IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

UNITED STATES OF AMERICA, EX REL. KENNETH W. ABBOTT, ET AL., Plaintiffs,	§	
v.	§	Civil Action No. 4:09-cv-01193
BP EXPLORATION AND PRODUCTION INC., ET AL., Defendants.	§	Jury Trial Requested

PLAINTIFFS' MOTION TO RECONSIDER BASED ON NEWLY DISCOVERED EVIDENCE AND ALTERNATIVE MOTION FOR NEW TRIAL

1. INTRODUCTION

A previously hidden report issued by the Inspector General of the Department of Interior reveals that Ken Abbott was right. Specifically, that report concludes that BOEMRE's "investigation" was intentionally deflected to exonerate BP by the very same BOEMRE employee who initially issued the fraudulent permit.

Abbott and Food and Water Watch were unable to obtain the report until September 12, 2014 – 15 days after this Court issued its Final Judgment. The "Report of Investigation by the Office of Inspector General" of the Department of the Interior[1] found that structural engineers assigned to the investigation validated Abbott's complaints, determined that the platform and its subsea equipment were likely unsafe and required further intensive investigation, and that BP's drawings of platform components – including the subsea components -- violated applicable regulations. The report addressed the concerns of structural engineers who were so concerned by the conduct of the investigation that they documented their findings in a separate report –

[1] OIG Report of Investigation, "BP Atlantis," Case No. OI-OG-13-0103-I (Dec. 30, 2013)(Ex. 1).

one that has not been released to Congress or the public. *Ex. 1* at 11. The OIG report, however, does note the structural engineering team's conclusions:

- BP did not have a complete set of "approved for construction" engineering documents for all subsea components of the Atlantis platform and related facilities when it began production in October 2007.

- BP does not have a complete set of "as-built" engineering documents for the Atlantis facilities that are currently in operation; and therefore BP is not currently in compliance with 30 CFR 250.903(a)(1).
- BP did not demonstrate that they can produce drawings on the spot given their current documentation system. Even when producing drawings to us back in August, there were some that were out of order or scattered. [A BP employee] stated that they, BP, had only two weeks to provide a smattering of drawings which proved to be a difficult task. This doesn't bode well for BP's capability of responding to an emergent situation.

- A review of 135 mooring and foundation drawings for Atlantis showed:

  * Drawings lacking a PE [professional engineer's] stamp, signed and dated 100%

  * Drawings not noted as "as-built 100%

- A review of 43 flowline/riser drawings for Atlantis showed:

  * Drawings lacking a PE stamp, signed and dated 100%

  * Drawings not noted as "as-built" 100%

Id. at 19-20. The structural engineering team also developed a document entitled "Atlantis Investigation: Path Forward," which identified concerns "demand[ing] the BOERME's immediate attention," including "indications of possible well integrity deficiencies." *Id.* at 16.

The specific direction from Congress was "to conduct a full investigation of whether [BP] had a complete and accurate set of required engineering drawings for the BP Atlantis platform and its associated subsea components prior to the start of

production from that platform."[2] Michael Bromwich, then-director of BOEMRE, concealed from Congress and the public the actual answers to the congressional letter request, which are given in the structural engineers' findings. Instead, Mr. Bromwich told OIG investigators that he was aware of the structural engineering team's conclusions (which contravened the BOEMRE report) and "took [their] concerns seriously," but did not believe they should be incorporated into the investigation and should be pursued separately; no person appears to have undertaken such pursuit. *Id*.

In its August 21, 2014 ruling on the motions for summary judgment, the Court deemed the March 4, 2011 BOEMRE Report persuasive. The findings in the OIG Report call the BOEMRE Report directly into question. In light of this new evidence, and pursuant to Federal Rule of Civil Procedure 59, Abbott and Food & Water Watch respectfully move this Court to reconsider his August 21, 2014 ruling on the summary judgment. Abbott further moves this Court to reconsider his finding that Abbott was not the "original source," which was based on the Court's mistaken impression that Abbott had not reviewed the underlying engineering documents when he was employed at BP and based on an intervening change in Fifth Circuit case law regarding public disclosure.

2. STANDARD OF REVIEW

To prevail on a motion for reconsideration under Rule 59(e), a moving party must satisfy at least one of the following criteria: (1) the motion is justified by an

[2] Feb. 24, 2010 Letter from Members of Congress to Elizabeth Birnbaum, Director MMS (Doc. 339-7). By a July 21, 2010 Letter to then-Secretary of Interior, Ken Salazar, and Mr. Bromwich, members of Congress expressed concern that Atlantis might be a "ticking time bomb," and urged DOI and BOEMRE to investigate Abbott's claims, noting that without appropriate documentation, "operators would likely be unable to quickly and safely deal with a malfunction on the Atlantis of the sort that occurred on the Deepwater Horizon," because "they literally would not know what buttons to push or what parts of the rig are connected to other parts." *See* July 21, 2010 Letter from Members of Congress to Secretary Salazar and Director Bromwich. (Ex. 2).

intervening change in the controlling law; (2) the motion presents newly discovered or previously unavailable evidence; (3) the motion is necessary to correct a manifest error of fact or law; or (4) the motion is necessary to prevent manifest injustice. *See, e.g., Brown v. Miss. Co-op. Extension Serv.*, 89 Fed. App'x 437, 439 (5th Cir.2004); *Ross v. Marshall*, 426 F.3d 745, 763 (5th Cir.2005) (citing *Simon v. United States*, 891 F.2d 1154, 1159 (5th Cir.1990)).

3. STATEMENT OF FACTS

Introduction

The OIG report addresses allegations by a structural engineer who participated in the BOEMRE investigation of Atlantis. Ex. 1 at 1. The legal team for Abbott and FWW initiated the complaint and requested review of the investigation.[3] The OIG Report ultimately found that the structural engineers who served on the investigative team fundamentally disagreed with the conclusions set forth in the BOEMRE Report to Congress, that BP was in violation of regulations, and that significant dangers posed by the Atlantis platform required further intensive investigation. In addition, the OIG Report establishes that the BOEMRE investigation team did not understand that 30 C.F.R. § 250.901(d)(2002) was the regulation that actually applied to the platform certification until 6 months after the report was issued. *Id.* at 1-2.

Review of the Initial BOEMRE Investigation

The lead investigator for BOEMRE was Bryan Domangue, the "production engineer" who issued the contested Atlantis production safety system permit and testified that he did not look behind BP's certification statement to determine if the assertions made in that statement were true. *See* Doc. 357-2 at 22 (lines 182:16-20). The OIG Report describes the BOEMRE Atlantis investigation as occurring in three phases.

[3] *See* Declaration of Mary M. Whittle at 1, ¶ 3 (Ex. 3).

In the first phase, the investigators were located at BP Headquarters in Houston for two months. *Ex. 1* at 3. During this phase, structural engineers from Washington were sent to Houston to assist Domangue's team. One of those structural engineers stated "when she first arrived to the Atlantis investigation, Domangue stated that he planned on 'cutting the legs out from under' Abbott's False Claims Act lawsuit and that he 'was going to declare the Atlantis facility safe.'" *Id.* at 21. Another structural engineer stated that Domangue told her "that he was conducting the investigation as a 'partner' of BP." *Id.* According to one member of the investigative team, "BP employees often entered the BOEMRE investigative team's workspace and asked probing questions about the investigation." *Id.* at 5. Because of those circumstances, one investigator "came to believe that BP was being allowed to control the investigative effort." *Id.*

Amid concerns that the "investigation's independence might be at risk because it was being conducted at BP's headquarters," the investigation was moved to New Orleans and entered its second phase. *Id.* at 6.

Domangue confirmed to the OIG investigator that "he was trained to accept the [certification] letter, which is what BOEMRE did for all companies under the regulation, and not to look beyond it because 'the playing field had to be level for all companies.'" *Ex. 1* at 24-25. In other words, he determined not to do an investigation into whether BP complied with the regulation and, instead, simply took BP at its word for a second time. This was consistent with the opinion of a structural engineer who testified to the OIG investigator that she came to believe that BOEMRE management was ignoring certain engineering processes and attempting to "tailor" the investigation in such a way as "to not find what [they] know is there." *Id.* at 17-18.

The structural engineers insisted on requesting that BP produce the actual drawings in dispute to permit direct examination. This was eventually done, corresponding to the Congressional request to BOEMRE "to conduct a full investigation of whether [BP] had a complete and accurate set of required engineering drawings for the BP Atlantis platform and its associated subsea components prior to the start of production from that platform." *See* Doc. 339-7 at 2. BP produced some drawings of the platform's subsea components, but never produced a complete set. *Ex. 1* at 4. What BP did produce, however, allowed the structural engineers to verify Abbott's complaints, finding BP in violation of the applicable regulations.

Eventually, in the third stage of the investigation, BOEMRE management split the structural engineers from Domangue's investigation team. *Ex. 1* at 10. After the split, the structural engineers produced their own internal report. *Id.* at 11. When the structural engineers were given the opportunity to comment on the February 2011 draft of the Atlantis report, they provided a six-page summary of their findings and conclusions. *Id.* at 14. "This summary was a subsection of a full structural engineering summary report, also dated February 7, that the structural engineers produced separately from BOEMRE's final report on the Atlantis investigation." *Id.* The findings included in the structural engineers' report were not included in BOEMRE's report to Congress, and their strong recommendation for further safety investigation was ignored. *Id.* at 13.

To address the fact that the three structural engineers on the investigative team had come to polarly opposite conclusions regarding BP's regulatory violations and the intrinsic safety of the platform, BOEMRE management decided to add a footnote in the report, stating: "BOEMRE is continuing its regulatory review of the performance and integrity of the Atlantis facility's subsea components. . . ." *Ex. 1* at 16. No person

involved in the investigation recalls anyone being directed to continue this review as the footnote suggested, and the structural engineers' concerns remain unaddressed to this day. *Id*.

"Path Forward" Document

On February 17, 2011, the structural engineers emailed Bromwich "Atlantis Investigation: Path Forward," a document with their recommendations:

> **that an engineering evaluation of the integrity of all Atlantis wells be conducted**, that BOEMRE establish an appropriate subsea monitoring regimen for Atlantis, that BOEMRE request the inspection and assessment documents and video related to possible cracks in the Atlantis flowline field joints, and **that BOEMRE request detailed drawings for Atlantis' critical components such as wellheads and trees**.

Id. (emphasis added). When asked about the email, Bromwich told OIG investigators

> that he recalled thinking as he read the document that it confirmed his understanding that the structural engineers wanted him to be aware of their ongoing concerns, but at the same time agreed to the report being released without addressing those concerns in it . . . .

Ex. 1 at 17.

BOEMRE Report Released

The final BOEMRE Atlantis investigation report was released to Congress and the public on March 4, 2011. The accompanying press release stated: "BOEMRE concluded that Mr. Abbott's allegations that Atlantis operations personnel lacked access to critical, engineer-approved drawings were without merit and that this allegations about false submissions by BP to BOEMRE were unfounded."[4] In the press release, Bromwich states: "This report reflects a careful and comprehensive investigation of the allegations by an interdisciplinary team of lawyers, ***structural engineers***, and other BOEMRE personnel, led by our Investigations and Review Unit." Bromwich knew his

[4] *See* "BOEMRE Releases Report of Investigation on BP's Atlantis Platform," March 4, 2011 (http://www.bsee.gov/BSEE-Newsroom/Press-Releases/2011/BOEMRE-Releases-Report-of-Investigation-on-BP-s-Atlantis-Platform/)(last visited on Sept. 15, 2014)(emphasis added)(Ex. 4).

statement to be untrue – the structural engineers had not approved of the report, had issued their own report, and had come to the opposite conclusion of the report issued to Congress. Later that same afternoon, "Bromwich emailed the BOEMRE personnel who participated in the investigation, thanking them for their efforts and noting that he had discussed with the structural engineers that there were still 'broader issues that need to be pursued.'" Ex. 1 at 17.

4. ARGUMENT

A. The Court Should Reconsider His Ruling On Whether BP Violated the OCSLA Regulations.

In spite of the summary judgment evidence offered by Plaintiffs, the court found that: "Interior's conclusion that BP complied with the regulations is persuasive. Abbott's view is empty." Doc. 431 at 5. In light of the Structural Engineers' Report which came to the *opposite conclusions* in finding that BP is in violation of the regulations applicable to the platform and that there are safety concerns on the platform, Abbott and FWW respectfully request that the Court reconsider his Opinion on Summary Judgment.

At the very least, Abbott and FWW have created a fact issue for trial.

Abbott presented testimony and documentary evidence showing that BP knew that the designers at the Korean ship-building firm could not certify the detailed structural plans for the hull as registered professional engineers and sought no alternate means of compliance. Doc. 337 at 41-54. Abbott presented testimony and documentary evidence showing that BP did not "as-built" the integrated platform after entire systems were rebuilt and significant remediation work was performed. Doc. 337 at 55-69. Abbott presented testimony and documentary evidence demonstrating that registered

professional engineers did not approve the designs for the mechanical and electrical systems. Doc. 337 at 71-88.

The structural engineers' report -- concealed from Congress and the public until now -- confirms Abbott's claims, finding BP did not have approved for construction or as built engineering documents when it began production on Atlantis, and "BP is not currently in compliance with 30 CFR 250.903(a)(1)." Ex. 1 at 19.

This report did not exist at the time that the parties filed their summary judgment papers, and Plaintiffs only became aware of the report's existence on August 25, 2014. That was not for a want of diligence in obtaining that report. The investigation was opened in January 2013. After advising Abbott's legal team on March 7, 2013 that OIG had opened an investigation, the special investigator offered assurances that he or OIG management would notify Plaintiffs' counsel when the investigation was complete.[5] Despite that assurance, Abbott's legal team made periodic requests for information concerning the progress of the investigation and the release of any report.[6] This inquiry included checking on the Department of Interior's OIG Semiannual Report to Congress.[7] The most recent OIG Semi-Annual to Congress, covering the reporting period Oct. 1, 2013 to March 31, 2014, did not include any reference to a report concerning the Atlantis platform or the issues that provoked the investigation in the first place.[8]

Despite the assurances of notification, and upon learning of the report's release in August 2014, Counsel for Plaintiffs immediately submitted a request for a copy pursuant to the Freedom of Information Act and received the OIG Report on September

[5] Ex. 3 at 2, ¶5.
[6] Ex. 3 at 2-3, ¶¶ 6-9.
[7] Ex. 3 at 3, ¶ 10.
[8] http://www.doi.gov/oig/reports/upload/DOIOIGApril2014SemiannualReportToCongress.pdf (last visited on September 15, 2014).

12, 2014.[9] The materials provided by DOI included the report, but did not include any attachments to it; Plaintiffs' counsel immediately made an additional FOIA request to obtain the cited attachments.[10]

B. The Structural Engineers Interpret the Regulations the Way that Abbott and FWW Have.

When one of the structural engineers was asked about the lead investigator's conclusion that the actual words "as built" do not need to appear on an engineering drawing to be in compliance, she stated that "his explanation and acceptance of such drawings would be 'unacceptable' to a structural engineer and 'demonstrated malpractice.'" *Id.* at 21. According to the OIG Report, "She further stated that based on the interviews conducted of BP employees, it was obvious that creating as-built drawings was 'a broken process' for much of Atlantis, particularly the subsea components." *Id.*

When one of the structural engineers was asked about the lead investigator's conclusion that the regulations do not require maintenance of as-built drawings of subsea components as it did for other "weight-bearing" components attached to the platform, she responded that "she never learned where the idea came from that Subpart I should not apply to subsea components." *Id.* at 21. "She believed this interpretation is illogical" because "any components below the surface of the water would be load bearing." *Id.*

The Structural Engineers' Report was not written by one disgruntled or off-the-mark BOEMRE employee; it was developed by all three structural engineers on the Atlantis investigation team, each of whom disavowed the BOEMRE Report sent to Congress. One of those structural engineers is now Chief of the Bureau of Safety and

[9] Ex. 3 at 3, ¶ 11.
[10] Ex. 3 at 4, ¶¶ 13-14.

Environmental Enforcement ("BSEE"); another is an Advanced Structural Engineer who has worked for BOEMRE since January 2009. *Id.* at 4.

C. The Court Should Reconsider His Ruling on Standing.

The new evidence is relevant not only to the Court's ruling on whether BP violated the Outer Continental Shelf Lands Act regulations but also to the Court's holding that Abbott and FWW do not have standing. The Court found that, "Having reviewed Abbott's theories about stamps, Interior has concluded that BP's operations are safe" and that Abbott "has no facts to connect his anxieties to this platform." Doc. 431 at 7. But one of the structural engineers told OIG investigators that the position that "as-built" drawings do not need to be labeled as such "'create[s] a world of hazard out there and a world of unknowns, and a world of assumptions that the appropriate, correct knowledge' of a structure's design will be accurately transferred through the years to each new operator." Ex. 1 at 21.

Further, the OIG Report states that the structural engineering team's "Path Forward" document "identified several 'lingering concerns' that they suggested 'demand BOEMRE's immediate attention' including 'indications of possible well integrity deficiencies'" and "possible cracks in Atlantis' flowline field joints." *Id.* at 16. These, along with the concerns plaintiffs identified in their summary judgment papers – valves opening and closing without command, oil leaks to the wellhead through the annulus, and repeated loss of communication between the well and operations – are directly attributable to improper engineering.

D. The Court Should Reconsider His Ruling on Whether Abbott Qualifies As An Original Source.

Finally, the Court found that Abbott did not qualify as an original source under the False Claims Act because, "Abbott has no direct, first-hand knowledge of what

stamps were on which of BP's drawings. He has never seen them." Doc. 431 at 3. But Abbott testified that he looked at "Probably, less than a hundred" of the actual drawings while he worked at BP to verify that the document log was correct and that the engineering was not complete. Doc. 338-8 at 18-19 (lines 104:17-105:18). He also testified that he met several times with the BP engineers to discuss the status of the drawings and that they admitted the engineering was not complete. Doc. 338-8 at 39 (lines 39:18-24). Abbott respectfully requests that the Court reconsider his ruling on original source based on this mistaken impression.

Further, the Court also held that, "Abbott thinks that BP falsely certified that its designs are safe because of papers he got from Interior through the Freedom of Information Act." Doc. 431 at 3. The Fifth Circuit recently held that, "An irreducible minimum is that the disclosures furnish evidence of the fraudulent scheme alleged." *Little v. Shell Exploration & Prod. Co.*, 690 F.3d 282, 293 (5th Cir. 2012). The only documents Abbott added to his Amended Complaint after receiving them in response to FOIA requests were: (1) the Atlantis production safety system permit application transmittal letters; and (2) the MMS production safety system permit approval. Doc. 337 at 35; Doc. 357 at 19. These documents were included to support Abbott's allegation regarding 30 C.F.R. § 250.905(j), which was previously raised in Abbott's original complaint. Doc. 337 at 35; Doc. 357 at 19-20.

The underlying drawings were not disclosed through FOIA because Interior withheld them as exempt. Doc. 357 at 20. The FOIA responses producing BP's production permit application transmittal letters and MMS approval did not reveal BP's underlying fraud. The publication of facially valid partial permit applications through FOIA reports after Abbott filed his complaint and made the required disclosure to the government does not change his status as the original source. Abbott respectfully

requests that the Court reconsider his holding based on this intervening change in the Fifth Circuit case law.

