

OFFSHORE HELICOPTER SAFETY INQUIRY

January 19, 2010

Tara Place, Suite 213, 31 Peet Street

St. John's, NL

January 19, 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)**

D. Blair PritchettSuncor (Petro-Canada)

Alexander C. MacDonald, Q.C..... Husky Oil Operations Ltd.

Nick Schultz 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

**Don Anthony.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**

**Robert Escott (without counsel) Offshore Safety and Survival Centre,
..... Marine Institute**

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1 January 19, 2010
 2 COMMISSIONER:
 3 Q. Good morning, ladies and gentlemen. Mr. Roil,
 4 there's nothing further you wish to ask at
 5 this time, is there?
 6 ROIL, Q.C.:
 7 Q. No, Commissioner, nothing further in terms of
 8 the direct examination.
 9 COMMISSIONER:
 10 Q. And I presume counsel for HMDC will ask -- if
 11 you wish to ask questions, it'll be at the
 12 end.
 13 MR. WALLACE:
 14 Q. Right.
 15 COMMISSIONER:
 16 Q. Counsel for C-NLOPB.
 17 MS. CROSBIE:
 18 Q. No questions at this time, Commissioner.
 19 COMMISSIONER:
 20 Q. No questions, Ms. Crosbie, thank you.
 21 Transport Canada is not present. At least, I
 22 don't think they are. Counsel for CAPP?
 23 MR. SCHULTZ:
 24 Q. No, thank you, sir.
 25 COMMISSIONER:

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1 Q. No questions. Counsel for Cougar, Mr. Whalen?
 2 WHALEN, Q.C.:
 3 Q. No questions at this time.
 4 COMMISSIONER:
 5 Q. Okay, thank you. Sikorsky is not here. Helly
 6 Hansen here? No. Counsel for Memorial
 7 University, the Marine Institute?
 8 MR. ESCOTT:
 9 Q. No questions.
 10 COMMISSIONER:
 11 Q. For the Government of Newfoundland.
 12 MS. BROWN LAENGLE:
 13 Q. No questions.
 14 COMMISSIONER:
 15 Q. Okay, thank you. Mr. Harris is not here. All
 16 right, we next come then to counsel for CEP,
 17 Mr. Earle.
 18 MR. PAUL SACUTA, MR. JOHN FRASER - EXAMINATION BY RANDY
 19 EARLE, Q.C.:
 20 EARLE, Q.C.:
 21 Q. Good morning, gentlemen.
 22 MR. SACUTA:
 23 A. Good morning.
 24 MR. FRASER:
 25 A. Morning.

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1 EARLE, Q.C.:
 2 Q. I do have a number of questions for you, and I
 3 apologize in advance if some of them seem to
 4 be going over some territory that we went over
 5 with the joint panel, Mr. Sacuta, in
 6 particular to you. Obviously, Mr. Fraser
 7 wasn't here last time, but we do now have some
 8 documents that we didn't have before and it
 9 brings these to mind. I want to start with
 10 the concept of an incident. You mentioned
 11 this by way of three levels of hazard, near
 12 miss, incident, Mr. Sacuta. Can you go
 13 through what you consider to be an incident
 14 again?
 15 MR. SACUTA:
 16 A. Actually, a near miss is one of our kinds of
 17 incidents. I was trying to distinguish the
 18 difference between -- trying to identify what
 19 would be considered a near miss. So a near
 20 miss is one of our kinds of incidents in the
 21 system we use. Although we distinguish
 22 between the two, a near miss is just one of
 23 the categories of one of our incidents.
 24 Another incident, for example, could be an
 25 injury which occurs on the facility. That

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1 would be considered an incident, depending on
 2 the nature. It could be a first aid, or it
 3 could be more significant than that. We have
 4 process incidents where we may have a release
 5 on the facility, which would also be
 6 considered or classified as an incident.
 7 EARLE, Q.C.:
 8 Q. And I take it that -- we're all on the same
 9 page, work for the employees on the HMDC
 10 offshore facility starts when they report and
 11 check in at the heliport, and it ends when
 12 they leave the heliport to go home?
 13 MR. SACUTA:
 14 A. I would agree that from the time they check in
 15 until the time they get their bags to leave
 16 the facility that would be considered work.
 17 EARLE, Q.C.:
 18 Q. So then an incident which occurs during
 19 helicopter transportation, a near miss which
 20 occurs during helicopter transportation or a
 21 hazard which exists during helicopter
 22 transportation, these are all hazards, near
 23 misses, incidents, in the workplace?
 24 MR. SACUTA:
 25 A. I would say that, yes, that would be correct.

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1 EARLE, Q.C.:

2 Q. When -- I know when Mr. Fraser discussed the

3 monthly meeting of onshore and the weekly

4 meeting offshore, he referred to review of any

5 incidents, and so the question that I want

6 clarification on is if there is an incident or

7 near miss associated with helicopter

8 transportation, does it flow into that system?

9 MR. SACUTA:

10 A. I think what we've done recently is we've

11 tried to improve that communication between

12 Cougar and ourselves when it comes to

13 incidents or near misses that Cougar would

14 investigate versus what we would do, and I'll

15 give you an example. When an individual is at

16 the heliport and dons his flight suit and

17 accidentally strikes his eye while donning the

18 flight suit, we would track that incident

19 through our incident process. If it was a

20 flight related incident that Cougar had the

21 responsibility for, Cougar would complete that

22 report and what we've tried to do is make sure

23 that the results of those incidents and that

24 investigation with Cougar gets relayed through

25 our logistic superintendent to our workforce.

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1 EARLE, Q.C.:

2 Q. So I take it that you feel that that hasn't

3 been always up to par in the past by your

4 phrasing that "recently we're trying"?

5 MR. SACUTA:

6 A. What we recognized was that it needed to be

7 improved.

8 EARLE, Q.C.:

9 Q. Yeah, okay. So if we could just use a couple

10 of examples, and I'll use two that have been

11 reported to me. Several years ago there was an

12 incident when a helicopter had to fly to St.

13 John's from one of the installations with one

14 engine, it lost an engine shortly after

15 departing the installation, and my

16 understanding was that the decision was that

17 it was better to fly to St. John's than to try

18 and land on an installation with one engine,

19 which seems -- certainly seems a reasonable

20 decision. Would that then have made its way

21 through to the operators?

22 MR. SACUTA:

23 A. I'm not aware of that circumstance. I am

24 aware of a situation where we had a helicopter

25 that had a failed engine on a flight that was

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1 departing from the Terra Nova facility, which

2 landed on the Hibernia Platform, was pulled

3 into the parking area, and was repaired on the

4 Hibernia Platform. I'm not aware of the

5 situation that you speak of.

6 EARLE, Q.C.:

7 Q. Okay, well, let's deal with the one that you

8 are aware of because that combines a couple of

9 elements nicely. Clearly the helicopter was

10 performing a task for another operator

11 initially, but it did involve HMDC because it

12 was, I guess, the alternate landing site, and

13 at least by my way of thinking a fairly

14 significant thing in terms of helicopter

15 transportation safety, the loss of an engine,

16 and whether it happened in respect of a

17 passenger group from one of the other

18 installations would seem to me to be somewhat

19 irrelevant because after all, it may be your

20 people that are getting on that particular

21 unit the next flight. So would that have made

22 it into your system as an incident?

23 MR. SACUTA:

24 A. Certainly there is -- whenever there's that

25 type of aviation event, Transport Canada has

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1 some very specific requirements for the

2 aviation operator to complete an

3 investigation. Whether or not that was

4 further relayed to the workforce, I don't know

5 the answer to that. It was a number of years

6 ago, so I'm not qualified or have the

7 knowledge to answer that question.

8 EARLE, Q.C.:

9 Q. Was it prior to your tenure here?

10 MR. SACUTA:

11 A. No, it was while I was the offshore

12 installation manager.

13 EARLE, Q.C.:

14 Q. Okay, well, then you would have been involved

15 in leadership meetings?

16 MR. SACUTA:

17 A. That's correct.

18 EARLE, Q.C.:

19 Q. Similar to those discussed by Mr. Fraser. Can

20 you recall whether that incident came to those

21 leadership meetings?

22 MR. SACUTA:

23 A. I can't recall whether it was.

24 EARLE, Q.C.:

25 Q. Okay, well, let me ask you this and see where

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1 we're going with these things.
 2 Notwithstanding the Transport Canada
 3 requirements, in terms of your leadership
 4 meetings that review incidents, would you now
 5 expect that an instance such as that would
 6 make its way through your incident reporting
 7 and review system?
 8 MR. SACUTA:
 9 A. I would expect, based on the fact that we've
 10 looked at improvement opportunities for the
 11 communications between Cougar and ourselves,
 12 and between Cougar, ourselves, and our
 13 workforce, that, yes, that message would get
 14 relayed through our leadership and to the
 15 workforce. I would expect that, yes.
 16 EARLE, Q.C.:
 17 Q. And I take it that you have communicated that
 18 expectation to Cougar?
 19 MR. SACUTA:
 20 A. Yes.
 21 EARLE, Q.C.:
 22 Q. Now the other event that I talked to you about
 23 the other day, the imbalance on landing which
 24 you indicated was a Hibernia event, would --
 25 not would, did that event make its way into

Page 10

1 the incident reporting and review system of
 2 HMDC?
 3 MR. SACUTA:
 4 A. My understanding is, and Mr. Fraser may be
 5 able to further clarify, is that we did
 6 receive something from Cougar on that event.
 7 The details of that were placed in the binder
 8 that we have in the heli-admin area for all
 9 personnel to review, if required. So we did
 10 get some information from Cougar on that
 11 event.
 12 MR. FRASER:
 13 A. That's correct.
 14 EARLE, Q.C.:
 15 Q. That's good, but, of course, that's not
 16 exactly the question that I asked. I wanted
 17 to know if it made it through your system as
 18 an incident which should be brought to the
 19 attention, like other incidents, to the senior
 20 leadership, both at this monthly meeting and
 21 at the weekly meetings for reporting and
 22 review, and perhaps, Mr. Fraser, you can help
 23 us on that part of it?
 24 MR. FRASER:
 25 A. Yeah, my recollection is that that was

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1 discussed with Cougar. We found out about it
 2 when people reported it on the Platform, and
 3 it was discussed with Cougar, and they talked
 4 to the pilots involved and gave us some
 5 information on what had happened, and I don't
 6 believe that we considered that an incident,
 7 that Cougar -- and I don't have -- I can't
 8 remember all the details on it, but Cougar
 9 went through, told us what happened, what the
 10 pilots did in that instance and it -- like Mr.
 11 Sacuta said, I believe that we posted the
 12 letter -- the e-mail back from Cougar in our
 13 binder at heli-admin, but I don't believe that
 14 that was considered an incident.
 15 EARLE, Q.C.:
 16 Q. So it didn't make it into your incident review
 17 system whereby incidents go all the way to the
 18 senior leadership at a monthly meeting?
 19 MR. SACUTA:
 20 A. I was certainly informed of the situation.
 21 EARLE, Q.C.:
 22 Q. I heard that, Mr. Sacuta, but --
 23 MR. SACUTA:
 24 A. Yes.
 25 EARLE, Q.C.:

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1 Q. I'm interested in where these things go. I
 2 mean -- and we'll ask some questions about who
 3 was informed and at what level, but my
 4 question for now if I could have it clarified
 5 is whether this type of event, this particular
 6 event -- it's a particular event, but I'm
 7 asking these questions for illustrative
 8 purposes, made it into that process?
 9 MR. SACUTA:
 10 A. Based on the feedback we received from Cougar,
 11 it was not identified as an incident, so it
 12 did not go through our incident investigation
 13 process.
 14 EARLE, Q.C.:
 15 Q. You would not consider that an incident.
 16 Would you consider it a near miss?
 17 MR. SACUTA:
 18 A. Would I consider it a near miss? No.
 19 EARLE, Q.C.:
 20 Q. Okay. So when you tell us, Mr. Fraser, that
 21 "they talked to us about it", who would have
 22 been the channel?
 23 MR. FRASER:
 24 A. Services Supervisor talked to the coordinator
 25 at Cougar about that, and they talked to -- I

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1 believe he talked to their chief pilot and to
 2 their safety officer. I can't remember what
 3 his title is. I believe they had a discussion
 4 around what happened and talked to the pilots
 5 involved and came back with a determination of
 6 how to classify it.
 7 MR. SACUTA:
 8 A. And our onshore logistics coordinator would
 9 have been involved in those discussions as
 10 well.
 11 EARLE, Q.C.:
 12 Q. So how would you have been informed of it, Mr.
 13 Fraser, and I don't know -- were you the OIM
 14 on board at the time of that incident?
 15 MR. FRASER:
 16 A. No, I don't believe I was the OIM at the time.
 17 EARLE, Q.C.:
 18 Q. Do you know if it would have gone through the
 19 OIM as a conversation, or would it have turned
 20 up at the next daily meeting?
 21 MR. FRASER:
 22 A. I can't remember how it was brought up, if it
 23 was brought up immediately by some of the
 24 passengers or if it was brought up at a safety
 25 meeting. I'm not quite sure how it was

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1 brought up, so I don't have the details on
 2 that. I know it was brought up, it was
 3 discussed, and discussed with Cougar.
 4 MR. SACUTA:
 5 A. It was my understanding that it was brought up
 6 by the passengers on board the aircraft.
 7 EARLE, Q.C.:
 8 Q. Brought up by the passengers on the --
 9 MR. SACUTA:
 10 A. Yes.
 11 EARLE, Q.C.:
 12 Q. So you will acknowledge then that it was
 13 certainly a matter of concern to the
 14 passengers on the aircraft?
 15 MR. SACUTA:
 16 A. I would acknowledge that it was something that
 17 the passengers might not have been exposed to
 18 in the past, so certainly they'd want to know
 19 why they had to get up and redistribute the
 20 weight at the time of the landing.
 21 EARLE, Q.C.:
 22 Q. And it is a departure from the normal
 23 situation in the helicopter where passengers
 24 are supposed to remain belted in for the
 25 entire flight, right?

