

14 At that meeting, the relationship between the client
15 and the solicitor was reconfirmed, having been made the day
16 before by phone call, and at that meeting Mallesons
17 requested that PTTEP conduct a privileged investigation
18 into the incident in order to enable Mallesons to provide
19 legal advice to the two parties.
20

21 Later on in the day on the 27th, in the evening, we
22 received an email from Mallesons, which confirmed that the
23 relationship had been created. The email also confirmed
24 the request for the investigation to be carried out. Then
25 there was, I believe, a further email, which provided us
26 with the protocols for privilege for that investigation.
27

28 The next morning, I sent an email to our head office
29 in Bangkok requesting that they provide personnel to carry
30 out an independent review for the purposes of the
31 privileged report and also included the request from
32 Mallesons and also the privilege protocols that were to be
33 undertaken for the purposes of that.
34

35 The intervening email, which we saw yesterday from
36 Ms Breadmore to myself - first of all, the NOPSA email at
37 the bottom of that had with it a request for some
38 documentation to be provided for NOPSA under their role as
39 the safety authority, and the email from Ms Breadmore was
40 merely reminding me that we had previously already had the
41 request from Mallesons for the privileged investigation to
42 take place and that we should complete that task first
43 before moving on to deal with the request from NOPSA.
44

45 Q. That was a long answer. Can I ask again, when was it
46 that anyone on behalf of PTT decided that the inquiry and
47 report for which privilege is claimed should be undertaken?

1 A. The decision was made to engage Mallesons on
2 26 August. They were advised of that on 26 August. We had
3 a meeting on 27 August, at which they requested us to
4 undertake an investigation.

5
6 Q. Yes, that tells me the date that your lawyers
7 requested that. I'm asking you, sir, when in point of time
8 PTT decided that such an inquiry and report should be
9 undertaken?

10 A. I'm sorry, I thought I have answered that. We engaged
11 solicitors on 26 August in order to provide us with advice.
12 They asked us to prepare a privileged report, which we did.

13
14 Q. So are you saying, sir, that until you got that advice
15 and that request from your lawyers, notwithstanding that
16 you had a blowout, with oil spilling out of the casing on
17 the H1 well, you didn't intend and hadn't decided to carry
18 out an inquiry and report into the matter until some
19 six days later when you got advice from your lawyers; is
20 that what you are saying?

21 A. No. What I'm saying --

22
23 MR ABBOTT: I rise again, I'm sorry. I put it plainly
24 that my friend is entitled to test the claim for privilege
25 with examination.

26
27 The difficulty I have is this: the evidence discloses
28 that there was a request from the company's solicitors for
29 a report to be prepared to enable the solicitors to provide
30 advice. The documents that have already been sent to the
31 Commission disclose that chain of emails, disclose the
32 correspondence and disclose, in the course of that, that
33 the request for the report was at the behest of Mallesons;
34 it was sought for the purposes of providing advice; and it
35 was done in the contemplation of potential litigation
36 arising out of the incident.

37
38 The authorities, as I understand them, make it clear
39 that in circumstances in which solicitors make such a
40 request and the request is complied with, that report will
41 be the subject of privilege.

42
43 MR HOWE: With respect, that's a submission which might
44 usefully be put at the conclusion of my examination on the
45 point. It is a submission which commenced with a plain
46 acknowledgment that I am entitled to test the claim for
47 privilege. What we then heard from Mr Abbott is that

1 somehow the evidence necessarily establishes that the claim
2 is a good one. Well, with respect, Mr Abbott can have his
3 say once I have explored the issue.
4

5 MR ABBOTT: My point is more substantive than that, with
6 respect. The proposition as a general proposition, if you,
7 Mr Commissioner, were sitting in judicial proceedings,
8 would be that my friend would require leave in order to
9 test by cross-examination the assertion of properly
10 established privilege.
11

12 Now, at this point, the privilege has been properly
13 established and accepted. The test in the
14 cross-examination, as a general proposition in curial
15 proceedings, would be to determine whether there is a
16 dominant purpose in the report for either legal advice or
17 litigation privilege.
18

19 In the circumstances at the moment, my friend has
20 tested that. He tested it significantly yesterday and he
21 tested it again this morning. The proposition that I am
22 putting is that the evidence quite clearly from Mr Jacob is
23 that the purpose of the report was to provide a response to
24 the properly made request from the company's lawyers.
25

26 THE COMMISSIONER: That is a submission from you,
27 Mr Abbott, and it might well be the case, but I think it is
28 reasonable for Mr Howe to ask Mr Jacob for his view on
29 that, and you can come back and put whatever propositions
30 you like.
31

32 MR ABBOTT: I am sorry, is that your ruling,
33 Mr Commissioner?
34

35 THE COMMISSIONER: Yes, it is.
36

37 MR HOWE: Q. Are you saying, sir, to this Commission
38 that despite the fact that you had a blowout on 21 August,
39 despite the fact that you had large quantities of oil
40 spewing into the Timor Sea, despite the fact that you
41 necessarily were going to be called on to account to
42 regulators in relation to the event, PTT did not decide to
43 undertake an inquiry and obtain a report into the
44 circumstances surrounding the blowout until, lo and behold,
45 six days later they received a request from their lawyers;
46 is that what you are saying, sir?
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A. No.

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Q. So is it the case, sir, that well before 26 August PTT had decided that it needed to undertake an inquiry into the circumstances surrounding the blowout and obtain a report in relation to those circumstances?

MR ABBOTT: I'm sorry --

MR HOWE: Oh, for heaven's sake.

MR ABBOTT: I would like to take you, Mr Commissioner, to the authority that deals with the proposition that once it is established that there is a request from the solicitors for a report to be obtained so that they can provide advice, then that will mean that that report is privileged. It is that report that is the subject of the cross-examination, which is the subject of the claim of privilege.

THE COMMISSIONER: Yes, I understand that, Mr Abbott. Mr Howe's question went to the substance as to whether or not PTT had considered commissioning a report prior to the 26th. Why can't he answer the question, Mr Abbott?

MR ABBOTT: Perhaps I have not put that submission in a way that I should have done, but the proposition is that it doesn't matter what other issues arise or what other procedures may or may not have been in place to otherwise investigate the circumstances of an incident. Once it is established that solicitors have properly asked for a report to be prepared for their purposes of giving advice, then irrespective of anything else, that report, once produced, is the subject of privilege.

The evidence, in my respectful submission, establishes that there was a request from the solicitor for a report to be prepared to enable the solicitors to give advice and in contemplation of potential litigation. Any other things that are happening about the investigation of the circumstances or other matters are entirely, in my respectful submission, irrelevant to determine whether the report itself, once produced, is privileged. That is the proposition.

Mr Commissioner, I can take you to authority that arises in circumstances in which there was a fatal accident on a work site. The person who, under the legislation, was

1 responsible for safety on the work site undertook, as is
2 normal practice and policy, an investigation into the
3 circumstances of that accident. On the same day as the
4 accident, they sought legal advice, and their legal
5 advisers sought from the client a report into the
6 circumstances of the accident to enable them to provide
7 advice and, in the circumstances, in anticipation of any
8 potential litigation that might arise. Their internal
9 procedures required an investigation of the circumstances
10 within that company, in any event.

11
12 So although the report was prepared in that case for
13 those dual purposes, it was held, when there was an attempt
14 to compel the production of the report and ancillary
15 documents, that the request from the solicitors was
16 sufficient to establish that the report itself was prepared
17 for the dominant purpose of providing legal advice.

18
19 The authority stands for the proposition that the
20 person to whom you address the question of what is the
21 dominant purpose is the solicitor who requested the report.
22 Undeniably, in this case, Mallesons, on behalf of PTTEP
23 Australasia and the parent company, asked for a report to
24 be prepared to enable Mallesons to give legal advice to
25 those companies and in the context of a contemplation of
26 litigation.

27
28 Obviously, this is a major event, there are various
29 regulatory authorities, et cetera. There is, no doubt,
30 a legitimate contemplation of some action, some litigation,
31 arising. But it is the solicitor's purpose in requesting
32 that report that is the dominant purpose. Once that has
33 been established - and, in my submission, on the evidence
34 before you, that is established here - that report will be
35 the subject of privilege.

36
37 My friend obviously has a right to test those issues,
38 but, in my respectful submission, the testing of that has
39 now exhausted itself, because it is established that the
40 solicitors requested the report in those circumstances.
41 That authority, which is *Waco Kwikform*, establishes that
42 the report would be the subject of privilege in those
43 circumstances. So to test further Mr Jacob's understanding
44 about those matters, with respect, is a very dry line of
45 cross-examination.

46
47 Mr Commissioner, you have the ability to control that

1 cross-examination. It continues only with your leave, and
2 in the circumstances that are presently established, it is
3 my submission that the cross-examination is exhausted.
4

5 THE COMMISSIONER: May I clarify one aspect from you,
6 Mr Abbott, before asking Mr Howe for his view. Was one of
7 your propositions to me that discussions of privilege as to
8 the dominant purpose are between counsel assisting and
9 Mallesons in this instance, that it is a matter for
10 discussion between the two of you rather than between
11 Mr Howe and Mr Jacob, or have I misunderstood that part of
12 your proposition?
13

14 MR ABBOTT: No, I'm sorry. The proposition is that the
15 report that is the subject of the claim for privilege -
16 in January of this year, Mallesons wrote to the Inquiry, to
17 Mr Berger, responding to the production of documents,
18 asserting privilege over a large number of documents and
19 setting out in clear terms the precise basis for the
20 privilege, referring Mr Berger to the *Waco Kwikform*
21 decision.
22

23 The response to that communication was the letter that
24 I read out from the Commission dated 27 January, which
25 accepts the privilege but does it on the basis that if
26 other things turn up about the dominant purpose, in effect,
27 then the claim for privilege can be reviewed. At that
28 point, as at 27 January, the report that is the subject of
29 the line of cross-examination was agreed by the Commission
30 to be properly the subject of privilege.
31

32 My friend is entitled to test, and has tested, the
33 proposition that was contained in the note; that is, if
34 things change, the privilege might be reviewed.
35

36 What I am saying about that is that my friend has
37 exhausted those issues, because the authority of
38 *Waco Kwikform* establishes that in circumstances in which
39 the solicitors make the request and the report is produced
40 in response to that, there is correctly a privilege, and
41 the way to test that is to view the position of what was
42 the solicitor's purpose in requesting the report.
43

44 Undeniably, in this case, as has previously been
45 accepted, the position of the solicitor was to request a
46 report to enable Mallesons to provide legal advice to the
47 two companies and in circumstances in which litigation was

1 reasonably contemplated.

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That sets the parameters. Those matters, on the authority of *Waco Kwikform*, are not now able to be overcome by any further cross-examination that my friend wishes to raise.

My underlying proposition, in summary, is that privilege has been established to everyone's satisfaction. My friend has exhausted his right to test the caveat on that. He has exhausted all matters that go to the dominant purpose.

The matters my friend is now traversing in his cross-examination, in my respectful submission, don't assist in determining whether or not there is a dominant purpose other than that which has already been established.

THE COMMISSIONER: As I heard Mr Jacob's evidence, he replied to questions that Mr Howe asked yesterday and gave an answer, and then Mr Howe came back and asked the question about timing, I think, in terms of things.

MR ABBOTT: Yes.

THE COMMISSIONER: So at least from my position, I'm not sure whether or not Mr Howe has exhausted this issue in terms of establishing whether *Waco Kwikform* applies. Mr Howe, do you have anything to say?

MR ABBOTT: I'm sorry, Mr Commissioner, before Mr Howe answers that question, my understanding of the evidence to date is that, yesterday afternoon, it was put on many occasions, more than five occasions, "What was the purpose of the report?" On each occasion, the answer was, "The report was prepared at the request of the solicitors", in effect, "so that the solicitors could give us advice." That was the proposition.

The only proposition then left to be tested was the point at which Mallesons were engaged for that purpose, so when could the privilege, or the relationship, be established. The evidence this morning on that point is that Mallesons were engaged on 26 August and that on the 26th and in writing on the 27th, the request was formalised; Mallesons sought or requested the report to be prepared to enable them to give advice. Then, on the 28th,

1 in response to that request, Mr Jacob, in his evidence this
2 morning, set in train steps to comply with the request.

3

4 In those circumstances, the only issue that was
5 outstanding from last night, in my respectful submission,
6 was the point at which Mallesons were engaged and then what
7 steps might have been taken to comply with the request from
8 Mallesons.

9

10 The evidence this morning is plain on that. Mallesons
11 were engaged on 26 August, the request came on 26 and
12 27 August, and Mr Jacob set in train the matters to comply
13 with that request on 28 August.

14

15 Those matters, coupled with where we were last night,
16 in my respectful submission, exhaust the proposition about
17 the privilege on this document.

18

19 THE COMMISSIONER: You have advanced propositions, in
20 terms of quoting precedent, about dominant purpose.

21

22 MR ABBOTT: Yes.

23

24 THE COMMISSIONER: But I thought that Mr Howe was, in
25 fact, exploring the issue of dominant purpose, amongst
26 other things. Mr Howe?

27

28 MR HOWE: Indeed so. My friend's submission is predicated
29 on what he asserts to be established by the evidence. He
30 seems to accept that I am entitled to test what the
31 evidence is, and notwithstanding that we only have three
32 short answers from the witness, apparently I have exhausted
33 the entitlement that I have to test the evidence.

34

35 With respect, I should be permitted to continue my
36 questioning of Mr Jacob. If my friend's point is
37 ultimately soundly based, then, as I understand it, the
38 worst that could happen is that Mr Jacob would be subjected
39 to some dry and unhelpful questions.

40

41 In those circumstances, I would ask the Commissioner
42 to reject the proposition that I am not permitted to
43 continue the line of questioning.

44

45 THE COMMISSIONER: Mr Abbott, I will allow Mr Howe to
46 continue his questioning. If it were to reach a stage
47 where he was suggesting that the legal privilege that you

1 have asserted be challenged, then you would obviously have
2 issues to advance. But Mr Howe is not at that point, so
3 I would like him to continue questioning.

4
5 MR ABBOTT: Thank you, Mr Commissioner.

6
7 MR HOWE: Q. It was a long time ago that I last asked
8 you a question, sir, but, as I understood it, you accepted
9 that at some point in time prior to 26 August, PTT had
10 decided on the need to undertake an inquiry with a view to
11 obtaining a report as to the circumstances surrounding the
12 blowout; is that right?

13 A. The company has a statutory obligation to report to
14 NOPSA within 30 days of an incident such as the nature of
15 this occurring.

16
17 Q. Could I interrupt, sir. My question was a simple one.
18 Had you previously accepted, by the answer you gave, that
19 at some point in time prior to 26 August last year, PTT had
20 decided that it needed to obtain or commission an inquiry
21 and report into the circumstances surrounding the blowout?

22 A. The best way I can answer your question is to say that
23 we are fully aware of our obligations, in this case to
24 NOPSA. On 21 August, we had an incident. We had to report
25 within 30 days. We would do that report internally. We
26 would not commission another party to carry out that report
27 for us. We were aware of that obligation at the time. We
28 were dealing with a blowout. We were dealing with ensuring
29 the safety of lives of people. It took us a number of days
30 to get all of that under control and under way. During
31 that period, we were not in the process of carrying out
32 that internal investigation.

33
34 Q. I'm not suggesting, sir, that you had, at some point
35 prior to 26 August, actually commenced the investigation
36 itself. Do you understand that my question is simply
37 directed to whether, at some stage prior to 26 August last
38 year, PTT had decided that it would need to undertake an
39 inquiry and obtain a report into the circumstances
40 surrounding the blowout?

41 A. As I said, the company was fully aware, when the
42 incident occurred on the 21st, that it had an obligation to
43 provide NOPSA with a report within 30 days. Therefore, we
44 knew that we had to undertake an investigation.

45
46 Q. Sir, I'm going to interrupt you again and ask you to
47 listen closely to my question. Is it the case that at any

1 time prior to 26 August last year, PTT decided that it
2 needed to undertake an inquiry and obtain a report into the
3 circumstances surrounding the blowout?
4 A. I'm sorry, I thought I have answered it. The company
5 was fully aware that we had to undertake an inquiry on
6 21 August. We would not be obtaining a report from a third
7 party. We would be developing that report ourselves in
8 order to provide NOPSA with the statutory reports. I'm
9 sorry, but I thought I had answered your question. I'm
10 obviously missing something.
11
12 Q. Well, you are, sir. You understand what a report is -
13 it is a document?
14 A. Yes.
15
16 Q. That contains printed material?
17 A. Yes.
18
19 Q. And which has content?
20 A. Yes.
21
22 Q. At some stage prior to 26 August, did PTT decide that
23 it needed to obtain a report into the circumstances
24 surrounding the blowout after carrying out or commissioning
25 an inquiry into those circumstances?
26 A. Yes, the company was aware that it had to produce a
27 report to NOPSA. Therefore --
28
29 Q. No, I'm not talking, sir, about what PTT's obligations
30 to report to NOPSA might consist of, and I'm not asking
31 you, sir, about whether you understood, prior to 26 August,
32 that you would have to submit a report to NOPSA.
33
34 I am simply asking you, sir, for the sixth time,
35 I think, whether, at any time prior to 26 August last year,
36 PTT decided that it needed to have carried out an inquiry
37 into the circumstances surrounding the blowout with a view
38 to obtaining a report, that is, obtaining from the person
39 who carried out the inquiry?
40 A. No, it made a decision that it would have an internal
41 investigation with a view to developing the report which
42 would be sent to NOPSA.
43
44 Q. You are saying, then, that at some stage subsequent,
45 are you, to 26 August, it was decided that it would obtain
46 some other sort of inquiring report; is that right?
47 A. As I said, on the 27th, we were asked by our

1 solicitors to have a report prepared. I'm not sure what
2 other report you were referring to. If it's not that one,
3 I don't understand which report you are referring to.
4

5 Q. So up until the point in time at which you received
6 the request from the solicitors, had PTT given
7 consideration to the possibility of commissioning an
8 inquiry and report into the circumstances surrounding the
9 blowout?

10 A. Not that I'm aware of. We were busy dealing with the
11 blowout.
12

13 Q. So your evidence is that you have the blowout, and,
14 gee whizz, it's not until five days later, in response to a
15 request from your solicitors, that you even turn your mind
16 to the possible need for an inquiry and report into the
17 circumstances; is that your evidence?

18 A. No. As I said, the company was fully aware that it
19 had to carry out an internal investigation into order to
20 provide NOPSA with a report. At the time, in those first
21 five days, we were dealing with the blowout; we were
22 dealing with safety of lives of people. That was more
23 important than getting any investigation under way.
24

25 Q. You have answered there by reference to a decision to
26 conduct an inquiry with a view to providing a report. I'm
27 asking you about a decision to conduct an inquiry with a
28 view to PTT itself obtaining a report. Now, sir, you
29 understand the difference, don't you, between an inquiry
30 that leads to the provision of a report to NOPSA, on the
31 one hand, and an inquiry that results in the provision of a
32 report to PTT, on the other hand?

33 A. Yes.
34

35 Q. You do understand the difference?

36 A. Yes.
37

38 Q. Well, when in point of time did PTT decide that it
39 should obtain a report, from anyone, in relation to the
40 circumstances surrounding the blowout?

41 A. Other than the report that was provided for the
42 purposes of the solicitors, I'm not aware of the company
43 engaging another party to produce a report for itself. It
44 carried out the investigations internally.
45

46 Q. Well, you haven't answered my question, sir.

47 A. I'm sorry. I thought your question was, when did the

1 company, if you like, commission a report?

2

3 Q. When did it decide --

4 A. Decide.

5

6 Q. -- to obtain a report into the circumstances
7 surrounding the blowout?

8 A. The company, as far as I'm aware, has not commissioned
9 a report into the circumstances surrounding the blowout.

10 It has carried out its own internal investigations, and it
11 had carried out, for its lawyers, another investigation.
12 I'm sorry, I thought I have answered the question.

13

14 Q. Well, sir, did the investigation that was carried out,
15 avowedly in response to the solicitor's request, result in
16 the provision of a report?

17 A. Yes.

18

19 Q. Well, sir, can you listen closely to my question, take
20 whatever amount of time you need to analyse it and then
21 answer the question: when in point of time did PTT decide
22 to obtain a report from anyone into the circumstances
23 surrounding the blowout of the H1 well on 21 August?

24 A. 27 August.

25

26 Q. Sir, we took about a dozen questions to arrive at that
27 point. Was there some difficulty you were labouring under?

28 A. Yes, I obviously wasn't understanding your question.

29 I thought you were fully aware of the date of 27 August.

30 I expressed it earlier on in my testimony. I therefore

31 thought you were trying to infer some other report, which

32 I was not aware of, which is why I was struggling.

33

34 Q. Well, sir, we will get a lot further, much more
35 quickly, if you worry not about what my state of awareness
36 might be and what inferences I might seek to be drawing and
37 if you would confine yourself to the terms of the question
38 and answer it.

39 A. Okay.

40

41 Q. So you are saying, then, that PTT decided to obtain a
42 report into the circumstances surrounding the blowout only
43 following and as a result of a request from its lawyers?

44 A. Yes.

45

46 Q. As I understood it, you told the Commissioner in an
47 earlier answer that the email from Christy Breamore was by

1 way of a "reminder". Do you recall giving that
2 explanation?
3 A. Yes.
4
5 Q. I want to suggest to you, sir, that the terms of the
6 letter don't bear that proposition out.
7 A. Sorry, which letter?
8
9 Q. I am sorry, the email. If we could bring up
10 PTT.9003.0011.0314. You will agree, sir, it doesn't make
11 reference to any previous discussions, nor does it indicate
12 by its terms that it is being sent to you by way of a
13 reminder as to a previously established position?
14 A. No, not in those words, no.
15
16 Q. Indeed, the plain reading of it would suggest that, in
17 response to your email, Christy Breadmore is taking a step
18 to ensure that any internal investigation which is carried
19 out would be protected by privilege; do you agree with
20 that?
21 A. Looking at the addressees, the intent, I believe, from
22 Christy was to ensure that Mr Dunne and Mr Duncan didn't
23 undertake any work with regard to the NOPSA request for
24 documents until such time as the professional privilege was
25 established following on from our meeting earlier in the
26 day.
27
28 Q. That's right, exactly so. So even in respect of an
29 internal investigation in order to facilitate a response to
30 NOPSA, the advice you were receiving from Ms Breadmore was
31 to the effect, "Hang on. Put it on the backburner. Don't
32 commence anything, because we want to set in place
33 arrangements to ensure that any such investigation is
34 protected by legal professional privilege"?
35 A. No, the NOPSA request was for some documents. There
36 wouldn't have been an investigation requirement for that.
37 It was a specific set of documents they requested.
38
39 Q. Well, have a look at the first line of the email, sir.
40 A. Yes, I appreciate --
41
42 Q.
43 *Please don't commence any internal*
44 *investigation of the incident (including*
45 *actioning of this request from NOPSA) ...*
46
47 A. Yes.

1 A. I would agree with you up to the last part. It says
2 that we shouldn't undertake any investigation until the
3 professional legal privilege has been established between
4 us and Mallesons. Yes, I agree that that's exactly what it
5 says.

6
7 Q. Well, that took a long time again, sir.

8 A. Well, that's without the last sentence of your
9 question, which inferred that any investigation would be
10 privileged. That was never the intent.

11
12 Q. You will agree that if that wasn't the intent, then
13 it's a very, very imperfectly worded email from PTT's own
14 internal legal adviser?

15 A. No, because people in the company, people in this
16 industry, are not the "innocent reader" that keeps coming
17 up in these submissions. I mean, if they had any doubt,
18 they would ask a question about it.

19
20 Q. Sir, did you understand this to be a manoeuvre to give
21 the content of any investigation and resulting report the
22 protection of legal professional privilege?

23 A. Not any investigation, no.

24
25 Q. Despite the fact that it refers to "any internal
26 investigation"?

27 A. Yes, I can read what it says. I'm just telling you
28 that that would not be my interpretation of it, because
29 I was aware of the request that had been made, and
30 therefore I would have assumed she was referring to that.
31 Now, the other parties may not have, I agree.