5. ALTERNATIVE MOTION FOR NEW TRIAL

Alternatively, pursuant to Rule 59(a), the Court may grant a new trial based on the presentation of newly discovered evidence. *See Diaz v. Methodist Hosp.*, 46 F.3d 492, 495 (5th Cir. 1995). As shown above, the OIG's report raises substantial questions concerning the interpretation of the applicable regulations, particularly in light of the Court's deference to the agency's prior interpretations of those regulations. If the agency's interpretation is unsustainable, as its own engineers maintain it is, the basis for concluding that BP has not violated those regulations erodes. As demonstrated at length above, the new questions raised by the OIG's report about the interpretation of the regulations demonstrates that introduction of the report would probably have changed the outcome of this cause. Further, the OIG's report was manifestly unavailable at the time that the summary judgment papers were filed by the parties and was unknown to Plaintiffs, despite their diligence, until after the Court issued its order. Finally, the OIG report is neither cumulative nor impeaching; the report overtly refutes the agency's interpretation of the regulations and its conclusion that BP has complied with those regulations.

The OIG's report, as newly discovered evidence that should be considered in adjudicating the claims at issue in this cause, clearly weighs in favor of a new trial. *Diaz*, 46 F.3d at 495. Likewise, the effect of the intervening change in the law effectuated by the Fifth Circuit's opinion in *Little* with respect to Abbott's qualification as an original source also weighs in favor of a new trial.

6. CONCLUSION

Plaintiffs Kenneth W. Abbott and Food and Water Watch respectfully request that this motion for reconsideration be granted, that the Court vacate its August 21, 2014 Order granting summary judgment (Doc. 431) and its August 28, 2014 judgment (Doc. 436), and that the disposition of the motions for summary judgment in this case be reconsidered in light of the new evidence and law presented in this motion. Alternatively, Plaintiffs respectfully request that their motion for new trial be granted.

Dated: September 17, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 17th day of September 2014, a true and correct copy of the foregoing document was filed with the Court's ECF system and was served via electronic means through transmission facilities from the Court upon those parties authorized to participate and access the Electronic Filing System for the Southern District of Texas.

/s/ Mikal C. Watts
Mikal C. Watts

Exhibit 1

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title **BP Atlantis**	**Case Number** **OI-OG-13-0103-I**
Reporting Office **Energy Investigations Unit**	**Report Date** **December 30, 2013**
Report Subject **Report of Investigation**	

SYNOPSIS

We initiated this investigation in December 2012 after receiving a complaint from the legal team of a former BP contractor who filed a False Claims Act lawsuit against BP in 2009. The lawsuit stated that Atlantis, a BP deepwater production platform in the Gulf of Mexico, lacked critical engineering documentation that created a serious safety risk.

The complaint we investigated referred to a Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) structural engineer who had participated in an investigation of Atlantis initiated by BOEMRE after the lawsuit was filed. This engineer claimed that (1) BOEMRE's investigation was flawed and incomplete. The complaint also implied that (2) [redacted], BOEMRE's Houma District Manager and the lead on the BOEMRE investigation, had a conflict of interest because he had approved many of the Atlantis platform's original permits. Finally, the complaint stated that (3) BOEMRE's investigative report on Atlantis, issued in March 2011, failed to interpret or comment on a specific regulation, the 2002 version of 30 C.F.R. § 250.901(d), that applied to Atlantis at the time the platform was built and deployed, and that [redacted] failed to ensure that BP had complied with the regulation.

We did not substantiate the allegation that the investigation was flawed and incomplete. Rather, we found that BOEMRE kept the scope of the investigation deliberately focused on the issue of the engineering documentation, a decision with which the structural engineers who served on the investigative team were vocally displeased. We also found a fundamental disagreement between the structural engineers and the production engineers and BOEMRE management as to the interpretation and application of a subpart of the pertinent regulations, 30 C.F.R. §§250.900 – 921, also known as Subpart I. This disagreement remained unresolved at the end of our investigation.

Reporting Official/Title [redacted] Special Agent	Signature
Approving Official/Title [redacted], Special Agent In Charge	Signature

Authentication Number: D60A176A8E1852F5765BDD28793733DD

Our investigation focused on the allegations of a conflict of interest and/or misconduct by [redacted] while he investigated safety concerns about the Atlantis platform. Several BOEMRE staff engineers and managers stated that [redacted] showed no bias when leading the Atlantis investigation. Moreover, another BOEMRE official took over the role of lead during the last 6 months of the investigation and wrote the final Atlantis report.

We also investigated the allegation that BOEMRE's investigative report on Atlantis failed to properly interpret and apply the 2002 version of 30 C.F.R. § 250.901(d). We found that BOEMRE did not become aware of the allegation until some 6 months after its report was issued.

BACKGROUND

Atlantis is a BP-owned deepwater oil and gas production platform in the Gulf of Mexico. It was built and deployed between approximately 2005 and 2007.

In April 2009, [redacted] a former BP contractor, filed a lawsuit against BP under the False Claims Act (31 U.S.C. §§ 3729-3733), alleging that BP did not maintain copies of engineer-approved drawings for Atlantis as required under the Code of Federal Regulations (C.F.R.). [redacted] alleged that this lack of documentation created imminent and significant safety risks on the platform.

On February 24, 2010, several members of Congress wrote to then Minerals Management Service (MMS) [1] Director S. Elizabeth Birnbaum, urging her to direct a full investigation of whether BP had all of the required engineering drawings for the Atlantis platform and its subsea components in place before production from the platform began, and to report the results to Congress (**Attachment 1**). The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) released a report on its Atlantis investigation on March 4, 2011. The investigation concluded that the facility was safe.

DETAILS OF INVESTIGATION

We opened an investigation after receiving a letter, dated December 11, 2012, from [redacted] attorney, Mary Whittle, requesting an investigation related to her client's False Claims Act allegations against BP (**Attachment 2**). Whittle's complaint letter referred to a BOEMRE employee, whom we later identified as Advanced Structural Engineer [redacted] who participated in the BOEMRE investigation and who claimed it had been conducted improperly. The letter also implied that Houma District Manager [redacted], BOEMRE's lead investigator into [redacted] False Claims Act allegations, had a conflict of interest because he had approved BP's original Atlantis permit applications. The letter further alleged that BOEMRE's Atlantis investigation report never interpreted or even commented on the 2002 version of 30 C.F.R. § 250.901(d), which was the applicable regulation at the time BP filed its permit applications for the Atlantis platform. According to 30 C.F.R. § 250.901(d) (2002), the lessee is required to submit a letter to BOEMRE certifying that a registered professional structural or civil engineer has certified the design and any modifications of the structure being constructed and deployed.

[1] After the April 20, 2010 explosion of the Deepwater Horizon drilling rig in the Gulf of Mexico, then Secretary of the Interior Ken Salazar decided to reorganize MMS. MMS was renamed BOEMRE in June 2010. Then, on October 1, 2010, the Office of Natural Resources Revenue became a separate U.S. Department of the Interior (DOI) office responsible for collecting revenue from mineral leases covering Federal lands. Finally, BOEMRE was split into the Bureau of Safety and Environmental Enforcement (BSEE) and the Bureau of Ocean Energy Management (BOEM) on October 1, 2011. The timeline of our investigation spans several stages of this reorganization, so for the sake of simplicity we will refer to the bureau as BOEMRE throughout this report.

Claim That the Atlantis Investigation Had Been Conducted Improperly

First Phase of the Investigation, BP Headquarters, Houston, TX (June 2010 – July 2010)

[redacted] was assigned to lead BOEMRE's Atlantis investigation prior to the explosion of the Deepwater Horizon drilling rig on April 20, 2010. [redacted], the manager of the Houma District for the past 5 years, was previously a production engineer in the Houma District (**Attachment 3**). He started working for BOEMRE in 1997.

According to [redacted], BOEMRE initiated its review of the Atlantis platform in late 2009 after [redacted] filed his False Claims Act lawsuit. He said that BOEMRE met with [redacted] attorneys and attempted to answer several questions related to their allegations but the attorneys were apparently not satisfied with BOEMRE's responses because the matter was then raised to Congress. [redacted] said BOEMRE management asked him to lead the Atlantis investigation because no one in the U.S. Government knew more about the Atlantis platform than he does. [redacted] explained that he had been studying the platform for 5 years and if BOEMRE management ever needed any questions answered about the platform, he was the person they came to.

[redacted] stated that [redacted] attorneys provided BOEMRE a list of BP's engineering documents to support their allegations. He said that while [redacted] is not an engineer, BOEMRE recognized that he was a document specialist and believed his allegations might be credible. As a result, [redacted] traveled to Houston to review BP's Atlantis documentation, which BP offered to provide to BOEMRE at the company headquarters. Two days after he arrived in Houston, the Deepwater Horizon drilling platform exploded, and [redacted] diverted his efforts from the Atlantis investigation to the Deepwater Horizon incident.

According to [redacted], he restarted the Atlantis investigation approximately 6 weeks after the Deepwater Horizon explosion. He was aided by BOEMRE Production Engineer [redacted] who, he said, had the second-highest level of Government knowledge about the platform. [redacted] plan and scope of the investigation at that time was for the investigative team to review documentation for the Atlantis platform's subsea components to see if BP was confident that the equipment had been built and installed to specification (**Attachment 4**). The team was also working with BP employees to review each drawing listed in the database [redacted] had used at BP to determine the accuracy of [redacted] assertion that BP lacked "as-built" drawings for Atlantis' subsea components.

[redacted] said that [redacted] identified a specific "handover" process BP used when transferring mechanical and system engineering drawings to the next stage of building the platform (see Attachment 3). He said that BP had an extensive chain of custody covering the handover process, and that BOEMRE's review of this process and the related handover packages would have identified the problem if [redacted] had been correct in his allegations that BP did not have the necessary certified engineering drawings for the platform. According to [redacted], the mechanical and system handover packages were highly detailed and so voluminous that [redacted] thought it would take her 4 years to complete a review of the documents without assistance.

Two Structural Engineers Join the Atlantis Investigation Team

At this point, according to [redacted] BOEMRE management told him that structural engineers [redacted] and [redacted] could help [redacted] review the packages. [redacted] said that he

had not worked with either woman before, but he welcomed their assistance. [redacted] and [redacted] were assigned to travel to Houston to assist [redacted] and [redacted]

Advanced Structural Engineer [redacted] has worked for BOEMRE since January 2009 (**Attachment 5**). She issues permits to energy-producing facilities operating on the Outer Continental Shelf and ensures that the facilities are safe and comply with applicable Federal regulations.

[redacted] said that her first-line supervisor, [redacted], Chief of BOEMRE's Office of Structural and Technical Support, informed her of the assignment to Houston in May 2010. According to [redacted] [redacted] was also assigned to the structural engineering team at that time. She and [redacted] were the only two structural engineers assigned during the first phase of the investigation.

According to [redacted] she and [redacted] alternated their travel to BP's Houston headquarters to work on the investigation. [redacted] was assigned to travel to Houston first. [redacted] reviewed the pertinent regulations with [redacted] and tutored her on structuring an investigation before [redacted] left for Houston because [redacted] had only 4 years of engineering experience.

[redacted] said that she contacted [redacted] before [redacted] went to Houston to try to learn about the structure and parameters of the investigation. According to [redacted] [redacted] told her that the investigation's structure was "fluid." [redacted] said that she and [redacted] were surprised by this comment because they knew the investigation was related to a legal matter, and therefore they believed it should have been more rigidly structured.

[redacted], who has since been promoted to Chief of BSEE's Environmental Inspection and Enforcement Unit, said that in Houston she was assigned to help [redacted] review "data books" (**Attachment 6**). These data books contained a large amount of information on the equipment attached to the Atlantis production platform, including information related to who manufactured the equipment, how the equipment was meant to function, and how it was attached to the platform. According to [redacted], the data books did not contain structural designs, nor did they include "issued-for-construction" or "as-built" drawings,[2] which she understood to be the focus of the investigation based on her review of the [redacted] lawsuit and the request from Congress. [redacted] said that she recommended to [redacted] and [redacted] that they ask BP for these drawings rather than review the data books.

[redacted] said that she further recommended to [redacted] and [redacted] that they focus on subsea structural drawings in order to verify whether or not the claims in [redacted] lawsuit were valid. According to [redacted] [redacted] and [redacted] "pushed back" on her recommendation at first, but eventually [redacted] was allowed to request the drawings from BP. [redacted] said that she drafted a letter to BP requesting the drawings during her second visit to Houston in June 2010, but BP's response did not contain a complete set of the drawings. [redacted] said she asked BP for additional drawings but never received the drawings to her satisfaction.

[2] Issued-for-construction drawings are drawings that have been reviewed, checked, approved, and officially released as completed documents for construction. As-built drawings are a revised set of drawings submitted by a contactor upon completion of a project or a particular job. They reflect all changes made in the specifications and working drawings during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed.

[redacted] *and* [redacted] *Discomfort Over the Investigation Grows*

According to [redacted] sent her several text messages during [redacted] initial visit to Houston, telling her that she was uncomfortable with how the investigation was structured and how it was being conducted (see Attachment 5). [redacted] said that the experience upset [redacted]. She met with [redacted] the weekend after [redacted] finished her first rotation in Houston and tried to advise her on how an investigation should be conducted. [redacted] told [redacted] that she wanted to prepare as much as possible before joining the investigation herself, and [redacted] replied: "I don't think you need to worry about being prepared."

[redacted] described for us her experiences on her first trip to Houston. Upon her arrival, she found the investigation to be "very limited," and she could not understand the direction it was taking. [redacted] explained that because the investigation was responding to a congressional request, she had expected to find a far more comprehensive and structured investigation.

[redacted] said she assumed the investigation was so unstructured because the BOEMRE employees involved did not have much private-sector experience. Accordingly, [redacted] said, she made several suggestions to [redacted] and [redacted] as to how BOEMRE should proceed with the investigation in order to make it "defensible," but they quickly let her know that her suggestions were not welcome. [redacted] said that rather than consider her suggestions, [redacted] directed her to review documentation unrelated to her duties as a structural engineer. [redacted] said that she did not understand this direction, but did what [redacted] told her to do because he was the lead.

[redacted] also said that during her first Houston trip, she had several discussions with [redacted] about the applicability of the Federal regulations to Atlantis, during which they disagreed about how 30 C.F.R. §§ 250.900 – 921 (Subpart I)[3] applied. According to [redacted] [redacted] stated several times that he believed that BOEMRE does not regulate a production platform's subsea components, yet [redacted] knew that subsea equipment was "clearly listed in our regulations."

[redacted] stated that he assigned [redacted] and [redacted] to review the mechanical and system handovers when they began assisting in the Atlantis investigation in Houston (see Attachment 3). He said that [redacted] and [redacted] refused to comply with the assignment because "they had their own ideas" about what needed to be done, and [redacted] in particular was adamant about only doing what she believed she should be doing. He stated that he was not sure how to handle [redacted] because he was not her direct supervisor.

[redacted] told us that during her work in Houston she came to believe that BP was being allowed to control the investigative effort (see Attachment 6). For example, she said, BP had requested updates on BOEMRE's efforts in the investigation, which she believed was inappropriate.

According to [redacted] and [redacted] [redacted] became so disturbed about how the investigation was being conducted that she brought their concerns to BOEMRE Regional Director Advisor [redacted] in late June 2010, telling her that she felt uncomfortable because BP employees often entered the BOEMRE investigative team's workspace and asked probing questions about the investigation (see Attachments 5 and 6). [redacted] said that [redacted] specifically complained to [redacted] that [redacted], a

[3] The BOEMRE regulations governing offshore oil and gas operations in the Outer Continental Shelf are found in 30 C.F.R. § 250. Different regulatory requirements apply to different components of an offshore oil and gas production facility. The regulations are divided into subparts applicable to the different components. Subpart I (30 C.F.R. §§ 250.900-.921) applies to platforms and structures.

former BOEMRE employee who was now working for BP, regularly approached her with specific questions. According to [redacted] both she and [redacted] were concerned that BP may have been trying to control the investigation.

We interviewed [redacted], who has worked for BOEMRE for 32 years (**Attachment 7**). In her current position, she identifies legal issues and offers the regional director informal legal advice, including outlining whether formal legal counsel would be needed from either DOI's Solicitor's Office (SOL) or the Department of Justice.

[redacted] confirmed that during the early phase of the Atlantis investigation, [redacted] told her that the investigation's independence might be at risk because it was being conducted at BP's headquarters. [redacted] said that [redacted] "is a stellar employee" who "goes by the book," so she placed faith in [redacted] perspective. [redacted] told us that she advised [redacted] to contact her third-line supervisor, Regional Supervisor for District Field Operations [redacted] and ask that BOEMRE relocate the investigation to New Orleans. [redacted] was not certain if [redacted] spoke to [redacted] about the matter, but [redacted] assumed that she did. [redacted] also said that she may have talked directly to [redacted] herself about the matter, but she was not certain. [redacted] stated that beyond this advice to [redacted], she was not involved with the Atlantis investigation.

[redacted] told us that sometime after [redacted] spoke with [redacted], BOEMRE management informed BP that the investigation would be relocated to New Orleans (see Attachment 5). In August 2010, all documents from the investigation were moved from BP's headquarters in Houston to BOEMRE's New Orleans District Office, and the second phase of the Atlantis investigation began.

Second Phase of the Investigation, BOEMRE Office, New Orleans (August 2010 – October 2010)

[redacted] told us that her supervisor, [redacted], told her and [redacted] that they needed to continue assisting the investigation after it was relocated to New Orleans (see Attachment 5). By [redacted] second trip to Houston, however, [redacted] had concluded that she did not want her name associated with the investigation, and she began documenting everything [redacted] asked her to do. [redacted] decided to ask to be removed from the project, but [redacted] was so distraught about the investigation that [redacted] withheld her request so that [redacted] could ask [redacted] to be removed instead.

[redacted] said that once the first phase of the investigation was completed, she emailed [redacted] asking to be removed (see Attachment 6). [redacted] said that she made this request for several reasons: 1) she was very busy with her normal workload; 2) she did not feel that she was being managed as a professional; 3) she did not feel she was being tasked with appropriate duties for a structural engineer; and 4) she did not feel comfortable with the interaction between BOEMRE and BP. [redacted] agreed to allow her to be taken off the investigation.

[redacted] said that she worked with [redacted] to decide which structural engineer would replace [redacted] (see Attachment 5). According to [redacted] a significant portion of the investigation needed to be conducted by structural engineers, and there were too many technical drawings for one engineer to review alone. [redacted] assigned [redacted] a structural engineer whom [redacted] trusted, to the investigation. [redacted] said that she also told [redacted] at that point that she did not trust [redacted] and was not comfortable working with him.

[redacted] also said that in August 2010, [redacted] drafted a summary of her Houston experiences that was accurate as well as "very scathing and honest" (**Attachment 8**) [redacted] received a copy of [redacted] report and emailed it on September 5, 2010, to [redacted], to be forwarded to [redacted], saying that it was a "good job and very thorough" (see Attachment 4).

The Final Structural Engineering Team Is Formed

[redacted] said that early in the second phase of the investigation, BP produced a substantial number of structural drawings for review (see Attachment 6). She said that [redacted] asked her to rejoin the investigative effort and help review them, and she agreed to do so part time. From this point onward, [redacted] and [redacted] made up the investigation's structural engineering team.

According to [redacted] before [redacted] started work on the investigation again, [redacted] approached [redacted] to lay down "ground rules" so that they could proceed respectfully as a team while acknowledging that their approaches differed (see Attachment 5). [redacted] suggested ways to professionally disagree while reporting the investigative team's findings, informed [redacted] that she believed the investigation should proceed in a more formal manner, and suggested that all communication with BP go through [redacted] because he was the lead. According to [redacted] listened to her and agreed to move forward with the investigation in a professional manner.

[redacted] explained to us that these ground rules were meant to avoid a repetition of the tension that had occurred between the structural engineers and [redacted] during the first phase of the investigation (see Attachment 6). According to [redacted], however, the day she arrived to assist in the second phase, [redacted] immediately confronted her again about her views of how the investigation should be conducted. She said he stressed that Atlantis had no structural issues if Federal regulations had not been violated.

We also interviewed Structural Engineer [redacted] who began working for BOEMRE's structural engineering group in 2009 (**Attachment 9**). He said that he helped [redacted] and [redacted] create spreadsheets and review the Atlantis engineering drawings for issued-for-construction and as-built signatures or labels.

