

**OFFSHORE HELICOPTER SAFETY INQUIRY**

*February 11, 2010*

*Tara Place, Suite 213, 31 Peet Street*

*St. John's, NL*

February 11, 2010

**PRESENT:**

**John F. Roil, Q.C./**

**Anne Fagan.....Inquiry Counsel**

**Amy Crosbie. .... Canada-Newfoundland and Labrador Offshore  
..... Petroleum Board (C-NLOPB)**

**Cecily Strickland/Ian Wallace..... Hibernia Management and  
..... Development Company (HMDC)**

**Denis Mahoney/D. Blair Pritchett..... Suncor (Petro-Canada)**

**Alexander C. MacDonald, Q.C./**

**Stephanie Hickman. .... Husky Oil Operations Ltd.**

**Paul Barnes ..... Canadian Association of Petroleum Producers (CAPP)  
(without counsel)**

**Jennifer Berlin ..... Government of Newfoundland and Labrador**

**Jack Harris, Q.C. .... Member of Parliament**

**Norman J. Whalen, Q.C..... Cougar Helicopters Inc.**

**Jamie Martin..... Families of Deceased Passengers**

**Kate O'Brien..... Davis Estate (Pilot) and  
..... agent on behalf of Douglas A. Latto for Lanouette Estate (Co-pilot)**

**V. Randell J. Earle, Q.C. .... Communications, Energy and Paperworkers Union  
..... Local 2121**

**David F. Hurley, Q.C. .... Offshore Safety and Survival Centre, Marine Institute**

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1 February 11, 2010  
 2 COMMISSIONER:  
 3 Q. Good afternoon, ladies and gentlemen. Good  
 4 afternoon, Ms. Payne. Mr. Roil?  
 5 ROIL, Q.C.:  
 6 Q. Thank you, Commissioner. For this afternoon,  
 7 we have a presentation from the Newfoundland  
 8 and Labrador Federation of Labour given by its  
 9 president, Ms. Lana Payne. There are probably  
 10 not too many people in Newfoundland who are  
 11 not aware of the organization or Ms. Payne,  
 12 but in case there are a couple out there who  
 13 are not, let me just say a couple of brief  
 14 words by way of introduction for her.  
 15 The Newfoundland and Labrador Federation  
 16 of Labour has been the main umbrella movement  
 17 for -- umbrella organization for the labour  
 18 movement in Newfoundland and Labrador since  
 19 about 1937. So it has quite a history. It's  
 20 mandate is to promote the interest of its  
 21 affiliates and generally to advance the social  
 22 -- sorry, the economic and social welfare of  
 23 workers in Newfoundland and Labrador and that  
 24 comes right from their constitution. It  
 25 represents about 70,000 union workers within

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1 Newfoundland. It's composed of 30 affiliate  
 2 unions and there are over 500 locals. It is  
 3 really, in essence, the voice of the labour  
 4 movement within the province.  
 5 Ms. Payne, in her own behalf, we know, of  
 6 course, as a journalist. She has worked as a  
 7 journalist for many years and continues to,  
 8 originally writing for the Sunday Express and  
 9 the Telegram and I think she still continues  
 10 with some work for the Telegram on a periodic  
 11 basis. However, she worked for many years in  
 12 research, communication with the FFAW, the  
 13 Fishermen Food and Allied Workers, which was a  
 14 CAW affiliate. She became the first vice-  
 15 president of the Federation in 2005 and in  
 16 2008 was elected as its president. In her own  
 17 personal life, she is married. Her husband  
 18 works at the university. She has an eight-  
 19 year-old daughter and they all live in St.  
 20 John's, Newfoundland. So welcome Ms. Payne,  
 21 and I understand that she has a presentation  
 22 which will be uploaded -- or speaking notes, I  
 23 guess, rather than presentation.  
 24 MS. PAYNE:  
 25 A. Yes.

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1 ROIL, Q.C.:  
 2 Q. Which will be uploaded to our website  
 3 immediately after her giving it and do we have  
 4 a number that we can assign to it as an  
 5 exhibit number?  
 6 REGISTRAR:  
 7 Q. Exhibit P-00195.  
 8 ROIL, Q.C.:  
 9 Q. 00195 and it's a public exhibit. Thank you,  
 10 Ms. Payne.  
 11 PRESENTATION BY MS. LANA PAYNE  
 12 MS. PAYNE:  
 13 A. Thank you. Mr. Commissioner, on behalf of the  
 14 65,000 members -- we used to have 70,000 but  
 15 that was before the recession -- of the  
 16 Newfoundland and Labrador Federation of  
 17 Labour, working women and men in every sector  
 18 of our economy and every community of our  
 19 province, I would like to thank you and the  
 20 Commission for allowing us this opportunity to  
 21 appear before the Inquiry. I would like to  
 22 recognize the people who came from the labour  
 23 movement today as a show of support, including  
 24 Dennis Sheppard, who's on our Executive  
 25 Council and our liaison with our occupational

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1 health and safety committee, Gail Hickey with  
 2 the Carpenters Union, Darryl Melvin with the  
 3 millwright local of that union, and Sharon  
 4 Walsh, who's on my staff, as well as the  
 5 members from CEP.  
 6 I would like to begin though by  
 7 expressing, on behalf of myself and the  
 8 Federation, our deepest and sincerest  
 9 condolences to the families of the 17 working  
 10 people who lost their lives when Cougar Flight  
 11 491 crashed 11 months ago. I know that this  
 12 may seem entirely inadequate, but I want to  
 13 assure the families that our Federation will  
 14 continue to do what we can to stand up for  
 15 health and safety of working people in our  
 16 province, to fight for better health and  
 17 safety laws and enforcement, and to ensure, as  
 18 they have done, including with their testimony  
 19 yesterday, that we never forget what is at  
 20 stake here. It is people's lives. And to  
 21 Robert Decker, I would like to say, again on  
 22 behalf of our Federation, that your courage  
 23 and strength, as well as your unwavering and  
 24 thoughtful testimony will make a difference to  
 25 the future health and safety of those working

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1 in our offshore. Indeed, I believe it already  
 2 has, and we will hope that he realizes the  
 3 contribution he's already made to this  
 4 Inquiry.  
 5 I would also like to commend the members  
 6 of CEP who testified this week and to  
 7 recognize the families who bravely shared  
 8 their grief and with conviction, spoke up for  
 9 their loved ones and expressed what many in  
 10 our community of Newfoundland and Labrador are  
 11 feeling, that more could have been done to  
 12 prevent this tragedy, that safety is indeed a  
 13 matter of choices.  
 14 The Federation, as Mr. Roil said, is an  
 15 umbrella organization representing nearly 30  
 16 affiliated unions and 500 union locals. We  
 17 are part of the broader labour movement in  
 18 Canada and in addition to providing a voice  
 19 for working people on issues that directly  
 20 affect them, such as pensions, occupational  
 21 health and safety, pay equity, labour laws and  
 22 workers compensation, we also advocate for  
 23 improved public services, as well as policy  
 24 and laws that support our principles of social  
 25 and economic justice, equality and workers'