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1 MR. SACUTA:
 2 A. I mean, passengers are instructed as part of
 3 the pre-safety briefing that if they notice
 4 anything out of the ordinary, that they have
 5 the ability to undo their seat belt and inform
 6 the pilots. Also the pilots are responsible
 7 for the weight distribution and the safety of
 8 those on board the helicopter when landing, so
 9 I would expect the same would apply to the
 10 pilots, they have the ability to request
 11 passengers to undo their seat belts to move if
 12 there are any concerns with the weight
 13 distribution on the helicopter during landing.
 14 EARLE, Q.C.:
 15 Q. Yeah, but the normal procedure is that
 16 passengers will remain belted in their seats
 17 for the flight?
 18 MR. SACUTA:
 19 A. That's correct.
 20 EARLE, Q.C.:
 21 Q. So it is certainly a departure from the norm?
 22 MR. SACUTA:
 23 A. It was unusual.
 24 EARLE, Q.C.:
 25 Q. Okay, now -- and I take it from the fact that

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1 it didn't go to your leadership meetings, it
 2 likewise did not go to your Occupational
 3 Health and Safety Committee meetings as an
 4 incident for review, Mr. Fraser?
 5 MR. FRASER:
 6 A. I don't believe it did.
 7 EARLE, Q.C.:
 8 Q. As I understand it, you're a co-chair.
 9 MR. FRASER:
 10 A. Yeah, I don't have -- I don't remember every
 11 meeting that I attend every day, so I don't
 12 remember that coming to the JOHS Committee. I
 13 probably would if it did come to the JOHS
 14 Committee. I know it was discussed on the
 15 Platform. It was discussed. People knew
 16 about it, so --
 17 EARLE, Q.C.:
 18 Q. Yeah. Can we take it as, if you will, sort of
 19 a defining criteria that if it is not
 20 considered sufficient to go to the leadership,
 21 it would not be brought from the leadership to
 22 the Occupational Health and Safety Committee,
 23 that the only way that it would get to the
 24 Occupational Health and Safety Committee is if
 25 some of the worker reps brought it forward,

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1 leadership would not bring it to the meeting?
 2 MR. SACUTA:
 3 A. I believe there are a number of issues that
 4 come up during our day to day operations that
 5 don't go to the JOHS Committee because they're
 6 handled without needing to go to the JOHS
 7 Committee, and I think this is an example of
 8 that. An issue was raised by some or one of
 9 the passengers on the aircraft, we immediately
 10 discussed the issue with Cougar, I was made
 11 aware of it immediately upon the offshore
 12 leadership being made aware of it, and we
 13 addressed the issue through Cougar, got a
 14 response, and posted that in the binder.
 15 That's a situation that I'm not sure would
 16 have to go to the JOHS Committee because it
 17 would have been highlighted as an issue, we
 18 responded to the issue and let the workforce
 19 know by posting the comments back from Cougar
 20 in the binder, which all personnel have access
 21 to in heli-admin.
 22 EARLE, Q.C.:
 23 Q. Well, I'm going to delve quite a bit into how
 24 the JOHS Committee works, so I'll come back to
 25 that because I, quite frankly, detect

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1 significant differences in the way the JOHS
 2 committee work, and I had that "JOHS", it
 3 sounds like it's a joke. Why you fellows
 4 don't use Occupational Health and Safety like
 5 everybody else does instead of Occupational
 6 Safety and Health, but, anyway, I do detect
 7 that there are significant differences in the
 8 way different operators move, but on this
 9 reporting system you, I'm sure, would have
 10 been informed of the evidence of the
 11 Transportation Safety Board people here, and
 12 they indicated a very high level of reporting
 13 required by aircraft operators and
 14 helicopters. Have you people ever done an
 15 analysis to see how your requirement to report
 16 compares with the TSB requirement to report?
 17 MR. SACUTA:
 18 A. I'm not aware of that analysis being
 19 completed, no.
 20 EARLE, Q.C.:
 21 Q. If we could turn to the Operational Integrity
 22 Management System. Is that the full name of
 23 it?
 24 MR. SACUTA:
 25 A. Operational Integrity Management System, yes.

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1 EARLE, Q.C.:
 2 Q. And this is an ExxonMobil system, I take it?
 3 MR. SACUTA:
 4 A. The Operational Integrity Management System is
 5 an ExxonMobil system, that's correct.
 6 EARLE, Q.C.:
 7 Q. And you mentioned 2003. I didn't have an
 8 opportunity to check that out. Was that when
 9 Exxon acquired Mobil?
 10 MR. SACUTA:
 11 A. No.
 12 EARLE, Q.C.:
 13 Q. It was subsequent to it, was it?
 14 MR. SACUTA:
 15 A. Exxon acquired Mobil in 1998.
 16 EARLE, Q.C.:
 17 Q. How time has flown. So you mentioned there's
 18 a dedicated support group for this system in
 19 ExxonMobil, there's a group of people, that's
 20 what they know about, the OIMS System. Did I
 21 get that wrong?
 22 MR. SACUTA:
 23 A. I don't think I said there was a dedicated
 24 support group. What I said was OIMS was a
 25 practice that all of ExxonMobil's affiliates

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1 would be very familiar with. All of our --
 2 all of ExxonMobil's worldwide operations would
 3 be expected to comply with the Operations
 4 Integrity Management System.
 5 EARLE, Q.C.:
 6 Q. Uh-hm. Well, when you talk about the annual
 7 review that's required, and on a triennial
 8 basis, an external group comes in --
 9 MR. SACUTA:
 10 A. Right.
 11 EARLE, Q.C.:
 12 Q. How are they selected, the external group?
 13 MR. SACUTA:
 14 A. It's not the same team all the time.
 15 Basically, what they do is select members from
 16 various affiliates so that you get a wide
 17 ranging view, people that are familiar with
 18 OIMS from the various affiliates around the
 19 world, and that can change. We can have an
 20 assessment done this year, and three years
 21 from now would be a totally different team
 22 that would come in.
 23 EARLE, Q.C.:
 24 Q. Uh-hm. So there is -- are you saying then
 25 there is not a group within the ExxonMobil

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1 hierarchy who have responsibility for seeing
 2 that the system is maintained throughout the
 3 affiliates or subsidiaries? You can't go into
 4 your computer and somewhere in the operations
 5 find people with responsibility for that
 6 system?
 7 MR. SACUTA:
 8 A. The Operations Integrity Management System
 9 would be under the direction of the central
 10 SH&E organization in Houston, but that doesn't
 11 necessarily mean -- like any organization
 12 people move in and people move out, but the
 13 overall responsibility for OIMS is underneath
 14 the central SH&E organization in Houston.
 15 EARLE, Q.C.:
 16 Q. And that's Safety Health and Environment?
 17 MR. SACUTA:
 18 A. Safety Health and Environment and Security.
 19 We just call it SH&E, but it's SHE&S.
 20 EARLE, Q.C.:
 21 Q. How big a group would the central SH&E group
 22 be?
 23 MR. SACUTA:
 24 A. I don't know.
 25 EARLE, Q.C.:

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1 Q. How big is the group that comes in to do the
 2 triennial review?
 3 MR. SACUTA:
 4 A. It's usually a team of between 10 and 12
 5 individuals.
 6 EARLE, Q.C.:
 7 Q. So that's a pretty substantial group compared,
 8 for instance, to the three safety officers and
 9 one senior safety officer, C-NLOPB.
 10 MR. SACUTA:
 11 A. It sounds like a bigger number, yes.
 12 EARLE, Q.C.:
 13 Q. And I take it that the root of this system is
 14 not one of regulatory compliance because this
 15 is a system that has to operate in places
 16 where there's probably a very thin layer of
 17 regulation. You, Mr. Sacuta, described this
 18 area as being one the most regulated, and that
 19 this is, as the name suggests, about
 20 maintaining the integrity of operations and
 21 that includes everything under that SH&E
 22 acronym, right?
 23 MR. SACUTA:
 24 A. One of the management systems under Operations
 25 Integrity Management System is regulatory

Page 23

1 compliance.
 2 EARLE, Q.C.:
 3 Q. Uh-hm.
 4 MR. SACUTA:
 5 A. So in some areas they may have less regulatory
 6 compliance requirements because they are not
 7 as regulated. In our situation, we do get
 8 measured as part of those annual reviews on
 9 the fact that we have to maintain regulatory
 10 compliance as one of the management systems
 11 under OIMS.
 12 EARLE, Q.C.:
 13 Q. Do you find that it poses any difficulty for
 14 you when you get into an area where there is
 15 quite a high level of regulation, and, you
 16 know, systems are dictated and obviously I'm
 17 thinking of the Occupational Health and Safety
 18 System as being one example where systems are
 19 dictated by the regulator, to perform
 20 functions for which OIMS already prescribes a
 21 framework?
 22 MR. SACUTA:
 23 A. No problem at all. The expectations are that
 24 we meet the highest of the requirements
 25 between the regulator and our own management system.

Page 24

1 EARLE, Q.C.:
 2 Q. Uh-hm. You mentioned the 2006 OIMS risk
 3 assessment, helicopter transportation, and
 4 that you described the team as having two user
 5 participants and both those individuals were
 6 management. Do you see any need to be seen as
 7 involving people at broader levels of the
 8 organization in such reviews?
 9 MR. SACUTA:
 10 A. I think in those situations, in those reviews,
 11 certainly users are extremely important in
 12 that process, and the other thing that's
 13 extremely important is to communicate the
 14 results of those assessments to the broader
 15 workforce itself.
 16 EARLE, Q.C.:
 17 Q. As you know, I work principally in labour
 18 relations, and we have a phrase "perception is
 19 reality in labour relations", and I'd like to
 20 discuss with you not only that particular
 21 example, but, for instance, the fact that you,
 22 Mr. Fraser, as the "boss", sit as one of the
 23 co-chairs of the Occupational Health and
 24 Safety Committee, and various structures you
 25 have. Do you not recognize that for some

Page 25

1 people there is a difficulty in speaking up to
 2 the boss?
 3 MR. SACUTA:
 4 A. I think we talked of this yesterday. In my
 5 experience working in the Hibernia
 6 organization, both offshore and onshore, I
 7 have not experienced a reluctance from
 8 individuals to speak. There are a number of
 9 methods by which they can bring up their
 10 issues. If they're concerned specifically
 11 with talking to the "boss", they can talk to
 12 their safety rep so that the issue can be
 13 brought up at a JOHS Committee meeting. There
 14 are ways that you can raise issues by filling
 15 out cards and not necessarily putting your
 16 name on them. So there are many ways, but my
 17 experience has been, and especially since I've
 18 returned in 2007, people offshore are not
 19 reluctant to talk to me about any issue.
 20 EARLE, Q.C.:
 21 Q. You don't see any difficulty with your own
 22 observations being coloured by the fact that
 23 it's not the people you talk to that you got
 24 to worry about, it's the people that you don't
 25 talk to?

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1 MR. SACUTA:
 2 A. And as I mentioned yesterday, that's one of
 3 the reasons I go offshore as frequently as I
 4 do, to try to touch base with everybody on the
 5 Platform and show them that I am approachable
 6 and that you can bring up issues to me, and
 7 how does that message get across; by having
 8 discussions with individuals, responding to
 9 those discussions. Sometimes they don't like
 10 the answers. That's the reality of it, but by
 11 doing that as frequently as I can, and the
 12 same with John in his role as offshore
 13 installation manager, the message gets out
 14 that we're approachable, that we can be talked
 15 to, and having had almost a ten year
 16 experience level with the Hibernia Platform, I
 17 know that message is out there. I recognize
 18 there may be some new people that haven't had
 19 the time to see that, but that's one of the
 20 reasons that we spend the time that we do
 21 talking to our workforce.
 22 EARLE, Q.C.:
 23 Q. Uh-hm. Mr. Fraser, I'd like to hear your
 24 answer to the same question because I think
 25 you bring probably a unique experience to this

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1 picture, and my understanding is your history
 2 is that you've literally moved step by step up
 3 through the ranks in the offshore over your
 4 career, and there's not many levels in the
 5 organization that you haven't had experience
 6 at.
 7 MR. FRASER:
 8 A. Yeah, I guess I started at the bottom and
 9 worked my way up. I guess you could say that.
 10 I think, you know, Mr. Sacuta, gave an
 11 accurate picture of what goes on on the
 12 Platform. I eat with the same people, I sit
 13 in the waiting room waiting for the helicopter
 14 to come, so, you know -- I'm there for three
 15 weeks at a time with these people, watch
 16 hockey with them, you know, have discussions
 17 around the issues, watch the news, all that
 18 stuff. There's lots of opportunities for
 19 people to come and bring any issues up.
 20 There's people in and out of my office every
 21 day. The door most of the time is open. I'm
 22 there until 9 o'clock at night most nights.
 23 So there's ample opportunity for people to
 24 come and talk to myself, and our supervisors
 25 have -- most of them have been there since the

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1 start up, most of them were technicians before
 2 they became supervisors, so they have the same
 3 level of exposure to the workforce on a day to
 4 day basis, and my supervisors certainly aren't
 5 shy about coming forward with any issues, and
 6 the workforce will talk to them. You know,
 7 these guys all on their days off, you know,
 8 ski-doo together and motor cycle together and
 9 all that kind of stuff. There's lots of
 10 communication. There may be somebody that's
 11 reluctant to bring something up, but it's not
 12 from want of us trying to encourage people to
 13 bring things up. We want to make sure that
 14 any safety issues get dealt with.
 15 EARLE, Q.C.:
 16 Q. Actually, you've just phrased the issue
 17 extremely well, Mr. Fraser. You said there
 18 may be some people who are reluctant, but it's
 19 not for want of opportunity, and I'm not
 20 suggesting to you for a moment that there is a
 21 want of opportunity. It is, in fact, a
 22 relatively small organization and when you
 23 think that you all, you know, live together
 24 for 21 days at a time, albeit with change
 25 outs, there should be opportunity, but I take

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1 it that you recognize that, perhaps wrongly,
 2 one of the issues that you have to deal with
 3 is that some people may perceive it as being
 4 not a smart thing to do to bring issues
 5 forward?
 6 MR. SACUTA:
 7 A. I would say I wouldn't understand that because
 8 there's no evidence that by bringing an issue
 9 forward there is any recrimination, any -- we
 10 want our workforce to speak, we want our
 11 workforce to speak to all levels in our
 12 organization. Overtime that improves within
 13 the organization, and so -- can there be
 14 somebody? As I said, one of the reasons that
 15 we continue to work on communications, it's a
 16 24 hour a day, seven day a week thing that we
 17 need to work on, is establishing good
 18 communications with everybody on the Platform.
 19 EARLE, Q.C.:
 20 Q. Let me bring it to the other side of the coin,
 21 and this is the card system. Do you see any
 22 problems in getting people to buy into that
 23 because of what some might call "the snitch
 24 factor", that people don't -- you know, a
 25 close community, the guy you might have supper

