

OFFSHORE HELICOPTER SAFETY INQUIRY

January 14, 2010

Tara Place, Suite 213, 31 Peet Street

St. John's, NL

January 14, 2010

PRESENT:

John F. Roil, Q.C./

Anne Fagan.....Inquiry Counsel

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

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

Denis Mahoney Suncor (Petro-Canada)

Stephanie Hickman/

Nicholas Crosbie. Husky Oil Operations Ltd.

Paul Barnes/

(without counsel) Canadian Association of Petroleum Producers (CAPP)

Laura Brown Laengle Government of Newfoundland and Labrador

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

Jamie Martin.....Families of Deceased Passengers

**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**

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1 January 14, 2010
 2 COMMISSIONER:
 3 Q. Good afternoon, ladies and gentlemen. Good
 4 afternoon, Ms. Michael. Mr. Roil.
 5 ROIL, Q.C.:
 6 Q. Yes, Commissioner, thank you. I just have
 7 some brief introductory notes about Ms.
 8 Michael. As everybody knows in the room, and
 9 in Newfoundland, I hope, Ms. Michael is the
 10 leader of the Newfoundland and Labrador New
 11 Democratic Party, and the Member of the House
 12 of Assembly for Signal Hill Quidi Vidi, but in
 13 addition, I think there may be people within
 14 Newfoundland who are perhaps younger than some
 15 of us who would not know something of her
 16 background. Ms. Michael was born and raised
 17 in St. John's, but she's not just a townie
 18 because she taught school for a number of
 19 years in many communities, including Bell
 20 Island, Baie Verte, Codroy Valley, Burin, and
 21 as well in St. John's. When she left
 22 teaching, I understand she became the Director
 23 of the Office of Social Action in St. John's
 24 where she worked on a number of social and
 25 justice issues for a number of years. She

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1 then moved to the Toronto-based Ecumenical
 2 Coalition for Economic Justice, which took her
 3 all over the world as a speaker on economic
 4 globalization. Then she returned back to our
 5 province when Voisey's Bay Environmental
 6 Assessment Panel was struck in the late 90s,
 7 as a nominee of the Innu Nation. Then in
 8 1999, she became the leader of the party, but
 9 just prior to that she was the Executive
 10 Director of Women in the Resource Development
 11 Committee, where she partnered with labour,
 12 government, and others to achieve employment
 13 equity in the natural resources development
 14 sector. She was not just a person who worked,
 15 she has a passion, we understand, on the side.
 16 She is a musician. I understand that she's a
 17 member of the Philharmonic Choir with the
 18 Newfoundland Symphony Orchestra, and she also
 19 plays piano. Unfortunately, we'll not be able
 20 to hear her this afternoon.
 21 LORRAINE MICHAEL, MHA
 22 A. Or fortunately.
 23 ROIL, Q.C.:
 24 Q. I'm sorry, just one last moment. She has a
 25 presentation which she will give to you, and

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1 for the public, this will be loaded up onto
 2 our website for public access and it will
 3 become Exhibit number P00137.
 4 COMMISSIONER:
 5 Q. Thank you, Mr. Roil. Well, Ms. Michael, are
 6 you ready?
 7 PRESENTATION BY MS. LORRAINE MICHAEL, MHA
 8 A. I am, Mr. Commissioner. Thank you very much.
 9 I usually like to speak without notes, but in
 10 a formal setting like this, I'm going to keep
 11 myself to my written document initially, and
 12 then I would be very happy to have a
 13 discussion with you over anything that I may
 14 say in my presentation. I do want to thank
 15 the Commission for the opportunity to give
 16 this presentation, and to say how honoured I
 17 am to be able to be part of what I hope will
 18 be a turning point in the history of the
 19 province's oil and gas development. I also
 20 want to offer my condolences to the families
 21 and friends of those who were lost in the
 22 crash of Cougar Flight 491 on March 12th,
 23 2009. Like others who have presented, I like
 24 to think of my contribution here, in the House
 25 of Assembly, and as leader of the province's

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1 New Democrats, as being dedicated to their
 2 memory. I want to talk a bit about my
 3 background with regard to oil and gas, and
 4 this is not in my written documentation, I
 5 realize, but I'm going to throw this in
 6 because of what I heard Mr. Roil say with
 7 regard to my biography. When I was Director
 8 of the Office of Social Action, my work began
 9 in 1980, and the reason that office was
 10 started -- it was an office of the Archdiocese
 11 of St. John's. The reason it was started was
 12 to look at the impact of the oil and gas
 13 development on the communities and lives of
 14 people in the province, and the purpose of the
 15 office was to work with communities at that
 16 time, especially in the Argentia/Placentia
 17 area because of the assessment at that time of
 18 the impact that would happen in Placentia Bay.
 19 So I was consequently early in my work, about
 20 two years in my job and two years in getting
 21 this office off the ground, when the Ocean
 22 Ranger disaster happened, and as an office, we
 23 then became plunged fairly quickly into what
 24 is one of the negative side effects of
 25 industry of any kind, and that is major