32
33 Q. Well, this is an email in response to your email that
34 relates to a request received from NOPSA.

35 A. Yes.

36
37 Q. Do you see that?

38 A. Yes, I do.

39
40 Q. Then you will see the words in brackets, which are
41 inserted to ensure that there isn't any misconception,
42 namely, "Hold off any internal investigation, including one
43 referable to NOPSA's request, until we are in a position to
44 protect the investigation by a claim of privilege." Now,
45 that's plainly what the email means, isn't it, sir?

46 A. In the plain reading of it, yes.

47

1 Q. I suggest to you, sir, that, plainly, it was a
2 manoeuvre to cloak any investigation with the protection of
3 legal professional privilege.

4 A. The investigation required for NOPSA could not be
5 under privilege, because we have to produce the report to
6 NOPSA. So, I'm sorry, I don't see how you can - I know
7 that. I can't infer in the plain English reading. I know
8 the NOPSA report has to be provided. Therefore, it
9 obviously cannot obviously be under privilege.

10
11 Q. Sir, you have to provide a report to NOPSA.

12 A. Yes.

13
14 Q. But you are not obliged, are you, to disclose to NOPSA
15 any report to PTT which is protected by privilege?

16 A. No.

17
18 Q. And you understand that what Ms Breadmore was seeking
19 to achieve was a protection on any internal investigation
20 and report which PTT obtained, as opposed to seeking to
21 attract privilege for any report provided to NOPSA?

22 A. My understanding is that the only privileged report
23 was the one that, at that time, was going to be developed
24 for Mallesons. Any investigation that we carried out for
25 the purposes of fulfilling our obligations to NOPSA, and
26 this particular request, which was just for a set of
27 documents, from memory, would not, in my mind, have been
28 privileged, and it was not the purpose of the report that
29 was privileged. A separate investigation was carried out
30 in order to provide the report to NOPSA.

31
32 That was my understanding at the time. Therefore,
33 I can't read that in plain English, because I'm aware of
34 the obligations of the company to NOPSA and would know that
35 any report or any investigation that we carried out was
36 going to be independent of the investigation that was
37 carried out on behalf of our lawyers, so it wouldn't have
38 been privileged.

39
40 Q. Sir, with respect, how could any internal
41 investigation and report be deprived of privilege with
42 respect to reporting to NOPSA but some external report
43 somehow attract privilege, notwithstanding the obligation
44 to report to NOPSA?

45 A. I'm sorry, you would have to ask that again.

46
47 Q. You seem to be saying that your understanding, when

1 you received this email, was that any internal
2 investigation wouldn't be privileged, because you had to
3 report to NOPSA. That's what you have been explaining to
4 the Commissioner, isn't it?

5 A. That would be my understanding, yes.

6

7 Q. Well, why wouldn't it equally be true with respect to
8 an external investigation?

9

10 MR ABBOTT: With respect, that's a legal question.

11

12 MR HOWE: I'm testing the witness's understanding.

13

14 THE WITNESS: My understanding was that the request for
15 the investigation by Mallesons had placed that under legal
16 privilege. We therefore would be carrying out a different
17 investigation, separately, in order to fulfil our
18 obligations to NOPSA.

19

20 So, I'm sorry, but it is very simple: when my legal
21 advisers tell me that this report will be privileged and it
22 is for the purposes of them providing the company with
23 advice, I accept that. I then get on about my business of
24 dealing with the well, the lives of the people and the
25 issues with the environment and also ensuring that the
26 company provided a report to NOPSA that it was obliged to.

27

28 MR HOWE: Q. What did you understand the reference to
29 "any internal investigation" to mean?

30 A. At the time, it would have just meant any
31 investigation that we were undertaking in order to get the
32 information together to put the NOPSA report together,
33 because it was addressed to two other people who would have
34 been involved in that.

35

36 Q. Sir, do you see the word "including"?

37 A. Yes.

38

39 Q. The answer you have just given is completely
40 inconsistent with the presence of that word, isn't it? You
41 are seeking to press upon the Commissioner an
42 interpretation of these words as meaning, "Please don't
43 commence any internal investigation which might be
44 undertaken for the sole purpose of responding to NOPSA
45 until legal professional privilege between the company and
46 Mallesons is formally established." Do you see how that
47 involves a radical rewriting of the plain words on the

1 page?

2 A. If that is what I said, yes, it would. But my comment
3 is that it would be impossible for - the plain English
4 wording is - you are correct, that's what it says.
5 I wouldn't have interpreted it that way, because I'm not
6 the innocent bystander. I was involved in what was going
7 on. I had other knowledge. Therefore, looking at it, it
8 wouldn't have occurred to me that the only report that she
9 would be talking about being privileged would be the
10 Mallesons report. This was sent at 9.37 at night. We were
11 addressing it the next morning. So I wouldn't have really
12 given much of a second thought to what the intent of it
13 was.

14
15 Q. I will ask again: is the subject matter of this email
16 an investigation to be carried out with a view to reporting
17 to NOPSA, or is it an investigation to be carried out with
18 a view to reporting to Mallesons?

19 A. I think, if you take the plain English reading, it
20 probably would be inferred that it's the investigation that
21 would be carried out in order to action the request from
22 NOPSA.

23
24 Q. So, in fact, if that's how you interpret it, then this
25 email isn't even seeking to establish the fact of privilege
26 in relation to the report that was the subject of a request
27 from Mallesons; is that right? Is that your answer? It
28 doesn't even deal with the topic, according to you?

29 A. No, I don't believe it does.

30
31 Q. It just deals with an internal investigation only for
32 the purposes of responding to NOPSA?

33 A. Yes, and it obviously mentions the professional
34 privilege issue with Mallesons, but I would have been aware
35 of that because I'd attended the meeting earlier in the
36 day.

37
38 Q. When did you receive a briefing on the results of the
39 investigation that was undertaken in response to the
40 Mallesons request?

41 A. I haven't got a date at that time, but --

42
43 Q. Was it before Christmas or after Christmas?

44 A. Before Christmas. I saw the presentation that was
45 given to Mallesons, summary presentation.

46
47 Q. Was it in November or December or some other month?

1 A. Quite possibly in September or early October.
2
3 Q. So well before the point in time at which PTT put in a
4 detailed written submission to this Inquiry?
5 A. Yes.
6
7 Q. You made reference a little while ago to your role in
8 the aftermath of the blowout; do you recall that?
9 A. Yes.
10
11 Q. It was an important role?
12 A. Yes.
13
14 Q. It was specifically assigned to you, as chief
15 operating officer?
16 A. Yes.
17
18 Q. Even though you didn't otherwise have a direct
19 reporting responsibility in relation to well management?
20 A. No, because it was an emergency, and we have an
21 emergency plan.
22
23 Q. Do I take it that PTT and yourself recognised the
24 importance of forming a highly evolved understanding of the
25 circumstances surrounding the blowout?
26 A. At that time, we needed to establish the information
27 we needed in order to prepare the options that we were
28 looking at, which were numerous at that point. So a highly
29 evolved understanding, probably not, but an understanding
30 that was sufficient to allow us to get on with the job of
31 killing the well.
32
33 Q. Did you, in the last seven or eight months, sir, form
34 a view, at any time, that it was important for you to come
35 to grips with the circumstances that might have led to the
36 blowout?
37 A. Yes.
38
39 Q. When did that proposition dawn on you for the first
40 time?
41 A. I'm sorry, I don't recall that, but the basis of - as
42 I mentioned yesterday, one of the reasons I'm here is to
43 get a better understanding of what happened.
44
45 Q. No, sir, I'm not talking about your attendance here
46 with a view to your gaining an understanding from the
47 processes of this Inquiry. I'm asking you, sir, when in

1 point of time you formed the view that it was important for
2 you to do what you could to gain a proper understanding of
3 the circumstances that might have led to the blowout?

4 A. Probably December.

5

6 Q. Really? It took you three months to realise that, did
7 it?

8 A. Well, you say "realise". I mean, I can't remember a
9 point at which I made a conscious decision. I was aware
10 that I needed to do that probably earlier, but I was
11 focused on other things. If you mean a point in time at
12 which I sat down and thought, "Right, how am I now going to
13 achieve that?", probably in December. I was aware of the
14 requirement prior to that, but I was busy doing other
15 things.

16

17 Q. All right. Well, let's talk about, then, what you did
18 do when you decided to sit down and work out what had
19 happened. Can you tell the Commissioner what your
20 inquiries consisted of at that point, what review you
21 undertook, what documents you examined, who you spoke to?

22 A. At that point, it consisted of reading our submission
23 that was made to the Commission. I continued to be dealing
24 with the incident right through - well, we are continuing
25 to deal with the incident, with regard to monitoring. So
26 at that point, I read the submission. I asked some
27 questions around it of the various people to, in my view,
28 test any things I was unsure of. And I have continued to
29 do that. I have not sat down and carried out an
30 independent investigation myself, and this Commission is
31 part of that process of establishing what happened.

32

33 THE COMMISSIONER: Q. Mr Jacob, you said that it
34 "consisted of reading our submission". I take it that that
35 wasn't the first time you had read the submission - in
36 December. It was submitted in December, but had you
37 approved it?

38 A. I read it before it was - I approved it before it was
39 submitted, and I would have read drafts of it during
40 December, but I don't think it was submitted until
41 22 December.

42

43 Q. December, yes.

44 A. We didn't kill the well until the first week of
45 November, and then we obviously still had ongoing
46 operations on the wellhead platform; there were still
47 ongoing operations with AMSA and with DEWHA, and those

1 operations continue as well. So I did read it. I may well
2 have read it in November as well. I can't remember the
3 detail. That was not my prime focus at that point.

4
5 MR HOWE: Q. Sir, is your evidence to the Inquiry that
6 you gained some better understanding of the circumstances
7 surrounding the blowout as a result of reading PTT's
8 submission?

9 A. It was all in one place at that point. I would have
10 had a lot of that information through the relief well
11 operation, but it brought it all together into focus and in
12 sequence.

13
14 Q. Well, what information did you look at at any time up
15 to the submission which PTT advanced to this Inquiry on
16 22 December?

17 A. Actually look at? Probably very little. Most of it
18 would have been verbal comments from the various people
19 involved in order to establish what we were doing with the
20 relief well was the correct thing.

21
22 Q. What, a chat in the corridor as they were passing by,
23 or what sort of oral communication did you have with anyone
24 with a view to satisfying yourself as to the circumstances
25 surrounding the blowout up to 22 December last year?

26 A. During the response, we had daily meetings at which we
27 were discussing what we would be doing, what the options
28 were. If there were any questions that came out of that,
29 I would ask them, at those meetings or after the meetings,
30 of the individuals. During the course of the day, I would
31 probably telephone them or go down to their offices and see
32 them and ask them the relevant question at the time, but
33 I didn't sit down and review any documents. At the time,
34 I had other priorities.

35
36 Q. Well, you might have, but the well was quelled in
37 early November, and we're now talking about a period up to
38 22 December, which includes a significant milestone, being
39 the production of a detailed submission by PTT to this
40 Inquiry. Now, in light of that, I want you to tell the
41 Commissioner what you did to satisfy yourself as to the
42 circumstances surrounding the blowout?

43 A. Well, the first point is that the well may have been
44 quelled in November, but there were ongoing operations and
45 personnel at risk for several weeks after that, so that was
46 my priority.

47

1 Q. Sir, that's an explanation for why you might not have
2 done much. I'm asking you, first, to tell the Commissioner
3 what it is that you did actually do?

4 A. I would have read the drafts of the submissions, and
5 if I had had questions on any of the elements of it,
6 I would have inquired as to where that information had come
7 from and I probably would have then spoken to the
8 individuals that had provided that information and asked
9 them to confirm it to me so that I was then sure that what
10 was written in the submission at that time was correct.
11 I didn't undertake an investigation of documentation
12 myself. At the time, my priority was elsewhere.
13

14 Q. So you read the draft submissions, you asked some
15 questions and you probably would have spoken to some people
16 in relation to some of the questions that you had?

17 A. Yes.
18

19 Q. It all seems pretty vague and ad hoc and unlikely to
20 place you in a position whereby you would have any sort of
21 proper understanding of the circumstances surrounding the
22 blowout; do you agree?

23 A. I can see you can establish that in hindsight, yes.
24

25 Q. What about since 22 December last year, then: what
26 inquiries have you undertaken with a view to satisfying
27 yourself as to the circumstances surrounding the blowout so
28 that you might be in a position properly to assist the
29 Commissioner in relation to his role?

30 A. I will just get my dates sorted out. In January
31 I would have had three weeks in the office. I probably, at
32 that stage, did not undertake much work on this. Then, in
33 February, I received the summons to the Inquiry, and I made
34 a conscious decision at that time that I would not want to
35 taint my evidence with that of others, so I didn't read any
36 of the submissions or the statements that were made, with a
37 view, in my mind, at that time, to allowing the Commission
38 process to be fulfilled, to be carried out, and that there
39 would be learnings coming out of that.
40

41 During the course of or since that period of time,
42 obviously, I have been involved in the commissions *[sic]*
43 and in some of the preparations of the responses to some of
44 the documents that the Commission provided to us, and when
45 those had been put in front of me, then I had looked at
46 those individual documents and I had again questioned and
47 verified to my satisfaction at that time that our responses

1 were appropriate.

2

3 Q. Sir, again, that's a fairly long answer to a question
4 directed to what you have actually done to satisfy yourself
5 as to the circumstances surrounding the blowout so that you
6 could properly assist the Commissioner in relation to his
7 terms of reference. The answer seems to be that you have
8 actually done very little; is that right?

9 A. Other than what I have answered, yes.

10

11 Q. We are now in the fourth week of the Commission of
12 Inquiry into a blowout which occurred some eight months
13 ago, and you have actually done very little to inquire into
14 and satisfy yourself, as best you could, of the
15 circumstances surrounding the blowout?

16 A. No, I have attended this Inquiry. I have heard the
17 evidence. I have asked for copies of documentation that
18 has been presented and checked it, and I feel that I have a
19 reasonable understanding of what occurred.

20

21 Q. Yes, as a result of the processes of this Inquiry but
22 not otherwise; is that the position?

23 A. Yes, and that's what I said was my conscious decision
24 earlier in the year - knowing that this Inquiry was going
25 to be undertaken and knowing the thoroughness - or the
26 expectation of the thoroughness of it, it seemed an
27 appropriate approach, from my perspective.

28

29 Q. So PTT's position is, "Well, we'll wheel up to the
30 Commission people who had some personal involvement in one
31 way or another in the circumstances that preceded the
32 blowout, but we won't advance to the Commission any
33 witness" --

34

35 MR ABBOTT: I'm sorry, my friend is being rather colourful
36 with the notion of "wheeling up". The witnesses were
37 summonsed. They were summonsed with a schedule of
38 questions that they were asked to address.

39

40 MR HOWE: Without limiting the matters to be the subject
41 of their statements.

42

43 MR ABBOTT: That's a matter for submissions.

44

45 MR HOWE: Well, indeed.

46

47 Q. In any event, sir, doing your best now, sitting there,

1 do you think that PTT has acquitted itself well in relation
2 to the assistance it has offered the Commissioner in
3 relation to his terms of reference?

4 A. I thought we had, but obviously there is a difference
5 of opinion there.

6
7 Q. Is it the case that there is not a single person in
8 PTT who, prior to the commencement of these public
9 hearings, had carried out a detailed inquiry into the
10 circumstances surrounding the blowout with a view to
11 gaining a proper understanding as to how it might have
12 occurred; is that the position?

13 A. Yes. There was no internal investigation for that
14 purpose, no. You are correct.

15
16 Q. Not a single PTT person undertook that task?

17 A. Well, the individuals involved, Mr Duncan and
18 Mr Wilson in particular, undertook a lot of review of the
19 paperwork in order for them to prepare their statements to
20 the Commission, but they didn't produce reports internally,
21 no.

22
23 Q. Of course, they were personally involved, weren't
24 they?

25 A. Yes.

26
27 Q. Do you see the merit, now, in hindsight --

28 A. Yes.

29
30 Q. -- of PTT itself carrying out a detailed investigation
31 into the circumstances surrounding the blowout so that
32 someone independent of those personally involved could form
33 a proper understanding as to what might have led to the
34 blowout and be in a position to assist the Commissioner?

35 A. Yes, I do, now.

36
37 Q. In that respect, do you agree, sir, that PTT has
38 failed abysmally to place itself in a position where it
39 could --

40
41 MR ABBOTT: Could we withdraw the word "abysmally"? It is
42 a little colourful.

43
44 MR HOWE: I don't think so. I press the question.

45
46 Q. In light of the fact that not a single PTT person
47 outside those personally involved has carried out a

1 detailed investigation with a view to satisfying themselves
2 as to how the blowout might have occurred, do you agree
3 that that represents an abysmal failure on PTT's part?

4 A. It represents a failure, yes.

5
6 Q. For heaven's sake, sir, if PTT is involved in a
7 similar incident in the future, do you agree that based on
8 its performance with respect to the blowout of the H1 well,
9 the public and the Government could only gain a proper
10 understanding as to what occurred if another royal
11 commission was established; is that the position?

12 A. No.

13
14 Q. Well, what have you done, personally, outside the
15 parameters of this Inquiry to investigate and satisfy
16 yourself as to the circumstances surrounding the blowout?
17 The answer is "very little", isn't it?

18 A. Yes.

19
20 Q. And I suggest again, sir, that based upon the approach
21 taken by PTT to the H1 blowout, if a similar event were to
22 occur again in the future, the only way the public or the
23 Government could possibly be assured of gaining any proper
24 understanding as to what occurred would be another
25 commission of inquiry?

26 A. No, I don't agree.

27
28 Q. I see. Why not?

29 A. Because everybody learns through incidents. Everybody
30 improves.

31
32 Q. So, in the light of this experience, PTT has gained an
33 understanding, "Hang on. When we have a blowout of one of
34 our wells, perhaps we should carry out a proper
35 investigation with a view to deciding what might have led
36 to it"?

37 A. Are you asking me or are you asking the company?

38
39 Q. Yes, you. So it has now dawned on you, has it?

40 A. If there was ever to be such an incident, I certainly
41 would require that to be done, yes.

42
43 Q. Did it reveal itself in some sort of epiphanous way,
44 "Hang on, that would be a good idea"?

45 A. No, because I believed that the information that was
46 being provided was accurate. It has become apparent to me,
47 during the Commission, that some of the information that

1 our personnel were providing is not clear. You asked me at
2 the beginning of the testimony about whether I was happy
3 with things, and the answer was no, and that's one of the
4 areas that I felt somewhat, well, personally let down with
5 some of the evidence that was given, which is why I would
6 now certainly insist on an independent review.

7
8 Q. Sir, I want to suggest to you that it is surprising to
9 the point of being breathtaking to hear that it took the
10 experience of this Commission of Inquiry to persuade you of
11 the merit of a proper investigation into the circumstances
12 of a blowout in a well being managed by PTT.

13 A. Is that an opinion or a question?

14

15 Q. It is a question. Do you agree or disagree?

16 A. I don't agree, because I am conscious of what has been
17 going on since August 21.

18

19 Q. So you are relaxed, are you, with the idea that the
20 public is learning that, despite the fact of this blowout,
21 despite the environmental harm it is likely to have caused,
22 despite the threat it represented to health and safety and
23 perhaps lives of those onboard the rig at the time, PTT has
24 done virtually nothing, in the eight months since the
25 blowout, to place itself in a position properly to
26 understand how it might have occurred?

27 A. No, your initial question was what I had done. You
28 have now changed that to the company. The company has had
29 its people involved preparing the statements, preparing the
30 evidence for the Commission. Yes, it has not carried out
31 an independent review of that; I accept that, and that's
32 something that should be done in the future. But I think
33 that you are misrepresenting the seriousness of the
34 approach of the company with regard to this. We want to
35 learn. We want the industry to learn from this.

36

37 Q. Well, you have had every opportunity to learn, haven't
38 you, in the past eight months?

39 A. We have had opportunity, and this Commission is part
40 of that opportunity.

41

42 Q. I see. And understand, sir, that I am not taking you
43 to task in relation to information that those personally
44 involved have given to the Inquiry. You understand, sir,
45 that I'm now directing your attention to the absence of any
46 independent consideration of the circumstances surrounding
47 the blowout by someone in PTT not personally involved in

1 the events under consideration?
2 A. Mmm-hmm.
3
4 Q. I mean, it is an obvious thing to do, isn't it, sir?
5 A. It is, in the cold light of day, yes.
6
7 Q. I'm suggesting to you that it does not take the cold
8 light of day or hindsight to understand that when you have
9 a blowout, which threatens harm to the environment and
10 threatens human lives, you should inquire into it in a
11 manner that enables you to satisfy yourself as to how it
12 might have occurred?
13 A. Yes.
14
15 Q. And you didn't do that?
16 A. We didn't do it fully enough.
17
18 Q. You didn't do it virtually at all, sir?
19 A. No, I would object to that, because we had to
20 establish certain things in order to kill the well,
21 et cetera, which was part of all that. I agree with you
22 that an independent would be a better way to go about it
23 and certainly would be something we would do in the future,
24 but I don't accept that we did nothing. We have done a
25 lot.
26
27 Q. You, sir, have virtually done nothing to put yourself
28 in a position where you could independently assess the
29 circumstances surrounding the blowout and what might have
30 led to it?
31 A. At this stage, yes.
32
33 Q. Yet you are the person in PTT who has been entrusted
34 with managerial responsibility in the aftermath of the
35 blowout; that's right, isn't it?
36 A. For what?
37
38 Q. For managing the aftermath of the blowout.
39 A. Yes, for dealing --
40
41 Q. Both in relation to the relief well --
42 A. Yes.
43
44 Q. -- and ultimately in response to this Commission of
45 Inquiry and otherwise; that's the position, isn't it?
46 A. Yes.
47

1 Q. You have been entrusted with that dedicated task?
2 A. I have been entrusted with that task, yes.
3
4 Q. As part of a special responsibility?
5 A. The relief well operation was part of the emergency
6 response within the organisation. Yes, I'm responsible for
7 the ongoing environmental monitoring and for the response
8 to the Commission. I'm also now responsible for the well
9 construction department, and, as I said, the reason why I'm
10 here is to ensure that before we do any more work of that
11 type, we have all the learnings and that we have improved
12 our systems.
13
14 Q. But you have done very little, yourself, to gain that
15 level of understanding; that's right, isn't it, sir?
16 A. Up until this point, yes, but, as I said, this was
17 part of the process.
18
19 Q. As you have sat here throughout the last three and a
20 half weeks of public hearings, I suggest to you that day
21 after day after day you have learnt things of which you
22 were previously unaware; is that right?
23 A. I have learnt things I was previously unaware.
24 Whether it was every day I don't know, but that was the
25 purpose of my being here, yes.
26
27 Q. So your purpose of sitting here was to actually learn
28 what might have accounted for the blowout?
29 A. It was to learn additional information.
30
31 Q. I want to suggest to you, sir, that there would
32 probably be at least a dozen significant issues about
33 which, prior to the commencement of these public hearings,
34 you had a view and which has now changed, substantially, as
35 a result of the evidence led; do you agree with that?
36 A. There is a number. I don't know whether it is a dozen
37 or not.
38
39 Q. But it is not just one or two, is it?
40 A. No, it is probably more than two.
41
42 Q. And the evidence that has been led has caused you
43 substantially to revise previously held views; that's
44 right, isn't it?
45 A. It has clarified in my mind work that we had already
46 decided had to be undertaken. It has allowed me to focus
47 on what areas that review needs to go to.

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Q. Sir, I'm not talking about clarification or resolution of nuances. I am suggesting to you that there are a significant number of issues that have been canvassed in evidence in these proceedings which have caused you to substantially revise views that you previously held?

A. There have been a number of items that have come up that have fallen within areas which were of concern to me. They have identified specific areas within those areas, if you like. I was not aware of some of the detail of it, but I was aware there were issues in various areas that needed to be addressed. This has been a good process in terms of identifying more accurately to myself certain areas.

