

**OFFSHORE HELICOPTER SAFETY INQUIRY**

*November 17, 2009*

*Tara Place, Suite 213, 31 Peet Street*

*St. John's, NL*

November 17, 2009

**PRESENT:**

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

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

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

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

**D. Blair Pritchett ..... Suncor (Petro-Canada)**

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

**Michael Cohen ..... Cougar Helicopters Inc.**

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

**Laura Brown Laengle/ ..... Government of Newfoundland and Labrador  
Rolf Pritchard**

**Geoffrey Spencer..... Helly Hansen Canada Limited**

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

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

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

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

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<p>1 November 17, 2009</p> <p>2 COMMISSIONER:</p> <p>3 Q. Good morning, ladies and gentlemen. Mr.</p> <p>4 Barnes, you're ready, I presume.</p> <p>5 MR. BARNES:</p> <p>6 A. Yes.</p> <p>7 COMMISSIONER:</p> <p>8 Q. Mr. Earle.</p> <p>9 MR. PAUL BARNES - EXAMINATION BY MR. RANDELL EARLE, Q.C.:</p> <p>10 EARLE, Q.C.:</p> <p>11 Q. Good morning, Mr. Barnes.</p> <p>12 MR. BARNES:</p> <p>13 A. Good morning, Mr. Earle.</p> <p>14 EARLE, Q.C.:</p> <p>15 Q. As promised, we have red stickies. If we</p> <p>16 could go to the letter from C-NLOPB, February</p> <p>17 25th, 2000.</p> <p>18 ROIL, Q.C.:</p> <p>19 Q. On the breathing apparatus?</p> <p>20 EARLE, Q.C.:</p> <p>21 Q. Pardon?</p> <p>22 ROIL, Q.C.:</p> <p>23 Q. On the breathing apparatus?</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. On the breathing apparatus, yes, a little</p>	<p>1 EARLE, Q.C.:</p> <p>2 Q. So you see it as perhaps being a little</p> <p>3 earlier down the decision chain, if you will?</p> <p>4 MR. BARNES:</p> <p>5 A. Yes.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. Okay then. Now at this point in time, if we</p> <p>8 could establish a status base, what was your</p> <p>9 understanding in February of 2000 as to the</p> <p>10 use of these escape breathing devices in the</p> <p>11 case of the use of helicopters? There was</p> <p>12 some suggestion that the military was using</p> <p>13 them at that point in time.</p> <p>14 MR. BARNES:</p> <p>15 A. Yes.</p> <p>16 EARLE, Q.C.:</p> <p>17 Q. What was your understanding of who was using?</p> <p>18 MR. BARNES:</p> <p>19 A. It was our understanding that at least one oil</p> <p>20 and gas company was using such a device in the</p> <p>21 UK, and we had at that point no other</p> <p>22 understanding as to if other oil and gas</p> <p>23 companies were contemplating using it, or if</p> <p>24 they were being used by any other industry.</p> <p>25 EARLE, Q.C.:</p>
<p>Page 2</p> <p>1 while ago on the breathing apparatus. It's</p> <p>2 page two of 1.1. Now, Mr. Barnes, would you</p> <p>3 agree with me that the request of C-NLOPB --</p> <p>4 oh, I see, at that point in time they were</p> <p>5 only CN.</p> <p>6 MR. BARNES:</p> <p>7 A. Yes.</p> <p>8 EARLE, Q.C.:</p> <p>9 Q. Was to discuss the matter with the Safety</p> <p>10 Committee and advise of decisions made?</p> <p>11 MR. BARNES:</p> <p>12 A. That's right.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. And would you agree that there's a message in</p> <p>15 that that C-NLOPB expects you to make a</p> <p>16 decision on the use of escape breathing</p> <p>17 devices?</p> <p>18 MR. BARNES:</p> <p>19 A. I wouldn't say the use. I would say that the</p> <p>20 request was to have a discussion and to advise</p> <p>21 as to decisions made regarding the next steps.</p> <p>22 EARLE, Q.C.:</p> <p>23 Q. Okay.</p> <p>24 MR. BARNES:</p> <p>25 A. It could be research, it could be use.</p>	<p>Page 4</p> <p>1 Q. So you didn't have any understanding as to use</p> <p>2 by the military?</p> <p>3 MR. BARNES:</p> <p>4 A. Not to my recollection at that point in time.</p> <p>5 EARLE, Q.C.:</p> <p>6 Q. So just one other oil and gas company and that</p> <p>7 would have been Shell?</p> <p>8 MR. BARNES:</p> <p>9 A. That would have been Shell in the UK, yes.</p> <p>10 EARLE, Q.C.:</p> <p>11 Q. The C-NLOPB says they understand that several</p> <p>12 companies in the North Sea have adopted the</p> <p>13 use of escape breathing devices. You had and</p> <p>14 understanding of one company?</p> <p>15 MR. BARNES:</p> <p>16 A. That's right.</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. And there's an invitation to contact Mr. Peter</p> <p>19 Noel about it. Did you follow up with Mr.</p> <p>20 Noel to determine what companies were using</p> <p>21 it?</p> <p>22 MR. BARNES:</p> <p>23 A. I don't recollect calling Mr. Noel after that</p> <p>24 letter.</p> <p>25 EARLE, Q.C.:</p>

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1 Q. So on May 15th, some two and a half months  
2 later, you write as follows, "We have recently  
3 discussed the issue within our Safety  
4 Subcommittee and are proposing the following",  
5 and we'll get into that, but your Safety  
6 Subcommittee at that time, who was it, who  
7 made up that Committee and what was their  
8 expertise?

9 MR. BARNES:

10 A. I don't have the list of the exact companies  
11 with me at the moment as to who were on that  
12 committee at that point in time in 2000, but I  
13 imagine it's the same companies that are on  
14 there today with the exception of one or two  
15 companies that may have left Newfoundland or  
16 Nova Scotia since that time, and their  
17 expertise would be safety professionals from  
18 our member companies.

19 EARLE, Q.C.:

20 Q. Yes, but I notice in some of the documents  
21 that you have reviewed in your direct evidence  
22 that, you know, various titles for these  
23 people, Esq, and all sorts of letter  
24 designations which make it pretty well  
25 impossible to remember what any one of them

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1 are because it seems every company uses a  
2 different thing, but my understanding is that  
3 these people who have -- have multiple  
4 responsibilities. They have environmental  
5 responsibilities, health responsibilities,  
6 safety responsibilities. Is that your  
7 understanding?

8 MR. BARNES:

9 A. In some instances, you're right, they do have  
10 multiple responsibilities.

11 EARLE, Q.C.:

12 Q. Yes. So your committee is made up of people  
13 on this level from all companies, or are there  
14 people on other levels? I'm trying to get a  
15 sense -- one of their level of expertise to  
16 handle a specific issue like this, and quite  
17 frankly, secondly, of their weight within the  
18 organizations that they represent.

19 MR. BARNES:

20 A. They all tend to be management level  
21 individuals that have some -- that have safety  
22 responsibility in their job description. They  
23 could have other responsibilities like  
24 environment, as you mentioned, but they're all  
25 management level folks and they have safety as

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1 part of their responsibility.

2 EARLE, Q.C.:

3 Q. Okay, so you say they're management. They  
4 would not be senior management, though?

5 MR. BARNES:

6 A. They would be -- probably they would be senior  
7 management within the safety role of their  
8 organization locally.

9 EARLE, Q.C.:

10 Q. Senior management within safety, not senior  
11 management within the organization?

12 MR. BARNES:

13 A. That's correct.

14 EARLE, Q.C.:

15 Q. So none of these people would have had  
16 particular expertise in the area of helicopter  
17 transportation?

18 MR. BARNES:

19 A. I don't know the answer to that.

20 EARLE, Q.C.:

21 Q. Well -- you say you don't know the answer to  
22 that. I take it that that -- I mean, as that  
23 committee was constituted, can you ever recall  
24 at the Safety Subcommittee of the Atlantic  
25 Canada Executive Policy Committee, anyone

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1 being on that committee who had a particular  
2 expertise in the area of helicopter  
3 transportation?

4 MR. BARNES:

5 A. I don't recall, but we've never had, to my  
6 recollection, any discussion regarding  
7 helicopter passenger travel within the Safety  
8 Committee.

9 EARLE, Q.C.:

10 Q. So -- and wouldn't it not be fair to say that  
11 the first time that you involved people with  
12 specific knowledge and experience in the  
13 helicopter and escape issues would have been  
14 when you set up your HUEBA Task Force?

15 MR. BARNES:

16 A. I would say directly, yes, but I would suspect  
17 that a number of our member company  
18 individuals that sat on our Safety Committee  
19 probably sought information within their own  
20 companies on that device, outside of the  
21 Safety Committee.

22 EARLE, Q.C.:

23 Q. Isn't it fair to say that even within the  
24 companies, the operator companies who make up  
25 your Safety Committee, the business of escape

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<p>1 training, the business of helicopter 2 operations, these -- indeed the business of 3 health services, these are all things that are 4 contracted out? 5 MR. BARNES: 6 A. Yes, for the most part. 7 EARLE, Q.C.: 8 Q. The core expertise of your production 9 companies is the production of oil? 10 MR. BARNES: 11 A. That's correct. 12 EARLE, Q.C.: 13 Q. So this is who you've got looking at this 14 issue and is it not fair to say from your 15 evidence that, and it seems to be a bit of a 16 disconnect with the correspondence, that it 17 wasn't until 2004 that this generalist safety 18 group passed over the task of dealing with the 19 HUEBA to a more specialized group? 20 MR. BARNES: 21 A. With extra specialized expertise, yes. 22 EARLE, Q.C.: 23 Q. Yes. Nevertheless, on May 15, 2000, you 24 indicated that you had already gathered 25 information from member companies on the</p>	<p>1 A. Because our members would be able to 2 investigate within their own organizations 3 that operate in the North Sea the use of such 4 devices. 5 EARLE, Q.C.: 6 Q. Yes, I can appreciate that, but surely the 7 issues of safety are not proprietary, surely 8 anyone in the business of having their 9 employees travel to offshore installations by 10 helicopter would have been happy to share this 11 information with you? 12 MR. BARNES: 13 A. Yes. 14 EARLE, Q.C.: 15 Q. Then you say, "Discuss the issue with 16 manufacturers of the survival suits currently 17 being used on the east coast. This discussion 18 will focus on equipment interface with 19 existing suits and potential opportunities for 20 future research and development, discuss the 21 issue with representatives of local safety 22 training institutions to elicit their 23 feedback/advice, discuss the issue with 24 potential end users of the equipment, and 25 undertake a cost benefit analysis of the use</p>
<p>1 device, and have had numerous discussions at 2 the Safety Subcommittee table on this topic. 3 So you already had done some information 4 gathering? 5 MR. BARNES: 6 A. Yes. 7 EARLE, Q.C.: 8 Q. Correct? 9 MR. BARNES: 10 A. Yes. 11 EARLE, Q.C.: 12 Q. And then you set an agenda for yourselves. 13 You said, "Over the next six months, we will 14 investigate this issue further and take the 15 following steps", and you list them as 16 investigating the use of devices by member 17 companies who have operations in the North 18 Sea. Member companies, I take it, would be 19 CAPP member companies? 20 MR. BARNES: 21 A. CAPP member companies, yes. 22 EARLE, Q.C.: 23 Q. Why would you have restricted yourself to CAPP 24 members? 25 MR. BARNES:</p>	<p>1 of the device", and you then go on to say, 2 "Once the information from this investigation 3 is obtained, we would like to share it with 4 the Boards", and I notice you use the plural, 5 so I take it you're already thinking that this 6 is not just C-NLOPB, but this is C-NSOPB as 7 well? 8 MR. BARNES: 9 A. Yes, and we copied the Chief Safety Officer of 10 the C-NSOPB on the letter. 11 EARLE, Q.C.: 12 Q. "And subsequently meet to further explore the 13 topic". Now my question for you is, you set a 14 six month time frame. Did you in that six 15 months tick off the agenda? 16 MR. BARNES: 17 A. We began working on all those items, or at 18 least three of those items within that agenda, 19 and it did take longer than six months before 20 we -- 21 EARLE, Q.C.: 22 Q. So you didn't do it in six months? 23 MR. BARNES: 24 A. No. 25 EARLE, Q.C.:</p>

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1 Q. You began working on those items.  
 2 MR. BARNES:  
 3 A. Yes.  
 4 EARLE, Q.C.:  
 5 Q. Did you at any time ever report to C-NLOPB,  
 6 okay, we have now finished those items that we  
 7 said we would do in our May 15th 2000  
 8 correspondence, and this is what we found?  
 9 MR. BARNES:  
 10 A. The next time that we formally communicated  
 11 with the Petroleum Board was June of the  
 12 following year, but we likely had informal  
 13 communication with them because at least twice  
 14 a year we would have joint meetings with both  
 15 Petroleum Board's Chief Safety Officers and  
 16 our Safety Committee where we talked about the  
 17 various safety issues that the Committee was  
 18 working on.  
 19 EARLE, Q.C.:  
 20 Q. Yes, but that's the whole range --  
 21 MR. BARNES:  
 22 A. That's correct.  
 23 EARLE, Q.C.:  
 24 Q. Of safety issues that involve these people,  
 25 right?

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1 MR. BARNES:  
 2 A. That's correct.  
 3 EARLE, Q.C.:  
 4 Q. And, I mean, that is not by any means a small  
 5 list?  
 6 MR. BARNES:  
 7 A. Within our association, it tends to be between  
 8 10 and 12 safety issues that the Committee is  
 9 working on on a regular basis.  
 10 EARLE, Q.C.:  
 11 Q. That's right. So it's a substantial agenda.  
 12 MR. BARNES:  
 13 A. Uh-hm.  
 14 EARLE, Q.C.:  
 15 Q. So you never did respond in that fashion,  
 16 correct?  
 17 MR. BARNES:  
 18 A. Never did respond?  
 19 EARLE, Q.C.:  
 20 Q. In the fashion of advising C-NLOPB that you  
 21 had completed your six month agenda and these  
 22 are the results?  
 23 MR. BARNES:  
 24 A. We responded to the Board in June of 2001 with  
 25 information on all of these items.

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1 EARLE, Q.C.:  
 2 Q. Well --  
 3 MR. BARNES:  
 4 A. And the research that we undertook on these  
 5 items formally in the next letter in my  
 6 exhibit list, June 19, 2001.  
 7 EARLE, Q.C.:  
 8 Q. What about your discussion with end users?  
 9 MR. BARNES:  
 10 A. We left that discussion with our member  
 11 companies and they would have that discussion  
 12 with their joint occupational health and  
 13 safety committees.  
 14 EARLE, Q.C.:  
 15 Q. Mr. Barnes, as you sit here today, can you  
 16 tell us that that end discussion ever took  
 17 place?  
 18 MR. BARNES:  
 19 A. We would assume it did, but I can't say for  
 20 sure.  
 21 EARLE, Q.C.:  
 22 Q. You assume it did?  
 23 MR. BARNES:  
 24 A. Yes.  
 25 EARLE, Q.C.:

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1 Q. I suggest to you, and if you turn to your  
 2 letter of June 19, 2001, which is at page six  
 3 of 1.3, that there's not much indication in  
 4 your letter of discussion with end users?  
 5 MR. BARNES:  
 6 A. Yes, I would agree.  
 7 EARLE, Q.C.:  
 8 Q. Furthermore, there doesn't appear to be much  
 9 indication of discussions of the issue with  
 10 representatives of local safety training  
 11 institutions eliciting their feedback and  
 12 advice?  
 13 MR. BARNES:  
 14 A. That's correct.  
 15 EARLE, Q.C.:  
 16 Q. In fact, what --  
 17 MR. BARNES:  
 18 A. I say that's correct in the sense that the  
 19 letter doesn't directly imply that we had  
 20 discussions with the training institutes, but  
 21 the attachment to the letter indicated a  
 22 number of research areas that we discovered  
 23 during researching this issue regarding  
 24 training and we list that on page four of the  
 25 attachment, and I would assume at this point

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1 in time that we got that information from our  
 2 discussions with the training institutes.  
 3 EARLE, Q.C.:  
 4 Q. So isn't it true that really 16/17 months  
 5 after first contacted by C-NLOPB, what you  
 6 really achieved is a literature survey and an  
 7 identification of issues arising out of the  
 8 literature survey?  
 9 MR. BARNES:  
 10 A. Well, we certainly gathered information from  
 11 not only the literature survey, but from  
 12 discussions our members had with their own  
 13 companies that operate in the North Sea, and  
 14 presumably other stakeholders would have  
 15 provided the information that we have in our  
 16 attachment.  
 17 EARLE, Q.C.:  
 18 Q. Now in your letter of June 19, 2001, in the  
 19 second paragraph, you say, "It is CAPP's  
 20 position to delay making any final decisions  
 21 with respect to the implementation and use of  
 22 helicopter EBS on the east coast pending the  
 23 outcome of", and you indicate two studies that  
 24 you want to look at of the United Kingdom  
 25 Civil Aviation Authority literature review,

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1 and the Norwegian Oil Industry Association  
 2 initiative on new survival suits standard  
 3 specifications?  
 4 MR. BARNES:  
 5 A. Yes.  
 6 EARLE, Q.C.:  
 7 Q. So it seems to me that CAPP at least is  
 8 expressing itself as being the decision maker  
 9 here.  
 10 MR. BARNES:  
 11 A. A decision maker with respect to the  
 12 implementation of such a device?  
 13 EARLE, Q.C.:  
 14 Q. Yes.  
 15 MR. BARNES:  
 16 A. Yes, it is a decision -- it is the decisions  
 17 of our member companies to make a decision  
 18 with respect to the use of the device, and to  
 19 eventually implement it.  
 20 EARLE, Q.C.:  
 21 Q. Well, not a decision to make a decision. It's  
 22 -- you say, "Any final decisions with respect  
 23 to the implementation and use".  
 24 MR. BARNES:  
 25 A. Right.