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1 disaster. I was privileged at the time of the
 2 Ocean Ranger disaster to be approached by
 3 families who were impacted by that disaster
 4 and asked to work with them in the formation
 5 of what became the Ocean Ranger Family
 6 Foundation. I think it is my work with the
 7 Ocean Ranger Family Foundation that gives me
 8 insight into the impact of the type of tragedy
 9 that we're dealing here with today in this
 10 Commission. I worked for three years with the
 11 families of the men who were lost in that
 12 accident, and I learned just how vulnerable
 13 the families of workers can be. I have a
 14 strong and deep understanding of the impact on
 15 families of this sort of accident. It is
 16 because of this experience that I know this
 17 Commission must do everything it can to ensure
 18 the future safety of offshore workers. I am
 19 also here today because as the leader of the
 20 province's New Democrats, and an MHA, I have
 21 been contacted privately by people in the
 22 offshore oil industry with their concerns.
 23 I'm not a lawyer or an engineer, nor do I have
 24 a lot of technical knowledge about the various
 25 aspects of helicopter safety, but I do know

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1 people, and I know they come first in any
 2 consideration before any other consideration,
 3 and I know that I have a responsibility, as an
 4 MHA and as a political leader, to take their
 5 concerns and bring them here today. Listening
 6 to them makes me believe that no
 7 consideration, not political or financial or
 8 legal, should take our focus away from why we
 9 are holding this Inquiry and what we hope to
 10 achieve. We are here in the memory of those
 11 we lost in the hopes that we can through our
 12 work ensure that men and women on their way
 13 offshore to work can do so in the safest
 14 possible way in the future. The shock of the
 15 loss of Cougar Flight 491 on that cold grey
 16 March morning has not been dulled by the
 17 passing of months. When I heard of the
 18 missing helicopter, like many I waited
 19 anxiously to hear that all aboard were safe.
 20 When I heard, as we all did, the details
 21 released during that agonizing day, my heart
 22 sank. The loss of 17 people was overwhelming.
 23 My sadness was lifted only by the heroic
 24 rescue of Robert Decker, and I'd like to say
 25 like many, many others who were around at the

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1 time of the Ocean Ranger disaster, memories
 2 came rushing back of that day as well of that
 3 disaster. I think, like for many people in
 4 the province, this second accident was
 5 something that was quite -- had quite an
 6 impact on me, and I know it had an impact on
 7 others. Unlike most of us who face nothing
 8 more than a short trip to our place of work,
 9 those who work offshore face travelling by
 10 helicopter to one of the most inhospitable
 11 work environments on earth, an offshore oil
 12 platform in the North Atlantic. While these
 13 people accept this risk in order to provide
 14 for themselves and their families, it is
 15 important to remember that they are also
 16 generating great wealth for the benefit of the
 17 rest of us. It is also important to emphasize
 18 that it is our responsibility to ensure that
 19 risk is managed and minimized as much as
 20 possible. Work at sea has always been a
 21 hazard too well known to Newfoundlanders and
 22 Labradorians. Those who work on the North
 23 Atlantic have always faced great risks. It is
 24 a sad fact that our history reflects a poor
 25 record of safety when it comes to protecting

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1 the men and women who work offshore, dangerous
 2 at the best of times. For example, the annual
 3 seal hunt of the past was a litany of danger
 4 and tragedy. In March of 1914, sealers from
 5 the SS Newfoundland were left on the ice off
 6 the north east coast all night in a savage
 7 blizzard. That night 78 of the 132 men
 8 abandoned on the ice died of exposure. They
 9 died, in part, because the company who owned
 10 their sealing vessel did not think it
 11 worthwhile to add the expense of a radio, so
 12 the skipper did not know his men were in
 13 peril. In 1984, we lost 84 men working on the
 14 Ocean Ranger, a rig drilling in search of the
 15 oil we now benefit so greatly from. The Royal
 16 Commission struck to investigate that tragedy
 17 cited poor design and poor safety training and
 18 equipment as contributing to the disaster. I
 19 see some grim themes in all these past
 20 instances, a work culture not adequately
 21 focused on safety and tendency to be reactive
 22 to disaster instead of proactive. We tend to
 23 have inquiries such as this one after the
 24 accidents. I hope that those days will be
 25 behind us. Today we meet here to look into

