

OFFSHORE HELICOPTER SAFETY INQUIRY

February 18, 2010

Tara Place, Suite 213, 31 Peet Street

St. John's, NL

February 18, 2010

PRESENT:

John F. Roil, Q.C./

Anne Fagan.....Inquiry Counsel

**John Andrews/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/Stephanie Hillier..... Suncor (Petro-Canada)

Alexander C. MacDonald, Q.C./Nicholas Crosbie.. Husky Oil Operations Ltd.

**Lewis Manning/ Canadian Association of Petroleum Producers (CAPP)
Nick Schultz**

Jennifer Berlin Government of Newfoundland and Labrador

Norman J. Whalen, Q.C./Michael Cohen Cougar Helicopters Inc.

Jamie Martin..... Families of Deceased Passengers

**Gerald O'Brien, Q.C./Danny Vavasour. 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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<p>1 February 18, 2010</p> <p>2 COMMISSIONER:</p> <p>3 Q. Good morning, ladies and gentlemen, Mr. Pike.</p> <p>4 Are you ready, Mr. Roil? No, I'm sorry, you</p> <p>5 finished, of course. I better get my list and</p> <p>6 work through it properly because Ms. O'Brien</p> <p>7 has asked her questions. Counsel for C-NLOPB,</p> <p>8 you'd come last anyway, if you wish to ask</p> <p>9 questions. Transport Canada? No. CAPP?</p> <p>10 MR. MANNING:</p> <p>11 Q. No questions, thank you.</p> <p>12 COMMISSIONER:</p> <p>13 Q. All right, thank you. HMDC?</p> <p>14 MS. STRICKLAND:</p> <p>15 Q. No questions. Thank you, Mr. Commissioner.</p> <p>16 COMMISSIONER:</p> <p>17 Q. Thank you. Suncor?</p> <p>18 MR. PRITCHETT:</p> <p>19 Q. No questions, Commissioner, thank you.</p> <p>20 COMMISSIONER:</p> <p>21 Q. Thank you. Husky?</p> <p>22 MACDONALD, Q.C.:</p> <p>23 Q. No questions, Commissioner. Thank you.</p> <p>24 COMMISSIONER:</p> <p>25 Q. Thank you. Cougar, Mr. Whalen?</p>	<p>1 You recall mentioning those yesterday?</p> <p>2 MR. PIKE:</p> <p>3 A. Yes.</p> <p>4 EARLE, Q.C.:</p> <p>5 Q. As the occupational health and safety</p> <p>6 regulator, would you agree with me that you</p> <p>7 are the custodian of the worker's right to</p> <p>8 know, the worker's right to participate and</p> <p>9 the worker's right to refuse?</p> <p>10 MR. PIKE:</p> <p>11 A. Yes.</p> <p>12 EARLE, Q.C.:</p> <p>13 Q. Now from a general perspective, there is no</p> <p>14 question as to the authority of the C-NLOPB to</p> <p>15 regulate in matters of transportation of</p> <p>16 workers by helicopter? Do you agree with that</p> <p>17 proposition?</p> <p>18 MR. PIKE:</p> <p>19 A. Could you -- I'm not exactly sure what you're</p> <p>20 asking, so could you -</p> <p>21 EARLE, Q.C.:</p> <p>22 Q. Is it not true -</p> <p>23 MR. PIKE:</p> <p>24 A. Please explain this to me. I'm not -</p> <p>25 EARLE, Q.C.:</p>
<p>1 WHALEN, Q.C.:</p> <p>2 Q. No questions, Mr. Commissioner. Thank you.</p> <p>3 COMMISSIONER:</p> <p>4 Q. Okay. Helly Hansen here? No. Counsel for</p> <p>5 the Marine Institute, Memorial University?</p> <p>6 HURLEY, Q.C.:</p> <p>7 Q. No questions, thank you.</p> <p>8 COMMISSIONER:</p> <p>9 Q. Thank you. Government of Newfoundland?</p> <p>10 MS. BERLIN:</p> <p>11 Q. No questions at this time.</p> <p>12 COMMISSIONER:</p> <p>13 Q. Thank you. Mr. Harris is not here, is he?</p> <p>14 All right, Mr. Earle, counsel for CEP.</p> <p>15 MR. HOWARD PIKE, EXAMINATION BY RANDELL EARLE, Q.C.</p> <p>16 EARLE, Q.C.:</p> <p>17 Q. Good morning, Mr. Pike. My name is Randell</p> <p>18 Earle. I'm counsel for CEP Local 2121 who</p> <p>19 represent a significant number, probably the</p> <p>20 majority of the people who work offshore. I</p> <p>21 have a number of questions for you, Mr. Pike.</p> <p>22 First of all, you will recall that you</p> <p>23 mentioned the three pillars of occupational</p> <p>24 health and safety, the right to know, the</p> <p>25 right to participate, the right to refuse.</p>	<p>1 Q. Is it not true, Mr. Pike, that C-NLOPB</p> <p>2 requires that the helicopters which fly</p> <p>3 offshore Newfoundland for the transportation</p> <p>4 of workers to and from the offshore</p> <p>5 installations must have twin engines?</p> <p>6 MR. PIKE:</p> <p>7 A. We have that requirement, yes.</p> <p>8 EARLE, Q.C.:</p> <p>9 Q. You have that requirement, and that is an</p> <p>10 exercise of your regulatory power?</p> <p>11 MR. PIKE:</p> <p>12 A. Exercised within the confines of the</p> <p>13 occupational safety of the workers being</p> <p>14 transported. In part, we share that piece</p> <p>15 with the operational safety of the</p> <p>16 helicopters, which is a clear mandate of</p> <p>17 Transport Canada. So what we ask for is in</p> <p>18 addition to the primary regulator, which is</p> <p>19 Transport Canada Aviation. So yes -</p> <p>20 EARLE, Q.C.:</p> <p>21 Q. So you have -</p> <p>22 MR. PIKE:</p> <p>23 A. - the answer is yes. We've added some</p> <p>24 additional requirements and they are in</p> <p>25 addition to what the primary regulator</p>

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1 provides and that would be Transport Canada.
 2 EARLE, Q.C.:
 3 Q. They are in addition. Transport Canada, I put
 4 it to you, doesn't care whether the person in
 5 the helicopter is an offshore worker or
 6 someone going out there because they'd like to
 7 see what vessel traffic there is out there.
 8 In the spring of the year, they might want to
 9 go out and see what icebergs are there.
 10 Transport Canada is in the business of
 11 regulating helicopters.
 12 MR. PIKE:
 13 A. I can't answer for Transport Canada, sir.
 14 EARLE, Q.C.:
 15 Q. Well, are you telling us you don't have an
 16 understanding of what Transport Canada's role
 17 is?
 18 MR. PIKE:
 19 A. I indicated they're the primary regulator for
 20 helicopters, yes.
 21 EARLE, Q.C.:
 22 Q. Yes, they regulate helicopters, Mr. Pike.
 23 MR. PIKE:
 24 A. You're asking me for an opinion on how they do
 25 that, and that's not fair for me to answer.

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1 EARLE, Q.C.:
 2 Q. I didn't ask you how they did it. I asked you
 3 what their interest was, and their interest is
 4 the regulation of helicopters, not offshore
 5 transportation for offshore workers, right?
 6 MR. PIKE:
 7 A. They have some regulation with regard to the
 8 transportation of the passengers in that
 9 helicopter.
 10 EARLE, Q.C.:
 11 Q. Yes, but the fact that those passengers are
 12 offshore workers, the fact that those
 13 passengers are destined for an offshore
 14 installation is of absolutely no concern to
 15 Transport Canada. They could be going out -
 16 MR. PIKE:
 17 A. They regulate the helicopter.
 18 EARLE, Q.C.:
 19 Q. - turning around and coming back.
 20 MR. PIKE:
 21 A. They regulate the passengers. You're asking
 22 me for an opinion on Transport Canada and I
 23 can't answer that, sir.
 24 EARLE, Q.C.:
 25 Q. Okay. So you don't have a clear understanding

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1 of what Transport Canada's role is.
 2 MR. PIKE:
 3 A. They are the primary regulator for
 4 helicopters, which includes the passengers,
 5 sir.
 6 EARLE, Q.C.:
 7 Q. Well, let's just look at some of the things
 8 that you do require. You require that there
 9 be twin engines on these helicopters, right?
 10 MR. PIKE:
 11 A. Yes.
 12 EARLE, Q.C.:
 13 Q. Transport Canada does not require that, do
 14 they?
 15 MR. PIKE:
 16 A. Not to my knowledge.
 17 EARLE, Q.C.:
 18 Q. No. You require that these helicopters be
 19 equipped with floatation devices in the event
 20 that they ditch?
 21 MR. PIKE:
 22 A. Yes.
 23 EARLE, Q.C.:
 24 Q. Transport Canada does not do that?
 25 MR. PIKE:

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1 A. That's not correct. Transport Canada does
 2 have regulations vis-a-vis the floatation on
 3 helicopters.
 4 EARLE, Q.C.:
 5 Q. Do they require the same standard of
 6 floatation as you do?
 7 MR. PIKE:
 8 A. I know they have it, sir. I can't answer
 9 whether it's the same standard.
 10 EARLE, Q.C.:
 11 Q. Pardon?
 12 MR. PIKE:
 13 A. I don't know their exact standard, sir. I
 14 just know they have that requirement.
 15 EARLE, Q.C.:
 16 Q. So you're saying that you impose regulations
 17 with respect to floatation, but you don't know
 18 what Transport Canada's standards are?
 19 MR. PIKE:
 20 A. Correct. I know they have a standard, but I
 21 couldn't cite the exact requirement.
 22 EARLE, Q.C.:
 23 Q. You require that these helicopters be equipped
 24 with deployable rafts?
 25 MR. PIKE:

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<p>1 A. Yes.</p> <p>2 EARLE, Q.C.:</p> <p>3 Q. Does Transport Canada require that?</p> <p>4 MR. PIKE:</p> <p>5 A. I don't know, sir.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. You don't know. Who, Mr. Pike, requires that</p> <p>8 the passengers wear a helicopter</p> <p>9 transportation suit?</p> <p>10 MR. PIKE:</p> <p>11 A. We have that requirement and Transport Canada</p> <p>12 also has that requirement.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. Well, what is Transport Canada's requirement?</p> <p>15 MR. PIKE:</p> <p>16 A. It's that they wear a suit to the Canadian</p> <p>17 General Standards Board standard.</p> <p>18 EARLE, Q.C.:</p> <p>19 Q. Did you say if they wear a suit?</p> <p>20 MR. PIKE:</p> <p>21 A. No. My understanding is for the flights that</p> <p>22 we have going offshore, it is a requirement</p> <p>23 that passengers wear these suits and that</p> <p>24 those suits meet the standard of the Canadian</p> <p>25 General Standards Board.</p>	<p>1 Q. So whatever Transport Canada requires, you</p> <p>2 exercise your regulatory authority to have</p> <p>3 something more?</p> <p>4 MR. PIKE:</p> <p>5 A. Yes.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. Now for instance, again, does Transport Canada</p> <p>8 require that helicopter passengers travelling</p> <p>9 offshore have an underwater emergency</p> <p>10 breathing device?</p> <p>11 MR. PIKE:</p> <p>12 A. No, they do not.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. No. Do you require that now?</p> <p>15 MR. PIKE:</p> <p>16 A. We do.</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. And when you initiated the process in respect</p> <p>19 of the underwater breathing device back in</p> <p>20 2000, you had the ability and the regulatory</p> <p>21 authority to require that passengers be</p> <p>22 provided with such a device, right?</p> <p>23 MR. PIKE:</p> <p>24 A. Yes.</p> <p>25 EARLE, Q.C.:</p>
<p style="text-align: right;">Page 10</p> <p>1 EARLE, Q.C.:</p> <p>2 Q. So how far offshore? Because I know I can fly</p> <p>3 to Fogo Island on a helicopter and nobody</p> <p>4 makes me wear a suit, and people do that all</p> <p>5 the time in the winter when the ice gets in.</p> <p>6 MR. PIKE:</p> <p>7 A. I'm not sure what their criteria is, sir. We</p> <p>8 require it for the people travelling to the</p> <p>9 offshore facilities.</p> <p>10 EARLE, Q.C.:</p> <p>11 Q. You require. Well, can we take it from the</p> <p>12 fact that you set the requirement that you</p> <p>13 want something more than Transport Canada</p> <p>14 provides?</p> <p>15 MR. PIKE:</p> <p>16 A. Sorry, could you repeat the question?</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. Can we take it from the fact that C-NLOPB</p> <p>19 requires people to wear a helicopter</p> <p>20 transportation suit when they travel offshore</p> <p>21 that you want something more than Transport</p> <p>22 Canada requires?</p> <p>23 MR. PIKE:</p> <p>24 A. Yes.</p> <p>25 EARLE, Q.C.:</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. But you chose not to require that immediately.</p> <p>2 You chose to ask the Canadian Association of</p> <p>3 Petroleum Producers, on behalf of the</p> <p>4 operators in this area, to investigate and</p> <p>5 consider this issue first?</p> <p>6 MR. PIKE:</p> <p>7 A. Yes.</p> <p>8 EARLE, Q.C.:</p> <p>9 Q. Why?</p> <p>10 MR. PIKE:</p> <p>11 A. It was a newer technology that was being used</p> <p>12 in the North Sea. It had not been used in the</p> <p>13 North Sea for a long period of time. It was</p> <p>14 introduced in the mid '90s. So we knew of</p> <p>15 this technology and we wanted to see if this</p> <p>16 technology could be applied in our offshore,</p> <p>17 and I think -</p> <p>18 EARLE, Q.C.:</p> <p>19 Q. Why did you ask CAPP to look at it? Why did</p> <p>20 you not, for instance, contract Survival</p> <p>21 Systems in Nova Scotia to provide you with a</p> <p>22 study on this device and its viability and</p> <p>23 applicability for people dealing with</p> <p>24 travelling in the offshore, in the</p> <p>25 Newfoundland and Labrador offshore?</p>

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1 MR. PIKE:
 2 A. It has not been the practice of the Board to
 3 engage initially in the research and
 4 development, but had we -- the initial
 5 approach is to approach industry to get
 6 consensus. It was a newer technology. We
 7 certainly, and as identified in our policy,
 8 our compliance and enforcement, is to engage
 9 them at an early stage to start doing that
 10 work and to take a look at it. That was
 11 certainly one of the options we could have
 12 used, but at that time, we did not.
 13 EARLE, Q.C.:
 14 Q. So that's an option you could have used?
 15 MR. PIKE:
 16 A. Yes.
 17 EARLE, Q.C.:
 18 Q. But it's not your practice. Why is it not
 19 your practice? What's the rationale for going
 20 to -- for you, as a regulator, to go to an
 21 interested party and say to them "study this
 22 issue. Give us your advice on what we should
 23 be using here, how we should put it in place,"
 24 et cetera, et cetera?
 25 MR. PIKE:

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1 A. That is not an uncommon practice for other
 2 regulators, particularly when you're
 3 introducing a new technology, is to engage the
 4 stakeholders as you move forward with that
 5 technology. We've done it successfully.
 6 Unfortunately in the HUEBA case, it was not as
 7 successful as we would have liked, but we have
 8 used it for other pieces with CAPP and I know
 9 that other international regulators have used
 10 the same approach. So it is an approach that
 11 is well accepted by regulators to engage the
 12 stakeholders when you're about to introduce a
 13 new piece of technology.
 14 EARLE, Q.C.:
 15 Q. Mr. Pike, it's one thing to engage the
 16 stakeholders. It's another thing to be
 17 allowing the stakeholders to decide: a.
 18 whether the technology is appropriate; b.
 19 which of a range of technologies will be
 20 chosen; c. when it will be implemented. Quite
 21 frankly, I suggest to you, that this amounts
 22 to C-NLOPB contracting out a significant part
 23 of its role to one of the interested parties.
 24 So what's the, you know, the rationale for
 25 that beyond "well, other people do it"?

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1 MR. PIKE:
 2 A. I'm not sure that I understand what
 3 specifically you're asking here, Mr. Earle.
 4 Can you -
 5 EARLE, Q.C.:
 6 Q. Look, I asked you why did you choose to go
 7 this way, and you tell me "well, it's not
 8 uncommon for other regulators to do it. It's
 9 done here and there." But you haven't told me
 10 beyond other people are doing it, why you
 11 would do it.
 12 MR. PIKE:
 13 A. We have done it with other technologies and it
 14 has been successful and I think we freely
 15 admit that this implementation was certainly
 16 not a success and it took far too long.
 17 EARLE, Q.C.:
 18 Q. Okay. So you've done it with other
 19 technologies?
 20 MR. PIKE:
 21 A. Yes, sir.
 22 EARLE, Q.C.:
 23 Q. Now you choose to go this route. What kind of
 24 structure do you put in place when you ask, as
 25 I say, an interested player, an interested

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1 party, to proceed with this? Do you have a
 2 contract with them?
 3 MR. PIKE:
 4 A. No.
 5 EARLE, Q.C.:
 6 Q. Do you have a regulatory guideline?
 7 MR. PIKE:
 8 A. No.
 9 EARLE, Q.C.:
 10 Q. Do you have anything other than a letter
 11 requesting them to look at the technology?
 12 MR. PIKE:
 13 A. That was the extent of our engagement with
 14 CAPP, yes. In hindsight, there could have
 15 been better approaches.
 16 EARLE, Q.C.:
 17 Q. Hindsight is a wonderful thing. It has great
 18 clarity of vision, and of course, the luxury
 19 of being in a position like I'm in is that I
 20 get the luxury of looking at things in
 21 hindsight. Have you considered, as C-NLOPB,
 22 the structuring and the regularizing of
 23 mechanisms by which you engage industry
 24 players in these kinds of essentially
 25 regulatory development roles?

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1 MR. PIKE:
 2 A. We're constantly evolving our processes and
 3 trying to develop new ones, and we will
 4 certainly be taking a look at this one.
 5 EARLE, Q.C.:
 6 Q. I'd like you to be a bit more specific than
 7 that, Mr. Pike, because, I mean, I think, you
 8 know, the issue with the HUEBA is what it
 9 tells us about the processes we use and the
 10 processes used by C-NLOPB, and I suggest what
 11 this Inquiry needs to look at in terms of the
 12 HUEBA and I'm hearing that the operators are
 13 going to go out and do a study to find out
 14 what lessons they've learned, but you people
 15 are the regulators. You people are the ones
 16 with the ultimate responsibility here. I want
 17 to know what you're doing in this area.
 18 MR. PIKE:
 19 A. Mr. Earle, we regularly review our processes
 20 and indeed, in 2006, we engaged another
 21 regulator to come in and take a look at our
 22 processes. They identified some areas that we
 23 needed to work on and we've been working on
 24 those. So we are constantly looking to
 25 improve our processes.

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1 EARLE, Q.C.:
 2 Q. Has that other regulator addressed how you
 3 structure your relationships with an industry
 4 organization? Because, I mean, it could be --
 5 could as easily be NOIA as CAPP, not just
 6 CAPP, could be NOIA, could be any number of
 7 other organizations. Heaven sake, it could
 8 even be my client that you ask to look at an
 9 issue.
 10 MR. PIKE:
 11 A. Actually, sir, it would not -
 12 EARLE, Q.C.:
 13 Q. Has this other regulator said to you "look,
 14 you got to bring some structure to this.
 15 You've got to have contracts or agreements
 16 with expectations, with time frames"?
 17 MR. PIKE:
 18 A. To answer your question, sir, no, it would not
 19 be your client. It would not be NOIA. In
 20 this case, we hold the operator accountable
 21 and the operator's agent in this regard was
 22 CAPP. NOIA is not the agent of the operators
 23 in this regard, so we would not be approaching
 24 NOIA. In this case, you know, again, it is
 25 the operator we hold accountable and in this

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1 case, it was CAPP that was acting on behalf of
 2 the operators.
 3 EARLE, Q.C.:
 4 Q. Well, Mr. Pike, don't you see the inherent
 5 conflict of interest in asking the regulated,
 6 because that's who you regulate is operators,
 7 to develop the standards?
 8 MR. PIKE:
 9 A. It's an interesting perspective on that
 10 question, Mr. Earle, but in my discussions
 11 with the regulator in the UK who regulated
 12 that piece, it was indeed the industry that
 13 developed the standards for the breathing
 14 device in the United Kingdom. It was not the
 15 health and safety executive. It was the
 16 industry that they engaged. So I had those
 17 discussions with the regulator in the United
 18 Kingdom. I had those discussions with the
 19 regulator in Norway and the approach they took
 20 was with the stakeholder, the primary
 21 stakeholder that they hold accountable, the
 22 operator, and that's where the development of
 23 the new technology came from. So we were
 24 following the model that was followed in other
 25 jurisdictions.