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1 EARLE, Q.C.:  
 2 Q. And I want to take this back to what I was  
 3 asking you yesterday about the relationship  
 4 with C-NLOPB, and is it clear who's making the  
 5 decision on whether we're going to have the  
 6 HUEBA or not? Did you at that time have a  
 7 clear understanding as to who would be making  
 8 that decision?  
 9 MR. BARNES:  
 10 A. Yes, it was our understanding that this would  
 11 be an industry decision, not a regulatory  
 12 decision.  
 13 EARLE, Q.C.:  
 14 Q. Okay. Now you've said a couple of times in  
 15 your evidence that cost was not an issue.  
 16 MR. BARNES:  
 17 A. Cost was not an issue that was discussed  
 18 within our association committees.  
 19 EARLE, Q.C.:  
 20 Q. But if I take you to page four of the  
 21 attachment to your letter --  
 22 MR. BARNES:  
 23 A. Uh-hm.  
 24 EARLE, Q.C.:  
 25 Q. Items 5 and 6, and first focus on Item 5,

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1 requiring life jacket manufacturers to  
 2 redesign the life jacket to include pocketry  
 3 would be time consuming and costly.  
 4 MR. BARNES:  
 5 A. Uh-hm.  
 6 EARLE, Q.C.:  
 7 Q. So that's an identified issue, isn't it?  
 8 MR. BARNES:  
 9 A. It is an identified issue, but there was no  
 10 discussion, to my knowledge -- there was no  
 11 discussion on what that would cost, other than  
 12 a general concept that it would be costly.  
 13 EARLE, Q.C.:  
 14 Q. But this is your identification of issues.  
 15 MR. BARNES:  
 16 A. Yes.  
 17 EARLE, Q.C.:  
 18 Q. And under #6, the fourth bullet, cleaning and  
 19 maintenance of devices can be quite costly and  
 20 time consuming.  
 21 MR. BARNES:  
 22 A. Uh-hm.  
 23 EARLE, Q.C.:  
 24 Q. So this is again cost identified as an issue?  
 25 MR. BARNES:



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<p>1 A. Yes.</p> <p>2 EARLE, Q.C.:</p> <p>3 Q. So then we go to the letter of February 12,</p> <p>4 2003, from C-NLOPB and that's at page 12,</p> <p>5 Document 1.4. I'll give people who are</p> <p>6 hunting for it a few moments. Now this is</p> <p>7 what I would describe as a pointed letter.</p> <p>8 Would you agree with that?</p> <p>9 MR. BARNES:</p> <p>10 A. Yes, I would.</p> <p>11 EARLE, Q.C.:</p> <p>12 Q. And they make it very clear in the second</p> <p>13 sentence, "Both these documents clearly</p> <p>14 indicate the importance we place upon this</p> <p>15 issue and our desire for a prompt decision".</p> <p>16 MR. BARNES:</p> <p>17 A. Uh-hm.</p> <p>18 EARLE, Q.C.:</p> <p>19 Q. So would you agree that this is a very clear</p> <p>20 message that the regulator is expecting a</p> <p>21 decision from you?</p> <p>22 MR. BARNES:</p> <p>23 A. Yes, that's correct.</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. Further the writer expresses in the second</p>	<p>1 EARLE, Q.C.:</p> <p>2 Q. So who was using it in 2003?</p> <p>3 MR. BARNES:</p> <p>4 A. There were two others. I don't have them in</p> <p>5 front of me at the moment. I believe Talisman</p> <p>6 was one and -- Talisman Energy, and there was</p> <p>7 another one. We have that information, I just</p> <p>8 don't have it in front of me.</p> <p>9 EARLE, Q.C.:</p> <p>10 Q. Yeah, I believe Talisman is a CAPP member,</p> <p>11 isn't it?</p> <p>12 MR. BARNES:</p> <p>13 A. Talisman is a CAPP member, and the other</p> <p>14 company was a CAPP member as well.</p> <p>15 EARLE, Q.C.:</p> <p>16 Q. So you have -- you now have -- is Shell a CAPP</p> <p>17 member?</p> <p>18 MR. BARNES:</p> <p>19 A. Yes.</p> <p>20 EARLE, Q.C.:</p> <p>21 Q. So you now have three CAPP members using the</p> <p>22 technology?</p> <p>23 MR. BARNES:</p> <p>24 A. Correct. Actually, I'll correct that, there</p> <p>25 are -- the three companies that were using it</p>
<p>1 last sentence, "I view helicopter underwater</p> <p>2 escape breathing devices as a mature and</p> <p>3 tested technology and would hope that we can</p> <p>4 achieve implementation in relatively short</p> <p>5 order". Now by that time what users were you</p> <p>6 aware of with respect to the technology? This</p> <p>7 is 2003 now.</p> <p>8 MR. BARNES:</p> <p>9 A. We were only aware, I believe at that point in</p> <p>10 time, of three oil and gas companies using the</p> <p>11 device in the UK North Sea, and possibly the</p> <p>12 military. I say possibly.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. Sorry, could you repeat that? I had</p> <p>15 difficulty hearing you.</p> <p>16 MR. BARNES:</p> <p>17 A. In 2003, we were aware of only three oil and</p> <p>18 gas companies using that device in the North</p> <p>19 Sea.</p> <p>20 EARLE, Q.C.:</p> <p>21 Q. So the use had increased since your initial?</p> <p>22 MR. BARNES:</p> <p>23 A. Yes, initially when we started to discuss this</p> <p>24 item, this issue, this initiative, we were</p> <p>25 only aware of one company, Shell.</p>	<p>1 were Shell, BP, which stands for British</p> <p>2 Petroleum, and Conoco. All three of those</p> <p>3 companies had operations in the North Sea and</p> <p>4 all three of those companies had operations in</p> <p>5 Canada and were members of CAPP.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. So the operating company in the North Sea</p> <p>8 might have been a different division, but they</p> <p>9 have divisions operating in Canada who are</p> <p>10 CAPP members?</p> <p>11 MR. BARNES:</p> <p>12 A. Correct.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. So Mr. Noel had formed the opinion that it was</p> <p>15 a mature and tested technology. The three</p> <p>16 CAPP members were using it in their</p> <p>17 operations. Bluntly put, what's the big hang</p> <p>18 up?</p> <p>19 MR. BARNES:</p> <p>20 A. The big hang up was whether the devices that</p> <p>21 those companies were using in the North Sea</p> <p>22 would be -- would be able to be used in east</p> <p>23 coast Canada and perform to their</p> <p>24 specification or to the function that we're</p> <p>25 hoping that they would be performing to.</p>

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<p>1 EARLE, Q.C.:</p> <p>2 Q. Now one of the phrases that the paper use is</p> <p>3 the "cold water conditions of Atlantic Canada</p> <p>4 offshore", and there's no doubt about it, I</p> <p>5 mean, we're dealing with very cold water.</p> <p>6 However, the North Sea might be degrees warmer</p> <p>7 in average temperature, but it would still be</p> <p>8 considered a cold water environment, would it</p> <p>9 not?</p> <p>10 MR. BARNES:</p> <p>11 A. In certain parts of the North Sea, yes.</p> <p>12 EARLE, Q.C.:</p> <p>13 Q. Yes, parts where oil companies are operating?</p> <p>14 MR. BARNES:</p> <p>15 A. Yes.</p> <p>16 EARLE, Q.C.:</p> <p>17 Q. So what did you see as being the big</p> <p>18 difference between the North Sea and our</p> <p>19 coast?</p> <p>20 MR. BARNES:</p> <p>21 A. With respect to the decision to use such a</p> <p>22 device?</p> <p>23 EARLE, Q.C.:</p> <p>24 Q. Yeah.</p> <p>25 MR. BARNES:</p>	<p>1 I don't have the answer to that question.</p> <p>2 EARLE, Q.C.:</p> <p>3 Q. You're not sure?</p> <p>4 MR. BARNES:</p> <p>5 A. I'm not sure.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. I'll take you a little later on, I think, to</p> <p>8 some indications in your September 2002</p> <p>9 discussion paper that, in fact, it was</p> <p>10 complete. In any event, on the 20th of March,</p> <p>11 you write back to C-NLOPB and you say, "Over</p> <p>12 the past 18 months we have investigated the</p> <p>13 use of an EBS in other offshore jurisdictions</p> <p>14 and have noted that the current research seems</p> <p>15 to indicate that the use of an EBS, if</p> <p>16 correctly deployed in a survivable impact on</p> <p>17 water, will allow helicopter passengers to</p> <p>18 extend their breathing capability such that</p> <p>19 the risk from drowning is reduced and their</p> <p>20 chances of survival increased". So I take it</p> <p>21 you have come to a conclusion that the EBS is</p> <p>22 a good thing?</p> <p>23 MR. BARNES:</p> <p>24 A. Yes.</p> <p>25 EARLE, Q.C.:</p>
Page 26	Page 28
<p>1 A. Well, there was -- the North Sea had only</p> <p>2 three companies using the device. The device</p> <p>3 they were using was a simple rebreather. It</p> <p>4 was felt that that device had limitations with</p> <p>5 respect to cold water usage, and the thought</p> <p>6 was why should we implement that type of</p> <p>7 device here if it had limitations and wouldn't</p> <p>8 be an adequate safety device for use here.</p> <p>9 Many of the other companies operating in the</p> <p>10 North Sea had the same view.</p> <p>11 EARLE, Q.C.:</p> <p>12 Q. Mr. Barnes, doesn't that sort of give rise to</p> <p>13 the question, okay, the device had</p> <p>14 limitations, but it's probably a heck of a lot</p> <p>15 better than nothing? I mean, didn't that kind</p> <p>16 of thought go through your collective heads?</p> <p>17 MR. BARNES:</p> <p>18 A. I don't recall any discussion of that nature.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. By this point in time, had the UK Civil</p> <p>21 Aviation Authority work been done?</p> <p>22 MR. BARNES:</p> <p>23 A. In 2003? We were waiting for that work to be</p> <p>24 done through 2002. Whether it was done by</p> <p>25 February, 2003, I don't have the information.</p>	<p>1 Q. And this is March 20th, 2003?</p> <p>2 MR. BARNES:</p> <p>3 A. Yes.</p> <p>4 EARLE, Q.C.:</p> <p>5 Q. And then you say, "In order for an EBS</p> <p>6 implementation to be fully supported and</p> <p>7 managed through to a successful conclusion, we</p> <p>8 believe there are a number of critical issues</p> <p>9 that require resolution", and you identify the</p> <p>10 issues as; certain design aspects of the</p> <p>11 device, training, health and hygiene, and</p> <p>12 their use in cold Atlantic Canada waters.</p> <p>13 Well, I've already asked you about the</p> <p>14 comparison between the North Sea and our</p> <p>15 waters, but what were your identified issues</p> <p>16 with respect to the design of the device?</p> <p>17 MR. BARNES:</p> <p>18 A. It would be contained in the attached</p> <p>19 discussion paper, and the design of the device</p> <p>20 would be everything from -- in the case of the</p> <p>21 rebreather, the design of the rebreather, as I</p> <p>22 mentioned yesterday, was almost like a plastic</p> <p>23 bag, and so we knew there would be issues in</p> <p>24 such a design for its use in Atlantic Canada.</p> <p>25 EARLE, Q.C.:</p>

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1 Q. Well, it's different language, Mr. Barnes, but  
 2 isn't the discussion paper which is September,  
 3 2002, only a reiteration of your research  
 4 summary?  
 5 MR. BARNES:  
 6 A. I believe it's more details other than that,  
 7 and some recommendations from the consultant  
 8 that pulled the paper together.  
 9 EARLE, Q.C.:  
 10 Q. So similarly, your training, health and  
 11 hygiene issues are identified in your  
 12 discussion paper. Is that what you're saying?  
 13 MR. BARNES:  
 14 A. Yes, it would seem that's the case.  
 15 EARLE, Q.C.:  
 16 Q. So you then say "in order for an  
 17 implementation to be fully supported and  
 18 managed through to a successful conclusion, we  
 19 believe that there are a number of critical  
 20 issues"--sorry, next paragraph. "To  
 21 facilitate a successful implementation of EBS,  
 22 it is paramount that an implementation  
 23 committee be commissioned to oversee that the  
 24 recommendations and findings in a discussion  
 25 paper we have prepared on this issue are

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1 researched, understood and resolved," and then  
 2 you say "this committee should be comprised of  
 3 east coast operators who have helicopter  
 4 contracts, a representative from CAODC, a  
 5 worker representative, a safety representative  
 6 from the Board, as well as other operating  
 7 companies who have an interest and knowledge  
 8 of EBS." Now, we know that C-NLOPB's response  
 9 was "good, and Mr. Noel will be our  
 10 representative on the implementation  
 11 committee." Who were the other people on the  
 12 implementation committee, and when was it  
 13 struck?  
 14 MR. BARNES:  
 15 A. It was struck in the year following this  
 16 letter.  
 17 EARLE, Q.C.:  
 18 Q. It was struck the year following?  
 19 MR. BARNES:  
 20 A. Yes, and it included representatives from the  
 21 operating companies, the helicopter operators,  
 22 the training institutes and I believe that's  
 23 all. I'll just double check that.  
 24 EARLE, Q.C.:  
 25 Q. Is this the same committee -

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1 MR. BARNES:  
 2 A. And a representative from CAODC.  
 3 EARLE, Q.C.:  
 4 Q. - that was described as the HUEBA--I have to  
 5 go a long way ahead to get their name HUEBA  
 6 Task Group.  
 7 MR. BARNES:  
 8 A. Yes.  
 9 EARLE, Q.C.:  
 10 Q. HUEBA Task Force, is that the same group?  
 11 MR. BARNES:  
 12 A. Yes.  
 13 EARLE, Q.C.:  
 14 Q. What happened to your worker representative?  
 15 MR. BARNES:  
 16 A. It was decided by our member companies that  
 17 the best way to engage their workforce would  
 18 be that they would engage them through their  
 19 occupational health and safety committees.  
 20 EARLE, Q.C.:  
 21 Q. It was decided that the workers should be  
 22 engaged through occupational health and safety  
 23 committees?  
 24 MR. BARNES:  
 25 A. Correct.

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1 EARLE, Q.C.:  
 2 Q. That there would not be a worker  
 3 representative on your implementation  
 4 committee?  
 5 MR. BARNES:  
 6 A. Yeah.  
 7 EARLE, Q.C.:  
 8 Q. Mr. Barnes, what assurance was your CAPP  
 9 Safety Committee given that these matters had  
 10 gone back to the occupational health and  
 11 safety committees?  
 12 MR. BARNES:  
 13 A. Well, from time to time, our members that sit  
 14 on our CAPP Safety Committee would indicate  
 15 that they had discussed the matter within  
 16 their joint occupational health and safety  
 17 committees and we were told that in those  
 18 various meetings that our Safety Committee  
 19 would have, and any feedback -  
 20 EARLE, Q.C.:  
 21 Q. So would that be recorded in your minutes that  
 22 I've asked for?  
 23 MR. BARNES:  
 24 A. I would assume that would be the case. Some  
 25 of our meeting minutes are just action items

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1 and they don't go into a great amount of  
 2 detail, but some do.  
 3 EARLE, Q.C.:  
 4 Q. Mr. Barnes, the discussion paper attached to  
 5 your correspondence, if you could go to  
 6 September--this is the September 2002  
 7 discussion paper, go to page 32.  
 8 MR. BARNES:  
 9 A. 32?  
 10 EARLE, Q.C.:  
 11 Q. Not 32 of the discussion paper now. 32 of the  
 12 order of the exhibits. It's page 15 of the  
 13 discussion paper. You see there, the question  
 14 is "is there a need for technical standard for  
 15 design and performance?" and then the response  
 16 is "the CAA paper delivered by Coleshaw  
 17 include an example of a draft technical  
 18 standard and in a subsequent paper presented  
 19 by Hodge, UKOOA" and is that offshore  
 20 operators association?  
 21 MR. BARNES:  
 22 A. Yes, that's an association very similar to  
 23 CAPP in the UK.  
 24 EARLE, Q.C.:  
 25 Q. Yeah, "has given an indication that they will

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1 not be developing a CAA technical standard  
 2 based on the document. Rather, they believe  
 3 that the combination of the draft example  
 4 technical standard and various testing and  
 5 research reports would enable operators to  
 6 discharge their responsibilities with respect  
 7 to the design and use of EBS and satisfy a  
 8 duty of care to passengers." So if you  
 9 remember that you were looking back in one of  
 10 your earlier pieces of correspondence, back in  
 11 2001, for the completion of the CAA study. It  
 12 appears that that study has been completed,  
 13 doesn't it?  
 14 MR. BARNES:  
 15 A. I'm assuming that is the same study that's  
 16 referenced in the earlier document. CAA was  
 17 just we were looking at a number of aspects  
 18 with respect to the device in the UK. This  
 19 particular paragraph talks about a technical  
 20 standard.  
 21 EARLE, Q.C.:  
 22 Q. Well, just go to page 34 then, because it  
 23 appears that -  
 24 MR. BARNES:  
 25 A. 34 of the exhibit?

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1 EARLE, Q.C.:  
 2 Q. 34 of--I guess it's of the exhibit, and 17 of  
 3 the report.  
 4 MR. BARNES:  
 5 A. Okay.  
 6 EARLE, Q.C.:  
 7 Q. You'll see that there are reports reviewed,  
 8 and CAA paper on EBS, and operational view  
 9 from the regulator given at the Offshore  
 10 Emergencies Conference in Aberdeen by Brian  
 11 Hodge and CAA preliminary study of the  
 12 implementation and use of emergency breathing  
 13 systems, Coleshaw, May 2002. So would you  
 14 agree with me that the CAA appears to have  
 15 completed its work?  
 16 MR. BARNES:  
 17 A. Well, in the second bullet it says a  
 18 preliminary study. So I don't know if I would  
 19 agree that it's completed its work, but it  
 20 certainly was well underway and complete in  
 21 some areas.  
 22 EARLE, Q.C.:  
 23 Q. It would appear from the portion which I  
 24 addressed you to on page 32 of the exhibit, 15  
 25 of the paper, that your UK equivalent had come

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1 to the conclusion that "the various testing  
 2 and research reports generated would enable  
 3 operators to discharge their responsibilities  
 4 with respect to the design and use of EBS and  
 5 satisfy a duty of care to passengers." Is  
 6 that correct?  
 7 MR. BARNES:  
 8 A. Yes. What page are you referring to again?  
 9 ROIL, Q.C.:  
 10 Q. He's asking you what page you're referring to.  
 11 EARLE, Q.C.:  
 12 Q. Page 32, 15 of the document.  
 13 MR. BARNES:  
 14 A. And sorry, what was your question again?  
 15 EARLE, Q.C.:  
 16 Q. It would appear that your UK equivalent in the  
 17 offshore had come to the conclusion that  
 18 sufficient testing and research had been done  
 19 to enable them to "discharge their  
 20 responsibilities with respect to the design  
 21 and use of EBS and satisfy of duty of care to  
 22 passengers."  
 23 MR. BARNES:  
 24 A. The way I would read that paragraph is the  
 25 CAPP equivalent in the UK decided, based on

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<p>1 the research, that they wouldn't be developing 2 a technical standard.</p> <p>3 EARLE, Q.C.:</p> <p>4 Q. Well, it's a little more than that, isn't it? 5 Because they say, and it's a quote in your 6 discussion paper that "it will enable 7 operators to discharge their responsibilities 8 with respect to the design and use of EBS"</p> <p>9 MR. BARNES:</p> <p>10 A. Um-hm, so no technical standard was necessary, 11 it was felt at that time, and the operators, 12 it was felt, would be discharge their 13 responsibilities themselves.</p> <p>14 EARLE, Q.C.:</p> <p>15 Q. With respect, it seems to me that in 2002, 16 your UK equivalent is saying the research is 17 done, the testing is done, let's get on with 18 it.</p> <p>19 MR. BARNES:</p> <p>20 A. Yes, that's correct.</p> <p>21 EARLE, Q.C.:</p> <p>22 Q. And you fellows are, as we'll see from your 23 end piece on the next page, your 24 recommendation is CAPP to agree in principle 25 with a philosophy of requiring all EBS devices</p>	<p>1 Q. Okay. So this was a health and safety manager 2 from your industry, a former health and safety 3 manager from your industry put this discussion 4 paper together for you?</p> <p>5 MR. BARNES:</p> <p>6 A. That's correct.</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. And at this point in time, this is still being 9 dealt with by your general safety 10 subcommittee?</p> <p>11 MR. BARNES:</p> <p>12 A. Yes, with occasional discussion at our 13 Executive Policy Group as well, with respect 14 to work being done by the Safety Committee.</p> <p>15 EARLE, Q.C.:</p> <p>16 Q. So that's up the line?</p> <p>17 MR. BARNES:</p> <p>18 A. Yes.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. We're still not into the specialists?</p> <p>21 MR. BARNES:</p> <p>22 A. We're still not into the specialists with 23 respect to implementation.</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. And if you look at that page 33, we see that</p>
<p style="text-align: right;">Page 38</p> <p>1 to meet a Canadian standard.</p> <p>2 MR. BARNES:</p> <p>3 A. Um-hm.</p> <p>4 EARLE, Q.C.:</p> <p>5 Q. So you're saying, well, we're going a 6 different route than the UK. We're going to 7 look for a standard to be developed.</p> <p>8 MR. BARNES:</p> <p>9 A. That was one of the recommendations in the 10 discussion paper, yes.</p> <p>11 EARLE, Q.C.:</p> <p>12 Q. Who developed this discussion paper? Who put 13 it together?</p> <p>14 MR. BARNES:</p> <p>15 A. It was a local consultant, a former -</p> <p>16 EARLE, Q.C.:</p> <p>17 Q. Yeah, who?</p> <p>18 MR. BARNES:</p> <p>19 A. - a former health and safety manager of 20 PetroCanada.</p> <p>21 EARLE, Q.C.:</p> <p>22 Q. Name, please.</p> <p>23 MR. BARNES:</p> <p>24 A. His name is Ian Denness.</p> <p>25 EARLE, Q.C.:</p>	<p style="text-align: right;">Page 40</p> <p>1 they were now consulting with some people 2 outside, but for instance, we're not talking 3 to the local training people, are we?</p> <p>4 MR. BARNES:</p> <p>5 A. Certainly not in the author of this research 6 paper.</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. And there's no -</p> <p>9 MR. BARNES:</p> <p>10 A. Well, yes, that's not true. Bob Rutherford 11 from the Offshore Safety and Survival Centre 12 is a director of the local training institute 13 here, so he was listed as one of the 14 individuals contacted.</p> <p>15 EARLE, Q.C.:</p> <p>16 Q. So you did consult at that level with 17 individuals?</p> <p>18 MR. BARNES:</p> <p>19 A. The author of the research paper did, yes.</p> <p>20 EARLE, Q.C.:</p> <p>21 Q. Now this discussion paper is September 2002.</p> <p>22 MR. BARNES:</p> <p>23 A. Yes.</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. Why is it that C-NLOPB only hears about this</p>