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1 rights, including the overall wellbeing and  
 2 welfare of all citizens. It is my sincere  
 3 hope that our comments and presentation will  
 4 help in your deliberations, and at the very  
 5 least provide a critical perspective with  
 6 respect to occupational health and safety,  
 7 based on the labour movement's long history in  
 8 the promotion of stronger health and safety  
 9 laws and practices.  
 10 We hope to highlight in our presentation  
 11 how rights, if they are to have real power,  
 12 must be more than part of a checklist in a  
 13 legislative framework. They must be given  
 14 real meaning and include worker involvement.  
 15 We do that by ensuring that structures and  
 16 processes that we have in place to support  
 17 those rights are active and proactive. In  
 18 fact, we must be careful that we do not  
 19 diminish or weaken these rights through  
 20 structures that lack the tools and resources  
 21 to be effective, that lack the real support of  
 22 management or regulatory agencies. We must  
 23 ensure that occupational health and safety is  
 24 more than a matter of checklists or what is  
 25 known in our world as paper safety, when it

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1 should be and must be so much more.  
 2 We also hope to highlight how a safety  
 3 culture or a culture of prevention can be  
 4 created, and I know, Mr. Commissioner, that  
 5 this is something that you have expressed that  
 6 you have an interest in during this Inquiry.  
 7 Prevention is crucial to ensuring decent work  
 8 for workers everywhere. Without creating a  
 9 preventative occupational health and safety  
 10 culture, there can be little link between OH&S  
 11 legislation and guidelines and actual  
 12 workplace practices.  
 13 Building a preventative culture then is  
 14 critical. It means having strong approaches  
 15 at the provincial, workplace, industry and  
 16 inspection levels. It means worker  
 17 involvement at all those levels. The first  
 18 step to building that safety culture is to  
 19 understand and respect what workers and their  
 20 unions bring to the table. Workers and their  
 21 unions must not be viewed as adversaries, but  
 22 rather as engaged partners in achieving  
 23 healthy and safe workplaces. After all, we  
 24 should all share this common goal, the health  
 25 and safety of the people who go to work every

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1 day, contribute to our economy and advance our  
 2 society. Partnership as we know it is based  
 3 on several basic principles, perhaps the most  
 4 important being respect, equality and trust.  
 5 Collective bargaining often puts unions  
 6 and their employers on opposite sides of the  
 7 table, but there is absolutely no need for  
 8 that relationship to interfere with the one we  
 9 need as workplace partners around issues like  
 10 occupational health and safety. In fact, in  
 11 our experience, collective bargaining can  
 12 often lead to improvements in occupational  
 13 health and safety in a workplace and to  
 14 practices that are above and beyond the  
 15 legislative or regulatory minimum. Codes of  
 16 practice are an example of this, as are the  
 17 support for full-time union occupational  
 18 health and safety representatives in  
 19 workplaces. In order to be successful, a  
 20 partnership formed in the interest of safety  
 21 must take into account the inherent imbalance  
 22 of power between the workplace parties and  
 23 efforts must be made to temper that imbalance.  
 24 We believe the bar for occupational  
 25 health and safety is too low when we refer to

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1 managing risk or when we preface our comments  
 2 with statements such as "this is dangerous  
 3 work." The flip side of that statement is a  
 4 certain amount of risk is acceptable. From a  
 5 worker's perspective, no level of risk is  
 6 acceptable. That is a matter for risk  
 7 management professionals, insurance companies  
 8 and others. For working people, the only  
 9 test, the only test that matters is that they  
 10 return home to their families at the end of  
 11 their work safe and unharmed.

12 In the labour movement, we do not view  
 13 occupational health and safety as risk  
 14 management. We view health and safety in  
 15 terms of prevention. Every accident is  
 16 preventable. It is preventable because of  
 17 strong laws, worker involvement, education and  
 18 enforcement. It is preventable because we  
 19 invest enough in safety, in training, in  
 20 systems and in technology. It is preventable  
 21 because we put safety first, ahead of  
 22 production, ahead of profit.

23 We will speak -- I hope to speak to the  
 24 jurisdictional ambiguity that still exists  
 25 today with respect to laws and regulations

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1 governing the offshore and how we might  
 2 improve the oversight and enforcement of  
 3 occupational health and safety in the offshore  
 4 oil industry, and we will make recommendations  
 5 that we hope will help build a safety culture  
 6 or rather promote a culture of prevention  
 7 which includes activating the rights of  
 8 workers, building a real workplace partnership  
 9 based on the social dialogue principles of  
 10 respect and equality and enshrining adequate  
 11 and proper regulatory authority whose mandate  
 12 is safety first and safety only. We will  
 13 endeavour to focus on those areas mandated by  
 14 the Commission, which include the role of the  
 15 C-NLOPB.

16 As you know, next week we will mark the  
 17 28th year since the drilling rig the Ocean  
 18 Range capsized killing 84 workers. A month  
 19 from tomorrow, we will mark the one-year  
 20 anniversary of the crash of Cougar Flight 491  
 21 killing 17 people. I refer to the Ocean  
 22 Ranger disaster because I believe there are  
 23 still lessons to be learned from that tragedy  
 24 and from the recommendations of a commission,  
 25 not unlike this one, that delved into the

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1 circumstances surrounding the sinking of the  
 2 Ocean Ranger. That tragedy happened in the  
 3 early hours of the morning of February 15th,  
 4 1982 during a severe winter storm 166 miles  
 5 east of St. John's. There were, as we know,  
 6 no survivors.

7 Last year, trade union activist, Steve  
 8 Porter, compiled a book of poems and thoughts  
 9 by his friend, Greg Tiller, who worked on the  
 10 Ocean Ranger, one of 56 Newfoundlanders who  
 11 had lost their lives. Just days before his  
 12 death, Greg Tiller, just 21 years old,  
 13 confided to his friend about his experiences  
 14 working in the offshore. "It's unsafe. I'm  
 15 telling you something serious is going to  
 16 happen out there. I've increased my life  
 17 insurance today. I don't have a very good  
 18 feeling."

19 There has been, in my opinion,  
 20 considerable improvements in health and safety  
 21 since the Ocean Ranger disaster, but there is,  
 22 we would suggest, more that can and must be  
 23 done. Our reaction as a people to that  
 24 preventable tragedy that took the lives of 84  
 25 workers was not unlike our response to the

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1 crash of Cougar Flight 491. These two events  
 2 will forever be part of our collective psyche.  
 3 The joint federal provincial commission of the  
 4 inquiry report into the Ocean Ranger disaster  
 5 noted "the shockwave created by the loss was  
 6 felt particularly throughout our province. In  
 7 that tightly knit community, there were few  
 8 who did not discover a link, direct or  
 9 indirect, to one of those lost in the  
 10 tragedy." Similar words and sentiments were  
 11 repeated, including by Premier Danny Williams,  
 12 following the crash of Flight 491, taking the  
 13 lives, as we know, of 16 men and one woman,  
 14 and changing their families forever.