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1 with, you don't necessarily want to point the
 2 finger at that individual, and while your card
 3 system doesn't require you to name names, you
 4 know, particularly in some factual situations
 5 it's not going to take a genius to figure out
 6 who has responsibility? Do you see any issues
 7 with again that kind of human perception?
 8 MR. SACUTA:
 9 A. I think early on when we introduced the STOP
 10 Program, there were some concerns raised by
 11 the workforce about it being a ticket, a STOP
 12 ticket, but we've worked very hard to make
 13 sure the workforce understand that this is an
 14 observation tool to improve our overall safety
 15 performance, this is not a finger pointing
 16 tool, and we continue to relay that message
 17 today. So, yes, I believe at the start of
 18 this program there were some people that
 19 thought, you know, this is just an opportunity
 20 for management to point the finger at someone,
 21 but we have worked very hard to dispel that
 22 myth, that this is an opportunity for us to
 23 all watch each other, to recognize safe
 24 behaviours when they occur, and during
 25 situations where there may be an unsafe

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1 behaviour, have a discussion with the
 2 individual and let everybody learn from it
 3 because we do review the STOP cards to see
 4 what the trends are.
 5 EARLE, Q.C.
 6 Q. So I take it you've recognized the perceptual
 7 problem and you've tried to address it?
 8 MR. SACUTA:
 9 A. And we worked very hard to make sure people
 10 understand that's not the intent of the STOP
 11 observation program.
 12 EARLE, Q.C.
 13 Q. Just take you back, recognizing that people
 14 sometimes have those kinds of perceptions, are
 15 you totally confident that you don't have to
 16 work against the perception that raising
 17 issues could be a career limiting activity
 18 that is not -- you know, people may feel that
 19 it's not a good idea to be seen as someone
 20 who's bringing up issues all the time?
 21 MR. SACUTA:
 22 A. All I can speak from is 12 years of operations
 23 on the Hibernia Platform. I'm not aware where
 24 anyone who's raised an issue in any way has
 25 had it impact on his future, has been

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1 disciplined. Would I say that we don't need
 2 to worry about that? No. That's why we
 3 continue to inform our workforce every day of
 4 the value of our safety programs.
 5 EARLE, Q.C.
 6 Q. Now let's turn to the JOHS Committee. I need
 7 to get an understanding from you of what goes
 8 to the JOHS Committee. Perhaps, Mr. Fraser,
 9 given that you're a co-chair.
 10 MR. FRASER:
 11 A. What goes to the -- you need to tell me -
 12 EARLE, Q.C.
 13 Q. What issues go to the JOHS Committee? Is it
 14 only those issues that are brought forward by
 15 the members? Is it only issues that
 16 management feels a need to communicate and
 17 bring forward and discuss using the -- if you
 18 -- as you described yesterday, the JOHS
 19 Committee as one of your means of
 20 communicating to your employees about safety,
 21 or is there a regular review of incidents? Is
 22 there a mechanism by which all incidents,
 23 whether there's still something outstanding
 24 from them or whether they've been dealt with,
 25 go to the JOHS Committee? What goes to the

1 JOHS Committee?
 2 MR. FRASER:
 3 A. So there's -- incidents go to the JOHS
 4 Committee. So we review the incidents from
 5 the last meeting that we attend. So you
 6 understand there's three weeks that the group
 7 that are at my JOHS meeting aren't there for
 8 three weeks. So we look at all the incidents
 9 that happened while we're off, up until the
 10 time we have that meeting. So incidents are
 11 discussed at the JOHS meeting. Any issues
 12 that the workforce brings to their
 13 representatives are brought to the meeting and
 14 any issues that the, I guess the management
 15 side wants to discuss or bring forward for
 16 information are brought to the meeting. So
 17 it's a broad range of issues and there's a --
 18 basically anybody can have anything brought to
 19 the JOHS committee meeting, if they think it
 20 needs to be brought there.

21 EARLE, Q.C.
 22 Q. Are all incidents, as a matter of course,
 23 brought to the JOHS Committee?

24 MR. FRASER:
 25 A. I believe we discuss -- the SH&E lead takes a

1 listing of the last, whatever it was, so many
 2 incidents. We don't discuss -- you know, it
 3 would take forever to discuss, you know, every
 4 past incident, but we look at the incidents
 5 over a time period that have happened and have
 6 a brief discussion on them. Sometimes we
 7 discuss them in detail. Sometimes it's just a
 8 brief discussion.

9 EARLE, Q.C.
 10 Q. But they are available? There is a listing or
 11 some sort of report that a member of the JOHS
 12 Committee can, you know, look down and say
 13 "hey, this happened. We need to talk about
 14 this"?

15 MR. FRASER:
 16 A. Yeah. I think I talked about that yesterday,
 17 that the incident reports go -- that we have
 18 on Hibernia, go to the -- we put them in a
 19 binder and put them in the coffee shop. So
 20 anybody on the Platform can look at them.
 21 They're -- also at the morning meeting that
 22 they have -- that we have in my office, every
 23 incident is discussed. If it happened like
 24 the day before, it's discussed that day and
 25 there's a JOHS worker rep at those meetings.

1 EARLE, Q.C.
 2 Q. So this is what I want to get clarified. So I
 3 hear you saying actually that there is not a
 4 listing of incidents that go to the JOHS
 5 Committee members, that there's a binder or
 6 maybe they could be accessed on your computer
 7 system, to which a JOHS Committee member can
 8 go, if so minded. But in terms of saying we
 9 have a JOHS Committee meeting on such and such
 10 a date, the members would be passed a listing
 11 of the incidents to, you know, scan and be
 12 able to discuss if they wish. That doesn't
 13 happen. It takes a more proactive approach on
 14 their part?

15 MR. FRASER:
 16 A. Like I said, we discuss the past incidents at
 17 the meeting. If we have a physical piece of
 18 paper with a listing of the past incidents
 19 that we set on the table, I don't believe that
 20 we do. I think we talk through them.

21 MR. SACUTA:
 22 A. If I could add, I mean, I've done that role in
 23 the past. At the JOHS minutes, we have a
 24 standing agenda. One of the things that they
 25 do is review the previous JOHS minutes because

1 you've got a new JOHS committee of all new
 2 members that haven't seen what the previous
 3 JOHS committee reviewed in their section.
 4 Also included is a SH&E section. It's part of
 5 the standing agenda, where the SHE lead would
 6 discuss any incidents that had occurred
 7 between the last JOHS meeting and the meeting
 8 that you're attending. Do they actually hand
 9 out the reports? No. But the workforce does
 10 know that copies of the reports are in the
 11 coffee rooms, if they have any questions, even
 12 after the JOHS meeting. They talk about the
 13 incidents that have occurred. If they'd like
 14 more detail, it's provided in the coffee
 15 rooms.

16 EARLE, Q.C.
 17 Q. Okay. So just to be clear, there is -- the
 18 SH&E lead is tasked, as part of the JOHS
 19 meeting, to tell the Committee the incidents
 20 that have occurred since their last meeting?

21 MR. SACUTA:
 22 A. That's my understanding.

23 MR. FRASER:
 24 A. Yeah.
 25 EARLE, Q.C.

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1 Q. So it would be possible, for instance, if this
 2 Inquiry comes to the conclusion that there
 3 should be an interface whereby helicopter
 4 incidents go to the JOHS Committee, that there
 5 is that system available?
 6 MR. SACUTA:
 7 A. In the existing system, one of the agenda
 8 items is to review incidents. That's correct.
 9 EARLE, Q.C.
 10 Q. They could be funnelled through the SH&E
 11 person?
 12 MR. SACUTA:
 13 A. Correct.
 14 EARLE, Q.C.
 15 Q. Okay. Now I was a bit puzzled by the notion
 16 that there are 13 safety reps, and I got the
 17 impression that these 13 safety reps were all
 18 members of the JOHS Committee. Is that
 19 correct, Mr. Fraser?
 20 MR. FRASER:
 21 A. Yeah. I believe I read through that we've got
 22 constituencies and there's some constituencies
 23 have one person and some have three, so the
 24 safety reps are on the safety committee. Is
 25 that your question? Are the safety reps on

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1 the safety committee?
 2 EARLE, Q.C.
 3 Q. Well, it seems to me that you have almost two
 4 partially integrated and partially parallel
 5 systems operating. You have these weekly
 6 safety representative meetings, right?
 7 MR. FRASER:
 8 A. Yes.
 9 EARLE, Q.C.
 10 Q. And from those safety representatives, one
 11 person goes to the OIM meeting every day. It
 12 isn't necessarily the same person. In fact,
 13 I've seen some of the safety representatives
 14 meeting minutes and it seems like they do a
 15 rotation for who is to go to the OIM's morning
 16 meeting.
 17 MR. SACUTA:
 18 A. What do you mean? They try to put a schedule
 19 together to make sure there's always a JOHS
 20 rep attend the 20 to 8 morning meeting.
 21 EARLE, Q.C.
 22 Q. Yeah. But so I mean, I guess that's why I
 23 came to the conclusion that these individuals,
 24 when you talk about a JOHS rep being at that
 25 morning meeting and it being connected to the

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1 safety reps that these safety reps were all
 2 members of the JOHS Committee.
 3 MR. FRASER:
 4 A. Yeah, I think we're using, I think, the same
 5 term, right. Maybe a JOHS rep is a -- I'm
 6 using that for the worker reps that are
 7 elected to be on the Occupational Health and
 8 Safety Committee. So I'm calling them safety
 9 reps.
 10 MR. SACUTA:
 11 A. It's the same thing.
 12 MR. FRASER:
 13 A. It's the same thing. There's no -- it's -
 14 MR. SACUTA:
 15 A. They're not two different things.
 16 MR. FRASER:
 17 A. It's not two different things. Sorry if the
 18 confused you, but that's -
 19 EARLE, Q.C.
 20 Q. So you have 13?
 21 MR. FRASER:
 22 A. Yeah, well there's 13 on shift and then
 23 there's -
 24 MR. SACUTA:
 25 A. There's 26 total.

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1 MR. FRASER:
 2 A. - 26 total, yeah.
 3 EARLE, Q.C.
 4 Q. 26 total. You know that's at odds with the
 5 Act that says the Committee should be no more
 6 than 12 -- the JOHS Committee should be no
 7 more than 12 people.
 8 MR. SACUTA:
 9 A. Did you want to talk about the -
 10 MR. FRASER:
 11 A. Yeah, early on in it might have been 1999, I
 12 can't remember exactly when, we sent a letter
 13 to the Board and told them of our structure
 14 and told them that, just exactly what you
 15 said, that the Act says a certain number and
 16 we have more people than that, and we told
 17 them why and because we wanted to have
 18 representation from as many groups as we
 19 could, a broad representation across the
 20 Platform, and obviously the Act wasn't written
 21 with an offshore production platform in mind.
 22 So we've done that.
 23 MR. SACUTA:
 24 A. It also recognizes that there are times you
 25 may have 13 individual reps on board the

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1 facility, but seven may be working days and
 2 six may be working nights, and if you have a
 3 JOHS meeting, there would only be seven
 4 available to attend because there would be six
 5 that would be off shift and in bed.
 6 EARLE, Q.C.
 7 Q. I recognize that, and I've seen some
 8 indication that there are times when people
 9 can't get to meetings because of work
 10 requirements. Is that the case?
 11 MR. FRASER:
 12 A. We go out of our way to make sure that the
 13 worker reps get to the meetings. So I've had
 14 meetings where a worker rep hasn't shown up
 15 and we've gone and had him paged and get him
 16 to come down because he's forgotten or got
 17 doing something and got busy at it, but we go
 18 out of our way to make sure that everybody
 19 that's on shift, that's not in bed, can attend
 20 the meetings.
 21 EARLE, Q.C.
 22 Q. Okay. But I sense from that that you
 23 acknowledge that it's not always the case?
 24 When you say "we go out of our way" -
 25 MR. FRASER:

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1 A. So what I mean is if somebody doesn't show up,
 2 we will go find them.
 3 MR. SACUTA:
 4 A. I think the key component is whenever we have
 5 a JOHS committee meeting, that there has to be
 6 equal representation from the workers and
 7 management. Management does not have 13 reps.
 8 So there are times where we may have more than
 9 equal representation because of the shift
 10 structure, and if there is a situation where
 11 we have less safety reps than management, we
 12 either make sure we go out and get another
 13 safety rep to even it up or we ask one of the
 14 management reps to step down so that we
 15 maintain that equal representation.
 16 EARLE, Q.C.
 17 Q. The system of having a weekly meeting of the
 18 safety reps or the worker representatives on
 19 the JOHS Committee and one of their number
 20 meeting with the OIM in the OIM meeting each
 21 day and then another of their number
 22 participating in the weekly walkabout, do you
 23 see that as essentially taking away from the
 24 role of the JOHS committee? That it's almost
 25 like there's an alternate system which

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1 practically renders the JOHS committee
 2 redundant?
 3 MR. SACUTA:
 4 A. Absolutely not. I see it as an opportunity to
 5 continue to engage the workforce. One of the
 6 reasons we have the JOHS member come to the
 7 morning meeting is to be sure that we've got a
 8 worker rep there to understand what's happened
 9 in the previous day. He can take that message
 10 back to the other safety reps, if he so
 11 wishes. Engaging a JOHS member in the weekly
 12 safety inspection further enhances that
 13 expectation that we place on all of our
 14 workers. I'm not sure I understand why you
 15 would think that would undermine or I'm not
 16 sure of the exact term you used on the JOHS.
 17 It's to further engage the workforce in our
 18 day-to-day responsibilities and focus on
 19 safety.
 20 EARLE, Q.C.
 21 Q. Well, Mr. Sacuta, I put this to you. As I
 22 understand it, the philosophy of JOHS
 23 Committees or Occupational Health and Safety
 24 Committees is that you put an equal group of
 25 workers and managers together and assign them

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1 the task of working together on safety issues.
 2 Things like walkabouts are actually mandated
 3 in legislation. And it seems to me that what
 4 you folks have got, and maybe it's a better
 5 system, but what you folks have got is a
 6 system which works on a more frequent basis
 7 but by this one individual from the group
 8 coming forward thing, so that you have one
 9 worker representative at the OIM meeting, at
 10 which there are a number of other managers,
 11 right?
 12 MR. FRASER:
 13 A. Yes.
 14 EARLE, Q.C.
 15 Q. Or one worker representative on the walkabout,
 16 that rather than the equality notion of the
 17 occupational health and safety committee being
 18 reinforced, it's being diluted. The price for
 19 dilution clearly is frequency.
 20 MR. SACUTA:
 21 A. I wouldn't agree with your comments because
 22 the JOHS isn't the only mechanism by which we
 23 have communication between our workforce and
 24 our management. There are many ways. Every
 25 single day, we expect our workforce to

