

Redacted Interim Report of Investigation

Failure To Disclose COBC Documents To Congressional Subcommittee And Other Issues

*Prepared on Behalf of
BP America, Inc.*

By:

**Billie Pirner Garde
John M. Clifford
Clifford & Garde, LLP
1707 L Street, NW
Suite 500
Washington, DC 20036
(202) 289-8990**

Table of Contents (Redacted Report)

Introduction	1
I. Terms of Reference	1
II. Investigation Responsibilities and Process	2
III. Executive Summary	3
1. Knowledge of Sediment in the Oil Transit Lines and Any Actions Taken to Respond to Sediments	3
2. The Consideration of the COBC Documents in Preparation for The Congressional Hearings	4
3. To the Extent that COBC Issues Were Not Considered or Included in the Preparation for the Hearing, the Investigation is to Determine the Causes of the Failure by BP Exploration Alaska to Include the COBC Issues, and Other Process Research and Production Issues, and to Make Recommendations	4
IV. Findings and Conclusions	6
A. Background	6
1. The History of the Oil Transit Lines (OTLs)	6
2. The Installation of a Leak Detection System	7
3. The Roles of the CIC and I/C Departments	7
4. The Investigations of CIC Issues	8
a. CIC Department Issues From 1999 to 2004	8
b. HSE 1838 and the "Hotline" Investigation	8
c. Vinson & Elkins Report	9
5. The April 2005 Baxter Report (Baxter I)	9
6. The March 2006 Spill	9
7. The March 24, 2006 Congressional Inquiry Letter and BPXA's Response	10

8.	The April 26, 2006 DOJ Subpoena	12
9.	The GC-2 Incident Investigation Report and June 2006 Baxter Report (Baxter II)	12
10.	The August 6, 2006 Spill	13
11.	Congressional Investigation and the September 7, 2006 Hearing	13
12.	The Post-Hearing Discovery of the COBC Documents	14
B.	BPXA’s Knowledge of Sediments in the OTLs and Any Actions Taken as a Result	14
1.	The Historical Results of Pigging	14
2.	The Results of Pigging After the GC-2 Spill	15
3.	The Consideration of Sediments and the Feasibility of Pigging in 2001-2002	16
4.	The Recognition that Sediments Prevented Compliance With Leak Detection Regulations	21
5.	The Actions Related to Sediments After Closure of the COBC	22
6.	The Effect of Budget Issues on the Corrosion Program	23
7.	The Way in Which BPXA Dealt With Evidence of Sediment, Before the Spill	25
8.	The Knowledge of the Amount of Sediments or the Risk Presented, After the Spill	26
C.	The Consideration of the COBC Documents in Connection With the Preparation for the September 7, 2006 Congressional Hearing	26
1.	The Identification of the COBC	27
2.	The History of Communications Regarding the COBC	28
3.	The March 6, 2006 Spill and the Initial Collection of the COBC Documents	28
4.	The Failure to Recognize the Significance of COBC Materials to Congressional Inquiry	29

5.	The Commonality of Individuals with Relevant Knowledge	31
6.	The Lack of Communications Within the BPXA Business Unit and Legal Department	31
7.	The Vinson & Elkins Database (COBC Search)	32
8.	The Failure to Access BPXA Personnel With Personal Knowledge of the COBC	33
9.	The Reasons that the COBC and Related Documents were not Disclosed	33
D.	The Hearing Preparation Process Issues	35
1.	The Congressional Requests for Information Regarding Sediments and Solids	35
2.	The Lack of Personal Knowledge	38
3.	The Vinson & Elkins Document Collection Process	38
4.	The Preparation of Steve Marshall Subcommittee Testimony	40
5.	The Preparation of Bob Malone Subcommittee Testimony	41
6.	The Lack of Coordination	41

Interim Report of Investigation (Redacted)

Introduction

In October 2006, it was discovered that a Compliance Order By Consent (COBC)¹ had not been provided to the Oversight and Investigations Subcommittee (O&I) of the House Energy and Commerce Committee, prior to the September 7, 2006 Congressional Hearing. The Subcommittee staff requested BP America, Inc. (BPA) to conduct an internal investigation into certain matters surrounding the failure to provide the document and preparation for the hearings.²

The President of BPA, Robert A. Malone, retained Billie Pirner Garde, of the law firm of Clifford & Garde, LLP (Clifford & Garde), as a consultant for the purpose of conducting an investigation into a number of issues related to the COBC. In addition, Mr. Malone requested the assistance of John Clifford, also of Clifford & Garde, in the investigation.

This Report of Investigation provides the interim results of that investigation.³

I. Terms of Reference

Mr. Malone assigned corporate responsibility for the investigation to Rick Cape, the BPA Vice President for Compliance and Ethics. The scope of the investigation was defined in a formal Terms of Reference document. The investigation was to reach a determination of the extent to which issues represented in the 2002 COBC, No. 02-138-10, between the State of Alaska Department of Environmental Conservation (ADEC) and BP Exploration Alaska (BPXA) were considered and included in the preparation for the September 7, 2006 hearing before the Oversight and Investigations Subcommittee of the House Energy and Commerce Committee (the Hearing). To the extent that COBC

¹ This is the Compliance Order by Consent, No. 02-138-10, between the State of Alaska and BP Exploration Alaska. The COBC was executed in May, 2002 and was closed April 3, 2003. (Exhibit 1)

² By letter dated October 6, 2006 Congress requested answers to four questions concerning BPA's knowledge of the COBC. BPA answered the questions in its letter of October 20, 2006. See October 6, 2006 letter from Chairman Barton, Ranking Member Dingell, Chairman Whitfield and Ranking Member Stupak to Messrs. Kurt Fredriksson and Robert A. Malone (Exhibit 2) and October 20, 2006 response from Bob Malone (Exhibit 3). O&I Committee Staff then gave BPA the opportunity to investigate and report back to it on three topics: What the Company knew about the existence of sediment in the North Slope oil transit lines, prior to the spills in March and August, 2006; whether the COBC was identified and considered in preparation for the Hearing; and, if not, why not.

³ As of April 30, 2007 the document collection, review and production had not been completed by BPXA. It was the determination of the investigators that the report should not be finalized before completing the document review and analysis, and any interviews that may be required as a result. Therefore, this interim report reflects the facts, findings and conclusions as of the date of this report.

issues⁴ were not considered or included in the preparation for the Hearing, the investigation was to determine the causes of the failure by BPXA to include the COBC issues.

In order to fully complete the investigation, the investigators were to review the processes for document research and production and for preparation of testimony for the Hearing, and to make recommendations to management regarding the Hearing preparation processes during the investigation, since management's involvement with the Subcommittee is ongoing.

II. Investigation Responsibilities and Process

Ms. Garde and Mr. Clifford conducted the investigation of all concerns jointly, although primary responsibility for the development of the issues regarding the knowledge and consideration of potential sediment in the Oil Transit Lines (OTLs) fell to Mr. Clifford and primary responsibility for the development of the COBC disclosure and assessment of the 2006 Hearing preparation process fell to Ms. Garde.

The investigation was based upon interviews of people with personal and/or institutional knowledge of the relevant facts, and a review of documents. The documents relevant to the time frame and subject matters of the investigation were retrieved primarily through a comprehensive database established by the law firm of Vinson & Elkins,⁵ supplemented by materials obtained through the investigation and interview process of both BPA and BPXA employees. Beyond the review of documentary evidence and various hearing transcripts, the investigators interviewed individuals with relevant knowledge, and reviewed other interviews of those involved with the BPXA corrosion program and sediment issues, as well as those involved in the 2006 Congressional investigation and Hearing preparation process. Interviews were conducted both in person and, on occasion, by telephone.

BPA and BPXA personnel provided complete cooperation with the investigation. The investigation supporting materials are maintained in the law offices of Clifford & Garde, and are available to the Company upon request.

⁴ The term "COBC issues" is defined in the Terms of Reference to mean the existence of the COBC, the identification or knowledge of sediments in the pipelines, the decisions regarding the "pigging" of the lines, the identification of any program weaknesses in the corrosion control program, the budget issues impacting the corrosion control program and leak detection system, and/or personnel related issues that may have had an impact on pipeline integrity.

⁵ Documents made available to Clifford & Garde for this investigation were compiled through the Vinson & Elkins database prepared in response to the April 26, 2006 U.S. Department of Justice (DOJ) and the Alaska Department of Environmental Conservation (ADEC) subpoenas. The documents were provided after a number of refinements to the initial collection of hundreds of thousands of documents, isolated using issue codes and word searches, then again refined by V&E lawyers to identify relevant and responsive documents. As of this writing, the database search is incomplete.

III. Executive Summary

The investigation addressed three primary areas of concern: first, the issues surrounding the knowledge by BPXA of sediments in the OTLs; second, whether the "COBC documents" were considered in the development of responses to Congressional questions, and if not, why not; and, third, a review of the Hearing preparation processes with any recommendations for future hearing preparation activities.

The investigation reached the following conclusions:

1. Knowledge of Sediment in the Oil Transit Lines and Any Actions Taken To Respond to Sediments

Issue:

What did BPXA know about the amount of sediments in the OTLs, when did it know that information, and what did it do about that knowledge?

Conclusion:

BPXA did not actually know the amount of sediments in the OTLs until it pigged the lines in July (EOA) and November (WOA), 2006. However, in September 2001, an Instrument/Controls (I/C) engineer interpreted the results of flow meter tests as indicating that there was significant sediment at some places in both of the OTLs, especially in the FS-2 segment in the EOA. He presented his concern to the Chemical, Inspection and Corrosion (CIC) Manager; a CIC Integrity Analyst responded. Based on his past experience with a similar concern in 1998 and the minimal sediments resulting from pigging, he concluded that it was unlikely that more than minimal quantities of sediments existed in the lines. No one conducted testing or examination of the lines to attempt to determine the amount of sediments in the lines between 2001 and the 2006.

The investigation did not identify any evidence that the CIC group engineers or any other CIC staff held or asserted a concern that sediment build up would lead to a corrosion leak, beyond the fall 2001 Email conversations referenced within this Report.

As of April 30, 2007 the investigation is not yet complete into the question of whether the OTL lines would have been pigged, as part of a robust corrosion management system, if CIC had not been attempting to contain costs. The answer to this question should be resolved upon review of the remaining documents. The investigation has revealed budget pressures on the CIC which had an impact on the program and its staff. The documents reviewed indicated that there was an ongoing attempt by the CIC department to obtain additional funding to "optimize," in any way it could, the existing corrosion control programs. At this point, it is unknown whether "optimization" would have included pigging.

2. The Consideration of the COBC Documents in Preparation for the Congressional Hearings

Issues:

Were the COBC and related documents considered in the preparation for the September 7, 2006 Congressional Hearing?

Conclusion:

The COBC and related documents were not considered in connection with the preparation for the September 7, 2006 Congressional Hearing. The Congressional Hearing preparation process, though intended to be comprehensive and transparent, relied primarily upon individuals who did not have personal historical knowledge of the COBC. While there were people with knowledge of its existence, the preparation process did not ensure that such knowledge was fully incorporated into the Hearing and testimony preparations and briefings. This result was neither directed by BP management personnel nor understood to be a consequence of the process followed.

The direction from the new President of BPA was for candid and transparent disclosure of all requested and relevant information. The expectation from the President of BPXA was that all relevant and responsive information be provided to the Committee and utilized in preparation for his testimony. Nonetheless, the COBC and related materials were not disclosed and not included in the preparation process for the Hearing.

3. To the Extent that COBC Issues Were Not Considered or Included in the Preparation for the Hearing, the Investigation is to Determine the Causes of the Failure by BP Exploration Alaska to Include the COBC Issues, and Other Process Research and Production Issues, and to Make Recommendations

Issue:

(a) To the extent that COBC issues were not considered or included in preparing for the Hearing, the investigation is to determine the causes of the failure by BPXA to include the COBC issues;

(b) The investigation was also to review the process for document research and production and for preparation of testimony for the Hearing; and

(c) To make recommendations to management regarding the Hearing preparation processes during the investigation, since management's involvement with the Subcommittee is ongoing.

