

OFFSHORE HELICOPTER SAFETY INQUIRY

November 25, 2009

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St. John's, NL

November 25, 2009

PRESENT:

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..... Petroleum Board (C-NLOPB)**

**Ian Wallace/ Hibernia Management and
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Denis Mahoney/D. Blair Pritchett..... Suncor (Petro-Canada)

**Alexander C. MacDonald, Q.C./
Stephanie Hickman. Husky Oil Operations Ltd.**

Laura Brown Laengle Government of Newfoundland and Labrador

Jack Harris, MP..... (Self-Represented)

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

Jamie Martin..... Families of Deceased Passengers

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

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1 November 25, 2009

2 COMMISSIONER:

3 Q. Good morning, ladies and gentlemen. This

4 morning, we have Mr. William Parsons, known by

5 everyone, I think, as Bill Parsons. Pleased

6 to see you, Mr. Parsons, and Mr. Roil, you're

7 going to introduce Mr. Parsons.

8 ROIL, Q.C.:

9 Q. Yes, thank you, Commissioner. Good morning,

10 Mr. Parsons.

11 MR. PARSONS:

12 A. Good morning.

13 ROIL, Q.C.:

14 Q. Or as the Commissioner says, Bill to many of

15 us, especially those of us who've had some

16 time involved in labour and employment law and

17 activities in Newfoundland. As the

18 Commissioner has indicated, Mr. Parsons is one

19 of the two presenters we have today. I didn't

20 ask him to provide a CV on his background, but

21 I did do a little bit of snooping to find out

22 a little more about him, and I have previously

23 referred to him as a retired labour leader,

24 which I think is a little bit shallow, given

25 the extensive amount of time he has spent in

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1 the labour movement in Newfoundland and

2 Labrador.

3 He started off, as best I can determine,

4 in 1959, when some of us were still boys, as

5 an international rep with the Steelworkers

6 Union. In 1984, I know he moved on and moved

7 over to the Fishermen's Union. He has been

8 the president at one time of the Newfoundland

9 and Labrador Federation of Labour, a vice-

10 president of the Canadian Labour Congress. A

11 number of us have run into him in his capacity

12 as a building trades or as a union employee

13 representative on the Labour Relations Board.

14 He's been doing that now for some 14 years.

15 He has been executive director of the building

16 trades of the Resource Development Committee

17 of the building trades. But I think most

18 importantly, in terms of his relevance and his

19 interest in what we are at, he has been a

20 vice-president and a co-founder of the

21 Newfoundland and Labrador Construction Safety

22 Association, and as disclosed by its website,

23 it is an industry-driven, not-for-profit

24 corporation committed to providing cost

25 effective, affordable and accessible safety

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1 training to the construction industry in the

2 Province, and when it says an industry-driven,

3 I take that to mean it's a bipartisan

4 committee. It has both employers and worker

5 representatives.

6 The task of the Construction Safety

7 Association is described as being "the task of

8 lowering the frequency and severity of

9 workplace injuries and accidents and

10 ultimately improving the competitive advantage

11 of the industry through effective loss control

12 measures and heightened awareness of

13 occupational health and safety issues," and I

14 understand Mr. Parsons is going to be speaking

15 about some of those kinds of things with us

16 today.

17 So before he gives evidence, I understand

18 that he has agreed and understands that he is

19 to take an oath, and I'd ask the Registrar to

20 administer that.

21 MR. WILLIAMS PARSONS, SWORN

22 REGISTRAR:

23 Q. State your name please.

24 MR. PARSONS:

25 A. Bill, William A. (Bill) Parsons.

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1 REGISTRAR:

2 Q. Thank you.

3 ROIL, Q.C.:

4 Q. Commissioner, Mr. Parsons has given us a

5 written brief, which was put on the Filebridge

6 system yesterday, and I understand--I have not

7 heard any objections. There are also a number

8 of photographs that he is using to explain

9 some of the principles that he's speaking of.

10 So I would ask that Exhibit No. 100 through

11 109 be admitted to evidence and posted on our

12 website.

13 COMMISSIONER:

14 Q. Yes, thank you.

15 ROIL, Q.C.:

16 Q. And with that, Mr. Parsons, I'll sit down and

17 let you present your presentation at your own

18 pace. The screens here will have your

19 presentation on it and any of the images, if

20 you simply indicate to the Registrar what

21 exhibit you'd like her to put up on the

22 screen, she'll do that for you.

23 MR. WILLIAM PARSONS - PRESENTATION

24 MR. PARSONS:

25 A. Thank you. Good morning, your honour and

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1 people assembled here. I see it's an
 2 opportunity to meet some of the people who
 3 taught me a lot about what I now know in the
 4 legal profession itself. We started off as
 5 very young boys.

6 Your honour, it is indeed a pleasure and
 7 an honour to have this opportunity to appear
 8 before this Offshore Helicopter Safety
 9 Inquiry. Needless to say, I was impressed
 10 with the Commissioner's first press conference
 11 and I quote from "The Telegram": "Speaking to
 12 the media, Wells said he has already been in
 13 contact with other countries that have
 14 offshore oil industries, Norway, the United
 15 Kingdom and the United States, and he expects
 16 them to take part in the Inquiry. However,
 17 Newfoundland's conditions are somewhat worse.
 18 The North Sea can be a rough place, but it
 19 hasn't got ice and frigid waters like we have.
 20 The Gulf of Mexico, barring the hurricane
 21 season, is a much calmer place than the North
 22 Atlantic. Wells said 'it seems that, in one
 23 sense, we have ice, we have frigid waters, and
 24 we have high winds and cold, and all that
 25 plays a part in safety.'

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1 So my presentation this morning, your
 2 honour, is going to basically use that same
 3 kind of thoughts and efforts and the facts
 4 that we are somewhat different and we should,
 5 in fact, have things somewhat different.

6 First, I would like to express my most
 7 heartfelt sympathy to all the families,
 8 spouses, friends and extended families, to all
 9 those mourning the loss of their loved ones in
 10 this terrible crash at sea of helicopter 491
 11 on March 12th of this year.

12 During my working career in the labour
 13 movement, many times, all too often I might
 14 say, on occasion I have had the experience of
 15 attending workplace fatalities, injuries and
 16 disease. Workers taken so suddenly and
 17 tragically at the workplace changes lives
 18 forever.

19 Secondly, I want to express unequivocally
 20 my deep appreciation to Mr. Robert Decker, the
 21 sole survivor of Cougar Flight 491, for
 22 putting a human face to the events moments
 23 prior to the ditching, his immersion in the
 24 icy water of the North Atlantic and his
 25 actions which brought him to the surface, his

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1 survival. I wish him well in his recovery.
 2 He has provided this Inquiry with loads of
 3 information and life experiences that the
 4 Commission would not have had otherwise.

5 This presentation will speak to four
 6 basic issues which I would submit to the
 7 Commission, and I think, having revisited the
 8 Atlantic Accord and the C-NOPB, C-NLOPB
 9 website, is clearly within the mandate of the
 10 Commission.

11 I will speak about the role of the
 12 Canadian Newfoundland and Labrador Offshore
 13 Petroleum Board (C-NLOPB) in matters
 14 respecting workplace occupational health and
 15 safety. Two, the need for effective
 16 legislation and regulation of offshore
 17 workplaces, the definition of worker or
 18 employee in the offshore workplace, and a mid-
 19 distance heliport.

20 I might say to Mr. Roil that if there
 21 needs to be an interruption or a question
 22 during my presentation, feel free to do so.

23 First, the role of the Canadian
 24 Newfoundland Offshore Petroleum Board in
 25 matters respecting occupational health and

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1 safety, and I use this part of my presentation
 2 to recite and quote from an issue in "The
 3 Evening Telegram" of Saturday, February the
 4 16th, 2002, and I quote from it.

5 "Offshore safety is regulated by the
 6 Newfoundland and Labrador Offshore Petroleum
 7 Board," which is now, of course, has changed
 8 its name. "The Board was created to manage
 9 the resource in 1985 by the federal and
 10 provincial government, as part of the Atlantic
 11 Accord. The C-NLOPB's eight staff members
 12 dedicated to safety issues. They examine
 13 industry processes and training, travelling
 14 offshore to conduct an audit roughly every two
 15 months. They also monitor reports submitted
 16 daily by operators about the progress of their
 17 drilling and production activities. Operators
 18 are required to notify the C-NLOPB of any
 19 incidents.

20 'The purpose there is to reduce the risks
 21 to as low as reasonably practical,' said
 22 Howard Pike, the C-NLOPB manager of operations
 23 and chief safety officer. 'You can never
 24 eliminate risk. It's a part of life. There's
 25 always a risk in everything you do, so the

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1 whole notion there is to bring it down to the
 2 lowest degree possible.’
 3 Although the C-NLOPB relies on offshore
 4 operators to provide this information, Pike is
 5 confident nothing is being hidden from the
 6 Board. ‘There is a legislative requirement
 7 for them to do so,’ Pike says, ‘and if we
 8 watch them not doing it--catch them not doing
 9 it, then we lay charges against them. If you
 10 look at the Hibernia platform, there are 220
 11 people on board. I can assure you that if
 12 someone doesn’t like what we see going on,
 13 they will normally find a way of letting us
 14 know.’”
 15 And then there was an insert here, "in
 16 the fall of 2001, Hibernia became the first
 17 offshore oil platform in North Atlantic to
 18 become unionized. Hibernia Management
 19 Development Company is challenging that
 20 certification," and we now know that, of
 21 course, there is a collective agreement for
 22 this particular platform, and there’s also a
 23 collective agreement for the Terra Nova
 24 platform.
 25 Quoting from "The Telegram" again,

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1 "operators who breach a full--a work
 2 authorization, which is necessary to operate
 3 in the offshore, can be charged with an
 4 offence, Pike says. Similar convictions can
 5 net a \$100,000 fine or one year in jail. More
 6 serious indictable offences carry a possible
 7 fine of one million dollars. C-NLOPB has only
 8 ever laid two charges, both against divers.
 9 Once for using to fail a certification, and
 10 the other for providing doctored diving logs.
 11 Pike says the lack of charges against industry
 12 heavyweights means that the C-NLOPB is doing
 13 its job.
 14 To make his point, he draws analogy to
 15 highway safety. ‘If we were regulating
 16 highway safety the way we regulate the
 17 offshore, what would happen is before you’d be
 18 allowed to take a trip to Gander, you would
 19 have to make an application,’ he says. ‘And
 20 then what we would do is sit down and say,
 21 okay, what inspections have you done on your
 22 car? Are the brakes good? So you would check
 23 the appropriateness of that vehicle for that
 24 drive. Once the car had cleared all these
 25 hurdles, the driver would have to file regular

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1 reports and the C-NLOPB might decide to
 2 station someone at Goobies, which to make sure
 3 the driver was following the rules of the
 4 road. So it shouldn’t be surprising, from
 5 that standpoint, if we’re doing it that way,
 6 that we wouldn’t be issuing so many speeding
 7 tickets,’ Pike says. While the C-NLOPB
 8 regulates safety, it doesn’t make public the
 9 details of its investigations," and I will
 10 come back to that later.
 11 Continue to quote from "The Telegram":
 12 "The agency is bound by the Atlantic Accord
 13 Act, which includes a confidential provision
 14 specifying what information can be released.
 15 So we’re working with the legislation. While
 16 critics have rallied against the C-NLOPB’s
 17 perceived lack of transparency, Pike says the
 18 confidentiality arrangement allows offshore
 19 operators to be frank with safety personnel.
 20 ‘Right now we get, I would say, very candid
 21 descriptions of the process going on. So
 22 we’ve got the issue of confidential from a
 23 business perspective, a business right to
 24 confidentiality versus the public right to
 25 know.’

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1 C-NLOPB currently enforces a combination
 2 of provincial Occupational Safety and Health
 3 Act and draft legislation targeted
 4 specifically at the offshore, a situation,
 5 Pike allows, that lacks some clarity. The
 6 offshore component of occupational health and
 7 safety has been drafted since 1989," and I
 8 would suggest, your honour, that the best
 9 before date has expired on that document.
 10 "Joint action by the provincial and federal
 11 governments is necessary for the 13"--now, of
 12 course, 20 -- "old draft legislation to
 13 officially come into effect."
 14 Continuing from "The Telegram": "‘we
 15 don’t promulgate the regulations; we only
 16 enforce them. We administer them,’ Pike says.
 17 ‘It is up to the government to promulgate
 18 these regulations.’ Clarity of regulations
 19 aside, Pike acknowledged that the C-NLOPB
 20 needs industry cooperation to do so. ‘Safety
 21 can’t be legislated. This has to be something
 22 that people do of their own accord. We’ve
 23 being very proactive in this regard. We’re
 24 trying to get them to act safely all the time,
 25 not just while we’re there,’ and making such

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1 changes can have meaningful results. As is
 2 indicated in the Ocean Ranger Report, it's a
 3 sequence, frequently, of events. All you need
 4 to do is stop an accident is to get one of
 5 those dominoes out and that stops the
 6 sequence." That's the end of my quote, your
 7 honour.

8 During the period of the Ocean Ranger
 9 disaster, there were numerous questions
 10 arising, such as: which as jurisdiction, the
 11 federal government or the provincial
 12 government? Was the Compensation Act
 13 applicable? Was it responsible for death
 14 benefits, et cetera? With the 1985 Atlantic
 15 Accord, the provincial government, under
 16 certain circumstances, were given jurisdiction
 17 of occupational health and safety legislation
 18 standards and regulations. Something the
 19 provincial Department of Occupational Health
 20 and Safety never did achieve because of
 21 provincial/federal conflict on the issues of
 22 occupational health and safety regulations and
 23 standard. The C-NLOPB assumes the role of
 24 enforcement of the occupational safety
 25 offshore. It is, according to the C-NLOPB, a

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1 combination of provincial occupational health
 2 and draft legislation targeted at the
 3 offshore, a situation the C-NLOPB states lacks
 4 some clarity.

5 This situation, in time, is a disaster
 6 waiting to happen. The C-NLOPB is a
 7 federal/provincial crown corporation with its
 8 main objective to sell oil and gas land at a
 9 sustained profit, with certain restrictions,
 10 to the oil corporations. In other words, it's
 11 merely a real estate company. The C-NLOPB
 12 controls the issuing of license for
 13 exploration and development and by which mode,
 14 and which amount of production. The oil and
 15 gas corporations have a greater budget than
 16 any country or nation in the world. These
 17 corporations' main objective is solely to
 18 return profits to their shareholders.

19 The C-NLOPB has a budget to administrate
 20 and therefore has, as its objective, specific
 21 funding amount of cash for occupational health
 22 and safety. No other country in the world
 23 sources out its health and safety to other
 24 corporations, with some exception of Norway,
 25 not totally.

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1 The Government of Norway has the
 2 Norwegian Petroleum Directorate. This
 3 authority has a very specific legislative
 4 mandate for all aspects of the workplace
 5 environment health and safety. It answers
 6 directly to the minister, ministry responsible
 7 for offshore and gas workplace health and
 8 safety.

9 I'm confident the Commission is aware of
 10 its volumes of legislative law and statute
 11 regulations relative to these matters. In
 12 comparison with the C-NLOPB and the Norwegian
 13 Petroleum Directorate respecting workplace
 14 health and safety, frankly, there is none
 15 absolutely.

16 My second point, the need for effective
 17 legislation and regulation offshore. It is in
 18 my view--it is my view that no one, not one
 19 ministerial department, federal or provincial,
 20 has ever taken ownership or responsibility
 21 legislatively for the occupational health and
 22 safety for the offshore workplace, and I will
 23 make the recommendation here that there be an
 24 independent structure, completely independent
 25 of business, government and labour. That it

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1 would be multipartite in nature, so this
 2 committee may--I don't have a plan as to what
 3 the structure of the committee would be. That
 4 may be up to other more experienced people
 5 than me, but an independent structure that
 6 would be capable of recommending laws,
 7 legislative laws with enabling legislation for
 8 regulations, for equipment regulation,
 9 industrial standards and there would be
 10 participants of the government, industry, the
 11 vendors, the labour movement, Federation of
 12 Labour and the building trades, because I
 13 would suggest to the Commission that as many
 14 construction workers goes offshore in a 12-
 15 month period as the full-fledged workforce or
 16 ready state employees, as the industry
 17 terminology. They go there for various
 18 construction, for the shutdowns, turnarounds,
 19 add-ons and regular maintenance.