According to [redacted] he was unsure about the direction the investigation was taking. [redacted] said that he had reviewed the original congressional request several times and it appeared to him that Congress was concerned about "BP's document control" regarding Atlantis. [redacted] added that when the structural engineers attempted to locate the engineering drawings they needed to review, they found it difficult due to BP's flawed index system. [redacted] noted that the production engineers assigned to the Atlantis investigation were not as concerned about this situation as the structural engineers.

BOEMRE Focuses Its Investigation on Regulatory Function

On July 21, 2010, 18 members of Congress sent a letter to DOI Secretary Salazar and BOEMRE Director Michael Bromwich urging BOEMRE to take steps to ensure the safe operations of the Atlantis platform (**Attachment 10**).

[redacted] told us that as the investigation was being relocated to New Orleans, he recommended to BOEMRE managers [redacted], Regional Supervisor for Regional Field Operations [redacted], and [redacted] that the Atlantis investigation focus on regulatory documents (see Attachment 3). [redacted]

explained that he felt that BOEMRE should only be reviewing documents that BP had actually been required by regulation to submit for approval and oversight during Atlantis' construction and commission. He said that [redacted], [redacted], and [redacted] agreed with this approach and that [redacted] sent a letter to BP on July 21, 2010, requesting pertinent structural and production documents and drawings (**Attachment 11**). He said that both the production engineers and the structural engineers should have followed this approach, but the structural engineers were attempting to change "how they [were] doing business."

During their interviews, [redacted] and [redacted] confirmed that they agreed with [redacted] recommended approach (**Attachments 12 and 13**). [redacted] also said that if BOEMRE learned after conducting the Atlantis investigation that it needed to tighten the pertinent regulations, it should do so for the future, but it could not retroactively penalize BP for following BOEMRE's interpretation of the regulations at the time the facility was constructed and approved.

BOEMRE Concludes That Atlantis' Subsea Components Are Not Covered by Subpart I

[redacted] said she, [redacted] and [redacted] all believed that according to regulations contained in Subpart I, BOEMRE was responsible for ensuring the compliance of all subsea components of any platform operating on the Outer Continental Shelf, including Atlantis (see Attachment 5). She said that [redacted], however, believed that Subpart I did not apply to the subsea components of drilling or production platforms, and this was the interpretation BOEMRE ultimately followed when writing its final report. [redacted] said that [redacted] continually confronted [redacted] about the subject, but [redacted] would simply state to them that "somebody" had decided that BOEMRE was not going to regulate subsea structures.

[redacted] explained her belief that Subpart I does apply to subsea components (see Attachment 6). She said that the structural engineers did their best to provide BOEMRE management with the engineers' professional view of Subpart I, but BOEMRE management simply accepted [redacted] interpretation, which was that historically Subpart I only applied to "weight-bearing" structures attached to a platform, not to subsea components. She stated that even though [redacted] supervised her and the rest of the structural engineers, he was not a structural engineer himself and his interpretation was flawed.

[redacted] acknowledged that the structural engineers interpreted Subpart I differently than the production engineers and [redacted] (see Attachment 9). He felt that the regulations in Subpart I were worded in a way that could lead to either interpretation.

[redacted], who is now retired from BOEMRE, directly supervised [redacted], [redacted], and [redacted] during the Atlantis investigation (**Attachment 14**). He told us he disagreed with the structural engineers' assertion that subsea components were covered in Subpart I. [redacted] said that he attempted to "steer" the structural engineers away from this view, but they chose to follow a "real strict, literal" interpretation of the subpart.

We also interviewed SOL Attorney [redacted] who was introduced to the Atlantis investigation after [redacted] filed his False Claims Act allegations in 2009 (**Attachment 15**). She was assigned to help BOEMRE evaluate whether [redacted] allegations represented a violation of Subpart I. [redacted] said that the core legal issue that [redacted] case appeared to rely on was the notion that Subpart I requires as-built drawings for subsea components. Accordingly, she reviewed the regulations and found that the Subpart I requirement for as-built drawings did not apply to subsea components.

In addition to reviewing Subpart I and its administrative and legislative history, [redacted] consulted with BOEMRE engineers [redacted] and [redacted] about whether BOEMRE had historically regulated subsea components under Subpart I. According to [redacted], [redacted] and [redacted] informed her that BOEMRE had not historically interpreted Subpart I as applying to subsea components, only to load-bearing structures. As a result, BOEMRE had not historically required companies like BP to provide as-built drawings of subsea components. She documented her legal analysis of the issue and provided copies of it to Michael Bromwich, BOEMRE Director, and [redacted], Director of BOEMRE's Investigations and Review Unit (**Attachment 16**).

BOEMRE Concludes That Engineering Drawings Do Not Need "As Built" Stamp

In addition to the structural engineers' disagreement with [redacted] interpretation that Subpart I's as-built requirement does not apply to subsea components, they also disagreed with [redacted] and [redacted] about what constituted an as-built engineering drawing, in particular whether the drawing should be labeled or stamped with the words "as built."

In an August 25, 2010 email response to BOEMRE's July 21, 2010 document request, BP defined its labeling standard for as-built drawings and final handover drawings (see Attachment 4). [redacted], [redacted], and [redacted] exchanged emails about this information on August 31, 2010, concluding that BP's labeling system complied with regulations.

When interviewed, [redacted] said that he remembered several email discussions about the definition of an as-built engineering drawing during the Atlantis investigation (see Attachment 13). He said that he did not contribute to these discussions but knew that the as-built label was a significant point of discussion. [redacted] said he learned that several companies had different ways of labeling their drawings to indicate that they were as-built drawings, even if the drawings did not have the actual words "as built" stamped on them. [redacted] believed such labels were acceptable under Federal regulations.

[redacted] explained that the structural engineers looked at the as-built requirement as if it were a house that was being built, not an offshore production platform (see Attachment 14). He said that offshore operators do not create final as-built drawings. According to [redacted], the final engineering drawing made at the time the component or structure was put into commission is all that is necessary, not a drawing stamped "as built."

In contrast to these beliefs, [redacted] said that in order for a structural engineering drawing to be classified as an as-built drawing, it needed to have an as-built stamp on it (see Attachment 6). According to [redacted], BOEMRE management adopted the idea that if structural engineering drawings *represent* as-built drawings, then the drawings comply with the regulations. She said that this interpretation is contrary to the general professional standards of structural engineering. Furthermore, [redacted] said, even if this interpretation could be legally justified under the regulations, she believed that drawings stamped "as built" should be required in order to determine whether the designs on the drawings complied with general professional standards.

[redacted] also acknowledged that BOEMRE's upper management decided that as-built engineering drawings did not need the exact words "as built" on them (see Attachment 9). He explained that he has never worked in private industry and therefore was not familiar with industry labeling standards, but an as-built drawing should ideally have the label.

SOL attorney [redacted] said that she did not examine whether a structural engineering drawing needed the words "as built" stamped on it to satisfy the regulations' requirements (see Attachment 15). Like [redacted], she explained that each company involved in creating the drawings had different codes for their as-built drawings. Therefore, BOEMRE seemed satisfied that the drawings complied with the regulations even though several drawings did not have the exact stamp or words "as built." [redacted] did not express an opinion about whether BOEMRE could legally make such an interpretation or whether the regulations require "as built" to appear on drawings.

The Production Engineering Team and the Structural Engineering Team Split (September 2010)

[redacted] became responsible only for the production engineers working on the Atlantis investigation once it relocated to New Orleans, although he retained the title of lead for a time (see Attachment 3). He told us that it was clear to him that [redacted] would not take any direction from him and so he was relieved of the responsibility of trying to assign any tasks to the structural engineers. From that point onwards, [redacted] said, he had no control over or knowledge of the structural engineers' activities during the investigation.

Tensions Continue to Grow Between Domangue and the Structural Engineers

[redacted] explained that after learning that the engineering teams continued to have problems working together, he directed [redacted] to have [redacted] monitor how the structural engineers were working with [redacted] and the production engineers (see Attachment 12).

[redacted] and [redacted] described how [redacted] provided direct oversight to the structural engineers (see Attachments 13 and 14). According to [redacted], [redacted] informed him that he was "extremely frustrated" with the structural engineers because they were not following [redacted] directions and were going "beyond the scope" of the congressional request and the regulation requirements. [redacted] said that he therefore directed [redacted] to oversee the structural engineers directly, including visiting the structural engineers' designated work site in the New Orleans District Office a couple of times a day. [redacted] did not remember [redacted] reporting any particular issues to him after [redacted] started providing more oversight to the structural engineers. [redacted] confirmed that he visited the New Orleans work site every day and worked closely with the structural engineers while they reviewed engineering drawings, along with actually reviewing the drawings himself.

On September 1 and 2, 2010, several email exchanges took place about the conflict between the structural engineers and [redacted] (see Attachment 4). [redacted] said that after the investigation was relocated to New Orleans, [redacted] sent an email to BOEMRE management complaining that [redacted] was not following his directions and was being difficult (see Attachment 6). According to [redacted] sent the email to [redacted], [redacted], and [redacted], stating that [redacted] was "disruptive" and was jeopardizing the timely completion of the investigation (see Attachment 5). [redacted] said that in response to [redacted] email, she informed her supervisors that she felt he had created a hostile work environment and was attempting to retaliate against her. At this time, [redacted] said, she also emailed [redacted] asking to be removed from the investigation; [redacted] offered to meet with her, but he denied her request.

When interviewed, [redacted] confirmed that [redacted] came to him with concerns about [redacted] even as [redacted] was receiving complaints from [redacted] about [redacted] (see Attachment 12). [redacted] said that he denied [redacted] request to be released from the Atlantis investigation because BOEMRE was

trying to meet a congressional deadline and it would have taken far too much time to replace her. He said that he tried to encourage [redacted] and [redacted] to work together as a team.

[redacted] said that the structural engineers continued to have concerns about the second phase of the investigation (see Attachment 6). For example, she said, when the structural engineers requested certain structural engineering drawings to review, [redacted] would attempt to limit their review to platform drawings, versus subsea drawings. [redacted] said that the structural engineers also believed that the BOEMRE employees who were interviewing witnesses for the investigation were not asking the witnesses questions related to structural engineering. The engineers raised these concerns with [redacted] rather than [redacted]

The Structural Engineers Begin Their Own Separate Report of Atlantis Findings

As the investigation went on and the structural engineers' concerns continued to grow, [redacted] stated, [redacted] and [redacted] both voiced their desires to be removed from the investigation (see Attachment 5). [redacted], and [redacted] met with [redacted] on September 15, 2010, and he told them to produce a separate report of their findings (see Attachments 5, 6, and 9). [redacted] said that she was satisfied with this direction because, based on her observations, she would not have been comfortable signing her name to the production engineers' findings (see Attachment 6). [redacted] said that he also embraced this direction because the three could then feel assured that they would be able to document their concerns and findings without having to combine them with those of the production engineers (see Attachment 9).

[redacted] said that at this meeting, he listened to the structural engineers' general concerns and issues (see Attachment 12). He did not remember specifics, but he believed that he told them to compile their findings and conclusions separately from the production engineers so that they could be incorporated into one final BOEMRE report. He did not believe he told them to prepare a separate final report.

The structural engineers finalized their own report of Atlantis findings and conclusions on September 28, 2010 (**Attachment 17**). They presented their findings to [redacted] and [redacted]. According to [redacted], this represented the end of the second phase of the investigation (see Attachment 6).

Third Phase of the Investigation, BOEMRE Office, New Orleans, and BOEMRE Headquarters, Washington, DC (October 2010 – March 2011)

In June 2010, in response to the Deepwater Horizon explosion, [redacted] and Director Michael Bromwich began working for BOEMRE (**Attachment 18**). [redacted] who when interviewed was serving as the Acting Assistant Secretary, Land and Minerals Management, told us that he was a senior advisor to Bromwich during the Atlantis investigation and acted essentially as his "lieutenant." The Atlantis investigation was already underway when [redacted] and Bromwich joined BOEMRE.

A New BOEMRE Unit Takes Over the Investigation

According to [redacted], Bromwich established the Investigations and Review Unit shortly after becoming Director in an effort to repair BOEMRE's credibility. He said that Bromwich believed that he needed to establish the capacity within BOEMRE to identify, respond to, and investigate allegations of misconduct, both internal and industry related. Once Bromwich learned of the congressional request

and the Atlantis investigation, [redacted] said, Bromwich decided that the unit should become involved, and directed its director, [redacted], to take over as lead for the investigation.

[redacted], who is now the senior advisor to the BSEE Director, was hired by Bromwich in July 2010 (**Attachment 19**). According to [redacted], he started performing a significant amount of work on the investigation in September 2010 and became the lead for the investigation at that time.

[redacted] said that he recognized early on that the relationship between the structural engineers and the production engineers was "completely broken." As a result, he began communicating directly with each team as opposed to trying to communicate through [redacted], who at the time was still the overall lead.

According to [redacted], when he initially took over as lead, he attempted to keep the investigation narrowly focused on whether BP's actions in deploying Atlantis may have violated Federal regulations. He said that in September 2010 he helped prepare BOEMRE's Atlantis investigation report, which included the production engineers' work. He sent a draft copy of this report to [redacted], [redacted], [redacted], and [redacted] to review on October 13, 2010 (see Attachment 4).

Bromwich Delays BOEMRE's Draft Investigation Report After the Structural Engineers' Review

[redacted] explained how the structural engineers learned of the Atlantis investigation report that BOEMRE planned to issue in the fall of 2010 (see Attachment 6). After the structural engineers issued their separate report in September 2010, [redacted] said, she was assigned to travel with Bromwich as part of a BOEMRE recruitment effort. During the trip, Bromwich made several comments about the final BOEMRE Atlantis report, which was to be issued soon. [redacted] told us that she had not read the draft of this report before Bromwich mentioned it.

On October 29, 2010, [redacted] emailed Bromwich to describe her concerns over what she perceived to be mismanagement of the Atlantis investigation, over-involvement by BP, and BOEMRE management's incorrect approach with regard to BP's requirements under the regulations (see Attachment 4). Bromwich forwarded [redacted] email to [redacted] the same evening, stating that her message was "unexpected and extremely troubling."

The next day, Bromwich emailed [redacted] back, telling her that BOEMRE would delay releasing the report, which was to be issued the next week, if she reviewed it and found that her concerns had not been addressed. He sent her another email that day with the draft report attached. [redacted] told him she had not seen the report before, nor did she believe [redacted] and [redacted] had.

[redacted] emailed her comments to Bromwich on November 1, 2010. Her email identified several areas in which she disagreed with the report, including the report's interpretation of regulations as they pertain to Atlantis' subsea components and issued-for-construction and as-built drawings. [redacted] also stated in her email to Bromwich that the report did not reflect the structural engineers' technical understanding of design and investigative findings. [redacted] also spoke with [redacted] that same day and gave him her comments on the draft report (see Attachment 4).

According to [redacted], after speaking with [redacted] and reviewing the draft BOEMRE report himself, he became concerned that the BOEMRE investigation and report were not answering the basic question of whether Atlantis was safe (see Attachment 18). He was also concerned because [redacted] the

complainant who raised the original allegations about the facility's safety, had not been interviewed during the investigation. [redacted] said that these concerns led him and Bromwich to conclude that more work was needed before a final report could be issued.

When interviewed, Bromwich said that he did not specifically remember [redacted] email and comments (**Attachment 20**). He said that he recalled directing that the report not be released and that he directed [redacted] to do more work on the Atlantis investigation. Bromwich said, however, that he was not certain whether [redacted] emails and comments were the "triggering event" for these decisions. He also recalled being disappointed to learn that [redacted] had not yet been interviewed.

The Atlantis Investigative Team Is Reassembled To Reexamine the Subsea Component Issue

According to [redacted] in early November 2010 [redacted] coordinated a conference call with her, [redacted], [redacted] and some of the production engineers, informing them that the Investigations and Review Unit planned to look at the subsea issue again and to reassemble the investigative team (see Attachment 5). On November 4, 2010, [redacted] emailed [redacted] with the structural engineers' comments and suggestions on the draft investigative report, along with its comments on [redacted] complaint (see Attachment 4). In her email, [redacted] stated that the report did not address several of the structural engineers' concerns about Atlantis' subsea component documentation and the structural engineers believed that "BOEMRE must verify that the subsea components and their parts were appropriately documented and approved prior to their installation and prior to the related production start-up dates." The structural engineers also gave [redacted] suggestions for documents that they believed BOEMRE needed to request from BP in order to answer the congressional inquiry regarding Atlantis.

According to [redacted], Bromwich and [redacted] directed him to expand the investigation to review and analyze every issue raised by [redacted] False Claims Act suit (see Attachment 19). Accordingly, [redacted] decided that he needed to interview every person [redacted] identified in his claim who supported the allegations. This went beyond his original approach of determining only whether BP had violated Federal regulations.

[redacted] told us that [redacted] formed a team to interview BP employees and contractors, as well as [redacted] and [redacted] experts (see Attachment 5). The team was composed of [redacted] then BOEMRE Production Engineer [redacted] and an individual from Bromwich's immediate office (**Attachment 21**). [redacted] said that the interview process extended through January 2011 (see Attachment 5). According to [redacted] [redacted] provided several documents to the structural engineers that they had not seen during the first phase of the investigation and asked her to review them so that she could support him during the interviews.

During this phase of the investigation, [redacted] said, the structural engineers' focus on the adequacy and completeness of BP's structural engineering drawings continued (see Attachment 6). She said that BP did not have an index table for its drawings and the structural engineers could never determine whether BP had provided a complete, comprehensive set of structural engineering drawings for Atlantis. [redacted] said that the structural engineers knew that Atlantis had had subsea issues in the past, and therefore they wanted to review how those issues might have affected the final drawings. Overall, [redacted] said, she believed that the structural engineers did the best job possible with what BP provided, including issuing findings and recommendations for BOEMRE.

In addition to assisting [redacted] in his interviews, [redacted] said, the structural engineers reviewed footage of Atlantis' subsea components taken by a remotely operated underwater vehicle (ROV), along with the inspection reports that accompanied the footage (see Attachment 9). The ROV footage and associated inspection reports were provided to BOEMRE by BP.

The Investigations and Review Unit Issues a Revised Draft Report for Review, and the Structural Engineers Present a Separate Summary of Their Findings

On February 4, 2011, after the interviews and the additional work had been completed, [redacted] emailed a revised draft of the Atlantis report to those involved in the investigation, including [redacted], and [redacted], for their review (see Attachment 4).

Both [redacted] and [redacted] told us that they did not read the final report in depth or provide feedback because they noted that this report used the same approach and regulation interpretations as the October 2010 draft report, which the structural engineers did not agree with (**Attachments 22 and 23**). They said that they did not feel it was worth their time to comment on the new report because their comments and recommendations on the previous draft did not affect BOEMRE's approach. Moreover, [redacted] stated: "There was nothing [in the February 2011 draft] we could discern as originating from us" (see Attachment 5). [redacted] emailed [redacted] and told him that she and [redacted] had concluded that [redacted] was not interested in their thoughts on the report and that they did not intend to provide any input (see Attachment 4).

Instead of providing comments, on February 7, 2011, [redacted] emailed [redacted] a six-page summary of the structural engineers' findings and conclusions (**Attachment 24**). This summary was a subsection of a full structural engineering summary report, also dated February 7, that the structural engineers produced separately from BOEMRE's final report on the Atlantis investigation (**Attachment 25**, and see Attachment 5). In her email to [redacted], [redacted] wrote that out of the "hundreds of findings" in the third-party ROV inspection reports they reviewed the structural engineers' summary included "those we thought were most alarming" (see Attachment 4).