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1 level of progress some six months later in  
 2 response to a sharp letter saying "what the  
 3 heck are you fellows doing with this issue?"  
 4 MR. BARNES:  
 5 A. The Board was aware, informally, of our  
 6 progress on this issue and the fact that we  
 7 had engaged an outside consultant to do this  
 8 paper for us, but we didn't formally  
 9 correspond with the Board until the March  
 10 letter, and provide them with the actual copy  
 11 of the report.  
 12 EARLE, Q.C.:  
 13 Q. Well, Mr. Barnes, I would have thought that if  
 14 you had given that discussion paper to C-  
 15 NLOPB, who after all were--Peter Noel is  
 16 listed as one of the first people you  
 17 consulted.  
 18 MR. BARNES:  
 19 A. Yes.  
 20 EARLE, Q.C.:  
 21 Q. One of two things can happen. He would have  
 22 been satisfied that you were active and not  
 23 written the sharp letter, or he did receive it  
 24 and is saying, you know, "you've got your  
 25 discussion paper. You know where things are

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1 in the UK. Why are you not doing something  
 2 with it?" Which of those is it or is it  
 3 something else?  
 4 MR. BARNES:  
 5 A. I have no idea. I can't tell you what the  
 6 view of the Board was at that time, as to why  
 7 they wrote the letter.  
 8 EARLE, Q.C.:  
 9 Q. Do you know if that discussion paper was given  
 10 to C-NLOPB prior to this letter?  
 11 MR. BARNES:  
 12 A. No.  
 13 EARLE, Q.C.:  
 14 Q. It doesn't seem like it.  
 15 MR. BARNES:  
 16 A. No, they were not. They were aware of it  
 17 because, as you mentioned, they were part of  
 18 the consultation process.  
 19 EARLE, Q.C.:  
 20 Q. When Mr. Noel was appointed to act as the  
 21 Board's representative on your proposed  
 22 implementation committee, C-NLOPB requested  
 23 that the committee develop a draft terms of  
 24 reference document which we may--"such that we  
 25 may seek the formal approval from our Board

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1 for our participation." Does such a document  
 2 exist?  
 3 MR. BARNES:  
 4 A. No, it was never developed.  
 5 EARLE, Q.C.:  
 6 Q. Why not?  
 7 MR. BARNES:  
 8 A. It was decided that the committee would be  
 9 struck to eventually implement the device. It  
 10 didn't need a formal terms of reference.  
 11 Industry would continue with its  
 12 implementation without the Board being a  
 13 formal member and the need of a formal terms  
 14 of reference.  
 15 EARLE, Q.C.:  
 16 Q. Did you get any feedback from C-NLOPB on the  
 17 absence of these terms of reference?  
 18 MR. BARNES:  
 19 A. Not formally, but informally, they had  
 20 indicated to us that they were okay with the  
 21 industry action plan for moving forward.  
 22 EARLE, Q.C.:  
 23 Q. This was being handled, up to this point in  
 24 time, by your Safety Committee?  
 25 MR. BARNES:

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1 A. That's right.  
 2 EARLE, Q.C.:  
 3 Q. Who you've told us were meeting every five -  
 4 MR. BARNES:  
 5 A. Five to six weeks.  
 6 EARLE, Q.C.:  
 7 Q. - five to six weeks?  
 8 MR. BARNES:  
 9 A. That's correct.  
 10 EARLE, Q.C.:  
 11 Q. With an agenda of, you say, typically 12  
 12 items?  
 13 MR. BARNES:  
 14 A. Correct.  
 15 EARLE, Q.C.:  
 16 Q. How can you consider this to be--this level of  
 17 involvement to be an adequate response to the  
 18 stated urgency with which C-NLOPB viewed this  
 19 issue?  
 20 MR. BARNES:  
 21 A. I'm sorry, you have to repeat your question.  
 22 I don't understand.  
 23 EARLE, Q.C.:  
 24 Q. You have a group of generalists who are  
 25 dealing with ten or a dozen safety issues for

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<p>1 the industry on an every five or six weeks 2 meeting. How can you consider this to be an 3 appropriate level of response to the stated 4 urgency that has been expressed by C-NLOPB? 5 They're saying "we want this dealt with." 6 They've said it on three different occasions 7 formally in letters.</p> <p>8 MR. BARNES: 9 A. Um-hm.</p> <p>10 EARLE, Q.C.: 11 Q. One of which was quite pointed. How can you 12 consider that to be an adequate level of 13 response to have a dozen--be one of a dozen 14 issues dealt with by a committee on an every 15 five or six weeks basis?</p> <p>16 MR. BARNES: 17 A. Well, even though the committee only meets on 18 every five or six week basis, they would 19 undertake activity or work in between those 20 meetings and since this was one of the high 21 priority items for the committee, they would 22 be working on that item on a constant basis.</p> <p>23 EARLE, Q.C.: 24 Q. Well, for instance, there seems to be a pretty 25 fair lag between you getting a letter from C-</p>	<p>1 EARLE, Q.C.: 2 Q. Would it have gone to the Executive Policy? 3 MR. BARNES: 4 A. I would expect so, given the tone of the 5 letter.</p> <p>6 EARLE, Q.C.: 7 Q. So when did you put your task force in place? 8 Because there doesn't appear to be a document 9 which tells us that. You say 2004, but -</p> <p>10 MR. BARNES: 11 A. Yeah, the second half of 2004.</p> <p>12 EARLE, Q.C.: 13 Q. So you go from April 2003 to the second half 14 of 2004 before you put a task force in place?</p> <p>15 MR. BARNES: 16 A. Yes.</p> <p>17 EARLE, Q.C.: 18 Q. Is that correct?</p> <p>19 MR. BARNES: 20 A. That's correct.</p> <p>21 EARLE, Q.C.: 22 Q. What takes so long, Mr. Barnes?</p> <p>23 MR. BARNES: 24 A. There was a period of time in that 2004 25 timeframe that our members wanted to take this</p>
<p>1 NLOPB and you responding. Is that because 2 before you could respond, it would have to go 3 before the committee?</p> <p>4 MR. BARNES: 5 A. Generally any letters that we would write the 6 regulator would have to be drafted, reviewed 7 by the committee, and depending on the issue 8 being discussed would also have to be reviewed 9 by Executive Policy Group before being sent to 10 the Board.</p> <p>11 EARLE, Q.C.: 12 Q. So if we, for instance, look at the recent 13 sequence, you received a letter from Mr. Noel, 14 as I call the sharp letter, on February 12th, 15 2003. You responded on March 20th, 2003, 16 which is pretty well dead on five weeks later.</p> <p>17 MR. BARNES: 18 A. Um-hm.</p> <p>19 EARLE, Q.C.: 20 Q. That's a fair lag to respond to a letter. 21 Would you take it from that, that that letter 22 would have had to have gone at least to your 23 Safety Committee?</p> <p>24 MR. BARNES: 25 A. Yes, at least.</p>	<p>1 issue outside of our association and had 2 internal discussions about it within their own 3 organizations, and that was an extended period 4 of time. After having those discussions, they 5 then brought it back to the association for 6 further work, including the construction or 7 the implementation--the formation of an 8 implementation committee.</p> <p>9 EARLE, Q.C.: 10 Q. Seems rather a long time for that, Mr. Barnes, 11 doesn't it?</p> <p>12 MR. BARNES: 13 A. It took a period of time, yes, I would admit.</p> <p>14 EARLE, Q.C.: 15 Q. Tell me, you spoke in your direct evidence 16 about these people as volunteers. What do you 17 mean by that?</p> <p>18 MR. BARNES: 19 A. I mean that the individuals that sit on our 20 committee are obviously not paid individuals 21 and that they would volunteer their services 22 from their member companies. Our member 23 companies would volunteer their services to 24 sit on our committee.</p> <p>25 EARLE, Q.C.:</p>

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<p>1 Q. But surely this is the work of these companies</p> <p>2 every bit as much as, you know, seeing to it</p> <p>3 that the gen set on the Terra Nova FPSO is</p> <p>4 functioning properly. I mean, the regulator</p> <p>5 wrote you in 2003 and said "if you're not</p> <p>6 going to do it as an industry group, we're</p> <p>7 going to start going to the companies</p> <p>8 individually."</p> <p>9 MR. BARNES:</p> <p>10 A. That's correct.</p> <p>11 EARLE, Q.C.:</p> <p>12 Q. A pretty strong indication that the regulator</p> <p>13 considers it part of the obligations of these</p> <p>14 companies.</p> <p>15 MR. BARNES:</p> <p>16 A. Yes.</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. Surely then, these people aren't volunteers.</p> <p>19 They're doing the work of their company.</p> <p>20 MR. BARNES:</p> <p>21 A. Yes.</p> <p>22 EARLE, Q.C.:</p> <p>23 Q. Through the vehicle of CAPP.</p> <p>24 MR. BARNES:</p> <p>25 A. Yes, that's correct.</p>	<p>1 at this point in time, was tasked to run this</p> <p>2 project?</p> <p>3 MR. BARNES:</p> <p>4 A. No, it was a collective operation, collective</p> <p>5 management of the issue.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. And is that the means by which you deal with</p> <p>8 all your safety issues?</p> <p>9 MR. BARNES:</p> <p>10 A. It is, because the safety issues that we deal</p> <p>11 with as an association are industry wide</p> <p>12 issues, and as an industry, we--if we decide</p> <p>13 as an industry to manage or to tackle those</p> <p>14 issues, we do so as an industry and in a</p> <p>15 consensus basis go with that consensus basis</p> <p>16 goal.</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. Now you've worked in this industry?</p> <p>19 MR. BARNES:</p> <p>20 A. Yes.</p> <p>21 EARLE, Q.C.:</p> <p>22 Q. Worked with the regulator, you worked with</p> <p>23 CAPP. You know the industry. That's not the</p> <p>24 way this industry deals with production</p> <p>25 issues, is it?</p>
<p>1 EARLE, Q.C.:</p> <p>2 Q. How long would your committee meet typically</p> <p>3 in one of these every five or six week</p> <p>4 meetings?</p> <p>5 MR. BARNES:</p> <p>6 A. Each meeting is two hours in length.</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. Two hours?</p> <p>9 MR. BARNES:</p> <p>10 A. Yes, and on occasion we would meet between</p> <p>11 those five and six week regular standing</p> <p>12 committee meetings if there was an issue that</p> <p>13 we had to deal with between the meeting dates.</p> <p>14 I don't want to leave the impression that the</p> <p>15 only time the committee talked was between</p> <p>16 the--or at the meeting dates.</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. Tell me, is there anyone driving this agenda</p> <p>19 at this point in time?</p> <p>20 MR. BARNES:</p> <p>21 A. The industry as a collective was driving the</p> <p>22 agenda of implementation of this device.</p> <p>23 EARLE, Q.C.:</p> <p>24 Q. Collective drivers often lead to a very</p> <p>25 diverse route. Was there an individual who,</p>	<p>1 MR. BARNES:</p> <p>2 A. Well, what do you mean by production issues?</p> <p>3 EARLE, Q.C.:</p> <p>4 Q. Well, I suggest to you that if a drill rig is</p> <p>5 not functioning well, there is a task group</p> <p>6 assigned to deal with the issue. There is a</p> <p>7 leader to the issue. There are strict time</p> <p>8 lines and deliverables established and if the</p> <p>9 project is not delivered by a certain time,</p> <p>10 somebody up the ladder wants to know why.</p> <p>11 MR. BARNES:</p> <p>12 A. Yes.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. That's the way this industry operates.</p> <p>15 Wouldn't you agree that that's your</p> <p>16 experience?</p> <p>17 MR. BARNES:</p> <p>18 A. Yes, on some of those operational issues.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. And that is a marked contrast to how this</p> <p>21 HUEBA issue was dealt with. Just a totally</p> <p>22 different way of doing things, isn't it?</p> <p>23 MR. BARNES:</p> <p>24 A. You know, the--well, it's the committee</p> <p>25 process that we work on as a collective</p>



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1 industry on a number of these issues.  
 2 EARLE, Q.C.:  
 3 Q. Mr. Barnes, how did we then get to a situation  
 4 where in 2005 when training was identified in  
 5 2003 as an issue and hygiene was identified in  
 6 an issue, that in 2005, we're doing a risk  
 7 assessment on the training -  
 8 MR. BARNES:  
 9 A. Yes.  
 10 EARLE, Q.C.:  
 11 Q. - which is the document that starts at page 38  
 12 of the exhibit.  
 13 MR. BARNES:  
 14 A. Sorry, you had a question on that risk  
 15 assessment?  
 16 EARLE, Q.C.:  
 17 Q. How is it that if you've identified training  
 18 as being an issue, your March 20th, 2003  
 19 letter identified design, training, health and  
 20 hygiene, along with use in the cold Atlantic  
 21 waters as being issues that have to be  
 22 resolved, and then it appears that, I think it  
 23 was January 30th or 31st of 2005, you're doing  
 24 a risk assessment on training for EBS use?  
 25 MR. BARNES:

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1 A. Yes, decision was made -  
 2 EARLE, Q.C.:  
 3 Q. How does it take you from identifying the  
 4 issue in 2003 to the beginning of 2005, a year  
 5 and a half plus, how does it take you that  
 6 long to get to the simple step of doing a risk  
 7 assessment on training?  
 8 MR. BARNES:  
 9 A. Because in 2003, when we had the discussion  
 10 paper, it identified all the issues, including  
 11 training, as you mentioned. What followed  
 12 that was a discussion with our Executive  
 13 Policy Group regarding the actual device that  
 14 we would select for the east coast, and that  
 15 device was the compressed air device. Also,  
 16 in that timeframe, our members, as I  
 17 mentioned, took this issue away from our  
 18 association for a period of time, most of  
 19 2004, to have discussions internally within  
 20 their organizations, and then after those  
 21 discussions took place, it was brought back  
 22 into the CAPP safety committee and there was a  
 23 decision made then to undertake the risk  
 24 assessment of using the compressed air device  
 25 and the issues around that device.

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1 EARLE, Q.C.:  
 2 Q. So you're basically saying it's systemic lag?  
 3 MR. BARNES:  
 4 A. It is the process that unfolded in those  
 5 years.  
 6 EARLE, Q.C.:  
 7 Q. I see we're at quarter to 11, Mr.  
 8 Commissioner.  
 9 COMMISSIONER:  
 10 Q. Okay then, we'll take a break now.  
 11 (BREAK)  
 12 EARLE, Q.C.:  
 13 Q. Mr. Barnes, I just want to be clear on  
 14 something. The 2003 to 2005 lag, did you say  
 15 that the members decided to take the EBS  
 16 project away from CAPP for a period of time  
 17 there?  
 18 MR. BARNES:  
 19 A. I said that when--I guess I should just  
 20 clarify that. The members of CAPP decided  
 21 that the Safety Committee of CAPP should stop  
 22 working on this issue and that they, as  
 23 individual operators, would take the issue  
 24 away and have further discussion within their  
 25 own companies. So the Safety Committee, for a

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1 period of time in 2004, stopped working on the  
 2 issue.  
 3 EARLE, Q.C.:  
 4 Q. So it came off the agenda essentially?  
 5 MR. BARNES:  
 6 A. Well, it stayed on the agenda, but there was  
 7 no work being done for a period of time in  
 8 2004.  
 9 EARLE, Q.C.:  
 10 Q. How long a period of time was that?  
 11 MR. BARNES:  
 12 A. Eight months, six to eight months.  
 13 EARLE, Q.C.:  
 14 Q. And how did it get back on the agenda?  
 15 MR. BARNES:  
 16 A. Our members basically brought the issue back  
 17 to CAPP and said, "okay, we've had some  
 18 internal discussions. We're going in the  
 19 right direction that we want to go in. Please  
 20 proceed with implementation."  
 21 EARLE, Q.C.:  
 22 Q. Did you inform the regulator during that  
 23 period of time that your members would be  
 24 dealing with the issue individually rather  
 25 than it being dealt with as an industry wide

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<p>1 initiative by CAPP?</p> <p>2 MR. BARNES:</p> <p>3 A. There was no formal discussion with the</p> <p>4 regulator, and I don't recall any informal</p> <p>5 discussion on that issue either.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. So January 30th and 31st of 2006, you have a</p> <p>8 workshop?</p> <p>9 MR. BARNES:</p> <p>10 A. Yes.</p> <p>11 EARLE, Q.C.:</p> <p>12 Q. What's the idea of having the workshop?</p> <p>13 MR. BARNES:</p> <p>14 A. Industry was proceeding with the</p> <p>15 implementation of the compressed air device</p> <p>16 and it was decided, because there were some</p> <p>17 medical aspects around the use of the device</p> <p>18 and the use of the device in training that</p> <p>19 needed to be further understood that were</p> <p>20 identified in the risk assessment that took</p> <p>21 place in 2005 and through some other research</p> <p>22 that took place in the years following that we</p> <p>23 needed to bring in some external expertise</p> <p>24 from other international jurisdictions that</p> <p>25 had some knowledge about risks, especially</p>	<p>1 sure we haven't missed anything from</p> <p>2 discounting it.</p> <p>3 EARLE, Q.C.:</p> <p>4 Q. Well, the Hybrid was the preferred device?</p> <p>5 MR. BARNES:</p> <p>6 A. The compressed air device was the preferred</p> <p>7 device that we were working towards</p> <p>8 implementing in eastern Canada.</p> <p>9 EARLE, Q.C.:</p> <p>10 Q. And if we go back to your earlier document, so</p> <p>11 you're talking about the Hybrid as preferred.</p> <p>12 MR. BARNES:</p> <p>13 A. In one of the discussion papers in 2002, the</p> <p>14 consultant recommended going with the Hybrid</p> <p>15 Rebreather, yes.</p> <p>16 EARLE, Q.C.:</p> <p>17 Q. And then in this, at this workshop, you say</p> <p>18 the compressed air device is the preferred</p> <p>19 one?</p> <p>20 MR. BARNES:</p> <p>21 A. In 2004, our members made a decision to go</p> <p>22 towards compressed air device and to work</p> <p>23 towards implementation of that device and in</p> <p>24 the timeframe of this workshop, which was</p> <p>25 2006, we want to discuss the medical</p>
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<p>1 along the lines of medical risks.</p> <p>2 EARLE, Q.C.:</p> <p>3 Q. At page 70, you state the objective, in the</p> <p>4 second paragraph there.</p> <p>5 MR. BARNES:</p> <p>6 A. Um-hm.</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. The objective of the workshop was to provide</p> <p>9 stakeholders with accurate medical training</p> <p>10 and operational EBS information that would</p> <p>11 allow CAPP members to make an informed</p> <p>12 decision on which type of device should be</p> <p>13 implemented in east coast Canada.</p> <p>14 MR. BARNES:</p> <p>15 A. Yes.</p> <p>16 EARLE, Q.C.:</p> <p>17 Q. So we're still selecting the device six years</p> <p>18 -</p> <p>19 MR. BARNES:</p> <p>20 A. No, the general direction in 2004 was to go</p> <p>21 with a compressed air device, but the thought</p> <p>22 was if we had the medical providers or</p> <p>23 medical--international medical expertise</p> <p>24 available for this workshop that they should</p> <p>25 also look at the other device, just to make</p>	<p>1 implications and risks associated with not</p> <p>2 only the compressed air device, which was the</p> <p>3 decision we had made of the device to use, but</p> <p>4 we also included Hybrid rebreather or the</p> <p>5 rebreathers as well, just so that we didn't</p> <p>6 miss any information by discounting those two</p> <p>7 devices. Because even at that point in time,</p> <p>8 the devices weren't in widespread use in the</p> <p>9 UK.</p> <p>10 EARLE, Q.C.:</p> <p>11 Q. If in 2004 there's a decision to go with the</p> <p>12 compressed air, and this is the wonders of</p> <p>13 going backwards, because September 2002,</p> <p>14 you're in the discussion paper, Hybrid seems</p> <p>15 to be the way to go.</p> <p>16 MR. BARNES:</p> <p>17 A. That was the recommendation of the consultant,</p> <p>18 yes.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. Where's the decision making process that led</p> <p>21 to compressed air in your exhibits?</p> <p>22 MR. BARNES:</p> <p>23 A. It occurred--there's nothing in our exhibits.</p> <p>24 It occurred in our Executive Policy Group, one</p> <p>25 of their meetings in 2004.</p>