15 You heard yesterday children are now  
 16 fatherless, wives have lost their life  
 17 partners, parents will forever feel the acute  
 18 and lifelong pain of having lost a child.  
 19 They deserve, at the very least, that we  
 20 collectively do what we all can to prevent  
 21 further tragedy. This means accepting we can  
 22 and must do more, all of us together,  
 23 industry, government, unions, workers. It  
 24 means we all have a role to play and we all  
 25 must be allowed to play that role without fear

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1 of reprisal, with clear rules and defined  
 2 authority. It means understanding how  
 3 democratic models in our workplaces can make a  
 4 difference. It means understanding that  
 5 workers' rights, such as the right to know,  
 6 the right to participate and the right to  
 7 refuse must be more than rights on paper.  
 8 They must have real meaning. It means viewing  
 9 workers as more than part of production. It  
 10 means workers come to the table as true  
 11 partners in occupational health and safety and  
 12 prevention, not as tokens, because that is  
 13 what the minimum that the law requires.

14 We all have connections to those who died  
 15 March 12th, died because they went to work  
 16 that day. One of the men lost was from my  
 17 hometown of Deer Lake. You heard from his  
 18 widow yesterday. Another was the older  
 19 brother of a young man I went to university  
 20 with, and another was the dad of a little girl  
 21 who attends school with my niece. It was his  
 22 first day on the job. It is these connections  
 23 and the closeness of our community of  
 24 Newfoundland and Labrador that perhaps makes  
 25 the job of this Commission that much more

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1 difficult, but of such consequence. We all  
 2 have a stake. We need this Commission to make  
 3 a difference. This is vital work that you do.  
 4 It could be lifesaving work. As a people, we  
 5 need to know that good will come from this  
 6 tragedy. As William Shakespeare wrote "out of  
 7 this nettle, danger, we pluck this flower,  
 8 safety." This is our hope.

9 Of all the work we do in the labour  
 10 movement, advocating for enhanced health and  
 11 safety is the most important. There is  
 12 nothing, nothing, not profit, not production,  
 13 more important than ensuring workers come home  
 14 to their families at the end of the day or the  
 15 end of their hitch, and that should be the  
 16 foundation of every decision we make.

17 I would like to take a little time to  
 18 speak about workers' fundamental occupational  
 19 health and safety rights, the minimum standard  
 20 as outlined by our laws.

21 The International Labour Organization, a  
 22 tripartite UN agency that brings together  
 23 governments, employers and workers in common  
 24 action to promote decent work throughout the  
 25 world, has, in its 90-year history, placed

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1 special and significant importance on  
 2 developing and applying a preventative safety  
 3 and health culture in workplaces around the  
 4 world. It's constitution drafted in 1919  
 5 refers to the protection of workers against  
 6 sickness, disease and injury arising out of  
 7 their employment. The declaration of human  
 8 rights states that everyone has the right to  
 9 life, to work, to free choice of employment  
 10 and to just and favourable conditions of work.  
 11 The right to safety and health at work has  
 12 been developed through a number of  
 13 international instruments since the ILO  
 14 constitution of 1919 and the universal  
 15 Declaration of Human Rights in 1948, including  
 16 the Occupational Safety and Health Convention  
 17 of 1981 which refers to employers being  
 18 required to ensure workplaces, machinery,  
 19 equipment and processes under their control  
 20 are safe and without risk to health.

21 The fact, Mr. Commissioner, that we are  
 22 paid for our work and in some cases such as  
 23 the oil and gas industry, probably paid well,  
 24 does not mean that we should face hazards that  
 25 cannot be avoided. We have the technology and

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1 the know-how to make workplaces safe and  
 2 healthy. It is a fundamental duty of an  
 3 employer to provide a safe and healthy  
 4 workplace. As workers, it is our fundamental  
 5 right to work under safe and healthy  
 6 conditions. Occupational health and safety is  
 7 not a bonus or an add-on. Knowing our  
 8 obligations as employers and our rights as  
 9 workers means involving everyone in the  
 10 process of prevention and building a culture  
 11 of prevention. According to the ILO, work can  
 12 only be decent if it is safe and healthy.

13 The occupational health and safety rights  
 14 of workers in our province is guaranteed by  
 15 the Occupational Health and Safety Act. These  
 16 rights are extended to the men and women who  
 17 work in the offshore by way of a memorandum of  
 18 understanding first signed in 1985 between the  
 19 Government of Newfoundland and the Government  
 20 of Canada. Section 61 of that MOU refers to  
 21 provincial laws, including social legislation  
 22 such as occupational health and safety. This  
 23 MOU is on the C-NLOPB's website.

24 A more detailed MOU dealing with  
 25 occupational health and safety was signed in

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1 2001 among the Federal and Provincial  
 2 Governments and the C-NLOPB. This MOU  
 3 basically contracts out to the C-NLOPB the  
 4 administration of portions of the Provincial  
 5 Occupational Health and Safety Act that are  
 6 not already covered in the Atlantic Accord  
 7 Implementation Acts. This MOU refers to the  
 8 Occupational Health and Safety Act also as  
 9 social legislation and deals with the rights  
 10 of workers, including the right to know, the  
 11 right to participate and the right to refuse.  
 12 Mr. Pike, the C-NLOPB's chief safety  
 13 officer, referred to this Act in his testimony  
 14 as other requirements. Indeed, this is how it  
 15 is referred to also on their website. The  
 16 fact that these fundamental and core worker  
 17 rights are viewed as other requirements, in my  
 18 opinion, diminishes their importance and  
 19 perhaps highlights an underlining, troubling  
 20 and systemic problem, an agency with  
 21 conflicting mandates, safety and production.  
 22 I will speak to this later in my comments.  
 23 The Provincial Occupational Health and  
 24 Safety Act guarantees a number of rights for  
 25 workers, as I've said, as do health and safety

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1 laws across our country. Three rights are  
 2 emphasized in those laws: the right to know  
 3 about hazards of the workplace, which really  
 4 speaks to an employer's responsibility to  
 5 ensure workers know of dangers; the right to  
 6 participate in health and safety activities,  
 7 especially joint worker management health and  
 8 safety committees; and the right to refuse  
 9 hazardous work. In addition, there is the  
 10 right to a healthy and safe workplace and the  
 11 right to be protected from discrimination or  
 12 reprisal if you raise a health and safety  
 13 concern in your workplace.  
 14 These rights came about as a result of  
 15 many years of struggles by working people  
 16 around the world. Workers demanded these  
 17 rights through workplace struggles, strikes  
 18 and by lobbying governments, and we continue  
 19 this work today. We do so because despite  
 20 advances in occupational health and safety  
 21 laws, practices, enforcement and engagement,  
 22 an estimated two million women and men die as  
 23 a result of occupational accidents and work-  
 24 related disease every year around the globe.  
 25 In our own province, we average between 18 and

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1 25 work-related deaths annually, whether  
 2 through a workplace accident or through  
 3 occupational disease.  
 4 As a labour movement, we do not accept  
 5 that injury, death or disease somehow go with  
 6 the job. That's because despite the  
 7 tragedies, we do know that prevention works.  
 8 Experience shows that a preventative safety  
 9 culture is beneficial for workers, employers  
 10 and governments. It is building that culture  
 11 that is the real challenge as it requires  
 12 strong laws and legislative authority. It  
 13 means education, inspection, worker  
 14 involvement and enforcement. It requires high  
 15 quality training, including health and safety  
 16 training that is developed with worker input.  
 17 It requires meaningful worker union  
 18 involvement at the workplace level through  
 19 these joint occupational health and safety  
 20 committees. These committees were designed to  
 21 provide a mechanism for communication to bring  
 22 issues forward, but also to have them acted  
 23 upon. It means employers must adopt  
 24 prevention as an integral part of conducting  
 25 their business, that workers and their

