

OFFSHORE HELICOPTER SAFETY INQUIRY

September 8, 2010

Tara Place, Suite 213, 31 Peet Street

St. John's, NL

September 8, 2010

PRESENT:

John F. Roil, Q.C./
Anne Fagan.....Inquiry Counsel

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

Stacey O’Dea/ Hibernia Management and
Cecily Strickland Development Company (HMDC)

D. Blair Pritchett/Denis Mahoney.....Suncor (Petro-Canada)

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

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

Geoffrey Spencer..... Helly Hansen Canada Ltd.

Rolf Pritchard/
Laura Brown LaengleGovernment of Newfoundland and Labrador

Jack Harris, Q.C. Member of Parliament

Kevin Stamp, 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)

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

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

Jonathan Tarlton.....Department of Transport Canada

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1 September 8, 2010
 2 COMMISSIONER:
 3 Q. Good morning, ladies and gentlemen. Before we
 4 begin our regular business, I want to make a
 5 comment on something that happened yesterday,
 6 and what happened was a headline over an
 7 article in The Telegram, and the headline was
 8 "Wells Inquiry shuts out survivor, families;
 9 lawyers". I spoke to The Telegram and it was
 10 an absolutely genuine error, but a very
 11 complete error because the article which was a
 12 Canadian Press article had nothing to do with
 13 this Inquiry whatsoever, but was talking about
 14 something in the Transportation Safety Board
 15 which has no relationship to this Inquiry,
 16 but, of course, the headline had a particular
 17 sting to it because right from the first,
 18 after I was appointed to this Commission
 19 before I contacted lawyers, companies, or
 20 anybody else, I wrote the families and the
 21 survivor and throughout the Inquiry, as
 22 everybody knows who is here, the families have
 23 had every consideration. So what I'm doing now
 24 is not raising this to berate The Telegram,
 25 far from it, but to correct the mistake which

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1 really - although a small correction appeared
 2 this morning, it's still out there, and we've
 3 had people connected with the Inquiry have had
 4 emails as far away as Alberta saying what's
 5 going on, and likewise on the street. So my
 6 purpose is to correct this, not to berate The
 7 Telegram, and that's what I'm doing. Mr.
 8 Martin, I'm told by counsel that you wish to
 9 say something about this subject, so if you
 10 do, please come up to the microphone up here
 11 or whichever one you like.
 12 MR. MARTIN:
 13 Q. I can stand, is that okay?
 14 COMMISSIONER:
 15 Q. Yes, by all means, yes.
 16 MR. MARTIN:
 17 Q. Thank you, Mr. Commissioner, and good morning
 18 to all the parties. When I saw that what I
 19 would refer to as a very misleading headline
 20 yesterday, I did have some discussions with
 21 Ms. Fagan, co-counsel to the Inquiry, and
 22 nothing could be further from the truth in
 23 terms of the headline, how the headline could
 24 be misinterpreted, and it certainly, I'm sure,
 25 has been. So I wanted to clarify for the

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1 record what we have done as counsel for the
 2 families in terms of our interaction with
 3 Transportation Safety Board, and I was going
 4 to address it as part of my submission, but
 5 it's probably an appropriate time to do it
 6 right now. I wrote Ms. Tadros, Chair of the
 7 Transportation Safety Board, on March 9th,
 8 2010, and that was shortly following the
 9 conclusion of the public hearing process. I
 10 asked the Board at that time to provide our
 11 firm, as legal counsel to several of the
 12 families, with a draft copy of the report when
 13 it became available. In other words, we were
 14 requesting for the status of designated
 15 reviewer. Mr. Commissioner, you may recall
 16 that Ms. Tadros appeared before your
 17 Commission last fall, and I specifically
 18 examined her on the process for getting that
 19 status and I indeed did undertake on behalf of
 20 the families to get that status. I received a
 21 letter from Ms. Tadros this summer denying our
 22 request. In her letter, Ms. Tadros advised
 23 that the Transportation Safety Board looks at
 24 two factors, the next of kin passenger, and
 25 secondly whether there was a substantial and

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1 identifiable interest in the matter that may
 2 otherwise contribute to the completeness and
 3 accuracy of the report they are to provide.
 4 Ms. Tadros in her response, and I'll read it
 5 rather than have it -
 6 COMMISSIONER:
 7 Q. Perhaps I should interrupt you. I'm not
 8 involved with anything that the Transportation
 9 Safety Board is doing, so perhaps you'd better
 10 not deal with it in your (unintelligible).
 11 What I do appreciate is what I understand that
 12 you're telling me, and that is that the
 13 families know and everybody knows connected
 14 with the families that the headline was not
 15 true and was misleading, and, of course, The
 16 Telegram knows that also.
 17 MR. MARTIN:
 18 Q. Yes, nothing - that headline was very
 19 misleading, nothing could be further from the
 20 truth. I won't get into what Ms. Tadros -
 21 essentially Ms. Tadros concluded on behalf of
 22 the Board that we didn't meet the tests, that
 23 the families could not contribute in a
 24 substantial way to the completion of that
 25 report and the accuracy of that report.

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1 Having said that, Ms. Tadros was sympathetic
 2 to the losses suffered by the families and did
 3 maintain the Board's position that at the
 4 appropriate time the report will be made
 5 public and shared with everyone involved. Now
 6 when I read the headline and read the article,
 7 and the article also appeared in the Globe and
 8 Mail and the headline there was a little bit
 9 more accurate, it certainly did not reflect
 10 how this Commission has treated the families,
 11 and I can only speak for the families and as a
 12 representative of the families, that they were
 13 provided every opportunity to speak to this
 14 Inquiry, to question this Inquiry, and nothing
 15 could be further from the truth to say that
 16 the families somehow are being shut out of
 17 this process because that's not the case, and
 18 that's what I want to convey to the Commission
 19 and to the public at large, anyone who's
 20 viewing, and especially to the families who I
 21 know would support the fact that this
 22 Commission has been very considerate of the
 23 views of the families, and I'll leave it at
 24 that.
 25 COMMISSIONER:

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1 Q. Thank you very much, Mr. Martin, the matter is
 2 closed now as far as I'm concerned. Thank you,
 3 ladies and gentlemen, Mr. Roil, are we ready?
 4 ROIL, Q.C.:
 5 Q. Yes, good morning, Commissioner, and all the
 6 parties present. Thank you. We are moving
 7 into the next phase which is the submissions,
 8 the public submissions phase, but before we do
 9 so, we have a couple of housekeeping items
 10 that Ms. Fagan and I will attend to. The first
 11 one, and perhaps one of the more important
 12 ones, is to go back to our safety moment. It
 13 has been a period of time since we have been
 14 in this room. Most of the faces are people
 15 that we have seen before, but we're all
 16 capable of forgetting what we were told
 17 before, so just as a reminder, in the event of
 18 an emergency, you will be notified of the
 19 emergency within the building, we're only in a
 20 two storey building, do not use the elevator
 21 to leave the building, there are two primary
 22 exits to exit this space. One, Commissioner,
 23 off to your left, and one at the back of the
 24 room. The third door which is behind me, which
 25 is covered right now by a drape, only leads

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1 into our offices, so it's not a good
 2 evacuation route, but if you are to leave,
 3 please use one of those two doors. There are
 4 three stairwells in the building, one at each
 5 end, and one in the middle. The one in the
 6 middle is the one that most people have
 7 probably come in through. Those at the end are
 8 rather steep. I caution you they are steep,
 9 please be careful and hold the handrail, and
 10 then exit the building either at the back or
 11 front and we will accumulate at a so-called
 12 meeting place on a bit of lawn that is
 13 opposite the building on the other side of the
 14 road, and from there Ms. Fagan and I will take
 15 responsibility to let you know what you should
 16 do in response to that emergency. We don't
 17 expect an emergency, we don't believe there
 18 will be any fire alarms or anything today, so
 19 if we hear any alarms of any sort, we should
 20 treat it as an emergency. Having said that,
 21 the other housekeeping item that I would like
 22 to attend to involves a number of exhibits or
 23 documents that came to our attention during
 24 the summer from the time that we last met, and
 25 one actually that was received earlier, but I

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1 think by virtue of a glitch, we simply
 2 inadvertently forgot to get it before you as a
 3 matter of an exhibit. The first document that
 4 I'm referring to is the report on New
 5 Zealand's activities, New Zealand offshore
 6 drilling, which was done by Aerosafe. That was
 7 posted on our file bridge system so the
 8 parties had access to it since August 5th. I
 9 would ask that that be admitted as Exhibit P-
 10 227. The second exhibit is the survey of
 11 Cougar personnel which was done also by
 12 Aerosafe during the summer months. This arose
 13 because of representations that were made to
 14 you following the offshore worker survey
 15 wherein it was suggested that the Cougar
 16 workforce be surveyed as well. That survey was
 17 received following its completion on August
 18 31st by us, and then put on file bridge so
 19 that the parties could have access to it. I
 20 would ask that that be admitted as Exhibit P-
 21 228. Finally, the third exhibit is a document
 22 that was prepared by the Canadian Association
 23 of Petroleum Producers. It was made available
 24 to us back in May and was put on file bridge
 25 so that the parties had access to it at that

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1 time. That document was a lessons learned
 2 document that was done by CAPP into the period
 3 of time and its activities involved in the
 4 HUEBA, the helicopter underwater emergency
 5 breathing apparatus process. Many people will
 6 recall that that process took approximately
 7 nine years. CAPP undertook to do a lessons
 8 learned on that and to see what improvements,
 9 if any, could be made if something like that
 10 were to happen again. They agreed to provide
 11 us with this document, it was not an
 12 undertaking, it was their suggestion that we
 13 receive it, and it was received back in May.
 14 It was received as a confidential exhibit, so
 15 it will not be available publicly, but it has
 16 been available to the parties and I would ask
 17 that that be admitted as Exhibit C-229. Those
 18 are the three documents that are sort of
 19 historical documents, if you will. The
 20 submissions for today, my colleague, Ms.
 21 Fagan, will bring those to your attention
 22 right now.
 23 COMMISSIONER:
 24 Q. So you'd like them admitted right now.
 25 ROIL, Q.C.:

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1 Q. Yes, please.
 2 COMMISSIONER:
 3 Q. They will be admitted into evidence.
 4 ROIL, Q.C.:
 5 Q. Thank you, Commissioner.
 6 COMMISSIONER:
 7 Q. Yes, Ms. Fagan.
 8 MS. FAGAN:
 9 Q. Now on to today's activities. Most counsel
 10 have already been informed that their
 11 submissions which were received a little over
 12 a month ago and have been on the website would
 13 be marked as exhibits. So I'm going to have
 14 them just noted for the record with the
 15 exhibit number, and ask that they all be put
 16 in now so that that piece of housekeeping is
 17 done, and then as each presenter steps forward
 18 for their client or party, then their
 19 submission has already been marked and entered
 20 as an exhibit. So the first presenter - we're
 21 going to have them marked in the order of the
 22 proposed presentations. So the first exhibit
 23 is going to be - these are all public, 00230,
 24 and that will be Helly Hansen Canada Limited's
 25 submission; 00231, Offshore Safety and

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1 Survival Centre, that's the Marine Institute
 2 of Memorial University, their exhibit; the
 3 next is 00232, Department of Transport Canada;
 4 00233, Canadian Association of Petroleum
 5 Producers; 00234, Government of Newfoundland
 6 and Labrador; 00235, families of deceased
 7 passengers; 00236, the Estate of Matthew
 8 Davis, the pilot, and the Estate of Timothy
 9 Lanouette, the co-pilot; 00237, the submission
 10 of Cougar Helicopters Inc; 00238, submission
 11 of the Communications, Energy and Paperworkers
 12 Union, Local 2121; 00239, a submission of the
 13 Joint Operators, and this is a joint
 14 submission on behalf of Hibernia Management
 15 and Development Company Limited, HMD, Husky
 16 Oil Operations Limited, and Suncor Energy Inc.
 17 The final exhibit will be 00240, the
 18 submission of the Canada-Newfoundland and
 19 Labrador Offshore Petroleum Board. So if you
 20 would have those entered as exhibits, that
 21 would be great, thank you. What we are going
 22 to do is we will first hear from Geoffrey
 23 Spencer, counsel for Helly Hansen Canada
 24 Limited. Most counsel are aware that we're
 25 going to have the presentation from the podium

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1 which has been placed over in the witness
 2 area, but the counsel and submissions are not
 3 evidence per se to be sworn, so no one is
 4 going to have to go through the process of
 5 being sworn, you are counsel, and your clients
 6 are welcome to come forward and sit at the
 7 table with the person who is going to make the
 8 presentation, and Mr. Roil and I will act as
 9 the ushers to move people back and forth. When
 10 you've completed your submission, then one of
 11 us will introduce the next and try and keep us
 12 on schedule. So without any further delay,
 13 Mr. Spencer, can you come forward and make
 14 your submission on behalf of Helly Hansen
 15 Canada Limited. Thank you.
 16 COMMISSIONER:
 17 Q. Mr. Spencer, you can stand or sit, whatever
 18 you're more comfortable doing, and your mic is
 19 on, I suppose, is it.
 20 MR. SPENCER:
 21 Q. Yes, I think it is. Thank you. Good
 22 morning, Mr. Commissioner. As you know, Helly
 23 Hansen Canada Limited sought and received
 24 limited standing at this Inquiry on the
 25 grounds that Helly Hansen was the supplier of

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1 helicopter transportation suits to the
 2 operators of the offshore oil installations in
 3 the Nova Scotia and Newfoundland and Labrador
 4 offshore area pursuant to a contract awarded
 5 to Helly Hansen on April 23rd, 2007.
 6 This Inquiry has heard evidence on a
 7 number of issues related to helicopter
 8 transportation safety, but my comments today
 9 will be limited to the helicopter
 10 transportation suits in accordance with Helly
 11 Hansen’s limited standing at this Inquiry.
 12 On July 30th, I filed a written
 13 submission on behalf of Helly Hansen. I do
 14 not intend to repeat everything contained in
 15 those submissions, and I do endeavour to be
 16 brief today, but I would like to emphasize
 17 certain points while addressing a few issues
 18 that were raised by others.
 19 To start, there’s a couple of terms of
 20 the Helly Hansen suit contract that I think
 21 bear repeating. First, the helicopter
 22 transportation suits were required to have
 23 dual approval that meets the Transport Canada
 24 Aviation Suit Standard, as well as the
 25 Transport Canada Marine Abandonment Suit

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1 Standard. Now this requirement for dual
 2 approval created certain challenges and
 3 certain limitations in the suit design.
 4 Secondly, Helly Hansen was required to supply
 5 a sizing chart describing the smallest to the
 6 largest sizes that the suits would fit, and
 7 you will recall that the Inquiry heard
 8 evidence from Susan Coleshaw that it was
 9 standard in the industry for suit
 10 manufacturers to provide a range of suits and
 11 it was up to the individual to choose their
 12 own suit size. Accordingly, at the time of the
 13 initial contract with Helly Hansen, there was
 14 no requirement for individual suit fittings.
 15 During the first two years of the
 16 contract Helly Hansen was made aware of a
 17 limited number of complaints with respect to
 18 the suits, and those complaints mainly centred
 19 around comfort issues. In particular, the Nova
 20 Scotia Intervention Crew, which takes multiple
 21 helicopter trips per day, raised comfort
 22 issues arising from its repeated use of the
 23 suits. In order to obtain feedback with
 24 respect to the suits, Helly Hansen prepared a
 25 survey that was distributed to out-bound

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1 passengers travelling to the offshore area of
 2 Newfoundland and Labrador over a four week
 3 period commencing on June 3rd, 2008.
 4 The surveys didn’t reveal any strong
 5 dissatisfaction with the suits, but
 6 approximately 30 percent of the respondents
 7 indicated they had some difficulty completing
 8 the face seal for the take off and landing.
 9 Helly Hansen reviewed those survey results
 10 with the operators, who subsequently required
 11 passengers to confirm that they could fully
 12 don the suit prior to flight.
 13 On October 28th, 2008, the Canada Nova
 14 Scotia Offshore Petroleum Board, along with
 15 the Nova Scotia operators, requested a
 16 proposal from Helly Hansen to address the
 17 issues that were experienced by the Nova
 18 Scotia Intervention Crew. Helly Hansen
 19 reviewed those issues and considered the
 20 appropriate design changes and prepared a
 21 proposal for the new HTS-1 suit project on
 22 December 5th, 2008, and you will recall that
 23 we heard testimony about the new HTS-1 suit,
 24 and this new suit is really a modification of
 25 the E-452 suit system that Helly Hansen had

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1 previously in place with this contract. Helly
 2 Hansen was able to make these modifications
 3 after it sought and received approval from the
 4 operators and Transport Canada to produce a
 5 suit that would meet the Aviation Suit
 6 Standards only, rather than also having to
 7 meet the Marine Abandonment Suit Standard.
 8 This provided some real benefits and some real
 9 opportunities for improvement.
 10 The elimination of that requirement to
 11 develop a suit to two different standards
 12 removed the constraints of having to meet a
 13 maximum buoyancy requirement for the Aviation
 14 Standards, as well as a minimum buoyancy
 15 requirement for the Marine Abandonment
 16 Standards. In addition, eliminating that dual
 17 standard requirement removed the necessity to
 18 meet stipulated donning times that were set
 19 out in the Marine Abandonment Standards that
 20 are simply not applicable to helicopter
 21 transportation suits. As a result of the
 22 removal of these constraints, Helly Hansen was
 23 able to introduce modifications to the suits
 24 that improved the effectiveness of the suits
 25 and addressed the comfort issues that were

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1 raised by users of the suits, and since the
 2 thermal requirements of the Aviation Standards
 3 are the same as those in the Marine
 4 Abandonment Standards, the HTS-1 provides the
 5 same level of thermal protection as was in the
 6 previous E-452. The new suit was approved by
 7 Transport Canada for usage in the offshore
 8 areas of Nova Scotia and Newfoundland and
 9 Labrador in November of 2009, and as we can
 10 see from the survey of the offshore workforce
 11 prepared by Aerosafe Risk Management, the
 12 majority of the comments with respect to the
 13 new suits have been positive and they
 14 confirmed that the suits are better fitting
 15 and more comfortable.

16 So it's Helly Hansen's submission to the
 17 Inquiry that the report of this Commission
 18 should recommend that helicopter
 19 transportation suits only be required to meet
 20 the Transport Canada Aviation Suit Standards,
 21 and not be required to also meet the Transport
 22 Canada Marine Abandonment Standards. We feel
 23 that the removal of that dual requirement gave
 24 Helly Hansen the ability to introduce
 25 modifications to the suits that would not have

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1 been possible if the dual requirement had been
 2 in place.

3 Now we heard some testimony at the
 4 Inquiry about some leakage with the suits
 5 during training, and Helly Hansen had
 6 evaluated that issue and determined that the
 7 suit was performing within the specifications
 8 and there's several points that the
 9 Commissioner really should consider when it
 10 thinks about this issue. First, that the suits
 11 are not developed to be completely leak free,
 12 and, in fact, the CGSB standards do allow for
 13 a certain amount of water ingress as part of
 14 the thermal testing of the suits. During the
 15 training exercises we know that the suits are
 16 used in a manner that is beyond the design
 17 specifications of those suits, and, in fact,
 18 we heard testimony from Mr. Rutherford from
 19 the Marine Institute who testified that the
 20 suits that are used in training are used
 21 repeatedly - that the same fleet is used
 22 repeatedly for training purposes, and they are
 23 used only for training purposes, and these
 24 suits are subject to heavy use in chlorinated
 25 water which can break down the seals of the

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1 suits. The suits are given a significant
 2 amount of abuse during training and they are
 3 subjected to repeated dunks in the pool, and
 4 the students are required to spend significant
 5 periods of time submerged in the suits. All of
 6 this is beyond what the suits were ever
 7 designed to do.