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1 communicate with their supervisor if there's
 2 issues that come up. If it doesn't need to go
 3 to a safety rep, it should be able to be
 4 handled between the individual employee and
 5 the supervisor. The morning, in the morning
 6 meeting when we have the JOHS rep there, one
 7 of the reasons he's there is so that the OIM
 8 can ask the JOHS rep "are there any issues
 9 that the workforce have that you're aware of?"
 10 It's one of the specific questions that John
 11 or his back-to-back would ask as part of that
 12 morning meeting. "Are there any worker
 13 issues?" It's not just for him to listen.
 14 It's for him to participate.
 15 EARLE, Q.C.
 16 Q. He's required to play a solo.
 17 MR. SACUTA:
 18 A. We've asked for one individual and the JOHS
 19 committee has been very willing to provide
 20 that individual to come and partake in that
 21 morning meeting at 20 to 8.
 22 EARLE, Q.C.
 23 Q. You don't see the issue there, do you?
 24 MR. SACUTA:
 25 A. I don't. I don't agree with what you're

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1 saying is what I'm saying. It's not that I
 2 don't see the issue. I don't see it as an
 3 issue. I think it's just another step in the
 4 process that allows us to continue to
 5 communicate with our workforce.
 6 EARLE, Q.C.
 7 Q. And you have, as you've indicated, many
 8 processes.
 9 MR. SACUTA:
 10 A. Many processes, and it's expected every day.
 11 EARLE, Q.C.
 12 Q. And I don't think -- because I sense a
 13 defensiveness on your part, Mr. Sacuta. Let
 14 me make something clear for CEP 2121. We know
 15 that HMDC's safety record is truly impressive.
 16 MR. SACUTA:
 17 A. As a result of the hard work of all our
 18 employees.
 19 EARLE, Q.C.
 20 Q. We're looking at certain mechanisms, but we're
 21 not unmindful of the result that has been
 22 achieved to date. The members obviously
 23 appreciate working for an employer with that
 24 kind of safety record.
 25 Now the 452 suit, people are going to be

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1 sick and tired, no doubt, of hearing me go on
 2 about this but I've got to say it really
 3 troubles us that the fact that this thing did
 4 not fit slipped through the cracks, and we're
 5 interested in that because if it can slip
 6 through the cracks, something else can slip
 7 through the cracks. Mr. Fraser, you indicated
 8 that what you had heard about the suit were
 9 issues of comfort, correct?
 10 MR. FRASER:
 11 A. That's correct.
 12 EARLE, Q.C.
 13 Q. Would you agree that there's a general view in
 14 respect of safety gear that comfort is in
 15 itself important from a safety perspective
 16 because history in the workplace has shown
 17 that if gear is not comfortable, people find
 18 ways to make them comfortable which can defeat
 19 the purpose of the gear? Would you agree that
 20 that's an accepted proposition in terms of
 21 safety management?
 22 MR. FRASER:
 23 A. I think what I'd say is that the suits, all
 24 suits that I've worn all through my career, in
 25 general, tend to be somewhat uncomfortable.

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1 They're made to keep you warm in the cold
 2 water and when you're in a warm helicopter,
 3 for instance, you get warm. So in general, in
 4 my career, immersion suits, survival suits,
 5 tend to be uncomfortable.
 6 EARLE, Q.C.
 7 Q. Mr. Fraser, that's not the question I asked
 8 you. The question I asked you, and now you're
 9 co-chair of an occupational health and safety
 10 committee. You're the offshore installation
 11 manager. You've said "the safety of these
 12 workers out there stops with me." That's
 13 where the buck stops. Now do you accept the
 14 proposition that comfort of safety gear is a
 15 safety issue because of the tendency of
 16 persons who are uncomfortable to try and make
 17 them comfortable and hence defeat the purpose
 18 of the gear?
 19 MR. FRASER:
 20 A. So when we recognized that there were specific
 21 comfort issues with these suits, and I think
 22 Mr. Sacuta talked about it in the joint panel,
 23 that we looked at ways to improve those
 24 comforts. We talked about lubricating the
 25 zipper and talking to Helly Hansen about

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1 making sure that people could get the zipper
 2 up and that type of issue. So we did address
 3 those comfort issues.
 4 MR. SACUTA:
 5 A. And I would add to that that there is a
 6 personal accountability when it comes to the
 7 individual's own safety. I believe that -- I
 8 think our workforce has higher integrity than
 9 that. I think they recognize that the suits
 10 are there for a reason and that they need to
 11 make sure that the suit can be fully donned.
 12 That's why the issues were brought up, is that
 13 they had problems donning the hood because of
 14 the stiffness of the zipper. Some people
 15 could have just said "oh, I don't care" but
 16 our workforce understand the importance of
 17 that flight suit and that's why the issue of
 18 comfort was brought up during the initial roll
 19 out of the E452 suits.
 20 EARLE, Q.C.
 21 Q. Mr. Sacuta, what I'm trying to drill down to,
 22 if you will, is how it was that with
 23 considerable feedback coming on these suits on
 24 comfort and I will tell you in other instances
 25 more explicitly on fit, how it was that it

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1 didn't get picked up that the suits weren't
 2 fitting?
 3 MR. SACUTA:
 4 A. The feedback we were receiving, and I'll
 5 repeat what I said last week during the joint
 6 panel, the feedback that we received on the
 7 suits was associated with comfort. We worked
 8 very hard with Helly Hansen to address that
 9 issue, the stiffness of the zipper, the
 10 ability to don the suit. We did not receive
 11 feedback on the face seal component of the
 12 suit at any point during this period. I'm not
 13 aware of any. We did receive lots of feedback
 14 on the comfort, which we worked very hard with
 15 with Helly Hansen to try to sort out.
 16 EARLE, Q.C.
 17 Q. Tell me, gentlemen, I presume you were both
 18 sized for the suits after the crash.
 19 MR. FRASER:
 20 A. That's correct.
 21 MR. SACUTA:
 22 A. Correct.
 23 EARLE, Q.C.
 24 Q. Did both your suits fit?
 25 MR. SACUTA:

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1 A. Yes, mine did.
 2 MR. FRASER:
 3 A. Yeah.
 4 EARLE, Q.C.
 5 Q. So you weren't -- neither of you were amongst
 6 that nine percent?
 7 MR. SACUTA:
 8 A. That's correct.
 9 MR. FRASER:
 10 A. Correct.
 11 EARLE, Q.C.
 12 Q. There was a C-NLOPB audit. There was an audit
 13 by your certifying organization during the
 14 time period. There was at least one, right?
 15 MR. SACUTA:
 16 A. During which time period?
 17 EARLE, Q.C.
 18 Q. The time period from the introduction of the
 19 suit to the crash.
 20 MR. SACUTA:
 21 A. Yes, there would have been an annual audit
 22 completed during that time frame.
 23 EARLE, Q.C.
 24 Q. By both organizations?
 25 MR. SACUTA:

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1 A. Both the certifying authority and the Board.
 2 EARLE, Q.C.
 3 Q. Do you have any thoughts on how it was that
 4 the audit did not pick up the fact that no one
 5 in the supply chain for these suits, from the
 6 manufacturer to putting the suit on the
 7 individual, was charged with the specific
 8 responsibility of seeing to it that the suit
 9 fit? Do you have any thoughts on how the
 10 audit didn't pick up that part of it?
 11 MR. SACUTA:
 12 A. I mean, you'd have to talk to the certifying
 13 authority or the Board on that. They
 14 completed the audits. What we know is we
 15 purchased a certified suit. We had an
 16 implementation plan which included Helly
 17 Hansen available at the heliport during this
 18 transition period. We know that.
 19 EARLE, Q.C.
 20 Q. Well, I can appreciate that somebody else
 21 performed the audit, but you people are
 22 amongst the beneficiaries of the audit. I
 23 mean, I bring a bunch of auditors in to audit
 24 my books as a law firm, you know. I'm doing
 25 that because the public has to be assured that

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1 my trust account is run properly. But I'm
 2 also interested in it being done right. So I
 3 would think that HMDC would have an interest
 4 in it being done right. So it's that context
 5 in which I ask you the question. Does HMDC
 6 have any sense or feeling about, you know, why
 7 that wouldn't have been picked up?
 8 MR. SACUTA:
 9 A. As I've mentioned, we bought a certified suit.
 10 We had no indications as part of the
 11 implementation plan, aside from comfort
 12 issues. So you're asking me do I have any
 13 idea why the Board or the certifying authority
 14 didn't pick up something. I don't know how I
 15 can answer that question. I can't answer that
 16 question.
 17 EARLE, Q.C.
 18 Q. Well, you might have, if you'd gone back to
 19 the issue, developed some thoughts on it. I
 20 take it then that you have not gone back to
 21 that issue.
 22 MR. SACUTA:
 23 A. I'm not sure what you mean by gone back to the
 24 issue.
 25 EARLE, Q.C.

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1 Q. Gone back to the issue and said, you know,
 2 "gee, we found out nine percent of the suits
 3 didn't fit. We had an audit done" in
 4 particular by your certifying organization,
 5 you know, "how come they didn't pick it up?"
 6 MR. SACUTA:
 7 A. There were some lessons learned that came out
 8 of this process, and we have instituted what
 9 the Transportation Safety Board has considered
 10 as a best practice for these suits looking
 11 forward, to the point where they have written
 12 a letter to Transport Canada highlighting the
 13 steps that we have implemented. I didn't say
 14 we didn't learn any lessons, Mr. Earle. I
 15 said that it's hard for me to answer the
 16 question why didn't the certifying authority
 17 or the Board pick it up. We did our own
 18 review of the lessons learned and have come up
 19 with this new process which has been
 20 recognized as a best practice.
 21 EARLE, Q.C.
 22 Q. I've been instructed by Commission counsel to
 23 keep my eye on the clock, so that -
 24 COMMISSIONER:
 25 Q. Yes, all right then. We'll take 15 minutes.

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1 (BREAK)
 2 COMMISSIONER:
 3 Q. Okay, Mr. Earle.
 4 EARLE, Q.C.
 5 Q. I guess this question is for you, Mr. Sacuta.
 6 Still with the area of audits, would your
 7 auditors in looking at issues like the
 8 helicopter transportation system, would they
 9 have looked at efforts for improvement like
 10 the HUEBA process?
 11 MR. SACUTA:
 12 A. As part of their auditing cycle?
 13 EARLE, Q.C.
 14 Q. Pardon?
 15 MR. SACUTA:
 16 A. Sorry, are you asking -
 17 EARLE, Q.C.
 18 Q. As part of their audit, I mean, and we're
 19 really -- we're talking Lloyd's here in
 20 particular. We'll ask C-NLOPB themselves what
 21 they do in the area. We've got a lot of
 22 questions for them in that area, as you can
 23 anticipate. But your Lloyd's people, would
 24 they have, in their audits, gone to the
 25 process and said, you know, "we see some

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1 indication here that you're looking at an
 2 underwater breathing device. What is your
 3 process?" and have checked that process for
 4 validity or are they only concerned with
 5 systems once they're put in place?
 6 MR. SACUTA:
 7 A. I'm not aware that they would be involved in
 8 looking at HUEBA prior to implementation. I'm
 9 not aware that they would look at that as part
 10 of their audit cycle.
 11 EARLE, Q.C.
 12 Q. Lloyd's is contracted by HMDC?
 13 MR. SACUTA:
 14 A. That's correct.
 15 EARLE, Q.C.
 16 Q. So there would be terms of reference for
 17 Lloyd's and conduct of their audits?
 18 MR. SACUTA:
 19 A. We would have a contract that outlined their
 20 scope of work which it would include
 21 maintaining our certificate of fitness, that
 22 they would be the certifying authority to
 23 maintain a certificate of fitness which is
 24 required under the regulations.
 25 EARLE, Q.C.

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1 Q. Yeah. I understand though that they have an
 2 even broader mandate than that because they
 3 speak to your co-venturers in terms of the
 4 operation, you know, in terms of the assurance
 5 they give. They speak, most importantly I
 6 suspect from their point of view, to your
 7 insurers, in terms of the assurance they give.
 8 So it's not just your certifications that they
 9 report to, is it?
 10 MR. SACUTA:
 11 A. I'm not aware of the relationship they would
 12 have with our insurers or the co-venturers. I
 13 am aware of the requirements for them to
 14 maintain our certificate of fitness, as part
 15 of their job, work scope.
 16 EARLE, Q.C.
 17 Q. Mr. Commissioner, I think it would be useful
 18 in this process for you to be apprised of the
 19 terms of engagement of Lloyd's as an auditor
 20 of the system, because it seems to me that
 21 they are a crucial backup to the security of
 22 whatever systems are put in place to ensure
 23 safety, including helicopter safety. So I
 24 would ask, and I don't think it is something
 25 that I would necessarily want to ask any more

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1 questions on, so nobody needs to worry about
 2 me coming back, but it does seem to me that
 3 this is an important part of the system which
 4 should be made available to you.
 5 COMMISSIONER:
 6 Q. On that point then, Mr. Earle, what I would
 7 suggest to you, Mr. Sacuta, is you might like
 8 to think about that and talk to your counsel
 9 about it and certainly, if -- I would have no
 10 objection to receiving it. It may be useful.
 11 It is another audit. When you are reviewed,
 12 where does it fit in with the other audits? I
 13 mean, is it a very stringent audit?
 14 MR. SACUTA:
 15 A. It's -- the certifying authority will come out
 16 with a specific set of issues that they want
 17 to look at. They have a quarterly inspection
 18 and then an annual audit, and they will give
 19 us the specifics of what they're coming out to
 20 audit at that time and there is a full report
 21 that's issued as a result of that. The annual
 22 audit would also be used to validate that we
 23 have a valid certificate of fitness, or if
 24 there were any conditions that we had to
 25 correct as part of that audit, they would

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1 identify it in the report.
 2 COMMISSIONER:
 3 Q. I see. All right then, think about that and
 4 talk to your counsel.
 5 MR. SACUTA:
 6 A. We will.
 7 COMMISSIONER:
 8 Q. And Mr. Roil, perhaps you could discuss -
 9 ROIL, Q.C.:
 10 Q. Yes, indeed.
 11 COMMISSIONER:
 12 Q. - with Ms. Strickland or Mr. Wallace that
 13 issue.
 14 EARLE, Q.C.
 15 Q. Fine, thank you. If we could refer to slide
 16 39 in Exhibit 130?
 17 ROIL, Q.C.:
 18 Q. 130.
 19 REGISTRAR:
 20 Q. 130.
 21 ROIL, Q.C.:
 22 Q. Slide 39.
 23 EARLE, Q.C.
 24 Q. It's up on the screen. Under your key
 25 preventative safeguards and equipment, you