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1 EARLE, Q.C.:
 2 Q. Well, but I'm asking -
 3 MR. PIKE:
 4 A. There are other ways, and I certainly
 5 appreciate your perspective, and I seek other
 6 people's perspective on these things because
 7 it's only by looking at, as I identified at
 8 the start of my presentation, it is only by
 9 looking at things from a different perspective
 10 do we understand the full scope of these.
 11 EARLE, Q.C.:
 12 Q. My question is do you not see the conflict of
 13 interest?
 14 MR. PIKE:
 15 A. There is a potential for that and there is a
 16 perspective which would come to that
 17 conclusion. That's not the conclusion that we
 18 came to.
 19 EARLE, Q.C.:
 20 Q. I mean, you probably heard me when I was
 21 questioning Mr. Barnes. I mean, you know, I'm
 22 not suggesting this is all bad. There is a
 23 tremendous merit in the single point of
 24 contact for the industry, so that a lot of
 25 merit in you dealing with an organization like

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1 CAPP, but there is an inherent conflict of
 2 interest and just like we have to mitigate
 3 safety risks, we have to mitigate conflicts of
 4 interest, conflicting goals, conflicting
 5 needs. I mean, in the end, the operators are
 6 looking at a budget and I heard you say
 7 yesterday "well, they were thinking in terms
 8 of the suits were coming to the end of their
 9 life, so that would be a good time to
 10 implement a change that might require
 11 modification to the suits." Well, you see,
 12 there's a conflict because another way to look
 13 at it is "well, gentlemen, this is a device.
 14 It's an improvement for the safety of the
 15 helicopter passenger. We've got to move suit
 16 replacement up."
 17 MR. PIKE:
 18 A. If I chose to express that incorrectly
 19 yesterday, I apologize for that. My
 20 understanding was they had analyzed the suit
 21 they had. The suit they had could not be
 22 modified to take account of this device, so
 23 they would, regardless of the age of the suits
 24 that they had, have implemented a new suit to
 25 accommodate the new device. It so happened

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1 that that coincided and I apologize if I
 2 misled you as to what we would have expected,
 3 that if the suits they were using at the time
 4 couldn't accommodate it, that they would
 5 indeed engage in new suits for the offshore.
 6 EARLE, Q.C.:
 7 Q. But nevertheless, whether you would expect it
 8 or not, do you not recognize that in those
 9 kinds of circumstances, there would be a
 10 natural tendency on the part of someone who
 11 was interested in the cost of operation to say
 12 "well, gee, you know, if we can do this at the
 13 same time as we change our suits, it won't
 14 cost us as much money"? Surely, you see that?
 15 MR. PIKE:
 16 A. That's not the way we look at the way we work,
 17 sir.
 18 EARLE, Q.C.:
 19 Q. You don't take that kind of -
 20 MR. PIKE:
 21 A. No, sir.
 22 EARLE, Q.C.:
 23 Q. - tendency on the part of people on board?
 24 MR. PIKE:
 25 A. No. If we thought they needed new suits, we

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1 would say they need new suits and the cost
 2 would not be an issue for us.
 3 EARLE, Q.C.:
 4 Q. Yes, but you're asking them to be the people
 5 who decide when all this happens. So you're
 6 giving over the time frame to them. To use
 7 Mr. Roil's phrase of yesterday, you expose
 8 yourself to the potential for somebody ragging
 9 the puck. Don't you see that that's a problem
 10 with this kind of arrangement that has to be
 11 mitigated?
 12 MR. PIKE:
 13 A. I will turn that around on you, sir. I also
 14 acknowledged the requirement that we have for
 15 suits is in a regulation, a regulation entered
 16 by governments and it's prescriptive. We have
 17 to -- sir, I can't easily act outside the
 18 regulation, indeed I can't act. Those are the
 19 rules that are established. I'm the
 20 regulator. I don't actually write the
 21 regulations. That's the responsibility of
 22 government. So, I'm sorry, you're going to
 23 have to repeat the question. I've lost my
 24 train of thought.
 25 EARLE, Q.C.:

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1 Q. I'll leave it there. You have raised the
 2 issue of your inability to -- or the fact that
 3 you're stuck with the regulatory requirement
 4 of Transport Canada in terms of the suit. So
 5 you say, you know, if we impose this device,
 6 it still got to work in the context of a suit
 7 that meets Transport Canada's requirements,
 8 correct?
 9 MR. PIKE:
 10 A. Again, I'm sorry, could you repeat the
 11 question for me?
 12 EARLE, Q.C.:
 13 Q. I'm saying I hear you to be saying that, you
 14 know, one of the issues for us is Transport
 15 Canada says you must travel in a certified
 16 suit.
 17 MR. PIKE:
 18 A. Yes.
 19 EARLE, Q.C.:
 20 Q. And Board bringing in this device, well,
 21 whatever we say about this device, we have to
 22 recognize that it must be able to work with
 23 and not interfere with Transport Canada's
 24 approval of the suit?
 25 MR. PIKE:

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1 A. Yes.
 2 EARLE, Q.C.:
 3 Q. Right, that's what you're saying, isn't it?
 4 MR. PIKE:
 5 A. Yes.
 6 EARLE, Q.C.:
 7 Q. Okay. Who had the involvement with Transport
 8 Canada in respect of the suit and the
 9 potential match up of an underwater breathing
 10 device with the suit?
 11 MR. PIKE:
 12 A. Transport Canada's regulation calls up a
 13 standard from the Canadian General Standards
 14 Board. So Transport Canada isn't directly
 15 involved. They've called up a standard, a
 16 national standard of Canada.
 17 EARLE, Q.C.:
 18 Q. Okay.
 19 MR. PIKE:
 20 A. Through the Standards General Board. They
 21 establish the specifications for the suit and
 22 what they must be certified against. So if
 23 you add anything to the suit or you take
 24 anything away from the suit, you have to go
 25 back and get it recertified against the

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1 standard. That's the way standards work in
 2 Canada. Whether it's a light fixture that's
 3 CSA approved, if you make a change to it and
 4 you want CSA approval on that device, you have
 5 to go back and get it recertified. That's the
 6 way the standards system works in Canada.
 7 EARLE, Q.C.:
 8 Q. Mr. Pike, the question I asked was who was
 9 tasked in terms of dealing with whether it was
 10 Transport Canada and their calling up of the
 11 CSA standard or the standard council itself in
 12 terms of whether the device could be dealt
 13 with in accordance with the existing suit?
 14 MR. PIKE:
 15 A. The suits are certified to the standard. The
 16 suit manufacturer was expected, if there's
 17 modifications made, to go back to the people
 18 who certify the suit to ensure that the
 19 certification is still valid.
 20 EARLE, Q.C.:
 21 Q. But my question, Mr. Pike -
 22 MR. PIKE:
 23 A. I believe in this case that the operator asked
 24 the suit supplier to ensure that the suit he
 25 was supplying was indeed certified to that

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1 standard.
 2 EARLE, Q.C.:
 3 Q. You see, Mr. Pike, over a good many years of
 4 dealing with government regulations, I've come
 5 to understand that a word like "modified" can
 6 have many understandings and modification of a
 7 flight suit is not something, I suggest to
 8 you, that is necessarily simply considered to
 9 be achieved, for instance, if you put a velcro
 10 band around the arm to hold something. What
 11 is a modification is in itself a question that
 12 has to be explored. So you're saying that
 13 your understanding that the decision was made
 14 they needed a new suit and that new suit had
 15 to meet Transport Canada's standard, Transport
 16 Canada's certification and they did not
 17 explore what they could do with the old suit?
 18 MR. PIKE:
 19 A. My understanding was they assessed the old
 20 suit and the modifications -- simply put, it
 21 was easier to get a new suit than modify the
 22 old ones. That would be my understanding.
 23 EARLE, Q.C.:
 24 Q. And who -
 25 MR. PIKE:

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1 A. At the bottom line, all I was worried about
 2 was they were getting a suit that would
 3 accommodate the new device.
 4 EARLE, Q.C.:
 5 Q. Who did -
 6 MR. PIKE:
 7 A. That was my concern. The goal, sir, was to
 8 have the device in use and that it would be
 9 accommodated on the suit. How they did it was
 10 their issue, as long as the suit that they
 11 were using was certified.
 12 EARLE, Q.C.:
 13 Q. Who made that assessment? The operators?
 14 MR. PIKE:
 15 A. I believe so, yes.
 16 EARLE, Q.C.:
 17 Q. It was not C-NLOPB?
 18 MR. PIKE:
 19 A. No.
 20 EARLE, Q.C.:
 21 Q. Now we'll talk a bit about suits later, but I
 22 think this is a good point to look at sort of
 23 a side issue in this. I have to tell you that
 24 one of the things that this whole business
 25 about the certification of the suit really

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1 says to me is that there is something wrong
 2 here with our system. The North Sea, as we
 3 all know, very closely approximated,
 4 particularly the northern extent of the North
 5 Sea, in terms of weather conditions, sea
 6 conditions, water temperature, very closely
 7 approximates our conditions here off Grand
 8 Banks. Generally, not quite, you know, your
 9 means would be worse here, but I mean, if
 10 you're looking for a good proxy, if you're
 11 looking where to go, the Commissioner has been
 12 told many times look to the North Sea, and I
 13 ask you for your views on this. We're
 14 certifying a Canadian suit here, going to the
 15 Canadian Standards Council. Are we not
 16 remaking the wheel? Are we not, out of some
 17 sort of bureaucratic or maybe industrial
 18 interest, saying, you know, we've got to have
 19 a Canadian standard for the suit, when the
 20 fact of the matter is there is a whole system
 21 that has much more history and a much broader
 22 scope in terms of numbers of operations than
 23 ours out there in the North Sea and we should
 24 be asking ourselves why are we establishing
 25 Canadian standards when we can just adopt the

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1 standard from the North Sea?
 2 MR. PIKE:
 3 A. You're making a very valid point, sir. You'll
 4 get no objection from me. I believe in this
 5 industry we need to be relying more on the
 6 international standards, but we deal with the
 7 system that's presented to us in Canada.
 8 EARLE, Q.C.:
 9 Q. And just to close that piece, in fact, in
 10 terms of a lot of the certifications that the
 11 operators use, they use certifications by DNV
 12 and Lloyd's Register which are international
 13 certifications, right?
 14 MR. PIKE:
 15 A. Yes.
 16 EARLE, Q.C.:
 17 Q. Now just turning back to the HUEBA and if we
 18 could have the March 20th, 2003 letter, which
 19 is Exhibit 57 and it's document 1.5, if we
 20 could have that up?
 21 REGISTRAR:
 22 Q. Entered October 20th?
 23 EARLE, Q.C.:
 24 Q. Madame Registrar, that's beyond my camp.
 25 WHALEN, Q.C.:

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1 Q. Could you just repeat it again?
 2 EARLE, Q.C.:
 3 Q. It's Exhibit 57, Document 1.5.
 4 ROIL, Q.C.:
 5 Q. Do you know who it was put in by?
 6 EARLE, Q.C.:
 7 Q. It is CAPP.
 8 ROIL, Q.C.:
 9 Q. It's a CAPP document.
 10 EARLE, Q.C.:
 11 Q. You see document 1.5 there?
 12 REGISTRAR:
 13 Q. Is that a page number, sir?
 14 EARLE, Q.C.:
 15 Q. Hang on now, I'll get you a page number.
 16 REGISTRAR:
 17 Q. 1.5?
 18 MS. FAGAN:
 19 Q. It's a section 1.5
 20 EARLE, Q.C.:
 21 Q. It's page 14 in the top right corner. Don't
 22 know if that's your page numbers or somebody
 23 else's.
 24 REGISTRAR:
 25 Q. Is there a number in the top right-hand

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1 corner, Mr. Earle?
 2 EARLE, Q.C.:
 3 Q. 14.
 4 ROIL, Q.C.:
 5 Q. The number assigned by photocopier probably,
 6 is it? It's a letter of March the 20th.
 7 EARLE, Q.C.:
 8 Q. Yeah. March 20th, 2003.
 9 MR. WALLACE:
 10 Q. It's in multiple parts, Angela, I think.
 11 REGISTRAR:
 12 Q. The pages are numbered in the top right-hand
 13 corners. 558, is there a page number?
 14 EARLE, Q.C.:
 15 Q. I've said several times, 14.
 16 REGISTRAR:
 17 Q. Unfortunately I don't see a page 14.
 18 ROIL, Q.C.:
 19 Q. That's not our paging system.
 20 EARLE, Q.C.:
 21 Q. Well, that's the only paging number we were
 22 given.
 23 REGISTRAR:
 24 Q. Excuse me. Could you give me a moment to
 25 retrieve it, please?

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<p>1 MS. FAGAN: 2 Q. Is it this? 3 EARLE, Q.C.: 4 Q. That's it, yeah. Okay, if you could give that 5 to the witness, Ms. Fagan? And then I'll just 6 - 7 REGISTRAR: 8 Q. Here you go, sir. 9 EARLE, Q.C.: 10 Q. I draw your attention particularly to the 11 third paragraph, "To facilitate a successful 12 implementation of EBS, it is paramount that an 13 implementation committee be commissioned to 14 oversee the recommendations and findings in 15 the discussion paper we have prepared on this 16 issue. See attached. Our research understood 17 and resolved. This committee should be 18 comprised of east coast operators who have 19 helicopter contracts and representative from 20 CAODC, a worker representative, and a safety 21 representative from the Board, as well as 22 other operating companies who have an interest 23 and knowledge of the EBS". Have you got that? 24 MR. PIKE: 25 A. Yes, sir.</p>	<p>1 date when the committee chose to function. 2 MS. CROSBIE: 3 Q. You want the date when the committee -- 4 EARLE, Q.C.: 5 Q. Started to function. 6 MS. CROSBIE: 7 Q. Began functioning? 8 EARLE, Q.C.: 9 Q. Began functioning, yes, and Mr. Neary sat on 10 the committee? 11 MR. PIKE: 12 A. Mr. Noel. 13 EARLE, Q.C.: 14 Q. Mr. Noel, sorry, Mr. Noel, sat on the 15 committee. Now you'll notice that this also 16 suggested a worker representative? 17 MR. PIKE: 18 A. Yes. 19 EARLE, Q.C.: 20 Q. And we know from the evidence that that went 21 by the wayside, according to Mr. Barnes, that 22 there were other means desired by the 23 operators in terms of worker representation. 24 Given that you're the custodian of the worker 25 right to participate, what steps did C-NLOPB</p>
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<p>1 EARLE, Q.C.: 2 Q. And now I won't bring us all through the 3 exercise of trying to find the next letter, 4 but the next document in that system is -- of 5 Exhibit 57, is April 8th, 2003. It's a letter 6 from C-NLOPB to CAPP, in which you put forward 7 Mr. Neary as your nominee to this committee. 8 Did that committee ever function? 9 MR. PIKE: 10 A. I believe it did, sir. 11 EARLE, Q.C.: 12 Q. Pardon? 13 MR. PIKE: 14 A. Yes. 15 EARLE, Q.C.: 16 Q. It did? 17 MR. PIKE: 18 A. My understanding is it did. 19 EARLE, Q.C.: 20 Q. When did it start to function? 21 MR. PIKE: 22 A. I don't have that exact detail, but I can 23 certainly get that for you. 24 EARLE, Q.C.: 25 Q. If you would, please, undertaking to provide</p>	<p>1 take to see, in fact, that there was worker 2 representation? 3 MR. PIKE: 4 A. I would have to review the file, sir. I don't 5 have the answer to that at this point. Mr. 6 Noel, who was part of the committee, would 7 have reported back, and I don't recall the 8 detail of what he did or didn't tell me, or 9 what he did or didn't do at the committee 10 meeting when there was not a worker 11 representative present. 12 EARLE, Q.C.: 13 Q. Well, if we could go to Exhibit 199, page 3. 14 So we can be clear on this, this is as I 15 understand it, the 2007 joint meetings of the 16 occupational health and safety committees from 17 the various installations. These are notes or 18 minutes entitled "A report on discussions", 19 and at page -- so this is 2007. At page 3, 20 it's noted, "The new helicopter underwater 21 escape breathing apparatus, HUEBA equipment, 22 the C-NLOPB will ask the CAPP HUEBA Committee 23 to issue clear communications to the industry 24 about development with regard to the 25 introduction of this equipment and its</p>

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1 implications for training and procedures".
 2 You would obviously be aware of this?
 3 MR. PIKE:
 4 A. Yes.
 5 EARLE, Q.C.:
 6 Q. Is this not an indication that there was even
 7 at 2007, seven years after you had asked this
 8 initiative to be undertaken, an issue amongst
 9 workers about the kind of communication that
 10 was coming from this CAPP Committee on the
 11 HUEBA?
 12 MR. PIKE:
 13 A. The comment, I think, is self-explanatory,
 14 fairly straightforward. This is not the same
 15 committee that we just discussed in 2003. My
 16 understanding is that the 2003 committee
 17 disbanded when there became a disagreement on
 18 the implementation of the compressed air
 19 device. My understanding is that it was
 20 reformed and we felt that CAPP -- indeed CAPP
 21 had the committee at that stage, should be the
 22 ones to clearly communicate with the workers
 23 what was happening. My understanding was that
 24 you need to have -- in order to present
 25 something, you need to have something to

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1 present, so they were still working through
 2 the piece as to what it was they were going to
 3 introduce, that's the first step. The second
 4 step is what training is going to take place.
 5 So they needed to complete that piece of work
 6 in order to communicate. You have to have
 7 something to communicate before you initiate
 8 that piece. We certainly weren't necessarily
 9 satisfied with CAPP's communications with the
 10 workers at that point, and we -- and I'd have
 11 to go back and see exactly what we did after
 12 this meeting to more formally communicate with
 13 CAPP that we wanted that communication to take
 14 forward. Again in order to communicate, you
 15 have to have information to communicate, and I
 16 understood that that's what they were putting
 17 together.
 18 EARLE, Q.C.:
 19 Q. I suppose, Mr. Pike, some might think it was a
 20 cheap shot if I said after seven years, surely
 21 heavens you should have something to
 22 communicate, but if we look at the next year,
 23 that's Exhibit 200, go to page 13, and you'll
 24 see under HUEBA, "Implementation and Training.
 25 Action to be taken by C-NLOPB. C-NLOPB will

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1 continue to work on this issue with CAPP. CAPP
 2 will be asked to clearly communicate the
 3 status of this issue to offshore workers".
 4 Can we not take it from that, Mr. Pike, that a
 5 year after the fact, the issue of -- C-NLOPB
 6 has not been able to resolve satisfactorily
 7 the issue of communications from CAPP to the
 8 workers on the HUEBA?
 9 MR. PIKE:
 10 A. Yes, you can conclude that.
 11 EARLE, Q.C.:
 12 Q. Mr. Pike, there's another area in which this
 13 participation with CAPP comes into play, and
 14 that is with respect to this training and
 15 qualifications role, and if we could look at
 16 Exhibit 199 again, page 11, right down at the
 17 bottom of the page, "CAPP Training and
 18 Qualifications Committee, who are the members,
 19 questions were raised why there are no
 20 representatives of the employees on CAPP's
 21 training committee. The C-NLOPB agreed to
 22 pass this message on to CAPP, so that worker
 23 representatives would be involved in the
 24 discussions on training standards, methods,
 25 and procedures". Isn't it correct, Mr. Pike,

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1 that changes in these standards are supposed
 2 to be passed through the Occupational Health
 3 and Safety Committees for the various
 4 operators before they're implemented?
 5 MR. PIKE:
 6 A. Yes.
 7 EARLE, Q.C.:
 8 Q. Does this not indicate again a problem in that
 9 area?
 10 MR. PIKE:
 11 A. Yes.
 12 EARLE, Q.C.:
 13 Q. Mr. Pike, in March of 2007, March 13th, 2007,
 14 and for those who want to look at it, the
 15 letter is at Document 1.9 of the CAPP Exhibit
 16 57. In March of 2007, you had your Chief
 17 Executive Officer write what I would describe
 18 as a stern letter to the operators saying --
 19 MR. SCHULTZ:
 20 Q. Exhibit 53, Part --
 21 MS. FAGAN:
 22 Q. It's Exhibit 53.
 23 REGISTRAR:
 24 Q. Thank you.
 25 MS. FAGAN:

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1 Q. Is there a page number on the top?
 2 EARLE, Q.C.:
 3 Q. There is a page number, but my page numbers
 4 don't match up with yours.
 5 MS. FAGAN:
 6 Q. They might.
 7 EARLE, Q.C.:
 8 Q. They don't, we've been through that exercise--
 9 ROIL, Q.C.:
 10 Q. We're trying to help --
 11 EARLE, Q.C.:
 12 Q. A few minutes ago, and we actually -- as I
 13 recall, we went through this exercise when we
 14 were examining CAPP. It's a problem with the
 15 software, the way we get the exhibits.
 16 REGISTRAR:
 17 Q. I believe they're scanned in.
 18 MS. FAGAN:
 19 Q. Some of them have been --
 20 EARLE, Q.C.:
 21 Q. On this particular lot, we got page numbers
 22 that you people don't have. In any event, I
 23 don't --
 24 COMMISSIONER:
 25 Q. Is it a lengthy letter, Mr. Earle?

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1 EARLE, Q.C.:
 2 Q. Pardon?
 3 COMMISSIONER:
 4 Q. Is it a lengthy letter?
 5 EARLE, Q.C.:
 6 Q. It's the letter -- I'm sure Mr. Pike
 7 practically knows it by heart.
 8 REGISTRAR:
 9 Q. May I suggest I photocopy it for the witness.
 10 MS. FAGAN:
 11 Q. Or perhaps just the date.
 12 EARLE, Q.C.:
 13 Q. The witness referred to it yesterday.
 14 COMMISSIONER:
 15 Q. Have you got it in front of you there?
 16 EARLE, Q.C.:
 17 Q. I've got it down here.
 18 COMMISSIONER:
 19 Q. Perhaps you could read it to us if it's not a
 20 lengthy letter.
 21 EARLE, Q.C.:
 22 Q. Mr. Commissioner, I've got about a space of a
 23 foot and a half square feet here, and those
 24 tabs represent documents that I've got here.
 25 I'm trying to keep this in some sort of

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1 organized fashion.
 2 COMMISSIONER:
 3 Q. Okay. Are you looking at the letter now?
 4 MS. FAGAN:
 5 Q. It's on the screen.
 6 EARLE, Q.C.:
 7 Q. It's on the screen. Thank you.
 8 COMMISSIONER:
 9 Q. Oh, okay.
 10 EARLE, Q.C.:
 11 Q. This letter, you indicated, is a strong letter
 12 or a stern letter from your CEO to the
 13 operators pushing them to get this thing under
 14 way?
 15 MR. PIKE:
 16 A. It's a letter to CAPP, but, yes, it's a stern
 17 letter to get this thing moving, yes.
 18 EARLE, Q.C.:
 19 Q. You had previously written CAPP and said we
 20 view this as a mature and tested technology?
 21 MR. PIKE:
 22 A. Mr. Noel said that.
 23 EARLE, Q.C.:
 24 Q. Yeah, he's your senior safety officer, right.
 25 The question I have for you is a fairly simple

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1 question. This thing had been going on for
 2 seven years. What is it about your
 3 organization that it takes seven years before
 4 you start pushing?
 5 MR. PIKE:
 6 A. You're going to have to repeat the question.
 7 I'm trying to --
 8 EARLE, Q.C.:
 9 Q. You had asked -- your original request to CAPP
 10 was February 25th, 2000. This is now seven
 11 years later. What is it about your
 12 organization that it requires you seven years
 13 to start pushing on a matter which your senior
 14 safety officer had said several years before
 15 in correspondence to CAPP, "We view this as
 16 mature and tested technology", what is it
 17 about your organization that takes that long
 18 to push?
 19 MR. PIKE:
 20 A. Mr. Noel believed that it was mature, and what
 21 was the exact words, mature and tested
 22 technology. That was his view, but as we
 23 reviewed the piece, there were a number of
 24 pieces in here that did need to be reviewed.
 25 He -- basically that was his view. We

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1 acknowledge that the operators came back when
 2 they said that there were some things that
 3 needed to be further researched on this
 4 technology. We concurred. Are we satisfied
 5 with the progress on this piece in hindsight;
 6 no, sir. Are we satisfied with CAPP's
 7 performance in this regard; no. You asked me
 8 earlier and I indicated -- I'm not sure how I
 9 answered it, but certainly in conversations
 10 with our Executive, we are not satisfied with
 11 CAPP's response in this regard, and that is
 12 one of the things that will be reviewed as to
 13 how we progress these things in the future.