8 The trainers do not conduct individual
 9 suit fittings at the centre, they're not
 10 concerned with getting a perfect fit because
 11 they're not training in a cold water
 12 environment, so it's quite possible many
 13 students are wearing suits that do not fit
 14 them exactly. The fact that suits may leak
 15 during training does not mean that the suits
 16 will leak as much during a real scenario, and
 17 we know that the testing indicates that the
 18 leakage is within the limits of the CGSB
 19 standards. I do want to speak about some
 20 testing that was done with respect to these
 21 suits, and in particular the testing that was
 22 done by the CORD Group. That was referred to
 23 by several witnesses at the Inquiry. The CORD
 24 tests are an important piece of evidence for
 25 consideration by this Commission. You will

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1 recall you heard evidence that in June of
 2 2009, the operators and the Canadian
 3 Association of Petroleum Producers undertook
 4 an assessment of the performance of the E-452
 5 suit b CORD Group Limited, and the report from
 6 the CORD Group dated August 6th, 2009, was
 7 tendered into evidence by CAPP during the
 8 hearings of this Commission.

9 The CORD Report notes that the objectives
 10 of the testing was to develop a realistic
 11 scenario in terms of activity and conditions
 12 that would provide a good challenge to the
 13 water integrity of the suit system. During
 14 that testing, eight subjects were exposed to
 15 helicopter ditching scenario and a training
 16 simulator in Dartmouth, Nova Scotia. That
 17 ditching scenario involved a ditching in
 18 stormy conditions, followed by a 20 metre
 19 swim, life raft boarding, and a 30 minute
 20 immersion. The environmental conditions that
 21 were used for those tests included heavy wind
 22 and waves and continuous rain. The CORD
 23 Report noted that the CGSB standards set out a
 24 water ingress test as part of the CGSB thermal
 25 protection requirements. The CORD Report

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1 states that the average water ingress value
 2 for the eight subjects tested by the CORD's
 3 realistic scenarios was below the leakage
 4 amount calculated by the CGSB method during
 5 the approval of the suit. The CORD Report
 6 notes that the data that was presented in
 7 these results was produced from tests that
 8 were designed to present a complete challenge
 9 to the waterproof integrity of the suit
 10 system, and they do this by using more
 11 realistic scenarios, actions, and conditions,
 12 and under that complete challenge to the
 13 waterproof integrity, the suits performed very
 14 well. In fact, the results from those tests
 15 confirmed that the Helly Hansen suits met or
 16 exceeded the thermal requirements of the CGSB
 17 standards. It's important to remember the
 18 results from those tests when you hear certain
 19 comments about the deficiencies of the suits
 20 because we know under realistic rigorous
 21 testing the suits performed quite well and
 22 came in lower than the CGSB testing.

23 I want to talk about the return to flight
 24 process. You will recall that as part of that
 25 process the operators amended the Helly Hansen

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1 contract to require Helly Hansen to conduct
 2 individual suit fittings on all personnel
 3 travelling offshore before being cleared to
 4 fly. These individual suit fittings were done
 5 at the Cougar Heliport, and off-site fitting
 6 sessions, and at Helly Hansen suit facilities
 7 in St. John's. In his testimony before the
 8 Commission, Mr. Mark Collins of Helly Hansen,
 9 testified that out of approximately 3, 000
 10 people who travel offshore, 180 were put on
 11 the no-fly list as a result of these
 12 individual suit fittings, and the vast
 13 majority of those people were cleared when
 14 they were fitted with the new HTS-1 suit or
 15 with a modified version of the suit. Only 12
 16 people needed true custom made suits.

17 The Commission heard testimony from
 18 several expert witnesses who spoke about
 19 suits, and there were three in particular that
 20 I do want to touch on. The first one is Dr.
 21 Susan Coleshaw. Dr. Coleshaw emphasized the
 22 importance of good thermal performance of the
 23 suits in order to protect the wearer from cold
 24 shock and hypothermia. She stated that good
 25 thermal performance will depend upon the suit

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1 being correctly sealed and properly fit, and
 2 she recommended that measures be taken to
 3 ensure that passengers are wearing the correct
 4 suit size. Dr. Coleshaw testified that she
 5 wasn't aware of the individual suit fittings
 6 that were being done by Helly Hansen, and she
 7 stated that these individual fittings are not
 8 normally done in the industry. As previously
 9 mentioned, she stated that the suit
 10 manufacturers would normally give a range of
 11 suits and it's up to the individual to choose
 12 their own size. She stated that if an
 13 individual had an ill-fitting suit, there was
 14 some responsibility on the individual to ask
 15 for a different suit size. As acknowledged by
 16 Dr. Coleshaw, the operators have now addressed
 17 the fit issue by contracting with Helly Hansen
 18 to do these individual suit fittings for all
 19 workers who travel offshore.

20 It's interesting to note, Mr.
 21 Commissioner, that in its submissions to the
 22 Inquiry, the Government of Newfoundland and
 23 Labrador has outlined some of the proposed
 24 legislative amendments to the Occupational
 25 Health and Safety regime under the Federal and

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1 Provincial Accord Acts, and you'll see in
 2 there that included in these amendments are
 3 obligations on employees to properly use or
 4 wear their personal protective equipment and
 5 take all reasonable measures to ensure that
 6 other employees properly use or wear their
 7 personal protective equipment. So the
 8 Government of Newfoundland and Labrador has
 9 recognized that there is an element of
 10 personal accountability on employees to ensure
 11 that they take some measures for their own
 12 personal safety.

13 Helly Hansen supports Dr. Coleshaw's
 14 comments with respect to the issue of personal
 15 accountability and submits that the
 16 Commissioner should confirm that offshore
 17 workers have a level of personal
 18 accountability for their own safety in
 19 helicopter transportation.

20 The next expert witness to speak on the
 21 issue was Jonathan Power of the National
 22 Research Council, who discussed the knowledge
 23 gap that exists between the calm conditions
 24 that were used to test a human's thermal
 25 response in immersion suits and a real world

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1 scenario where a person could experience high
 2 wind and waves. Mr. Power stated that it was
 3 important for future studies to recreate as
 4 realistically as possible the conditions where
 5 protective equipment will be used and to
 6 measure the human responses during those
 7 tests. As I've already mentioned, Helly
 8 Hansen's transportation suits have already
 9 been tested in these realistic conditions and
 10 performed quite well and we think that type of
 11 testing should continue. Mr. Power suggests
 12 that a goal based regulatory regime may be a
 13 better approach than a specification based
 14 regime, particularly in circumstances that
 15 require innovation. He states that a
 16 specification based approach results in
 17 manufacturers addressing only the minimum
 18 pass/fail requirements without delving into
 19 the details of the performance required of the
 20 equipment. Well, in our view, Helly Hansen has
 21 not simply addressed the minimum pass/fail
 22 requirements, but Helly Hansen has been
 23 proactive in taking steps to improve the
 24 effectiveness and the comfort of these suits
 25 whenever possible, and we know that that will

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1 continue.
 2 Helly Hansen submits that the
 3 Commissioner should adopt the NRC's
 4 recommendation that future testing of the
 5 suits recreate as realistically as possible
 6 the conditions where the suits will be used in
 7 order to obtain an accurate assessment of
 8 their performance in real world scenarios.
 9 Helly Hansen also submits that the
 10 Commissioner should adopt the NRC's
 11 recommendation that the industry move to a
 12 goal based regulatory regime as opposed to the
 13 current specification based regime. Helly
 14 Hansen agrees that moving from standards that
 15 prescribe the test conditions to performance
 16 based standards would give manufacturers more
 17 flexibility in producing protective equipment
 18 that meets the needs of the industry, and I
 19 think the HTS-1 suits are a good example of
 20 that.
 21 The last expert that I'll refer to is Mr.
 22 Michael Taber. He referred to the helicopter
 23 transportation suit standards, and he noted
 24 that there's no standard for the required
 25 clothing to be worn under the suit. He

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1 suggests that a guideline of thermal comfort
 2 zone with respect to protection in both hot
 3 and cold conditions should be developed. Mr.
 4 Taber discussed the issue of personal
 5 accountability with regard to helicopter
 6 transportation and stated that although
 7 wearing extra thermal protection may increase
 8 thermal loading and a chance of heat strain,
 9 with proper hydration these effects are
 10 outweighed by the benefits that would be
 11 gained in a case of accidental cold water
 12 immersion. In the conclusion of his report,
 13 Mr. Taber states the transportation suits meet
 14 and exceed the CGSB requirements.
 15 Helly Hansen supports Mr. Taber's
 16 comments with respect to the need for clarity
 17 as to the clothing to be worn under the suits.
 18 Helly Hansen submits that the Commissioner
 19 should recommend that the helicopter
 20 transportation suit standards be revised in
 21 order to outline the required clothing should
 22 be worn underneath these suits.
 23 Mr. Commissioner, I do want to address
 24 certain comments that were contained in the
 25 submissions of the Communications, Energy and

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1 Paperworkers Union. They made certain comments
 2 with respect to the suits that I think need to
 3 be addressed. At Paragraph of its submission,
 4 the Union has stated that the suit that was
 5 issued to Robert Decker was one of the new
 6 suits and that it did not function as required
 7 and that his body temperature dropped to 28
 8 degrees celsius. I guess first to clarify,
 9 Mr. Decker was not wearing one of the new HTS-
 10 1 suits, but he was, in fact, wearing the E-
 11 452 suit at the time of the crash. Secondly,
 12 and more importantly, there are many unknown
 13 factors that prevent any finding that a
 14 malfunction of the suit caused such a drop in
 15 Mr. Decker's body temperature. For example,
 16 we don't know the condition of the suit
 17 following the crash, we don't know whether Mr.
 18 Decker was wearing the correct size suit, and
 19 we also don't know the effect that his
 20 injuries may have had on his body temperature.
 21 These are unknowns and we would suggest it
 22 would be inappropriate to try to link that
 23 drop in body temperature to any malfunction of
 24 the suit.
 25 At Paragraph 22 of its submissions, the

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<p>1 Union makes the following statement and I'm 2 quoting, "One of these suits very nearly led 3 to the death of Robert Decker after he 4 miraculously survived the catastrophic crash 5 of Cougar Flight 491". With all due respect, 6 Helly Hansen takes issue with that statement. 7 We would suggest that the evidence heard by 8 this Inquiry is to the contrary. All of the 9 witnesses who testified with respect to the 10 suits confirmed that the suits met and exceed 11 the CGSB standards. The suits underwent 12 rigorous testing under realistic wind and wave 13 conditions by the CORD Group and passed with 14 flying colours. In fact, the suits let in 15 less water during that testing than was 16 calculated during the CGSB standard testing, 17 but perhaps most telling is the testimony of 18 Robert Decker himself. Mr. Decker gave 19 testimony as follows with respect to the 20 suits. He testified that when the pilot of 21 Flight 491 instructed the passengers to don 22 their suits, everyone got their suits on 23 quickly. Mr. Decker didn't have any 24 difficulty donning his suit. He testified 25 that following the ditching into the ocean,</p>	<p>1 doing individual suit fittings in order to 2 ensure that passengers have chosen the correct 3 suit size. These individual suit fittings 4 exceed the industry norm and have been 5 identified by the Transportation Safety Board 6 as a recommended practice. Helly Hansen has 7 been proactive in seeking feedback from the 8 users of the suits and are working to 9 continually improve the effectiveness and the 10 comfort of the suits. Helly Hansen is 11 currently actively involved in the CGSB 12 committee that is reviewing the helicopter 13 transport suit standards and is committed to 14 continuing to work to improve the 15 effectiveness and the comfort of these suits 16 in the future. 17 In conclusion, I would like to thank you, 18 Mr. Commissioner and the Inquiry counsel, for 19 the opportunity and for your assistance in 20 allowing Helly Hansen to be involved and make 21 submissions to this Inquiry. We're confident 22 that the work of this Inquiry will result in 23 real improvements in the safety of 24 transportation of offshore workers by 25 helicopter and Helly Hansen is happy to have</p>
<p>1 the only light that Mr. Decker could see were 2 the strobe lights on the suits, and you will 3 recall that we heard testimony from Mark 4 Collins that these lights would illuminate 5 upon impact with the water. Mr. Decker 6 testified that once he released his seat belt, 7 the buoyancy of the suit helped carry him to 8 the surface, and finally he testified that 9 upon reaching the surface of the ocean, Mr. 10 Decker easily inflated the life preserver that 11 is integrated into the suit, which kept him 12 lying on his back in the water. So I would 13 submit to you that contrary to the assertions 14 contained in the Union's brief, the Helly 15 Hansen suit played a significant role in 16 saving Mr. Decker's life. Now although Mr. 17 Decker testified that water entered his suit, 18 it's unclear at this time as to whether he was 19 wearing the correct size of suit. As noted by 20 Dr. Coleshaw, suit manufacturers normally give 21 a range of suits and it's up to the individual 22 to choose their own size. There's a level of 23 personal accountability to ensure that you're 24 wearing the correct suit size. Since the 25 crash of Cougar 491, Helly Hansen now are</p>	<p>1 played a small part in that process. So 2 those, unless you have any questions, Mr. 3 Commissioner, those are my submissions. 4 COMMISSIONER: 5 Q. One thing -- thank you, Mr. Spencer, very 6 much. One thing occurs to me and perhaps I 7 should know the answer to this, but the HTS-1 8 suit, which is a modification of the 452 suit 9 - 10 MR. SPENCER 11 Q. Yes. 12 COMMISSIONER: 13 Q. - has the aviation standard right now, but not 14 the marine standard. Is it proposed to try 15 and get the marine standard for that suit, as 16 far as you know, or does the suit go forward 17 with simply the marine standard -- I'm sorry, 18 the aviation standard? 19 MR. SPENCER 20 Q. To my recollection, the suit is going forward 21 with the aviation suit standard. 22 COMMISSIONER: 23 Q. Yes, aviation and not try to get the 24 additional marine standard which the 452 had? 25 MR. SPENCER</p>

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<p>1 Q. If they were to do that, they would have to 2 modify the standard, the marine standard, in 3 order to enable it to fit within that. 4 COMMISSIONER: 5 Q. I see, so what you're saying then perhaps is 6 that that would put the suit back where it 7 was? 8 MR. SPENCER 9 Q. That would put the suit where it was right 10 now, but if they were to modify the marine 11 standard to remove the stipulated donning 12 times and to remove the requirement for a 13 maximum or a minimum buoyancy, then it might 14 be possible. But as it currently stands, it 15 would not be possible. 16 COMMISSIONER: 17 Q. No. 18 MR. SPENCER 19 Q. And that was the challenges that Helly Hansen 20 had in preparing -- you know, designing these 21 suits, trying to comply with two different 22 standards. 23 COMMISSIONER: 24 Q. So your understanding is that the HTS-1 suit 25 will now remain as it is and go forward simply</p>	<p>1 MR. SPENCER 2 Q. Thank you, sir. 3 MS. FAGAN: 4 Q. Commissioner, the next presentation will be by 5 the Offshore Safety and Survival Centre and 6 we're going to hear from Mr. Robert Rutherford 7 and as well counsel, David Hurley, is going to 8 step forward and introduce Mr. Rutherford, so 9 I'd ask both gentlemen to come forward and 10 make the presentation. Thank you. 11 COMMISSIONER: 12 Q. Thank you. Okay then, Mr. Hurley. 13 HURLEY, Q.C.: 14 Q. Good morning, Mr. Commissioner. The Marine 15 Institute Offshore Safety and Survival Centre 16 of the Memorial University wishes to thank the 17 Inquiry for the opportunity to make this final 18 submission here today. I'm sure you all agree 19 that helicopter safety training is an 20 important part of your mandate. Since our 21 first appearance at the Inquiry, the Offshore 22 Safety and Survival Centre has been quite 23 active in dealing with the issues and matters 24 raised during the initial part of these 25 hearings.</p>
<p>1 with the aviation standard? 2 MR. SPENCER 3 Q. That's my recollection, that it is going to go 4 forward with the aviation standard. 5 COMMISSIONER: 6 Q. That is mine actually, but I wanted to be 7 sure. 8 MR. SPENCER 9 Q. But if you need, I can double check that with 10 Helly Hansen and get back to you with more 11 information on that, if you wish? 12 COMMISSIONER: 13 Q. It may not be necessary because there are a 14 lot of people in the room who have this 15 knowledge also. 16 MR. SPENCER 17 Q. Okay. 18 COMMISSIONER: 19 Q. And that may be able to be cleared up and 20 clarified a bit. But anyway, thank you very 21 much. 22 MR. SPENCER 23 Q. Thank you. 24 COMMISSIONER: 25 Q. That's most helpful.</p>	<p>1 By their nature, many such issues and 2 concerns are of a technical and operational 3 nature, and I guess, with this in mind, we 4 have decided that Mr. Robert Rutherford, the 5 Director with the Offshore Safety and Survival 6 Centre, will provide our final remarks to this 7 Inquiry, and I'll call upon Mr. Rutherford to 8 speak to the Inquiry. Thank you. 9 COMMISSIONER: 10 Q. Thank you. 11 MR. RUTHERFORD 12 Q. Thank you, Mr. Hurley. I would like to say 13 that the Marine Institute Offshore Safety and 14 Survival Centre appreciates the opportunity 15 that has been provided to us by participation 16 in this Offshore Helicopter Safety Inquiry as 17 a party with full standing. We trust the 18 information we've been able to provide to date 19 to the Inquiry will assist the Commissioner in 20 his deliberations and subsequent 21 recommendations to improve helicopter safety. 22 We would like to assure the relatives and 23 loved ones of those lost on Flight 491 that 24 the loss has been felt very deeply by the 25 managers, instructors and support staff at our</p>

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1 Centre and that we will move quickly to
 2 implement any recommendations that arise from
 3 this Inquiry, and as well, we will continue to
 4 work towards improving training and expanding
 5 the knowledge base supporting safety emergency
 6 response training for the offshore petroleum
 7 industry.

8 The prime area of interest to the
 9 Offshore Safety and Survival Centre is
 10 basically the helicopter safety training,
 11 issue 12 of the Inquiry. Our written response
 12 and recommendations to the Inquiry which
 13 related to this issue covered our current
 14 practice regarding helicopter underwater
 15 escape training. It covered our response to
 16 consultants' reports and as well, it
 17 identified opportunities for improvement and
 18 potential research. We have also provided an
 19 offer of support respecting safety
 20 conferences, the organization of safety
 21 conferences.

22 In this oral submission to the Inquiry,
 23 we intend to update the Commissioner on
 24 actions that have been taken subsequent to the
 25 submission of the written report. We'll also

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1 expand on possible opportunities and
 2 suggestions to address knowledge gaps and also
 3 provide comment where appropriate on written
 4 submissions of other parties with standing.

5 As an overall and general comment, the
 6 Offshore Safety and Survival Centre is
 7 committed to providing the very highest
 8 standard of safety and emergency response
 9 training, including helicopter underwater
 10 escape training. Effective training does,
 11 however, require many factors to be considered
 12 and balanced. These include basic pedagogical
 13 issues. They include potential physical risk
 14 of injury to trainees, level of stress in
 15 trainees, the extent to which training
 16 equipment should represent specific models of
 17 helicopter or should more broadly focus on
 18 provision of skills and knowledge to react to
 19 emergency situations in a variety of
 20 helicopters or indeed to a situation in which
 21 the original fidelity of the helicopter has
 22 been compromised as a result of impact. Other
 23 factors which also have to be considered are
 24 the -- just basic issues of logistics and
 25 practicality of requiring people to come into

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1 a training centre. As a training provider, we
 2 regularly assess and reassess this balance,
 3 both internally, in discussions with our own
 4 staff faculty, and in discussion with training
 5 providers in other national jurisdictions. We
 6 are actively involved in international
 7 associations where these matters are discussed
 8 on a frequent basis.