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<p>1 EARLE, Q.C.:</p> <p>2 Q. So there was a decision by the Executive</p> <p>3 Policy Group?</p> <p>4 MR. BARNES:</p> <p>5 A. Yes.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. Was there a discussion paper that went up to</p> <p>8 the Executive Policy Group?</p> <p>9 MR. BARNES:</p> <p>10 A. There was a discussion paper of 2002 and any</p> <p>11 other material that we had produced prior to</p> <p>12 that or during the timeframe.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. I mean, as you've described to me, your Safety</p> <p>15 Committee does the work and makes</p> <p>16 recommendations to your Executive Policy Group</p> <p>17 if they need--then if they need to make a</p> <p>18 decision.</p> <p>19 MR. BARNES:</p> <p>20 A. Yes.</p> <p>21 EARLE, Q.C.:</p> <p>22 Q. So was there something went forward to the</p> <p>23 Executive Policy Group in 2004 to make this</p> <p>24 decision?</p> <p>25 MR. BARNES:</p>	<p>1 A. Again, the workshop's primary objective was to</p> <p>2 look at medical risks and other risks</p> <p>3 associated with the device, compressed air,</p> <p>4 but because we had the international medical</p> <p>5 experts in the room in the workshop, we</p> <p>6 broadened it to all EBS devices, just so we</p> <p>7 understood all the medical risks and</p> <p>8 implications of all three devices, even</p> <p>9 though, as an industry, we had made the</p> <p>10 decision and we're going towards</p> <p>11 implementation of a compressed air device.</p> <p>12 EARLE, Q.C.:</p> <p>13 Q. So this really is a mistake?</p> <p>14 MR. BARNES:</p> <p>15 A. Well, it's probably a poor choice of words in</p> <p>16 that paragraph you're referring to.</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. And who would have been the participants in</p> <p>19 this workshop?</p> <p>20 MR. BARNES:</p> <p>21 A. I believe the workshop participants are listed</p> <p>22 there, I may be wrong. It appears that the</p> <p>23 workshop material doesn't include a complete</p> <p>24 list of participants.</p> <p>25 EARLE, Q.C.:</p>
<p>1 A. Yes, there was the work that the Safety</p> <p>2 Committee had undertaken in the months and</p> <p>3 years prior to it, prior to that date. So it</p> <p>4 would have been the discussion paper and some</p> <p>5 other supplementary material.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. Not to ask you to duplicate materials that</p> <p>8 we've already received, but I think it's</p> <p>9 important to see that part of the decision</p> <p>10 making process because it hasn't been evident</p> <p>11 from what you've provided. So could you</p> <p>12 provide us, please, Mr. Barnes, with the</p> <p>13 materials that went to the Executive Policy</p> <p>14 Group and their decision in 2004?</p> <p>15 MR. BARNES:</p> <p>16 A. Yes, we can provide that.</p> <p>17 EARLE, Q.C.:</p> <p>18 Q. So why then, on January 30th and 31st, 2006,</p> <p>19 if in 2004 your Executive Policy Group has</p> <p>20 made a decision that the compressed air device</p> <p>21 is the device, are you having a workshop to</p> <p>22 enable CAPP members to make an informed</p> <p>23 decision on which type of device should be</p> <p>24 implemented in east coast Canada?</p> <p>25 MR. BARNES:</p>	<p>1 Q. Well, let me ask you this. Is the workshop</p> <p>2 addressed to CAPP members?</p> <p>3 MR. BARNES:</p> <p>4 A. It was because we organized the workshop, but</p> <p>5 we had invited to the workshop representatives</p> <p>6 from both offshore petroleum boards and the</p> <p>7 medical providers to our industry in Atlantic</p> <p>8 Canada.</p> <p>9 EARLE, Q.C.:</p> <p>10 Q. Would you have had your training industry in</p> <p>11 attendance?</p> <p>12 MR. BARNES:</p> <p>13 A. I would say yes, but I can't say for certain.</p> <p>14 EARLE, Q.C.:</p> <p>15 Q. I notice at page 73, it's noted "the</p> <p>16 introduction of compressed gas will require</p> <p>17 personnel from the UK to be trained on the</p> <p>18 compressed gas device."</p> <p>19 MR. BARNES:</p> <p>20 A. Yes.</p> <p>21 EARLE, Q.C.:</p> <p>22 Q. So is this a cost consideration coming back in</p> <p>23 again?</p> <p>24 MR. BARNES:</p> <p>25 A. I don't believe so. This was more of an</p>

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<p>1 operational one, in the sense that if there 2 were UK workers coming to Newfoundland to do 3 work, they would not have been trained on such 4 a device. 5 EARLE, Q.C.: 6 Q. This is not a decision making forum? 7 MR. BARNES: 8 A. No, this was an informational workshop. 9 EARLE, Q.C.: 10 Q. This is an information--so could you tell us, 11 other than the compressed--to go with the 12 compressed air device, what decisions had been 13 made by the beginning of 2006? 14 MR. BARNES: 15 A. At the beginning of 2006 was, again, the 16 decision to move towards implementation of a 17 compressed air device, subject to further 18 understanding of the risks associated with 19 using that device and in training of that 20 device. 21 EARLE, Q.C.: 22 Q. Yeah, that's your 2004 decision, isn't it? 23 MR. BARNES: 24 A. 2004 decision, yes, basically it was, but it 25 was information that was needed after that</p>	<p>1 EARLE, Q.C.: 2 Q. All right. Okay, go to page 107, and if you 3 could rotate that clockwise? The very first 4 item, "in 2002, Offshore Petroleum Board 5 suggested industry should examine the use of 6 HUEBA devices." Where did the two years go? 7 MR. BARNES: 8 A. That was probably a typo, given the fact that 9 it's 2000 that was the first time that we 10 received a letter from the Board. 11 EARLE, Q.C.: 12 Q. It's a fairly substantial typo, Mr. Barnes. 13 So if we go to page 110? The indication here 14 is that "in the fall of 2005, a draft EBS 15 compressed air protocol was developed to 16 address concerns raised during the training 17 risk assessment." 18 MR. BARNES: 19 A. Yes. 20 EARLE, Q.C.: 21 Q. And then you see that there is absence of 22 consensus on the draft medical protocol. Now 23 this is all about training, isn't it? 24 MR. BARNES: 25 A. It was all about associated with training,</p>
<p>1 decision was around the medical risks, so 2 that, and the training risks. So that 3 information still had to be gathered, plus all 4 the other aspects of implementation, producing 5 videos, ensuring training institutes were 6 ready to be trained, et cetera. But the 7 primary concern in this timeframe that we're 8 talking about here was to understand the 9 medical risks associated with primarily 10 training, but also its use. 11 EARLE, Q.C.: 12 Q. If we could look at your--when I say "your" I 13 mean the CAPP presentation. 14 MR. BARNES: 15 A. Which one are you referring to? 16 EARLE, Q.C.: 17 Q. Helicopter Underwater Escape Apparatus 18 Workshop. It's the - 19 MR. BARNES: 20 A. Is that dated January 31st, 2006? 21 EARLE, Q.C.: 22 Q. It's the presentation that was made by CAPP at 23 the workshop. 24 MR. BARNES: 25 A. Yes, okay.</p>	<p>1 yes. 2 EARLE, Q.C.: 3 Q. Because the real world is that we're not 4 worried about the medical risks, in terms of 5 use in an emergency because the risks are 6 outweighed by the benefit in the emergency 7 situation. The risks we're talking about here 8 are risks that would be incurred during 9 training, so in training, we try and screen 10 people who might have problems with breathing 11 compressed air, so on and so forth, right? 12 MR. BARNES: 13 A. Yes, that's correct. 14 EARLE, Q.C.: 15 Q. Under your next steps, page 112, "the CAPP 16 HUEBA Task Force will meet shortly after the 17 workshop to review the meeting outcomes and 18 make a recommendation to the CAPP Safety 19 Committee on EBS use in east coast Canada." 20 Are we saying that it's still up in the air in 21 2006? 22 MR. BARNES: 23 A. It's possible. The direction obviously in 24 2004 was to go with compressed air, and there 25 was, obviously, some doubts as you work</p>

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<p>1 through the workshop and other material</p> <p>2 whether that was the best device, but still</p> <p>3 the direction that the industry collectively</p> <p>4 was going through was compressed air. But the</p> <p>5 HUEBA Task Force still wanted to have some</p> <p>6 further discussion on the other device, with</p> <p>7 the intent of possibly making some other</p> <p>8 recommendation around it.</p> <p>9 EARLE, Q.C.:</p> <p>10 Q. But all these doubts were focused on--appeared</p> <p>11 to be focused on medical risks during</p> <p>12 training?</p> <p>13 MR. BARNES:</p> <p>14 A. Yes.</p> <p>15 EARLE, Q.C.:</p> <p>16 Q. I'm sorry I don't have the page for this.</p> <p>17 Your material is somewhat voluminous and</p> <p>18 difficult to handle in paper, Mr. Barnes, but</p> <p>19 if you could go to the March 13th, 2007 letter</p> <p>20 from C-NLOPB, and that's Section 1.9 of the</p> <p>21 documents.</p> <p>22 ROIL, Q.C.:</p> <p>23 Q. Page 193.</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. 193. Now this is a letter to the head of your</p>	<p>1 Q. And if you go to the second paragraph, "the</p> <p>2 implementation of the compressed air HUEBA for</p> <p>3 offshore east coast personnel is estimated to</p> <p>4 begin during the fourth quarter of 2007."</p> <p>5 MR. BARNES:</p> <p>6 A. Yes.</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. And that is "subject to the completion of the</p> <p>9 following tasks"?</p> <p>10 MR. BARNES:</p> <p>11 A. Yes.</p> <p>12 EARLE, Q.C.:</p> <p>13 Q. And I note number two, "CAPP's Medical</p> <p>14 Advisory Subcommittee is revising the CAPP</p> <p>15 medical assessment for fitness to work</p> <p>16 guidelines to incorporate the HUEBA associated</p> <p>17 amendments, as well as appropriate changes to</p> <p>18 medical screening and status of health</p> <p>19 sections."</p> <p>20 MR. BARNES:</p> <p>21 A. Yes.</p> <p>22 EARLE, Q.C.:</p> <p>23 Q. This is 2007. Aren't those the issues that</p> <p>24 were identified in the workshop at the</p> <p>25 beginning of 2006?</p>
<p>1 organization from the head of the C-NLOPB,</p> <p>2 right?</p> <p>3 MR. BARNES:</p> <p>4 A. That's correct.</p> <p>5 EARLE, Q.C.:</p> <p>6 Q. And it says "the Canada-Newfoundland and</p> <p>7 Labrador Offshore Petroleum Board places the</p> <p>8 highest priority on safety and believes that</p> <p>9 the introduction of this additional safety</p> <p>10 equipment will help to make helicopter</p> <p>11 transport safer for all our offshore workers.</p> <p>12 I would like to receive, at your earliest</p> <p>13 convenience, an update on the status of this,</p> <p>14 along with a target date for its</p> <p>15 implementation." Now at this point in time,</p> <p>16 isn't it fair to say that you've missed</p> <p>17 several targets along the way?</p> <p>18 MR. BARNES:</p> <p>19 A. Yes, that's correct.</p> <p>20 EARLE, Q.C.:</p> <p>21 Q. So let's look at your response, and I think</p> <p>22 it's just a couple of pages along.</p> <p>23 MR. BARNES:</p> <p>24 A. Response came in a May 22nd, 2007 letter.</p> <p>25 EARLE, Q.C.:</p>	<p>1 MR. BARNES:</p> <p>2 A. Yes, that's correct.</p> <p>3 EARLE, Q.C.:</p> <p>4 Q. And they were still unresolved 15-16 months</p> <p>5 later?</p> <p>6 MR. BARNES:</p> <p>7 A. Yes, that's correct. There was no consensus</p> <p>8 among a number of medical professionals.</p> <p>9 EARLE, Q.C.:</p> <p>10 Q. And this is relative to training?</p> <p>11 MR. BARNES:</p> <p>12 A. Yes.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. In any event, you set a fourth quarter 2007</p> <p>15 deadline for implementation, subject to these</p> <p>16 five items?</p> <p>17 MR. BARNES:</p> <p>18 A. Yes.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. And you missed it again this time. We'll</p> <p>21 allow that the downtime on flying interfered.</p> <p>22 You missed it again by two years. Two years</p> <p>23 from this letter, 16-18 months from your</p> <p>24 estimated time.</p> <p>25 MR. BARNES:</p>

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1 A. That's correct. We had thought we would be  
 2 able to implement it much quicker than we  
 3 actually did.  
 4 EARLE, Q.C.:  
 5 Q. The question I have for CAPP is this. What  
 6 review have you undertaken of this process to  
 7 answer the questions why has this taken nine  
 8 years and what do we do different to make sure  
 9 that a future safety advance doesn't take nine  
 10 years to implement?  
 11 MR. BARNES:  
 12 A. Yeah, that's a good question, and we have not  
 13 undertaken that review, but it is our intent  
 14 to do a lessons learned type review to review  
 15 this whole issue and its implementation with  
 16 the aim of, as you said, shortening decision  
 17 making on other safety matters like this.  
 18 EARLE, Q.C.:  
 19 Q. I noticed at one point, in terms of the  
 20 process, in your evidence you indicated that  
 21 the Marine Institute applied to, what I took  
 22 to be, an industry fund for funding to pay for  
 23 some of the training, development of the  
 24 training changes. Did I get that right?  
 25 MR. BARNES:

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1 A. That's correct.  
 2 EARLE, Q.C.:  
 3 Q. Why don't you people just pay for it?  
 4 MR. BARNES:  
 5 A. Pay for?  
 6 EARLE, Q.C.:  
 7 Q. Pay for having the training for your workers  
 8 developed. Why have they got to go apply to a  
 9 fund?  
 10 MR. BARNES:  
 11 A. I have no answer for that, other than that's  
 12 how it occurred.  
 13 EARLE, Q.C.:  
 14 Q. Isn't it true that your members, under the  
 15 Accord legislation, have an obligation to  
 16 spend money on research and development in  
 17 this province?  
 18 MR. BARNES:  
 19 A. Yes.  
 20 EARLE, Q.C.:  
 21 Q. And isn't it true that in fact the money has  
 22 not been spent to date?  
 23 MR. BARNES:  
 24 A. There has been money spent to date on research  
 25 and development.

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1 EARLE, Q.C.:  
 2 Q. But the full amount that is required under the  
 3 legislation to be spent has not been spent?  
 4 In fact, your industry spent a couple of years  
 5 litigating with the province over its  
 6 obligation?  
 7 MR. BARNES:  
 8 A. Yeah, that's correct.  
 9 EARLE, Q.C.:  
 10 Q. Now let's turn to the suits. The suit task  
 11 force was formed in April of 2009, right?  
 12 MR. BARNES:  
 13 A. Yes.  
 14 EARLE, Q.C.:  
 15 Q. And that was -  
 16 MR. BARNES:  
 17 A. You say the suit task force, this was the  
 18 Helly Hansen E-452 suit task force I'm  
 19 assuming?  
 20 EARLE, Q.C.:  
 21 Q. Yes.  
 22 MR. BARNES:  
 23 A. Yes, okay.  
 24 EARLE, Q.C.:  
 25 Q. Now that suit had been in use how long?

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1 MR. BARNES:  
 2 A. It was implemented sometime in 2007. Our  
 3 association wasn't involved in that  
 4 implementation.  
 5 EARLE, Q.C.:  
 6 Q. And as a matter of interest, when it was  
 7 implemented, that suit has the pockets or  
 8 whatever you want to call it, the design to  
 9 carry the HUEBA, doesn't it?  
 10 MR. BARNES:  
 11 A. To carry the compressed air device, yes.  
 12 EARLE, Q.C.:  
 13 Q. Yes. So that was available with the  
 14 implementation of this suit in 2007?  
 15 MR. BARNES:  
 16 A. That's right.  
 17 EARLE, Q.C.:  
 18 Q. Now this suit task force, well, there's no  
 19 other way to say it than this task force was  
 20 formed as a result of the concerns that were  
 21 being voiced very loudly about this suit as of  
 22 the days following the crash of the Cougar  
 23 helicopter, right?  
 24 MR. BARNES:  
 25 A. The task group was formed to address issues

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1 that arose in that time frame.  
 2 EARLE, Q.C.:  
 3 Q. Yes.  
 4 MR. BARNES:  
 5 A. Yes.  
 6 EARLE, Q.C.:  
 7 Q. However, your members were aware of issues  
 8 with respect to the fit of those suits prior  
 9 to the crash, weren't they?  
 10 MR. BARNES:  
 11 A. I believe so.  
 12 EARLE, Q.C.:  
 13 Q. And your presentation on this -  
 14 MR. BARNES:  
 15 A. Which document are you referring to?  
 16 EARLE, Q.C.:  
 17 Q. I got to locate it amongst my own documents  
 18 now, Mr. Barnes.  
 19 ROIL, Q.C.:  
 20 Q. The document they sent to Standards Board?  
 21 (Inaudible).  
 22 EARLE, Q.C.:  
 23 Q. Your presentation, it's another one of these  
 24 slide shows on the suit, to the--I believe  
 25 it's to the regulators.