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1 indicate alternative offshore landing sites.
 2 Would you agree with me that in the last metre
 3 of your sea state restriction, alternative
 4 landing sites disappear? Because the other
 5 two installations and it seems to me likely
 6 that the tankers, because they suffer the same
 7 issues as the other two installations, in a --
 8 they have a limitation, either stated or, as
 9 Mr. Vokey told us last week, practically, of
 10 six metres. So that in your last metre sea
 11 state in allowing seven metres, you lose the
 12 alternative offshore landing sites?
 13 MR. SACUTA:
 14 A. I mean, certainly in a situation where there
 15 was a potential emergency, it would be up to
 16 the pilot to determine the best location,
 17 should they have to land. There may be some
 18 restrictions on the other facilities that are
 19 out there, but I think an emergency situation
 20 would be handled in a one-of scenario by the
 21 pilot making sure that everybody understood
 22 that there was an emergency situation for a
 23 landing.
 24 EARLE, Q.C.
 25 Q. I'm not suggesting, Mr. Sacuta, that someone's

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1 going to be standing on the helideck saying
 2 "don't come down."
 3 MR. SACUTA:
 4 A. Right.
 5 EARLE, Q.C.
 6 Q. "Don't come down here. You're beyond the six
 7 metres." But I think what we have heard is
 8 that on these other installations, once you
 9 get over six-metre seas, it's not safe to
 10 land.
 11 MR. SACUTA:
 12 A. But I think the pilot would have to make an
 13 assessment of the risk, whether it was safer
 14 to attempt a landing on a floating
 15 installation or having to ditch in the ocean.
 16 EARLE, Q.C.
 17 Q. But if you had a six-metre limit like
 18 everybody else, then they wouldn't have to
 19 make that decision, would they?
 20 MR. SACUTA:
 21 A. I think that the six-metre limit, there are
 22 times when, depending on the pitch and roll of
 23 the vessel -- even six metres, there are times
 24 when the pitch and roll of the vessel may
 25 dictate even at a six-metre sea that the

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1 landing conditions are outside of what the
 2 requirements are for those floating
 3 installations.
 4 EARLE, Q.C.
 5 Q. Um-hm. How long have you had the seven-metre
 6 restriction stated in your helicopter
 7 operations?
 8 MR. SACUTA:
 9 A. The seven metres is stated in the aviation
 10 operations guide.
 11 EARLE, Q.C.
 12 Q. Seven years?
 13 MR. SACUTA:
 14 A. No, I didn't say that. I said that the seven-
 15 metre restriction is identified in our
 16 aviation operations guide.
 17 EARLE, Q.C.
 18 Q. Yes, and I asked you -- because I notice that
 19 there was a reissue January 1st '09 which on
 20 the document on the first page of Exhibit
 21 00133.
 22 REGISTRAR:
 23 Q. I'm sorry, the number? 133?
 24 ROIL, Q.C.:
 25 Q. That's correct.

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1 MR. SACUTA:
 2 A. Do you have a page that you'd like us to look
 3 at?
 4 EARLE, Q.C.
 5 Q. The very first page.
 6 MR. SACUTA:
 7 A. Yeah, it was issued on January 1st '09.
 8 EARLE, Q.C.
 9 Q. You see that January 1st -- can we just scroll
 10 down just a fraction? Okay, there we go. See
 11 that January 1st '09, issued for
 12 implementation and signed off by yourself, Mr.
 13 Sacuta.
 14 MR. SACUTA:
 15 A. That's correct.
 16 EARLE, Q.C.
 17 Q. So I take it that there was a revision or
 18 review?
 19 MR. SACUTA:
 20 A. There would have been a review, that's
 21 correct.
 22 EARLE, Q.C.
 23 Q. Yeah, and I believe it's on page 24 under
 24 weather limitations, where it's there under
 25 Section 3.12.2, end of the first paragraph

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1 there.
 2 MR. SACUTA:
 3 A. Um-hm.
 4 EARLE, Q.C.
 5 Q. That it's stated that -
 6 (OFF RECORD - AUDIO PROBLEMS)
 7 EARLE, Q.C.
 8 Q. Before we had our technical interruption, I
 9 was referring you to Section 3.12.2, weather
 10 limitations of Exhibit C-00133, and if we
 11 could go to the end of the first paragraph
 12 there, you'll see that the statement is made -
 13 - no, no.
 14 REGISTRAR:
 15 Q. What number, sir?
 16 EARLE, Q.C.
 17 Q. 3.12.2, leave it there. Okay. The statement
 18 is made "however, although it is possible for
 19 a helicopter to take off under these
 20 conditions, for the safety of passengers and
 21 the helideck crew, all helicopter operations
 22 are normally suspended if the steady wind
 23 speed across the helideck exceeds 59 knots or
 24 where the maximum gusts exceeds 70 knots or if
 25 the significant wave height of the sea states

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1 exceeds seven metres" and the question I had
 2 for you is how long has that seven-metre
 3 restriction been in place?
 4 MR. SACUTA:
 5 A. I don't know. I know that this document was
 6 updated on January 1st of '09. We could go
 7 back and look at the document from 2006 and
 8 see if it stated this. It's impossible for me
 9 to tell, looking at this document, what
 10 changes were made between 2006 and 2009.
 11 EARLE, Q.C.
 12 Q. Can you tell us this, was it being enforced,
 13 that limitation being enforced prior to the
 14 March crash of the S-92?
 15 MR. SACUTA:
 16 A. It's my understanding it was being enforced,
 17 yes.
 18 EARLE, Q.C.
 19 Q. Has there been any change in respect of night
 20 flying?
 21 MR. SACUTA:
 22 A. With HMDC?
 23 EARLE, Q.C.
 24 Q. With HMDC, since the crash.
 25 MR. SACUTA:

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1 A. Yes, there has been. HMDC has put a protocol
 2 in place under which there would be an
 3 approval process to fly at night. We have
 4 made a decision that until the Cougar first
 5 response search and rescue helicopter is
 6 equipped with auto hover that we will not fly
 7 at night, unless it's a medical emergency that
 8 cannot be handled by the offshore medical
 9 resources.
 10 EARLE, Q.C.
 11 Q. Is that consistent with a OIMS document? My
 12 understanding is that somewhere out there
 13 there is an OIMS document that says that
 14 should be the case anyway.
 15 MR. SACUTA:
 16 A. In the aviation operations guide, it talks
 17 about what would be required to fly at night.
 18 EARLE, Q.C.
 19 Q. Um-hm, and is that consistent with -
 20 MR. SACUTA:
 21 A. It's consistent that the expectations to fly
 22 at night is that you have access to search and
 23 rescue helicopters that can retrieve personnel
 24 should they end up in the water.
 25 EARLE, Q.C.

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1 Q. Now we understand that the rationale for the
 2 auto hover on the first response helicopter is
 3 that it removes the necessity for the pilot to
 4 maintain the aircraft at a certain distance
 5 over sea level. That this is done
 6 automatically, because -- and this is of value
 7 because it is extremely difficult to do that
 8 in the dark without visual reference.
 9 MR. SACUTA:
 10 A. Correct.
 11 EARLE, Q.C.
 12 Q. Have you considered the fact that those same
 13 issues of absence of visual reference arise if
 14 an aircraft is -- helicopter, aircraft is
 15 required to ditch at night in that the
 16 helicopter pilot will have a great deal of
 17 difficulty judging where the water surface is
 18 and in terms of ditching and apparently there
 19 are things that he should do as he gets close
 20 to the water, in terms of adjusting the
 21 attitude of the aircraft?
 22 MR. SACUTA:
 23 A. I mean, I think certainly that's a good
 24 question for Cougar to answer, based on them
 25 having the knowledge to answer that question.

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1 I do know that Cougar, as part of their annual
 2 simulator training, do ditch the aircraft in a
 3 number of scenarios. But I think Cougar would
 4 be best suited to answer that question.
 5 EARLE, Q.C.
 6 Q. Well, I find that an interesting response, Mr.
 7 Sacuta, because you have a document here which
 8 sets up criteria, weather limitations where
 9 you say we're not flying. Why wouldn't you
 10 similarly set up the limitations for night
 11 flying?
 12 MR. SACUTA:
 13 A. I mean, we have set up limitations for night
 14 flying. Prior to the accident, we did fly at
 15 night. Based on some of the concerns that
 16 came out of the accident, we've made a
 17 conscious decision not to fly at night until
 18 we have the capability to recover personnel in
 19 the water using our first response search and
 20 rescue helicopter.
 21 EARLE, Q.C.
 22 Q. But what consideration have you given to the
 23 other issue?
 24 MR. SACUTA:
 25 A. The other issue?

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1 EARLE, Q.C.
 2 Q. The other issue being the ability of a
 3 helicopter to ditch at night.
 4 MR. SACUTA:
 5 A. I'm not technically qualified to answer that
 6 question.
 7 EARLE, Q.C.
 8 Q. I don't know that it requires technical
 9 qualification. I mean, have -- well, let me
 10 ask you this. Has HMDC considered that issue?
 11 MR. SACUTA:
 12 A. Cougar has not identified any issues, that I'm
 13 aware of, through HMDC with the ability for
 14 the helicopter pilot to ditch at night. I'm
 15 not aware of any issues that have been raised
 16 by Cougar in that regard.
 17 EARLE, Q.C.
 18 Q. You're not aware of Cougar raising that issue.
 19 Are you aware of your employees raising that
 20 issue?
 21 MR. SACUTA:
 22 A. With the ability to ditch at night?
 23 EARLE, Q.C.
 24 Q. Yes.
 25 MR. SACUTA:

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1 A. It may have come up as part of the questions
 2 that were asked during the HOTF. I'm not
 3 familiar with all -- there were 350 questions.
 4 It may have come up. But if it did, I'm sure
 5 we answered it in the HOTF report.
 6 EARLE, Q.C.
 7 Q. If we could go back to the aviation operations
 8 risk assessment?
 9 REGISTRAR:
 10 Q. What page number?
 11 EARLE, Q.C.
 12 Q. Slide 40.
 13 REGISTRAR:
 14 Q. Slide 40?
 15 ROIL, Q.C.:
 16 Q. In No. 130.
 17 EARLE, Q.C.
 18 Q. The mitigating factors and emergency response.
 19 You just have a reference to the standby
 20 vessel at the Hibernia Platform. Where does
 21 the fast rescue craft, that, my understanding,
 22 that vessel is supposed to be equipped with,
 23 come into play?
 24 MR. SACUTA:
 25 A. The standby vessel is identified based on the

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1 fact there are a number of devices that the
 2 standby vessel has in place that can aid in
 3 recovery from sea. One of them is the fast
 4 rescue craft.
 5 EARLE, Q.C.
 6 Q. How many -- how do you approach it if some of
 7 these mitigating factors go missing, as would
 8 the fast rescue craft at seas about five
 9 metres, as would the effectiveness of
 10 floatation currently at above three metres, it
 11 would appear? What's your approach? You
 12 know, if mitigators start disappearing by
 13 change in circumstances, when do you say "we
 14 have insufficient mitigation"?
 15 MR. SACUTA:
 16 A. As I mentioned, and I testified to this last
 17 week during the joint panel, the standby
 18 vessel has more than one rescue capability.
 19 It has fast rescue craft. It has the EMPRA
 20 basket and it has the DACON scoop, and should
 21 we be unable to launch the FRC because we're
 22 above five metres, for example, the other two
 23 devices are available for possible rescue in a
 24 helicopter ditching scenario in close
 25 proximity to the Platform.

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1 EARLE, Q.C.
 2 Q. I appreciate those facts. The question I was
 3 asking for you is when circumstances change to
 4 remove the benefit of a mitigating factor,
 5 when is it that you say there's insufficient
 6 mitigation? You know, if they all disappear?
 7 Obviously they can't all disappear. Some of
 8 them are, if you will, set in stone, but for
 9 instance, if you had the foam/water monitors
 10 on the helideck out of commission, something
 11 happened with them, would that be a sufficient
 12 loss of mitigating factors that you would say
 13 "we're not flying"?
 14 MR. SACUTA:
 15 A. If we did not have the foam/water monitors on
 16 the helideck, we would not fly. If there
 17 isn't firefighting capabilities on the
 18 helideck, we would not be landing helicopters
 19 on the helideck.
 20 EARLE, Q.C.
 21 Q. So is there any rule of thumb that addresses
 22 the loss of any of these mitigating factors
 23 that says, you know, "if two or more are
 24 inoperative, we don't fly" or is it just an
 25 individual assessment?

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1 MR. SACUTA:
 2 A. I mean, all of these mitigation safeguards
 3 reduce the consequence. If, for example, the
 4 standby vessel was not able to use any of
 5 their means, whether it's the fast rescue
 6 craft, the DACON scoop or the EMPRA basket, we
 7 would not fly during those situations. We
 8 can't take credit for those safeguards if
 9 they're not available.
 10 EARLE, Q.C.
 11 Q. Yeah.
 12 MR. SACUTA:
 13 A. That doesn't mean that if one of the three is
 14 not available that we would not allow the
 15 helicopter transportation. As an example, the
 16 sea state limitation of seven metres is above
 17 when they would launch a fast rescue craft,
 18 but we have the other retrieval means on that
 19 standby vessel.
 20 EARLE, Q.C.
 21 Q. Do we know that the other retrieval means can
 22 be used in sea state of seven metres?
 23 MR. SACUTA:
 24 A. We have had discussions with our standby
 25 vessel captains and they have indicated that

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1 they would be comfortable using those means
 2 during a rescue situation.
 3 EARLE, Q.C.
 4 Q. In a seven-metre sea?
 5 MR. SACUTA:
 6 A. Yes, up to seven-metre seas, that's correct.
 7 EARLE, Q.C.
 8 Q. Up to seven metres. So is it -- because
 9 clearly, for instance, the availability of a
 10 properly fitting helicopter transportation
 11 suit was also a mitigator that when it was not
 12 available, you said "those people aren't
 13 flying. They're going back and forth by
 14 vessel"?
 15 MR. SACUTA:
 16 A. Correct.
 17 EARLE, Q.C.
 18 Q. Right. So do we have available a ranking or
 19 an indicator which of these going out shuts
 20 down flights? For instance, the flight
 21 following tracking system, do we know if it's
 22 out of commission, which of course doesn't
 23 eliminate a whole lot of other public systems,
 24 if you will, do we know if that's out of
 25 commission that there will be no flying? Is