14 EARLE, Q.C.:

15 Q. Mr. Pike, are you satisfied with the way C-
 16 NLOPB managed the issue?

17 MR. PIKE:

18 A. No.

19 EARLE, Q.C.:

20 Q. You used the phrase yesterday, "it required
 21 more focus".

22 MR. PIKE:

23 A. Yes.

24 EARLE, Q.C.:

25 Q. Did C-NLOPB take any steps to cause there to

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1 be more focus?

2 MR. PIKE:

3 A. The senior safety officer was following this
 4 particular file and working with this file, so
 5 from our perspective we had a focus. Whether
 6 he was able to devote the attention on this
 7 file that it may have needed, given his other
 8 duties, we can certainly review it, but in
 9 hindsight it is a file that required greater
 10 focus.

11 EARLE, Q.C.:

12 Q. Now let's turn to the issue of the suits
 13 specifically, and in that context, I think we
 14 should have an understanding at the outset,
 15 why do you understand C-NLOPB is copied
 16 monthly with the Minutes of the occupational
 17 health and safety committees?

18 MR. PIKE:

19 A. The principal reason is that the committees
 20 are there and working, they're there and
 21 meeting. The second piece is it's a way for
 22 us to monitor how the committee is
 23 functioning, that in the first instance, it's
 24 based in Canada on the premise of the internal
 25 responsibility system, that in the first

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1 instance it is the workplace that is to work
 2 out these issues. So, yes, we look at them to
 3 ensure that the committee is meeting, it is a
 4 way for us to monitor as to whether the
 5 committee is functioning. In the first
 6 instance when issues are raised, it is again
 7 on the premise that it is an internal
 8 responsibility system that in the first
 9 instance it is the workplace that works those
 10 issues.

11 EARLE, Q.C.:

12 Q. On one of your documents and we'll probably
 13 get to it later, I believe it's said that
 14 employees are told bring matters to the
 15 Occupational Health and Safety Committee, and
 16 if they're not resolved within 30 days, C-
 17 NLOPB can have a look at them. Do you
 18 understand that to be the standard?

19 MR. PIKE:

20 A. In general, yes.

21 EARLE, Q.C.:

22 Q. You are aware, and you were aware at the time,
 23 that at least with Petro-Canada, now Suncor,
 24 the issue of suit fit was -- appeared in their
 25 Minutes, the Occupational Health and Safety

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1 Committee Minutes, for a period from the end
 2 of March, 2008, right up to the last meeting
 3 prior to the crash of Flight 491?

4 MR. PIKE:

5 A. Yes.

6 EARLE, Q.C.:

7 Q. And C-NLOPB was aware at the time of that
 8 fact?

9 MR. PIKE:

10 A. Yes.

11 EARLE, Q.C.:

12 Q. And, in fact, in June of 2008, the operators
 13 were requested by C-NLOPB to make a
 14 presentation on what was going on with the
 15 suit issue, correct?

16 MR. PIKE:

17 A. Yes.

18 EARLE, Q.C.:

19 Q. And the issues that C-NLOPB was aware of, I
 20 think, can be identified if we look at Exhibit
 21 200, page 10, and if you look there, the
 22 second box down at the bottom under flight
 23 suits, "There are many concerns about the new
 24 suits. They are hard to zip up for many
 25 people, sizes don't fit bigger workers,

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1 closure at top puts sideways pressure on neck,
 2 presenting a risk of neck injury, and C-
 3 NLOPB", if you'll go to the right side, "is
 4 aware of these concerns and has brought them
 5 to the attention of the operators. We're also
 6 aware of a possible problem with excess
 7 buoyancy and a problem related to sizing of
 8 the suits, too few sizes to fit all
 9 individuals, and as the current suits have
 10 been certified as meeting Canadian Standard,
 11 there has been some reluctance on the part of
 12 the industry to modify them". So you actually
 13 -- I was interested to hear how this come
 14 about. You actually brought a new issue with
 15 these suits to the table, and it's the first
 16 time I had heard it being brought up, you
 17 indicated that one of your safety officers
 18 during training had identified that there was
 19 an issue of excess buoyancy with these suits,
 20 so that increasing the risk, for instance,
 21 that in the event of a submerged helicopter,
 22 an individual would be jammed against the
 23 upside of the unit?
 24 MR. PIKE:
 25 A. Certainly make it more difficult for them to

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1 exit, yes.
 2 EARLE, Q.C.:
 3 Q. So these were issues you were aware of?
 4 MR. PIKE:
 5 A. Yes.
 6 EARLE, Q.C.:
 7 Q. And you enlarged upon them yesterday and told
 8 us that you were aware that there was an issue
 9 in respect of the fit, that people -- they fit
 10 so poorly that people could be caused to trip
 11 when wearing them?
 12 MR. PIKE:
 13 A. Yes.
 14 EARLE, Q.C.:
 15 Q. So, Mr. Pike, it seems to me that at that
 16 point in time, the following safety risks were
 17 out there; the risk of a poor seal because
 18 somebody couldn't pull it up tight because the
 19 suit didn't fit?
 20 MR. PIKE:
 21 A. In hindsight, that certainly is a piece. It
 22 was not seen to be that at the time, no, but
 23 in hindsight, you're correct.
 24 EARLE, Q.C.:
 25 Q. Well, would you not agree that being able to

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1 pull the zipper tight --
 2 MR. PIKE:
 3 A. That would compromise the suit, yes.
 4 EARLE, Q.C.:
 5 Q. Yes, and, of course, a poor seal in the event
 6 of the use of the suit offshore, the risk is
 7 hypothermia?
 8 MR. PIKE:
 9 A. Yes.
 10 EARLE, Q.C.:
 11 Q. As well we had the issue of potential direct
 12 injury from the suit?
 13 MR. PIKE:
 14 A. That risk existed.
 15 EARLE, Q.C.:
 16 Q. We had the issue of over buoyancy which your
 17 staff identified in training?
 18 MR. PIKE:
 19 A. Yes.
 20 EARLE, Q.C.:
 21 Q. And that's the potential of someone being
 22 floated, as I said, against the upside of a
 23 submerged helicopter?
 24 MR. PIKE:
 25 A. Created a difficulty in exiting the

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1 helicopter, yes.
 2 EARLE, Q.C.:
 3 Q. The reason --
 4 MR. PIKE:
 5 A. I'm distinguishing it between what you're
 6 saying and what I'm saying, is the buoyancy
 7 issue was one of making it more difficult to
 8 get out. I'm distinguishing here, but --
 9 EARLE, Q.C.:
 10 Q. Okay, increasing the difficulty.
 11 MR. PIKE:
 12 A. I'm acknowledging, in part, what you're
 13 saying.
 14 EARLE, Q.C.:
 15 Q. We're going to get into later on what's an
 16 appreciable increase in risk.
 17 COMMISSIONER:
 18 Q. This might be a good time to break.
 19 EARLE, Q.C.:
 20 Q. And just one other, and the risk that someone
 21 might injure themselves while walking, you know,
 22 moving about in the suit because of tripping?
 23 MR. PIKE:
 24 A. That was identified as a hazard, yes.
 25 EARLE, Q.C.:

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1 Q. I think we're dead on quarter to 11 now.
 2 COMMISSIONER:
 3 Q. We'll take the break now.
 4 (RECESS)
 5 EARLE, Q.C.:
 6 Q. Continuing on the risks that were out there, I
 7 suggest to you as well that -- by the way, if
 8 you could speak up a little in your answers.
 9 I'm not -- I'm having no problem hearing you,
 10 but I understand some of the people in the
 11 back of the room are really having trouble.
 12 MR. PIKE:
 13 A. That's the message I received.
 14 EARLE, Q.C.:
 15 Q. Hearing those answers. So on the risks that
 16 were out there, there's also I suggest to you
 17 a risk of the suit interfering with an
 18 individual's ability to function in an
 19 emergency situation. If you've got a suit
 20 that's got material hanging down, that your
 21 feet tend to pull out of the shoes when you
 22 move, this is not going to allow you to move
 23 at the pace and in the manner that you should
 24 in an emergency, would you agree with me on
 25 that?

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1 MR. PIKE:
 2 A. That would be a challenge, yes, sir.
 3 EARLE, Q.C.:
 4 Q. Yeah, so we have these risks. So the question
 5 is what did you do about it at C-NLOPB,
 6 because if we look at the bottom of page 10 of
 7 Exhibit 200, which is still up on the screen,
 8 we see, "JOHS Committees are rarely informed
 9 about these discussions in respect of flight
 10 suits. The best way to ensure that the
 11 committee is informed is to raise the issue in
 12 a JOHS meeting which obliges operators to
 13 respond within 30 days. The C-NLOPB monitors
 14 the JOHS committee's meeting Minutes and
 15 verifies that operators respond to issues
 16 raised in these Minutes". That's what you're
 17 telling people, that's what happened at the
 18 FPSO, the Terra Nova FPSO, and over that 11
 19 month period time and time again it's NTR,
 20 nothing to report. So what did you do?
 21 MR. PIKE:
 22 A. My understanding was that the committees were
 23 being informed -- the operators were working
 24 this issue. They identified a plan in July
 25 and they were working on it. My understanding

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1 was that that plan was shared with the
 2 committees. My understanding was that my
 3 staff, with the different installations, were
 4 following those folks. So we were following
 5 up, these issues were being worked. I had --
 6 the communication may not have been as good as
 7 it should have been, but my understanding was
 8 that the committees were being made aware of
 9 what actions the operators were taking to
 10 correct the problems with the suits.
 11 EARLE, Q.C.:
 12 Q. But what were you doing about the risks?
 13 MR. PIKE:
 14 A. One of the ways you mitigate the risk is by
 15 using a piece of equipment that meets the
 16 standard. These suits met the standard. So
 17 we had a challenge, and we were attempting to
 18 work through that piece.
 19 EARLE, Q.C.:
 20 Q. Mr. Pike, this is, I've got to say, part of
 21 your evidence that troubles me the most. This
 22 suit met a Transport Canada standard, but it
 23 was no good we found out after an extensive
 24 sizing exercise had been done, it was no good
 25 for 9 percent of the workers. Surely, Mr.

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1 Pike, C-NLOPB has the power to say the suit
 2 might meet the Transport Canada standard, but
 3 it doesn't do what we need?
 4 MR. PIKE:
 5 A. We can certainly say that, yes.
 6 EARLE, Q.C.:
 7 Q. So why didn't C-NLOPB do exactly what the
 8 operators did when they were met by the uproar
 9 in their town hall meetings, and say until we
 10 get a suit that fits you, you go back and
 11 forth by boat? Why didn't C-NLOPB, when it
 12 knew about these risks, turn around and say
 13 the suit doesn't meet our requirements, people
 14 will have to travel by boat if you can't have
 15 a suit that fits?
 16 MR. PIKE:
 17 A. Your comments are being made in hindsight,
 18 sir. At the time, we understood there was --
 19 the significance of those risks that you refer
 20 to are looked at in a very different context
 21 today, or post March 12th, than they were in
 22 the summer of 2008. We're also dealing with a
 23 suit that had been used, at least its previous
 24 model had been used extensively, and
 25 successfully in Nova Scotia. So they had used

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1 it in Nova Scotia for an extended period of
 2 time successfully, a similar design, not
 3 exactly the same suit. What we were supposed
 4 to be dealing with was a newer suit. What had
 5 happened between the model that had been used
 6 successfully in Nova Scotia and the model that
 7 we had implemented here in this area, to say
 8 why wasn't that done in the summer of 2008 is
 9 to say that with knowledge of hindsight of
 10 what happened on March 12th. Were the issues
 11 being worked with the industry, were we
 12 looking at the suits, were those issues being
 13 taken; yes, they were, sir. Did we go far
 14 enough; in hindsight, no, but we were working
 15 those issues, sir, the operators were working
 16 those issues, and we were trying to identify
 17 what the problems were.

18 EARLE, Q.C.:

19 Q. Mr. Pike, did C-NLOPB do an inspection on the
 20 suits after the item had appeared in the
 21 Petro-Canada Minutes for two months, for three
 22 months?

23 MR. PIKE:

24 A. What do you mean by did we do an inspection?

25 EARLE, Q.C.:

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1 Q. Did you say to one of your safety officers,
 2 listen, go out to the heliport, look at the
 3 people when they're suited up, watch ten
 4 flights go out, and do a report on your
 5 observations as a safety expert on these
 6 suits?

7 MR. PIKE:

8 A. There was not a specific inspection required.
 9 Our safety officers travel offshore on a
 10 regular basis, they were observing what was
 11 happening as they travelled offshore with
 12 these suits.

13 EARLE, Q.C.:

14 Q. Yes, one of your safety officers in his
 15 training reported that there was a buoyancy
 16 problem with the suit?

17 MR. PIKE:

18 A. Yes.

19 EARLE, Q.C.:

20 Q. But you took no specific action. The
 21 collection of information was incidental to
 22 the performance of your other duties.

23 MR. PIKE:

24 A. Taken from that perspective, yes.

25 EARLE, Q.C.:

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1 Q. Mr. Pike, you say we operate with hindsight.
 2 Yesterday you talked about the necessity for
 3 focus. I put it to you that March 12th didn't
 4 provide that much new information. What it
 5 did was it provided focus, and the people I
 6 represent looked to the regulator to ensure
 7 that there was focus.

8 MR. PIKE:

9 A. Just a follow-up comment here, Mr. Earle, I
 10 personally spent three days on Hibernia
 11 Platform in August of 2008 addressing the
 12 issues of the worker representatives on that
 13 committee, and at no point did any one of
 14 those people raise the issue of the flight
 15 suits.

16 EARLE, Q.C.:

17 Q. Yes, but --

18 MR. PIKE:

19 A. I can't say we didn't discuss it, but when we
 20 identified the issues during those meetings,
 21 flight suits did not come up. That's my
 22 personal piece in this. We understood there
 23 was an issue, we were following the issue.

24 EARLE, Q.C.:

25 Q. Mr. Pike, this is not personal, this is about

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1 the role of the Chief Safety Officer.

2 MR. PIKE:

3 A. I understand, sir.

4 EARLE, Q.C.:

5 Q. This is about the role of C-NLOPB, but it did
 6 come up, Mr. Pike, in your November meetings?

7 MR. PIKE:

8 A. It did, sir.

9 EARLE, Q.C.:

10 Q. You were aware of it from the Terra Nova FPSO
 11 Minutes?

12 MR. PIKE:

13 A. Yes, sir.

14 EARLE, Q.C.:

15 Q. Okay, let's turn now to C-NLOPB's role vis a
 16 vis search and rescue. You mentioned at the
 17 beginning of your evidence that we have just
 18 passed the anniversary again of the Ocean
 19 Ranger. Now I take it that the Ocean Ranger
 20 Report occupies a prominent place in the
 21 library of C-NLOPB?

22 MR. PIKE:

23 A. Yes.

24 EARLE, Q.C.:

25 Q. And that you are all aware of its

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1 recommendations?

2 MR. PIKE:

3 A. Yes.

4 EARLE, Q.C.:

5 Q. And, in particular, you would be aware of

6 Recommendation 56, which is that there be

7 required a full time search and rescue

8 dedicated helicopter provided by either

9 government or industry, fully equipped to

10 search and rescue standards, and then there

11 are a few other words not relevant for our

12 consideration, and that it be readily

13 available?

14 MR. PIKE:

15 A. Yes.

16 EARLE, Q.C.:

17 Q. And I take it in your job as a regulator, you,

18 in fact, and this is more for the record, I

19 guess, you do regulate the provision of search

20 and rescue support or facilities by the

21 operators?

22 MR. PIKE:

23 A. Yes.

24 EARLE, Q.C.:

25 Q. So I take it then you would be familiar with

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1 the sorts of search and rescue supports that

2 are otherwise available here, Coast Guard, and

3 103 Squadron in Gander?

4 MR. PIKE:

5 A. Yes.

6 EARLE, Q.C.:

7 Q. Is that correct?

8 MR. PIKE:

9 A. Yes.

10 EARLE, Q.C.:

11 Q. So you would have known, for instance, the

12 wheels up time that 103 has day time?

13 MR. PIKE:

14 A. Yes.

15 EARLE, Q.C.:

16 Q. And again for the record, you would have been

17 aware that in the North Sea a search and

18 rescue is provided by operators -- under

19 contract from operators, and that in the North

20 Sea a wheels up time of 15 minutes is the

21 standard?

22 MR. PIKE:

23 A. Something in that order, yes, sir.

24 EARLE, Q.C.:

25 Q. Pardon?

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1 MR. PIKE:

2 A. Something in that order, yes, sir.

3 EARLE, Q.C.:

4 Q. Yeah. So that's, if you will, the landscape

5 which you operate in, part of it?

6 MR. PIKE:

7 A. Yes.

8 EARLE, Q.C.:

9 Q. And you've talked about audit of search and

10 rescue.

11 MR. PIKE:

12 A. I'm sorry, I didn't hear --

13 EARLE, Q.C.:

14 Q. You've talked about audit of search and rescue

15 capacity.

16 MR. PIKE:

17 A. Yes.

18 EARLE, Q.C.:

19 Q. And you brought us some exhibits. What is the

20 standard that you audit against?

21 MR. PIKE:

22 A. When we have audited Cougar with regard to

23 search and rescue, we have audited that they

24 do indeed have a procedure in place, that they

25 do indeed provide the training for their SAR

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1 technicians, and we've verified those pieces.

2 We take a look at the equipment that they've

3 provided. In the bigger picture, they would

4 have identified what they need to perform, and

5 that would have been by the operator's safety

6 plan. So we would be verifying in this case

7 what had been presented in a safety plan and

8 what had been provided by the operator in the

9 way of their procedures and processes for

10 training. Those things did exist.

11 EARLE, Q.C.:

12 Q. You tell me what you look at, but I'm

13 interested in the standard that you compare

14 them to. For instance, when an auditor, a

15 financial auditor, an accountant comes in and

16 does an audit, he or she will compare what has

17 been done in terms of the financial records in

18 accordance with what's known as GAAP,

19 Generally Accepted Accounting Principles, and

20 they have handbooks and standards as to how

21 books should be kept, disclosure, and all this

22 sort of stuff. So when you go to Cougar and

23 check what they have, what are you measuring

24 it against?

25 MR. PIKE:

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1 A. Again in the first instance, it is the safety
 2 plan that was presented by the operator. Over
 3 time we've developed certain questions to be
 4 asked in that regard, some of it taken from
 5 reports in other jurisdictions, but
 6 principally it is what is presented and what
 7 we are verifying in our audits is that the --
 8 the compliance to the safety plan presented.
 9 EARLE, Q.C.:
 10 Q. So basically you got a safety plan presented
 11 by an operator, accepted by C-NLOPB, and you
 12 audit for compliance with that?
 13 MR. PIKE:
 14 A. Yes.
 15 EARLE, Q.C.:
 16 Q. And would we take it then that the contract
 17 between the operator and Cougar would be a
 18 manifestation, so almost like a subset of the
 19 safety plan?
 20 MR. PIKE:
 21 A. The goal or commitment in the safety plan
 22 would be for that service, how they actually -
 23 - the detail of the financial part is not a
 24 piece that we look at. The question is at the
 25 safety plan level, is the service being

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1 provided. How they do it is not of primary
 2 concern to it, it's the goal of having the
 3 service.
 4 EARLE, Q.C.:
 5 Q. So you're saying that if the safety plan says
 6 we will have a first response capability for
 7 search and rescue, if you go to Cougar and
 8 find out that they have something that looks
 9 like that, that's fine, that meets the
 10 standard?
 11 MR. PIKE:
 12 A. No, the first instance, the safety plan -- we
 13 identify a little bit more than that, than
 14 simply that, but if you're asking do we review
 15 the contract, no, we look to the service
 16 that's being provided, the goal, you know.
 17 That's the way it works. It's not --
 18 EARLE, Q.C.:
 19 Q. So if we looked at Exhibit 140. It's a Petro-
 20 Canada exhibit. I hope I'm not going to be
 21 causing everybody a distraction again.
 22 REGISTRAR:
 23 Q. The number again, Mr. Earle?
 24 EARLE, Q.C.:
 25 Q. Exhibit 140.