20 Following this Inquiry via the media, it
 21 is most difficult to follow what statutory
 22 body bears the ultimate sole responsibility
 23 for offshore petroleum workplace, workers
 24 health and safety. There is, to the best of
 25 my knowledge and belief, not one single

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1 authority, nor is there any authority which
 2 coordinates such an effort. As a matter of
 3 fact, the C-NLOPB has no statutory regulatory
 4 authority on occupational health and safety.
 5 There are recommended regulations.
 6 According to the C-NLOPB, it starts with
 7 a safety plan, which is required by all oil
 8 companies working in Newfoundland and Labrador
 9 offshore industries. These plans explain how
 10 the companies will keep their employees and
 11 those of their contractors safe, both in the
 12 workplace and while travelling to and from the
 13 offshore platforms and drilling rigs. All
 14 safety plans are submitted to the C-NLOPB for
 15 their approval.
 16 And in my structure, your honour, I am
 17 recommending that, as required by law in the
 18 Atlantic Accord, that the C-NLOPB have a chief
 19 safety officer who would be a liaison officer
 20 between the independent committee that I'm
 21 recommending, a liaison officer to the members
 22 of the Board who are responsible for examining
 23 the licensed operators' safety plans, also
 24 their plans for future development and the
 25 mode by which that development will take

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1 place, whether it will be a stand-alone,
 2 whether it will be a semi-submersible or
 3 whether it would be a jack-up.
 4 Now following this Inquiry, and I'm
 5 quoting from "The Telegram" again, which they
 6 say is part of the evidence given before this
 7 Commission already, "In the process of
 8 reviewing a safety plan, we review the
 9 helicopter operations," said Howard Pike,
 10 chief safety officer for the C-NLOPB. "That
 11 includes the helicopter systems and equipment,
 12 emergency response training and how the
 13 operator supervise such contracts." The Board
 14 also monitors compliance with those safety
 15 plans, which Pike said are designed to manage
 16 risk for the protection and safety of the
 17 people working offshore. "We verify that
 18 operators follow the plan. We verify that
 19 deviations approved plans are corrected.
 20 Safety of an activity requires three elements
 21 - the appropriate equipment, the proper
 22 procedures and competent personnel."
 23 Operators are defined as anyone holding
 24 an authorized permit issued by the C-NLOPB to
 25 carry out offshore activities, such as

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1 drilling wells, diving or producing oil.
 2 Authorizations are essential work permits and
 3 they are primarily held by the oil and gas
 4 companies. A helicopter company, for
 5 instance, is not considered to be an operator.
 6 It's a contractor hired to transport workers.
 7 While the C-NLOPB does not directly oversee
 8 contractors' activities, John Andrews, legal
 9 manager for the Board, said transportation is
 10 included in any operator's safety plan. He
 11 said the operators, not the offshore board,
 12 are responsible for worker safety. "These are
 13 not the Board's safety plans. They are the
 14 operators' safety plans. We verify the
 15 appropriate safety plans are in place."
 16 Andrews said the Board carries out audits and
 17 inspections to ensure the operators follow
 18 those plans. "The Board does not have the
 19 responsibility for safety. It has an interest
 20 in safety of workers by way of its oversight
 21 role and its verification role, but worker
 22 safety is the responsibility of operators."
 23 And to say the least, Mr.--your honour,
 24 that makes me nervous. In other words, this
 25 is, for all intents and purposes, an operation

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1 offshore that regulates itself. It makes the
 2 regulatory safety--or the safety plans itself
 3 and merely submits them for approval to C-
 4 NLOPB.
 5 In the worker's world, as I know it in my
 6 life experience, if an accident or fatality--
 7 and that's the end of my quote from "The
 8 Telegram" by the way.
 9 In the worker's world of work, if an
 10 accident, fatality, or other incident happens,
 11 who would the worker feel is more impartial,
 12 the management safety representative, a C-
 13 NLOPB safety representative, an occupational
 14 health and safety representative from his
 15 organization, or a health and safety
 16 representative from his or her elected
 17 government department?
 18 Occupational Health and Safety
 19 legislation, regulations and standards should,
 20 as to the greatest degree possible, be a
 21 multiparty effort. Legislation enables and
 22 provides for regulation, standards, personal
 23 protective clothing and equipment, for risk
 24 analysis, job processes, procedures, lockouts,
 25 fall arrests, imminent danger, confined

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1 spaces, transportation to and from work,
 2 workplace committees, training, and the list
 3 goes on.
 4 Regulation should not be--they should be
 5 non-adversarial. It should be transparent and
 6 subject to periodic review. This has to be
 7 triggered by some authority. The proposed
 8 amendments that have been cited by the C-NLOPB
 9 of 1989 are now primarily antique and needs
 10 major revision. Without the proper law and
 11 legal authority, this situation does not cut
 12 it. It is now 2009, 20 years later, not a
 13 good record and lacks best efforts of those in
 14 authority. The government must act with
 15 dispatch and rectify this untenable situation.
 16 This province's history, for example, in
 17 the mining industry's safety regulations was a
 18 disaster. It was not until the late '70s that
 19 this province's mining industry changed from
 20 being regulated by the Department of Mines and
 21 Energy and regulated by the Occupational
 22 Health and Safety Department of Labour, as it
 23 was then called. Our mining history, causing
 24 injury, death and disease, is not a good one.
 25 Occupational health and safety offshore,

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1 from heliport to heliport and at the
 2 workplace, must be governed by one body, one
 3 occupational health and safety department and
 4 one government, with the appropriate
 5 structure. The sole and final responsibility
 6 for occupational health and safety must be the
 7 government's role for the specific workplace.
 8 My third point, the definition of worker
 9 or employee. The definition of employee
 10 should be crystal clear in the legislation.
 11 Compensable benefits for injured workers are,
 12 and have been for a long time, totally
 13 inadequate. The question, simply put, is: how
 14 and why and injured worker worth less because
 15 of injury, loss of limb or fatality? Why do
 16 the family's income and security have to
 17 suffer because of an injury, loss of limb or a
 18 fatality? Why does the injury have to cause,
 19 for example, a worker's family not having the
 20 right to a full education and a decent
 21 standard of living?
 22 My final point, your honour, I'm calling
 23 a mid-distance heliport. This facility would
 24 be a floating platform with a helideck and a
 25 hangar at sea mid-distance or anchored mid-

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1 distance between the St. John's International
 2 Airport and the furthest operating rig. It
 3 could be a barge. It could be a ship.
 4 According to the people I've talked to, it
 5 would be a desire to have it somewhat
 6 submerged for stability in the water, and I'll
 7 come back to that in a minute.
 8 This province has experienced its share
 9 of loss of life at sea and this loss of life
 10 potential has drastically increased with the
 11 exploration and the development of offshore
 12 oil and gas. The stress of the family who
 13 remains at home while their loved one goes
 14 offshore for a three-week rotation is
 15 tremendous. The effects on children are
 16 unimaginable. The crew and families of the
 17 helicopter's crew who fly daily offshore must
 18 be heart wrenching.
 19 It is not necessary here to present that
 20 argument that Newfoundland's environment
 21 conditions at sea are worse than in the North
 22 Sea or the Gulf of Mexico. The Commission
 23 expressed that fact very early in its
 24 commissioning and briefing to the media.
 25 It is recommended that there be

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1 constructed and maintained a mid-distance
 2 heliport offshore at midway point between St.
 3 John's International Airport and the furthest
 4 distant oil and gas working platform.
 5 There could be two helidecks with a
 6 hangar or one helideck capable of handling two
 7 helicopters, much similar to that which the
 8 Coast Guard and the Navy now have. It would
 9 have to have a ship's crew required including
 10 an industrial trained nurse, appropriate
 11 nursing station and accommodations for minimum
 12 of 20 persons. The ship would only require
 13 minimal propulsion and suitable anchorage.
 14 This helideck could be a floating facility,
 15 ship, barge, semi-submersible, anchored at a
 16 mid-distance and capable of facilitating
 17 helicopters flying to and from offshore rigs.
 18 This mid-distance facility would have a
 19 tremendous impact on all and any offshore
 20 facility workforce and could facilitate other
 21 search and rescue at sea, as well as training
 22 facilities for helicopter pilot training,
 23 would act as a simulator, of offshore workers.
 24 It could likewise be an emergency refuelling
 25 station.

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1 I followed evidence of some vendors,
 2 people who facilitate or manufacture supply
 3 suits for offshore, breathing apparatus and
 4 how our training is not in the real waters,
 5 not in the experiences that one would
 6 experience in being immersed in water
 7 offshore. This could have a tremendous
 8 training opportunity for this equipment or new
 9 equipment, or search and rescue. This does
 10 not have to be parked there, waiting for a
 11 helicopter to have an emergency. It can be
 12 operating much more often and facilitate what
 13 we now know training that has been inadequate.

14 The stress of the workforce travelling to
 15 and from offshore, the helicopter crews and
 16 all the families included would be greatly
 17 relieved to know that there was such a
 18 facility available.

19 The loss associated with Cougar Flight
 20 491 helicopter crash is just awesome. The
 21 lives of those workers ended. The family
 22 impacts, skills, experience and training, not
 23 to mention equipment loss and recovery costs.
 24 Knowing what are now the facts of the
 25 circumstances surrounding this crash, with a

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1 helideck facility mid-distance, as recommended
 2 above, it may have prevented disaster from
 3 happening.

4 Looking at the Royal Commission on the
 5 Ocean Ranger, which in those days I had the
 6 opportunity to visit the North Sea, look at
 7 their facilities, their training facilities
 8 and a trip offshore on a platform in 1984. I
 9 followed the Inquiry Commission headed by
 10 Justice Alex Hickman, and I had an opportunity
 11 to review that in getting ready for this
 12 hearing, and Recommendation No. 56, at page
 13 155-156, Volume 1 of the Royal Commission on
 14 the Ocean Ranger Marine Disaster, had this to
 15 say: "That there be required a full-time
 16 search and rescue dedicated helicopter,
 17 provided by either government or industry,
 18 fully equipped to search and rescue standards,
 19 stationed at the airport nearest to ongoing
 20 offshore drilling operations and that is
 21 readily available with a trained crew able to
 22 perform all aspects of the rescue."

23 We know, although it is not widely known,
 24 that there were at least 22 persons who
 25 escaped the Ocean Ranger disaster and were on

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1 the waters, and those people, most of them, if
 2 not all of them, died during the rescue that
 3 night. They did survive the Ocean Ranger.
 4 They were in the water, and they lost their
 5 lives during the rescue.

6 This presentation supports that
 7 recommendation. There is now a greater reason
 8 for additional equipment and crews to be
 9 stationed at St. John's International Airport
 10 with the increased volume of offshore
 11 activity. It is with some regret that during
 12 offshore rescue situations, it is those that
 13 risk their lives to save the lives of others
 14 and take the full impact--that take the full
 15 impact of any and all criticisms as to the
 16 tardiness and failures of the rescue. That
 17 sort of criticism is not part of my
 18 presentation. These persons involved with
 19 search and rescue, SAR, who carry out these
 20 missions are fearless and flawless. They do
 21 not make the legislation, rules and
 22 regulations or define their budgets from which
 23 they operate. They are, by nature of their
 24 careers, required to use their best efforts
 25 with the equipment the government provides.

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1 The Royal Commission on the Ocean Ranger,
 2 Report 1 at page 125 had this to say: "the
 3 crew of the Seaforth Highlander, who, without
 4 safety lines and with the decks awash,
 5 valiantly endeavoured to save the men in the
 6 lifeboat, displayed courage in the best
 7 traditions of the sea. Neither they nor the
 8 crew of the other vessels had training in
 9 rescue operations and, in their best efforts
 10 to find and rescue survivors, more could not
 11 be asked of them." I'm just wondering, and I
 12 suggest to the Commission, that that fact of
 13 rescue at sea by those tugboats be revisited
 14 and see if those recommendations that that
 15 Commission recommended has in fact taken
 16 place.

17 In conclusion, your honour, although the
 18 Terms of Reference of this Inquiry--well, I'm
 19 sorry, the other part of that cite from the
 20 Royal Commission Report said "the Seaforth
 21 Highlander did not, according to the Royal
 22 Commission on the Ocean Ranger Commission,
 23 recover any crew members whatsoever."

24 In conclusion, your honour, although the
 25 Terms of Reference of this Inquiry has mostly

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<p>1 focused on the crash of Flight 491, I want to</p> <p>2 remind the Commission that a very serious</p> <p>3 danger of disaster on oil producing platforms</p> <p>4 is that of a fire on board the rig. This</p> <p>5 situation has the potential of complete</p> <p>6 evacuation of workers and would cause major</p> <p>7 rescue efforts. The question remaining, is</p> <p>8 there adequate search and rescue operations</p> <p>9 for such a disaster?</p> <p>10 I submit that these questions of adequate</p> <p>11 search and rescue operations are within the</p> <p>12 Terms of Reference of this Inquiry, and I</p> <p>13 thank you very much, your honour.</p> <p>14 COMMISSIONER:</p> <p>15 Q. Thank you. The pictures?</p> <p>16 ROIL, Q.C.:</p> <p>17 Q. Yes. Mr. Parsons, you had a series of</p> <p>18 pictures that you've also submitted to us, and</p> <p>19 I gather they deal with this last issue of the</p> <p>20 mid-distance heliport. Would you like to</p> <p>21 speak to them and how they provide clarity or</p> <p>22 examples of what you're talking about? And I</p> <p>23 think we've provided you with copies of them,</p> <p>24 with the exhibit numbers on them. So if you</p> <p>25 simply indicate which one you want to look at,</p>	<p>1 idea of what something like that could look</p> <p>2 like. 103 is a semi-submersible with a</p> <p>3 helideck on board, and I have number 104,</p> <p>4 which is an example of how things could be</p> <p>5 structured, and of course, there's no hangar</p> <p>6 on this particular boat, and it may even be a</p> <p>7 luxury yacht, I'm not sure, but it just shows</p> <p>8 that these things already exist and 105 is</p> <p>9 another platform. It could be a similar shape</p> <p>10 like that, but the original picture, that</p> <p>11 seems to be a lifting crane, heavy lifting</p> <p>12 crane, that has a helideck on it.</p> <p>13 106 is a platform like Hibernia with just</p> <p>14 a single stand-up leg, has a helicopter on top</p> <p>15 of it. 107 is another platform, producing</p> <p>16 platform, which has a helideck, and the 108</p> <p>17 is, again, one that we've already looked at,</p> <p>18 and 109 is a heavy lift crane with a helideck</p> <p>19 on it and below, of course, is what Norwegians</p> <p>20 refer to as a floatel. It's an accommodation</p> <p>21 unit for the workers and other workers that in</p> <p>22 the North Sea, some workers fly from a floatel</p> <p>23 to work on a shift-by-shift basis. The rig</p> <p>24 doesn't have the accommodation for the workers</p> <p>25 itself. It's merely an operational rig and</p>
<p>Page 30</p> <p>1 the Registrar will call that up for you.</p> <p>2 MR. PARSONS:</p> <p>3 A. Okay. I'll go through them in their order in</p> <p>4 which they are in the book, and 101 is a</p> <p>5 helicopter on a helideck, and that seems to me</p> <p>6 to be--and these are ones that I found from</p> <p>7 the net. That seems to be a heliport, and it</p> <p>8 doesn't seem like it's a very overly expensive</p> <p>9 platform to build. As a matter of fact, if</p> <p>10 you go to the last one, or the second last</p> <p>11 exhibit, you will find the structure of the</p> <p>12 heliport itself, and it indeed is not an</p> <p>13 overly complicated--it's not rocket science.</p> <p>14 It's already science that's available.</p> <p>15 Because I'm sure that the response to my</p> <p>16 presentation is going to be one of what does</p> <p>17 it cost, and I'm suggesting that there could</p> <p>18 be rigs already decommissioned that are no</p> <p>19 longer adequate for the purpose for which they</p> <p>20 were originally intended. I understand that</p> <p>21 there's numerous ones available in the North</p> <p>22 Sea. It could be decommissioned and brought</p> <p>23 here in our construction yards and refitted.</p> <p>24 The second one is a stand-up platform.</p> <p>25 It has a helideck on board, just to give an</p>	<p>Page 32</p> <p>1 they're picked up after their shift and taken</p> <p>2 to the floatel, which is not a great distance.</p> <p>3 They do that on a daily basis.</p> <p>4 ROIL, Q.C.:</p> <p>5 Q. So I take it that these are simply examples of</p> <p>6 types of structures or vessels that you</p> <p>7 believe could be looked at to provide an idea</p> <p>8 or an inspiration for the kind of mid-distance</p> <p>9 heliport that you're talking about?</p> <p>10 MR. PARSONS:</p> <p>11 A. Yes. I appreciate that many people outside of</p> <p>12 this room, even in communities where I live</p> <p>13 where it's not far away from the city itself,</p> <p>14 have no idea what a heliport looks like, or</p> <p>15 maybe they really think that I had a smoke</p> <p>16 last night or something, but I just want to</p> <p>17 put it there for illustrations that this is</p> <p>18 not rocket science, it already exists, and in</p> <p>19 respect to the cost, it depends on what design</p> <p>20 you give to the people who is going to give</p> <p>21 you--or are going to give you an approximate</p> <p>22 cost. I'm saying it's not--it doesn't have to</p> <p>23 be a brand new off-the-pin, so to speak,</p> <p>24 Cadillac. It can be something that is put</p> <p>25 there and it can be added to or it can be</p>