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1 there an assessment done of which of these
 2 mitigators, if they're not available, is
 3 crucial to the ability to fly?
 4 MR. SACUTA:
 5 A. I mean, I think if, for example, the flight
 6 following and tracking system was unavailable,
 7 we would certainly have a discussion with
 8 Cougar Helicopters to determine whether or not
 9 it was safe to carry on helicopter operations.
 10 So is there a specific list that identifies --
 11 what we do is if any of these mitigation
 12 safeguards are not in place, we will -- some
 13 of it is mandated in our documentation, such
 14 as sea states above seven metres. If we
 15 didn't have a standby vessel that had the
 16 ability to recover personnel, we would not
 17 fly. Is there a specific list for that? No,
 18 but we'd certainly have a discussion. If in
 19 the situation of flight tracking, now we would
 20 have that discussion with Cougar.
 21 EARLE, Q.C.
 22 Q. One of the -- I'm just trying to check now
 23 whether it's a -- I guess it's a mitigator,
 24 that is the -- yes, the standby helicopter
 25 based in St. John's, and if we could refer to

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1 Exhibit C-00132, page 13? Sorry, I guess it's
 2 30 for the purposes of the exhibit. It's page
 3 13 of the technical specifications, 30 at the
 4 top of the page. If you look at Section 11.1?
 5 "The contractor shall provide all personnel,
 6 equipment, permits and/or authorizations
 7 required to provide first response to owner-
 8 specific incidents on a 24-hour, 7-days-a-week
 9 basis. During non-core hours, wheels up
 10 response time shall be at most one hour." I
 11 don't think it was clear from your answers to
 12 Mr. Roil what non-core hours are.
 13 MR. SACUTA:
 14 A. I think core hours are identified in the
 15 contract.
 16 EARLE, Q.C.
 17 Q. I looked for them and couldn't find them, but
 18 you fellows dropped a lot of material on me in
 19 the last couple of days of last week.
 20 MR. SACUTA:
 21 A. In my opinion, non-core hours are once we've
 22 shut down flying for the day, then those are
 23 non-core hours.
 24 EARLE, Q.C.
 25 Q. You say once you shut down operations for -

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1 MR. SACUTA:
 2 A. Yeah, once we're no longer flying, once we've
 3 shut down flying for the day, that would be
 4 non-core hours.
 5 EARLE, Q.C.
 6 Q. So the March crash would have taken place
 7 during core hours?
 8 MR. SACUTA:
 9 A. That's correct.
 10 EARLE, Q.C.
 11 Q. There is no stated expectation of a time frame
 12 during core hours. I find that strange, the
 13 way you've done it.
 14 MR. SACUTA:
 15 A. We've always interpreted the one hour wheels
 16 up response to be 24 hours a day, seven days a
 17 week. That's how it's always been
 18 interpreted, and I believe during the joint
 19 panel we talked about the fact that we had, in
 20 the past, during core hours, allowed a
 21 helicopter to depart if the returning
 22 helicopter was within a half an hour, and
 23 we've changed that practice, after the events
 24 of March 12th.
 25 EARLE, Q.C.

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1 Q. I recall that. Will there be an amendment to
 2 this agreement to reflect those items?
 3 MR. SACUTA:
 4 A. Which items would those be?
 5 EARLE, Q.C.
 6 Q. The changes in the ability of the helicopter
 7 to leave once the other flight is 30 minutes
 8 from shore.
 9 MR. SACUTA:
 10 A. I don't think there's a requirement to change
 11 the contract. It's a practice we now have in
 12 place.
 13 EARLE, Q.C.
 14 Q. If we could go to slide 74? You see the
 15 second last recommendation?
 16 MR. SACUTA:
 17 A. Yes.
 18 EARLE, Q.C.
 19 Q. In the 2005 recommendation, "HMDC consider
 20 replacing current yellow helideck lighting
 21 with green perimeter lights" and that's a 2005
 22 recommendation. How long did it take that to
 23 get done, Mr. Fraser?
 24 MR. FRASER:
 25 A. I'm not sure how long it took to get done. I

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1 don't know. It's done.
 2 MR. SACUTA:
 3 A. It was completed in 2009.
 4 MR. FRASER:
 5 A. 2009, was it, finished.
 6 EARLE, Q.C.
 7 Q. You think that's rather a long time to change
 8 some lights?
 9 MR. SACUTA:
 10 A. It wasn't quite as simple as just changing the
 11 lights, Mr. Earle. It had to be engineered.
 12 We had to have new equipment. There had to be
 13 work packs put together and you have to
 14 realize that this was not a regulatory
 15 requirement. This was a suggestion by our
 16 aviation advisor that we evaluated and
 17 determined, yes, that improving the visibility
 18 of our helicopter landing deck to green was
 19 justified and we went ahead and engineering
 20 the new lights and installed them, and that
 21 was completed in 2009.
 22 EARLE, Q.C.
 23 Q. How many shutdowns would you have had between
 24 2005 and 2009 for major maintenance?
 25 MR. SACUTA:

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1 A. How many shutdowns?
 2 EARLE, Q.C.
 3 Q. Um.
 4 MR. SACUTA:
 5 A. We had one in 2005, one in 2007 and one in
 6 2009 that I'm aware of. But this modification
 7 did not require a shutdown.
 8 EARLE, Q.C.
 9 Q. I realize that, but I mean, you talked about
 10 design, work pack, these sorts of things. The
 11 kinds of jobs that you do in major shutdowns
 12 are the kinds of things that require designs
 13 and work packs.
 14 MR. SACUTA:
 15 A. This action item that was identified in 2005
 16 was a continuous improvement opportunity. It
 17 was a lower finding and as I discussed, the
 18 definition of a lower finding, what the
 19 definition was. This was not something that
 20 was considered a significant or a medium.
 21 EARLE, Q.C.
 22 Q. So you wouldn't consider it a priority?
 23 MR. SACUTA:
 24 A. I'm sorry?
 25 EARLE, Q.C.

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1 Q. You would not have considered it to have a
 2 high priority?
 3 MR. SACUTA:
 4 A. That's not what I said. I said it was a
 5 continuous improvement opportunity which we
 6 completed in 2009.
 7 EARLE, Q.C.
 8 Q. Should we be taking four years for continuous
 9 improvements?
 10 MR. SACUTA:
 11 A. I think we certainly have to look at each
 12 improvement opportunity to look at the benefit
 13 of that improvement opportunity. We did do
 14 that in this case, and we went ahead and
 15 implemented the new helicopter lights in 2009.
 16 EARLE, Q.C.
 17 Q. I think you would agree that if a higher
 18 priority had been put on it, it could have
 19 been done in a considerably shorter period of
 20 time than four years, right?
 21 MR. SACUTA:
 22 A. I think there are a number of situations where
 23 equipment changes can be done in a quicker
 24 amount of time. In this case, we did it
 25 during that four-year period.

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1 EARLE, Q.C.
 2 Q. I'm asking you do you agree that if a higher
 3 priority had been put on this particular
 4 change, it could have been done in less than
 5 four years?
 6 MR. SACUTA:
 7 A. If there had been -- there are opportunities
 8 to complete this work in less than four years,
 9 correct.
 10 EARLE, Q.C.
 11 Q. The technical demands of the work did not
 12 create the four-year time frame. It was the
 13 priority that was assigned to it that created
 14 the four-year time?
 15 MR. SACUTA:
 16 A. The technical demands did not determine the
 17 four years. That's correct.
 18 EARLE, Q.C.
 19 Q. Thank you. I think I'm through with my
 20 questions, gentlemen. I just want to make a
 21 quick check of my notes. No, I'm not through
 22 my questions. The OIMS system, I'm told that
 23 if we were to print off all the various
 24 documents, because there are a lot of
 25 documents incorporated by reference, that we

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1 would be talking a stack of paper as high as
 2 my shoulder.
 3 MR. SACUTA:
 4 A. I don't know if it would be as high as your
 5 shoulder, but there are a number of documents.
 6 EARLE, Q.C.
 7 Q. A large number of documents.
 8 MR. SACUTA:
 9 A. As you go through the various levels of OIMS,
 10 that would be correct, yes.
 11 EARLE, Q.C.
 12 Q. Yeah.
 13 MR. SACUTA:
 14 A. But that would include all of our operations
 15 and maintenance procedures, for example.
 16 EARLE, Q.C.
 17 Q. Do you see -- and this is your operations
 18 integrity bible, if you will. Do you see any
 19 issues with the volume and scope of this
 20 material being so large that it is a challenge
 21 to get people to follow it through?
 22 MR. SACUTA:
 23 A. I don't see any challenges because, as Mr.
 24 Fraser mentioned yesterday, all of our
 25 positions offshore have road maps and included

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1 in those road maps would be the required
 2 documentation that those individuals would
 3 have to be familiar with. We don't expect
 4 every person on that Platform to know every
 5 document, but we do expect them to know the
 6 documents that are relevant to their job
 7 function. So to answer your question, no, I
 8 don't see a problem with that.
 9 EARLE, Q.C.
 10 Q. Gentlemen, those are my questions. Thank you
 11 very much.
 12 MR. SACUTA:
 13 A. Thank you.
 14 COMMISSIONER:
 15 Q. Okay, thank you, Mr. Earle. Now, counsel for
 16 the families, Mr. Martin.
 17 MR. MARTIN
 18 Q. Go ahead?
 19 COMMISSIONER:
 20 Q. Yes.
 21 MR. PAUL SACUTA AND MR. JOHN FRASER, EXAMINATION BY MR.
 22 JAMIE MARTIN
 23 MR. MARTIN
 24 Q. Good morning, Mr. Sacuta. Good morning, Mr.
 25 Fraser.

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1 MR. FRASER:
 2 A. Good morning.
 3 MR. SACUTA:
 4 A. Good morning.
 5 MR. MARTIN
 6 Q. My name is Jamie Martin. I represent the
 7 families of the deceased passengers, and I
 8 know you've been on the stand now for a couple
 9 of hours, so I don't expect to detain you for
 10 much longer. A lot of the questions I have
 11 are just points of clarification and in
 12 particular, I want to focus on your
 13 interaction with the Board as the regulator.
 14 So that's the focus where I'm going to be
 15 directing my attention.
 16 If the Registrar could turn up slide No.
 17 13 in the PowerPoint presentation, which is
 18 Exhibit 130? And my question is really a
 19 point of clarification. I'm just trying to
 20 better understand -- you've got several
 21 subcontractors working for you, and I think
 22 you've got most, if not all of them,
 23 identified on that slide. Who is actually
 24 responsible for safety for those
 25 subcontractors? The answer may be obvious,

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1 but I'm a little bit confused as to -
 2 MR. SACUTA:
 3 A. We are.
 4 MR. MARTIN
 5 Q. You are, and that's -
 6 MR. SACUTA:
 7 A. HMDC is ultimately responsible for the safety
 8 of everyone who works on our facilities.
 9 MR. MARTIN
 10 Q. And that's pursuant to the operational
 11 agreement? Is that correct? Or is there any
 12 other authority for that?
 13 MR. SACUTA:
 14 A. I mean, the commitment we make in our Ops plan
 15 is that we are accountable and responsible for
 16 the safety of personnel that work on our
 17 facilities.
 18 MR. MARTIN
 19 Q. Okay. Yeah, I thought that was the -- but I
 20 just wanted to clarify that. Mr. Sacuta, in
 21 particular, you stated last week and yesterday
 22 as well, that you consider the offshore regime
 23 in Newfoundland to be the most regulated of
 24 any offshore that you've worked in. I think
 25 that's a fair characterization of your

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1 statement.
 2 MR. SACUTA:
 3 A. That's correct. Of any of the places I've
 4 worked, that's correct.
 5 MR. MARTIN
 6 Q. And you've worked in the North Sea, you've
 7 worked in the Gulf of Mexico?
 8 MR. SACUTA:
 9 A. I haven't worked in the North Sea.
 10 MR. MARTIN
 11 Q. You haven't?
 12 MR. SACUTA:
 13 A. I've transitted on helicopters in the North
 14 Sea during visits. I've worked in Indonesia,
 15 Qatar, West Africa, and Alberta.
 16 MR. MARTIN:
 17 Q. Okay. Now as the principal regulator, the C-
 18 NLOPB, other than Transport Canada for certain
 19 issues, the principal regulator being C-NLOPB,
 20 I'm just inquiring a bit further about the
 21 interaction -- the typical interaction between
 22 yourself and the Board in relation to some of
 23 the issues that are before the Commissioner as
 24 being considered important for this Inquiry,
 25 and Mr. Roil has questioned you at some length

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1 on the characterization of incident, hazards,
 2 and near misses, and incidents, and I think
 3 your evidence was that near misses would be
 4 considered an incident, and I know we're
 5 waiting on some information, I understand from
 6 Mr. Roil, that I think that information will
 7 be forthcoming, there were some 178
 8 observations that the Board referred to in
 9 their evidence last fall, we're awaiting that
 10 and I'm curious as to how much of that are
 11 incidents, how much of them are near misses,
 12 but I'm not going to ask you that because
 13 that's information the Board will be
 14 presenting, but I want to know from your
 15 perspective as one of the operators at what
 16 stage does the information on a hazard, for
 17 instance, I'll use hazard as an example, what
 18 stage, if at all, does that get brought to the
 19 attention of the Offshore Petroleum Board? Do
 20 you make them aware of that? You used the box
 21 analogy yesterday, there was an unmarked box.
 22 Is that something the Board would be familiar
 23 with, would be made aware of?
 24 MR. SACUTA:
 25 A. The Board during their visits would be aware

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1 that we have a hazard recognition program with
 2 cards, they know we have a STOP observation
 3 program, so they would be aware of that. Any
 4 time we have an incident on the facility, the
 5 Board is made aware and they get a copy of the
 6 incident report. We do not, I'm aware,
 7 provide the Board every specific hazard that
 8 comes up, details of that. That's handled by
 9 ourselves as the hazards are identified, that
 10 we track them to closure ourselves. We do let
 11 the Board know that we have these programs in
 12 place and that we monitor the statistics from
 13 those programs as part of what we would do
 14 during a quarterly review with the Board. We
 15 have a quarterly meeting with the Board.
 16 MR. MARTIN:
 17 Q. So you monitor the statistics and provide them
 18 directly to the Board?
 19 MR. SACUTA:
 20 A. We let them know that we're monitoring the
 21 statistics, yes, and they are aware that we
 22 use those monitoring programs to determine
 23 safety programs, for example, and they would
 24 see what our weekly safety focus is on our
 25 daily report because they get a copy of our

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1 daily report as well.
 2 MR. MARTIN:
 3 Q. So what about near misses? I know you
 4 characterize them as incidents, but they would
 5 be made aware of near misses as well?
 6 MR. SACUTA:
 7 A. Yes, because a near miss is an incident and
 8 the Board gets all the information on any
 9 incident that we have on our facility.
 10 MR. MARTIN:
 11 Q. Because I know in your evidence yesterday,
 12 following the March 12th incident, you said
 13 Husky was mandated by the Board to conduct an
 14 investigation. What was that happened?
 15 MR. SACUTA:
 16 A. It was agreed with the Board that Husky would
 17 take the lead on the investigation based on
 18 the fact that it was a Husky aircraft -- a
 19 Husky flight. That doesn't mean that we did
 20 not participate. We were involved in the HOTF
 21 Report. Mr. Fraser was our representative on
 22 the HOTF team. We were involved very closely
 23 with all the operators during this period.
 24 MR. MARTIN:
 25 Q. So how frequently do you meet with the Board?