According to [redacted] the structural engineers observed insulation cracking and materials leaking from Atlantis into the Gulf of Mexico while reviewing the third-party ROV footage (see Attachment 9). He noted that the cracked insulation was similar to problems BP was experiencing with another platform. He said that the structural engineers did not know what types of materials were leaking into the Gulf and so simply documented their observations and findings in their report.

[redacted] reviewed the summary of the report and forwarded it to [redacted] the same day with a request for a meeting (see Attachment 4). He wanted to discuss whether the Investigations and Review Unit should issue the final BOEMRE report as drafted, issue the report while allowing the structural engineers to work on a separate report that would require BP to explain all of the problems they had noted, or delay the BOEMRE report until these problems were resolved. [redacted] wrote back to say he would read the report and they could talk the next day; he also forwarded the summary to Bromwich.

We showed [redacted] copies of the email exchange and the summary. [redacted] stated that he did not specifically remember receiving or reviewing the summary, but he reiterated that during this phase of the investigation he continued to be concerned about whether it was answering the core question at issue with the facility: its overall safety (see Attachment 18). When we interviewed Bromwich, he also

stated that he did not recall receiving or reviewing the structural engineers' summary (see Attachment 20).

On February 8, 2011, [redacted] emailed [redacted] stating that he wanted to meet with the structural engineers in New Orleans the next day, with [redacted] participating via telephone (see Attachment 4). After the meeting, [redacted] emailed [redacted], asking: "Why didn't they know what the call was about? I feel like I wasted time." [redacted] explained to us that the teleconference was to discuss any ongoing concerns the structural engineers had regarding the report's completeness, along with discussing the path forward (see Attachment 18). He was frustrated, however, because there seemed to be no structure to the conference call and he had to step in and provide talking points about the structural engineers' concerns.

[redacted] emailed [redacted] to explain that the structural engineers believed there were issues outside the scope of the report that still needed to be explored, but "for some reason no one was willing to step to the plate and talk to you about those issues" (see Attachment 4) [redacted] also stated in his email that he would support further investigation into the structural engineers' issues if Bromwich agreed they were "important enough." [redacted] forwarded [redacted] response to Bromwich, and Bromwich wrote that he would speak with [redacted].

According to [redacted], during the February 9 meeting, [redacted] and [redacted] made it clear to the structural engineers that the Atlantis investigation needed to be completed soon and they wanted to hear directly from the engineers about its issues (see Attachment 6). [redacted] said that all of the structural engineers expressed their feelings that their February 2011 report spoke for itself with respect to their findings, concerns, and recommendations. She said that [redacted] did not seem to know how to deal with the structural engineers' findings. [redacted] asked them: "How do we move forward?" and they told him that they would prepare recommendations on how to do so.

[redacted] remembered the February 9 meeting as "unremarkable" (**Attachment 26**). She recalled offering to prepare a summary of the structural engineers' findings that would educate nontechnical readers.

A February 14, 2011 email exchange between Bromwich, [redacted], and [redacted] indicated that Bromwich and [redacted] had a telephone conversation with [redacted] that day (see Attachment 4). After reviewing the email exchange, Bromwich acknowledged that he must have spoken with [redacted] about the structural engineers' concerns that day, but he does not specifically remember contacting her about this matter or the substance of the conversation he had with her (see Attachment 20).

When asked about her February 14 conversation with Bromwich and [redacted], [redacted] said that Bromwich requested the conference call in order to discuss the structural engineers' findings (see Attachment 6). According to [redacted], Bromwich said that BOEMRE needed to conclude the Atlantis investigation and issue a final report. [redacted] told Bromwich that it was not the structural engineers' intention to delay the BOEMRE report, adding that they stood by their findings and believed that their report had given BOEMRE management all of the information necessary to decide how to proceed. [redacted] said that she also informed Bromwich that the structural engineers' concerns and issues raised in September 2010 were still unresolved (see Attachment 23).

Two days after the February 9 meeting in New Orleans, [redacted] sent an updated draft Atlantis report to Bromwich and [redacted] (see Attachment 4). [redacted] suggested adding a footnote to the report

explaining the scope of the investigation and BOEMRE's responsibility to follow up on the issues the structural engineers identified that were outside the scope but required further examination. The footnote proposed by [redacted] was ultimately included in the final BOEMRE report:

> Performance of a full audit of the present condition of all subsea components was not within the scope of this investigation. *BOEMRE is continuing its regulatory review of the performance and integrity of the Atlantis facility's subsea components* [emphasis added], including wellheads, jumpers, and other components, and will take any appropriate action necessary to ensure the safe operation of the Atlantis facility and its subsea systems and components.

[redacted] and Bromwich both told us that they had no specific recollection of this footnote (see Attachments 18 and 20). When asked whether or not the structural engineers' findings and recommendations were ever addressed or investigated after the report was released, as the footnote and [redacted] email suggested would be the case, [redacted] stated that he did not remember whether anyone was directed to do so. Bromwich also initially stated that he did not remember, but he did recall having a personal conversation with [redacted] about the structural engineers' concerns.

Bromwich explained that he was in New Orleans on another matter when [redacted] was pointed out to him, and he asked if he could speak with her about the investigation. Bromwich recalled telling [redacted] that he took the structural engineers' concerns seriously and agreed that they needed to be followed up on. He also told [redacted] that while he did not believe the structural engineers' concerns should be incorporated into the investigation, he encouraged her to pursue them separately with his support. He admitted, however: "I don't know if she remembers it that way or not."

Bromwich emailed [redacted] on February 15, 2011, stating: "We can release the Atlantis report without fearing that [redacted] is] going to create issues about it" (see Attachment 4). After reviewing this email, Bromwich told us that he sent it because he believed that during his conversation with [redacted] she had agreed that there was "nothing incorrect in the report" (see Attachment 20). Bromwich added that [redacted] was concerned with the scope of the report, and he said that he would not have let the report be issued if she had told him its content was inaccurate. He further stated that it was his distinct impression that as long as the structural engineers' concerns were addressed in some way—even separately from the report—[redacted] had agreed to the report's release.

Conflict Continues Over Whether BOEMRE Pursues the Structural Engineers' Concerns

On February 17, 2011, [redacted] emailed Bromwich a two-page document from the structural engineers, entitled "The Bureau of Ocean Energy Management, Regulation and Enforcement, Atlantis Investigation: Path Forward" (**Attachment 27**). [redacted] email notified Bromwich that the structural engineers considered their work to be "substantially complete" (see Attachment 4). The "Path Forward" document identified several "lingering concerns" that they suggested "demand the BOEMRE's immediate attention," including "indications of possible well integrity deficiencies" (see Attachment 27). It also included their recommendations that an engineering evaluation of the integrity of all Atlantis wells be conducted, that BOEMRE establish an appropriate subsea monitoring regimen for Atlantis, that BOEMRE request the inspection and assessment documents and video related to possible cracks in Atlantis' flowline field joints, and that BOEMRE request detailed drawings for Atlantis' critical components, such as wellheads and trees.

Bromwich told us that he recalled thinking as he read the document that it confirmed his understanding that the structural engineers wanted him to be aware of their ongoing concerns, but at the same time agreed to the report being released without addressing those concerns in it (see Attachment 20). He said that he had given [redacted] and [redacted] permission to pursue their concerns and he did not believe that they needed more than that; he added that he assumed they would have informed their supervisors that they had the Director's support. According to Bromwich, [redacted] had proved that she was an assertive person; therefore, the notion that she may have believed she needed further direction from a lower-level supervisor in addition to permission from him "rings a little hollow."

In contrast, [redacted] said that she never knew that Bromwich had final approval of the Atlantis investigation report (see Attachment 26). She said that during her meeting with Bromwich, they discussed unrelated issues and only briefly touched on the Atlantis investigation.

We told [redacted] about Bromwich's assertion that [redacted] had agreed that there was "nothing incorrect in the report" and that it was ready to be released (see Attachment 22). [redacted] replied that she never told Bromwich that she believed there was nothing incorrect in the final report or that she was "agreeable" to the report's contents. When asked if Bromwich had given her permission during their conversation to pursue the structural engineers' concerns, findings, and recommendations, [redacted] said that he had not. According to [redacted] it was evident to her and the other structural engineers that no one in BOEMRE's chain of command welcomed their concerns and recommendations.

When we asked [redacted] if Bromwich had given her permission to pursue the structural engineers' concerns, findings, and recommendations, she said that he "absolutely did not" (see Attachment 23). Like [redacted] [redacted] felt "there was no management buy-in" to their concerns.

BOEMRE Issues Its Final Investigation Report

The final BOEMRE Atlantis investigation report was released to the public on March 4, 2011 (**Attachment 28**). An accompanying press release issued by BOEMRE stated: "Based on a thorough review of the evidence, the investigation found the majority of the allegations to be unfounded, but did find that there were a number of problems with the way that BP organized, stored, and labeled engineering drawings and documents. BOEMRE found no evidence that these documentation deficiencies created specific unsafe conditions on the Atlantis production platform" (**Attachment 29**). The press release quoted Bromwich as saying: "This report reflects a careful and comprehensive investigation of the allegations by an interdisciplinary team of lawyers, *structural engineers* [emphasis added], and other BOEMRE personnel, led by our Investigations and Review Unit."

That afternoon, Bromwich emailed the BOEMRE personnel who participated in the investigation, thanking them for their efforts and noting that he had discussed with the structural engineers that there were still "broader issues that need to be pursued" (see Attachment 4).

[redacted] said that she, [redacted], and [redacted] reviewed the final report and were still dissatisfied (see Attachment 5). She said that they all thought that the report ignored the structural engineers' findings, stating: "I skimmed through the report and did not see anything that looked familiar."
We asked [redacted] whether she believed the voices of the structural engineers who participated in the Atlantis investigation were fairly considered by BOEMRE management when it came to finalizing its investigation (see Attachment 26). [redacted] stated that while she initially believed that BOEMRE

management's approach to the investigation was based on "ignorance" of certain engineering processes, she came to believe that BOEMRE management was attempting to "tailor" the investigation in such a way as "to not find what [they] know is there."

[redacted] said that she believed BOEMRE's regulatory oversight had weaknesses and that the bureau needed to gain a better understanding of its oversight responsibilities regarding the subsea components of drilling and production structures in the Gulf of Mexico (see Attachment 6). She explained that while the BOEMRE final report referenced some of the structural engineers' findings, the report represented a "legal response" to [redacted] allegations instead of a comprehensive technical response. She believed that BOEMRE should be concerned about the greater issue of safety instead of only being concerned with strict compliance with Federal regulations. She said that [redacted] followed this strict approach, however, and became very defensive about the structural engineers' attempts to address the safety issues they found regarding Atlantis' structural engineering drawings and subsea components.

[redacted] also stated that she did not believe the final BOEMRE report was issued as a result of any "inappropriate conduct," and the structural engineers did ultimately have the opportunity to review the necessary drawings. She said, however, that the final report did not incorporate most of the findings, concerns, and recommendations in the structural engineers' report. She stated that the structural engineers' recommendations included areas that BOEMRE should follow up on, and it would be inappropriate not to do so.

[redacted] also said that he reviewed the final report (see Attachment 9). He noted that several of its findings and conclusions differed from the structural engineers' February 7, 2011 report, but he did not feel he needed to say anything to anyone about this fact. He said that in the end, BOEMRE had the authority to issue a report as it saw fit, regardless of the structural engineers' findings. He said, however, that he fully stands behind their report, stating that unlike the final BOEMRE report, the structural engineers simply documented what they found without being manipulated by management's interpretations.

Comparison of the Final Report by the Structural Engineers and the Final BOEMRE Atlantis Report

OIG compared the findings of the structural engineers' final Atlantis report and the final BOEMRE Atlantis report and found several discrepancies (**Attachment 30,** and see Attachment 19). For example, we compared the two reports' findings on ROV inspections of subsea structures:

BOEMRE's Findings	The inspection report on the 2010 ROV footage was prepared by 2H Offshore Inc. in January 2011. . . . The report concluded that the Atlantis subsea equipment is in good condition, with the exception of jumper insulation, which was shown to have a number of cracks.*
Structural Engineers' Findings	*The gas leak at the wellhead at GC 699 is an indication of well integrity problems* [emphasis in original]. This leak was identified during an earlier inspection. The formations of hydrates at wellheads as well as fluid leaks at wellheads are indicative of well integrity problems. As well, the source of the burn marks on the wellheads should be identified.

*Note: This section in the BOEMRE report included the footnote, quoted on page 16 of this report, which stated that BOEMRE was continuing its review of Atlantis' subsea components.

After reviewing our comparison, [redacted] said that the structural engineers' conclusion that there were "well integrity problems" caught his attention and he exchanged several emails with [redacted] and

others inquiring about it. He said that the response he ultimately received from the structural engineers did not support changing the BOEMRE report's conclusion.

According to [redacted], he learned about the subsea ROV footage during the investigation, and he asked for the footage and associated reports for BOEMRE's review. After receiving the footage and reports, however, he believed that they were outside the scope of the investigation's original task of analyzing [redacted] allegations related to the lack of as-built engineering drawings. He believed the structural engineers' findings and conclusions that went beyond this focus or that did not directly identify an ongoing safety concern or violation should remain separate from the BOEMRE report, to be followed up in BOEMRE's continuing "regulatory review." This is why, according to [redacted], he included the footnote in the BOEMRE report; he expected the structural engineers to follow up on their observations after the final BOEMRE report was released.

We also compared the section in the BOEMRE report concerning problems with the labeling of engineering drawings with the language in the structural engineers' report:

BOEMRE's Findings	We found that BP's engineering drawings relating to the Atlantis facility, which were prepared by a number of different contactors, were inconsistently labeled. . . . [and] that some drawings had inconsistent, undated, or missing engineer stamps. Other drawings had missing drawing numbers. We found that at least one of the subsea field architecture drawings was inconsistent with a subsea start-up chronology provided by BP. . . . These labeling and documentation problems alone do not constitute a violation of BOEMRE's regulations. Current BOEMRE regulations do not address how engineering drawings are to be stamped, organized and labeled. We find that BP complied with the requirements of 30 C.F.R. § 250.903(a)(1) and 30 C.F.R. § 250.905(d).
Structural Engineers' Findings	• BP did not have a complete set of "approved for construction" engineering documents for all subsea components of the Atlantis platform and related facilities when it began production in October 2007. • BP does not have a complete set of "as built" engineering documents for the Atlantis facilities that are currently in operation; and therefore BP is not currently in compliance with 30 CFR 250.903(a)(1). • BP did not demonstrate that they can produce drawings on the spot given their current documentation system. Even when providing drawings to us back in August, there were some that were out of order or scattered. [A BP employee] stated that they, BP, had only two weeks to provide a smattering of drawings which proved to be a difficult task. This doesn't bode well for BP's capability of responding to an emergent situation.

[redacted] explained that if he had believed that BP was not complying with the regulations regarding the as-built engineering drawings, he would have taken action against the company. He explained that ultimately he found BP's explanation of why all of the applicable engineering drawings were as-built drawings, even though not all of them had the specific words "as built" on them, was more persuasive than [redacted] claim that the drawings could not be considered as-built unless labeled exactly in that manner. He also noted the difference of opinion between the structural engineers and the production engineers as to whether or not Subpart I applied to subsea structures and cited SOL's [redacted] research determining that the subpart did not require as-built drawings of subsea components as it did for other weight-bearing components attached to the platform.

During the investigation, [redacted] said, he received a live demonstration of BP's document control system, in which BP employees demonstrated how they could access any as-built drawing of the

platform that was required by regulations. [redacted] told us that after viewing this demonstration, he became comfortable with BP's ability to access these documents and drawings, and he believed BP did comply with Subpart I.

We also compared the section in the BOEMRE report on alleged false or incomplete submissions of structural drawings with the language in the structural engineers' report:

BOEMRE's Findings	The "as built" requirements . . . apply only to structures associated with the platform. BOEMRE defines structures "associated with the platform" as those structures that are weight bearing on the platform. The following structures fall within the scope of 30 C.F.R. 250.901(a) [sic] and 30 C.F.R. 250.905(d): drilling, production, and pipeline risers and riser tensioning systems; turrets and turret-and-hull interfaces; foundations, foundation pilings and templates, and anchoring systems; and mooring or tethering systems. *See 30 C.F.R. 250.910(b)* [emphasis added]. BOEMRE's regulations currently do not specifically require the submission and approval of "as built" drawings for subsea components.
Structural Engineers' Findings	*[From a review of 135 mooring and foundation drawings for Atlantis]* Drawings lacking a PE [professional engineer's] stamp, signed and dated 100% Drawings not noted as having been issued for construction 48% Drawings not noted as "as-built" 100% *[From a review of 43 flowline/riser drawings]* Drawings lacking a PE stamp, signed and dated 100% Drawings not noted as having been issued for construction 2% Drawings not noted as "as-built" 100%

We showed the above comparison to [redacted] to show the way BOEMRE's final report differentiates between how its regulations apply to subsea components as opposed to risers and moorings or foundations. The BOEMRE final report acknowledges that the as-built requirement in the Subpart I regulations applies to risers and moorings or foundations, yet the structural engineers' findings indicated that 100 percent of both the risers and moorings or foundations drawings were not labeled "as built." [redacted] replied that the structural engineers' finding was probably a result of their view that the drawings needed the exact words "as built" on them. He still believed, however, that the regulations do not require the exact label or wording on the drawings as long as the drawings accurately represent the structures attached to the platform.

[redacted] said that he had felt that the structural engineers had taken an "undisciplined" approach to applying Federal regulations to the Atlantis platform. According to [redacted], if any facts had supported a violation or an ongoing safety concern, he would not have hesitated to identify those facts in the BOEMRE report and take action to correct the violations.

[redacted]r also stated that he believed the current regulations may not be as "robust" as he would like them to be. He believed the regulations should include specific requirements for engineering drawings for all components attached to a platform, subsea or otherwise, but he had to consider the regulations that applied at the time of Atlantis' construction and deployment in pursuing the Atlantis investigation. He reiterated that he had been fully prepared to hold BP accountable if the Atlantis investigation had found solid evidence that BP had violated BOEMRE's regulations.

We told [redacted] about [redacted] statement about the difference of opinion between the structural engineers and the production engineers, including his assertion that [redacted] determined that the regulation did not require the maintenance of as-built drawings of subsea components as it did for other "weight-bearing" components attached to the platform (see Attachment 26). [redacted] said that she never learned where the idea came from that Subpart I should not apply to subsea components. She believed this interpretation is illogical because all of the structures below the water's surface are considered subsea components; therefore, she did not understand why the regulation distinguishes between subsea components because some of the components may be weight bearing and others not. In fact, she said, structural engineers use the term "load bearing," as opposed to "weight bearing," to describe an effect on a structure, and "loading" is defined as any outside effect on a structure, including water currents, temperatures, and so on. Accordingly, any components below the surface of the water would be load bearing.

We told [redacted] about [redacted] conclusion that the Federal regulations do not require a label with the actual words "as built" on an engineering drawing in order to be in compliance. She responded that his explanation and acceptance of such drawings would be "unacceptable" to a structural engineer and "demonstrated malpractice." According to [redacted] "if you take that position, you have created a world of hazard out there and a world of unknowns, and a world of assumptions that the appropriate, correct knowledge" of a structure's design will be accurately transferred through the years to each new operator. She further said that based on the interviews conducted of BP employees, it was obvious that creating as-built drawings was "a broken process" for much of Atlantis, particularly the subsea components.

[redacted] *Alleged Conflict of Interest*

The Structural Engineers Speak of Difficulties With [redacted] Approach and Leadership

[redacted] said that she did not know [redacted] before being assigned to the Atlantis investigation (see Attachment 5). According to [redacted] when she first arrived at the office assigned to the Atlantis investigation, [redacted] stated that he planned on "cutting the legs out from under" [redacted] False Claims Act lawsuit and that he "was going to declare the Atlantis facility safe." [redacted] said that she was repelled by the fact that [redacted] as the lead, would make such a statement at the beginning of an investigation.