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1 MR. BARNES:  
 2 A. Okay.  
 3 EARLE, Q.C.:  
 4 Q. Want to get that up?  
 5 ROIL, Q.C.:  
 6 Q. Exhibit No. 62.  
 7 MR. BARNES:  
 8 A. Assume it's this one here, this is the status  
 9 report presentation to the Board in October.  
 10 EARLE, Q.C.:  
 11 Q. Yes.  
 12 MR. BARNES:  
 13 A. Yes. October 2nd, 2009.  
 14 EARLE, Q.C.:  
 15 Q. Let me go to the second page, beyond this,  
 16 next page.  
 17 MR. BARNES:  
 18 A. This one here, the fit process?  
 19 EARLE, Q.C.:  
 20 Q. Yeah. There we go. Statistics, 150 on  
 21 current no-fly list.  
 22 MR. BARNES:  
 23 A. As of September 30th, yes.  
 24 EARLE, Q.C.:  
 25 Q. As of September 30th, which means in fact that

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1 earlier than that, there were more than 150 on  
 2 the no-fly list, right?  
 3 MR. BARNES:  
 4 A. Possible. I don't know the number.  
 5 EARLE, Q.C.:  
 6 Q. Now why were they on the no-fly list?  
 7 MR. BARNES:  
 8 A. Because they didn't have a properly fitted  
 9 survival helicopter passenger survival suit.  
 10 EARLE, Q.C.:  
 11 Q. Their suit didn't fit?  
 12 MR. BARNES:  
 13 A. That's correct.  
 14 EARLE, Q.C.:  
 15 Q. And this suit had been in service since 2007?  
 16 MR. BARNES:  
 17 A. Yes.  
 18 EARLE, Q.C.:  
 19 Q. So the conclusion is that we have 150 people  
 20 who have been flying on the helicopters with  
 21 suits that are supposed to fit that don't fit,  
 22 right?  
 23 MR. BARNES:  
 24 A. That's quite possible.  
 25 EARLE, Q.C.:

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1 Q. What do you mean, quite possible? Isn't that  
 2 in fact the case?  
 3 MR. BARNES:  
 4 A. I can't say for sure because we, as an  
 5 association, myself, were not involved in any  
 6 of the -  
 7 EARLE, Q.C.:  
 8 Q. But you made the presentation, didn't you?  
 9 MR. BARNES:  
 10 A. Yes, and -  
 11 EARLE, Q.C.:  
 12 Q. Well, I would assume you were informed.  
 13 MR. BARNES:  
 14 A. And the presentation simply says as of  
 15 September 30th, there were 150 individuals  
 16 that did not have a properly fitted suit.  
 17 EARLE, Q.C.:  
 18 Q. And these 150 were--150, you break it out  
 19 between regular full-time people going to the  
 20 platform, people who don't work a regular  
 21 rotation but frequently go, and then people  
 22 who go on, I guess you'd call it, an  
 23 infrequent basis, right?  
 24 MR. BARNES:  
 25 A. Right.

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1 EARLE, Q.C.:

2 Q. So we have 150 people who have been flying to

3 the platform from 2007 to September 30th,

4 2009. Was there any other suit available for

5 these people, other than the Helly Hansen 452?

6 MR. BARNES:

7 A. Not to my knowledge.

8 EARLE, Q.C.:

9 Q. No, so we have this suit, that's what's

10 available to them, and at least as of

11 September 30th, we know that there's 150 of

12 them for whom the suit does not fit?

13 MR. BARNES:

14 A. Right.

15 EARLE, Q.C.:

16 Q. And I suggest to you that it is a reasonable

17 inference that it did not fit on September

18 29th or for some period before September 30th.

19 MR. BARNES:

20 A. Yes, I would assume that as well.

21 EARLE, Q.C.:

22 Q. Now what has your industry done about finding

23 out how it is that these people were flying on

24 helicopters in suits that didn't fit?

25 MR. BARNES:

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1 A. As an association, we have not been involved

2 in investigation of that issue in any way. I

3 don't know if our members may have

4 individually, but certainly within our

5 association, we have not undertaken any of

6 that activity.

7 EARLE, Q.C.:

8 Q. So you have no involvement?

9 MR. BARNES:

10 A. That's correct.

11 EARLE, Q.C.:

12 Q. So you will not be, as an association, as the

13 industry-wide group that has a task force on

14 rectifying the problem, you will not be

15 looking at how it was that this problem

16 existed in the first place?

17 MR. BARNES:

18 A. Certainly not a part of our current action

19 plan.

20 EARLE, Q.C.:

21 Q. And I take it from that, that you will

22 likewise not be looking at how it was that

23 this problem and the need to remedy it was not

24 detected or acted upon until after the crash?

25 MR. BARNES:

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1 A. I can't say that for certain. It all depends

2 on the desire -

3 EARLE, Q.C.:

4 Q. As of this date, Mr. Barnes.

5 MR. BARNES:

6 A. As of this date, that's not on our action

7 plan, no.

8 EARLE, Q.C.:

9 Q. How do things get on the action plan of your

10 Safety Committee?

11 MR. BARNES:

12 A. Generally members bring it to the attention of

13 the committee and wish to work on it as a

14 collective or the regulator brings the issue

15 to the attention of industry.

16 EARLE, Q.C.:

17 Q. As the industry association, have you heard

18 from C-NLOPB on these questions? Have they

19 asked you what are you doing to see how it was

20 that 150 people were allowed to fly with suits

21 that didn't fit?

22 MR. BARNES:

23 A. No, the Offshore Petroleum Board has not asked

24 us that question.

25 EARLE, Q.C.:

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1 Q. Just to a point for clarification, the CORD

2 study on egress or ingress, I guess, of water

3 into the suit. The condition precedent for

4 that testing was that the suit properly fit,

5 right?

6 MR. BARNES:

7 A. Yes.

8 EARLE, Q.C.:

9 Q. Now you indicated that there is likely to be

10 some further testing of the E-452 for thermal

11 properties?

12 MR. BARNES:

13 A. Yes, that's correct.

14 EARLE, Q.C.:

15 Q. Why is that? Are there some questions about

16 the thermal properties of the E-452?

17 MR. BARNES:

18 A. There has been some issues raised with respect

19 to thermal properties that it was decided that

20 we should undertake some additional testing.

21 EARLE, Q.C.:

22 Q. Do we know how long this problem with the

23 gloves has existed?

24 MR. BARNES:

25 A. No, I do not.



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<p>1 EARLE, Q.C.:</p> <p>2 Q. The gloves that are being modified, are they</p> <p>3 the gloves that were issued with the E-452</p> <p>4 when it was brought into -</p> <p>5 MR. BARNES:</p> <p>6 A. Into service in 2007?</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. - into service? That's the word I'm looking</p> <p>9 for, thank you.</p> <p>10 MR. BARNES:</p> <p>11 A. Yes.</p> <p>12 EARLE, Q.C.:</p> <p>13 Q. So there has not been a change in the gloves</p> <p>14 since the E-452 came into service, other than</p> <p>15 these most recent changes?</p> <p>16 MR. BARNES:</p> <p>17 A. That's right.</p> <p>18 EARLE, Q.C.:</p> <p>19 Q. And I take it that CAPP is not engaged in any</p> <p>20 reviews or studies to see how it was that</p> <p>21 these problems with the gloves could have</p> <p>22 existed for a period of time and there does</p> <p>23 not appear to have been a successful mechanism</p> <p>24 to address it?</p> <p>25 MR. BARNES:</p>	<p>1 A. I have never received it as an association.</p> <p>2 EARLE, Q.C.:</p> <p>3 Q. Okay.</p> <p>4 MR. BARNES:</p> <p>5 A. Results of the survey were given to individual</p> <p>6 operators that work offshore Newfoundland.</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. Now your August 28th, 2009 letter on the</p> <p>9 training in the HUET, could we have that</p> <p>10 brought up, please?</p> <p>11 MR. BARNES:</p> <p>12 A. August 2009 letter on the training in the</p> <p>13 HUET? Do you have the -</p> <p>14 EARLE, Q.C.:</p> <p>15 Q. It's -</p> <p>16 ROIL, Q.C.:</p> <p>17 Q. Under the BST course review.</p> <p>18 EARLE, Q.C.:</p> <p>19 Q. Yes, 4.1 is the -</p> <p>20 MR. BARNES:</p> <p>21 A. I'm sorry, I don't know the exhibit you're</p> <p>22 referring to.</p> <p>23 EARLE, Q.C.:</p> <p>24 Q. Document 4.1, August 28th, 2009 CAPP letter,</p> <p>25 plus final draft EER Guide.</p>
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<p>1 A. You're correct. Our association has not been</p> <p>2 involved in that discussion.</p> <p>3 EARLE, Q.C.:</p> <p>4 Q. Now Helly Hansen did a survey in the third</p> <p>5 quarter of 2008 on the suits?</p> <p>6 MR. BARNES:</p> <p>7 A. That's my understanding, a survey of the</p> <p>8 offshore workforce.</p> <p>9 EARLE, Q.C.:</p> <p>10 Q. Pardon?</p> <p>11 MR. BARNES:</p> <p>12 A. A survey of the offshore workforce or</p> <p>13 passengers travelling in the offshore.</p> <p>14 EARLE, Q.C.:</p> <p>15 Q. Yes. When did you -- when I say you, I mean</p> <p>16 CAPP -- when did you receive it?</p> <p>17 MR. BARNES:</p> <p>18 A. Receive the results of the survey?</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. Um-hm.</p> <p>21 MR. BARNES:</p> <p>22 A. I have never seen the results of the survey.</p> <p>23 EARLE, Q.C.:</p> <p>24 Q. Pardon?</p> <p>25 MR. BARNES:</p>	<p>1 MR. BARNES:</p> <p>2 A. Okay.</p> <p>3 ROIL, Q.C.:</p> <p>4 Q. (Inaudible ).</p> <p>5 UNKNOWN SPEAKER:</p> <p>6 Q. I believe it's page 519.</p> <p>7 MS. FAGAN:</p> <p>8 Q. (Inaudible ) guide or the letter?</p> <p>9 MR. BARNES:</p> <p>10 A. This was the August 28th, 2009 letter to both</p> <p>11 Boards seeking ratification of the EER Guide?</p> <p>12 Is that what you're referring to? I'm</p> <p>13 assuming it's this letter here on the screen.</p> <p>14 EARLE, Q.C.:</p> <p>15 Q. In listening to your evidence, perhaps I may</p> <p>16 have this wrong, but my notes indicate an</p> <p>17 impression that the you would -- the issue of</p> <p>18 the stroking seat, is it the stroking seat in</p> <p>19 the helicopter?</p> <p>20 MR. BARNES:</p> <p>21 A. Yes.</p> <p>22 EARLE, Q.C.:</p> <p>23 Q. Let's see if we can all understand, what the</p> <p>24 heck is a stroking seat?</p> <p>25 MR. BARNES:</p>

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1 A. I think you must be referring to another issue  
 2 other than the CER Guide, but --  
 3 EARLE, Q.C.:  
 4 Q. Maybe that's the problem because it doesn't  
 5 appear to be that.  
 6 MR. BARNES:  
 7 A. Yeah, sorry. To answer your question what a  
 8 stroking seat is --  
 9 EARLE, Q.C.:  
 10 Q. Yes.  
 11 MR. BARNES:  
 12 A. In helicopters, the passenger seat has the  
 13 ability upon impact, if a helicopter happens  
 14 to ditch in water, it compresses, the seat  
 15 compresses slightly to absorb some of the  
 16 impact.  
 17 EARLE, Q.C.:  
 18 Q. Okay.  
 19 MR. BARNES:  
 20 A. So the point I was referring to when I made  
 21 that in my presentation was that when we did  
 22 the course quality review at the Marine  
 23 Institute, the chairs that are used in their  
 24 helicopter underwater escape trainer does not  
 25 stroke like the chairs used in the helicopters

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1 offshore.  
 2 EARLE, Q.C.:  
 3 Q. That's what I understood you to be saying in  
 4 that, and I thought it was this August 28,  
 5 2009, letter that you'd referred me to, but I  
 6 got the impression that you had conducted your  
 7 review and as you were writing the letter, it  
 8 was recognized that there was this stroking  
 9 seat issue and although it had not been looked  
 10 at in the review, you felt that you should add  
 11 it in?  
 12 MR. BARNES:  
 13 A. Yes.  
 14 EARLE, Q.C.:  
 15 Q. Have I got that right?  
 16 MR. BARNES:  
 17 A. That's correct.  
 18 EARLE, Q.C.:  
 19 Q. So tell me what procedures are there in place  
 20 such that when there is a new helicopter  
 21 brought into service, or when there is a  
 22 modification made to the helicopter, such as  
 23 the stroking seat, that the HUET underwater  
 24 emergency trainer, as I understand, is  
 25 compared to the actual in-service unit to be

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1 sure that the HUET is a good representation of  
 2 what the individual will be travelling in.  
 3 What procedures are there to make sure that  
 4 the two match up?  
 5 MR. BARNES:  
 6 A. There's certainly no procedures within our  
 7 association to undertake that activity.  
 8 Whether the Marine Institute undertakes it or  
 9 someone else, I'm not sure.  
 10 EARLE, Q.C.:  
 11 Q. Is CAPP the interface between the industry and  
 12 the trainers?  
 13 MR. BARNES:  
 14 A. Sometimes, only in the sense that the trainers  
 15 set on the Training Qualification Committee of  
 16 CAPP, and we discuss items of mutual interest  
 17 in that committee discussion, but quite  
 18 frequently our members who use the Marine  
 19 Institute for training of their own personnel  
 20 would have interaction with that institute  
 21 directly.  
 22 EARLE, Q.C.:  
 23 Q. It seems to me that if it is not CAPP, because  
 24 the training is intended to be transferable  
 25 from employer to employer, maybe really on the

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1 east coast covering at times as many as 7, 8,  
 2 or 9 operators, that for transferability  
 3 reasons that the interface should be industry  
 4 wide. Would you agree with that?  
 5 MR. BARNES:  
 6 A. I would agree.  
 7 EARLE, Q.C.:  
 8 Q. But that is not formalized, it's something  
 9 that happens if your members want it?  
 10 MR. BARNES:  
 11 A. That's correct.  
 12 EARLE, Q.C.:  
 13 Q. So you would not be able to tell us, for  
 14 instance, if when Cougar put this auxiliary  
 15 fuel tank in the helicopters, there was any  
 16 training response to that change in the  
 17 helicopter?  
 18 MR. BARNES:  
 19 A. There was certainly no discussion within any  
 20 of the CAPP committees or processes to that  
 21 effect.  
 22 EARLE, Q.C.:  
 23 Q. Now you also touched on your committee on the  
 24 standard practise for training and  
 25 qualifications?

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<p>1 MR. BARNES:</p> <p>2 A. Yes, that's basically the Training</p> <p>3 Qualifications Committee. That committee</p> <p>4 maintains the standard practise document.</p> <p>5 It's one of the main -- one of the main</p> <p>6 activities of that committee.</p> <p>7 EARLE, Q.C.:</p> <p>8 Q. And I understand from what you said that that</p> <p>9 committee operates within a regulatory</p> <p>10 framework, that it is essentially a delegate</p> <p>11 of the regulator in the sense that it develops</p> <p>12 the standards of practise for training and</p> <p>13 qualifications under a specified mandate from</p> <p>14 the Offshore Board, brings it back to the</p> <p>15 Offshore Board for ratification, and then</p> <p>16 those standards become part of the license of</p> <p>17 the operators, is that correct?</p> <p>18 MR. BARNES:</p> <p>19 A. Yes, part of the work authorization process.</p> <p>20 It becomes a condition of the work</p> <p>21 authorization process as opposed to the</p> <p>22 license. So individual operators are given an</p> <p>23 authorization to undertake work offshore.</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. Uh-hm.</p>	<p>1 MR. BARNES:</p> <p>2 A. Yes, the certificates that individuals that</p> <p>3 are helicopter landing officers, the</p> <p>4 certificates that they require are listed in</p> <p>5 the standard practise.</p> <p>6 EARLE, Q.C.:</p> <p>7 Q. I understand that you have recently modified</p> <p>8 the course for the helicopter landing officers</p> <p>9 from two days to one day. Are you aware of</p> <p>10 that?</p> <p>11 MR. BARNES:</p> <p>12 A. I don't have documentation to that effect, but</p> <p>13 there was a modification to that course that</p> <p>14 will be reflected in the next version of the</p> <p>15 guide. I can't say specifically because again</p> <p>16 I don't have it in front of me if that was --</p> <p>17 if that was the actual modification made.</p> <p>18 EARLE, Q.C.:</p> <p>19 Q. And I'm also given to understand that under</p> <p>20 this standard practise for training and</p> <p>21 qualifications, when these changes are made,</p> <p>22 they're supposed to go to the JOHS committees?</p> <p>23 MR. BARNES:</p> <p>24 A. That's correct.</p> <p>25 EARLE, Q.C.:</p>
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<p>1 MR. BARNES:</p> <p>2 A. That is exploration work or production, and</p> <p>3 part of that condition of that authorization</p> <p>4 is adherence to the standard practise.</p> <p>5 EARLE, Q.C.:</p> <p>6 Q. So in terms of the requirement for the BST,</p> <p>7 the basic safety training, that is a</p> <p>8 requirement, every fellow who ever wanted a</p> <p>9 job in the offshore knows that you got to do</p> <p>10 this course to get a job out there.</p> <p>11 MR. BARNES:</p> <p>12 A. Yes.</p> <p>13 EARLE, Q.C.:</p> <p>14 Q. Is this -- is this course part of that</p> <p>15 standard practise for training and</p> <p>16 qualification system?</p> <p>17 MR. BARNES:</p> <p>18 A. Yes, it is.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. The requirement for that course and the</p> <p>21 content of that course?</p> <p>22 MR. BARNES:</p> <p>23 A. Yes.</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. What about helicopter landing officers.</p>	<p>1 Q. And do you know if this recent change for</p> <p>2 helicopter landing officers has gone to the</p> <p>3 JOHS committees?</p> <p>4 MR. BARNES:</p> <p>5 A. I don't know specifically because that is</p> <p>6 something that our members take care of and</p> <p>7 action themselves.</p> <p>8 EARLE, Q.C.:</p> <p>9 Q. Your members take care of it, but I thought it</p> <p>10 was CAPP that was mandated run the Standard</p> <p>11 Practise for Training and Qualifications</p> <p>12 Committee?</p> <p>13 MR. BARNES:</p> <p>14 A. That's right. We manage the committee, we</p> <p>15 would work with the committee to make changes</p> <p>16 within the standard practise. So in this case</p> <p>17 we made some changes in the helicopter landing</p> <p>18 officer requirements. That will be reflected</p> <p>19 in the next guide. Changes that are made in</p> <p>20 the current guide are supposed to go for</p> <p>21 review by the JOHS committees and our members</p> <p>22 take it to those JOHS committees for</p> <p>23 discussion.</p> <p>24 EARLE, Q.C.:</p> <p>25 Q. But what mechanisms do you have in place to</p>