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1 REGISTRAR:
 2 Q. Do you have a page number?
 3 EARLE, Q.C.:
 4 Q. Page 21 in the top right hand corner. Again
 5 whether this is your page number or -- ah,
 6 behold. You'll see there Paragraph 2.2.2,
 7 third line, "The helicopter shall be required
 8 to support first response", and down below
 9 you'll see 2.2.4, "The carrier shall ensure
 10 that the helicopter be equipped with the
 11 following; at least one bubble window in the
 12 passenger cabin to facilitate an effective
 13 search and surveillance operations, a wireless
 14 audio system, capability to quick couple a
 15 variable speed rescue hoist, capability to
 16 quick couple search lighting equipment,
 17 integrated flight data recorder, health and
 18 usage monitoring system, integrated or quick
 19 coupled auxiliary fuel capacity, externally
 20 mounted life rafts, three access flight
 21 detector coupler, enhanced weather radar".
 22 These things would not be things you would
 23 check to see if they are there. You would
 24 look at it and say does it meet a more general
 25 standard. They have freedom within the

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1 general standard to deliver?
 2 MR. PIKE:
 3 A. I think if you'd refer to the audit that was
 4 performed in 2004, you will see that we did
 5 indeed have a standard list of questions of
 6 what should be provided for the first
 7 responder. I believe that piece is in there.
 8 EARLE, Q.C.:
 9 Q. Uh-hm, it is.
 10 MR. PIKE:
 11 A. We did not refer to the contract to develop
 12 that list.
 13 EARLE, Q.C.:
 14 Q. Okay.
 15 MR. PIKE:
 16 A. That list was not taken, and I have not seen
 17 this document before and I am not aware that
 18 my staff have seen this document before. What
 19 we verified was against the standards that we
 20 had, the list of questions as we identified in
 21 that particular audit, and we would have gone
 22 out to verify at Cougar that indeed those
 23 things were there.
 24 EARLE, Q.C.:
 25 Q. So if we could then go -- I'd like to look at

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1 your Exhibit 194, page 15 of the exhibit.
 2 These are -- these are the sorts of questions
 3 that you ask?
 4 MR. PIKE:
 5 A. These are the questions that were put together
 6 by the safety officer when they went to
 7 Cougar's facilities, yes.
 8 EARLE, Q.C.:
 9 Q. And do you do any more than ask the questions?
 10 MR. PIKE:
 11 A. The norm for a safety officer and the
 12 expectation is they know the answer before the
 13 ask the question, so -- in this case, I'm not
 14 exactly sure what they would have used as the
 15 expectation to answer that question, but they
 16 certainly have identified where those
 17 questions came from, vis a vis the regulations
 18 and some of the guidance. They would have
 19 copied -- when asking the question of Cougar,
 20 they would have been identifying how readily
 21 Cougar was answering those questions. They
 22 would have some idea of what the appropriate
 23 answers are to those questions.
 24 EARLE, Q.C.:
 25 Q. Well, it's interesting, you'll notice there

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1 are references to the contract and the answers
 2 given. So would you have not looked at the
 3 contract?
 4 MR. PIKE:
 5 A. They may have indeed, sir, looked at the
 6 contract. I have not. I believe the answer
 7 there is saying from Cougar, yes, they provide
 8 it and it's within the contract. Whether they
 9 actually had the contract, I can't answer.
 10 They may very well have, but I have not seen
 11 the contract and I'm not aware that we've
 12 actually requested the contract. It may have
 13 been shown to them when they asked that
 14 particular question.
 15 EARLE, Q.C.:
 16 Q. Where these questions were answered, you'll
 17 see that the answers that came back indicated
 18 that one of the four SAR compliant helicopters
 19 was always within 30 minutes of St. John's?
 20 MR. PIKE:
 21 A. Yes.
 22 EARLE, Q.C.:
 23 Q. I take it you would agree with me that that
 24 could not be said to meet the standard
 25 recommended by the Ocean Ranger Inquiry of a

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1 full time search and rescue dedicated
 2 helicopter?
 3 MR. PIKE:
 4 A. The standard that that one was meeting was a
 5 one hour wheels up for SAR. We were given
 6 assurance that with that half hour, they would
 7 still meet the one hour wheels up time.
 8 EARLE, Q.C.:
 9 Q. Yeah, did not meet the Ocean Ranger standard?
 10 MR. PIKE:
 11 A. The Ocean Ranger had a different standard,
 12 yes, sir.
 13 EARLE, Q.C.:
 14 Q. And I suggest to you that when we look at the
 15 aircraft here, we have the S-92, and the next
 16 question down, number 2 there, as best I can
 17 read it, "Chevron S-92, no wench; S-61, no
 18 wench", and then opposite this you have,
 19 "Wenches left on. Working on being able to
 20 leave on S-92. One wench for the Super Puma".
 21 Certainly the notion that what you have
 22 standing by is a helicopter with the equipment
 23 able to be put on it in the event of an
 24 emergency, a helicopter that is able to be
 25 adapted to a search and rescue mode within

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1 that one hour wheels up time?
 2 MR. PIKE:
 3 A. Yes.
 4 EARLE, Q.C.:
 5 Q. That's what we have here, and at page 18, the
 6 same thing. On the issue of training, Ten
 7 hours per month in contract for SAR training
 8 in operator contract, based on 90 day cycle.
 9 SAR tech will have to participate in
 10 training", and I think that would be "EXER",
 11 short for exercise, "depending on
 12 qualification, dual qualifications". How
 13 would you have measured the adequacy of the
 14 training?
 15 MR. PIKE:
 16 A. That would have been -- it would be difficult
 17 for me to actually respond to how the safety
 18 officer in this question would have judged it.
 19 EARLE, Q.C.:
 20 Q. Is there a standard?
 21 MR. PIKE:
 22 A. A minimum standard of a number of hours? Not
 23 that I'm aware of.
 24 EARLE, Q.C.:
 25 Q. So how do we know that ten hours is adequate,

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1 because we know it's been increased to 40
 2 hours, but it hasn't been increased to 40
 3 hours because of what you people have done?
 4 MR. PIKE:
 5 A. No.
 6 EARLE, Q.C.:
 7 Q. If we could look at -- you'll have to bear
 8 with me, Mr. Commissioner, in terms of time,
 9 but if I get these exhibits out of order,
 10 we're all in a lot of trouble. If we could
 11 look at Exhibit 193, and if you've got that,
 12 we could go to page 16. I notice that the
 13 item there, "24 hour standby operations.
 14 Review how this capability is managed, made
 15 available", and there doesn't appear to be any
 16 comment or note or anything in that respect.
 17 Do you find that unusual?
 18 MR. PIKE:
 19 A. I can only assume from this that the safety
 20 officer asked that question and found that
 21 there was nothing. Again the focus at that
 22 time was, was there anything amiss, was there
 23 some non-compliance. Obviously, when he asked
 24 that question, there was nothing in the
 25 response that would have triggered him to make

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1 a note, or her. I think in this case it was a
 2 him.
 3 EARLE, Q.C.:
 4 Q. He doesn't appear to have ticked it off like
 5 he done some other items, does he?
 6 MR. PIKE:
 7 A. I believe there may be a tick mark there, but
 8 I can't really tell. I would think that that
 9 question was asked and that --
 10 EARLE, Q.C.:
 11 Q. Okay, if we could go to page 21, I believe it
 12 is. No, I guess I got the page wrong, 22. Go
 13 down to the bottom, April 16th. I take it
 14 this is -- these are notes of things to be
 15 done?
 16 MR. PIKE:
 17 A. These were notes taken while the safety
 18 officer was at Cougar.
 19 EARLE, Q.C.:
 20 Q. Just read this one, "Meet with Pete". I
 21 presume that's "Pete".
 22 MR. PIKE:
 23 A. I'm not sure where you are, sir, sorry. Oh,
 24 Pete.
 25 EARLE, Q.C.:

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1 Q. And blank, review proposed areas of focus for
 2 visit Cougar, and again I can't -- portion, I
 3 guess that is.
 4 MR. PIKE:
 5 A. Operations is probably what that is.
 6 EARLE, Q.C.:
 7 Q. I think it's actually portion, a portion of
 8 the Hibernia leadership audit.
 9 MR. PIKE:
 10 A. Okay, yeah.
 11 EARLE, Q.C.:
 12 Q. "Pete agrees with the", and I guess that's
 13 focus. "He indicated that it has been
 14 discussed with him that Cougar may be pushing
 15 the limits regarding availability of SAR
 16 capabilities. We are to see what can be
 17 determined in this respect".
 18 MR. PIKE:
 19 A. Yes.
 20 EARLE, Q.C.:
 21 Q. Going through it, Mr. Pike, it would seem to
 22 me that the only observations recorded in that
 23 respect are on the bottom of page 25, and
 24 something, "Issue SAR capabilities, can only
 25 use the Super Puma for SAR, and this is only

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1 in the day time. The S-61 is only for
 2 medevac. They can have three Super Pumas",
 3 and it's very difficult to read this. Maybe
 4 you could read it. I would assume you're
 5 probably more familiar with the individual's
 6 handwriting than I am.
 7 MR. PIKE:
 8 A. I'm having the same difficulty, sir.
 9 MS. CROSBIE:
 10 EARLE, Q.C.:
 11 Q. "Going on as long as the last outbound".
 12 EARLE, Q.C.:
 13 Q. Right, "Going on as long as the last outbound
 14 meets and inbound before being one half hour
 15 out", and this is the half hour time frame.
 16 Was there any action taken on this?
 17 MR. PIKE:
 18 A. I can assume by this --
 19 EARLE, Q.C.:
 20 Q. I mean, there seems to be a concern, that the
 21 concern seems to have been validated in terms
 22 of this half hour thing and the inability to
 23 do search and rescue at night.
 24 MR. PIKE:
 25 A. The question was obviously asked. There was

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1 obviously a discussion. What we're seeing is
 2 summary notes from the safety officer from
 3 those discussions. What this note does tell
 4 me is that this was indeed discussed. I mean,
 5 you asked before why he didn't tick, but I
 6 believe there may have been a tick next to
 7 that question. So obviously from this
 8 particular note, that piece was discussed with
 9 Cougar as to how they were able to meet the
 10 one hour wheels up time. So again the focus
 11 in these audits wasn't necessarily to get what
 12 was working and what wasn't working, which is
 13 one of the things which we're currently trying
 14 to address. Clearly in these notes that
 15 question was asked. You were wondering
 16 whether it was or wasn't. Clearly by this
 17 response, it was asked. I can't tell you what
 18 the full -- because it's not in the actual
 19 file, what that full discussion was.
 20 Obviously, the safety officers in this case
 21 were satisfied with the discussion and the
 22 response from Cougar as to whether they would
 23 meet the one hour wheels up. We still had
 24 some concern with that, but they seem to be
 25 able to demonstrate that they were able to

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1 meet the one hour wheels up.
 2 EARLE, Q.C.:
 3 Q. Mr. Pike, this also seems to identify the
 4 issue of the capacity for search and rescue at
 5 night, an issue which has come up in this
 6 Inquiry and this issue that we're happy that
 7 the Commissioner has seemed to address in an
 8 immediate fashion. Were steps taken by C-
 9 NLOPB to address the night flying issue?
 10 MR. PIKE:
 11 A. Not at that time.
 12 EARLE, Q.C.:
 13 Q. Look, I suppose it comes down to this, I mean,
 14 the information that we've heard here about
 15 response times, about the ability to ditch a
 16 helicopter at night, the ability to rescue at
 17 night, and with the greatest of respect to
 18 everybody in this room, it seems to me that
 19 you people, as safety experts, ought to be
 20 able to beat hands down a room full of lawyers
 21 on what are the challenges and what to do
 22 about the challenges, yet it seems to have
 23 taken a room full of lawyers to get C-NLOPB to
 24 recognize that night flying is a problem, to
 25 recognize that a one hour wheels up time is

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1 not good enough? Why -- what is it that has
 2 kept you, as safety experts, from seeing this,
 3 or if you saw it, from acting on it?
 4 MR. PIKE:
 5 A. I'll describe it this way. When I approached
 6 my Norwegian colleagues as to -- just to
 7 confirm what the wheels up time was in Norway,
 8 their response was this, they found it a
 9 rather peculiar question, and indicated that
 10 you should be focused on the goal of what was
 11 trying to be accomplished, in which case it
 12 was emergency preparedness, and as you work
 13 your way down through the goals and seeing how
 14 they're being achieved, that's how you end up
 15 with the numbers. So at the end of the day,
 16 they did not actually identify a number for
 17 me, they talked in terms of the goals that
 18 were being achieved. Within the overall piece
 19 of escape, evacuation, and rescue, the piece
 20 that was being proposed to us in the safety
 21 plan, which is what the safety plan is
 22 supposed to do, provided for a one hour wheels
 23 up 24 hours a day, seven days a week, 52 weeks
 24 of the year, year in, year out. One of the
 25 pieces that has become of greater concern for

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1 us today would be survival time. Again when I
 2 approached my international colleagues about
 3 questions on the protection that flight suits
 4 provide, and we indicated we had some
 5 questions on the hypothermia protection, they
 6 were somewhat surprised because the standard
 7 that we were using in Canada provided for much
 8 greater thermal protection than any of the
 9 standards than they were using. So again
 10 having the chance to focus, that's the piece,
 11 and in part, why this Commission or Inquiry
 12 was established was to explore these pieces
 13 and look for the recommendations. So the
 14 conclusions that are reached today would be
 15 different conclusions that were reached a year
 16 ago, before March 12th.
 17 EARLE, Q.C.:
 18 Q. Mr. Pike, I want you to comment on this
 19 observation of mine as I've looked at this
 20 issue here, of hindsight and all the benefits
 21 of being a fellow who only gets to ask hard
 22 questions and doesn't have the obligations of
 23 making things work, it appears to me that
 24 what's happened here, we have the Ocean Ranger
 25 recommendation, and back when we were talking

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1 Hibernia as a sole operation, going with
 2 interchangeable aircraft all being able to be
 3 made ready for a search and rescue operation
 4 made sense because if you had a dedicated
 5 aircraft and it had to come out for
 6 maintenance, you could end up with an all or
 7 nothing situation in terms of response here,
 8 but that what has happened is that this seems
 9 to have become embedded, so that when I look
 10 at Suncor's contract for helicopter services,
 11 I wonder if the person who drafted it had the
 12 HMDC one in hand, and when I look at Husky's
 13 contract for helicopter services, I wonder if
 14 they had the other two in hand, and when I
 15 look at the safety plans, I wonder if the same
 16 kind of perpetuating process has gone on, and
 17 that we haven't recognized that as the
 18 Newfoundland offshore has gotten bigger, so
 19 that, you know, at any given time, we have
 20 three installations and two, three drill ships
 21 or semi-submersibles out there with a higher
 22 need for helicopters, that we haven't taken on
 23 board the fact that the growth of the industry
 24 allows for better and different options in
 25 terms of search and rescue capacity. I'd ask

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1 you to comment on that and you know, I've
 2 asked you some hard questions. People could
 3 say I'm giving you a hard time here this
 4 morning, but I don't doubt for a moment that
 5 you're a man who cares about the people who
 6 work out there. I'd ask you, you know, and I
 7 guess this is not so much C-NLOPB as Howard
 8 Pike, chief safety officer, is this a
 9 possibility as to what's gone on here?
 10 MR. PIKE:
 11 A. Not so much from the standpoint of the
 12 contracts, but you bring a very interesting
 13 perspective and that I wouldn't disagree with
 14 your premise.
 15 EARLE, Q.C.:
 16 Q. Okay then. If we could turn to another area.
 17 That's the involvement of C-NLOPB with the
 18 OH&S committees and if you go back to page six
 19 of the current exhibit, and this is a meeting
 20 in the course of the audit with the
 21 Occupational Health and Safety Committee and
 22 the worker representatives meeting, which this
 23 is HMDC which has that different structure.
 24 "The meeting with worker representatives of
 25 the Joint Occupational Health and Safety -- or

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1 Safety and Health Committee was held
 2 immediately after the platform opening meeting
 3 and was very cordial with a good, open
 4 discussion of issues. We reiterated the fact
 5 that we always meet with the worker
 6 representatives during our audit visits. The
 7 visit provides one of the few opportunities to
 8 meet with the workers and discuss safety
 9 issues and answer questions." Do you accept
 10 the accuracy of that statement?
 11 MR. PIKE:
 12 A. Yes.
 13 EARLE, Q.C.:
 14 Q. If we look at Exhibit 194 -- sorry, yes, 194,
 15 page 13. Now this is a meeting with Cougar in
 16 this one and the opening meeting attendees.
 17 Who would be the worker amongst this group?
 18 MR. PIKE:
 19 A. In this meeting, I don't believe there was a
 20 worker representative from the Cougar joint
 21 occupational health and safety committee.
 22 EARLE, Q.C.:
 23 Q. Okay.
 24 MR. PIKE:
 25 A. But indeed, in this case, Cougar is not a

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1 company to which we have the occupational
 2 health and safety responsibility. In this
 3 case, the focus of this particular audit was
 4 more the operational aspects, as opposed to
 5 the occupational health and safety aspects of
 6 Cougar employees.
 7 EARLE, Q.C.:
 8 Q. Okay. If we could look at page 70? Again,
 9 there's another opening meeting, and this time
 10 it's the Eirik Raude. Who's the worker there?
 11 MR. PIKE:
 12 A. There was a worker present, but I'm not -- I
 13 can't -
 14 EARLE, Q.C.:
 15 Q. Mr. Pike, I can't find one, unless he's the
 16 subsea engineer.
 17 MR. PIKE:
 18 A. My understanding from the safety officers in
 19 that meeting was that there was one present,
 20 but -
 21 EARLE, Q.C.:
 22 Q. There's a heck of a lot of managers there.
 23 MR. PIKE:
 24 A. There are.
 25 EARLE, Q.C.:

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1 Q. As a safety professional with responsibility
 2 for occupational health and safety, do you
 3 understand that one of the reasons that, for
 4 instance, on the occupational health and
 5 safety committee is that there's a requirement
 6 for a number of employees and not just one is
 7 that employees are people in a position of
 8 economic dependency vis-a-vis their employer
 9 and therefore may have some reluctance to come
 10 forward in situations where there are a lot of
 11 managers around?
 12 MR. PIKE:
 13 A. Yes.
 14 EARLE, Q.C.:
 15 Q. Why do you only have one worker come to these
 16 meetings?
 17 MR. PIKE:
 18 A. They are an observer of the process. We do
 19 meet with the worker reps and we would assume,
 20 rightly or wrongly, that the worker rep who
 21 attended the opening meeting would have
 22 communicated back to his colleagues and we
 23 would have that discussion in the meeting that
 24 we have with worker reps only. That is
 25 precisely why each time we go offshore, we

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1 make a point of a private meeting with the
 2 worker representatives of the Joint
 3 Occupational Health and Safety Committee. The
 4 purpose of the opening meeting is to start the
 5 audit process. The management is present
 6 because we're trying to line up the agenda as
 7 to where we're going and to see what processes
 8 are open, and the worker rep in this case is
 9 an observer of that process.
 10 EARLE, Q.C.:
 11 Q. You have been requested to have the safety
 12 officers meet with the occupational health and
 13 safety committee when they visit the Platform
 14 or the FPSO, as the case may be?
 15 MR. PIKE:
 16 A. The full committee?
 17 EARLE, Q.C.:
 18 Q. Yes.
 19 MR. PIKE:
 20 A. Have we? On occasions, yes.
 21 EARLE, Q.C.:
 22 Q. Yes. Now it's come up in one of your joint
 23 meetings why can't -- I think the issue was
 24 described and I can bring you to it if you
 25 want, I would have thought you would have been

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1 aware of, why can't the safety officer meet
 2 with the occupational health and safety
 3 committee when they come on board, why can't
 4 they -- the other question was asked, why
 5 can't they be accompanied by a worker safety
 6 representative, and the answer seemed to be is
 7 "well, we always meet with you when we do an
 8 audit." Seems to be reluctance to meet with
 9 the committee when you're on board.
 10 MR. PIKE:
 11 A. No.
 12 EARLE, Q.C.:
 13 Q. So there's no reluctance?
 14 MR. PIKE:
 15 A. No reluctance at all, and we're referring to
 16 the entire committee. That request actually
 17 came from the management reps of the Joint
 18 Occupational Health and Safety Committee. We
 19 meet every time with the worker reps,
 20 representatives of the Joint Occupational
 21 Health and Safety Committee. That offer is
 22 open and we certainly make that offer
 23 available and when they ask to meet with the
 24 safety officer, we have no hesitation to do
 25 that.

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1 EARLE, Q.C.:
 2 Q. Do I understand you to be saying that in terms
 3 of helicopter incident reports, you are
 4 looking at making them available to the
 5 occupational health and safety committees on
 6 request?
 7 MR. PIKE:
 8 A. Yes.
 9 EARLE, Q.C.:
 10 Q. Why would you not just do that auto -- have
 11 that done automatically?
 12 MR. PIKE:
 13 A. Why should I be singling out helicopters
 14 versus any other incident on board the
 15 installation? My understanding is the
 16 incidents are reviewed. We're ensuring that
 17 the incidents that get reviewed and that are
 18 included in our database includes helicopters.
 19 So why should I start treating helicopter
 20 operations any different than any other
 21 incident on the installation?
 22 EARLE, Q.C.:
 23 Q. I think the rationale that has been presented
 24 here is that unlike incidents that take place
 25 on the installation where the employees are

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1 intimately involved with all operations, and
 2 you know, I mean, these are small communities
 3 and they know what's going on. Helicopter
 4 incidents that might happen with respect to
 5 another installation or even with respect to
 6 their own installation, because they are only
 7 passengers in that context, there is a class
 8 of helicopter incidents that they hear nothing
 9 of and know nothing of, and this is as part of
 10 their right to be informed and they want to
 11 know that. You don't see that there's a
 12 distinction there?
 13 MR. PIKE:
 14 A. You've hit on something that we identified as
 15 a piece that needs to be more closely looked
 16 at. Indeed, it really came to light during
 17 the work refusal process and it's a piece that
 18 is unique within the occupational health and
 19 safety regime of the Province of Newfoundland
 20 and I dare say in the other provinces as well,
 21 how do you deal with a common carrier issue
 22 within the framework of a set of legislation
 23 that's geared towards the workplace and the
 24 employer? So you have identified a piece that
 25 we had identified as a lesson learned from the

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1 three refusals that we were involved in before
 2 Christmas. We sat down with the Provincial
 3 Occupational Health and Safety folks and we
 4 certainly identified that as a unique piece to
 5 this working environment and a piece that we
 6 needed to further explore. You've added
 7 another element to that one with regard to
 8 incidents, how would we and should we look at
 9 incidents that have occurred with helicopters
 10 between operators, and that's a piece that we
 11 will look at and that had not been identified
 12 previously.
 13 EARLE, Q.C.:
 14 Q. Mr. Pike, if we could turn to Exhibit 199 at
 15 page eight in the lower corner? I don't know
 16 if that's your page numbering or not. 199,
 17 and if we go down there. For some reason,
 18 you've chosen to redact this and quite
 19 frankly, I think that's inappropriate, but for
 20 now, the issue of pressure on safety
 21 representatives by middle level managers
 22 within the organizations has been brought to
 23 C-NLOPB's attention, right?
 24 MR. PIKE:
 25 A. Yes.

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1 EARLE, Q.C.:
 2 Q. And that, just again for the record, this is
 3 in the context of the joint meetings of all
 4 the occupational health and safety committees?
 5 MR. PIKE:
 6 A. Yes.
 7 EARLE, Q.C.:
 8 Q. If we could turn to the issue of work refusal
 9 for a moment, and it's not my intention to
 10 debate your last ruling with you, but I just
 11 want to confirm a few items with you and get
 12 an understanding of another. Does C-NLOPB
 13 accept that the helicopter windows are a part
 14 of the intended emergency egress system for a
 15 ditched helicopter?
 16 MR. PIKE:
 17 A. That's one of the escape, yes.
 18 EARLE, Q.C.:
 19 Q. Yes. So for instance, if we had a helicopter
 20 with no windows, and to use Mr. Roil's
 21 approach of the vernacular, that would be a
 22 different kettle of fish as far as C-NLOPB is
 23 concerned?
 24 MR. PIKE:
 25 A. I'm not sure.