9 For those not involved in the delivery of
 10 training, there may appear to be simple
 11 solutions which would improve training
 12 effectiveness, but the interrelationships and
 13 considerations involved in any change can
 14 often be complex and as well, there may be
 15 gaps or inconsistencies in the underpinning
 16 research. We are happy that the Inquiry has
 17 provided an opportunity to discuss these
 18 issues with all involved in the Newfoundland
 19 and Labrador offshore petroleum industry.

20 I'd just like to move now to some of the
 21 actions that have been taken since the
 22 submission of the written report. As noted by
 23 others and ourselves in our written
 24 submission, the inclusion of additional detail
 25 in the Canadian Association of Petroleum

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1 Producers training standards, and in
 2 particular details which outline what
 3 competency standards are expected to be
 4 achieved and how they'll be measured would
 5 greatly assist in assuring a common approach
 6 and standard to helicopter training in eastern
 7 Canada offshore.

8 We would note that CAPP has engaged Det
 9 Norske Veritas to facilitate a process aimed
 10 at refining the competency standards of BST,
 11 BST-R and OSI courses. Our organization has
 12 fully and actively participated in all
 13 discussions with DNV to date and will continue
 14 to do so as required to bring the process to a
 15 successful conclusion. Our experience with
 16 this process to date has been excellent and we
 17 fully anticipate that any recommended changes
 18 to course competency requirements arising as
 19 outcomes of the process will lead to
 20 improvements to offshore safety.

21 As noted in our opening submissions to
 22 the Inquiry, the Marine Institute developed a
 23 concept document in 2008. The objective of
 24 this document was basically to revitalize the
 25 Offshore Safety and Survival Centre, both to

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1 increase its capacity, as well as to implement
 2 a number of improvements to its facilities and
 3 equipment. A key feature of the proposed
 4 development was the addition of a second pool
 5 outfitted with the most current standard
 6 helicopter underwater escape trainer. We are
 7 still actively working on sourcing of funding
 8 for this development. However, in view of the
 9 desire of the offshore petroleum industry to
 10 move as quickly as possible to upgrade the
 11 helicopter training equipment to what is
 12 considered current state of the art, with
 13 anticipated industry support, we are moving
 14 ahead on a retrofit of a new simulator into
 15 our existing pool. In order for us to
 16 accommodate this new simulator, however, we do
 17 need to make modifications to the structure of
 18 our building as well as to our power supplies.
 19 We have undertaken the necessary engineering
 20 work and that is complete, so we intend to
 21 move ahead as fast as possible to implement
 22 the new helicopter underwater escape trainer.
 23 This action, when complete, will bring us
 24 up to the latest standard in helicopter
 25 underwater escape training equipment. It will

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1 not, however, address the significant concern
 2 regarding capacity and constraints imposed by
 3 growing training volumes, as the offshore
 4 continues to grow. In particular, logistical
 5 issues related to our access to the training
 6 pool and the HUET already necessitate many
 7 courses to be delivered beyond normal working
 8 hours or at weekends. So we would just
 9 caution any recommendations arising from this
 10 Inquiry which would lead to increased
 11 frequency or duration of helicopter underwater
 12 escape training will have to give
 13 consideration to the need to increase capacity
 14 in Newfoundland Labrador.
 15 There are two training providers in
 16 Canada who are approved to deliver helicopter
 17 underwater escape training. That's ourselves
 18 and Survival Systems Training Limited. Both
 19 of our organizations do have international
 20 reputations for delivering highest quality of
 21 training. Nevertheless, it's noted that the
 22 Inquiry has highlighted some differences in
 23 the approach to delivery of helicopter
 24 underwater escape training.
 25 We would advise the Inquiry, the senior

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1 managers from the two organizations have met
 2 and agreed that through closer cooperation and
 3 communication, there was potential opportunity
 4 to enhance the quality and consistency of
 5 offshore training. In particular, we have
 6 agreed to proactively seek out opportunities
 7 for collaborative research and development
 8 projects aimed at improvements to offshore
 9 safety training and agreed to explore the
 10 opportunity to establish a formal process to
 11 encourage and facilitate dialogue between
 12 providers of training and training services to
 13 Canada's offshore petroleum industry with the
 14 objective of ensuring consistent, high quality
 15 training standards, and this is really a
 16 process just for the training -- an
 17 organization for the training providers to get
 18 together. We also agree to work
 19 collaboratively to further the acceptance of
 20 Canadian standards internationally, as well as
 21 to ensure the most current international
 22 standards are incorporated, as appropriate, in
 23 the Canadian courses.
 24 As an aside, both our organizations have
 25 been invited by the Offshore Petroleum

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1 Industry Training Organization, OPITO, which
 2 we've heard of in this Inquiry, to participate
 3 in what they are starting as the first
 4 international forum on international training
 5 and competency standards to be held in Abu
 6 Dhabi in November this year. So both our
 7 organizations will be represented there.
 8 The mutual agreement between our
 9 organizations basically has an overall
 10 objective of enhancement of offshore safety.
 11 We'd like to move on now just to some
 12 potential knowledge gaps and opportunities for
 13 research. The deep water offshore petroleum
 14 industry, it's a relatively new industry.
 15 There are many, many knowledge gaps, including
 16 gaps related to safety and safety training.
 17 Much of the underpinning body of research is
 18 quite limited. As a training provider, we
 19 have the opportunity to see both personnel and
 20 equipment in use in simulated emergency
 21 situations on a daily basis. So it gives us a
 22 good opportunity to basically identify where
 23 there may be gaps and I think for the
 24 information of the Commissioner, we identified
 25 some of these in our written submission. We

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1 would just like to restate some of these, as
 2 well as to expand upon some possible
 3 opportunities for other research.
 4 One of the items we raised in the written
 5 submission is the issue relating to the dive
 6 mask. In our opinion as a training provider,
 7 it provides a number of potential benefits
 8 that could assist survivors' escape from a
 9 submerged helicopter. Some of these benefits
 10 are aid in vision, protection from cold shock,
 11 protection from aviation fuel, reduced
 12 disorientation and provision of a means of
 13 blocking off your nose, which is essential for
 14 the HUEBA. The dive masks have been part of
 15 our helicopter passenger safety system for
 16 some time, but there's no established design
 17 or performance criteria for the mask or for
 18 the integration of the mask with the passenger
 19 transportation suit. We believe that if we
 20 had a good mask, it fitted well with the suit,
 21 there's a real opportunity to reduce the
 22 potential of a cold shock and so I think there
 23 is definitely some need in that regard. So we
 24 would like to say there's opportunity of
 25 further research with the design and

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1 performance criteria of this item of
 2 equipment.
 3 On the performance data, we would like --
 4 again, I'd like to restate that the body of
 5 high quality data of individual performance
 6 and stress levels during a range of exercise
 7 evolutions is quite limited. I think there
 8 are a few experts out there, but basically
 9 there's very, very -- it is a very, very small
 10 number of experts out there who have
 11 undertaken high quality research in this area.
 12 I think there is some value and need for more
 13 data to be collected and provide a
 14 quantifiable basis which can be used to
 15 support decision making processes and
 16 particularly in relation to the feasibility of
 17 increasing environmental fidelity.
 18 Given that the two training providers in
 19 Canada have some differences in approaches to
 20 helicopter underwater escape training, it
 21 would perhaps be of value to conduct a study
 22 which compares learning retention stress
 23 levels in training and relevant factors
 24 between the two facilities with the objective
 25 of identifying common best practice.

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1 The expert report by Michael Taber
 2 included the following comments. Generally
 3 speaking, performance curves typically follow
 4 what is referred to as the power law of
 5 practice in which the more times a skill is
 6 practised, the better the performance of that
 7 skill becomes until such a point that no
 8 further improvements are detectable.
 9 Performance of a skill can later be influenced
 10 by level of arousal (phonetic) and
 11 environmental conditions. However, the
 12 acquisition of skill requires it be
 13 deliberately practised until it becomes
 14 automatic. I think the Inquiry also, you
 15 know, has heard from many people that, you
 16 know, that the training is undertaken every
 17 three years with a number of different cycles
 18 or evolutions in the training. It doesn't
 19 really give you the opportunity to develop
 20 that automatic response to situations, but
 21 there are practical limitations in frequency
 22 to which the offshore workforce can take time
 23 to attend a training institution. We have
 24 three years here in Canada. That exceeds
 25 what's generally accepted as the international

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1 standard which is four years. So there's also
 2 practical limitations to the number of
 3 exercises an individual can realistically
 4 undergo in each training session from a
 5 helicopter underwater escape trainer.
 6 I'd just like to make note that we have
 7 been working with the MUN Department of
 8 Engineering, as well as with local simulator
 9 provider or developer, VNC, to develop
 10 simulators for various aspects of safety
 11 training, and these are computer-based
 12 simulators, for lifeboat launching, for fast
 13 rescue boats. Simulators can -- this sort of
 14 simulator can be used to expose personnel to
 15 various scenarios in a collaborative virtual
 16 environment and provide an opportunity for
 17 trainees to gain experience that can enhance
 18 their competence.
 19 I think there may be an opportunity to
 20 explore the development of a computer-based
 21 simulator that could possibly add to what we
 22 are doing now. It wouldn't replace what we're
 23 doing now but there may be opportunities that
 24 might provide additional learning within that
 25 type of environment. It should be noted that

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1 Newfoundland Labrador is fast gaining a
 2 reputation as a centre of excellence in ocean
 3 technologies and the local capability to
 4 develop high fidelity simulators for ocean-
 5 related simulators is leading edge.
 6 The ability to deal with cold shock and
 7 disorientation is critical to survival in the
 8 event of a helicopter ditching. The
 9 importance of this issue is reenforced by the
 10 observation made by the sole survivor of this
 11 incident. He had a long experience with cold
 12 water exposure and when the helicopter filled
 13 with icy water, he was able to react
 14 instinctively and to stay calm. There's more
 15 work needs to be done in this area to
 16 determine if there is a quantifiable benefit
 17 that can accrue from risk managed cold water
 18 training.
 19 The Inquiry has heard already that the
 20 helicopter underwater breathing apparatus
 21 training is currently undertaken outside of
 22 the helicopter underwater escape training
 23 simulator which is for reasons of risk
 24 management. Ideally, participants in a HUET
 25 training would have an opportunity to use the

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1 HUEBA during a helicopter egress exercise. At
 2 this time, it is not possible due to concerns
 3 regarding potential for injury. There may,
 4 however, be opportunity for the training
 5 providers to undertake research in
 6 collaboration with bodies such as Memorial
 7 University School of Medicine or others to
 8 identify solutions, including appropriate
 9 medical clearance standards which would
 10 mitigate against the risk.
 11 One item that's not really been brought
 12 greatly to the attention, I think, of the
 13 Inquiry but I think it is important for us
 14 just to comment on. In the event of a
 15 helicopter ditching close to or while landing
 16 or taking off from the offshore installation,
 17 dedicated rescue support vessels would play a
 18 critical role in the recovery. Operators have
 19 been extremely proactive in ensuring regular
 20 drills of their rescue crews are undertaken
 21 and these drills, we have played a role in
 22 monitoring and facilitating these drills. We
 23 would like to advise that there may be an
 24 opportunity for creating forums for sharing of
 25 best practices, so the ships, although they

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1 perform their drills effectively, they perform
 2 them in different ways. The equipment on
 3 ships is quite different, and I think there's
 4 an opportunity there. We're learning. We
 5 have a good body of knowledge now and there
 6 may be a good opportunity to share the best
 7 practices between vessels. We have discussed
 8 this with operators and we are looking to do
 9 this.
 10 We also are currently undertaking
 11 industry funded research project aimed at
 12 improvements to equipment, the Dacon scoop.
 13 There may be further opportunities in this
 14 area and there also may be opportunities for
 15 potential research activity related to medical
 16 care and handling of survivors on board
 17 vessels, as well as the potential for
 18 development of specialized rescue training for
 19 crews.
 20 We recognize that there are logistical
 21 challenges to training providers working
 22 together with helicopter operators in shared
 23 drills and we believe there may be value in
 24 exploring the opportunity for conducting such
 25 exercises. We believe that, you know, the

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1 exercises would ensure that best practices can
 2 be incorporated into our training courses, as
 3 well may provide opportunity to identify some
 4 improvements in the rescue and in the
 5 integration between what the helicopter
 6 operator does and the survival crew do and
 7 ourselves and how we train our personnel.
 8 I think that would end the
 9 recommendations I would make. We just want to
 10 make one comment on the written submission, I
 11 think, by Helly Hansen. They noted in their
 12 submission, summary item number four, that
 13 they require the future testing of helicopter
 14 transportation suits recreate as realistically
 15 as possible the conditions where the suit will
 16 be used in order to obtain an accurate
 17 assessment of their performance in real life
 18 scenarios. We fully concur with this
 19 statement and are pleased to see that more
 20 rigorous test standards are being considered
 21 in the current round of general standard board
 22 discussions which we are participating in.
 23 Notwithstanding these anticipated
 24 improvements, we'd like to note that, I think,
 25 just as an aside, an airplane that would be

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1 built to certain test standards would never
 2 sort of be put in service without rigorous
 3 testing with a test pilot. A car, even though
 4 its built to standards, would not be put in
 5 service without rigorous testing by experts in
 6 the field. We think that we -- that our
 7 instructors are exposed on a daily basis and
 8 some for more than 20 years on a daily basis
 9 to utilization of suits in as close to
 10 simulated, you know, situations, to the real
 11 life situations as possible. I think there's
 12 a real value in manufacturers, before they put
 13 suits to market, bringing suits to us and
 14 allowing us to put them through our bases so
 15 to speak. We have had manufacturers come to
 16 us before in this respect and I think, you
 17 know, I recognize that there is a competitive
 18 marketplace, but we think we do -- we are able
 19 to provide some good information on
 20 performance and how they actually work in
 21 service. That will be in addition to what is
 22 required by the standards.
 23 So I'd just like to conclude. Under
 24 guidance of yourself, Commissioner, the
 25 Offshore Helicopter Safety Inquiry has

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1 provided Newfoundland Labrador offshore
 2 petroleum industry with an excellent forum for
 3 the presentation and discussion of opinions
 4 and sharing of knowledge related to helicopter
 5 underwater escape training. The Marine
 6 Institute's Offshore Safety and Survival
 7 Centre would again like to thank the
 8 Commissioner for the opportunity to
 9 participate as a member with full standing and
 10 commit to implementation of any
 11 recommendations arising as expeditiously as
 12 possible. Thank you very much.
 13 COMMISSIONER:
 14 Q. Before you sit down or leave, just discuss one
 15 or two matters, if I may?
 16 MR. RUTHERFORD
 17 Q. Certainly.
 18 COMMISSIONER:
 19 Q. How do you achieve the balance between
 20 training and the dangers of training?
 21 Because, according to what I've heard and
 22 read, there are dangers attached to training,
 23 so that that's something obviously you -- if
 24 you agree with it, that you must keep in mind.
 25 How can you, with different people at

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1 different levels of fitness, different levels
 2 of knowledge of being in the water swimming or
 3 whatever, how do you -- is it a one size fits
 4 all thing?
 5 MR. RUTHERFORD
 6 Q. Well, we have to try and provide a consistent
 7 level of training to everybody. So the
 8 situation, basically before a training
 9 exercise goes into -- before we move or change
 10 a training exercise, we will, you know,
 11 discuss the situation with our instructors and
 12 sort of determine what will be an appropriate
 13 level, but we also have, you know, consistent
 14 feedback. We take feedback both from the
 15 instructors and from our students. We review
 16 all that feedback and we've had 20 years
 17 experience in doing this, so we review the
 18 feedback and see if there are issues that are
 19 involved there. We also, I think as I
 20 mentioned in our opening presentation, we
 21 maintain a very high level of emergency
 22 response within our facility. We have always
 23 had, for instance, a helicopter underwater
 24 escape training, we have trained divers on
 25 hand. We have trained medical response

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1 personnel and we have all the equipment on
 2 hand, so -- but, I mean, we do have incidents
 3 and we do have -- you know, in fact, only last
 4 week, we had -- it wasn't in helicopter
 5 underwater escape training, it was in raft
 6 training, but we had an instant where we had a
 7 gentleman that, you know, suffered a severe
 8 respiratory problem and when we actually got
 9 him to hospital, it turned out he had an
 10 undiagnosed heart complaint, but because we
 11 were able to respond to it, you know, he was
 12 very lucky he was where he was. We also do
 13 maintain strict medical standards of people
 14 coming through the training provider, you
 15 know, but they don't always catch everything.
 16 But that's something we have to -- if we make
 17 exercises more difficult, more complicated,
 18 add to things, we have to look at the medical
 19 standards as well as our response capability,
 20 as well as, you know, what we can do.
 21 COMMISSIONER:
 22 Q. My own thought is that the medical that's
 23 provided to people who are in preparation --
 24 before they get to you, it is a very extensive
 25 medical, I thought.