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<p>1 changed to accommodate, not a stand-alone 2 waiting for a crash or a helicopter to have a 3 problem, but it could be used for many other 4 facilities, research and design, testing and 5 it could be used for training. It could be 6 used as a flight simulator, because it would 7 be the natural thing that the pilots are 8 really going to land on, and it could be used 9 by search and rescue. We have lots of 10 disasters off sea which are not oil related, 11 fisheries related, or we have a heavy amount 12 of traffic that's going by our waters. So it 13 could be a multi-purpose rig.</p> <p>14 ROIL, Q.C.:</p> <p>15 Q. Thank you, Mr. Parsons. Commissioner, Mr. 16 Parsons has indicated he would be quite 17 prepared to accept questions. I have a couple 18 that I would like to ask him just to clarify 19 what he has done, and then he may not know, or 20 he may if he's been watching, there is a 21 protocol whereby we go around the room and 22 others get an opportunity to ask questions as 23 well.</p> <p>24 MR. PARSONS:</p> <p>25 A. Sure.</p>	<p>1 conjunction with that, there's a whole 2 suggestion that the independent body that you 3 make in number two, would that be in addition 4 or is that an alternate? So would you just 5 take us through that whole issue again, number 6 one and number two, how are they related?</p> <p>7 MR. PARSONS:</p> <p>8 A. Well, let me try to articulate that a little 9 better. The C-NLOPB is responsible for the 10 land offshore, having it shared up in parcels 11 of land that the oil companies can buy or 12 lease for production of oil or exploration of 13 oil or seismic services, and this requires a 14 lot of meetings and exchanges that take place, 15 which are of somewhat of a confidential nature 16 because of the business itself. For that 17 organization to issue a licence, which for all 18 intents and purposes is a return to the 19 shareholders, so it originates from an 20 exploration licence to an individual company 21 or companies producing oil and selling it off 22 the market and we buy it at a gas pump. Now 23 for that same organization to put a stop work 24 order on that operating or processing unit, 25 which is going to stop the profits for the</p>
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<p>1 COMMISSIONER:</p> <p>2 Q. Okay, then.</p> <p>3 MR. WILLIAM PARSONS - EXAMINATION BY ROIL, Q.C.:</p> <p>4 Q. Mr. Parsons, the first thing, I think, I'd 5 have to say is that although you indicated you 6 only had four issues, I think I see a fifth 7 one.</p> <p>8 MR. PARSONS:</p> <p>9 A. Yes, there is.</p> <p>10 ROIL, Q.C.:</p> <p>11 Q. And that's search and rescue issues.</p> <p>12 MR. PARSONS:</p> <p>13 A. Yes.</p> <p>14 ROIL, Q.C.:</p> <p>15 Q. So we'll take them by the number, and number 16 one and number two, I'm a little confused on. 17 I need to understand what you're telling us, 18 so let's just take those. First of all, the 19 role of the C-NLOPB, and I think you've drawn 20 an analogy to something that happens in 21 Norway. Are you suggesting that there be -- 22 that the C-NLOPB not be responsible for safety 23 or that there be a second body, something like 24 the C-NLOPB? I wasn't quite sure what you 25 were talking about there, and perhaps then in</p>	<p>1 shareholders, is not going to be accepted as a 2 friendly thing to do. Therefore -- or to 3 cause those companies to spend more capital to 4 make sure that the protection of the worker is 5 assured is not the role of what the C-NLOPB 6 was originally intended to do. I think the 7 evidence and the history indicates that now. 8 I know that in the Atlantic Accord there is a 9 provision for a Chief Safety Officer, but I 10 don't think it was ever intended by the 11 Provincial or Federal Government for them to 12 source out the Occupational Health and Safety 13 Department of our Province, or Part II of the 14 Canada Labour Code, to the C-NLOPB to make 15 regulations, define standards, all that's 16 encompassed in a workplace health and safety 17 plan. I think what they had in their mind, 18 yes, the C-NLOPB needs a Chief Safety Officer, 19 so if the Board in its considering of the 20 applications, processing permits, or the mode 21 of development, says to the Chief Safety 22 Officer, look, check this out to make sure 23 that we are meeting the regulator, the 24 legislation, and standards.</p> <p>25 ROIL, Q.C.:</p>

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1 Q. And so if I'm understanding what you're saying
2 to us, it's that in your view, the role of the
3 C-NLOPB as the licence issuer is somehow or
4 other in conflict --

5 MR. PARSONS:
6 A. In conflict.

7 ROIL, Q.C.:
8 Q. With its responsibility as the safety
9 regulator?

10 MR. PARSONS:
11 A. Yes. Now the difference in Norway is that
12 Norway is a country onto itself. In Canada,
13 we have two jurisdictions here. We have the
14 federal jurisdiction to some degree, the tug
15 boats, for example, surrounding the asset
16 itself, you know, the oil companies refer to
17 the platform as an asset. We have the
18 helicopters which is part of federal
19 jurisdiction. So in order to get the
20 legislation to straddle, if you will, the
21 federal jurisdiction and the provincial
22 jurisdiction, I'm saying that there should be
23 an independent organization here which would
24 report to the Ministers or the Minister,
25 although Occupational Health and Safety in the

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1 Atlantic Accord is given to the Provincial
2 Government, but that still doesn't eliminate
3 that there are some federal safety legislation
4 which comes into play here. I'm saying an
5 independent organization to put together the
6 appropriate standards for the complete
7 circumference of workers health and safety
8 from the time they drive to the heliport until
9 they get to the rig, on the rig, and back to
10 the heliport again. Now in most workplaces
11 that's not an issue, and it's the only one in
12 Canada that I know that sources out to a Crown
13 Corporation to self-regulate. That's what I'm
14 saying happens. I'm saying that these plans,
15 according to the evidence, is put together by
16 the -- is put together by the oil companies,
17 submitted to the C-NLOPB, and if you look on
18 their website, many of the regulations which
19 cover offshore originate from CAPP, and CAPP
20 is the oil companies. It's the Canadian
21 Association of Petroleum Producers. So
22 they're making the regulation. So it is, for
23 all intents and purposes, company regulated.

24 ROIL, Q.C.:
25 Q. I think the evidence is that CAPP has created

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1 some standards in conjunction with the C-
2 NLOPB, but that the C-NLOPB has adopted those
3 standards. So when you say regulations, I
4 take it you're including anything that is
5 regulatory, not just the strict legal
6 interpretation of regulation?

7 MR. PARSONS:
8 A. I'm not quarrelling with their regulations.
9 All I'm saying is that there should be a
10 legislative legal authority for enforcement
11 and inspection, and from 1989 to 2009,
12 obviously there has to be some review, even if
13 it's not promulgated. So in that structure,
14 it would have some kind of a review process,
15 like the Workers Compensation Board, or the
16 Labour Standards Board, or some other process
17 whereby all these different suppliers would be
18 brought around a table and look for updates,
19 look for new development in protective --
20 personal protective equipment, or clothing,
21 and other things which may become manufactured
22 or designed and want to be tested.

23 ROIL, Q.C.:
24 Q. So that independent authority, is that the
25 same thing as the multipartite, you call it,

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1 independent body that you talked about in Item
2 #2 or are they --

3 MR. PARSONS:
4 A. No.

5 ROIL, Q.C.:
6 Q. That's a different thing again?

7 MR. PARSONS:
8 A. That -- instead of the C-NLOPB being
9 responsible --

10 ROIL, Q.C.:
11 Q. Yes.

12 MR. PARSONS:
13 A. Obviously, the Federal Ministry is responsible
14 for Canada Labour Code, and the Provincial
15 Ministry responsible for Occupational Health
16 and Safety, which I think it Highways and
17 Services. Obviously, they haven't taken a
18 leadership role, and somebody has to, and
19 because of the inability or lack of ability
20 for the Federal and Provincial Government to
21 come to a fair mind here and create one
22 standard, then I'm saying, well, then why
23 don't you create, and this may be a temporary
24 thing, but at least get it started -- it's not
25 started. So we get one set of standards, one

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<p>1 review, one group who is going to do the audit</p> <p>2 and the enforcement that is not beholding, for</p> <p>3 their purposes, to the oil companies, and I'm</p> <p>4 saying that's what the C-NLOPB -- that's why</p> <p>5 it exists.</p> <p>6 ROIL, Q.C.:</p> <p>7 Q. So your first recommendation would be another</p> <p>8 organization at a very high level which takes</p> <p>9 its responsibility delegated from Government</p> <p>10 to pass those regulations and promulgate them</p> <p>11 and enforce them?</p> <p>12 MR. PARSONS:</p> <p>13 A. Absolutely.</p> <p>14 ROIL, Q.C.:</p> <p>15 Q. Okay.</p> <p>16 MR. PARSONS:</p> <p>17 A. Because as I understand the Atlantic Accord,</p> <p>18 nothing can be changed unless it has mirror</p> <p>19 legislation.</p> <p>20 ROIL, Q.C.:</p> <p>21 Q. That's certainly the explanation that we have</p> <p>22 received from the C-NLOPB, yes.</p> <p>23 MR. PARSONS:</p> <p>24 A. That's my understanding.</p> <p>25 ROIL, Q.C.:</p>	<p>1 participants, to -- maybe I'm confusing the</p> <p>2 issue, but what I'm talking about, the</p> <p>3 independent structure would be comprised of</p> <p>4 the industry, the government representatives</p> <p>5 from the various departments, the worker's</p> <p>6 representatives, the vendors. Vendors are</p> <p>7 people who go offshore for equipment, for</p> <p>8 warranty, and all that kind of stuff.</p> <p>9 ROIL, Q.C.:</p> <p>10 Q. Uh-hm.</p> <p>11 MR. PARSONS:</p> <p>12 A. And there are others, of course, weather</p> <p>13 forecasters, and there's a lot of contracting</p> <p>14 out done on the rig itself, just the same as</p> <p>15 any other workplace.</p> <p>16 ROIL, Q.C.:</p> <p>17 Q. Yes.</p> <p>18 MR. PARSONS:</p> <p>19 A. So, you know, you bring all these together and</p> <p>20 develop the standards and the bars to meet the</p> <p>21 standards for the C-NLOPB to be satisfied</p> <p>22 that, yes, there is a safety plan in place</p> <p>23 here and it's accepted by this independent</p> <p>24 commission, so go ahead.</p> <p>25 ROIL, Q.C.:</p>
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<p>1 Q. Yes, that is understood.</p> <p>2 MR. PARSONS:</p> <p>3 A. So, therefore, this independent committee</p> <p>4 could come to something that's acceptable to</p> <p>5 the industry, to the workers, to their</p> <p>6 representatives, to the vendors, to say to</p> <p>7 both the Federal and Provincial Government,</p> <p>8 here it is, you legislate it.</p> <p>9 ROIL, Q.C.:</p> <p>10 Q. Yeah, give the authority to make the decisions</p> <p>11 and then the Governments to --</p> <p>12 MR. PARSONS:</p> <p>13 A. They make the regulation and they should</p> <p>14 enforce it.</p> <p>15 ROIL, Q.C.:</p> <p>16 Q. Okay. Now as compared to that, what was the</p> <p>17 role or the function that you saw in the so</p> <p>18 called multipartite independent body that you</p> <p>19 had in Part II?</p> <p>20 MR. PARSONS:</p> <p>21 A. Well, this would be the same thing.</p> <p>22 ROIL, Q.C.:</p> <p>23 Q. The would be the same thing.</p> <p>24 MR. PARSONS:</p> <p>25 A. This committee would have as it structure, the</p>	<p>1 Q. Okay. The third issue, I think, was a</p> <p>2 question that you seem to raise about when</p> <p>3 does a worker become a worker or an employee</p> <p>4 for the purposes of the legislation.</p> <p>5 MR. PARSONS:</p> <p>6 A. Well --</p> <p>7 ROIL, Q.C.:</p> <p>8 Q. I guess my question is, in relation to</p> <p>9 helicopter transportation, is there any</p> <p>10 question in your mind that an employee or a</p> <p>11 worker doesn't become or does become an</p> <p>12 employee once he or she gets to the heliport?</p> <p>13 MR. PARSONS:</p> <p>14 A. Well, maybe I'll go around it this way, that</p> <p>15 the Occupational Health and Safety legislation</p> <p>16 that now exists in Canada is tripartite in</p> <p>17 nature, and there is a provision for workplace</p> <p>18 health and safety committees, and, of course,</p> <p>19 these committees have a scope in which they</p> <p>20 can bring recommendations forward and there is</p> <p>21 a system in place in the Occupational Health</p> <p>22 and Safety Legislation how this gets to the</p> <p>23 department, the Government, or the enforcement</p> <p>24 agency.</p> <p>25 ROIL, Q.C.:</p>

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1 Q. Right.

2 MR. PARSONS:

3 A. And if helicopter transportation is part of

4 their workplace, then that committee then

5 would have the authority to have this properly

6 addressed at their Workplace Health and Safety

7 Committee processes.

8 ROIL, Q.C.:

9 Q. And the last issue, or the fourth issue you

10 had, the mid distance helicopter, I guess one

11 of the questions I would ask you there is how

12 do you balance the risk issues, and we're very

13 clearly focused on risk -- I guess, the reward

14 is an additional facility that is out there

15 for workers who are in transit to use as a

16 possible supply or landing or servicing base,

17 emergency, training, all those different

18 things, but then aren't you putting more

19 people out into the risky environment that you

20 said was so risky and you're adding to the

21 number of people who will then be working

22 offshore because I assume that this facility,

23 whatever it is, a ship or a rig, would have to

24 have workers as well, and that they would be

25 at some risk just being there? Do you think

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1 that risk, I guess, is worth -- is the risk

2 worth the investment?

3 MR. PARSONS:

4 A. Well, it's an alternate. If I get on a plane

5 and drive -- fly from here to Toronto, my

6 pilot has an alternate and alternates.

7 ROIL, Q.C.:

8 Q. Yes.

9 MR. PARSONS:

10 A. First of all, we have the stress of the

11 workforce, and I'm talking from the

12 installation manager down to the janitorial

13 staff. They all fly offshore. Executive

14 officers of the oil companies fly offshore. I

15 think that would reduce -- having an alternate

16 would have in the minds of people less stress

17 for the family, knowing that there is --

18 because all you got to do is look at the

19 number of flights that have been aborted, have

20 not made the rig, has had to come back. These

21 are all potential, I suppose -- maybe I would

22 call them "near misses", but the alternate is

23 there. Now supposing the 18 people on the

24 Cougar flight were all in the water. The

25 rescue helicopter that was first on the scene

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1 would have to transport those people to St.

2 John's International Airport. If there was an

3 alternate, you could have several helicopters,

4 you could have the best search and rescue

5 helicopter extracting the bodies, and another

6 helicopter taking the people, the injured, or

7 survivors onshore. That's another purpose for

8 it because I'm not sure that the search and

9 rescue helicopters are equipped for 18 or 20

10 personnel. I'm not sure of that, but it's one

11 more use of the facility. I don't think that

12 the crew have got to sit there year around

13 waiting for some pilot to decide that his

14 indicator lights are so that maybe he should

15 land. I think it can be a multi-purpose

16 facility. I've heard Mr. Cain is in this room

17 today, and he is the person to whom I reported

18 when I was the Executive Officer of the

19 Building Trades, and we've flown overseas many

20 times to look at these kind of facilities, and

21 one of the things that we talked about with

22 some people here in the Province was a

23 helideck simulator or a helicopter simulator

24 with a helideck. Well, this thing could also

25 give pilots experience on landing at different

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1 times or different conditions because this

2 thing is always going to be in some of a

3 motion. So it's not a single purpose

4 facility. I'm looking -- I'm thinking outside

5 the box here, and the fact that they don't

6 have it in the North Sea or they don't have it

7 in the Gulf of Mexico doesn't cut it with me.