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<p>1 measures we can take to avoid another 2 catastrophe occurring while offshore oil 3 workers are going to or from their work. We 4 all understand working in the North Atlantic 5 is risky, but risk can be understood and 6 mitigated, it can be reduced. In my 7 presentation today, I'm going to address a 8 number of issues I think are important in 9 determining what future measures are needed to 10 improve upon the safety of those who must 11 travel by helicopter to their work offshore. 12 They are; concerns with the Mandate and Terms 13 of Reference of Inquiry, the need for a 14 culture of safety, a biennial offshore safety 15 conference, an independent safety board 16 separate from the C-NLOPB, the need for DND 17 Search and Rescue based in St. John's, and 18 individual safety issues with current offshore 19 travel. In the first area, the Mandate, I am 20 troubled by the limitations that were placed 21 on the Commissioner in the general Terms of 22 Reference, referring as they do to the 23 Commission as not being able to examine the 24 provision by the Government of Canada under 25 the Department of National Defence, of Search</p>	<p>1 push the envelope of his mandate. The safety 2 of people who have to travel to work in 3 helicopters demands it. I was also interested 4 in the wording found in the Commission's Terms 5 of Reference regarding the purpose of this 6 Inquiry. To quote the section, "To determine 7 what improvements can be made so that the 8 Board can determine that the risks of 9 helicopter transportation of offshore workers 10 is as low as is reasonably practicable in the 11 Newfoundland and Labrador offshore area". I 12 found the term "reasonably practicable" 13 concerning, as it provides vague guidance at 14 best. With respect, I would ask that the 15 Commissioner focus on the term "reasonably 16 practicable". I believe a lot of what can 17 come out of this Inquiry will depend on how 18 the Commissioner interprets that phrase. One 19 person's "reasonable" is another's 20 "unnecessary risk". Should reasonably 21 practicable be viewed in terms of profit 22 margins or bottom lines, the NDP believes 23 financial considerations should never be a 24 deciding factor in considering employee 25 safety. Each employee should be given every</p>
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<p>1 and Rescue facilities for all marine incidents 2 and the location of such facilities within the 3 Province of Newfoundland and Labrador. My 4 federal colleague, MP, Jack Harris, called 5 this situation in his presentation to this 6 Commission, "preposterous", and I certainly 7 want to second that opinion. When the oil and 8 gas industry in this province was in its 9 infancy and we were dealing with the Ocean 10 Ranger disaster, a recommendation of the Royal 11 Commission, Recommendation 56, was that there 12 be required a full time Search and Rescue 13 dedicated helicopter, provided either by 14 government or industry, fully equipped to 15 search and rescue standards stationed at the 16 airport nearest to ongoing offshore drilling 17 operations, and that it be readily available 18 to perform all aspects of rescue. We know this 19 recommendation has never been put in place in 20 the fullness of the recommendation. It is, as 21 Jack Harris says, "preposterous" that the 22 Commissioner be stopped from looking into this 23 matter. I applaud the Commissioner's move to 24 ask the Department of National Defence to 25 testify, and I encourage him to continue to</p>	<p>1 possible advantage to survive in an emergency 2 situation. This is especially true for this 3 province's offshore oil industry. Our 4 province has benefited mightily from offshore 5 oil revenues. Government claims we are a 6 "have province" for the first time in our 60 7 year association with Canada. Never in our 8 500 year history has the province been so 9 wealthy. We owe this wealth to the good 10 fortune of discovering oil reserves off our 11 shores. We also owe it to the brave 12 hardworking men and women who work the 13 offshore platforms. In simple numbers, there 14 are roughly 1200 offshore workers. In 2008 to 15 2009, the province earned 2.5 billion dollars 16 in revenue from offshore production. The 17 federal government, with its 8.5 percent stake 18 in just the Hibernia Platform, earned over 1 19 billion dollars, and the oil companies have 20 earned many billions more. It is 21 inconceivable to me, in the face of all this 22 wealth being generated by so few workers, that 23 cost should ever be a consideration in 24 evaluating worker safety, especially when it 25 comes to offshore travel. The people of</p>

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1 Newfoundland and Labrador owe these workers
 2 our absolute unwavering commitment to their
 3 personal safety, no matter what the cost. I
 4 submit that every safety precaution, every
 5 safety measure, and every enhancement to
 6 safety and all training, are reasonably
 7 practicable, and I hope the Commissioner will
 8 interpret that phrase the same way. The
 9 secondary, the need for a culture of safety.
 10 After the crash of Cougar Flight 491, safety
 11 issues regarding offshore helicopter travel
 12 began to be discussed in the media, brought up
 13 by people working offshore who had harboured
 14 these concerns for some time. We heard of
 15 survival suits that don't fit, worries about
 16 auxiliary fuel tanks carried inside the
 17 helicopter with passengers, and testimony from
 18 the sole survivor regarding his doubts about
 19 the survival training given to workers.
 20 Perhaps those issues were not contributing
 21 factors to this particular incident, but at
 22 another time in another circumstance each of
 23 these safety issues could be the cause of a
 24 tragedy. The sudden outpouring indicated to
 25 me a problem with the offshore work culture.

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1 Since the crash, I have been approached
 2 privately through e-mail, by telephone, and in
 3 person, by offshore workers who have concerns
 4 for their safety, but fear that speaking out
 5 will cost them their jobs, and I'm not
 6 speaking to whether or not the fact of losing
 7 jobs is a reality, I'm speaking to the fact of
 8 the fear that they fear they could lose their
 9 jobs. I understand it can be seen as unfair
 10 to level allegations against oil companies or
 11 helicopter companies using anonymous
 12 complainants. An organization accused in
 13 public has the right to question and cross-
 14 examine its accuser, yet the fact remains that
 15 I have been approached by offshore workers who
 16 spoke of their concerns and of their worries
 17 about speaking out publicly. I have been told
 18 of terrifying near misses while attempting to
 19 land in fog at the rig, of stressful sudden
 20 returns to St. John's by helicopters with no
 21 real information given to passengers and what
 22 was wrong, only to be told to board another
 23 helicopter to fly out to the workplace right
 24 away. As one person put it to me, and I
 25 quote, "Passengers who are subjected to this