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<p>1 see that the requirements, of what is after 2 all a delegated regulatory scheme, are 3 followed? 4 MR. BARNES: 5 A. The mechanism we have in place is simply that 6 our members report back to the Training and 7 Qualifications Committee that that activity 8 was done, and the regulators have, I guess, a 9 second activity, if they wish to undertake it, 10 and that is they sit on the Training 11 Qualifications Committee as well, and they 12 have access to the minutes of the JOHS 13 Committee meetings. So they can make a 14 quality check if they so choose to see if that 15 activity was actually done. 16 EARLE, Q.C.: 17 Q. You said the Safety Committee members have 18 access to the minutes of the JOHS -- 19 MR. BARNES: 20 A. No, the Petroleum Board members. 21 EARLE, Q.C.: 22 Q. The Petroleum Board does? 23 MR. BARNES: 24 A. Yeah, both Petroleum Boards have 25 representatives on the Training and</p>	<p>1 members, oil and gas companies, for their use 2 in the JOHS Committee meetings. 3 EARLE, Q.C.: 4 Q. Mr. Commissioner, this is clearly a matter 5 within the jurisdiction of this Inquiry. I 6 mean, the training and qualifications of the 7 helicopter landing officer, so I think it's an 8 appropriate area for you to go, but beyond 9 that, I think it also is something that we 10 should look at in terms of seeing how these 11 mechanisms work. Do they, in fact, in 12 practise, flow out to the safety committees, 13 is there a good verification system so that we 14 can be assured that they go out to the safety 15 committees and the feedback comes back. So I 16 would ask that Mr. Barnes be asked to produce 17 for your Inquiry the documents on that 18 particular recent change in the training for 19 helicopter safety officers, again so you can 20 explore how these mechanisms are working. 21 COMMISSIONER: 22 Q. Are these documents within your control, Mr. 23 Barnes? 24 MR. BARNES: 25 A. They are, and we can provide that to the</p>
<p>1 Qualifications Committee. 2 EARLE, Q.C.: 3 Q. Yeah, but what you're basically saying is that 4 the end supervisor has the ability to check 5 and see if we've done our job or not. I'm 6 asking you what mechanisms you have within 7 your own system to ensure that this is being 8 done? Do you have a checklist? 9 MR. BARNES: 10 A. No. The only mechanism we have is asking 11 members if they undertook that activity. 12 EARLE, Q.C.: 13 Q. If I'm correct, and there has been a change in 14 the course for helicopter landing officers, 15 then there would be a process of minutes in 16 that committee -- 17 MR. BARNES: 18 A. Yes. 19 EARLE, Q.C.: 20 Q. Reflecting those changes? 21 MR. BARNES: 22 A. Yes. Quite often, what we do in that 23 committee is develop a small PowerPoint deck 24 outlining the changes that's being 25 contemplated, give that PowerPoint deck to our</p>	<p>1 Inquiry if you wish. 2 COMMISSIONER: 3 Q. All right then, thank you. 4 EARLE, Q.C.: 5 Q. You indicated that there is another committee 6 which is charged with the responsibility for 7 the review of the Occupational Health and 8 Safety Regulations, the draft regulations, and 9 giving them feedback -- giving feedback to the 10 regulator. Do I have that correct? 11 MR. BARNES: 12 A. We don't have a separate committee. That 13 activity would take place within our Safety 14 Committee. 15 EARLE, Q.C.: 16 Q. That takes place within the Safety Committee? 17 MR. BARNES: 18 A. Yes. 19 EARLE, Q.C.: 20 Q. When would have been the last time your safety 21 committee would have given feedback on draft 22 regulations? 23 MR. BARNES: 24 A. On those specific draft regulations? 25 EARLE, Q.C.:</p>

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<p>1 Q. Yes.</p> <p>2 MR. BARNES:</p> <p>3 A. It would be several years ago now.</p> <p>4 EARLE, Q.C.:</p> <p>5 Q. Several years ago?</p> <p>6 MR. BARNES:</p> <p>7 A. Yeah.</p> <p>8 EARLE, Q.C.:</p> <p>9 Q. Does it bother CAPP that 12 years into the</p> <p>10 offshore operations we don't have yet</p> <p>11 Occupational Health and Safety Regulations?</p> <p>12 MR. BARNES:</p> <p>13 A. Yes, it does. We have written a number of</p> <p>14 letters to the Provincial Governments of</p> <p>15 Newfoundland and Nova Scotia, and the Federal</p> <p>16 Government, stating our concern over that</p> <p>17 fact, seeking updates from time to time as to</p> <p>18 the status of those regulations.</p> <p>19 EARLE, Q.C.:</p> <p>20 Q. Thank you, Mr. Barnes, you've been helpful,</p> <p>21 and I know at times it's been tedious, but I</p> <p>22 think we need to go through these things to</p> <p>23 understand how the processes work and where</p> <p>24 the strengths and weaknesses of the system</p> <p>25 are. Thank you.</p>	<p>1 Q. Mr. Earle has been very thorough and he's</p> <p>2 touched on a lot of areas that I was intending</p> <p>3 to touch on, and I certainly don't intend to</p> <p>4 duplicate that in any way. I'm just going to</p> <p>5 explore a couple of areas with you and seek</p> <p>6 clarification and/or a direct response if I</p> <p>7 can on some of the matters that are still of</p> <p>8 concern to me. The first issue, and I'm going</p> <p>9 to follow through on the suits, and Mr. Earle</p> <p>10 certainly spent some time on that in the</p> <p>11 latter part of his questioning, you dealt with</p> <p>12 the passenger suits yesterday and I think you</p> <p>13 refer to that as the aviation suit. That's</p> <p>14 the same suit we're referring to?</p> <p>15 MR. BARNES:</p> <p>16 A. Yes, the correct name is helicopter passenger</p> <p>17 transportation suit, but it has other names</p> <p>18 that people refer to it, one of which is the</p> <p>19 aviation suit.</p> <p>20 MR. MARTIN:</p> <p>21 Q. Okay, and that was the suit that the</p> <p>22 passengers were wearing in March of this year,</p> <p>23 is that correct, the aviation suit or the</p> <p>24 passenger suit?</p> <p>25 MR. BARNES:</p>
<p>1 COMMISSIONER:</p> <p>2 Q. Thank you, Mr. Earle. Now I'm going to canvas</p> <p>3 you, Ms. O'Brien, and Mr. Martin, as to would</p> <p>4 you prefer to start questioning now or wait</p> <p>5 until after lunch.</p> <p>6 MR. MARTIN:</p> <p>7 Q. My questions shouldn't be too long. Mr. Earle</p> <p>8 has been very thorough. I can get mine done</p> <p>9 before lunch.</p> <p>10 COMMISSIONER:</p> <p>11 Q. All right. Is that all right with you, Ms.</p> <p>12 O'Brien?</p> <p>13 MS. O'BRIEN:</p> <p>14 Q. Yes.</p> <p>15 COMMISSIONER:</p> <p>16 Q. All right then, Mr. Martin, if you would.</p> <p>17 MR. PAUL BARNES - EXAMINATION BY MR. JAMIE MARTIN:</p> <p>18 MR. MARTIN:</p> <p>19 Q. Good morning, Mr. Barnes. I guess it's good</p> <p>20 afternoon now. I'm Jamie Martin. I represent</p> <p>21 the families of the deceased passengers on the</p> <p>22 Cougar aircraft in March of this year.</p> <p>23 MR. BARNES:</p> <p>24 A. Good afternoon, Mr. Martin.</p> <p>25 MR. MARTIN:</p>	<p>1 A. Yes, that's correct.</p> <p>2 MR. MARTIN:</p> <p>3 Q. Now you indicated yesterday that there were a</p> <p>4 number of issues associated with these suits</p> <p>5 and that you got a letter from the Board, the</p> <p>6 Petroleum Board or the regulator, on March</p> <p>7 20th. I'm wondering if you could turn that</p> <p>8 letter up, please.</p> <p>9 MR. BARNES:</p> <p>10 A. This is -- do you know the exhibit?</p> <p>11 MR. MARTIN:</p> <p>12 Q. March -- I don't recall the exhibit. I think</p> <p>13 it might have been 53, but it was March 20th</p> <p>14 '09 letter from the Board.</p> <p>15 MR. BARNES:</p> <p>16 A. Page 317?</p> <p>17 MR. MARTIN:</p> <p>18 Q. I don't have the -- I did have the page</p> <p>19 numbers in my notes.</p> <p>20 MR. BARNES:</p> <p>21 A. 317, I think we're talking.</p> <p>22 MR. MARTIN:</p> <p>23 Q. March 20th, okay.</p> <p>24 MR. BARNES:</p> <p>25 A. Is this the letter you're referring to?</p>

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<p>1 MR. MARTIN:  2 Q. Yes, that's the letter, and it was from Mr.  3 Pike, the Head of Safety at the Board, and  4 he's essentially asking you to deal with some  5 -- correct me if I'm wrong, he's asking you to  6 deal with some issues pertaining to helicopter  7 suits that are currently in use, is that  8 correct?  9 MR. BARNES:  10 A. Yes.  11 MR. MARTIN:  12 Q. That's the primary purpose of that, and you  13 yesterday indicated that you consulted with  14 your members?  15 MR. BARNES:  16 A. Yes.  17 MR. MARTIN:  18 Q. And you consulted with Helly Hansen, is that  19 correct?  20 MR. BARNES:  21 A. Yes.  22 MR. MARTIN:  23 Q. Now who would have instructed you to speak to  24 Helly Hansen? I know they're the  25 manufacturers of the suit, but would you have</p>	<p>1 A. That's correct.  2 MR. MARTIN:  3 Q. And your members in turn consulted with Helly  4 Hansen?  5 MR. BARNES:  6 A. That's correct.  7 MR. MARTIN:  8 Q. Now that resulted in a letter --  9 MR. BARNES:  10 A. I should clarify one thing.  11 MR. MARTIN:  12 Q. Sure.  13 MR. BARNES:  14 A. It's quite possible during the development of  15 this letter that we may have -- either myself  16 or one of my staff members may have had to  17 contact Helly Hansen to seek some  18 clarification because we have had some  19 conversations with Helly Hansen on  20 particularly testing matters.  21 MR. MARTIN:  22 Q. Okay. Now that resulted in a letter back to  23 the Board, I recall, on May 21st, is that  24 correct?  25 MR. BARNES:</p>
<p>Page 106</p> <p>1 done that on your own accord, or would someone  2 from your Executive Policy Group have  3 instructed you to do that?  4 MR. BARNES:  5 A. No, our members would have that discussions  6 with Helly Hansen because they are the -- it's  7 our members that directly contracted Helly  8 Hansen to supply the suits, so they have the  9 direct contractual relationship with them.  10 MR. MARTIN:  11 Q. So you didn't deal with them personally, your  12 members did?  13 MR. BARNES:  14 A. That's correct.  15 MR. MARTIN:  16 Q. When you say you consulted your members --  17 MR. BARNES:  18 A. Uh-hm.  19 MR. MARTIN:  20 Q. You personally consulted your members?  21 MR. BARNES:  22 A. Right.  23 MR. MARTIN:  24 Q. To find out what the issues were?  25 MR. BARNES:</p>	<p>Page 108</p> <p>1 A. That's correct, and that outlined all of the  2 issues that were brought to our attention  3 regarding these helicopter passenger suits.  4 MR. MARTIN:  5 Q. Yes, and you went through those in some  6 detail, if we can scroll down a bit, suit  7 buoyancy, bulk and stiffness of the suits,  8 suit zippers, the leakage during training,  9 suit sizes, boots, the wrist seals and what  10 not. So there were seven issues identified  11 there. Now you indicated yesterday that it  12 was the first time your association has become  13 involved in these types of issues, is that  14 correct.  15 MR. BARNES:  16 A. That's correct.  17 MR. MARTIN:  18 Q. But it's not uncommon for the Board to elicit  19 your response, is that -- would that be fair  20 to say?  21 MR. BARNES:  22 A. That's correct, yes.  23 MR. MARTIN:  24 Q. Because Mr. Earle spent a considerable amount  25 of time this morning going through the</p>

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<p>1 breathing devices which originated from a 2 February 2000 letter from Mr. Pike, and 3 culminated in implementation almost ten years 4 later, so are there other examples of where 5 the Board would have elicited your -- I'm not 6 looking for an exhaustive list now, but it's 7 not uncommon for the Board to elicit your 8 input? 9 MR. BARNES: 10 A. That is correct. It's quite common actually. 11 MR. MARTIN: 12 Q. Okay. 13 MR. BARNES: 14 A. On a number of issues. 15 MR. MARTIN: 16 Q. But on suits, you indicated that was the first 17 time your association has become involved in 18 that particular issue? 19 MR. BARNES: 20 A. That's correct. 21 MR. MARTIN: 22 Q. Now I note that the issue of the gloves, 23 because you would have canvassed your members 24 -- 25 MR. BARNES:</p>	<p>1 that's correct? 2 MR. BARNES: 3 A. Yes. 4 MR. MARTIN: 5 Q. And how did that arise? You may have dealt 6 with it yesterday, but I'm still a bit 7 unclear. Did that Board ask you to give an 8 update because you gave a very thorough 9 presentation to the Board? 10 MR. BARNES: 11 A. Right. 12 MR. MARTIN: 13 Q. You were asked by the Board to present, would 14 that be fair to say? 15 MR. BARNES: 16 A. I was asked by the Board to consult with our 17 members and to give them an update as to the 18 current fit program that our members were 19 undertaking with the survival suits -- with 20 the helicopter passenger suit. 21 MR. MARTIN: 22 Q. Okay, now -- 23 MR. BARNES: 24 A. So we consulted with our members, developed 25 that PowerPoint deck, met with the Board with</p>
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<p>1 A. Yes. 2 MR. MARTIN: 3 Q. And would you canvas them -- do you write them 4 individually and say, you know, what are the 5 concerns here, or how do you go about that? 6 MR. BARNES: 7 A. It could be a number of different 8 communication mechanisms, e-mail primarily, 9 the fact that we have this request from the 10 Board and we're seeking their input into 11 providing a response back to the Board, or it 12 could be discussed within one of our 13 committees. 14 MR. MARTIN: 15 Q. Okay. Now I don't recall, correct me if I'm 16 wrong, I don't recall any reference made in 17 your May 20th letter about gloves. Would that 18 be fair to say? 19 MR. BARNES: 20 A. I don't recall that either, no. I'm just 21 flipping through the document here and I don't 22 see any reference to gloves. 23 MR. MARTIN: 24 Q. Because you ultimately make a presentation to 25 the Board, I believe in early October of '09,</p>	<p>1 our members present, and I delivered the deck. 2 MR. MARTIN: 3 Q. Because towards the end of that presentation, 4 you talked about the glove enhancement 5 project? 6 MR. BARNES: 7 A. Yes. 8 MR. MARTIN: 9 Q. Is that correct? 10 MR. BARNES: 11 A. Yes. 12 MR. MARTIN: 13 Q. And that was Helly Hansen's project, is that 14 correct? 15 MR. BARNES: 16 A. That's correct, yes. 17 MR. MARTIN: 18 Q. Okay. Now Mr. Earle asked you when you first 19 became aware of the glove issue because you 20 will recall the testimony of Mr. Decker that 21 he found the gloves to be inadequate, and I 22 think one of the reasons -- one of the 23 explanations you gave is that they were 24 difficult to put on the individual's hands, 25 and that was Mr. Decker's evidence, if I'm</p>

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1 paraphrasing you correctly. You heard Mr.  
 2 Decker's evidence here on November 5th?  
 3 MR. BARNES:  
 4 A. I did.  
 5 MR. MARTIN:  
 6 Q. Okay, now my question is, you canvassed the  
 7 members as to what the issues were with  
 8 survival issues, suit issues?  
 9 MR. BARNES:  
 10 A. Yes.  
 11 MR. MARTIN:  
 12 Q. And you -- presumably you got an exhaustive  
 13 list back, and on May 20th, there's no  
 14 reference to the gloves?  
 15 MR. BARNES:  
 16 A. Right.  
 17 MR. MARTIN:  
 18 Q. Mr. Earle asked you when you first became  
 19 aware of the glove issue, and I believe your  
 20 answer was you don't recall. Do you recall  
 21 when you became aware -- obviously you made a  
 22 presentation on it in October of '09.  
 23 MR. BARNES:  
 24 A. Yes.  
 25 MR. MARTIN:

1 doesn't show up in the May 20th 2009 letter  
 2 when you canvassed presumably all your members  
 3 by e-mail or otherwise.  
 4 MR. BARNES:  
 5 A. Uh-hm.  
 6 MR. MARTIN:  
 7 Q. Mr. Decker speaks about it extensively during  
 8 his presentation. Do you have any knowledge  
 9 as to whether the glove issue was identified  
 10 as a concern prior to March 12th of this year?  
 11 MR. BARNES:  
 12 A. I have no knowledge of that, no.  
 13 MR. MARTIN:  
 14 Q. Okay. Now in terms of the involvement of the  
 15 association in suit related issues, correct me  
 16 if I'm wrong, but I thought you made reference  
 17 yesterday to a 2003 survey, is that correct?  
 18 MR. BARNES:  
 19 A. Sorry, a 2003 --  
 20 MR. MARTIN:  
 21 Q. A 2003 survey? Now Mr. Earle referred to a  
 22 2008 survey of Helly Hansen.  
 23 MR. BARNES:  
 24 A. Yes.  
 25 MR. MARTIN:

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1 Q. Helly Hansen were doing some work on enhancing  
 2 the product. You spoke about it to the Board  
 3 at the presentation on October 2nd '09, but  
 4 was that -- at what point in time did you  
 5 actually become aware that there was an issue  
 6 with the gloves?  
 7 MR. BARNES:  
 8 A. As an association, when we were developing  
 9 that PowerPoint deck for delivery to the  
 10 Board, it was suggested by members that we add  
 11 those slides in to talk about the glove  
 12 redevelopment process. So as an association,  
 13 it's the first time that we were aware of the  
 14 glove issue.  
 15 MR. MARTIN:  
 16 Q. So it was perhaps when, just before the  
 17 presentation that you made to the Board?  
 18 MR. BARNES:  
 19 A. Yes.  
 20 MR. MARTIN:  
 21 Q. Okay. Now in terms of your members, and I  
 22 know you -- most members are part of CAPP. Do  
 23 you have any knowledge acquired at any point  
 24 in time as to when the members would have  
 25 become aware of the glove issue because it

1 Q. Was there a 2003 survey as well?  
 2 MR. BARNES:  
 3 A. There was a 2003 survey done by our Training  
 4 Qualifications Committee of the offshore  
 5 workforce regarding issues around basic  
 6 survival training.  
 7 MR. MARTIN:  
 8 Q. Yes, and I believe, if my memory serves me  
 9 correct, that over 600 people responded to  
 10 that survey?  
 11 MR. BARNES:  
 12 A. Yes.  
 13 MR. MARTIN:  
 14 Q. I think that was your evidence, but it was a  
 15 fairly exhaustive survey and there was a good  
 16 response rate, would it be fair to say?  
 17 MR. BARNES:  
 18 A. Yes, I believe so, yes.  
 19 MR. MARTIN:  
 20 Q. And I believe your evidence yesterday was that  
 21 there were problems identified at that time  
 22 with the suits?  
 23 MR. BARNES:  
 24 A. Yes.  
 25 MR. MARTIN:



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1 Q. Maybe you could turn up that survey, and again  
 2 I apologize, I don't know the page reference  
 3 or the exhibit number, but it was reference to  
 4 a 2003 survey.  
 5 MR. BARNES:  
 6 A. Yeah. This is the survey in question.  
 7 MR. MARTIN:  
 8 Q. Yeah, I believe it is, 2003, and it was  
 9 commissioned for the -- for CAPP, is that  
 10 correct?  
 11 MR. BARNES:  
 12 A. It was a decision of our Training  
 13 Qualifications Committee in CAPP to undertake  
 14 this survey of the offshore workforce at the  
 15 time.  
 16 MR. MARTIN:  
 17 Q. And I believe there were questions asked about  
 18 the suits or there was a concern identified  
 19 about the suits, and that's the portion of the  
 20 survey results that I would like to refer to,  
 21 if I could.  
 22 MR. BARNES:  
 23 A. Okay. The questions were asked of the  
 24 offshore workforce about their thoughts on the  
 25 basic survival training and the basic survival

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1 training recurrent course, and in the process  
 2 of that survey -- just to get this document up  
 3 here. In the process --  
 4 MR. MARTIN:  
 5 Q. So the problem -- you go ahead. I believe  
 6 there's reference to suit issues.  
 7 MR. BARNES:  
 8 A. Yes.  
 9 MR. MARTIN:  
 10 Q. Size issues, survival suits worn during the  
 11 course are not designed for females or smaller  
 12 size people. The suits are bulky and too big  
 13 to ensure proper seals.  
 14 MR. BARNES:  
 15 A. Yes.  
 16 MR. MARTIN:  
 17 Q. So you were aware, as an association, back as  
 18 far as 2003 that there were issues with those  
 19 suits?  
 20 MR. BARNES:  
 21 A. This is a different suit than is in place  
 22 today.  
 23 MR. MARTIN:  
 24 Q. But the -- so are you saying that -- the new  
 25 suit that's in place now is 2007?