8 ROIL, Q.C.:

9 Q. Thinking outside the box is a good experience

10 to go through, and we certainly commend you

11 for making us go there or encouraging us to go

12 there. The last issue that you mentioned,

13 although you didn't identify, but I think it

14 comes out clearly, is that you have a concern

15 and interest in the search and rescue

16 capacity. Although we do not have yet, I

17 think, formal evidence on the record, most of

18 us in the room are aware that the existing

19 arrangement is that a first response is

20 required for an offshore emergency from Cougar

21 Helicopters, who has been contracted by the

22 operating oil companies to have a rescue

23 capability in St. John's, and that that is, we

24 understand, administered out of the National

25 Search and Rescue System through Halifax and

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<p>1 St. John's SAR facilities. Are you satisfied 2 with that level of diligence or performance, 3 or would you advocate for something additional 4 to that or different from that? 5 MR. PARSONS: 6 A. I would concur -- I think a lot of people only 7 found that out since the March disaster. It 8 wasn't a widely known item in the contract of 9 offshore operators. If Cougar had the 10 appropriate proper equipment that is readily 11 available, I wouldn't have any argument with 12 Cougar supplying it versus the Federal 13 Government, but what I'm really saying is that 14 there should be adequate search and rescue 15 facilities here in St. John's. We don't need 16 anything that they have in Gander, we need 17 something additional, obviously. 18 ROIL, Q.C.: 19 Q. Fine, those are all the questions I have for 20 you, Mr. Parsons. I'm sure that others in the 21 room will have some as well, and I don't know 22 whether, Commissioner, you'd want to take a 23 break or we'll continue. We started a little 24 later this morning, so -- 25 COMMISSIONER:</p>	<p>1 enforce those regulations? 2 MR. PARSONS: 3 A. No. They would be persons -- I listened to 4 your honour on CBC Radio this morning, and I 5 couldn't agree with him more that there has to 6 be a cultural shift here, there has to be a 7 new way of thinking, and there has to be 8 cooperation between the parties, all parties 9 that are involved in the offshore operation to 10 put together the appropriate legislation with 11 regulations and develop the proper standards, 12 which would then be legislated as required by 13 the Provincial Government and enforced and 14 audited by the Provincial Government. 15 MS. CROSBIE: 16 Q. So the independent body is designed to 17 recommend to Government what the legislation 18 should say? 19 MR. PARSONS: 20 A. Yeah, I should say, with respect, Ms. Crosbie, 21 that it's -- there's a preponderance of 22 evidence from 1989 to 2009, the past and 23 current governments can't get this done. So 24 what I'm saying is that this committee be 25 structured in such a way that when it's</p>
<p>1 Q. We will take a break then and that will give 2 counsel who are present an opportunity to 3 think about whether they might want to direct 4 any questions toward Mr. Parsons. So we'll 5 take fifteen minutes. 6 (RECESS) 7 COMMISSIONER: 8 Q. Now I'll go through the list as we have it 9 here. First to be offered an opportunity, Mr. 10 Andrews or Ms. Crosbie. Yes, all right, thank 11 you. 12 MR. WILLIAM PARSONS - EXAMINATION BY MS. AMY CROSBIE: 13 MS. CROSBIE: 14 Q. Good morning, Mr. Parsons. I'm Amy Crosbie. I 15 represent the C-NLOPB, and I just have a 16 couple of questions just to clarify your 17 evidence. Mr. Parsons, you would agree that 18 government and only government can make 19 regulations in the offshore area? 20 MR. PARSONS: 21 A. Absolutely. 22 MS. CROSBIE: 23 Q. And so what you're suggesting with this 24 independent body, which would be comprised of 25 a variety of players, is that they would</p>	<p>1 finished, it would be able to go to the 2 Federal and Provincial Government and say this 3 has been developed and agreed to by those 4 parties involved in offshore oil and gas off 5 the coast of Newfoundland, and, therefore, 6 we're recommending to you that you provide the 7 proper legislation, because I understand that 8 the legislation must be mirror legislation. 9 MS. CROSBIE: 10 Q. Okay, so they would recommend to Government 11 what the legislation would be? 12 MR. PARSONS: 13 A. Absolutely. 14 MS. CROSBIE: 15 Q. Okay, and did I also hear you say that this 16 independent body would review, approval, and 17 audit the safety plans that are provided by 18 the operators? 19 MR. PARSONS: 20 A. No. 21 MS. CROSBIE: 22 Q. They would only deal with regulations? 23 MR. PARSONS: 24 A. That's right. 25 MS. CROSBIE:</p>

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<p>1 Q. Okay, thank you.</p> <p>2 COMMISSIONER:</p> <p>3 Q. Thank you, Ms. Crosbie. I don't think there's</p> <p>4 anybody here for Transport Canada this</p> <p>5 morning. All right, nor is anyone here for</p> <p>6 CAPP. I don't think so, no. All right, then</p> <p>7 we now come to the operators. Ms. Strickland,</p> <p>8 HMDC.</p> <p>9 MS. STRICKLAND:</p> <p>10 Q. We have no questions.</p> <p>11 COMMISSIONER:</p> <p>12 Q. Thank you. Suncor, Mr. Mahoney.</p> <p>13 MR. MAHONEY:</p> <p>14 Q. No questions.</p> <p>15 COMMISSIONER:</p> <p>16 Q. Thank you. Husky.</p> <p>17 MACDONALD, Q.C.:</p> <p>18 Q. No questions, Mr. Commissioner.</p> <p>19 COMMISSIONER:</p> <p>20 Q. Okay, thank you. Mr. Whalen, Cougar.</p> <p>21 WHALEN, Q.C.:</p> <p>22 Q. Mr. Commissioner, Mr. Parsons, good to see you</p> <p>23 again. Mr. Commissioner, while I have no</p> <p>24 questions, I would like to take this</p> <p>25 opportunity to thank Mr. Parsons. I know he's</p>	<p>1 EARLE, Q.C.:</p> <p>2 Q. Thank you, Mr. Commissioner. I'm not standing</p> <p>3 up here just to demonstrate that I will ask</p> <p>4 questions when I view the witness as friendly.</p> <p>5 Mr. Parsons, of course, and I go back a while</p> <p>6 in our respective areas. Just on the notion</p> <p>7 of a multi-party group to develop the</p> <p>8 regulations, and then them being enforced by</p> <p>9 Government, in your experience with things</p> <p>10 like labour standards regulations and</p> <p>11 occupational health and safety regulations,</p> <p>12 has this multi-party or stakeholders regime in</p> <p>13 developing the regulations been used before in</p> <p>14 the Province?</p> <p>15 MR. PARSONS:</p> <p>16 A. Oh, yes. There's an ongoing -- there's an</p> <p>17 ongoing committee, as I understand it, that</p> <p>18 has been developing renewed occupational</p> <p>19 health and safety regulations, and I'm advised</p> <p>20 that that has been and is in the hands of the</p> <p>21 Provincial Government at the moment, but the</p> <p>22 best example I can give you is in 1995 at the</p> <p>23 height of the Hibernia Platform development at</p> <p>24 Bull Arm, there were 375 lost time accidents.</p> <p>25 I was the Executive Director of the Oil</p>
<p>1 done this on his own initiative, and I know</p> <p>2 that he also made a presentation over 25 years</p> <p>3 ago, I believe for the Federation of Labour,</p> <p>4 to the loss of the Ocean Ranger Inquiry, and I</p> <p>5 think his interest is commendable, and I hope</p> <p>6 his advice is of assistance to you, sir.</p> <p>7 Thank you.</p> <p>8 COMMISSIONER:</p> <p>9 Q. Thank you, Mr. Whalen.</p> <p>10 MR. PARSONS:</p> <p>11 A. Thank you.</p> <p>12 COMMISSIONER:</p> <p>13 Q. Counsel for Sikorsky is not here. Counsel for</p> <p>14 Helly Hansen, no. For Memorial University,</p> <p>15 the Training Institute, Mr. Hurley.</p> <p>16 HURLEY, Q.C.:</p> <p>17 Q. Commissioner, no questions.</p> <p>18 COMMISSIONER:</p> <p>19 Q. Thank you. Government of Newfoundland is Ms.</p> <p>20 Brown.</p> <p>21 MS. BROWN:</p> <p>22 Q. No questions, Commissioner.</p> <p>23 COMMISSIONER:</p> <p>24 Q. Thank you. Mr. Earle for CEP, the union.</p> <p>25 MR. WILLIAM PARSONS - EXAMINATION BY RANDELL EARLE, Q.C.:</p>	<p>1 Page 56</p> <p>1 Development Council at that time, and started</p> <p>2 to get in contact with the construction</p> <p>3 industry because this was outrageous, this was</p> <p>4 more than one worker going to work each day</p> <p>5 and not going to work the next day because of</p> <p>6 an injury, they were at least having one lost</p> <p>7 time injury a day, more than one lost and the</p> <p>8 Newfoundland and Labrador Construction Safety</p> <p>9 Association was the result of that, and it has</p> <p>10 had a tremendous amount of success, it has a</p> <p>11 great facility at Donovans, and it also has a</p> <p>12 great liaison with the Workers Compensation</p> <p>13 Commission, which is called the Workplace</p> <p>14 Health and Safety Commission, I think, and it</p> <p>15 now, in fact, governs more closely the amount</p> <p>16 of money which is assessed of the various</p> <p>17 injuries and encourage the industry to be</p> <p>18 proactive in occupational health and safety</p> <p>19 and its meant a great deal to the Safety</p> <p>20 Association.</p> <p>21 EARLE, Q.C.:</p> <p>22 Q. Another area I'd like to hear your comments</p> <p>23 on, and I think the Commissioner would find</p> <p>24 them helpful, and it actually grows out of</p> <p>25 what you were just saying, and we've had over</p>

<p style="text-align: right;">Page 57</p> <p>1 the past approximately 10 years a bit of a 2 shift here in how we've dealt with safety, and 3 I don't think it's any secret that a lot of it 4 had its roots in the fact that Workers 5 Compensation assessments to employers were 6 escalating at a very high rate, and we've gone 7 to the system of joint occupational health and 8 safety committees where there is an employer 9 representation and an employee representation 10 at the table dealing with workplace safety and 11 this -- their efforts feed through to the 12 Occupational Health and Safety Division of the 13 Department of Labour or whatever it's called 14 at the current time. In my experience, one of 15 the issues that confronts this new approach is 16 that particularly in a unionized environment, 17 you have people who are dealing with each 18 other in the collective bargaining system, 19 which is what the academics like to call 20 "regulated industrial conflict", and I think 21 you and I would agree that sometimes it 22 becomes warfare, so you have mindsets that 23 come out of that situation where, quite 24 frankly, from where I sit sometimes, I see 25 employers who view the union as the enemy, and</p>	<p style="text-align: right;">Page 59</p> <p>1 Construction Association, and the trade 2 unions, have been doing a great deal towards 3 educating, or making them aware, I should say, 4 of their rights under the collective agreement 5 and under the legislation to have these kinds 6 of meetings, and they become very, very 7 cooperative. There's several examples. I 8 won't say any for fear of leaving some out, 9 but there's a real role, if you will, in the 10 development of occupational health and safety 11 standards at the workplace today, and the 12 other thing is that the labour movement has 13 been trying to say to the unions that you 14 don't put a shop steward on a safety committee 15 because a shop steward is basically an 16 adversary person who takes the grievance of 17 the union or the employee itself and processes 18 it, gets the facts and does the arguments and 19 up to and including arbitration. So if you 20 try to present your case to the union and, 21 say, really, you know, your shop steward 22 should not be your safety representative, find 23 somebody else out in the workplace that's more 24 compatible to this cooperative, and then -- 25 the two doesn't mix, and it makes it more</p>
<p style="text-align: right;">Page 58</p> <p>1 perhaps you could even allow that from time to 2 time employees view the employer as the enemy. 3 You take these two groups and you say to them, 4 okay, now you've got to hold hands and work 5 together on safety issues because you got a 6 big interest in that. What I'd like your 7 views on that rather long preamble is how 8 successful can we be in overcoming those 9 mentalities? 10 MR. PARSONS: 11 A. I don't think it has a limit. There has been 12 in this past 10/15 years a great effort by the 13 Provincial Division of the Occupational Health 14 and Safety Committee to have the provision for 15 health and safety committees. They are equal 16 representative of management and labour at the 17 workplace. They have a secretary that does 18 their minutes and reports on progress to the 19 next succeeding meeting, and they also co- 20 chair. They change chairs. One year it may 21 be the employer, one year it may be the 22 worker's representative, or it could change 23 from month to month or periodically, however 24 and whenever they meet. It has had tremendous 25 success. The employer's organization, the</p>	<p style="text-align: right;">Page 60</p> <p>1 friendly. 2 EARLE, Q.C.: 3 Q. I take it the other side of this coin is that 4 the labour movement would hope that employers 5 would not put their industrial relations or HR 6 people on the committee as well? 7 MR. PARSONS: 8 A. Same thing, but to be fair, it's always been 9 my view that safety has to be from the top 10 down. If the CEO of a corporation does not 11 buy into the health and safety issues in the 12 workplace, then nine chances out of ten it's 13 not going to work. 14 EARLE, Q.C.: 15 Q. Just to clarify on the idea of the mid 16 distance heliport, and you indicated that it 17 doesn't exist in the North Sea. 18 MR. PARSONS: 19 A. Not for that purpose. 20 EARLE, Q.C.: 21 Q. Not for that purpose, and you visited the 22 North Sea, I know, on a couple of occasions at 23 least. Would it be fair to say, though, that 24 the groups of installations offshore in the 25 North Sea are sufficiently dense in terms of</p>

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1 physical proximity to each other, that the
 2 alternate destination is there because there
 3 are so many other locations or installations
 4 that if a helicopter is going to one, it has a
 5 very good chance of being able to divert to a
 6 closer one?
 7 MR. PARSONS:
 8 A. Oh, yes. If you fly from Aberdeen to
 9 Stavanger, from Aberdeen, Scotland, to
 10 Stavanger, Norway, you're in constant sight on
 11 a clear day of these platforms and there's
 12 hundreds of them, and they're not too far
 13 apart, so the requirement for an alternate
 14 wouldn't exist.
 15 EARLE, Q.C.:
 16 Q. Thank you very much, Mr. Parsons, and thank
 17 you for coming today. I'm sure the
 18 Commissioner will find your representations to
 19 be of great use.
 20 MR. PARSONS:
 21 A. Thank you.
 22 COMMISSIONER:
 23 Q. Thank you, Mr. Earle. Mr. Martin for the
 24 families?
 25 MR. MARTIN:

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1 Q. I have no questions for Mr. Parsons.
 2 COMMISSIONER:
 3 Q. Thank you. Ms. O'Brien?
 4 MS. O'BRIEN:
 5 Q. No questions, Commissioner.
 6 COMMISSIONER:
 7 Q. Okay then. Well, Mr. Parsons, thank you for
 8 taking the trouble and the interest, as the
 9 expression goes, "on your own nickel" for
 10 coming here today. It's valuable because we
 11 know, most of us here, of your long history in
 12 the labour movement and your contribution, and
 13 now that you're retired, I'm sure that
 14 everything you say is said with a view to
 15 enhancing safety, and everything you have said
 16 will be taken into consideration. It will be
 17 premature for me to comment now and say, well,
 18 this is a good idea or that's a good idea.
 19 You know, these things have to be mulled over
 20 and thought about, and everything that I do
 21 and every conclusion that I come to at the end
 22 of the day will have input from everybody in
 23 this room and others outside this room, but I
 24 want to say to you, I guess, we've known each
 25 other for what -- 40 years or more.