[redacted] said it became apparent to her that [redacted] was not interested in objectively reviewing Atlantis. In fact, she said, [redacted] had told her that he was conducting the investigation as a "partner" of BP. [redacted] believed that [redacted] became frustrated with her after she confronted him with her interpretation of the regulations' applicability to Atlantis. She said that after this discussion, [redacted] clearly wanted her to "shut up and do what I was being assigned."

During the first phase of the investigation in Houston, [redacted] said, she did not know whom to trust in BOEMRE, and the atmosphere in the Atlantis investigation office became "more and more hostile." In one instance, according to [redacted] when [redacted] was not present, [redacted] came into the office, closed the door, and then approached her and said: "Your big mouth is going to get you in trouble." [redacted] said that she felt shocked and threatened by this statement.

[redacted] told us that she did not learn that [redacted] was a part of the original permitting process for the Atlantis platform until after the investigation was relocated to New Orleans (see Attachment 6). In

addition to her discomfort with BP's probing actions in Houston, she said, she was also concerned about how [redacted] was leading the investigation. [redacted] explained that BP was conducting its own internal investigation into the Atlantis lawsuit allegations and [redacted] suggested that BOEMRE simply wait for BP to finish and then review the BP report for accuracy, rather than conduct its own investigation [redacted] further said that she had the impression that [redacted] wanted to find the facility safe.

[redacted] said that [redacted] was not receptive to her concerns about the drawings produced by BP. Instead, she said, he would often become defensive and repeatedly ask: "Does that violate regulations?" [redacted] said that based on the [redacted] lawsuit and the congressional request, she believed that the fundamental component of Atlantis' design process needed to be reviewed, not just whether or not BP had strictly complied with regulations, but [redacted] did not seem to care whether the drawings provided by BP were accurate.

[redacted], BOEMRE Management, and the Production Engineers Deny a Conflict of Interest

[redacted] denied ever saying to [redacted] that her "big mouth" could get her into trouble (see Attachment 3). He also stated that he did not recall ever saying that he planned on "cutting the legs out from under" [redacted] lawsuit or that he intended to "declare the Atlantis facility safe." According to [redacted], [redacted] has made several untruthful statements about him and his character. He also said that [redacted] regularly berated and insulted the production engineers during the Atlantis investigation.

[redacted] pointed out that [redacted] became the overall lead of the Atlantis investigation during its final 6 months and [redacted] did not author the final Atlantis report. [redacted] also acknowledged that while [redacted] drafted the legal analysis of the applicability of the BOEMRE regulations for the final report and [redacted] provided a significant portion of the technical analysis, [redacted] "owned authorship" of the final BOERME report (see Attachment 19).

According to [redacted], the potential appearance of a conflict of interest on [redacted] part was discussed within BOEMRE (see Attachment 12). [redacted] said, however, that he ultimately decided that [redacted] had too much integrity to allow a conflict to occur while leading the investigation. In addition, he believed that [redacted] experience with the Atlantis facility was far too valuable to forfeit. Moreover, [redacted] said, he assigned several other engineers to work with [redacted], and therefore [redacted] did not conduct the investigation alone.

[redacted] stated that he was never part of any discussion about the potential appearance of a conflict of interest if [redacted] was the lead in the Atlantis investigation (see Attachment 14). [redacted] said that he never considered such a thing because [redacted] had no ties to BP. [redacted] believed [redacted] was chosen to lead the investigation simply because he was the most qualified person to do so.

[redacted] the BOEMRE petroleum engineer who assisted [redacted] in the beginning of the Atlantis investigation, said that she never observed anything that would make her question [redacted] professionalism while he led the investigation (**Attachment 31**). According to [redacted] any of the production engineers that were assigned to the Atlantis investigation would have spoken up if they believed Atlantis was unsafe in any way. She said that all of the production engineers recognized their burden of ensuring the safety of offshore facilities and took it very seriously.

Former Production Engineer [redacted] now the Productions Operations Chief for the Houma District, stated that she was involved with the original permitting of Atlantis after joining BOEMRE in 2004 and participated in several of the final physical inspections of Atlantis before it went offshore (see Attachment 21). At that time, she explained, [redacted] was the Houma District manager, and [redacted] was the senior production engineer for the District. [redacted] delegated final approval of facility permits to [redacted], which was why [redacted] signed many of the approval permits for Atlantis during its construction and commissioning.

According to [redacted] she believed that [redacted] was chosen to lead the Atlantis investigation not necessarily because of his past experiences with the platform, but rather because he had the most production and subsea experience in BOEMRE's Gulf of Mexico Region. [redacted] explained that the Houma District dealt with deepwater and subsea production far more often than the New Orleans District. She believed that she was chosen to assist [redacted] in the Atlantis investigation because of her experience in Houma.

[redacted] stated that she never heard any suggestion that she or [redacted] might have had a conflict of interest when conducting the Atlantis investigation because of their prior roles in permitting the platform. [redacted] said that she participated in the interviews of [redacted] and his attorneys and they never alleged that she or [redacted] might be biased.

[redacted] also said that she never had any impression that [redacted] was biased in his review of Atlantis. She explained that he was her mentor for several years in the Houma District and together they have always approached their reviews of a facility "with an open mind." She told us she would never consider trying to cover up a past oversight if she had made one when originally permitting the facility, and she said she was certain that [redacted] believed similarly when starting the Atlantis investigation.

We interviewed Work-Over Completions Engineer [redacted] of BOEMRE's Lake Jackson District (**Attachment 32**). [redacted] was working as a production engineer in the Lake Charles District when [redacted] asked him to assist during the second phase of the Atlantis investigation.

According to [redacted] he never had any impression that [redacted] was biased in his review of Atlantis. He said that he had a high opinion of [redacted], who acted as a mentor to [redacted] in Lake Charles. [redacted] further stated that he believed [redacted] professionalism and integrity far outweighed any potential claim of a conflict of interest, and the idea of a conflict never occurred to him while he was assisting with the investigation.

[redacted] is a production engineer for BOEMRE's Lake Jackson District (**Attachment 33**). At the time of the Atlantis investigation, [redacted] also worked in the Lake Charles District. He said that he started assisting with the investigation at [redacted] request during the first phase. He was taken off the Atlantis investigation after the Deepwater Horizon explosion, but resumed his work on the project during the second phase.

According to [redacted] the first day that he started working in New Orleans, he noticed a "funny dynamic" between [redacted] and the structural engineers. He explained that while [redacted] was explaining to him how they planned to approach the Atlantis investigation with an open mind and that the investigation was focused on Atlantis and had nothing to do with Deepwater Horizon, [redacted] walked up to [redacted] and "started yelling at him." [redacted] said that [redacted] told [redacted] that she

interpreted what he said to mean that he was determined to find Atlantis safe. According to [redacted] never said anything of the sort, and [redacted] had no idea how she had come to this conclusion. In fact, according to [redacted] as he assisted with the Atlantis investigation, it became his impression that [redacted] was convinced that BP was guilty because the structural engineers were always trying to compare Atlantis to Deepwater Horizon. [redacted] said that he assisted with the Atlantis investigation for approximately 5 weeks and the tension between [redacted] and [redacted] continued the entire time.

[redacted] said that he never observed anything that would make him question [redacted] professionalism while [redacted] led the Atlantis investigation. He said that [redacted] was one of the most competent people in BOEMRE and he had the most knowledge and experience about project engineering. [redacted] stated that no one else could have led the Atlantis investigation as well as [redacted] had and it never occurred to him that [redacted] might have had a conflict of interest.

Finally, [redacted] told us that he had communicated regularly with [redacted] during the Atlantis investigation and he believed that [redacted] did his best to be objective (see Attachment 19). [redacted] admitted that [redacted] "probably" should not have been put in charge of the Atlantis investigation because of the appearance of a conflict of interest, but [redacted] did not observe any bias on [redacted] part during the investigation. He further pointed out that [redacted] was not involved in the interviews that [redacted] led at the end of 2010.

Allegation That BOEMRE's Atlantis Report Failed To Interpret or Comment on 30 C.F.R. § 250.901(d) (2002) and That [redacted] Failed To Ensure Its Compliance

According to the 2002 version of 30 C.F.R. § 250.901(d): "[T]he lessee shall also sign, date, and submit the following certification: Lessee certifies that the design of the structure/modification has been certified by a registered professional structural or a civil engineer specializing in structural design, and the structure/modification will be fabricated, installed, and maintained as described in the application and any approved modification thereto." This was the applicable regulation at the time BP filed its permit applications for the construction and deployment of Atlantis.

According to [redacted], he did not remember any discussion concerning 30 C.F.R. § 250.901(d) (2002) during the Atlantis investigation (see Attachment 19). [redacted] said that he did not believe that [redacted] raised the subject of this particular regulation in his original complaint and therefore BOEMRE did not consider its applicability. He acknowledged that BOEMRE's failure to consider this regulation could represent a "gap" in its Atlantis findings; however, since it was not included in [redacted] original complaint, he did not believe it was necessarily within the purview of the investigation. [redacted] explained that he was not aware of any aspect of [redacted] complaint that concerned certification by a professional engineer until after several related depositions occurred in September 2011, approximately 6 months after the release of BOEMRE's final Atlantis report.

We asked [redacted] about [redacted] attorney's allegation that he failed to adequately review the list of certified engineers that BP provided to BOEMRE during its investigation, which [redacted] attorney claimed was required under the 2002 version of 30 C.F.R. § 250.901(d) (see Attachment 3). [redacted] replied that according to the regulations at the time, BOEMRE was only required to ask a company for a letter of certification stating that an engineer had certified the structure's design and that the structure would be fabricated, installed, and maintained as described in the application and any approved modification. He said that he was trained to accept the letter, which is what BOEMRE did for all

companies under the regulation, and not to look beyond it because the "playing field had to be level" for all companies.

According to [redacted], the Department did not ask her for an opinion on 30 C.F.R. § 250.901(d) (2002) when she helped BOEMRE with its Atlantis investigation (see Attachment 15). She believed that [redacted] attorneys did not raise the issue of whether certain structural plans or drawings had been certified by a registered professional structural engineer until after the BOEMRE Atlantis report was issued in March 2011. She also stated that she first recalled hearing about this issue around the time several BOEMRE engineers, including [redacted], were being deposed in relation to [redacted] case in September 2011.

We told [redacted] that [redacted] stated in his deposition testimony that he was not trained to look beyond the letter of certification to determine if each structural engineering drawing was certified by a registered professional structural engineer. [redacted] replied that she did not analyze whether the regulations required each structural drawing to have a certification stamp. She recalled that [redacted] attorneys had argued that the manner of certification depended on Texas State law; most of Atlantis had been built in Texas, and Texas required a certification stamp by an engineer on each drawing.

We reviewed all of [redacted] lawsuit filings, and 30 C.F.R. § 250.901(d) (2002) was not mentioned in any of them until after BOEMRE released its final Atlantis report in March 2011.

SUBJECT(S)

[redacted], Houma District Manager, BOEMRE (now BSEE).

DISPOSITION

We are providing this report to the Secretary of the Interior for any action deemed appropriate.

ATTACHMENTS

1. Congressional letter to Birnbaum, dated February 24, 2010.
2. Whittle complaint letter to OIG, dated December 11, 2012
3. IAR – Interview of [redacted], March 13, 2013.
4. IAR – Email review.
5. IAR – Interview of [redacted] January 17, 2013.
6. IAR – Interview of [redacted], February 28, 2013.
7. IAR – Interview of [redacted], March 13, 2013.
8. [redacted] Atlantis report, dated August 16, 2010.
9. IAR – Interview of [redacted] March 12, 2013.
10. Congressional letter to Ken Salazar and Michael Bromwich, dated July 21, 2010.
11. [redacted] letter to BP requesting documents, dated July 21, 2010.
12. IAR – Interview of [redacted], March 13, 2013.
13. IAR – Interview of [redacted], March 13, 2013.
14. IAR – Interview of [redacted], March 14, 2013.
15. IAR – Interview of [redacted], February 12, 2013.
16. [redacted] legal analysis, undated.
17. The structural engineers' September 28, 2010 Atlantis investigation report.

18. IAR – Interview of [redacted], May 2, 2013.
19. IAR – Interview of [redacted], February 12, 2013.
20. IAR – Interview of Michael Bromwich, May 8, 2013.
21. IAR – Interview of [redacted] March 13, 2013.
22. IAR – Interview of [redacted] May 29, 2013.
23. IAR – Interview of [redacted], May 24, 2013.
24. Six-page summary of the structural engineers' findings and conclusions, February 7, 2011.
25. The structural engineers' final Atlantis report, February 7, 2011.
26. IAR – Interview of [redacted] March 12, 2013.
27. The structural engineers' document titled "The Bureau of Ocean Energy Management, Regulation and Enforcement, Atlantis Investigation – Path Forward," February 17, 2011.
28. BOEMRE's final Atlantis investigation report, March 4, 2011.
29. BOEMRE press release about the Atlantis investigation report, March 4, 2011.
30. IAR – Comparison of the structural engineers' and BOEMRE's final Atlantis reports, February 1, 2013.
31. IAR – Interview of [redacted] April 30, 2013.
32. IAR – Interview of [redacted] April 30, 2013.
33. IAR – Interview of [redacted] April 30, 2013.

Exhibit 2

Congress of the United States
Washington, DC 20515

July 21, 2010

The Honorable Ken Salazar
Department of the Interior
1849 C Street, NW
Washington, DC 20240

The Honorable Michael Bromwich
Bureau of Ocean Energy Management, Regulation and Enforcement
1849 C Street, NW, Mail Stop 100
Washington, DC 20240

Secretary Salazar and Director Bromwich:

As we continue to deal with the catastrophe caused by the massive failure of the BP Deepwater Horizon, I write to request that the Department of the Interior and BOEMRE take immediate action to prevent what could be an even more serious disaster at the site of the BP Atlantis.

You are no doubt aware of the allegations made by former BP contractor Ken Abbott, who has testified that BP knowingly operated its Atlantis platform without following standard engineering practices that require "as-built" process and instrument diagrams be in the hands of the operators of the rig. Without these documents, operators would likely be unable to quickly and safely deal with a malfunction on the Atlantis of the sort that occurred on the Deepwater Horizon; they literally would not know what buttons to push or what parts of the rig are connected to what other parts.

Mr. Abbott has said that this sort of lack of critical engineering documentation appears to be a "common thread" between the Texas City disaster in 2005, the Alaska pipeline spills in 2006, and the ongoing Deepwater Horizon catastrophe in the Gulf of Mexico. In each of these incidents, media reports indicate that inadequacy of engineering documentation played a part in creating or worsening the problem.

If there is even a small chance that the Atlantis is a "ticking time bomb" as some have called it, the pace at which the Department has worked to resolve the questions raised about the Atlantis' safety is worrisome.

I urge the Department and BOEMRE to take several steps to resolve this issue: first, to immediately order a halt to operations at the Atlantis pending at least a preliminary investigation into the truth of Mr. Abbot's claims. Second, to immediately conduct a formal interview of Mr. Abbott as part of BOEMRE's investigation into the safety of the Atlantis. Third, to conduct a "spot check" of the adequacy of the engineering documents on board the Atlantis. Mr. Abbott's testimony in front of the Subcommittee on Energy and Minerals of the House Committee on Natural Resources leads me to believe that such a check would either confirm his allegations or provide some level of confidence in BP's claim that everything is in order.

I am concerned that BOEMRE and the Department are content to let the Atlantis continue to operate without at least taking these quick steps to ascertain the truth of the allegations raised by a whistleblower. A long, thorough investigation is certainly called for, but in the meantime these immediate steps are absolutely necessary in order to assure that the Atlantis does not turn into an even larger disaster than the Deepwater Horizon.

Sincerely,

Louise M. Slaughter
Member of Congress

Earl Blumenauer
Member of Congress

Donna M. Christensen
Member of Congress

Ted Deutch
Member of Congress

John Garamendi
Member of Congress

Al Green
Member of Congress

Alcee L. Hastings
Member of Congress

Maurice D. Hinchey
Member of Congress

Mazie K. Hirono
Member of Congress

Sheila Jackson Lee
Member of Congress

Eddie Bernice Johnson
Member of Congress

Barbara Lee
Member of Congress

John Lewis
Member of Congress

Doris O. Matsui
Member of Congress

James P. Moran
Member of Congress

Jackie Speier
Member of Congress

Lynn C. Woolsey
Member of Congress

David Wu
Member of Congress

Exhibit 3

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

UNITED STATES OF AMERICA, EX REL. KENNETH W. ABBOTT, ET AL., Plaintiffs,	§	
v.	§	Civil Action No. 4:09-cv-01193
BP EXPLORATION AND PRODUCTION INC., ET AL., Defendants.	§	Jury Trial Requested

DECLARATION OF MARY WHITTLE

I, Mary M. Whittle, declare and state under oath as follows:

1. "My name is Mary M. Whittle. All of the factual statements in this declaration are true and correct and are personally known to me.

2. "I am an attorney of record for Plaintiff Food and Water Watch in the above-referenced action.

3. "On December 10, 2012, I filed a complaint on behalf of Abbott and Plaintiff Food & Water Watch with the Office of Inspector General ('OIG') of the U.S. Department of the Interior. A true and correct copy of this complaint, addressed to Special Agent Ron Gonzales, is attached to this Declaration as Exhibit 'A.' A true and correct copy of Agent Gonzales's responsive e-mail is attached to this Declaration as Exhibit 'B.'

4. That complaint was based on information we received from a structural engineer who was part of the Bureau of Ocean Energy Management

Regulation and Enforcement ("BOEMRE") investigation, which resulted in a March 4, 2011 investigative report. That structural engineer alleged that the investigation was conducted improperly and advised me that that she had opened her own complaint with the DOI's Office of Inspector General.

5. "Our complaint also informed DOI about new information, uncovered during discovery in the *Abbott* matter, including ongoing unsafe conditions on Atlantis that pose an immediate threat to the Gulf of Mexico**.**

6. "A few weeks later, in January 2013, I was contacted by a special investigator who informed me that an investigation had been opened into the matter. During a subsequent conversation with the special investigator on March 7, 2013, I was told that he or OIG management would reach out to the Abbott legal team when the investigation was completed and that we would be informed when it was over. A true and correct copy of my e-mail summary to the Abbott Legal Team dated March 7, 2013 is attached to this Declaration as Exhibit 'C.'

7. "In the months following that assurance, I contacted the special investigator three separate times to ask whether the investigation was complete.

8. "I contacted the special investigator on June 4, 2013 seeking an update on the investigation, but was told that he could not 'comment on the substance or timing of an ongoing investigation.' A true and correct copy of that e-mail exchange is attached to this Declaration as Exhibit 'D.'

9. "I contacted the special investigator again on September 4, 2013 and received confirmation that the investigation remained 'ongoing,' but was told

again that the investigator could not 'comment on the substance or timing of an OIG investigation.' A true and correct copy of that e-mail exchange is attached to this Declaration as Exhibit 'E.'

10. "I had made a subsequent effort to contact the special investigator after September 2013, but was again told that he could not provide a timeframe for the release of any report the investigation might generate.

11. "Throughout the time that the investigation was known to be ongoing (from March 2012 through August 2014), I checked the Department of Interior's OIG Semiannual Report to Congress, which is posted on the agency's website (http://www.doi.gov/oig/reports/semiannual-report-to-congress.cfm). The latest publicly available report covers the reporting period between October 1, 2013 and March 31, 2014. *See* http://www.doi.gov/oig/reports/upload/DOIOIGApril2014SemiannualReportToCongress.pdf. That report to Congress does not include any mention of a report about the BP Atlantis platform or the issues that gave rise to the investigation.