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1 MR. BARNES:  
 2 A. Right.  
 3 MR. MARTIN:  
 4 Q. And the first time you became aware, as an  
 5 association, of any concerns with the suits  
 6 was when you canvassed your members after  
 7 March 12th '09. Is that what you're saying?  
 8 MR. BARNES:  
 9 A. On this particular suit that's in place today.  
 10 MR. MARTIN:  
 11 Q. So from 2007 to March 20th of 2009, when you  
 12 were asked by the Board to initiate a review,  
 13 you had heard of no concerns?  
 14 MR. BARNES:  
 15 A. As an association, that's correct.  
 16 MR. MARTIN:  
 17 Q. But yet we heard -- you were present, I  
 18 presume, for the evidence of the Board?  
 19 MR. BARNES:  
 20 A. Yes.  
 21 MR. MARTIN:  
 22 Q. And Mr. Pike alluded to complaints that were  
 23 made to the Board about suits. Do you recall  
 24 -- I'm not asking you to specifically recall  
 25 it, but do you generally recall evidence to

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1 that effect?  
 2 MR. BARNES:  
 3 A. Yes.  
 4 MR. MARTIN:  
 5 Q. But the Board, would it be fair to say -- I'm  
 6 not asking you to speak for the Board. You  
 7 never became aware, as an association, of what  
 8 if any concerns were made to the Board about  
 9 suits, size, quality, or whatever?  
 10 MR. BARNES:  
 11 A. That's right.  
 12 MR. MARTIN:  
 13 Q. I'm almost finished. I just want to explore  
 14 with you a little bit further, you were asked  
 15 -- Mr. Earle asked you, following from your  
 16 presentation to the Board in October of '09,  
 17 and I may have misinterpreted the evidence,  
 18 but you, as an association, correct me if I'm  
 19 wrong, don't seem to be overly concerned about  
 20 the no fly individuals, the 150 people who  
 21 can't get a properly sized suit, you said it's  
 22 not on your radar screen, it's not something  
 23 that you're following up on, as an  
 24 association. Do you recall your evidence,  
 25 because Mr. Earle spent some time on that, and

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<p>1 it followed from his questions on your October 2 '09 presentation to the Board, I believe. 3 MR. BARNES: 4 A. Yeah. 5 MR. MARTIN: 6 Q. But you said it's not on your agenda, it's not 7 on your radar screen? 8 MR. BARNES: 9 A. The question he asked was whether our 10 association was looking into the issue of 11 those 150 individuals flying between the time 12 period of them receiving the suit and the 13 decision not to fly. 14 MR. MARTIN: 15 Q. So you're not following upon it, as an 16 association? 17 MR. BARNES: 18 A. It's not part of our action plan, that's 19 correct. 20 MR. MARTIN: 21 Q. It's not part of your Safety Committee agenda? 22 MR. BARNES: 23 A. Not at the moment, no. 24 MR. MARTIN: 25 Q. Not at the moment. You were asked by Mr.</p>	<p>1 who can't fly to the offshore because they 2 don't have a properly fitted suit? 3 MR. BARNES: 4 A. The Board asked that question. That was why 5 we delivered that PowerPoint to show what we 6 were doing with those 150. 7 MR. MARTIN: 8 Q. Yeah, but the -- it's not on your radar screen 9 to follow through on that? I think that was 10 your evidence. 11 MR. BARNES: 12 A. The evidence was that we weren't following 13 through on -- the question I was asked by Mr. 14 Earle was is there any investigation as to 15 what happened prior to that September 30th 16 date, as to whether people were flying with 17 the survival suit that didn't fit or not. 18 MR. MARTIN: 19 Q. But you're not following up on that, as an 20 association? 21 MR. BARNES: 22 A. That's correct. 23 MR. MARTIN: 24 Q. The Board hasn't made representation to you? 25 MR. BARNES:</p>
<p>Page 122</p> <p>1 Earle whether the Board had made any 2 representations to you, as an association, 3 similar to what they did for the breathing 4 apparatus in 2000, similar to what they did 5 for the survival type issues in March of '09, 6 and I think your response was the Board has 7 followed up with you on that particular issue 8 of suit size and the related issues, is that 9 correct, because I'm -- it's not on your 10 agenda, it's not on your radar screen? 11 MR. BARNES: 12 A. Right. 13 MR. MARTIN: 14 Q. I think your evidence is that it doesn't 15 appear to be on the Board's radar screen 16 either? 17 MR. BARNES: 18 A. Well, the Board hasn't -- 19 MR. MARTIN: 20 Q. The Board hasn't contacted -- the Board hasn't 21 made representation to your association? 22 MR. BARNES: 23 A. To ask us what? 24 MR. MARTIN: 25 Q. To ask what are you doing about the 150 people</p>	<p>Page 124</p> <p>1 A. That's right. 2 MR. MARTIN: 3 Q. Then who's looking after that issue? 4 MR. BARNES: 5 A. I'm not aware if anyone is looking at that 6 issue. 7 MR. MARTIN: 8 Q. Who possibly could look at that issue? The 9 operators, presumably? 10 MR. BARNES: 11 A. Presumably, yes. 12 MR. MARTIN: 13 Q. And the operators, would they let you know, as 14 the association, that they're doing something? 15 MR. BARNES: 16 A. They could undertake it themselves, and they 17 may or amy not let us know, or they could ask 18 us to assist in that -- in that activity. 19 MR. MARTIN: 20 Q. Could you make an inquiry of your own members 21 to determine what if anything they're doing on 22 that? 23 MR. BARNES: 24 A. Sure. 25 MR. MARTIN:</p>

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1 Q. Could -- would you undertake to do that, if  
2 you could?

3 MR. BARNES:

4 A. Yes.

5 MR. MARTIN:

6 Q. That's essentially my questions. Thank you  
7 very much, Mr. Barnes. Thank you, Mr.  
8 Commissioner.

9 COMMISSIONER:

10 Q. Thank you, Mr. Martin. Now Ms. O'Brien, it's  
11 25 past. I should think you'll probably want  
12 to start at 2 o'clock, is that --

13 MS. O'BRIEN:

14 Q. Okay.

15 COMMISSIONER:

16 Q. All right then, we'll adjourn until 2 o'clock.  
17 (RECESS)

18 COMMISSIONER:

19 Q. Yes, Mr. Roil.

20 ROIL, Q.C.:

21 Q. Mr. Commissioner, thank you. As I indicated  
22 to you just before we resumed, there seemed to  
23 be some confusion in the minds of various  
24 people at the front table this morning at the  
25 end of Mr. Martin's questioning as to what the

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1 undertaking was he was seeking from Mr.  
2 Barnes, but I think in a conversation between  
3 Mr. Martin and with Mr. Lewis Manning, the  
4 external legal counsel for CAPP, they agreed  
5 and understood what the undertaking was, and  
6 so I'd like Mr. Manning just to put it on the  
7 record for us so that we have no confusion.

8 COMMISSIONER:

9 Q. Yes, okay, thank you. Mr. Manning.

10 ROIL, Q.C.:

11 Q. I think he can do it from over there if he  
12 wishes, or he can -- he won't be on the  
13 camera, but he can be heard.

14 MR. MANNING:

15 Q. That suits me just fine, thanks, Mr. Roil.  
16 Thank you, Mr. Commissioner. The undertaking,  
17 as I understand it, arises from questions Mr.  
18 Martin had with respect to Exhibit 62, and the  
19 reference to 150 people being on the no fly  
20 list as of September 30th, and this is in  
21 relation to the presentation given by CAPP  
22 dated October 2nd, 2009, and entered again as  
23 Exhibit 62, and what we'll be doing is having  
24 Mr. Barnes inquire of the CAPP members whether  
25 the members are looking into the question of

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1 whether the 150 people on the "no fly list" as  
2 at September 30th were, in fact, flying with  
3 suits that were available prior to that time.

4 COMMISSIONER:

5 Q. I see, okay, and I suppose that's material  
6 that can be obtained, can it, Mr. Barnes?

7 MR. BARNES:

8 A. Yes, we can ask our members for that  
9 information.

10 COMMISSIONER:

11 Q. I see, and I notice you standing up, Mr.  
12 Martin.

13 MR. MARTIN:

14 Q. I just -- I don't know if you can hear me from  
15 here.

16 COMMISSIONER:

17 Q. Perhaps it's better to come up there, yes.

18 MR. MARTIN:

19 Q. I apologize if there's any confusion, but we'd  
20 also like to know what happened after  
21 September 30th. I mean, what is the status of  
22 those 150 people now? Just don't bring it up  
23 to September 30th and say, well, that's what  
24 we did to that point in time. We want to, on  
25 a go forward basis, what are you doing with

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1 those 150 people who don't have suits that fit  
2 them.

3 ROIL, Q.C.:

4 Q. Commissioner, I can deal with that, because  
5 I'm responsible for having prepared the  
6 evidence from Helly Hansen, and their evidence  
7 will address that issue tomorrow.

8 COMMISSIONER:

9 Q. In fact, I understand these people are going  
10 back and forth by boat.

11 ROIL, Q.C.:

12 Q. Yes, there are some people. I don't think the  
13 number is 150 as of now. Mr. Barnes was  
14 saying as of September 30th, and there is a  
15 plan, I understand, and the evidence tomorrow  
16 will address that very plan, and as to what  
17 numbers are currently travelling back and  
18 forth by vessel and what numbers have been  
19 fitted with what kind of suits.

20 COMMISSIONER:

21 Q. Okay then, thank you. Now Ms. O'Brien.

22 MR. PAUL BARNES - EXAMINATION BY MS. KATE O'BRIEN:

23 MS. O'BRIEN:

24 Q. Good afternoon, Mr. Barnes. Kate O'Brien.

25 MR. BARNES:

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<p>1 A. Good afternoon, Ms. O'Brien.</p> <p>2 MS. O'BRIEN:</p> <p>3 Q. I'm going to start with a number of questions</p> <p>4 surrounding the standards. As I understood</p> <p>5 your testimony, there are two sets of</p> <p>6 standards applicable to the suits used in the</p> <p>7 Newfoundland and Labrador offshore. One is</p> <p>8 the immersion suit standard?</p> <p>9 MR. BARNES:</p> <p>10 A. Correct.</p> <p>11 MS. O'BRIEN:</p> <p>12 Q. And one is the helicopter passenger transport</p> <p>13 suit standard, sometimes referred to as the</p> <p>14 aviation suit?</p> <p>15 MR. BARNES:</p> <p>16 A. That is correct.</p> <p>17 MS. O'BRIEN:</p> <p>18 Q. Okay, and I understand that both these</p> <p>19 standards have been developed by the Canadian</p> <p>20 General Standards Board?</p> <p>21 MR. BARNES:</p> <p>22 A. Yes, that is correct.</p> <p>23 MS. O'BRIEN:</p> <p>24 Q. And am I also correct that the aviation suits</p> <p>25 that are being currently used, the Helly</p>	<p>1 Q. Okay, and was CAPP involved with the revision</p> <p>2 of the standard in 2005?</p> <p>3 MR. BARNES:</p> <p>4 A. In 2005, yes.</p> <p>5 MS. O'BRIEN:</p> <p>6 Q. Okay, and was it involved with the revision of</p> <p>7 the standard in 1999?</p> <p>8 MR. BARNES:</p> <p>9 A. We weren't, as an association, no, but our</p> <p>10 members at that time were.</p> <p>11 MS. O'BRIEN:</p> <p>12 Q. And the helicopter passenger transport suit</p> <p>13 standard, that was last revised in 1999, is</p> <p>14 that correct?</p> <p>15 MR. BARNES:</p> <p>16 A. Yes.</p> <p>17 MS. O'BRIEN:</p> <p>18 Q. And it's currently undergoing a revision now?</p> <p>19 MR. BARNES:</p> <p>20 A. The working group that has been assigned to</p> <p>21 look at that standard is looking at that</p> <p>22 standard. Whether they decide to revise it or</p> <p>23 not remains to be the outcome of that</p> <p>24 discussion.</p> <p>25 MS. O'BRIEN:</p>
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<p>1 Hansen E-452 suit, meets both the immersion</p> <p>2 standard and the helicopter passenger</p> <p>3 transport standard?</p> <p>4 MR. BARNES:</p> <p>5 A. That is correct.</p> <p>6 MS. O'BRIEN:</p> <p>7 Q. And the immersion suits that are found just on</p> <p>8 the platforms themselves, that Mr. Decker</p> <p>9 described those as a heavier suit, those just</p> <p>10 meet the immersion suit standard, is that</p> <p>11 correct?</p> <p>12 MR. BARNES:</p> <p>13 A. That is correct.</p> <p>14 MS. O'BRIEN:</p> <p>15 Q. Now one of the things that I found interesting</p> <p>16 is the immersion suit standard, the second</p> <p>17 last revision was done in 1999, correct?</p> <p>18 MR. BARNES:</p> <p>19 A. The second last revision --</p> <p>20 MS. O'BRIEN:</p> <p>21 Q. And there was a another revision. The last</p> <p>22 revision was done in 2005?</p> <p>23 MR. BARNES:</p> <p>24 A. 2005, that's correct.</p> <p>25 MS. O'BRIEN:</p>	<p>1 Q. Okay, and CAPP is involved in the process now,</p> <p>2 looking at that 1999 standard?</p> <p>3 MR. BARNES:</p> <p>4 A. That's correct.</p> <p>5 MS. O'BRIEN:</p> <p>6 Q. And was it involved in 1999 when that standard</p> <p>7 was put in place? Was CAPP involved?</p> <p>8 MR. BARNES:</p> <p>9 A. Yes, we were.</p> <p>10 MS. O'BRIEN:</p> <p>11 Q. So CAPP was involved in 1999 with the</p> <p>12 helicopter passenger transport suit standard,</p> <p>13 but not directly with the immersion suit</p> <p>14 standard in the same year?</p> <p>15 MR. BARNES:</p> <p>16 A. Correct.</p> <p>17 MS. O'BRIEN:</p> <p>18 Q. Now I want to go to the funding because I was</p> <p>19 a bit surprised when I heard your testimony</p> <p>20 yesterday and read the documents with a little</p> <p>21 more care last night, that the revision of the</p> <p>22 standard or the looking at the helicopter</p> <p>23 passenger transport suit standard currently,</p> <p>24 while that is being done with the Canadian</p> <p>25 General Standards Board's involvement, they</p>

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1 aren't funding it?  
 2 MR. BARNES:  
 3 A. That's correct.  
 4 MS. O'BRIEN:  
 5 Q. The industry is funding it?  
 6 MR. BARNES:  
 7 A. The industry is funding a portion of it, and  
 8 the Offshore Petroleum Board is funding a  
 9 portion.  
 10 MS. O'BRIEN:  
 11 Q. Okay. So when the immersion suit standard was  
 12 revised in 2005, who funded that?  
 13 MR. BARNES:  
 14 A. It was funded by the Federal Government.  
 15 MS. O'BRIEN:  
 16 Q. Okay.  
 17 MR. BARNES:  
 18 A. I'm not quite sure if it was Transport Canada  
 19 or another agency, but it was funded by the  
 20 Federal Government.  
 21 MS. O'BRIEN:  
 22 Q. Okay, and do you know when the two standards  
 23 were both reviewed in 1999, do you know who  
 24 funded it at that time?  
 25 MR. BARNES:

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1 A. It was the Federal Government as well.  
 2 MS. O'BRIEN:  
 3 Q. Okay, and that's what I found surprising. I  
 4 would have thought that it would be -- to be  
 5 clear here, the Canadian General Standards  
 6 Board falls under the auspices of Public Works  
 7 and Government Services, correct?  
 8 MR. BARNES:  
 9 A. That's correct.  
 10 MS. O'BRIEN:  
 11 Q. That Federal Government department?  
 12 MR. BARNES:  
 13 A. That's right. That department may have a name  
 14 change to Service Canada now, but I'm not  
 15 quite sure that's the case.  
 16 MS. O'BRIEN:  
 17 Q. Okay, but it falls under the auspices of a  
 18 Federal Government department?  
 19 MR. BARNES:  
 20 A. Yes.  
 21 MS. O'BRIEN:  
 22 Q. Is this -- I was a bit surprised that the cost  
 23 of the standards development now has been  
 24 really passed from the Federal Government to  
 25 industry.

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1 MR. BARNES:  
 2 A. Yes.  
 3 MS. O'BRIEN:  
 4 Q. Are you surprised by that?  
 5 MR. BARNES:  
 6 A. We were surprised by it as well. We  
 7 understood in the time prior to the Canadian  
 8 General Standards Board sending us a letter  
 9 regarding funding, that the Government would  
 10 do what they had done in the past, which would  
 11 be to fund the further examination of that  
 12 committee -- of that standard.  
 13 MS. O'BRIEN:  
 14 Q. Okay, has -- obviously, there's a number of  
 15 standards. Whether they're done by the  
 16 Canadian General Standard Boards or the  
 17 Canadian Standards Association, there's a  
 18 number of standards that apply to your  
 19 industry?  
 20 MR. BARNES:  
 21 A. Yes.  
 22 MS. O'BRIEN:  
 23 Q. Has industry itself ever, to your knowledge,  
 24 been involved in funding a review or  
 25 development of the standards?

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1 MR. BARNES:  
 2 A. Yes, we are currently involved in the review  
 3 of the Canadian Standards Association standard  
 4 or arctic structures, and we are funding that  
 5 development as well.  
 6 MS. O'BRIEN:  
 7 Q. So that's another ongoing initiative?  
 8 MR. BARNES:  
 9 A. Yes, it is.  
 10 MS. O'BRIEN:  
 11 Q. Anything historically?  
 12 MR. BARNES:  
 13 A. Not to my knowledge.  
 14 MS. O'BRIEN:  
 15 Q. Do you see any conflict of interest for the  
 16 industry when they are funding the development  
 17 of a standard to which they will have to  
 18 comply? Do you see any conflict there?  
 19 MR. BARNES:  
 20 A. I don't see any conflict, no, because there  
 21 are others that participate on that Standards  
 22 Committee representing other groups and  
 23 agencies, and some funding as well - the  
 24 industry is only funding a portion thereof,  
 25 but all the other stakeholders that are

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1 involved on that Standards Committee have  
2 voting rights, even though they don't fund it.  
3 MS. O'BRIEN:  
4 Q. Okay. Now one of the things -- I'm going to  
5 just move now to the suits. I know in your --  
6 in the presentation that you gave, the  
7 PowerPoint presentation that CAPP gave the C-  
8 NLOPB in October of 2009, there was a  
9 reporting on the fit tests being done for the  
10 suits?  
11 MR. BARNES:  
12 A. Yes.  
13 MS. O'BRIEN:  
14 Q. Now I understood from what you said today that  
15 CAPP did not initiate this fit testing?  
16 MR. BARNES:  
17 A. That's correct.  
18 MS. O'BRIEN:  
19 Q. Is that correct?  
20 MR. BARNES:  
21 A. Yes.  
22 MS. O'BRIEN:  
23 Q. Okay. Do you know who did, who initiated this  
24 fit testing?  
25 MR. BARNES:

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1 A. It was initiated by the three producing  
2 operators, offshore Newfoundland. So HMDC,  
3 Suncor, and Husky Energy.  
4 MS. O'BRIEN:  
5 Q. Do you know why they initiated it?  
6 MR. BARNES:  
7 A. No, I don't know why.  
8 MS. O'BRIEN:  
9 Q. Was it initiated after the March 12th crash?  
10 MR. BARNES:  
11 A. Yes, I believe that's correct.  
12 MS. O'BRIEN:  
13 Q. I understand that also mentioned somewhere in  
14 your materials that in 2008, Helly Hansen did  
15 a survey on -- of the offshore workers on the  
16 fit of the E-452 suits?  
17 MR. BARNES:  
18 A. Yes.  
19 MS. O'BRIEN:  
20 Q. Okay, and I -- correct me if I'm wrong, you  
21 never saw the results of that survey?  
22 MR. BARNES:  
23 A. No, the results of that were given to the  
24 three producing operators offshore  
25 Newfoundland.