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1 EARLE, Q.C.:
 2 Q. Well, I mean -
 3 MR. PIKE:
 4 A. Are you referring to no windows and openings
 5 with no window in them or just a -- I'm not
 6 sure what you're referring to. You have to
 7 explain. You've lost me.
 8 EARLE, Q.C.:
 9 Q. Well, let's just say no windows that could be
 10 removed, that we were relying on doors only.
 11 Transport Canada requirement of three doors
 12 for a 19-passenger helicopter. From C-NLOPB's
 13 point of view, because you're dealing with an
 14 aircraft that may go down in the offshore
 15 Newfoundland, you would consider it to be
 16 quite a different situation.
 17 MR. PIKE:
 18 A. I'm still struggling a little bit with you.
 19 I'm sorry, I don't mean to be obtuse here.
 20 EARLE, Q.C.:
 21 Q. Let me put it to you this way.
 22 MR. PIKE:
 23 A. I'm just having a bit of a struggle as to what
 24 it is you're actually asking me.
 25 EARLE, Q.C.:

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1 Q. Okay, fair enough. You think it's a been a
 2 long time for you. Is it C-NLOPB's position
 3 that window egress is essentially a luxury
 4 add-on to these helicopters and that three
 5 doors is enough?
 6 MR. PIKE:
 7 A. The answer to that would be no, we wouldn't
 8 see that as a luxury.
 9 EARLE, Q.C.:
 10 Q. No. So they -- windows are a part of the
 11 escape?
 12 MR. PIKE:
 13 A. Part of the overall plan that you would have
 14 for escape, yes.
 15 EARLE, Q.C.:
 16 Q. Right, okay. Now you've mentioned that in
 17 doing the investigation of the refusal, you
 18 consulted Survival Systems and reviewed the
 19 evidence of the Marine Institute at this
 20 Inquiry. But you gave a presentation on your
 21 response to this refusal. Neither of these
 22 were noted in your presentation. I take it
 23 from that that they, in your mind, didn't form
 24 a very important part of your considerations.
 25 MR. PIKE:

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1 A. In the first instance, my understanding and
 2 discussions with the safety officer who did
 3 the investigation, their discussions, rightly
 4 or wrongly, with Survival Systems, they shared
 5 certain information that they did not want to
 6 disclose at that time. So they were asking at
 7 that point that they not be quoted in the
 8 investigation piece. The safety officers had
 9 that information. My understanding of the
 10 explanation, and again whether it's right or
 11 wrong or whether we should have agreed with
 12 them or not, they were in the process of
 13 developing a training module that they
 14 consider proprietary and that they did not
 15 want to share the information and the research
 16 that they had done with others. So they asked
 17 that in our -- our discussions not be made
 18 part of the record. Now whether that was the
 19 right approach or not, I can only indicate
 20 that they talked to them and the information
 21 they did receive in that regard did not, in
 22 the end, influence their decision.
 23 EARLE, Q.C.:
 24 Q. That hardly stacks very well with the
 25 employee's right to know and participate, to

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1 hold that information back.
 2 MR. PIKE:
 3 A. And fair comment.
 4 EARLE, Q.C.:
 5 Q. Now your finding was there is not an
 6 appreciable increase in risk.
 7 MS. CROSBIE:
 8 Q. Perhaps you could tell us which work refusal
 9 he's referring to. There were three.
 10 COMMISSIONER:
 11 Q. Well, yes, tell -
 12 MS. CROSBIE:
 13 Q. He's talking about a specific work refusal and
 14 Mr. Pike would need to know which one.
 15 EARLE, Q.C.:
 16 Q. Well, there's two of them that I've seen and
 17 the language is exactly the same, Ms. Crosbie.
 18 MS. CROSBIE:
 19 Q. But the issues that were identified by the
 20 worker would have been different.
 21 EARLE, Q.C.:
 22 Q. Well, there were two in which the -
 23 REGISTRAR:
 24 Q. Could Ms. Crosbie turn the mike on, please?
 25 COMMISSIONER:

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1 Q. Is there something that we could -
 2 EARLE, Q.C.:
 3 Q. We can clarify it. Let's narrow this. In the
 4 refusal that focused on the tank, the
 5 auxiliary tank, being in the passenger
 6 compartment of the aircraft, the finding of C-
 7 NLOPB was -- and I don't know that I can quote
 8 this part exactly, but it was to the effect
 9 "helicopter transportation is an inherently
 10 risky activity" and then the sort of bottom
 11 line statement was "there is not an
 12 appreciable increase in risk."
 13 MR. PIKE:
 14 A. Yes, I believe the statement was made, yes.
 15 EARLE, Q.C.:
 16 Q. What do we understand by "an appreciable
 17 increase in risk"? Does it mean that there
 18 was some increase in risk, but it did not
 19 cross a tolerance test? What does that mean?
 20 MR. PIKE:
 21 A. It acknowledges that there is a change, but in
 22 the opinion of the safety officers that it was
 23 still acceptable.
 24 EARLE, Q.C.:
 25 Q. So an increase in risk, but an acceptable one?

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1 MR. PIKE:
 2 A. Yes.
 3 EARLE, Q.C.:
 4 Q. Thank you. If we could turn to the issue of
 5 complaints that you receive and Exhibit 188 is
 6 a group of three complaints. What is the
 7 situation in respect of the C-NLOPB's
 8 treatment of complaints as a matter of
 9 confidentiality? If an individual makes a
 10 complaint to you, is their identity held in
 11 confidence?
 12 MR. PIKE:
 13 A. Yes.
 14 EARLE, Q.C.:
 15 Q. Well, could we -
 16 MR. PIKE:
 17 A. Can I maybe expand that explanation? I say
 18 yes, if the individual asks that their
 19 identity be kept confidential, we would do
 20 that. In the case of an individual that's
 21 asking for a specific action and one of the
 22 complaints would be there, we would obviously
 23 have to identify who the individual is in
 24 order to get the specific action taken. So in
 25 that particular case, we would have asked the

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1 individual "can we speak specifically about
 2 your case with the operator?" and the
 3 individual would have said yes. If the
 4 individual says no, then we would keep that in
 5 confidence and alternately, some workers don't
 6 identify themselves, but we still accept their
 7 complaint.
 8 EARLE, Q.C.:
 9 Q. Do you know what the situation was in terms of
 10 the complainant in the first complaint, the
 11 former Cougar employee?
 12 MR. PIKE:
 13 A. No, I don't.
 14 EARLE, Q.C.:
 15 Q. If you could go to page seven of the
 16 complaint? At the bottom of the page, it says
 17 "pilot complained about" I think that's
 18 "flight without minimum equipment list and was
 19 told to fly the" I guess it's aircraft "or go
 20 home" and then it says "note: lobby from CEP
 21 union may have some impact on this." What the
 22 heck has my client got to do with this?
 23 MR. PIKE:
 24 A. I can only assume that that was a comment made
 25 in the conversation with the individual.

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1 EARLE, Q.C.:
 2 Q. Well, it starts "note"
 3 MR. PIKE:
 4 A. I'm sorry, sir?
 5 EARLE, Q.C.:
 6 Q. The last sentence starts "note: lobby from CEP
 7 union may have some impact on this."
 8 MR. PIKE:
 9 A. That's the note handwritten by the safety
 10 officer who did the interview.
 11 EARLE, Q.C.:
 12 Q. Well, Mr. Pike, I would ask you to let your
 13 safety officers know that their attitudes
 14 towards unions are not to influence their
 15 investigations on that."
 16 MR. PIKE:
 17 A. I'm not sure that your implication in this
 18 particular case is warranted, but -
 19 EARLE, Q.C.:
 20 Q. Check it out, please.
 21 MR. PIKE:
 22 A. - I was certainly not looking at that comment
 23 in the light that you're looking at it, and I
 24 appreciate that perspective. That's not the
 25 way I would have read that comment.

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1 EARLE, Q.C.:
 2 Q. Well, I'd ask you to check it out, because
 3 quite frankly, I cannot see for the life of me
 4 what the activities of a union which does not
 5 represent pilots or anybody remotely connected
 6 with air transportation could bear on this
 7 complaint. Now you indicated that C-NLOPB was
 8 not aware of the CADORS system?
 9 MR. PIKE:
 10 A. I was not aware of that system.
 11 EARLE, Q.C.:
 12 Q. Were you aware of the Transportation Safety
 13 Board daily reports?
 14 MR. PIKE:
 15 A. Daily reports? No.
 16 EARLE, Q.C.:
 17 Q. So the two major public means of reporting on
 18 aircraft incidents were not aware -- not
 19 something you were aware of?
 20 ROIL, Q.C.:
 21 Q. Randell, are you certain that the TSB has
 22 daily reports?
 23 EARLE, Q.C.:
 24 Q. I get them sent to me.
 25 ROIL, Q.C.:

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<p>1 Q. Okay. We never - 2 EARLE, Q.C.: 3 Q. And it's on the record here, Madame -- I can't 4 remember her name now. 5 COMMISSIONER: 6 Q. Tadros. 7 EARLE, Q.C.: 8 Q. - offering it. 9 COMMISSIONER: 10 Q. I remember her offering materials, but daily 11 reports? 12 EARLE, Q.C.: 13 Q. Daily reports. 14 COMMISSIONER: 15 Q. Public? Public documents? 16 EARLE, Q.C.: 17 Q. Well, made available to me. I don't know that 18 I'm special. 19 COMMISSIONER: 20 Q. Oh, I see, okay. 21 EARLE, Q.C.: 22 Q. I can tell you how many times an Embraers had 23 problems with its flaps yesterday. 24 COMMISSIONER: 25 Q. Okay, yeah. No, I don't think we get any</p>	<p>1 S-92 flying in the Nova Scotia offshore 2 declared a pan pan pan back in, I think it was 3 the 27th of January of this year. If you go 4 back to our examination of the Cougar people, 5 you'll see we asked - 6 MR. PIKE: 7 A. Fair enough. My way of knowing about a pan 8 pan pan in Nova Scotia would be to hear it 9 from the Nova Scotia Board and ordinarily, I 10 would expect and have in the past heard of 11 incidents associated with helicopters from the 12 Nova Scotia Board. 13 EARLE, Q.C.: 14 Q. Do you recall hearing of that one? 15 MR. PIKE: 16 A. I believe we were given notification of that 17 one. 18 EARLE, Q.C.: 19 Q. So you depend on another regulator. You don't 20 have a direct? 21 MR. PIKE: 22 A. No. I indicated I had no knowledge of the 23 daily report from TSB. 24 EARLE, Q.C.: 25 Q. The Exhibit 189. In a number of these</p>
<p>1 daily reports, do we? 2 EARLE, Q.C.: 3 Q. So you're not aware of that either? 4 MR. PIKE: 5 A. No. 6 EARLE, Q.C.: 7 Q. Now - 8 MR. PIKE: 9 A. And I'm not sure that I necessarily need to 10 know when Embraers have flap problems. I get 11 enough information coming into my office to 12 try to keep track of without -- and I don't 13 mean to be flippant. I'm sorry, I shouldn't 14 do that, but if I'm trying to go through a 15 long list on a daily basis, trying to find a 16 potential helicopter incident among all the 17 commercial aircraft in Canada, I'm not sure 18 that that's necessarily a reasonable request. 19 EARLE, Q.C.: 20 Q. Okay. 21 MR. PIKE: 22 A. And I'm sorry, I shouldn't - 23 EARLE, Q.C.: 24 Q. Takes about a five-minute scan, Mr. Pike, and 25 I will tell you, it's how I found out that an</p>	<p>1 incidents reported to Transport Canada, 2 they're noted as not in the C-NLOPB database 3 and others are noted as not required to be 4 reported. Now what's the distinction between 5 the two? 6 MR. PIKE: 7 A. The safety officer that did this review would 8 be indicating that the incident that was 9 reported in CADORS would not be considered an 10 incident under our reporting requirements or 11 that in certain instances, there was an 12 incident reported there that they would have 13 thought should have been reported under our 14 new incident guidelines. 15 EARLE, Q.C.: 16 Q. Well, have you gone back to Cougar to review 17 with them and see why it is they were not 18 telling you about - 19 MR. PIKE: 20 A. We would not go back directly to Cougar. We 21 would go back to the operator. 22 EARLE, Q.C.: 23 Q. Are you that lacking in nimbleness that you 24 can't go to a contractor directly when the 25 matter is clearly something related to your</p>

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1 mandate?

2 MR. PIKE:

3 A. Our mandate rests with the operator and it's

4 the operator we hold accountable. Our first

5 level of approach would be with the operator

6 and we would then potentially, with the

7 operator, go to Cougar to identify those.

8 EARLE, Q.C.:

9 Q. Sorry, I'm -

10 MR. PIKE:

11 A. We have, on occasions, gone directly to

12 Cougar, but the correct approach, according to

13 our mandate, would be to go to the operator.

14 Within the confines of our legislation, the

15 person I can compel to answer those questions

16 is the operator. There's nothing in my

17 legislation that says Cougar must answer the

18 questions that I ask. It's the operator that

19 must answer those questions.

20 EARLE, Q.C.:

21 Q. Mr. Pike, have you gone back to the operators

22 about the fact -- and I think it's 49

23 incidents that have been reported -

24 MR. PIKE:

25 A. We have not at this point.

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1 EARLE, Q.C.:

2 Q. - to Transport Canada, did not come to you.

3 MR. PIKE:

4 A. We have not.

5 EARLE, Q.C.:

6 Q. If we could go to page 14 of 24 in that? I'm

7 sorry. I'm reminded of Chief Justice Lamer to

8 Mr. Kennedy, "any day with you is a long day,

9 Mr. Kennedy."

10 COMMISSIONER:

11 Q. Probably then, to give you a chance anyway,

12 it's about half past 12 now.

13 EARLE, Q.C.:

14 Q. I make it 28 after, but it's your call.

15 COMMISSIONER:

16 Q. We might just as well adjourn now for lunch, I

17 think.

18 EARLE, Q.C.:

19 Q. Okay.

20 COMMISSIONER:

21 Q. Okay then, 2:00.

22 (LUNCH BREAK)

23 EARLE, Q.C.:

24 Q. Okay then, Mr. Pike, if we could look at the

25 summary of C-NLOPB incidents to Transport

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1 Canada reported incidents and particularly the

2 January 18th, 2006 incident and the

3 circumstance of the one which Mr. Brian Murphy

4 described in his evidence and he was a

5 passenger on this particular flight and

6 although it doesn't appear there be clearly

7 stated, there was an emergency landing in this

8 instance and I think you can see from the

9 detail on this. I'm not sure actually if your

10 report quite matches up. But in any event,

11 the question I have for you, looking at this

12 instance or we could go to the July 25th

13 instance, both of which were reported to C-

14 NLOPB, which were into the emergency category

15 and the question I have for you is: did C-

16 NLOPB ever take these instances and use them

17 as a basis to audit or inspect the emergency

18 response that was put in place when the

19 emergency was declared?

20 MR. PIKE:

21 A. No.

22 EARLE, Q.C.:

23 Q. Have you ever taken an instance where an

24 emergency was declared, and we've had a number

25 over the years, and gone back and done an

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1 inspection and analysis to determine how the

2 emergency response geared up and whether it

3 met standards?

4 MR. PIKE:

5 A. I believe in the case of the January one, if

6 we refer to the audit that was done in 2006,

7 that was one of the incidents that was looked

8 at when they did their review.

9 EARLE, Q.C.:

10 Q. But did you look at it from the point of view

11 of emergency response?

12 MR. PIKE:

13 A. I'm not sure, sir.

14 EARLE, Q.C.:

15 Q. Would you agree with me that if you are

16 auditing helicopter transportation and your

17 safety plan from the operators includes

18 emergency response, that it is appropriate -

19 MR. PIKE:

20 A. That is a reasonable question, yes, sir.

21 EARLE, Q.C.:

22 Q. And it's not been done?

23 MR. PIKE:

24 A. I'm not sure if that question was asked or

25 not.

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<p>1 EARLE, Q.C.:</p> <p>2 Q. Can you offer any reason why it's not been</p> <p>3 done?</p> <p>4 MR. PIKE:</p> <p>5 A. The incident was taken into account when we</p> <p>6 conducted the audit. Precisely what questions</p> <p>7 the safety officer took from that incident,</p> <p>8 I'm not sure at this time, but it is a</p> <p>9 reasonable proposition that that should have</p> <p>10 been one of the questions.</p> <p>11 EARLE, Q.C.:</p> <p>12 Q. You might be more schooled in it than I am,</p> <p>13 but I certainly couldn't find anything that</p> <p>14 appeared to be tied to emergency response.</p> <p>15 The questions in the search and rescue area</p> <p>16 seemed to be equipment checklists and indeed,</p> <p>17 that's the way your procedure seems to be</p> <p>18 structured, in the form of checklists.</p> <p>19 MR. PIKE:</p> <p>20 A. Yeah, they assume that, and that's a tool that</p> <p>21 they would use. They would also have reviewed</p> <p>22 the incident and I can't say what they did or</p> <p>23 didn't ask outside of what was in that</p> <p>24 checklist, but they certainly were aware of</p> <p>25 the incident and what questions they would</p>	<p>1 MR. PIKE:</p> <p>2 A. There are 11 of us.</p> <p>3 EARLE, Q.C.:</p> <p>4 Q. You have 11 people.</p> <p>5 MR. PIKE:</p> <p>6 A. We're still recruiting for one position, so</p> <p>7 we'll make 12.</p> <p>8 EARLE, Q.C.:</p> <p>9 Q. Yes, I recognize that, and you talked</p> <p>10 yesterday about the fact that when you recruit</p> <p>11 a safety inspector, there's still a period of</p> <p>12 time before you get them up to full capacity</p> <p>13 for your operation.</p> <p>14 MR. PIKE:</p> <p>15 A. Yes.</p> <p>16 EARLE, Q.C.:</p> <p>17 Q. So how many safety inspectors do you have at</p> <p>18 that level, that, you know, full capacity</p> <p>19 level?</p> <p>20 MR. PIKE:</p> <p>21 A. There are four.</p> <p>22 EARLE, Q.C.:</p> <p>23 Q. Four?</p> <p>24 MR. PIKE:</p> <p>25 A. With a fifth that I could draw on, who is the</p>
<p>Page 110</p> <p>1 have asked, I'm -- again, the focus of our</p> <p>2 audits at that point were sort of the non-</p> <p>3 compliance piece and we weren't documenting</p> <p>4 quite as well as to the full scope of the</p> <p>5 questions we were asking. So I can't -- it's</p> <p>6 a reasonable proposition that it should have</p> <p>7 been part of the questioning. I can't answer</p> <p>8 whether they did or didn't. You've noted that</p> <p>9 you didn't see the question in the checklist,</p> <p>10 so I'm not sure at this point whether or not</p> <p>11 that was asked or not.</p> <p>12 EARLE, Q.C.:</p> <p>13 Q. Let's talk a moment about the capacity of your</p> <p>14 organization to perform this function. We've</p> <p>15 been focusing on helicopter safety, but you</p> <p>16 are responsible for all safety in respect of</p> <p>17 offshore installations and you made the point</p> <p>18 in your evidence that that includes things</p> <p>19 that are happening down hole and everything</p> <p>20 from the heliport out.</p> <p>21 MR. PIKE:</p> <p>22 A. Yes.</p> <p>23 EARLE, Q.C.:</p> <p>24 Q. How many people do you have in your safety</p> <p>25 division?</p>	<p>Page 112</p> <p>1 well operations engineer. The well operations</p> <p>2 engineer was a safety officer, so I can draw</p> <p>3 on him.</p> <p>4 EARLE, Q.C.:</p> <p>5 Q. Okay. So you have four inspectors. Right now</p> <p>6 you would be responsible for three platforms,</p> <p>7 or sorry, one platform, two FPSOs, operating</p> <p>8 right now two drilling operations. One, I</p> <p>9 think, a semi-submersible and the other a</p> <p>10 drill ship.</p> <p>11 MR. PIKE:</p> <p>12 A. There's two semi-submersibles and one drill</p> <p>13 ship, so there's three drilling operations.</p> <p>14 EARLE, Q.C.:</p> <p>15 Q. So there's two semi-submersibles operating</p> <p>16 now, are there?</p> <p>17 MR. PIKE:</p> <p>18 A. Yes.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. So that's six installations.</p> <p>21 MR. PIKE:</p> <p>22 A. Yes.</p> <p>23 EARLE, Q.C.:</p> <p>24 Q. You talked about the need to liaise with other</p> <p>25 regulatory bodies, keep yourself in date, up</p>

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1 to date on what's happening internationally,
 2 other Canadian regulatory bodies that have an
 3 interface with you. Your people, of
 4 necessity, have to travel distances to the
 5 installations and all the same problems that
 6 my client's members experience in terms of the
 7 ability to get back and forth and weather
 8 delays and stuff that happens to impact on
 9 your operation as well.
 10 MR. PIKE:
 11 A. Yes.
 12 EARLE, Q.C.:
 13 Q. So, and I think it would be fair to say that
 14 there is no more complex workplace, from a
 15 safety point of view, in this jurisdiction
 16 than the offshore installations.
 17 MR. PIKE:
 18 A. The closest comparison in this jurisdiction
 19 would be the refinery at Come by Chance.
 20 EARLE, Q.C.:
 21 Q. And the refinery at Come by Chance doesn't
 22 have anyone drilling wells over the side, do
 23 they?
 24 MR. PIKE:
 25 A. No, they don't.