Q. So, sir, are you accepting or rejecting the proposition that I put to you?

A. Well, you keep adding words like "significant" and things like that. Yes, I accept that there have been things that I have learnt that I didn't know about before I came here, yes.

Q. Sir, I'm putting to you that as a result of evidence canvassed in these proceedings, you have substantially revised views previously held by you in relation to a number of issues?

A. Yes, to some, yes.

Q. Not just learned some additional information, you understand; I am putting to you a substantial revision of previously held views?

A. I'm not sure that I would agree with that.

Q. We might go through them in a little while. What about your understanding of the performance of PTT with respect to well control on the other wells at Montara?

A. Yes, that's one of the areas.

Q. So up until you heard evidence in these proceedings, is it the case that you simply didn't have a proper understanding of the deficiencies in well control that related to the other wells?

A. With regard to the fact that they had some untested elements, yes, that's correct.

Q. You learned of it for the first time in these proceedings?

A. It consciously became aware to me, yes.

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Q. Do you agree, sir, that the evidence that you just gave might be considered alarming --

A. Yes.

Q. -- by ordinary members of the public?

A. Yes.

Q. What do you propose to do about the apparent deficiencies with respect to well control in the other wells out at Montara?

A. I have already asked whether we have the ability to test the 13-3/8" caps, pressure test those. Bearing in mind that the wellhead platform at the moment has a rig alongside it with a collapsed cantilever, it is not a particularly safe environment, and any work to be undertaken has to be undertaken with a safety case revision accepted by NOPSAs.

We are also currently in cyclone season, so it is not necessarily the preferable time to be doing that work, but I have already made inquiries as to what we could do, and I then got called in to give evidence, so I haven't been able to follow that up. But my intention is, as soon as I'm released, to ensure that we have a program in place to undertake that work, probably at the end of the cyclone season.

Q. What about the fact of the non-testing of the cement plugs - are you going to do anything about that?

A. I need to talk to technical people to understand what we can do, given the circumstances of the wellhead platform at the moment.

Q. You say, do you, that you weren't shocked to learn of that evidence; you were just disappointed that, basically, PTT had not managed to suspend a single well in conformity with its own standards?

A. I was surprised that that was the case, and I was disappointed in the personnel, that they hadn't followed the company guidelines or control standards.

Q. Do you agree, sir, that that fact speaks of fundamental and widespread inattention to ordinary, sensible oilfield practice?

A. I don't know whether you would call it widespread. It obviously does within the well construction group.

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Q. I'm not talking about how widespread in terms of personnel; I'm talking about how widespread in terms of well management. We have five wells out at Montara; that's right, isn't it?

A. Yes.

Q. Not a single one of them has been suspended in a manner which complies with PTT's own well construction standards?

A. That's correct.

Q. Do you agree that that speaks of a fundamental and endemic inattention to ordinary, sensible oilfield practice?

A. Fundamental, yes.

Q. And widespread or systemic?

A. Within the group, yes.

Q. I mean, it is not idiosyncratic, is it? We're not talking about a one-off lapse or error of judgment, are we?

A. It appears not, no.

THE COMMISSIONER: Mr Howe, might that be a good spot to break?

MR HOWE: Yes, thank you, Commissioner.

THE COMMISSIONER: We will come back at 11.30. Thank you, Mr Jacob.

SHORT ADJOURNMENT

MR HOWE: Q. Mr Jacob, apart from yourself, have any other PTT personnel attended the public hearings in an observing capacity?

A. No.

Q. No media liaison people from PTT?

A. Yes. Sorry, yes, we have media liaison, but they are not employed by the company; they are consultants to the company. There have been media personnel, myself, and that's it, other than our legal team.

Q. How many media liaison consultants have been engaged by PTT throughout the Inquiry proceedings?

1 A. On the first week, we had two people here with us,
2 I believe two people the second week, and then we dropped
3 down to one last week and one this week.
4
5 Q. PTT, I think, has issued some 88-odd public
6 statements; is that right?
7 A. Yes, I think it was close to 97, I think. It was just
8 short of 100.
9
10 Q. Is it possible, sir, that apart from the time expended
11 by PTT personnel personally involved in events leading up
12 to the blowout, at a corporate level PTT has spent more on
13 public relations and media liaison than it has in gaining a
14 proper understanding of the actual circumstances which
15 might have led to the blowout?
16 A. No, I don't believe so.
17
18 Q. In relation to your own role and your somewhat
19 inactive approach in terms of investigating the
20 circumstances surrounding the blowout and forming a view as
21 to how and why it might have occurred, is that an approach
22 which your CEO is aware of?
23 A. I'm not aware of that. I would imagine he's aware of
24 the work that has been going on in terms of submissions and
25 the gathering of statements, et cetera. I haven't
26 specifically spoken to him about my area.
27
28 Q. So is it the case that you simply don't know whether
29 your own approach to the circumstances surrounding the
30 blowout is known to your CEO?
31 A. I believe he's aware that I haven't carried out a
32 detailed investigation myself, that I have been relying
33 upon other information, yes.
34
35 Q. If he's aware of that, do I take it that he has been
36 content with or has endorsed that approach on your part?
37 A. He hasn't made comment to me about it.
38
39 Q. Do we infer from that, then, that he hasn't disagreed
40 with it?
41 A. You could infer that, yes.
42
43 Q. Is that your understanding of the position, sir?
44 A. Yes, it would be.
45
46 Q. I would like to traverse with you, sir, some of the
47 issues which have been canvassed in the course of these

1 proceedings and how the evidence has impacted upon your
2 understanding of the circumstances leading to the blowout;
3 do you understand that?

4 A. Yes.

5

6 Q. Firstly, in relation to the wrong volume of tail
7 cement which was used on 7 March, is it the case that until
8 these public hearings commenced, you thought that had come
9 about simply because people on the rig had failed to
10 implement a change control process directed by PTT
11 personnel onshore?

12 A. My understanding was that the change control notice
13 had been issued, that calculations had been made by
14 personnel on the rig and that there had been an error in
15 those calculations.

16

17 Q. Yes, an error on the part of those on the rig?

18 A. Yes.

19

20 Q. As you understood it, the error arose because they
21 hadn't properly implemented the change control process
22 which had been directed on, I think, 23 January?

23 A. Yes, I believe they hadn't taken the relevant
24 information into account.

25

26 Q. So that was your understanding up until the
27 commencement of these public hearings?

28 A. Yes.

29

30 Q. Do I take it that your understanding with respect to
31 that issue was based almost exclusively on discussions you
32 had with each of Mr Wilson and Mr Duncan?

33 A. Yes.

34

35 Q. In particular, do I take it that you did not seek out
36 any contemporaneous records and undertake an independent
37 assessment of them?

38 A. Correct.

39

40 Q. Would you agree, sir, that the evidence canvassed in
41 these proceedings suggests that it is not as simple as
42 simply saying that rig personnel failed to implement a
43 change control process directed by PTT personnel onshore?

44 A. Yes, and that's one of the learnings from being here
45 at the Commission.

46

47 Q. In particular, you recall evidence was led that, in

1 fact, the change control process was implemented initially;
2 do you recall that evidence?
3 A. I believe so, yes.
4
5 Q. There was a document squarely created which gave
6 effect, did it not, to the very change control process in
7 question; do you recall that?
8 A. I'm sorry, are you talking about the change control
9 request itself or the process?
10
11 Q. No, I'm talking about a document which was created for
12 the purpose of giving effect to the change control process
13 concerning the amount of tail cement to be used.
14 A. If you are referring to the change control form, then,
15 yes.
16
17 Q. No, I'm not referring to that.
18 A. Okay, no, sorry, I'm misunderstanding you.
19
20 Q. Well, if I could take you to it, if the operator could
21 please bring up PTT.9002.0051.0222. That's the change
22 control form, isn't it, sir?
23 A. Yes.
24
25 Q. You will see that the details of the proposed change
26 are stated to be an increase in the vertical height of the
27 cement by 39 metres, increasing the vertical length of the
28 top of cement to 69 metres above the reservoir; do you see
29 that?
30 A. Yes.
31
32 Q. Did you observe, when this document was brought up,
33 that even that particular change wasn't compliant with
34 PTT's own well construction standards?
35 A. With regard to the 69 metres not being 100 metres?
36
37 Q. Yes.
38 A. That's right. I was conscious when it came up, yes.
39
40 Q. So here we have a deliberate change control process
41 instituted in January to do something which is still not
42 compliant with PTT's own well construction standards?
43 A. Yes. That's certainly what it appears to be, yes.
44
45 Q. You will agree that that is a concern?
46 A. Yes.
47

1 Q. In any event, could the operator next bring up for
2 Mr Jacob's attention document identity number
3 HAL.9001.0002.0155. That's an email from Chris Wilson of
4 23 January to Mr Geste?

5 A. Yes.

6

7 Q. It is directed to facilitation of that change control
8 process; that's right, isn't it?

9 A. I believe so, yes.

10

11 Q. If the operator could bring up HAL.9001.0001.0219, and
12 if we could scroll down, that's a cementing program which
13 has been displayed before in these proceedings; do you
14 recall that?

15 A. Yes.

16

17 Q. Do you see there is one revision, described as
18 version 2, directed to increasing the 9-5/8" casing top of
19 cement to 2,823?

20 A. Yes.

21

22 Q. There is a reference to the change control process
23 date of 23 January?

24 A. Yes.

25

26 Q. So that's Mr Geste's incorporation of the change
27 control process in his calculations; that's right, isn't
28 it?

29 A. It appears to be, yes.

30

31 Q. Then if we go to page 12 of that document, you will
32 see there in the top left-hand corner a reference to "Depth
33 to top tail" of 2,823 metres?

34 A. Yes.

35

36 Q. At this particular point in time, given the total
37 measured depth of the H1 casing shoe, the calculation was
38 that 131.6 barrels of tail cement was required; do you
39 recall that?

40 A. I don't recall, but I'm happy to accept it.

41

42 Q. If the operator goes to page 13, do you see there
43 "Tail cement", about a third of the way down the page?

44 A. Yes, 131 --

45

46 Q. Total tail slurry volume equals 131.6 barrels; do you
47 see that?

1 A. Yes.
2
3 Q. So it is pretty clear that the change control process
4 had been given effect to by personnel on the rig?
5 A. This is Halliburton's shore-based people, I think.
6
7 Q. Yes, but it is a report provided to the rig personnel?
8 A. I believe so, yes.
9
10 Q. Significantly for present purposes, it adopts the
11 change control process, doesn't it?
12 A. Yes.
13
14 Q. However, you will recall that evidence was led in the
15 course of these proceedings that there was further drilling
16 undertaken after this point, which resulted in an increase
17 in the total measured depth of the bore?
18 A. Correct, yes.
19
20 Q. Do you remember that?
21 A. Yes.
22
23 Q. Do you recall that that contingency was not factored
24 in to the cementing calculations subsequent to this
25 calculation?
26 A. Yes, I believe that's where the error occurred.
27
28 Q. If the operator could bring up HAL.9002.0004.0303, you
29 will see in the top left-hand corner we have a different
30 depth to top tail; do you see that?
31 A. Yes.
32
33 Q. It should really specify 2,823 metres, shouldn't it?
34 A. I believe that was the previous number, yes.
35
36 Q. If the operator goes over the page, we will see that
37 there is a total tail slurry volume expressed as
38 133.9 barrels; do you see that?
39 A. Yes.
40
41 Q. Significantly, you will recall Mr Wilson's evidence
42 that he was actually sent these calculations by Mr Treasure
43 on 5 March, I think it was, who asked that Mr Wilson check
44 the calculations; do you recall that?
45 A. I believe I do, yes. I'm not sure whether I read that
46 in the transcript or whether I was here, but, yes.
47

1 Q. I take it that you learned that for the first time?

2 A. To the best of my recollection, yes.

3

4 Q. You also learned that, quite contrary to Mr Treasure's
5 express request, there was simply no response on
6 Mr Wilson's part?

7 A. That's what I understood to be --

8

9 Q. And he simply couldn't explain the absence of any such
10 response?

11 A. Yes.

12

13 Q. But you will agree that that fact significantly
14 implicates PTT personnel onshore in relation to the
15 miscalculation of tail cement?

16 A. Yes, the fact that he was requested to make the check
17 and didn't, yes.

18

19 Q. Indeed, I think you will also recall evidence from
20 Mr Duncan to the effect that PTT personnel onshore could
21 have done more to ensure that those on the rig properly
22 understood what was required with respect to the change
23 control process on 23 January; do you recall that?

24 A. Yes, I think one of the learnings that will be gained
25 is that we need a far more robust process and checking
26 process on cement calculations.

27

28 Q. I think he suggested that mere numbers had been used,
29 without a sufficient explanation of the objective that was
30 sought to be achieved; do you recall that evidence by
31 Mr Duncan?

32 A. Yes.

33

34 Q. So, again, we have an acceptance of some level of
35 responsibility on the part of PTT personnel onshore in
36 relation to the miscalculation?

37 A. In that they weren't clear in what the ultimate
38 requirement was.

39

40 Q. Yes. Again, something you learned for the first time?

41 A. It certainly became clear to me.

42

43 Q. So whereas your view was, prior to the commencement of
44 these public hearings, that that miscalculation resulted
45 from people on the rig not doing their job, you now know,
46 don't you, that significantly both Mr Wilson and Mr Duncan
47 were implicated, to some extent, in the miscalculation?

1 A. Yes, the process of giving the people on the rig the
2 information was poor and it was unclear, and that resulted
3 in miscalculations, yes, absolutely.

4
5 Q. And Mr Wilson just didn't respond to a very prudent
6 and pertinent request for information from Mr Treasure?

7 A. And that was the evidence that was given, yes.

8
9 Q. A significant deficiency, you will agree?

10 A. Yes. I would have expected a response.

11
12 Q. So you will agree, then, sir, that the evidence led in
13 these proceedings has caused you to substantially revise
14 your previous understanding as to how the miscalculation
15 came about and whose responsibility it was?

16 A. Yes, it has clarified to me how the miscalculations
17 were made and the lack of detail that was given to the
18 people on the rig, which allowed that to occur, yes.

19
20 Q. I suggest that it is not simply a clarification; it is
21 you learning significant additional information that caused
22 you to alter your previously held view. That's right,
23 isn't it?

24 A. Yes, yes, additional information which has changed my
25 view on it, yes.

26
27 Q. And that information was, in fact, available to you,
28 had you searched it out beforehand; that's right, isn't it?

29 A. Yes.

30
31 Q. What about the circumstances surrounding the
32 overdisplacement of cement - you heard a lot of evidence
33 directed to that topic in the course of these public
34 hearings, didn't you?

35 A. Yes.

36
37 Q. Did any of that cause you to substantially revise your
38 views as to how it came about?

39 A. No, I'm still of the opinion that it came about
40 through misunderstanding of communications. Now, I'm not
41 defending anybody or any position, but I can envisage the
42 miscommunications that were occurring, and, again, it is a
43 failure in systems to have checks in place to make sure
44 that any such communication failure doesn't result in what
45 occurred.

46
47 Q. Firstly, I suggest, you heard substantial evidence to

1 the effect that Mr Wilson and Mr Treasure, for whatever
2 reason, simply failed to communicate properly with one
3 another about the events which had occurred surrounding the
4 float failure; that's right, isn't it?

5 A. Yes. That's what I was referring to in the
6 miscommunication that occurred.

7

8 Q. Were you aware of that prior to the commencement of
9 these hearings?

10 A. Not to the detail of it, no.

11

12 Q. But that information was available to you, wasn't it?

13 A. It would have been available if I had carried out an
14 investigation, yes.

15

16 Q. Most significantly, I suggest, you heard evidence from
17 both Mr Wilson and Mr Duncan to the effect that each of
18 them failed properly to consider the content of the daily
19 drilling report of 7 March and Mr Treasure's cementing
20 report?

21 A. Yes.

22

23 Q. Your understanding, before you heard that evidence,
24 sir, was to the effect that they were not on notice of any
25 deficiency with respect to the cementing of the casing
26 shoe; that's right, isn't it?

27 A. At the time in March, yes.

28

29 Q. You now know, as a result of the evidence that you
30 heard, that in fact the contemporaneous documents which
31 they saw made it abundantly clear that there was a
32 deficiency with the cementing of that casing shoe?

33 A. Yes, the information was contained in the documents,
34 yes.

35

36 Q. That is substantially and dramatically different
37 information from what you understood prior to the
38 commencement of the public hearings, isn't it?

39 A. I'm not sure. I believe I was aware that they had
40 worked out that there had been an overdisplacement prior to
41 the hearings, but I certainly wasn't aware of the detail of
42 the information that was available to them at the time and
43 therefore the understanding that they could have understood
44 it at the time, yes.

45

46 Q. I accept that you had some understanding that there
47 had, in fact, been an overdisplacement of cement.

1 A. Yes.

2

3 Q. That's addressed in the PTT submission to the
4 Commissioner, for instance, in December last year.

5 A. Yes.

6

7 Q. But your understanding was that Mr Wilson and
8 Mr Duncan weren't implicated in that at all and, indeed,
9 could reasonably have formed the view that there was no
10 ongoing problem. That was your understanding, wasn't it?

11 A. Prior to the Commission?

12

13 Q. Yes.

14 A. No, I was aware, prior to the Commission, that they
15 had realised that the information was there. We're talking
16 about just before the Commission. I believe I was aware
17 that they knew that the information was there, if they had
18 assessed it.

19

20 Q. Do you understand, sir, that the versions they
21 advanced in their statutory declarations were to the effect
22 that they didn't read the content of the daily drilling
23 report or the cementing report in a way which alerted them
24 to the problem?

25 A. Yes, I do.

26

27 Q. Indeed, they offered quite detailed explanation,
28 didn't they, as to why that was, in effect, a reasonable
29 position for them to have adopted?

30 A. They offered explanations as to why they did it, yes.

31

32 Q. You now understand that, in their oral evidence, they
33 accepted that they could have and should have read the
34 documents in a way which alerted them to the existence of
35 the ongoing problem?

36 A. Yes, correct.

37

38 Q. I suggest to you that that is quite significant
39 information, because it implicates not simply the rig
40 personnel in the problem with the cemented casing shoe, but
41 their supervisors onshore who hold senior management
42 positions within PTT; that's right, isn't it?

43 A. Yes.

44

45 Q. That was information which clearly was available to
46 you upon even a cursory examination of the two documents in
47 question; that's right, isn't it?

1 A. If I had looked at them, yes.

2

3 Q. You needed only to go to someone and say, "Hang on.
4 There was a blowout on 21 August. A primary barrier, being
5 the cemented casing shoe, must have failed. Bring up the
6 daily drilling report, will you, and let me have a look at
7 it." It was as simple as that, wasn't it?

8 A. It would have been as simple as that. There were
9 other things happening, though.

10

11 Q. Other things happening, I suggest, did not operate to
12 preclude you making that inquiry in the whole of the period
13 between the blowout and the commencement of these public
14 hearings; you accept that?

15 A. Yes, I accept that.

16

17 Q. You could have readily done it, had you wanted to?

18 A. I could have done it, yes.

19

20 Q. Likewise, you could have said, "Hang on. There was a
21 blowout in H1 well. That must mean that damned primary
22 barrier failed. Part of our well control system requires
23 the rig supervisor to submit a cementing report. Could you
24 bring that up for me, please, and let me have a look at
25 that?"

26 A. I could have done, yes.

27

28 Q. It would have been a very ready inquiry to have
29 undertaken; that's right, isn't it?

30 A. It would have been, if I had wanted to do it at the
31 time, yes.

32

33 Q. You knew, I suggest, that those documents must have
34 existed?

35 A. Yes.

36

37 Q. And you accept, having seen them many times in the
38 course of these public hearings, that it is almost
39 unarguable that a proper consideration of their contents
40 would have alerted someone, practising reasonable care, to
41 the existence of an ongoing problem; that's right, isn't
42 it?

43 A. Certainly, yes.

44

45 Q. I suggest to you, sir, that the evidence that you
46 heard from Mr Wilson and Mr Duncan, particularly the
47 concessions and the admissions that they made, caused you

1 substantially to revise your pre-existing view as to the
2 cementing of the casing shoe and, in particular, who was
3 implicated in the deficiency?
4 A. Yes. Yes, certainly the latter, yes.
5
6 Q. Could we come next to the issue of the non-testing of
7 that casing shoe after its installation.
8 A. Yes.
9
10 Q. Prior to the commencement of these public hearings,
11 your understanding was that neither Mr Wilson nor Mr Duncan
12 were reasonably on notice of the need for any additional
13 test to be carried out, because there had been deficient
14 communication about the cementing of the casing shoe by
15 those on the rig?
16 A. Yes, correct.
17
18 Q. That's what you thought?
19 A. Mmm-hmm.
20
21 Q. You heard evidence, didn't you, sir, in the course of
22 these proceedings that necessarily caused you to revise
23 your view about that?
24 A. Yes, I believe so, yes.
25
26 Q. For instance, Mr Wilson, you will recall, gave
27 evidence that he knew that the procedure of simply holding
28 pressure and waiting on cement was not, in fact, a proper
29 check on the integrity of the cement; do you recall that?
30 A. Yes.
31
32 Q. And that's why he revised Mr Treasure's reference to
33 checking cement integrity to "Checked float integrity"; do
34 you recall that?
35 A. Yes.
36
37 Q. Then he gave some evidence to the effect that he
38 thought that there had been some inflow test that had been
39 carried out that somehow had confirmed that the cemented
40 casing shoe was an okay barrier?
41 A. That's correct, yes, that's what he said.
42
43 Q. But he ultimately conceded, didn't he, that based on
44 the material that was available to him, he should have
45 understood that there needed to be a different test?
46 A. Yes. I don't know whether it was based on the
47 information, but he did concede that, yes.

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Q. Then we heard some evidence from Mr Duncan that Mr Wilson's view was in fact wrong, because the procedure of simply waiting on the cement and ensuring that there were no returns couldn't possibly be regarded as validating the floats; do you recall that evidence?

A. Sorry, just give me a minute. Yes, that's right, yes.

Q. I took him to parts of his statutory declaration in which he said that the procedure actually adopted of simply holding pressure, waiting on cement and then bleeding off could not properly be regarded as validating the floats; do you recall that?

A. I believe so, yes.

Q. So we have evidence from Mr Wilson that he thought one thing, and then we have evidence from Mr Duncan that what Mr Wilson thought was misconceived; do you remember that?

A. Yes, when the two are put together, yes.

Q. That must have been of some concern to you, sir?

A. Yes, it was of concern. There was a lot of technical issues being discussed here and a lot of items turning on the meaning of words. Again, I'm not making any excuses for anybody. I can understand their intent in what they were saying from their perspective, but the net result is correct, as you say; it is not right.

Q. Yes. And then do you recall I took Mr Duncan to that part of his statutory declaration in which he said that he thought that a positive test on the cementing of the casing shoe had been carried out; do you recall that?

A. I didn't see all of Mr Duncan's evidence, but I'm quite happy to believe that was the case.

Q. And he replied that he thought that, in fact, a pressure test had been carried out?

A. That was certainly my understanding, yes.

Q. He was seriously misconceived in respect of that assumption, wasn't he?

A. Well, yes, obviously.

Q. No such test was, in fact, carried out?

A. Sorry, in terms of a pressure test?

Q. A post wait on cement pressure test of the

1 cementing --

2 A. No, there wasn't. That's correct, yes.

3

4 Q. Then you will have also observed or witnessed evidence
5 from both Mr Wilson and Mr Duncan to the effect that the
6 drilling plan was deficient, because it simply didn't deal
7 with a known and predictable contingency, being a failure
8 of floats; do you remember that?

9 A. Yes, and whether it should be in the drilling program
10 or whether it should be in the well control standards is
11 debatable, but it should be covered somewhere.

12

13 Q. Well, I suggest that it should be in both.

14 A. It's debatable. It needs to be covered.

15

16 Q. At the very least, I suggest, sir, it clearly needs to
17 be in the drilling plan to ensure that rig personnel do
18 what's required to achieve well control.