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1 stress should be able to reject further travel
 2 that day with no pay loss. Passengers at
 3 Cougar have returned to St. John's and then
 4 loaded onto another helicopter for offshore
 5 travel. When do the stress and hardship
 6 incurred by the passengers enter the
 7 equation", and I quote the person as he said
 8 it. Now would be a great time, don't you
 9 think, to give this issue the professional
 10 respect it deserves. Each of these issues
 11 could have been and should have been
 12 identified, addressed, and resolved as part of
 13 ongoing safety reviews, not surfacing as
 14 anonymous e-mails or phone calls to an MHA
 15 they hope is going to be able to speak out on
 16 their behalf. Nevertheless, the fact that I
 17 am approached like this speaks to the work
 18 culture that exists offshore, often a culture
 19 of secrecy and fear of reprisal. Such a
 20 culture is the antithesis of what is needed to
 21 ensure that all safety concerns, from the
 22 frivolous to the serious, are aired,
 23 discussed, and resolved in an atmosphere of
 24 complete openness and trust. Officials with
 25 the C-NLOPB have stated to this Inquiry that

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1 since 1997 when the Hibernia Platform began
 2 working, they have been made aware of 178
 3 concerns about the helicopters, performed 261
 4 safety audits or inspections of the oil
 5 industry's offshore operations, and found no
 6 significant safety concerns with helicopter
 7 safety. This information seems to be at odds
 8 with what we are learning about such issues as
 9 survival suits, safety training, and other
 10 aspects of helicopter travel offshore. I have
 11 heard many concerns raised regarding safety
 12 issues in all areas of the offshore, including
 13 helicopter safety. Many of these concerns
 14 were raised by people who said they don't
 15 trust their employers, or in some cases, the
 16 regulator, the C-NLOPB. Whatever the reason,
 17 this situation is unhealthy and dangerous. It
 18 is not conducive to developing a healthy
 19 safety culture. There needs to be change.
 20 There needs to be a complete overall of the
 21 offshore work culture from an industry,
 22 labour, and government perspective, so that
 23 any worker anywhere can feel at anytime that
 24 he or she can speak openly without fear of
 25 reprisal about safety concerns. I understand

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1 that my proposal extends far beyond the issue
 2 of offshore helicopter travel, which this
 3 Commission is investigating. However, in
 4 order for people to feel safe on the
 5 helicopters that take them to their work
 6 offshore, they are going to need to feel they
 7 are a valued part of an industry-wide ongoing
 8 proactive safety culture. I don't think this
 9 has been the case in the past, it won't change
 10 without the complete and sincere efforts of
 11 everyone in the industry. Developing a more
 12 open safety culture will be a difficult goal
 13 to achieve, but it is essential if safety is
 14 to become an ongoing proactive issue. Safety
 15 must be everyone's responsibility. The next
 16 area deals directly with what I've just been
 17 saying, and that is a biennial offshore safety
 18 conference. One practical way an open safety
 19 culture could be fostered stems from a
 20 recommendation of the Royal Commission that
 21 looked into the Ocean Ranger tragedy. That
 22 report recommended, and I quote, "That the
 23 Government of Canada encourage and support the
 24 convening of a biennial conference on offshore
 25 safety". I believe this practice would be an

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1 excellent way for our local industry to become
 2 a world leader in the area of offshore safety.
 3 I also believe an event like a regular
 4 conference would be a strong motivator for all
 5 stakeholders in the industry to work towards a
 6 healthier more open safety culture. A key
 7 component of a biennial safety conference
 8 would be offshore helicopter safety. The
 9 world looks to Norway as a leader in offshore
 10 oil practices. How wonderful if a decade from
 11 now Newfoundland and Labrador were synonymous
 12 with offshore safety practices. All that is
 13 lacking is the will, and I do believe that the
 14 creation of something like a biennial
 15 conference would set the framework for our
 16 putting more money into research around safety
 17 issues and into monitoring our safety
 18 practices.
 19 An independent safety board separate from
 20 the C-NLOPB, my next area. It is clear that
 21 the offshore oil industry needs to be
 22 regulated by a separate body responsible only
 23 for safety issues. Such is the case in
 24 Norway, and the more I look at what's
 25 happening in Norway, the more I believe that

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1 this is the way to go. While the
 2 recommendation of a separate safety board for
 3 the entire offshore goes beyond the mandate of
 4 this Commission, this is as good a place as
 5 anywhere to start the discussion.
 6 On January 1st, 2004, the Norwegian
 7 government created the Petroleum Safety
 8 Authority. It's broad mandate gives it
 9 regulatory responsibility for safety,
 10 emergency preparedness and the working
 11 environment in all aspects of the country's
 12 oil and gas activities. The Authority defines
 13 safety as embracing, and please note the
 14 order, and I quote "three categories of loss,
 15 human life, health and welfare, the natural
 16 environment and financial investment and
 17 operational regularity." The authority works
 18 toward true and equal collaboration between,
 19 and I quote again, "employers, unions and
 20 government, as well as worker participation,"
 21 noting that these goals are important
 22 cornerstones in efforts to establish and
 23 develop a high level of safety in the
 24 petroleum industry.
 25 Mr. Commissioner, I believe that such a