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1 representatives are consulted, trained,  
 2 informed and involved in measures related to  
 3 their safety and health at work.  
 4 According to the legislation, as workers,  
 5 we have responsibilities too, to work safely  
 6 and to protect ourselves and not endanger  
 7 others, to know our rights and to participate  
 8 in implementing preventative measures. But I  
 9 would ask how can we live up to those  
 10 responsibilities if our workplace practices,  
 11 including communications and decision making,  
 12 do not allow for this to happen.  
 13 The ILO, through its declaration on  
 14 safety and health at work, stated that a  
 15 preventative safety and health culture is one  
 16 in which the right to a safe and healthy  
 17 working environment is respected at all  
 18 levels, where governments, employers and  
 19 workers actively participate in securing a  
 20 safe and healthy working environment through a  
 21 system of defined rights, responsibilities and  
 22 duties and where the principle of prevention  
 23 is accorded the highest priority. According  
 24 to the ILO, where high safety standards exist,  
 25 they are a direct result of long-term

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<p>1 policies, encouraging tripartite social                  2 dialogue, collective bargaining between trade                  3 unions and their employers and effective                  4 health and safety legislation backed up by                  5 strong labour inspection.</p> <p>6 Social dialogue is a commonplace practice                  7 in the European Union and it can take many                  8 forms. It is defined by the ILO to include                  9 all types of negotiation, consultation or                  10 exchange of information between or among                  11 representatives of governments, employers and                  12 workers on issues of common interest. It can                  13 exist as a tripartite process with the                  14 government as an official party to the                  15 dialogue or it may consist of bipartite                  16 relations only between labour and their                  17 employer. The main goal of social dialogue is                  18 to promote consensus, building and democratic                  19 involvement among the main stakeholders in the                  20 world of work. Successful social dialogue                  21 structures and processes have the potential to                  22 resolve important economic and social issues,                  23 encourage good governance, advance social and                  24 industrial peace and stability and boost                  25 economic progress.</p>	<p>1 democratic workplace structures and evolved                  2 social dialogue at the enterprise or company                  3 level, at the industry level and at the                  4 provincial and national levels, but that                  5 requires a shift in attitudes. It means truly                  6 respecting what workers bring to the decision                  7 making table. For example, the union health                  8 and safety committees must develop their own                  9 agenda for health and safety improvements                  10 before meeting with management as the joint                  11 committee, or at least be able to do this.                  12 Management must be accountable for the                  13 recommendations that come from these                  14 committees and the regulatory agency must be                  15 responsible for the enforcement side of these                  16 recommendations.</p> <p>17 This enforcement may involve issuing                  18 directives. In order for laws to be                  19 effective, they must be rigorously enforced.                  20 They must be part of, as you heard yesterday                  21 from Lori Chynn, a proactive regime. For                  22 example, in countries like Norway, worker                  23 safety representatives or safety delegates                  24 have the power to shut down production if                  25 there is unsafe work. This authority can help</p>
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<p>1 In the labour movement, we believe every                  2 worker has the right to a safe and healthy                  3 workplace, but in our society, it is the                  4 employers who control where we work, if we                  5 work, how we work and whether our work is                  6 healthy or hazardous. As we grapple with                  7 numerous health and safety concerns, we also                  8 face what employers view as management's                  9 rights, such as the choice of materials,                  10 chemicals, the pace of production, shiftwork,                  11 excessive overtime, work cycle times,                  12 maintenance frequency and the entire design                  13 and power structure of the workplace and                  14 production systems. In order to build a                  15 preventative safety culture, we need to fix                  16 the workplace power imbalance so that workers,                  17 without fear of reprisal, have more of a say                  18 in their workplace, especially with respect to                  19 health and safety. It is workers who risk                  20 their lives, limbs and health in the                  21 workplace. By contrast, the risk for                  22 employers is profit. I do not say this to                  23 create controversy, but merely to point out                  24 the reality.                  25 Part of fixing this imbalance is through</p>	<p>1 mitigate the inherent imbalance and power in                  2 the workplace.</p> <p>3 I believe most Newfoundlanders and                  4 Labradorians would agree there is something                  5 wrong when the regulatory regime -- with the                  6 regulatory regime in our province when the                  7 agency with a mandate of covering worker                  8 safety does not see that worker safety is part                  9 of its responsibility. I understand this                  10 statement was contained in testimony at this                  11 Commission, including in a PowerPoint                  12 presentation by the C-NLOPB and I quote "the                  13 C-NLOPB does not have responsibility for                  14 safety of workers. Worker safety is the                  15 responsibility of the operators." This                  16 statement in and of itself implies what we                  17 have in the offshore is not much better than                  18 self regulation. The C-NLOPB has also noted                  19 that the lack of charges against industry                  20 means that it's doing its job. I would argue                  21 that the lack of violations or charges is by                  22 no means in and of itself a measure of safety                  23 in any industry. It may instead be an                  24 indication of inadequate inspection and                  25 enforcement.</p>

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1 I know this Inquiry has already heard  
 2 considerable testimony regarding the laws and  
 3 regulations governing the offshore. Some of  
 4 these laws are federal in jurisdiction, others  
 5 are provincial. Some deal with production  
 6 drilling practices, the environment; others  
 7 deal with health and safety. Navigating  
 8 through these can be a complex piece of  
 9 business. I understand that the Provincial  
 10 Government has attempted to make this a little  
 11 clearer with a submission to this Inquiry  
 12 tabled this week. For the purpose of this  
 13 Inquiry, it is perhaps helpful to zero in on  
 14 the laws and regulations governing  
 15 occupational health and safety.  
 16 As referred to already, these rights are  
 17 first mentioned in Section 61 of the Atlantic  
 18 Accord MOU signed in 1985. They are referred  
 19 to again in the 1987 Canada Newfoundland  
 20 Atlantic Accord Implementation Act, and they  
 21 are, as I said, later expanded upon in an MOU  
 22 among the federal and provincial governments  
 23 and the C-NLOPB signed in 2001. The  
 24 Commission has also heard reference to draft  
 25 occupational health and safety regulations.