12. "After the Court issued the August 21, 2014 Opinion on Summary Judgment, out of an abundance of caution, I contacted the investigator again on August 25, 2014. He informed me that the investigation had been completed and closed, but that the resulting report had not been publicly issued. I immediately submitted a Freedom of Information Act ("FOIA") request for the OIG Report and called the agency to check on their review progress several times thereafter.

13. "I received the OIG's report pursuant the FOIA request on September 12, 2014. A true and correct copy of the September 12, 2014 response letter I received from the FOIA office of the Office of Inspector General for the Department of Interior is attached to this Declaration as Exhibit 'F.'

14. "The report provided to me pursuant to the FOIA request did not include any of the attachments referenced in report. I have submitted a separate FOIA request for several of the attachments to the OIG Report, including the Structural Engineers' Final Report dated February 7, 2011 and the "Atlantis Investigation-Path Forward" Document dated February 17, 2011.

15. "The agency has twenty days under the law to respond to my FOIA request.

16. "I declare under penalty of perjury under the laws of the United States that the above statements are true and correct."

Dated: September 17, 2014

/s/ Mary M. Whittle
Mary M. Whittle

Exhibit A

The Law Office of Mary M. Whittle
P.O. Box 892
Chadds Ford, PA 19317
T. 610.285.7499
E. mw@marywhittlelaw.com

December 11, 2012

Via E-mail: Ronald_Gonzales@doioig.gov
Office of Inspector General
Ron Gonzales
Special Agent
Energy Investigations Unit
134 Union Blvd., Suite 640
Lakewood, CO 80228

RE: BP Atlantis Request for Investigation

Dear Mr. Gonzales,

I am part of the team of lawyers representing Kenneth Abbott and Food & Water Watch in Cause No. 09-01193, *United States of America ex rel Kenneth W. Abbott, et al. v. BP Exploration and Production Inc, et al.,* in the United States District Court, Southern District of Texas, Houston Division, regarding BP's deepwater production platform Atlantis. We submit this letter to provide new information regarding BP's fraud during the Atlantis permitting process and subsequent agency investigation and to alert the Office of Inspector General to ongoing unsafe conditions on Atlantis that pose an immediate threat to the Gulf of Mexico. We urge your office to open a new investigation into the matter.

Kenneth Abbott was employed through a third-party employment company at Atlantis's administrative offices in Houston, Texas, during which time he served as the Project Services Leader for the subsea portion of the project. During his employment starting in August 2008, Abbott obtained direct knowledge of the incomplete engineering documents. After BP fired him, Abbott reported first to BP's internal ombudsman (former federal Judge Stanley Sporkin), then to the Department of Interior Inspector General, then provided substantially all of his information to the Attorney General of the United States and the United States Attorney for the Southern District of Texas, before filing suit on April 21, 2009.

While he worked at the BP Atlantis offices, Abbott was responsible for records management, including engineering documentation. In this position, he learned directly through emails, conversations, meetings with engineers, and his own review of BP documents that mechanical drawings, electrical drawings, controls systems designs, structural drawings, and piping & instrument drawings were not approved by engineers and that only 5% of the drawings were issued "as-built." Abbott testified that,

> the document control log is the bible for an engineering company. It shows the status of the drawings. If those drawings have not been issued,

> it says that. And when I came in 90 - - 90 percent were not approved for construction by BP engineers . . . only 5 percent were issued as-built, and that's a fact.

Abbott was not involved in BP's regulatory filings for Atlantis, but he was aware that platforms have to be certified to MMS, and he knew that the drawings that formed the basis of the certifications were not available. He also knew that Atlantis operations needed and was requesting a complete package of "as-built" drawings, and he knew that incomplete engineering results in dangerous facilities.

1. BP's Violations of Law

BP was required to submit applications for four permits for the Atlantis to become fully operational[1]; BP lied to get at least two of the four permits. The Atlantis is unsafe because of incomplete engineering and unreliable documentation, and continued operations pose a significant threat to the Gulf of Mexico ecosystem. Violations of similar engineering and documentation requirements led to the Deepwater Horizon and Texas City disasters along with the repeated Alaska pipeline releases.

A. Platform Permit

First, BP falsely certified in its platform permit application that registered professional engineers would certify the detailed structural plans for the Atlantis as required under OCSLA regulations subpart I. A lessee submitting an application to install a platform on the outer continental shelf must certify to the government that the design of the structure was certified by a registered professional engineer and that a complete set of the certified design and "as-built" plans and specifications is being maintained at a designated location.

The applicable regulation states:

> The lessee shall have **detailed structural plans** as called for in paragraph (b)(1)(iii) of this section and specifications for new platforms or other structures and major modifications **certified** by a registered professional structural engineer or civil engineer specializing in structural design. **The lessee shall also sign, date, and submit the following certification: Lessee certifies that the design of the structure/modification has been certified by a registered professional structural or a civil engineer specializing in structural design, and the structure/modification will be fabricated, installed, and maintained as described in the**

[1] The OCSLA regulations require that a lessee obtain the following "approvals or permits" before conducting exploration activities:

> (1) Approval of applications for permits to drill (APDs) (see § 250.410);
> (2) **Approval of production safety systems (see § 250.800);**
> **(3) Approval of new platforms and other structures (or major modifications to platforms and other structures) (see § 250.901);**
> (4) Approval of applications to install lease term pipelines (see § 250.1007); and
> (5) Other permits, as required by applicable law.

30 C.F.R. § 250.281 (emphasis added). The production safety system permit is the final permit; a lessee may commence production upon receiving it. *See* 30 C.F.R. § 250.800(a).

> **application and any approved modification thereto. Certified design and as built plans and specifications will be on file at-----.**[2]

The platform certification is a prerequisite to obtaining a permit to install the platform, which is a structure necessary for oil and gas production.[3] BP submitted the false certification with its platform application in September 2002; MMS approved the platform installation on January 16, 2007.

When BP submitted its application, BP already had contracted with a Korean ship-building firm to perform the detailed design work for the hull, and BP already knew that the Korean designers could not certify their plans because they were not registered professional engineers. The contract with DSME states:

> 1.3 Engineering and Design
> Contractor **shall perform detailed engineering and design** of the complete Semisubmersible floating platform facility; excluding process facilities modules, systems, and equipment explicitly stated within this Exhibit "A" as being supplied by others. Major Items in Contractor's detailed engineering and design scope include:
> **- the Semisubmersible hull and deck structure with associated access platforms, helideck and appurtenances;**
> **- mechanical, electrical and controls equipment and systems within the hull and deck structure**;[4]

BP deliberately chose not to inform MMS that the detailed structural plans of the weight-bearing hull would not and could not be certified as required by the regulation. BP also did not seek permission for alternate means of compliance.

Drawings "certified" by registered professional engineers must display in the title box of the drawing a seal or stamp issued by the board of professional engineers. Under the Texas Engineering Practices Act, which governs the practice of engineering in the state, "[a] plan, specification, plat, or report issued by a license holder must include the license holder's seal placed on the document." Tex. Occ. Code § 1001.401(b).[5] If an engineering drawing is missing the seal of a registered professional engineer, then that drawing is not a certified design.

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[2] 30 C.F.R. § 250.901(d)(2002) (emphasis added).

[3] "Applications submitted pursuant to §250.901 shall require the approval by the Regional Supervisor prior to platform installation." 30 C.F.R. § 250.900(b)(2002). **"§ 250.901 Application for approval.** (a) All applications under the provisions of this subpart shall be submitted to the Regional Supervisor for approval." 30 C.F.R. § 250.901 (2002) (emphasis in original).

[4] DSME Contract dated Sept. 1, 2001, Sect. 1.3 "Engineering and Design" [BPEP_ABB_04076454 at 04076462] (emphasis added).

[5] The El Paso Court of Appeals has noted that engineering plans "[are] certified with the seal," and that an engineer's personal seal cannot be sold or transferred and "carr[ies] with [it] the [engineer's] representation of personal accountability independent of any employment contract with [his or her] employer." *George Thomas Home, Inc. v. Southwest Tension Systems, Inc.*, 763 S.W.2d 797, 800 (Tex. App.—El Paso 1998, no writ); *see also Glenn v. Nortex Foundation Designs, Inc.*, 2008 WL 2078510, at *3 (Tex. App—Ft. Worth May 15, 2008, *pet. denied*) (a licensed structural engineer "applies his seal to certify the foundation's engineering plans").

BP understood that PE seals were required based on contemporaneous emails. In one email, BP's regulatory coordinator wrote:

> Traditionally, the easiest method of proving that particular drawings, plans or specifications were reviewed or prepared by or under the direct supervision of a registered professional engineer has been though the use of the PE stamp. ***It seems difficult to comply with MMS requirements without use of the PE stamp.*** The Atlantis Project should be prepared to stamp drawings and/or identify the particular registered engineers by Name, Title, and PE Registration No. that have certified or supervised preparation of particular designs, plans and specifications.

Yet, of the 1154 design drawings for the hull and floating structure of the platform, only 8 drawings (0.7%) are certified with a registered professional engineer's seal.[6] The design of the structure of the Atlantis platform has not been certified by registered professional engineers, and there is no certified design of the platform on file at BP's Houston office.

Failures associated with the improper design and construction of the hull of BP's Thunder Horse caused the near sinking of that platform in 2005. Thunder Horse was designed and fabricated by DSME.

Second, BP falsely certified in its platform permit application that "as-built" plans and specifications for Atlantis would be developed and kept on file at BP's offices in Houston. Uncontroverted testimony reveals that neither BP nor its contractors undertook performing the "as-built" process required for the Atlantis integrated platform structure or developed a full set of "as-built" plans and specifications at commissioning. BP's records also demonstrate that "as-builting" never occurred; **only 3.4% of the drawings are revised "as-built."**

Of the 2,104 drawings submitted by BP to MMS as the certified "as-built" plans and specifications, only 72 drawings (3.4%) were marked "as-built." Of the 2,104 drawings, 1,666 of the drawings (79%) were dated prior to May 2005, when the Atlantis platform integration began, and 226 (11%) of the drawings have no date.

BP admits that the Atlantis project did not update its drawings to "as-built" revision status and that BP relies on the latest design revision for operations, in spite of the fact that the latest design drawings predate platform integration. "As-built" drawings, necessarily, are created ***after an edifice is constructed***. The evidence demonstrates that "as-built" drawings were not created after the integration of the topsides and the hull.

DSME fabricated the hull in Korea and marked its drawings "Rev. 60" to show fabricated condition upon the hull's leaving Korea. The topsides and the hull were integrated in Ingleside, Texas, for over eighteen months where many changes in the metal were made to combine the topsides and the hull into a single structure and entire systems

[6] On August 9, 2010, in response to agency inquiry, BP submitted to BOEMRE the Atlantis platform drawings that supposedly were certified by a registered professional engineer per BP's September 2002 platform certification.

were rebuilt. Both the topsides and hull required significant remediation during the integration phase. BP, however, did not develop design drawings reflecting the "as-built" condition of the combined structure once all the changes were made.

The pre-integration design drawings simply do not reflect the "as-built" condition of the platform. Moreover, engineering drawings are what they say they are on the face of the document; an "approved for construction" drawing is not an "as-built" drawing.

Nor did BP "as-built" the Atlantis during the commissioning phase of the project. Commissioning is the process of verifying the mechanical integrity of the equipment–ensuring that it actually functions and is safe to start up. BP's commissioning teams did not compare design documentation to the constructed facility. A BP internal document states that in March 2008, 5 months after first oil, only 54% of the "As Builts from work carried out at Ingleside and subsequent modifications" and 0% of the "Other As Builts, DSME, GVA base design" were complete.

BP does not have a complete set of Atlantis "as-built" revision plans and specifications. BP's failure to maintain a complete set of "as-built" drawings on which operations personnel can rely is a violation of process safety. A lack of "as-built" drawings was one of the reasons BP was unable to stem the Deepwater Horizon spill.

B. Production Safety System Permit

Third, BP falsely certified in its production safety system permit application that registered professional engineers had reviewed and approved the designs for the mechanical and electrical systems of the Atlantis production safety system. OCSLA regulations expressly require "[p]roduction safety equipment . . . designed, installed, used, maintained, and tested in a manner to assure the safety and protection of the human, marine, and coastal environments." 30 C.F.R. 250.800(a). Regulations further condition commencement of oil and gas production upon MMS approval of the production safety system, which must comply with American Petroleum Institute ("API") Recommended Practice ("RP") 14C adopted by reference into the text of the regulations.[7]

To obtain approval, BP was required to submit a permit application containing, among other things, a: "5) Certification that the design for the mechanical and electrical systems to be installed were approved by registered professional engineers." *Id.* at § 250.802(e)(5). BP submitted the false certification with its Atlantis production safety system permit application on August 1, 2005; MMS approved the permit on May 3, 2007.

Bryan Domangue, the MMS petroleum engineer who approved the Atlantis production safety system permit, defines a production safety system as "the devices used to measure and subsequently terminate production should there be an abnormal detectible condition." He testified that the Atlantis production safety system includes, *inter alia*, the surface controlled subsurface safety valves, which are located 100 feet below the mud line in each well; the underwater safety valves of which there are two at each well site; the tree valves; the fast-acting chokes; the controls; the electronic communications links to the wells; and the boarding valves. He agreed that one of the purposes of the

[7] "Production ***shall not commence*** until the production safety system has been approved and a preproduction inspection has been requested by the lessee." 30 C.F.R. § 250.800(a) (emphasis added).

production safety system is to detect abnormal conditions, like gas leakage, and have equipment to react to and minimize any potential adverse effects.

According to API RP 14C, the production safety system extends to all process equipment from the wellhead to the discharge point downstream of the process facilities. *See* API RP 14C incorporated at 30 C.F.R. §§ 250.198; 802(e)(2) & (3).[8]

As part of its Atlantis production safety system permit application, BP submitted 522 drawings by letters dated February 23, 2005, February 25, 2005, August 1, 2005, October 11, 2005, May 4, 2006, May 8, 2006, May 23, 2006, and September 19, 2006. With the August 1, 2005 letter, BP submitted the professional engineering statement as Item 5 of Volume II of its production safety system application. The statement makes the following certification:

> Per the requirements of 30CFR250, Section 250.802(e)(5), this document certifies that the design for the Mechanical and Electrical systems for the Atlantis semi-submersible production unit, South Green Canyon Block 743 **were reviewed and approved by registered professional engineers licensed in the state of Texas**.

Id. (emphasis added).[9] BP never submitted the second certification statement verifying that the installation of the mechanical and electrical systems of the Atlantis facility was in accordance with the approved designs.

Of the 522 drawings submitted with the application, none (0%) was marked with the seal or stamp of a registered professional engineer.

BP's engineering contractor Mustang, through its designated corporate representative Osborn, testified that the initials that appear on drawings could be persons with engineering degrees or designers. **In fact, 90% of the persons whose initials appear in the "engineer" block are not Texas registered professional engineers. Ninety-seven percent of the persons whose initials appear in the "approved" block are not registered professional engineers.**

Mustang designed the topsides portion of the production safety system. Although Osborn (who is not a registered professional engineer) was identified by Mustang as responsible for gathering registered professional engineer certification for the designs for the Atlantis mechanical and electrical systems, he was not able to identify any registered professional engineer who approved any part of the production safety system. He

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[8] MMS issued a Final Rule incorporating the 7th Edition of API RP 14C into the regulations governing oil, gas, and sulphur operations on the OCS on August 9, 2002. 67 Fed. Reg. 51,757 (Aug. 9, 2002) (eff. date Sept. 9, 2002). MMS explained that, "[t]he legal effect of incorporation by reference is that the material is treated as if it were published in the Federal Register. This material, like any other properly issued regulation, then has the force and effect of law." 67 Fed. Reg. 51,757.

[9] The body of the Feb. 2005 Letters and the Aug. 2005 Letter also include the following certification: BP certifies that the designs for the mechanical and electrical systems to be installed were completed under the supervision of registered professional engineers. Feb. 23, 2005 Letter from D. Sustala, BP, to Michael Saucier, MMS [BPEP_ABB_01598219 to BPEP_ABB_01598220]; Feb. 25, 2005 Letter [BPEP_ABB_00084533 to BPEP_ABB_000843534]; Aug. 1, 2005 Letter [BPEP_ABB_00084932 to BPEP_ABB_00084933]. BP's Regulatory Coordinator testified that he considered the certifications to be equivalent to the official Professional Engineering Statement certification.

testified that no individual registered professional engineer approved the designs for the mechanical and electrical systems that make up the production safety system for the topsides. No individual registered professional engineer at Mustang has taken professional responsibility for the engineering designs. Further, Osborn testified that there would be cases where an individual registered professional engineer would not have any supervisory role in particular drawings. He testified that acquiring professional engineer stamps would take extra time and cost additional money. He agreed that a drawing without a stamp or seal has not been approved by a registered professional engineer "as a professional engineer."

Ragan, the team leader for the development of the controls systems, which control the safety shutoff valves and are a part of the production safety system, testified that he is not aware of any registered professional engineer having approved the Atlantis mechanical and electrical systems either orally or in writing. Ragan is not himself a registered professional engineer, but Ragan was responsible for designing the Atlantis control systems and preparing the SAFE chart and the logic contained therein.

The SAFE chart and shutdown safety logic drawings document the shutdown logic, which is the hierarchical logic in an electrical controller that, given a certain input, will execute electrical and mechanical orders to make the facility safe. Specifically, the electronic controller processes a given input to output electronic signals that are then transmitted electrically to mechanical equipment that causes the shutdown valves to close mechanically. Ragan testified that he could not recall any specific individuals on the controls team who were registered professional engineers.

Technip designed the subsea portion of the Atlantis production safety system. Its designated corporate representative, Upchurch, testified that if a drawing is missing a stamp, then that drawing lacks professional engineering approval. He also testified that there were no professional engineer requirements under Technip's Atlantis contract with BP. Further, he stated that designers and drafters would have initialled the drawings they prepared, and that such initials are not the equivalent of professional engineer stamps or seals.

DSME designed the portions of the production safety system located in the hull, and DMSE employees could not approve the mechanical and electrical systems as registered professional engineers.

BP's regulatory coordinator Dennis Sustala testified that he made no effort to determine whether the certification statement regarding the Atlantis mechanical and electrical systems was true. Sustala never checked with BP's contractors to determine whether registered professional engineers had in fact approved the systems, and he did not look for professional engineer stamps on the drawings submitted to the agency. He testified that he relied on BP's Operations Manager Ken Dejohn, not a registered professional engineer, who gave Sustala the unsigned, typed certification statement on BP letterhead to include in the submission to MMS. Sustala testified that he had no reason to believe the certification statement came from BP's engineering contractors.

Sustala clearly understood that Texas law required a professional engineer who approves a design to apply his seal to that design. Sustala attempted to convince BP to apply for a waiver for the DSME work on the hull that concerned the mechanical and

electrical systems. He was told simply to have the operations manager (Dejohn) submit a letter to MMS with the certification, which Sustala knew could not be true. BP's regulatory coordinator on Thunder Horse was irritated by Sustala's confusion about this practice stating,

> Come on Dennis, I don't want to go back and forth on hthis [sic]. The reg says "certification that the design for the mechanical and electrical systems to be installed were approved by resgitered [sic] professional engineer", so the letter certifies just that. The reg does not mention stamping.

Although the regulation itself does not state that a professional engineer's stamp or seal must be on the designs, a lessee must have an affirmative basis for making the certification statement in order to obtain billions of dollars worth of government-owned oil and gas. Setting aside the issue that "[a] professional engineer licensed in Texas must place his seal on engineering plans, specifications, plats, and reports prepared under authority of his Texas license,"[10] "approve" means "to give formal or official sanction to."[11] BP had no basis for making the certification that registered professional engineers had given formal or official sanction to the mechanical and electrical systems to be installed in the Atlantis, and, at least with respect to the work done by DSME, affirmatively knew the certification was false. Indeed, Simon Todd, Vice President of BP's Thunder Horse, refused at his deposition to answer the direct question, "[d]id a professional engineer approve the mechanical and electrical systems of the Production Safety System?"