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1 commitment is what we need to provide to all
 2 who have to fly offshore to their jobs. They
 3 deserve this level of commitment and it is our
 4 duty to provide it.
 5 Testimony this week has shown that the
 6 oil industry cannot always be trusted to
 7 instill safety procedures on their own in a
 8 timely fashion. Earlier this week, an oil
 9 company executive admitted to you that his
 10 company had taken too long to provide workers
 11 with a safety device, a helicopter underwater
 12 escape breathing apparatus, for those required
 13 to make helicopter flights. This is an
 14 unacceptable situation. This has to change
 15 and I believe if we set up a separate agency,
 16 we would be putting such a focus on safety
 17 that these kinds of things would not happen
 18 again.
 19 The C-NLOPB also shares some
 20 responsibility for the situation that we're
 21 in, as the regulatory agency responsible for
 22 offshore safety, and it is part of their
 23 mandate, the safety feature should not have
 24 been allowed to take nine years and counting,
 25 by the oil companies' own admission, to be

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1 implemented.

2 Others have reported that prior to this

3 accident, they had no idea that survival suit

4 fit was an issue. However, I first heard of

5 the problems with the fit of survival suits at

6 least ten years ago, in my role as executive

7 director of Women and Resource Development.

8 It was especially an issue for women, but it

9 was also an issue for many men. So I was a

10 bit shocked when I heard a company official

11 sit here in this Inquiry and say that this was

12 a new issue for them. It certainly was around

13 -- I was aware, as I said, ten years ago.

14 The C-NLOPB is primarily a marketing and

15 permit granting body and should not also be

16 responsible for safety considerations

17 concerning the offshore industry. New

18 Democrats have long recommended that offshore

19 safety must be administered by an entirely

20 independent agency charged with working

21 equally with all sectors of the industry, and

22 that would include working with C-NLOPB.

23 Safety must be the highest priority. The

24 surest way to begin the long road to a

25 healthy, open culture of safety in the

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1 offshore begins with an independent safety

2 authority. It works in Norway. We could make

3 it work here.

4 The fifth area, the need for a DND search

5 and rescue based in St. John's. I would like

6 to start this section of my presentation with

7 a quote from someone I consider to be an

8 authority on offshore helicopter safety, the

9 sole survivor of the disaster, Robert Decker.

10 His calm testimony about the events of that

11 day provided us all with a valuable picture of

12 what happens when things go wrong on a

13 helicopter flight to the oil rigs. I remember

14 in particular one quote when Decker was

15 speaking of his time in the water after he

16 escaped from the submerged helicopter. He

17 said "then I guess I was anxious, because I

18 knew my only hope was rescue by a helicopter.

19 Obviously when the helicopter came on scene, I

20 knew it was a Cougar helicopter, I knew the

21 colours. I was expecting a big search and

22 rescue yellow helicopter, which I think anyone

23 would probably anticipate." Decker's

24 expectation is the essence of common sense,

25 spoken by a man who was recalling being

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1 injured and near death after the crash, afloat

2 by himself in the North Atlantic.

3 The fact is, despite the limitations

4 placed on the Commission's mandate, and

5 despite the insistence by the Federal

6 Government that they deem a dedicated search

7 and rescue unit in St. John's not an option,

8 simple common sense dictates we need one, and

9 we need it right away. Although this issue

10 has been portrayed as a political issue, it is

11 not. It is an issue of common humanity and an

12 issue of common sense.

13 This recommendation, recommendation for a

14 search and rescue unit in St. John's, has been

15 on the books and ignored for over 25 years. I

16 pray we never have another offshore

17 catastrophe, but if we do, we owe it to those

18 who find themselves caught in it, and their

19 families, that they can expect swift rescue

20 from a dedicated unit based in St. John's.

21 Although, as I mentioned earlier, I

22 understand this issue is outside the

23 Commissioner's mandate, I believe it must be

24 mentioned here in this forum. As I mentioned

25 earlier, this is a preposterous state of

Page 24

1 affairs. It must be addressed. Simple common

2 sense dictates it.

3 And now I'd like to look at some

4 individual safety issues with current offshore

5 travel and this particularly comes from people

6 who've spoken to me.

7 Since the Cougar Flight 491, I have, as

8 I've just said, been approached by people

9 inside the industry who have expressed to me

10 concerns they have about offshore operations

11 right now, especially regarding helicopter

12 travel. I understand that the Commissioner,

13 in order to be thorough and reliable, will

14 have to take time in hearing and considering

15 all presentations and in rendering his

16 decisions. This necessity is cold comfort to

17 someone facing travelling today by helicopter

18 when they have concerns about whether or not

19 these craft are safe to travel on. We have

20 heard from earlier testimony by the president

21 of the Hibernia Management and Development

22 Corporation that a few workers refused to fly

23 on the helicopters when they heard Robert

24 Decker's testimony. While I'm not an expert

25 on any technical aspect of search and rescue,

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1 I have listened carefully to those who have
 2 approached me with their concerns and I
 3 believe there are a few issues regarding
 4 helicopter safety for those travelling
 5 offshore right now that I should raise here
 6 today, to put them in the realm of public
 7 debate, and not that I have answers to the
 8 technical questions.