Conclusion and Recommendations:

- (a) The COBC and other relevant information available to the BPXA organization was not provided to staff or to the Subcommittee, or considered by BPXA or BPA in preparation for the September, 2006 Congressional Hearings. This was because the information either was not identified as responsive and included in Hearing preparation materials at all, or, if identified, not accessed by the people preparing for the Hearings and/or providing the responses to Congress.
- (b) The investigation did not identify any intentional actions to obfuscate the issues from Congress or to withhold documents of interest to the Subcommittee staff's inquiries. However, documents were available for hearing preparation that were not relied upon or utilized in framing the testimony and preparation of witnesses, and other information was available that had it been accessed and reviewed would have provided additional information to provide to Congress about the events surrounding the Prudhoe Bay issues.
- (c) As to this issue, we were asked to provide recommendations on the process to ensure further Congressional inquiries were responded to in a manner that provides assurance for accuracy and completeness. Those recommendations are:
 - BPXA should institute clear policy expectations for transparency and complete candor in all dealings with Congress and other stakeholders;
 - BPXA should, as a matter of routine practice, seek out the best and most accurate information from those with institutional knowledge in the subject matter at issue, and not solely rely upon computerized data base searches or other mechanized means to identify responsive materials;
 - BPXA should remove any bias toward compartmentalization, or "siloiing" of information which, in part, we found contributed to this situation; and,
 - BPXA should ensure that important projects, such as responding to Congressional requests for information, are managed by persons with personal or first-hand knowledge of the events at issue.

IV. Findings and Conclusions

A. Background

In order to ensure appropriate context surrounding the issues and events discussed in this Report, and to appreciate the impact of the many changes on the North Slope during the relevant time frame, we have included background relevant to the issues and organization.

1. The History of the Oil Transit Lines (OTLs)

The largest oilfield in North America, Greater Prudhoe Bay (GPB) on the North Slope of Alaska, is divided into the Eastern Operating Area (“EOA”) and the Western Operating Area (“WOA”). BPXA has operated the WOA since 1985 and the EOA since July 2000. Prior to that time, ARCO Alaska Inc., now known as ConocoPhillips Alaska, Inc., had operated the EOA.

The EOA and WOA are similar fields with similar but not identical facilities. Each side of the field has three production facilities – known as Gathering Centers in the WOA and Flow Stations in the EOA. The raw fluids from over 1,000 wells in Prudhoe Bay flow through well lines to commingling stations, where the 3 phase fluids⁶ are piped via flow lines to one of these six production facilities for processing.⁷ These production facilities then process the full well stream fluids into gas, water, and sales quality crude.⁸ (The exception to this is GC-3, which only partially processes the oil prior to sending it to FS-3 for final processing.) Once processed, the crude oil enters the large diameter (30-inch and 34-inch), relatively short (three to five miles), above ground oil transit pipelines (OTLs) that carry final sales quality crude oil to Skid 50. There, the EOA and WOA oil streams are joined, Natural Gas Liquids are blended in, and the combined fluids are sent to Pump Station 1 of the Trans-Alaska Pipeline System (TAPS).

Besides differences in nomenclature, the following are some of the relevant distinctions between the fields. The WOA OTL was designed as a single entity, a 34-

⁶ Besides oil, the fluids entering the production centers via flow lines are corrosive, as they contain water, natural gas and carbon dioxide. *FS-2 Oil Transit Line Spill Incident Investigation Report*, January 31, 2007 (“FS-2 Report”).

⁷ As the GPB field ages, changes occur in the systems necessary to extract the oil from the oil reservoir. Crude oil flowing from the reservoir contains water and gas which must be separated from the flow stream at the processing centers, in order to establish sales quality crude for delivery to the Trans Alaska Pipeline System (TAPS). The water that is separated from the flow stream is referred to as “produced water.” Produced water and gas are pressurized and injected back into the reservoir. Injection of produced water and gas benefits the maintenance of the reservoir geometry and assists in establishing the hydraulic conditions necessary to force the crude oil stream up through the well head.

⁸ “Sales quality” crude has been processed to the point that it contains less than 0.35% basic sediment and water (BSW), on average. Put another way, sales quality oil is at least 99.65% “pure.” (Interview of [name redacted, M-5]).

inch pipeline with a single pig launcher and receiver. The EOA OTL was designed and built as two distinct segments, each with its own pig launching and receiving facilities. The segment from FS-2 to FS-1 is a 30-inch line, while the segment from FS-1 to Skid 50 is a 34-inch line. Also, BPXA had considerably more experience operating the WOA, 21 years, versus only 6 years operating the EOA.

2. The Installation of a Leak Detection System

On May 14, 1992, the Alaska Department of Environmental Conservation (ADEC) promulgated 18 AAC 75.055, Leak Detection, Monitoring and Operating Requirements for Crude Oil Transmission Pipelines. The regulation, requiring compliance with a 1% daily throughput standard for leak detection and with a Best Available Technology (BAT) requirement, was broadened by ADEC in 1997 to include the OTLs. On December 7, 2000, ADEC informed BPXA that the 1% standard applied to each pipeline segment, rather than field-wide. Thereafter, ADEC required BPXA to submit a leak detection proposal for GPB, which met the 1% standard and employed BAT, by January 31, 2001. BPXA agreed to verify its compliance within 2001.

3. The Roles of the CIC and I/C Departments

Beginning June 1, 2001 and continuing through the relevant period, the CIC (Chemical, Inspection and Corrosion) group and the I/C (Instrument/Controls) engineers were located in the "Shared Services Technical Business Unit," a business unit led by [name redacted, M-1]. Five managers reported directly to [name redacted, M-1], including [name redacted, M-2], the North Slope Services Manager and [name redacted, M-3], Shared Services Engineering & Production Management. The Corrosion Manager, [name redacted, M-4], directed CIC activities and reported to [name redacted, M-2]. The I/C engineers reported to [name redacted, E-1], the Facilities Engineering team lead, who reported to [name redacted, M-3].

Then and now, CIC manages a program to control corrosion at the GPB oilfield. The program has three fundamental missions: monitoring (including coupon-pulling and electrical resistance), chemical mitigation, and inspections, including non-destructive examinations (NDE). CIC's inspections are primarily intended to measure the integrity of piping and other equipment, so as to identify equipment needing repair or replacement.

The CIC Manager was [name redacted, M-4], a BP employee. Despite a (reportedly) aggressive management style, [name redacted, M-4] was widely respected for his expertise in the field of corrosion management. After his departure, CIC was restructured. [Name redacted, M-5] became CIC Team Leader (Anchorage) in July, 2005.

The focus of I/C is "process" instrumentation. I/C engineers have never been part of the CIC organization. Inspecting piping for corrosion and identifying potential leaks is a duty of CIC, not I/C. In 2001-2002, I/C had the responsibility to select, test and install a leak detection system that would comply with Alaska regulations.

An organization chart for both groups is included as an Exhibit to this Report.⁹

4. The Investigations of CIC Issues

a. CIC Department Issues From 1999 to 2004

At least since 1999, there have been personnel and contractor issues within the CIC organization. The issues involved a number of concerns regarding alleged misconduct within the contractor organization. These issues were reviewed and investigated, some by internal and some by external avenues, and have resulted in a number of contract and personnel related actions. Based on information we reviewed, none of the issues involved employees or contractors who claimed to have identified a concern about sediment in the lines, the failure to “pig” the lines, or a concern about internal corrosion on the OTLs.

b. HSE 1838 and the “Hotline” Investigation

In March 2003, a BP employee raised a concern to the Health, Safety and Environment committee (an HSE concern), that is a concern regarding some aspect of BP operations impacting the health, safety or environment in Greater Prudhoe Bay WOA. The committee is a joint labor-management committee to address such concerns. The issue, HSE-1838, was raised by a BP employee on behalf of a contract employee in the CIC group, alleging harassment and retaliation for reporting an HSE-related concern. Although the concern did not involve sediments, corrosion or the OTLs, it did involve that reducing the coupon pull staff could have an impact on corrosion rates. However, it did involve management actions within CIC regarding cost cutting and the management style of BP’s CIC Program Manager, [name redacted, M-4].¹⁰ HSE 1838 was then raised by workers to [name redacted, BP-2] who undertook an investigation of the issue. The conclusions of the investigation were that [name redacted, M-4’s] behaviors had caused some degree of fear of retaliation and created a “chilling effect,” such that BPXA management needed to take additional actions to ensure its policies and expectations were understood by the contractor work force and [name redacted, M-4]. [Name redacted, BP-2] also recommended coaching [name redacted, M-4] with respect to his management and communication styles. The findings were orally reported to [name redacted, VP-2], GPB Performance Unit Leader and [name redacted, M-6], GPB Field Manager in June, 2003 and confirmed with written recommendations, including that [name redacted, M-4] style, if left unchecked, would have adverse impacts on the program.

In June 2003 [name redacted, M-4] scope of responsibility was increased to include Fire & Gas and the Valve Shop.

⁹ See, Organization Chart for relevant time frame, (Exhibit 4).

¹⁰ HSE Concern 1838 was provided to the Subcommittee in response to its request in September, 2006.

c. **Vinson & Elkins Report**

In March, 2004, additional allegations regarding the behavior of [*name redacted, M-4*] (similar to HSE 1838 but with different details) were supplied to the EPA's Region 10 Office of Suspension and Debarment and the U.S. District Court's Anchorage Office of Probation and Pretrial Services, which asked that BPXA look into the issues. BPXA retained the law firm of Vinson and Elkins (V&E) to investigate, and V&E issued a Report in October, 2004. (The Report was produced to the Subcommittee in connection with the September, 2006 Hearing.) The Report substantiated concerns regarding the existence of a "chilling effect" as a result of [*name redacted, M-4*] management style, but did not substantiate retaliation, falsification of records or coupon data, or that BP had "bad" pipe in service or that [*name redacted, M-4*] was intentionally hiding areas of corrosion. V&E also recommended a number of actions regarding [*name redacted, M-4*], and contract management issues, as well as education of the CIC employees regarding the corrosion program. Finally, it recommended a "focused review of the corrosion program data system (MIMR)" and supporting processes.¹¹

[*Name redacted, M-4*] was transferred to Houston, Texas, effective January, 2005.

5. **The April 2005 Baxter Report (Baxter I)**

In November-December, 2004, John Baxter, BP Group's Director of Engineering, led a team of specialists (external to BPXA but internal to BP) to assess the integrity of the Corrosion Management System (CMS) at Greater Prudhoe Bay. The audit was conducted in November-December 2004. The team's Report, issued in April 2005, concluded that while the CMS did not have an immediate technical problem, the extent, complexity and aging state of the pipeline created the potential for leaks. The team's recommendations included updating the corrosion strategy to align the corrosion and inspection practices across both sides of the field; updating the budget process for CIC as the drive to maintain flat lifting costs had put undue pressure on the group; promptly replacing the departing manager and senior engineer; and conducting a technical review of the extensive corrosion inspection and monitoring program. The Report did not consider issues of sediment in the OTLs or elsewhere in the system.¹²

6. **The March 2006 Spill**

On March 2, 2006 BP workers discovered that oil was leaking from the Oil Transit Line (OTL) between GC-2 and GC-1 in the Western Operating Area (WOA) at

¹¹ See, Vinson & Elkins Report for BPXA Concerning Allegations Of Workplace Harassment From Raising HSE Issues And Corrosion Data Falsification, October 20, 2004. ATTORNEY-CLIENT PRIVILEGED DOCUMENT. The report was provided to the subcommittee in response to its request in September 2006.

¹² *Internal Audit, BPXA Corrosion Management System, Technical Review, Final Report, April, 2005 (Baxter Report I)*. The report was provided to the subcommittee in response to its request in September 2006.

GPB. The leak was first detected by smell; it did not register on the leak detection system (LDS). Almost immediately, BP employees and contractors began the processes of finding the location of the leak, sealing it and conducting environmental remediation. Shortly thereafter, additional BP employees and state and federal investigators began to converge on the area, seeking to determine the cause of the leak, and whether the LDS had worked as designed.

Suspicion about the performance of the LDS was quickly reduced, as it was determined that the rate of the leak was less than 1% of the throughput of the pipeline segment. The LDS had worked as designed and as required by regulations. Interest in determining the cause of the leak continued unabated.¹³

The leak occurred at a “caribou crossing” -- a section of the pipeline that is cased and buried to provide a crossover for migrating caribou. Given its location, external corrosion was suspected as the cause of the leak.¹⁴ Within a few days after the spill was discovered, however, internal corrosion was identified as the cause of a quarter inch hole in the bottom of the pipeline.

Once internal corrosion was established as the source of the leak, investigators and regulators focused on issues relating to sediment¹⁵ in the OTL as well as the lines’ history of maintenance pigging and “smart” pigging.¹⁶ On March 10, BPXA promised its State regulators that it would pig all the oil transit lines. Its promises were incorporated in a Department of Transportation Corrective Action Order issued on March 15, 2006. The CAO mandated pigging and directed BPXA to report on the extent of sediments in the lines.

7. The March 24, 2006 Congressional Inquiry Letter and BPXA’s Response

Congress recognized the potential significance of issues relating to sediment and pigging and posed questions to BPXA. In a letter dated March 24, 2006, Congressmen John Dingell and George Miller asked BPXA’s President, Steve Marshall, to answer seven questions about the OTLs; two of them related to sediment in the lines. Question 5 asked whether the low flow rate in the OTL resulted in the settlement of solids in water at the bottom of the pipe, and what implications that would have. Question 6 asked whether

¹³ Interview of [name redacted, A-1].