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1 MS. O'BRIEN:  
2 Q. Okay, so I guess to get to the point of my  
3 question, do you know if this fit testing that  
4 was done, initiated by the producers, do you  
5 understand that that came as a result of the  
6 crash or the result of the Helly Hansen survey  
7 or both, or you don't know?  
8 MR. BARNES:  
9 A. I do not -- I do not know the answer.  
10 MS. O'BRIEN:  
11 Q. And I understand also from your presentation  
12 that this 150 as of September 30th who didn't  
13 fit their suits, but I understood that CAPP,  
14 while you don't know why they didn't fit their  
15 suits or when it was -- or what they were  
16 doing before, you are involved in the process  
17 of what's taking place to come up with suits  
18 that fit these individuals?  
19 MR. BARNES:  
20 A. We were only involved in providing the  
21 information as of the end of September 30th  
22 with respect to the suit fit testing process  
23 and the statistics around that and delivering  
24 that information to the Petroleum Board. The  
25 actual fit testing is taking by Helly Hansen,

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1 the suit manufacturing.  
2 MS. O'BRIEN:  
3 Q. Okay. So in your PowerPoint presentation,  
4 there was the idea that some of these people  
5 would be--the idea would be people who didn't  
6 fit the standard suit may get a modified E-452  
7 suit?  
8 MR. BARNES:  
9 A. Yes.  
10 MS. O'BRIEN:  
11 Q. And that if--that might cover off some of them  
12 and that some of them, there's a new HTS-1 -  
13 MR. BARNES:  
14 A. Yes.  
15 MS. O'BRIEN:  
16 Q. - suit that's being developed that will cover  
17 off some of these people?  
18 MR. BARNES:  
19 A. Right.  
20 MS. O'BRIEN:  
21 Q. Okay, and then if there's still any left,  
22 they're looking at custom design suits?  
23 MR. BARNES:  
24 A. That's correct.  
25 MS. O'BRIEN:

<p style="text-align: right;">Page 141</p> <p>1 Q. Okay, and so that process of these different 2 levels, that's being done by Helly Hansen? 3 MR. BARNES: 4 A. That's correct. 5 MS. O'BRIEN: 6 Q. Okay. So one of the questions that came up, 7 and maybe you can't answer it for me, is the 8 HTS-1, this suit that's going to be developed 9 - 10 MR. BARNES: 11 A. Yes. 12 MS. O'BRIEN: 13 Q. - I understood that it's different from the E- 14 452 suit because the E-452 suit is made to fit 15 both standards, both the immersion standard 16 and the helicopter passenger transport 17 standard? 18 MR. BARNES: 19 A. Yes. 20 MS. O'BRIEN: 21 Q. And the HTS-1, that's only going to meet one 22 standard? Is that correct? 23 MR. BARNES: 24 A. That is correct, the helicopter passenger suit 25 standard.</p>	<p style="text-align: right;">Page 143</p> <p>1 MR. BARNES: 2 A. Yes. 3 MS. O'BRIEN: 4 Q. And cold water, one would presume, for a long 5 period of time. The standards for the 6 helicopter transport suits, are they less 7 rigorous in that area, in terms of protecting 8 the person who's wearing them from cold water? 9 MR. BARNES: 10 A. No, the thermal properties of both standards 11 are the same. 12 MS. O'BRIEN: 13 Q. Okay, all right, and I think any further 14 questions I have on that are probably more 15 properly put to Helly Hansen anyway. 16 MR. BARNES: 17 A. Yes, I would say so. 18 MS. O'BRIEN: 19 Q. Thank you. Just one thing too, before I leave 20 the suits, just to be clear, these are suits 21 that passengers wear. Flight crew don't wear 22 either of these suits? Is that correct? 23 MR. BARNES: 24 A. I'm not aware of what the flight crew wear. 25 MS. O'BRIEN:</p>
<p style="text-align: right;">Page 142</p> <p>1 MS. O'BRIEN: 2 Q. So it will not meet the immersion standard? 3 MR. BARNES: 4 A. That's correct. 5 MS. O'BRIEN: 6 Q. Okay. Do you know--do you have any knowledge 7 of why that decision is being made or any 8 details on that? 9 MR. BARNES: 10 A. It was a timing issue, as I understand it, in 11 the sense that it would take longer to get 12 Transport Canada to approve the immersion suit 13 standard if this suit was built towards that 14 standard. So in order to try to get this suit 15 into use sooner, rather than later, it was 16 decided just to built it to one standard, the 17 helicopter passenger suit standard, which 18 would get Transport Canada approval quicker 19 than the aviation standard--than the immersion 20 suit standard, I should say. 21 MS. O'BRIEN: 22 Q. Okay. So the immersion suits, just by their 23 very name, immersion, would lead one to 24 believe that they're designed to be immersed 25 in water?</p>	<p style="text-align: right;">Page 144</p> <p>1 Q. Okay. I just want to go back, Mr. Barnes, to 2 clarify--I'm going to go back to some of your 3 testimony on the HUEBA, the breathing 4 apparatus. I was certainly surprised, as I'm 5 sure others were, that from beginning, from 6 the initial request by the C-NLOPB to the 7 implementation on that device took nine years, 8 and I know I'm not alone in that surprise, and 9 I just want to ask you a couple of follow-up 10 questions on that, because yesterday when Mr. 11 Roil was questioning you on his examination in 12 chief, he asked you whether, in your view, 13 that nine years was an appropriate amount of 14 time or words to that effect, and you gave 15 testimony to the effect that, well, you know, 16 perhaps the timelines could have been shorter, 17 but you said that you could assure him that in 18 the nine years there was never a period that 19 the committee that was trying to implement 20 that device stopped working on some aspect of 21 it. 22 MR. BARNES: 23 A. The committee or members of the committee, 24 yes. 25 MS. O'BRIEN:</p>

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1 Q. Okay, because that's the point I want to  
 2 clarify, because today we heard that there  
 3 was, in 2004, a period of perhaps some eight  
 4 months where your committee did stop working  
 5 on it, correct?  
 6 MR. BARNES:  
 7 A. That's correct, and the individual operators  
 8 took control of the issue and had internal  
 9 discussions within their own organization  
 10 about moving forward with that device.  
 11 MS. O'BRIEN:  
 12 Q. Okay. Do you know why your members decided to  
 13 take that issue away from your Safety  
 14 Committee?  
 15 MR. BARNES:  
 16 A. All I understand is the members wanted to have  
 17 further discussions, again internally within  
 18 their own organizations about the go-forward  
 19 implementation plan of such a device.  
 20 MS. O'BRIEN:  
 21 Q. Do you have any -  
 22 MR. BARNES:  
 23 A. I have no further information as to what was  
 24 discussed or why that was done.  
 25 MS. O'BRIEN:

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1 Q. Okay. Were you involved--were you on the  
 2 committee at the time?  
 3 MR. BARNES:  
 4 A. Yes, I was.  
 5 MS. O'BRIEN:  
 6 Q. Okay. So you're saying that--and you've been  
 7 working on that now, at that point, for some  
 8 four years and all of a sudden they say "we  
 9 want to take this away and look at it further,  
 10 in private," as it were?  
 11 MR. BARNES:  
 12 A. Um-hm.  
 13 MS. O'BRIEN:  
 14 Q. Did that surprise you?  
 15 MR. BARNES:  
 16 A. No, that sometimes happens because individual  
 17 operators sometimes need to do their own  
 18 internal due diligence on different issues  
 19 that may arise within the larger industry CAPP  
 20 committee process. So sometimes there are  
 21 breaks in committee work where the committee  
 22 stops its activity and individual operators go  
 23 and do its activity for a period of time and  
 24 then the activity resumes back to the  
 25 committee.

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1 MS. O'BRIEN:  
 2 Q. Okay. In this particular case, were you privy  
 3 to what work, if any, that the members were  
 4 doing during that eight months?  
 5 MR. BARNES:  
 6 A. No, I wasn't.  
 7 MS. O'BRIEN:  
 8 Q. So you weren't told?  
 9 MR. BARNES:  
 10 A. No.  
 11 MS. O'BRIEN:  
 12 Q. Do you know if they were doing--did the  
 13 project progress any during that eight months?  
 14 MR. BARNES:  
 15 A. No, the committee progress did not progress  
 16 any during that timeframe.  
 17 MS. O'BRIEN:  
 18 Q. Okay. Did the overall project? Because  
 19 obviously the committee was trying to work  
 20 towards implementation of this device, so by  
 21 the time it was taken from you and the time it  
 22 returned, was it any closer to the goal of  
 23 implementation?  
 24 MR. BARNES:  
 25 A. No, not from the committee perspective.

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1 MS. O'BRIEN:  
 2 Q. Okay. You were asked earlier today by Mr.  
 3 Earle what, if any, review CAPP was doing to  
 4 look at this nine-year period and the process  
 5 that it took to find out essentially, you  
 6 know, why did it take nine years? Was nine  
 7 years necessary, and how--and if nine years  
 8 wasn't necessary, how can we prevent that kind  
 9 of delay from happening again.  
 10 MR. BARNES:  
 11 A. Yes.  
 12 MS. O'BRIEN:  
 13 Q. Okay, and you said that no review had yet been  
 14 undertaken, but that it was CAPP's intention  
 15 to undertake a lessons learned review.  
 16 MR. BARNES:  
 17 A. Yes, that's correct.  
 18 MS. O'BRIEN:  
 19 Q. Okay.  
 20 MR. BARNES:  
 21 A. That review has not been initiated, but it is  
 22 our intent to do so.  
 23 MS. O'BRIEN:  
 24 Q. Okay. So I'd like to know--I mean, obviously  
 25 the lessons learned here would be looking at a



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1 long period of delay. These breathing  
2 apparatuses have now been in place for six  
3 months.  
4 MR. BARNES:  
5 A. Um-hm.  
6 MS. O'BRIEN:  
7 Q. So you've had six months to consider  
8 undertaking a review. You know, why the  
9 delay? Why haven't you started on it? Can  
10 you give us any more information?  
11 MR. BARNES:  
12 A. The committee that implemented the device are  
13 still working on different aspects of it,  
14 doing some checks at the heliports to ensure--  
15 or sorry, at the training institutes, to  
16 ensure that those being trained on the device  
17 have no issues with the training or if there  
18 are issues that those are being identified,  
19 and that's been in the work since the--that  
20 the committee have been undertaking since the  
21 implementation, and it's the intent, it was  
22 our intent sometime later this fall or in this  
23 timeframe to complete that work and to have  
24 further discussions about what the lessons  
25 learned review process would look like and how

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1 to undertake one.  
2 MS. O'BRIEN:  
3 Q. So is what you're saying that basically the  
4 current work that you're still doing on  
5 implementation is taking up your time, so that  
6 you don't have time to go back and start on  
7 the lessons learned review?  
8 MR. BARNES:  
9 A. That's right. The committee is not engaged in  
10 a lessons learned review at this point.  
11 MS. O'BRIEN:  
12 Q. But is that because you don't have enough, you  
13 know, hours in the day to do it?  
14 MR. BARNES:  
15 A. Because the committee is engaged in some other  
16 activity.  
17 MS. O'BRIEN:  
18 Q. So it's a time, it's a you don't have enough  
19 time issue? My question is, is it because you  
20 don't have enough time or because you don't  
21 feel you can engage on that process until this  
22 current work has been done?  
23 MR. BARNES:  
24 A. We feel we need to complete this current work  
25 before undertaking the lessons learned review.

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1 MS. O'BRIEN:  
2 Q. Okay. All right, those are all my questions.  
3 Thank you very much.  
4 COMMISSIONER:  
5 Q. Okay, thank you.  
6 MS. O'BRIEN:  
7 Q. Thank you, Commissioner.  
8 COMMISSIONER:  
9 Q. Now, in keeping with my policy of asking  
10 counsel with standing if there's anything  
11 they'd like to clarify, I will ask you now.  
12 Mr. Roil? Yes.  
13 MR. PAUL BARNES, RE-EXAMINATION BY JOHN ROIL, Q.C.  
14 ROIL, Q.C.:  
15 Q. Commissioner, perhaps I should go first in  
16 case anything arises out of this question that  
17 I have, but it's for Mr. Barnes. Mr. Barnes,  
18 Mr. Earle took you through a fairly extensive  
19 review of the interactions between CAPP and C-  
20 NLOPB with respect to the issue of the  
21 breathing device, and there were various  
22 pieces of correspondence there where sometimes  
23 a safety officer of the Board would write to  
24 you or Mr. Pike of the Board would write to  
25 you and then, in most cases, or in fact in all

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1 cases, you would write back. In one case, I  
2 noticed there was a letter from the president--  
3 --sorry, from the CEO, Mr. Roulokke, of the  
4 Board and he chose to write to the CEO or the  
5 president of your organization, and I  
6 understand the right of a CEO to do that, but  
7 using that case as an example, if it is a  
8 typical example, what, if anything, is the  
9 regular or normal protocol as to who deals  
10 with who, as between you and the C-NLOPB? Is  
11 it normally you're the contact with Howard  
12 Pike or is there any protocol?  
13 MR. BARNES:  
14 A. It's normally I'm the contact with the  
15 Petroleum Board. It would be rare for the  
16 Petroleum Board to write our president in any  
17 activity that we're engaged in with the Board.  
18 ROIL, Q.C.:  
19 Q. Okay. Has there ever been, in your  
20 experience, a case where Mr. Pike has sort of  
21 said "I don't want to deal with you. I'd  
22 rather deal with the individual"? I'm just  
23 trying to get an understanding as to when he  
24 would deal with you as opposed to dealing with  
25 the members who are working and who have

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1 authorizations from the C-NLOPB.  
 2 MR. BARNES:  
 3 A. Mr. Pike would deal with CAPP and anyone at  
 4 the Board would deal with CAPP when they're  
 5 looking for an industry response or an  
 6 industry view on a certain matter. If they're  
 7 looking for an individual operator view or one  
 8 or two operator views, they would deal  
 9 directly with those operators.  
 10 ROIL, Q.C.:  
 11 Q. And that's your understanding of the way it  
 12 works?  
 13 MR. BARNES:  
 14 A. That's correct, yes.  
 15 ROIL, Q.C.:  
 16 Q. Okay. Thank you, nothing further from that.  
 17 COMMISSIONER:  
 18 Q. Thank you. Anyone else, any clarifying  
 19 questions? No. I just have one or two, Mr.  
 20 Barnes. From what I understand from your  
 21 evidence, the operators, namely the oil  
 22 companies, will place certain things in the  
 23 hands of CAPP to study and report back to  
 24 them, but in the end, and tell me if I'm  
 25 incorrect, in the end, the operators are the

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1 final authority on what they will do or not  
 2 do, aside from regulation by C-NLOPB or  
 3 government?  
 4 MR. BARNES:  
 5 A. That would be correct, yes.  
 6 COMMISSIONER:  
 7 Q. I see, they are the final arbiters?  
 8 MR. BARNES:  
 9 A. That's correct, yes.  
 10 COMMISSIONER:  
 11 Q. Yes, okay.  
 12 MR. BARNES:  
 13 A. We just facilitate decisions or facilitate  
 14 access--or gaining information to enable  
 15 decisions to be made, but in the end of the  
 16 day, our members make those final decisions.  
 17 COMMISSIONER:  
 18 Q. Yes. The other question is, and you touched  
 19 on it in your evidence, and maybe I didn't get  
 20 it quite clear, but there's an Executive and  
 21 Policy Committee?  
 22 MR. BARNES:  
 23 A. Yeah, it's called an Executive Policy Group.  
 24 COMMISSIONER:  
 25 Q. Executive Policy Group.

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1 MR. BARNES:  
 2 A. Yes.  
 3 COMMISSIONER:  
 4 Q. Now that's a group, I presume, of people like  
 5 yourself in CAPP and the operators, made up of  
 6 the operators' people?  
 7 MR. BARNES:  
 8 A. Yes, and it's usually the vice-president level  
 9 of our operators, of our members.  
 10 COMMISSIONER:  
 11 Q. Now that's what I wanted to get at. When you  
 12 say the vice-president, would that be the  
 13 vice-president of the company itself?  
 14 MR. BARNES:  
 15 A. That would be the vice-president that's  
 16 responsible for Newfoundland and/or Atlantic  
 17 Canada of the company.  
 18 COMMISSIONER:  
 19 Q. So the vice-president of the company who's  
 20 responsible for Newfoundland Labrador  
 21 offshore?  
 22 MR. BARNES:  
 23 A. Yeah.  
 24 COMMISSIONER:  
 25 Q. And Atlantic Canada?

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1 MR. BARNES:  
 2 A. Or Atlantic Canada, if indeed their -  
 3 COMMISSIONER:  
 4 Q. Or Atlantic Canada.  
 5 MR. BARNES:  
 6 A. - organization has activity in the region.  
 7 COMMISSIONER:  
 8 Q. So this would be, I presume, the highest level  
 9 of management in the province say, is that  
 10 correct?  
 11 MR. BARNES:  
 12 A. That's correct.  
 13 COMMISSIONER:  
 14 Q. I see, yeah.  
 15 MR. BARNES:  
 16 A. Some of those individuals do not reside in the  
 17 province because their companies do not have  
 18 offices here. To use an example, Murphy Oil,  
 19 which is an oil company that has ownership  
 20 within the Hibernia project and also the Terra  
 21 Nova project, their vice-president of east  
 22 coast operations sits on our Executive Policy  
 23 Group, but he resides in Calgary.  
 24 COMMISSIONER:  
 25 Q. Yes, I can understand that, but wherever they

<p style="text-align: right;">Page 157</p> <p>1 reside, they are members and I presume  2 functioning members of the committee?  3 MR. BARNES:  4 A. Yes.  5 COMMISSIONER:  6 Q. And that deals with the highest level of  7 things in which the operators and CAPP  8 interact?  9 MR. BARNES:  10 A. That is correct.  11 COMMISSIONER:  12 Q. Is that fair?  13 MR. BARNES:  14 A. That is correct.  15 COMMISSIONER:  16 Q. Okay. All right then, thank you very much,  17 Mr. Barnes.  18 MR. BARNES:  19 A. You're welcome.  20 COMMISSIONER:  21 Q. I haven't--although there are questions, of  22 course, I'm sure in many of our minds about  23 the suits as yet, but Helly Hansen is going to  24 give evidence next and they're probably the  25 best person to address the suits.</p>	<p style="text-align: right;">Page 159</p> <p>1 tomorrow morning at 9:30.  2 ADJOURNED TO NOVEMBER 18, 2009 AT 9:30 A.M.</p>
<p style="text-align: right;">Page 158</p> <p>1 ROIL, Q.C.:  2 Q. Yes, Commissioner. Clearly a lot of the  3 issues that came up today, because I have been  4 involved in preparing the Helly Hansen  5 evidence, it seems to me a lot of those  6 questions will be asked obviously. If  7 something comes back that they say "no, no, we  8 have nothing to do with it," then we'll have  9 to probe to see where else we would go.  10 COMMISSIONER:  11 Q. Yes.  12 ROIL, Q.C.:  13 Q. I think most, if not all, questions will be  14 answered once we've heard from the Helly  15 Hansen representative.  16 COMMISSIONER:  17 Q. Yes, that was my impression also. All right  18 then, thank you. So there's nothing else this  19 afternoon, is there?  20 ROIL, Q.C.:  21 Q. No, nothing further for this afternoon. The  22 Helly Hansen evidence will commence tomorrow  23 and continue into Thursday, if necessary.  24 COMMISSIONER:  25 Q. All right then. We'll adjourn then until</p>	<p style="text-align: right;">Page 160</p> <p>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 17th day of November, 2009 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 17th day of November, 2009  11 Cindy Sooley  12 Discoveries Unlimited Inc.  13 Judy Moss  14 Discoveries Unlimited Inc.</p>

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