9 As late as this morning, I received a
 10 telephone call from someone calling my
 11 attention to yet another issue regarding
 12 survival suits worn by workers travelling by
 13 helicopter to work offshore. This caller drew
 14 my attention to his concerns regarding the
 15 dangers of being in a survival suit fully
 16 submerged under water. His contention is
 17 survival suits are not designed to be worn
 18 under water and could have been -- and he
 19 stresses could have been, not saying they were
 20 -- instrumental in the deaths of those
 21 travelling on Cougar Flight 491. I have no
 22 way of verifying whether his concerns are
 23 valid. I have no desire to cause unnecessary
 24 anguish for the families of the victims by
 25 bringing this up, but it is a concern that has

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1 been raised and it is the danger of suits that
 2 aren't meant for underwater, but for being on
 3 top of water and what happens when you're in
 4 the helicopter when it goes under and these
 5 suits aren't meant for under water. The
 6 question that this person has raised is,
 7 surely there is a -- we can do research to
 8 come up with a way in which the suits can be
 9 able to be floatable when needed and not
 10 floatable if you end up under water first,
 11 because if you're under water and you're
 12 inside a helicopter in these suits, the danger
 13 of not being able to get out is very great,
 14 and if you get out in a suit that's not meant
 15 to be under water, there are problems that
 16 arise. So I bring this up, not that I have
 17 answers, but I promised this person I would
 18 bring this issue here.

19 Calls like this underscore my concerns
 20 that the current system for addressing
 21 offshore safety issues is not working.
 22 Offshore workers should not have to call their
 23 MHAs with safety concerns. As I stated
 24 earlier, an independent safety board, separate
 25 from the C-NLOPB, would be a more appropriate

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1 venue. I offer these issues in no particular
 2 order and I bring them up solely because
 3 someone has seen fit to bring them to my
 4 attention.

5 I've had some issues brought to my
 6 attention as well with regard to the actual
 7 March 12th Cougar rescue. One issue raised to
 8 me concerns actions Cougar Helicopter took on
 9 the day of the crash, actions which they
 10 should have taken. While all of us applaud
 11 the heroic actions of the Cougar staff that
 12 day, the fact is that the whole situation
 13 involves people who are not as well trained or
 14 prepared, nor could they expect to be, as a
 15 dedicated search and rescue team like the SAR
 16 techs working for the Department of National
 17 Defence. I'm given to understand that on the
 18 day of the crash, under the stress of the news
 19 that one of their helicopters was missing,
 20 technicians had to install the hoist that
 21 proved vital in saving Robert Decker's life
 22 onto the Cougar rescue helicopter and precious
 23 time, I've been told about a half hour, was
 24 lost in the process, and it's not that it was
 25 lost because they weren't doing it correctly.

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1 It's that because that helicopter is not there
 2 dedicated solely to safety and rescue that the
 3 hoist can't be on it, in case it's going to be
 4 used for another purpose. So if it gets
 5 called into play, while it's on the ground, to
 6 be used for search and rescue, then a half
 7 hour at least gets spent in putting the hoist
 8 on. No one judges the people doing this work,
 9 working as they did under tremendous stress.
 10 It had to take a half hour for them to put
 11 that hoist on the helicopter. I wonder if any
 12 of us could say we would have acted nearly as
 13 well that day as the Cougar employees did
 14 under the stress that they were dealing with.

15 My point is, when it comes to a vital
 16 issue like emergency search and rescue,
 17 everything should be in place for immediate
 18 action. We should minimize, as greatly as
 19 possible, the delay time in getting a
 20 helicopter into the air. Fully trained,
 21 dedicated professionals with helicopter fully
 22 ready 24 hours a day, seven days a week, 365
 23 days of the year for search and rescue are the
 24 least any offshore worker should expect. They
 25 shouldn't be out there or having to go out

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1 there without the knowledge that that's in
 2 place. The need for a top class, state-of-
 3 the-art search and rescue facility stationed
 4 in St. John's dedicated primarily to the
 5 offshore oil industry is obvious. It should
 6 be done.