19 A. I don't know that it needs to be in the drilling
20 program. I haven't formed an opinion yet as to where it
21 needs to be and whether it should be in both, but it
22 certainly needs to be documented somewhere.

23

24 Q. Can we just explore that. You heard evidence, didn't
25 you, that people on the rig regard the drilling program, in
26 effect, as their blueprint Bible?

27 A. Yes I did.

28

29 Q. If it is in there, they do it; if it is not, they are
30 not inclined to?

31 A. And on that basis, it should be in that program. Yes,
32 I agree.

33

34 Q. Again, the absence of treatment of that topic anywhere
35 in the relevant drilling program speaks of a deficiency on
36 the part of PTT management onshore, doesn't it?

37 A. Within the well construction group, yes.

38

39 Q. I suggest that that evidence is of significant concern
40 to you?

41 A. Yes. Those are the areas where, as I say, the detail
42 became a lot clearer. We had already understood that the
43 systems obviously had failed in terms of the event
44 occurring, and we already had identified a review of the
45 well construction standards on that. But, as I say, these
46 are some of the areas where it became more clear, the
47 particular areas that need to be covered. And it shouldn't

1 be restricted to contingencies for float failure; it should
2 cover other contingencies that may occur.

3

4 Q. I suggest that the net result of the evidence that you
5 heard was that PTT personnel both onshore and on the rig
6 should have known that the cemented casing shoe and the
7 annulus cement were non-compliant and unsatisfactory
8 barriers?

9 A. Given the information they had, yes.

10

11 Q. I suggest that the evidence that I have reviewed for
12 you caused you to substantially revise your previously held
13 view on those issues?

14 A. Again, it caused me to review, to change my view.
15 I don't know whether you would call it "substantial" or
16 not. It clarified a lot of things for me and, yes, it was
17 of concern.

18

19 Q. I suggest that there was substantial movement in your
20 point of view, because, prior to hearing that evidence, you
21 basically thought that the PTT people onshore could
22 reasonably have believed such-and-such state of affairs,
23 but, in the light of the evidence, it became clear that, in
24 fact, they couldn't have reasonably believed that.

25 A. Yes, I would phrase it that I can understand how they
26 came to the conclusions they did at the time, but, given
27 the evidence that they had, they had all the information
28 there to realise there was a problem, absolutely.

29

30 Q. I just want to test your sympathy or empathy for their
31 misunderstanding, sir.

32 A. Yes.

33

34 Q. Firstly, the daily drilling report is a foundational
35 document in terms of management of wells, isn't it?

36 A. Yes.

37

38 Q. It is the basis upon which Mr Wilson sends his reports
39 to the Northern Territory, which regulates?

40 A. Yes, absolutely.

41

42 Q. At the very least, sir, whatever else you might say,
43 Mr Wilson should read and pay close attention to the
44 content of those daily drilling reports, shouldn't he?

45 A. Yes.

46

47 Q. And he didn't do so?

1 A. Not in that particular area, no.

2

3 Q. That represents a very significant deficiency on his
4 part, which may well, in the scheme of things, have
5 contributed to the blowout; that's right, isn't it?

6 A. On the basis that, yes, he didn't identify it and
7 therefore remedial actions weren't taken, yes.

8

9 Q. That view, I suggest, is substantially different from
10 the view you held prior to the commencement of the public
11 hearings?

12 A. Well, I was aware that the information was there and
13 that they hadn't read it. I didn't say that I accepted
14 their things. I just said that I could understand from
15 their perspective as to why, in their minds, they didn't
16 look at it. I didn't say that it was an acceptable
17 position to the company.

18

19 Q. No. And then, of course, we come to Mr Treasure's
20 cementing report, which is a document specifically referred
21 to in PTT's own well construction standards as a document
22 which must be sent from rig personnel onshore?

23 A. Yes.

24

25 Q. Its very purpose is to ensure that there is some
26 monitoring and check able to be undertaken onshore in
27 relation to well control; that's right, isn't it?

28 A. That's my understanding.

29

30 Q. And you heard Mr Duncan give evidence that the reason
31 for that is because it's obviously recognised that
32 cementing jobs are important?

33 A. Yes.

34

35 Q. So we have the very specific paragraph that requires
36 the referral of the cementing report from the rig to the
37 well construction manager onshore?

38 A. Yes.

39

40 Q. When you go to that document - and it has been brought
41 up several times - it is almost unmistakable, isn't it,
42 sir, that there was an ongoing, significant deficiency in
43 the cementing of that casing shoe?

44 A. That's what I understand, yes.

45

46 Q. Even a moderate level of scrutiny should have detected
47 the problem; that's right, isn't it, sir?

1 A. Yes.
2
3 Q. So when you extend your understanding to Mr Wilson and
4 Mr Duncan, you will agree that it can't possibly rise so
5 high as to excuse their responses in any way, shape or
6 form?
7 A. I think I was specific and I said that I wasn't making
8 excuses.
9
10 Q. Yes. They simply didn't do their job; that's right,
11 isn't it?
12 A. Correct.
13
14 Q. And they simply didn't practise ordinary, reasonable
15 care; that's right, isn't it?
16 A. Correct.
17
18 Q. And they simply didn't manage well control of the H1
19 well in a manner which accorded with sensible oilfield
20 practice; that's right, isn't it?
21 A. It certainly wasn't within the company's expectations
22 of the well construction standards, and, from my
23 perspective of sensible oilfield practice, yes. But
24 that's an indeterminate idea.
25
26 Q. Could we come, then, to the next topic of some
27 significance, I suggest, and that concerns the
28 satisfactoriness or suitability of PTT's own well
29 construction standards. They have achieved a degree of
30 attention and scrutiny in the course of these proceedings,
31 haven't they?
32 A. Yes.
33
34 Q. Did that shed any light at all, in terms of your
35 understanding, so far as deficiencies and shortcomings in
36 those standards is concerned?
37 A. Again, yes, we had already identified that we needed
38 a thorough review of those standards before the Commission,
39 and, again, the evidence has identified more clearly
40 specific areas that will be looked at during the review.
41
42 Q. Indeed, you accept, don't you, sir, that in fact the
43 well construction standards were really devised by
44 reference to a significantly different set of
45 circumstances?
46 A. Yes.
47

1 Q. And they should have been revised prior to the Montara
2 oilfield development?
3 A. There should have been a review undertaken, which
4 I would have expected would have led to a revision, but it
5 may have led to a separate document for the Montara. There
6 certainly should have been a review undertaken of those and
7 modifications made either to those or to another document
8 to ensure that, yes.
9
10 Q. Likewise, in relation, for instance, to the batch
11 drilling regime --
12 A. Yes.
13
14 Q. -- and the batch tie-backing and so on, you will agree
15 with me, sir, that when it was decided to embark upon those
16 regimes, there should have been a review of the well
17 construction standards to ensure that they adequately dealt
18 with those regimes?
19 A. Yes, there should have been a HAZID review at that
20 time, which would have identified whether or not they were
21 applicable or whether additional things should have been
22 put in place. Yes, I agree with that.
23
24 Q. You will agree, sir, that the Commission heard quite a
25 lot of evidence to the effect that the absence of any such
26 review has led to a considerable degree of both confusion
27 and divergence of opinion as to the meaning of the well
28 construction standards and what they required in respect of
29 the H1 well; that's right, isn't it?
30 A. Yes, very much so. There was definitely confusion
31 over the meaning of them in that regard, yes.
32
33 Q. That is a very unsatisfactory state of affairs, is it
34 not, without wishing to reach to any exaggeration?
35 A. It is, which is why we had identified that there was
36 an area of improvement.
37
38 Q. I mean, here is a document of absolutely primary
39 relevance to the achievement of well control, and your own
40 personnel are confused as to what it means, and some of
41 them interpret it differently; that's right, isn't it?
42 A. That is correct, yes.
43
44 Q. That is an appalling result; you will agree?
45 A. It is certainly not satisfactory.
46
47 Q. I suggest that it is appalling, sir.

1 A. Well, I'm sorry, but the use of descriptive words like
2 that - I don't understand what you mean. It is a very
3 unsatisfactory position; I accept that.

4
5 Q. The evidence that you heard in the course of these
6 public hearings did shed significant light on your level of
7 understanding about the deficiencies and the shortcomings
8 in the well construction standards; that's right, isn't it,
9 sir?

10 A. Yes.

11
12 Q. I think that's now four significant issues that we
13 have canvassed. May I come next to the absence of any
14 proper risk assessment that preceded the decision to use
15 PCCs. Do you recall quite a lot of evidence about that
16 topic?

17 A. Yes.

18
19 Q. I think you will recall some evidence from both
20 Mr Wilson and Mr Duncan to the effect that a distinctive
21 feature of the use of PCCs, particularly in connection with
22 batched tie-back, is that unlike other barriers, you have
23 to remove them in order to tie back; do you recall that
24 evidence?

25 A. Yes.

26
27 Q. Do you accept, sir, that there was insufficient
28 attention given to that factor when it was decided to
29 substitute PCCs for the cement plug on the H1 well?

30 A. Yes, it appears to be the case, yes.

31
32 Q. Likewise, there was no proper risk assessment
33 undertaken in relation to the sufficiency of the
34 manufacturer's instructions?

35 A. No, based on the evidence, no.

36
37 Q. You also heard evidence, didn't you, sir, that the
38 method actually deployed to install the PCCs didn't closely
39 match or cross-reference to the manufacturer's
40 instructions?

41 A. They certainly didn't clarify with the manufacturer as
42 to what was the important component of their instructions,
43 and therefore yes.

44
45 Q. So the risk assessment was deficient in that regard?

46 A. Yes, at the time they undertook to use PCCs and write
47 them into the program, yes.

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Q. Likewise, you will agree that the risk assessment that preceded the decision to use PCCs was deficient simply because inadequate attention was given to just pure logistical issues - have we got them, have we got enough of them, are they in a condition to use; do you recall that?

A. I do recall, but I think, again, my concept of a HAZID or a risk assessment is that it would be about the risk with regard to well control. Logistical issues and installation issues would not be something that I would necessarily expect. Once they have made that decision from the risk basis, then, yes, those issues certainly should have been followed through.

Q. I accept the force of what you say in relation to that, so we will separate the logistic considerations out of the need for a proper risk assessment. You also will have heard evidence in the course of these proceedings, sir, that no instruction was given by PTT onshore that the PCCs should be checked after installation?

A. Yes, I believe that's the evidence, yes.

Q. In relation to every PCC that was used out on Montara?

A. Yes, that's my understanding.

Q. The net result is that they are simply non-tested, non-verified secondary barriers?

A. That's correct.

Q. They don't conform to your own well construction standards, and they don't conform to ordinary, sensible oilfield practice?

A. Correct.

Q. I suggest, sir, that prior to these public hearings, you had very little understanding of the deficiencies in the risk assessment that preceded the use of the PCCs?

A. No, I don't agree with that, because, on the basis of my understanding of what a risk assessment would have been, the risk assessment was based on the issue with cement plugs in cased holes, and the risk of backing out the casing, then, was the risk that was being mitigated, if you like, by the PCCs.

I accept that, having identified PCCs as a better option from that perspective, then issues such as ensuring the manufacturer's instructions were understood and testing

1 and that was carried out should have been followed on to
2 that, but I wouldn't put that in the category of a risk
3 assessment myself. It should have been part of the
4 process, yes.

5
6 Q. Well, sir, if you are going to risk assess the
7 substitution of a cement plug with a PCC, you need to both
8 look at the merits and demerits of a cement plug and,
9 equally, look at the merits and demerits of a PCC; that's
10 right, isn't?

11 A. Yes, yes.

12
13 Q. And that wasn't done sufficiently comprehensively;
14 that's right, isn't it?

15 A. Again, I'm not trying to be awkward. With regard to
16 the risk element of it, I think it probably was. But what
17 was not done was, having identified the PCC as the risk
18 basis identified as a better option, that they didn't then
19 follow through to ensure that there were clear instructions
20 regarding testing and installation or clarify with the
21 manufacturer the preferred installation parameter, be it
22 turns or be it torque. I accept that. But that wouldn't
23 necessarily be part of a risk assessment. That would just
24 be, having made a decision, your next step is to ensure
25 that it is done properly.

26
27 THE COMMISSIONER: Q. Although, Mr Jacob, isn't one of
28 the difficulties with the PCC, as I think was established
29 earlier, that you had to remove it during the tie-back
30 operation; you didn't have to do that with the cement plug?

31 A. Absolutely, and, yes, that should have been part of
32 the risk --

33
34 Q. And that was the critical thing in terms of
35 potentially a batch drilling operation?

36 A. Absolutely, yes.

37
38 MR HOWE: Q. So you will agree that the evidence that
39 you heard did cause you, in some significant respects, to
40 gain a better understanding of deficiencies in the risk
41 assessment that preceded the decision to substitute PCCs
42 for the cement plug?

43 A. A better understanding, yes.

44
45 Q. Could we come, then, to logistical issues. Were you
46 aware, prior to these public hearings commencing, that the
47 very PCC which should have been installed on the 13-3/8"

1 casing of the H1 well was actually left over after the
2 suspension operations and then shipped back to Darwin,
3 I think; were you aware of that?
4 A. Prior to these proceedings, yes.
5
6 Q. When did you become aware of that?
7 A. Some time this year.
8
9 Q. Mr Wilson gave evidence to the effect that he would
10 have expected or hoped that there would have been an alert
11 created in the minds of those responsible for managing
12 logistics; do you recall that?
13 A. Yes, I do.
14
15 Q. And he accepted, I think, that there was, in fact, in
16 place at the time an insufficiently rigorous system of
17 logistics management?
18 A. I believe that's what he said, yes.
19
20 Q. Do you agree with that?
21 A. Well, with regard to the fact that it wasn't
22 identified that a critical piece of equipment was shipped
23 back, or it was identified but it wasn't alerted, then yes.
24
25 Q. I just want to understand, sir, in relation to the PTT
26 submission to NOPSA - and we will go to it in due course -
27 the very first root cause identified, whilst expressed
28 somewhat confusingly, seems to direct attention to
29 logistics shortcomings. Do you remember the paragraph in
30 mind?
31 A. Are you referring to the comment that was made
32 regarding a corroded valve on the PCC - or alleged?
33
34 Q. Well, no. We will also come to that. Do you recall
35 that I took Mr Duncan to this paragraph numbered 1 under
36 the heading "Root Cause Analysis" in the PTT report to
37 NOPSA --
38 A. Yes.
39
40 Q. -- and Mr Duncan really himself had trouble
41 understanding it?
42 A. Could you bring it up? That would be easier.
43
44 Q. Yes. Could the operator please bring up
45 PTT.9001.0008.0062, at page 19. Perhaps we should go to
46 the very first page. Scrolling down, this seems to be an
47 incident report to NOPSA that you checked and approved?

1 A. I approved, yes.

2

3 Q. Do you see that?

4 A. Yes.

5

6 Q. If we go back to page 19, please, operator, under the
7 heading "Root Cause Analysis", we have that somewhat
8 awkwardly expressed first paragraph, which has some Delphic
9 dimension to it and, indeed, taxed Mr Duncan as to what it
10 meant?

11 A. Although he had checked it, yes.

12

13 Q. Can you explain to the Commissioner what on earth that
14 paragraph means?

15 A. Absolutely. It is referring to the 13-3/8"
16 pressure-containing cap. At the time we wrote this report,
17 we had information that there was a comment that one of the
18 caps had a rusted valve and that it had to be soaked for a
19 number of days by the personnel on the rig.

20

21 This report, or this comment here, is saying that if
22 that was the case, then, firstly, it shouldn't have been
23 shipped - if it was in that condition in Darwin, it
24 shouldn't have been shipped to the rig, because quality
25 control procedures should have stopped something that was
26 corroded and not functioning properly from going out.

27

28 "The quality control inspection of critical equipment
29 inventory bound for, and then on, the rig and the MODU
30 facility" - the arrangement in place with Atlas Drilling
31 under contract and in their safety case is that they are
32 responsible for free-issued equipment issued by us to be
33 used on the facility. So that's a reference to the fact
34 that, again, if it was the case that it arrived in a bad
35 condition or became in a bad condition, then obviously
36 there had been some deficiency in that regard.

37

38 Yes, and basically the last paragraph is the same, the
39 same theme, so it is all referenced, from memory, to that
40 13-3/8" corroded valve that we were advised of at that
41 time.

42

43 Q. In your answer, you suggested that the paragraph was
44 premised on an assumption, and I think you used the words
45 "if it was the case". I want to suggest that there is no
46 assumption that is made here, is there? I mean, this is
47 simply asserting a fact.

1 A. Well, at the beginning, the first sentence says:

2

3 *... has examined the most probable*
4 *immediate causation ...*

5

6 Now, that, to me, is an indication that it is probable, so
7 we are making the assumption that that was one of them.

8

9 Q. Look at the first sentence of the
10 paragraph numbered 1:

11

12 *PTTEPAA quality assurance procedures were*
13 *not applied in relation to the procurement*
14 *of well materials.*

15

16 That's just an asserted fact, isn't it? It is not
17 expressed to be based upon any assumption.

18 A. Well, the way it is written, yes, but that's certainly
19 not the way I read it when I approved it. I'm not a
20 wordsmith in that regard. And what has become very obvious
21 in these proceedings is that words have different meanings
22 to different people. But my explanation is that that was
23 my understanding when I approved the document.

24

25 Q. Will you agree, sir, that you don't have to be a
26 wordsmith to understand the difference between the singular
27 and the plural?

28

29 A. Right, yes.

30

31 Q. That first sentence doesn't refer to a single corroded
32 13-3/8" PCC; it refers to "well materials"; do you see
33 that?

34

35 A. Yes, it is a generic statement. It is saying that the
36 information we had indicated that the quality assurance
37 procedures that are applicable to well materials - plural,
38 because that's what they are - weren't applied.

39

40 Q. All right. Well, look at the next sentence. There is
41 a reference to non-identification of problems with the
42 materials sufficiently in advance of their scheduled use.
43 Again, the innocent reader would be induced to believe that
44 you are there referring not to a single problem with part
45 of a single 13-3/8" PCC but to problems with materials,
46 plural; do you agree?

47

48 A. The innocent reader would, yes, but it wasn't written
49 by anybody innocent and it wasn't read by innocent people.
50 It was read by NOPSA. Now, if they had a problem, they

1 would have clarified with us and, likewise, in the
2 recommendations at the end of the report, would have
3 identified what we were doing. I'm sorry, but I don't
4 believe there is any intent to mislead anybody. It was
5 regarding the information we had at the time, which was
6 regarding this corrosion on this 13-3/8" cap. Now, it may
7 not be well worded, reading it several months later, but
8 that was what it was about. When we are talking about
9 procedures, the procedures are about materials, plural; we
10 don't have a single procedure for 13-3/8" cap procurement.
11

12 Q. What caused you, in particular, to revise your view as
13 to the existence of some corroded part of the 13-3/8" PCC
14 being the explanation for its non-installation?

15 A. At the time that this report was written, that was
16 some information that we had, and it made sense as a
17 possible - probable cause for not being installed. We
18 subsequently were unable to get any other verification,
19 from any of the other personnel that were on the rig, that
20 that in fact was the case. Therefore, we also checked or
21 inquired as to whether we had had the PCCs onboard, and we
22 were advised that we had. Therefore, that was why we
23 changed our view that we couldn't substantiate that, but it
24 is still an area of concern, because the fact that it was
25 mentioned to us indicates that there probably was a problem
26 with our procedures in that area, and we need to look at
27 those.
28

29 Q. I think Mr Duncan actually identified the person who
30 was the source of the proposition that part of one 13-3/8"
31 PCC was in fact rusted or corroded; that's right, isn't it?

32 A. That's correct.
33

34 Q. Presumably, that person hasn't since gone to anyone in
35 PTT and said, "Oh, hang on, I was mistaken"?

36 A. No, but the inference that was drawn that that may be
37 a reason why it wasn't installed - subsequently, on
38 testing, my understanding is that he couldn't accurately
39 determine the time frame that this occurred in relation to
40 the installation of it on the H1, and neither was anybody
41 else aware on the rig. We therefore determined that we
42 didn't believe that was likely to be, and on the basis that
43 we had installed four units and we have one in the yard,
44 which is in mint condition, then it doesn't appear to be
45 the case, either.
46

47 Q. You will agree that at some point prior to 7 March,

1 you have a person who gave positive information to the
2 effect that part of one 13-3/8" PCC was rusted or corroded?
3 A. Was corroded and that they were soaking it in the
4 equivalent of WD-40 to free it up, yes.

5
6 Q. So they actually gave you that additional information,
7 didn't they?

8 A. They may not have said "WD-40". That was my
9 interpretation, but they did soak it in order to free it
10 up, yes.

11
12 Q. Well, if they did that, why would the fact of
13 corrosion have been thought, at the time, by you to have
14 prevented its installation?

15 A. It was a concept that was there at the time, that we
16 thought maybe because the unit wasn't there to be
17 installed, that it got forgotten about. And why wasn't it
18 there to be installed? Because it was being soaked at the
19 time. We were unable to verify the time at which this
20 soaking, remedial work, was being undertaken, and whether
21 or not that was relevant to the installation of the H1 cap.

22
23 Q. You will agree, then, that the chances are that that
24 particular 13-3/8" PCC that this person identified as
25 having been rusted or corroded is likely to have been
26 installed on one of the other wells?

27 A. Can I clarify, the item that was corroded was a valve.
28 It was not the actual unit itself. It was a valve inside
29 it, is my understanding of it. So it is not the integrity
30 of the PCC that was in question.

31
32 Q. Well, what is the valve that's corroded?

33 A. My understanding is - and I don't know for sure, so
34 I can only, at this stage, guess - that it would be for
35 either filling, to test them underneath, possibly, but
36 I don't know for sure. I would need to talk to somebody
37 technical about it.

38
39 Q. But if I could get back to my question, you have a
40 person who says, "Look, at some stage before all of these
41 wells were suspended out at Montara, I saw a 13-3/8" PCC
42 which had part of its apparatus rusted or corroded, and
43 I was soaking it in something"?

44 A. Yes. That's what he said.

45
46 Q. Then we know, after all of the suspension of the
47 wells, there was one 13-3/8" PCC, apparently in mint

1 condition, shipped back to Darwin?
2 A. Correct.
3
4 Q. So cannot one deduce from that that the PCC that this
5 person saw with the damaged part and had soaked to cure the
6 damage had in fact been installed later on on one of the
7 other wells?
8 A. Yes, that's a natural assumption, yes.
9
10 Q. And we know that that PCC was not tested after
11 installation?
12 A. Correct.
13
14 Q. So you would agree, then, that the issue you have
15 identified here in paragraph 1 on page 19 of your report to
16 NOPSA still in fact holds good, does it not, because there
17 seems to have been the deployment of a 13-3/8" PCC which
18 was in fact damaged at a point in time, and that wasn't
19 detected sufficiently in advance?
20 A. Well, no, I don't agree with that. A component of it
21 was seized. It was soaked and freed and I assume was
22 determined to be applicable.
23
24 Q. This, in fact, might be the valve that let pressure
25 escape?
26 A. As I say, I don't know the inner workings of the PCC.
27 I can't comment on that.
28
29 MR ABBOTT: I want to clarify with my friend, is it
30 suggested that a 13-3/8" PCC let pressure escape from H1?
31
32 MR HOWE: No.
33
34 MR ABBOTT: I'm sorry, I just misunderstood that.
35
36 MR HOWE: No, it might be a valve which, in the scheme of
37 things, can allow pressure to escape.
38
39 MR ABBOTT: Thank you.
40
41 MR HOWE: Q. Apart, then, from the logistical deficiency
42 that you have conceded in relation to the non-detection of
43 the significance of this left-over PCC being shipped back
44 to Darwin, did you hear any other evidence in the course of
45 these proceedings to suggest that PTT's logistics
46 management at the time was less than optimal?
47 A. I don't think in these proceedings, no.

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Q. Do you otherwise have any understanding that PTT's logistics management at the time was suboptimal?