¹⁴ External corrosion is a common threat to the integrity of buried, cased lines, as the environment presents an opportunity for moisture to collect and maintain contact with the outside surface of the pipe. See, *GC-2 Transit Line Incident Investigation Report*, April 14, 2006, (“GC-2 Report”). Produced at September 7, 2006 hearing.

¹⁵ In this Report, we are using the word “sediment” to include not only sand but also “sludge,” “scale” and other materials that might accumulate in the pipe, although they are not the same.

¹⁶ Maintenance pigging is a mechanical method of cleaning sediment and water from pipelines. Smart pigging is a method of using mechanical devices to internally examine the integrity of pipelines.

significant amounts of solids were known to be present in the bottom of the line, the concerns that would be presented by solids, and whether maintenance pigging would have been effective to remove solids and preserve the integrity of the line.¹⁷

On April 3, 2006, BPXA responded as to conditions on the WOA, where the spill had occurred. It explained that while the dropping out of water and solids presented the potential for internal corrosion, in the past it had mitigated this concern by removing corrosive carbon dioxide gas from the oil and by adding corrosion inhibitor, which until recently had carried over from upstream injections. As to the amount and effect of sediment in the line, BPXA said that no “unusual presence” had been found in the 1998 pigging, it had “no indication” of how much sediment was currently in the line, but removal by maintenance pigging was appropriate if sediments were a concern.¹⁸

Throughout the Spring and Summer of 2006, interested stakeholders, including the Congress and the Department of Transportation (DOT), continued to press the company for an accurate statement of the amount and location of the sediment in the OTLs. On several occasions, the Company provided preliminary estimates, which turned out to be incorrect. Thus, in May BPXA estimated that there were 9 to 12 inches of sludge in parts of the EOA, but reported sharply lower estimates in June. The Company’s inability to respond on this point was a source of frustration for its stakeholders, including Congress and DOT.¹⁹

¹⁷ See March 24, 2006 letter from Congressmen Dingell and Miller to Steve Marshall (Exhibit 5).

¹⁸ The full response to Question 6 is as follows:

Records from the 1998 pigging program did not show an unusual presence of solids in the WOA OTL. BPXA has no indication of the amount of solids that might be present in the line at this time. We are currently researching methods which could be used to identify solids in the line.

In the last one to two years BPXA Operations have seen an increase in fine solids production (so called flour sands) into GC2 from the production of “viscous” oil. It may be possible that some portion of these solids carried over into the oil transit line. If solids do carry over, the main risk of corrosion would be from under-deposit or bacterial corrosion. It should be noted, however, that these same solids should have carried through to the WOA OTL downstream of GC1. That portion of the WOA OTL does not appear to have experienced the same accelerated corrosion as did the segment from GC2 to GC1.

The risk from solids has been discussed in Question Five. If solids were believed to be a concern, a maintenance pigging program would be appropriate to remove them.
(Exhibit 6)

¹⁹ See, e.g., the July 26, 2006 letter from the Administrator, PHMSA, DOT, responding to Congressman Dingell’s letter of June 15.

8. The April 26, 2006 DOJ Subpoena

On April 26, 2006 the U.S. Attorney in Alaska issued a subpoena duces tecum to BPXA in connection with its ongoing investigation of the GC-2 spill. The subpoena is relevant to this investigation, only because it requested documents that could have led to the identification of the COBC earlier than occurred, and its content was known to some people working on both projects.

9. The GC-2 Incident Investigation Report and June 2006 Baxter Report (Baxter II)

Immediately after the March spill, BPXA dispatched an Incident Investigation Team to determine the facts and circumstances surrounding the incident, review applications of management systems and compile a Report.²⁰ This team was not tasked with conducting a root cause analysis, and its Report did not identify the cause of the corrosion which led to the leak.²¹

Shortly thereafter, BP Legal asked John Baxter, the BP Group Director of Engineering to lead another team in reviewing technology issues related to the incident. Their Report (Baxter II) was delivered on June 7, 2006.²² It noted that the likelihood of corrosion in oil transit lines is generally agreed to be low, given the carryover of chemical inhibitors and the specifications for BS&W. However, it also concluded that in the case of the OT-21 line (the OTL from GC-2 to GC-1), viscous oil (produced since 2002) and “flour” sands had caused “upsets” at GC-2, with resulting out of specification crude being released. In other words, the changes in the content of the oil entering GC-2 created the potential for oil with a high sediment and water content to be delivered to the line. The Report concluded that this presented the opportunity for water and solids to settle in the bottom of the OTL.

BPXA responded to the changed circumstances by working to regulate the output of GC-2 and to maximize the effectiveness of chemical treatments, but it did not conduct regular maintenance pigging to remove whatever sediment and water might have accumulated in low spots on the lines, nor did it focus on the possible corrosive effects of static water and sediment at the bottom of the pipe.²³

The Report’s findings included identifying the organization’s need to follow a Management of Change process to cope with changing circumstances, and the observation that CIC’s status as a leader in corrosion management had the potential for

²⁰ *GC-2 Transit Line Incident Investigation Report*, April 14, 2006, (“GC-2 Report”). The report was provided to the subcommittee in response to its request in September 2006.

²¹ Interview of [named redacted, A-1].

²² *Alaska Transit Pipeline Technology Review*, June 7, 2006.

²³ *Id.*, pages 3-4.

creating a “silo effect” where little time is spent considering other best practices and strategies. The Report warned that the existing inspection and leak detection regime would not necessarily minimize the likelihood of another significant spill.²⁴

10. The August 6, 2006 Spill

BPXA was required to conduct cleaning and smart pigging of the EOA OTL, pursuant to Item 7 of the CAO (entered by DOT on March 15, 2006). BPXA began cleaning the EOA line during the week of July 3 and completed cleaning the 30-inch segment from FS-2 to FS-1 on July 20. It smart pigged the FS-1 to Skid 50 section on July 21, 2006. On August 4, 2006 BPXA received the preliminary report from the smart pig vendor. It indicated 16 significant anomalies clustered in 12 areas, but did not identify specific locations. When the locations were identified the next day, the CIC North Slope Team Leader dispatched crews to validate the data. On August 6, 2006 BPXA initiated the shut down of the EOA lines, after discovering two locations where the remaining wall thickness was only 0.03 inch and 0.04 inch, and three locations with active leaks.²⁵

11. Congressional Investigation and the September 7, 2006 Hearing

Following the August, 2006 spill, Congress’ interest in BPXA’s knowledge of sediments in the OTLs intensified, which was conveyed to the Company during congressional staff visits to Prudhoe Bay, discussions with representatives in BP’s Washington, D.C. office, and more formal requests for documents. On August 11, O&I Subcommittee staff notified BPA of a Hearing scheduled for September 7, 2006. In an August 31, 2006 letter to Bob Malone, the O&I Subcommittee formally requested the production of additional items, including “all records and communications relating to discussions about sludge/sediment, pigging, and/or corrosion on [the OTLs] (primary focus on the period from January 2006 to the present).”²⁶

On September 7, 2006 a hearing was held before the Subcommittee on Oversight and Investigations of the House Energy and Commerce Committee. Two other congressional hearings were held over the next few weeks.²⁷ Testimony was provided by President of BPXA Steve Marshall and President of BP America Bob Malone. During the Subcommittee hearing Mr. Marshall was asked a series of questions regarding the status, maintenance, degrading and corrosion of the OTLs, including when BP was first aware of sediments in the OTLs and the level of knowledge or concern about the corrosion on the OTLs.

²⁴ Id.

²⁵ FS-2 Report.

²⁶ See August 31, 2006 letter from Congressmen Barton, Dingell, Whitfield and Stupak to Bob Malone. (Exhibit 7).

²⁷ September 12, 2006 Hearing of the U.S. Senate Energy and Natural Resources Committee and the September 13, 2006 Hearing before the House Transportation and Infrastructure Committee.

Following the Congressional hearings, additional requests for information were received and responses developed.²⁸

12. The Post-Hearing Discovery of the COBC Documents

Approximately one month after the Hearings, the Staff obtained a copy of a Compliance Order By Consent (COBC), an executed, official agreement that had been entered between the State of Alaska and BPXA, in May, 2002. The document included BPXA's representation that it had discovered "settled solids in some [OTL] pipeline segments," which prevented the company from complying with State regulations governing its leak detection system (LDS). The COBC also detailed tasks which BPXA committed to complete, including determining the sediment levels in the EOA and WOA pipelines at Skid 50, modifying the pig receiver at Skid 50, pigging the EOA line from FS-1 to Skid 50 and pigging the WOA line if necessary.

B. BPXA's Knowledge of Sediments in the OTLs and Any Actions Taken as a Result

1. The Historical Results of Pigging

The WOA OTLs had been cleaned and smart pigged in 1990.²⁹ Beginning in 1995, some members of BPXA's CIC group recommended pigging the WOA oil transit line.³⁰ A thermograph showed 3-6 inches of solids at a location on the OT-21 line, but this could not be confirmed with ultrasonic (UT) examination.³¹ A robust discussion followed, in which the data supporting pigging was debated and the possible downsides, including plugging the strainers at TAPS and the risk of getting a pig stuck were considered.³² Eventually, the Company committed to running a cleaning pig, which was conducted in 1998.³³ It resulted in the recovery of only 2 to 3 cubic yards of solids from the WOA oil transit line.³⁴ The subsequent smart pig run detected some wall loss, but it was below the levels set to assess fitness for service.³⁵

²⁸ See October 24, 2006 letter.

²⁹ See, July 22-29, 1990 pigging records.

³⁰ November 7, 1995 Email from [name redacted, BP-3] to PBU CIC, Re: Maint. Pigging of Oil Transit.

³¹ Ibid.

³² November 11, 1995 Email from PBU CIC to [name redacted, BP-3], Re: Maint. Pigging of Oil Transit.

³³ April 4, 1998 Email from Pigging Operators to CIC, and surrounding documents.

³⁴ Ibid.

³⁵ Report by Pipeline Integrity International, 9-30-98.

Documents that BP reviewed after the March 2006 GC-2 spill show that ARCO operated cleaning pigs in the EOA oil transit lines in 1990 and 1991. The 30" line from FS-2 to FS-1 was "found to be very clean" after caliper pigging on September 9, 1990.³⁶ The 34" line from FS-1 to Skid 50 was caliper pigged on September 23, 1990. The results indicated a 1/8" build-up of calcium carbonate scale downstream from the FS-3 tie line.³⁷ The EOA lines were cleaned again in September 1991 to prepare for smart pigging. The lines were then smart pigged, but the resulting data was later rejected by ARCO, as it conflicted with known information about the lines.³⁸ Apparently, ARCO did not make any further efforts to smart pig the EOA lines.³⁹

2. The Results of Pigging After the GC-2 Spill

The pigging conducted after the GC-2 spill provided direct evidence that there had been sediments in all of the OTLs.⁴⁰ Cleaning of the first segment, FS-2 to FS-1, began on July 4, 2006. "Estimates of the amount of solids removed from the FS-2 to FS-1 cleaning were about 270 bbls."⁴¹

The FS-1 to Skid 50 segment on the EOA was pigged between September 30 and October 18, 2006.⁴² Prior to cleaning, it was estimated that ~366 bbls of pigging solids (sand, scale and sludge) would be raised, based on gamma scan inspections.⁴³ Afterwards, the estimated recovery was 238 bbls, based on spin-out analysis, and 83 bbls were estimated, using APSC analysis.⁴⁴

The GC-1 to Skid 50 segment on the WOA was pigged between November 1 and 12th, 2006. Prior to cleaning, it was estimated that ~208 barrels of pigging solids (sand, scale and sludge) would be raised, based on gamma scan inspections performed October 11-12, 2006.⁴⁵ After pigging, the estimated recovery based on spin-out analysis was 22 bbls, and 8 bbls were estimated as recovered, using APSC analysis.⁴⁶

³⁶ Appendix D to FS-2 Report.

³⁷ Ibid.

³⁸ Ibid.

³⁹ FS-2 Report.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ The gamma scan (GR) estimates were intended to provide rough estimates since it is recognized that the method is not highly accurate for this purpose. (Explanatory comment provided by [name redacted, BP-4].)

⁴⁴ "WOA/EOA Progressive Cleaning" undated slide presentation.

⁴⁵ Ibid.

The actual, processed results of the combined product from the FS-1 and GC-1 segments was 32 bbls of sediment recovered.⁴⁷ The following chart⁴⁸ presents the pigging returns.