7 Another issue that was raised to me by an
 8 employee was this employee's concern with
 9 regard to the Cougar colours. I think anyone
 10 in this province now recognizes the blue and
 11 white pattern of the Cougar helicopter. I
 12 have been made aware of concerns regarding the
 13 company's colours and the use of those colours
 14 on the helicopter. Blue and white are not
 15 colours that stand out in the North Atlantic.
 16 I have had people contacting me to ask why
 17 Cougar does not adopt colours that are
 18 brighter and stand out more against the
 19 background of the North Atlantic. Despite all
 20 the modern technology available to locate
 21 aircraft, it would seem that brightly painted
 22 helicopters would be easier to locate, both
 23 during regular operations and in the case of
 24 an accident. This is even more so the case
 25 for night flights. As night flying has

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1 gradually returned to Cougar's schedule, the
 2 risk of a crash at night has returned. It
 3 seems obvious that a blue and white coloured
 4 helicopter would be much harder to spot at
 5 night than a brightly coloured one. I
 6 couldn't help but notice myself, during the
 7 news reports at the time of the accident, the
 8 flaming red colour used on helicopters in the
 9 North Sea.

10 Another issue raised by workers who have
 11 called me is the common practice for
 12 helicopters to travel to more than one
 13 platform on their travels to and from the
 14 offshore oil patch, and I think the issue has
 15 been raised here already. I have spoken with
 16 people who have told me that the repeated
 17 landings and takeoffs are very stressful to
 18 them and they suggested that helicopters make
 19 only dedicated flights to and from one
 20 destination. They suggest this practice would
 21 lower their exposure to an accident, as
 22 takeoff and landing on the rigs are high risk
 23 activities, and would also reduce pilot
 24 stress, a contributing factor to possible
 25 pilot error.

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1 Referring back to my earlier comments on
 2 the need for a more open work culture in the
 3 offshore industry, it is a sad comment on the
 4 existing offshore work culture that people
 5 feel it necessary to approach their MHA
 6 anonymously or privately with their concerns.
 7 I hope all stakeholders can agree this
 8 situation must change.

9 In conclusion, Mr. Commissioner, as you
 10 listen to all the people who participate in
 11 this Inquiry, I know you have the
 12 considerations of the men and women who fly in
 13 helicopters to their jobs offshore first and
 14 foremost in your mind. I know too you have a
 15 deep understanding of the hopes and fears of
 16 the families and loved ones of those offshore
 17 workers.

18 I hope you interpret your mandate
 19 broadly, showing a concern for the people your
 20 Inquiry was struck to protect over the
 21 concerns of the officials who drafted your
 22 terms of reference. I suspect I and the
 23 public will appreciate it. I hope you will
 24 interpret the phrase "reasonably, practicable"
 25 very generously in favour of providing

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1 whatever it takes to ensure the maximum safety
 2 of offshore helicopter travel. I hope you
 3 will think of the great wealth generated from
 4 the efforts of the relatively small number of
 5 people working offshore and realize that
 6 resources exist to ensure that risk is
 7 minimized as much as possible. I hope you
 8 will not be too swayed by the bottom line.
 9 Even if expensive new safety practices are
 10 necessary, the oil companies and government
 11 will still make plenty of profit from their
 12 ventures. I hope you will see that my
 13 concerns regarding the need to change the
 14 offshore work culture must be addressed and
 15 that this change is especially important with
 16 regard to offshore helicopter travel. I hope
 17 you will see the need for independent, public
 18 monitoring of offshore helicopter travel. I
 19 hope you will address the ongoing debate
 20 regarding the need for a dedicated, publicly
 21 funded research and rescue unit based in St.
 22 John's. I think the families and workers are
 23 expecting it of you. And lastly, I hope you
 24 will be able to look into the individual safety
 25 considerations I have mentioned today.

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1 I wish you luck in the completion of your
 2 Inquiry and in the writing of your report. I
 3 know the people of Newfoundland and Labrador,
 4 in general, and the men and women who work in
 5 our province's offshore oil industry and fly
 6 in helicopters to get to work and their
 7 families and loved ones have great faith in
 8 what you are doing. I, as do they, look
 9 forward to reading your deliberations and
 10 recommendations. Thank you very much for this
 11 opportunity to present these thoughts to you.

12 COMMISSIONER:
 13 Q. Thank you, Ms. Michael. Well, I hope you
 14 don't mind if we have a chat, as it were?

15 LORRAINE MICHAEL, MHA:
 16 A. I'd be delighted.

17 COMMISSIONER:
 18 Q. You have said a great many things really in
 19 the last 40 minutes, and you come here not
 20 only as a person with a background in -- I
 21 want to use the word social work, and I guess
 22 that's a good work for it, work with people,
 23 helping people, and you also come here with
 24 the force of being an elected representative
 25 of your fellow citizens, and I think we all

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1 realize whatever views at times people might
 2 have of politicians, and we all know the
 3 criticism that sometimes is attached to the
 4 office, but I want to say that despite all
 5 that, to be an elected representative of the
 6 people of one's province or country is a very,
 7 very high calling and a great role to play,
 8 and I appreciate it, and we here in the room
 9 appreciate that you come to us this afternoon
 10 with these qualifications which enhance really
 11 what you say.