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<p>1 MR. RUTHERFORD</p> <p>2 Q. Indeed.</p> <p>3 COMMISSIONER:</p> <p>4 Q. So that you're sure, at least when someone</p> <p>5 comes in for training, that there is a certain</p> <p>6 -- they're at a certain medical level.</p> <p>7 MR. RUTHERFORD</p> <p>8 Q. Yeah.</p> <p>9 COMMISSIONER:</p> <p>10 Q. You're assured of that.</p> <p>11 MR. RUTHERFORD</p> <p>12 Q. But still, it doesn't always pick up</p> <p>13 everybody. As I say, we have exceptions and</p> <p>14 that's why we maintain a very high level of</p> <p>15 emergency response capability.</p> <p>16 COMMISSIONER:</p> <p>17 Q. Although the person may have passed the</p> <p>18 medical, that doesn't necessarily say much or</p> <p>19 anything, or does it, about the fitness level</p> <p>20 of a person?</p> <p>21 MR. RUTHERFORD</p> <p>22 Q. Oh no, no, and I think that's one thing that</p> <p>23 we are actually exploring that with our</p> <p>24 medical advisors to see if there's a way we</p> <p>25 can look at that, because we are noticing that</p>	<p>1 survival suits and try to get into life rafts</p> <p>2 or such thing, you know, they don't really</p> <p>3 understand how very difficult it is. So it's</p> <p>4 very -- I think it does -- the training does</p> <p>5 provide a good wake up call to some people,</p> <p>6 you know, that they need to be able to</p> <p>7 maintain that level of fitness to be able to</p> <p>8 respond to these situations.</p> <p>9 COMMISSIONER:</p> <p>10 Q. Okay then, Mr. Rutherford, thank you, and</p> <p>11 thank you, Mr. Hurley. Did you have anything</p> <p>12 else to -</p> <p>13 HURLEY, Q.C.:</p> <p>14 Q. No, that's fine, thank you.</p> <p>15 COMMISSIONER:</p> <p>16 Q. Okay. Thank you very much.</p> <p>17 ROIL, Q.C.:</p> <p>18 Q. Commissioner, the next presenter is Jack</p> <p>19 Harris, MP. Although Mr. Harris did not take</p> <p>20 the opportunity to provide a written</p> <p>21 submission, he did indicate his desire to give</p> <p>22 an oral presentation.</p> <p>23 COMMISSIONER:</p> <p>24 Q. Yes.</p> <p>25 ROIL, Q.C.:</p>
<p>Page 58</p> <p>1 the workforce is aging. We are getting more</p> <p>2 and more people come through, you know, in</p> <p>3 their 50s, 60s. I know you came through and</p> <p>4 were very successful. We do have people that</p> <p>5 are nowhere near as fit as you coming through</p> <p>6 and they have challenges. We have had</p> <p>7 situations where we will monitor them. If</p> <p>8 they're having severe challenges, we've had</p> <p>9 situations where we told them, you know, "go</p> <p>10 away, come back. You have to improve your</p> <p>11 level of fitness, otherwise you will not be</p> <p>12 able to get through this course." So that is</p> <p>13 monitored during the course of the training.</p> <p>14 COMMISSIONER:</p> <p>15 Q. Well, yes, I think that's good to hear,</p> <p>16 because you know, the experts and people we</p> <p>17 have talked to, you know, and really rate</p> <p>18 fitness, it seems to me, as an important</p> <p>19 factor, a factor that could be important in</p> <p>20 both training, I suppose, and should an</p> <p>21 emergency actually arise.</p> <p>22 MR. RUTHERFORD</p> <p>23 Q. Reacting to an emergency situation is very,</p> <p>24 very challenging, you know, and operating,</p> <p>25 particularly in people who haven't been in</p>	<p>Page 60</p> <p>1 Q. And I would just give him the small caution</p> <p>2 that this organization, as with many that work</p> <p>3 with the electronic media, that we have</p> <p>4 network commitments at 11:00, so if he's not</p> <p>5 quite finished at 11:00, we'll have to ask him</p> <p>6 to take a brief break.</p> <p>7 REGISTRAR:</p> <p>8 Q. The break is quarter to 11.</p> <p>9 COMMISSIONER:</p> <p>10 Q. It's about 20 minutes by that clock and by my</p> <p>11 watch, it's about 20 minutes to.</p> <p>12 ROIL, Q.C.:</p> <p>13 Q. Okay, I've just been corrected. Apparently</p> <p>14 our break is at 10:45, so perhaps best not to</p> <p>15 have Mr. Harris now and we'll have our break</p> <p>16 until 11.</p> <p>17 COMMISSIONER:</p> <p>18 Q. Yes.</p> <p>19 HARRIS, Q.C.:</p> <p>20 Q. Yes, if it was 11, it'd be all right, but I</p> <p>21 think 10:45 obviously is going to be right in</p> <p>22 the middle.</p> <p>23 ROIL, Q.C.:</p> <p>24 Q. Oh yeah, hardly worth -</p> <p>25 COMMISSIONER:</p>

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<p>1 Q. You would hardly get going.</p> <p>2 HARRIS, Q.C.</p> <p>3 Q. Just get my name out, as Randy Earle just</p> <p>4 said, haven't said my name in 20 minutes. So</p> <p>5 I think it would be appropriate to have our</p> <p>6 break.</p> <p>7 COMMISSIONER:</p> <p>8 Q. You're used to a different forum, you see.</p> <p>9 HARRIS, Q.C.</p> <p>10 Q. That's why I have it written down, sir, most</p> <p>11 of it. So I tried to be a little bit succinct</p> <p>12 here this morning.</p> <p>13 COMMISSIONER:</p> <p>14 Q. All right.</p> <p>15 HARRIS, Q.C.</p> <p>16 Q. But I think it would be appropriate to have</p> <p>17 the break now, to do that and then -</p> <p>18 COMMISSIONER:</p> <p>19 Q. Mr. Roil, you're in agreement with that?</p> <p>20 HARRIS, Q.C.</p> <p>21 Q. - and then come back whenever the Commission</p> <p>22 wishes.</p> <p>23 COMMISSIONER:</p> <p>24 Q. You're in agreement with that, Mr. Roil?</p> <p>25 We'll take a break now then.</p>	<p>1 concerns about survivability, including the</p> <p>2 capability of survival suits to keep a</p> <p>3 helicopter passenger alive and conscious long</p> <p>4 enough for an effective rescue in the event of</p> <p>5 a crash or an incident requiring ditching an</p> <p>6 aircraft. But of course, as you've said on a</p> <p>7 number of occasions as well, the crucial</p> <p>8 element in search and rescue is the speed of</p> <p>9 which one can actually get to the scene and</p> <p>10 that, of course, is the focus of my concern as</p> <p>11 well.</p> <p>12 When I was elected to Parliament, I</p> <p>13 brought with me the concerns expressed by many</p> <p>14 in this province about the adequacy of search</p> <p>15 and rescue in our vast offshore, both because</p> <p>16 of our many fishermen who earn their living at</p> <p>17 sea and now the constant presence of hundreds</p> <p>18 of offshore oil and gas workers involved in</p> <p>19 exploration and production in some cases</p> <p>20 hundreds of kilometres offshore, and this is a</p> <p>21 permanent feature, we hope, of our workforce</p> <p>22 in the province as we move forward, and of</p> <p>23 course, I've had an additional responsibility</p> <p>24 and opportunity as defence critic for my party</p> <p>25 and a member of the Standing Committee on</p>
<p>1 ROIL, Q.C.:</p> <p>2 Q. Yes, I think that's better.</p> <p>3 COMMISSIONER:</p> <p>4 Q. Yes, okay.</p> <p>5 (BREAK)</p> <p>6 COMMISSIONER:</p> <p>7 Q. Okay, Mr. Harris.</p> <p>8 HARRIS, Q.C.</p> <p>9 Q. Thank you, Mr. Commissioner. First of all, I</p> <p>10 want to thank you once again for the</p> <p>11 opportunity that you've given me to</p> <p>12 participate in this Inquiry as a party with</p> <p>13 standing. I do acknowledge that there was not</p> <p>14 much by way of precedence for an application</p> <p>15 by a sitting member of Parliament for standing</p> <p>16 at such an Inquiry and therefore I appreciate</p> <p>17 your decision to allow me to bring my</p> <p>18 perspective on a non-partisan basis, of</p> <p>19 course, to this Inquiry. I also appreciate</p> <p>20 very much the cooperation and assistance</p> <p>21 afforded to me by Commission counsel and staff</p> <p>22 throughout the process.</p> <p>23 The major focus of my participation has</p> <p>24 been, as you know, in relation to search and</p> <p>25 rescue, but of course, this expands to</p>	<p>1 National Perspective -- sorry, National</p> <p>2 Defence, to put these issues and pursue these</p> <p>3 issues at the parliamentary level.</p> <p>4 We know offshore workers, whether in the</p> <p>5 fishing industry or oil and gas, are employed</p> <p>6 in a high risk environment with sometimes</p> <p>7 extreme weather conditions and sea states and</p> <p>8 as well, the hazards of transportation. The</p> <p>9 dangers faced in our offshore have too often</p> <p>10 been highlighted by the many tragedies that</p> <p>11 have occurred over the years.</p> <p>12 I also had acted as one of the legal</p> <p>13 counsel for family survivors of the victims of</p> <p>14 the Ocean Ranger tragedy of 1982 and I</p> <p>15 participated in the Ocean Ranger Commission of</p> <p>16 Inquiry which followed and which made</p> <p>17 significant recommendations with respect to</p> <p>18 offshore safety and the need for search and</p> <p>19 rescue capability dedicated to the offshore.</p> <p>20 It's a sad commentary on governmental response</p> <p>21 to significant public policy recommendations</p> <p>22 that it has taken until now for the response</p> <p>23 mandated by that Commission more than 25 years</p> <p>24 ago with respect to provision of a full-time</p> <p>25 dedicated, fully equipped search and rescue</p>

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1 helicopter for the offshore is only now in
 2 process of being implemented. This is due to
 3 the early recommendation by you, sir, to the
 4 C-NLOPB and by their quick response in issuing
 5 the appropriate order. I wish to express my
 6 admiration for your decisive and early
 7 response to the evidence heard regarding
 8 response times in Newfoundland and Labrador as
 9 compared to those being provided elsewhere in
 10 offshore oil and gas operations, even by the
 11 same company under contract to other
 12 operators. The reduction of response time to
 13 a 15 to 20 minute wheels up standard, as a
 14 result of your speedy recommendations and
 15 their equally speedy adoption by the C-NLOPB,
 16 has given much hope to those working in our
 17 offshore and their families that the safety
 18 regime can and will be improved as a result of
 19 your work.

20 It has, of course, raised expectations
 21 for the rest of the work of your Commission
 22 and we all look forward to the completion of
 23 this work and the recommendations that will
 24 follow. I think, however, that it's probably
 25 true to say that this Commission has set some

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1 kind of record for the issuing and adopting of
 2 such an important recommendation with an
 3 immediate improvement in safety and imminent,
 4 I hope, follow through of having a fully
 5 equipped helicopter in line with your full
 6 recommendations.

7 Your decision to include the testimony
 8 and evidence of the Department of National
 9 Defence was also valuable and necessary,
 10 although, in my view, I still feel that the
 11 terms of reference unduly narrow the scope of
 12 your Commission's ability to fully examine and
 13 recommend improvements to the helicopter
 14 safety regime. The evidence is that Cougar,
 15 through the industry contracted search and
 16 rescue service, is regarded by the Canadian
 17 Forces Search and Rescue as the "first
 18 responder" for an offshore incident. However,
 19 there is a need for greater clarity in what
 20 this actually means operationally and
 21 precisely what the expectations are from each
 22 party.

23 We learned, for example, that no
 24 notification was given to Cougar advising that
 25 all of the air assets of 103 Search and Rescue

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1 Squadron in Gander were deployed for training
 2 to Nova Scotia on March 12th, 2009, the date
 3 of the crash of Cougar Flight 491. We also
 4 know that no SAR operations report was done on
 5 the crash and the search and rescue response,
 6 so we don't have the benefit of any lessons
 7 learned in relation to the inter-operability
 8 between Cougar and Rescue Coordinating Centre
 9 in Halifax or any insight into the role of
 10 first responder versus the Canadian Forces,
 11 particularly where the Canadian Forces assets
 12 were in another province.

13 This speaks, and you know, we all, of
 14 course, agree that training is extremely
 15 important and, you know, we want to ensure
 16 that the people who are engaged in search and
 17 rescue are involved in as full training as
 18 possible. In fact, I had an opportunity this
 19 summer to join the -- in Greenwood, Nova
 20 Scotia, as part of the Canadian Forces
 21 parliamentary program, and we travelled on the
 22 Aurora long range patrol aircraft, on the
 23 Hercules and on the Cormorant and participated
 24 in exercises such as I believe you, sir, did,
 25 being lifted from a helicopter and watched

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1 some of the exercises performed by the search
 2 and rescue technicians and I -- and these were
 3 in ideal conditions, even though at sea, and
 4 it's extremely gratifying to know that these
 5 people are doing things that I would never
 6 ever be able to do, but we have a very first
 7 rate group of men and women in certain roles
 8 in search and rescue that we are very proud
 9 of, and you know, it's also noteworthy, by the
 10 way, that during these exercises, we were in
 11 an Aurora one day, a Cormorant the next, and a
 12 Hercules a third day, we received -- we were
 13 tasked to, in fact, conduct a search with the
 14 Hercules while we were on board and actually
 15 participated in an actual search. Now the
 16 boat was actually found by someone else, but
 17 it's interesting to note that, you know, on
 18 two occasions, we were asked to be on standby
 19 to participate in a rescue or a search and
 20 this is while these assets are in the air and
 21 of course, while they're in the air, they're
 22 available to go on task somewhere else,
 23 depending, of course, how far away you are.

24 But in terms of the relationship between
 25 Cougar and Canadian Forces and this whole

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1 first responder issue, I think it speaks to
 2 the item number eight in your listed issues
 3 for consideration, which states "should there
 4 be a more formal protocol regarding the roles
 5 of Department of National Defence and the
 6 helicopter operator regarding first response?"
 7 In my opinion, the answer is clearly yes.
 8 However, this begs the question as to the
 9 content of such a proposal since if the
 10 helicopter operator is the first responder,
 11 what does this mean for the Canadian Forces
 12 who are therefore, by definition, the second
 13 responder? The worry, from my point of view,
 14 is what does this do to the decision making by
 15 Joint Search and Rescue Coordinating Centre?
 16 Do they delay response until the first
 17 responder arrives on the scene or do they
 18 regard the first responder as closer to the
 19 scene and immediately deploy additional
 20 resources to ensure a full response?
 21 Now Colonel Drover addressed this
 22 question indicating in his testimony, I think
 23 after a number of attempts, he said the answer
 24 to your question is even though it appeared
 25 that Cougar would likely be the first

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1 responder, there would be a Federal asset
 2 tasked in most cases. Now that's not entirely
 3 clear, and so that we don't really know
 4 exactly what situations they would and what
 5 ones they weren't. So to formalize that to
 6 have an understanding of the expectations as
 7 between one or the other, I believe is
 8 extremely important.
 9 It may be that your assessment of the
 10 terms of reference indicate that your
 11 Commission is prevented by the terms of
 12 reference from delving into the details of
 13 this, or it may be that there is a clear
 14 answer that we just don't know what it is. In
 15 any event, I believe there must be some
 16 greater certainty about the roles and
 17 relationship and I believe that you should
 18 recommend that such a protocol not only be
 19 adopted, but be promulgated, so that people
 20 know what the situation is.
 21 It also raises, however, the issue of
 22 response times for the Canadian Forces assets,
 23 particularly after four p.m. or before eight
 24 a.m. or on weekends or holidays when the
 25 response standard is two hours. This is, of

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1 course, outside your jurisdiction, in terms of
 2 recommending changes to the CF response times,
 3 but that doesn't really end the matter because
 4 it obviously has consequences for offshore
 5 helicopter safety outside the eight a.m. to
 6 four p.m. weekday time frame when the CF
 7 second responder is operating on a 30-minute
 8 response standard. So the 30-minute response
 9 standard only operates within eight to four on
 10 weekdays. So outside of that time, your
 11 second responder is operating on a totally
 12 different standard.
 13 You will have to determine whether there
 14 is a sufficient backup from the Canadian
 15 Forces to allow operations to be supported by
 16 a single SAR helicopter with a 15 to 20-minute
 17 wheels up response time, knowing that the
 18 second responder is operating with a two-hour
 19 response standard, for one, secondly, is much
 20 further away to the likely source of an
 21 incident and thirdly, that they may have to
 22 refuel along the way to get there.
 23 An incident involving a helicopter
 24 ditching with 18 survivors in the water may
 25 well require more than a single SAR helicopter

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1 on an immediate basis. The interaction
 2 between the industry SAR response and the CF
 3 response is clearly important in these
 4 circumstances.
 5 Now your determination that a 15 to 20-
 6 minute response time wheels up is required for
 7 the industry provider indirectly, and no doubt
 8 unintentionally, challenges the Canadian
 9 Forces position that a two-hour standard can
 10 be considered adequate outside of that eight
 11 to four weekday time frame. Now I'm not sure
 12 I can explain this correctly, but I know you
 13 can't say anything about what they should do
 14 with respect to their response time, because
 15 it's outside of your mandate, but I think you
 16 have to make your own recommendations within
 17 the context of what the search and rescue
 18 capability is available. I think, you know,
 19 it's easy to conceive of an incident where a
 20 second helicopter which arrives later than the
 21 first, because of a significantly longer
 22 response time plus greater travel distance and
 23 possibly the need to refuel on route, could
 24 result in a disaster and a loss of life and
 25 I'm concerned because when one considers the

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1 internal critique of the National Search and
 2 Rescue Secretariat, and I referred to that in
 3 my original presentation and I provided copies
 4 of it, their critique was that the response
 5 time posture, and I'm -- that's the word they
 6 use. It sounds very awkward, but it's their
 7 position, they use that term, the response
 8 time posture -- if DND is determined primarily
 9 by resource availability rather than user
 10 demand. So when you consider that's already a
 11 critique of the DND position, it's important
 12 for this Commission to consider the needs for
 13 safety in the Newfoundland offshore against
 14 the backdrop of available SAR response from
 15 the Canadian Forces.

16 If one looks at the circumstances then
 17 where the first responder is, in this case,
 18 Cougar, the industry contracted provider, they
 19 are mandated to provide first response with
 20 one helicopter. If the second response is so
 21 considerably delayed as a result of the
 22 operational standard of the Canadian Forces,
 23 then you're left with a circumstance where
 24 after 8:00 -- sorry, before 8:00 and after
 25 4:00, we have a very different circumstance

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1 for safety than we do between eight and four.
 2 This may result in a recommendation from you
 3 that could impose serious limitations on
 4 offshore operations by helicopter, but may be
 5 necessary in order to provide a first class
 6 level of safety for offshore workers.

7 There is, of course, an interaction
 8 between the survivability over time while
 9 immersed in the frigid waters of the offshore
 10 operating area and the amount of time it would
 11 take to get survivors of a crash or a ditching
 12 out of the water. This is a second issue.

13 On the first issue, I don't have a full
 14 recommendation but I think that given the
 15 analysis that we've seen of the response times
 16 and the potential lengthy period of time to
 17 get a second helicopter there, it may be that
 18 a recommendation may have to be made that --
 19 that a recommendation might have to be made
 20 that operating outside of the eight to four
 21 period, as long as the second responder
 22 response time is as it is, is not safe, and
 23 that's something that obviously you have to
 24 give serious consideration to, as you did when
 25 determining that the 15 to 20-minute standard

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1 was required for safety in our offshore.
 2 Because if you do accept the concern that I'm
 3 expressing here, it may require significant
 4 curtailment of helicopter operations until
 5 there's a change in the Canadian Forces
 6 response posture. So that's -- I realize that
 7 we're treading -- not treading on the
 8 jurisdiction, but we're recognizing that the
 9 reality of the Canadian Forces response is
 10 there. It is, in my view, inadequate, but
 11 that's a separate matter and I'll get to that
 12 a little further, but the fact of the matter
 13 is your Commission is making recommendations
 14 in the context of what the reality is. This
 15 is what the Canadian Forces provide. This is
 16 what you think is necessary and I think your
 17 recommendation as to what can be done safely
 18 within that circumstances is something that's
 19 still within your purview.

20 There is a secondary consideration and
 21 this may also have an interaction with that
 22 concern, and Helly Hansen has spoken to this
 23 and we've heard a number of experts on the
 24 survivability in the frigid waters of our
 25 offshore, but it seems that the research on

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1 these issues is pretty slow and that it'll
 2 take considerable time to obtain results that
 3 are practicable and useable in making
 4 decisions about the adequacy of immersion
 5 suits, particularly in the frigid waters of
 6 our offshore and this puts considerable weight
 7 on the need to reduce search and rescue
 8 response times as a primarily method of
 9 ensuring survivability in the offshore.

10 Now, I mean, our offshore obviously is
 11 very different than elsewhere and there was
 12 some discussion about the CGSB standard as
 13 being a standard for Canada, as opposed to
 14 perhaps a different standard for the Arctic or
 15 Atlantic waters and our -- North Atlantic
 16 waters in our offshore, and I think it was
 17 brought home to me a couple of weeks ago,
 18 reading a report of a rescue in the Bay of
 19 Fundy where a number of -- a whale overturned
 20 a boat. You may have read about that
 21 circumstance. A whale -- four or five people
 22 in the water and the report, a media report on
 23 it indicated that fortunately there was a boat
 24 10 or 15 minutes away and came and rescued the
 25 people that were there and the comment was

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1 that they were very lucky because in another
 2 10 or 15 minutes, they may not have made it
 3 because the waters were cold. They were
 4 between 10 and 15 degrees. So we would love
 5 to have 10 or 15 degree water in our offshore,
 6 but that's an indication again of how
 7 different the standard might be in the Bay of
 8 Fundy versus the standard that might apply in
 9 our offshore operating area.