OTL Pigging Returns Volume Reconciliation							
(in Bbls)							
Segment	Length	Pipe Dia	Gamma Scan Estimate			BP Measured Returned Solids @ Skid 50	Alyeska Measured Returned Solids @ Skid 50
			May-2006	Aug-2006	Oct-2006		
EOA OTL - FS2 to FS1	15,794	30	140	N/A	N/A	N/A	N/A
EOA OTL - FS1 to Skid 50	25,996	34	115	638	N/A	236	83
WOA OTL - GC1 to Skid 50	25,301	34	417	417	208	22	8
Totals						258	91

3. The Consideration of Sediments and the Feasibility of Pigging in 2001-2002

In December, 2000, BPXA was attempting to implement a new leak detection system on the OTLs, as required by ADEC regulations. The I/C group had responsibility for meeting regulatory requirements and was facing a firm deadline for compliance of December 31, 2001.⁴⁹ On December 29, 2000, an I/C engineer, [name redacted, E-3], sent an email within his group discussing the logistics of compliance. He proposed that BPXA smart pig the transit lines as part of the leak detection modification effort. Specifically, the email suggests that pigging is a preferable option because:

“[t]he most likely leak scenario would be a pin hole leak due to external corrosion. No meter based leak detection system would be able to detect such a leak. Smart pigging the sales line would

⁴⁶ Ibid.

⁴⁷ “Alyeska Pipeline BPXA Pigging TAPS Bypass Project, Agency Coordination Meeting,” slide presentation, January 10, 2007.

⁴⁸ Chart supplied by [name redacted, BP-4].

⁴⁹ December 7, 2000 letter from ADEC, S. Harvey to N. McCleary, Re: BPXA Proposal for Leak Detection.

be a good way to assess external corrosion. This may be an idea that ADEC would accept.”⁵⁰

His manager, [name redacted, E-4], promised to raise the issue in a meeting and get back with “next steps.” His second level supervisor, [name redacted, M-3] (the Shared Services Engineering and Projects Manager), also responded, asking if [name redacted, E-3] had proposed a WAG estimate, in the event that BPXA had to comply with ADEC’s interpretation of the regulation.⁵¹

On January 7, 2001, [name redacted, M-4], the head of CIC asked [name redacted, IA-1], an integrity analyst, whether BPXA could “... smart pig both the EOA and WOA oil sales line? If there are issues, what are they?” [Name redacted, M-4] explained his belief that smart pigging would be “considerably cheaper” than installing meters to comply with ADEC’s 1% leak detection standard. The next day, [name redacted, IA-1] responded “We could likely Smart Pig each of these lines but not without [a] considerable amount of work.” He further noted that “WOA has seen quite a bit of internal and a fair amount of external damage. Internal is small pit networks @ 6:00 azimuth.....my thoughts are that the oil sales line has continued to degrade very slowly” and that the EOA has “done little or nothing for inspection of the sales line.”⁵²

By May of 2001, [name redacted, M-4] was pressing for funding in an effort to maintain CIC’s smart pigging program, which he viewed as an integral part of the overall corrosion management strategy, at least for the lines bringing oil from the wells to the processing centers (e.g., flowlines) and for the produced water lines (returning water from the processing centers to the field). The documents reviewed to date indicate that there was no pending request for funding to smart pig the OTL’s. However, CIC was having to address severe financial restrictions -- what CIC’s North Slope Team Leader called “bloodbath numbers.” [Name redacted, M-4] raised his concern to his manager, [name redacted, M-2], the North Slope Service Manager and continued to press his case for funding to place the Corrosion Under Insulation (CUI) Mitigation and Detection, as well as smart pigging, into the summer.⁵³ Ultimately the smart-pigging/CUI fell off the list for that year’s budget. Upon completion of the investigation, we will update whether CIC sought funding for pigging the OTL’s or discussed or considered such activities as part of its business projected for compliance and safety.

⁵⁰ December 29, 2000 Email strings from [name redacted, E-3] to [name redacted, M-3] and [name redacted, E-4], Re: PBU leak detection.

⁵¹ Ibid.

⁵² January 7, 2001 Email string from [name redacted, M-4] to [name redacted, IA-1], Re: Smart Pigging the Oil Sales Lines.

⁵³ May 14, 2001 Email from [name redacted, BP-6] to [name redacted, M-4], Re: CIC Group Team Leader Meeting, and surrounding strings, including May 26, 2001 Emails from [name redacted, M-4] to [name redacted, BP-7], Re: GPB Repair Cause History 1996-2001, and surrounding strings.

Needing to meet ADEC's interpretation of the regulation, the I/C group decided to use a strap-on ultrasonic metering system, which required clean pipe to get an accurate reading of flow.⁵⁴ While testing different meters in April-May 2001,⁵⁵ they experienced difficulty and were unable to get a reading at a point on FS-2 near its juncture with FS-1.⁵⁶ As the following communications illustrate, the I/C group interpreted the metering problems to indicate a significant build-up of sediment in the line -- an opinion not shared by the relevant members of the CIC group:

August 16, 2001. In an email to operators on the pigging crew and engineers at CIC, [name redacted, BP-8] asked whether the WOA OTL had been pigged since 1998 and what would be involved if maintenance pigging was necessary. [Name redacted, BP-8] explained that members of the I/C team were setting up a leak detection system that required a clean line, "...but their indications are that it is half full of sludge."⁵⁷

September 6, 2001. An I/C engineer, [name redacted, E-3], wrote to the head of CIC, [name redacted, M-4], explaining the context of the meter testing, the problem encountered and his concern:

"I am working on installing a leak detection system on the Prudhoe sales oil transmission pipelines. We have recently been experimenting with a strap-on ultrasonic meter on the FS-2 segment near the FS-1 pigging module. While testing the meter, it became evident that significant sediment has built up in the piping. In order to obtain optimum meter accuracy, we need a clean pipe. I discussed this with [name redacted, E-4], and we felt it was prudent to pig EOA lines regardless of the meter issue.

Have we done any UT or RT on this piping recently? Considering the modifications to Skid 50, what would it take to pig these lines and how soon could we schedule it? We are obviously concerned about corrosion, and the possibility of a leak on one of the oil lines."⁵⁸

[Name redacted, M-4] read this email, and forwarded it to [name redacted, IA-1] for response.

⁵⁴ September 6, 2001 Email from [name redacted, E-3] to [name redacted, M-4], Re: Sales oil pipeline pigging (Exhibit 9).

⁵⁵ September 27, 2001 PBU Leak Detection Status Report, rev 1.

⁵⁶ October 1, 2001 letter from BPXA G. Campbell to ADEC R. Watkins Re: BPXA-Prudhoe Bay Leak Detection Update.

⁵⁷ August 16, 2001 Email from [name redacted, BP-8] to PBU, pigging Operators Re: Pigging of OT-PST line (Exhibit 8).

⁵⁸ Exhibit 9.

September 7, 2001. [Name redacted, IA-1], the integrity analyst from CIC responded. He described the results of recent UT corrosion testing of the EOA line, which showed “minor internal corrosion damage...around ~20% of wall thickness.” He explained that the pigging capabilities had been removed when the east and west lines were combined at Skid 50, so the equipment would have to be restored before the line could be pigged. The writer stated his belief that the EOA line had never been pigged and that there was “likely to be a light layer of frac and formation sand lying on the bottom of the line, a bit heavier at lower points prior to upward bends.” He explained that NDE (non-destructive examination) tools were of little help in measuring solids in the line. Finally, based on the results from the earlier cleaning runs on the WOA, he assumed there was a light layer of solids on the bottom ¼ of the pipe.⁵⁹

The discussion between the two teams about *sediments* ended there, on Friday, September 7, 2001. Even in the context of the severe budgetary pressures described in the emails, the lack of follow up to this discussion and topic from the materials we reviewed is striking. Why would concerns about sediments, so articulately expressed by the instrumentation engineer, and so thoughtfully responded to by the integrity analyst -- both responsible, competent and respected members of the BPXA team -- disappear without further analysis or consideration?⁶⁰ We concluded that, whether right or wrong, neither considered the risk significant enough to pursue.

In interviews, [name redacted, IA-1] and [name redacted, E-3] explained the reasons for their conclusions. [Name redacted, IA-1] was skeptical of [name redacted, E-3's] belief that significant sediments were responsible for the testing problems.⁶¹ Not only did he know from experience how difficult it was to find or measure solids when using equipment designed for the purpose, but he understood that I/C was not using such tools.⁶² [Name redacted, IA-1] identified several reasons why one might fail to get a reading from ultrasonic meters, including misplacement of the meters, the volume of oil in the line, air or water in the line, and solids.⁶³ Also, [name redacted, IA-1] and CIC gave less weight to the concern because it was coming from individuals who were not

⁵⁹ Exhibit 10. Note that [name redacted, IA-1's] response was forwarded to CIC Field Integrity Ops.

⁶⁰ While from this distance it may seem abrupt and surprising, we are mindful of the need to consider the facts in their historical context. In this case, it is fair to recall the disruptive effect of the terrorist attacks on the United States just four days later, on September 11, 2001, and the impact that event had on the focus of individuals and organizations throughout the weeks and months that followed. No one told us that they were distracted and forgot about the issues; indeed we are sure that they were not forgotten. But to erase that event from the context of this inquiry would be disingenuous.

⁶¹ Interview of [name redacted, IA-1].

⁶² Ibid.

⁶³ Ibid.

corrosion engineers.⁶⁴ For his part, [name redacted, E-3] was persuaded that sediment had interfered with the testing. By rotating the meters, the vendors determined that there was sediment in the bottom third of the pipe.⁶⁵ [Name redacted, E-3] concluded it was sediment, rather than scale, because FS-2 produces a lot of water and the sands tend to fall out at low velocities.⁶⁶

We did not find evidence that the corrosion engineers were reluctant to pursue this issue of sediments because of concern about potential adverse consequences for doing so. For I/C, its conclusion that there was sediment was incorporated almost immediately into its strategy for complying with Alaska Regulations.

Notwithstanding a recognition of the aging pipelines and concerns about CUI, internal pitting and wall loss, CIC did not view the results of the flow meter testing or other observations as a cause for immediate concern, for several reasons, including:

- It believed the corrosion risk continued to be low in lines carrying “sales quality” oil;⁶⁷
- Scant sediments had been recovered by pigging the WOA lines in 1990 and 1998;⁶⁸
- It assumed that the historical trend regarding sedimentation was continuing and that the amounts deposited would be the same on both sides of the field;
- CIC regarded even the best available NDE technologies to be unreliable for purposes of sediment, thus the results of flow meter testing were not persuasive;⁶⁹
- It believed that any corrosion risk posed by sediments was successfully controlled through its aggressive program of chemical inhibition, which appeared to be confirmed by the results of corrosion monitoring.⁷⁰

None of the documents or witness statements in this investigation has supported or suggested that CIC regarded the evidence of sediment in the OTLs as a cause for concern from the standpoint of corrosion control. It is unquestionably true that CIC did not alter its practices or strategy in any way, on account of the evidence of sediment and/or concern about corrosion presented by I/C.

⁶⁴ Ibid.

⁶⁵ Interview of [name redacted, E-3].

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.; Exhibit 9.

⁶⁹ Interview of [name redacted, IA-1].

⁷⁰ Ibid.

4. The Recognition that Sediments Prevented Compliance with Leak Detection Regulations

We found no evidence of any follow-up verification of the results of meter testing described above, or of any formal determination by anyone at BPXA as to whether and to what extent there were sediments in the EOA lines, until after the GC-2 leak.

The I/C group was persuaded that the new leak detection system could not be compliant with regulations until the line was pigged, therefore [name redacted, E-4] agreed that [name redacted, E-3]. Although [name redacted, E-3] thought “we barely have enough funds within the overrun limit in the original AFE to do this preliminary work,” BPXA wanted to demonstrate to ADEC that it was making a reasonable effort to satisfy the leak detection requirement.⁷¹ At the same time, [name redacted, E-3] believed that running cleaning and smart pigs would have practical value in the interest of integrity, and the State would be appeased to know that there was no significant corrosion issue. Thus he favored cleaning the lines and proceeding with ultrasonic meters, rather than using a small turbine meter in the FS-2 segment.⁷²

With the December 31, 2001 deadline fast approaching, BPXA acted to inform the State of its sediment problem and to agree on a way forward.⁷³ In an October 1st letter, and a December 3rd meeting, I/C presented its position to ADEC, which was amenable to entering a COBC, under the circumstances.⁷⁴ On December 4, I/C requested the assistance of Legal to negotiate the COBC,⁷⁵ and on December 14, requested authorization to expend the funds needed to carry out its obligations under the Agreement.⁷⁶ BPXA made the commitments and took the actions necessary to comply with the regulations, accepting I/C's assessment that sediments were interfering with testing leak detection meters in the OTLs, at least in the EOA.⁷⁷ A review of the documentary record of the Company's conduct and statements confirm this belief. The following examples are offered:

⁷¹ October 11, 2001 Email from [name redacted, E-3] to [name redacted, BP-10], Re: Oil Sales Line.