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1 I mean, you referenced a couple -- twice
 2 annual meetings.
 3 MR. SACUTA:
 4 A. That would be JOHS meetings. I have a
 5 quarterly meeting that I have with the Board.
 6 It's actually scheduled for today. I've had
 7 to delegate it because of the Inquiry, but we
 8 have a quarterly meeting where we meet with
 9 the Board with the standard template of items
 10 to discuss, which includes safety, production
 11 performance. The Board will let us know if
 12 there's any other specific that they want us
 13 to talk to at that meeting, and there's also
 14 impromptu meetings that we've had certainly
 15 after March 12th during our return to service
 16 plan. We had frequent meetings with the Board
 17 to let them know the status of the work that
 18 was being done by the HOTF. We had a meeting
 19 with them prior to us reestablishing
 20 helicopter operations. So set-wise, quarterly
 21 meetings, but many other meetings depending on
 22 the circumstances.
 23 MR. MARTIN:
 24 Q. And who, generally speaking, sets the agenda
 25 for those meetings? Is it something that's

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1 generated between yourselves?
 2 MR. SACUTA:
 3 A. Between the two of us. If there's any item
 4 that either one of us wants to talk about,
 5 we'll just add it to the agenda.
 6 MR. MARTIN:
 7 Q. And the level of representation at these
 8 meetings, would it be considered high -- I
 9 know you're President of the organization.
 10 MR. SACUTA:
 11 A. And Max Ruelokke would be attending those
 12 quarterly meetings.
 13 MR. MARTIN:
 14 Q. As Chair of the Board?
 15 MR. SACUTA:
 16 A. Yeah.
 17 MR. MARTIN:
 18 Q. Now those meetings, are they just specific to
 19 safety or do they concern other issues such as
 20 drilling and production?
 21 MR. SACUTA:
 22 A. It's a standard agenda or standard template.
 23 The first item we always talk about is safety,
 24 but we do talk about production performance,
 25 flare performance, drilling performance. It's

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1 a all encompassing quarterly review.
 2 MR. MARTIN:
 3 Q. And from your experience, even though safety
 4 is the number one agenda on the docket, how
 5 much of the meetings are actually focused on
 6 safety, or percentage roughly?
 7 MR. SACUTA:
 8 A. Anywhere between a quarter and 50 percent,
 9 depending on the circumstances at the time.
 10 MR. MARTIN:
 11 Q. If I could ask the Registrar to turn up Tab 10
 12 of the PowerPoint presentation, which I
 13 believe is Exhibit 133.
 14 ROIL, Q.C.:
 15 Q. I think it's 130.
 16 MR. MARTIN:
 17 Q. 130, sorry.
 18 MR. SACUTA:
 19 A. Do you mean page 10, or slide 10?
 20 MR. MARTIN:
 21 Q. Page 10, yes. It's actually --
 22 REGISTRAR:
 23 Q. Slide 10?
 24 MR. MARTIN:
 25 Q. Slide 10, yes, and it's your structure, and I

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1 think you referred to it as a flat structure,
 2 which it appears from a visual observation,
 3 and you indicated yesterday I believe that it
 4 was probably flatter than some of the
 5 structure that you're previously familiar
 6 with, would that be a fair characterization of
 7 your evidence?
 8 MR. SACUTA:
 9 A. That would be a fair characterization. When I
 10 mentioned it as flat, it's certainly flatter
 11 than the other operators in the basin.
 12 MR. MARTIN:
 13 Q. And we'll hear from them in the next little
 14 while, Suncor and Husky, but my question,
 15 though, is -- and I paid close attention to
 16 your evidence yesterday and today. You have
 17 daily meetings, you have weekly meetings, you
 18 allow input for workers through these cards
 19 that you showed the Commissioner yesterday,
 20 there's binders left in the lobby of the
 21 structure itself, and I do appreciate your
 22 evidence that there's considerable opportunity
 23 for input, but in terms of your own internal
 24 structures, I see reference to Safety Health
 25 Environment and Security, but I'm just

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1 wondering, you know, as a general observation,
 2 how much of that information gets actually
 3 channelled up to you, because you got a very
 4 flat structure there and you've got a
 5 considerable number of people reporting to you
 6 on several issues; drilling, production,
 7 engineering, geosciences, you know, there's a
 8 considerable range of activities that are
 9 reporting directly to you. How much -- under
 10 that structure, how much of the information on
 11 safety gets channelled up to you? I'm not
 12 looking for a percentage, but it concerns me
 13 that you've got such a flat structure, you've
 14 got so many people reporting to you, but there
 15 doesn't seem to be anyone, in particular,
 16 directly responsible for safety and health
 17 reporting directly to you.
 18 MR. SACUTA:
 19 A. Yes, there is, there's a safety supervisor
 20 that's part of the HMDC management team that
 21 reports direct to me. The safety health and
 22 environment team reports to that supervisor.
 23 MR. MARTIN:
 24 Q. But you've got several other people reporting
 25 to you as well?

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1 MR. SACUTA:
 2 A. Correct.
 3 MR. MARTIN:
 4 Q. But my question to you is -- you made an
 5 observation that it's a flat structure.
 6 MR. SACUTA:
 7 A. Yes.
 8 MR. MARTIN:
 9 Q. And it's somewhat different, and we'll have
 10 information on that later, somewhat different
 11 than the structures that the other two
 12 operators -- you didn't name them, but I'm
 13 assuming you're referring to the other two
 14 operators. Do you see any problems with your
 15 structure in that regard?
 16 MR. SACUTA:
 17 A. I don't, and I'll tell you the reason why.
 18 When I'm doing my normal responsibilities,
 19 when I'm not negotiating a new collective
 20 agreement, or when I'm not participating in
 21 the helicopter Inquiry, I attend the morning
 22 call every morning, and at that morning call
 23 is the opportunity for the offshore
 24 installation manager and his offshore
 25 leadership team to tell me what's going on

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1 offshore. Any incidents I would be made aware
 2 at that morning call. I have a monthly asset
 3 level leadership team meeting which occurs the
 4 second Tuesday of every month, which is
 5 attended by the offshore leadership and my
 6 onshore leadership representatives from the
 7 departments that are shown on this graph. One
 8 of the -- the first agenda item is safety. We
 9 do a thorough review of any of the safety
 10 incidents that have occurred during the
 11 previous month. So I'm not concerned at all
 12 that there's safety issues that are being
 13 raised out there that I'm not aware of, unless
 14 for some reason I'm on vacation, and when I
 15 get back I'll have to familiarize myself, but
 16 I have ample opportunity for my organization
 17 to let me know what's going on from a safety
 18 perspective.

19 MR. MARTIN:
 20 Q. So you have a comfort level with your current
 21 organization structure?

22 MR. SACUTA:
 23 A. I very much have a comfort level, yes.

24 MR. MARTIN:
 25 Q. Just a couple of more points that I want to

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1 touch on. You spent some time yesterday going
 2 through the process in terms of selecting
 3 Cougar as the helicopter provider, and my
 4 question is in on way intended to question
 5 that decision, we'll hear evidence from Cougar
 6 on their qualifications and their experience
 7 and their abilities to do the job, so my
 8 question is not directed there. You did,
 9 however, reference that the Board endorses
 10 that decision, and "endorses" leaves certain
 11 connotations in my mind --

12 MR. SACUTA:
 13 A. I didn't say the Board endorsed. I said the
 14 Board evaluated our process, and that was a
 15 direct result of one of the unsuccessful
 16 bidders raising a concern with the process.
 17 One of the unsuccessful bidders was a local
 18 person and he raised some concerns at the
 19 time. So the Board validated our process that
 20 there was integrity in the process. That's
 21 what that statement was supposed to imply.

22 MR. MARTIN:
 23 Q. But you did use the word "endorse" I believe.
 24 They sanctioned or --

25 MR. SACUTA:

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1 A. They sanctioned and agreed that the process
 2 that we followed had integrity.

3 MR. MARTIN:
 4 Q. But were they not required to approve your
 5 decision?

6 MR. SACUTA:
 7 A. I mean, we inform the Board any time we have a
 8 contract come up for renewal as part of our
 9 requirement to let them know, but generally
 10 they don't do an investigation of whether or
 11 not there's integrity in the process unless
 12 for some reason they have a concern or a
 13 concern is raised by one of the bidders. So
 14 we do inform the Board when we go through
 15 major contracts, yes.

16 MR. MARTIN:
 17 Q. And in this particular instance, there was a
 18 concern raised by a local helicopter provider
 19 about your --

20 MR. SACUTA:
 21 A. About the fact they didn't win the bid.

22 MR. MARTIN:
 23 Q. Okay, and it was only at that stage that the
 24 Board intervenes, or can the Board -- you've
 25 indicated that the Board -- what role does the

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1 Board have in terms of that?

2 MR. SACUTA:
 3 A. At any point in time the Board can ask us to
 4 demonstrate to them the process that we
 5 followed. So they can do that at any point in
 6 time. Generally speaking, they don't because
 7 over the years they have realized that we have
 8 integrity in our bidding process, but at any
 9 point in time the Board can come and ask can
 10 you help us or step us through the process you
 11 did for any major contract, for example.

12 MR. MARTIN:
 13 Q. And have they done that other than the
 14 incident that you just described?

15 MR. SACUTA:
 16 A. They did it on the catering contract renewal
 17 in the summer of 2008.

18 MR. MARTIN:
 19 Q. And again is that something you asked them to
 20 do or did some third party as them to
 21 intervene?

22 MR. SACUTA:
 23 A. No, they came and asked us to do it.

24 MR. MARTIN:
 25 Q. My final question to you, last week the

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1 Commissioner heard a presentation from
 2 Lorraine Michael, who is the leader of the New
 3 Democratic Party in the Province of
 4 Newfoundland and Labrador. I'm assuming
 5 you're aware of, generally speaking, about the
 6 contents of her presentation.
 7 MR. SACUTA:
 8 A. I read the presentation and watched it on
 9 television.
 10 MR. MARTIN:
 11 Q. And Ms. Michael, in particular -- and I'm just
 12 putting forward the question because I'd like
 13 to know your thoughts and observations on it.
 14 Ms. Michael, in particular, advocates for a
 15 Board separate from the C-NLOPB that would be
 16 specifically responsible for safety. She
 17 refers to the Norwegian experience, I gather
 18 from her evidence, took place in 2004, and I
 19 don't profess to have much if any knowledge of
 20 the operations of the Norwegian Board, but
 21 you've made the comment that you think you're
 22 over regulated -- not over regulated, but
 23 you're highly regulated.
 24 MR. SACUTA:
 25 A. High regulated.

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1 MR. MARTIN:
 2 Q. I won't put words in your mouth, but what
 3 observations, if any, do you have on her
 4 suggestion that there may be merit in this
 5 jurisdiction to have a separate Board outside
 6 the C-NLOPB specifically responsible for
 7 safety reasons -- for safety issues, I should
 8 say?
 9 MR. SACUTA:
 10 A. I think we would entertain any opportunity
 11 under which we think we could improve our
 12 overall safety performance. I, myself,
 13 personally have not had any issues with the
 14 Board's oversight when it comes to safety. I
 15 think -- there's no conflict with the Board,
 16 the Board is genuine when they look at safety
 17 issues, the Board feels empowered to challenge
 18 the operator when it comes to safety issues.
 19 So personally I have not had any issue with
 20 the Board's overall mandate when it comes to
 21 safety. Are there opportunities for
 22 improvement, I'm not going to say we're not
 23 going to consider those opportunities, we'll
 24 certainly be willing to discuss those, but I
 25 do not have any concerns with how the Board is

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1 running their business.
 2 MR. MARTIN:
 3 Q. Your company operates in Norway, I presume,
 4 they have --
 5 MR. SACUTA:
 6 A. Our company, HMDC, does not operate in Norway.
 7 MR. MARTIN:
 8 Q. Well, no, ExxonMobil and --
 9 MR. SACUTA:
 10 A. ExxonMobil does have operations, I believe, in
 11 Norway, yes.
 12 MR. MARTIN:
 13 Q. But what, if any, observations or thoughts
 14 have you given, and if you haven't given any,
 15 that's fine, to how the Board functions in
 16 Norway?
 17 MR. SACUTA:
 18 A. I haven't given any thoughts to that.
 19 MR. MARTIN:
 20 Q. Okay. That's all the questions. Thank you
 21 both for your cooperation in this Inquiry.
 22 Thank you very much.
 23 MR. SACUTA:
 24 A. Thank you.
 25 MR. FRASER:

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1 A. Thanks.
 2 COMMISSIONER:
 3 Q. Thank you, Mr. Martin. Now counsel for the
 4 families of the pilots.
 5 MR. ANTHONY:
 6 Q. No questions, thank you, Mr. Commissioner.
 7 COMMISSIONER:
 8 Q. Okay, thank you. Now then I come to counsel
 9 for HMDC. Have you any questions, Ms.
 10 Strickland?
 11 MS. STRICKLAND:
 12 Q. Just one point of clarification, if I may.
 13 COMMISSIONER:
 14 Q. Yes. I think you better go up there, or we'll
 15 be abruptly --
 16 MR. PAUL SACUTA, MR. JOHN FRASER - EXAMINATION BY MS.
 17 CECILY STRICKLAND:
 18 MS. STRICKLAND:
 19 Q. Mr. Sacuta, I'll be very brief. I just wanted
 20 to -- if you could clarify one point for us.
 21 You were asked about the finding on the
 22 replacement of the lights on the helideck, and
 23 my question to you is -- I think this was a
 24 lower finding on your system, on the audit
 25 system. If this had been ranked as a medium

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1 or significant finding, would that have had an
 2 impact on the time within which the
 3 replacement was undertaken?
 4 MR. SACUTA:
 5 A. Absolutely. Obviously, we put higher priority
 6 on what would be considered a significant or a
 7 medium finding over a lower finding. Any
 8 significant finding would be addressed
 9 immediately, and from a priority perspective,
 10 we would put a higher priority on a medium
 11 finding than a lower level finding.
 12 MS. STRICKLAND:
 13 Q. That you, Mr. Sacuta. That's all I have.
 14 COMMISSIONER:
 15 Q. Okay, thank you. It's not that I have
 16 questions for you so much, but we have some
 17 time before half past twelve. I'd like to
 18 talk to you about two or three matters really
 19 to get your views, and also to perhaps give
 20 you an idea of how my mind is absorbing
 21 material, because remember at the very
 22 beginning I said that nobody will be
 23 blindsided, everybody will know the sorts of
 24 things that we're looking at in the Inquiry,
 25 but firstly, I heard what Mr. Earle said this