10 So I think that, you know, in terms of
 11 the -- there's a lot of technical information
 12 on the survival suits and I know you, sir, and
 13 your Commission counsel will be, and have
 14 already, no doubt, looked carefully at them,
 15 but there is an interaction between the
 16 survivability issue and the response times and
 17 I think you'll have to weigh them up to
 18 determine whether or not the potential need
 19 for a second responder on site in a relatively
 20 short period of time would indicate that there
 21 may need to be some curtailment of operations
 22 outside the eight to four time frame on
 23 weekdays when -- at least as long as the
 24 Canadian Forces response, standby response is
 25 at it is, and although it's outside of your

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1 purview here, I wish to inform you that it is
 2 my hope that improvements can be made to the
 3 Canadian Forces response times, in particular
 4 the two-hour response time that's applicable
 5 in these after and before between eight and
 6 four.

7 In March of this year, the Standing
 8 Committee on National Defence agreed to
 9 undertake a study of search and rescue
 10 response times and the committee has already
 11 heard from one witness, Colonel Drover, who
 12 will be familiar to you. I'm also hoping that
 13 the Committee can travel to Newfoundland and
 14 Labrador this fall to hear witnesses. The
 15 committee may also travel to other parts of
 16 the country, as there are concerns in other
 17 places as well, particularly in relation to
 18 the provision of timely responses to
 19 emergencies in the north. I think we're all a
 20 little shocked to hear that the hundred people
 21 have to be evacuated from a tourist ship who
 22 had run aground in the north and that it took
 23 two days for an icebreaker to get to them to
 24 unload them as passengers. Now we always --
 25 you know, we're kind of shocked to hear that.

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1 Now they weren't being rescued from an
 2 emergency. The boat wasn't sinking, but
 3 again, how long does it take and should it
 4 take for rescue to be effective. We had
 5 another story last year of an Inuit hunter on
 6 an ice floe in the Arctic, and I think it took
 7 two or three days for a helicopter to get and
 8 take this Inuit hunter off an ice floe where
 9 he had been stranded.

10 So that's another question that we're
 11 dealing with in the Defence Committee, but the
 12 two-hour response standard is something that I
 13 want to particularly pay attention to and we
 14 will be looking at that. The first step has
 15 been taken towards getting the Committee to
 16 come to Newfoundland, but it requires approval
 17 of a travel budget and a parliamentary
 18 decision to permit travel.

19 Of course, any prediction as to the
 20 outcome of such a study, in terms of any
 21 recommendations and possible future decisions
 22 by Government is entirely speculative and
 23 there isn't even a firm timetable on the
 24 Committee's work itself, so that's something
 25 that's going on in another forum and will be

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1 dealt with there, but in terms of the reality
 2 that we're faced right now is we are faced and
 3 you are faced with a situation that the second
 4 responder, in the case of the Canadian Forces,
 5 is not available on the same standard of
 6 wheels up as you have determined is necessary
 7 with respect to the industry provider and
 8 that's particularly acute after the eight to
 9 four time frame.

10 As for your Commission's work, sir, I
 11 believe it is extremely important. Sadly,
 12 history has shown us that it's often only
 13 through tragedy that significant positive
 14 steps are made in improving safety practices
 15 in industry and in terms of government
 16 regulations, particularly when such
 17 improvement often comes at a considerable
 18 cost, but it's also hoped that they will bring
 19 about a significant change in the practice
 20 within industry itself and attitudes that
 21 people have towards making sure that we do
 22 everything possible to prevent accidents from
 23 happening in the first place, and in the case
 24 of the offshore, that we are -- have taken
 25 every step, any steps that can be reasonably

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1 made to ensure that rescue can be obtained.
 2 In conclusion, Mr. Commissioner, I once
 3 again thank you for the opportunity to
 4 participate in the Inquiry and I hope that my
 5 intervention has been of some assistance to
 6 you and your work. I have supplied a number
 7 of reports that are available from Government
 8 sources and excerpts of others for your use
 9 and for your consideration as well, and I
 10 would be very happy to respond to any
 11 questions that you may have.
 12 COMMISSIONER:
 13 Q. Well, thank you, Mr. Harris. Obviously,
 14 you've touched on things that concern me very
 15 much and to which I'm not sure if there is an
 16 answer at this stage in our particular
 17 offshore. Let's contrast our offshore, which
 18 there is only one land base, namely right here
 19 in St. John's, as it were, that's the closest,
 20 as compared with the North Sea where you have
 21 a land base in Scotland, for example, or in
 22 England, for that matter, and you have bases
 23 in Norway and even in the Netherlands, which
 24 has not as large, but nevertheless, a
 25 significant number of installations, so that

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1 if -- and also, you have helicopters stationed
 2 on platforms, and you have a lot of boat
 3 support as well. I mean, BP, which has come
 4 under fire in recent times, but within the
 5 last, I think, about three years, BP has spent
 6 1.3 billion pounds in the North Sea on the
 7 jigsaw regime on boats, which are a mother
 8 ship with large fast rescue craft, about 80
 9 feet long, which are designated as places of
 10 safety with medical aid and everything on
 11 board that can be dropped from the side of a
 12 mother ship and are capable of probably 30 or
 13 35 knots, which is pretty fast. We can't have
 14 that. We have nothing offshore to come in the
 15 other direction. It's interesting in that
 16 regard because of the coverage they have
 17 there.
 18 I remember during the course of the
 19 Inquiry, people were talking about perhaps the
 20 colour of the helicopters and I thought they
 21 meant colour -- and I think they did mean
 22 colour of the helicopter in the water if one
 23 should go down. But what we learnt in the
 24 North Sea was that the colour is that you
 25 might have four or five helicopters converging

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1 on an accident scene and the bright colours
 2 are necessary so they can see each other and
 3 not run into each other. I mean, we, I don't
 4 think, can ever have the level of coverage
 5 that is in the North Sea and that -- I've
 6 spent hours reflecting and thinking on it.
 7 HARRIS, Q.C.
 8 Q. I think that's obviously quite often our
 9 situation here. We're looking at a standard
 10 in other places that can be achieved perhaps
 11 more easily because they have so many assets,
 12 but also focuses on what we need to do to at
 13 least, because we only have several
 14 installations and they are remote, even from
 15 St. John's, the fact that the other search and
 16 rescue assets are either in Gander, in the
 17 case of the Cormorants, or in Greenwood, Nova
 18 Scotia, in the case of the Hercules, that, you
 19 know, that makes it all the more important
 20 that we ensure that we have a safe regime
 21 offshore. Obviously you're not going to have
 22 it to the extent that you have in the North
 23 Sea because of the large number of
 24 installations and the proximity of land on
 25 three sides, I think, of the operation. But

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1 so we have to focus either more particularly
 2 on the assets that we do have and whether --
 3 and determine whether it's adequate or not.
 4 As I say, you can't go outside of your
 5 jurisdiction, but if that reality of the --
 6 what is available through the Canadian Forces
 7 is as it is, then that obviously constrains
 8 what level of safety that we can have and
 9 that's why the eight to four window of the
 10 second responder is available within 30
 11 minutes, even though it's farther away, that
 12 that's more palatable obviously than the
 13 situation where after 4:00 in the afternoon,
 14 it's a two-hour standard. Now we heard
 15 Colonel Drover say that it don't always go to
 16 two hours, but that's the standard, and
 17 there's various statistics I know that can be
 18 provided about that, but the reality is that,
 19 in terms of availability, you can't count on
 20 that because of the way that their operations
 21 are conducted.
 22 So you're constrained, I think, to make
 23 your recommendations within that reality,
 24 unfortunately, as long as that is the reality.
 25 But it's not easy. I mean, it's -- you know,

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1 our own situation, although we have a very
 2 high level of production, it's only on three
 3 and will be four installations in the not too
 4 distant future, but you know, your
 5 recommendations, and you know, we seen with
 6 the Ocean Ranger, these recommendations are
 7 going to be around for a long time. Hopefully
 8 they will be implemented, you know, speedily
 9 and we've heard the commitment of people to
 10 follow through on recommendations. So I think
 11 that that's a very important step, but these
 12 recommendations will be the standard for
 13 perhaps many years, and so it's -- I realize
 14 the difficult task that you have, but I think
 15 we have a -- we do have a circumstance where -
 16 - you know, and many -- I'm not the first one
 17 obviously to concern myself with the response
 18 time of search and rescue after hours, so
 19 called, but that's the reality right now and
 20 that's the reality in which your
 21 recommendations are -- at least for the time
 22 being, are going to have be made and so it's
 23 not an easy decision.
 24 COMMISSIONER:
 25 Q. I do thank you, Mr. Harris, for your thoughts

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1 on this.
 2 HARRIS, Q.C.
 3 Q. Thank you very much.
 4 MS. FAGAN:
 5 Q. Commissioner, the next presenter is Jonathan
 6 Tarlton. He's counsel for the Department of
 7 Transport Canada.
 8 COMMISSIONER:
 9 Q. Yes.
 10 MS. FAGAN:
 11 Q. I understand he has a few words.
 12 COMMISSIONER:
 13 Q. Okay, thank you.
 14 MR. TARLTON:
 15 Q. Thank you and good morning, Mr. Commissioner.
 16 COMMISSIONER:
 17 Q. Good morning.
 18 MR. TARLTON:
 19 Q. As counsel representing Transport Canada, I
 20 just want to take this opportunity to
 21 introduce or reintroduce for your benefit and
 22 for the benefit of the other people here,
 23 accompanying me this morning is Arthur Allen,
 24 who is the Regional Director of Civil Aviation
 25 for the Atlantic Region of Transport Canada.

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1 Mr. Commissioner, I intend to be very
 2 brief. With respect to our participation,
 3 Transport Canada thanks you for giving us the
 4 opportunity to participate as a party with
 5 limited standing and for the opportunity to
 6 make submissions and provide information
 7 through the testimony of Mr. Stephenson and
 8 others to assist you in this very important
 9 and difficult task. Our submission is before
 10 you. I don't intend to add anything further
 11 to it this morning, subject to any questions
 12 you might have. We appreciate, as I say, the
 13 opportunity to participate. We hope that our
 14 participation and input was helpful to you and
 15 will assist you in making your future
 16 deliberations and formalizing your
 17 recommendations as you go forward. Thank you
 18 very much.
 19 COMMISSIONER:
 20 Q. Thank you very much, Mr. Tarlton.
 21 ROIL, Q.C.:
 22 Q. Commissioner, the next presenting organization
 23 is the Canadian Association of Petroleum
 24 Producers, who we have from time to time
 25 referred to as CAPP. The spokesperson will be

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1 Mr. Lewis Manning, their legal counsel. He
 2 has two members of CAPP with him, or not
 3 members of CAPP, two representatives of CAPP
 4 with him that are welcome to join him if that
 5 is his wish, or he may sit there by himself.
 6 MR. MANNING:
 7 Q. Very good. Thank you, sir. Good morning, Mr.
 8 Commissioner.
 9 COMMISSIONER:
 10 Q. Good morning.
 11 MR. MANNING:
 12 Q. Let me start by thanking you on behalf of the
 13 Canadian Association of Petroleum Producers
 14 for the opportunity to appear here today and
 15 present you with our submissions and also to
 16 participate in the Inquiry.
 17 This Inquiry arises from a terrible loss,
 18 the effects of which will last for far too
 19 long, and it is good that we're having this
 20 Inquiry. The mandate of this Inquiry, simply
 21 put, is to learn from the terrible loss caused
 22 by the helicopter crash last year and looking
 23 forward, to make improvements to helicopter
 24 passenger safety in relation to offshore oil
 25 and gas operations. CAPP is completely

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1 aligned with you in that objective.
 2 Our approach, from the outset, has been
 3 to cooperate fully with your counsel and to
 4 give them and through them, you, whatever
 5 assistance we can. Mr. Barnes was called as a
 6 witness by your counsel and he provided
 7 significant information at that time.
 8 Following his appearance, we subsequently
 9 provided substantial additional information in
 10 response to undertakings.
 11 I don't propose to plow through all of
 12 that information today, nor am I going to read
 13 to you our written submissions filed at the
 14 end of July. You and your staff have that and
 15 we leave all that with you in the belief that
 16 it will be of assistance to you.
 17 I am going to touch on a few of the main
 18 points in CAPP's written submissions and will
 19 then be pleased to respond to any questions
 20 you might have and if I cannot answer the
 21 questions myself, Mr. Schultz, who is with us
 22 at the back of the room, general counsel of
 23 CAPP, and Mr. Barnes are both here to support
 24 me, and if among the three of us, we don't
 25 have any answers, we'll do our best to get you

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1 answers, sir.
 2 Industry plays a key role in the matters
 3 for consideration before this Inquiry. It is
 4 the operator that is ultimately accountable
 5 for the safety of its workforce. Industry
 6 brings enormous depth of knowledge,
 7 experience, systems and process, all of which
 8 comes from years of successful operations and
 9 continuous drive to bring to bear new and
 10 better technologies and processes. Industry
 11 associations like CAPP form because
 12 governments want to make well informed policy
 13 and industry associations provide a good
 14 vehicle for efficient communications between
 15 industry and government on issues that affect
 16 industry generally.
 17 CAPP has a well structured organization
 18 based in St. John's to manage petroleum
 19 industry issues in Atlantic Canada. CAPP
 20 cannot stress too much the very simple, the
 21 very clear fact that the Canada and
 22 Newfoundland Labrador governments place worker
 23 safety at the top of their priorities. Worker
 24 safety is a paramount value. The offshore oil
 25 and gas industry fully shares the values of

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1 worker safety. It is a top priority. You've
 2 heard that repeatedly in this Inquiry, yet it
 3 cannot be said too often. Regulation of
 4 worker safety does, in fact, serve the public
 5 interest and industry shares that public
 6 interest. This Inquiry proceeds on the basis
 7 of a fundamental shared value, the importance
 8 and priority of worker safety.
 9 The offshore oil and gas industry is
 10 committed to continuous improvement,
 11 particularly to worker safety. Where it's
 12 demonstrated that improvements can and should
 13 be made, this is an industry that will make
 14 those improvements.
 15 CAPP also believes strongly that the
 16 regulatory structure for offshore Newfoundland
 17 and Labrador is fundamentally sound and that
 18 any improvements that this Inquiry believes
 19 appropriate in relation to helicopter safety
 20 can and should be made in the context of the
 21 existing regulatory structure. The existing
 22 regulatory structure captures the value that
 23 the community places on worker safety and this
 24 reenforces the expectations and performance of
 25 those whose duty it is to seek and implement

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1 best practices in relation to all those, be it
 2 operator, regulator and workforce, that are
 3 together responsible for ensuring safety.
 4 We submit the existing framework in which
 5 the C-NLOPB and CAPP do business is effective
 6 and works well. That's not to say it can't be
 7 improved, and we've commented on ways to
 8 improve that relationship in our submission.
 9 Something else that cannot be emphasized
 10 too much is the fact that making improvements
 11 to safety can be a challenge because the whole
 12 safety system needs to be considered. What
 13 looks to be an improvement to safety from one
 14 perspective may cause problems for safety in
 15 other respects. The experience with the HUEBA
 16 device is one very clear example of this. The
 17 challenge of balancing the safety gain from
 18 issuing the HUEBA device to helicopter
 19 passengers with the risks in training
 20 contributed greatly to the length of time it
 21 took to implement HUEBA. Industry has looked
 22 hard at that experience and has learned
 23 lessons that have already been adopted and
 24 applied. You have that and it fully addresses
 25 the learnings from that experience.

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1 The lessons learned highlighted several
 2 process elements that worked well, including
 3 the rigorousness of the process,
 4 documentations of decisions and research
 5 throughout the process, and the value of a
 6 joint industry approach. It was determined
 7 that the existing processes that work well for
 8 handling most issues as between the Board and
 9 CAPP and within CAPP's structure do need
 10 improvement in the case of issues as complex
 11 as HUEBA. The lessons learned exercise
 12 identified the following opportunities for
 13 improvement for particularly complex issues.

14 First is stakeholder engagement and in
 15 this regard, the lessons learned exercise
 16 indicated stakeholder communication protocols
 17 and processes, including communication with
 18 the OHS committees, require greater
 19 effectiveness and visibility within project
 20 management.

21 The second point deals with the interface
 22 between CAPP and the regulator, and in this
 23 regard, the lessons learned document indicated
 24 that ensuring regulator's expectations for
 25 deliverables and time lines are clearly

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1 articulated requires more attention as a first
 2 step in project management. Formal reporting
 3 of progress should be provided to the
 4 regulators at regular intervals.

5 Third, the Lessons Learned Report deals
 6 with CAPP internal processes and indicates
 7 project management should be enhanced to
 8 identify an Atlantic Canada Executive Policy
 9 Group Champion with the responsibility to
 10 monitor the project to ensure that it's
 11 progressing in accordance with expectations.

12 Fourth, the Lessons Learned exercise
 13 indicates that CAPP member company engagement
 14 and support should be further enhanced to make
 15 sure that member company engagement and
 16 alignment is present, that there is a project
 17 terms of reference document that's provided to
 18 all CAPP members and committees working on the
 19 project to ensure clear communication of
 20 expectations and responsibilities throughout
 21 the duration of the project, and also to
 22 document the nature of the project, the
 23 project's scope, roles, responsibilities, and
 24 deliverables, key milestones, timelines, and
 25 reporting relationships. It would also deal

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1 with resources available to the project,
 2 including CAPP member and external resources
 3 and the avenues for elevating and resolving
 4 issues.

5 Last, the terms of reference would be
 6 able to outline the way in which the project
 7 would be monitored by committee members to
 8 ensure they are current and to facilitate
 9 succession and management of change
 10 initiatives. These recommendations have been
 11 adopted by CAPP and apply particularly to
 12 complex issues like HUEBA. They fully
 13 address, among other things, the relationship
 14 between the C-NLOPB and CAPP.

15 Another key point, Mr. Commissioner, that
 16 is well known to this Inquiry, but bears
 17 mentioning, is that there is no one right way
 18 to do everything. Different people who share
 19 the same goal and the same priority for worker
 20 safety can and do come to different
 21 conclusions about how to go about achieving
 22 the goal. You have obtained much comparative
 23 information, however, the mere fact that
 24 someone has decided to do something a
 25 different way does not by itself imply that

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1 one decision is better than the other. There
 2 are, for example, some jurisdictions that seem
 3 to prefer having all worker safety handled by
 4 an agency or a government department that is
 5 completely separate from the agency that
 6 regulates offshore oil and gas operations. We
 7 are sure they have their own good reasons for
 8 that, however, the model of a single offshore
 9 regulatory board is the model that's used in
 10 Canada, and not only in Newfoundland and
 11 Labrador, this is the model that is used in
 12 Nova Scotia offshore with the C-NSOPB, and it
 13 is the model in other offshore areas regulated
 14 by the National Energy Board.