⁷² November 12-13 Email string, from [name redacted, BP-11] to [name redacted, E-3], Re: Leak Detection and Pipe Pigging.

⁷³ Interview of [name redacted, E-3]; see also October 19, 2002 Email from [name redacted, BP-9] to [name redacted, M-1] et al., Re: Leak Detection (Exhibit 15).

⁷⁴ December 4, 2001 Email from [name redacted, BP-9] to [name redacted, A-2] Re: ADEC COBC on Leak Detection (Exhibit 11).

⁷⁵ Ibid.

⁷⁶ December 14, 2001 Authorization for Expenditure, AFE # 4N0420.2 (Exhibit 12).

⁷⁷ December 30, 2002 letter from ADEC B. Hutmacher to G. Campbell, Re: COBC for BPXA ADEC No. 014-CP-5079.

- On February 13, 2002 the Vice President of BPXA, [*name redacted, M-1*], wrote to Ms. Barnes, the Company's Probation Officer. He advised her that "the sediment build-up in the pipelines that has occurred over time" was delaying the metering project.⁷⁸
- On May 14, 2002 the GPBU Operations Manager, Jack Fritts, executed the COBC on behalf of BPXA. In paragraph 16, the COBC stated that BPXA had discovered settled solids in some pipeline segments, which had to be cleaned to permit testing of the LDS meters. He attested as to his authority to enter agreements for and to legally bind BPXA.⁷⁹
- For a meeting with the Department of Justice on October 16, 2002 BPXA representatives prepared a slide presentation entitled "Events Leading to GPBU Pipeline Leak Detection COBC."⁸⁰ One slide explained that "sediment buildup in some of the pipeline segments prevented BPXA from meeting the December 31, 2001 deadline."⁸¹

Throughout the period of the COBC, the Company was mindful of its obligation to perform the various obligations imposed thereby, and to do so in a timely fashion.⁸² As a result, all of the obligations were completed to ADEC's satisfaction and the system was successfully tested before the end of the year.⁸³

5. The Actions Related to Sediments After Closure of the COBC

BPXA's compliance with the terms of the COBC was recognized on December 30, 2002, and ADEC officially closed the COBC on April 3, 2003.⁸⁴ Thereafter, interest in the subject of sediment in the OTLs evaporated.

After reviewing thousands of pages of documents, including the CIC Annual Corrosion Management Reports, and numerous interviews, we found no evidence that sediment in the oil transit lines was a matter of serious concern within BPXA, during the three years following the termination of the COBC. The voluminous annual reports of

⁷⁸ February 13, 2002 letter from BPXA C. Phillips to M.F. Barnes, Re: Mr. Hamel's correspondence dated January 30, 2002 regarding pipeline leak detection, (Exhibit 13).

⁷⁹ See Exhibit 1.

⁸⁰ October 16, 2002 presentation, "Events Leading to GPBU Pipeline Leak Detection COBC," (Exhibit 14).

⁸¹ Ibid.

⁸² August through December, 2002 Email string regarding pipeline leak detection status.

⁸³ Exhibit 16.

⁸⁴ April 3, 2003 letter from ADEC B. Hutmacher to BPXA J. Fritts (Exhibit 17).

the CIC group, which detailed BPXA's successful anti-corrosion efforts and its leadership in the development and improvement of chemical inhibitors, are silent on this subject.⁸⁵ The I/C group appears to have lost interest in the issue of sediment, as soon as it demonstrated the performance of the LDS to ADEC's satisfaction.⁸⁶ The corrosion engineers and analysts, while busy with the department challenges, including the ongoing budget battle, did not identify the OTLs as a high priority issue requiring attention.

6. The Effect of Budget Issues on the Corrosion Program

Budget and funding issues are addressed in two different ways on the North Slope. First, BPXA as operator has an annual budget to operate and maintain the field, referred to as the Operator budget. This budget, and any supplemental requests, are approved by the Working Interest Owners (WIOs) or co-owners, and provides department funds for normal operations and maintenance costs, repairs, engineering and well work, etc., as part of the annual operating budget. Capital Expenditures ("CAPEX") are specially allocated funds for major repairs (over \$100,000.00) and studies, new facilities or construction, well and rig work, and anything "downhole," or other non-routine capital investments. These expenditures are submitted by BPXA to the Working Interest Owners through an Authorization for Expenditure ("AFE") process.

The CIC annual budget was reviewed and approved as part of the budget cycle process, and was subject – as were the budgets of other departments – to the internal BP "budget challenge." Also, as the budget was spent over the year, the CIC budget would be reviewed to determine whether there were items that could be deferred or cut in order to keep the overall budget in line with approved expenditures. Following a smart pigging campaign in 2000-2001, the CIC "pigging" budget was considered as part of the annual operating budget. A review of the impact of budget on the expenditures and funding is not yet complete.

This budget process, and its impact on the CIC department, has been the subject of criticism and concern. For example, as John Baxter, BP Group Chief Engineer, stated in the April, 2005 report:

"Currently, the budget is set up-front with a flat lifting cost strategy, with corrosion management activities then developed around this budget allocation. This strategy to maintain flat lifting costs is driving behaviours counterproductive to ensuring integrity and the delivery of an effective corrosion management system. A more effective and efficient process would be to derive the set of activities required to deliver a robust corrosion management system over the

⁸⁵ See, Annual reports for years 2003-2005.

⁸⁶ We reviewed the entire documentary record compiled through the V&E search and found no mention of sediment by the I/C group subsequent to the closing of the COBC.

longer term, and thereafter set the budget based on these activities.”⁸⁷

Budget pressures and the budget challenge process impacted internal CIC decisions. Email communications reviewed from the 2001 to 2005 timeframes indicate that budget considerations were a factor in CIC management decisions and actions, although this investigation did not probe the impact of the budget generally. Rather, it focused – and continues to focus – on whether budget considerations resulted in a decision not to pig the OTL lines.

Request for funding through the AFE process is also applicable to the determination of whether budget impacted decisions on pigging the OTL lines. Thus, for example, when the I/C group needed to reestablish the pig receiver at Skid 50 in 2001-2002, [name redacted, E-3] requested and obtained funding through the AFE process. Again, in June 2003, a request for funding was submitted to the Working Interest Owners (WIO) as AFE 4N0492, seeking \$2.5 million to do the preliminary engineering and planning for the installation of pig launchers.⁸⁸ According to an Email from [name redacted, BP-14], both ExxonMobil and ConocoPhillips had rejected the 2003 AFE, and ExxonMobil saw it as “the tip of the iceberg” and wanted to understand how it fit within the greater corrosion mitigation/management program.⁸⁹ Our investigation has not yet determined whether the AFE was, in fact, ever intended to seek funding for pigging the OTL lines. The attachment to the AFE, the “Pigging Facility Priority Listing” does not identify the OTL lines. However, we intend to examine the evidence on this point so as to provide a reliable answer.

Finally, the budget process impacted people within the department in a number of ways – including morale, increased frustration, and a sense of pessimism about the ability to deliver on the expectations for the department. E-mail communications identified from the 2001 – 2005 time frame portray a bleak picture of employees trying to do their job against, what they saw as increasing odds. For example, [name redacted, IA-1], the Corrosion Integrity Analyst stated in a 2005 e-mail to [name redacted, TL-1], CIC Team Leader, in response to a request for:

“Reliable funding and resources is yo-yo, accurate scheduling activities is joke, and predicting line lifts or impacts is even further out of the real (sic) of reality. We are sitting on a backlog or over 1,000 locations with CUI

⁸⁷ Baxter I, at page 4.

⁸⁸ AFE 4N0492, submitted by BPXA, requested funding to “install permanent pig launching and receiving facilities on selected lines across the GPB.” The proposed facilities were to be concentrated on the historic EOA production common lines and transit sales lines. The description of the maintenance pigging was to optimize the corrosion control program and “...also eliminate flow restrictions present from sediment and fouling with the pipelines.” Pigging facility installations were identified for FS-1, FS-2 and FS-3, and associated drill sites. The AFE was rejected by the WIO, and requested to be withdrawn by BPXA.

⁸⁹ January 29, 2003 Email from [name redacted, BP-14] to GPB, Business Lead.

and there a dozen road-crossings that need to be dug up and we have a huge infrastructure that is hanging-on with no margin for error. Without margin we are not in a position for long-term detail planning, it is difficult enough just reacting to keep product inside the pipe. ***Same story, can't do effective planning overnight after 20 years of minimalist resources and maintenance (which doesn't seem to be keeping pace with the current lofty ideas)."

His interview and the Email itself confirm that [name redacted, IA-1] was committed to ensuring integrity within his department. Indeed, the Email ends with [name redacted, IA-1] commitment:

"However, I will not run/sacrifice an inspection strategy and program with limited resources based on the conveyance of maintenance and/or operation impact. That, in my opinion, is negligent."⁹⁰

7. The Way in Which BPXA Dealt With Evidence of Sediment, Before the Spill

As the foregoing demonstrates, I/C was sufficiently persuaded that sediment in the OTLs was interfering with its leak detection system, so that it went to great lengths to obtain regulatory approval and to devise a solution to the problem. CIC was aware of I/C's analysis, but CIC saw no need to modify its corrosion management program and insist on pigging as necessary.⁹¹ While the CIC group did not consider the evidence from I/C to be particularly compelling,⁹² it made no extraordinary effort of its own to test or disprove I/C's interpretation.⁹³ Instead, the CIC team relied upon its management to fight the budget battle,⁹⁴ and it continued with its monitoring program, confident it would identify leaks before they occurred.⁹⁵

⁹⁰ April 10, 2005 Email from [name redacted, IA-1] to NSU CIC TL RE: CIC MR-Capex AFE Tracker 2006; interview with [name redacted, IA-1].

⁹¹ Interview of [name redacted, IA-1].

⁹² Ibid.

⁹³ Ibid.

⁹⁴ April 15, 2004 Email from [name redacted, M-4] to [name redacted, IA-1] and [name redacted, BP-7], Re: Cost Challenge Feedback. In 2004, [name redacted, M-4] laid out his strategy for Field Cost Management (FCM), "therefore what we really need to look for is some options for removing costs from 2004 which have little or no material impact on the 2004 program...."; April 16, 2004 "... I do not propose to roll over and give up the money, therefore we will be making any cuts look as unpalatable as possible without appearing to be obstructionist -- tough game!"

⁹⁵ Email traffic throughout 2000-2005 confirms frustrations, indeed at times anger at the impact of budget constraints and challenges on the CIC program. See for example April 10, 2005 email from [name redacted, IA-1] to CIC Team Lead Re: CIC-MR-Cape AFE Tracker 2006.

In short, although seeking funding for pigging of the flowlines, CIC was convinced that historical trends of low sedimentation would not only continue but would apply across the field. Trusting the results of its own UT scans, which indicated minimal wall loss, CIC concluded that the risk of corrosion in the flow lines continued to be low.⁹⁶ While CIC was well aware of the dangers posed by deposits of sediment and water, particularly in slow flowing areas that are essentially “uphill,”⁹⁷ it believed that it was able to continue to manage the risk of corrosion through its program of chemical inhibition, and that it would be able to detect any changes in the rate of corrosion by continuing to monitor the locations that it deemed to be at highest risk.⁹⁸

8. The Knowledge of the Amount of Sediments or the Risk Presented, After the Spill

We saw no evidence that BPXA identified increasing sediment in the OTLs as cause for imminent concern, from the standpoint of corrosion control, prior to the March spill. Shortly after the March, 2006 spill, while the actual mechanism of the corrosion at GC-2 was unknown, [name redacted, VP-2], BPXA’s Vice President, expressed doubt that sediment was to blame. According to an article in “Petroleum News,” she speculated that sediment was probably not the problem, because there were about two inches of solids in the bottom of the EOA line, but it had not been found to be corroded.⁹⁹

C. The Consideration of the COBC Documents in Connection With the Preparation for the September 7, 2006 Congressional Hearing

The Compliance Order By Consent (COBC) and related documents were not considered in connection with the preparation for the September 7, 2006 Congressional Hearing. The Hearing preparation process, though intended to be comprehensive, complete and transparent, failed to identify the COBC. Thus, BPXA did not consider its import to the Congressional inquiries. The Congressional hearing preparation process in August-September relied primarily upon individuals who did not have personal historical knowledge of the 2001-2002 underlying events leading to the COBC, or the COBC itself.

⁹⁶ Undated PowerPoint presentation, “BPXA Maintenance Pigging Program” (Exhibit 18).

⁹⁷ November 7, 1995 Email from [name redacted, BP-3] to PBU CIC.