A. The issue of this alleged corrosion on the component was a concern to me from a point of view of the systems that we had in place, and it is one of the areas which I identified that needed to be reviewed once we had all the information in. So I have no evidence that there was suboptimal logistics on the rig or in the Darwin yard that was supporting the rig. They are always continually very busy.

Q. What about the evidence that related to what I might call scrounging around with manufacturers and, indeed, other oilfield operators to locate sufficient numbers of PCCs to enable their deployment in these wells - that seems to speak of some deficient logistics management, sir?

A. I would need to look at the chronology of how that was all done, but obtaining equipment from other operators is nothing unusual within the business.

Q. Do you recall an email or some document from one operator saying, "Well, look, we will give them to you but on an as-is basis", and apparently that was proceeded with?

A. I don't recall that particular - I recall an email. I don't recall that content in it, but --

Q. Really, sir, I want to suggest that when you are talking about secondary barriers against a blowout, you really should be using equipment properly sourced from a manufacturer rather than scrounging about for second-hand stuff from other producers that they are going to give you on an as-is basis?

A. Well, again, you are throwing emotive words into here regarding "scrounging about". Obtaining equipment from other operators is nothing unusual. If it is of the style of equipment that required certification, then you would expect to get the certification with it. You would expect that operator to have had a reasonable quality control in their purchase requirements, and you would check the information when it came through. I'm not aware, in detail, of what happened in this case, but I think that's an assertion which I object to.

Q. Well, let's test it. You have another producer with a PCC that they have. It is in an as-is state, which rather suggests that it has been used; would you agree?

1 A. No, not at all.
2
3 Q. No?
4 A. No. "As-is wear" is a standard term that is used when
5 you are exchanging equipment or buying something. It is
6 basically saying, "We have one in our warehouse; you can
7 have it as it is there." So they are not taking on that;
8 it is up to the person acquiring it to ensure that it is
9 fit for purpose.
10
11 Q. Up to the person acquiring it?
12 A. Yes, and I would have expected that we would have
13 checked.
14
15 Q. Well, I don't think anyone has given evidence of any
16 checking of these PCCs prior to their installation.
17 A. I don't know that anybody has been asked that
18 question, either. Again, it is an area that, yes, we will
19 look at. If it hasn't been done, certainly, then it is a
20 serious deficiency in the application of the procedures,
21 absolutely.
22
23 Q. You will agree that if PTT personnel onshore know that
24 this is the source of PCCs which have been acquired, it
25 would be prudent and sensible to include in the drilling
26 program a stipulation for their testing?
27 A. Sorry, that they are tested?
28
29 Q. A stipulation for their testing before installation.
30 A. I don't know - I'm not sure how you would test a PCC
31 before installation. It would be expected that any
32 equipment that is issued to the rig would be inspected,
33 prior to its installation, for any obvious signs of damage.
34
35 Q. This is the sort of fit-for-purpose assumption that
36 apparently is a subtext of the drilling program; is that
37 right?
38 A. No, we are talking about on the rig - yes, the
39 equipment supplied to the rig should be suitable equipment.
40 On the rig, I would anticipate that they would do a check
41 prior to that installation.
42
43 Q. But you will agree, then, that if that's the source of
44 your PCCs, it lends considerable weight to the
45 appropriateness of checking the PCC after it's installed to
46 ensure that it truly is working properly?
47 A. A PCC should have been tested after it was installed,

1 irrespective of where it came from.

2

3 Q. Yes. But all the more so if you are getting it from
4 someone and having to make assumptions about its quality?

5 A. I'm sorry, my position is that it should have been
6 tested, irrespective of where it came from. It is
7 irrelevant where it came from. It should have been tested,
8 anyway. I wouldn't like people on the rig to be making
9 decisions based on that assumption.

10

11 Q. I follow, sir. In relation to the non-installation of
12 the 13-3/8" PCC, there was considerable evidence that was
13 canvassed in the course of these proceedings as to the fact
14 that approval was sought from the Northern Territory
15 initially on 16 March, urgent approval was given and an
16 issue arose as to whether in fact that approval process
17 related to only the 9-5/8" PCC or the 13-3/8" PCC; do you
18 recall that evidence?

19 A. No, I don't think I was here for that particular part.

20

21 Q. And then it was clarified, "No, we will seek approval
22 for use of PCCs as stage 2 of the process", and then
23 I think on 12 or 13 March there was a subsequent approval
24 sought; does that accord with your own recollection?

25 A. No, I'm sorry. Again, I'm happy to go to the
26 documents, but I thought that the initial approval was for
27 the installation of the 9-5/8" PCC - that was stage 1. And
28 then there was a stage 2 approval, which was sort of the
29 final suspension.

30

31 Q. Yes. But you will recall that, in the meantime, in
32 the middle of that process, Northern Territory had
33 requested information about what in fact was sought, and
34 PTT clarified, "No, that request on 16 March is stage 1,
35 9-5/8", and we will deal with 13-3/8" by a stage 2
36 process"?

37 A. I don't recall that, but I have no doubt that that's
38 what occurred.

39

40 Q. In any event, you will recall that within a few days
41 thereafter, in fact, PTT did seek approval, a stage 2
42 approval, in relation to the 13-3/8" PCC?

43 A. Correct, yes.

44

45 Q. I think that approval might have been given on
46 13 March; does that sound right?

47 A. No, sorry, can you go back to the dates, because

1 I thought you were talking about 17 March before.

2

3 Q. No, 7 March.

4 A. The 7th. Sorry, okay.

5

6 Q. On 6 March, approval was sought for installation over
7 the weekend of 7/8 March?

8 A. That accords with my understanding, yes.

9

10 Q. That's stage 1, as it turned out.

11 A. Yes.

12

13 Q. Then stage 2 was the 13-3/8" PCC, and there was
14 approval sought and given in relation to that?

15 A. Yes.

16

17 Q. My understanding is that it was on 13 March.

18 A. That's my understanding as well, yes.

19

20 Q. There was evidence that the Commissioner heard to the
21 effect that PTT personnel both on the rig and onshore were
22 operating on the basis that although approval had been
23 sought and obtained to install that as a secondary barrier,
24 it wasn't done for weeks on end, because it was convenient
25 to park the BOP above the H1 well from time to time; do you
26 recall that evidence?

27 A. Yes.

28

29 Q. You don't suggest, do you, sir, that it is an
30 appropriate course of action to defer doing that which the
31 regulator has approved be done simply because it is
32 convenient or practicable to use the top of the H1 well as
33 an occasional parking spot for the BOP?

34 A. I agree with you on that. What I would say is that my
35 understanding was - and I wasn't involved at the time, so
36 I'm going from my understanding - that the phase 1
37 suspension shows a wellhead at the top of the 13-3/8",
38 which would have been used to park the BOP on it. What
39 I believe occurred is that there was obviously not clarity
40 with the regulator sufficient that they understood what the
41 intent was, but I haven't been able to determine that. So
42 the premise that if we told the regulator that's what we
43 were going to do, we should do it, I totally agree with.

44

45 Q. If PTT was going to defer the installation of the
46 13-3/8" PCC for weeks on end for reasons of convenience, it
47 should have alerted the regulator to that?

1 A. Yes, if it wasn't of the opinion that that's what its
2 two-stage process was about.
3
4 Q. The effect of that, I suggest, was that there wasn't a
5 secondary barrier at all in respect to the annulus
6 cement --
7 A. Correct.
8
9 Q. -- for the whole of that time?
10 A. Sorry, on H1 are we talking about?
11
12 Q. On H1.
13 A. Yes, other than the time when the BOP was there, but
14 not on a continuous basis, I agree.
15
16 Q. That's unsatisfactory, isn't it?
17 A. Yes.
18
19 Q. It is poor well control management, isn't it?
20 A. That's my understanding.
21
22 Q. Then, of course, in relation to the non-installation
23 of PCC, you will have heard evidence about the records and
24 information management system in place, which consisted of
25 a whiteboard, about which there was a degree of confusion?
26 A. Yes.
27
28 Q. You will agree, sir, that that is a completely
29 deficient, if not derelict, system of managing information
30 concerning significant milestones such as installation of
31 secondary barriers?
32 A. Yes, for that sort of information, which is why one of
33 our recommendations is the dual sign-off by parties.
34
35 Q. Indeed, part of the problem here was that you had
36 these important milestones, such as installation of
37 secondary barriers, managed offline in order to save time;
38 that's right, isn't it?
39 A. They were being managed offline. Offline saves time,
40 but, I mean, the fact that they were barriers - they were
41 being managed offline, and that's what has led to the
42 inadequacy in the recording, I agree, yes.
43
44 Q. I think you have already anticipated, as it were, the
45 evidence that was canvassed concerning the inadequate
46 handover arrangements that were in place that were --
47 A. Yes.

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Q. -- ill-equipped, excuse the pun, to capture and communicate relevant information about important milestones; do you agree?

A. Yes, it is not the sort of handover arrangements I would have expected to have been in place.

Q. I think when you referred to joint sign-off or certification, you might have had in mind both between people changing hitch on the rig but also as between rig people and onshore PTT people?

A. No, the joint signatories we were referring to - our suggestion is the titleholder and the rig operator, because the rig operator has responsibilities under their safety case, and it would be a manner in which they would be able to confirm for themselves but also for any regulator that they were actually actively part of the well control.

Q. That's certainly one aspect of improving the system of information management?

A. Yes.

Q. Another is what I suggested, namely, better handover between personnel changing hitch?

A. Yes, and in that regard, what we would suggest is a preferred way of doing it is that the handover notes are produced prior to the day that the handover actually takes place; they are sent in both to the oncoming person, the drilling supervisor in our case, and to the office, so that the office have an opportunity just to see what's in them and see if there is anything that has been missed; they are discussed the day before. The actual physical handover on the rig is a very short period of time, but that means that all the information has been transferred and, really, it is only an update of what has happened in the last six to eight hours prior to that conversation. That would be a system that I would have expected to have been in place.

Q. I think you might have heard evidence from a number of PTT and perhaps Atlas personnel as well to the effect that it would be desirable and preferable to include provision for certification of performance of critical jobs by both rig personnel and onshore personnel, so that you have people saying that they are positively satisfied that this has occurred and signing off on that?

A. My understanding of that was that it was, again, between the titleholder - in this case us, PTTEP - and the

1 rig operator. I haven't picked up that it was with
2 onshore. It was more of a rig-based confirmation that
3 would then be sent in to shore, so they were aware, but
4 that's an additional element to it, yes.

5
6 Q. An additional element which, I suggest, is both
7 desirable and preferable, because it brings in to the
8 equation the attention which people onshore can give to the
9 issue to ensure that there is a positive check and that
10 they are taking a personal measure of responsibility?

11 A. Yes, it's valid.

12
13 MR HOWE: I note the time, Commissioner. Would that be
14 convenient?

15
16 THE COMMISSIONER: Thank you, Mr Howe, Mr Jacob. We will
17 resume at 2 o'clock.

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19 **LUNCHEON ADJOURNMENT**

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1 **UPON RESUMPTION:**

2

3 MR HOWE: Q. Mr Jacob, through the course of these
4 proceedings, you will have heard considerable evidence
5 surrounding the discovery of the non-installation of the
6 13-3/8" PCC and the decision to remove the 9-5/8" PCC.

7 A. Yes.

8

9 Q. The evidence was to the effect that the 9-5/8" PCC was
10 removed to enable the inner threads of the 13-3/8" MLS to
11 be cleaned.

12 A. Correct.

13

14 Q. You will also have heard evidence as to whether, at
15 that point in time, a proper risk assessment was undertaken
16 as to the significance and implications of the situation
17 which had arisen.

18 A. Yes.

19

20 Q. Would you agree with me, sir, that in fact at that
21 critical point in time, there was not an adequate or
22 satisfactory risk assessment undertaken, in particular by
23 Mr Duncan, who was then present on the rig?

24 A. Yes, I agree there was inadequate risk assessment
25 undertaken, but I don't think it would be specific to
26 Mr Duncan.

27

28 Q. It would at least include Mr Duncan, would it not?

29 A. Absolutely, being on the rig, yes.

30

31 Q. And include him significantly because, in the scheme
32 of things, everyone would have regarded him at the time as
33 being, in effect, the most senior person on the rig?

34 A. Yes, PTTEP, yes.

35

36 Q. Well, even Atlas personnel, I suggest, because they
37 had an understanding that if issues of divergence arose
38 between their most senior person and the drilling
39 supervisor from PTT out on the rig, then the system in
40 place was that it would be referred up the chain of command
41 to respective personnel from each entity onshore?

42 A. Yes, both entities yes.

43

44 Q. And here you had Mr Duncan, two rungs up the chain of
45 command, and who was normally performing managerial
46 functions onshore but was actually present on the rig at
47 the time?

1 A. Yes.

2

3 Q. You'll agree that that is likely to have engendered
4 a perception on the part of both PTT and Atlas personnel,
5 firstly as to his seniority, secondly as to his expertise,
6 and thirdly as to his authority?

7 A. Certainly the first two. The Atlas personnel would be
8 aware of their own chain of command and that any discussion
9 would have taken place with Mr Duncan and their rig
10 manager, so in terms of authority to direct the rig,
11 I would hope not.

12

13 Q. The Atlas personnel would understand, would they not,
14 that normally someone more senior in their own organisation
15 would engage with someone at Mr Duncan's level of
16 seniority?

17 A. Yes.

18

19 Q. For those reasons, I want to suggest, Mr Duncan had
20 a particular responsibility to manage issues in a way
21 which, firstly, was compliant with PTT's own well
22 construction standards and, secondly, was compliant with
23 sensible oilfield practice?

24 A. Yes.

25

26 Q. You'll recall the overhead from the training that
27 Mr Wilson gave about the need to set standards for yourself
28 and adhere to them, because they're what other people are
29 going to be looking to and calibrating their own
30 performance by reference to?

31 A. I know the slide you're referring to, yes.

32

33 Q. And it does have, does it not, some particular
34 application in the circumstances faced by Mr Duncan at the
35 time?

36 A. Yes.

37

38 Q. It was really incumbent upon him to properly risk
39 assess and make defensible decisions; that's right, isn't
40 it?

41 A. Yes.

42

43 Q. You'll agree that, in risk assessing the situation at
44 the point in time we're talking about, quite inadequate
45 attention was given to the time line with respect to the
46 forward-planned activities?

47 A. Yes.

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Q. I take it, sir, you lend no support whatsoever to some evidence that Mr Duncan advanced at one point to the effect of, "If it's okay to take it off, it's okay to leave it off"?

A. I don't think I was here when he said that. Being a secondary barrier and leaving only a primary barrier, then, yes, I would agree.

Q. The idea that if it's okay to take it off, it's okay to leave it off encounters enormous difficulty, doesn't it, just at a logical level?

A. To some extent, yes.

Q. Because if you apply that proposition in an unqualified way, then you can take off a secondary barrier at some point in time when you're satisfied that it's safe to do so, and then leave it off for a year?

A. Yes.

Q. And you'll agree, sir, that sensible well construction management contemplates that if it is reasonably practicable to put in place a secondary barrier, then that's what you should do?

A. That's my understanding, yes.

Q. Did the evidence that you listened to in the course of these hearings awaken any better understanding on your part as to the defensibility of the decision to remove the 9-5/8" PCC at that point in time?

A. Sorry, to improve the defensibility - I understand the - well, I believe I understand the thought process that was going on at the time, but, as I've said, I suspect - well, not "suspect" - the review was inadequate, so I don't see where the defensible bit comes in.

Q. Yes, but did you have that level of understanding of the position prior to hearing the evidence canvassed in the course of these proceedings?

A. Yes, I believe I did.

Q. So at all times you understood, did you, that in fact Mr Duncan hadn't carried out a proper risk assessment at that point in time?

A. Not at all times. Before the Commission started, I believe I'd reached that conclusion.

1 Q. At what point?
2 A. I'm sorry, I can't - just during the course of going
3 through the whole process.
4
5 Q. Before or after PTT's first submission to the
6 Commissioner?
7 A. Probably afterwards.
8
9 Q. Before or after receipt of the Atlas report?
10 A. I have no idea.
11
12 Q. Because you might remember that one of the issues
13 canvassed in the Atlas report was the absence of any proper
14 risk assessment at the point in time we're talking about;
15 do you recall that?
16 A. Vaguely, yes.
17
18 Q. Did that proposition commend itself to you at that
19 point, do you think?
20 A. It would have done when I read it, yes.
21
22 Q. One difficulty that I have about that is that, in
23 a follow-up submission to the Commissioner by PTT, which
24 was responsive to the Atlas report, that aspect of the
25 report was rejected. Do you recall that?
26 A. No, I thought what was rejected was the - I think
27 there was a proposition made that the removal of the 9-5/8"
28 had somehow, from a physical perspective, initiated things,
29 and I think that's what the rejection was about. But
30 I would have to check.
31
32 Q. All right, we might come back to that. Could I take
33 you now to another area of discourse, which concerns the
34 non-reinstallation of the 9-5/8" PCC. I think you will
35 recall Mr Duncan's evidence to the effect that when he
36 directed the removal of that PCC, he had in mind that it
37 would be reinstalled; do you recall that evidence?
38 A. Yes, that's what he said.
39
40 Q. Then hours later, I think some time in the evening of
41 20 August, it came to his attention that the 9-5/8" PCC
42 hadn't been reinstalled; do you recall that evidence?
43 A. Yes.
44
45 Q. He gave evidence of having reached a positive decision
46 in his own mind not to insist upon or direct the
47 reinstallation of that PCC; do you recall that?

1 A. Yes.

2

3 Q. Would you agree with me, sir, that Mr Duncan's
4 decision in that regard was seriously flawed in the
5 circumstances which obtained?

6 A. Given the circumstances as they were, yes.

7

8 Q. Indeed, you might recall that in both Mr Wilson's and
9 Mr Duncan's statutory declarations to this Commissioner,
10 each of them adhered at that point in time to the
11 suggestion that this aspect of the matter, namely, the
12 taking off of the 9-5/8" PCC and its non-reinstallation,
13 involved, in effect, an insignificant matter of timing
14 only; do you recall that?

15 A. Yes. Yes, that there was a change in the scheduling,
16 yes.

17

18 Q. Would you agree with me, sir, that their evidence in
19 that respect was quite extraordinary, because on no
20 reasonable appraisal of the situation could either of them
21 have properly formed the view that what was under
22 consideration was a mere insignificant matter of timing or
23 a change in sequence?

24 A. I don't believe they gave it the due consideration it
25 required, no.

26

27 Q. And they couldn't possibly have arrived at the view
28 they did if they had given it reasonable consideration?

29 A. I don't know what the outcome of that would have been,
30 but if they'd carried out a reasonable risk assessment,
31 then - I'm not sure what the answer would have been. It's
32 unlikely, but I don't know for sure.

33

34 Q. So far as you're aware, a proper risk assessment would
35 have entailed a decision to reinstall the 9-5/8" PCC at the
36 earliest practicable opportunity; that's right, isn't it?

37 A. I would have expected that, yes.

38

39 Q. There can be no sensible justification for doing
40 otherwise, can there?

41 A. Not that I'm aware of at the moment.

42

43 Q. Do you recall the evidence that to reinstall the
44 9-5/8" PCC would have occupied as little as 15 minutes,
45 perhaps half an hour?

46 A. With the derrick over the well, yes.

47

1 Q. Yes, which it was.

2 A. Yes.

3

4 Q. So does it seem extraordinary to you, looking back on
5 the events which occurred on 20 August, that the 9-5/8" PCC
6 was left off the H1 well?

7 A. Yes.

8

9 Q. And do you recall that one explanation offered by
10 Mr Duncan was to the effect that he didn't want to, as it
11 were, trespass upon the roles or responsibilities of other
12 people on the rig at the time?

13 A. Yes.

14

15 Q. You would agree, would you not, sir, that that is
16 a completely inadequate explanation for the decision
17 arrived at by him on that day?

18 A. I agree, given the circumstances, that it was
19 inadequate. I can understand what his thought process was.
20 I don't agree with the outcome.

21

22 Q. Indeed, I think in your statutory declaration, you
23 note that one of the very reasons for Mr Duncan's presence
24 on the rig at the time was to basically ensure that people
25 were aware of what they should be doing and doing it
26 properly?

27 A. Yes, he was out there to brief them on the
28 simultaneous operation exercise or parts of the work that
29 were going to be coming up and the various interfaces
30 between the various contracting parties, yes.

31

32 Q. Do you recall the evidence that both Mr O'Shea and
33 Mr Wishart gave in relation to what their response would
34 have been, had Mr Duncan directed the reinstallation of the
35 9-5/8" PCC?

36 A. I don't directly recall, but I would imagine it was
37 that they would have done it.

38

39 Q. Yes. Do you recall Mr Wishart, in particular,
40 responded with words to the effect, "In a heartbeat", or
41 "in the bat of an eye" or something like that?

42 A. No, but it wouldn't surprise me.

43

44 Q. Why wouldn't it surprise you?

45 A. Just the character of the individual.

46

47 Q. When did you learn for the first time that Mr Duncan

1 made a positive decision not to insist upon the
2 reinstallation of the 9-5/8" PCC?

3 A. Probably during his evidence.

4
5 Q. Yet, he was available to speak to you at any time
6 since 21 August --

7 A. Yes.

8
9 Q. -- to enable you to inform yourself about that?

10 A. Yes.

11
12 Q. It's pretty significant, isn't it, that the person
13 supervising PTT's own well construction manager took
14 a positive decision on 20 August to leave off a secondary
15 barrier in circumstances where, within a day, there was
16 a blowout of the well?

17 A. Yes.

18
19 Q. So I take it that listening to Mr Duncan's evidence
20 did substantially add to your understanding of the events
21 surrounding the blowout in the respect we've just been
22 talking about?

23 A. In respect of that there had been a positive decision
24 made not to reinstall it, yes.

25
26 Q. What about your own understanding as to the
27 significance, if any, of the status of the casing fluid -
28 can you tell the Commissioner, please, what your
29 understanding was when you first learned of the blowout and
30 how that understanding might have changed in the period
31 since then, right up to the present time?

32 A. In the very early days, it probably wasn't an item of
33 particular interest to me, other than that I was being told
34 at the time that the expectation - or the personnel
35 believed that they had an overbalance situation with that
36 fluid. They also at that time believed that they had
37 a good shoe, at that point in time, in August.

38
39 Subsequent to that, I think in one of our responses
40 to, I believe, the Seadrill report, there was a statement
41 regarding verification of that, and I remember querying
42 that and being told that the well construction group had
43 re-done calculations to satisfy themselves that it was an
44 overbalance situation.

45
46 There still remains the obvious conclusion that at the
47 time of the blowout occurring it wasn't underbalanced -

1 sorry, it wasn't overbalanced; it was underbalanced, and
2 there's still a discrepancy there, in my mind, as to what
3 happened to change that scenario.
4

5 The physical evidence - and in no way am I meaning
6 that it would be a definitive verification, but the
7 physical evidence that appeared to be at the time of the
8 removal of the 9-5/8" was that, at that point, it would
9 appear that there was still an overbalance situation, and
10 something had changed.
11

12 Now, there's a lot of physics, there's a lot of
13 variables in that statement. I'm not making a definitive
14 statement, but something has occurred to change that
15 scenario, and that's yet still undetermined as far as I'm
16 concerned, in my mind, anyway.
17

18 Q. The query that you raised that resulted in what you
19 described as recalculations, which established an
20 overbalance --

21 A. Yes.
22

23 Q. -- did those recalculations, so far as you are aware,
24 establish that there was an overbalance with any particular
25 margin?

26 A. I can't recall a figure. The description was more
27 that it was overbalanced, but certainly it wasn't inferred
28 that it had a margin of 100 psi or 143 that's listed in
29 part of the well construction standard. It was just - the
30 comment was that it was overbalanced; they'd confirmed that
31 it was overbalanced.
32

33 Q. I suggest, sir, that at no stage have you seen any
34 calculations to the effect that at any time the casing
35 fluid in the H1 well was overbalanced to formation by
36 a margin of 143 psi.

37 A. Yes, correct.
38

39 Q. Do you think, sir, that there might have been a level
40 of shared misconception on the part of various people on
41 the rig to the effect that somehow the casing fluid could
42 be relied upon as a barrier?