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1 EARLE, Q.C.:
 2 Q. And they don't have to keep themselves in
 3 position by anchors and dynamic positioning
 4 and they don't have helicopters carrying the
 5 workforce back and forth.
 6 MR. PIKE:
 7 A. They do not.
 8 EARLE, Q.C.:
 9 Q. So if they're close, that's all they are.
 10 Certainly not anywhere near the same
 11 complexity.
 12 MR. PIKE:
 13 A. Their actual process is more complex than the
 14 process that you'll find in any of the
 15 offshore installations.
 16 EARLE, Q.C.:
 17 Q. My question is, do you have enough staff?
 18 MR. PIKE:
 19 A. That's an interesting question. It's one we
 20 asked when we asked our colleagues to come and
 21 do the review on what we do, and just for the
 22 record, it was the Norwegian colleagues, the
 23 Petroleum Safety Authority. They took a look
 24 at what we do and how we do it. One of the
 25 questions they were asked, do we have

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1 sufficient resources, and their response was
 2 yes, but they also identified that in certain
 3 respects we were involved in too much of the
 4 detail. That we needed to take a higher level
 5 look at what was happening, a broader look.
 6 That's the way they identified when they did
 7 the view of precisely what we do. They did
 8 identify that we had sufficient resources, but
 9 we had to approach things differently than we
 10 were doing at the time.
 11 EARLE, Q.C.:
 12 Q. Mired in the detail, so to speak.
 13 MR. PIKE:
 14 A. Yes.
 15 EARLE, Q.C.:
 16 Q. How long have you -- has C-NLOPB been actively
 17 operating? And I know there was the Canada
 18 lands phase before the Atlantic Accord, but
 19 how long have you been actively operating a
 20 safety division?
 21 MR. PIKE:
 22 A. The Offshore Petroleum Board was established
 23 in 1986 and there was a safety department
 24 established at that point.
 25 EARLE, Q.C.:

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1 Q. I was surprised to hear you say yesterday that
 2 you're now looking at training that
 3 Transportation Safety Board offers. You're in
 4 the process of developing an MOU with
 5 Transport Canada. It seems a long time to be
 6 getting around to these things.
 7 MR. PIKE:
 8 A. We had an MOU with the Transportation Safety
 9 Board that was penned initially in the mid
 10 '90s. In the discussions with the
 11 Transportation Safety Board at that time,
 12 there was no offer of providing training
 13 outside of their own organization. In more
 14 recent times when we've met with them, they
 15 have made the offer that they will provide
 16 their internal training to outside agencies.
 17 That was identified some three years ago when
 18 we started to work on a new MOU that would
 19 include the ability to avail of training that
 20 they have in house.
 21 EARLE, Q.C.:
 22 Q. You really have no in-house aviation
 23 expertise, do you?
 24 MR. PIKE:
 25 A. No.

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1 EARLE, Q.C.:

2 Q. And while you don't regulate the helicopter as

3 such, you are inextricably linked to aviation

4 by virtue of the fact that the offshore worker

5 starts work at the heliport and gets off work

6 at the heliport.

7 MR. PIKE:

8 A. That is -- yes, that's the interpretation.

9 There are alternate interpretations, but

10 that's the one that we've put forward.

11 EARLE, Q.C.:

12 Q. What did your external review say about your

13 relationship to the regulation of helicopter

14 transportation? Did they recommend -

15 MR. PIKE:

16 A. There was no specific comment with regard to

17 the aviation component.

18 EARLE, Q.C.:

19 Q. No specific comment.

20 MR. PIKE:

21 A. The note as well here, just to -- the training

22 that we're talking about at the TSB is not

23 aviation specific training. It is training

24 with regard to human factors analysis that

25 they do. Again, the safety culture component,

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1 that's a big piece that they now currently do.

2 So we're looking in that regard there. And

3 some of the management system analysis they

4 do. So it's those management systems and

5 human factors analysis that they do. That's

6 the training and some of their investigation

7 training. Now we do do investigation

8 training. We take avail of the RCMP's

9 investigator training, both level one and

10 level two. All our safety officers have level

11 one and level two RCMP investigator training.

12 The TSB -

13 EARLE, Q.C.:

14 Q. That's not really -- I'm sorry, go ahead.

15 MR. PIKE:

16 A. The TSB does provide investigator training,

17 but they're doing it from a different

18 perspective. The easiest way to describe it

19 is they're looking for the cause of an

20 incident and not blame. The RCMP training is

21 more focused around how you would do an

22 investigation vis-a-vis blame. So we're

23 looking at both sides of that equation.

24 EARLE, Q.C.:

25 Q. It's basically how to do an investigation so

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1 that when you would be up in front of someone

2 like the Commissioner in his former life, you

3 would not find yourself tossed out because you

4 had some missing links in your investigation,

5 right?

6 MR. PIKE:

7 A. Yes.

8 EARLE, Q.C.:

9 Q. So the human factors training, you're only

10 getting to this now with TSB?

11 MR. PIKE:

12 A. Not completely. I did identify that there was

13 a researcher in Nova Scotia who's done work in

14 this area. We have availed of him. He's

15 provided training to us in the area of safety

16 culture and safety culture auditing. So

17 that's not the only avenue we're looking at.

18 EARLE, Q.C.:

19 Q. Who's that?

20 MR. PIKE:

21 A. Mark Fleming. He's at St. Mary's University.

22 He's part of the CN Centre for Occupational

23 Health and Safety. He originally comes from

24 the UK and did extensive work in Aberdeen in

25 this area.

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1 EARLE, Q.C.:

2 Q. One of the things that's been very much in the

3 news about the oil industry over the past

4 several years involved some litigation between

5 C-NLOPB and the companies, or the operators,

6 was the obligation to spend money on research

7 and development.

8 MR. PIKE:

9 A. Yes.

10 EARLE, Q.C.:

11 Q. Is it your understanding that those monies,

12 those research and development dollars, could

13 be directed to research and development on

14 human factors in respect of working in an

15 industry like offshore?

16 MR. PIKE:

17 A. You're talking a little bit outside my area.

18 The whole R & D part is actually handled by

19 our industrial benefits department. My

20 understanding of it, again, you really need to

21 be talking to those folks, there is an

22 obligation to spend that money. In the first

23 instance, the operators would come forward

24 identifying what research and development they

25 have done against those monies. So that's

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1 currently the way that -- there is a different
 2 process which is taking place in a different
 3 part of the Board. You know, if you're asking
 4 me would I recommend that such research and
 5 development be done in that area, the answer
 6 is yes. Is it that it could be done in that
 7 area and that would qualify for that, the
 8 answer is yes. But I can't speak to directly
 9 what's happening in that regard because it's
 10 handled within a separate department, the
 11 industrial benefits department. To the extent
 12 they may have a question on some research and
 13 development, they may come to us with that
 14 question, but I don't manage that component at
 15 all, and indeed -
 16 EARLE, Q.C.:
 17 Q. But, and what I hear you saying is that your
 18 division has not thought of trying to access
 19 some of those dollars for research in this
 20 human factors area and human systems to see
 21 that some of the, if you will, some of the
 22 gaps we've talked about don't reoccur?
 23 MR. PIKE:
 24 A. That's not completely accurate. In actual
 25 fact, through PRAC, Petroleum Atlantic Canada

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1 -- I'm sorry, I don't know the full name, I
 2 just know it by the acronym, Petroleum
 3 Research Atlantic Canada, did actually fund
 4 some of the research of Dr. Fleming where he
 5 converted what had been a questionnaire style
 6 system for determining safety culture into an
 7 audit tool type piece. So there has actually
 8 been some research monies directed towards
 9 human factors piece and it was after they had
 10 done that piece on the audit tool that we had
 11 Dr. Fleming come over and explain the audit
 12 tool to us. He shared with us the audit
 13 questions, as you will, that he was using and
 14 we started to take a look at that and see how
 15 we could incorporate such things into our
 16 audits. That's still very much a work in
 17 progress.
 18 EARLE, Q.C.:
 19 Q. Mr. Pike, just one final question in this
 20 area. I have to say one of the most amazing
 21 things that I have heard in the course of this
 22 Inquiry was that when the Marine Institute was
 23 developing the training for the HUEBA, they
 24 had to put together a grant application and
 25 I'm not so sure it wasn't even to that

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1 organization which you just mentioned, it was
 2 certainly an oil industry organization,
 3 looking for some funding to develop the
 4 training, and it struck me that this was
 5 really putting an obstacle in the way of
 6 things, in the sense that surely the training
 7 is for this industry. It's a simple matter
 8 they should pay for it. Am I correct in my
 9 thinking that it is within your regulatory
 10 power to say to the operators "this is the
 11 kind of training that people must have, and
 12 you must pay for it"?
 13 MR. PIKE:
 14 A. Within the context of establishing a standard
 15 practice, yes.
 16 EARLE, Q.C.:
 17 Q. So you have the capacity to do that?
 18 MR. PIKE:
 19 A. We would identify within that standard
 20 practice the training that's required, and
 21 yes, it would be the -- the operator would
 22 then have to go and get that training for
 23 their workers, yes.
 24 EARLE, Q.C.:
 25 Q. So the HUEBA training, that's become part of

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1 the standard practice now, right?
 2 MR. PIKE:
 3 A. It is not actually part of the standard
 4 practice yet. It will be incorporated in the
 5 next revision of that standard.
 6 EARLE, Q.C.:
 7 Q. Well, that's -- I assume that's simply because
 8 -- and there was a point in time when
 9 everybody decided we better get up to speed on
 10 this quickly. In the ordinary course, it
 11 would have gone through the -
 12 MR. PIKE:
 13 A. Yes.
 14 EARLE, Q.C.:
 15 Q. - the T&Q committee where they become part of
 16 the standards and practice, correct?
 17 MR. PIKE:
 18 A. They may have actually, and what they did do
 19 was develop the training modules and it would
 20 then be taken and in the next revision of that
 21 standard, they would incorporate that into the
 22 standard, yes.
 23 EARLE, Q.C.:
 24 Q. For instance, the BST is -
 25 MR. PIKE:

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1 A. It will be incorporated as a standard part,
2 being added to the standard BST and the BST
3 refresher curriculum.

4 EARLE, Q.C.:

5 Q. And the BST and the BST refresher, they are
6 covered by T&Q, training and qualifications?

7 MR. PIKE:

8 A. Standard practice, yes.

9 EARLE, Q.C.:

10 Q. And within that, because that has no value
11 unless it receives the approval of the C-NLOPB
12 -

13 MR. PIKE:

14 A. Yes, we would be one of the signatories to
15 that.

16 EARLE, Q.C.:

17 Q. - you could turn around and say, you know,
18 "the operator shall provide at their cost"?

19 MR. PIKE:

20 A. Yes.

21 EARLE, Q.C.:

22 Q. Mr. Pike, thank you very much. Your answers
23 have been forthright and direct, perhaps not
24 always ones that you felt terribly comfortable
25 having to give, but I think they have been

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1 very helpful to this process.

2 MR. PIKE:

3 A. I think as I said at the start of my
4 testimony, I welcome seeing different points
5 of view, so while I haven't necessarily
6 personally appreciated these comments, I do
7 appreciate seeing a different point of view on
8 these pieces. It's something I do try to seek
9 when I look at what I do is to get a different
10 point of view. So I appreciate some of those
11 questions.

12 EARLE, Q.C.:

13 Q. Thank you, Mr. Pike.

14 COMMISSIONER:

15 Q. Now the families, Mr. Martin?

16 MR. MARTIN:

17 Q. Ready to go?

18 COMMISSIONER:

19 Q. Yes.

20 MR. HOWARD PIKE, EXAMINATION BY MR. JAMIE MARTIN

21 MR. MARTIN:

22 Q. Good afternoon, Mr. Commissioner. Good
23 afternoon, Mr. Pike.

24 MR. PIKE:

25 A. Good afternoon.

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1 MR. MARTIN:

2 Q. Welcome back to the Inquiry. Before I just
3 start my questioning, I'm going to take a
4 little bit of a different approach than Mr.
5 Earle. I'm going to be looking at sort of
6 your broader decision making processes and I
7 do have some specific questions that I will
8 identify momentarily. I just want to make a
9 few general observations. You, in your
10 evidence this morning, talked about, you know,
11 this process being done in hindsight that, you
12 know, we're asking questions in hindsight.
13 Your answers are being given in hindsight.
14 This whole Commission is being done in
15 hindsight. We've all -- you know, the Board
16 has had an opportunity to formulate terms of
17 reference in hindsight, and I appreciate where
18 you're coming from on that.

19 Unfortunately for our clients, the
20 families of the deceased passengers, hindsight
21 doesn't help them because they have lost their
22 loved ones and that doesn't benefit them in
23 any way. But I'm sure you heard the evidence
24 of the three families who came here last week
25 and they, on behalf of their loved ones, do

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1 want answers as to what happened to the extent
2 that this Inquiry can give it. Perhaps
3 there'll be other inquiries, but more
4 importantly, I think they want to make sure
5 that this doesn't happen again, and that's why
6 you, as the regulator, are very important to
7 that process. So I'm trying to ask some of
8 the questions that I think the families would
9 want me to ask, in terms of understanding what
10 your role was in the -- or is in the offshore
11 oil industry to make sure that what happened
12 on March 12th, 2009 doesn't happen again, now
13 to the extent that it can be avoided.

14 Now in response to some questions of Mr.
15 Earle, my questions are not personally
16 directed at you. You're the chief safety
17 officer of the Board. You've been appointed
18 or anointed, whatever you want to call it, to
19 be the spokesperson of the Board on safety
20 issues, so I trust that any questions I direct
21 to you are being directed to you in your
22 capacity as chief safety officer and are not
23 personally directed at you in any way.

24 So having said that, I just want to
25 understand what I believe to be the key

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1 messages that came out of your evidence
 2 yesterday and the first message that I got is
 3 that you're shifting your emphasis from a
 4 prescriptive approach to more sort of a goal
 5 oriented approach to conducting your
 6 operations and what I took from that is that
 7 the prescriptive approach that you spoke
 8 about, and you answered several questions from
 9 Mr. Earle this morning, the prescriptive
 10 approach is sort of -- it's, you know, it's by
 11 the book, the boxes that are ticked in on an
 12 audit sheet, you know, where you don't have
 13 much flexibility to sort of think outside the
 14 box. Would that be a correct characterization
 15 of a prescriptive approach? Because I think
 16 you did -- you referred to that a number of
 17 times, you know, if something says -- if it
 18 says something in a regulation and you're
 19 asked a question or one of your safety officer
 20 asks a question of the companies, they tick
 21 the box and they -- you know, is that a fair
 22 characterization of a prescriptive approach?
 23 MR. PIKE:
 24 A. That would be, yes.
 25 MR. MARTIN:

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1 Q. Yeah, and I think, if I interpret your
 2 evidence correctly, is that your focus is to
 3 move away from that approach to the extent
 4 that you can, to a goal oriented approach? Is
 5 that correct?
 6 MR. PIKE:
 7 A. Yes.
 8 MR. MARTIN:
 9 Q. And I think your evidence yesterday was that
 10 the goal oriented approach would be what does
 11 it take to get the job done. I think those
 12 were your words. Would that be a fair
 13 characterization of that?
 14 MR. PIKE:
 15 A. You establish the goal and you would work
 16 towards that goal, yeah.
 17 MR. MARTIN:
 18 Q. Okay. More or less thinking outside the box?
 19 MR. PIKE:
 20 A. To increase your ability to think outside the
 21 box, yes.
 22 MR. MARTIN:
 23 Q. Okay, and I believe you discussed that
 24 evidence in the context of the June 9th letter
 25 that you provided to the companies in 2009.

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1 Is that correct?
 2 MR. PIKE:
 3 A. Yes.
 4 MR. MARTIN:
 5 Q. That was the context in which that evidence
 6 was given. Okay, and I think you discussed
 7 that in the context of the fact that it was
 8 probably as close as you've ever come to
 9 giving a warning to the offshore oil
 10 companies. Do you remember that comment?
 11 Because I think you were going through your
 12 evidence -
 13 MR. PIKE:
 14 A. With regard to helicopter transportation, yes.
 15 MR. MARTIN:
 16 Q. Okay.
 17 MR. PIKE:
 18 A. It's not the only time, no. With regard to
 19 helicopter transportation, yes.
 20 MR. MARTIN:
 21 Q. It was the closest you've ever come to giving
 22 a warning?
 23 MR. PIKE:
 24 A. On helicopter -
 25 MR. MARTIN:

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1 Q. On helicopter transportation, that's correct.
 2 MR. PIKE:
 3 A. Yes.
 4 MR. MARTIN:
 5 Q. And that's the focus of this Inquiry, and I'll
 6 be less focused on the other issues.
 7 MR. PIKE:
 8 A. Okay.
 9 MR. MARTIN:
 10 Q. As other counsel were as well. The second
 11 observation I made on your evidence yesterday,
 12 and it was in the discussions of the HUEBA,
 13 and I don't intend to explore that with the
 14 same level of detail as Mr. Earle did, because
 15 he did a very thorough job of it. I'm going
 16 to come at it from a different angle. I'll
 17 come at that in a moment or so.
 18 But I read with interest the transcript
 19 and copied your statements down yesterday, and
 20 you said "one of our goals" -- and in the
 21 context of your discussion on HUEBA, you said
 22 "one of our goals is to ultimately hold the
 23 operators accountable." So that's a fair
 24 statement?
 25 MR. PIKE:

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1 A. Yes.
 2 MR. MARTIN:
 3 Q. And matter of fact, I think you said it again
 4 this morning, so that's the goal oriented
 5 approach, you like to hold the operators
 6 accountable?
 7 MR. PIKE:
 8 A. The legislation holds the operator
 9 accountable, yes.
 10 MR. MARTIN:
 11 Q. But you, as regulator, has to have -- I
 12 interpreted it to mean that you, as regulator
 13 -
 14 MR. PIKE:
 15 A. Yes.
 16 MR. MARTIN:
 17 Q. - have to hold the operators accountable by
 18 applying legislation, by doing audits, by
 19 doing investigations, by talking to people.
 20 Would that be a fair comment?
 21 MR. PIKE:
 22 A. Yes.
 23 MR. MARTIN:
 24 Q. Okay. So we've got a -- you try to move away
 25 from the prescriptive to a goal oriented

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1 approach, hold the operators accountable, and
 2 then the third observation I made on your
 3 evidence, and it was in the context of a
 4 discussion as to whether it was desirable --
 5 because it was a question posed to you by Mr.
 6 Roil, and he was posing the question to you
 7 about comments that have been made to this
 8 Inquiry by a couple of organizations about the
 9 possibility of having a regulator that's
 10 independent of government and industry, and do
 11 you remember that question? He asked that
 12 question of you -
 13 MR. PIKE:
 14 A. Yes.
 15 MR. MARTIN:
 16 Q. - and he asked the question, in particular, as
 17 to whether you've ever had any difficulties
 18 advancing your safety agenda. Do you remember
 19 that question?
 20 MR. PIKE:
 21 A. Yes.
 22 MR. MARTIN:
 23 Q. And I believe your answer was that "no, I
 24 haven't had any difficulties advancing the
 25 safety agenda. In fact, I've had full

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1 cooperation of the Board." That was -- do you
 2 recall that answer?
 3 MR. PIKE:
 4 A. Yes.
 5 MR. MARTIN:
 6 Q. Yeah, so to summarize what I took from your
 7 evidence yesterday, and just as a preamble to
 8 the questions that I have on specific issues,
 9 is that you're trying to move to a goal
 10 oriented approach. In other words, you're
 11 trying to do what makes it work, what makes
 12 the system work. Would that be fair to say?
 13 MR. PIKE:
 14 A. Yes.
 15 MR. MARTIN:
 16 Q. You are, to the extent that you can, trying to
 17 hold the operators accountable?
 18 MR. PIKE:
 19 A. Yes.
 20 MR. MARTIN:
 21 Q. And here we're talking about helicopter
 22 transportation, and thirdly, you have
 23 cooperation from the Board who are your
 24 employer?
 25 MR. PIKE:

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1 A. Yes.
 2 MR. MARTIN:
 3 Q. And I'm not sure you really answered Mr.
 4 Roil's question fully, because you had the
 5 cooperation of the Board, so I'm assuming
 6 you've had the cooperation of industry as
 7 well. Would that be a fair corollary
 8 statement to make? Because you did say -- you
 9 were asked "have you ever had a problem --
 10 have you ever been compromised in advancing
 11 your safety agenda?" and your answer was "No,
 12 I've always had the full cooperation of the
 13 Board." But I'm assuming that you had the
 14 cooperation of industry as well in advancing
 15 the Board's safety agenda.
 16 MR. PIKE:
 17 A. Yes.
 18 MR. MARTIN:
 19 Q. Okay. So keeping those broader principles in
 20 mind, I just want to ask you some specific
 21 questions on some matters that arose yesterday
 22 and some matters that have been part of this
 23 Inquiry over the last four months, and the
 24 first one is the HUEBA, and I don't intend --
 25 because we've had considerable amount of

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1 evidence, not only here today but by previous
 2 witnesses at this Inquiry, so I'm going to
 3 take a little bit of a different approach to
 4 that, but I am going to first of all though
 5 refer to -- and I don't need to put it up on
 6 the screen, it's the March '07 letter from Mr.
 7 Ruelokke to the oil companies on HUEBA, and no
 8 need to put it on the screen. It was a very
 9 short letter and I could even paraphrase it,
 10 but the purpose of that letter, as I
 11 understand it, was that after seven years, you
 12 brought it to the attention of your chairman
 13 and he said "we've got to do something about
 14 this, and so let's write a letter to the oil
 15 companies." Would that be a fair
 16 characterization of what happened? Because I
 17 think that was -

18 MR. PIKE:
 19 A. Yes.

20 MR. MARTIN:
 21 Q. - what you were suggesting yesterday. And
 22 that letter essentially says that, you know,
 23 "this has been an outstanding issue. We want
 24 your plan at the earliest possible
 25 opportunity."

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1 MR. PIKE:
 2 A. Yes.

3 MR. MARTIN:
 4 Q. Okay, and yesterday in your evidence, I
 5 believe you -- and again this morning, you
 6 said "look, on behalf of the Board, it took
 7 too long. It's unacceptable. It took far too
 8 long" and Mr. Earle pressed you on this, and
 9 I'm not sure whether you answered his
 10 question, but I'm assuming that the Board
 11 takes some responsibility for how long it
 12 took. Would it be fair to say that you take
 13 some responsibility for that?