⁹⁸ See April 3 letter (Exhibit 6), answer to question 4:

Measurements in one location may be representative of other locations depending on the mechanism of damage. If the mechanism is understood, it is possible to identify the locations of highest risk and rely on measurements taken at those locations to be indicative of worst case corrosion rates. This is the basis for BPXA’s risk based inspection. BPXA believes the six month spot inspection schedule for March 2006 would have detected the accelerated corrosion downstream of the leak location, which would likely have alerted BPXA to the possibility of accelerated corrosion within the caribou crossing.

⁹⁹ “Petroleum News,” May 14, 2006. www.petroleumnews.com/pnarchpop/060514-17.html.

To the extent that there were individuals with knowledge of its existence, the preparation process did not ensure that such knowledge was fully incorporated into the responses to Congressional inquiries or Hearing preparations.

We did not find any evidence that this result was directed by BPA or BPXA management personnel, nor understood to be a consequence of the Hearing preparation process, until this investigation.¹⁰⁰ Indeed, the direction from the new President of BPA was for candid and transparent disclosure of all requested and relevant information. In addition, the expectation from the then President of BPXA was that all relevant and responsive information be provided to the Committee and utilized in preparation for his testimony. The COBC was already a public document. Nonetheless, the COBC and related materials were not included in the preparation process for the Hearing and not disclosed to Congress before the Hearing.¹⁰¹

1. The Identification of the COBC

Approximately one month after the September, 2006 Congressional Hearings, the Subcommittee Staff obtained a copy of the COBC, an executed, official agreement that had been entered between the State of Alaska and BPXA, in May, 2002. The COBC included the Company's representations - first formally made in October, 2001 - that it had discovered "settled solids in some [OTL] pipeline segments," which prevented the Company from complying with State regulations governing its leak detection system (LDS) by the required time frame, December 31, 2001.¹⁰²

The COBC also detailed tasks which BPXA committed to complete, including determining the sediment levels in the EOA and WOA pipelines at Skid 50, modifying the pig receiver at Skid 50, pigging the EOA line from FS-1 to Skid 50 and pigging the WOA line if necessary.

¹⁰⁰ As stated above, it is important to note that the preparation for the September 7, 2006 hearings took place in a compressed time frame with less than a month between the second spill, the partial shutdown of the field and its restoration, the initiation and continuation of several investigations, extensive press coverage, an Alaskan state legislative hearing, and the press of daily business on the BPXA business unit.

¹⁰¹ The relevance of the 2001-2002 COBC documents to the 2006 Congressional investigations and Hearings is not in dispute. BPXA individuals interviewed during the course of this investigation all recognize that it was relevant to the Committee's work and responsive to its requests. In other words, with the exception of one person who did not have contemporaneous knowledge of the COBC, everyone agreed that the documents were responsive and had they reviewed them, or recalled them, would have made sure that they were produced, and that the information about the COBC was included in the Hearing preparations.

¹⁰² As described above, discussions between ADEC and BPXA regarding an acceptable Leak Detection System began in the 1990's when ADEC revised the definition of crude oil transmission pipelines, which resulted in the application of Alaska's pipeline leak detection regulations to the sales oil pipelines in Prudhoe Bay.

2. The History of Communications Regarding the COBC

The communication between ADEC and BPXA regarding its plans on how it was going to meet the regulatory requirement span from late 1990's through the execution of the COBC in May, 2002, to its formal closure in April, 2003.

A review of the COBC correspondence, internal memoranda, and e-mail traffic reveals that virtually all of the formal communication documents refer to or discuss the existence of sediment in the lines as the basis for the need for BPXA to receive an extension in order to prepare the lines to be pigged, to pig the lines, and to then install the leak detection system. (Examples of the correspondence have been cited herein, and a full listing is maintained within the files in support of this investigation report.)

3. The March 6, 2006 Spill and the Initial Collection of the COBC Documents

When he learned of the March 6, 2006 spill, BPXA's environmental attorney [*name redacted, A-1*], was concerned that the leak had not been identified by the LDS and assumed that a failure of the LDS would be a significant concern to ADEC.¹⁰³ While he had recently assumed his position in the company's legal department and was not employed by BPXA when the COBC was an ongoing issue,¹⁰⁴ he had a general recollection of a compliance order regarding the LDS on the Greater Prudhoe Bay field. He asked two paralegals in the BPXA legal office pull together whatever information could be located about the COBC so he could take it with him to the North Slope.¹⁰⁵

Another attorney in the BPXA legal department, [*name redacted, A-3*], also had some concern that the COBC documents and other compliance agreements, along with correspondence with government regulators, would become relevant to the inquiry and/or response to the spill.¹⁰⁶ On March 13, 2006 she also requested that a paralegal collect the COBC and related documents.¹⁰⁷ The paralegals, with help from others, did so.

¹⁰³ Interview of [*name redacted, A-1*].

¹⁰⁴ [*Name redacted, A-1*] came to work for BPXA in the fall of 2004, and eventually replaced [*name redacted, A-2*], when [*name redacted, A-2*] was transferred to Houston, Texas in July, 2005. [*Name redacted, A-2*] had primary legal responsibility for the leak detection COBC, from October 2001 through its closure in April, 2003.

¹⁰⁵ See, March 6, 2006 e-mail to [*name redacted, "BP-15"*] and [*name redacted, BP-16*] from [*name redacted, A-1*] re: Prudhoe Bay C-Plan Compliance Order by Consent Records/Files. (Exhibit 19).

¹⁰⁶ Interview of [*name redacted, A-3*].

¹⁰⁷ March 13, 2006 e-mail string from [*name redacted, A-3*] to [*name redacted, BP-15*] and [*name redacted, BP-17*] and various responses, Re: Correspondence re BPXA's leak detection system. (Exhibit 20).

By March 20, 2006 the COBC documents were collected, along with numerous other relevant documents, and placed in a separate 4-inch, 3-ring, white binder in [name redacted, A-3] office. The binder is a chronologically arranged collection of documents beginning in 2001, including seventeen documents dealing with the leak detection COBC. It is labeled "Government Keepers Correspondence re Corrosion and Leak Detection 2001- Forward" and is identified here as the "Government Keepers Binder."¹⁰⁸ [Name redacted, A-3] explained that the purpose of the collection of the materials was to ensure that there was consistency among BPXA's regulatory representations.¹⁰⁹ The white binder remained in [name redacted, A-3] office throughout the entirety of the spill response, subsequent investigations, preparation for responses to Congressional inquiries, and later Congressional Hearing preparations.

4. The Failure to Recognize the Significance of COBC Materials to Congressional Inquiry

[Name redacted, A-1] informed us that soon after he arrived on the North Slope in response to the March, 2006 spill he was advised by a representative from ADEC that the leak detection system was no longer considered a concern in the investigation, and therefore the leak detection COBC was not an issue.¹¹⁰ Accordingly, [name redacted, A-1] did not pay any further attention to the COBC documents. Significantly, he stated he did not read the COBC documents either before or after his Slope visit, or at any other time in connection with responses to congressional inquiries or the Hearing preparation process, because he did not believe they were any longer relevant to the inquiry.¹¹¹

On March 24, 2006 Congressmen Dingell and Miller wrote to Steve Marshall, BPXA President, posing a number of questions regarding the March 6, 2006 spill and BPXA operations. Relevant to this investigation are questions five and six. The responsibility for preparing the response was designated by [name redacted, P-2] to [name redacted, FM-1], GPB Field Manager. [Name redacted, FM-1] chose [name redacted, "BP-18] to be the single point of accountability for the response, with [name redacted, A-3] as his legal tag. [Name redacted, BP-18] and [name redacted, A-3] then enlisted assistance from a wide variety of people with expertise in their areas of responsibility to draft replies to the questions and/or to review the draft answers. As a member of the Legal team with responsibility for dealing with the State regulators, [name redacted, A-1's] review was sought in connection with the response to the Congressional letter. Because he had never read the COBC, however, he was unable to "connect the dots" between the historical information about sediments set forth in the COBC, the ongoing congressional investigation and interest in that subject, and later hearing preparation.

¹⁰⁸ A duplicate copy of the binder is included with the investigation supporting materials.

¹⁰⁹ Interview of [name redacted, A-3].

¹¹⁰ Interview of [name redacted, A-1].

¹¹¹ Ibid.

[Name redacted, A-3] stated that she was quite deliberate about ensuring that the information collected was correct, reviewed by all persons with knowledge, and consistent with other regulatory representations. In her personal GC-2 “to do” list, she identified as the first item on the list to “[m]ake sure every investigation team member agrees [with] final version of report.”¹¹² In a March 30, 2006 e-mail to those assembled to assist with the Congressional response, she stated:

As you know, it is important for every word to be accurate, every thought to be complete and not susceptible to misinterpretation (to the extent we can). I hope you will be able to get others’ input into this document before it goes final. (Daren, Sandy H., Richard W., Jeff Feldman, Andrew?, others?) Randal and Brad will take over the legal review from here....” (Emphasis added).

[Name redacted, A-3] continued with the legal support to the Congressional investigation assignment until early May, 2006. We did not identify any evidence that she “connected the dots” between the COBC documentation that she had collected and its relevance to the ongoing Congressional inquiry into the GC-2 spill. From May to July, 2006, [name redacted, A-3] was assigned to work on the Kuparak Field issues, and thus was not actively involved in the Hearing preparation.¹¹³

After the August 2006 spill, [name redacted, A-3] was assigned to the crisis response for about a week, and then returned to work on Commercial issues for a brief period of time, until again reassigned to the Hearing preparation process on approximately August 20, 2006, with the responsibility as the “legal tag” assisting [name redacted, VP-3] on a number of issues. She did not recall reviewing the COBC or related materials in connection with assisting in preparing that response to the Congressional request for information.¹¹⁴

In fact, while many of the COBC documents had been identified, pulled together and collected into one place and available for review, it appears that no one read them or, to the extent that the documents were reviewed, no one recognized the significance of the references to sediments having been identified in the lines in 2001.

¹¹² [Name redacted, A-3] GC-2 “To Do” List, March 28, 2006.

¹¹³ Interview of [name redacted, A-3].

¹¹⁴ At different points in time, including late April, 2006, [name redacted, A-3] and one or more paralegals went through the documents in the Government Keepers Binder and attached “stickies” identifying certain terms on various documents, including “leak detection,” “corrosion” and “pigging.” (When interviewed, [name redacted, A-3] explained that she used “yellow” stickies and “pink” was used by paralegals.) A copy of the December 30, 2002 letter from B. Hutmacher to G. Campbell (Exhibit 16 to this Report), bears a yellow sticky with the handwritten notation “pigging.” (As she was packing up files from her office during the last week of September [name redacted, A-3] found another copy of this letter and presented it to [name redacted, A-7]).

5. The Commonality of Individuals with Relevant Knowledge

There was some commonality of individuals who were familiar with the COBC and the events leading up to the COBC, and those involved in hearing preparations. Many of those with common knowledge were lawyers, including [name redacted, A-3], [name redacted, A-1] (whose knowledge was acquired after the 2001-2002 events themselves) and [name redacted, A-4], along with [name redacted, A-5] and [name redacted, P-2].¹¹⁵ Like [name redacted, P-2], [name redacted, P-1] was copied on a number of e-mails regarding the announcement about the COBC and related fine. During 2001-2002 he was the Regional President, Western United States, of BP Amoco, plc, with some responsibility for government relations between BPXA and Congressional offices, thus he received a copy of the announcement in May-June, 2002.¹¹⁶

In addition to the common knowledge of some BPXA personnel between the COBC and congressional inquiries, there was also relevant knowledge about the COBC that was developed by counsel following the receipt of the April 26, 2006 Department of Justice Grand Jury Subpoena. The subpoena generated an elaborate process to search and find all relevant and responsive documents and materials, which included the documents responsive to questions about the LDS.¹¹⁷ However, the people working on that data collection process were quite removed from the hearing preparation activities. We did not find any evidence that the Congressional request for information on the "sediment issue" was appreciated by those involved in the document collection and data base process (other than the attorneys from V&E, as discussed in part D.3 below).

6. The Lack of Communications within the BPXA Business Unit and Legal Department

We found that during the events that followed the March 2006 spill and continuing through the Congressional hearings in the fall of 2006 there was a lack of communication within the BPXA legal department itself, and between the legal department and the rest of the business unit. Seventeen of the COBC documents had been assembled within a single notebook, referred to as the "Government Keepers" notebook, which was located in [name redacted, A-3's] office, and was readily available.

¹¹⁵ [Name redacted, P-2's] involvement with the COBC was quite limited. Since he arrived in the fall of 2001, he was not personally familiar with the facts leading to the negotiation and execution of the agreement itself. He was aware of the announcement of the agreement and the compliance requirements. We found no evidence of more than superficial involvement by [name redacted, P-2] in February, 2002 when BPXA wrote to the U.S. Probation Officer about the COBC, and at the October, 2002 meeting with the U.S. Attorney, the federal court appointed monitor, the EPA Debarment officer, and the US Probation Officer. During his interview, he didn't recall anything about sediments being a factor in the COBC. Interview of [name redacted, P-2].