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1 These do not include or encompass those  
 2 sections of the Occupational Health and Safety  
 3 Act I have referred to above dealing with  
 4 workers' right to know, participate and  
 5 refuse. These rights are covered off, as I've  
 6 said, in the MOU and not in this draft  
 7 occupational health and safety regulations.  
 8 The draft regulations, which deal with issues  
 9 such as working in confined spaces,  
 10 scaffolding and protective clothing, have been  
 11 incredibly been worked on or are in draft  
 12 form, I believe since 1989. They now need to  
 13 be reviewed and modernized without ever being  
 14 actually enacted.  
 15 You've also heard from retired labour  
 16 leader, Bill Parsons, who spoke of the  
 17 jurisdictional ambiguity with respect to what  
 18 level of government is responsible for what  
 19 aspect of the offshore. He too raised  
 20 concerns about the competing mandates of the  
 21 C-NLOPB, whose main and chief objective is to  
 22 sell oil and gas land for exploration and  
 23 development, but also has a responsibility for  
 24 health and safety. Mr. Parsons expressed  
 25 concern that not one ministerial department,

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1 federal or provincial, had taken ownership or  
 2 responsibility legislatively for the  
 3 occupational health and safety of the offshore  
 4 workplace, which includes helicopter  
 5 transport. Instead the federal and provincial  
 6 governments contracted out this responsibility  
 7 to the C-NLOPB, which does not report to the  
 8 government department responsible for  
 9 occupational health and safety, but to the  
 10 government department responsible for  
 11 production and the economic development of the  
 12 offshore oil and gas industry. Our Federation  
 13 supports the comments made by Mr. Parsons that  
 14 the current legislative ambiguity and  
 15 contracting out of responsibility to an  
 16 agency, whose chief responsibility is to the  
 17 economic development of the offshore, is at  
 18 best unacceptable, and comprises a conflict of  
 19 interest. This kind of regulatory arrangement  
 20 was sternly criticized by Lord Cullen in his  
 21 report on the Piper Alpha explosion in 1988.  
 22 I will refer to this a little more later on.  
 23 The Commission has also heard from the C-  
 24 NLOPB that it is not responsible for safety,  
 25 that this is the responsibility of the

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1 operators. It has been our experience in the  
 2 labour movement that sometimes the internal  
 3 responsibility system, which I believe has  
 4 also been referred to at this Inquiry and is  
 5 part of our occupational health and safety  
 6 regulatory regime in Canada, can be used to  
 7 weaken the proactive role government must  
 8 play. The internal responsibility system is  
 9 intended to be part of a larger framework that  
 10 includes, and I stress, a proactive, not a  
 11 passive or reactive regulatory role. I  
 12 believe Ms. Chynn, as I said, spoke to the  
 13 need of a proactive role yesterday.  
 14 The internal responsibility system is  
 15 also in place in Norway, but there is a strong  
 16 regulatory framework to back it up there, and  
 17 strong worker participation at all levels,  
 18 workplace and state.  
 19 The fact that the C-NLOPB does not see  
 20 itself as being responsible for worker safety  
 21 is unacceptable. While we understand that  
 22 employers, and in this case the offshore  
 23 operators, are primarily responsible for the  
 24 health and safety of their workplace,  
 25 including helicopter transport, governments

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1 and their agencies have a responsibility too  
 2 for legislation, regulation, and enforcement.  
 3 The role played by government or an agency  
 4 acting on behalf of government must be more  
 5 than an oversight and verification of safety  
 6 plan role, because what that contributes to is  
 7 an environment of self-regulation.  
 8 Mr. Justice Cory, in 1991 in a decision  
 9 of the Supreme Court of Canada, noted,  
 10 "Regulation is absolutely essential for our  
 11 protection and wellbeing as individuals and  
 12 for effective function in society. It is  
 13 properly present throughout our lives. The  
 14 more complex the activity, the greater the  
 15 need for and the greater our reliance upon  
 16 regulation and its enforcement. Of necessity,  
 17 society relies on government regulation for  
 18 its safety, as does workers, but laws and  
 19 regulations are quite frankly only as strong  
 20 as the education and enforcement that go with  
 21 them, and how those laws and regulations are  
 22 practised in the workplace, and enforced by  
 23 those charged with the protection of our  
 24 wellbeing. We cannot, and I would hope that  
 25 no one is suggesting that we rely totally on

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1 employers to make our workplaces safe, because  
 2 employers have, by their existence, a goal  
 3 that sometimes competes with safety, and that  
 4 is to make profit. Again I don't say this to  
 5 be controversial or to diminish all of the  
 6 incredible efforts made over the years by the  
 7 employer community with respect to  
 8 occupational health and safety. This is  
 9 merely a statement of fact. It is the reality  
 10 of our world. We should accept it as a given  
 11 and build from there. This is why we need a  
 12 vigilant and proactive government and worker  
 13 involvement to mitigate that economic  
 14 reality".  
 15 We ask that in your deliberations you  
 16 consider the competing mandates of production  
 17 or profit versus safety. In the Commission's  
 18 Report into the sinking of the Ocean Ranger,  
 19 there was a clear acknowledgement of the often  
 20 conflicting goals of production and safety.  
 21 The Commission noted, and I quote, "That the  
 22 oil industry had faced and overcome the  
 23 problems associated with exploring for and  
 24 producing oil and gas under major  
 25 environmental constraints, because without

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1 these solution, exploration and production  
 2 could not take place. Thus when a rig is  
 3 being built, it is worthy of the latest  
 4 innovations that technology has to offer".  
 5 That Commission found the equipment designed  
 6 for enhancing safety had not been given the  
 7 same attention. Rather it found that the  
 8 Ocean Ranger evacuation system did not meet  
 9 the same criterion of being essential, nor did  
 10 it elicit the same response. In addition, the  
 11 Commission Report on the Ocean Ranger warned  
 12 of the potential conflict of interest between  
 13 responsibility for safety and for energy  
 14 policy. "Inherent risks that in the drive for  
 15 energy self-sufficiency", the report noted,  
 16 "particularly under conditions of economic  
 17 stress, the price to be paid for accelerated  
 18 production may be a lowered level of safety".  
 19 We would suggest that there had been a  
 20 number of examples of this conflict provided  
 21 in testimony at the Inquiry; the incredible  
 22 and unacceptable nine years it took to install  
 23 helicopter underwater breathing apparatus, the  
 24 length of time it took to respond to repeated  
 25 concerns by workers regarding the fit of

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1 survival suits, the decision when to change  
 2 studs on helicopter gearboxes, the fact that  
 3 occupational health and safety regulations had  
 4 been in draft form for what appears to be two  
 5 decades.  
 6 We must also avoid a "father knows best"  
 7 top down management approach to worker safety,  
 8 but rather we must encourage worker  
 9 involvement. We must view workers as experts  
 10 who can contribute to enhanced health and  
 11 safety because of their very real experience  
 12 in the workplace.  
 13 In May, 2009, the International Labour  
 14 Organization held a tripartite meeting on  
 15 promoting social dialogue and good industrial  
 16 relations, from oil and gas exploration, and  
 17 production, to distribution. The conclusions  
 18 from this international meeting, which  
 19 included employers, workers, and government  
 20 representatives, with a stake in the offshore  
 21 oil and gas industry included; the recognition  
 22 that social dialogue is of paramount  
 23 importance for addressing a wide range of  
 24 workplace issues, a collaborative approach  
 25 between employer and worker organizations is

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1 central to good industrial relations, and that  
 2 the precondition to good industrial relations  
 3 is full respect for freedom of association and  
 4 the right to bargain collectively, that decent  
 5 work involves freedom for people to express  
 6 their concerns, organize and participate in  
 7 the decisions that affect their lives and  
 8 equality of opportunity and treatment for all,  
 9 that education and training should be viewed  
 10 as a long term contribution to sustainability  
 11 of the oil and gas industry and as a  
 12 investment in human capital. It would involve  
 13 governments -- it should involve governments  
 14 and social partners, like unions and  
 15 educational institutions. That social  
 16 dialogue is paramount to good governance in  
 17 the oil and gas industry. Good governance also  
 18 relies, as we know, on transparency in  
 19 decision-making and reporting, and finally  
 20 that governments play an important role in  
 21 promoting social dialogue by creating an  
 22 enabling environment, and governments have a  
 23 responsibility of facilitating social dialogue  
 24 through the establishment and enactment of  
 25 appropriate legislation and institutions.