14 MR. PIKE:
 15 A. Yes.

16 MR. MARTIN:
 17 Q. Okay. Because in your answer yesterday, you
 18 said the whole -- the Board had to focus the
 19 issue and the Board had to escalate the
 20 process. Now I'm not going to comment as to
 21 whether you did or did not. All I'm going to
 22 say is that that letter was written in March
 23 '07 and it was still another two years before
 24 the HUEBA was implemented, but I won't draw
 25 any conclusions from that. But my questions

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1 of you are this: you went through a large
 2 number of options that are within the
 3 regulatory powers of the Board, in terms of
 4 dealing with issues that you consider to be
 5 important. You spoke about warnings and
 6 orders and you spoke about possibly revoking
 7 authorizations. Thinking back at it, and this
 8 whole process is being done with the benefit
 9 of hindsight, as I pointed out earlier, you
 10 know, March '07, you write the letter and
 11 nothing happens for two years. Were there any
 12 other processes that the Board, that you
 13 looked at, possibly dismissed, but what, if
 14 anything, could you have done in terms of
 15 warnings and orders? But I just want you to
 16 speak to that because it hasn't been asked of
 17 you to date, and what could you have done?

18 MR. PIKE:
 19 A. It's not fair to characterize that as nothing
 20 happened in that two-year period. We
 21 understand, and we were following with, in
 22 this particular case, CAPP, they were engaged
 23 in a piece of -- there was some research
 24 ongoing in Nova Scotia. We wanted to take a
 25 look at that document. That document was

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1 received. So to characterize it as nothing,
 2 we were monitoring, if you will, what the
 3 progress, albeit slow, that the industry was
 4 making towards investigating the application
 5 of this technology. So in the first instance,
 6 there was a study being done. It wasn't quite
 7 published, so we were waiting for that study
 8 to be published, and in the second instance,
 9 they did a literature research in the UK
 10 sector of the North Sea. It's also fair to
 11 characterize that not all operators in the UK
 12 sector of the North Sea in 2000 and 2001 were
 13 using the escape breathing apparatus. It was
 14 not universally used. It was not being
 15 mandated, if you will, by the regulator in the
 16 UK at that time. So it was very much a time
 17 of doing the background. So were there other
 18 things we could have done? In hindsight,
 19 there are always things that you could have
 20 done differently when you look at it in that
 21 light. So it's not that there was nothing
 22 being done. There were some things being
 23 progressed during that two-year period.

24 MR. MARTIN:
 25 Q. But could you have been tougher on the

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1 operators? Because after all, the HUEBA is --
 2 that type of issue is in their operational
 3 plan. Is that correct? Or it can be or it
 4 should be.
 5 MR. PIKE:
 6 A. It could have been.
 7 MR. MARTIN:
 8 Q. It's a safety issue.
 9 MR. PIKE:
 10 A. Yes.
 11 MR. MARTIN:
 12 Q. It should be in the safety plan, if it's -
 13 MR. PIKE:
 14 A. Again, if you take the step back, as the
 15 Norwegians have done on the goal and the
 16 emergency preparedness, et cetera, when you
 17 start coming down from the top at the higher
 18 levels, then yes, you can start working those
 19 issues. Part of what we have is a
 20 prescriptive regime that talks about the
 21 answers at the end of the day and if there is
 22 no requirement in there for such a device,
 23 you'd have to go at it from the side of the
 24 goal. Could we have been harder? You could
 25 always -- I can always be harder on the

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1 operator, but you also have to be fair and you
 2 know, there is the provisions of natural
 3 justice. We were establishing the new
 4 criteria, so there has to be a period of
 5 working through that is the way I would
 6 understand, you know, the reasonableness
 7 piece.
 8 MR. MARTIN:
 9 Q. Okay. You have to be fair to the operators,
 10 but if there was a safety issue identified in
 11 2000 by the Board, isn't it incumbent upon the
 12 Board to actually be fair to the workers as
 13 well?
 14 MR. PIKE:
 15 A. Yes.
 16 MR. MARTIN:
 17 Q. And that's what I'm getting at. For seven
 18 years -- you issue this letter March '07.
 19 Would you characterize that letter as a
 20 warning to the oil companies? Because what it
 21 essentially said "this has been going on for
 22 far too long. We want your plan at your
 23 earliest convenience. We want this done."
 24 That's a fair characterization. Mr. Ruelokke
 25 said "enough is enough. Let's get this done."

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1 MR. PIKE:
 2 A. Yes.
 3 MR. MARTIN:
 4 Q. Would that be a fair characterization?
 5 MR. PIKE:
 6 A. Yes.
 7 MR. MARTIN:
 8 Q. After having waited seven years and we're
 9 still waiting another two years. So what
 10 could you have done after the -- first of all,
 11 was that letter considered a warning? Would
 12 it be fair to say that that would be -
 13 MR. PIKE:
 14 A. In hindsight, I could consider it a warning.
 15 I don't think we actually looked at it as a
 16 warning in the first instance, and indeed,
 17 you'll notice the difference between that
 18 letter in 2000, which was written to CAPP,
 19 versus the letter I wrote in June of last
 20 year, which was written directly to the
 21 operators. CAPP is not an entity to which I
 22 would be able to, under our compliance and
 23 enforcement policy, to issue a directive to.
 24 I can issue a directive, I can issue a warning
 25 to an operator, but issuing it to CAPP doesn't

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1 have the same weight of the legislation as
 2 issuing that warning to the operator.
 3 MR. MARTIN:
 4 Q. Okay, but -- sorry, but they're an agent, you
 5 referred to them this morning as an agent for
 6 the company?
 7 MR. PIKE:
 8 A. Yes.
 9 MR. MARTIN:
 10 Q. So if you weren't getting a satisfactory
 11 response to your March '07 letter to the
 12 agent, CAPP, why wasn't there a follow-up
 13 letter with the companies in the two years
 14 leading up to the actual implementation of the
 15 device? I mean -- or did it just sit idly by
 16 and nothing was done about it, because Mr.
 17 Earle went through occupational health and
 18 safety meetings in 2007 and 2008, and the same
 19 response was in both sets of documents, we're
 20 looking for CAPP's communication plan in
 21 relation to this issue, I think, if I'm
 22 correctly paraphrasing that. My question is
 23 simple, you know, 2007 you write a letter to
 24 CAPP and you're still -- after seven years of
 25 waiting, and you're still waiting another two

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1 years, but you couldn't do anything because
 2 your letter was to CAPP, but didn't you think
 3 that it would be appropriate, having not
 4 gotten an appropriate response from CAPP, to
 5 have written the companies between 2007 and
 6 2009?
 7 MR. PIKE:
 8 A. That's certainly another approach that could
 9 have been taken, yes.
 10 MR. MARTIN:
 11 Q. And if the companies didn't respond
 12 favourably, what if anything else could you
 13 have done?
 14 MR. PIKE:
 15 A. If we had issued a letter of warning to the
 16 operators and they weren't responding to the
 17 letter of warning, we escalate it to an order.
 18 MR. MARTIN:
 19 Q. And if that's not abided by?
 20 MR. PIKE:
 21 A. Then we prosecute or we could suspend their
 22 authorization.
 23 MR. MARTIN:
 24 Q. Okay, it never got to that stage because there
 25 was never a letter written to the companies

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1 between 2007 and 2009. Instead you chose, as
 2 a Board, to deal with their agent. Would that
 3 be a fair statement to make?
 4 MR. PIKE:
 5 A. Yes.
 6 MR. MARTIN:
 7 Q. Okay. Just going on to a new line of
 8 questioning, you mentioned yesterday, and I'm
 9 trying to understand how the issue arose, that
 10 in 2001 you were discussing standards of
 11 training. I think you had been holding those
 12 discussions with other regulators around the
 13 world, if I'm correct. You were talking about
 14 standards of training, you discussed it with
 15 other regulators and you came to the
 16 conclusion that, well, there's not much we can
 17 do about this because it's an issue that's
 18 industry driven, that's something that the
 19 industry will have to determine one way or the
 20 other. Am I correct in concluding that the
 21 discussions were among regulators? Casting
 22 your mind back to 2001, it was amongst
 23 regulators?
 24 MR. PIKE:
 25 A. Yes.

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1 MR. MARTIN:
 2 Q. Internationally around the world?
 3 MR. PIKE:
 4 A. It was raised at the meeting in 2001 at the
 5 international regulator's forum. That would
 6 have included Norway, the United Kingdom, the
 7 Netherlands, the Mineral Management Service
 8 from the US, Australian, and in 2001 NOPSA was
 9 not an entity at that point in time, so it
 10 would have included both the commonwealth
 11 government as a policy piece, and some of the
 12 states who would implement the policy. There
 13 was a shared responsibility there. I believe
 14 New Zealand was present as well.
 15 MR. MARTIN:
 16 Q. What was the impetus for that particular
 17 discussion on training because I'm not sure
 18 you spent much time on it yesterday, was it
 19 something that -- do you recall who identified
 20 the issue for discussion? I know it's a long
 21 time back, but --
 22 MR. PIKE:
 23 A. It was being raised by Canada in those
 24 discussions. Indeed more recent years it's a
 25 problem, even within the North Sea where you

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1 have several different jurisdictions. In the
 2 North Sea context, it was being raised by the
 3 International Association of Drilling
 4 Contractors. They're the ones that are most
 5 impacted by the various training standards
 6 between jurisdictions because they're the ones
 7 that are mostly moving the drilling units
 8 which are mobile between jurisdictions, and
 9 they were finding some issues with training of
 10 their people as they moved those drilling
 11 units between jurisdictions, and it has taken
 12 them some time and they're only now beginning
 13 to get some -- I'm not quite going to call it
 14 standardization, but certainly there's an
 15 understanding of what the different standards
 16 are and what needs to be done in order to meet
 17 -- what supplement might need to be done in
 18 particular areas to meet that. So it was
 19 within that context that we were raising it
 20 and it becomes an issue particularly in this
 21 jurisdiction when you're bringing in some of
 22 those mobile units from other jurisdictions as
 23 to what training needs to be done with the
 24 crews that are coming in.
 25 MR. MARTIN:

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1 Q. So it was an issue in 2001 identified by
 2 Canada. Would it be fair to say it's still an
 3 issue today?
 4 MR. PIKE:
 5 A. Yes.
 6 MR. MARTIN:
 7 Q. And is it being dealt with in any meaningful
 8 way by the international regulators? Have you
 9 had any subsequent discussions?
 10 MR. PIKE:
 11 A. Not directly. The way we have engaged it,
 12 CAPP has engaged some of the parties in the
 13 North Sea, or that training committee has
 14 engaged some of those parties in the North Sea
 15 to try to identify how we can begin to get
 16 better alignment between the training that
 17 we're requiring here and the training that --
 18 and identify where the gaps are between what
 19 training is provided, in particular with the
 20 North Sea.
 21 MR. MARTIN:
 22 Q. Well, if it was an issue in 2001 and it still
 23 remains an issue today, is the fact -- as you
 24 disclosed yesterday that you'd need the
 25 industry on side, is that preventing progress

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1 from being achieved on this particular item,
 2 because what I'm getting --
 3 MR. PIKE:
 4 A. It's not actually an issue for me because they
 5 have to comply with the standard. The issue
 6 actually rests with industry. It's industry
 7 that has to do the extra training when they
 8 start bringing people into this jurisdiction.
 9 So we have the standard, they will meet the
 10 standard. We aren't aware of instances where
 11 our standard is lower than what's required in
 12 other jurisdictions. Part of the problem you
 13 start running into is, and a lot of those
 14 certificates are issued in Canada, do we
 15 recognize a certificate that's issued in the
 16 North Sea, how and why should we do that. So
 17 it's, to be honest with you, not my issue
 18 because you have to comply with our standard,
 19 and what we're essentially doing is sitting
 20 down with industry and saying, okay, this
 21 person has a certificate from Norway for this
 22 particular training component, is that
 23 equivalent to what we require here. If the
 24 answer is no, well, that individual has to go
 25 for training and certification in Canada. So

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1 we would look to make sure that those
 2 individuals meet our training standard. The
 3 issue that's raised is when you're moving
 4 these units in, are we gaining real benefit
 5 from that supplement, but in the first
 6 instance, they meet our standard, and if they
 7 don't have that certification already from
 8 another jurisdiction, or we don't deem it to
 9 be equivalent, they have to repeat the
 10 training and that's really where the issue is
 11 coming from.
 12 MR. MARTIN:
 13 Q. I'll move on to another -- thank you for your
 14 answer to that question. I want to refer you
 15 to Exhibit 200, if the Registrar could put
 16 that on the screen, please. Mr. Earle
 17 referred to this document as well, and my
 18 focus is different than Mr. Earle's, a
 19 different issue, it's pertaining to -- if you
 20 could just go to page 11 of that document, and
 21 my issue is the sharing of information, and
 22 I'll get to the excerpt from the exhibit now
 23 in a moment, but you may recall the evidence
 24 of a couple of the spouses of the deceased
 25 passengers last week where -- you know,

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1 they've been following this Inquiry quite
 2 closely, and one of the issues that they would
 3 like to see reform in is more effective
 4 sharing and more effective communication
 5 between the various parties, whether they be
 6 operators, regulators. You know, they're
 7 basing their observations I would say in a
 8 large part due to what they've heard from the
 9 Inquiry to date, and Mr. Earle touched on some
 10 of those issues this morning, so I won't get
 11 into those in any great detail, but my
 12 question is on the -- if you look at the first
 13 bullet point, it says, "Does the C-NLOPB get
 14 data from all companies and all operators and
 15 what does it do with these statistics". The
 16 next bullet point that I wanted to refer to,
 17 "Can the C-NLOPB help installations and
 18 operators share safety information", and I
 19 guess your action item, "C-NLOPB distributes
 20 its own safety notices and uses its website to
 21 provide links to other useful safety
 22 information. We will continue to encourage
 23 operators and installations to share safety
 24 information more effectively". Now the --
 25 you've confirmed to Mr. Earle in his questions

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1 this morning, you have -- I don't know, I
 2 think you said you have 11 people who are
 3 responsible for safety within your
 4 organization. You know, I would imagine
 5 communication is a two-way street, you share
 6 information with the operators and they share
 7 information with you, and you indicated this
 8 morning or in a response from a question this
 9 afternoon from Mr. Earle, or it may have been
 10 this morning, that on helicopter incidents,
 11 you communicate a lot, you hear from the Nova
 12 Scotia Board, if there's anything that's going
 13 on in the helicopter industry, one of your
 14 first lines of contact or your first line of
 15 communication is the Nova Scotia Board, is
 16 that correct?
 17 MR. PIKE:
 18 A. Yes.
 19 MR. MARTIN:
 20 Q. Because, you know, I accept that you're not
 21 exclusively responsible for helicopter safety,
 22 although it is part of the safety plan. What
 23 I'm getting at is, you know, how far do you go
 24 beyond, say, your normal audits, your
 25 investigations, just your day to day

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1 activities and your quarterly meetings with
 2 the operators and their JOHS committees and
 3 things like that? How -- like, how far do you
 4 go in terms of -- if you find out something,
 5 you hear something, you anticipate a problem
 6 and check on things, either discuss it with
 7 the operators, discuss it with your Nova
 8 Scotia colleagues, discuss it with some of
 9 your international colleagues, because
 10 yesterday you spoke at some length in response
 11 to a question from Commissioner Wells, he
 12 actually had a few questions on whether the
 13 jurisdiction of the Board should be exclusive
 14 of industry and government, but you spoke in
 15 some length about a Montana blow out in
 16 Australian, and I'm not going to get into that
 17 for the purposes of my question, but I just
 18 want to know on a day to day basis how widely
 19 is it that you go beyond your normal audits
 20 and investigations to -- if you hear something
 21 in the media, that you will find out more
 22 about it, and I'll give you an example in a
 23 moment, but is that something that you would
 24 typically do, you know, you read about
 25 something in the paper that might be related

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1 to helicopter safety and you say maybe we
 2 should know more about that, and would you
 3 have one of your safety officers investigate
 4 it further? Is that something that you would
 5 have done in your some 25 years with the
 6 Board?
 7 MR. PIKE:
 8 A. Yes.
 9 MR. MARTIN:
 10 Q. What I'm getting at specifically is there was
 11 -- and I think we've confirmed here at this
 12 Inquiry that the operational plan of the
 13 operators confirms the usage of S-92
 14 helicopters. Would that be a fair statement
 15 to make that the Board -- the operation plan
 16 does allow the use of -- authorizes the use of
 17 S-92 helicopters.
 18 MR. PIKE:
 19 A. I don't think we go as specific to saying it
 20 authorizes the use of S-92s. It would
 21 certainly talk about the helicopter
 22 transportation without necessarily
 23 specifically referencing a model and type of
 24 aircraft. They would identify in a more
 25 general sense a goal, if you will, of how

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1 they're going to move the passengers and it
 2 would be not necessarily tied to a specific
 3 airframe because indeed during part of this
 4 time, they actually operated two airframes;
 5 they had a Super Puma and an S-92. If you tie
 6 some of your processes and procedures to the
 7 Super Puma, they may not be applicable to the
 8 S-92. So we do tend to look at the higher
 9 level before you dig down, and in this case we
 10 would not necessarily have said "yes" to the
 11 S-92. What we would verify is that the S-92
 12 does indeed carry certification from Transport
 13 Canada.
 14 MR. MARTIN:
 15 Q. I'm not really interested in -- thank you for
 16 your answer, but I'm not really interested in
 17 the verification of the S-92s, but you would
 18 be aware as part of the safety plan, as part
 19 of the operations plan, that the companies
 20 were using S-92s?
 21 MR. PIKE:
 22 A. Yes.
 23 MR. MARTIN:
 24 Q. Okay, and we heard evidence from Cougar that
 25 there's about 125 of those S-92s used

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1 throughout the world. I don't know if you
 2 heard that.
 3 MR. PIKE:
 4 A. I believe that's what they said, yes, it's my
 5 understanding.
 6 MR. MARTIN:
 7 Q. My question to you in terms of your net worth
 8 of contacts and what you do with your
 9 information that's obtained, there was an
 10 incident involving an S-92 in Australia in
 11 July of 2008. Did you know anything about that
 12 incident, and I'm not asking the question for
 13 purposes of blame --
 14 MR. PIKE:
 15 A. No, I did not.
 16 MR. MARTIN:
 17 Q. When did you first become aware of that?
 18 MR. PIKE:
 19 A. After March 12th.
 20 MR. MARTIN:
 21 Q. So it wasn't something that your offshore
 22 counterpart in Nova Scotia who would be
 23 discussing helicopter issues with you would
 24 have raised with you?
 25 MR. PIKE:

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1 A. No, to my knowledge -- I had no knowledge of
 2 the Australian incident until some time later.
 3 MR. MARTIN:
 4 Q. Okay, and it's not something that your
 5 counterpart in Australia, if there is one, and
 6 I'm assuming there is some comparable
 7 position, would have ever discussed with you?
 8 MR. PIKE:
 9 A. In the case in Australia, it actually occurred
 10 over land. I believe if it involved some of
 11 the offshore function, it would have been.
 12 Certainly we were made aware of a North Sea
 13 one from the HFC. They made us aware of that
 14 incident, and in 1997 when there was a
 15 helicopter went down in Norway, they certainly
 16 made us aware of the Super Puma that went down
 17 there, but at the same time, the Super Pumas
 18 here were actually grounded in 1997 when that
 19 one went down off Norway. So there's a double
 20 piece. It's happening within the aviation
 21 world, but in addition to that those incidents
 22 are also notified through the regulators.
 23 MR. MARTIN:
 24 Q. If you had been told about that incident, and
 25 I'm not asking you specifically what you would

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1 have done, but is that the type of issue,
 2 given that the S-92 is being used here, or it
 3 could be any other device or any other piece
 4 of equipment that the operators use, is that
 5 the type of thing that you would direct one of
 6 your safety officers, to say, look into this
 7 for me, please, and report back, are there any
 8 implications for offshore Newfoundland and
 9 Labrador, is that -- is that the type of
 10 anticipatory response that we would expect
 11 from the Chief Safety Officer of the Offshore
 12 Board?
 13 MR. PIKE:
 14 A. Yes.
 15 MR. MARTIN:
 16 Q. Okay, and you've done that in the past?
 17 MR. PIKE:
 18 A. We have.
 19 MR. MARTIN:
 20 Q. Okay. I just want to move on to a new line of
 21 questioning, and I just want to follow up on
 22 Ms. O'Brien's questions yesterday. Mr. Earle
 23 touched on the same exhibit, and I don't need
 24 to turn up the exhibit for the purposes of my
 25 question, but you were asked you will recall

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1 by Ms. O'Brien as to whether the Board had
 2 considered encouraging the operators to do a
 3 risk assessment, or Cougar in particular, to
 4 do a risk assessment of the suits that their
 5 pilots were using, and your answer to that
 6 question, as I understood it, was it wouldn't
 7 be within the boundary, it wouldn't be within
 8 our jurisdiction. You didn't use the word
 9 "jurisdiction", but I think your answer was,
 10 you know, I would if I could, but I can't
 11 because it's outside the boundaries of my
 12 responsibility. Would that be a fair
 13 characterization of what you said?
 14 MR. PIKE:
 15 A. The regulation of Cougar and the Cougar pilots
 16 would be a Transport Canada Aviation and
 17 Labour Canada piece. Basically, yes, it's
 18 outside my jurisdiction.
 19 MR. MARTIN:
 20 Q. But the pilots, to use Mr. Earle's analogy,
 21 their work starts at the heliport -- at the
 22 St. John's Cougar office and it ends at the
 23 heliport or wherever they're taken on the
 24 installation. Why would they be any
 25 different, why wouldn't they be under your

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1 microscope just as much as the other workers?
 2 I put it to you what I'm sensing, is that
 3 you're back to your old prescriptive approach
 4 again, you're ticking the boxes, you're
 5 looking at the regulations and saying, oops,
 6 sorry, can't touch that, that's outside my
 7 jurisdiction rather than the goal oriented
 8 approach that you were advocating so
 9 strenuously here yesterday which would, in my
 10 opinion, have said maybe that's something we
 11 should look at, maybe that's something we
 12 should discuss with the Board. I think our
 13 clients, on behalf of their deceased loved
 14 ones, would be pretty disillusioned if the
 15 Offshore Petroleum Board was hiding behind a
 16 constitutional nicety in order to avoid an
 17 issue, and that's how I see the issue, and I
 18 just want to get your comment on that because
 19 I think you're back to your old prescriptive
 20 approach again and saying, can't touch that
 21 because I might encroach on federal territory.
 22 Now having said that, and I can assure you and
 23 I'm sure in your experience as well, there are
 24 a large number of issues in this country that
 25 are governed by federal and provincial

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1 legislatures, and there's an awful lot of
 2 coordination that takes place, sometimes
 3 there's not, but I just want to get your view
 4 on that because I think you're avoiding an
 5 issue by saying not my responsibility, not in
 6 my backyard, so therefore I'm not touching it.
 7 Can you elaborate on that, because there's a
 8 sense that there's an issue not being attended
 9 to here?
 10 MR. PIKE:
 11 A. I appreciate your position, but I'm governed
 12 by the legislation, and it's both federal and
 13 provincial, so I understand very well. I
 14 report to two masters, one federal, one
 15 provincial. So I understand these pieces very
 16 well. I also understand the jurisdictional
 17 piece. When you start wandering into areas
 18 outside which I have legislative jurisdiction,
 19 it doesn't stick. I can ask the questions,
 20 but again I'm going outside the legislative
 21 mandate that's been provided to me by the
 22 Legislature of Canada, or the Parliament of
 23 Canada, and the Legislature of the Province of
 24 Newfoundland. I'm bounded by that. I can ask
 25 questions out there, but I can't -- you know,

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1 the question is simply a question. So, no,
 2 the jurisdiction is not mine, and I'm not sure
 3 that -- it is what it is.
 4 MR. MARTIN:
 5 Q. Do you appreciate the fact that people who are
 6 not intimate or familiar with the
 7 constitutional niceties of this country would
 8 be pretty disillusioned to find out that the
 9 Board regulating offshore safety is hiding
 10 behind one of those constitutional niceties in
 11 order to prevent a problem from being
 12 addressed? They don't understand --
 13 MR. PIKE:
 14 A. I don't think that's a fair characterization
 15 to say we're hiding. We have a legislative
 16 mandate and we're fulfilling the legislative
 17 mandate. That mandate does not include the
 18 regulation of helicopters. That's primarily
 19 the area of Transport Canada and the Canada
 20 Labour Code. So it's not -- I can appreciate
 21 your perspective on that one, but we aren't
 22 hiding behind it, it is what it is.
 23 MR. MARTIN:
 24 Q. It may have been a poor choice of words, but,
 25 you know, you do report to two governments?