43 A. I believe it was probably a subconscious consideration
44 that was there. There was no physical evidence of the well
45 flowing, and therefore a degree of comfort was gained from
46 that, yes.
47

1 Q. Indeed, I think you will recall Mr Duncan's evidence
2 to the effect that one of the matters to which he had
3 regard in deciding not to insist upon a reinstallation of
4 the 9-5/8" PCC was his view that the casing fluid did
5 constitute a pressured barrier?
6 A. I'm not sure I was here then, but that wouldn't
7 surprise me.
8
9 Q. You will agree, sir, that in fact the casing fluid
10 could at no stage be properly regarded by anyone as a good,
11 bad or indifferent barrier against a blowout?
12 A. It didn't meet the criteria in the well construction
13 standards, no.
14
15 Q. Indeed, it failed to meet each and every criterion
16 specified in those standards, didn't it?
17 A. In fact, yes, on the basis it wasn't being monitored
18 continuously.
19
20 Q. Or maintained?
21 A. Well, yes, maintained would have - well, yes.
22
23 Q. With no sampling or testing for specific gravity?
24 A. That's what I meant by "monitoring".
25
26 Q. And no connection to the fluid circulation system?
27 A. There was none at that point. I'm not sure that - I'd
28 still need to make further inquiries as to whether that's
29 the only way in which a fluid could be maintained and
30 monitored, but on the basis of what people have said so
31 far, yes.
32
33 Q. That seems to be the case, doesn't it?
34 A. On the evidence that has been given here, that seems
35 to be the case, yes.
36
37 Q. This casing fluid had been inserted on 7 March and, in
38 effect, remained in place until the blowout on 21 August.
39 A. Correct.
40
41 Q. A period of nearly six months.
42 A. Correct.
43
44 Q. And you'll agree that, in the circumstances, to the
45 extent that anyone did rely upon that fluid as a pressured
46 barrier in that period of time, they succumbed to a serious
47 error?

1 A. I don't know that anybody said they relied upon it
2 during that period of time. I thought we were talking
3 about the point at which the 9-5/8" was taken off.
4

5 Q. Yes, I'm talking about any time in the period from
6 7 March to 21 August.

7 A. It didn't meet the criteria in the well construction
8 standards, no.
9

10 Q. And it failed each and every criterion, on every day,
11 in the period from 7 March to 21 August?

12 A. Yes, it wasn't being monitored at that time, no.
13

14 Q. Indeed, the very length of time is significant, isn't
15 it, given the absence of any monitoring and maintenance?

16 A. I'm not sure.
17

18 Q. Over a period of six months, there's much more
19 opportunity for things to occur that might modify the
20 specific gravity of the casing fluid than if we were just
21 talking about a couple of hours?

22 A. Yes, but with there being inhibited seawater, there's
23 little that's going to modify it, but yes.
24

25 Q. Well, you might have a leak from formation of gas or
26 other hydrocarbons, over a period of time, at a reasonably
27 slow but constant level, which might occur; that's right,
28 isn't it?

29 A. Yes.
30

31 Q. Indeed, one can reasonably suppose that's exactly what
32 did happen in respect of the H1 well; do you agree?

33 A. No, no - well, that's the point at which
34 unfortunately, being an engineer, I start to have problems
35 with that, because if there had been an ongoing migration,
36 then when the cap was removed - and ignoring the pressure
37 evidence of whether or not you could have measured whatever
38 degree of psi - if a well was flowing, even 1 psi, there
39 would be liquid movement. You would also anticipate,
40 potentially, that you would have oil on the surface. None
41 of those indicators were there, which, just from a pure,
42 physical engineering perspective, is a confusion to me as
43 to what exactly was going on.
44

45 But I can accept that there may have been - well,
46 sorry, it's hard for me to accept that there may have been
47 that, because the evidence at the time of the 9-5/8" being

1 removed doesn't seem to confirm that. But something was
2 happening, or something happened, and I don't know at what
3 particular time it occurred.
4

5 Q. On your analysis, you simply have no explanation for
6 the fact of the blowout; is that right?

7 A. I think Mr Duncan probably - I wasn't here in his last
8 part. I think he was asked whether he had any concepts,
9 and I think one of them was regarding the horizontal
10 section and the fact that there appears to be a slight rise
11 in that, which could have contained some form of
12 hydrocarbon. If that was allowed to migrate up the
13 horizontal section, which actually had an inclination on
14 it, moving up, that could have resulted in, once it met the
15 vertical section, an imbalance and an underbalance going
16 on, and that, from an engineering perspective, makes some
17 sense to me. So I can understand that sort of concept.
18

19 But, in my mind, that would have occurred in August
20 rather than have been going on, because, again, if it was
21 underbalanced, my understanding is - and, again, I would
22 need to talk to more people, but my understanding is - that
23 you would have expected to have seen something when the
24 9-5/8" was taken off, so that, to me, is a plausible
25 description of what could have happened.
26

27 Q. Really, sir, do you have any sufficient expertise to
28 express a view as to the period of time when you would
29 expect to see some observable signs of flow?

30 A. No. I'd need to have some modelling work done.
31

32 Q. And you heard evidence that, at best, there were only
33 some observations made at the top of the casing fluid, on
34 and off, for a period of half an hour or so?

35 A. I believe that was the case, yes.
36

37 Q. Well, what enables you to say that, within the space
38 of half an hour only, given the casual, ad hoc nature of
39 the observations, some physical signs of a flow should have
40 been detected?

41 A. Because I was referring to your thesis that it had
42 been occurring for five months. If it had been occurring
43 for five months, then I would have expected that you would
44 have seen something at the removal of the 9-5/8". If it
45 occurred in August, then, yes, I agree, monitoring it for
46 15 or 20 minutes was totally inadequate.
47

1 Q. Sir, do you recall having a view at some stage that
2 the casing fluid was in fact a tested or verified barrier?
3 A. I don't believe a tested or verified barrier, but it
4 was physically there.

5
6 Q. I want to suggest to you - and we'll go to it in due
7 course - on several occasions throughout your interview
8 with NOPSA, you asserted that your understanding was that
9 the casing fluid was a verified or proven barrier?

10 A. If I did, I was incorrect, then.

11
12 Q. I assume, when you asserted that to NOPSA, you were
13 doing your best to be accurate and truthful?

14 A. I hope I was, yes.

15
16 Q. So that assertion would have reflected your then state
17 of mind?

18 A. Yes, I'd have to look at the questions that were being
19 asked at the time, but, yes, I would imagine so, yes.

20
21 Q. We'll go to it in due course. But on the assumption
22 that I am correct about your interview with NOPSA, will you
23 agree that, in the course of your listening to the evidence
24 in these proceedings, you have substantially revised your
25 position as to the status of the casing fluid?

26 A. I've revised - on the basis that that was my
27 understanding at the time, I'd revised it prior to the
28 Commission, because I'd gone through the well construction
29 standards in more detail prior to coming here.

30
31 Q. Do you recall confusion or consternation being
32 expressed by PTT personnel who were on the rig at the time
33 as to how on earth this blowout could have occurred, given
34 that the casing fluid had a kill weight?

35 A. You mean outside of the Commission?

36
37 Q. Yes. I mean even going back, for instance, close to
38 the point in time of the blowout.

39 A. I think the - consternation. There was an
40 understanding that - the belief at the time was that they
41 had a good shoe and that there was fluid in there. After
42 the blowout, yes, one of the questions was, well, even if
43 the shoe was compromised, you know, if the fluid was
44 overbalanced, then why did this happen? And obviously the
45 conclusion was, well, the fluid obviously wasn't
46 overbalanced at the time of the blowout. But at that time,
47 probably not a lot more discussion, because we were

1 actually trying to deal with the blowout rather than
2 understanding that, so just with all being engineers and
3 physically recognising that it couldn't have physically
4 been overbalanced at that point in time, it was not
5 a relevant factor to go on to at that time. We were
6 dealing with the blowout.

7
8 Q. Sir, I suggest that one possibility which raises
9 itself for serious consideration in this Inquiry is that
10 a number of those involved did proceed on the mistaken
11 supposition that the casing fluid could properly be relied
12 upon as a barrier.

13 A. I can't speak for other people, but I can understand
14 that - I believe it influenced them. Whether they
15 considered it to be a properly verified barrier I don't
16 know, but I can understand that the presence of it was
17 a factor.

18
19 Q. In light of that, do you think there should have been
20 some better or more expansive treatment of the topic of
21 casing fluid as a barrier in the well construction
22 standards?

23 A. Yes, on reading the well construction standards,
24 there's more clarity that can be given to how such a fluid
25 could be a barrier and in what circumstances it could be or
26 would be allowable to be a barrier and be more specific
27 with regard to the sort of monitoring and maintaining, as
28 to what exactly that meant.

29
30 Q. Do you not think that there is a place for
31 distinguishing between mere inhibited seawater as a casing
32 fluid, on the one hand, which should never be relied upon
33 as a barrier, and completion fluids and drilling fluids
34 which can have the kill weight or specific gravity
35 adjusted, as required, on the other hand?

36 A. There certainly should be clarity amongst what type of
37 fluids should be considered. My understanding is, for
38 example, with mud, there are issues around that, in that
39 you can get the weighted particles dropping out of the
40 solution and therefore actually bringing about an
41 underbalance scenario, which you don't get with seawater or
42 brine.

43
44 Seawater being used for a normally or overpressured
45 reservoir doesn't make any sense. Seawater being used for
46 an underpressured reservoir - I don't know. I'd talk to
47 people in the industry about that. But from a physical

1 point of view, if it had sufficient margin, then I don't
2 know that it wouldn't be a reasonable fluid to use in that
3 particular circumstance.

4

5 That's where I think it needs to be assessed case by
6 case as to what is the appropriate fluid, and there should
7 be guidance to that effect.

8

9 Q. One sensible stipulation, I suggest, might be this:
10 if you have a normally pressured reservoir with an assessed
11 specific gravity of 1.04, you should never rely on
12 inhibited seawater with a specific gravity of around 1.03
13 as a barrier?

14 A. That's what I said just now.

15

16 Q. So that could have been sensibly stipulated in the
17 well construction standards?

18 A. Yes. As I said, the clarification around the fluids
19 and their use and the monitoring of them, certainly.

20

21 Q. Indeed, the well construction standards don't even
22 expressly require a margin for safety in respect of
23 inhibited seawater as a fluid, do they? That's
24 a requirement stipulated in respect of completion fluids
25 and drilling mud and the like.

26 A. Yes, I'd have to look at the document. I understand
27 your point. The temporary suspension portion I think just
28 refers to an overbalanced situation. I don't think it
29 specifies seawater. But the point is valid.

30

31 Q. Sir, what about the audits that were carried out
32 between the date of the cementing of the casing shoe on
33 7 March and the date of the blowout on 21 August last
34 year - you give details of those, I think, in your
35 statutory declaration; is that right?

36 A. Yes, I think I was asked to.

37

38 Q. It seems as though quite a large number of so-called
39 audits were undertaken; is that right?

40 A. There were a number of the audits undertaken on the
41 rig, yes.

42

43 Q. Did any of them direct attention at all to well
44 control?

45 A. Not that I'm aware of, and I think there's already
46 evidence to that effect.

47

1 Q. Would you agree, sir, that it would have been prudent
2 and sensible to have audited before 21 August the nature
3 and extent of adherence to PTT's well construction
4 standards and ordinary oilfield practice so far as barriers
5 are concerned?

6 A. Yes, and I understand there was an audit planned, but
7 after August.
8

9 Q. With respect, when you got all of your barriers in
10 place and suspended all of the wells in March and April, to
11 leave it till August to revisit how well that was done is
12 leaving it rather too long; don't you agree?

13 A. On the basis of what happened, yes. But if you had
14 had a more robust system in place in March that had ensured
15 the appropriate checks - and we've discussed
16 counter-signatories - were done, then I'm not so sure you
17 would necessarily revisit it at that time.
18

19 Q. At least having regard to the absence of those sorts
20 of rigorous certification protocols, will you agree that
21 leaving an audit of adherence to well control standards for
22 a period of five to six months after suspension is simply
23 too long?

24 A. Based on the inadequacy of the work in March, yes.
25

26 Q. With respect, the very purpose of an audit is to check
27 whether or not a good or bad job has been done, and you
28 don't need to know that a bad job has been done in order to
29 understand the need for timely audits within a shorter
30 period of time than six months, I suggest?

31 A. I agree, but one of the issues with audits is you're
32 talking about a system audit. I haven't formed an opinion
33 as to whether, after every suspension that's carried out,
34 you would - when I say, "I haven't formed", I mean
35 I haven't discussed with other people whether it would be
36 appropriate, after every suspension has been carried out,
37 for a period of time later, let's say two months, to have
38 a verification, if you like, of that work. It's an idea.
39

40 The audit that was being referred to was more of
41 a systems, process systems audit to ensure that the well
42 construction standards were being followed, and it would
43 have gone into what was actually done. But there's
44 a different concept, I think, about a further verification
45 of suspension that could be looked at.
46

47 Q. What about factoring in to your assessment of the

1 advisability of audits a couple of factors which were known
2 around March/April last year - firstly, the fact that in
3 the H1 well, the cementing of the casing shoe at a very
4 considerable depth and at a point whereby the casing had
5 tracked for a considerable period of time in a horizontal
6 position whilst located in the reservoir had apparently
7 resulted in a failure of floats? Just dealing with that
8 one factor, that is a happenchance which everyone who has
9 given evidence has said they had never encountered before.
10 A. Yes, and you would like to think it would have
11 generated a review after the events.
12
13 Q. In a timely fashion?
14 A. Yes, I agree.
15
16 Q. Secondly, on another well, the plugs apparently didn't
17 bump, although the floats apparently held, so on one of the
18 five wells we have the plugs apparently bumping and then
19 debumping, and then on another well we have the plugs not
20 bumping - two out of five. Now, do you agree that that
21 might also be an orange light or a signpost for the
22 carrying out of an appropriate review or audit?
23 A. Yes.
24
25 Q. Then we have, do we not, bubbles detected in the GI
26 well?
27 A. Yes, I believe so.
28
29 Q. Indeed, bubbles, suggesting that the cause was a flow
30 of hydrocarbons rather than microbial activity, or
31 whatever?
32 A. No, I'm not aware of that. I thought it was
33 determined to be decomposition of the mud.
34
35 Q. You know, don't you, from seeing Mr Ross's documents
36 that he rather thought that the GI well was flowing
37 hydrocarbons?
38 A. From what was shown in the Commission.
39
40 Q. Yes. Do you recall that?
41 A. Yes, I understand that now.
42
43 Q. That is a pretty obvious orange light or signpost for
44 the carrying out of some considered review or audit; would
45 you agree?
46 A. Certainly the three of them taken together, yes.
47

1 Q. The three of them taken together mount, do they not,
2 an absolutely incontrovertible case for PTT pausing, in
3 a timely fashion, and carrying out a considered review as
4 to what had actually taken place out on Montara with
5 respect to well control?

6 A. Yes, you would like to think so.

7

8 Q. The final topic, and I think we're up to number 13,
9 sir, in relation to issues canvassed in the course of these
10 proceedings that might have added to your understanding of
11 the position, concerns the topic of deficiencies in
12 expertise.

13 A. Okay.

14

15 Q. Do you have any inkling at all as to what I might be
16 adverting to?

17 A. I have my views. I'm not sure what you're referring
18 to, but I have my opinions regarding the competency of some
19 of the personnel that were involved and their understanding
20 of what should have been done and what was required to be
21 done. Yes, if those are along the same lines, then yes.

22

23 Q. I think we are heading in the same direction, but as
24 unsavoury as it might be, sir, I want you to actually
25 particularise what it is that you have in mind in giving
26 that answer?

27 A. Okay. Mr Treasure did not come across to me as
28 a person in which I would have a great deal of confidence
29 in the future. I'm not sure - I think with Mr Treasure
30 there's some allowance for his nervousness during the
31 Commission, but I think it was - well, I'll rephrase it.
32 It was clear to me that he wasn't confident in the
33 decisions that he should have been making at the time, and
34 that obviously would be of concern to myself.

35

36 The discrepancy, I think, on the discussion about the
37 whiteboard between Mr Wishart's comments about the purpose
38 of it and then I think Mr O'Shea indicated that he didn't
39 use it for that purpose - that was not so much a competence
40 issue, but if one person had put it in place for a purpose,
41 the fact that other people on the rig weren't using it for
42 that purpose was a bit disconcerting to understand.

43

44 Then, as we've been through with Mr Wilson and
45 Mr Duncan not being thorough enough on checking the
46 relevant information that they had, which would have
47 alerted them to the incidents is of concern.

1
2 Q. Could we deal, firstly, with Mr Treasure. You will
3 have heard evidence that he made available to Mr Duncan his
4 NOPSA transcript of interview?
5 A. Yes, that's correct.
6
7 Q. Did you happen to read that?
8 A. No.
9
10 Q. It is a document which warrants some close reading,
11 sir, for this reason: it seems apparent from reading
12 Mr Treasure's answers that he pumped back the whole of the
13 16.5 barrels, and not one whit more, because he didn't want
14 a wet shoe.
15 A. I gathered that from his evidence here. As I say,
16 I haven't read the NOPSA transcript, but I understood that
17 was part of his thought process at the time. In fact,
18 I think he indicated half a barrel less than that.
19
20 Q. Yes.
21 A. Yes.
22
23 Q. So that betrays, does it not, an absolutely profound
24 misunderstanding of what's required to properly cement
25 a casing shoe?
26 A. With regard to not pumping back but just holding,
27 waiting on cement - is that what you mean?
28
29 Q. With regard to pumping back the whole of the
30 16.5 barrels, which consisted of an amount which had come
31 beneath the float collar and the casing fluid?
32 A. Yes, again, I'm just saying from my perspective,
33 I could understand, hearing the evidence, that there was
34 the potential at the time for a misunderstanding with
35 regard to what that 16.5 barrels actually represented at
36 the immediate time. However, the report should have made
37 it perfectly obvious what it was, and that was only within
38 a day, so it should have been caught at that point, but --
39
40 Q. A report which he got from Mr Wishart, and it was his
41 responsibility to, in effect, clear and send off to
42 Mr Wilson; do you remember that?
43 A. Yes, that's correct, yes.
44
45 Q. Then there's his own cementing report --
46 A. Yes.
47

1 Q. -- which is misdated 6 March --
2 A. Yes.
3
4 Q. -- which apparently did not ring a single alarm bell?
5 A. Apparently not, no, so --
6
7 Q. So it really speaks of pretty profound
8 misunderstanding, doesn't it?
9 A. It does, and that's why, going forward, looking at
10 a cementing form that clearly identifies all the
11 requirements and picks up all of these separate elements so
12 that it's obvious to the innocent person that one plus one
13 equals five is not the right answer.
14
15 Q. I take your point, with respect, sir, about the
16 situation which appears to have obtained between Mr Wishart
17 and Mr O'Shea. It rather speaks not so much to their
18 expertise but to the very inherent shortcomings of the use
19 of a whiteboard?
20 A. Yes, having been around and offshore for many years,
21 I can understand the virtue of the whiteboard for routine
22 information gathering. But in terms of a barrier or
23 something, then, yes, something far more robust needs to be
24 in place.
25
26 Q. Then, really, when we come to Mr Wilson and Mr Duncan,
27 the sorry state of affairs appears to be that they gave
28 insufficient attention to information which should have
29 alerted them to ongoing problems; that's right, isn't it?
30 A. Yes.
31
32 Q. They made assumptions not supportable by reference to
33 the information before them?
34 A. Correct.
35
36 Q. And Mr Wilson appears to have had a mistaken
37 understanding as to the nature of the procedure that had
38 been taken following the failure of the floats?
39 A. Yes, in the regard that he didn't understand it had
40 been pumped back - is that what you're referring to?
41
42 Q. No.
43 A. Okay, sorry.
44
45 Q. He thought that there was somehow a proper inflow test
46 which had been carried out --
47 A. Yes.

1
2 Q. -- which verified the floats?
3 A. Correct, yes.
4
5 Q. You might recall that Mr Gouldin, in the early days of
6 these public hearings, said, "Well, I know that's what's
7 written there, but when you look at what was actually done,
8 to apply that interpretation is wrong." Do you recall that
9 evidence?
10 A. Yes.
11
12 Q. And Mr Duncan, in effect, said, "Look, what was done,
13 namely, holding pressure and wait on cement for three hours
14 and then bleed off, doesn't test the floats and it doesn't
15 test the cement." Do you recall that?
16 A. Yes.
17
18 Q. But somehow Mr Wilson thought that that was a good and
19 sufficient test. Now, that speaks of some fundamental
20 misunderstanding on his part as well, doesn't it?
21 A. Sorry, I'm just trying to remember what his concept
22 was. He believed --
23
24 Q. That an inflow test had been carried out?
25 A. Yes, sorry, he changed it from "cement integrity" to
26 "float integrity" on the basis of that, but, yes, in
27 effect, it's not the float integrity, either, so, yes,
28 you're right.
29
30 Q. Now, as I understand it, many of these personnel were
31 really conscripted - and I don't use that pejoratively -
32 within a relatively short space of time in order to
33 basically have an operation up and running out at Montara
34 fairly quickly; is that right?
35 A. I'd have to go back to the records as to when they
36 were engaged, but they were engaged certainly some time
37 prior to the March operations, I believe.
38
39 Q. I think that's right.
40 A. They were there at the beginning of the drilling
41 program, but they certainly weren't PTTEP personnel; they
42 were hired in from various organisations, yes.
43
44 Q. And I think most of them were hired in in the period
45 between mid-2007 and the commencement of the drilling
46 operations. Does that accord with your general
47 recollection?

1 A. That would sound right, yes. That would sound right.

2

3 Q. Do you agree that that very scenario poses some
4 challenge, which wasn't met in this case, to really ensure
5 that you have personnel in place with sufficient expertise
6 to do what's required of them?

7 A. It causes a challenge, yes. It's unfortunately also
8 one of the parameters of the industry, in particular the
9 well construction industry, that a lot of people work on
10 that basis. It's an area that, myself, I don't like, and
11 I've always had the preference for in-house personnel, on
12 the basis of retention of information and quality, or known
13 quality, if you like.

14

15 In saying that, that's one of the reasons why, for
16 example, the completions engineer that has been discussed
17 was hired in-house, because the ongoing role for him would
18 be in supporting the production operations, which I'm
19 responsible for, and we certainly wanted to have that
20 knowledge and skill set in-house, not having to hire it in,
21 on that basis.

22

23 It's something that's inherent in the industry, I'm
24 afraid, and not just on the titleholders; it goes for a lot
25 of the contracting parties as well. They're not always
26 their staff. They're hired through another party as well.
27 So that in itself presents challenges to the induction, the
28 monitoring of quality, et cetera, going through, yes, very
29 much.

30

31 Q. Because I suggest to you that what you have just
32 described speaks of a need, post recruitment, to actually
33 properly audit the skill set of your personnel; do you
34 agree with that? You might be satisfied they're the best
35 candidate, but if you're going to take them on, you really
36 need to analyse what their strengths and weaknesses are?

37 A. Yes, certainly better - whether it's done afterwards
38 or whether it's done as part of the selection. That is
39 probably better done as part of the selection; you don't
40 want to hire somebody and then find that they don't have
41 what you're really looking for at the end of the day, and
42 I think we identified that in - I think that was in the
43 NOPSAs report, that the recruitment selection was one of the
44 areas that we would have to take a harder look at, how that
45 was being done.

46

47 Q. Although post recruitment, if you identify

1 a deficiency, you won't necessarily have to sack the
2 person; you might just deal with it by way of additional
3 training and the like?

4 A. Depending on what you're looking at, yes, so as long
5 as, if you like, your pre-employment screening is
6 sufficient that you're not going to find any clangers,
7 then, yes, you can deal with it with additional training.
8 And, again, I think we identified for the supervisors some
9 additional training that would have come out, that we've
10 identified as preferable, irrespective of what their
11 background is.