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1 MR. PARSONS:
 2 A. Yes.
 3 COMMISSIONER:
 4 Q. Thank you very, very much for coming today,
 5 and I think all of us, no matter whom we might
 6 represent, appreciate the fact that a person
 7 with your seniority would take the trouble to
 8 come and give us the benefit of your thoughts.
 9 So thank you very much.
 10 MR. PARSONS:
 11 A. Thank you, your honour. I just want to make
 12 one thing perfectly clear, is that in my view,
 13 there's no other organization or legitimate
 14 structure other than the government that
 15 should enforce offshore or any health and
 16 safety workplace. I think it's the sole
 17 responsibility of our elected government.
 18 COMMISSIONER:
 19 Q. Okay, sir. Thank you very much. All right
 20 then, we'll adjourn until 2 o'clock this
 21 afternoon when Mr. Harris will be here.
 22 (RECESS)
 23 COMMISSIONER:
 24 Q. I'd like to welcome Mr. Jack Harris, MP, this
 25 afternoon who is seated there. Do you plan any

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1 sort of introduction?
 2 ROIL, Q.C.:
 3 Q. Only the very briefest of introductions and to
 4 put the record straight, and to give some
 5 small apologies to those present for our
 6 inability to produce all of the documents at
 7 this point in time. First of all, I understand
 8 that Mr. Harris has a presentation which we
 9 have received. It will be loaded onto our
 10 systems and available to the public and to the
 11 media, but unfortunately we don't have the
 12 time to do that just now. In addition to
 13 that, we have four exhibits, Exhibit 110 to
 14 113, which Mr. Harris will refer to from time
 15 to time through his presentation, I'm sure,
 16 and Mr. Harris, if you know what the document
 17 is, we can bring it up on the screen if you
 18 wish to make reference to it. The
 19 Commissioner has a hard copy and I have a hard
 20 copy. Unfortunately, others in the room have
 21 not had the opportunity to do that as well. I
 22 just wanted to say, Mr. Commissioner, that Mr.
 23 Harris, as they say in politics, needs no
 24 introduction; however, I do know that he has
 25 been involved in politics since 1987, first as

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<p>1 a member of the House of Commons for St. 2 John's east. Some how or other when one gets 3 elected, one sometimes gets unelected, and 4 then he had a sojourn in provincial politics, 5 and was in the Newfoundland House of Assembly 6 from 1990 to 2000 and something or other, re- 7 elected a number of times, and was the 8 Provincial Leader of the NDP, and then in 9 2008, he was elected for the second time to 10 Parliament as again a member from St. John's 11 East. Any more detail than that, a good 12 search tool of Wikipedia doesn't have, but I'm 13 sure that Mr. Harris can fill us in if we need 14 it.</p> <p>15 COMMISSIONER: 16 Q. Okay, then no need for me to say anything more 17 except to welcome you here as showing your 18 interest in this process. You're familiar, of 19 course, with the Terms of Reference and 20 matters of that sort.</p> <p>21 JACK HARRIS, MP: 22 A. Yes, I am.</p> <p>23 COMMISSIONER: 24 Q. So Mr. Harris, by all means.</p> <p>25 JACK HARRIS, MP:</p>	<p>1 Inquiry are dedicated to their memory, as I'm 2 sure is the case for many, and perhaps all 3 those participating in this important work, 4 whether as parties, as counsel, witnesses, or 5 staff. A tragedy like this encompasses the 6 whole community and that is why we are all 7 here. Also I would like to express my 8 appreciation to Mr. Robert Decker for his 9 testimony and his contribution to this 10 Inquiry, and also provide condolences to him 11 for the loss of his friends and co-workers. 12 His participation as the sole survivor was a 13 testament to the indomitability of the human 14 spirit and will, I'm sure, be most helpful to 15 the work of the Inquiry. I wish to Mr. Decker 16 best wishes for a full recovery from his 17 injuries.</p> <p>18 My own presentation is based on my 19 experience as one who has spent many years as 20 a lawyer with an extensive practise in 21 administrative and labour law, including 22 representing offshore workers and their union 23 for about ten years, and as an active 24 practising politician now serving as a Member 25 of Parliament for St. John's East. As you are</p>
<p>Page 66</p> <p>1 A. Thank you very much. I should say in my 2 political career at the moment, today I was 3 supposed to be in Ottawa examining the former 4 General Rick Hillier before the Afghanistan 5 Committee, but I'm here instead and this is a 6 more important place for me to be today to 7 make this presentation, and I'm honoured to 8 have an opportunity to do so.</p> <p>9 I understand that we are still in the 10 early part of Phase 1 of your hearings, which 11 I understand is addressed, at least in part, 12 to establishing the current facts and 13 circumstances and preparing for the 14 investigative part of Phase 1 of your 15 undertaking, and considering what aspects of 16 helicopter safety should be included for 17 further detailed study.</p> <p>18 Firstly, I wish to join with others in 19 expressing my own deep sympathy for the loss 20 of the passengers and crew of Cougar Flight 21 491 and offer my condolences to all their 22 spouses, children, family and friends, who 23 continue to endure the pain of their loss. 24 Mr. Commissioner, I wish to add that my own 25 efforts with respect to participation in this</p>	<p>Page 68</p> <p>1 aware, my riding includes the operations base 2 of Cougar Helicopters. I also have a special 3 responsibility as a Member of the Standing 4 Committee on National Defence, which is the 5 lead department of the Government of Canada 6 responsible for search and rescue.</p> <p>7 I would be pleased to make my 8 presentation and answer any questions from the 9 Commission or any counsel present, and I note 10 the presence of many of my colleagues from the 11 bar here today, and I'd be happy to engage in 12 any discussion afterwards if your honour would 13 permit.</p> <p>14 I want to focus on four issues. Firstly, 15 the place of search and rescue in the offshore 16 context. Secondly, the vital importance of 17 response times. Thirdly, the Terms of 18 Reference of the Commission. Fourthly, what 19 I'm calling what the commission can do, at 20 least in my view.</p> <p>21 In my submission, this Commission cannot 22 effectively carry out its mandate without, at 23 the very least, examining what the Department 24 of National Defence does in the provision of 25 search and rescue services in Canada. In the</p>

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1 case of Newfoundland and Labrador, from
 2 Greenwood, Nova Scotia, to Gander,
 3 Newfoundland and Labrador, and to the Joint
 4 Rescue Coordinating Centre in Halifax. I will
 5 detail the reasons for this shortly, but first
 6 I wish to state my perspective on search and
 7 rescue in the offshore. Firstly, I don't
 8 think we are any more dealing with both search
 9 and rescue; primarily, it is rescue.
 10 Helicopters on offshore platforms or drilling
 11 rigs are in constant radio communication with
 12 land-based owners and operators and there is
 13 little doubt about their location. If there
 14 is an emergency, there is little doubt about
 15 where to look. It's a question of how fast
 16 you can get there to effect a rescue when
 17 necessary or an evacuation of an offshore
 18 facility.
 19 It's obvious that we are no longer
 20 dealing only with vessels transiting through
 21 the offshore, doing seismic work, or temporary
 22 exploratory drilling, perhaps on location for
 23 a month or more at a time. This was the
 24 circumstance when the Ocean Ranger Inquiry
 25 took place back in the early 80s. The

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1 offshore now consists of permanent facilities,
 2 Hibernia, and fixed production and storage
 3 facilities that are to be in place for a
 4 decade or more, and I'm referring to Terra
 5 Nova and the Sea Rose as floating platforms.
 6 Working with these facilities on an ongoing
 7 basis are drill ships engaged in drilling
 8 production wells, such as the Henry Goodrich,
 9 and the Glomar Grand Banks, and more
 10 development is to come starting with the
 11 Hebron and Ben Nevis Project, but the
 12 implications for classic search and rescue
 13 capabilities are not yet, I believe, fully
 14 appreciated. What we now have as a workforce
 15 of up to 600 workers on a regular basis
 16 working and living offshore, and during some
 17 periods, such as what's called a "turn
 18 around", or a maintenance shutdown, hundreds
 19 more. It is effectively an eastward extension
 20 beyond land of our workplaces with significant
 21 numbers of people working and living several
 22 hundred kilometres from land in a dangerous
 23 and often hostile environment. I don't think
 24 this is well understood by those setting
 25 standards for search and rescue in Canada. In

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1 fact, it is just that, the standards for
 2 search and rescue, that ought to be a major
 3 focus in my view of this Commission's work.
 4 What standard of search and rescue capability
 5 ought to be in place to protect our offshore
 6 workforce, what standard are they entitled to.
 7 The biggest issue in responding to an
 8 emergency, whether it be a fire, an accident,
 9 or an incident at sea, is the response time,
 10 how long it takes to get there after the
 11 emergency is reported. Coupled with that is,
 12 of course, the question of what you respond
 13 with; what equipment and crew is available to
 14 do the job. Response time was important even
 15 in the March 12th crash of Cougar Flight 491.
 16 The lone survivor, Mr. Decker, just made it.
 17 When he arrived at hospital, his body
 18 temperature was so low as to be dangerous. He
 19 was rescued by the Cougar Helicopter assigned
 20 to Search and Rescue, while the DND Cormorants
 21 and their crews normally stationed at Gander
 22 were in Sydney, Nova Scotia, on training. We
 23 have been told by Laurie Hawn, Parliamentary
 24 Secretary to the Minister of Defence, during
 25 debate in the House of Commons on a motion by

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1 Judy Foote, Member of Parliament for Random
 2 Burin St. George's, that Cougar is the first
 3 responder in such an incident, and also that
 4 since the crash was "non-survivable", it
 5 wouldn't have made any difference even if an
 6 aircraft was overhead at the time. He also
 7 said that Search and Rescue aircraft were
 8 available 24/7 with a 30 minute response time
 9 on weekdays, and a two hour response time on
 10 weekends. Aside from the obvious, clearly the
 11 crash was not non-survivable, and, of course,
 12 you've already heard from Mr. Decker. What
 13 would have been the circumstances if all 18
 14 had survived the crash. Perhaps that scenario
 15 would be just as likely if there was a
 16 controlled ditching as opposed to a crash, and
 17 I think perhaps more likely, given the fact
 18 that the crash that took place has been
 19 described as one in a million type of
 20 incident.
 21 The first responder would not have been
 22 able to handle the situation, given that fact
 23 that Cormorants are fully equipped with all
 24 the equipment and crew to handle larger
 25 emergency. Secondly, the Cougar craft was not

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<p>1 configured for search and rescue, and, 2 therefore, had to be reconfigured before the 3 helicopter was able to take off.</p> <p>4 This raises the obvious question as to 5 whether under current circumstances with the 6 first response mandated to Cougar Helicopters, 7 offshore workers are being provided with 8 second class coverage as compared to other 9 users of search and rescue. A less than fully 10 equipped helicopter, not configured for search 11 and rescue, with a crew that however valiant 12 and well trained for search and rescue, does 13 not have the day to day experience of 14 effecting search and rescue missions and does 15 not have the greater capability and equipment 16 available to the Cormorant service. I just 17 add that this is no reflection on the 18 professional crew and trained search and 19 rescue technicians working for Cougar who 20 effected the rescue of Mr. Decker. It is 21 simply the case that SAR techs working for DND 22 are performing the duties in real life 23 emergencies virtually every day of the year.</p> <p>24 The second question is what is the 25 response time needed to provide the level of</p>	<p>1 and Rescue, the Government of Canada, in June 2 of 1999, and that exhibit is also available.</p> <p>3 In it what I am calling response times is 4 referred to as the "readiness standby 5 posture", which is important in understanding 6 the conclusions of this study. Among its key 7 findings contained in summary near the 8 beginning of the report is Item 14 on page 7, 9 which states, "The federal readiness standby 10 posture is determined primarily by resource 11 availability, not by user demand". Paragraphs 12 40 to 43 of the report set out the findings, 13 conclusions, and recommendations on the SAR 14 response issues of standby posture. The 15 information is said to be derived from 16 extensive interviews, documents, literature, 17 and file searches, case studies, and an expert 18 opinion panel. I've set out in my 19 presentation the relevant paragraphs, but here 20 I'll only touch on the highlights. Under the 21 headline, Readiness-standby Posture, "The 22 standby posture of SAR Departments", and this 23 is referring to more than one department 24 because the RCMP is involved, the Coast Guard 25 is involved, and other aspects of search and</p>
<p>Page 74</p> <p>1 search and rescue capability needed in the 2 offshore. Mr. Hawn, in Parliament, suggested 3 that the DND response time was 30 minutes on 4 weekdays and two hours on weekends. Actually, 5 the standards in use are 30 minutes between 8 6 a.m. and 4 p.m. on regular working days, 7 Monday to Friday, and two hours for all other 8 times, including holidays and weekends. This 9 was confirmed in the background document 10 forwarded to the Commission by the Department 11 of National Defence. The National Search and 12 Rescue Manual, which is one of the exhibits, 13 refers to these hours outside of the regular 14 work day as "quiet times". I don't think 15 they're referring to the sea or the weather, 16 or the conditions, but obviously for the crew, 17 it must be quiet times.</p> <p>18 It has to be asked whether this standard 19 is adequate, whether the service is ultimately 20 provided by private industry or Government. A 21 review of search and rescue response services 22 in Canada prepared and issued by the Director 23 of Program Review of the National Search and 24 Rescue Secretariat was completed and approved 25 by the Inter-Departmental Committee on Search</p>	<p>Page 76</p> <p>1 rescue. "The standby posture of SAR 2 Departments were reviewed and it was found 3 that there are significant variations among 4 departments. DND has prescribed a 30 minute 5 readiness capability during "working hours", 6 and a two hour readiness capability during the 7 "quiet hours". DFO, CCG, which is Department 8 of Fisheries and Oceans, the Canadian Coast 9 Guard, maintains a 30 minute response standard 10 and a 24/7, 365, for primary SAR vessels. 11 Parks Canada readiness levels are site 12 specific. RCMP, SAR posture is no different 13 from their police posture, 24/7, 365. Given 14 the vastness of and differences in the 15 Canadian geography, climate, and environment, 16 and the various type of SAR incidents that 17 occur, a common standby posture may not be 18 appropriate. The team found; (a) that 19 resource available is the primary driver that 20 determines the standby postures for all NSP 21 departments", and this is National Search and 22 Rescue Program. (B) DND usually meets the 23 standby-readiness target; however, working 24 hour do not necessarily coincide with the days 25 or times of peak SAR activity". I'll skip</p>

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1 over the recommendations -- the findings on
 2 Parks Canada and others.

3 The conclusion on Paragraph 42, "A lack
 4 of strategic management within the SAR Program
 5 has resulted in each department developing
 6 standby postures in isolation, without
 7 consultation with other SAR Departments. As a
 8 result, there's no common rationale driving
 9 standby postures", and one of the
 10 recommendations found in 43 of this review
 11 team recommended that, "The standby postures
 12 of primary SAR resources should be determined
 13 principally through analysis of demand for
 14 services".

15 It's my submission that this Commission
 16 should heed the spirit of the recommendations
 17 set forth in Paragraph 43(a) above and
 18 determine a standard for readiness and
 19 response time for service in the Newfoundland
 20 and Labrador offshore through an analysis
 21 based on the need and demand for service, and
 22 based on a thorough assessment of the risks,
 23 including the presence of a large number of
 24 people in a high risk environment.

25 However, there is a real question as to

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1 whether this Commission can effectively do
 2 that, given the potential constraints of the
 3 Terms of Reference. The Commission is
 4 specifically mandated in Paragraph 5 of the
 5 Terms of Reference to inquire into, report on,
 6 and make recommendations in respect of search
 7 and rescue obligations of helicopter operators
 8 by way of contractual undertakings or
 9 legislative or regulatory requirements.
 10 Paragraph 6, however, places a limitation on
 11 the Commissioner's mandate in that it does not
 12 include an examination by the provision of the
 13 Government of Canada [Department of National
 14 Defence] of search and rescue facilities for
 15 all marine incidents and the location of such
 16 facilities within the Province of Newfoundland
 17 and Labrador. As stated earlier, I believe
 18 this Commission cannot effectively carry out
 19 its mandate without at the very least
 20 examining what the Department of National
 21 Defence does in the provision of Search and
 22 Rescue services to Newfoundland and Labrador.
 23 The provision of search and rescue services by
 24 in the current case, Cougar Helicopters, on
 25 contract to the operators of the oil

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1 production facilities, is but one piece of a
 2 larger puzzle, which includes services
 3 provided by the Department of National
 4 Defence, the Canadian Coast Guard, and others
 5 who are involved in the whole search and
 6 rescue establishment. How can one possibly
 7 make effective recommendations without
 8 examining the status quo, the lay of the land.

9 You haven't even had an effective
 10 presentation from DND, only a backgrounder,
 11 without any witness to answer questions. What
 12 exactly is the relationship between Cougar and
 13 the Joint Rescue Coordinating Centre in
 14 Halifax operated by the Department of National
 15 Defence. It is obviously important to know,
 16 yet the Terms of Reference arguably prevent
 17 you from even asking. What is the current
 18 relationship between Cougar and DND regarding
 19 search and rescue training and assessment.
 20 The Ocean Ranger Royal Commission discussed
 21 this in the context of this recommendation,
 22 #56, which reads as follows, "That there be
 23 required a full time search and rescue
 24 dedicated helicopter, provided either by
 25 government or industry, fully equipped to

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1 search and rescue standards stationed at the
 2 airport nearest to ongoing drilling
 3 operations, and that it be readily available,
 4 the trained crew able to perform all aspects
 5 of the rescue". Now without debating as to
 6 whether that recommendation has, in fact, been
 7 fulfilled, arguably it has not. The
 8 Government of Canada maintains that it is, by
 9 the way, in the House of Commons, but since
 10 March 12th, 2009 crash there's been a lot of
 11 talk about this recommendation; however,
 12 there's a nuance to this recommendation, I
 13 think, needs to be further explored.