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1 MR. PIKE:
 2 A. We do.
 3 MR. MARTIN:
 4 Q. You do have joint legislation, for all intents
 5 and purposes, similar legislation?
 6 MR. PIKE:
 7 A. Yes.
 8 MR. MARTIN:
 9 Q. And so I'm really at a loss, and hiding may be
 10 the wrong word because I'm not suggesting
 11 anything deceitful on your behalf, but is it
 12 something that, you know, you could explore
 13 further by way of more than just a letter,
 14 more than just asking the question, but
 15 actually to take it one step further and have
 16 some serious meaningful discussions with the
 17 other --
 18 MR. PIKE:
 19 A. We have initiated that piece, we have written
 20 to Transport Canada identifying that we
 21 believe that an MOU between ourselves and
 22 Transport Canada Aviation, because indeed we
 23 do have an MOU between Transport Canada, the
 24 Marine Safety folks, we are working on one
 25 with the Marine Security folks, and we've

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1 identified the need for one with the Aviation
 2 folks. That doesn't mean we don't have a
 3 dialogue with them, but again we believe that
 4 an MOU would be useful in this regard, that
 5 would be helpful. So have we identified it,
 6 yes; are we working towards that, the answer
 7 is yes. We've written a letter to Transport
 8 Canada identifying those areas where we
 9 believe an MOU would be useful to further
 10 safety in the offshore.

11 MR. MARTIN:

12 Q. Okay. I'll end on one final point, and I'm
 13 going to ask the Registrar if she could bring
 14 up Exhibit 29. It was a presentation that the
 15 Board made here last October. I would ask if
 16 you could -- it's actually the "Offshore
 17 Helicopter Safety Inquiry". I know it's not
 18 your presentation, Mr. Pike, it's that of Mr.
 19 Andrews, but it's part of the Board
 20 presentation. If you could just turn up page
 21 9 of that exhibit, and what that -- the reason
 22 why I'm raising this at this particular time
 23 is that you will recall there have been a
 24 couple of presenters before the Commissioner
 25 who have taken issue, have asked some

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1 questions about what the Board does in terms
 2 of worker safety, and they've specifically
 3 made reference to this particular slide, and
 4 it says, "The C-NLOPB does not have
 5 responsibility for safety of workers or the
 6 environment. Worker safety and environmental
 7 protection are the responsibility of
 8 operators". Now that evidence was given on
 9 the first day of the Inquiry. That was before
 10 we heard from the operators, that was before
 11 we heard from Cougar, that was before we heard
 12 from Mr. Earle's clients, the Union, that was
 13 before we heard from the families, and it was
 14 before we heard from the interested parties
 15 that came here and presented their views,
 16 including the Federation of Labour, Ms.
 17 Michael, and Mr. Parsons, if I recall. So
 18 that was a statement that was never tested
 19 because I believe on that particular day there
 20 were very few questions of Mr. Andrews on that
 21 particular point, but it's been raised since,
 22 and given what you've told this Inquiry over
 23 the past couple of days since we've had all
 24 kinds of information from you, we've had
 25 audits, and I thank you for your cooperation

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1 in that regard, we've had audits,
 2 investigations, and numerous things -- is that
 3 an accurate statement? Given what we know --
 4 you know, is it a statement that the Board
 5 would wish it had worded differently because
 6 it's been the subject of considerable
 7 scrutiny? Does it -- do you stick by that
 8 statement today, having heard what you've
 9 heard over the past four months?

10 MR. PIKE:

11 A. Yes. It's interesting, I've talked about
 12 borrowing statements from other jurisdictions,
 13 and in actual fact if you go check with the
 14 Petroleum Safety Authority in Norway, they use
 15 exactly the same language, and again it speaks
 16 to -- it's not the primary responsibility, and
 17 I think you've heard the operators actually
 18 give testimony that they do believe they have
 19 the responsibility. Our responsibility in
 20 this regard is to make -- is to look at their
 21 duty and see that they're fulfilling that
 22 duty, fulfilling that responsibility. So in
 23 the first instance, it is the operator who is
 24 responsible. Our job is to look at how they
 25 are fulfilling that duty and to hold them

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1 accountable for that duty.

2 MR. MARTIN:

3 Q. And that's the problem I'm having. You're
 4 supposed to be holding them accountable,
 5 you're supposed to be focusing the
 6 discussions, you're supposed to be escalating
 7 the debate, that was the words you used
 8 yesterday in the HUEBA process --

9 MR. PIKE:

10 A. Yes.

11 MR. MARTIN:

12 Q. But you're not taking any responsibility for
 13 worker safety. So if -- I'm confused. Who is
 14 taking responsibility, because if you use the
 15 HUEBA process, bring that to its final
 16 conclusion, obviously no one was looking after
 17 the interest of the workers, the people, our
 18 clients who died on Flight 491, because for
 19 nine years nothing was done until -- or it
 20 took nine years for something to be done would
 21 probably be a better way to characterize it.
 22 So if the Board is not doing it, if the Board
 23 is not facilitating or focusing or escalating
 24 the debate, then who is? You're going back to
 25 your prescriptive approach again. The

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1 prescriptive approach says industry must do
 2 that, we don't -- we don't want to weigh in on
 3 that. So I'm seeing some contradictions here.
 4 This goal oriented approach, you got to do
 5 what's best, you have all kinds of mechanisms
 6 at your disposal, such as orders, warnings,
 7 and reprisals on authorities, so I'm really at
 8 a loss to explain how that statement can be
 9 accurate. If it is accurate, I'm concerned by
 10 it.
 11 MR. PIKE:
 12 A. I think we talked when I referred to Mr.
 13 Earle's piece when the Norwegians came in and
 14 looked at what we did, they felt that we were
 15 taking on too much of the responsibility of
 16 the operators, that we should be pushing back
 17 and holding the operators accountable for that
 18 piece. So one of their conclusions as they
 19 looked at what we did was that we were trying
 20 to do too much of the job of the operators,
 21 and that we should be pushing back at the
 22 operators to make sure that they were doing
 23 their job. So that statement comes very much
 24 from the notion of what we were doing at the
 25 time, so that we would refocus ourselves and

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1 say in the first instance, Mr. Operator,
 2 you're responsible, and our job is to see that
 3 you're fulfilling that duty. That's the way
 4 we're trying to refocus what we're doing. So
 5 what you're looking at is that transition
 6 period, and I think -- I've agreed that it
 7 took far too long to implement a HUEBA. It
 8 wasn't because things weren't being done, but,
 9 you know --
 10 MR. MARTIN:
 11 Q. Okay, let's move it forward and I'll end on
 12 this point because I'm going to bring it
 13 forward to developments in the last week to
 14 ten days where the Commissioner wrote the
 15 Board on two issues; search and rescue
 16 response time, and night flying, and Mr. Earle
 17 has addressed those issues in his
 18 presentation. Now you're given a letter. It
 19 would be fair to say that that's a warning
 20 letter to the Board or to the companies. How
 21 would you characterize that letter that you
 22 wrote the companies? It's all public
 23 information, it forms part of a Board press
 24 release. You wrote a letter or your Chairman
 25 wrote a letter to the companies and asked for

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1 a plan by Friday on the first response.
 2 MR. PIKE:
 3 A. I would characterize that as an order.
 4 MR. MARTIN:
 5 Q. That's an order, okay. Now what about if the
 6 Boards don't comply? What's the next step?
 7 Not the Boards, what about if the companies
 8 don't comply, or they comply, but in a
 9 unsatisfactory manner, what are the next steps
 10 because that statement that has been put
 11 forward by the Board in previous testimony
 12 would suggest that really it's up to the Board
 13 to decide -- it's up to the companies to
 14 decide what they want to do because we don't
 15 have any responsibility for worker safety. So
 16 I'm trying to reconcile that, and I'm trying
 17 to bring it back to a practical reality as to
 18 what if anything you can do outside the order
 19 that you provided to the companies there last
 20 week?
 21 MR. PIKE:
 22 A. It is indeed the Board that issued that
 23 letter. The Board has options with regard to
 24 the authorizations that it has issued. Failure
 25 to comply with the order could have

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1 repercussions on their operations, and I can't
 2 -- you're asking me to speculate on what the
 3 Board may do. I can identify to you the
 4 options the Board has available to it, having
 5 issued an order and if the operators do not
 6 comply with that order, the next stage in that
 7 one relates to their authorizations and what
 8 can and can't be done against their
 9 authorizations.
 10 MR. MARTIN:
 11 Q. I'm not suggesting that you provide that
 12 answer here today because you don't have the
 13 responses yet, I presume, but all I can ask
 14 based on past practice, is that you don't seem
 15 to have been using those enforcement tools
 16 very extensively, so what faith can you give
 17 the offshore workers and my clients who lost
 18 their loved ones on Flight 491 that if the
 19 companies don't comply, that you're actually
 20 going to do something? What assurances can
 21 you give us? I'm not asking you to give me a
 22 specific contents of a letter because you
 23 haven't got the response yet, but I think it's
 24 a fair question?
 25 MR. PIKE:

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1 A. I'll bring you back to 2004 where we suspended
 2 the production on the Terra Nova FPSO because
 3 I wasn't satisfied with their safety
 4 maintenance. For fifteen days that
 5 installation was not producing because I
 6 wasn't happy with their safety maintenance.
 7 It wasn't until they corrected to my
 8 satisfaction were they allowed to start
 9 production again. So, sir, I have done it and
 10 I will do it.
 11 MR. MARTIN:
 12 Q. I thank you for your response, and that's all
 13 I was looking for.
 14 MR. PIKE:
 15 A. Thank you.
 16 MR. MARTIN:
 17 Q. And I hope you will treat the situation and
 18 the Commissioner's recommendations, for which
 19 the families are quite grateful for, Mr.
 20 Commissioner, in a very serious way, and I
 21 fully expect you will.
 22 MR. PIKE:
 23 A. Thank you.
 24 MR. MARTIN:
 25 Q. I thank you very much, Mr. Pike, for your --

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1 thank you.
 2 MR. PIKE:
 3 A. Thank you for your perspective, sir.
 4 MR. MARTIN:
 5 Q. Thank you.
 6 COMMISSIONER:
 7 Q. Thank you, Mr. Martin. Now we would normally
 8 take a break, but have you any questions, Ms.
 9 Crosbie?
 10 MS. CROSBIE:
 11 MR. MARTIN:
 12 Q. Why don't we take a break and then I'll
 13 review.
 14 COMMISSIONER:
 15 Q. Yes, and you could perhaps -- all right, we'll
 16 take our break now.
 17 (RECESS)
 18 COMMISSIONER:
 19 Q. Now Ms. Crosbie.
 20 MS. CROSBIE:
 21 Q. Thank you, Mr. Commissioner. I actually have
 22 no questions for Mr. Pike, but he did want to
 23 make a statement or a comment before we
 24 concluded for the day.
 25 COMMISSIONER:

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1 Q. I see, I see. Do you want to make it now? I
 2 have a question. I know you're probably tired
 3 answering questions.
 4 MR. PIKE:
 5 A. No, sir, I appreciate the questions.
 6 COMMISSIONER:
 7 Q. Um?
 8 MR. PIKE:
 9 A. I appreciate the questions.
 10 COMMISSIONER:
 11 Q. Okay, and then you could make whatever comment
 12 you like, gladly, yes. I'm sure that the
 13 people who are watching this, and perhaps
 14 people in the room as well, see this as a
 15 whole complicated process, and we understand
 16 that you work within the confines of
 17 legislation and procedures, and that you can't
 18 just walk out to Cougar and say do this, do
 19 that, do something else, and perhaps people
 20 thinking about the role of a Chief Safety
 21 Officer may think that that's the way it is,
 22 but it isn't.
 23 MR. PIKE:
 24 A. That's correct.
 25 COMMISSIONER:

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1 Q. And it's also, it seems to me, complicated in
 2 a way that perhaps safety on a platform is not
 3 complicated because Cougar is not your -- you
 4 have no direct control over Cougar, as I
 5 understand it, but only through the operators?
 6 MR. PIKE:
 7 A. That's correct.
 8 COMMISSIONER:
 9 Q. And you've got to bear in mind, as they have,
 10 the role of Transport Canada.
 11 MR. PIKE:
 12 A. Yes.
 13 COMMISSIONER:
 14 Q. So that's what makes it more complicated, I
 15 suspect, than other safety matters on the
 16 platforms or wherever.
 17 MR. PIKE:
 18 A. Yes.
 19 COMMISSIONER:
 20 Q. Now would you like to speak to that, and
 21 perhaps you might -- I know it's the end of a
 22 long process, but perhaps you might like to
 23 explain your terms of reference, as it were,
 24 so that we may not be confused in terms of
 25 helicopter safety, not safety on the rigs or

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1 platforms, or anything to do with actual oil
 2 production, but the transportation of workers
 3 offshore by helicopter, do you think you could
 4 encapsulate it for us?
 5 MR. PIKE:
 6 A. I'll start by saying that our legislation is
 7 not an easy piece of legislation to
 8 understand. It's only - in particular if
 9 you're picking it up fresh. It's not an easy
 10 road map. It's only after you've worked with
 11 it that you begin to sort of understand how it
 12 lays together. Specifically on your question
 13 related to helicopter operations, the easiest
 14 way I've come to describe it is it's the
 15 occupational safety of the passengers that is
 16 our focus, and the operational safety of the
 17 actual aircraft is Transport Canada's, but we
 18 all understand that occupational safety and
 19 operational safety overlap, and there's quite
 20 a grey zone between the two. You can't have
 21 occupational safety without having some
 22 element of operational safety. So it's a very
 23 difficult piece to separate out those two, but
 24 in this particular case more acutely than in
 25 other areas, from our perspective, that

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1 operational safety is clearly within the
 2 mandate of Transport Canada Aviation. They
 3 have less -- they have some parameters around
 4 passengers. We're looking at those passengers
 5 as workers that are covered by what we see as
 6 our occupational safety components. So we are
 7 relying on Transport Canada's operational
 8 safety. That would be the simplest way I
 9 would know how to describe it. I'm not sure
 10 if that helps anybody or not, but that's --
 11 but again acknowledging that you can't sort of
 12 have one without the other, and that also
 13 occurs on the offshore platform. We can't
 14 simply focus, as I indicated, on the injury
 15 statistics without looking at the overall, if
 16 you will, operational safety of the
 17 installation as well because if something goes
 18 wrong on the operational side, it's going to
 19 impact the people. So it's a delicate balance
 20 between the two.
 21 COMMISSIONER:
 22 Q. Okay, do you see that ever changing in any
 23 way, or is that part of the package of
 24 offshore development with two governments
 25 having delegated authority to one entity,

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1 which is the Board? Has it always got to be
 2 this way, do you think?
 3 MR. PIKE:
 4 A. There will always be some boundaries on a
 5 regulatory jurisdiction, and it's by
 6 understanding what those boundaries are to
 7 make sure there's no gaps is the way that we
 8 would need to look forward. It's when you end
 9 up with a gap between the two that you start
 10 running into potential for something to -- one
 11 of the holes in the swiss cheese, if you will,
 12 could be that gap between the two regulators.
 13 If they understand and they acknowledge
 14 there's a bit of an overlap and they
 15 understand what's happening, then that will
 16 work and you can work towards minimizing the
 17 holes, if you will, in the Swiss cheese. But
 18 if you've got the two and there is a gap
 19 between it, you have that potential for the
 20 holes to grow without an ability to close
 21 them.
 22 COMMISSIONER:
 23 Q. That's helpful. That's helpful. Now yes, go
 24 ahead with anything you wish to say.
 25 MR. PIKE:

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1 A. I certainly appreciate the opportunity to be
 2 here today. I'll start off with the -- a
 3 specific example, and I think Mr. Martin
 4 raised it at the end with our slide on what we
 5 don't do. We certainly didn't look at it
 6 within the light and from the perspective that
 7 he did. I had looked at it as a consistent
 8 phrase within the occupational health and
 9 safety regulatory model of Canada, internal
 10 responsibility. I would see it as a
 11 consistent phrase within that regard. I also
 12 looked at it within regards to something for
 13 our own staff, because at times I felt that
 14 they were taking on too much of that burden
 15 when it really belonged with the operator. So
 16 those were the two pieces. So I very much
 17 appreciate getting the perspective. It is
 18 language that's used in Norway, but Norway's
 19 got a different culture, and that language may
 20 not necessarily be as appropriate within the
 21 Canadian context as it is in Norway. So we'll
 22 take another look at it. It was done for a
 23 specific purpose, probably more internal than
 24 it was external, but I now see how, by hearing
 25 from different groups, how that may be

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1 misinterpreted within the Canadian context.
 2 So that's a piece that we need to do.
 3 From the Board's perspective, I want to
 4 thank you very much for the opportunity to
 5 come in and explain some of the processes that
 6 we have. I certainly value hearing the other
 7 perspectives, notwithstanding some of the -- I
 8 appreciate Mr. Earle's perspective on things
 9 and I just wish in some cases that we hadn't -
 10 - we don't have to do it within the confines
 11 of the tragedy that we've had to do it. There
 12 hopefully would be better venues to be able to
 13 do that, and I believe that it's only by
 14 taking those different perspectives on a piece
 15 that you can understand the full one and get
 16 the full piece. So I very much appreciate and
 17 we appreciate your work from the Board.
 18 COMMISSIONER:
 19 Q. Thank you very much. Well, I will say, not
 20 only for the people in the room -- by the way,
 21 before I say anything, Mr. Roil, is there any
 22 other evidence or anything to be brought
 23 before us in this phase?
 24 ROIL, Q.C.:
 25 Q. No, Commissioner. Ms. Fagan and I had an

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1 objective some four months ago when we started
 2 and that was that in this phase we were to
 3 paint for you and for the public the
 4 landscape, which is the wrong word to use when
 5 you're talking about the offshore, but the
 6 landscape of this industry and of the
 7 regulatory regime, and I think that by the
 8 evidence that we have called, we have
 9 fulfilled that goal oriented mandate and that
 10 I now look forward to your direction as to how
 11 we will take the Inquiry forward into the next
 12 portions of phase 1 and then to Phase 2. So
 13 thank you very much, Commissioner.
 14 COMMISSIONER:
 15 Q. Okay, thank you and Ms. Fagan and all the
 16 counsel, you know, for their participation
 17 through this first part of Phase 1 and for the
 18 benefit of those who may be watching this, and
 19 I understand that a lot of people have
 20 followed it, what we will do now is go into --
 21 first, we will select -- in a collaborative
 22 way, we will select the issues and I will have
 23 the final responsibility for that, of course,
 24 but I will value input from everyone that's
 25 here and we will select issues which the

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1 public will be informed of and they will go up
 2 on our website when they're finalized, and
 3 then we will start the investigative phase
 4 which is talking to people, digging into the
 5 subjects which we're going to concentrate on
 6 and inviting -- I will invite also the parties
 7 with standing to dig into these same subjects
 8 and bring forward evidence so that we, at the
 9 end of that investigative phase, have a
 10 substantial amount of information available to
 11 all of us and at the end of that process, when
 12 we have it gathered, as it were, what I
 13 propose to do is to invite everyone with
 14 standing to give me briefs, as it were,
 15 written, not proposals, not argument, but
 16 suggestions as to how I should view the
 17 evidence that we have and what conclusions I
 18 might come to, and I even want to go even
 19 further than the written word, and that is to
 20 -- after these have been received and I think
 21 they also should go on our website, to get the
 22 group together again in this chamber and say
 23 would you -- having seen and had the benefit
 24 of your own materials and the materials that
 25 we, the Commission, me and Inquiry counsel,

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1 have got, is there anything you'd like to
 2 speak to in oral argument, which also of
 3 course would be broadcast in the way that
 4 these proceedings have been, and then at the
 5 end of that day, I will go away by myself, put
 6 it that way, and sit down to prepare a report.
 7 So that's the plan of action, as it were,
 8 that I have in mind, and no doubt in the
 9 meetings that we'll have in the next few days
 10 with the group here, there will be input
 11 perhaps as to procedures and I welcome that,
 12 but at this point then, we'll turn off the
 13 equipment and I will have a few words to say
 14 to the group with standing before we leave
 15 this afternoon. Okay. So we'll turn off the
 16 equipment now and go into this other process.
 17 (UPON CONCLUSION AT 3:45 P.M.)

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 18th 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
8 apparatus.

9 Dated at St. John's, NL this
10 18th day of February, 2010

11 Cindy Sooley

12 Discoveries Unlimited Inc.

13 Judy Moss

14 Discoveries Unlimited Inc.

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