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1 These recommendations could form part of a new  
 2 framework for the offshore oil and gas  
 3 industry in our own province.  
 4 The issue of competing or conflicting  
 5 mandates with respect to offshore production  
 6 and safety has been raised several times and  
 7 by important inquiries, such as the one by  
 8 Lord Cullen into the Piper Alpha disaster. I  
 9 believe this tragedy has been referred to  
 10 already at the Commission. The Piper Alpha  
 11 was a North Sea oil production platform. An  
 12 explosion and fire on that platform in July,  
 13 1988, killed 167 men. It is considered the  
 14 world's worst offshore oil disaster. The  
 15 Inquiry was critical of the oil platforms  
 16 operator, which was found guilty of having  
 17 inadequate maintenance and safety procedures.  
 18 The Cullen Inquiry made a total of 106  
 19 recommendations for changes to North Sea  
 20 safety procedures. One of those  
 21 recommendations dealt with the conflicting or  
 22 competing interests of production and safety  
 23 when a single regulator is responsible for  
 24 both. The Inquiry recommended, and this  
 25 recommendation was acted upon, that the

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1 responsibility for enforcing safety should be  
 2 removed from the Department of Energy and  
 3 placed with the Health and Safety Executive,  
 4 because having both production and safety  
 5 overseen by the same agency was viewed as a  
 6 conflict of interest.  
 7 In 2002, the Provincial Government  
 8 through the Department of Mines and Energy  
 9 conducted a round of consultations concerning  
 10 the Atlantic Accord. It was an attempt to  
 11 consolidate legislation dealing with the  
 12 offshore and incorporate an offshore health  
 13 and safety regime into that Accord. At the  
 14 time, the Federation of Labour under President  
 15 Elaine Price, made a submission outlining the  
 16 Federation's concerns with the proposed  
 17 amendments. "Those proposed amendments", the  
 18 Federation stated, "did little to support what  
 19 was seen as a needed clear separation between  
 20 occupational health and safety and production  
 21 issues". In its submission, the Federation  
 22 noted that, "To begin with, all the persons in  
 23 major health and safety positions, including  
 24 the safety officer, and all other safety  
 25 officers -- the chief safety officer, sorry,

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1 and all other safety officers would continue  
 2 to be employees of the C-NLOPB, and while our  
 3 Federation", she said at that time, "does not  
 4 question", nor do we do today, "the personal  
 5 integrity of these officers, and does not  
 6 doubt their dedication to carrying out their  
 7 duties, it nonetheless remains that they are  
 8 employees of the organization that is  
 9 responsible for the development of the oil and  
 10 gas industry. The C-NLOPB reports to the  
 11 federal and provincial departments of Natural  
 12 Resources, whose primary mandates are  
 13 development and production".  
 14 The latest annual report of the C-NLOPB  
 15 highlights this competing mandate. Chairman  
 16 and CEO, Max Ruelokke, in his report notes  
 17 that in 2008/2009, the Board experienced  
 18 several high points, including a banner year  
 19 for land rights issuance and one billion  
 20 barrels produced. He noted, "The past year  
 21 saw several significant successes and  
 22 accomplishments". However, the year was  
 23 marred by the tragic crash of Cougar Flight  
 24 491. To further point to the legislative  
 25 ambiguity of who is responsible for what, we

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1 have on the one had the C-NLOPB saying it is  
 2 not responsible for worker safety, but yet it  
 3 has the power to shut down an offshore  
 4 operation, and we have the Provincial  
 5 Government in its submission stating that the  
 6 C-NLOPB's responsibilities include operational  
 7 and occupational health and safety, and that  
 8 this responsibility was enhanced in an MOU  
 9 signed between the parties in 2001. The  
 10 purpose of the MOU, according to the  
 11 Provincial Government document, was to enhance  
 12 the Board's ability to carry out its  
 13 responsibility for occupational health and  
 14 safety. These confusing and conflicting  
 15 messages from the various authorities only add  
 16 to the ambiguity of who really is responsible  
 17 for what. It can also add to a culture of  
 18 self-regulation.

19 I'd like now to talk a little bit about  
 20 training for workers. As working people, we  
 21 understand the critical importance training is  
 22 to health and safety. Skilled and trained  
 23 workers are a part of a strong health and  
 24 safety foundation. In addition to being  
 25 trained and skilled to do the jobs workers

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1 have been hired to do, health and safety  
 2 training, both general and workplace specific,  
 3 is also critical. The issue of training has  
 4 been raised at this Commission, including by  
 5 Mr. Robert Decker. Training was also a matter  
 6 of considerable discussion and the subject of  
 7 a number of recommendations by the Commission  
 8 into the sinking of the Ocean Ranger. That  
 9 Commission recommended the establishment of a  
 10 separate offshore petroleum training standards  
 11 board, with authority to determine  
 12 requirements for training in the offshore  
 13 industry. It also noted that the insight of  
 14 workers having substantial experience offshore  
 15 should be represented. This is an example of  
 16 a social dialogue or a tripartite model that  
 17 could be implemented for training workers for  
 18 the offshore, including occupational health  
 19 and safety training. To be clear, this would  
 20 involve worker's engagement, including through  
 21 their union. When you consider Robert  
 22 Decker's testimony, it becomes clear that the  
 23 training provided is inadequate. Mr. Decker  
 24 said, and I quote, "As good as the training  
 25 is, a couple of days of controlled immersion

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1 in that pool every few years is not enough to  
 2 allow anyone to develop the instinctive  
 3 reactions that they need to have a chance of  
 4 escaping a helicopter crash like Cougar 491".  
 5 The Federation has, and will continue to  
 6 be a strong proponent of worker training,  
 7 including and especially in the area of  
 8 occupational health and safety, but we also  
 9 recommend that workers and their unions must  
 10 be involved in the development and delivery of  
 11 training, especially in their workplaces.

12 I'd like to also take a couple of minutes  
 13 to speak to the issue of helicopter safety.  
 14 An important part of the mandate of this  
 15 Inquiry is to consider the safety of  
 16 helicopter transport. Given the assertions by  
 17 the Board that the operators are responsible  
 18 for safety, I am assuming that also means  
 19 safety during transport. The Federation is  
 20 hopeful, as was expressed by Robert Decker in  
 21 his testimony, and by family members  
 22 yesterday, that this Inquiry does result in  
 23 safer helicopter travel. Mr. Decker said that  
 24 he would not any longer be flying offshore,  
 25 but that others continue to do so and deserve

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1 to be able to do so safely, but there are  
 2 still a lot of questions with respect to  
 3 helicopter safety, questions we hope this  
 4 Inquiry in conjunction with the Transportation  
 5 Safety Board can answer. In his testimony,  
 6 Mr. Decker stated that training to escape from  
 7 a crashed helicopter is important, having good  
 8 survival suits is important, and having search  
 9 and rescue capability nearby is important, but  
 10 all those things are what you need after  
 11 there's been a crash in the ocean. "If we  
 12 really want to make offshore helicopter travel  
 13 safe", he said, "what we have to do is make  
 14 sure that every helicopter does not crash.  
 15 The best way to keep ever worker safe is to  
 16 keep every helicopter in the air where it  
 17 belongs. Safety starts with the helicopter",  
 18 he said, "and I think everything else is  
 19 secondary".