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1 morning about the record of HMDC and safety
 2 and there's no question from my reading it's
 3 good, and also Mr. Fraser particularly, who
 4 was my host when I went offshore, you know,
 5 it's impossible to go to that Platform and
 6 listen and read and take the instructions that
 7 you're given without coming to the conclusion
 8 that safety is very important in the context
 9 of that Platform. That really came home to me
 10 when I was out there. Now my mandate, of
 11 course, as we know, is helicopter safety and
 12 the transportation of people back and forth,
 13 but let me raise another matter. There's a
 14 community now offshore, and when I say a
 15 community, there are three producing
 16 installations, Hebron is being worked on,
 17 although according to what I read in the
 18 papers, that's not expected to come on until
 19 2017.
 20 MR. SACUTA:
 21 A. Approximately, yes.
 22 COMMISSIONER:
 23 Q. Approximately, but there will be work being
 24 done in the meantime, and there will be
 25 helicopter use, no doubt, and then there are

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1 other drilling installations out there as
 2 well. When I talk to people who use the
 3 service, and I talked to them when I was out
 4 on the Platform, and people come up to me now
 5 frequently wherever I might be and talk about
 6 these matters, the expressed view is not fear
 7 of flying in the helicopter, the expressed
 8 concern seems to be very much the frustrations
 9 that arise because of delays, the people
 10 trying to get home, or people, for example,
 11 might live in Marystown or somewhere fairly
 12 distant and come up to St. John's and can't
 13 go, and that seems to lead in any sort of
 14 discussion with people to the question of why
 15 aren't there more helicopters. Now nobody
 16 would expect a helicopter to fly when it's not
 17 safe to fly and that decision is made by
 18 pilots and Cougar, and the regulations that
 19 apply to all this, and I think everybody
 20 understands that. If there were more
 21 helicopters, and I suppose in future there
 22 will be more helicopters as installations grow
 23 and the whole field off there becomes more
 24 developed, is there any mechanism, formal or
 25 informal, by which the operators discuss the

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1 need for helicopters and what needs might be
 2 appropriate, or what the future would seem to
 3 be in terms of more helicopters, and if there
 4 were, could backlogs be cleared up more
 5 quickly, and I suppose the downside of it is
 6 when helicopters can't fly, there would be
 7 more helicopters sitting around presumably
 8 waiting. Talk to me a bit about these
 9 concepts.
 10 MR. SACUTA:
 11 A. I think Mr. Pritchard last week talked a
 12 little bit about the fact that there are
 13 circumstances where more helicopters won't
 14 necessarily help you get people off the
 15 facility sooner if you have these weather
 16 conditions that don't allow you to fly, and
 17 that's one of the main reasons that certainly
 18 during the fog season that there may be an
 19 additional need for night flights is because
 20 fog generally comes in in the morning and then
 21 burns off as you get through the afternoon,
 22 which then means you're flying window may be
 23 later into the afternoon into the evening. So
 24 in those situations, more helicopters might
 25 not necessarily help you, but the operators

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1 right now have been discussing -- we still
 2 have the Helicopter Steering Committee that
 3 meets at a regular basis, which was put in
 4 place after the events of March 12th, and one
 5 of the things we're talking about is do we
 6 need to have more helicopters and that's
 7 something that we're looking at. Certainly
 8 HMDC has put some restrictions in place when
 9 it comes to night flying that the other
 10 operators haven't because they've got other
 11 issues that they have to deal with movement of
 12 their vessels that we don't have to deal with,
 13 but I think looking forward there is a
 14 mechanism. It's an informal mechanism by
 15 which the operators communicate, we all have
 16 logistics departments, and they're able to
 17 communicate with each other and I think that
 18 it's one of these things that I would classify
 19 as a continuous improvement opportunity that
 20 we look at, whether or not the number of
 21 helicopters we have right now, being one for
 22 each of the operators, is really what we need
 23 to have looking forward in the basin.
 24 COMMISSIONER:
 25 Q. Yes.

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1 MR. SACUTA:
 2 A. So there is a mechanism by which we're able to
 3 discuss that.
 4 COMMISSIONER:
 5 Q. I see, because that's what I am supposed to do
 6 also is look forward.
 7 MR. SACUTA:
 8 A. Right.
 9 COMMISSIONER:
 10 Q. It is no good for me to make recommendations
 11 on what's past, and I suppose the costs, in
 12 any event, are shared by all those who use it,
 13 not the individuals, but the corporations.
 14 MR. SACUTA:
 15 A. Right, the operators, with the pooling
 16 principle we have now where we pool
 17 helicopters.
 18 COMMISSIONER:
 19 Q. I see. Now with regard to safety, I'm going
 20 to talk about something that we never talk
 21 about, and it's not part strictly of my
 22 mandate, and safety is my mandate also, and
 23 that is seagoing craft, ships, boats of some
 24 type. Now as I said the other day, I'm
 25 reading a lot, reading about the North Sea

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1 which has a huge number, of course, of
 2 installations compared with us, but again as
 3 installations grow out there in our offshore,
 4 there are going to be more of them and they
 5 are going to be not as close together as the
 6 North Sea, but fairly close, I should think
 7 some of them. Is there a role for safety in
 8 craft, and I don't mean small fast rescue
 9 craft, but larger fast rescue craft, 80/90
 10 feet long, that are referred to in the North
 11 Sea as a place of safety. These things can
 12 go, you know, 25/30 knots. Where the big
 13 problem is is the jolting to pieces for the
 14 individual, they've had to do a lot of work on
 15 that, but I know that British Petroleum has
 16 these things now that are designated to be
 17 places of safety and can move very quickly in
 18 the rather confined area of the North Sea. Do
 19 you ever see or think in terms that seagoing
 20 craft could be used, not perhaps on the long
 21 distance between, say, Hibernia, which is the
 22 nearest installation and St. John's, but out
 23 there or close to the various installations?
 24 MR. SACUTA:
 25 A. I mean, I think it's something that could be

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1 looked at. Operating in the North Atlantic
 2 for us is a very unique environment, and I
 3 think to put things in perspective, we
 4 generally think a fairly calm sea is less than
 5 three metres. Three metres is still ten feet,
 6 and when the back of a boat is moving up and
 7 down ten feet, that's a lot, but from our
 8 perspective, based on the weather conditions
 9 that we operate in day in and day out, that's
 10 what we feel is a fairly calm sea. Now there
 11 are times during the summer where we may have
 12 very calm seas, but I think you'd have to look
 13 at it -- if you were going to go to that type
 14 of a boat, sea vessel, you'd also have to look
 15 at the risks associated with that because we
 16 do operate in a unique environment when it
 17 comes to our sea state conditions.
 18 COMMISSIONER:
 19 Q. One thing -- I grew up, obviously, in
 20 Newfoundland, and my own personal knowledge
 21 and everything I read leads me to the
 22 conclusion that this is probably the most
 23 hostile offshore drilling environment. I
 24 talked to a man working in Sakhalin Island
 25 even, and there they don't have -- the

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1 helicopter makes a trip of about 50 miles
 2 along the coast, but 12 miles only off, which
 3 seems to me to be not as onerous as what
 4 happens here.
 5 MR. SACUTA:
 6 A. Right.
 7 COMMISSIONER:
 8 Q. In terms of safety, it seems to me there are
 9 several aspects, but two main groupings, and
 10 correct me if I'm wrong in your views, one is
 11 the culture of a corporation, the risk
 12 management thing, the risk assessment thing
 13 and culture, and you know, of course, that our
 14 consultant, Aerosafe, is going to be talking
 15 to you at some length right throughout the
 16 company, and you've agreed to that, which I
 17 appreciate. I won't say anything more about
 18 that because I think we have to wait for the
 19 consultant so that you have a better idea what
 20 Aerosafe is doing, and I have feedback and a
 21 report from Aerosafe, but the other area of
 22 safety, of course, is not only rescue, but
 23 rescue in terms of -- let's go with rescue.
 24 What I would call preparation of the
 25 helicopter, and I averted to this a few days

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1 ago, preparation of the helicopter, because
 2 everybody agrees that if a helicopter goes
 3 down ditching, and a crash is a different
 4 thing, but a controlled ditching and it turns
 5 over, the difficulties of those in it are
 6 highly magnified, whereas if the helicopter
 7 can be prevented from turning over, inverting,
 8 then the chances of everybody get very much
 9 better, because according to what I read, most
 10 of the deaths are caused by drowning in
 11 helicopter incidents, do you spend much time
 12 in your organization together with other
 13 operators in thinking about ways in which the
 14 dangers of a controlled ditching can be
 15 improved because it's something that my
 16 reading causes me to think, and this isn't a
 17 blindsiding approach, causes me to think that
 18 there's work that needs to be done there, as
 19 is being done in other places. What would
 20 your comment be on that?
 21 MR. SACUTA:
 22 A. I think it's certainly an area that will
 23 probably require some focus looking forward.
 24 I'd agree with you 100 percent that in a
 25 ditching scenario, if you can maintain the

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1 helicopter in a floating condition and allow
 2 personnel to exit the aircraft, you have a
 3 much higher probability of survival than
 4 should the aircraft invert. I agree with
 5 that. I think it's something that needs to be
 6 looked at looking forward.
 7 COMMISSIONER:
 8 Q. Yeah, and, of course, that plays into also, of
 9 course, the suits and something which if a
 10 person does survive the ditching, the initial
 11 drowning danger, then, of course, protection
 12 from the suits.
 13 MR. SACUTA:
 14 A. Right.
 15 COMMISSIONER:
 16 Q. And the other thing that seems to me, and I'd
 17 like your comment, to be vitally important is
 18 the speed with which a rescue helicopter can
 19 get to the downed -- to the site of the downed
 20 helicopter to rescue people because in this
 21 harsh environment that we've already talked
 22 about, even with the best suits, and the sea
 23 states as they are, a person may not have all
 24 that long, and when I say "all that long", it
 25 might be an hour, might be two hours, but if

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1 not rescued, the chances of survival start, I
 2 believe, with the cold, particularly
 3 diminishing, and I have read experiences in
 4 the North Sea that even if a suit stays dry,
 5 in two or three hours even in their
 6 temperatures which are higher than ours, in
 7 two or three hours the person's core
 8 temperature begins to decline and they're in
 9 danger of death.
 10 MR. SACUTA:
 11 A. I mean, I think that -- I don't think that
 12 anybody is going to argue that less time spent
 13 in the water is better.
 14 COMMISSIONER:
 15 Q. Yeah, yeah.
 16 MR. SACUTA:
 17 A. I mean, that's one of those ones that if you
 18 can get somebody out faster than slower, it's
 19 to the benefit of the individual. I don't
 20 think we should underestimate the ability of a
 21 properly fitted certified transportation suit
 22 from providing protection for our personnel
 23 should they end up in the water.
 24 COMMISSIONER:
 25 Q. Oh, yes.

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1 MR. SACUTA:
 2 A. And I think that depending on who you talk to,
 3 I've heard at times from -- I heard a 222
 4 rule, which was 2 degrees of body temperature
 5 in 2 hours in 2 degrees celsius water. I've
 6 also heard some people say that the suits,
 7 provided they're fit properly, could provide
 8 greater than six hours of time in the water.
 9 So we shouldn't underestimate the ability of
 10 those suits to protect our workforce, but I
 11 would definitely agree that less time in the
 12 water is better than more time in the water.
 13 COMMISSIONER:
 14 Q. Yeah, and the point about the suits and
 15 improved suits, and, of course, this is
 16 another thing, your suit is being improved and
 17 yet we've heard evidence on the old suits --
 18 somehow I've got to hear in more detail about
 19 the new suits really, at least I think so, but
 20 at any rate. The other thing that this leads
 21 my mind back to all the time is response time,
 22 you know.
 23 MR. SACUTA:
 24 A. Yes.
 25 COMMISSIONER:

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1 Q. The way it's written, and we talked about it
 2 this morning, or you talked about it with Mr.
 3 Earle, an hour, not less than an hour --
 4 MR. SACUTA:
 5 A. Not more than an hour.
 6 COMMISSIONER:
 7 Q. I'm sorry, not more than an hour, but, of
 8 course, it's possible to get helicopters
 9 wheels up in half an hour or even less, and my
 10 thinking goes, is that something that the
 11 industry who is providing this first response
 12 should be thinking of?
 13 MR. SACUTA:
 14 A. I mean, certainly as part of my closing
 15 statements in the joint panel last week is
 16 that we identified -- we'd certainly be
 17 willing to discuss the response time when it
 18 comes to first response search and rescue
 19 capabilities. We do realize that less time is
 20 better than more time, so it's certainly --
 21 the operators are aligned that we're more than
 22 willing to discuss this as part of this
 23 Inquiry.
 24 COMMISSIONER:
 25 Q. Okay, okay. Thank you very much.

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1 MR. SACUTA:
 2 A. Thank you.
 3 MR. FRASER:
 4 A. Thank you.
 5 COMMISSIONER:
 6 Q. As one says at times in court, is there
 7 anything arising, anything arising out of my
 8 discussion that anyone would like to ask a
 9 question on? No, okay then. So what's the
 10 position now, Mr. Roil?
 11 ROIL, Q.C.:
 12 Q. Mr. Commissioner, that completes the evidence
 13 from HMDC. The next presenter is Suncor,
 14 which is scheduled for tomorrow morning, and I
 15 don't think we really have the opportunity to
 16 jump that ahead to this afternoon. Besides, I
 17 think this afternoon might be a good
 18 opportunity for the parties to be able to
 19 review the documentation from Suncor. It has
 20 been loaded up as of yesterday afternoon, so
 21 all of the parties have access to it. Again
 22 when we actually load it up into our public
 23 system, there will be limited documents that
 24 will go into public circulation, but all of
 25 the confidential documents are now available

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1 to the parties. So we'd ready to commence
 2 that examination on Wednesday morning.
 3 COMMISSIONER:
 4 Q. Tomorrow morning at 9:30. Okay, then, and
 5 thank you, gentlemen, once again.
 6 (UPON CONCLUDING AT 12:30 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 19th 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 19th day of January, 2010

11 Cindy Sooley
12 Discoveries Unlimited Inc.
13 Judy Moss
14 Discoveries Unlimited Inc.

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