15 In our submission, this model makes great
 16 sense. It works well. Everything we've heard
 17 in this Inquiry indicates that improvements to
 18 helicopter passenger safety can be
 19 accommodated within the existing regulatory
 20 structures. There is simply no reason, and
 21 there is no foundation in the mandate or
 22 record of this Inquiry to recommend a major
 23 structural change to the regulatory model.
 24 You have gathered information about all the
 25 different ways that helicopter safety is

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1 regulated in various places in the world. When
 2 considering the overall system of regulation
 3 of helicopter safety in Canada, and in
 4 Newfoundland and Labrador, we would underline
 5 the conclusion reached in the report
 6 commissioned by you from Mr. Taber at page 55
 7 where it's stated, "Based on the information
 8 presented in this report, offshore helicopter
 9 travel in Canada is at or above safety levels
 10 in other regions around the world".
 11 We believe there are many avenues and
 12 opportunities for the views and concerns of
 13 workers to be brought to bear with the
 14 operators and with the offshore board. The
 15 evidence at this Inquiry demonstrates this and
 16 we are confident that where there are ways and
 17 means to reflect and improve upon concerns
 18 that are communicated, that positive changes
 19 will result.
 20 Mr. Commissioner, you have CAPP's views
 21 in the written submissions on some of the
 22 specific issues, and I will not take up time
 23 to repeat or summarize those here. We leave
 24 them with you for your consideration and I
 25 will only say that CAPP fully supports having

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1 an effective offshore regulator and a
 2 regulator with the proper level of resources
 3 and expertise. The overall message I wish to
 4 leave with you is that CAPP is of the view
 5 that the existing structures of regulation are
 6 appropriate and provide a sound framework
 7 within which continuous improvements in safety
 8 can be achieved, and with that, sir, I
 9 conclude my submission, and I'm happy to field
 10 any questions you may have.
 11 COMMISSIONER:
 12 Q. Thank you, Mr. Manning. I don't think so.
 13 Your brief set out very succinctly CAPP's
 14 position, so I know exactly what you're
 15 saying.
 16 MR. MANNING:
 17 Q. Thank you again, sir.
 18 COMMISSIONER:
 19 Q. Okay, thank you. Mr. Roil.
 20 ROIL, Q.C.:
 21 Q. Yes, Commissioner, the next presenter is Laura
 22 Brown Laengle on behalf of the Government of
 23 Newfoundland and Labrador, or is it Mr. Rolf
 24 Pritchard - I'm sorry, I was not aware that
 25 Mr. Pritchard was going to be giving the

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1 presentation. He was with us in the earlier
 2 part of the hearing, so we welcome him back.
 3 MR. PRITCHARD:
 4 Q. Good morning, Mr. Commissioner.
 5 COMMISSIONER:
 6 Q. Good morning.
 7 MR. PRITCHARD:
 8 Q. Thank you. In common with most of the other
 9 parties here, the Province has already filed a
 10 written submission which in some detail was
 11 shorter than some, and longer than some, went
 12 in and described the existing regulatory
 13 regime in this province, and what it had
 14 emanated from, some of the earlier reports
 15 that had brought that about, the Harrison
 16 Report, and the Ocean Ranger Commission
 17 Report. Then went on to discuss how this had
 18 evolved through various mechanisms into the
 19 current regulatory regime, and then concluded
 20 by discussion at some length the proposed
 21 Occupational Health and Safety amendments to
 22 the Accord Acts, which are intended to enhance
 23 occupational health and safety in the
 24 Newfoundland and Labrador and Nova Scotia
 25 offshore area. That was the substance of the

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1 report that was filed by the Province. I
 2 don't intend to go over that. I did, however,
 3 want to highlight very briefly a couple of the
 4 aspects of the proposed amendments that are
 5 anticipated to be dealt with by the
 6 Legislatures in Newfoundland and Labrador and
 7 Nova Scotia and by the Federal Government
 8 hopefully this fall.
 9 A number of aspects that I wanted to
 10 touch on. The first one is the issue of
 11 consultation. The process that has led to
 12 these amendments has been a process that has
 13 evolved in consultation. For example, in
 14 terms of engaging stakeholders, presentations
 15 were conducted via teleconference to the Joint
 16 Occupational Health and Safety Committees on
 17 various operator's installations. During these
 18 presentations, invitations were extended to
 19 committee members to comment on the proposed
 20 amendments. Subsequently, consideration was
 21 given to those amendments in further
 22 developing proposals for the amendment to the
 23 Occupational Health and Safety regime in the
 24 Accord Acts. So consultation is one
 25 cornerstone of these proposals.

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<p>1 Perhaps a brief comment on what it is 2 not. The new governance model in relation to 3 helicopter transportation in particular will 4 also apply to passenger craft by which workers 5 travel to and from the installations, and also 6 between them, be they ships or helicopters. 7 It will not, however, impact on the 8 airworthiness of the helicopters or other 9 matters that are within the exclusive 10 jurisdiction of Transport Canada. 11 I've spoken briefly about the issue of 12 consultation, what it is not, perhaps now some 13 of the features of the proposals. There are a 14 number of items. One of them is that these 15 amendments will provide the chief safety 16 officer and the other health and safety 17 officers with new enforcement tools and 18 mechanisms to ensure that there is an 19 appropriate level of compliance. For example, 20 a health and safety officer visiting a 21 facility would be entitled to carry out 22 various examinations, tests, or monitoring. As 23 well, to take away with them various exhibits 24 or assets that they wish to examine, including 25 material from computers and other things for</p>	<p>1 between the Minister of Natural Resources role 2 in promoting offshore development and the 3 Minister of Government Services role in 4 overseeing the C-NLOPB's regulation of 5 offshore occupational health and safety. As 6 well, the Minister with oversight 7 responsibility, which would be the Minister of 8 Government Services, would be entitled to the 9 occupational health and safety information and 10 documentation under the control of the C- 11 NLOPB. 12 The Province has highlighted the proposed 13 amendments to the occupational health and 14 safety regime in the Accord Act, as this is a 15 change in the regulatory regime, and one that 16 is a significant change. The Province is 17 grateful to the Commission for the opportunity 18 to make these submissions today and also to 19 participate in the Inquiry that has transpired 20 these last few months. Thank you, 21 Commissioner, and that concludes the 22 submission on behalf of the Province unless 23 you have any questions. 24 COMMISSIONER: 25 Q. No, I think I'm quite clear, Mr. Pritchard, on</p>
<p>1 examination and testing. 2 Another aspect of the proposed amendments 3 to the Accord Act include the ability for the 4 responsible Provincial or Federal Minister to 5 call for an audit or an inquiry into the 6 activities of the C-NLOPB. Another aspect is 7 the creation of tripartite, that is employers, 8 industry, and government advisory councils, 9 who would the C-NLOPB and government ministers 10 regarding occupational health and safety and 11 the administration of the occupational health 12 and safety components of the Accord Act. 13 A significant development in the proposed 14 amendments is the separation of oversight 15 responsibility. At present, the provincial 16 Minister of Natural Resources has oversight 17 responsibility for offshore health and safety. 18 Under the proposed amendments, this will now 19 change. The Minister of Government Services 20 who has responsibility for occupation health 21 and safety within the province, would now have 22 responsibility for occupational health and 23 safety in the offshore. This separation of 24 roles will provide additional assurance that 25 there is no conflict or appearance of conflict</p>	<p>1 the Province's position. Thank you very much. 2 MS. FAGAN: 3 Q. The next presentation is from the counsel for 4 the families of the deceased passengers, and 5 that's Mr. Jamie Martin. 6 COMMISSIONER: 7 Q. Thank you. 8 MR. MARTIN: 9 Q. Thank you, Ms. Fagan. Good afternoon, Mr. 10 Commissioner. At the outset, I would just 11 like to acknowledge the contribution of 12 individuals and organizations connected to the 13 Inquiry. First of all, I wish to thank the C- 14 NLOPB for their timely response in setting up 15 the Inquiry. I wish to thank you, Mr. 16 Commissioner, your co-counsel, Mr. Roil and 17 Ms. Fagan, and your staff for their excellent 18 cooperation throughout. I would also wish to 19 single out Bruce Moss, who is not here today, 20 Bruce has someone filling in for him today, 21 who sat in on most of these proceedings on 22 behalf of Discoveries Unlimited and then 23 produced these transcripts on a timely basis. 24 The reason why I single Bruce out is Bruce 25 certainly has a special interest in these</p>

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1 proceedings, and with the families, in
 2 particular, and I don't know if many of you
 3 were aware or have heard Bruce's CD which was
 4 dedicated to the families, but I would highly
 5 recommend that those who have not heard
 6 Bruce's CD to do so, it's a special tribute to
 7 the families and the deceased passengers of
 8 Cougar 491.

9 Mr. Commissioner, we filed a brief on
 10 behalf of the families on July 30th, and I do
 11 not intend, as the other parties, to read that
 12 brief into the record. I also read with
 13 interest the briefs filed by other parties
 14 with standing. Mr. Commissioner, you will
 15 recall that on February 10th of this year four
 16 family members of the deceased passengers, the
 17 spouses of the deceased passengers, Sharon
 18 Pike, Marilyn Nash, and Lori Chynn, and Alicia
 19 Nash, daughter of Burch Nash, appeared before
 20 you. At the conclusion of their remarks, the
 21 courage of the family members to come forward
 22 was acknowledged in what can only be described
 23 as a most difficult time in their life.

24 Lori Chynn referred to the aftermath of
 25 her husband's death as "a nightmare". Marilyn

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1 Nash indicated "all of our lives are changed
 2 forever". You, Mr. Commissioner, commended
 3 the families for their presentation, which you
 4 described as being "straight from the heart",
 5 and indeed they were. Mr. Commissioner, what
 6 the families offer this Commission of Inquiry
 7 is different than most of the other parties
 8 with standing. They do not have a direct
 9 involvement or a direct experience with
 10 offshore helicopter safety. They neither have
 11 the experience in such matters as suit design,
 12 like Helly Hansen, training like the Marine
 13 Institute, or the specialized knowledge of
 14 CAPP, Cougar, and the operators, or the day to
 15 day interest and involvement of the Union.
 16 What the families do have in common, Mr.
 17 Commissioner, is the sharing of a grave
 18 experience in their lives. They have the
 19 anecdotal evidence of their spouses, their
 20 concerns about flying, their concerns about
 21 training, their concerns with the size of
 22 their suit, among other issues.

23 What this Inquiry has done, and this
 24 Commission should be commended for it, has
 25 brought these issues forward in a manner that

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1 allow them to be debated and heard in an
 2 appropriate forum. The absence of direct
 3 experience, however, or direct knowledge by
 4 the families of deceased passengers, does not
 5 in any way make the input of the families less
 6 important. In fact, the families believe
 7 their input is very important and have
 8 appreciated the way in which their remarks and
 9 their input has been received by this
 10 Commission.

11 Mr. Commissioner, the families listened
 12 intently to the evidence adduced at the
 13 Inquiry, from among others, officials
 14 representing the suit manufacturers, the
 15 training providers, representatives of the
 16 regulatory board, Cougar, the operators, and
 17 the extensive array of experts that you've
 18 retained. What was clearly apparent from the
 19 families, from their evidence on February
 20 10th, was the need for an offshore regulatory
 21 board that is responsive, and one that is
 22 accountable for its decisions, many of which
 23 affect the livelihood of each and every worker
 24 who travels offshore.

25 Mr. Commissioner, the families have every

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1 confidence that you will conduct a thorough
 2 analysis and consider the need for reforms
 3 and, in particular, whether there needs to be
 4 a regulator independent of government and
 5 industry. You will, of course, examine the
 6 reports of your experts, you will look at the
 7 models used in other countries, you will look
 8 at the evidence that was adduced over 40 days
 9 of hearings, to determine whether reforms are
 10 identified and necessary to ensure that
 11 decisions affecting the safety of offshore
 12 workers will be made on a timely basis.

13 Mr. Commissioner, also present in the
 14 families message of accountability is the need
 15 for the regulatory board, the operators,
 16 including Cougar, to share information on all
 17 aspects of helicopter operations. Mr.
 18 Commissioner, we have heard time and time
 19 again throughout this Inquiry about the need
 20 to manage risk in the offshore helicopter
 21 transportation safety process. Ms. Turner,
 22 among others, reminded us of that on several
 23 occasions when she presented her evidence to
 24 this Inquiry. Risk management is clearly the
 25 responsibility of everyone involved in the

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1 offshore, including the workers themselves.
 2 The workers, though, Mr. Commissioner, in
 3 order to assess that risk, require information
 4 on a timely basis. This should include, as
 5 Lori Chynn suggested in her testimony,
 6 information that alerts service bulletins,
 7 among other things. Mr. Commissioner, the
 8 families were encouraged that the views they
 9 expressed on the need for information sharing,
 10 which I might add was largely obtained from
 11 anecdotal evidence provided by their deceased
 12 loved ones, was shared by many of the people
 13 who currently work offshore. I refer to in
 14 our brief to excerpts from the passenger
 15 survey completed for this Inquiry, and I will
 16 not comment any further on in my oral
 17 presentation.
 18 Mr. Commissioner, by way of conclusion,
 19 what happened to the families on March 12th,
 20 2009, was devastating, it should not have
 21 happened. What the families hope comes out of
 22 this Inquiry is, to the extent possible,
 23 measures involving such matters as training,
 24 suit sizes, availability of underwater
 25 breathing devices, the merits of night time

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1 flying, among others, are thoroughly
 2 identified, explored, and implemented to
 3 ensure optimum safety for current and future
 4 offshore oil workers. Mr. Commissioner, I
 5 wish on behalf of the families we represent to
 6 thank you again for your work and your
 7 consideration throughout, and we look forward
 8 to the receipt of your report in due course.
 9 Unless you have any further questions for me,
 10 those are my submissions. Thank you very
 11 much, Mr. Commissioner.
 12 COMMISSIONER:
 13 Q. Thank you very much, Mr. Martin, and I thank
 14 the families who you represent.
 15 MR. MARTIN:
 16 Q. Thank you very much.
 17 MS. FAGAN:
 18 Q. Mr. Commissioner, the next presenter is Kate
 19 O'Brien, and she is counsel for the families
 20 of the pilot and co-pilot.
 21 COMMISSIONER:
 22 Q. Thank you. Good morning, Ms. O'Brien or good
 23 afternoon.
 24 MS. O'BRIEN:
 25 Q. Before I begin, I too would like to express my

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1 thanks and thanks of my clients for the
 2 opportunity to participate in this Inquiry.
 3 As Ms. Fagan has just said, I'm here today
 4 representing the Estates of the pilot and co-
 5 pilot, the latter by agency, of the helicopter
 6 that crashed on March 12th of 2009. As such,
 7 I have focused my efforts on issues that
 8 affect the flight crew or the pilots and co-
 9 pilots in Newfoundland and Labrador's offshore
 10 industry.
 11 Commissioner, your mandate is to inquire
 12 into, report on, and make recommendations in
 13 respect of matters related to the safety of
 14 offshore workers working in the Newfoundland
 15 and Labrador offshore as they travel in
 16 helicopters, and I want to make quite clear
 17 that it's my submission that the definition of
 18 offshore worker needs to include the pilots
 19 and co-pilots.
 20 There is some 1,600 or so men and women
 21 who are working right now in our offshore, and
 22 compared to that number, the handful of pilots
 23 and co-pilots might seem very few, but we're
 24 here in this Inquiry talking about helicopter
 25 transport and certainly two of the 18 seats of

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1 the flight that went down were occupied by
 2 flight crew. That's over 10 percent. So when
 3 we're talking about the group who are
 4 travelling in helicopters, that's always going
 5 to be over 10 percent pilots and co-pilots,
 6 and in some cases when there is equipment
 7 going offshore and the helicopters are not
 8 full with passengers, it can be 100 percent of
 9 the people in every helicopter. So no
 10 consideration of safety in the offshore in
 11 helicopter transport can possibly be complete
 12 without really considering the interests of
 13 the men, and sometimes I'm sure there will be
 14 women who are taking those jobs.
 15 Another point I'd like to make is that
 16 the safety of pilots and co-pilots is not
 17 separate and distinct from the safety of
 18 passengers. There may be unique
 19 considerations for pilots and co-pilots that
 20 are distinct from those of passengers, but
 21 they're not unconnected. You know, on a
 22 helicopter it's typically the pilots who have
 23 the most training in emergency procedures,
 24 safety procedures, and part of their job is to
 25 lead and assist their passengers through

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1 emergency situations, and those men and women
 2 can't do that job if their health and safety
 3 is unduly compromised. So keeping pilots safe
 4 is an important part of keeping passengers
 5 safe.
 6 Before I get into the sort of detailed
 7 parts of my submission, I just want to speak
 8 generally about what this Commission can do
 9 for pilot safety. Clearly this Commission has
 10 been called by the C-NLOPB, who is the
 11 regulator of the oil operators, which is
 12 distinct from Transport Canada, who is, of
 13 course, the regulator for the air operators;
 14 in this case, Cougar. When you make your
 15 recommendations you will be making your
 16 recommendations to the C-NLOPB, who is the
 17 regulator of the oil industry, and you will
 18 not be making recommendations to Transport
 19 Canada. That's outside your mandate, of
 20 course. However, I want to make clear here
 21 that it's my submission that there is a lot
 22 that you can do for pilot safety that does not
 23 require direct interaction with the regulatory
 24 framework set out by Transport Canada.
 25 In my written brief that I filed, I

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1 referenced a very useful article by a fellow
 2 by the name of Robert Freeman from Transport
 3 Canada, and that was specifically on
 4 helicopter issues which I will get to in my
 5 submissions. However, one thing that he makes
 6 clear because there's no regulation from
 7 Transport Canada on helicopter usage, and yet
 8 Mr. Freeman is recommending that helmets be
 9 used, and he wrote that one of the issues here
 10 is that there is a Federal Government Cabinet
 11 Directive that states that Transport Canada
 12 may only consider making regulations when
 13 absolutely necessary. So by Federal Cabinet
 14 Directive, Transport Canada can only regulate
 15 when absolutely necessary. So really
 16 regulation has got to only be the bottom
 17 floor. Regulation will not be what we need to
 18 keep people's risk as low as reasonably
 19 practicable. As I said, regulation has to be
 20 the bottom floor. To keep people safe, we
 21 really have to do more, and we have heard from
 22 the oil operators and we've heard from the air
 23 operator that they in many, many instances
 24 exceed the regulatory minimums. In fact,
 25 that's what they consider, the regulatory

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1 minimums, and there's lots of cases where
 2 these companies step up and do more. So in
 3 your recommendations to the C-NLOPB, it can
 4 include recommendations of what the oil
 5 operators should be requiring of the air
 6 operator, and in that contractual relationship
 7 between the oil operators and the air
 8 operators a great deal can be achieved.
 9 So those are my general comments,
 10 Commissioner. There's two specific issues that
 11 are among the list of issues that you will be
 12 considering in your final report that I wish
 13 to comment on, and those are particularly
 14 Issue 13 and Issue 14.
 15 Issue 13 addresses what personal
 16 protective equipment and clothing is necessary
 17 for helicopter passengers and pilots, and what
 18 are the standards, and should the C-NLOPB
 19 require guidelines to ensure such equipment
 20 and clothing is properly fitted.
 21 Before I get into this issue, I'd like to
 22 - when Kimberley Turner last presented before
 23 this Inquiry, she was presenting the results
 24 of a survey that had been done for the
 25 offshore passengers or the offshore workers,

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1 and in the course of questioning and
 2 discussions with Ms. Turner on the stand, you
 3 ultimately decided to have her go back and do
 4 a survey particularly of the Cougar employees
 5 that had not been done in the initial survey.
 6 So since we were last before you that survey
 7 has been done, the results have been compiled,
 8 and they have been posted on the website and
 9 entered here today as an exhibit. I found
 10 that report - those survey results very useful
 11 and I hope you will too, and I will make
 12 reference to some of the comments and results
 13 during the course of my presentation.
 14 I'd like to start my presentation with
 15 respect to protective equipment and clothing
 16 by quoting what one worker, one Cougar
 17 employee wrote in his or her survey, and it
 18 was in response to Question 34 which asked the
 19 survey takers to state their concerns with
 20 helicopter transport, and this person wrote,
 21 "There is much emphasis put on the passenger
 22 comfort and safety, but there is a huge
 23 disconnect when it comes to crew safety", and
 24 it's that disconnect between how passengers
 25 are being treated and their issues are being