12
13 Q. I think in your statutory declaration, you refer to
14 some standing requirement that you have for personnel
15 engaged at particular levels to possess a certificate in
16 relation to offshore petroleum activities; is that right?

17 A. I'd have to check that. I know the well construction
18 standard requires, obviously, the certification that's
19 listed in there, and I think it was one of our
20 recommendations that we would, in addition, do safety
21 supervisor training, and I'd have to check my response on
22 the other one. There was a third one in there. I think we
23 may have identified well control, but I'd have to just
24 check the document.

25
26 Q. That's what I am leading to, sir. Are you aware of
27 any relevant course of study that's available from any
28 institution directed specifically to the topic of
29 management of well control?

30 A. I'm personally not, but I would be surprised if there
31 isn't, and it's certainly one of the things we will be
32 undertaking a review of - to ascertain where that is and
33 how that can be brought into the system. But personally
34 I'm not aware at this stage, no.

35
36 Q. You would agree with me, sir, that if such a refresher
37 course had been a requirement for at least half a dozen of
38 the PTT-related personnel who gave evidence in these
39 proceedings, it may very well have influenced a different
40 approach on their part, which might have led to a different
41 outcome?

42 A. Yes, absolutely, and that's why we included it.

43
44 Q. There was quite a lot of evidence presented to the
45 Commissioner to the effect that it's not uncommon for
46 floats to fail; do you recall that evidence?

47 A. I didn't get the impression that it was uncommon.

1 It's something that happens - sorry, when you say
2 "uncommon" --

3

4 Q. I said not uncommon, sorry.

5 A. Sorry.

6

7 Q. I'm not talking about the particular circumstances in
8 which the floats failed here, namely, with a deeply drilled
9 well tracking horizontally for a long period of time and
10 located in a reservoir, but the Commissioner heard evidence
11 to the effect that in other circumstances floats do fail.

12 A. Floats fail, yes. That's my understanding, yes.

13

14 Q. So it is a predictable phenomenon?

15 A. It's a phenomenon that there should be a contingency
16 for, yes.

17

18 Q. I think you've already agreed, at the very least, the
19 contingency should be the subject of treatment in
20 a drilling program?

21 A. Yes.

22

23 Q. But more generally, I want to suggest to you that
24 dealing with that situation really should almost be within
25 the fingertip resources of people who are going to be
26 involved in the procedure?

27 A. Yes, and that should be either via the induction
28 process, which should take them through the well
29 construction standards, which, as we've already said,
30 should probably be included in that program, and/or via
31 some additional course. But at this stage I haven't had
32 a chance to talk to local providers to understand what they
33 could offer and what they would cover.

34

35 Q. Indeed, it is the case now that very often
36 universities are responsive to industry requests for the
37 provision of training?

38 A. Yes, universities. There's also a number of providers
39 of training courses, in particular - well, not "in
40 particular", but in the oil and gas industry that are not
41 necessarily universities. So if you were talking about
42 a two-day or three-day refresher course in well control,
43 I wouldn't expect that to be a university-based course. It
44 would be one of the other service-providers that are
45 around.

46

47 Q. Yes. What about better instruction and/or guidance

1 given to your personnel to pursue as a sensible possibility
2 engagement with the regulator for advice and assistance
3 when problems arise? Do you think there's a place for
4 that?

5 A. Yes, I mean - yes, I can see the point. The reason
6 why I was hesitating is my opinion of our relationship with
7 the regulator was that there's not a barrier there to
8 that - excuse the pun; it's a bad phrase. There's no
9 impediment to us talking to the regulator about a problem.
10 So I can agree with it, but I only hesitated because
11 I don't believe there's an impediment there at the moment.
12

13 Q. No.

14 A. But to clarify, then, that's certainly - the more you
15 can clarify, the better things will be, so, yes, from that
16 perspective.
17

18 Q. Because it's one thing, as it were, to have a line of
19 communication which is open to be pursued, and it's another
20 thing altogether to positively encourage staff to actually
21 pursue the communication.

22 A. Yes. As I said, that's really why I hesitated. My
23 opinion is - I mean, I'd personally have no hesitation
24 calling the regulator. That's why I was trying to think of
25 other people in the organisation. Yes, they may be more
26 reluctant, only from the perspective of - I'm wary of your
27 colleagues here representing the regulator. The image of
28 the regulator varies within all organisations. I have
29 a very open relationship with the regulators, and I'd have
30 no hesitation talking to them about any issues. Other
31 parts of the organisation and lower down - they probably
32 see them more as controlling rather than a partnership, if
33 you like, sort of thing.
34

35 So from that point of view, I would understand, but
36 I would also not particularly want everybody being able to
37 ring the regulator up, because obviously, at the end of the
38 day, we have to have a formal relationship, and we have to
39 ensure the information that we are taking to them is
40 relevant, and we don't want to be going to ask them every
41 time there's a problem. But if there's something of
42 concern, then, yes, I think it's a good - it would be
43 a reasonable way to go about it. As I say, I would like to
44 have thought that we already had that relationship in
45 place, that we would go and talk to them.
46

47 In fact, with regard to NOPSA on things, we do on

1 several occasions go and have a chat with them about ideas
2 we have prior to any formal submissions being made, for
3 exactly that purpose - to just sound out with them.
4

5 The regulators have a role and they have to have
6 processes in order to fulfil that role. So it may not
7 always be easy for them to provide that advice, because
8 they are the regulator, at the end of the day, and they
9 have to make regulatory decisions and statements, and this
10 is - again, I'm not referring to NT here, but with regard
11 to NOPSA, there has been a reluctance to engage with
12 operators too early in a process, in order to allow NOPSA
13 to maintain its independence, if you like.
14

15 Now, I can understand it from the regulator's point of
16 view, but it's also a frustration from the operator's point
17 of view, wanting to, if you like, bounce ideas or concepts
18 off people. So there's something - I won't say a problem;
19 there's an issue there that I feel can be addressed without
20 invalidating the regulator's role. Sorry, that's
21 a long-winded answer.
22

23 Q. I accept that you would want to stop short of
24 inveigling the regulator into some sort of micro management
25 of the operator's activities on the rig; I accept that
26 proposition. But, as I understand it, you would accept
27 that there is really some greater capacity than was evident
28 on the part of PTT personnel in this case to engage with
29 the regulator and ask, "Well, this has happened. Would you
30 be happy or content if we responded in this way?"

31 A. Yes, if they had recognised the issue at the time.
32 I agree with you, if they had recognised the issue, then
33 I would have expected that to have been part of the process
34 of resolving it, as to, "This is what we are going to do
35 about it, and are we agreeable?" But I think it's
36 important to remember, at the time, whether right or wrong,
37 they weren't consciously aware of the issues.
38

39 Q. Well, they were aware of some issues, for instance, on
40 20 August, such as --

41 A. Oh, sorry, in August, yes.
42

43 Q. -- the fact that the 13-3/8" hadn't been installed?

44 A. Sorry, my apologies, I was referring prior to August.
45

46 Q. To 7 March?

47 A. Yes, in August, yes, that would have been a good time

1 to have a discussion.

2

3 Q. I mean, if you can send an email to the regulator late
4 on a Friday afternoon asking for approval to substitute
5 PCCs for cement plugs, there seems no good reason why, on
6 20 August, you wouldn't make contact with the regulator and
7 say, "We've just discovered, contrary to your approval,
8 that no 13-3/8" PCC is in place, and we think we need to
9 take off the 9-5/8" PCC in order to clean the threads.
10 What do you think?"

11 A. Yes, I agree.

12

13 Q. Had that approach been made, the likelihood is that,
14 at the very least, the regulator would have said, "Well,
15 how long are you going to have it off for, and put it back
16 on as soon as you possibly can".

17 A. Yes, I'm quite sure there would have been a series of
18 questions to be answered.

19

20 Q. Yes.

21 A. And those, hopefully, would have prompted the
22 discovery of the issues.

23

24 Q. And the taking of a different course of action which
25 might have prevented the blowout?

26 A. Absolutely. There's no doubt in my mind that if
27 people were aware, they would not have done what they did.

28

29 THE COMMISSIONER: Mr Howe, may I ask a more general
30 question than the specific ones that you're following.

31

32 Q. Over the course of this Inquiry, the Commission has
33 received considerable material from other petroleum
34 companies and other regulators. That hasn't come out in
35 this Inquiry, because a lot of that information has been
36 provided on a commercial-in-confidence basis. But the
37 obvious situation pertains that the practice between
38 designated authorities, because they're separate
39 jurisdictions --

40 A. Yes.

41

42 Q. -- and as I've seen in RET's submission to us, they
43 don't provide detailed guidance; they've allowed regulators
44 to go their own way up until a point - is that you get
45 different approaches from the regulators, and you get
46 vastly different approaches from companies in terms of how
47 they deal with regulators.

1 A. Yes.

2

3 Q. For example, I've seen other companies' proposals that
4 they've put to regulators in terms of well suspension or
5 change in the specifications of a secondary barrier, you
6 know, movement from a cement plug to a packer, or something
7 like that, which contain very detailed risk assessments and
8 a lot of information on which the regulator can take an
9 informed decision.

10 A. Yes.

11

12 Q. I am looking at those things to try to get a feel for
13 what industry practice is.

14 A. I would imagine you're having a lot of fun trying to
15 find that out.

16

17 Q. No, no. I've been pleasantly surprised about material
18 that has been provided to me.

19

20 My point is a more general one. You're operating on
21 your procedures in terms of what you think is sound
22 practice, other companies are operating on their procedures
23 as to what they think is sound practice, and no-one sees
24 what the others are doing other than, I guess, the DAs in
25 different capacities and myself over the course of this
26 Inquiry.

27

28 Do you somehow think that there might be a bit of
29 a problem, in that we have - on my assertion - quite
30 a divergence of approaches to common issues.

31 A. What you say doesn't surprise me. At the end of the
32 day, the moderators, if you like, in all of this are the
33 regulators, be it the DAs, be it NOPSA. I know there's
34 a lot of discussion going on at the moment about uniformity
35 of processes, et cetera, and my only comment would be that
36 regulators, be they State-based, be they Federal-based, all
37 contain individuals, and, unfortunately, even within
38 a single organisation with common processes such as NOPSA,
39 you still get variance in the way things are dealt with.

40

41 Now, with regard to oil companies or titleholders, if
42 you like - well, in the case of health and safety, it would
43 be a variety, because it includes drilling contractors, DSV
44 operators, crane barge operators and a variety of contract
45 staff as well - a level of guidance to them as to what is
46 required in these areas is probably the best way in which
47 to normalise the information, if you like. That would be

1 my best concept as to how that can be brought about.

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My comment is that if the regulators did issue guidelines, obviously a common set would be preferable to having to work in different jurisdictions. But that still doesn't mean that the regulator needs to be, necessarily, a single regulator, or whatever. I'm not buying into that discussion.

Q. I understand. You don't need to enter into that discussion.

A. But a common standard of expectation from the companies submitting the information would be very useful indeed.

THE COMMISSIONER: Thank you.

MR HOWE: Q. How much variation is there, in your experience, in terms of expectations of DAs?

A. I don't have a lot of dealings with other DAs. Our properties at the moment are mainly in the Ashmore Cartier region, for which the DA is the NT. We have a little in WA, but they're more exploration areas. I don't tend to get too involved in them.

My understanding, in talking to colleagues in the industry, is that there's - I don't think it's a wide variance. There's a couple of areas, I believe, where there are geographic differences as to how various States approach a particular subject, but the majority, again, will come down to individuals within those authorities and how they perceive things could be done, and that doesn't get resolved by combining, because you still deal with individuals. That gets resolved by having a common standard that has to be met, whoever is reviewing it at the end of the day.

So I think there's value in that area. As I say, I don't particularly want to buy into the Federal/State discussion. That's ongoing, and we'll obviously take into account recommendations from yourself, Commissioner, from my understanding at the moment.

But there are differences. I don't think they are hugely varied, but just being differences themselves obviously makes life interesting for companies that are operating in multiple jurisdictions.

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Q. Multiple jurisdictions can direct attention to the intra-Australian position but also direct attention to Australian offshore petroleum industry practice as against the practice in other countries as well.

A. Okay, yes. My experience overseas goes back a long time now. I've been in Australia for 20-odd years now, so most of my most recent experience is obviously Australian orientated. But in other parts of the world - and, again, when you look at the organisations that operate in Australia, and there are a number of multinational organisations that operate in all parts of the world - my understanding from them is that Australia is certainly seen to be one of the higher standards required. But, again, as I say, it's 20 years since I've operated in other parts of the world and I really wouldn't like to comment on what their regimes are at the moment.

Q. As we understand it, one of the cornerstones of the current system of regulation in Australia or across Australia is the concept of self-regulation, that is, reposing a high measure of trust and responsibility on the part of the licensees and, indeed, rig operators to manage their affairs in a way which is compliant with good standards of practice within the industry.

A. Yes, that's correct, and it's not limited to titleholders and rig operators. Construction barge operators - anybody that has a facility under the definition of the Act. In terms of the health and safety on the well side, it's obviously the management of well regulations that are applicable at this time, so yes.

Q. As I understand it, the system I just described which applies in respect of Australia's offshore petroleum industry can be contrasted with, say, what applies in relation to American petroleum industry participants, where there's a very, very high measure of prescription that applies. Is that your general understanding as well?

A. That's my understanding. The Australian version, for want of a better description, is also adopted in a large part of Europe, the UK, Norway, et cetera, and it has been adopted in Australia as a result of that, yes.

Q. What do you say to the proposition that the bitter experience to be derived from Montara is that self-regulation might have failed as a system?

A. I don't think you can draw a conclusion on the entire

1 system from the one incident. I think there were obviously
2 failings in the implementation of the system by the
3 organisation and its people and its contractors. That has
4 been established. There's no question of that.

5
6 But I think to draw the bow to the entire theory, if
7 you like - I don't think that's valid at this stage.
8 I think whilst this organisation used to be part of
9 a US-based organisation, so I have a little bit of
10 knowledge from those times - not particularly that company,
11 but what was going on - I don't think you'll find that,
12 necessarily, the American system would have stopped this
13 event happening, and there are other events that happen all
14 the time there as well. So I don't have an opinion as to
15 which is the better. I think they both have faults, and
16 I think the Australian one is perfectly valid, as could be
17 the US one, but obviously the implementation, certainly in
18 this case, needs to be improved, without a doubt.

19
20 THE COMMISSIONER: Q. Mr Jacob, I also have had a very
21 close look at the UK and the Norway system, and they don't
22 have quite the same degree of prescription as the American
23 system, but they still have prescription when it comes to
24 matters of well control and the integrity.

25 A. I have come to understand that, yes.

26

27 Q. Whereas we do not have prescription of those matters.

28 A. No. I have come to understand that recently since
29 preparing the submissions, et cetera. That's one of the
30 areas that I mentioned of guidance from regulators. How
31 it's dealt with, whether it's prescription or guidelines -
32 I leave that to other people to decide how that's
33 determined. Certainly, I think there's value.

34

35 Q. At least my impression from the reviews that I have
36 done, amongst the major oil-producing countries, the
37 comparable ones - we're at a different end of the spectrum
38 than they are. I'm not making a judgment about that. It's
39 just the fact.

40 A. As I say, I haven't worked overseas for some 20 years,
41 but I certainly understood that the UK had a little bit
42 more prescription, if you like, in that area. It's
43 interesting to note where we are in that.

44

45 MR HOWE: Q. Is PTT a member of some peak industry body?

46 A. PTTEP in Australia is a member of APPEA, and PTTEP in
47 Thailand is a member of OGP, which is the Oil and Gas

1 Producers.

2

3 Q. What's the role of APPEA, as you understand it?

4 A. APPEA is a forum for interface - one of the roles is
5 a forum for interface between the Government and the
6 industry with regard to policies, decisions that are being
7 made. There are various committees within APPEA which look
8 at certain aspects of the business, and they will discuss,
9 depending on the make-up of the committee, and interchange
10 ideas around the committee as to what companies are doing
11 and share in learnings within the organisation. There's an
12 alert system, which is a safety alert system, which is
13 provided to the committee of any dangerous incidents that
14 have occurred, and the causes behind them, et cetera, so
15 other parties can learn from that. Those are the primary
16 functions.

17

18 Q. Do you know whether APPEA has engaged with the
19 Commonwealth Government or the individual DAs in relation
20 to the issues you discussed about variable practice?

21 A. My understanding is that the Commonwealth Government
22 has engaged with APPEA on the discussions that are going on
23 at the moment with regard to DAs and that. That's my
24 understanding, yes.

25

26 Q. On a completely different topic, sir, can you tell me
27 what PTT's insurance coverage is with respect to the
28 fallout of the flow of the H1 well?

29 A. I can. I would request that this is not published, as
30 it's commercial information. I don't have a problem
31 sharing it with the Commissioner.

32

33 Q. All right. I won't get you to answer the question at
34 this stage, and tell me if sensitivity attaches to any
35 answers to specific questions that I ask.

36 A. Okay.

37

38 Q. Does PTT's level of insurance extend to costs of the
39 clean-up? Is there a difficulty telling me that?

40 A. No. It includes the costs of clean-up, yes.

41

42 Q. What about the costs of sampling and scientific
43 monitoring and the like?

44 A. Yes. We have a third party liability policy, which
45 covers those items.

46

47 Q. And what about the cost of making good any

1 deficiencies in the standards of suspension of the wells?
2 A. The insurance policy in place would react to the
3 incident, being the H1 well, and therefore costs associated
4 with that well would be covered. But other wells would not
5 be covered by that particular activation of that policy.
6
7 Q. Sir, right at the start of your evidence yesterday,
8 you made some reference to the value of information which
9 had come to light from Mr Graham Ross in the course of
10 advice he provided to Atlas. Do you remember that?
11 A. The information that was shown in the Commission, yes.
12
13 Q. Yes. There has been a number of documents authored by
14 him directed to Atlas personnel --
15 A. Yes.
16
17 Q. -- that canvass the state of affairs with respect to
18 the H1 well and, indeed, other wells. Do you recall that?
19 A. Yes.
20
21 Q. There is one memorandum in particular which is dated
22 only some four weeks after the blowout. Do you recall
23 that - late September?
24 A. Not specifically, but I'm happy to accept it.
25
26 Q. Perhaps if the operator could bring up
27 SEA.001.006.4674. Do you recall that document? If the
28 operator scrolls down, for instance, to the bottom of the
29 page, I think you will recognise some of the content.
30 A. Yes. Yes.
31
32 Q. And if the operator just scrolls over the page so you
33 can refresh your memory.
34 A. Yes.
35
36 Q. So would you agree, sir, that Mr Ross at this point in
37 time seems to have expended some worthwhile effort on
38 behalf of Atlas to gain a proper understanding of the
39 circumstances surrounding the blowout and other well
40 control issues?
41 A. Yes, I believe so, yes.
42
43 Q. That seems to have continued, if the operator could
44 bring up SEA.003.015.2947. That's a further four to five
45 weeks after the last document I showed you.
46 A. Yes.
47

1 Q. If the operator could, for instance, scroll down that
2 page slowly, and if the operator could just go up to
3 section 2.0 and the conclusions, you'll see there that he
4 has formed a view about general drilling practices and
5 given PTT something of a tick?

6 A. Yes.

7

8 Q. Then in relation to general levels of competence, PTT
9 gets a tick. In relation to drilling reports, again
10 a tick. Do you see that?

11 A. Yes.

12

13 Q. Then he refers to:

14

15 *A conductor analysis should have been*
16 *performed by PTTEP and issued to Seadrill.*

17

18 Do you know what he means by that?

19 A. No, I'm not - I know what the conductor is, but I'm
20 not sure what the analysis would be for. I'd have to
21 inquire about that.

22

23 Q. Then, in any event, the sort of bad news starts for
24 PTT at (v) and following.

25 A. Mmm-hmm.

26

27 Q. That's further expanded upon on page 2, if the
28 operator could go to that page. Which refers to the PTT
29 team onshore and offshore being perhaps a bit quick to move
30 forward without adequate planning and verification, and he
31 also makes reference there to the drilling of the relief
32 well. Do you see that?

33 A. Sorry, I'm just --

34

35 Q. And before I get you to comment on that, when you're
36 ready, I'll ask the operator to scroll down one further
37 paragraph.

38 A. Sorry, yes. I'll just read it. Yes, okay.

39

40 Q. If the operator could scroll down one further
41 paragraph, just so you know you're not getting a complete
42 carpetbagging from Mr Ross, you'll see he appears at least
43 to be making a genuine attempt to bring a degree of
44 moderation to bear.

45 A. Okay, yes.

46

47 Q. Then if the operator continues to scroll down,

1 under 4.1 you'll see that on behalf of PTT, he summarises
2 drilling activity from 20 January to 21 April 2009 for
3 drilling of the five wells?
4 A. Yes.
5
6 Q. He summarises the sequence of events?
7 A. Yes.
8
9 Q. Then if the operator could scroll down, there are
10 detailed well construction activity and key issues. Then
11 if the operator further scrolls down you'll see that he
12 tabulates a degree of information and presents it by
13 reference to the various wells, starting with H4. Do you
14 see that?
15 A. Yes.
16
17 Q. And then if the operator scrolls up a bit to the first
18 mention of GI, in the "Comment" box you'll see he refers to
19 returns out of H4 --
20 A. Yes.
21
22 Q. -- first seen at that depth and often thereafter.
23 A. Mmm-hmm.
24
25 Q. Then if the operator scrolls down to the bottom of
26 that GI reference, he refers to the making up of the
27 corrosion cap, with no mention of a test.
28 A. Yes.
29
30 Q. So he's on to that, as it were. Do you see that?
31 A. Yes.
32
33 Q. Then if the operator scrolls down to the H1 section,
34 again in "Comments", he refers to major losses and then, at
35 the very end, refers to the running of a PCC, with no
36 mention of a test?
37 A. Yes.
38
39 Q. Then it continues on with H4, which refers to the
40 setting of a suspension plug, with no mention of a test,
41 and likewise the PCC, no mention of a test. Do you see all
42 that?
43 A. Yes.
44
45 Q. Then it continues on over the page. For instance, if
46 we go to the section dealing with H3, again there is
47 a reference to the setting of a suspension plug, without

1 mention of a test, and no testing of the 13-3/8" PCC. Do
2 you see all that?
3 A. I don't see the reference to the 13-3/8".
4
5 Q. I'm sorry, if the operator just scrolls down a bit
6 further - there.
7 A. Yes. Sorry. Yes.
8
9 Q. Then if the operator could go to page 7 of this
10 report, I think you will recall that I took a number of PTT
11 personnel to the paragraph commencing, "In any case"?
12 A. Yes.
13
14 Q. Firstly, in relation to that paragraph, may I ask you
15 whether you agree with what Mr Ross is saying there?
16 A. I can understand the validity of it. I'd want to talk
17 to other people and get other opinions, but I can
18 understand why he would be saying that.
19
20 Q. Could I, at this point, just pause to canvass with you
21 the evidence that the Commissioner heard in relation to
22 whether or not the cement in the annulus of the H1 well
23 could properly be regarded as a verified barrier. Do you
24 remember some fairly tense exchanges between Mr Duncan and
25 myself about that topic?
26 A. Yes.
27
28 Q. I took him to the relevant section in the well control
29 standards and suggested that all of the verification
30 stipulations assumed that the cementing job had
31 proceeded --
32 A. Normally, yes.
33
34 Q. -- normally; do you recall that?
35 A. Yes, yes, I do.
36
37 Q. I suggested to him that, given that stipulation, he
38 wasn't entitled to regard the annulus cement as a verified
39 barrier. Do you recall that?
40 A. Based on the way that the document is worded at the
41 moment, yes, that's correct.
42
43 Q. I take it that you would agree with what I was putting
44 to Mr Duncan?
45 A. As I said, with regard to the standards as they stood
46 at the time and the way they were written, yes. As I said,
47 I'd like to talk to other people to understand what is

1 normally accepted in that regard.