14 In the preamble to this recommendation,
 15 the Royal Commission Report refers to the
 16 December, 1983, Guidelines to Operators East
 17 Coast of COGLA. Remember that, Canada Oil and
 18 Gas Lands Administration, the predecessor of
 19 the Canada Newfoundland and Labrador Offshore
 20 Petroleum Board. Included in these guidelines
 21 is the following, "Operators on the Grand
 22 Banks shall on a joint and continuing basis
 23 maintain a helicopter dedicated to search and
 24 rescue with personnel trained and qualified in
 25 the use of such equipment". According to the

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1 Royal Commission Report, the communique
 2 accompanying the guideline elaborated that
 3 this would be a full time dedicated search and
 4 rescue helicopter, and that the Department of
 5 National Defence, DND, would assess the search
 6 and rescue programs of the operators on a
 7 continuing basis, and that DND would provide
 8 search and rescue training for industry
 9 personnel. In the April 1985 summary of
 10 action taken by the Government of Canada in
 11 relation to the recommendations of the Royal
 12 Commission on the Ocean Ranger Marine
 13 Disaster, the implementation status to
 14 Recommendation 56 from COGLA/DND states that,
 15 "Initial training was provided by DND/SAR
 16 specialists, and further training is available
 17 on a continuing basis". While Recommendation
 18 56 calls for the full time SAR dedicated
 19 helicopter to be, "provided by either
 20 government or industry", there's a clear
 21 acknowledgement of a responsibility of DND to
 22 ensure at least continuing oversight of the
 23 SAR capabilities servicing the offshore. The
 24 1985 Action Report from Government establishes
 25 that there was an acknowledgement of this

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1 responsibility on the part of DND.
 2 This is but one example of the
 3 interrelationship between what should be
 4 provided in St. John's by industry or by
 5 Government, but it's obviously an
 6 interrelation that I believe this Commission
 7 needs to be able to inquire into. This
 8 information shows that at least it was
 9 intended that there be a close relationship
 10 between the services to be offered by industry
 11 and the activities of the Department of
 12 National Defence. The Commission should
 13 clearly be able to investigate this
 14 relationship. I believe it is preposterous
 15 that the Terms of Reference are drawn narrowly
 16 so as to arguably prevent this. This is a
 17 preposterous situation, and I urge the Canada
 18 Newfoundland and Labrador Offshore Petroleum
 19 Board to amend its Terms of Reference to allow
 20 this Commission to do its job. The people of
 21 this province, and especially those who work
 22 in the offshore, deserve to have confidence in
 23 the provision of search and rescue facilities
 24 available to them in times of emergency.
 25 Now there may be an interpretation that

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1 the Terms of Reference should only limit this
 2 Commission from examining the maritime aspects
 3 of the DND SAR operations, and it's perfectly
 4 satisfactory to examine the aeronautical
 5 aspects that DND is specifically tasked to.
 6 That is, the provision of aeronautical
 7 services, the Cormorants, and fixed wing
 8 aircraft. It is not certain what the drafters
 9 of the Terms of Reference intended. I say
 10 this because if one looks at the SAR
 11 Operations Manual that we have as an exhibit,
 12 there's a clear definition of roles as to who
 13 does the maritime role, and that's the Coast
 14 Guard; who does the aeronautics side, and
 15 that's DND with the Cormorants operated at
 16 Gander, the fixed wing aircraft, and then the
 17 DND also has a separate responsibility for
 18 coordinating the operations through the Joint
 19 Rescue Coordinating Centre in Halifax.
 20 So if one wanted to be cute, I suppose,
 21 you could say, well, we're going to look at
 22 it, but we're not looking at the Coast Guard,
 23 what they do, we're really interested in the
 24 availability of other helicopters and looking
 25 at the aeronautical aspect of search and

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1 rescue through helicopters either provided by
 2 industry or provided by DND. That's not
 3 something I would necessarily urge upon you,
 4 Mr. Commissioner, but if that's the only way
 5 that you're going to be allowed to look at
 6 this, you might have to consider that.
 7 As I say, it's not certain what the
 8 drafters of the Terms of Reference intended,
 9 however, it is clear that they don't want you,
 10 Mr. Commissioner, making recommendations on
 11 the location of DND facilities in Newfoundland
 12 and Labrador, that's pretty clear, but whether
 13 or not you're going to be able to do your job
 14 and to ensure that you can understand where
 15 this fits in, it seems to me that there needs
 16 to be -- there does need to be an amendment to
 17 this and I urge the Canada Newfoundland
 18 Offshore Petroleum Board to clear the air on
 19 this, to clarify that, and make sure that you
 20 can do your job and offer better evidence than
 21 we've had so far, which is essentially a
 22 backgrounder, most of which I'm sure could be
 23 garnered by a diligent search of the internet.
 24 I would urge this Commission to establish
 25 standards, in terms of what you can do, and I

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<p>1 guess this is the last piece that I'll add 2 here, I would urge this Commission to 3 establish standards and requirements for 4 search and rescue in the Newfoundland and 5 Labrador offshore, and that would include 6 response times, the kind of equipment that's 7 required to provide adequate search and rescue 8 so as to ensure that those that work in our 9 oil and gas industry have first class 10 protection, which they deserve. I'm sure 11 you're going to be doing an investigation as 12 to what's available worldwide in other 13 jurisdictions, and I'm sure that Newfoundland 14 and Labrador and our offshore would expect to 15 be in the front rank of search and rescue 16 capability in the world, and I'm looking 17 forward to hearing the results of your 18 investigation.</p> <p>19 Now once you do that, this obviously may 20 result in a political debate as to who should 21 provide the service and who should pay for it, 22 and how it's to be provided. However, this 23 debate may be for a later date and another 24 forum. That's something, I guess, after your 25 Commission Reports, but I do urge you to</p>	<p>1 Newfoundland and Labrador, especially the 2 offshore workers, deserve to have a full 3 inquiry at this point so that they can have 4 some confidence that as we develop this 5 offshore industry for the benefit obviously of 6 the workers and of Newfoundland and Labrador, 7 and the benefit of Canada, and all of us, I 8 think it's important that they have the 9 highest standard of protection that's 10 available.</p> <p>11 So, Mr. Commissioner, thank you very much 12 for this opportunity, and I look forward with 13 interest to the continuation of the 14 Commission's work, hopefully with this 15 expanded and clarified mandate. Thank you for 16 the opportunity, and if anyone wishes to ask 17 any questions or yourself, I'll be happy to 18 respond.</p> <p>19 COMMISSIONER:</p> <p>20 Q. I've been thinking while you've been speaking, 21 much of what you have said is in line with my 22 own thinking, but, of course, there are 23 restrictions and limitations in the Terms of 24 Reference, but ladies and gentlemen, while Mr. 25 Harris has been talking, I've been thinking</p>
<p>Page 86</p> <p>1 attempt to set an acceptable level of search 2 and rescue capability that would be applicable 3 and would be applicable to our offshore with 4 its essentially, as I said, an extension 5 eastward of our workplace boundaries. This is 6 not somebody passing by in a ship or somewhere 7 we need to find them. We're not talking about 8 hunters lost in the woods for days and days 9 before someone even knows they're lost. We're 10 talking about individuals working every day, 11 24 hours a day, living offshore, this is their 12 workplace, this is where they live for almost 13 half the year in the case of the people who 14 work on the offshore platforms, and it's 15 something -- there's a level of protection 16 that I believe is required by that. I don't 17 believe it's well understood by the Government 18 of Canada, certainly I don't see much evidence 19 of that, and I think this Commission is in a 20 position to flesh that out, to determine what 21 is reasonable and acceptable, and I look 22 forward to you doing that, but I do think that 23 you do need a clearer mandate to be able to do 24 that, and I would not wish to see your efforts 25 constrained, and I think the people of</p>	<p>Page 88</p> <p>1 that perhaps before you ask questions of him 2 or of me, for that matter, that I should 3 outline to you what has happened in the past 4 month, this month of November, so that you'll 5 be aware of what I have been doing and an 6 answer for which I'm waiting. If that's 7 satisfactory, I'll do that now, and you'll be 8 better equipped probably to ask questions. 9 The sort of things that Mr. Harris has been 10 talking about have troubled me as I got more 11 and more into this, although we're still in 12 relatively early stages, and I began to feel 13 that it was going to be difficult to examine 14 the whole question of search and rescue 15 without knowing exactly what the Department of 16 National Defence SAR does, and also what is 17 the state of the art requirement for a first 18 response right here in St. John's Torbay 19 Airport, St. John's International Airport, 20 which is the closest land to the offshore 21 installations. It was with this in mind that 22 I asked the Department of National Defence, 23 and I dealt only at the military level, if 24 they would provide me with a statement of what 25 they did, and you'll remember I distributed</p>

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1 that statement and the follow-up e-mail to you
 2 some weeks ago. I began -- as time passed, I
 3 began to get feedback from Inquiry Counsel
 4 that a lot of you sitting out there were
 5 concerned about this issue and wanted the
 6 Commission to be able to address the matter
 7 more fully than the Terms of Reference might
 8 suggest, because the Terms of Reference, of
 9 course, had the limitation in it about
 10 examining the provision of services by the
 11 Department of National Defence. This came to
 12 an head in my mind when I received a letter
 13 from one of the Counsel for one of the parties
 14 pointing out to me that it was necessary in
 15 their opinion, speaking for not only that
 16 counsel, but other counsel as well, that this
 17 matter should be pursued on the basis of
 18 trying to get more information, not
 19 necessarily an amendment to the Terms of
 20 Reference, but a clearer interpretation of the
 21 Terms of Reference which would allow me to
 22 inquire further into what DND is capable of,
 23 and especially what I wanted to find out is
 24 what is really needed out here in St. John's
 25 Airport to provide absolutely up to date state

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1 of the art first response service. Anyway,
 2 the letter I received was received on the 3rd
 3 of November, and between the 3rd of November
 4 and the 6th of November, it must have been the
 5 4th or the 5th, I met with Mr. John Andrews,
 6 who is here today, the Legal and Land Manager
 7 of the C-NLOPB at my request, because the
 8 Terms of Reference allow me to get in touch
 9 with the Board, not on issues of substance,
 10 but on issues of interpretation of the Terms
 11 of Reference. So Mr. Andrews and I met here
 12 and we discussed it, and we were both of the
 13 same mind that the Terms of Reference could be
 14 fairly interpreted in such a way as would
 15 allow me to ask a DND witness to be present to
 16 tell the Commission, to tell me and everybody
 17 else who is part of the Commission, and the
 18 public, exactly what DND does and be
 19 questioned on that matter, and also not only
 20 the capabilities of DND vis-a-vis search and
 21 rescue for an incident or an accident
 22 offshore, but also what would be required in
 23 terms of up to date, state of the art, first
 24 response capability right here in St. John's,
 25 as the nearest point of land. So Mr. Andrews

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1 and I were in agreement that the Terms of
 2 Reference could allow that kind of inquiry
 3 from DND, so I got my letter on the 3rd, I met
 4 with Mr. Andrews on the 4th, I think it was,
 5 and on the 5th I heard back from him saying
 6 that he had put this matter to the Board and
 7 the Board agreed, and I could then, with the
 8 blessing of the Board, proceed in the way that
 9 I wished to. On the 6th, I wrote, after being
 10 in touch with my contact, whose name you know,
 11 Lieutenant Colonel McDonald in Ottawa, and I
 12 may say this, that both at the Halifax level
 13 and with Colonel McDonald in Ottawa, I
 14 received the utmost cooperation and courtesy
 15 in any requests that I made. So I asked
 16 Colonel McDonald to whom the letter should be
 17 addressed and he got back to me very quickly
 18 within a matter of hours saying it should be
 19 addressed to the Chief of Defence Staff. So
 20 on the 6th, my letter went out to the Chief of
 21 Defence Staff asking -- explaining the whole
 22 thing, just as I've explained it to you, and
 23 asking the Chief of Defence Staff if a witness
 24 could be provided who could tell us exactly
 25 what DND does, and does in this division or

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1 area, and exactly I wanted to know what would
 2 be necessary at Torbay to provide a proper
 3 state of the art response, because I make no
 4 bones about it, I believe in all of the
 5 circumstances, the distance involved, and our
 6 weather and climate and the sea state, things
 7 that those sitting here probably are tired of
 8 hearing me talk about, but my feeling is that
 9 the response at Torbay should be absolutely
 10 top class, world class response, because in my
 11 belief, if you go down in our waters in a
 12 helicopter, if you're not killed or drowned
 13 immediately and you're alive to be rescued,
 14 that rescue must be very, very quick, as quick
 15 as is humanly possible with the technology and
 16 the machines at our disposal. So, anyway, on
 17 the 6th that letter went to the Chief of
 18 Defence Staff and I'm told about two or three
 19 days ago by Colonel McDonald who called me
 20 about another matter, he said that one or two
 21 things in that statement that he provided may
 22 need to be updated and he would send me
 23 something on that, and I then asked him, you
 24 know, is there any response coming, and he
 25 said the response will be coming shortly. Now

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1 what that response is, I do not know, but I
 2 expect to receive it at any time now. So
 3 there's where we are. You know now as much as
 4 I know, and by all means, I suppose, we should
 5 stick to the established order of questions.
 6 Here we are, so if you're prepared, Mr.
 7 Harris, to take some questions, and if anybody
 8 wants to question me, that's absolutely okay
 9 also. So we'll start with Inquiry Counsel,
 10 either you or Ms. Fagan, or both of you, Mr.
 11 Roil.

12 ROIL, Q.C.:

13 Q. Thank you, Commissioner. I think Mr. Harris'
 14 position is very clear, and, of course, we
 15 have regular contact with you and we know
 16 exactly what's happening with respect to your
 17 efforts to work with the Department of
 18 National Defence, so we have no questions at
 19 this time. Thank you, Mr. Harris.

20 COMMISSIONER:

21 Q. Okay, thank you. Counsel for C-NLOPB.

22 MS. CROSBIE:

23 Q. Thank you, Commissioner. We have no questions
 24 at this time.

25 COMMISSIONER:

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1 Q. Okay, thank you. Transport Canada is not
 2 here, I think. Counsel for CAPP is not here.
 3 We then come to the three operator companies.
 4 Beginning with HMDC, Ms. Strickland, have you
 5 any comment?

6 CECILY STRICKLAND, Q.C. IS HEARD

7 STRICKLAND, Q.C.:

8 Q. Good afternoon, Mr. Harris. My name is Cecily
 9 Strickland and I'm counsel for Hibernia
 10 Management and Development Company or HMDC, as
 11 it's more familiarly known. I guess that, in
 12 reality, I more have comments than questions
 13 and I think that what HMDC's position is is
 14 really an endorsement of what Mr. Harris has
 15 said here today.

16 In his opening remarks on November (sic)
 17 19th, Mr. Roil described what the Offshore
 18 Helicopter Safety Inquiry process would be,
 19 and in the context of Phase 1A, the public
 20 hearing phase that we're now currently
 21 involved in, and that was that evidence on the
 22 current situation and regime would be explored
 23 and issues for possible improvement or change
 24 could be raised by the Commissioner, by
 25 Inquiry counsel, the parties, the presenters

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1 or the general public. The issues are then to
 2 be identified and I guess solidified by the
 3 Commissioner and tabled for further
 4 investigation in Phases 1B and 1C. However,
 5 it was our understanding, and as stated by Mr.
 6 Roil, that those issues were not to be argued
 7 or debated in Phase 1A.

8 To support the Inquiry's mandate to
 9 determine what improvements can be made so
 10 that the C-NLOPB can determine that risks of
 11 helicopter transportation of offshore workers
 12 is as low as reasonably practicable, HMDC
 13 sought and was granted full standing at the
 14 Inquiry. HMDC has been represented here at
 15 every day of the Inquiry. HMDC has listened
 16 carefully to the evidence of all of the
 17 witnesses, has noted the issues raised to date
 18 and identified areas where HMDC believes that
 19 it can contribute further information relevant
 20 to offshore helicopter safety when its turn to
 21 address the Inquiry arises.

22 Now that will happen, of course, in
 23 January when HMDC, Suncor and Husky have been
 24 scheduled by the Inquiry to make a joint panel
 25 presentation, and at that time, they will each

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1 answer questions put to them by the various
 2 Inquiry participants. Following the joint
 3 panel presentation, HMDC, followed by Suncor
 4 and then Husky, will make its own panel
 5 presentation to speak to issues that are not
 6 dealt with fully in the joint panel
 7 presentation. There may be issues that are in
 8 common or not in common.