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1 treated, and pilots and their safety issues
 2 are being treated, that I want to address. We
 3 have heard an awful lot of evidence before
 4 this Inquiry with respect to the passenger
 5 seats. We have had two standards put forward,
 6 we have had the suits brought in here, we have
 7 had very detailed explanation on those suits,
 8 the standard, the testing, and so on. I know
 9 that the suits that the pilots and co-pilots
 10 wear cannot be treated the same as the suits
 11 that the passengers wear. We know that there's
 12 different issues, there's heat stress issues,
 13 they have to be mobile in the cockpit, they
 14 have to be aware of that Christmas tree effect
 15 that we heard about, but yet just because
 16 there's unique considerations, and just
 17 because it's more difficult doesn't mean that
 18 we can ignore them. We had no empirical
 19 evidence presented before this Inquiry to
 20 support the status quo or to support the
 21 decision on the suit that the pilots are
 22 currently wearing, and, in fact, for a lot of
 23 equipment that was the case.
 24 When questioned about these things, about
 25 the decisions, a lot of the witnesses talked

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1 about why they chose the suit the pilot was
 2 wearing, why they made the decisions with the
 3 helmets and so on, they didn't point to hard
 4 data, what they talked most about was sort of
 5 gut feelings and personal experience, and that
 6 seemed to be how a lot of the decisions were
 7 being made.
 8 Now we know from Ms. Turner's testimony
 9 that one of the essential features of good
 10 risk management is systemizing and
 11 objectivizing the assessment, and to do that
 12 you really need hard data. In coming up with
 13 examples of why having data is so important in
 14 order for these assessments to take place, I
 15 thought about recently legislation has come in
 16 this province that requires parents to put
 17 their children between age 4 and 8 in booster
 18 seats, so once you've just cleared the hurdle
 19 of lugging around the diaper bag and you have
 20 older children, you're now being told you have
 21 to go this extra step of putting your children
 22 in booster seats, it's a lot of extra work and
 23 there's resistance among parents to having to
 24 do that, yet when you tell the parents that by
 25 putting their child in a booster seat, in the

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1 case of an accident they reduce the chance of
 2 fatality of that child by 90 percent, that's
 3 very convincing and it's when you give the
 4 parents that kind of data, that they all of a
 5 sudden go - it makes sense to them to go
 6 through that extra effort. Well, it's the
 7 same thing for safety decisions with the
 8 pilots. A pilot's risk of being killed in an
 9 accident is six times higher if he is not
 10 wearing a helmet. That's important data for
 11 pilots to know when they're making a decision
 12 about whether or not they're going to put on a
 13 helmet or not. That's important data for
 14 Cougar to use in their assessment of whether a
 15 helmet should or should not be used.
 16 At the time of the March 12th accident in
 17 2009 only 10 percent of Cougar's pilots were
 18 wearing helmets. When I asked Mr. Burt of
 19 Cougar about the decision about helmets and
 20 whether they were required or not, he said he
 21 did not want to make it a requirement for his
 22 crew to wear helmets. He said "I believe that
 23 it's an acceptable level of risk", and he
 24 preferred to leave the choice about whether or
 25 not to wear helmets to the individual pilots

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1 to make. I asked him directly if any formal
 2 risk assessment had been done and he said, no,
 3 it hadn't, a formal risk assessment on the
 4 issue of helmets had not been done. That was
 5 really surprising to me, and it was surprising
 6 to Howard Pike when I put it to him, he being
 7 the Chief Safety Officer for the C-NLOPB.
 8 After the accident of March 12th, 2009,
 9 the Transportation Safety Board did issue an
 10 advisory on pilot usage of helmets as a direct
 11 result of their investigation into the Cougar
 12 crash, and this has been made public, it's not
 13 a part of the report that's yet to come. They
 14 noted it in that advisory, although the two
 15 pilots were not fatally injured during the
 16 impact sequence, both of them received severe
 17 injuries due in part to striking their heads
 18 and faces against the instrument panel. So we
 19 know that on this day the pilot and co-pilot,
 20 the men of the families that I'm representing,
 21 weren't wearing their helmets and they
 22 sustained severe injuries because of that.
 23 Because of that, early on the TSB issued this
 24 advisory. In October of 2009 they issued this
 25 advisory talking about the importance of

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1 helmet usage. I'm quoting from that advisory,
 2 "Despite the well documented safety benefits
 3 of head protection, the majority of helicopter
 4 pilots continue to fly without it. Likewise,
 5 most Canadian helicopter operators do not
 6 actively promote head protection use amongst
 7 their pilots. Low frequency of head
 8 protection use within the helicopter industry
 9 is perplexing, given the nature of helicopter
 10 flying and the known benefits of head
 11 protection. As shown in this occurrence",
 12 meaning the March 12th accident, "without
 13 ongoing and accurate communication of the
 14 benefits of head protection use, helicopter
 15 pilots will continue to operate without head
 16 protection, thereby increasing the risk of
 17 head injury to the pilot and consequently
 18 inability to provide necessary assistance to
 19 crew and passengers". I understand that since
 20 this has all taken place, Cougar's use of
 21 helmets has risen to 85 percent, which is a
 22 great deal better than 10 percent. I also
 23 understand that Cougar has implemented a cost
 24 sharing program so that if they have pilots
 25 who wish to use helmets, that they are, I

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1 suppose, sharing the cost with them. I don't
 2 know the details of the cost sharing program,
 3 but I certainly think it's very good news that
 4 the use is up. I certainly think that
 5 probably the two main factors that use is up
 6 is because; one, since this accident, the
 7 pilots are more aware, they have more
 8 information about the difference that a helmet
 9 can make in terms of their survival; two, some
 10 of the costs of helmets, which I understand
 11 can be up to \$3,000.00 for a good helmet, I
 12 mean, it's not a cheap piece of equipment, has
 13 been shared or taken by their employer. I
 14 would like to see helicopter pilot helmet
 15 usage at Cougar or any air operator operating
 16 in Newfoundland and Labrador offshore to be at
 17 100 percent. Perhaps it should be a mandatory
 18 requirement, I don't know. To make that
 19 decision, the people who are responsible for
 20 making it, Cougar or the oil operators,
 21 they're going to have to do a formal risk
 22 assessment and that should be done. There
 23 should be an ongoing program to keep the
 24 pilots and co-pilots informed and educated
 25 about what helmets or any other piece of

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1 safety equipment can do for them, and I don't
 2 think the cost should be shared either, I
 3 think the cost should be borne entirely by the
 4 employer and not by the employees. When we're
 5 talking about critical safety equipment, it
 6 should be provided by the employer.
 7 I'd like to talk now briefly about the
 8 flight suits. As I started this, I said, you
 9 know, it's the passenger flight suits that
 10 seem to get all the attention, and I'm just
 11 going to run through quickly the attention
 12 that they get. We have two standards in place
 13 for the helicopter suits. The helicopter
 14 passenger transportation suit standard is not
 15 only in place now, it's currently under review
 16 by an industry funded Canadian General
 17 Standards Board led initiative, and we had
 18 some testimony on that from Mr. Mark Collins,
 19 who is the Operations Manager with Helly
 20 Hansen, and so he's involved in that process.
 21 So they're reviewing the standards, and in
 22 particular he anticipates they're going to be
 23 making changes to those standards to require
 24 that the testing of the suits, of the
 25 helicopter passenger suits, that the testing

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1 take place in more realistic conditions, and
 2 we heard today from Helly Hansen and we also
 3 heard from the Marine Institute that both
 4 those bodies are really in support of changing
 5 the standards so that testing is more
 6 realistic. We have no standard for the pilot
 7 suit. Forget trying to get the testing to be
 8 more realistic, we don't even have a basic
 9 standard to work with. Not only that, not
 10 only do we have the standards for the
 11 passengers and the review of the standards,
 12 we've also had further testing done of the
 13 helicopter passenger suits that has been done
 14 by CAPP. They recently funded the CORD Group,
 15 which we heard about earlier this morning, to
 16 do further more stringent testing on the suits
 17 that the passengers are wearing. We know that
 18 the CORD Group test conditions were much more
 19 realistic than what's done for the CGSB
 20 standard, and that the suits did very well
 21 under that testing, and no doubt that result
 22 has brought a great deal of comfort to the
 23 passengers who are wearing those suits. Again
 24 we have had no testing of the pilot suits; how
 25 are they going to perform in the Atlantic

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1 Ocean in rough wave conditions. We have no
 2 idea because no testing has been done. The
 3 only standard that's in place for those suits
 4 now is that the have to adequately protect
 5 against hypothermia, that's what it says. We
 6 don't know whether they do that or not. Again
 7 the data is not there.

8 During questioning at the Inquiry, Cougar
 9 undertook to provide you, Commissioner, with
 10 the specifications for the flight suits worn
 11 by their pilots and they did do that, but the
 12 information that was provided was largely of a
 13 qualitative description of the suits, it
 14 didn't have any specification of the thermal
 15 rating of the suit, which we've heard about is
 16 the Clo value of the suit, we have no
 17 information on the thermal rating of the suits
 18 that the pilots are wearing, we have no
 19 information on the buoyancy specifications of
 20 the suits that the pilots are wearing. I'm
 21 seeing - you're worried about time?

22 MS. FAGAN:
 23 Q. Yes.
 24 MS. O'BRIEN:
 25 Q. I'm a little bit from being done, so I can

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1 certainly break now if you prefer.
 2 MS. FAGAN:
 3 Q. I don't want to rush you. Commissioner, I
 4 don't want to rush Ms. O'Brien's presentation,
 5 and we have the entire afternoon, so given
 6 we're at the break -
 7 COMMISSIONER:
 8 Q. We're at the break, the lunch break, yes.
 9 MS. FAGAN:
 10 Q. And I don't want to rush the presentation. I
 11 think we should perhaps break and finish it
 12 after lunch.
 13 COMMISSIONER:
 14 Q. I think Ms. Fagan is right. We try as best we
 15 can to keep to our time table is better, and
 16 you have no objection, I presume.
 17 MS. O'BRIEN:
 18 Q. Not at all.
 19 COMMISSIONER:
 20 Q. All right then, we'll adjourn now until 2
 21 o'clock, and come back and you can carry on.
 22 (RECESS)
 23 COMMISSIONER:
 24 Q. Okay then, Ms. O'Brien.
 25 MS. O'BRIEN:

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1 Q. Thank you. Commissioner, before we broke for
 2 lunch, I was talking a bit about the data that
 3 we have available on the Viking suits that the
 4 flight crew are currently wearing with Cougar,
 5 and as I was saying, that although Cougar did
 6 provide us with some more information on the
 7 suits and the different layers that the flight
 8 crew is currently wearing, it didn't have any
 9 - there was no quantification or numerical
 10 specifications for those suits, so we do not
 11 know what their thermal rating is, we don't
 12 know what their buoyancy rating is, we don't
 13 know what their water ingress rates are, we
 14 just don't really know very much about the
 15 suits. Now it would be, I think, very helpful
 16 for all parties to be able to assess these
 17 suits and an important part of assessment, of
 18 course, is having the data and then having
 19 something to compare that data to. We do know
 20 - what we do have in evidence before this
 21 Inquiry is some information that might be
 22 helpful in that kind of assessment. Michael
 23 Taber, in his expert report to you,
 24 Commissioner, he cited some research that had
 25 been done by Brooks of Transport Canada in

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1 2003, where Brooks said that air crew, so
 2 specifically talking about pilots and co-
 3 pilots, should be thermally protected by a
 4 suit ranging from .25 to .75 Clo. We know
 5 that - I would suspect that the frigid waters
 6 of our coast that something higher than that
 7 range might be appropriate. We know from DND,
 8 they did provide - Colonel Drover, when he was
 9 here, I asked if he could follow-up and
 10 provide information to the Commission on the
 11 suits that were worn by the military SAR
 12 pilots, and he did do that. It had some
 13 specifications associated with their suit, and
 14 we know that those pilots are wearing a suit
 15 with a Clo, immersed Clo of .847, so above the
 16 range recommended by Brooks, plus they're
 17 wearing a liner made of a material called
 18 Nomex, plus they're wearing a closed-cell PCB
 19 foam layer. So they have extra protection on
 20 top of that. So I think it would be very
 21 interesting to know how the suits that the
 22 pilots are currently wearing compare to these
 23 range put forward by Brooks, as well as what
 24 the DND pilots are wearing.
 25 One of the benefits of getting the survey

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1 done by Kimberley Turner’s company with the
 2 Cougar staff is that I now have confirmation
 3 that I’m not whistling alone on this one. For
 4 the Cougar employees, on Question #17, they
 5 were asked if they had any concern with the
 6 breathing devices, POBs, or other personal
 7 safety equipment that they were being issued,
 8 and 38 percent of those who answered who
 9 regularly used helicopter transport said that
 10 they did have concern, and when asked if they
 11 had concern with their survival suit, 36
 12 percent of those who regularly travel offshore
 13 and who answered that question said that they
 14 were concerned or very concerned about their
 15 survival suit, and we’re talking now about
 16 Cougar employees.

17 In fact, at Question 34 of the survey,
 18 they were asked to give additional information
 19 over concerns that they had, the number one
 20 concern identified by the Cougar employees was
 21 suits. Of those who responded, the greatest
 22 number of them said that they were not just
 23 concerned, but that they were extremely
 24 concerned about the suits. You get a little
 25 more information when, of course, you read -

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1 there was a place on the survey where
 2 respondents could give a little bit more
 3 information about their concerns, and I won’t
 4 go through those quotes now, but when you go
 5 through them, this picture emerges that there
 6 is some concern there, and part of the concern
 7 might be that the people just don’t have the
 8 information and the data to assess or know
 9 whether the suits that are being worn are
 10 going to be good enough should they need them.

11 There may also be a concern with the
 12 colour of the suits. I can’t stand here today
 13 and tell you whether there is or there isn’t.
 14 We do know in Michael Taber’s expert report,
 15 he pointed to a recommendation from the
 16 Australian Aviation Investigation Bureau where
 17 it was recommended that the European Aviation
 18 Safety agency investigate methods to increase
 19 the conspicuity of immersion suits worn by the
 20 flight crew in order to improve the location
 21 of incapacitated survivors of helicopter
 22 ditching. So we do know in Australia - we’ve
 23 heard that our pilots are now wearing these
 24 navy blue suits. We know in Australia there
 25 was some concern that their pilots in similar

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1 dark coloured suits weren’t conspicuous enough
 2 for rescue operations. We know that Dr.
 3 Coleshaw, she also raised this concern as a
 4 major issue. Now in response to that
 5 testimony, Captain J. J. Gerber of Cougar,
 6 came forward and he gave some additional
 7 information to you and he confirmed that
 8 Cougar does use navy suits, but that there was
 9 a lot of concern with reflection, heat, and
 10 what not in the cockpit, and he talked about
 11 mitigating measures that were taken, you know,
 12 the personal location beacons and those kind
 13 of things, you know, his opinion or his
 14 feeling was that was enough, but, you know, is
 15 that enough or not; I don’t know. Are those
 16 measures enough to mitigate the risk, I don’t
 17 know, and not that Captain Gerber’s feelings
 18 aren’t important, of course they are, but to
 19 do a proper assessment, I think you need a
 20 little more than that. I think some testing
 21 has to be done, we have to really investigate
 22 a little further before such an important
 23 decision is made. You know, there is a
 24 European standard for helicopter pilot suits,
 25 so there is a standard out there. Just

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1 because we don’t have one in Canada, they do
 2 have one in Europe, and it might be
 3 informative to compare our suits to that
 4 standard, not that that standard has legal
 5 authority here, but it’s still got to be
 6 informative, and the European standard does
 7 require that pilot suits be conspicuous.

8 COMMISSIONER:
 9 Q. I’m sorry, they be -

10 MS O’BRIEN:
 11 Q. That they be conspicuous. So there is a
 12 requirement in their standard. That is
 13 addressed there. There’s also the issue of
 14 spray hoods. That was something that was
 15 mentioned. We know that the passenger suits
 16 all have these spray hoods that can be donned,
 17 and Dr. Coleshaw when she was testifying, she
 18 talked a lot about cold shock and the effect
 19 of waves splashing in the face and how that
 20 can be critical for long term survival. Our
 21 pilot suits don’t have any type of spray hood.
 22 I think they have a thermal type hood that can
 23 be donned, but no protection from the waves
 24 and the splashing and what not. Dr. Coleshaw
 25 said that she was 99 percent sure that flight

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1 crew in the UK have a type of spray hood, and
 2 then she later confirmed to me that the
 3 European standard did require a spray hood. So
 4 that's perhaps something that should be looked
 5 into for our pilots. If they have something
 6 in the North Sea to protect them from that
 7 type of wave action, I would certainly think
 8 the same thing might be beneficial here.
 9 Again I don't know, but I certainly think it's
 10 worth investigating.

11 The last piece of breathing equipment I
 12 wanted to mention was the emergency breathing
 13 system used by pilots, the HEED System, we
 14 talked a lot about the HUEBA System, which is
 15 the system being used by the passengers, and
 16 we know that during the course of this
 17 Inquiry, just this year a system was
 18 introduced to the flight crew for Cougar. They
 19 actually got their emergency breathing systems
 20 after the passengers got theirs, and, you
 21 know, initially and in my written
 22 presentation, I spoke a bit about the delays
 23 in getting that system to the pilots, that I
 24 felt were too long and I still do, but I'm not
 25 going to belabour that point, but upon reading

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1 some of the responses on Kimberley Turner's
 2 survey, there's a number - when asked about
 3 areas of concern, the HEED system came up a
 4 few times, and there's definitely some
 5 employees of Cougar who have concerns with
 6 their HEED systems, and I'm just going to read
 7 one of them out. There is more than one there.
 8 "The breathing device the pilots wear is a
 9 different device compared to the passengers.
 10 Pilots wear the bottles that is inserted into
 11 the life vests. Due to cost of replacing the
 12 jackets, that's what we are told, we are stuck
 13 using this device. The HEED bottles are much
 14 more cumbersome and more room for error as
 15 compared to what the passengers wear. I would
 16 like to see the pilots get the bottles that
 17 are attached to the suit with the breathing
 18 hoses. The safety department are made up of
 19 people who do not regularly fly offshore. No
 20 pilot is on the safety department committee to
 21 represent pilot's concerns. Therefore, our
 22 requests are pushed aside due to costs". So
 23 clearly there's someone there who has a
 24 concern with the HEED's bottle that the pilots
 25 are wearing, whether that concern could be

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1 allayed because of more information, or
 2 whether that's a sign that perhaps we should
 3 look a little further, I would say it
 4 certainly merits further investigation. Just
 5 because something has been implemented by
 6 Cougar doesn't mean that we stop there; great,
 7 we have that done, we can go look at something
 8 else. There constantly has to be a re-
 9 evaluation that we have the most appropriate
 10 thing, are new technologies coming on board
 11 and making it better - I mean, you have to
 12 revisit these decisions on a regular basis and
 13 there has to be sort of a systemized process
 14 for doing that.

15 Just to conclude on my submissions with
 16 respect to the safety equipment, I think,
 17 number one, more testing has got to be done on
 18 the equipment being worn by pilots; two, we
 19 have to have - there has to be a systematic
 20 maintenance program, a repair program for the
 21 equipment that's in place. Some concerns
 22 raised in the comments here were that the
 23 pilot suits were very worn, so it made me
 24 wonder, well, how often are they being
 25 replaced, do they have a formalized inspection

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1 system, those kind of things. That has to be
 2 in place. There has to be some sort of system
 3 in place whereby as new technologies come out,
 4 that they're being evaluated on a regular
 5 basis to make sure that what people are using
 6 is the best available at the time.