¹¹⁶ May 29, 2002 e-mail from [name redacted, BP-20] to [name redacted, A-5], et.al., Re: Fine to Generate Press Coverage In Alaska. The e-mail contains "talking points" that mention the discovery of sediments in the line as the reason for the delay in installing the LDS.

¹¹⁷ April 26, 2006, Grand Jury Subpoena, question 7.

It had been reviewed at least in part by [name redacted, A-3], who tabbed significant items, including some referencing sediment in the lines. However, the notebook was apparently forgotten or ignored and its contents were not reviewed by attorneys in the legal department, to determine if the material was responsive to Congressional requests for information.¹¹⁸

While we did not find any evidence of intent to disregard any relevant information, the activities associated with the spills, investigations and inquiries seemed to have overwhelmed the BPXA legal department. There was a poor transfer of the substantial body of historical information known to [name redacted, A-3] to others, both within the legal department and the business unit itself, at the time that she was transferred to other assignments. There does not appear to have been anyone who was given the local assignment to coordinate and monitor the numerous congressional staff requests, or to take over the detailed “to do” lists where [name redacted, A-3] left off. Had the Legal Department done so, many of the questions posed and projects started may have resulted in the identification of the COBC and its connection to the response to the GC-2 spill and subsequent events. In short, the department appears to have been engulfed with responsibilities.

7. The Vinson & Elkins Database (COBC Search)

Another avenue that provided an opportunity to identify the COBC documents was the V&E database. As stated above, the COBC was eventually collected in response to the April 26, 2006 DOJ subpoena, question number 7, regarding the leak detection system. But the database was not designed or executed to collect documents responsive to the Congressional Staff questions of the moment. Notwithstanding a strong bias toward relying on the document database, its usefulness to the preparation process for the congressional investigation and hearing was limited.

A comprehensive review of the collection and availability of Leak Detection COBC documents was prepared by V&E for BPXA, and made available to us for this investigation. It concluded that although the V&E database had been under construction for months, documents were not actually loaded and available for review until August 24, 2006. The search parameters employed by V&E did, in theory, look for documents that discussed the build up of sediments in the line, but not the leak detection system. Also, the document “custodians” whose materials were prioritized for review, did not include those who would have had the COBC in their files.

V&E determined that they did not load any copies of the COBC into the database until September 1, 2006 and those copies were not reviewed for any comments or observations about “sediments” in the line. According to the V&E review, the “nexus between sediments, piggings, and the leak detection system had simply not been raised by

¹¹⁸ Interviews of [name redacted, A-7] and [name redacted, A-1]; The “Government Keepers” notebook was also reviewed by V&E in the course of its document collection activities.

that date.¹¹⁹ Thus, although the V&E database was a source of documentary information, it was not effectively operating at the time of the Congressional requests for information in the Spring and Summer of 2006, and only of marginal effectiveness in preparation for the Hearings themselves during the Fall of 2006.

8. The Failure to Access BPXA Personnel with Personal Knowledge of the COBC

Even though there were various BPXA employees who had been involved in the COBC, had knowledge of its provisions and cause, and would have had knowledge about the existence of sediments in the lines we did not find any evidence of a general distribution of the congressional inquiry questions. Hence, the BPXA employee population in the CIC department and/or in Instrumentation and Controls were never given the opportunity to provide this relevant information.

In short, while the responses to the March, 2006 spill were somewhat disjointed by the Business Unit, and missed the relevance of the COBC documents and the discussion of sediments within these documents, the process was flawed by the failure to push questions from Congress to those most knowledgeable in the business unit with the answers. Therefore, as responses were being prepared to important congressional questions in late March and early April, 2006, and the specter of a criminal probe began to loom imminent, the business unit began isolating the response activities to a smaller group of employees and the legal team.¹²⁰ While this is understandable in terms of litigation strategy, it appears that there was a lack of appreciation of the risk that isolating the process to protect and control the legal defense could result in the loss of the institutional knowledge necessary to fully inform the response to inquiries from other stakeholders, including Congress. This situation worsened after the second spill.

9. The Reasons that the COBC and Related Documents were not Disclosed

We did not find that anyone attempted to conceal the COBC and related materials from Congress. Considering that the COBC was a public document that had been the subject of some notable controversy, a lengthy public dialogue between ADEC and BPXA, and substantial press coverage just three years before, and thus known to many people, only an individual afflicted with remarkable hubris could believe that the COBC could be concealed. Indeed, such an attempt would have been impossible, given the public nature of the COBC and related documents. We also did not find an appreciation of the relevance of the COBC events and documents to the Congressional inquiries about

¹¹⁹ January 5, 2007 Memorandum from V&E Counsel [*name redacted, A-4*] and [*name redacted, A-6*] to BPXA [*name redacted, A-7*] and [*name redacted, BP-21*].

¹²⁰ Notes of [*name redacted, A-3*] re: April 7, 2006 telecon meeting among staff lawyers, outside counsel, BPXA personnel [*named redacted, P-2*], [*named redacted, VP-2*], [*name redacted, BP-22*], [*named redacted, A-5*], and [*name redacted, BP-23*].

BPXA's historical knowledge or belief about sediments in the lines in 2001 among those working on the Congressional responses in 2006.¹²¹

We did find that the Congressional response/Hearing preparation process itself was strategically and tactically driven, as well as informed, by individuals who had little, or no, knowledge of the COBC and almost none of its factual foundation. Specifically, neither of the individuals charged with drafting the factual portion of the response to the initial March 24, 2006 Congressional letter had been present during the COBC related events of 2001-2002. The lawyers who were involved in reviewing the responses had not read the COBC documents as part of their own preparations, and both had abandoned any interest in the COBC as relevant to the new issues.¹²²

Finally, the primary "fact check" person that BPXA was relying upon in Washington, D.C. during the final days leading up to the hearing to review its Congressional testimony regarding the corrosion program, had not been employed by BPXA before 2005, was not familiar with the COBC and had never read it until he was interviewed in the course of this investigation.

Conclusion

We did not find any evidence that the failure to provide the information was knowing, intentional or deliberately considered by any BPA or BPXA personnel. The COBC itself and the documents surrounding it were relevant to the Committee's investigation, responsive to its requests for information, and available to individuals who were preparing for the Congressional Hearing. However, as described in this Report, the COBC, and COBC-related documents, were not considered or included in preparation for

¹²¹ On or about September 29, 2006 [name redacted, A-3] wrote an e-mail to BPXA's Managing Attorney [name redacted, A-7], that she had "stumbled" on a COBC related document, i.e., the December 30, 2002 letter from ADEC confirming that BPXA had complied with the remedial measures and did not need to pig the lines. [Name redacted, A-7] was unfamiliar with the COBC since the events that surrounded its issuance and closure had occurred several years prior to his arrival as Managing Attorney. Upon review, [name redacted, A-7] thought that the "discovery" of the information was a good thing for BPXA, as the document that he reviewed, lifting the pigging requirement, implied that there were no sediments in the lines and validated the decision not to pig. [Name redacted, A-7] directed that all documents relating to the COBC be retrieved and the staff did so. He was still unaware that 17 of the COBC documents were readily available in the Government Keepers Binder, down the hall from his office. None of the paralegals were aware of the issues surrounding the COBC or asked about their knowledge of documents responsive to the request.

¹²² [Name redacted, A-7], BPXA's Managing Attorney, and [name redacted, A-8], BPA's Assistant General Counsel - Upstream, both commented that they were quite prepared and equipped to deal with litigation based requests for information, and were in fact in the middle of a DOJ investigation that requested substantial documentation. However, neither had been involved in a Congressional Hearing preparation process before and thus found the open-ended questions and requests for information difficult to manage. Thus, they deferred to the Washington, D.C. based Government Affairs office and related outside consultants and lawyers to respond to the inquiries. This investigation did not interview outside consultants.

the September 7, 2006 Congressional Hearing or the following Congressional Hearings in September and October, 2006.

D. The Hearing Preparation Process Issues

The overriding issue stemming from the failure to disclose the COBC is not, of course, about the failure to produce a single document or even several documents. Rather it is about the failure of BPXA to answer fundamental questions of the Congressional inquiry regarding knowledge of sediments in the OTLs and to provide information in response to the Congressional requests for information and the influence that information may have had on its work.

The investigation did not find any knowing or willful actions taken to prevent disclosure of information to the Subcommittee Staff by any BPXA or BPA employees. However, the investigation found that there was a lack of accountability by BPXA leadership to ensuring that information provided to the Congressional staff was complete, and based on the collective knowledge of the institution. The investigation also found that relevant information had been gathered by the Vinson & Elkins law firm that, if reviewed by BPXA witnesses and provided to the Committee, would have provided important information to assist in the Congressional Hearing preparation process.

1. The Congressional Requests for Information Regarding Sediments and Solids

By way of background, the Congressional Staff requested information about the knowledge and existence of sediments in the line, beginning shortly after the first spill and continuing through the Hearing and afterwards. The sediment request was first identified in the March 24, 2006 letter from Congressmen Dingell and Miller to Steve Marshall,¹²³ and continued through the Hearings and beyond. BPA's Washington, D.C. Director of Federal Affairs, [*name redacted, D-1*], stated during his interview that the Staff asked questions about sediments and sludge in virtually every meeting and conversation he had with them.¹²⁴ His recollection is confirmed by his notes of the Congressional Staff trip to the North Slope in April, 2006 and again in his August 21-25, 2006 list of questions identifying a concern about knowledge of sediments.¹²⁵ On August 25, 2006, [*name redacted, VP-3*], the new BPXA Vice President of Compliance¹²⁶ posed

¹²³ See, Exhibit 5.

¹²⁴ Interview with [*name redacted, D-1*].

¹²⁵ [*Name redacted, D-1's*] notes of the August 21-25, 2006 trip record a list of ten extremely detailed questions, including questions regarding BP's awareness of a "sludge problem," pigging, employee concerns about corrosion, and budget issues.

¹²⁶ [*Name redacted, VP-3's*] first day on the job was August 3, 2006, and her primary counterpart in Alaska, [*name redacted, BP-24*], had only been there since late June. Neither of them had personal knowledge of the history of BPXA, the employee concerns issues, or other factors to respond to questions or challenge responses sufficiently to ensure accuracy or completeness.

the Congressional Staff questions about sludge to the Washington, D.C. and several BPXA employees. The August 25, 2006 questions, including “What we knew about sludge and when,” were also copied to [name redacted, A-1] and [name redacted, BP-4] back in Alaska.¹²⁷

On August 29, 2006 a meeting was held between the Congressional Staff and BP’s Vice-President of Federal and International Affairs, [name redacted, VP-4], and [name redacted, D-1], along with BPXA’s [name redacted, VP-3] and [name redacted, A-7], and BPA’s Associate General Counsel, [name redacted, A-9] and attorney [name redacted, A-10]. Several of the attendees made notes and generated requests for information as a result of the meeting.¹²⁸ The requests about knowledge of sediments in the lines, along with other issues, are included in the various notes and lists. The questions were almost immediately conveyed back to the BPXA staff, which continued to work on collecting information.

The BPXA personnel in Alaska understood the sediment question to be limited to what the organization knew about solids after the March, 2006 spill.¹²⁹ Primary work was done on the responses by [name redacted, BP-4], Maintenance and Reliability Manager, BPXA, and substantial information was provided to [name redacted, VP-3] about what was known about solids and sludge after the March 6, 2006 spill.¹³⁰

Information that had been collected and analyzed by [name redacted, BP-4] was forwarded to the BPXA staff in Washington, D.C. on September 5, 2006. The information from [name redacted, BP-4] came into the BPXA Hearing preparation process in the days immediately before the Hearing.¹³¹ However, it appears that [name redacted, BP-4] and [name redacted, BP-25] interpreted the questions to determine what BPXA knew about sludge in the lines after the GC-2 spill, not about historic knowledge of sludge.

¹²⁷ August 25, 2006 e-mail from [name redacted, VP-3] to [name redacted, VP-4], et al., Re: Immediate Needs – ASAP.

¹²⁸ August 29, 2006 e-mail from [name redacted, A-7] to [name redacted, A-3] et al., Re: Requests from meeting with staffers; August 30, 2006 e-mail from [name redacted, VP-4] to [name redacted, BP-29], et al.; and August 30, 2006 e-mail from [name redacted, VP-3] to [name redacted, A-7], et al., Re: questions from meeting today.

¹²⁹ See, August 31, 2006 letter from Chairman Joe Barton, et.al. to Robert Malone, requesting, among other things, “...(1) all records and communications relating to discussions about sludge/sediment, pigging, and/or corrosion on BP’s Prudhoe Bay transmission lines (*primary focus on the period from January 2006 to the present.*) (emphasis added)

¹³⁰ September 5, 2006 e-mail from [name redacted, BP-4] to [name redacted, VP-2], et al., cc’d to [name redacted, VP-3], et al., Re: Solids Timeline.