20 In preparation for this submission, the  
 21 Federation has been in contact with the  
 22 Norwegian Trade Union which represents 13,000  
 23 offshore workers. The union has spent a lot  
 24 of time dealing with helicopter safety in the  
 25 past decade and a half. According to one of

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1 their representatives responsible for health  
 2 and safety in the offshore, Mr. Karlsen,  
 3 helicopter transport is one of the largest  
 4 single contributors to the risk an offshore  
 5 worker is exposed to. "Helicopter accidents",  
 6 he reports, "are responsible for a large share  
 7 of the total fatalities in the offshore". The  
 8 unions and industry there have engaged in work  
 9 on helicopter safety and are currently  
 10 involved in a third study on this matter. "The  
 11 first such study took place", he said, "in the  
 12 early 1990s. The union has representatives on  
 13 the Steering Committee for this work. The  
 14 main conclusion from the second report on  
 15 helicopter safety released in 1999 was that it  
 16 was not pilot error that results in most  
 17 accidents, but rather technical failure".  
 18 During last year's ILO tripartite meeting  
 19 that I referred to earlier on promoting social  
 20 dialogue in the oil and gas industry, the  
 21 chairperson of the workers group at this  
 22 meeting noted, "That helicopter accidents  
 23 account for about 25 percent of fatalities in  
 24 the offshore oil and gas sector, and  
 25 transportation by helicopter was one of the

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1 weakest points of the health and safety  
 2 chain".  
 3 So the question is how do we make  
 4 helicopter transport safer, and what role  
 5 should the oil and gas industry, as an  
 6 employer who depends on helicopter  
 7 transportation in order to operate, play in  
 8 that, and from our perspective as a labour  
 9 movement, how do we ensure workers are  
 10 involved in that process, ensuring their  
 11 rights to know and participate are activated.  
 12 Is it simply that we use different helicopters  
 13 that are more expensive because they have more  
 14 technology, such as a dry run capability. We  
 15 know this technology exists because SAR  
 16 helicopters have this capability. Isn't it, I  
 17 ask, responsible and practical to expect  
 18 helicopter transporting workers every day, one  
 19 and a half hours out to sea, also be required  
 20 to have this technology. Isn't it responsible  
 21 and practical that workers have a right to  
 22 know when there are problems with those  
 23 helicopters. I believe this speaks to the  
 24 heart of a worker's right under our  
 25 Occupational Health and Safety Act, and that

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1 is the right to know.  
 2 We would wholeheartedly agree with Mr.  
 3 Decker's assessment that the best course of  
 4 action is to keep the helicopters in the air.  
 5 We also know, though, that we must do  
 6 everything we can to ensure if a helicopter  
 7 must ditch, that the occupants of that  
 8 helicopter are given the best possible chance  
 9 of survival, from the best suits available, to  
 10 appropriate training and adequate, timely, and  
 11 dependable search and rescue response.  
 12 Mr. Commissioner, you have heard a lot  
 13 about the Federal Government's so-called  
 14 commitment to search and rescue, and you've  
 15 heard criticism of Canada's search and rescue  
 16 resources, including the fact that the  
 17 response time dramatically increases between 4  
 18 p.m. and 8 a.m. and on weekends, or what are  
 19 referred to as "quiet times" according to a  
 20 DND document provided to the Commission. I  
 21 suppose it is stating the obvious, but perhaps  
 22 it's also necessary; people who work in the  
 23 offshore, whether it is in the oil and gas or  
 24 fishing industries, do not work 8 to 4. This  
 25 staffing decision is the result of an

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1 inadequate financial commitment by the Federal  
 2 Government to search and rescue. It is a  
 3 result of cutbacks to those services and  
 4 programs and it is about political choices.  
 5 We are in Canada a maritime nation, and  
 6 as such a good deal of economic activity takes  
 7 place at sea. Government has a responsibility  
 8 to provide adequate public services in this  
 9 regard, and it has not. I would argue that  
 10 search and rescue services are needed more  
 11 today than ever before, given the increased  
 12 activity on our oceans. Globalization means  
 13 more and more goods are transported by sea.  
 14 We have only to walk along St. John's Harbour  
 15 any day of the week to have this confirmed.  
 16 In addition, offshore activity has increased  
 17 significantly since the Commission Report into  
 18 the Ocean Ranger sinking. When it made its  
 19 recommendations with respect to enhanced  
 20 search and rescue, at that time, as you know,  
 21 the Commission recommended that Government or  
 22 industry provide for a dedicated full time  
 23 search and rescue helicopter at the airport  
 24 nearest the offshore operations. In addition  
 25 to the increased transportation of goods and

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1 the increased offshore oil activity from  
 2 installations, transport of workers, oil  
 3 tankers, and supply ships, we have also  
 4 experienced in the same time frame a dramatic  
 5 increase in the number of fishing vessels  
 6 fishing further offshore. For example, in the  
 7 late 1980s and early 1990s, the near shore  
 8 fleet of vessels in our province, that would  
 9 be those greater than 40 feet, caught on  
 10 average about 10,000 tons of snowcrab and  
 11 shrimp. In 2008, this fleet of about 900  
 12 vessels caught about 40,000 tons of snowcrab  
 13 and 80,000 tons of shrimp. This is about nine  
 14 times the total of shrimp and snowcrab  
 15 landings as 20 years ago, nine times an  
 16 increase in economic activity in that industry  
 17 alone. Much of this increased activity takes  
 18 place anywhere between 50 and 200 miles  
 19 offshore.

20 Today, according to the Canadian  
 21 Association of Petroleum Producers,  
 22 Newfoundland and Labrador produces more than  
 23 340,000 barrels of light crude oil per day, or  
 24 about 36 percent of Canada's total light crude  
 25 oil production. In 1997, we had just one oil

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1 field producing, Hibernia. Today there are  
 2 three, with a fourth expected by 2017. In  
 3 addition, there is significant seismic and  
 4 other exploration taking place. In the face  
 5 of this increased economic activity, SAR  
 6 capabilities have been reduced, including  
 7 longer response times at night and on  
 8 weekends. This is, in our opinion, totally  
 9 unacceptable and irresponsible, and the  
 10 Federation joins others at this Inquiry  
 11 calling for increased and enhanced search and  
 12 rescue capabilities.