12 It's not the time and place now to
 13 discuss individual matters that you have
 14 raised, but that you have raised them is good.
 15 What happens, I think, and it is inevitable in
 16 a forum like this, is detailed things become
 17 discussed in a detailed way and very often
 18 when you're focused on details, one can forget
 19 the broader implications, not forever as it
 20 were, but it's so easily done on a day-to-day
 21 basis, and what you have done for me, and I
 22 suspect for everyone here this afternoon, is
 23 make us focus, for a time, on broader issues,
 24 broader even than the terms of reference, but
 25 issues nonetheless which come to the mind of

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1 workers and come to the mind of citizens.
 2 Because, as I've said earlier in these
 3 proceedings, not only is this industry the
 4 industry of the oil companies and those who
 5 operate it, but it is our industry too, and
 6 our people and people from beyond our shores
 7 also work in this industry, and what you have
 8 said helps us, I think, to focus on the
 9 broader picture.

10 One thing I am certain of is that
 11 everybody in this room, and people who are not
 12 necessarily in the room, want as safe as
 13 possible an offshore helicopter transport to
 14 be. Everyone wants that. But of course,
 15 opinions will differ, as always in human
 16 affairs, as to the best way to do that. But I
 17 think the bona fides, if I may put it that
 18 way, of everyone are secure in the sense of
 19 wanting to do the right thing. I would be, as
 20 you would be, and we all would be, very
 21 disappointed if anyone was not motivated in
 22 that way.

23 So we have to look at many issues. I'm
 24 interested, of course, my background as a
 25 lawyer and a judge for a great many years, and

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1 the suggestion that I might go beyond my terms
 2 of reference to a lawyer and former judge is
 3 perhaps -

4 LORRAINE MICHAEL, MHA:
 5 A. Daring.

6 COMMISSIONER:
 7 Q. - unusual, but let's not mind that, you know.
 8 It's the perspective that you bring that's
 9 important. In this process, we have to
 10 navigate, to use a nautical analogy I suppose
 11 for the moment, we have to navigate between
 12 various things, and the first instance is the
 13 Offshore Petroleum Board which appointed me
 14 and the team that I've put together and
 15 permitted by virtue of the Commission of
 16 Inquiry, all the people who appear before it
 17 and give evidence. So we have to be cognizant
 18 of that. We have to be cognizant of the
 19 Transportation Safety Board, which does the
 20 actual investigation of what went wrong in the
 21 accident, and for some recommendations, we
 22 have to wait until its report is made because
 23 they have a high degree of expertise,
 24 scientific expertise which is recognized. I
 25 must say, we're all pleased to know

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1 internationally Canada's role in that sort of
 2 thing. We have to navigate also between the
 3 Department of Transport, Transport Canada,
 4 which regulates, which deals with airframes,
 5 planes in other words, be they helicopters or
 6 fixed wing, and they license aircraft and they
 7 train -- or they don't train, but they license
 8 and ensure themselves of the qualifications of
 9 pilots.
 10 And of course, we have to navigate, as
 11 well as through these other things, the role
 12 of the Department of National Defence which is
 13 not within my mandate, but I am very pleased
 14 that they have consented to come and talk to
 15 us, which they will, a representative, Colonel
 16 Drover, who incidentally is from Newfoundland,
 17 will be here later this month talking about
 18 their role, because there is an interface
 19 between their role and the role of the Cougar
 20 search and rescue helicopter, which is
 21 provided by contract with Cougar by the oil
 22 companies, and of course paid for by the oil
 23 companies, but the role of the Department of
 24 National Defence is, of course, important
 25 because whenever a major incident or accident

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1 occurs, they are essentially, and practically
 2 as I understand it, in charge. So there is an
 3 interface there which is important, not only
 4 for us working in this room to understand, but
 5 for people outside this room to understand
 6 also.
 7 All these things, of course, I have to
 8 take into consideration and counsel have to
 9 take into consideration as we progress, but I
 10 would say this to you, I sincerely believe
 11 that despite any restrictions which might be
 12 imposed upon us, I sincerely believe that we
 13 have the room to consider things which are of
 14 vital importance to safety in this industry
 15 and the process of taking people back and
 16 forth, and I do believe that I have the
 17 authority and the duty, under the terms of
 18 reference, to make significant recommendations
 19 on safety issues. These recommendations, as
 20 I've said earlier, should be achievable and
 21 sensible, not far out and beyond the pail, but
 22 sensible things which can be done, and that's
 23 what I will try to do, and that's what
 24 everybody, I'm sure, in this room will want to
 25 contribute and does want to contribute to the

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1 process.
 2 So I thank you, on behalf of all of us,
 3 for your good wishes, for your broad
 4 expression of concerns, which are not just
 5 your concerns, I'm sure, but public concerns
 6 also, and for bringing them to us this
 7 afternoon and to thank you for your good
 8 wishes in the work of the Inquiry. Thank you
 9 very much.
 10 LORRAINE MICHAEL, MHA:
 11 A. And thank you very much, Mr. Commissioner.
 12 COMMISSIONER:
 13 Q. Okay. We'll adjourn now until Monday morning
 14 at 9:30.

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1 CERTIFICATE
 2 We, the undersigned, do hereby certify that
 3 the foregoing is a true and correct transcript of a
 4 hearing heard on the 14th day of January, 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 14th day of January, 2010
 11 Cindy Sooley
 12 Discoveries Unlimited Inc.
 13 Judy Moss
 14 Discoveries Unlimited Inc.

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