BP admits that not one (0%) of the 522 design drawings submitted by BP in support of the production safety system permit application bears the seal or stamp of a registered professional engineer. BP hired Texas registered engineering firms to design the production safety system, and registered professional engineers licensed in the State of Texas who offer to the public to perform engineering services are subject to Texas law governing the practice of engineering—specifically the sealing requirement of the Texas Engineering Practices Act. A team meeting where a registered professional engineer is allegedly present during the discussion of an engineering design does not constitute registered professional engineer "approval" of that design. No engineer has taken professional liability for the Atlantis designs, eviscerating the purpose of the regulation.

The designs for the mechanical and electrical systems of the Atlantis production safety system were not approved by registered professional engineers, in violation of OCSLA regulations subpart H. As a result, the design for the Atlantis systems and equipment is unreliable. For example, over one-third of the Atlantis pressure relief safety valves have significant engineering design deficiencies or inadequate engineering documentation or both. **One valve in particular is undersized by a factor of 20 to 1.** A release of explosive oil and gas under pressure from that pipeline could rapidly engulf the platform in explosions and fire. Such a scenario is quite similar to the immediate cause of both the Deepwater Horizon and Texas City tragedies.

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[10] Tex. Att'y Gen. Op. GA-0287 (Tex. A.G.), 2004 WL 2980275 (Tex. A.G.).

[11] Merriam-Webster's Collegiate Dict. (10th Ed. 1999); *see also* Black's Law Dict. (9th ed. 2009) ("approve" is defined as "[t]o sanction officially; to ratify; to confirm;").

Further, the controls of the Atlantis production safety system have experienced repeated failures that have not been remedied—**valves open and close without command, oil leaks to the wellhead through the annulus, and communication between the well and operations has been lost repeatedly.**

2. BP's Lied To Federal Investigators

On February 24, 2010, United States Representative Raul M. Grijalva and eighteen other members of Congress wrote to then-MMS Director S. Elizabeth Birnbaum urging her to direct

> a full investigation of whether British Petroleum had a complete and accurate set of required engineering drawings for the BP Atlantis platform and its associated subsea components prior to the start of production from that platform, and to report back to Congress on the results of that investigation as soon as possible.

On March 26, 2010, MMS Director Birnbaum responded to the February 24, 2010 Congressional letter, stating that MMS "will conduct a full investigation of this situation" and will complete its report by the end of May 2010.

On July 21, 2010, investigators from the new agency then called BOEMRE sent a letter to BP requesting "production of the engineering documents that MMS regulations required BP to maintain." In August 2010, BP responded to the agency's request and submitted certain documents and drawings. The materials that BP submitted to BOEMRE for the investigation substantiate plaintiffs' claims that (1) registered professional engineers have not certified the Atlantis platform detailed structural plans and specifications; (2) BP has not developed "as-built" plans and specifications; and (3) registered professional engineers did not approve the designs for the mechanical and electrical systems installed.

On March 4, 2011 BOEMRE issued a report detailing its investigation into Atlantis. The report states:

> Our investigation found that the electronic database that BP used to store documents developed during the design, construction, and installation of the Atlantis production facility was disorganized and inadequate to handle the large volume of documents generated by BP and its third-party contractors. In addition, BP used a confusing labeling system for engineering drawings contained in the project files. Those drawings also had other defects and deficiencies, including undated and missing stamps and signatures, and inconsistent titles for types of drawings.

The report also states that, "BP's use of a multitude of labels and the failure of BP to coordinate the drawing labeling systems used by its contractors has made it difficult to evaluate whether BP, in fact, complied with BOEMRE regulators." *Id.* at 32. At the conclusion of its investigation, in spite of these findings, BOEMRE determined not to

pursue an enforcement action against BP.[12]

The report focuses on (1) whether the subpart I platform regulations apply to the subsea portion of the production facility and (2) whether the subpart H production safety system regulations expressly require "as-built" drawings. The agency concludes that the platform regulations do not apply to the subsea portion of the facility and the production safety system regulations do not expressly require "as-built" drawings. ***Neither of these conclusions is relevant to Mr. Abbott's claims.*** BP's fraud is not limited to its failure to develop "as-built" drawings for the subsea, which the agency determined is not necessary under the regulations.

The agency never interprets or even comments on the meaning of 30 C.F.R. § 250.901(d)(2002) (the regulation that governs BP's Atlantis platform permit) in its report. Regarding the Atlantis production safety system certification, Domangue, the MMS production engineer who granted the permit and who served as the lead investigator for the agency into the permit he personally issued based on BP's submissions, testified that **he did not look behind BP's certification and simply gave BP the benefit of the doubt that it was true.**

Moreover, BP lied to the agency during the investigation and continues to conceal the Atlantis malfunctions from regulators. Domangue learned for the first time at his deposition on November 14, 2011, that the tree valves for Atlantis were acting on their own behalf, that oil leaked into the annulus, and that the control system failed to sense a dual loss of communications and would not perform emergency shutdown as required. BP reported none of this information to the agency, the agency did not discover the controls malfunctions in any of its routine inspections.

A. Todd (BP) Lied About BP's "As-Built" Procedures.

The 2005 amendments to the subpart I regulations states that the requirement to maintain "as-built" drawings under 30 C.F.R. § 250.903 (2006) is such that, "respondents would keep them in the usual and customary business practice." 70 Fed. Reg. 41,556, 41,571-72 (July 19, 2005). BP was not truthful about those standards and procedures in its responses to MMS during the agency's investigation. BP initially represented to MMS investigators at a meeting and in a subsequent Power Point presentation that BP had followed strictly its own written procedures requiring "as-builting" at fabrication, integration, and commissioning and clearly labelling "as-built" drawings. In fact, BP's attorney falsely assured Congress as late as January 15, 2010, that BP submitted to MMS, "hard copies of approx 1200 signed and stamped as built drawings relating to the structure of the Atlantis platform topsides and hull."[13]

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[12] BOEMRE issued BP one Notice of Incidents of Non-Compliance regarding revised plans and drawings for the hull and topsides that BP had failed to submit to the agency for approval. BP submitted the required drawings in response to the Notice, and BOEMRE did not pursue further action against BP for its violation. The Notice of Incidents of Non-Compliance did not relate to the violations underlying the citizen suit action here; although, the Report states that the reason for the Notice was that: "To effectively regulate the production activities in the OCS, BOEMRE must have accurate, up-to-date drawings of production safety systems."

[13] Jan. 15, 2010 Letter from K. Westall (BP) to D. Lanzone (US Congress) [BPEP_ABB_03415344 to BPEP_ABB_ 03415349 at BPEP_ABB_03415349].

When BOEMRE realized that BP's supposed "as-built" drawings did not show "as-built" revision histories and requested an explanation, BP developed an entirely new standard, never turning over the actual written procedures for the investigators to review. In an email responding to a question regarding whether BP had any company standard that defines "as-built" for engineering drawings and how that standard compares to industry standards, Todd (BP) created a new standard, without citation to any internal BP document, alleging that "[b]ecause of the involvement of multiple engineering firms, and because each system and component went through its own unique process of design, fabrication, and installation, the nomenclature differs among the 'as-built' drawings for Atlantis." This statement is false.

Had BOEMRE evaluated BP's internal procedures or those of BP's contractors, or inquired when interviewing BP contractors, BOEMRE would have learned that "as-built" labelling is required by BP and that documents not labelled "as-built" cannot be relied upon as such.

For example, BOEMRE cites BP's development of the "System Handover Procedure" in concluding that BP maintains "as-built" drawings despite the lack of "as-built" labelling. Had BOEMRE examined BP's internal documentation for the System Handover Procedure, BOEMRE would have learned that BP requires that "[a]ll "As-Built" documentation shall be clearly identified as "As Built" and verified as correct by inclusion of authorized approval signatures."[14] Similarly, had BOEMRE evaluated the "execution plan" for Atlantis, BOEMRE would have realized the System Handover Procedure requiring clear identification of "As Built" was specifically implemented on Atlantis.[15]

Additionally, had BOEMRE examined BP's procedures applying to contractors, BOEMRE would have learned that BP does require contractors to conform to a single, uniform standard—a standard requiring the clear identification of "as-built" drawings. For example, in BP's "Contractor Project Document Control Procedure," includes the requirement that "Revised as Noted and As-Built" documents and drawings "shall be clearly identified."[16] Further, BP's "Document Control Procedure"—which notes that "[c]ontractor documents which do not comply with this procedure will be rejected, and any associated earned value milestone will be considered incomplete"—states that "[u]pon completion of installation the latest revision of Issued for Construction is marked up to reflect any constructed changes and issued 'As Built.'"[17] Likewise, internal contractor procedures required "as-built" labelling.[18]

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[14] BP's Specification for Data and Information Handover From Projects into Operations, Spec. No. 1400-85-IM-SP-8700 [BPEP_ABB_00115909 at 00115917] (requiring that "[t]he Project must ensure that the "As Built" documentation **shall be clearly identified as "As Built**" and verified as correct by inclusion of authorized approval signatures." (emphasis added)).

[15] BP Gulf of Mexico SPU Atlantis Engineering Workflow Process, BP Doc. No. 1440-10-GE-RP-1007 [BPEP_ABB_03500136 at 03500143] ("As individual projects are completed, the documentation is handed over to Operations as outlined in 1400-85-IM-SP-8700 … **As-builting is required** for the indicated drawings prior to handover.") (emphasis added).

[16] BP Gulf of Mexico Deepwater Development Program Contractor Project Document Control Procedure, No. 1400-10-AD-PR-0219 [BPEP_ABB_03505121 at 03505126] (stating in § 6,"The status of the documents shall also be **clearly identified . . . Revised as Noted and As-Built**." (emphasis added)).

[17] BP GOM DW Projects Document Control Procedure, BP Doc. No. ssproj-10-PC-PR-000001 [BPEP_ABB_01631097 at 01631100, 01631106]; *see also*, BP Gulf of Mexico Deepwater Development Atlantis Project Orientation and Procedures Manual (POPM), No. 1440-21-POPM-PR-0001

BP's contractors testified that if they had been asked to produce an "as-built" drawing under their contracts, they would have followed the contract terms and marked the drawings "as-built." But BP did not cause its contractors to develop the "as-built" plans and specifications required by the OCSLA subpart I regulations.

Todd never provided federal investigators with any of these formal, written procedures detailing BP's customary and usual business practice regarding "as-builting." Todd testified that he developed BP's new, unwritten standard after the fact, during the agency investigation, with the help of Robert Peloubet who was the Engineering Manager for Atlantis Subsea Projects.

Todd testified that he does not think any person made a specific decision not to follow the written procedures. He also testified that he does not think that failing to update drawings to "as-built" status was a BP company practice. **He testified that he learned during the BOEMRE investigation that the projects side of BP Atlantis was not, in fact, updating drawings to "as-built," so he determined that failing to update drawings was the customary and usual business practice for *Atlantis*—a distinction he failed to reveal to federal investigators.**

Peloubet testified that he did not help Todd with the new standard submitted to BOEMRE, so it is unclear where the new *post hoc* standard, allowing BP to disregard its written procedures and call a drawing an "as-built" when it is not one, came from. It appears that Todd decided unilaterally that the Atlantis project's *failure* to follow BP's customary and usual business practice, which required updating design drawings to "as-built" status and clear marking of those final drawings, was the customary and usual business practice for that *one project team*.

No deponent recalls a decision being made not to follow BP's "as-builting" procedures. BP's newly developed standard is not written anywhere—no BP document says that an engineering drawing labeled "approved for construction" may be considered an "as-built" drawing. BP argues that an "approved for construction" drawing is sufficient for OCSLA purposes despite the myriad problems BP operators have had locating necessary Atlantis drawings and the fact that the failure to develop "as-built" drawings led to the prolonged uncontrolled oil leak during the Deepwater Horizon disaster.

Engineering drawings are what they say they are on their face, and mislabelling is the most basic form of fraud. Most obviously, the 600 topsides drawings from Mustang that have professional engineer stamps for the latest revision and are labelled "approved for construction" cannot constitute "as-built" drawings. The **professional engineer's**

[BPEP_ABB_01453338 at 01453359-01453374] (requiring the Primary Steel Drawings for the Atlantis Platform were required to be "as-builted" at fabrication, at integration, and at commissioning).

[18] *See, e.g.,* Topsides Design Engineering and Project Services Contract, Ex. A "Scope of Work," Section 2.3.4.1 [MUSTANG ENG 0000001 at 0000072].

> At a minimum, Contractor shall provide to Company the following documentation upon Completion of the Work:
>
> 11.6.3 One set of reproducible rolled Mylar tracings and two sets of folded blue line prints **stamped "As-Built"** ….

seal certifies that the design is "approved for construction" only and is *not* an "as-built" drawing. *See* 22 Tex. Admin. Code § 137.33(a) (professional engineer's seal delineates scope of engineer's work).

Todd testified that BP's top management was informed that the Atlantis platform drawings were not revised "as-built." Todd tolerated the federal violations and then participated in lies and cover-ups. Although his acts were known to top management, he was rewarded with two promotions and as of December 2001 was responsible for Gulf of Mexico Safety and Operations, reporting directly to London BP, p.l.c. executive management.

B. BP Submitted A Fraudulent List of Engineers.

During the investigation, Domangue, who was appointed by BOEMRE to investigate his own conduct, requested that BP "provide a list of all registered professional engineers associated with the [Production Safety System] certification, including contact information." In response, BP submitted a letter purporting to list all of "the registered professional engineers associated with BP's certification in its letter dated August 1, 2005."[19]

A review of this list reveals that not one of the engineers on the list initialed or stamped the drawings produced to BOEMRE. Domangue asked about this, and, in response, BP falsely stated that signatures or stamps by registered professional engineers are not required by law to indicate approval. BP simply certified again that registered professional engineers from Mustang approved the design but did not offer the agency any proof that the statement was true, and Domangue did not require BP to do so.[20]

Domangue did not raise the issue further, but had he done so, he would have learned that registered professional engineers are required by their professional license to stamp approved drawings—a concept that even BP acknowledges.

Moreover, even a cursory review by Domangue of the engineers included on BP's purported list of registered professional engineers would have found the following: **four (4) engineers had incorrect professional engineering information, two of the Texas professional engineering license numbers do not exist, and one engineer had his license granted in 2009, well after the 2005 certification.**

The laws regulating registered professional engineers in Texas and other states require that all registered professional engineers approve their work by "stamping" or "sealing" their drawings.[21] The purpose of the "stamp" or "seal" is to delineate the scope of work and assign professional responsibility; it denotes that a registered professional engineer has "approved" a drawing. This is something that BP's Regulatory Coordinator recognized and communicated to BP employees and contractors.

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[19] Ltr. From S. Todd (BP) to M. Saucier (MMS), Aug. 9, 2010 [BPEP_ABB_0115564].

[20] Email exchanges between S. Todd (BP) and B. Domangue (MMS), Aug. 31 – Sept. 3, 2010 [BPEP_ABB_00082852].

[21] The terms professional engineering stamp and professional engineering seal are used interchangeably.

Domangue testified that he understood that the presence of professional engineering stamps on the drawings would have been self-proving, but he was trained not to go beyond the certification statement submitted by an applicant. He testified that he made no inquiry into whether the initials on the drawings submitted were the initials of professional engineers. Indeed, when he learned for the first time during his deposition that the SAFE chart, which he described as the "road map that indicates the manner in which the platform will cease production as a result of a detected abnormal condition on board or associated with the subsea production," was not prepared by professional engineers, he asked, "under what auspices did BP issue this statement if these weren't registered professional engineers?"

Domangue testified that it is hard to tell whether the drawings submitted with the production safety system application were stamped by registered professional engineers, but he knew the SAFE chart, the process flow diagrams, the safety equipment layouts, and the electrical one-line diagrams were not stamped or sealed. He never told anyone at BP that they needed professional engineer stamps on the drawings submitted with the application. Domangue is not a registered professional engineer, and he was never trained by MMS regarding state laws that require a professional engineer who approves a design to apply his seal or stamp.

While Domangue might not be aware of Texas law, he unequivocally believed that the subpart H certification statement had to be true. In other words, the designs for the mechanical and electrical systems to be installed in the Atlantis had to be approved by registered professional engineers. **The absence of PE stamps means that no registered professional engineer licensed in the state of Texas approved the designs.**

BP claims that designs issued by an engineering company registered with the State of Texas can be considered "approved" by a registered professional engineer, *i.e.*, the company itself. Osborn of Mustang testified that he told Domangue that Mustang, as an engineering company registered with the state of Texas, issued the drawings, but he failed to explain to Domangue that no individual professional engineer approved them. Contrary to BP's claims, only an individual licensed professional engineer–*i.e.*, a person–may approve or certify an engineering design.[22] An engineering firm registered with the state is not a registered professional engineer.[23]

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[22] *See* Tex. Occ. Code § 1001.301(a) (only individuals licensed under chapter 1001 may practice engineering in the State of Texas); *id.* at 1001.401(a) (each licensed engineer holds a Board-designed seal showing the licensee's name and the legend "Licensed Professional Engineer" or "Registered Professional Engineer"); *id.* at § 1001.401(b) (requiring an engineer to seal, as well as sign, each "plan, specification, or report" that the engineer issues).

[23] See, e.g., *id.* at § 1001.405(e)(3) ("Each service, work or act performed by the business entity that is part of the practice of engineering is either personally performed by an engineer or directly supervised by an engineer who is a regular full time employee of the business entity."); Louisiana Rules, 46 LA ADC Pt LXI, § 2701(A)(4)(a)(i) ("Firms are not authorized to possess seals."); Nev. Rev. Stat. Ann. § 625.407 ("All engineering or land-surveying work done at a place of business must be performed under a professional engineer or professional land surveyor, respectively, who has been placed in responsible charge of the work and who is employed full-time at that particular place of business."); Nevada Rules, **NAC 625.610** ("Each licensee shall validate a stamp or seal by signing his name legibly in opaque ink across the face of the impression made by the stamp or seal…"); Cal. Bus. & Prof. Code § 6732 ("It is unlawful for anyone other than a professional engineer licensed under this chapter to stamp or seal any plans, specifications, plats, reports, or other documents with the seal or stamp of a professional engineer."); Utah Code § 58-22-603 ("A professional engineer or professional structural engineer may only affix the licensee's seal….").

Under Texas law, a firm is entitled to register as an "engineering company" so long as it has registered professional engineers on its payroll, and the company then becomes entitled to offer its engineering services to the public.[24] But the company itself does not become a licensed engineer and is not listed as such by the State Board of Engineering.[25] The licensing of an engineer as a registered professional engineer is limited to individuals.[26]

BP claims that "nothing in the [Texas Engineering Practice Act] prohibits a group of engineers from approving a drawing without placing a seal or stamp on the drawing." Doc. 262 at 48. In fact, Texas law does precisely that. Each Texas registered professional engineer holds a Board-designed seal showing the licensee's name and the legend "Licensed Professional Engineer" or "Registered Professional Engineer." Tex. Occ. Code Ann. § 1001.401(a). Section 1001.401 of the Texas Engineering Practice Act requires an engineer to seal, as well as sign, each "plan, specification, plat, report" that the engineer issues. *Id.* at § 1001.401(b).

"The purpose of the engineer's seal is to assure the user of the engineering products that the work has been performed or directly supervised by the professional engineer named and to delineate the scope of the engineer's work." 22 Tex. Admin. Code § 137.33(a). Upon sealing an engineering document, the engineer "take[s] full professional responsibility for that work." *Id.* at § 137.33(b). Texas law requires that, "[l]icense holders shall affix their seal and original signature or electronic seal and signature with the date on the final version of their engineering work before such work is released from their control," *Id.* at § 137.33(f) and the corporate representative for BP's contractor Technip testified that when a document is turned over to BP, it is released from Technip's control.[27] Importantly:

> **Work performed by more than one license holder shall be sealed in a manner such that all engineering can be clearly attributed to the responsible license holder or license holders.** When sealing plans or documents on which two or more license holders have worked, the seal and signature of each license holder shall be placed on the plan or document with a notation describing the work done under each license holder's responsible charge.