13 Throughout my presentation, I've referred  
 14 to this process known as social dialogue.  
 15 There are already examples of this approach to  
 16 problem solving and engagement in our  
 17 province. For example, provincially labour,  
 18 business, and government, participate in what  
 19 is known as the Strategic Partnership Council,  
 20 a tripartite system of having dialogue on  
 21 issues in which we share a common interest,  
 22 such as labour market and labour relations.  
 23 The Workplace Health Safety and Compensation  
 24 Commission is currently engaged with the  
 25 Federation of Labour and the Employer's

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1 Council in a program to develop sector  
 2 councils in various industries throughout the  
 3 province. These councils would be responsible  
 4 for promoting enhanced occupational health and  
 5 safety practises in various sectors of our  
 6 economy. The idea behind these kind of  
 7 processes and structures is that they are an  
 8 effective means to solving problems. They  
 9 result in a high level of engagement and input  
 10 among all the parties, but they require trust  
 11 and respect.

12 According to the ILO, which is by its  
 13 nature a tripartite organization of workers,  
 14 their unions, employers, and governments,  
 15 social dialogue is the ILO's best mechanism in  
 16 improving better living and working  
 17 conditions. The Federation believes that such  
 18 a system would be beneficial in the offshore  
 19 oil and gas industry at a number of levels,  
 20 and in particular, with a focus on health and  
 21 safety. Certainly Norway operates under such  
 22 a model and we would recommend that the  
 23 Commission visit other jurisdictions, as I  
 24 believe and hope is your plan, to see how the  
 25 workplace parties talk to each other and how

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1 health and safety matters are dealt with  
 2 there. I am sure their system is not perfect,  
 3 but it does appear to be certainly more  
 4 evolved than ours. For example, the Norwegian  
 5 Petroleum Safety Authority, an arm of the  
 6 government, says, "That Collaboration between  
 7 employers, unions, and government, as well as  
 8 worker participation, are important  
 9 cornerstones in efforts to establish and  
 10 develop health and safety in the petroleum  
 11 industry. They further say, "From an ethical  
 12 perspective, it is crucial that people exposed  
 13 to risk participate in decision-making  
 14 processes which affect such exposure".

15 Norway's Working Environment Act also  
 16 contains a number of provisions on the right  
 17 and duty of workers to participate in ensuring  
 18 a fully acceptable working environment in an  
 19 enterprise. The same requirement for  
 20 participation also applies when government  
 21 agencies develop regulations and regulatory  
 22 regimes. In other words, workers and their  
 23 representatives are included in the making of  
 24 the decisions and the laws. It is important,  
 25 according to this Authority in Norway, that

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1 workers have the necessary level of  
 2 involvement before solutions are chosen. I do  
 3 not believe we can say that that is the case  
 4 in the oil and gas industry in our province.  
 5 In conclusion, I would like to make the  
 6 following points. The Federation, in addition  
 7 to my presentation today, is preparing a  
 8 second document that will include  
 9 recommendations. We will also comment on the  
 10 document dealing with the regulatory regime  
 11 from the Provincial Government that was this  
 12 week posted to your website. In the meantime,  
 13 our Federation does recognize and recommend  
 14 that clearing up the legislative ambiguity,  
 15 embracing social dialogue in the offshore  
 16 sector through real and meaningful worker  
 17 involvement, creating a stand-alone proactive  
 18 safety agency with tripartite governance that  
 19 reports to the Provincial and Federal  
 20 departments in charge of occupational health  
 21 and safety as their clearly defined role, and  
 22 activating worker's rights would be a good  
 23 place to start.  
 24 We believe it would be more than helpful  
 25 if the Commission did visit other

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1 jurisdictions and talk to the unions in those  
 2 jurisdictions when you do. They have a lot to  
 3 offer and we'd be pleased to facilitate that.  
 4 We tackle the view that it is only the  
 5 employers who are responsible for worker  
 6 safety. This is, for all intents and  
 7 purposes, self-regulation. We advocate for  
 8 models that support industrial democracy and  
 9 we repeat what Mr. Decker has said, "We must  
 10 keep the helicopters in the air". We must  
 11 understand the competing interests of safety  
 12 and production, and put in place the correct  
 13 structures, laws, and processes to mitigate  
 14 that conflict, and we must be proactive  
 15 everyone; industry, governments, and workers.  
 16 We must always put prevention first because  
 17 when we do, we put people's lives first.  
 18 Before closing, I would like to thank the  
 19 committee of people who helped me with this  
 20 presentation. They are each of them  
 21 occupational health and safety activists and  
 22 occupational health and safety experts; Dr.  
 23 Sue Hart at Memorial University; Gail Hickey,  
 24 who is here today; Sharon Walsh, who is here  
 25 today; and the offshore workers who shared

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1 their experiences and knowledge with us. They  
 2 believe, as I do, that we can collectively  
 3 make a difference. They believe, as I do,  
 4 that every accident is preventable, and they,  
 5 like I am, are hopeful that this Commission of  
 6 Inquiry will make the recommendations needed  
 7 and governments will have the political will  
 8 to act on them.  
 9 The families of the 16 men and one woman  
 10 who died March 12th of last year deserve this  
 11 to be the least of our efforts. The people  
 12 who continue to seek their living offshore  
 13 deserve the same. Mr. Commissioner, once  
 14 again, thank you for this opportunity, and I  
 15 hope our presentation is helpful in your  
 16 deliberations.  
 17 COMMISSIONER:  
 18 Q. Thank you, Ms. Payne. There is a lot to think  
 19 about in what you've presented, so thank you.  
 20 MS. PAYNE:  
 21 A. Thank you.  
 22 ROIL, Q.C.:  
 23 Q. Commissioner, that will bring to a close the  
 24 proceedings for this afternoon. I have for  
 25 public consumption, if you will, a little news

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1 and that is that we were scheduled to commence  
 2 with the additional hearings next week on  
 3 Monday, we have the C-NLOPB coming back for a  
 4 second round of their presentation and to deal  
 5 with issues that may have arisen since they  
 6 were, of course, the first presenter to us.  
 7 We don't believe that four days will be  
 8 necessary for that. I believe that two days  
 9 would be adequate for that engagement based on  
 10 our past experience, and so I'm going to  
 11 suggest that we'll next meet again on  
 12 Wednesday at 9:30 a.m. and at that time the C-  
 13 NLOPB will be here. Their presentation will  
 14 take less than a full day, and then we'll have  
 15 the following day for questioning by other  
 16 parties.  
 17 COMMISSIONER:  
 18 Q. All right then, thank you, we'll adjourn until  
 19 next Wednesday at 9:30.  
 20 ROIL, Q.C.:  
 21 Q. And I would ask that the parties who are  
 22 parties to the process, if they could stay for  
 23 a very brief minute for some discussion or  
 24 information sharing with them, and then the  
 25 other parties who are not part of this

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1 process, if I could respectfully ask if they  
2 leave the room quickly, so we can get on to  
3 that little brief meeting.

4 COMMISSIONER:

5 Q. Okay, then, we'll adjourn.

6 (ADJOURNED)

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1 CERTIFICATE

2 We, the undersigned, do hereby certify that  
3 the foregoing is a true and correct transcript of a  
4 hearing heard on the 11th day of February, 2010 at  
5 Tara Place, 31 Peet Street, Suite 213, St. John's  
6 Newfoundland and Labrador and was transcribed by us  
7 to the best of our ability by means of a sound  
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9 Dated at St. John's, NL this  
10 11th day of February, 2010

11 Cindy Sooley

12 Discoveries Unlimited Inc.

13 Judy Moss

14 Discoveries Unlimited Inc.

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