7 Next, I think there has to be more
 8 education. I think that giant leap in use of
 9 helmets from 10 percent to 85 percent since
 10 March 12th, 2009, is quite something, and more
 11 than anything, I think that speaks to the
 12 value of educating people on the benefits of
 13 using safety equipment, even if it's a bit
 14 uncomfortable, even if it's a bit cumbersome.
 15 So education has to be there. There has to be
 16 formal risk assessments on all this type of
 17 equipment done, and revisited on a regular
 18 basis. The concerns of Cougar employees, and
 19 particularly the pilots, has got to rise up
 20 and be considered. We know from doing the
 21 survey now that there's concerns out there.
 22 There has to be a way for people to get those
 23 concerns to the people who are doing the risk
 24 assessments so that they can be considered.
 25 Finally, of course, the emphasis always

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1 has to be on safety, not cost. I know that
 2 cost matters, but the emphasis has to be on
 3 safety. That concludes my submissions on that
 4 issue.
 5 The other issue that I wanted to deal
 6 with was maximizing pilot participation in
 7 safety initiatives and I'll be fairly brief on
 8 this one. It goes without saying, obviously,
 9 that pilot participation is in my view
 10 critical. A few ideas have emerged throughout
 11 the course of this Inquiry that are certainly
 12 worth looking into. One idea that surfaced
 13 would be a formal means of communication
 14 between the occupational health and safety
 15 committees of the oil operators and the air
 16 operators. Their occupational health and
 17 safety committees currently, obviously the oil
 18 operators have them, Cougar has them, but
 19 there's no formal communication between the
 20 two. Obviously, these committees are focused
 21 largely on different issues, but there are
 22 times where the workplaces overlap, and so
 23 there will be some - there will be some common
 24 concerns between the two groups. So maybe a
 25 somewhat regular and formal meeting between

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1 the two might be useful. Another idea that
 2 was raised by Kimberley Turner was this issue
 3 of crew resource management or team resource
 4 management training. Now I understand that's
 5 a huge area, but what I understand from what
 6 she said and my own reading is that this crew
 7 resource management and team resource
 8 management really has to do about training for
 9 pilots and passengers about the - educating
 10 them about the environment, teaching them
 11 about communicating so that they become, as
 12 regular users of the systems, they learn to
 13 identify true concerns as opposed to things
 14 that aren't really a concern, so they have a
 15 bit more information, they know where to
 16 direct their concerns and how to effectively
 17 communicate. So the idea - I think Kimberley
 18 Turner talked about the orange pop dripping
 19 from the overhead compartment on a plane one
 20 time, you know, she saw something dripping and
 21 she brought it forward. If you better educate
 22 the passengers and the pilots on how to
 23 recognize dangers and communicate them, that
 24 can go a long way towards improving safety.
 25 There's a huge body of knowledge out there on

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1 these two almost disciplines at this point,
 2 but I certainly thought it was a very
 3 interesting idea. It's clearly - these are
 4 ideas that are emerging in the industry and I
 5 certainly think would be worth a further look.
 6 The final suggestion for better
 7 communication again comes from the survey
 8 results where one of - clearly in this case it
 9 was a pilot who responded, who said that when
 10 asked for opportunities for improvement in
 11 Question 35 of the survey, when asked to give
 12 details, he, I'm assuming, wrote "Improvement
 13 can be made if we, the pilots, have a
 14 representative in the Safety Department to put
 15 forth our concerns. At the moment, people
 16 that do not fly offshore are representing us.
 17 Therefore, due to cost in changing things,
 18 such as breathing devices, goggles, safety
 19 equipment, suits, are pushed aside. They're
 20 more concerned about wearing safety equipment
 21 around the hangar than on our workplace for
 22 pilots, which is over the Atlantic Ocean.
 23 That's where our concern is. We need someone
 24 to represent our issues, preferably an outside
 25 agency, not just Cougar Safety Department". So

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1 here the idea here is that maybe Cougar Safety
 2 Department, there's no pilot representative
 3 there. That looks to me like a pretty easy
 4 change so at least you could be getting that
 5 proper feedback up to the Safety Department at
 6 Cougar.
 7 Subject to any questions you have,
 8 Commissioner, those are my submissions to you,
 9 and thank you for listening to them.
 10 COMMISSIONER:
 11 Q. Thank you very much, because you've touched on
 12 a lot of things, I think, that are worthy of
 13 consideration and research, so thank you. I
 14 think it's valuable.
 15 MS. O'BRIEN:
 16 Q. Thank you very much.
 17 MS. FAGAN:
 18 Q. Commissioner, the next presenter is counsel
 19 for Cougar Helicopters Inc., Mr. Kevin Stamp,
 20 and I'd ask Mr. Stamp to come forward. He can
 21 come forward on his own, or his clients or
 22 representatives can come with him, whatever he
 23 prefers.
 24 STAMP, Q.C.:
 25 Q. Good afternoon, Mr. Commissioner.

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1 COMMISSIONER:
 2 Q. Good afternoon, Mr. Stamp.
 3 STAMP, Q.C.:
 4 Q. As with others, Mr. Commissioner, I'd
 5 like to thank you for the opportunity again to
 6 appear before you on behalf of Cougar. We
 7 did, of course, as you know, participate in
 8 the evidentiary portion of this hearing, and
 9 we have filed written submissions as well
 10 previous to this occasion, and, of course, I
 11 don't intend to review in any detail those
 12 written submissions.
 13 My remarks will be fairly brief, Mr.
 14 Commissioner. I would like on behalf of
 15 Cougar to at this point again extend our
 16 sincere sympathies to the families affected by
 17 this tragedy, and to Mr. Decker and his
 18 family, with the hope that he will enjoy a
 19 full and permanent recovery. No doubt, Mr.
 20 Commissioner, even these proceedings are
 21 difficult for these families, but the hope I
 22 would express is that they may take some
 23 comfort that this process will possibly result
 24 in enhancements to safety for helicopter
 25 travel and that other offshore workers,

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1 including Cougar's own staff, will be the
 2 beneficiaries of that effort.
 3 Mr. Commissioner, I would say that Cougar
 4 officials throughout this process have
 5 endeavoured to be as open and as cooperative
 6 and as helpful as possible, and we certainly
 7 hope that their contribution will be of
 8 assistance to you in your deliberations, and
 9 on behalf of Cougar, we wish to assure you and
 10 the passengers that we welcome and embrace any
 11 directives which will further improve Cougar's
 12 existing safety programs and their practices.
 13 Obviously, as it's apparent from what has
 14 been said even today, this issue of safety is
 15 a fluid and a continuing process, and we
 16 welcome suggestions that will move that issue
 17 forward. I intend to make comments only on a
 18 couple of specific issues, Mr. Commissioner,
 19 and much has been said about immersion suits,
 20 both for passengers and for the flight crews.
 21 I'll speak only to the issue of the flight
 22 crews' suits.
 23 As you know, there was evidence that when
 24 Cougar determined to replace its previous
 25 generation flight suits, great effort was

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1 taken and made by Cougar's director of safety
 2 management systems and by its chief pilot to
 3 find the best replacement, and we recognize
 4 that while in Canada there are no standards
 5 for pilots' flight suits, Cougar did make
 6 extensive inquiries within the marketplace and
 7 ultimately Cougar officials spent considerable
 8 time in Norway looking at the suit that they
 9 finally selected. They spent time with pilots
 10 who were then using the same suit in offshore
 11 assignments in Norway. So the suit that they
 12 selected is in use in Norway and if that
 13 reveals that it would be approved by the
 14 European standard, well I presume that must be
 15 the circumstance, but we have not been able to
 16 obtain that confirmation. In any event,
 17 certainly from their efforts, Cougar officials
 18 consider that the present flight suit that
 19 they have to be consistent with the best
 20 industry standards.
 21 I know there have been issues raised
 22 about, for example, a suit colour. It's come
 23 up again even today and on previous occasions.
 24 You will recall, of course, Captain Gerber's
 25 evidence on this point, the two competing

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1 concerns. One is to minimize reflection on
 2 the surfaces inside the cockpit or the flight
 3 deck and the other is to be as visible as
 4 possible in the event that rescue personnel
 5 need to locate the pilot or copilot, and as
 6 Captain Gerber did point out, they feel that
 7 this is addressed by the separate pilot life
 8 vest. As Captain Gerber told us, when this is
 9 activated, the vest is a highly visible piece
 10 of equipment. I've since been told that when
 11 these inflation chambers on the life vest are
 12 activated and opened, they're a very bright
 13 colour with approximately 80 percent of the
 14 body mass area that's above the water surface
 15 that's exposed displaying this bright colour.
 16 So it's a very remarkable shift in colour from
 17 the navy blue suit to a situation where you
 18 have an activation of a life vest.
 19 The issue, of course, of pilot helmets
 20 has also been raised and again, you've heard
 21 Captain Gerber on this point as well. There
 22 are yet again competing features or issues.
 23 On the one hand, pilot comfort which may
 24 possibly impact safety, and the protection
 25 that it affords in the event of an accident.

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1 But you have to bear in mind that as you load
 2 up a pilot or copilot with additional
 3 equipment and further stress them potentially
 4 with the weight that's added by a helmet, with
 5 the thermal impact of these warm suits, that
 6 you're always moving toward making the pilot
 7 more uncomfortable and potentially, at least,
 8 raising issues of safety.

9 Now I have to admit that I made an error
 10 in our written submissions and the 85 percent
 11 that I noted as having been the amount of
 12 current usage for helmets is in fact
 13 incorrect. It is, in fact, 64 percent.
 14 That's still quite a significant increase over
 15 28 percent, which was the rate applicable
 16 prior to this tragic event, but not 85
 17 percent.

18 Now this change in the helmet
 19 arrangements at Cougar was initiated following
 20 this tragedy and before the Transport Canada
 21 advisory was ever issued, Cougar notified TSB
 22 that they had determined that they would
 23 attempt to promote more helmet use among its
 24 flying staff and so when the Transport Canada
 25 advisory was actually issued, Cougar had

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1 already gone in this direction and had already
 2 made these changes in its internal operations.
 3 In fact, I'm told that the actual advisory
 4 issued by Transport Canada, in fact, mentioned
 5 that some companies had initiated cost sharing
 6 arrangements, so I expect that was perhaps in
 7 recognition of Cougar's initiative in this
 8 area.

9 Mr. Commissioner, I'm not sure, you know,
 10 where your deliberations on this point will
 11 take you, but again, I emphasize that it is
 12 important that pilots be as comfortable as is
 13 possible, given the circumstances where they
 14 are working, but not to unduly load them with
 15 additional equipment. There are, it appears,
 16 for sure, mixed views on this and even after
 17 the initiatives by Cougar following the
 18 accident, and even after the advisory by
 19 Transport Canada or the TSB, even then, and
 20 the change in Cougar's plans, even then we
 21 have 64 percent. So a lot of pilots are, we
 22 presume, very deliberately choosing not to
 23 wear these helmets, and so I would hasten to
 24 encourage you that this may not be a one rule
 25 fits everybody approach. It may not be

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1 appropriate that there be a directive that all
 2 pilots necessarily must wear a helmet. There
 3 may be individual characteristics or features
 4 that are in play that may not make that
 5 appropriate. So I would recommend that you
 6 consider that a lot more study be done in this
 7 area if there is to be anything further on
 8 this point and that the pilots themselves have
 9 an opportunity to be heard on this point.

10 I want to just touch very briefly on the
 11 issue of the search and rescue response time.
 12 As you know, in conjunction with and, I guess,
 13 cooperation with the operators, there have
 14 been major enhancements in this area and this
 15 modified response time is applicable before
 16 8:00 and after 4 p.m. It's applicable on the
 17 weekends. It's applicable now whenever Cougar
 18 flight operations are under way. So unlike
 19 whatever is happening with the Federal
 20 authorities, the Cougar response is at work
 21 and effective whenever Cougar operations are
 22 occurring, that same reduced response time.

23 I want to mention just briefly in
 24 response to the remarks of my colleague who
 25 spoke just before me, I'm assured by Cougar

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1 staff that the chief pilot of the S-92 is a
 2 representative on the Cougar safety committee
 3 and that chief pilot does fly offshore
 4 assignments.

5 And if I may have a moment, Mr.
 6 Commissioner, I want to just go back to my
 7 desk and get a piece of documentation that I
 8 left there.

9 I wanted to mention briefly,
 10 Commissioner, the results of the Cougar
 11 survey, as has been just noted. Of course,
 12 when we presented our written submissions,
 13 this document was not yet in existence and has
 14 been brought forward since then. The letter
 15 from Ms. Turner in the front of the report
 16 dated 30 August 2010 is, I think, worth
 17 noting. She says, in the middle paragraph, "a
 18 survey was issued over a short time frame and
 19 even in light of this limitation, the survey
 20 attracted a very high level of employee
 21 participation. The results of this survey are
 22 reflective of an organization with employees
 23 that are confident in the safety of their
 24 helicopter operation. The openness of comment
 25 in the survey demonstrates a healthy safety

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1 culture with an open reporting culture." I
 2 think this, coming from a person who have been
 3 engaged independently of everybody as an
 4 expert, is telling as to Cougar's perspective
 5 and approach with respect to safety generally.
 6 There is an executive summary, as you
 7 know, included in the document and I just
 8 wanted to make a quick mention of the last
 9 couple of paragraphs, which this is at page
 10 two of that executive summary, or page two of
 11 the document. "The open and informative
 12 responses in the questions with an open answer
 13 response field indicate an aviation
 14 organization that has a healthy and honest
 15 reporting culture. Reporting culture is a key
 16 element of an aviation safety management
 17 system. There is a useful level of detail in
 18 the suggested areas of improvement that
 19 provides the Inquiry with input from the
 20 perspective of the employees of the aviation
 21 provider." Then she goes on, "overall, the
 22 results of the survey were consistent and
 23 extremely positive, despite the awkwardness
 24 that these views could potentially create in
 25 the customer service provider relationship.

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1 The survey results are reflective of an
 2 organization with a mature safety culture." So
 3 again, these are very, I think, telling
 4 remarks from a person who has been engaged by
 5 the Commissioner directly as an expert.
 6 I'm just going to point to a couple of
 7 other areas in the report, Mr. Commissioner,
 8 because they speak, I think, in a global sense
 9 of the attitudes of Cougar staff. Question
 10 seven in the survey asked "what is your level
 11 of confidence in respect to the safety of
 12 helicopter transportation?" and with not
 13 confident being number one and very confident
 14 being number five, 64 of the 67 respondents
 15 said they were at four or five, but the bulk
 16 of them, more than double of those at four,
 17 were at five, very confident. It speaks to a
 18 high degree of confidence by people who are
 19 perhaps more knowledgeable than the general
 20 passenger population and I think it's useful
 21 as a guide to you of the comfort level that
 22 Cougar staff themselves have in this regard.
 23 The next question, number eight, says "do
 24 you feel safe when travelling in helicopters
 25 to and from the rig/platform?" and 48 percent

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1 indicated that this question was not
 2 applicable to them, but therefore 52 percent
 3 indicated that it was, and of the 52 percent
 4 who indicated that it was relevant to them, 51
 5 percent said yes and one percent said no, and
 6 that one percent translates to a single
 7 response.
 8 So I suggest, Mr. Commissioner, that the
 9 results of this survey, the information it
 10 provides supports and reinforces the
 11 submissions that were previously made by
 12 Cougar witnesses and in its written
 13 submissions that Cougar, in our view, has a
 14 strong safety culture and the culture extends,
 15 it seems, beyond senior management or the
 16 senior positions. It's among -- it is alive
 17 and well among the routine staff of Cougar as
 18 well. So I think the survey does add a
 19 dimension that is helpful to your
 20 considerations and I would encourage you to
 21 reflect on that as well in your general
 22 deliberations.
 23 I have nothing further in response to --
 24 or by way of submissions, unless you have, of
 25 course, any questions.

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1 COMMISSIONER:
 2 Q. No, I don't think so, Mr. Stamp. Thank you
 3 very much.
 4 STAMP, Q.C.:
 5 Q. Thank you.
 6 ROIL, Q.C.:
 7 Q. Commissioner, the next presenter is Randell
 8 Earle, Q.C., legal counsel for CEP Local 2121.
 9 I would invite Mr. Earle to come forward. He
 10 has, however, alerted me to the fact that he
 11 may be making a request of the Inquiry at this
 12 time with respect to his submission.
 13 EARLE, Q.C.:
 14 Q. Thank you, Mr. Commissioner. That's not
 15 exactly how I would have put it. I advised
 16 Mr. Roil yesterday when he called me yesterday
 17 afternoon saying that he had surveyed people
 18 and they anticipated using a lot less than
 19 their allot of one hour, and he suggested to
 20 me I might be able to start and maybe even
 21 finish this afternoon, I advised Mr. Roil that
 22 we would not be in a position to make our
 23 presentation this afternoon, that we would be
 24 in a position to start tomorrow morning. We
 25 were advised, of course, of position of tenth

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1 on a list of people allotted an hour each. I
2 think it was a reasonable anticipation in
3 terms of our planning that we would be
4 somewhere in the second day, and for that
5 reason, we're not in a position to go ahead
6 this afternoon. If somebody else wishes to go
7 ahead of us, we won't have a problem with
8 that.

9 COMMISSIONER:

10 Q. So you'd like -- you'd prefer to start in the
11 morning?

12 EARLE, Q.C.:

13 Q. Yes.

14 COMMISSIONER:

15 Q. Yes. I don't think there's any objection to
16 that, Mr. Earle. I've tried, at all times, to
17 accommodate counsel if they need time and we
18 will -- we'll come back in the morning and we
19 should be able to finish comfortably tomorrow
20 anyway. So then, ladies and gentlemen, we'll
21 resume at 9:30 tomorrow morning and press on.

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1 CERTIFICATE

2 We, the undersigned, do hereby certify that
3 the foregoing is a true and correct transcript of a
4 hearing heard on the 8th day of August, 2010 at
5 Tara Place, 31 Peet Street, Suite 213, St. John's
6 Newfoundland and Labrador and was transcribed by us
7 to the best of our ability by means of a sound
8 apparatus.

9 Dated at St. John's, NL this

10 8th day of August, 2010

11 Cindy Sooley

12 Discoveries Unlimited Inc.

13 Judy Moss

14 Discoveries Unlimited Inc.

<p>-#-</p> <p>#17 [1] 129:4</p> <p>-\$-</p> <p>\$3,000.00 [1] 122:11</p> <p>.-.</p> <p>.25 [1] 128:4 .75 [1] 128:4 .847 [1] 128:15</p> <p>-0-</p> <p>00230 [1] 10:23 00231 [1] 10:25 00232 [1] 11:3 00233 [1] 11:4 00234 [1] 11:5 00235 [1] 11:6 00236 [1] 11:7 00237 [1] 11:9 00238 [1] 11:10 00239 [1] 11:12 00240 [1] 11:17</p> <p>-1-</p> <p>1 [1] 28:10 1,600 [1] 111:20 1.3 [1] 82:6 10 [9] 76:24 77:2,4,5 112:2,5 119:17 121:22 136:9 100 [2] 112:8 122:17 103 [1] 66:25 10:45 [2] 60:14,21 10th [2] 105:15 107:20 11 [3] 60:8,16,20 11:00 [2] 60:4,5 12 [2] 22:15 37:11 12th [7] 67:2 109:19 111:6 119:16 120:8 121:12 136:10 13 [2] 115:14,15 14 [1] 115:14 15 [8] 65:13 71:16 72:5 74:25 76:24 77:2,4,5 18 [2] 71:24 111:25 180 [1] 22:10 1982 [1] 64:14</p> <p>-2-</p> <p>2 [1] 126:20 20 [8] 20:18 53:8 55:16 60:10,11 61:4 65:13 72:5 20-minute [2] 71:16 74:25 2003 [1] 128:1 2007 [1] 13:5 2008 [4] 15:3,13,22 40:23</p>	<p>2009 [10] 17:9 20:2,6 67:2 109:20 111:6 119:17 120:8,24 136:10 2010 [5] 1:1 3:8 148:16 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