Id. at § 137.33(g) (emphasis added).

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[24] Tex. Occ. Code. § 1001.405(b) (requiring business entities that engage in the practice of engineering to register with the Board); *id* at § 1004.405(c) (To register, a business entity annually must complete an application listing, among other things, "the name and address of each officer or director . . . and each engineer who engages in the practice of engineering on behalf of the business entity.").

[25] *See* 22 Tex. Admin. Code § 133.11 ("The board shall receive, evaluate and process all applications for licenser as a professional engineer received from individuals.").

[26] *See, e.g.*, Tex. Occ. Code § 1001.002 **(**defining "Engineer" as a "person licensed to engage in the practice of engineering in this State"); La. R.S. 37:682(4) ("'Engineer' or 'professional engineer' shall mean an individual . . . ."); Cal. Bus. & Prof. Code § 6701 ("'Professional engineer,' within the meaning and intent of this act, refers to a person…"); Nev. Rev. Stat. § 625.060 ("'Professional engineer' means a person who by reason of his or her professional education and practical experience is granted a license by the Board to practice professional engineering."); Utah Code § 58-22-102 ("'Professional engineer' means a person licensed under this chapter as a professional engineer.").

[27] Dep. of J. Upchurch (Technip) at 201:11-15 (Ex. 15).

Texas law governing the practice of engineering does not contemplate groups of registered professional engineers "approving" a drawing by having a meeting wherein the design is discussed, resulting in no application of a registered professional engineer's seal and no engineer taking professional responsibility for that drawing. The Texas Engineering Practice Act was put in place to ensure that such an informal "approval" of engineering drawings by engineers licensed in the State of Texas *does not happen*.

BP's notion that a Texas registered professional engineer complies with the requirements of his license by attending a meeting where an engineering design may have been reviewed or discussed and that such attendance constitutes certification of an engineering drawing is absurd. The very purpose of the Texas Engineering Practices Act was to "(1) protect the public health, safety, and welfare; (2) enable the state and the public to identify persons authorized to practice engineering in this state; and (3) *fix responsibility for work done or services or acts performed in the practice of engineering*." Tex. Occ. Code. Ann. § 1001.004(b) (emphasis added).

BP submitted a false certification about the Atlantis production safety system and then lied to federal regulators to cover it up, relying on Domangue's misplaced trust.

3. Safety Concerns

Atlantis lies 190 miles south of New Orleans in 7,000 feet of water. It processes up to 200,000 barrels of oil and 180 million cubic feet of natural gas daily, all highly volatile and flammable. It receives minerals from about 20 wells and was planned to receive oil and gas from 20 more. It produces from the deepest water, in one of the harshest, most technologically challenging environments on the planet. It must withstand Category 5 hurricane force winds and seas while maintaining the integrity of vertical oil pipelines that descend over a mile to the floor of the Gulf of Mexico and then travel for several miles along the seabed to each well.

The regulatory requirements (1) that engineering be approved and certified by registered professional engineers and (2) that certified designs and "as-built" drawings be maintained by the owner for immediate use in emergencies are essential to the safety of the facility. Rigorous safety compliance should be required, especially under such hazardous conditions. BP's OCSLA violations have created major process safety risks on Atlantis.

For example, **certain critical pressure relief valves are inadequate for service, posing the risk of oil and gas release and consequent fire or explosion.** The production safety system **controls on Atlantis have been plagued with numerous malfunctions that have resulted in repeated unplanned operational events, *e.g.*, uncommanded subsea valve openings and the loss of well communications with surface control equipment.** The initial design of the critical shutdown system of Atlantis violated federal regulations, and the **shutdown system has malfunctioned repeatedly from prior to start-up through present.** Indeed, **wells are being run for months at a time without redundant electronic communications to the wells.** These are major dangers to safety and the environment and are a direct result of incomplete engineering by unlicensed personnel and the absence of reliable drawings that match the "as-built" construction of the facility.

BP's internal findings are consistent with plaintiffs' evidence. The findings of a 2009 BP internal safety assessment of BP's Gulf of Mexico assets include:

> **Process Safety/Major Hazard Awareness**
> . . . it's become apparent that **process safety major hazards and risks are not fully understood** by engineering or line operating personnel. **Insufficient awareness is leading to missed signals** that precede incidents, and response after incidents; both of which increases the potential for, and severity of, process safety related incidents.
>
> Site visits to **Atlantis** and Holstein were conducted to gather first hand information. Interviews and traction interrogation were used to identify the following root causes:
> - Inadequate RCFA of lower severity process safety incidents
> - **Inadequate understanding of process safety hazards**
> - **Inadequate/incomplete maintenance procedures**
> - Inadequate/incomplete lessons learnt process[28]
>
> **Information Mgmt & Document Control**
> **Documents are difficult to find because they exist in many places**, and have inconsistent numbering systems developed by Contractors during the project phase. There is **lack of control** on document stewardship. All of this results in **inefficient work, frustration, uncertainty on whether the document is the most recent adding to risk,** and lack of assurance on confidentiality when needed.
>
> **Lack of direction and training on where documents should be placed**.
>
> **Documentum perceived as a difficult tool to use and hard to access**.[29]

Compliance with OCSLA regulations serves to protect the public from such catastrophes, and BP's persistent and ongoing regulatory violations jeopardize the safety and welfare of persons, property, and the environment. MMS (now BSEE) relies on the regulations in question to prevent oil spills. Indeed, the April 17, 2003 Site-Specific Environmental Assessment, SEA No. N-7646, for Atlantis shows that strict enforcement of MMS regulations regarding engineering and safety requirements for production safety systems, which include the requirement that the "design for the mechanical and electrical systems to be installed were approved by registered professional engineers," prevents or minimizes the potential for oil spills and resulting damage:

> **Spill Prevention**
> The MMS has comprehensive pollution-prevention requirements that include numerous redundant levels of safety devices, as well as inspection and testing requirements to confirm that these devices work. Many of these requirements have been in place since about 1980. Spill trends

[28] June 14, 2009 Email from S. Carter to C. Skelton transmitting GOM SPU GAP Closure Status Report [BPEP_ABB_03683556 to BPEP_ABB_03683558 at BPEP_ABB_03683562] (emphasis added) (Ex. 28).
[29] *Id.* at BPEP_ABB_03683560 (emphasis added).

> analysis for the GOM OCS show that spills from facilities have decreased over time, **indicating that MMS's engineering and safety requirements have minimized the potential for spill occurrence and associated impacts. Details regarding MMS's engineering and safety requirements can be found at 30 CFR 250.800 Subpart H.**[30]

A registered professional engineer duly licensed by a state typically has graduated from an engineering or science curriculum that is approved by a licensing authority, has engaged in the practice of engineering for a period of years, has passed the examination requirements set by the state, and has met minimum character requirements. Further, registered professional engineers are typically subject to continuing education requirements.

The costs for services of a licensed registered professional engineer are usually higher than for services of less experienced engineers who are not licensed registered professional engineers. As a result, unless approval or certification of engineering designs by a registered professional engineer is required and enforced, a company will have an economic incentive to use less experienced engineers, increasing the risk of harm from faulty engineering.

The installation of a complex facility such as Atlantis requires revisions and alterations of equipment to be made such that the facility as installed or "as-built" differs significantly from that depicted on construction drawings. To ensure that changes made during construction are safe and follow appropriate engineering principles and that operators and engineering personnel have drawings that reflect the condition of the facility after installation, lessees undergo an "as-built" procedure. "As-built" drawings are not merely redlines to previous versions of a drawing; "as-built" drawings have been rechecked by an engineer after redlining, have been re-issued with the changes, and have been marked "as-built." As-built drawings are used everyday by personnel on the facility and must be readily available during times of emergency.

A lack of "as-builts" was one of the reasons BP was unable to stem the Deepwater Horizon spill. The oil flowed for several hours after the blowout preventer failed while BP employees searched for "as-built" drawings. BP and others were unable to take appropriate remedial measures because the available drawings were not "as-built" drawings, *i.e.*, they did not depict the facility as it was actually installed.

Just two days before the Deepwater Horizon incident occurred, operators on Atlantis were having difficulty finding the drawings they needed from the database Documentum, and one BP employee sent the operators a register he keeps taped to the wall in his office with the document numbers he believes correspond to the designs that reflect the constructed platform. In addition, Atlantis operations personnel who were troubleshooting controls malfunctions in July 2008 had to request critical documents directly from BP's subsea contractor because the necessary drawings could not be found in Documentum.

[30] Site-Specific Environmental Assessment, SEA No. N-7646 at E-2 (Apr. 17, 2003) [FWW0008573 at FWW0008620].

4. Recent Developments

In March 2012, BP's counsel assured the court that no changes had been made to the platform. However, in late July 2012, BP's CEO reported in a conference call regarding second-quarter earnings that, "We did in fact remove the entire subsea infrastructure and manifolds [of Atlantis] and brought them up and replaced them."[31] The court did not allow discovery into the matter, and we do not know whether equipment alleged to be unsafe was replaced or whether only the manifolds were replaced, which was expected maintenance. BP's maintenance schedule states that all the subsea equipment was designed and built for a 20-year life span without planned intervention or maintenance. We do not know whether the changes were made to address issues brought to light in this case.

In addition, we were approached by a whistleblower from within BSEE who was part of the investigation that led to the March 4, 2011 report. The whistleblower alleged that the investigation was conducted improperly. Specifically, the whistleblower reported to us that the conclusions had been formed before any investigation took place and the whistleblower suffered retribution in the workplace for insisting that the investigation be conducted in a thorough manner. We understand that the whistleblower's complaint has been filed with your office.

If you have any questions about the information we have provided or would like further supporting documentation, please feel free to contact me at (610) 285-7499. We would be happy to provide your office with any of the deposition testimony or discovery we have received in order to assist with a new investigation.

Sincerely,

/s/ Mary Whittle

Mary M. Whittle

[31] *See* SeekingAlpha.com, BP Management Discusses Q2 2012 Results – Earnings Call Transcript, July 31, 2012, http://seekingalpha.com/article/766691-bp-management-discusses-q2-2012-results-earningscall-transcript (last visited Aug. 14, 2012).

Exhibit B

Re: BP Atlantis Request for Investigation

December 11, 2012 5:22 PM

From Ronald_Gonzales@doioig.gov

To mw@marywhittlelaw.com

Ms. Whittle -
Thank you for the information. Our office will need some time to assess the matter. Please call if you have any additional information to provide, or if you have any questions.
Thanks again -
Ron Gonzales
Special Agent
Energy Investigations Unit
(303) 236-8284
This message was sent from a wireless device.

From: "mw@marywhittlelaw.com" [mw@marywhittlelaw.com]
Sent: 12/11/2012 11:36 AM EST
To: Ronald Gonzales
Subject: BP Atlantis Request for Investigation

Dear Mr. Gonzales,
Attached please find the request for the Office of Inspector General to investigate the permitting of BP Atlantis and subsequent investigation that led to the March 4, 2011 report issued by the Investigations and Review Unit of the agency that was known as BOEMRE at that time. We submit the request on the behalf of our clients Kenneth Abbott and Food & Water Watch. Please contact me with any questions or requests for further documentation at 610-285-7499. My co-counsel David Perry and I are available both Thursday and Friday of this week to have a teleconference with you and your colleagues as we discussed.
Sincerely,
Mary Whittle

The Law Office of Mary M. Whittle
P.O. Box 892, Chadds Ford, PA 19317
610.285.7499 | mw@marywhittlelaw.com
www.marywhittlelaw.com

Exhibit C

Update from OIG

March 07, 2013 12:26 PM

From MW Law

To "<abbottcounselgroup@perryhaas.com>" <abbottcounselgroup@perryhaas.com>

FYI - This morning I placed a call to Richard Larrabee to see if he needed any further information from us or could update me on the process of the investigation, and he said:
(1) he did not need anything further from us
(2) the investigation is proceeding and things are happening and moving along but he could not say any more than that and
(3) he expects that he or his management will reach out to us when the investigation is complete and any report or final step is taken. He did not see any reason why we would not be informed when it was over.
Thx,
Mary

Sent from my iPhone

Exhibit D

Re: checking in

June 04, 2013 1:59 PM

From Larrabee, Richard

To Mary Whittle Law

Cc Rohmer, Kuczka

Ms. Whittle,

I apologize, but unfortunately I cannot comment on the substance or timing of an ongoing investigation.

Sincerely,

Richard J. Larrabee
Special Agent
Energy Investigations Unit
Office of Inspector General
U.S. Department of the Interior
202.841.6999

"A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty."
— Winston Churchill

On Tue, Jun 4, 2013 at 11:13 AM, Mary Whittle Law <mw@marywhittlelaw.com> wrote:

> Dear Mr. Larrabee,
> We are considering asking the court for status conference, since the summary judgment motions have been pending for about a year. Before we push the court for a trial date, however, we wanted to see if there has been any progress on the OIG Atlantis investigation or any update you could share with us. Thank you for your time.
> Sincerely,
> Mary Whittle
>
> The Law Office of Mary M. Whittle
> P.O. Box 892, Chadds Ford, PA 19317
> 610.285.7499 | mw@marywhittlelaw.com
> www.marywhittlelaw.com

Exhibit E

Re: checking in on Atlantis

September 04, 2013 2:19 PM

From Larrabee, Richard

To Mary Whittle Law

Cc Kuczka, Rohmer

> Ms. Whittle,
>
> I apologize, but unfortunately I cannot comment on the substance or timing of an OIG investigation, other than to confirm that it is ongoing.
>
> Sincerely,

Richard J. Larrabee
Special Agent
Energy Investigations Unit
Office of Inspector General
U.S. Department of the Interior
202.841.6999

"A pessimist sees the difficulty in every opportunity; an optimist sees the opportunity in every difficulty."
— Winston Churchill

On Wed, Sep 4, 2013 at 2:12 PM, Mary Whittle Law <mw@marywhittlelaw.com> wrote:

> Dear Richard,
> I just wanted to check in to see whether your office is continuing to investigate the BP Atlantis matter? Is there any update you can give me on the timing of any potential final determination?
> Thank you,
> Mary Whittle
>
> The Law Office of Mary M. Whittle
> P.O. Box 892, Chadds Ford, PA 19317
> 610.285.7499 | mw@marywhittlelaw.com
> www.marywhittlelaw.com

Exhibit F

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

VIA EMAIL

September 12, 2014

Mary Whittle
1617 John F. Kennedy Blvd.
Suite 1675
Philadelphia, PA 19103

Re: OIG2014-00120

Dear Ms. Whittle:

This is in response to your FOIA request dated August 25, 2014, which was received by the Office of Inspector General (OIG) on the same day. You request the following information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552: the report on the BOEMRE investigation of BP Atlantis.

You have agreed to pay up to $200 for the processing of your request. For purposes of OIG-2014-00120, you have been categorized as an "other-use" requester. As such, we may charge you for some of our search and duplication costs, but we will not charge you for our review costs; you are also entitled to up to 2 hours of search time and 100 pages of photocopies (or an equivalent volume) for free. *See 43 C.F.R. § 2.39*.

Under 43 C.F.R. § 2.15, the OIG is required to categorize each FOIA request based on the amount of time needed to process it. The five categories are: 1) Simple (1 -5 workdays); 2) Normal (6-20 workdays); 3) Complex (21-60 workdays); 4) Exceptional/Voluminous (60+ workdays); and 5) Expedited (requests that have been granted expedited processing). Within each track, requests are processed on a first-in, first-out basis. Your request has been placed in the normal track.

A search was conducted and enclosed is the requested report. There are 26 pages responsive to your request and all pages contain some information that is being withheld. We do not bill requesters for FOIA processing fees when their fees are less than $50.00, because the cost of collection would be greater than the fee collected. *See **43 C.F.R. § 2.49(a)(1)***. Therefore, there is no billable fee for the processing of this request.

Deletions have been made of information that is exempt from release under the provisions of 5 U.S.C. §§ 552(b)(6) and (b)(7)(C). These sections exempt from disclosure are items that pertain to: (1) personnel and other similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy and (2) records of information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to constitute an unwarranted

invasion of personal privacy. Exemptions (b)(6) and (b)(7)(C) were used to protect the personal privacy interests of witnesses, interviewees, middle and low ranking federal employees and investigators, and other individuals named in the investigatory file.

If you disagree with this response, you may appeal this response to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 30 workdays** from the date of this letter if Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM OF INFORMATION APPEAL." You must include an explanation of why you believe the OIG's response is in error. You must also include with your appeal copies of all correspondence between you and the OIG concerning your FOIA request, including your original FOIA request and the OIG's response. Failure to include with your appeal all correspondence between you and the OIG will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal. The DOI FOIA/Privacy Act Appeals Office Contact Information is the following:

Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS-6556 MIB
Washington, DC 20240
Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-5339
Fax: (202) 208-6677
Email: FOIA.Appeals@sol.doi.gov

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See* 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal

agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: https://ogis.archives.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

However, should you need to contact me, my telephone number is 202-208-6742, and the email is foia@doioig.gov.

Sincerely,

Ryan Mock
Law Clerk

Enclosure

Exhibit 4

BOEMRE RELEASES REPORT OF INVESTIGATION ON BP'S ATLANTIS PLATFORM

03/04/2011
WASHINGTON

The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) today released the findings of its investigation into allegations that BP Exploration and Oil, Inc. (BP) did not maintain required copies of engineer-approved drawings for its Atlantis oil and gas platform operating in the Gulf of Mexico. The investigation stemmed from an April 2009 lawsuit filed under the False Claims Act by a former BP contractor. The former contractor alleged that BP did not properly maintain the engineer-approved "as built" drawings of systems and structures aboard the Atlantis facility. The contractor alleged that the absence of the documentation created increased safety risks for the facility and to its personnel.

The investigation included interviews of 29 individuals, analysis of more than 3,400 engineering drawings and related documents, and review of hundreds of additional documents. Based on a thorough review of the evidence, the investigation found the majority of the allegations to be unfounded, but did find that there were a number of problems with the way that BP organized, stored, and labeled engineering drawings and documents. BOEMRE found no evidence that these documentation deficiencies created specific unsafe conditions on the Atlantis production platform. BOEMRE concluded that Mr. Abbott's allegations that Atlantis operations personnel lacked access to critical, engineer-approved drawings were without merit and that his allegations about false submissions by BP to BOEMRE were unfounded.

"This report reflects a careful and comprehensive investigation of the allegations by an interdisciplinary team of lawyers, structural engineers, and other BOEMRE personnel, led by our Investigations and Review Unit," said BOEMRE Director Michael R. Bromwich. "As the report makes clear, although we found significant problems with the way BP labeled and maintained its engineering drawings and related documents, we found the most serious allegations to be without merit, including the suggestion that a lack of adequate documentation created a serious safety risk on the Atlantic facility. We found no credible evidence to support that claim."

During its investigation, BOEMRE also found that BP failed to file with BOEMRE certain required drawings depicting changes to some production safety system components. Once BOEMRE determined that BP had failed to file the safety system drawings, it issued an Incident of Non-Compliance (INC) for the infraction. BP has since provided the required drawings to BOEMRE. BOEMRE concluded that the infraction did not pose an immediate safety risk for the platform. Because BP corrected the violation shortly after issuance of the INC, BOEMRE did not refer the violation for civil penalties. BOEMRE is in the process of evaluating potential enhancements to its civil penalty programs – including revision of current regulations and changes to existing policies.

The full report can be viewed here.