9 As you might appreciate, although some of
 10 the participants to date have spoke to
 11 discreet issues, such as suits or training,
 12 from the operators' perspective, they'll be
 13 speaking to a broad number of issues. So a
 14 great deal of effort has gone in to date to
 15 preparing for those presentations and that
 16 preparation is ongoing at this time. I guess
 17 all of that is to say that HMDC has been an
 18 active participant in Phase 1A of the Inquiry,
 19 in keeping with the format that has been laid
 20 out for Phase 1A.

21 With that said, we felt that today it was
 22 necessary to step out of that role a little
 23 bit in order to endorse a position that Mr.
 24 Harris has put forward, and he's put forward
 25 it so well and eloquently that I can't

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1 possibly either repeat it or do as well.
 2 We feel that DND should be required to
 3 give evidence at this Inquiry and Mr.
 4 Commissioner, as you know, this is not a new
 5 position for HMDC. On November the 3rd, HMDC
 6 wrote to you on behalf of both of HMDC, Suncor
 7 and Husky to express that particular view, and
 8 the rationale for this is simple. The
 9 operators' accountability for first response
 10 cannot be viewed in isolation of the search
 11 and rescue or SAR resources that are provided
 12 by DND.
 13 The first response measures that the
 14 operators provide, and that includes a 24-
 15 hours a day, seven days a week, every day of
 16 the year helicopter response by Cougar, with
 17 specific search and rescue capability, as well
 18 as medevac services that it also provides, are
 19 supplemental to the primary SAR response
 20 provided by the Government of Canada.
 21 Mr. Harris spoke briefly to the Ocean
 22 Ranger Report, and having reviewed it fairly
 23 recently, my recollection is that it too
 24 recognized that the primary role in SAR
 25 response is that of the Federal Government.

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1 HMDC's position is that if DND does not give
 2 evidence, then the distinctions between SAR
 3 and industry provided first response, things
 4 like training, equipment, incident command,
 5 will not be before the Inquiry and will
 6 thereby limit the Inquiry's ability to make a
 7 full assessment of the resources and make
 8 well-founded conclusions and/or
 9 recommendations concerning that, and I think,
 10 as was apparent from some of the evidence that
 11 has been given to date, there really isn't a
 12 clear understanding yet arising from the body
 13 of evidence that's been heard by the Inquiry
 14 about the existing and defined interactive
 15 emergency response roles of the operators and
 16 of DND, and that would include incident
 17 response and command, resource availability
 18 and utilization. If DND does not describe
 19 it's role, then the Inquiry will not really
 20 have a balanced equation before it. You'll
 21 only see one part of the information that's
 22 out there, and it's critical that the Inquiry
 23 have all of the information to make
 24 appropriate recommendations.
 25 It's not really in the position of any of

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1 the other parties to speak to what DND does.
 2 I can tell you that DND is able to activate
 3 four levels of response. The primary response
 4 being, for example, the Cormorants in Gander.
 5 Secondary response which might be a Navy ship.
 6 Third response level which could be the
 7 Canadian Coast Guard Auxiliary, which is a
 8 volunteer organization that helps with sea-
 9 based resources, and I believe there's an
 10 equivalent on the aviation side, and fourthly,
 11 DND can, through the Canada Shipping Act, use
 12 vessels of opportunity. So it can request
 13 vessels, aircraft to assist, civil vessels and
 14 aircraft to assist in a search. That's the
 15 type of ability that we believe that they have
 16 that operators don't have. But it's important
 17 as an example of something--an example of what
 18 they can provide that operators are not in a
 19 position to provide, and that you need to know
 20 about to make a decision.
 21 As you know from the letter we've
 22 provided you with, we don't think that the
 23 Inquiry mandate precludes it from receiving
 24 testimony on this important issue and we would
 25 appreciate your consideration of this request.

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1 COMMISSIONER:
 2 Q. Yes, thank you. All right then, thank you,
 3 Ms. Strickland.
 4 JACK HARRIS, MP:
 5 A. Mr. Commissioner, could I have a response
 6 briefly to that?
 7 COMMISSIONER:
 8 Q. Oh yes, absolutely.
 9 JACK HARRIS, MP:
 10 A. Just first of all, thank you for your very
 11 kind words about my presentation. It's not
 12 often in the past that HMDC and I have been on
 13 the same page with respect to the matters
 14 before panels and hearings, but I do
 15 appreciate the notion that, well, as you
 16 suggested, if the primary expectation is DND,
 17 we're being told that the first responder is
 18 actually Cougar, if the incident involves the
 19 offshore. So that obviously is a real
 20 question that the Commission is going to have
 21 to address, but I just want to also suggest
 22 that, you know, we expected--I expected, as a
 23 Parliamentarian, looking into what happened
 24 with the Cougar crash, that there would be
 25 what they call a SAR operations report, Search

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<p>1 and Rescue operation report, that DND does and 2 is mandated under the SAR operations manual 3 that we've included there, Chapter 9, I think, 4 deals with that, and it's mandated to conduct 5 sort of a lessons learned type of experience, 6 and we made an inquiry looking for a SAR Ops 7 report on that Cougar crash. We were told 8 that one was not provided because it was 9 unnecessary because it was a very normal 10 circumstance and they didn't need to do it. 11 I would have expected that it would be an 12 opportunity for DND to explore the 13 relationship with Cougar, who is the first 14 responder, who is not, what the expectations 15 are. For example, if they expected--if they 16 were off in Nova Scotia, if they expected that 17 the Cougar craft would be not only available, 18 but fully operational and ready to take off, 19 as opposed to having to be reconfigured, it 20 would have been, I would have thought, an 21 opportunity to review all of those things. 22 I've included, as an exhibit, Mr. 23 Commissioner, an example of a SAR Operations 24 report, not on an aeronautical, but more of a 25 marine one to the Coast Guard. But it gives a</p>	<p>1 believe, to be learned by hearing from DND and 2 I say, with respect, perhaps one witness might 3 not be enough, but that's up to the Commission 4 and counsel to see whether they're going to 5 get everything they need to know. But I'll 6 certainly be happy to provide the benefit of 7 my research through my office to anyone who 8 wishes to have it. 9 STRICKLAND, Q.C.: 10 Q. And just to clarify one point, I don't think 11 that we, as the operators, would probably 12 consider Cougar to be the primary responder. 13 We would consider Cougar to be a first 14 responder. 15 JACK HARRIS, MP: 16 A. First responder. 17 STRICKLAND, Q.C.: 18 Q. The primary response or the primary 19 responsibility for a search and rescue would 20 be the Federal Government, at least that's our 21 understanding of the situation at the moment. 22 JACK HARRIS, MP: 23 A. And clearly, all of this needs to be fleshed 24 out, in my view, and this is the force of my 25 submission.</p>
<p>Page 102</p> <p>1 real detailed look as to how--what could be 2 examined through a SAR Operation report. 3 Unfortunately, we didn't have one, and I think 4 it would be very helpful to this Commission to 5 hear from DND about all of those 6 relationships. Who's right? Are they--is 7 Cougar the primary responder? What does that 8 mean in terms of operations? 9 Now this Search and Rescue Operation 10 Report, and that's the title of it, was done 11 on the fishing vessel, "Acadian II" which was 12 in the Gulf of St. Lawrence and it was being 13 towed by a Coast Guard vessel when there were 14 certain tragedies occurred. The report is 15 March 28th and 29th, 2008, and it's a very 16 detailed examination, not only about the 17 report, but it goes further and examines the 18 communications between--the communication 19 services being used, what frequencies, all 20 sorts of detail which give you an idea of how 21 comprehensive such a report could be. 22 Unfortunately we didn't see one on the 23 Cougar crash and I know that your Commission 24 is waiting for the Transportation Safety Board 25 study, but now there's a great deal, I</p>	<p>Page 104</p> <p>1 STRICKLAND, Q.C.: 2 Q. Agree. 3 COMMISSIONER: 4 Q. Okay, thank you. Now counsel for Suncor? 5 Yes, Mr. Mahoney. 6 MR. DENIS MAHONEY IS HEARD 7 MR. MAHONEY: 8 Q. Good afternoon, Commissioner. Mr. Harris, my 9 name is Denis Mahoney and I'm counsel for 10 Suncor in this Inquiry. Mr. Commissioner, the 11 reason for us standing at this time is 12 essentially to endorse the presentation from 13 Mr. Harris and to as well speak about your 14 remarks with respect to your efforts to date 15 in having the matter of search and rescue 16 addressed in a more comprehensive manner in 17 this Inquiry. 18 In saying that to you, I think it's 19 important to recognize that the backdrop to 20 this Inquiry has been an acknowledgement that 21 the process that we have established here for 22 this Inquiry has been described as unique, and 23 that was described at the outset of these 24 hearings in October by Mr. Roil, and where we 25 all agreed that the process would be is that</p>

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1 there would be a complete overview of the
 2 entire regime, as it affects helicopter
 3 transport, which does include search and
 4 rescue, as outlined in the Terms of Reference,
 5 and we agreed that we will participate in
 6 identifying opportunities for improvement as
 7 part of this process and we recognize that
 8 we're still in the early days of this process,
 9 and that we would use this unique approach to
 10 engage in a bit of a collaborative exercise to
 11 identify the issues and share in the
 12 opportunity to improve helicopter
 13 transportation for offshore workers, and this
 14 is all done in the context that there should
 15 be full disclosure and that we will do this on
 16 the principles of openness and transparency.
 17 In so doing that, we broke this Inquiry
 18 down into three phases, at least in Phase 1A,
 19 B and C, in which we are going to talk about
 20 the current culture of safety and what
 21 elements it does contain. We agreed that the-
 22 or we understood that this information will
 23 be shared, but will not be extensively
 24 analyzed or debated, at least in this part of
 25 the Inquiry, and it is in that regard that

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1 this Inquiry has been considered to be unique,
 2 in comparison to other Inquiries that have
 3 taken place in this province.
 4 It will be in Phase 1B that we understand
 5 that the investigative phase will actually
 6 take place, and so it's Suncor's view that we
 7 should receive all of this information in
 8 Phase 1A and Mr. Commissioner, you spoke on
 9 October the 19th, at that time, about the
 10 efforts that you undertook to ask DND to
 11 provide the information to the Inquiry and you
 12 have again updated us today on the efforts
 13 that you have again made, in an effort to
 14 bring the information from DND forward to this
 15 Inquiry.
 16 That's important because the information
 17 that is being shared in this phase of the
 18 Inquiry is not only for us to understand the
 19 current regime, but to also understand and
 20 provide information to the offshore workers
 21 and to the general public for the purposes of
 22 helping people understand the various
 23 dimensions of this system, and so it was with
 24 that view that we were initially planning on
 25 rising today to ask the Commissioner to take a

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1 very favourable, broad and purpose of
 2 interpretation to the Terms of Reference to
 3 support a request that you would make to the
 4 Department of National Defence. That has
 5 already been done, but we think it's
 6 important, Mr. Harris has spoke about this in
 7 his presentation, that there is a question as
 8 to whether the Terms of Reference really
 9 permit this, and we do agree with some of the
 10 arguments Mr. Harris has raised, that it's our
 11 view that the Terms of Reference clearly do
 12 provide you with this opportunity to do so and
 13 we are pleased that the C-NLOPB has taken and
 14 supported that rather liberal interpretation
 15 to ensure that the information, with respect
 16 to search and rescue, is being provided.
 17 There's a couple of elements of that
 18 though, I think both Mr. Harris and Ms.
 19 Strickland have already spoken to, but I would
 20 just like to highlight, and that has to do
 21 with the fact that where Cougar is a first
 22 response, it is obviously linked to Search and
 23 Rescue and in Mr. Harris' terms, he talks
 24 about that interrelationship and that
 25 interrelationship does need to be investigated

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1 further.
 2 Other witnesses have testified in this
 3 hearing with respect to their understanding as
 4 to the role that Search and Rescue played.
 5 Mr. Parsons this morning spoke about Search
 6 and Rescue and the fact that he, as a member
 7 of the community in this province, only
 8 learned through the March 12th tragedy that
 9 Cougar is in a first response situation. He,
 10 I guess, like Robert Decker, who testified
 11 that he was actually expecting to see a yellow
 12 helicopter coming to his rescue and was
 13 somewhat surprised to see that the helicopter
 14 was, in fact, a Cougar helicopter. These are
 15 all parts of the reason why this information
 16 is so important to this Inquiry, consistent
 17 with the nature and process with which we
 18 embarked upon back on October the 19th, to
 19 have this information shared, not just with
 20 the people in this room, but to all of those
 21 people, as you said, Mr. Commissioner, have an
 22 interest, a wider public interest in this
 23 Inquiry.
 24 We do believe that we do need to have a
 25 thorough understanding of the Department of

<p style="text-align: right;">Page 109</p> <p>1 National Defence's training, technical 2 services, what proper equipment, what 3 standards are appropriate. This type of 4 information will be of assistance to this 5 Inquiry, and it is our view, as you have 6 referred to, Mr. Commissioner, and as 7 reenforced by the C-NLOPB, that it is clearly 8 our view that the Terms of Reference permit 9 and authorize you, as Commissioner, to require 10 the Department of National Defence to provide 11 a witness to present before these proceedings 12 and to provide this information to you and to 13 all the members of the public.</p> <p>14 We would ask as well, in relation to that 15 approach, that we believe it would be, if at 16 all possible, more fitting that the Department 17 of National Defence provide this information 18 in advance of the operators providing their 19 testimony in January, as part of initially a 20 joint panel and then subsequent operator 21 panels. We believe that the information about 22 search and rescue would make the presentation 23 subsequently made by the operators easier to 24 understand, easier to comprehend, as to where 25 our system fits. Search and Rescue and the</p>	<p style="text-align: right;">Page 111</p> <p>1 operator panel later in January. 2 Mr. Commissioner, our client, Suncor 3 Energy, is committed to working with you and 4 with this Inquiry to assist in making 5 improvements to safety in helicopter 6 transportation offshore and we are looking to 7 positive consideration and a positive response 8 from the Department of National Defence to 9 your request.</p> <p>10 COMMISSIONER: 11 Q. Thank you, Mr. Mahoney. Any comment, Mr. 12 Harris? Okay, thank you. Husky Energy? 13 MS. STEPHANIE HICKMAN IS HEARD 14 MS. HICKMAN: 15 Q. Good afternoon, Mr. Harris. My name is 16 Stephanie Hickman. I act here for Husky. Mr. 17 Commissioner, I guess, many of the comments 18 that I would make on behalf of Husky, as an 19 operator, have been made already today. 20 Husky, like the other operators, participated 21 in the letter that was sent to you urging that 22 DND be more of a presence, I guess, at this 23 Commission, particularly because we really 24 believe that the presence of DND and the 25 understanding of the search and rescue</p>
<p style="text-align: right;">Page 110</p> <p>1 Department of National Defence are in the best 2 first position to be able to explain the 3 interrelationship because, as Mr. Harris has 4 referred to, the Joint Rescue Coordination 5 Centre is something that they ultimately 6 control and are in a better position to be 7 able to explain how that system operates.</p> <p>8 So Mr. Commissioner, we rise to endorse 9 the position that has been taken. As you 10 know, we were one of the parties that were in 11 support of the letter that was submitted to 12 you on November the 3rd making this very same 13 request. So what we would say, in closing, is 14 that Suncor Energy, we have been and we are 15 fully committed to this Inquiry. We are party 16 with full standing and of course, we have been 17 attending throughout these hearings, and we 18 have been providing the information to this 19 Inquiry. We are looking forward to the 20 opportunity, as an operator, to provide the 21 information to this Inquiry in accordance with 22 the schedule that has been determined, in 23 which case we will be presenting our evidence 24 as a member of a joint panel in early January 25 and subsequently followed by an individual</p>	<p style="text-align: right;">Page 112</p> <p>1 capability on the east coast is crucial to 2 your mandate, and without the full 3 understanding perhaps of the Commission, the 4 public and everyone in this room, we think 5 we're doing a disservice to the people of the 6 province, in the sense that we will not have 7 that understanding. We won't have the 8 recommendations that we believe are necessary, 9 certainly based on the information that 10 everyone needs to really understand.</p> <p>11 Mr. Harris mentioned that we have to 12 understand the status quo and we believe that. 13 The status quo, we can't come up with 14 recommendations in future without having a 15 firm understanding and a firm basis in the 16 facts as they exist today. Husky does believe 17 the Terms of Reference allow you to consider 18 the full picture of search and rescue and we 19 also believe that the Terms of Reference 20 should be interpreted broadly, and we urge you 21 to use every means at your disposal to 22 encourage DND to come to the Inquiry.</p> <p>23 Like the other operators, Husky has been 24 participating in the Inquiry since the very 25 beginning, and we continue to do so and we</p>