¹³¹ Interview with [name redacted, BP-4].

[*Named redacted, D-1*] again received additional clarifying questions from the Staff on August 30, 2006, conveyed by Mr. Chris Knauer of the Subcommittee, seeking information on “what did we know about sediments in the line.”¹³² These questions were also sent to a long list of people who were involved in the Hearing preparation process. However, none of those people had personal knowledge of the COBC documents, except for [*name redacted, A-3*], who by then had left Washington, D.C. for personal reasons.

Finally, our investigation uncovered a Congressional Hearing Document Request List generated in the DC office that identified and tracked information being requested by the Congressional Staff in the final days leading up to the hearing. This document contains the question, among others, about “what we knew about sludge and when?”

As of the latest version of the list we obtained, the 9/03/06 4:00 PM version, the status of the working response was:

STILL DETERMINING THE ANSWER TO THIS (and it'll take months)

Representative sample of what we know now is in the DOT correspondence and e-mails

[Name redacted, BP-19] and [name redacted, BP-13] has asked [name redacted, BP-4] for his internal documents and letters to Alyeska

V&E can do search as well of the records they have collected (See V&E e-mail).¹³³

Document collection and information retrieval was underway during the days and weeks before the hearing. As described above, that process was relying heavily on the V&E database which was not yet fully functional, and on the assistance of people who were not personally involved with the CIC department during the time frame in question.

Thus, notwithstanding all of the Congressional requests, the instructions and expectations of the BPA and BPXA Presidents, the actions by V&E to upload and prioritize its search engine capability to support the hearing, and the good faith attempts by many employees to gather information to provide to the Subcommittee staff, the company failed to identify documents as responsive to the request. Thus, BPXA missed the opportunity to have discovered a critical link to be able to answer the Congressional inquiries about sediments in the line.

¹³² Interview of [*name redacted, D-1*].

¹³³ See, September 3, 2006, 4:00 PM Congressional Hearing Document Request List, Updated 9/3/06 4:00 P.M.

2. The Lack of Personal Knowledge

As stated above, in those cases where there was commonality between the two projects, both the Congressional Hearing preparation and knowledge of the COBC and related discussions regarding the sediments from the 2001 time frame, the Hearing preparation process did not provide adequate assurance that answers were complete and accurate, and based on all available knowledge of the Business Unit.

The BPXA staff lawyers, except for [named redacted, A-1] and [named redacted, A-3], were generally new to the issue and did not have personal knowledge of the facts from 2001. [Named redacted, A-1] did not personally participate in the Hearing preparation process, but was included in the review of relevant facts. He had not read the COBC in reaction to the March, 2006 spill. He simply did not realize the sediments issue was addressed in the COBC documents.¹³⁴

[Name redacted, A-3] had been personally involved in COBC-related matters as part of her assignment during the 2002 time frame.¹³⁵ She had read through the COBC and related documents, as is evident from the addition of the “sticky” notes to the COBC binder.¹³⁶ However, [name redacted, A-3] was not the primary lead on preparing the September, 2006 Congressional responses. Neither [name redacted, A-3] nor [name redacted, A-1] state that they had reviewed the materials that Vinson & Elkins had identified as potentially relevant and responsive to the Hearing preparation process.

[Name redacted, A-3] stated that she had a minor part to play in the hearing preparations. She was brought in to the actual Hearing preparation at the last minute, having spent several months in another department. She viewed her responsibilities as limited to assisting in the preparation of [name redacted, P-2's] testimony. However, her responsibilities were described more substantially in an August 8, 2006 e-mail from [name redacted A-9] identifying [name redacted, A-3] as the “legal tag” on GPB Operations, and again in the August 24, 2006 e-mail assignment of [name redacted, M-5] and [name redacted, BP-4], along with [name redacted, A-3] to respond to the question of “[w]hat we knew about sludge and when.”¹³⁷

3. The Vinson & Elkins Document Collection Process

As described above, participants in the hearing preparations shared a mistaken reliance on the document review and information gathering being performed by V&E in connection with the governmental investigations, to provide comprehensive factual

¹³⁴ Interviews of [name redacted, A-1].

¹³⁵ See, COBC related documents.

¹³⁶ See, “Government Keepers Notebook;” and Interview of [name redacted, A-3].

¹³⁷ August 24, 2006 e-mail from [name redacted, A-9] to [name redacted, BP-27].

information for the Hearing preparation process. The electronic database, document analysis and identification process was, at best, in its infancy at that time.

In recognition of this, several V&E lawyers in Houston did a manual search of documents and pull together materials about a number of issues, including budget, sediment, pigging and the 2004 V&E investigation into allegations of retaliation issues within the CIC department. There were no documents about the COBC, or any documents directly related to the COBC in the compiled materials, although some of the sediment discussion e-mails were included. The documents were collected in the Houston offices of V&E, and provided to attorneys in nine different segments over the weekend before the hearing. The first section of the materials were delivered to [name redacted, A-4], on August 31, 2006 in preparation for a briefing of [name redacted, P-1] and other lawyers at the BP Westlake facilities later that day.¹³⁸ According to [name redacted, A-4], and others, the only use of any of the materials during the briefing of [name redacted, P-1], was in relation to other issues that were developing with respect to the hearing, i.e., the V&E Report of the CIC department.

Over the Labor Day weekend there were eight other supplements provided to a small group of attorneys, including [name redacted, A-4] and two other V&E lawyers, [name redacted, A-11], [name redacted, P-2's] personal counsel, [name redacted, A-3], and [name redacted, A-7]. By Monday, September 4, 2006, [name redacted, A-6] had printed and delivered to the Washington, D.C. office, "three or four" complete set of the materials. He believes these were distributed to BPXA attorneys [name redacted, A-3] and [name redacted, A-7], along with [name redacted, BP-11].¹³⁹ (The materials at issues were identified in the Alaska offices of [name redacted, A-7] during this investigation.)

During the final days of hearing preparations, the primary V&E lawyer responsible for the database did provide a proposal for ensuring factual accuracy of the most current information by BPXA employees. On September 2, 2006 V&E lawyer [name redacted, A-6] suggested that "[f]or e-mails and other internal communications about sediments/sludge, corrosion or pigging in 2006" that a number of people be asked to provide e-mails that they recall on this topic. That list included "[name redacted, IA-1], [name redacted, M-5], [name redacted, M-2], [name redacted, VP-2], [name redacted, BP-4], [name redacted, FM-1], [name redacted, BP-25], [name redacted, BP-6], [name redacted, TL-1], [name redacted, BP-28], and the other Nalco people working in BP's office in Anchorage and on the North Slope, [name redacted, BP-29]." The e-mail was forwarded to all the relevant BP attorneys on the same day. We found no evidence that this suggestion was adopted or action taken as a result to incorporate the institutional knowledge of that group of people into the final search for documents, or any expanded role in preparing or reviewing testimony.

¹³⁸ Interviews of [name redacted, A-4].

¹³⁹ Interview of [name redacted, A-6] and [name redacted, A-4].

Unfortunately, by the time the materials were delivered to the BP office, the preparation teams were deeply engrossed in addressing and responding to emerging issues in connection with reports and information that the committee had requested pursuant to an August 31, 2006 letter. No one with responsibility for responding to the Congressional requests for documents either were aware of the materials, or reviewed them with a consideration of whether the materials were responsive to the pending requests for information. Nor was the information reviewed, considered, or relied upon by those staff members, consultants or lawyers responsible for drafting the testimony, ensuring its completeness, or preparing witnesses. The documents were not provided to either the President of BPA or the President of BPXA for their review before their testimony, nor were either of them briefed on the collected materials.

4. The Preparation of Steve Marshall Subcommittee Testimony

The written Congressional Testimony of Steve Marshall did not include discussion about sediments in the OTLs. His testimony was based primarily on the testimony he had provided to the Alaska State Legislature on August 18, 2006. That testimony had been written, in Alaska, by consultants and lawyers in the business unit. This investigation did not pursue the development of that testimony, but the Alaska testimony provided the framework for the subsequent Congressional testimony developed in Washington, D.C. The testimony prepared in Alaska was not, and could not, have been informed by the compilation of documents identified through the V&E document collection and search, since as described above, it was not searchable by that time.

Steve Marshall's Washington, D.C. testimony was written, or re-written, mainly by [name redacted, VP-3] and the other lawyers and consultants, many of whom were new to BPXA or outside counsel and/or consultants. They relied upon the BPXA interface, [name redacted, VP-3], who was also new to her Alaska assignment, to verify the facts. The BPXA team included [name redacted, P-2's] personal attorney, who was given access to the materials compiled by V&E.

There is no evidence that Steve Marshall reviewed the materials. He stated that he relied on the legal and support team, including his personal lawyer, the consultants, and [name redacted, M-5] of BPXA to ensure the testimony was accurate and complete.¹⁴⁰ One of the V&E lawyers familiar with the compiled materials did sit in on a portion of the Steve Marshall hearing preparation, and on occasion made observations or comments about the development of the testimony, but did not provide the documents to Steve Marshall.¹⁴¹

¹⁴⁰ Interview of [name redacted, P-2].

¹⁴¹ Ibid.

5. The Preparation of Bob Malone's Subcommittee Testimony

The Congressional testimony of Bob Malone did not include any discussion about knowledge about sediments in the OTLs. Mr. Malone's initial testimony was prepared primarily out of the BPA Washington, D.C. office, with input coordinated by [name redacted, BP-27].¹⁴² The Malone testimony was also, in part, informed by the Alaska testimony of Steve Marshall and related talking points.¹⁴³ Ultimately, Mr. Malone wrote his own Congressional testimony based on information available to him at the time.¹⁴⁴ However, neither [name redacted, BP-27] nor anyone else on the Hearing testimony preparation team were aware of the V&E compiled materials, or accessed them during the preparation process. While V&E obviously was aware of the compilation, they were not involved in drafting Mr. Malone's testimony or verifying its accuracy.¹⁴⁵

6. The Lack of Coordination

Finally, there was a lack of coordination involved in the Congressional Hearing preparation process, with two different Hearing preparation teams and two different sets of lawyers. One team was dedicated to the preparation of the events regarding the two spills and the decision to shut down the Prudhoe Bay following the August spill, principally the BPXA team. The other team was focused on other BP issues and the commitments and decisions about future action. There were also substantial distractions to the process, as the Congressional Staff was requesting, and the legal and business teams were considering the disclosure, arranging for disclosure, and then considering the implications of disclosure of a number of significant internal reports and documents.¹⁴⁶ These factors, along with the lack of a written document request, and the compressed time frame available to prepare for the Hearing itself complicated the preparation process and led to a less than optimum Hearing preparation and document disclosure process.

Conclusion and Recommendations:

The COBC and other relevant information available to the BPXA organization was not provided to Congressional Committee Staff or to the Committee, or considered by BPXA or BPA in preparation for the September, 2006 Congressional Hearings. This

¹⁴² Interview of [name redacted, BP-27].

¹⁴³ August 15, 2006 e-mail from [name redacted, BP-30] to [name redacted, P-1], et al., regarding the Alaska state legislature testimony.

¹⁴⁴ Interview of [name redacted, P-1].

¹⁴⁵ Interview of [name redacted, A-4], [name redacted, A-6], and [name redacted, P-1].

¹⁴⁶ Congressional letter regarding 2004 V&E Report for BPXA Concerning Allegations of Workplace Harassment From Raising HSE Issues and Corrosion Data Falsification; 2005 Internal Audit, BPXA Corrosion Management System Technical Review (Baxter I); 2006 Alaska Transit Pipeline Technology Review (Baxter II); and 2002 Corrosion Monitoring of Non-Common Carrier, North Slope Pipelines: Technical Analysis of BPXA Commitment to Corrosion Monitoring Year 2000 For Greater Prudhoe Bay, Endicott, Badami and Milne Point (Coffinan Report).

was because the information either was not identified as responsive and included in Hearing preparation materials at all, or, if identified, was not accessed by the people preparing for the Hearings and/or providing the responses to Congress.

As to this issue, we were asked to provide recommendations on the process to ensure further Congressional inquiries were responded to in a manner that provides assurance for accuracy and completeness. Those recommendations are:

- BPXA should institute clear policy expectations for transparency and complete candor in all dealings with Congress and other stakeholders;
- BPXA should, as a matter of routine practice, seek out the best and most accurate information from those with institutional knowledge in the subject matter at issue;
- BPXA should remove any bias toward compartmentalization, or “siloeing” of information which, in part, we found contributed to this situation;
- BPXA should ensure that important projects, such as responding to Congressional requests for information, are managed by persons with personal or first-hand knowledge of the events at issue.