2

3 Q. In any event, if the operator could just scroll down
4 a little further, pausing there, you'll see, Mr Jacob, in
5 relation to the well GI, he refers to an observation of gas
6 bubbling from the annulus --

7 A. Yes.

8

9 Q. -- which was suspected to have migrated from a small
10 sand within the Woolaston formation.

11 A. Yes.

12

13 Q. If the operator could scroll down a little further
14 just so you can see the bottom of that page 7 - and I think
15 you will recall that I took other PTT personnel to that
16 section of the report?

17 A. Yes.

18

19 Q. Then likewise, right at the foot of that page:

20

21 *The reason for non-compliance appears to be*
22 *time saving in placing and testing required*
23 *barriers as there can be no other logical*
24 *explanation.*

25

26 A. I see it, yes.

27

28 Q. Bearing in mind what you now know, not only about H1
29 but about all of other wells, do you agree, sir, that there
30 does seem to have been some disproportionate pursuit of
31 time and cost savings over proper attention to ensuring
32 well control was achieved and maintained?

33 A. I don't believe so. I believe that the lack of
34 compliance with the well control standards is more related
35 to the personnel's experiences, and they weren't
36 consciously referring to the well control standards.

37

38 I can understand where Mr Ross would come to that
39 conclusion, but I am not aware of any conscious decision
40 not to put barriers in place with regard to time saving.

41

42 I suspect - and it goes back to not having permanently
43 based personnel - that the well control standards may not
44 have been foremost in people's minds when they were
45 undertaking the operations and they were carrying out
46 activities they'd carried out on other operations and did
47 what they thought was appropriate, which it wasn't,

1 obviously.

2

3 Q. If we go back to Mr Ross's statement, I don't
4 understand him to be actually alleging, necessarily, some
5 conscious preference in favour of time and cost savings as
6 against achievement of safety and well integrity.

7 A. Well, he's only putting forward one reason. I don't
8 dispute that that is a conclusion that you can draw. I put
9 forward another observation and I would say - I have no
10 information on it other way, so --

11

12 Q. Well, what about the frank possibility that the reason
13 for non-compliance was that, at the back of conscious
14 understanding, so at a subconscious level, there was
15 a disproportionate emphasis given to time and cost savings
16 as against proper attention to ensuring the achievement and
17 maintenance of well integrity?

18 A. I honestly find it hard to believe that experienced
19 personnel would do that. I mean, barriers are fundamental
20 in well construction. I find it very hard to believe that
21 they would have allowed that to - not "mitigated" - allowed
22 them not to fulfil the obligations under the standards.

23

24 Q. Sir, I want to suggest that, despite what you've said,
25 we really are pretty much located in the terrain of endemic
26 or systemic sloppiness; will you agree with me?

27 A. There's been failures in the systems and by the
28 personnel, yes.

29

30 Q. Which have been expressed in relation to just about
31 every barrier that was installed in all of the five wells
32 out at Montara?

33 A. The majority of the barriers, yes.

34

35 Q. Well, every barrier on H1 well; that's right, isn't
36 it?

37 A. That's correct, yes.

38

39 Q. And every secondary barrier on all of the other wells?

40 A. That's correct, yes.

41

42 Q. And the primary barrier on GI?

43 A. Yes, there's some concern, yes.

44

45 Q. Yes. So we are talking, are we not, about
46 a substantial, systemic level of inattention to achievement
47 and maintenance of well control?

1 A. Yes.

2

3 Q. I want to suggest to you, sir, that a common
4 denominator, if you like, which puts the outcomes with
5 respect to each well beyond the realm of coincidence is
6 that people were earnestly pursuing time and cost savings,
7 albeit that they never deliberately left a well in a state
8 whereby it presented a known risk. Do you see what I'm
9 driving at?

10 A. I appreciate where you're driving at. I completely
11 accept that the personnel would be trying to, as
12 efficiently as possible, carry out the work which, by the
13 very nature of the word, indicates that they're looking for
14 ways to do that efficiently. I just can't, in my mind, get
15 myself to the point where somebody decides not to carry out
16 a test for that reason. I can understand, as I say, trying
17 to be efficient in the way that you're doing things, and
18 that was one of the arguments, say, for the batch drilling
19 operation. But to actually have somebody say, "We won't
20 tag that because it's going to take 20 minutes" - I can't
21 fathom that.

22

23 Q. I understand what you're saying, sir, but perhaps
24 you're casting it in too severe a light. I'm not so much
25 suggesting that they positively decide not to do something
26 because they want to save time and money, but is it not
27 entirely plausible that they lost sight of the need to do
28 something because their attention was directed elsewhere,
29 in particular, to undertaking other activities and getting
30 them completed as quickly as possible with a view to making
31 time and cost savings?

32 A. I would accept that if you drop the "time and cost
33 savings". Yes, I can accept that they may have overlooked
34 doing things because there were other activities. I can't
35 say that it was directed specifically at time and cost
36 savings. But, as I say, there is, without doubt, an onus
37 on efficiency, so from that perspective.

38

39 Q. If the operator would scroll over to the last page.
40 I think this has been canvassed with other witnesses.

41 A. Yes.

42

43 Q. Do I take it that there's not a whole lot that you
44 would disagree with Mr Ross about in terms of the content
45 of this report?

46 A. Yes, what I've read, yes.

47

1 Q. On the whole, it's a pretty good attempt, isn't it, to
2 grapple with relevant issues, which was actually undertaken
3 and fulfilled within eight weeks of the blowout?

4 A. Yes.

5
6 Q. That can be really contradistinguished, I suggest,
7 from the approach taken by you and PTT?

8 A. Yes, with the understanding that we were carrying out
9 other activities.

10
11 Q. In that regard, there is also one aspect of a public
12 statement I just want to canvass with you, sir.

13
14 THE COMMISSIONER: Can I just ask a question there.

15
16 Q. When you say, Mr Jacob, that you were carrying out
17 other activities, and that was the relief well operation,
18 wasn't Atlas also involved in that?

19 A. Yes.

20
21 Q. So they found a way, nevertheless, to do a report.

22 A. Yes.

23
24 THE COMMISSIONER: Thank you.

25
26 MR HOWE: Q. I have in mind a document which we can
27 bring up on screen, if we need to, sir, but it's a public
28 statement issued by PTT on 25 August, so only four days
29 after the blowout. Toward the end of the statement, this
30 appears:

31
32 *Owners and operators of the West Triton and*
33 *West Atlas, Seadrill has also sent an*
34 *accident investigation team to PTT in Perth*
35 *to review the incident in an effort to help*
36 *determine its root cause and assist in*
37 *preventing reoccurrence of this type of*
38 *incident.*

39
40 So within four days, it seems as though PTT is offering
41 some reassurance to the public by reference to Seadrill
42 having sent an accident investigation team to PTT in Perth
43 to review the incident.

44 A. Yes, that's what it said.

45
46 Q. Do you recall that having occurred?

47 A. I am struggling to recall what actually occurred at

1 that time.

2

3 Q. But if one takes at least the press release at face
4 value, it rather indicates, doesn't it, that within
5 a matter of days, Atlas or Seadrill was devoting itself
6 earnestly to a real attempt to come to grips with what had
7 happened on 21 August?

8 A. Taken at face value, yes.

9

10 Q. Again, an approach which I suggest can be contrasted
11 with that of PTT?

12 A. In that particular regard.

13

14 Q. Sir, I'm happy to go through them with you, if you
15 would prefer - and please tell me if you would - but you
16 will have seen and observed in the course of my questioning
17 of a number of witnesses that I took them to various
18 documents that had been generated for the purposes of this
19 Inquiry by regulators from Western Australia and Victoria.

20 A. Yes.

21

22 Q. Do you recall those documents?

23 A. Yes.

24

25 Q. In effect, I asked the witnesses whether the content
26 of those documents provoked any disagreement on their part
27 as to their understanding of sensible oilfield practice.

28 A. Yes.

29

30 Q. As I understand it, the witnesses accepted that the
31 documents basically did reflect, in a sensible way,
32 industry practice with respect to achievement and
33 maintenance of well control?

34 A. That was my understanding, certainly their
35 expectations of it.

36

37 Q. You saw those documents on the screen, and I just want
38 to ask you whether or not the contents of the documents
39 provoke any disagreement on your part. Now, if you feel
40 that that's a bit too much of an ask without revisiting the
41 documents, please say so.

42 A. I wouldn't mind just having a quick look at them, if
43 that's okay.

44

45 Q. I entirely understand, sir. If we could bring up
46 DMP.9000.0002.0001. Perhaps, sir, if you could direct the
47 operator in relation to where you want the screen to move.

1 A. Sure. Okay, could you scroll down, please. That's
2 fine, thanks. Okay. Go further, please. Okay. Carry on.
3 Okay. Is there another document?
4
5 Q. Yes. Firstly, in relation to that one, is there
6 anything in that document that provokes any disagreement on
7 your part?
8 A. My understanding in general - there is a mention of
9 30 minutes for pressure testing. I don't know whether
10 that's really a generally accepted number or not, but it's
11 a minor comment with regard to it. The other aspects of it
12 look to be perfectly reasonable.
13
14 Q. I understand the point you're making about 30 minutes.
15 Just on that, I think the position was that the well
16 construction standards contemplated a 20-minute pressure
17 test.
18 A. That's correct, yes.
19
20 Q. But 10 minutes was adopted.
21 A. Yes.
22
23 Q. That's not a bad illustration, if you like, of the
24 point I was canvassing with you earlier on, because the
25 modification of the 20-minute standard didn't result in
26 a doubling --
27 A. No.
28
29 Q. -- to 40 minutes; it resulted in its halving to
30 10 minutes.
31 A. Okay, and I'm not sure, but I'd have to check, but if
32 you went to the specific regulations that used to be in
33 force, I think you'll find they used to say 10 minutes.
34
35 Q. Yes.
36 A. And that goes to my point of - I believe that they
37 were working on experience and what they had been doing for
38 the last 20 years was working within those guidelines, and
39 they therefore weren't paying due attention to the well
40 control standard, which had a doubling of the time
41 required.
42
43 Q. Yes, presumably a doubling which was advertent; in
44 other words, consideration was given to it, and it was
45 decided to specify 20 minutes, not the pre-existing
46 10 minutes.
47 A. Yes, 20 was written, so obviously at the time it was

1 written, they would have had a conscious decision on that,
2 yes. But I'm not sure about the specific regs; I'd have to
3 check that.

4
5 Q. Yes. All right, we'll bring up the next document,
6 which is DPI.0001.0002.0001. Again, sir, it's a pretty
7 closely typed document of two and a half pages, so take
8 your time and if you could instruct the operator.

9 A. Yes. If you could just go down, please. Okay, could
10 you go down, please. Okay, scroll down, please. Okay, go
11 down. Can you just scroll down - I think there's an
12 attachment. Thanks. That's fine.

13
14 Q. Is there anything in that document or its annexure
15 that provokes any disagreement on your part?

16 A. Not particularly disagreement. My only comment is
17 that it's written by one jurisdiction and refers to what
18 most companies do, and I'm assuming that's in their
19 experience in that area. I can't comment on what most
20 companies do, but I presume that's from their position as
21 the regulator in Victoria. That's what they understand.

22
23 Q. You at least have no understanding or information to
24 the effect that what's described there is contrary to what
25 other companies do in other jurisdictions?

26 A. I was a bit confused earlier on. It talks about the
27 test on waiting on cement, whereas my understanding is that
28 the test prior to waiting on cement is a fairly common
29 practice. So I'm not sure what they're saying in there.
30 That would be the only area that I would currently have
31 a disagreement with.

32
33 Q. Although if the operator could go to the second page,
34 you'll see there the paragraph commencing, "If the plugs
35 were bumped during cementing"?

36 A. Yes.

37
38 Q. Then:

39
40 *... it can be taken as the cementing*
41 *process has been done ... that means the*
42 *volume of cement were as calculated ...*
43 *Testing of the casing could be conducted*
44 *almost immediately ...*

45
46 That seems to be what you're referring to?

47 A. Yes, that bit seems to be consistent, yes.

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Q. If we could bring up the next document, which is DPI.0002.0001.0001. Again, sir, it's the last document I want to take you to, but it is two and a half closely typed pages, so please take your time.

A. Okay, could you scroll down, please. Okay, could you go down, please. Okay, go down. Okay.

Q. I can perhaps anticipate one comment you would make, which is that the DPI practice in Victoria contemplates three barriers for the purposes of temporary suspension, whereas your own standards contemplated two. But subject to that qualification, is there anything in this document that otherwise provokes any disagreement on your part?

A. The element regarding the use of PCCs. That's obviously DPI's experience, and I accept that. My understanding is that PCCs have been used by other operators for the purposes of suspension. I'm not sure whether those wells were in the reservoir at the time. That would be my only comment, I think.

Q. Thank you for that. Now, I want to revert to the topic I canvassed with you before I took you to those documents, and that concerns the contrasting approaches adopted by PTT and Atlas in the aftermath of the well blowout. Could I ask the operator to bring up NOP.9000.0004.0359. I prelude my questions, sir, with the proposition that I'm not suggesting that anything you did in formulating this response involved a deliberate attempt to mislead NOPSA. Do you understand what I'm saying?

A. Yes.

Q. If we go down the page a little, you'll see in respect of paragraph numbered 1 that the first response you give is that:

There were no deviations from the PTTEP Australasia Well Construction Standards in relation to the temporary suspension of Montara wells GI, H1, H2, H3, and H4.

Do you see that?

A. Yes.

Q. This is as at 25 November 2009, some four weeks after the fairly detailed report of Mr Ross that I took you to. Do you understand that time line?

1 A. Yes.

2

3 Q. You will agree that because of the approach which you
4 and PTT adopted in the aftermath of the blowout,
5 unfortunately you are misinforming NOPSA of the real
6 position?

7 A. Correct, yes.

8

9 Q. You understand that that is one vice that inheres in
10 the strategy that you and PTT adopted?

11 A. Yes, I accept that.

12

13 Q. Then we have a replication of that misinformation in
14 the last sentence of the next paragraph:

15

16 *The combination of barriers installed in*
17 *the Montara H1 well did not deviate from*
18 *the PTTEP Australasia Well Construction*
19 *Standards.*

20

21 Whereas we now know that not a single barrier was compliant
22 in H1?

23 A. Sorry, in H1, yes.

24

25 Q. Then toward the end of that same page, if you like, we
26 have another bald and unqualified proposition that you're
27 asserting, which we now know amounts to misinformation, at
28 least as to the first part of the sentence?

29 A. Yes, the first part, yes.

30

31 Q. You'll agree, sir, that to misinform the regulator is
32 a serious matter. Again, I'm not suggesting any
33 deliberation on your part, but it is a serious matter,
34 which seems to have been ordained by the decision which you
35 and PTT took?

36 A. By not carrying out that more detailed work, yes.

37

38 Q. Yes.

39 A. Yes. But there was never any intent, as you've said,
40 to mislead.

41

42 Q. If we go to the PTT report to NOPSA of 2 October 2009,
43 there are some parts of that that I want to canvass with
44 you. If the operator could please bring up
45 PTT.9001.0008.0062. If we could go to the first
46 page again, just so Mr Jacob can remind himself of the
47 document.

1 A. Yes.
2
3 Q. If the operator scrolls down a little, it records the
4 document as having been approved by you.
5 A. Yes.
6
7 Q. And if the operator could go, first, to page 11, the
8 third dot point on that page actually asserts, in the
9 second sentence, that:
10
11 *Offline the ... (13-3/8") casing was backed*
12 *out ... and a pressure containing corrosion*
13 *cap was installed.*
14
15 A. Yes.
16
17 Q. Now, that's just wrong, isn't it?
18 A. It is. Could we just scroll up to the previous
19 page just so that I can get context? Okay, thanks. No,
20 that's saying that the program stated that. That's the way
21 I'm reading that. I agree with you that is not what
22 happened. I don't think - I'm trying to read that again.
23
24 Q. Just to remind you, sir, I don't think that phase 1B
25 program made any provision for the actual installation of
26 the 13-3/8" pressure-containing corrosion cap?
27 A. That's correct, yes, sorry, you're right there.
28
29 Q. So to that extent, that paragraph also contains an
30 inaccuracy?
31 A. Yes.
32
33 Q. I'm sorry, I might have misled you there, sir. It may
34 be that the 1B drilling program did contain provision for
35 that. Yes, if I could ask the operator to bring up
36 PTT.9000.0002.0019, I think I can clarify the source of the
37 misunderstanding. This is an excerpt, sir, from the
38 Montara phase 1B rev 0 drilling program.
39 A. Okay.
40
41 Q. If the operator goes to the bottom of page 15, do you
42 see the last paragraph above the 2.1.3 heading?
43 A. Yes, that's right.
44
45 Q. So that's inaccurate?
46 A. That, yes, is inaccurate, as was determined in August.
47 Yes.

1
2 Q. That inaccuracy has been picked up and replicated in
3 what you've told NOPSA?
4 A. Yes, obviously.
5
6 Q. If we could go, please, back to page 11 of the
7 preceding document, the second bullet dot point refers to
8 the plugs having bumped, however the floats failed, and
9 pressure was held on the casing until the cement had set.
10 A. Yes.
11
12 Q. There's no mention there of the fact of any
13 overdisplacement by pumping too much back beneath the float
14 collar?
15 A. No, that's right.
16
17 Q. I take it that what's described there reflected your
18 then level of understanding?
19 A. Understanding at that time, yes, that's my
20 understanding, yes.
21
22 Q. Which in fact was imperfect?
23 A. Yes, correct.
24
25 Q. Again, in talking about pressure having been held on
26 the casing, we now know that, in fact, that pressure
27 diminished down to a level of about 687 psi, because, as
28 pointed out by Mr Duncan, it's likely that some of the
29 pressure escaped through the leak path that had been
30 created in the shoe track; do you recall that?
31 A. I don't think I was here when he mentioned that, but
32 I can understand the concept of it, yes.
33
34 Q. It's also dealt with at length in his statutory
35 declaration. He said, "Look, the Halliburton report makes
36 clear that pressure was initially held at about 1,350 psi."
37 A. Yes.
38
39 Q. "But it dropped down to a level of 687 psi, and that
40 indicates that you are losing pressure in a system that's
41 meant to be closed, so something bad is happening", in
42 effect?
43 A. It's going somewhere, yes.
44
45 Q. And that exact same information, as it turns out, was
46 recorded in Mr Treasure's cementing report, misdated
47 6 March; do you follow?

1 A. Right. I take your word for that last part, yes.

2

3 Q. In any event, what I am pointing out to you is that,
4 in this document to NOPSA, you've asserted, as it were,
5 that the pressure was held and there's no mention of
6 a significant phenomenon, namely, the unintended diminution
7 of pressure as a result of escape through the leak path?

8 A. Correct.

9

10 Q. So, again, if you like, unfortunately, wrong
11 information is being supplied to NOPSA?

12 A. Yes, based on what we know now, yes.

13

14 Q. In fairness to you, sir, I should point out to you
15 what appears in the chronology on page 13, if we could go
16 to that, because you'll see, as against the time of 6am,
17 although there was an earlier reference to the 13-3/8" PCC
18 having been installed, that entry makes clear that in fact
19 it wasn't installed?

20 A. Yes.

21

22 Q. So you've at least, as it were, properly informed
23 NOPSA of that position?

24 A. Yes. The previous listing was from the drilling
25 program, which was written after the suspensions were made,
26 and that was the information that we had as to what was
27 thought to have been done. What we were saying here was
28 that, when we got there in August, we actually determined
29 that that hadn't in fact been the case.

30

31 Q. I understand. If the operator could go to page 15 of
32 the document, under the heading "Limitations on
33 Investigation", there is a reference to the investigation
34 having been carried out by document review, "Refer to
35 Appendices and section 8 for Document References".

36 A. Yes.

37

38 Q. Pausing there, that's a mistaken reference, because
39 the document references are listed in section 9.

40 A. Okay.

41

42 Q. But nothing turns on that for present purposes.

43

44 THE COMMISSIONER: Mr Howe, may I just have another look
45 at those points that were submitted in terms of what the
46 program was, the first introductory sentence?

47

1 Q. You know, the points that you earlier referred to.
2 A. Yes.

3
4 THE COMMISSIONER: I'm not sure where it is here.

5
6 MR HOWE: That's page 10, Commissioner.

7
8 THE COMMISSIONER: May we go back and have a look at the
9 introductory sentence to those points, please?

10
11 Q. It says "was carried out".

12 A. Yes.

13
14 Q. "Carried out in March 2009 was as follows", so --

15 A. Maybe I can explain. The operations were done in
16 March 2009. After those operations were carried out, the
17 phase 1B drilling and completion program - so that was the
18 work that was going to be undertaken in August - the
19 drilling program was revised to become a drilling and
20 completion program.

21
22 This list is taken from that program, and what was
23 written in there was the information - and it would have
24 been the likes of Chris Wilson that would have written
25 this - which was their understanding of what had occurred
26 in March, so that's what we were expecting had actually
27 happened. Then as we identified on the other pages, when
28 we got there in August, we found out that in fact the
29 13-3/8" hadn't been installed.

30
31 So at the time this report was written, this was not
32 a statement of what we then knew; it was what we knew
33 whenever 1B was - or June 2009. That was the understanding
34 that they had at that time, if that helps.

35
36 THE COMMISSIONER: Thank you.

37
38 MR HOWE: Q. Yes. As I understand it, what you're
39 saying is that this is not necessarily the objective fact,
40 but this is what the document recorded as at June 2009 as
41 having been undertaken?

42 A. Yes.

43
44 Q. You have quoted word for word from the relevant entry
45 in the drilling program?

46 A. It was a cut and paste, yes.
47

1 Q. In any event, if I could just take you back to
2 page 15, that sentence suggests that there was some
3 document review which was undertaken, and when you go to
4 section 9 on page 25, we see, about five from the top,
5 a reference to the Montara Wells Daily Drilling Reports.
6 Do you see that?

7 A. Yes. I do.

8

9 Q. It rather conveys to the innocent reader that, in the
10 course of the preparation of this report to NOPSA,
11 a document review has been carried out, which included the
12 daily drilling reports, which must necessarily have
13 included, I suggest, the daily drilling report of 7 March?

14 A. Yes, I'm not sure whether it would have or not.

15

16 Q. Well, it should have, at least?

17 A. Based on the knowledge of the flow-back, yes, it would
18 have - yes, it should have, yes.

19

20 Q. But I'm just wanting to revisit, in the light of this
21 document, the question of whether or not you had, in fact,
22 gone back and reviewed, for instance, the daily drilling
23 report of 7 March 2009?

24 A. Not to my recollection. This document was written by
25 myself and our legal counsel. She may well have looked at
26 those documents. I can't say that I did.

27

28 Q. So if we go back to the cover page of the document,
29 the very first page --

30 A. Yes, where I've approved it.

31

32 Q. -- the reference to, "Prepared by CB", that's
33 a reference to Christy Breadmore?

34 A. That's correct, yes.

35

36 Q. So, as I understand your evidence, what you're saying
37 is that what appears on page 15 may in fact be a reference
38 to her having undertaken that document review?

39 A. Could be, yes.

40

41 Q. Rather than you yourself having done so?

42 A. I would suspect that's what it is, yes.

43

44 Q. And because she's a lawyer, intending no disrespect,
45 and --

46 A. Can I refuse to answer this one?

47

1 Q. -- not someone versed in the detail of offshore
2 petroleum industry practice, it's quite plausible that she
3 didn't detect the significance of the content of the
4 7 March '09 daily drilling report?

5 A. Yes, if she read that, yes, it's entirely possible.
6 And my apologies to the profession.

7
8 THE COMMISSIONER: I think from what I've heard so far
9 over the last three weeks, the profession is doing rather
10 well in understanding oilfield practice.

11
12 MR HOWE: I note the time, Commissioner. We have gone
13 a little over time. If Mr Jacob could return tomorrow, and
14 we'll resume at 9.30?

15
16 THE COMMISSIONER: Thank you, Mr Howe. Thank you,
17 Mr Jacob.

18
19 **AT 4.35PM THE COMMISSION WAS ADJOURNED**
20 **TO FRIDAY, 9 APRIL 2010 AT 9.30AM**

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