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1 continue to commit significant resources
 2 internally to preparing the information that
 3 we want the Commission to receive and also to
 4 understanding the information that has been
 5 prevented to date, and the information
 6 presented to date has been very interesting
 7 and has allowed us to form the structure of
 8 what we think the Commission needs to hear and
 9 would like to hear.
 10 So the other counsel, Mr. Mahoney and Ms.
 11 Strickland, have commented already on the
 12 presentations and the joint panels and our
 13 individual presentations, and those will come
 14 out of course in the Inquiry, hopefully in
 15 January, but we do think that as a
 16 collaborative process, there has not been a
 17 role necessarily for Husky to become
 18 adversarial or to really examine the witnesses
 19 that we've heard so far in a way that would do
 20 anything other than to add to our
 21 understanding of the information. We believe
 22 the information has been very well presented
 23 by all the presenters to date and in
 24 particular by, of course, Inquiry counsel. So
 25 we're satisfied with the process. We remain

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1 committed to participating in the process and
 2 we look forward to presenting the information
 3 that we have, both in a joint panel and
 4 individual panels, to the Commission and to
 5 the room and to the larger public. Thank you.
 6 COMMISSIONER:
 7 Q. Thank you. Now, Cougar, Mr. Whalen.
 8 NORMAN WHALEN, Q.C. IS HEARD
 9 WHALEN, Q.C.:
 10 Q. Mr. Commissioner, Mr. Harris, for the record,
 11 my name is Norman Whalen and I represent
 12 Cougar in this matter, and you're quite
 13 correct that Cougar has a very significant and
 14 important first response role in incidents
 15 such as this, and we're mindful of that duty
 16 and responsibility. I'd like to first say
 17 that I support your suggestion that Department
 18 of National Defence needs to be here, very
 19 strongly, and the representations already made
 20 by counsel for the operators, Ms. Strickland,
 21 Mr. Mahoney and Ms. Hickman, so I won't go
 22 into all that again. But I support, Mr.
 23 Commissioner, the position that you have
 24 already taken on this issue and am very
 25 pleased to see the role that the C-NLOPB has

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1 taken on this issue. As soon as my client and
 2 I learned that DND may not be appearing, I
 3 made immediate representations to Commission
 4 counsel as to our view that we thought they
 5 were essential.
 6 Now Cougar will testify in early
 7 February, I think we're booked for four days,
 8 as to its role and it's our position that it
 9 is entirely necessary that DND, in its role as
 10 the Joint Rescue Coordination Centre, and DND
 11 in terms of its incredible expertise in what
 12 their particular role is and what the best
 13 equipment is and how St. John's can have a
 14 world-class response to incidents such as this
 15 is essential. So I urge you to use whatever
 16 powers you have to encourage them to be here.
 17 I certainly look forward to hearing from them,
 18 because it is my understanding and belief that
 19 they are very skilful in what they do and they
 20 do have the knowledge and they can be of great
 21 assistance to all of us in this very serious
 22 Inquiry. Thank you, Mr. Commissioner.
 23 COMMISSIONER:
 24 Q. Thank you, Mr. Whalen. Counsel for Sikorsky
 25 are not here. Helly Hansen are not here.

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1 Memorial University, Ms. Hollett.
 2 MS. KAREN HOLLETT IS HEARD
 3 MS. HOLLETT:
 4 Q. Thank you, Mr. Commissioner and thank you, Mr.
 5 Harris for your presentation. I have no
 6 questions. However, Mr. Rutherford, who is
 7 the Director of the Offshore Safety and
 8 Survival Centre, who apparently didn't spend
 9 enough time up there yesterday already, has
 10 indicated to me -
 11 COMMISSIONER:
 12 Q. Are you being--I don't think you're being
 13 heard.
 14 MS. HOLLETT:
 15 Q. Okay. I was only about to say that Mr.
 16 Rutherford, the Director of the Offshore
 17 Safety and Survival Centre, has indicated to
 18 me that he would like to speak directly to the
 19 Commission in response to Mr. Harris, if you
 20 would permit that? I realize it's a little
 21 out of protocol, but we haven't had an
 22 opportunity to discuss.
 23 COMMISSIONER:
 24 Q. No, absolutely.
 25 MS. HOLLETT:

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1 Q. Apparently he hasn't had enough time up here.
 2 COMMISSIONER:
 3 Q. Absolutely, and for the record again, this was
 4 Ms. Karen Hollett.
 5 MS. HOLLETT:
 6 Q. Yes, Ms. Karen Hollett.
 7 MR. ROBERT RUTHERFORD IS HEARD
 8 MR. RUTHERFORD:
 9 Q. Thank you very much.
 10 COMMISSIONER:
 11 Q. Beginning to believe, Mr. Rutherford, that you
 12 enjoy the place.
 13 MR. RUTHERFORD:
 14 Q. When we start up in January, I'll bring my
 15 accordion. Thank you, Commissioner, and thank
 16 you for this opportunity. I just wanted to
 17 bring to the attention, I don't know, Mr.
 18 Harris, if you've been--if you are aware or if
 19 anyone else in the room as stakeholders are
 20 aware of a project which was called Project
 21 Jigsaw put in place up in the Northern
 22 Hebrides by BP Exploration Limited, which is a
 23 search and rescue project. If you are aware
 24 or not aware, would you mind if I just give
 25 you a little bit of a background on it?

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1 COMMISSIONER:
 2 Q. Not at all.
 3 MR. RUTHERFORD:
 4 Q. The situation up in the United Kingdom, what
 5 is the--basically, anyone that's involved in
 6 offshore exploration or production has--
 7 becomes what's called a duty holder. They
 8 basically are the people that have the duty to
 9 provide the search and rescue services. So
 10 they are actually termed that you have this
 11 duty. Up in the Northern Hebrides, where BP
 12 Exploration were engaging a number of projects
 13 which were fairly widely spaced, dispersed,
 14 they ran into a little bit of a challenge
 15 where they were trying to find helicopter
 16 coverage to cover that particular area.
 17 They put in place what was called a
 18 Project Jigsaw. It was about seven years ago
 19 they started the project, spent a considerable
 20 amount of money on it, but they first looked
 21 at helicopter coverage solely, how they could
 22 provide that coverage. Then they moved to
 23 another concept which was sort of a mixed
 24 concept. It was a mixture of helicopter
 25 coverage, what was called regional support

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1 vessels. There were two large vessels which
 2 would carry large what were called autonomous
 3 rescue craft. And basically, this project was
 4 put in place last year. There were two
 5 incidents last year in the UK and in one of
 6 those incidents, everybody survived, but the
 7 first--actually the first responder on the
 8 scene was one of these autonomous rescue
 9 craft. So they have a project and spent a lot
 10 of money on it. I think it might be something
 11 worth looking at. I can provide details to
 12 the Commission.
 13 COMMISSIONER:
 14 Q. Okay, thank you very much. Do you have any
 15 comment, Mr. Harris?
 16 JACK HARRIS, MP:
 17 A. No, just I'm sure that if the Commission is
 18 liberated from the constraints that seem to
 19 have been imposed by the Terms of Reference
 20 that there are many interesting and useful
 21 projects around the world that could be looked
 22 at, in terms of what can be--what the
 23 expectations are, which I think is the issue
 24 here. What are the expectations of the
 25 operators, on the one hand, but what are the

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1 expectations for the people working in the
 2 offshore? And I think this type of thing is
 3 what I would fully have expected an Inquiry of
 4 this type to engage in in, I guess, it's 1B I
 5 guess you're calling it, which is going to
 6 come up after the baseline is established.
 7 But I think there's not much point in looking
 8 at anything else if we don't really know what
 9 we have, and it's very complex. I mean, the
 10 search and rescue interrelationships in Canada
 11 is very complex structurally and
 12 bureaucratically and operationally. You know,
 13 we have marine rescue coordinating centres
 14 here in St. John's, for example. They have
 15 some relationship to what goes on in Halifax.
 16 There's, you know, aircraft, civil aircraft,
 17 the first aircraft, for example, that was near
 18 Cougar was aircraft under contract to do ice
 19 observation. I mean, there's a complex issue
 20 and in order to understand it fully, you need
 21 to do that, but I'm sure other people present
 22 and some of the industry players would, I'm
 23 sure, be aware of other types of situations in
 24 other places in the world that would be of
 25 assistance to the Commission.

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1 COMMISSIONER:
 2 Q. Okay, thank you.
 3 MR. RUTHERFORD:
 4 Q. So I'll provide you some background
 5 information, if that's okay, Commissioner, to
 6 the Inquiry. I can provide you background
 7 information.
 8 COMMISSIONER:
 9 Q. Yes. Well, thank you very much, yes, and I
 10 guess, Mr. Andrews, I'll probably be talking
 11 to you again. Now, is counsel for the
 12 Government of Newfoundland present? Yes, Ms.
 13 Brown.
 14 MS. LAURA BROWN-LAENGL IS HEARD
 15 MS. BROWN-LAENGL:
 16 Q. Mr. Harris, like Mr. Parsons, has been
 17 thoughtful and thorough in his presentation,
 18 so we have no questions at this time, but we
 19 do find Mr. Rutherford's suggestion regarding
 20 that information helpful and look forward to
 21 receiving that.
 22 COMMISSIONER:
 23 Q. Okay, thank you. Mr. Earle, for the Union.
 24 RANDELL EARLE, Q.C. IS HEARD
 25 EARLE, Q.C.:

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1 Q. I have no questions for Mr. Harris. I know he
 2 was eagerly awaiting the opportunity, given
 3 the number of years we've worked together.
 4 CEP Local 2121 endorses Mr. Harris' suggestion
 5 and I might say, we're absolutely delighted to
 6 hear the response from the operators to his
 7 suggestion, and I would just say, as a counsel
 8 appearing before this Inquiry, perhaps because
 9 along with Mr. Roil and Ms. Fagan, I have been
 10 on my feet rather more than others, I have
 11 received numerous calls and e-mails from
 12 members of the general public and Mr.
 13 Commissioner, I think it is fair to say that
 14 there is a sense of public amazement out there
 15 that in the context, particularly of the
 16 recommendations of the Ocean Ranger Inquiry
 17 with respect to the stationing of search and
 18 rescue facilities in St. John's, that there's
 19 a sense of public amazement that this Inquiry
 20 should be in some way constrained in its
 21 inquiries in this area. That's what people
 22 are saying to me. Why is this?
 23 So Mr. Commissioner, I endorse the
 24 remarks of my former colleague, Mr. Harris,
 25 and I record my pleasure at the support for

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1 the liberal interpretation of your mandate
 2 suggested, but I say to you this. If you, at
 3 any time, feel that you are not able to
 4 respond to the public need, and you've talked
 5 many times about the need for the community to
 6 have a good sense about offshore safety, that
 7 you should seek whatever amendment is
 8 necessary to your Terms of Reference to allow
 9 you to make a full and complete inquiry about
 10 this. Because, as has been pointed by Mr.
 11 Harris today, we can have the best of suits,
 12 we can have the best of everything out there,
 13 but if one of these helicopters goes down,
 14 what is going to be entirely and absolutely
 15 important is that the length of time that it
 16 takes to get every last person out of the
 17 water is the absolute minimum reasonably
 18 practical. Thank you.
 19 COMMISSIONER:
 20 Q. Okay, thank you, Mr. Earle. For the families,
 21 Mr. Martin.
 22 MR. JAMIE MARTIN IS HEARD
 23 MR. MARTIN:
 24 Q. I'm only going to be very brief, but I'll -
 25 COMMISSIONER:

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1 Q. Yes, probably better to come up there.
 2 MR. MARTIN:
 3 Q. Thank you, Mr. Commissioner. Good afternoon,
 4 Mr. Harris. For the record, I'm Jamie Martin.
 5 I represent the families of several of the
 6 deceased passengers. I want to thank you for
 7 your very insightful presentation. I think
 8 you're very passionate about this issue and
 9 you're very committed to seeing improvements
 10 in that area and for that, I'm sure the
 11 families are very grateful, and I also would
 12 like to thank Mr. Commissioner for the update
 13 on the representations he's made to both DND
 14 and to the Board, and we look forward to some
 15 fruitful outcomes in that regard.
 16 It goes without saying obviously that any
 17 change to the Terms of Reference that will
 18 allow for input from the people who are most
 19 responsible for search and rescue. Any
 20 further information that we can obtain to get-
 21 to make the system better will help
 22 accomplish the objectives of your Inquiry, Mr.
 23 Commissioner, and we fully support what you're
 24 doing and Mr. Harris' efforts and look forward
 25 to working with all of the stakeholders, the

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1 operators and the Board and other interested
 2 parties in the coming months to make sure that
 3 that issue, among others, will be addressed in
 4 a fruitful and meaningful way. So thank you
 5 again, Mr. Harris.
 6 COMMISSIONER:
 7 Q. Okay. Thank you, Mr. Martin. Ms. O'Brien?
 8 MR. ANTHONY:
 9 Q. No.
 10 COMMISSIONER:
 11 Q. No.
 12 MR. DONALD ANTHONY IS HEARD
 13 MR. ANTHONY:
 14 Q. Thank you, Mr. Commissioner. Mr. Harris, my
 15 name is Don Anthony. I'm appearing for the
 16 families of the deceased pilots. I take the
 17 podium just briefly to echo the comments of
 18 far more learned counsel that this is a very
 19 wise approach, I think, that's been discussed
 20 this afternoon and we endorse any further
 21 developments that could help get that
 22 information before the Inquiry, and we thank
 23 you very much for your presentation this
 24 afternoon. Thank you. Thank you, Mr.
 25 Commissioner.

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1 COMMISSIONER:
 2 Q. Thank you, Mr. Anthony. Anything else you'd
 3 like to say before we close, Mr. Harris?
 4 JACK HARRIS, MP:
 5 A. Not very much, just to thank you for the
 6 opportunity to appear before you and to be
 7 granted standing and I would hope that at some
 8 future point, when we hear more evidence, that
 9 if it's--if I can add anything to the Inquiry,
 10 I'd be happy to do so and as I mentioned
 11 earlier, share any knowledge I have of the DND
 12 system with counsel, if they're interested,
 13 and I'm very pleased to see the response of so
 14 many counsel to the notion that this is vital
 15 to your work. I think not only is it vital to
 16 your work in legalistic terms, but as Mr.
 17 Earle has pointed out, you know, the public of
 18 Newfoundland and Labrador needs to have a
 19 level of confidence that not only is the
 20 offshore safe, but that if there's an Inquiry
 21 of this nature that it be a full and free
 22 opportunity to look at the situation. I think
 23 that that's what's required here, and I hope
 24 that you will get the level of cooperation
 25 that you require and I'm sure counsel and I,

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1 if necessary, would be happy to help you get
 2 it, if you are dissatisfied. I guess, read
 3 between the lines there, if you wish, but I'm--
 4 -but you know, obviously there's a great deal
 5 of political interest in this as well, both at
 6 the national level and the local level. So
 7 I'm trying to maintain my objective stance
 8 here, based on my perceptions of what's
 9 necessary for you to do your work and what the
 10 expectations of this community are, and I'm
 11 delighted to hear that the operators, in
 12 particular, starting with Ms. Strickland, have
 13 endorsed a very broad approach. I think it's
 14 absolutely necessary to do a proper job, and
 15 I'm encouraged by what I hear today.
 16 COMMISSIONER:
 17 Q. Thank you. Well, on a note before we close,
 18 may I say that I was--I'm very pleased to hear
 19 from all the people with standing, except one
 20 or two who are not present, but for those who
 21 are, support for the interpretation of the
 22 Terms of Reference which the Board has agreed
 23 following with, following Mr. Andrews and my
 24 discussion, and to say, once again, that from
 25 where I sit, in the position I'm in, it is

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1 very helpful to have counsel for the parties
 2 with standing express views and to give
 3 support or perhaps direction or disagreement,
 4 for that matter, because you are part of the
 5 Inquiry. There is no question about that, and
 6 the Inquiry cannot do its job as well as it
 7 might without that expressed support or debate
 8 or whatever it might turn out to be. You are
 9 very much part of it and I appreciate the
 10 comments that have been made today. So thank
 11 you very much. We'll adjourn now and we meet
 12 again on the -
 13 REGISTRAR:
 14 Q. January the 11th.
 15 COMMISSIONER:
 16 Q. On January the 11th.
 17 REGISTRAR:
 18 Q. 9:30.
 19 COMMISSIONER:
 20 Q. At 9:30. Okay, thank you.
 21 ADJOURNED TO JANUARY 11, 2010 AT 9:30 A.M.

1 CERTIFICATE

2 We, the undersigned, do hereby certify that
3 the foregoing is a true and correct transcript of a
4 hearing heard on the 25th 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 25th day of November, 2009

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

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